

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JUST ENERGY GROUP INC., JUST ENERGY CORP., ONTARIO ENERGY COMMODITIES INC., UNIVERSAL ENERGY CORPORATION, JUST ENERGY FINANCE CANADA ULC, HUDSON ENERGY CANADA CORP., 11929747 CANADA INC., 12175592 CANADA INC., JE SERVICES HOLDCO I INC., JE SERVICES HOLDCO II INC., 8704104 CANADA INC., JUST ENERGY ADVANCED SOLUTIONS CORP., JUST ENERGY (U.S.) CORP., JUST ENERGY ILLINOIS CORP., JUST ENERGY INDIANA CORP., JUST ENERGY MASSACHUSETTS CORP., JUST ENERGY NEW YORK CORP., JUST ENERGY TEXAS I CORP., JUST ENERGY, LLC, JUST ENERGY PENNSYLVANIA CORP., JUST ENERGY MICHIGAN CORP., JUST ENERGY SOLUTIONS INC., HUDSON ENERGY SERVICES LLC, HUDSON ENERGY CORP., INTERACTIVE ENERGY GROUP LLC, HUDSON PARENT HOLDINGS LLC, DRAG MARKETING LLC, JUST ENERGY ADVANCED SOLUTIONS LLC, FULCRUM RETAIL ENERGY LLC, FULCRUM RETAIL HOLDINGS LLC, TARA ENERGY, LLC, JUST ENERGY MARKETING CORP., JUST ENERGY CONNECTICUT CORP., JUST ENERGY LIMITED, JUST SOLAR HOLDINGS CORP. AND JUST ENERGY (FINANCE) HUNGARY ZRT.

APPLICANTS

**MOTION RECORD OF THE APPLICANTS**

**(Motion for Reverse Vesting Order, Expanded Monitor's Powers, Stay Extension, and other relief)**

October 17, 2022

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**ONTARIO  
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COMMERCIAL LIST**

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**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JUST ENERGY GROUP INC., JUST ENERGY CORP., ONTARIO ENERGY COMMODITIES INC., UNIVERSAL ENERGY CORPORATION, JUST ENERGY FINANCE CANADA ULC, HUDSON ENERGY CANADA CORP., JUST MANAGEMENT CORP., 11929747 CANADA INC., 12175592 CANADA INC., JE SERVICES HOLDCO I INC., JE SERVICES HOLDCO II INC., 8704104 CANADA INC., JUST ENERGY ADVANCED SOLUTIONS CORP., JUST ENERGY (U.S.) CORP., JUST ENERGY ILLINOIS CORP., JUST ENERGY INDIANA CORP., JUST ENERGY MASSACHUSETTS CORP., JUST ENERGY NEW YORK CORP., JUST ENERGY TEXAS I CORP., JUST ENERGY, LLC, JUST ENERGY PENNSYLVANIA CORP., JUST ENERGY MICHIGAN CORP., JUST ENERGY SOLUTIONS INC., HUDSON ENERGY SERVICES LLC, HUDSON ENERGY CORP., INTERACTIVE ENERGY GROUP LLC, HUDSON PARENT HOLDINGS LLC, DRAG MARKETING LLC, JUST ENERGY ADVANCED SOLUTIONS LLC, FULCRUM RETAIL ENERGY LLC, FULCRUM RETAIL HOLDINGS LLC, TARA ENERGY, LLC, JUST ENERGY MARKETING CORP., JUST ENERGY CONNECTICUT CORP., JUST ENERGY LIMITED, JUST SOLAR HOLDINGS CORP. AND JUST ENERGY (FINANCE) HUNGARY ZRT.

Applicants

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# TAB 1

Court File No. CV-21-00658423-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JUST ENERGY GROUP INC., JUST ENERGY CORP., ONTARIO ENERGY COMMODITIES INC., UNIVERSAL ENERGY CORPORATION, JUST ENERGY FINANCE CANADA ULC, HUDSON ENERGY CANADA CORP., 11929747 CANADA INC., 12175592 CANADA INC., JE SERVICES HOLDCO I INC., JE SERVICES HOLDCO II INC., 8704104 CANADA INC., JUST ENERGY ADVANCED SOLUTIONS CORP., JUST ENERGY (U.S.) CORP., JUST ENERGY ILLINOIS CORP., JUST ENERGY INDIANA CORP., JUST ENERGY MASSACHUSETTS CORP., JUST ENERGY NEW YORK CORP., JUST ENERGY TEXAS I CORP., JUST ENERGY, LLC, JUST ENERGY PENNSYLVANIA CORP., JUST ENERGY MICHIGAN CORP., JUST ENERGY SOLUTIONS INC., HUDSON ENERGY SERVICES LLC, HUDSON ENERGY CORP., INTERACTIVE ENERGY GROUP LLC, HUDSON PARENT HOLDINGS LLC, DRAG MARKETING LLC, JUST ENERGY ADVANCED SOLUTIONS LLC, FULCRUM RETAIL ENERGY LLC, FULCRUM RETAIL HOLDINGS LLC, TARA ENERGY, LLC, JUST ENERGY MARKETING CORP., JUST ENERGY CONNECTICUT CORP., JUST ENERGY LIMITED, JUST SOLAR HOLDINGS CORP. AND JUST ENERGY (FINANCE) HUNGARY ZRT.

APPLICANTS

**NOTICE OF MOTION**

**(Motion for Reverse Vesting Order, Expanded Monitor's Powers, Stay Extension, and other relief)**

The Applicants will make a motion before the Honourable Justice McEwen of the Ontario Superior Court of Justice (Commercial List) on November 2, 2022 at 10:00 a.m., or as soon after that time as the motion may be heard by judicial videoconference via Zoom at Toronto, Ontario. The videoconference details will be circulated when provided by the Court.

**PROPOSED METHOD OF HEARING:** The motion is to be heard by videoconference.

**THE MOTION IS FOR:**

1. An Order substantially in the form included at **Tab 4** of the Motion Record (the “**Reverse Vesting Order**”):
  - (a) approving the definitive purchase agreement (as amended, and which may further be amended in accordance with the terms of the Reverse Vesting Order, the “**Transaction Agreement**”) dated as of August 4, 2022, between Just Energy Group Inc. (“**Just Energy**”) and LVS III SPE XV LP, TOCU XVII LLC, HVS XVI LLC, OC II LVS XIV LP, OC III LFE I LP and CBHT Energy I LLC (collectively, the “**Purchaser**”) and the transactions contemplated therein (the “**Transaction**”), with such minor amendments as Just Energy and the Purchaser may deem necessary, with the approval of FTI Consulting Canada Inc., as monitor (the “**Monitor**”) and subject to the terms of the SISP Support Agreement (defined below);
  - (b) authorizing and approving the execution of the Transaction Agreement by Just Energy;
  - (c) authorizing and directing the Just Energy Entities to perform their obligations under the Transaction Agreement, including as provided for in the pre-closing and closing date reorganization steps (collectively, the “**Implementation Steps**”), and to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction;
  - (d) ordering that, upon the delivery of the Monitor’s certificate to the Purchaser certifying that, among other things, it has received written confirmation from the Purchaser and Just Energy that all conditions to closing of the Transaction have been satisfied or waived by the parties to the Transaction Agreement, the following, among other things, shall be deemed to occur in the sequence set out in the Implementation Steps and/or as set forth in the Reverse Vesting Order, as applicable:

- (i) all of the right, title and interest of the Acquired Entities in their respective Excluded Assets shall be transferred to, assumed by and vested absolutely and exclusively in two Residual Cos. (one for Excluded Assets with respect to Acquired Entities formed or incorporated in the United States and one for Excluded Assets with respect to Acquired Entities formed or incorporated outside of the United States, together the “**Residual Cos.**” and each a “**Residual Co.**”) and, in each case, all Claims and Encumbrances shall continue to attach to such Excluded Assets with the same nature and priority as they had immediately prior to their transfer;
- (ii) all Excluded Contracts and Excluded Liabilities of the Acquired Entities shall be transferred to, assumed by and vested absolutely in the Residual Cos. and the Acquired Entities shall be forever discharged and released from such Excluded Contracts and Excluded Liabilities and all related claims and encumbrances;
- (iii) all right, title and interest in and to the Purchased Interests issued by Just Energy (U.S.) Corp. (“**JEUS**”) will vest absolutely in the Purchaser and all Assumed Liabilities will be assumed as provided under the Transaction Agreement;
- (iv) all equity interests of Just Energy and JEUS existing prior to the commencement of the Implementation Steps will be deemed terminated and cancelled or redeemed as provided in the Implementation Steps;
- (v) the Acquired Entities will cease to be Applicants in the CCAA proceedings and will be released from the purview of the Second Amended and Restated Initial Order, granted May 26, 2021 (the “**Second ARIO**”) and all other Orders granted in the CCAA proceedings (excluding the Reverse Vesting Order); and
- (vi) the Residual Cos. will be added as Applicants to these CCAA proceedings;

- (e) from and after the Effective Time, barring and enjoining all Persons from commencing or continuing any step or proceeding against the Purchaser or the Acquired Entities relating to the Excluded Assets, the Excluded Contracts, the Excluded Liabilities, or any other claim, obligation or matter waived, released or discharged pursuant to the Reverse Vesting Order;
  - (f) directing the satisfaction of the Priority Payments in accordance with the Transaction Agreement;
  - (g) granting certain releases and exculpations with respect to the current and former directors, officers, employees, legal counsel and advisors of the Just Energy Entities and the Residual Cos. (or any of them), the Monitor and its legal counsel, the Purchaser and its current and former directors, officers, employees, legal counsel and advisors, and the Credit Facility Agent and the Credit Facility Lenders and their respective current and former directors, officers, employees, legal counsel and advisors from the Released Claims; and
  - (h) ordering that, at the Effective Time, the title of the CCAA proceedings will be changed to delete the names of the Applicants and add the names of the two Residual Cos.
2. An Order substantially in the form included at **Tab 5** of the Motion Record:
- (a) upon the closing of the Transaction, expanding the powers of the Monitor in these CCAA proceedings;
  - (b) extending the Stay Period (as defined in the Second ARIO) to and including January 31, 2023;
  - (c) approving the activities and conduct of the Monitor, the Twelfth Report of the Monitor, to be filed (the "**Twelfth Report**"), and the fees and disbursements of the Monitor and its Canadian and U.S. legal counsel as described in the Twelfth Report; and

- (d) directing that all copies of the Notices of Intention received by the Just Energy Entities in the SISP and which are attached as Confidential Exhibit “F” to the Affidavit of Mark Caiger, sworn October 17, 2022 (the “**Caiger Affidavit**”) be treated as confidential and sealed, and not form part of the public record, pending further order of this Court.

3. Capitalized terms used but not defined in this Notice of Motion shall have the meanings given to them in the Affidavit of Michael Carter, sworn October 17, 2022.

### **THE GROUNDS FOR THE MOTION ARE:**

#### ***Overview***

4. On March 9, 2021, the Applicants obtained protection under the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36 (the “**CCAA**”) pursuant to an initial order of the Ontario Superior Court of Justice (Commercial List) (the “**CCAA Court**”). The CCAA Court granted an Amended and Restated Initial Order on March 19, 2021 (the “**ARIO**”), and the Second ARIO on May 26, 2021.

5. The U.S. Bankruptcy Court granted the ARIO full force and effect on a final basis under Chapter 15 of the U.S. Bankruptcy Code on April 2, 2021.

6. On May 12, 2022, the Just Energy Entities filed and served a Notice of Motion seeking orders, *inter alia*, accepting the filing of a Plan of Compromise and Arrangement, dated May 26, 2022 (the “**Plan**”) and authorizing the Just Energy Entities to call, hold and conduct virtual meetings of the established creditor classes to consider and vote on resolutions to approve the Plan (the “**Meetings Order Motion**”).

7. While the CCAA Court granted the vast majority of the relief sought by the Just Energy Entities in the Meetings Order Motion, it denied their request that each of the claims held by the Contingent Litigation Claimants be valued at \$1 for purposes of voting on the Plan. Following release of the CCAA Court’s decision, various key stakeholders advised the Just Energy Entities that they intended to withdraw their support for the Plan.



8. Following the loss of stakeholder support for the Plan, each of the Just Energy Entities, the Purchaser (then in its capacity as Plan Sponsor), the Supporting Secured CF Lenders and Shell agreed to support a going concern solution for the Just Energy Entities implemented through a Sales and Investment Solicitation Process (“SISP”) in accordance with a new Support Agreement, dated August 4, 2022 (the “**SISP Support Agreement**”) and supported by the Transaction. After nearly 1.5 years of negotiations with their key stakeholders and a failed attempt to obtain a Meetings Order in the form sought, the SISP was the only viable going concern exit strategy available to the Just Energy Entities to facilitate their exit from their ongoing CCAA and Chapter 15 proceedings.

9. The SISP, SISP Support Agreement and other matters were approved by the CCAA Court on August 18, 2022 (the “**SISP Approval Order**”).

10. Since August 4, 2022 (the date of service of the Just Energy Entities’ motion for the SISP Approval Order) the Just Energy Entities have conducted the SISP with the assistance of BMO Nesbitt Burns Inc., as financial advisor to the Just Energy Entities in these CCAA proceedings (the “**Financial Advisor**”), under the supervision of the Monitor, and in accordance with the SISP Approval Order. Notwithstanding the best efforts of the Just Energy Entities and the Financial Advisor, no Qualified Bids other than the Transaction were received.

#### ***Approval of the Transaction and the Reverse Vesting Order***

11. The Transaction is the best executable transaction or restructuring alternative available to the Just Energy Entities in the circumstances of these CCAA proceedings. It was subjected to a thorough canvassing of the market pursuant to the SISP over the course of approximately ten weeks. The SISP was developed and undertaken with the objective of identifying and completing a going concern transaction that would maximize value for the benefit of the Just Energy Entities’ stakeholders. No Qualified Bid other than the Transaction was received by the Just Energy Entities.

12. Pursuant to the Transaction:

- (a) the Purchaser will acquire newly issued shares of JEUS which will, in turn, own directly or indirectly all of the issued and outstanding shares of Just Energy and its pre-Transaction direct and indirect subsidiaries (other than Excluded Entities);

- (b) the Just Energy Entities will continue to control and own their assets, other than Excluded Assets, and will continue to be liable for their Assumed Liabilities, excluding the Excluded Liabilities;
- (c) all secured debt and priority payables will be satisfied in full or retained, and the Monitor will receive the Administrative Expense Amount in order to fund the Administrative Expense Costs required to complete the CCAA and Chapter 15 proceedings. The Transaction will not result in any unsecured creditor recovery;
- (d) the Just Energy Entities (other than the Excluded Entities) will exit the CCAA and Chapter 15 proceedings and continue in the normal course for the benefit of all stakeholders without the burden of the Excluded Liabilities and the Excluded Assets; and
- (e) two Residual Cos. will hold all Excluded Assets and Excluded Liabilities of the Just Energy Entities and will become Applicants in the CCAA proceedings.

13. The Transaction provides significant benefits to stakeholders of the Just Energy Entities, including: (a) it will preserve the employment of the Just Energy Entities' more than 1000 employees; (b) the majority of contracts with Commodity Suppliers, vendors, trade creditors and other counterparties will continue in the normal course for the benefit of all parties thereto; (c) the Just Energy Entities' business will be preserved and continue uninterrupted in the normal course for the benefit of their almost 1 million customers across Canada and the United States; (d) all secured claims and priority payables will be satisfied in full or assumed by the Purchaser; and (e) the Just Energy Entities will exit these CCAA and Chapter 15 proceedings with a significantly deleveraged balance sheet and a \$250 million New Credit Facility. The Transaction is supported by the Just Energy Entities' most significant stakeholders.

14. The Transaction is required to be implemented pursuant to a Reverse Vesting Order as such structure is necessary to preserve the going concern value of the Just Energy Entities' business for the benefit of their stakeholders. The value of the Just Energy Entities' business arises predominantly from the gross margin in the Just Energy Entities' customer contracts which, in turn, is dependent on the Just Energy Entities' ability to maintain electricity, natural gas, market

participation and other licenses and authorizations in Canada and the United States. The vast majority of such licenses and authorizations are either non-transferrable or only capable of transfer with the prior approval of the applicable regulator. Such restrictions on transferability generally do not apply to change of control transactions.

15. In addition, the Just Energy Entities are party to a significant number of non-transferrable hedging transactions which are fundamental to the Just Energy Entities' ability to effectively operate their business. The Just Energy Entities also have U.S. tax attributes that would generally be unable to be utilized in the go-forward business were the Transaction structured as a traditional asset sale vesting order.

16. As a result, the only feasible structure for the Transaction is a sale of equity by means of the Reverse Vesting Order. Any other structure risks exposing the licenses on which the Just Energy Entities' business is founded and, in turn, on which its going concern value is wholly dependent, to significant risk, regulatory uncertainty, and significant delays. Any other structure also risks the loss of some or all of the Just Energy Entities' hedging portfolio and the loss of any U.S. tax attributes. The granting of the Reverse Vesting Order is accordingly both necessary and appropriate.

#### ***Expansion of the Monitor's Powers***

17. Given the exit of the Just Energy Entities from the CCAA and Chapter 15 proceedings upon closing of the Transaction, the Just Energy Entities are seeking an Order expanding the powers of the Monitor previously granted in the Second ARIO and other Orders to authorize and empower the Monitor to take all actions necessary to, among other things, wind down and/or dissolve and/or bankrupt each Residual Co. and administer the Excluded Assets, Excluded Liabilities and each Residual Co.

#### ***Extension of Stay Period***

18. The current stay of proceedings granted in these CCAA proceedings expires on October 31, 2022, or such later date as the Court may order (the "**Stay Period**"). In order to accommodate the hearing of this motion on November 2, 2022, the Just Energy Entities intend to seek a short 2-day extension to the Stay Period by written motion in the near term.

19. The Just Energy Entities are seeking to extend the Stay Period until January 31, 2023, which will allow them to: (a) obtain all necessary Transaction Regulatory Approvals, complete all Implementation Steps and close the Transaction in accordance with the Transaction Agreement; (b) seek the Vesting Recognition Order from the U.S. Bankruptcy Court; and (c) permit the Just Energy Entities to attend to the various other CCAA and/or Chapter 15 matters that will arise in the course of the proceedings.

20. The Just Energy Entities have acted and continue to act in good faith and with due diligence in these CCAA proceedings.

21. It is just and convenient and in the interests of the Just Energy Entities and their stakeholders that the Stay Period be extended to January 31, 2023.

***Other Grounds***

22. In addition to the other grounds discussed in this Notice of Motion, the Applicants rely on:

- (a) the provisions of the CCAA and the inherent and equitable jurisdiction of this Honourable Court;
- (b) Rules 1.04, 1.05, 2.03, 16, 37, and 59.06 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended, and section 106 and 137 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (c) changes to Commercial List operations in light of COVID-19 dated March 16, 2020; and
- (d) such further and other grounds as the lawyers may advise.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the Motion:

- 1. The Affidavit of Michel Carter, sworn October 17, 2022;
- 2. The Affidavit of Mark Caiger, sworn October 17, 2022;
- 3. The Affidavit of Michael Carter, sworn August 4, 2022;

4. The Twelfth Report of the Monitor, to be filed; and
5. Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

October 17, 2022

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Lawyers to the Applicants

**TO: THE SERVICE LIST**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED

Court File No: CV-21-00658423-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT  
OF **JUST ENERGY GROUP INC. et al.**

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

**NOTICE OF MOTION**  
**(Motion for Reverse Vesting Order, Expanded Monitor's**  
**Powers, Stay Extension, and other relief)**

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# TAB 2

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

**COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JUST ENERGY GROUP INC., JUST ENERGY CORP., ONTARIO ENERGY COMMODITIES INC., UNIVERSAL ENERGY CORPORATION, JUST ENERGY FINANCE CANADA ULC, HUDSON ENERGY CANADA CORP., 11929747 CANADA INC., 12175592 CANADA INC., JE SERVICES HOLDCO I INC., JE SERVICES HOLDCO II INC., 8704104 CANADA INC., JUST ENERGY ADVANCED SOLUTIONS CORP., JUST ENERGY (U.S.) CORP., JUST ENERGY ILLINOIS CORP., JUST ENERGY INDIANA CORP., JUST ENERGY MASSACHUSETTS CORP., JUST ENERGY NEW YORK CORP., JUST ENERGY TEXAS I CORP., JUST ENERGY, LLC, JUST ENERGY PENNSYLVANIA CORP., JUST ENERGY MICHIGAN CORP., JUST ENERGY SOLUTIONS INC., HUDSON ENERGY SERVICES LLC, HUDSON ENERGY CORP., INTERACTIVE ENERGY GROUP LLC, HUDSON PARENT HOLDINGS LLC, DRAG MARKETING LLC, JUST ENERGY ADVANCED SOLUTIONS LLC, FULCRUM RETAIL ENERGY LLC, FULCRUM RETAIL HOLDINGS LLC, TARA ENERGY, LLC, JUST ENERGY MARKETING CORP., JUST ENERGY CONNECTICUT CORP., JUST ENERGY LIMITED, JUST SOLAR HOLDINGS CORP. AND JUST ENERGY (FINANCE) HUNGARY ZRT.

Applicants

**AFFIDAVIT OF MICHAEL CARTER**

I, Michael Carter, of the Town of Flower Mound, in the State of Texas, MAKE OATH AND SAY:

1. I have been Just Energy Group Inc.'s ("**Just Energy**") Chief Financial Officer since September 2020. In that role, I am responsible for all financial-related aspects of the business of Just Energy and its subsidiaries in these CCAA proceedings (collectively, the "**Applicants**"), including the partnerships listed on Schedule "A" of the Initial Order (as defined below) to which the protections and authorizations of the Initial Order were extended (collectively with the



Applicants, the “**Just Energy Entities**”). As such, I have personal knowledge of the matters deposed to in this affidavit, including the business and financial affairs of the Just Energy Entities. Where I have relied on other sources for information, I have stated the source of my information and I believe such information to be true. In preparing this affidavit, I have also consulted with the Applicants’ senior management team and their financial and Canadian and U.S. legal advisors.

2. I make this affidavit in support of a motion by the Applicants (the “**Vesting Order Motion**”) for:

- (a) an Order substantially in the form of the draft order attached at **Tab 4** of the Applicants’ Motion Record (the “**Reverse Vesting Order**”), *inter alia*:
  - (i) approving the definitive purchase agreement (as amended, and which may further be amended in accordance with the terms of the Reverse Vesting Order, the “**Transaction Agreement**”) dated as of August 4, 2022, between Just Energy and LVS III SPE XV LP, TOCU XVII LLC, HVS XVI LLC, OC II LVS XIV LP, OC III LFE I LP and CBHT Energy I LLC (collectively, the “**Purchaser**”) and the transactions contemplated therein (the “**Transaction**”), with such minor amendments as Just Energy and the Purchaser may deem necessary, with the approval of FTI Consulting Canada Inc., as monitor (the “**Monitor**”) and subject to the terms of the SISP Support Agreement (defined below);
  - (ii) authorizing and approving the execution of the Transaction Agreement by Just Energy;
  - (iii) authorizing and directing the Just Energy Entities to perform their obligations under the Transaction Agreement, including as provided for in the Implementation Steps (as defined below), and to take such additional

steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction;

- (iv) ordering that, upon the delivery of the Monitor's certificate to the Purchaser certifying that, among other things, it has received written confirmation from the Purchaser and Just Energy that all conditions to closing of the Transaction have been satisfied or waived by the parties to the Transaction Agreement, the following, among other things, shall be deemed to occur in the sequence set out in the Implementation Steps and/or as set forth in the Reverse Vesting Order, as applicable:<sup>1</sup>
  - (A) all of the right, title and interest of the Acquired Entities in their respective Excluded Assets shall be transferred to, assumed by and vested absolutely and exclusively in two Residual Cos. (one for Excluded Assets with respect to Acquired Entities formed or incorporated in the United States and one for Excluded Assets with respect to Acquired Entities formed or incorporated outside of the United States, together the "**Residual Cos.**" and each a "**Residual Co.**") and, in each case, all Claims and Encumbrances shall continue to attach to such Excluded Assets with the same nature and priority as they had immediately prior to their transfer;
  - (B) all Excluded Contracts and Excluded Liabilities of the Acquired Entities shall be transferred to, assumed by and vested absolutely in the Residual Cos. and the Acquired Entities shall be forever

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<sup>1</sup> All capitalized terms used in this sub-paragraph 2(a)(iv) are as defined below in this Affidavit.

- discharged and released from such Excluded Contracts and Excluded Liabilities and all related claims and encumbrances;
- (C) all right, title and interest in and to the Purchased Interests issued by Just Energy (U.S.) Corp. (“**JEUS**”) will vest absolutely in the Purchaser and all Assumed Liabilities will be assumed as provided under the Transaction Agreement;
  - (D) all equity interests of Just Energy and JEUS existing prior to the commencement of the Implementation Steps will be deemed terminated and cancelled or redeemed as provided in the Implementation Steps;
  - (E) the Acquired Entities will cease to be Applicants in the CCAA proceedings and will be released from the purview of the Second Amended and Restated Initial Order, granted May 26, 2021 (the “**Second ARIO**”) and all other Orders granted in the CCAA proceedings (excluding the Reverse Vesting Order); and
  - (F) the Residual Cos. will be added as Applicants to these CCAA proceedings;
- (v) from and after the Effective Time, barring and enjoining all Persons from commencing or continuing any step or proceeding against the Purchaser or the Acquired Entities relating to the Excluded Assets, the Excluded Contracts, the Excluded Liabilities, or any other claim, obligation or matter waived, released or discharged pursuant to the Reverse Vesting Order;

- (vi) directing the satisfaction of the Priority Payments in accordance with the Transaction Agreement;
  - (vii) granting certain releases and exculpations with respect to the current and former directors, officers, employees, legal counsel and advisors of the Just Energy Entities (or any of them), the Monitor and its legal counsel, the Purchaser and its current and former directors, officers, employees, legal counsel and advisors, and the Credit Facility Agent and the Credit Facility Lenders and their respective current and former directors, officers, employees, legal counsel and advisors from the Released Claims; and
  - (viii) ordering that, at the Effective Time, the title of the CCAA proceedings will be changed to delete the names of the Applicants and add the names of the two Residual Cos. (as defined below);
- (b) an Order substantially in the form of the draft order attached at **Tab 5** of the Applicants' Motion Record:
- (i) upon the closing of the Transaction, expanding the powers of the Monitor in these CCAA proceedings;
  - (ii) extending the Stay Period (as defined in the Second ARIO) to and including January 31, 2023; and
  - (iii) approving the activities and conduct of the Monitor, the Twelfth Report of the Monitor, to be filed (the "**Twelfth Report**"), and the fees and disbursements of the Monitor and its Canadian and U.S. legal counsel as described in the Twelfth Report; and

(iv) directing that all copies of the Notices of Intention received by the Just Energy Entities in the SISP and which are attached as Confidential Exhibit “F” to the Affidavit of Mark Caiger, sworn October 17, 2022 (the “**Caiger Affidavit**”) be treated as confidential and sealed, and not form part of the public record, pending further order of this Court.

3. Capitalized terms used in this affidavit but not defined have the meaning given to them in the proposed Reverse Vesting Order and/or the Transaction Agreement, as applicable. All references to monetary amounts in this affidavit are in Canadian dollars unless noted otherwise.

**A. HISTORY OF THE CCAA PROCEEDINGS**

4. On March 9, 2021 (the “**Filing Date**”), the Applicants obtained protection under the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36 (the “**CCAA**”) pursuant to an initial order (the “**Initial Order**”) of the CCAA Court. The Applicants’ filing for protection under the CCAA was precipitated by the acute and unforeseen liquidity challenge caused by the unprecedented winter storm in February 2021 in Texas and the Texas regulators’ response to same.

5. On the Filing Date, the Ontario Superior Court of Justice (Commercial List) (the “**CCAA Court**”) approved the CCAA Interim Debtor-in-Possession Financing Term Sheet (the “**DIP Term Sheet**”) pursuant to which the DIP Lenders<sup>2</sup> provided access to emergency financing of US\$125 million (the “**DIP Facility**”) to the Just Energy Entities. As discussed further below, on September 26, 2022, the Just Energy Entities partially repaid amounts outstanding under the DIP Facility by remitting US\$70 million to the DIP Lenders from the Just Energy Entities’ cash on hand.

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<sup>2</sup> The DIP Lenders are: LVS III SPE XV LP, TOCU XVII LLC, HVS XVI LLC and OC II LVS XIV LP (the “**DIP Lenders**”).

6. The Initial Order has twice been amended and restated. The CCAA Court granted an Amended and Restated Initial Order (the “**ARIO**”) on March 19, 2021, and the Second ARIO on May 26, 2021.

7. On April 2, 2021, the United States Bankruptcy Court for the Southern District of Texas (“**U.S. Bankruptcy Court**”) granted a Final Recognition Order under Chapter 15 of the U.S. Bankruptcy Code which, among other things, granted the ARIO, including any and all existing and future extensions, amendments, restatements, and/or supplements authorized by the CCAA Court, full force and effect on a final basis with respect to the Just Energy Entities’ property located within the United States.

8. On September 15, 2021, the CCAA Court granted the Claims Procedure Order (the “**Claims Procedure Order**”) establishing a process to determine the nature, quantum, and validity of Claims against the Just Energy Entities and their respective Directors and Officers. The Claims Procedure Order established a Claims Bar Date of November 1, 2021. Following the Claims Bar Date until the suspension of the claims process pursuant to the Order of the CCAA Court granted August 18, 2022, the Just Energy Entities worked in consultation with the Monitor to review, record, dispute and, where appropriate, finally determine the amount and characterization of Claims against the Just Energy Entities and their respective Directors and Officers.

9. On February 9, 2022, the CCAA Court heard a Motion for Advice and Directions filed by U.S. counsel to the proposed representative plaintiffs in *Trevor Jordet v. Just Energy Solutions, Inc.*, Case No. 2:18-cv-01496-MMB (PC-11175-1) and in *Fira Donin and Inna Golovan v. Just Energy Group Inc. et al.*, Case No. 1:17-cv-05787-WFK-SJB (PC-11177-1) (together, the “**Putative Class Actions**”). At the conclusion of the February 9<sup>th</sup> hearing, the CCAA Court dismissed the Motion for Advice and Directions (the “**Dismissal Order**”).

10. While U.S. counsel to the proposed representative plaintiffs in the Putative Class Actions filed a Notice of Motion for Leave to Appeal the Dismissal Order, such motion was dismissed in full by the Ontario Court of Appeal on June 28, 2022, with costs payable to Just Energy and the DIP Lenders.

11. On May 12, 2022, the Just Energy Entities filed and served a Notice of Motion seeking orders, *inter alia*, (i) accepting the filing of a Plan of Compromise and Arrangement, dated May 26, 2022 (the “**Plan**”), (ii) approving a Plan Support Agreement, dated May 12, 2022 (the “**Plan Support Agreement**”) and a Backstop Commitment Letter, dated May 12, 2022 (the “**Backstop Commitment Letter**”), and (iii) authorizing the Just Energy Entities to call, hold and conduct virtual meetings of the proposed creditor classes to consider and vote on resolutions to approve the Plan (the “**Meetings Order Motion**”). The Meetings Order Motion was the culmination of ongoing efforts by the Just Energy Entities over an approximately one-year period to reach consensus with certain of their significant secured and unsecured creditors regarding the terms and structure of a restructuring plan to facilitate the Just Energy Entities’ emergence from the current CCAA and Chapter 15 proceedings as a going concern.

12. On June 7, 2022, the Meetings Order Motion was heard by the CCAA Court. The Meetings Order Motion was opposed by the following unsecured contingent creditors:

- (a) U.S. counsel for the plaintiffs in the Putative Class Actions;
- (b) the representative plaintiff in the certified class action proceeding filed in *Haidar Omarali v. Just Energy Group Inc. et al*, Ontario Superior Court of Justice Court File No. CV-15-527493-00CP (the “**Omarali Class Action**”);
- (c) the approximately 250 alleged claimants pursuing claims for alleged loss of business, personal injury and/or property damage arising out of the winter storm in Texas in February 2021 (the “**Mass Tort Claimants**”) and collectively with the

plaintiffs in the Putative Class Actions and the Omarali Class Action, the “**Contingent Litigation Claimants**”); and

(d) Pariveda Solutions Inc. (“**Pariveda**”).

13. On June 10, 2022, the CCAA Court released a brief endorsement addressing the majority of the issues raised both in the Meetings Order Motion and in the various objections filed by the Contingent Litigation Claimants in response to the Meetings Order Motion, with reasons to follow (the “**First Endorsement**”). In the First Endorsement, the CCAA Court:

- (a) granted the vast majority of the relief sought by the Applicants in the Meetings Order Motion, including approval of the Plan Support Agreement, the Backstop Commitment Letter and the Termination Fee (as defined in the Meetings Order Motion), the establishment of two classes of creditors (the Unsecured Creditor Class and the Secured Creditor Class) for purposes of considering and voting on the Plan and the provision of one vote to each of the Putative Class Actions and the Omarali Class Action and four votes to the Mass Tort Claimants;
- (b) denied the Applicants’ request that each of the claims held by the Contingent Litigation Claimants be valued at \$1 for purposes of voting on the Plan, and directed that summary proceedings be undertaken by the Applicants on an expedited basis as soon as reasonably possible to determine the validity and value of the claims held by the Contingent Litigation Claimants and Pariveda;
- (c) directed the Monitor to liaise with the relevant parties to determine a process to conduct the claim determinations and valuations (which process the CCAA Court later clarified in a case conference was to be undertaken prior to the Creditors’ Meetings); and



- (d) requested supplementary submissions from the Applicants, the Purchaser (at that time, acting in its capacity as the “Plan Sponsor”) and the Contingent Litigation Claimants regarding the appropriateness of the terms of the proposed differential consideration being offered to unsecured creditors in the Plan.

14. After the release of the First Endorsement, the Plan Sponsor/DIP Lenders advised the Court and stakeholders that the Plan Sponsor/DIP Lenders intended to withdraw their support for the Plan, indicating that in their view the Plan was no longer feasible.

15. On June 23, 2022, the CCAA Court released its second endorsement addressing the issue of the different consideration being offered to unsecured creditors in the Plan (the “**Second Endorsement**”). The CCAA Court determined in the Second Endorsement that given the complicated nature of the proposed differential consideration and the conflicting evidence on the issue, it was preferable to wait until the sanction hearing to determine the fairness of this aspect of the Plan. The CCAA Court accordingly rejected the Contingent Litigation Claimants’ submission that it was clear that the Plan cannot be sanctioned and is doomed to fail.

16. On July 4, 2022:

- (a) the representative plaintiff in the Omarali Class Action filed a Notice of Motion for Leave to Appeal the First Endorsement and, in particular, the CCAA Court’s determination that the class is entitled to only one vote, rather than one vote for each member of the class, in respect of the Plan; and
- (b) U.S. counsel in the Putative Class Actions filed a Notice of Motion for Leave to Appeal the First Endorsement and, in particular, the CCAA Court’s allocation of one vote to each of the Putative Class Actions and the classification of the Term Loan Lenders in the same class as the claimants in the Putative Class Actions and

other general unsecured creditors. This leave application was not perfected and was subsequently dismissed for delay by the Court of Appeal.

17. Following the release of the First Endorsement, and in an effort to preserve the viability of the Plan and a going concern solution, the Just Energy Entities undertook both bilateral and multilateral discussions with certain of the Contingent Litigation Claimants, Pariveda and the Plan Sponsor to canvass whether a resolution could be achieved in a manner that would permit the Plan to move forward. No resolution was reached.

18. Following the loss of stakeholder support for the Plan, each of the Just Energy Entities, Plan Sponsor, Supporting Secured CF Lenders and Shell agreed to terminate the Plan Support Agreement and support a going concern solution for the Just Energy Entities implemented through a Sales and Investment Solicitation Process (“**SISP**”) in accordance with a new Support Agreement, dated August 4, 2022 among the Just Energy Entities, the Purchaser, Shell, and the Supporting Secured CF Lenders (the “**SISP Support Agreement**”) and supported by the Transaction (at that time referred to as the “Stalking Horse Transaction”).

19. On August 4, 2022, the Just Energy Entities served a Notice of Motion (the “**SISP Motion**”) seeking, *inter alia*, approval of the SISP and SISP Support Agreement, authority to enter into the Transaction Agreement, approval of the US\$14.66 million break-up fee (the “**Break-Up Fee**”) and the Court-ordered charge securing same, an extension of the Stay Period, advice and direction with respect to the proposed suspension of the claims process and approval of a third key employee retention plan (the “**Third KERP**”). The SISP Motion was heard on August 17, 2022 and was opposed by counsel for the plaintiffs in the Putative Class Actions, the representative plaintiff in the Omarali Class Action, the Mass Tort Claimants and Pariveda.

20. On August 18, 2022, the CCAA Court released its endorsement with respect to the SISP Motion. In its endorsement, the CCAA Court granted all of the relief sought by the Just Energy

Entities in the SISP Motion, including approval of the SISP, the SISP Support Agreement, the Break-Up Fee, the Third KERF, the suspension of the claims process and the requested extension to the Stay Period. The CCAA Court dismissed the objections of the Contingent Litigation Claimants and Pariveda in full, however, extended the milestone dates under the proposed SISP by two weeks on the basis that such extension was fair and reasonable.

21. In addition, the CCAA Court directed that parties entitled to receive information on a confidential basis under the SISP Approval Order (as defined below) were required to “engage in the fair, equitable and symmetrical sharing of information concerning bids” and directed the Monitor to “continue to engage and monitor the exchange of information to ensure no bidder, including the Sponsor, enjoys an advantage that is unfair and/or could chill the market.” As discussed further below, the Monitor circulated a letter to the Service List on or about August 25, 2022 confirming the CCAA Court’s direction and setting out the process to be followed with respect to the sharing of confidential information under the SISP Approval Order. A copy of the CCAA Court’s endorsement (the “**SISP Endorsement**”) and associated Order (the “**SISP Approval Order**”) is attached hereto as **Exhibit “A”**.

22. On September 19, 2022, the U.S. Bankruptcy Court granted an Order recognizing and enforcing the SISP Approval Order and the Claims Procedure Order in the United States. A copy of the U.S. Bankruptcy Court’s *Order (I) Recognizing and Enforcing (A) The CCAA SISP Approval Order and (B) the CCAA Claims Procedures Order and (II) Granting Related Relief* is attached hereto as **Exhibit “B”**.

## **B. CONDUCT AND OUTCOME OF THE SISP**

23. As discussed further in my Affidavit sworn August 4, 2022 (the “**August Affidavit**”), the SISP Motion was filed by the Just Energy Entities after nearly 1.5 years of negotiations with their key stakeholders and a failed attempt to obtain a Meetings Order in the form sought. Following

the loss of stakeholder support for the Plan, the SISP was the only viable going concern exit strategy available to the Just Energy Entities to facilitate their exit from these CCAA and Chapter 15 proceedings. The SISP was backstopped by the Transaction (at that time referred to as the “Stalking Horse Transaction”) and was supported by the Just Energy Entities’ key stakeholders, including the Purchaser (in its capacity as Sponsor and DIP Lender), Shell, and the Senior Secured CF Lenders.

24. The SISP, supported by the Transaction, was developed by the Just Energy Entities in consultation with BMO Nesbitt Burns Inc., as financial advisor to the Just Energy Entities in these CCAA proceedings (the “**Financial Advisor**”), the Monitor, the Purchaser (in its capacity as Sponsor), the Supporting Secured CF Lenders and Shell to provide a fair and reasonable process to canvass the market to confirm whether the Transaction delivered the best possible result for all stakeholders. In granting the SISP Approval Order, the CCAA Court determined that “the SISP Support Agreement and the SISP, which includes the Stalking Horse Transaction, ought to be approved” and that the SISP (including the two-week extension to the milestone dates) provides “a clear, court ordered structure and path to a definitive auction date.”

25. Since the filing of the SISP Motion on August 4, 2022, the Just Energy Entities have conducted the SISP with the assistance of the Financial Advisor, under the supervision of the Monitor, and in accordance with the SISP Approval Order. In particular, pursuant to the SISP Approval Order, the SISP was undertaken in two stages - written notices of intention to bid (“**NOI**”) were required to be submitted by interested parties on or before September 8, 2022, with all Qualified Bids (as defined in the SISP Approval Order) required to be submitted on or before October 13, 2022.

26. With respect to the first stage of the SISP (the solicitation and submission of NOIs):

- (a) the Financial Advisor and the Just Energy Entities prepared a list of potential bidders who were identified as potentially having an interest in a transaction involving the business or assets of the Just Energy Entities and established a data room containing diligence information for purposes of the SISP;
- (b) on August 5, 2022, Just Energy issued a press release announcing that the Just Energy Entities had entered into the Transaction Agreement and SISP Support Agreement (both subject to CCAA Court approval) and had filed the SISP Motion seeking approval of, and authorization to undertake, the SISP (the “**SISP Press Release**”). A copy of the SISP Press Release is attached hereto as **Exhibit “C”**;
- (c) on August 5, 2022, EnergyChoiceMatters.com, a well-known industry website providing coverage of issues affecting the competitive retail electric and natural gas markets in the United States, published an article titled “Just Energy Announces Execution of Stalking Horse Transaction Agreement” on the front page of the website announcing the filing of the SISP Motion. A copy of the publication is attached hereto as **Exhibit “D”**;
- (d) on or about August 5, 2022, the Financial Advisor contacted all identified potential bidders in writing to invite them to participate in the SISP and provided them with (i) the SISP Press Release, (ii) a short summary information package providing public information about the Just Energy Entities (the “**Teaser Letter**”), (iii) the proposed form of SISP procedures and a link to the SISP Motion, and (iv) a form of non-disclosure agreement (“**NDA**”). The Financial Advisor also provided such materials to certain other third parties who contacted the Financial Advisor at various times throughout the first stage of the SISP expressing an interest in potentially participating in the process. A copy of the Teaser Letter is attached hereto as **Exhibit “E”**;

- (e) on August 10, 2022, the Just Energy Entities arranged for the notice attached hereto as **Exhibit “F”** to be published in the Wall Street Journal (on August 12, 2022) and in the Globe & Mail (National Edition) (on August 13, 2022) advising of the filing of the SISP Motion and providing interested parties with information regarding the SISP, the Transaction, and the process for participating in same;
- (f) between August 5, 2022 and early September, the Just Energy Entities negotiated numerous NDAs with potential bidders, facilitated access to the data room for parties that executed an NDA, updated the data room as additional due diligence information was requested by potential bidders, responded to numerous due diligence requests, and offered management presentation meetings to potential bidders;
- (g) following execution of an NDA, the Financial Advisor provided each potential bidder with a SISP process letter (the “**SISP Process Letter**”) to invite them to submit an NOI and ultimately a Qualified Bid in respect of a transaction involving the business or assets of the Just Energy Entities. A SISP Process Letter was also provided to a potential bidder who did not execute an NDA but who indicated its intention to submit an NOI. The SISP Process Letter provided potential bidders with information regarding the data room, due diligence issues, and the requirements for each NOI. A copy of the SISP Process Letter is attached hereto as **Exhibit “G”**; and
- (h) on September 8, 2022, the Just Energy Entities received various NOIs from potential bidders within the SISP indicating interest in completing a transaction for some or all of the Just Energy Entities’ business and/or assets. The Financial Advisor accordingly advised all participants that had submitted an NOI that Just Energy had received multiple NOIs and was moving forward with the process.

27. Specific details regarding the number of third parties contacted, the number of NDAs executed, the data room access granted, the number of NOIs received, and other SISP process-specific matters are addressed in the Caiger Affidavit.

28. As discussed further in my August Affidavit, in July 2022, counsel in the Putative Class Actions advised the Just Energy Entities that absent a consensual arrangement regarding the Plan, their clients anticipated filing their own restructuring plan for consideration by the Just Energy Entities' creditors. In order to best facilitate their opportunity to submit an alternative plan, the Just Energy Entities provided counsel in the Putative Class Actions and their financial advisor with advanced access to the data room created for the SISP, an advance copy of the SISP, and the list of potentially interested parties to be contacted by the Financial Advisor. Counsel in the Putative Class Actions was invited to identify any other parties who they suggested the Financial Advisor should invite to participate in the SISP. They were also invited to submit an alternative restructuring transaction (which could take the form of a plan of arrangement).

29. Notwithstanding such efforts by the Just Energy Entities, counsel in the Putative Class Actions failed to submit an NOI on or before the NOI Deadline (September 8, 2022). The Financial Advisor, the Monitor and counsel for the Just Energy Entities accordingly followed up regarding the SISP process. I am advised by counsel for the Just Energy Entities that counsel in the Putative Class Actions was invited to advise on what they saw as their next steps, including the possibility of obtaining further information concerning the SISP process since they had declared themselves to not be a bidder, so that the Just Energy Entities could consider their position. However, no response was ever received.

30. With respect to the second stage of the SISP (the submission of Qualified Bids):

- (a) the Just Energy Entities, with assistance from their advisors, prepared a form of transaction agreement, including the disclosure letter thereto, and a form of

approval and reverse vesting order, along with blacklines to the corresponding Transaction documents, for completion by bidders as part of their submission of a Qualified Bid;

- (b) on September 22, 2022, the Financial Advisor provided a Qualified Bid process letter (the “**Qualified Bid Process Letter**”) to one party, who had signed an NDA, submitted an NOI and remained engaged in the SISP at that time, inviting it to submit a binding Qualified Bid in the SISP and providing details regarding the substantive and procedural requirements for submission of a Qualified Bid. A copy of the Qualified Bid Process Letter is attached hereto as **Exhibit “H”** with the identity of the party redacted; and
- (c) between September 8 and October 13, 2022, the Just Energy Entities continued to update the data room and respond to numerous due diligence requests, including attending a management meeting with the remaining third-party participant to assist in its due diligence efforts.

31. Again, specific details regarding the process leading up to the Qualified Bid Deadline (October 13, 2022) are provided in the Caiger Affidavit.

32. Notwithstanding the best efforts of the Just Energy Entities and the Financial Advisor, no Qualified Bids other than the Transaction were received on or before the Qualified Bid Deadline. The Transaction was accordingly declared to be the Successful Bid and no Auction was undertaken.

33. The SISP Approval Order authorized Just Energy to provide certain information in respect of the SISP to the DIP Lenders, CBHT and the Supporting Secured CF Lenders on a confidential basis, including copies of any NOIs or bids received. The SISP Approval Order also authorized Just Energy to provide general updates and information in respect of the SISP to counsel to any



General Unsecured Creditor on a confidential basis if such counsel confirmed in writing that the applicable General Unsecured Creditor would not submit an NOI or bid in the SISP and counsel executed a confidentiality agreement with Just Energy.

34. As noted above, in the SISP Endorsement, the CCAA Court directed that parties entitled to receive information on a confidential basis under the SISP Approval Order were required to “engage in the fair, equitable and symmetrical sharing of information concerning bids” and ordered the Monitor to “continue to engage and monitor the exchange of information to ensure no bidder, including the Sponsor, enjoys an advantage that is unfair and/or could chill the market.”

35. On August 25, 2022, the Monitor confirmed by letter to the Just Energy Entities, copied to the Service List (among others), that in order to discharge its duties pursuant to the SISP Endorsement, and notwithstanding anything to the contrary, including the terms of the SISP or any support agreement entered into by the Just Energy Entities in relation to the SISP, the Monitor:

- (a) confirmed that copies of any NOIs and bids received during the SISP may be provided to the Sponsor, the DIP Lenders and the Supporting Secured CF Lenders pursuant to and in accordance with the SISP and the Support Agreement; provided, however, that no proprietary or competitive information (collectively, “**Restricted Information**”) contained in (or provided with) any bid, as determined by the Monitor, shall be so provided;
- (b) required that all bids be vetted for Restricted Information by the Monitor prior to delivery in accordance with the SISP and the SISP Support Agreement;
- (c) required that no additional information relating to any bids be provided to the Sponsor by the Just Energy Entities, their counsel or advisors (including the Financial Advisor) except with the prior written consent of the Monitor; and

- (d) required that a representative of the Monitor be invited to attend all meetings or calls and be copied on all electronic communications between any Just Energy Entity representative and any bidder or potential bidder, including the Sponsor, that in any way related to the SISP.

A copy of the Monitor's August 25, 2022 letter is attached hereto as **Exhibit "I"**.

36. Throughout the course of the SISP, the Just Energy Entities complied with the requirements set out by the Monitor in its August 25<sup>th</sup> correspondence, including providing copies of all NOIs to the Monitor for vetting, seeking the written consent of the Monitor prior to disclosing additional information, copying the Monitor on all correspondence relating to the SISP, and inviting a representative of the Monitor to all meetings and calls with bidders/potential bidders (including the Purchaser) relating to the SISP. The Just Energy Entities provided copies of all NOIs, and other permitted information to the DIP Lenders, CBHT and the Supporting Secured CF Lenders in accordance with the SISP Approval Order.

### **C. THE TRANSACTION**

37. The Transaction is the culmination of the Just Energy Entities' efforts to restructure over the past 19 months since the Initial Order was granted in March 2021 and, following the loss of stakeholder support for the Plan after release of the First Endorsement in June 2022, their efforts to identify a viable going concern strategy to exit these lengthy and costly CCAA and Chapter 15 proceedings in a manner which:

- (a) preserves the going concern value of the businesses for the benefit of stakeholders;
- (b) maintains the Just Energy Entities' relations with Commodity Suppliers to ensure uninterrupted supply of energy to the Just Energy Entities' almost 1 million customers;

- (c) preserves the ongoing employment of most of the Just Energy Entities' more than 1000 employees;
- (d) maintains the critical regulatory and licensing relationships between the Just Energy Entities and its market regulators across Canada and the United States; and
- (e) preserves the Just Energy Entities' relationships with the hundreds of other vendors with whom they transact for goods and services, and other business-critical stakeholders.

38. The terms of the Transaction are discussed at length in my August Affidavit which is attached hereto (without exhibits) as **Exhibit "J"**.

39. Following the granting of the SISP Approval Order issued on August 23, 2022, the Just Energy Entities and the Sponsor agreed to amend the Transaction Agreement and the SISP Support Agreement to: (a) extend all milestone dates included therein to align with the extended dates in the SISP; and (b) revise the definition of "Post-Filing Claim" to clarify that it does not include the subject of any Claim filed in the claims process established pursuant to the Claims Procedure Order unless expressly assumed pursuant to the applicable terms of the Transaction Agreement. Such amendments to the Transaction Agreement were made with the consent of all parties to the SISP Support Agreement and with the approval of the Monitor. The amended Transaction Agreement and a blackline to the version attached to my August Affidavit were appended as an exhibit to the Affidavit of Emily Paplawski, sworn September 15, 2022 (the "**Paplawski Affidavit**") and served on the Service List that same day.

40. The copies of the Transaction Agreement appended to my August Affidavit and the Paplawski Affidavit attach a blank Schedule 2.2(f) to the Disclosure Letter. While the Just Energy Entities and the Purchaser have now completed Schedule 2.2(f) to include all potential "Excluded Entities" (a copy of which will be provided with the updated Transaction Agreement, discussed

below), their review remains ongoing and Schedule 2.2(f) may be narrowed to exclude certain equity interests currently listed thereon. As the current Transaction Agreement requires that Schedule 2.2(f) be finalized not less than 7 days prior to the hearing of the Vesting Order Motion, the Just Energy Entities and the Purchaser have proposed to amend the Transaction Agreement, with the consent of the other parties to the SISP Support Agreement and the approval of the Monitor, to permit Schedule 2.2(f) to be modified (with the prior written consent of the Monitor) up to the Closing Date. The amended Transaction Agreement is expected to provide that the Just Energy Entities will file a copy of the final Schedule 2.2(f) as a schedule to the Monitor's Certificate.

41. In addition to the proposed amendment to the timelines relating to Schedule 2.2(f), Just Energy and the Purchaser have also proposed to amend the Transaction Agreement to:

- (a) permit the list of Excluded Contracts appended as Schedule 2.2(c) to the Disclosure Letter to be modified (subject to the prior written consent of the Monitor) up to the Closing Date and requiring that the final Schedule 2.2(c) be filed as a schedule to the Monitor's Certificate;
- (b) permit the Implementation Steps to be modified by Just Energy, the Credit Facility Lenders and the Purchaser, with the prior written consent of the Monitor, up to the Closing Date and requiring that the final Implementation Steps be filed as a schedule to the Monitor's Certificate;
- (c) clarify the scope of "Excluded Assets" with respect to the tax records and returns and the written information or records relating solely to the Excluded Assets or Excluded Liabilities, including that the Just Energy Entities that are not Excluded Entities will retain such items and provide copies thereof to Residual Co. or the

applicable Excluded Entity as soon as reasonably practicable after Residual Co.'s or the Excluded Entity's request for same;

- (d) clarify the scope of indemnification obligations included as "Assumed Liabilities"; and
- (e) extend the outside dates for: (i) the granting of the Reverse Vesting Order to November 2, 2022; (ii) the granting of an order by the U.S. Bankruptcy Court recognizing the Reverse Vesting Order (the "**Vesting Recognition Order**") to December 1, 2022; and (iii) the Outside Date for the Closing of the Transaction to December 16, 2022.

A copy of the further amended Transaction Agreement agreed to by Just Energy and the Purchaser, with the consent of the other parties to the SISP Support Agreement and the approval of the Monitor, will be finalized and circulated to the Service List in these CCAA proceedings prior to the hearing of the Vesting Order Motion.

**(a) The Transaction**

42. As discussed further in my August Affidavit, the key commercial terms of the Transaction are as follows:

- (a) the purchase price will be satisfied by the Purchaser by (i) payment of US\$184.9 million in cash, plus up to an additional C\$10 million (the "**Additional Cushion Funds**") in the event and to the extent additional funds are required to pay all amounts to be paid by the Just Energy Entities pursuant to the Transaction Agreement and the Reverse Vesting Order, (ii) a credit bid of the BP Commodity/ISO Services Claim (US\$252.7 million, including accrued interest to

November 30, 2022)<sup>3</sup>, in return for the issuance of the newly issued preferred shares of JEUS,<sup>4</sup> and (iii) the retention of all Assumed Liabilities (collectively, the “**Purchase Price**”);

- (b) on or prior to the Closing Date, the Just Energy Entities will effect certain settlements of intercompany obligations, transfers of partnership interests, and other specific transaction and pre-closing and closing date reorganization steps, (collectively, the “**Implementation Steps**”) in order to permit the Transaction to proceed in a tax-efficient manner. A copy of the Implementation Steps detailing the pre-closing and closing date steps for implementation of the Transaction will be provided to the Service List prior to the hearing of the Vesting Order Motion. Any modifications to the Implementation Steps impacting any of the steps noted herein will be identified at the time of service. A discussion of certain pre-closing steps that are expected to be undertaken (in the event the Reverse Vesting Order is granted and pursuant to the Implementation Steps) by the Just Energy Entities in order to facilitate the closing of the Transaction is included below;
- (c) on the Closing Date, pursuant to the terms of the Reverse Vesting Order and the Transaction Agreement, and in accordance with the Implementation Steps and the Articles of Reorganization, as applicable:

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<sup>3</sup> The BP Commodity/ISO Services Claim is comprised of all Pre-Filing Claims of BP Canada Energy Group ULC and BP Energy Company in the aggregate principal amounts of US\$229,461,558.59 and C\$170,652.60, plus all accrued and unpaid interest thereon through to and including the Closing Date. For purposes of the calculation above, an exchange rate of US\$1.00/C\$1.30 was used and a November 30, 2022 Closing Date was assumed. Accrued interest to November 30, 2022 was calculated using the default interest rate of prime plus 2%.

<sup>4</sup> The new preferred equity of JEUS will have a redemption amount approximately equal to the amount of the BP Commodity/ISO Services Claim as of the Closing Date (US\$252.7 million as of November 30, 2022). Holders of the new preferred equity will have the right to force a sale six years after issuance. The new preferred equity will have a 12.50% accreting yield with dividends as and when declared by the board of directors for the first four (4) years, increasing 1% annually thereafter, and provide for a 5% exit fee. The terms of the new preferred are detailed as Exhibit A to the Transaction Agreement.

- (i) the Purchaser will acquire all of the newly issued common and preferred shares of JEUS free and clear of all encumbrances, other than Permitted Encumbrances<sup>5</sup> (collectively, the “**New JEUS Shares**”);
- (ii) all equity interests of JEUS outstanding prior to the issuance of the New JEUS Shares will be cancelled and the New JEUS Shares will represent 100% of the outstanding equity interests of JEUS following their issuance;
- (iii) JEUS will subscribe for and Just Energy will issue to JEUS newly issued common shares of Just Energy, following which:
  - (A) Just Energy will file articles of reorganization which will amend the terms of the common shares of Just Energy to provide that all common shares of Just Energy outstanding prior to the issuance of common shares to JEUS will be redeemed for nil consideration;
  - (B) in accordance with the Reverse Vesting Order, all equity interests of Just Energy other than common shares held by JEUS will be cancelled or redeemed; and
  - (C) thereafter, JEUS will hold directly or indirectly all of the outstanding equity interests in Just Energy and the other Just Energy Entities (other than Excluded Entities);
- (iv) Just Energy will be delisted from the NEX and as a condition for the benefit of the Purchaser, Just Energy will cease to be a reporting issuer in Canada

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<sup>5</sup> As defined in Schedule 1.1(b) to the Disclosure Letter appended to the Transaction Agreement.

and none of the Just Energy Entities will be a reporting issuer (or equivalent thereof) under any Canadian or U.S. securities laws;

- (v) the Just Energy Entities will retain all of their assets and liabilities as of the Closing Date other than the Excluded Assets (as defined below) and the Excluded Liabilities (as defined below);
- (vi) all Excluded Assets (other than the Priority Payment Amount (as defined below) which must be paid in accordance with the Transaction Agreement and, for greater certainty, will not be transferred to Residual Co.) and Excluded Liabilities will be assigned to, and vested in, the Residual Cos., following which each Residual Co. will hold such Excluded Assets and Excluded Liabilities of the Just Energy Entities and will become Applicants in the CCAA proceedings;
- (vii) the Excluded Assets which are to be assigned to, and vested in, the Residual Cos. are narrow, and include, among other things: (A) the tax records and returns, and books and records pertaining solely thereto and other documents, in each case that solely relate to any of the Excluded Assets or Excluded Liabilities; (B) the Excluded Contracts; (C) all written information or records that are solely related to any Excluded Asset or Excluded Liability; (D) the Excluded Entities; (E) any rights of the Residual Cos. under the Transaction documents; and (F) the Administrative Expense Amount (as defined below) which will be paid in accordance with the terms of the Transaction Agreement;
- (viii) the Excluded Liabilities which are to be assigned to, and vested in, the Residual Cos. are comprised of all debts, obligations and liabilities of the



Just Energy Entities or any predecessors of the Just Energy Entities which do not fall within the definition of “Assumed Liabilities” under the Transaction Agreement. Such “Excluded Liabilities” include, among other things, pre-filing, unsecured litigation claims (including the Contingent Litigation Claims), intercompany obligations which do not continue pursuant to the Implementation Steps, and all claims in section 5.1(g)(iv) of the Implementation Steps;

- (ix) one of the Just Energy Entities will wind up under the Canada *Business Corporations Act*, the intercompany claims listed at Appendix E to the Implementation Steps will be cancelled for no consideration, the intercompany claims listed at Appendix F will either be assumed by a Residual Co. or cancelled for no consideration, and the shares of Filter Group USA Inc. shall be transferred by Filter Group Inc. to JEUS and certain intercompany obligations owed by Filter Group Inc. will be repaid;
- (x) the Just Energy Entities will cease to be Applicants in the CCAA proceedings and shall be released from the purview of the Second ARIO and all Orders of the CCAA Court granted in the CCAA proceedings (other than the Reverse Vesting Order); and
- (xi) the Just Energy Entities will continue to be liable for the Assumed Liabilities. Such Assumed Liabilities are comprised of:
  - (A) all Post-Filing Claims;<sup>6</sup>

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<sup>6</sup> Any or all indebtedness, liability, or obligation of the Just Energy Entities of any kind that arises during and in respect of the period commencing on the Filing Date and ending on the day immediately preceding the Closing Date in respect of services rendered or supplies provided to the Just Energy Entities during such period or under or in accordance with any Continuing Contract; provided that, for certainty, such amounts are not (i) a Restructuring

- (B) liabilities of each Just Energy Entity arising from and after the Closing Date;
- (C) all Claims of any Credit Facility Lender relating to: (i) any letter of credit issued but undrawn under the Credit Facility Documents immediately prior to Closing; and (ii) the Credit Facility Remaining Debt (as defined below), if any;
- (D) all Cash Management Obligations (as defined in the Second ARIO);
- (E) Energy Regulator Claims relating to the Just Energy Entities;
- (F) tax liabilities of the Just Energy Entities for any tax period or the portion thereof beginning on or after the Filing Date (subject to the various exclusions noted in the Transaction Agreement);
- (G) any other Taxes, including sales or use taxes, payable to a Taxing Authority for any period whereby the nonpayment of which by any Just Energy Entity could result in a responsible person associated with a Just Energy Entity being held personally liable for such non-payment;
- (H) the Intercompany Claims between the Just Energy Entities contemplated under the Implementation Steps as continuing as Assumed Liabilities, including certain post-filing Intercompany Claims;

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Period Claim or a Restructuring Period D&O Claim, each as defined in the Claims Procedure Order or (ii) the subject of any claim filed in the claims process established pursuant to the Claims Procedure Order unless expressly assumed pursuant to Subsections 2.3(b) through 2.3(k) of the Transaction Agreements.

- (I) certain indemnification obligations of the Just Energy Entities as more particularly set out in the Transaction Agreement;
  - (J) Employee Priority Claims;<sup>7</sup>
  - (K) all obligations and liabilities of the direct and indirect subsidiaries of Just Energy that are not Just Energy Entities, excluding the Excluded Entities; and
  - (L) all Claims of the Texas Comptroller of Public Accounts that have been accepted pursuant to the Claims Procedure Order.
- (d) In addition, on the Closing Date:
- (i) the Credit Facility Lenders, JEUS and Just Energy Ontario L.P. (“**JEO**”) will enter into a tenth amended and restated credit agreement (the “**New Credit Agreement**”) pursuant to which a first lien revolving credit facility in the amount of \$250 million (the “**New Credit Facility**”) will be made available to JEUS and JEO and: (A) the principal amount of up to \$10 million of the Credit Facility Claim (the “**Credit Facility Remaining Debt**”), if any, may remain outstanding as an initial outstanding principal amount under the New Credit Agreement, and (B) the letters of credit issued by the Credit Facility Lenders but which remain undrawn under the current Credit Agreement immediately prior to Closing will continue under the

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<sup>7</sup> Any Claim for (a) accrued and unpaid wages and vacation pay owing to an employee of any of the Just Energy Entities whose employment was terminated between the Filing Date and the Closing Date and (b) unpaid amounts provided for in Section 6(5)(a) of the CCAA.

New Credit Facility or be replaced with new or replacement letters of credit issued under the New Credit Facility; and

- (ii) a seventh amended and restated intercreditor agreement (the “**New Intercreditor Agreement**”) by, among others, the Just Energy Entities, National Bank of Canada, as collateral agent, the Credit Facility Agent, and the applicable Commodity Suppliers, will be entered into;
- (e) on the Closing Date, upon receipt of the cash portion of the Purchase Price from the Purchaser, Just Energy will pay from the cash portion of the Purchase Price and from the Just Energy Entities’ cash on hand: (i) all obligations secured by the Administration Charge, the FA Charge, the KERP Charge and the DIP Charge, (ii) the amount necessary to satisfy each claim of a Government Entity for amounts that are outstanding of the kind defined in section 6(3) of the CCAA, if any (each, a “**Government Priority Claim**”), (iii) the amount necessary to satisfy the Credit Facility Claim<sup>8</sup> (less the Credit Facility Remaining Debt, if any), and (iv) the amount necessary to satisfy each Commodity Supplier’s Commodity Supplier Claim that is an Accepted Claim pursuant to the Claims Procedure Order (collectively, the “**Priority Payments**”); and
- (f) on the Closing Date, the Just Energy Entities will pay \$1.9 million (the “**Administrative Expense Amount**”) in trust to the Monitor for payment of the reasonable and documented fees and costs of the Monitor and its professional advisors and the professional advisors of the Just Energy Entities for services

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<sup>8</sup> Defined in the SISP Support Agreement as “any amounts owing by the Just Energy Entities to the Credit Facility Lenders as of the Closing Date under the Credit Facility Documents, including all principal and all accrued and outstanding fees, costs, interest, or other amounts owing pursuant to the Credit Facility Documents as determined in accordance with the Claims Procedure Order; provided that the Credit Facility Claim shall not include any Credit Facility LC Claim, Commodity Supplier Claim or Cash Management Obligations.”

performed prior to and, other than in respect of the Just Energy Entities, after the Closing Date, in each case, relating directly or indirectly to the CCAA proceeding, the Chapter 15 proceedings and the Transaction Agreement, including: (i) costs required to wind down and/or dissolve and/or bankrupt each Residual Co., and (ii) costs and expenses required to administer the Excluded Assets, Excluded Liabilities and each Residual Co. (collectively, the “**Administrative Expense Costs**”). Any unused portion of the Administrative Expense Amount after payment or reservation for all Administrative Expense Costs will be transferred by the Monitor to Just Energy.

43. In summary, following closing, JEUS will own directly or indirectly all of the issued and outstanding shares of Just Energy and its pre-Transaction direct and indirect subsidiaries (other than Excluded Entities) which, in turn, will be wholly owned by the Purchaser. The Just Energy Entities will continue to control and own their assets, other than Excluded Assets, and will continue to be liable for their Assumed Liabilities, excluding the Excluded Liabilities. All secured debt and priority payables will be satisfied in full or retained, and the Monitor will receive the Administrative Expense Amount in order to fund the Administrative Expense Costs required to complete the CCAA and Chapter 15 proceedings. The Just Energy Entities will exit the CCAA and Chapter 15 proceedings and continue in the normal course for the benefit of all stakeholders without the burden of the Excluded Liabilities and the Excluded Assets. The two Residual Cos. will hold all Excluded Assets and Excluded Liabilities of the Just Energy Entities and will become Applicants in the CCAA proceedings.

44. The Just Energy Entities’ cash on hand and the cash portion of the Purchase Price (US\$184.9 million in cash, plus up to an additional C\$10 million in the event and to the extent additional funds are required to pay all amounts to be paid by the Just Energy Entities pursuant to the Transaction Agreement and the Reverse Vesting Order) is only enough to satisfy the Just

Energy Entities' secured and priority claims. In fact, recent projections show that because of working capital fluctuations and ongoing market conditions, the full C\$10 million Credit Facility Remaining Debt and C\$7.4 million of the Additional Cushion Funds will be required for the Just Energy Entities to make all Priority Payments assuming a December 31, 2022 Closing Date. If the Closing Date is delayed to January 31, 2023, given normal seasonal increases in working capital, it is likely that additional funding would be required to satisfy the Priority Payments in excess of the full Credit Facility Remaining Debt and the Additional Cushion Funds. A confidential summary detailing the estimated funds required for a January 31, 2023 Closing was uploaded by the Financial Advisor to the virtual data room on October 7, 2022.

45. Accordingly, no recoveries will be available for General Unsecured Creditors. While the SISP was conducted to canvass the market for executable transaction alternatives which are superior to the Transaction and would provide a recovery to General Unsecured Creditors, no Qualified Bids were received other than the Transaction.

46. I have been advised by counsel that (i) the provisions of Multilateral Instrument 61-101 "Protection of Minority Securityholders in Special Transactions", that require "minority" shareholder approval in respect of certain "related party transactions" or "business combinations" may be triggered by the Transaction, and (ii) the CCAA provides that shareholders are not required to vote on the Transaction unless specifically ordered by the Court.

47. Pursuant to the Transaction Agreement, the Closing Date must occur no later than five (5) business days after the conditions set forth in Article 6 of the Transaction Agreement (discussed below) have been satisfied or waived (the "**Closing Date**"), provided, however, that such Closing Date must occur by no later than December 16, 2022, or such later date agreed to by both Just Energy and the Purchaser in writing in consultation with the Monitor (the "**Outside Date**"). If, by the Outside Date, the only condition to the Closing that remains outstanding is the receipt of Transaction Regulatory Approvals and the filing of Energy Regulator Notices, the Transaction

Agreement provides that the Outside Date will be automatically extended for another sixty (60) days, and thereafter, by the Purchaser in its sole discretion on written notice to Just Energy.

48. Given the exit of the Just Energy Entities from the CCAA and Chapter 15 proceedings upon closing of the Transaction, the Just Energy Entities are seeking an Order from the CCAA Court expanding the powers of the Monitor previously granted in the Second ARIO and other Orders to authorize and empower the Monitor to take all actions necessary to, among other things, wind down and/or dissolve and/or bankrupt each Residual Co. and administer the Excluded Assets, Excluded Liabilities and each Residual Co.

**(b) Approval of the Transaction**

49. The Just Energy Entities are requesting that the Reverse Vesting Order be granted by the CCAA Court approving the Transaction Agreement and the Transaction contemplated therein. The Transaction is the best executable transaction or restructuring alternative available to the Just Energy Entities in the circumstances of these CCAA proceedings. It was subjected to a thorough canvassing of the market pursuant to the SISP approved by the CCAA Court and recognized by the U.S. Bankruptcy Court over the course of approximately ten (10) weeks. The SISP was developed and undertaken with the objective of identifying and completing a going concern transaction that would maximize value for the benefit of the Just Energy Entities' stakeholders; however, no Qualified Bids other than the Transaction were received by the Just Energy Entities.

50. In addition to the SISP, over the past approximately 3 years, the business of the Just Energy Entities has been marketed broadly and extensively. In 2019, the Just Energy Entities undertook a formal review process to evaluate strategic alternatives for the business with a view to the best interests of the Just Energy Entities and all their stakeholders. Thereafter, the Just Energy Entities undertook an extensive sales process to identify a potential transaction for their business with the assistance of Guggenheim Partners, LLC and National Bank Financial Inc. While the sales process

did not result in any executable transactions, discussions between the Just Energy Entities and various parties regarding a potential acquisition transaction continued unsuccessfully into June 2020. As no viable proposals resulted from such ongoing discussions, Just Energy completed a balance sheet recapitalization transaction through a plan of arrangement under section 192 of the *Canada Business Corporations Act* in September 2020.

51. Further, within these CCAA proceedings, a 62-day period was established under the Plan Support Agreement prior to the proposed deadline for the creditors' meeting to permit any interested party to propose a restructuring transaction more favourable than the Plan (which was substantially similar to the Transaction). No meaningful inquiries and no proposals were received by either the Financial Advisor or the Just Energy Entities.

52. Both prior to, and within these CCAA proceedings, interested parties have been provided with ample opportunities to diligence, submit and negotiate a transaction with respect to the Just Energy Entities and their business. The Transaction is the only executable offer which has been received pursuant to the CCAA Court-approved SISP. It provides the highest and best value to the Just Energy Entities and their stakeholders and, in the Just Energy Entities' view, should be approved.

53. The Transaction provides significant benefits to stakeholders of the Just Energy Entities. Among other things:

- (a) the Transaction will preserve the employment of the Just Energy Entities' more than 1000 employees;
- (b) the majority of contracts with Commodity Suppliers, vendors, trade creditors and other counterparties will continue in the normal course for the benefit of all parties thereto. Only a limited number of contracts are expected to be designated as "Excluded Contracts" within the Transaction Agreement and, as a result, most



contracts will continue in the normal course following the closing of the Transaction;

- (c) the operations of the Just Energy Entities across Canada and the United States will be preserved and continue uninterrupted in the normal course for the benefit of the Just Energy Entities' almost 1 million customers;
- (d) all secured claims and priority payables will be satisfied in full either through a cash payment (including the applicable portion of the Credit Facility Claim, all Commodity Supplier Claims, all Government Priority Claims, and applicable beneficiaries of Charges granted within these CCAA proceedings), by credit bid (the BP Commodity/ISO Services Claim), or by a continuance and assumption of such obligations by the Purchaser (including the Credit Facility Remaining Debt, the Credit Facility LC Claim and Post-Filing Claims);
- (e) any U.S. tax attributes and tax pools of the Just Energy Entities will be preserved;
- (f) the Just Energy Entities will exit these CCAA and Chapter 15 proceedings with a significantly deleveraged balance sheet and a \$250 million New Credit Facility; and
- (g) on Closing, the Just Energy Entities will exit these CCAA and Chapter 15 proceedings, following which limited matters will remain for the administration and wind down of Residual Cos. and conclusion of these lengthy and costly restructuring proceedings.

**(c) Conditions to Closing of the Transaction**

54. The respective obligations of Just Energy and the Purchaser to consummate the Transaction are subject to the satisfaction or waiver of, or compliance with, the following conditions at or prior to the Closing Time:

- (a) no provision of any applicable law and no judgment, injunction or order preventing or frustrating consummation of the Transaction are in effect;
- (b) each of the SISP Approval Order and the Reverse Vesting Order shall have been issued, entered and become final orders;
- (c) each of the Claims Procedure Recognition Order, the SISP Recognition Order and the Vesting Recognition Order shall have been issued and entered by the U.S. Bankruptcy Court and become final orders;
- (d) the SISP Support Agreement shall not have been terminated;
- (e) the Just Energy Entities and the Purchaser shall have received all required Transaction Regulatory Approvals and provided all Energy Regulator Notices set forth on Schedule 6.1(e) to the Disclosure Letter, and all required Transaction Regulatory Approvals shall be in full force and effect (except for Transaction Regulatory Approvals that need not be in full force and effect prior to Closing); and
- (f) the New Credit Agreement and the New Intercreditor Agreement shall have been entered into by and among the parties thereto.

55. In addition to the foregoing conditions, the following additional conditions, among others, must be satisfied or waived on or before the Closing Time for the benefit of the Purchaser:

- (a) the Reverse Vesting Order shall have been granted by the CCAA Court by November 2, 2022;
- (b) the Just Energy Entities shall have completed the Implementation Steps that are required to be completed prior to Closing;
- (c) the aggregate amount of cash held by the Just Energy Entities immediately after payment of all amounts required under the Transaction Agreement and the Reverse Vesting Order is equal or greater than \$0;
- (d) immediately prior to the Closing, the cash portion of the Purchase Price, plus the aggregate amount of the Just Energy Entities' cash on hand, plus the Credit Facility Remaining Debt shall be sufficient to pay all amounts to be paid by the Just Energy Entities pursuant to the Transaction Agreement and the Reverse Vesting Order;
- (e) Shell shall have provided certain confirmations regarding its continuing supply of commodities to the Just Energy Entities after closing in accordance with all Continuing Contracts; and
- (f) none of the Just Energy Entities shall be a reporting issuer (or equivalent thereof) under any U.S. or Canadian securities laws.

56. It is a condition of the Transaction that it be implemented by means of the Reverse Vesting Order granted by the CCAA Court and recognized by the U.S. Bankruptcy Court. The necessity for the Reverse Vesting Order and the impracticality of implementing the Transaction through another structure are discussed further below.

(d) **Reverse Vesting Order**

**Overview**

57. The Transaction is required to be implemented pursuant to a Reverse Vesting Order as such structure is necessary to preserve the going concern value of the Just Energy Entities' business for the benefit of stakeholders. Importantly, the Just Energy Entities are retail energy providers who derive their value almost entirely from their intangible assets. They do not own any electricity generation facilities, natural gas production or processing facilities, distribution infrastructure, or other hard assets required in the upstream production, or downstream distribution, of energy in the markets in which they operate. The value of the Just Energy Entities' business arises predominantly from the gross margin in their customer contracts which, in turn, is wholly dependent on the Just Energy Entities maintaining the significant number of non-transferrable licenses and authorizations that permit their continued operation in Canada and the United States, and in the agreements between the Just Energy Entities and the more than 100 public utilities (the "**Local Distribution Companies**") which are required for the Just Energy Entities to provide natural gas and electricity in certain markets to their customers. As of the date of this Affidavit, the Just Energy Entities hold at least:

- (a) 17 separate licenses and authorizations in 5 provinces in Canada to allow them to market natural gas and electricity in the applicable provincial markets, 8 of which are non-transferrable and non-assignable, with the remaining 9 only assignable with leave of the regulator;
- (b) 5 separate import and export orders issued by the Canadian Energy Regulator ("**CER**"), all of which are non-transferrable and non-assignable;

- (c) 3 separate registrations with the Alberta Electricity System Operator (the “**AESO**”) in Alberta and with the Independent Electricity System Operator (“**IESO**”) in Ontario, all of which are either non-transferrable or only assignable with leave;
- (d) 6 licenses in Nevada and New Jersey to allow them to market natural gas and/or electricity in the applicable states, all of which are non-transferrable;
- (e) 25 licenses in Connecticut, Delaware, Maine, Maryland, Ohio, Pennsylvania and Virginia to allow them to market natural gas and/or electricity in the applicable states, all of which may only be transferred with the prior authorization of the applicable regulator in each jurisdiction;
- (f) 18 electricity and/or natural gas provider licenses or authorizations in California, Illinois, Massachusetts, Michigan, and New York, where no process for transferring the licenses or authorizations is prescribed in the applicable statutes;
- (g) 5 retail electricity provider certifications in Texas which may only be transferred with the authorization of the Public Utility Commission of Texas (“**PUCT**”);
- (h) 3 separate export authorizations issued by the Department of Energy (“**DOE**”) in the U.S., all of which may only be transferred with the prior authorization of the DOE’s Assistant Secretary; and
- (i) 7 separate market-based authorizations issued by the Federal Energy Regulatory Commission (“**FERC**”) in the U.S. which may only be transferred with the prior authorization of FERC.

58. As discussed further below, I understand from counsel that all of the provincial, state, market participation, export, and import orders/licenses and authorizations held by the Just Energy Entities are non-transferrable, capable of transfer only with the approval of the applicable

regulator, or there are no clear regulatory processes for the transfer of such authorizations. However, other than with respect to the authorizations issued by FERC, the DOE, and the PUCT, change of control transactions are either subject to no restrictions or impose a reporting requirement only on the licensed entity to update its respective filings with, or submit notice to, the applicable regulator.

59. For this reason, among others discussed below, the only feasible structure for the Transaction is a sale of equity by means of the Reverse Vesting Order. Any other structure risks exposing most of the 89 licenses on which the Just Energy Entities' business is founded and, in turn, on which its going concern value is wholly reliant, to significant risk, regulatory uncertainty, and significant delays. Such risk and uncertainty is likely to be reflected by any purchaser in the value offered for the Just Energy Entities' business as the loss of certain licenses within the regulatory assignment process could have dramatic impacts on the Just Energy Entities' ability to carry on business and generate revenue for the benefit of their stakeholders, while also delaying the Just Energy Entities' emergence from these CCAA and Chapter 15 proceedings.

60. In addition:

- (a) the Just Energy Entities are party to a significant number of hedging transactions, including hedge transactions with Commodity Suppliers to minimize commodity and volume risk, foreign exchange hedge transactions and hedges for renewable energy credits, many of which are fundamental to the Just Energy Entities' ability to effectively operate their business, and most of which are non-transferrable; and
- (b) any U.S. tax attributes resident in the Just Energy Entities would generally be unable to be utilized in the go-forward business were the Transaction structured as a traditional asset sale vesting order.

61. Accordingly, it is imperative to the Transaction, and a condition of the Transaction Agreement, that the Transaction be completed by means of the Reverse Vesting Order.

62. Further details regarding the licenses and authorizations held by the Just Energy Entities in Canada and the United States and the reasons for the Just Energy Entities' request for the Reverse Vesting Order are discussed below.

### Canada

63. I am advised by counsel, and believe that, certain of the Just Energy Entities (the "**Licensed Entities**") have received gas and electricity licenses, market participation registrations, gas removal permits, and/or natural gas import and export orders from regulators in British Columbia, Alberta, Saskatchewan, Manitoba, and Ontario and from the CER.

64. I understand from counsel, and believe, that no licenses or authorizations held by the Just Energy Entities in Canada may be transferred or assigned to a purchaser with the exception of: (a) certain licenses issued by the Ontario Energy Board ("**OEB**"); and (b) one gas removal permit issued by the Alberta Energy Regulator ("**AER**"). Such licenses and permit can only be transferred with leave of the OEB or AER, as applicable.<sup>9</sup> In all other cases, the purchaser would be required to independently apply for, and obtain a new license, from the applicable regulator in order to participate in the provincial energy and electricity market.

65. However, as shown in the table below, the same restrictions do not apply to change of control transactions (such as the proposed Transaction). No licenses or authorizations held by the Just Energy Entities in Canada are subject to any regulatory restriction, other than, in some jurisdictions, notice requirements, when a change of control occurs in the ownership of the licensed

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<sup>9</sup> I am advised by counsel and believe that the process for obtaining the approval of the OEB and/or AER for the assignment of the licenses/permit is not certain and involves roughly equivalent timing and risk as the process to obtain a new license/permit.

entity. In all cases, the provincial and federal licenses, orders and authorizations held by the Just Energy Entities in Canada continue in the normal course following a change of control transaction.

66. A table detailing the foregoing is as follows:

<b>Just Energy Entity</b>	<b>License/Authorization</b>	<b>Transferrable</b>	<b>Asset Transaction Requirements</b>	<b>Change in Control Requirements</b>
<b>BRITISH COLUMBIA</b>				
Just Energy (B.C.) Limited Partnership	Gas Marketer License	No	Purchaser would need to apply for, and obtain, a new Natural Gas Marketer License.	No impact on license. No notice requirement.
<b>ALBERTA</b>				
Just Energy Alberta L.P. Hudson Energy Canada Corp. Just Energy Ontario L.P.	Each entity holds a Natural Gas Marketer License and an Electricity Marketer License. Just Energy Alberta L.P. holds a Direct Seller's License. Hudson Energy Canada Corp. is a market participant registered with the AESO. Just Energy Ontario L.P. holds a Gas Removal Permit from the AER.	No	Purchaser would need to apply for, and obtain, a new Natural Gas Marketer License(s), a new Electricity Marketer License(s) and a new Direct Seller's License. In addition, purchaser would need to apply for and become a registered market participant.  The Gas Removal Permit can be assigned with the consent of the Alberta Energy Regulator.	Any change in the partners of Just Energy Alberta L.P. would require notification to the Director of Fair Trading.  No impact on licenses, permit or market participant registration.



Just Energy Entity	License/Authorization	Transferrable	Asset Transaction Requirements	Change in Control Requirements
<b>SASKATCHEWAN</b>				
Just Energy Prairies L.P.	Direct Sellers License	No	Purchaser would need to apply for, and obtain, a new Direct Sellers License.	Any change in the partners of Just Energy Prairies L.P. would require notification to the Registrar.
<b>MANITOBA</b>				
Just Energy Manitoba L.P.	Gas Marketer License	No	Purchaser would need to apply for, and obtain, a new Natural Gas Marketer License.	No impact on license. No notice requirement.
<b>ONTARIO</b>				
Just Energy Ontario L.P. Universal Energy Corporation Hudson Energy Canada Corp. Just Energy Solutions Inc. Just Energy New York Corp.	Each of Just Energy Ontario L.P., Universal Energy Corporation, and Hudson Energy Canada Corp. hold a Gas Marketer License and an Electricity Retailer License. Just Energy Solutions Inc. and Just Energy New York Corp. each hold an Electricity Wholesaler License. Just Energy Solutions Inc. and Just Energy New York Corp. are market participants registered with the IESO.	Yes, but only with leave of the OEB with respect to the Gas Marketer Licenses, the Electricity Retailer Licenses, and the Electricity Wholesaler Licenses.  IESO market participant registrations only assignable with consent of IESO.	Purchaser would need to apply to the OEB for leave to transfer the Gas Marketer Licenses, the Electricity Retailer Licenses, and the Electricity Wholesaler Licenses.  Purchaser would need to obtain prior written consent of IESO for assignment of market participant registrations.	Any change to the status of a license holder “with respect to having publicly traded securities or any changes to its list of affiliates that have publicly traded securities” would require notification to the OEB.  No notice requirement with respect to the IESO.

Just Energy Entity	License/Authorization	Transferrable	Asset Transaction Requirements	Change in Control Requirements
<b>CANADA (FEDERAL)</b>				
Just Energy Ontario L.P. Just Energy New York Corp.	Each entity holds a Natural Gas Export Order and a Natural Gas Import Order. Just Energy Ontario L.P. holds a Natural Gas Export Order for Subsequent Importation	No	Purchaser would need to apply for and obtain new import and export orders from the CER.	No impact on orders. No notice requirement.

67. In addition to the licenses and authorizations held by the Just Energy Entities in Canada (without which they cannot operate and conduct their energy marketing/retailing business), the Just Energy Entities are also party to numerous agreements with more than 100 third-party Local Distribution Companies in certain markets in which they operate to distribute electricity and natural gas to their customers. As discussed above, the Just Energy Entities do not own any distribution infrastructure and so are required to have agreements with local utilities to distribute electricity and natural gas to the Just Energy Entities' customers.

68. In addition, in all Canadian markets other than Alberta, the Local Distribution Companies also provide customer billing and collection services to the Just Energy Entities.

69. I am advised by counsel and believe that none of the business-critical agreements between the Just Energy Entities and Local Distribution Companies in Alberta (natural gas and electricity), Saskatchewan (natural gas) or Ontario (natural gas and electricity)<sup>10</sup> are transferrable to a purchaser without the consent of the Local Distribution Company. Any purchaser of the Just

<sup>10</sup> Agreements between the Just Energy Entities and Local Distribution Companies located in British Columbia and Manitoba are freely assignable and do not require the consent of the Local Distribution Company.

Energy Entities' business in these provinces would be required to establish new contractual and operational relationships with applicable Local Distribution Companies or obtain their consent to an assignment of the current agreements held by the Just Energy Entities, prior to commencing business in those markets.<sup>11</sup> In addition, even if consent was obtained, extensive and time consuming testing would be required by the Local Distribution Companies as a condition of the assignment, which tests can take months to commence and complete. However, like the licenses and authorizations held by the Just Energy Entities in Canada, I understand from counsel that agreements with Local Distribution Companies are unaffected by changes in the upstream ownership structure of the applicable counterparty and will continue in the normal course following completion of the Transaction.

70. Lastly, I am advised by counsel and believe that any assignment of a customer contract for the supply of natural gas in British Columbia requires the advance approval of the British Columbia Utilities Commission and provision of a notification to each customer within 30 days of the assignment. While regulatory approval is not required for assignment of customer contracts in Alberta, Saskatchewan, Manitoba, or Ontario, all assignments of customer contracts in Manitoba and Ontario require notice be given to each customer. Again, I understand from counsel that customer contracts in British Columbia and elsewhere are unaffected by changes in the upstream ownership structure of the applicable counterparty and will continue in the normal course following completion of the transaction.

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<sup>11</sup> I am advised by counsel that while all Local Distribution Companies in Canada must offer any purchaser new utility contracts (as such utilities are, by law, "open access"), the process of winding down the contracts held by the Just Energy Entities, transferring customers to the purchaser, and entering into new contracts with the purchaser would be cumbersome and lengthy.

**United States**

71. The Just Energy Entities are also subject to regulation by FERC and the DOE in the United States and by regulators in the following U.S. states: Texas, Connecticut, California, Delaware, Illinois, Maine, Maryland, Massachusetts, Michigan, Nevada, New Jersey, New York, Ohio, Pennsylvania, and Virginia.

72. I am advised by counsel and believe that similar to Canada:

- (a) the 6 electricity and/or natural gas provider licenses held by the applicable Just Energy Entities in Nevada and New Jersey are non-transferrable to a purchaser. In each case, the purchaser must be authorized to hold the applicable electricity and natural gas licenses in the jurisdiction and must apply to the applicable regulator for the issuance of new licenses prior to commencing operations in the jurisdiction;
- (b) the 25 electricity and/or natural gas provider licenses held by the applicable Just Energy Entities in Connecticut, Delaware, Maine, Maryland, Ohio, Pennsylvania and Virginia may only be transferred to a purchaser with the prior authorization of the applicable regulator in each jurisdiction;
- (c) the applicable statutes, rules, and regulations in California, Illinois, Massachusetts, Michigan, and New York with respect to the 18 electricity and/or natural gas provider licenses held by various Just Energy Entities in those states do not prescribe any process for transferring the licenses or authorizations and are silent on whether the prior authorization of the applicable regulator is required;
- (d) the 5 retail electricity provider certifications held by the applicable Just Energy Entities in Texas may be transferred with the authorization of the PUCT; and

- (e) no regulatory prior approvals for transactions resulting in a change of control of the ownership structure of a licensed entity (such as the Transaction) is required by any regulator in any states in the U.S. in which the Just Energy Entities operate, although many require that a notice be filed updating the license holder's information within a certain period of time following completion of the transaction or in the license holder's annual filing, and, in the case of Texas, an application must be filed to amend its certification if a material change results from the transaction (which may be submitted within 10 working days of the change).

73. I am further advised by counsel, and believe, that with respect to the export authorizations issued by the DOE and the market-based rate authorizations issued by FERC:

- (a) transfer of a DOE export authorization requires prior authorization of the DOE Assistant Secretary. With respect to change of control transactions, the DOE has established a post-closing, streamlined procedure which, for export authorizations such as those held by the Just Energy Entities, immediately authorizes continued exportation following a change of control transaction upon the filing of a statement of change of control by the authorization holder. Accordingly, in the case of a change of control over an entity holding an export authorization such as those held by the Just Energy Entities, such change of control is given immediate effect upon receipt of the statement. In contrast, express prior authorization of the DOE Assistant Secretary is required for transfers of DOE export authorizations; and
- (b) the FERC process for transfer of a market-based authorization for an assignment or a change of control transaction is the same. In both cases, an application must be submitted under the *Federal Power Act* for prior approval by FERC.

**Necessity of an RVO**

74. In light of the foregoing, the Just Energy Entities are of the view that completion of the Transaction by means of a traditional asset sale vesting order will be extremely difficult, lengthy, costly and unlikely to preserve the going concern value of the Just Energy Entities. Further, attempting to implement the Transaction through a traditional vesting order would not result in any recoveries for unsecured creditors. In any event, it is a requirement of the Transaction that it be implemented by means of the Reverse Vesting Order.

75. First, in a traditional asset sale scenario, the regulatory complexities involved in closing the Transaction would be immense. If the Purchaser sought to acquire all of the assets held by the Just Energy Entities, the Purchaser would be required to participate in separate regulatory processes in 5 Canadian provinces, 15 U.S. states, and federally with the CER in Canada and with the DOE and FERC in the United States to try and obtain either a transfer of the Just Energy Entities' 89 current licenses, authorizations, and certifications, or issuance of new licenses, authorizations, and certifications, in such jurisdictions. Such regulatory processes would be complex, costly, and take many months to complete, with various regulations and statutes not providing any direction on timing and no guarantee of approval.

76. Further, even if all licenses/authorizations/registrations were obtained by the Purchaser from each applicable federal, state and provincial regulator, the Purchaser would still be required to negotiate and finalize contractual and operational relationships with more than 100 Local Distribution Companies in Canada and the United States. Each Local Distribution Company has its own processes and testing requirements which would have to be satisfied by the Purchaser prior to commencing business, which processes and testing requirements can take many months to complete.

77. The Just Energy Entities do not have unlimited time to close the Transaction. As discussed further in my August Affidavit, the Just Energy Entities have faced, and continue to face, mounting pressures to exit these CCAA and Chapter 15 proceedings as soon as possible. Externally, market conditions in the U.S. and Canada continue to be difficult and commodity prices continue to be extremely volatile. Internally, the Just Energy Entities are facing ever increasing employee morale and retention issues as the CCAA and Chapter 15 proceedings continue into their 19<sup>th</sup> month. The Just Energy Entities' critical business relationships with their employees, Commodity Suppliers, Regulators, and others continue to be strained. It is imperative that the Just Energy Entities protect against further deterioration in their business-critical relationships and going concern value and conclude these ongoing proceedings in the near term.

78. Second, even if the Just Energy Entities had extended periods of time for all regulatory processes to conclude and the Transaction to close, such a process would be highly uncertain. Neither the Just Energy Entities nor the Purchaser have any guarantees that all necessary licenses/authorizations/registrations for the operation of the Just Energy Entities' business would be received in all applicable jurisdictions. I am advised by counsel that the decision of whether to grant a license is generally within the discretion of the applicable regulator. While such discretion has constraints and must be exercised in accordance with applicable legal principles, there is never a guarantee of success. The process is uncertain and marked by risk.

79. With respect to the Transaction, such regulatory risk is significant based on the sheer number of licenses, authorizations and registrations required to be granted and/or assigned to the Purchaser, and the sheer number of different regulatory processes that must be undertaken in all the applicable Canadian and U.S. jurisdictions. The loss of certain licenses or authorizations would jeopardize the entire Transaction by precluding the ongoing operation of the Just Energy Entities' business in that jurisdiction, thereby materially impacting both short- and long-term revenues and the Just Energy Entities' going concern value. Any failure of the Transaction to close, or reduction

in the value ascribed by the Purchaser to the Just Energy Entities' business within the Transaction, would be borne by the Just Energy Entities' stakeholders, including its secured and priority creditors, employees, vendors and Commodity Suppliers.

80. Third, most of the hedge contracts and derivative instruments held by the Just Energy Entities which are fundamental to the Just Energy Entities' ability to effectively operate their business are non-transferrable and non-assignable without the consent of the counterparty. Preservation of such hedge contracts and derivative instruments by means of the Reverse Vesting Order maximizes the value of the Just Energy Entities for the benefit of stakeholders. In addition, any U.S. tax pools and tax attributes resident in the Just Energy Entities would be difficult to preserve other than by completion of the Transaction by means of the Reverse Vesting Order.

81. In the Just Energy Entities' view, the highly regulated nature of the Just Energy Entities' business and the complete dependency of its going concern value on the maintenance of its licenses, authorizations and registrations demands a unique transaction structure – here, a Reverse Vesting Order. Any other transaction structure would introduce significant delay, additional costs, risk, complexity and uncertainty into an already complicated, costly and lengthy process. Such increased risk, delay, complexity and uncertainty would be borne by the Just Energy Entities' stakeholders. Such a result is not in the best interests of anyone.

82. The Transaction Agreement requires, as a condition of the Transaction that it be completed by means of a change in control of JEUS and Just Energy (i.e. the upstream ownership structure of the license-holders) and implemented pursuant to a Reverse Vesting Order. The Transaction is the only viable and executable transaction available to the Just Energy Entities following completion of a thorough and transparent marketing process under the SISP, the Just Energy Entities' unsuccessful attempt to submit a Plan to its creditors for their consideration and approval, and more than 19 months of stakeholder negotiations and engagement since the CCAA and Chapter 15 proceedings were filed in March 2021. It is imperative that the Just Energy Entities



conclude these costly and lengthy CCAA and Chapter 15 proceedings for the benefit of all stakeholders. The Transaction is the only viable Transaction available to the Just Energy Entities to effect such result and, in turn, the granting of the Reverse Vesting Order is, in the view of the Just Energy Entities, necessary and appropriate.

**(e) Releases**

83. The Reverse Vesting Order includes the following releases and protections in favour of the Just Energy Entities and various other interested parties that have made material contributions to the successful restructuring of the Just Energy Entities:

- (a) *Third-Party Releases:* (a) the current and former directors, officers, employees, legal counsel and advisors of the Just Energy Entities and the Residual Cos. (or any of them); (b) the Monitor and its legal counsel; (c) the Purchaser and its current and former directors, officers, employees, legal counsel and advisors; and (d) the Credit Facility Agent and the Credit Facility Lenders, and their respective current and former directors, officers, employees, legal counsel and advisors (in such capacities, the “**Released Parties**”) will be released by all Persons besides the Just Energy Entities and their respective current and former affiliates (defined in the Reverse Vesting Order as the “**Releasing Parties**”) from the Released Claims (as defined below);
- (b) *Debtor Releases:* the Released Parties will be released by each of the Just Energy Entities and their respective current and former affiliates, and discharged from any and all Released Claims held by the Just Energy Entities as of the Effective Date, provided however that nothing limits or modifies in any way any claim or defence which any of the Just Energy Entities may hold or be entitled to assert against any of the Released Parties as of the Effective Date relating to any contracts, leases,

agreements, licenses, bank accounts or banking relationships, accounts receivable, invoices, or other ordinary course obligations which remain in effect following the Effective Time.

84. The requested releases are necessary to bring finality to the CCAA proceedings, facilitate the release of the Court-ordered charges, including the D&O Charge, without requiring a reserve for potential claims which would prevent the Transaction from closing, and to protect the Released Parties from any and all claims, demands, causes of action, dealings, occurrences (or other matters included within the definition of “Released Claims” in the Reverse Vesting Order) which existed or took place prior to the Effective Time, or which were undertaken or completed in connection with or pursuant to the terms of the Reverse Vesting Order in respect of, relating to, or arising out of: (a) the Just Energy Entities, the business, operations, assets, property and affairs of the Just Energy Entities, the administration and/or management of the Just Energy Entities, or the CCAA and/or the Chapter 15 Cases; or (b) the Transaction Agreement, the Closing Documents, any agreement, document, instrument, matter or transaction involving the Just Energy Entities arising in connection with or pursuant to any of the foregoing, and/or the consummation of the Transaction (subject to the exclusions described below, collectively the “**Released Claims**”).

85. The releases provided in the Reverse Vesting Order explicitly do not release or discharge:

- (a) any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA; or
- (b) any obligations of any of the Released Parties under or in connection with the Transaction Agreement, the Closing Documents, the SISP Support Agreement, the Definitive Documents and/or any agreement, document, instrument, matter or transaction involving the Just Energy Entities arising in connection with or pursuant to any of the foregoing.

86. The Released Parties have made significant and often critical contributions to the development and implementation of the Just Energy Entities' restructuring in these CCAA proceedings. Since March 2021, the Released Parties have worked diligently towards ensuring the implementation of the restructuring of the Just Energy Entities' financial obligations and operations for the benefit of stakeholders. Such efforts have resulted in the execution and approval of the SISP Support Agreement and Transaction Agreement. If the Reverse Vesting Order is granted and the Transaction is consummated, the Just Energy Entities and their businesses will continue, and their going concern value will be preserved for the benefit of stakeholders.

87. In addition to the Third-Party Releases and the Debtor Releases discussed above, the Reverse Vesting Order also includes various exculpations which the Just Energy Entities will request be approved by the U.S. Bankruptcy Court in the Vesting Recognition Order. The Reverse Vesting Order provides that all of: (a) the current and former directors, officers, employees, legal counsel and advisors of the Just Energy Entities and the Residual Cos. (or any of them); (b) the Monitor and its legal counsel; and (c) the Purchaser and its current and former directors, officers, employees, legal counsel and advisors (in such capacities, collectively, the "**Exculpated Parties**") are released and exculpated from any cause of action for any act or omission in respect of, relating to, or arising out of: (a) the Transaction Agreement, (b) the Closing Documents, (c) the consummation of the Transactions, (d) the CCAA and Chapter 15 Cases, (e) the formulation, preparation, dissemination, negotiation, filing or consummation of the Transaction Agreement, the Closing Documents, and all related agreements and documents, any transaction, contract, instrument, release, or other agreement or document created or entered into in connection with the Transactions, (f) the pursuit of approval and consummation of the Transactions or the recognition thereof in the U.S., and/or (g) the transfer of assets and liabilities pursuant to the Reverse Vesting Order.

88. The Reverse Vesting Order expressly does not release the Exculpated Parties from any causes of action related to any act or omission that is determined in a final order of a court of competent jurisdiction to have constituted actual fraud, willful misconduct, or gross negligence.

89. On the Effective Date, each Consenting Party (defined as the Just Energy Entities and the Purchaser) is deemed to have consented and agreed to the releases, injunctions and exculpations referred to in the Reverse Vesting Order.

**(f) Pre-Closing Implementation of the Transaction**

**Transaction Regulatory Approvals**

90. The Transaction Agreement requires that Just Energy and the Purchaser use commercially reasonable efforts to, among other things, obtain all Transaction Regulatory Approvals and file all required Energy Regulator Notices as soon as reasonably practicable and, in any event, by no later than the time limits imposed under applicable law. Schedule 6.1(e) to the Disclosure Letter lists a number of Transaction Regulatory Approvals which must be obtained, and Energy Regulator Notices to be provided, prior to the closing of the Transaction. Such Energy Regulator Notices include Competition Act Approval (if required), Investment Canada Act Approval, and Authorization from FERC under section 203 of the *Federal Power Act*.

**(i) Competition Act Approval**

91. I am advised by counsel that the transactions contemplated by the Transaction Agreement require compliance with the pre-merger notification provisions set out in part IX of the *Competition Act*. I am further advised by counsel that such compliance, evidenced by receipt from the Commissioner of Competition (“**Commissioner**”) of an advance ruling certificate pursuant to section 102 of the *Competition Act* (“**ARC**”), or a no-action letter, together with a waiver of the notification requirements, is a condition of closing of the Transaction Agreement.

92. I understand from counsel that an ARC was issued by the Commissioner on June 23, 2022 in connection with the Plan. Attached as **Exhibit “K”** is a copy of correspondence attaching the ARC.

93. Following the loss of stakeholder support for the Plan and execution of the Transaction Agreement by Just Energy and the Purchaser, I am advised by counsel that the Parties contacted the Competition Bureau to outline the changes in the structure of the Transaction provided under the Transaction Agreement and to confirm whether the ARC could be re-issued to reference the Transaction Agreement.

94. On August 31, 2022, I understand from counsel that the Parties received an amended ARC from the Commissioner confirming that, subject to section 103 of the *Competition Act* and pursuant to section 102 of the *Competition Act*, the Commissioner was satisfied that there would not be sufficient grounds on which to apply to the Competition Tribunal under section 92 of the *Competition Act* in respect of the Transaction. Attached as **Exhibit “L”** is a copy of correspondence attaching the Amended ARC. Accordingly, I am advised by counsel that the *Competition Act* closing condition in the Transaction Agreement has been satisfied.

**(ii) Investment Canada Act Approval**

95. The Transaction Agreement contemplates at the Purchaser’s option the filing of a notification to acquire a Canadian Business under the *Investment Canada Act* (the “**ICA Notification**”) following execution of the Transaction Agreement. In addition, if such a filing is made, subsequent confirmation that no action will be taken and no approvals required under any of the potentially applicable provisions of the *Investment Canada Act* is a condition of closing of the Transaction Agreement.

96. I am advised by counsel that Purchaser’s counsel filed with the Investment Review Division (“**IRD**”) on June 6, 2022 a notification to acquire a Canadian Business under the

*Investment Canada Act*, then in relation to the Plan and with respect to the Plan Sponsor. On July 11, 2022 the IRD issued a certification letter, certifying the notification as complete. The relevant time periods for action to be taken or approvals to be required under the *Investment Canada Act* subsequently expired.

97. I am further advised by counsel that following the loss of stakeholder support for the Plan and execution of the Transaction Agreement, the Parties contacted the IRD to determine whether the actions taken under the *Investment Canada Act* in connection with the Plan were sufficient to encompass the actions contemplated under the Transaction Agreement. On September 1, 2022 the IRD advised the Parties that a new notification would be required with respect to the actions contemplated under the Transaction Agreement.

98. Accordingly, I understand from counsel that: (a) on September 7, 2022, counsel to the Purchaser advised that they had filed a revised ICA notification (the “**Amended Notification**”); and (b) on September 9, 2022, counsel to the Purchaser advised that the IRD had issued a new certification letter, certifying the Amended Notification complete as of September 7, 2022. I am advised by counsel that if no action is taken under Part IV.1 of the *Investment Canada Act* prior to October 24, 2022, the *Investment Canada Act* closing condition in the Transaction Agreement will be satisfied.

### (iii) Authorization from FERC

99. The Transaction Agreement contemplates that Just Energy will file an Application pursuant to section 203 of the *Federal Power Act* and part 33 of the regulations of FERC for approval by FERC of the Transaction. In accordance with such requirement, on or about September 14, 2022, the applicable Just Energy Entities filed an *Authorization under Section 203 of the Federal Power Act and Requests for Waivers and Requests for Waivers and Expedited Action* (the “**FERC Application**”) with FERC in Docket No. EC22-119-000 seeking an Order approving the FERC

Application by November 11, 2022 and requesting expedited action and a comment period of 21 days in order to facilitate approval by that date. Attached as **Exhibit “M”** hereto is a copy of the FERC Application.

100. I am advised by counsel that no interventions or comments were filed by the comment period deadline.

### **Pre-Closing Implementation Steps**

101. In addition to Transaction Regulatory Approvals required to be obtained prior to the closing of the Transaction Agreement, the Implementation Steps require that the Just Energy Entities undertake various settlements of intercompany obligations, transfers of partnership interests, and other specific pre-closing reorganization steps, in order to permit the Transaction to proceed in a tax-efficient manner and avoid unintended negative tax consequences. I am advised by counsel that in the event the Reverse Vesting Order is granted, the following pre-closing steps are expected (subject to finalization of the Implementation Steps) to be undertaken by the Just Energy Entities in accordance with the Implementation Steps:

- (a) Just Energy shall transfer its shares of JEUS to a subsidiary (Ontario Energy Commodities Inc. (“**OECI**”)) with the result that all of the shares of JEUS will be held by OECI after such transfer;
- (b) the partnership agreements of certain Just Energy Entities which are limited partnerships organized in Canada will be amended to clarify certain provisions therein relating to the allocation of income and losses to their members;
- (c) in order to consolidate the ownership of interests in partnerships within the Just Energy Entities, certain partnership units in Just Energy Trading LP (“**JETLP**”),

Just Energy Manitoba LP (“**JEMNLP**”), JEO, and Just Ventures LP (“**JVLP**”) will be transferred from one Just Energy Entity to another;

- (d) Just Energy shall transfer a loan receivable owed to it by JEUS to Just Energy Corp. (“**JEC**”);
- (e) certain intercompany obligations between Filter Group Inc., Filter Group USA Inc. and Just Energy and its other subsidiaries will be settled;
- (f) certain pre-filing intercompany obligations between Just Energy Entities organized in Canada (any such obligations, “**Canadian Pre-Petition Intercompany Claims**”) (which shall be deemed to be separate claims from any post-filing obligations) will be memorialized and documented as promissory notes that allow the creditor to enforce its creditor rights, in order to facilitate subsequent settlement steps. After such claims are documented:
  - (i) one set of promissory notes (described in Part I of Appendix B to the Implementation Steps) will be amended to allow the holder to convert such notes into interest-bearing notes with the same principal amount with such amendment not constituting a novation of the underlying indebtedness, and the holder of such notes will subsequently exercise such conversion rights;
  - (ii) a second set of promissory notes (described in Part II of Appendix B to the Implementation Steps) will be amended to add interest rates to such notes with such amendment not constituting a novation of the underlying indebtedness;
  - (iii) for a third set of promissory notes (described in Appendix A to the Implementation Steps), the creditor will make a formal demand for



payment, and on the business day prior to the Closing Date, the debtor will surrender an intercompany receivable owing from a third entity to the creditor as a quitclaim in satisfaction of the note on which the demand was made;

- (g) the Canadian Pre-Petition Intercompany Claims will be settled through (i) set off against other Canadian Pre-Petition Intercompany Claims (including after transfer by the initial creditor); (ii) transfer to a newly-formed subsidiary of the debtor and settlement through a subsequent winding-up of such subsidiary into the debtor; (iii) contribution into the capital of the debtor for cancellation; or (iv) cancellation and forgiveness. For Canadian Pre-Petition Intercompany Claims described in paragraphs 101(f)(i) and (ii), payments of interest accrued since the conversion or addition of interest described therein will be made before such claims are settled; and
- (h) all intercompany claims between subsidiaries of Just Energy which are organized in the U.S. as set out in Appendix D to the Implementation Steps will be cancelled for no consideration on the business day before the Closing Date.

102. I am advised by counsel that the Implementation Steps allow intercompany accounts to be settled in a tax-efficient manner, consistent with the policy underlying the relevant provisions of the *Income Tax Act* (Canada).

103. The Reverse Vesting Order sought by the Just Energy Entities includes approval of the Implementation Steps by the CCAA Court. The Just Energy Entities are seeking approval of the Implementation Steps which, among other things, include the foregoing cancellation, surrender, settlement, and/or memorialization of intercompany obligations, interest payments, and

share/partnership unit transfers being undertaken prior to Closing of the Transaction, some of which may be prohibited by the Initial Order absent CCAA Court approval.

**D. UPDATE ON ERCOT**

104. As discussed in my August Affidavit, certain of the Just Energy Entities and Electric Reliability Council of Texas, Inc. (“**ERCOT**”) are party to an adversary proceeding (the “**Adversary Proceeding**”) filed in the U.S. Bankruptcy Court relating to actions taken by ERCOT during the winter storm in February 2021. The Adversary Proceeding seeks, among other things, to avoid obligations incurred, and to claw back payments made to ERCOT, by certain of the Just Energy Entities pursuant to section 36.1 of the CCAA.

105. At a hearing on June 27, 2022, the U.S. Bankruptcy Court, among other things, denied ERCOT’s third motion to dismiss the Adversary Proceeding, including with respect to arguments based on (i) sovereign immunity, (ii) abstention, (iii) the filed-rates doctrine, and (iv) the PUCT as a necessary party (the “**June 27 Order**”). On July 19, 2022, ERCOT filed a notice of appeal of the June 27 Order and, by Order granted July 19, 2022, the U.S. Bankruptcy Court certified the June 27 Order for direct appeal to the U.S. Court of Appeals for the Fifth Circuit (the “**Fifth Circuit**”) and recommended that the appeal be heard on an expedited basis.

106. Since the last update provided in my August Affidavit regarding the status of the Adversary Proceeding, ERCOT and two defendant-intervenors, Calpine Corporation and NRG Energy, Inc. (collectively, “**Appellants**”), jointly filed an unopposed petition asking the Fifth Circuit to accept direct review of ERCOT’s appeal. The Fifth Circuit granted the Appellants’ petition on August 16, 2022. A copy of the Fifth Circuit’s Order is attached hereto as **Exhibit “N”**.

107. Since accepting direct review of ERCOT’s appeal:

- (a) on August 17, 2022, the Fifth Circuit entered an Order expediting the appeal and, in accordance with the foregoing, issued a letter on August 24, 2022 setting an expedited briefing schedule. A copy of the Fifth Circuit's Order dated August 17, 2022, and letter dated August 24, 2022 is attached hereto as **Exhibits "O" and "P"**, respectively; and
- (b) on August 30, 2022, the Fifth Circuit entered an order granting a motion by the Appellants to stay the Adversary Proceeding pending the outcome of the appeal. A copy of the Order is attached hereto as **Exhibit "Q"**.

108. Oral argument in the appeal is scheduled to proceed before the Fifth Circuit on November 8, 2022. A continued status conference in the Adversary Proceeding is scheduled before the U.S. Bankruptcy Court on December 15, 2022.

109. In Canada, counsel to ERCOT and counsel to the Just Energy Entities have exchanged the following correspondence regarding the Adversary Proceeding and the Transaction since the Just Energy Entities served the SISP Motion on August 4, 2022:

- (a) on August 15, 2022, counsel to ERCOT sent the correspondence attached hereto as **Exhibit "R"** expressing "concerns with the proposed transaction structure in the SISP Motion because of its implications for the Adversary Proceeding and the underlying energy contracts with ERCOT that are at issue in the Adversary Proceeding";
- (b) by return correspondence on August 16, 2022, a copy of which is attached hereto as **Exhibit "S"**, counsel for the Just Energy Entities provided counsel to ERCOT with clarification regarding the customary use of reverse vesting orders in restructuring proceedings and the manner in which certain provisions in the

Transaction documents are intended to operate in the context of the Just Energy Entities' CCAA proceeding;

- (c) on August 29, 2022, counsel to ERCOT sent responding correspondence disagreeing with various positions taken by the Just Energy Entities. A copy of ERCOT's responding correspondence is attached hereto as **Exhibit "T"**; and
- (d) on September 2, 2022, counsel to the Just Energy Entities again wrote counsel to ERCOT providing additional clarification regarding the ongoing SISF and responding to various points raised by ERCOT's counsel. The Just Energy Entities' counsel advised counsel to ERCOT that, "The Just Energy Entities are currently focused on implementing the SISF for the benefit of all stakeholders. We continue to remain available to discuss any of the foregoing issues with you in an attempt to find a consensual resolution." Attached hereto as **Exhibit "U"** is a copy of counsel's correspondence.

110. Since provision of counsel's letter on September 2, 2022, I understand that counsel for the Just Energy Entities has had discussions with counsel for ERCOT in order to address, and in an effort to resolve, any concerns held by ERCOT with respect to the Transaction and the Reverse Vesting Order and the impact of same on the Adversary Proceeding.

**E. UPDATES ON MISCELLANEOUS MATTERS**

**(a) Repayment of the DIP Facility**

111. Following the receipt of proceeds from HB4492 (US\$147.5 million) and conclusion of the summer months during which the Just Energy Entities' collateral posting requirements typically peak, the Just Energy Entities determined, in consultation with the Monitor, that it was prudent and in their best interests to initiate a voluntary repayment of a portion of the DIP Facility in order

to minimize ongoing interest and related costs. Accordingly, on September 26, 2022, the Just Energy Entities repaid US\$70 million of outstanding principal under the DIP Facility. The Just Energy Entities also paid accrued interest and fees of US\$3.9 million to the DIP Lenders which had been due on September 30, 2022.

112. The Just Energy Entities' partial repayment of the DIP Facility was approved by a joint resolution of the boards of directors (or other governing bodies, as applicable) of the Just Energy Entities on September 12, 2022.

**(b) Update on Claims Process with NextEra**

113. NextEra Energy Marketing, LLC (“NextEra”) is a Commodity Supplier to certain of the Just Energy Entities and submitted a secured Claim pursuant to the Claims Procedure Order for outstanding amounts alleged to be owing to it. On June 13, 2022, the Monitor, in consultation with the Just Energy Entities, issued a notice of revision or disallowance (“NORD”), disallowing a portion of NextEra’s claim. Following its receipt of the NORD, and in accordance with the Claims Procedure Order, on July 12, 2022, NextEra filed a Notice of Dispute of Revision or Disallowance. Approximately \$7 million of NextEra’s Claim remains in dispute between the parties.

114. While all ongoing claims review, claims determination and dispute resolution processes under the Claims Procedure Order were suspended in the SISP Approval Order pending further order of the CCAA Court, the Order carved out from the scope of such suspension Claims which necessarily had to be adjudicated to determine entitlement to proceeds to be distributed in accordance with a transaction completed pursuant to the SISP. The SISP Approval Order permitted the Just Energy Entities, with the consent of the Monitor, to refer such Claims to a Claims Officer or the Court for adjudication.

115. In accordance with the Claims Procedure Order and the SISP Approval Order and with the consent of the Monitor, the Just Energy Entities referred NextEra’s disputed Claim to Mr. Edward

Sellers as Claims Officer for determination. A litigation timetable was agreed between the parties and approved by the Claims Officer. In accordance with such timetable, the Just Energy Entities and NextEra exchanged record productions and delivered their fact affidavits and expert reports.

116. The hearing of the dispute is scheduled before Mr. Sellers on October 25, 26 and 27, 2022, with written closing submissions to follow on November 4, 2022, and oral closing submissions on November 10, 2022.

**F. EXTENSION TO THE STAY PERIOD**

117. The Initial Order granted a Stay Period until and including March 19, 2021. The Stay Period has subsequently been extended to, most recently, October 31, 2022. In order to accommodate the scheduling of the hearing of the Vesting Order Motion on November 2, 2022, the Just Energy Entities intend to seek a short, 2 day stay extension from the CCAA Court to November 2, 2022 by written motion in the near term.

118. The Just Energy Entities are seeking to extend the Stay Period up to and including January 31, 2023. While the Just Energy Entities currently expect to close the Transaction prior to this date, the lengthier stay extension is being sought in recognition of the fact that the regulatory approval process is largely outside the control of the Purchaser and the Just Energy Entities and so a reasonable buffer is prudent to ensure sufficient breathing room is provided and the unnecessary costs of an additional motion are avoided.

119. The Just Energy Entities believe that the extension of the Stay Period is necessary and appropriate in the circumstances to permit the Just Energy Entities to:

- (a) obtain all necessary Transaction Regulatory Approvals, complete all Implementation Steps and close the Transaction in accordance with the Transaction Agreement;

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- (b) seek the Vesting Recognition Order from the U.S. Bankruptcy Court, which has been tentatively scheduled for hearing before Judge Isgur on December 1, 2022;
- (c) complete the adjudication process of NextEra's Claim in order to permit for all Priority Payments to be made pursuant to the Reverse Vesting Order; and
- (d) permit the Just Energy Entities to attend to the various other CCAA and/or Chapter 15 matters that will arise in the course of the proceedings.

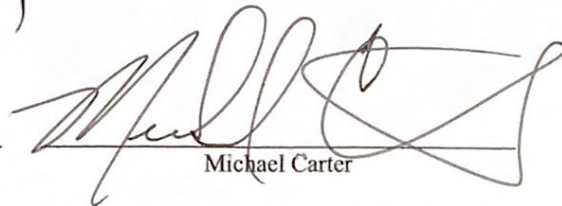
120. The Just Energy Entities have acted and continue to act in good faith and with due diligence in these CCAA proceedings. Since the last extension to the Stay Period on August 4, 2022, the Just Energy Entities have, among other things, implemented the SISF in accordance with the SISF Approval Order, finalized the Implementation Steps and other Definitive Documents with respect to the Transaction, prepared the Vesting Order Motion, and repaid a portion of the DIP Facility.

121. I understand that the Monitor's Twelfth Report will include, among other things, a cash flow forecast demonstrating that, subject to the underlying assumptions contained therein, the Just Energy Entities will have sufficient funds to continue their operations and fund these CCAA proceedings until January 31, 2023. I further understand that the Monitor's Twelfth Report will recommend that the Stay Period be extended.

SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the Town of Sibley, in the State of Louisiana while the Commissioner was located in the City of Toronto, in the Province of Ontario.

*Tiffany Sun*

Commissioner for Taking Affidavits  
Miao Sun (LSO No. 84440N)



Michael Carter

THIS IS **EXHIBIT "A"** REFERRED TO IN THE AFFIDAVIT OF MICHAEL CARTER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the Town of Sibley, in the State of Louisiana while the Commissioner was located in the City of Toronto, in the Province of Ontario.

*Tiffany Sun*

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Commissioner for Taking Affidavits  
Miao Sun (LSO No. 84440N)



Superior Court of Justice  
Commercial List

FILE/DIRECTION/ORDER

In the Matter of Trust Energy Group Inc et al

Plaintiff(s)

AND

Defendant(s)

Case Management  Yes  No by Judge: McGwen T.

Counsel	Telephone No:	Facsimile No:
<u>see participants list attached</u>	<u>see participants list attached</u>	

- Order  Direction for Registrar (No formal order need be taken out)
- Above action transferred to the Commercial List at Toronto (No formal order need be taken out)

- Adjourned to: \_\_\_\_\_
- Time Table approved (as follows): \_\_\_\_\_

The Applicants seek a Sales Process Approval Order. The Applicants are supported by the DIP Lenders, Credit Facility Lender and Shell at the motion.

The Monitor also supports the relief sought.

While there is generally no opposition to the order sought

18 August 22  
Date

McGwen T.  
Judge's Signature

Additional Pages 29 in total

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## Judges Endorsement Continued

U.S. Class Counsel on behalf of the U.S. Class Actions raise five discrete objections. They are supported by the Omarali Class Action, the Mass Tort Claims and Pariveda.

Given the extreme time sensitivity surrounding the CCAA matter I am releasing my reasons via this handwritten endorsement. I have reviewed all of the facts, filed affidavits, motion records and the Monitor's Eleventh Report.

In providing these reasons I do not propose to review all submissions made, but will focus on those submissions that I consider to be most germane. I have, however, reflected on all of the submissions made at the motion.

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1. All as defined in my June 21/22 endorsement.

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Before I analyse the five issues in dispute, I will review the overall structure of the Sales Process proposed by the Applicants, and then review the issues set in dispute that were raised at the motion.

Insofar as the Sales Process is concerned, the Applicants seek a sales and investment solicitation process ("SISP") which, amongst other things, seeks Court authorization, in one proceeding, to enter into a Stalking Horse Transaction Agreement between the Applicants and the Sponsor (as defined, essentially, the related group of companies under the PIMCO umbrella, in the Applicants' Factum).

The Applicants also, in this regard seek approval of the SISP Support

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## Judges Endorsment Continued

Agreement.

As noted, there is no general opposition, and I agree that subject to the determination of the five discrete disputes the SISP Support Agreement and SISP, which includes the Stalking Horse Transaction, ought to be approved.

The SISP Support Agreement is similar to the previous Plan Support Agreement that I previously approved before the Plan was terminated ~~by~~ subsequent to my previous orders in June/22.

Unlike the Plan Support Agreement, however, the SISP Support Agreement contains no restriction on the Applicants to solicit superior offers to the Stalking Horse Transaction.

I agree that s.11 of the CCMA provides this Court with the authority

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## Judges Endorsment Continued

to approve the SISP Support Agreement. I further agree that the SISP Support Agreement is a critical component of the Applicants' going concern restructuring to allow them to market their assets, obtain value and operate in the normal course in the meantime.

This Court has approved similar support agreements in prior cases: Re Steleo (2005) 78 OR (3d) 254 and U.S. Steel Canada Inc 2016 ONSC 7899.

With respect to the SISP, I accept the Applicants' submissions that the criteria as set out in Nortel Networks Corp (Re) (2009) 55 CBR (5th) (Ont SOT) at para 48 have been met, insofar as they ought to be considered at this stage of the proceeding.

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## Judges Endorsment Continued

Amangst other reasons is the fact that; at present, no other viable options have been presented; other superior proposals can be accepted; and the Stalking Horse Transaction sets a "floor price" and creates the certainty of a going concern sale.

I paused here to note that the Stalking Horse Transaction contemplates a Reverse Vesting Order (RVO). In this regard, however, it is important to note that at this stage I am not being asked to grant the RVO (which have been viewed as an extraordinary remedy - see Harte Gold Corp (Re) 2022 ONSC 653 at para 38), nor am I being asked to approve the Stalking Horse Transaction.

Approvals in this regard, if

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## Judges Endorsment Continued

The Stalking Horse Transaction is the successful bid, will be dealt with at the conclusion of the SISP.

Turning now to the specific unopposed relief I grant the following relief: ✓

• The stay period is extended to Oct 31/22. There is sufficient liquidity.

<sup>m</sup> Faith ✓ The Applicants are proceeding in good faith and the extension is fair and reasonable given the ongoing Sales process. ✓

• The KERP is also approved. Previous KERPs have been approved by this Court. As set out in Mr Carter's affidavit (the CFO of Trust Energy) the proposed KERP, for non-executive key employees, is justified as previously ordered payments will soon end and there is a genuine concern that non-

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## Judges Endorsment Continued

executive key employees may resign at this important stage of the proceeding. This would prejudice not only the Applicants, but other stakeholders. The proposed amounts are fair and reasonable.

• The Monitor's Tenth and Eleventh Reports are approved as are the activities, conduct and decisions described therein.

• The Sealing Orders shall go with respect to the KERP order and the SISP Support Agreement which contains, amongst other things, the holding percentages of the various entities comprising the DIP Lender's Claim.

In both instances the Sierra Club test, as recast in *Sherman Estate*, has been met. The orders are



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## Judges Endorsment Continued

made on an interim basis. Prior sealing orders have been made concerning ~~KEEP~~ Order. This protects the personal information of the relevant employees.

The interim Sealing Order concerning the SISP Support Agreement is also necessary given the ongoing Sales Process and the commercially sensitive material it contains.

I now turn to the five disputed issues:

- ① The first deals with the US Class Action's allegation that the Sponsor will have "inside information" regarding other bids and other bidders' communications with the Applicant in the absence of the other bidder's consent. This could result in proprietary or competitive

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## Judges Endorsment Continued

information going to the Sponsor. They argue that this would provide an unfair advantage and could chill the market.

The Applicants submit, as do the supporting stakeholders, that all they seek is an equal playing field.

The Stalking Horse Transaction Agreement has been finalized and disclosed to all potential bidders. The Sponsor, in particular, seeks the same information from other bidders prior to the auction.

At the motion the parties agreed that symmetrical information sharing was sensible and would assist in the Sales Process.

The only potential mischief concerned disclosure <sup>in</sup> ~~of~~ <sup>in</sup> of proprietary or competitive information. It is frankly difficult to analyse this risk in the

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## Judges Endorsment Continued

abstract.

It was agreed that the symmetrical bidding information should be exchanged. The Monitor agreed to stay involved in the information sharing process. Further, the Sponsor submits that it is not seeking proprietary information, but rather wants to see the exact type of information that it has provided.

In all of these circumstances I therefore order that the parties/stakeholders engage in the fair, equitable and symmetrical sharing of information concerning bids. The Monitor will continue to engage and monitor the exchange of information to ensure no bidder, including the Sponsor, enjoys an advantage

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## Judges Endorsment Continued

that is unfair and far could chill  
the market.

(2) I now turn to the US Class  
Action submission that the SISP should  
not automatically default to the  
proposed auction. They are currently  
working with a financier to  
attempt to present a plan of  
arrangement.

Counsel for the US Class Actions  
submit that the SISP should  
contain a provision that the matter  
return to Court, before an auction,  
to determine whether their Plan  
should be put to a vote of  
unsecured creditors (or any other  
plan that surfaces).

I do not agree and agree with  
the submission of the Applicants  
wherein they submit that such

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## Judges Endorsment Continued

an attendance is unnecessary and detrimental to the SISP process.

There is nothing preventing the US Class Actions from submitting their plan into the auction. No stakeholder disputes their right to do so.

In my view this is the preferred path and upon the conclusion of the auction<sup>2</sup> I will determine whether the successful bid ought to be approved.

At that time all relevant issues will be reviewed, including if necessary a proposed RVO.

In the usual way, the relevant issues concerning whether or not the successful bid ought to be approved, including why the successful bid is superior, or not, can be put forth.

2. Assuming the SISP proceeds to auction.

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## Judges Endorsment Continued

Parties are free to put forth all relevant, unfettered arguments. As stated by Monitor's counsel, this Court is "not a rubber stamp" at the motion for approval.

This single track was imposed to the motion proposed by counsel for the US Class Actions, is preferable and provides greater certainty in the marketplace. I am concerned that a return to Court before an auction could chill the sales process, as potential bidders would be concerned that their efforts may never make it to auction resulting in wasted time and expense.

③ The third issue involves whether the <sup>in</sup> evaluation of the US Class Actions ought to be suspended.

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## Judges Endorsment Continued

The US Class Actions want to proceed as per my earlier order, that the Contingent Litigation Claims (which included the US Class Actions, the Omarati Class Action, the Mass Tort Claims and the Pariveda claim<sup>3</sup>) ought to be <sup>TM</sup>evaluated, in advance of a meeting of creditors when the Meeting Order was sought. Subsequent to that Order being made the Sponsor withdrew from the proposed plan and all parties, including the Contingent Litigation Claims, agreed to suspend the <sup>TM</sup>evaluation to determine the validity and value of the claims.

A letter was provided to me by the Monitor in this regard.

Unbeknownst to me, later in July, the US Class Actions advised

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3. Pariveda was not part of the defined team but I ordered it be valued.

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The Monitor and others that it, again, wished to carry out the valuation. The matter did not return to me and no valuations were conducted.

At the motion, the Omerati Class Action, the Mass Tort Claims and Pariveda also requested that their claims be valued.

They all generally submit that in order to formulate and negotiate a plan they (the US Class Actions) took the lead here) need to know the creditor pool for the purpose of voting.

The US Class Actions proposed a process by way of letter dated May 4/27 which proposes a very aggressive, approximate two week process that has either the Honourable J. O'Connor or I



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conduct the valuations (although they use the word "estimation"). This would now presumably involve valuations of all of the abandoned claims.

The Applicants submit that such an exercise is wasteful, unnecessary and lacks utility. They further submit that the expedited schedule is unachievable, particularly <sup>the</sup> <sup>TM</sup> where the additional claims would also need to be valued.

I agree with the Applicants. Currently the only transaction before the Court is the Stalking Horse Transaction which would not result in any recovery to general unsecured creditors. Further, I agree with the Applicants that the volatile nature of the

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industry and the Sales Process are placing a strain on resources and personal (as referenced above concerning the KERP).

I further accept the submissions of the Monitor that a valuation can be considered, if and when, a transaction is likely to provide recovery for insured creditors.

Otherwise it is a costly distraction.

Insofar as the argument of counsel Parkes US Class Actions is concerned, that it is necessary to formulate and negotiate a plan, this may be of some assistance, but their presence is well known in this proceeding and this desire does not outweigh the above countervailing factors raised by the Applicants and supported by

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The Monitor.

Last, unlike the valuation ordered with respect to the abandoned plan, here we are dealing with a SISF which, in the ordinary course, should have some value determined before considering a valuation. I also note that the Omarali Class Action submitted that its claim has unique features that further warrant a valuation. Again, I do not accept that those features outweigh the concerns of the Applicants.

(4) The fourth issue concerns the break-up fee contained in the Shalving Horse Transaction, in the amount of US\$14.66 million in favour of the Sponsor.

Concededly for the U.S. Class Action submits that the break-up fee is

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anti-competitive and unfairly prejudices  
the unsecured creditors.

They add that the Sponsor has  
had its fees paid throughout these  
proceedings and the Sponsor is  
committed to purchasing the asset.

Additionally, they argue that the  
Applicants/Sponsor have adduced no  
evidence to support the quantum sought  
and the breakup fee results in  
other bidder having to raise additional  
funds to compete.<sup>4</sup>

Insofar as the law is concerned,  
counsel for the US Class Action  
point out that this Court has a  
gatekeeping function and ought not  
simply act as a "rubber stamp",  
or merely rely upon the business  
judgment rule and the seller's  
discretion.<sup>5</sup>

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4. See Mecachrome Canada Inc, Re 2009 QCCS 6355  
5. at para 64 for support of this submission  
Boutique Euphoria Inc, Re 2007 QCCS 7129 at para 65

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Last, they submit that each case must be considered in the context of its own unique circumstances and the mere fact that the proposed break-up fee is within the range of reasonableness as determined in other cases does not mean it is reasonable in the given case<sup>6</sup>.

The Applicants/Plaintiff argue that the stalking horse bid provides stability and a framework for competitive bidding. In this context break-up fees are almost always required in exchange for the stalking horse setting the floor, exposing its bid, providing other bidders access, and committing funding.

Further, they argue that the Stalking Horse is tying up a significant amount of capital (in the \$200 million

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6. Quest University Canada (Re) 2020 BCSC 1845 at para 58; Leslie + Irene Dube Foundation Inc v P218 Enterprises Ltd 2014 BCSC 1855 at para 36

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range) and this resulting loss of opportunity cost must be taken into account.

The Sponsor particularly point out that the break-up fee is not anti-competitive, but rather allows the competitive bidding to occur to the benefit of all stakeholders, including the over 1000 employees and approximate ~~1~~ 1,000,000 customers.

The Applicant/Sponsor further submit that the break-up fee is well within the accepted range (3.4%) and rely on the evidence of Mr. Carter (pages 60-63 of his affidavit) and their expert Mark Carge. Mr. Carge opines that the break-up fee is in-line with market terms, consistent with market practice and reasonable in the circumstances of

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this case.

Mr Carter was engaged by Just Energy to advise and assist it. In his May 12/22 affidavit he thoroughly sets out the basis of his analysis (see paras 32-38).

Further, the Applicants point to the fact that the previously approved Termination Fee, in connection with the abandoned Plan, was in the same range and was not opposed.

In support of the Applicants, the Monitor also emphasizes that break-up fee is in no way a gratuitous offering but is part of a complicated arm's length agreement that resulted in the Staking Horse Transaction. This transaction provides certainty to all stakeholders of a going concern transaction that can

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close in a timely fashion. The Monitor  
too is of the view that the break-up  
fee will not chill the market and  
its review also has found that it  
is consistent with break-up fees  
in similar sales transactions carried out  
under the CCAA and in the U.S.

I agree that the break-up  
fee ought to be granted. It is  
a critical feature of the proposed  
transaction. The 3.4% is within  
the range of acceptability.

Although the actual fee, at  
first glance may seem high, the  
SISP involves a significant,  
complicated process involving a  
complex and large scale business  
model with secured claims of  
approximately \$1 billion.

The risks and stakes here are



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extremely high and the break-up fee is reasonable when one considers all the factors - including the price of stability.<sup>7</sup>

In the very unique and complex circumstances of this case I do not accept the US Class Action's submission that no break-up fee is warranted - this is not realistic.

Rather the proposed break-up fee recognizes, amongst other things, the effort expended by the Sponsor, the capital committed and the benefits of the Stalking Horse Transaction within the SISP as set out in the record filed by the Applicants. Specifically, it also allows the transaction to ~~be~~<sup>to</sup> proceed and attempt to attract other bidders.

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7. Green Growth Brands (Re) 2020 ONSC 356 at p 51-52.

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(5) The last issue involves the request of the U.S. Class Action to extend the timeline under the SISP by three weeks.

They primarily submit that there are no liquidity issues and the existing timelines are very tight. For example the NOI is due Aug 25/22.

The Applicants, prior to the motion, maintained that the timelines were appropriate based on its unchallenged evidence, which includes the volatility of the market and effect on employees.

They also submit that the process commenced on Aug 4/22, not as of the date of the motion.

The Applicants conceded liquidity. At the hearing the Applicants met off the record, with ~~their~~ key

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secured stakeholder and advised that they would agree to a one week extension

As I alluded to at the motion, I believe that a two week extension to the milestone is fair and reasonable. As a result of my previous order the proposed Sales Process is proceeding essentially as proposed by the Applicants / Sponsor including the break-up fee.

Further, as the Applicants and their supporters have stated the Sales Process is extremely complex and involves significant debt and funding.

By allowing an extra week (over and above the concession at the motion) I see no prejudice

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to the Appraiser. This matter has been evolving for many months and it must be remembered that it took the Appraiser some time to formulate the prior Plan.

The extra two weeks provides a clear, court ordered structure and path to a definitive auction date.

In my view, this provides a reasonably quick timetable, but allows some breathing room for other bidders, which is to be benefit of stakeholders.<sup>8</sup>

I coming to this conclusion I have not ignored the Appraiser's prior marketing efforts.

A two week extension is granted

Order shall go with respect to the foregoing reasons.

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<sup>8</sup> see PCAS Patient Care Automation Services, Inc. (Pc) 2012 ONSC 2340 at paras 17, 18 for support of this proposition.

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If problems arise with respect to the  
issuance of the Sales Process Approval  
Order I can be spoken to.  
meEnt

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Jason Wadden	Mass Tort Claimants	<a href="mailto:jwadden@tyrllp.com">jwadden@tyrllp.com</a>
Jim Robinson	Court appointed monitor	
John Higgins		<a href="mailto:jhiggins@porterhedges.com">jhiggins@porterhedges.com</a>
James Harnum	H. Omarali	<a href="mailto:jharnum@kmlaw.ca">jharnum@kmlaw.ca</a>
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Steven Wittels	US Counsel for Donin & Jordet	<a href="mailto:slw@wittelslaw.com">slw@wittelslaw.com</a>
Abid Qureshi	DIP Lender	<a href="mailto:aqureshi@akingump.com">aqureshi@akingump.com</a>
Michael Carter	Chief Financial Officer for JE	<a href="mailto:mcarter@justenergy.com">mcarter@justenergy.com</a>
Kevin Rice	Just Energy	<a href="mailto:Kevin.s.rice@kirkland.com">Kevin.s.rice@kirkland.com</a>
Ryan Jacobs		<a href="mailto:rjacobs@cassels.com">rjacobs@cassels.com</a>
Jim Robinson		<a href="mailto:Jim.robinson@fticonsulting.com">Jim.robinson@fticonsulting.com</a>
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Robert Kenedy	BP Energy	<a href="mailto:Robert.kenedy@dentons.com">Robert.kenedy@dentons.com</a>
Rob Kleebaum	FTI Consulting Canada	<a href="mailto:Robert.kleebaum@fticonsulting.com">Robert.kleebaum@fticonsulting.com</a>
Robert Tannor		<a href="mailto:rtannor@tannorcapital.com">rtannor@tannorcapital.com</a>







Court File No. CV-21-00658423-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR. ) THURSDAY, THE 18<sup>TH</sup>  
 )  
JUSTICE MCEWEN ) DAY OF AUGUST, 2022  
 )

IN THE MATTER OF THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JUST ENERGY GROUP INC., JUST ENERGY CORP., ONTARIO ENERGY COMMODITIES INC., UNIVERSAL ENERGY CORPORATION, JUST ENERGY FINANCE CANADA ULC, HUDSON ENERGY CANADA CORP., JUST MANAGEMENT CORP., 11929747 CANADA INC., 12175592 CANADA INC., JE SERVICES HOLDCO I INC., JE SERVICES HOLDCO II INC., 8704104 CANADA INC., JUST ENERGY ADVANCED SOLUTIONS CORP., JUST ENERGY (U.S.) CORP., JUST ENERGY ILLINOIS CORP., JUST ENERGY INDIANA CORP., JUST ENERGY MASSACHUSETTS CORP., JUST ENERGY NEW YORK CORP., JUST ENERGY TEXAS I CORP., JUST ENERGY, LLC, JUST ENERGY PENNSYLVANIA CORP., JUST ENERGY MICHIGAN CORP., JUST ENERGY SOLUTIONS INC., HUDSON ENERGY SERVICES LLC, HUDSON ENERGY CORP., INTERACTIVE ENERGY GROUP LLC, HUDSON PARENT HOLDINGS LLC, DRAG MARKETING LLC, JUST ENERGY ADVANCED SOLUTIONS LLC, FULCRUM RETAIL ENERGY LLC, FULCRUM RETAIL HOLDINGS LLC, TARA ENERGY, LLC, JUST ENERGY MARKETING CORP., JUST ENERGY CONNECTICUT CORP., JUST ENERGY LIMITED, JUST SOLAR HOLDINGS CORP. AND JUST ENERGY (FINANCE) HUNGARY ZRT.

(each, an “**Applicant**”, and collectively, the “**Applicants**”)

**SISP APPROVAL ORDER**

**THIS MOTION**, made by the Applicants (together, the Applicants and the partnerships listed on **Schedule “A”** hereto, the “**Just Energy Entities**”), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, for an order, *inter alia*, approving the Sale and Investment Solicitation Process in respect of the Just Energy Entities attached hereto as **Schedule “B”** (the “**SISP**”) and certain related relief, was heard on August 17, 2022 by judicial videoconference via Zoom in Toronto, Ontario due to the COVID-19 pandemic.

**ON READING** the affidavit of Michael Carter sworn August 4, 2022 and the Exhibits thereto (the “**Carter Affidavit**”), the Eleventh Report of FTI Consulting Canada Inc. (the “**Eleventh Report**”), in its capacity as monitor (the “**Monitor**”), dated August 13, 2022, and on hearing the submissions of counsel for the Just Energy Entities, the Monitor, the Sponsor (as hereinafter defined), and such other counsel who were present, no one else appearing although duly served as appears from the affidavits of service of Emily Paplawski sworn August 5, August 8, August 11 and August 16, 2022.

### **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion was properly returned on August 17, 2022 and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the SISP, the Second Amended and Restated Initial Order of this Court dated May 26, 2021 (the “**Second ARIO**”), the Claims Procedure Order of this Court dated September 15, 2021 (the “**Claims Procedure Order**”), or the Support Agreement attached as Exhibit “I” to the Carter Affidavit (the “**Support Agreement**”), as applicable.

### **SALES AND INVESTMENT SOLICITATION PROCESS**

3. **THIS COURT ORDERS** that the SISP is hereby approved and the Just Energy Entities are hereby authorized to implement the SISP pursuant to the terms thereof. The Just Energy Entities, the Monitor and the Financial Advisor are hereby authorized and directed to perform their respective obligations and to do all things reasonably necessary to perform their obligations thereunder and as directed by the Court in this Order and the related endorsement dated August 18, 2022.

4. **THIS COURT ORDERS** that the Monitor and the Financial Advisor, and their respective affiliates, partners, directors, employees, and agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liabilities of any nature or kind to any person in connection with or as a result of the SISP, except to the extent of losses, claims, damages or liabilities that arise or result from the gross negligence or wilful misconduct of the Monitor or Financial Advisor, as applicable, in performing their obligations under the SISP, as determined by this Court.

#### **SUPPORT AGREEMENT**

5. **THIS COURT ORDERS** that the Support Agreement is hereby approved and the Just Energy Entities are authorized and empowered to enter into the Support Agreement, *nunc pro tunc*, subject to such minor amendments as may be consented to by the Monitor and as may be acceptable to each of the parties thereto, and are authorized, empowered and directed to take all steps and actions in respect of, and to comply with all of their obligations pursuant to, the Support Agreement.

6. **THIS COURT ORDERS** that, notwithstanding the stay of proceedings imposed by the Second ARIO, a counterparty to the Support Agreement may exercise any termination right that may become available to such counterparty pursuant to the Support Agreement, provided that such termination right must be exercised pursuant to and in accordance with the Support Agreement.

#### **STALKING HORSE TRANSACTION AGREEMENT**

7. **THIS COURT ORDERS** that Just Energy Group Inc. (“**Just Energy**”) is hereby authorized and empowered to enter into the stalking horse transaction agreement (the “**Stalking Horse Transaction Agreement**”) dated as of August 4, 2022, between Just Energy and LVS III

SPE XV LP, TOCU XVII LLC, HVS XVII LLC, OC II LVS XIV LP, OC III LFE I LP, and CBHT Energy I LLC (collectively, the “**Sponsor**”) and attached as Exhibit “A” to the Carter Affidavit, *nunc pro tunc*, and such minor amendments as may be acceptable to each of the parties thereto, with the approval of the Monitor and subject to the terms of the Support Agreement; provided that, nothing herein approves the sale and the vesting of any Property to the Sponsor (or any of its designees) pursuant to the Stalking Horse Transaction Agreement and that the approval of any sale and vesting of any such Property shall be considered by this Court on a subsequent motion made to this Court if the Stalking Horse Transaction is the Successful Bid pursuant to the SISP.

8. **THIS COURT ORDERS** that, as soon as reasonably practicable following Just Energy (a) entering into any amendment to the Stalking Horse Transaction Agreement permitted pursuant to the terms of this Order; or (b) agreeing upon the final Implementation Steps (as defined in the Stalking Horse Transaction Agreement), the Just Energy Entities shall, in each such case, (i) file a copy thereof with this Court, (ii) serve a copy thereof on the Service List, and (iii) provide a copy thereof to each SISP Participant (as hereinafter defined), excluding from the public record any confidential information that Just Energy and the Sponsor, with the consent of the Monitor, agree should be redacted.

#### **BID PROTECTIONS**

9. **THIS COURT ORDERS** that the Break-Up Fee is hereby approved and Just Energy is hereby authorized and directed to pay the Break-Up Fee to the Sponsor (or as it may direct) in the manner and circumstances described in the Stalking Horse Transaction Agreement.

10. **THIS COURT ORDERS** that the Sponsor shall be entitled to the benefit of and is hereby granted a charge (the “**Bid Protections Charge**”) on the Property, which charge shall not exceed

US\$14,660,000, as security for payment of the Break-Up Fee in the manner and circumstances described in the Stalking Horse Transaction Agreement.

11. **THIS COURT ORDERS** that Paragraphs 53, 54 and 56 of the Second ARIO shall be, and are hereby, amended in the manner detailed below:

(a) Paragraph 53 of the Second ARIO shall be amended as follows:

**THIS COURT ORDERS** that the priorities of the Administration Charge, the FA Charge, the Directors' Charge, the KERP Charge, the DIP Lenders' Charge, the Priority Commodity/ISO Charge, the Cash Management Charge and the Bid Protections Charge (as defined in the Order in these proceedings dated August 18, 2022), as among them, shall be as follows:

First – Administration Charge and FA Charge (to the maximum amount of C\$3,000,000 and C\$8,600,000, respectively), on a *pari passu* basis;

Second – Directors' Charge (to the maximum amount of C\$44,100,000);

Third – KERP Charge (to the maximum amounts of C\$2,012,100 and US\$3,876,024);

Fourth – DIP Lenders' Charge (to the maximum amount of the Obligations (as defined in the DIP Term Sheet) owing thereunder at the relevant time) and the Priority Commodity/ISO Charge, on a *pari passu* basis; ~~and~~

Fifth – Cash Management Charge; and-

Sixth – Bid Protections Charge (in the amount of US\$14,660,000).

(b) Paragraph 54 of the Second ARIO shall be amended as follows:

**THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge, the FA Charge, the Directors' Charge, the KERP Charge, the DIP Lenders' Charge, the Priority Commodity/ISO Charge, the Cash Management Charge, or the Bid Protections Charge (collectively, the "**Charges**") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

- (c) Paragraph 56 of the Second ARIO shall be amended as follows:

**THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court on notice to parties in interest, the Just Energy Entities shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges unless the Just Energy Entities also obtain the prior written consent of the Monitor, the DIP Agent on behalf of the DIP Lenders and the beneficiaries of the Administration Charge, the FA Charge, the Directors' Charge, the KERP Charge, the Priority Commodity/ISO Charge, the Cash Management Charge and the Bid Protections Charge or further Order of this Court.

## **PIPEDA**

12. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Monitor, the Just Energy Entities and their respective advisors are hereby authorized and permitted to disclose and transfer to prospective SISP participants (each, a “**SISP Participant**”) and their advisors personal information of identifiable individuals but only to the extent desirable or required to negotiate or attempt to complete a transaction pursuant to the SISP (a “**Transaction**”). Each SISP Participant to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation for the purpose of effecting a Transaction, and if it does not complete a Transaction, shall return all such information to the Monitor or the Just Energy Entities, or in the alternative destroy all such information and provide confirmation of its destruction if requested by the Monitor or the Just Energy Entities. Any Successful Party shall maintain and protect the privacy of such information and, upon closing of the Transaction(s) contemplated in the Successful Bid(s), shall be entitled to use the personal information provided to it that is related to the Business and/or Property acquired pursuant to the SISP in a manner that is in all material respects identical to the prior use of such information by the Just Energy Entities, and shall return all other personal information to the Monitor or the Just Energy Entities, or ensure

that all other personal information is destroyed and provide confirmation of its destruction if requested by the Monitor or the Just Energy Entities.

### **THIRD KEY EMPLOYEE RETENTION PLAN**

13. **THIS COURT ORDERS** that the Third KERP, as described in the Carter Affidavit and attached as Confidential Exhibit “L” thereto, is hereby approved and the Just Energy Entities are authorized to make payments contemplated thereunder in accordance with the terms and conditions of the Third KERP.

14. **THIS COURT ORDERS** that the Just Energy Entities, in consultation with the Monitor, are authorized and empowered to reallocate funds under the Third KERP originally allocated to Key Employees who have resigned, or will resign, from their employment with the Just Energy Entities, or who have declined, or will decline, to receive payments(s) under the Third KERP, to remaining Key Employees or other employees of the Just Energy Entities that the Just Energy Entities, in consultation with the Monitor, identify as critical to their ongoing business.

15. **THIS COURT ORDERS** that the KERP Charge established at paragraph 24 of the Second ARIO shall apply equally to, and secure, any remaining payments under the KERP and the Second KERP (as defined in the Order of this Court dated November 10, 2021) to the Key Employees and the payments contemplated to the Key Employees referred to in the Third KERP.

### **STAY EXTENSION**

16. **THIS COURT ORDERS** that the Stay Period is hereby extended until and including October 31, 2022.

## **APPROVAL OF MONITOR'S REPORTS**

17. **THIS COURT ORDERS** that the activities and conduct of the Monitor prior to the date hereof in relation to the Just Energy Entities and these CCAA proceedings are hereby ratified and approved.

18. **THIS COURT ORDERS** that each of the Tenth Report of the Monitor dated May 18, 2022, the Supplement to the Tenth Report of the Monitor dated June 1, 2022, and the Eleventh Report be and are hereby approved.

19. **THIS COURT ORDERS** that only the Monitor, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way the approvals set forth in paragraphs 17 and 18 of this Order.

## **CLAIMS PROCEDURE**

20. **THIS COURT ORDERS** that the ongoing claims review, claims determination and dispute resolution processes under (a) the Claims Procedure Order; (b) the Order of this Court dated March 3, 2022, among other things, appointing the Honourable Justice Dennis O'Connor as Claims Officer for the purposes set forth therein; and (c) the Endorsement of this Court dated June 10, 2022, shall be suspended pending further Order of this Court; provided that, for certainty, (x) where (i) a Claimant has not submitted a Proof of Claim or D&O Proof of Claim by the applicable Bar Date, (ii) a Negative Notice Claimant has not submitted a Notice of Dispute of Claim by the applicable Bar Date, or (iii) a Claim or D&O Claim has already been disallowed or revised in accordance with the Claims Procedure Order and the applicable period of time to dispute such revision or disallowance has expired without the Claimant submitting a Notice of Dispute of Revision or Disallowance, such Claimant will continue to be barred from pursuing such Claim or



D&O Claim pursuant to the relevant provisions of the Claims Procedure Order and (y) this Order does not impact the acceptance of any Claims or other final determination or agreement in respect of Claims made pursuant to the Claims Procedure Order prior to the date of this Order; provided further that, notwithstanding anything to the contrary herein, the Just Energy Entities shall be permitted, with the consent of the Monitor, to refer any Claim to a Claims Officer or this Court for adjudication for the purposes of determining entitlement to proceeds to be distributed in accordance with a transaction completed pursuant to the SISP.

## **GENERAL**

21. **THIS COURT ORDERS** that Confidential Exhibits “J” and “L” to the Carter Affidavit shall be and is hereby sealed, kept confidential and shall not form part of the public record pending further Order of this Court.

22. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

23. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal and regulatory or administrative bodies, having jurisdiction in Canada or in the United States of America, including the United States Bankruptcy Court for the Southern District of Texas overseeing the Just Energy Entities’ proceedings under Chapter 15 of the Bankruptcy Code in Case No. 21-30823 (MI), or in any other foreign jurisdiction, to give effect to this Order and to assist the Just Energy Entities, the Monitor, and their respective agents in carrying out the terms of this Order. All courts, tribunals and regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Just Energy Entities and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order

or to assist the Just Energy Entities and the Monitor and their respective agents in carrying out the terms of this Order.

A handwritten signature in black ink, appearing to read "McE...T.", is written above a solid horizontal line.

**SCHEDULE "A"  
PARTNERSHIPS**

- JUST ENERGY ONTARIO L.P.
- JUST ENERGY MANITOBA L.P.
- JUST ENERGY (B.C.) LIMITED PARTNERSHIP
- JUST ENERGY QUÉBEC L.P.
- JUST ENERGY TRADING L.P.
- JUST ENERGY ALBERTA L.P.
- JUST GREEN L.P.
- JUST ENERGY PRAIRIES L.P.
- JEBPO SERVICES LLP
- JUST ENERGY TEXAS LP

## **SCHEDULE “B” SALE AND INVESTMENT SOLICITATION PROCESS**

1. On August 18, 2022, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granted an order (the “**SISP Order**”) that, among other things, (a) authorized Just Energy (as defined below) to implement a sale and investment solicitation process (“**SISP**”) in accordance with the terms hereof, (b) approved the Support Agreement, (c) authorized and directed Just Energy Group Inc. to enter into the Stalking Horse Transaction Agreement, (d) approved the Break-Up Fee, and (e) granted the Bid Protections Charge. Capitalized terms that are not defined herein have the meanings ascribed thereto in the Second Amended & Restated Initial Order granted by the Court in Just Energy’s proceedings under the *Companies’ Creditors Arrangement Act* on May 26, 2021, as amended, restated or supplemented from time to time or the SISP Order, as applicable.
2. This SISP sets out the manner in which (i) binding bids for executable transaction alternatives that are superior to the sale transaction to be provided for in the Stalking Horse Transaction Agreement involving the shares and/or the business and assets of Just Energy Group Inc. and its direct and indirect subsidiaries (collectively, “**Just Energy**”) will be solicited from interested parties, (ii) any such bids received will be addressed, (iii) any Successful Bid (as defined below) will be selected, and (iv) Court (as defined below) approval of any Successful Bid will be sought. Such transaction alternatives may include, among other things, a sale of some or all of Just Energy’s shares, assets and/or business and/or an investment in Just Energy, each of which shall be subject to all terms set forth in this SISP.
3. The SISP shall be conducted by Just Energy under the oversight of FTI Consulting Canada Inc., in its capacity as court-appointed monitor (the “**Monitor**”), with the assistance of BMO Capital Markets (the “**Financial Advisor**”).
4. Parties who wish to have their bids considered shall be expected to participate in the SISP as conducted by Just Energy and the Financial Advisor.
5. The SISP will be conducted such that Just Energy and the Financial Advisor will (under the oversight of the Monitor):
  - a) prepare marketing materials and a process letter;
  - b) prepare and provide applicable parties with access to a data room containing diligence information;
  - c) solicit interest from parties to enter into non-disclosure agreements (parties shall only obtain access to the data room and be permitted to participate in the SISP if they execute a non-disclosure agreement that is in form and substance satisfactory to Just Energy); and
  - d) request that such parties (other than the Sponsor or its designee) submit (i) a notice of intent to bid that identifies the potential purchaser and a general description of the assets and/or business(es) of the Just Energy Entities that would be the subject of the bid and that reflects a reasonably likely prospect of culminating in a Qualified Bid (as defined below), as determined by the Just Energy Entities in consultation with the Monitor and the Credit Facility Agent (subject to the confidentiality requirements set forth in Section 15 below) (a “**NOI**”) by the NOI Deadline (as defined below) and, if applicable, (ii) a binding offer meeting at least the requirements set forth in Section 7 below, as determined by the Just Energy Entities in consultation with the Monitor (a “**Qualified Bid**”) by the Qualified Bid Deadline (as defined below).

6. The SISP shall be conducted subject to the terms hereof and the following key milestones:
- a) Just Energy to commence solicitation process on the date of service of the motion for approval of the SISP – August 4, 2022;<sup>1</sup>
  - b) Court approval of SISP and authorizing Just Energy to enter into the Stalking Horse Transaction Agreement – August 18, 2022;
  - c) Deadline to submit NOI – 11:59 p.m. Eastern Daylight Time on September 8, 2022 (the “**NOI Deadline**”);
  - d) Deadline to submit a Qualified Bid – 11:59 p.m. Eastern Daylight Time on October 13, 2022 (the “**Qualified Bid Deadline**”);
  - e) Deadline to determine whether a bid is a Qualified Bid and, if applicable, to notify those parties who submitted a Qualified Bid of the Auction (as defined below) – 5:00 p.m. Eastern Daylight Time on October 20, 2022;
  - f) Just Energy to hold Auction (if applicable) – 10:00 a.m. Eastern Daylight Time on October 22, 2022; and
  - g) Implementation Order (as defined below) hearing:
    - o (if no NOI is submitted) – by no later than September 16, 2022, subject to Court availability.
    - o (if there is no Auction) – by no later than October 29, 2022, subject to Court availability.
    - o (if there is an Auction) – by no later than twelve (12) days after completion of the Auction, subject to Court availability.
7. In order to constitute a Qualified Bid, a bid must comply with the following:
- a. it provides for (i) the payment in full in cash on closing of the BP Commodity/ISO Services Claim (as defined in the Support Agreement), unless otherwise agreed to by the holder of such claim in its sole discretion; (ii) the payment in full in cash on closing of the Credit Facility Claims, unless otherwise agreed to by the Credit Facility Agent in its sole discretion; (iii) the payment in full in cash on closing of any claims ranking in priority to the claims set forth in subparagraphs (i) or (ii) including any claims secured by Court-ordered charges, unless otherwise agreed to by the applicable holders thereof in their sole discretion (iv) the return of all outstanding letters of credit and release of all Credit Facility LC Claims or arrangements satisfactory to the applicable Credit Facility Lenders in their discretion to secure with cash collateral or otherwise any Credit Facility LC Claims not released, and (v) the payment in full in cash on closing of any outstanding Cash Management Obligations or arrangements satisfactory to the applicable Credit Facility Lenders or their affiliates to secure with cash collateral or otherwise any outstanding Cash Management Obligations.
  - b. it provides a detailed sources and uses schedule that identifies, with specificity, the amount of cash consideration (the “**Cash Consideration Value**”) and any assumptions that could reduce the net consideration payable. At a minimum, the Cash Consideration Value plus Just Energy’s cash on hand must be sufficient for payment in full of the items contemplated in Sections 7(a)(i) and 7(a)(ii) herein, 3.2 of the Stalking Horse Transaction Agreement and the Break-Up Fee, plus USD\$1,000,000, on closing, which Cash Consideration Value is estimated to be USD\$460,000,000 as of December 31, 2022.

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<sup>1</sup> To the extent any dates would fall on a non-business day, to be the first business day thereafter.

- c. it is reasonably capable of being consummated by 90 days after completion of the Auction if selected as the Successful Bid;
- d. it contains:
  - i. duly executed binding transaction document(s);
  - ii. the legal name and identity (including jurisdiction of existence) and contact information of the bidder, full disclosure of its direct and indirect principals, and the name(s) of its controlling equityholder(s);
  - iii. a redline to the form of transaction document(s) provided by Just Energy, if applicable;
  - iv. evidence of authorization and approval from the bidder's board of directors (or comparable governing body) and, if necessary to complete the transaction, the bidder's equityholder(s);
  - v. disclosure of any connections or agreements with Just Energy or any of its affiliates, any known, potential, prospective bidder, or any officer, manager, director, or known equity security holder of Just Energy or any of its affiliates; and
  - vi. such other information reasonably requested by Just Energy or the Monitor;
- e. it includes a letter stating that the bid is submitted in good faith, is binding and is irrevocable until the selection of the Successful Bid; provided, however, that if such bid is selected as the Successful Bid, it shall remain irrevocable until the closing of the Successful Bid;
- f. it provides written evidence of a bidder's ability to fully fund and consummate the transaction and satisfy its obligations under the transaction documents, including binding equity/debt commitment letters and/or guarantees covering the full value of all cash consideration and the additional items (in scope and amount) covered by the guarantees provided by affiliates of the Purchaser in connection with the Transaction Agreement;
- g. it does not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment;
- h. it is not conditional upon:
  - i. approval from the bidder's board of directors (or comparable governing body) or equityholder(s);
  - ii. the outcome of any due diligence by the bidder; or
  - iii. the bidder obtaining financing;
- i. it includes an acknowledgment and representation that the bidder has had an opportunity to conduct any and all required due diligence prior to making its bid;
- j. it specifies any regulatory or other third-party approvals the party anticipates would be required to complete the transaction (including the anticipated timing necessary to obtain such approvals) and, in connection therewith, specifies whether the bidder or any of its affiliates is involved in any part of the energy sector, including an electric utility, retail service provider, a company with a tariff on file with the Federal Energy Regulatory Commission, or any intermediate holding company;
- k. it includes full details of the bidder's intended treatment of Just Energy's employees under the proposed bid;
- l. it is accompanied by a cash deposit (the "**Deposit**") by wire transfer of immediately available funds equal to 10% of the Cash Consideration Value, which Deposit shall be retained by the Monitor in a non-interest bearing trust account in accordance with this SISP;
- m. a statement that the bidder will bear its own costs and expenses (including legal and advisor fees) in connection with the proposed transaction, and by submitting its bid is agreeing to refrain from and waive any assertion or request for reimbursement on any basis; and
- n. it is received by the Qualified Bid Deadline.

8. The Qualified Bid Deadline may be extended by (i) Just Energy for up to no longer than seven days with the consent of the Monitor, the Credit Facility Agent and the Sponsor, acting reasonably, or (ii) further order of the Court. In such circumstances, the milestones contained in Subsections 6(f) and (g) shall be extended by the same amount of time.
9. Just Energy, in consultation with the Monitor, may waive compliance with any one or more of the requirements specified in Section 7 above and deem a non-compliant bid to be a Qualified Bid, provided that Just Energy shall not waive compliance with the requirements specified in Subsections 7(a), (b), (d), (e), (f), (g), (i) or (l) without the prior written consent of the Sponsor and Credit Facility Agent, each acting reasonably.
10. Notwithstanding the requirements specified in Section 7 above, the transactions contemplated by the Stalking Horse Transaction Agreement (the “**Stalking Horse Transaction**”), is deemed to be a Qualified Bid, provided that, for greater certainty, no Deposit shall be required to be submitted in connection with the Stalking Horse Transaction.
11. If one or more Qualified Bids (other than the Stalking Horse Transaction) has been received by Just Energy on or before the Qualified Bid Deadline, Just Energy shall proceed with an auction process to determine the successful bid(s) (the “**Auction**”), which Auction shall be administered in accordance with Schedule “A” hereto. The successful bid(s) selected within the Auction shall constitute the “**Successful Bid**”. Forthwith upon determining to proceed with an Auction, Just Energy shall provide written notice to each party that submitted a Qualified Bid (including the Stalking Horse Transaction), along with copies of all Qualified Bids and a statement by Just Energy specifying which Qualified Bid is the leading bid.
12. If, by the NOI Deadline no NOI has been received, then the SISP shall be deemed to be terminated and the Stalking Horse Transaction shall be the Successful Bid and shall be consummated in accordance with and subject to the terms of the Support Agreement and the Stalking Horse Transaction Agreement. If no Qualified Bid (other than the Stalking Horse Transaction) has been received by Just Energy on or before the Qualified Bid Deadline, then the Stalking Horse Transaction shall be the Successful Bid and shall be consummated in accordance with and subject to the terms of the Support Agreement and the Stalking Horse Transaction Agreement.
13. Following selection of a Successful Bid, Just Energy, with the assistance of its advisors, shall seek to finalize any remaining necessary definitive agreement(s) with respect to the Successful Bid in accordance with the key milestones set out in Section 6. Once the necessary definitive agreement(s) with respect to a Successful Bid have been finalized, as determined by Just Energy, in consultation with the Monitor, Just Energy shall apply to the Court for an order or orders approving such Successful Bid and/or the mechanics to authorize Just Energy to complete the transactions contemplated thereby, as applicable, and authorizing Just Energy to (i) enter into any and all necessary agreements and related documentation with respect to the Successful Bid, (ii) undertake such other actions as may be necessary to give effect to such Successful Bid, and (iii) implement the transaction(s) contemplated in such Successful Bid (each, an “**Implementation Order**”).
14. All Deposits shall be retained by the Monitor in a non-interest bearing trust account. If a Successful Bid is selected and an Implementation Order authorizing the consummation of the transaction contemplated thereunder is granted, any Deposit paid in connection with such Successful Bid will be non-refundable and shall, upon closing of the transaction contemplated by such Successful Bid, be applied to the cash consideration to be paid in connection with such Successful Bid or be dealt with as otherwise set out in the definitive agreement(s) entered into in connection with such Successful Bid. Any Deposit delivered with a Qualified Bid that is not selected as a Successful Bid, will be returned to the applicable bidder as soon as reasonably practicable (but not later than ten

(10) business days) after the date upon which the Successful Bid is approved pursuant to an Implementation Order or such earlier date as may be determined by Just Energy, in consultation with the Monitor.

15. Just Energy shall provide information in respect of the SISP to the DIP Lenders, the holder of the BP Commodity/ISO Services Claim and the Supporting Secured CF Lenders on a confidential basis, including (A) copies (or if not provided to the Just Energy Entities in writing, a detailed description) of any NOI and any bid received, including any Qualified Bid, no later than one (1) calendar day following receipt thereof by the Just Energy Entities or their advisors and (B) such other information as reasonably requested by the DIP Lenders', the holder of the BP Commodity/ISO Services Claim or the Supporting Secured CF Lenders' respective legal counsel or financial advisors or as necessary to keep the DIP Lenders, the holder of the BP Commodity/ISO Services Claim or the Supporting Secured CF Lenders informed no later than one (1) calendar day after any such request or any material change to the proposed terms of any bid received, including any Qualified Bid, as to the terms of any bid, including any Qualified Bid, (including any changes to the proposed terms thereof) and the status and substance of discussions related thereto. Just Energy shall be permitted, in its discretion, to provide general updates and information in respect of the SISP to counsel to any unsecured creditor of Just Energy (a "**General Unsecured Creditor**") on a confidential basis, upon: (i) the irrevocable confirmation in writing from such counsel that the applicable General Unsecured Creditor will not submit any NOI or bid in the SISP, and (ii) counsel to such General Unsecured Creditor executing confidentiality agreements with Just Energy, in form and substance satisfactory to Just Energy and the Monitor.
16. Any amendments to this SISP may only be made by Just Energy with the written consent of the Monitor and after consultation with the Credit Facility Agent, or by further order of the Court, provided that Just Energy shall not amend Subsections 7(a), (b), (d), (e), (f), (g), (i) or (l) or Section 14 without the prior written consent of the Sponsor and the Credit Facility Agent.



## **SCHEDULE “A”: AUCTION PROCEDURES**

1. **Auction.** If Just Energy receives at least one Qualified Bid (other than the Stalking Horse Transaction), Just Energy will conduct and administer the Auction in accordance with the terms of the SISP. Instructions to participate in the Auction, which will take place via video conferencing, will be provided to Qualified Parties (as defined below) not less than 24 hours prior to the Auction.

2. **Participation.** Only parties that provided a Qualified Bid by the Qualified Bid Deadline, including the Stalking Horse Transaction (collectively, the “**Qualified Parties**”), shall be eligible to participate in the Auction. No later than 5:00 p.m. Eastern Daylight Time on the day prior to the Auction, each Qualified Party (other than the Sponsor) must inform Just Energy whether it intends to participate in the Auction. Just Energy will promptly thereafter inform in writing each Qualified Party who has expressed its intent to participate in the Auction of the identity of all other Qualified Parties that have indicated their intent to participate in the Auction. If no Qualified Party provides such expression of intent, the Stalking Horse Transaction shall be the Successful Bid.

3. **Auction Procedures.** The Auction shall be governed by the following procedures:

- (a) **Attendance.** Only Just Energy, the other counterparties to the Support Agreement, the Qualified Parties, the Monitor and each of their respective advisors will be entitled to attend the Auction, and only the Qualified Parties will be entitled to make any subsequent Overbids (as defined below) at the Auction;
- (b) **No Collusion.** Each Qualified Party participating at the Auction shall be required to confirm on the record at the Auction that: (i) it has not engaged in any collusion with respect to the Auction and the bid process; and (ii) its bid is a good-faith *bona fide* offer and it intends to consummate the proposed transaction if selected as the Successful Bid (as defined below);
- (c) **Minimum Overbid.** The Auction shall begin with the Qualified Bid that represents the highest or otherwise best Qualified Bid as determined by Just Energy, in consultation with the Monitor (the “**Initial Bid**”), and any bid made at the Auction by a Qualified Party subsequent to Just Energy’s announcement of the Initial Bid (each, an “**Overbid**”), must proceed in minimum additional cash increments of USD\$1,000,000;
- (d) **Bidding Disclosure.** The Auction shall be conducted such that all bids will be made and received in one group video-conference, on an open basis, and all Qualified Parties will be entitled to be present for all bidding with the understanding that the true identity of each Qualified Party will be fully disclosed to all other Qualified Parties and that all material terms of each subsequent bid will be fully disclosed to all other Qualified Parties throughout the entire Auction; provided, however, that Just Energy, in its discretion, may establish separate video conference rooms to permit interim discussions between Just Energy and individual Qualified Parties with the understanding that all formal bids will be delivered in one group video conference, on an open basis;
- (e) **Bidding Conclusion.** The Auction shall continue in one or more rounds and will conclude after each participating Qualified Party has had the opportunity to submit one or more additional bids with full knowledge and written confirmation of the then-existing highest bid(s); and

- (f) **No Post-Auction Bids.** No bids will be considered for any purpose after the Auction has concluded.

#### **Selection of Successful Bid**

4. **Selection.** Before the conclusion of the Auction, Just Energy, in consultation with the Monitor, will: (a) review each Qualified Bid, considering the factors set out in Section 7 of the SISP and, among other things, (i) the amount of consideration being offered and, if applicable, the proposed form, composition and allocation of same, (ii) the value of any assumption of liabilities or waiver of liabilities not otherwise accounted for in prong (i) above; (iii) the likelihood of the Qualified Party's ability to close a transaction by 90 days after completion of the Auction and the timing thereof (including factors such as the transaction structure and execution risk, including conditions to, timing of, and certainty of closing; termination provisions; availability of financing and financial wherewithal to meet all commitments; and required governmental or other approvals), (iv) the likelihood of the Court's approval of the Successful Bid, (v) the net benefit to Just Energy and (vi) any other factors Just Energy may, consistent with its fiduciary duties, reasonably deem relevant; and (b) identify the highest or otherwise best bid received at the Auction (the "**Successful Bid**" and the Qualified Party making such bid, the "**Successful Party**").

5. **Acknowledgement.** The Successful Party shall complete and execute all agreements, contracts, instruments or other documents evidencing and containing the terms and conditions upon which the Successful Bid was made within one business day of the Successful Bid being selected as such, unless extended by Just Energy in its sole discretion, subject to the milestones set forth in Section 6 of the SISP.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R.S.C. 1985, C. C-36, AS AMENDED

Court File No: CV-21-00658423-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JUST ENERGY GROUP INC., et al.

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*Ontario*  
**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

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**SISP APPROVAL ORDER**

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**OSLER, HOSKIN & HARCOURT LLP**  
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Tel: (416) 362-2111  
Fax: (416) 862-6666

Lawyers for the Just Energy Entities

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THIS IS **EXHIBIT “B”** REFERRED TO IN THE AFFIDAVIT OF MICHAEL CARTER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the Town of Sibley, in the State of Louisiana while the Commissioner was located in the City of Toronto, in the Province of Ontario.

*Tiffany Sun*

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Commissioner for Taking Affidavits  
Miao Sun (LSO No. 84440N)

**ENTERED**

September 19, 2022

Nathan Ochsner, Clerk

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

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In re:	)	Chapter 15
	)	
JUST ENERGY GROUP INC., <i>et al.</i> ,	)	Case No. 21-30823 (MI)
	)	
Debtors in a Foreign Proceeding, <sup>1</sup>	)	(Jointly Administered)
	)	

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**ORDER (I) RECOGNIZING AND ENFORCING  
(A) THE CCAA SISF APPROVAL ORDER AND (B) THE CCAA  
CLAIMS PROCEDURES ORDER AND (II) GRANTING RELATED RELIEF**

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Upon consideration of the motion (the “Motion”)<sup>2</sup> filed by the Foreign Representative as the “foreign representative” of the Debtors, pursuant to sections 105, 1507, and 1521 of the Bankruptcy Code, for entry of an order (this “Order”): (a) recognizing and enforcing the CCAA SISF Approval Order, attached hereto as Exhibit A, approving, among other things, (i) the SISF, (ii) the Debtors’ entry into the SISF Support Agreement and the Stalking Horse Transaction Agreement, and (iii) the Break-Up Fee; (b) recognizing and enforcing the CCAA Claims Procedures Order, attached hereto as Exhibit B, approving, among other things, (i) the CCAA Claims Procedures, (ii) the Bar Dates, and (iii) the Bar Date Noticing; and (c) granting such other relief as the Court deems just and proper, all as more fully set forth in the Motion; and upon consideration of the Carter Declaration and Paplawski Declaration; and this Court having

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<sup>1</sup> The identifying four digits of Debtor Just Energy Group Inc.’s local Canada tax identification number are 0469. Due to the large number of debtor entities in these chapter 15 cases, for which joint administration has been granted, a complete list of the debtor entities and the last four digits of their federal tax identification numbers are not provided herein. A complete list of such information may be obtained on the website of the Debtors’ claims and noticing agent at [www.omniagentsolutions.com/justenergy](http://www.omniagentsolutions.com/justenergy). The location of the Debtors’ service address for purposes of these chapter 15 cases is: 100 King Street West, Suite 2360, Toronto, ON, M5X 1E1.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. § 1334 and 11 U.S.C. §§ 109 and 1501; and venue being proper before this Court pursuant to § 1410(1) and (3); and the Motion being a core proceeding pursuant to 28 U.S.C. § 157(b); and that this Court may enter a final order consistent with Article III of the United States Constitution; and adequate and sufficient notice of the filing of the Motion having been given by the Foreign Representative; and it appearing that the relief requested in the Motion is necessary and beneficial to the Debtors; and this Court having held a hearing to consider the relief requested in the Motion; and there being no objections or other responses filed that have not been overruled, withdrawn, or otherwise resolved; and after due deliberation and sufficient cause appearing therefor, **IT IS HEREBY FOUND AND DETERMINED THAT:**

A. This Court previously entered the Recognition Order [Docket No. 82] on April 2, 2021, where findings were made that the Debtors had satisfied the requirements of, among others, sections 101(23) and (24), 1502(4), 1504, 1509, 1515, 1517, 1520, 1521, and 1522 of the Bankruptcy Code. All such findings by this Court are hereby incorporated by reference herein and such Recognition Order shall continue in effect in all respects except to the extent this Order directly modifies or directly contradicts such Recognition Order.

B. On September 15, 2021, the Canadian Court entered the CCAA Claims Procedures Order, approving, among other things, (a) the CCAA Claims Procedures, (b) the Bar Dates, and (c) the Bar Date Noticing.

C. On August 18, 2022, the Canadian Court entered the CCAA SISP Approval Order, approving among other things, (a) the SISP, (b) the Debtors' entry into the SISP Support Agreement and the Stalking Horse Transaction Agreement, and (c) the Break-Up Fee.

D. The relief granted hereby is necessary and appropriate to effectuate the objectives of chapter 15 of the Bankruptcy Code to protect the Debtors and the interests of their creditors and other parties in interest, is consistent with the laws of the United States, international comity, public policy, and the policies of the Bankruptcy Code, and will not cause any hardship to any party in interest that is not outweighed by the benefits of the relief granted.

E. Absent the requested relief, the efforts of the Debtors, the Canadian Court, and the Foreign Representative in conducting the Canadian Proceedings and effectuating the restructuring under Canadian law may be frustrated, a result contrary to the purposes of chapter 15 of the Bankruptcy Code.<sup>3</sup>

F. Good, sufficient, appropriate, and timely notice of the filing of, and the hearing on, the Motion was given, which notice is adequate for all purposes, and no further notice need be given.

G. All creditors and other parties in interest, including the Debtors, are sufficiently protected by the grant of relief ordered hereby. The relief granted herein will, in accordance with sections 1507(b) and 1521 of the Bankruptcy Code, reasonably assure: (a) the just treatment of all holders of claims against or interests in the Debtors' property; (b) the protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in the Canadian Proceedings; and (c) the prevention of preferential or fraudulent dispositions of property of the Debtors.

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<sup>3</sup> In particular, this Court's granting of the relief requested herein is a closing condition within the Stalking Horse Transaction Agreement.

**BASED ON THE FOREGOING FINDINGS OF FACT AND AFTER DUE DELIBERATION AND SUFFICIENT CAUSE APPEARING THEREFORE, IT IS HEREBY ORDERED THAT:**

1. Omitted.
2. All objections, if any, to the Motion or the relief requested therein that has not been withdrawn, waived, or settled by stipulation filed with the Court, and all reservations of rights included therein, are hereby overruled on the merits.
3. Pursuant to sections 105, 1507, and 1521 of the Bankruptcy Code, the CCAA SISP Approval Order and the CCAA Claims Procedures Order, and all of their respective terms, including any immaterial or administrative amendments thereto, including those necessary to give effect to the substance of such orders, either pursuant to the terms therein or as approved by the Canadian Court, are fully recognized and given full force and effect in the United States.
4. The SISP, including all deadlines and requirements therein as set forth in the CCAA SISP Approval Order, is hereby fully recognized and given full force and effect in the United States, including as bidding procedures for the sale of assets and/or equity of the Debtors located in the territorial jurisdiction of the United States, and shall apply with respect to parties located in the United States.
5. The CCAA Claims Procedures, the Bar Dates, and such other relief granted pursuant to the CCAA Claims Procedures Order is hereby recognized by the Court and shall apply with respect to creditors located in the United States. As found by the Canadian Court, the Bar Date Noticing constitutes good and sufficient service and delivery of notice of the CCAA Claims Procedures Order and the Bar Dates on all parties in interest who may be entitled to receive notice and who may wish to assert a claim in the Canadian Proceedings, and no other notice or service need be given or made and no other document or material need be sent to or served upon any party in interest in respect of the CCAA Claims Procedures Order. All Claims and D&O Claims (each



as defined in the CCAA Claims Procedures Order) resolved in the Canadian Proceedings in accordance with the CCAA Claims Procedures Order shall be resolved in the United States and these chapter 15 cases, and such Claimant shall be not receive any additional recovery in the United States and/or these chapter 15 cases.

6. This Court retains jurisdiction to enforce any and all terms and provisions of the CCAA SISP Approval Order and the CCAA Claims Procedures Order in the United States.

7. The Debtors' entry into the SISP Support Agreement and the Stalking Horse Transaction Agreement, each on the terms set forth in the CCAA SISP Approval Order, and the CCAA Claims Procedures, the Bar Dates, and the Bar Date Noticing, each as set forth in the CCAA Claims Procedures Order, are hereby ratified, approved, and authorized pursuant to sections 105(a), 1507, and 1521 of the Bankruptcy Code. The failure specifically to include any particular provision of the CCAA SISP Approval Order and the CCAA Claims Procedures Order in this Order shall not diminish or impair the effectiveness of such provision.

8. The SISP Support Agreement and the Stalking Horse Transaction Agreement, including the Break-Up Fee and as security for payment of such Break-Up Fee, a lien on the assets of the Debtors, as contemplated thereunder, are each hereby ratified and approved only to the extent approved by the CCAA SISP Approval Order. The Debtors and any party to the SISP Support Agreement or the Stalking Horse Transaction Agreement may exercise the respective rights and remedies available to them under the SISP Support Agreement or the Stalking Horse Transaction Agreement, respectively and as applicable, in accordance with the terms thereof and the CCAA SISP Approval Order, but only to the extent approved by the CCAA SISP Approval Order.

9. Nothing in this Order ratifies, approves, and/or recognizes the sale and/or vesting of any property (including without limitation, any contracts to which ERCOT and any Debtor is a party) to the Sponsor (or any of its designees or any other successful bidder) pursuant to the Stalking Horse Transaction Agreement, and all rights, claims, objections, and interests of any interested party, at law or in equity, with respect to the proposed sale and vesting of property (including, without limitation, any contracts to which ERCOT and any Debtor is a party) pursuant to the Stalking Horse Transaction Agreement or Successful Bid (as defined in the SISP) are not waived and are expressly preserved.

10. All persons and entities subject to the jurisdiction of the United States are permanently enjoined and restrained from taking any actions inconsistent with, or interfering with the enforcement and implementation of, the CCAA SISP Approval Order, the CCAA Claims Procedures Order, or any documents incorporated by the foregoing.

11. The Foreign Representative is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion, the CCAA SISP Approval Order, and the CCAA Claims Procedures Order.

12. Notwithstanding any provisions in the Bankruptcy Rules to the contrary, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

13. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Signed: September 19, 2022

  
Marvin Isgur  
United States Bankruptcy Judge

Exhibit A

CCAA SISP Approval Order

Court File No. CV-21-00658423-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR.	)	THURSDAY, THE 18 <sup>TH</sup>
	)	
JUSTICE MCEWEN	)	DAY OF AUGUST, 2022

IN THE MATTER OF THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JUST ENERGY GROUP INC., JUST ENERGY CORP., ONTARIO ENERGY COMMODITIES INC., UNIVERSAL ENERGY CORPORATION, JUST ENERGY FINANCE CANADA ULC, HUDSON ENERGY CANADA CORP., JUST MANAGEMENT CORP., 11929747 CANADA INC., 12175592 CANADA INC., JE SERVICES HOLDCO I INC., JE SERVICES HOLDCO II INC., 8704104 CANADA INC., JUST ENERGY ADVANCED SOLUTIONS CORP., JUST ENERGY (U.S.) CORP., JUST ENERGY ILLINOIS CORP., JUST ENERGY INDIANA CORP., JUST ENERGY MASSACHUSETTS CORP., JUST ENERGY NEW YORK CORP., JUST ENERGY TEXAS I CORP., JUST ENERGY, LLC, JUST ENERGY PENNSYLVANIA CORP., JUST ENERGY MICHIGAN CORP., JUST ENERGY SOLUTIONS INC., HUDSON ENERGY SERVICES LLC, HUDSON ENERGY CORP., INTERACTIVE ENERGY GROUP LLC, HUDSON PARENT HOLDINGS LLC, DRAG MARKETING LLC, JUST ENERGY ADVANCED SOLUTIONS LLC, FULCRUM RETAIL ENERGY LLC, FULCRUM RETAIL HOLDINGS LLC, TARA ENERGY, LLC, JUST ENERGY MARKETING CORP., JUST ENERGY CONNECTICUT CORP., JUST ENERGY LIMITED, JUST SOLAR HOLDINGS CORP. AND JUST ENERGY (FINANCE) HUNGARY ZRT.

(each, an “**Applicant**”, and collectively, the “**Applicants**”)

**SISP APPROVAL ORDER**

**THIS MOTION**, made by the Applicants (together, the Applicants and the partnerships listed on **Schedule “A”** hereto, the “**Just Energy Entities**”), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, for an order, *inter alia*, approving the Sale and Investment Solicitation Process in respect of the Just Energy Entities attached hereto as **Schedule “B”** (the “**SISP**”) and certain related relief, was heard on August 17, 2022 by judicial videoconference via Zoom in Toronto, Ontario due to the COVID-19 pandemic.

**ON READING** the affidavit of Michael Carter sworn August 4, 2022 and the Exhibits thereto (the “**Carter Affidavit**”), the Eleventh Report of FTI Consulting Canada Inc. (the “**Eleventh Report**”), in its capacity as monitor (the “**Monitor**”), dated August 13, 2022, and on hearing the submissions of counsel for the Just Energy Entities, the Monitor, the Sponsor (as hereinafter defined), and such other counsel who were present, no one else appearing although duly served as appears from the affidavits of service of Emily Paplawski sworn August 5, August 8, August 11 and August 16, 2022.

### **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion was properly returned on August 17, 2022 and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the SISP, the Second Amended and Restated Initial Order of this Court dated May 26, 2021 (the “**Second ARIO**”), the Claims Procedure Order of this Court dated September 15, 2021 (the “**Claims Procedure Order**”), or the Support Agreement attached as Exhibit “I” to the Carter Affidavit (the “**Support Agreement**”), as applicable.

### **SALES AND INVESTMENT SOLICITATION PROCESS**

3. **THIS COURT ORDERS** that the SISP is hereby approved and the Just Energy Entities are hereby authorized to implement the SISP pursuant to the terms thereof. The Just Energy Entities, the Monitor and the Financial Advisor are hereby authorized and directed to perform their respective obligations and to do all things reasonably necessary to perform their obligations thereunder and as directed by the Court in this Order and the related endorsement dated August 18, 2022.

4. **THIS COURT ORDERS** that the Monitor and the Financial Advisor, and their respective affiliates, partners, directors, employees, and agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liabilities of any nature or kind to any person in connection with or as a result of the SISP, except to the extent of losses, claims, damages or liabilities that arise or result from the gross negligence or wilful misconduct of the Monitor or Financial Advisor, as applicable, in performing their obligations under the SISP, as determined by this Court.

#### **SUPPORT AGREEMENT**

5. **THIS COURT ORDERS** that the Support Agreement is hereby approved and the Just Energy Entities are authorized and empowered to enter into the Support Agreement, *nunc pro tunc*, subject to such minor amendments as may be consented to by the Monitor and as may be acceptable to each of the parties thereto, and are authorized, empowered and directed to take all steps and actions in respect of, and to comply with all of their obligations pursuant to, the Support Agreement.

6. **THIS COURT ORDERS** that, notwithstanding the stay of proceedings imposed by the Second ARIO, a counterparty to the Support Agreement may exercise any termination right that may become available to such counterparty pursuant to the Support Agreement, provided that such termination right must be exercised pursuant to and in accordance with the Support Agreement.

#### **STALKING HORSE TRANSACTION AGREEMENT**

7. **THIS COURT ORDERS** that Just Energy Group Inc. (“**Just Energy**”) is hereby authorized and empowered to enter into the stalking horse transaction agreement (the “**Stalking Horse Transaction Agreement**”) dated as of August 4, 2022, between Just Energy and LVS III

SPE XV LP, TOCU XVII LLC, HVS XVI LLC, OC II LVS XIV LP, OC III LFE I LP, and CBHT Energy I LLC (collectively, the “**Sponsor**”) and attached as Exhibit “A” to the Carter Affidavit, *nunc pro tunc*, and such minor amendments as may be acceptable to each of the parties thereto, with the approval of the Monitor and subject to the terms of the Support Agreement; provided that, nothing herein approves the sale and the vesting of any Property to the Sponsor (or any of its designees) pursuant to the Stalking Horse Transaction Agreement and that the approval of any sale and vesting of any such Property shall be considered by this Court on a subsequent motion made to this Court if the Stalking Horse Transaction is the Successful Bid pursuant to the SISP.

8. **THIS COURT ORDERS** that, as soon as reasonably practicable following Just Energy (a) entering into any amendment to the Stalking Horse Transaction Agreement permitted pursuant to the terms of this Order; or (b) agreeing upon the final Implementation Steps (as defined in the Stalking Horse Transaction Agreement), the Just Energy Entities shall, in each such case, (i) file a copy thereof with this Court, (ii) serve a copy thereof on the Service List, and (iii) provide a copy thereof to each SISP Participant (as hereinafter defined), excluding from the public record any confidential information that Just Energy and the Sponsor, with the consent of the Monitor, agree should be redacted.

#### **BID PROTECTIONS**

9. **THIS COURT ORDERS** that the Break-Up Fee is hereby approved and Just Energy is hereby authorized and directed to pay the Break-Up Fee to the Sponsor (or as it may direct) in the manner and circumstances described in the Stalking Horse Transaction Agreement.

10. **THIS COURT ORDERS** that the Sponsor shall be entitled to the benefit of and is hereby granted a charge (the “**Bid Protections Charge**”) on the Property, which charge shall not exceed

US\$14,660,000, as security for payment of the Break-Up Fee in the manner and circumstances described in the Stalking Horse Transaction Agreement.

11. **THIS COURT ORDERS** that Paragraphs 53, 54 and 56 of the Second ARIO shall be, and are hereby, amended in the manner detailed below:

(a) Paragraph 53 of the Second ARIO shall be amended as follows:

**THIS COURT ORDERS** that the priorities of the Administration Charge, the FA Charge, the Directors' Charge, the KERP Charge, the DIP Lenders' Charge, the Priority Commodity/ISO Charge, the Cash Management Charge and the Bid Protections Charge (as defined in the Order in these proceedings dated August 18, 2022), as among them, shall be as follows:

First – Administration Charge and FA Charge (to the maximum amount of C\$3,000,000 and C\$8,600,000, respectively), on a *pari passu* basis;

Second – Directors' Charge (to the maximum amount of C\$44,100,000);

Third – KERP Charge (to the maximum amounts of C\$2,012,100 and US\$3,876,024);

Fourth – DIP Lenders' Charge (to the maximum amount of the Obligations (as defined in the DIP Term Sheet) owing thereunder at the relevant time) and the Priority Commodity/ISO Charge, on a *pari passu* basis; ~~and~~

Fifth – Cash Management Charge; and-

Sixth – Bid Protections Charge (in the amount of US\$14,660,000).

(b) Paragraph 54 of the Second ARIO shall be amended as follows:

**THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge, the FA Charge, the Directors' Charge, the KERP Charge, the DIP Lenders' Charge, the Priority Commodity/ISO Charge, the Cash Management Charge, or the Bid Protections Charge (collectively, the "**Charges**") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.



- (c) Paragraph 56 of the Second ARIO shall be amended as follows:

**THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court on notice to parties in interest, the Just Energy Entities shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges unless the Just Energy Entities also obtain the prior written consent of the Monitor, the DIP Agent on behalf of the DIP Lenders and the beneficiaries of the Administration Charge, the FA Charge, the Directors' Charge, the KERP Charge, the Priority Commodity/ISO Charge, the Cash Management Charge and the Bid Protections Charge or further Order of this Court.

#### **PIPEDA**

12. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Monitor, the Just Energy Entities and their respective advisors are hereby authorized and permitted to disclose and transfer to prospective SISP participants (each, a “**SISP Participant**”) and their advisors personal information of identifiable individuals but only to the extent desirable or required to negotiate or attempt to complete a transaction pursuant to the SISP (a “**Transaction**”). Each SISP Participant to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation for the purpose of effecting a Transaction, and if it does not complete a Transaction, shall return all such information to the Monitor or the Just Energy Entities, or in the alternative destroy all such information and provide confirmation of its destruction if requested by the Monitor or the Just Energy Entities. Any Successful Party shall maintain and protect the privacy of such information and, upon closing of the Transaction(s) contemplated in the Successful Bid(s), shall be entitled to use the personal information provided to it that is related to the Business and/or Property acquired pursuant to the SISP in a manner that is in all material respects identical to the prior use of such information by the Just Energy Entities, and shall return all other personal information to the Monitor or the Just Energy Entities, or ensure

that all other personal information is destroyed and provide confirmation of its destruction if requested by the Monitor or the Just Energy Entities.

### **THIRD KEY EMPLOYEE RETENTION PLAN**

13. **THIS COURT ORDERS** that the Third KERF, as described in the Carter Affidavit and attached as Confidential Exhibit “L” thereto, is hereby approved and the Just Energy Entities are authorized to make payments contemplated thereunder in accordance with the terms and conditions of the Third KERF.

14. **THIS COURT ORDERS** that the Just Energy Entities, in consultation with the Monitor, are authorized and empowered to reallocate funds under the Third KERF originally allocated to Key Employees who have resigned, or will resign, from their employment with the Just Energy Entities, or who have declined, or will decline, to receive payments(s) under the Third KERF, to remaining Key Employees or other employees of the Just Energy Entities that the Just Energy Entities, in consultation with the Monitor, identify as critical to their ongoing business.

15. **THIS COURT ORDERS** that the KERF Charge established at paragraph 24 of the Second ARIIO shall apply equally to, and secure, any remaining payments under the KERF and the Second KERF (as defined in the Order of this Court dated November 10, 2021) to the Key Employees and the payments contemplated to the Key Employees referred to in the Third KERF.

### **STAY EXTENSION**

16. **THIS COURT ORDERS** that the Stay Period is hereby extended until and including October 31, 2022.

## APPROVAL OF MONITOR'S REPORTS

17. **THIS COURT ORDERS** that the activities and conduct of the Monitor prior to the date hereof in relation to the Just Energy Entities and these CCAA proceedings are hereby ratified and approved.

18. **THIS COURT ORDERS** that each of the Tenth Report of the Monitor dated May 18, 2022, the Supplement to the Tenth Report of the Monitor dated June 1, 2022, and the Eleventh Report be and are hereby approved.

19. **THIS COURT ORDERS** that only the Monitor, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way the approvals set forth in paragraphs 17 and 18 of this Order.

## CLAIMS PROCEDURE

20. **THIS COURT ORDERS** that the ongoing claims review, claims determination and dispute resolution processes under (a) the Claims Procedure Order; (b) the Order of this Court dated March 3, 2022, among other things, appointing the Honourable Justice Dennis O'Connor as Claims Officer for the purposes set forth therein; and (c) the Endorsement of this Court dated June 10, 2022, shall be suspended pending further Order of this Court; provided that, for certainty, (x) where (i) a Claimant has not submitted a Proof of Claim or D&O Proof of Claim by the applicable Bar Date, (ii) a Negative Notice Claimant has not submitted a Notice of Dispute of Claim by the applicable Bar Date, or (iii) a Claim or D&O Claim has already been disallowed or revised in accordance with the Claims Procedure Order and the applicable period of time to dispute such revision or disallowance has expired without the Claimant submitting a Notice of Dispute of Revision or Disallowance, such Claimant will continue to be barred from pursuing such Claim or

D&O Claim pursuant to the relevant provisions of the Claims Procedure Order and (y) this Order does not impact the acceptance of any Claims or other final determination or agreement in respect of Claims made pursuant to the Claims Procedure Order prior to the date of this Order; provided further that, notwithstanding anything to the contrary herein, the Just Energy Entities shall be permitted, with the consent of the Monitor, to refer any Claim to a Claims Officer or this Court for adjudication for the purposes of determining entitlement to proceeds to be distributed in accordance with a transaction completed pursuant to the SISP.

## GENERAL

21. **THIS COURT ORDERS** that Confidential Exhibits “J” and “L” to the Carter Affidavit shall be and is hereby sealed, kept confidential and shall not form part of the public record pending further Order of this Court.

22. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

23. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal and regulatory or administrative bodies, having jurisdiction in Canada or in the United States of America, including the United States Bankruptcy Court for the Southern District of Texas overseeing the Just Energy Entities’ proceedings under Chapter 15 of the Bankruptcy Code in Case No. 21-30823 (MI), or in any other foreign jurisdiction, to give effect to this Order and to assist the Just Energy Entities, the Monitor, and their respective agents in carrying out the terms of this Order. All courts, tribunals and regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Just Energy Entities and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order

or to assist the Just Energy Entities and the Monitor and their respective agents in carrying out the terms of this Order.

McE T.

**SCHEDULE "A"  
PARTNERSHIPS**

- JUST ENERGY ONTARIO L.P.
- JUST ENERGY MANITOBA L.P.
- JUST ENERGY (B.C.) LIMITED PARTNERSHIP
- JUST ENERGY QUÉBEC L.P.
- JUST ENERGY TRADING L.P.
- JUST ENERGY ALBERTA L.P.
- JUST GREEN L.P.
- JUST ENERGY PRAIRIES L.P.
- JEBPO SERVICES LLP
- JUST ENERGY TEXAS LP

**SCHEDULE “B”**  
**SALE AND INVESTMENT SOLICITATION PROCESS**

1. On August 18, 2022, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granted an order (the “**SISP Order**”) that, among other things, (a) authorized Just Energy (as defined below) to implement a sale and investment solicitation process (“**SISP**”) in accordance with the terms hereof, (b) approved the Support Agreement, (c) authorized and directed Just Energy Group Inc. to enter into the Stalking Horse Transaction Agreement, (d) approved the Break-Up Fee, and (e) granted the Bid Protections Charge. Capitalized terms that are not defined herein have the meanings ascribed thereto in the Second Amended & Restated Initial Order granted by the Court in Just Energy’s proceedings under the *Companies’ Creditors Arrangement Act* on May 26, 2021, as amended, restated or supplemented from time to time or the SISP Order, as applicable.
2. This SISP sets out the manner in which (i) binding bids for executable transaction alternatives that are superior to the sale transaction to be provided for in the Stalking Horse Transaction Agreement involving the shares and/or the business and assets of Just Energy Group Inc. and its direct and indirect subsidiaries (collectively, “**Just Energy**”) will be solicited from interested parties, (ii) any such bids received will be addressed, (iii) any Successful Bid (as defined below) will be selected, and (iv) Court (as defined below) approval of any Successful Bid will be sought. Such transaction alternatives may include, among other things, a sale of some or all of Just Energy’s shares, assets and/or business and/or an investment in Just Energy, each of which shall be subject to all terms set forth in this SISP.
3. The SISP shall be conducted by Just Energy under the oversight of FTI Consulting Canada Inc., in its capacity as court-appointed monitor (the “**Monitor**”), with the assistance of BMO Capital Markets (the “**Financial Advisor**”).
4. Parties who wish to have their bids considered shall be expected to participate in the SISP as conducted by Just Energy and the Financial Advisor.
5. The SISP will be conducted such that Just Energy and the Financial Advisor will (under the oversight of the Monitor):
  - a) prepare marketing materials and a process letter;
  - b) prepare and provide applicable parties with access to a data room containing diligence information;
  - c) solicit interest from parties to enter into non-disclosure agreements (parties shall only obtain access to the data room and be permitted to participate in the SISP if they execute a non-disclosure agreement that is in form and substance satisfactory to Just Energy); and
  - d) request that such parties (other than the Sponsor or its designee) submit (i) a notice of intent to bid that identifies the potential purchaser and a general description of the assets and/or business(es) of the Just Energy Entities that would be the subject of the bid and that reflects a reasonably likely prospect of culminating in a Qualified Bid (as defined below), as determined by the Just Energy Entities in consultation with the Monitor and the Credit Facility Agent (subject to the confidentiality requirements set forth in Section 15 below) (a “**NOI**”) by the NOI Deadline (as defined below) and, if applicable, (ii) a binding offer meeting at least the requirements set forth in Section 7 below, as determined by the Just Energy Entities in consultation with the Monitor (a “**Qualified Bid**”) by the Qualified Bid Deadline (as defined below).

6. The SISP shall be conducted subject to the terms hereof and the following key milestones:
- a) Just Energy to commence solicitation process on the date of service of the motion for approval of the SISP – August 4, 2022;<sup>1</sup>
  - b) Court approval of SISP and authorizing Just Energy to enter into the Stalking Horse Transaction Agreement – August 18, 2022;
  - c) Deadline to submit NOI – 11:59 p.m. Eastern Daylight Time on September 8, 2022 (the “**NOI Deadline**”);
  - d) Deadline to submit a Qualified Bid – 11:59 p.m. Eastern Daylight Time on October 13, 2022 (the “**Qualified Bid Deadline**”);
  - e) Deadline to determine whether a bid is a Qualified Bid and, if applicable, to notify those parties who submitted a Qualified Bid of the Auction (as defined below) – 5:00 p.m. Eastern Daylight Time on October 20, 2022;
  - f) Just Energy to hold Auction (if applicable) – 10:00 a.m. Eastern Daylight Time on October 22, 2022; and
  - g) Implementation Order (as defined below) hearing:
    - o (if no NOI is submitted) – by no later than September 16, 2022, subject to Court availability.
    - o (if there is no Auction) – by no later than October 29, 2022, subject to Court availability.
    - o (if there is an Auction) – by no later than twelve (12) days after completion of the Auction, subject to Court availability.
7. In order to constitute a Qualified Bid, a bid must comply with the following:
- a. it provides for (i) the payment in full in cash on closing of the BP Commodity/ISO Services Claim (as defined in the Support Agreement), unless otherwise agreed to by the holder of such claim in its sole discretion; (ii) the payment in full in cash on closing of the Credit Facility Claims, unless otherwise agreed to by the Credit Facility Agent in its sole discretion; (iii) the payment in full in cash on closing of any claims ranking in priority to the claims set forth in subparagraphs (i) or (ii) including any claims secured by Court-ordered charges, unless otherwise agreed to by the applicable holders thereof in their sole discretion (iv) the return of all outstanding letters of credit and release of all Credit Facility LC Claims or arrangements satisfactory to the applicable Credit Facility Lenders in their discretion to secure with cash collateral or otherwise any Credit Facility LC Claims not released, and (v) the payment in full in cash on closing of any outstanding Cash Management Obligations or arrangements satisfactory to the applicable Credit Facility Lenders or their affiliates to secure with cash collateral or otherwise any outstanding Cash Management Obligations.
  - b. it provides a detailed sources and uses schedule that identifies, with specificity, the amount of cash consideration (the “**Cash Consideration Value**”) and any assumptions that could reduce the net consideration payable. At a minimum, the Cash Consideration Value plus Just Energy’s cash on hand must be sufficient for payment in full of the items contemplated in Sections 7(a)(i) and 7(a)(ii) herein, 3.2 of the Stalking Horse Transaction Agreement and the Break-Up Fee, plus USD\$1,000,000, on closing, which Cash Consideration Value is estimated to be USD\$460,000,000 as of December 31, 2022.

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<sup>1</sup> To the extent any dates would fall on a non-business day, to be the first business day thereafter.



- c. it is reasonably capable of being consummated by 90 days after completion of the Auction if selected as the Successful Bid;
- d. it contains:
  - i. duly executed binding transaction document(s);
  - ii. the legal name and identity (including jurisdiction of existence) and contact information of the bidder, full disclosure of its direct and indirect principals, and the name(s) of its controlling equityholder(s);
  - iii. a redline to the form of transaction document(s) provided by Just Energy, if applicable;
  - iv. evidence of authorization and approval from the bidder's board of directors (or comparable governing body) and, if necessary to complete the transaction, the bidder's equityholder(s);
  - v. disclosure of any connections or agreements with Just Energy or any of its affiliates, any known, potential, prospective bidder, or any officer, manager, director, or known equity security holder of Just Energy or any of its affiliates; and
  - vi. such other information reasonably requested by Just Energy or the Monitor;
- e. it includes a letter stating that the bid is submitted in good faith, is binding and is irrevocable until the selection of the Successful Bid; provided, however, that if such bid is selected as the Successful Bid, it shall remain irrevocable until the closing of the Successful Bid;
- f. it provides written evidence of a bidder's ability to fully fund and consummate the transaction and satisfy its obligations under the transaction documents, including binding equity/debt commitment letters and/or guarantees covering the full value of all cash consideration and the additional items (in scope and amount) covered by the guarantees provided by affiliates of the Purchaser in connection with the Transaction Agreement;
- g. it does not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment;
- h. it is not conditional upon:
  - i. approval from the bidder's board of directors (or comparable governing body) or equityholder(s);
  - ii. the outcome of any due diligence by the bidder; or
  - iii. the bidder obtaining financing;
- i. it includes an acknowledgment and representation that the bidder has had an opportunity to conduct any and all required due diligence prior to making its bid;
- j. it specifies any regulatory or other third-party approvals the party anticipates would be required to complete the transaction (including the anticipated timing necessary to obtain such approvals) and, in connection therewith, specifies whether the bidder or any of its affiliates is involved in any part of the energy sector, including an electric utility, retail service provider, a company with a tariff on file with the Federal Energy Regulatory Commission, or any intermediate holding company;
- k. it includes full details of the bidder's intended treatment of Just Energy's employees under the proposed bid;
- l. it is accompanied by a cash deposit (the "**Deposit**") by wire transfer of immediately available funds equal to 10% of the Cash Consideration Value, which Deposit shall be retained by the Monitor in a non-interest bearing trust account in accordance with this SISP;
- m. a statement that the bidder will bear its own costs and expenses (including legal and advisor fees) in connection with the proposed transaction, and by submitting its bid is agreeing to refrain from and waive any assertion or request for reimbursement on any basis; and
- n. it is received by the Qualified Bid Deadline.

8. The Qualified Bid Deadline may be extended by (i) Just Energy for up to no longer than seven days with the consent of the Monitor, the Credit Facility Agent and the Sponsor, acting reasonably, or (ii) further order of the Court. In such circumstances, the milestones contained in Subsections 6(f) and (g) shall be extended by the same amount of time.
9. Just Energy, in consultation with the Monitor, may waive compliance with any one or more of the requirements specified in Section 7 above and deem a non-compliant bid to be a Qualified Bid, provided that Just Energy shall not waive compliance with the requirements specified in Subsections 7(**Error! Reference source not found.**), (**Error! Reference source not found.**), (e), (e), (g), (h), (j) or (l) without the prior written consent of the Sponsor and Credit Facility Agent, each acting reasonably.
10. Notwithstanding the requirements specified in Section 7 above, the transactions contemplated by the Stalking Horse Transaction Agreement (the “**Stalking Horse Transaction**”), is deemed to be a Qualified Bid, provided that, for greater certainty, no Deposit shall be required to be submitted in connection with the Stalking Horse Transaction.
11. If one or more Qualified Bids (other than the Stalking Horse Transaction) has been received by Just Energy on or before the Qualified Bid Deadline, Just Energy shall proceed with an auction process to determine the successful bid(s) (the “**Auction**”), which Auction shall be administered in accordance with Schedule “A” hereto. The successful bid(s) selected within the Auction shall constitute the “**Successful Bid**”. Forthwith upon determining to proceed with an Auction, Just Energy shall provide written notice to each party that submitted a Qualified Bid (including the Stalking Horse Transaction), along with copies of all Qualified Bids and a statement by Just Energy specifying which Qualified Bid is the leading bid.
12. If, by the NOI Deadline no NOI has been received, then the SISF shall be deemed to be terminated and the Stalking Horse Transaction shall be the Successful Bid and shall be consummated in accordance with and subject to the terms of the Support Agreement and the Stalking Horse Transaction Agreement. If no Qualified Bid (other than the Stalking Horse Transaction) has been received by Just Energy on or before the Qualified Bid Deadline, then the Stalking Horse Transaction shall be the Successful Bid and shall be consummated in accordance with and subject to the terms of the Support Agreement and the Stalking Horse Transaction Agreement.
13. Following selection of a Successful Bid, Just Energy, with the assistance of its advisors, shall seek to finalize any remaining necessary definitive agreement(s) with respect to the Successful Bid in accordance with the key milestones set out in Section 6. Once the necessary definitive agreement(s) with respect to a Successful Bid have been finalized, as determined by Just Energy, in consultation with the Monitor, Just Energy shall apply to the Court for an order or orders approving such Successful Bid and/or the mechanics to authorize Just Energy to complete the transactions contemplated thereby, as applicable, and authorizing Just Energy to (i) enter into any and all necessary agreements and related documentation with respect to the Successful Bid, (ii) undertake such other actions as may be necessary to give effect to such Successful Bid, and (iii) implement the transaction(s) contemplated in such Successful Bid (each, an “**Implementation Order**”).
14. All Deposits shall be retained by the Monitor in a non-interest bearing trust account. If a Successful Bid is selected and an Implementation Order authorizing the consummation of the transaction contemplated thereunder is granted, any Deposit paid in connection with such Successful Bid will be non-refundable and shall, upon closing of the transaction contemplated by such Successful Bid, be applied to the cash consideration to be paid in connection with such Successful Bid or be dealt with as otherwise set out in the definitive agreement(s) entered into in connection with such Successful Bid. Any Deposit delivered with a Qualified Bid that is not selected as a Successful Bid,

will be returned to the applicable bidder as soon as reasonably practicable (but not later than ten (10) business days) after the date upon which the Successful Bid is approved pursuant to an Implementation Order or such earlier date as may be determined by Just Energy, in consultation with the Monitor.

15. Just Energy shall provide information in respect of the SISP to the DIP Lenders, the holder of the BP Commodity/ISO Services Claim and the Supporting Secured CF Lenders on a confidential basis, including (A) copies (or if not provided to the Just Energy Entities in writing, a detailed description) of any NOI and any bid received, including any Qualified Bid, no later than one (1) calendar day following receipt thereof by the Just Energy Entities or their advisors and (B) such other information as reasonably requested by the DIP Lenders', the holder of the BP Commodity/ISO Services Claim or the Supporting Secured CF Lenders' respective legal counsel or financial advisors or as necessary to keep the DIP Lenders, the holder of the BP Commodity/ISO Services Claim or the Supporting Secured CF Lenders informed no later than one (1) calendar day after any such request or any material change to the proposed terms of any bid received, including any Qualified Bid, as to the terms of any bid, including any Qualified Bid, (including any changes to the proposed terms thereof) and the status and substance of discussions related thereto. Just Energy shall be permitted, in its discretion, to provide general updates and information in respect of the SISP to counsel to any unsecured creditor of Just Energy (a "**General Unsecured Creditor**") on a confidential basis, upon: (i) the irrevocable confirmation in writing from such counsel that the applicable General Unsecured Creditor will not submit any NOI or bid in the SISP, and (ii) counsel to such General Unsecured Creditor executing confidentiality agreements with Just Energy, in form and substance satisfactory to Just Energy and the Monitor.
16. Any amendments to this SISP may only be made by Just Energy with the written consent of the Monitor and after consultation with the Credit Facility Agent, or by further order of the Court, provided that Just Energy shall not amend Subsections 7(**Error! Reference source not found.**), (**Error! Reference source not found.**), (e), (f), (g), (h), (j) or (l) or Section 15 without the prior written consent of the Sponsor and the Credit Facility Agent.

## SCHEDULE "A": AUCTION PROCEDURES

1. **Auction.** If Just Energy receives at least one Qualified Bid (other than the Stalking Horse Transaction), Just Energy will conduct and administer the Auction in accordance with the terms of the SISP. Instructions to participate in the Auction, which will take place via video conferencing, will be provided to Qualified Parties (as defined below) not less than 24 hours prior to the Auction.

2. **Participation.** Only parties that provided a Qualified Bid by the Qualified Bid Deadline, including the Stalking Horse Transaction (collectively, the "**Qualified Parties**"), shall be eligible to participate in the Auction. No later than 5:00 p.m. Eastern Daylight Time on the day prior to the Auction, each Qualified Party (other than the Sponsor) must inform Just Energy whether it intends to participate in the Auction. Just Energy will promptly thereafter inform in writing each Qualified Party who has expressed its intent to participate in the Auction of the identity of all other Qualified Parties that have indicated their intent to participate in the Auction. If no Qualified Party provides such expression of intent, the Stalking Horse Transaction shall be the Successful Bid.

3. **Auction Procedures.** The Auction shall be governed by the following procedures:

- (a) **Attendance.** Only Just Energy, the other counterparties to the Support Agreement, the Qualified Parties, the Monitor and each of their respective advisors will be entitled to attend the Auction, and only the Qualified Parties will be entitled to make any subsequent Overbids (as defined below) at the Auction;
- (b) **No Collusion.** Each Qualified Party participating at the Auction shall be required to confirm on the record at the Auction that: (i) it has not engaged in any collusion with respect to the Auction and the bid process; and (ii) its bid is a good-faith *bona fide* offer and it intends to consummate the proposed transaction if selected as the Successful Bid (as defined below);
- (c) **Minimum Overbid.** The Auction shall begin with the Qualified Bid that represents the highest or otherwise best Qualified Bid as determined by Just Energy, in consultation with the Monitor (the "**Initial Bid**"), and any bid made at the Auction by a Qualified Party subsequent to Just Energy's announcement of the Initial Bid (each, an "**Overbid**"), must proceed in minimum additional cash increments of USD\$1,000,000;
- (d) **Bidding Disclosure.** The Auction shall be conducted such that all bids will be made and received in one group video-conference, on an open basis, and all Qualified Parties will be entitled to be present for all bidding with the understanding that the true identity of each Qualified Party will be fully disclosed to all other Qualified Parties and that all material terms of each subsequent bid will be fully disclosed to all other Qualified Parties throughout the entire Auction; provided, however, that Just Energy, in its discretion, may establish separate video conference rooms to permit interim discussions between Just Energy and individual Qualified Parties with the understanding that all formal bids will be delivered in one group video conference, on an open basis;
- (e) **Bidding Conclusion.** The Auction shall continue in one or more rounds and will conclude after each participating Qualified Party has had the opportunity to submit one or more additional bids with full knowledge and written confirmation of the then-existing highest bid(s); and

- (f) **No Post-Auction Bids.** No bids will be considered for any purpose after the Auction has concluded.

#### **Selection of Successful Bid**

4. **Selection.** Before the conclusion of the Auction, Just Energy, in consultation with the Monitor, will: (a) review each Qualified Bid, considering the factors set out in Section 7 of the SISP and, among other things, (i) the amount of consideration being offered and, if applicable, the proposed form, composition and allocation of same, (ii) the value of any assumption of liabilities or waiver of liabilities not otherwise accounted for in prong (i) above; (iii) the likelihood of the Qualified Party's ability to close a transaction by 90 days after completion of the Auction and the timing thereof (including factors such as the transaction structure and execution risk, including conditions to, timing of, and certainty of closing; termination provisions; availability of financing and financial wherewithal to meet all commitments; and required governmental or other approvals), (iv) the likelihood of the Court's approval of the Successful Bid, (v) the net benefit to Just Energy and (vi) any other factors Just Energy may, consistent with its fiduciary duties, reasonably deem relevant; and (b) identify the highest or otherwise best bid received at the Auction (the "**Successful Bid**" and the Qualified Party making such bid, the "**Successful Party**").

5. **Acknowledgement.** The Successful Party shall complete and execute all agreements, contracts, instruments or other documents evidencing and containing the terms and conditions upon which the Successful Bid was made within one business day of the Successful Bid being selected as such, unless extended by Just Energy in its sole discretion, subject to the milestones set forth in Section 6 of the SISP.

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, C. C-36, AS AMENDED

Court File No: CV-21-00658423-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JUST ENERGY GROUP INC., et al.

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*Ontario*  
**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

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**SISP APPROVAL ORDER**

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**OSLER, HOSKIN & HARCOURT LLP**

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Fax: (416) 862-6666

Lawyers for the Just Energy Entities

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**Exhibit B**

**CCAA Claims Procedures Order**

Court File No. CV-21-00658423-00CL

**ONTARIO****SUPERIOR COURT OF JUSTICE****COMMERCIAL LIST**

THE HONOURABLE MR. ) WEDNESDAY, THE 15TH  
 )  
 JUSTICE KOEHNEN ) DAY OF SEPTEMBER, 2021  
 )

IN THE MATTER OF THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
**JUST ENERGY GROUP INC.**, JUST ENERGY CORP., ONTARIO ENERGY  
 COMMODITIES INC., UNIVERSAL ENERGY CORPORATION, JUST ENERGY  
 FINANCE CANADA ULC, HUDSON ENERGY CANADA CORP., JUST  
 MANAGEMENT CORP., JUST ENERGY FINANCE HOLDING INC., 11929747  
 CANADA INC., 12175592 CANADA INC., JE SERVICES HOLDCO I INC., JE  
 SERVICES HOLDCO II INC., 8704104 CANADA INC., JUST ENERGY  
 ADVANCED SOLUTIONS CORP., JUST ENERGY (U.S.) CORP., JUST ENERGY  
 ILLINOIS CORP., JUST ENERGY INDIANA CORP., JUST ENERGY  
 MASSACHUSETTS CORP., JUST ENERGY NEW YORK CORP., JUST ENERGY  
 TEXAS I CORP., JUST ENERGY, LLC, JUST ENERGY PENNSYLVANIA CORP.,  
 JUST ENERGY MICHIGAN CORP., JUST ENERGY SOLUTIONS INC., HUDSON  
 ENERGY SERVICES LLC, HUDSON ENERGY CORP., INTERACTIVE ENERGY  
 GROUP LLC, HUDSON PARENT HOLDINGS LLC, DRAG MARKETING LLC,  
 JUST ENERGY ADVANCED SOLUTIONS LLC, FULCRUM RETAIL ENERGY  
 LLC, FULCRUM RETAIL HOLDINGS LLC, TARA ENERGY, LLC, JUST  
 ENERGY MARKETING CORP., JUST ENERGY CONNECTICUT CORP., JUST  
 ENERGY LIMITED, JUST SOLAR HOLDINGS CORP. AND JUST ENERGY  
 (FINANCE) HUNGARY ZRT.

(each, an "**Applicant**", and collectively, the "**Applicants**")

**CLAIMS PROCEDURE ORDER**

**THIS MOTION**, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended (the "**CCAA**") for an order, *inter alia*, establishing a claims procedure for the identification and quantification of certain claims against (i) the Applicants and the partnerships listed in Schedule "A" hereto (the "**JE Partnerships**", and collectively with the Applicants, the "**Just Energy Entities**") and (ii) the current and former





directors and officers of the Just Energy Entities, was heard this day by video conference at Toronto, Ontario.

**ON READING** the Notice of Motion of the Applicants, the Affidavit of Michael Carter sworn September 8, 2021 including the exhibits thereto, the Third Report of FTI Consulting Canada Inc., in its capacity as Monitor (the “**Monitor**”) dated September 8, 2021, and on hearing the submissions of respective counsel for the Just Energy Entities, the Monitor, and such other counsel as were present, no one else appearing although duly served as appears from the Affidavit of Service of Justine Erickson sworn September 8, 2021 and the Affidavit of Service of Anne-Marie Runca affirmed September 9, 2021, filed:

#### **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record herein is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

#### **DEFINITIONS AND INTERPRETATION**

2. **THIS COURT ORDERS** that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Initial Order in these proceedings dated March 9, 2021, as amended and restated on March 19, 2021 and as further amended and restated on May 26, 2021, and as may be further amended, restated, supplemented and/or modified from time to time (the “**Initial Order**”).

3. **THIS COURT ORDERS** that for the purposes of this Order, the following terms shall have the following meanings:

(a) “**Assessments**” means current or future claims of Her Majesty the Queen in Right

of Canada or of any province or territory or municipality or any other taxation authority in any Canadian or non-Canadian jurisdiction, including, without limitation, amounts which may arise or have arisen under any current or future notice of assessment, notice of objection, notice of reassessment, notice of appeal, audit, investigation, demand or similar request from any taxation authority (including, for the avoidance of doubt, from any taxation authority in the United States);

- (b) “**Bar Date**” means the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable pursuant to the terms of this Order;
- (c) “**Business Day**” means, except as otherwise specified herein, a day, other than a Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario;
- (d) “**CBCA Arrangement**” means the arrangement under section 192 of the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44, as amended, set out in that certain amended and restated plan of arrangement dated September 2, 2020, which arrangement was approved by a final order of the Ontario Superior Court of Justice (Commercial List) on September 2, 2020 following an application by Just Energy Group Inc. and 12175592 Canada Inc.;
- (e) “**CCAA Proceedings**” means the CCAA proceedings commenced by the Applicants in the Court under Court File No. CV-21-00658423-00CL;
- (f) “**Characterization**” means, for the purposes of this Order, solely whether the Claim is a secured or unsecured Claim, Pre-Filing Claim, Restructuring Period

Claim or D&O Claim and, for greater certainty, shall not include any determination of the relative priority of any secured Claim pursuant to the Intercreditor Agreement or otherwise;

(g) **“Claim”** means:

- (i) any right or claim of any Person against any of the Just Energy Entities, whether or not asserted, in connection with any indebtedness, liability or obligation of any kind whatsoever of any such Just Energy Entity to such Person, in existence on the Filing Date, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any right or claim with respect to any Assessment, or contract, or by reason of any equity interest, right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and any right or ability of any Person to advance a claim for contribution or indemnity or otherwise against any of the Just Energy Entities with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which right or claim, including in connection with indebtedness, liability or obligation, is based in whole or in part on facts that existed prior to the Filing Date, including for greater certainty any Equity Claim, any claim brought by any proposed or confirmed

representative plaintiff on behalf of a class in a class action, and any claim against any of the Just Energy Entities for indemnification by any Director or Officer in respect of a Pre-Filing D&O Claim (each, a “**Pre-Filing Claim**”, and collectively, the “**Pre-Filing Claims**”);

- (ii) any right or claim of any Person against any of the Just Energy Entities in connection with any indebtedness, liability or obligation of any kind whatsoever owed by any such Just Energy Entity to such Person arising out of the restructuring, disclaimer, resiliation, termination or breach by such Just Energy Entity on or after the Filing Date of any contract, lease or other agreement, whether written or oral, and including any right or claim with respect to any Assessment (each, a “**Restructuring Period Claim**”, and collectively, the “**Restructuring Period Claims**”);
- (iii) any right or claim of any Person against one or more of the Directors and/or Officers arising based in whole or in part on facts that existed prior to the Filing Date, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any Assessments, any claim brought by any proposed or confirmed representative plaintiff on behalf of a class in a class action, and any right or ability of any Person to advance a claim for contribution, indemnity or otherwise against any of the Directors and/or Officers with respect to any

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matter, action, cause or chose in action, whether existing at present or arising or commenced in the future, for which any Director or Officer is alleged to be, by statute or otherwise by law or equity, liable to pay in his or her capacity as a Director or Officer (each a “**Pre-Filing D&O Claim**”, and collectively, the “**Pre-Filing D&O Claims**”); and

- (iv) any right or claim of any Person against one or more of the Directors and/or Officers arising after the Filing Date, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any Assessments and any right or ability of any Person to advance a claim for contribution, indemnity or otherwise against any of the Directors and/or Officers with respect to any matter, action, cause or chose in action, whether existing at present or arising or commenced in the future, for which any Director or Officer is alleged to be, by statute or otherwise by law or equity, liable to pay in his or her capacity as a Director or Officer (each a “**Restructuring Period D&O Claim**”, collectively, the “**Restructuring Period D&O Claims**”);

provided, however, that in any case “**Claim**” shall not include an Excluded Claim or any right or claim of any Person that was previously released, barred, estopped, stayed and/or enjoined pursuant to the CBCA Arrangement, but for greater

certainty, shall include any Claim arising through subrogation against any Just Energy Entity or any Director or Officer;

- (h) **“Claimant”** means (a) a Person asserting a Pre-Filing Claim or a Restructuring Period Claim against any Just Energy Entity, or (b) a Person asserting a D&O Claim against any of the Directors or Officers;
- (i) **“Claims Agent”** means Omni Agent Solutions, as claims and noticing agent for the Just Energy Entities;
- (j) **“Claims Agent’s Website”** means <https://omniagentsolutions.com/justenergyclaims>;
- (k) **“Claims Bar Date”** means, in respect of a Pre-Filing Claim or Pre-Filing D&O Claim, 5:00 p.m. on November 1, 2021;
- (l) **“Claims Officer”** means the individual(s) designated by the Court pursuant to paragraph 42 of this Order;
- (m) **“Claims Process”** means the procedures outlined in this Order in connection with the assertion of Claims against the Just Energy Entities and/or the Directors and Officers;
- (n) **“Commodity Agreement”** means a gas supply agreement, electricity supply agreement or other agreement with any Just Energy Entity for the physical or financial purchase, sale, trading or hedging of natural gas, electricity or environmental derivative products, or contracts entered into for protection against fluctuations in foreign currency exchange rates, which shall include any master

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power purchase and sale agreement, base contract for sale and purchase, ISDA master agreement or similar agreement;

- (o) **“Commodity Supplier”** means any counterparty to a Commodity Agreement;
- (p) **“Consultation Parties”** means: (a) the DIP Lenders and their affiliates holding secured Claims against any of the Just Energy Entities, (b) the CA Agent and the CA Lenders, and (c) Shell Energy North America (Canada) Inc. and Shell Energy North America (US), L.P., and their respective counsel and financial advisors;
- (q) **“Court”** means the Ontario Superior Court of Justice (Commercial List);
- (r) **“Credit Agreement”** means the ninth amended and restated credit agreement dated as of September 28, 2020 among Just Energy Ontario L.P. and Just Energy (U.S.) Corp., as borrowers, National Bank of Canada, as administrative agent, and the Credit Facility Lenders, as lenders, as may be further supplemented, amended or restated from time to time;
- (s) **“Credit Facility Lenders”** means the syndicate of lenders party to the Credit Agreement from time to time, which includes the Canadian Imperial Bank of Commerce, National Bank of Canada, HSBC Bank Canada, JPMorgan Chase and its affiliates, Alberta Treasury Branches, Canadian Western Bank, and Morgan Stanley Senior Funding, Inc., a subsidiary of Morgan Stanley Bank N.A.;
- (t) **“D&O Claim”** means any Pre-Filing D&O Claim or Restructuring Period D&O Claim, and **“D&O Claims”** means, collectively, the Pre-Filing D&O Claims and the Restructuring Period D&O Claims;

- (u) “**D&O Claim Instruction Letter**” means the letter containing instructions for completing the D&O Proof of Claim form, substantially in the form attached as Schedule “I” hereto;
- (v) “**D&O Proof of Claim**” means the proof of claim to be filed by Claimants in connection with any D&O Claim, substantially in the form attached as Schedule “J” hereto, which shall include all available supporting documentation in respect of such D&O Claim;
- (w) “**Director**” means anyone who is or was or may be deemed to be or have been, whether by statute, operation of law or otherwise, a director or *de facto* director of any of the Just Energy Entities, in such capacity;
- (x) “**Employee**” means anyone who is or was or may be deemed to be or have been, whether by statute, operation of law or otherwise, a current or former employee of any of the Just Energy Entities whether on a full-time, part-time or temporary basis, other than a Director or Officer, including any individuals on disability leave, parental leave or other absence;
- (y) “**Equity Claim**” has the meaning set forth in section 2(1) of the CCAA;
- (z) “**Excluded Claim**” means any:
  - (i) Claim that may be asserted by any beneficiary of the Administration Charge, the FA Charge, the Directors’ Charge, the KERP Charge, the DIP Lenders’ Charge, the Priority Commodity/ISO Charge, the Cash Management Charge and any other charges granted by the Court in the CCAA Proceedings, with respect to such charges;



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- (ii) Claim that may be asserted by any federal or provincial energy regulators, provincial regulators of consumer sales that have authority with respect to energy sales, U.S. municipal, state, federal or other foreign energy regulatory bodies or agencies, local energy transmission and distribution companies, or regional transmission organizations or independent system operators (but excluding, for the avoidance of doubt, any Claim by any taxation authority);
- (iii) Specified Equity Class Action Claim;
- (iv) Intercompany Claim; and
- (v) Claim that may be asserted by any of the Just Energy Entities against any Directors and/or Officers;

and for greater certainty, shall include any Excluded Claim arising through subrogation;

- (aa) “**Filing Date**” means March 9, 2021;
- (bb) “**General Claims Package**” means the document package to be disseminated by the Monitor or the Claims Agent in accordance with the terms of this Order, which shall consist of a Proof of Claim form, a Proof of Claim Instruction Letter, a D&O Proof of Claim form, a D&O Claim Instruction Letter, and such other materials as the Just Energy Entities, in consultation with the Monitor, may consider appropriate;

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- (cc) “**Indenture**” means the trust indenture dated as of September 28, 2020 between Just Energy Group Inc. and Computershare Trust Company of Canada, as trustee, providing for the issue of a 7% unsecured subordinated note due September 27, 2026, as may be supplemented, amended or restated from time to time;
- (dd) “**Intercompany Claim**” means any Claim that may be asserted against any of the Just Energy Entities by or on behalf of any of the Just Energy Entities or any of their affiliated companies, partnerships, or other corporate entities;
- (ee) “**Intercreditor Agreement**” means the Sixth Amended and Restated Intercreditor Agreement between Canadian Imperial Bank of Commerce, as collateral agent and Agent for itself as agent and the Lenders (as defined therein); Shell Energy North America (Canada) Inc.; Shell Energy North America (US), L.P.; Shell Trading Risk Management, LLC; BP Canada Energy Group ULC; BP Canada Energy Marketing Corp.; BP Energy Company; Exelon Generation Company, LLC; Bruce Power L.P.; Societe Generale; EDF Trading North America, LLC; National Bank of Canada; Nextera Energy Power Marketing, LLC; Macquarie Bank Limited; Macquarie Energy Canada Ltd.; Macquarie Energy LLC; and each other person identified as an Other Commodity Supplier (as defined therein) from time to time party thereto, and Just Energy Ontario L.P. and Just Energy (U.S.) Corp., as Borrowers (as defined therein) and each of the Guarantors (as defined therein) from time to time party thereto, as amended, dated as of September 1, 2015 (as may be further amended, restated, supplemented or otherwise modified from time to time);
- (ff) “**Meeting**” means any meeting of the creditors of the Just Energy Entities called for the purpose of considering and voting in respect of a Plan;

- (gg) “**Monitor’s Website**” means <http://cfcanada.fticonsulting.com/justenergy/>;
- (hh) “**Negative Notice Claim**” means a Pre-Filing Claim and/or Restructuring Period Claim, as applicable, that is set out in a Statement of Negative Notice Claim prepared by the Just Energy Entities, in consultation with the Monitor, which Claim shall be: (i) valued in accordance with the Just Energy Entities’ and the Monitor’s assessment of the Claim, based on the books and records of the Just Energy Entities and any negotiations with such Negative Notice Claimants, and (ii) deemed to be accepted in the amount and Characterization set out therein unless otherwise disputed by a Negative Notice Claimant in accordance with the procedures outlined herein, and which, for greater certainty, shall include the following Claims:
- (i) the aggregate Claims of the Credit Facility Lenders under the Credit Agreement, which Claims shall be addressed to and resolved by the National Bank of Canada, as administrative agent under the Credit Agreement, on behalf of the Credit Facility Lenders;
  - (ii) the aggregate Claims of the Term Loan Lenders under the Term Loan Agreement, which Claims shall be addressed to and resolved by Computershare Trust Company of Canada, as administrative agent under the Term Loan Agreement, on behalf of the Term Loan Lenders;
  - (iii) the aggregate Claims of the Noteholders under the Indenture, which Claims shall be addressed to and resolved by Computershare Trust Company of Canada, as trustee under the Indenture, on behalf of the Noteholders;

- (iv) Claims of Commodity Suppliers under Commodity Agreements that have not been terminated as of the date of this Order (provided, for greater certainty, that all Claims of Commodity Suppliers under terminated Commodity Agreements must be submitted through a Proof of Claim in accordance with the procedures outlined herein);
- (v) Claims of Employees who were employed as at the Filing Date in respect of the termination of such Employees' employment, including for termination and severance pay, where applicable, which termination and severance Claim shall be calculated based on the greatest of: (i) such Employee's contractual entitlements, if any, (ii) any entitlements under an applicable corporate policy or consistent with past practice prior to the Filing Date, or (iii) any entitlements in accordance with applicable employment standards legislation;
- (vi) Claims of any other Persons to whom the Just Energy Entities, in consultation with the Monitor, determine to send a Negative Notice Claim based on the books and records of the Just Energy Entities;
- (ii) **"Negative Notice Claimant"** means any Person to whom a Statement of Negative Notice Claim is addressed and delivered by the Monitor or the Claims Agent in accordance with the procedures outlined herein;
- (jj) **"Negative Notice Claims Package"** means the document package to be disseminated by the Monitor or the Claims Agent to all Negative Notice Claimants in accordance with the terms of this Order, which shall consist of the Negative

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Notice Claimant's Statement of Negative Notice Claim, a Notice of Dispute of Claim form, and such other materials as the Just Energy Entities, in consultation with the Monitor, may consider appropriate;

- (kk) **"Noteholders"** means the holders of subordinated notes issued by Just Energy Group Inc. pursuant to the Indenture;
- (ll) **"Notice of Dispute of Claim"** means the notice, substantially in the form attached as Schedule "H" hereto, which may be submitted or delivered to the Claims Agent or the Monitor by a Negative Notice Claimant disputing a Statement of Negative Notice Claim, with reasons for its dispute;
- (mm) **"Notice of Dispute of Revision or Disallowance"** means the notice, substantially in the form attached as Schedule "F" hereto, which may be delivered to the Monitor by a Claimant disputing a Notice of Revision or Disallowance received by such Claimant;
- (nn) **"Notice of Revision or Disallowance"** means the notice, substantially in the form attached as Schedule "E" hereto, which may be prepared by the Just Energy Entities, in consultation with the Monitor, and delivered by the Monitor to a Claimant revising or disallowing, in part or in whole, a Claim submitted by such Claimant in a Proof of Claim or D&O Proof of Claim;
- (oo) **"Notice to Claimants"** means the notice for publication by the Monitor as described in paragraph 17 herein, substantially in the form attached as Schedule "B" hereto;

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- (pp) “**Officer**” means anyone who is or was or may be deemed to be or have been, whether by statute, operation of law or otherwise, an officer or *de facto* officer of any of the Just Energy Entities, in such capacity;
- (qq) “**Order**” means this Claims Procedure Order;
- (rr) “**Person**” means any individual, firm, corporation, limited or unlimited liability company, general or limited partnership, association, trust (including a real estate investment trust), joint venture, unincorporated organization, governmental unit, body or agency or any instrumentality thereof, Canadian or non-Canadian regulatory body or agency or any instrumentality thereof, or any other entity;
- (ss) “**Plan**” means any proposed plan of compromise or arrangement that may be filed in respect of any or all of the Just Energy Entities pursuant to the CCAA as the same may be amended, supplemented or restated from time to time in accordance with the terms thereof;
- (tt) “**Proof of Claim**” means the proof of claim to be submitted or delivered to the Claims Agent or the Monitor by a Claimant in respect of any Pre-Filing Claim and/or Restructuring Period Claim for which such Claimant has not received a Statement of Negative Notice Claim, substantially in the form attached as Schedule “D” hereto, which shall include all available supporting documentation in respect of such Claim;
- (uu) “**Proof of Claim Instruction Letter**” means the letter containing instructions for completing the Proof of Claim form, substantially in the form attached as Schedule “C” hereto;

- (vv) “**Restructuring Period Claims Bar Date**” means, in respect of a Restructuring Period Claim or Restructuring Period D&O Claim, the later of (i) 30 days after the date on which the Monitor or Claims Agent sends a Negative Notice Claims Package or General Claims Package, as appropriate, with respect to a Restructuring Period Claim or Restructuring Period D&O Claim and (ii) the Claims Bar Date;
- (ww) “**Specified Equity Class Action Claim**” means: (i) Civil Action 20-590 *Thaddeus White, et al. v. Just Energy Group Inc., et al.*; (ii) *Gilchrist v. Just Energy Group Inc., et al.* (Ontario Superior Court of Justice, Court File No. CV-19-627174-00CP) commenced on September 11, 2019; (iii) *Saha v. Just Energy Group Inc., et al.* (Ontario Superior Court of Justice, Court File No. CV-19-630737-00CP); and (iv) any claim for contribution or indemnity in respect of or related to those claims listed in (i) to (iii) above;
- (xx) “**Statement of Negative Notice Claim**” means the respective statements to be prepared by the Just Energy Entities, in consultation with the Monitor, and disseminated by the Claims Agent or the Monitor to each Negative Notice Claimant in accordance with the terms of this Order, each of which shall state the amount of such Negative Notice Claimant’s Negative Notice Claim and shall include a description of any security in respect of such Negative Notice Claim, and which statements shall be substantially in the form attached as Schedule “G” hereto;
- (yy) “**Term Loan Agreement**” means the unsecured amended and restated loan agreement dated as of September 28, 2020 between Computershare Trust Company of Canada, as administrative agent, the Term Loan Lenders, as lenders, and Just

Energy Group Inc., as borrower, as may be supplemented, modified, amended or restated from time to time; and

(zz) “**Term Loan Lenders**” means Sagard Credit Partners, LP and each other person from time to time party to the Term Loan Agreement as a lender.

4. **THIS COURT ORDERS** that, except where otherwise specified herein, all references as to time herein shall mean local time in Toronto, Ontario, Canada, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day unless otherwise indicated herein, and any reference to an event occurring on a day that is not a Business Day shall mean the next following day that is a Business Day.

5. **THIS COURT ORDERS** that all references to the word “including” shall mean “including without limitation”, all references to the singular herein include the plural, the plural include the singular, and any gender includes all genders.

#### **GENERAL PROVISIONS**

6. **THIS COURT ORDERS** that notwithstanding any other provisions of this Order, the solicitation by the Just Energy Entities, the Monitor and the Claims Agent of Proofs of Claim and D&O Proofs of Claim, the delivery by the Monitor or the Claims Agent of Statements of Negative Notice Claim, and the filing by any Claimant of any Proof of Claim, D&O Proof of Claim or Notice of Dispute of Claim shall not, for that reason only, grant any Person any rights, including without limitation, in respect of the nature, quantum and priority of its Claims or its standing in the CCAA Proceedings, except as specifically set out in this Order.

7. **THIS COURT ORDERS** that the Monitor, in consultation with the Just Energy Entities, and if applicable, the relevant Directors and Officers, are hereby authorized to use reasonable



discretion as to the adequacy of compliance with respect to the manner or content in which any forms submitted or delivered hereunder are completed and executed and the time in which they are submitted, and may, where the Monitor, in consultation with the Just Energy Entities, and if applicable, the relevant Directors and Officers, are satisfied that a Claim has been adequately proven, waive strict compliance with the requirements of this Order, including in respect of the completion, execution and time of delivery of such forms; provided that it is recognized and understood that certain Claims may be contingent in nature and therefore may not contain particulars of such Claims that are not yet known as at the time they are filed.

8. **THIS COURT ORDERS** that amounts claimed in Assessments shall be subject to this Order and there shall be no presumption of validity or deeming of the amount due in respect of the Claim set out in any Assessment.

9. **THIS COURT ORDERS** that any Persons that have: (i) issued surety bonds or other credit insurance to any counterparties of the Just Energy Entities, and/or (ii) drawn on any letters of credit or cash collateral issued or provided by any of the Just Energy Entities in their favour to satisfy counterparty claims as a result of any non-payment by any of the Just Energy Entities, shall fully cooperate with the Just Energy Entities and the Monitor by providing information to assist in the assessment of the quantum and validity of Claims.

#### **MONITOR'S ROLE**

10. **THIS COURT ORDERS** that, in addition to its prescribed rights, duties, responsibilities and obligations under the CCAA, the Initial Order and any other orders of the Court in the CCAA Proceedings, the Monitor shall assist the Just Energy Entities in connection with the administration of the Claims Process set out herein, including the determination and resolution of Claims, if

applicable, and is hereby authorized, directed and empowered to take such other actions and fulfill such other roles as are authorized by this Order or incidental thereto.

11. **THIS COURT ORDERS** that, in carrying out the terms of this Order, the Monitor: (i) shall have all of the protections given to it by the CCAA, the Initial Order, any other orders of the Court in the CCAA Proceedings, and this Order, or as an officer of the Court, including the stay of proceedings in its favour, (ii) shall incur no liability or obligation as a result of the carrying out of the provisions of this Order, other than in respect of its gross negligence or wilful misconduct; (iii) shall be entitled to rely on the books and records of the Just Energy Entities and any information provided by any of the Just Energy Entities, all without independent investigation; (iv) shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information, and (v) may seek such assistance as may be reasonably required to carry out its duties and obligations pursuant to this Order from the Just Energy Entities or any of their affiliated companies, partnerships, or other corporate entities, including making such inquiries and obtaining such records and information as it deems appropriate in connection with the Claims Process.

#### **CLAIMS AGENT'S ROLE**

12. **THIS COURT ORDERS** that the Claims Agent shall assist the Just Energy Entities and the Monitor in connection with the administration of the Claims Process as set out herein, and is hereby authorized, directed and empowered to take such actions and fulfill such roles as are authorized by this Order or incidental thereto.

13. **THIS COURT ORDERS** that, in carrying out the terms of this Order, the Claims Agent: (i) shall incur no liability or obligation as a result of the carrying out of the provisions of this Order, other than in respect of its gross negligence or wilful misconduct; (ii) shall be entitled to rely on

the books and records of the Just Energy Entities and any information provided by any of the Just Energy Entities, all without independent investigation; (iii) shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information, and (iv) may seek such assistance and take such direction as may be reasonably required to carry out its duties and obligations pursuant to this Order from the Just Energy Entities or the Monitor.

#### **NOTICE TO CLAIMANTS**

14. **THIS COURT ORDERS** that as soon as practicable, but no later than 5:00 p.m. on the tenth (10<sup>th</sup>) Business Day following the date of this Order, the Monitor or the Claims Agent shall cause a Negative Notice Claims Package to be sent to every Negative Notice Claimant at its last known municipal or e-mail address as recorded in the Just Energy Entities' books and records. The Monitor and the Just Energy Entities shall specify in the Statement of Negative Notice Claim included in the Negative Notice Claims Package the Negative Notice Claimant's Negative Notice Claim.

15. **THIS COURT ORDERS** that as soon as practicable, but no later than 5:00 p.m. on the tenth (10<sup>th</sup>) Business Day following the date of this Order, the Monitor or the Claims Agent shall cause a General Claims Package to be sent to: (i) each Person that appears on the Service List (except Persons that are likely to assert only Excluded Claims, in the reasonable opinion of the Just Energy Entities and the Monitor), (ii) any Person who has requested a Proof of Claim in respect of any potential Claim that is not captured in a Statement of Negative Notice Claim, and (iii) any Person known to the Just Energy Entities or the Monitor as having a potential Claim based on the books and records of the Just Energy Entities that is not captured in any Statement of Negative Notice Claim.

16. **THIS COURT ORDERS** that the Monitor shall cause the Notice to Claimants (or a condensed version thereof, as the Monitor, in consultation with the Just Energy Entities, may deem appropriate) to be published once in *The Globe and Mail* (National Edition), the *Wall Street Journal*, the *Houston Chronicle* and the *Dallas Morning News* as soon as practicable after the date of this Order.

17. **THIS COURT ORDERS** that, as soon as practicable after the date of this Order: (i) the Monitor shall cause the Notice to Claimants, the General Claims Package and a blank form of Notice of Dispute of Claim to be posted to the Monitor's Website, (ii) the Claims Agent shall cause the Notice to Claimants, the General Claims Package and a blank form of Notice of Dispute of Claim to be posted to the Claims Agent's Website, and (iii) the Claims Agent shall open the online claims submission portals on the Claims Agent's Website to enable the electronic submission of Proofs of Claim, D&O Proofs of Claim and Notices of Dispute of Claim by Claimants.

18. **THIS COURT ORDERS** that to the extent any Claimant requests documents or information relating to the Claims Process prior to the Claims Bar Date or the applicable Restructuring Period Claims Bar Date, or if the Just Energy Entities and the Monitor become aware of any further Claims after the mailings contemplated in paragraphs 14 and 15, the Claims Agent or the Monitor shall forthwith send such Claimant a General Claims Package or Negative Notice Claims Package, as appropriate, shall direct such Claimant to the documents posted on the Claims Agent's Website or the Monitor's Website, or shall otherwise respond to the request for documents or information as the Just Energy Entities, in consultation with the Monitor, may consider appropriate in the circumstances.

19. **THIS COURT ORDERS** that any notices of disclaimer or resiliation delivered after the date of this Order to potential Claimants in connection with any action taken by the Just Energy

Entities to restructure, disclaim, resiliate, terminate or breach any contract, lease or other agreement, whether written or oral, pursuant to the terms of the Initial Order, shall be accompanied by a Negative Notice Claims Package or General Claims Package, as appropriate.

20. **THIS COURT ORDERS** that the Claims Process and the forms of Notice to Claimants, Proof of Claim Instruction Letter, D&O Claim Instruction Letter, Statement of Negative Notice Claim, Proof of Claim, D&O Proof of Claim, Notice of Revision or Disallowance, Notice of Dispute of Revision or Disallowance, and Notice of Dispute of Claim are hereby approved. Notwithstanding the foregoing, the Just Energy Entities, in consultation with the Monitor, may, from time to time, make minor non-substantive changes to the forms as they may consider necessary or desirable.

21. **THIS COURT ORDERS** that the sending of the Negative Notice Claims Package and the General Claims Package to the applicable Persons as described above, the publication of the Notice to Claimants, each in accordance with this Order, and the completion of the other requirements of this Order, shall constitute good and sufficient service and delivery of notice of this Order, Claims Bar Date and the Restructuring Period Claims Bar Date on all Persons who may be entitled to receive notice and who may wish to assert a Claim, and no other notice or service need be given or made and no other document or material need be sent to or served upon any Person in respect of this Order.

## **CLAIMS PROCEDURE FOR NEGATIVE NOTICE CLAIMS**

### **(A) Negative Notice Claims**

22. **THIS COURT ORDERS** that if a Negative Notice Claimant wishes to dispute the amount or Characterization of its Negative Notice Claim as set out in the relevant Statement of Negative Notice Claim, the Negative Notice Claimant shall deliver to the Claims Agent or the Monitor a

Notice of Dispute of Claim which must be received by the Claims Agent or the Monitor by no later than the applicable Bar Date. A Notice of Dispute of Claim may be submitted to the Claims Agent through the online portal on the Claims Agent's Website or otherwise delivered to the Claims Agent or the Monitor in accordance with paragraph 51 hereto. Such Negative Notice Claimant shall specify therein the details of the dispute with respect to its Claim.

23. **THIS COURT ORDERS** that if a Negative Notice Claimant does not deliver to the Claims Agent or the Monitor a completed Notice of Dispute of Claim such that it is received by the Claims Agent or the Monitor by the applicable Bar Date, disputing its Claims as set out in the Statement of Negative Notice Claim, then (a) such Negative Notice Claimant shall be deemed to have accepted the amount and Characterization of the Negative Notice Claimant's Claims as set out in the Statement of Negative Notice Claim, and (b) any and all of the Negative Notice Claimant's rights to dispute the Claims as determined in the Statement of Negative Notice Claim or to otherwise assert or pursue the Claims set out in the Statement of Negative Notice Claim other than as they are determined in such Statement of Negative Notice Claim shall be forever extinguished and barred without further act or notification. For greater certainty, nothing in this paragraph affects any separate and distinct Claims of a Negative Notice Claimant that are not captured in whole or in part in a Statement of Negative Notice Claim (and are separately asserted in a Proof of Claim or D&O Proof of Claim submitted in accordance with this Order).

**(B) Adjudication and Resolution of Negative Notice Claims**

24. **THIS COURT ORDERS** that the Just Energy Entities, in consultation with the Monitor, shall review and record all Notices of Dispute of Claim that are received on or before the applicable Bar Date. If the Just Energy Entities, in consultation with the Monitor, determine that it is necessary to finally determine the amount and Characterization of any or all Claims against the

Just Energy Entities or any of them, the Just Energy Entities, in consultation with the Monitor, shall review and finally determine the amount and Characterization of all such Claims for which a Notice of Dispute of Claim has been received on or before the applicable Bar Date in accordance with the relevant adjudication and resolution process set out in this Order.

25. **THIS COURT ORDERS** that, subject to and in accordance with paragraph 24, if the Just Energy Entities, in consultation with the Monitor, disagree with the Claim as set out in the Notice of Dispute of Claim, the Just Energy Entities and the Monitor shall attempt to resolve such dispute and settle the purported Claim with the Negative Notice Claimant. In the event that a dispute is not settled within a time period or in a manner satisfactory to the Just Energy Entities, in consultation with the Monitor, the Just Energy Entities shall, at their election, refer the dispute raised in the Notice of Dispute of Claim to a Claims Officer or the Court for adjudication, and the Monitor shall send written notice of such referral to the Negative Notice Claimant.

#### **CLAIMS PROCEDURE FOR ALL OTHER CLAIMS**

##### **(A) Pre-Filing Claims and Pre-Filing D&O Claims**

26. **THIS COURT ORDERS** that any Claimant that intends to assert a Pre-Filing Claim that is not captured in a Statement of Negative Notice Claim or a Pre-Filing D&O Claim shall file a Proof of Claim or D&O Proof of Claim, as applicable, with the Claims Agent or the Monitor on or before the Claims Bar Date. Proofs of Claim and D&O Proofs of Claim may be submitted to the Claims Agent through the online portal on the Claims Agent's Website or otherwise delivered to the Claims Agent or the Monitor in accordance with paragraph 51 hereto. For the avoidance of doubt, a Proof of Claim or D&O Proof of Claim, as applicable, must be filed with the Claims Agent or the Monitor by every Claimant in respect of every Pre-Filing Claim that is not captured in a Statement of Negative Notice Claim and every Pre-Filing D&O Claim, regardless of whether

or not a legal proceeding in respect of such Pre-Filing Claim or Pre-Filing D&O Claim has been previously commenced.

27. **THIS COURT ORDERS** that any Claimant (other than any Negative Notice Claimant in respect of its Negative Notice Claim as set out in a Statement of Negative Notice Claim) that does not file a Proof of Claim or D&O Proof of Claim, as applicable, in accordance with paragraph 26 so that such Proof of Claim or D&O Proof of Claim is actually received by the Claims Agent or the Monitor on or before the Claims Bar Date, or such later date as the Monitor, in consultation with the Just Energy Entities, may agree in writing or the Court may otherwise direct:

- (a) be and is hereby forever barred, estopped and enjoined from asserting or enforcing any such Pre-Filing Claim(s) or Pre-Filing D&O Claim(s) against the Just Energy Entities and all such Pre-Filing Claims or Pre-Filing D&O Claims shall be forever extinguished;
- (b) will not be permitted to vote at any Meeting on account of such Pre-Filing Claim(s) or Pre-Filing D&O Claim(s);
- (c) will not be entitled to receive further notice with respect to the Claims Process or these proceedings with respect to such Pre-Filing Claim(s) or Pre-Filing D&O Claim(s); and
- (d) will not be permitted to participate in any distribution under any Plan or otherwise on account of such Pre-Filing Claim(s) or Pre-Filing D&O Claim(s).

**(B) Restructuring Period Claims**

28. **THIS COURT ORDERS** that, upon becoming aware of a circumstance giving rise to a potential Restructuring Period Claim or Restructuring Period D&O Claim after the mailings



contemplated in paragraphs 14 and 15 are completed, the Monitor, in consultation with the Just Energy Entities, shall send a Negative Notice Claims Package or General Claims Package, as appropriate, to the Claimant in respect of such Restructuring Period Claim or Restructuring Period D&O Claim in the manner provided for herein.

29. **THIS COURT ORDERS** that any Claimant that intends to assert a Restructuring Period Claim that is not captured in a Statement of Negative Notice Claim or a Restructuring Period D&O Claim shall file a Proof of Claim or D&O Proof of Claim, as applicable, with the Claims Agent or the Monitor on or before the Restructuring Period Claims Bar Date. Proofs of Claim and D&O Proofs of Claim may be submitted to the Claims Agent through the online portal on the Claims Agent's Website or otherwise delivered to the Claims Agent or the Monitor in accordance with paragraph 51 hereto. For the avoidance of doubt, a Proof of Claim or D&O Proof of Claim must be filed with the Claims Agent or the Monitor by every Claimant in respect of every Restructuring Period Claim that is not captured in a Statement of Negative Notice Claim and every Restructuring Period D&O Claim, regardless of whether or not a legal proceeding in respect of such Restructuring Period Claim or Restructuring Period D&O Claim has been previously commenced.

30. **THIS COURT ORDERS** that any Claimant (other than any Negative Notice Claimant in respect of its Negative Notice Claim as set out in a Statement of Negative Notice Claim) that intends to assert a Restructuring Period Claim or Restructuring Period D&O Claim, that does not file a Proof of Claim or D&O Proof of Claim, as applicable, in accordance with paragraph 29 so that such Proof of Claim or D&O Proof of Claim is actually received by the Claims Agent or the Monitor on or before the Restructuring Period Claims Bar Date, or such later date as the Monitor, in consultation with the Just Energy Entities, may agree in writing or the Court may otherwise direct:

- (a) be and is hereby forever barred, estopped and enjoined from asserting or enforcing any such Restructuring Period Claim(s) or Restructuring Period D&O Claim(s) and all such Restructuring Period Claims or Restructuring Period D&O Claims shall be forever extinguished;
- (b) will not be permitted to vote at any Meeting on account of such Restructuring Period Claim(s) or Restructuring Period D&O Claim(s);
- (c) will not be entitled to receive further notice with respect to the Claims Process or these proceedings with respect to such Restructuring Period Claim(s) or Restructuring Period D&O Claim(s); and
- (d) will not be permitted to participate in any distribution under any Plan or otherwise on account of such Restructuring Period Claim(s) or Restructuring Period D&O Claim(s).

**(C) Adjudication and Resolution of Claims**

31. **THIS COURT ORDERS** that the Just Energy Entities, in consultation with the Monitor, shall review and record all Proofs of Claim and D&O Proofs of Claim that are received on or before the applicable Bar Date. If the Just Energy Entities, in consultation with the Monitor, determine that it is necessary to finally determine the amount and Characterization of any or all Claims against the Just Energy Entities (or any of them) or their directors and/or officers, the Just Energy Entities, in consultation with the Monitor, shall review and finally determine the amount and Characterization of all such Claims asserted in any Proof of Claim or D&O Proof of Claim received on or before the applicable Bar Date in accordance with the adjudication and resolution process set out in this Order.

32. **THIS COURT ORDERS** that the Monitor shall make reasonable efforts to promptly deliver a copy of any D&O Proofs of Claim, Notices of Revision or Disallowance with respect to any D&O Claim, and Notices of Dispute of Revision or Disallowance with respect to any D&O Claim, to the applicable Directors and Officers named therein.

33. **THIS COURT ORDERS** that, subject to and in accordance with paragraph 31: (i) the Just Energy Entities, in consultation with the Monitor, shall accept, revise or reject each Claim set out in each Proof of Claim, and (ii) with respect to a D&O Claim set out in a D&O Proof of Claim, the Just Energy Entities, in consultation with the Monitor and the applicable Directors and Officers named in respect of such D&O Claim, shall accept, revise or reject such D&O Claim, provided that the Just Energy Entities shall not accept or revise any portion of a D&O Claim absent consent of the applicable Directors and Officers or further Order of the Court.

34. **THIS COURT ORDERS** that, subject to and in accordance with paragraph 31, if the Just Energy Entities, in consultation with the Monitor, agree with the amount and Characterization of the Claim as set out in any Proof of Claim or D&O Proof of Claim filed in accordance with paragraphs 26 or 29 herein and intend to accept the Claim in accordance with paragraph 33, the Monitor or the Claims Agent shall notify such Claimant of the acceptance of its Claim by the Just Energy Entities.

35. **THIS COURT ORDERS** that, subject to and in accordance with paragraph 31, if the Just Energy Entities, in consultation with the Monitor, disagree with the amount or Characterization of the Claim as set out in any Proof of Claim or D&O Proof of Claim filed in accordance with paragraphs 26 or 29 herein, the Just Energy Entities shall, in consultation with the Monitor and any applicable Directors or Officers, attempt to resolve such dispute and settle the purported Claim with the Claimant.

36. **THIS COURT ORDERS** that, subject to and in accordance with paragraph 31, if the Just Energy Entities and the Monitor intend to revise or reject a Claim that has been filed in accordance with paragraphs 26 or 29 herein, the Monitor shall notify the applicable Claimant that its Claim has been revised or rejected, and the reasons therefor, by sending a Notice of Revision or Disallowance.

37. **THIS COURT ORDERS** that any Claimant who intends to dispute a Notice of Revision or Disallowance sent pursuant to paragraph 36 above shall deliver a completed Notice of Dispute of Revision or Disallowance, along with the reasons for its dispute, to the Monitor by no later than thirty (30) days after the date on which the Claimant is deemed to receive the Notice of Revision or Disallowance, or such other date as may be agreed to by the Monitor, in consultation with the Just Energy Entities, in writing.

38. **THIS COURT ORDERS** that, where a Claimant who receives a Notice of Revision or Disallowance does not file a completed Notice of Dispute of Revision or Disallowance by the time set out in paragraph 37 above, then such Claimant's Claim shall be deemed to be as determined in the Notice of Revision or Disallowance and any and all of the Claimant's rights to dispute the Claim as determined in the Notice of Revision or Disallowance or to otherwise assert or pursue such Claim other than as determined in the Notice of Revision or Disallowance shall be forever extinguished and barred without further act or notification.

39. **THIS COURT ORDERS** that upon receipt of a Notice of Dispute of Revision or Disallowance in respect of a Claim, the Just Energy Entities, in consultation with the Monitor and any applicable Directors or Officers, shall attempt to resolve such dispute and settle the purported Claim with the Claimant, and in the event that a dispute raised in a Notice of Dispute of Revision or Disallowance is not settled within a time period or in a manner satisfactory to the Just Energy

Entities, in consultation with the Monitor and any applicable Directors or Officers, the Just Energy Entities shall, at their election, refer the dispute raised in the Notice of Dispute of Revision or Disallowance to a Claims Officer or the Court for adjudication, and the Monitor shall send written notice of such referral to the Claimant.

40. **THIS COURT ORDERS** that notwithstanding any other provisions of this Order, the Just Energy Entities, in consultation with the Monitor and any applicable Directors or Officers, may, at their election, refer any Claim to a Claims Officer or the Court for adjudication at any time, and the Monitor shall send written notice of such referral to the applicable parties.

41. **THIS COURT ORDERS** that the Just Energy Entities, in consultation with the Monitor, may consult with, and/or provide reporting to, any of the Consultation Parties in the review, adjudication and/or resolution of any Claims subject to this Claims Process (other than any Claims subject to the Intercreditor Agreement). Further, the Just Energy Entities shall give seven (7) days' prior written notice to the Consultation Parties of the details of any proposed settlement or allowance of any Claim subject to this Claims Process (other than any Claim subject to the Intercreditor Agreement) in an amount exceeding \$5 million, and any Consultation Party may seek the direction of the Court regarding any such proposed resolution of the Claim.

#### **CLAIMS OFFICER**

42. **THIS COURT ORDERS** that Mr. Edward Sellers, and such other Persons as may be appointed by the Court from time to time on a motion by the Just Energy Entities or the Monitor, be and are hereby appointed as the Claims Officers for the Claims Process.

43. **THIS COURT ORDERS** that the decision as to whether a disputed Claim should be adjudicated by the Court or a Claims Officer shall be in the discretion of the Just Energy Entities, in consultation with the Monitor.

44. **THIS COURT ORDERS** that, where a disputed Claim has been referred to a Claims Officer, the Claims Officer shall determine the validity and amount of such disputed Claim in accordance with this Order and, to the extent necessary, may determine whether any Claim or part thereof constitutes an Excluded Claim, and shall provide written reasons. Where a disputed Claim has been referred to a Claims Officer, the Claims Officer shall determine all procedural matters which may arise in respect of his or her determination of these matters, including any participation rights for any stakeholder and the manner in which any evidence may be adduced. The Claims Officer shall have the discretion to mediate any dispute that is referred to such Claims Officer at its election. The Claims Officer shall also have the discretion to determine by whom and to what extent the costs of any hearing or mediation before a Claims Officer shall be paid.

45. **THIS COURT ORDERS** that the Monitor, the Claimant, the applicable Just Energy Entity and/or, in respect of any D&O Claim, the relevant Directors or Officers, or any other stakeholder (if applicable) may, within ten (10) days of such party receiving notice of a Claims Officer's determination of the amount and Characterization of a Claimant's Claim or any other matter determined by the Claims Officer in accordance with paragraph 44, appeal such determination to the Court by filing a notice of appeal, and the appeal shall be initially returnable for scheduling purposes within ten (10) days of filing such notice of appeal.

46. **THIS COURT ORDERS** that, if no party appeals any determination of any Claims Officer within the time set out in paragraph 45 above, the decision of the Claims Officer in determining the amount and Characterization of the Claimant's Claim or any other matter

determined by the Claims Officer in accordance with paragraph 44 shall be final and binding upon the applicable Just Energy Entity, the applicable Directors and Officers in respect of any D&O Claim, the Monitor, the Claimant and any other applicable stakeholder and there shall be no further right of appeal, review or recourse to the Court from the Claims Officer's final determination of a Claim.

#### **NOTICE TO TRANSFEREES**

47. **THIS COURT ORDERS** that from the date of this Order until seven (7) days prior to the date fixed by the Court for the first distribution in the CCAA Proceedings or any other proceeding, including a bankruptcy, to the extent required, leave is hereby granted to permit a Claimant to provide to the Claims Agent or the Monitor notice of assignment or transfer of a Claim to any third party.

48. **THIS COURT ORDERS** that, subject to the terms of any subsequent Order of this Court, if, after the Filing Date, the holder of a Claim transfers or assigns its Claim to another Person, none of the Monitor, the Claims Agent nor any of the Just Energy Entities shall be obligated to give notice to or otherwise deal with the transferee or assignee of such Claim in respect thereof unless and until written notice of such transfer or assignment, together with satisfactory evidence of such transfer or assignment, shall have been received by the Claims Agent or the Monitor and acknowledged by the Just Energy Entities or the Monitor in writing and thereafter such transferee or assignee shall, for the purposes hereof, constitute the "Claimant" in respect of such Claim and the Just Energy Entities, the Claims Agent and the Monitor shall thereafter only be required to deal with such transferee or assignee and not the original Claimant. Any such transferee or assignee of a Claim shall be bound by any notices given or steps taken or not taken in respect of such Claim in accordance with this Order prior to receipt by the Claims Agent or the Monitor and

acknowledgement by the Just Energy Entities or the Monitor of satisfactory evidence of such transfer or assignment. A transferee or assignee of a Claim takes the Claim subject to any rights of set-off to which the Just Energy Entities and/or the applicable Directors and Officers may be entitled with respect to such Claim. For greater certainty, a transferee or assignee of a Claim shall not be entitled to set-off, apply, merge, consolidate or combine any Claim assigned or transferred to it against or on account or in reduction of any amounts owing by such Person to any of the Just Energy Entities or the applicable Directors and Officers.

49. **THIS COURT ORDERS** that no transfer or assignment shall be effective for voting purposes at any Meeting unless sufficient notice and evidence of such transfer or assignment has been received by the Claims Agent or the Monitor no later than 5:00 p.m. on the date that is seven (7) days prior to the date fixed by the Court for any Meeting, failing which the original Claimant shall have all applicable rights as the “Claimant” with respect to such Claim as if no transfer or assignment of the Claim had occurred.

#### **SERVICE AND NOTICE**

50. **THIS COURT ORDERS** that the Just Energy Entities, the Claims Agent and the Monitor may, unless otherwise specified by this Order, serve and deliver or cause to be served and delivered the Negative Notice Claims Package, the General Claims Package, and any letters, notices or other documents, to the appropriate Claimants or any other interested Persons by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or email to such Persons at the physical or electronic address, as applicable, shown on the books and records of the Just Energy Entities or, where applicable, as set out in such Claimant’s Proof of Claim, D&O Proof of Claim or Notice of Dispute of Claim. Any such service and delivery shall be deemed to have been received: (i) if sent by ordinary mail, on the third Business Day after mailing within



Ontario or within California, as applicable, the fifth Business Day after mailing within Canada (other than within Ontario) or within the United States (other than within California), as applicable, and the tenth Business Day after mailing internationally; (ii) if sent by courier or personal delivery, on the next Business Day following dispatch; and (iii) if delivered by facsimile transmission or email by 5:00 p.m. on a Business Day, on such Business Day, and if delivered after 5:00 p.m. or other than on a Business Day, on the following Business Day; provided in each case that where such service or delivery is effected by the Claims Agent, the applicable "Business Day" shall be a day on which banks are generally open for business in Los Angeles, California, and the references as to time shall mean local time in Los Angeles, California.

51. **THIS COURT ORDERS** that any notice or communication required to be provided or delivered by a Claimant to the Claims Agent or the Monitor under this Order shall, unless otherwise specified in this Order, be in writing in substantially the form, if any, provided for in this Order and will be sufficiently given only if: (i) submitted to the Claims Agent through the online portal on the Claims Agent's Website, where applicable in accordance with this Order, or (ii) delivered by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email at one of the applicable addresses below:

If to the Monitor:

FTI Consulting Canada Inc.,  
Just Energy Monitor  
P.O. Box 104, TD South Tower  
79 Wellington Street West  
Toronto Dominion Centre, Suite 2010  
Toronto, ON, M5K 1G8

Attention: Just Energy Claims Process  
Email: [claims.justenergy@fticonsulting.com](mailto:claims.justenergy@fticonsulting.com)  
Fax: 416.649.8101

If to the Claims Agent:

Just Energy Claims Processing  
c/o Omni Agent Solutions  
5955 De Soto Ave., Suite 100  
Woodland Hills, CA 91367

Any such notice or communication delivered by a Claimant shall be deemed received: (i) if submitted to the Claims Agent on the Claims Agent's Website, as of the time it is submitted, or (ii) if delivered by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email, upon actual receipt by the Claims Agent or the Monitor thereof during normal business hours on a Business Day, or if delivered outside of normal business hours, the next Business Day; provided that, where such notice or communication is delivered to the Claims Agent in accordance with (ii) above, the applicable "Business Day" shall be a day on which banks are generally open for business in Los Angeles, California, and the references as to time shall mean local time in Los Angeles, California.

52. **THIS COURT ORDERS** that if, during any period during which notices or other communications are being given pursuant to this Order, a postal strike or postal work stoppage of general application should occur, such notices or other communications sent by ordinary or registered mail and then not received shall not be effective, and all notices and other communications given hereunder during the course of any such postal strike or work stoppage of general application shall only be effective if given by courier, personal delivery, facsimile transmission or email in accordance with this Order, in each case unless otherwise determined by the Monitor, in its reasonable discretion and in consultation with the Just Energy Entities.

#### **MISCELLANEOUS**

53. **THIS COURT ORDERS** that the Just Energy Entities or the Monitor may from time to time apply to this Court to extend the time for any action which the Just Energy Entities, the Claims Agent or the Monitor are required to take if reasonably required to carry out their respective duties and obligations pursuant to this Order and for advice and directions concerning the discharge of

their respective powers and duties under this Order or the interpretation or application of this Order.

54. **THIS COURT ORDERS** that nothing in this Order shall prejudice the rights and remedies of any Directors or Officers or other Persons under the Directors' Charge or any applicable insurance policy or prevent or bar any Person from seeking recourse against or payment from the Just Energy Entities' insurance or any Director's or Officer's liability insurance policy or policies that exist to protect or indemnify the Directors or Officers or other Persons, whether such recourse or payment is sought directly by the Person asserting a Claim from the insurer or derivatively through the Director or Officer or any Just Energy Entity; provided, however, that nothing in this Order shall create any rights in favour of such Person under any policies of insurance nor shall anything in this Order limit, remove, modify or alter any defence to such Claim available to the insurer pursuant to the provisions of any insurance policy or at law; and further provided that any Claim or portion thereof for which the Person receives payment directly from, or confirmation that he or she is covered by, the Just Energy Entities' insurance or any Director's or Officer's liability insurance or other liability insurance policy or policies that exist to protect or indemnify the Directors or Officers or other Persons shall not be recoverable as against a Just Energy Entity or Director or Officer, as applicable.

55. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body or agency having jurisdiction in Canada or in the United States of America, including the United States Bankruptcy Court for the Southern District of Texas, or in any other foreign jurisdiction, to give effect to this Order and to assist the Just Energy Entities, the Monitor and their respective agents, including the Claims Agent, in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies and agencies are hereby

respectfully requested to make such orders and to provide such assistance to the Just Energy Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Just Energy Entities and the Monitor and their respective agents in carrying out the terms of this Order.

A handwritten signature in blue ink, consisting of stylized initials that appear to be 'RAJ', positioned above a horizontal line.

## SCHEDULE "A"

### JE Partnerships

#### Partnerships:

- JUST ENERGY ONTARIO L.P.
- JUST ENERGY MANITOBA L.P.
- JUST ENERGY (B.C.) LIMITED PARTNERSHIP
- JUST ENERGY QUÉBEC L.P.
- JUST ENERGY TRADING L.P.
- JUST ENERGY ALBERTA L.P.
- JUST GREEN L.P.
- JUST ENERGY PRAIRIES L.P.
- JEBPO SERVICES LLP
- JUST ENERGY TEXAS LP

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**SCHEDULE “B”**

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**NOTICE TO CLAIMANTS  
OF THE JUST ENERGY ENTITIES**

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**RE: NOTICE OF CLAIMS PROCESS FOR JUST ENERGY GROUP INC., JUST ENERGY CORP., ONTARIO ENERGY COMMODITIES INC., UNIVERSAL ENERGY CORPORATION, JUST ENERGY FINANCE CANADA ULC, HUDSON ENERGY CANADA CORP., JUST MANAGEMENT CORP., JUST ENERGY FINANCE HOLDING INC., 11929747 CANADA INC., 12175592 CANADA INC., JE SERVICES HOLDCO I INC., JE SERVICES HOLDCO II INC., 8704104 CANADA INC., JUST ENERGY ADVANCED SOLUTIONS CORP., JUST ENERGY (U.S.) CORP., JUST ENERGY ILLINOIS CORP., JUST ENERGY INDIANA CORP., JUST ENERGY MASSACHUSETTS CORP., JUST ENERGY NEW YORK CORP., JUST ENERGY TEXAS I CORP., JUST ENERGY, LLC, JUST ENERGY PENNSYLVANIA CORP., JUST ENERGY MICHIGAN CORP., JUST ENERGY SOLUTIONS INC., HUDSON ENERGY SERVICES LLC, HUDSON ENERGY CORP., INTERACTIVE ENERGY GROUP LLC, HUDSON PARENT HOLDINGS LLC, DRAG MARKETING LLC, JUST ENERGY ADVANCED SOLUTIONS LLC, FULCRUM RETAIL ENERGY LLC, FULCRUM RETAIL HOLDINGS LLC, TARA ENERGY, LLC, JUST ENERGY MARKETING CORP., JUST ENERGY CONNECTICUT CORP., JUST ENERGY LIMITED, JUST SOLAR HOLDINGS CORP. AND JUST ENERGY (FINANCE) HUNGARY ZRT. (COLLECTIVELY, THE “APPLICANTS”) PURSUANT TO THE *COMPANIES’ CREDITORS ARRANGEMENT ACT* (THE “CCAA”)**

PLEASE TAKE NOTICE that on ●, 2021, the Ontario Superior Court of Justice (Commercial List) issued an order (the “**Claims Procedure Order**”) in the CCAA proceedings of the Applicants, requiring that all Persons who assert a Claim (capitalized terms used in this notice and not otherwise defined have the meaning ascribed to them in the Claims Procedure Order) against the Just Energy Entities<sup>1</sup>, whether unliquidated, contingent or otherwise, other than any Negative Notice Claimant in respect of its Negative Notice Claim as set out in any Statement of Negative Notice Claim, and all Persons who assert a claim against the Directors and/or Officers of any of the Just Energy Entities (as defined in the Claims Procedure Order, a “**D&O Claim**”), **must file a Proof of Claim (with respect to Claims against any of the Just Energy Entities) or D&O Proof of Claim (with respect to D&O Claims) with Omni Agent Solutions, as claims and noticing agent of the Just Energy Entities (the “Claims Agent”), or FTI Consulting Canada Inc., as Court-appointed monitor of the Just Energy Entities (in such capacity and not in its personal or corporate capacity, the “Monitor”) on or before 5:00 p.m. (Toronto time) on November 1, 2021 (the “Claims Bar Date”), or in the case of a Restructuring Period Claim or**

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<sup>1</sup> The “**Just Energy Entities**” are the Applicants and Just Energy Ontario L.P., Just Energy Manitoba L.P., Just Energy (B.C.) Limited Partnership, Just Energy Québec L.P., Just Energy Trading L.P., Just Energy Alberta L.P., Just Green L.P., Just Energy Prairies L.P., JEBPO Services LLP, and Just Energy Texas LP.

**Restructuring Period D&O Claim, on or before the applicable Restructuring Period Claims Bar Date.**

Pursuant to the Claims Procedure Order, Negative Notice Claims Packages will be sent to all Negative Notice Claimants on or before September 29, 2021, which Negative Notice Claims Packages will contain a Statement of Negative Notice Claim that specifies each Negative Notice Claimant's Negative Notice Claim as valued by the Just Energy Entities, in consultation with the Monitor, based on the books and records of the Just Energy Entities.

The Claims Agent or the Monitor will also send or cause to be sent, on or before September 29, 2021, a General Claims Package (that will include the form of Proof of Claim and D&O Proof of Claim) to: (i) each Person that appears on the Service List (except Persons that are likely to assert only Excluded Claims, in the reasonable opinion of the Just Energy Entities and the Monitor), (ii) any Person who has requested a Proof of Claim in respect of any potential Claim that is not captured in a Statement of Negative Notice Claim, and (iii) any Person known to the Just Energy Entities or the Monitor as having a potential Claim based on the books and records of the Just Energy Entities that is not captured in any Statement of Negative Notice Claim.

Claimants may also obtain the Claims Procedure Order, a General Claims Package or further information or documentation regarding the Claims Process from the Monitor's website at <http://cfcanada.fticonsulting.com/justenergy/>, the Claims Agent's website at <https://omniagentsolutions.com/justenergyclaims>, or by contacting the Monitor at 1-844-669-6340 or [claims.justenergy@fticonsulting.com](mailto:claims.justenergy@fticonsulting.com) or the Claims Agent at 1-866-680-8161 (US & Canada) or 1-818-574-3196 (International).

**The Claims Bar Date** is 5:00 p.m. (Toronto time) on November 1, 2021. Proofs of Claim in respect of Pre-Filing Claims (i.e., Claims against one or more of the Just Energy Entities arising prior to March 9, 2021) and Pre-Filing D&O Claims must be completed and filed with the Claims Agent or the Monitor on or before the Claims Bar Date.

**The Restructuring Period Claims Bar Date** is 5:00 pm (Toronto time) on the date that is the later of (i) 30 days after the date on which the Claims Agent or the Monitor sends a Negative Notice Claims Package or General Claims Package, as appropriate, with respect to a Restructuring Period Claim or Restructuring Period D&O Claim, and (ii) the Claims Bar Date. Proofs of Claim and D&O Proofs of Claim in respect of Restructuring Period Claims and Restructuring Period D&O Claims must be completed and filed with the Claims Agent or the Monitor on or before the Restructuring Period Claims Bar Date.

**It is your responsibility to ensure that the Claims Agent or the Monitor receives your Proof of Claim or D&O Proof of Claim by the applicable Bar Date if you wish to assert any Claim that is not captured in a Negative Notice Claim. CLAIMS AND D&O CLAIMS WHICH ARE NOT RECEIVED BY THE APPLICABLE BAR DATE WILL BE BARRED AND EXTINGUISHED FOREVER.**

**If you have received a Statement of Negative Notice Claim, your Claim will be deemed to be accepted at the amount specified therein, and you do not need to take any further steps with respect to such Claim unless you disagree with the amount specified therein.** If you wish to dispute your Claim as specified in your Statement of Negative Notice Claim, you must file a Notice of Dispute of Claim with the Claims Agent or the Monitor on or before the applicable Bar Date.

**It is your responsibility to ensure that the Claims Agent or the Monitor receives your Notice of Dispute of Claim by the applicable Bar Date if you wish to dispute the Claim as listed in your Statement of Negative Notice Claim.**

**Claimants are strongly encouraged to complete and submit their Proof of Claim, D&O Proof of Claim or Notice of Dispute of Claim, as applicable, on the Claims Agent's online claims submission portal which can be found at <https://omniagentsolutions.com/justenergyclaims>. If not submitted at the online portal, Proofs of Claim, D&O Proof of Claim or Notice of Dispute of Claim, as applicable, must be delivered to the Monitor or the Claims Agent by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email at one of the applicable addresses below:**

If located in Canada:

FTI Consulting Canada Inc.,  
Just Energy Monitor  
P.O. Box 104, TD South Tower  
79 Wellington Street West  
Toronto Dominion Centre, Suite 2010  
Toronto, ON, M5K 1G8

Attention: Just Energy Claims Process  
Email: [claims.justenergy@fticonsulting.com](mailto:claims.justenergy@fticonsulting.com)  
Fax: 416.649.8101

If located in the United States or elsewhere:

Just Energy Claims Processing  
c/o Omni Agent Solutions  
5955 De Soto Ave., Suite 100  
Woodland Hills, CA 91367

In accordance with the Claims Procedure Order, notices shall be deemed to be received by the Claims Agent or the Monitor: (i) if submitted on the Claims Agent's online portal, at the time such document is submitted, or (ii) upon actual receipt thereof by the Claims Agent or the Monitor during normal business hours on a Business Day, or if delivered outside of normal business hours, on the next Business Day.

DATED this ● day of ●, 2021.



## SCHEDULE “C”

### PROOF OF CLAIM INSTRUCTION LETTER

This instruction letter has been prepared to assist Claimants in filling out the Proof of Claim form for Claims against the Just Energy Entities<sup>1</sup>. If you have any additional questions regarding completion of the Proof of Claim, please consult the Claims Agent’s website at <https://omniagentsolutions.com/justenergyclaims> or contact the Claims Agent or the Monitor, whose respective contact information is set out below.

If you have received a Statement of Negative Notice Claim, your Claim will be deemed to be accepted at the amount specified therein, and you do not need to take any further steps with respect to such Claim unless you disagree with the amount specified therein. A Proof of Claim package is intended only to be used by Claimants who wish to assert a Claim that is not captured in a Statement of Negative Notice Claim.

Additional copies of the Proof of Claim may be found at the Claims Agent’s website set out above or the Monitor’s website at <http://cfcanda.fticonsulting.com/justenergy/>.

**Claimants are strongly encouraged to complete and submit their Proof of Claim on the Claims Agent’s online claims submission portal which can be found at <https://omniagentsolutions.com/justenergyclaims>.**

Please note that this is a guide only, and that in the event of any inconsistency between the terms of this guide and the terms of the Claims Procedure Order made on ●, 2021 (the “**Claims Procedure Order**”), the terms of the Claims Procedure Order will govern. Capitalized terms used in this Proof of Claim Instruction Letter and not otherwise defined herein have the meanings ascribed to them in the Claims Procedure Order.

#### SECTION 1 – DEBTOR(S)

1. The full name of each Just Energy Entity against which the Claim is asserted must be listed (see footnote 1 for complete list of Just Energy Entities), including the full name of any Just Energy Entity that provided a guarantee in respect of the Claim. If there are insufficient lines to record each such name, attach a separate schedule indicating the required information.

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<sup>1</sup> The “**Just Energy Entities**” are Just Energy Group Inc., Just Energy Corp., Ontario Energy Commodities Inc., Universal Energy Corporation, Just Energy Finance Canada ULC, Hudson Energy Canada Corp., Just Management Corp., Just Energy Finance Holding Inc., 11929747 Canada Inc., 12175592 Canada Inc., JE Services Holdco I Inc., JE Services Holdco II Inc., 8704104 Canada Inc., Just Energy Advanced Solutions Corp., Just Energy (U.S.) Corp., Just Energy Illinois Corp., Just Energy Indiana Corp., Just Energy Massachusetts Corp., Just Energy New York Corp., Just Energy Texas I Corp., Just Energy, LLC, Just Energy Pennsylvania Corp., Just Energy Michigan Corp., Just Energy Solutions Inc., Hudson Energy Services LLC, Hudson Energy Corp., Interactive Energy Group LLC, Hudson Parent Holdings LLC, Drag Marketing LLC, Just Energy Advanced Solutions LLC, Fulcrum Retail Energy LLC, Fulcrum Retail Holdings LLC, Tara Energy, LLC, Just Energy Marketing Corp., Just Energy Connecticut Corp., Just Energy Limited, Just Solar Holdings Corp., Just Energy (Finance) Hungary Zrt., Just Energy Ontario L.P., Just Energy Manitoba L.P., Just Energy (B.C.) Limited Partnership, Just Energy Québec L.P., Just Energy Trading L.P., Just Energy Alberta L.P., Just Green L.P., Just Energy Prairies L.P., JEBPO Services LLP, and Just Energy Texas LP.

**SECTION 2A – ORIGINAL CLAIMANT**

2. A separate Proof of Claim must be filed by each legal entity or person asserting a Claim against the Just Energy Entities, or any of them.
3. The Claimant shall include any and all Claims that it asserts against the Just Energy Entities, or any of them, in a single Proof of Claim filed, except for Claims described in any Statement of Negative Notice Claim sent to such Claimant by the Claims Agent or the Monitor. **Claims included in a Proof of Claim that are already captured in such Claimant's Statement of Negative Notice Claim will not be accepted by the Just Energy Entities.** Any Claimant who wishes to dispute any Claim set out in a Statement of Negative Notice Claim shall file a Notice of Dispute of Claim in respect of such Claim.
4. The full legal name of the Claimant must be provided.
5. If the Claimant operates under a different name or names, please indicate this in a separate schedule in the supporting documentation.
6. If the Claim has been assigned or transferred to another party, Section 2B must also be completed.
7. Unless the Claim is validly assigned or transferred, all future correspondence, notices, etc., regarding the Claim will be directed to the address and contact indicated in this section.

**SECTION 2B – ASSIGNEE, IF APPLICABLE**

8. If the Claimant has assigned or otherwise transferred its Claim, then Section 2B must be completed, and all documents evidencing such assignment or transfer must be attached.
9. The full legal name of the Assignee must be provided.
10. If the Assignee operates under a different name or names, please indicate this in a separate schedule in the supporting documentation.
11. If the Just Energy Entities, in consultation with the Monitor, are satisfied that an assignment or transfer has occurred, all future correspondence, notices, etc., regarding the Claim will be directed to the Assignee at the address and contact indicated in this section.

**SECTION 3 - AMOUNT AND TYPE OF CLAIM**

12. If the Claim is a Pre-Filing Claim within the meaning of the Claims Procedure Order, then indicate the amount each Just Energy Entity was and still is indebted to the Claimant in the Amount of Claim column, including interest, if applicable, up to and including March 9, 2021.
13. If the Claim is a Restructuring Period Claim within the meaning of the Claims Procedure Order, then indicate the Claim amount each Just Energy Entity was and still is indebted to the Claimant in the space reserved for Restructuring Period Claims (which is below the space reserved for Pre-Filing Claims).

For reference, a “**Restructuring Period Claim**” means any right or claim of any Person against any of the Just Energy Entities in connection with any indebtedness, liability or obligation of any kind whatsoever owed by any such Just Energy Entity to such Person arising out of the restructuring, disclaimer, rescission, termination or breach by such Just Energy Entity on or after the Filing Date of any contract, lease or other agreement, whether written or oral, and including any right or claim with respect to any Assessment.

14. If there are insufficient lines to record each Claim amount, attach a separate schedule indicating the required information.

#### **Currency**

15. The amount of the Claim must be provided in the currency in which it arose.
16. Indicate the appropriate currency in the Currency column.
17. If the Claim is denominated in multiple currencies, use a separate line to indicate the Claim amount in each such currency. If there are insufficient lines to record these amounts, attach a separate schedule indicating the required information.

#### **Security**

18. Check this box ONLY if the Claim recorded on that line is a secured claim. If it is, indicate the value which you ascribe to the assets charged by your security in the adjacent column.
19. If the Claim is secured and/or guaranteed by any other Just Energy Entity, on a separate schedule provide full particulars of the security and/or guarantee, including the date on which the security and/or guarantee was given, the value which you ascribe to the assets charged by your security and the basis for such valuation and attach a copy of the relevant documents evidencing the security and/or guarantee.

#### **SECTION 4 - DOCUMENTATION**

20. Attach to the Proof of Claim form all particulars of the Claim and all available supporting documentation, including any calculation of the amount, and description of transaction(s) or agreement(s), or legal breach(es) giving rise to the Claim, including any claim assignment/transfer agreement or similar document, if applicable, the name of any guarantor(s) which has guaranteed the Claim and a copy of such guarantee documentation, the amount of invoices, particulars of all credits, discounts, etc. claimed, as well as a description of the security, if any, granted by the affected Just Energy Entity to the Claimant and estimated value of such security.
21. If the Claimant is a Commodity Supplier within the meaning of the Claims Procedure Order and is submitting a Claim in respect of any marked-to-market amounts that may have crystallized and become owing under any Commodity Agreement with any Just Energy Entity, the Claimant must attach a separate schedule indicating the appropriate calculations of such crystallized marked-to-market Claim(s).

For reference, a “**Commodity Agreement**” means a gas supply agreement, electricity supply agreement or other agreement with any Just Energy Entity for the physical or

financial purchase, sale, trading or hedging of natural gas, electricity or environmental derivative products, or contracts entered into for protection against fluctuations in foreign currency exchange rates, which shall include any master power purchase and sale agreement, base contract for sale and purchase, ISDA master agreement or similar agreement, and a “**Commodity Supplier**” means any counterparty to a Commodity Agreement.

## SECTION 5 - CERTIFICATION

22. The person signing the Proof of Claim should:
- (a) be the Claimant or an authorized representative of the Claimant;
  - (b) have knowledge of all the circumstances connected with this Claim;
  - (c) assert the Claim against Debtor(s) as set out in the Proof of Claim and certify all available supporting documentation is attached; and
  - (d) if an individual is submitting the Proof of Claim form by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email, have a witness to its certification.
23. By signing and submitting the Proof of Claim, the Claimant is asserting the Claim against each Just Energy Entity named as a “Debtor” in the Proof of Claim.

## SECTION 6 - FILING OF CLAIM AND APPLICABLE DEADLINES

24. If your Claim is a Pre-Filing Claim within the meaning of the Claims Procedure Order (excluding any Negative Notice Claim that is a Pre-Filing Claim), the Proof of Claim MUST be received by the Claims Agent or the Monitor on or before 5:00 p.m. (Toronto time) on November 1, 2021 (the “Claims Bar Date”).
25. If your Claim is a Restructuring Period Claim within the meaning of the Claims Procedure Order (excluding any Negative Notice Claim that is a Restructuring Period Claim), the Proof of Claim MUST be returned to and received by the Claims Agent or the Monitor by 5:00 p.m. (Toronto Time) on the date (the “Restructuring Period Claims Bar Date”) that is the later of (i) the date that is 30 days after the date on which the Claims Agent or the Monitor sends a General Claims Package with respect to a Restructuring Period Claim and (ii) the Claims Bar Date.
26. Claimants are strongly encouraged to complete and submit their Proof of Claim on the Claims Agent’s online claims submission portal which can be found at <https://omniagentsolutions.com/justenergyclaims>. If not submitted at the online portal, Proofs of Claim must be delivered to the Monitor or the Claims Agent by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email at one of the applicable addresses below:

If located in Canada:

FTI Consulting Canada Inc.,  
Just Energy Monitor  
P.O. Box 104, TD South Tower  
79 Wellington Street West  
Toronto Dominion Centre, Suite 210  
Toronto, ON, M5K 1G8

Attention: Just Energy Claims Process  
Email: claims.justenergy@fticonsulting.com  
Fax: 416.649.8101

If located in the United States or  
elsewhere:

Just Energy Claims Processing  
c/o Omni Agent Solutions  
5955 De Soto Ave., Suite 100  
Woodland Hills, CA 91367

In accordance with the Claims Procedure Order, notices shall be deemed to be received by the Claims Agent or the Monitor: (i) if submitted on the Claims Agent's online portal, at the time such document is submitted, or (ii) upon actual receipt thereof by the Claims Agent or the Monitor during normal business hours on a Business Day, or if delivered outside of normal business hours, on the next Business Day.

**Failure to file your Proof of Claim so that it is actually received by the Claims Agent or the Monitor on or before 5:00 p.m. on the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, WILL result in your Claims (except for any Claim outlined in any Statement of Negative Notice Claim that may have been addressed to you) being forever barred and you will be prevented from making or enforcing such Claims against the Just Energy Entities. In addition, unless you have separately received a Statement of Negative Notice Claim from the Claims Agent or the Monitor in respect of any other Claim, you shall not be entitled to further notice of and shall not be entitled to participate as a creditor in the Just Energy Entities' CCAA proceedings with respect to any such Claims.**

**SCHEDULE “D”****PROOF OF CLAIM FORM  
FOR CLAIMS AGAINST THE JUST ENERGY ENTITIES<sup>1</sup>**

**Note: Claimants are strongly encouraged to complete and submit their Proof of Claim on the Claims Agent’s online claims submission portal which can be found at <https://omniagentsolutions.com/justenergyclaims>.**

**1. Name of Just Energy Entity or Entities (the “Debtor(s)”) the Claim is being made against<sup>2</sup>:**

Debtor(s): \_\_\_\_\_

**2A. Original Claimant (the “Claimant”)**

Legal Name of Claimant: \_\_\_\_\_ Name of Contact \_\_\_\_\_

Address \_\_\_\_\_ Title \_\_\_\_\_

\_\_\_\_\_ Phone # \_\_\_\_\_

\_\_\_\_\_ Fax # \_\_\_\_\_

City \_\_\_\_\_ Prov /State \_\_\_\_\_ Email \_\_\_\_\_

Postal/Zip Code \_\_\_\_\_

**2B. Assignee, if claim has been assigned**

Legal Name of Assignee: \_\_\_\_\_ Name of Contact \_\_\_\_\_

<sup>1</sup> The “**Just Energy Entities**” are Just Energy Group Inc., Just Energy Corp., Ontario Energy Commodities Inc., Universal Energy Corporation, Just Energy Finance Canada ULC, Hudson Energy Canada Corp., Just Management Corp., Just Energy Finance Holding Inc., 11929747 Canada Inc., 12175592 Canada Inc., JE Services Holdco I Inc., JE Services Holdco II Inc., 8704104 Canada Inc., Just Energy Advanced Solutions Corp., Just Energy (U.S.) Corp., Just Energy Illinois Corp., Just Energy Indiana Corp., Just Energy Massachusetts Corp., Just Energy New York Corp., Just Energy Texas I Corp., Just Energy, LLC, Just Energy Pennsylvania Corp., Just Energy Michigan Corp., Just Energy Solutions Inc., Hudson Energy Services LLC, Hudson Energy Corp., Interactive Energy Group LLC, Hudson Parent Holdings LLC, Drag Marketing LLC, Just Energy Advanced Solutions LLC, Fulcrum Retail Energy LLC, Fulcrum Retail Holdings LLC, Tara Energy, LLC, Just Energy Marketing Corp., Just Energy Connecticut Corp., Just Energy Limited, Just Solar Holdings Corp., Just Energy (Finance) Hungary Zrt., Just Energy Ontario L.P., Just Energy Manitoba L.P., Just Energy (B.C.) Limited Partnership, Just Energy Québec L.P., Just Energy Trading L.P., Just Energy Alberta L.P., Just Green L.P., Just Energy Prairies L.P., JEBPO Services LLP, and Just Energy Texas LP.

<sup>2</sup> List the name(s) of any Just Energy Entity(ies) that have guaranteed the Claim. If the Claim has been guaranteed by any Just Energy Entity, provide all documentation evidencing such guarantee.

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Address \_\_\_\_\_ Title \_\_\_\_\_  
 \_\_\_\_\_ Phone # \_\_\_\_\_  
 \_\_\_\_\_ Fax # \_\_\_\_\_

City \_\_\_\_\_ Prov \_\_\_\_\_  
 /State \_\_\_\_\_ Email \_\_\_\_\_

Postal/Zip Code \_\_\_\_\_

### 3. Amount and Type of Claim

The Debtor was and still is indebted to the Claimant as follows:

#### *Pre-Filing Claims*

Debtor Name:	Currency:	Amount of <u>Pre-Filing</u> Claim (including interest up to and including March 9, 2021) <sup>3</sup> :	Whether Claim is Secured:	Value of Security Held, if any <sup>4</sup> :
			Yes <input type="checkbox"/> No <input type="checkbox"/>	
			Yes <input type="checkbox"/> No <input type="checkbox"/>	
			Yes <input type="checkbox"/> No <input type="checkbox"/>	

#### *Restructuring Period Claims*

Debtor Name:	Currency:	Amount of <u>Restructuring Period</u> Claim:	Whether Claim is Secured:	Value of Security Held, if any:
			Yes <input type="checkbox"/> No <input type="checkbox"/>	
			Yes <input type="checkbox"/> No <input type="checkbox"/>	
			Yes <input type="checkbox"/> No <input type="checkbox"/>	

<sup>3</sup> Interest accruing from the Filing Date (March 9, 2021) shall not be included in any Claim.

<sup>4</sup> If the Claim is secured, on a separate schedule provide full particulars of the security, including the date on which the security was given, the value which you ascribe to the assets charged by your security and the basis for such valuation and attach a copy of the security documents evidencing the security.

#### 4. Documentation<sup>5</sup>

Provide all particulars of the Claim and all available supporting documentation, including any calculation of the amount, and description of transaction(s) or agreement(s), or legal breach(es) giving rise to the Claim, including any claim assignment/transfer agreement or similar document, if applicable, the name of any guarantor(s) which has guaranteed the Claim and a copy of such guarantee documentation, the amount of invoices, particulars of all credits, discounts, etc. claimed, as well as a description of the security, if any, granted by the affected Just Energy Entity to the Claimant and estimated value of such security.

<p><b>5. Certification</b></p> <p>I hereby certify that:</p> <ol style="list-style-type: none"> <li>1. I am the Claimant or an authorized representative of the Claimant.</li> <li>2. I have knowledge of all the circumstances connected with this Claim.</li> <li>3. The Claimant asserts this Claim against the Debtor(s) as set out above.</li> <li>4. All available documentation in support of this Claim is attached.</li> </ol>	
<p>All information submitted in this Proof of Claim form must be true, accurate and complete. Filing a false Proof of Claim may result in your Claim being disallowed in whole or in part and may result in further penalties.</p>	
<p>Signature: _____</p> <p>Name: _____</p> <p>Title: _____</p>	<p>Witness<sup>6</sup>:</p> <p>_____</p> <p>(signature)</p> <p>_____</p> <p>(print)</p>
<p>Dated at _____ this _____ day of _____, 2021.</p>	

#### 6. Filing of Claim and Applicable Deadlines

For Pre-Filing Claims (excluding Negative Notice Claims that are Pre-Filing Claims), this Proof of Claim must be returned to and received by the Claims Agent or the Monitor by 5:00 p.m. (Toronto Time) on November 1, 2021 (the “**Claims Bar Date**”).

For Restructuring Period Claims (excluding Negative Notice Claims that are Restructuring Period Claims), this Proof of Claim must be returned to and received by the Claims Agent or the Monitor by 5:00 p.m. (Toronto Time) on the later of (i) the date that is 30 days after the date on which the

<sup>5</sup> If the Claimant is a Commodity Supplier submitting a Claim in respect of any crystallized marked-to-market amounts that the Claimant believes are owing by any Just Energy Entity under any Commodity Agreement, the Claimant must indicate the appropriate calculations of such crystallized marked-to-market Claim(s).

<sup>6</sup> Witnesses are required if an individual is submitting this Proof of Claim form by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email.



Claims Agent or the Monitor sends a General Claims Package with respect to a Restructuring Period Claim and (ii) the Claims Bar Date (the “**Restructuring Period Claims Bar Date**”).

In each case, Claimants are strongly encouraged to complete and submit their Proof of Claim on the Claims Agent’s online claims submission portal which can be found at <https://omniagentsolutions.com/justenergyclaims>. If not submitted at the online portal, Proofs of Claim must be delivered to the Claims Agent or the Monitor by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email at one of the applicable addresses below:

If located in Canada:

FTI Consulting Canada Inc.,  
Just Energy Monitor  
P.O. Box 104, TD South Tower  
79 Wellington Street West  
Toronto Dominion Centre, Suite 2010  
Toronto, ON, M5K 1G8

Attention: Just Energy Claims Process  
Email: [claims.justenergy@fticonsulting.com](mailto:claims.justenergy@fticonsulting.com)  
Fax: 416.649.8101

If located in the United States or elsewhere:

Just Energy Claims Processing  
c/o Omni Agent Solutions  
5955 De Soto Ave., Suite 100  
Woodland Hills, CA 91367

In accordance with the Claims Procedure Order, notices shall be deemed to be received by the Claims Agent or the Monitor: (i) if submitted on the Claims Agent’s online portal, at the time such document is submitted, or (ii) upon actual receipt thereof by the Claims Agent or the Monitor during normal business hours on a Business Day, or if delivered outside of normal business hours, on the next Business Day.

**Failure to file your Proof of Claim so that it is actually received by the Claims Agent or the Monitor on or before 5:00 p.m. on the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, WILL result in your Claims (except for any Claim outlined in any Statement of Negative Notice Claim that may have been addressed to you) being forever barred and you will be prevented from making or enforcing such Claims against the Just Energy Entities. In addition, unless you have separately received a Statement of Negative Notice Claim from the Claims Agent or the Monitor in respect of any other Claim, you shall not be entitled to further notice of and shall not be entitled to participate as a creditor in the Just Energy Entities’ CCAA proceedings with respect to any such Claims.**

**SCHEDULE “E”**

**NOTICE OF REVISION OR DISALLOWANCE**

**For Persons who have asserted Claims against the Just Energy Entities<sup>1</sup> and/or  
D&O Claims against the Directors and/or Officers of the Just Energy Entities**

TO: [INSERT NAME AND ADDRESS OF CLAIMANT] (the “Claimant”)

RE: Claim Reference Number: \_\_\_\_\_

Capitalized terms used but not defined in this Notice of Revision or Disallowance shall have the meanings ascribed to them in the Order of the Ontario Superior Court of Justice (Commercial List) in the CCAA proceedings of the Just Energy Entities dated ●, 2021 (the “**Claims Procedure Order**”). You can obtain a copy of the Claims Procedure Order on the Monitor’s website at <http://cfcanada.fticonsulting.com/justenergy/>.

Pursuant to the Claims Procedure Order, the Monitor hereby gives you notice that the Just Energy Entities, in consultation with the Monitor, have reviewed your Proof of Claim or D&O Proof of Claim and have revised or disallowed all or part of your purported Claim set out therein. Subject to further dispute by you in accordance with the Claims Procedure Order, your Claim will be as follows:

Type of Claim	Applicable Debtor(s)	Amount as submitted		Amount allowed by the Just Energy Entities	
		Original Currency		Amount allowed as secured:	Amount allowed as unsecured:
A. Pre-Filing Claim			\$	\$	\$
B. Restructuring Period Claim			\$	\$	\$

<sup>1</sup> The “**Just Energy Entities**” are Just Energy Group Inc., Just Energy Corp., Ontario Energy Commodities Inc., Universal Energy Corporation, Just Energy Finance Canada ULC, Hudson Energy Canada Corp., Just Management Corp., Just Energy Finance Holding Inc., 11929747 Canada Inc., 12175592 Canada Inc., JE Services Holdco I Inc., JE Services Holdco II Inc., 8704104 Canada Inc., Just Energy Advanced Solutions Corp., Just Energy (U.S.) Corp., Just Energy Illinois Corp., Just Energy Indiana Corp., Just Energy Massachusetts Corp., Just Energy New York Corp., Just Energy Texas I Corp., Just Energy, LLC, Just Energy Pennsylvania Corp., Just Energy Michigan Corp., Just Energy Solutions Inc., Hudson Energy Services LLC, Hudson Energy Corp., Interactive Energy Group LLC, Hudson Parent Holdings LLC, Drag Marketing LLC, Just Energy Advanced Solutions LLC, Fulcrum Retail Energy LLC, Fulcrum Retail Holdings LLC, Tara Energy, LLC, Just Energy Marketing Corp., Just Energy Connecticut Corp., Just Energy Limited, Just Solar Holdings Corp., Just Energy (Finance) Hungary Zrt., Just Energy Ontario L.P., Just Energy Manitoba L.P., Just Energy (B.C.) Limited Partnership, Just Energy Québec L.P., Just Energy Trading L.P., Just Energy Alberta L.P., Just Green L.P., Just Energy Prairies L.P., JEBPO Services LLP, and Just Energy Texas LP.

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C. Pre-Filing D&O Claim			\$	\$	\$
D. Restructuring Period D&O Claim			\$	\$	\$
<b>E. Total Claim</b>			\$	\$	\$

**Reasons for Revision or Disallowance:**


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**SERVICE OF DISPUTE NOTICES**

**If you intend to dispute this Notice of Revision or Disallowance**, you must, by no later than 5:00 p.m. (Toronto time) on the day that is **thirty (30) days after this Notice of Revision or Disallowance is deemed to have been received by you** (in accordance with paragraph 50 of the Claims Procedure Order), deliver a Notice of Dispute of Revision or Disallowance to the Monitor (by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email) at the address listed below.

If you do not dispute this Notice of Revision or Disallowance in the prescribed manner and within the aforesaid time period, your Claim shall be deemed to be as set out herein.

**If you agree with this Notice of Revision or Disallowance**, there is no need to file anything further with the Monitor.

The address of the Monitor is set out below:

FTI Consulting Canada Inc., Just Energy Monitor  
P.O. Box 104, TD South Tower  
79 Wellington Street West  
Toronto Dominion Centre, Suite 2010  
Toronto, ON, M5K 1G8

Attention: Just Energy Claims Process  
Email: claims.justenergy@fticonsulting.com  
Fax: 416.649.8101

In accordance with the Claims Procedure Order, notices shall be deemed to be received by the Monitor upon actual receipt thereof by the Monitor during normal business hours on a Business Day, or if delivered outside of normal business hours, on the next Business Day.

The form of Notice of Dispute of Revision or Disallowance is enclosed and can also be accessed on the Monitor's website at <http://cfcanada.fticonsulting.com/justenergy>.

**IF YOU FAIL TO FILE A NOTICE OF DISPUTE OF REVISION OR DISALLOWANCE WITHIN THE PRESCRIBED TIME PERIOD, THIS NOTICE OF REVISION OR DISALLOWANCE WILL BE BINDING UPON YOU.**

DATED this ● day of ●, 2021.

**FTI CONSULTING CANADA INC.**, solely in its capacity as Court-appointed Monitor of the Just Energy Entities, and not in its personal or corporate capacity

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

**SCHEDULE “F”**

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**NOTICE OF DISPUTE OF REVISION OR DISALLOWANCE**

**With respect to Claims against the Just Energy Entities<sup>1</sup> and/or  
D&O Claims against the Directors and/or Officers of the Just Energy Entities**

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Capitalized terms used but not defined in this Notice of Revision or Disallowance shall have the meanings ascribed to them in the Order of the Ontario Superior Court of Justice (Commercial List) in the CCAA proceedings of the Just Energy Entities dated ●, 2021 (the “**Claims Procedure Order**”). You can obtain a copy of the Claims Procedure Order on the Monitor’s website at <http://cfcanada.fticonsulting.com/justenergy>.

**1. Particulars of Claimant:**

Claims Reference Number: \_\_\_\_\_

Full Legal Name of Claimant (include trade name, if different)

\_\_\_\_\_  
\_\_\_\_\_  
(the “**Claimant**”)

Full Mailing Address of the Claimant:

\_\_\_\_\_  
\_\_\_\_\_

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<sup>1</sup> The “**Just Energy Entities**” are Just Energy Group Inc., Just Energy Corp., Ontario Energy Commodities Inc., Universal Energy Corporation, Just Energy Finance Canada ULC, Hudson Energy Canada Corp., Just Management Corp., Just Energy Finance Holding Inc., 11929747 Canada Inc., 12175592 Canada Inc., JE Services Holdco I Inc., JE Services Holdco II Inc., 8704104 Canada Inc., Just Energy Advanced Solutions Corp., Just Energy (U.S.) Corp., Just Energy Illinois Corp., Just Energy Indiana Corp., Just Energy Massachusetts Corp., Just Energy New York Corp., Just Energy Texas I Corp., Just Energy, LLC, Just Energy Pennsylvania Corp., Just Energy Michigan Corp., Just Energy Solutions Inc., Hudson Energy Services LLC, Hudson Energy Corp., Interactive Energy Group LLC, Hudson Parent Holdings LLC, Drag Marketing LLC, Just Energy Advanced Solutions LLC, Fulcrum Retail Energy LLC, Fulcrum Retail Holdings LLC, Tara Energy, LLC, Just Energy Marketing Corp., Just Energy Connecticut Corp., Just Energy Limited, Just Solar Holdings Corp., Just Energy (Finance) Hungary Zrt., Just Energy Ontario L.P., Just Energy Manitoba L.P., Just Energy (B.C.) Limited Partnership, Just Energy Québec L.P., Just Energy Trading L.P., Just Energy Alberta L.P., Just Green L.P., Just Energy Prairies L.P., JEBPO Services LLP, and Just Energy Texas LP.

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Other Contact Information of the Claimant:

Telephone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Facsimile Number: \_\_\_\_\_

Attention (Contact Person): \_\_\_\_\_

2. **Particulars of original Claimant from whom you acquired the Claim or D&O Claim (if applicable):**

Have you acquired this Claim by assignment?

Yes: No: 

If yes and if not already provided, attach documents evidencing assignment.

Full Legal Name of original Claimant(s): \_\_\_\_\_

3. **Dispute of Revision or Disallowance of Claim:**

The Claimant hereby disagrees with the value of its Claim as set out in the Notice of Revision or Disallowance dated \_\_\_\_\_, and asserts a Claim as follows:

Type of Claim	Applicable Debtor(s)	Amount allowed by the Just Energy Entities		Amount claimed by Claimant	
		Amount allowed as secured:	Amount allowed as unsecured:	Secured:	Unsecured:
A. Pre-Filing Claim		\$	\$	\$	\$
B. Restructuring Period Claim		\$	\$	\$	\$
C. Pre-Filing D&O Claim		\$	\$	\$	\$
D. Restructuring Period D&O Claim		\$	\$	\$	\$
<b>E. Total Claim</b>		\$	\$	\$	\$

*(Insert particulars of your Claim per the Notice of Revision or Disallowance, and the value of your Claim as asserted by you).*

**4. Reasons for Dispute:**

Provide full particulars of why you dispute the Just Energy Entities’ revision or disallowance of your Claim as set out in the Notice of Revision or Disallowance, and provide all supporting documentation, including amount, description of transaction(s) or agreement(s) giving rise to the Claim, name of any guarantor(s) which has guaranteed the Claim, and amount of Claim allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed, as well as a description of the security, if any, granted by the affected Just Energy Entity to the Claimant and estimated value of such security. The particulars provided must support the value of the Claim as stated by you in item 3, above.

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**5. Certification**

I hereby certify that:

1. I am the Claimant or an authorized representative of the Claimant.
2. I have knowledge of all the circumstances connected with this Claim.
3. The Claimant submits this Notice of Dispute of Revision or Disallowance in respect of the Claim referenced above.
4. All available documentation in support of the Claimant’s dispute is attached.

All information submitted in this Notice of Dispute of Revision or Disallowance must be true, accurate and complete. Filing false information relating to your Claim may result in your Claim being disallowed in whole or in part and may result in further penalties.

Signature: _____ Name: _____ Title: _____	Witness: _____ (signature) _____ (print)
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Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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This Notice of Dispute of Revision or Disallowance MUST be submitted to the Monitor at the below address by no later than 5:00 p.m. (Toronto time) on the day that is thirty (30) days after this Notice of Revision or Disallowance is deemed to have been received by you (in accordance with paragraph 50 of the Claims Procedure Order, a copy of which can be found on the Monitor's website at <http://cfcanada.fticonsulting.com/justenergy>).

Delivery to the Monitor may be made by ordinary prepaid mail, registered mail, courier, personal delivery, facsimile transmission or email to the address below.

FTI Consulting Canada Inc., Just Energy Monitor  
P.O. Box 104, TD South Tower  
79 Wellington Street West  
Toronto Dominion Centre, Suite 2010  
Toronto, ON, M5K 1G8

Attention: Just Energy Claims Process  
Email: [claims.justenergy@fticonsulting.com](mailto:claims.justenergy@fticonsulting.com)  
Fax: 416.649.8101

In accordance with the Claims Procedure Order, notices shall be deemed to be received by the Monitor upon actual receipt thereof by the Monitor during normal business hours on a Business Day, or if delivered outside of normal business hours, on the next Business Day.

**IF YOU FAIL TO FILE A NOTICE OF DISPUTE OF REVISION OR DISALLOWANCE WITHIN THE PRESCRIBED TIME PERIOD, YOUR CLAIM AS SET OUT IN THE NOTICE OF REVISION OR DISALLOWANCE WILL BE BINDING UPON YOU.**



## SCHEDULE "G"

### STATEMENT OF NEGATIVE NOTICE CLAIM

●, 2021

[Name]

[Address]

Dear ●:

**Re: Negative Notice Claims in the CCAA Proceedings of the Just Energy Entities<sup>1</sup> (Court File: CV-21-00658423-00CL)**

**Amount of Negative Notice Claim against [the applicable Just Energy Entity(ies)] has been assessed as a [secured/unsecured] [pre-filing/restructuring period] claim in the amount of [C/US]\$●**

As you know, the Applicants filed for and were granted creditor protection under the *Companies' Creditors Arrangement Act* (Canada) (the "CCAA"), pursuant to an order (as amended and restated, the "**Initial Order**") of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") (the "**CCAA Proceedings**"). Pursuant to the Initial Order, the Court appointed FTI Consulting Canada Inc. as monitor of the Just Energy Entities to, among other things, oversee the CCAA Proceedings (in such capacity and not in its personal or corporate capacity, the "**Monitor**"). A copy of the Initial Order and other information relating to the CCAA Proceedings has been posted to <http://cfcanada.fticonsulting.com/justenergy> (the "**Monitor's Website**").

The purpose of this Statement of Negative Notice Claim is to inform you about your claim in the claims process approved by the Court on ●, 2021 (the "**Claims Process**"). The Claims Process governs the process for the identification and quantification of certain claims against the Just Energy Entities and their directors and officers in the CCAA Proceedings. All terms used but not defined in this Statement of Negative Notice Claim shall have the meanings ascribed thereto in the Claims Procedure Order of the Court dated ●, 2021 (the "**Claims Procedure Order**"). In the event of any inconsistency between the terms of this Statement of Negative Notice Claim and the terms of the Claims Procedure Order, the terms of the Claims Procedure Order will govern.

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<sup>1</sup> The "**Just Energy Entities**" are Just Energy Group Inc., Just Energy Corp., Ontario Energy Commodities Inc., Universal Energy Corporation, Just Energy Finance Canada ULC, Hudson Energy Canada Corp., Just Management Corp., Just Energy Finance Holding Inc., 11929747 Canada Inc., 12175592 Canada Inc., JE Services Holdco I Inc., JE Services Holdco II Inc., 8704104 Canada Inc., Just Energy Advanced Solutions Corp., Just Energy (U.S.) Corp., Just Energy Illinois Corp., Just Energy Indiana Corp., Just Energy Massachusetts Corp., Just Energy New York Corp., Just Energy Texas I Corp., Just Energy, LLC, Just Energy Pennsylvania Corp., Just Energy Michigan Corp., Just Energy Solutions Inc., Hudson Energy Services LLC, Hudson Energy Corp., Interactive Energy Group LLC, Hudson Parent Holdings LLC, Drag Marketing LLC, Just Energy Advanced Solutions LLC, Fulcrum Retail Energy LLC, Fulcrum Retail Holdings LLC, Tara Energy, LLC, Just Energy Marketing Corp., Just Energy Connecticut Corp., Just Energy Limited, Just Solar Holdings Corp., Just Energy (Finance) Hungary Zrt., Just Energy Ontario L.P., Just Energy Manitoba L.P., Just Energy (B.C.) Limited Partnership, Just Energy Québec L.P., Just Energy Trading L.P., Just Energy Alberta L.P., Just Green L.P., Just Energy Prairies L.P., JEBPO Services LLP, and Just Energy Texas LP.

### **Claims Process**

Under the Claims Procedure Order, Omni Agent Solutions, as claims and noticing agent of the Just Energy Entities (the “**Claims Agent**”) or the Monitor is required to send a notice prepared by the Just Energy Entities, in consultation with the Monitor, to each Negative Notice Claimant outlining the quantum of their Negative Notice Claim that the Just Energy Entities, in consultation with the Monitor, are prepared to allow in the Claims Process (“**Statement of Negative Notice Claim**”).

This Statement of Negative Notice Claim contains the full amount of your Negative Notice Claim against the applicable Just Energy Entity(ies) that the Just Energy Entities, in consultation with the Monitor, will allow as an accepted Claim in the Claims Process, which Negative Notice Claim has been valued based on the books and records of the Just Energy Entities and any negotiations that the Just Energy Entities and/or the Monitor have had with you regarding the amounts owed by the applicable Just Energy Entity(ies) to you.

Your total Claim has been assessed by the Just Energy Entities, in consultation with the Monitor, as follows:

**Your Negative Notice Claim has been assessed as a [secured/unsecured] [pre-filing/restructuring period] claim in the amount of [C/US] \$● against [the applicable Just Energy Entity(ies)]. Details of your claim, including any security granted in respect thereof, are set out in the attached schedule.**

**If you agree with the Just Energy Entities’ assessment of your Claim, you need not take any further action.**

**IF YOU WISH TO DISPUTE THE ASSESSMENT OF YOUR CLAIM, YOU MUST TAKE THE STEPS OUTLINED BELOW.**

### **Disagreement with Assessment:**

If you disagree with the assessment of your Negative Notice Claim set out in this Statement of Negative Notice Claim, you must complete and return to the Claims Agent or the Monitor a completed Notice of Dispute of Claim asserting a Claim in a different amount supported by appropriate documentation. A blank Notice of Dispute of Claim form is enclosed. The Notice of Dispute of Claim with supporting documentation disputing the within assessment of your Claim **must be received by the Claims Agent or the Monitor no later than 5:00 p.m. (Toronto time) on November 1, 2021 (the “Claims Bar Date”), or in the case of a Restructuring Period Claim, no later than 5:00 p.m. (Toronto time) on the later of (i) the date that is 30 days after the date on which this Negative Notice Claims Package was sent by the Claims Agent or the Monitor, and (ii) the Claims Bar Date (the “Restructuring Period Claims Bar Date”).**

If no such Notice of Dispute of Claim is received by the Claims Agent or the Monitor by the applicable Bar Date, the amount of your Claim will be, subject to further order of the Court, conclusively deemed to be as shown in this Statement of Negative Notice Claim.

The Notice of Dispute of Claim may be completed and submitted on the Claims Agent's online claims submission portal, which can be found at <https://omniagentsolutions.com/justenergyclaims>. If not submitted at the online portal, Notices of Dispute of Claim must be delivered to the Claims Agent or the Monitor by registered mail, personal delivery, courier, facsimile transmission or email (in PDF format) at one of the applicable addresses below:

If located in Canada:

FTI Consulting Canada Inc.,  
Just Energy Monitor  
P.O. Box 104, TD South Tower  
79 Wellington Street West  
Toronto Dominion Centre, Suite 2010  
Toronto, ON, M5K 1G8

If located in the United States or elsewhere:

Just Energy Claims Processing  
c/o Omni Agent Solutions  
5955 De Soto Ave., Suite 100  
Woodland Hills, CA 91367

Attention: Just Energy Claims Process  
Email: [claims.justenergy@fticonsulting.com](mailto:claims.justenergy@fticonsulting.com)  
Fax: 416.649.8101

In accordance with the Claims Procedure Order, notices shall be deemed to be received by the Claims Agent or the Monitor: (i) if submitted on the Claims Agent's online portal, at the time such document is submitted, or (ii) upon actual receipt thereof by the Claims Agent or the Monitor during normal business hours on a Business Day, or if delivered outside of normal business hours, on the next Business Day.

### **Important Deadlines:**

If you do not file a Notice of Dispute of Claim by the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, you will have no further right to dispute your Claim, which shall be allowed in the amount and Characterization set out herein, and you will be barred from filing any such dispute in the future.

This Statement of Negative Notice Claim does not affect any Claim other than the Negative Notice Claim referred to herein. This Statement of Negative Notice Claim should include all Claims (as defined in the Claims Procedure Order) that you may have in accordance with the books and records of the Just Energy Entities, unless expressly stated otherwise. If you believe this Statement of Negative Notice Claim does not contain the entirety of your Negative Notice Claim, you must include your whole Claim in the Notice of Dispute of Claim.

If you believe you may have any Claims against any of the Just Energy Entities or any of their Directors and/or Officers that are not captured in whole or in part by this Statement of Negative Notice Claim, then you must submit a Proof of Claim or D&O Proof of Claim in respect of such Claims by the applicable Bar Date. Copies of the Proof of Claim and D&O Proof of Claim forms may be found at the Claims Agent's Website or the Monitor's Website. **Claims against the Just Energy Entities (that are not Negative Notice Claims) and D&O Claims which are not received by the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, will be barred and extinguished forever.**

**More Information:**

If you have questions regarding the foregoing, you may contact the Monitor at 1-844-669-6340 or [claims.justenergy@ficonsulting.com](mailto:claims.justenergy@ficonsulting.com) or the Claims Agent at 1-866-680-8161 (US & Canada) or 1-818-574-3196 (International) or <https://omniagentsolutions.com/justenergyclaims>.

Yours truly,

## SCHEDULE “H”

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### NOTICE OF DISPUTE OF CLAIM

#### For Negative Notice Claims against the Just Energy Entities<sup>1</sup>

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Capitalized terms used but not defined in this Notice of Dispute of Claim shall have the meanings ascribed to them in the Order of the Ontario Superior Court of Justice (Commercial List) in the CCAA proceedings of the Just Energy Entities dated ●, 2021 (the “**Claims Procedure Order**”). You can obtain a copy of the Claims Procedure Order on the Monitor’s website at <http://cfcanada.fticonsulting.com/justenergy>.

#### 1. Particulars of Claimant:

Claims Reference Number: \_\_\_\_\_

Full Legal Name of Claimant (include trade name, if applicable)

\_\_\_\_\_

(the “**Claimant**”)

Full Mailing Address of the Claimant:

\_\_\_\_\_

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<sup>1</sup> The “**Just Energy Entities**” are Just Energy Group Inc., Just Energy Corp., Ontario Energy Commodities Inc., Universal Energy Corporation, Just Energy Finance Canada ULC, Hudson Energy Canada Corp., Just Management Corp., Just Energy Finance Holding Inc., 11929747 Canada Inc., 12175592 Canada Inc., JE Services Holdco I Inc., JE Services Holdco II Inc., 8704104 Canada Inc., Just Energy Advanced Solutions Corp., Just Energy (U.S.) Corp., Just Energy Illinois Corp., Just Energy Indiana Corp., Just Energy Massachusetts Corp., Just Energy New York Corp., Just Energy Texas I Corp., Just Energy, LLC, Just Energy Pennsylvania Corp., Just Energy Michigan Corp., Just Energy Solutions Inc., Hudson Energy Services LLC, Hudson Energy Corp., Interactive Energy Group LLC, Hudson Parent Holdings LLC, Drag Marketing LLC, Just Energy Advanced Solutions LLC, Fulcrum Retail Energy LLC, Fulcrum Retail Holdings LLC, Tara Energy, LLC, Just Energy Marketing Corp., Just Energy Connecticut Corp., Just Energy Limited, Just Solar Holdings Corp., Just Energy (Finance) Hungary Zrt., Just Energy Ontario L.P., Just Energy Manitoba L.P., Just Energy (B.C.) Limited Partnership, Just Energy Québec L.P., Just Energy Trading L.P., Just Energy Alberta L.P., Just Green L.P., Just Energy Prairies L.P., JEBPO Services LLP, and Just Energy Texas LP.

- 2 -

Other Contact Information of the Claimant:

Telephone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Facsimile Number: \_\_\_\_\_

Attention (Contact Person): \_\_\_\_\_

2. **Particulars of original Negative Notice Claimant from whom you acquired the Claim (if applicable):**

Have you acquired this Claim from a Negative Notice Claimant by assignment?

Yes: No: 

If yes and if not already provided, attach documents evidencing assignment.

Full Legal Name of original Negative Notice Claimant: \_\_\_\_\_

3. **Dispute of Negative Notice Claim:**

The Claimant hereby disagrees with the value of its Negative Notice Claim as set out in the Statement of Negative Notice Claim dated \_\_\_\_\_ and asserts a Claim as follows:

Claim	Applicable Debtor(s)	Currency	Amount Allowed per Statement of Negative Notice Claim:	Amount claimed by Claimant:
Total Claim			\$	\$

*(Insert particulars of your Claim as per the Statement of Negative Notice Claim, and the value of your Claim(s) as asserted by you)*

**4. Reasons for Dispute:**

Please describe the reasons and basis for your dispute of the amount or Characterization of your Claim as set out in your Statement of Negative Notice Claim. You may attach a separate schedule if more space is required. Provide all applicable documentation supporting your dispute, including any calculation of the amount, description of transaction(s) or agreement(s), name of any guarantor(s) which has guaranteed the Claim, and amount of Claim allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed, as well as a description of the security, if any, granted by any Just Energy Entity to the Claimant and estimated value of such security. The particulars provided must support the value of the Claim as stated by you in item 3, above.

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**5. Certification**

I hereby certify that:

1. I am the Claimant or an authorized representative of the Claimant.
2. I have knowledge of all the circumstances connected with this Claim.
3. The Claimant submits this Notice of Dispute of Claim in respect of the Claim referenced above.
4. All available documentation in support of the Claimant’s dispute is attached.

All information submitted in this Notice of Dispute of Claim must be true, accurate and complete. Filing false information relating to your Claim may result in your Claim being disallowed in whole or in part and may result in further penalties.

Signature: _____ Name: _____ Title: _____	Witness <sup>2</sup> : _____ (signature) _____ (print)
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Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

<sup>2</sup> Witnesses are required if an individual is submitting this Notice of Dispute of Claim by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email.

**This Notice of Dispute of Claim MUST be received by the Claims Agent or the Monitor no later than 5:00 p.m. (Toronto time) on November 1, 2021 (the “Claims Bar Date”), or in the case of a Restructuring Period Claim, no later than 5:00 p.m. (Toronto time) on the later of (i) the date that is 30 days after the date on which the Negative Notice Claims Package was sent by the Claims Agent or the Monitor, and (ii) the Claims Bar Date (the “Restructuring Period Claims Bar Date”).**

This Notice of Dispute of Claim may be completed and submitted on the Claims Agent’s online claims submission portal, which can be found at <https://omniagentsolutions.com/justenergyclaims>. If not submitted at the online portal, Notices of Dispute of Claim must be delivered to the Claims Agent or the Monitor by registered mail, personal delivery, courier, facsimile transmission or email (in PDF format) at one of the applicable addresses below:

If located in Canada:

FTI Consulting Canada Inc.,  
Just Energy Monitor  
P.O. Box 104, TD South Tower  
79 Wellington Street West  
Toronto Dominion Centre, Suite 2010  
Toronto, ON, M5K 1G8

Attention: Just Energy Claims Process  
Email: [claims.justenergy@fticonsulting.com](mailto:claims.justenergy@fticonsulting.com)  
Fax: 416.649.8101

If located in the United States or elsewhere:

Just Energy Claims Processing  
c/o Omni Agent Solutions  
5955 De Soto Ave., Suite 100  
Woodland Hills, CA 91367

In accordance with the Claims Procedure Order, notices shall be deemed to be received by the Claims Agent or the Monitor: (i) if submitted on the Claims Agent’s online portal, at the time such document is submitted, or (ii) upon actual receipt thereof by the Claims Agent or the Monitor during normal business hours on a Business Day, or if delivered outside of normal business hours, on the next Business Day.

**IF A NOTICE OF DISPUTE OF CLAIM IS NOT RECEIVED BY THE CLAIMS AGENT OR THE MONITOR WITHIN THE PRESCRIBED TIME PERIOD, THE CLAIM AS SET OUT IN THE STATEMENT OF NEGATIVE NOTICE CLAIM WILL BE BINDING ON YOU AND YOU WILL HAVE NO FURTHER RIGHT TO DISPUTE SUCH CLAIM.**



## SCHEDULE “I”

### CLAIMANT’S GUIDE TO COMPLETING THE D&O PROOF OF CLAIM FORM FOR CLAIMS AGAINST DIRECTORS AND/OR OFFICERS OF THE JUST ENERGY ENTITIES<sup>1</sup>

This Guide has been prepared to assist Claimants in filling out the D&O Proof of Claim form for claims against the Directors and/or Officers of the Just Energy Entities. If you have any additional questions regarding completion of the Proof of Claim, please consult the Claims Agent’s website at <https://omniagentsolutions.com/justenergyclaims> or contact the Claims Agent or the Monitor, whose respective contact information is set out below.

The D&O Proof of Claim form is ONLY for Claimants asserting a claim against any Directors and/or Officers of the Just Energy Entities, and NOT for claims against the Just Energy Entities themselves. For claims against the Just Energy Entities that are not covered in any Statement of Negative Notice Claim, please use the form titled “Proof of Claim Form for Claims Against the Just Energy Entities”, which is available on the Claims Agent’s website or the Monitor’s website at <http://cfcanada.fticonsulting.com/justenergy>.

Additional copies of the D&O Proof of Claim form may be found at the Claims Agent’s website or the Monitor’s website.

**Claimants are strongly encouraged to complete and submit their D&O Proof of Claim on the Claims Agent’s online claims submission portal which can be found at <https://omniagentsolutions.com/justenergyclaims>.**

Please note that this is a guide only, and that in the event of any inconsistency between the terms of this guide and the terms of the Claims Procedure Order made on ●, 2021 (the “**Claims Procedure Order**”), the terms of the Claims Procedure Order will govern. Capitalized terms used in this D&O Proof of Claim Instruction Letter and not otherwise defined herein have the meanings ascribed to them in the Claims Procedure Order.

#### SECTION 1 – DEBTOR(S)

1. The full name and position of all the Directors or Officers (present and former) of the Just Energy Entities against whom the D&O Claim is asserted must be listed (see footnote 1 for

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<sup>1</sup> The “**Just Energy Entities**” are Just Energy Group Inc., Just Energy Corp., Ontario Energy Commodities Inc., Universal Energy Corporation, Just Energy Finance Canada ULC, Hudson Energy Canada Corp., Just Management Corp., Just Energy Finance Holding Inc., 11929747 Canada Inc., 12175592 Canada Inc., JE Services Holdco I Inc., JE Services Holdco II Inc., 8704104 Canada Inc., Just Energy Advanced Solutions Corp., Just Energy (U.S.) Corp., Just Energy Illinois Corp., Just Energy Indiana Corp., Just Energy Massachusetts Corp., Just Energy New York Corp., Just Energy Texas I Corp., Just Energy, LLC, Just Energy Pennsylvania Corp., Just Energy Michigan Corp., Just Energy Solutions Inc., Hudson Energy Services LLC, Hudson Energy Corp., Interactive Energy Group LLC, Hudson Parent Holdings LLC, Drag Marketing LLC, Just Energy Advanced Solutions LLC, Fulcrum Retail Energy LLC, Fulcrum Retail Holdings LLC, Tara Energy, LLC, Just Energy Marketing Corp., Just Energy Connecticut Corp., Just Energy Limited, Just Solar Holdings Corp., Just Energy (Finance) Hungary Zrt., Just Energy Ontario L.P., Just Energy Manitoba L.P., Just Energy (B.C.) Limited Partnership, Just Energy Québec L.P., Just Energy Trading L.P., Just Energy Alberta L.P., Just Green L.P., Just Energy Prairies L.P., JEBPO Services LLP, and Just Energy Texas LP.

a complete list of the Just Energy Entities). If there are insufficient lines to record each such name, attach a separate schedule indicating the required information.

#### **SECTION 2A. – ORIGINAL CLAIMANT**

2. A separate D&O Proof of Claim must be filed by each legal entity or person asserting a claim against the Just Energy Entities' Directors or Officers.
3. The Claimant shall include any and all D&O Claims that it asserts against the Just Energy Entities' Directors or Officers in a single D&O Proof of Claim.
4. The full legal name of the Claimant must be provided.
5. If the Claimant operates under a different name or names, please indicate this in a separate schedule in the supporting documentation.
6. If the D&O Claim has been assigned or transferred to another party, Section 2B, described below, must also be completed.
7. Unless the D&O Claim is validly assigned or transferred, all future correspondence, notices, etc., regarding the D&O Claim will be directed to the address and contact indicated in this section.

#### **SECTION 2B. – ASSIGNEE, IF APPLICABLE**

8. If the Claimant has assigned or otherwise transferred its claim, then Section 2B must be completed, and all documents evidencing such assignment or transfer must be attached.
9. The full legal name of the Assignee must be provided.
10. If the Assignee operates under a different name or names, please indicate this in a separate schedule in the supporting documentation.
11. If the Just Energy Entities, in consultation with the Monitor, are satisfied that an assignment or transfer has occurred, all future correspondence, notices, etc., regarding the claim will be directed to the Assignee at the address and contact indicated in this section.

#### **SECTION 3 – AMOUNT AND TYPE OF D&O CLAIM**

12. If the D&O Claim is a Pre-Filing D&O Claim within the meaning of the Claims Procedure Order, then indicate the amount the Director(s) and/or Officer(s) was/were and still is/are indebted to the Claimant in the space reserved for Pre-Filing D&O Claims in the Amount of Claim column, including interest, if applicable, up to and including March 9, 2021.<sup>2</sup>
13. If the D&O Claim is a Restructuring Period D&O Claim within the meaning of the Claims Procedure Order, then indicate the amount the Director(s) and/or Officer(s) was/were and still is/are indebted to the Claimant in the space reserved for Restructuring Period D&O

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<sup>2</sup> Interest accruing from the Filing Date (March 9, 2021) shall not be included in any Claim.

Claims (which is below the space reserved for Pre-Filing D&O Claims) in the Amount of Claim column.

14. If there are insufficient lines to record each D&O Claim amount, attach a separate schedule indicating the required information.

#### **Currency**

15. The amount of the D&O Claim must be provided in the currency in which it arose.
16. Indicate the appropriate currency in the Currency column.
17. If the D&O Claim is denominated in multiple currencies, use a separate line to indicate the claim amount in each such currency. If there are insufficient lines to record these amounts, attach a separate schedule indicating the required information.

#### **SECTION 4 – DOCUMENTATION**

18. Attach to the D&O Proof of Claim form all particulars of the D&O Claim and all available supporting documentation, including amount and description of transaction(s) or agreement(s), and the legal basis for the D&O Claim against the specific Directors or Officers at issue.

#### **SECTION 5 – CERTIFICATION**

19. The person signing the D&O Proof of Claim should:
  - (a) be the Claimant or an authorized representative of the Claimant;
  - (b) have knowledge of all of the circumstances connected with this claim;
  - (c) assert the claim against the Debtor(s) as set out in the D&O Proof of Claim and certify all available supporting documentation is attached; and
  - (d) if an individual is submitting the D&O Proof of Claim form by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email, have a witness to its certification.
20. By signing and submitting the D&O Proof of Claim, the Claimant is asserting the claim against the Debtor(s) specified therein.

#### **SECTION 6 – FILING OF D&O CLAIM AND APPLICABLE DEADLINES**

21. If your D&O Claim is a Pre-Filing D&O Claim within the meaning of the Claims Procedure Order, the D&O Proof of Claim MUST be received by the Claims Agent or the Monitor on or before 5:00 p.m. (Toronto time) on November 1, 2021 (the “**Claims Bar Date**”).
22. If your D&O Claim is a Restructuring Period D&O Claim within the meaning of the Claims Procedure Order, the D&O Proof of Claim MUST be returned to and received by the Claims Agent or the Monitor by 5:00 p.m. (Toronto Time) on the date (the “**Restructuring**”).

**Period Claims Bar Date**”) that is the later of (i) the date that is 30 days after the date on which the Claims Agent or the Monitor sends a General Claims Package with respect to a Restructuring Period D&O Claim and (ii) the Claims Bar Date.

23. Claimants are strongly encouraged to complete and submit their D&O Proof of Claim on the Claims Agent’s online claims submission portal which can be found at <https://omniagentsolutions.com/justenergyclaims>. If not submitted at the online portal, D&O Proofs of Claim must be delivered to the Monitor or the Claims Agent by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email at one of the applicable addresses below:

If located in Canada:

FTI Consulting Canada Inc.,  
Just Energy Monitor  
P.O. Box 104, TD South Tower  
79 Wellington Street West  
Toronto Dominion Centre, Suite 2010  
Toronto, ON, M5K 1G8

Attention: Just Energy Claims Process  
Email: [claims.justenergy@fticonsulting.com](mailto:claims.justenergy@fticonsulting.com)  
Fax: 416.649.8101

If located in the United States or elsewhere:

Just Energy Claims Processing  
c/o Omni Agent Solutions  
5955 De Soto Ave., Suite 100  
Woodland Hills, CA 91367

In accordance with the Claims Procedure Order, notices shall be deemed to be received by the Claims Agent or the Monitor: (i) if submitted on the Claims Agent’s online portal, at the time such document is submitted, or (ii) upon actual receipt thereof by the Claims Agent or the Monitor during normal business hours on a Business Day, or if delivered outside of normal business hours, on the next Business Day.

**Failure to file your D&O Proof of Claim so that it is actually received by the Claims Agent or the Monitor on or before 5:00 p.m. on the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, WILL result in your D&O Claims being forever barred and you will be prevented from making or enforcing such D&O Claims against the Directors and Officers of the Just Energy Entities. In addition, you shall not be entitled to further notice of and shall not be entitled to participate as a creditor in the Just Energy Entities’ CCAA proceedings with respect to any such D&O Claims.**

## SCHEDULE "J"

**D&O PROOF OF CLAIM FORM  
FOR CLAIMS AGAINST  
DIRECTORS OR OFFICERS OF THE JUST ENERGY ENTITIES<sup>1</sup>**

This form is to be used only by Claimants asserting a Claim against any Directors and/or Officers of the Just Energy Entities and NOT for Claims against the Just Energy Entities themselves. For Claims against the Just Energy Entities that are not captured in any Statement of Negative Notice Claim, please use the form titled "Proof of Claim Form for Claims Against the Just Energy Entities", which is available on the Claims Agent's website at <https://omniagentsolutions.com/justenergyclaims> or the Monitor's website at <http://cfcanada.fticonsulting.com/justenergy>.

**Note: Claimants are strongly encouraged to complete and submit their D&O Proof of Claim on the Claims Agent's online claims submission portal which can be found at <https://omniagentsolutions.com/justenergyclaims>.**

**1. Name(s) and Position(s) of Officer(s) and/or Director(s) (the "Debtor(s)") the Claim is being made against:**

Debtor(s): \_\_\_\_\_

**2A. Original Claimant (the "Claimant")**

Legal Name of Claimant: _____	Name of Contact _____
Address _____	Title _____
_____	Phone # _____
_____	Fax # _____
City _____ Prov _____ /State _____	Email _____
Postal/Zip Code _____	

<sup>1</sup> The "Just Energy Entities" are Just Energy Group Inc., Just Energy Corp., Ontario Energy Commodities Inc., Universal Energy Corporation, Just Energy Finance Canada ULC, Hudson Energy Canada Corp., Just Management Corp., Just Energy Finance Holding Inc., 11929747 Canada Inc., 12175592 Canada Inc., JE Services Holdco I Inc., JE Services Holdco II Inc., 8704104 Canada Inc., Just Energy Advanced Solutions Corp., Just Energy (U.S.) Corp., Just Energy Illinois Corp., Just Energy Indiana Corp., Just Energy Massachusetts Corp., Just Energy New York Corp., Just Energy Texas I Corp., Just Energy, LLC, Just Energy Pennsylvania Corp., Just Energy Michigan Corp., Just Energy Solutions Inc., Hudson Energy Services LLC, Hudson Energy Corp., Interactive Energy Group LLC, Hudson Parent Holdings LLC, Drag Marketing LLC, Just Energy Advanced Solutions LLC, Fulcrum Retail Energy LLC, Fulcrum Retail Holdings LLC, Tara Energy, LLC, Just Energy Marketing Corp., Just Energy Connecticut Corp., Just Energy Limited, Just Solar Holdings Corp., Just Energy (Finance) Hungary Zrt., Just Energy Ontario L.P., Just Energy Manitoba L.P., Just Energy (B.C.) Limited Partnership, Just Energy Québec L.P., Just Energy Trading L.P., Just Energy Alberta L.P., Just Green L.P., Just Energy Prairies L.P., JEBPO Services LLP, and Just Energy Texas LP.

**2B. Assignee, if claim has been assigned**

Legal Name of Assignee: _____	Name of Contact _____
Address _____	Title _____
_____	Phone # _____
_____	Fax # _____
City _____ Prov /State _____	Email _____
Postal/Zip Code _____	

**3. Amount and Type of D&O Claim**

The Debtor(s) was/were and still is/are indebted to the Claimant as follows:

Name(s) of Director(s) and/or Officer(s)	Currency	Amount of Pre-Filing D&O Claim <i>(including interest, if applicable, up to and including March 9, 2021)</i>	Amount of Restructuring Period D&O Claim

**4. Documentation**

Provide all particulars of the D&O Claim and all available supporting documentation, including amount and description of transaction(s) or agreement(s), and the legal basis for the D&O Claim against the specific Directors or Officers at issue.

<b>5. Certification</b>	
I hereby certify that:	
<ol style="list-style-type: none"> <li>1. I am the Claimant or an authorized representative of the Claimant.</li> <li>2. I have knowledge of all the circumstances connected with this Claim.</li> <li>3. The Claimant asserts this Claim against the Debtor(s) as set out above.</li> <li>4. All available documentation in support of this Claim is attached.</li> </ol>	
All information submitted in this D&O Proof of Claim form must be true, accurate and complete. Filing a false D&O Proof of Claim may result in your Claim being disallowed in whole or in part and may result in further penalties.	
Signature: _____	Witness <sup>2</sup> : _____
Name: _____	(signature)
Title: _____	(print)
Dated at _____ this _____ day of _____, 2021.	

## 6. Filing of Claims and Applicable Deadlines

For Pre-Filing D&O Claims, this D&O Proof of Claim must be returned to and received by the Claims Agent or the Monitor by 5:00 p.m. (Toronto Time) on November 1, 2021 (the “**Claims Bar Date**”).

For Restructuring Period D&O Claims, this D&O Proof of Claim must be returned to and received by the Claims Agent or the Monitor by 5:00 p.m. (Toronto Time) on the later of (i) the date that is 30 days after the date on which the Claims Agent or the Monitor sends a General Claims Package with respect to a Restructuring Period D&O Claim and (ii) the Claims Bar Date (the “**Restructuring Period Claims Bar Date**”).

In each case, Claimants are strongly encouraged to complete and submit their D&O Proof of Claim on the Claims Agent’s online claims submission portal which can be found at <https://omniagentsolutions.com/justenergyclaims>. If not submitted at the online portal, D&O Proofs of Claim must be delivered to the Claims Agent or the Monitor by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email at one of the applicable addresses below:

<sup>2</sup> Witnesses are required if an individual is submitting this D&O Proof of Claim form by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email.

- 4 -

If located in Canada:

FTI Consulting Canada Inc.,  
Just Energy Monitor  
P.O. Box 104, TD South Tower  
79 Wellington Street West  
Toronto Dominion Centre, Suite 2010  
Toronto, ON, M5K 1G8

Attention: Just Energy Claims Process  
Email: [claims.justenergy@fticonsulting.com](mailto:claims.justenergy@fticonsulting.com)  
Fax: 416.649.8101

If located in the United States or  
elsewhere:

Just Energy Claims Processing  
c/o Omni Agent Solutions  
5955 De Soto Ave., Suite 100  
Woodland Hills, CA 91367

In accordance with the Claims Procedure Order, notices shall be deemed to be received by the Claims Agent or the Monitor: (i) if submitted on the Claims Agent's online portal, at the time such document is submitted, or (ii) upon actual receipt thereof by the Claims Agent or the Monitor during normal business hours on a Business Day, or if delivered outside of normal business hours, on the next Business Day.

**Failure to file your D&O Proof of Claim so that it is actually received by the Claims Agent or the Monitor on or before 5:00 p.m. on the Claims Bar Date or the Restructuring Period Claims Bar Date, as applicable, WILL result in your D&O Claims being forever barred and you will be prevented from making or enforcing such D&O Claims against the Directors and Officers of the Just Energy Entities. In addition, you shall not be entitled to further notice of and shall not be entitled to participate as a creditor in the Just Energy Entities' CCAA proceedings with respect to any such D&O Claims.**



IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, C. C-36, AS AMENDED

Court File No: CV-21-00658423-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JUST ENERGY GROUP INC., et al (collectively, the "**Applicants**")

---

*Ontario*  
**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

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**CLAIMS PROCEDURE ORDER**

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**OSLER, HOSKIN & HARCOURT, LLP**

P.O. Box 50, 1 First Canadian Place  
Toronto, ON M5X 1B8

Marc Wasserman (LSO# 44066M)

Michael De Lellis (LSO# 48038U)

Jeremy Dacks (LSO# 41851R)

Tel: (416) 362-2111

Fax: (416) 862-6666

Lawyers for the Applicants

---

THIS IS **EXHIBIT “C”** REFERRED TO IN THE AFFIDAVIT OF MICHAEL CARTER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the Town of Sibley, in the State of Louisiana while the Commissioner was located in the City of Toronto, in the Province of Ontario.

*Tiffany Sun*

---

Commissioner for Taking Affidavits  
Miao Sun (LSO No. 84440N)



## Just Energy Announces Execution of Stalking Horse Transaction Agreement and SISP Support Agreement and Filing of Motion for Approval of SISP

August 5, 2022

TORONTO, Aug. 05, 2022 (GLOBE NEWSWIRE) -- Just Energy Group Inc. ("**Just Energy**" or the "**Company**") (NEX:JE.H; OTC:JENGQ), a retail energy provider specializing in electricity and natural gas commodities and bringing energy efficient solutions and renewable energy options to customers, today announced that it has entered into a stalking horse transaction agreement (the "**Stalking Horse Transaction Agreement**") and a support agreement (the "**SISP Support Agreement**") (both subject to Court (as defined below) approval and each as described further below) in connection with a proposed sale and investment solicitation process ("**SISP**") that is intended to facilitate its exit from the company's ongoing insolvency proceedings as a going concern. Upon execution of the SISP Support Agreement, Just Energy and the other parties thereto terminated the previously announced plan support agreement and backstop commitment letter that was entered into in connection with the previously announced proposed plan of compromise and arrangement (the "**Plan**").

Just Energy and certain of its affiliates (collectively, the "**Just Energy Entities**") filed a motion in its proceedings under the *Companies' Creditors Arrangement Act* (the "**CCAA**") before the Ontario Superior Court of Justice (Commercial List) (the "**Court**") on August 4, 2022 for an Order (the "**SISP Order**") that, among other things: (i) authorizes the Company to conduct the SISP with the assistance of BMO Nesbitt Burns Inc., as financial advisor, and FTI Consulting Canada Inc., as Court-appointed monitor (the "**Monitor**"), in accordance with the terms therein (the "**SISP Procedures**"), and (ii) approves the execution by the applicable Just Energy Entities of the Stalking Horse Transaction Agreement and the SISP Support Agreement, each of which are described further below. The Just Energy Entities also intend to seek recognition in the U.S. of the SISP Order in their Chapter 15 cases.

Subject to the granting of the SISP Order at the motion scheduled for August 17, 2022:

- If one or more qualified bids (other than the transaction contemplated by the Stalking Horse Transaction Agreement) are received by September 29, 2022, then Just Energy intends to proceed with an auction to determine the successful bid(s), subject to the terms of the SISP Procedures. The qualified bid criteria under the terms of the SISP Procedures include, among other things, that bids:
  - provide the necessary Cash Consideration Value (as defined in the SISP Procedures) to be used together with the Just Energy Entities' cash on hand for the payment of all secured claims and all claims ranking in priority, the Break-Up Fee (as defined below) and a bid increment of no less than \$1,000,000, which Cash Consideration Value is estimated to be approximately USD\$460,000,000, assuming a closing date of December 31, 2022;
  - do not contain any board or equity holder approval, financing or due diligence conditions; and
  - are accompanied by a cash deposit equal to 10% of the Cash Consideration Value.
- If the Stalking Horse Purchaser (as defined below) is determined to be the successful bidder at the conclusion of the SISP and the transaction contemplated in the Stalking Horse Transaction Agreement (the "**Stalking Horse Transaction**") is subsequently approved by the Court, the Stalking Horse Purchaser will own all of the outstanding equity of Just Energy (U.S.) Corp., which will be the new parent company of all of the Just Energy Entities, including the Company, and the Just Energy Entities will continue their business and operations as a going concern. All currently outstanding shares, options and other equity of Just Energy will be cancelled or redeemed for no consideration and without any vote of the existing shareholders.

Interested parties are invited to participate in the SISP in accordance with the SISP Procedures. In order to participate in the SISP and obtain access to a virtual data room, all interested parties must comply with the terms and conditions set forth in the SISP Procedures, a copy of which will be attached to the SISP Order and available on the Monitor's website at <http://cfcanada.fticonsulting.com/justenergy>. Parties interested in participating in the SISP should contact the Monitor at [justenergy@fticonsulting.com](mailto:justenergy@fticonsulting.com).

A copy of the Stalking Horse Transaction Agreement and SISP Support Agreement will be made available on the SEDAR website at [www.sedar.com](http://www.sedar.com), on the U.S. Securities and Exchange Commission's website at [www.sec.gov](http://www.sec.gov) and on Just Energy's website at [www.investors.justenergy.com](http://www.investors.justenergy.com).

Further information regarding the CCAA proceedings is available at the Monitor's website at <http://cfcanada.fticonsulting.com/justenergy> and at the Omni Agent Solutions case website at <https://cases.omniagentsolutions.com/?clientId=3600>.

Information about the CCAA proceedings generally can also be obtained by contacting the Monitor by phone at 416-649-8127 or 1-844-669-6340, or by email at [justenergy@fticonsulting.com](mailto:justenergy@fticonsulting.com).

### STALKING HORSE TRANSACTION AGREEMENT

Just Energy has entered into the Stalking Horse Transaction Agreement with the lenders under the Company's debtor-in-possession financing facility, one of their affiliates and the holder of certain assigned secured claims (collectively, the "**Stalking Horse Purchaser**"). Key terms of the Stalking Horse Transaction include:

- The purchase price payable pursuant to the Stalking Horse Transaction is (i) cash in the amount of US\$184,857,692.31, plus up to an additional \$10 million solely in the event that additional amounts are required to make applicable payments pursuant to the Stalking Horse Transaction Agreement; plus (ii) a credit bid of approximately US\$230 million plus accrued interest of secured claims assigned to the Stalking Horse Purchaser; plus (iii) the assumption of Assumed Liabilities (as defined below), including up to CAD\$10 million owing under the Company's first lien credit facility (the "**Credit Facility Remaining Debt**") to remain outstanding under an amended and restated credit agreement.
- Post-filing claims, the Credit Facility Remaining Debt, claims by energy regulators, and certain other liabilities enumerated in the Stalking Horse Transaction Agreement ("**Assumed Liabilities**") will continue to be liabilities of the Just Energy Entities following consummation of the Stalking Horse Transaction. Excluded liabilities and excluded assets of the Just Energy Entities will be discharged from the Just Energy Entities pursuant to an Approval and Vesting Order to be sought subject to the Stalking Horse Transaction being the successful bid in the SISP.

The consummation of the Stalking Horse Transaction is subject to satisfaction or waiver of a number of conditions precedent set forth in the Stalking Horse Transaction Agreement including, among other things, receipt of all required regulatory approvals and the Court granting an Approval and Vesting Order by October 15, 2022 and the recognition of such Approval and Vesting Order by the U.S. Court under Chapter 15 by November 16, 2022. The outside date for completion of the Stalking Horse Transaction is November 30, 2022, subject to extension in certain circumstances described in the Stalking Horse Transaction Agreement.

In the event the Stalking Horse Transaction Agreement is terminated in accordance with applicable terms, payment of a Break-Up Fee as described below is required.

Under the Stalking Horse Transaction, no amounts will be available for distribution to the Just Energy Entities' general unsecured creditors, including the Term Loan Lenders.

#### **SISP SUPPORT AGREEMENT**

In connection with the Stalking Horse Transaction Agreement, the Just Energy Entities have entered into the SISP Support Agreement with: (a) the Stalking Horse Purchaser, (b) the Company's credit facility lenders, and (c) the Company's largest commodity supplier. Pursuant to the SISP Support Agreement, among other things, the Just Energy Entities have agreed to use commercially reasonable efforts to complete the Stalking Horse Transaction (subject to carrying out the SISP in accordance with the SISP Order), and the other counterparties have agreed to take actions to support the Stalking Horse Transaction, in each case on the terms and conditions set forth in the SISP Support Agreement.

The SISP Support Agreement may be terminated in certain circumstances, including by any of the Just Energy Entities in the event that the board of directors or similar governing body of such entity determines, upon the advice of outside legal counsel and financial advisors, that proceeding with the Stalking Horse Transaction would be inconsistent with the exercise of its fiduciary duties or applicable law; provided that the Just Energy Entities do not have this right to terminate the SISP Support Agreement if no qualified bids are received under the SISP by the applicable deadline or the Stalking Horse Transaction is declared the successful bid in accordance with the SISP Procedures.

In the foregoing termination scenario or in the event of Court approval of an alternative transaction, the Just Energy Entities would be required to pay a termination fee to the Stalking Horse Purchaser in the amount of US\$14.66 million (the "**Break-Up Fee**") on closing of an alternative transaction, subject to the granting of the SISP Order.

#### **FURTHER INFORMATION**

The Company has been advised by OC II VS XIV LP ("OC II"), a Delaware limited partnership, and certain other funds under common management with OC II (collectively, the "Funds"), who own approximately 29% of the issued and outstanding common shares of the Company, that OC II has filed an amended early warning report pursuant to Canadian securities laws to provide updated disclosure relating to the Funds' participation in the Stalking Horse Transaction, which is available at [www.sedar.com](http://www.sedar.com) under the Company's issuer profile.

The above descriptions are summaries only and are subject to the terms of the Stalking Horse Transaction Agreement and SISP Support Agreement, copies of which are available on the Monitor's website and will be made available on the SEDAR website at [www.sedar.com](http://www.sedar.com), on the U.S. Securities and Exchange Commission's website at [www.sec.gov](http://www.sec.gov) and on Just Energy's website at <https://investors.justenergy.com/>.

Just Energy's legal advisors in connection with the CCAA and Chapter 15 proceedings and proposed SISP are Osler, Hoskin & Harcourt LLP and Kirkland & Ellis LLP. The Company's financial advisor is BMO Nesbit Burns Capital Markets.

#### **About Just Energy Group Inc.**

Just Energy is a retail energy provider specializing in electricity and natural gas commodities and bringing energy efficient solutions, carbon offsets and renewable energy options to customers. Currently operating in the United States and Canada, Just Energy serves residential and commercial customers. Just Energy is the parent company of Amigo Energy, Filter Group, Hudson Energy, Interactive Energy Group, Tara Energy, and Terrapass. Visit <https://investors.iustenergy.com/> to learn more.

#### **FORWARD-LOOKING STATEMENTS**

*This press release may contain forward-looking statements, including, without limitation, expectations regarding: the pursuit of a SISP by the Just Energy Entities and the anticipated results thereof; consummation of the Stalking Horse Transaction and the anticipated results thereof; the ability of the Just Energy Entities to continue as a going concern following consummation of the Stalking Horse Transaction; and timing for applications to the*

*Court for required approvals. These statements are based on current expectations that involve several risks and uncertainties which could cause actual results to differ from those anticipated. These risks include, but are not limited to, risks with respect to: granting of the SISP Order and recognition thereof by the U.S. Court; satisfaction of the conditions precedent to consummation of the Stalking Horse Transaction, including approval thereof by the Court and the U.S. Court and receipt of all required regulatory approvals; the ability of the Just Energy Entities to continue as a going concern; the outcome of proceedings under the CCAA and similar legislation in the United States; the outcome of any potential litigation with respect to the February 2021 extreme weather event in Texas, the outcome of any invoice dispute with the Electric Reliability Council of Texas; the impact of the evolving COVID-19 pandemic on the Company's business, operations and sales; uncertainties relating to the ultimate spread, severity and duration of COVID-19 and related adverse effects on the economies and financial markets of countries in which the Company operates; the ability of the Company to successfully implement its business continuity plans with respect to the COVID-19 pandemic; the Company's ability to access sufficient capital to provide liquidity to manage its cash flow requirements; general economic, business and market conditions; the ability of management to execute its business plan; levels of customer natural gas and electricity consumption; extreme weather conditions; rates of customer additions and renewals; customer credit risk; rates of customer attrition; fluctuations in natural gas and electricity prices; interest and exchange rates; actions taken by governmental authorities including energy marketing regulation; increases in taxes and changes in government regulations and incentive programs; changes in regulatory regimes; results of litigation and decisions by regulatory authorities; competition; and dependence on certain suppliers. Additional information on these and other factors that could affect Just Energy's operations or financial results are included in Just Energy's annual information form and other reports on file with Canadian securities regulatory authorities which can be accessed through the SEDAR website at [www.sedar.com](http://www.sedar.com) and on the U.S. Securities and Exchange Commission's website at [www.sec.gov](http://www.sec.gov) or through Just Energy's website at [investors.justenergy.com](http://investors.justenergy.com).*

**FOR FURTHER INFORMATION PLEASE CONTACT:**

**Investors**

Michael Cummings  
Alpha IR  
Phone: (617) 982-0475  
[JE@alpha-ir.com](mailto:JE@alpha-ir.com)

Michael Carter  
Just Energy, Chief Financial Officer  
Phone: 905-670-4440  
[pr@justenergy.com](mailto:pr@justenergy.com)

**Court-appointed Monitor**

FTI Consulting Canada Inc.  
Phone: 416-649-8127 or 1-844-669-6340  
[justenergy@fticonsulting.com](mailto:justenergy@fticonsulting.com)

**Media**

Holly Winter  
Longview Communications  
Phone: 416-454-7595  
[hwinter@longviewcomms.ca](mailto:hwinter@longviewcomms.ca)

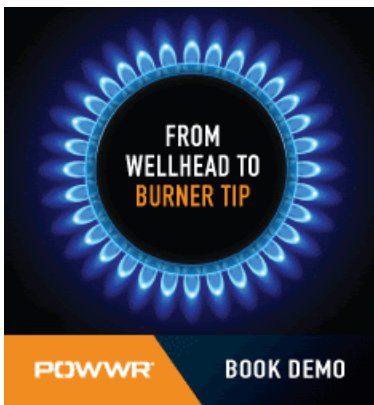
**Source:** Just Energy Group Inc

THIS IS **EXHIBIT “D”** REFERRED TO IN THE AFFIDAVIT OF MICHAEL CARTER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the Town of Sibley, in the State of Louisiana while the Commissioner was located in the City of Toronto, in the Province of Ontario.

*Tiffany Sun*

---

Commissioner for Taking Affidavits  
Miao Sun (LSO No. 84440N)



## Just Energy Announces Execution Of Stalking Horse Transaction Agreement

August 5, 2022

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Reporting by Paul Ring • [ring@energychoicematters.com](mailto:ring@energychoicematters.com)

The following story is brought free of charge to readers by [EC Infosystems](#), the exclusive EDI provider of EnergyChoiceMatters.com

Just Energy Group Inc. ('Just Energy' or the 'Company') announced that it has entered into a stalking horse transaction agreement (the 'Stalking Horse Transaction Agreement') and a support agreement (the 'SISP Support Agreement') (both subject to Court (as defined below) approval and each as described further below) in connection with a proposed sale and investment solicitation process ('SISP') that is intended to facilitate its exit from the company's ongoing insolvency proceedings as a going concern.

Upon execution of the SISP Support Agreement, Just Energy and the other parties thereto terminated the previously announced plan support agreement and backstop commitment letter that was entered into in connection with the previously announced proposed plan of compromise and arrangement (the 'Plan').

Just Energy and certain of its affiliates (collectively, the 'Just Energy Entities') filed a motion in its proceedings under the Companies' Creditors Arrangement Act (the 'CCAA') before the Ontario Superior Court of Justice (Commercial List) (the 'Court') on August 4, 2022 for an Order (the 'SISP Order') that, among other things: (i) authorizes the Company to conduct the SISP, and (ii) approves the execution by the applicable Just Energy Entities of the Stalking Horse Transaction Agreement and the SISP Support Agreement, each of which are described further below. The Just Energy Entities also intend to seek recognition in the U.S. of the SISP Order in their Chapter 15 cases.

Subject to the granting of the SISP Order at the motion scheduled for August 17, 2022:

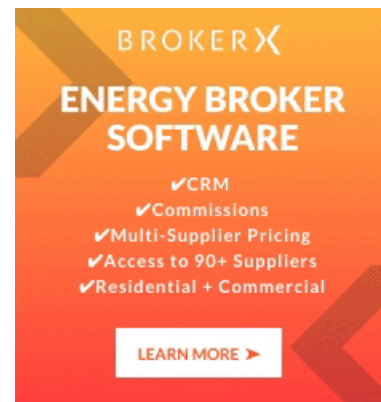
- If one or more qualified bids (other than the transaction contemplated by the Stalking Horse Transaction Agreement) are received by September 29, 2022, then Just Energy intends to proceed with an auction to determine the successful bid(s), subject to the terms of the SISP Procedures. The qualified bid criteria under the terms of the SISP Procedures include, among other things, that bids:

--- provide the necessary Cash Consideration Value (as defined in the SISP Procedures) to be used together with the Just Energy Entities' cash on hand for the payment of all secured claims and all claims ranking in priority, the Break-Up Fee (as defined below) and a bid increment of no less than \$1,000,000, which Cash Consideration Value is estimated to be approximately USD\$460,000,000, assuming a closing date of December 31, 2022;

--- do not contain any board or equity holder approval, financing or due diligence conditions; and

--- are accompanied by a cash deposit equal to 10% of the Cash Consideration Value.

- If the Stalking Horse Purchaser (as defined below) is determined to be the successful bidder at the conclusion of the SISP and the transaction contemplated in the Stalking Horse Transaction Agreement (the 'Stalking Horse Transaction') is subsequently





approved by the Court, the Stalking Horse Purchaser will own all of the outstanding equity of Just Energy (U.S.) Corp., which will be the new parent company of all of the Just Energy Entities, including the Company, and the Just Energy Entities will continue their business and operations as a going concern. All currently outstanding shares, options and other equity of Just Energy will be cancelled or redeemed for no consideration and without any vote of the existing shareholders.

Interested parties are invited to participate in the SISP in accordance with the SISP Procedures. In order to participate in the SISP and obtain access to a virtual data room, all interested parties must comply with the terms and conditions set forth in the SISP Procedures, a copy of which will be attached to the SISP Order

A copy of the Stalking Horse Transaction Agreement and SISP Support Agreement will be made available on Just Energy's investor page, as well as filed with the SEC and SEDAR

#### STALKING HORSE TRANSACTION AGREEMENT

Just Energy has entered into the Stalking Horse Transaction Agreement with the lenders under the Company's debtor-in-possession financing facility, one of their affiliates and the holder of certain assigned secured claims (collectively, the 'Stalking Horse Purchaser').

Key terms of the Stalking Horse Transaction include:

- The purchase price payable pursuant to the Stalking Horse Transaction is (i) cash in the amount of US\$184,857,692.31, plus up to an additional \$10 million solely in the event that additional amounts are required to make applicable payments pursuant to the Stalking Horse Transaction Agreement; plus (ii) a credit bid of approximately US\$230 million plus accrued interest of secured claims assigned to the Stalking Horse Purchaser; plus (iii) the assumption of Assumed Liabilities (as defined below), including up to CAD\$10 million owing under the Company's first lien credit facility (the 'Credit Facility Remaining Debt') to remain outstanding under an amended and restated credit agreement.
- Post-filing claims, the Credit Facility Remaining Debt, claims by energy regulators, and certain other liabilities enumerated in the Stalking Horse Transaction Agreement ('Assumed Liabilities') will continue to be liabilities of the Just Energy Entities following consummation of the Stalking Horse Transaction. Excluded liabilities and excluded assets of the Just Energy Entities will be discharged from the Just Energy Entities pursuant to an Approval and Vesting Order to be sought subject to the Stalking Horse Transaction being the successful bid in the SISP.

The consummation of the Stalking Horse Transaction is subject to satisfaction or waiver of a number of conditions precedent set forth in the Stalking Horse Transaction Agreement including, among other things, receipt of all required regulatory approvals and the Court granting an Approval and Vesting Order by October 15, 2022 and the recognition of such Approval and Vesting Order by the U.S. Court under Chapter 15 by November 16, 2022. The outside date for completion of the Stalking Horse Transaction is November 30, 2022, subject to extension in certain circumstances described in the Stalking Horse Transaction Agreement.

In the event the Stalking Horse Transaction Agreement is terminated in accordance with applicable terms, payment of a Break-Up Fee as described below is required.

Under the Stalking Horse Transaction, no amounts will be available for distribution to the Just Energy Entities' general unsecured creditors, including the Term Loan Lenders.

#### SISP SUPPORT AGREEMENT

In connection with the Stalking Horse Transaction Agreement, the Just Energy Entities have entered into the SISP Support Agreement with: (a) the Stalking





Horse Purchaser, (b) the Company's credit facility lenders, and (c) the Company's largest commodity supplier. Pursuant to the SISP Support Agreement, among other things, the Just Energy Entities have agreed to use commercially reasonable efforts to complete the Stalking Horse Transaction (subject to carrying out the SISP in accordance with the SISP Order), and the other counterparties have agreed to take actions to support the Stalking Horse Transaction, in each case on the terms and conditions set forth in the SISP Support Agreement.

The SISP Support Agreement may be terminated in certain circumstances, including by any of the Just Energy Entities in the event that the board of directors or similar governing body of such entity determines, upon the advice of outside legal counsel and financial advisors, that proceeding with the Stalking Horse Transaction would be inconsistent with the exercise of its fiduciary duties or applicable law; provided that the Just Energy Entities do not have this right to terminate the SISP Support Agreement if no qualified bids are received under the SISP by the applicable deadline or the Stalking Horse Transaction is declared the successful bid in accordance with the SISP Procedures.

In the foregoing termination scenario or in the event of Court approval of an alternative transaction, the Just Energy Entities would be required to pay a termination fee to the Stalking Horse Purchaser in the amount of US\$14.66 million (the 'Break-Up Fee') on closing of an alternative transaction, subject to the granting of the SISP Order.

#### FURTHER INFORMATION

The Company has been advised by OC II VS XIV LP ('OC II'), a Delaware limited partnership, and certain other funds under common management with OC II (collectively, the 'Funds'), who own approximately 29% of the issued and outstanding common shares of the Company, that OC II has filed an amended early warning report pursuant to Canadian securities laws to provide updated disclosure relating to the Funds' participation in the Stalking Horse Transaction

#### ADVERTISEMENT

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- **NEW!** -- [Energy Advisor, PJM -- Retail Supplier](#)
- **NEW!** -- [Senior Retail Transportation Analyst \(Gas Transport Services\)](#)
- **NEW!** -- [Sales Business Development Manager – Residential Sales -- Retail Supplier](#)
- **NEW!** -- [Regulatory Affairs Specialist -- Retail Supplier -- Houston](#)
- **NEW!** -- [Senior Supply & Schedule Analyst -- Retail Supplier](#)
- **NEW!** -- [Field Analyst I, Sales Quality -- Retail Supplier](#)
- **NEW!** -- [Regulatory Compliance and Strategy Manager -- Retail Supplier](#)
- **NEW!** -- [Channel Marketing Strategy Lead -- Retail Supplier](#)
- [Accounting Manager -- Retail Supplier](#)
- [Business Development Analyst -- Retail Supplier](#)
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THIS IS **EXHIBIT “E”** REFERRED TO IN THE AFFIDAVIT OF MICHAEL CARTER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the Town of Sibley, in the State of Louisiana while the Commissioner was located in the City of Toronto, in the Province of Ontario.

*Tiffany Sun*

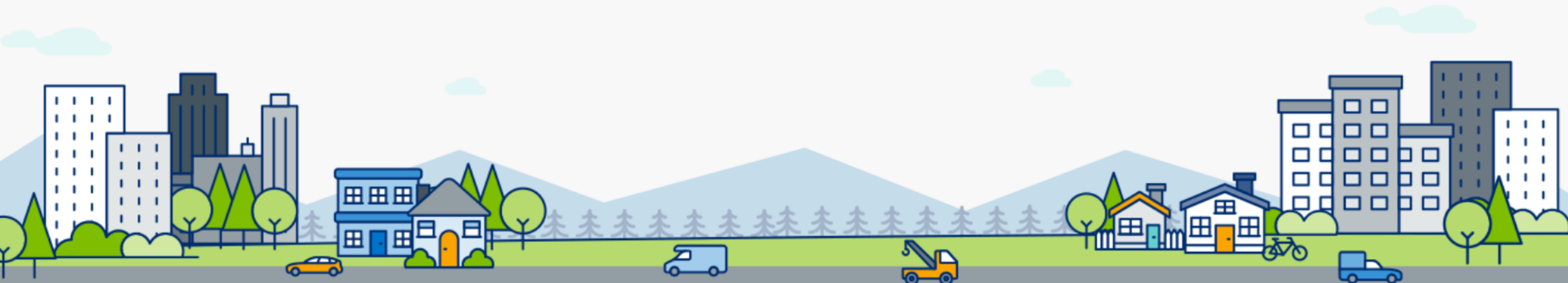
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Commissioner for Taking Affidavits  
Miao Sun (LSO No. 84440N)



# Investment Opportunity

August 2022



## **Forward-Looking Statements**

*This presentation of Just Energy Group Inc. (the “Company”) contains forward-looking information and/or forward-looking statements (collectively, “Forward-Looking Statements”) pertaining to, among other things, customer revenues and margins, customer additions and renewals, customer consumption levels, sales and operations. Descriptions of the Company’s objectives, goals, targets, plans, strategies, and projected financial and operating performance are also Forward-Looking Statements. These statements are based on current expectations that involve a number of risks and uncertainties which could cause actual results to differ from those anticipated. These risks include, but are not limited to, risks with respect to the ability of the Company to continue as a going concern; the outcome of proceedings under the Companies’ Creditors Protection Act (Canada) (“CCAA”) and Chapter 15 of the United States Bankruptcy Code; the outcome of any legislative or regulatory actions in connection with the Texas extreme weather event in February 2021 (the “Weather Event”); the outcome of any invoice disputes with the Electricity Reliability Council of Texas (“ERCOT”); the outcome of any litigation in connection with the Weather Event; the ultimate quantum of the financial loss to the Company from the Weather Event and its impact on the Company’s liquidity; the impact of the evolving COVID-19 pandemic on the Company’s business, operations and sales; uncertainties relating to the ultimate spread, severity and duration of COVID-19 and related adverse effects on the economies and financial markets of countries in which the Company operates; the Company’s ability to access sufficient capital to provide liquidity to manage its cash flow requirements; general economic, business and market conditions; the ability of management to execute its business plan; levels of customer natural gas and electricity consumption; extreme weather conditions; rates of customer additions and renewals; customer credit risk; rates of customer attrition; fluctuations in natural gas and electricity prices; interest and exchange rates; actions taken by governmental authorities including energy marketing regulation; increases in taxes and changes in government regulations and incentive programs; changes in regulatory regimes; results of litigation and decisions by regulatory authorities; competition; dependence on certain suppliers. Additional information on these and other factors that could affect Just Energy’s operations or financial results are included in Just Energy’s annual information form and other reports on file with Canadian securities regulatory authorities which can be accessed through the SEDAR website at [www.sedar.com](http://www.sedar.com) on the U.S. Securities and Exchange Commission’s website at [www.sec.gov](http://www.sec.gov) or through Just Energy’s website at [investors.justenergy.com](http://investors.justenergy.com). All Forward-Looking Statements in this presentation are given as of the date of this presentation and the Company disclaims any intention or obligation to update or revise any forward looking statements, whether as a result of new information, future events, or otherwise.*

## **Non-IFRS Measures**

*This presentation refers to certain financial measures that are not determined in accordance with International Financial Reporting Standards (IFRS) as adopted by the International Accounting Standards Board. Such non-IFRS financial measures include, but are not limited to, “EBITDA”, “Base EBITDA” and “Base Gross Margin”. These non-IFRS financial measures do not have standardized meanings prescribed by IFRS and may not be comparable to similar measures presented by other companies. These non-IFRS financial measures should not be considered as an alternative to, or more meaningful than, net income (loss), cash flow from operating activities and other measures of financial performance as determined in accordance with IFRS, but we believe these non-IFRS financial measures are useful in providing relative performance and measuring change. Definitions of non-IFRS financial measures used in this presentation are found under the heading “Non-IFRS financial measures” in the Company’s annual MD&A.*

Just Energy (“JE”) is the largest independent electricity and natural gas retailer that sells to residential and commercial customers in United States and Canada under primarily fixed-price and price-protected contracts; the company also offers green energy products to customers to offset their energy consumption

## SELECTED FINANCIAL METRICS

REVENUE <sup>(1)</sup>	BASE EBITDA <sup>(1)</sup>	EMBEDDED GROSS MARGIN <sup>(2)(3)</sup>	TOTAL ASSETS <sup>(2)</sup>
C\$2.7B	C\$92M	~C\$1.4B	~C\$2.0B

**ESTABLISHED CUSTOMER BASE<sup>(2)</sup>**

~2.9M

RCEs

**CUSTOMER DIVERSITY<sup>(2)</sup>**

44% / 56%  
Mass Markets / Commercial

78% / 22%  
Power / Gas

by RCEs

**TOTAL EMPLOYEES<sup>(4)</sup>**

1,161

As of 03/31/2022

**DIVERSE FOOTPRINT**

27

Active Commodity Markets<sup>(5)</sup>

**HEADQUARTERS**

Houston / Toronto

Dual Headquarters

**FOUNDED**

1997

25 Years of Industry Experience

(1) Last Twelve Months as of March 31, 2022.

(2) As of March 31, 2022.

(3) Represents gross margin of the committed and renewal books.

(4) Additional 120 external contractor agents for Telesales and CS team.

(5) States / provinces that are dual-fuel (provide both natural gas and electricity) are considered two separate markets.

## Platform Highlights

- **Largest independent REP** in North America
- **Diversified platform with operating scale** across 27 markets, both electric and gas commodities and all customer product types
- **Over two decades of operations**, an impressive and evolving institutional knowledge base and **deep management expertise**
- Leadership across all sales channels with **expertise and unique capabilities in Digital, Retail, Door-to-Door and C&I (Hudson)**
- **Opportunity to capture further efficiencies** over time in support of an attractive growth profile

## Strategic Growth Plan

- Reinforce and leverage our **industry-leading sales engines**
- Focused on **quality customers** going forward
- Focus on **sustainability** and green product offerings
- Leverage **customer data** to make better decisions regarding: sales channel investments, product offerings, etc.
- Enhance the **customer experience** by understanding our customers and anticipating what they want (e.g., ease of use)
- Prioritize **operational excellence and discipline** to drive greater efficiency across the platform














PROFITABLE  
GROWTH

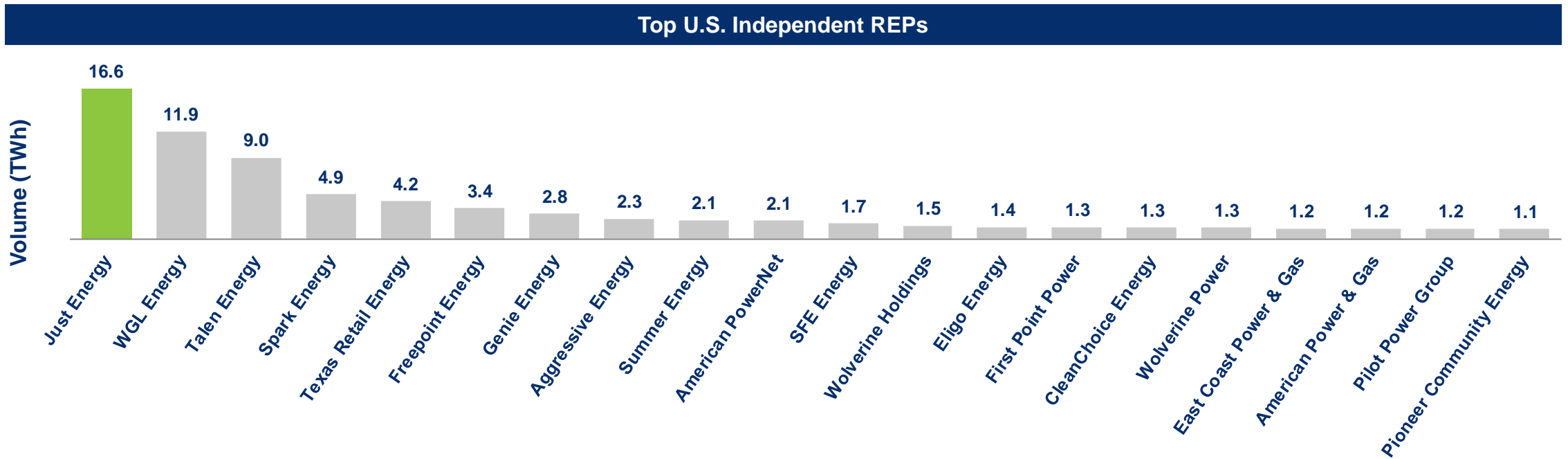
INNOVATIO

TECHNOLOGY ENABLER

ROBUST PLATFORM AND TALENTED EMPLOYEES

# Leading Independent Retail Energy Platform

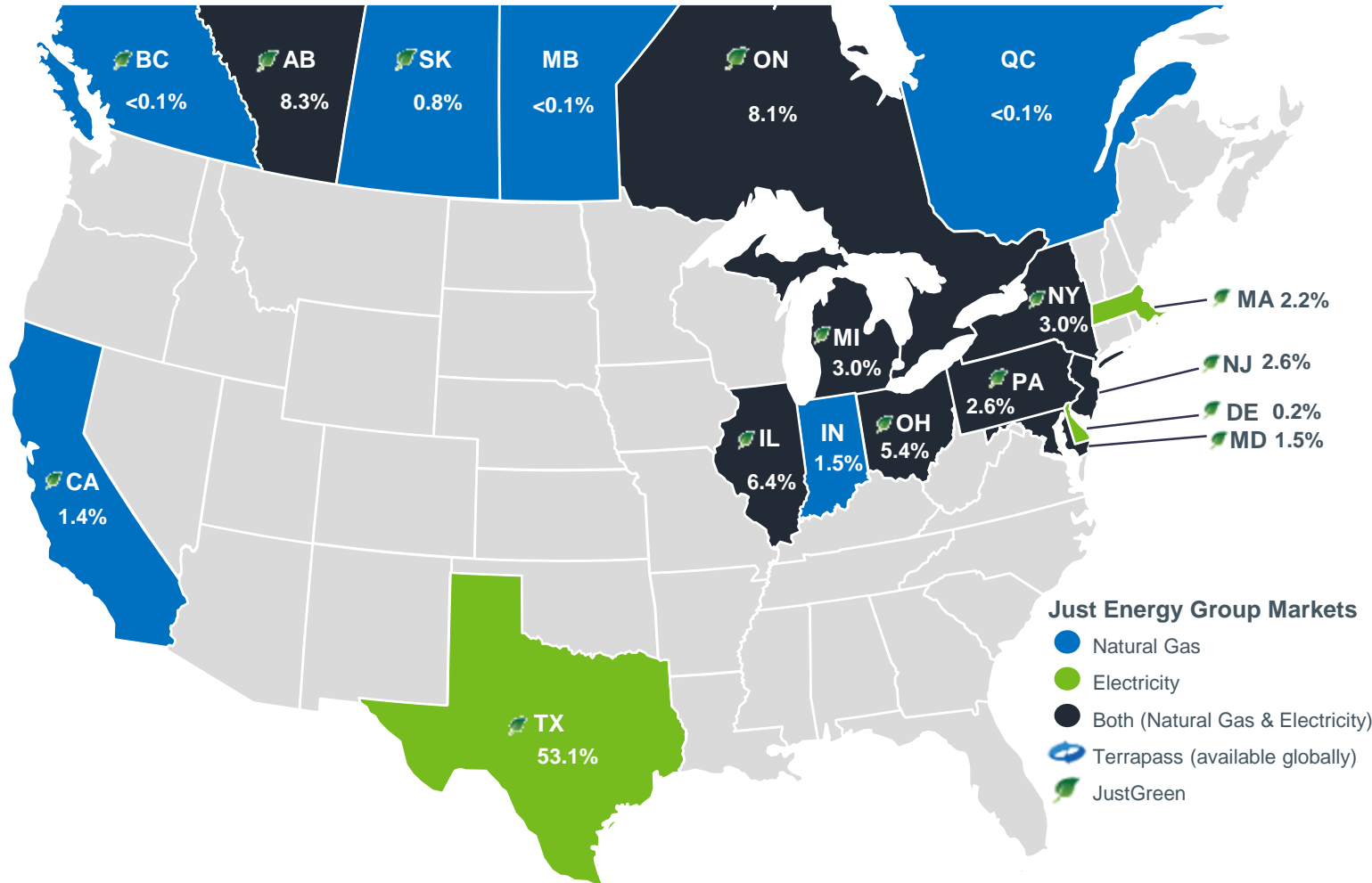
Brands			Products & Services		
			 Electricity	 Renewable Energy Certificates	
			 Natural Gas	 Carbon Offsets	
			 Energy Efficiency	 Water Filters / Home Subscription Products	



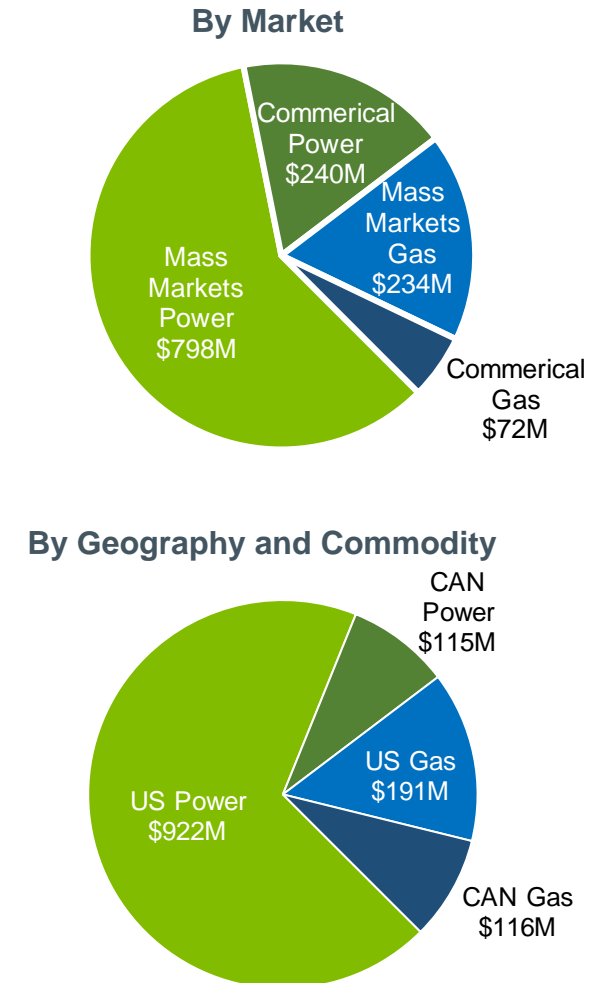
# Geographic Footprint

## North American Platform with Diversified Commodity Offering

Embedded Gross Margin by Geography<sup>(1)(2)</sup>



EGM Breakdown<sup>(1)</sup>



Note: Total EGM of \$1,344M as at March 31, 2022, represents gross margin of committed and renewal books.

(1) Excludes ~\$30M of EGM attributable to Filter Group and IEG.

(2) Excludes \$670K of Large C&I EGM attributable to Canada Natural Gas segment.



## Complementary Customer and Contract Mix

### Customer Divisions



#### Mass Markets

- Caters to residential customers in single and multi-family homes, and to small / medium business customers primarily through our affinity brands
- Focused on price-protected offerings as well as sustainability products
- Sales made through digital, retail store kiosks and door-to-door professionals
- The strongest sales growth is being driven through the digital and retail channels

*Higher margin channel and a focus for future growth*



#### Hudson Commercial

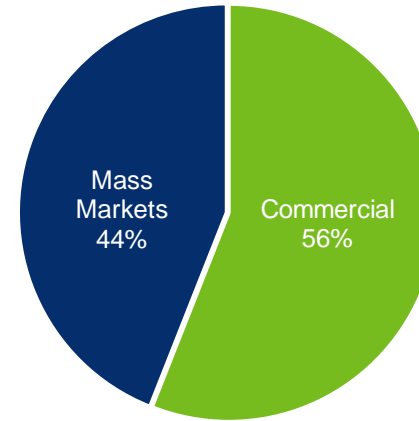
- Caters to small and medium commercial customers (current average customer size: ~30 RCEs)
- Sales primarily through brokers and exclusive 3<sup>rd</sup> party independent consultants

*Low attrition rate channel with attractive long-term contracts*

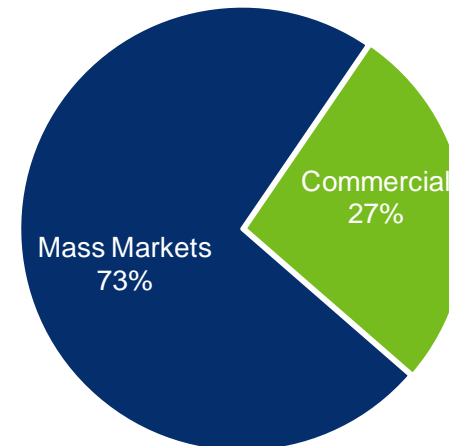


### Customer Mix

Customer Base (RCEs)<sup>(1)</sup>

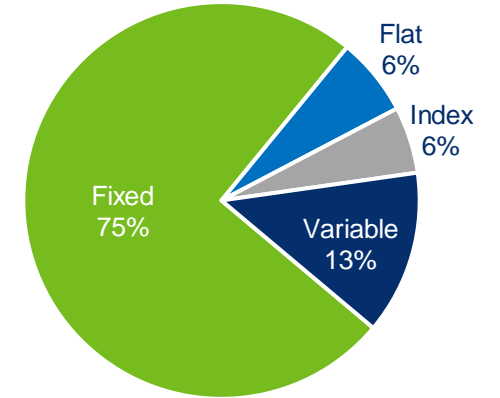


Base Gross Margin<sup>(3)</sup>

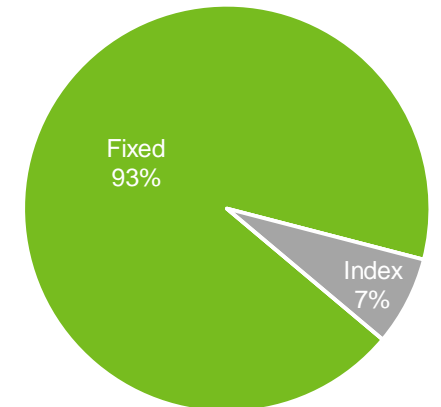


### Contract Mix

Mass Markets<sup>(2)</sup>



Commercial<sup>(2)</sup>



(1) Customer base (total RCEs) as of March 31, 2022.

(2) Based on RCEs as of March 31, 2022.





(3) Base Gross Margin on a fiscal YTD basis as of March 31, 2022.

# Sales Channel Overview

*Established multi-channel sales infrastructure*

## Mass Markets Channel



Digital Marketing	Paid Search	<ul style="list-style-type: none"> <li>Foundations of a world class digital marketing sales channel are in place</li> <li>Search prospects driven to branded and unbranded sites</li> </ul>
	Organic Search	<ul style="list-style-type: none"> <li>Digital traffic is sold through online enrollment carts or inbound tele-sales</li> </ul>
	Marketplace	<ul style="list-style-type: none"> <li>Launched Energy Savings marketplace to boost digital monetization</li> </ul> 
Direct In-Person	Retail	<ul style="list-style-type: none"> <li>In-person enrollments through kiosks across national and regional retailers</li> <li>JE currently has access to staff at ~500 stores across North America</li> </ul>   
	Door-to-Door	<ul style="list-style-type: none"> <li>Selling directly in-person to homeowners through independent marketing companies</li> </ul>
SMB <sup>(2)</sup>	Affinity	<ul style="list-style-type: none"> <li>Strong focus on relationship referrals, coupled with direct in-person and digital marketing</li> <li>A multi-linguistic approach targeting Hispanic and South Asian communities</li> </ul>

## Commercial Channel Overview



Broker	<ul style="list-style-type: none"> <li>Seasoned business development team selling through ~650 third-party Aggregators, Brokers and Consultants across North America</li> <li>Partners have access to self-serve portal and responsive support team to ensure ease and low cost of doing business</li> </ul>
Exclusive Third-Party	<ul style="list-style-type: none"> <li>Professional, established sales team of ~150 agents across North America</li> <li>Sales team engages customers via phone, email and in-person meetings, and is fully supported by a dynamic team of internal employees</li> </ul>

## Hudson Brand Overview

	<ul style="list-style-type: none"> <li>Leading North American C&amp;I brand and largest by volume among all independent North American REPs <sup>(1)</sup></li> <li>Self-service portal, River Connex, is a key differentiator and recognized platform of choice</li> <li>Unmatched industry experience and team leadership capabilities across all aspects of the platform (e.g., Sales, Pricing, Operations, etc.)</li> </ul>
---	---

Source: EIA, Public Filings

(1) As of March 31, 2022; EIA data represents 2020A figures; updated for subsequent events based on public filings.

(2) Small commercial business which includes both direct and digital sales to small and medium businesses primarily through our affinity brands (Amigo & Tara) as well as JE.

JE offers an array of energy products to meet the diverse needs of Mass Markets and Commercial customers

## Fixed-Price Contracts

- Allows customers to lock in their energy supply rates for up to five years and avoid fluctuations in market commodity prices

## Index-Price Contracts

- Direct pass-through of commodity price fluctuations tied to market commodity price indices
- Commercial customers can combine index-price and other hedging strategies (Structured Products) to meet their specific needs

## Flat Bill

- Customers are billed a flat fee per month for up to five years
- Can include a cap, with a fixed rate for excess usage

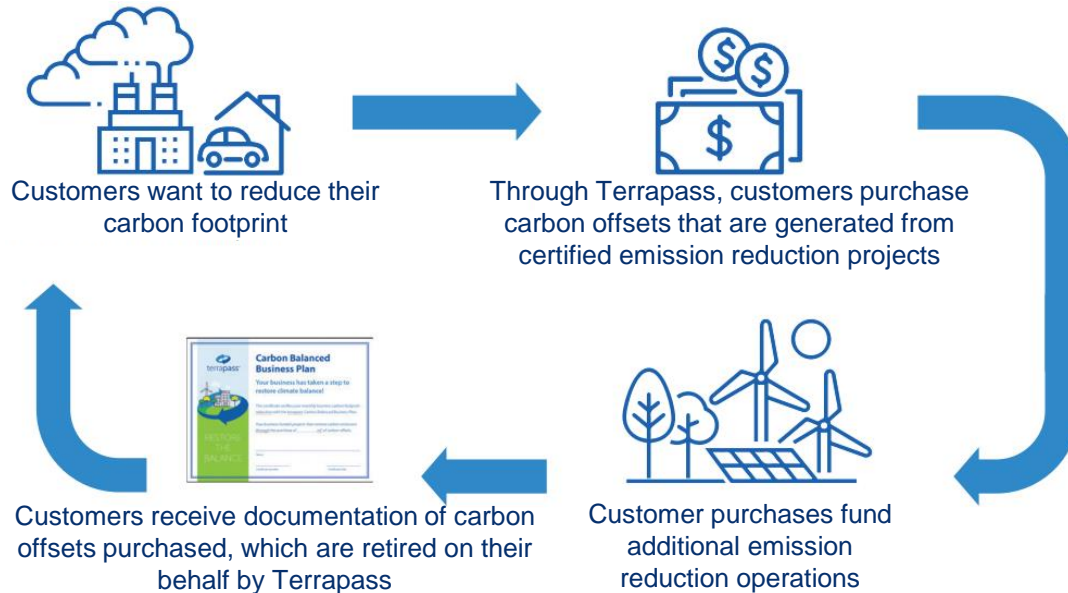
## Green and Sustainability

- Bundled JustGreen branded options give flexibility for Mass Markets customers to offset a portion or all of their energy consumption
- Standalone renewable energy certificates, carbon offsets and water restoration credits available to Mass Markets and Commercial customers

## Variable-Price Contracts

- Rate fluctuations based on market and business conditions
- After term expiration contracts roll over to be variable rate

### Our Mission is to Restore the Carbon Balance



### 1 Carbon Offset = 1 Ton of CO2 Avoided from Entering Atmosphere



- Terrapass customers have funded millions of tons of carbon emission reductions at projects across the globe
  - Transaction sizes range to accommodate both corporate and individual clients, from one metric ton to several million metric tons and through one-time and term contracts
- Terrapass offers a variety of products to support customers' sustainable initiatives including carbon offsets, renewable energy credits, and water restoration certificates
  - Carbon Offsets: Certificates for purchase representing the reduction of one metric ton of carbon emissions; the cost of certificates fund emission reduction projects
  - Renewable Energy Credits (REC): RECs are issued and can be subsequently sold/purchased when one megawatt hour (MWh) of electricity is generated and delivered to the grid from a renewable energy resource; sale of RECs by renewable energy developers helps fund projects
  - Water Restoration Credits (WRC): Certificates for purchase to fund projects that restore natural water resources, benefiting potentially depleted water ecosystems
- Terrapass can also help businesses and institutions prepare a detailed footprint analysis and develop a customized plan to achieve their carbon footprint reduction goals

### Business Opportunities

#### Carbon offsets & renewable energy

##### Business to Business

- Directly offset emissions for companies
- Detailed company footprint analysis
- Project-specific or customized portfolios available

#### Employee engagement programs

##### Business to Business to Employee

- Transactions can go through Terrapass or partner site
- Purchases can be matched by partner

#### Customer-facing programs

##### Business to Consumer

- Offsets can be standalone or bundled with products
- Website or app integration
- White label program
- Outbound campaigns<sup>(1)</sup>

(1) Includes digital, call centers, and bill inserts.

# Key Management: Deep Retail Background



## Scott Gahn, Chief Executive Officer

Years of Energy Experience 36 years

Scott Gahn was appointed President and Chief Executive Officer in August 2019. He was one of the founding shareholders and Chief Executive Officer of Just Energy Texas LP. Following the acquisition, Mr. Gahn was the Chief Operating Officer of Just Energy until June 2011. Mr. Gahn has a long history in the deregulated energy industry, having served on the Electric Reliability Council of Texas board from 2005 to 2008 and having been involved in the sale of deregulated and regulated electricity and natural gas for over 34 years.

Prior Experience at Relevant Companies



## Jim Brown, Chief Commercial Officer

Years of Energy Experience 29 years

Jim Brown was appointed as Chief Commercial Officer of Just Energy Group Inc. in September 2020. He most recently served as the Company's Chief Financial Officer since April 2018. Mr. Brown joined Just Energy in April 2013 as a Senior Vice President responsible for commodity settlements, and also served as the President of Hudson Energy, responsible for Just Energy's commercial business.

Prior Experience at Relevant Companies



## Scott Fordham, Chief Operating Officer

Years of Energy Experience 12 years

Scott Fordham joined Just Energy in early 2020 as Senior Vice President-Finance and Chief Accounting Officer and was appointed Chief Operating Officer in September 2020. Mr. Fordham has significant hands-on P&L and operations experience, including through his leadership roles as President and Chief Executive Officer of Champion Energy Services, one of the top 10 REP's in the U.S., the fastest organically grown REP in the nation and the largest never affiliated with a legacy utility, and as President of Acclaim Energy, a Houston-based integrated strategic energy management firm serving end-user customers throughout the U.S., Canada and Mexico.

Prior Experience at Relevant Companies



## Michael Carter, Chief Financial Officer

Years of Energy Experience 22 years

Michael Carter's broad industry experience includes holding key roles in finance, corporate planning and treasury, corporate development and operations. Mr. Carter served over 10 years at predecessors of Vistra and its subsidiaries including TXU Energy, where he was CFO for over 3 years. Mr. Carter's other notable prior experience includes senior management roles at Hunt Power & Hunt Utility Services and Energy Future Holdings Corporation.

Prior Experience at Relevant Companies



## Amir Andani, Chief Risk Officer

Years of Energy Experience 16 years

Amir Andani has been an integral part of Just Energy's Risk Management function since 2008. Amir is the chair of Management Risk Committee and responsible for setting Commodity Risk Management Policy and presenting key risks to the Board Risk Committee. In addition, Amir reviews Just Energy's weather risk programs, manages counterparty credit & collateral risks, oversees Just Energy's insurance program and is responsible for creating several policies and procedures to manage and mitigate risk.



## Jonah Davids, EVP & General Counsel

Years of Energy Experience 15 years

Jonah Davids joined Just Energy in 2007 as Senior Counsel and was appointed General Counsel in April 2010 with responsibility for the Company's legal, governance, regulatory and compliance activities. He became the Company's Corporate Secretary in 2015. Prior to joining Just Energy, Mr. Davids practiced securities, corporate and commercial law at McMillan LP. Jonah has a Masters of Law degree from the University of Dundee's Centre for Energy, Petroleum & Mineral Law and Policy. Mr. Davids is also a Director of ecobee Inc., a provider of smart home comfort, security and conservation solutions.



## Felix Churchill, Chief Growth Officer

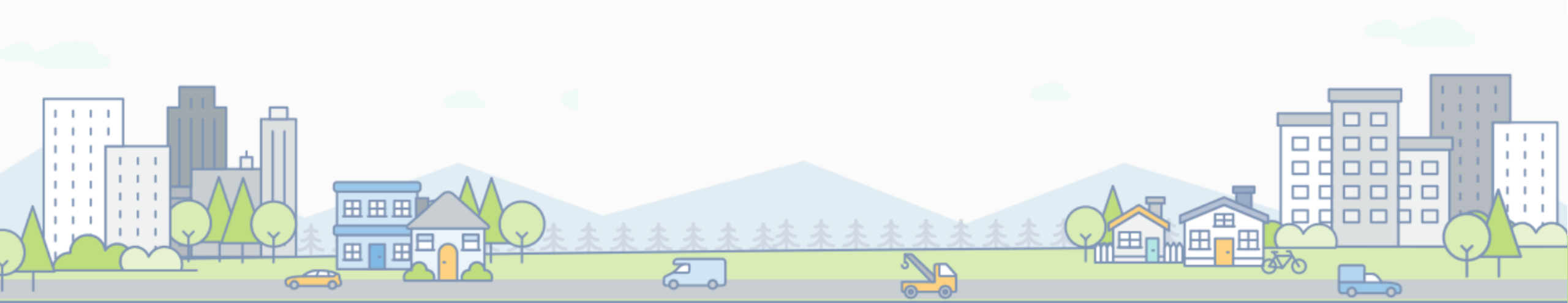
Years of Energy Experience 16 years

Felix Churchill became Senior Vice President Digital and Telesales in March 2020. Mr. Churchill first joined Just Energy in September 2003 and has held several positions, including Vice President Operations and Business Development and President Just Ventures. Mr. Churchill previously held positions at Sunrun, as Vice President Digital and Customer Acquisition, and Red Ventures, as Executive Vice President AT&T / DIRECTV Partnership and President RV Power.

Prior Experience at Relevant Companies



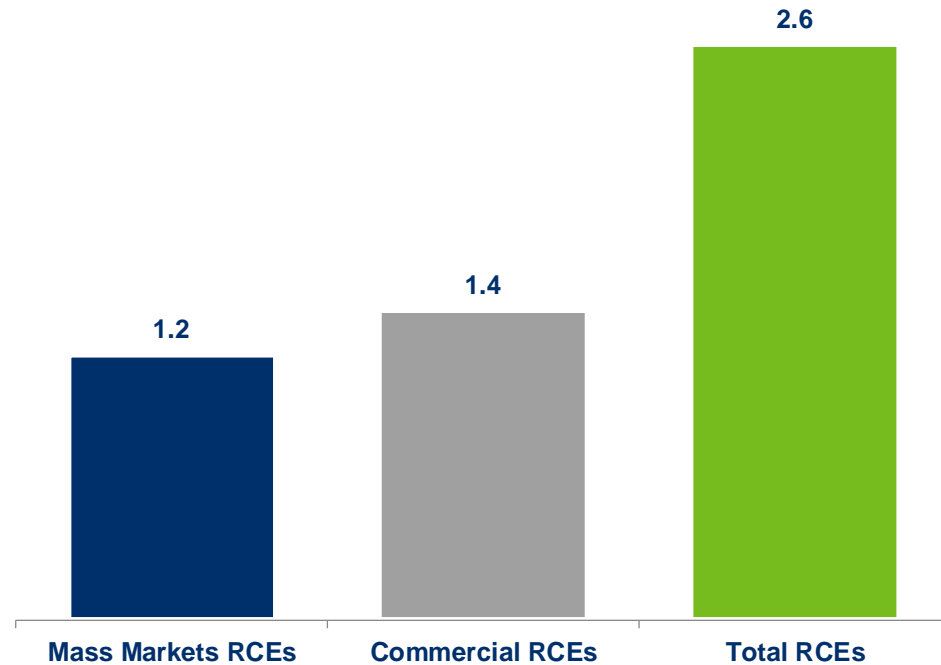
# Financial Highlights



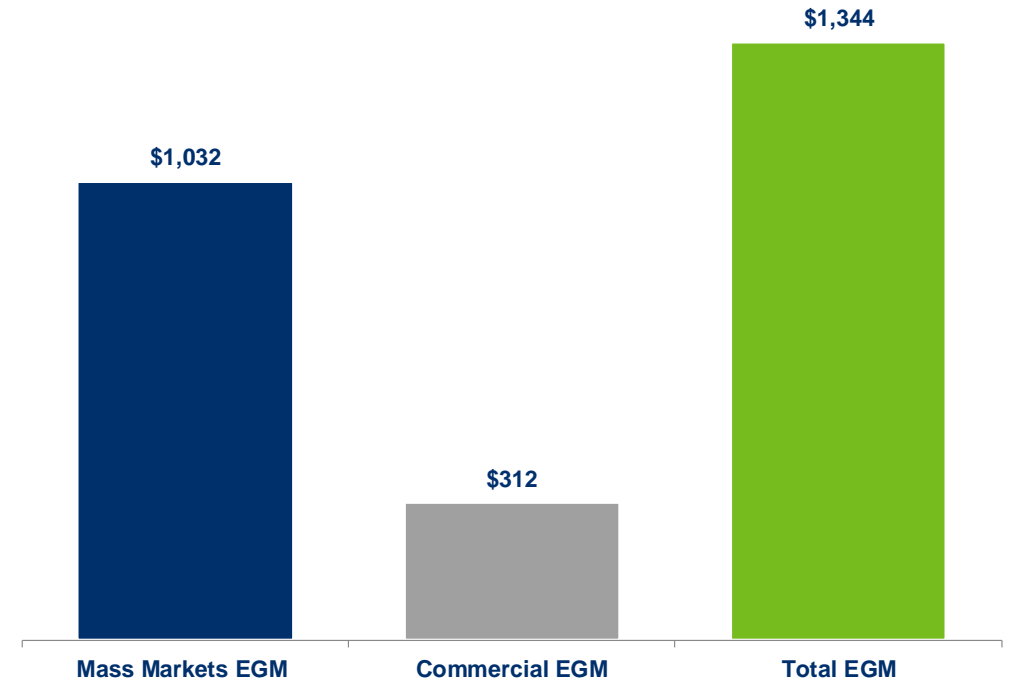
# Significant Embedded Value in Business

## Strong Customer Base<sup>(1)</sup> (Millions)

968,000 Total Customers



## Embedded Gross Margin<sup>(2)</sup> (C\$ Millions)



Embedded Gross Margin measure indicates the gross margin expected to be realized over the next five years from the existing customer base

Note: As of March 31, 2022.

(1) Excludes large C&I.

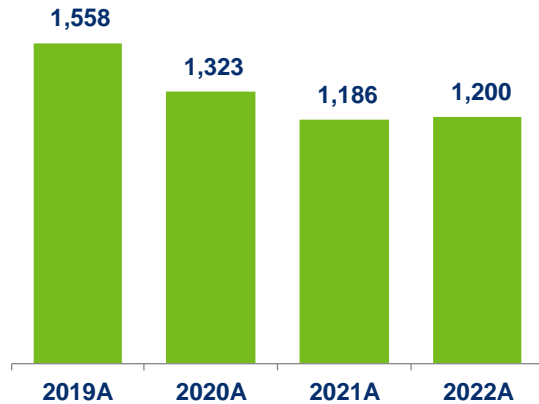
(2) Represents gross margin of committed and renewal books. Excludes ~\$30M of EGM attributable to Filter Group and IEG and ~\$670k of Large C&I EGM.

# Key Financial Metrics

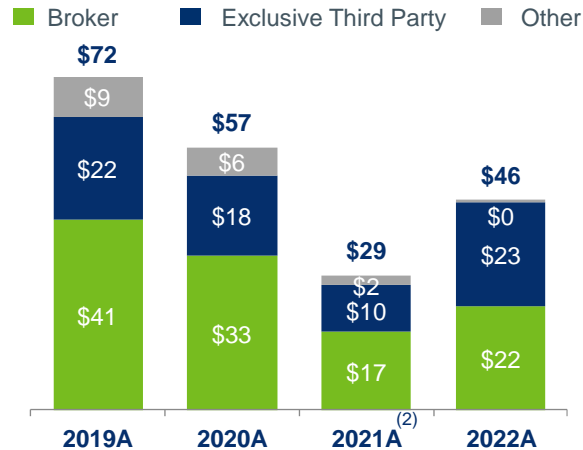
## Consolidated

320

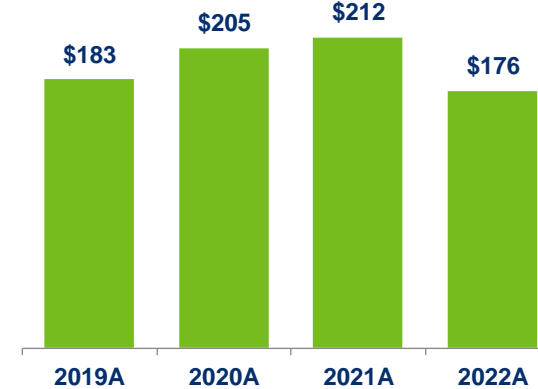
### Mass Market Ending RCEs ('000)



### Signed Term Margin<sup>(1)</sup> (C\$ Millions)



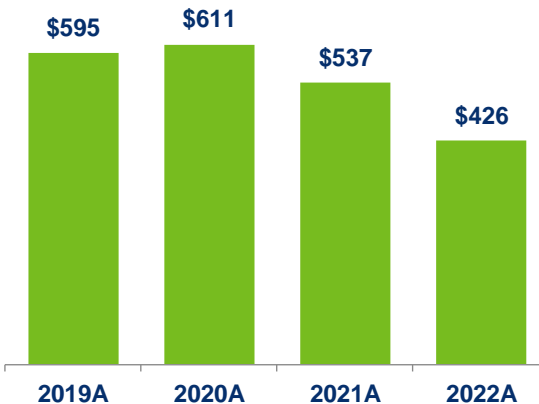
### GM/RCE (C\$ Per RCE)



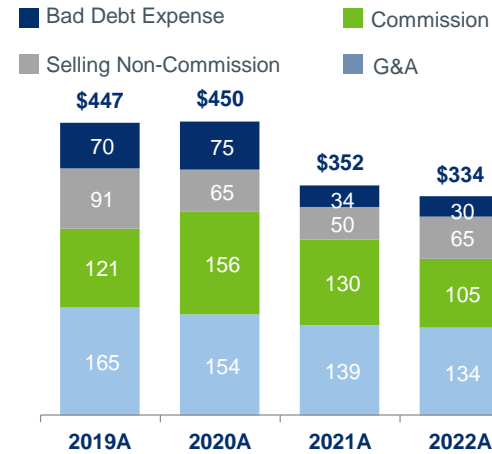
### Commentary

- Mass Markets customer base stabilized and returning to growth, while Commercial Signed Term Margin also returned to growth despite challenges of a competitive pricing environment and impact of CCAA on sales channels
- Strong growth in GM / RCE driven by a focus on higher quality / margin was compressed in 2022 due to commodity price environment and regulatory headwinds
- 2022A Gross Margin was hampered by higher commodity costs, a decline in the Commercial customer base and unfavorable exchange rate, driving the decline in Base EBITDA

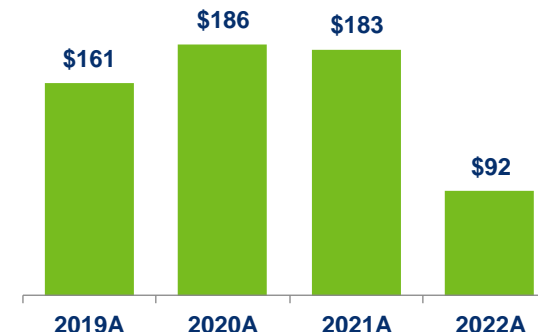
### Gross Margin (C\$ Millions)



### SG&A<sup>(3)</sup> (C\$ Millions)



### Base EBITDA (C\$ Millions)



Note: Metrics shown are from Continuing Operations; Periods shown are fiscal year ending March 31.

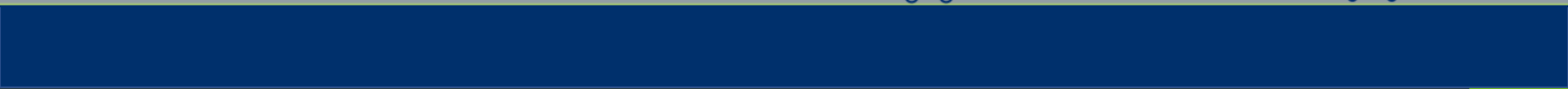
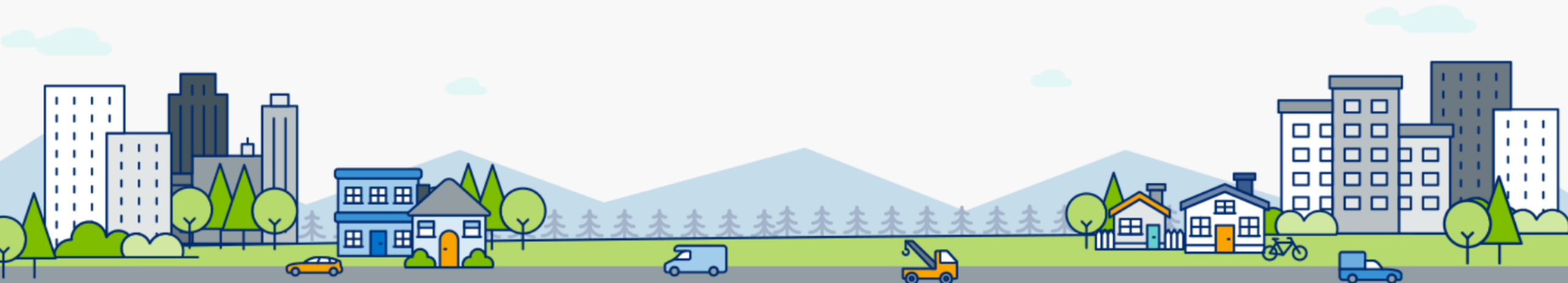
(1) Other includes D2D, Digital, Retail-ALT, and SMB-Affinity.

(2) 2021A results negatively impacted by recapitalization transaction.

(3) Excludes the impact from the Texas residential enrolment and collections impairment.

(4) As of March 31, 2022. Represents gross margin of committed and renewal books. Excludes ~\$30M of EGM attributable to Filter Group and IEG and ~\$670k of Large C&I EGM.





THIS IS **EXHIBIT “F”** REFERRED TO IN THE AFFIDAVIT OF MICHAEL CARTER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the Town of Sibley, in the State of Louisiana while the Commissioner was located in the City of Toronto, in the Province of Ontario.

*Tiffany Sun*

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Commissioner for Taking Affidavits  
Miao Sun (LSO No. 84440N)

**NOTICE OF SALE AND  
INVESTMENT SOLICITATION PROCESS  
JUST ENERGY GROUP INC. ET AL.**

323  
Just Energy Group Inc., a retail energy provider specializing in electricity and natural gas commodities and bringing energy efficient solutions and renewable energy options to customers, has filed a motion with certain of its affiliates (collectively, "**Just Energy**" or the "**Company**") in their proceedings under the *Canadian Companies' Creditors Arrangement Act* (the "**CCAA**") for an order that, among other things, authorizes the Company to conduct a sale and investment solicitation process for its business (the "**SISP**"). Just Energy has entered into a transaction agreement (the "**Stalking Horse Transaction Agreement**") that is intended to serve as a stalking horse bid in the SISP. A copy of the SISP and the Stalking Horse Transaction Agreement are available on the website of FTI Consulting Canada, Inc., in its capacity as Monitor in the Company's CCAA proceedings (the "**Monitor**") at <http://cfcanada.fticonsulting.com/justenergy>.

Interested parties are invited to participate in the SISP in accordance with its terms, including the requirements for a bid to constitute a qualified bid and the timelines set forth therein. Parties interested in participating in the SISP, obtaining further information about this opportunity and access to a virtual data room should contact the Monitor at [justenergy@fticonsulting.com](mailto:justenergy@fticonsulting.com).

August 12, 2022.

THIS IS **EXHIBIT “G”** REFERRED TO IN THE AFFIDAVIT OF MICHAEL CARTER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the Town of Sibley, in the State of Louisiana while the Commissioner was located in the City of Toronto, in the Province of Ontario.

*Tiffany Sun*

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Commissioner for Taking Affidavits  
Miao Sun (LSO No. 84440N)



August 15, 2022

**Private and Confidential**

The proposed form of sale and investment solicitation process (“SISP”) order (the “SISP Order”) contemplates, among other things, (a) authorized Just Energy Group Inc. and its direct and indirect subsidiaries (collectively, “Just Energy”) to implement a sale and investment solicitation process in accordance with the terms hereof, (b) approved the Support Agreement, including the Stalking Horse Term Agreement, (c) authorized and directed Just Energy Group Inc. to enter into the Stalking Horse Purchase Agreement, (d) approved the Break-Up Fee, and (e) granted the Bid Protections Charge. Capitalized terms that are not defined herein have the meanings ascribed thereto in the Second Amended & Restated Initial Order granted by the Court in Just Energy’s proceedings under the Companies’ Creditors Arrangement Act on May 26, 2021, as amended, restated or supplemented from time to time or the SISP Order, as applicable.

On behalf of Just Energy, BMO Nesbitt Burns Inc. (“BMO Capital Markets”) is pleased to invite you to submit a written notice of intent to bid (an “NOI”), and ultimately a **Qualified Bid** in respect of a transaction which may include, among other things, a sale of some or all of Just Energy’s shares, assets and/or business and/or an investment in Just Energy, each of which shall be subject to all terms set forth in the SISP (such transaction referred to herein as the “**Transaction**”). The details related to the submission of a Qualified Bid will be provided to you at a later time, well in advance of the proposed **Qualified Bid Deadline** of 11:59 p.m. Eastern Daylight Time on October 13, 2022.

It is understood that your NOI will be based on publicly available information on Just Energy, as well as your review of the confidential information contained in the virtual data room referenced below.

*NOI Deadline*

**The deadline for submission of NOIs is 11:59 p.m. (Eastern Daylight Time) on September 8, 2022 (the “NOI Deadline”).**

NOIs must be submitted in writing on company letterhead and delivered by email to BMO Capital Markets prior to the NOI Deadline. Deliveries should be addressed as follows:

**Constance de Grosbois**  
Managing Director  
Mergers and Acquisitions  
BMO Capital Markets  
Email: [constance.degrosbois@bmo.com](mailto:constance.degrosbois@bmo.com)

### ***Due Diligence Process***

The information below outlines the required procedures and logistics that will facilitate your participation in the due diligence process.

#### ***Virtual Data Room***

You will be provided with access to a virtual data room hosted by Smart Room. To gain access to the virtual data room for members of your team, please email the individual's full name, phone number, email address, title and company name to Shaan Thind ([shaan.thind@bmo.com](mailto:shaan.thind@bmo.com)) and Ahmed Husain ([ahmed.husain@bmo.com](mailto:ahmed.husain@bmo.com)).

#### ***Due Diligence Questions***

All due diligence questions, including requests for additional information, should be submitted in writing to BMO Capital Markets. To the extent that you are being assisted by external advisors, all questions should be consolidated into one question file prior to submission. The question file should be emailed to Shaan Thind ([shaan.thind@bmo.com](mailto:shaan.thind@bmo.com)) and Ahmed Husain ([ahmed.husain@bmo.com](mailto:ahmed.husain@bmo.com)). BMO Capital Markets should be the sole point of contact for all due diligence questions.

### ***Contents of the NOI***

Your NOI should be submitted in conformity with the following guidelines:

1. **Purchaser:** Your NOI must include the legal name and identity and contact information of the bidder, and the name(s) of its controlling equityholder(s) (and if the bidder is a newly formed acquisition entity, details of its ownership).
2. **Assets Subject to the Transaction:** Your NOI must contain a general description of the assets and/or business(es) of Just Energy that would be the subject of the bid.
3. **Financing:** Your NOI should include a description of your anticipated sources and timing of financing.

### ***Questions Regarding the SISP***

It is the intention of Just Energy and BMO Capital Markets to conduct the SISP such that it minimizes any disruption to the operations and employees of Just Energy. To that end, all inquiries or communications, including any requests for additional information, should be directed to Shaan Thind ([shaan.thind@bmo.com](mailto:shaan.thind@bmo.com)) and Ahmed Husain ([ahmed.husain@bmo.com](mailto:ahmed.husain@bmo.com)). **Under no**

**circumstances should the directors, management, employees, creditors, suppliers, customers, shareholders or other advisors of Just Energy be contacted directly without the prior written consent of BMO Capital Markets.**

Yours truly,

**Constance de Grosbois**

Managing Director

Mergers and Acquisitions

BMO Capital Markets

Email: [constance.degrosbois@bmo.com](mailto:constance.degrosbois@bmo.com)

THIS IS **EXHIBIT “H”** REFERRED TO IN THE AFFIDAVIT OF MICHAEL CARTER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the Town of Sibley, in the State of Louisiana while the Commissioner was located in the City of Toronto, in the Province of Ontario.

*Tiffany Sun*

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Commissioner for Taking Affidavits  
Miao Sun (LSO No. 84440N)





September 22, 2022

**Private and Confidential**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Attention:** [REDACTED]

Dear [REDACTED]:

On behalf of Just Energy Group Inc. and its direct and indirect subsidiaries (collectively, the “**Company**”), BMO Nesbitt Burns Inc. (“**BMO Capital Markets**”) thanks you for your continued interest and would like to invite you to submit a binding Qualified Bid (as defined in the Sale and Investment Solicitation Process enclosed with this letter (the “**SISP**”) together with a proposed form of transaction document (a “**Transaction Agreement**” and, collectively, a “**Binding Bid**”) with respect to a potential transaction involving the acquisition of the equity interests in the Company and/or all or a portion of the assets or business of the Company, a financing arrangement for the Company, and/or any other transaction that may be of interest to you and the Company that satisfies the requirements enumerated in the SISP (each, a “**Transaction**”).

Capitalized terms not defined herein shall have the meanings ascribed to them in the SISP.

You are reminded that the contents of this letter and the additional non-public information you may receive, and have already received, during this process, are subject to the terms of the Non-Disclosure Agreement which you have entered into with the Company (the “**NDA**”). Nothing in this letter amends or otherwise changes any term in the NDA.

***Binding Bid Deadline***

The deadline for submission of Binding Bids is **11:59pm Eastern Daylight Time on Thursday, October 13, 2022** (the “**Qualified Bid Deadline**”), and your Binding Bid should be sent via email **ONLY** to the following team at FTI Consulting Canada Inc. (in its capacity as the Court-appointed Monitor of the Company, the “**Monitor**”):

**Paul Bishop**

Senior Managing Director  
 FTI Consulting Canada Inc.  
 +1 416 649 8053  
 paul.bishop@fticonsulting.com

**Jim Robinson**

Senior Managing Director  
 FTI Consulting Canada Inc.  
 +1 416 649 8070  
 jim.robinson@fticonsulting.com

***Contents of the Binding Bid***

Your Binding Bid should be executed by an officer or principal authorized to bind the prospective purchaser or investor to its terms, should be in writing, and should include the following guidelines:

1. **Purchaser/Investor:** The legal name of the purchaser or investor (collectively, the “**Purchaser**”), its jurisdiction of existence, and if the Purchaser is not a public company, the name of the ultimate beneficial owners of the Purchaser (including identification of any such beneficial owners that are controlling owners).

Your Binding Bid should also include disclosure of any relevant connections or agreements the Purchaser or any of its affiliates have with the Company or any of its affiliates, any known, potential or prospective bidder, or any officer, manager, director or known equityholder of the Company.

2. **Transaction Structure:** Specific terms setting out the form and nature of the Transaction you propose, including details regarding any assets to be included or excluded and any liabilities to be assumed or not assumed.

**Your Binding Bid should be structured such that the Purchase Price shall be an amount payable in cash computed at closing such that:**<sup>1</sup>

- A. it is sufficient for all of the following: (i) the payment in full in cash on closing of the BP Commodity/ISO Services Claim (as defined in the Support Agreement); (ii) the payment in full in cash on closing of the Credit Facility Claims; (iii) the payment in full of amounts referred to in section 3.2 of the Stalking Horse Transaction Agreement; and (iv) the Break-Up Fee, after applying available cash on hand within the Company; and
- B. it provides for an additional cash amount of at least US\$1 million (being the minimum overbid).

In addition, your Binding Bid should contemplate steps to, at closing, arrange for the return of all outstanding letters of credit and release of all Credit Facility LC Claims or arrangements satisfactory to the applicable Credit Facility Lenders in their discretion to secure with cash collateral or otherwise any Credit Facility LC Claims not released.<sup>2</sup> Cash

<sup>1</sup> Subject to applicable claimholders agreeing to other arrangements, in their sole discretion.

<sup>2</sup> Subject to the applicable Credit Facility Lenders agreeing to other arrangements, in their sole discretion.

collateral that has been posted and not returned to the Company as of the closing date shall be an asset that will be beneficially owned by the Purchaser.

The amount referred to in “A.” above may vary for a number of reasons, including, without limitation, accumulation of interest (depending upon the closing date), business performance (affecting available cash on hand), energy market conditions (affecting the amount of collateral posted with counterparties), foreign exchange rates and other factors. **All other things being equal, Binding Bids that assume the risk of this variability will be advantaged.**

If your Binding Bid includes a post-closing financing arrangement for the Company, a detailed term sheet should be provided that, among other things, indicates the intended amount, provider/source (and contact names) and timeframe to secure/fund.

3. **Financing:** Your Binding Bid should include written evidence of the Purchaser’s ability to fully fund and consummate the transaction and satisfy its obligations under the transaction documents, including binding equity/debt commitment letters and/or guarantees covering the full value of all cash consideration and the additional items (in scope and amount) covered by the guarantees provided by affiliates of the Purchaser in connection with the Transaction Agreement.
4. **Sources and Uses Schedule:** Your Binding Bid should include a detailed sources and uses schedule that identifies, with specificity, the amount of cash consideration and any assumptions that could reduce the net consideration payable. As noted in paragraph 7(b) of the SISP, the minimum Cash Consideration Value was estimated to be US\$460,000,000 projected as of December 31, 2022. An updated estimate will be provided to you in early October 2022, in advance of the Qualified Bid Deadline.
5. **Transaction Documents:** Your Binding Bid should contain duly executed binding transaction documents, including the Transaction Agreement, and a redline to the template transaction agreement that will be provided to you. The template transaction agreement contemplates a share subscription transaction and a reverse vesting order. In the event you wish to consider an asset purchase or other form of transaction, you should contact BMO Capital Markets using the contact information provided below.
6. **Intentions Regarding the Company:** Your Binding Bid should include an indication of your intentions regarding the operations, and a discussion of the strategic and operational fit with your existing operations (if any). Your Binding Bid should also include full details of your intended treatment of the Company’s employees.
7. **Internal Approvals:** Your Binding Bid should include evidence of authorization and approval from your Board of Directors (or comparable governing body) and, if necessary to complete the proposed Transaction, the Purchaser’s equityholders. For clarity, all such required corporate approvals should be obtained prior to your submission of the Binding Bid.
8. **Expiry:** Your Binding Bid should include a letter stating that the bid is submitted in good faith, is binding and is irrevocable until the selection of the Successful Bid; provided,

however, that if such bid is selected as the Successful Bid, it shall remain irrevocable until the closing of the Successful Bid.

9. **Conditions and Approvals:** Your Transaction Agreement should include comprehensive terms regarding any necessary government and regulatory approvals or consents to closing the Transaction and be accompanied with details regarding the expected timing and process for obtaining such approvals or consents.

Your Binding Bid should specify whether the Purchaser or any of its affiliates is involved in any part of the energy sector, including an electric utility, retail service provider, a company with a tariff on file with the Federal Energy Regulatory Commission, or any intermediate holding company.

Your Binding Bid should indicate any facts or circumstances you can reasonably foresee that might affect the timing or certainty of your ability to close the Transaction on a timely basis.

Your Binding Bid should not be conditional upon:

- i. approval from the Purchaser's board of directors (or comparable governing body) or equityholder(s);
- ii. the completion or outcome of any due diligence by the Purchaser; or
- iii. the Purchaser obtaining financing.

In evaluating Binding Bids, the Company will give great weight to certainty and the relative ability of prospective purchasers or investors to close the Transaction in an expeditious manner.

Qualified Bids should be reasonably capable of being consummated by 90 days after completion of the Auction if selected as the Successful Bid.

The Purchaser should, by way of a significant reverse break fee or otherwise, underwrite the risk of obtaining any necessary regulatory approvals.

Your Binding Bid should not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment.

10. **Due Diligence:** The Binding Bid should include an acknowledgment and representation that the Purchaser has had an opportunity to conduct any and all required due diligence prior to making its Binding Bid.

11. **Deposit:** Your Binding Bid should be accompanied by a cash deposit (the "**Deposit**") by wire transfer of immediately available funds equal to 10% of the Cash Consideration Value in US dollars, which Deposit shall be retained by the Monitor in a non-interest bearing trust account in accordance with this SISP. Wire instructions will be provided shortly.

The Deposit shall be subject to the terms of the SISP and, if applicable, the terms of any executed Definitive Agreements (as defined below).

12. **Costs and Expenses:** Your Binding Bid should include a statement that the Purchaser will bear its own costs and expenses (including legal and advisor fees) in connection with the proposed Transaction, and by submitting its bid is agreeing to refrain from and waive any assertion or request for reimbursement on any basis.
13. **Contacts Details:** Your Binding Bid should include contact information for the persons with whom we can discuss your Binding Bid, including any financial, legal or other advisors.
14. **Other:** Your Binding Bid should also indicate any other facts, circumstances or important matters which you believe are relevant to the evaluation of your Binding Bid.

### ***Questions Regarding the Process***

All inquiries or communications, including any requests for additional information, should be directed to:

**Constance de Grosbois**  
Managing Director  
BMO Capital Markets  
+1.647.628.2877  
constance.degrosbois@bmo.com

### ***Qualifications Regarding the Process***

The Company and BMO Capital Markets expressly reserve the right at any time, with or without providing notice or reasons, in each case subject to the terms of the SISP and any Orders granted in the Company's ongoing proceedings under the *Companies' Creditors Arrangement Act*, to: (i) amend or terminate the SISP; (ii) amend any information which has been made available to any of the interested parties either by way of addition, deletion, amendment and/or restatement; (iii) decline to permit any interested party to participate or continue in the SISP; (iv) terminate discussions with any or all interested parties; (v) reject any or all Binding Bids; and (vi) negotiate with any party with respect to the Transaction or any other transaction involving the Company without liability to the Company or BMO Capital Markets.

In submitting a Binding Bid, an interested party acknowledges that it is relying solely on its own investigation and evaluation of the Company and its business. None of the Company, the Monitor, BMO Capital Markets or any other advisor or representative of the Company or their respective affiliates makes any express or implied representations or warranties with respect to the matters contemplated hereby and each disclaims any and all liability for any claims as to representations, warranties or statements contained in this letter or in any other written (or electronic) material furnished or information orally transmitted to any interested party, except only those particular representations and warranties made by the Company in any definitive duly executed transaction agreements (the "**Definitive Agreements**") if, as and when any such Definitive Agreements may ultimately be executed by the Company, and subject to such limitations and restrictions as may be contained therein. Until Definitive Agreements are executed by the Company, none of the

Company, the Monitor or BMO Capital Markets will have any obligations whatsoever to any potential purchaser or investor.

It is understood that each interested party will bear its own costs and expenses including the costs and expenses of all of its financial advisors, brokers, finders, agents, lawyers, accountants and other advisors. No finder's fees, commissions, expenses or other compensation will be paid by the Company or BMO Capital Markets to such intermediaries of any interested party.

Yours truly,

**Constance de Grosbois**

Managing Director  
BMO Capital Markets

THIS IS **EXHIBIT "I"** REFERRED TO IN THE AFFIDAVIT OF MICHAEL CARTER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the Town of Sibley, in the State of Louisiana while the Commissioner was located in the City of Toronto, in the Province of Ontario.

*Tiffany Sun*

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Commissioner for Taking Affidavits  
Miao Sun (LSO No. 84440N)

August 25, 2022

**VIA EMAIL**

Marc Wasserman, Jeremy Dacks,  
Michael De Lellis  
Osler, Hoskin & Harcourt LLP  
1 First Canadian Place  
Toronto, Ontario, Canada M5X 1B8

Dear Counsel:

**Re: In the Matter of the CCAA proceedings of Just Energy Group Inc. et. al. (the “Just Energy Entities”) - Court File No.: CV-21-00658423-00CL**

As you know, we act as counsel for FTI Consulting Canada Inc., in its capacity as Court-appointed Monitor in these proceedings (in such capacity, the “**Monitor**”).

We write to you in your capacity as counsel for the Just Energy Entities.

We refer to the following:

- (a) the sale and investment solicitation process the Applicants presented to the Court at the motion returnable August 17, 2022 (the “**SISP**”). Any capitalized terms not defined herein have the meanings given to them in the SISP; and
- (b) the Endorsement of Justice McEwen dated August 18, 2022 (the “**Endorsement**”) that, among other things, (i) approved the SISP, as amended by His Honour, and (ii) ordered that the Monitor will continue to engage and monitor the exchange of information pursuant to the SISP to ensure that no bidder, including the Sponsor, enjoys an advantage that is unfair and/or could chill the market.

Pursuant to the Endorsement, His Honour has mandated that the Monitor ensure the fair, equitable and symmetric sharing of information concerning bids under the SISP.

In order to discharge its duties pursuant to the Endorsement, and notwithstanding anything to the contrary, including the terms of the SISP or any support agreement entered into by the Just Energy Entities in relation to the SISP, the Monitor:





Thornton Grout Finnigan LLP

2.

- (a) confirms that copies of any NOIs and bids (collectively, “**Bids**”) received during the SISP may be provided to the Sponsor, the DIP Lenders and the Supporting Secured CF Lenders pursuant to and in accordance with the SISP and the Support Agreement; *provided, however,* that no proprietary or competitive information (collectively, “**Restricted Information**”) contained in (or provided with) any Bid, as determined by the Monitor, shall be so provided;
- (b) requires that all Bids be vetted for Restricted Information by the Monitor prior to delivery in accordance with the SISP and the Support Agreement;
- (c) requires that no additional information relating to any Bids be provided to the Sponsor by the Just Energy Entities, their counsel or advisors (including the Financial Advisor) except with the prior written consent of the Monitor; and
- (d) requires that a representative of the Monitor be invited to attend all meetings or calls and be copied on all electronic communications between any Just Energy Entity representative and any bidder or potential bidder, including the Sponsor, that in any way relate to the SISP.

Yours truly,

**Thornton Grout Finnigan LLP**

A handwritten signature in black ink, appearing to read 'Robert I. Thornton', written over a horizontal line.

Robert I. Thornton

cc: Paul Bishop, Jim Robinson, FTI Consulting Canada Inc.  
Glenn Saunty, Mark Caiger, Constance de Grosbois, BMO Capital Markets  
Service List

THIS IS **EXHIBIT “J”** REFERRED TO IN THE AFFIDAVIT OF MICHAEL CARTER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the Town of Sibley, in the State of Louisiana while the Commissioner was located in the City of Toronto, in the Province of Ontario.

*Tiffany Sun*

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Commissioner for Taking Affidavits  
Miao Sun (LSO No. 84440N)

Court File No. CV-21-00658423-00CL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

**COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JUST ENERGY GROUP INC., JUST ENERGY CORP., ONTARIO ENERGY COMMODITIES INC., UNIVERSAL ENERGY CORPORATION, JUST ENERGY FINANCE CANADA ULC, HUDSON ENERGY CANADA CORP., JUST MANAGEMENT CORP., 11929747 CANADA INC., 12175592 CANADA INC., JE SERVICES HOLDCO I INC., JE SERVICES HOLDCO II INC., 8704104 CANADA INC., JUST ENERGY ADVANCED SOLUTIONS CORP., JUST ENERGY (U.S.) CORP., JUST ENERGY ILLINOIS CORP., JUST ENERGY INDIANA CORP., JUST ENERGY MASSACHUSETTS CORP., JUST ENERGY NEW YORK CORP., JUST ENERGY TEXAS I CORP., JUST ENERGY, LLC, JUST ENERGY PENNSYLVANIA CORP., JUST ENERGY MICHIGAN CORP., JUST ENERGY SOLUTIONS INC., HUDSON ENERGY SERVICES LLC, HUDSON ENERGY CORP., INTERACTIVE ENERGY GROUP LLC, HUDSON PARENT HOLDINGS LLC, DRAG MARKETING LLC, JUST ENERGY ADVANCED SOLUTIONS LLC, FULCRUM RETAIL ENERGY LLC, FULCRUM RETAIL HOLDINGS LLC, TARA ENERGY, LLC, JUST ENERGY MARKETING CORP., JUST ENERGY CONNECTICUT CORP., JUST ENERGY LIMITED, JUST SOLAR HOLDINGS CORP. AND JUST ENERGY (FINANCE) HUNGARY ZRT.

Applicants

**AFFIDAVIT OF MICHAEL CARTER**

I, Michael Carter, of the Town of Flower Mound, in the State of Texas, MAKE OATH  
AND SAY:

1. I have been Just Energy Group Inc.'s ("**Just Energy**") Chief Financial Officer since September 2020. In that role, I am responsible for all financial-related aspects of the business of Just Energy and its subsidiaries in these CCAA proceedings (collectively, the "**Applicants**"), including the partnerships listed on Schedule "A" of the Initial Order (as defined below) to which the protections and authorizations of the Initial Order were extended (collectively with the Applicants, the "**Just Energy Entities**"). As such, I have personal knowledge of the matters

deposed to in this affidavit, including the business and financial affairs of the Just Energy Entities. Where I have relied on other sources for information, I have stated the source of my information and I believe such information to be true. In preparing this affidavit, I have also consulted with the Applicants' senior management team and their financial and legal advisors.

2. I make this affidavit in support of a motion by the Applicants (the "**SISP Motion**") for an Order substantially in the form of the draft order attached at **Tab 3** of the Applicants' Motion Record (the "**SISP Order**"), *inter alia*:

- (a) authorizing and empowering Just Energy to enter into the definitive purchase agreement (the "**Stalking Horse Transaction Agreement**") dated as of August 4, 2022, between Just Energy and LVS III SPE XV LP, TOCU XVII LLC, HVS XVI LLC, OC II LVS XIV LP, OC III LFE I LP and CBHT Energy I LLC<sup>1</sup> (collectively, the "**Sponsor**" and the transactions detailed therein, the "**Stalking Horse Transaction**"), a copy of which is attached hereto as **Exhibit "A"**, *nunc pro tunc*, and such minor amendments as may be acceptable to each of the parties thereto, with the approval of FTI Consulting Canada Inc., as monitor (the "**Monitor**") and subject to the terms of the SISP Support Agreement (as defined below);
- (b) approving the Break-Up Fee (as defined below) and authorizing the Just Energy Entities to pay the Break-Up Fee to the Sponsor (or as it may direct) in the

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<sup>1</sup> The Sponsor is comprised of (i) the investment funds that are DIP Lenders and together with a related limited partner, the holders of substantially all of the Term Loan Claim, and (ii) CBHT Energy I LLC ("**CBHT**"), as the holder of the BP Commodity/ISO Services Claim.

circumstances and manner described in the Stalking Horse Transaction Agreement;

- (c) granting a Court-ordered charge (the “**Bid Protections Charge**”) in favour of the Sponsor as security for payment of the Break-Up Fee, with the priority set out in the proposed SISP Order;
- (d) approving the Support Agreement, dated August 4, 2022 among the Just Energy Entities, the Sponsor, Shell, and the Supporting Secured CF Lenders (as each of those terms is defined below) (the “**SISP Support Agreement**”) and authorizing and empowering the Just Energy Entities to enter into the SISP Support Agreement, *nunc pro tunc*, subject to such minor amendments as may be consented to by the Monitor and as may be acceptable to each of the parties thereto, and authorizing, empowering and directing the Just Energy Entities to take all steps and actions in respect of the SISP Support Agreement;
- (e) declaring that notwithstanding the stay of proceedings imposed by the Second Amended and Restated Initial Order, granted May 26, 2021 (the “**Second ARIO**”), a counterparty to the SISP Support Agreement may exercise any termination right that may become available to it pursuant to the SISP Support Agreement, provided that such termination right is exercised in accordance with the SISP Support Agreement;
- (f) approving the Sale and Investment Solicitation Process (the “**SISP**”) in the form attached hereto as **Exhibit “B”** and authorizing the Just Energy Entities to implement the SISP pursuant to the terms thereof;

- (g) authorizing and directing the Just Energy Entities, BMO Nesbitt Burns Inc., as financial advisor to the Just Energy Entities in these CCAA proceedings (the “**Financial Advisor**”), and the Monitor to perform their respective obligations and do all things reasonably necessary to perform their obligations under the SISP;
- (h) declaring that the Financial Advisor and the Monitor, and their respective affiliates, partners, directors, employees, agents and controlling persons shall have no liability with respect to any losses, claims, damages or liabilities of any nature or kind to any person in connection with or as a result of the SISP, except to the extent such losses, claims, damages or liabilities result from the gross negligence or willful misconduct of the Monitor or Financial Advisor, as applicable, in performing their obligations under the SISP, as determined by the CCAA Court;
- (i) extending the Stay Period (as defined in the Second ARIO) to October 31, 2022;
- (j) approving a third key employee retention plan (the “**Third KERP**”) for key non-executive employees of the Just Energy Entities considered critical to the continued operation and stability of the Just Energy Entities as a going concern and to the Just Energy Entities’ efforts to restructure for the benefit of all stakeholders, in the maximum aggregate amount of C\$405,280 and US\$633,910;
- (k) approving the Monitor’s Tenth Report to the Court dated May 18, 2022, the Supplement to the Tenth Report dated June 1, 2022, and the Eleventh Report to the Court, to be filed, and the activities, conduct and decisions described therein; and

- (1) directing that the unredacted copy of the SISP Support Agreement (attached hereto as **Confidential Exhibit “J”**) and the summary of the Third KERP (attached hereto as **Confidential Exhibit “L”**) be treated as confidential and sealed, and not form part of the public record, pending further order of this Court.

3. The Just Energy Entities are also seeking the advice and direction of the CCAA Court regarding the suspension of all ongoing claims review, claims determination, and dispute resolution processes under (i) the Claims Procedure Order, granted September 15, 2021 (the **“Claims Procedure Order”**), (ii) the Order of the CCAA Court, granted March 3, 2022 appointing the Honourable Justice Dennis O’Connor as Claims Officer for purposes of adjudicating the issues raised in the Putative Class Actions (as defined below) (the **“Appointment Order”**), and (iii) the First Endorsement (as defined below), pending further order of the CCAA Court, unless the adjudication of such Claim is necessary for determining entitlement to proceeds to be distributed in accordance with the Stalking Horse Transaction or another transaction entered into pursuant to the SISP.

4. Capitalized terms used in this affidavit but not defined have the meaning given to them in the SISP, the SISP Support Agreement, or the Stalking Horse Transaction Agreement, as applicable. All references to monetary amounts in this affidavit are in Canadian dollars unless noted otherwise.

**A. HISTORY OF THE CCAA PROCEEDINGS**

5. On March 9, 2021 (the **“Filing Date”**), the Applicants obtained protection under the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36 (the **“CCAA”**) pursuant to an initial order (the **“Initial Order”**) of the CCAA Court. The Applicants’ filing for protection under the

CCAA was precipitated by the acute and unforeseen liquidity challenge caused by the unprecedented winter storm in February 2021 in Texas and the Texas regulators' response to same.

6. On the Filing Date, the Ontario Superior Court of Justice Commercial List (the "**CCAA Court**") approved the CCAA Interim Debtor-in-Possession Financing Term Sheet (the "**DIP Term Sheet**") pursuant to which the DIP Lenders<sup>2</sup> provided access to emergency financing of US\$125 million (the "**DIP Facility**") to the Just Energy Entities. The DIP Facility has been fully drawn.

7. The Initial Order has twice been amended and restated. The CCAA Court granted an Amended and Restated Initial Order (the "**ARIO**") on March 19, 2021, and the Second ARIO on May 26, 2021.

8. On April 2, 2021, the United States Bankruptcy Court for the Southern District of Texas ("**U.S. Bankruptcy Court**") granted a Final Recognition Order under Chapter 15 of the U.S. Bankruptcy Code which, among other things, granted the ARIO, including any and all existing and future extensions, amendments, restatements, and/or supplements authorized by the CCAA Court, full force and effect on a final basis with respect to the Just Energy Entities' property located within the United States.

9. On September 15, 2021, the CCAA Court granted the Claims Procedure Order establishing a process to determine the nature, quantum, and validity of Claims against the Just Energy Entities and their respective Directors and Officers. The Claims Procedure Order

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<sup>2</sup> The DIP Lenders are: LVS III SPE XV LP, TOCU XVII LLC, HVS XVI LLC and OC II LVS XIV LP (the "**DIP Lenders**").



established a Claims Bar Date of November 1, 2021. Since the Claims Bar Date, the Just Energy Entities have been working in consultation with the Monitor to review, record, dispute and, where appropriate, finally determine the amount and characterization of Claims against the Just Energy Entities and their respective Directors and Officers.

10. On February 9, 2022, the CCAA Court heard a Motion for Advice and Directions filed by U.S. counsel to the proposed representative plaintiffs in *Trevor Jordet v. Just Energy Solutions, Inc.*, Case No. 2:18-cv-01496-MMB (PC-11175-1) and in *Fira Donin and Inna Golovan v. Just Energy Group Inc. et al.*, Case No. 1:17-cv-05787-WFK-SJB (PC-11177-1) (together, the “**Putative Class Actions**”). At the conclusion of the February 9<sup>th</sup> hearing, the CCAA Court dismissed the Motion for Advice and Directions (the “**Dismissal Order**”).

11. While U.S. counsel to the proposed representative plaintiffs in the Putative Class Actions filed a Notice of Motion for Leave to Appeal the Dismissal Order, such motion was dismissed in full by the Ontario Court of Appeal on June 28, 2022, with costs payable to Just Energy and the DIP Lenders. A copy of the Ontario Court of Appeal’s Reasons for Decision are attached hereto as **Exhibit “C”**.

12. On May 12, 2022, the Just Energy Entities filed and served a Notice of Motion seeking orders, *inter alia*, (i) accepting the filing of a Plan of Compromise and Arrangement, dated May 26, 2022 (the “**Plan**”), (ii) approving a Plan Support Agreement, dated May 12, 2022 (the “**Plan Support Agreement**”) and a Backstop Commitment Letter, dated May 12, 2022 (the “**Backstop Commitment Letter**”), and (iii) authorizing the Just Energy Entities to call, hold and conduct virtual meetings of the established creditor classes to consider and vote on resolutions to approve the Plan (the “**Meetings Order Motion**”). The Meetings Order Motion was the culmination of

ongoing efforts by the Just Energy Entities over an approximately one-year period to reach consensus with certain of their significant secured and unsecured creditors regarding the terms and structure of a restructuring plan to facilitate the Just Energy Entities' emergence from the current CCAA and Chapter 15 proceedings in a manner that, among other things, was intended to:

- (a) recapitalize the Just Energy Entities and in so doing preserve the going concern value of the businesses for the benefit of all stakeholders;
- (b) maintain relations with Commodity Suppliers to ensure uninterrupted supply of energy to the Just Energy Entities' customers;
- (c) preserve the ongoing employment of most of the Just Energy Entities' more than 1000 employees;
- (d) maintain critical regulatory and licensing relationships between the Just Energy Entities and its market regulators across Canada and the United States; and
- (e) sustain relationships with the hundreds of other vendors with whom the Just Energy Entities transact for goods and services, and other business-critical stakeholders.

13. On June 7, 2022, the Meetings Order Motion was heard by the CCAA Court. The Meetings Order Motion was opposed by the following contingent creditors:

- (a) counsel for the plaintiffs in the Putative Class Actions;

- (b) the representative plaintiff in the certified class action proceeding filed in *Haidar Omarali v. Just Energy Group Inc. et al*, Ontario Superior Court of Justice Court File No. CV-15-527493-00CP (the “**Omarali Class Action**”);
- (c) the approximately 250 alleged claimants pursuing claims for alleged loss of business, personal injury and/or property damage arising out of the winter storm in Texas in February 2021 (the “**Mass Tort Claimants**” and collectively with the plaintiffs in the Putative Class Actions and the Omarali Class Action, the “**Contingent Litigation Claimants**”); and
- (d) Pariveda Solutions Inc. (“**Pariveda**”).

14. On June 10, 2022, the CCAA Court released a brief endorsement addressing the majority of the issues raised both in the Meetings Order Motion and in the various objections filed by the Contingent Litigation Claimants in response to the Meetings Order Motion, with reasons to follow (the “**First Endorsement**”). In the First Endorsement, the CCAA Court:

- (a) granted the vast majority of the relief sought by the Applicants in the Meetings Order Motion, including approval of the Plan Support Agreement, the Backstop Commitment Letter and the Termination Fee (as defined in the Meetings Order Motion), the establishment of two classes of creditors (the Unsecured Creditor Class and the Secured Creditor Class) for purposes of considering and voting on the Plan and the provision of one vote to each of the Putative Class Actions and the Omarali Class Action and four votes to the Mass Tort Claimants;

- (b) denied the Applicants' request that each of the claims held by the Contingent Litigation Claimants be valued at \$1 for purposes of voting on the Plan, and directed that summary proceedings be undertaken by the Applicants on an expedited basis as soon as reasonably possible to determine the validity and value of the claims held by the Contingent Litigation Claimants and Pariveda;
- (c) directed the Monitor to liaise with the relevant parties to determine a process to conduct the claim determinations and valuations (which process the CCAA Court later clarified in a case conference was to be undertaken prior to the Creditors' Meetings); and
- (d) requested supplementary submissions from the Applicants, the Plan Sponsor and the Contingent Litigation Claimants regarding the appropriateness of the terms of the proposed differential consideration being offered to unsecured creditors in the Plan.

A copy of the First Endorsement and supporting reasons released by the CCAA Court on June 21, 2022 are attached hereto as **Exhibit "D"**.

15. After the release of the First Endorsement the Plan Sponsor/DIP Lenders advised the Court and stakeholders that the Plan Sponsor/DIP Lenders intended to withdraw their support for the Plan, indicating that in their view the Plan was no longer feasible.

16. On June 23, 2022, the CCAA Court released its second endorsement addressing the issue of the different consideration being offered to unsecured creditors in the Plan (the "**Second Endorsement**"). The CCAA Court determined in the Second Endorsement that given the

complicated nature of the proposed differential consideration and the conflicting evidence on the issue, it was preferable to wait until the Sanction Hearing to determine the fairness of this aspect of the Plan. The CCAA Court accordingly rejected the Contingent Litigation Claimants' submission that it was clear that the Plan cannot be sanctioned and is doomed to fail. A copy of the Second Endorsement is attached hereto as **Exhibit "E"**.

17. On July 4, 2022:

- (a) the representative plaintiff in the Omarali Class Action filed a Notice of Motion for Leave to Appeal the First Endorsement and, in particular, the CCAA Court's determination that the class is entitled to only one vote, rather than one vote for each member of the class, in respect of the Plan; and
- (b) U.S. counsel in the Putative Class Actions filed a Notice of Motion for Leave to Appeal the First Endorsement and, in particular, the CCAA Court's allocation of one vote to each of the Putative Class Actions and the classification of the Term Loan Lenders in the same class as the claimants in the Putative Class Actions and other general unsecured creditors.

Copies of the two Notices of Motion for Leave to Appeal are attached hereto as **Exhibit "F"**.

**B. A SISIP IS NEEDED TO PRESERVE VALUE**

18. Since the release of the First Endorsement, and in an effort to preserve the viability of the Plan and a going concern solution, the Just Energy Entities undertook both bilateral and multilateral discussions with certain of the Contingent Litigation Claimants, Pariveda and the Plan Sponsor to canvass whether a resolution could be achieved in a manner that would permit

the Plan to move forward.<sup>3</sup> The DIP Lenders/Plan Sponsor participated in certain of those discussions. At all relevant times, the Monitor was involved in, or kept apprised of, the status of such ongoing discussions, and actively worked to assist in advancing those discussions in a constructive and open manner. Notwithstanding the best efforts of the Just Energy Entities, no resolution was reached with either the Contingent Litigation Claimants or Pariveda.

19. Given the objections to the Plan, the appeals brought, the absence of a resolution with objecting creditors and the degree of uncertainty regarding the approval of the Plan and its implementation, the Supporting Secured CF Lenders questioned the feasibility of the Plan and indicated a desire for a different process to try and achieve a going concern solution.

20. Since no resolution was achieved that would enable the Plan to move forward with key stakeholder support, the Just Energy Entities were in a very difficult position with respect to their ongoing efforts to restructure. Accordingly, since the release of the First Endorsement, and in addition to their discussions with the Contingent Litigation Claimants, the Just Energy Entities, with the assistance of the Monitor, engaged in extensive discussions with the Plan Sponsor/DIP Lenders, the Supporting Secured CF Lenders, and Shell regarding the terms on which they would continue to support the Just Energy Entities' efforts to restructure and emerge as a going concern, without a resolution in respect of the Plan. Each of the Plan Sponsor/DIP Lenders, the Supporting Secured CF Lenders and Shell ultimately agreed to terminate the Plan Support Agreement and support a going concern solution for the Just Energy Entities pursuant to the terms of the SISP Support Agreement that includes, among other things, the implementation of

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<sup>3</sup> Despite being contacted by counsel for the Just Energy Entities multiple times for this purpose, counsel for the Mass Tort Claimants did not respond.

the SISP supported by the Stalking Horse Transaction. The Plan Support Agreement was then terminated by the execution of the SISP Support Agreement.

21. The SISP is the only viable going concern exit strategy available to the Just Energy Entities following the loss of stakeholder support for the Plan. The CCAA and Chapter 15 proceedings have been ongoing for more than 16 months. The Just Energy Entities cannot remain in the CCAA and Chapter 15 proceedings indefinitely. It is necessary and urgent for the preservation of the value of the Just Energy Entities' business and the maintenance of its key relationships with employees, Commodity Suppliers, Regulators and other business-critical stakeholders that the Just Energy Entities complete a going concern solution and conclude these lengthy and costly CCAA and Chapter 15 proceedings. The SISP, along with the Stalking Horse Transaction, is the only viable avenue to effect such outcome.

22. The SISP, supported by the Stalking Horse Transaction, was developed by the Just Energy Entities in consultation with the Financial Advisor, the Monitor, the Sponsor, the Supporting Secured CF Lenders and Shell to provide a fair and reasonable process to canvass the market to confirm whether the Stalking Horse Transaction delivers the best possible result for all stakeholders. To the extent that another party is willing to offer a higher value that could provide recovery to the unsecured creditors of the Just Energy Entities (the "**General Unsecured Creditors**"), the SISP is designed to solicit and identify such a proposal while providing the certainty of the Stalking Horse Transaction in the event no such alternative proposal can be achieved.

23. The Stalking Horse Transaction is structured to achieve comparable benefits for the Just Energy Entities and their stakeholders as are discussed in paragraph 12 above. The terms of the

Stalking Horse Transaction generally replicate the restructuring terms previously set out in the Plan with respect to stakeholder treatment, with one notable difference – the Stalking Horse Transaction does not provide any recoveries to General Unsecured Creditors, including the Term Loan Lenders.

24. It is imperative that the SISP be undertaken expeditiously. As has been well publicized, in the past year and particularly since spring 2022, the global price of natural gas and electricity have been extremely volatile and significant price increases have occurred. At the time the Plan was negotiated and finalized, neither the Just Energy Entities nor the Plan Sponsor expected that natural gas prices would exceed US\$9 per million Btu in June 2022, an increase of more than 60% since late March. The price of natural gas has not approximated the peak price of more than US\$9 per million Btu reached in June 2022 since before the stock market crash and financial crisis of 2008. The significant increase in natural gas prices has resulted in a corresponding increase in electricity prices in many markets in which the Just Energy Entities operate. Since reaching more than US\$9 per million Btu in June, natural gas prices have remained extremely volatile, with prices ranging from as low as mid-US\$5 to currently approximately US\$8 per million Btu.

25. In addition to highly volatile commodity prices, since May 2022, Texas (the Just Energy Entities' largest market) has experienced unseasonably hot temperatures, reporting the 2<sup>nd</sup> hottest May and 5<sup>th</sup> hottest June on record for the State. Such unseasonably hot temperatures have continued through July 2022, resulting in soaring energy demand across the State. On July 13,



2022, the real time price of electricity in Texas reached US\$5,000 per MWh for approximately 4 hours in response to soaring demand and limited electricity generation in ERCOT.<sup>4</sup>

26. Collectively, these market and operating conditions resulted in a significant increase to the Just Energy Entities' working capital requirements with respect to both energy supply costs and collateral posting requirements, and impact both the short-term and long-term profitability of the Just Energy Entities. While the Just Energy Entities were required to post short-term collateral of approximately US\$10 million with ERCOT at the beginning of May 2022 in order to participate in the day ahead and real time energy markets, such collateral posting requirements peaked at approximately US\$65 million in late May 2022. As a result, the Just Energy Entities were forced to request a waiver from the DIP Lenders of the Energy and Delivery Costs line-item variance for the DIP Budget dated May 5<sup>th</sup> to accommodate the enhanced collateral requirements. On May 27, 2022, the DIP Lenders approved the waiver (without any fee or compensation) and allowed the Just Energy Entities to amend the DIP Budget, as requested. As of August 3, 2022, the Just Energy Entities have posted short-term collateral of US\$47.5 million with ERCOT.

27. The increase in operating and collateral posting costs have also resulted in a tightening of the Just Energy Entities' available cash on hand to pay their secured creditors and priority payables as part of a going concern transaction, thereby further complicating the Just Energy Entities' restructuring efforts. While the Just Energy Entities' "sources and uses" under the Plan was tight, the additional demands on the Just Energy Entities' available cash caused by ongoing market volatility has further constrained available funds. The Just Energy Entities, the Sponsor

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<sup>4</sup> ERCOT caps the real time electricity price at US\$5,000 per MWh.

and the Supporting Secured CF Lenders amended the New Credit Facility Term Sheet and the Sponsor agreed to contribute up to an additional \$10 million under the Stalking Horse Transaction, as described further below, to cover any shortfall in the Just Energy Entities' payment of their secured obligations and priority payables under the Stalking Horse Transaction. In light of the ongoing market volatility, increasing demands on the Just Energy Entities' available funds, and resulting business uncertainty, a going concern restructuring of the Just Energy Entities is becoming increasingly difficult to achieve.<sup>5</sup>

28. In addition to difficult external market conditions, employee retention and morale is becoming increasingly problematic for the Just Energy Entities as the CCAA and Chapter 15 proceedings have been ongoing for more than 16 months. Continuing uncertainty regarding the future of the Just Energy Entities, coupled with the increased workloads being undertaken by many employees to both advance the Just Energy Entities' restructuring efforts while continuing to run the day-to-day operations of the business, is causing employee fatigue and burn out. Just Energy recently lost two key employees. Further, the competitive landscape for employee retention in the United States and Canada (as discussed further in my Affidavit sworn November 3, 2021) has exacerbated the issue by causing higher-than-normal rates of employee resignations in 2022.

29. In light of the foregoing, it is critical that the SISP be approved and undertaken expeditiously and without delay to protect against further erosion of the Just Energy Entities' value, and the potential loss of the Just Energy Entities' critical business relationships with its

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<sup>5</sup> In light of the increasing demands on the Just Energy Entities' available funds and the lack of any current need to resolve Claims (as discussed further below), the Just Energy Entities are seeking the advice and direction of the CCAA Court regarding a suspension of the claims process unless and until a Successful Bid is received within the SISP that provides value in excess of the Stalking Horse Transaction and that results in funds being available for distribution to General Unsecured Creditors.

employees, Commodity Suppliers, and Regulators, among others. The SISP is the only viable going concern option available to the Just Energy Entities to facilitate their exit from these CCAA and Chapter 15 proceedings in the near term for the benefit of all stakeholders.

30. The terms of the Stalking Horse Transaction generally replicate the restructuring terms previously set out in the Plan. Notwithstanding that the Plan Support Agreement provided the Just Energy Entities with a broad and robust “fiduciary out” in the event a superior proposal to the Plan was received and, notwithstanding that more than 2 months have passed since the Plan was served and interested parties were notified of the opportunity by press release, no meaningful inquiries and no proposals have been received by either the Financial Advisor or the Just Energy Entities.

31. Within the course of the discussions with certain of the Contingent Litigation Claimants, counsel in the Putative Class Actions advised the Just Energy Entities that, absent a consensual arrangement, their clients anticipated filing their own restructuring plan for consideration by the Just Energy Entities’ creditors. They also indicated that they had a financier who may be prepared to provide a replacement DIP facility. Counsel in the Putative Class Actions accordingly requested, among other things, that they, their financial advisor and their financier be provided access to the Just Energy Entities’ dataroom and financial information.<sup>6</sup>

32. I am advised by counsel to the Just Energy Entities, Osler Hoskin & Harcourt (“**Osler**”), that a call was immediately organized amongst counsel to discuss process and:

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<sup>6</sup> In addition to receiving access to such information, since December 2021, counsel to the Putative Class Actions and their financial advisor have previously received from the Just Energy Entities and/or the Monitor a significant amount of information in response to various information requests, which information was provided pursuant to their confidentiality agreements with Just Energy.

- (a) counsel in the Putative Class Actions and their financial advisor were provided access on July 20, 2022 to the dataroom created for the SISP, notwithstanding that the SISP had not yet commenced, in order to give them as much time as possible with the information and maximize their opportunity to submit an alternative restructuring proposal for the benefit of all stakeholders;
- (b) representatives of the financier with respect to an alternative DIP were provided with a draft non-disclosure agreement. Less than a day later, counsel in the Putative Class Actions advised that the proposed alternative DIP financier was no longer interested in exploring the opportunity and declined to participate further. No non-disclosure agreement was accordingly signed with such financier; and
- (c) through counsel in the Putative Class Actions, proposed financier(s) with respect to the alternative restructuring plan were invited to execute a non-disclosure agreement and gain access to the dataroom. Various drafts of a non-disclosure agreement were circulated between Osler and counsel in the Putative Class Actions, and I am advised by Osler that they attended a call with counsel on August 1, 2022 to discuss the non-disclosure agreement. Subsequently, on August 4, 2022, the proposed financier executed a non-disclosure agreement with Just Energy and was granted access to the dataroom.

33. Counsel in the Putative Class Actions has been invited to submit an alternative restructuring plan (which could take the form of a plan of arrangement) to the Just Energy Entities at any time, or to submit a NOI and Qualified Bid (as defined below) in the SISP, if approved, to restructure the Just Energy Entities in the manner proposed in their alternative

restructuring plan should they wish to do so. The Just Energy Entities continue to facilitate diligence by counsel in the Putative Class Actions and their financial advisor on financial, operational, commercial, and other matters relevant to their formulation of an alternative restructuring plan.

34. In addition, counsel in the Putative Class Actions was provided with an advance copy of the SISP on July 30, 2022. The Just Energy Entities intend to continue to discuss the SISP with counsel in the Putative Class Actions between now and the hearing of the SISP Motion on August 17th.

35. On August 4, 2022, counsel in the Putative Class Actions provided the letter attached as **Exhibit “G”** seeking an estimation of the Putative Class Actions by August 31, 2022. For the reasons set out below with respect to the Applicants’ motion for advice and direction regarding a suspension of the Claims Process, and in the attached responding letter dated August 4, 2022 attached as **Exhibit “H”** hereto, the Just Energy Entities object to an estimation of these claims in the current circumstances of the CCAA proceedings. The Just Energy Entities’ responding letter also provides further information concerning their engagement with counsel in the Putative Class Actions in the weeks prior to service of the SISP Motion scheduled for August 17, 2022.

36. The Just Energy Entities are accordingly seeking, among other things: (a) authorization to enter into the Stalking Horse Transaction Agreement, *nunc pro tunc*, subject to such minor amendments as may be consented to by the Monitor and as may be acceptable to each of the parties thereto; (b) approval of the SISP Support Agreement; and (c) approval of the SISP. A summary of the SISP Support Agreement, the Stalking Horse Transaction Agreement, and the terms, timelines, and details of the proposed SISP is provided below.

C. **PROPOSED SALE AND INVESTMENT SOLICITATION PROCESS**

(a) **SISP Support Agreement**

37. On August 4, 2022, the Just Energy Entities, the Sponsor, Shell, and the Supporting Secured CF Lenders entered into the SISP Support Agreement, subject to Court approval. The SISP Support Agreement provides that upon execution and delivery thereof by the Just Energy Entities and the Sponsor (the “**Effective Date**”), the Plan Support Agreement and Backstop Commitment Letter were terminated without further notice or action by the parties thereto.

38. In many respects, the SISP Support Agreement is similar in form and substance to the Plan Support Agreement. Under the SISP Support Agreement, each of the Just Energy Entities, the Sponsor, Shell, and the Supporting Secured CF Lenders agreed to cooperate with each other in good faith and use commercially reasonable efforts with respect to the pursuit, approval, implementation, and consummation of the transactions contemplated in the SISP Support Agreement, as well as the negotiation, drafting, execution, and delivery of the Definitive Documents (as defined in the SISP Support Agreement). A redacted copy of the SISP Support Agreement is attached hereto as **Exhibit “I”**.

39. Under the SISP Support Agreement, and unless inconsistent with the DIP Lenders’ obligations or rights under the DIP Term Sheet and subject to the SISP Order and the carrying out of the SISP thereunder, the Sponsor agreed and committed, among other things, to:

- (a) support the Stalking Horse Transaction and exercise any powers or rights available to it in favour of any matter requiring approval to the extent necessary to implement the Stalking Horse Transaction;

- (b) act in good faith and take all actions that are reasonably necessary or appropriate, and all actions required by the CCAA Court and/or the U.S. Bankruptcy Court, to support and achieve the consummation of the Stalking Horse Transaction and implementation of the steps provided for in the Stalking Horse Transaction;
- (c) not object to, delay, impede, or take any other action to interfere with consummation or implementation of the Stalking Horse Transaction;
- (d) not file any motion, pleading, or other document with the CCAA Court, the U.S. Bankruptcy Court or any other court that, in whole or in part, is not materially consistent with the Stalking Horse Transaction; and
- (e) not exercise, or direct any other person to exercise, any right or remedy for the enforcement, collection, or recovery of any Claims against the Just Energy Entities.

40. Similar support and good faith commitments and agreements are provided by each of the Supporting Secured CF Lenders and Shell under the SISP Support Agreement. In addition, similar to the Plan Support Agreement, the Supporting Secured CF Lenders agreed to participate in a New Credit Facility (subject to the terms and conditions of the New Credit Agreement) and enter into the New Intercreditor Agreement (as each of those terms is defined below), subject to the implementation of the Stalking Horse Transaction and closing occurring in accordance with the Stalking Horse Transaction Agreement. Shell agreed to continue to provide commodity supply in accordance with the existing Shell agreements and to enter into the New Intercreditor Agreement.

41. In turn, subject to the terms of the SISP Support Agreement, the SISP and the SISP Order, the Just Energy Entities agreed and committed that they would, among other things:

- (a) support and use commercially reasonable efforts to complete the Stalking Horse Transaction, including making commercially reasonable efforts to complete the Stalking Horse Transaction in accordance with each Milestone (as defined below);
- (b) not file any motion, pleading, or Definitive Documents with the CCAA Court, the U.S. Bankruptcy Court, or any other court that is inconsistent with the SISP Support Agreement or undertake any action that is inconsistent with, or is intended to frustrate or impede approval, implementation, and/or consummation of the Stalking Horse Transaction;
- (c) take commercially reasonable efforts to ensure that all consents and approvals necessary for the implementation of the Stalking Horse Transaction have been obtained to the satisfaction of the Sponsor, National Bank of Canada, as administrative agent under the Credit Agreement (the “**Credit Facility Agent**”), and the Just Energy Entities prior to the Closing Date;
- (d) apply for and obtain orders from the applicable Canadian Securities Regulatory Authorities which provide that, at Closing, all Just Energy Entities will have ceased to be reporting issuers under Canadian securities laws and no Just Energy Entity will become a reporting issuer (or equivalent) as a result of the completion of the Stalking Horse Transaction;



- (e) pay the reasonable and documented fees and expenses of all parties to the SISP Support Agreement incurred in connection with the Stalking Horse Transaction and the CCAA and Chapter 15 proceedings, including as set forth in the DIP Term Sheet or, with respect to any additional fees and expenses, as otherwise agreed to by the Sponsor;
- (f) operate the business of the Just Energy Entities in the ordinary course in a manner that is consistent with the SISP Support Agreement, and use commercially reasonable efforts to preserve intact the Just Energy Entities' business, organization and relationships with third parties and employees; and
- (g) keep the Sponsor, the Supporting Secured CF Lenders, and the Credit Facility Agent informed about the operations of the Just Energy Entities and provide each of the parties to the SISP Support Agreement with any material information reasonably requested regarding the Just Energy Entities (in accordance with the terms therein, including on a confidential basis).

42. In addition, under the SISP Support Agreement, the Just Energy Entities agreed to provide copies of any Alternative Restructuring Proposal<sup>7</sup> to legal counsel and the financial advisors to the Sponsor and Supporting Secured CF Lenders, including information regarding the

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<sup>7</sup> Any inquiry, proposal, offer, expression of interest, bid, term sheet, discussion, or agreement with respect to a sale, disposition, new-money investment, restructuring, reorganization, merger, amalgamation, acquisition, consolidation, dissolution, debt investment, equity investment, liquidation, tender offer, recapitalization, plan of reorganization, share exchange, business combination, or similar transaction involving any one or more Just Energy Entity, one or more Just Energy Entity's material assets, or the debt, equity, or other interests in any one or more Just Energy Entity that is an alternative to or otherwise inconsistent with the Transaction and is with a counterparty other than the Sponsor or an affiliate of the Sponsor.

status and substance of discussions relating thereto, and such other information as may be reasonably requested by legal counsel or the financial advisors.

43. Importantly, unlike the previous Plan Support Agreement, the SISP Support Agreement does not contain any provisions restricting the ability of the Just Energy Entities or the Financial Advisor to solicit superior offers to the Stalking Horse Transaction. As such limitations would be wholly inconsistent with the canvassing of the market for superior bids under the SISP, any and all previous restrictions and limitations have now been excluded from the SISP Support Agreement.

44. The SISP Support Agreement establishes the following milestones for the remainder of the CCAA and Chapter 15 proceedings (as may be extended in accordance with the SISP Support Agreement, the “**Milestones**”):

<b>Milestone</b>	<b>Date</b>
Motion for SISP Order served	August 4, 2022
SISP Order granted	August 17, 2022
Motion filed for an Order of the U.S. Bankruptcy Court recognizing and enforcing the Claims Procedure Order (“ <b>Claims Procedure Recognition Order</b> ”) and SISP Order (“ <b>SISP Recognition Order</b> ”)	August 19, 2022
Claims Procedure Recognition Order and SISP Recognition Order granted by U.S. Bankruptcy Court	September 9, 2022
Motion for Vesting Order (as defined below) served	October 13, 2022
Vesting Order granted	October 21, 2022
Motion filed for an Order of the U.S. Bankruptcy Court recognizing and enforcing the Vesting Order (“ <b>Vesting Recognition Order</b> ”)	October 24, 2022
A hearing shall be set by the U.S. Bankruptcy Court on the motion for the Vesting Recognition Order	November 14, 2022
Vesting Recognition Order granted by U.S. Bankruptcy Court	November 16, 2022
Outside date for the closing of the Stalking Horse Transaction, unless extended by the Sponsor (or, if the only outstanding condition is receipt of regulatory approval(s), as automatically extended by an additional 60 days) (the “ <b>Outside Date</b> ”)	November 30, 2022

45. The previous milestones under the DIP Term Sheet have been amended by the DIP Lenders and the Just Energy Entities to align with the aforementioned Milestones under the SISP Support Agreement.

46. The SISP Support Agreement may be terminated by the Sponsor, the Just Energy Entities, or any of the parties thereto upon the occurrence of certain specified events unless waived or cured by the applicable party in accordance with the terms of the SISP Support Agreement. The SISP Support Agreement preserves the right of the Just Energy Entities to terminate the SISP Support Agreement if the Just Energy Board determines, upon the advice of outside legal counsel and financial advisors, that proceeding with the Stalking Horse Transaction would be inconsistent with the exercise of its fiduciary duties or applicable law, provided, however, that such termination right will cease to apply in situations where either no Qualified Bids other than the Stalking Horse Transaction are received by the Qualified Bid Deadline, or the Stalking Horse Transaction is declared the Successful Bid (as each of those terms is defined below).

47. In the case of the Sponsor, such termination events include, among other things: (a) any failure by the Just Energy Entities to meet any of the Milestones, unless such failure is the result of any act, omission, or delay on the part of the Sponsor; (b) if the Just Energy Entities request, or the CCAA Court approves, any amendments or modifications to the SISP Order that are not acceptable to the Sponsor, acting reasonably; (c) any of the key milestone dates set out in the SISP are not met, unless extended with the consent of the Sponsor; (d) the Just Energy Entities file, propose or support a restructuring, sale or liquidation transaction other than as contemplated in the SISP Support Agreement or in accordance with the SISP Order; or (e) subject to the terms of the SISP, the Sponsor is not the successful bidder under the SISP.

48. In the case of Shell and the Supporting Secured CF Lenders, such termination events include if the Stalking Horse Transaction has not closed by:

- (a) November 30, 2022 with respect to the Supporting Secured CF Lenders, provided that if Closing will not occur by such date solely because the receipt of a Regulatory Approval remains outstanding, then such date will automatically be extended for 60 days upon written notice to the Credit Facility Agent that there is a reasonable expectation that the condition will be satisfied by such extended date; and
- (b) January 31, 2023 with respect to Shell, unless further extended by Shell.

49. The Just Energy Entities seek approval of the SISP Support Agreement and authorization to perform their obligations thereunder. In the Just Energy Entities' view, the SISP Support Agreement represents a critical component of the Just Energy Entities' going concern efforts as it achieves comparable benefits for the Just Energy Entities and their stakeholders as discussed in paragraph 12 above, facilitates consensus amongst all of the Just Energy Entities' significant secured creditors, and ensures continued access to commodity supply, letters of credit, and a credit facility – all critical to the ability of the Just Energy Entities to operate in the normal course upon closing of any going concern transaction.

50. Absent the continuing support of such parties, the Just Energy Entities would be wholly exposed to the vagaries of the market in navigating a sale process without any assurance of success or an ability to continue operations – a risk that is only exacerbated in today's challenging market conditions. The SISP Support Agreement forecloses such risk by permitting the Just Energy Entities to broadly market their assets and business in order to confirm that the

best possible value is received for the benefit of all stakeholders, while simultaneously minimizing any downside otherwise faced by the Just Energy Entities in undertaking a sales process in the absence of a stalking horse. The continuing support of the Sponsor, the Supporting Secured CF Lenders, and Shell are critical to the Just Energy Entities' ability to restructure for the benefit of all stakeholders.

51. Since the commencement of the CCAA proceedings, the Just Energy Board has been kept apprised of the status of all restructuring efforts including, more recently, all ongoing discussions between the Just Energy Entities and the Contingent Litigation Claimants, the DIP Lenders/Plan Sponsor, the Supporting Secured CF Lenders and Shell, and the negotiation of the SISP Support Agreement, the Stalking Horse Transaction Agreement and the SISP. The Just Energy Board has met to receive financial and legal advice regarding the Stalking Horse Transaction, and to review and evaluate the terms of the SISP Support Agreement. The Just Energy Board approved of the Just Energy Entities entering into the SISP Support Agreement and, subject to the approval of the CCAA Court, performing their obligations thereunder, including the negotiation, documentation and execution of all documents and the taking of all actions contemplated by the Stalking Horse Transaction.

52. An unredacted copy of the SISP Support Agreement is attached hereto as **Confidential Exhibit "J"**. The SISP Support Agreement contains confidential, commercially sensitive information relating to the Sponsors' contact information and the holding percentages of the various entities comprising the Sponsor in the DIP Lenders' Claim. The Just Energy Entities therefore seek an order that Confidential Exhibit "J" be sealed and not form part of the court record pending further order of the CCAA Court.

**(b) Stalking Horse Transaction Agreement**

53. The Stalking Horse Transaction is necessary in addition to the SISP because the existence of the SISP Support Agreement and the Stalking Horse Transaction provides stability for employees and counterparties, while providing a floor for bidding, as described further below.

54. The Stalking Horse Transaction is structured in a manner that generally replicates the restructuring terms previously set out in the Plan, although it does not provide the \$10 million General Unsecured Creditor Cash Pool or any share issuance or other compensation for the Term Loan Lenders, both of which were previously offered under the Plan. The cash consideration payable under the Stalking Horse Transaction provides the funds necessary to satisfy all Charges, secured Claims and other priority payables in full (apart from the BP Commodity/ISO Services Claim and the Credit Facility Remaining Debt, each discussed below). Accordingly, absent a superior bid to the Stalking Horse Transaction being received in the SISP that generates proceeds in excess of the Just Energy Entities' secured debt and priority payables<sup>8</sup>, no amounts will be available for distribution to the Just Energy Entities' General Unsecured Creditors, including the Term Loan Lenders.

55. The Stalking Horse Transaction, together with the SISP Support Agreement and the SISP, is the culmination of discussions and negotiations between the Sponsor, the Just Energy Entities, the Supporting Secured CF Lenders and Shell since release of the First Endorsement on June 10, 2022. The Stalking Horse Transaction involves the direct or indirect acquisition by the Sponsor of all of the equity interests of the Just Energy Entities<sup>9</sup> and certain other assumed

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<sup>8</sup> Including the BP Commodity/ ISO Services Claim and the Credit Facility Claims.

<sup>9</sup> Except to the extent such equity interests constitute Excluded Assets (as defined below).

liabilities, subject to certain terms and conditions. A copy of the Stalking Horse Transaction Agreement is attached hereto as **Exhibit “A”**.

56. The Stalking Horse Transaction provides that:

- (a) the Sponsor will acquire all of the newly issued common and preferred shares of Just Energy (U.S.) Corp. (“**JEUS**”) which, in turn, will acquire all of the newly issued equity of Just Energy. All of the currently existing equity interests of JEUS and Just Energy will be cancelled, terminated or redeemed for no consideration and Just Energy will be delisted as a reporting issuer under applicable securities laws;
- (b) all Excluded Assets and Excluded Liabilities will be assigned to, and vested in, entities to be organized by Just Energy prior to Closing in Canada and the United States (each, a “**Residual Co.**”), following which:
  - (i) the Sponsor will own directly or indirectly all of the equity interests of the Just Energy Entities (except to the extent such equity interests are included in the definition of “Excluded Assets”) free and clear of all Encumbrances other than Permitted Encumbrances and such Just Energy Entities will be discharged from the CCAA proceedings;
  - (ii) each Residual Co. will hold all Excluded Assets and Excluded Liabilities of the Just Energy Entities and will become Applicants in the CCAA proceedings;

- (c) all Priority Payments (as defined below) will be made by Just Energy on the Closing Date from the cash portion of the Purchase Price and the Just Energy Entities' cash on hand; and
- (d) the Administrative Expense Amount of \$1.9 million will be used by the Monitor to administer the Excluded Assets, Excluded Liabilities and each Residual Co., including the wind up of each Residual Co. Any unused portion of the Administrative Expense Amount will be transferred by the Monitor to Just Energy.

57. The Stalking Horse Transaction is structured on the basis that it will be implemented pursuant to a reverse vesting order. The nature of the Just Energy Entities' business requires numerous regulatory licenses and permits in the various jurisdictions in which the Just Energy Entities operate. In addition, the Just Energy Entities have tax attributes and hedging contracts which, together with the multi-jurisdictional permits and licenses held by the Just Energy Entities, make the going concern value of the business more difficult to preserve through a traditional asset sale vesting order. Accordingly, the Stalking Horse Transaction requires a reverse vesting order as a condition of its implementation.

58. Further details regarding the Stalking Horse Transaction are as follows:

<b>Term</b>	<b>Details</b>
Seller	Just Energy Group Inc.
Purchaser	The Sponsor
Purchase Price	(i) US\$184.9 million in cash, plus up to an additional \$10 million in the event and to the extent additional funds are required to pay all amounts to be paid by the Just Energy Entities pursuant to the Stalking Horse Transaction Agreement and the



Term	Details
	<p>Vesting Order;</p> <p>(ii) a credit bid of the BP Commodity/ISO Services Claim (US\$252.7 million, including accrued interest to November 30, 2022), in return for the issuance of the newly issued preferred shares of JEUS; and</p> <p>(iii) the retention of the Assumed Liabilities (as defined below)</p> <p>(collectively, the “<b>Purchase Price</b>”).</p> <p>The Sponsor has provided limited guarantees from certain Affiliates of the Sponsor guaranteeing the cash portion of the Purchase Price (subject to the terms and conditions therein).</p>
Transaction Structure	<p>On or prior to the Closing Date, the Just Energy Entities will effect specific transaction and pre-closing reorganization steps (collectively, the “<b>Implementation Steps</b>”) in order to permit the Stalking Horse Transaction to proceed in a tax efficient manner, which Implementation Steps will be set out in a schedule to be agreed upon by the Just Energy Entities, the Credit Facility Lenders and the Sponsor, each acting reasonably.</p> <p>On the Closing Date pursuant to the terms of a reverse vesting order (the “<b>Vesting Order</b>”) substantially in the form attached as <u>Exhibit 3</u> to the Stalking Horse Term Sheet (as attached as Exhibit C to the SISP Support Agreement, the “<b>Stalking Horse Term Sheet</b>”):</p> <p>(i) the Sponsor will acquire newly issued common and preferred shares of JEUS free and clear of all Encumbrances, other than Permitted Encumbrances (collectively, the “<b>Purchased Interests</b>”). The terms of the new preferred equity will be consistent with Exhibit A to the Stalking Horse Transaction Agreement;</p> <p>(ii) in accordance with the Implementation Steps, all equity interests of JEUS outstanding prior to the issuance of the Purchased Interests will be cancelled and the Purchased Interests will represent 100% of the outstanding equity interests of JEUS;</p> <p>(iii) in accordance with the Implementation Steps, JEUS will subscribe for and Just Energy will issue to JEUS newly issued common equity of Just Energy pursuant to the Vesting Order and Articles of Reorganization, following which all other equity interests of Just Energy will be cancelled or redeemed and JEUS will hold 100% of the outstanding equity interests in Just Energy;</p> <p>(iv) at Closing, no Just Energy Entity will be a reporting issuer (or equivalent);</p> <p>(v) at Closing, the Just Energy Entities will retain all of their assets as of the Closing Date other than the Excluded Assets and the Excluded Liabilities;</p> <p>(vi) from and after Closing, each Just Energy Entity will continue to be liable for its Assumed Liabilities;</p> <p>(vii) the Just Energy Entities will assign and transfer the Excluded Liabilities and Excluded Assets to the applicable Residual Co. and such Excluded Liabilities and Excluded Assets will be vested in the applicable Residual Co. as of Closing and none of the Sponsor or any of the Just Energy Entities shall have any liabilities with respect to such Excluded Liabilities or Excluded Assets from and after Closing;</p> <p>(viii) each Residual Co. will become an applicant in these CCAA proceedings; and</p>

Term	Details
	(ix) the Just Energy Entities will cease to be Applicants in the CCAA proceedings and shall be released from the purview of the Second ARIO and all Orders of the CCAA Court granted in the CCAA proceedings (other than the Vesting Order).
Assumed Liabilities	<p>(i) all Post-Filing Claims;<sup>10</sup></p> <p>(ii) liabilities of each Just Energy Entity arising from and after the Closing Date;</p> <p>(iii) all Claims of any Credit Facility Lender relating to any letter of credit issued but undrawn under the Credit Facility Documents immediately prior to Closing and the Credit Facility Remaining Debt (as defined below), if any;</p> <p>(iv) all Cash Management Obligations (as defined in the Second ARIO);</p> <p>(v) Energy Regulator Claims relating to the Just Energy Entities;</p> <p>(vi) tax liabilities of the Just Energy Entities for any tax period or the portion thereof beginning on or after the Filing Date (subject to the various exclusions noted in the Stalking Horse Transaction Agreement);</p> <p>(vii) any other Taxes, including sales or use taxes, payable to a Taxing Authority for any period whereby the nonpayment of which by any Just Energy Entity could result in a responsible person associated with a Just Energy Entity being held personally liable for such non-payment;</p> <p>(viii) Intercompany Claims between Just Energy Entities to the extent that the Implementation Steps contemplate such claims continuing as Assumed Liabilities;</p> <p>(ix) any and all indemnification obligations of Just Energy to current and former directors, officers, and/or other persons employed or previously employed by the Just Energy Entities (excluding, for the avoidance of doubt, Residual Co.);</p> <p>(x) Employee Priority Claims;<sup>11</sup></p> <p>(xi) all obligations and liabilities of the direct and indirect subsidiaries of Just Energy that are not Just Energy Entities, excluding those set forth on Schedule 2.2(f) of the Stalking Horse Transaction Agreement; and</p> <p>(xii) all Claims of the Texas Comptroller of Public Accounts that have been accepted pursuant to the Claims Procedure Order</p> <p>(collectively, the “<b>Assumed Liabilities</b>”).</p> <p>Each of the Assumed Liabilities of any Just Energy Entity shall continue to be liabilities of the applicable Just Energy Entity as of Closing, provided, however, that each Just Energy Entity agrees to take such steps as are necessary to ensure that any claim that could give rise to responsible person liability is satisfied if the applicable</p>

<sup>10</sup> Any or all indebtedness, liability, or obligation of the Just Energy Entities of any kind that arises during and in respect of the period commencing on the Filing Date and ending on the day immediately preceding the Effective Date in respect of services rendered or supplies provided to the Just Energy Entities during such period or under or in accordance with any Continuing Contract; provided that, for certainty, such amounts are not a Restructuring Period Claim or a Restructuring Period D&O Claim.

<sup>11</sup> Any Claim for (a) accrued and unpaid wages and vacation pay owing to an employee of any of the Just Energy Entities whose employment was terminated between the Filing Date and the Effective Date; and (b) unpaid amounts provided for in section 6(5)(a) of the CCAA.

Term	Details
	Just Energy Entity is, for any reason, unable to satisfy such claim.
Excluded Assets	<p>(i) the Tax records and returns, and books and records pertaining thereto and other documents, in each case, that primarily or solely relate to any of the Excluded Liabilities;</p> <p>(ii) cash in an amount equal to the value of the Priority Payments (as defined below) less the value of the cash portion of the Purchase Price (the “<b>Priority Payments Amount</b>”);</p> <p>(iii) cash in an amount of \$1.9 million (the “<b>Administrative Expense Amount</b>”);</p> <p>(iv) Excluded Contracts (contracts of the Just Energy Entities as specified on Schedule 2.2(c) to the disclosure letter regarding the Stalking Horse Transaction Agreement, the “<b>Disclosure Letter</b>”);</p> <p>(v) all communications, information or records, written or oral, that are in any way related to the transactions contemplated by the Stalking Horse Transaction Agreement, the sale of the Purchased Interests, any Excluded Asset, or any Excluded Liability;</p> <p>(vi) any rights which accrue to Residual Co. under the transaction documents;</p> <p>(vii) the equity interests of each entity set forth on Schedule 2.2(f) to the Disclosure Letter (which schedule may be modified by Just Energy and the Sponsor at least 7 days prior to the hearing of the Just Energy Entities’ motion for the Vesting Order); and</p> <p>(viii) any other assets listed on Schedule 2.2 to the Disclosure Letter (collectively, the “<b>Excluded Assets</b>”).</p>
Excluded Liabilities	All Claims, debts, obligations and liabilities of the Just Energy Entities or any predecessor of the Just Energy Entities except as expressly assumed as Assumed Liabilities under the Stalking Horse Transaction Agreement (the “ <b>Excluded Liabilities</b> ”).
Priority Payments	<p>On the Closing Date, upon payment of the cash portion of the Purchase Price and from the Just Energy Entities’ cash on hand, Just Energy shall pay, on behalf of the Just Energy Entities:</p> <p>(i) to the beneficiaries of the Administration Charge and the FA Charge, amounts necessary to satisfy the Just Energy Entities’ obligations secured by such Charges (up to the maximum respective amounts secured by such Charges);</p> <p>(ii) to the beneficiaries of the KERP Charge, all amounts necessary to satisfy the Just Energy Entities’ obligations secured by the KERP Charge;</p> <p>(iii) to the DIP Agent, for the beneficiaries of the DIP Lenders’ Charge, an amount</p>

Term	Details
	<p>necessary to satisfy the Just Energy Entities' obligations secured by the DIP Charge;</p> <p>(iv) to each Commodity Supplier, an amount necessary to satisfy such Commodity Supplier's Commodity Supplier Claim<sup>12</sup> that is an Accepted Claim (as defined in the Claims Procedure Order);</p> <p>(v) to each Governmental Entity, an amount necessary to satisfy such Governmental Entity's Government Priority Claim;<sup>13</sup> and</p> <p>(vi) to the Credit Facility Agent, an amount equal to the Credit Facility Claim<sup>14</sup>, less the Credit Facility Remaining Debt (as defined below), if any</p> <p>(collectively, the "<b>Priority Payments</b>").</p>
<p>Payment of Administrative Expense Amount</p>	<p>On the Closing Date, the Just Energy Entities will pay the Administrative Expense Amount (\$1.9 million) in trust to the Monitor for payment of the reasonable and documented fees and costs of the Monitor and its professional advisors and the professional advisors of the Just Energy Entities for services performed prior to and, other than in respect of the Just Energy Entities, after the Closing Date, in each case, relating directly or indirectly to the CCAA proceeding, the Chapter 15 proceedings and the Stalking Horse Transaction Agreement, including: (i) costs required to wind down and/or dissolve and/or bankrupt each Residual Co., and (ii) costs and expenses required to administer the Excluded Assets, Excluded Liabilities and each Residual Co. (collectively, the "<b>Administrative Expense Costs</b>").</p> <p>Any unused portion of the Administrative Expense Amount after payment or reservation for all Administrative Expense Costs will be transferred by the Monitor to Just Energy.</p>
<p>New Credit Agreement</p>	<p>On the Closing Date, the Credit Facility Lenders, JEUS and Just Energy Ontario L.P. will enter into an amended and restated credit agreement (the "<b>New Credit Agreement</b>") with the terms set forth in the New Credit Facility Term Sheet attached as <u>Exhibit 1</u> to the Stalking Horse Term Sheet, and pursuant to which a first lien revolving credit facility in the amount of \$250 million (the "<b>New Credit Facility</b>") will be made available to the Just Energy Entities and:</p> <p>(i) the principal amount of up to \$10 million of the Credit Facility Claim (the "<b>Credit Facility Remaining Debt</b>"), if any, may remain outstanding as an initial outstanding principal amount under the New Credit Agreement, and</p> <p>(ii) the letters of credit issued by the Credit Facility Lenders but which remain undrawn under the current Credit Agreement immediately prior to Closing will continue under the New Credit Facility or be replaced with new or replacement</p>

<sup>12</sup> Any Pre-Filing Claim or Restructuring Period Claim of any Commodity Supplier that is party to the Intercreditor Agreement in respect of a Commodity Agreement, plus any interest thereon to the Closing Date. But excluding the BP Commodity / ISO Services Claim.

<sup>13</sup> Any Claim of any Governmental Entity against any Just Energy Entity in respect of amounts that are outstanding, if any, provided for in section 6(3) of the CCAA.

<sup>14</sup> Any amounts owing by the Just Energy Entities to the Credit Facility Lenders as of the Closing Date under the Credit Facility Documents.

Term	Details
	letters of credit issued under the New Credit Facility.
Shell	Shell will have confirmed, in writing, to Just Energy and the Sponsor that: (i) it will not exercise any termination rights under its Continuing Contracts solely as a result of the Stalking Horse Transaction, and (ii) all existing and potential future trades will be transacted in accordance with the Continuing Contracts (as may be amended, restated, supplemented and/or replaced) or new arrangements, in each case in accordance with the terms thereof and subject to the terms of the New Intercreditor Agreement.
New Intercreditor Agreement	A seventh amended and restated intercreditor agreement (the “ <b>New Intercreditor Agreement</b> ”) by, among others, the Just Energy Entities, the Credit Facility Agent, and the applicable Commodity Suppliers, will be entered into, in accordance with the terms set forth in the New Intercreditor Agreement Term Sheet attached as <u>Exhibit 4</u> to the Stalking Horse Term Sheet.
Employees	Unless otherwise provided in the Management Incentive Plan (“ <b>MIP</b> ”) or agreed to in writing by and among the Just Energy Entities, the Sponsor, and the applicable employee (or employees) affected by any change or modification, each of the Employment Agreements will not be disclaimed and will remain in place as of, and as a condition to the occurrence of, Closing.
Management Incentive Plan	On Closing, a MIP will be executed on terms consistent in all respects with the MIP Term Sheet attached as <u>Exhibit 5</u> to the Stalking Horse Term Sheet.
Releases	<p>The Stalking Horse Purchase Agreement includes the following releases:</p> <p>Effective as of the Closing Date, and except in connection with any obligations contained in the Stalking Horse Transaction Agreement and the Closing Documents:</p> <p>(i) the Sponsor releases and discharges Just Energy, the Monitor, and their respective affiliates, and each of their respective successors and assigns, officers, directors, partners, members, shareholders, limited partners, employees, agents, financial and legal advisors from any and all actual or potential Released Claims<sup>15</sup> to the extent relating to the Purchased Interests or the Assumed Liabilities, save and except for Released Claims arising out of fraud, bad faith or illegal acts (unless such person believed in good faith that its conduct was legal);</p> <p>(ii) the Sponsor will cause the Just Energy Entities to release and discharge all officers, directors, partners, limited partners, employees, agents, financial and legal advisors of each of the Just Energy Entities and their respective successors and assigns from any and all potential Causes of Action related to any act or omission that is determined in a Final Order of a court of competent jurisdiction to have</p>

<sup>15</sup> All claims, demands, complaints, grievances, actions, applications, suits, causes of action, Orders, charges, indictments, prosecutions, informations or other similar processes, assessments or reassessments, judgments, debts, liabilities, expenses, costs, damages or losses, contingent or otherwise, whether liquidated or unliquidated, matured or unmatured, disputed or undisputed, contractual, legal or equitable, including loss of value, professional fees, including “claims” as defined in the CCAA or the U.S. Bankruptcy Code and including fees and disbursements of legal counsel on a full indemnity basis, and all costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing.

Term	Details
	<p>constituted actual fraud, willful misconduct, or gross negligence; and</p> <p>(iii) Just Energy releases and discharges the Sponsor, the Monitor, and their respective affiliates, and each of their respective successors and assigns, officers, directors, partners, members, shareholders, limited partners, employees, agents, financial and legal advisors from any and all actual or potential Released Claims to the extent relating to the Purchased Interests, the Assumed Liabilities, the Excluded Assets or the Excluded Liabilities, save and except for Released Claims arising out of fraud, bad faith or illegal acts (unless such person believed in good faith that its conduct was legal).</p> <p>In addition to the foregoing releases, the Vesting Order includes similar third-party releases, debtor releases, and exculpations to those previously included in the Plan (including releases of the Monitor, the Sponsor, the Credit Facility Agent and the Credit Facility Lenders). In the event the Stalking Horse Transaction is the Successful Bid, the Just Energy Entities will seek approval of such releases and exculpations by the CCAA Court as part of the Vesting Order.</p>

59. I have been advised by Osler that (i) the provisions of Multilateral Instrument 61 -101 “Protection of Minority Securityholders in Special Transactions”, that require “minority” shareholder approval in respect of certain “related party transactions” or “business combinations” may be triggered by the Stalking Horse Transaction, and (ii) the CCAA provides that shareholders are not required to vote on the Stalking Horse Transaction unless specifically ordered by the Court.

60. The Stalking Horse Transaction Agreement also provides that a Just Energy Entity organized in the United States will pay the Sponsor a break-up fee in cash equal to US\$14.66 million (the “**Break-Up Fee**”) concurrently with the consummation of an Alternative Restructuring Proposal, following: (a) the CCAA Court approving an Alternative Restructuring Proposal that is not provided by the Sponsor or any of its affiliates in accordance with the terms of the SISP Order, or (b) Just Energy terminating the SISP Support Agreement following the Just Energy Board determining, upon the advice of outside counsel and financial advisors, that

proceeding with the Stalking Horse Transaction would be inconsistent with the exercise of its fiduciary duties or applicable law.

61. The quantum of the Break-Up Fee was derived taking into account the same factors on which the Termination Fee was derived in the Backstop Commitment Letter – the new value contribution of the Sponsor by payment of the Purchase Price (previously the new value contribution by the Plan Sponsor and CBHT to the Restructuring under the Plan Support Agreement and Plan). The Break-Up Fee reflects a slightly reduced amount from the Termination Fee that was previously approved by the CCAA Court in the First Endorsement to reflect the reduced amount of the cash contribution of the Sponsor, excluding, for the sake of simplicity, (i) the additional \$10 million commitment which may be made by the Sponsor to the extent additional funds are required to pay all required amounts pursuant to the Stalking Horse Transaction Agreement and the Vesting Order, and (ii) the Assumed Liabilities.

62. Under the Stalking Horse Transaction Agreement, the Sponsor is required to pay US\$184.9 million in cash and credit bid the BP Commodity/ISO Services Claim (US\$252.7 million, including accrued interest to November 30, 2022). Accordingly, in the event the Stalking Horse Transaction is not the Successful Bid or the SISP Support Agreement is terminated and the Break-Up Fee is to be paid in accordance with the terms thereof, the Break-Up Fee can be analyzed as a percentage of the foregoing Purchase Price. The US\$14.66 million Break-Up Fee equates to 3.4% of the Purchase Price payable by the Sponsor under the Stalking Horse Transaction, exclusive of the Assumed Liabilities.<sup>16</sup>

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<sup>16</sup> US\$14.66 million Break-Up Fee / (US\$184.9 million (cash consideration) + US\$252.7 million (the BP Commodity/ISO Services Claim including all accrued and unpaid interest calculated up to November 30, 2022, the CAD portion of which is converted at a rate of C\$1.30 per US\$1.00)) = 3.4%.

63. While each of the additional equity commitment and the Assumed Liabilities represent additional value to the benefit of the Just Energy Entities under the Stalking Horse Transaction, for ease of the analysis and the sake of simplicity, such amounts have been excluded from the foregoing calculations. If such value was included in the analysis, the Break-Up Fee as a percentage of new value contributed by the Sponsor would be lower than the 3.4% discussed above.

64. I am advised by Mr. Mark Caiger, Managing Director, Mergers & Acquisitions at the Financial Advisor, that the quantum of the Break-Up Fee is in line with market terms, is consistent with market practice and is reasonable in all of the circumstances.

65. Similar to the Termination Fee Charge securing the Termination Fee which was approved by the CCAA Court in the First Endorsement, the Break-Up Fee is proposed to be secured in favour of the Sponsor by the Bid Protections Charge on all of the Property (as defined in the Second ARIO) of the Just Energy Entities. The Bid Protections Charge will have priority over all other security interests, charges, and liens, but will rank subordinate to all other Charges granted to date within the CCAA proceedings, which is consistent with the ranking of the Termination Fee Charge.

66. The Just Energy Entities are of the view that the inclusion of the Stalking Horse Transaction as part of the SISF will benefit the Just Energy Entities' efforts to maximize value for the benefit of all stakeholders by, among other things: (a) setting a "floor price" and commercial terms for a transaction involving the shares and/or the business and assets of the Just Energy Entities; (b) helping to generate interest in the Just Energy Entities among potential purchasers; and (c) providing a level of certainty, stability and efficiency during the SISF, both



in terms of setting a baseline price and documentation for the SISP and assuring stakeholder groups that there will be a going concern sale of the Just Energy Entities' business.

67. The stability provided by the Stalking Horse Transaction is particularly important in light of the very challenging market conditions currently existing in Canada and the United States. Companies operating in the energy retail space have, to the best of my knowledge, had very little recent involvement in the acquisition market and have instead been aggressively conserving capital. The energy markets in which the Just Energy Entities operate continue to be extremely volatile and difficult for energy retailers like the Just Energy Entities to navigate and, as such, the Stalking Horse Transaction provides a critical level of stability to the process that would not otherwise exist.

68. In addition to difficult energy markets, the CCAA and Chapter 15 proceedings have been ongoing for more than 16 months, and despite the relative stability created by the process, continue to generate uncertainty for employees, suppliers, regulators and other business-critical stakeholders necessary for the long-term viability of the Just Energy Entities. Fatigue by such critical stakeholder groups has only worsened in light of the inability of the Plan to move forward as originally anticipated and the fact that, notwithstanding the passage of more than 2 months since potentially interested parties were notified of the ability to submit superior proposals to the Plan, no meaningful inquiries and no proposals have been received by either the Financial Advisor or the Just Energy Entities. I am particularly concerned about the loss of key employees as the restructuring continues and I believe that the certainty that a going concern transaction will be implemented through the Stalking Horse Transaction or a superior offer obtained through the SISP is crucial to employee retention and the maintenance of employee morale.

69. As such, it is critical that a process to facilitate the Just Energy Entities' exit from the CCAA and Chapter 15 proceedings be put in place without delay. In light of the loss of stakeholder support for the Plan, the SISP (discussed below) supported by the Stalking Horse Transaction is the only currently viable going concern option available to the Just Energy Entities in the context of these CCAA proceedings.

**(c) Proposed SISP**

70. The approval by the CCAA Court of the SISP in the form attached hereto as **Exhibit "B"** (or as otherwise acceptable to the Sponsor, acting reasonably) and entry by the U.S. Bankruptcy Court of the SISP Recognition Order are each Milestones under the SISP Support Agreement.

71. The Just Energy Entities have developed the proposed SISP in consultation with the Financial Advisor, the Monitor, the Sponsor, the Supporting Secured CF Lenders and Shell. The SISP sets out the parameters by which the Just Energy Entities, under the oversight of the Monitor and with the assistance of the Financial Advisor, have or will:

- (a) prepare marketing materials, a process letter, and a data room, access to which will be provided to applicable parties that execute a non-disclosure agreement in form and substance satisfactory to Just Energy;
- (b) solicit interest in executable transaction alternatives that are superior to the sale transaction provided for in the Stalking Horse Transaction Agreement involving the shares and/or the business and assets of the Just Energy Entities. Such transaction alternatives may include, among other things, a sale of some or all of Just Energy's shares, assets or business, and/or an investment in Just Energy;

- (c) negotiate any bids received within the SISP;
- (d) select one or more Successful Bids (as defined below); and
- (e) seek the approval of the CCAA Court of any Successful Bid.

72. Solicitation of potentially interested parties by the Financial Advisor with respect to the SISP will commence forthwith following service of the Just Energy Entities' SISP Motion and release of a press release announcing the filing of the SISP Motion. A copy of Just Energy's press release is attached hereto as **Exhibit "K"**.

73. Pursuant to the SISP, interested parties must enter into a non-disclosure agreement in form and substance satisfactory to Just Energy and submit a notice of intent to bid that identifies the potential purchaser and a general description of the assets and/or business(es) of the Just Energy Entities that would be the subject of the bid and that reflects a reasonably likely prospect of culminating in a binding offer meeting the requirements enumerated in the SISP (a "**Qualified Bid**"), as determined by the Just Energy Entities in consultation with the Monitor and the Credit Facility Agent (each, a "**NOI**") by August 25, 2022 (the "**NOI Deadline**"). If, by the NOI Deadline, no NOI has been received, the SISP will be terminated and the Stalking Horse Transaction will be the Successful Bid (as defined below) and, subject to the Court issuing the Vesting Order, will be consummated in accordance with the SISP Support Agreement and the Stalking Horse Transaction Agreement.

74. In order to constitute a Qualified Bid, each bid must:

- (a) provide for (i) the payment in full in cash on closing of the BP Commodity/ISO Services Claim, unless otherwise agreed to by the holder of such claim in its sole

discretion; (ii) the payment in full in cash on closing of the Credit Facility Claims, unless otherwise agreed to by the Credit Facility Agent in its sole discretion; (iii) the payment in full in cash on closing of any claims ranking in priority to the BP Commodity/ISO Services Claim, including any claims secured by Court-ordered charges, unless otherwise agreed to by the applicable holders thereof in their sole discretion (iv) the return of all outstanding letters of credit and release of all Credit Facility LC Claims or arrangements satisfactory to the applicable Credit Facility Lenders in their discretion to secure with cash collateral or otherwise any Credit Facility LC Claims not released, and (v) the payment in full in cash on closing of any outstanding Cash Management Obligations or arrangements satisfactory to the applicable Credit Facility Lenders or their affiliates to secure with cash collateral or otherwise any outstanding Cash Management Obligations;

- (b) provide a detailed sources and uses schedule that identifies, with specificity, the amount of cash consideration (the “**Cash Consideration Value**”) and any assumptions that could reduce the net consideration payable. At a minimum, the Cash Consideration Value plus Just Energy’s cash on hand must be sufficient for payment in full of the BP Commodity/ISO Services Claim, the Credit Facility Claims, the Priority Payments and the Break-Up Fee, plus US\$1 million, on closing, which Cash Consideration Value is estimated to be US\$460 million as of December 31, 2022;
- (c) be reasonably capable of being consummated by 90 days after completion of the Auction if selected as the Successful Bid;

- (d) contain duly executed binding transaction documents, the identity and contact information of the bidder, full disclosure of the bidder's direct and indirect principals and the names of its controlling equity holders, and evidence of authorization and approval from the bidder's board of directors;
- (e) include a letter stating that the bid is submitted in good faith, is binding and is irrevocable until the selection of the Successful Bid;
- (f) provide written evidence of a bidder's ability to fully fund and consummate the transaction and satisfy its obligations under the transaction documents;
- (g) include an acknowledgment and representation that the bidder has had an opportunity to conduct any and all required due diligence prior to making its bid;
- (h) specify any regulatory or other third-party approvals the party anticipates would be required to complete the transaction and specify whether the bidder or any of its affiliates is involved in any part of the energy sector, including an electric utility, retail service provider, a company with a tariff on file with the Federal Energy Regulatory Commission, or any intermediate holding company;
- (i) include full details of the bidder's intended treatment of Just Energy's employees under the proposed bid;
- (j) be accompanied by a cash deposit (the "**Deposit**") by wire transfer of immediately available funds equal to 10% of the Cash Consideration Value;

- (k) include a statement that the bidder will bear its own costs and expenses in connection with the proposed transaction and agrees to refrain from and waive any assertion or request for reimbursement on any basis; and
- (l) be received by September 29, 2022 (as may be extended by Just Energy for up to seven days with the consent of the Monitor, the Credit Facility Agent and the Sponsor, acting reasonably, or by further order of the CCAA Court, the **“Qualified Bid Deadline”**).

75. In no case is a Qualified Bid permitted to include any request for or entitlement to any break fee, expense reimbursement or similar type of payment, or be conditional upon the outcome of unperformed due diligence and/or the securing of financing.

76. If one or more Qualified Bids (other than the Stalking Horse Transaction) has been received by Just Energy on or before the Qualified Bid Deadline, Just Energy will proceed with an auction process to determine the successful bid(s) (the **“Auction”**). The Auction will be conducted in accordance with the requirements and process appended at Schedule “A” to the SISP which includes, but is not limited to, the following:

- (a) only parties that submitted a Qualified Bid by the Qualified Bid Deadline, including the Stalking Horse Transaction, are eligible to participate in the Auction;
- (b) the Auction will begin with the Qualified Bid that represents the highest or otherwise best Qualified Bid as determined by Just Energy, in consultation with

the Monitor, and any overbids submitted by a Qualified Bidder must be in minimum additional cash increments of US\$1 million;

- (c) the Auction shall continue in one or more rounds and will conclude after each participating party has had the opportunity to submit one or more additional bids with full knowledge and written confirmation of the then-existing highest bid(s);
- (d) before the conclusion of the Auction, Just Energy, in consultation with the Monitor, will:
  - (i) review each Qualified Bid considering, among other things, (i) the amount of consideration being offered, (ii) the value of any assumption of liabilities or waiver of liabilities, (iii) the likelihood of the party's ability to close a transaction by 90 days after completion of the Auction, (iv) the likelihood of the CCAA Court's approval of the Successful Bid, (v) the net benefit to Just Energy, and (vi) and other factors Just Energy may, consistent with its fiduciary duties, reasonably deem relevant; and
  - (ii) identify the highest or otherwise best bid received at the Auction (the **"Successful Bid"**).

77. Following selection of the Successful Bid and finalization of all definitive agreements, the Just Energy Entities will apply to the CCAA Court for an order or orders approving such further or other Successful Bid and/or the mechanics to authorize Just Energy to complete the transactions contemplated thereby, as applicable, and authorizing Just Energy to (a) enter into all necessary agreements and related documentation with respect to the Successful Bid, (b)

undertake such other actions as may be necessary to give effect to such Successful Bid, and (c) implement the transaction(s) contemplated in the Successful Bid (each, an “**Implementation Order**”).

78. All Deposits paid in accordance with the SISP will be retained by the Monitor in a non-interest-bearing trust account. If a Successful Bid is selected and either the Vesting Order or an Implementation Order is granted, any Deposit paid in connection with such Successful Bid will be non-refundable and applied to the cash consideration to be paid in connection with the Successful Bid (or be dealt with as otherwise set out in the definitive agreements(s)). Any Deposit delivered with a Qualified Bid that is not selected as a Successful Bid, will be returned to the applicable bidder as soon as reasonably practicable after the Successful Bid is approved by Vesting Order or Implementation Order, as applicable, or such earlier date as may be determined by Just Energy, in consultation with the Monitor.

79. The proposed SISP requires Just Energy to provide information in respect of the SISP to the DIP Lenders, CBHT and the Supporting Secured CF Lenders on a confidential basis, including copies of any NOIs or bids received and any other information necessary to keep the DIP Lenders, CBHT and the Supporting Secured CF Lenders informed. The SISP also authorizes Just Energy to provide general updates and information in respect of the SISP to counsel to any General Unsecured Creditor on a confidential basis if such counsel confirms in writing that the applicable General Unsecured Creditor will not submit an NOI or bid in the SISP and counsel executes a confidentiality agreement with Just Energy.

80. A summary of the significant dates and processes within the proposed SISP is as follows:



SISP Process	Deadline <sup>17</sup>
Just Energy to commence solicitation process on the date of service of the motion for approval of the SISP	August 4, 2022
CCAA Court approval of SISP and authorizing Just Energy to enter into the Stalking Horse Transaction Agreement	August 17, 2022
NOI Deadline	August 25, 2022
Qualified Bid Deadline (if applicable)	September 29, 2022
Deadline to determine whether a bid is a Qualified Bid and, if applicable, to notify those parties who submitted a Qualified Bid of the Auction	October 6, 2022
Auction	October 8, 2022
Just Energy Entities to obtain Vesting Order or Implementation Order(s), as applicable <ul style="list-style-type: none"> <li>• If no NOI is submitted, subject to CCAA Court availability</li> <li>• In no Auction is conducted, subject to CCAA Court availability</li> <li>• If Auction is conducted, subject to CCAA Court availability</li> </ul>	September 2, 2022 October 15, 2022 ~ October 27, 2022 (12 days after completion of Auction)

81. In developing the timelines and multi-stage process for the SISP, the Just Energy Entities, in consultation with the Monitor and the Financial Advisor, considered a number of factors, including:

- (a) as discussed further in my Affidavit sworn May 12, 2022 (and filed in support of the Meetings Order Motion):
- (i) over the past approximately 2.5 years, the business of the Just Energy Entities has been marketed broadly and extensively. While certain interest has been expressed by third parties in a potential acquisition transaction

<sup>17</sup> To the extent any dates fall on a non-business day, the Milestone is deemed to be the first business day thereafter.

both within, and prior to commencement of, the CCAA proceedings, no binding or executable offers have been received;

(ii) within the CCAA proceedings, three third parties have undertaken significant due diligence, including multiple rounds of non-public information disclosure, and discussions with the Just Energy Entities' finance, operations, tax, risk management and other groups, however no binding or executable offers have been received;

(b) the Plan Support Agreement incorporated a 62-day period between the milestone for mailing of the Meeting Materials to Creditors (June 1, 2022) and the deadline for the Creditors' Meetings (August 2, 2022) (the "**Voting Period**"). The Voting Period permitted any interested parties that may wish to propose a restructuring transaction more favourable than the Plan (which is substantially similar to the Stalking Horse Transaction, as more particularly described above) or otherwise to submit a bid for all or some of the Just Energy Entities' property to complete due diligence and submit their proposal. All potentially interested parties were notified of the Voting Period by press release issued by the Just Energy Entities on May 12, 2022. In addition, prior to the Just Energy Entities entering into the Plan Support Agreement, the Financial Advisor contacted each third party who had expressed interest in potential acquisition opportunities to advise them of the expected filing of the Plan and the issuance of the press release. Notwithstanding the passage of over 2 months, no meaningful inquiries and no proposals have been received by either the Financial Advisor or the Just Energy Entities; and

- (c) the pool of likely potential purchasers for the Just Energy Entities is limited based on the capital-intensive and highly specialized nature of the Just Energy Entities' business.

82. In light of the foregoing, the Just Energy Entities are of the view that the timelines set out in the SISP are appropriate, will allow interested parties to participate in the SISP, and will provide an appropriate test for whether the Stalking Horse Transaction delivers the best possible result for all stakeholders. The Just Energy Entities are also of the view that the proposed SISP provides a fair and reasonable process that will adequately canvass the market, while simultaneously protecting against the significant risk of further market decline by providing for automatic termination of the SISP and, if approved by the CCAA Court by the granting of the Vesting Order, consummation of the Stalking Horse Transaction if no NOIs or Qualified Bids are received.

83. I am advised by Mr. Caiger that in his experience and based on his knowledge of the Just Energy Entities' business and discussions with management, he is of the view that the timelines and terms in the proposed SISP are fair, reasonable and appropriate in the circumstances, and provide sufficient time to allow interested parties to fully participate in the SISP (to the extent desired).

84. As the SISP is the only viable going concern option available to the Just Energy Entities to facilitate their exit from these CCAA and Chapter 15 proceedings for the benefit of all stakeholders, it is critical that the SISP be approved and undertaken expeditiously and without delay. The Just Energy Entities are of the view that such relief is necessary to protect against

further erosion of the Just Energy Entities' value, and loss of the Just Energy Entities' business critical relationships with its employees, Commodity Suppliers, and Regulators, among others.

**D. THIRD KERP**

85. On March 19, 2021, the CCAA Court approved a key employee retention plan (the “KERP”) and granted a Court-ordered charge (the “KERP Charge”) as security for payments under the KERP. Under the KERP:

- (a) non-executive KERP recipients received: (i) 40% of their total KERP on the 180<sup>th</sup> day after the Filing Date (September 5, 2021); (ii) 40% of their total KERP on the 270<sup>th</sup> day after the Filing Date (December 4, 2021); and (iii) 20% of their total KERP on the date that was the earlier of 15 months after the Filing Date (June 9, 2022) or the completion of a Successful Restructuring (as defined in my Affidavit, sworn March 16, 2021); and
- (b) executive KERP recipients received/will receive: (i) 25% of their total KERP on the 180<sup>th</sup> day after the Filing Date (September 5, 2021), (ii) 25% of their total KERP on the 270<sup>th</sup> day after the Filing Date (December 4, 2021), and (iii) 50% of their total KERP only upon the completion of a Successful Restructuring.

86. The original KERP was developed by the Just Energy Entities on the expectation that the Just Energy Entities' restructuring would largely be concluded (apart from potential regulatory approvals) by the end of 2021. However, by November 2021, discussions regarding the terms of the Just Energy Entities' proposed restructuring were continuing with key stakeholders and it became apparent to the Just Energy Entities that, because of the sheer size and complexity of the

Just Energy Entities' business, additional time would be required for the Just Energy Entities to complete a going concern solution and exit from the CCAA and Chapter 15 proceedings.

87. Accordingly, on November 10, 2021, the Just Energy Entities sought, and the CCAA Court granted a second KERP (the "**Second KERP**"). Under the Second KERP:

- (a) non-executive KERP recipients received an installment payment in March 2022 and will receive an installment payment in September 2022; and
- (b) executive KERP recipients received one installment payment in March 2022 and will receive one success-based payment upon the completion of a Successful Restructuring.

88. While the payments made by the Just Energy Entities under the Second KERP were incremental to all payments approved by the CCAA Court under the original KERP, no increase to the KERP Charge was required since the payments generally replicated those already made under the original KERP.

89. The Just Energy Entities are now requesting CCAA Court approval for a Third KERP for non-executive, key employees. All payments to non-executive key employees under the original KERP were exhausted in June 2022. The final payment to non-executive key employees under the Second KERP will be made on September 9, 2022. Executive management of the Just Energy Entities are very concerned that absent additional KERP funds being made available for non-executive key employees to account for the significantly longer-than-expected length of the CCAA and Chapter 15 proceedings and the uncertainty created by the failure of the Plan to move

forward and the introduction of a marketing process under the SISP, non-executive key employees may resign at this critical juncture of the Just Energy Entities' restructuring efforts.

90. The loss of such non-executive key employees could be exceedingly detrimental to the ongoing, normal course operation of the Just Energy Entities' highly specialized and expertise-dependent business. The Stalking Horse Transaction is based on, and requires, the Just Energy Entities to continue operating as going concerns through the Closing Date which, in turn, relies on the continued retention of the Just Energy Entities' key employees. As such non-executive key employees have been required to accept increased workloads since March 2021 (the Filing Date) managing all aspects of the restructuring while continuing to run the day-to-day operations of the business, while simultaneously dealing with the continuing uncertainty created by the ongoing CCAA and Chapter 15 proceedings, employee burnout and fatigue are becoming increasingly apparent and problematic. Two key employees have recently resigned from the Just Energy Entities and, without additional compensation in the form of the Third KERP, the Just Energy Entities are very concerned that others may follow.

91. Accordingly, the Just Energy Entities are seeking approval of a Third KERP in the amount of C\$405,280 and US\$633,910 to be paid to non-executive KERP recipients at emergence from the CCAA and Chapter 15 proceedings or within 30 days thereof. No payments under the Third KERP are proposed to be made to executive-level employees as such executives are entitled to receive both success-based payments under the original KERP and the Second KERP upon completion of a Successful Restructuring.

92. The timing of the payment to non-executive KERP recipients under the Third KERP is intended to provide financial motivation for key employees to continue their employment with

the Just Energy Entities until conclusion of the restructuring proceedings, all for the benefit of the Just Energy Entities and their stakeholders. I understand that the Monitor is supportive of the Third KERP.

93. The payments proposed to be made by the Just Energy Entities under the Third KERP are incremental to all payments approved by the CCAA Court under the original KERP and the Second KERP. However, no increase to the KERP Charge is required as the proposed payment falls within the approved quantum of the KERP Charge.

94. The Third KERP was approved by the Just Energy Board on July 26, 2022, in accordance with the recommendation of all of the members of Just Energy's Human Resources, Environmental, Health & Safety Committee, following a discussion of the Third KERP. For all the reasons discussed above, the Just Energy Entities are of the view that the Third KERP is critical to their ongoing stability, retention of key employees, and efforts to restructure for the benefit of all stakeholders.

95. A summary of the Third KERP is attached as **Confidential Exhibit "L"**. The Third KERP summary contains commercially sensitive information as well as personal information relating to certain of the Just Energy Entities' employees. The Just Energy Entities therefore seek an order that Confidential Exhibit "L" be sealed and not form part of the court record pending further order of the Court.

**E. AMENDING CLAIMS PROCESS REQUIREMENTS**

96. As discussed above, on September 15, 2021, the CCAA Court granted the Claims Procedure Order establishing a process to determine the nature, quantum, and validity of Claims against the Just Energy Entities and their respective Directors and Officers.

97. In accordance with the Claims Procedure Order, on March 3, 2022, the CCAA Court granted the Appointment Order appointing the Honourable Justice Dennis O'Connor as Claims Officer for purposes of adjudicating the issues raised in the Putative Class Actions. Since his appointment as Claims Officer, Justice O'Connor has, among other things, heard and determined various procedural disputes relating to the appointment of additional Claims Officers and the sequencing and scope of various discovery requests. He has also heard and determined a motion by counsel for the Putative Class Actions to compel further discovery by the Just Energy Entities. Certain documentary production has recently been completed in the matter.

98. In the First Endorsement, the CCAA Court made the following orders with respect to the adjudication and determination of the Contingent Litigation Claims and the claim of Pariveda:

(vi) Summary proceedings will be conducted on an expedited basis as soon as reasonably possible, in an effort to determine the validity and value of the claims of the plaintiff class in the U.S. class actions, the Omarali class action, the Texas Power Interruption Claimants and Pariveda Solutions Inc.

(vii) The Monitor shall, forthwith, liaise with the relevant parties to determine a process to conduct the claim determinations and valuations. In this regard, the Monitor shall contact the Honourable Dennis O'Connor, the Claims Officer currently adjudicating claims submitted in the U.S. Class Actions to determine if he is prepared to provide assistance with respect to the valuations.

(viii) I will conduct a further hearing in the very near future to determine the process to be followed in determining and valuing the relevant claims and any matters arising out of the Claim Procedure Order made in this proceeding dated September 15, 2021.



99. By letter dated June 17, 2022, the Monitor advised the CCAA Court and the Service List that, among other things, all parties had agreed that the directed process should be temporarily postponed given the ongoing discussions between the Just Energy Entities, certain of the Contingent Litigation Claimants and Pariveda regarding the Just Energy Entities' restructuring. The Monitor accordingly requested the CCAA Court's indulgence that compliance with the directed process set out in the First Endorsement be put in abeyance pending further developments in the CCAA proceedings. A copy of the Monitor's correspondence is attached hereto as **Exhibit "M"**.

100. The Just Energy Entities are now seeking the advice and direction of the Court regarding a suspension of all ongoing claims review, claims determination, and dispute resolution processes under the Claims Procedure Order, the Appointment Order, and the First Endorsement. Under the Stalking Horse Transaction, the proceeds payable by the Sponsor will not result in any recoveries to the Just Energy Entities' General Unsecured Creditors, including the Term Loan Lenders. Accordingly, in the absence of a Successful Bid being accepted within the SISP which provides sufficient value to allow for recoveries to General Unsecured Creditors, these Claims will not need to be resolved. As such, the Just Energy Entities and the Monitor are of the view that it is unnecessary at this time to spend the money and devote limited company, employee and other resources to determine the validity and value of the unresolved claims in the Claims Process, including the Contingent Litigation Claims and the Pariveda claim (subject to the one caveat discussed below).

101. The one caveat to the foregoing is with respect to Claims which must be adjudicated for purposes of determining entitlement to proceeds to be distributed in accordance with the Stalking Horse Transaction or another transaction entered into pursuant to the SISP. For example, under

the Stalking Horse Transaction Agreement, the Just Energy Entities are required to satisfy in cash in full certain secured claims, including all Commodity Supplier Claims that are accepted claims pursuant to the Claims Procedure Order. As such, in order to determine entitlement to proceeds to be distributed in accordance with the Stalking Horse Transaction, the Just Energy Entities anticipate that a very small number of Claims will need to be determined under the Claims Procedure Order which include, but are not limited to, Claims submitted pursuant to certain Commodity Agreements.

102. The Just Energy Entities are accordingly seeking the advice and direction of the CCAA Court regarding the suspension of all ongoing claims review, claims determination, and dispute resolution processes under the Claims Procedure Order, the Appointment Order, and the First Endorsement, pending further order of the CCAA Court, unless the adjudication of such Claim is necessary for purposes of determining entitlement to proceeds to be distributed in accordance with the Stalking Horse Transaction or another transaction entered into pursuant to the SISP. For clarity, the Just Energy Entities do not seek to alter any final determinations that have already been made pursuant to the Claims Procedure Order.

103. The Just Energy Entities propose that, in the event the CCAA Court is prepared to suspend all ongoing claims review, claims determination, and dispute resolution processes, the following paragraph be included in the proposed SISP Order:

**THIS COURT ORDERS** that the ongoing claims review, claims determination and dispute resolution processes under (a) the Claims Procedure Order; (b) the Order of this Court dated March 3, 2022, among other things, appointing the Honourable Justice Dennis O'Connor as Claims Officer for the purposes set forth therein; and (c) the Endorsement of this Court dated June 10, 2022, shall be suspended pending further Order of this Court; provided that, for certainty, (x) where (i) a Claimant has not submitted a Proof of Claim or D&O Proof of Claim by the applicable Bar Date, (ii) a Negative Notice Claimant has

not submitted a Notice of Dispute of Claim by the applicable Bar Date, or (iii) a Claim or D&O Claim has already been disallowed or revised in accordance with the Claims Procedure Order and the applicable period of time to dispute such revision or disallowance has expired without the Claimant submitting a Notice of Dispute of Revision or Disallowance, such Claimant will continue to be barred from pursuing such Claim or D&O Claim pursuant to the relevant provisions of the Claims Procedure Order and (y) this Order does not impact the acceptance of any Claims or other final determination or agreement in respect of Claims made pursuant to the Claims Procedure Order prior to the date of this Order; provided further that, notwithstanding anything to the contrary herein, the Just Energy Entities shall be permitted, with the consent of the Monitor, to refer any Claim to a Claims Officer or this Court for adjudication for the purposes of determining entitlement to proceeds to be distributed in accordance with a transaction completed pursuant to the SISP.

#### **F. UPDATE ON ERCOT LITIGATION AND RECEIPT OF HB 4492 PROCEEDS**

104. As discussed in certain of my previous affidavits sworn in these proceedings, on October 13, 2021, the Texas Public Utility Commission (“**PUCT**”) signed a final order authorizing the Electric Reliability Council of Texas (“**ERCOT**”) to issue \$2.1 billion of securitization bonds and to use the proceeds from such bonds to repay market participants certain costs and expenses incurred during the February 2021 winter storm (“**HB 4492**”). In line with the Just Energy Entities’ previously disclosed expectations regarding the timing and quantum of recoveries under HB 4492, on June 22 and 29, 2022, ERCOT repaid various of the Just Energy Entities the total sum of US\$147.5 million. Such proceeds are accounted for as a source of cash in the projected cash on hand of the Just Energy Entities at the time of closing of the Stalking Horse Transaction and will be used by the Just Energy Entities to settle the projected uses of cash (including payment of the Priority Payments discussed above) upon closing of the Stalking Horse Transaction.

105. As discussed further in the Affidavit of James C. Tecce, sworn April 14, 2022, various of the Just Energy Entities commenced an adversary proceeding (the “**Adversary Proceeding**”) in

the U.S. Bankruptcy Court by filing a complaint (the “**Initial Complaint**”) against the PUCT and ERCOT relating to the actions taken by the PUCT and ERCOT during the winter storm in February 2021. The Adversary Proceeding seeks, among other things, to avoid obligations incurred, and to claw back payments made, to ERCOT pursuant to section 36.1 of the CCAA (the “**Section 36.1 Claims**”).

106. In January 2022, the PUCT and ERCOT moved to dismiss the Initial Complaint. At a hearing on February 2, 2022, the U.S. Bankruptcy Court dismissed the PUCT from the Adversary Proceeding. The U.S. Bankruptcy Court also dismissed certain claims against ERCOT and directed the Just Energy Entities to file an amended complaint with respect to claims for setoff and those arising under the CCAA.

107. The applicable Just Energy Entities filed an amended complaint (the “**First Amended Complaint**”) on February 11, 2022. The First Amended Complaint contains six counts: Count 1 (Preference (Obligations) - CCAA (§ 36.1), BIA (§ 95)); Count 2 (Preference (Transfers) - CCAA (§ 36.1), BIA (§ 95)); Count 3 (Transfer at Undervalue - CCAA (§ 36.1), BIA (§ 96)); Count 4 (Recovering Proceeds - CCAA (§ 36.1), BIA (§ 98)); Count 5 (Turnover - 11 U.S.C. § 542(a)); and Count 6 (Setoff, Recoupment)).

108. In March 2022, ERCOT filed a further motion to dismiss the First Amended Complaint on the basis that, amongst other things, Just Energy (as foreign representative) did not have standing to advance the Section 36.1 Claims. At a hearing held on April 4, 2022 to consider ERCOT’s second motion to dismiss, the U.S. Bankruptcy Court requested that the parties seek direction from the CCAA Court with respect to the proper party to advance the Section 36.1 Claims.

109. By endorsement dated May 5, 2022 (the “**Section 36.1 Endorsement**”), the CCAA Court determined that Just Energy (as foreign representative) and other Just Energy Entities, as the case may be, were authorized and empowered to pursue the Section 36.1 Claims in the Adversary Proceeding, *nunc pro tunc*. Further, the Monitor was authorized and directed to take whatever actions and steps it deemed advisable to assist and supervise the Just Energy Entities with respect to the prosecution of the Section 36.1 Claims in the Adversary Proceeding. A copy of the Section 36.1 Endorsement and related Order, dated May 5, 2022, is attached hereto as **Exhibit “N”**.

110. The Section 36.1 Endorsement and related Order were given full force and effect in the United States pursuant to an Order of the U.S. Bankruptcy Court granted July 19, 2022. A copy of the U.S. Bankruptcy Court’s Order is attached hereto as **Exhibit “O”**.

111. On June 9, 2022, the U.S. Bankruptcy Court held a continued hearing on ERCOT’s motion to dismiss the First Amended Complaint. At that hearing, the U.S. Bankruptcy Court dismissed Count 3 (Transfer at Undervalue - CCAA (§ 36.1), BIA (§ 96)). The Bankruptcy Court also dismissed Counts 1 and 2 (Preference - CCAA (§ 36.1), BIA (§ 95)) with leave to replead those Counts to identify with more specificity the individual obligations and transfers at issue. At that time, the U.S. Bankruptcy Court deferred ruling on ERCOT’s other arguments.

112. On June 14, 2022, the Just Energy Entities filed a second amended complaint (the “**Second Amended Complaint**”). The Second Amended Complaint contains the same Counts as the First Amended Complaint, except for Count 3 (Transfer at Undervalue - CCAA (§ 36.1), BIA (§ 96)).

113. On June 21, 2022, ERCOT filed a third motion to dismiss the Second Amended Complaint. At a hearing on June 27, the U.S. Bankruptcy Court granted ERCOT’s motion in

part: (i) dismissing Count 6 (Setoff, Recoupment); and (ii) striking certain allegations from the Second Amended Complaint. The U.S. Bankruptcy Court denied ERCOT’s motion in all other respects, including with respect to arguments based on sovereign immunity, abstention, the filed-rates doctrine, and the PUCT as a necessary party (the “**June 27 Order**”). A table summarizing the foregoing is provided below:

Count	June 9 Hearing	June 27 Hearing
Count 1 (Preference (Obligations) CCAA (§ 36.1), BIA (§ 95))	Dismissed with leave to replead	Upheld
Count 2 (Preference (Transfers) - CCAA (§ 36.1), BIA (§ 95))	Dismissed with leave to replead	Upheld
Count 3 (Transfer at Undervalue - CCAA (§ 36.1), BIA (§ 96))	Dismissed	-
Count 4 (Recovering Proceeds - CCAA (§ 36.1), BIA (§ 98))	Deferred determination	Upheld
Count 5 (Turnover - 11 U.S.C. § 542(a))	Deferred determination	Upheld
Count 6 (Setoff, Recoupment)	Deferred determination	Dismissed

114. During the hearing on June 27, 2022, counsel for ERCOT informed the U.S. Bankruptcy Court that ERCOT intends to seek a direct appeal of certain aspects of the U.S. Bankruptcy Court’s ruling to the U.S. Court of Appeals for the Fifth Circuit. On July 19, 2022, ERCOT filed a notice of appeal of the June 27 Order and, by Order granted July 19, 2022, the U.S. Bankruptcy Court certified the June 27 Order for direct appeal to the Fifth Circuit and recommended that the appeal be heard on an expedited basis. A copy of the Order Certifying Direct Interlocutory Appeal is attached hereto as **Exhibit “P”**.

**G. EXTENSION TO THE STAY PERIOD**

115. The Initial Order granted a Stay Period until and including March 19, 2021. The Stay Period has subsequently been extended to, most recently, August 19, 2022.

116. The Just Energy Entities are seeking to extend the Stay Period up to and including October 31, 2022, which date generally coincides with the Milestone for CCAA Court approval of a transaction coming out of any Auction. The Just Energy Entities believe that the extension of the Stay Period is necessary and appropriate in the circumstances to provide the Just Energy Entities with the necessary breathing room to:

- (a) implement the SISP including, if applicable, the Auction process required thereunder;
- (b) finalize all Definitive Documents with respect to the Successful Bid and serve a motion seeking the Vesting Order or one or more Implementation Orders in accordance with the SISP and the SISP Support Agreement;
- (c) provide the necessary breathing room for the Just Energy Entities as they continue to work towards their restructuring objectives; and
- (d) permit the Just Energy Entities to attend to the various other CCAA and/or Chapter 15 matters that will arise in the course of the proceedings.

117. The Just Energy Entities have acted and continue to act in good faith and with due diligence in these CCAA proceedings. Since the last extension to the Stay Period on June 7, 2022, the Just Energy Entities have, among other things, undertaken discussions with (i) the Plan

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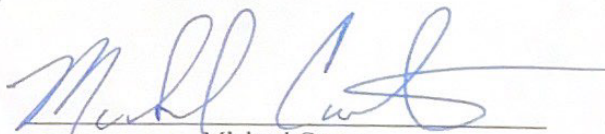
Sponsor, certain of the Contingent Litigation Claimants and Pariveda regarding options for resolution of such claims in a manner which permits the Plan to move forward, and (ii) the DIP Lenders, Supporting Secured CF Lenders and Shell regarding the terms on which they would continue to support the Just Energy Entities' efforts to restructure. The Just Energy Entities have also negotiated and finalized the SISP Support Agreement, proposed SISP, and Stalking Horse Transaction Agreement with all interested parties.

118. I understand that the Monitor will file a report (the "Monitor's Eleventh Report") which will include, among other things, a cash flow forecast demonstrating that, subject to the underlying assumptions contained therein, the Just Energy Entities will have sufficient funds to continue their operations and fund these CCAA proceedings until October 31, 2022. I further understand that the Monitor's Eleventh Report will recommend that the Stay Period be extended.

SWORN BEFORE ME over video  
teleconference this 4<sup>th</sup> day of August, 2022  
pursuant to O. Reg 431/20, Administering  
Oath or Declaration Remotely. The affiant was  
located in the Town of Flower Mound, in the  
State of Texas while the Commissioner was  
located in the City Toronto, in the Province of  
Ontario.

*MC*

\_\_\_\_\_  
Commissioner for Taking Affidavits  
Matthew Cressatti (LSO No.77944T)

  
\_\_\_\_\_  
Michael Carter



THIS IS **EXHIBIT “K”** REFERRED TO IN THE AFFIDAVIT OF MICHAEL CARTER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the Town of Sibley, in the State of Louisiana while the Commissioner was located in the City of Toronto, in the Province of Ontario.

*Tiffany Sun*

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Commissioner for Taking Affidavits  
Miao Sun (LSO No. 84440N)

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**From:** Pratt, Jeanne (CB/BC) <jeanne.pratt@cb-bc.gc.ca>  
**Sent:** Thursday, June 23, 2022 4:35 PM  
**To:** dakman@cassels.com  
**Cc:** Rodal, Shuli <SRodal@osler.com>; O'Brien, Tegan <taobrien@cassels.com>; oells@cassels.com; Sarabura, Alex (CB/BC) <alex.sarabura@cb-bc.gc.ca>  
**Subject:** ARC Request 3115303

Dear Mr. Akman:

**Re: Proposed Acquisition of Shares of Just Energy (U.S.) Corp. or Another New Just Energy Parent by OC II LVS XIV LP, a fund managed by Pacific Investment Management Company LLC, or a subsidiary thereof**

---

I am writing in regard to your letter of June 3, 2022, in which you requested on behalf of OC II LVS XIV LP the issuance of an Advance Ruling Certificate ("ARC") pursuant to section 102 of the *Competition Act* (the "Act") or in the alternative, a no-action letter confirming that the Commissioner of Competition (the "Commissioner") does not intend to make an application under section 92 of the Act with respect to the above-noted transaction (the "Transaction").

The information provided by the parties in support of their request for an ARC has been carefully considered. I hereby certify that, pursuant to section 102 of the Act, the Commissioner is satisfied that there would not be sufficient grounds on which to apply to the Competition Tribunal under section 92 of the Act with respect to the Transaction. This certificate is subject to the provisions of section 103 of the Act.

I would appreciate it if you would advise the Merger Intelligence and Notification Unit at [ic.avisdefusionmergernotification.ic@canada.ca](mailto:ic.avisdefusionmergernotification.ic@canada.ca) of the actual closing date of the Transaction. I would like to thank you for your cooperation in the examination of this matter. Should you wish to discuss or have any questions concerning this matter, please contact the reviewing officer, Alex Sarabura, at 819-360-3811.

Yours sincerely,

Jeanne L. Pratt  
(elle/la) (she/her)

Sous-commissaire principale de la concurrence, Direction générale des fusions et des pratiques monopolistiques  
Bureau de la concurrence  
[jeanne.pratt@cb-bc.gc.ca](mailto:jeanne.pratt@cb-bc.gc.ca) / Tél. : 873-353-9431 / ATS : 1-866-694-8389

Senior Deputy Commissioner, Mergers and Monopolistic Practices Branch  
Competition Bureau  
[jeanne.pratt@cb-bc.gc.ca](mailto:jeanne.pratt@cb-bc.gc.ca) / Tel: 873-353-9431 / TTY: 1-866-694-8389

THIS IS **EXHIBIT “L”** REFERRED TO IN THE AFFIDAVIT OF MICHAEL CARTER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the Town of Sibley, in the State of Louisiana while the Commissioner was located in the City of Toronto, in the Province of Ontario.

*Tiffany Sun*

---

Commissioner for Taking Affidavits  
Miao Sun (LSO No. 84440N)

---

**From:** Pratt, Jeanne (CB/BC) <jeanne.pratt@cb-bc.gc.ca>  
**Sent:** Wednesday, August 31, 2022 4:14 PM  
**To:** dakman@cassels.com  
**Cc:** Rodal, Shuli; Rubin, Chelsea; O'Brien, Tegan; Sarabura, Alex (CB/BC)  
**Subject:** ARC Request 3115303  
**Attachments:** RE: ARC Request 3115303 [IWOV-LEGAL.050104-00003]

Dear Mr. Akman:

**Re: Proposed Acquisition of the Shares of Just Energy Group Inc. and/or its affiliate, directly or indirectly, by funds managed by Pacific Investment Management Company LLC ("PIMCO") or an entity whose shares will be owned by funds managed by PIMCO or a subsidiary thereof**

---

I am writing in regard to your letter of June 3, 2022, in which you requested on behalf of OC II LVS XIV LP the issuance of an Advance Ruling Certificate ("ARC") pursuant to section 102 of the *Competition Act* (the "Act") or in the alternative, a no-action letter confirming that the Commissioner of Competition (the "Commissioner") does not intend to make an application under section 92 of the Act with respect to the above-noted transaction (the "Transaction"), as well as the attached request from you dated August 26, 2022, in which you revised your request for an ARC for the Transaction to reflect certain changes to the structure of the Transaction (the "Amended Transaction").

The information provided by the parties in support of their request for an ARC with respect to the Amended Transaction has been carefully considered. I hereby certify that, pursuant to section 102 of the Act, the Commissioner is satisfied that there would not be sufficient grounds on which to apply to the Competition Tribunal under section 92 of the Act with respect to the Amended Transaction. This certificate is subject to the provisions of section 103 of the Act.

I would appreciate it if you would advise the Merger Intelligence and Notification Unit at [ic.avisdefusionmergnotification.ic@canada.ca](mailto:ic.avisdefusionmergnotification.ic@canada.ca) of the actual closing date of the Amended Transaction. I would like to thank you for your cooperation in the examination of this matter. Should you wish to discuss or have any questions concerning this matter, please contact the reviewing officer, Alex Sarabura, at 819-360-3811.

Yours sincerely,

Jeanne L. Pratt  
(elle/la) (she/her)

Sous-commissaire principale de la concurrence, Direction générale des fusions et des pratiques monopolistiques  
Bureau de la concurrence  
[jeanne.pratt@cb-bc.gc.ca](mailto:jeanne.pratt@cb-bc.gc.ca) / Tél. : 873-353-9431 / ATS : 1-866-694-8389

Senior Deputy Commissioner, Mergers and Monopolistic Practices Branch  
Competition Bureau  
[jeanne.pratt@cb-bc.gc.ca](mailto:jeanne.pratt@cb-bc.gc.ca) / Tel: 873-353-9431 / TTY: 1-866-694-8389

THIS IS **EXHIBIT “M”** REFERRED TO IN THE AFFIDAVIT OF MICHAEL CARTER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the Town of Sibley, in the State of Louisiana while the Commissioner was located in the City of Toronto, in the Province of Ontario.

*Tiffany Sun*

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Commissioner for Taking Affidavits  
Miao Sun (LSO No. 84440N)

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

Just Energy (U.S.) Corp.	)	
Hudson Energy Services LLC	)	
Just Energy Illinois Corp.	)	
Just Energy New York Corp.	)	Docket No. EC22-____-000
Just Energy Pennsylvania Corp.	)	
Just Energy Texas I Corp.	)	
Just Energy Solutions Inc.	)	
Just Energy Limited	)	

**APPLICATION FOR AUTHORIZATION  
UNDER SECTION 203 OF THE FEDERAL POWER ACT AND  
REQUESTS FOR WAIVERS AND EXPEDITED ACTION**

Pursuant to Section 203 of the Federal Power Act (“FPA”)<sup>1</sup> and Part 33 of the regulations of the Federal Energy Regulatory Commission (“FERC” or the “Commission”),<sup>2</sup> Just Energy (U.S.) Corp. (“JEUS”), Hudson Energy Services LLC (“HES”), Just Energy Illinois Corp. (“JEIL”), Just Energy New York Corp. (“JENY”), Just Energy Pennsylvania Corp. (“JEP”), Just Energy Texas I Corp. (“JET”), Just Energy Solutions Inc. (“JES”), and Just Energy Limited<sup>3</sup> (“JEL” and, collectively, the “Applicants”) hereby submit this application (“Application”) seeking Commission approval of a transaction (the “Proposed Transaction”) pursuant to which funds managed by Pacific Investment Management Company LLC (the “Investment Manager”), will increase their aggregate voting equity interest in the Applicants to 100%.

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<sup>1</sup> 16 U.S.C. § 824b (2018).

<sup>2</sup> 18 C.F.R. Part 33 (2022).

<sup>3</sup> On June 6, 2022, JEL filed an Application for Market-Based Rate Authority and Request for Waivers and Blanket Authorizations (“JEL MBR Application”), which has been assigned Docket No. ER22-2044 and remains pending. As requested by Commission Staff, JEL filed an amendment on August 1, 2022. JEL has been included as an Applicant because the JEL MBR Application, as amended, requests that the Commission issue an order promptly and grant an effective date of August 6, 2022, for JEL’s market-based rate tariff (*i.e.*, before the order requested herein).

As demonstrated herein, the Proposed Transaction satisfies the requirements of Section 203 of the FPA and the Commission's Part 33 regulations because it is consistent with the public interest and will not result in cross-subsidization of a non-utility associate company or the pledge or encumbrance of utility assets for the benefit of an associate company.<sup>4</sup> Neither the Applicants nor any of their non-Investor Account (as defined below) affiliates own: (i) electric generation, transmission, or distribution facilities; (ii) intrastate natural gas transportation or storage facilities or natural gas distribution facilities; (iii) sites for generation capacity development that could constitute a barrier to entry to electric generation; (iv) physical coal supply sources; or (v) coal transportation. They are not franchised utilities with captive customer bases. Their jurisdictional assets consist only of their market-based rate authorizations, wholesale contracts, and related books and records of the Applicants.

The Applicants respectfully request that the Commission issue an order approving this Application by November 11, 2022 (*i.e.*, 60 days from the date of this filing), and request expedited action and a comment period of 21 days in order to facilitate approval by that date. Approval by that date will enable the parties to consummate the Proposed Transaction promptly thereafter, which will, in turn, better allow for a transition to the new upstream ownership and control of the Applicants and permit the Applicants to emerge from their ongoing restructuring process.

## **I. REQUEST FOR EXPEDITED CONSIDERATION**

Consistent with Order No. 669,<sup>5</sup> the Applicants respectfully request that the Commission issue an order authorizing the Proposed Transaction no later than November 11, 2022, the date

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<sup>4</sup> See 18 C.F.R. § 2.26.

<sup>5</sup> See *Proposed Transactions Subject to FPA Section 203*, Order No. 669, FERC Stats. & Regs. ¶ 31,200 at P 194 (2005), *on reh'g*, Order No. 669-A, FERC Stats. & Regs. ¶ 31,214, *on reh'g*, Order No. 669-B, FERC Stats. & Regs. ¶ 31,225 (2006) (collectively, "Order No. 669").

that is 60 days following this filing. Pursuant to Sections 33.11(b) and (c) of the Commission's regulations,<sup>6</sup> expedited consideration is appropriate because the Proposed Transaction (1) does not require a competitive analysis under Appendix A of the *Merger Policy Statement*,<sup>7</sup> (2) does not involve a merger of a traditional public utility with a franchised service territory or captive customers, and (3) is consistent with Commission precedent. Moreover, the Investment Manager and the Existing Investor Accounts (as defined below in Part II.3.a) involved in the Proposed Transaction are already affiliates of the Applicants. Finally, the Proposed Transaction involves a change in control over only very limited electricity sector holdings—specifically, the Applicants and their market-based rate authorizations, wholesale contracts, and related books and records.

In light of the foregoing, the Applicants respectfully request expedited consideration of this Application, with a Federal Register notice period not to exceed 21 days, waivers of certain informational requirements set out in Part 33 of the Commission's regulations as further described herein, and that the Commission issue an order authorizing the Proposed Transaction no later than November 11, 2022.

## **II. DESCRIPTION OF THE PARTIES TO THE PROPOSED TRANSACTION**

### **A. Description of the Applicants and Their Affiliates**

#### **1. Just Energy Group Inc.**

Just Energy Group Inc. ("Just Energy") is a corporation incorporated pursuant to the Canada Business Corporations Act, RSC 1985, c C-44, as amended, with common shares publicly traded on the NEX (NEX: JE.H) and the OTC Markets (OTC: JENGQ). It is headquartered in Toronto, Canada and Houston, Texas. Just Energy is a holding company that does not directly

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<sup>6</sup> 18 C.F.R. §§ 33.11(b) and (c).

<sup>7</sup> *Inquiry Concerning the Comm'n's Merger Policy Under the Fed. Power Act: Policy Statement*, Order No. 592, FERC Stats. & Regs. ¶ 61,044 (1996) ("*Merger Policy Statement*"), *reconsideration denied*, Order No. 592-A, 79 FERC ¶ 61,321 (1997).



own any jurisdictional facilities. Prior to giving effect to the Proposed Transaction, it is the ultimate parent of the Applicants, which are Commission-authorized power marketers that do not own or control any electric generation, transmission facilities, distribution facilities, or other physical assets and accordingly, as to Commission-jurisdictional facilities, own only paper facilities. After giving effect to the Proposed Transaction, JEUS (or its successor, if converted into another entity prior to the closing of the Proposed Transaction) will be the ultimate parent company of the Applicants.

Certain Existing Investor Accounts—discussed further below—currently own in the aggregate approximately 28.9% of the common shares of Just Energy.<sup>8</sup> No other person or entity owns 10% or more of the voting equity interests in Just Energy.

## 2. The Applicants

JEUS is a Delaware corporation that serves as the direct holding company of the other Applicants, except for HES as noted below, that were organized to sell electricity and natural gas supplies to competitive retail end-use customers in the United States. JEUS is a wholly-owned subsidiary of Just Energy, Ontario Energy Commodities Inc., and Just Energy Finance Canada ULC. Ontario Energy Commodities Inc. is a Canadian corporation that is a direct and wholly-owned subsidiary of Just Energy. Just Energy Finance Canada ULC is a Canadian unlimited liability corporation that is a direct and wholly-owned subsidiary of Ontario Energy Commodities Inc. JEUS has historically performed a wholesale purchasing function on behalf of the other Applicants. The Commission has authorized JEUS to sell wholesale energy, capacity, and ancillary services at market-based rates.<sup>9</sup>

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<sup>8</sup> See *Just Energy Grp. Inc.*, 172 FERC ¶ 62,165 (2020).

<sup>9</sup> See *Just Energy (U.S.) Corp.*, Docket Nos. ER10-379-000, *et al.* (Mar. 3, 2010) (unpublished letter order) (granting market-based rate authority to JEUS).

HES is a New Jersey limited liability company with its principal place of business in Houston, Texas. HES is indirectly wholly owned by JEUS. HES is a competitive retail supplier. The Commission has authorized HES to sell wholesale energy, capacity, and ancillary services at market-based rates.<sup>10</sup>

JEIL is a Delaware corporation with its principal place of business in Houston, Texas. JEIL is wholly owned by JEUS. JEIL is a competitive retail supplier. The Commission has authorized JEIL to sell wholesale energy, capacity, and ancillary services at market-based rates.<sup>11</sup>

JENY is a Delaware corporation with its principal place of business in Houston, Texas. JENY is wholly owned by JEUS. JENY is a competitive retail supplier. The Commission has authorized JENY to sell wholesale energy, capacity, and ancillary services at market-based rates.<sup>12</sup>

JEP is a Delaware corporation with its principal place of business in Houston, Texas. JEP is wholly owned by JEUS. JEP is a competitive retail supplier. The Commission has authorized JEP to sell wholesale energy, capacity, and ancillary services at market-based rates.<sup>13</sup>

JET is a Delaware corporation with its principal place of business in Houston, Texas. JET is wholly owned by JEUS. JET is a competitive retail supplier. The Commission has authorized JET to sell wholesale energy, capacity, and ancillary services at market-based rates.<sup>14</sup>

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<sup>10</sup> See *Hudson Energy Services, LLC*, Docket Nos. ER17-2427-000, *et al.* (Oct. 30, 2017) (unpublished letter order) (granting market-based rate authority to HES).

<sup>11</sup> See *Just Energy Illinois Corp.*, Docket No. ER13-1104-000 (Apr. 18, 2013) (unpublished letter order) (granting market-based rate authority to JEIL).

<sup>12</sup> See *Just Energy New York Corp.*, Docket No. ER13-1081-000 (Apr. 18, 2013) (unpublished letter order) (granting market-based rate authority to JENY).

<sup>13</sup> See *Just Energy Pennsylvania Corp.*, Docket Nos. ER17-2428-000, *et al.* (Oct. 30, 2017) (unpublished letter order) (granting market-based rate authority to JEP).

<sup>14</sup> See *Just Energy Texas I Corp.*, Docket Nos. ER17-2429-000, *et al.* (Oct. 30, 2017) (unpublished letter order) (granting market-based rate authority to JET).

JES is a California corporation with its principal place of business in Houston, Texas. JES is wholly owned by JEUS. JES is a competitive retail supplier. The Commission has authorized JES to sell wholesale energy, capacity, and ancillary services at market-based rates.<sup>15</sup>

JEL is a Delaware corporation with its principal place of business in New York, New York. JEL is wholly owned by JEUS. JEL has a pending application seeking Commission authorization to sell wholesale energy, capacity, and ancillary services at market-based rates.<sup>16</sup>

Neither Just Energy nor any of its non-Investor Account affiliates, including the Applicants, owns: (i) electric generation, transmission, or distribution facilities; (ii) intrastate natural gas transportation or storage facilities or natural gas distribution facilities; (iii) sites for generation capacity development that could constitute a barrier to entry to electric generation; (iv) physical coal supply sources; or (v) coal transportation. They are not franchised utilities with captive customer bases. Their Commission-jurisdictional assets consist only of their market-based rate authorizations, wholesale contracts, and related books and records of the Applicants.

### **3. The Investment Manager and the Existing Investor Accounts**

The Investment Manager is a leading global investment management firm founded in Newport Beach, California in 1971, with more than 3,205 employees in offices in Newport Beach, Austin, Dublin, Hong Kong, London, Milan, Munich, New York, Sao Paulo, Singapore, Sydney, Taipei, Tokyo, Toronto, and Zurich. The Investment Manager is an indirect subsidiary of Allianz

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<sup>15</sup> See *Just Energy Solutions Inc.*, Docket No. ER17-1378-002 (June 13, 2017) (unpublished letter order) (approving name change from Commerce Energy, Inc.); *Commerce Energy Corp.*, Docket No. ER97-4253-000 (Oct. 7, 1997) (unpublished letter order) (granting market-based rate authority to Commerce Energy, Inc.'s predecessor Commonwealth Energy Corp.); *Commerce Energy, Inc.*, Docket No. ER05-737-000 (May 17, 2005) (unpublished letter order) (accepting name change to Commerce Energy, Inc.).

<sup>16</sup> Just Energy Limited, Application for Market-Based Rate Authority and Request for Waivers and Blanket Authorizations, Docket Nos. ER22-2044-000, *et al.* (filed Jun. 6, 2022, as amended Aug. 1, 2022).

SE (“Allianz”), a global financial services company based in Germany, although its operations are separate from and autonomous of Allianz.

The Investment Manager has been delegated management authority over the following Investor Accounts that currently own in the aggregate approximately 28.9% of Just Energy (collectively, the “Existing Investor Accounts”):

**a. HVS XVI LLC**

HVS XVI LLC (“HVS XVI”), a Delaware limited liability company, is an indirect, wholly-owned subsidiary of PIMCO Horseshoe Fund, LP (the “Horseshoe Master Fund”), a Delaware limited partnership and private investment fund that is managed by the Investment Manager. HVS XVI currently holds approximately 0.8% of the voting equity of Just Energy.

The sole member of HVS XVI is HVS Holdco LLC (“HVS Holdco”), a Delaware limited liability company. The sole member of HVS Holdco is the Horseshoe Master Fund. Various limited partner investors (the “Horseshoe LPs”) invest into the Horseshoe Master Fund. The general partner of the Horseshoe Master Fund is PIMCO GP XIV, LLC, a Delaware limited liability company. The Investment Manager is the managing member of PIMCO GP XIV, LLC. The Investment Manager is the investment manager of the Horseshoe Master Fund, HVS Holdco, and HVS XVI, and has been delegated full and exclusive authority and responsibility to invest, reinvest, and dispose of their assets, and (together with the fund administrator) to manage their day-to-day operations.

**b. LVS III SPE XV LP**

LVS III SPE XV LP (“LVS XV”), a Delaware limited partnership, is an indirect, wholly-owned subsidiary of PIMCO BRAVO Fund III, L.P. (“BRAVO III US”), a Delaware limited partnership and private investment fund that is managed by the Investment Manager. LVS XV currently holds approximately 6.7% of the voting equity of Just Energy.

The sole limited partner of LVS XV is LVS III Holding LP (“LVS Holding”), a Delaware limited partnership. The limited partners of LVS Holding are BRAVO III US and PIMCO BRAVO Fund III Lux S.C.S., a limited partnership organized under the laws of Luxembourg (“BRAVO III Lux” and, together with BRAVO III US, the “BRAVO III Funds”). Limited partner interests in the BRAVO III Funds are owned by various investors (the “BRAVO III LPs”) that invest directly or through “feeder funds.”

The general partner of LVS XV is LVS III GP LLC (“LVS III GP”), a Delaware limited liability company. The member manager of LVS III GP is LVS Holding. The general partner of LVS Holding and BRAVO III US is PIMCO GP XVII, LLC, a Delaware limited liability company. The Investment Manager is the member manager of PIMCO GP XVII, LLC. PIMCO GP II S.à r.l., a Luxembourg limited liability company, is the general partner of BRAVO III Lux, and there are three directors that are the managers of PIMCO GP II S.à r.l. (the same persons are also the managers of the general partner of COF II Lux (as defined below)). The Investment Manager is the investment manager of BRAVO III US, LVS Holding, and LVS XV, and has been delegated full and exclusive authority and responsibility to invest, reinvest, and dispose of their assets, and (together with the fund administrator) to manage their day-to-day operations. With respect to BRAVO III Lux, PIMCO Global Advisors (Luxembourg) S.A., a Luxembourg public limited company, serves as alternative investment fund manager and has delegated comparable functions to the Investment Manager.

**c. OC II LVS XIV LP**

OC II LVS XIV LP (“LVS XIV”), a Delaware limited partnership, is an indirect, wholly-owned subsidiary of PIMCO Corporate Opportunities Fund II, L.P. (“COF II US”), a Delaware limited partnership and private investment fund that is managed by the Investment Manager. LVS XIV currently holds approximately 17.3% of the voting equity of Just Energy.

The sole limited partner of LVS XIV is OC II Holdco US LP (“OC II Holdco”), a Delaware limited partnership. The limited partners of OC II Holdco are COF II US and PIMCO Corporate Opportunities Fund II Lux SCS, a limited partnership organized under the laws of Luxembourg (“COF II Lux” and, together with COF II US, the “COF II Funds”). Limited partner interests in the COF II Funds are owned by various investors (the “COF II LPs”) that invest directly or through “feeder funds.”

The general partner of LVS XIV is OC II GP I LLC (“OC II GP I”), a Delaware limited liability company. The member manager of OC II GP I is OC II Holdco. The general partner of OC II Holdco and COF II US is PIMCO GP XV, LLC, a Delaware limited liability company. The Investment Manager is the member manager of PIMCO GP XV, LLC. PIMCO GP S.à r.l., a Luxembourg limited liability company, is the general partner of COF II Lux, and there are three directors that are the managers of PIMCO GP S.à r.l. (the same persons are also the managers of BRAVO III Lux). The Investment Manager is the investment manager of COF II US, OC II Holdco, and LVS XIV, and has been delegated full and exclusive authority and responsibility to invest, reinvest, and dispose of their assets, and (together with the fund administrator) to manage their day-to-day operations. With respect to COF II Lux, PIMCO Global Advisors (Luxembourg) S.A., a Luxembourg public limited company, serves as alternative investment fund manager and has delegated comparable functions to the Investment Manager.

**d. TOCU XVII LLC**

TOCU XVII LLC (“TOCU XVII”), a Delaware limited liability company, is a wholly-owned subsidiary of PIMCO Tactical Opportunities Master Fund Ltd. (the “Tac Opps Master Fund”), a Cayman Islands exempted company and private investment fund that is managed by the Investment Manager. TOCU XVII currently holds approximately 4.0% of the voting equity of Just Energy.

The sole member of TOCU XVII is the Tac Opps Master Fund. Various limited partner investors (the “Tac Opps LPs”) invest through “feeder funds” into the Tac Opps Master Fund. The Tac Opps Master Fund is the member manager of TOCU XVII. The Tac Opps Master Fund has a two-member board of directors, which supervises the conduct of the affairs of the Tac Opps Master Fund and has delegated the investment management activities of the Tac Opps Master Fund to the Investment Manager. The Investment Manager is the investment manager of the Tac Opps Master Fund and TOCU XVII.

**e. Other Holdings Information**

Certain funds and accounts managed, advised, or sub-advised by the Investment Manager other than the Investor Accounts (as defined below in Part III) have an indirect interest in certain generation facilities that are located in the Electric Reliability Council of Texas, Inc. (“ERCOT”) region. Accounts managed, advised, or sub-advised by the Investment Manager (including three of the private investment funds that are the indirect parents of the Investor Accounts) also have a direct or indirect interest in companies in the coal producing business. In addition, certain accounts managed, advised, or sub-advised by the Investment Manager (including the private investment funds that are the indirect parents of the Investor Accounts and that will manage an ownership interest in JEUS) hold 10% or greater direct or indirect interests in certain offshore oil exploration and production companies and in a developer of liquefied natural gas (“LNG”) production and export projects, certain of which include interstate natural gas pipeline facilities.

Otherwise, none of the Investment Manager, LVS XV, LVS Holding, BRAVO III US, BRAVO III Lux, LVS III GP, PIMCO GP XVII, LLC, PIMCO GP II S.à r.l., LVS XIV, OC II Holdco, COF II US, COF II Lux, OC II GP I, PIMCO GP XV, LLC, PIMCO GP S.à r.l., TOCU XVII, the Tac Opps Master Fund, HVS XVI, or OC III LFE I LP (“OC III LFE”) (as described in more detail below in Part II.B) owns a 10% or greater voting interest in or otherwise controls,

directly or indirectly, in the United States, any: (i) electric generation, transmission or distribution facilities; (ii) intrastate natural gas transportation or storage facilities or natural gas distribution facilities; (iii) sites for generation capacity development that could constitute a barrier to entry to electric generation; (iv) physical coal supply sources; or (v) coal transportation. The indirect interests of the BRAVO III LPs and Allianz in LVS XV, the COF II LPs and Allianz in LVS XIV, the Horseshoe LPs and Allianz in HVS XVI, the COF III LPs and Allianz in OC III LFE, and the Tac Opps LPs and Allianz in TOCU XVII are passive and do not constitute voting securities under Commission precedent.<sup>17</sup>

Consistent with Order No. 860,<sup>18</sup> the Applicants affirm that the ownership interests of such limited partners and Allianz consist solely of passive rights that are necessary to protect their investments and do not confer control over the Applicants or their jurisdictional facilities. As such, the rights of such limited partners and Allianz are substantially equivalent to the types of interests that the Commission has found not to constitute voting securities.<sup>19</sup> The status and rights of these limited partners and Allianz are substantially equivalent to those of passive limited partners in private equity funds and are fully consistent with the facts and findings set forth in the Commission's order in *Starwood*. As a result, such limited partners and Allianz do not indirectly own voting securities in or otherwise control the Applicants or the Applicants' jurisdictional facilities and they and their affiliates should not be considered affiliates of the Applicants.

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<sup>17</sup> See *AES Creative Res., L.P.*, 129 FERC ¶ 61,239 (2009) (“*AES Creative*”).

<sup>18</sup> *Data Collection for Analytics & Surveillance & Mkt.-Based Rate Purposes*, Order No. 860, 168 FERC ¶ 61,039, at P 138 (2019), *order on reh'g and clarification*, Order No. 860-A, 170 FERC ¶ 61,129, at PP 14-15, 35-36 (2020).

<sup>19</sup> See *AES Creative; EquiPower Res. Mgmt., LLC*, Docket No. ER10-1089-000 (June 16, 2010) (deficiency letter); see also *Starwood Energy Grp. Global, L.L.C.*, 153 FERC ¶ 61,332 (2015) (“*Starwood*”).



**B. Description of Additional Relevant Investment Manager Affiliates**

In addition to the Existing Investor Accounts described above, another account managed by the Investment Manager—OC III LFE—will also be involved in the Proposed Transaction. OC III LFE is a Delaware limited partnership and is an indirect, wholly-owned subsidiary of PIMCO Corporate Opportunities Fund III, L.P. (“COF III US”), a Cayman Islands exempted limited partnership and private investment fund that is managed by the Investment Manager.

The sole limited partner of OC III LFE is OC III Holding LP (“OC III Holding”), a Delaware limited partnership. The limited partners of OC III Holding are COF III US, PIMCO Corporate Opportunities Fund III Lux, SCSp (“COF III Lux”), a special limited partnership organized under the laws of Luxembourg, and OC III Holding II LP, a Delaware limited partnership (“OC III Holding II” and, together with COF III US and COF III Lux, the “COF III Funds”). Limited partner interests in the COF III Funds are owned by various investors (the “COF III LPs”) that invest directly or through “feeder funds.”

The general partner of OC III LFE is OC III GP LLC (“OC III GP”), a Delaware limited liability company. The member manager of OC III GP is OC III Holding. The general partner of OC III Holding and COF III US is PIMCO GP XXX, LLC, a Delaware limited liability company. The Investment Manager is the member manager of PIMCO GP XXX, LLC. PIMCO GP IV S.à r.l., a Luxembourg limited liability company, is the general partner of COF III Lux, and there are three directors that are the managers of PIMCO GP IV S.à r.l. (the same persons are also the managers of BRAVO III Lux and COF II Lux, as described above). The Investment Manager is the investment manager of COF III US, OC III Holding, and OC III LFE, and has been delegated full and exclusive authority and responsibility to invest, reinvest, and dispose of their assets, and (together with the fund administrator) to manage their day-to-day operations. With respect to COF III Lux, PIMCO Global Advisors (Luxembourg) S.A., a Luxembourg public limited company,

serves as alternative investment fund manager and has delegated comparable functions to the Investment Manager.

### III. DESCRIPTION OF THE PROPOSED TRANSACTION

On March 9, 2021, Just Energy and certain of its affiliates, including the Applicants (the “Just Energy Entities”), commenced proceedings under the Companies’ Creditors Arrangement Act (as amended, the “CCAA”) in the Ontario Superior Court of Justice (Commercial List) (the “CCAA Court”). Also on March 9, 2021, Just Energy, as the foreign representative for certain of the Just Energy Entities, commenced cases under chapter 15 of title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of Texas, Houston Division.

On August 4, 2022, the Investor Accounts and certain other parties executed the Transaction Agreement, attached hereto as Exhibit I-1. In addition, on August 4, 2022, the Just Energy Entities, the Existing Investor Accounts and OC III LFE (together, the “Investor Accounts”), CBHT Energy I LLC (“CBHT”), Shell Energy North America (Canada) Inc., Shell Energy North America (US), L.P., and Shell Trading Risk Management, LLC and (certain secured lenders of the Just Energy Entities) executed the Support Agreement, attached hereto as Exhibit I-2.<sup>20</sup> Under the Transaction Agreement, the consummation of the Proposed Transaction would result in the direct and indirect acquisition by the Investor Accounts of all of the outstanding equity interests of JEUS, which will become the parent company of the Just Energy Entities, and certain other assets and liabilities of the Just Energy Entities. The Support Agreement contemplates that the Just Energy Entities will be running a Sales Investment and Solicitation Process (“SISP”) approved by the CCAA Court to allow for other potential bidders to come forward with a superior

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<sup>20</sup> Certain dates within the SISP were extended by the CCAA Court by two weeks to allow additional time for parties in interest to participate in the bidding process. Accordingly, corresponding extensions were consensually made to the milestones within the Support Agreement. As of the date of this Application, the Applicants are compliant with all applicable milestones.

proposal. The Investor Accounts and CBHT will serve as the stalking horse bidder in the SISP and allow for other bidders to participate in a solicitation process.

If one or more binding offers meeting the requirements set forth in the SISP (a “Qualified Bid”) is received by October 13, 2022, the Just Energy Entities shall proceed with an auction to be held on October 22, 2022, at 10:00 a.m. (Eastern Daylight Time), and the highest or otherwise best bid (the “Successful Bid”) shall be selected by or shortly after October 22, 2022. If the stalking horse bid is the Successful Bid, then, after the existing common shares of JEUS are cancelled for no consideration, the Investor Accounts will subscribe for newly issued shares of JEUS. Thereafter, JEUS will subscribe for new common shares of Just Energy and Just Energy’s existing common shares not owned by JEUS will be redeemed or cancelled. Upon the closing of the Proposed Transaction, each of the Applicants will be owned, directly or indirectly, by JEUS, and the aggregate voting equity interest of the Investor Accounts in the Applicants will be 100%.<sup>21</sup> Upon completion of the Proposed Transaction, no other entity will own, control, or hold, with power to vote, a 10% or greater interest in JEUS or, indirectly, the Applicants. Simplified organizational charts of the ownership structure of the Applicants before and after the Proposed Transaction are attached as Exhibits C-1 (pre-transaction) and C-2 (post-transaction).

If another Qualified Bid is instead selected as the Successful Bid, then the party that submits such Successful Bid may acquire all equity interests of the Just Energy Entities, subject to the terms and conditions set forth in such Successful Bid.<sup>22</sup> The SISP is designed to ensure that

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<sup>21</sup> In addition, another managed account of the Investment Manager—CBHT—will acquire 100% of the preferred equity interests in JEUS. However, such preferred equity interests will not have voting rights. Therefore, such interests are passive and do not constitute voting securities under Commission precedent. *See supra* note 19.

<sup>22</sup> If a Qualified Bid submitted by a party other than the Investor Accounts is received and is selected as the Successful Bid, Applicants will submit an amendment to this Application.

the ultimate sale of the Just Energy Entities, including the Applicants, is fair and achieves the best transaction possible under the circumstances for the benefit of all stakeholders.

#### **IV. THE PROPOSED TRANSACTION IS CONSISTENT WITH THE PUBLIC INTEREST**

Section 203(a)(4) of the FPA provides that the Commission “shall approve” a proposed transaction “if it finds that the proposed transaction will be consistent with the public interest, and will not result in cross-subsidization of a non-utility associate company or the pledge or encumbrance of utility assets for the benefit of an associate company. . . .”<sup>23</sup> In determining whether a proposed transaction is in the public interest, the Commission considers whether it will have an adverse impact on (1) competition, (2) rates, or (3) regulation.<sup>24</sup> The Proposed Transaction satisfies the requirements of FPA Section 203 because it will have no adverse impact on competition, rates, or regulation and will not result in cross-subsidization or the pledge or encumbrance of utility assets for the benefit of any associate company.

##### **A. The Proposed Transaction Will Not Have an Adverse Effect on Competition**

###### **1. The Proposed Transaction Presents No Horizontal Market Power Concerns**

The Proposed Transaction presents no horizontal market power concerns. Under Section 33.3(a)(2) of the Commission’s regulations,<sup>25</sup> Section 203 applicants are not required to submit a horizontal market power analysis performed in accordance with Appendix A to the Commission’s *Merger Policy Statement* where the combining “entities do not currently conduct business in the

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<sup>23</sup> 16 U.S.C. § 824b(a)(4).

<sup>24</sup> See generally *Revised Filing Requirements Under Part 33 of the Comm’n’s Regs.*, Order No. 642, 65 Fed. Reg. 70,984 (Nov. 28, 2000), FERC Stats. & Regs. ¶ 31,111 (“Order No. 642”), *order on reh’g*, Order No. 642-A, 94 FERC ¶ 61,289 (2001).

<sup>25</sup> 18 C.F.R. § 33.3(a)(2).

same geographic markets or . . . the extent of the business transactions in the same geographic markets is *de minimis* . . . .”<sup>26</sup>

The Applicants and their non-Investor Account affiliates do not own or control electric generation or transmission facilities. Accordingly, the combination of the Applicants with any entity does not raise horizontal market power concerns. As noted in Part II.3.e above, accounts managed, advised, or sub-advised by the Investment Manager other than the Investor Accounts have an indirect ownership interest in certain generation facilities in ERCOT. Otherwise, no funds or accounts managed, advised, by sub-advised by the Investment Manager own a 10% or greater voting interest in or otherwise control, directly or indirectly, any electric generation facilities in the United States. Accordingly, the Proposed Transaction presents no horizontal market power issues, and no horizontal competitive screen analysis needs to be submitted with this Application.

## **2. The Proposed Transaction Presents No Vertical Market Power Concerns**

Section 33.4(a)(2)(i) of the Commission’s regulations provides that a vertical competitive screen analysis need not be filed if the merging entities currently do not “provide inputs to electricity products (*i.e.*, upstream relevant products) and electricity products (*i.e.*, downstream relevant products) in the same geographic markets or that the extent of the business transactions in the same geographic market is *de minimis*.”<sup>27</sup>

The Proposed Transaction does not raise any vertical market power concerns. The Proposed Transaction does not involve any electric transmission facilities or any other upstream inputs to electricity products. As noted above, none of the Applicants or their

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<sup>26</sup> *Id.* § 33.3(a)(2)(i). *See also* Order No. 642, 65 Fed. Reg. at 71,002 (stating that an Appendix A analysis will not be required if the “applicant demonstrates that the merging entities do not currently operate in the same geographic markets”).

<sup>27</sup> 18 C.F.R. § 33.4(a)(2)(i).

non-Investor Account affiliates owns or controls any: (i) electric generation, transmission, or distribution facilities; (ii) intrastate natural gas transportation or storage facilities or natural gas distribution facilities; (iii) sites for generation capacity development that could constitute a barrier to entry to electric generation; (iv) physical coal supply sources; or (v) coal transportation. Similarly, the Investor Accounts do not own or control any electric transmission facilities in the relevant geographic markets or any other upstream inputs to electricity products in the relevant geographic markets, including: (i) intrastate natural gas transportation or storage facilities or natural gas distribution facilities; (ii) sites for generation capacity development that could constitute a barrier to entry to electric generation; (iii) physical coal supply sources; or (iv) coal transportation. Accordingly, an increase in the aggregate voting interest of Investor Accounts in JEUS and, indirectly, the Applicants, does not raise vertical market power concerns.

In addition, the Commission has held that transactions that do not involve a change in ownership or control of generating assets or inputs to electricity products do not raise horizontal or vertical market power concerns.<sup>28</sup> As noted in Part II.3.e above, certain other accounts managed, advised, or sub-advised by the Investment Manager (including the private investment funds that are the indirect parents of the Investor Accounts and that will manage an ownership interest in JEUS) have direct or indirect ownership interests in companies in the coal production business, certain offshore oil exploration and production companies, and a developer of LNG production and export projects, certain of which include interstate natural gas pipeline facilities. However, given that the Applicants and their affiliates, including the Existing Investor Accounts, do not own or control any electric generation facilities—other than, as noted above, indirect ownership interests in certain generation facilities in ERCOT held by certain accounts advised by

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<sup>28</sup> See *Penn. Elec. Co.*, 154 FERC ¶ 61,109, at P 31 (2016).

the Investment Manager other than the Investor Accounts—these interests do not present vertical market power concerns.<sup>29</sup> In addition, certain other accounts managed, advised, or sub-advised by the Investment Manager have interests in oil exploration and production and LNG export and interstate natural gas transportation facilities that do not raise vertical market power concerns because the Commission has found that ownership or control of, or affiliation with an entity that owns or controls, natural gas or oil supply, including interstate natural gas transportation and oil transportation, does not raise vertical market power concerns.<sup>30</sup>

The Proposed Transaction will not result in any new combination of ownership of, or control over, any inputs to generation that could be used to erect barriers to entry in the U.S. wholesale markets. Accordingly, the Proposed Transaction presents no vertical market power concerns, and no vertical market power analysis is required.<sup>31</sup>

## **B. The Proposed Transaction Will Not Have an Adverse Effect on Rates**

The Proposed Transaction will not adversely affect rates. In assessing the effect of a proposed transaction on rates, the Commission’s primary concern is “the protection of wholesale ratepayers and transmission customers,”<sup>32</sup> and, in particular, “whether the transaction could result

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<sup>29</sup> Moreover, these same interests existed when the Existing Investor Accounts acquired their interests in Just Energy, as authorized by the Commission, in September 2020. See *Just Energy Grp. Inc.*, 172 FERC ¶ 62,165 (2020); *Just Energy Group Inc., et al.*, Notice of Consummation of Proposed Transaction, Docket Nos. EC20-90-000 (filed Oct. 2, 2020). Accordingly, these interests do not raise vertical market power concerns with respect to the Proposed Transaction.

<sup>30</sup> See, e.g., *Mkt.-Based Rates for Wholesale Sales of Elec. Energy, Capacity & Ancillary Servs. by Pub. Utils.*, Order No. 697, 119 FERC ¶ 61,295, at PP 430, 441-44, *clarified*, 121 FERC ¶ 61,260 (2007), *order on reh’g*, Order No. 697-A, 123 FERC ¶ 61,055, *clarified*, 124 FERC ¶ 61,055, *order on reh’g*, Order No. 697-B, 125 FERC ¶ 61,326 (2008), *order on reh’g*, Order No. 697-C, 127 FERC ¶ 61,284 (2009), *order on reh’g*, Order No. 697-D, 130 FERC ¶ 61,206 (2010), *aff’d sub nom. Mont. Consumer Counsel v. FERC*, 659 F.3d 910 (9<sup>th</sup> Cir. 2011), *cert. denied sub nom. Pub. Citizen, Inc. v. FERC*, 567 U.S. 934 (2012).

<sup>31</sup> See 18 C.F.R. § 33.4(a)(2)(i).

<sup>32</sup> *New England Power Co.*, 82 FERC ¶ 61,179, at 61,659, *order on reh’g*, 83 FERC ¶ 61,275 (1998). See also *Merger Policy Statement*, 61 Fed. Reg. at 68,602 (noting that the Commission’s concern is to protect ratepayers from rate increases because of a merger).

in an adverse effect on rates to wholesale requirements or transmission customers.”<sup>33</sup> Neither the Applicants nor the Investor Accounts, nor any of their respective affiliates, provides third-party jurisdictional transmission service or has any captive wholesale requirements customers in the United States. All wholesale sales of electric energy, capacity, and ancillary services by the Applicants are—or will be, with respect to JEL—made at market-based rates pursuant to their respective market-based rate tariffs. The need to provide rate protection does not extend to market-based rate customers, who freely engage in power sales at rates in competitive generation markets.<sup>34</sup>

**C. The Proposed Transaction Will Not Impair the Effectiveness of Regulation**

The Proposed Transaction will not have an adverse effect on the effectiveness of federal or state regulation. Wholesale sales by the Applicants will continue to be subject to the Commission’s ratemaking jurisdiction, just as they are today. Similarly, the Proposed Transaction will not affect the ability of any state authority to regulate retail rates.

**D. The Proposed Transaction Will Not Result in Cross-Subsidization or the Pledge or Encumbrance of Utility Assets as to Any Associate Company**

Pursuant to Section 203(a)(4) of the FPA<sup>35</sup> and Section 2.26(f) of the Commission’s regulations,<sup>36</sup> the Commission evaluates whether a proposed transaction will result in the cross-subsidization of a non-utility associate company or the pledge or encumbrance of utility assets for the benefit of an associate company. The Commission has recognized three classes of transactions that are unlikely to present cross-subsidization concerns and, accordingly, has adopted three ‘safe harbors’ for meeting the Section 203 cross-subsidization demonstration, absent concerns

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<sup>33</sup> *Policy Statement on Hold Harmless Commitments*, 155 FERC ¶ 61,189, at P 5 (2016).

<sup>34</sup> *See, e.g., NorAm Energy Servs., Inc.*, 80 FERC ¶ 61,120, at 61,382-83 (1997).

<sup>35</sup> 16 U.S.C. § 824b(a)(4).

<sup>36</sup> 18 C.F.R. § 2.26(f).



identified by the Commission or evidence from interveners that there is a cross-subsidy problem based on the particular circumstances presented.”<sup>37</sup> The Proposed Transaction falls squarely within the safe harbor for transactions that do not involve a franchised public utility with captive customers.<sup>38</sup> Under such circumstances, the Commission has recognized that “there is no potential for harm to customers.”<sup>39</sup>

## V. INFORMATION REQUIRED BY THE COMMISSION’S REGULATIONS

In support of this Application, the following information is provided as required by Section 33.2 of the Commission’s regulations.<sup>40</sup> The Applicants respectfully request that the Commission grant certain waivers of these requirements consistent with those granted under similar circumstances.<sup>41</sup>

### A. Section 33.2(a) – The Exact Name of Each Applicant and Its Principal Business Address

The exact legal name of each of the Applicants and the address of its principal business office is as follows:

**Just Energy (U.S.) Corp.**  
5251 Westheimer Road, Suite 1000  
Houston, TX 77056

**Just Energy Pennsylvania Corp.**  
5251 Westheimer Road, Suite 1000  
Houston, TX 77056

**Hudson Energy Services LLC**  
5251 Westheimer Road, Suite 1000  
Houston, TX 77056

**Just Energy Texas I Corp.**  
5251 Westheimer Road, Suite 1000  
Houston, TX 77056

**Just Energy Illinois Corp.**  
5251 Westheimer Road, Suite 1000  
Houston, TX 77056

**Just Energy Solutions Inc.**  
5251 Westheimer Road, Suite 1000  
Houston, TX 77056

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<sup>37</sup> See *FPA Section 203 Supplemental Policy Statement*, 120 FERC ¶ 61,060, at P 16 (2007) (the “*Supplemental Policy Statement*”).

<sup>38</sup> See *id.* P 17.

<sup>39</sup> *Id.*

<sup>40</sup> 18 C.F.R. § 33.2.

<sup>41</sup> See, e.g., *Northeast Generation Co.*, 117 FERC ¶ 61,068, at P 17 (2006) (rejecting objections to applicants’ request to waive the requirements to file certain information).

**Just Energy New York Corp.**  
5251 Westheimer Road, Suite 1000  
Houston, TX 77056

**Just Energy Limited**  
5251 Westheimer Road, Suite 1000  
Houston, TX 77056

**B. Section 33.2(b) – Names and Addresses of Persons Authorized to Receive Notices and Communications Regarding the Application**

The Applicants request that the names of the following persons be placed on the official service list compiled by the Secretary in this proceeding:<sup>42</sup>

For the Applicants:

Brooksany Barrowes\*  
Marcia Hook\*  
Kirkland & Ellis LLP  
1301 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
Tel: (202) 389-5000  
Emails: brooksany.barrowes@kirkland.com  
marcia.hook@kirkland.com

For the Investor Accounts:

Zachary N. Wittenberg\*  
Akin Gump Strauss Hauer & Feld LLP  
Bank of America Tower  
One Bryant Park  
New York, NY 10036  
Tel: (212) 872-1081  
Email: zwittenberg@akingump.com

Scott D. Johnson\*  
Akin Gump Strauss Hauer & Feld LLP  
Robert S. Strauss Tower  
2001 K Street, N.W.  
Washington, D.C. 20006  
Tel: (202) 887-4218  
Email: sdjohnson@akingump.com

**C. Section 33.2(c) – Description of the Applicants**

**1. Exhibit A – Description of the Applicants’ Business Activities**

A description of the Applicants’ business activities is provided above in Part II.A. The Applicants respectfully request waiver of Section 33.2(c)(1) of the Commission’s regulations<sup>43</sup> to the extent it would require the submission of additional information in Exhibit A.

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<sup>42</sup> Applicants request that the Commission waive 18 C.F.R. § 385.203(b)(3) to the extent necessary to allow each person denoted with an asterisk (\*) to be included on the official service list for this proceeding.

<sup>43</sup> 18 C.F.R. § 33.2(c)(1).

## 2. Exhibit B – List of Energy Subsidiaries and Affiliates

The Proposed Transaction will affect only the Applicants and those other entities described above in Part II of this Application. The Applicants respectfully request waiver of Section 33.2(c)(2) of the Commission's regulations<sup>44</sup> to the extent it would require the submission of additional information in Exhibit B.<sup>45</sup>

## 3. Exhibit C – Organizational Charts

Simplified organizational charts depicting the pre- and post-Proposed Transaction ownership of the Applicants are provided in Exhibits C-1 and C-2, respectively. The Applicants respectfully request partial waiver of Section 33.2(c)(3) of the Commission's regulations<sup>46</sup> to the extent necessary to permit it to include on the organizational charts only those parent companies, energy subsidiaries, and energy affiliates that are relevant to the Proposed Transaction. In particular, the Applicants request partial waiver to the extent necessary to permit it to exclude from the organizational charts certain intermediate holding companies, service companies, and similar subsidiaries and affiliates not involved in, or relevant to, the Proposed Transaction.

## 4. Exhibit D – Description of Joint Ventures, Strategic Alliances, Tolling Arrangements or Other Business Arrangements

The Proposed Transaction will have no effect on any joint ventures, strategic alliances, tolling arrangements, or other business arrangements of the Applicants or the Investor Accounts separate from the Proposed Transaction. The Applicants, therefore, request waiver of the requirement of Section 33.2(c)(4) of the Commission's regulations<sup>47</sup> to file Exhibit D.

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<sup>44</sup> *Id.* § 33.2(c)(2).

<sup>45</sup> *See, e.g., Sunoco Power Generation LLC*, 138 FERC ¶ 62,255 (2012); *Cottonwood Energy Co. LP*, 118 FERC ¶ 62,151 (2007); *National Power of Am., Inc.*, 109 FERC ¶ 62,214 (2004).

<sup>46</sup> 18 C.F.R. § 33.2(c)(3).

<sup>47</sup> *Id.* § 33.2(c)(4).

## 5. Exhibit E – Identity of Common Officers

There are no common officers or directors between the Applicants, on the one hand, and the Investor Accounts, on the other hand. The Proposed Transaction does not create any new jurisdictional interlocks. To the extent that any Commission-jurisdictional interlocking appointment is to be made upon consummation of the Proposed Transaction, the appropriate filing(s) under Part 45 of the Commission's regulations will be submitted. To the extent deemed necessary, the Applicants request waiver of the requirement of Section 33.2(c)(5) of the Commission's regulations<sup>48</sup> to submit this information as a separate Exhibit E.

## 6. Exhibit F – Wholesale Power Sales and Transmission Customers

The Applicants respectfully request waiver of the requirement of Section 33.2(c)(6) of the Commission's regulations<sup>49</sup> to submit Exhibit F. As discussed above, the Proposed Transaction will not have any detrimental impact on competition, rates, or regulation and will not result in cross-subsidization of a non-utility associate company or the pledge or encumbrance of utility assets for the benefit of an associate company.

### D. Section 33.2(d) – Description of Jurisdictional Facilities

The jurisdictional facilities involved in the Proposed Transaction consist of the Applicants' market-based rate tariffs, and contracts and books and records under those market-based rate tariffs. The Applicants respectfully request waiver of Section 33.2(d) of the Commission's regulations<sup>50</sup> to the extent it would require submission of additional information in Exhibit G.

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<sup>48</sup> *Id.* § 33.2(c)(5).

<sup>49</sup> *Id.* § 33.2(c)(6).

<sup>50</sup> *Id.* § 33.2(d).

**E. Section 33.2(e) – Description of the Proposed Transaction**

A description of the Proposed Transaction has been provided above in Part III. The Applicants request waiver of Section 33.2(e)(2) of the Commission’s regulations<sup>51</sup> to the extent it would require submission of additional information in Exhibit H.

**F. Section 33.2(f) – All Contracts Related to the Proposed Transaction**

A copy of the Transaction Agreement is provided as Exhibit-1, and a copy of the Support Agreement is provided as Exhibit I-2. The Applicants request waiver of the requirements of Section 33.2(f) of the Commission’s regulations<sup>52</sup> to the extent that it would require the filing of the exhibits and schedules to each of the Transaction Agreement and the Support Agreement, respectively,<sup>53</sup> or of other contracts and written instruments that may be entered into by the parties, none of which will be inconsistent with the Transaction Agreement, the Support Agreement, or the description of the Proposed Transaction set forth in this Application. As noted above, if a Qualified Bid submitted by a party other than the Investor Accounts is received and is selected as the Successful Bid, then the Applicants will submit an amendment to this Application.

**G. Section 33.2(g) – Facts Relied Upon to Show That the Proposed Transaction Is Consistent with the Public Interest**

The facts upon which the Applicants rely to show that the Proposed Transaction is consistent with the public interest are set forth above in Part IV. The Applicants will supplement this Application promptly to reflect in its analysis any material changes that may occur after the date this Application is filed with the Commission, but before final Commission action. Because

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<sup>51</sup> *Id.* § 33.2(e)(2).

<sup>52</sup> *Id.* § 33.2(f).

<sup>53</sup> *See, e.g., Montenay Montgomery Ltd. P’ship*, 128 FERC ¶ 62,111 (2009) (granting FPA Section 203 authorization based on application containing a copy of the transaction document from which the schedules and exhibits were omitted).

such information is provided in the body of this Application, the Applicants request waiver of the requirement of Section 33.2(g) of the Commission's regulations<sup>54</sup> to provide such information in Exhibit J.

**H. Section 33.2(h) – Map of Physical Property**

The Applicants respectfully request waiver of the requirement of Section 33.2(h) of the Commission's regulations<sup>55</sup> to provide maps identifying the physical property owned by the Applicants in Exhibit K, because the Proposed Transaction does not involve any combination of utilities with franchised service territories.

**I. Section 33.2(i) – Licenses, Orders, or Other Approvals Required from Other Regulatory Bodies in Connection with the Proposed Transaction**

*See* Exhibit L. Given the limited scope of the Proposed Transaction, the Applicants request waiver of the requirement of Section 33.2(i) of the Commission's regulations<sup>56</sup> to file in this docket any approvals identified in Exhibit L.

**J. Section 33.2(j) – Explanation That the Proposed Transaction Will Not Result in Cross-Subsidization or the Pledge or Encumbrance of Utility Assets as to Any Associate Company**

*See* Exhibit M.

**VI. PROPOSED ACCOUNTING ENTRIES**

The Applicants have not included proposed accounting entries showing the effect of the Proposed Transaction because the Applicants are not required to maintain their books and records in accordance with the Commission's Uniform System of Accounts.

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<sup>54</sup> 18 C.F.R. § 33.2(g).

<sup>55</sup> *Id.* § 33.2(h).

<sup>56</sup> *Id.* § 33.2(i)

## VII. VERIFICATIONS

Pursuant to Section 33.7 of the Commission's regulations,<sup>57</sup> signed verifications of the Applicants' authorized representative and the Investor Accounts' authorized representative are provided in Attachment 1.

## VIII. CONCLUSION

For the reasons set forth in this Application, the Applicants respectfully request that the Commission issue an order by November 11, 2022 (*i.e.*, within 60 days from the filing of this Application), granting all FPA Section 203 approvals required in connection with the Proposed Transaction. In addition, the Applicants request waiver of certain filing requirements as described in Part V.

Respectfully submitted,

*/s/ Marcia Hook*

---

Brooksany Barrowes  
Marcia Hook  
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Washington, D.C. 20004  
Tel: (202) 389-5000  
Emails: brooksany.barrowes@kirkland.com  
marcia.hook@kirkland.com

Dated: September 12, 2022

*Counsel for the Applicants*

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<sup>57</sup> *Id.* § 33.7.

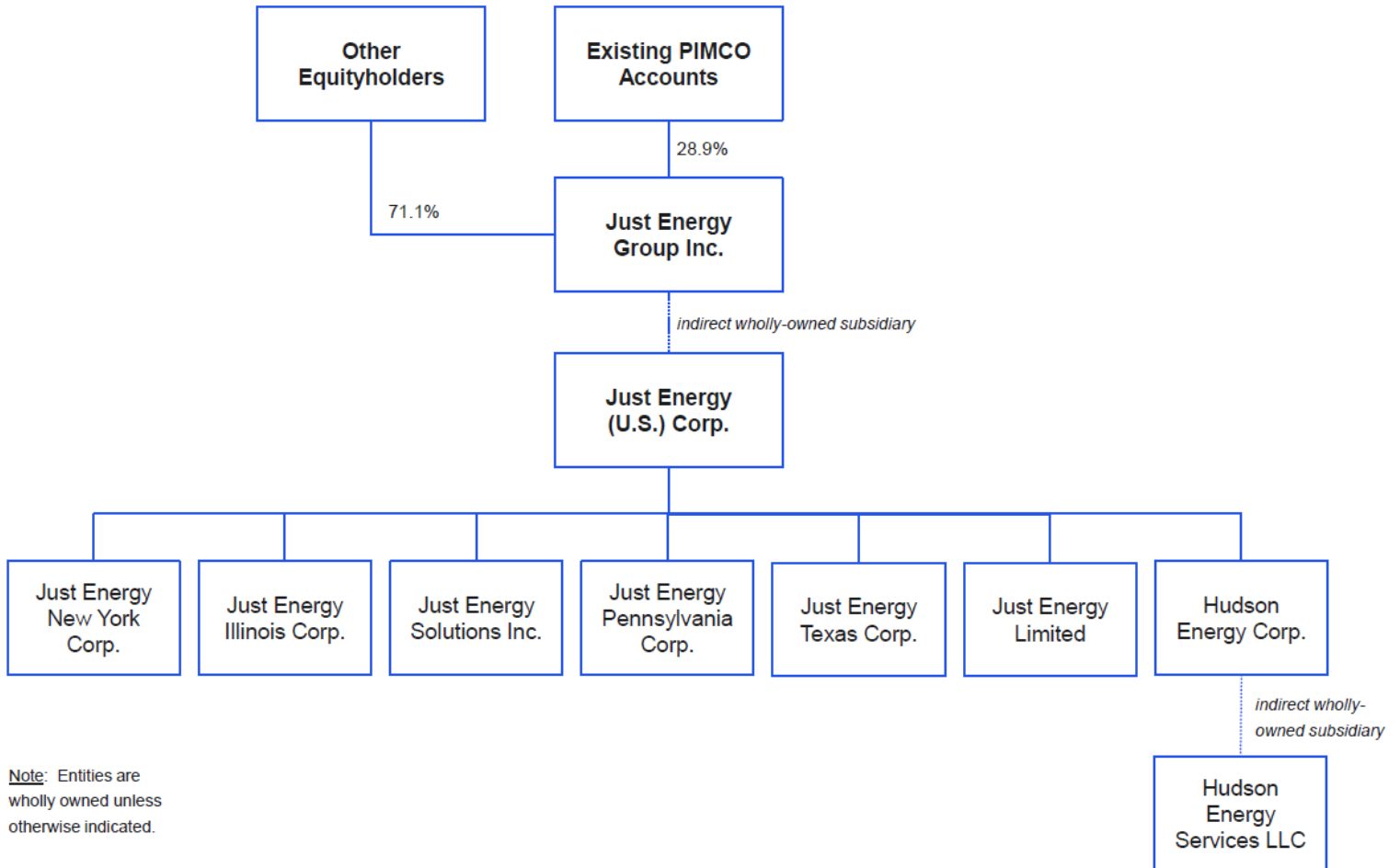
**Exhibit C**

**Pre- and Post-Proposed Transaction Organizational Charts**



Exhibit C-1

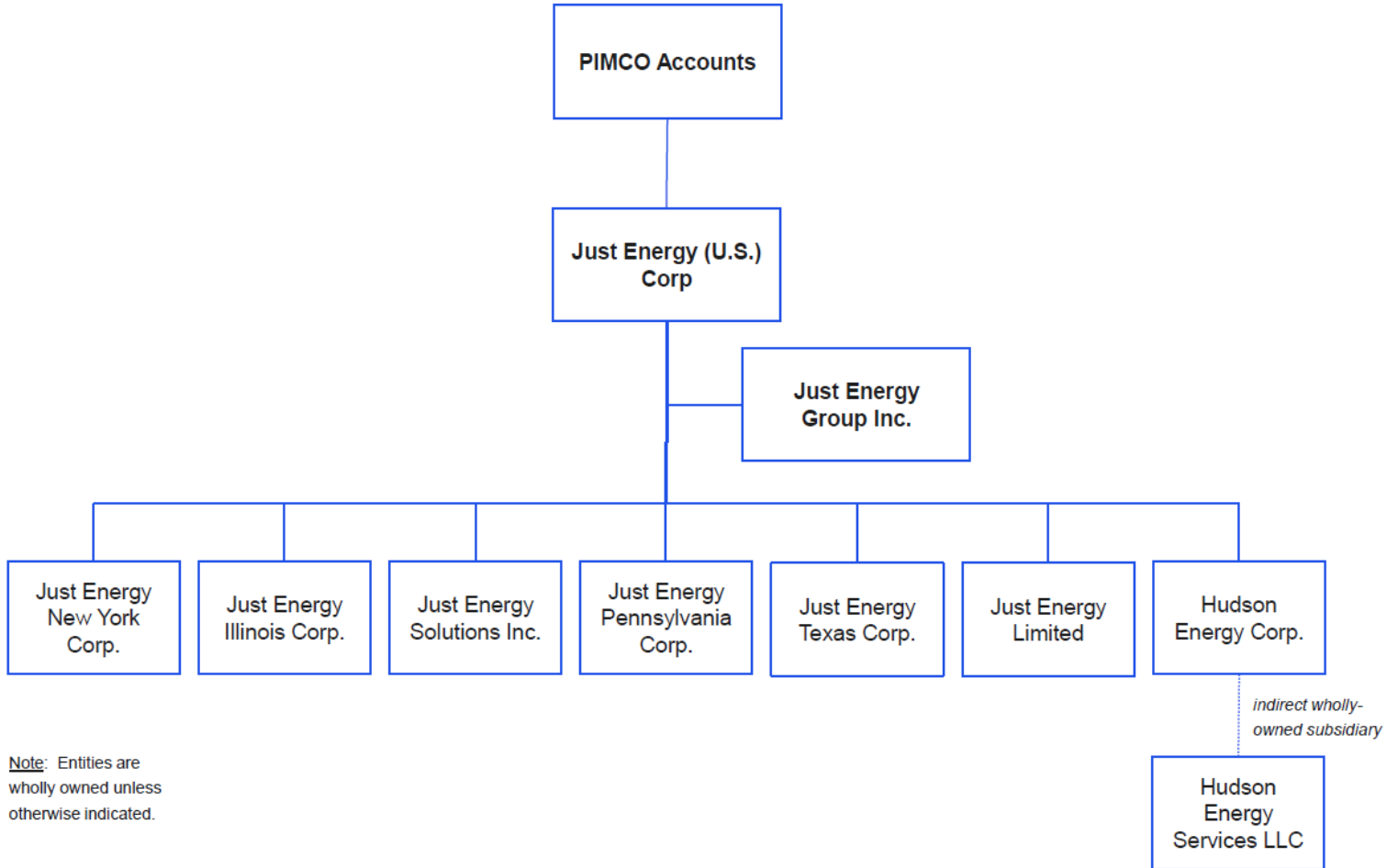
Simplified Pre-Proposed Transaction Organizational Chart



**Note:** Entities are wholly owned unless otherwise indicated.

Exhibit C-2

Simplified Post-Proposed Transaction Organizational Chart



Note: Entities are wholly owned unless otherwise indicated.

**Exhibit I**

**Contracts Related to the Proposed Transaction**

**Exhibit I-1**  
**Transaction Agreement**

**TRANSACTION AGREEMENT**

**JUST ENERGY GROUP INC.**

**as the Company**

**-and-**

**LVS III SPE XV LP,**

**TOCU XVII LLC,**

**HVS XVI LLC,**

**OC II LVS XIV LP,**

**OC III LFE I LP,**

**CBHT Energy I LLC**

**each as a Purchaser and collectively, as the Purchaser**

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### **Disclosure Letter and Exhibits**

Disclosure Letter

Exhibit A – Terms of the New Preferred Equity

Exhibit B – Form of Release



**TRANSACTION AGREEMENT**

**THIS AGREEMENT** is made as of August 4, 2022

**AMONG:**

Just Energy Group Inc. (“**Just Energy**” or “**Company**”)

-and-

LVS III SPE XV LP, TOCU XVII LLC, HVS XVI LLC, OC II LVS XIV LP, OC III LFE I LP and CBHT ENERGY I LLC (each, a “**Purchaser**” and collectively, the “**Purchaser**”).

**RECITALS:**

- A. The Just Energy Entities carry on the business, taken as a whole, of serving as a retail energy provider specializing in electricity and natural gas commodities, energy efficient solutions, carbon offsets and renewable energy options (collectively, the “**Business**”).
- B. On March 9, 2021, the Applicants commenced proceedings under the CCAA before the Ontario Superior Court of Justice (Commercial List) (the “**CCAA Court**”) to, among other things, seek creditor protection for, and certain relief in respect of, certain of the Just Energy Entities.
- C. On March 9, 2021, the Applicants commenced ancillary insolvency proceedings under Chapter 15 of Title 11 of the United States Code (the “**U.S. Proceedings**”) in the United States Bankruptcy Court for the Southern District of Texas, Houston Division.
- D. Pursuant to the Support Agreement entered into on the date of this Agreement, by and among the Just Energy Entities, the Purchaser and the other parties signatory thereto (as amended, supplemented, or otherwise modified from time to time, the “**Support Agreement**”), the Purchaser has agreed to act as a “stalking horse” bidder and, if selected or deemed as having submitted the Successful Bid in accordance with the terms of the SISP, to purchase the Purchased Interests from the Just Energy Entities, and the Company has agreed to cause the Purchased Interests to be acquired by the Purchaser, and Purchaser further wishes to indirectly assume from the Just Energy Entities the Assumed Liabilities, pursuant to and in accordance with the terms of the SISP and subject to and in accordance with the terms and conditions of this Agreement.

**NOW THEREFORE**, the Parties agree as follows:

## ARTICLE 1 INTERPRETATION

### 1.1 Definitions

In this Agreement,

“**Administrative Expense Amount**” means cash in an amount of C\$1,900,000, which shall be paid by the Just Energy Entities to the Monitor on the Closing Date out of the cash and cash equivalents of the Just Energy Entities as at the Closing Date and held in trust by the Monitor for the benefit of Persons entitled to be paid the Administrative Expense Costs, subject to the terms hereof.

“**Administrative Expense Costs**” means the reasonable and documented fees and costs of (i) the Monitor and its professional advisors and (ii) professional advisors of the Just Energy Entities for services performed prior to and, other than in respect of the Just Energy Entities, after the Closing Date, in each case, relating directly or indirectly to the CCAA Proceedings, the U.S. Proceedings, and this Agreement and including without limitation (a) costs required to wind down and/or dissolve and/or bankrupt Residual Co. and (b) costs and expenses required to administer the Excluded Assets, Excluded Liabilities and Residual Co.

“**Adversary Proceeding**” means adversary proceeding number 21-4299, commenced on November 12, 2021 in the U.S. Proceedings before the U.S. Bankruptcy Court, by Just Energy, Just Energy Texas LP, Fulcrum Retail Energy LLC and Hudson Energy Services LLC, as the foreign representatives, against Electric Reliability Council of Texas, Inc. and the Public Utility Commission of Texas.

“**Affiliate**” means, with respect to any specified Person, any other Person which, directly or indirectly, through one or more intermediaries controls, or is controlled by, or is under common control with, such specified Person (for the purposes of this definition, “control” (including, with correlative meanings, the terms “controlling,” “controlled by” and “under common control with”), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise). For greater certainty, an Affiliate of a Person shall include such Person’s investment funds and managed accounts and any funds managed or directed by the same investment advisor.

“**Agreement**” means this transaction agreement and all attachments, including the Disclosure Letter and Exhibits, in each case as the same may be supplemented, amended, restated or replaced from time to time, and the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this transaction agreement and all attached Exhibits, and unless otherwise indicated, references to Articles, Sections, the Disclosure Letter and Exhibits are to Articles, Sections, the Disclosure Letter and Exhibits in this transaction agreement.

“**Alternative Restructuring Proposal**” means any inquiry, proposal, offer, expression of interest, bid, term sheet, discussion, or agreement with respect to a sale, disposition, new-money investment, restructuring, reorganization, merger, amalgamation, acquisition, consolidation, dissolution, debt investment, equity investment, liquidation, tender offer, recapitalization, plan of

reorganization, share exchange, business combination, or similar transaction involving any one or more Just Energy Entity, one or more Just Energy Entity's material assets, or the debt, equity, or other interests in any one or more Just Energy Entity that is an alternative to or otherwise inconsistent with the transaction contemplated hereby and any amendment to or variation of any such inquiry, proposal, offer, expression of interest, bid, term sheet, discussion, or agreement, and is with a counterparty other than the Purchaser or any Affiliate of the Purchaser.

**“Antitrust Approvals”** means any approval, clearance, filing or expiration or termination of a waiting period pursuant to which a transaction would be deemed to be unconditionally approved in relation to the transactions contemplated hereby under any Antitrust Law of any country or jurisdiction that the Purchaser agrees, acting reasonably, is required, other than the Competition Act Approval.

**“Antitrust Laws”** means all Applicable Laws, including any antitrust, competition or trade regulation laws (including, without limitation, the HSR Act), that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization, restraint of trade or lessening or preventing competition through merger or acquisition.

**“Applicable Law”** means any transnational, domestic or foreign, federal, provincial, territorial, state, local or municipal (or any subdivision of any of them) law (including common law and civil law), statute, ordinance, rule, regulation, restriction, limit, by-law (zoning or otherwise), judgment, order, direction or any consent, exemption, Transaction Regulatory Approval, or any other legal requirements of, or agreements with, any Governmental Authority, that applies in whole or in part to the transactions contemplated by this Agreement, the Just Energy Entities, the Purchaser, the Business, or any of the Purchased Interests or the Assumed Liabilities.

**“Applicants”** means the Company, each Residual Co. (at the time such Residual Co. becomes an Applicant) and those additional applicants listed on Schedule 1.1(a).

**“Articles of Reorganization”** means articles of reorganization in respect of the Company's authorized and issued common shares to provide for the redemption or cancellation thereof by the Company for no consideration on Closing; such articles of reorganization to be in form and substance satisfactory to the Purchaser, acting reasonably.

**“Assumed Liabilities”** has the meaning given to such term in Section 2.3.

**“BP Commodity/ISO Services Claim”** means all Pre-Filing Claims of BP Canada Energy Group ULC and BP Energy Company in the aggregate principal amounts of \$229,461,558.59 and C\$170,652.60, plus all accrued and unpaid interest thereon through to and including the Closing Date.

**“Break-Up Fee”** has the meaning given to such term in Section 9.3(a).

**“Business”** has the meaning given to such term in Recital A.

**“Business Day”** means any day, other than a Saturday or Sunday, on which the principal commercial banks in Toronto, Ontario and New York, New York are open for commercial banking business during normal banking hours.

“**Cash Management Obligations**” means has the meaning given to such term in the Support Agreement.

“**Causes of Action**” means any action, claim, cross claim, third party claim, damage, judgment, cause of action, controversy, demand, right, action, suit, obligation, liability, debt, account, defense, offset, power, privilege, license, lien, indemnity, interest, guaranty, or franchise of any kind or character whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, contingent or non-contingent, liquidated or unliquidated, disputed or undisputed, secured or unsecured, assertable directly or derivatively, matured or unmatured, suspected or unsuspected, in contract or in tort, at law or in equity, or pursuant to any other theory of law or otherwise, of the Just Energy Entities against any Person, in each case based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the Closing Time (which Causes of Action for the avoidance of doubt shall be retained by the Acquired Entities on Closing).

“**CCAA**” means the *Companies’ Creditors Arrangement Act* (Canada).

“**CCAA Court**” has the meaning given to such term in Recital B.

“**CCAA Proceedings**” means the proceedings commenced under the CCAA by the Applicants pursuant to the Initial CCAA Order.

“**Claims**” has the meaning given to such term in the Claims Procedure Order.

“**Claims Bar Date**” has the meaning given to such term in the Claims Procedure Order.

“**Claims Procedure Order**” means the order of the CCAA Court dated September 15, 2021 in the CCAA Proceedings establishing a claims procedure in respect of the Just Energy Entities and which established November 1, 2021 on or before 5:00 p.m. (Toronto time) as the last date in which Persons wishing to assert a Claim against the Just Energy Entities could file such claim, as same may be further amended, restated or varied from time to time, and in all such cases any such amended, restated or varied order shall be in form and substance reasonably acceptable to the Just Energy Entities and the Purchaser.

“**Closing**” means the completion of the sale and purchase of the Purchased Interests pursuant to this Agreement at the Closing Time, and all other transactions contemplated by this Agreement that are to occur contemporaneously with the sale and purchase of the Purchased Interests.

“**Closing Date**” means a date no later than five (5) Business Days after the conditions set forth in Article 6 have been satisfied or waived, other than the conditions set forth in Article 6 that by their terms are to be satisfied or waived at the Closing (or such other date agreed to by the Parties in writing); provided that, if there is to be a Closing hereunder, then the Closing Date shall be no later than the Outside Date.

“**Closing Documents**” means all contracts, agreements, certificates and instruments required by this Agreement to be delivered at or before the Closing.

“**Closing Time**” means 10:00 a.m. (Toronto time) on the Closing Date or such other time on the Closing Date as the Parties agree in writing that the Closing Time shall take place.

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

“**Commissioner**” means the Commissioner of Competition appointed under the Competition Act or any Person duly authorized to exercise powers of the Commission of Competition.

“**Commodity Agreement**” means a gas supply agreement, electricity supply agreement or other agreement with any of the Just Energy Entities for the physical or financial purchase, sale, trading or hedging of natural gas, electricity or environmental derivative products, or contracts entered into for protection against fluctuations in foreign currency exchange rates, which shall include any master power purchase and sale agreement, base contract for sale and purchase, ISDA master agreement or similar agreement.

“**Commodity Supplier**” means any counterparty to a Commodity Agreement.

“**Company**” has the meaning given to such term in the preamble to this Agreement.

“**Company Subsidiaries**” means collectively each Person that is controlled by the Just Energy Entities (for the purposes of this definition, “control”, as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise).

“**Competition Act**” means the Competition Act (Canada), R.S.C., 1985, c. C-34.

“**Competition Act Approval**” means that: (i) the Commissioner shall have issued an Advance Ruling Certificate under subsection 102(1) of the Competition Act in respect of the transactions contemplated by this Agreement, or (ii) the applicable waiting period under section 123 of the Competition Act shall have expired or been waived by the Commissioner, or the obligation to submit a notification shall have been waived under paragraph 113(c) of the Competition Act, and the Commissioner shall have issued a No Action Letter.

“**Confidential Information**” means non-public, confidential, personal or proprietary information which is furnished to the Purchaser or any of its Affiliates by the Company or any of the Just Energy Entities’ representatives, including information about identifiable individuals, any information relating to the Just Energy Entities, or any customer or supplier of the Just Energy Entities, but does not include information that is or becomes generally available to the public other than as a result of disclosure by the Purchaser or its representatives in breach of this Agreement or that is received by the Purchaser from an independent third party that, to the knowledge of the Purchaser, obtained it lawfully and was under no duty of confidentiality (except to the extent that applicable privacy laws do not exclude such information from the definition of personal information) or that is independently developed by the Purchaser or its representatives without reference to any Confidential Information.

**“Continuing Contracts”** means a contract, arrangement, or other agreement (oral or written) for which a notice of disclaimer pursuant to Section 32 of the CCAA has not been sent by any of the Just Energy Entities; provided that Continuing Contracts shall not include the Third Amended and Restated Scheduling Coordinator Agreement dated December 1, 2014 between Shell Energy North America (US), L.P., Just Energy New York Corp., Just Energy (U.S.) Corp. and Just Energy Solutions Inc. (formerly Commerce Energy, Inc.) or any other agreement whereby Shell performs ISO or scheduling services on behalf of any Applicant whereby an Applicant has reimbursement obligations to Shell for payments made by Shell on behalf of an Applicant to an ISO.

**“Credit Agreement”** means the ninth amended and restated credit agreement dated as of September 28, 2020, by and among Just Energy Ontario L.P. and Just Energy (U.S.) Corp., as borrowers, the Credit Facility Agent and the Credit Facility Lenders, as such credit agreement may be amended, restated, supplemented and/or otherwise modified from time to time in accordance with the terms thereof.

**“Credit Bid Consideration”** has the meaning given to such term in Section 3.1(a)(ii).

**“Credit Facility Agent”** means National Bank of Canada, in its capacity as administrative agent for the Credit Facility Lenders.

**“Credit Facility Documents”** means, collectively, the Credit Agreement and all related documentation, including, all guarantee and security documentation related to the foregoing.

**“Credit Facility LC Claim”** means any claim of or obligation owing to any Credit Facility Lender relating to any letter of credit issued but undrawn under the Credit Facility Documents immediately prior to Closing.

**“Credit Facility Lenders”** means the lenders party to the Credit Agreement from time to time, in such capacity.

**“Credit Facility Remaining Debt”** means all debts, liabilities and other obligations (other than the Credit Facility LC Claims and the Cash Management Obligations) owing by the Just Energy Entities to the Credit Facility Agent and the Credit Facility Lenders under the Credit Facility Documents as of the Closing Date that are not otherwise repaid in accordance with the New Credit Agreement.

**“DIP Agent”** means Alter Domus (US) LLC, in its capacity as administrative and collateral agent for the DIP Lenders.

**“DIP Documents”** means, collectively, the DIP Term Sheet and all related documentation, including, without limitation, all guarantee and security documentation, related to the foregoing.

**“DIP Financing”** means the debtor-in-possession financing made pursuant to the DIP Term Sheet.

**“DIP Lenders”** means the lenders under the DIP Term Sheet, in such capacity, and “DIP Lender” means any one of them.

“**DIP Term Sheet**” means the CCAA Interim Debtor-in-Possession Financing Term Sheet between the Just Energy Entities party thereto, the DIP Agent and the DIP Lenders, dated as of March 9, 2021, as such term sheet may be amended, restated, supplemented and/or otherwise modified from time to time in accordance with the terms thereof.

“**Disclosure Letter**” means the disclosure letter dated the date hereof regarding this Agreement.

“**Employee Priority Claims**” means any Claim for (a) accrued and unpaid wages and vacation pay owing to an employee of any of the Just Energy Entities whose employment was terminated between the Filing Date and the Closing Date and (b) unpaid amounts provided for in Section 6(5)(a) of the CCAA.

“**Employment Agreements**” means, collectively, the employment agreements, the management compensation plans, and indemnification agreements of, or for the benefit of, the directors, officers and employees of any of the Just Energy Entities that, on or prior to the Closing, have not resigned, in each case, in existence on the date hereof; provided, however, that Employment Agreements shall not include employment agreements, the management compensation plans, and indemnification agreements of, or for the benefit of, the directors, officers and employees of any of the Just Energy Entities that have been terminated or disclaimed without the consent of the Purchaser.

“**Encumbrance**” means any security interest (whether contractual, statutory or otherwise), lien, prior claim, charge, hypothec, reservation of ownership, pledge, encumbrance, mortgage, trust (including any statutory, deemed or constructive trust), option or adverse claim or encumbrance of any nature or kind.

“**Energy Regulator**” means any federal or provincial energy regulators, provincial regulators of consumer sales that have authority with respect to energy sales, U.S. municipal, state, federal or other foreign energy regulatory bodies or agencies, local energy transmission and distribution companies, or regional transmission organizations or independent system operators.

“**Energy Regulator Claims**” means any Claim that may be asserted by any Energy Regulator against a Just Energy Entity, excluding any: (i) Claim with respect to the subject matter of the Adversary Proceeding, including any Claim with respect to obligations of the Just Energy Entities underlying the invoices that are the subject of the Adversary Proceeding; and (ii) Claim by any Taxing Authority.

“**Energy Regulator Notices**” means notice of the Agreement to the Energy Regulator in the time and manner required by Applicable Law and includes, but is not limited to, notice to the Energy Regulator regarding potential implications to performance guarantees that might have been provided in support of an application for a licence, order or permit, as the case may be.

“**Equity Financing**” has the meaning given to such term in Section 5.9(b).

“**Equity Financing Sources**” has the meaning given to such term in Section 5.9(b).

“**Equity Interests**” means any capital share, capital stock, partnership, membership, joint venture or other ownership or equity interest, participation or securities (whether voting or nonvoting, whether preferred, common or otherwise, and including share appreciation, contingent interest or similar rights) of a Person.

“**ETA**” means the *Excise Tax Act* (Canada).

“**Excluded Assets**” has the meaning given to such term in Section 2.2.

“**Excluded Contracts**” means contracts of the Just Energy Entities as specified on Schedule 2.2(c) of the Disclosure Letter.

“**Excluded Liabilities**” has the meaning given to such term in Section 2.4.

“**Filing Date**” means March 9, 2021.

“**Final Order**” means with respect to any order or judgment of the CCAA Court or the U.S. Bankruptcy Court, or any other court of competent jurisdiction, with respect to the subject matter addressed in the CCAA Proceedings or the Chapter 15 Cases or the docket of any court of competent jurisdiction, that such order or judgement has not been vacated, set aside, reversed, stayed, modified or amended, and as to which the applicable periods to appeal, or seek certiorari or move for a new trial, reargument, or rehearing has expired and no appeal, leave to appeal, or petition for certiorari or other proceedings for a new trial, reargument, or rehearing has been timely taken or filed, or as to which any appeal has been taken or any petition for certiorari or leave to appeal that has been timely filed has been withdrawn or resolved in a manner acceptable to the Company and the Purchaser, each acting reasonably, by the highest court to which the order or judgment was appealed or from which leave to appeal or certiorari was sought or the new trial, reargument, or rehearing shall have been denied, resulted in no modification of such order or has otherwise been dismissed with prejudice; *provided, however*, that the possibility that a motion under Rule 60 of the United States Federal Rules of Civil Procedure, or any analogous rule under the U.S. Bankruptcy Rules, may be filed relating to such order shall not cause such order to not be a Final Order.

“**Fundamental Representations and Warranties of the Company**” means the representations and warranties of the Company included in Sections 4.1 [*Due Authorization and Enforceability of Obligations*], 4.2 [*Existence and Good Standing*] and 4.4 [*Absence of Conflicts*].

“**GAAP**” means generally accepted accounting principles in the U.S., including International Accounting Standards and U.S. GAAP.

“**Governmental Authority**” means any government, regulatory authority (including any Energy Regulator), governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity (i) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them, or (ii) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power.



“**GST/HST**” means all goods and services tax and harmonized sales tax imposed under Part IX of the ETA or any other statute in any jurisdiction of Canada.

“**Guarantee**” has the meaning given to such term in Section 5.9(b).

“**HSR Act**” means the U.S. Hart-Scott-Rodino Antitrust Improvements Act of 1976, and the rules and regulations promulgated thereunder, as amended.

“**Implementation Steps**” has the meaning given to such term in Section 2.7(b).

“**Initial CCAA Order**” means the initial order of the CCAA Court pursuant to the CCAA commencing the CCAA Proceedings, as amended, restated, supplemented and/or modified from time to time.

“**Initial Recognition Order**” means the Order of the U.S. Bankruptcy Court in the U.S. Proceedings recognizing, on a final basis, the CCAA Proceedings as “foreign main proceedings” pursuant to section 1502(4) of the *U.S. Bankruptcy Code*.

“**Intercompany Claim**” means any claim that may be asserted against any of the Just Energy Entities by or on behalf of any of the Just Energy Entities or any of their affiliated companies, partnerships, or other corporate entities.

“**Intercreditor Agreement**” means the Sixth Amended and Restated Intercreditor Agreement dated as of September 1, 2015 between National Bank of Canada, as collateral agent and agent for itself as agent and the Lenders (as defined therein); Shell; BP Canada Energy Group ULC; BP Canada Energy Marketing Corp.; BP Energy Company; Exelon Generation Company, LLC; Bruce Power L.P.; EDF Trading North America, LLC; Nextera Energy Power Marketing, LLC; Macquarie Bank Limited; Macquarie Energy Canada Ltd.; Macquarie Energy LLC; Morgan Stanley Capital Group Inc.; and each other person identified as an Other Commodity Supplier (as defined therein) from time to time party thereto, and Just Energy Ontario L.P. and Just Energy (U.S.) Corp., as Borrowers (as defined therein) and each of the Guarantors (as defined therein) from time to time party thereto, as amended (as may be further amended, restated, supplemented, or otherwise modified from time to time).

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

“**Investment Canada Act Approval**” means both:

(1) receipt by the Purchaser of a certification letter from the Director of Investments under the Investment Canada Act pursuant to subsection 13(1) of the Investment Canada Act confirming that that the transactions contemplated by this Agreement are not reviewable under Part IV of the Investment Canada Act;

and

(2) either: (A) no notice is given under subsection 25.2(1) or 25.3(2) of the Investment Canada Act within the prescribed period; or, (B) if notice is given under subsection 25.2(1) or

25.3(2) of the Investment Canada Act, then either (a) the Minister or Ministers under the Investment Canada Act have sent to the Purchaser a notice under paragraph 25.2(4)(a) or 25.3(6)(b) of the Investment Canada Act; or (b) the Governor in Council has issued an order under paragraph 25.4(1)(b) of the Investment Canada Act authorizing the transactions contemplated by this Agreement.

**“Just Energy Entities”** means the Company, Just Energy Corp., Ontario Energy Commodities Inc., Universal Energy Corporation, Just Energy Finance Canada ULC, Hudson Energy Canada Corp., 11929747 Canada Inc., 12175592 Canada Inc., JE Services Holdco I Inc., JE Services Holdco II Inc., 8704104 Canada Inc., Just Energy Advanced Solutions Corp., Just Energy (U.S.) Corp., Just Energy Illinois Corp., Just Energy Indiana Corp., Just Energy Massachusetts Corp., Just Energy New York Corp., Just Energy Texas I Corp., Just Energy, LLC, Just Energy Pennsylvania Corp., Just Energy Michigan Corp., Just Energy Solutions Inc., Hudson Energy Services LLC, Hudson Energy Corp., Interactive Energy Group LLC, Hudson Parent Holdings LLC, Drag Marketing LLC, Just Energy Advanced Solutions LLC, Fulcrum Retail Energy LLC, Fulcrum Retail Holdings LLC, Tara Energy, LLC, Just Energy Marketing Corp., Just Energy Connecticut Corp., Just Energy Limited, Just Solar Holdings Corp., Just Energy (Finance) Hungary Zrt., Just Energy Ontario L.P., Just Energy Manitoba L.P., Just Energy (B.C.) Limited Partnership, Just Energy Québec L.P., Just Energy Trading L.P., Just Energy Alberta L.P., Just Green L.P., Just Energy Prairies L.P., JEBPO Services LLP, and Just Energy Texas LP.

**“Material Adverse Effect”** means any change, effect, event, occurrence, state of facts or development that has had a material adverse effect on (i) the business, assets, liabilities, financial conditions or results of operations of the Just Energy Entities, collectively, or (ii) prevents the ability of any of the Just Energy Entities to perform its obligations under, or to consummate the transactions contemplated by, this Agreement, taken as a whole; in each case except to the extent that any such change, effect, event, occurrence, state of facts or development is attributable to: (a) general economic or business conditions; (b) Canada, the U.S. or foreign economies, or financial, banking or securities markets in general, or other general business, banking, financial or economic conditions (including (i) any disruption in any of the foregoing markets, (ii) any change in the currency exchange rates or (iii) any decline or rise in the price of any security, commodity, contract or index); (c) acts of God or other calamities, national or international political or social conditions, including the engagement and/or escalation by the U.S. or Canada in hostilities, whether or not pursuant to the declaration of a national emergency or war, or the occurrence of any military or terrorist attack upon the U.S. or Canada or any of their territories, possessions or diplomatic or consular offices or upon any military installation, equipment or personnel of the U.S. or Canada; (d) the identity of the Purchaser or its Affiliates; (e) conditions affecting generally the industry in which the Just Energy Entities participates; (f) the public announcement of, entry into or pendency of, actions required or contemplated by or performance of obligations under, this Agreement or the transactions contemplated by this Agreement, or the identity of the Parties, including any termination of, reduction in or similar adverse impact on relationships, contractual or otherwise, with any customers, suppliers, financing sources, licensors, licensees, distributors, partners, employees or others having relationships with the Just Energy Entities; (g) changes in Applicable Laws or the interpretation thereof; (h) any change in GAAP or other accounting requirements or principles; (i) national or international political, labor or social conditions; (j) the failure of the Just Energy Entities to meet or achieve the results set forth in any internal projections (but not the underlying facts giving rise to such failure unless such facts are otherwise excluded pursuant to

the clauses contained in this definition); or (k) any change resulting from compliance with the terms of, or any actions taken (or not taken) by any Party pursuant to or in accordance with, this Agreement; provided that the exceptions set forth in clauses (a), (b), (c), (e), (g), (h) or (i) shall not apply to the extent that such event is disproportionately adverse to the Just Energy Entities, taken as a whole, as compared to other companies in the industries in which the Just Energy Entities operate.

“**Monitor**” means FTI Consulting Canada Inc., as Court-appointed monitor of the Just Energy Entities in the CCAA Proceeding and not in its personal capacity.

“**Monitor’s Certificate**” means the certificate delivered to the Purchaser and filed with the CCAA Court by the Monitor certifying that the Monitor has received written confirmation in form and substance satisfactory to the Monitor from the Company and the Purchaser that all conditions to Closing have been satisfied or waived by the applicable Parties and the transactions contemplated by this Agreement have been completed.

“**New Credit Agreement**” means the tenth amended and restated credit agreement dated as of the Closing Date, by and among Just Energy Ontario L.P. and Just Energy (U.S.) Corp., as borrowers, the Credit Facility Agent and the Credit Facility Lenders, as such credit agreement may be amended, restated, supplemented and/or otherwise modified from time to time in accordance with the terms thereof, which shall be in a form consistent with the term sheet with respect thereto as contained in Exhibit 1 of the Stalking Horse Term Sheet (as such term is defined in the Support Agreement) (including that any letters of credit issued by a Credit Facility Lender pursuant to the Credit Agreement shall continue under the New Credit Agreement or be discharged and, if required, replaced with new letters of credit issued under the New Credit Agreement, unless otherwise agreed to by the applicable Credit Facility Lender and the Just Energy Entities, with the consent of the Purchaser) and otherwise acceptable to the Purchaser as of the Closing Date.

“**New Intercreditor Agreement**” means the seventh amended and restated intercreditor agreement by, among others, the Just Energy Entities, the Credit Facility Agent and the applicable Commodity Suppliers, which shall provide for the same relative supplier and lender priorities as contemplated in the existing sixth amended and restated intercreditor agreement subject to modifications contained therein, which shall be in a form consistent with the term sheet with respect thereto as contained in Exhibit 4 of the Stalking Horse Term Sheet (as such term is defined in the Support Agreement) and otherwise acceptable to the Purchaser as of the Closing Date.

“**New Preferred Equity**” has the meaning given to such term in Section 2.1(a).

“**No Action Letter**” means written confirmation from the Commissioner that the Commissioner does not, at that time, intend to make an application under section 92 of the Competition Act in respect of the transactions contemplated by this Agreement.

“**Order**” means any order of the Court made in the CCAA Proceedings, any order of the U.S. Court made in the U.S. Proceedings, or any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority.

“**Outside Date**” has the meaning given to such term in Section 9.1(c).

“**Parties**” means the Company and the Purchaser collectively, and “**Party**” means either the Company or the Purchaser, as the context requires.

“**PATRIOT Act**” has the meaning given to such term in Section 5.11.

“**PCMLTFA**” has the meaning given to such term in Section 5.11.

“**Permitted Encumbrances**” means the Encumbrances listed in Schedule 1.1(b).

“**Person**” means includes an individual, partnership, firm, joint venture, venture capital fund, limited liability company, unlimited liability company, association, trust, entity, corporation, unincorporated association, or organization, syndicate, committee, court appointed representative, the government of a country or any political subdivision thereof, or any agency, board, tribunal, commission, bureau, instrumentality, or department of such government or political subdivision, or any other entity, howsoever designated or constituted, including any Taxing Authority, and the trustees, executors, administrators, or other legal representatives of an individual, and for greater certainty includes any Governmental Authority.

“**Post-Closing Straddle Tax Period**” has the meaning given to such term in Section 7.4(c).

“**Post-Filing Claim**” or “**Post-Filing Claims**” means any or all indebtedness, liability, or obligation of the Just Energy Entities of any kind that arises during and in respect of the period commencing on the Filing Date and ending on the day immediately preceding the Closing Date in respect of services rendered or supplies provided to the Just Energy Entities during such period or under or in accordance with any Continuing Contract; provided that, for certainty, such amounts are not a Restructuring Period Claim or a Restructuring Period D&O Claim, each as defined in the Claims Procedure Order.

“**Pre-Filing Claims**” has the meaning given to such term in the Claims Procedure Order.

“**Priority Payments Amount**” means cash in an amount equal to the value of the Priority Payments less the value of the Cash Purchase Price.

“**Priority Payments**” has the meaning given to such term in the Vesting Order.

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

“**Purchased Interests**” has the meaning given to such term in Section 2.1(a).

“**Purchaser**” has the meaning given to such term in the preamble to this Agreement.

“**Released Claims**” means all claims, demands, complaints, grievances, actions, applications, suits, causes of action, Orders, charges, indictments, prosecutions, informations or other similar processes, assessments or reassessments, judgments, debts, liabilities, expenses, costs, damages or losses, contingent or otherwise, whether liquidated or unliquidated, matured or unmatured, disputed or undisputed, contractual, legal or equitable, including loss of value, professional fees, including “claims” as defined in the CCAA or the U.S. Bankruptcy Code and

including fees and disbursements of legal counsel on a full indemnity basis, and all costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing.

“**Residual Co.**” means an entity to be formed by the Company in Canada and an entity to be formed by the Company in the United States, in each case, in form satisfactory to the Purchaser, acting reasonably, prior to the Closing and each of which shall have no issued and outstanding shares; provided, that no such entity shall be a flow through entity for Canadian or U.S. tax purposes unless approved by the Purchaser.

“**Sanctioned Country**” means any country or territory to the extent that such country or territory itself is the subject of any comprehensive sanctions (currently, Crimea, Cuba, Iran, North Korea, Syria and those portions of the Donetsk People’s Republic or Luhansk People’s Republic regions (and such other regions) of Ukraine over which any Sanctions Law authority imposes comprehensive Sanctions Laws), or any country or territory whose government is the subject of Sanctions Laws (currently, Venezuela) or that is otherwise the subject of broad restrictions under Sanctions Laws (including Afghanistan, Russia and Belarus).

“**Sanctioned Person**” means (i) any Person identified in any Sanctions Law-related list of designated Persons maintained by the Government of Canada or other Sanctions Laws authorities, (ii) any Person located, incorporated, or resident in a Sanctioned Country, or (iii) any Person directly or indirectly owned or controlled by, or acting for the benefit or on behalf of, a Person described in clause (i) or (ii) to the extent the owned or controlled Person is itself subject to the restrictions or prohibitions as the Person described in clause (i) or (ii).

“**Sanctions Laws**” means economic and financial sanctions laws administered, enacted or enforced from time to time by the Government of Canada, U.S., European Union, United Kingdom, or United Nations Security Council.

“**Shell**” has the meaning given to such term in Section 6.2(i).

“**SISP**” means the Sale and Investment Solicitation Process substantially in the form as appended as Exhibit D of the Support Agreement or otherwise in form and substance satisfactory to the Purchaser and the Company, each acting reasonably.

“**SISP Order**” means an order of the CCAA Court that, among other things, approves the SISP and related matters, substantially in the form as contained in Exhibit 2 of the Stalking Horse Term Sheet (as such term is defined in the Support Agreement), or as otherwise acceptable to the Purchaser and the Company, each acting reasonably.

“**SISP Recognition Order**” means the Order of the U.S. Bankruptcy Court entered in the U.S. Proceedings recognizing and giving effect to the SISP Order, which order shall be in form and substance acceptable to the Purchaser and the Company, each acting reasonably.

“**Successful Bid**” has the meaning given to such term in the SISP.

“**Support Agreement**” has the meaning given to such term in Recital D.

“**Tax**” and “**Taxes**” means taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever (including withholding on amounts paid to or by any Person) imposed by any Taxing Authority, including all interest, penalties, fines, additions to tax or other additional amounts imposed by any Taxing Authority in respect thereof, and including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, sales, goods and services, harmonized sales, use, value-added, excise, stamp, withholding, business, franchising, escheat, property, development, occupancy, employer health, payroll, employment, health, disability, severance, unemployment, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, all license, franchise and registration fees and all employment insurance, health insurance and Canada, Ontario and other government pension plan premiums or contributions.

“**Tax Act**” means the *Income Tax Act (Canada)* and shall also include a reference to any applicable and corresponding provisions under the income tax laws of a province or territory of Canada, as applicable.

“**Tax Return**” means any return, declaration, report, statement, information statement, form, election, amendment, claim for refund, schedule or attachment thereto or other document filed or required to be filed with a Taxing Authority with respect to Taxes.

“**Taxing Authority**” means Her Majesty the Queen in right of Canada, Her Majesty the Queen in right of any province or territory of Canada, the Canada Revenue Agency, any similar revenue or taxing authority of Canada and each and every province or territory of Canada and any political subdivision thereof, the United States Internal Revenue Service, any similar revenue or taxing authority of the U.S. and each and every state and locality of the U.S., and any Canadian, U.S. or other Governmental Authority exercising taxing authority or power, and “Taxing Authority” means any one of the Taxing Authorities.

“**Transaction Regulatory Approvals**” means any material licenses, permits or approvals required from any Governmental Authority or under any Applicable Laws relating to the business and operations of the Just Energy Entities that would be required to be obtained in order to permit the Just Energy Entities and Purchaser to complete the transactions contemplated by this Agreement and the Support Agreement, including but not limited to, and in each case to the extent it has been agreed to in accordance this Agreement that such approval shall be obtained, the Federal Energy Regulatory Commission, the Competition Act Approval, the Antitrust Approvals and the Investment Canada Act Approval.

“**Transfer Taxes**” means all transfer, documentary, sales, use, stamp, registration, customs duties, import and export taxes, surtaxes, value added, GST/HST, provincial sales/retail Taxes, conveyance fees, security interest filing or recording fee and any other similar Taxes (including any real property transfer Tax and any other similar Tax), any governmental assessment, and any related penalties and interest.

“**U.S.**” means the United States of America.

“**U.S. Bankruptcy Code**” means title 11 of the United States Code, 11 U.S.C. §§ 101 et seq, as amended.

“**U.S. Bankruptcy Court**” means the United States Bankruptcy Court for the District of Texas, Houston Division, overseeing the U.S. Proceedings.

“**U.S. Proceedings**” has the meaning given to such term in Recital C.

“**Vesting Order**” means an order of the CCAA Court substantially in the form of Exhibit 3 of the Stalking Horse Term Sheet (as such term is defined in the Support Agreement) (or as otherwise acceptable to the Purchaser and the Company, each acting reasonably).

“**Vesting Recognition Order**” means an order of the U.S. Bankruptcy Court entered in the U.S. Proceedings in form and substance acceptable to the Purchaser, which shall, among other things, recognize and give effect to the Vesting Order and otherwise approve this Agreement and the transactions contemplated hereby.

## **1.2 Statutes**

Except as otherwise provided in this Agreement, any reference in this Agreement to a statute refers to such statute and all rules and regulations made under it, as it or they may have been or may from time to time be amended, re-enacted or replaced.

## **1.3 Headings, Table of Contents, etc.**

The provision of a table of contents, the division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenient reference only and do not affect the interpretation of this Agreement. The recitals to this Agreement are an integral part of this Agreement.

## **1.4 Gender and Number**

In this Agreement, unless the context otherwise requires, words importing the singular include the plural and *vice versa*, and words importing gender include all genders.

## **1.5 Currency**

Except where otherwise expressly provided, all amounts in this Agreement are stated and shall be paid in U.S. dollars. References to “\$” are to U.S. dollars. References to “C\$” are to Canadian dollars.

## **1.6 Certain Phrases**

In this Agreement (i) the words “including”, “includes” and “include” and any derivatives of such words mean “including (or includes or include) without limitation” and (ii) the words “the aggregate of”, “the total of”, “the sum of”, or a phrase of similar meaning means “the aggregate (or total or sum), without duplication, of”. The expression “Article”, “Section” and other subdivision followed by a number, mean and refer to the specified Article, Section or other subdivision of this Agreement.

### **1.7 Invalidity of Provisions**

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon (i) such a determination of invalidity or unenforceability or (ii) any change in Applicable Law or other action by any Governmental Authority which materially detracts from the legal or economic rights or benefits, or materially increases the obligations, of any Party or any of its Affiliates under this Agreement, the Parties shall negotiate to modify this Agreement in good faith so as to effect the original intent of the Parties as closely as possible in an acceptable manner so that the transactions contemplated by this Agreement be consummated as originally contemplated to the fullest extent possible.

### **1.8 Knowledge**

Any reference to the knowledge of (i) the Company or the Just Energy Entities, means the actual knowledge, after reasonable inquiry, of R. Scott Gahn, Michael Carter and Jonah Davids, and (ii) the Purchaser, means the actual knowledge, after reasonable inquiry, of Scott Striegel.

### **1.9 Entire Agreement**

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

### **1.10 Waiver, Amendment**

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement shall be binding unless executed in writing by all Parties hereto. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

### **1.11 Governing Law; Jurisdiction and Venue**

This Agreement, the rights and obligations of the Parties under this Agreement, and any Claim or controversy directly or indirectly based upon or arising out of this Agreement or the transactions contemplated by this Agreement (whether based on contract, tort or any other theory), including all matters of construction, validity and performance, shall in all respects be governed



by, and interpreted, construed and determined in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to the conflicts of law principles thereof. The Parties consent to the jurisdiction and venue of the CCAA Court for the resolution of any such disputes arising under this Agreement. Each Party agrees that service of process on such Party as provided in Section 11.7 shall be deemed effective service of process on such Party.

### **1.12 Incorporation of Disclosure Letter, Schedules and Exhibits**

The Disclosure Letter and any schedule or exhibit attached thereto, and any schedule or exhibit attached to this Agreement, is an integral part of this Agreement.

### **1.13 Accounting Terms**

All accounting terms used in this Agreement are to be interpreted in accordance with GAAP unless otherwise specified.

### **1.14 Non-Business Days**

Whenever payments are to be made or an action is to be taken on a day which is not a Business Day, such payment will be made or such action will be taken on or not later than the next succeeding Business Day.

### **1.15 Computation of Time Periods**

If any action may be taken within, or any right or obligation is to expire at the end of, a period of days under this Agreement, then the first day of the period is not counted, but the day of its expiry is counted.

## **ARTICLE 2 PURCHASE AND SALE**

### **2.1 Agreement to Purchase and Sell Purchased Interests**

- (a) Upon and subject to the terms and conditions of this Agreement, at the Closing and effective as of the Closing Time, and subject to the completion of the Implementation Steps required to be completed prior to the Closing Time, the Company shall cause Just Energy (U.S.) Corp. to issue to the Purchaser, and each Purchaser (severally and not jointly) shall purchase from Just Energy (U.S.) Corp., free and clear of all Encumbrances (other than Permitted Encumbrances), newly issued common equity, and newly issued preferred equity (the “**New Preferred Equity**”) of Just Energy (U.S.) Corp. (or its successor if converted into another entity prior to the Closing in accordance with the Implementation Steps), with such equity interests to be allocated to each Purchaser as set forth on Schedule 2.1(a) (collectively, the “**Purchased Interests**”).
- (b) The terms of the New Preferred Equity shall be consistent with the terms set forth on Exhibit A hereto.

- (c) Pursuant to the Vesting Order, in accordance with the Implementation Steps, all Equity Interests of Just Energy (U.S.) Corp. outstanding prior to the issuance of the Purchased Interests shall be cancelled, and the Purchased Interests shall represent 100% of the outstanding Equity Interests in Just Energy (U.S.) Corp. after such cancellation and issuance.
- (d) In accordance with the Implementation Steps, Just Energy (U.S.) Corp. shall subscribe for and the Company shall issue to Just Energy (U.S.) Corp. newly issued common equity of the Company and pursuant to the Vesting Order and Articles of Reorganization immediately after the issuance of such common equity, all other Equity Interests of the Company shall be cancelled or redeemed, and, immediately after such cancellation or redemption, Just Energy (U.S.) Corp. shall hold 100% of the outstanding Equity Interests in the Company.
- (e) For the avoidance of doubt, upon the Closing and after the completion of the Implementation Steps, each other Just Energy Entity (including the Company) and every direct and indirect subsidiary of the Company, except those listed on Schedule 2.2(f), shall be owned, directly or indirectly, by Just Energy (U.S.) Corp.

## 2.2 Excluded Assets

Notwithstanding any provision of this Agreement to the contrary, as of the Closing, the assets of the Just Energy Entities shall not include any of the following assets, together with any other assets as set forth on Schedule 2.2 of the Disclosure Letter (collectively, the “**Excluded Assets**”):

- (a) the Tax records and returns, and books and records pertaining thereto and other documents, in each case, that primarily or solely relate to any of the Excluded Liabilities, provided that the applicable Just Energy Entity may take copies of all Tax records and books and records pertaining to such records (as redacted, if applicable) to the extent necessary or useful for the carrying on of the Business after Closing, including the filing of any Tax Return, provided, however that Residual Co. shall retain the original copies of any of the records required to be provided to the applicable Just Energy Entity hereunder (and provide the applicable Just Energy Entity with a copy thereof) to the extent Residual Co. is required to do so under Applicable Law;
- (b) the Administrative Expense Amount;
- (c) the Priority Payments Amount, which for the avoidance of doubt, shall be paid in accordance with Section 3.2 and shall not be transferred to Residual Co pursuant to Section 2.6;
- (d) the Excluded Contracts;
- (e) all communications, information or records, written or oral, that are in any way related to (i) the transactions contemplated by this Agreement, (ii) the sale of the Purchased Interests, (iii) any Excluded Asset or (iv) any Excluded Liability;

- (f) the equity interests of each entity set forth on Schedule 2.2(f), which Schedule may be modified as agreed upon by the Company and the Purchaser, each acting reasonably, at least seven (7) days prior to the hearing of the Just Energy Entities' motion to the CCAA Court seeking the Vesting Order; and
- (g) any rights which accrue to Residual Co. under the transaction documents.

### 2.3 Liabilities of Just Energy Entities

Subject to the Implementation Steps and pursuant to this Agreement and the Vesting Order, as of the Closing Time the only obligations and liabilities of the Just Energy Entities shall consist of only the items specifically set forth below, as applicable (collectively, the “**Assumed Liabilities**”); provided, for the avoidance of doubt the Assumed Liabilities of any Just Energy Entities pursuant to this Section 2.3 shall continue to be liabilities of the applicable Just Energy Entity (and, except as applied to Section 2.3(f) no other Person) as of the Closing; provided, further, however, that each of the Just Energy Entities shall take such steps as are necessary to ensure that any claim that could give rise to responsible person liability is satisfied if the applicable Just Energy Entity is, for any reason, unable to satisfy such claim:

- (a) *Post-Filing Claims* – all Post-Filing Claims;
- (b) *Liabilities of Just Energy Entities* – all liabilities of the Just Energy Entities arising from and after Closing;
- (c) *Credit Facility* – all Credit Facility LC Claims and the Credit Facility Remaining Debt (if any);
- (d) *Cash Management Obligations* – all Cash Management Obligations;
- (e) *Energy Regulator Claims* – Energy Regulator Claims relating to the Just Energy Entities;
- (f) *Taxes* – (A) Tax liabilities of the Just Energy Entities for any tax period or the portion thereof beginning on or after the Filing Date, and (B) any other Taxes, including sales or use taxes, payable to a Taxing Authority for any period whereby the nonpayment of which by any Just Energy Entity could result in a responsible person associated with a Just Energy Entity being held personally liable for such nonpayment, excluding from (A), for the avoidance of doubt (x) all income tax or similar liabilities of any Just Energy Entity for any tax period ending prior to the Filing Date, and (y) any Tax or similar liability directly and solely related to the Excluded Assets, other than Taxes with respect to which any current or former employee, officer, director or other individual may be held liable under any applicable statute imposing responsible person liability for unpaid taxes (excluding, for the avoidance of doubt, any such person serving in such capacity at Residual Co.);
- (g) *Texas Comptroller* – All Claims of the Texas Comptroller of Public Accounts that have been accepted pursuant to the Claims Procedure Order;

- (h) *Intercompany Claims* – Intercompany Claims between Just Energy Entities to the extent that the Implementation Steps contemplate such claims continuing as Assumed Liabilities;
- (i) *Indemnification Obligations* – any and all indemnification obligations of the Just Energy Entities to current and former directors, officers and or other person employed or previously employed by the Just Energy Entities (excluding, for the avoidance of doubt, Residual Co.);
- (j) *Employee Priority Claims* – all Employee Priority Claims; and
- (k) *Non-Just Energy Entity Liabilities* – all obligations and liabilities of the direct and indirect subsidiaries of the Company that are not Just Energy Entities, excluding those set forth on Schedule 2.2(f).

Notwithstanding the foregoing, nothing in this Agreement shall be read to extend or shall be interpreted as extending or amending the Claims Bar Date or give or shall be interpreted as giving any rights to any Person in respect of Claims against any Just Energy Entity that have been barred or extinguished pursuant to the Claims Procedure Order (it being understood that this proviso shall in no way limit the assumption of liabilities described in Section 2.3(f)(B)).

## 2.4 Excluded Liabilities

Except as expressly assumed pursuant to or specifically contemplated by Section 2.3, all Claims and all debts, obligations, and liabilities of the Just Energy Entities or any predecessors of the Just Energy Entities, of any kind or nature, shall be assigned and become the sole obligation of the applicable Residual Co. pursuant to the terms of the Vesting Order and this Agreement, and, as of the Closing, the Just Energy Entities shall not have any obligation, duty, or liability of any kind whatsoever, except as expressly assumed pursuant to Section 2.3, whether accrued, contingent, known or unknown, express or implied, primary or secondary, direct or indirect, liquidated, unliquidated, absolute, accrued, contingent or otherwise, and whether due or to become due, and such liabilities or obligations shall be the sole responsibility of the applicable Residual Co. (collectively, the “**Excluded Liabilities**”). All intercompany obligations and balances which do not continue as Assumed Liabilities pursuant to the Implementation Steps shall be Excluded Liabilities.

## 2.5 Transfer of Excluded Liabilities to Residual Co.

On the Closing Date, pursuant to the terms of the Vesting Order, the Just Energy Entities shall assign and transfer the Excluded Liabilities to the applicable Residual Co. (with Excluded Liabilities with respect to any Just Energy Entity organized in Canada being assigned to the Residual Co. organized in Canada and any Excluded Liabilities with respect to any Just Energy Entity organized in the United States being assigned to the Residual Co. organized in the United States), and such Residual Co. shall assume the applicable Excluded Liabilities. All of the Excluded Liabilities shall be discharged from the Just Energy Entities as of the Closing, pursuant to the Vesting Order.

## 2.6 Transfer of Excluded Assets to Residual Co.

On the Closing Date, pursuant to the terms of the Vesting Order and, where applicable, in consideration for Residual Co. assuming the Excluded Liabilities pursuant to Section 2.5 from a Just Energy Entity, the Just Energy Entities shall assign and transfer the Excluded Assets to the applicable Residual Co. (with Excluded Assets with respect to any Just Energy Entity organized in Canada being assigned to the Residual Co. organized in Canada and any Excluded Assets with respect to any Just Energy Entity organized in the United States being assigned to the Residual Co. organized in the United States), and the Excluded Assets shall be vested in the applicable Residual Co. pursuant to the Vesting Order.

## 2.7 Pre-Closing and Closing Reorganization

- (a) The specific mechanism for implementing the Closing, payment of the Cash Purchase Price and Credit Bid Consideration, and the structure of the transactions contemplated by this Agreement shall be structured in a tax efficient manner mutually agreed upon by the parties, each acting reasonably.
- (b) On or prior to the Closing Date, the Just Energy Entities shall effect the transaction steps and pre-closing reorganization (collectively, the “**Implementation Steps**”) of the Just Energy Entities as set forth on a schedule to be agreed upon by the Company, the Credit Facility Lenders and the Purchaser, each acting reasonably, at least seven (7) days prior to the hearing of the Just Energy Entities’ motion to the CCAA Court seeking the Vesting Order; provided that in no event will the Implementation Steps described in Schedule 2.7(c) be materially prejudicial to the interests of the Purchaser under the other sections of this Agreement. The Implementation Steps may include, without limitation, resolving intercompany obligations, the formation of new entities required to implement the transactions contemplated by this Agreement in a tax efficient manner, amending the partnership agreements to reflect the economic arrangement of the parties, and transfers of equity interests in the Just Energy Entities as agreed upon by the Company, the Credit Facility Lenders and the Purchaser, each acting reasonably, consistent with Section 2.7(a).
- (c) The Implementation Steps shall occur, and be deemed to have occurred in the order and manner to be set out in Schedule 2.7(c).
- (d) The steps to be taken and the compromises and releases to be effective on the Closing Date are deemed to occur and be effected in the steps and sequential order set forth in Schedule 2.7(c), beginning on or before the Closing Date at such time as is specified therein.

**ARTICLE 3**  
**PURCHASE PRICE AND RELATED MATTERS**

**3.1 Purchase Price**

- (a) The purchase price payable by each Purchaser (severally and not jointly) for the Purchased Interests (the “**Purchase Price**”) shall be:
- (i) cash in the amount of \$184,857,692.31, plus up to an additional C\$10 million solely in the event and to the extent additional funds (taking into account the Cash Purchase Price, the aggregate amount of cash held by the Just Energy Entities as of the Closing Date and the Credit Facility Remaining Debt) are required to pay all amounts to be paid by the Just Energy Entities pursuant to this Agreement and the Vesting Order (the “**Cash Purchase Price**”), allocated among each Purchaser in the amounts set forth on Schedule 3.1(a)(i);
  - (ii) subject to the Implementation Steps, the release of the applicable Just Energy Entities from all amounts outstanding and obligations owing to CBHT Energy I LLC pursuant to the BP Commodity/ISO Services Claim as of the Closing Date, including the principal amount of such claims and interest accrued as of the Closing Date, which amount as of the Filing Date is \$229,461,558.59 and C\$170,652.60, plus all accrued and unpaid interest thereon through to and including the Closing Date, in return for the issuance of the New Preferred Equity, plus any fees and expenses associated therewith (such aggregate amount, the “**Credit Bid Consideration**”); and
  - (iii) the assumption of the Assumed Liabilities as set forth herein.
- (b) Each Purchaser shall satisfy the obligations pursuant to Section 3.1 and the Purchase Price as follows:
- (i) CBHT Energy I LLC shall, at the Closing Time, in respect of the Credit Bid Consideration, cause the release of the applicable Just Energy Entities from all amounts outstanding and obligations owing pursuant to the BP Commodity/ISO Services Claim, including the principal amount of such claims and interest accrued as of the Closing Date, and any other documents or agreements entered into therewith in an aggregate amount equal to the Credit Bid Consideration, upon which the BP Commodity/ISO Services Claim, together with all documents, instruments, agreements and other related instruments shall, automatically and without any further formality, be released, discharged, terminated and of no further force and effect; and
  - (ii) at the Closing Time, each Purchaser (other than CBHT Energy I LLC) shall pay to the Company its respective portion of the Cash Purchase Price (as allocated on Schedule 3.1(a)(i)).

- (c) The Purchaser and its Affiliates, on the one hand, and the Company, and any of its Affiliates, on the other hand, shall be entitled to deduct and withhold from the Purchase Price or other amounts otherwise payable pursuant to this Agreement such amounts as such Person is required to deduct and withhold under Applicable Law provided, however, that the Purchaser and its Affiliates shall not make any such deduction or withholding pursuant to Section 1445 of the Code, as long as at Closing, the Company shall have delivered to the Purchaser certification required by Section 10.2(c). Before making any such deduction or withholding, the withholding agent shall use commercially reasonable efforts to provide the Person in respect of which deduction or withholding is proposed to be made reasonable advance written notice of the intention to make such deduction or withholding, and the withholding agent shall cooperate with any reasonable request from such Person to obtain reduction of or relief from such deduction or withholding to the extent permitted by Applicable Law. To the extent that amounts are so deducted and withheld and remitted to the appropriate Taxing Authority, such amounts shall be treated for all purposes of this Agreement as having been paid to the Person in respect of which such deduction and withholding was made.

### **3.2 Payment of Certain Liabilities**

On the Closing Date, upon payment of the Cash Purchase Price to the Company, the Just Energy Entities shall satisfy, in accordance with the Implementation Steps, the Priority Payments as required to be paid on Closing in the Vesting Order from the Priority Payments Amount plus the Cash Purchase Price such that all the Priority Payments shall be satisfied in full in connection with the Closing.

## **ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF THE COMPANY**

The Company represents and warrants, on behalf of itself and all other Just Energy Entities, to the Purchaser as follows, and acknowledges that the Purchaser is relying upon the following representations and warranties in connection with its purchase of the Purchased Interests:

### **4.1 Due Authorization and Enforceability of Obligations**

This Agreement has been duly authorized, executed and delivered by it, and, subject to the granting of the SISP Order this Agreement constitutes the legal, valid and binding obligation of it, enforceable against it in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium, or other similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability.

### **4.2 Existence and Good Standing**

Each of the Just Energy Entities is validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization and, subject to the granting of the SISP Order, (i) has all requisite power and authority to execute and deliver this Agreement and (ii) has taken all requisite corporate or other action necessary for it to execute and deliver this Agreement and to perform its obligations hereunder and consummate the transaction contemplated hereunder.

### **4.3 Sophisticated Parties**

Each of the Just Energy Entities (i) is a sophisticated party with sufficient knowledge and experience to evaluate properly the terms and conditions of this Agreement, (ii) has conducted its own analysis and made its own decision to enter into this Agreement and has obtained such independent advice in this regard as it deemed appropriate, and (iii) has not relied on such analysis or decision of any Person other than its own independent advisors.

### **4.4 Absence of Conflicts**

The execution and delivery of this Agreement by the Company and the completion by the Company of its obligations hereunder and the consummation of the transactions contemplated herein do not and will not violate or conflict with any Applicable Law, or any of the properties or assets of any Just Energy Entity, (subject to the receipt of any Transaction Regulatory Approvals) and will not result (with due notice or the passage of time or both) in a violation, conflict or breach of, or constitute a default under, or require any consent to be obtained under the certificate of incorporation, articles, by-laws or other constituent documents of any Just Energy Entity. The execution, delivery and performance by the Company does not and will not: (x) violate any provision of law, rule, or regulation applicable to the Just Energy Entities or any Just Energy Entity's charter or by-laws (or other similar governing documents) or those of any subsidiaries; (y) except as the consummation of the transactions contemplated herein may constitute a "Change of Control" (as may be defined in the Credit Agreement, the Intercreditor Agreement, the existing supply agreements with Shell, and the Term Loan Agreement) or any equivalent concept under the Credit Agreement, the Intercreditor Agreement, the existing supply agreements with Shell, or the Term Loan Agreement, conflict with, result in a breach of, or constitute (with or without notice or lapse of time or both) a default under any material agreement to which any Just Energy Entity is a party or any debt for borrowed money to which it is a party that, in any case, is not remedied, cured or waived, or (z) violate any Order, statute, rule, or regulation.

### **4.5 Approvals and Consents**

The execution and delivery of this Agreement by the Company, the completion by the Company of its obligations hereunder and the consummation by the Company of the transactions contemplated herein, do not and will not require any consent or approval or other action, with or by, any Governmental Authority, other than as contemplated by the SISP Order and the Transaction Regulatory Approvals.

### **4.6 No Actions**

There is not, as of the date hereof, pending or, to the Company's knowledge, threatened against any Just Energy Entity or any of its properties, nor has any Just Energy Entity received any written notice in respect of, any claim, potential claim, litigation, action, suit, arbitration, investigation or other proceeding before any Governmental Authority or legislative body that, would prevent the Company from executing and delivering this Agreement, performing its obligations hereunder and consummating the transactions and agreements contemplated by this Agreement.



#### **4.7 Subsidiaries**

Schedule 4.7 sets forth a complete and correct list of the name and jurisdiction of organization of each Just Energy Entity. All the outstanding Equity Interests of the Just Energy Entities (other than those of the Company) are owned by the Company, by one or more Company Subsidiaries or by the Company and one or more Company Subsidiaries, free and clear of all pledges, claims, liens, charges, options, security interests, licenses or other encumbrances of any kind or nature whatsoever (other than Permitted Encumbrances), except for transfer restrictions imposed by applicable securities laws, and, except as would not be material to the Company and the Just Energy Entities, taken as a whole, are duly authorized, validly issued, fully paid and nonassessable and not subject to any pre-emptive rights. Except for the Equity Interests in the Just Energy Entities, the Company does not own, directly or indirectly, any Equity Interests in, any Person.

#### **4.8 No Stop Order**

As of the time of entering into this Agreement, no order halting or suspending trading in securities of the Just Energy Entities has been issued to and is outstanding against any of the Just Energy Entities, and, to any Just Energy Entity's knowledge, no investigations or proceedings for such purpose are pending or threatened.

#### **4.9 Support Agreement Representations and Warranties**

The representations and warranties of Just Energy in the Support Agreement are true and correct.

#### **4.10 Sanctioned Person**

None of the Just Energy Entities, nor any of their respective officers, directors, employees or agents, is a Sanctioned Person.

#### **4.11 Sanctions Laws**

None of the Just Energy Entities has (i) assets located in, or otherwise directly or, to the knowledge of any of the Just Energy Entities, indirectly, derives revenues from or engages in, investments, dealings, activities, or transactions in or with, any Sanctioned Country in violation of Sanctions Laws; or (ii) directly or, to the knowledge of any of the Just Energy Entities, indirectly, derives revenues from or engages in investments, dealings, activities, or transactions with, any Sanctioned Person in violation of Sanctions Laws.

#### **4.12 Anti-Money Laundering Laws; Anti-Corruption Laws**

- (a) The operations of the Just Energy Entities are and have been at all times conducted in compliance with, in all respects, (i) the U.S. Currency and Foreign Transactions Reporting Act of 1970, the PCMLTFA (as defined below), the Money Laundering Control Act of 1986 (18 U.S.C. §§ 1956-1957), the PATRIOT Act (as defined below), the Bank Secrecy Act (31 U.S.C. §§5311-5332), and any other applicable laws related to money laundering or terrorism financing (“**Anti-Money**

**Laundering Laws**”), (ii) the U.S. Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder, and any other applicable laws or regulations concerning or relating to bribery or corruption (“**Anti-Corruption Laws**”) and (iii) Sanctions Laws.

- (b) No action, suit, investigation or legal proceeding by or before any Governmental Authority or any arbitrator involving the Just Energy Entities or any officer, director, employee or agent thereof, or any informal or formal investigation by any Just Energy Entity or its legal or other representatives involving the foregoing, with respect to Anti-Money Laundering Laws, Anti-Corruption Laws or Sanctions Laws is pending, or to the knowledge of any of the Just Energy Entities, threatened.
- (c) Each Just Energy Entity has instituted and maintains policies and procedures designed to ensure compliance by each Just Energy Entity and its directors, officers, employees, and agents with Anti-Corruption Laws, Anti-Money Laundering Laws, and Sanctions Laws.

#### **4.13 Investment Canada Act**

Neither the Company nor any of the Just Energy Entities carries on a “cultural business” within the meaning of the Investment Canada Act.

### **ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF THE PURCHASER**

Each Purchaser represents and warrants, severally and not jointly, and only as to itself, to the Company as follows, and acknowledges that the Company is relying upon the following representations and warranties in connection with the sale of the Purchased Interests:

#### **5.1 Due Authorization and Enforceability of Obligations**

This Agreement has been duly authorized, executed and delivered by each Purchaser, and, assuming the due authorization, execution and delivery by it, this Agreement constitutes the legal, valid and binding obligation of it, enforceable against it in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium, or other similar laws relating to or limiting creditors’ rights generally or by equitable principles relating to enforceability.

#### **5.2 Existence and Good Standing**

Each Purchaser is validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization and has all requisite power and authority to execute and deliver this Agreement and to perform its obligations hereunder and consummate the transactions contemplated by this Agreement.

### 5.3 Sophisticated Party

Each Purchaser (i) is a sophisticated party with sufficient knowledge and experience to evaluate properly the terms and conditions of this Agreement, (ii) has conducted its own analysis and made its own decision to enter into this Agreement and has obtained such independent advice in this regard as it deemed appropriate, and (iii) has not relied on such analysis or decision of any Person other than its own independent advisors.

### 5.4 Absence of Conflicts

The execution and delivery of this Agreement by the each and the completion by each Purchaser of its obligations hereunder and the consummation of the transactions contemplated herein do not and will not violate or conflict with any Applicable Law, or any of its properties or assets, (subject to the receipt of any Transaction Regulatory Approvals) and will not result (with due notice or the passage of time or both) in a violation, conflict or breach of, or constitute a default under, or require any consent to be obtained under its certificate of incorporation, articles, by-laws or other constituent documents.

### 5.5 Approvals and Consents

The execution and delivery of this Agreement by each Purchaser, the completion by each Purchaser of its obligations hereunder and the consummation by each Purchaser of the transactions contemplated herein, do not and will not require any consent or approval or other action, with or by, any Governmental Authority, other than as contemplated by any Order and the Transaction Regulatory Approvals.

### 5.6 No Actions

There is not, as of the date hereof, pending or, to each Purchaser's knowledge, threatened against it or any of its properties, nor has any Purchaser received notice in respect of, any claim, potential claim, litigation, action, suit, arbitration, investigation or other proceeding before any Governmental Authority or legislative body that, would prevent it from executing and delivering this Agreement, performing its obligations hereunder and consummating the transactions and agreements contemplated by this Agreement.

### 5.7 Accredited Investor

Each Purchaser is an "accredited investor", as such term is defined in NI 45-106 and in Rule 501 of Regulation D under the United States Securities Act of 1933 (the "**Securities Act**") and it was not created or used solely to purchase or hold securities as an accredited investor as described in paragraph (m) of the definition of "accredited investor" in NI 45-106 and acknowledges that the Purchased Interests will be subject to resale restrictions under applicable securities laws. The Purchased Interests are being acquired by each Purchaser for its own account, and not with a view to, or for the offer or sale in connection with, any public distribution or sale of the Purchased Interests or any interest in them. Each Purchaser has sufficient knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of its investment in the Purchased Interests, and each Purchaser is capable of bearing the economic risks of such investment, including a complete loss of its investment in the Purchased Interests. Each

Purchaser acknowledges that the Purchased Interests are not registered under the Securities Act, any state securities law, regulation or rule or any applicable foreign securities law, regulation or rule, and agrees that the Purchased Interests may not be sold, transferred, offered for sale, pledged, hypothecated or otherwise disposed of except pursuant to a registered offering in compliance with, or in a transaction exempt from, the registration requirements of the Securities Act and any other applicable state and foreign securities laws.

### 5.8 Financial Ability

Each Purchaser has and will have at all relevant times, the financial ability and sufficient funds to perform all of its obligations under this Agreement, and the availability of such funds will not be subject to the consent, approval or authorization of any Person or the availability of any financing.

### 5.9 Credit Bid; Availability of Funds

- (a) CBHT Energy I LLC has executed, on or prior to the date hereof, the requisite instruction letters to fully authorize the Purchaser, and the Purchaser is duly authorized, to, among other things, deliver the Credit Bid Consideration in connection with the consummation of the Closing hereunder.
- (b) The Purchaser has delivered to the Company complete and accurate copies of executed limited guarantees dated as of the date of this Agreement (each, a “**Guarantee**” and collectively, the “**Guarantees**”) from certain Affiliates of the Purchaser (the “**Equity Financing Sources**”) pursuant to which the Equity Financing Sources have guaranteed, for the benefit of the Company, subject only to the terms and conditions therein, the Cash Purchase Price (the “**Equity Financing**”) amongst other guarantees set out therein.
- (c) Each Guarantee, in the form so delivered to the Company, is in full force and effect and is a legal, valid and binding obligation of the Purchaser and the respective Equity Financing Sources, enforceable against the parties thereto in accordance with its terms, and the Purchaser knows of no fact or circumstance that would cause the Equity Financing to be unavailable on a timely basis in order to consummate the Closing on the terms and subject to the conditions therein. There are no other agreements, side letters or arrangements to which the Purchaser is a party relating to any Guarantee that could reasonably be expected to prevent, impair or materially delay the consummation of the Equity Financing. As of this date of this Agreement, none of the Guarantees has been amended or modified (and no such amendment or modification is contemplated), and the respective commitments set forth in the Guarantees have not been withdrawn or rescinded in any respect (and no such withdrawal or rescission is contemplated).

### 5.10 No Sanctions

No Purchaser nor any of its subsidiaries nor any of their respective directors or officers or, to its knowledge, employees acting on behalf of it or any of its subsidiaries, (i) is a Person identified in any sanctions-related list of designated Persons maintained by the Government of Canada, or

(ii) is greater than 50% owned or controlled by any Person described under clause (i) to the extent the owned or controlled Person is itself subject to the restrictions or prohibitions as the Person described in clause (i).

### **5.11 Purchase Price Funds**

To the Purchaser's knowledge, the funds representing the Cash Purchase Price for the Purchased Interests and the aggregate amounts which will be paid by it to the Company hereunder: (i) do not represent proceeds of crime for the purposes of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada) (the "PCMLTFA"), and (ii) have not been and will not be derived directly or indirectly from or related to any activity that is deemed criminal under the laws of Canada, the U.S., or any other jurisdiction, in each case, with respect to each of clause (i) and (ii), in violation thereof. The Purchaser acknowledges and agrees that the Just Energy Entities may be required by Law to provide disclosure pursuant to the PCMLTFA. The funds representing payment of the amounts to be advanced by the Purchaser hereunder will not represent proceeds of crime for the purposes of the U.S. Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (the "PATRIOT Act") in violation of the PATRIOT Act, and the Purchaser acknowledges that the Just Energy Entities may in the future be required by law to disclose the Purchaser's name and other information relating to this Agreement and the amounts payable by the Purchaser to the Just Energy Entities hereunder, on a confidential basis, pursuant to the PATRIOT Act. No portion of the funds representing payment of the amounts to be advanced by the Purchaser hereunder (A) has been or will be, to its knowledge, derived from or related to any activity that is deemed criminal under the laws of the U.S., or any other jurisdiction, or (B) is being tendered on behalf of a Person or entity who has not been identified to or by the Purchaser, and the Purchaser shall promptly notify the Just Energy Entities if the Purchaser discovers that any of such representations ceases to be true and provide the Just Energy Entities with appropriate information which is reasonably available in connection therewith.

### **5.12 Investment Canada Act**

Each Purchaser is a "trade agreement investor" within the meaning of the Investment Canada Act.

## **ARTICLE 6 CONDITIONS**

### **6.1 Conditions for the Benefit of the Purchaser and the Company**

The respective obligations of each Purchaser and the Company to consummate the transactions contemplated by this Agreement are subject to the satisfaction of, or compliance with, at or prior to the Closing Time, each of the following conditions:

- (a) *No Law* – no provision of any Applicable Law and no judgment, injunction or Order preventing or otherwise frustrating the consummation of the purchase of the Purchased Interests or any of the other transactions pursuant to this Agreement, including, for the avoidance of doubt, a cease trade or similar order issued by a Governmental Authority in respect of any Just Energy Entity, shall be in effect;

- (b) *Final Orders* – each of the SISP Order and the Vesting Order shall have been issued and entered and shall be Final Orders;
- (c) *Final U.S. Orders* – the Claims Procedure Recognition Order (as defined in the Support Agreement), SISP Recognition Order and Vesting Recognition Order shall have been issued and entered by the U.S. Bankruptcy Court and shall be Final Orders;
- (d) *Support Agreement* – the Support Agreement shall not have been terminated by any party thereto;
- (e) *Transaction Regulatory Approvals* – the Just Energy Entities and the Purchaser shall have received all required Transaction Regulatory Approvals and provided the Energy Regulator Notices set forth on Schedule 6.1(e), and all required Transaction Regulatory Approvals shall be in full force and effect, except for Transaction Regulatory Approvals that need not be in full force and effect prior to Closing; and
- (f) *New Credit Agreement; New Intercreditor Agreement* – each of the New Credit Agreement and the New Intercreditor Agreement shall have been entered into by and among the parties thereto.

The Parties acknowledge that the foregoing conditions are for the mutual benefit of the Company and each Purchaser. Any condition in this Section 6.1 may be waived by the Company and by any Purchaser, in whole or in part, without prejudice to any of their respective rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver will be binding on the Company or the Purchaser, as applicable, only if made in writing.

## **6.2 Conditions for the Benefit of the Purchaser**

The obligation of any Purchaser to consummate the transactions contemplated by this Agreement is subject to the satisfaction of, or compliance with, or waiver by any Purchaser of, at or prior to the Closing Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of each Purchaser):

- (a) *Performance of Covenants* – the covenants contained in this Agreement to be performed or complied with by the Company at or prior to the Closing Time shall have been performed or complied with in all material respects as at the Closing Time;
- (b) *Truth of Representations and Warranties* – (i) the Fundamental Representations and Warranties of the Company shall be true and correct in all respects as of the Closing Date, as if made at and as of such date and (ii) all other representations and warranties of the Company contained in Article 4 shall be true and correct in all respects as of the Closing Date, as if made at and as of such date (except for representations and warranties made as of specified date, the accuracy of which shall be determined as of such specified date) except where the failure to be so true and correct would not, in the aggregate, have a Material Adverse Effect (and, for

this purpose, any reference to “material”, “Material Adverse Effect” or other concepts of materiality in such representation and warranties shall be ignored);

- (c) *Officer’s Certificates* – the Purchaser shall have received a certificate confirming the satisfaction of the conditions contained in Sections 6.2(a) (*Performance of Covenants*) and 6.2(b) (*Truth of Representations and Warranties*), signed for and on behalf of the Company without personal liability by an executive officer of Just Energy or other Persons acceptable to the Purchaser, in each case in form and substance reasonably satisfactory to the Purchaser;
- (d) *No Material Adverse Effect* – since the date hereof, no change effect, event, occurrence, state of facts or development shall have occurred that resulted in, or would reasonably be expected to result in, a Material Adverse Effect;
- (e) *Company’s Deliverables* – the Company shall have delivered to the Purchaser all of the deliverables contained in Section 10.2 in form and substance reasonably satisfactory to the Purchaser;
- (f) *Vesting Order Approval* – the Vesting Order shall have been granted by October 15, 2022;
- (g) *Implementation Steps* – the Just Energy Entities shall have completed the Implementation Steps that are required to be completed prior to Closing, in form and substance reasonably acceptable to the Purchaser, acting reasonably;
- (h) *Cash on Hand* – the aggregate amount of cash held by the Just Energy Entities immediately after giving effect to the payment of all amounts provided for in this Agreement and in the Vesting Order shall be equal to or greater than \$C0;
- (i) *Continuing Contracts* – Shell Energy North America (Canada) Inc., Shell Energy North America (US), L.P., and Shell Trading Risk Management, LLC (collectively, “**Shell**”) shall have confirmed in writing, to the Company and each Purchaser that (i) it will not exercise any termination rights under its Continuing Contracts solely as a result of the transactions contemplated hereby, and (ii) all existing and any potential future trades will be transacted in accordance with the Continuing Contracts (as may be amended, restated, supplemented and/or replaced by the Just Energy Entities and Shell from time to time following the Closing Date) or new arrangements, in each case, in accordance with the terms thereof and subject to the terms of the New Intercreditor Agreement;
- (j) *Termination of Securities Reporting Obligations* – As of the Closing and upon the consummation of the transactions contemplated in the Support Agreement, none of the Just Energy Entities shall be a reporting issuer (or equivalent thereof) under any U.S. securities laws or Canadian securities laws; and
- (k) *Sufficient Funds* – As of immediately prior to the Closing, the Cash Purchase Price, plus the aggregate amount of cash held by the Just Energy Entities, plus the Credit

Facility Remaining Debt, shall be sufficient to pay all amounts to be paid by the Just Energy Entities pursuant to this Agreement and the Vesting Order.

### 6.3 Conditions for the Benefit of the Company

The obligation of the Company to consummate the transactions contemplated by this Agreement is subject to the satisfaction of, or compliance with, or waiver where applicable by the Company of, at or prior to the Closing Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of the Company):

- (a) *Truth of Representations and Warranties* – the representations and warranties of each Purchaser contained in Article 5 will be true and correct in all respects on and as of the date of this Agreement and on and as of the Closing Date as if made on and as of such date (except for representations and warranties made as of specified date, the accuracy of which shall be determined as of such specified date) except where the failure to be so true and correct would not reasonably be expected to have a material and adverse effect on each Purchaser’s ability to consummate the transactions contemplated by this Agreement;
- (b) *Performance of Covenants* – the covenants contained in this Agreement to be performed by the Purchaser at or prior to the Closing Time shall have been performed in all material respects as at the Closing Time;
- (c) *Officer’s Certificate* – the Company shall have received a certificate confirming the satisfaction of the conditions contained in Sections 6.3(a) and 6.3(b) signed for and on behalf of each Purchaser without personal liability by an executive officer of each Purchaser or other Persons acceptable to the Company, acting in a commercially reasonable manner, in each case, in form and substance satisfactory to the Company, acting in a commercially reasonable manner;
- (d) *Purchaser Deliverables* – each Purchaser shall have delivered to the Company all of the deliverables contained in Section 10.3 in form and substance satisfactory to the Company, acting in a commercially reasonable manner;
- (e) *Management Incentive Plan* – the management incentive plan shall have been executed on terms consistent in all respects with the terms set forth in the MIP Term Sheet, attached as Exhibit 5 of the Stalking Horse Term Sheet (as such term is defined in the Support Agreement); and
- (f) *Employment Agreements* – the Employment Agreements shall not have been disclaimed and shall be in place on and as of the Closing Date.



**ARTICLE 7**  
**ADDITIONAL AGREEMENTS OF THE PARTIES**

**7.1 Access to Information**

- (a) Until the Closing Time, the Company shall give to the Purchaser's personnel engaged in the transactions contemplated by this Agreement and their accountants, legal advisers, consultants, financial advisors and representatives during normal business hours reasonable access to its premises and to all of the books and records relating to the Business, the Just Energy Entities, the Assumed Liabilities and the employees, and shall furnish them with all such information relating to the Business, the Just Energy Entities, the Assumed Liabilities and the employees as the Purchaser may reasonably request in connection with the transactions contemplated by this Agreement; provided that such access shall be conducted at the Purchaser's expense, in accordance with Applicable Law and under supervision of the Company's personnel and in such a manner as to maintain confidentiality, and the Company will not be required to provide access to or copies of any such books and records if (a) the provision thereof would cause the Company to be in contravention of any Applicable Law or (b) making such information available would (1) result in the loss of any lawyer-client or other legal privilege, or (2) cause the Company to be found in contravention of any Applicable Law, or contravene any fiduciary duty or agreement (including any confidentiality agreement to which the Company or any of its Affiliates are a party). Such access shall include access for such environmental investigations deemed appropriate by the Purchaser, acting reasonably, provided that any intrusive environmental investigation shall be subject to the prior approval of the Company, acting reasonably. Notwithstanding anything in this Section 7.1 to the contrary, any such investigation shall be conducted upon reasonable advance notice and in such manner as does not materially disrupt the conduct of the Business or the possible sale thereof to any other Person. The Company shall use commercially reasonable efforts to also deliver to the Purchaser authorizations to Governmental Authorities necessary to permit the Purchaser to obtain information in respect of the Just Energy Entities from the files of such Governmental Authorities.
- (b) Following the Closing, the Just Energy Entities shall make all books and records of the Just Energy Entities reasonably available to the Monitor and any trustee in bankruptcy of any of the Just Energy Entities upon at least five (5) Business Days prior notice, for a period of seven (7) years after Closing, and shall, at such party's expense, permit any of the foregoing Persons to take copies thereof as they may determine to be necessary or useful to accomplish their respective roles; provided that the Purchaser shall not be obligated to make such books and records available to the extent that doing so would (a) violate Applicable Law, (b) jeopardize the protection of a solicitor-client privilege, or (c) unreasonably interfere with the ongoing business and operations of the Just Energy Entities and their Affiliates, as determined by the Just Energy Entities, acting reasonably.

## 7.2 Approvals and Consents

- (a) With regard to the Competition Act Approval and/or Investment Canada Act Approval:
  - (i) if Competition Act Approval is required, the Parties shall, as soon as reasonably practicable, and in no event more than ten (10) Business Days after the date hereof, submit a request to the Commissioner for an Advance Ruling Certificate or, in the alternative, a No Action Letter in respect of the transaction contemplated by this Agreement;
  - (ii) if Competition Act Approval is required, the Parties shall submit, at the Parties' joint election and within ten (10) Business Days of such mutually agreed election, notification filings in accordance with Part IX of the Competition Act in respect of the transactions contemplated by this Agreement; and
  - (iii) if the Purchaser, acting reasonably, determines that Investment Canada Act Approval should be obtained, the Purchaser shall, as soon as reasonably practicable and in no event more than ten (10) Business Days after the date hereof, submit the notification for the Investment Canada Act Approval.
- (b) The Company shall be responsible for the payment of any filing fees required to be paid in connection with any filing made in respect of the Competition Act Approval and the Antitrust Approvals, as applicable.
- (c) The Parties shall use commercially reasonable efforts to apply for and obtain any Transaction Regulatory Approvals and to file any Energy Regulator Notices as soon as reasonably practicable and no later than the time limits imposed by Applicable Laws, in accordance with Section 7.2(d), in each case at the sole cost and expense of the Company.
- (d) The Parties shall use commercially reasonable efforts to apply for and obtain the Transaction Regulatory Approvals and to file the Energy Regulator Notices and shall co-operate with one another in connection with obtaining such approvals. Without limiting the generality of the foregoing, the Parties shall: (i) give each other reasonable advance notice of all meetings or other oral communications with any Governmental Authority relating to the Transaction Regulatory Approvals or Energy Regulator Notices, as applicable, and provide as soon as practicable but in any case, if any, within the required time, any additional submissions, information and/or documents requested by any Governmental Authority necessary, proper or advisable to obtain the Transaction Regulatory Approvals; (ii) not participate independently in any such meeting or other oral communication without first giving the other Party (or their outside counsel) an opportunity to attend and participate in such meeting or other oral communication, unless otherwise required or requested by such Governmental Authority; (iii) if any Governmental Authority initiates an oral communication regarding the Transaction Regulatory Approvals or Energy

Regulator Notices, promptly notify the other Party of the substance of such communication; (iv) subject to Applicable Laws relating to the exchange of information, provide each other with a reasonable advance opportunity to review and comment upon and consider in good faith the views of the other in connection with all written communications (including any filings, notifications, submissions, analyses, presentations, memoranda, briefs, arguments, opinions and proposals) made or submitted by or on behalf of a Party with a Governmental Authority regarding the Transaction Regulatory Approvals or Energy Regulator Notices as applicable; and (v) promptly provide each other with copies of all written communications to or from any Governmental Authority relating to the Transaction Regulatory Approvals and Energy Regulator Notices as applicable.

- (e) Each of the Parties may, as advisable and necessary, reasonably designate any competitively or commercially sensitive material provided to the other under this Section 7.2 as “Outside Counsel Only Material”, provided that the disclosing Party also provides a redacted version to the receiving Party. Such materials and the information contained therein shall be given only to the outside legal counsel of the recipient and, subject to any additional agreements between the Parties, will not be disclosed by such outside legal counsel to employees, officers or directors of the recipient unless express written permission is obtained in advance from the source of the materials or its legal counsel.
- (f) The obligations of either Party to use its commercially reasonable efforts to obtain the Transaction Regulatory Approvals does not require either Party (or any Affiliate thereof) to undertake any divestiture of any business or business segment of such Party, to agree to any material operating restrictions related thereto or to incur any material expenditure(s) related therewith, unless agreed to by the Parties. In connection with obtaining the Transaction Regulatory Approvals, no Just Energy Entity shall agree to any of the foregoing items without the prior written consent of the Purchaser.

### **7.3 Covenants Relating to this Agreement**

- (a) Each of the Parties shall perform all obligations required to be performed by the applicable Party under this Agreement, co-operate with the other Parties in connection therewith and do all such other acts and things as may be necessary or desirable in order to consummate and make effective, as soon as reasonably practicable, the transactions contemplated by this Agreement and, without limiting the generality of the foregoing, from the date hereof until the Closing Date, each Party shall and, where appropriate, shall cause each of its Affiliates to:
  - (i) negotiate in good faith and use its commercially reasonable efforts to take or cause to be taken all actions and to do, or cause to be done, all things necessary, proper or advisable to satisfy the conditions precedent to the obligations of such Party hereunder (including, where applicable, negotiating in good faith with the applicable Governmental Authorities and/or third Persons in connection therewith), and to cause the fulfillment

at the earliest practicable date of all of the conditions precedent to the other Party's obligations to consummate the transactions contemplated hereby; and

- (ii) not take any action, or refrain from taking any action, or permit any action to be taken or not taken, which would reasonably be expected to prevent, materially delay or otherwise impede the consummation of the transactions contemplated by this Agreement.
- (b) From the date hereof until the Closing Date, the Purchaser hereby agrees, and hereby agrees to cause its representatives to, keep the Company informed on a reasonably current basis, and no less frequently than on a weekly basis through teleconference or other meeting, and as reasonably requested by the Company or the Monitor, as to the Purchaser's progress in terms of the satisfaction of the conditions precedent contained herein.
- (c) From the date hereof until the Closing Date, the Company hereby agrees, and hereby agrees to cause its representatives to, keep the Purchaser informed on a reasonably current basis, and no less frequently than on a weekly basis through teleconference or other meeting, and as reasonably requested by the Purchaser or the Monitor, as to the Company's progress in terms of the satisfaction of the conditions precedent contained herein.
- (d) The Company and the Purchaser agree to execute and deliver such other documents, certificates, agreements and other writings, and to take such other actions to consummate or implement as soon as reasonably practicable, the transactions contemplated by this Agreement.
- (e) From the date hereof until the Closing Date, the Company hereby agrees, and hereby agrees to cause its representatives to, promptly notify the Purchaser of (i) any event, condition, or development that has resulted in the inaccuracy in a material respect or material breach of any representation or warranty, covenant or agreement contained in this Agreement, or (ii) any Material Adverse Effect occurring from and after the date hereof prior to the Closing Date.
- (f) The Company and Purchaser agree to use commercial reasonable efforts to timely prepare and file all documentation and pursue all steps reasonably necessary to obtain any material third-party consents and approvals as may be required in connection with the transaction contemplated by this Agreement.

#### **7.4 Tax Matters**

- (a) The Purchaser and the Company agree to furnish or cause to be furnished to each other, as promptly as practicable, such information and assistance relating to the Purchased Interests and the Assumed Liabilities as is reasonably necessary for the preparation and filing of any Tax Return, claim for refund or other required filings relating to Tax matters, for the preparation for and proof of facts during any Tax audit, for the preparation for any Tax protest, for the prosecution of any suit or other

proceedings relating to Tax matters and for the answer to any governmental or regulatory inquiry relating to Tax matters. The Purchaser and the Company also agree to furnish or cause to be furnished to each other, as promptly as practicable, such information and assistance relating to the Just Energy Entities, the Purchased Interests and the Assumed Liabilities as is reasonably necessary for the Purchaser to acquire them in a tax efficient manner for both the Company and the Just Energy Entities.

- (b) The Purchaser and the Company shall each be responsible for the preparation of their own statements required to be filed under the Tax Act, the ETA and the Code and other similar forms and returns in accordance with Applicable Law.
- (c) For all purposes under this Agreement for which it is necessary to apportion taxes in a taxable period which includes (but does not end on) the Closing Date or Filing Date, as applicable (a “**Straddle Period**”), all real property Taxes, personal property Taxes and similar ad valorem obligations for shall be apportioned between the taxable period up to and including the Closing Date or Filing Date, as applicable (such portion of such Straddle Period, the “**Pre-Closing Straddle Tax Period**”) and the taxable period after the Closing Date or Filing Date, as applicable (such portion of such Straddle Period, the “**Post-Closing Straddle Tax Period**”), on a per diem basis. Except as otherwise provided herein, with respect to the Purchased Interests, the Company shall be liable for the proportionate amount of such real property Taxes, personal property Taxes and similar *ad valorem* obligations that are attributable to the Pre-Closing Straddle Tax Period, and the Purchaser shall be liable for the proportionate amount of such real property Taxes, personal property Taxes and similar ad valorem obligations that are attributable to the Post-Closing Straddle Tax Period. For all purposes under this Agreement, in the case of any Tax based upon or related to income, receipts, sales, use, payroll, or withholding, in respect of any Straddle Period, the portion of such Tax allocable to the Pre-Closing Straddle Tax Period shall be deemed to be the amount that would be payable if the relevant Straddle Period ended on and included the Closing Date or Filing Date, as applicable. To the extent such closing of the books method is not incorporated under the law of a jurisdiction for particular types of entities, allocations of income among the periods shall be made to replicate the closing of the books method to the maximum extent possible.
- (d) The Purchaser shall be responsible for and shall pay, or cause to be paid, any Transfer Tax in respect of the purchase and sale of the Purchased Interests under this Agreement (including for greater certainty, any Transfer Tax related with the importation, or change of importation classification, of the Purchased Interests) and such Transfer Tax shall be remitted to the appropriate Governmental Authority as provided for under Applicable Law (except any Transfer Tax which, under Applicable Law, is collectible by the Company or applicable Just Energy Entity, in which case such Transfer Tax shall be collected by the Company or Just Energy Entity, as the case may be, and remitted by the Company or Just Energy Entity to the appropriate Governmental Authority as provided for under the Applicable Law but, for the avoidance of doubt, the Purchaser shall remain economically

responsible for and shall pay to or reimburse, or cause to be paid or reimbursed, as the case may be, the Company or the applicable Just Energy Entity for any such Transfer Tax). The Company and the Purchaser shall reasonably cooperate to mitigate and/or eliminate the amount of Transfer Taxes resulting from the transactions contemplated herein (provided, for the avoidance of doubt, this shall not require the parties to structure the transactions in a manner eligible for the benefits of Section 1146(a) of the United States Bankruptcy Code). The Purchaser shall be responsible for preparing and filing all necessary Tax Returns or other documents with respect to such Transfer Taxes (other than any GST/HST returns required to be filed by any Just Energy Entity set forth on Schedule 2.2(f)); provided, however, that in the event any such Tax Return requires execution by any Just Energy Entity, the Purchaser shall deliver it to such Just Energy Entity not less than ten (10) Business Days before the due date thereof, and the Company shall reasonably promptly execute such Tax Return and return it to the Purchaser.

## **7.5 Employee Matters**

Unless otherwise expressly provided for by the management incentive plan, or agreed to in writing by and among any of the Just Energy Entities, the Purchaser, and the applicable employee (or employees) affected by any change or modification, each of the Employment Agreements will not be disclaimed and will remain in place as of, and as a condition to the occurrence of, the Closing pursuant to Section 6.3(f).

## **7.6 Administrative Expense Amount**

- (a) On the Closing Date, the Just Energy Entities shall pay to the Monitor the Administrative Expense Amount, which the Monitor shall hold in trust for the benefit of Persons entitled to be paid the Administrative Expense Costs.
- (b) From time to time after the Closing Date, the Monitor may pay from the Administrative Expense Amount the Administrative Expense Costs at its sole discretion and without further authorization from the Company or Purchaser. Any unused portion of the Administrative Expense Amount after payment or reservation for all Administrative Expense Costs, as determined by the Monitor, shall be transferred by the Monitor to the Company.
- (c) Notwithstanding the foregoing or anything else contained herein or elsewhere, each of the Company and the Purchaser acknowledges and agrees that: (i) the Monitor's obligations hereunder are and shall remain limited to those specifically set out in this Section 7.6; and (ii) FTI Consulting Canada Inc. is acting solely in its capacity as the CCAA Court-appointed Monitor of the Applicants pursuant to the Initial CCAA Order and not in its personal or corporate capacity, and the Monitor has no liability in connection with this Agreement whatsoever, in its personal or corporate capacity or otherwise, save and except for and only to the extent of the Monitor's gross negligence or intentional fault.

- (d) The Parties acknowledge that the Monitor may rely upon the provisions of this Section 7.6 notwithstanding that the Monitor is not a party to this Agreement. The provisions of this Section 7.6 shall survive the termination or non-completion of the transactions contemplated by this Agreement.

### **7.7 Certain Payments or Instruments Received from Third Persons**

- (a) To the extent that, after the Closing Date: (a) the Purchaser or any of its Affiliates receives any payment or instrument that is for the account of the Company according to the terms of any Closing Document, the Purchaser shall, and shall cause its Affiliates to, promptly deliver such amount or instrument to the Company; or (b) any of the Just Energy Entities or any of their controlled Affiliates receives any payment or instrument that is for the account of the Purchaser according to the terms of any Closing Document or that relates to the Business, including any governmental assistance refunds received by any Just Energy Entity after the Closing Date, the Just Energy Entities shall promptly deliver such amount or instrument to the Purchaser.
- (b) All amounts due and payable under this Section 7.7 shall be due and payable by the applicable Party in immediately available funds, by wire transfer to the account designated in writing by the relevant Party. Notwithstanding the foregoing, each Party hereby undertakes to use its commercially reasonable efforts to direct or forward all bills, invoices or like instruments to the appropriate Party.

### **7.8 Bulk Sales**

The Vesting Order and the Vesting Recognition Order, as applicable, shall provide either that (i) the Just Energy Entities have complied with the requirements of any Applicable Law relating to bulk sales and transfer or (ii) compliance with the Applicable Law relating to bulk sales and transfers is not necessary or appropriate under the circumstances.

### **7.9 Release by the Purchaser**

Except in connection with any obligations of the Company or the Monitor contained in this Agreement and any Closing Documents, effective as of the Closing, each Purchaser hereby releases and forever discharges the Company, the Monitor and their respective Affiliates, and each of their respective successors and assigns, and all officers, directors, partners, members, shareholders, limited partners, employees, agents, financial and legal advisors of each of them, from any and all actual or potential Released Claims which such Person had, has or may have in the future to the extent relating to the Purchased Interests or the Assumed Liabilities, save and except for Released Claims arising out of fraud, bad faith or illegal acts (unless such Person believed in good faith that its conduct was legal).

At the Closing Time, the Purchaser shall cause the Just Energy Entities to release and forever discharge all officers, directors, partners, limited partners, employees, agents, financial and legal advisors of each of the Just Energy Entities and their respective successors and assigns from any and all actual or potential Causes of Action against such Persons, except for Causes of Action

related to any act or omission that is determined in a Final Order of a court of competent jurisdiction to have constituted actual fraud, willful misconduct, or gross negligence (provided that in all respects such Persons shall be entitled to reasonably rely upon the advice of counsel with respect to their applicable duties and responsibilities), and such release to be in the form attached as Exhibit B to this Agreement.

### **7.10 Release by the Company**

Except in connection with any obligations of each Purchaser and the Monitor contained in this Agreement and any Closing Documents, effective as of the Closing, the Company hereby release and forever discharge each Purchaser, the Monitor and their respective Affiliates, and each of their respective successors and assigns, and all officers, directors, partners, members, shareholders, limited partners, employees, agents, financial and legal advisors of each of them, from any and all actual or potential Released Claims which such Person had, has or may have in the future to the extent relating to (i) the Purchased Interests, (ii) the Assumed Liabilities, (iii) the Excluded Assets or (iv) the Excluded Liabilities, save and except for Released Claims arising out of fraud, bad faith or illegal acts (unless such Person believed in good faith that its conduct was legal).

## **ARTICLE 8 INSOLVENCY PROVISIONS**

### **8.1 Court Orders and Related Matters**

- (a) From and after the date of this Agreement and until the Closing Date, the Company shall deliver to the Purchaser drafts of any and all pleadings, motions, notices, statements, applications, schedules, reports, and other papers to be filed or submitted by any Just Energy Entity in connection with or related to this Agreement, including with respect to the SISP Order, the Vesting Order, the Vesting Recognition Order and the SISP Recognition Order, for the Purchaser's prior review at least three (3) days in advance of service and filing of such materials (or where circumstances make it impracticable to allow for three (3) days' review, with as much opportunity for review and comment as is practically possible in the circumstances). The Company acknowledges and agrees (i) that any such pleadings, motions, notices, statements, applications, schedules, reports, or other papers shall be in form and substance satisfactory to the Purchaser, acting reasonably, and (ii) to consult and cooperate with the Purchaser regarding any discovery, examinations and hearing in respect of any of the foregoing, including the submission of any evidence, including witnesses testimony, in connection with such hearing.
- (b) Notice of the motions seeking the issuance of the Vesting Order, the Vesting Recognition Order, the SISP Order, and the SISP Recognition Order shall be served by the Company on all Persons required to receive notice under Applicable Law and the requirements of the CCAA, the CCAA Court, the U.S. Bankruptcy Code, the U.S. Bankruptcy Court and any other Person determined necessary by the Company or the Purchaser, acting reasonably.



- (c) Notwithstanding any other provision herein, it is expressly acknowledged and agreed that in the event that (i) the SISP Order has not been issued and entered by the CCAA Court by August 17, 2022 or such later date agreed to in writing by the Purchaser in its sole discretion; (ii) the SISP Recognition Order, if any, has not been issued and entered by the U.S. Bankruptcy Court within sixteen (16) Business Days of the SISP Order being entered by the CCAA Court or such later date agreed to in writing by the Purchaser in its sole discretion; (iii) the Vesting Order has not been issued and entered by the CCAA Court by October 15, 2022 or such later date agreed to in writing by the Purchaser in its sole discretion; (iv) or the Vesting Recognition Order has not been issued and entered by the U.S. Bankruptcy Court within fourteen (14) Business Days of the Vesting Order being entered by the CCAA Court or such later date agreed to in writing by the Purchaser in its sole discretion, the Purchaser may terminate this Agreement.
- (d) If the Vesting Order, the Vesting Recognition Order as applicable, relating to this Agreement is appealed or a motion for leave to appeal, rehearing, reargument or reconsideration is filed with respect thereto, the Company agrees to take all action as may be commercially reasonable and appropriate to defend against such appeal, petition or motion.
- (e) The Company acknowledges and agrees, that the Vesting Order, and the Vesting Recognition Order shall provide that, on the Closing Date and concurrently with the Closing, the Purchased Interests shall be transferred to the Purchaser free and clear of all Encumbrances, other than Permitted Encumbrances.

## ARTICLE 9 TERMINATION

### 9.1 Termination

This Agreement may be terminated at any time prior to Closing as follows:

- (a) by mutual written consent of the Company and the Purchaser;
- (b) by the Purchaser or the Company, if this Agreement is not the Successful Bid (as determined pursuant to, the SISP);
- (c) by the Purchaser or the Company, if Closing has not occurred on or before November 30, 2022 or such later date agreed to by both the Company and the Purchaser in writing in consultation with the Monitor (the “**Outside Date**”), provided that the terminating Party is not in breach of any representation, warranty, covenant or other agreement in this Agreement which would prevent the satisfaction of the conditions in Article 6 by the Outside Date; provided, further, to the extent the only condition to the Closing that remains outstanding is the receipt of Transaction Regulatory Approvals and the filing of Energy Regulator Notices pursuant to Section 6.1(e), the Outside Date shall be automatically extended for another sixty (60) days, and thereafter, the Purchaser shall have the right to further extend the Outside Date in its sole discretion on written notice to the Company.

- (d) by the Purchaser or the Company, if at any time after the date hereof any of the conditions in Article 6 is not capable of being satisfied by the applicable dates required in Article 6 of this Agreement or if not otherwise required, by the Outside Date;
- (e) by the Purchaser, upon the appointment of a receiver, trustee in bankruptcy or similar official in respect of any Just Energy Entity or any of the property of any Just Energy Entity, other than with the prior written consent of the Purchaser;
- (f) by the Purchaser, pursuant to Section 8.1(c);
- (g) by the Purchaser or the Company, upon the termination, dismissal or conversion of the CCAA Proceedings or the U.S. Proceedings;
- (h) by the Purchaser or the Company, upon denial of the SISP Order, the Vesting Order, the SISP Recognition Order or the Vesting Recognition Order (or if any such order is stayed, vacated or varied without the consent of the Purchaser);
- (i) by the Purchaser or the Company, if a court of competent jurisdiction, including the CCAA Court or the U.S. Bankruptcy Court, or other Governmental Authority has issued an Order or taken any other action to restrain, enjoin or otherwise prohibit the consummation of Closing and such Order or action has become a Final Order;
- (j) by the Company, if there has been a material violation or breach by the Purchaser of any covenant, representation or warranty which would prevent the satisfaction of the conditions set forth in Section 6.1 or Section 6.3, as applicable, by the Outside Date and such violation or breach has not been waived by the Company or cured within ten (10) Business Days after written notice thereof from the Company, unless the Company is in material breach of their obligations under this Agreement which would prevent the satisfaction of the conditions set forth in Section 6.1 or Section 6.2, as applicable, by the Outside Date;
- (k) by the Purchaser, if there has been a material violation or breach by the Company of any covenant, representation or warranty which would prevent the satisfaction of the conditions set forth in Section 6.1 or Section 6.2, as applicable, by the Outside Date and such violation or breach has not been waived by the Company or cured within ten (10) Business Days after written notice thereof from the Purchaser, unless the Purchaser is in material breach of its obligations under this Agreement which would prevent the satisfaction of the conditions set forth in Section 6.1 or Section 6.3, as applicable, by the Outside Date; and
- (l) by the Purchaser or the Company, if the Support Agreement is terminated pursuant to the terms thereof.

The Party desiring to terminate this Agreement pursuant to this Section 9.1 (other than pursuant to Section 9.1(a)) shall give written notice of such termination to the other Party or

Parties, as applicable, specifying in reasonable detail the basis for such Party's exercise of its termination rights.

## 9.2 Effect of Termination

In the event of termination of this Agreement pursuant to Section 9.1, this Agreement shall become void and of no further force or effect without liability of any Party to any other Party to this Agreement except that (a) Article 1, this Section 9.2, Section 9.3, Section 11.1, Section 11.3, Section 11.5, Section 11.6, Section 11.7 and Section 11.8 shall survive and (b) no termination of this Agreement shall relieve any Party of any liability for any wilful breach by it of this Agreement, or impair the right of any Party to compel specific performance by any other Party of its obligations under this Agreement in accordance with Section 11.3.

## 9.3 Termination Fee

- (a) Upon CCAA Court approval of an Alternative Restructuring Proposal that is not provided by the Purchaser or any of its Affiliates in accordance with the terms of the SISP Order, or upon the Company's termination of the Support Agreement pursuant to Section 10(b)(iv) thereof, a fee in cash equal to, in the aggregate, \$14,660,000.00 (such amount, the "**Break-Up Fee**") shall be payable concurrently with the consummation of an Alternative Restructuring Proposal to the Purchaser, in the same allocation among such Purchaser as contained in Schedule 3.1(a)(i), by a Just Energy Entity organized in the United States (the identity of which shall be subject to the approval of the Purchaser (not to be unreasonably withheld, conditioned or delayed)).
- (b) The Company shall obtain within the SISP Order a court-ordered charge in favor of the Purchaser in the full amount of the Break-Up Fee to secure the payment of the Break-Up Fee, which charge shall have the priority given to it pursuant to the SISP Order.
- (c) For the avoidance of doubt, and notwithstanding anything to the contrary set forth in this Section 9.3, (x) under no circumstances shall the Company be obligated to pay the Break-Up Fee more than once and (y) in no event shall the Company (or any other Person) be required to pay all or any portion of the Break-Up Fee to the Purchaser if the Company has terminated this Agreement or the Support Agreement other than in connection with CCAA Court approval of an Alternative Restructuring Proposal in accordance with the terms of the SISP Order, or upon the Company's termination of the Support Agreement pursuant to Section 10(b)(iv) thereof.
- (d) The Company acknowledges (i) that the Purchaser has made a substantial investment of management time and incurred substantial out-of-pocket expenses in connection with the negotiation and execution of this Agreement, its due diligence of the Business and the Just Energy Entities, and its effort to consummate the transactions contemplated hereby, and (ii) that the Parties' efforts have substantially benefited the Company and the bankruptcy estates of the Just Energy

Entities through the submission of the offer that is reflected in this Agreement, that will serve as a minimum bid on which other potential interested bidders can rely, thus increasing the likelihood that the price at which the Just Energy Entities are sold will reflect their true worth. The Parties hereby acknowledge that the amounts payable pursuant to this Section 9.3 are commercially reasonable and necessary to induce the Purchaser to enter into this Agreement and consummate the transactions contemplated hereby. For the avoidance of doubt, the covenants set forth in this Section 9.3 are continuing obligations and survive termination of this Agreement.

## ARTICLE 10 CLOSING

### 10.1 Location and Time of the Closing

The Closing shall take place at the Closing Time on the Closing Date at the offices of Cassels Brock & Blackwell LLP, Scotia Plaza, Suite 2100, 40 King St. W, Toronto, ON M5H 3C2, or at such other location as may be agreed upon by the Parties.

### 10.2 The Company's Deliveries at Closing

At Closing, the Company shall deliver to the Purchaser the following:

- (a) a true copy of each of the Vesting Order, the SISP Order, the Vesting Recognition Order, the SISP Recognition Order, each of which shall be final;
- (b) executed copy of the Monitor's Certificate;
- (c) a certificate of a senior officer or director of the Company in form and substance reasonably satisfactory to the Purchaser: (a) certifying that the board of directors of the Company, has adopted resolutions (in a form attached to such certificate) authorizing the execution, delivery and performance of this Agreement and the transactions contemplated herein, as applicable, which resolutions are in full force and effect and have not been superseded, amended or modified as of the Closing Date; and (b) certifying as to the incumbency and signatures of the officers and directors of the Company;
- (d) the certificates contemplated by Section 6.2(c);
- (e) evidence of the filing of the Articles of Reorganization;
- (f) an affidavit, signed under penalties of perjury, stating that the applicable company is not and has not been at any time during the period specified in Section 897(c)(1)(A)(ii) of the Code a United States real property holding corporation, dated as of the Closing Date and in form and substance reasonably satisfactory to the Purchaser and as required under Treasury Regulation Section 1.897-2(h) so that the Purchaser is exempt from withholding any portion of the Purchase Price thereunder, together with proof reasonably satisfactory to the Purchaser that the Company or the applicable Just Energy Entity or Just Energy Entities have provided

notice of such affidavit to the IRS in accordance with Treasury Regulation Section 1.897-2(h)(2); and

- (g) in the case of a partnership, the appropriate certificate under Treasury Regulation Section 1.1445-11T(d)(1) that the partnership interest is not a U.S. real property interest and the partnership is not described in Section 1.1445-11T(d)(1) of the Treasury Regulations, and that it is in compliance with Treasury Regulation Section 1.1446(f)-2(b)(4).

### 10.3 Purchaser's Deliveries at Closing

At Closing, the Purchaser shall deliver to the Company:

- (a) the payment contemplated by Section 3.1;
- (b) a certificate of an authorized signatory of each Purchaser's manager (in such capacity and without personal liability), in form and substance reasonably satisfactory to the Company: (a) certifying that the manager has adopted resolutions (in a form attached to such certificate) authorizing the execution, delivery and performance of this Agreement and the transactions contemplated herein, as applicable, which resolutions are in full force and effect and have not been superseded, amended or modified as of the Closing Date; and (b) certifying as to the incumbency and signature of the authorized signatory of Purchaser executing this Agreement and the other transaction documents contemplated herein, as applicable;
- (c) the certificate contemplated by Section 6.3(c);
- (d) the release contemplated by Section 7.9; and
- (e) all other documents required to be delivered by the Purchaser on or prior to the Closing Date pursuant to this Agreement or Applicable Law or as reasonably requested by the Company in good faith.

### 10.4 Monitor

When the conditions to Closing set out in Article 6 have been satisfied and/or waived by the Company or the Purchaser, as applicable, the Company and the Purchaser, or their respective counsel, shall each deliver to the Monitor written confirmation that all conditions to Closing have been satisfied or waived. Upon receipt of such written confirmation, the Monitor shall: (i) issue forthwith its Monitor's Certificate in accordance with the Vesting Order; and (ii) file as soon as practicable a copy of the Monitor's Certificate with the CCAA Court (and shall provide a true copy of such filed certificate to the Company and the Purchaser). The Parties hereby acknowledge and agree that the Monitor will be entitled to file the Monitor's Certificate with the CCAA Court without independent investigation upon receiving written confirmation from the Company and the Purchaser that all conditions to Closing have been satisfied or waived, and the Monitor will have no liability to the Company or the Purchaser or any other Person as a result of filing the Monitor's Certificate.

### **10.5 Simultaneous Transactions**

All actions taken and transactions consummated at the Closing shall be deemed to have occurred in the manner and sequence set forth in the Implementation Steps and the Vesting Order (subject to the terms of any escrow agreement or arrangement among the Parties relating to the Closing), and no such transaction shall be considered consummated unless all are consummated.

### **10.6 Further Assurances**

As reasonably required by a Party in order to effectuate the transactions contemplated by this Agreement, the Purchaser and the Company shall execute and deliver at (and after) the Closing such other documents, and shall take such other actions, as are necessary or appropriate, to implement and make effective the transactions contemplated by this Agreement.

## **ARTICLE 11 GENERAL MATTERS**

### **11.1 Confidentiality**

After the Closing Time, the Company shall maintain the confidentiality of all confidential information relating to the Business and the Just Energy Entities (but does not include information that is or becomes generally available to the public other than as a result of disclosure by the Purchaser or its representatives in breach of this Agreement or that is received by the Purchaser from an independent third party that, to the knowledge of the Purchaser, obtained it lawfully and was under no duty of confidentiality (except to the extent that applicable privacy laws do not exclude such information from the definition of personal information) or that is independently developed by the Purchaser or its representatives without reference to any Confidential Information), including the Confidential Information, except any disclosure of such information and records as may be required by Applicable Law. If the Company or any Just Energy Entity, or any of its or their respective representatives, becomes legally compelled by deposition, interrogatory, request for documents, subpoena, civil investigative demand, or similar judicial or administrative process, to disclose any such information, such party shall, or shall cause the Company or its representative to, provide the Purchaser with reasonably prompt prior oral or written notice of such requirement (including any report, statement, testimony or other submission to such Governmental Authority) to the extent legally permissible and reasonably practicable, and cooperate with the Purchaser, at the Purchaser's expense, to obtain a protective order or similar remedy to cause such information not to be disclosed; provided that in the event that such protective order or other similar remedy is not obtained, the Company shall, or shall cause the applicable Just Energy Entity or representative to, furnish only that portion of such information that has been legally compelled, and shall, or shall cause such Affiliate or representative to, exercise its commercially reasonable efforts to obtain assurance that confidential treatment will be accorded such disclosed information. The Company shall instruct each Just Energy Entity and representatives having access to such information of such obligation of confidentiality and shall be responsible for any breach of the terms of this Section 11.1 by any of the Just Energy Entities or representatives.

## 11.2 Public Notices

No press release or other announcement concerning the transactions contemplated by this Agreement shall be made by the Company or the Purchaser without the prior consent of the other Party (such consent not to be unreasonably withheld, conditioned or delayed); provided, however, that subject to the last sentence of this Section 11.2, any Party may, without such consent, make such disclosure if the same is required by Applicable Law (including the CCAA Proceedings and the U.S. Proceedings) or by any stock exchange on which any of the securities of such Party or any of its Affiliates are listed, or by any insolvency or other court or securities commission, or other similar Governmental Authority having jurisdiction over such Party or any of its Affiliates, and, if such disclosure is required, the Party making such disclosure shall use commercially reasonable efforts to give prior oral or written notice to the other Party to the extent legally permissible and reasonably practicable, and if such prior notice is not legally permissible or reasonably practicable, to give such notice reasonably promptly following the making of such disclosure. Notwithstanding the foregoing: (i) this Agreement may be filed by the Company (A) with the CCAA Court and the U.S. Bankruptcy Court; and (B) on its profile on [www.sedar.com](http://www.sedar.com) and on the U.S. Securities and Exchange Commission's website at [www.sec.gov](http://www.sec.gov); and (ii) the transactions contemplated in this Agreement may be disclosed by the Company to the CCAA Court and the U.S. Bankruptcy Court, subject to redacting confidential or sensitive information as permitted by Applicable Law. The Parties further agree that:

- (a) the Monitor may prepare and file reports and other documents with the CCAA Court and the U.S. Bankruptcy Court containing references to the transactions contemplated by this Agreement and the terms of such transactions; and
- (b) the Company, the Purchaser and their respective professional advisors may prepare and file such reports and other documents with the CCAA Court and the U.S. Bankruptcy Court containing references to the transactions contemplated by this Agreement and the terms of such transactions as may reasonably be necessary to complete the transactions contemplated by this Agreement or to comply with their obligations in connection therewith.

The Purchaser shall be afforded an opportunity to review and comment on such materials prior to their filing. The Parties may issue a joint press release announcing the execution and delivery of this Agreement, in form and substance mutually agreed to them.

## 11.3 Injunctive Relief

- (a) The Parties agree that irreparable harm would occur for which money damages would not be an adequate remedy at law in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Parties shall be entitled to seek specific performance, injunctive and other equitable relief to prevent breaches or threatened breaches of this Agreement, and to enforce compliance with the terms of this Agreement, without any requirement for the securing or posting of any bond in connection with the obtaining of any such specific performance, injunctive or

other equitable relief, this being in addition to any other remedy to which the Parties may be entitled at law or in equity.

- (b) Each Party hereby agrees not to raise any objections to the availability of the equitable remedies provided for herein and the Parties further agree that by seeking the remedies provided for in this Section 11.3, a Party shall not in any respect waive its right to seek any other form of relief that may be available to a Party under this Agreement.
- (c) Notwithstanding anything herein to the contrary herein, under no circumstances shall a Party be permitted or entitled to receive both monetary damages and specific performance and election to pursue one shall be deemed to be an irrevocable waiver of the other.

#### **11.4 Survival**

None of the representations, warranties, covenants (except the covenants in Article 2, Article 3, Article 11 and Sections 7.1(b), 7.4, 7.7, 7.9 and 7.10, to the extent they are to be performed after the Closing) of any of the Parties set forth in this Agreement, in any Closing Document to be executed and delivered by any of the Parties (except any covenants included in such Closing Documents, which, by their terms, survive Closing) or in any other agreement, document or certificate delivered pursuant to or in connection with this Agreement or the transactions contemplated hereby shall survive the Closing.

#### **11.5 Non-Recourse**

No past, present or future director, officer, employee, incorporator, member, partner, securityholder, Affiliate, agent, lawyer or representative of the respective Parties, in such capacity, shall have any liability for any obligations or liabilities of the Purchaser or the Company, as applicable, under this Agreement, or for any Causes of Action based on, in respect of or by reason of the transactions contemplated hereby.

#### **11.6 Assignment; Binding Effect**

No Party may assign its right or benefits under this Agreement without the consent of each of the other Parties, except that without such consent the Purchaser may, upon prior notice to the Company: (a) assign this Agreement, or any or all of its rights and obligations hereunder, to one or more of its Affiliates; or (b) direct that title to all or some of the Purchased Interests be transferred to, and the corresponding Assumed Liabilities be assumed by, one or more of its Affiliates; provided that no such assignment or direction shall relieve the Purchaser of its obligations hereunder. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective permitted successors and permitted assigns. Nothing in this Agreement shall create or be deemed to create any third Person beneficiary rights in any Person not a Party to this Agreement.



## 11.7 Notices

Any notice, request, demand or other communication required or permitted to be given to a Party pursuant to the provisions of this Agreement will be in writing and will be effective and deemed given under this Agreement on the earliest of: (a) the date of personal delivery; (b) the date of transmission by email, with confirmed transmission and receipt (if sent during normal business hours of the recipient, if not, then on the next Business Day); (c) two (2) days after deposit with a nationally-recognized courier or overnight service such as Federal Express; or (d) five (5) days after mailing via certified mail, return receipt requested. All notices not delivered personally or by email will be sent with postage and other charges prepaid and properly addressed to the Party to be notified at the address set forth for such Party:

(a) If to the Purchaser at:

Akin Gump Strauss Hauer & Feld LLP  
One Bryant Park  
New York, New York 10036-6745

Attention: David Botter  
Sarah Link Schultz  
Zachary Wittenberg

Email: [Redacted]  
[Redacted]  
[Redacted]

and to:

Cassels Brock & Blackwell LLP  
Scotia Plaza, Suite 2100  
40 King St. W  
Toronto, ON M5H 3C2

Attention Ryan Jacobs  
Jane Dietrich  
Joseph Bellissimo

Email: [Redacted]  
[Redacted]  
[Redacted]

(b) If to the Company at:

Just Energy Group Inc.  
100 King Street West, Suite 2630  
Toronto, Ontario M5X 1E1

Attention: Jonah Davids  
 Email: [Redacted]

and to:

Osler, Hoskin & Harcourt LLP  
 100 King Street West, Suite 6200  
 Toronto, Ontario M5X 1B8

Attention: Marc Wasserman  
 Michael De Lellis  
 Jeremy Dacks  
 Dave Rosenblat  
 Email: [Redacted]  
 [Redacted]  
 [Redacted]  
 [Redacted]

and to:

Kirkland & Ellis LLP  
 601 Lexington Avenue  
 New York, New York 10022

Attention: Brian Schartz  
 Neil Herman  
 Allyson B. Smith  
 Email: [Redacted]  
 [Redacted]  
 [Redacted]

Any Party may change its address for service from time to time by notice given in accordance with the foregoing and any subsequent notice shall be sent to such Party at its changed address.

### **11.8 Counterparts; Electronic Signatures**

This Agreement may be signed in counterparts and each of such counterparts shall constitute an original document and such counterparts, taken together, shall constitute one and the same instrument. Execution of this Agreement may be made by electronic signature which, for all purposes, shall be deemed to be an original signature.

### **11.9 Language**

The Parties have expressly required that this Agreement and all documents and notices relating hereto be drafted in English.

*[Signature pages to follow]*

**IN WITNESS WHEREOF** the Parties have executed this Agreement as of the date first written above.

**JUST ENERGY GROUP INC.**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President,  
General Counsel and Corporate  
Secretary

We have the authority to bind the Corporation

**LVS III SPE XV LP**

By: LVS III GP LLC, its general partner

By: [Redacted]  
Name:  
Title:

**TOCU XVII LLC**

By: [Redacted]  
Name:  
Title:

**HVS XVI LLC**

By: [Redacted]  
Name:  
Title:

**OC II LVS XIV LP**

By: OC II GPI LLC, its general partner

By: [Redacted]  
Name:  
Title:

**OC III LFE I LP**

By: OC II GP LLC, its general partner

By: [Redacted]  
Name:  
Title:

**CBHT Energy I LLC**

By: [Redacted]  
Name:  
Title:

Disclosure Letter

**DISCLOSURE LETTER**  
**to**  
**TRANSACTION AGREEMENT**

**by and among**

**JUST ENERGY GROUP INC.**

**as the Company**

**-and-**

**LVS III SPE XV LP,**

**TOCU XVII LLC,**

**HVS XVI LLC,**

**OC II LVS XIV LP,**

**OC III LFE I LP,**

**CBHT ENERGY I LLC**

**each as a Purchaser and collectively, as the Purchaser**

Schedule 1.1(a)  
Additional Applicants

None.



Schedule 1.1(b)  
Permitted Encumbrances

- Encumbrances securing Assumed Liabilities to the extent that such Assumed Liabilities are secured by Encumbrances as of the Closing Time
- Encumbrances securing obligations under the New Credit Agreement
- Encumbrances which are the subject of the New Intercreditor Agreement
- “Permitted Encumbrances” as defined in the Credit Agreement, subject to those amendments to such definition provided for in Exhibit 1 of the Stalking Horse Term Sheet, except to the extent that they relate to an Excluded Liability or Excluded Asset

Schedule 2.1(a)

Equity Interest Allocation Percentages

**[Redacted]**

Schedule 2.2(c)  
Excluded Contracts

None.

Schedule 2.2  
Excluded Assets

None.

Schedule 2.2(f)  
Excluded Equity Interests

Schedule 3.1(a)(i)

Cash Purchase Price Allocation

**[Redacted]**

Schedule 4.7  
Subsidiaries

	<b>Name</b>	<b>Jurisdiction of Incorporation</b>
1.	Just Energy Group Inc.	Canada
2.	Just Energy Corp.	Ontario
3.	Ontario Energy Commodities Inc.	Ontario
4.	Universal Energy Corporation	Ontario
5.	Just Energy Finance Canada ULC	Nova Scotia
6.	Hudson Energy Canada Corp.	Canada
7.	11929747 Canada Inc.	Canada
8.	12175592 Canada Inc.	Canada
9.	JE Services Holdco I Inc.	Canada
10.	JE Services Holdco II Inc.	Canada
11.	8704104 Canada Inc.	Canada
12.	Just Energy Advanced Solutions Corp.	Ontario
13.	Just Energy (U.S.) Corp.	Delaware
14.	Just Energy Illinois Corp.	Delaware
15.	Just Energy Indiana Corp.	Delaware
16.	Just Energy Massachusetts Corp.	Delaware
17.	Just Energy New York Corp.	Delaware
18.	Just Energy Texas I Corp.	Delaware
19.	Just Energy, LLC	Texas
20.	Just Energy Pennsylvania Corp.	Delaware
21.	Just Energy Michigan Corp.	Delaware
22.	Just Energy Solutions Inc.	California

23.	Hudson Energy Services LLC	New Jersey
24.	Hudson Energy Corp.	Delaware
25.	Interactive Energy Group LLC	Delaware
26.	Hudson Parent Holdings LLC	Delaware
27.	Drag Marketing LLC	Delaware
28.	Just Energy Advanced Solutions LLC	Delaware
29.	Fulcrum Retail Energy LLC	Texas
30.	Fulcrum Retail Holdings LLC	Texas
31.	Tara Energy, LLC	Texas
32.	Just Energy Marketing Corp.	Delaware
33.	Just Energy Connecticut Corp.	Delaware
34.	Just Energy Limited	Delaware
35.	Just Solar Holdings Corp.	Delaware
36.	Just Energy (Finance) Hungary Zrt.	Hungary
37.	Just Energy Ontario L.P.	Ontario
38.	Just Energy Manitoba L.P.	Manitoba
39.	Just Energy (B.C.) Limited Partnership	British Columbia
40.	Just Energy Québec L.P.	Quebec
41.	Just Energy Trading L.P.	Ontario
42.	Just Energy Alberta L.P.	Alberta
43.	Just Green L.P.	Alberta
44.	Just Energy Prairies L.P.	Manitoba
45.	JEBPO Services LLP	India
46.	Just Energy Texas LP	Texas



Schedule 6.1(e)Transaction Regulatory Approvals to be Obtained and Energy Regulator Notices to be Provided  
Prior to the Closing Time

1. Authorization from the Federal Energy Regulatory Commission under Section 203 of the Federal Power Act
2. Competition Act Approval, if required
3. Investment Canada Act Approval
4. Energy Regulator Notices to
  - a. the Registrar under *The Direct Sellers Act*, RSS 1978, c D-28, to the extent there is a change in membership of the licensee;
  - b. the Connecticut Public Utilities Regulatory Authority; and,
  - c. the applicable Energy Regulator, to the extent there is a change in the officers, directors or members of the licensee or a change in control of the licensee, and such change requires notification to such Energy Regulator.
5. Hart-Scott-Rodino Approval, if required in the reasonable judgment of Purchaser

**Exhibit A**

## Terms of the New Preferred Equity

On the Closing Date, Just Energy (U.S.) Corp. (or its successor if converted into another entity prior to the Closing in accordance with the Implementation Steps) will issue a new class of preferred equity on the following terms and conditions and, to the extent applicable, subject to the terms and conditions set out in the New Credit Agreement:

- (a) Amount: The amount of the BP Commodity / ISO Services Claim as of the Closing Date, all converted into United States currency, as applicable
- (b) Maturity:
  - 1. Perpetual
  - 2. Repayment in full upon a change of control transaction
  - 3. Right to force sale in year six (6)
- (c) Dividends: 12.50% accreting yield with dividends as and when declared by the board of directors for the first four (4) years, increasing 1% annually thereafter
- (d) Fees: Exit fee of 5.00%
- (e) ECF Sweep: The ECF Sweep is as permitted pursuant to the terms of the New Credit Agreement

**Exhibit B**

Form of Release

(see attached)

## RELEASE AGREEMENT

This Release Agreement (this “Release Agreement”) is made and entered into as of [●], 2022 (the “Effective Date”) by each of the Releasing Parties (as defined herein) in favor of the Released Parties (as defined herein).

WHEREAS, on [●], 2022 (the “Closing Date”), pursuant to that certain Transaction Agreement, dated as of August 4, 2022 (together with all exhibits and schedules attached thereto, and as amended, supplemented, or otherwise modified from time to time, the “Transaction Agreement”),<sup>1</sup> by and between Just Energy Group Inc. (“JEGI”) and the Purchaser, upon the consummation of the Closing, concurrently with the effectiveness of this Release Agreement and after the completion of the Implementation Steps, all of the Releasing Parties are now owned, directly or indirectly, by Just Energy (U.S.) Corp; and

WHEREAS, the Releasing Parties desire to effectuate the release provision set forth in Article 7.9 of the Transaction Agreement, all as more fully set forth herein.

NOW, THEREFORE, in consideration of the above recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Releasing Parties hereby agree as follows:

### 1. Defined Terms.

(a) The terms defined in the recitals hereto shall have the meanings set forth therein.

(b) The following terms have the following meanings:

“Causes of Action” means any action, claim, cross-claim, third-party claim, damage, judgment, cause of action, controversy, demand, right, action, suit, obligation, liability, debt, account, defense, offset, power, privilege, license, lien, indemnity, interest, guaranty, or franchise of any kind or character whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, contingent or non-contingent, liquidated or unliquidated, disputed or undisputed, secured or unsecured, assertable directly or derivatively, matured or unmatured, suspected or unsuspected, in contract or in tort, at law or in equity, or pursuant to any other theory of law or otherwise, of the Just Energy Entities against any Person, in each case based in whole or in part on any act or omission, transaction, dealing, or other occurrence existing or taking place on or prior to the Closing Time.

“Final Order” means with respect to any order or judgment of the CCAA Court or the U.S. Bankruptcy Court, or any other court of competent jurisdiction, with respect to the subject matter addressed in the CCAA Proceedings or the Chapter 15 Cases or the docket of any court of competent jurisdiction, that such order or judgement has not been vacated, set aside, reversed, stayed, modified, or amended, and as to which the applicable periods to appeal, or seek certiorari or move for a new trial, reargument, or rehearing, has expired and no appeal, leave to appeal, or

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<sup>1</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Transaction Agreement.

petition for certiorari or other proceedings for a new trial, reargument, or rehearing has been timely taken or filed, or as to which any appeal has been taken or any petition for certiorari or leave to appeal that has been timely filed has been withdrawn or resolved in a manner acceptable to the Company and the Purchaser, each acting reasonably, by the highest court to which the order or judgment was appealed or from which leave to appeal or certiorari was sought or the new trial, reargument, or rehearing shall have been denied, resulted in no modification of such order, or has otherwise been dismissed with prejudice; *provided, however*, that the possibility that a motion under Rule 60 of the United States Federal Rules of Civil Procedure, or any analogous rule under the Federal Rules of Bankruptcy Procedure, may be filed relating to such order shall not cause such order to not be a Final Order.

“Released Causes of Action” means the Causes of Action irrevocably and unconditionally waived, released, and discharged by the Releasing Parties pursuant to Section 2 of this Release Agreement.

“Released Parties” means, collectively, (a) all current and former officers, directors, partners, limited partners, employees, agents, financial and legal advisors of each of the Releasing Parties and (b) the respective successors and assigns of each individual or entity in clause (a).

“Releasing Parties” means, collectively, (a) JEGI, Just Energy Corp., Ontario Energy Commodities Inc., Universal Energy Corporation, Just Energy Finance Canada ULC, Hudson Energy Canada Corp., 11929747 Canada Inc., 12175592 Canada Inc., JE Services Holdco I Inc., JE Services Holdco II Inc., 8704104 Canada Inc., Just Energy Advanced Solutions Corp., Just Energy (U.S.) Corp., Just Energy Illinois Corp., Just Energy Indiana Corp., Just Energy Massachusetts Corp., Just Energy New York Corp., Just Energy Texas I Corp., Just Energy, LLC, Just Energy Pennsylvania Corp., Just Energy Michigan Corp., Just Energy Solutions Inc., Hudson Energy Services LLC, Hudson Energy Corp., Interactive Energy Group LLC, Hudson Parent Holdings LLC, Drag Marketing LLC, Just Energy Advanced Solutions LLC, Fulcrum Retail Energy LLC, Fulcrum Retail Holdings LLC, Tara Energy, LLC, Just Energy Marketing Corp., Just Energy Connecticut Corp., Just Energy Limited, Just Solar Holdings Corp., Just Energy (Finance) Hungary Zrt., Just Energy Ontario L.P., Just Energy Manitoba L.P., Just Energy (B.C.) Limited Partnership, Just Energy Québec L.P., Just Energy Trading L.P., Just Energy Alberta L.P., Just Green L.P., Just Energy Prairies L.P., JEBPO Services LLP, and Just Energy Texas LP and (b) the respective successors and assigns of each entity in clause (a).

## 2. Releases.

(a) Each Releasing Party hereby irrevocably and unconditionally waives, releases, and discharges each Released Party from any and all actual or potential Causes of Action against the Released Parties; *provided, however*, that, with respect to each Released Party, the foregoing provision shall not waive or release Causes of Action related to any act or omission by such Released Party that is determined in a Final Order of a court of competent jurisdiction to have constituted actual fraud, willful misconduct, or gross negligence; *provided, further*, that in all respects such Released Parties shall be entitled to reasonably rely upon the advice of counsel with respect to their applicable duties and responsibilities.

(b) Each Releasing Party understands, acknowledges, and agrees that the releases provided for herein are full and final general releases of all Released Causes of Action, including those that could have been asserted in any legal or equitable proceeding against the Released Parties. Each Releasing Party hereby irrevocably covenants to refrain from, directly or indirectly, asserting any Released Cause of Action, or commencing, instituting, or causing to be commenced any action, suit, or proceeding of any kind, against any Released Party, or against any other person, corporation, or entity which might claim over or against any Released Party, based upon any Released Cause of Action. Each Releasing Party further agrees that in the event such Releasing Party should bring a Released Cause of Action against any Released Party or any such other person, corporation, or entity, this Release Agreement shall serve as a complete defense to such Cause of Action.

(c) Each Releasing Party has read Section 1542 of the Civil Code of the State of California (“Section 1542”), which provides as follows: A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR. Each Releasing Party understands that Section 1542, or a comparable statute, rule, regulation, or order of another jurisdiction, gives such Releasing Party the right not to release existing Causes of Action of which such Releasing Party is not aware, unless such Releasing Party voluntarily chooses to waive this right. Having been so apprised, each Releasing Party nevertheless hereby voluntarily elects to and does waive the rights described in Section 1542, and all such other comparable statutes, rules, regulations, or orders, and elects to assume all risks for Causes of Action that exist, existed, or may hereafter exist in its favor, known or unknown, suspected or unsuspected, arising out of or related to Causes of Action or other matters purported to be released pursuant to this Release Agreement.

3. Severability. Any term or provision of this Release Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

4. Waivers. No waiver of any of the terms or provisions of this Release Agreement shall be binding against any Released Party hereto unless such waiver is in a writing signed by such Released Party.

5. No Assignment. This Release Agreement shall be binding upon the Releasing Parties and inure to the sole benefit of the Released Parties. No Releasing Party hereto may assign any of its obligations under this Release Agreement. Any assignment in violation of this Section 5 shall be null and void *ab initio*.

6. Governing Law. This Release Agreement shall be governed by and construed in accordance with the laws of [●], without giving effect to principles of choice of law. Any action, suit, or proceeding arising out of or related to this Release Agreement shall be brought and maintained exclusively in the state and federal courts in [●], and each Releasing Party irrevocably and unconditionally: (a) submits to the personal jurisdiction of those courts for purposes of, and waives any defense of venue or inconvenient forum in, any such action, suit, or proceeding in those

courts; (b) expressly waives any requirement for the posting of a bond by a party bringing such action, suit, or proceeding; (c) consents to process being served in any such action, suit, or proceeding by mailing, certified mail, return receipt requested, a copy thereof to such party at the address in effect for notices set forth on the signature pages hereto, and agrees that such service shall constitute good and sufficient service of process and notice thereof; *provided* that nothing in clause (c) hereof shall affect or limit any right to serve process in any other manner permitted by law, and (d) WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY SUCH ACTION, SUIT, OR PROCEEDING.

7. Counterparts. This Release Agreement may be executed and delivered in any number of counterparts and by way of electronic signature and delivery, each such counterpart, when executed and delivered, shall be deemed an original, and all of which together shall constitute the same agreement. Except as expressly provided in this Release Agreement, each individual executing this Release Agreement on behalf of a Releasing Party has been duly authorized and empowered to execute and deliver this Release Agreement on behalf of said Releasing Party.

*[Remainder of page intentionally left blank.]*

IN WITNESS WHEREOF, the Releasing Parties have executed this Release Agreement on the day and year first above written.

**[Just Energy (U.S.) Corp., on behalf itself and each other Releasing Party]**

By: \_\_\_\_\_  
Name: [•]  
Title: [•]



**Exhibit I-2**  
**Support Agreement**

## SUPPORT AGREEMENT

This SUPPORT AGREEMENT (as amended, supplemented, or otherwise modified from time to time in accordance with the terms hereof, together with all exhibits and schedules attached hereto or incorporated herein, this “**Agreement**”) dated August 4, 2022 is made among:

- (a) Just Energy Group Inc. (“**Just Energy**”), Just Energy Corp., Ontario Energy Commodities Inc., Universal Energy Corporation, Just Energy Finance Canada ULC, Hudson Energy Canada Corp., Just Management Corp., 11929747 Canada Inc., 12175592 Canada Inc., JE Services Holdco I Inc., JE Services Holdco II Inc., 8704104 Canada Inc., Just Energy Advanced Solutions Corp., Just Energy (U.S.) Corp., Just Energy Illinois Corp., Just Energy Indiana Corp., Just Energy Massachusetts Corp., Just Energy New York Corp., Just Energy Texas I Corp., Just Energy, LLC, Just Energy Pennsylvania Corp., Just Energy Michigan Corp., Just Energy Solutions Inc., Hudson Energy Services LLC, Hudson Energy Corp., Interactive Energy Group LLC, Hudson Parent Holdings LLC, Drag Marketing LLC, Just Energy Advanced Solutions LLC, Fulcrum Retail Energy LLC, Fulcrum Retail Holdings LLC, Tara Energy, LLC, Just Energy Marketing Corp., Just Energy Connecticut Corp., Just Energy Limited, Just Solar Holdings Corp., Just Energy (Finance) Hungary Zrt., Just Energy Ontario L.P., Just Energy Manitoba L.P., Just Energy (B.C.) Limited Partnership, Just Energy Québec L.P., Just Energy Trading L.P., Just Energy Alberta L.P., Just Green L.P., Just Energy Prairies L.P., JEBPO Services LLP, and Just Energy Texas LP (collectively, the “**Just Energy Entities**” or the “**Company**”);
- (b) LVS III SPE XV LP, TOCU XVII LLC, HVS XVI LLC, OC II LVS XIV LP (each in its capacity as holder of Claims under the DIP Financing (as defined below), collectively, the “**DIP Lenders**”);
- (c) CBHT Energy I LLC, in its capacity as the beneficial holder of the Pre-Filing Claims of BP Canada Energy Group ULC and BP Energy Company (“**CBHT**” and together with OC III LFE I LP and the DIP Lenders, the “**Sponsor**”);
- (d) Shell Energy North America (Canada) Inc., Shell Energy North America (US), L.P., and Shell Trading Risk Management, LLC (collectively, “**Shell**”); and
- (e) the undersigned financial institutions as lenders under the Credit Agreement (as defined below), in each case solely in its capacity as a holder of Claims under the Credit Agreement (such lenders in such capacity, the “**Supporting Secured CF Lenders**”), and National Bank of Canada, as administrative agent under the Credit Agreement (in such capacity, the “**Credit Facility Agent**”).

The Just Energy Entities, the Sponsor, Shell after the Shell Effective Date, the Supporting Secured CF Lenders after the Secured CF Effective Date, and any other Person (as defined in the Bankruptcy Code (as defined below)) that becomes a party hereto in accordance with the terms hereof are referred to herein collectively, as the “**Parties**” and individually, as a “**Party**.”

Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in **Exhibit A**.

### **RECITALS**

**WHEREAS**, on March 9, 2021 (the “**Filing Date**”), (a) Just Energy and certain of the Just Energy Entities commenced proceedings (the “**CCAA Proceedings**”) under the Companies’ Creditors Arrangement Act (as amended, the “**CCAA**”) in the Ontario Superior Court of Justice (Commercial List) (the “**CCAA Court**”) and (b) the foreign representative for certain of the Just Energy Entities commenced cases (the “**Chapter 15 Cases**”) under chapter 15 of title 11 of the United States Code (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the “**US Bankruptcy Court**”);

**WHEREAS**, also on March 9, 2021, (a) the CCAA Court entered an order (as amended and restated on March 19, 2021 and May 26, 2021, and as it may be further amended, restated, varied and/or supplemented from time to time, the “**Initial Order**”) granting certain relief to Just Energy, including, but not limited to, approval of debtor-in-possession financing (the “**DIP Financing**”) pursuant to that certain *CCAA Interim Debtor-in-Possession Financing Term Sheet* (as amended from time to time, the “**DIP Term Sheet**”) and (b) the US Bankruptcy Court entered an order [Docket No. 23] granting certain relief to the Just Energy Entities, including, but not limited to, authorizing the Just Energy Entities to comply with the terms and conditions of the DIP Financing;

**WHEREAS**, the Parties have engaged in good faith, arm’s-length negotiations regarding a stalking horse transaction concerning the Company (the “**Stalking-Horse Bid**”), the material terms of which are set forth in that certain transaction agreement and related exhibits attached hereto as **Exhibit B** (as may be amended, restated, supplemented, or otherwise modified from time to time in accordance with this Agreement and in connection with the SISP, the “**Transaction Agreement**”) and consistent in all material respects with that certain stalking horse transaction term sheet and related exhibits attached hereto as **Exhibit C** (as may be amended, restated, supplemented, or otherwise modified from time to time in accordance with this Agreement and in connection with the SISP, the “**Stalking Horse Term Sheet**”) (the foregoing, including the transactions contemplated by the exhibits to such term sheet, the “**Transaction**”).

**WHEREAS**, the Parties have negotiated in good faith the terms of a sale and investment solicitation process to be implemented in the CCAA Proceedings, the terms of which are attached hereto as **Exhibit D** (as may be amended, restated, supplemented, or otherwise modified from time to time in accordance with the terms thereof and this Agreement, the “**SISP**”).

**NOW, THEREFORE**, in consideration of the promises and the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

### **AGREEMENT**

1. **Effective Date.**

(a) This Agreement shall become effective, and the obligations contained herein shall become binding upon the Company and the Sponsor upon the date that this Agreement has been executed and delivered by (x) the Company and (y) the Sponsor (such date, the “**Effective Date**”); *provided, however*, that until the SISP Order is granted, the Company’s sole obligations under this Agreement are those set forth in Sections 6(a), (b), (c), (d), (g), (h) and (j) and 9, and in the event that SISP Order is not granted on or before the applicable Milestone, the Company shall have no obligations hereunder; *provided, further*, that on the Effective Date, the Plan Support Agreement and the Backstop Commitment Letter shall automatically terminate.

(b) This Agreement shall become effective, and the obligations contained herein shall become binding on Shell (and the reciprocal obligations will become binding on the Company, the Sponsor, and the other Parties), upon the first date (such date, the “**Shell Effective Date**”) that this Agreement (x) has met the conditions set forth in Section 1(a) and (y) has been executed and delivered by Shell, the Sponsor, and the Company. For the avoidance of doubt, Shell shall have no obligations under Sections 5, 6, and 7. In the event that SISP Order is not granted on or before the applicable Milestone, Shell shall have no obligations hereunder.

(c) This Agreement shall become effective, and the obligations contained herein shall become binding on a Supporting Secured CF Lender (and the reciprocal obligations will become binding on the Company, the Sponsor, and the other Parties), upon the first date (such date, the “**Secured CF Effective Date**”) that this Agreement (x) has met the conditions set forth in Section 1(a) and (y) has been executed and delivered by such Supporting Secured CF Lender, the Company, the Sponsor, and Shell. In the event that SISP Order is not granted on or before the applicable Milestone (without regard to any extension of such Milestone after the date hereof, unless the Requisite Supporting Secured CF Lenders have consented thereto), the Supporting Secured CF Lenders shall have no obligations hereunder.

2. **Exhibits and Schedules Incorporated by Reference.** The Stalking Horse Term Sheet and any other exhibits attached to the Stalking Horse Term Sheet or hereto (and any schedules to such exhibits) (collectively, the “**Exhibits and Schedules**”) are expressly incorporated herein and made a part of this Agreement, and all references to this Agreement shall be deemed to include the Stalking Horse Term Sheet and any other Exhibits and Schedules. In the event of any inconsistency between this Agreement (without reference to the Exhibits and Schedules) and the Exhibits and Schedules, this Agreement (without reference to the Exhibits and Schedules) shall govern. In the case of a conflict of the provisions contained in the text of this Agreement and the Transaction Agreement (when executed and approved by the CCAA Court), the terms of the Transaction Agreement (when executed and approved by the CCAA Court) shall govern (provided that the absence of an approval or consent right in the Transaction Agreement in

favour of the Supporting Secured CF Lenders in respect of a matter will not be considered to be in conflict with and will not limit an approval or consent right of the Supporting Secured CF Lenders in this Agreement).

3. **Definitive Documents.**

(a) The definitive documents and agreements governing the Transaction (and all exhibits and schedules attached thereto, the “**Definitive Documents**”) shall consist of: (i) this Agreement, (ii) the Stalking Horse Term Sheet; (iii) the SISP Order; (iv) the SISP Recognition Order; (v) the Transaction Agreement; (vi) the Vesting Order; (vii) the Vesting Recognition Order; (viii) the New Credit Agreement; (ix) the New Intercreditor Agreement; (x) the Implementation Steps; (xi) the Articles of Reorganization; and (xii) such other definitive documentation relating to the Transaction as is necessary or desirable to consummate the Transaction.

(b) The Definitive Documents not executed or in a form attached to this Agreement remain subject to negotiation and completion. Upon completion, the Definitive Documents and every other document, deed, agreement, filing, notification, letter, or instrument related to the Transaction shall contain terms, conditions, representations, warranties, and covenants consistent in all material respects with the terms of this Agreement, as they may be modified, amended, or supplemented in accordance with this Agreement, and shall be subject to the approval requirements set forth herein.

(i) Any document that is included within the definition of “**Definitive Documents**,” including any amendment, supplement, or modification thereof, shall be in form and substance reasonably acceptable to (x) the Just Energy Entities and (y) the Sponsor.

(ii) If the Shell Effective Date has occurred, then any document that is included within the definition of “**Definitive Documents**” to which Shell is a signatory shall be in form and substance reasonably acceptable to Shell.

(iii) If the Secured CF Effective Date has occurred, then any document that is included within the definition of “**Definitive Documents**,” including any amendment, supplement, or modification thereof shall be in form and substance reasonably acceptable to the Requisite Supporting Secured CF Lenders; *provided, however*, that the New Credit Agreement and New Intercreditor Agreement shall also be consistent and comply with the term sheets for each attached as exhibits to the Stalking Horse Term Sheet.

4. **Milestones.** The Transaction shall be implemented on the following timeline (each deadline, as may be extended in accordance with this Agreement, a “**Milestone**”):

- (a) In connection with the CCAA Proceedings,
- (i) On or before August 4, 2022, the Just Energy Entities shall serve the SISP Motion;
- (ii) On or before August 17, 2022, the Just Energy Entities shall obtain the SISP Order;

(iii) On or before October 13, 2022, the Just Energy Entities shall serve the Vesting Motion;

(iv) On or before October 21, 2022, the Just Energy Entities shall obtain the Vesting Order; and

(b) In connection with the Chapter 15 Cases,

(i) On or before August 19, 2022, the Just Energy Entities shall file with the US Bankruptcy Court the Claims Procedure Recognition Motion (which, for greater certainty, may be contained in the same motion as the SISP Recognition Motion);

(ii) On or before September 9, 2022, the Just Energy Entities shall obtain the Claims Procedure Recognition Order;

(iii) On or before August 19, 2022, the Just Energy Entities shall file with the US Bankruptcy Court the SISP Recognition Motion (which, for greater certainty, may be contained in the same motion as the Claims Procedure Recognition Motion);

(iv) On or before September 9, 2022, the Just Energy Entities shall obtain the SISP Recognition Order;

(v) On or before October 24, 2022, the Just Energy Entities shall file with the US Bankruptcy Court the Vesting Recognition Motion;

(vi) The Just Energy Entities shall facilitate the setting of a hearing before the US Bankruptcy Court on the Vesting Recognition Motion to be no later than November 14, 2022;

(vii) On or before November 16, 2022, the Just Energy Entities shall obtain the Vesting Recognition Order; and

(c) In connection with the Transaction,

(i) On or before the date of the SISP Order, the Sponsor and the applicable Just Energy Entities shall have executed the Transaction Agreement; and

(ii) No later than November 30, 2022 (the “**Initial Outside Date**”), or such later date or dates as may be determined by the Sponsor on written notice to the other Parties (the “**Outside Date**”), the Transaction shall close; *provided, however*, in the event the Initial Outside Date is not extended, the Initial Outside Date shall be the Outside Date; *provided, further*, to the extent the only condition to the closing of the Transaction that remains outstanding is the receipt of Regulatory Approval(s), the Outside Date shall be automatically extended for another sixty (60) days, and thereafter, the Sponsor shall have the right to further extend the Outside Date in its sole discretion on written notice to the other Parties.

The Sponsor may extend a Milestone on written notice to the Just Energy Entities and the other Parties (which may be delivered by email), acting reasonably.

5. **Commitments of the Sponsor.** Subject to the terms and conditions hereof and to carrying out the SISP in accordance with the SISP Order, unless inconsistent with the DIP Lenders' obligations or rights under the DIP Financing, which obligations and rights shall control in the event of a conflict, and subject to the terms and conditions hereof, the Sponsor shall, from the Effective Date until the occurrence of the SA Termination Date (as defined below):

(a) support the Transaction and exercise any powers or rights available to it (including in any board, shareholders', or creditors' meeting or in any process requiring voting or approval to which it is legally entitled to participate) in each case in favor of any matter requiring approval to the extent necessary to implement the Transaction; *provided, however*, the foregoing shall not require the Sponsor to take or refrain from taking any action that would materially change or impair the terms of the Transaction or its rights under this Agreement;

(b) act in good faith and take (and cause its agents, representatives, and employees to take) all actions that are reasonably necessary or appropriate, and all actions required by the CCAA Court and/or the US Bankruptcy Court, to support and achieve the consummation of the Transaction and implementation steps provided for or contemplated in the Transaction; *provided* that, subject to the terms of the Definitive Documents and this Agreement, in no circumstance shall there be any obligation to amend, modify, or waive any provision of the Transaction Agreement;

(c) not object to, delay, impede, or take any other action to interfere with consummation or implementation of the Transaction contemplated by this Agreement; *provided* that the exercise of any rights under the Transaction Agreement shall not be considered a breach of this Agreement;

(d) not directly or indirectly take any action that could reasonably be expected to or would interfere with, delay, impede, or postpone the Transaction or the transactions contemplated by the Transaction or this Agreement; *provided* that the exercise of any rights under the Transaction Agreement shall not be considered a breach of this Agreement;

(e) not file any motion, pleading, or other document with the US Bankruptcy Court, the CCAA Court, or any other court (including any modifications or amendments thereof) that, in whole or in part, is not materially consistent with the Transaction;

(f) not initiate, or have initiated on its behalf, any litigation or proceeding of any kind with respect to the CCAA Proceedings, the Chapter 15 Cases, this Agreement, or the Transaction contemplated herein against the Just Energy Entities or the other Parties hereto to the extent such litigation or proceeding is inconsistent with the transactions contemplated by this Agreement, other than to enforce this Agreement or any Definitive Document or as otherwise permitted under this Agreement; *provided, however*, for the avoidance of doubt, as set forth above in this Section, the foregoing shall not affect the DIP Lenders' ability to take any action permitted under the DIP Term Sheet or in connection with the DIP Financing; *provided further* that nothing herein shall affect the Sponsor's ability to take any action permitted under the Transaction Agreement;

(g) not exercise, or direct any other person to exercise, any right or remedy for the enforcement, collection, or recovery of any Claims or interests in the Just Energy Entities; *provided, however*, for the avoidance of doubt, as set forth above in this Section, the foregoing shall not affect the DIP Lenders' ability to take any action permitted under the DIP Term Sheet or in connection with the DIP Financing; *provided further* that nothing herein shall affect the Sponsor's ability to take any action permitted under the Transaction Agreement;

(h) except as contemplated in this Agreement, not initiate, or have initiated on its behalf, not object to, delay, impede, or take any other action to interfere with the Just Energy Entities' ownership and possession of their assets, wherever located, or interfere with the stay imposed by the CCAA Court and the US Bankruptcy Court; *provided, however*, for the avoidance of doubt, as set forth above in this Section, the foregoing shall not affect the DIP Lenders' ability to take any action permitted under the DIP Term Sheet or in connection with the DIP Financing, or in connection with the Transaction; and

(i) between the date hereof and the SA Termination Date, provide prompt written notice to the Just Energy Entities and the other Parties, to the extent known by the Sponsor, of: (i) the occurrence, or failure to occur, of any event of which the occurrence or failure to occur would be reasonably likely to cause (A) any representation or warranty of the Sponsor contained in this Agreement to be untrue or inaccurate in any material respect, (B) any covenant of the Sponsor contained in this Agreement not to be satisfied in any material respect, or (C) any condition precedent contained in this Agreement or a Definitive Document not to occur or become impossible to satisfy; or (ii) the receipt of written notice from any third party alleging that the consent of such party is or may be required as a condition precedent to consummation of the transactions contemplated by the Transaction.

Notwithstanding the foregoing, nothing in this Agreement shall (i) be construed to prohibit the Sponsor from appearing as a party-in-interest in any matter to be adjudicated in the CCAA Proceedings or the Chapter 15 Cases, so long as, from the Effective Date until the occurrence of the applicable SA Termination Date, such appearance and the positions advocated in connection therewith are not inconsistent with this Agreement or the Transaction Agreement and are not for the purpose of hindering, delaying, or preventing the consummation of the Transaction; (ii) prevent the Sponsor from enforcing this Agreement or the Transaction Agreement or contesting whether any matter, fact, or thing is a breach of, or is inconsistent with, this Agreement or the Transaction Agreement; (iii) affect, modify, or change in any way any right of the Sponsor under the DIP Term Sheet and any related documents; (iv) except as otherwise expressly provided in this Agreement or the Transaction Agreement, be construed to limit the Sponsor's rights under any applicable credit agreement, including the DIP Term Sheet, other loan document, instrument, and/or applicable law; (v) affect the rights of the Sponsor to consult with the Just Energy Entities, Shell, the Supporting Secured CF Lenders, the Credit Facility Agent, or any other creditor or stakeholder of the Just Energy Entities or any other party in interest in the CCAA Proceedings or the Chapter 15 Cases; *provided* that without the written consent (which may be delivered via email) of the Just Energy Entities, the Sponsor shall not consult with any party whom the Just Energy Entities have informed the Sponsor has made an Alternative Restructuring Proposal; (vi) impair or waive the rights of the Sponsor to assert or raise any objection permitted under this Agreement or the Transaction Agreement in connection with any hearing contemplated by this Agreement, the Transaction Agreement or the SISP or in the CCAA



Court or the US Bankruptcy Court or prevent the Sponsor from enforcing this Agreement or the Transaction Agreement against the Just Energy Entities, Shell, the Supporting Secured CF Lenders, or the Credit Facility Agent; (vii) based on advice of counsel (which may be in-house counsel), prevent the Sponsor from taking any action that is required by applicable law (*provided, however*, that if the Sponsor proposes to take any action that is otherwise inconsistent with this Agreement or the Transaction Agreement in order to comply with applicable law, the Sponsor shall provide advance notice to the extent permissible under applicable law to the other Parties at that time to the extent the provision of notice is practicable under the circumstances); *provided further* that as of the date hereof, the Sponsor represents and warrants to each other Party that the Sponsor is unaware of any such action; (viii) based on advice of counsel (which may be in-house counsel), require the Sponsor to take any action that is prohibited by applicable law or to waive or forego the benefit of any applicable legal privilege (*provided, however*, that if the Sponsor proposes to take any action that is otherwise inconsistent with this Agreement or the Transaction Agreement in order to comply with applicable law, the Sponsor shall provide advance notice to the extent permissible under applicable law to the other Parties at that time to the extent the provision of notice is practicable under the circumstances); *provided further* that, as of the date hereof, the Sponsor represents and warrants to each other Party that the Sponsor is unaware of any such matter; or (ix) except as otherwise provided in, or envisioned by, this Agreement as of the Effective Date, require the Sponsor to incur any expenses, liabilities, or other obligations, or to agree to any commitments, undertakings, concessions, indemnities, or other arrangements that could result in expenses, liabilities, or other obligations.

6. **Commitments of the Company.** Subject to the terms and conditions hereof and to carrying out the SISP in accordance with the SISP Order, and except as the Sponsor may expressly release the Just Energy Entities in writing (which writing may be via email) from any of the following obligations (which release may be withheld, conditioned, or delayed by the Sponsor in its sole discretion) (each such release, a “**Section 6 Waiver**”):

(a) each of the Just Energy Entities: (i) agrees to (x) support and use commercially reasonable efforts to complete the Transaction as set forth in this Agreement, (y) negotiate in good faith and execute and deliver the Definitive Documents and take any and all steps reasonably necessary and appropriate in furtherance of the Transaction and this Agreement, and (z) take commercially reasonable efforts to complete the Transaction in accordance with each Milestone set forth in Section 4; and (ii) shall not (x) file any motion, pleading, or Definitive Documents with the CCAA Court, the US Bankruptcy Court, or any other court (including any modifications or amendments thereof) that, in whole or in part, are inconsistent with this Agreement (including the consent rights of the other Parties set forth herein as to the form and substance of such motion, pleading, or Definitive Document), or (y) undertake any action that is inconsistent with, or is intended to frustrate or impede approval, implementation, and/or consummation of the Transaction described in this Agreement or the Stalking Horse Term Sheet;

(b) each of the Just Energy Entities agrees to use commercially reasonable efforts to cure, vacate, reverse, set aside, or have overruled any ruling or order of the CCAA Court, the US Bankruptcy Court, any regulatory authority, or any other court of competent jurisdiction (including any appellate court) enjoining or rendering impossible the consummation of the Transaction;

(c) each of the Just Energy Entities agrees to provide prompt written notice to the other Parties between the date hereof and the SA Termination Date of: (i) the occurrence, or failure to occur, of any event of which the occurrence or failure to occur would be reasonably likely to cause (x) any representation or warranty of the Just Energy Entities contained in this Agreement to be untrue or inaccurate in any material respect, (y) any covenant of the Just Energy Entities contained in this Agreement not to be satisfied in any material respect, or (z) any condition precedent contained in this Agreement or a Definitive Document not to occur or become impossible to satisfy; (ii) receipt of any written notice from any third party alleging that the consent of such party is or may be required as a condition precedent to consummation of the transactions contemplated by the Transaction; (iii) receipt of any written notice from any governmental body that is material to the consummation of the transactions contemplated by the Transaction; and (iv) to the extent involving the Company, any material governmental or third party complaints, litigations, investigations, or hearings (or communications indicating that the same is contemplated or threatened);

(d) the Just Energy Entities agree to take commercially reasonable efforts to ensure that all consents and approvals necessary for the implementation of the Transaction (including, without limitation, regulatory, court, and other approvals) shall have been obtained to the satisfaction of the Sponsor, the Credit Facility Agent, and the Just Energy Entities, and that all necessary filings and notifications and similar actions shall have been taken to the satisfaction of the Sponsor, the Credit Facility Agent, and the Just Energy Entities prior to Closing; *provided* that in no event would a Just Energy Entity be required to dispose of any assets or agree to any behavioral remedies in connection with obtaining Regulatory Approvals, unless agreed to by the Sponsor, the Requisite Supporting Secured CF Lenders, Shell, and the Company; *provided further* that in connection with obtaining the Regulatory Approvals, no Just Energy Entity shall agree to any of the foregoing items without the prior written consent of the Sponsor;

(e) Just Energy agrees to apply for and obtain orders from the applicable Canadian Securities Regulatory Authorities which provide that, at Closing, Just Energy Entities will have ceased to be a reporting issuer (or equivalent) under any Canadian securities laws, and that no Just Energy Entity will become a reporting issuer (or equivalent) under any Canadian securities laws as a result of the completion of the Transaction;

(f) the Just Energy Entities shall pay the reasonable and documented fees and expenses of the Supporting Creditors (as defined below) incurred in connection with the Transaction, the CCAA Proceedings and the Chapter 15 Cases, including, without limitation, the reasonable and documented fees and expenses of such parties' legal, financial, and other advisors, as and when they come due after receipt of applicable invoices and in accordance with the arrangements in place as of the date of this Agreement, including, without limitation, as set forth in the DIP Term Sheet, or, with respect to any additional fees and expenses, as otherwise agreed to by the Sponsor;

(g) the Just Energy Entities shall: (i) operate the business of the Just Energy Entities in the ordinary course in a manner that is consistent with this Agreement and use commercially reasonable efforts to preserve intact the Just Energy Entities' business organization and relationships with third parties and, subject to (ii) below, its employees (which shall not prohibit the Just Energy Entities from taking actions outside of the ordinary course of business to

the extent approved by the CCAA Court and the US Bankruptcy Court, as applicable and with the consent of the Sponsor); (ii) not have disclaimed or terminated any employment or consulting agreement with an officer, director, or member of senior management, other than “for cause,” without the written consent of the Sponsor; (iii) keep the Sponsor, the Supporting Secured CF Lenders, and the Credit Facility Agent informed about the operations of the Just Energy Entities; and (iv) provide each of the other Parties any material information reasonably requested regarding the Just Energy Entities (on a confidential basis) and provide, and direct the Just Energy Entities’ employees, officers, advisors, and other representatives to provide, to the Sponsor’ legal, financial, and other advisors, (x) reasonable access during normal business hours to the Just Energy Entities’ books, records, and facilities (on a confidential basis), and (y) reasonable access to the management and advisors of the Just Energy Entities for the purposes of evaluating the Just Energy Entities’ assets, liabilities, operations, businesses, finances, strategies, prospects, and affairs;

(h) the Just Energy Entities agree (i) to prepare or cause to be prepared the applicable Definitive Documents within the Just Energy Entities’ control (including all relevant motions, applications, orders, and agreements), (ii) to provide draft copies of all documents, including the Definitive Documents within the Just Energy Entities’ control, that the Just Energy Entities intend to file with the CCAA Court or the US Bankruptcy Court, in each case, to counsel to the Sponsor and Credit Facility Agent at least three (3) days before such documents are to be filed with the CCAA Court and/or the US Bankruptcy Court or as soon as practicable thereafter; *provided* that each such pleading or document shall be acceptable to the Sponsor and the Credit Facility Agent, each acting reasonably, and consistent with, and shall otherwise contain, the terms and conditions set forth in this Agreement (including the consent rights of any Party, as may be applicable, set forth herein as to the form and substance of such pleading or document), and (iii) without limiting any approval rights set forth herein, consult in good faith with the advisors to the Sponsor and Credit Facility Agent regarding the form and substance and timing of service and filing of any of the foregoing documents in advance of the filing, execution, distribution, or use (as applicable) thereof;

(i) the Just Energy Entities agree to file timely a formal objection to any motion filed with the CCAA Court or the US Bankruptcy Court, as applicable, seeking an order that would undermine the Transaction or any relief sought in connection therewith;

(j) the Just Energy Entities agree to file timely a formal objection to any motion filed with the CCAA Court or the US Bankruptcy Court, as applicable, by any Person seeking the entry of an order: (i) lifting the stay of proceedings in the CCAA Proceedings or the Chapter 15 Cases; (ii) terminating the CCAA Proceedings or converting the CCAA Proceedings to proceedings under the Bankruptcy and Insolvency Act (Canada); (iii) directing the appointment of an examiner or a trustee; (iv) converting any of the Chapter 15 Cases to a case under chapter 7 of the Bankruptcy Code; or (v) dismissing any of the Chapter 15 Cases;

(k) the Just Energy Entities agree to act in good faith and take (and cause its agents, representatives, and employees to take) all actions that are reasonably necessary or appropriate, and all actions required by the CCAA Court and/or the US Bankruptcy Court, to support and achieve the consummation of the Transaction and implementation steps provided for or contemplated in the Transaction; and

(l) the Just Energy Entities agree not object to, delay, impede, or take any other action to interfere with consummation, or implementation of, the Transaction contemplated by this Agreement.

7. **Commitments of the Supporting Secured CF Lenders.** Subject to the terms and conditions hereof and to carrying out the SISP in accordance with the SISP Order, each Supporting Secured CF Lender and the Credit Facility Agent shall (severally, and not jointly and severally), solely as it remains the legal owner of Credit Facility Claims and Credit Facility LC Claims, from the Secured CF Effective Date until the occurrence of the SA Termination Date (as defined below):

(a) support the Transaction and exercise any powers or rights available to it (including in any board, shareholders', or creditors' meeting or in any process requiring voting or approval to which they are legally entitled to participate) in each case in favor of any matter requiring approval to the extent necessary to implement the Transaction; *provided, however*, the foregoing shall not require the Supporting Secured CF Lenders or the Credit Facility Agent to take or refrain from taking any action that would materially change or impair (i) the terms of the Transaction or (ii) their rights under this Agreement;

(b) act in good faith and take (and cause its agents, representatives, and employees to take) all actions that are reasonably necessary or appropriate, and all actions required by the CCAA Court and/or the US Bankruptcy Court, to support and achieve the consummation of the Transaction and implementation steps provided for or contemplated in the Transaction;

(c) not object to, delay, impede, or take any other action to interfere with consummation, or implementation of, the Transaction contemplated by this Agreement;

(d) not directly or indirectly take any action that would interfere with, delay, impede, or postpone the transactions contemplated by this Agreement;

(e) not file any motion, pleading, or other document with the US Bankruptcy Court, the CCAA Court, or any other court (including any modifications or amendments thereof) that, in whole or in part, is not materially consistent with the Transaction;

(f) not initiate, or have initiated on its behalf, any litigation or proceeding of any kind with respect to the CCAA Proceedings, the Chapter 15 Cases, this Agreement, or the Transaction contemplated herein against the Just Energy Entities or the other Parties hereto other than to enforce this Agreement, that certain accommodation and support agreement dated March 18, 2021 between the Just Energy Entities, the Credit Facility Agent, and the Supporting Secured CF Lenders (the "**Accommodation Agreement**"), or any Definitive Document or as otherwise permitted under this Agreement;

(g) not exercise, or direct any other person to exercise, any right or remedy for the enforcement, collection, or recovery of any Claims or interests in the Just Energy Entities, other than in accordance with the Accommodation Agreement or in a manner consistent with this Agreement;

(h) not object to, delay, impede, or take any other action to interfere with the Just Energy Entities' ownership and possession of their assets, wherever located, or interfere with the stay imposed by the CCAA Court and the US Bankruptcy Court, other than in accordance with the Accommodation Agreement or this Agreement;

(i) participate in the New Credit Facility (subject to the terms and conditions of the New Credit Agreement) and enter into the New Intercreditor Agreement on substantially similar terms as the Intercreditor Agreement but subject to the changes set forth in **Exhibit 4** to the Stalking Horse Term Sheet, in each case subject to the implementation of the transactions contemplated in, and Closing occurring in accordance with, the Transaction Agreement; and

(j) between the date hereof and the SA Termination Date, provide prompt written notice to the other Parties, to the extent known by such Supporting Secured CF Lender or Credit Facility Agent, as the case may be, of: (i) the occurrence, or failure to occur, of any event of which the occurrence or failure to occur would be reasonably likely to cause (A) any representation or warranty of the Supporting Secured CF Lender or Credit Facility Agent (as the case may be) contained in this Agreement to be untrue or inaccurate in any material respect, (B) any covenant of the Supporting Secured CF Lender or Credit Facility Agent (as the case may be) contained in this Agreement not to be satisfied in any material respect, or (C) any condition precedent contained in this Agreement not to occur or become impossible to satisfy; or (ii) the receipt of written notice from any third party alleging that the consent of such party is or may be required as a condition precedent to consummation of the transactions contemplated by the Transaction.

Notwithstanding the foregoing, nothing in this Agreement shall: (i) be construed to prohibit any Supporting Secured CF Lender or the Credit Facility Agent from appearing as a party-in-interest in any matter to be adjudicated in the CCAA Proceedings or the Chapter 15 Cases, so long as until the occurrence of the SA Termination Date applicable to such Supporting Creditor (as defined below), such appearance and the positions advocated in connection therewith are (A) consistent with the SISP or (B) not inconsistent with this Agreement or the Transaction Agreement and not for the purpose of hindering, delaying, or preventing the consummation of the Transaction; (ii) prevent any Supporting Secured CF Lender or the Credit Facility Agent from enforcing this Agreement or the Transaction Agreement or contesting whether any matter, fact, or thing is a breach of, or is inconsistent with, this Agreement or the Transaction Agreement; (iii) direct, modify, or change in any way any right of the Supporting Secured CF Lenders and Credit Facility Agent under the Accommodation Agreement and any related documents; (iv) except as otherwise expressly provided in this Agreement or the Transaction Agreement, be construed to limit the rights of any Supporting Secured CF Lender or the Credit Facility Agent under any applicable credit agreement, other loan document, instrument, and/or applicable law; (v) affect the rights of any Supporting Secured CF Lender or the Credit Facility Agent to consult with the other Supporting Secured CF Lenders, the Just Energy Entities, the Sponsor, Shell, or any other creditor or stakeholder of the Just Energy Entities or any other party in interest in the CCAA Proceedings, the Chapter 15 Cases or the SISP; *provided*, that without the written consent (which may be delivered via email) of the Just Energy Entities, the Supporting Secured CF Lenders shall not consult with any party whom the Just Energy Entities have informed the Supporting Secured CF Lenders has made an Alternative Restructuring Proposal; (vi) impair or waive the rights of any Supporting Secured CF Lender or the Credit Facility Agent to assert or raise any objection

permitted under this Agreement or the Transaction Agreement in connection with any hearing contemplated by this Agreement, the Transaction Agreement or the SISP or in the CCAA Court or the US Bankruptcy Court or prevent such Supporting Secured CF Lender or the Credit Facility Agent from enforcing this Agreement or the Transaction Agreement against the other Parties; (vii) based on advice of counsel (which may be in-house counsel), prevent any Supporting Secured CF Lender or the Credit Facility Agent from taking any action that is required by applicable law (*provided, however*, that if any Supporting Secured CF Lender or the Credit Facility Agent proposes to take any action that is otherwise inconsistent with this Agreement or the Transaction Agreement in order to comply with applicable law, such Supporting Secured CF Lender or the Credit Facility Agent shall provide advance notice to the extent permissible under applicable law to the other Parties to the extent the provision of notice is practicable under the circumstances; *provided further* that, as of the date hereof, each Supporting Secured CF Lender represents and warrants to each other Party that it is unaware of any such action); (viii) based on advice of counsel (which may be in-house counsel), require any Supporting Secured CF Lender or the Credit Facility Agent to take any action that is prohibited by applicable law or to waive or forego the benefit of any applicable legal privilege (*provided, however*, that if any Supporting Secured CF Lender or the Credit Facility Agent proposes to take any action that is otherwise inconsistent with this Agreement in order to comply with applicable law, such Supporting Secured CF Lender or the Credit Facility Agent, as the case may be, shall provide advance notice to the extent permissible under applicable law to the other Parties to the extent the provision of notice is practicable under the circumstances; *provided further* that, as of the date hereof, such Supporting Secured CF Lender represents and warrants to each other Party that it is unaware of any such matter); or (ix) except as otherwise provided in, or envisioned by, this Agreement as of the Secured CF Effective Date, require any Supporting Secured CF Lender or the Credit Facility Agent to incur any expenses, liabilities, or other obligations, or to agree to any commitments, undertakings, concessions, indemnities, or other arrangements that could result in expenses, liabilities, or other obligations (other than customary expenses that may be incurred in connection with the New Credit Facility).

8. **Commitments of Shell.** Subject to the terms and conditions hereof, Shell shall, from the Shell Effective Date until the occurrence of the SA Termination Date (as defined below):

(a) support the Transaction and exercise any powers or rights available to it (including in any board, shareholders', or creditors' meeting or in any process requiring voting or approval to which they are legally entitled to participate) in each case in favor of any matter requiring approval to the extent necessary to implement the Transaction; *provided, however*, the foregoing shall not require Shell to take or refrain from taking any action that would materially change or impair (i) the terms of the Transaction or (ii) its rights under this Agreement;

(b) act in good faith and take (and cause its agents, representatives, and employees to take) all actions that are reasonably necessary or appropriate, and all actions required by the CCAA Court and/or the US Bankruptcy Court, to support and achieve the consummation of the Transaction and implementation steps provided for or contemplated in the Transaction;

(c) not object to, delay, impede, or take any other action to interfere with consummation, or implementation of, the transactions contemplated by this Agreement;

(d) not directly or indirectly take any action that would interfere with, delay, impede, or postpone the Transaction contemplated by this Agreement;

(e) not file any motion, pleading, or other document with the US Bankruptcy Court, the CCAA Court, or any other court (including any modifications or amendments thereof) that, in whole or in part, is not materially consistent with the Transaction;

(f) not initiate, or have initiated on its behalf, any litigation or proceeding of any kind with respect to the CCAA Proceedings, the Chapter 15 Cases, this Agreement, or the Transaction contemplated herein against the Just Energy Entities or the other Parties hereto other than to enforce this Agreement, the Support Agreement dated March 9, 2021 among Shell Energy North America (US), L.P., Shell Energy North America (Canada) Inc., Just Energy Ontario L.P., Just Energy (U.S.) Corp., Just Energy New York Corp., Just Energy Alberta L.P., Fulcrum Retail Holdings LLC, Just Energy Texas LP, Just Energy Solutions Inc., Just Energy Illinois Corp., Just Energy Corp. and Just Green L.P. (the “**Shell Commodity Support Agreement**”), or any Definitive Document or as otherwise permitted under this Agreement;

(g) not exercise, or direct any other person to exercise, any right or remedy for the enforcement, collection, or recovery of any Claims or interests in the Just Energy Entities, other than in accordance with the Shell Commodity Support Agreement or this Agreement;

(h) not object to, delay, impede, or take any other action to interfere with the Just Energy Entities’ ownership and possession of their assets, wherever located, or interfere with the stay imposed by the CCAA Court and the US Bankruptcy Court, other than in accordance with this Agreement;

(i) between the date hereof and the SA Termination Date, provide prompt written notice to the other Parties, to the extent known by Shell, of: (i) the occurrence, or failure to occur, of any event of which the occurrence or failure to occur would be reasonably likely to cause (A) any representation or warranty of Shell contained in this Agreement to be untrue or inaccurate in any material respect, (B) any covenant of Shell contained in this Agreement not to be satisfied in any material respect, or (C) any condition precedent contained in this Agreement not to occur or become impossible to satisfy; or (ii) the receipt of written notice from any third party alleging that the consent of such party is or may be required as a condition precedent to consummation of the transactions contemplated by the Transaction; and

(j) effective as of Closing under the Transaction Agreement: (i) to continue to provide commodity supply in accordance with the existing Shell agreements, as may be amended, restated, supplemented and/or replaced by agreement between Shell and the applicable Just Energy Entity to the appropriate Just Energy Entities or additional Just Energy Entities; and (ii) to enter into the New Intercreditor Agreement on substantially similar terms as the Intercreditor Agreement but subject to the changes set forth in **Exhibit E** hereto; *provided* that notwithstanding the foregoing, nothing herein shall obligate Shell to continue providing services under the Third Amended and Restated Scheduling Coordinator Agreement dated December 1, 2014 between Shell Energy North America (US), L.P., Just Energy New York Corp., Just Energy (U.S.) Corp. and Just Energy Solutions Inc. (formerly Commerce Energy, Inc.) or any other agreement whereby Shell performs ISO or scheduling services on behalf of any Just Energy Entity whereby a Just

Energy Entity has reimbursement obligations to Shell for payments made by Shell on behalf of a Just Energy Entity to an ISO.

Notwithstanding the foregoing, nothing in this Agreement shall: (i) be construed to prohibit Shell from appearing as a party-in-interest in any matter to be adjudicated in the CCAA Proceedings or the Chapter 15 Cases, so long as, from the Shell Effective Date until the occurrence of the applicable SA Termination Date, such appearance and the positions advocated in connection therewith are not inconsistent with this Agreement or the Transaction Agreement and are not for the purpose of hindering, delaying, or preventing the consummation of the Transaction; (ii) prevent Shell from enforcing this Agreement or the Transaction Agreement or contesting whether any matter, fact, or thing is a breach of, or is inconsistent with, this Agreement or the Transaction Agreement; (iii) direct, modify, or change in any way any right of Shell under the Shell Commodity Support Agreement; (iv) except as otherwise expressly provided in this Agreement or the Transaction Agreement, be construed to limit Shell's rights under any applicable credit agreement, other loan document, instrument, other commercial agreement with a Just Energy Entity, and/or applicable law; (v) affect the rights of Shell to consult with the Just Energy Entities, the Sponsor, the Supporting Secured CF Lenders, the Credit Facility Agent, or any other creditor or stakeholder of the Just Energy Entities or any other party in interest in the CCAA Proceedings, the Chapter 15 Cases or the SISP; *provided* that without the written consent (which may be delivered via email) of the Just Energy Entities, Shell shall not consult with any party whom the Just Energy Entities have informed Shell has made an Alternative Restructuring Proposal; (vi) impair or waive the rights of Shell to assert or raise any objection permitted under this Agreement or the Transaction Agreement in connection with any hearing contemplated under this Agreement or the Transaction Agreement or in the CCAA Court or the US Bankruptcy Court or prevent Shell from enforcing this Agreement or the Transaction Agreement against the other Parties; (vii) based on advice of counsel (which may be in-house counsel), prevent Shell from taking any action that is required by applicable law (*provided, however*, that if Shell proposes to take any action that is otherwise inconsistent with this Agreement or the Transaction Agreement in order to comply with applicable law, Shell shall provide advance notice to the extent permissible under applicable law to the other Parties to the extent the provision of notice is practicable under the circumstances); *provided, however*, that, as of the date hereof, Shell represents and warrants to each other Party that Shell is unaware of any such action; (viii) based on advice of counsel (which may be in-house counsel), require Shell to take any action that is prohibited by applicable law or to waive or forego the benefit of any applicable legal privilege (*provided, however*, that if Shell proposes to take any action that is otherwise inconsistent with this Agreement or the Transaction Agreement in order to comply with applicable law, Shell shall provide advance notice to the extent permissible under applicable law to the other Parties to the extent the provision of notice is practicable under the circumstances); *provided further* that, as of the date hereof, Shell represents and warrants to each other Party that Shell is unaware of any such matter; or (ix) except as otherwise provided in, or envisioned by, this Agreement as of the Shell Effective Date, require Shell to incur any expenses, liabilities, or other obligations, or to agree to any commitments, undertakings, concessions, indemnities, or other arrangements that could result in expenses, liabilities, or other obligations (other than customary expenses that may be incurred in connection with the New Intercreditor Agreement).

9. **Additional Provisions Regarding the Just Energy Entities.** The Just Energy Entities shall provide on a confidential basis to the legal counsel and financial advisors of the Sponsor and the Supporting Secured CF Lenders (A) copies (or if not provided to the Just



Energy Entities in writing, a detailed description) of any Alternative Restructuring Proposal no later than one (1) calendar day following receipt thereof by the Just Energy Entities or their advisors and (B) such other information as reasonably requested by the Sponsor's or the Supporting Secured CF Lenders' legal counsel and financial advisors or as necessary to keep the Sponsor and the Supporting Secured CF Lenders informed no later than one (1) calendar day after any such request or any material change to the proposed terms of any Alternative Restructuring Proposal as to the terms of any Alternative Restructuring Proposal (including any changes to the proposed terms thereof) and the status and substance of discussions related thereto.

10. **Termination.**

(a) **Sponsor Termination Events.** The Sponsor shall have the right, but not the obligation, to terminate this Agreement with respect to the Sponsor upon delivery of written notice to the other Parties at any time after the occurrence of or during the continuation of any of the following events, unless waived in writing on a prospective or retroactive basis by the Sponsor:

(i) the failure to meet any of the Milestones in Section 4 (as they may be extended in accordance with Section 4) unless such failure is the result of any act, omission, or delay on the part of the Sponsor;

(ii) upon the termination of the Transaction Agreement for any reason in accordance with its terms;

(iii) if the CCAA Proceedings are dismissed, terminated, stayed, modified, or converted to a proceeding under the Bankruptcy and Insolvency Act (Canada) or Winding-Up and Restructuring Act (Canada);

(iv) if the US Bankruptcy Court enters an order (a) dismissing any of the Chapter 15 Cases, (b) converting any of the Chapter 15 Cases to a case under chapter 7 of the Bankruptcy Code, or (c) appointing a trustee or an examiner with expanded powers pursuant to Bankruptcy Code section 1104 in any of the Chapter 15 Cases;

(v) if the Just Energy Entities file any motion or any request for relief seeking to (a) dismiss any of the Chapter 15 Cases, (b) convert any of the Chapter 15 Cases to a case under chapter 7 of the Bankruptcy Code, or (c) appoint a trustee or examiner with expanded powers pursuant to Bankruptcy Code section 1104 in any of the Chapter 15 Cases;

(vi) upon the Just Energy Entities' withdrawal, waiver, amendment, or modification of, or the filing of (or announced intention to file) a pleading seeking to withdraw, waive, amend, or modify any of the Definitive Documents, including motions, notices, exhibits, appendices, and orders, that is both not consistent in all material respects with this Agreement and not done with the consent of the Sponsor;

(vii) any condition precedent contained in this Agreement or any of the Definitive Documents becomes incapable of being satisfied;

(viii) at any time if any of the closing conditions set out in the Transaction Agreement is not capable of being satisfied prior to the Outside Date;

(ix) the issuance by any governmental authority, including the CCAA Court or the US Bankruptcy Court, any regulatory authority, or any other court of competent jurisdiction, of any ruling or order the effect of which would be materially inconsistent with the purpose or intention of this Agreement, the Transaction, or enjoining or otherwise impeding the consummation of the Transaction on the terms and conditions set forth in this Agreement or the Transaction Agreement; *provided, however*, that the Sponsor shall not have the right to terminate under this clause if the Just Energy Entities are using commercially reasonable efforts to cure, vacate, reserve, set aside, or have overruled as quickly as possible such ruling or order to obtain relief that would allow consummation of the Transaction in a manner that (x) does not prevent or diminish in a material way compliance with the terms of this Agreement and (y) is acceptable to the Sponsor;

(x) either (a) the Just Energy Entities request or (b) the CCAA Court approves any amendments or modifications to the SISP Order that are not acceptable to the Sponsor, acting reasonably;

(xi) any of the key milestone dates set out in Section 6 of the SISP (prior to any extension thereof in accordance with the terms of the SISP) are not met, unless such extension is consented to by the Sponsor;

(xii) Just Energy or the Monitor waives or seeks authority to waive any of the requirements under the SISP that Just Energy is not permitted to waive in accordance with the terms thereof;

(xiii) a material breach by any Just Energy Entity of any representation, warranty, or covenant of such Just Energy Entity set forth in this Agreement that (to the extent curable) remains uncured for a period of ten (10) days after the receipt by the Just Energy Entities of written notice detailing such breach;

(xiv) the Just Energy Entities file, propose, or otherwise support any restructuring, sale, or liquidation transaction other than as contemplated by this Agreement, the Transaction Agreement, or in accordance with the SISP Order, or with the consent of the Sponsor;

(xv) an order is entered by the CCAA Court or the US Bankruptcy Court authorizing any party to proceed against any material asset of any of the Just Energy Entities or any assets that would materially and adversely affect the Just Energy Entities' ability to operate their business in the ordinary course or ability to implement the transactions contemplated in this Agreement or the Transaction Agreement;

(xvi) a failure by the Just Energy Entities to pay the fees and expenses of the Sponsor, including but not limited to the Sponsor's legal, financial, and any other advisors, as and when due pursuant to the terms of any applicable engagement letters and any applicable orders of the CCAA Court or the US Bankruptcy Court;

(xvii) the entry of an order by any court of competent jurisdiction granting the relief sought in an involuntary proceeding against any entity constituting the Just Energy Entities seeking bankruptcy, winding up, dissolution, liquidation, administration, moratorium, reorganization, or other relief in respect of any entity comprising the Just Energy Entities or the

Just Energy Entities' debts, or of a substantial part of the Just Energy Entities' assets, under any federal, state, or foreign bankruptcy, insolvency, administrative, receivership, or similar law now or hereafter in effect (provided that such involuntary proceeding is not dismissed within a period of thirty (30) days after the filing thereof);

(xviii) if any of the Just Energy Entities (a) consents to the institution of, or fails to contest in a timely and appropriate manner, any involuntary proceeding or petition described above, (b) applies for or consents to the appointment of a receiver, administrator, administrative receiver, trustee, custodian, sequestrator, conservator, or similar official for the Just Energy Entities or for a substantial part of the Just Energy Entities' assets, (c) files an answer admitting the material allegations of a petition filed against it in any such proceeding, (d) makes a general assignment or arrangement for the benefit of creditors, or (e) takes any corporate action for the purpose of authorizing any of the foregoing;

(xix) the Just Energy Entities' failure to obtain the Vesting Recognition Order (x) by September 30, 2022, if the SISP has been terminated and the Transaction Agreement has become the Successful Bid because a suitable NOI was not received before the NOI Deadline;

(xx) the occurrence of an Event of Default under Sections 25(a), 25(b)(ii) (provided that the failure to deliver any Cash Flow Statement by the date set out in Section 18 of the DIP Term Sheet continues for three (3) business days), 25(b)(iii) (solely with respect to Section 35 of the DIP Term Sheet), 25(e) (solely with respect to: (y) the affirmative covenants in clauses (1) and/or (21) on Schedule H of the DIP Term Sheet (and in the case of covenant (21) excluding any Material Contract or Material License terminated (A) with the prior written consent of (I) the Monitor and the Sponsor or (II) the CCAA Court or (B) solely as a result of entering into this Agreement or the Transaction Agreement); and/or (z) the negative covenants in Schedule I of the DIP Term Sheet), 25(f), 25(j), 25(k), 25(l), 25(m), and/or 25(p) of the DIP Term Sheet, in each case that has not been cured (if susceptible to cure) or waived by the applicable percentage of the lenders thereunder in accordance with the terms of the DIP Term Sheet, and the obligations under the DIP Term Sheet have been accelerated;

(xxi) upon (a) a filing by any of the Just Energy Entities of any motion, objection, application, or adversary proceeding challenging the validity, enforceability, perfection or priority of, or seeking avoidance, subordination, or characterization of, any portion of the Sponsor's or any of its affiliates' claims against any of the Just Energy Entities, and/or the liens securing any such claims or asserting any other claim or cause of action against and/or with respect to any such claims, liens, the Sponsor, or the agent under any of the relevant facilities (or if any Just Energy Entity files a pleading supporting any such motion, application, or adversary proceeding commenced by any third party) or (b) the entry of an order by the CCAA Court or the US Bankruptcy Court (other than with respect to any action commenced by the Just Energy Entities against ERCOT) providing relief adverse to the interests of the Sponsor or any of its affiliates or the agent under any relevant facilities with respect to any of the foregoing claims, causes of action, or proceedings, but excluding preliminary or final relief granting standing to any other party to prosecute such claims, causes of action, or proceeding;

(xxii) subject to the terms of the SISP, the Sponsor is not the successful bidder under the SISP; or

(xxiii) any other Party terminates its obligations under this Agreement.

(b) Company Termination Events. The Just Energy Entities may terminate this Agreement, in each case, upon delivery of written notice to the other Parties upon the occurrence of any of the following events:

(i) a material breach by the Sponsor of any representation, warranty, or covenant set forth in this Agreement that (to the extent curable) remains uncured for a period of ten (10) days after the receipt by the Sponsor of written notice detailing such breach;

(ii) upon the termination of the Transaction Agreement for any reason in accordance with its terms;

(iii) the failure to meet any of the Milestones in Section 4 unless (x) such failure is the result of any act, omission, or delay on the part of the Just Energy Entities or (y) such Milestone is extended in accordance with Section 4;

(iv) the board of directors, board of managers, or such similar governing body of any Just Energy Entity determines, upon the advice of outside legal counsel and financial advisors, that proceeding with the Transaction would be inconsistent with the exercise of its fiduciary duties or applicable law; *provided* that the Just Energy Entities shall not have the right to terminate this Agreement under this Section 10(b)(iv) if either (x) no Qualified Bids, other than the Stalking Horse Transaction, are received by the Qualified Bid Deadline (as such terms are defined in the SISP) or (y) the Stalking Horse Transaction is declared the Successful Bid (as such terms are defined in the SISP);

(v) subject to the terms of the SISP, the Sponsor is not the successful bidder under the SISP;

(vi) (A) any condition precedent contained in this Agreement or any of the Definitive Documents that cannot be waived becomes incapable of being satisfied, and (B)(x) any condition precedent contained in this Agreement or any of the Definitive Documents that can be waived by a party other than the Company becomes incapable of being satisfied and (y) the Company has requested a waiver of such condition precedent and such waiver has been denied;

(vii) the issuance by any governmental authority, including the CCAA Court or the US Bankruptcy Court, any regulatory authority, or any other court of competent jurisdiction, of any final ruling or Final Order enjoining or otherwise impeding the consummation of the Transaction on the terms and conditions set forth in this Agreement or the Transaction Agreement; *provided, however*, that the Just Energy Entities have made commercially reasonable efforts to cure, vacate, reserve, set aside, or have overruled as quickly as possible such final ruling or Final Order prior to terminating this Agreement; or

(viii) any other Party terminates its obligations under this Agreement and such termination either (A) renders the Transaction incapable of consummation or (B) materially changes the overall economic terms of the Transaction in a manner that is adverse to the Just Energy Entities (which would include Shell failing to confirm, in writing, to the Just Energy Entities and the Sponsor that (x) it will not exercise any termination rights under Continuing

Contracts solely as a result of the Transaction and (y) all existing and future trades will be provided for under the Continuing Contracts (as may be amended, restated, supplemented, and/or replaced by the Just Energy Entities other than Just Energy and Shell from time to time following Closing) or new arrangements, in each case, in accordance with the terms thereof and subject to the terms of the New Intercreditor Agreement, or the New Credit Agreement not being entered into).

(c) Supporting Secured CF Lender Termination Events. The Requisite Supporting Secured CF Lenders<sup>1</sup> shall have the right, but not the obligation, to terminate this Agreement upon delivery of written notice to the other Parties at any time after the occurrence of or during the continuation of any of the following events, unless waived in writing on a prospective or retroactive basis by the applicable Requisite Supporting Secured CF Lenders (*provided, however*, that any such termination shall only be with respect to the applicable Supporting Secured CF Lenders and the Credit Facility Agent, and this Agreement shall remain in full force and effect as to the other Parties hereto at such time, and the term “**Parties**” shall thereafter exclude the applicable Supporting Secured CF Lenders and the Credit Facility Agent):

(i) upon the termination of the Transaction Agreement for any reason in accordance with its terms;

(ii) in the event that a Qualified Bid (other than the Transaction Agreement) is received by Just Energy before the Qualified Bid Deadline; *provided* that the termination right pursuant to this clause is subject to any further agreement (or waiver) between the Supporting Secured CF Lenders and the Sponsor made at or prior to any Auction;

(iii) either (a) the Just Energy Entities request or (b) the CCAA Court approves any amendments or modifications to the SISP Order that are not acceptable to the Requisite Supporting Secured CF Lenders, acting reasonably;

(iv) any of the key milestone dates set out in Section 6 of the SISP (prior to any extension thereof in accordance with the terms of the SISP) are not met, unless such extension is consented to by the Requisite Supporting Secured CF Lenders;

(v) Just Energy or the Monitor waives or seeks authority to waive any of the requirements under the SISP that Just Energy is not permitted to waive in accordance with the terms thereof;

(vi) if the CCAA Proceedings are dismissed, terminated, stayed, modified, or converted to a proceeding under the Bankruptcy and Insolvency Act (Canada) or Winding-Up and Restructuring Act (Canada);

(vii) if the US Bankruptcy Court enters an order (a) dismissing any of the Chapter 15 Cases, (b) converting any of the Chapter 15 Cases to a case under chapter 7 of the

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<sup>1</sup> The holders of in excess of 66 2/3% of the Credit Facility Claims shall be the “**Requisite Supporting Secured CF Lenders.**”

Bankruptcy Code, or (c) appointing a trustee or an examiner with expanded powers pursuant to Bankruptcy Code section 1104 in any of the Chapter 15 Cases;

(viii) the Just Energy Entities file any motion or any request for relief seeking to (a) dismiss any of the Chapter 15 Cases, (b) convert any of the Chapter 15 Cases to a case under chapter 7 of the Bankruptcy Code, or (c) appoint a trustee or examiner with expanded powers pursuant to Bankruptcy Code section 1104 in any of the Chapter 15 Cases;

(ix) upon the Just Energy Entities' withdrawal, waiver, amendment, or modification, or the filing of (or announced intention to file) a pleading seeking to withdraw, waive, amend, or modify any of the Definitive Documents, including motions, notices, exhibits, appendices, and orders, that is both not consistent in all material respects with this Agreement and not done with the consent of the Requisite Supporting Secured CF Lenders;

(x) any condition precedent contained in the Transaction Agreement or New Credit Agreement becomes incapable of being satisfied or any condition precedent contained in the Transaction Agreement is waived without the consent of the Requisite Supporting Secured CF Lenders;

(xi) the issuance by any governmental authority, including the CCAA Court or the US Bankruptcy Court, any regulatory authority, or any other court of competent jurisdiction, of any final ruling or Final Order, the effect of which would be materially inconsistent with the purpose or intention of this Agreement, the Transaction, or enjoining or otherwise impeding the consummation of the Transaction on the terms and conditions set forth in this Agreement or the Transaction Agreement; *provided, however*, that the Supporting Secured CF Lenders shall not have the right to terminate under this clause if the Just Energy Entities are using commercially reasonable efforts to cure, vacate, reserve, set aside, or have overruled as quickly as possible such final ruling or Final Order to obtain relief that would allow consummation of the Transaction in a manner that (x) does not prevent or diminish in a material way compliance with the terms of this Agreement and (y) is acceptable to the Requisite Supporting Secured CF Lenders;

(xii) a material breach by any Just Energy Entity of any representation, warranty, or covenant of such Just Energy Entity set forth in this Agreement that (to the extent curable) remains uncured for a period of ten (10) days after the receipt by the Just Energy Entities of written notice detailing such breach;

(xiii) the Just Energy Entities file, propose, or otherwise support any restructuring, sale, or liquidation transaction other than as contemplated by this Agreement or in accordance with the SISP Order (A) that materially and adversely affects the treatment, rights, or interests of the Supporting Secured CF Lenders as compared to the treatment, rights, or interests of the Supporting Secured CF Lenders hereunder and (B) without the consent of the Requisite Supporting Secured CF Lenders;

(xiv) an order is entered by the CCAA Court or the US Bankruptcy Court authorizing any party to proceed against any material asset of any of the Just Energy Entities or any assets that would materially and adversely affect the Just Energy Entities' ability to operate

their business in the ordinary course or ability to implement the transactions contemplated in this Agreement or the Transaction Agreement, including the Transaction;

(xv) a failure by the Just Energy Entities to pay the fees and expenses of the Supporting Secured CF Lenders and Credit Facility Agent, including but not limited to the legal, financial, and any other advisors of the Supporting Secured CF Lenders and Credit Facility Agent, as and when due pursuant to the terms of any applicable engagement letters and any applicable orders of the CCAA Court or the US Bankruptcy Court;

(xvi) the entry of an order by any court of competent jurisdiction granting the relief sought in an involuntary proceeding against any entity constituting the Just Energy Entities seeking bankruptcy, winding up, dissolution, liquidation, administration, moratorium, reorganization, or other relief in respect of any entity comprising the Just Energy Entities or the Just Energy Entities' debts, or of a substantial part of the Just Energy Entities' assets, under any federal, state, or foreign bankruptcy, insolvency, administrative, receivership, or similar law now or hereafter in effect (provided that such involuntary proceeding is not dismissed within a period of thirty (30) days after the filing thereof);

(xvii) if any of the Just Energy Entities (a) consents to the institution of, or fails to contest in a timely and appropriate manner, any involuntary proceeding or petition described above, (b) applies for or consents to the appointment of a receiver, administrator, administrative receiver, trustee, custodian, sequestrator, conservator, or similar official for the Just Energy Entities or for a substantial part of the Just Energy Entities' assets, (c) files an answer admitting the material allegations of a petition filed against it in any such proceeding, (d) makes a general assignment or arrangement for the benefit of creditors, or (e) takes any corporate action for the purpose of authorizing any of the foregoing;

(xviii) the obligations of the Company under the DIP Term Sheet are accelerated or the commitments under the DIP Term Sheet are terminated;

(xix) upon (a) a filing by any of the Just Energy Entities of any motion, objection, application, or adversary proceeding challenging the validity, enforceability, perfection or priority of, or seeking avoidance, subordination, or characterization of, any portion of the Supporting Secured CF Lenders' or any of their affiliates' claims against any of the Just Energy Entities, and/or the liens securing any such claims or asserting any other claim or cause of action against and/or with respect to any such claims, liens, the Supporting Secured CF Lenders or the Credit Facility Agent (or if any Just Energy Entity files a pleading supporting any such motion, application, or adversary proceeding commenced by any third party), or (b) the entry of an order by the CCAA Court or the US Bankruptcy Court (other than with respect to any action commenced by the Just Energy Entities against ERCOT) providing relief adverse to the interests of the Supporting Secured CF Lenders or the Credit Facility Agent with respect to any of the foregoing claims, causes of action, or proceedings, but excluding preliminary or final relief granting standing to any other party to prosecute such claims, causes of action or proceeding;

(xx) the Sponsor or Shell terminates its obligations under this Agreement;

(xxi) the Just Energy Entities' failure to obtain the Vesting Recognition Order (x) by September 30, 2022, if the SISP has been terminated and the Transaction Agreement has become the Successful Bid because a suitable NOI was not received before the NOI Deadline;

(xxii) if the Closing of the Transaction has not occurred by November 30, 2022 (the "**Initial Secured CF Lenders Outside Date**") *provided* that if the Closing will not occur by the Initial Secured CF Lenders Outside Date solely because the receipt of a Regulatory Approval remains outstanding, then the Initial Secured CF Lenders Outside Date may be automatically extended for another sixty (60) days upon written notice given on or before the Initial Secured CF Lenders Outside Date to the Credit Facility Agent or its counsel that there is a reasonable expectation that the condition will be satisfied by such extended date, which notice may be from either the Company or the Plan Sponsor (or their respective counsel) and given by email; or

(xxiii) a Section 6 Waiver is given by the Sponsor without the consent of the Requisite Supporting Secured CF Lenders, unless such Section 6 Waiver relates exclusively to an obligation of the Just Energy Entities to the Sponsor and such waiver has no direct or indirect materially adverse effect on the Supporting Secured CF Lenders or the Credit Facility Agent.

(d) Shell Termination Events. Shell, in each case, with respect solely to Shell, shall have the right, but not the obligation, to terminate this Agreement upon delivery of written notice to the other Parties at any time after the occurrence of or during the continuation of any of the following events, unless hereafter waived in writing on a prospective or retroactive basis by Shell (*provided, however*, that any such termination shall only be with respect to Shell, this Agreement shall remain in full force and effect as to the other Parties hereto at such time, and the term "**Parties**" shall thereafter exclude Shell):

(i) if the CCAA Proceedings are dismissed, terminated, stayed, modified, or converted to a proceeding under the Bankruptcy and Insolvency Act (Canada) or Winding-Up and Restructuring Act (Canada);

(ii) if the US Bankruptcy Court enters an order (a) dismissing any of the Chapter 15 Cases, (b) converting any of the Chapter 15 Cases to a case under chapter 7 of the Bankruptcy Code, or (c) appointing a trustee or an examiner with expanded powers pursuant to Bankruptcy Code section 1104 in any of the Chapter 15 Cases;

(iii) the Just Energy Entities file any motion or any request for relief seeking to (a) dismiss any of the Chapter 15 Cases, (b) convert any of the Chapter 15 Cases to a case under chapter 7 of the Bankruptcy Code, or (c) appoint a trustee or examiner with expanded powers pursuant to Bankruptcy Code section 1104 in any of the Chapter 15 Cases;

(iv) the issuance by any governmental authority, including the CCAA Court or the US Bankruptcy Court, any regulatory authority, or any other court of competent jurisdiction, of any final ruling or Final Order enjoining or otherwise impeding the consummation of the Transaction on the terms and conditions set forth in this Agreement or the Transaction Agreement; *provided, however*, that Shell shall not have the right to terminate under this clause if the Just Energy Entities are using commercially reasonable efforts to cure, vacate, reserve, set



aside, or have overruled as quickly as possible such final ruling or Final Order to obtain relief that would allow consummation of the Transaction in a manner that (x) does not prevent or diminish in a material way compliance with the terms of this Agreement and (y) is acceptable to Shell;

(v) a material breach by any Just Energy Entity of any representation, warranty, or covenant of such Just Energy Entity set forth in this Agreement that (to the extent curable) remains uncured for a period of ten (10) days after the receipt by the Just Energy Entities of written notice detailing such breach;

(vi) the Just Energy Entities file, propose, or otherwise support any restructuring, sale, or liquidation transaction other than as contemplated by this Agreement or in accordance with the SISP Order (A) that materially and adversely affects the treatment or rights of Shell as compared to the treatment and rights set forth herein and (B) without the consent of Shell;

(vii) an order is entered by the CCAA Court or the US Bankruptcy Court authorizing any party to proceed against any material asset of any of the Just Energy Entities or any assets that would materially and adversely affect the Just Energy Entities' ability to operate their business in the ordinary course or ability to implement the transactions contemplated in this Agreement or the Transaction Agreement;

(viii) a failure by the Just Energy Entities to pay the fees and expenses of Shell, including but not limited to Shell's legal, financial, and any other advisors, as and when due pursuant to the terms of any applicable engagement letters and any applicable orders of the CCAA Court or the US Bankruptcy Court;

(ix) the entry of an order by any court of competent jurisdiction granting the relief sought in an involuntary proceeding against any entity constituting the Just Energy Entities seeking bankruptcy, winding up, dissolution, liquidation, administration, moratorium, reorganization, or other relief in respect of any entity comprising the Just Energy Entities or the Just Energy Entities' debts, or of a substantial part of the Just Energy Entities' assets, under any federal, state, or foreign bankruptcy, insolvency, administrative, receivership, or similar law now or hereafter in effect (provided that such involuntary proceeding is not dismissed within a period of thirty (30) days after the filing thereof);

(x) if any of the Just Energy Entities (a) consents to the institution of, or fails to contest in a timely and appropriate manner, any involuntary proceeding or petition described above, (b) applies for or consents to the appointment of a receiver, administrator, administrative receiver, trustee, custodian, sequestrator, conservator, or similar official for the Just Energy Entities or for a substantial part of the Just Energy Entities' assets, (c) files an answer admitting the material allegations of a petition filed against it in any such proceeding, (d) makes a general assignment or arrangement for the benefit of creditors, or (e) takes any corporate action for the purpose of authorizing any of the foregoing;

(xi) upon a filing by any of the Just Energy Entities of any motion, objection, application, or adversary proceeding challenging the validity, enforceability, perfection or priority of, or seeking avoidance, subordination, or characterization of, any portion of Shell's

or any of its affiliates' claims against any of the Just Energy Entities, and/or the liens securing any such claims or asserting any other claim or cause of action against and/or with respect to any such claims, liens, Shell, or the agent under any of the relevant facilities (or if any Just Energy Entity files a pleading supporting any such motion, application, or adversary proceeding commenced by any third party);

(xii) the termination of this Agreement by any Party, other than a Supporting Secured CF Lender;

(xiii) any default by a Just Energy Entity in the payment of any undisputed post-Filing Date invoice owing to Shell when due and payable, provided that such amount remains unpaid for a period of three (3) days after receipt (or deemed receipt under the applicable underlying agreement) by the Just Energy Entities of written notice detailing such default (the "Cure Period"), which Cure Period is for one-time use only and shall only apply in the case of one such default;

(xiv) if the Closing of the Transaction has not occurred by January 31, 2023 unless further extended by Shell;

(xv) upon the Just Energy Entities' withdrawal, waiver, amendment, or modification, or the filing of (or announced intention to file) a pleading seeking to withdraw, waive, amend, or modify any of the Definitive Documents, including motions, notices, exhibits, appendices, and orders, that is both not consistent in all material respects with this Agreement and not done with the consent of Shell;

(xvi) the obligations of the Company under the DIP Term Sheet are accelerated or the commitments under the DIP Term Sheet are terminated;

(xvii) upon the entry of an order by the CCAA Court or the US Bankruptcy Court (other than with respect to any action commenced by the Just Energy Entities against ERCOT) providing relief adverse to the interests of Shell with respect to any of the foregoing claims, causes of action, or proceedings, but excluding preliminary or final relief granting standing to any other party to prosecute such claims, causes of action or proceeding;

(xviii) subject to the terms of the SISP, the Sponsor is not the successful bidder under the SISP;

(xix) the Sponsor terminates its obligations under this Agreement or the Transaction Agreement; or

(xx) a Section 6 Waiver is given by the Sponsor without the consent of Shell, unless such Section 6 Waiver relates exclusively to an obligation of the Just Energy Entities to the Sponsor and such waiver has no direct or indirect materially adverse effect on Shell.

(e) Mutual Termination/Automatic Termination. This Agreement and the obligations of the Parties hereunder may be terminated by mutual written agreement by the Just Energy Entities and the Sponsor. Notwithstanding anything in this Agreement to the contrary, this

Agreement shall terminate automatically in respect of all Parties upon termination by the Company under Section 10(b) or upon Closing.

(f) Termination Generally. The earliest date on which termination of this Agreement as to a Party is effective in accordance with this Section 11 or Section 15 shall be referred to, with respect to such Party, as a “**SA Termination Date**.” Upon the occurrence of a SA Termination Date, the applicable Party’s obligations (as set forth herein) under this Agreement shall be terminated effective immediately, and such Parties or Party hereto shall be released from all commitments, undertakings, and agreements hereunder; *provided*, that any claim for breach of this Agreement that occurs prior to such SA Termination Date shall survive such termination, and all rights and remedies with respect to such claims shall not be prejudiced in any way. For the avoidance of doubt, the automatic stay arising pursuant to Bankruptcy Code section 362 or the stay of proceedings provided for in the CCAA Proceedings or in other applicable Canadian laws shall be deemed waived or modified for purposes of providing notice or exercising rights hereunder.

#### 11. Transfers.

(a) Each of the Parties other than the Just Energy Entities (the “**Supporting Creditors**”), solely with respect to itself (as expressly identified and limited on its signature page to this Agreement or Joinder Agreement (as defined below), as applicable), shall not sell, transfer, assign, pledge, hypothecate, participate, donate, or otherwise encumber or dispose of, directly or indirectly (including through derivatives, options, swaps, pledges, forward sales, or other transactions in which any Person receives the right to own or acquire any current or future interest in) (each, a “**Transfer**”), or permit a Transfer of, directly or indirectly, in whole or in part, any of its Claims or, in each case, any option thereon or any right or interest therein or any other claims against the Company (including grant any proxies, deposit any Claims into a voting trust, or enter into a voting agreement with respect to any such Claims), unless the transferee thereof either (i) is a Supporting Creditor or (ii) before or contemporaneously with such Transfer, agrees in writing for the benefit of the Parties to become a Party and to be bound by all of the terms of this Agreement applicable to the Supporting Creditor who is a transferor (such Supporting Creditor, the “**Transferor**”), by executing a joinder agreement substantially in the form attached hereto as Exhibit F (a “**Joinder Agreement**”), and delivering an executed copy thereof within two (2) business days after such Transfer to (1) Kirkland & Ellis LLP (“**K&E**”) and Osler Hoskin Harcourt LLP (“**Osler**”), counsel to the Just Energy Entities, (2) Akin Gump Strauss Hauer & Feld LLP (“**Akin**”) and Cassels Brock & Blackwell LLP (“**Cassels**”), counsel to the Sponsor, and (3) McCarthy Tétrault LLP (“**McCarthy**”) and Chapman & Cutler LLP (“**Chapman**”), counsel to the Supporting Secured CF Lenders and the Credit Facility Agent ((1), (2), and (3) the “**Transfer Notice Parties**”) in which event (x) the transferee shall be deemed to be a Party in the same manner as the Transferor to the extent of such transferred rights and obligations and (y) the Transferor shall be deemed to relinquish its rights (and be released from its obligations) under this Agreement to the extent of such transferred rights and obligations; *provided* that failure to deliver such Joinder Agreement on a timely basis shall not by itself affect the applicable Transferor’s or transferee’s obligations under this Agreement with respect to such Claims or render the Transfer *void ab initio* with respect to such Claims; *provided* that the failure by the Transferor to comply with the procedures set forth in this Section 11(a) with respect to a Transfer to any entity that, as of the date of such Transfer controls, is controlled by, or is under common control with the Transferor shall

not, without more, constitute a breach of this Agreement if (i) the transferee provides notice of such Transfer to the Transfer Notice Parties (which may be delivered by email) promptly after such Transfer and (ii) the transferee shall be bound by all terms of this Agreement applicable to the Transferor, and deemed to be the Sponsor, Shell, or a Supporting Secured CF Lender, as applicable. To the extent that the Transferor's Claim or other securities issued by the Company may be loaned (and consequently pledged, hypothecated, encumbered, or rehypothecated by) as part of customary securities lending arrangements (each such arrangement, a "**Customary Securities Lending Arrangement**"), and such Customary Securities Lending Arrangement does not adversely affect the Transferor's ability to timely satisfy any of its obligations under this Agreement, such Customary Securities Lending Arrangement shall not be deemed a Transfer hereunder. Each of the Supporting Creditors agrees that any Transfer of any Claims that does not comply with the terms and procedures set forth herein shall be deemed *void ab initio*, and the Just Energy Entities shall have the right to enforce the voiding of such Transfer. This Agreement shall in no way be construed to preclude any of the Supporting Creditors from acquiring additional Claims against the Just Energy Entities; *provided that* (i) any such additional Claims automatically shall be subject to all of the terms of this Agreement and (ii) such Supporting Creditor agrees (A) that such additional Claims shall be subject to this Agreement (except as expressly provided below), and (B) to notify the Transfer Notice Parties within three (3) business days following such acquisition of the aggregate amount.

(b) Notwithstanding this Section 11, any Supporting Creditor may Transfer its Claims against the Just Energy Entities to an entity that is acting in its capacity as a Qualified Marketmaker<sup>2</sup> without the requirement that such Qualified Marketmaker execute and deliver a Joinder Agreement in respect of such Claims against the Just Energy Entities or be a Supporting Creditor; *provided that* such Qualified Marketmaker (i) subsequently Transfers such Claims against the Just Energy Entities to a transferee that is or becomes (by executing and delivering a Joinder Agreement in accordance with this Section 11) a Supporting Creditor at the time of such Transfer within ten (10) calendar days of its acquisition of such Claims, and (ii) if such Qualified Marketmaker fails to comply with its obligations in this Section 11, such Qualified Marketmaker shall be required to, and shall be deemed to be without further action, a Supporting Creditor hereunder solely with respect to such Claims; *provided that* the Qualified Marketmaker shall automatically, and without further notice or action, no longer be a Supporting Creditor with respect to such Claims at such time that the transferee of such Claims becomes a Supporting Creditor with respect to such Claims. Any Transfer documentation between a transferring Supporting Creditor and the Qualified Marketmaker shall contain a requirement that the Qualified Marketmaker comply with the foregoing, which covenant will be held by the transferor for the benefit of the Just Energy Entities. To the extent any Supporting Creditor is acting in its capacity as a Qualified Marketmaker, it may Transfer any Claims that it acquires from a holder of such Claims that is not a Supporting Creditor without the requirement that the transferee be or become a Supporting Creditor. Notwithstanding anything to the contrary in this Agreement, the restrictions on Transfer

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<sup>2</sup> A "**Qualified Marketmaker**" means an entity that (i) holds itself out to the public or the applicable private markets as standing ready in the ordinary course of business to purchase from customers and sell to customers Claims against the Just Energy Entities (or enter with customers into long and short positions in Claims against the Just Energy Entities), in its capacity as a dealer or market maker in Claims against the Just Energy Entities and (ii) is, in fact, regularly in the business of making a market in claims against issuers or borrowers (including debt securities or other debt).

in this Section 11 shall not apply to the grant of any liens or encumbrances on any Claims in favor of a bank or broker-dealer holding custody of such Claims in the ordinary course of business and which lien or encumbrance is released upon the Transfer of such Claims (which Transfer shall comply with the requirements of this Section 11). Notwithstanding anything to the contrary in this Agreement, the restrictions on Transfer in this Section 11 shall not apply to the credit bidding of the BP Commodity / ISO Services Claim as contemplated by and pursuant to the Stalking Horse Term Sheet and the Transaction Agreement (including any Transfer of such claim in connection therewith).

12. **Definitive Documents; Good Faith Cooperation; Further Assurances.**

Each Party hereby covenants and agrees to cooperate with each other in good faith in connection with, and shall exercise commercially reasonable efforts with respect to, the pursuit, approval, implementation, and consummation of the transactions contemplated by this Agreement as well as the negotiation, drafting, execution, and delivery of the Definitive Documents. Furthermore, subject to the terms hereof, each of the Parties shall take such action as may be reasonably necessary or reasonably requested by the other Parties to carry out the purposes and intent of this Agreement, and shall refrain from taking any action that would frustrate the purposes and intent of this Agreement subject in each case to the terms and conditions of the applicable agreements.

13. **Representations and Warranties.**

(a) Each of the Parties (severally, and not jointly and severally), and in the case of the Just Energy Entities subject to the issuance of the SISP Order, represents and warrants to each other Party that the following statements are true, correct, and complete as of the date hereof (or, if later, the date that such Party first became or becomes a Party):

(i) it is validly existing and in good standing under the laws of the state or province of its incorporation or organization, and this Agreement is a legal, valid, and binding obligation of such Party, enforceable against it in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium, or other similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability;

(ii) except as expressly provided in this Agreement or otherwise required by the CCAA or the Bankruptcy Code, no material consent or approval of, or any registration or filing with, any governmental authority or regulatory body is required for it to carry out and perform its obligations under this Agreement and the Transaction Agreement;

(iii) it has all requisite organizational power and authority to enter into this Agreement and to carry out the transactions contemplated by, and perform its obligations under, this Agreement and the Transaction Agreement;

(iv) the execution and delivery by it of this Agreement, and the performance of its obligations hereunder, have been duly authorized by all necessary organizational action on its part;

(v) it has been represented by counsel in connection with this Agreement and the transactions contemplated by this Agreement; and

(vi) the execution, delivery, and performance by such Party of this Agreement does not and will not (x) violate any provision of law, rule, or regulation applicable to it or any of its subsidiaries or its charter or bylaws (or other similar governing documents) or those of any of its subsidiaries, (y) except as the Transaction may constitute a “Change of Control” (as may be defined in the Credit Agreement, the Intercreditor Agreement, and the existing supply agreements with Shell) or any equivalent concept under the Credit Agreement, the Intercreditor Agreement, or the existing supply agreements with Shell, conflict with, result in a breach of, or constitute (with or without notice or lapse of time or both) a default under the Credit Agreement, Intercreditor Agreement or existing supply agreements with Shell, or (z) violate any order, writ, injunction, decree, statute, rule, or regulation.

(b) Each Supporting Secured CF Lender (severally, and not jointly and severally) represents and warrants to the Just Energy Entities that, as of the date hereof (or as of the date such Supporting Secured CF Lender becomes a Party hereto), (i) such Supporting Secured CF Lender is the beneficial owner of (x) the proportion of all Credit Facility Claims equal to the proportion that its commitments under the Credit Agreement represents of all commitments of the Credit Facility Lenders under the Credit Agreement and (y) the Credit Facility LC Claims in respect of the outstanding letters of credit issued by it pursuant to the Credit Agreement as of such date, subject to the reimbursement and indemnity obligations of the other Credit Facility Lenders or Export Development Canada under the Credit Facility Documents, (the claims described in (x) and (y) being collectively, the “**Supporting Secured CF Lender Specified Claims**”), and (ii) such Supporting Secured CF Lender has (x) sole investment or voting discretion with respect to such Supporting Secured CF Lender Specified Claims, and (y) full power and authority to vote on and consent to matters concerning such Supporting Secured CF Lender Specified Claims or to exchange, assign, and Transfer such Supporting Secured CF Lender Specified Claims.

(c) The Sponsor represents and warrants to the Just Energy Entities that, as of the date hereof, the Sponsor (i) is or, after taking into account the settlement of any pending assignments to which the Sponsor is a party as of the date of this Agreement, will be the owner of the Claims and interests set forth below its name on the signature page hereto and/or (ii) has or, after taking into account the settlement of any pending assignments to which the Sponsor is a party as of the date of this Agreement, will have, with respect to the beneficial owner(s) of such Claims and interests, (x) sole investment or voting discretion with respect to such Claims, and (y) full power and authority to vote on and consent to matters concerning such Claims and interests or to exchange, assign, and Transfer such Claims and interests. Except for such Claims and interests set forth on its signature page, the Sponsor does not own or, with respect to any beneficial owners thereof, have any voting, investment, or other power, with respect to any other Claims or interests against the Just Energy Entities.

(d) The Just Energy Entities represent and warrant that the only ISO Services Obligations (as defined in the Intercreditor Agreement) that were outstanding as of the Filing Date are: (i) Shell Energy ISO Reimbursement Obligations (as defined in the Intercreditor Agreement) in the aggregate amount of approximately USD\$3.3 million, calculated on a gross basis (which was netted against approximately USD\$11.1 million of an independent systems operator services

receivable owed by Shell to the Just Energy Entities); and (ii) the applicable amount of the BP Commodity / ISO Services Claim.

14. **Amendments.** Except as otherwise expressly set forth herein, this Agreement (including any Exhibits and Schedules) may not be waived, modified, amended, or supplemented except in a writing signed by the Just Energy Entities and the Sponsor; *provided further* that any waiver, modification, amendment, or supplement that (w) adversely and disproportionately impacts the treatment or rights of any Supporting Secured CF Lender with respect to its Credit Facility Claims, Credit Facility LC Claims, Commodity Supplier Claims or Cash Management Obligations as compared to the treatment or rights of any other Supporting Secured CF Lender shall require the consent of such adversely and disproportionately impacted Supporting Secured CF Lender, (x) amends the rights or obligations, or adversely impacts the treatment or interests of, Shell or the Supporting Secured CF Lenders under or as contemplated by this Agreement (including the Exhibits and Schedules) shall require the consent of any such Party, (y) relates to the Transaction Agreement, the New Credit Agreement or the New Intercreditor Agreement shall require the consent of the Supporting Secured CF Lenders, or (z) except as otherwise provided in, or envisioned by, this Agreement as of the Shell Effective Date, or the Secured CF Effective Date, as applicable, requires Shell, any Supporting Secured CF Lender or the Credit Facility Agent to incur any expenses, liabilities, or other obligations, or agree to any commitments, undertakings, concessions, indemnities, or other arrangements that could result in expenses, liabilities, or other obligations, shall require the consent of the impacted Party; *provided further* that in the case of either (x) or (y), in the event that any such Supporting Creditor whose consent is required does not consent to such waiver, change, modification, or amendment (a “**Non-Supporting Creditor**”), this Agreement may be terminated by such Non-Supporting Creditor (as applicable to it) upon written notice to the other Parties, but this Agreement shall continue in full force and effect in respect to all other Supporting Creditors whose consent is not required or whose consent is required and was provided.

15. **Governing Law; Jurisdiction; Waiver of Jury Trial.**

(a) This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the Province of Ontario and the federal laws of Canada applicable therein, without giving effect to the conflicts of law principles thereof.

(b) Each Party irrevocably agrees that any legal action, suit, or proceeding arising out of or relating to this Agreement brought by any party or its successors or assigns shall be brought and determined in the CCAA Court and each Party hereby irrevocably submits to the exclusive jurisdiction of the CCAA Court and, if the CCAA Court does not have (or abstains from) jurisdiction, Courts of the Province of Ontario, and any appellate court from any thereof, for itself and with respect to its property, generally and unconditionally, with regard to any such proceeding arising out of or relating to this Agreement. Each Party further agrees that notice as provided herein shall constitute sufficient service of process and the Parties further waive any argument that such service is insufficient. Each Party hereby irrevocably and unconditionally waives, and agrees not to assert, by way of motion or as a defense, counterclaim, or otherwise, in any proceeding arising out of or relating to this Agreement, (i) any claim that it is not personally subject to the jurisdiction of the CCAA Court as described herein for any reason, (ii) that it or its property is exempt or immune from jurisdiction of such court or from any legal process commenced in such

court (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise), and (iii) that (x) the proceeding in such court is brought in an inconvenient forum, (y) the venue of such proceeding is improper, or (z) this Agreement, or the subject matter hereof, may not be enforced in or by such court.

(c) **EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY). EACH PARTY (I) CERTIFIES THAT NO REPRESENTATIVE, AGENT, OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (II) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.**

16. **Specific Performance/Remedies.** The Parties understand and agree that money damages would be an insufficient remedy for any breach of this Agreement by any Party and each non-breaching Party shall be entitled to specific performance and injunctive or other equitable relief (including attorneys' fees and costs) as a remedy of any such breach, without the necessity of proving the inadequacy of money damages as a remedy. Each Party hereby waives any requirement for the security or posting of any bond in connection with such remedies.

17. **Survival.** Notwithstanding the termination of this Agreement pursuant to Section 10 hereof, Sections 10(f) and 14-28 shall survive such termination and shall continue in full force and effect in accordance with the terms hereof; *provided* that any liability of a Party for failure to comply with the terms of this Agreement shall survive such termination.

18. **Headings.** The headings of the sections, paragraphs, and subsections of this Agreement are inserted for convenience only and shall not affect the interpretation hereof or, for any purpose, be deemed a part of this Agreement.

19. **Successors and Assigns; Third Parties.** This Agreement is intended to bind and inure to the benefit of the Parties and their respective successors, permitted assigns, heirs, executors, administrators, and representatives. There are no third-party beneficiaries under this Agreement and, except as set forth in Section 11, the rights or obligations of any Party under this Agreement may not be assigned, delegated, or transferred to any other Person.

20. **Relationship Among Parties.** Notwithstanding anything herein to the contrary, the duties and obligations of the Supporting Creditors under this Agreement shall be several, not joint and several. None of the Supporting Creditors shall have any fiduciary duty, any duty of trust or confidence in any form, or other duties or responsibilities to each other, the Just Energy Entities, or any of the Just Energy Entities' creditors, stockholders, or other stakeholders, and there are no commitments among or between the Supporting Secured CF Lenders, Shell, and/or the Sponsor. It is understood and agreed that any Supporting Creditor may trade in any



debt or equity securities of the Just Energy Entities without the consent of any other Party, subject to applicable securities laws and the terms of Section 11 of this Agreement. No prior history, pattern, or practice of sharing confidences among or between the Parties shall in any way affect or negate this understanding and agreement. The Parties have no agreement, arrangement, or understanding with respect to acting together for the purpose of acquiring, holding, voting, or disposing of any equity securities of the Just Energy Entities and do not constitute a “group” within the meaning of Rule 13d-5 under the Securities Act of 1933, as amended. The Just Energy Entities understand that each of the Supporting Creditors are engaged in a wide range of financial services and businesses, and, in furtherance of the foregoing, the Just Energy Entities acknowledge and agree that the obligations set forth in this Agreement (including Section 11 hereof) shall only apply to the trading desk(s) and/or business group(s) that principally manage and/or supervise such Supporting Creditor’s investment in and relations with the Just Energy Entities and shall not apply to any other trading desk, business group, or affiliate of such Supporting Creditor so long as they are not acting at the direction or for the benefit of such Supporting Creditor and so long as confidentiality is maintained consistent with any applicable confidentiality agreement.

21. **Prior Negotiations; Entire Agreement.** This Agreement, including the Exhibits and Schedules (including the Stalking Horse Term Sheet), constitutes the entire agreement of the Parties, and supersedes all other prior negotiations, with respect to the subject matter hereof and thereof.

22. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same agreement. Execution copies of this Agreement delivered by facsimile or PDF shall be deemed to be an original for the purposes of this paragraph.

23. **Notices.** All notices hereunder shall be deemed given if in writing and delivered to the following:

(a) If to the Just Energy Entities, to:

Kirkland & Ellis LLP  
Kirkland & Ellis International LLP  
609 Main Street  
Houston, Texas 77002  
Attention: Brian Schartz, P.C.  
[Redacted]

and

601 Lexington Avenue  
New York, New York 10022  
Attention: Allyson B. Smith  
[Redacted]

and

Osler, Hoskin & Harcourt LLP  
P.O. Box 50, 1 First Canadian Place  
Toronto, ON M5X 1B8  
Attention: Marc Wasserman, Michael De Lellis, and Jeremy Dacks  
[Redacted]; [Redacted]; [Redacted]

(b) If to the Sponsor, to:

Akin Gump Strauss Hauer & Feld LLP  
One Bryant Park  
New York, New York 10036-6745  
Attention: David H. Botter and Abid Qureshi  
[Redacted]; [Redacted]

and

2001 K St, NW  
Washington, DC 20006  
Attention: Kevin Eide  
[Redacted]

and

2300 N. Field Street, Suite 1800  
Dallas, Texas 75201  
Attention: Sarah Link Schultz  
[Redacted]

and

Cassels Brock & Blackwell LLP  
Scotia Plaza, Suite 2100  
40 King St. W  
Toronto, ON M5H 3C2  
Attention: Ryan Jacobs; Jane Dietrich; Joseph Bellissimo  
[Redacted]; [Redacted]; [Redacted]

(c) If to Shell, to:

Norton Rose Fulbright US LLP  
2200 Ross Avenue, Suite 3600  
Dallas, Texas 75201-7932  
Attention: Ryan Manns  
[Redacted]

and

Norton Rose Fulbright Canada LLP  
400 3<sup>rd</sup> Avenue SW, Suite 3700  
Calgary, AB T2P 4H2  
Attention: Howard Gorman  
[Redacted]

(d) If to a Supporting Secured CF Lender, to:

McCarthy Tétrault LLP  
66 Wellington Street West  
Suite 5300, TD Bank Tower Box 48  
Toronto, ON M5K 1E6  
Attention: Heather Meredith, James D. Gage, Justin Lapedus, D.J. Lynde  
[Redacted]; [Redacted]; [Redacted]; [Redacted]

and

Chapman and Cutler LLP  
320 South Canal Street  
Chicago, IL 60606  
Attention: Stephen Tetro [Redacted]

Any notice given by delivery, mail, or courier shall be effective when received. Any notice given by electronic mail shall be effective upon confirmation of transmission.

24. **No Solicitation; Adequate Information.** This Agreement is not and shall not be deemed to be a solicitation of votes on any plan. In addition, this Agreement does not constitute an offer to issue or sell securities to any Person, or the solicitation of an offer to acquire or buy securities, in any jurisdiction where such offer or solicitation would be unlawful.

25. **Severability.** If any provision of this Agreement, or the application of any such provision to any Person or circumstance, shall be held invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part of such provision hereof and this Agreement shall continue in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party.

26. **Interpretation; Rules of Construction; Representation by Counsel.** When a reference is made in this Agreement to a Section, Exhibit, or Schedule, such reference shall be to a Section, Exhibit, or Schedule, respectively, of or attached to this Agreement unless otherwise indicated. Unless the context of this Agreement otherwise requires, (a) words using the singular or plural number also include the plural or singular number, respectively, (b) the terms “hereof,” “herein,” “hereby,” and derivative or similar words refer to this entire Agreement, (c) the words “include,” “includes,” and “including” when used herein shall be deemed in each case to be followed by the words “without limitation,” and (d) the word “or” shall not be exclusive and shall be read to mean “and/or.” The Parties agree that they have been represented by legal counsel during the negotiation and execution of this Agreement and, therefore, waive the application of

any law, regulation, holding, or rule of construction providing that ambiguities in an agreement or other document shall be construed against the party drafting such agreement or document.

27. **Reliance and Authority.**

(a) **Sponsor.** Any provision of this Agreement that requires or contemplates the approval, agreement, consent, or waiver of the Sponsor shall be effective if, and only if, such approval, agreement, consent, or waiver is provided in writing and agreed to by the majority of the parties composing the Sponsor, and any Party shall be entitled to rely on written confirmation (including by email) from Akin or Cassels that the Sponsor has approved, agreed, consent to, or waived a particular matter.

(b) **Just Energy Entities.** With respect to any provision of this Agreement that requires or contemplates the approval, agreement, consent, or waiver of the Just Energy Entities, each Party shall be entitled to rely on written confirmation (including by email) from K&E or Osler that the Just Energy Entities have approved, agreed, consent to, or waived a particular matter.

(c) **Supporting Secured CF Lenders.** With respect to any provision of this Agreement that requires or contemplates the approval, agreement, consent, or waiver of the Supporting Secured CF Lenders or the Requisite Supporting Secured CF Lenders, each Party shall be entitled to rely on written confirmation (including by email) from McCarthy or Chapman that the Supporting Secured CF Lenders or the Requisite Supporting Secured CF Lenders have approved, agreed, consent to, or waived a particular matter.

(d) **Shell.** With respect to any provision of this Agreement that requires or contemplates the approval, agreement, consent, or waiver of Shell, each Party shall be entitled to rely on written confirmation (including by email) from counsel to Shell that Shell has approved, agreed, consent to, or waived a particular matter.

28. **Settlement Discussions.** This Agreement is part of a proposed settlement of matters that could otherwise be the subject of litigation among the Parties. Nothing in this Agreement shall be deemed an admission of any kind. Pursuant to Federal Rule of Evidence 408 and any Canadian law equivalent, any applicable state rules of evidence, and any other applicable law, foreign or domestic, this Agreement, and all negotiations relating thereto shall not be admissible into evidence in any proceeding other than to prove the existence of this Agreement or in a proceeding to enforce the terms of this Agreement.

*[Signature pages follow]*

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered by their respective duly authorized officers, solely in their respective capacities as officers of the undersigned and not in any other capacity, as of the date first set forth above.

**COMPANY:**

**JUST ENERGY GROUP INC.**

By: (signed) "Michael Carter"  
 Name: Michael Carter  
 Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
 Name: Jonah Davids  
 Title: Executive Vice President, General  
 Counsel and Corporate Secretary

We have the authority to bind the Corporation

**JUST ENERGY CORP.**

By: (signed) "Michael Carter"  
 Name: Michael Carter  
 Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
 Name: Jonah Davids  
 Title: Executive Vice President, General  
 Counsel and Corporate Secretary

We have the authority to bind the Corporation.

**ONTARIO ENERGY COMMODITIES  
 INC.**

By: (signed) "Michael Carter"  
 Name: Michael Carter  
 Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
 Name: Jonah Davids  
 Title: Executive Vice President, General  
 Counsel and Corporate Secretary

We have the authority to bind the Corporation.

**UNIVERSAL ENERGY CORPORATION**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Corporation.

**JUST ENERGY FINANCE CANADA ULC**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Corporation.

**HUDSON ENERGY CANADA CORP.**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Corporation.

**JUST MANAGEMENT CORP.**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Corporation.

**11929747 CANADA INC.**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Corporation.

**12175592 CANADA INC.**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Corporation.

**JE SERVICES HOLDCO I INC.**

By: (signed) "Michael Carter"  
 Name: Michael Carter  
 Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
 Name: Jonah Davids  
 Title: Executive Vice President, General  
 Counsel and Corporate Secretary

We have the authority to bind the Corporation.

**JE SERVICES HOLDCO II INC.**

By: (signed) "Michael Carter"  
 Name: Michael Carter  
 Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
 Name: Jonah Davids  
 Title: Executive Vice President, General  
 Counsel and Corporate Secretary

We have the authority to bind the Corporation.

**8704104 CANADA INC.**

By: (signed) "Michael Carter"  
 Name: Michael Carter  
 Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
 Name: Jonah Davids  
 Title: Executive Vice President, General  
 Counsel and Corporate Secretary

We have the authority to bind the Corporation.



**JUST ENERGY ADVANCED SOLUTIONS  
CORP.**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Corporation.

**JUST ENERGY (U.S.) CORP.**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Corporation.

**JUST ENERGY ILLINOIS CORP.**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Corporation.

**JUST ENERGY INDIANA CORP.**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Corporation.

**JUST ENERGY MASSACHUSETTS  
CORP.**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Corporation.

**JUST ENERGY NEW YORK CORP.**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Corporation.

**JUST ENERGY TEXAS I CORP.**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Corporation.

**JUST ENERGY, LLC**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Limited  
Liability Company.

**JUST ENERGY PENNSYLVANIA CORP.**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Corporation.

**JUST ENERGY MICHIGAN CORP.**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Corporation.

**JUST ENERGY SOLUTIONS INC.**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Corporation.

**HUDSON ENERGY SERVICES LLC**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Limited  
Liability Company.

**HUDSON ENERGY CORP.**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Corporation.

**INTERACTIVE ENERGY GROUP LLC**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Limited  
Liability Company.

**HUDSON PARENT HOLDINGS LLC**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Limited  
Liability Company.

**DRAG MARKETING LLC**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Limited  
Liability Company.

**JUST ENERGY ADVANCED SOLUTIONS  
LLC**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Limited  
Liability Company.

**FULCRUM RETAIL ENERGY LLC**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Limited  
Liability Company.

**FULCRUM RETAIL HOLDINGS LLC**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Limited  
Liability Company.

**TARA ENERGY, LLC**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Limited  
Liability Company.

**JUST ENERGY MARKETING CORP.**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Corporation.

**JUST ENERGY CONNECTICUT CORP.**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Corporation.

**JUST ENERGY LIMITED**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Corporation.

**JUST SOLAR HOLDINGS CORP.**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Corporation.



**JUST ENERGY ONTARIO L.P.**, by its  
general partner,  
**JUST ENERGY CORP.**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Partnership.

**JUST ENERGY MANITOBA L.P.**, by its  
general partner,  
**JUST ENERGY CORP.**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Partnership.

**JUST ENERGY (B.C.) LIMITED  
PARTNERSHIP**, by its  
general partner,  
**JUST ENERGY CORP.**

By: (signed) "Michael Carter"  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Partnership.

**JUST ENERGY QUÉBEC L.P.**, by its  
general partner,  
**JUST ENERGY CORP.**

By: (signed) “Michael Carter”  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) “Jonah Davids”  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Partnership.

**JUST ENERGY TRADING L.P.**, by its  
general partner,  
**JUST ENERGY CORP.**

By: (signed) “Michael Carter”  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) “Jonah Davids”  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Partnership.

**JUST ENERGY ALBERTA L.P.**, by its  
general partner,  
**JUST ENERGY CORP.**

By: (signed) “Michael Carter”  
Name: Michael Carter  
Title: Chief Financial Officer

By: (signed) “Jonah Davids”  
Name: Jonah Davids  
Title: Executive Vice President, General  
Counsel and Corporate Secretary

We have the authority to bind the Partnership.

**JUST GREEN L.P.**, by its general partner,  
**JUST ENERGY CORP.**

By: (signed) "Michael Carter"  
 Name: Michael Carter  
 Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
 Name: Jonah Davids  
 Title: Executive Vice President, General  
 Counsel and Corporate Secretary

We have the authority to bind the Partnership.

**JUST ENERGY PRAIRIES L.P.**, by its  
 general partner,  
**JUST ENERGY CORP.**

By: (signed) "Michael Carter"  
 Name: Michael Carter  
 Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
 Name: Jonah Davids  
 Title: Executive Vice President, General  
 Counsel and Corporate Secretary

We have the authority to bind the Partnership.

**JUST ENERGY TEXAS LP**, by its general  
 partner,  
**JUST ENERGY, LLC**

By: (signed) "Michael Carter"  
 Name: Michael Carter  
 Title: Chief Financial Officer

By: (signed) "Jonah Davids"  
 Name: Jonah Davids  
 Title: Executive Vice President, General  
 Counsel and Corporate Secretary

We have the authority to bind the Partnership.

**JUST ENERGY (FINANCE) HUNGARY ZRT.**

By: (signed) "Zita Tarjanyi"  
Name: Zita Tarjanyi  
Title: Liquidator

I have the authority to bind the Corporation.

**JEBPO SERVICES LLP**

By: (signed) "Scott Fordham"  
Name: Scott Fordham  
Title: Designated Partner

By: (signed) "Sudheendrah Vasudeva"  
Name: Sudheendrah Vasudeva  
Title: Designated Partner

We have the authority to bind the Partnership.

**THE SPONSOR**

**LVS III SPE XV LP, by its general  
partner LVS III GP LLC**

By: **[Redacted]** \_\_\_\_\_

Name:

Title:

Principal Amount of Credit Facility Claims: **[\$Redacted]**  
Principal Amount of Claims under the DIP Financing **[\$Redacted]**  
Principal Amount and Type of Other Claims: **[\$Redacted]**  
Interests: **[Redacted]**

**THE SPONSOR**

**TOCU XVII LLC**

By: **[Redacted]** \_\_\_\_\_

Name:

Title:

Principal Amount of Credit Facility Claims: **[\$Redacted]**  
Principal Amount of Claims under the DIP Financing **[\$Redacted]**  
Principal Amount and Type of Other Claims: **[\$Redacted]**  
Interests: **[Redacted]**

**THE SPONSOR**

**HVS XVI LLC**

By: **[Redacted]** \_\_\_\_\_

Name:

Title:

Principal Amount of Credit Facility Claims: **[\$Redacted]**

Principal Amount of Claims under the DIP Financing **[\$Redacted]**

Principal Amount and Type of Other Claims: **[\$Redacted]**

Interests: **[Redacted]**



**THE SPONSOR****OC II LVS XIV LP, by its general partner  
OC II GP I LLC**By: **[Redacted]**\_\_\_\_\_

Name:

Title:

Principal Amount of Credit Facility Claims: **[\$Redacted]**  
Principal Amount of Claims under the DIP Financing **[\$Redacted]**  
Principal Amount and Type of Other Claims: **[\$Redacted]**  
Interests: **[Redacted]**

**THE SPONSOR**

**OC III LFE I LP, by its general partner  
OC III GP LLC**

By: [Redacted]  
Name:  
Title:

Principal Amount of Credit Facility Claims: **[\$Redacted]**  
Principal Amount of Claims under the DIP Financing **[\$Redacted]**  
Principal Amount and Type of Other Claims: **[\$Redacted]**  
Interests: **[Redacted]**

**THE SPONSOR**

**CBHT ENERGY I LLC**

By: **[Redacted]** \_\_\_\_\_  
Name:  
Title:

Principal Amount of Credit Facility Claims: **[\$Redacted]**  
Principal Amount of Claims under the DIP Financing **[\$Redacted]**  
Principal Amount and Type of Other Claims: **[\$Redacted]**  
Interests: **[Redacted]**

**NATIONAL BANK OF CANADA,**  
as Credit Facility Agent

By: **[Redacted]** \_\_\_\_\_

Name:

Title:

By: **[Redacted]** \_\_\_\_\_

Name:

Title:

**NATIONAL BANK OF CANADA,**  
as Supporting Secured CF Lender

By: **[Redacted]** \_\_\_\_\_

Name:

Title:

By: **[Redacted]** \_\_\_\_\_

Name:

Title:

**CANADIAN IMPERIAL BANK OF  
COMMERCE,**  
as Supporting Secured CF Lender

By: **[Redacted]** \_\_\_\_\_  
Name:  
Title:

By: **[Redacted]** \_\_\_\_\_  
Name:  
Title:

**CANADIAN IMPERIAL BANK OF  
COMMERCE, NEW YORK BRANCH,**  
as Supporting Secured CF Lender

By: **[Redacted]** \_\_\_\_\_

Name:

Title:

By: **[Redacted]** \_\_\_\_\_

Name:

Title:

**ATB FINANCIAL,**  
as Supporting Secured CF Lender

By: **[Redacted]** \_\_\_\_\_  
Name:  
Title:

By: **[Redacted]** \_\_\_\_\_  
Name:  
Title:



**HSBC BANK CANADA,**  
as Supporting Secured CF Lender

By: **[Redacted]** \_\_\_\_\_  
Name:  
Title:

By: **[Redacted]** \_\_\_\_\_  
Name:  
Title:

**CANADIAN WESTERN BANK**, as  
Supporting Secured CF Lender

By: **[Redacted]** \_\_\_\_\_

Name:

Title:

By: **[Redacted]** \_\_\_\_\_

Name:

Title:

**JPMORGAN CHASE BANK, N.A.,**  
as Supporting Secured CF Lender

By: **[Redacted]** \_\_\_\_\_

Name:

Title:

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

Name:

Title:

**MORGAN STANLEY SENIOR FUNDING, INC.,**  
on behalf of its Special Assets Oversight Team as  
Supporting Secured CF Lender, and not on behalf of any  
of its other business units or teams or those of its  
affiliates

By: [Redacted]  
Name:  
Title:

**SHELL ENERGY NORTH AMERICA  
(CANADA) INC.**

By: [Redacted]

Name:

Title:

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

Name:

Title:

**SHELL ENERGY NORTH AMERICA  
(US), L.P.**

By: [Redacted]

Name:

Title:

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

Name:

Title:

**SHELL TRADING RISK MANAGEMENT,  
LLC**

By: [Redacted]

Name:

Title:

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

Name:

Title:

**EXHIBIT A**

<b><u>DEFINED TERMS</u></b>	
<b>“Adversary Proceeding”</b>	means the adversary proceeding commenced on November 12, 2021 by JEGI, Just Energy Texas LP, Fulcrum Retail Energy LLC and Hudson Energy Services LLC against Electric Reliability Council of Texas, Inc. and the Public Utility Commission of Texas.
<b>“Alternative Restructuring Proposal”</b>	means any inquiry, proposal, offer, expression of interest, bid, term sheet, discussion, or agreement with respect to a sale, disposition, new-money investment, restructuring, reorganization, merger, amalgamation, acquisition, consolidation, dissolution, debt investment, equity investment, liquidation, tender offer, recapitalization, plan of reorganization, share exchange, business combination, or similar transaction involving any one or more Just Energy Entity, one or more Just Energy Entity’s material assets, or the debt, equity, or other interests in any one or more Just Energy Entity that is an alternative to or otherwise inconsistent with the Transaction and is with a counterparty other than the Sponsor or an affiliate of the Sponsor.
<b>“Articles of Reorganization”</b>	has the meaning given to it in the Transaction Agreement.

<b><u>DEFINED TERMS</u></b>	
<b>“Authorized Authority”</b>	means, in relation to any Person, property, transaction, event, or other matter, as applicable, any: (i) federal, provincial, territorial, state, municipal, or local governmental body (whether administrative, legislative, executive or otherwise), both domestic and foreign; (ii) agency, authority, commission, instrumentality, regulatory body, court, or other entity exercising executive, legislative, judicial, taxing, regulatory, or administrative powers or functions of or pertaining to government, including any Taxing Authority; (iii) court, arbitrator, commission, or body exercising judicial, quasi-judicial, administrative, or similar functions, including the CCAA Court and the US Bankruptcy Court; or (iv) 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, in each case having jurisdiction over such Person, property, transaction, event, or other matter.
<b>Backstop Commitment Letter</b>	shall mean that certain Backstop Commitment Letter dated May 12, 2022 between Just Energy (U.S.) Corp., the DIP Lenders and OC III LFE I LP.
<b>“BP Commodity/ISO Services Claim”</b>	means all Pre-Filing Claims of BP Canada Energy Group ULC and BP Energy Company in the aggregate principal amounts of US\$229,461,559 and \$170,653, plus all accrued and unpaid interest thereon through to and including the Closing Date.
<b>“Cash Management Obligations”</b>	has the meaning given to it in the Initial Order.
<b>“Claim”</b>	has the meaning given to it in the Claims Procedure Order.
<b>“Claims Procedure Order”</b>	means the order of the CCAA Court dated September 15, 2021 in the CCAA Proceedings establishing a claims procedure in respect of the Just Energy Entities, as same may be further amended, restated or varied from time to time, and in all such cases such order shall be in form and substance reasonably acceptable to the Just Energy Entities and the Sponsor.

<b><u>DEFINED TERMS</u></b>	
<b>“Claims Procedure Recognition Motion”</b>	means a motion filed in the Chapter 15 Cases with the US Bankruptcy Court seeking entry of the Claims Procedure Recognition Order.
<b>“Claims Procedure Recognition Order”</b>	means an order in the Chapter 15 Cases from the US Bankruptcy Court recognizing and giving effect in the United States to the Claims Procedure Order and the Claims Bar Date (as defined in the Claims Procedure Order).
<b>“Closing”</b>	means the completion of the Transaction in accordance with the terms of the Transaction Agreement.
<b>“Closing Date”</b>	means the date on which Closing occurs.
<b>“Commodity Agreement”</b>	means a gas supply agreement, electricity supply agreement or other agreement with any of the Just Energy Entities for the physical or financial purchase, sale, trading or hedging of natural gas, electricity or environmental derivative products, or contracts entered into for protection against fluctuations in foreign currency exchange rates, which shall include any master power purchase and sale agreement, base contract for sale and purchase, ISDA master agreement or similar agreement.
<b>“Commodity Supplier”</b>	means any counterparty to a Commodity Agreement.
<b>“Commodity Supplier Claims”</b>	means any Pre-Filing Claim or Restructuring Period Claim of any Commodity Supplier that is party to the Intercreditor Agreement in respect of a Commodity Agreement, plus any interest thereon to the Closing Date; <i>provided, however</i> , that in any case for the purposes of this Agreement “Commodity Supplier Claim” shall not include any BP Commodity / ISO Services Claim.
<b>“Continuing Contract”</b>	means a contract, arrangement, or other agreement (oral or written) for which a notice of disclaimer pursuant to section 32 of the CCAA has not been sent by any of the Just Energy Entities.



<b><u>DEFINED TERMS</u></b>	
<b>“Credit Agreement”</b>	means the ninth amended and restated credit agreement dated as of September 28, 2020, by and among Just Energy Ontario L.P. and Just Energy (U.S.) Corp., as borrowers, the Credit Facility Agent and the Credit Facility Lenders, as such credit agreement may be amended, restated, supplemented and/or otherwise modified from time to time in accordance with the terms thereof.
<b>“Credit Facility Claim”</b>	means any amounts owing by the Just Energy Entities to the Credit Facility Lenders as of the Closing Date under the Credit Facility Documents, including all principal and all accrued and outstanding fees, costs, interest, or other amounts owing pursuant to the Credit Facility Documents as determined in accordance with the Claims Procedure Order; <i>provided</i> that the Credit Facility Claim shall not include any Credit Facility LC Claim, Commodity Supplier Claim or Cash Management Obligations.
<b>“Credit Facility Documents”</b>	means, collectively, the Credit Agreement and all related documentation, including, all guarantee and security documentation related to the foregoing.
<b>“Credit Facility LC Claim”</b>	means any Claim of any Credit Facility Lender relating to any letter of credit issued but undrawn under the Credit Facility Documents immediately prior to Closing.
<b>“Credit Facility Lenders”</b>	means the lenders party to the Credit Agreement from time to time, in such capacity.
<b>“Employee Priority Claim”</b>	means any Claim for (a) accrued and unpaid wages and vacation pay owing to an employee of any of the Just Energy Entities whose employment was terminated between the Filing Date and the Closing Date; and (b) unpaid amounts provided for in section 6(5)(a) of the CCAA.
<b>“Energy Regulator”</b>	means any federal or provincial energy regulators, provincial regulators of consumer sales that have authority with respect to energy sales, U.S. municipal, state, federal or other foreign energy regulatory bodies or agencies, local energy transmission and distribution companies, or regional transmission organizations or independent system operators.

<b><u>DEFINED TERMS</u></b>	
<b>“Energy Regulator Claims”</b>	means any Claim that may be asserted by any Energy Regulator, excluding any: (i) Claim with respect to the subject matter of the Adversary Proceeding, including any Claim with respect to obligations of the Just Energy Entities underlying the invoices that are the subject of the Adversary Proceeding; and (ii) Claim by any Taxing Authority.
<b>“Final Order”</b>	means any order or judgment of the CCAA Court or the US Bankruptcy Court, or any other court of competent jurisdiction, with respect to the subject matter addressed in the CCAA Proceedings or the Chapter 15 Cases or the docket of any court of competent jurisdiction, that has not been vacated, set aside, reversed, stayed, modified or amended, and as to which the applicable periods to appeal, or seek certiorari or move for a new trial, reargument, or rehearing has expired and no appeal, leave to appeal, or petition for certiorari or other proceedings for a new trial, reargument, or rehearing has been timely taken or filed, or as to which any appeal has been taken or any petition for certiorari or leave to appeal that has been timely filed has been withdrawn or resolved in a manner acceptable to the Just Energy Entities, the Supporting Secured CF Lenders, Shell and the Sponsor, each acting reasonably, by the highest court to which the order or judgment was appealed or from which leave to appeal or certiorari was sought or the new trial, reargument, or rehearing shall have been denied, resulted in no modification of such order or has otherwise been dismissed with prejudice; <i>provided, however</i> , that the possibility that a motion under Rule 60 of the United States Federal Rules of Civil Procedure, or any analogous rule under the US Bankruptcy Rules, may be filed relating to such order shall not cause such order to not be a Final Order.
<b>“Government Priority Claims”</b>	means any Claim of any Governmental Entity against any Just Energy Entity in respect of amounts that are outstanding, if any, provided for in section 6(3) of the CCAA.

<b><u>DEFINED TERMS</u></b>	
<b>“Government Entity”</b>	means any government, regulatory authority (including any Energy Regulator), governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power..
<b>“Implementation Steps”</b>	means the specific transaction steps and pre-closing reorganization of the Just Energy Entities to be effected, which shall be set out in an appendix to the Transaction Agreement (which appendix, for the avoidance of doubt, will be completed following the execution of the Transaction Agreement at least 7 days prior to the hearing of the Just Energy Entities’ motion to the CCAA Court seeking the Vesting Order) and which shall be in form and substance acceptable to the Just Energy Entities, the Supporting Secured CF Lenders and the Sponsor, each acting reasonably.
<b>“Intercompany Claim”</b>	means any claim that may be asserted against any of the Just Energy Entities by or on behalf of any of the Just Energy Entities or any of their affiliated companies, partnerships, or other corporate entities, and <b>“Intercompany Claims”</b> means all of them.

<b><u>DEFINED TERMS</u></b>	
<b>“Intercreditor Agreement”</b>	means the Sixth Amended and Restated Intercreditor Agreement dated as of September 1, 2015 between National Bank of Canada, as collateral agent and agent for itself as agent and the Lenders (as defined therein); Shell; BP Canada Energy Group ULC; BP Canada Energy Marketing Corp.; BP Energy Company; Exelon Generation Company, LLC; Bruce Power L.P.; EDF Trading North America, LLC; Nextera Energy Power Marketing, LLC; Macquarie Bank Limited; Macquarie Energy Canada Ltd.; Macquarie Energy LLC; Morgan Stanley Capital Group Inc.; and each other person identified as an Other Commodity Supplier (as defined therein) from time to time party thereto, and Just Energy Ontario L.P. and Just Energy (U.S.) Corp., as Borrowers (as defined therein) and each of the Guarantors (as defined therein) from time to time party thereto, as amended (as may be further amended, restated, supplemented, or otherwise modified from time to time).
<b>“Law”</b>	means any law, statute, order, decree, consent decree, writ, notice, judgment, rule, regulation, ordinance or other pronouncement having the effect of law whether in Canada, the United States or any other country, or any domestic or foreign state, county, province, city or other political subdivision or of any Authorized Authority.
<b>“Monitor”</b>	means FTI Consulting Canada Inc., as Court-appointed monitor of the Just Energy Entities in the CCAA Proceedings and not in its personal capacity.
<b>“New Credit Agreement”</b>	has the meaning given to it in the Stalking Horse Term Sheet.
<b>“New Credit Facility”</b>	means the credit facility to be made available to some or all of the Just Energy Entities pursuant to the New Credit Agreement.
<b>“New Intercreditor Agreement”</b>	has the meaning given to it in the Stalking Horse Term Sheet.

<b><u>DEFINED TERMS</u></b>	
<b>“Person”</b>	shall be broadly interpreted and includes an individual, partnership, firm, joint venture, venture capital fund, limited liability company, unlimited liability company, association, trust, entity, corporation, unincorporated association, or organization, syndicate, committee, court appointed representative, the government of a country or any political subdivision thereof, or any agency, board, tribunal, commission, bureau, instrumentality, or department of such government or political subdivision, or any other entity, howsoever designated or constituted, including any Taxing Authority, and the trustees, executors, administrators, or other legal representatives of an individual, and for greater certainty includes any Authorized Authority.
<b>“Plan Support Agreement”</b>	shall mean that certain Plan Support Agreement dated May 12, 2022 between the Just Energy Entities, the Sponsor, Shell, the Supporting Secured CF Lenders, the Credit Facility Agent, and the Supporting Unsecured Creditors (as defined in the Plan Support Agreement).
<b>“Post-Filing Claim” or “Post-Filing Claims”</b>	means any or all indebtedness, liability, or obligation of the Just Energy Entities of any kind that arises during and in respect of the period commencing on the Filing Date and ending on the day immediately preceding the Closing Date in respect of services rendered or supplies provided to the Just Energy Entities during such period or under or in accordance with any Continuing Contract; provided that, for certainty, such amounts are not a Restructuring Period Claim or a Restructuring Period D&O Claim (as such terms are defined in the Claims Procedure Order).
<b>“Pre-Filing Claims”</b>	has the meaning given to it in the Claims Procedure Order.
<b>“Regulatory Approvals”</b>	has the meaning given to it in the Stalking Horse Term Sheet.
<b>“SISP Motion”</b>	means a motion filed in the CCAA Proceedings seeking entry of the SISP Order.
<b>“SISP Order”</b>	means an order of the CCAA Court substantially in the form attached as Exhibit 2 to the Stalking Horse Term Sheet.

<b><u>DEFINED TERMS</u></b>	
<b>“SISP Recognition Motion”</b>	means a motion filed in the Chapter 15 Cases with the US Bankruptcy Court seeking entry of the SISP Recognition Order.
<b>“SISP Recognition Order”</b>	means an order in the Chapter 15 Cases from the US Bankruptcy Court recognizing and giving effect in the United States to the SISP Order.
<b>“Taxing Authorities”</b>	means Her Majesty the Queen in right of Canada, Her Majesty the Queen in right of any province or territory of Canada, the Canada Revenue Agency, any similar revenue or taxing authority of Canada and each and every province or territory of Canada and any political subdivision thereof, the United States Internal Revenue Service, any similar revenue or taxing authority of the United States and each and every state and locality of the United States, and any Canadian, United States or other Authorized Authority exercising taxing authority or power, and “Taxing Authority” means any one of the Taxing Authorities.
<b>“Transaction Agreement”</b>	has the meaning given to it in the Recitals.
<b>“US Bankruptcy Rules”</b>	means the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code, 28 U.S.C. § 2075, as applicable to the Chapter 15 Cases, and the general, local and chambers rules of the US Bankruptcy Court, as amended.
<b>“Vesting Motion”</b>	means a motion filed in the CCAA Proceedings seeking entry of the Vesting Order.
<b>“Vesting Order”</b>	means an order of the CCAA Court approving the Transaction Agreement, substantially in the form attached as Exhibit 3 to the Stalking Horse Term Sheet.
<b>“Vesting Recognition Motion”</b>	means a motion filed in the Chapter 15 Cases with the US Bankruptcy Court seeking entry of the Vesting Recognition Order.

<b><u>DEFINED TERMS</u></b>	
<b>“Vesting Recognition Order”</b>	means an order entered in the Chapter 15 Cases recognizing and giving effect in the United States to the Vesting Order.

**EXHIBIT B**

**Transaction Agreement**



**TRANSACTION AGREEMENT**

**JUST ENERGY GROUP INC.**

**as the Company**

**-and-**

**LVS III SPE XV LP,**

**TOCU XVII LLC,**

**HVS XVI LLC,**

**OC II LVS XIV LP,**

**OC III LFE I LP,**

**CBHT Energy I LLC**

**each as a Purchaser and collectively, as the Purchaser**

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### **Disclosure Letter and Exhibits**

Disclosure Letter

Exhibit A – Terms of the New Preferred Equity

Exhibit B – Form of Release

**TRANSACTION AGREEMENT**

**THIS AGREEMENT** is made as of August 4, 2022

**AMONG:**

Just Energy Group Inc. (“**Just Energy**” or “**Company**”)

-and-

LVS III SPE XV LP, TOCU XVII LLC, HVS XVI LLC, OC II LVS XIV LP, OC III LFE I LP and CBHT ENERGY I LLC (each, a “**Purchaser**” and collectively, the “**Purchaser**”).

**RECITALS:**

- A. The Just Energy Entities carry on the business, taken as a whole, of serving as a retail energy provider specializing in electricity and natural gas commodities, energy efficient solutions, carbon offsets and renewable energy options (collectively, the “**Business**”).
- B. On March 9, 2021, the Applicants commenced proceedings under the CCAA before the Ontario Superior Court of Justice (Commercial List) (the “**CCAA Court**”) to, among other things, seek creditor protection for, and certain relief in respect of, certain of the Just Energy Entities.
- C. On March 9, 2021, the Applicants commenced ancillary insolvency proceedings under Chapter 15 of Title 11 of the United States Code (the “**U.S. Proceedings**”) in the United States Bankruptcy Court for the Southern District of Texas, Houston Division.
- D. Pursuant to the Support Agreement entered into on the date of this Agreement, by and among the Just Energy Entities, the Purchaser and the other parties signatory thereto (as amended, supplemented, or otherwise modified from time to time, the “**Support Agreement**”), the Purchaser has agreed to act as a “stalking horse” bidder and, if selected or deemed as having submitted the Successful Bid in accordance with the terms of the SISP, to purchase the Purchased Interests from the Just Energy Entities, and the Company has agreed to cause the Purchased Interests to be acquired by the Purchaser, and Purchaser further wishes to indirectly assume from the Just Energy Entities the Assumed Liabilities, pursuant to and in accordance with the terms of the SISP and subject to and in accordance with the terms and conditions of this Agreement.

**NOW THEREFORE**, the Parties agree as follows:

## ARTICLE 1 INTERPRETATION

### 1.1 Definitions

In this Agreement,

“**Administrative Expense Amount**” means cash in an amount of C\$1,900,000, which shall be paid by the Just Energy Entities to the Monitor on the Closing Date out of the cash and cash equivalents of the Just Energy Entities as at the Closing Date and held in trust by the Monitor for the benefit of Persons entitled to be paid the Administrative Expense Costs, subject to the terms hereof.

“**Administrative Expense Costs**” means the reasonable and documented fees and costs of (i) the Monitor and its professional advisors and (ii) professional advisors of the Just Energy Entities for services performed prior to and, other than in respect of the Just Energy Entities, after the Closing Date, in each case, relating directly or indirectly to the CCAA Proceedings, the U.S. Proceedings, and this Agreement and including without limitation (a) costs required to wind down and/or dissolve and/or bankrupt Residual Co. and (b) costs and expenses required to administer the Excluded Assets, Excluded Liabilities and Residual Co.

“**Adversary Proceeding**” means adversary proceeding number 21-4299, commenced on November 12, 2021 in the U.S. Proceedings before the U.S. Bankruptcy Court, by Just Energy, Just Energy Texas LP, Fulcrum Retail Energy LLC and Hudson Energy Services LLC, as the foreign representatives, against Electric Reliability Council of Texas, Inc. and the Public Utility Commission of Texas.

“**Affiliate**” means, with respect to any specified Person, any other Person which, directly or indirectly, through one or more intermediaries controls, or is controlled by, or is under common control with, such specified Person (for the purposes of this definition, “control” (including, with correlative meanings, the terms “controlling,” “controlled by” and “under common control with”), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise). For greater certainty, an Affiliate of a Person shall include such Person’s investment funds and managed accounts and any funds managed or directed by the same investment advisor.

“**Agreement**” means this transaction agreement and all attachments, including the Disclosure Letter and Exhibits, in each case as the same may be supplemented, amended, restated or replaced from time to time, and the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this transaction agreement and all attached Exhibits, and unless otherwise indicated, references to Articles, Sections, the Disclosure Letter and Exhibits are to Articles, Sections, the Disclosure Letter and Exhibits in this transaction agreement.

“**Alternative Restructuring Proposal**” means any inquiry, proposal, offer, expression of interest, bid, term sheet, discussion, or agreement with respect to a sale, disposition, new-money investment, restructuring, reorganization, merger, amalgamation, acquisition, consolidation, dissolution, debt investment, equity investment, liquidation, tender offer, recapitalization, plan of

reorganization, share exchange, business combination, or similar transaction involving any one or more Just Energy Entity, one or more Just Energy Entity's material assets, or the debt, equity, or other interests in any one or more Just Energy Entity that is an alternative to or otherwise inconsistent with the transaction contemplated hereby and any amendment to or variation of any such inquiry, proposal, offer, expression of interest, bid, term sheet, discussion, or agreement, and is with a counterparty other than the Purchaser or any Affiliate of the Purchaser.

**“Antitrust Approvals”** means any approval, clearance, filing or expiration or termination of a waiting period pursuant to which a transaction would be deemed to be unconditionally approved in relation to the transactions contemplated hereby under any Antitrust Law of any country or jurisdiction that the Purchaser agrees, acting reasonably, is required, other than the Competition Act Approval.

**“Antitrust Laws”** means all Applicable Laws, including any antitrust, competition or trade regulation laws (including, without limitation, the HSR Act), that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization, restraint of trade or lessening or preventing competition through merger or acquisition.

**“Applicable Law”** means any transnational, domestic or foreign, federal, provincial, territorial, state, local or municipal (or any subdivision of any of them) law (including common law and civil law), statute, ordinance, rule, regulation, restriction, limit, by-law (zoning or otherwise), judgment, order, direction or any consent, exemption, Transaction Regulatory Approval, or any other legal requirements of, or agreements with, any Governmental Authority, that applies in whole or in part to the transactions contemplated by this Agreement, the Just Energy Entities, the Purchaser, the Business, or any of the Purchased Interests or the Assumed Liabilities.

**“Applicants”** means the Company, each Residual Co. (at the time such Residual Co. becomes an Applicant) and those additional applicants listed on Schedule 1.1(a).

**“Articles of Reorganization”** means articles of reorganization in respect of the Company's authorized and issued common shares to provide for the redemption or cancellation thereof by the Company for no consideration on Closing; such articles of reorganization to be in form and substance satisfactory to the Purchaser, acting reasonably.

**“Assumed Liabilities”** has the meaning given to such term in Section 2.3.

**“BP Commodity/ISO Services Claim”** means all Pre-Filing Claims of BP Canada Energy Group ULC and BP Energy Company in the aggregate principal amounts of \$229,461,558.59 and C\$170,652.60, plus all accrued and unpaid interest thereon through to and including the Closing Date.

**“Break-Up Fee”** has the meaning given to such term in Section 9.3(a).

**“Business”** has the meaning given to such term in Recital A.

**“Business Day”** means any day, other than a Saturday or Sunday, on which the principal commercial banks in Toronto, Ontario and New York, New York are open for commercial banking business during normal banking hours.

“**Cash Management Obligations**” means has the meaning given to such term in the Support Agreement.

“**Causes of Action**” means any action, claim, cross claim, third party claim, damage, judgment, cause of action, controversy, demand, right, action, suit, obligation, liability, debt, account, defense, offset, power, privilege, license, lien, indemnity, interest, guaranty, or franchise of any kind or character whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, contingent or non-contingent, liquidated or unliquidated, disputed or undisputed, secured or unsecured, assertable directly or derivatively, matured or unmatured, suspected or unsuspected, in contract or in tort, at law or in equity, or pursuant to any other theory of law or otherwise, of the Just Energy Entities against any Person, in each case based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the Closing Time (which Causes of Action for the avoidance of doubt shall be retained by the Acquired Entities on Closing).

“**CCAA**” means the *Companies’ Creditors Arrangement Act* (Canada).

“**CCAA Court**” has the meaning given to such term in Recital B.

“**CCAA Proceedings**” means the proceedings commenced under the CCAA by the Applicants pursuant to the Initial CCAA Order.

“**Claims**” has the meaning given to such term in the Claims Procedure Order.

“**Claims Bar Date**” has the meaning given to such term in the Claims Procedure Order.

“**Claims Procedure Order**” means the order of the CCAA Court dated September 15, 2021 in the CCAA Proceedings establishing a claims procedure in respect of the Just Energy Entities and which established November 1, 2021 on or before 5:00 p.m. (Toronto time) as the last date in which Persons wishing to assert a Claim against the Just Energy Entities could file such claim, as same may be further amended, restated or varied from time to time, and in all such cases any such amended, restated or varied order shall be in form and substance reasonably acceptable to the Just Energy Entities and the Purchaser.

“**Closing**” means the completion of the sale and purchase of the Purchased Interests pursuant to this Agreement at the Closing Time, and all other transactions contemplated by this Agreement that are to occur contemporaneously with the sale and purchase of the Purchased Interests.

“**Closing Date**” means a date no later than five (5) Business Days after the conditions set forth in Article 6 have been satisfied or waived, other than the conditions set forth in Article 6 that by their terms are to be satisfied or waived at the Closing (or such other date agreed to by the Parties in writing); provided that, if there is to be a Closing hereunder, then the Closing Date shall be no later than the Outside Date.

“**Closing Documents**” means all contracts, agreements, certificates and instruments required by this Agreement to be delivered at or before the Closing.



“**Closing Time**” means 10:00 a.m. (Toronto time) on the Closing Date or such other time on the Closing Date as the Parties agree in writing that the Closing Time shall take place.

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

“**Commissioner**” means the Commissioner of Competition appointed under the Competition Act or any Person duly authorized to exercise powers of the Commission of Competition.

“**Commodity Agreement**” means a gas supply agreement, electricity supply agreement or other agreement with any of the Just Energy Entities for the physical or financial purchase, sale, trading or hedging of natural gas, electricity or environmental derivative products, or contracts entered into for protection against fluctuations in foreign currency exchange rates, which shall include any master power purchase and sale agreement, base contract for sale and purchase, ISDA master agreement or similar agreement.

“**Commodity Supplier**” means any counterparty to a Commodity Agreement.

“**Company**” has the meaning given to such term in the preamble to this Agreement.

“**Company Subsidiaries**” means collectively each Person that is controlled by the Just Energy Entities (for the purposes of this definition, “control”, as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise).

“**Competition Act**” means the Competition Act (Canada), R.S.C., 1985, c. C-34.

“**Competition Act Approval**” means that: (i) the Commissioner shall have issued an Advance Ruling Certificate under subsection 102(1) of the Competition Act in respect of the transactions contemplated by this Agreement, or (ii) the applicable waiting period under section 123 of the Competition Act shall have expired or been waived by the Commissioner, or the obligation to submit a notification shall have been waived under paragraph 113(c) of the Competition Act, and the Commissioner shall have issued a No Action Letter.

“**Confidential Information**” means non-public, confidential, personal or proprietary information which is furnished to the Purchaser or any of its Affiliates by the Company or any of the Just Energy Entities’ representatives, including information about identifiable individuals, any information relating to the Just Energy Entities, or any customer or supplier of the Just Energy Entities, but does not include information that is or becomes generally available to the public other than as a result of disclosure by the Purchaser or its representatives in breach of this Agreement or that is received by the Purchaser from an independent third party that, to the knowledge of the Purchaser, obtained it lawfully and was under no duty of confidentiality (except to the extent that applicable privacy laws do not exclude such information from the definition of personal information) or that is independently developed by the Purchaser or its representatives without reference to any Confidential Information.

**“Continuing Contracts”** means a contract, arrangement, or other agreement (oral or written) for which a notice of disclaimer pursuant to Section 32 of the CCAA has not been sent by any of the Just Energy Entities; provided that Continuing Contracts shall not include the Third Amended and Restated Scheduling Coordinator Agreement dated December 1, 2014 between Shell Energy North America (US), L.P., Just Energy New York Corp., Just Energy (U.S.) Corp. and Just Energy Solutions Inc. (formerly Commerce Energy, Inc.) or any other agreement whereby Shell performs ISO or scheduling services on behalf of any Applicant whereby an Applicant has reimbursement obligations to Shell for payments made by Shell on behalf of an Applicant to an ISO.

**“Credit Agreement”** means the ninth amended and restated credit agreement dated as of September 28, 2020, by and among Just Energy Ontario L.P. and Just Energy (U.S.) Corp., as borrowers, the Credit Facility Agent and the Credit Facility Lenders, as such credit agreement may be amended, restated, supplemented and/or otherwise modified from time to time in accordance with the terms thereof.

**“Credit Bid Consideration”** has the meaning given to such term in Section 3.1(a)(ii).

**“Credit Facility Agent”** means National Bank of Canada, in its capacity as administrative agent for the Credit Facility Lenders.

**“Credit Facility Documents”** means, collectively, the Credit Agreement and all related documentation, including, all guarantee and security documentation related to the foregoing.

**“Credit Facility LC Claim”** means any claim of or obligation owing to any Credit Facility Lender relating to any letter of credit issued but undrawn under the Credit Facility Documents immediately prior to Closing.

**“Credit Facility Lenders”** means the lenders party to the Credit Agreement from time to time, in such capacity.

**“Credit Facility Remaining Debt”** means all debts, liabilities and other obligations (other than the Credit Facility LC Claims and the Cash Management Obligations) owing by the Just Energy Entities to the Credit Facility Agent and the Credit Facility Lenders under the Credit Facility Documents as of the Closing Date that are not otherwise repaid in accordance with the New Credit Agreement.

**“DIP Agent”** means Alter Domus (US) LLC, in its capacity as administrative and collateral agent for the DIP Lenders.

**“DIP Documents”** means, collectively, the DIP Term Sheet and all related documentation, including, without limitation, all guarantee and security documentation, related to the foregoing.

**“DIP Financing”** means the debtor-in-possession financing made pursuant to the DIP Term Sheet.

**“DIP Lenders”** means the lenders under the DIP Term Sheet, in such capacity, and “DIP Lender” means any one of them.

**“DIP Term Sheet”** means the CCAA Interim Debtor-in-Possession Financing Term Sheet between the Just Energy Entities party thereto, the DIP Agent and the DIP Lenders, dated as of March 9, 2021, as such term sheet may be amended, restated, supplemented and/or otherwise modified from time to time in accordance with the terms thereof.

**“Disclosure Letter”** means the disclosure letter dated the date hereof regarding this Agreement.

**“Employee Priority Claims”** means any Claim for (a) accrued and unpaid wages and vacation pay owing to an employee of any of the Just Energy Entities whose employment was terminated between the Filing Date and the Closing Date and (b) unpaid amounts provided for in Section 6(5)(a) of the CCAA.

**“Employment Agreements”** means, collectively, the employment agreements, the management compensation plans, and indemnification agreements of, or for the benefit of, the directors, officers and employees of any of the Just Energy Entities that, on or prior to the Closing, have not resigned, in each case, in existence on the date hereof; provided, however, that Employment Agreements shall not include employment agreements, the management compensation plans, and indemnification agreements of, or for the benefit of, the directors, officers and employees of any of the Just Energy Entities that have been terminated or disclaimed without the consent of the Purchaser.

**“Encumbrance”** means any security interest (whether contractual, statutory or otherwise), lien, prior claim, charge, hypothec, reservation of ownership, pledge, encumbrance, mortgage, trust (including any statutory, deemed or constructive trust), option or adverse claim or encumbrance of any nature or kind.

**“Energy Regulator”** means any federal or provincial energy regulators, provincial regulators of consumer sales that have authority with respect to energy sales, U.S. municipal, state, federal or other foreign energy regulatory bodies or agencies, local energy transmission and distribution companies, or regional transmission organizations or independent system operators.

**“Energy Regulator Claims”** means any Claim that may be asserted by any Energy Regulator against a Just Energy Entity, excluding any: (i) Claim with respect to the subject matter of the Adversary Proceeding, including any Claim with respect to obligations of the Just Energy Entities underlying the invoices that are the subject of the Adversary Proceeding; and (ii) Claim by any Taxing Authority.

**“Energy Regulator Notices”** means notice of the Agreement to the Energy Regulator in the time and manner required by Applicable Law and includes, but is not limited to, notice to the Energy Regulator regarding potential implications to performance guarantees that might have been provided in support of an application for a licence, order or permit, as the case may be.

**“Equity Financing”** has the meaning given to such term in Section 5.9(b).

**“Equity Financing Sources”** has the meaning given to such term in Section 5.9(b).

“**Equity Interests**” means any capital share, capital stock, partnership, membership, joint venture or other ownership or equity interest, participation or securities (whether voting or nonvoting, whether preferred, common or otherwise, and including share appreciation, contingent interest or similar rights) of a Person.

“**ETA**” means the *Excise Tax Act* (Canada).

“**Excluded Assets**” has the meaning given to such term in Section 2.2.

“**Excluded Contracts**” means contracts of the Just Energy Entities as specified on Schedule 2.2(c) of the Disclosure Letter.

“**Excluded Liabilities**” has the meaning given to such term in Section 2.4.

“**Filing Date**” means March 9, 2021.

“**Final Order**” means with respect to any order or judgment of the CCAA Court or the U.S. Bankruptcy Court, or any other court of competent jurisdiction, with respect to the subject matter addressed in the CCAA Proceedings or the Chapter 15 Cases or the docket of any court of competent jurisdiction, that such order or judgement has not been vacated, set aside, reversed, stayed, modified or amended, and as to which the applicable periods to appeal, or seek certiorari or move for a new trial, reargument, or rehearing has expired and no appeal, leave to appeal, or petition for certiorari or other proceedings for a new trial, reargument, or rehearing has been timely taken or filed, or as to which any appeal has been taken or any petition for certiorari or leave to appeal that has been timely filed has been withdrawn or resolved in a manner acceptable to the Company and the Purchaser, each acting reasonably, by the highest court to which the order or judgment was appealed or from which leave to appeal or certiorari was sought or the new trial, reargument, or rehearing shall have been denied, resulted in no modification of such order or has otherwise been dismissed with prejudice; *provided, however*, that the possibility that a motion under Rule 60 of the United States Federal Rules of Civil Procedure, or any analogous rule under the U.S. Bankruptcy Rules, may be filed relating to such order shall not cause such order to not be a Final Order.

“**Fundamental Representations and Warranties of the Company**” means the representations and warranties of the Company included in Sections 4.1 [*Due Authorization and Enforceability of Obligations*], 4.2 [*Existence and Good Standing*] and 4.4 [*Absence of Conflicts*].

“**GAAP**” means generally accepted accounting principles in the U.S., including International Accounting Standards and U.S. GAAP.

“**Governmental Authority**” means any government, regulatory authority (including any Energy Regulator), governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity (i) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them, or (ii) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power.

“**GST/HST**” means all goods and services tax and harmonized sales tax imposed under Part IX of the ETA or any other statute in any jurisdiction of Canada.

“**Guarantee**” has the meaning given to such term in Section 5.9(b).

“**HSR Act**” means the U.S. Hart-Scott-Rodino Antitrust Improvements Act of 1976, and the rules and regulations promulgated thereunder, as amended.

“**Implementation Steps**” has the meaning given to such term in Section 2.7(b).

“**Initial CCAA Order**” means the initial order of the CCAA Court pursuant to the CCAA commencing the CCAA Proceedings, as amended, restated, supplemented and/or modified from time to time.

“**Initial Recognition Order**” means the Order of the U.S. Bankruptcy Court in the U.S. Proceedings recognizing, on a final basis, the CCAA Proceedings as “foreign main proceedings” pursuant to section 1502(4) of the *U.S. Bankruptcy Code*.

“**Intercompany Claim**” means any claim that may be asserted against any of the Just Energy Entities by or on behalf of any of the Just Energy Entities or any of their affiliated companies, partnerships, or other corporate entities.

“**Intercreditor Agreement**” means the Sixth Amended and Restated Intercreditor Agreement dated as of September 1, 2015 between National Bank of Canada, as collateral agent and agent for itself as agent and the Lenders (as defined therein); Shell; BP Canada Energy Group ULC; BP Canada Energy Marketing Corp.; BP Energy Company; Exelon Generation Company, LLC; Bruce Power L.P.; EDF Trading North America, LLC; Nextera Energy Power Marketing, LLC; Macquarie Bank Limited; Macquarie Energy Canada Ltd.; Macquarie Energy LLC; Morgan Stanley Capital Group Inc.; and each other person identified as an Other Commodity Supplier (as defined therein) from time to time party thereto, and Just Energy Ontario L.P. and Just Energy (U.S.) Corp., as Borrowers (as defined therein) and each of the Guarantors (as defined therein) from time to time party thereto, as amended (as may be further amended, restated, supplemented, or otherwise modified from time to time).

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

“**Investment Canada Act Approval**” means both:

(1) receipt by the Purchaser of a certification letter from the Director of Investments under the Investment Canada Act pursuant to subsection 13(1) of the Investment Canada Act confirming that that the transactions contemplated by this Agreement are not reviewable under Part IV of the Investment Canada Act;

and

(2) either: (A) no notice is given under subsection 25.2(1) or 25.3(2) of the Investment Canada Act within the prescribed period; or, (B) if notice is given under subsection 25.2(1) or

25.3(2) of the Investment Canada Act, then either (a) the Minister or Ministers under the Investment Canada Act have sent to the Purchaser a notice under paragraph 25.2(4)(a) or 25.3(6)(b) of the Investment Canada Act; or (b) the Governor in Council has issued an order under paragraph 25.4(1)(b) of the Investment Canada Act authorizing the transactions contemplated by this Agreement.

**“Just Energy Entities”** means the Company, Just Energy Corp., Ontario Energy Commodities Inc., Universal Energy Corporation, Just Energy Finance Canada ULC, Hudson Energy Canada Corp., 11929747 Canada Inc., 12175592 Canada Inc., JE Services Holdco I Inc., JE Services Holdco II Inc., 8704104 Canada Inc., Just Energy Advanced Solutions Corp., Just Energy (U.S.) Corp., Just Energy Illinois Corp., Just Energy Indiana Corp., Just Energy Massachusetts Corp., Just Energy New York Corp., Just Energy Texas I Corp., Just Energy, LLC, Just Energy Pennsylvania Corp., Just Energy Michigan Corp., Just Energy Solutions Inc., Hudson Energy Services LLC, Hudson Energy Corp., Interactive Energy Group LLC, Hudson Parent Holdings LLC, Drag Marketing LLC, Just Energy Advanced Solutions LLC, Fulcrum Retail Energy LLC, Fulcrum Retail Holdings LLC, Tara Energy, LLC, Just Energy Marketing Corp., Just Energy Connecticut Corp., Just Energy Limited, Just Solar Holdings Corp., Just Energy (Finance) Hungary Zrt., Just Energy Ontario L.P., Just Energy Manitoba L.P., Just Energy (B.C.) Limited Partnership, Just Energy Québec L.P., Just Energy Trading L.P., Just Energy Alberta L.P., Just Green L.P., Just Energy Prairies L.P., JEBPO Services LLP, and Just Energy Texas LP.

**“Material Adverse Effect”** means any change, effect, event, occurrence, state of facts or development that has had a material adverse effect on (i) the business, assets, liabilities, financial conditions or results of operations of the Just Energy Entities, collectively, or (ii) prevents the ability of any of the Just Energy Entities to perform its obligations under, or to consummate the transactions contemplated by, this Agreement, taken as a whole; in each case except to the extent that any such change, effect, event, occurrence, state of facts or development is attributable to: (a) general economic or business conditions; (b) Canada, the U.S. or foreign economies, or financial, banking or securities markets in general, or other general business, banking, financial or economic conditions (including (i) any disruption in any of the foregoing markets, (ii) any change in the currency exchange rates or (iii) any decline or rise in the price of any security, commodity, contract or index); (c) acts of God or other calamities, national or international political or social conditions, including the engagement and/or escalation by the U.S. or Canada in hostilities, whether or not pursuant to the declaration of a national emergency or war, or the occurrence of any military or terrorist attack upon the U.S. or Canada or any of their territories, possessions or diplomatic or consular offices or upon any military installation, equipment or personnel of the U.S. or Canada; (d) the identity of the Purchaser or its Affiliates; (e) conditions affecting generally the industry in which the Just Energy Entities participates; (f) the public announcement of, entry into or pendency of, actions required or contemplated by or performance of obligations under, this Agreement or the transactions contemplated by this Agreement, or the identity of the Parties, including any termination of, reduction in or similar adverse impact on relationships, contractual or otherwise, with any customers, suppliers, financing sources, licensors, licensees, distributors, partners, employees or others having relationships with the Just Energy Entities; (g) changes in Applicable Laws or the interpretation thereof; (h) any change in GAAP or other accounting requirements or principles; (i) national or international political, labor or social conditions; (j) the failure of the Just Energy Entities to meet or achieve the results set forth in any internal projections (but not the underlying facts giving rise to such failure unless such facts are otherwise excluded pursuant to

the clauses contained in this definition); or (k) any change resulting from compliance with the terms of, or any actions taken (or not taken) by any Party pursuant to or in accordance with, this Agreement; provided that the exceptions set forth in clauses (a), (b), (c), (e), (g), (h) or (i) shall not apply to the extent that such event is disproportionately adverse to the Just Energy Entities, taken as a whole, as compared to other companies in the industries in which the Just Energy Entities operate.

**“Monitor”** means FTI Consulting Canada Inc., as Court-appointed monitor of the Just Energy Entities in the CCAA Proceeding and not in its personal capacity.

**“Monitor’s Certificate”** means the certificate delivered to the Purchaser and filed with the CCAA Court by the Monitor certifying that the Monitor has received written confirmation in form and substance satisfactory to the Monitor from the Company and the Purchaser that all conditions to Closing have been satisfied or waived by the applicable Parties and the transactions contemplated by this Agreement have been completed.

**“New Credit Agreement”** means the tenth amended and restated credit agreement dated as of the Closing Date, by and among Just Energy Ontario L.P. and Just Energy (U.S.) Corp., as borrowers, the Credit Facility Agent and the Credit Facility Lenders, as such credit agreement may be amended, restated, supplemented and/or otherwise modified from time to time in accordance with the terms thereof, which shall be in a form consistent with the term sheet with respect thereto as contained in Exhibit 1 of the Stalking Horse Term Sheet (as such term is defined in the Support Agreement) (including that any letters of credit issued by a Credit Facility Lender pursuant to the Credit Agreement shall continue under the New Credit Agreement or be discharged and, if required, replaced with new letters of credit issued under the New Credit Agreement, unless otherwise agreed to by the applicable Credit Facility Lender and the Just Energy Entities, with the consent of the Purchaser) and otherwise acceptable to the Purchaser as of the Closing Date.

**“New Intercreditor Agreement”** means the seventh amended and restated intercreditor agreement by, among others, the Just Energy Entities, the Credit Facility Agent and the applicable Commodity Suppliers, which shall provide for the same relative supplier and lender priorities as contemplated in the existing sixth amended and restated intercreditor agreement subject to modifications contained therein, which shall be in a form consistent with the term sheet with respect thereto as contained in Exhibit 4 of the Stalking Horse Term Sheet (as such term is defined in the Support Agreement) and otherwise acceptable to the Purchaser as of the Closing Date.

**“New Preferred Equity”** has the meaning given to such term in Section 2.1(a).

**“No Action Letter”** means written confirmation from the Commissioner that the Commissioner does not, at that time, intend to make an application under section 92 of the Competition Act in respect of the transactions contemplated by this Agreement.

**“Order”** means any order of the Court made in the CCAA Proceedings, any order of the U.S. Court made in the U.S. Proceedings, or any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority.

**“Outside Date”** has the meaning given to such term in Section 9.1(c).

“**Parties**” means the Company and the Purchaser collectively, and “**Party**” means either the Company or the Purchaser, as the context requires.

“**PATRIOT Act**” has the meaning given to such term in Section 5.11.

“**PCMLTFA**” has the meaning given to such term in Section 5.11.

“**Permitted Encumbrances**” means the Encumbrances listed in Schedule 1.1(b).

“**Person**” means includes an individual, partnership, firm, joint venture, venture capital fund, limited liability company, unlimited liability company, association, trust, entity, corporation, unincorporated association, or organization, syndicate, committee, court appointed representative, the government of a country or any political subdivision thereof, or any agency, board, tribunal, commission, bureau, instrumentality, or department of such government or political subdivision, or any other entity, howsoever designated or constituted, including any Taxing Authority, and the trustees, executors, administrators, or other legal representatives of an individual, and for greater certainty includes any Governmental Authority.

“**Post-Closing Straddle Tax Period**” has the meaning given to such term in Section 7.4(c).

“**Post-Filing Claim**” or “**Post-Filing Claims**” means any or all indebtedness, liability, or obligation of the Just Energy Entities of any kind that arises during and in respect of the period commencing on the Filing Date and ending on the day immediately preceding the Closing Date in respect of services rendered or supplies provided to the Just Energy Entities during such period or under or in accordance with any Continuing Contract; provided that, for certainty, such amounts are not a Restructuring Period Claim or a Restructuring Period D&O Claim, each as defined in the Claims Procedure Order.

“**Pre-Filing Claims**” has the meaning given to such term in the Claims Procedure Order.

“**Priority Payments Amount**” means cash in an amount equal to the value of the Priority Payments less the value of the Cash Purchase Price.

“**Priority Payments**” has the meaning given to such term in the Vesting Order.

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

“**Purchased Interests**” has the meaning given to such term in Section 2.1(a).

“**Purchaser**” has the meaning given to such term in the preamble to this Agreement.

“**Released Claims**” means all claims, demands, complaints, grievances, actions, applications, suits, causes of action, Orders, charges, indictments, prosecutions, informations or other similar processes, assessments or reassessments, judgments, debts, liabilities, expenses, costs, damages or losses, contingent or otherwise, whether liquidated or unliquidated, matured or unmatured, disputed or undisputed, contractual, legal or equitable, including loss of value, professional fees, including “claims” as defined in the CCAA or the U.S. Bankruptcy Code and



including fees and disbursements of legal counsel on a full indemnity basis, and all costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing.

“**Residual Co.**” means an entity to be formed by the Company in Canada and an entity to be formed by the Company in the United States, in each case, in form satisfactory to the Purchaser, acting reasonably, prior to the Closing and each of which shall have no issued and outstanding shares; provided, that no such entity shall be a flow through entity for Canadian or U.S. tax purposes unless approved by the Purchaser.

“**Sanctioned Country**” means any country or territory to the extent that such country or territory itself is the subject of any comprehensive sanctions (currently, Crimea, Cuba, Iran, North Korea, Syria and those portions of the Donetsk People’s Republic or Luhansk People’s Republic regions (and such other regions) of Ukraine over which any Sanctions Law authority imposes comprehensive Sanctions Laws), or any country or territory whose government is the subject of Sanctions Laws (currently, Venezuela) or that is otherwise the subject of broad restrictions under Sanctions Laws (including Afghanistan, Russia and Belarus).

“**Sanctioned Person**” means (i) any Person identified in any Sanctions Law-related list of designated Persons maintained by the Government of Canada or other Sanctions Laws authorities, (ii) any Person located, incorporated, or resident in a Sanctioned Country, or (iii) any Person directly or indirectly owned or controlled by, or acting for the benefit or on behalf of, a Person described in clause (i) or (ii) to the extent the owned or controlled Person is itself subject to the restrictions or prohibitions as the Person described in clause (i) or (ii).

“**Sanctions Laws**” means economic and financial sanctions laws administered, enacted or enforced from time to time by the Government of Canada, U.S., European Union, United Kingdom, or United Nations Security Council.

“**Shell**” has the meaning given to such term in Section 6.2(i).

“**SISP**” means the Sale and Investment Solicitation Process substantially in the form as appended as Exhibit D of the Support Agreement or otherwise in form and substance satisfactory to the Purchaser and the Company, each acting reasonably.

“**SISP Order**” means an order of the CCAA Court that, among other things, approves the SISP and related matters, substantially in the form as contained in Exhibit 2 of the Stalking Horse Term Sheet (as such term is defined in the Support Agreement), or as otherwise acceptable to the Purchaser and the Company, each acting reasonably.

“**SISP Recognition Order**” means the Order of the U.S. Bankruptcy Court entered in the U.S. Proceedings recognizing and giving effect to the SISP Order, which order shall be in form and substance acceptable to the Purchaser and the Company, each acting reasonably.

“**Successful Bid**” has the meaning given to such term in the SISP.

“**Support Agreement**” has the meaning given to such term in Recital D.

“**Tax**” and “**Taxes**” means taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever (including withholding on amounts paid to or by any Person) imposed by any Taxing Authority, including all interest, penalties, fines, additions to tax or other additional amounts imposed by any Taxing Authority in respect thereof, and including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, sales, goods and services, harmonized sales, use, value-added, excise, stamp, withholding, business, franchising, escheat, property, development, occupancy, employer health, payroll, employment, health, disability, severance, unemployment, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, all license, franchise and registration fees and all employment insurance, health insurance and Canada, Ontario and other government pension plan premiums or contributions.

“**Tax Act**” means the *Income Tax Act (Canada)* and shall also include a reference to any applicable and corresponding provisions under the income tax laws of a province or territory of Canada, as applicable.

“**Tax Return**” means any return, declaration, report, statement, information statement, form, election, amendment, claim for refund, schedule or attachment thereto or other document filed or required to be filed with a Taxing Authority with respect to Taxes.

“**Taxing Authority**” means Her Majesty the Queen in right of Canada, Her Majesty the Queen in right of any province or territory of Canada, the Canada Revenue Agency, any similar revenue or taxing authority of Canada and each and every province or territory of Canada and any political subdivision thereof, the United States Internal Revenue Service, any similar revenue or taxing authority of the U.S. and each and every state and locality of the U.S., and any Canadian, U.S. or other Governmental Authority exercising taxing authority or power, and “Taxing Authority” means any one of the Taxing Authorities.

“**Transaction Regulatory Approvals**” means any material licenses, permits or approvals required from any Governmental Authority or under any Applicable Laws relating to the business and operations of the Just Energy Entities that would be required to be obtained in order to permit the Just Energy Entities and Purchaser to complete the transactions contemplated by this Agreement and the Support Agreement, including but not limited to, and in each case to the extent it has been agreed to in accordance this Agreement that such approval shall be obtained, the Federal Energy Regulatory Commission, the Competition Act Approval, the Antitrust Approvals and the Investment Canada Act Approval.

“**Transfer Taxes**” means all transfer, documentary, sales, use, stamp, registration, customs duties, import and export taxes, surtaxes, value added, GST/HST, provincial sales/retail Taxes, conveyance fees, security interest filing or recording fee and any other similar Taxes (including any real property transfer Tax and any other similar Tax), any governmental assessment, and any related penalties and interest.

“**U.S.**” means the United States of America.

“**U.S. Bankruptcy Code**” means title 11 of the United States Code, 11 U.S.C. §§ 101 et seq, as amended.

“**U.S. Bankruptcy Court**” means the United States Bankruptcy Court for the District of Texas, Houston Division, overseeing the U.S. Proceedings.

“**U.S. Proceedings**” has the meaning given to such term in Recital C.

“**Vesting Order**” means an order of the CCAA Court substantially in the form of Exhibit 3 of the Stalking Horse Term Sheet (as such term is defined in the Support Agreement) (or as otherwise acceptable to the Purchaser and the Company, each acting reasonably).

“**Vesting Recognition Order**” means an order of the U.S. Bankruptcy Court entered in the U.S. Proceedings in form and substance acceptable to the Purchaser, which shall, among other things, recognize and give effect to the Vesting Order and otherwise approve this Agreement and the transactions contemplated hereby.

## **1.2 Statutes**

Except as otherwise provided in this Agreement, any reference in this Agreement to a statute refers to such statute and all rules and regulations made under it, as it or they may have been or may from time to time be amended, re-enacted or replaced.

## **1.3 Headings, Table of Contents, etc.**

The provision of a table of contents, the division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenient reference only and do not affect the interpretation of this Agreement. The recitals to this Agreement are an integral part of this Agreement.

## **1.4 Gender and Number**

In this Agreement, unless the context otherwise requires, words importing the singular include the plural and *vice versa*, and words importing gender include all genders.

## **1.5 Currency**

Except where otherwise expressly provided, all amounts in this Agreement are stated and shall be paid in U.S. dollars. References to “\$” are to U.S. dollars. References to “C\$” are to Canadian dollars.

## **1.6 Certain Phrases**

In this Agreement (i) the words “including”, “includes” and “include” and any derivatives of such words mean “including (or includes or include) without limitation” and (ii) the words “the aggregate of”, “the total of”, “the sum of”, or a phrase of similar meaning means “the aggregate (or total or sum), without duplication, of”. The expression “Article”, “Section” and other subdivision followed by a number, mean and refer to the specified Article, Section or other subdivision of this Agreement.

### **1.7 Invalidity of Provisions**

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon (i) such a determination of invalidity or unenforceability or (ii) any change in Applicable Law or other action by any Governmental Authority which materially detracts from the legal or economic rights or benefits, or materially increases the obligations, of any Party or any of its Affiliates under this Agreement, the Parties shall negotiate to modify this Agreement in good faith so as to effect the original intent of the Parties as closely as possible in an acceptable manner so that the transactions contemplated by this Agreement be consummated as originally contemplated to the fullest extent possible.

### **1.8 Knowledge**

Any reference to the knowledge of (i) the Company or the Just Energy Entities, means the actual knowledge, after reasonable inquiry, of R. Scott Gahn, Michael Carter and Jonah Davids, and (ii) the Purchaser, means the actual knowledge, after reasonable inquiry, of Scott Striegel.

### **1.9 Entire Agreement**

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

### **1.10 Waiver, Amendment**

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement shall be binding unless executed in writing by all Parties hereto. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

### **1.11 Governing Law; Jurisdiction and Venue**

This Agreement, the rights and obligations of the Parties under this Agreement, and any Claim or controversy directly or indirectly based upon or arising out of this Agreement or the transactions contemplated by this Agreement (whether based on contract, tort or any other theory), including all matters of construction, validity and performance, shall in all respects be governed

by, and interpreted, construed and determined in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to the conflicts of law principles thereof. The Parties consent to the jurisdiction and venue of the CCAA Court for the resolution of any such disputes arising under this Agreement. Each Party agrees that service of process on such Party as provided in Section 11.7 shall be deemed effective service of process on such Party.

### **1.12 Incorporation of Disclosure Letter, Schedules and Exhibits**

The Disclosure Letter and any schedule or exhibit attached thereto, and any schedule or exhibit attached to this Agreement, is an integral part of this Agreement.

### **1.13 Accounting Terms**

All accounting terms used in this Agreement are to be interpreted in accordance with GAAP unless otherwise specified.

### **1.14 Non-Business Days**

Whenever payments are to be made or an action is to be taken on a day which is not a Business Day, such payment will be made or such action will be taken on or not later than the next succeeding Business Day.

### **1.15 Computation of Time Periods**

If any action may be taken within, or any right or obligation is to expire at the end of, a period of days under this Agreement, then the first day of the period is not counted, but the day of its expiry is counted.

## **ARTICLE 2 PURCHASE AND SALE**

### **2.1 Agreement to Purchase and Sell Purchased Interests**

- (a) Upon and subject to the terms and conditions of this Agreement, at the Closing and effective as of the Closing Time, and subject to the completion of the Implementation Steps required to be completed prior to the Closing Time, the Company shall cause Just Energy (U.S.) Corp. to issue to the Purchaser, and each Purchaser (severally and not jointly) shall purchase from Just Energy (U.S.) Corp., free and clear of all Encumbrances (other than Permitted Encumbrances), newly issued common equity, and newly issued preferred equity (the “**New Preferred Equity**”) of Just Energy (U.S.) Corp. (or its successor if converted into another entity prior to the Closing in accordance with the Implementation Steps), with such equity interests to be allocated to each Purchaser as set forth on Schedule 2.1(a) (collectively, the “**Purchased Interests**”).
- (b) The terms of the New Preferred Equity shall be consistent with the terms set forth on Exhibit A hereto.

- (c) Pursuant to the Vesting Order, in accordance with the Implementation Steps, all Equity Interests of Just Energy (U.S.) Corp. outstanding prior to the issuance of the Purchased Interests shall be cancelled, and the Purchased Interests shall represent 100% of the outstanding Equity Interests in Just Energy (U.S.) Corp. after such cancellation and issuance.
- (d) In accordance with the Implementation Steps, Just Energy (U.S.) Corp. shall subscribe for and the Company shall issue to Just Energy (U.S.) Corp. newly issued common equity of the Company and pursuant to the Vesting Order and Articles of Reorganization immediately after the issuance of such common equity, all other Equity Interests of the Company shall be cancelled or redeemed, and, immediately after such cancellation or redemption, Just Energy (U.S.) Corp. shall hold 100% of the outstanding Equity Interests in the Company.
- (e) For the avoidance of doubt, upon the Closing and after the completion of the Implementation Steps, each other Just Energy Entity (including the Company) and every direct and indirect subsidiary of the Company, except those listed on Schedule 2.2(f), shall be owned, directly or indirectly, by Just Energy (U.S.) Corp.

## 2.2 Excluded Assets

Notwithstanding any provision of this Agreement to the contrary, as of the Closing, the assets of the Just Energy Entities shall not include any of the following assets, together with any other assets as set forth on Schedule 2.2 of the Disclosure Letter (collectively, the “**Excluded Assets**”):

- (a) the Tax records and returns, and books and records pertaining thereto and other documents, in each case, that primarily or solely relate to any of the Excluded Liabilities, provided that the applicable Just Energy Entity may take copies of all Tax records and books and records pertaining to such records (as redacted, if applicable) to the extent necessary or useful for the carrying on of the Business after Closing, including the filing of any Tax Return, provided, however that Residual Co. shall retain the original copies of any of the records required to be provided to the applicable Just Energy Entity hereunder (and provide the applicable Just Energy Entity with a copy thereof) to the extent Residual Co. is required to do so under Applicable Law;
- (b) the Administrative Expense Amount;
- (c) the Priority Payments Amount, which for the avoidance of doubt, shall be paid in accordance with Section 3.2 and shall not be transferred to Residual Co pursuant to Section 2.6;
- (d) the Excluded Contracts;
- (e) all communications, information or records, written or oral, that are in any way related to (i) the transactions contemplated by this Agreement, (ii) the sale of the Purchased Interests, (iii) any Excluded Asset or (iv) any Excluded Liability;

- (f) the equity interests of each entity set forth on Schedule 2.2(f), which Schedule may be modified as agreed upon by the Company and the Purchaser, each acting reasonably, at least seven (7) days prior to the hearing of the Just Energy Entities' motion to the CCAA Court seeking the Vesting Order; and
- (g) any rights which accrue to Residual Co. under the transaction documents.

### 2.3 Liabilities of Just Energy Entities

Subject to the Implementation Steps and pursuant to this Agreement and the Vesting Order, as of the Closing Time the only obligations and liabilities of the Just Energy Entities shall consist of only the items specifically set forth below, as applicable (collectively, the “**Assumed Liabilities**”); provided, for the avoidance of doubt the Assumed Liabilities of any Just Energy Entities pursuant to this Section 2.3 shall continue to be liabilities of the applicable Just Energy Entity (and, except as applied to Section 2.3(f) no other Person) as of the Closing; provided, further, however, that each of the Just Energy Entities shall take such steps as are necessary to ensure that any claim that could give rise to responsible person liability is satisfied if the applicable Just Energy Entity is, for any reason, unable to satisfy such claim:

- (a) *Post-Filing Claims* – all Post-Filing Claims;
- (b) *Liabilities of Just Energy Entities* – all liabilities of the Just Energy Entities arising from and after Closing;
- (c) *Credit Facility* – all Credit Facility LC Claims and the Credit Facility Remaining Debt (if any);
- (d) *Cash Management Obligations* – all Cash Management Obligations;
- (e) *Energy Regulator Claims* – Energy Regulator Claims relating to the Just Energy Entities;
- (f) *Taxes* – (A) Tax liabilities of the Just Energy Entities for any tax period or the portion thereof beginning on or after the Filing Date, and (B) any other Taxes, including sales or use taxes, payable to a Taxing Authority for any period whereby the nonpayment of which by any Just Energy Entity could result in a responsible person associated with a Just Energy Entity being held personally liable for such nonpayment, excluding from (A), for the avoidance of doubt (x) all income tax or similar liabilities of any Just Energy Entity for any tax period ending prior to the Filing Date, and (y) any Tax or similar liability directly and solely related to the Excluded Assets, other than Taxes with respect to which any current or former employee, officer, director or other individual may be held liable under any applicable statute imposing responsible person liability for unpaid taxes (excluding, for the avoidance of doubt, any such person serving in such capacity at Residual Co.);
- (g) *Texas Comptroller* – All Claims of the Texas Comptroller of Public Accounts that have been accepted pursuant to the Claims Procedure Order;

- (h) *Intercompany Claims* – Intercompany Claims between Just Energy Entities to the extent that the Implementation Steps contemplate such claims continuing as Assumed Liabilities;
- (i) *Indemnification Obligations* – any and all indemnification obligations of the Just Energy Entities to current and former directors, officers and or other person employed or previously employed by the Just Energy Entities (excluding, for the avoidance of doubt, Residual Co.);
- (j) *Employee Priority Claims* – all Employee Priority Claims; and
- (k) *Non-Just Energy Entity Liabilities* – all obligations and liabilities of the direct and indirect subsidiaries of the Company that are not Just Energy Entities, excluding those set forth on Schedule 2.2(f).

Notwithstanding the foregoing, nothing in this Agreement shall be read to extend or shall be interpreted as extending or amending the Claims Bar Date or give or shall be interpreted as giving any rights to any Person in respect of Claims against any Just Energy Entity that have been barred or extinguished pursuant to the Claims Procedure Order (it being understood that this proviso shall in no way limit the assumption of liabilities described in Section 2.3(f)(B)).

## 2.4 Excluded Liabilities

Except as expressly assumed pursuant to or specifically contemplated by Section 2.3, all Claims and all debts, obligations, and liabilities of the Just Energy Entities or any predecessors of the Just Energy Entities, of any kind or nature, shall be assigned and become the sole obligation of the applicable Residual Co. pursuant to the terms of the Vesting Order and this Agreement, and, as of the Closing, the Just Energy Entities shall not have any obligation, duty, or liability of any kind whatsoever, except as expressly assumed pursuant to Section 2.3, whether accrued, contingent, known or unknown, express or implied, primary or secondary, direct or indirect, liquidated, unliquidated, absolute, accrued, contingent or otherwise, and whether due or to become due, and such liabilities or obligations shall be the sole responsibility of the applicable Residual Co. (collectively, the “**Excluded Liabilities**”). All intercompany obligations and balances which do not continue as Assumed Liabilities pursuant to the Implementation Steps shall be Excluded Liabilities.

## 2.5 Transfer of Excluded Liabilities to Residual Co.

On the Closing Date, pursuant to the terms of the Vesting Order, the Just Energy Entities shall assign and transfer the Excluded Liabilities to the applicable Residual Co. (with Excluded Liabilities with respect to any Just Energy Entity organized in Canada being assigned to the Residual Co. organized in Canada and any Excluded Liabilities with respect to any Just Energy Entity organized in the United States being assigned to the Residual Co. organized in the United States), and such Residual Co. shall assume the applicable Excluded Liabilities. All of the Excluded Liabilities shall be discharged from the Just Energy Entities as of the Closing, pursuant to the Vesting Order.



## 2.6 Transfer of Excluded Assets to Residual Co.

On the Closing Date, pursuant to the terms of the Vesting Order and, where applicable, in consideration for Residual Co. assuming the Excluded Liabilities pursuant to Section 2.5 from a Just Energy Entity, the Just Energy Entities shall assign and transfer the Excluded Assets to the applicable Residual Co. (with Excluded Assets with respect to any Just Energy Entity organized in Canada being assigned to the Residual Co. organized in Canada and any Excluded Assets with respect to any Just Energy Entity organized in the United States being assigned to the Residual Co. organized in the United States), and the Excluded Assets shall be vested in the applicable Residual Co. pursuant to the Vesting Order.

## 2.7 Pre-Closing and Closing Reorganization

- (a) The specific mechanism for implementing the Closing, payment of the Cash Purchase Price and Credit Bid Consideration, and the structure of the transactions contemplated by this Agreement shall be structured in a tax efficient manner mutually agreed upon by the parties, each acting reasonably.
- (b) On or prior to the Closing Date, the Just Energy Entities shall effect the transaction steps and pre-closing reorganization (collectively, the “**Implementation Steps**”) of the Just Energy Entities as set forth on a schedule to be agreed upon by the Company, the Credit Facility Lenders and the Purchaser, each acting reasonably, at least seven (7) days prior to the hearing of the Just Energy Entities’ motion to the CCAA Court seeking the Vesting Order; provided that in no event will the Implementation Steps described in Schedule 2.7(c) be materially prejudicial to the interests of the Purchaser under the other sections of this Agreement. The Implementation Steps may include, without limitation, resolving intercompany obligations, the formation of new entities required to implement the transactions contemplated by this Agreement in a tax efficient manner, amending the partnership agreements to reflect the economic arrangement of the parties, and transfers of equity interests in the Just Energy Entities as agreed upon by the Company, the Credit Facility Lenders and the Purchaser, each acting reasonably, consistent with Section 2.7(a).
- (c) The Implementation Steps shall occur, and be deemed to have occurred in the order and manner to be set out in Schedule 2.7(c).
- (d) The steps to be taken and the compromises and releases to be effective on the Closing Date are deemed to occur and be effected in the steps and sequential order set forth in Schedule 2.7(c), beginning on or before the Closing Date at such time as is specified therein.

**ARTICLE 3**  
**PURCHASE PRICE AND RELATED MATTERS**

**3.1 Purchase Price**

- (a) The purchase price payable by each Purchaser (severally and not jointly) for the Purchased Interests (the “**Purchase Price**”) shall be:
- (i) cash in the amount of \$184,857,692.31, plus up to an additional C\$10 million solely in the event and to the extent additional funds (taking into account the Cash Purchase Price, the aggregate amount of cash held by the Just Energy Entities as of the Closing Date and the Credit Facility Remaining Debt) are required to pay all amounts to be paid by the Just Energy Entities pursuant to this Agreement and the Vesting Order (the “**Cash Purchase Price**”), allocated among each Purchaser in the amounts set forth on Schedule 3.1(a)(i);
  - (ii) subject to the Implementation Steps, the release of the applicable Just Energy Entities from all amounts outstanding and obligations owing to CBHT Energy I LLC pursuant to the BP Commodity/ISO Services Claim as of the Closing Date, including the principal amount of such claims and interest accrued as of the Closing Date, which amount as of the Filing Date is \$229,461,558.59 and C\$170,652.60, plus all accrued and unpaid interest thereon through to and including the Closing Date, in return for the issuance of the New Preferred Equity, plus any fees and expenses associated therewith (such aggregate amount, the “**Credit Bid Consideration**”); and
  - (iii) the assumption of the Assumed Liabilities as set forth herein.
- (b) Each Purchaser shall satisfy the obligations pursuant to Section 3.1 and the Purchase Price as follows:
- (i) CBHT Energy I LLC shall, at the Closing Time, in respect of the Credit Bid Consideration, cause the release of the applicable Just Energy Entities from all amounts outstanding and obligations owing pursuant to the BP Commodity/ISO Services Claim, including the principal amount of such claims and interest accrued as of the Closing Date, and any other documents or agreements entered into therewith in an aggregate amount equal to the Credit Bid Consideration, upon which the BP Commodity/ISO Services Claim, together with all documents, instruments, agreements and other related instruments shall, automatically and without any further formality, be released, discharged, terminated and of no further force and effect; and
  - (ii) at the Closing Time, each Purchaser (other than CBHT Energy I LLC) shall pay to the Company its respective portion of the Cash Purchase Price (as allocated on Schedule 3.1(a)(i)).

- (c) The Purchaser and its Affiliates, on the one hand, and the Company, and any of its Affiliates, on the other hand, shall be entitled to deduct and withhold from the Purchase Price or other amounts otherwise payable pursuant to this Agreement such amounts as such Person is required to deduct and withhold under Applicable Law provided, however, that the Purchaser and its Affiliates shall not make any such deduction or withholding pursuant to Section 1445 of the Code, as long as at Closing, the Company shall have delivered to the Purchaser certification required by Section 10.2(c). Before making any such deduction or withholding, the withholding agent shall use commercially reasonable efforts to provide the Person in respect of which deduction or withholding is proposed to be made reasonable advance written notice of the intention to make such deduction or withholding, and the withholding agent shall cooperate with any reasonable request from such Person to obtain reduction of or relief from such deduction or withholding to the extent permitted by Applicable Law. To the extent that amounts are so deducted and withheld and remitted to the appropriate Taxing Authority, such amounts shall be treated for all purposes of this Agreement as having been paid to the Person in respect of which such deduction and withholding was made.

### **3.2 Payment of Certain Liabilities**

On the Closing Date, upon payment of the Cash Purchase Price to the Company, the Just Energy Entities shall satisfy, in accordance with the Implementation Steps, the Priority Payments as required to be paid on Closing in the Vesting Order from the Priority Payments Amount plus the Cash Purchase Price such that all the Priority Payments shall be satisfied in full in connection with the Closing.

## **ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF THE COMPANY**

The Company represents and warrants, on behalf of itself and all other Just Energy Entities, to the Purchaser as follows, and acknowledges that the Purchaser is relying upon the following representations and warranties in connection with its purchase of the Purchased Interests:

### **4.1 Due Authorization and Enforceability of Obligations**

This Agreement has been duly authorized, executed and delivered by it, and, subject to the granting of the SISP Order this Agreement constitutes the legal, valid and binding obligation of it, enforceable against it in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium, or other similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability.

### **4.2 Existence and Good Standing**

Each of the Just Energy Entities is validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization and, subject to the granting of the SISP Order, (i) has all requisite power and authority to execute and deliver this Agreement and (ii) has taken all requisite corporate or other action necessary for it to execute and deliver this Agreement and to perform its obligations hereunder and consummate the transaction contemplated hereunder.

### **4.3 Sophisticated Parties**

Each of the Just Energy Entities (i) is a sophisticated party with sufficient knowledge and experience to evaluate properly the terms and conditions of this Agreement, (ii) has conducted its own analysis and made its own decision to enter into this Agreement and has obtained such independent advice in this regard as it deemed appropriate, and (iii) has not relied on such analysis or decision of any Person other than its own independent advisors.

### **4.4 Absence of Conflicts**

The execution and delivery of this Agreement by the Company and the completion by the Company of its obligations hereunder and the consummation of the transactions contemplated herein do not and will not violate or conflict with any Applicable Law, or any of the properties or assets of any Just Energy Entity, (subject to the receipt of any Transaction Regulatory Approvals) and will not result (with due notice or the passage of time or both) in a violation, conflict or breach of, or constitute a default under, or require any consent to be obtained under the certificate of incorporation, articles, by-laws or other constituent documents of any Just Energy Entity. The execution, delivery and performance by the Company does not and will not: (x) violate any provision of law, rule, or regulation applicable to the Just Energy Entities or any Just Energy Entity's charter or by-laws (or other similar governing documents) or those of any subsidiaries; (y) except as the consummation of the transactions contemplated herein may constitute a "Change of Control" (as may be defined in the Credit Agreement, the Intercreditor Agreement, the existing supply agreements with Shell, and the Term Loan Agreement) or any equivalent concept under the Credit Agreement, the Intercreditor Agreement, the existing supply agreements with Shell, or the Term Loan Agreement, conflict with, result in a breach of, or constitute (with or without notice or lapse of time or both) a default under any material agreement to which any Just Energy Entity is a party or any debt for borrowed money to which it is a party that, in any case, is not remedied, cured or waived, or (z) violate any Order, statute, rule, or regulation.

### **4.5 Approvals and Consents**

The execution and delivery of this Agreement by the Company, the completion by the Company of its obligations hereunder and the consummation by the Company of the transactions contemplated herein, do not and will not require any consent or approval or other action, with or by, any Governmental Authority, other than as contemplated by the SISP Order and the Transaction Regulatory Approvals.

### **4.6 No Actions**

There is not, as of the date hereof, pending or, to the Company's knowledge, threatened against any Just Energy Entity or any of its properties, nor has any Just Energy Entity received any written notice in respect of, any claim, potential claim, litigation, action, suit, arbitration, investigation or other proceeding before any Governmental Authority or legislative body that, would prevent the Company from executing and delivering this Agreement, performing its obligations hereunder and consummating the transactions and agreements contemplated by this Agreement.

#### **4.7 Subsidiaries**

Schedule 4.7 sets forth a complete and correct list of the name and jurisdiction of organization of each Just Energy Entity. All the outstanding Equity Interests of the Just Energy Entities (other than those of the Company) are owned by the Company, by one or more Company Subsidiaries or by the Company and one or more Company Subsidiaries, free and clear of all pledges, claims, liens, charges, options, security interests, licenses or other encumbrances of any kind or nature whatsoever (other than Permitted Encumbrances), except for transfer restrictions imposed by applicable securities laws, and, except as would not be material to the Company and the Just Energy Entities, taken as a whole, are duly authorized, validly issued, fully paid and nonassessable and not subject to any pre-emptive rights. Except for the Equity Interests in the Just Energy Entities, the Company does not own, directly or indirectly, any Equity Interests in, any Person.

#### **4.8 No Stop Order**

As of the time of entering into this Agreement, no order halting or suspending trading in securities of the Just Energy Entities has been issued to and is outstanding against any of the Just Energy Entities, and, to any Just Energy Entity's knowledge, no investigations or proceedings for such purpose are pending or threatened.

#### **4.9 Support Agreement Representations and Warranties**

The representations and warranties of Just Energy in the Support Agreement are true and correct.

#### **4.10 Sanctioned Person**

None of the Just Energy Entities, nor any of their respective officers, directors, employees or agents, is a Sanctioned Person.

#### **4.11 Sanctions Laws**

None of the Just Energy Entities has (i) assets located in, or otherwise directly or, to the knowledge of any of the Just Energy Entities, indirectly, derives revenues from or engages in, investments, dealings, activities, or transactions in or with, any Sanctioned Country in violation of Sanctions Laws; or (ii) directly or, to the knowledge of any of the Just Energy Entities, indirectly, derives revenues from or engages in investments, dealings, activities, or transactions with, any Sanctioned Person in violation of Sanctions Laws.

#### **4.12 Anti-Money Laundering Laws; Anti-Corruption Laws**

- (a) The operations of the Just Energy Entities are and have been at all times conducted in compliance with, in all respects, (i) the U.S. Currency and Foreign Transactions Reporting Act of 1970, the PCMLTFA (as defined below), the Money Laundering Control Act of 1986 (18 U.S.C. §§ 1956-1957), the PATRIOT Act (as defined below), the Bank Secrecy Act (31 U.S.C. §§5311-5332), and any other applicable laws related to money laundering or terrorism financing (“**Anti-Money**

**Laundering Laws**”), (ii) the U.S. Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder, and any other applicable laws or regulations concerning or relating to bribery or corruption (“**Anti-Corruption Laws**”) and (iii) Sanctions Laws.

- (b) No action, suit, investigation or legal proceeding by or before any Governmental Authority or any arbitrator involving the Just Energy Entities or any officer, director, employee or agent thereof, or any informal or formal investigation by any Just Energy Entity or its legal or other representatives involving the foregoing, with respect to Anti-Money Laundering Laws, Anti-Corruption Laws or Sanctions Laws is pending, or to the knowledge of any of the Just Energy Entities, threatened.
- (c) Each Just Energy Entity has instituted and maintains policies and procedures designed to ensure compliance by each Just Energy Entity and its directors, officers, employees, and agents with Anti-Corruption Laws, Anti-Money Laundering Laws, and Sanctions Laws.

#### **4.13 Investment Canada Act**

Neither the Company nor any of the Just Energy Entities carries on a “cultural business” within the meaning of the Investment Canada Act.

### **ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF THE PURCHASER**

Each Purchaser represents and warrants, severally and not jointly, and only as to itself, to the Company as follows, and acknowledges that the Company is relying upon the following representations and warranties in connection with the sale of the Purchased Interests:

#### **5.1 Due Authorization and Enforceability of Obligations**

This Agreement has been duly authorized, executed and delivered by each Purchaser, and, assuming the due authorization, execution and delivery by it, this Agreement constitutes the legal, valid and binding obligation of it, enforceable against it in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium, or other similar laws relating to or limiting creditors’ rights generally or by equitable principles relating to enforceability.

#### **5.2 Existence and Good Standing**

Each Purchaser is validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization and has all requisite power and authority to execute and deliver this Agreement and to perform its obligations hereunder and consummate the transactions contemplated by this Agreement.

### 5.3 Sophisticated Party

Each Purchaser (i) is a sophisticated party with sufficient knowledge and experience to evaluate properly the terms and conditions of this Agreement, (ii) has conducted its own analysis and made its own decision to enter into this Agreement and has obtained such independent advice in this regard as it deemed appropriate, and (iii) has not relied on such analysis or decision of any Person other than its own independent advisors.

### 5.4 Absence of Conflicts

The execution and delivery of this Agreement by the each and the completion by each Purchaser of its obligations hereunder and the consummation of the transactions contemplated herein do not and will not violate or conflict with any Applicable Law, or any of its properties or assets, (subject to the receipt of any Transaction Regulatory Approvals) and will not result (with due notice or the passage of time or both) in a violation, conflict or breach of, or constitute a default under, or require any consent to be obtained under its certificate of incorporation, articles, by-laws or other constituent documents.

### 5.5 Approvals and Consents

The execution and delivery of this Agreement by each Purchaser, the completion by each Purchaser of its obligations hereunder and the consummation by each Purchaser of the transactions contemplated herein, do not and will not require any consent or approval or other action, with or by, any Governmental Authority, other than as contemplated by any Order and the Transaction Regulatory Approvals.

### 5.6 No Actions

There is not, as of the date hereof, pending or, to each Purchaser's knowledge, threatened against it or any of its properties, nor has any Purchaser received notice in respect of, any claim, potential claim, litigation, action, suit, arbitration, investigation or other proceeding before any Governmental Authority or legislative body that, would prevent it from executing and delivering this Agreement, performing its obligations hereunder and consummating the transactions and agreements contemplated by this Agreement.

### 5.7 Accredited Investor

Each Purchaser is an "accredited investor", as such term is defined in NI 45-106 and in Rule 501 of Regulation D under the United States Securities Act of 1933 (the "**Securities Act**") and it was not created or used solely to purchase or hold securities as an accredited investor as described in paragraph (m) of the definition of "accredited investor" in NI 45-106 and acknowledges that the Purchased Interests will be subject to resale restrictions under applicable securities laws. The Purchased Interests are being acquired by each Purchaser for its own account, and not with a view to, or for the offer or sale in connection with, any public distribution or sale of the Purchased Interests or any interest in them. Each Purchaser has sufficient knowledge and experience in financial and business matters to be capable of evaluating the merits and risks of its investment in the Purchased Interests, and each Purchaser is capable of bearing the economic risks of such investment, including a complete loss of its investment in the Purchased Interests. Each

Purchaser acknowledges that the Purchased Interests are not registered under the Securities Act, any state securities law, regulation or rule or any applicable foreign securities law, regulation or rule, and agrees that the Purchased Interests may not be sold, transferred, offered for sale, pledged, hypothecated or otherwise disposed of except pursuant to a registered offering in compliance with, or in a transaction exempt from, the registration requirements of the Securities Act and any other applicable state and foreign securities laws.

### 5.8 Financial Ability

Each Purchaser has and will have at all relevant times, the financial ability and sufficient funds to perform all of its obligations under this Agreement, and the availability of such funds will not be subject to the consent, approval or authorization of any Person or the availability of any financing.

### 5.9 Credit Bid; Availability of Funds

- (a) CBHT Energy I LLC has executed, on or prior to the date hereof, the requisite instruction letters to fully authorize the Purchaser, and the Purchaser is duly authorized, to, among other things, deliver the Credit Bid Consideration in connection with the consummation of the Closing hereunder.
- (b) The Purchaser has delivered to the Company complete and accurate copies of executed limited guarantees dated as of the date of this Agreement (each, a “**Guarantee**” and collectively, the “**Guarantees**”) from certain Affiliates of the Purchaser (the “**Equity Financing Sources**”) pursuant to which the Equity Financing Sources have guaranteed, for the benefit of the Company, subject only to the terms and conditions therein, the Cash Purchase Price (the “**Equity Financing**”) amongst other guarantees set out therein.
- (c) Each Guarantee, in the form so delivered to the Company, is in full force and effect and is a legal, valid and binding obligation of the Purchaser and the respective Equity Financing Sources, enforceable against the parties thereto in accordance with its terms, and the Purchaser knows of no fact or circumstance that would cause the Equity Financing to be unavailable on a timely basis in order to consummate the Closing on the terms and subject to the conditions therein. There are no other agreements, side letters or arrangements to which the Purchaser is a party relating to any Guarantee that could reasonably be expected to prevent, impair or materially delay the consummation of the Equity Financing. As of this date of this Agreement, none of the Guarantees has been amended or modified (and no such amendment or modification is contemplated), and the respective commitments set forth in the Guarantees have not been withdrawn or rescinded in any respect (and no such withdrawal or rescission is contemplated).

### 5.10 No Sanctions

No Purchaser nor any of its subsidiaries nor any of their respective directors or officers or, to its knowledge, employees acting on behalf of it or any of its subsidiaries, (i) is a Person identified in any sanctions-related list of designated Persons maintained by the Government of Canada, or



(ii) is greater than 50% owned or controlled by any Person described under clause (i) to the extent the owned or controlled Person is itself subject to the restrictions or prohibitions as the Person described in clause (i).

### **5.11 Purchase Price Funds**

To the Purchaser's knowledge, the funds representing the Cash Purchase Price for the Purchased Interests and the aggregate amounts which will be paid by it to the Company hereunder: (i) do not represent proceeds of crime for the purposes of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada) (the "PCMLTFA"), and (ii) have not been and will not be derived directly or indirectly from or related to any activity that is deemed criminal under the laws of Canada, the U.S., or any other jurisdiction, in each case, with respect to each of clause (i) and (ii), in violation thereof. The Purchaser acknowledges and agrees that the Just Energy Entities may be required by Law to provide disclosure pursuant to the PCMLTFA. The funds representing payment of the amounts to be advanced by the Purchaser hereunder will not represent proceeds of crime for the purposes of the U.S. Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (the "PATRIOT Act") in violation of the PATRIOT Act, and the Purchaser acknowledges that the Just Energy Entities may in the future be required by law to disclose the Purchaser's name and other information relating to this Agreement and the amounts payable by the Purchaser to the Just Energy Entities hereunder, on a confidential basis, pursuant to the PATRIOT Act. No portion of the funds representing payment of the amounts to be advanced by the Purchaser hereunder (A) has been or will be, to its knowledge, derived from or related to any activity that is deemed criminal under the laws of the U.S., or any other jurisdiction, or (B) is being tendered on behalf of a Person or entity who has not been identified to or by the Purchaser, and the Purchaser shall promptly notify the Just Energy Entities if the Purchaser discovers that any of such representations ceases to be true and provide the Just Energy Entities with appropriate information which is reasonably available in connection therewith.

### **5.12 Investment Canada Act**

Each Purchaser is a "trade agreement investor" within the meaning of the Investment Canada Act.

## **ARTICLE 6 CONDITIONS**

### **6.1 Conditions for the Benefit of the Purchaser and the Company**

The respective obligations of each Purchaser and the Company to consummate the transactions contemplated by this Agreement are subject to the satisfaction of, or compliance with, at or prior to the Closing Time, each of the following conditions:

- (a) *No Law* – no provision of any Applicable Law and no judgment, injunction or Order preventing or otherwise frustrating the consummation of the purchase of the Purchased Interests or any of the other transactions pursuant to this Agreement, including, for the avoidance of doubt, a cease trade or similar order issued by a Governmental Authority in respect of any Just Energy Entity, shall be in effect;

- (b) *Final Orders* – each of the SISP Order and the Vesting Order shall have been issued and entered and shall be Final Orders;
- (c) *Final U.S. Orders* – the Claims Procedure Recognition Order (as defined in the Support Agreement), SISP Recognition Order and Vesting Recognition Order shall have been issued and entered by the U.S. Bankruptcy Court and shall be Final Orders;
- (d) *Support Agreement* – the Support Agreement shall not have been terminated by any party thereto;
- (e) *Transaction Regulatory Approvals* – the Just Energy Entities and the Purchaser shall have received all required Transaction Regulatory Approvals and provided the Energy Regulator Notices set forth on Schedule 6.1(e), and all required Transaction Regulatory Approvals shall be in full force and effect, except for Transaction Regulatory Approvals that need not be in full force and effect prior to Closing; and
- (f) *New Credit Agreement; New Intercreditor Agreement* – each of the New Credit Agreement and the New Intercreditor Agreement shall have been entered into by and among the parties thereto.

The Parties acknowledge that the foregoing conditions are for the mutual benefit of the Company and each Purchaser. Any condition in this Section 6.1 may be waived by the Company and by any Purchaser, in whole or in part, without prejudice to any of their respective rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver will be binding on the Company or the Purchaser, as applicable, only if made in writing.

## **6.2 Conditions for the Benefit of the Purchaser**

The obligation of any Purchaser to consummate the transactions contemplated by this Agreement is subject to the satisfaction of, or compliance with, or waiver by any Purchaser of, at or prior to the Closing Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of each Purchaser):

- (a) *Performance of Covenants* – the covenants contained in this Agreement to be performed or complied with by the Company at or prior to the Closing Time shall have been performed or complied with in all material respects as at the Closing Time;
- (b) *Truth of Representations and Warranties* – (i) the Fundamental Representations and Warranties of the Company shall be true and correct in all respects as of the Closing Date, as if made at and as of such date and (ii) all other representations and warranties of the Company contained in Article 4 shall be true and correct in all respects as of the Closing Date, as if made at and as of such date (except for representations and warranties made as of specified date, the accuracy of which shall be determined as of such specified date) except where the failure to be so true and correct would not, in the aggregate, have a Material Adverse Effect (and, for

this purpose, any reference to “material”, “Material Adverse Effect” or other concepts of materiality in such representation and warranties shall be ignored);

- (c) *Officer’s Certificates* – the Purchaser shall have received a certificate confirming the satisfaction of the conditions contained in Sections 6.2(a) (*Performance of Covenants*) and 6.2(b) (*Truth of Representations and Warranties*), signed for and on behalf of the Company without personal liability by an executive officer of Just Energy or other Persons acceptable to the Purchaser, in each case in form and substance reasonably satisfactory to the Purchaser;
- (d) *No Material Adverse Effect* – since the date hereof, no change effect, event, occurrence, state of facts or development shall have occurred that resulted in, or would reasonably be expected to result in, a Material Adverse Effect;
- (e) *Company’s Deliverables* – the Company shall have delivered to the Purchaser all of the deliverables contained in Section 10.2 in form and substance reasonably satisfactory to the Purchaser;
- (f) *Vesting Order Approval* – the Vesting Order shall have been granted by October 15, 2022;
- (g) *Implementation Steps* – the Just Energy Entities shall have completed the Implementation Steps that are required to be completed prior to Closing, in form and substance reasonably acceptable to the Purchaser, acting reasonably;
- (h) *Cash on Hand* – the aggregate amount of cash held by the Just Energy Entities immediately after giving effect to the payment of all amounts provided for in this Agreement and in the Vesting Order shall be equal to or greater than \$C0;
- (i) *Continuing Contracts* – Shell Energy North America (Canada) Inc., Shell Energy North America (US), L.P., and Shell Trading Risk Management, LLC (collectively, “**Shell**”) shall have confirmed in writing, to the Company and each Purchaser that (i) it will not exercise any termination rights under its Continuing Contracts solely as a result of the transactions contemplated hereby, and (ii) all existing and any potential future trades will be transacted in accordance with the Continuing Contracts (as may be amended, restated, supplemented and/or replaced by the Just Energy Entities and Shell from time to time following the Closing Date) or new arrangements, in each case, in accordance with the terms thereof and subject to the terms of the New Intercreditor Agreement;
- (j) *Termination of Securities Reporting Obligations* – As of the Closing and upon the consummation of the transactions contemplated in the Support Agreement, none of the Just Energy Entities shall be a reporting issuer (or equivalent thereof) under any U.S. securities laws or Canadian securities laws; and
- (k) *Sufficient Funds* – As of immediately prior to the Closing, the Cash Purchase Price, plus the aggregate amount of cash held by the Just Energy Entities, plus the Credit

Facility Remaining Debt, shall be sufficient to pay all amounts to be paid by the Just Energy Entities pursuant to this Agreement and the Vesting Order.

### 6.3 Conditions for the Benefit of the Company

The obligation of the Company to consummate the transactions contemplated by this Agreement is subject to the satisfaction of, or compliance with, or waiver where applicable by the Company of, at or prior to the Closing Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of the Company):

- (a) *Truth of Representations and Warranties* – the representations and warranties of each Purchaser contained in Article 5 will be true and correct in all respects on and as of the date of this Agreement and on and as of the Closing Date as if made on and as of such date (except for representations and warranties made as of specified date, the accuracy of which shall be determined as of such specified date) except where the failure to be so true and correct would not reasonably be expected to have a material and adverse effect on each Purchaser’s ability to consummate the transactions contemplated by this Agreement;
- (b) *Performance of Covenants* – the covenants contained in this Agreement to be performed by the Purchaser at or prior to the Closing Time shall have been performed in all material respects as at the Closing Time;
- (c) *Officer’s Certificate* – the Company shall have received a certificate confirming the satisfaction of the conditions contained in Sections 6.3(a) and 6.3(b) signed for and on behalf of each Purchaser without personal liability by an executive officer of each Purchaser or other Persons acceptable to the Company, acting in a commercially reasonable manner, in each case, in form and substance satisfactory to the Company, acting in a commercially reasonable manner;
- (d) *Purchaser Deliverables* – each Purchaser shall have delivered to the Company all of the deliverables contained in Section 10.3 in form and substance satisfactory to the Company, acting in a commercially reasonable manner;
- (e) *Management Incentive Plan* – the management incentive plan shall have been executed on terms consistent in all respects with the terms set forth in the MIP Term Sheet, attached as Exhibit 5 of the Stalking Horse Term Sheet (as such term is defined in the Support Agreement); and
- (f) *Employment Agreements* – the Employment Agreements shall not have been disclaimed and shall be in place on and as of the Closing Date.

**ARTICLE 7**  
**ADDITIONAL AGREEMENTS OF THE PARTIES**

**7.1 Access to Information**

- (a) Until the Closing Time, the Company shall give to the Purchaser's personnel engaged in the transactions contemplated by this Agreement and their accountants, legal advisers, consultants, financial advisors and representatives during normal business hours reasonable access to its premises and to all of the books and records relating to the Business, the Just Energy Entities, the Assumed Liabilities and the employees, and shall furnish them with all such information relating to the Business, the Just Energy Entities, the Assumed Liabilities and the employees as the Purchaser may reasonably request in connection with the transactions contemplated by this Agreement; provided that such access shall be conducted at the Purchaser's expense, in accordance with Applicable Law and under supervision of the Company's personnel and in such a manner as to maintain confidentiality, and the Company will not be required to provide access to or copies of any such books and records if (a) the provision thereof would cause the Company to be in contravention of any Applicable Law or (b) making such information available would (1) result in the loss of any lawyer-client or other legal privilege, or (2) cause the Company to be found in contravention of any Applicable Law, or contravene any fiduciary duty or agreement (including any confidentiality agreement to which the Company or any of its Affiliates are a party). Such access shall include access for such environmental investigations deemed appropriate by the Purchaser, acting reasonably, provided that any intrusive environmental investigation shall be subject to the prior approval of the Company, acting reasonably. Notwithstanding anything in this Section 7.1 to the contrary, any such investigation shall be conducted upon reasonable advance notice and in such manner as does not materially disrupt the conduct of the Business or the possible sale thereof to any other Person. The Company shall use commercially reasonable efforts to also deliver to the Purchaser authorizations to Governmental Authorities necessary to permit the Purchaser to obtain information in respect of the Just Energy Entities from the files of such Governmental Authorities.
- (b) Following the Closing, the Just Energy Entities shall make all books and records of the Just Energy Entities reasonably available to the Monitor and any trustee in bankruptcy of any of the Just Energy Entities upon at least five (5) Business Days prior notice, for a period of seven (7) years after Closing, and shall, at such party's expense, permit any of the foregoing Persons to take copies thereof as they may determine to be necessary or useful to accomplish their respective roles; provided that the Purchaser shall not be obligated to make such books and records available to the extent that doing so would (a) violate Applicable Law, (b) jeopardize the protection of a solicitor-client privilege, or (c) unreasonably interfere with the ongoing business and operations of the Just Energy Entities and their Affiliates, as determined by the Just Energy Entities, acting reasonably.

## 7.2 Approvals and Consents

- (a) With regard to the Competition Act Approval and/or Investment Canada Act Approval:
  - (i) if Competition Act Approval is required, the Parties shall, as soon as reasonably practicable, and in no event more than ten (10) Business Days after the date hereof, submit a request to the Commissioner for an Advance Ruling Certificate or, in the alternative, a No Action Letter in respect of the transaction contemplated by this Agreement;
  - (ii) if Competition Act Approval is required, the Parties shall submit, at the Parties' joint election and within ten (10) Business Days of such mutually agreed election, notification filings in accordance with Part IX of the Competition Act in respect of the transactions contemplated by this Agreement; and
  - (iii) if the Purchaser, acting reasonably, determines that Investment Canada Act Approval should be obtained, the Purchaser shall, as soon as reasonably practicable and in no event more than ten (10) Business Days after the date hereof, submit the notification for the Investment Canada Act Approval.
- (b) The Company shall be responsible for the payment of any filing fees required to be paid in connection with any filing made in respect of the Competition Act Approval and the Antitrust Approvals, as applicable.
- (c) The Parties shall use commercially reasonable efforts to apply for and obtain any Transaction Regulatory Approvals and to file any Energy Regulator Notices as soon as reasonably practicable and no later than the time limits imposed by Applicable Laws, in accordance with Section 7.2(d), in each case at the sole cost and expense of the Company.
- (d) The Parties shall use commercially reasonable efforts to apply for and obtain the Transaction Regulatory Approvals and to file the Energy Regulator Notices and shall co-operate with one another in connection with obtaining such approvals. Without limiting the generality of the foregoing, the Parties shall: (i) give each other reasonable advance notice of all meetings or other oral communications with any Governmental Authority relating to the Transaction Regulatory Approvals or Energy Regulator Notices, as applicable, and provide as soon as practicable but in any case, if any, within the required time, any additional submissions, information and/or documents requested by any Governmental Authority necessary, proper or advisable to obtain the Transaction Regulatory Approvals; (ii) not participate independently in any such meeting or other oral communication without first giving the other Party (or their outside counsel) an opportunity to attend and participate in such meeting or other oral communication, unless otherwise required or requested by such Governmental Authority; (iii) if any Governmental Authority initiates an oral communication regarding the Transaction Regulatory Approvals or Energy

Regulator Notices, promptly notify the other Party of the substance of such communication; (iv) subject to Applicable Laws relating to the exchange of information, provide each other with a reasonable advance opportunity to review and comment upon and consider in good faith the views of the other in connection with all written communications (including any filings, notifications, submissions, analyses, presentations, memoranda, briefs, arguments, opinions and proposals) made or submitted by or on behalf of a Party with a Governmental Authority regarding the Transaction Regulatory Approvals or Energy Regulator Notices as applicable; and (v) promptly provide each other with copies of all written communications to or from any Governmental Authority relating to the Transaction Regulatory Approvals and Energy Regulator Notices as applicable.

- (e) Each of the Parties may, as advisable and necessary, reasonably designate any competitively or commercially sensitive material provided to the other under this Section 7.2 as “Outside Counsel Only Material”, provided that the disclosing Party also provides a redacted version to the receiving Party. Such materials and the information contained therein shall be given only to the outside legal counsel of the recipient and, subject to any additional agreements between the Parties, will not be disclosed by such outside legal counsel to employees, officers or directors of the recipient unless express written permission is obtained in advance from the source of the materials or its legal counsel.
- (f) The obligations of either Party to use its commercially reasonable efforts to obtain the Transaction Regulatory Approvals does not require either Party (or any Affiliate thereof) to undertake any divestiture of any business or business segment of such Party, to agree to any material operating restrictions related thereto or to incur any material expenditure(s) related therewith, unless agreed to by the Parties. In connection with obtaining the Transaction Regulatory Approvals, no Just Energy Entity shall agree to any of the foregoing items without the prior written consent of the Purchaser.

### **7.3 Covenants Relating to this Agreement**

- (a) Each of the Parties shall perform all obligations required to be performed by the applicable Party under this Agreement, co-operate with the other Parties in connection therewith and do all such other acts and things as may be necessary or desirable in order to consummate and make effective, as soon as reasonably practicable, the transactions contemplated by this Agreement and, without limiting the generality of the foregoing, from the date hereof until the Closing Date, each Party shall and, where appropriate, shall cause each of its Affiliates to:
  - (i) negotiate in good faith and use its commercially reasonable efforts to take or cause to be taken all actions and to do, or cause to be done, all things necessary, proper or advisable to satisfy the conditions precedent to the obligations of such Party hereunder (including, where applicable, negotiating in good faith with the applicable Governmental Authorities and/or third Persons in connection therewith), and to cause the fulfillment

at the earliest practicable date of all of the conditions precedent to the other Party's obligations to consummate the transactions contemplated hereby; and

- (ii) not take any action, or refrain from taking any action, or permit any action to be taken or not taken, which would reasonably be expected to prevent, materially delay or otherwise impede the consummation of the transactions contemplated by this Agreement.
- (b) From the date hereof until the Closing Date, the Purchaser hereby agrees, and hereby agrees to cause its representatives to, keep the Company informed on a reasonably current basis, and no less frequently than on a weekly basis through teleconference or other meeting, and as reasonably requested by the Company or the Monitor, as to the Purchaser's progress in terms of the satisfaction of the conditions precedent contained herein.
- (c) From the date hereof until the Closing Date, the Company hereby agrees, and hereby agrees to cause its representatives to, keep the Purchaser informed on a reasonably current basis, and no less frequently than on a weekly basis through teleconference or other meeting, and as reasonably requested by the Purchaser or the Monitor, as to the Company's progress in terms of the satisfaction of the conditions precedent contained herein.
- (d) The Company and the Purchaser agree to execute and deliver such other documents, certificates, agreements and other writings, and to take such other actions to consummate or implement as soon as reasonably practicable, the transactions contemplated by this Agreement.
- (e) From the date hereof until the Closing Date, the Company hereby agrees, and hereby agrees to cause its representatives to, promptly notify the Purchaser of (i) any event, condition, or development that has resulted in the inaccuracy in a material respect or material breach of any representation or warranty, covenant or agreement contained in this Agreement, or (ii) any Material Adverse Effect occurring from and after the date hereof prior to the Closing Date.
- (f) The Company and Purchaser agree to use commercial reasonable efforts to timely prepare and file all documentation and pursue all steps reasonably necessary to obtain any material third-party consents and approvals as may be required in connection with the transaction contemplated by this Agreement.

#### **7.4 Tax Matters**

- (a) The Purchaser and the Company agree to furnish or cause to be furnished to each other, as promptly as practicable, such information and assistance relating to the Purchased Interests and the Assumed Liabilities as is reasonably necessary for the preparation and filing of any Tax Return, claim for refund or other required filings relating to Tax matters, for the preparation for and proof of facts during any Tax audit, for the preparation for any Tax protest, for the prosecution of any suit or other



proceedings relating to Tax matters and for the answer to any governmental or regulatory inquiry relating to Tax matters. The Purchaser and the Company also agree to furnish or cause to be furnished to each other, as promptly as practicable, such information and assistance relating to the Just Energy Entities, the Purchased Interests and the Assumed Liabilities as is reasonably necessary for the Purchaser to acquire them in a tax efficient manner for both the Company and the Just Energy Entities.

- (b) The Purchaser and the Company shall each be responsible for the preparation of their own statements required to be filed under the Tax Act, the ETA and the Code and other similar forms and returns in accordance with Applicable Law.
- (c) For all purposes under this Agreement for which it is necessary to apportion taxes in a taxable period which includes (but does not end on) the Closing Date or Filing Date, as applicable (a “**Straddle Period**”), all real property Taxes, personal property Taxes and similar ad valorem obligations for shall be apportioned between the taxable period up to and including the Closing Date or Filing Date, as applicable (such portion of such Straddle Period, the “**Pre-Closing Straddle Tax Period**”) and the taxable period after the Closing Date or Filing Date, as applicable (such portion of such Straddle Period, the “**Post-Closing Straddle Tax Period**”), on a per diem basis. Except as otherwise provided herein, with respect to the Purchased Interests, the Company shall be liable for the proportionate amount of such real property Taxes, personal property Taxes and similar *ad valorem* obligations that are attributable to the Pre-Closing Straddle Tax Period, and the Purchaser shall be liable for the proportionate amount of such real property Taxes, personal property Taxes and similar ad valorem obligations that are attributable to the Post-Closing Straddle Tax Period. For all purposes under this Agreement, in the case of any Tax based upon or related to income, receipts, sales, use, payroll, or withholding, in respect of any Straddle Period, the portion of such Tax allocable to the Pre-Closing Straddle Tax Period shall be deemed to be the amount that would be payable if the relevant Straddle Period ended on and included the Closing Date or Filing Date, as applicable. To the extent such closing of the books method is not incorporated under the law of a jurisdiction for particular types of entities, allocations of income among the periods shall be made to replicate the closing of the books method to the maximum extent possible.
- (d) The Purchaser shall be responsible for and shall pay, or cause to be paid, any Transfer Tax in respect of the purchase and sale of the Purchased Interests under this Agreement (including for greater certainty, any Transfer Tax related with the importation, or change of importation classification, of the Purchased Interests) and such Transfer Tax shall be remitted to the appropriate Governmental Authority as provided for under Applicable Law (except any Transfer Tax which, under Applicable Law, is collectible by the Company or applicable Just Energy Entity, in which case such Transfer Tax shall be collected by the Company or Just Energy Entity, as the case may be, and remitted by the Company or Just Energy Entity to the appropriate Governmental Authority as provided for under the Applicable Law but, for the avoidance of doubt, the Purchaser shall remain economically

responsible for and shall pay to or reimburse, or cause to be paid or reimbursed, as the case may be, the Company or the applicable Just Energy Entity for any such Transfer Tax). The Company and the Purchaser shall reasonably cooperate to mitigate and/or eliminate the amount of Transfer Taxes resulting from the transactions contemplated herein (provided, for the avoidance of doubt, this shall not require the parties to structure the transactions in a manner eligible for the benefits of Section 1146(a) of the United States Bankruptcy Code). The Purchaser shall be responsible for preparing and filing all necessary Tax Returns or other documents with respect to such Transfer Taxes (other than any GST/HST returns required to be filed by any Just Energy Entity set forth on Schedule 2.2(f)); provided, however, that in the event any such Tax Return requires execution by any Just Energy Entity, the Purchaser shall deliver it to such Just Energy Entity not less than ten (10) Business Days before the due date thereof, and the Company shall reasonably promptly execute such Tax Return and return it to the Purchaser.

## **7.5 Employee Matters**

Unless otherwise expressly provided for by the management incentive plan, or agreed to in writing by and among any of the Just Energy Entities, the Purchaser, and the applicable employee (or employees) affected by any change or modification, each of the Employment Agreements will not be disclaimed and will remain in place as of, and as a condition to the occurrence of, the Closing pursuant to Section 6.3(f).

## **7.6 Administrative Expense Amount**

- (a) On the Closing Date, the Just Energy Entities shall pay to the Monitor the Administrative Expense Amount, which the Monitor shall hold in trust for the benefit of Persons entitled to be paid the Administrative Expense Costs.
- (b) From time to time after the Closing Date, the Monitor may pay from the Administrative Expense Amount the Administrative Expense Costs at its sole discretion and without further authorization from the Company or Purchaser. Any unused portion of the Administrative Expense Amount after payment or reservation for all Administrative Expense Costs, as determined by the Monitor, shall be transferred by the Monitor to the Company.
- (c) Notwithstanding the foregoing or anything else contained herein or elsewhere, each of the Company and the Purchaser acknowledges and agrees that: (i) the Monitor's obligations hereunder are and shall remain limited to those specifically set out in this Section 7.6; and (ii) FTI Consulting Canada Inc. is acting solely in its capacity as the CCAA Court-appointed Monitor of the Applicants pursuant to the Initial CCAA Order and not in its personal or corporate capacity, and the Monitor has no liability in connection with this Agreement whatsoever, in its personal or corporate capacity or otherwise, save and except for and only to the extent of the Monitor's gross negligence or intentional fault.

- (d) The Parties acknowledge that the Monitor may rely upon the provisions of this Section 7.6 notwithstanding that the Monitor is not a party to this Agreement. The provisions of this Section 7.6 shall survive the termination or non-completion of the transactions contemplated by this Agreement.

### **7.7 Certain Payments or Instruments Received from Third Persons**

- (a) To the extent that, after the Closing Date: (a) the Purchaser or any of its Affiliates receives any payment or instrument that is for the account of the Company according to the terms of any Closing Document, the Purchaser shall, and shall cause its Affiliates to, promptly deliver such amount or instrument to the Company; or (b) any of the Just Energy Entities or any of their controlled Affiliates receives any payment or instrument that is for the account of the Purchaser according to the terms of any Closing Document or that relates to the Business, including any governmental assistance refunds received by any Just Energy Entity after the Closing Date, the Just Energy Entities shall promptly deliver such amount or instrument to the Purchaser.
- (b) All amounts due and payable under this Section 7.7 shall be due and payable by the applicable Party in immediately available funds, by wire transfer to the account designated in writing by the relevant Party. Notwithstanding the foregoing, each Party hereby undertakes to use its commercially reasonable efforts to direct or forward all bills, invoices or like instruments to the appropriate Party.

### **7.8 Bulk Sales**

The Vesting Order and the Vesting Recognition Order, as applicable, shall provide either that (i) the Just Energy Entities have complied with the requirements of any Applicable Law relating to bulk sales and transfer or (ii) compliance with the Applicable Law relating to bulk sales and transfers is not necessary or appropriate under the circumstances.

### **7.9 Release by the Purchaser**

Except in connection with any obligations of the Company or the Monitor contained in this Agreement and any Closing Documents, effective as of the Closing, each Purchaser hereby releases and forever discharges the Company, the Monitor and their respective Affiliates, and each of their respective successors and assigns, and all officers, directors, partners, members, shareholders, limited partners, employees, agents, financial and legal advisors of each of them, from any and all actual or potential Released Claims which such Person had, has or may have in the future to the extent relating to the Purchased Interests or the Assumed Liabilities, save and except for Released Claims arising out of fraud, bad faith or illegal acts (unless such Person believed in good faith that its conduct was legal).

At the Closing Time, the Purchaser shall cause the Just Energy Entities to release and forever discharge all officers, directors, partners, limited partners, employees, agents, financial and legal advisors of each of the Just Energy Entities and their respective successors and assigns from any and all actual or potential Causes of Action against such Persons, except for Causes of Action

related to any act or omission that is determined in a Final Order of a court of competent jurisdiction to have constituted actual fraud, willful misconduct, or gross negligence (provided that in all respects such Persons shall be entitled to reasonably rely upon the advice of counsel with respect to their applicable duties and responsibilities), and such release to be in the form attached as Exhibit B to this Agreement.

### **7.10 Release by the Company**

Except in connection with any obligations of each Purchaser and the Monitor contained in this Agreement and any Closing Documents, effective as of the Closing, the Company hereby release and forever discharge each Purchaser, the Monitor and their respective Affiliates, and each of their respective successors and assigns, and all officers, directors, partners, members, shareholders, limited partners, employees, agents, financial and legal advisors of each of them, from any and all actual or potential Released Claims which such Person had, has or may have in the future to the extent relating to (i) the Purchased Interests, (ii) the Assumed Liabilities, (iii) the Excluded Assets or (iv) the Excluded Liabilities, save and except for Released Claims arising out of fraud, bad faith or illegal acts (unless such Person believed in good faith that its conduct was legal).

## **ARTICLE 8 INSOLVENCY PROVISIONS**

### **8.1 Court Orders and Related Matters**

- (a) From and after the date of this Agreement and until the Closing Date, the Company shall deliver to the Purchaser drafts of any and all pleadings, motions, notices, statements, applications, schedules, reports, and other papers to be filed or submitted by any Just Energy Entity in connection with or related to this Agreement, including with respect to the SISP Order, the Vesting Order, the Vesting Recognition Order and the SISP Recognition Order, for the Purchaser's prior review at least three (3) days in advance of service and filing of such materials (or where circumstances make it impracticable to allow for three (3) days' review, with as much opportunity for review and comment as is practically possible in the circumstances). The Company acknowledges and agrees (i) that any such pleadings, motions, notices, statements, applications, schedules, reports, or other papers shall be in form and substance satisfactory to the Purchaser, acting reasonably, and (ii) to consult and cooperate with the Purchaser regarding any discovery, examinations and hearing in respect of any of the foregoing, including the submission of any evidence, including witnesses testimony, in connection with such hearing.
- (b) Notice of the motions seeking the issuance of the Vesting Order, the Vesting Recognition Order, the SISP Order, and the SISP Recognition Order shall be served by the Company on all Persons required to receive notice under Applicable Law and the requirements of the CCAA, the CCAA Court, the U.S. Bankruptcy Code, the U.S. Bankruptcy Court and any other Person determined necessary by the Company or the Purchaser, acting reasonably.

- (c) Notwithstanding any other provision herein, it is expressly acknowledged and agreed that in the event that (i) the SISP Order has not been issued and entered by the CCAA Court by August 17, 2022 or such later date agreed to in writing by the Purchaser in its sole discretion; (ii) the SISP Recognition Order, if any, has not been issued and entered by the U.S. Bankruptcy Court within sixteen (16) Business Days of the SISP Order being entered by the CCAA Court or such later date agreed to in writing by the Purchaser in its sole discretion; (iii) the Vesting Order has not been issued and entered by the CCAA Court by October 15, 2022 or such later date agreed to in writing by the Purchaser in its sole discretion; (iv) or the Vesting Recognition Order has not been issued and entered by the U.S. Bankruptcy Court within fourteen (14) Business Days of the Vesting Order being entered by the CCAA Court or such later date agreed to in writing by the Purchaser in its sole discretion, the Purchaser may terminate this Agreement.
- (d) If the Vesting Order, the Vesting Recognition Order as applicable, relating to this Agreement is appealed or a motion for leave to appeal, rehearing, reargument or reconsideration is filed with respect thereto, the Company agrees to take all action as may be commercially reasonable and appropriate to defend against such appeal, petition or motion.
- (e) The Company acknowledges and agrees, that the Vesting Order, and the Vesting Recognition Order shall provide that, on the Closing Date and concurrently with the Closing, the Purchased Interests shall be transferred to the Purchaser free and clear of all Encumbrances, other than Permitted Encumbrances.

## ARTICLE 9 TERMINATION

### 9.1 Termination

This Agreement may be terminated at any time prior to Closing as follows:

- (a) by mutual written consent of the Company and the Purchaser;
- (b) by the Purchaser or the Company, if this Agreement is not the Successful Bid (as determined pursuant to, the SISP);
- (c) by the Purchaser or the Company, if Closing has not occurred on or before November 30, 2022 or such later date agreed to by both the Company and the Purchaser in writing in consultation with the Monitor (the “**Outside Date**”), provided that the terminating Party is not in breach of any representation, warranty, covenant or other agreement in this Agreement which would prevent the satisfaction of the conditions in Article 6 by the Outside Date; provided, further, to the extent the only condition to the Closing that remains outstanding is the receipt of Transaction Regulatory Approvals and the filing of Energy Regulator Notices pursuant to Section 6.1(e), the Outside Date shall be automatically extended for another sixty (60) days, and thereafter, the Purchaser shall have the right to further extend the Outside Date in its sole discretion on written notice to the Company.

- (d) by the Purchaser or the Company, if at any time after the date hereof any of the conditions in Article 6 is not capable of being satisfied by the applicable dates required in Article 6 of this Agreement or if not otherwise required, by the Outside Date;
- (e) by the Purchaser, upon the appointment of a receiver, trustee in bankruptcy or similar official in respect of any Just Energy Entity or any of the property of any Just Energy Entity, other than with the prior written consent of the Purchaser;
- (f) by the Purchaser, pursuant to Section 8.1(c);
- (g) by the Purchaser or the Company, upon the termination, dismissal or conversion of the CCAA Proceedings or the U.S. Proceedings;
- (h) by the Purchaser or the Company, upon denial of the SISP Order, the Vesting Order, the SISP Recognition Order or the Vesting Recognition Order (or if any such order is stayed, vacated or varied without the consent of the Purchaser);
- (i) by the Purchaser or the Company, if a court of competent jurisdiction, including the CCAA Court or the U.S. Bankruptcy Court, or other Governmental Authority has issued an Order or taken any other action to restrain, enjoin or otherwise prohibit the consummation of Closing and such Order or action has become a Final Order;
- (j) by the Company, if there has been a material violation or breach by the Purchaser of any covenant, representation or warranty which would prevent the satisfaction of the conditions set forth in Section 6.1 or Section 6.3, as applicable, by the Outside Date and such violation or breach has not been waived by the Company or cured within ten (10) Business Days after written notice thereof from the Company, unless the Company is in material breach of their obligations under this Agreement which would prevent the satisfaction of the conditions set forth in Section 6.1 or Section 6.2, as applicable, by the Outside Date;
- (k) by the Purchaser, if there has been a material violation or breach by the Company of any covenant, representation or warranty which would prevent the satisfaction of the conditions set forth in Section 6.1 or Section 6.2, as applicable, by the Outside Date and such violation or breach has not been waived by the Company or cured within ten (10) Business Days after written notice thereof from the Purchaser, unless the Purchaser is in material breach of its obligations under this Agreement which would prevent the satisfaction of the conditions set forth in Section 6.1 or Section 6.3, as applicable, by the Outside Date; and
- (l) by the Purchaser or the Company, if the Support Agreement is terminated pursuant to the terms thereof.

The Party desiring to terminate this Agreement pursuant to this Section 9.1 (other than pursuant to Section 9.1(a)) shall give written notice of such termination to the other Party or

Parties, as applicable, specifying in reasonable detail the basis for such Party's exercise of its termination rights.

## 9.2 Effect of Termination

In the event of termination of this Agreement pursuant to Section 9.1, this Agreement shall become void and of no further force or effect without liability of any Party to any other Party to this Agreement except that (a) Article 1, this Section 9.2, Section 9.3, Section 11.1, Section 11.3, Section 11.5, Section 11.6, Section 11.7 and Section 11.8 shall survive and (b) no termination of this Agreement shall relieve any Party of any liability for any wilful breach by it of this Agreement, or impair the right of any Party to compel specific performance by any other Party of its obligations under this Agreement in accordance with Section 11.3.

## 9.3 Termination Fee

- (a) Upon CCAA Court approval of an Alternative Restructuring Proposal that is not provided by the Purchaser or any of its Affiliates in accordance with the terms of the SISP Order, or upon the Company's termination of the Support Agreement pursuant to Section 10(b)(iv) thereof, a fee in cash equal to, in the aggregate, \$14,660,000.00 (such amount, the "**Break-Up Fee**") shall be payable concurrently with the consummation of an Alternative Restructuring Proposal to the Purchaser, in the same allocation among such Purchaser as contained in Schedule 3.1(a)(i), by a Just Energy Entity organized in the United States (the identity of which shall be subject to the approval of the Purchaser (not to be unreasonably withheld, conditioned or delayed)).
- (b) The Company shall obtain within the SISP Order a court-ordered charge in favor of the Purchaser in the full amount of the Break-Up Fee to secure the payment of the Break-Up Fee, which charge shall have the priority given to it pursuant to the SISP Order.
- (c) For the avoidance of doubt, and notwithstanding anything to the contrary set forth in this Section 9.3, (x) under no circumstances shall the Company be obligated to pay the Break-Up Fee more than once and (y) in no event shall the Company (or any other Person) be required to pay all or any portion of the Break-Up Fee to the Purchaser if the Company has terminated this Agreement or the Support Agreement other than in connection with CCAA Court approval of an Alternative Restructuring Proposal in accordance with the terms of the SISP Order, or upon the Company's termination of the Support Agreement pursuant to Section 10(b)(iv) thereof.
- (d) The Company acknowledges (i) that the Purchaser has made a substantial investment of management time and incurred substantial out-of-pocket expenses in connection with the negotiation and execution of this Agreement, its due diligence of the Business and the Just Energy Entities, and its effort to consummate the transactions contemplated hereby, and (ii) that the Parties' efforts have substantially benefited the Company and the bankruptcy estates of the Just Energy

Entities through the submission of the offer that is reflected in this Agreement, that will serve as a minimum bid on which other potential interested bidders can rely, thus increasing the likelihood that the price at which the Just Energy Entities are sold will reflect their true worth. The Parties hereby acknowledge that the amounts payable pursuant to this Section 9.3 are commercially reasonable and necessary to induce the Purchaser to enter into this Agreement and consummate the transactions contemplated hereby. For the avoidance of doubt, the covenants set forth in this Section 9.3 are continuing obligations and survive termination of this Agreement.

## ARTICLE 10 CLOSING

### 10.1 Location and Time of the Closing

The Closing shall take place at the Closing Time on the Closing Date at the offices of Cassels Brock & Blackwell LLP, Scotia Plaza, Suite 2100, 40 King St. W, Toronto, ON M5H 3C2, or at such other location as may be agreed upon by the Parties.

### 10.2 The Company's Deliveries at Closing

At Closing, the Company shall deliver to the Purchaser the following:

- (a) a true copy of each of the Vesting Order, the SISP Order, the Vesting Recognition Order, the SISP Recognition Order, each of which shall be final;
- (b) executed copy of the Monitor's Certificate;
- (c) a certificate of a senior officer or director of the Company in form and substance reasonably satisfactory to the Purchaser: (a) certifying that the board of directors of the Company, has adopted resolutions (in a form attached to such certificate) authorizing the execution, delivery and performance of this Agreement and the transactions contemplated herein, as applicable, which resolutions are in full force and effect and have not been superseded, amended or modified as of the Closing Date; and (b) certifying as to the incumbency and signatures of the officers and directors of the Company;
- (d) the certificates contemplated by Section 6.2(c);
- (e) evidence of the filing of the Articles of Reorganization;
- (f) an affidavit, signed under penalties of perjury, stating that the applicable company is not and has not been at any time during the period specified in Section 897(c)(1)(A)(ii) of the Code a United States real property holding corporation, dated as of the Closing Date and in form and substance reasonably satisfactory to the Purchaser and as required under Treasury Regulation Section 1.897-2(h) so that the Purchaser is exempt from withholding any portion of the Purchase Price thereunder, together with proof reasonably satisfactory to the Purchaser that the Company or the applicable Just Energy Entity or Just Energy Entities have provided



notice of such affidavit to the IRS in accordance with Treasury Regulation Section 1.897-2(h)(2); and

- (g) in the case of a partnership, the appropriate certificate under Treasury Regulation Section 1.1445-11T(d)(1) that the partnership interest is not a U.S. real property interest and the partnership is not described in Section 1.1445-11T(d)(1) of the Treasury Regulations, and that it is in compliance with Treasury Regulation Section 1.1446(f)-2(b)(4).

### 10.3 Purchaser's Deliveries at Closing

At Closing, the Purchaser shall deliver to the Company:

- (a) the payment contemplated by Section 3.1;
- (b) a certificate of an authorized signatory of each Purchaser's manager (in such capacity and without personal liability), in form and substance reasonably satisfactory to the Company: (a) certifying that the manager has adopted resolutions (in a form attached to such certificate) authorizing the execution, delivery and performance of this Agreement and the transactions contemplated herein, as applicable, which resolutions are in full force and effect and have not been superseded, amended or modified as of the Closing Date; and (b) certifying as to the incumbency and signature of the authorized signatory of Purchaser executing this Agreement and the other transaction documents contemplated herein, as applicable;
- (c) the certificate contemplated by Section 6.3(c);
- (d) the release contemplated by Section 7.9; and
- (e) all other documents required to be delivered by the Purchaser on or prior to the Closing Date pursuant to this Agreement or Applicable Law or as reasonably requested by the Company in good faith.

### 10.4 Monitor

When the conditions to Closing set out in Article 6 have been satisfied and/or waived by the Company or the Purchaser, as applicable, the Company and the Purchaser, or their respective counsel, shall each deliver to the Monitor written confirmation that all conditions to Closing have been satisfied or waived. Upon receipt of such written confirmation, the Monitor shall: (i) issue forthwith its Monitor's Certificate in accordance with the Vesting Order; and (ii) file as soon as practicable a copy of the Monitor's Certificate with the CCAA Court (and shall provide a true copy of such filed certificate to the Company and the Purchaser). The Parties hereby acknowledge and agree that the Monitor will be entitled to file the Monitor's Certificate with the CCAA Court without independent investigation upon receiving written confirmation from the Company and the Purchaser that all conditions to Closing have been satisfied or waived, and the Monitor will have no liability to the Company or the Purchaser or any other Person as a result of filing the Monitor's Certificate.

### **10.5 Simultaneous Transactions**

All actions taken and transactions consummated at the Closing shall be deemed to have occurred in the manner and sequence set forth in the Implementation Steps and the Vesting Order (subject to the terms of any escrow agreement or arrangement among the Parties relating to the Closing), and no such transaction shall be considered consummated unless all are consummated.

### **10.6 Further Assurances**

As reasonably required by a Party in order to effectuate the transactions contemplated by this Agreement, the Purchaser and the Company shall execute and deliver at (and after) the Closing such other documents, and shall take such other actions, as are necessary or appropriate, to implement and make effective the transactions contemplated by this Agreement.

## **ARTICLE 11 GENERAL MATTERS**

### **11.1 Confidentiality**

After the Closing Time, the Company shall maintain the confidentiality of all confidential information relating to the Business and the Just Energy Entities (but does not include information that is or becomes generally available to the public other than as a result of disclosure by the Purchaser or its representatives in breach of this Agreement or that is received by the Purchaser from an independent third party that, to the knowledge of the Purchaser, obtained it lawfully and was under no duty of confidentiality (except to the extent that applicable privacy laws do not exclude such information from the definition of personal information) or that is independently developed by the Purchaser or its representatives without reference to any Confidential Information), including the Confidential Information, except any disclosure of such information and records as may be required by Applicable Law. If the Company or any Just Energy Entity, or any of its or their respective representatives, becomes legally compelled by deposition, interrogatory, request for documents, subpoena, civil investigative demand, or similar judicial or administrative process, to disclose any such information, such party shall, or shall cause the Company or its representative to, provide the Purchaser with reasonably prompt prior oral or written notice of such requirement (including any report, statement, testimony or other submission to such Governmental Authority) to the extent legally permissible and reasonably practicable, and cooperate with the Purchaser, at the Purchaser's expense, to obtain a protective order or similar remedy to cause such information not to be disclosed; provided that in the event that such protective order or other similar remedy is not obtained, the Company shall, or shall cause the applicable Just Energy Entity or representative to, furnish only that portion of such information that has been legally compelled, and shall, or shall cause such Affiliate or representative to, exercise its commercially reasonable efforts to obtain assurance that confidential treatment will be accorded such disclosed information. The Company shall instruct each Just Energy Entity and representatives having access to such information of such obligation of confidentiality and shall be responsible for any breach of the terms of this Section 11.1 by any of the Just Energy Entities or representatives.

## 11.2 Public Notices

No press release or other announcement concerning the transactions contemplated by this Agreement shall be made by the Company or the Purchaser without the prior consent of the other Party (such consent not to be unreasonably withheld, conditioned or delayed); provided, however, that subject to the last sentence of this Section 11.2, any Party may, without such consent, make such disclosure if the same is required by Applicable Law (including the CCAA Proceedings and the U.S. Proceedings) or by any stock exchange on which any of the securities of such Party or any of its Affiliates are listed, or by any insolvency or other court or securities commission, or other similar Governmental Authority having jurisdiction over such Party or any of its Affiliates, and, if such disclosure is required, the Party making such disclosure shall use commercially reasonable efforts to give prior oral or written notice to the other Party to the extent legally permissible and reasonably practicable, and if such prior notice is not legally permissible or reasonably practicable, to give such notice reasonably promptly following the making of such disclosure. Notwithstanding the foregoing: (i) this Agreement may be filed by the Company (A) with the CCAA Court and the U.S. Bankruptcy Court; and (B) on its profile on [www.sedar.com](http://www.sedar.com) and on the U.S. Securities and Exchange Commission's website at [www.sec.gov](http://www.sec.gov); and (ii) the transactions contemplated in this Agreement may be disclosed by the Company to the CCAA Court and the U.S. Bankruptcy Court, subject to redacting confidential or sensitive information as permitted by Applicable Law. The Parties further agree that:

- (a) the Monitor may prepare and file reports and other documents with the CCAA Court and the U.S. Bankruptcy Court containing references to the transactions contemplated by this Agreement and the terms of such transactions; and
- (b) the Company, the Purchaser and their respective professional advisors may prepare and file such reports and other documents with the CCAA Court and the U.S. Bankruptcy Court containing references to the transactions contemplated by this Agreement and the terms of such transactions as may reasonably be necessary to complete the transactions contemplated by this Agreement or to comply with their obligations in connection therewith.

The Purchaser shall be afforded an opportunity to review and comment on such materials prior to their filing. The Parties may issue a joint press release announcing the execution and delivery of this Agreement, in form and substance mutually agreed to them.

## 11.3 Injunctive Relief

- (a) The Parties agree that irreparable harm would occur for which money damages would not be an adequate remedy at law in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Parties shall be entitled to seek specific performance, injunctive and other equitable relief to prevent breaches or threatened breaches of this Agreement, and to enforce compliance with the terms of this Agreement, without any requirement for the securing or posting of any bond in connection with the obtaining of any such specific performance, injunctive or

other equitable relief, this being in addition to any other remedy to which the Parties may be entitled at law or in equity.

- (b) Each Party hereby agrees not to raise any objections to the availability of the equitable remedies provided for herein and the Parties further agree that by seeking the remedies provided for in this Section 11.3, a Party shall not in any respect waive its right to seek any other form of relief that may be available to a Party under this Agreement.
- (c) Notwithstanding anything herein to the contrary herein, under no circumstances shall a Party be permitted or entitled to receive both monetary damages and specific performance and election to pursue one shall be deemed to be an irrevocable waiver of the other.

#### **11.4 Survival**

None of the representations, warranties, covenants (except the covenants in Article 2, Article 3, Article 11 and Sections 7.1(b), 7.4, 7.7, 7.9 and 7.10, to the extent they are to be performed after the Closing) of any of the Parties set forth in this Agreement, in any Closing Document to be executed and delivered by any of the Parties (except any covenants included in such Closing Documents, which, by their terms, survive Closing) or in any other agreement, document or certificate delivered pursuant to or in connection with this Agreement or the transactions contemplated hereby shall survive the Closing.

#### **11.5 Non-Recourse**

No past, present or future director, officer, employee, incorporator, member, partner, securityholder, Affiliate, agent, lawyer or representative of the respective Parties, in such capacity, shall have any liability for any obligations or liabilities of the Purchaser or the Company, as applicable, under this Agreement, or for any Causes of Action based on, in respect of or by reason of the transactions contemplated hereby.

#### **11.6 Assignment; Binding Effect**

No Party may assign its right or benefits under this Agreement without the consent of each of the other Parties, except that without such consent the Purchaser may, upon prior notice to the Company: (a) assign this Agreement, or any or all of its rights and obligations hereunder, to one or more of its Affiliates; or (b) direct that title to all or some of the Purchased Interests be transferred to, and the corresponding Assumed Liabilities be assumed by, one or more of its Affiliates; provided that no such assignment or direction shall relieve the Purchaser of its obligations hereunder. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective permitted successors and permitted assigns. Nothing in this Agreement shall create or be deemed to create any third Person beneficiary rights in any Person not a Party to this Agreement.

## 11.7 Notices

Any notice, request, demand or other communication required or permitted to be given to a Party pursuant to the provisions of this Agreement will be in writing and will be effective and deemed given under this Agreement on the earliest of: (a) the date of personal delivery; (b) the date of transmission by email, with confirmed transmission and receipt (if sent during normal business hours of the recipient, if not, then on the next Business Day); (c) two (2) days after deposit with a nationally-recognized courier or overnight service such as Federal Express; or (d) five (5) days after mailing via certified mail, return receipt requested. All notices not delivered personally or by email will be sent with postage and other charges prepaid and properly addressed to the Party to be notified at the address set forth for such Party:

- (a) If to the Purchaser at:

Akin Gump Strauss Hauer & Feld LLP  
One Bryant Park  
New York, New York 10036-6745

Attention: David Botter  
Sarah Link Schultz  
Zachary Wittenberg

Email: [Redacted]  
[Redacted]  
[Redacted]

and to:

Cassels Brock & Blackwell LLP  
Scotia Plaza, Suite 2100  
40 King St. W  
Toronto, ON M5H 3C2

Attention Ryan Jacobs  
Jane Dietrich  
Joseph Bellissimo

Email: [Redacted]  
[Redacted]  
[Redacted]

- (b) If to the Company at:

Just Energy Group Inc.  
100 King Street West, Suite 2630  
Toronto, Ontario M5X 1E1

Attention: Jonah Davids  
 Email: [Redacted]

and to:

Osler, Hoskin & Harcourt LLP  
 100 King Street West, Suite 6200  
 Toronto, Ontario M5X 1B8

Attention: Marc Wasserman  
 Michael De Lellis  
 Jeremy Dacks  
 Dave Rosenblat  
 Email: [Redacted]  
 [Redacted]  
 [Redacted]  
 [Redacted]

and to:

Kirkland & Ellis LLP  
 601 Lexington Avenue  
 New York, New York 10022

Attention: Brian Schartz  
 Neil Herman  
 Allyson B. Smith  
 Email: [Redacted]  
 [Redacted]  
 [Redacted]

Any Party may change its address for service from time to time by notice given in accordance with the foregoing and any subsequent notice shall be sent to such Party at its changed address.

### **11.8 Counterparts; Electronic Signatures**

This Agreement may be signed in counterparts and each of such counterparts shall constitute an original document and such counterparts, taken together, shall constitute one and the same instrument. Execution of this Agreement may be made by electronic signature which, for all purposes, shall be deemed to be an original signature.

### **11.9 Language**

The Parties have expressly required that this Agreement and all documents and notices relating hereto be drafted in English.

*[Signature pages to follow]*

**IN WITNESS WHEREOF** the Parties have executed this Agreement as of the date first written above.

**JUST ENERGY GROUP INC.**

By: (signed) "Michael Carter"

Name: Michael Carter

Title: Chief Financial Officer

By: (signed) "Jonah Davids"

Name: Jonah Davids

Title: Executive Vice President,  
General Counsel and Corporate  
Secretary

We have the authority to bind the Corporation

**LVS III SPE XV LP**

By: LVS III GP LLC, its general partner

By: [Redacted]  
Name:  
Title:

**TOCU XVII LLC**

By: [Redacted]  
Name:  
Title:

**HVS XVI LLC**

By: [Redacted]  
Name:  
Title:

**OC II LVS XIV LP**

By: OC II GPI LLC, its general partner

By: [Redacted]  
Name:  
Title:

**OC III LFE I LP**

By: OC II GP LLC, its general partner

By: [Redacted]  
Name:  
Title:



**CBHT Energy I LLC**

By: [Redacted]

Name:

Title:

Disclosure Letter

**DISCLOSURE LETTER**  
**to**  
**TRANSACTION AGREEMENT**

**by and among**

**JUST ENERGY GROUP INC.**

**as the Company**

**-and-**

**LVS III SPE XV LP,**

**TOCU XVII LLC,**

**HVS XVI LLC,**

**OC II LVS XIV LP,**

**OC III LFE I LP,**

**CBHT ENERGY I LLC**

**each as a Purchaser and collectively, as the Purchaser**

Schedule 1.1(a)  
Additional Applicants

None.

Schedule 1.1(b)  
Permitted Encumbrances

- Encumbrances securing Assumed Liabilities to the extent that such Assumed Liabilities are secured by Encumbrances as of the Closing Time
- Encumbrances securing obligations under the New Credit Agreement
- Encumbrances which are the subject of the New Intercreditor Agreement
- “Permitted Encumbrances” as defined in the Credit Agreement, subject to those amendments to such definition provided for in Exhibit 1 of the Stalking Horse Term Sheet, except to the extent that they relate to an Excluded Liability or Excluded Asset

Schedule 2.1(a)

Equity Interest Allocation Percentages

**[Redacted]**

Schedule 2.2(c)  
Excluded Contracts

None.

Schedule 2.2  
Excluded Assets

None.



Schedule 2.2(f)  
Excluded Equity Interests

Schedule 3.1(a)(i)

Cash Purchase Price Allocation

**[Redacted]**

Schedule 4.7  
Subsidiaries

	<b>Name</b>	<b>Jurisdiction of Incorporation</b>
1.	Just Energy Group Inc.	Canada
2.	Just Energy Corp.	Ontario
3.	Ontario Energy Commodities Inc.	Ontario
4.	Universal Energy Corporation	Ontario
5.	Just Energy Finance Canada ULC	Nova Scotia
6.	Hudson Energy Canada Corp.	Canada
7.	11929747 Canada Inc.	Canada
8.	12175592 Canada Inc.	Canada
9.	JE Services Holdco I Inc.	Canada
10.	JE Services Holdco II Inc.	Canada
11.	8704104 Canada Inc.	Canada
12.	Just Energy Advanced Solutions Corp.	Ontario
13.	Just Energy (U.S.) Corp.	Delaware
14.	Just Energy Illinois Corp.	Delaware
15.	Just Energy Indiana Corp.	Delaware
16.	Just Energy Massachusetts Corp.	Delaware
17.	Just Energy New York Corp.	Delaware
18.	Just Energy Texas I Corp.	Delaware
19.	Just Energy, LLC	Texas
20.	Just Energy Pennsylvania Corp.	Delaware
21.	Just Energy Michigan Corp.	Delaware
22.	Just Energy Solutions Inc.	California

23.	Hudson Energy Services LLC	New Jersey
24.	Hudson Energy Corp.	Delaware
25.	Interactive Energy Group LLC	Delaware
26.	Hudson Parent Holdings LLC	Delaware
27.	Drag Marketing LLC	Delaware
28.	Just Energy Advanced Solutions LLC	Delaware
29.	Fulcrum Retail Energy LLC	Texas
30.	Fulcrum Retail Holdings LLC	Texas
31.	Tara Energy, LLC	Texas
32.	Just Energy Marketing Corp.	Delaware
33.	Just Energy Connecticut Corp.	Delaware
34.	Just Energy Limited	Delaware
35.	Just Solar Holdings Corp.	Delaware
36.	Just Energy (Finance) Hungary Zrt.	Hungary
37.	Just Energy Ontario L.P.	Ontario
38.	Just Energy Manitoba L.P.	Manitoba
39.	Just Energy (B.C.) Limited Partnership	British Columbia
40.	Just Energy Québec L.P.	Quebec
41.	Just Energy Trading L.P.	Ontario
42.	Just Energy Alberta L.P.	Alberta
43.	Just Green L.P.	Alberta
44.	Just Energy Prairies L.P.	Manitoba
45.	JEBPO Services LLP	India
46.	Just Energy Texas LP	Texas

Schedule 6.1(e)Transaction Regulatory Approvals to be Obtained and Energy Regulator Notices to be Provided  
Prior to the Closing Time

1. Authorization from the Federal Energy Regulatory Commission under Section 203 of the Federal Power Act
2. Competition Act Approval, if required
3. Investment Canada Act Approval
4. Energy Regulator Notices to
  - a. the Registrar under *The Direct Sellers Act*, RSS 1978, c D-28, to the extent there is a change in membership of the licensee;
  - b. the Connecticut Public Utilities Regulatory Authority; and,
  - c. the applicable Energy Regulator, to the extent there is a change in the officers, directors or members of the licensee or a change in control of the licensee, and such change requires notification to such Energy Regulator.
5. Hart-Scott-Rodino Approval, if required in the reasonable judgment of Purchaser

**Exhibit A**

## Terms of the New Preferred Equity

On the Closing Date, Just Energy (U.S.) Corp. (or its successor if converted into another entity prior to the Closing in accordance with the Implementation Steps) will issue a new class of preferred equity on the following terms and conditions and, to the extent applicable, subject to the terms and conditions set out in the New Credit Agreement:

- (a) Amount: The amount of the BP Commodity / ISO Services Claim as of the Closing Date, all converted into United States currency, as applicable
- (b) Maturity:
  - 1. Perpetual
  - 2. Repayment in full upon a change of control transaction
  - 3. Right to force sale in year six (6)
- (c) Dividends: 12.50% accreting yield with dividends as and when declared by the board of directors for the first four (4) years, increasing 1% annually thereafter
- (d) Fees: Exit fee of 5.00%
- (e) ECF Sweep: The ECF Sweep is as permitted pursuant to the terms of the New Credit Agreement

**Exhibit B**

Form of Release

(see attached)

## RELEASE AGREEMENT

This Release Agreement (this “Release Agreement”) is made and entered into as of [●], 2022 (the “Effective Date”) by each of the Releasing Parties (as defined herein) in favor of the Released Parties (as defined herein).

WHEREAS, on [●], 2022 (the “Closing Date”), pursuant to that certain Transaction Agreement, dated as of August 4, 2022 (together with all exhibits and schedules attached thereto, and as amended, supplemented, or otherwise modified from time to time, the “Transaction Agreement”),<sup>1</sup> by and between Just Energy Group Inc. (“JEGI”) and the Purchaser, upon the consummation of the Closing, concurrently with the effectiveness of this Release Agreement and after the completion of the Implementation Steps, all of the Releasing Parties are now owned, directly or indirectly, by Just Energy (U.S.) Corp; and

WHEREAS, the Releasing Parties desire to effectuate the release provision set forth in Article 7.9 of the Transaction Agreement, all as more fully set forth herein.

NOW, THEREFORE, in consideration of the above recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Releasing Parties hereby agree as follows:

### 1. Defined Terms.

(a) The terms defined in the recitals hereto shall have the meanings set forth therein.

(b) The following terms have the following meanings:

“Causes of Action” means any action, claim, cross-claim, third-party claim, damage, judgment, cause of action, controversy, demand, right, action, suit, obligation, liability, debt, account, defense, offset, power, privilege, license, lien, indemnity, interest, guaranty, or franchise of any kind or character whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, contingent or non-contingent, liquidated or unliquidated, disputed or undisputed, secured or unsecured, assertable directly or derivatively, matured or unmatured, suspected or unsuspected, in contract or in tort, at law or in equity, or pursuant to any other theory of law or otherwise, of the Just Energy Entities against any Person, in each case based in whole or in part on any act or omission, transaction, dealing, or other occurrence existing or taking place on or prior to the Closing Time.

“Final Order” means with respect to any order or judgment of the CCAA Court or the U.S. Bankruptcy Court, or any other court of competent jurisdiction, with respect to the subject matter addressed in the CCAA Proceedings or the Chapter 15 Cases or the docket of any court of competent jurisdiction, that such order or judgement has not been vacated, set aside, reversed, stayed, modified, or amended, and as to which the applicable periods to appeal, or seek certiorari or move for a new trial, reargument, or rehearing, has expired and no appeal, leave to appeal, or

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<sup>1</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Transaction Agreement.



petition for certiorari or other proceedings for a new trial, reargument, or rehearing has been timely taken or filed, or as to which any appeal has been taken or any petition for certiorari or leave to appeal that has been timely filed has been withdrawn or resolved in a manner acceptable to the Company and the Purchaser, each acting reasonably, by the highest court to which the order or judgment was appealed or from which leave to appeal or certiorari was sought or the new trial, reargument, or rehearing shall have been denied, resulted in no modification of such order, or has otherwise been dismissed with prejudice; *provided, however*, that the possibility that a motion under Rule 60 of the United States Federal Rules of Civil Procedure, or any analogous rule under the Federal Rules of Bankruptcy Procedure, may be filed relating to such order shall not cause such order to not be a Final Order.

“Released Causes of Action” means the Causes of Action irrevocably and unconditionally waived, released, and discharged by the Releasing Parties pursuant to Section 2 of this Release Agreement.

“Released Parties” means, collectively, (a) all current and former officers, directors, partners, limited partners, employees, agents, financial and legal advisors of each of the Releasing Parties and (b) the respective successors and assigns of each individual or entity in clause (a).

“Releasing Parties” means, collectively, (a) JEGI, Just Energy Corp., Ontario Energy Commodities Inc., Universal Energy Corporation, Just Energy Finance Canada ULC, Hudson Energy Canada Corp., 11929747 Canada Inc., 12175592 Canada Inc., JE Services Holdco I Inc., JE Services Holdco II Inc., 8704104 Canada Inc., Just Energy Advanced Solutions Corp., Just Energy (U.S.) Corp., Just Energy Illinois Corp., Just Energy Indiana Corp., Just Energy Massachusetts Corp., Just Energy New York Corp., Just Energy Texas I Corp., Just Energy, LLC, Just Energy Pennsylvania Corp., Just Energy Michigan Corp., Just Energy Solutions Inc., Hudson Energy Services LLC, Hudson Energy Corp., Interactive Energy Group LLC, Hudson Parent Holdings LLC, Drag Marketing LLC, Just Energy Advanced Solutions LLC, Fulcrum Retail Energy LLC, Fulcrum Retail Holdings LLC, Tara Energy, LLC, Just Energy Marketing Corp., Just Energy Connecticut Corp., Just Energy Limited, Just Solar Holdings Corp., Just Energy (Finance) Hungary Zrt., Just Energy Ontario L.P., Just Energy Manitoba L.P., Just Energy (B.C.) Limited Partnership, Just Energy Québec L.P., Just Energy Trading L.P., Just Energy Alberta L.P., Just Green L.P., Just Energy Prairies L.P., JEBPO Services LLP, and Just Energy Texas LP and (b) the respective successors and assigns of each entity in clause (a).

## 2. Releases.

(a) Each Releasing Party hereby irrevocably and unconditionally waives, releases, and discharges each Released Party from any and all actual or potential Causes of Action against the Released Parties; *provided, however*, that, with respect to each Released Party, the foregoing provision shall not waive or release Causes of Action related to any act or omission by such Released Party that is determined in a Final Order of a court of competent jurisdiction to have constituted actual fraud, willful misconduct, or gross negligence; *provided, further*, that in all respects such Released Parties shall be entitled to reasonably rely upon the advice of counsel with respect to their applicable duties and responsibilities.

(b) Each Releasing Party understands, acknowledges, and agrees that the releases provided for herein are full and final general releases of all Released Causes of Action, including those that could have been asserted in any legal or equitable proceeding against the Released Parties. Each Releasing Party hereby irrevocably covenants to refrain from, directly or indirectly, asserting any Released Cause of Action, or commencing, instituting, or causing to be commenced any action, suit, or proceeding of any kind, against any Released Party, or against any other person, corporation, or entity which might claim over or against any Released Party, based upon any Released Cause of Action. Each Releasing Party further agrees that in the event such Releasing Party should bring a Released Cause of Action against any Released Party or any such other person, corporation, or entity, this Release Agreement shall serve as a complete defense to such Cause of Action.

(c) Each Releasing Party has read Section 1542 of the Civil Code of the State of California (“Section 1542”), which provides as follows: A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR. Each Releasing Party understands that Section 1542, or a comparable statute, rule, regulation, or order of another jurisdiction, gives such Releasing Party the right not to release existing Causes of Action of which such Releasing Party is not aware, unless such Releasing Party voluntarily chooses to waive this right. Having been so apprised, each Releasing Party nevertheless hereby voluntarily elects to and does waive the rights described in Section 1542, and all such other comparable statutes, rules, regulations, or orders, and elects to assume all risks for Causes of Action that exist, existed, or may hereafter exist in its favor, known or unknown, suspected or unsuspected, arising out of or related to Causes of Action or other matters purported to be released pursuant to this Release Agreement.

3. Severability. Any term or provision of this Release Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

4. Waivers. No waiver of any of the terms or provisions of this Release Agreement shall be binding against any Released Party hereto unless such waiver is in a writing signed by such Released Party.

5. No Assignment. This Release Agreement shall be binding upon the Releasing Parties and inure to the sole benefit of the Released Parties. No Releasing Party hereto may assign any of its obligations under this Release Agreement. Any assignment in violation of this Section 5 shall be null and void *ab initio*.

6. Governing Law. This Release Agreement shall be governed by and construed in accordance with the laws of [●], without giving effect to principles of choice of law. Any action, suit, or proceeding arising out of or related to this Release Agreement shall be brought and maintained exclusively in the state and federal courts in [●], and each Releasing Party irrevocably and unconditionally: (a) submits to the personal jurisdiction of those courts for purposes of, and waives any defense of venue or inconvenient forum in, any such action, suit, or proceeding in those

courts; (b) expressly waives any requirement for the posting of a bond by a party bringing such action, suit, or proceeding; (c) consents to process being served in any such action, suit, or proceeding by mailing, certified mail, return receipt requested, a copy thereof to such party at the address in effect for notices set forth on the signature pages hereto, and agrees that such service shall constitute good and sufficient service of process and notice thereof; *provided* that nothing in clause (c) hereof shall affect or limit any right to serve process in any other manner permitted by law, and (d) WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY SUCH ACTION, SUIT, OR PROCEEDING.

7. Counterparts. This Release Agreement may be executed and delivered in any number of counterparts and by way of electronic signature and delivery, each such counterpart, when executed and delivered, shall be deemed an original, and all of which together shall constitute the same agreement. Except as expressly provided in this Release Agreement, each individual executing this Release Agreement on behalf of a Releasing Party has been duly authorized and empowered to execute and deliver this Release Agreement on behalf of said Releasing Party.

*[Remainder of page intentionally left blank.]*

IN WITNESS WHEREOF, the Releasing Parties have executed this Release Agreement on the day and year first above written.

**[Just Energy (U.S.) Corp., on behalf itself and each other Releasing Party]**

By: \_\_\_\_\_  
Name: [•]  
Title: [•]

**EXHIBIT C**

**Stalking Horse Term Sheet**

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**JUST ENERGY GROUP INC., ET AL.**  
**STALKING HORSE TRANSACTION TERM SHEET**

**August 4, 2022**

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This stalking horse transaction term sheet (this “**Term Sheet**”) presents the principal terms of proposed transactions (collectively, the “**Transaction**”) concerning Just Energy Group Inc. (“**Just Energy**”) and the other entities composing the “Just Energy Entities” (as defined below). The Transaction shall serve as a stalking-horse bid in a sale and investment solicitation process to be commenced in the Just Energy Entities’ CCAA (as defined below) proceedings, as described herein. The Transaction will be implemented pursuant to: (i) a transaction agreement (the “**Transaction Agreement**”) to be approved pursuant to an approval and vesting order (the “**Vesting Order**”) granted by the Ontario Superior Court of Justice (Commercial List) in the proceedings commenced by Just Energy and certain of the Just Energy Entities under the *Companies’ Creditors Arrangement Act* (as amended, the “**CCAA**”) on March 9, 2021 (the “**Filing Date**”), with such Vesting Order to be recognized and enforced by the United States Bankruptcy Court for the Southern District of Texas, Houston Division in the cases commenced by the foreign representative for certain of the Just Energy Entities under chapter 15 of title 11 of the United States Code on the Filing Date; and (ii) the Support Agreement dated August 4, 2022, by and among the Just Energy Entities, the Sponsor, and the other parties signatory thereto (as amended, supplemented, or otherwise modified from time to time, the “**Support Agreement**”). Capitalized terms used but not otherwise defined herein will have the meanings ascribed to such terms in the Support Agreement.

**THIS TERM SHEET DOES NOT CONSTITUTE (NOR WILL IT BE CONSTRUED AS) AN OFFER WITH RESPECT TO ANY SECURITIES, IT BEING UNDERSTOOD THAT SUCH AN OFFER, IF ANY, ONLY WILL BE MADE IN COMPLIANCE WITH APPLICABLE PROVISIONS OF SECURITIES, BANKRUPTCY, AND/OR OTHER APPLICABLE LAWS.**

**THIS TERM SHEET DOES NOT PURPORT TO SUMMARIZE ALL OF THE TERMS, CONDITIONS, REPRESENTATIONS, WARRANTIES, AND OTHER PROVISIONS WITH RESPECT TO THE TRANSACTIONS DESCRIBED HEREIN, WHICH TRANSACTIONS WILL BE SUBJECT TO THE COMPLETION OF DEFINITIVE DOCUMENTS CONSISTENT WITH THE TERMS SET FORTH HEREIN. THE CLOSING OF ANY TRANSACTION WILL BE SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN SUCH DEFINITIVE DOCUMENTS. EXCEPT AS SET FORTH IN THE SUPPORT AGREEMENT AND THE TRANSACTION AGREEMENT, NO BINDING OBLIGATIONS WILL BE CREATED BY THIS TERM SHEET UNLESS AND UNTIL BINDING DEFINITIVE DOCUMENTS ARE EXECUTED AND DELIVERED BY ALL APPLICABLE PARTIES.**

<b><u>TERM SHEET</u></b>	
<b>Just Energy Entities:</b>	Just Energy, Just Energy Corp., Ontario Energy Commodities Inc., Universal Energy Corporation, Just Energy Finance Canada ULC, Hudson Energy Canada Corp., Just Management Corp., 11929747 Canada Inc., 12175592 Canada Inc., JE Services Holdco I Inc., JE Services Holdco II Inc., 8704104 Canada Inc., Just Energy Advanced Solutions Corp., Just Energy (U.S.) Corp., Just Energy Illinois Corp., Just Energy Indiana Corp., Just Energy Massachusetts Corp., Just Energy New York Corp., Just Energy Texas I Corp., Just Energy, LLC, Just Energy Pennsylvania Corp., Just Energy Michigan Corp., Just Energy Solutions Inc., Hudson Energy Services LLC, Hudson Energy Corp., Interactive Energy Group LLC, Hudson Parent Holdings LLC, Drag Marketing LLC, Just Energy Advanced Solutions LLC, Fulcrum Retail Energy LLC, Fulcrum Retail Holdings LLC, Tara Energy, LLC, Just Energy Marketing Corp., Just Energy Connecticut Corp., Just Energy Limited, Just Solar Holdings Corp., Just Energy (Finance) Hungary Zrt., Just Energy Ontario L.P., Just Energy Manitoba L.P., Just Energy (B.C.) Limited Partnership, Just Energy Québec L.P., Just Energy Trading L.P., Just Energy Alberta L.P., Just Green L.P., Just Energy Prairies L.P., JEBPO Services LLP, and Just Energy Texas LP (collectively, the “ <b>Just Energy Entities</b> ”).
<b>Sponsor Parties:</b>	LVS III SPE XV LP, TOCU XVII LLC, HVS XVI LLC, OC II LVS XIV LP, OC III LFE I LP and CBHT Energy I LLC (collectively, the “ <b>Sponsor</b> ”). The Sponsor shall provide a guarantee in substantially the same form as provided in connection with the Backstop Commitment Letter from the same affiliates of the Sponsor. <sup>1</sup>
<b><u>TRANSACTION OVERVIEW</u></b>	
<b>The Transaction:</b>	<p>The Transaction shall include, as set forth below, among other things:</p> <ul style="list-style-type: none"> <li>• The Sponsor shall acquire newly issued common and preferred shares of Just Energy (U.S.) Corp. (“<b>JEUS</b>”); JEUS shall then acquire newly issued common shares of Just Energy, with the existing common shares and all other equity interests in Just Energy being cancelled immediately following such issuance pursuant to the Vesting Order, pursuant to steps to be set forth in the Implementation Steps (as defined below);</li> <li>• For the avoidance of doubt, upon the Closing and after the completion of the Implementation Steps, each other Just Energy Entity (including the Company) and Filter Group Inc. shall be owned, directly or indirectly, by JEUS.</li> <li>• At Closing (as defined below), no Just Energy Entity shall be a reporting issuer (or equivalent) under any Canadian securities laws;</li> <li>• Entry into the New Credit Agreement;</li> </ul>

<sup>1</sup> The Sponsor reserves rights to form an entity taxed as partnership to be the counterparty under the Transaction Agreement.

	<ul style="list-style-type: none"> <li>• Entry into the New Intercreditor Agreement;</li> <li>• Subject to the Implementation Steps and the terms of the Transaction Agreement and the Vesting Order, Just Energy Entities shall retain all of the assets owned by those entities as of the date of this Term Sheet and any assets acquired up to and including the date of the closing (the “<b>Closing</b>” and such date, the “<b>Closing Date</b>”) of the transactions contemplated by the Transaction Agreement other than the Excluded Assets and Excluded Liabilities (each as defined below);</li> <li>• The Just Energy Entities shall assign and transfer the Excluded Liabilities and Excluded Assets to one or more entities (each, a “<b>Residual Co.</b>”) to be organized by Just Energy prior to Closing, each of which shall have no issued and outstanding shares and which shall become an applicant in the CCAA proceedings as of the Closing, and pursuant to the Transaction Agreement and the Vesting Order (i) none of Sponsor, nor any of the Just Energy Entities shall have any liability with respect to any of the Excluded Liabilities from and after Closing and (ii) the Excluded Liabilities and Excluded Assets shall be vested in the applicable Residual Co. as of the Closing; and</li> <li>• The applicable Just Energy Entities shall continue to be liable for the Assumed Liabilities (as defined below) from and after Closing.</li> </ul>
<b>Purchase Price</b>	<p>The consideration to be paid by the Sponsor under the Transaction Agreement for the newly issued shares of JEUS shall consist of the following (collectively, the “<b>Purchase Price</b>”):</p> <p>(i) USD\$184,857,692.31 in cash, plus up to an additional CAD\$10 million solely in the event and to the extent additional funds (taking into account the Cash Purchase Price, the aggregate amount of cash held by the Just Energy Entities as of the Closing Date and the Credit Facility Remaining Debt) are required to pay all amounts to be paid by the Just Energy Entities pursuant to the Transaction Agreement and the Vesting Order;</p> <p>(ii) A credit bid of the BP Commodity/ISO Services Claim (including interest thereon through the Closing); and</p> <p>(iii) The retention of the Assumed Liabilities pursuant to the terms of the Transaction Agreement.</p>
<b>New Credit Facility:</b>	<p>On the Closing Date, the Credit Facility Lenders, the Credit Facility Agent, and Just Energy Ontario L.P. and Just Energy (U.S.) Corp., as borrowers, will enter into a tenth amended and restated credit agreement (the “<b>New Credit Agreement</b>”), which will amend and restate the existing ninth amended and restated credit agreement on the terms and conditions set forth in <u>Exhibit 1</u> hereto (the “<b>New Credit Facility Term Sheet</b>”).</p>
<b>Assumed Liabilities</b>	<p>“<b>Assumed Liabilities</b>” shall include only the following liabilities: (a) all Post-Filing Claims; (b) liabilities of each Just Energy Entity arising from and after Closing (which in each case shall remain liabilities of such Just Energy Entity); (c) all Credit</p>



	<p>Facility LC Claims, all Credit Facility Claims that are not repaid in full in cash on Closing in accordance with the New Credit Agreement (the “<b>Credit Facility Remaining Debt</b>”), and all Cash Management Obligations (as defined in the Initial Order); (d) Energy Regulator Claims relating to the Just Energy Entities; (e) any and all indemnification obligations of Just Energy to current and former directors, officers, and employees; (f) Employee Priority Claims; (g) Intercompany Claims between Just Energy Entities to the extent that the Implementation Steps contemplate such claims continuing as Assumed Liabilities and (h) all transfer and other similar taxes payable with respect to the transactions contemplated by the Transaction Agreement and (i) (1) tax liabilities of the Just Energy Entities for any tax period or the portion thereof beginning on or after the Filing Date and (2) any sales, use or other Taxes for any period by a Taxing Authority whereby the nonpayment of which by any Just Energy Entity could result in a responsible person associated with a Just Energy Entity being held personally liable for such nonpayment; excluding from both (1) and (2), for the avoidance of doubt, any tax or similar liability directly and solely related to the Excluded Assets, other than, Taxes with respect to which any current or former employee, officer, director, or other individual may be held liable under any applicable statute imposing responsible person liability for unpaid taxes. Notwithstanding the foregoing, nothing in the Transaction Agreement shall be read to extend or shall be interpreted as extending or amending the Claims Bar Date or give or shall be interpreted as giving any rights to any Person in respect of Claims that have been barred or extinguished pursuant to the Claims Procedure Order.</p>
<p><b>Excluded Liabilities</b></p>	<p>All liabilities, other than Assumed Liabilities, shall be “<b>Excluded Liabilities</b>”.</p> <p>On the Closing Date, pursuant to the terms of the Transaction Agreement and the Vesting Order, the Just Energy Entities shall assign and transfer the Excluded Liabilities to the applicable Residual Co. and each Residual Co. shall assume the applicable Excluded Liabilities. All claims in respect of the Excluded Liabilities will continue to exist against the applicable Residual Co. and none of the Sponsor nor the Just Energy Entities shall have any liability for any of the Excluded Liabilities and all of the Excluded Liabilities shall be discharged from the Just Energy Entities as of the Closing, pursuant to the Vesting Order.</p>

<b>Excluded Assets</b>	On the Closing Date, the Just Energy Entities shall transfer CAD\$1,900,000 (the “ <b>Administrative Expense Amount</b> ”) from the Just Energy Entities’ cash on hand, which will be paid to the Monitor, in trust pursuant to the Vesting Order (the “ <b>Excluded Assets</b> ”). Any unused portion of the Administrative Expense Amount after payment or reservation for all Administrative Expense Costs (as defined below), as determined by the Monitor, shall be transferred by the Monitor to Just Energy. “ <b>Administrative Expense Costs</b> ” means the reasonable and documented fees and costs of (i) the Monitor and its professional advisors and (ii) professional advisors of the Just Energy Entities for services performed prior to and, other than in respect of the Acquired Entities, after the Closing Date, in each case, relating directly or indirectly to the CCAA proceedings, the U.S. Chapter 15 proceedings, and the Transaction Agreement and including without limitation (y) costs required to wind down and/or dissolve and/or bankrupt the Residual Co. and any Just Energy Entity that is not an Acquired Entity and (z) costs and expenses required to administer the Excluded Assets, Excluded Liabilities and Residual Co.
<b>Employees</b>	Unless otherwise expressly provided for by the MIP, or agreed to in writing by and among the Just Energy Entities, the Sponsor, and the applicable employee (or employees) affected by any change or modification, each of the Employment Agreements will not be disclaimed and will remain in place as of, and as a condition to the occurrence of, the Closing. “ <b>Employment Agreements</b> ” shall mean, collectively, the employment agreements, the management compensation plans, and indemnification agreements of, or for the benefit of, the Directors, Officers, and employees of any of the Just Energy Entities that, on or prior to Closing, have not resigned, in each case in existence on the effective date of the Support Agreement; provided, however, that Employment Agreements shall not include employment agreements, the management compensation plans, and indemnification agreements of, or for the benefit of, the Directors, Officers, and employees of any of the Just Energy Entities that have been terminated or disclaimed without the consent of the Sponsor.
<b>Representations and Warranties</b>	Representations and warranties to be consistent with those included in the Backstop Commitment Letter.
<b>Covenants of the Just Energy Entities</b>	Covenants to be consistent with those included in the Backstop Commitment Letter.
<b>Regulatory Approvals</b>	In accordance with the terms of the Support Agreement and the Transaction Agreement, the Just Energy Entities and the Sponsor will work together to obtain the necessary regulatory approvals that may be required in connection with the transactions contemplated by this Term Sheet, including without limitation to the extent applicable, the approval of FERC, US HSR approval, Investment Canada Act and Competition Act approvals and certain Canadian regulatory approvals (collectively, the “ <b>Regulatory Approvals</b> ”).
<b>Bid Protections</b>	<u>Break-Up Fee</u> : JEUS (or another entity organized in the United States acceptable to the Sponsor) will pay to Sponsor a break-up fee in cash equal to USD\$14.66 million upon the consummation of an Alternative Restructuring Proposal (as defined in the Support Agreement) as provided in the Transaction Agreement (the “ <b>Break-Up Fee</b> ”).

	<p>Just Energy Entities shall obtain within the SISP Order a court-ordered charge in favor of the Sponsor in the full amount of the Break-Up Fee to secure the payment of the Break-Up Fee, which charge shall have the priority given to it in the SISP Order.</p>
<p><b>Closing Conditions</b></p>	<p>The Transaction Agreement shall contain the following closing conditions for the benefit of the Sponsor:</p> <ul style="list-style-type: none"> <li>• entry by the CCAA Court of an order approving the Sale and Investment Solicitation Process (the “SISP”) and related matters (the “SISP Order”) in the form attached hereto as <b>Exhibit 2</b> (or as otherwise acceptable to the Sponsor, acting reasonably), and such order shall be a Final Order;</li> <li>• entry by the U.S. Bankruptcy Court of the SISP Recognition Order and such order shall be a Final Order;</li> <li>• entry by the CCAA Court of the Vesting Order in the form attached hereto as <b>Exhibit 3</b> (or as otherwise acceptable to the Sponsor, acting reasonably), and such order shall be a Final Order;</li> <li>• entry by the U.S. Bankruptcy Court of the Vesting Recognition Order in form and substance acceptable to the Sponsor, acting reasonably and such order shall be a Final Order;</li> <li>• the Support Agreement shall not have been terminated by any party thereto;</li> <li>• no law, injunctions or other order or similar ruling or determination of any governmental authority preventing, delaying or otherwise frustrating the consummation of the Transaction;</li> <li>• the Just Energy Entities and Sponsor, as applicable, shall have received all required Regulatory Approvals, which will be identified in the Transaction Agreement;</li> <li>• the Just Energy Entities shall have completed the Implementation Steps in a manner reasonably acceptable to the Sponsor;</li> <li>• accuracy of the Just Energy Entities’ representations and warranties under the Transaction Agreement (to the same standards as included in the Backstop Commitment Letter);</li> <li>• no material breach of the Just Energy Entities’ covenants;</li> <li>• no material adverse effect with respect to the business shall have occurred;</li> <li>• New Credit Agreement and New Intercreditor Agreement shall have been entered into among the parties thereto;</li> <li>• As of immediately prior to the closing, the Cash Purchase Price, plus the aggregate amount of cash held by the Just Energy Entities, plus the Credit Facility Remaining Debt, shall be sufficient to pay all amounts to be paid by the Just Energy Entities pursuant to the Transaction Agreement and the Vesting Order; and</li> </ul>

	<ul style="list-style-type: none"> <li>• the receipt of customary closing deliverables.</li> </ul> <p>The Transaction Agreement shall contain the following closing conditions to the obligations of the Just Energy Entities to close the Transaction:</p> <ul style="list-style-type: none"> <li>• entry by the CCAA Court of the SISP Order in the form attached hereto as <b><u>Exhibit 2</u></b> (or as otherwise acceptable to Just Energy, acting reasonably), and such order shall be a Final Order;</li> <li>• entry by the U.S. Bankruptcy Court of the SISP Recognition Order in form and substance acceptable to Just Energy, and such order shall be a Final Order;</li> <li>• entry by the CCAA Court of the Vesting Order in the form attached hereto as <b><u>Exhibit 3</u></b> (or as otherwise acceptable to the Just Energy, acting reasonably), and such order shall be a Final Order;</li> <li>• entry by the U.S. Bankruptcy Court of the Vesting Recognition Order in form and substance acceptable to Just Energy, acting reasonably and such order shall be a Final Order;</li> <li>• the Support Agreement shall not have been terminated by any party thereto;</li> <li>• the MIP shall have been executed on terms consistent in all respects with the MIP Term Sheet;</li> <li>• no law, injunctions or other order or similar ruling or determination of any governmental authority preventing, delaying or otherwise frustrating the consummation of the transactions contemplated by the Transaction Agreement;</li> <li>• Just Energy Entities and the Sponsor, as applicable, shall have received all required Regulatory Approvals;</li> <li>• New Credit Agreement and New Intercreditor Agreement shall have been entered into among the parties thereto;</li> <li>• satisfaction of the conditions set forth under “<i>Employees</i>”;</li> <li>• accuracy of the Sponsor’s representations and warranties under the Transaction Agreement (to the same standards as included in the Backstop Commitment Letter);</li> <li>• no material breach of Sponsor’s covenants; and</li> <li>• the receipt of customary closing deliverables.</li> </ul>
<b>Termination</b>	<p>The Transaction Agreement will be terminable by either party in the event the Support Agreement is terminated in accordance with the terms thereof.</p> <p>The Transaction Agreement will also be terminable (by the applicable party or parties) in the following circumstances:</p>

	<ul style="list-style-type: none"> <li>• by mutual written consent of the parties;</li> <li>• Just Energy Entities breach the terms of the Transaction Agreement and fail to cure such breach in accordance with the terms of the Transaction Agreement; or</li> <li>• The Sponsor breaches the terms of the Transaction Agreement and fails to cure such breach in accordance with the terms of the Transaction Agreement.</li> </ul> <p>Provided the Transaction Agreement has not been terminated in accordance with its terms, each party will be entitled to specific performance to enforce the other parties' obligations thereunder, including the obligation to consummate the closing thereunder, subject to the satisfaction of the closing conditions, and to enforce Sponsor's obligations under the guarantee.</p>
<b><u>PAYMENT OF CERTAIN EXCLUDED LIABILITIES ON CLOSING</u></b>	
<b>Charge Beneficiaries:</b>	On the Closing Date, the Just Energy Entities shall have provided for the payment or satisfaction in cash in full of all amounts secured by Charges (as defined in the Initial Order granted in the Just Energy Entities' CCAA proceedings on March 9, 2021, as amended and restated on March 19, 2021 and May 26, 2021 and as may be further amended, restated, varied and/or supplemented from time to time), other than Cash Management Obligations and amounts secured by the Priority Commodities/ISO Charge (which in both cases are continuing as Assumed Liabilities).
<b>Commodity Supplier Claims:</b>	On the Closing Date, the Just Energy Entities shall pay each Commodity Supplier an amount equal to such Commodity Supplier's Commodity Supplier Claim that is an Accepted Claim in full satisfaction of such claims.
<b>Credit Facility Claims:</b>	<p>On the Closing Date, in full and final satisfaction of the Credit Facility Claim (less the Credit Facility Remaining Debt, if any), the Just Energy Entities shall pay, or shall cause to be paid, to the Credit Facility Agent, an amount equal to the Credit Facility Claim (less the Credit Facility Remaining Debt, if any), in full in cash in the currency that such Credit Facility Claim was originally denominated in full and final satisfaction of the Credit Facility Claim (less the Credit Facility Remaining Debt, if any), but in all cases in accordance with the New Credit Agreement.</p> <p>Any letters of credit issued by a Credit Facility Lender pursuant to the Credit Agreement shall continue under the New Credit Agreement or be discharged and, if required, replaced with new letters of credit issued under the New Credit Agreement, unless otherwise agreed to by the applicable Credit Facility Lender and the Just Energy Entities, with the consent of the Sponsor.</p> <p>The Cash Management Obligations will continue after Closing as Assumed Liabilities.</p>

<b>Government Priority Claims</b>	On the Closing Date, the applicable Just Energy Entities shall pay or cause to be paid in full all Government Priority Claims, if any, outstanding as at the Filing Date or related to the period ending on the Filing Date, to the applicable Governmental Entity.
<b><u>OTHER PROVISIONS</u></b>	
<b>Management Incentive Plan:</b>	The material terms in respect of a post-Closing management incentive plan (the “MIP”) of the Sponsor will be as set forth in the management incentive plan term sheet (the “MIP Term Sheet”) attached hereto as <b>Exhibit 5</b> . The MIP shall be executed on terms consistent in all respects with the MIP Term Sheet on Closing.
<b>New Intercreditor Agreement:</b>	A seventh amended and restated intercreditor agreement (the “ <b>New Intercreditor Agreement</b> ”) by, among others, the Acquired Entities, the Credit Facility Agent, and the applicable Commodity Suppliers, shall be entered into, which New Intercreditor Agreement shall provide for the same relative supplier and lender priorities as contemplated in the existing sixth amended and restated intercreditor agreement subject to modifications set forth in the New Intercreditor Agreement Term Sheet attached hereto as <b>Exhibit 4</b> .
<b>Shell:</b>	Shell Energy North America (Canada) Inc., Shell Energy North America (US), L.P., and Shell Trading Risk Management, LLC (collectively, “ <b>Shell</b> ”) shall have confirmed, in writing, to the Acquired Entities and the Sponsor that (i) it will not exercise any termination rights under its Continuing Contracts (as defined in the Support Agreement) solely as a result of the Transaction, and (ii) all existing and any potential future trades will be transacted in accordance with the Continuing Contracts (as may be amended, restated, supplemented and/or replaced by the Acquired Entities and Shell from time to time following the Closing Date) or new arrangements, in each case in accordance with the terms thereof and subject to the terms of the New Intercreditor Agreement. The Continuing Contracts with respect to Shell shall not include the Third Amended and Restated Scheduling Coordinator Agreement dated December 1, 2014 between Shell Energy North America (US), L.P., Just Energy New York Corp., Just Energy (U.S.) Corp. and Just Energy Solutions Inc. (formerly Commerce Energy, Inc.) or any other agreement whereby Shell performs ISO or scheduling services on behalf of any Applicant whereby an Applicant has reimbursement obligations to Shell for payments made by Shell on behalf of an Applicant to an ISO.
<b>Releases</b>	Release provisions shall be as provided for in the Vesting Order and the Transaction Agreement.

<p><b>Tax Structure:</b></p>	<p>The Transaction, including the treatment of Intercompany Claims, shall be structured in a tax efficient manner as agreed upon by, and acceptable to, the Just Energy Entities and the Sponsor, each acting reasonably.</p> <p>The specific transaction steps and pre-closing reorganization of the Just Energy Entities to effect the Transaction (collectively, the “<b>Implementation Steps</b>”) shall be set out in an appendix to the Transaction Agreement (which appendix, for the avoidance of doubt, will be completed following the execution of the Transaction Agreement but at least 7 days prior to the hearing of the Just Energy Entities’ motion to the CCAA Court seeking the Vesting Order) and shall be in form and substance acceptable to the Just Energy Entities, the Credit Facility Lenders and the Sponsor, each acting reasonably.</p>
<p><b>Definitive Documents:</b></p>	<p>Each of the Definitive Documents (as defined in the Support Agreement) shall be agreed upon by, and in form and substance acceptable to each of the Just Energy Entities, the Sponsor and the Credit Facility Lenders, each acting reasonably and consistent with the terms in this Term Sheet.</p>
<p><b>Transaction Timeline:</b></p>	<p>The Transaction shall occur on the timeline set forth in the Support Agreement.</p>

**EXHIBIT 1**

**New Credit Facility Term Sheet**



**NEW CREDIT AGREEMENT  
SUMMARY OF TERMS AND CONDITIONS**

August 4, 2022

*This Summary of Terms and Conditions (this “**Summary**”) is intended for discussion purposes only and cannot be construed as creating an obligation to advance funds or to reach an agreement on definitive terms and conditions. This Summary does not include descriptions of all of the terms, conditions and other provisions that are to be contained in the definitive documentation relating to the Credit Facilities, including, without limitation, a tenth amended and restated credit agreement (the “**Tenth Amended and Restated Credit Agreement**”) between the Borrowers, the Agent and the Lenders. This Summary represents an outline of the basis on which the Lenders are prepared to provide their commitment to provide the Credit Facilities subject to each Lender’s receipt of its requisite internal credit and underwriting approvals, satisfactory results of due diligence and documentation in form and substance satisfactory to the Lenders, the Obligors and the Purchaser Sponsor.*

Reference is made to (i) the ninth amended and restated agreement dated as of September 28, 2020 among Just Energy Ontario L.P. and Just Energy (U.S.) Corp, as Borrowers, National Bank of Canada, as Agent, and the Lenders party thereto, as amended, supplemented or otherwise modified from time to time to the date hereof (the “**Existing Credit Agreement**”), (ii) the sixth amended and restated intercreditor agreement dated as of September 1, 2015 between the Collateral Agent, the Agent, Shell Energy, the Other Commodity Suppliers (as defined therein), the Borrowers, the Restricted Subsidiaries and other Persons from time to time party thereto (as amended, supplemented or otherwise modified from time to time to the date hereof (the “**Existing Intercreditor Agreement**”), and (iii) the support agreement dated as of August 4, 2022 between, among others, the Obligors, LVS III SPE XV LP, TOCU XVII LLC, HVS XVI LLC, OC II LVS XIV LP and OC III LFE I LP, as purchase sponsors, and the Lenders party thereto (as amended, supplemented or otherwise modified from time to time to the date hereof (the “**Support Agreement**”). Capitalized terms used but not otherwise defined herein shall have the meanings given to them in Exhibit A attached hereto or the Existing Credit Agreement, as the case may be.

<i>Borrowers:</i>	As per the Existing Credit Agreement.
<i>New Parent:</i>	Just Energy (U.S.) Corp. (the “ <b>New Parent</b> ”).
<i>Guarantors:</i>	As per the Existing Credit Agreement with the addition of (a) any Subsidiary of the New Parent that directly or indirectly owns the equity interests in the Canadian Borrower on the Closing Date and any other Subsidiary of the New Parent that is not an Unrestricted Subsidiary (collectively, the “ <b>New Obligor</b> ”), and (b) Filter Group Inc. (“ <b>Filter Parent</b> ”) and Filter Group USA Inc. (together with Filter Parent, collectively, the “ <b>Filter Entities</b> ”; the Filter Entities, together with the New Obligor, if any, collectively, the “ <b>Additional Guarantors</b> ”). For the avoidance of doubt, no Person

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	that directly owns any equity interest in the New Parent shall be required to be a Guarantor or provide Security.
<i>Administrative Agent:</i>	National Bank of Canada, as administrative agent (in such capacity, the “ <b>Agent</b> ”).
<i>Lenders:</i>	As per the Existing Credit Agreement.
<i>Maximum Facility Amount:</i>	Cdn.\$250,000,000 (inclusive of the LC Facility Amount (as defined below)) on the Closing Date (as defined below) as such amount is reduced from time to time pursuant to the “Prepayments and Repayments” described below (the “ <b>Maximum Facility Amount</b> ”).
<i>Credit Facility Remaining Debt:</i>	Pursuant to the Transaction Agreement, the principal amount of up to Cdn.\$10,000,000 of the amounts owed to the Lenders under the Existing Credit Agreement (in addition to the Letters of Credit issued under the Existing Credit Agreement which are outstanding on the Closing Date) may remain outstanding as an initial outstanding principal amount under the New Credit Agreement upon the closing (“ <b>Closing</b> ”) of the transaction (the “ <b>Transaction</b> ”) contemplated in the Transaction Agreement.
<i>Letters of Credit Sublimit under Revolving Facilities:</i>	Remove the existing sublimit of Cdn.\$125,000,000 for the Letters of Credit issued under the Revolving Facilities in Section 2.08(3) of the Existing Credit Agreement.
<i>LC Facility:</i>	LC Facility in the amount of Cdn.\$45,000,000 (the “ <b>LC Facility Amount</b> ”).
<i>Borrowing Base:</i>	As per the Existing Credit Agreement.
<i>Prepayments and Repayments:</i>	As per the Existing Credit Agreement, subject to the following: <ul style="list-style-type: none"> <li>(i) If at any time the aggregate amount of unrestricted cash and Cash Equivalents held by the Obligors exceeds Cdn.\$35,000,000, save and except for any amounts which directly relate to and are required to fund pending normal course commodity supplier payments and ISO payments on each Commodity Supplier/ISO Payment Date (as defined below), the Borrowers will repay the Advances outstanding under the Revolving Facilities in an amount equal to such excess. For certainty, (a) any repayment made pursuant to this clause (i) will not permanently reduce the Commitments of the Lenders under the Revolving Facilities or the Maximum Facility Amount; and (b) to the extent there are no Advances outstanding under the Revolving</li> </ul>

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Facilities (other than the Letters of Credit) at such time, the Obligors may maintain aggregate cash and Cash Equivalents in excess of Cdn.\$35,000,000 for general corporate purposes.

- (ii) The requirement for commitment reductions on asset dispositions contained in Section 6.07 of the Existing Credit Agreement will be revised to provide for mandatory reductions of the Maximum Facility Amount by an amount equal to the net after-tax proceeds of a Disposition of any Property made by an Obligor or Unrestricted Subsidiary on a dollar-for-dollar basis to the extent such proceeds are not used by the Obligors for reinvestment pursuant to one or more Permitted Acquisitions within 180 days of such Disposition; provided that, for greater certainty, any such Disposition made by an Obligor shall be a Permitted Asset Disposition.
- (iii) Sections 6.06 and 6.08 will be removed in its entirety.
- (iv) The requirement for scheduled mandatory commitment reductions contained in Section 6.09 of the Existing Credit Agreement will be revised to remove in their entirety any scheduled commitment reductions set forth therein and to provide instead for the following mandatory reductions of the Maximum Facility Amount:
  - (a) On June 30, 2023, the Maximum Facility Amount in effect at such time will be permanently reduced by an amount equal to the Excess Liquidity Amount as at March 31, 2023 (which, for the avoidance of doubt and notwithstanding anything to the contrary herein, shall include the proceeds of any Equity Cure received by the Obligors during the Fiscal Quarter ended June 30, 2023 (the “**June 2023 Equity Cure**”), up to the first Cdn.\$45,000,000 (the “**June 2023 Facility Reduction**”).
  - (b) On September 30, 2023, the Maximum Facility Amount in effect at such time will be permanently reduced by an amount equal to the sum of (A) the Excess Liquidity Amount as at June 30, 2023 (which, for the avoidance of doubt and notwithstanding anything to the contrary herein, shall include the proceeds of any Equity Cure received by the Obligors during the Fiscal Quarter

ended September 30, 2023 (the “**September 2023 Equity Cure**” and collectively with the June 2023 Equity Cure, the “**Specified Equity Cures**”), up to Initial 2023 Lender Shortfall Amount, and (B) to the extent such Excess Liquidity Amount exceeds the sum of (I) the Initial 2023 Lender Shortfall Amount and (II) Cdn.\$60,000,000, 50% of such excess.

- (c) On June 30, 2024, the Maximum Facility Amount in effect at such time will be permanently reduced by an amount equal to the Excess Liquidity Amount as at March 31, 2024 (which, for the avoidance of doubt and notwithstanding anything to the contrary herein, shall include the proceeds of any Equity Cure received by the Obligors during the Fiscal Quarter ended June 30, 2024), up to the Total 2024 Lender Commitment Reduction Amount (the “**June 2024 Facility Reduction**”).
- (d) On September 30, 2024, the Maximum Facility Amount in effect at such time will be permanently reduced by an amount equal to the sum of (A) the Excess Liquidity Amount as at June 30, 2024 (which, for the avoidance of doubt and notwithstanding anything to the contrary herein, shall include the proceeds of any Equity Cure received by the Obligors during the Fiscal Quarter ended September 30, 2024), up to the Initial 2024 Lender Shortfall Amount; (B) to the extent such Excess Liquidity Amount exceeds the sum of (I) the Initial 2024 Lender Shortfall Amount, and (II) the Total 2024 Preferred Equity Payment Amount, 50% of such excess.

For the avoidance of doubt, the amount of the Specified Equity Cures will not be included in the calculation of the Excess Liquidity Amount for purposes of clauses (c) and (d) above.

- (v) For greater certainty, (a) if at any time the aggregate amount of the Letters of Credit outstanding under the Revolving Facilities or the LC Facility<sup>1</sup>, as the case may be, exceeds the Commitments of the Lenders under the applicable Credit Facility in effect at such time (including as a result

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<sup>1</sup> Subject to confirmation that EDC will continue to backstop the LC Facility.

of the reductions in the Maximum Facility Amount made in accordance with this Section titled “Prepayments and Repayments”), the Borrower will promptly provide to the Agent, for the benefit of the Lenders or the LC Lender, as applicable, cash collateral in the amount of such excess and the Lenders and the LC Lender will have priority over such cash collateral under the terms of the Seventh Amended and Restated Intercreditor Agreement, and (b) if, subsequent to the provision by the Borrowers of the cash collateral in accordance with the foregoing clause (a), one or more Letters of Credit issued under the Credit Facilities are expired, terminated, reduced or returned to the Lenders or the LC Lender, as applicable, such that the aggregate amount of the Letters of Credit outstanding under the applicable Credit Facility is less than the Commitments of the Lenders under such Credit Facility, the Agent, on behalf of the Lenders and the LC Lender, will promptly release, discharge and return such cash collateral to the Borrowers and, if applicable, the Borrowers shall provide to the Agent such replacement cash collateral as necessary to continue to comply with the foregoing clause (a).

- (vi) For greater certainty, unless expressly provided for herein, any reduction of the Maximum Facility Amount made in accordance with this Section titled “Prepayments and Repayments” will permanently reduce the Commitments of the Lenders under the Revolving Facilities and the Commitment of the LC Lender under the LC Facility on a pro rata basis.

*Maturity:* The earlier to occur of (i) June 15, 2025, and (ii) the date on which any Credit Facility is terminated pursuant to the terms of the Tenth Amended and Restated Credit Agreement (the “**Maturity Date**”).

*Purpose:* As per Existing Credit Agreement.

*Availability:* As per Existing Credit Agreement, subject to replacing LIBO Rate with Term SOFR. Customary benchmark replacement provisions to be included.

*Restructuring/Commitment Fee:* A restructuring/commitment fee will be paid in cash in the following manner:

- (i) an amount equal to 0.50% of the Maximum Facility Amount in effect on the Closing Date will be due and

payable on the Closing Date (the “**Initial Commitment Fee**”); and

- (ii) if the Credit Facilities are not fully repaid in cash by June 30, 2024, an amount equal to 0.75% of the Maximum Facility Amount in effect on the Closing Date will be due and payable on June 30, 2024.

*Agency Fee:* As per an agency fee letter to be entered into by the Borrowers and the Agent.

*Closing Date:* The date upon which the “Conditions Precedent” described below have been satisfied or waived by the Lenders in their sole discretion (the “**Closing Date**”).

### **General Terms and Conditions**

*Credit, Usage and Stand-by Margins:* Pricing grid to be updated as follows:

Level	Senior Debt to EBITDA Ratio	Prime Rate Margin, US Base Rate Margin and US Prime Rate Margin	BA Stamping Fee Rate, SOFR Margin and Letter of Credit Fee Rate	Standby Fee Rate
I	> 2.00x	375.0 bps	475.0 bps	118.75 bps
II	> 1.50x ≤ 2.00x	325.0 bps	425.0 bps	106.25 bps
III	> 1.00x ≤ 1.50x	300.0 bps	400.0 bps	100.00 bps
IV	≤ 1.00x	275.0 bps	375.0 bps	93.75 bps

- (i) SOFR Margin (to be defined in the Tenth Amended and Restated Credit Agreement) will be subject to the following credit spread adjustments:
- (a) 0.11448% (11.448 basis points) for an available tenor of one-month’s duration;
- (b) 0.26161% (26.161 basis points) for an available tenor of three-months’ duration; and

- (c) 0.42826% (42.826 basis points) for an available tenor of six-months' duration.
- (ii) For greater certainty, all amounts of the Letters of Credit issued under the Credit Facilities will be included in the calculation of Senior Debt to EBITDA Ratio for purposes of determining the Applicable Margins.
- (iii) On the Closing Date and until such time as the Borrowers deliver to the Agent a Compliance Certificate concurrently with the delivery of the first set of quarterly financial statements after the Closing Date in accordance with the Tenth Amended and Restated Credit Agreement, the Applicable Margins will remain at Level III as set out in the new pricing grid above.

*Documentation:*

Credit Facilities to be documented as an amendment and restatement of the Existing Credit Agreement pursuant to the Tenth Amended and Restated Credit Agreement on terms satisfactory to the Lenders, the Agent, the Collateral Agent, the Obligors and the Purchaser Sponsor.

*Security:*

As per Existing Credit Agreement, subject to the following, each in form and substance and on terms satisfactory to the Lenders, the Agent and the Collateral Agent, the Obligors and the Purchaser Sponsor (collectively, the “**Additional Security**”):

- (i) general security agreement, share pledge agreement (as applicable), guarantee and blocked account agreement or deposit account control agreement (as applicable) from each of the Additional Guarantors; provided that, for greater certainty, if the Filter Group Debt has not been repaid in full on or prior to the Closing Date, the Filter Entities will be required to deliver guarantee, general security agreement and blocked account agreement or deposit account control agreement (as applicable) only after the Filter Group Debt has been repaid in full;
- (ii) amendment to the securities pledge agreement made as of August 28, 2020 between 8704104 Canada Inc. (“**8704104**”) and the Collateral Agent pursuant to which 8704104 will pledge the equity interests owned by 8704104 in the capital stock of Filter Group Inc. in favour of the Collateral Agent;

- (iii) confirmations of all of the other existing guarantees, security and subordination agreements from Borrowers and Guarantors;
- (iv) blocked account agreements or deposit account control agreements, cash collateral agreements and such other agreements as may be required by the Lenders, in each case, in connection with the cash collateral provided from time to time by the Borrowers to the Agent, for the benefit of the Lenders and the LC Lender, in accordance with clause (v) of the Section titled “Prepayments and Repayments” above;
- (v) to the extent not previously delivered to the Collateral Agent, delivery of the certificates representing the equity interests pledged to the Collateral Agent pursuant to the Security, together with related stock powers duly endorsed in blank; and
- (vi) registration of financing statements or other appropriate filings or notices in respect of the foregoing in all relevant jurisdictions.

*Intercreditor Agreement:*

An amended and restated intercreditor agreement (the “**Seventh Amended and Restated Intercreditor Agreement**”) will be entered into by the Obligors, the Collateral Agent, the Agent and the Persons who are commodity suppliers of the Obligors as of the Closing Date (the “**Closing Date Commodity Suppliers**”) to amend and restate the Existing Intercreditor Agreement on the terms and conditions set forth in the term sheet attached hereto as Exhibit B.

*Conditions Precedent:*

As per the Existing Credit Agreement, subject to the following, each in form and substance and on terms satisfactory to the Lenders, acting reasonably:

- (i) negotiation, execution and delivery of definitive credit documents (including the Tenth Amended and Restated Credit Agreement, the Seventh Amended and Restated Intercreditor Agreement and the Additional Security);
- (ii) JustEnergy shall have received (a) an order of the Ontario Superior Court of Justice (Commercial List) (the “**Reverse Vesting Order**”) in substantially the form appended as Exhibit “3” to the Stalking Horse Transaction Term Sheet attached as Exhibit “C” to the



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Support Agreement, and (b) an order of the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the “**Recognition Order**”) recognizing and enforcing the Reverse Vesting Order in the cases commenced by JustEnergy and certain of its Subsidiaries under Chapter 15 of title 11 of United States Code (the “**Chapter 15 Cases**”, and together with the CCAA Proceedings, collectively, the “**Proceedings**”);

- (iii) the Reverse Vesting Order and the Recognition Order shall have become Final Orders;
- (iv) the transactions contemplated under the Transaction Agreement shall have been consummated by the parties thereto in accordance with the terms thereof;
- (v) the Lenders’ receipt of certified copies of (a) the corporate governance documents for the reorganized Obligors, including, but not limited to, any documents concerning preferred or common equity of the reorganized Obligors, (b) the management incentive plan for the reorganized Obligors, and (c) the limited guarantee granted by PIMCO Horseshoe Fund, LP in favour of Just Energy Group Inc. on or about the date hereof;
- (vi) the Lenders’ receipt of a sources and uses of funds statement of the New Parent to complete the implementation of the Transaction;
- (vii) the New Parent maintaining Liquidity in an amount not less than Cdn.\$75,000,000 as at the time of its emergence from the Proceedings; *provided*, that, to the extent the aggregate amount of the cash collateral provided by Obligors to ISOs, commodity suppliers and other counterparties of the Obligors at such time exceed \$20,000,000 as a result of short-term increases in requirements (which cash collateral is expected to be returned), such excess shall be added back in determining the Liquidity for purposes of this clause (vii);
- (viii) confirmation from EDC that EDC will continue to provide the EDC Guarantee in respect of each Letter of Credit issued under the LC Facility and the Lenders’ receipt of EDC Documents in respect of the Letters of

Credit issued under the Existing Credit Agreement which are outstanding on the Closing Date;

- (ix) the aggregate principal amount outstanding under the Credit Facilities on the Closing Date (other than the Letters of Credit issued under the Existing Credit Agreement which are outstanding on the Closing Date) shall not exceed Cdn.\$10,000,000;
- (x) evidence satisfactory to the Lenders that, to the extent the Obligors have any cash shortfall as of the Closing Date, PIMCO has made corresponding additional equity investments in the New Parent in an aggregate amount up to Cdn.\$10,000,000;
- (xi) payment of all applicable fees and expenses due and owing to the Agent and the Lenders (including reasonable and documented fees and expenses of Lenders' Counsel) on or before the Closing Date in accordance with the Tenth Amended and Restated Credit Agreement (including, without limitation, the Initial Commitment Fee);
- (xii) receipt of customary legal opinions from the Obligors' counsel in form and substance reasonably satisfactory to Lenders' Counsel, together with supporting officer's certificates and resolutions; and
- (xiii) receipt of all relevant information to complete all know your customer and anti-money laundering due diligence.

*Representations &  
Warranties:*

As per the Existing Credit Agreement, subject to the following:

- (i) adding a new representation and warranty that the equity interests of the New Parent are not subject to any Encumbrance;
- (ii) adding a new representation and warranty that the New Parent does not (a) own any intellectual property, permit, quota, retail energy licence or any other material Property other than (i) the equity interests in its Subsidiaries and (ii) any intercompany debt made by the New Parent to another Obligor or (b) own any Customer Contract or otherwise generate material revenue; and
- (iii) removing the reporting issuer representation contained in Section 8.01(43) of the Existing Credit Agreement.

For greater certainty, the Borrowers shall provide and deliver an updated set of disclosure schedules to the Existing Credit Agreement.

*Reporting Requirements:*

As per the Existing Credit Agreement, subject to the following:

- (i) delivery of the first set of quarterly financial statements to be postponed until 90 days (or such longer period as may be approved by the Lenders) after the New Parent has completed a full Fiscal Quarter following the Closing Date;
- (ii) Section 9.03(13) of the Existing Credit Agreement will be removed in its entirety; and
- (iii) detailed reporting of (a) supplier priority payables and their aging, (b) amounts payable and their aging under the ISO services agreements; and (c) mark-to-market position of contracts entered into with commodity suppliers and under ISO service agreements (to the extent applicable).

*Affirmative Covenants:*

As per the Existing Credit Agreement, subject to the following:

- (i) delete the covenant to initiate a process for refinancing of the Credit Facilities satisfactory to the Lenders by June 30, 2022 contained in Section 9.01(30) of the Existing Credit Agreement;
- (ii) if no Obligor is or continues to be a reporting issuer under the applicable securities laws, delete the public company

covenants and related provisions contained in the Existing Credit Agreement;

- (iii) align the minimum Supplier Credit Rating covenant contained in Section 9.01(25) of the Existing Credit Agreement with the corresponding covenant under the Seventh Amended and Restated Intercreditor Agreement;
- (iv) delete the covenant regarding Alberta Utilities Commission Debt contained in Section 9.01(31) of the Existing Credit Agreement; and
- (v) add an affirmative covenant to require the New Parent to use commercially reasonable efforts to assign and transfer all of its material Supplier Contracts and other Material Contracts to one or more other Obligor; provided that the New Parent shall not be required to transfer any material Supplier Contract or other Material Contract to the extent that such transfer would require the New Parent to pay any consent or transfer fee to the applicable counterparty under any material Supplier Contract or other Material Contract.

*Financial Covenants:*

As per the Existing Credit Agreement subject to the following:

- (i) revising the maximum consolidated Senior Debt to EBITDA Ratio requirements as follows:

<b>Fiscal Ending</b>	<b>Quarter</b>	<b>Senior Debt to EBITDA Ratio</b>
December 31, 2022 and thereafter until March 31, 2023		2.50:1.00
June 30, 2023 and thereafter until the Maturity Date		2.25:1.00

- (ii) revising the minimum Four Fiscal Quarter EBITDA requirement under Section 9.02(2) of the Existing Credit Agreement such that EBITDA determined as at the last day of each Fiscal Quarter in respect of the immediately preceding Four Quarter Period is not less than \$90,000,000 at March 31, 2023 and thereafter until the Maturity Date;

- (iii) definition of EBITDA to be agreed between the Borrowers and the Lenders in the definitive documentation;
- (iv) EBITDA numbers calculated and reported under the Existing Credit Agreement for any Fiscal Quarter prior to the Closing Date to be used for purposes of determining compliance with the financial covenants for any period including such Fiscal Quarter; and
- (v) for greater certainty, all amounts of Letters of Credit issued under the Credit Facilities will be included in the calculation of Senior Debt for purposes of determining the Senior Debt to EBITDA Ratio.

*Equity Cures:*

Customary equity cure provisions to be included; provided that, for greater certainty, (i) the cash proceeds from any equity cure (an “**Equity Cure**”) will be no more than the amount required to cause the Borrowers to be in compliance with the financial covenants; (ii) only one Equity Cure may be exercised in any Fiscal Year; (iii) there will not be Equity Cures in two consecutive Fiscal Quarters; (iv) the aggregate amount of Equity Cures used during the term of the Credit Facilities will not exceed Cdn.\$25,000,000; and (v) the amount of each Equity Cure and the use of proceeds therefrom will be disregarded for all purposes under the Loan Documents (including for purposes of calculating financial covenant ratios to determine the Applicable Margins) other than solely to determine compliance with the financial covenants for any relevant covenant test period.

*Negative Covenants*

As per the Existing Credit Agreement, subject to the following:

- (i) no share buy-backs or distributions to the holders of the common shares of the New Parent;
- (ii) restrict the incurrence of any priority Debt other than the Debt owing to the commodity suppliers, ISOs, utilities and storage providers, environmental trade counterparties and regulatory authorities incurred the ordinary course of business of the Obligors;
- (iii) no ability to incur any Subordinated Debt;
- (iv) permit Filter Group Debt;
- (v) revise clauses (n) and (q) of the definition of “Permitted Encumbrances” as follows to remove the dollar limit on each of them:

“(n) any Encumbrance granted by any Obligor to LDCs in respect of Cash Security Deposits in accordance with Collection Service Agreements”; and

“(q) Encumbrances over any and all cash, monies and interest bearing instruments delivered to, deposited with or held by an exchange for natural gas, ISO, utilities, storage providers, environmental trade counterparties, commodity suppliers that are not party to the Seventh Amended and Restated Intercreditor Agreement and regulatory authorities in the ordinary course of business of the Obligors, subject to permitted use, and any rights to payment or performance owing from an exchange for natural gas including, without limitation, accounts payable owed by the exchange to an Obligor to the extent that such proceeds are to be used as security for future transactions and all proceeds of any of the foregoing”.

- (vi) revise clause (p) of the definition of “Permitted Encumbrances” as follows to include a permitted amount of cash collateral to secure credit card obligations of the Obligors:

“(p) Encumbrances, including cash collateral, in an aggregate amount not to exceed US\$500,000, to secure credit card obligations of the Obligors owed to any Person who is not a Lender”.

- (vii) permit an Acquisition subject to the following conditions:
  - (a) the purchased assets or entity relate to a business that is substantially similar to the Business;
  - (b) Liquidity shall be equal to or greater than the Liquidity Threshold Amount immediately prior to and after the consummation of such Acquisition;
  - (c) the aggregate consideration paid for such Acquisition shall not exceed Cdn.\$3,000,000,
  - (d) the aggregate considerations paid for all such Acquisitions during the term of the Credit Facilities shall not exceed Cdn.\$10,000,000,
  - (e) the cash consideration of such Acquisition shall be funded by (I) first, the proceeds from any Permitted Asset Disposition that the Obligors are permitted to use to finance such Acquisition, and (II) second, Excess Liquidity Amount,
  - (f) such Acquisition may not be funded by an incremental equity investment without the prior written consent of the Lenders,
  - (g) if such Acquisition is an Acquisition of a new Subsidiary that would, under the terms of the Existing Credit Agreement, be required to guarantee and provide Security in favour of the Agent and the Collateral Agent, as applicable, concurrently with such Acquisition, such Subsidiary shall become a Restricted Subsidiary and an Obligor for purposes of the Loan Documents and deliver to the Agent and the Collateral Agent, as applicable, all such guarantees and security documents as may be required under the Loan Documents, and
  - (h) no Pending Event of Default or Event of Default immediately prior to or after the consummation of such Acquisition;
  
- (viii) permit the following Distributions:
  - (a) repayment of Filter Group Debt after the Closing Date;
  
  - (b) permit the Preferred Equity ECF Payments, subject to the following conditions: (A) delivery to the Agent of a certificate of an officer of the Borrowers confirming that no Event of Default or Pending Event of Default will have occurred on (I) June 30, 2023 or September 30, 2023 for the 2023 Preferred Equity ECF Payment and (II) June 30, 2024 or September 30, 2024 for the 2024 Preferred Equity ECF Payment; (B) minimum pro forma Liquidity of Cdn.\$90,000,000 as at June 30, 2023 and September 30, 2023 for the 2023 Preferred Equity ECF Payment; (C) minimum pro forma Liquidity of

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Cdn.\$75,000,000 as at June 30, 2024 and September 30, 2024 for the 2024 Preferred Equity ECF Payment; and (D) the proceeds of the Credit Facilities will not be used to make such payments; and

- (c) permit redemptions of the Class A Preferred Equity using the proceeds received by the New Parent from the issuance of preferred or common equity of the New Parent (the “**Preferred Equity Refinancing**”); provided that (i) the Preferred Equity Refinancing shall not, whether directly or indirectly, result in a decrease in the Liquidity after giving effect to the Preferred Equity Refinancing (other than on account of reasonable and documented legal and other advisory fees and expenses in an aggregate amount not to exceed \$1,000,000), as reasonably determined by the Majority Lenders in good faith in consultation with the Borrowers (for greater certainty, there shall be no cash cost or adverse cash consequences at the time of the Preferred Equity Refinancing or thereafter to the Obligors or expense payable by the Obligors arising from the Preferred Equity Refinancing (other than on account of reasonable and documented legal and other advisory fees and expenses in an aggregate amount not to exceed \$1,000,000)), (ii) the terms of such preferred equity shall not be less favourable to the Lenders and the Obligors than the terms of the Class A Preferred Equity, as reasonably determined by the Borrowers in good faith in consultation with the Lenders, and (iii) no Pending Event of Default or Event of Default shall have occurred at the time of such redemptions or arise as result of such redemptions;
- (ix) impose 30-day maximum limit on payment of any post-filing commodity trade supplier payable from the date of the relevant invoice;
- (x) restrict any Drawdown under the Credit Facilities if, prior to or after such Drawdown, the aggregate amount of cash or Cash Equivalents held by the Obligors would exceed Cdn.\$35,000,000; provided that, notwithstanding the foregoing, the Borrowers will be permitted to make a Drawdown under the Revolving Facilities on the date that is one business day prior to each Commodity Supplier/ISO



Payment Date (as defined below) for the purpose of making normal course commodity supplier payments and ISO payments (the date on which each such payment is due and payable, a “**Commodity Supplier/ISO Payment Date**”);

- (xi) limit Financial Assistance provided to Unrestricted Subsidiaries and Permitted Unrestricted Subsidiary Debt at any time to a maximum aggregate amount of Cdn.\$5,000,000;
- (xii) revise the definition of “Permitted Asset Disposition” to permit individual asset sales at or below \$3,000,000 and cumulative asset sales of \$10,000,000 during the term of the Tenth Amended and Restated Credit Agreement; and
- (xiii) add a new negative covenant that the New Parent will not
  - (a) own any intellectual property, permit, quota, retail energy licence or any other material Property other than (i) the equity interests in its Subsidiaries and (ii) any intercompany debt made by the New Parent to another Obligor, or (b) own any Customer Contract or otherwise generate material revenue.

*Events of Default:*

As per the Existing Credit Agreement, subject to revising Section 11.01(26) of the Existing Credit Agreement to further exclude the impact of any goodwill impairments.

*Change of Control:*

As per the Existing Credit Agreement, subject to the following:

- (i) clause (d) of the definition of Change of Control in the Existing Credit Agreement will be removed in its entirety;
- (ii) clause (a)(i) of the definition of Change of Control in the Existing Credit Agreement will be removed in its entirety and replaced with PIMCO ceasing to own, directly or indirectly, at least 75% common voting equity interests of the New Parent; and
- (iii) appropriate adjustments will be made if no Obligor is or continues to be a reporting issuer under the applicable securities laws.

*GAAP:*

US GAAP.

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<i>Assignments &amp; Participations:</i>	As per the Existing Credit Agreement.
<i>General Indemnities:</i>	As per the Existing Credit Agreement.
<i>Environmental Indemnities:</i>	As per the Existing Credit Agreement.
<i>Costs:</i>	As per the Existing Credit Agreement.
<i>Increased Costs:</i>	As per the Existing Credit Agreement.
<i>Majority Lenders:</i>	As per the Existing Credit Agreement.
<i>Governing Law:</i>	As per the Existing Credit Agreement.

## Exhibit A

### Defined Terms

“**2023 Preferred Equity ECF Payment**” has the meaning given to it in the definition of “Preferred Equity ECF Payments” contained in this Exhibit A.

“**2023 Preferred Equity Shortfall Amount**” means an amount, if any, by which (i) the 2023 Preferred Equity ECF Payment is less than (ii) Cdn.\$45,000,000.

“**2024 Preferred Equity ECF Payment**” has the meaning given to it in the definition of “Preferred Equity ECF Payments” contained in this Exhibit A.

“**Excess Liquidity Amount**” means, at any time, an amount, if any, by which (i) the Liquidity at such time exceeds (ii) the Liquidity Threshold Amount in effect at such time.

“**Filter Group Debt**” means the senior secured Debt of the Filter Entities existing on the date of this Summary.

“**Final Order**” has the meaning given to such term in the Support Agreement in effect on the date hereof.

“**Initial 2023 Lender Shortfall Amount**” means an amount, if any, by which (i) the Excess Liquidity Amount as at March 31, 2023 is less than (ii) Cdn.\$45,000,000.

“**Initial 2024 Lender Shortfall Amount**” means an amount, if any, by which (i) the Excess Liquidity Amount as at March 31, 2024 is less than (ii) Total 2024 Lender Commitment Reduction Amount.

“**ISO**” mean an independent system operator that coordinates, controls and monitors the operation of the electrical power system in a jurisdiction.

“**Liquidity**” means (i) cash or Cash Equivalents of the New Parent that (a) are subject to the Security, and (b) would not appear “restricted” on the consolidated balance sheet of the New Parent, plus (ii) the undrawn portion of the Credit Facilities (the amount of which, for the avoidance of doubt, shall reflect any voluntary or mandatory commitment reduction under the Credit Facilities required to be made in accordance with the terms hereof on or prior to the relevant date of the determination of Liquidity); provided that, for the avoidance of doubt, (x) the proceeds received by any Obligor from a Disposition of any Property or issuance of its common equity interests or preferred equity interests (other than in connection with any Equity Cure) will not be included in the calculation of Liquidity, (y) the amount of any cash collateral posted for the benefit of any Obligor will not be included in the calculation of Liquidity, and (z) the proceeds of an

Equity Cure received by the Obligors will be included in the calculation of Liquidity; provided further that, Liquidity may be adjusted from time to time by such amount as may be reasonably agreed to between the Borrowers and the Majority Lenders taking into account short term increases in need (which are expected to reverse) for the Obligors to satisfy cash collateral requirements of

the ISO in each key market identified by the Obligors (which amounts will be included in calculating Liquidity).

“**Liquidity Threshold Amount**” means (i) solely for purposes of determining the 2023 Preferred Equity ECF Payment and the 2023 Preferred Equity Shortfall Amount, Cdn.\$90,000,000, and (ii) for all other purposes, Cdn.\$75,000,000.

“**Preferred Equity ECF Payments**” means, collectively, the following payments to the holders of the Class A Preferred Equity:

- (i) on September 30, 2023, payment to the holders of the Class A Preferred Equity in an amount equal to the sum of (A) the Excess Liquidity Amount as at June 30, 2023<sup>2</sup> in excess of the Initial 2023 Lender Shortfall Amount; provided that such excess shall not exceed Cdn.\$45,000,000 and (B) to the extent such excess exceeds \$45,000,000 (the “**2023 Excess Amount**”), 50% of the 2023 Excess Amount<sup>4</sup> (the “**2023 Preferred Equity ECF Payment**”), *provided that* the 2023 Preferred Equity ECF Payment will be subject to and limited by a requirement of pro-forma minimum Liquidity of \$90,000,000 as at June 30, 2023<sup>4,5</sup> and as at September 30, 2023<sup>3</sup>; and
- (ii) on September 30, 2024, payment to the holders of the Class A Preferred Equity in an amount equal to the sum of (A) the Excess Liquidity Amount as at June 30, 2024<sup>4</sup> in excess of the Initial 2024 Lender Shortfall Amount; provided that such excess shall not exceed the Total 2024 Preferred Equity Payment Amount and (B) to the extent such Excess Liquidity Amount exceeds the sum of (I) the Initial 2024 Lender Shortfall Amount, and (II) the Total 2024 Preferred Equity Payment Amount (the “**2024 Excess Amount**”), 50% of the 2024 Excess Amount<sup>6</sup> (the “**2024 Preferred Equity ECF Payment**”), *provided that* the 2024 Preferred Equity ECF Payment will be subject to and limited by a requirement of pro-forma minimum Liquidity of \$75,000,000 as at June 30, 2024<sup>5,6</sup> and as at September 30, 2024<sup>5</sup>.

“**Purchaser Sponsor**” has the meaning given to such term in the Support Agreement in effect on the date hereof.

“**Total 2023 Lender Shortfall Amount**” means an amount, if any, by which (i) the sum of (a) the Excess Liquidity Amount as at March 31, 2023 and (b) the Excess Liquidity Amount as at June 30, 2023 is less than (ii) Cdn.\$45,000,000.

“**Total 2024 Lender Commitment Reduction Amount**” means an amount equal to the sum of (i) the Total 2023 Lender Shortfall Amount, and (ii) Cdn.\$35,000,000.

“**Total 2024 Preferred Equity Payment Amount**” means an amount equal to the sum of (i) the 2023 Preferred Equity Shortfall Amount and (ii) Cdn.\$35,000,000.

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<sup>2</sup> After reducing the Lender Facility Commitment by the June 2023 Facility Reduction.

<sup>3</sup> And other restrictions set out in *Negative Covenants* section (viii)(b).

<sup>4</sup> After reducing the Lender Facility Commitment Amount by the June 2024 Facility Reduction.

“**Transaction Agreement**” has the meaning given to such term in the Support Agreement.

**Exhibit B**

Intercreditor Agreement Term Sheet

(See Exhibit 4 to Stalking Horse Transaction Term Sheet)

**EXHIBIT 2**

**Form of SISP Order**

Court File No. CV-21-00658423-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR.	)	WEDNESDAY, THE 17 <sup>TH</sup>
	)	
JUSTICE MCEWEN	)	DAY OF AUGUST, 2022

IN THE MATTER OF THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JUST ENERGY GROUP INC., JUST ENERGY CORP., ONTARIO ENERGY COMMODITIES INC., UNIVERSAL ENERGY CORPORATION, JUST ENERGY FINANCE CANADA ULC, HUDSON ENERGY CANADA CORP., JUST MANAGEMENT CORP., 11929747 CANADA INC., 12175592 CANADA INC., JE SERVICES HOLDCO I INC., JE SERVICES HOLDCO II INC., 8704104 CANADA INC., JUST ENERGY ADVANCED SOLUTIONS CORP., JUST ENERGY (U.S.) CORP., JUST ENERGY ILLINOIS CORP., JUST ENERGY INDIANA CORP., JUST ENERGY MASSACHUSETTS CORP., JUST ENERGY NEW YORK CORP., JUST ENERGY TEXAS I CORP., JUST ENERGY, LLC, JUST ENERGY PENNSYLVANIA CORP., JUST ENERGY MICHIGAN CORP., JUST ENERGY SOLUTIONS INC., HUDSON ENERGY SERVICES LLC, HUDSON ENERGY CORP., INTERACTIVE ENERGY GROUP LLC, HUDSON PARENT HOLDINGS LLC, DRAG MARKETING LLC, JUST ENERGY ADVANCED SOLUTIONS LLC, FULCRUM RETAIL ENERGY LLC, FULCRUM RETAIL HOLDINGS LLC, TARA ENERGY, LLC, JUST ENERGY MARKETING CORP., JUST ENERGY CONNECTICUT CORP., JUST ENERGY LIMITED, JUST SOLAR HOLDINGS CORP. AND JUST ENERGY (FINANCE) HUNGARY ZRT.

(each, an “**Applicant**”, and collectively, the “**Applicants**”)

**SISP APPROVAL ORDER**

**THIS MOTION**, made by the Applicants (together, the Applicants and the partnerships listed on **Schedule “A”** hereto, the “**Just Energy Entities**”), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, for an order, *inter alia*, approving the Sale and Investment Solicitation Process in respect of the Just Energy Entities attached hereto as **Schedule “B”** (the “**SISP**”) and certain related relief, was heard this day by judicial videoconference via Zoom in Toronto, Ontario due to the COVID-19 pandemic.



**ON READING** the affidavit of Michael Carter sworn August 4, 2022 and the Exhibits thereto (the “**Carter Affidavit**”), the Eleventh Report of FTI Consulting Canada Inc. (the “**Eleventh Report**”), in its capacity as monitor (the “**Monitor**”), dated August ●, 2022, and on hearing the submissions of counsel for the Just Energy Entities, the Monitor, the Sponsor (as hereinafter defined), and such other counsel who were present, no one else appearing although duly served as appears from the affidavit of service of ● sworn August ●, 2022.

### **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the SISP, the Second Amended and Restated Initial Order of this Court dated May 26, 2021 (the “**Second ARIO**”), or the Support Agreement attached as Exhibit “●” to the Carter Affidavit (the “**Support Agreement**”), as applicable.

### **SALES AND INVESTMENT SOLICITATION PROCESS**

3. **THIS COURT ORDERS** that the SISP is hereby approved and the Just Energy Entities are hereby authorized to implement the SISP pursuant to the terms thereof. The Just Energy Entities, the Monitor and the Financial Advisor are hereby authorized and directed to perform their respective obligations and to do all things reasonably necessary to perform their obligations thereunder.

4. **THIS COURT ORDERS** that the Monitor and the Financial Advisor, and their respective affiliates, partners, directors, employees, and agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liabilities of any nature or kind to any person

in connection with or as a result of the SISP, except to the extent of losses, claims, damages or liabilities that arise or result from the gross negligence or wilful misconduct of the Monitor or Financial Advisor, as applicable, in performing their obligations under the SISP, as determined by this Court.

### **SUPPORT AGREEMENT**

5. **THIS COURT ORDERS** that the Support Agreement is hereby approved and the Just Energy Entities are authorized and empowered to enter into the Support Agreement, *nunc pro tunc*, subject to such minor amendments as may be consented to by the Monitor and as may be acceptable to each of the parties thereto, and are authorized, empowered and directed to take all steps and actions in respect of, and to comply with all of their obligations pursuant to, the Support Agreement.

6. **THIS COURT ORDERS** that, notwithstanding the stay of proceedings imposed by the Second ARIO, a counterparty to the Support Agreement may exercise any termination right that may become available to such counterparty pursuant to the Support Agreement, provided that such termination right must be exercised pursuant to and in accordance with the Support Agreement.

### **STALKING HORSE TRANSACTION AGREEMENT**

7. **THIS COURT ORDERS** that Just Energy Group Inc. (“**Just Energy**”) is hereby authorized and empowered to enter into the stalking horse transaction agreement (the “**Stalking Horse Transaction Agreement**”) dated as of August 4, 2022, between Just Energy and LVS III SPE XV LP, TOCU XVII LLC, HVS XVI LLC, OC II LVS XIV LP, OC III LFE I LP, and CBHT Energy I LLC (collectively, the “**Sponsor**”) and attached as Exhibit “●” to the Carter Affidavit, *nunc pro tunc*, and such minor amendments as may be acceptable to each of the parties thereto,

with the approval of the Monitor and subject to the terms of the Support Agreement; provided that, nothing herein approves the sale and the vesting of any Property to the Sponsor (or any of its designees) pursuant to the Stalking Horse Transaction Agreement and that the approval of any sale and vesting of any such Property shall be considered by this Court on a subsequent motion made to this Court if the Stalking Horse Transaction is the Successful Bid pursuant to the SISP.

8. **THIS COURT ORDERS** that, as soon as reasonably practicable following Just Energy (a) entering into any amendment to the Stalking Horse Transaction Agreement permitted pursuant to the terms of this Order; or (b) agreeing upon the final Implementation Steps (as defined in the Stalking Horse Transaction Agreement), the Just Energy Entities shall, in each such case, (i) file a copy thereof with this Court, (ii) serve a copy thereof on the Service List, and (iii) provide a copy thereof to each SISP Participant (as hereinafter defined), excluding from the public record any confidential information that Just Energy and the Sponsor, with the consent of the Monitor, agree should be redacted.

#### **BID PROTECTIONS**

9. **THIS COURT ORDERS** that the Break-Up Fee is hereby approved and Just Energy is hereby authorized and directed to pay the Break-Up Fee to the Sponsor (or as it may direct) in the manner and circumstances described in the Stalking Horse Transaction Agreement.

10. **THIS COURT ORDERS** that the Sponsor shall be entitled to the benefit of and is hereby granted a charge (the “**Bid Protections Charge**”) on the Property, which charge shall not exceed US\$14,660,000, as security for payment of the Break-Up Fee in the manner and circumstances described in the Stalking Horse Transaction Agreement.

11. **THIS COURT ORDERS** that Paragraphs 53, 54 and 56 of the Second ARIO shall be, and are hereby, amended in the manner detailed below:

(a) Paragraph 53 of the Second ARIO shall be amended as follows:

**THIS COURT ORDERS** that the priorities of the Administration Charge, the FA Charge, the Directors' Charge, the KERP Charge, the DIP Lenders' Charge, the Priority Commodity/ISO Charge, the Cash Management Charge and the Bid Protections Charge (as defined in the Order in these proceedings dated August 17, 2022), as among them, shall be as follows:

First – Administration Charge and FA Charge (to the maximum amount of C\$3,000,000 and C\$8,600,000, respectively), on a *pari passu* basis;

Second – Directors' Charge (to the maximum amount of C\$44,100,000);

Third – KERP Charge (to the maximum amounts of C\$2,012,100 and US\$3,876,024);

Fourth – DIP Lenders' Charge (to the maximum amount of the Obligations (as defined in the DIP Term Sheet) owing thereunder at the relevant time) and the Priority Commodity/ISO Charge, on a *pari passu* basis; ~~and~~

Fifth – Cash Management Charge; and-

Sixth – Bid Protections Charge (in the amount of US\$14,660,000).

(b) Paragraph 54 of the Second ARIO shall be amended as follows:

**THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge, the FA Charge, the Directors' Charge, the KERP Charge, the DIP Lenders' Charge, the Priority Commodity/ISO Charge the Cash Management Charge, or the Bid Protections Charge (collectively, the "**Charges**") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

- (c) Paragraph 56 of the Second ARIO shall be amended as follows:

**THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court on notice to parties in interest, the Just Energy Entities shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges unless the Just Energy Entities also obtain the prior written consent of the Monitor, the DIP Agent on behalf of the DIP Lenders and the beneficiaries of the Administration Charge, the FA Charge, the Directors' Charge, the KERP Charge, the Priority Commodity/ISO Charge, the Cash Management Charge and the Bid Protections Charge or further Order of this Court.

## **PIPEDA**

12. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Monitor, the Just Energy Entities and their respective advisors are hereby authorized and permitted to disclose and transfer to prospective SISP participants (each, a “**SISP Participant**”) and their advisors personal information of identifiable individuals but only to the extent desirable or required to negotiate or attempt to complete a transaction pursuant to the SISP (a “**Transaction**”). Each SISP Participant to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation for the purpose of effecting a Transaction, and if it does not complete a Transaction, shall return all such information to the Monitor or the Just Energy Entities, or in the alternative destroy all such information and provide confirmation of its destruction if requested by the Monitor or the Just Energy Entities. Any Successful Party shall maintain and protect the privacy of such information and, upon closing of the Transaction(s) contemplated in the Successful Bid(s), shall be entitled to use the personal information provided to it that is related to the Business and/or Property acquired pursuant to the SISP in a manner that is in all material respects identical to the prior use of such information by the Just Energy Entities, and shall return all other personal information to the Monitor or the Just Energy Entities, or ensure

that all other personal information is destroyed and provide confirmation of its destruction if requested by the Monitor or the Just Energy Entities.

### **THIRD KEY EMPLOYEE RETENTION PLAN**

13. **THIS COURT ORDERS** that the Third KERP, as described in the Carter Affidavit and attached as Confidential Exhibit “●” thereto, is hereby approved and the Just Energy Entities are authorized to make payments contemplated thereunder in accordance with the terms and conditions of the Third KERP.

14. **THIS COURT ORDERS** that the Just Energy Entities, in consultation with the Monitor, are authorized and empowered to reallocate funds under the Third KERP originally allocated to Key Employees who have resigned, or will resign, from their employment with the Just Energy Entities, or who have declined, or will decline, to receive payments(s) under the Third KERP, to remaining Key Employees or other employees of the Just Energy Entities that the Just Energy Entities, in consultation with the Monitor, identify as critical to their ongoing business.

15. **THIS COURT ORDERS** that the KERP Charge established at paragraph 24 of the Second ARIO shall apply equally to, and secure, any remaining payments under the KERP and the Second KERP (as defined in the Order of this Court dated November 10, 2021) to the Key Employees and the payments contemplated to the Key Employees referred to in the Third KERP.

### **STAY EXTENSION**

16. **THIS COURT ORDERS** that the Stay Period is hereby extended until and including October 31, 2022.

## APPROVAL OF MONITOR'S REPORTS

17. **THIS COURT ORDERS** that the activities and conduct of the Monitor prior to the date hereof in relation to the Just Energy Entities and these CCAA proceedings are hereby ratified and approved.

18. **THIS COURT ORDERS** that each of the Tenth Report of the Monitor dated May 18, 2022, the Supplement to the Tenth Report of the Monitor dated June 1, 2022, and the Eleventh Report be and are hereby approved.

19. **THIS COURT ORDERS** that only the Monitor, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way the approvals set forth in paragraphs 17 and 18 of this Order.

## GENERAL

20. **THIS COURT ORDERS** that Confidential Exhibits “●” and “●” to the Carter Affidavit shall be and is hereby sealed, kept confidential and shall not form part of the public record pending further Order of this Court.

21. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

22. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal and regulatory or administrative bodies, having jurisdiction in Canada or in the United States of America, including the United States Bankruptcy Court for the Southern District of Texas overseeing the Just Energy Entities' proceedings under Chapter 15 of the Bankruptcy Code in Case No. 21-30823 (MI), or in any other foreign jurisdiction, to give effect to this Order and to assist the Just Energy Entities, the Monitor, and their respective agents in carrying out the terms of this

Order. All courts, tribunals and regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Just Energy Entities and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Just Energy Entities and the Monitor and their respective agents in carrying out the terms of this Order.

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## SCHEDULE "A"

**Partnerships:**

- JUST ENERGY ONTARIO L.P.
- JUST ENERGY MANITOBA L.P.
- JUST ENERGY (B.C.) LIMITED PARTNERSHIP
- JUST ENERGY QUÉBEC L.P.
- JUST ENERGY TRADING L.P.
- JUST ENERGY ALBERTA L.P.
- JUST GREEN L.P.
- JUST ENERGY PRAIRIES L.P.
- JEBPO SERVICES LLP
- JUST ENERGY TEXAS LP

**SCHEDULE "B"**  
**SALE AND INVESTMENT SOLICITATION PROCESS**

# Sale and Investment Solicitation Process

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1. On August 17, 2022, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granted an order (the “**SISP Order**”) that, among other things, (a) authorized Just Energy (as defined below) to implement a sale and investment solicitation process (“**SISP**”) in accordance with the terms hereof, (b) approved the Support Agreement, (c) authorized and directed Just Energy Group Inc. to enter into the Stalking Horse Transaction Agreement, (d) approved the Break-Up Fee, and (e) granted the Bid Protections Charge. Capitalized terms that are not defined herein have the meanings ascribed thereto in the Second Amended & Restated Initial Order granted by the Court in Just Energy’s proceedings under the *Companies’ Creditors Arrangement Act* on May 26, 2021, as amended, restated or supplemented from time to time or the SISP Order, as applicable.
2. This SISP sets out the manner in which (i) binding bids for executable transaction alternatives that are superior to the sale transaction to be provided for in the Stalking Horse Transaction Agreement involving the shares and/or the business and assets of Just Energy Group Inc. and its direct and indirect subsidiaries (collectively, “**Just Energy**”) will be solicited from interested parties, (ii) any such bids received will be addressed, (iii) any Successful Bid (as defined below) will be selected, and (iv) Court (as defined below) approval of any Successful Bid will be sought. Such transaction alternatives may include, among other things, a sale of some or all of Just Energy’s shares, assets and/or business and/or an investment in Just Energy, each of which shall be subject to all terms set forth in this SISP.
3. The SISP shall be conducted by Just Energy under the oversight of FTI Consulting Canada Inc., in its capacity as court-appointed monitor (the “**Monitor**”), with the assistance of BMO Capital Markets (the “**Financial Advisor**”).
4. Parties who wish to have their bids considered shall be expected to participate in the SISP as conducted by Just Energy and the Financial Advisor.
5. The SISP will be conducted such that Just Energy and the Financial Advisor will (under the oversight of the Monitor):
  - a) prepare marketing materials and a process letter;
  - b) prepare and provide applicable parties with access to a data room containing diligence information;
  - c) solicit interest from parties to enter into non-disclosure agreements (parties shall only obtain access to the data room and be permitted to participate in the SISP if they execute a non-disclosure agreement that is in form and substance satisfactory to Just Energy); and
  - d) request that such parties (other than the Sponsor or its designee) submit (i) a notice of intent to bid that identifies the potential purchaser and a general description of the assets and/or business(es) of the Just Energy Entities that would be the subject of the bid and that reflects a reasonably likely prospect of culminating in a Qualified Bid (as defined below), as determined by the Just Energy Entities in consultation with the Monitor and the Credit Facility Agent (subject to the confidentiality requirements set forth in Section 15 below) (a “**NOI**”) by the NOI Deadline (as defined below) and, if applicable, (ii) a binding offer meeting at least the requirements set forth in Section 7 below, as determined by the Just Energy Entities in consultation with the Monitor (a “**Qualified Bid**”) by the Qualified Bid Deadline (as defined below).

6. The SISP shall be conducted subject to the terms hereof and the following key milestones:
- a) Just Energy to commence solicitation process on the date of service of the motion for approval of the SISP – August 4, 2022;<sup>1</sup>
  - b) Court approval of SISP and authorizing Just Energy to enter into the Stalking Horse Transaction Agreement – August 17, 2022;
  - c) Deadline to submit NOI – 11:59 p.m. Eastern Daylight Time on August 25, 2022 (the “**NOI Deadline**”);
  - d) Deadline to submit a Qualified Bid – 11:59 p.m. Eastern Daylight Time on September 29, 2022 (the “**Qualified Bid Deadline**”);
  - e) Deadline to determine whether a bid is a Qualified Bid and, if applicable, to notify those parties who submitted a Qualified Bid of the Auction (as defined below) – 5:00 p.m. Eastern Daylight Time on October 6, 2022;
  - f) Just Energy to hold Auction (if applicable) – 10:00 a.m. Eastern Daylight Time on October 8, 2022; and
  - g) Implementation Order (as defined below) hearing:
    - o (if no NOI is submitted) – by no later than September 2, 2022, subject to Court availability.
    - o (if there is no Auction) – by no later than October 15, 2022, subject to Court availability.
    - o (if there is an Auction) – by no later than twelve (12) days after completion of the Auction, subject to Court availability.
7. In order to constitute a Qualified Bid, a bid must comply with the following:
- a. it provides for (i) the payment in full in cash on closing of the BP Commodity/ISO Services Claim (as defined in the Support Agreement), unless otherwise agreed to by the holder of such claim in its sole discretion; (ii) the payment in full in cash on closing of the Credit Facility Claims, unless otherwise agreed to by the Credit Facility Agent in its sole discretion; (iii) the payment in full in cash on closing of any claims ranking in priority to the claims set forth in subparagraphs (i) or (ii) including any claims secured by Court-ordered charges, unless otherwise agreed to by the applicable holders thereof in their sole discretion (iv) the return of all outstanding letters of credit and release of all Credit Facility LC Claims or arrangements satisfactory to the applicable Credit Facility Lenders in their discretion to secure with cash collateral or otherwise any Credit Facility LC Claims not released, and (v) the payment in full in cash on closing of any outstanding Cash Management Obligations or arrangements satisfactory to the applicable Credit Facility Lenders or their affiliates to secure with cash collateral or otherwise any outstanding Cash Management Obligations.
  - b. it provides a detailed sources and uses schedule that identifies, with specificity, the amount of cash consideration (the “**Cash Consideration Value**”) and any assumptions that could reduce the net consideration payable. At a minimum, the Cash Consideration Value plus Just Energy’s cash on hand must be sufficient for payment in full of the items contemplated in Sections 7(a)(i) and 7(a)(ii) herein, 3.2 of the Stalking Horse Transaction Agreement and the Break-Up Fee, plus USD\$1,000,000, on closing, which Cash Consideration Value is estimated to be USD\$460,000,000 as of December 31, 2022.

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<sup>1</sup> To the extent any dates would fall on a non-business day, to be the first business day thereafter.

- c. it is reasonably capable of being consummated by 90 days after completion of the Auction if selected as the Successful Bid;
- d. it contains:
  - i. duly executed binding transaction document(s);
  - ii. the legal name and identity (including jurisdiction of existence) and contact information of the bidder, full disclosure of its direct and indirect principals, and the name(s) of its controlling equityholder(s);
  - iii. a redline to the form of transaction document(s) provided by Just Energy, if applicable;
  - iv. evidence of authorization and approval from the bidder's board of directors (or comparable governing body) and, if necessary to complete the transaction, the bidder's equityholder(s);
  - v. disclosure of any connections or agreements with Just Energy or any of its affiliates, any known, potential, prospective bidder, or any officer, manager, director, or known equity security holder of Just Energy or any of its affiliates; and
  - vi. such other information reasonably requested by Just Energy or the Monitor;
- e. it includes a letter stating that the bid is submitted in good faith, is binding and is irrevocable until the selection of the Successful Bid; provided, however, that if such bid is selected as the Successful Bid, it shall remain irrevocable until the closing of the Successful Bid;
- f. it provides written evidence of a bidder's ability to fully fund and consummate the transaction and satisfy its obligations under the transaction documents, including binding equity/debt commitment letters and/or guarantees covering the full value of all cash consideration and the additional items (in scope and amount) covered by the guarantees provided by affiliates of the Purchaser in connection with the Transaction Agreement;
- g. it does not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment;
- h. it is not conditional upon:
  - i. approval from the bidder's board of directors (or comparable governing body) or equityholder(s);
  - ii. the outcome of any due diligence by the bidder; or
  - iii. the bidder obtaining financing;
- i. it includes an acknowledgment and representation that the bidder has had an opportunity to conduct any and all required due diligence prior to making its bid;
- j. it specifies any regulatory or other third-party approvals the party anticipates would be required to complete the transaction (including the anticipated timing necessary to obtain such approvals) and, in connection therewith, specifies whether the bidder or any of its affiliates is involved in any part of the energy sector, including an electric utility, retail service provider, a company with a tariff on file with the Federal Energy Regulatory Commission, or any intermediate holding company;
- k. it includes full details of the bidder's intended treatment of Just Energy's employees under the proposed bid;
- l. it is accompanied by a cash deposit (the "**Deposit**") by wire transfer of immediately available funds equal to 10% of the Cash Consideration Value, which Deposit shall be retained by the Monitor in a non-interest bearing trust account in accordance with this SISP;
- m. a statement that the bidder will bear its own costs and expenses (including legal and advisor fees) in connection with the proposed transaction, and by submitting its bid is agreeing to refrain from and waive any assertion or request for reimbursement on any basis; and
- n. it is received by the Qualified Bid Deadline.

8. The Qualified Bid Deadline may be extended by (i) Just Energy for up to no longer than seven days with the consent of the Monitor, the Credit Facility Agent and the Sponsor, acting reasonably, or (ii) further order of the Court. In such circumstances, the milestones contained in Subsections 6(f) and (g) shall be extended by the same amount of time.
9. Just Energy, in consultation with the Monitor, may waive compliance with any one or more of the requirements specified in Section 7 above and deem a non-compliant bid to be a Qualified Bid, provided that Just Energy shall not waive compliance with the requirements specified in Subsections 7(a), (b), (e), (e), (g), (h), (j) or (l) without the prior written consent of the Sponsor and Credit Facility Agent, each acting reasonably.
10. Notwithstanding the requirements specified in Section 7 above, the transactions contemplated by the Stalking Horse Transaction Agreement (the “**Stalking Horse Transaction**”), is deemed to be a Qualified Bid, provided that, for greater certainty, no Deposit shall be required to be submitted in connection with the Stalking Horse Transaction.
11. If one or more Qualified Bids (other than the Stalking Horse Transaction) has been received by Just Energy on or before the Qualified Bid Deadline, Just Energy shall proceed with an auction process to determine the successful bid(s) (the “**Auction**”), which Auction shall be administered in accordance with Schedule “A” hereto. The successful bid(s) selected within the Auction shall constitute the “**Successful Bid**”. Forthwith upon determining to proceed with an Auction, Just Energy shall provide written notice to each party that submitted a Qualified Bid (including the Stalking Horse Transaction), along with copies of all Qualified Bids and a statement by Just Energy specifying which Qualified Bid is the leading bid.
12. If, by the NOI Deadline no NOI has been received, then the SISP shall be deemed to be terminated and the Stalking Horse Transaction shall be the Successful Bid and shall be consummated in accordance with and subject to the terms of the Support Agreement and the Stalking Horse Transaction Agreement. If no Qualified Bid (other than the Stalking Horse Transaction) has been received by Just Energy on or before the Qualified Bid Deadline, then the Stalking Horse Transaction shall be the Successful Bid and shall be consummated in accordance with and subject to the terms of the Support Agreement and the Stalking Horse Transaction Agreement.
13. Following selection of a Successful Bid, Just Energy, with the assistance of its advisors, shall seek to finalize any remaining necessary definitive agreement(s) with respect to the Successful Bid in accordance with the key milestones set out in Section 6. Once the necessary definitive agreement(s) with respect to a Successful Bid have been finalized, as determined by Just Energy, in consultation with the Monitor, Just Energy shall apply to the Court for an order or orders approving such Successful Bid and/or the mechanics to authorize Just Energy to complete the transactions contemplated thereby, as applicable, and authorizing Just Energy to (i) enter into any and all necessary agreements and related documentation with respect to the Successful Bid, (ii) undertake such other actions as may be necessary to give effect to such Successful Bid, and (iii) implement the transaction(s) contemplated in such Successful Bid (each, an “**Implementation Order**”).
14. All Deposits shall be retained by the Monitor in a non-interest bearing trust account. If a Successful Bid is selected and an Implementation Order authorizing the consummation of the transaction contemplated thereunder is granted, any Deposit paid in connection with such Successful Bid will be non-refundable and shall, upon closing of the transaction contemplated by such Successful Bid, be applied to the cash consideration to be paid in connection with such Successful Bid or be dealt with as otherwise set out in the definitive agreement(s) entered into in connection with such Successful Bid. Any Deposit delivered with a Qualified Bid that is not selected as a Successful Bid,

will be returned to the applicable bidder as soon as reasonably practicable (but not later than ten (10) business days) after the date upon which the Successful Bid is approved pursuant to an Implementation Order or such earlier date as may be determined by Just Energy, in consultation with the Monitor.

15. Just Energy shall provide information in respect of the SISP to the DIP Lenders, the holder of the BP Commodity/ISO Services Claim and the Supporting Secured CF Lenders on a confidential basis, including (A) copies (or if not provided to the Just Energy Entities in writing, a detailed description) of any NOI and any bid received, including any Qualified Bid, no later than one (1) calendar day following receipt thereof by the Just Energy Entities or their advisors and (B) such other information as reasonably requested by the DIP Lenders', the holder of the BP Commodity/ISO Services Claim or the Supporting Secured CF Lenders' respective legal counsel or financial advisors or as necessary to keep the DIP Lenders, the holder of the BP Commodity/ISO Services Claim or the Supporting Secured CF Lenders informed no later than one (1) calendar day after any such request or any material change to the proposed terms of any bid received, including any Qualified Bid, as to the terms of any bid, including any Qualified Bid, (including any changes to the proposed terms thereof) and the status and substance of discussions related thereto. Just Energy shall be permitted, in its discretion, to provide general updates and information in respect of the SISP to counsel to any unsecured creditor of Just Energy (a "**General Unsecured Creditor**") on a confidential basis, upon: (i) the irrevocable confirmation in writing from such counsel that the applicable General Unsecured Creditor will not submit any NOI or bid in the SISP, and (ii) counsel to such General Unsecured Creditor executing confidentiality agreements with Just Energy, in form and substance satisfactory to Just Energy and the Monitor.
16. Any amendments to this SISP may only be made by Just Energy with the written consent of the Monitor and after consultation with the Credit Facility Agent, or by further order of the Court, provided that Just Energy shall not amend Subsections 7(a), (b), (e), (f), (g), (h), (j) or (l) or Section 15 without the prior written consent of the Sponsor and the Credit Facility Agent.

### SCHEDULE “A”: AUCTION PROCEDURES

1. **Auction.** If Just Energy receives at least one Qualified Bid (other than the Stalking Horse Transaction), Just Energy will conduct and administer the Auction in accordance with the terms of the SISIP. Instructions to participate in the Auction, which will take place via video conferencing, will be provided to Qualified Parties (as defined below) not less than 24 hours prior to the Auction.

2. **Participation.** Only parties that provided a Qualified Bid by the Qualified Bid Deadline, including the Stalking Horse Transaction (collectively, the “**Qualified Parties**”), shall be eligible to participate in the Auction. No later than 5:00 p.m. Eastern Daylight Time on the day prior to the Auction, each Qualified Party (other than the Sponsor) must inform Just Energy whether it intends to participate in the Auction. Just Energy will promptly thereafter inform in writing each Qualified Party who has expressed its intent to participate in the Auction of the identity of all other Qualified Parties that have indicated their intent to participate in the Auction. If no Qualified Party provides such expression of intent, the Stalking Horse Transaction shall be the Successful Bid.

3. **Auction Procedures.** The Auction shall be governed by the following procedures:

- a. **Attendance.** Only Just Energy, the other counterparties to the Support Agreement, the Qualified Parties, the Monitor and each of their respective advisors will be entitled to attend the Auction, and only the Qualified Parties will be entitled to make any subsequent Overbids (as defined below) at the Auction;
- b. **No Collusion.** Each Qualified Party participating at the Auction shall be required to confirm on the record at the Auction that: (i) it has not engaged in any collusion with respect to the Auction and the bid process; and (ii) its bid is a good-faith *bona fide* offer and it intends to consummate the proposed transaction if selected as the Successful Bid (as defined below);
- c. **Minimum Overbid.** The Auction shall begin with the Qualified Bid that represents the highest or otherwise best Qualified Bid as determined by Just Energy, in consultation with the Monitor (the “**Initial Bid**”), and any bid made at the Auction by a Qualified Party subsequent to Just Energy’s announcement of the Initial Bid (each, an “**Overbid**”), must proceed in minimum additional cash increments of USD\$1,000,000;
- d. **Bidding Disclosure.** The Auction shall be conducted such that all bids will be made and received in one group video-conference, on an open basis, and all Qualified Parties will be entitled to be present for all bidding with the understanding that the true identity of each Qualified Party will be fully disclosed to all other Qualified Parties and that all material terms of each subsequent bid will be fully disclosed to all other Qualified Parties throughout the entire Auction; provided, however, that Just Energy, in its discretion, may establish separate video conference rooms to permit interim discussions between Just Energy and individual Qualified Parties with the understanding that all formal bids will be delivered in one group video conference, on an open basis;
- e. **Bidding Conclusion.** The Auction shall continue in one or more rounds and will conclude after each participating Qualified Party has had the opportunity to submit one or more additional bids with full knowledge and written confirmation of the then-existing highest bid(s); and



- f. **No Post-Auction Bids.** No bids will be considered for any purpose after the Auction has concluded.

#### **Selection of Successful Bid**

4. **Selection.** Before the conclusion of the Auction, Just Energy, in consultation with the Monitor, will: (a) review each Qualified Bid, considering the factors set out in Section 7 of the SISP and, among other things, (i) the amount of consideration being offered and, if applicable, the proposed form, composition and allocation of same, (ii) the value of any assumption of liabilities or waiver of liabilities not otherwise accounted for in prong (i) above; (iii) the likelihood of the Qualified Party's ability to close a transaction by 90 days after completion of the Auction and the timing thereof (including factors such as the transaction structure and execution risk, including conditions to, timing of, and certainty of closing; termination provisions; availability of financing and financial wherewithal to meet all commitments; and required governmental or other approvals), (iv) the likelihood of the Court's approval of the Successful Bid, (v) the net benefit to Just Energy and (vi) any other factors Just Energy may, consistent with its fiduciary duties, reasonably deem relevant; and (b) identify the highest or otherwise best bid received at the Auction (the "**Successful Bid**" and the Qualified Party making such bid, the "**Successful Party**").

5. **Acknowledgement.** The Successful Party shall complete and execute all agreements, contracts, instruments or other documents evidencing and containing the terms and conditions upon which the Successful Bid was made within one business day of the Successful Bid being selected as such, unless extended by Just Energy in its sole discretion, subject to the milestones set forth in Section 6 of the SISP.

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, C. C-36, AS AMENDED

Court File No: CV-21-00658423-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JUST ENERGY GROUP INC., et al.

*Ontario*  
**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**SISP APPROVAL ORDER**

**OSLER, HOSKIN & HARCOURT, LLP**

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Fax: (416) 862-6666

Lawyers for the Just Energy Entities

**EXHIBIT 3**

**Form of Vesting Order**

Court File No. CV-21-00658423-00CL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**

THE HONOURABLE MR.	)	●, THE ●
	)	
JUSTICE MCEWEN	)	DAY OF ●

IN THE MATTER OF THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JUST ENERGY GROUP INC., JUST ENERGY CORP., ONTARIO ENERGY COMMODITIES INC., UNIVERSAL ENERGY CORPORATION, JUST ENERGY FINANCE CANADA ULC, HUDSON ENERGY CANADA CORP., JUST MANAGEMENT CORP., 11929747 CANADA INC., 12175592 CANADA INC., JE SERVICES HOLDCO I INC., JE SERVICES HOLDCO II INC., 8704104 CANADA INC., JUST ENERGY ADVANCED SOLUTIONS CORP., JUST ENERGY (U.S.) CORP., JUST ENERGY ILLINOIS CORP., JUST ENERGY INDIANA CORP., JUST ENERGY MASSACHUSETTS CORP., JUST ENERGY NEW YORK CORP., JUST ENERGY TEXAS I CORP., JUST ENERGY, LLC, JUST ENERGY PENNSYLVANIA CORP., JUST ENERGY MICHIGAN CORP., JUST ENERGY SOLUTIONS INC., HUDSON ENERGY SERVICES LLC, HUDSON ENERGY CORP., INTERACTIVE ENERGY GROUP LLC, HUDSON PARENT HOLDINGS LLC, DRAG MARKETING LLC, JUST ENERGY ADVANCED SOLUTIONS LLC, FULCRUM RETAIL ENERGY LLC, FULCRUM RETAIL HOLDINGS LLC, TARA ENERGY, LLC, JUST ENERGY MARKETING CORP., JUST ENERGY CONNECTICUT CORP., JUST ENERGY LIMITED, JUST SOLAR HOLDINGS CORP. AND JUST ENERGY (FINANCE) HUNGARY ZRT.

(each, an “**Applicant**”, and collectively, the “**Applicants**”)

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by the Applicants (together, the Applicants and the partnerships listed on **Schedule “A”** hereto, the “**Just Energy Entities**”), pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), for an order, *inter alia*, (i) approving the Transaction Agreement (the “**Transaction Agreement**”) between Just Energy Group Inc. (“**Just Energy**”) and LVS III SPE XV LP, TOCU XVII LLC, HVS XVI LLC, OC II LVS XIV LP, OC III LFE I LP, and CBHT Energy I LLC (collectively, the “**Sponsor**”) dated

August 4, 2022 and attached as Exhibit “●” to the affidavit of Michael Carter sworn ●, 2022 (the “● Carter Affidavit”) and the transactions contemplated therein (collectively, the “**Transactions**”), including the Implementation Steps (as defined in the Transaction Agreement), (ii) adding ● (“**Residual Co. 1**”) and ● (“**Residual Co. 2**”) as Applicants to these CCAA proceedings, (iii) vesting in and to Residual Co. 1 and/or Residual Co. 2, as applicable, absolutely and exclusively, all of the right, title and interest of the Just Energy Entities not listed on Schedule 2.2(f) of the Transaction Agreement (the “**Acquired Entities**”) in and to the Excluded Assets, the Excluded Contracts and the Excluded Liabilities (each as defined in the Transaction Agreement), (iv) discharging Claims and Encumbrances, other than the Permitted Encumbrances, against the Acquired Entities and the Retained Assets (as hereinafter defined), (v) authorizing and directing Just Energy (U.S.) Corp. (“**JEUS**”) to issue the Purchased Interests (as defined in the Transaction Agreement), and vesting all of the right, title and interest in and to the Purchased Interests absolutely and exclusively in and to the Sponsor, free and clear of any Encumbrances, (vi) authorizing and directing Just Energy to file the Articles of Reorganization (as defined in the Transaction Agreement), (vii) terminating and cancelling or redeeming the Subject Interests (as hereinafter defined) for no consideration (as provided for in the Implementation Steps), and (viii) granting certain related relief, was heard this day by judicial video conference via Zoom in Toronto, Ontario due to the COVID-19 pandemic.

**ON READING** the Notice of Motion of the Applicants, the ● Carter Affidavit, the ● report of FTI Consulting Canada Inc. (“**FTI**”), in its capacity as monitor (the “**Monitor**”), dated ●, 2022, and on hearing the submissions of counsel for the Just Energy Entities, the Monitor, the Sponsor, the Credit Facility Agent, as administrative agent for the Credit Facility Lenders, and such other counsel as were present, no one else appearing although duly served as appears from the affidavit of service of ● sworn ●, 2022:

## **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record herein is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that all capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Second Amended and Restated Initial Order of this Court dated May 26, 2021 (the “**Initial Order**”), the support agreement attached as Exhibit “●” to the ● Carter Affidavit (the “**Support Agreement**”), or the Transaction Agreement, as applicable.

#### **APPROVAL AND VESTING**

3. **THIS COURT ORDERS AND DECLARES** that, without derogating in any way from the relief contained in the SISP Approval Order of this Court dated ●, 2022 (the “**SISP Approval Order**”), the Transaction Agreement and the Transactions (including the Implementation Steps) are hereby approved and the execution of the Transaction Agreement by Just Energy is hereby authorized and approved, with such minor amendments as Just Energy and the Sponsor may deem necessary, with the approval of the Monitor and subject to the terms of the Support Agreement. The Just Energy Entities are hereby authorized and directed to perform their obligations under the Transaction Agreement, including the filing of the Articles of Reorganization, the issuance of the Purchased Interests and the termination and cancellation or redemption of the Subject Interests (as provided for in the Implementation Steps), and to take such additional steps and execute such additional documents (including the Closing Documents) as may be necessary or desirable for the completion of the Transactions.

4. **THIS COURT ORDERS AND DECLARES** that this Order shall constitute the only authorization required by the Just Energy Entities to proceed with the Transactions and that no shareholder or other approval shall be required in connection therewith.

5. **THIS COURT ORDERS AND DECLARES** that, upon the delivery of the Monitor’s certificate (the “**Monitor’s Certificate**”) to the Sponsor, substantially in the form attached as

**Schedule “B”** hereto, the following shall occur and shall be deemed to have occurred in the sequence set out in the Implementation Steps:<sup>1</sup>

- (a) the Just Energy Entities shall be and are hereby forever released and discharged from the BP Commodity/ISO Services Claim, including all amounts and obligations owing by the Just Energy Entities in connection therewith, and all related Claims and Encumbrances are hereby expunged and discharged;
- (b) (i) with respect to the Acquired Entities not formed or incorporated under the laws of the United States (the “**Non-US Acquired Entities**”), all of the Non-US Acquired Entities’ right, title and interest in and to their respective Excluded Assets shall vest absolutely and exclusively in Residual Co. 1, and (ii) with respect to the Acquired Entities formed or incorporated under the laws of the United States (the “**US Acquired Entities**”), all of the US Acquired Entities’ right, title and interest in and to their respective Excluded Assets shall vest absolutely and exclusively in Residual Co. 2, and, in each case, all applicable Claims and Encumbrances shall continue to attach to such Excluded Assets with the same nature and priority as they had immediately prior to their transfer;
- (c) all Excluded Contracts and Excluded Liabilities (which, for certainty includes all debts, liabilities, obligations, indebtedness, contracts, leases, agreements, and undertakings of any kind or nature whatsoever, whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or

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<sup>1</sup> This paragraph including the order of sequencing will be updated as applicable to reflect the agreed upon Implementation Steps.

unliquidated, matured or unmatured or due or not yet due, in law or equity and whether based in statute or otherwise) of the Non-US Acquired Entities and the US Acquired Entities (in each case, other than the Assumed Liabilities) shall be transferred to, assumed by and vest absolutely and exclusively in, Residual Co. 1 and Residual Co. 2, respectively, such that all Excluded Contracts and Excluded Liabilities shall become obligations of Residual Co. 1 and Residual Co. 2, as applicable, and shall no longer be obligations of any of the Acquired Entities, and the Acquired Entities and all of their remaining assets, licenses, undertakings and properties of every nature and kind whatsoever and wherever situate (collectively, the “**Retained Assets**”) shall be and are hereby forever released and discharged from all Excluded Contracts and Excluded Liabilities, and all related Claims and Encumbrances, other than the permitted encumbrances, easements and restrictive covenants affecting or relating to the Retained Assets listed on **Schedule “C”** (the “**Permitted Encumbrances**”), are hereby expunged and discharged as against the Retained Assets;

- (d) (i) all right, title and interest in and to the Purchased Interests issued by JEUS to the Sponsor shall vest absolutely and exclusively in the Sponsor free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (x) any encumbrances



or charges created by the Initial Order, the SISP Approval Order, or any other Order of this Court, and (y) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the Permitted Encumbrances) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Interests are hereby expunged and discharged as against the Purchased Interests, and (ii) all Assumed Liabilities which are to be assumed by the Sponsor pursuant to the Transaction Agreement shall be and are hereby assigned to, assumed by and shall vest absolutely and exclusively in the Sponsor;

- (e) all equity interests of Just Energy and JEUS existing prior to the commencement of the Implementation Steps (for greater certainty, other than the Purchased Interests), as well as all options, conversion privileges, equity-based awards, warrants, securities, debentures, loans, notes or other rights, agreements or commitments of any character whatsoever that are held by any Person (as hereinafter defined) and are convertible or exchangeable for any securities of Just Energy or JEUS or which require the issuance, sale or transfer by Just Energy or JEUS, of any shares or other securities of Just Energy or JEUS, as applicable, or otherwise evidencing a right to acquire the Purchased Interests and/or the share capital of Just Energy or JEUS, or otherwise relating thereto (collectively, the “**Subject Interests**”), shall be deemed terminated and cancelled or redeemed as provided in the Implementation Steps; and
- (f) the Acquired Entities shall and shall be deemed to cease to be Applicants in these CCAA proceedings, and the Acquired Entities shall be deemed to be released from

the purview of the Initial Order and all other Orders of this Court granted in respect of these CCAA proceedings, save and except for this Order the provisions of which (as they relate to the Acquired Entities) shall continue to apply in all respects.

6. **THIS COURT ORDERS AND DIRECTS** the Monitor to (a) provide a copy of the Monitor's Certificate to the parties to the Support Agreement at the same time as its delivery to the Sponsor; and (b) file with this Court a copy of the Monitor's Certificate forthwith after delivery thereof in connection with the Transactions.

7. **THIS COURT ORDERS** that the Monitor may rely on written notice from Just Energy and the Sponsor regarding the satisfaction or waiver of conditions to closing under the Transaction Agreement and shall have no liability with respect to delivery of the Monitor's Certificate.

8. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, from and after the Effective Time (as defined in the Monitor's Certificate), subject to the payment of the Priority Payments (as hereinafter defined) and the funding of the Administrative Expense Amount, all Claims and Encumbrances released, expunged and discharged pursuant to paragraph 5 hereof, including as against the Acquired Entities, the Retained Assets and the Purchased Interests, shall attach to (a) the net proceeds remaining (the "**Remaining Proceeds**"), if any, realized from the Cash Purchase Price and transferred to Residual Co. 1 or Residual Co. 2 and (b) the Excluded Assets, in each case, with the same nature and priority as they had immediately prior to the Transactions, as if the Transactions had not occurred.

9. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Just Energy Entities or the Monitor, as the case may be, are authorized, permitted and directed to, at the Effective Time, disclose to the

Sponsor all human resources and payroll information in the Acquired Entities' records pertaining to past and current employees of the Acquired Entities. The Sponsor shall maintain and protect the privacy of such information in accordance with applicable law and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Just Energy Entities prior to the Effective Time.

10. **THIS COURT ORDERS AND DECLARES** that, at the Effective Time and without limiting the provisions of paragraph 5 hereof, the Sponsor and the Acquired Entities shall be deemed released from any and all claims, liabilities (direct, indirect, absolute or contingent) or obligations with respect to any Taxes (including penalties and interest thereon) of, or that relate to, the Just Energy Entities (provided, as it relates to the Sponsor and the Acquired Entities, such release shall not apply to (a) Taxes in respect of the business and operations conducted by the Acquired Entities after the Effective Time; or (b) Taxes expressly assumed as Assumed Liabilities pursuant to the Transaction Agreement), including, without limiting the generality of the foregoing, all Taxes that could be assessed against the Sponsor or the Acquired Entities (including its affiliates and any predecessor corporations) pursuant to section 160 of the *Income Tax Act* (Canada) (the "**Tax Act**"), or proposed section 160.01 of the Tax Act, including as a result of any future amendments or proposed amendments to such provisions or related provisions, or any provincial equivalent, in connection with the Just Energy Entities.

11. **THIS COURT ORDERS** that, except to the extent expressly contemplated by the Transaction Agreement (and, for greater clarity, excluding Contracts relating to Assumed Liabilities, including the Credit Facility Documents), all Contracts to which any of the Acquired Entities are a party upon delivery of the Monitor's Certificate will be and remain in full force and effect upon and following delivery of the Monitor's Certificate and no individual, firm,

corporation, governmental body or agency, or any other entity (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) who is a party to any such arrangement may accelerate, terminate, rescind, refuse to perform or otherwise repudiate its obligations thereunder, or enforce or exercise any right (including any right of set-off, dilution or other remedy) or make any demand under or in respect of any such arrangement and no automatic termination will have any validity or effect, by reason of:

- (a) any event that occurred on or prior to the Effective Time and is not continuing that would have entitled such Person to enforce those rights or remedies (including defaults or events of default arising as a result of the insolvency of any Just Energy Entity);
- (b) the insolvency of any Just Energy Entity or the fact that the Just Energy Entities sought or obtained relief under the CCAA;
- (c) any compromises, releases, discharges, cancellations, transactions, arrangements, reorganizations or other steps taken or effected pursuant to the Transaction Agreement, the Transactions or the provisions of this Order, or any other Order of this Court in these CCAA proceedings; or
- (d) any transfer or assignment, or any change of control of the Acquired Entities arising from the implementation of the Transaction Agreement, the Transactions or the provisions of this Order.

12. **THIS COURT ORDERS**, for greater certainty, that (a) nothing in paragraph 11 hereof shall waive, compromise or discharge any obligations of the Acquired Entities or the Sponsor in

respect of any Assumed Liabilities; (b) the designation of any Claim as an Assumed Liability is without prejudice to the Acquired Entities' and the Sponsor's right to dispute the existence, validity or quantum of any such Assumed Liability; and (c) nothing in this Order or the Transaction Agreement shall affect or waive the Acquired Entities' or Sponsor's rights and defences, both legal and equitable, with respect to any Assumed Liability, including, but not limited to, all rights with respect to entitlements to set-offs or recoupments against such Assumed Liability.

13. **THIS COURT ORDERS** that, from and after the Effective Time, all Persons shall be deemed to have waived any and all defaults of any Just Energy Entity then existing or previously committed by any Just Energy Entity, or caused by any Just Energy Entity, directly or indirectly, or noncompliance with any covenant, warranty, representation, undertaking, positive or negative pledge, term, provision, condition or obligation, expressed or implied, in any Contract, existing between such Person and any Acquired Entity directly or indirectly from the filing by the Applicants under the CCAA and the implementation of the Transactions, including without limitation any of the matters or events listed in paragraph 11 hereof, and any and all notices of default and demands for payment or any step or proceeding taken or commenced in connection therewith under a Contract shall be deemed to have been rescinded and of no further force or effect; provided that, nothing herein shall be deemed to excuse the Sponsor or the Just Energy Entities from performing their obligations under, or be a waiver of defaults by the Sponsor or Just Energy under, the Transaction Agreement and the related agreements and documents, or affect the validity of the Implementation Steps.

14. **THIS COURT ORDERS** that, from and after the Effective Time, any and all Persons shall be and are hereby forever barred, estopped, stayed and enjoined from commencing, taking, applying for or issuing or continuing any and all steps or proceedings, whether directly,

derivatively or otherwise, and including without limitation, administrative hearings and orders, declarations and assessment, commenced, taken or proceeded with or that may be commenced, taken or proceeded with against the Sponsor or the Acquired Entities relating in any way to or in respect of any Excluded Assets, Excluded Contracts or Excluded Liabilities and any other claims, obligations and other matters which are waived, released, expunged or discharged pursuant to this Order.

15. **THIS COURT ORDERS** that, from and after the Effective Time:

- (a) the nature of the Assumed Liabilities assumed by the Sponsor or retained by the Acquired Entities, including, without limitation, their amount and their secured or unsecured status, shall not be affected or altered as a result of the Transactions or this Order;
- (b) the nature of the Excluded Liabilities, including, without limitation, their amount and their secured or unsecured status, shall not be affected or altered as a result of their transfer to Residual Co. 1 and Residual Co. 2, as applicable;
- (c) any Person that prior to the Effective Time had a valid right or claim against the Acquired Entities under or in respect of any Excluded Contract or Excluded Liability (each an “**Excluded Liability Claim**”) shall no longer have such right or claim against the Acquired Entities but will have an equivalent Excluded Liability Claim against Residual Co. 1 or Residual Co. 2, as applicable, in respect of the Excluded Contract and Excluded Liability from and after the Effective Time in its place and stead, and nothing in this Order limits, lessens or extinguishes the

Excluded Liability Claim of any Person as against Residual Co. 1 and/or Residual Co. 2; and

- (d) the Excluded Liability Claim of any Person against Residual Co. 1 and/or Residual Co. 2 following the Effective Time shall have the same rights, priority and entitlement as such Excluded Liability Claim had against the applicable Acquired Entities prior to the Effective Time.

16. **THIS COURT ORDERS AND DECLARES** that, as of the Effective Time:

- (a) Residual Co. 1 and Residual Co. 2 shall be companies to which the CCAA applies; and
- (b) Residual Co. 1 and Residual Co. 2 shall be added as Applicants in these CCAA proceedings and all references in any Order of this Court in respect of these CCAA proceedings to (i) an “Applicant” or the “Applicants” shall refer to and include Residual Co. 1 and Residual Co. 2, *mutatis mutandis*, and (ii) “Property” shall include the current and future assets, licenses, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof, of Residual Co. 1 and Residual Co. 2, including the Remaining Proceeds (the “**Residual Co. Property**”), and, for greater certainty, each of the Charges, shall constitute charges on the Residual Co. Property.

#### **PRIORITY PAYMENTS**

17. **THIS COURT ORDERS AND DIRECTS** that the Priority Payments Amount and the Cash Purchase Price, as necessary and as permitted by the Transaction Agreement, shall be

distributed by Just Energy, on behalf of one or more of the Just Energy Entities, on the Closing Date consistent with the Implementation Steps, to satisfy the following obligations (collectively, the “**Priority Payments**”):

- (a) first, to the beneficiaries of the Administration Charge and the FA Charge, the amounts necessary to satisfy the Just Energy Entities’ obligations secured thereby up to the maximum respective amounts secured by such charges, in full and final satisfaction thereof;
- (b) second, to the beneficiaries of the KERP Charge, the amounts necessary to satisfy the Just Energy Entities’ obligations secured thereby (if any) up to the maximum amount secured by such charge, in full and final satisfaction thereof;
- (c) third, on a *pari passu* basis:
  - (i) to the DIP Agent, for the benefit of the beneficiaries of the DIP Lenders’ Charge, an amount necessary to satisfy the Just Energy Entities’ obligations secured by such charge, in full and final satisfaction thereof, and
  - (ii) to each Commodity Supplier, an amount necessary to satisfy such Commodity Supplier’s Commodity Supplier Claim that is an Accepted Claim (as defined in the Claims Procedure Order), in full and final satisfaction thereof;
- (d) fourth, to each Governmental Entity, an amount necessary to satisfy such Governmental Entity’s Government Priority Claim, in full and final satisfaction thereof; and
- (e) fifth, to the Credit Facility Agent, in the currency that such Credit Facility Claim was originally denominated, an amount equal to the Credit Facility Claim (less the Credit Facility Remaining Debt, if any), in full and final satisfaction thereof.



18. **THIS COURT ORDERS** that, subject to completion of the Priority Payments set out in paragraph 17 hereof, the FA Charge, the Directors' Charge, the KERP Charge, the DIP Lenders' Charge and the Cash Management Charge shall be and are hereby terminated, released and discharged.

19. **THIS COURT ORDERS** that the Administrative Expense Amount held by the Monitor shall be subject to the Administration Charge, and any remaining portion thereof after payment of the Administrative Expense Costs shall be paid to Just Energy in accordance with the terms of the Transaction Agreement.

#### **RELEASES AND OTHER PROTECTIONS**

20. **THIS COURT ORDERS** that, effective as of the Effective Time, (a) the current and former directors, officers, employees, legal counsel and advisors of the Just Energy Entities (or any of them); (b) the Monitor and its legal counsel; (c) the Sponsor and their respective current and former directors, officers, employees, legal counsel and advisors; and (d) the Credit Facility Agent and the Credit Facility Lenders, and their respective current and former directors, officers, employees, legal counsel and advisors (in such capacities, collectively, the "**Released Parties**") shall be deemed to be forever irrevocably released by the Releasing Parties (as hereinafter defined) and discharged from any and all present and future claims (including, without limitation, claims for contribution or indemnity), liabilities, indebtedness, demands, actions, causes of action, counterclaims, suits, damages, judgments, executions, recoupments, debts, sums of money, expenses, accounts, liens, taxes, recoveries, and obligations of any nature or kind whatsoever (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, matured or unmatured or due or not yet due, in law or equity and

whether based in statute or otherwise) based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the Effective Time or undertaken or completed in connection with or pursuant to the terms of this Order in respect of, relating to, or arising out of (i) the Just Energy Entities, the business, operations, assets, property and affairs of the Just Energy Entities wherever or however conducted or governed, the administration and/or management of the Just Energy Entities, these CCAA proceedings and/or the Chapter 15 Cases, or (ii) the Transaction Agreement, the Closing Documents, the Support Agreement, the Definitive Documents, any agreement, document, instrument, matter or transaction involving the Just Energy Entities arising in connection with or pursuant to any of the foregoing, and/or the consummation of the Transactions (collectively, subject to the excluded matters below, the “**Released Claims**”), which Released Claims shall be deemed to be fully, finally, irrevocably and forever waived, discharged, released, cancelled and barred as against the Released Parties; provided that, nothing in this paragraph shall waive, discharge, release, cancel or bar (x) any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA, or (y) any obligations of any of the Released Parties under or in connection with the Transaction Agreement, the Closing Documents, the Support Agreement, the Definitive Documents, and/or any agreement, document, instrument, matter or transaction involving the Just Energy Entities arising in connection with or pursuant to any of the foregoing. “**Releasing Parties**” means any and all Persons (besides the Just Energy Entities and their respective current and former affiliates), and their current and former affiliates’ current and former members, directors, managers, officers, investment committee members, special committee members, equity holders (regardless of whether such interests are held directly or indirectly), predecessors, successors, assigns, participants, subsidiaries, affiliates, partners, limited partners, general partners, affiliated investment funds or investment vehicles, managed

accounts or funds, and each of their respective current and former members, equity holders, officers, directors, managers, principals, members, management companies, advisory board members, investment fund advisors or managers, employees, agents, trustees, investment managers, financial advisors, partners, legal counsel, accountants, investment bankers, consultants, representatives, and other professionals, each in their capacity as such.

21. **THIS COURT ORDERS** that, effective as of the Effective Time, the Released Parties shall be deemed to be forever irrevocably released by each of the Just Energy Entities and their respective current and former affiliates, and discharged from, any and all Released Claims held by the Just Energy Entities and such current and former affiliates as of the Effective Time, which Released Claims shall be deemed to be fully, finally, irrevocably and forever waived, discharged, released, cancelled and barred as against the Released Parties; provided that, nothing in this paragraph shall waive, discharge, release, cancel or bar (a) any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA; or (b) any obligations of any of the Released Parties under or in connection with the Transaction Agreement, the Closing Documents, the Support Agreement, the Definitive Documents, and/or any agreement, document, instrument, matter or transaction involving the Just Energy Entities arising in connection with or pursuant to any of the foregoing; provided further that, the releases set forth in this paragraph shall not include, nor limit or modify in any way, any claim (or any defenses) which any of the Just Energy Entities may hold or be entitled to assert against any Released Party as of the Effective Time relating to any contracts, leases, agreements, licenses, bank accounts or banking relationships, accounts receivable, invoices, or other ordinary course obligations which are remaining in effect following the Effective Time.

22. **THIS COURT ORDERS** that, without affecting or limiting the releases set forth in paragraphs 20 and 21 hereof, effective as of the Effective Time, none of (a) the current and former directors, officers, employees, legal counsel and advisors of the Just Energy Entities (or any of them); (b) the Monitor and its legal counsel; (c) the Sponsor and their respective current and former directors, officers, employees, legal counsel and advisors; and (d) the Credit Facility Agent and the Credit Facility Lenders, and their respective current and former directors, officers, employees, legal counsel and advisors (in such capacities, collectively, the “**Exculpated Parties**”), shall have or incur, and each Exculpated Party is released and exculpated from, any Causes of Action (as hereinafter defined) against such Exculpated Party for any act or omission in respect of, relating to, or arising out of the Transaction Agreement, the Closing Documents, the Support Agreement, the Definitive Documents and/or the consummation of the Transactions, these CCAA proceedings, the Chapter 15 Cases, the formulation, preparation, dissemination, negotiation, filing or consummation of the Transaction Agreement, the Closing Documents, the Support Agreement, the Definitive Documents and all related agreements and documents, any transaction, contract, instrument, release, or other agreement or document created or entered into in connection with the Transactions, the pursuit of approval and consummation of the Transactions or the recognition thereof in the United States, and/or the transfer of assets and liabilities pursuant to this Order, except for Causes of Action related to any act or omission that is determined in a Final Order of a court of competent jurisdiction to have constituted actual fraud, willful misconduct, or gross negligence, but in all respects such Exculpated Parties shall be entitled to reasonably rely upon the advice of counsel with respect to their applicable duties and responsibilities. “**Causes of Action**” means any action, claim, cross-claim, third-party claim, damage, judgment, cause of action, controversy, demand, right, action, suit, obligation, liability, debt, account, defense, offset, power,

privilege, license, lien, indemnity, interest, guaranty, or franchise of any kind or character whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, contingent or non-contingent, liquidated or unliquidated, disputed or undisputed, secured or unsecured, assertable directly or derivatively, matured or unmatured, suspected or unsuspected, in contract or in tort, at law or in equity, or pursuant to any other theory of law or otherwise.

23. **THIS COURT ORDERS** that all Persons are permanently and forever barred, estopped, stayed and enjoined, on and after the Effective Time, with respect to any and all claims or Cause of Actions released pursuant to this Order (including but not limited to the Released Claims), from (a) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits, demands or other proceedings of any nature or kind whatsoever (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against any of the Released Parties or Exculpated Parties; (b) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against any of the Released Parties, the Exculpated Parties, or their respective property; (c) commencing, conducting, continuing or making in any manner, directly or indirectly, any action, suit, claim, demand or other proceeding of any nature or kind whatsoever (including any proceeding in a judicial, arbitral, administrative or other forum) against any Person who makes a claim or might reasonably be expected to make a claim, in any manner or forum, including by way of contribution or indemnity or other relief, against one or more of the Released Parties or the Exculpated Parties; (d) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any Encumbrance of any kind against the Released Parties, the Exculpated Parties, or their respective property; or (e) taking any actions to interfere with the consummation of the

Transactions; and any such proceedings will be deemed to have no further effect against such parties and will be released, discharged or vacated without cost.

24. **THIS COURT ORDERS** that, without affecting or limiting the releases set forth in paragraphs 20 and 21 hereof, effective as of the Effective Time, each Consenting Party (as hereinafter defined) shall be deemed to have consented and agreed to paragraphs 20 through 24 hereof. “**Consenting Parties**” means any Person who is, at the Effective Time, a party to the Support Agreement.

25. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these CCAA proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the BIA in respect of the Just Energy Entities, Residual Co. 1 or Residual Co. 2, and any bankruptcy order issued pursuant to any such applications;
- (c) any assignment in bankruptcy made in respect of any of the Just Energy Entities, Residual Co. 1 or Residual Co. 2; or
- (d) any foreign law equivalent of (b) or (c).

the Transaction Agreement, the Closing Documents, the consummation of the Transactions (including without limitation the transfer and vesting of the Excluded Assets, the Excluded Contracts and the Excluded Liabilities in and to Residual Co. 1 and Residual Co. 2, as applicable, the transfer and vesting of the Purchased Interests in and to the Sponsor, the payment of the Priority Payments, and any payments by or to the Sponsor, the Just Energy Entities or the Monitor

authorized herein or pursuant to the Transaction Agreement and the Closing Documents) shall be binding on any trustee in bankruptcy that may be appointed in respect of any of the Just Energy Entities, Residual Co. 1 and/or Residual Co. 2, and shall not be void or voidable by creditors of the Just Energy Entities, Residual Co. 1 or Residual Co. 2, as applicable, nor shall they constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the CCAA, the BIA or any other applicable federal or provincial legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

26. **THIS COURT ORDERS** that nothing in this Order, including the release of the Acquired Entities from the purview of these CCAA proceedings pursuant to paragraph 5(f) hereof and the addition of Residual Co. 1 and Residual Co. 2 as Applicants in these CCAA proceedings, shall affect, vary, derogate from, limit or amend, and FTI shall continue to have the benefit of, any and all rights and approvals and protections in favour of the Monitor at law or pursuant to the CCAA, the Initial Order, this Order, any other Orders in these CCAA proceedings or otherwise, including all approvals, protections and stays of proceedings in favour of FTI in its capacity as Monitor, all of which are expressly continued and confirmed.

#### **GENERAL**

27. **THIS COURT ORDERS** that, having been advised of the provisions of Multilateral Instrument 61-101 “Protection of Minority Security Holders in Special Transactions” relating to the requirement for “minority” shareholder approval in certain circumstances, no meeting of shareholders or other holders of Equity Claims (as defined in the CCAA) in the Just Energy Entities

is required to be held in respect of the Transactions and accordingly, there is no requirement to send any disclosure document related to the Transactions to such holders.

28. **THIS COURT ORDERS** that, following the Effective Time, the Sponsor shall be authorized to take all steps as may be necessary to effect the discharge of the Claims and Encumbrances (other than the Permitted Encumbrances) as against the Purchased Interests, the Acquired Entities and the Retained Assets.

29. **THIS COURT ORDERS** that, following the Effective Time, the title of these proceedings is hereby changed to:

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT  
ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF ● AND ●

30. **THIS COURT DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada.

31. **THIS COURT DECLARES** that the Just Energy Entities shall be authorized to apply as they may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States or elsewhere, for orders which aid and complement this Order. All courts and administrative bodies of all such jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the Just Energy Entities and the Monitor as may be deemed necessary or appropriate for that purpose.

32. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body, having jurisdiction in Canada or in the United States of



America, including the United States Bankruptcy Court for the Southern District of Texas overseeing the Just Energy Entities' proceedings under Chapter 15 of the Bankruptcy Code in Case No. 21-30823 (MI), to give effect to this Order and to assist the Just Energy Entities, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Just Energy Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Just Energy Entities and the Monitor and their respective agents in carrying out the terms of this Order.

33. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Prevailing Eastern Time on the date hereof; provided that, the transaction steps set out in paragraph 5 hereof shall be deemed to have occurred sequentially, one after the other, in the order set out in paragraph 5 hereof.

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**SCHEDULE "A"  
PARTNERSHIPS**

- JUST ENERGY ONTARIO L.P.
- JUST ENERGY MANITOBA L.P.
- JUST ENERGY (B.C.) LIMITED PARTNERSHIP
- JUST ENERGY QUÉBEC L.P.
- JUST ENERGY TRADING L.P.
- JUST ENERGY ALBERTA L.P.
- JUST GREEN L.P.
- JUST ENERGY PRAIRIES L.P.
- JEBPO SERVICES LLP
- JUST ENERGY TEXAS LP

**SCHEDULE “B”  
FORM OF MONITOR’S CERTIFICATE**

Court File No. CV-21-00658423-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES’ CREDITORS*  
*ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JUST ENERGY GROUP INC., JUST ENERGY CORP., ONTARIO ENERGY COMMODITIES INC., UNIVERSAL ENERGY CORPORATION, JUST ENERGY FINANCE CANADA ULC, HUDSON ENERGY CANADA CORP., JUST MANAGEMENT CORP., 11929747 CANADA INC., 12175592 CANADA INC., JE SERVICES HOLDCO I INC., JE SERVICES HOLDCO II INC., 8704104 CANADA INC., JUST ENERGY ADVANCED SOLUTIONS CORP., JUST ENERGY (U.S.) CORP., JUST ENERGY ILLINOIS CORP., JUST ENERGY INDIANA CORP., JUST ENERGY MASSACHUSETTS CORP., JUST ENERGY NEW YORK CORP., JUST ENERGY TEXAS I CORP., JUST ENERGY, LLC, JUST ENERGY PENNSYLVANIA CORP., JUST ENERGY MICHIGAN CORP., JUST ENERGY SOLUTIONS INC., HUDSON ENERGY SERVICES LLC, HUDSON ENERGY CORP., INTERACTIVE ENERGY GROUP LLC, HUDSON PARENT HOLDINGS LLC, DRAG MARKETING LLC, JUST ENERGY ADVANCED SOLUTIONS LLC, FULCRUM RETAIL ENERGY LLC, FULCRUM RETAIL HOLDINGS LLC, TARA ENERGY, LLC, JUST ENERGY MARKETING CORP., JUST ENERGY CONNECTICUT CORP., JUST ENERGY LIMITED, JUST SOLAR HOLDINGS CORP. AND JUST ENERGY (FINANCE) HUNGARY ZRT.

(each, an “**Applicant**”, and collectively, the “**Applicants**”)

**MONITOR’S CERTIFICATE**

**RECITALS**

1. Pursuant to the Initial Order of the Honourable Justice Koehnen of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated March 9, 2021, the Applicants were granted protection from their creditors pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, and FTI Consulting Canada Inc. was appointed as the monitor (the “**Monitor**”).

2. Pursuant to an Approval and Vesting Order of the Court dated ●, 2022 (the “**Order**”), the Court approved the transactions (the “**Transactions**”) contemplated by the Transaction Agreement (the “**Transaction Agreement**”) between Just Energy Group Inc. (“**Just Energy**”) and LVS III SPE XV LP, TOCU XVII LLC, HVS XVI LLC, OC II LVS XIV LP, OC III LFE I LP, and CBHT Energy I LLC (collectively, the “**Sponsor**”) dated ●, 2022, and ordered, *inter alia*, (a) that all of the Acquired Entities’ right, title and interest in and to the Excluded Assets, the Excluded Contracts and the Excluded Liabilities shall vest absolutely and exclusively in and to Residual Co. 1 and/or Residual Co. 2, as applicable; (b) Just Energy (U.S.) Corp. to issue the Purchased Interests, and the vesting of all of the right, title and interest in and to the Purchased Interests absolutely and exclusively in and to the Sponsor, free and clear of any Encumbrances; (c) Just Energy to file the Articles of Reorganization; and (d) the termination and cancellation or redemption of the Subject Interests for no consideration (as provided for in the Implementation Steps).

3. Capitalized terms used but not defined herein have the meanings ascribed to them in the Order.

**THE MONITOR CERTIFIES** the following:

1. The Monitor has received written confirmation from Just Energy, in form and substance satisfactory to the Monitor, that it has received the Cash Purchase Price from the Sponsor.

2. The Monitor has received written confirmation from the Sponsor and Just Energy, in form and substance satisfactory to the Monitor, that all conditions to closing have been satisfied or waived by the parties to the Transaction Agreement.

3. This Monitor's Certificate was delivered by the Monitor at \_\_\_\_\_ on \_\_\_\_\_, 2022  
(the "Effective Time").

**FTI Consulting Canada Inc., in its capacity as  
Monitor of the Just Energy Entities, and not in  
its personal capacity**

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

Name:

Title:

**SCHEDULE “C”  
PERMITTED ENCUMBRANCES**

- Encumbrances securing Assumed Liabilities to the extent that such Assumed Liabilities are secured by Encumbrances as of the Closing Time
- Encumbrances securing obligations under the New Credit Agreement
- Encumbrances which are the subject of the New Intercreditor Agreement
- “Permitted Encumbrances” as defined in the Credit Agreement, subject to those amendments to such definition provided for in Exhibit 1 of the Stalking Horse Term Sheet, except to the extent that they relate to an Excluded Liability or Excluded Asset

*Capitalized terms in this Schedule “C” shall have the meanings ascribed thereto in the Transaction Agreement or, where expressly indicated, the Credit Agreement.*

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT*  
*ACT*, R.S.C. 1985, C. C-36, AS AMENDED

Court File No: CV-21-00658423-  
00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JUST ENERGY GROUP INC., et  
al.

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*Ontario*  
**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

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**APPROVAL AND VESTING ORDER**

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**OSLER, HOSKIN & HARCOURT, LLP**

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Lawyers for the Just Energy Entities

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**EXHIBIT 4**

**New Intercreditor Agreement Term Sheet**



**SEVENTH AMENDED AND RESTATED INTERCREDITOR AGREEMENT**  
**SUMMARY OF TERMS AND CONDITIONS**

**August 4, 2022**

*This Summary of Terms and Conditions (this "Summary") is intended for discussion purposes only and cannot be construed as creating an obligation to reach an agreement on definitive terms and conditions. This Summary does not include descriptions of all of the terms, conditions and other provisions that are to be contained in the definitive documentation relating to the seventh amended and restated intercreditor agreement (the "**Intercreditor Agreement**") to be entered into between the Borrowers, the other Obligors, the Collateral Agent, the Agent (for and on behalf of the Lenders) and the Commodity Suppliers party thereto from time to time.*

*Reference is made to the sixth amended and restated intercreditor agreement dated as of September 1, 2015 (as amended, supplemented or otherwise modified from time to time to the date hereof, the "**Existing Intercreditor Agreement**") between National Bank of Canada, as Collateral Agent, National Bank of Canada, as the Agent (for and on behalf of the Lenders), Shell Energy, the Other Commodity Suppliers (as defined therein), the Borrowers, the Restricted Subsidiaries and other Persons from time to time party thereto. Unless the context otherwise requires, capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Existing Intercreditor Agreement.*

<b><u>Term</u></b>	<b><u>Change</u></b>	<b><u>Notes</u></b>
Collateral Agent	National Bank of Canada to reflect collateral agency succession which occurred on March 1, 2019	
Commodity Suppliers	Shell Energy North America (Canada) Inc., Shell Energy North America (US), L.P., Shell Trading Risk Management, LLC, BP Canada Energy Group ULC, BP Canada Energy Marketing Corp., BP Energy Company, <sup>1</sup> MacQuarie Bank Limited, MacQuarie Energy Canada Ltd. and MacQuarie Energy LLC <sup>2</sup>	Permit the addition of any or all of (i) Mercuria Energy America, LLC and its Affiliates, (ii) Hartree Partners, LP and its Affiliates and (iii) EDF Trading North America, LLC and its Affiliates (the " <b>Agreed Additional Suppliers</b> "), so long as each such Agreed Additional Supplier satisfies the Minimum Credit Criteria (as defined herein).

<sup>1</sup> At this time it is not known if BP and Macquarie will remain as parties and Suppliers under the Intercreditor Agreement.

<sup>2</sup> Exelon Generation Company, LLC, Nextera Energy Power Marketing LLC and Morgan Stanley Capital Group Inc. may be removed as parties and Suppliers under the Intercreditor Agreement.

<u>Term</u>	<u>Change</u>	<u>Notes</u>
Obligors	All Obligors under the tenth amended and restated credit agreement (the “ <b>Tenth ARCA</b> ”) to be entered into among the Borrowers, the Agent and the lenders party thereto from time to time, which Obligors shall include Just Energy Group Inc. and all of its North American operating subsidiaries. <sup>3</sup>	
Definitions	<p>– Definition of “ISO Services Agreement” to be replaced with the following definition:</p> <p><b>“ISO Services Agreement”</b> means an agreement pursuant to which (i) an Obligor has reimbursement obligations to a Senior Creditor for payments made by such Senior Creditor on behalf of such Obligor to an ISO, or (ii) a Senior Creditor agrees to deal directly with an ISO on an Obligor’s behalf to schedule the delivery of electricity, bid into the day-ahead market, purchase in the real-time market, post collateral therefor and pay the purchase price of such electricity and attendant services, in each case regardless of any term of such agreement that states that title to such electricity has been transferred to the applicable Senior Creditor during such transactions. For the avoidance of doubt, net settlement</p>	

<sup>3</sup> Obligors will not include JEAS Holdings LP, Just Ventures GP Corp., Just Ventures L.P., Just Energy Services Limited, Just Holdings L.P., American Home Energy Services Corp., Just Ventures LLC, Momentis U.S. Corp.

<u>Term</u>	<u>Change</u>	<u>Notes</u>
	<p>instructions registered with the Alberta Electric System Operator (“AESO”) by agreement with an Obligor relating to the bilateral purchase of power between an Obligor and a Senior Creditor shall not constitute an ISO Services Agreement.</p> <p>– Definition of “ISO Services Obligations” to be replaced with the following definition:</p> <p><b>“ISO Services Obligations”</b> means the reimbursement obligations of an Obligor to a Senior Creditor under an ISO Services Agreement, including without limitation, the Shell Energy ISO Reimbursement Obligations and the BP ISO Services Obligations. Without limitation to the foregoing, any obligation arising in respect of the supply of electricity or services purchased, arranged or scheduled for or on behalf of an Obligor through an ISO and delivered to the Obligor or its customers pursuant to an ISO Services Agreement shall be an ISO Services Obligation for the purposes of Sections [2.02(e)] and [3.04(e)] of this Agreement, regardless of any provision of the ISO Services Agreement that directly or indirectly provides otherwise (including any term of such agreement that states that title to such electricity has been transferred to the applicable Senior Creditor during such transactions or that the physical or financial</p>	

<u>Term</u>	<u>Change</u>	<u>Notes</u>
	<p>purchase or sale of such electricity is to be governed by a separate agreement). Notwithstanding the foregoing, any bilateral purchase of electricity between an Obligor and a Senior Creditor for which net settlement instructions are registered with the AESO by agreement with an Obligor shall not constitute ISO Services Obligations.</p> <ul style="list-style-type: none"> <li>– consolidate separate treatment of Shell Energy versus “Other Commodity Supplier” to include only “Commodity Suppliers”<sup>4</sup></li> <li>– add Montreal to definition of “Business Day”</li> <li>– update all references to CIBC to NBC to reflect the collateral agency succession which occurred on March 1, 2019</li> <li>– increase “Deposit Threshold” from US\$10MM to align with the “Permitted Encumbrance” limit in respect of Cash under the Tenth ARCA</li> <li>– delete definition of “Energy Management Agreement” and related reference in “Shell Energy Agreement”</li> <li>– delete definition of “Distributable Free Cash Flow”</li> <li>– delete Exgen and Constellation related defined terms</li> </ul>	

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<sup>4</sup> Historical references in the security to these terms to be addressed in a reaffirmation agreement of the security.

<u>Term</u>	<u>Change</u>	<u>Notes</u>
	<ul style="list-style-type: none"> <li>- align definition of "Fiscal Year" with Tenth ARCA definition</li> <li>- align definition of GAAP with Tenth ARCA definition</li> <li>- delete references to "UK Obligors"</li> <li>- delete references to "High Yield Debt"</li> <li>- delete definition of "Modified Consolidated Basis"</li> <li>- align definitions of "Permitted Asset Dispositions" and "Permitted Encumbrances" with Credit Agreement definitions</li> <li>- increase \$5MM threshold in definition of "Significant Creditor" to \$20MM</li> </ul>	
Sections 1.02-1.08	No Change	
Add a new Section 1.09	Amounts paid in the 2021-2022 CCAA proceedings and the Chapter 15 proceedings will not constitute "Proceeds of Realization" for purposes of the Intercreditor Agreement.	
Article 2 Collections	No Change aside from consolidation of references to only Commodity Suppliers	
Article 3 Security Sharing	<ul style="list-style-type: none"> <li>- Consolidation of references to only Commodity Suppliers</li> <li>- Provide the Commodity Suppliers with the same priorities given to the</li> </ul>	

<u>Term</u>	<u>Change</u>	<u>Notes</u>
	<p>commodity suppliers under the Existing Intercreditor Agreement</p> <p>– If the Tenth ARCA requires mandatory reductions in the commitments thereunder (other than in the case of the termination of the commitments as a result of an Event of Default)<sup>5</sup>, and as a result of such commitment reductions (i) the aggregate face amount of the letters of credit then outstanding under the credit facilities exceeds the reduced commitments of the Lenders under such credit facilities (such excess, the “<b>LC Deficiency Amount</b>”), and (ii) as a consequence the Obligors are required to provide cash collateral to the Agent (for the benefit of the Lenders) to secure the obligations of the Obligors relating to such letters of credit in the amount of the LC Deficiency Amount, then the Agent and the Lenders shall have priority in such cash collateral (unless and until such collateral is returned to the Obligors in accordance with the Tenth ARCA) in an amount not to exceed such LC Deficiency Amount. For the avoidance of doubt, the foregoing provision shall apply only for so long as the Tenth ARCA is in effect, and</p>	

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<sup>5</sup> The Tenth ARCA will have two categories of mandatory commitment reduction: (i) commitment reductions based on excess cash flow, and (ii) commitment reductions using proceeds from asset dispositions. The definitive Intercreditor Agreement will make reference to specific sections of the Tenth ARCA relating to those commitment reduction requirements.

<u>Term</u>	<u>Change</u>	<u>Notes</u>
	shall not apply to any refinancing of the Tenth ARCA.	
Article 4 Enforcement and Remedies	No Change aside from consolidation of references to only Commodity Suppliers	
Article 5 Assignment of Agreements	No Change aside from consolidation of references to only Commodity Suppliers	
Article 6 Collateral Agent	<ul style="list-style-type: none"> <li>- Update references from CIBC to NBC, consolidation of references to only Commodity Suppliers and operational changes required by the Collateral Agent and as reasonably agreed by Shell.</li> <li>- Section 6.04(3) of the Intercreditor Agreement to be aligned with Tenth ARCA.</li> </ul>	
Article 7 General Powers	No Change aside from consolidation of references to only Commodity Suppliers	
Article 8 Miscellaneous	No Change aside from (i) consolidation of references to only Commodity Suppliers and (ii) to continue the existing provision in Section 8.13 of the Existing Intercreditor Agreement requiring consent of the Required Secured Creditors in order to admit a new Commodity Supplier (other than the Agreed Additional Suppliers), but Section 8.13 of the Existing Intercreditor Agreement will be modified to state that no more than 6 total Commodity Suppliers will be party to the Intercreditor Agreement (and for purposes of the foregoing a Commodity Supplier	

<u>Term</u>	<u>Change</u>	<u>Notes</u>
	and its Affiliates shall be treated as a single Commodity Supplier).	
Article 9 Restrictive Covenants, Reporting Covenants and Events of Default	<p>Substantially the same with the following changes:</p> <ul style="list-style-type: none"> <li>- Existing restrictive covenants (in Section 9.01) and reporting covenants (in Section 9.02) to be aligned with corresponding covenants in the Tenth ARCA, including changing Section 9.01(6) to be consistent with the Tenth ARCA (prohibition on Distributions).</li> <li>- New covenant in Section 9.01 to provide that Just Energy will only enter into or renew or permit the assignment of Supplier Contracts where, in any case, the supplier thereunder and any new supplier satisfy the following criteria (the “<b>Minimum Credit Criteria</b>”): <ul style="list-style-type: none"> <li>(i) has a minimum credit rating of (A) BBB- or higher by S&amp;P, (B) Baa3 or higher by Moody’s, (C) BBB- or higher by Fitch, or (D) BBB- or higher by DBRS (the “<b>Minimum Supplier Rating</b>”), (ii) has its obligations backed by a guarantee from a Person with a credit rating meeting the requirements of (i) hereof or by a letter of credit issued by a bank whose long term debt is rated at least “A” by S&amp;P, or (iii) is not rated or does not have its obligations backed by a guarantee or letter of credit as described in (i) or (ii) hereof provided that all such suppliers do not exceed 7.5% of the total supply under all Supplier</li> </ul> </li> </ul>	



<u>Term</u>	<u>Change</u>	<u>Notes</u>
	<p>Contracts. Notwithstanding the foregoing covenant, a Commodity Supplier that has its obligations backed by a letter of credit pursuant to (ii) above, is permitted to have a credit limit of up to USD\$15,000,000 of obligations unsupported by a letter of credit (each, an “<b>Unsecured Credit Limit</b>”), so long as all such Unsecured Credit Limits of all Commodity Suppliers does not exceed USD\$50,000,000 in the aggregate at any time.</p> <ul style="list-style-type: none"> <li>– The covenant in Section 9.01(25) of the Credit Agreement will have to be amended to be consistent with the language noted-above.</li> <li>– No additional reporting covenants, existing reporting covenants to be aligned with corresponding reporting requirements in the Tenth ARCA.</li> </ul>	
Definition by Reference	<p>For purposes of the Intercreditor Agreement, (i) any capitalized terms defined in the Intercreditor Agreement by reference to the Tenth ARCA as of the date of the Intercreditor Agreement shall be subject to Shell’s approval and any other references to the Tenth ARCA that affect Shell shall be subject to Shell’s approval (acting reasonably), and (ii) any capitalized terms defined in the Intercreditor Agreement by reference to the Shell Energy Agreements as of the date of the</p>	

<u>Term</u>	<u>Change</u>	<u>Notes</u>
	Intercreditor Agreement shall be subject to the Agent's approval.	

**EXHIBIT 5**

**Management Incentive Plan**

## MANAGEMENT COMPENSATION ARRANGEMENTS<sup>1</sup>

The following summarizes the principal post-Closing related management compensation arrangements for Just Energy (U.S.) Corp. (the “Company”).

Overview:	<p><u>General.</u> The Company (or its successor if converted into another entity prior to the Closing in accordance with the Implementation Steps) (the “<u>Issuer</u>”) will adopt a Management Incentive Plan (the “<u>MIP</u>”) in connection with the transactions contemplated in the Support Agreement and the Stalking Horse Transaction Term Sheet to which this term sheet is attached as an exhibit on the terms and conditions set forth herein on the Closing Date. Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Support Agreement and Stalking Horse Transaction Term Sheet.</p> <p><u>Incentive Equity Pool.</u> The Issuer will reserve exclusively for employees of the Company and its subsidiaries and members of the Board of Directors (such reserve, the “<u>MIP Pool</u>”) a pool of shares of common equity (“<u>Common Stock</u>”) of Issuer representing 10% of Issuer’s Common Stock, determined on a fully diluted and fully distributed basis (i.e., assuming conversion of all outstanding convertible securities and full distribution of the MIP Pool).</p> <p><u>Closing Date Grants.</u> Closing Date Grants equal to 50% of the MIP Pool will be granted to management employees upon the Closing Date in the form of restricted stock units (“<u>RSUs</u>”) and performance stock units (“<u>PSUs</u>”) in accordance with this Term Sheet and the allocations indicated in Exhibit A (“<u>Closing Date Grants</u>”). Closing Date Grants will be made 40% in the form of RSUs and 60% in the form of PSUs and will have customary dividend equivalent rights.</p> <p><u>Future Grants.</u> The Company will make future equity grants as determined by the post-Closing Board of Directors.</p>
RSUs	<p><u>Normal Vesting.</u> Subject to an Executive’s continued employment, the RSU component of the Closing Date Grants will vest ratably on each of the first four (4) anniversaries of the Closing Date.</p> <p><u>Accelerated Vesting Upon Termination.</u> If an Executive is terminated without “cause” (as defined below) or terminates for “good reason” (as defined below) or due to death or disability, the Executive will be credited with vesting service to the next normal vesting date.</p> <p><u>Accelerated Vesting Upon a Change in Control or Public Listing.</u> Upon a Change of Control<sup>2</sup> or Public Listing<sup>3</sup> of the Company, 100% of an Executive’s unvested RSU component of the Closing Date Grants will accelerate and vest.</p> <p><u>Accelerated Vesting Upon a Sale of Common Shares by the Sponsor.</u> If any affiliated entities of the Sponsor (a “Sponsor Entity”) sell any common equity in an amount that does not trigger a Change of Control at any time that exceeds an aggregate of 20% of the fully diluted outstanding common equity in one or a series of related transactions, an amount, if any, of the Executive’s RSUs shall vest at the closing of the sale by the Sponsor Entity to bring the aggregate percentage of the Executive’s RSUs that have vested to be the same as the same</p>

<sup>1</sup> To participate in the MIP, each executive listed in Exhibit A will agree to waive their change of control provisions in their respective agreements with respect to and only in relation to the transactions being contemplated by the Support Agreement.

<sup>2</sup> “Change of Control” definition will be a customary incentive plan definition with greater than 50% stock acquisition, merger with greater than 50% ownership change and sale of all/substantially all asset.

<sup>3</sup> Public Listing will be defined to mean an IPO, direct listing, or de-SPAC transaction.

	percentage of common shares that have been sold, in aggregate, by the Sponsor Entity.																																
PSUs	<p><u>Vesting.</u> PSUs will be subject to both time and performance vesting. PSUs will time vest on the same basis as RSUs, including upon a Change of Control or Public Listing, or sale of common shares by the Sponsor Entities. PSUs will performance vest in accordance with the following table, with linear interpolation applied for performance between MoM tiers:</p> <table border="1"> <thead> <tr> <th>MoM</th> <th>Month 0 to 15</th> <th>Month 15 to 36</th> <th>Month 36+</th> </tr> </thead> <tbody> <tr> <td>1.00x</td> <td>0%</td> <td>0%</td> <td>0%</td> </tr> <tr> <td>1.25x</td> <td>50%</td> <td>50%</td> <td>33%</td> </tr> <tr> <td>1.33x</td> <td>75%</td> <td>63%</td> <td>50%</td> </tr> <tr> <td>1.50x</td> <td>100%</td> <td>88%</td> <td>75%</td> </tr> <tr> <td>1.75x</td> <td>125%</td> <td>113%</td> <td>100%</td> </tr> <tr> <td>2.00x</td> <td>133%</td> <td>125%</td> <td>125%</td> </tr> <tr> <td>2.25x</td> <td>133%</td> <td>133%</td> <td>133%</td> </tr> </tbody> </table> <p><u>Determination of MoM.</u> The MoM is determined at the first to occur of a Change of Control or Public Listing by dividing the Per Share Transaction Value<sup>4</sup> by the Per Share Closing Date Value.<sup>5</sup></p> <p><u>Certain Terminations.</u> Upon a termination of employment: (i) for any reason (including due to Executive's disability) other than by the Company for Cause, (ii) by the Executive for Good Reason, or (iii) due to the Executive's death, the Executive will be credited with vesting service to the next normal vesting date and PSUs that have time vested (the "<u>Contingent PSUs</u>") shall remain outstanding and eligible to vest upon achievement of the applicable performance conditions until the first anniversary of such termination. Upon a termination for Cause or a material violation of a restrictive covenant to which an Executive has agreed to be subject that is not cured within 30 days of written notice from the Company, all PSUs and RSUs, whether or not vested, shall terminate without consideration.</p> <p><u>Distributions.</u> PSUs will be settled within 10 business days after vesting. Vested RSUs will be settled upon the first to occur of (i) an Executive's separation from service (ii) a Change of Control., or (iii) the fifth anniversary of the Closing Date.</p>	MoM	Month 0 to 15	Month 15 to 36	Month 36+	1.00x	0%	0%	0%	1.25x	50%	50%	33%	1.33x	75%	63%	50%	1.50x	100%	88%	75%	1.75x	125%	113%	100%	2.00x	133%	125%	125%	2.25x	133%	133%	133%
MoM	Month 0 to 15	Month 15 to 36	Month 36+																														
1.00x	0%	0%	0%																														
1.25x	50%	50%	33%																														
1.33x	75%	63%	50%																														
1.50x	100%	88%	75%																														
1.75x	125%	113%	100%																														
2.00x	133%	125%	125%																														
2.25x	133%	133%	133%																														
Taxes:	Participants may satisfy applicable withholdings for taxes and other amounts incurred in connection with settlement either through net share settlement or by voluntarily surrendering a portion of the Award equivalent in value to the amount to be withheld.																																

<sup>4</sup> The fair market value of a share of common stock based (i) on the per share transaction price in a Change of Control, subject to any holdbacks and other contingent consideration or (ii) the 10-day VWAP immediately following an initial public listing, in each case taking into account any post-Closing Date prior dividends and distributions.

<sup>5</sup> The common equity value of the Company expressed on a per common share basis taking into account outstanding common shares, Closing Date Grants and other instruments, if any, convertible into common stock and stock splits, consolidations and other similar events. The final documents will include customary dispute resolutions procedures regarding equity valuations. The Per Share Closing Date Value will be determined promptly after the Vesting Order is obtained.

Severance:	<p>The executives listed on Exhibit A will be provided cash severance benefits upon a termination (i) for a reason other than “cause”<sup>6</sup> or (ii) due to “good reason”<sup>6</sup> as follows:</p> <ul style="list-style-type: none"> <li>• On or before the first anniversary of the Closing Date: 1.5 x the Executive’s existing severance payment in their respective employment agreement.</li> <li>• After the first anniversary of the Closing Date and before a Change of Control: as per the terms of the Constructive Dismissal or Termination by the Company without Good Cause language in the executive’s respective employment agreement.</li> <li>• Within 24 months after a post-Closing Date Change of Control: as per the terms of the Change of Control language in the executive’s respective employment agreement.</li> </ul> <p>Executives’ employment agreements will be amended to reflect the foregoing effective as of the Closing Date.</p>
Indemnity	<p>On or before Closing, Issuer shall enter into a new indemnity agreement, with each member of management having substantially similar terms to the existing agreement.<sup>7</sup></p>
Final Documentation	<p>The final documentation related to the forgoing matters will not contain any covenants that impose material restrictions, limitations or additional obligations on an Executive that are not set forth herein.</p>

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<sup>6</sup> As defined in the Employment Agreement.

<sup>7</sup> Current Indemnity Agreements are provided by Just Energy Group Inc. (“JEGI”) on its and its subsidiaries behalf. As of closing, JEGI will be a subsidiary of the Company and its subsidiaries will only be the Canadian subsidiaries. Accordingly, the Company needs to provide indemnity agreements on its behalf and on behalf of all its subsidiaries.

Exhibit A

*(Redacted.)*

**EXHIBIT D**

**SISP**



# Sale and Investment Solicitation Process

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1. On August 17, 2022, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granted an order (the “**SISP Order**”) that, among other things, (a) authorized Just Energy (as defined below) to implement a sale and investment solicitation process (“**SISP**”) in accordance with the terms hereof, (b) approved the Support Agreement, (c) authorized and directed Just Energy Group Inc. to enter into the Stalking Horse Transaction Agreement, (d) approved the Break-Up Fee, and (e) granted the Bid Protections Charge. Capitalized terms that are not defined herein have the meanings ascribed thereto in the Second Amended & Restated Initial Order granted by the Court in Just Energy’s proceedings under the *Companies’ Creditors Arrangement Act* on May 26, 2021, as amended, restated or supplemented from time to time or the SISP Order, as applicable.
2. This SISP sets out the manner in which (i) binding bids for executable transaction alternatives that are superior to the sale transaction to be provided for in the Stalking Horse Transaction Agreement involving the shares and/or the business and assets of Just Energy Group Inc. and its direct and indirect subsidiaries (collectively, “**Just Energy**”) will be solicited from interested parties, (ii) any such bids received will be addressed, (iii) any Successful Bid (as defined below) will be selected, and (iv) Court (as defined below) approval of any Successful Bid will be sought. Such transaction alternatives may include, among other things, a sale of some or all of Just Energy’s shares, assets and/or business and/or an investment in Just Energy, each of which shall be subject to all terms set forth in this SISP.
3. The SISP shall be conducted by Just Energy under the oversight of FTI Consulting Canada Inc., in its capacity as court-appointed monitor (the “**Monitor**”), with the assistance of BMO Capital Markets (the “**Financial Advisor**”).
4. Parties who wish to have their bids considered shall be expected to participate in the SISP as conducted by Just Energy and the Financial Advisor.
5. The SISP will be conducted such that Just Energy and the Financial Advisor will (under the oversight of the Monitor):
  - a) prepare marketing materials and a process letter;
  - b) prepare and provide applicable parties with access to a data room containing diligence information;
  - c) solicit interest from parties to enter into non-disclosure agreements (parties shall only obtain access to the data room and be permitted to participate in the SISP if they execute a non-disclosure agreement that is in form and substance satisfactory to Just Energy); and
  - d) request that such parties (other than the Sponsor or its designee) submit (i) a notice of intent to bid that identifies the potential purchaser and a general description of the assets and/or business(es) of the Just Energy Entities that would be the subject of the bid and that reflects a reasonably likely prospect of culminating in a Qualified Bid (as defined below), as determined by the Just Energy Entities in consultation with the Monitor and the Credit Facility Agent (subject to the confidentiality requirements set forth in Section 15 below) (a “**NOI**”) by the NOI Deadline (as defined below) and, if applicable, (ii) a binding offer meeting at least the requirements set forth in Section 7 below, as determined by the Just Energy Entities in consultation with the Monitor (a “**Qualified Bid**”) by the Qualified Bid Deadline (as defined below).

6. The SISP shall be conducted subject to the terms hereof and the following key milestones:
- a) Just Energy to commence solicitation process on the date of service of the motion for approval of the SISP – August 4, 2022;<sup>1</sup>
  - b) Court approval of SISP and authorizing Just Energy to enter into the Stalking Horse Transaction Agreement – August 17, 2022;
  - c) Deadline to submit NOI – 11:59 p.m. Eastern Daylight Time on August 25, 2022 (the “**NOI Deadline**”);
  - d) Deadline to submit a Qualified Bid – 11:59 p.m. Eastern Daylight Time on September 29, 2022 (the “**Qualified Bid Deadline**”);
  - e) Deadline to determine whether a bid is a Qualified Bid and, if applicable, to notify those parties who submitted a Qualified Bid of the Auction (as defined below) – 5:00 p.m. Eastern Daylight Time on October 6, 2022;
  - f) Just Energy to hold Auction (if applicable) – 10:00 a.m. Eastern Daylight Time on October 8, 2022; and
  - g) Implementation Order (as defined below) hearing:
    - o (if no NOI is submitted) – by no later than September 2, 2022, subject to Court availability.
    - o (if there is no Auction) – by no later than October 15, 2022, subject to Court availability.
    - o (if there is an Auction) – by no later than twelve (12) days after completion of the Auction, subject to Court availability.
7. In order to constitute a Qualified Bid, a bid must comply with the following:
- a. it provides for (i) the payment in full in cash on closing of the BP Commodity/ISO Services Claim (as defined in the Support Agreement), unless otherwise agreed to by the holder of such claim in its sole discretion; (ii) the payment in full in cash on closing of the Credit Facility Claims, unless otherwise agreed to by the Credit Facility Agent in its sole discretion; (iii) the payment in full in cash on closing of any claims ranking in priority to the claims set forth in subparagraphs (i) or (ii) including any claims secured by Court-ordered charges, unless otherwise agreed to by the applicable holders thereof in their sole discretion (iv) the return of all outstanding letters of credit and release of all Credit Facility LC Claims or arrangements satisfactory to the applicable Credit Facility Lenders in their discretion to secure with cash collateral or otherwise any Credit Facility LC Claims not released, and (v) the payment in full in cash on closing of any outstanding Cash Management Obligations or arrangements satisfactory to the applicable Credit Facility Lenders or their affiliates to secure with cash collateral or otherwise any outstanding Cash Management Obligations.
  - b. it provides a detailed sources and uses schedule that identifies, with specificity, the amount of cash consideration (the “**Cash Consideration Value**”) and any assumptions that could reduce the net consideration payable. At a minimum, the Cash Consideration Value plus Just Energy’s cash on hand must be sufficient for payment in full of the items contemplated in Sections 7(a)(i) and 7(a)(ii) herein, 3.2 of the Stalking Horse Transaction Agreement and the Break-Up Fee, plus USD\$1,000,000, on closing, which Cash Consideration Value is estimated to be USD\$460,000,000 as of December 31, 2022.

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<sup>1</sup> To the extent any dates would fall on a non-business day, to be the first business day thereafter.

- c. it is reasonably capable of being consummated by 90 days after completion of the Auction if selected as the Successful Bid;
- d. it contains:
  - i. duly executed binding transaction document(s);
  - ii. the legal name and identity (including jurisdiction of existence) and contact information of the bidder, full disclosure of its direct and indirect principals, and the name(s) of its controlling equityholder(s);
  - iii. a redline to the form of transaction document(s) provided by Just Energy, if applicable;
  - iv. evidence of authorization and approval from the bidder's board of directors (or comparable governing body) and, if necessary to complete the transaction, the bidder's equityholder(s);
  - v. disclosure of any connections or agreements with Just Energy or any of its affiliates, any known, potential, prospective bidder, or any officer, manager, director, or known equity security holder of Just Energy or any of its affiliates; and
  - vi. such other information reasonably requested by Just Energy or the Monitor;
- e. it includes a letter stating that the bid is submitted in good faith, is binding and is irrevocable until the selection of the Successful Bid; provided, however, that if such bid is selected as the Successful Bid, it shall remain irrevocable until the closing of the Successful Bid;
- f. it provides written evidence of a bidder's ability to fully fund and consummate the transaction and satisfy its obligations under the transaction documents, including binding equity/debt commitment letters and/or guarantees covering the full value of all cash consideration and the additional items (in scope and amount) covered by the guarantees provided by affiliates of the Purchaser in connection with the Transaction Agreement;
- g. it does not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment;
- h. it is not conditional upon:
  - i. approval from the bidder's board of directors (or comparable governing body) or equityholder(s);
  - ii. the outcome of any due diligence by the bidder; or
  - iii. the bidder obtaining financing;
- i. it includes an acknowledgment and representation that the bidder has had an opportunity to conduct any and all required due diligence prior to making its bid;
- j. it specifies any regulatory or other third-party approvals the party anticipates would be required to complete the transaction (including the anticipated timing necessary to obtain such approvals) and, in connection therewith, specifies whether the bidder or any of its affiliates is involved in any part of the energy sector, including an electric utility, retail service provider, a company with a tariff on file with the Federal Energy Regulatory Commission, or any intermediate holding company;
- k. it includes full details of the bidder's intended treatment of Just Energy's employees under the proposed bid;
- l. it is accompanied by a cash deposit (the "**Deposit**") by wire transfer of immediately available funds equal to 10% of the Cash Consideration Value, which Deposit shall be retained by the Monitor in a non-interest bearing trust account in accordance with this SISP;
- m. a statement that the bidder will bear its own costs and expenses (including legal and advisor fees) in connection with the proposed transaction, and by submitting its bid is agreeing to refrain from and waive any assertion or request for reimbursement on any basis; and
- n. it is received by the Qualified Bid Deadline.

8. The Qualified Bid Deadline may be extended by (i) Just Energy for up to no longer than seven days with the consent of the Monitor, the Credit Facility Agent and the Sponsor, acting reasonably, or (ii) further order of the Court. In such circumstances, the milestones contained in Subsections 6(f) and (g) shall be extended by the same amount of time.
9. Just Energy, in consultation with the Monitor, may waive compliance with any one or more of the requirements specified in Section 7 above and deem a non-compliant bid to be a Qualified Bid, provided that Just Energy shall not waive compliance with the requirements specified in Subsections 7(a), (b), (e), (e), (g), (h), (j) or (l) without the prior written consent of the Sponsor and Credit Facility Agent, each acting reasonably.
10. Notwithstanding the requirements specified in Section 7 above, the transactions contemplated by the Stalking Horse Transaction Agreement (the “**Stalking Horse Transaction**”), is deemed to be a Qualified Bid, provided that, for greater certainty, no Deposit shall be required to be submitted in connection with the Stalking Horse Transaction.
11. If one or more Qualified Bids (other than the Stalking Horse Transaction) has been received by Just Energy on or before the Qualified Bid Deadline, Just Energy shall proceed with an auction process to determine the successful bid(s) (the “**Auction**”), which Auction shall be administered in accordance with Schedule “A” hereto. The successful bid(s) selected within the Auction shall constitute the “**Successful Bid**”. Forthwith upon determining to proceed with an Auction, Just Energy shall provide written notice to each party that submitted a Qualified Bid (including the Stalking Horse Transaction), along with copies of all Qualified Bids and a statement by Just Energy specifying which Qualified Bid is the leading bid.
12. If, by the NOI Deadline no NOI has been received, then the SISP shall be deemed to be terminated and the Stalking Horse Transaction shall be the Successful Bid and shall be consummated in accordance with and subject to the terms of the Support Agreement and the Stalking Horse Transaction Agreement. If no Qualified Bid (other than the Stalking Horse Transaction) has been received by Just Energy on or before the Qualified Bid Deadline, then the Stalking Horse Transaction shall be the Successful Bid and shall be consummated in accordance with and subject to the terms of the Support Agreement and the Stalking Horse Transaction Agreement.
13. Following selection of a Successful Bid, Just Energy, with the assistance of its advisors, shall seek to finalize any remaining necessary definitive agreement(s) with respect to the Successful Bid in accordance with the key milestones set out in Section 6. Once the necessary definitive agreement(s) with respect to a Successful Bid have been finalized, as determined by Just Energy, in consultation with the Monitor, Just Energy shall apply to the Court for an order or orders approving such Successful Bid and/or the mechanics to authorize Just Energy to complete the transactions contemplated thereby, as applicable, and authorizing Just Energy to (i) enter into any and all necessary agreements and related documentation with respect to the Successful Bid, (ii) undertake such other actions as may be necessary to give effect to such Successful Bid, and (iii) implement the transaction(s) contemplated in such Successful Bid (each, an “**Implementation Order**”).
14. All Deposits shall be retained by the Monitor in a non-interest bearing trust account. If a Successful Bid is selected and an Implementation Order authorizing the consummation of the transaction contemplated thereunder is granted, any Deposit paid in connection with such Successful Bid will be non-refundable and shall, upon closing of the transaction contemplated by such Successful Bid, be applied to the cash consideration to be paid in connection with such Successful Bid or be dealt with as otherwise set out in the definitive agreement(s) entered into in connection with such Successful Bid. Any Deposit delivered with a Qualified Bid that is not selected as a Successful Bid,

will be returned to the applicable bidder as soon as reasonably practicable (but not later than ten (10) business days) after the date upon which the Successful Bid is approved pursuant to an Implementation Order or such earlier date as may be determined by Just Energy, in consultation with the Monitor.

15. Just Energy shall provide information in respect of the SISP to the DIP Lenders, the holder of the BP Commodity/ISO Services Claim and the Supporting Secured CF Lenders on a confidential basis, including (A) copies (or if not provided to the Just Energy Entities in writing, a detailed description) of any NOI and any bid received, including any Qualified Bid, no later than one (1) calendar day following receipt thereof by the Just Energy Entities or their advisors and (B) such other information as reasonably requested by the DIP Lenders', the holder of the BP Commodity/ISO Services Claim or the Supporting Secured CF Lenders' respective legal counsel or financial advisors or as necessary to keep the DIP Lenders, the holder of the BP Commodity/ISO Services Claim or the Supporting Secured CF Lenders informed no later than one (1) calendar day after any such request or any material change to the proposed terms of any bid received, including any Qualified Bid, as to the terms of any bid, including any Qualified Bid, (including any changes to the proposed terms thereof) and the status and substance of discussions related thereto. Just Energy shall be permitted, in its discretion, to provide general updates and information in respect of the SISP to counsel to any unsecured creditor of Just Energy (a "**General Unsecured Creditor**") on a confidential basis, upon: (i) the irrevocable confirmation in writing from such counsel that the applicable General Unsecured Creditor will not submit any NOI or bid in the SISP, and (ii) counsel to such General Unsecured Creditor executing confidentiality agreements with Just Energy, in form and substance satisfactory to Just Energy and the Monitor.
16. Any amendments to this SISP may only be made by Just Energy with the written consent of the Monitor and after consultation with the Credit Facility Agent, or by further order of the Court, provided that Just Energy shall not amend Subsections 7(a), (b), (e), (f), (g), (h), (j) or (l) or Section 15 without the prior written consent of the Sponsor and the Credit Facility Agent.

### SCHEDULE “A”: AUCTION PROCEDURES

1. **Auction.** If Just Energy receives at least one Qualified Bid (other than the Stalking Horse Transaction), Just Energy will conduct and administer the Auction in accordance with the terms of the SISIP. Instructions to participate in the Auction, which will take place via video conferencing, will be provided to Qualified Parties (as defined below) not less than 24 hours prior to the Auction.

2. **Participation.** Only parties that provided a Qualified Bid by the Qualified Bid Deadline, including the Stalking Horse Transaction (collectively, the “**Qualified Parties**”), shall be eligible to participate in the Auction. No later than 5:00 p.m. Eastern Daylight Time on the day prior to the Auction, each Qualified Party (other than the Sponsor) must inform Just Energy whether it intends to participate in the Auction. Just Energy will promptly thereafter inform in writing each Qualified Party who has expressed its intent to participate in the Auction of the identity of all other Qualified Parties that have indicated their intent to participate in the Auction. If no Qualified Party provides such expression of intent, the Stalking Horse Transaction shall be the Successful Bid.

3. **Auction Procedures.** The Auction shall be governed by the following procedures:

- a. **Attendance.** Only Just Energy, the other counterparties to the Support Agreement, the Qualified Parties, the Monitor and each of their respective advisors will be entitled to attend the Auction, and only the Qualified Parties will be entitled to make any subsequent Overbids (as defined below) at the Auction;
- b. **No Collusion.** Each Qualified Party participating at the Auction shall be required to confirm on the record at the Auction that: (i) it has not engaged in any collusion with respect to the Auction and the bid process; and (ii) its bid is a good-faith *bona fide* offer and it intends to consummate the proposed transaction if selected as the Successful Bid (as defined below);
- c. **Minimum Overbid.** The Auction shall begin with the Qualified Bid that represents the highest or otherwise best Qualified Bid as determined by Just Energy, in consultation with the Monitor (the “**Initial Bid**”), and any bid made at the Auction by a Qualified Party subsequent to Just Energy’s announcement of the Initial Bid (each, an “**Overbid**”), must proceed in minimum additional cash increments of USD\$1,000,000;
- d. **Bidding Disclosure.** The Auction shall be conducted such that all bids will be made and received in one group video-conference, on an open basis, and all Qualified Parties will be entitled to be present for all bidding with the understanding that the true identity of each Qualified Party will be fully disclosed to all other Qualified Parties and that all material terms of each subsequent bid will be fully disclosed to all other Qualified Parties throughout the entire Auction; provided, however, that Just Energy, in its discretion, may establish separate video conference rooms to permit interim discussions between Just Energy and individual Qualified Parties with the understanding that all formal bids will be delivered in one group video conference, on an open basis;
- e. **Bidding Conclusion.** The Auction shall continue in one or more rounds and will conclude after each participating Qualified Party has had the opportunity to submit one or more additional bids with full knowledge and written confirmation of the then-existing highest bid(s); and

- f. **No Post-Auction Bids.** No bids will be considered for any purpose after the Auction has concluded.

#### **Selection of Successful Bid**

4. **Selection.** Before the conclusion of the Auction, Just Energy, in consultation with the Monitor, will: (a) review each Qualified Bid, considering the factors set out in Section 7 of the SISP and, among other things, (i) the amount of consideration being offered and, if applicable, the proposed form, composition and allocation of same, (ii) the value of any assumption of liabilities or waiver of liabilities not otherwise accounted for in prong (i) above; (iii) the likelihood of the Qualified Party's ability to close a transaction by 90 days after completion of the Auction and the timing thereof (including factors such as the transaction structure and execution risk, including conditions to, timing of, and certainty of closing; termination provisions; availability of financing and financial wherewithal to meet all commitments; and required governmental or other approvals), (iv) the likelihood of the Court's approval of the Successful Bid, (v) the net benefit to Just Energy and (vi) any other factors Just Energy may, consistent with its fiduciary duties, reasonably deem relevant; and (b) identify the highest or otherwise best bid received at the Auction (the "**Successful Bid**" and the Qualified Party making such bid, the "**Successful Party**").

5. **Acknowledgement.** The Successful Party shall complete and execute all agreements, contracts, instruments or other documents evidencing and containing the terms and conditions upon which the Successful Bid was made within one business day of the Successful Bid being selected as such, unless extended by Just Energy in its sole discretion, subject to the milestones set forth in Section 6 of the SISP.

**EXHIBIT E**

**Term Sheet for Material Updates to Intercreditor Agreement**



**SEVENTH AMENDED AND RESTATED INTERCREDITOR AGREEMENT**  
**SUMMARY OF TERMS AND CONDITIONS**

**August 4, 2022**

*This Summary of Terms and Conditions (this "Summary") is intended for discussion purposes only and cannot be construed as creating an obligation to reach an agreement on definitive terms and conditions. This Summary does not include descriptions of all of the terms, conditions and other provisions that are to be contained in the definitive documentation relating to the seventh amended and restated intercreditor agreement (the "**Intercreditor Agreement**") to be entered into between the Borrowers, the other Obligors, the Collateral Agent, the Agent (for and on behalf of the Lenders) and the Commodity Suppliers party thereto from time to time.*

*Reference is made to the sixth amended and restated intercreditor agreement dated as of September 1, 2015 (as amended, supplemented or otherwise modified from time to time to the date hereof, the "**Existing Intercreditor Agreement**") between National Bank of Canada, as Collateral Agent, National Bank of Canada, as the Agent (for and on behalf of the Lenders), Shell Energy, the Other Commodity Suppliers (as defined therein), the Borrowers, the Restricted Subsidiaries and other Persons from time to time party thereto. Unless the context otherwise requires, capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Existing Intercreditor Agreement.*

<b><u>Term</u></b>	<b><u>Change</u></b>	<b><u>Notes</u></b>
Collateral Agent	National Bank of Canada to reflect collateral agency succession which occurred on March 1, 2019	
Commodity Suppliers	Shell Energy North America (Canada) Inc., Shell Energy North America (US), L.P., Shell Trading Risk Management, LLC, BP Canada Energy Group ULC, BP Canada Energy Marketing Corp., BP Energy Company, <sup>1</sup> MacQuarie Bank Limited, MacQuarie Energy Canada Ltd. and MacQuarie Energy LLC <sup>2</sup>	Permit the addition of any or all of (i) Mercuria Energy America, LLC and its Affiliates, (ii) Hartree Partners, LP and its Affiliates and (iii) EDF Trading North America, LLC and its Affiliates (the " <b>Agreed Additional Suppliers</b> "), so long as each such Agreed Additional Supplier satisfies the Minimum Credit Criteria (as defined herein).

<sup>1</sup> At this time it is not known if BP and Macquarie will remain as parties and Suppliers under the Intercreditor Agreement.

<sup>2</sup> Exelon Generation Company, LLC, Nextera Energy Power Marketing LLC and Morgan Stanley Capital Group Inc. may be removed as parties and Suppliers under the Intercreditor Agreement.

<u>Term</u>	<u>Change</u>	<u>Notes</u>
Obligors	All Obligors under the tenth amended and restated credit agreement (the “ <b>Tenth ARCA</b> ”) to be entered into among the Borrowers, the Agent and the lenders party thereto from time to time, which Obligors shall include Just Energy Group Inc. and all of its North American operating subsidiaries. <sup>3</sup>	
Definitions	<p>– Definition of “ISO Services Agreement” to be replaced with the following definition:</p> <p><b>“ISO Services Agreement”</b> means an agreement pursuant to which (i) an Obligor has reimbursement obligations to a Senior Creditor for payments made by such Senior Creditor on behalf of such Obligor to an ISO, or (ii) a Senior Creditor agrees to deal directly with an ISO on an Obligor’s behalf to schedule the delivery of electricity, bid into the day-ahead market, purchase in the real-time market, post collateral therefor and pay the purchase price of such electricity and attendant services, in each case regardless of any term of such agreement that states that title to such electricity has been transferred to the applicable Senior Creditor during such transactions. For the avoidance of doubt, net settlement</p>	

<sup>3</sup> Obligors will not include JEAS Holdings LP, Just Ventures GP Corp., Just Ventures L.P., Just Energy Services Limited, Just Holdings L.P., American Home Energy Services Corp., Just Ventures LLC, Momentis U.S. Corp.

<u>Term</u>	<u>Change</u>	<u>Notes</u>
	<p>instructions registered with the Alberta Electric System Operator (“AESO”) by agreement with an Obligor relating to the bilateral purchase of power between an Obligor and a Senior Creditor shall not constitute an ISO Services Agreement.</p> <p>– Definition of “ISO Services Obligations” to be replaced with the following definition:</p> <p><b>“ISO Services Obligations”</b> means the reimbursement obligations of an Obligor to a Senior Creditor under an ISO Services Agreement, including without limitation, the Shell Energy ISO Reimbursement Obligations and the BP ISO Services Obligations. Without limitation to the foregoing, any obligation arising in respect of the supply of electricity or services purchased, arranged or scheduled for or on behalf of an Obligor through an ISO and delivered to the Obligor or its customers pursuant to an ISO Services Agreement shall be an ISO Services Obligation for the purposes of Sections [2.02(e)] and [3.04(e)] of this Agreement, regardless of any provision of the ISO Services Agreement that directly or indirectly provides otherwise (including any term of such agreement that states that title to such electricity has been transferred to the applicable Senior Creditor during such transactions or that the physical or financial</p>	

<u>Term</u>	<u>Change</u>	<u>Notes</u>
	<p data-bbox="505 268 919 699">purchase or sale of such electricity is to be governed by a separate agreement). Notwithstanding the foregoing, any bilateral purchase of electricity between an Obligor and a Senior Creditor for which net settlement instructions are registered with the AESO by agreement with an Obligor shall not constitute ISO Services Obligations.</p> <ul style="list-style-type: none"> <li data-bbox="467 743 919 877">– consolidate separate treatment of Shell Energy versus “Other Commodity Supplier” to include only “Commodity Suppliers”<sup>4</sup></li> <li data-bbox="467 921 919 989">– add Montreal to definition of “Business Day”</li> <li data-bbox="467 1033 919 1167">– update all references to CIBC to NBC to reflect the collateral agency succession which occurred on March 1, 2019</li> <li data-bbox="467 1211 919 1388">– increase “Deposit Threshold” from US\$10MM to align with the “Permitted Encumbrance” limit in respect of Cash under the Tenth ARCA</li> <li data-bbox="467 1432 919 1566">– delete definition of “Energy Management Agreement” and related reference in “Shell Energy Agreement”</li> <li data-bbox="467 1610 919 1677">– delete definition of “Distributable Free Cash Flow”</li> <li data-bbox="467 1722 919 1776">– delete Exgen and Constellation related defined terms</li> </ul>	

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<sup>4</sup> Historical references in the security to these terms to be addressed in a reaffirmation agreement of the security.

<u>Term</u>	<u>Change</u>	<u>Notes</u>
	<ul style="list-style-type: none"> <li>- align definition of “Fiscal Year” with Tenth ARCA definition</li> <li>- align definition of GAAP with Tenth ARCA definition</li> <li>- delete references to “UK Obligors”</li> <li>- delete references to “High Yield Debt”</li> <li>- delete definition of “Modified Consolidated Basis”</li> <li>- align definitions of “Permitted Asset Dispositions” and “Permitted Encumbrances” with Credit Agreement definitions</li> <li>- increase \$5MM threshold in definition of “Significant Creditor” to \$20MM</li> </ul>	
Sections 1.02-1.08	No Change	
Add a new Section 1.09	Amounts paid in the 2021-2022 CCAA proceedings and the Chapter 15 proceedings will not constitute “Proceeds of Realization” for purposes of the Intercreditor Agreement.	
Article 2 Collections	No Change aside from consolidation of references to only Commodity Suppliers	
Article 3 Security Sharing	<ul style="list-style-type: none"> <li>- Consolidation of references to only Commodity Suppliers</li> <li>- Provide the Commodity Suppliers with the same priorities given to the</li> </ul>	

<u>Term</u>	<u>Change</u>	<u>Notes</u>
	<p>commodity suppliers under the Existing Intercreditor Agreement</p> <p>– If the Tenth ARCA requires mandatory reductions in the commitments thereunder (other than in the case of the termination of the commitments as a result of an Event of Default)<sup>5</sup>, and as a result of such commitment reductions (i) the aggregate face amount of the letters of credit then outstanding under the credit facilities exceeds the reduced commitments of the Lenders under such credit facilities (such excess, the “<b>LC Deficiency Amount</b>”), and (ii) as a consequence the Obligors are required to provide cash collateral to the Agent (for the benefit of the Lenders) to secure the obligations of the Obligors relating to such letters of credit in the amount of the LC Deficiency Amount, then the Agent and the Lenders shall have priority in such cash collateral (unless and until such collateral is returned to the Obligors in accordance with the Tenth ARCA) in an amount not to exceed such LC Deficiency Amount. For the avoidance of doubt, the foregoing provision shall apply only for so long as the Tenth ARCA is in effect, and</p>	

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<sup>5</sup> The Tenth ARCA will have two categories of mandatory commitment reduction: (i) commitment reductions based on excess cash flow, and (ii) commitment reductions using proceeds from asset dispositions. The definitive Intercreditor Agreement will make reference to specific sections of the Tenth ARCA relating to those commitment reduction requirements.

<u>Term</u>	<u>Change</u>	<u>Notes</u>
	shall not apply to any refinancing of the Tenth ARCA.	
Article 4 Enforcement and Remedies	No Change aside from consolidation of references to only Commodity Suppliers	
Article 5 Assignment of Agreements	No Change aside from consolidation of references to only Commodity Suppliers	
Article 6 Collateral Agent	<ul style="list-style-type: none"> <li>- Update references from CIBC to NBC, consolidation of references to only Commodity Suppliers and operational changes required by the Collateral Agent and as reasonably agreed by Shell.</li> <li>- Section 6.04(3) of the Intercreditor Agreement to be aligned with Tenth ARCA.</li> </ul>	
Article 7 General Powers	No Change aside from consolidation of references to only Commodity Suppliers	
Article 8 Miscellaneous	No Change aside from (i) consolidation of references to only Commodity Suppliers and (ii) to continue the existing provision in Section 8.13 of the Existing Intercreditor Agreement requiring consent of the Required Secured Creditors in order to admit a new Commodity Supplier (other than the Agreed Additional Suppliers), but Section 8.13 of the Existing Intercreditor Agreement will be modified to state that no more than 6 total Commodity Suppliers will be party to the Intercreditor Agreement (and for purposes of the foregoing a Commodity Supplier	

<u>Term</u>	<u>Change</u>	<u>Notes</u>
	and its Affiliates shall be treated as a single Commodity Supplier).	
Article 9 Restrictive Covenants, Reporting Covenants and Events of Default	<p>Substantially the same with the following changes:</p> <ul style="list-style-type: none"> <li>- Existing restrictive covenants (in Section 9.01) and reporting covenants (in Section 9.02) to be aligned with corresponding covenants in the Tenth ARCA, including changing Section 9.01(6) to be consistent with the Tenth ARCA (prohibition on Distributions).</li> <li>- New covenant in Section 9.01 to provide that Just Energy will only enter into or renew or permit the assignment of Supplier Contracts where, in any case, the supplier thereunder and any new supplier satisfy the following criteria (the “<b>Minimum Credit Criteria</b>”): <ul style="list-style-type: none"> <li>(i) has a minimum credit rating of (A) BBB- or higher by S&amp;P, (B) Baa3 or higher by Moody’s, (C) BBB- or higher by Fitch, or (D) BBB- or higher by DBRS (the “<b>Minimum Supplier Rating</b>”), (ii) has its obligations backed by a guarantee from a Person with a credit rating meeting the requirements of (i) hereof or by a letter of credit issued by a bank whose long term debt is rated at least “A” by S&amp;P, or (iii) is not rated or does not have its obligations backed by a guarantee or letter of credit as described in (i) or (ii) hereof provided that all such suppliers do not exceed 7.5% of the total supply under all Supplier</li> </ul> </li> </ul>	



<u>Term</u>	<u>Change</u>	<u>Notes</u>
	<p>Contracts. Notwithstanding the foregoing covenant, a Commodity Supplier that has its obligations backed by a letter of credit pursuant to (ii) above, is permitted to have a credit limit of up to USD\$15,000,000 of obligations unsupported by a letter of credit (each, an “<b>Unsecured Credit Limit</b>”), so long as all such Unsecured Credit Limits of all Commodity Suppliers does not exceed USD\$50,000,000 in the aggregate at any time.</p> <ul style="list-style-type: none"> <li>– The covenant in Section 9.01(25) of the Credit Agreement will have to be amended to be consistent with the language noted-above.</li> <li>– No additional reporting covenants, existing reporting covenants to be aligned with corresponding reporting requirements in the Tenth ARCA.</li> </ul>	
Definition by Reference	<p>For purposes of the Intercreditor Agreement, (i) any capitalized terms defined in the Intercreditor Agreement by reference to the Tenth ARCA as of the date of the Intercreditor Agreement shall be subject to Shell’s approval and any other references to the Tenth ARCA that affect Shell shall be subject to Shell’s approval (acting reasonably), and (ii) any capitalized terms defined in the Intercreditor Agreement by reference to the Shell Energy Agreements as of the date of the</p>	

<u>Term</u>	<u>Change</u>	<u>Notes</u>
	Intercreditor Agreement shall be subject to the Agent's approval.	

**EXHIBIT F****Form of Joinder Agreement**

This Joinder Agreement to the Support Agreement, dated as of August 4, 2022 (as amended, supplemented, or otherwise modified from time to time, the “**Agreement**”), between (i) Just Energy Group Inc., Just Energy Corp., Ontario Energy Commodities Inc., Universal Energy Corporation, Just Energy Finance Canada ULC, Hudson Energy Canada Corp., Just Management Corp., 11929747 Canada Inc., 12175592 Canada Inc., JE Services Holdco I Inc., JE Services Holdco II Inc., 8704104 Canada Inc., Just Energy Advanced Solutions Corp., Just Energy (U.S.) Corp., Just Energy Illinois Corp., Just Energy Indiana Corp., Just Energy Massachusetts Corp., Just Energy New York Corp., Just Energy Texas I Corp., Just Energy, LLC, Just Energy Pennsylvania Corp., Just Energy Michigan Corp., Just Energy Solutions Inc., Hudson Energy Services LLC, Hudson Energy Corp., Interactive Energy Group LLC, Hudson Parent Holdings LLC, Drag Marketing LLC, Just Energy Advanced Solutions LLC, Fulcrum Retail Energy LLC, Fulcrum Retail Holdings LLC, Tara Energy, LLC, Just Energy Marketing Corp., Just Energy Connecticut Corp., Just Energy Limited, Just Solar Holdings Corp., Just Energy (Finance) Hungary Zrt, Just Energy Ontario L.P., Just Energy Manitoba L.P., Just Energy (B.C.) Limited Partnership, Just Energy Québec L.P., Just Energy Trading L.P., Just Energy Alberta L.P., Just Green L.P., Just Energy Prairies L.P., JEBPO Services LLP, and Just Energy Texas LP and (ii) the Sponsor is executed and delivered by \_\_\_\_\_ (the “**Joining Party**”) as of \_\_\_\_\_, 2022. Each capitalized term used herein but not otherwise defined shall have the meaning set forth in the Agreement.

1. **Agreement to Be Bound.** The Joining Party hereby agrees to be bound by all of the terms of the Agreement, a copy of which is attached to this Joinder Agreement as Exhibit 1 (as the same has been or may be hereafter amended, restated, or otherwise modified from time to time in accordance with the provisions hereof). The Joining Party shall hereafter be deemed to be a “Supporting Creditor,” and “Party” for all purposes under the Agreement and with respect to any and all Claims held by such Joining Party.

2. **Representations and Warranties.** With respect to the aggregate principal amount of the Claims set forth below its name on the signature page hereto, the Joining Party hereby makes the representations and warranties of a Supporting Creditor, as applicable, as set forth in Section 13 of the Agreement to each other Party to the Agreement.

3. **Governing Law.** This Joinder Agreement shall be governed by and construed in accordance with the internal laws of the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to any conflict of law provisions which would require the application of the law of any other jurisdiction.

*[Signature page follows.]*

**[JOINING PARTY]**

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

Name:

Title:

Notice Address:

Principal Amount of Credit Facility Claims: \$ \_\_\_\_\_

Principal Amount and Type of Other Claims: \$ \_\_\_\_\_

Interests: \_\_\_\_\_

Acknowledged:

**COMPANY**

\_\_\_\_\_  
Name:

Title:

## Exhibit L

### Other Regulatory Approvals

The Applicants do not believe they are required to obtain any licenses, orders, or approvals from other federal, state, or local regulatory bodies in connection with the Proposed Transaction, except for:

- Canadian federal government approval under the Investment Canada Act if the Applicants determine that such approval should be obtained; and
- Competition Bureau approval under the Canadian Competition Act, if required.

Given the limited scope of the Proposed Transaction, the Applicants request waiver of the requirement of Section 33.2(i) of the Commission's regulations, 18 C.F.R. § 33.2(i), to file in this docket any approvals identified in this Exhibit L.

## Exhibit M

### Cross-Subsidization and Encumbrance of Utility Assets

Based on the facts and circumstances known to the Applicants or that are reasonably foreseeable, the Proposed Transaction will not result in, at the time of the Proposed Transaction or in the future, cross-subsidization of a non-utility associate company or the pledge or encumbrance of utility assets for the benefit of an associate company. The Proposed Transaction does not involve a franchised public utility with captive customers and, therefore, falls within one of the safe harbors set forth in the *Supplemental Policy Statement*.<sup>1</sup> The Commission has recognized that “the detailed explanation and evidentiary support required by Exhibit M may not be warranted” for safe harbor transactions,<sup>2</sup> and that, as a general matter “there is no potential for harm to customers” in the case of such transactions.<sup>3</sup>

Furthermore, in accordance with Section 33.2(j)(1)(ii) of the Commission’s regulations,<sup>4</sup> the Applicants verify that the Proposed Transaction will not result in: (1) transfers of facilities between a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, and an associate company; (2) new issuances of securities by traditional public utility associate companies that have captive customers or that own or provide transmission service over jurisdictional transmission facilities, for the benefit of an associate company; (3) new pledges or encumbrances of assets of a traditional public utility associate company that has captive customers or that owns or provides transmission service over jurisdictional transmission facilities, for the benefit of an associate company; or (4) new affiliate contracts between non-utility associate companies and traditional public utility

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<sup>1</sup> *FPA Section 203 Supplemental Policy Statement*, 120 FERC ¶ 61,060 (2007).

<sup>2</sup> *Id.* P 15.

<sup>3</sup> *Id.* P 17.

<sup>4</sup> 18 C.F.R. § 33.2(j)(1)(ii) (2021).

associate companies that have captive customers or that own or provide transmission service over jurisdictional transmission facilities, other than non-power goods and services agreements subject to review pursuant to FPA Sections 205 and 206.

**Attachment 1**  
**Verifications**



**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

Just Energy (U.S.) Corp.	)	
Hudson Energy Services LLC	)	
Just Energy Illinois Corp.	)	
Just Energy New York Corp.	)	Docket No. EC22-___-000
Just Energy Pennsylvania Corp.	)	
Just Energy Texas I Corp.	)	
Just Energy Solutions Inc.	)	
Just Energy Limited	)	

**VERIFICATION**

The undersigned, being duly sworn, states that he is the authorized representative of the Applicants; that he has read said application and knows the contents thereof; and that all of the statements contained therein with respect to the Applicants and their affiliates are true and correct to the best of his knowledge, information, and belief.




---

Michael Carter  
Chief Financial Officer

Dated: September 12, 2022

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

Just Energy (U.S.) Corp.	)	
Hudson Energy Services LLC	)	
Just Energy Illinois Corp.	)	
Just Energy New York Corp.	)	Docket No. EC22-___-000
Just Energy Pennsylvania Corp.	)	
Just Energy Texas I Corp.	)	
Just Energy Solutions Inc.	)	
Just Energy Limited	)	

**DECLARATION UNDER PENALTY OF PERJURY OF JOHN LANE  
(28 U.S.C. § 1746)**

I, John Lane, do hereby declare under penalty of perjury (in my capacity as an Authorized Person of HVS XVI LLC, LVS III SPE XV LP, OC II LVS XIV LP, TOCU XVII LLC, and OC III LFE I LP or their general partners and not in a personal capacity) as follows:

I am an Authorized Person of HVS XVI LLC, LVS III SPE XV LP, OC II LVS XIV LP, TOCU XVII LLC, and OC III LFE I LP or the general partners thereof and have the authority to verify the foregoing Application on behalf of HVS XVI LLC, LVS III SPE XV LP, OC II LVS XIV LP, TOCU XVII LLC, and OC III LFE I LP; I have read the foregoing Application; and, to my knowledge, information, and belief, all of the statements contained therein with respect to HVS XVI LLC, LVS III SPE XV LP, OC II LVS XIV LP, TOCU XVII LLC, and OC III LFE I LP and their respective affiliates are true and correct.



John Lane

in his capacity as an Authorized Person of HVS XVI LLC, LVS III SPE XV LP, OC II LVS XIV LP, TOCU XVII LLC, and OC III LFE I LP or their general partners and not in a personal capacity

Executed on: September 9, 2022

THIS IS **EXHIBIT “N”** REFERRED TO IN THE AFFIDAVIT OF MICHAEL CARTER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the Town of Sibley, in the State of Louisiana while the Commissioner was located in the City of Toronto, in the Province of Ontario.

*Tiffany Sun*

---

Commissioner for Taking Affidavits  
Miao Sun (LSO No. 84440N)

United States Court of Appeals  
for the Fifth Circuit

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No. 22-90042

---

IN RE ELECTRIC RELIABILITY COUNCIL OF TEXAS,  
INCORPORATED; CALPINE CORPORATION; NRG ENERGY,  
INCORPORATED,

*Debtors,*

ELECTRIC RELIABILITY COUNCIL OF TEXAS, INCORPORATED;  
CALPINE CORPORATION; NRG ENERGY, INCORPORATED,

*Petitioners,*

*versus*

JUST ENERGY TEXAS, L.P.; FULCRUM RETAIL ENERGY, L.L.C.;  
HUDSON ENERGY SERVICES, L.L.C.; JUST ENERGY TEXAS I  
CORPORATION; JUST ENERGY GROUP, INCORPORATED,

*Respondents.*

---

Motion for Leave to Appeal  
Pursuant to 28 U.S.C. § 158(D)

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Before ENGELHARDT, OLDHAM, and WILSON, *Circuit Judges.*

PER CURIAM:

IT IS ORDERED that the Petitioners' motion for leave to appeal  
under 28 U.S.C. § 158(d) is GRANTED.

*United States Court of Appeals*

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE,  
Suite 115  
NEW ORLEANS, LA 70130

August 16, 2022

Mr. Nathan Ochsner  
U.S. Bankruptcy Court, Southern District of Texas  
515 Rusk Street  
Houston, TX 77002

Misc No. 22-90042 Electric Reliability v. Just Energy  
USDC No. 4:21-AP-4399

Enclosed is a copy of the court's order granting the motion(s) for leave to appeal. The case is transferred to the court's general docket. All future inquiries should refer to docket No. 22-20424.

If there is a concurrent appeal at the district court, it is the appellant's responsibility to advise this court of any developments which may affect this appeal.

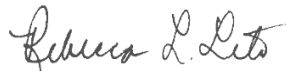
The appellant(s) should immediately pay the appropriate fees to the **bankruptcy court clerk** and notify us of the payment within 14 days from the date of this letter. If you do not, we will dismiss the appeal, see **5TH CIR. R.** 42.3.

By copy of this letter, I am requesting the **bankruptcy court** to send the certified record immediately.

Counsel desiring to appear in this case must electronically file a "Form for Appearance of Counsel", naming each party you represent, within 14 days from the date of this letter. The form is available from the Fifth Circuit's website, [www.ca5.uscourts.gov](http://www.ca5.uscourts.gov). If you fail to electronically file the form, we will remove your name from the docket. Pro se parties do not need to file an appearance form.

Sincerely,

LYLE W. CAYCE, Clerk



By: \_\_\_\_\_  
Rebecca L. Leto, Deputy Clerk  
504-310-7703

Enclosure(s)

cc: Mr. Jamil Alibhai  
Mr. Nicholas Barrows Bacarisse  
Mr. John Franklin Bash  
Ms. Elisabeth Catherine Butler  
Ms. Rachel Anne Ekery  
Mr. George H. Fibbe  
Mr. Wallace B. Jefferson  
Mr. Kevin M. Lippman  
Mr. Jonathan Mark Little  
Ms. Luckey McDowell  
Mr. Ian Roberts  
Mr. James C. Tecce  
Ms. Lindsay Weber

THIS IS **EXHIBIT “O”** REFERRED TO IN THE AFFIDAVIT OF MICHAEL CARTER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the Town of Sibley, in the State of Louisiana while the Commissioner was located in the City of Toronto, in the Province of Ontario.

*Tiffany Sun*

---

Commissioner for Taking Affidavits  
Miao Sun (LSO No. 84440N)

*United States Court of Appeals*

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE,  
Suite 115  
NEW ORLEANS, LA 70130

August 17, 2022

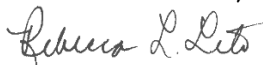
MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 22-20424 Electric Reliability v. Just Energy  
USDC No. 4:21-AP-4399

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk



By: \_\_\_\_\_  
Rebecca L. Leto, Deputy Clerk  
504-310-7703

Mr. Jamil Alibhai  
Mr. Nicholas Barrows Bacarisse  
Mr. John Franklin Bash  
Ms. Elisabeth Catherine Butler  
Ms. Rachel Anne Ekery  
Mr. George H. Fibbe  
Mr. Wallace B. Jefferson  
Mr. Kevin M. Lippman  
Mr. Jonathan Mark Little  
Ms. Luckey McDowell  
Mr. Nathan Ochsner  
Mr. Ian Roberts  
Mr. Aaron Michael Streett  
Mr. James C. Tecce  
Ms. Lindsay Weber

**P.S. Although the Court Order bears the Miscellaneous Case Number for the petition for permission to appeal, it is granting to expedite the appeal in this case - No. 22-20424. When briefing notice is issued, schedule will be expedited.**



**United States Court of Appeals  
for the Fifth Circuit**

---

No. 22-90042

---

IN RE ELECTRIC RELIABILITY COUNCIL OF TEXAS,  
INCORPORATED; CALPINE CORPORATION; NRG ENERGY,  
INCORPORATED,

*Debtors,*

ELECTRIC RELIABILITY COUNCIL OF TEXAS, INCORPORATED;  
CALPINE CORPORATION; NRG ENERGY, INCORPORATED,

*Petitioners,*

*versus*

JUST ENERGY TEXAS, L.P.; FULCRUM RETAIL ENERGY, L.L.C.;  
HUDSON ENERGY SERVICES, L.L.C.; JUST ENERGY TEXAS I  
CORPORATION; JUST ENERGY GROUP, INCORPORATED,

*Respondents.*

---

Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 4:21-AP-4399

---

ORDER:

IT IS ORDERED that Respondents' motion to expedite the appeal  
is GRANTED.

No. 22-90042

A handwritten signature in blue ink, appearing to read 'A. S. Oldham', is centered on the page.

---

ANDREW S. OLDHAM  
*United States Circuit Judge*

THIS IS **EXHIBIT “P”** REFERRED TO IN THE AFFIDAVIT OF MICHAEL CARTER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the Town of Sibley, in the State of Louisiana while the Commissioner was located in the City of Toronto, in the Province of Ontario.

*Tiffany Sun*

---

Commissioner for Taking Affidavits  
Miao Sun (LSO No. 84440N)

*United States Court of Appeals*FIFTH CIRCUIT  
OFFICE OF THE CLERKLYLE W. CAYCE  
CLERKTEL. 504-310-7700  
600 S. MAESTRI PLACE,  
Suite 115  
NEW ORLEANS, LA 70130

August 24, 2022

Mr. Jamil Alibhai  
Munsch Hardt Kopf & Harr, P.C.  
500 N. Akard Street  
Ross Tower  
Suite 3800  
Dallas, TX 75201-6659

Ms. Luckey McDowell  
Shearman & Sterling, L.L.P.  
2828 N. Harwood Street  
Suite 1800  
Dallas, TX 75201

Mr. Aaron Michael Streett  
Baker Botts, L.L.P.  
910 Louisiana Street  
Houston, TX 77002

No. 22-20424      Electric Reliability v. Just Energy  
USDC No. 4:21-AP-4399

Dear Counsel,

In light of the court order of August 17, 2022 granting the motion to expedite the above captioned appeal, please adhere to the following expedited briefing schedule.

- Appellants' brief is due on 09/21/2022
- Appellees' brief is due on 10/12/2022
- Appellants' reply brief is due on 10/26/2022

Record Excerpts: **5TH CIR. R.** 30.1.7(c) provides that the electronic PDF version of the record excerpts should contain pages representing the "tabs" identified in the index of the document. However, we remind attorneys that the actual paper copies of record excerpts filed with the court must contain actual physical tabs that extend beyond the edge of the document, to facilitate easy identification and review of tabbed documents.

Brief Covers: THE CASE CAPTION(S) ON BRIEF COVERS MUST BE EXACTLY THE SAME AS THE CASE CAPTION(S) ON THE ENCLOSED TITLE CAPTION SHEET(S). YOU WILL HAVE TO CORRECT ANY MODIFICATIONS YOU MAKE TO THE CAPTION(S) BEFORE WE SUBMIT YOUR BRIEF TO THE COURT.

Dismissal of Appeals: The clerk may dismiss appeals without notice if you do not file a brief on time, or otherwise fail to comply with the rules.

Appearance Form: If you have not electronically filed a "Form for Appearance of Counsel," you must do so within 14 days of this date. You must name each party you represent, See **FED. R. APP. P.** and **5TH CIR. R.** 12. The form is available from the Fifth Circuit's website, [www.ca5.uscourts.gov](http://www.ca5.uscourts.gov).

ATTENTION ATTORNEYS: Direct access to the electronic record on appeal (EROA) for pending appeals will be enabled by the U S District Court on a per case basis. Counsel can expect to receive notice once access to the EROA is available. Counsel must be approved for electronic filing and must be listed in the case as attorney of record before access will be authorized. Instructions for accessing and downloading the EROA can be found on our website at <http://www.ca5.uscourts.gov/docs/default-source/forms/instructions-for-electronic-record-download-feature-of-cm>. Additionally, a link to the instructions will be included in the notice you receive from the district court.

Sealed documents, except for the presentence investigation report in criminal appeals, will not be included in the EROA. Access to sealed documents will continue to be provided by the district court only upon the filing and granting of a motion to view same in this court.

### Guidance Regarding Citations in Pleadings.

**5TH CIR. R.** 28.2.2 grants the Clerk the authority to create a standard format for citation to the electronic record on appeal. You must use the proper citation format when citing to the electronic record on appeal.

- A. In single record cases, use the short citation form, "ROA" followed by a period, followed by the page number. For example, "ROA.123."
- B. For multiple record cases, cite "ROA" followed by a period, followed by the Fifth Circuit appellate case number of the record referenced, followed by a period, followed by the page of the record. For example, "ROA.13-12345.123."
- C. Please note each individual citation must end using a termination of a period (.) or semicolon (;).

Brief Template: The clerk's office offers brief templates and the ability to check the brief for potential deficiencies prior to docketing to assist in the preparation of the brief. To access these options, log in to CM/ECF and from the Utilities menu, select 'Brief Template' (Counsel Only) or 'PDF Check Document'.

**Reminder as to Sealing Documents on Appeal:** Our court has a strong presumption of public access to our court's records, and the court scrutinizes any request by a party to seal pleadings, record excerpts, or other documents on our court docket. Counsel moving to seal matters must explain in particularity the necessity for sealing in our court. Counsel do not satisfy this burden by simply stating that the originating court sealed the matter, as the circumstances that justified sealing in the originating court may have changed or may not apply in an appellate proceeding. It is the obligation of counsel to justify a request to file under seal, just as it is their obligation to notify the court whenever sealing is no longer necessary. An unopposed motion to seal does not obviate a counsel's obligation to justify the motion to seal.

Sincerely,

LYLE W. CAYCE, Clerk



By: \_\_\_\_\_  
Shawn D. Henderson, Deputy Clerk  
504-310-7668

Enclosure(s)

cc w/encl:

Mr. Nicholas Barrows Bacarisse  
Mr. John Franklin Bash  
Ms. Elisabeth Catherine Butler  
Ms. Rachel Anne Ekery  
Mr. George H. Fibbe  
Mr. Wallace B. Jefferson  
Mr. Kevin M. Lippman  
Mr. Jonathan Mark Little  
Mr. Ian Roberts  
Mr. James C. Tecce  
Ms. Lindsay Weber

P.S.: Due to the electronic record on appeal not being readily available and the expedited setting of this matter, counsel may submit a draft brief initially, omitting record citations if the record is not available at the time of filing. If necessary, counsel will be permitted to submit a final brief with the record citations once the record is filed.

Case No. 22-20424

In the Matter of Electric Reliability Council of Texas,  
Incorporated; Calpine Corporation; NRG Energy, Incorporated,

Debtors

Electric Reliability Council of Texas, Incorporated; Calpine  
Corporation; NRG Energy, Incorporated,

Appellants

v.

Just Energy Texas, L.P.; Fulcrum Retail Energy, L.L.C.; Hudson  
Energy Services, L.L.C.; Just Energy Texas I Corporation; Just  
Energy Group, Incorporated,

Appellees

THIS IS **EXHIBIT “Q”** REFERRED TO IN THE AFFIDAVIT OF MICHAEL CARTER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the Town of Sibley, in the State of Louisiana while the Commissioner was located in the City of Toronto, in the Province of Ontario.

*Tiffany Sun*

---

Commissioner for Taking Affidavits  
Miao Sun (LSO No. 84440N)



**United States Court of Appeals  
for the Fifth Circuit**

United States Court of Appeals  
Fifth Circuit

**FILED**

August 30, 2022

Lyle W. Cayce  
Clerk

---

No. 22-20424

---

IN THE MATTER OF ELECTRIC RELIABILITY COUNCIL OF TEXAS,  
INCORPORATED; CALPINE CORPORATION; NRG ENERGY,  
INCORPORATED,

*Debtors,*

ELECTRIC RELIABILITY COUNCIL OF TEXAS, INCORPORATED;  
CALPINE CORPORATION; NRG ENERGY, INCORPORATED,

*Appellants,*

*versus*

JUST ENERGY TEXAS, L.P.; FULCRUM RETAIL ENERGY, L.L.C.;  
HUDSON ENERGY SERVICES, L.L.C.; JUST ENERGY TEXAS I  
CORPORATION; JUST ENERGY GROUP, INCORPORATED,

*Appellees.*

---

Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 4:21-AP-4399

---

Before ENGELHARDT, OLDHAM, and WILSON, *Circuit Judges.*

PER CURIAM:

IT IS ORDERED that Appellants' opposed motion to stay the  
adversarial proceeding pending appeal is GRANTED.

*United States Court of Appeals*

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE,  
Suite 115  
NEW ORLEANS, LA 70130

August 30, 2022

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 22-20424      Electric Reliability v. Just Energy  
USDC No. 4:21-AP-4399  
USDC No. 4:21-MC-4399

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk

*Christina Rachal*

By: \_\_\_\_\_  
Christina C. Rachal, Deputy Clerk  
504-310-7651

Mr. Jamil Alibhai  
Mr. Nicholas Barrows Bacarisse  
Mr. John Franklin Bash  
Ms. Elisabeth Catherine Butler  
Ms. Rachel Anne Ekery  
Mr. George H. Fibbe  
Mr. Wallace B. Jefferson  
Mr. Kevin M. Lippman  
Mr. Jonathan Mark Little  
Ms. Luckey McDowell  
Mr. Nathan Ochsner  
Mr. Ian Roberts  
Mr. Aaron Michael Streett  
Mr. James C. Tecce  
Ms. Lindsay Weber

THIS IS **EXHIBIT “R”** REFERRED TO IN THE AFFIDAVIT OF MICHAEL CARTER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the Town of Sibley, in the State of Louisiana while the Commissioner was located in the City of Toronto, in the Province of Ontario.

*Tiffany Sun*

---

Commissioner for Taking Affidavits  
Miao Sun (LSO No. 84440N)

DAVIES

155 Wellington Street West  
Toronto, ON M5V 3J7 Canada

dwpv.com

Natasha MacParland  
T 416.863.5567  
nmacparland@dwpv.com

File 280798

August 15, 2022

**BY EMAIL**Marc Wasserman  
Osler, Hoskin & Harcourt LLP  
100 King St W.  
1 First Canadian Place  
Suite 6200, P.O. Box. 50  
Toronto, ON M5X 1B8

Dear Mr. Wasserman:

**Motion by Just Energy Group, Inc. Seeking Approval of Sale and Investment Solicitation Process (Ont. Sup. Ct. J. Court File No. CV-21-00658423-00CL)**

As you are aware, we are Canadian counsel to the Electric Reliability Council of Texas, Inc. (“**ERCOT**”) in connection with the adversary proceeding commenced by certain of the Applicants in the United States Bankruptcy Court of the Southern District of Texas against ERCOT on November 12, 2021 (the “**Adversary Proceeding**”).

We have reviewed the Applicants’ motion for approval of a sales and investment solicitation and certain related relief (the “**SISP Motion**”), together with responding and reply materials. As a party to the Adversary Proceeding, ERCOT has grave concerns with the proposed transaction structure in the SISP Motion because of its implications for the Adversary Proceeding and the underlying energy contracts with ERCOT that are at issue in the Adversary Proceeding.<sup>1</sup>

In particular, we are concerned with the Applicants’ proposed contradictory treatment of any recoveries *by* them and claims *against* them from the same Adversary Proceeding, even though all these claims arise from the same set of energy contracts. This proposed treatment appears to flout basic contract law principles regarding the assignment of obligations and also appears to effect in substance, if not in form, an impermissible partial disclaimer of the underlying contracts.

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<sup>1</sup> Capitalized terms not defined herein have the meanings given to them in the SISP Motion and the Transaction Agreement.

## DAVIES

The Applicants propose, on the one hand, that “the only obligations and liabilities” of the post-SISP Just Energy Entities shall consist of Energy Regulator Claims *excluding* “any ... Claim with respect to the subject matter of the Adversary Proceeding, including any Claim with respect to obligations of the Just Energy Entities underlying the invoices that are the subject of the Adversary Proceeding”.<sup>2</sup> Thus, the Applicants propose that any claims *against* the Applicants arising from the Adversary Proceeding and the associated energy contracts are Excluded Liabilities that “shall be assigned and become the sole obligation of the applicable Residual Co.”<sup>3</sup>

On the other hand, the SISP Motion appears to propose markedly different treatment for claims *by* the Applicants arising from the Adversary Proceeding and the associated energy contracts. As U.S. Class Counsel have observed in their responding materials, the Applicants propose to have the post-SISP Just Energy Entities realize (i) approximately USD \$147.5 million in recoveries flowing from Texas House Bill 4492, which is related to the Adversary Proceeding and the underlying energy contracts; and (ii) any additional funds recovered by the applicable Just Energy Entities in the Adversary Proceeding.<sup>4</sup> Moreover, the Applicants propose that the post-SISP Just Energy Entities will maintain the applicable energy contracts so that they can participate in the associated energy markets, as part of the Applicants’ desire to secure a going-concern exit strategy.

The Applicants’ proposed contradictory treatment of claims by them and claims against them—all arising from the same Adversary Proceeding and the same underlying energy contracts—is deeply concerning to ERCOT. *First*, it is an elementary principle of contract law that a party may not assign away its obligations while seeking to maintain the benefits under the contract.<sup>5</sup> Yet that appears to be exactly what the Applicants propose to do by allowing the post-SISP Just Energy Entities to enjoy the benefits of the contracts (i.e., the ability to participate in the Texas energy market and to receive any amounts awarded in the Adversary Proceeding), while assigning away the burdens from the same contracts to an insolvent Residual Co. (i.e., any claims arising against the Applicants from the Adversary Proceeding).

*Second*, the Applicants’ proposal appears to be a poorly disguised attempt to partially disclaim the underlying energy contracts with ERCOT. Of course, no disclaimer of any kind is possible for these contracts, because they are eligible financial contracts.<sup>6</sup> And even assuming they are not eligible financial contracts, neither a monitor nor a CCAA court has any power to approve a *partial* disclaimer of a contract, which is what the Applicants propose to do by attempting to hive off certain claims against them to Residual Co. while retaining the benefits for certain Just Energy Entities.<sup>7</sup> In short, it appears to

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<sup>2</sup> See Transaction Agreement, s. 1.1 (definition of “Energy Regulator Claim”), s. 2.3 (Liabilities of Just Energy Entities).

<sup>3</sup> Transaction Agreement, s. 2.4.

<sup>4</sup> Affidavit of Robert Trainor (May 26, 2022) at paras. 19-20.

<sup>5</sup> See, e.g., *Lounsbury Co. v. Duthie*, [1957] S.C.R. 590 at paras. 12-13; *Rodaro v. Royal Bank*, 2002 CarswellOnt 1047 (C.A.) at para. 33.

<sup>6</sup> See CCAA, s. 32(9)(a) (prohibiting disclaimer of eligible financial contracts).

<sup>7</sup> See *Yukon (Government of) v. Yukon Zinc Corporation*, 2021 YKCA 2 at paras. 106-07; *Doman Industries Ltd., Re*, 2003 CarswellBC 538 (B.C.S.C. [In Chambers]) at para. 15.

DAVIES

us that the Applicants are attempting to obscure through the complex structure of a reverse vesting order what they cannot do openly because of the clear prohibitions on the disclaimers of contracts.

In view of these obvious defects in the proposed transaction structure, we are at a loss to understand the legal basis that the Applicants believe justifies the unprecedented outcome they seek to achieve. Moreover, we note that despite U.S. Class Counsel raising some of these issues in its response to the SISP Motion, the Applicants' reply fails to address them. Accordingly, we ask that you take immediate steps to clarify the Applicants' position ahead of the August 17 motion date for the SISP Motion. In addition, with respect to the USD \$147.5 million received by certain Just Energy Entities from ERCOT, we ask that you confirm by the same date that the applicable Just Energy Entities are in compliance with the terms of Subchapter N of chapter 39 of the Public Utility Regulatory Act.

We reiterate, for the avoidance of doubt, that ERCOT does not attorn, and does not intend to attorn, to the jurisdiction of the Canadian courts. The events alleged to have given rise to the Adversary Proceeding arose exclusively in the State of Texas. ERCOT has not appeared or filed a claim in the Canadian insolvency proceeding and does not intend to do so. Nonetheless, ERCOT reserves all rights and remedies that may be available to it.

Yours very truly,

*Natasha MacParland*

Natasha MacParland

cc Paul Bishop, *FTI Consulting Canada Inc.*  
Bob Thornton, *Thornton Grout Finnigan LLP*  
Kevin Lippman, *Munsch Hardt Kopf & Harr, P.C.*  
Ryan Jacobs, *Cassels Brock & Blackwell LLP*  
Ken Rosenberg, *Paliare Roland Rosenberg Rothstein LLP*

THIS IS **EXHIBIT “S”** REFERRED TO IN THE AFFIDAVIT OF MICHAEL CARTER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the Town of Sibley, in the State of Louisiana while the Commissioner was located in the City of Toronto, in the Province of Ontario.

*Tiffany Sun*

---

Commissioner for Taking Affidavits  
Miao Sun (LSO No. 84440N)

Toronto

August 16, 2022

Marc Wasserman  
Direct Dial: 416.862.4908  
mwasserman@osler.com  
Our Matter Number: 1218715

Montréal

Calgary

**SENT BY EMAIL**

Ottawa

Natasha MacParland  
Davies Ward Phillips & Vineberg LLP  
155 Wellington Street West  
Toronto, Ontario M5V 3J7

Vancouver

New York

Dear Counsel:

**RE: Motion by Just Energy Group, Inc. Seeking Approval of Sale and Investment Solicitation Process (Ont. Sup. Ct. J. Court File No. CV-21-00658423-00CL) (the “Motion”).**

We are writing in response to your letter provided this afternoon, 12 days<sup>1</sup> after we served materials in support of the Motion. With respect, the letter reflects an obvious misunderstanding of reverse vesting orders and the stalking horse transaction contemplated in the Motion (the “**Transaction**”), which could have been easily clarified by way of a phone call at a much earlier date. Given the grave concerns you expressed in your letter, we are surprised that you did not reach out prior to sending your letter. Similarly, we are confused as to why you copied Mr. Rosenberg regarding concerns that ERCOT may have in respect of issues relating to the Adversary Proceeding<sup>2</sup> in circumstances where you have expressly stated that “ERCOT does not attorn, and does not intend to attorn, to the jurisdiction of the Canadian courts”; accordingly, we have removed Mr. Rosenberg from this response letter.

The purpose of this letter is to provide you with clarification regarding the customary use of reverse vesting orders in restructuring proceedings and the manner in which certain provisions in the Transaction documents are intended to operate in the context of the Applicants’ CCAA proceeding. Should you continue to have questions, we continue to remain available to discuss these with you.

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<sup>1</sup> While dated August 15, 2022, this letter was sent at 12:42 p.m. on August 16, 2022.

<sup>2</sup> Capitalized terms not defined herein have the meanings given to them in the Motion record and the exhibits thereto.



To be clear:

1. The Transaction does not involve a disclaimer of contracts (partial or otherwise) or violation of contract law. In addition, the Transaction does not contemplate an assignment of the contracts. Rather, all contracts of the acquired entities (which include the Just Energy Entities that are relevant to ERCOT) are being retained.
2. As you note, the Transaction is to be completed by way of a “reverse vesting order”. The exclusion of liabilities of an acquired entity, including those under retained contracts or otherwise, is a standard and customary feature of reverse vesting orders and has been approved on numerous occasions by Canadian courts. In fact, it is this very feature that drives the need for reverse vesting orders as it makes going concern restructurings possible in circumstances where a more traditional asset sale is not a viable option.
3. As noted, the contracts with ERCOT will remain with the applicable Just Energy Entities and will not be transferred to ResidualCo. It is not proposed that claims by and against Just Energy within the Adversary Proceeding be given contradictory treatment. The exclusion from “Energy Regulator Claims” noted in your letter is simply needed to ensure that Just Energy is not put in a position where it succeeds in the Adversary Proceeding in a ruling directing that the transfers paid by ERCOT are void and should be returned, but the underlying invoices (i.e., the obligation to ERCOT) are not declared void, leaving the underlying obligation in place, and then having Just Energy faced with an argument by ERCOT that the amounts demanded in the invoices still need to be repaid because the underlying invoices were not ultimately paid while the corresponding liability was not declared void and retained. Such a result would be absurd and the inclusion of the language noted in your letter is only intended to avoid such an absurd result. Furthermore, the liabilities underlying these invoices are no different than any other company liability that is well within the Court’s authority to exclude by way of a reverse vesting order.
4. The approximately USD \$147.5 million in recoveries flowing from Texas House Bill 4492 (“**HB4492**”) have been received by the Just Energy Entities and will be used to repay specified obligations on closing of the Transaction should it emerge as the Successful Bid pursuant to the SISP.
5. Just Energy has previously confirmed in the Adversary Proceeding that it will not be seeking duplicative recovery in the Adversary Proceeding of any portion of the recoveries that relate to HB4492 to the extent that the U.S. Bankruptcy Court directs ERCOT to repay those same amounts and they are determined to relate to invoices that are the subject of the Adversary Proceeding.

6. Any concerns regarding the use of a reverse vesting order structure are premature. The appropriate time to address concerns that any party may have regarding the use of a reverse vesting order structure is not at the Motion, but rather following the outcome of the SISP and at a subsequent motion that will be scheduled to seek the Court's approval of the Successful Bid, and only to the extent that such Successful Bid actually contemplates the use of such a reverse vesting order structure.
7. The comments in your letter regarding issues raised by US Class Counsel in respect of the SISP are misplaced and inaccurate.

We continue to remain available to discuss the foregoing with you at your convenience.

Yours very truly,



Marc Wasserman

- c: Robert Thornton, *Thornton Grout Finnigan LLP*  
Paul Bishop, *FTI Consulting Canada Inc.*  
Brian Schartz, *Kirkland & Ellis LLP*  
Kevin Lippman, *Munsch Hardt Kopf & Harr, P.C.*  
Ryan Jacobs, *Cassels Brock & Blackwell LLP*

THIS IS **EXHIBIT "T"** REFERRED TO IN THE AFFIDAVIT OF MICHAEL CARTER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the Town of Sibley, in the State of Louisiana while the Commissioner was located in the City of Toronto, in the Province of Ontario.

*Tiffany Sun*

---

Commissioner for Taking Affidavits  
Miao Sun (LSO No. 84440N)

August 29, 2022

**BY EMAIL**

Marc Wasserman  
Osler, Hoskin & Harcourt LLP  
100 King St W.  
1 First Canadian Place  
Suite 6200, P.O. Box. 50  
Toronto, ON M5X 1B8

Dear Mr. Wasserman:

**Motion by Just Energy Group, Inc. Seeking Approval of Sale and Investment Solicitation Process (Ont. Sup. Ct. J. Court File No. CV-21-00658423-00CL)**

Thank you for your letter of August 16, 2022. We disagree with the position you appear to be advocating. A reverse vesting order cannot alter contractual rights, nor should it enable avoidance of cure obligations. It appears that approval of the stalking horse transaction—in its current form—could result in both of these improper outcomes.

*First*, your letter wrongly contends that “[t]he exclusion of liabilities of an acquired entity, *including those under retained contracts* or otherwise, is a standard and customary feature of reverse vesting orders and has been approved on numerous occasions by Canadian courts.” Tellingly, your letter provides no authority for the approach to the law of contracts that you assert pervades the Canadian judiciary.

To the contrary, our courts have rejected the idea that a CCAA applicant can avoid contract cure costs simply by restructuring through a reverse vesting order. For example, in a recent Commercial List decision, Justice Penny approved an RVO transaction on the explicit understanding that “the purchaser will be required to pay applicable cure costs in respect of the retained contracts which has been structured in substantially the same manner as contemplated by s. 11.3(4) of the CCAA if a contract was assigned by court order.”<sup>1</sup> Moreover, the court’s analogy to the approach under s. 11.3 is particularly instructive here because under s. 11.3(2), an eligible financial contract—such as the underlying energy contracts at issue—cannot be assigned at all.

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<sup>1</sup> *Harte Gold Corp (Re)*, 2022 ONSC 653 at para. 75.

## DAVIES

As Justice Penny's and other decisions illustrate, because the statutory safeguards associated with a CCAA plan are missing in the RVO context, "[a]pproval of the use of an RVO structure should ... involve close scrutiny."<sup>2</sup> That means that before "any application to bypass this carefully crafted statutory process" is granted, the court must "consider whether there are compelling and exceptional circumstances to justify this extraordinary remedy, even where the RVO is not specifically contested, as the court needs to be satisfied of the integrity of the system and the potential prejudice to creditors and other stakeholders that may not be appearing before it."<sup>3</sup>

*Second*, any scrutiny of the Applicant's proposal substantiates ERCOT's concern. Indeed, your letter admits as much. You acknowledge that the underlying obligations arising under the energy contracts between the applicable Just Energy Entities and ERCOT may remain "in place," even assuming Just Energy prevails in the adversary proceeding. And, as you are aware, the remedy for an improper preference is to void the *preference* payment, not the underlying obligation, thus restoring the creditor to its pre-preference position and enabling it to seek satisfaction of any unpaid obligation.

Thus, in the event that Just Energy prevails in the adversary proceeding, there should be no mistake that ERCOT will vigorously pursue all rights and remedies available to it in the underlying energy contracts for invoices that are rendered unpaid. Your attempt to pre-empt such action by ERCOT by purporting to transfer such claims to an insolvent entity is, as we said in our initial letter, an improper attempt to sever obligations from future contract enforcement rights. It appears to us that the Applicants are attempting to obscure through the complex structure of a reverse vesting order what no court would otherwise allow them to do.

*Third*, to the extent we are mistaken about your intentions, that is a result of the little information you have made available to the Court. As you are aware, the closing of the Stalking Horse Agreement is subject to the completion of the Implementation Steps and the Excluded Contracts are listed in the disclosure letter. Neither of these documents have been made available, making it impossible to determine with certainty how the transaction will be implemented and which contracts and, consequently, which liabilities will ultimately be excluded.

In conclusion, we underscore, yet again, the risks that your proposed approach carries, including for the applicable Just Energy Entities' continuing relationships with ERCOT. We respectfully submit that the Applicants, together with their Monitor, would be well advised to reconsider the approach or confirm that ERCOT's concerns are unfounded through public filing and proposed order confirming same. Should you wish to discuss a constructive alternative for addressing ERCOT's concern, we remain at your disposal.

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<sup>2</sup> *Harte Gold Corp (Re)*, 2022 ONSC 653 at para. 38.

<sup>3</sup> *Arrangement relatif à Blackrock Metals Inc.*, 2022 QCCS 2828 at para. 97 (quotation omitted).

DAVIES

Finally, we reiterate, for the avoidance of doubt, that ERCOT does not attorn, and does not intend to attorn, to the jurisdiction of the Canadian courts. ERCOT reserves all rights and remedies that may be available to it.

Yours truly,

*Natasha MacParland*

Natasha MacParland

cc Paul Bishop, *FTI Consulting Canada Inc.*  
Bob Thornton, *Thornton Grout Finnigan LLP*  
Kevin Lippman, *Munsch Hardt Kopf & Harr, P.C.*  
Ryan Jacobs, *Cassels Brock & Blackwell LLP*  
Ken Rosenberg, *Paliare Roland Rosenberg Rothstein LLP*

THIS IS **EXHIBIT “U”** REFERRED TO IN THE AFFIDAVIT OF MICHAEL CARTER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant was located in the Town of Sibley, in the State of Louisiana while the Commissioner was located in the City of Toronto, in the Province of Ontario.

*Tiffany Sun*

---

Commissioner for Taking Affidavits  
Miao Sun (LSO No. 84440N)

Toronto

September 2, 2022

Marc Wasserman  
Direct Dial: 416.862.4908  
mwasserman@osler.com  
Our Matter Number: 1218715

Montréal

Calgary

**SENT BY EMAIL**

Ottawa

Natasha MacParland  
Davies Ward Phillips & Vineberg LLP  
155 Wellington Street West  
Toronto, Ontario M5V 3J7

Vancouver

New York

Dear Counsel:

**RE: Motion by Just Energy Group, Inc. Seeking Approval of Sale and Investment Solicitation Process (Ont. Sup. Ct. J. Court File No. CV-21-00658423-00CL) (the “Motion”).**

We write in response to your letter dated August 29, 2022 and further to our letter of August 16, 2022.<sup>1</sup> Similar to our prior correspondence, we have removed Mr. Rosenberg from this response. His continued inclusion in your correspondence (notwithstanding the concerns expressed in our prior letter) appears to be an indirect effort to put ERCOT’s positions before the CCAA Court without ERCOT attorning to the CCAA Court’s jurisdiction. Such efforts are wholly inappropriate. Just Energy reserves all rights (including under applicable U.S. law) with respect to your client’s attornment to the CCAA Court.

There appears to be a continued conflation in your letter of the relief sought by the Just Energy Entities in its Motion (which Motion was granted by the CCAA Court on August 17, 2022) and relief which may eventually be sought by the Just Energy Entities in a future motion to approve whatever Successful Bid is selected within the SISP. Such future motion may, or may not, include a request for a reverse vesting order. At that time, to the extent that the Successful Bid contemplates the use of a reverse vesting order structure, the Just Energy Entities will fully brief the issue and interested parties will have an opportunity to participate in a hearing before the CCAA Court. Your client’s continued focus at this time on the propriety and mechanics of a reverse vesting order when a Successful Bid has not even been identified or selected is premature.

In response to the various specific points raised in your letter, we advise as follows:

1. our previous correspondence included no caselaw references or lengthy citations because it is a letter – not a factum. As noted above, the use of a reverse vesting

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<sup>1</sup> Capitalized terms not defined herein have the meanings given to them in the Motion record and the exhibits thereto.



order structure will be fully briefed by the Just Energy Entities at the appropriate time and to the extent necessary;

2. we are very familiar with Justice Penny's decision in the *Harte Gold* case as we acted as counsel for the purchaser in respect of the reverse vesting order at issue in that decision. Again, as we stated at the return of the Motion on August 17<sup>th</sup> and as noted by Justice McEwen, relevant caselaw (including *Harte Gold*) will be briefed by the Just Energy Entities at the appropriate time and to the extent necessary;
3. we disagree with your suggestion that the Just Energy Entities are attempting to obscure a request for improper relief under the guise of a reverse vesting order structure. No approval of a reverse vesting order (or any other transaction structure) has yet been sought. The payment of cure costs (if any) and other transaction specific relief will be addressed by the Just Energy Entities at the applicable time – when the CCAA Court's approval of a Successful Bid is sought; and
4. we disagree with your suggestion that the Just Energy Entities have made little information available to the Court. The Stalking Horse Transaction Agreement and all information pertinent to the August 17<sup>th</sup> Motion was included in the company's court materials. The disclosure letter which you assert the Just Energy Entities have failed to disclose is attached at Exhibit A to Mr. Carter's August 4<sup>th</sup> Affidavit. The list of "Excluded Contracts" is attached as Schedule 2.2(c) to that disclosure letter. The Implementation Steps will be disclosed at the appropriate time in the event the Stalking Horse Transaction is the Successful Bidder. Like the other issues addressed in your letter, this concern is premature and creates issues where none currently exist.

The Just Energy Entities are currently focused on implementing the SISF for the benefit of all stakeholders. We continue to remain available to discuss any of the foregoing issues with you in an attempt to find a consensual resolution.

Yours very truly,



Marc Wasserman

c: Robert Thornton, *Thornton Grout Finnigan LLP*  
Paul Bishop, *FTI Consulting Canada Inc.*  
Brian Schartz, *Kirkland & Ellis LLP*  
Kevin Lippman, *Munsch Hardt Kopf & Harr, P.C.*  
Ryan Jacobs, *Cassels Brock & Blackwell LLP*

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, C. C- 36, AS AMENDED; Court File No: CV-21-00658423-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JUST ENERGY GROUP INC. ET AL.

Applicants

*Ontario*  
**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at: TORONTO

**AFFIDAVIT OF MICHAEL CARTER**

**OSLER, HOSKIN & HARCOURT LLP**  
100 King Street West, 1 First Canadian Place  
Suite 6200, P.O. Box 50  
Toronto ON M5X 1B8

Marc Wasserman (LSO# 44066M)  
Michael De Lellis (LSO# 48038U)  
Jeremy Dacks (LSO# 41851R)

Tel: (416) 362-2111  
Fax: (416) 862-6666

Counsel for the Applicants

# TAB 3

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

**COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JUST ENERGY GROUP INC., JUST ENERGY CORP., ONTARIO ENERGY COMMODITIES INC., UNIVERSAL ENERGY CORPORATION, JUST ENERGY FINANCE CANADA ULC, HUDSON ENERGY CANADA CORP., JUST MANAGEMENT CORP., JUST ENERGY FINANCE HOLDING INC., 11929747 CANADA INC., 12175592 CANADA INC., JE SERVICES HOLDCO I INC., JE SERVICES HOLDCO II INC., 8704104 CANADA INC., JUST ENERGY ADVANCED SOLUTIONS CORP., JUST ENERGY (U.S.) CORP., JUST ENERGY ILLINOIS CORP., JUST ENERGY INDIANA CORP., JUST ENERGY MASSACHUSETTS CORP., JUST ENERGY NEW YORK CORP., JUST ENERGY TEXAS I CORP., JUST ENERGY, LLC, JUST ENERGY PENNSYLVANIA CORP., JUST ENERGY MICHIGAN CORP., JUST ENERGY SOLUTIONS INC., HUDSON ENERGY SERVICES LLC, HUDSON ENERGY CORP., INTERACTIVE ENERGY GROUP LLC, HUDSON PARENT HOLDINGS LLC, DRAG MARKETING LLC, JUST ENERGY ADVANCED SOLUTIONS LLC, FULCRUM RETAIL ENERGY LLC, FULCRUM RETAIL HOLDINGS LLC, TARA ENERGY, LLC, JUST ENERGY MARKETING CORP., JUST ENERGY CONNECTICUT CORP., JUST ENERGY LIMITED, JUST SOLAR HOLDINGS CORP. AND JUST ENERGY (FINANCE) HUNGARY ZRT.

Applicants

**AFFIDAVIT OF MARK CAIGER**

I, Mark Caiger, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am a Managing Director, Mergers & Acquisitions, at BMO Nesbitt Burns Inc. ("**BMO**"). I have 30 years of transaction experience and have been working at BMO for more than 20 years. While at BMO, I have had a broad range of mergers and acquisitions and restructuring experience involving transaction values totaling in excess of \$115 billion. Recapitalization/restructuring experience includes an aggregate transaction value that exceeds \$34 billion and includes advisory assignments for AbitibiBowater, Call-Net Enterprises (Sprint Canada), Calpine Power Income

Fund, Connacher Oil & Gas, MEG Energy, PostMedia, Sears Canada and Yellow Media, among others. I am a Chartered Professional Accountant and a CFA Charterholder and am a member of the Insolvency Institute of Canada (for which I previously served as a member of the Board of Directors).

2. BMO was engaged by Just Energy Group Inc. (“**Just Energy**”) in late February 2021 as an independent financial advisor to assist Just Energy in dealing with the liquidity challenges it was facing following the unprecedented winter storm in February 2021 in Texas and to provide financial advisory services to, among other things, assist in exploring and evaluating potential transactional alternatives. BMO’s engagement as financial advisor to Just Energy was approved by the Ontario Superior Court of Justice (Commercial List) (the “**CCAA Court**”) in the Initial Order (as amended and restated, the “**Initial Order**”) granted March 9, 2021 (the “**Filing Date**”).

3. Prior to BMO’s engagement as financial advisor to Just Energy in February 2021, BMO had provided financial advisory services to Just Energy from March to September 2020 in respect of Just Energy’s exploration and evaluation of potential transaction alternatives as part of a broader strategic review process undertaken by Just Energy commencing in mid-2019. The process concluded in Just Energy completing a balance sheet recapitalization transaction through a plan of arrangement under section 192 of the *Canada Business Corporations Act* on September 28, 2020.

4. I was a member of the BMO senior advisory team on both assignments for Just Energy and as such, I have personal knowledge of the matters deposed to in this affidavit. Where I have relied on other sources for information, I have stated the source of my information and I believe such information to be true.

5. All terms used but not otherwise defined herein have the meanings given to such terms in the Sale and Investment Solicitation Process (“**SISP**”) approved by the CCAA Court by the SISP Approval Order granted August 18, 2022.

## A. Overview of the SISP Structure

6. The SISP was structured as a two-stage process to be implemented by BMO and the Just Energy Entities under the oversight of FTI Consulting Canada Inc., in its capacity as court-appointed monitor (the “**Monitor**”).

7. Pursuant to the SISP, interested parties could submit offers for executable transaction alternatives that were superior to the sale transaction provided for in the transaction agreement dated as of August 4, 2022 between Just Energy and the Purchaser<sup>1</sup> (the “**Transaction Agreement**” and the transactions provided therein, the “**Transaction**”) involving the shares and/or the business and assets of the Just Energy Entities. Such transaction alternatives could include, among other things, a sale of some or all of Just Energy’s shares, assets or business, and/or an investment in Just Energy.

8. The first stage of the SISP required interested parties to submit a written notice of intention to bid (“**NOI**”) containing certain information about the proposed bid on or before September 8, 2022 (the “**NOI Deadline**”). If no NOIs were received by the NOI Deadline, the SISP provided that the SISP would be deemed to be terminated and the Transaction would be the Successful Bid. If one or more NOIs were received in accordance with the SISP by the NOI Deadline, the SISP would proceed to the second stage which required that interested parties submit a Qualified Bid meeting certain enumerated criteria by October 13, 2022 (the “**Qualified Bid Deadline**”).

9. If one or more Qualified Bids were received by Just Energy on or before the Qualified Bid Deadline, the SISP required Just Energy to proceed with an auction process (the “**Auction**”) to

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<sup>1</sup> LVS III SPE XV LP, TOCU XVII LLC, HVS XVI LLC, OC II LVS XIV LP, OC III LFE I LP and CBHT Energy I LLC (the “**Purchaser**”).

determine the successful bid(s). The SISP provided that the Auction was to be administered in accordance with Schedule “A” to the SISP.

10. As discussed further below, while a number of NOIs were received by the Just Energy Entities by the NOI Deadline, no bidders submitted a Qualified Bid on or before the Qualified Bid Deadline in the second stage of the SISP and, as a result, the Transaction was declared to be the Successful Bid and no Auction was undertaken.

#### **B. Stage 1 of the SISP**

11. Stage 1 of the SISP commenced on August 4, 2022 when the Just Energy Entities served their Motion Record seeking approval of the SISP and the Transaction Agreement, among other things. On August 5, 2022, Just Energy issued a press release announcing the filing of the SISP Approval Motion (as defined below) and inviting interested parties to participate in the SISP (the “**Press Release**”).

12. On August 5, 2022, BMO directly contacted 41 potentially interested parties, including strategic and financial parties, by phone and/or email to: (a) advise that the Just Energy Entities had filed a motion in their CCAA proceedings seeking, among other things, approval of the SISP (the “**SISP Approval Motion**”); (b) advise that BMO was contacting the applicable organization to invite it to participate in the SISP and to discuss the opportunity further directly with BMO; (c) attach copies of the Press Release, a document providing public information about the Just Energy Entities (the “**Teaser**”), the proposed form of SISP, and a form of non-disclosure agreement (collectively, the “**Initial SISP Materials**”); and (d) provide contact information for BMO for diligence queries, return of completed non-disclosure agreements, and other process-related matters. Attached as **Exhibits “A” to “D”** are copies of the Initial SISP Materials.

13. In addition to the 41 parties contacted directly by BMO, three additional third parties contacted BMO at various times throughout stage 1 of the SISP process to express interest in

participating in the SISP and a potential transaction opportunity with the Just Energy Entities. BMO provided each third party with copies of the Initial SISP Materials on August 12, 15 and 18, respectively.

14. During stage 1 of the SISP, 5 third parties entered into non-disclosure agreements with Just Energy (in addition to the 2 non-disclosure agreements previously executed by (i) U.S. Plaintiffs' Counsel (as defined below) and their financial advisor, and (ii) their proposed financier) in order to participate in the SISP and obtain access to the virtual data room created by the Just Energy Entities for purposes of the SISP. Parties that executed non-disclosure agreements with Just Energy were provided access to certain confidential information regarding the Just Energy Entities and their business, including access to the confidential virtual data room. U.S. Plaintiffs' Counsel and their financial advisor were provided early access to the SISP virtual data room on July 20, 2022, notwithstanding that the SISP had not yet commenced, in order to give them as much time as possible with the information and maximize their opportunity to submit an alternative restructuring proposal in the SISP.

15. Participants in stage 1 of the SISP were also offered a management presentation.

16. BMO provided a SISP process letter (the "**SISP Process Letter**") to all parties that had executed a non-disclosure agreement with Just Energy and, a day prior to the NOI Deadline, to one additional party which had not executed a non-disclosure agreement but indicated their intention to submit an NOI. The SISP Process Letter invited parties to submit a NOI and ultimately a Qualified Bid in the SISP. The SISP Process Letter also provided potential bidders with information regarding the data room, due diligence issues, and the requirements for each NOI. A copy of the SISP Process Letter is attached hereto as **Exhibit "E"**.

17. The Just Energy Entities and BMO worked with potentially interested parties throughout stage 1 of the SISP to respond to inquiries, provide additional requested information, update the



data room, and discuss the Just Energy Entities and their business, finances, operations and other diligence-related matters.

18. The Just Energy Entities (or BMO on behalf of the Just Energy Entities) received 4 NOIs from potential third-party purchasers (the “**Stage 2 SISP Participants**”) by the NOI Deadline (September 8, 2022). Accordingly, BMO advised participants that had submitted an NOI that Just Energy had received multiple NOIs and was moving forward with the SISP process.

19. Copies of the 4 NOIs received by the Just Energy Entities are attached as **Confidential Exhibit “F”** hereto. The NOIs contain confidential, commercially sensitive information regarding the identities of the 4 participants and their respective corporate, operational and financial information disclosed in support of the requirement that each NOI must have a reasonable prospect of culminating in a Qualified Bid. In addition, the NOIs contain confidential and commercially sensitive information regarding the scope and subject matter of each participant’s proposed bid. Dissemination of this information would pose a serious risk to the commercial interests of the Stage 2 SISP Participants and the Just Energy Entities and their stakeholders should the Transaction fail to close. I understand that the Just Energy Entities are accordingly seeking a sealing order with respect to Confidential Exhibit F.

20. No NOI was received from counsel in the Putative Class Actions<sup>2</sup> (“**U.S. Plaintiffs’ Counsel**”) by the NOI Deadline. Accordingly, on September 12, 2022, BMO and Osler, Hoskin & Harcourt LLP (“**Osler**”), Canadian counsel for the Just Energy Entities, and the Monitor attended a conference call with U.S. Plaintiffs’ Counsel regarding the SISP process. BMO has not received any further communication from U.S. Plaintiffs’ Counsel or their representatives.

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<sup>2</sup> *Trevor Jordet v. Just Energy Solutions, Inc.*, Case No. 2:18-cv-01496-MMB (PC-11175-1) and in *Fira Donin and Inna Golovan v. Just Energy Group Inc. et al.*, Case No. 1:17-cv-05787-WFK-SJB (PC-11177-1).

21. Between September 12, 2022 and September 14, 2022, BMO wrote all third parties that had been granted access to the data room who had not submitted a NOI to advise that BMO had revoked their data room access and to request that all confidential information accessed per the terms of their respective non-disclosure agreement be returned or destroyed, with confirmation of such return or destruction provided to BMO as soon as possible.

### C. Stage 2 of the SISP

22. Certain of the Stage 2 SISP Participants continued to conduct their due diligence following the NOI Deadline, including reviewing information regarding the Just Energy Entities and their business, requesting further information from BMO and the Just Energy Entities and, with respect to one Stage 2 SISP Participant, attending a management presentation with representatives of the Just Energy Entities, BMO and the Monitor on September 20, 2022.

23. In the weeks following the NOI Deadline, three of the four Stage 2 SISP Participants either advised BMO that they were declining to move forward in the SISP Process or stopped corresponding with BMO and failed to respond to follow-up requests.

24. On September 22, 2022, BMO provided the one Stage 2 SISP Participant that remained engaged in the SISP process a Qualified Bid process letter (the “**Qualified Bid Process Letter**”) inviting it to submit a binding Qualified Bid in the SISP and providing details regarding the substantive and procedural requirements for submission of a Qualified Bid. On September 23, 2022, BMO provided to the remaining Stage 2 SISP Participant a form of transaction agreement (including a form of disclosure schedules) and a form of approval and reverse vesting order. Importantly, the Qualified Bid Process Letter directed the Stage 2 SISP Participant to submit its Qualified Bid to the Monitor only in order to maintain the integrity of the process prior to expiry of the Qualified Bid Deadline. Attached as **Exhibit “G”** is a copy of the Qualified Bid Process Letter with the identity of the Stage 2 SISP Participant redacted.

25. While BMO and the Just Energy Entities continued to work with the remaining Stage 2 SISP Participant throughout stage 2 of the SISP, no Qualified Bid was received from the Stage 2 SISP Participant (or any other parties) on or before the Qualified Bid Deadline (October 13, 2022). Accordingly, the Transaction was the only Qualified Bid received in the SISP Process.

26. In accordance with the Court-approved SISP, the Just Energy Entities, with the assistance of BMO and under the oversight of the Monitor, completed a thorough canvassing of the market with the objective of identifying a transaction that was superior to the Transaction and which maximized value for the benefit of the Just Energy Entities' stakeholders. The SISP was conducted in a manner consistent with a fair and impartial sale process and provided a reasonable opportunity for all interested parties to submit a Qualified Bid for some or all of the Just Energy Entities' business and/or assets.

27. No Qualified Bids other than the Transaction were received. The Transaction accordingly represents the best executable going concern transaction available to the Just Energy Entities in the circumstances of these CCAA proceedings.

SWORN BEFORE ME over video  
teleconference this 17<sup>th</sup> day of October, 2022  
pursuant to O. Reg 431/20, Administering  
Oath or Declaration Remotely. The affiant and  
the Commissioner were located in the City of  
Toronto, in the Province of Ontario.



Commissioner for Taking Affidavits  
Blair McRadu (LSO No. 85586M)



Mark Caiger

THIS IS **EXHIBIT "A"** REFERRED TO IN THE AFFIDAVIT OF MARK CAIGER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant and the Commissioner were located in the City of Toronto, in the Province of Ontario.



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Commissioner for Taking Affidavits  
Blair McRadu (LSO No. 85586M)



## Just Energy Announces Execution of Stalking Horse Transaction Agreement and SISP Support Agreement and Filing of Motion for Approval of SISP

August 5, 2022

TORONTO, Aug. 05, 2022 (GLOBE NEWSWIRE) -- Just Energy Group Inc. ("**Just Energy**" or the "**Company**") (NEX:JE.H; OTC:JENGQ), a retail energy provider specializing in electricity and natural gas commodities and bringing energy efficient solutions and renewable energy options to customers, today announced that it has entered into a stalking horse transaction agreement (the "**Stalking Horse Transaction Agreement**") and a support agreement (the "**SISP Support Agreement**") (both subject to Court (as defined below) approval and each as described further below) in connection with a proposed sale and investment solicitation process ("**SISP**") that is intended to facilitate its exit from the company's ongoing insolvency proceedings as a going concern. Upon execution of the SISP Support Agreement, Just Energy and the other parties thereto terminated the previously announced plan support agreement and backstop commitment letter that was entered into in connection with the previously announced proposed plan of compromise and arrangement (the "**Plan**").

Just Energy and certain of its affiliates (collectively, the "**Just Energy Entities**") filed a motion in its proceedings under the *Companies' Creditors Arrangement Act* (the "**CCAA**") before the Ontario Superior Court of Justice (Commercial List) (the "**Court**") on August 4, 2022 for an Order (the "**SISP Order**") that, among other things: (i) authorizes the Company to conduct the SISP with the assistance of BMO Nesbitt Burns Inc., as financial advisor, and FTI Consulting Canada Inc., as Court-appointed monitor (the "**Monitor**"), in accordance with the terms therein (the "**SISP Procedures**"), and (ii) approves the execution by the applicable Just Energy Entities of the Stalking Horse Transaction Agreement and the SISP Support Agreement, each of which are described further below. The Just Energy Entities also intend to seek recognition in the U.S. of the SISP Order in their Chapter 15 cases.

Subject to the granting of the SISP Order at the motion scheduled for August 17, 2022:

- If one or more qualified bids (other than the transaction contemplated by the Stalking Horse Transaction Agreement) are received by September 29, 2022, then Just Energy intends to proceed with an auction to determine the successful bid(s), subject to the terms of the SISP Procedures. The qualified bid criteria under the terms of the SISP Procedures include, among other things, that bids:
  - provide the necessary Cash Consideration Value (as defined in the SISP Procedures) to be used together with the Just Energy Entities' cash on hand for the payment of all secured claims and all claims ranking in priority, the Break-Up Fee (as defined below) and a bid increment of no less than \$1,000,000, which Cash Consideration Value is estimated to be approximately USD\$460,000,000, assuming a closing date of December 31, 2022;
  - do not contain any board or equity holder approval, financing or due diligence conditions; and
  - are accompanied by a cash deposit equal to 10% of the Cash Consideration Value.
- If the Stalking Horse Purchaser (as defined below) is determined to be the successful bidder at the conclusion of the SISP and the transaction contemplated in the Stalking Horse Transaction Agreement (the "**Stalking Horse Transaction**") is subsequently approved by the Court, the Stalking Horse Purchaser will own all of the outstanding equity of Just Energy (U.S.) Corp., which will be the new parent company of all of the Just Energy Entities, including the Company, and the Just Energy Entities will continue their business and operations as a going concern. All currently outstanding shares, options and other equity of Just Energy will be cancelled or redeemed for no consideration and without any vote of the existing shareholders.

Interested parties are invited to participate in the SISP in accordance with the SISP Procedures. In order to participate in the SISP and obtain access to a virtual data room, all interested parties must comply with the terms and conditions set forth in the SISP Procedures, a copy of which will be attached to the SISP Order and available on the Monitor's website at <http://cfcanada.fticonsulting.com/justenergy>. Parties interested in participating in the SISP should contact the Monitor at [justenergy@fticonsulting.com](mailto:justenergy@fticonsulting.com).

A copy of the Stalking Horse Transaction Agreement and SISP Support Agreement will be made available on the SEDAR website at [www.sedar.com](http://www.sedar.com), on the U.S. Securities and Exchange Commission's website at [www.sec.gov](http://www.sec.gov) and on Just Energy's website at [www.investors.justenergy.com](http://www.investors.justenergy.com).

Further information regarding the CCAA proceedings is available at the Monitor's website at <http://cfcanada.fticonsulting.com/justenergy> and at the Omni Agent Solutions case website at <https://cases.omniagentsolutions.com/?clientId=3600>.

Information about the CCAA proceedings generally can also be obtained by contacting the Monitor by phone at 416-649-8127 or 1-844-669-6340, or by email at [justenergy@fticonsulting.com](mailto:justenergy@fticonsulting.com).

### STALKING HORSE TRANSACTION AGREEMENT

Just Energy has entered into the Stalking Horse Transaction Agreement with the lenders under the Company's debtor-in-possession financing facility, one of their affiliates and the holder of certain assigned secured claims (collectively, the "**Stalking Horse Purchaser**"). Key terms of the Stalking Horse Transaction include:

- The purchase price payable pursuant to the Stalking Horse Transaction is (i) cash in the amount of US\$184,857,692.31, plus up to an additional \$10 million solely in the event that additional amounts are required to make applicable payments pursuant to the Stalking Horse Transaction Agreement; plus (ii) a credit bid of approximately US\$230 million plus accrued interest of secured claims assigned to the Stalking Horse Purchaser; plus (iii) the assumption of Assumed Liabilities (as defined below), including up to CAD\$10 million owing under the Company's first lien credit facility (the "**Credit Facility Remaining Debt**") to remain outstanding under an amended and restated credit agreement.
- Post-filing claims, the Credit Facility Remaining Debt, claims by energy regulators, and certain other liabilities enumerated in the Stalking Horse Transaction Agreement ("**Assumed Liabilities**") will continue to be liabilities of the Just Energy Entities following consummation of the Stalking Horse Transaction. Excluded liabilities and excluded assets of the Just Energy Entities will be discharged from the Just Energy Entities pursuant to an Approval and Vesting Order to be sought subject to the Stalking Horse Transaction being the successful bid in the SISP.

The consummation of the Stalking Horse Transaction is subject to satisfaction or waiver of a number of conditions precedent set forth in the Stalking Horse Transaction Agreement including, among other things, receipt of all required regulatory approvals and the Court granting an Approval and Vesting Order by October 15, 2022 and the recognition of such Approval and Vesting Order by the U.S. Court under Chapter 15 by November 16, 2022. The outside date for completion of the Stalking Horse Transaction is November 30, 2022, subject to extension in certain circumstances described in the Stalking Horse Transaction Agreement.

In the event the Stalking Horse Transaction Agreement is terminated in accordance with applicable terms, payment of a Break-Up Fee as described below is required.

Under the Stalking Horse Transaction, no amounts will be available for distribution to the Just Energy Entities' general unsecured creditors, including the Term Loan Lenders.

#### **SISP SUPPORT AGREEMENT**

In connection with the Stalking Horse Transaction Agreement, the Just Energy Entities have entered into the SISP Support Agreement with: (a) the Stalking Horse Purchaser, (b) the Company's credit facility lenders, and (c) the Company's largest commodity supplier. Pursuant to the SISP Support Agreement, among other things, the Just Energy Entities have agreed to use commercially reasonable efforts to complete the Stalking Horse Transaction (subject to carrying out the SISP in accordance with the SISP Order), and the other counterparties have agreed to take actions to support the Stalking Horse Transaction, in each case on the terms and conditions set forth in the SISP Support Agreement.

The SISP Support Agreement may be terminated in certain circumstances, including by any of the Just Energy Entities in the event that the board of directors or similar governing body of such entity determines, upon the advice of outside legal counsel and financial advisors, that proceeding with the Stalking Horse Transaction would be inconsistent with the exercise of its fiduciary duties or applicable law; provided that the Just Energy Entities do not have this right to terminate the SISP Support Agreement if no qualified bids are received under the SISP by the applicable deadline or the Stalking Horse Transaction is declared the successful bid in accordance with the SISP Procedures.

In the foregoing termination scenario or in the event of Court approval of an alternative transaction, the Just Energy Entities would be required to pay a termination fee to the Stalking Horse Purchaser in the amount of US\$14.66 million (the "**Break-Up Fee**") on closing of an alternative transaction, subject to the granting of the SISP Order.

#### **FURTHER INFORMATION**

The Company has been advised by OC II VS XIV LP ("OC II"), a Delaware limited partnership, and certain other funds under common management with OC II (collectively, the "Funds"), who own approximately 29% of the issued and outstanding common shares of the Company, that OC II has filed an amended early warning report pursuant to Canadian securities laws to provide updated disclosure relating to the Funds' participation in the Stalking Horse Transaction, which is available at [www.sedar.com](http://www.sedar.com) under the Company's issuer profile.

The above descriptions are summaries only and are subject to the terms of the Stalking Horse Transaction Agreement and SISP Support Agreement, copies of which are available on the Monitor's website and will be made available on the SEDAR website at [www.sedar.com](http://www.sedar.com), on the U.S. Securities and Exchange Commission's website at [www.sec.gov](http://www.sec.gov) and on Just Energy's website at <https://investors.justenergy.com/>.

Just Energy's legal advisors in connection with the CCAA and Chapter 15 proceedings and proposed SISP are Osler, Hoskin & Harcourt LLP and Kirkland & Ellis LLP. The Company's financial advisor is BMO Nesbit Burns Capital Markets.

#### **About Just Energy Group Inc.**

Just Energy is a retail energy provider specializing in electricity and natural gas commodities and bringing energy efficient solutions, carbon offsets and renewable energy options to customers. Currently operating in the United States and Canada, Just Energy serves residential and commercial customers. Just Energy is the parent company of Amigo Energy, Filter Group, Hudson Energy, Interactive Energy Group, Tara Energy, and Terrapass. Visit <https://investors.iustenergy.com/> to learn more.

#### **FORWARD-LOOKING STATEMENTS**

*This press release may contain forward-looking statements, including, without limitation, expectations regarding: the pursuit of a SISP by the Just Energy Entities and the anticipated results thereof; consummation of the Stalking Horse Transaction and the anticipated results thereof; the ability of the Just Energy Entities to continue as a going concern following consummation of the Stalking Horse Transaction; and timing for applications to the*

*Court for required approvals. These statements are based on current expectations that involve several risks and uncertainties which could cause actual results to differ from those anticipated. These risks include, but are not limited to, risks with respect to: granting of the SISP Order and recognition thereof by the U.S. Court; satisfaction of the conditions precedent to consummation of the Stalking Horse Transaction, including approval thereof by the Court and the U.S. Court and receipt of all required regulatory approvals; the ability of the Just Energy Entities to continue as a going concern; the outcome of proceedings under the CCAA and similar legislation in the United States; the outcome of any potential litigation with respect to the February 2021 extreme weather event in Texas, the outcome of any invoice dispute with the Electric Reliability Council of Texas; the impact of the evolving COVID-19 pandemic on the Company's business, operations and sales; uncertainties relating to the ultimate spread, severity and duration of COVID-19 and related adverse effects on the economies and financial markets of countries in which the Company operates; the ability of the Company to successfully implement its business continuity plans with respect to the COVID-19 pandemic; the Company's ability to access sufficient capital to provide liquidity to manage its cash flow requirements; general economic, business and market conditions; the ability of management to execute its business plan; levels of customer natural gas and electricity consumption; extreme weather conditions; rates of customer additions and renewals; customer credit risk; rates of customer attrition; fluctuations in natural gas and electricity prices; interest and exchange rates; actions taken by governmental authorities including energy marketing regulation; increases in taxes and changes in government regulations and incentive programs; changes in regulatory regimes; results of litigation and decisions by regulatory authorities; competition; and dependence on certain suppliers. Additional information on these and other factors that could affect Just Energy's operations or financial results are included in Just Energy's annual information form and other reports on file with Canadian securities regulatory authorities which can be accessed through the SEDAR website at [www.sedar.com](http://www.sedar.com) and on the U.S. Securities and Exchange Commission's website at [www.sec.gov](http://www.sec.gov) or through Just Energy's website at [investors.justenergy.com](http://investors.justenergy.com).*

**FOR FURTHER INFORMATION PLEASE CONTACT:**

**Investors**

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[JE@alpha-ir.com](mailto:JE@alpha-ir.com)

Michael Carter  
Just Energy, Chief Financial Officer  
Phone: 905-670-4440  
[pr@justenergy.com](mailto:pr@justenergy.com)

**Court-appointed Monitor**

FTI Consulting Canada Inc.  
Phone: 416-649-8127 or 1-844-669-6340  
[justenergy@fticonsulting.com](mailto:justenergy@fticonsulting.com)

**Media**

Holly Winter  
Longview Communications  
Phone: 416-454-7595  
[hwinter@longviewcomms.ca](mailto:hwinter@longviewcomms.ca)

**Source:** Just Energy Group Inc

THIS IS **EXHIBIT "B"** REFERRED TO IN THE AFFIDAVIT OF MARK CAIGER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant and the Commissioner were located in the City of Toronto, in the Province of Ontario.



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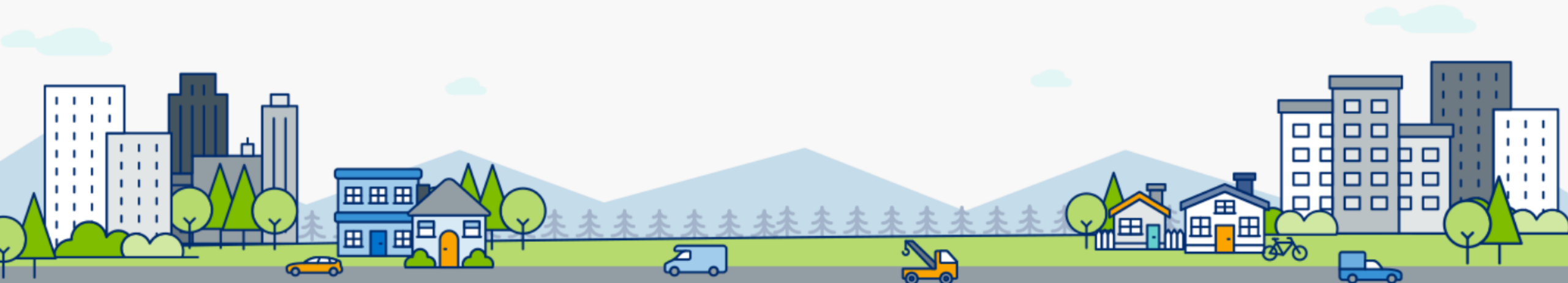
Commissioner for Taking Affidavits  
Blair McRadu (LSO No. 85586M)





# Investment Opportunity

August 2022



## **Forward-Looking Statements**

*This presentation of Just Energy Group Inc. (the “Company”) contains forward-looking information and/or forward-looking statements (collectively, “Forward-Looking Statements”) pertaining to, among other things, customer revenues and margins, customer additions and renewals, customer consumption levels, sales and operations. Descriptions of the Company’s objectives, goals, targets, plans, strategies, and projected financial and operating performance are also Forward-Looking Statements. These statements are based on current expectations that involve a number of risks and uncertainties which could cause actual results to differ from those anticipated. These risks include, but are not limited to, risks with respect to the ability of the Company to continue as a going concern; the outcome of proceedings under the Companies’ Creditors Protection Act (Canada) (“CCAA”) and Chapter 15 of the United States Bankruptcy Code; the outcome of any legislative or regulatory actions in connection with the Texas extreme weather event in February 2021 (the “Weather Event”); the outcome of any invoice disputes with the Electricity Reliability Council of Texas (“ERCOT”); the outcome of any litigation in connection with the Weather Event; the ultimate quantum of the financial loss to the Company from the Weather Event and its impact on the Company’s liquidity; the impact of the evolving COVID-19 pandemic on the Company’s business, operations and sales; uncertainties relating to the ultimate spread, severity and duration of COVID-19 and related adverse effects on the economies and financial markets of countries in which the Company operates; the Company’s ability to access sufficient capital to provide liquidity to manage its cash flow requirements; general economic, business and market conditions; the ability of management to execute its business plan; levels of customer natural gas and electricity consumption; extreme weather conditions; rates of customer additions and renewals; customer credit risk; rates of customer attrition; fluctuations in natural gas and electricity prices; interest and exchange rates; actions taken by governmental authorities including energy marketing regulation; increases in taxes and changes in government regulations and incentive programs; changes in regulatory regimes; results of litigation and decisions by regulatory authorities; competition; dependence on certain suppliers. Additional information on these and other factors that could affect Just Energy’s operations or financial results are included in Just Energy’s annual information form and other reports on file with Canadian securities regulatory authorities which can be accessed through the SEDAR website at [www.sedar.com](http://www.sedar.com) on the U.S. Securities and Exchange Commission’s website at [www.sec.gov](http://www.sec.gov) or through Just Energy’s website at [investors.justenergy.com](http://investors.justenergy.com). All Forward-Looking Statements in this presentation are given as of the date of this presentation and the Company disclaims any intention or obligation to update or revise any forward looking statements, whether as a result of new information, future events, or otherwise.*

## **Non-IFRS Measures**

*This presentation refers to certain financial measures that are not determined in accordance with International Financial Reporting Standards (IFRS) as adopted by the International Accounting Standards Board. Such non-IFRS financial measures include, but are not limited to, “EBITDA”, “Base EBITDA” and “Base Gross Margin”. These non-IFRS financial measures do not have standardized meanings prescribed by IFRS and may not be comparable to similar measures presented by other companies. These non-IFRS financial measures should not be considered as an alternative to, or more meaningful than, net income (loss), cash flow from operating activities and other measures of financial performance as determined in accordance with IFRS, but we believe these non-IFRS financial measures are useful in providing relative performance and measuring change. Definitions of non-IFRS financial measures used in this presentation are found under the heading “Non-IFRS financial measures” in the Company’s annual MD&A.*

# Just Energy at a Glance

Just Energy (“JE”) is the largest independent electricity and natural gas retailer that sells to residential and commercial customers in United States and Canada under primarily fixed-price and price-protected contracts; the company also offers green energy products to customers to offset their energy consumption

## SELECTED FINANCIAL METRICS

REVENUE <sup>(1)</sup>	BASE EBITDA <sup>(1)</sup>	EMBEDDED GROSS MARGIN <sup>(2)(3)</sup>	TOTAL ASSETS <sup>(2)</sup>
C\$2.7B	C\$92M	~C\$1.4B	~C\$2.0B

**ESTABLISHED CUSTOMER BASE<sup>(2)</sup>**

~2.9M

RCEs

**CUSTOMER DIVERSITY<sup>(2)</sup>**

44% / 56%  
Mass Markets / Commercial

78% / 22%  
Power / Gas

by RCEs

**TOTAL EMPLOYEES<sup>(4)</sup>**

1,161

As of 03/31/2022

**DIVERSE FOOTPRINT**

27

Active Commodity Markets<sup>(5)</sup>

**HEADQUARTERS**

Houston / Toronto

Dual Headquarters

**FOUNDED**

1997

25 Years of Industry Experience

(1) Last Twelve Months as of March 31, 2022.

(2) As of March 31, 2022.

(3) Represents gross margin of the committed and renewal books.

(4) Additional 120 external contractor agents for Telesales and CS team.

(5) States / provinces that are dual-fuel (provide both natural gas and electricity) are considered two separate markets.

## Platform Highlights

- **Largest independent REP** in North America
- **Diversified platform with operating scale** across 27 markets, both electric and gas commodities and all customer product types
- **Over two decades of operations**, an impressive and evolving institutional knowledge base and **deep management expertise**
- Leadership across all sales channels with **expertise and unique capabilities in Digital, Retail, Door-to-Door and C&I (Hudson)**
- **Opportunity to capture further efficiencies** over time in support of an attractive growth profile

## Strategic Growth Plan

- Reinforce and leverage our **industry-leading sales engines**
- Focused on **quality customers** going forward
- Focus on **sustainability** and green product offerings
- Leverage **customer data** to make better decisions regarding: sales channel investments, product offerings, etc.
- Enhance the **customer experience** by understanding our customers and anticipating what they want (e.g., ease of use)
- Prioritize **operational excellence and discipline** to drive greater efficiency across the platform














PROFITABLE  
GROWTH

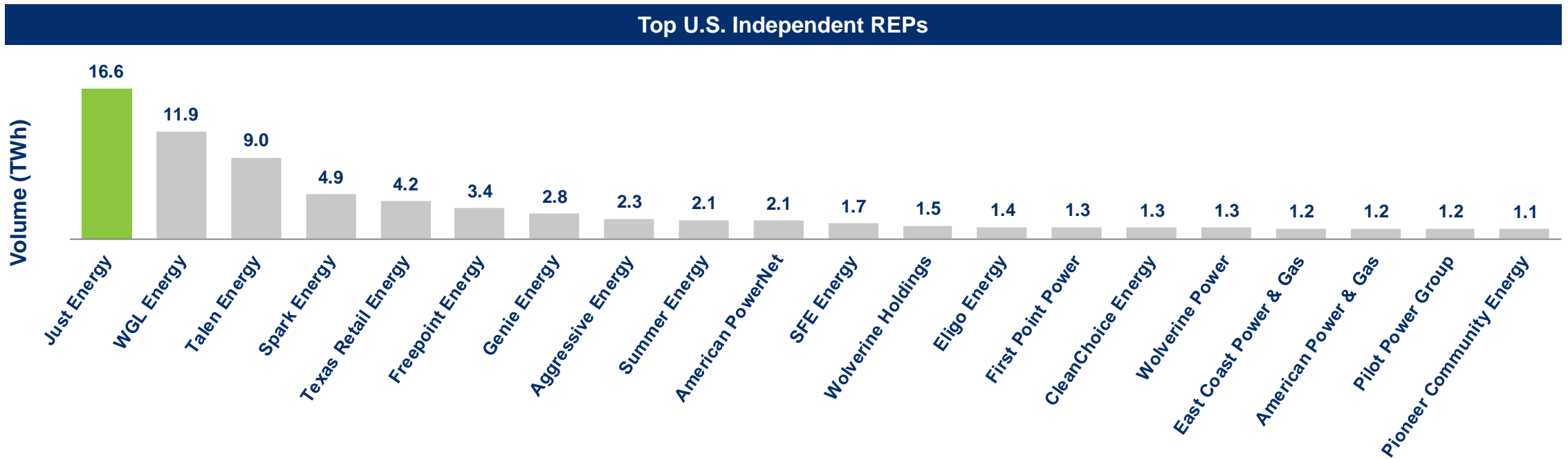
INNOVATIO

TECHNOLOGY ENABLER

ROBUST PLATFORM AND TALENTED EMPLOYEES

# Leading Independent Retail Energy Platform

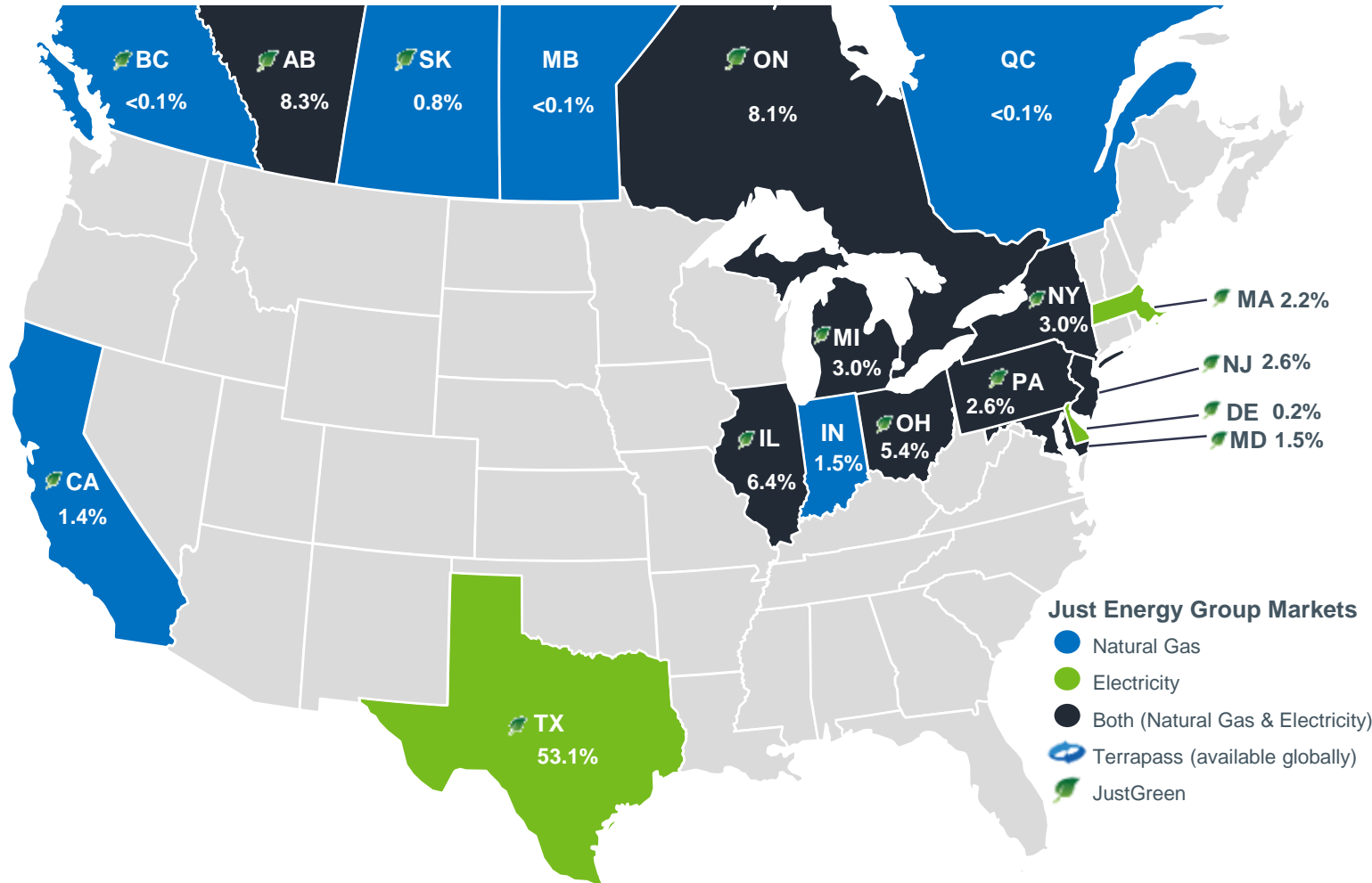
Brands			Products & Services		
			 Electricity	 Renewable Energy Certificates	
			 Natural Gas	 Carbon Offsets	
			 Energy Efficiency	 Water Filters / Home Subscription Products	



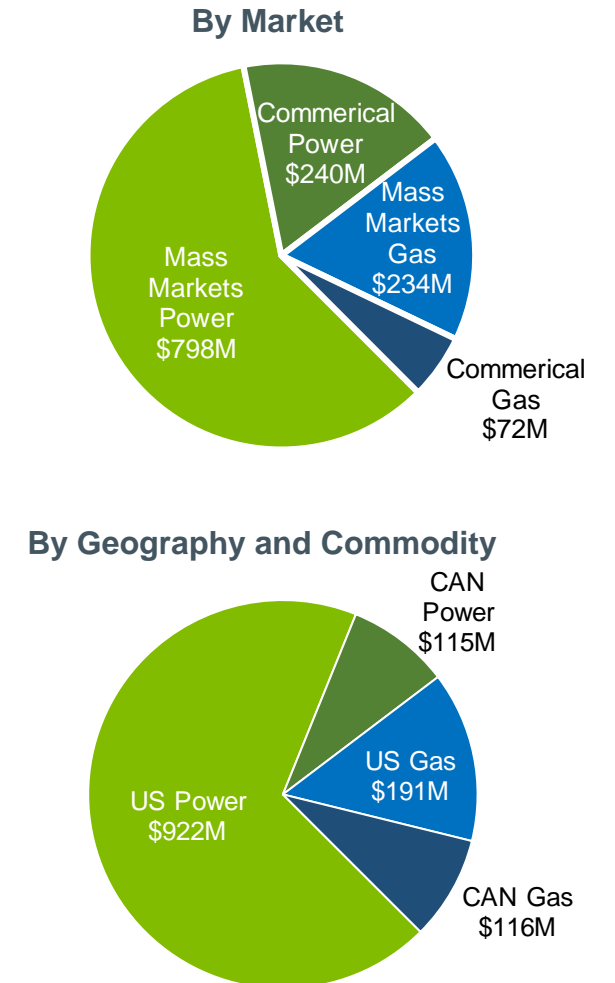
# Geographic Footprint

## North American Platform with Diversified Commodity Offering

Embedded Gross Margin by Geography<sup>(1)(2)</sup>



EGM Breakdown<sup>(1)</sup>



Note: Total EGM of \$1,344M as at March 31, 2022, represents gross margin of committed and renewal books.

(1) Excludes ~\$30M of EGM attributable to Filter Group and IEG.

(2) Excludes \$670K of Large C&I EGM attributable to Canada Natural Gas segment.

## Complementary Customer and Contract Mix

### Customer Divisions



#### Mass Markets

- Caters to residential customers in single and multi-family homes, and to small / medium business customers primarily through our affinity brands
- Focused on price-protected offerings as well as sustainability products
- Sales made through digital, retail store kiosks and door-to-door professionals
- The strongest sales growth is being driven through the digital and retail channels



*Higher margin channel and a focus for future growth*



#### Hudson Commercial

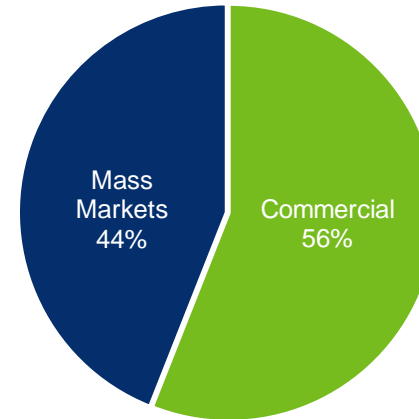
- Caters to small and medium commercial customers (current average customer size: ~30 RCEs)
- Sales primarily through brokers and exclusive 3<sup>rd</sup> party independent consultants



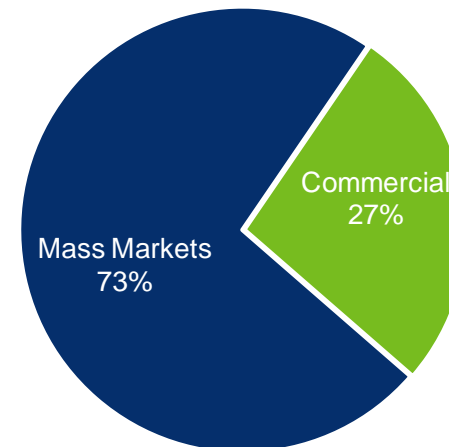
*Low attrition rate channel with attractive long-term contracts*

### Customer Mix

Customer Base (RCEs)<sup>(1)</sup>

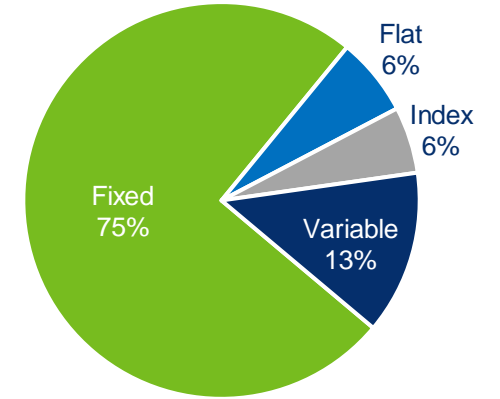


Base Gross Margin<sup>(3)</sup>

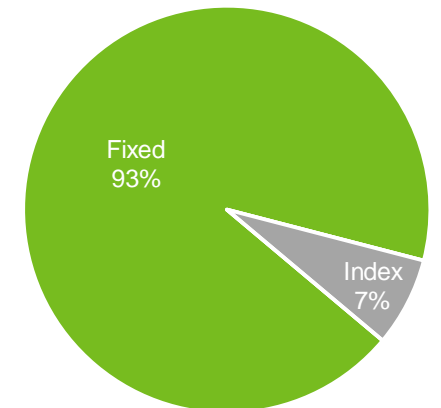


### Contract Mix

Mass Markets<sup>(2)</sup>



Commercial<sup>(2)</sup>



(1) Customer base (total RCEs) as of March 31, 2022.

(2) Based on RCEs as of March 31, 2022.





(3) Base Gross Margin on a fiscal YTD basis as of March 31, 2022.

# Sales Channel Overview

*Established multi-channel sales infrastructure*

## Mass Markets Channel



Digital Marketing	Paid Search	<ul style="list-style-type: none"> <li>Foundations of a world class digital marketing sales channel are in place</li> <li>Search prospects driven to branded and unbranded sites</li> </ul>
	Organic Search	<ul style="list-style-type: none"> <li>Digital traffic is sold through online enrollment carts or inbound tele-sales</li> </ul>
	Marketplace	<ul style="list-style-type: none"> <li>Launched Energy Savings marketplace to boost digital monetization</li> </ul> 
Direct In-Person	Retail	<ul style="list-style-type: none"> <li>In-person enrollments through kiosks across national and regional retailers</li> <li>JE currently has access to staff at ~500 stores across North America</li> </ul>   
	Door-to-Door	<ul style="list-style-type: none"> <li>Selling directly in-person to homeowners through independent marketing companies</li> </ul>
SMB <sup>(2)</sup>	Affinity	<ul style="list-style-type: none"> <li>Strong focus on relationship referrals, coupled with direct in-person and digital marketing</li> <li>A multi-linguistic approach targeting Hispanic and South Asian communities</li> </ul>

## Commercial Channel Overview



Broker	<ul style="list-style-type: none"> <li>Seasoned business development team selling through ~650 third-party Aggregators, Brokers and Consultants across North America</li> <li>Partners have access to self-serve portal and responsive support team to ensure ease and low cost of doing business</li> </ul>
Exclusive Third-Party	<ul style="list-style-type: none"> <li>Professional, established sales team of ~150 agents across North America</li> <li>Sales team engages customers via phone, email and in-person meetings, and is fully supported by a dynamic team of internal employees</li> </ul>

## Hudson Brand Overview

	<ul style="list-style-type: none"> <li>Leading North American C&amp;I brand and largest by volume among all independent North American REPs <sup>(1)</sup></li> <li>Self-service portal, River Connex, is a key differentiator and recognized platform of choice</li> <li>Unmatched industry experience and team leadership capabilities across all aspects of the platform (e.g., Sales, Pricing, Operations, etc.)</li> </ul>
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Source: EIA, Public Filings

(1) As of March 31, 2022; EIA data represents 2020A figures; updated for subsequent events based on public filings.

(2) Small commercial business which includes both direct and digital sales to small and medium businesses primarily through our affinity brands (Amigo & Tara) as well as JE.



JE offers an array of energy products to meet the diverse needs of Mass Markets and Commercial customers

## Fixed-Price Contracts

- Allows customers to lock in their energy supply rates for up to five years and avoid fluctuations in market commodity prices

## Index-Price Contracts

- Direct pass-through of commodity price fluctuations tied to market commodity price indices
- Commercial customers can combine index-price and other hedging strategies (Structured Products) to meet their specific needs

## Flat Bill

- Customers are billed a flat fee per month for up to five years
- Can include a cap, with a fixed rate for excess usage

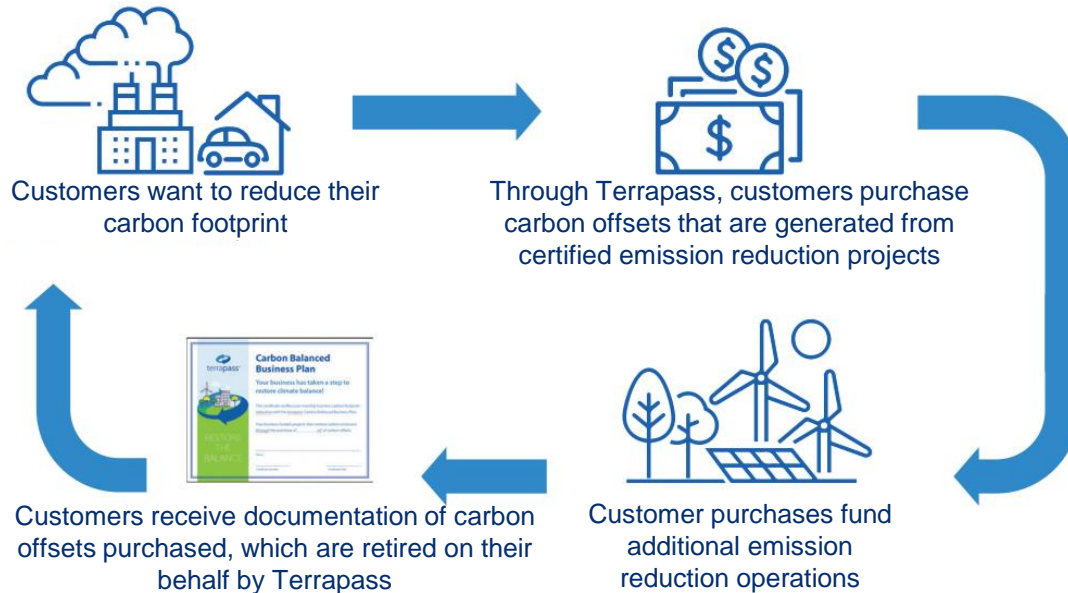
## Green and Sustainability

- Bundled JustGreen branded options give flexibility for Mass Markets customers to offset a portion or all of their energy consumption
- Standalone renewable energy certificates, carbon offsets and water restoration credits available to Mass Markets and Commercial customers

## Variable-Price Contracts

- Rate fluctuations based on market and business conditions
- After term expiration contracts roll over to be variable rate

### Our Mission is to Restore the Carbon Balance



### 1 Carbon Offset = 1 Ton of CO2 Avoided from Entering Atmosphere



- Terrapass customers have funded millions of tons of carbon emission reductions at projects across the globe
  - Transaction sizes range to accommodate both corporate and individual clients, from one metric ton to several million metric tons and through one-time and term contracts
- Terrapass offers a variety of products to support customers' sustainable initiatives including carbon offsets, renewable energy credits, and water restoration certificates
  - Carbon Offsets: Certificates for purchase representing the reduction of one metric ton of carbon emissions; the cost of certificates fund emission reduction projects
  - Renewable Energy Credits (REC): RECs are issued and can be subsequently sold/purchased when one megawatt hour (MWh) of electricity is generated and delivered to the grid from a renewable energy resource; sale of RECs by renewable energy developers helps fund projects
  - Water Restoration Credits (WRC): Certificates for purchase to fund projects that restore natural water resources, benefiting potentially depleted water ecosystems
- Terrapass can also help businesses and institutions prepare a detailed footprint analysis and develop a customized plan to achieve their carbon footprint reduction goals

### Business Opportunities

#### Carbon offsets & renewable energy

##### Business to Business

- Directly offset emissions for companies
- Detailed company footprint analysis
- Project-specific or customized portfolios available

#### Employee engagement programs

##### Business to Business to Employee

- Transactions can go through Terrapass or partner site
- Purchases can be matched by partner

#### Customer-facing programs

##### Business to Consumer

- Offsets can be standalone or bundled with products
- Website or app integration
- White label program
- Outbound campaigns<sup>(1)</sup>

(1) Includes digital, call centers, and bill inserts.

# Key Management: Deep Retail Background



## Scott Gahn, Chief Executive Officer

Years of Energy Experience 36 years

Scott Gahn was appointed President and Chief Executive Officer in August 2019. He was one of the founding shareholders and Chief Executive Officer of Just Energy Texas LP. Following the acquisition, Mr. Gahn was the Chief Operating Officer of Just Energy until June 2011. Mr. Gahn has a long history in the deregulated energy industry, having served on the Electric Reliability Council of Texas board from 2005 to 2008 and having been involved in the sale of deregulated and regulated electricity and natural gas for over 34 years.

Prior Experience at Relevant Companies



## Jim Brown, Chief Commercial Officer

Years of Energy Experience 29 years

Jim Brown was appointed as Chief Commercial Officer of Just Energy Group Inc. in September 2020. He most recently served as the Company's Chief Financial Officer since April 2018. Mr. Brown joined Just Energy in April 2013 as a Senior Vice President responsible for commodity settlements, and also served as the President of Hudson Energy, responsible for Just Energy's commercial business.

Prior Experience at Relevant Companies



## Scott Fordham, Chief Operating Officer

Years of Energy Experience 12 years

Scott Fordham joined Just Energy in early 2020 as Senior Vice President-Finance and Chief Accounting Officer and was appointed Chief Operating Officer in September 2020. Mr. Fordham has significant hands-on P&L and operations experience, including through his leadership roles as President and Chief Executive Officer of Champion Energy Services, one of the top 10 REP's in the U.S., the fastest organically grown REP in the nation and the largest never affiliated with a legacy utility, and as President of Acclaim Energy, a Houston-based integrated strategic energy management firm serving end-user customers throughout the U.S., Canada and Mexico.

Prior Experience at Relevant Companies



## Michael Carter, Chief Financial Officer

Years of Energy Experience 22 years

Michael Carter's broad industry experience includes holding key roles in finance, corporate planning and treasury, corporate development and operations. Mr. Carter served over 10 years at predecessors of Vistra and its subsidiaries including TXU Energy, where he was CFO for over 3 years. Mr. Carter's other notable prior experience includes senior management roles at Hunt Power & Hunt Utility Services and Energy Future Holdings Corporation.

Prior Experience at Relevant Companies



## Amir Andani, Chief Risk Officer

Years of Energy Experience 16 years

Amir Andani has been an integral part of Just Energy's Risk Management function since 2008. Amir is the chair of Management Risk Committee and responsible for setting Commodity Risk Management Policy and presenting key risks to the Board Risk Committee. In addition, Amir reviews Just Energy's weather risk programs, manages counterparty credit & collateral risks, oversees Just Energy's insurance program and is responsible for creating several policies and procedures to manage and mitigate risk.



## Jonah Davids, EVP & General Counsel

Years of Energy Experience 15 years

Jonah Davids joined Just Energy in 2007 as Senior Counsel and was appointed General Counsel in April 2010 with responsibility for the Company's legal, governance, regulatory and compliance activities. He became the Company's Corporate Secretary in 2015. Prior to joining Just Energy, Mr. Davids practiced securities, corporate and commercial law at McMillan LP. Jonah has a Masters of Law degree from the University of Dundee's Centre for Energy, Petroleum & Mineral Law and Policy. Mr. Davids is also a Director of ecobee Inc., a provider of smart home comfort, security and conservation solutions.



## Felix Churchill, Chief Growth Officer

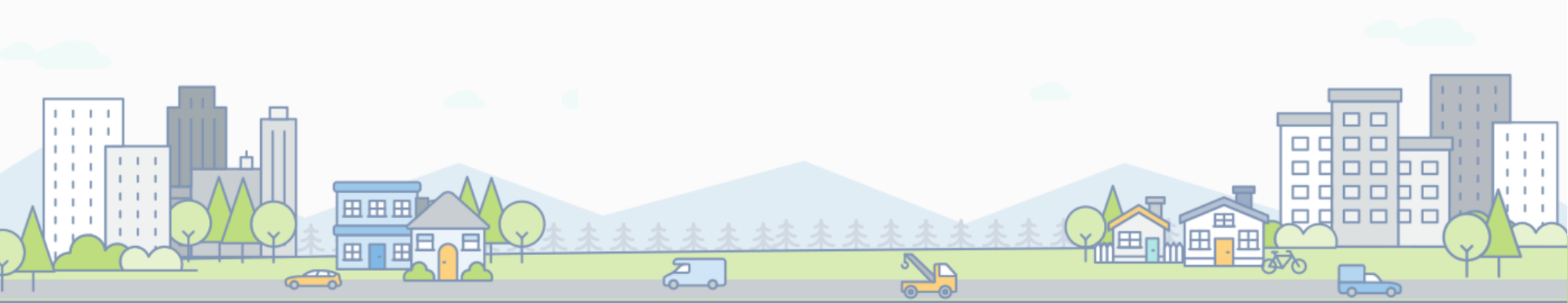
Years of Energy Experience 16 years

Felix Churchill became Senior Vice President Digital and Telesales in March 2020. Mr. Churchill first joined Just Energy in September 2003 and has held several positions, including Vice President Operations and Business Development and President Just Ventures. Mr. Churchill previously held positions at Sunrun, as Vice President Digital and Customer Acquisition, and Red Ventures, as Executive Vice President AT&T / DIRECTV Partnership and President RV Power.

Prior Experience at Relevant Companies



# Financial Highlights

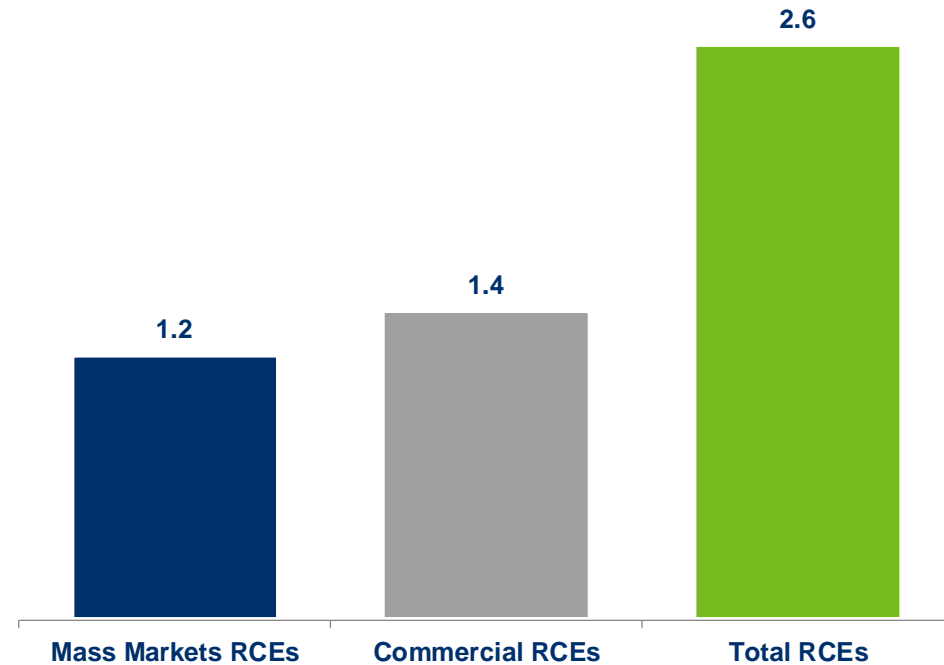


# Significant Embedded Value in Business

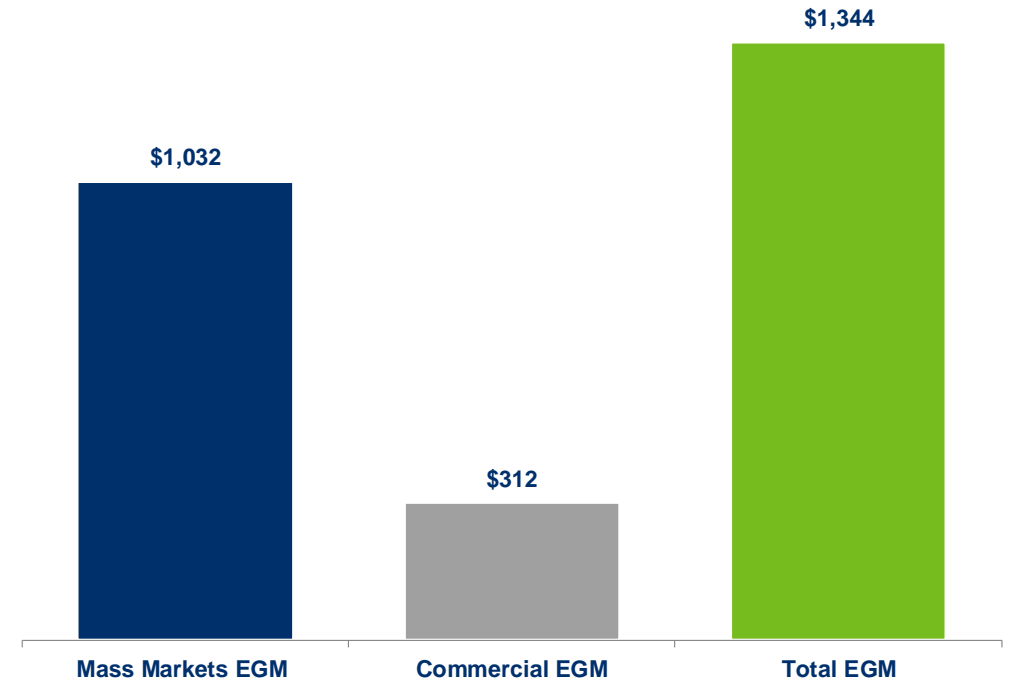
853

## Strong Customer Base<sup>(1)</sup> (Millions)

968,000 Total Customers



## Embedded Gross Margin<sup>(2)</sup> (C\$ Millions)



Embedded Gross Margin measure indicates the gross margin expected to be realized over the next five years from the existing customer base

Note: As of March 31, 2022.

(1) Excludes large C&I.

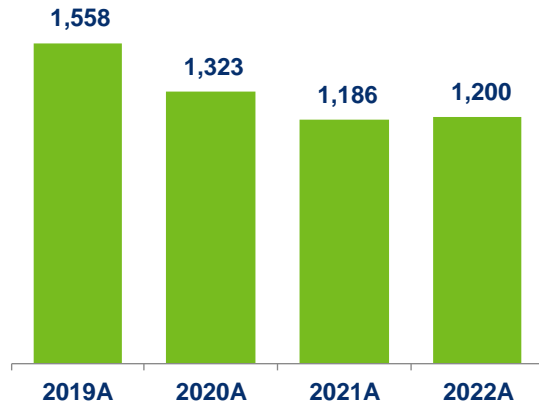
(2) Represents gross margin of committed and renewal books. Excludes ~\$30M of EGM attributable to Filter Group and IEG and ~\$670k of Large C&I EGM.

# Key Financial Metrics

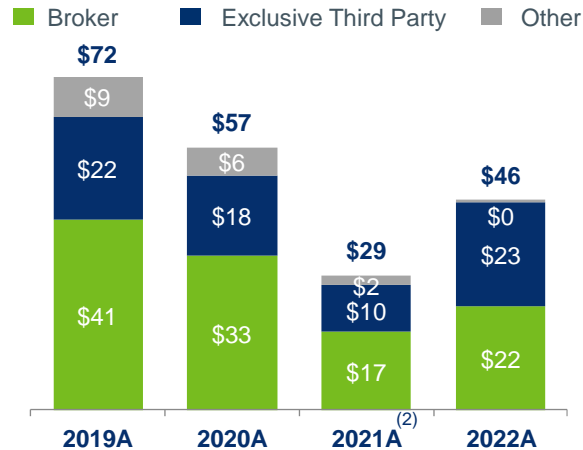
## Consolidated

854

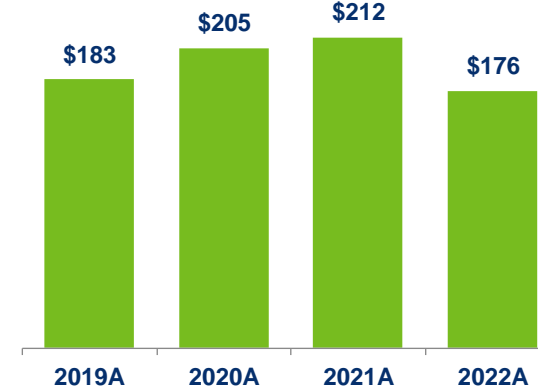
### Mass Market Ending RCEs ('000)



### Signed Term Margin<sup>(1)</sup> (C\$ Millions)



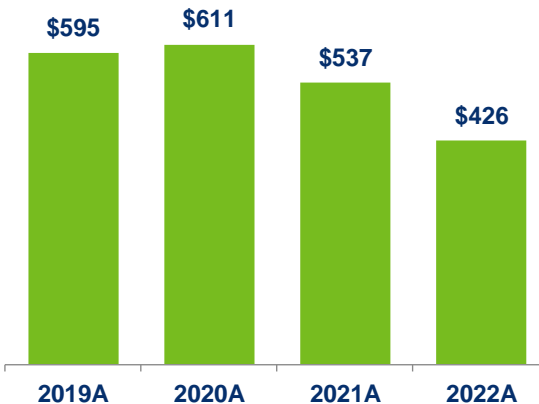
### GM/RCE (C\$ Per RCE)



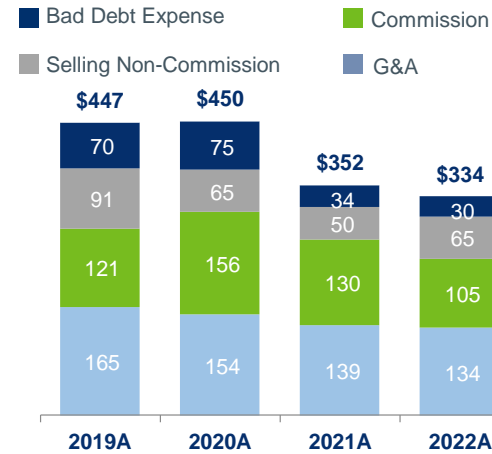
### Commentary

- Mass Markets customer base stabilized and returning to growth, while Commercial Signed Term Margin also returned to growth despite challenges of a competitive pricing environment and impact of CCAA on sales channels
- Strong growth in GM / RCE driven by a focus on higher quality / margin was compressed in 2022 due to commodity price environment and regulatory headwinds
- 2022A Gross Margin was hampered by higher commodity costs, a decline in the Commercial customer base and unfavorable exchange rate, driving the decline in Base EBITDA

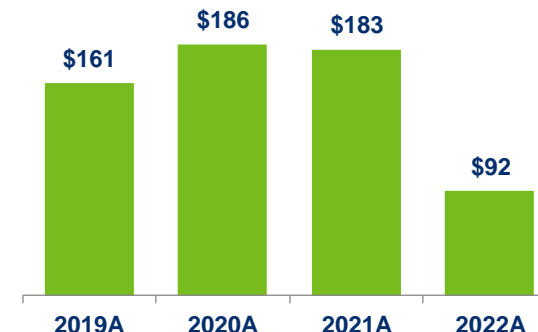
### Gross Margin (C\$ Millions)



### SG&A<sup>(3)</sup> (C\$ Millions)



### Base EBITDA (C\$ Millions)



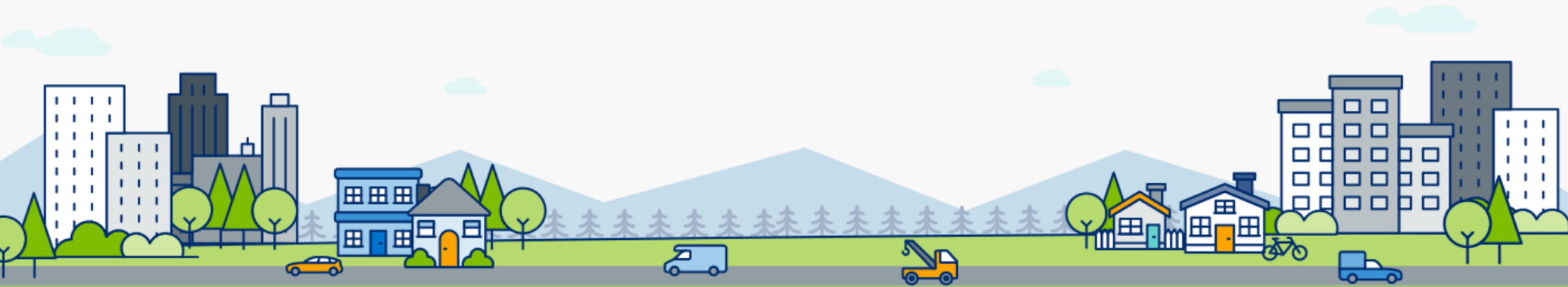
Note: Metrics shown are from Continuing Operations; Periods shown are fiscal year ending March 31.

(1) Other includes D2D, Digital, Retail-ALT, and SMB-Affinity.

(2) 2021A results negatively impacted by recapitalization transaction.

(3) Excludes the impact from the Texas residential enrolment and collections impairment.

(4) As of March 31, 2022. Represents gross margin of committed and renewal books. Excludes ~\$30M of EGM attributable to Filter Group and IEG and ~\$670k of Large C&I EGM.



THIS IS **EXHIBIT “C”** REFERRED TO IN THE AFFIDAVIT OF MARK CAIGER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant and the Commissioner were located in the City of Toronto, in the Province of Ontario.



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Commissioner for Taking Affidavits  
Blair McRadu (LSO No. 85586M)



# Sale and Investment Solicitation Process

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1. On August 17, 2022, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granted an order (the “**SISP Order**”) that, among other things, (a) authorized Just Energy (as defined below) to implement a sale and investment solicitation process (“**SISP**”) in accordance with the terms hereof, (b) approved the Support Agreement, (c) authorized and directed Just Energy Group Inc. to enter into the Stalking Horse Transaction Agreement, (d) approved the Break-Up Fee, and (e) granted the Bid Protections Charge. Capitalized terms that are not defined herein have the meanings ascribed thereto in the Second Amended & Restated Initial Order granted by the Court in Just Energy’s proceedings under the *Companies’ Creditors Arrangement Act* on May 26, 2021, as amended, restated or supplemented from time to time or the SISP Order, as applicable.
2. This SISP sets out the manner in which (i) binding bids for executable transaction alternatives that are superior to the sale transaction to be provided for in the Stalking Horse Transaction Agreement involving the shares and/or the business and assets of Just Energy Group Inc. and its direct and indirect subsidiaries (collectively, “**Just Energy**”) will be solicited from interested parties, (ii) any such bids received will be addressed, (iii) any Successful Bid (as defined below) will be selected, and (iv) Court (as defined below) approval of any Successful Bid will be sought. Such transaction alternatives may include, among other things, a sale of some or all of Just Energy’s shares, assets and/or business and/or an investment in Just Energy, each of which shall be subject to all terms set forth in this SISP.
3. The SISP shall be conducted by Just Energy under the oversight of FTI Consulting Canada Inc., in its capacity as court-appointed monitor (the “**Monitor**”), with the assistance of BMO Capital Markets (the “**Financial Advisor**”).
4. Parties who wish to have their bids considered shall be expected to participate in the SISP as conducted by Just Energy and the Financial Advisor.
5. The SISP will be conducted such that Just Energy and the Financial Advisor will (under the oversight of the Monitor):
  - a) prepare marketing materials and a process letter;
  - b) prepare and provide applicable parties with access to a data room containing diligence information;
  - c) solicit interest from parties to enter into non-disclosure agreements (parties shall only obtain access to the data room and be permitted to participate in the SISP if they execute a non-disclosure agreement that is in form and substance satisfactory to Just Energy); and
  - d) request that such parties (other than the Sponsor or its designee) submit (i) a notice of intent to bid that identifies the potential purchaser and a general description of the assets and/or business(es) of the Just Energy Entities that would be the subject of the bid and that reflects a reasonably likely prospect of culminating in a Qualified Bid (as defined below), as determined by the Just Energy Entities in consultation with the Monitor and the Credit Facility Agent (subject to the confidentiality requirements set forth in Section 15 below) (a “**NOI**”) by the NOI Deadline (as defined below) and, if applicable, (ii) a binding offer meeting at least the requirements set forth in Section 7 below, as determined by the Just Energy Entities in consultation with the Monitor (a “**Qualified Bid**”) by the Qualified Bid Deadline (as defined below).

6. The SISP shall be conducted subject to the terms hereof and the following key milestones:
- a) Just Energy to commence solicitation process on the date of service of the motion for approval of the SISP – August 4, 2022;<sup>1</sup>
  - b) Court approval of SISP and authorizing Just Energy to enter into the Stalking Horse Transaction Agreement – August 17, 2022;
  - c) Deadline to submit NOI – 11:59 p.m. Eastern Daylight Time on August 25, 2022 (the “**NOI Deadline**”);
  - d) Deadline to submit a Qualified Bid – 11:59 p.m. Eastern Daylight Time on September 29, 2022 (the “**Qualified Bid Deadline**”);
  - e) Deadline to determine whether a bid is a Qualified Bid and, if applicable, to notify those parties who submitted a Qualified Bid of the Auction (as defined below) – 5:00 p.m. Eastern Daylight Time on October 6, 2022;
  - f) Just Energy to hold Auction (if applicable) – 10:00 a.m. Eastern Daylight Time on October 8, 2022; and
  - g) Implementation Order (as defined below) hearing:
    - o (if no NOI is submitted) – by no later than September 2, 2022, subject to Court availability.
    - o (if there is no Auction) – by no later than October 15, 2022, subject to Court availability.
    - o (if there is an Auction) – by no later than twelve (12) days after completion of the Auction, subject to Court availability.
7. In order to constitute a Qualified Bid, a bid must comply with the following:
- a. it provides for (i) the payment in full in cash on closing of the BP Commodity/ISO Services Claim (as defined in the Support Agreement), unless otherwise agreed to by the holder of such claim in its sole discretion; (ii) the payment in full in cash on closing of the Credit Facility Claims, unless otherwise agreed to by the Credit Facility Agent in its sole discretion; (iii) the payment in full in cash on closing of any claims ranking in priority to the claims set forth in subparagraphs (i) or (ii) including any claims secured by Court-ordered charges, unless otherwise agreed to by the applicable holders thereof in their sole discretion (iv) the return of all outstanding letters of credit and release of all Credit Facility LC Claims or arrangements satisfactory to the applicable Credit Facility Lenders in their discretion to secure with cash collateral or otherwise any Credit Facility LC Claims not released, and (v) the payment in full in cash on closing of any outstanding Cash Management Obligations or arrangements satisfactory to the applicable Credit Facility Lenders or their affiliates to secure with cash collateral or otherwise any outstanding Cash Management Obligations.
  - b. it provides a detailed sources and uses schedule that identifies, with specificity, the amount of cash consideration (the “**Cash Consideration Value**”) and any assumptions that could reduce the net consideration payable. At a minimum, the Cash Consideration Value plus Just Energy’s cash on hand must be sufficient for payment in full of the items contemplated in Sections 7(a)(i) and 7(a)(ii) herein, 3.2 of the Stalking Horse Transaction Agreement and the Break-Up Fee, plus USD\$1,000,000, on closing, which Cash Consideration Value is estimated to be USD\$460,000,000 as of December 31, 2022.

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<sup>1</sup> To the extent any dates would fall on a non-business day, to be the first business day thereafter.

- c. it is reasonably capable of being consummated by 90 days after completion of the Auction if selected as the Successful Bid;
- d. it contains:
  - i. duly executed binding transaction document(s);
  - ii. the legal name and identity (including jurisdiction of existence) and contact information of the bidder, full disclosure of its direct and indirect principals, and the name(s) of its controlling equityholder(s);
  - iii. a redline to the form of transaction document(s) provided by Just Energy, if applicable;
  - iv. evidence of authorization and approval from the bidder's board of directors (or comparable governing body) and, if necessary to complete the transaction, the bidder's equityholder(s);
  - v. disclosure of any connections or agreements with Just Energy or any of its affiliates, any known, potential, prospective bidder, or any officer, manager, director, or known equity security holder of Just Energy or any of its affiliates; and
  - vi. such other information reasonably requested by Just Energy or the Monitor;
- e. it includes a letter stating that the bid is submitted in good faith, is binding and is irrevocable until the selection of the Successful Bid; provided, however, that if such bid is selected as the Successful Bid, it shall remain irrevocable until the closing of the Successful Bid;
- f. it provides written evidence of a bidder's ability to fully fund and consummate the transaction and satisfy its obligations under the transaction documents, including binding equity/debt commitment letters and/or guarantees covering the full value of all cash consideration and the additional items (in scope and amount) covered by the guarantees provided by affiliates of the Purchaser in connection with the Transaction Agreement;
- g. it does not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment;
- h. it is not conditional upon:
  - i. approval from the bidder's board of directors (or comparable governing body) or equityholder(s);
  - ii. the outcome of any due diligence by the bidder; or
  - iii. the bidder obtaining financing;
- i. it includes an acknowledgment and representation that the bidder has had an opportunity to conduct any and all required due diligence prior to making its bid;
- j. it specifies any regulatory or other third-party approvals the party anticipates would be required to complete the transaction (including the anticipated timing necessary to obtain such approvals) and, in connection therewith, specifies whether the bidder or any of its affiliates is involved in any part of the energy sector, including an electric utility, retail service provider, a company with a tariff on file with the Federal Energy Regulatory Commission, or any intermediate holding company;
- k. it includes full details of the bidder's intended treatment of Just Energy's employees under the proposed bid;
- l. it is accompanied by a cash deposit (the "**Deposit**") by wire transfer of immediately available funds equal to 10% of the Cash Consideration Value, which Deposit shall be retained by the Monitor in a non-interest bearing trust account in accordance with this SISP;
- m. a statement that the bidder will bear its own costs and expenses (including legal and advisor fees) in connection with the proposed transaction, and by submitting its bid is agreeing to refrain from and waive any assertion or request for reimbursement on any basis; and
- n. it is received by the Qualified Bid Deadline.

8. The Qualified Bid Deadline may be extended by (i) Just Energy for up to no longer than seven days with the consent of the Monitor, the Credit Facility Agent and the Sponsor, acting reasonably, or (ii) further order of the Court. In such circumstances, the milestones contained in Subsections 6(f) and (g) shall be extended by the same amount of time.
9. Just Energy, in consultation with the Monitor, may waive compliance with any one or more of the requirements specified in Section 7 above and deem a non-compliant bid to be a Qualified Bid, provided that Just Energy shall not waive compliance with the requirements specified in Subsections 7(a), (b), (e), (e), (g), (h), (j) or (l) without the prior written consent of the Sponsor and Credit Facility Agent, each acting reasonably.
10. Notwithstanding the requirements specified in Section 7 above, the transactions contemplated by the Stalking Horse Transaction Agreement (the “**Stalking Horse Transaction**”), is deemed to be a Qualified Bid, provided that, for greater certainty, no Deposit shall be required to be submitted in connection with the Stalking Horse Transaction.
11. If one or more Qualified Bids (other than the Stalking Horse Transaction) has been received by Just Energy on or before the Qualified Bid Deadline, Just Energy shall proceed with an auction process to determine the successful bid(s) (the “**Auction**”), which Auction shall be administered in accordance with Schedule “A” hereto. The successful bid(s) selected within the Auction shall constitute the “**Successful Bid**”. Forthwith upon determining to proceed with an Auction, Just Energy shall provide written notice to each party that submitted a Qualified Bid (including the Stalking Horse Transaction), along with copies of all Qualified Bids and a statement by Just Energy specifying which Qualified Bid is the leading bid.
12. If, by the NOI Deadline no NOI has been received, then the SISP shall be deemed to be terminated and the Stalking Horse Transaction shall be the Successful Bid and shall be consummated in accordance with and subject to the terms of the Support Agreement and the Stalking Horse Transaction Agreement. If no Qualified Bid (other than the Stalking Horse Transaction) has been received by Just Energy on or before the Qualified Bid Deadline, then the Stalking Horse Transaction shall be the Successful Bid and shall be consummated in accordance with and subject to the terms of the Support Agreement and the Stalking Horse Transaction Agreement.
13. Following selection of a Successful Bid, Just Energy, with the assistance of its advisors, shall seek to finalize any remaining necessary definitive agreement(s) with respect to the Successful Bid in accordance with the key milestones set out in Section 6. Once the necessary definitive agreement(s) with respect to a Successful Bid have been finalized, as determined by Just Energy, in consultation with the Monitor, Just Energy shall apply to the Court for an order or orders approving such Successful Bid and/or the mechanics to authorize Just Energy to complete the transactions contemplated thereby, as applicable, and authorizing Just Energy to (i) enter into any and all necessary agreements and related documentation with respect to the Successful Bid, (ii) undertake such other actions as may be necessary to give effect to such Successful Bid, and (iii) implement the transaction(s) contemplated in such Successful Bid (each, an “**Implementation Order**”).
14. All Deposits shall be retained by the Monitor in a non-interest bearing trust account. If a Successful Bid is selected and an Implementation Order authorizing the consummation of the transaction contemplated thereunder is granted, any Deposit paid in connection with such Successful Bid will be non-refundable and shall, upon closing of the transaction contemplated by such Successful Bid, be applied to the cash consideration to be paid in connection with such Successful Bid or be dealt with as otherwise set out in the definitive agreement(s) entered into in connection with such Successful Bid. Any Deposit delivered with a Qualified Bid that is not selected as a Successful Bid,

will be returned to the applicable bidder as soon as reasonably practicable (but not later than ten (10) business days) after the date upon which the Successful Bid is approved pursuant to an Implementation Order or such earlier date as may be determined by Just Energy, in consultation with the Monitor.

15. Just Energy shall provide information in respect of the SISP to the DIP Lenders, the holder of the BP Commodity/ISO Services Claim and the Supporting Secured CF Lenders on a confidential basis, including (A) copies (or if not provided to the Just Energy Entities in writing, a detailed description) of any NOI and any bid received, including any Qualified Bid, no later than one (1) calendar day following receipt thereof by the Just Energy Entities or their advisors and (B) such other information as reasonably requested by the DIP Lenders', the holder of the BP Commodity/ISO Services Claim or the Supporting Secured CF Lenders' respective legal counsel or financial advisors or as necessary to keep the DIP Lenders, the holder of the BP Commodity/ISO Services Claim or the Supporting Secured CF Lenders informed no later than one (1) calendar day after any such request or any material change to the proposed terms of any bid received, including any Qualified Bid, as to the terms of any bid, including any Qualified Bid, (including any changes to the proposed terms thereof) and the status and substance of discussions related thereto. Just Energy shall be permitted, in its discretion, to provide general updates and information in respect of the SISP to counsel to any unsecured creditor of Just Energy (a "**General Unsecured Creditor**") on a confidential basis, upon: (i) the irrevocable confirmation in writing from such counsel that the applicable General Unsecured Creditor will not submit any NOI or bid in the SISP, and (ii) counsel to such General Unsecured Creditor executing confidentiality agreements with Just Energy, in form and substance satisfactory to Just Energy and the Monitor.
16. Any amendments to this SISP may only be made by Just Energy with the written consent of the Monitor and after consultation with the Credit Facility Agent, or by further order of the Court, provided that Just Energy shall not amend Subsections 7(a), (b), (e), (f), (g), (h), (j) or (l) or Section 15 without the prior written consent of the Sponsor and the Credit Facility Agent.

### SCHEDULE “A”: AUCTION PROCEDURES

1. **Auction.** If Just Energy receives at least one Qualified Bid (other than the Stalking Horse Transaction), Just Energy will conduct and administer the Auction in accordance with the terms of the SISIP. Instructions to participate in the Auction, which will take place via video conferencing, will be provided to Qualified Parties (as defined below) not less than 24 hours prior to the Auction.

2. **Participation.** Only parties that provided a Qualified Bid by the Qualified Bid Deadline, including the Stalking Horse Transaction (collectively, the “**Qualified Parties**”), shall be eligible to participate in the Auction. No later than 5:00 p.m. Eastern Daylight Time on the day prior to the Auction, each Qualified Party (other than the Sponsor) must inform Just Energy whether it intends to participate in the Auction. Just Energy will promptly thereafter inform in writing each Qualified Party who has expressed its intent to participate in the Auction of the identity of all other Qualified Parties that have indicated their intent to participate in the Auction. If no Qualified Party provides such expression of intent, the Stalking Horse Transaction shall be the Successful Bid.

3. **Auction Procedures.** The Auction shall be governed by the following procedures:

- a. **Attendance.** Only Just Energy, the other counterparties to the Support Agreement, the Qualified Parties, the Monitor and each of their respective advisors will be entitled to attend the Auction, and only the Qualified Parties will be entitled to make any subsequent Overbids (as defined below) at the Auction;
- b. **No Collusion.** Each Qualified Party participating at the Auction shall be required to confirm on the record at the Auction that: (i) it has not engaged in any collusion with respect to the Auction and the bid process; and (ii) its bid is a good-faith *bona fide* offer and it intends to consummate the proposed transaction if selected as the Successful Bid (as defined below);
- c. **Minimum Overbid.** The Auction shall begin with the Qualified Bid that represents the highest or otherwise best Qualified Bid as determined by Just Energy, in consultation with the Monitor (the “**Initial Bid**”), and any bid made at the Auction by a Qualified Party subsequent to Just Energy’s announcement of the Initial Bid (each, an “**Overbid**”), must proceed in minimum additional cash increments of USD\$1,000,000;
- d. **Bidding Disclosure.** The Auction shall be conducted such that all bids will be made and received in one group video-conference, on an open basis, and all Qualified Parties will be entitled to be present for all bidding with the understanding that the true identity of each Qualified Party will be fully disclosed to all other Qualified Parties and that all material terms of each subsequent bid will be fully disclosed to all other Qualified Parties throughout the entire Auction; provided, however, that Just Energy, in its discretion, may establish separate video conference rooms to permit interim discussions between Just Energy and individual Qualified Parties with the understanding that all formal bids will be delivered in one group video conference, on an open basis;
- e. **Bidding Conclusion.** The Auction shall continue in one or more rounds and will conclude after each participating Qualified Party has had the opportunity to submit one or more additional bids with full knowledge and written confirmation of the then-existing highest bid(s); and

- f. **No Post-Auction Bids.** No bids will be considered for any purpose after the Auction has concluded.

#### **Selection of Successful Bid**

4. **Selection.** Before the conclusion of the Auction, Just Energy, in consultation with the Monitor, will: (a) review each Qualified Bid, considering the factors set out in Section 7 of the SISP and, among other things, (i) the amount of consideration being offered and, if applicable, the proposed form, composition and allocation of same, (ii) the value of any assumption of liabilities or waiver of liabilities not otherwise accounted for in prong (i) above; (iii) the likelihood of the Qualified Party's ability to close a transaction by 90 days after completion of the Auction and the timing thereof (including factors such as the transaction structure and execution risk, including conditions to, timing of, and certainty of closing; termination provisions; availability of financing and financial wherewithal to meet all commitments; and required governmental or other approvals), (iv) the likelihood of the Court's approval of the Successful Bid, (v) the net benefit to Just Energy and (vi) any other factors Just Energy may, consistent with its fiduciary duties, reasonably deem relevant; and (b) identify the highest or otherwise best bid received at the Auction (the "**Successful Bid**" and the Qualified Party making such bid, the "**Successful Party**").

5. **Acknowledgement.** The Successful Party shall complete and execute all agreements, contracts, instruments or other documents evidencing and containing the terms and conditions upon which the Successful Bid was made within one business day of the Successful Bid being selected as such, unless extended by Just Energy in its sole discretion, subject to the milestones set forth in Section 6 of the SISP.

THIS IS **EXHIBIT “D”** REFERRED TO IN THE AFFIDAVIT OF MARK CAIGER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant and the Commissioner were located in the City of Toronto, in the Province of Ontario.



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Commissioner for Taking Affidavits  
Blair McRadu (LSO No. 85586M)



## Confidentiality Agreement

This Confidentiality Agreement (the “**Agreement**”), effective as of **[DATE]** (the “**Effective Date**”), is by and between Just Energy Group Inc. (the “**Disclosing Party**”) and **[NAME OF RECIPIENT]** (the “**Recipient**”).

**WHEREAS**, in connection with the Recipient’s consideration of a possible transaction negotiated with the Disclosing Party (the “**Transaction**”) pursuant and subject to the terms of the Disclosing Party’s sale and investment solicitation process, with and involving the Recipient, on the one hand, and the Disclosing Party and its subsidiaries and affiliates (collectively, the “**Company**”), on the other hand, the Recipient has requested certain information concerning the Company which is non-public, confidential, or proprietary in nature; and

**WHEREAS**, the Disclosing Party wishes to protect and preserve the confidentiality of such information.

**NOW, THEREFORE**, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. For purposes of this Agreement, the following terms have the following meanings:
  - (a) “**Contact Persons**” means the individuals listed on Exhibit A, and any other Persons designated by the Company in writing as “Contact Persons” for purposes of this Agreement.
  - (b) “**Evaluation Material**” means all information, data, documents, agreements, files and other materials, whether disclosed orally or disclosed or stored in written, electronic or other form or media, which is obtained from or disclosed by the Disclosing Party or its Representatives before, on or after the date hereof regarding the Company, including, without limitation, all analyses, compilations, reports, forecasts, studies, samples and other documents prepared by or for the Recipient which contain or otherwise reflect or are generated from such information, data, documents, agreements, files or other materials; provided, however, that the term “Evaluation Material” as used herein does not include information that: (i) at the time of disclosure or thereafter is generally available to and known by the public (other than as a result of its disclosure directly or indirectly by the Recipient or its Representatives in violation of this Agreement); (ii) was available to the Recipient from a source other than the Disclosing Party or its Representatives, provided that such source, to Recipient’s knowledge after inquiry to the Disclosing Party, is not and was not bound by a confidentiality agreement regarding the Company; or (iii) has been independently acquired or developed by the Recipient without violating any of its obligations under this Agreement and without use of, or any reference to, the Evaluation Material, as evidenced by its written records.

- (c) “**Person**” means any individual, partnership (whether general or limited), limited liability company, corporation, association, trust, members of joint venture entities or other entity.
- (d) “**Representatives**” means, as to any Person, such Person’s affiliates, and its and their respective directors, officers, employees, managing members, partners, general partners, agents, advisors and consultants (including legal advisors, financial advisors and accountants).

For the purposes of this Agreement, an “**affiliate**” of a party shall be any Person which: (a) is directly or indirectly controlled by such party; (b) directly or indirectly controls such party; or (c) is under common control with such party. “**Control**” and, with correlative meanings, the terms “**controlled by**” and “**under common control with**” mean (a) the power to direct the management or policies of a Person, whether through ownership of voting securities or by contract relating to voting rights or corporate governance, resolution, regulation or otherwise, or (b) to own more than 50% of the outstanding voting securities or other ownership interest of such Person. For the avoidance of doubt, Pacific Investment Management Company, LLC and its affiliates shall not constitute affiliates of the Company.

Other terms not specifically defined in this Section 1 shall have the meanings given them elsewhere in this Agreement.

2. The Recipient shall keep the Evaluation Material strictly confidential and shall not use the Evaluation Material in violation of any applicable Law (as defined herein) or for any purpose other than to, with the Disclosing Party, evaluate, negotiate and consummate the Transaction. The Recipient shall not, and shall not permit its Representatives to, disclose, reveal, divulge, publish or otherwise make known any Evaluation Material except: (a) if required by applicable Law, but only in accordance with Section 6, or (b) to its Representatives, to the extent necessary to permit such Representatives to assist the Recipient in evaluating, negotiating and consummating the Transaction; provided, that the Recipient shall inform each such Representative of this Agreement and require each such Representative to be bound by the terms of this Agreement to the same extent as if they were parties hereto. The Recipient shall be liable for any breach of this Agreement by any of its Representatives and if any Representative of the Recipient breaches this Agreement, the Disclosing Party will not be required to first assert a claim against such Representative as a condition of seeking or obtaining a remedy against the Recipient. The Recipient agrees to exercise and cause its Representatives to exercise the same degree of care over the Evaluation Material as the Recipient exercises over the confidential information of the Recipient. The Evaluation Material (for purposes of this Section 2, defined to exclude the proviso to the definition of such term) is owned solely and exclusively by the Company, shall remain the exclusive property of the Company, and neither the Recipient nor any of its Representatives shall acquire any rights or licence with respect thereto, including by virtue of the Disclosing Party’s disclosure of Evaluation Material or Recipient’s and/or its Representatives’ use of Evaluation Material.
3. The Recipient acknowledges that a portion of the Evaluation Material may include ‘personal information’, as defined in the *Personal Information Protection and Electronic*

*Documents Act* (Canada), or any similar defined term in any legislation of comparable intent of that or any other jurisdiction which from time to time may apply and agrees that any use by the Recipient or its Representatives of such personal information shall be solely in connection with the Transaction and in compliance with such legislation.

4. Except for such disclosure required by law, regulation, rule, order, or other similar requirement of any applicable governmental or regulatory authority (collectively, “**Law**”) and that is not compelled by Recipient’s or its Representatives’ unilateral actions, the Recipient shall not, and shall not permit any of its Representatives to, without the prior written consent of the Disclosing Party, disclose to any Person (other than to the Recipient’s Representatives who need to know such information for the purpose of assisting you in your evaluation, negotiation and consummation of the Transaction): (a) the fact that the Evaluation Material has been made available to it or that it has received or inspected any portion of the Evaluation Material, (b) the existence or contents of this Agreement, (c) the fact that investigations, discussions or negotiations may take, are taking or have taken place concerning the Transaction, including the status thereof or (d) any terms, conditions or other matters relating to the Transaction.
5. The Recipient understands and agrees that the Evaluation Material is being provided to it “AS IS” and neither the Disclosing Party nor any of its Representatives: (a) has made or makes any representation or warranty hereunder, expressed or implied, as to the accuracy or completeness of the Evaluation Material or (b) shall have any liability hereunder to the Recipient or its Representatives relating to or resulting from the use of the Evaluation Material or any errors therein or omissions therefrom. The Recipient understands and agrees that the Evaluation Material prepared by the Disclosing Party or its Representatives was prepared for their internal purposes only, and thus may not be suitable for the Recipient’s purpose. The Recipient acknowledges and agrees that the Recipient will make its own independent evaluations in connection with the Evaluation Material and the Transaction and will not be relying on the Disclosing Party or any of its Representatives in connection with the Evaluation Material and the Transaction and that neither the Disclosing Party nor any of its Representatives is acting as the Recipients’ advisor in connection with the Transaction. The parties agree that unless and until a definitive agreement between the Disclosing Party and Recipient (“**Definitive Agreement**”) has been executed and delivered with respect to the Transaction, the Disclosing Party will not be under any legal obligation of any kind whatsoever with respect to the Transaction, including any obligation to (i) consummate a Transaction, (ii) conduct or continue discussions or negotiations or (iii) enter into or negotiate a Definitive Agreement. For purposes of this Agreement, the term “Definitive Agreement” does not include an executed term sheet, letter of intent, or any other preliminary written agreement, nor does it include any oral acceptance of an offer or bid by the Disclosing Party. The Disclosing Party reserves the right, in its sole discretion, to reject any and all proposals made by the Recipient or on its behalf with regard to the Transaction, to terminate discussions and negotiations with the Recipient at any time and to enter into any agreement with any other Person without notice to the Recipient or any of its Representatives, at any time and for any reason or no reason.
6. If the Recipient or any of its Representatives is required, in the written opinion of the Recipient’s external legal counsel, to disclose any Evaluation Material (including the

information under the provisions of section 4) by applicable Law or in connection with a judicial or administrative proceeding (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigation demand or similar process), the Recipient shall (a) take all reasonable steps to preserve the privileged nature and confidentiality of the Evaluation Material, including requesting that the Evaluation Material not be disclosed to third parties or the public; (b) give the Disclosing Party prompt prior written notice of such request or requirement so that the Disclosing Party may seek, an appropriate protective order or other remedy and/or waive compliance with the provisions of this Agreement; and (c) cooperate with the Disclosing Party, to obtain such protective order. In the event that such protective order or other remedy is not obtained, or the Disclosing Party waives compliance with the provisions of this Agreement, and the Recipient is required to disclose such information in connection with a judicial or administrative proceeding (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigation demand or similar process), the Recipient (or such other Persons to whom such request is directed) will furnish only that portion of the Evaluation Material which, on the written advice of the Recipient's external legal counsel, is required by applicable Law to be disclosed and, upon the Disclosing Party's request, use its best efforts to obtain assurances that confidential treatment will be accorded to such information.

7.

- (a) The Recipient hereby represents and warrants that the Recipient is not acting as a broker for or Representative of any other Person in connection with the Transaction, and is considering the Transaction only for its own account. Except with the prior written consent of the Disclosing Party, the Recipient agrees that (i) it will not act as a joint bidder or co-bidder with any other Person with respect to the Transaction, and (ii) neither the Recipient nor any of its Representatives (acting on behalf of the Recipient or its affiliates) will enter into any discussions, negotiations, agreements, arrangements or understandings (whether written or oral) with any other Person regarding the Transaction, other than the Disclosing Party and its Representatives.
- (b) Notwithstanding anything to the contrary contained herein, without the prior written consent of the Disclosing Party, the Recipient agrees that neither the Recipient nor any of its Representatives will disclose any Evaluation Material to any actual or potential sources of financing (debt, equity or otherwise).

8. At any time upon the Disclosing Party's written request, the Recipient shall cease using the Evaluation Material then in its possession and promptly, and in any event no later than five (5) days after the request, return all Evaluation Material (including all copies, extracts or other reproductions) to the Disclosing Party or certify in writing to the Disclosing Party that such Evaluation Material (including any Evaluation Material held electronically) has been destroyed. Notwithstanding the return or destruction of Evaluation Material, the Recipient and its Representatives shall continue to be bound by their obligations of confidentiality and other obligations hereunder.

9. Except with the express permission of the Disclosing Party, the Recipient agrees that, for a period of two (2) years from the Effective Date, none of the Recipient, its affiliates or

their respective Representatives shall directly or indirectly (a) solicit or hire any officer, director, or employee of the Disclosing Party, except pursuant to a general solicitation which is not directed specifically to any such employees; and (b) contact or solicit any of the Disclosing Party's customers, suppliers, manufacturers, distribution partners, clients, advisors or consultants (except for those contacts that are (i) made in the ordinary course of business operations consistent with past practice and (ii) wholly unrelated to the Disclosing Party and any transaction involving them).

10.

- (a) For a period of eighteen (18) months from the Effective Date, the Recipient shall not, and shall procure that none of its affiliates or their Representatives shall, either alone or with other Persons, directly or indirectly, without the prior written consent of the Disclosing Party, which may be unreasonably withheld:
  - (i) acquire, or agree to acquire, or make any proposal to acquire, directly or indirectly, by means of purchase, merger, consolidation, take-over bid, exchange offer, tender offer, business combination, arrangement, amalgamation or in any other manner, whether in one transaction or a series of transactions, registered, beneficial or constructive ownership of, any securities or assets of the Disclosing Party and/or any of its affiliates (including through any security, contract right or derivative position the value of which to the "owner" changes with a change in the value of any equity securities (or other securities derived from the value of such securities), without regard to any hedge that may have been entered into with respect to such position);
  - (ii) assist, advise or encourage any other Persons to acquire or agree to acquire or make any proposal or offer to acquire, directly or indirectly in any manner, registered, beneficial or constructive ownership of any securities or assets of the Disclosing Party and/or any of its affiliates (including through any security, contract right or derivative position the value of which to the "owner" changes with a change in the value of any equity securities (or other securities derived from the value of such securities), without regard to any hedge that may have been entered into with respect to such position);
  - (iii) propose, effect, seek or offer to enter into any merger, recapitalization, reorganization, business combination or other extraordinary transaction involving the Disclosing Party and/or any of its affiliates or propose, effect, seek or offer to purchase a material portion of the assets of the Disclosing Party and/or any of its affiliates;
  - (iv) "solicit", or participate or join with any Person in the "solicitation" of, any "proxies" (as such terms are defined in the *Securities Act* (Ontario)) to vote, to seek to advise or to influence any Person with voting of any voting securities or voting rights of the Disclosing Party, whether or not such

solicitation is exempt under any provision of the *Securities Act* (Ontario), or initiate any shareholder proposal in respect of the Disclosing Party;

- (v) form, join or in any way participate in a group with respect to voting securities of the Disclosing Party;
  - (vi) commence a take-over bid (whether formal or exempt), exchange offer, tender offer or similar transaction for any securities of the Disclosing Party and/or any of its affiliates;
  - (vii) seek any modification to or waiver of its own agreements and obligations under this Agreement, bring any action or otherwise act to contest the validity of this Agreement, or seek a release of the restrictions contained herein;
  - (viii) otherwise act, alone or in concert with others, to seek control or influence, in any manner, the management, board of directors or policies of the Disclosing Party and/or any of its affiliates;
  - (ix) advise, represent, enable, encourage, assist, negotiate with, or provide information to any other Person to do, or take any action consistent with or in furtherance of, any of the foregoing;
  - (x) disclose any consideration, intention, plan or arrangement to do anything that the Recipient is restricted from doing by any of the foregoing or is inconsistent with the foregoing, or make any disclosure that could require the Disclosing Party to make any disclosure;
  - (xi) take any action, directly or indirectly, that questions the validity or effectiveness of any shareholder rights plan of the Disclosing Party or any securities that may be issued pursuant thereto, or seek to cause any Person, court or regulatory body to “cease trade” or otherwise restrict the operation of such plan; or
  - (xii) have any discussions or enter into any arrangements, understandings or agreements, whether written or oral, with, or advise, finance, aid, assist, encourage or act in concert with, any other Person in connection with any of the foregoing or make any public announcement with respect to the foregoing, except as may be required by applicable Law, or take any other action which might reasonably be expected to result in any such public disclosure.
- (b) The Recipient represents to the Disclosing Party that the Recipient and its affiliates (other than individuals in their individual accounts and as set forth in Exhibit B) are not beneficial, registered or constructive owners of any securities of the Disclosing Party and/or any of its affiliates.

11. In connection with the Transaction, the Recipient shall not and shall direct its Representatives (acting on Recipient's behalf) not to, directly or indirectly, initiate or maintain contact with any officer, director, manager, member, employee, agent or advisor of the Disclosing Party regarding the Transaction (or any similar purpose or transaction) or any Evaluation Material, except through the Contact Persons. In connection with the Transaction, all (i) communications, (ii) requests for additional information regarding the Transaction (or any similar purpose or transaction) or Evaluation Material, (iii) requests for facility tours, site visits or management meetings (including telephonic meetings), and (iv) discussions or questions regarding procedures in connection with the Transaction (or any similar purpose or transaction), shall be submitted or directed exclusively to the Contact Persons, who will, as they deem appropriate, arrange for contacts for due diligence and other purposes.
12. The Recipient hereby acknowledges that it is aware, and the Recipient shall advise its Representatives who are informed of the matters that are the subject of this Agreement, that applicable United States and Canadian securities laws place certain restrictions on any Person who has material, non-public information concerning an issuer, with respect to purchasing or selling securities of such issuer or from communicating such information to any other Person, and with respect to United States securities laws, under circumstances in which it is reasonably foreseeable that such other Person is likely to purchase or sell such securities.
13. The Recipient hereby represents and warrants (and acknowledges that the Disclosing Party is relying upon such representation and warranty) that, as of the date hereof, the debt and securities set out in Exhibit B attached hereto represent all of the debt and other securities (whether any loans, notes, common shares or otherwise) issued by the Disclosing Party that the Recipient is either a beneficial holder of, or an investment manager with discretionary authority with respect to, including, without limitation, any and all of the Recipient's long and short positions. In the event that the Recipient acquires any additional debt or other securities of the Disclosing Party, or sells, disposes or otherwise transfers (in each case "**Transfer**") any of the debt or other securities of the Disclosing Party that the Recipient holds or in respect of which the Recipient is an investment manager with discretionary authority, the Recipient shall, within three business days of any such acquisition or Transfer, provide written a notice to the Disclosing Party of the amount of the debt or other securities subject to such acquisition or Transfer and provide the Disclosing Party with such notice an updated version of Exhibit B hereto.
14. The parties agree that any breach of this Agreement by the Recipient will cause the Disclosing Party irreparable injury for which monetary damages would not be a sufficient remedy and that in addition to all other remedies it may be entitled to, the Disclosing Party shall be entitled to enforce the performance of this Agreement by specific performance and injunctive or other equitable relief as a remedy for any such breach (in each case, without the requirement of posting a bond, other security or any similar requirement or proving damages). The Recipient agrees that it will not, and it will cause its Representatives to not, oppose the granting of such relief on the basis that the Disclosing Party has an adequate remedy at Law. In the event of a breach of this Agreement, the breaching party shall

reimburse the non-breaching party for all of its legal fees in enforcing this Agreement and costs which arise from or relate to the breach.

15. To the extent that any Evaluation Material includes material that is subject to solicitor-client privilege, the Disclosing Party is not waiving, and shall not be deemed to have waived or diminished, its solicitor work-product protections, solicitor -client privileges or similar protections and privileges as a result of disclosing any Evaluation Material (including Evaluation Material related to pending or threatened litigation) to the Recipient or any of its Representatives.
16. The terms of this Agreement shall control over any additional purported confidentiality requirements imposed by any offering memorandum, web-based database or similar repository of Evaluation Material to which the Recipient or any of its Representatives is granted access in connection with the evaluation, negotiation or consummation of the Transaction, notwithstanding acceptance of such an offering memorandum or submission of an electronic signature, “clicking” on an “I Agree” icon or other indication of assent to such additional confidentiality conditions.
17.
  - (a) EACH PARTY HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY LAWSUIT, PROCEEDING OR ACTION TO ENFORCE OR DEFEND ANY RIGHT UNDER THIS AGREEMENT OR ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR TO BE DELIVERED IN CONNECTION WITH THIS AGREEMENT AND AGREES THAT ANY LAWSUIT, PROCEEDING OR ACTION WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.
  - (b) This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) will be governed by and construed in accordance with the laws of the Province of Ontario, Canada applicable therein without giving effect to any choice of law or conflict of law provision or rule (whether of the Province of Ontario, Canada or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the Province of Ontario, Canada. Each party irrevocably agrees that the courts of the Province of Ontario, Canada will have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims) and agree that the judgments of such courts shall be enforceable both within and outside the Province of Ontario. Notwithstanding the foregoing (and as contemplated under Section 13), the parties agree that the Disclosing Party shall be entitled to enforce the performance of this Agreement by interim relief (injunctive or otherwise and without the requirement of posting a bond, other security or any similar requirement or proving any actual damages) from any court of competent jurisdiction if there is a breach of this Agreement.
18. This Agreement constitutes notice to the Recipient that the Disclosing Party has engaged Osler, Hoskin & Harcourt LLP (“**Osler**”) and Kirkland & Ellis LLP (“**KE**”) as its legal



counsel in connection with the potential Transaction, and the Recipient hereby (i) consents to the continued representation of the Disclosing Party by Osler and KE in relation to the Transaction notwithstanding the fact that Osler and/or KE may have represented, and may currently or in the future represent, the Recipient and/or any of its affiliates with respect to unrelated matters and (ii) waives any actual or alleged conflict and actual or alleged violation of ethical or comparable rules applicable to Osler and/or KE that may arise from its representation of the Disclosing Party in connection with the potential Transaction, including but not limited to representing the Disclosing Party against the Recipient and/or any of its affiliates in litigation, arbitration, or mediation in connection with the Transaction. In addition, the Recipient hereby acknowledges that its consent and waiver under this paragraph is voluntary and informed, and that it has obtained independent legal advice with respect to this consent and waiver.

19. This Agreement sets forth the entire agreement among the parties regarding the Evaluation Material, and supersedes all prior negotiations, understandings and agreements. No provision of this Agreement may be modified, waived or changed except by a writing signed by the parties hereto.
20. If any provision of this Agreement, or the application thereof to any Person, place or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such provision as applied to other Persons, places or circumstances shall remain in full force and effect.
21. This Agreement was negotiated fully and equally between the parties and their legal counsel, and any ambiguity in this Agreement shall not be construed against any particular party as a result of the drafting hereof.
22. The Recipient represents and warrants that it is not under any obligation to any third party that is inconsistent or in conflict with its obligations under this Agreement and that it has full right and authority to make the commitments and disclosures provided for hereunder.
23. This Agreement may be executed simultaneously in one or more counterparts, each of which when executed will be deemed an original, but all of which taken together will constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic transmission shall be effective as delivery of a manually executed original counterpart of this Agreement.
24. This Agreement shall be binding upon, inure to the benefit of, and be enforceable by the respective successors and permitted assigns of the parties hereto. Neither this Agreement nor any of the rights or obligations hereunder may be assigned by any party without the prior written consent of the non-assigning party. Any purported assignment without such consent shall be void and unenforceable. Any purchaser of the Disclosing Party or all or substantially all of the assets of the Disclosing Party shall be entitled to the benefits of this Agreement, whether or not this Agreement is assigned to such purchaser.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the date first above written.

**[RECIPIENT NAME]**

By: \_\_\_\_\_  
Name:  
Title:

**JUST ENERGY GROUP INC.**

By: \_\_\_\_\_  
Name:  
Title:

**Exhibit A****Contact Persons**

Glenn Sauntry – BMO Capital Markets

Mark Caiger – BMO Capital Markets

Constance de Grosbois – BMO Capital Markets

Marc Wasserman – Osler, Hoskin & Harcourt LLP

Michael De Lellis – Osler, Hoskin & Harcourt LLP

Brian Schartz – Kirkland & Ellis LLP

Allyson Smith – Kirkland & Ellis LLP

**Exhibit B**

THIS IS **EXHIBIT “E”** REFERRED TO IN THE AFFIDAVIT OF MARK CAIGER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant and the Commissioner were located in the City of Toronto, in the Province of Ontario.



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Commissioner for Taking Affidavits  
Blair McRadu (LSO No. 85586M)



August 15, 2022

**Private and Confidential**

The proposed form of sale and investment solicitation process (“SISP”) order (the “SISP Order”) contemplates, among other things, (a) authorized Just Energy Group Inc. and its direct and indirect subsidiaries (collectively, “Just Energy”) to implement a sale and investment solicitation process in accordance with the terms hereof, (b) approved the Support Agreement, including the Stalking Horse Term Agreement, (c) authorized and directed Just Energy Group Inc. to enter into the Stalking Horse Purchase Agreement, (d) approved the Break-Up Fee, and (e) granted the Bid Protections Charge. Capitalized terms that are not defined herein have the meanings ascribed thereto in the Second Amended & Restated Initial Order granted by the Court in Just Energy’s proceedings under the Companies’ Creditors Arrangement Act on May 26, 2021, as amended, restated or supplemented from time to time or the SISP Order, as applicable.

On behalf of Just Energy, BMO Nesbitt Burns Inc. (“BMO Capital Markets”) is pleased to invite you to submit a written notice of intent to bid (an “NOI”), and ultimately a **Qualified Bid** in respect of a transaction which may include, among other things, a sale of some or all of Just Energy’s shares, assets and/or business and/or an investment in Just Energy, each of which shall be subject to all terms set forth in the SISP (such transaction referred to herein as the “**Transaction**”). The details related to the submission of a Qualified Bid will be provided to you at a later time, well in advance of the proposed **Qualified Bid Deadline** of 11:59 p.m. Eastern Daylight Time on October 13, 2022.

It is understood that your NOI will be based on publicly available information on Just Energy, as well as your review of the confidential information contained in the virtual data room referenced below.

*NOI Deadline*

**The deadline for submission of NOIs is 11:59 p.m. (Eastern Daylight Time) on September 8, 2022 (the “NOI Deadline”).**

NOIs must be submitted in writing on company letterhead and delivered by email to BMO Capital Markets prior to the NOI Deadline. Deliveries should be addressed as follows:

**Constance de Grosbois**  
Managing Director  
Mergers and Acquisitions  
BMO Capital Markets  
Email: [constance.degrosbois@bmo.com](mailto:constance.degrosbois@bmo.com)

### ***Due Diligence Process***

The information below outlines the required procedures and logistics that will facilitate your participation in the due diligence process.

#### ***Virtual Data Room***

You will be provided with access to a virtual data room hosted by Smart Room. To gain access to the virtual data room for members of your team, please email the individual's full name, phone number, email address, title and company name to Shaan Thind ([shaan.thind@bmo.com](mailto:shaan.thind@bmo.com)) and Ahmed Husain ([ahmed.husain@bmo.com](mailto:ahmed.husain@bmo.com)).

#### ***Due Diligence Questions***

All due diligence questions, including requests for additional information, should be submitted in writing to BMO Capital Markets. To the extent that you are being assisted by external advisors, all questions should be consolidated into one question file prior to submission. The question file should be emailed to Shaan Thind ([shaan.thind@bmo.com](mailto:shaan.thind@bmo.com)) and Ahmed Husain ([ahmed.husain@bmo.com](mailto:ahmed.husain@bmo.com)). BMO Capital Markets should be the sole point of contact for all due diligence questions.

### ***Contents of the NOI***

Your NOI should be submitted in conformity with the following guidelines:

1. **Purchaser:** Your NOI must include the legal name and identity and contact information of the bidder, and the name(s) of its controlling equityholder(s) (and if the bidder is a newly formed acquisition entity, details of its ownership).
2. **Assets Subject to the Transaction:** Your NOI must contain a general description of the assets and/or business(es) of Just Energy that would be the subject of the bid.
3. **Financing:** Your NOI should include a description of your anticipated sources and timing of financing.

### ***Questions Regarding the SISP***

It is the intention of Just Energy and BMO Capital Markets to conduct the SISP such that it minimizes any disruption to the operations and employees of Just Energy. To that end, all inquiries or communications, including any requests for additional information, should be directed to Shaan Thind ([shaan.thind@bmo.com](mailto:shaan.thind@bmo.com)) and Ahmed Husain ([ahmed.husain@bmo.com](mailto:ahmed.husain@bmo.com)). **Under no**

**circumstances should the directors, management, employees, creditors, suppliers, customers, shareholders or other advisors of Just Energy be contacted directly without the prior written consent of BMO Capital Markets.**

Yours truly,

**Constance de Grosbois**

Managing Director

Mergers and Acquisitions

BMO Capital Markets

Email: [constance.degrosbois@bmo.com](mailto:constance.degrosbois@bmo.com)



THIS IS **CONFIDENTIAL EXHIBIT “F”** REFERRED TO IN THE  
AFFIDAVIT OF MARK CAIGER SWORN BEFORE ME over video  
teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20,  
Administering Oath or Declaration Remotely. The affiant and the  
Commissioner were located in the City of Toronto, in the Province of Ontario.



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Commissioner for Taking Affidavits  
Blair McRadu (LSO No. 85586M)

# **Confidential Exhibit “F”**

THIS IS **EXHIBIT “G”** REFERRED TO IN THE AFFIDAVIT OF MARK CAIGER SWORN BEFORE ME over video teleconference this 17<sup>th</sup> day of October, 2022 pursuant to O. Reg 431/20, Administering Oath or Declaration Remotely. The affiant and the Commissioner were located in the City of Toronto, in the Province of Ontario.



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Commissioner for Taking Affidavits  
Blair McRadu (LSO No. 85586M)



September 22, 2022

**Private and Confidential**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Attention:** [REDACTED]

Dear [REDACTED]:

On behalf of Just Energy Group Inc. and its direct and indirect subsidiaries (collectively, the “**Company**”), BMO Nesbitt Burns Inc. (“**BMO Capital Markets**”) thanks you for your continued interest and would like to invite you to submit a binding Qualified Bid (as defined in the Sale and Investment Solicitation Process enclosed with this letter (the “**SISP**”) together with a proposed form of transaction document (a “**Transaction Agreement**” and, collectively, a “**Binding Bid**”) with respect to a potential transaction involving the acquisition of the equity interests in the Company and/or all or a portion of the assets or business of the Company, a financing arrangement for the Company, and/or any other transaction that may be of interest to you and the Company that satisfies the requirements enumerated in the SISP (each, a “**Transaction**”).

Capitalized terms not defined herein shall have the meanings ascribed to them in the SISP.

You are reminded that the contents of this letter and the additional non-public information you may receive, and have already received, during this process, are subject to the terms of the Non-Disclosure Agreement which you have entered into with the Company (the “**NDA**”). Nothing in this letter amends or otherwise changes any term in the NDA.

***Binding Bid Deadline***

The deadline for submission of Binding Bids is **11:59pm Eastern Daylight Time on Thursday, October 13, 2022** (the “**Qualified Bid Deadline**”), and your Binding Bid should be sent via email **ONLY** to the following team at FTI Consulting Canada Inc. (in its capacity as the Court-appointed Monitor of the Company, the “**Monitor**”):

**Paul Bishop**

Senior Managing Director  
 FTI Consulting Canada Inc.  
 +1 416 649 8053  
 paul.bishop@fticonsulting.com

**Jim Robinson**

Senior Managing Director  
 FTI Consulting Canada Inc.  
 +1 416 649 8070  
 jim.robinson@fticonsulting.com

***Contents of the Binding Bid***

Your Binding Bid should be executed by an officer or principal authorized to bind the prospective purchaser or investor to its terms, should be in writing, and should include the following guidelines:

1. **Purchaser/Investor:** The legal name of the purchaser or investor (collectively, the “**Purchaser**”), its jurisdiction of existence, and if the Purchaser is not a public company, the name of the ultimate beneficial owners of the Purchaser (including identification of any such beneficial owners that are controlling owners).

Your Binding Bid should also include disclosure of any relevant connections or agreements the Purchaser or any of its affiliates have with the Company or any of its affiliates, any known, potential or prospective bidder, or any officer, manager, director or known equityholder of the Company.

2. **Transaction Structure:** Specific terms setting out the form and nature of the Transaction you propose, including details regarding any assets to be included or excluded and any liabilities to be assumed or not assumed.

**Your Binding Bid should be structured such that the Purchase Price shall be an amount payable in cash computed at closing such that:**<sup>1</sup>

- A. it is sufficient for all of the following: (i) the payment in full in cash on closing of the BP Commodity/ISO Services Claim (as defined in the Support Agreement); (ii) the payment in full in cash on closing of the Credit Facility Claims; (iii) the payment in full of amounts referred to in section 3.2 of the Stalking Horse Transaction Agreement; and (iv) the Break-Up Fee, after applying available cash on hand within the Company; and
- B. it provides for an additional cash amount of at least US\$1 million (being the minimum overbid).

In addition, your Binding Bid should contemplate steps to, at closing, arrange for the return of all outstanding letters of credit and release of all Credit Facility LC Claims or arrangements satisfactory to the applicable Credit Facility Lenders in their discretion to secure with cash collateral or otherwise any Credit Facility LC Claims not released.<sup>2</sup> Cash

<sup>1</sup> Subject to applicable claimholders agreeing to other arrangements, in their sole discretion.

<sup>2</sup> Subject to the applicable Credit Facility Lenders agreeing to other arrangements, in their sole discretion.

collateral that has been posted and not returned to the Company as of the closing date shall be an asset that will be beneficially owned by the Purchaser.

The amount referred to in “A.” above may vary for a number of reasons, including, without limitation, accumulation of interest (depending upon the closing date), business performance (affecting available cash on hand), energy market conditions (affecting the amount of collateral posted with counterparties), foreign exchange rates and other factors. **All other things being equal, Binding Bids that assume the risk of this variability will be advantaged.**

If your Binding Bid includes a post-closing financing arrangement for the Company, a detailed term sheet should be provided that, among other things, indicates the intended amount, provider/source (and contact names) and timeframe to secure/fund.

3. **Financing:** Your Binding Bid should include written evidence of the Purchaser’s ability to fully fund and consummate the transaction and satisfy its obligations under the transaction documents, including binding equity/debt commitment letters and/or guarantees covering the full value of all cash consideration and the additional items (in scope and amount) covered by the guarantees provided by affiliates of the Purchaser in connection with the Transaction Agreement.
4. **Sources and Uses Schedule:** Your Binding Bid should include a detailed sources and uses schedule that identifies, with specificity, the amount of cash consideration and any assumptions that could reduce the net consideration payable. As noted in paragraph 7(b) of the SISP, the minimum Cash Consideration Value was estimated to be US\$460,000,000 projected as of December 31, 2022. An updated estimate will be provided to you in early October 2022, in advance of the Qualified Bid Deadline.
5. **Transaction Documents:** Your Binding Bid should contain duly executed binding transaction documents, including the Transaction Agreement, and a redline to the template transaction agreement that will be provided to you. The template transaction agreement contemplates a share subscription transaction and a reverse vesting order. In the event you wish to consider an asset purchase or other form of transaction, you should contact BMO Capital Markets using the contact information provided below.
6. **Intentions Regarding the Company:** Your Binding Bid should include an indication of your intentions regarding the operations, and a discussion of the strategic and operational fit with your existing operations (if any). Your Binding Bid should also include full details of your intended treatment of the Company’s employees.
7. **Internal Approvals:** Your Binding Bid should include evidence of authorization and approval from your Board of Directors (or comparable governing body) and, if necessary to complete the proposed Transaction, the Purchaser’s equityholders. For clarity, all such required corporate approvals should be obtained prior to your submission of the Binding Bid.
8. **Expiry:** Your Binding Bid should include a letter stating that the bid is submitted in good faith, is binding and is irrevocable until the selection of the Successful Bid; provided,

however, that if such bid is selected as the Successful Bid, it shall remain irrevocable until the closing of the Successful Bid.

9. **Conditions and Approvals:** Your Transaction Agreement should include comprehensive terms regarding any necessary government and regulatory approvals or consents to closing the Transaction and be accompanied with details regarding the expected timing and process for obtaining such approvals or consents.

Your Binding Bid should specify whether the Purchaser or any of its affiliates is involved in any part of the energy sector, including an electric utility, retail service provider, a company with a tariff on file with the Federal Energy Regulatory Commission, or any intermediate holding company.

Your Binding Bid should indicate any facts or circumstances you can reasonably foresee that might affect the timing or certainty of your ability to close the Transaction on a timely basis.

Your Binding Bid should not be conditional upon:

- i. approval from the Purchaser's board of directors (or comparable governing body) or equityholder(s);
- ii. the completion or outcome of any due diligence by the Purchaser; or
- iii. the Purchaser obtaining financing.

In evaluating Binding Bids, the Company will give great weight to certainty and the relative ability of prospective purchasers or investors to close the Transaction in an expeditious manner.

Qualified Bids should be reasonably capable of being consummated by 90 days after completion of the Auction if selected as the Successful Bid.

The Purchaser should, by way of a significant reverse break fee or otherwise, underwrite the risk of obtaining any necessary regulatory approvals.

Your Binding Bid should not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment.

10. **Due Diligence:** The Binding Bid should include an acknowledgment and representation that the Purchaser has had an opportunity to conduct any and all required due diligence prior to making its Binding Bid.

11. **Deposit:** Your Binding Bid should be accompanied by a cash deposit (the "**Deposit**") by wire transfer of immediately available funds equal to 10% of the Cash Consideration Value in US dollars, which Deposit shall be retained by the Monitor in a non-interest bearing trust account in accordance with this SISP. Wire instructions will be provided shortly.

The Deposit shall be subject to the terms of the SISP and, if applicable, the terms of any executed Definitive Agreements (as defined below).

12. **Costs and Expenses:** Your Binding Bid should include a statement that the Purchaser will bear its own costs and expenses (including legal and advisor fees) in connection with the proposed Transaction, and by submitting its bid is agreeing to refrain from and waive any assertion or request for reimbursement on any basis.
13. **Contacts Details:** Your Binding Bid should include contact information for the persons with whom we can discuss your Binding Bid, including any financial, legal or other advisors.
14. **Other:** Your Binding Bid should also indicate any other facts, circumstances or important matters which you believe are relevant to the evaluation of your Binding Bid.

### ***Questions Regarding the Process***

All inquiries or communications, including any requests for additional information, should be directed to:

**Constance de Grosbois**  
Managing Director  
BMO Capital Markets  
+1.647.628.2877  
constance.degrosbois@bmo.com

### ***Qualifications Regarding the Process***

The Company and BMO Capital Markets expressly reserve the right at any time, with or without providing notice or reasons, in each case subject to the terms of the SISP and any Orders granted in the Company's ongoing proceedings under the *Companies' Creditors Arrangement Act*, to: (i) amend or terminate the SISP; (ii) amend any information which has been made available to any of the interested parties either by way of addition, deletion, amendment and/or restatement; (iii) decline to permit any interested party to participate or continue in the SISP; (iv) terminate discussions with any or all interested parties; (v) reject any or all Binding Bids; and (vi) negotiate with any party with respect to the Transaction or any other transaction involving the Company without liability to the Company or BMO Capital Markets.

In submitting a Binding Bid, an interested party acknowledges that it is relying solely on its own investigation and evaluation of the Company and its business. None of the Company, the Monitor, BMO Capital Markets or any other advisor or representative of the Company or their respective affiliates makes any express or implied representations or warranties with respect to the matters contemplated hereby and each disclaims any and all liability for any claims as to representations, warranties or statements contained in this letter or in any other written (or electronic) material furnished or information orally transmitted to any interested party, except only those particular representations and warranties made by the Company in any definitive duly executed transaction agreements (the "**Definitive Agreements**") if, as and when any such Definitive Agreements may ultimately be executed by the Company, and subject to such limitations and restrictions as may be contained therein. Until Definitive Agreements are executed by the Company, none of the



Company, the Monitor or BMO Capital Markets will have any obligations whatsoever to any potential purchaser or investor.

It is understood that each interested party will bear its own costs and expenses including the costs and expenses of all of its financial advisors, brokers, finders, agents, lawyers, accountants and other advisors. No finder's fees, commissions, expenses or other compensation will be paid by the Company or BMO Capital Markets to such intermediaries of any interested party.

Yours truly,

**Constance de Grosbois**

Managing Director  
BMO Capital Markets

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, C. C- 36, AS AMENDED; Court File No: CV-21-00658423-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JUST ENERGY GROUP INC. ET AL.

Applicants

*Ontario*  
**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at: TORONTO

**AFFIDAVIT OF MARK CAIGER**

**OSLER, HOSKIN & HARCOURT LLP**  
100 King Street West, 1 First Canadian Place  
Suite 6200, P.O. Box 50  
Toronto ON M5X 1B8

Marc Wasserman (LSO# 44066M)  
Michael De Lellis (LSO# 48038U)  
Jeremy Dacks (LSO# 41851R)

Tel: (416) 362-2111  
Fax: (416) 862-6666

Counsel for the Applicants

# TAB 4

Court File No. CV-21-00658423-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR.	)	WEDNESDAY, THE 2 <sup>ND</sup>
	)	
JUSTICE MCEWEN	)	DAY OF NOVEMBER

IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JUST ENERGY GROUP INC., JUST ENERGY CORP., ONTARIO ENERGY COMMODITIES INC., UNIVERSAL ENERGY CORPORATION, JUST ENERGY FINANCE CANADA ULC, HUDSON ENERGY CANADA CORP., 11929747 CANADA INC., 12175592 CANADA INC., JE SERVICES HOLDCO I INC., JE SERVICES HOLDCO II INC., 8704104 CANADA INC., JUST ENERGY ADVANCED SOLUTIONS CORP., JUST ENERGY (U.S.) CORP., JUST ENERGY ILLINOIS CORP., JUST ENERGY INDIANA CORP., JUST ENERGY MASSACHUSETTS CORP., JUST ENERGY NEW YORK CORP., JUST ENERGY TEXAS I CORP., JUST ENERGY, LLC, JUST ENERGY PENNSYLVANIA CORP., JUST ENERGY MICHIGAN CORP., JUST ENERGY SOLUTIONS INC., HUDSON ENERGY SERVICES LLC, HUDSON ENERGY CORP., INTERACTIVE ENERGY GROUP LLC, HUDSON PARENT HOLDINGS LLC, DRAG MARKETING LLC, JUST ENERGY ADVANCED SOLUTIONS LLC, FULCRUM RETAIL ENERGY LLC, FULCRUM RETAIL HOLDINGS LLC, TARA ENERGY, LLC, JUST ENERGY MARKETING CORP., JUST ENERGY CONNECTICUT CORP., JUST ENERGY LIMITED, JUST SOLAR HOLDINGS CORP. AND JUST ENERGY (FINANCE) HUNGARY ZRT.

(each, an “**Applicant**”, and collectively, the “**Applicants**”)

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by the Applicants (together, the Applicants and the partnerships listed on **Schedule “A”** hereto, the “**Just Energy Entities**”), pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCA**”), for an order, *inter alia*, (i) approving the Transaction Agreement (as amended, the “**Transaction Agreement**”) between Just Energy Group Inc. (“**Just Energy**”) and LVS III SPE XV LP, TOCU XVII LLC, HVS XVI LLC, OC II LVS XIV LP, OC III LFE I LP, and CBHT Energy I LLC (collectively, the “**Sponsor**”)

dated as of August 4, 2022 and attached as ● and the transactions contemplated therein (collectively, the “**Transactions**”), including the Implementation Steps (as defined in the Transaction Agreement), (ii) adding ● (“**Residual Co. 1**”) and ● (“**Residual Co. 2**”) as Applicants to these CCAA proceedings, (iii) vesting in and to Residual Co. 1 and/or Residual Co. 2, as applicable, absolutely and exclusively, all of the right, title and interest of the Just Energy Entities not listed on Schedule 2.2(f) of the Transaction Agreement (the “**Acquired Entities**”) in and to the Excluded Assets, the Excluded Contracts and the Excluded Liabilities (each as defined in the Transaction Agreement), (iv) discharging Claims and Encumbrances, other than the Permitted Encumbrances, against the Acquired Entities and the Retained Assets (each as hereinafter defined), (v) authorizing and directing Just Energy (U.S.) Corp. (“**JEUS**”) to issue the Purchased Interests (as defined in the Transaction Agreement), and vesting all of the right, title and interest in and to the Purchased Interests absolutely and exclusively in and to the Sponsor, free and clear of any Encumbrances, (vi) authorizing and directing Just Energy to file the Articles of Reorganization (as defined in the Transaction Agreement), (vii) terminating and cancelling or redeeming the Subject Interests (as hereinafter defined) for no consideration (as provided for in the Implementation Steps), and (viii) granting certain related relief, was heard this day by judicial video conference via Zoom in Toronto, Ontario due to the COVID-19 pandemic.

**ON READING** the Notice of Motion of the Applicants, the affidavit of Michael Carter sworn October 17, 2022, affidavit of Mark Caiger, sworn October 17, 2022, the ● report of FTI Consulting Canada Inc. (“**FTI**”), in its capacity as monitor (the “**Monitor**”), dated ●, 2022, and on hearing the submissions of counsel for the Just Energy Entities, the Monitor, the Sponsor, the Credit Facility Agent, as administrative agent for the Credit Facility Lenders, and such other counsel as were present, no one else appearing although duly served as appears from the affidavit of service of ● sworn ●, 2022:

## **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record herein is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that all capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Second Amended and Restated Initial Order of this Court dated May 26, 2021 (the “**Initial Order**”), that certain support agreement approved by this Court pursuant to the SISP Approval Order (as hereinafter defined) (the “**Support Agreement**”), or the Transaction Agreement, as applicable.

#### **APPROVAL AND VESTING**

3. **THIS COURT ORDERS AND DECLARES** that, without derogating in any way from the relief contained in the SISP Approval Order of this Court dated August 18, 2022 (the “**SISP Approval Order**”), the Transaction Agreement and the Transactions (including the Implementation Steps) are hereby approved and the execution of the Transaction Agreement by Just Energy is hereby authorized and approved, with such minor amendments as Just Energy and the Sponsor may deem necessary, with the approval of the Monitor and subject to the terms of the Support Agreement. The Just Energy Entities are hereby authorized and directed to perform their obligations under the Transaction Agreement, including the filing of the Articles of Reorganization, the issuance of the Purchased Interests and the termination and cancellation or redemption of the Subject Interests (as provided for in the Implementation Steps), and to take such additional steps and execute such additional documents (including the Closing Documents) as may be necessary or desirable for the completion of the Transactions.

4. **THIS COURT ORDERS AND DECLARES** that this Order shall constitute the only authorization required by the Just Energy Entities to proceed with the Transactions and that no shareholder or other approval shall be required in connection therewith.

5. **THIS COURT ORDERS AND DECLARES** that, upon the delivery of the Monitor's certificate (the "**Monitor's Certificate**") to the Sponsor, substantially in the form attached as **Schedule "B"** hereto, the following shall occur and shall be deemed to have occurred in the sequence set out in the Implementation Steps:

- (a) the Just Energy Entities shall be and are hereby forever released and discharged from the BP Commodity/ISO Services Claim, including all amounts and obligations owing by the Just Energy Entities in connection therewith, and all related Claims and Encumbrances are hereby expunged and discharged;
- (b) (i) with respect to the Acquired Entities not formed or incorporated under the laws of the United States (the "**Non-US Acquired Entities**"), all of the Non-US Acquired Entities' right, title and interest in and to their respective Excluded Assets shall vest absolutely and exclusively in Residual Co. 1, and (ii) with respect to the Acquired Entities formed or incorporated under the laws of the United States (the "**US Acquired Entities**"), all of the US Acquired Entities' right, title and interest in and to their respective Excluded Assets shall vest absolutely and exclusively in Residual Co. 2, and, in each case, all applicable Claims and Encumbrances shall continue to attach to such Excluded Assets with the same nature and priority as they had immediately prior to their transfer; provided that, for certainty, the Excluded Assets transferred hereby shall not include the Priority Payments Amount, which shall be used to satisfy the Priority Payments (as hereinafter defined) in accordance with paragraph 17 hereof;

- (c) all Excluded Contracts and Excluded Liabilities (which, for certainty includes all debts, liabilities, obligations, indebtedness, contracts, leases, agreements, and undertakings of any kind or nature whatsoever, whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, matured or unmatured or due or not yet due, in law or equity and whether based in statute or otherwise) of the Non-US Acquired Entities and the US Acquired Entities (in each case, other than the Assumed Liabilities) shall be transferred to, assumed by and vest absolutely and exclusively in, Residual Co. 1 and Residual Co. 2, respectively, such that all Excluded Contracts and Excluded Liabilities shall become obligations of Residual Co. 1 and Residual Co. 2, as applicable, and shall no longer be obligations of any of the Acquired Entities, and the Acquired Entities and all of their remaining assets, licenses, undertakings and properties of every nature and kind whatsoever and wherever situate (collectively, the “**Retained Assets**”) shall be and are hereby forever released and discharged from all Excluded Contracts and Excluded Liabilities, and all related Claims and Encumbrances, other than the permitted encumbrances, easements and restrictive covenants affecting or relating to the Retained Assets listed on Schedule “C” (the “**Permitted Encumbrances**”), are hereby expunged and discharged as against the Retained Assets; provided that, for certainty, the Excluded Liabilities transferred hereby shall not include the obligations of the Just Energy Entities in respect of the Priority Payments, which shall be satisfied pursuant to paragraph 17 hereof;
- (d) all right, title and interest in and to the Purchased Interests issued by JEUS to the Sponsor shall vest absolutely and exclusively in the Sponsor free and clear of and



from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (x) any encumbrances or charges created by the Initial Order, the SISP Approval Order, or any other Order of this Court, and (y) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the Permitted Encumbrances) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Interests are hereby expunged and discharged as against the Purchased Interests;

- (e) all equity interests of Just Energy and JEUS existing prior to the commencement of the Implementation Steps (for greater certainty, other than the Purchased Interests), as well as all options, conversion privileges, equity-based awards, warrants, securities, debentures, loans, notes or other rights, agreements or commitments of any character whatsoever that are held by any Person (as hereinafter defined) and are convertible or exchangeable for any securities of Just Energy or JEUS or which require the issuance, sale or transfer by Just Energy or JEUS, of any shares or other securities of Just Energy or JEUS, as applicable, or otherwise evidencing a right to acquire the Purchased Interests and/or the share capital of Just Energy or JEUS, or otherwise relating thereto (collectively, the “**Subject Interests**”), shall be deemed

terminated and cancelled or redeemed as provided in the Implementation Steps and the Articles of Reorganization, as applicable; and

- (f) the Acquired Entities shall and shall be deemed to cease to be Applicants in these CCAA proceedings, and the Acquired Entities shall be deemed to be released from the purview of the Initial Order and all other Orders of this Court granted in respect of these CCAA proceedings, save and except for this Order the provisions of which (as they relate to the Acquired Entities) shall continue to apply in all respects.

6. **THIS COURT ORDERS AND DIRECTS** the Monitor to (a) provide a copy of the Monitor's Certificate to the parties to the Support Agreement at the same time as its delivery to the Sponsor; and (b) file with this Court a copy of the Monitor's Certificate forthwith after delivery thereof in connection with the Transactions.

7. **THIS COURT ORDERS** that the Monitor may rely on written notice from Just Energy and the Sponsor regarding the satisfaction or waiver of conditions to closing under the Transaction Agreement and shall have no liability with respect to delivery of the Monitor's Certificate.

8. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, from and after the Effective Time (as defined in the Monitor's Certificate), subject to the payment of the Priority Payments and the funding of the Administrative Expense Amount, all Claims and Encumbrances released, expunged and discharged pursuant to paragraph 5 hereof, including as against the Acquired Entities, the Retained Assets and the Purchased Interests, shall attach to (a) the net proceeds remaining (the "**Remaining Proceeds**"), if any, realized from the Cash Purchase Price and transferred to Residual Co. 1 or Residual Co. 2 and (b) the Excluded

Assets, in each case, with the same nature and priority as they had immediately prior to the Transactions, as if the Transactions had not occurred.

9. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Just Energy Entities or the Monitor, as the case may be, are authorized, permitted and directed to, at the Effective Time, disclose to the Sponsor all human resources and payroll information in the Acquired Entities' records pertaining to past and current employees of the Acquired Entities. The Sponsor shall maintain and protect the privacy of such information in accordance with applicable law and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Just Energy Entities prior to the Effective Time.

10. **THIS COURT ORDERS AND DECLARES** that, at the Effective Time and without limiting the provisions of paragraph 5 hereof, the Sponsor and the Acquired Entities shall be deemed released from any and all claims, liabilities (direct, indirect, absolute or contingent) or obligations with respect to any Taxes (including penalties and interest thereon) of, or that relate to, the Just Energy Entities (provided, as it relates to the Sponsor and the Acquired Entities, such release shall not apply to (a) Taxes in respect of the business and operations conducted by the Acquired Entities after the Effective Time; or (b) Taxes expressly assumed as Assumed Liabilities pursuant to the Transaction Agreement), including, without limiting the generality of the foregoing, all Taxes that could be assessed against the Sponsor or the Acquired Entities (including its affiliates and any predecessor corporations) pursuant to section 160 of the *Income Tax Act* (Canada) (the "**Tax Act**"), or proposed section 160.01 of the Tax Act, including as a result of any future amendments or proposed amendments to such provisions or related provisions, or any provincial equivalent, in connection with the Just Energy Entities.

11. **THIS COURT ORDERS** that, except to the extent expressly contemplated by the Transaction Agreement (and, for greater clarity, excluding Continuing Contracts relating to Assumed Liabilities, including the Credit Facility Documents), all Continuing Contracts to which any of the Acquired Entities are a party upon delivery of the Monitor's Certificate will be and remain in full force and effect upon and following delivery of the Monitor's Certificate and no individual, firm, corporation, governmental body or agency, or any other entity (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") who is a party to any such arrangement may accelerate, terminate, rescind, refuse to perform or otherwise repudiate its obligations thereunder, or enforce or exercise any right (including any right of set-off, dilution or other remedy) or make any demand under or in respect of any such arrangement and no automatic termination will have any validity or effect, by reason of:

- (a) any event that occurred on or prior to the Effective Time and is not continuing that would have entitled such Person to enforce those rights or remedies (including defaults or events of default arising as a result of the insolvency of any Just Energy Entity);
- (b) the insolvency of any Just Energy Entity or the fact that the Just Energy Entities sought or obtained relief under the CCAA;
- (c) any compromises, releases, discharges, cancellations, transactions, arrangements, reorganizations or other steps taken or effected pursuant to the Transaction Agreement, the Transactions or the provisions of this Order, or any other Order of this Court in these CCAA proceedings; or

- (d) any transfer or assignment, or any change of control of the Acquired Entities arising from the implementation of the Transaction Agreement, the Transactions or the provisions of this Order.

12. **THIS COURT ORDERS**, for greater certainty, that (a) nothing in paragraph 11 hereof shall waive, compromise or discharge any obligations of the Acquired Entities or the Sponsor in respect of any Assumed Liabilities; (b) the designation of any Claim as an Assumed Liability is without prejudice to the Acquired Entities' and the Sponsor's right to dispute the existence, validity or quantum of any such Assumed Liability; and (c) nothing in this Order or the Transaction Agreement shall affect or waive the Acquired Entities' or Sponsor's rights and defences, both legal and equitable, with respect to any Assumed Liability, including, but not limited to, all rights with respect to entitlements to set-offs or recoupments against such Assumed Liability.

13. **THIS COURT ORDERS** that, from and after the Effective Time, all Persons shall be deemed to have waived any and all defaults of any Just Energy Entity then existing or previously committed by any Just Energy Entity, or caused by any Just Energy Entity, directly or indirectly, or noncompliance with any covenant, warranty, representation, undertaking, positive or negative pledge, term, provision, condition or obligation, expressed or implied, in any Continuing Contract, existing between such Person and any Acquired Entity directly or indirectly from the filing by the Applicants under the CCAA and the implementation of the Transactions, including without limitation any of the matters or events listed in paragraph 11 hereof, and any and all notices of default and demands for payment or any step or proceeding taken or commenced in connection therewith under a Continuing Contract shall be deemed to have been rescinded and of no further force or effect; provided that, nothing herein shall be deemed to excuse the Sponsor or the Just Energy Entities from performing their obligations under, or be a waiver of defaults by the Sponsor

or Just Energy under, the Transaction Agreement and the related agreements and documents, or affect the validity of the Implementation Steps.

14. **THIS COURT ORDERS** that, from and after the Effective Time, any and all Persons shall be and are hereby forever barred, estopped, stayed and enjoined from commencing, taking, applying for or issuing or continuing any and all steps or proceedings, whether directly, derivatively or otherwise, and including without limitation, administrative hearings and orders, declarations and assessment, commenced, taken or proceeded with or that may be commenced, taken or proceeded with against the Sponsor or the Acquired Entities relating in any way to or in respect of any Excluded Assets, Excluded Contracts or Excluded Liabilities and any other claims, obligations and other matters which are waived, released, expunged or discharged pursuant to this Order; provided that, nothing herein shall affect the validity of the Implementation Steps.

15. **THIS COURT ORDERS** that, from and after the Effective Time:

- (a) the nature of the Assumed Liabilities assumed by the Sponsor or retained by the Acquired Entities, including, without limitation, their amount and their secured or unsecured status, shall not be affected or altered as a result of the Transactions or this Order;
- (b) the nature of the Excluded Liabilities, including, without limitation, their amount and their secured or unsecured status, shall not be affected or altered as a result of their transfer to Residual Co. 1 and Residual Co. 2, as applicable;
- (c) any Person that prior to the Effective Time had a valid right or claim against the Acquired Entities under or in respect of any Excluded Contract or Excluded

Liability (each an “**Excluded Liability Claim**”) shall no longer have such right or claim against the Acquired Entities but will have an equivalent Excluded Liability Claim against Residual Co. 1 or Residual Co. 2, as applicable, in respect of the Excluded Contract and Excluded Liability from and after the Effective Time in its place and stead, and nothing in this Order limits, lessens or extinguishes the Excluded Liability Claim of any Person as against Residual Co. 1 and/or Residual Co. 2; and

- (d) the Excluded Liability Claim of any Person against Residual Co. 1 and/or Residual Co. 2 following the Effective Time shall have the same rights, priority and entitlement as such Excluded Liability Claim had against the applicable Acquired Entities prior to the Effective Time.

16. **THIS COURT ORDERS AND DECLARES** that, as of the Effective Time:

- (a) Residual Co. 1 and Residual Co. 2 shall be companies to which the CCAA applies; and
- (b) Residual Co. 1 and Residual Co. 2 shall be added as Applicants in these CCAA proceedings and all references in any Order of this Court in respect of these CCAA proceedings to (i) an “Applicant” or the “Applicants” shall refer to and include Residual Co. 1 and Residual Co. 2, *mutatis mutandis*, and (ii) “Property” shall include the current and future assets, licenses, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof, of Residual Co. 1 and Residual Co. 2, including the Remaining Proceeds (the

“Residual Co. Property”), and, for greater certainty, each of the Charges, shall constitute charges on the Residual Co. Property.

## **PRIORITY PAYMENTS**

17. **THIS COURT ORDERS AND DIRECTS** that the Priority Payments Amount and the Cash Purchase Price, as necessary and as permitted by the Transaction Agreement, shall be distributed by Just Energy, on behalf of one or more of the Just Energy Entities, on the Closing Date consistent with the Implementation Steps, to satisfy the following obligations (collectively, the “Priority Payments”):

- (a) first, to the beneficiaries of the Administration Charge and the FA Charge, the amounts necessary to satisfy the Just Energy Entities’ obligations secured thereby up to the maximum respective amounts secured by such charges, in full and final satisfaction thereof;
- (b) second, to the beneficiaries of the KERP Charge, the amounts necessary to satisfy the Just Energy Entities’ obligations secured thereby (if any) up to the maximum amount secured by such charge, in full and final satisfaction thereof;
- (c) third, on a *pari passu* basis:
  - (i) to the DIP Agent, for the benefit of the beneficiaries of the DIP Lenders’ Charge, an amount necessary to satisfy the Just Energy Entities’ obligations secured by such charge, in full and final satisfaction thereof, and
  - (ii) to each Commodity Supplier, an amount necessary to satisfy such Commodity Supplier’s Commodity Supplier Claim that is an Accepted Claim (as defined in the Claims Procedure Order), in full and final satisfaction thereof;



- (d) fourth, to each Government Entity, an amount necessary to satisfy such Government Entity's Government Priority Claim, in full and final satisfaction thereof; and
- (e) fifth, to the Credit Facility Agent, in the currency that such Credit Facility Claim was originally denominated, an amount equal to the Credit Facility Claim (less the Credit Facility Remaining Debt, if any), in full and final satisfaction thereof.

18. **THIS COURT ORDERS** that, subject to completion of the Priority Payments set out in paragraph 17 hereof, the FA Charge, the Directors' Charge, the KERP Charge, the DIP Lenders' Charge, the Priority Commodity/ISO Charge, the Cash Management Charge and the Bid Protections Charge shall be and are hereby terminated, released and discharged.

19. **THIS COURT ORDERS** that the Administrative Expense Amount held by the Monitor shall be subject to the Administration Charge, and any remaining portion thereof after payment of the Administrative Expense Costs shall be paid to Just Energy in accordance with the terms of the Transaction Agreement.

#### **RELEASES AND OTHER PROTECTIONS**

20. **THIS COURT ORDERS** that, effective as of the Effective Time, (a) the current and former directors, officers, employees, legal counsel and advisors of the Just Energy Entities, Residual Co. 1 and Residual Co. 2 (or any of them); (b) the Monitor and its legal counsel; (c) the Sponsor and their respective current and former directors, officers, employees, legal counsel and advisors; and (d) the Credit Facility Agent and the Credit Facility Lenders, and their respective current and former directors, officers, employees, legal counsel and advisors (in such capacities, collectively, the "**Released Parties**") shall be deemed to be forever irrevocably released by the

Releasing Parties (as hereinafter defined) and discharged from any and all present and future claims (including, without limitation, claims for contribution or indemnity), liabilities, indebtedness, demands, actions, causes of action, counterclaims, suits, damages, judgments, executions, recoupments, debts, sums of money, expenses, accounts, liens, taxes, recoveries, and obligations of any nature or kind whatsoever (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, matured or unmatured or due or not yet due, in law or equity and whether based in statute or otherwise) based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the Effective Time or undertaken or completed in connection with or pursuant to the terms of this Order in respect of, relating to, or arising out of (i) the Just Energy Entities, the business, operations, assets, property and affairs of the Just Energy Entities wherever or however conducted or governed, the administration and/or management of the Just Energy Entities, these CCAA proceedings and/or the Chapter 15 Cases, or (ii) the Transaction Agreement, the Closing Documents, the Support Agreement, the Definitive Documents (when used in this Order, as defined in the Support Agreement), any agreement, document, instrument, matter or transaction involving the Just Energy Entities arising in connection with or pursuant to any of the foregoing, and/or the consummation of the Transactions (collectively, subject to the excluded matters below, the “**Released Claims**”), which Released Claims shall be deemed to be fully, finally, irrevocably and forever waived, discharged, released, cancelled and barred as against the Released Parties; provided that, nothing in this paragraph shall waive, discharge, release, cancel or bar (x) any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA, or (y) any obligations of any of the Released Parties under or in connection with the Transaction Agreement, the Closing Documents, the Support Agreement, the Definitive Documents, and/or any agreement, document,

instrument, matter or transaction involving the Just Energy Entities arising in connection with or pursuant to any of the foregoing. “**Releasing Parties**” means any and all Persons (besides the Just Energy Entities and their respective current and former affiliates), and their current and former affiliates’ current and former members, directors, managers, officers, investment committee members, special committee members, equity holders (regardless of whether such interests are held directly or indirectly), predecessors, successors, assigns, participants, subsidiaries, affiliates, partners, limited partners, general partners, affiliated investment funds or investment vehicles, managed accounts or funds, and each of their respective current and former members, equity holders, officers, directors, managers, principals, members, management companies, advisory board members, investment fund advisors or managers, employees, agents, trustees, investment managers, financial advisors, partners, legal counsel, accountants, investment bankers, consultants, representatives, and other professionals, each in their capacity as such.

21. **THIS COURT ORDERS** that, effective as of the Effective Time, the Released Parties shall be deemed to be forever irrevocably released by each of the Just Energy Entities and their respective current and former affiliates, and discharged from, any and all Released Claims held by the Just Energy Entities and such current and former affiliates as of the Effective Time, which Released Claims shall be deemed to be fully, finally, irrevocably and forever waived, discharged, released, cancelled and barred as against the Released Parties; provided that, nothing in this paragraph shall waive, discharge, release, cancel or bar (a) any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA; or (b) any obligations of any of the Released Parties under or in connection with the Transaction Agreement, the Closing Documents, the Support Agreement, the Definitive Documents, and/or any agreement, document, instrument, matter or transaction involving the Just Energy Entities arising in connection with or pursuant to

any of the foregoing; provided further that, the releases set forth in this paragraph shall not include, nor limit or modify in any way, any claim (or any defenses) which any of the Just Energy Entities may hold or be entitled to assert against any Released Party as of the Effective Time relating to any contracts, leases, agreements, licenses, bank accounts or banking relationships, accounts receivable, invoices, or other ordinary course obligations which are remaining in effect following the Effective Time.

22. **THIS COURT ORDERS** that, without affecting or limiting the releases set forth in paragraphs 20 and 21 hereof, effective as of the Effective Time, none of (a) the current and former directors, officers, employees, legal counsel and advisors of the Just Energy Entities, Residual Co. 1 and Residual Co. 2 (or any of them); (b) the Monitor and its legal counsel; (c) the Sponsor and their respective current and former directors, officers, employees, legal counsel and advisors; and (d) the Credit Facility Agent and the Credit Facility Lenders, and their respective current and former directors, officers, employees, legal counsel and advisors (in such capacities, collectively, the “**Exculpated Parties**”), shall have or incur, and each Exculpated Party is released and exculpated from, any Causes of Action (as hereinafter defined) against such Exculpated Party for any act or omission in respect of, relating to, or arising out of the Transaction Agreement, the Closing Documents, the Support Agreement, the Definitive Documents and/or the consummation of the Transactions, these CCAA proceedings, the Chapter 15 Cases, the formulation, preparation, dissemination, negotiation, filing or consummation of the Transaction Agreement, the Closing Documents, the Support Agreement, the Definitive Documents and all related agreements and documents, any transaction, contract, instrument, release, or other agreement or document created or entered into in connection with the Transactions, the pursuit of approval and consummation of the Transactions or the recognition thereof in the United States, and/or the transfer of assets and

liabilities pursuant to this Order, except for Causes of Action related to any act or omission that is determined in a Final Order of a court of competent jurisdiction to have constituted actual fraud, willful misconduct, or gross negligence, but in all respects such Exculpated Parties shall be entitled to reasonably rely upon the advice of counsel with respect to their applicable duties and responsibilities. “**Causes of Action**” means any action, claim, cross-claim, third-party claim, damage, judgment, cause of action, controversy, demand, right, action, suit, obligation, liability, debt, account, defense, offset, power, privilege, license, lien, indemnity, interest, guaranty, or franchise of any kind or character whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, contingent or non-contingent, liquidated or unliquidated, disputed or undisputed, secured or unsecured, assertable directly or derivatively, matured or unmatured, suspected or unsuspected, in contract or in tort, at law or in equity, or pursuant to any other theory of law or otherwise.

23. **THIS COURT ORDERS** that all Persons are permanently and forever barred, estopped, stayed and enjoined, on and after the Effective Time, with respect to any and all claims or Cause of Actions released pursuant to this Order (including but not limited to the Released Claims), from (a) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits, demands or other proceedings of any nature or kind whatsoever (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against any of the Released Parties or Exculpated Parties; (b) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against any of the Released Parties, the Exculpated Parties, or their respective property; (c) commencing, conducting, continuing or making in any manner, directly or indirectly, any action, suit, claim, demand or other proceeding of any nature or kind whatsoever (including any

proceeding in a judicial, arbitral, administrative or other forum) against any Person who makes a claim or might reasonably be expected to make a claim, in any manner or forum, including by way of contribution or indemnity or other relief, against one or more of the Released Parties or the Exculpated Parties; (d) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any Encumbrance of any kind against the Released Parties, the Exculpated Parties, or their respective property; or (e) taking any actions to interfere with the consummation of the Transactions; and any such proceedings will be deemed to have no further effect against such parties and will be released, discharged or vacated without cost.

24. **THIS COURT ORDERS** that, without affecting or limiting the releases set forth in paragraphs 20 and 21 hereof, effective as of the Effective Time, each Consenting Party (as hereinafter defined) shall be deemed to have consented and agreed to paragraphs 20 through 24 hereof. “**Consenting Parties**” means any Person who is, at the Effective Time, a party to the Support Agreement.

25. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these CCAA proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the BIA in respect of the Just Energy Entities, Residual Co. 1 or Residual Co. 2, and any bankruptcy order issued pursuant to any such applications;
- (c) any assignment in bankruptcy made in respect of any of the Just Energy Entities, Residual Co. 1 or Residual Co. 2; or
- (d) any foreign law equivalent of (b) or (c).

the Transaction Agreement, the Closing Documents, the consummation of the Transactions (including without limitation the transfer and vesting of the Excluded Assets, the Excluded Contracts and the Excluded Liabilities in and to Residual Co. 1 and Residual Co. 2, as applicable, the transfer and vesting of the Purchased Interests in and to the Sponsor, the payment of the Priority Payments, and any payments by or to the Sponsor, the Just Energy Entities or the Monitor authorized herein or pursuant to the Transaction Agreement and the Closing Documents) shall be binding on any trustee in bankruptcy that may be appointed in respect of any of the Just Energy Entities, Residual Co. 1 and/or Residual Co. 2, and shall not be void or voidable by creditors of the Just Energy Entities, Residual Co. 1 or Residual Co. 2, as applicable, nor shall they constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the CCAA, the BIA or any other applicable federal or provincial legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

26. **THIS COURT ORDERS** that nothing in this Order, including the release of the Acquired Entities from the purview of these CCAA proceedings pursuant to paragraph 5(f) hereof and the addition of Residual Co. 1 and Residual Co. 2 as Applicants in these CCAA proceedings, shall affect, vary, derogate from, limit or amend, and FTI shall continue to have the benefit of, any and all rights and approvals and protections in favour of the Monitor at law or pursuant to the CCAA, the Initial Order, this Order, any other Orders in these CCAA proceedings or otherwise, including all approvals, protections and stays of proceedings in favour of FTI in its capacity as Monitor, all of which are expressly continued and confirmed.

**EMPLOYEES**

27. **THIS COURT ORDERS** that Residual Co. 1 shall be deemed to be the former employer of any former employees of the Just Energy Entities who were terminated between September 9, 2020 and the Effective Time whose claims against the Just Energy Entities are transferred to Residual Co. 1 pursuant to this Order, provided that such deeming: (i) shall be effective immediately after the Effective Time; and (ii) will solely be for the purposes of termination pay and severance pay pursuant to the *Wage Earners Protection Program*.

**GENERAL**

28. **THIS COURT ORDERS** that, having been advised of the provisions of Multilateral Instrument 61-101 “Protection of Minority Security Holders in Special Transactions” relating to the requirement for “minority” shareholder approval in certain circumstances, no meeting of shareholders or other holders of Equity Claims (as defined in the CCAA) in the Just Energy Entities is required to be held in respect of the Transactions and accordingly, there is no requirement to send any disclosure document related to the Transactions to such holders.

29. **THIS COURT ORDERS** that, following the Effective Time, the Sponsor shall be authorized to take all steps as may be necessary to effect the discharge of the Claims and Encumbrances (other than the Permitted Encumbrances) as against the Purchased Interests, the Acquired Entities and the Retained Assets.

30. **THIS COURT ORDERS** that, following the Effective Time, the title of these proceedings is hereby changed to:

IN THE MATTER OF THE COMPANIES’ CREDITORS ARRANGEMENT



## ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF ● AND ●

31. **THIS COURT DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada.

32. **THIS COURT DECLARES** that the Just Energy Entities shall be authorized to apply as they may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States or elsewhere, for orders which aid and complement this Order. All courts and administrative bodies of all such jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the Just Energy Entities and the Monitor as may be deemed necessary or appropriate for that purpose.

33. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body, having jurisdiction in Canada or in the United States of America, including the United States Bankruptcy Court for the Southern District of Texas overseeing the Just Energy Entities' proceedings under Chapter 15 of the Bankruptcy Code in Case No. 21-30823 (MI), to give effect to this Order and to assist the Just Energy Entities, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Just Energy Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Just Energy Entities and the Monitor and their respective agents in carrying out the terms of this Order.

34. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Prevailing Eastern Time on the date hereof; provided that, the transaction steps set out in paragraph 5 hereof shall be deemed to have occurred in the order set out in the Implementation Steps.

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**SCHEDULE "A"**  
**PARTNERSHIPS**

- JUST ENERGY ONTARIO L.P.
- JUST ENERGY MANITOBA L.P.
- JUST ENERGY (B.C.) LIMITED PARTNERSHIP
- JUST ENERGY QUÉBEC L.P.
- JUST ENERGY TRADING L.P.
- JUST ENERGY ALBERTA L.P.
- JUST GREEN L.P.
- JUST ENERGY PRAIRIES L.P.
- JEBPO SERVICES LLP
- JUST ENERGY TEXAS LP

**SCHEDULE “B”  
FORM OF MONITOR’S CERTIFICATE**

Court File No. CV-21-00658423-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES’ CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JUST ENERGY GROUP INC., JUST ENERGY CORP., ONTARIO ENERGY COMMODITIES INC., UNIVERSAL ENERGY CORPORATION, JUST ENERGY FINANCE CANADA ULC, HUDSON ENERGY CANADA CORP., 11929747 CANADA INC., 12175592 CANADA INC., JE SERVICES HOLDCO I INC., JE SERVICES HOLDCO II INC., 8704104 CANADA INC., JUST ENERGY ADVANCED SOLUTIONS CORP., JUST ENERGY (U.S.) CORP., JUST ENERGY ILLINOIS CORP., JUST ENERGY INDIANA CORP., JUST ENERGY MASSACHUSETTS CORP., JUST ENERGY NEW YORK CORP., JUST ENERGY TEXAS I CORP., JUST ENERGY, LLC, JUST ENERGY PENNSYLVANIA CORP., JUST ENERGY MICHIGAN CORP., JUST ENERGY SOLUTIONS INC., HUDSON ENERGY SERVICES LLC, HUDSON ENERGY CORP., INTERACTIVE ENERGY GROUP LLC, HUDSON PARENT HOLDINGS LLC, DRAG MARKETING LLC, JUST ENERGY ADVANCED SOLUTIONS LLC, FULCRUM RETAIL ENERGY LLC, FULCRUM RETAIL HOLDINGS LLC, TARA ENERGY, LLC, JUST ENERGY MARKETING CORP., JUST ENERGY CONNECTICUT CORP., JUST ENERGY LIMITED, JUST SOLAR HOLDINGS CORP. AND JUST ENERGY (FINANCE) HUNGARY ZRT.

(each, an “**Applicant**”, and collectively, the “**Applicants**”)

**MONITOR’S CERTIFICATE**

**RECITALS**

1. Pursuant to the Initial Order of the Honourable Justice Koehnen of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated March 9, 2021, the Applicants were granted protection from their creditors pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, and FTI Consulting Canada Inc. was appointed as the monitor (the “**Monitor**”).

2. Pursuant to an Approval and Vesting Order of the Court dated ●, 2022 (the “**Order**”), the Court approved the transactions (collectively, the “**Transactions**”) contemplated by the Transaction Agreement (as amended, the “**Transaction Agreement**”) between Just Energy Group Inc. (“**Just Energy**”) and LVS III SPE XV LP, TOCU XVII LLC, HVS XVI LLC, OC II LVS XIV LP, OC III LFE I LP, and CBHT Energy I LLC (collectively, the “**Sponsor**”) dated as of August 4, 2022, and ordered, *inter alia*, (a) that all of the Acquired Entities’ right, title and interest in and to the Excluded Assets, the Excluded Contracts and the Excluded Liabilities shall vest absolutely and exclusively in and to Residual Co. 1 and/or Residual Co. 2, as applicable; (b) Just Energy (U.S.) Corp. to issue the Purchased Interests, and the vesting of all of the right, title and interest in and to the Purchased Interests absolutely and exclusively in and to the Sponsor, free and clear of any Encumbrances; (c) Just Energy to file the Articles of Reorganization; and (d) the termination and cancellation or redemption of the Subject Interests for no consideration (as provided for in the Implementation Steps).

3. Capitalized terms used but not defined herein have the meanings ascribed to them in the Order.

**THE MONITOR CERTIFIES** the following:

1. The Monitor has received written confirmation from Just Energy, in form and substance satisfactory to the Monitor, that it has received the Cash Purchase Price from the Sponsor.

2. The Monitor has received written confirmation from the Sponsor and Just Energy, in form and substance satisfactory to the Monitor, that all conditions to closing have been satisfied or waived by the parties to the Transaction Agreement.

3. This Monitor's Certificate was delivered by the Monitor at \_\_\_\_\_ on \_\_\_\_\_, 202●  
(the "Effective Time").

**FTI CONSULTING CANADA INC., in its  
capacity as Monitor of the Just Energy  
Entities, and not in its personal capacity**

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

Name:

Title:

**SCHEDULE “C”  
PERMITTED ENCUMBRANCES**

- Encumbrances securing Assumed Liabilities to the extent that such Assumed Liabilities are secured by Encumbrances as of the Closing Time
- Encumbrances securing obligations under the New Credit Agreement
- Encumbrances which are the subject of the New Intercreditor Agreement
- “Permitted Encumbrances” as defined in the Credit Agreement, subject to those amendments to such definition provided for in Exhibit 1 of the Stalking Horse Term Sheet, except to the extent that they relate to an Excluded Liability or Excluded Asset

*Capitalized terms in this Schedule “C” shall have the meanings ascribed thereto in the Transaction Agreement or, where expressly indicated, the Credit Agreement.*

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, C. C-36, AS AMENDED

Court File No: CV-21-00658423-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JUST ENERGY GROUP INC., et al.

*Ontario*  
**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**APPROVAL AND VESTING ORDER**

**OSLER, HOSKIN & HARCOURT, LLP**

P.O. Box 50, 1 First Canadian Place  
Toronto, ON M5X 1B8

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Lawyers for the Just Energy Entities



# TAB 5

Court File No. CV-21-00658423-00CL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**

THE HONOURABLE MR.	)	WEDNESDAY, THE 2 <sup>nd</sup>
	)	
JUSTICE MCEWEN	)	DAY OF NOVEMBER, 2022

IN THE MATTER OF THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JUST ENERGY GROUP INC., JUST ENERGY CORP., ONTARIO ENERGY COMMODITIES INC., UNIVERSAL ENERGY CORPORATION, JUST ENERGY FINANCE CANADA ULC, HUDSON ENERGY CANADA CORP., 11929747 CANADA INC., 12175592 CANADA INC., JE SERVICES HOLDCO I INC., JE SERVICES HOLDCO II INC., 8704104 CANADA INC., JUST ENERGY ADVANCED SOLUTIONS CORP., JUST ENERGY (U.S.) CORP., JUST ENERGY ILLINOIS CORP., JUST ENERGY INDIANA CORP., JUST ENERGY MASSACHUSETTS CORP., JUST ENERGY NEW YORK CORP., JUST ENERGY TEXAS I CORP., JUST ENERGY, LLC, JUST ENERGY PENNSYLVANIA CORP., JUST ENERGY MICHIGAN CORP., JUST ENERGY SOLUTIONS INC., HUDSON ENERGY SERVICES LLC, HUDSON ENERGY CORP., INTERACTIVE ENERGY GROUP LLC, HUDSON PARENT HOLDINGS LLC, DRAG MARKETING LLC, JUST ENERGY ADVANCED SOLUTIONS LLC, FULCRUM RETAIL ENERGY LLC, FULCRUM RETAIL HOLDINGS LLC, TARA ENERGY, LLC, JUST ENERGY MARKETING CORP., JUST ENERGY CONNECTICUT CORP., JUST ENERGY LIMITED, JUST SOLAR HOLDINGS CORP. AND JUST ENERGY (FINANCE) HUNGARY ZRT.

(each, an “**Applicant**”, and collectively, the “**Applicants**”)

**ORDER**  
**(Monitor’s Enhanced Powers & Other Relief)**

**THIS MOTION**, made by the Applicants (together with the partnerships listed on **Schedule “A”** hereto, the “**Just Energy Entities**”) pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) for an Order, *inter alia*, expanding the Monitor’s powers and granting certain other relief, was heard this day by judicial video-conference via Zoom in Toronto, Ontario due to the COVID-19 pandemic.

**ON READING** the Notice of Motion of the Applicants, the affidavit of Michael Carter sworn October 17, 2022, and the Exhibits thereto (the “**Carter Affidavit**”), the affidavit of Mark Caiger sworn October 17, 2022, and the Exhibits thereto (the “**Caiger Affidavit**”), the Twelfth Report of FTI Consulting Canada Inc., in its capacity as the Court-appointed monitor of the Applicants (the “**Monitor**”), dated October [●], 2022 (the “**Twelfth Report**”), the fee affidavits of [Paul Bishop] sworn [●], 2022, [Puya Fesharaki] sworn [●], 2022, and [John Higgins] sworn [●], 2022 (collectively, the “**Fee Affidavits**”), and on hearing the submissions of counsel for the Just Energy Entities, the Monitor, the Purchaser and such other counsel that were present, no one else appearing for any party although duly served as appears from the affidavit of service of [●] dated [●], 2022.

### **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Second Amended and Restated Initial Order of this Court dated May 26, 2021 (the “**Initial Order**”), the Approval and Vesting Order of this Court of even date herewith (the “**RVO**”), the Carter Affidavit or the Transaction Agreement, as applicable.

### **MONITOR’S ENHANCED POWERS**

3. **THIS COURT ORDERS** that, in addition to the powers and duties of the Monitor set out in the Initial Order or any other Order of this Court granted in these CCAA proceedings, and without altering in any way the obligations of ● (“**ResidualCo. 1**”) and ● (“**ResidualCo. 2**”) and together with ResidualCo. 1, the “**ResidualCos**” and each a “**ResidualCo**”), effective upon the ResidualCos being added as applicants in these CCAA proceedings pursuant to the RVO, the

Monitor be and is hereby authorized and empowered, but not required, to:

- (a) cause the ResidualCos to take any and all actions and steps, and execute all agreements, documents and writings, on behalf of, and in the name of, the ResidualCos in order to facilitate the performance of any of their obligations, including, without limitation, as contemplated by or in connection with the Transaction Agreement or any Order of this Court;
- (b) exercise any powers which may be properly exercised by any board of directors of the ResidualCos;
- (c) engage, retain, or terminate the services of, or cause the ResidualCos to engage, retain or terminate the services of any officer, employee, consultant, agent, representative, advisor, or other persons or entities, all under the supervision and direction of the Monitor, as the Monitor, in its sole opinion, deems necessary or appropriate to assist with the exercise of its powers and duties;
- (d) cause the ResidualCos to perform such other functions or duties as the Monitor considers necessary or desirable in order to facilitate or assist the winding-down or liquidation of the ResidualCos, the distribution of any proceeds of the ResidualCo. Property, or any other related activities, including in connection with terminating these CCAA proceedings;
- (e) exercise any shareholder, partnership, joint venture or other rights of any of the ResidualCos;
- (f) have access to all books and records that are the property of the ResidualCos in the possession or control of the ResidualCos or their subsidiaries;

- (g) assign any of the ResidualCos, or cause any of the ResidualCos to be assigned, into bankruptcy, and the Monitor shall hereby be entitled but not obligated to act as a trustee of the ResidualCos in any such bankruptcy;
- (h) cause the dissolution or winding-up of any of the ResidualCos;
- (i) act as an authorized representative of the ResidualCos in respect of dealings with any Taxing Authority, and the Monitor shall hereby be entitled to execute any appointment or authorization form on behalf of the ResidualCos that a Taxing Authority may require in order to confirm the Monitor's appointment as an authorized representative of the ResidualCos for such purposes; and
- (j) apply to this Court for advice and directions or any further orders necessary or advisable to carry out its powers and obligations under this Order or any other Order granted by this Court, including for advice and directions with respect to any matter.

4. **THIS COURT ORDERS** that, notwithstanding anything contained in this Order, the Monitor is not and shall not be or be deemed to be, a director, officer or employee of either ResidualCo.

5. **THIS COURT ORDERS** that, without limiting the provisions of the Initial Order, the ResidualCos shall remain in possession and control of their Property and the Monitor shall not take, or be deemed to have taken, possession or control of such Property, or any part thereof.

6. **THIS COURT ORDERS** that the Monitor shall not be liable for any employee-related liabilities of the ResidualCos, including any successor employer liabilities as provided for in Section 11.8(1) of the CCAA. Nothing in this Order shall, in and of itself, cause the Monitor to be liable for any employee related liabilities of the ResidualCos, including wages, severance pay,

termination pay, vacation pay, and pension or benefit amounts.

7. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, the Monitor and its legal counsel shall, subject to the terms of the RVO, continue to have the benefit of all of the indemnities, charges, protections and priorities as set out in the Initial Order and any other Order of this Court and all such indemnities, charges, protections and priorities shall apply and extend to the Monitor in carrying out of the provisions of this Order and exercising any powers granted to it hereunder. Without limiting the generality of the foregoing in exercising any powers granted to it hereunder: (i) the Monitor shall not be deemed to have taken or maintained possession or control of the Business or ResidualCo. Property, or any part thereof; (ii) the Monitor shall be entitled to rely on the books and records of the ResidualCos without independent investigation; and (iii) the Monitor shall incur no liability or obligation as a result of exercising any powers granted to it hereunder, save and except for any gross negligence or wilful misconduct on its part.

8. **THIS COURT ORDERS** that nothing in this Order shall constitute or be deemed to constitute the Monitor as receiver, assignee, liquidator, administrator, receiver-manager, agent of the creditors or legal representative of the ResidualCos within the meaning of any relevant legislation and that any distributions to creditors of the ResidualCos by the Monitor will be deemed to have been made by the ResidualCos.

9. **THIS COURT ORDERS** that the powers and authority granted to the Monitor by virtue of this Order shall, if exercised in any case, be paramount to the power and authority of the ResidualCos with respect to such matters and, in the event of a conflict between the terms of this Order and those of the Initial Order or any other Order of this Court, the provisions of this Order shall govern.

**STAY EXTENSION**

10. **THIS COURT ORDERS** that the Stay Period is hereby extended until and including January 31, 2023.

**APPROVAL OF MONITOR'S REPORTS AND FEES**

11. **THIS COURT ORDERS** that the activities and conduct of the Monitor prior to the date hereof in relation to the Just Energy Entities and these CCAA proceedings are hereby ratified and approved.

12. **THIS COURT ORDERS** that each of the Supplement to the Eleventh Report of the Monitor dated October 3, 2022 and the Twelfth Report be and are hereby approved.

13. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and its Canadian and U.S. counsel, as set out in the Twelfth Report and the Fee Affidavits, are hereby approved.

14. **THIS COURT ORDERS** that only the Monitor, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way the approvals set forth in paragraphs 11 and 12 of this Order.

**GENERAL**

15. **THIS COURT ORDERS** that, for the avoidance of doubt, all of the powers, rights and protections of the Monitor specified herein shall be construed so as to refer to powers, rights and protections in respect of both ResidualCos or either ResidualCo individually.

16. **THIS COURT ORDERS** that Confidential Exhibit “●” to the Caiger Affidavit shall be and is hereby sealed, kept confidential and shall not form part of the public record pending further Order of this Court.

17. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

18. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal and regulatory or administrative bodies, having jurisdiction in Canada or in the United States of America, including the United States Bankruptcy Court for the Southern District of Texas overseeing the Just Energy Entities' proceedings under Chapter 15 of the Bankruptcy Code in Case No. 21-30823 (MI), or in any other foreign jurisdiction, to give effect to this Order and to assist the ResidualCos, the Just Energy Entities, the Monitor, and their respective agents in carrying out the terms of this Order. All courts, tribunals and regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the ResidualCos, the Just Energy Entities and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Just Energy Entities, the ResidualCos and the Monitor and their respective agents in carrying out the terms of this Order.

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**SCHEDULE “A”****PARTNERSHIPS**

- JUST ENERGY ONTARIO L.P.
- JUST ENERGY MANITOBA L.P.
- JUST ENERGY (B.C.) LIMITED PARTNERSHIP
- JUST ENERGY QUÉBEC L.P.
- JUST ENERGY TRADING L.P.
- JUST ENERGY ALBERTA L.P.
- JUST GREEN L.P.
- JUST ENERGY PRAIRIES L.P.
- JEBPO SERVICES LLP
- JUST ENERGY TEXAS LP

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, C. C-36, AS AMENDED

Court File No: CV-21-00658423-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JUST ENERGY GROUP INC., et al.

*Ontario*  
**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**ORDER**  
**(Monitor's Enhanced Powers & Other Relief)**

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Lawyers for the Just Energy Entities

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C.  
1985, C. C-36, AS AMENDED

Court File No: CV-21-00658423-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JUST  
ENERGY GROUP INC., *et al.*

Applicants

*Ontario*  
**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**MOTION RECORD OF THE APPLICANTS  
(Motion for Reverse Vesting Order, Expanded  
Monitor's Powers, Stay Extension, and other relief)**

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