IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
FULCRUM BIOENERGY, INC., *et al*.,	Case No. 24-12008 (TMH)
Debtors.[1]	(Jointly Administered)
	Re: D.I. 12, 153, 334 & 387

ORDER (I) APPROVING THE SALE OF CERTAIN OF THE DEBTORS' ASSETS FREE AND CLEAR OF CLAIMS, LIENS, AND ENCUMBRANCES, (II) APPROVING THE ASSUMPTION AND ASSIGNMENT OF DESIGNATED EXECUTORY CONTRACTS AND UNEXPIRED LEASES, AND (III) GRANTING RELATED RELIEF

Upon the motion (the "**Motion**") dated September 11, 2024 [D.I. 12], of the above-captioned debtors and debtors in possession (collectively, the "**Debtors**"), for the entry of (i) an order (a) approving the bidding procedures (the "**Bidding Procedures**"), in connection with the sale of all or substantially all of the Debtors' assets; (b) approving various forms and the manner of notice of respective dates, times and places in connection therewith; (c) authorizing the Debtors to enter into and perform under a stalking horse asset purchase agreement attached to the Motion as Exhibit A (the "**Stalking Horse Agreement**")[2] between the Debtor Fulcrum Sierra BioFuels, LLC ("**BioFuels**") and Switch, Ltd. ("**Switch**"), subject to the solicitation of higher or otherwise better offers for certain of the Debtors' assets; (d) approving the Bid Protections associated therewith; (e) approving procedures for the assumption and assignment of certain designated executory contracts and unexpired leases; (f) scheduling an auction (the "**Auction**")

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[1] The debtors and debtors in possession in these chapter 11 cases, along with each debtor's federal tax identification numbers are: Fulcrum BioEnergy, Inc. (3733); Fulcrum Sierra BioFuels, LLC (1833); Fulcrum Sierra Finance Company, LLC (4287); and Fulcrum Sierra Holdings, LLC (8498). The Debtors' service address is: Fulcrum BioEnergy, Inc., P.O. Box 220 Pleasanton, CA 94566.

[2] Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms the Bidding Procedures Order (as defined below) or in the Purchase Agreement, as applicable.

and the date and time of the hearing to approve the sale (the "**Sale Hearing**") of certain of the Debtors' assets and assumption of certain liabilities of the Debtors; and (g) granting related relief; and (ii) an order (a) authorizing the sale (the "**Sale**") of certain assets to the Purchaser free and clear of all liens, claims, interest and other encumbrances; (b) authorizing the assumption and assignment of certain executory contracts and unexpired leases; and (c) granting related relief; and the Court having considered the Motion and entered the *Order Pursuant to Sections 105, 363, 364, 365 and 541 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006 and 9007 and Del. Bankr. L.R. 2002-1 and 6004-1 (A) Approving Bidding Procedures for the Sale of Substantially All of the Debtors' Assets; (B) Approving the Debtors' Entry Into Stalking Horse Agreement and Related Bid Protections; (C) Approving Procedures for the Assumption and Assignment or Rejection of Designated Executory Contracts and Unexpired Leases; (D) Scheduling an Auction and Sale Hearing; (E) Approving Forms and Manner Of Notice Of Respective Dates, Times, and Places In Connection Therewith; and (F) Granting Related Relief* [D.I. 153] (the "**Bidding Procedures Order**") approving, among other things, the Bidding Procedures attached thereto as Exhibit 1, and the Bid Deadline having passed; and the Debtors having received no Qualified Bids for the assets of Debtor Fulcrum BioEnergy, Inc. ("**Seller**") other than the bid from PCL Administration LLC ("**Prepetition Agent**", or the "**Purchaser**"), the administrative and collateral agent under the Credit Agreement dated June 23, 2023 by and between Seller, the Prepetition Agent, and the "Lenders" thereunder; and the Auction for Seller's assets having been canceled and the Purchaser having been selected as the Successful Bidder for the Debtors' assets described in the purchase agreement attached hereto as **Exhibit 1** (the "**Purchase Agreement**", and the assets described therein, the "**Subject Assets**"); and this Court having conducted the Sale Hearing on January 17, 2025; and all parties in interest having been heard, or having had the opportunity to be

heard, regarding the Purchase Agreement, the Sale and this order (this "**Sale Order**"); and this Court having reviewed and considered all objections and responses thereto, and the arguments of counsel made, and the evidence adduced, at the hearing with respect to the Bidding Procedures, held on October 9, 2024 (the "**Bidding Procedures Hearing**") and the Sale Hearing; and upon the entire record of the Bidding Procedures Hearing and the Sale Hearing, and after due deliberation thereon, and good cause appearing therefor:

IT IS HEREBY FOUND, CONCLUDED, AND DETERMINED THAT:[3]

Jurisdiction, Final Order and Statutory Predicates

A. This Court has jurisdiction over the above-captioned chapter 11 cases (the "**Chapter 11 Cases**") pursuant to 28 U.S.C. §§ 1334 and 157. This is a core proceeding under 28 U.S.C. § 157(b). Venue is proper under 28 U.S.C. §§ 1408 and 1409.

B. This Sale Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), and to any extent necessary under Bankruptcy Rule 9014 and Rule 54(b) of the Federal Rules of Civil Procedure, as made applicable by Bankruptcy Rule 7054, this Court expressly finds that there is no just reason for delay in the implementation of this Sale Order, and expressly directs entry of judgment as set forth herein.

C. The statutory predicates for the relief sought by the Motion are Sections 105(a), 363, 365 and 503 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006 and 9014, and Rules 2002-1 and 6004-1 of the Local Rules of Bankruptcy Practice and Procedure of the United State Bankruptcy Court for the District of Delaware (the "**Local Rules**").

[3] The findings and conclusions set forth herein constitute this Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such.

Notice of the Sale, Auction and the Cure Amounts

D. As evidenced by the *Declaration of Mark J. Smith in Support of Entry of an Order (I) Approving the Sale of Certain of the Debtors' Assets Free and Clear of Claims, Liens, and Encumbrances, (II) Approving the Assumption and Assignment of Designated Executory Contracts and Unexpired Leases, and (III) Granting Related Relief* [D.I. 377] (the "**Smith Declaration**") the certificates of service filed with the Court [D.I. 42, 214] (collectively, the "**Certificates of Service**"), proper, timely, adequate, and sufficient notice of the Motion, the Bidding Procedures Order, the Sale Hearing, the Sale, and transactions contemplated by the Purchase Agreement, including the assumption, assignment and/or transfer of the Assigned Contracts, and a reasonable opportunity to object or be heard with respect thereto and to the entry of this Sale Order has been afforded to all known interested persons and entities entitled to receive such notice, including, but not limited to the Notice Parties set forth in the Bidding Procedures.

E. In accordance with the provisions of the Bidding Procedures Order, the Debtors have served the *Notice of (I) Possible Treatment of Contracts and Leases, (II) Fixing of Cure Amounts, and (III) Deadline to Object Thereto* [D.I. 157] ("**Cure Notice**") and *Notice of Revised Notice of (I) Possible Treatment of Contracts and Leases, (II) Fixing of Cure Amounts, and (III) Deadline to Object Thereto* [D.I. 175] (the "**Revised Cure Notice**" and together with the Cure Notice, the "**Cure Notices**") upon all of the counterparties to the contracts and leases set forth on the schedule attached as Exhibit A (the "**Contract and Lease Schedule**") to the Cure Notices, and in accordance with this Sale Order, the Debtors may send additional Cure Notices in connection with contacts included on the schedule of Subject Assets (in the Purchase Agreement) to be assigned in connection with the Purchase Agreement (each, an "**Assigned Contract**," and, collectively, the "**Assigned Contracts**") setting forth: (i) the contract(s) and/or lease(s) that may be assumed by the Seller and assigned to the Purchaser; (ii) the name of the counterparty thereto;

(iii) notice of the right of the Seller and/or the Purchaser to withdraw such request for assumption and assignment of the Assigned Contract(s) prior to the Closing; and (iv) the amount, if any, determined by the Seller to be necessary to be paid by the Seller to cure and compensate for any existing default in accordance with Sections 365(b) and 365(f)(2) of the Bankruptcy Code (the "**Cure Amount**"). *See* Certificates of Service [D.I. 214, 215]. The deadline for a non-Debtor counterparty to file an objection regarding the ability of Purchaser to provide adequate assurance of future performance or to the stated Cure Amount in the Cure Notices (a "**Cure Notice Objection**") has expired and, to the extent any such party timely filed a Cure Objection, all such Cure Notice Objections have been resolved, withdrawn, overruled or denied. To the extent that any non-Debtor counterparty did not timely file a Cure Notice Objection by the objection deadline listed in the Cure Notices (the "**Cure Notice Objection Deadline**"), such party shall be deemed to have consented to the (i) assumption and assignment of the Assigned Contract, (ii) proposed Cure Amount set forth on the Cure Notice, and (iii) adequate assurance of the Purchaser's future performance previously provided.

F. To the extent any counterparty to a contract intended to be assumed and assigned to Purchaser in accordance with the Purchase Agreement was not provided adequate notice of such assumption or cure amount, the Debtors will provide such counterparty notice within 3 business days following the entry of this Sale Order. The applicable counterparty shall have 14 days to object to such notice. In the event of an objection, the Purchaser, the Debtors, and the counterparty shall be entitled to resolve such objection in any mutually agreeable manner without any further action of the Court so long as such resolution is reduced to writing. If such objection cannot be mutually resolved, the Parties may set a hearing to resolve such objection.

G. The service of such Cure Notices (i) was, or will be to the extent consistent with this Order, good, sufficient and appropriate under the circumstances of these Chapter 11 Cases; (ii) provided, or will provide to the extent consistent with this Order, such counterparties with a full and fair opportunity to object to such assumption, assignment, or transfer and to the proposed Cure Amount set forth in the Cure Notices; and (iii) was, or will be to the extent consistent with this Order, in compliance with the Bidding Procedures Order and applicable provisions of the Bankruptcy Court, the Bankruptcy Rules and Local Rules. Accordingly, no other or further notice need be given in connection with such assumption, assignment, or transfer of the Assigned Contracts or with respect to the Cure Amounts with respect to the Assigned Contracts.

H. As evidenced by the Certificates of Service previously filed with this Court and as approved under the Bidding Procedures Order: (i) due, proper, timely, adequate and sufficient notice of the Sale Hearing, the assumption and assignment of the Assigned Contracts, the entry of this Sale Order, and the Sale has been provided to all parties in interest; (ii) such notice was, and is, good, sufficient and appropriate under the circumstances of these Chapter 11 Cases, provided a fair and reasonable opportunity for parties in interest to object, and to be heard, with respect thereto, and was provided in accordance with the Bidding Procedures Order, Sections 102(1), 363 and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, 9006, 9007 and 9014, and the applicable Local Rules; and (iii) no other or further notice of such matters is necessary or shall be required.

Business Judgment

I. The Debtors have demonstrated good, sufficient, and sound business purposes and justifications for, and compelling circumstances to promptly consummate, the Sale and other transactions contemplated by the Purchase Agreement and any additional or ancillary documents contemplated thereby (the "**Transaction Documents**"), including, without limitation, the

assumption, assignment, and/or transfer of certain Assigned Contracts (collectively, the "**Transactions**") pursuant to Sections 363 and 365 of the Bankruptcy Code, prior to and outside of a plan of reorganization, and such action is an appropriate exercise of the Debtors' business judgment and in the best interests of the Debtors, their estates, and their creditors. Such business reasons include, but are not limited to, the facts that: (i) there is substantial risk of depreciation of the value of the Subject Assets if the Sale is not consummated promptly; (ii) the Purchase Agreement constitutes the highest or otherwise best offer for the Subject Assets; (iii) the Purchase Agreement and the Closing will present the best opportunity to realize the value of the Subject Assets (and the consideration obtained for the Subject Assets is at least as a great as the value of such Subject Assets); and (iv) unless the Sale is concluded expeditiously as provided for in this Sale Order and pursuant to the Purchase Agreement, potential creditor recoveries may be substantially diminished.

Good Faith of the Purchaser; No Collusion

J. The Purchaser is not an insider (as that term is defined in Section 101(31) of the Bankruptcy Code) of any of the Debtors or any of their Affiliates.

K. The Purchaser is purchasing the Subject Assets in good faith, and is a good faith purchaser, within the meaning of Section 363(m) of the Bankruptcy Code, and is therefore entitled to, and granted pursuant to paragraph 29 below, the full rights, benefits, privileges, and protections of that provision, and the Purchaser and the Seller have each proceeded in good faith in all respects in connection with the Transactions in that, *inter alia*: (i) the Purchaser recognized that the Debtors were free to deal with any other party interested in acquiring the Subject Assets; (ii) the Purchaser complied with the provisions in the Bidding Procedures Order; (iii) the Purchaser agreed to subject its bid to the competitive bidding procedures set forth in the Bidding Procedures Order; (iv) all payments to be made by the Purchaser and other agreements or arrangements entered into by the

Purchaser in connection with the Sale have been disclosed; (v) the Purchaser has not violated Section 363(n) of the Bankruptcy Code by any action or inaction; (vi) no common identity of directors or controlling stockholders exists between the Purchaser on the one hand, and any of the Debtors, on the other hand; and (vii) the negotiation and execution of the Purchase Agreement and Transaction Documents were at arms' length and in good faith.

L. None of the Debtors, the Purchaser, or any of their respective current and former officers, directors, managers, members, partners, managed funds, affiliates, agents, advisors, professionals, and representatives (collectively, the "**Representatives**"), have engaged in any conduct that would cause or permit the Purchase Agreement or any of the Transaction Documents, or the consummation of the Transaction, to be avoidable or avoided, or for costs or damages to be imposed, under Section 363(n) of the Bankruptcy Code, or has acted in bad faith or in any improper or collusive manner with any Person in connection therewith.

Credit Bid

M. Pursuant to the Bidding Procedures Order, applicable law, including Bankruptcy Code sections 363(b) and 363(k), the Purchaser, as the Prepetition Agent (or its designee) under the Credit Agreement, is authorized to credit bid the principal, interest, fees, expenses and other amounts payable under the Credit Agreement (such obligations, collectively, the "**Obligations**"). The Prepetition Agent timely filed a proof of claim with respect to the Obligations, which proof of claim was numbered Claim Number 46[4] in the claims database maintained on the Debtors' case website[5] (such claim, the "**Parent Proof of Claim**"). The Debtors and the Official Committee of Unsecured Creditors (the "**Committee**") have had sufficient time to analyze the Parent Proof of

[4] The Parent Proof of Claim asserts that the Obligations are no less than $112,058,488.00 in aggregate amount.

[5] https://www.veritaglobal.net/fulcrum

Claim and consent to the Prepetition Agent's credit bid as contemplated by the Purchase Agreement. The Prepetition Agent is authorized to credit bid $10,000,000.00 pursuant to the Bankruptcy Code and the Bidding Procedures Order (the "**Credit Bid**"). No additional or further evidence of the Purchaser's ability to include the Credit Bid as consideration within the Purchase Agreement is required. The Credit Bid and the other consideration set forth in the Purchase Agreement are, collectively, a valid and proper offer pursuant to the Bidding Procedures Order and Bankruptcy Code sections 363(b) and 363(k). There is no cause to limit the amount of the Credit Bid pursuant to section 363(k) of the Bankruptcy Code.

Highest and Best Offer

N. As demonstrated by the Sale Declarations, any evidence proffered or adduced at the Sale Hearing, and the representations of counsel made at the Sale Hearing, the Debtors and their advisors, along with advisors to the Committee, engaged in a robust, diligent and extensive marketing and sale process, which was open and fair, in accordance with the Bidding Procedures Order and the sound exercise of the Debtors' business judgment. The sale process set forth in the Bidding Procedures Order afforded a full, fair, and reasonable opportunity for any person or entity to make a higher or otherwise better offer to purchase the Subject Assets.

O. In accordance with the Bidding Procedures Order, the Prepetition Agent's Credit Bid was deemed a Qualified Bid (as defined in the Bidding Procedures Order) and was eligible to participate at the Auction. No other party submitted a Qualified Bid on any of the Subject Assets.

P. The Purchase Agreement constitutes the highest and best offer for the Subject Assets and will provide a greater recovery for the Debtors' estates than would be provided by any other available alternative. The Debtors' determination, in consultation with the Consultation

Parties, that the Purchase Agreement constitutes the highest and best offer for the Subject Assets constitutes a valid and sound exercise of the Debtors' fiduciary duties and business judgment.

Q. The Purchase Agreement represents a fair and reasonable offer to purchase the Subject Assets under the circumstances of these Chapter 11 Cases. No other Person or entity or group of entities has offered to purchase the Subject Assets for greater economic value to the Debtors' Estates than the Purchaser.

R. Approval of the Purchase Agreement, and the prompt consummation of the Transactions contemplated thereby, is in the best interests of the Debtors, their creditors, their Estates and other parties-in-interest.

No Fraudulent Transfer; Not a Successor

S. The Purchase Agreement and the Transaction Documents were not entered into, and the Transactions are not being consummated, for the purpose of hindering, delaying, or defrauding creditors of the Debtors under applicable Law, and none of the Parties to the Purchase Agreement or any of the Transaction Documents are consummating the Transactions with any fraudulent or otherwise improper purpose. The Purchase Price for the Subject Assets constitutes, (i) reasonably equivalent value under the Bankruptcy Code, the Uniform Voidable Transactions Act, and the Uniform Fraudulent Transfer Act, (ii) fair consideration under the Uniform Fraudulent Conveyance Act and (iii) reasonably equivalent value, fair consideration, and fair value under any other applicable Laws of any Governmental Authority.

T. Except as expressly set forth in the Purchase Agreement and herein, to the greatest extent permitted by applicable Law after the Closing, the Purchaser shall not have any liability, responsibility, or obligations of any kind or nature whatsoever for any Encumbrance (as defined below) of or against the Debtors, or otherwise related to the Subject Assets, and arising prior to the Closing, by reason of the transfer of the Subject Assets to the Purchaser. Additionally, the

Purchaser shall not be liable for any acts or omissions of the Seller arising under or related to the Subject Assets, other than as set forth in the Purchase Agreement. The Purchaser shall not be deemed, as a result of any action taken in connection with the Transactions, to: (1) be a successor (or other such similarly situated party) to any of the Debtors; (2) have, *de facto* or otherwise, merged or consolidated with or into any of the Debtors; or (3) be a mere continuation or substantial continuation of the Seller or its enterprise. To the greatest extent permitted by applicable Law, the Purchaser is not acquiring or assuming any Encumbrance arising prior to the Closing, except as expressly set forth in the Purchase Agreement and herein.

Validity of Transfer

U. Subject to the entry of this Sale Order, the Debtors have full corporate power and authority (i) to perform all of their obligations under the Purchase Agreement and the Transaction Documents, and the Seller's prior execution and delivery thereof and performance thereunder, is hereby ratified in full, and (ii) to consummate the Transactions. The Purchase Agreement and Transaction Documents, and the Transactions contemplated thereby, have been duly and validly authorized by all necessary corporate action. No further consents or approvals are required for the Debtors to consummate the Transactions or otherwise perform their respective obligations under the Purchase Agreement or the Transaction Documents, except in each case as otherwise expressly set forth in the Purchase Agreement or applicable Transaction Documents.

V. At Closing, the transfer of the Subject Assets to the Purchaser including, without limitation, the assumption, assignment, and transfer of the Assigned Contracts, will be a legal, valid, and effective transfer thereof, and vest the Purchaser with all right, title, and interest of the Seller in and to the Subject Assets, to the greatest extent permitted by applicable Law, free and clear of all Encumbrances (as defined in paragraph Y of this Sale Order) accruing or arising any

time prior to the Closing Date; *provided* that all such Encumbrances shall attach to the proceeds of the sale with the same priority, validity, force, and effect as they now have in or against such Assets, subject to any rights, claims, defenses, causes of action, or challenges by the Debtors and their estates and subject to any applicable order of this Court.

Section 363(f) Is Satisfied

W. The Purchaser would not have entered into the Purchase Agreement and would not consummate the Transactions if the sale of the Subject Assets, including the assumption, assignment, and transfer of the Assigned Contracts, to the Purchaser were not free and clear of all Encumbrances of any kind or nature whatsoever, or if the Purchaser, any of its Affiliates or subsidiaries, or any of their respective Representatives, would, or in the future could, be liable for any of such Encumbrances of any kind or nature whatsoever. Notwithstanding the foregoing, the Purchaser has agreed to take the Subject Assets subject to the TRI Claims (as defined below).

X. The Seller may sell or otherwise transfer the Subject Assets free and clear of all Encumbrances because, in each case, one or more of the standards set forth in Section 363(f)(1)–(5) of the Bankruptcy Code has been satisfied. Those holders of Encumbrances against the Debtors, their estates, or any portion or subpart of the Subject Assets who did not object, or who withdrew their objections, to the Sale are deemed to have consented thereto pursuant to Section 363(f)(2) of the Bankruptcy Code. Those holders of such Encumbrance who did object fall within one or more of the other subsections of Section 363(f) and are adequately protected by having their liens, claims, encumbrances, or other Encumbrances, if any, automatically attach to the proceeds of the Sale, ultimately attributable to that portion or subpart of the Subject Assets in which such creditor alleges or asserts any Encumbrances, in the same order of priority, with the same validity, force and effect, that such Encumbrances had immediately prior to consummation of the Sale as

against such portion or subpart of the Subject Assets, subject to any claims and defenses the Debtors and their estates may possess with respect thereto.

Y. As used in this Sale Order, the term "**Encumbrances**" includes, in addition to the types of claims described in paragraph Z below any lien (as defined in section 101(37) of the Bankruptcy Code), encumbrance, claim (as defined in section 101(5) of the Bankruptcy Code), debts (as defined in section 101(12) of the Bankruptcy Code), including claims or liability based on successor liability theories or otherwise under any theory of law or equity, right, guarantees, actions, suits, deposits, credits, allowances, options, contractual commitments, obligations, liabilities, demand, charge, mortgage, deed of trust, option, pledge, security interest or similar interests, hypothecs, trusts or deemed trusts, community property interest, equitable interest, title defects, hypothecations, easements, rights of way, restrictive covenants, rights of first refusal, conditions, encroachments, preemptive rights, judgments, conditional sale or other title retention agreements and other similar impositions, imperfections or defects of title or restrictions on transfer, voting or use or receipt of income or exercise of any attribute of ownership, whether secured or unsecured, noticed or unnoticed, perfected or unperfected, allowed or disallowed, matured or unmatured, liquidated or unliquidated, disputed or undisputed, choate or inchoate, filed or unfiled, scheduled or unscheduled, recorded or unrecorded, contingent or non-contingent, material or non-material, known or unknown, whether existing in the United States or elsewhere, whether imposed by agreement, understanding, law, equity, or otherwise, including, but not limited to, (a) mortgages, deeds of trust, pledges, charges, security interests, hypothecations, encumbrances, easements, servitudes, leases, subleases, rights-of-way, encroachments, restrictive covenants, restrictions on transferability or other similar restrictions, rights of setoff (except for setoffs validly exercised before the Petition Date), rights of use or possession, subleases, leases,

conditional sale arrangements, deferred purchase price obligations, or any similar rights; (b) all claims, including, without limitation, all rights or causes of action (whether in law or equity), proceedings, warranties, guarantees, indemnities, rights of recovery, setoff (except for setoffs validly exercised before the Petition Date or preserved in a timely filed proof of claim or motion filed with the Court), indemnity or contribution, demands, indemnification claims, or liabilities relating to any act or omission of the Debtors or any other person, consent rights, options, contract rights, covenants, and interests of any kind or nature whatsoever (known or unknown, matured or unmatured, accrued, or contingent and regardless of whether currently exercisable), whether arising prior to or subsequent to the commencement of the Chapter 11 Cases, and whether imposed by agreement, understanding, law, equity, or otherwise; (c) all debts, liabilities, contractual claims, and labor, employment, and pension claims; (d) any rights that purport to give any party a right or option to effect any forfeiture, modification, right of first offer or first refusal, or consents, or termination of the Debtors' or the Purchaser's interest in the Subject Assets, or any similar rights; (e) any rights under labor or employment agreements; (f) any rights under pension, multiemployer plan (as such term is defined in Section 3(37) or Section 4001(a)(3) of the Employment Retirement Income Security Act of 1974 (as amended, "**ERISA**")), health or welfare, compensation or other employee benefit plans, agreements, practices, and programs, including, without limitation, any pension plans of the Debtors or any multiemployer plan to which the Debtors have at any time contributed to or had any liability or potential liability; (g) any other employee claims related to worker's compensation, occupation disease, or unemployment or temporary disability, including, without limitation, claims that might otherwise arise under or pursuant to (i) ERISA, (ii) the Fair Labor Standards Act, (iii) Title VII of the Civil Rights Act of 1964, (iv) the Federal Rehabilitation Act of 1973, (v) the National Labor Relations Act, (vi) the Age Discrimination and Employment

Act of 1967 and the Age Discrimination in Employment Act, each as amended, (vii) the Americans with Disabilities Act of 1990, (viii) the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, including, without limitation, the requirements of Part 6 of Subtitle B of Title I of ERISA and Section 4980B of the Internal Revenue Code of any similar state law, (ix) state discrimination laws, (x) state unemployment compensation laws or any other similar state laws, (xi) any other state or federal benefits or claims relating to any employment with the Debtors or any of their predecessors, or (xii) the WARN Act (29 U.S.C. §§ 2101, et seq.) or any state or other laws of similar effect; (h) any bulk sales or similar law; (i) any taxes arising under or out of, in connection with, or in any way relating to the sale of the Subject Assets or business of the Debtors before the closing of the Sale; (j) any unexpired and executory contract or unexpired lease to which the Debtors are a party that is not assumed; (k) any other excluded liabilities under the Purchase Agreement; and (l) Encumbrances or other interests arising under or in connection with any acts, or failures to act, of the Debtors or any of their predecessors, affiliates, or subsidiaries, including, but not limited to, Encumbrances or other interests arising under any doctrines of successor liability (to the greatest extent permitted by applicable law), or transferee or vicarious liability, violation of the Securities Act of 1933, the Securities Exchange Act of 1934, or other applicable securities laws or regulations, breach of fiduciary duty, or aiding or abetting breach of fiduciary duty, or any similar theories under contract, applicable Law, equity or otherwise. Notwithstanding the foregoing, "**Encumbrance**" excludes the TRI Claims.

Z. Without limiting the nature or scope of paragraph Y above, the transfer of the Subject Assets, including the assumption, assignment, and/or transfer of the Assigned Contracts to the Purchaser, will not subject the Purchaser, or any of its Affiliates or subsidiaries, or any of their respective Representatives to, or subject any Assets to or provide recourse for, any liability

or encumbrance whatsoever with respect to the operation or condition of the Subject Assets prior to the Closing or with respect to any facts, acts, actions, omissions, circumstances, or conditions existing, occurring or accruing with respect thereto prior to the Closing Date, including, without limitation, any liability or encumbrance arising from any of the following: (i) any employment or labor agreements, consulting agreements, severance arrangements, change in control agreements, or other similar agreements to which any Debtor is or was a party, (ii) any pension, welfare, compensation, or other employee benefit plans, agreements, practices, and programs, including without limitation, any pension plan of the Debtors, (iii) the cessation of the Debtors' operations, dismissal of employees, or termination of employment or labor agreements or pension, welfare, compensation, or other employee benefit plans, agreements, practices, and programs and any obligations with respect thereto that arise from the Employee Retirement Income Security Act of 1974, the Fair Labor Standard Act, Title VII of the Civil rights Act of 1964, the Age Discrimination and Employment Act of 1967, the Americans with Disabilities Act of 1990, the Federal Rehabilitation Act of 1973, the National Labor Relations Act, the Consolidated Omnibus Budget Reconciliation Act of 1985 or the Worker Adjustment and Retraining Notification Act, (iv) workmen's compensation, occupational disease or unemployment, or temporary disability insurance claims, (v) environment liabilities, debts, claims, or obligations that may be asserted on any basis, including, without limitation, under the Comprehensive Environmental Response, Compensation and Liability Act or any Environmental Laws, (vi) products liability or warranties, (vii) any bulk sales or similar law, (viii) any litigation by or against the Debtors and (ix) the Laws of the United States, any state, territory or possession thereof, or the District of Columbia based in any theory of products liability, or successor, vicarious, or transferee liability. For the avoidance

of doubt, the liabilities and encumbrances set forth in this paragraph are included in the defined term "Encumbrances" for all purposes of this Sale Order.

Assumption, Assignment, and/or Transfer of the Assigned Contracts

AA. The assumption, assignment, and/or transfer of the Assigned Contracts to the Purchaser pursuant to the terms of this Sale Order is integral to the Purchase Agreement and is in the best interests of the Debtors and their estates, creditors and other parties in interest, and represents the reasonable exercise of sound and prudent business judgment by the Debtors.

BB. To the extent necessary or required by applicable Law, the Purchaser has or will have as of the Closing Date (or such later date as any Assigned Contract is actually Assigned): (i) cured, or provided adequate assurance of cure, of any default existing prior to the Closing Date with respect to the Assigned Contracts, within the meaning of Sections 365(b)(1)(A) and 365(f)(2)(A) of the Bankruptcy Code, and (ii) provided compensation, or adequate assurance of compensation, to any party for any actual pecuniary loss to such party resulting from such default, within the meaning of Section 365(b)(1)(B) of the Bankruptcy Code. Payment of the Cure Amount is the sole amount required under Sections 365(b)(1)(A) and 365(f)(2)(A) of the Bankruptcy Code to cure all such monetary defaults and pay all actual pecuniary losses under the Assigned Contracts. Given the nature of the Subject Assets, it is reasonable that, notwithstanding the foregoing, prior to (x) any required consent being obtained (to the extent not obviated by the Bankruptcy Code), (y) the objection period ending, or (z) the cure dispute being resolved, in each case with respect to any applicable Assigned Contract, the Debtors and the Purchaser should be authorized to close on the Purchase Agreement and transfer any Assets that are not subject to such, as applicable, cure dispute, objection period, or consent right, and any Assets that are subject to such cure dispute, objection period, or consent right, can be transferred to the Purchaser after the applicable resolution of such unresolved matter, in each case without any further action of the Court.

CC. The promise of the Purchaser to perform the obligations first arising under the Assigned Contracts after their assumption and assignment to the Purchaser, the Purchaser's financial wherewithal to consummate the transactions contemplated by the Purchase Agreement, and the evidence presented at the Sale Hearing demonstrating the Purchaser's ability to perform the obligations under the Assigned Contracts after the Closing Date constitute adequate assurance of future performance within the meaning of Sections 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code to the extent that any such assurance is required and not waived by the counterparties to such Assigned Contracts. Any objections, responses, or requests with respect to the foregoing, whether formal or informal, the determination of any Cure Amount, or otherwise related to or in connection with the assumption, assignment, or transfer of any of the Assigned Contracts to the Purchaser is hereby overruled on the merits or otherwise treated as set forth in paragraph 3 below. Those non-Debtor parties to Assigned Contracts who did not, or do not, timely object to the assumption, assignment, or transfer of their applicable Assigned Contract, or to their applicable Cure Amount, are deemed to have consented thereto for all purposes to the assumption and assignment of such Assigned Contract pursuant to this Sale Order.

DD. To the extent any counterparty to a contract intended to be assumed and assigned pursuant to the Purchase Agreement was not provided adequate notice of such assumption or cure amount, it is reasonable that the Debtors will provide such notice and opportunity to object within 3 business days following the entry of this Sale Order (or as soon as reasonably practicable thereafter). The applicable counterparty shall have 14 days to object to such notice. In the event of an objection, the Purchaser, the Debtors, and the counterparty shall be entitled to resolve such objection in any mutually agreeable manner without any further action of the Court so long as such resolution is reduced to writing. If such objection cannot be mutually resolved, the parties may set

a hearing to resolve such objection. The Purchaser would not have agreed to the Purchase Agreement without such rights. If any applicable counterparty does not timely object to the assumption, assignment, or transfer of their applicable Assigned Contract, or to the applicable Cure Amount, such counterparty is deemed to have consented to the assumption and assignment of such Assigned Contract pursuant to this Sale Order.

EE. The notice and opportunity to object provided to Counterparties to such Assigned Contracts and to other parties in interest, as set forth in the Assumption and Assignment Procedures contained in the Bidding Procedures Order, fairly and reasonably protects any rights that such counterparties and other parties in interest may have with respect to such Contracts.

Compelling Circumstances for an Immediate Sale

FF. To preserve the value of the Subject Assets and maximize the value of the Debtors' estates, it is essential that the Sale of the Subject Assets occur within the time constraints set forth in the Purchase Agreement. Time is of the essence in consummating the Sale. The Court expressly finds that there is no just reason for delay in the implementation of this Sale Order. Accordingly, there is sufficient cause to waive the 14-day stay provided in the Bankruptcy Rules 6004(h) and 6006(d).

GG. Given all of the circumstances of these Chapter 11 Cases and that there were no other bidders on the Subject Assets as of the Bid Deadline, the proposed transfer of the Subject Assets to the Purchaser constitutes a reasonable and sound exercise of the Debtors' business judgment, is in the best interests of the Debtors, their estates, and their creditors, and should be approved.

HH. The consummation of the Transactions is legal, valid, and properly authorized under all applicable provisions of the Bankruptcy Code, including, without limitation, Sections

105, 363, and 365 of the Bankruptcy Code, and all of the applicable requirements of such Sections have been complied with in respect of the Transactions.

II. The Sale does not constitute a *de facto* plan of reorganization or liquidation or an element of such a plan for any of the Debtors, as it does not and does not propose to: (i) impair or restructure existing debt of, or equity interests in, the Debtors; (ii) impair or circumvent voting rights with respect to any future plan proposed by the Debtors; (iii) circumvent chapter 11 plan safeguards, such as those set forth in Sections 1125 and 1129 of the Bankruptcy Code; or (iv) classify claims or equity interests, compromise controversies or extend debt maturities.

Catalyst Sale

JJ. Use of Cash Collateral. In accordance with this Sale Order and the Purchase Agreement, the Prepetition Agent agrees to allow the Debtors to use the Prepetition Agent's cash collateral (the "**Cash Collateral**") from the Catalyst Proceeds (as defined in the Purchase Agreement) as and to the extent set forth in the order of the Court with respect to the motion filed at Docket No. 334.

KK. Remaining Catalyst Proceeds. The Prepetition Agent consents, in connection with this Sale Order and the Purchase Agreement, to the distribution of any remaining Catalyst Proceeds to the Seller's unsecured creditors pursuant to a chapter 11 plan, or if no plan is confirmed, pursuant to the Bankruptcy Code after giving effect to the terms of this Order, and waives any adequate protection lien or claim in or related to the Catalyst Proceeds. For the avoidance of doubt, nothing herein preapproves any term of a chapter 11 plan or any distribution to creditors.

LL. Entitlement to the Catalyst or the Catalyst Proceeds. For the avoidance of doubt, neither the BioFuels Trustee nor the Seller's affiliated Debtors claim to have title to the Catalyst (as defined in the Purchase Agreement) or a lien on the Catalyst Proceeds.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

General Provisions

1. This Court's findings of fact and conclusions of law set forth in the Bidding Procedures Order are incorporated herein by reference.

2. All objections to the Sale that have not been withdrawn, waived, resolved, or otherwise settled as set forth herein, as announced to this Court at the Sale Hearing or by stipulation filed with this Court, and all reservations of rights included therein, are hereby denied and overruled on the merits with prejudice. All persons and entities who did not object or withdrew their objections to the Motion are deemed to have consented to the Sale and entry of this Sale Order pursuant to section 363(f)(2) of the Bankruptcy Code.

Approval of Purchase Agreement; Binding Nature

3. The Purchase Agreement and the other Transaction Documents, and all of the terms and conditions thereof as well as the Transactions contemplated therein, are hereby approved as set forth herein.

4. The execution, delivery, and performance by the Seller of the Purchase Agreement is approved pursuant to sections 105, 363, and 365 of the Bankruptcy Code.

5. The consideration, including the Credit Bid, provided by the Purchaser for the Subject Assets under the Purchase Agreement is fair and reasonable and shall be deemed for all purposes to constitute reasonably equivalent value, fair value, and fair consideration under the Bankruptcy Code and any other applicable Law, and the Transactions may not be avoided, or costs or damages imposed or awarded, under Section 363(n) or any other provision of the Bankruptcy Code.

6. Pursuant to Sections 363 and 365 of the Bankruptcy Code, the Debtors are authorized and empowered to take any and all actions necessary or appropriate to (a) consummate the Sale and the other Transactions pursuant to and in accordance with the terms and conditions of the Purchase Agreement and the Transaction Documents, and (b) execute and deliver, perform under, consummate, implement, and take any and all other acts or actions as may be reasonably necessary or appropriate to the performance of their respective obligations as contemplated by the Purchase Agreement and the Transaction Documents, in each case without further notice to or order of this Court. The Transactions authorized herein shall be of full force and effect, regardless of any Debtor's lack or purported lack of good standing in any jurisdiction in which such Debtor is formed or authorized to transact business. The Purchaser is authorized to remove any asset from the schedule of Subject Assets in the Purchase Agreement for any reason prior to Closing.

7. This Sale Order shall be binding in all respects upon the Debtors, their estates, all creditors, all holders of equity interests in any Debtor, all holders of any claim(s) (whether known or unknown) against any Debtor, any holders of Encumbrances of any kind or nature whatsoever (except as expressly set forth herein and in the Purchase Agreement with respect to Cure Costs and the TRI Claims) against, in or on all or any portion of the Subject Assets, all non-Debtor parties to the Assigned Contracts, the Purchaser and all successors and assigns of the Purchaser, including, without limitation, any trustee, if any, subsequently appointed in these Chapter 11 Cases or upon a conversion to cases under chapter 7 under the Bankruptcy Code of any of these Chapter 11 Cases.

Transfer of Subject Assets Free and Clear of Encumbrances; Injunction

8. Pursuant to Sections 105(a), 363(b), 363(f), 365(b), and 365(f) of the Bankruptcy Code, the Debtors are authorized and directed to transfer the Subject Assets, including but not limited to the Assigned Contracts, to the Purchaser on or following the Closing Date in accordance with the Purchase Agreement and Transaction Documents. Upon and as of the Closing Date or

such other applicable date, such transfer shall constitute a legal, valid, binding, effective, and full and complete general assignment, conveyance, and transfer of such assets transferring good, marketable, and indefeasible title and interest in the Subject Assets to the Purchaser, and the Purchaser shall take title to and possession of such assets free and clear of all Encumbrances of any kind or nature whatsoever to the greatest extent permitted by applicable Law, except as expressly set forth in the Purchase Agreement and herein.

9. Notwithstanding anything to the contrary contained herein or in the Transaction Documents, upon the Closing of the Transaction, the Obligations in an amount equal to the Credit Bid Amount (i.e. $10,000,000.00) shall be deemed fully and finally satisfied.

10. This Sale Order shall be effective as a determination that, on and as of the Closing, all Encumbrances of any kind or nature whatsoever (except as expressly set forth herein and in the Purchase Agreement) have to the greatest extent permitted by applicable Law been unconditionally released, discharged, and terminated in, on, or against the Subject Assets. The provisions of this Sale Order authorizing and approving the transfer of the Subject Assets free and clear of all Encumbrances shall be self-executing, and neither the Debtors nor the Purchaser shall be required to execute or file releases, termination statements, assignments, consents, or other instruments in order to effectuate, consummate, and implement the provisions of this Sale Order.

11. Except as expressly permitted by the Purchase Agreement or this Sale Order, all persons and entities holding Encumbrances of any kind or nature whatsoever (other than as set forth herein) are hereby forever barred, estopped, and permanently enjoined from asserting their respective Encumbrances against the Purchaser, any of the Purchaser's respective Affiliates and subsidiaries, and any of the Purchaser's respective Representatives. On and after the Closing Date, to the extent the holder of an Encumbrance of which the Subject Assets are free and clear pursuant

to the terms hereof does not comply with paragraph 11 of this Sale Order, the Purchaser is granted power of attorney and shall be authorized to execute and file such documents, and to take all other actions as may be necessary, on behalf of each holder of an Encumbrance to release, discharge, and terminate such Encumbrances in, on, and against the Subject Assets as provided for herein, as such Encumbrances may have been recorded or may otherwise exist. On and after the Closing Date, and without limiting the foregoing, to the extent the holder of an Encumbrance (as to which the Subject Assets are being sold free and clear of pursuant to the terms hereof) does not comply with paragraph 11 of this Sale Order, the Purchaser shall be authorized to file termination statements or lien terminations in any required jurisdiction to remove any record, notice filing, or financing statement recorded to attach, perfect, or otherwise notice any Encumbrance that is extinguished or otherwise released pursuant to this Sale Order. This Sale Order constitutes authorization under all applicable jurisdictions and versions of the Uniform Commercial Code ("**UCC**") for the Purchaser to file, in accordance with the terms of this Sale Order, UCC termination statements with respect to all security interests in or liens on the Subject Assets.

12. Other than as specifically provided for in the Purchase Agreement or in this Sale Order, the transfer of the Subject Assets to the Purchaser pursuant to the Purchase Agreement and Transaction Documents does not require any consents.

13. On and after the Closing, the persons holding an Encumbrance (as to which the Subject Assets are being sold free and clear of pursuant to the terms hereof), hereby are required to execute such documents and take all other actions as may be reasonably necessary to release their respective Encumbrances in the Subject Assets, as such Encumbrances may have been recorded or otherwise filed. The Purchaser may, but shall not be required to, file a certified copy of this Sale Order in any filing or recording office in any federal, state, county, or other jurisdiction

in which any Debtor is incorporated or has real or personal Subject Assets, or with any other appropriate clerk or recorded with any other appropriate recorder, and such filing or recording shall be sufficient to release, discharge, and terminate any of the Encumbrances as to which the Subject Assets are being sold free and clear of pursuant to the terms hereof, as set forth in this Sale Order as of the Closing Date. All persons and entities that are in possession of any portion of the Subject Assets on the Closing Date shall promptly surrender possession thereof to the Purchaser at the Closing.

14. This Sale Order is and shall be binding upon and govern the acts of all persons and entities (including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, and secretaries of state, federal and local officials) who may be required by operation of law, the duties of their office, or contract to accept, file, register, or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any lease. Each of the foregoing persons and entities are authorized to accept for filing any and all of the documents and instruments necessary and appropriate to release, discharge and terminate any of the Encumbrances as to which the Subject Assets are being sold free and clear of pursuant to the terms hereof, or to otherwise consummate the Transactions contemplated by this Sale Order, the Purchase Agreement or any Transaction Document.

15. Notwithstanding any other provision of this Sale Order or the Purchase Agreement, the Purchaser shall purchase all Subject Assets subject to the alleged coownership interests in, and claims against, the Subject Assets asserted by ThermoChem Recovery International, Inc. ("**TRI**", and such asserted claims and interests, the "**TRI Claims**"), without prejudice to the TRI Claims,

all of which are expressly preserved. For the avoidance of doubt, the Purchaser is not admitting to the validity of the TRI Claims and both Purchaser and Seller shall have all rights, defenses, claims, and arguments with respect to the TRI Claims as set forth in section 2.1(c) of the Purchase Agreement.

Assigned Contracts; Consent; Cure Payments

16. Pursuant to Sections 105(a), 363, and 365 of the Bankruptcy Code, and subject to and conditioned upon the Closing Date or such later date as the applicable counterparty agrees, the Seller's assumption, assignment, and transfer to the Purchaser of the Assigned Contracts is hereby authorized and approved in full subject to the terms set forth below. The Purchaser shall, and is directed to, on or prior to the Closing or such date as any objection to the Cure Amounts is resolved (or as soon thereafter as reasonably practicable), pay the Cure Amounts and cure any and all other defaults and breaches under the Assigned Contracts so that such Contracts may be assumed by the Seller and assigned to the Purchaser as applicable, on the Closing Date, or such later date as agreed, in accordance with this Sale Order, the Purchase Agreement, and the Transaction Documents.

17. To the extent any counterparty to a contract intended to be assumed and assigned pursuant to the Purchase Agreement was not provided adequate notice of such assumption or cure amount (or consent is required under section 365(n) of the Bankruptcy Code), the Debtors will provide such counterparty notice and opportunity to object within 3 business days following the entry of this Sale Order (or as soon as reasonably practicable thereafter). The applicable counterparty shall have 14 days to object to such notice. In the event of an objection, the Purchaser, the Debtors, and the counterparty shall be entitled to resolve such objection in any mutually agreeable manner without any further action of the Court so long as such resolution is reduced to writing. If such objection cannot be mutually resolved, the parties may set a hearing to resolve such objection.

18. Prior to (x) any required consent to the transfer of an Assigned Contract being obtained (to the extent not obviated by the Bankruptcy Code), (y) the objection period to the assumption ending, or (z) the Cure Amount being fixed, in each case with respect to any applicable Assigned Contract, the Debtors and the Purchaser are authorized to close on the Purchase Agreement with respect to any Subject Assets that are not subject to such, as applicable, cure dispute, objection period, or consent right. Any Subject Assets that are subject to such cure dispute, objection period, or consent right, can be assigned to the Purchaser after the objection deadline or applicable resolution of such unresolved matter, in each case without any further action of the Court.

19. Upon and as of the Closing, the Seller is authorized and empowered to, and shall, assume, assign, and/or transfer each of the Assigned Contracts to the Purchaser free and clear of all Encumbrances (provided that the Cure Amounts are timely paid). The payment of the applicable Cure Amounts (if any), or the later payment of such counterparty after the Court's resolution of any dispute regarding the Cure Amount, shall, pursuant to Section 365 of the Bankruptcy Code and other applicable Law, (i) effect a cure, or provide adequate assurance of cure, of all defaults existing thereunder as of the Closing and (ii) compensate, or provide adequate assurance of compensation, for any actual pecuniary loss to such non-Debtor party resulting from such default. Accordingly, on and as of the Closing Date, other than such payment, none of the Debtors nor the Purchaser, shall have any further liabilities or obligations to the non-Debtor parties to the Assigned Contracts with respect to, and the non-Debtor parties to the Assigned Contracts shall be forever enjoined and barred from seeking, any additional amounts or claims (as defined in Section 101(5) of the Bankruptcy Code) as a result of any defaults that arose, accrued or were incurred at any time on or prior to the Closing. The Purchaser has provided adequate assurance of future performance

under the relevant Assigned Contracts within the meaning of Sections 365(b) and (f) of the Bankruptcy Code and in accordance with the Bidding Procedures to the extent that any such assurance is required and not waived by the counterparties to such Assigned Contracts. Upon the payment of the applicable Cure Amount, the Assigned Contracts will remain in full force and effect, and no default shall exist, or be deemed to exist, under the Assigned Contracts as of the Closing Date, including any event or condition that, with the passage of time or giving of notice, or both, would constitute such a default.

20. To the extent any provision in any Assigned Contract assumed and assigned pursuant to this Sale Order (including, without limitation, any "change of control" provision) (a) prohibits, restricts, or conditions, or purports to prohibit, restrict, or condition, such assumption or assignment, or (b) is modified, breached, or terminated, or deemed modified, breached, or terminated by any of the following: (i) the commencement of these Chapter 11 Cases, (ii) the insolvency or financial condition of any Debtor at any time before the closing of these Chapter 11 Cases, (iii) any Seller's assumption or assumption and assignment (as applicable) of such Assigned Contract, or (iv) the consummation of the Transactions, then such provision shall be deemed modified so as to not entitle the non-Debtor party thereto to prohibit, restrict, or condition such assumption or assignment, to modify or terminate such Assigned Contract, or to exercise any other default-related rights or remedies with respect thereto, including, without limitation, any such provision that purports to allow the non-Debtor party thereto to recapture such Assigned Contracts, impose any penalty thereunder, condition any renewal or extension thereof, impose any rent acceleration or assignment fee, or increase or otherwise impose any other fees or other charges in connection therewith. All such provisions constitute unenforceable anti-assignment provisions that

are void and of no force and effect pursuant to Sections 365(b), 365(e) and 365(f) of the Bankruptcy Code.

21. All requirements and conditions under Sections 363 and 365 of the Bankruptcy Code for the assumption by the Seller and assignment to the Purchaser of the Assigned Contracts have been, or will be, satisfied. Upon the Closing or such later date as is consistent with this Order, in accordance with Sections 363 and 365 of the Bankruptcy Code, the Purchaser shall be fully and irrevocably vested with all right, title and interest of the Seller in and under the Assigned Contracts, and each Assigned Contract shall be fully enforceable by the Purchaser in accordance with its respective terms and conditions, except as limited or modified by the provisions of this Sale Order. Upon and as of the Closing, the Purchaser shall be deemed to be substituted for the Seller as a party to the applicable Assigned Contracts and, accordingly, the Seller shall be relieved, pursuant to Section 365(k) of the Bankruptcy Code, from any further liability under the Assigned Contracts.

22. The Purchaser may modify the list of the Assigned Contracts for any reason prior to the Closing Date (or the later assumption of such contract, if applicable). Notwithstanding anything herein to the contrary, prior to Closing (or such later assignment of an Assigned Contract, if applicable), the Purchaser may, notify Seller in writing of (x) any Assigned Contract that it does not wish to assume or (y) a Contract to which Seller is a party that the Purchaser wishes to add as an Assigned Contract up to the Closing Date, and (i) any such previously considered Assigned Contract that the Purchaser no longer wishes to assume shall be automatically deemed removed from the Schedules related to Assigned Contracts and automatically deemed added to the Schedules related to Excluded Contracts, in each case, without any adjustment to the Purchase Price, and (ii) any such previously considered Excluded Contract that has not been rejected by Seller that the Purchaser wishes to assume as an Assigned Contract shall be automatically deemed

added to the Schedules related to Assigned Contracts, automatically deemed removed from the Schedules related to Excluded Contracts, and assumed by Seller to sell and assign to the Purchaser, in each case, without any adjustment to the Purchase Price and with any Cure Costs associated therewith paid by the Purchaser.

23. To the extent that any counterparty to an Assigned Contract did not, or does not when given the opportunity to do so in accordance with this Order, object to its Cure Amount or the assumption and assignment of the Assigned Contract, such counterparty to the Assigned Contracts shall be deemed to have consented to such assumption and assignment under Section 365(c)(1)(B) of the Bankruptcy Code and the Purchaser shall enjoy all the Seller's rights, benefits and privileges under each such Assigned Contract as of the applicable date of assumption and assignment without the necessity to obtain any non-Debtor parties' written consent to the assumption or assignment thereof.

24. Nothing in this Sale Order, the Motion, or in any notice or any other document is or shall be deemed an admission by the Debtors or the Purchaser that any Assigned Contract is an executory contract or unexpired lease under Section 365 of the Bankruptcy Code.

25. The failure of the Debtors or the Purchaser, as applicable, to enforce at any time one or more terms or conditions of any Assigned Contract shall not be a waiver of such terms or conditions, or of its respective rights to enforce every term and condition of the Assigned Contracts.

Additional Injunction; No Successor Liability

26. Effective upon the Closing Date and except as expressly set forth in the Purchase Agreement, the Transaction Documents, and herein with respect to Cure Costs, all persons and entities are forever prohibited and permanently enjoined from (a) commencing or continuing in any manner any action or other proceeding, the employment of process, or any act (whether in law

or equity, in any judicial, administrative, arbitral, or other proceeding), to collect, recover, or offset any Encumbrance of which the Subject Assets are sold free and clear; (b) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order with respect to an Encumbrance, (c) creating, perfecting, or enforcing any Encumbrance, or (d) asserting any setoff (except for setoffs validly exercised before the Closing) or right of subrogation of any kind with respect to an Encumbrance, in each case as against the Purchaser, any of its Affiliates or subsidiaries, or any of their respective Representatives, or any of their respective assets, including the Subject Assets.

27. The Transactions contemplated by the Purchase Agreement and the Transaction Documents do not cause there to be, and there is not (a) a consolidation, merger, or de facto merger of the Purchaser, on the one hand, with or into the Debtors or the Debtors' estates, on the other hand, or vice versa, (b) a substantial continuity between the Purchaser, on the one hand, and the Debtors or the Debtors' estates, on the other hand, (c) a common identity between the Purchaser, on the one hand, and the Debtors or the Debtors' estates, on the other hand, or (d) a mere continuation of the Debtors or their estates, on the one hand, with the Purchaser, on the other hand; provided that nothing in this paragraph enjoins an Encumbrance from attaching to the relevant sale proceeds, subject to any rights, claims, defenses, causes of action, or challenges by the Debtors and their estates and subject to any applicable order of this Court.

28. Except to the extent expressly set forth in the Purchase Agreement and herein, including with respect to Cure Costs, the transfer of the Subject Assets, including, without limitation, the assumption, assignment and transfer of any Assigned Contract, to the Purchaser shall not cause or result in, or be deemed to cause or result in, the Purchaser, any of its Affiliates or subsidiaries, or any of their respective Representatives, having any liability, obligation, or

responsibility for, or any Assets being subject to or being recourse for, any Encumbrance arising prior to the Closing whatsoever, whether arising under any doctrines of successor, transferee or vicarious liability, breach of fiduciary duty, aiding or abetting breach of fiduciary duty or otherwise, whether at Law or in equity, directly or indirectly, and whether by payment, setoff (except for setoffs validly exercised before the Closing), or otherwise.

Good Faith

29. The Transactions contemplated by this Sale Order, the Purchase Agreement, and Transaction Documents are undertaken by the Purchaser without collusion and in good faith, as that term is defined in Section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale and other Transactions shall not alter, affect, limit, or otherwise impair the validity of the Sale or such other Transactions (including the assumption, assignment and/or transfer of the Assigned Contracts), unless such authorization and consummation are duly stayed pending such appeal. The Purchaser is a good faith purchaser within the meaning of Section 363(m) of the Bankruptcy Code and, as such, is entitled to, and hereby granted, the full rights, benefits, privileges, and protections of Section 363(m) of the Bankruptcy Code.

30. Neither the Debtors nor the Purchaser have engaged in any action or inaction that would cause or permit the Sale to be avoided or costs or damages to be imposed under section 363(n) of the Bankruptcy Code. The consideration provided by the Purchaser for the Subject Assets under the Purchase Agreement is fair and reasonable and the Sale may not be avoided, and costs and damages may not be imposed, under section 363(n) of the Bankruptcy Code.

Resolution of Abengoa Entities' Objection

31. Notwithstanding anything in the Purchase Agreement, any other document or agreement relating to the Sale (including, without limitation, the Transaction Documents), this

Sale Order, or any documents or agreements relating to any of the foregoing (collectively, the "**Sale Documents**") to the contrary (i) the Subject Assets do not include any claims, rights, actions or causes of action held by any of the Debtors against Abeinsa Abener Teyma General Partnership or Abengoa, S.A. (collectively, the "**Abengoa Entities**"), including the Abengoa Claims and Defenses[6], which are not being transferred or sold to the Purchaser pursuant to the Sale Documents; (ii) all claims, rights, actions, or causes of action of any of the Debtors against either (or both) of the Abengoa Entities, including, without limitation, the Abengoa Claims and Defenses, shall remain property of the Debtors' bankruptcy estates and shall be subject to and without prejudice to all available defenses that may be asserted by either of the Abengoa Entities, including, without limitation, any setoff or recoupment defenses; and (iii) nothing in the Sale Documents shall release, waive, discharge, or adversely affect any claims of either of the Abengoa Entities against any of the Debtors. For the avoidance of doubt, the Purchaser shall have no liability whatsoever for any of the Abengoa Claims and Defenses.

Other Provisions

32. Nothing in this Sale Order or the Purchase Agreement releases, nullifies, precludes, or enjoins the enforcement of any police or regulatory liability to a governmental unit that any entity would be subject to as the post-sale owner, lessee, or operator of property after the date of entry of this Sale Order. To the extent provided by section 525 of the Bankruptcy Code, nothing in this Sale Order or the Purchase Agreement authorizes the transfer or assignment of any governmental (a) license, (b) permit, (c) registration, (d) authorization, (e) certification, or (f) approval, or the discontinuation of any obligation thereunder, without compliance with all

[6] "Abengoa Claims and Defenses" means any and all claims against Abeinsa Abener Teyma General Partnership and/or its parent Abengoa, S.A. existing prior to the Closing Date, including those relating to or involved in the prepetition state court litigation and subsequent arbitration for administration by the International Chamber of Commerce, International Court, and any defenses and other rights relating thereto.

applicable legal requirements and approvals under police or regulatory law. Nothing in this Sale Order divests any tribunal of any jurisdiction it may have under police or regulatory law to interpret this Sale Order or to adjudicate any defense asserted under this Sale Order.

33. On the Closing Date, the Debtors will transfer to the Purchaser, in mutually agreeable format, all of the Subject Assets (including, for the avoidance of doubt, books and records related to the Subject Assets). The Debtors will reasonably cooperate with the Purchaser should the Purchaser have a good-faith belief that the transferred files inadvertently excluded any Assets or books and records related thereto. The Debtors may maintain a copy of any digital assets for purposes relating to these Chapter 11 Cases; provided, that the Debtors do not have, and may not represent that they have, any property interest in the Subject Assets following the Closing Date. Until the earlier of closure of the Debtors' Chapter 11 Cases and three (3) years following the Closing Date, Purchaser will use reasonable efforts not to dispose of or destroy any of the records received as Subject Assets and will allow the Debtors and any successor thereto and any of their respective directors, officers, employees, counsel, accountants, and auditors reasonable access during business hours, upon reasonable advance notice, to any record included in the Subject Assets for purposes relating to these Chapter 11 Cases, the wind-down of the Debtors' businesses and the implementation of any plan of liquidation following the Closing Date. This three-year period may be extended for an additional (1) year period upon reasonable request made to the Purchaser in writing and sent in accordance with Section 9.1 of the Purchase Agreement by the Debtors or any successor thereto or any of their respective officers, directors, counsel, or advisors.

34. For the avoidance of doubt, notwithstanding anything in this Sale Order, the Purchase Agreement or the Transaction Documents, the Subject Assets shall not include the Excluded Assets identified on Exhibit 2 of the Purchase Agreement including, among other assets

(i) any claims arising under chapter 5 of the Bankruptcy Code which do not relate to an Assigned Contract that is assumed through the Sale, (ii) any commercial tort claim; (iii) any Insider Claims as that term is defined in the *Amended Final Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 503 And 507 (I) Authorizing the Debtors to Obtain Senior Secured Superpriority Postpetition Financing; (II) Granting (A) Liens and Superpriority Administrative Expense Claims and (B) Adequate Protection to Certain Prepetition Bondholders; (III) Authorizing Use of Cash Collateral; (IV) Scheduling a Final Hearing; and (V) Granting Related Relief* [D.I. 177][7], or (iv) any directors and officers insurance policies and any related proceeds thereof.

35. Each of the Debtors' are hereby authorized to sell to Purchaser all claims and causes of action (of any kind or nature whatsoever, whether individually or collectively, arising on or prior to the date hereof, whether arising at law or in equity, known or unknown, direct or indirect, actual or potential, liquidated or unliquidated, absolute or contingent, foreseen or unforeseen, asserted or unasserted) held by such Debtor against: (i) Prepetition Agent (in its capacity as agent under the Credit Agreement and the Sierra BioFuels Term Loan Facility (as defined in Docket No. 9)), (ii) each lender under the Credit Agreement and the Sierra BioFuels Term Loan Facility (in their capacities as such), and (iii) each Related Party[8] of those listed in (i) and (ii) as related to

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[7] For the avoidance of doubt, "Insider Claims" shall include all D&O claims and any other claims against insiders of all Debtors.

[8] "Related Party" means, with respect to a Person, collectively, (a) such Person's current and former affiliates and (b) such Person's and such Person's current and former affiliates' directors, managers, officers, shareholders, equity holders (regardless of whether such interests are held directly or indirectly), affiliated investment funds or investment vehicles, predecessors, participants, successors, assigns (whether by operation of law or otherwise), subsidiaries, current, former, and future associated entities, managed or advised entities, accounts or funds, partners, limited partners, general partners, principals, members, management companies, fund advisors, managers, fiduciaries, trustees, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, other representatives, and other professionals, representatives, advisors, predecessors, successors, and assigns, each solely in their capacities as such (including any other attorneys or professionals retained by any current or former director or manager in his or her capacity as director or manager of a Person), and the respective heirs, executors, estates, servants, and nominees of the foregoing. For

such Related Party's role on behalf of the party listed in (i) or (ii) or otherwise in connection with such parties' dealings with Seller and each of Seller's direct and indirect subsidiaries. For the avoidance of doubt, after Closing, the Debtors' estates will no longer possess any claims or causes of action of any kind to bring against any of the foregoing parties (in their capacity as such). This provision is integral to the overall transaction, is a reasonable exercise of the Debtors' business judgment, and is hereby approved in all respects.

36. The proofs of claims numbered on the Debtors' claims register as Claim Nos. 46 and 47 are hereby allowed for all purposes under the Bankruptcy Code (including voting and distribution under a chapter 11 plan) in the following amounts: (a) Claim 46 is allowed in the amount of $102,058,488.00 (after application of the Credit Bid Amount), plus any fees and interest Prepetition Agent may be entitled, and (b) Claim 47 is allowed in the amount of $44,772,257.00. The Debtors and the Committee have waived any right to object to such claims in the amounts set forth herein (except with respect to additional interest or fees) on any grounds on behalf of themselves and any successor in interest.

37. Notwithstanding anything to the contrary in this Sale Order, the Purchase Agreement, or any other filings or documents in connection therewith, Subject Assets shall include all causes of action, lawsuits, judgments, claims, refunds, rights of recovery, rights of set- off, counterclaims, defenses, demands, warranty claims, rights to indemnification, contribution, advancement of expenses or reimbursement, or similar rights of the Seller (at any time or in any manner arising or existing, whether choate or inchoate, known or unknown, now existing or hereafter acquired, contingent or noncontingent), including all Claims, rights, lawsuits, rights of

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the avoidance of doubt, Related Party does not include any of the Debtors' current or former officers, directors, or managers.

"Person" means any individual, firm, corporation, business enterprise, trust, association, joint venture, partnership, governmental body, or any other entity, whether acting in an individual, fiduciary or other capacity.

recovery, objections, causes of action, avoidance actions and similar rights of Seller arising under or pursuable through chapter 5 of the Bankruptcy Code (whether or not asserted as of the Closing Date) and all proceeds thereof, in each case, to the extent related to the Subject Assets, along with all rights and interests to the extent necessary or appropriate for the Purchaser to effectively prosecute, defend or obtain the benefits of the foregoing (collectively, the "Avoidance Actions"); *provided*, *however*, that neither the Purchaser, nor any Person claiming by, through or on behalf of the Purchaser (including, but not limited to, by operation of law, sale, assignment, conveyance or otherwise) shall pursue, prosecute, litigate, institute or commence an action based on, assert, sell, convey, assign or file any claim that relates to, or otherwise seeks recovery on account of, the Avoidance Actions.

38. The Prepetition Agent agrees that, in connection with Seller's chapter 11 plan, any remaining Catalyst Proceeds to which the Prepetition Agent and/or each lender under the Credit Agreement would otherwise be entitled to receive in satisfaction of the Obligations shall be deemed applied to Prepetition Agent's Claim No. 46 in partial satisfaction of the Obligations and then be made available for distribution to Seller's creditors (other than Prepetition Agent and/or lenders under the Credit Agreement) in accordance with Seller's chapter 11 plan, or if no plan is confirmed, in accordance with the Bankruptcy Code after giving effect to the terms of this Order. Prepetition Agent waives any adequate protection lien or claim in or related to the Catalyst Proceeds. For the avoidance of doubt, neither the BioFuels Trustee nor the Seller's affiliated Debtors claim to have title to the Catalyst (as defined in the Purchase Agreement) or a lien on the Catalyst Proceeds. For the avoidance of doubt, nothing herein preapproves any term of a chapter 11 plan or any distribution to creditors.

39. The Prepetition Agent agrees that, in connection with Seller's chapter 11 plan, the first additional $1.1 million of available recovery to which the Prepetition Agent and/or each lender under the Credit Agreement would otherwise be entitled to receive in satisfaction of the Obligations shall be deemed applied to Prepetition Agent's Claim No. 46 in partial satisfaction of the Obligations and then be made available for distribution to Seller's creditors (other than Prepetition Agent and/or lenders under the Credit Agreement) in accordance with the Seller's chapter 11 plan, or if no plan is confirmed, in accordance with the Bankruptcy Code after giving effect to the terms of this Order. For the avoidance of doubt, nothing herein preapproves any term of a chapter 11 plan or any distribution to creditors.

40. Nothing contained in any plan of reorganization or liquidation, or order of any type or kind entered in (a) these Chapter 11 Cases, (b) any subsequent chapter 7 case into which any such Chapter 11 Case may be converted, or (c) any related proceeding subsequent to entry of this Sale Order, shall conflict with or derogate from the provisions of the Purchase Agreement or the terms of this Sale Order. To the extent of any such conflict or derogation, the terms of this Sale Order shall govern.

41. Pursuant to Bankruptcy Rules 6004(h) and 6006(d), this Sale Order shall not be stayed after the entry hereof, but shall be effective and enforceable immediately upon entry, and the 14-day stay provided in Bankruptcy Rules 6004(h) and 6006(d) is hereby expressly waived and shall not apply. Accordingly, the Debtors are authorized and empowered to close the Sale and other Transactions immediately upon entry of this Sale Order.

42. Nothing in this Sale Order shall modify or waive any closing conditions, post-closing covenants or termination rights in the Purchase Agreement, and all such conditions and rights shall remain in full force and effect in accordance with their terms.

43. No bulk sales law or any similar law of any state or other jurisdiction applies in any way to the Transactions.

44. The failure specifically to include any particular provision of the Purchase Agreement in this Sale Order shall not diminish or impair the effectiveness of such provision, it being the intent of this Court that the Purchase Agreement be authorized and approved in their entirety.

45. The Purchase Agreement and Transaction Documents may be modified, amended, or supplemented in a writing signed by the parties thereto and in accordance with the terms thereof, without further notice to or order of this Court, *provided that* any such modification, amendment or supplement shall not have a material adverse effect on the Debtors' estates unless first consented to by the Official Committee of Unsecured Creditors (the "Committee"), or otherwise approved by order of this Court.

46. For the avoidance of doubt, nothing in this Sale Order shall constitute, pursuant to 1146(a), the grant of a tax exemption under a plan confirmed under Section 1129 or 1191 of the Bankruptcy Code.

47. This Court retains jurisdiction, pursuant to its statutory powers under 28 U.S.C. § 157(b), to, among other things, (i) interpret, implement, and enforce the terms and provisions of this Sale Order, the Purchase Agreement, the Transaction Documents, and any amendments thereto and any waivers and consents given thereunder, (ii) adjudicate, if necessary, any and all disputes concerning or relating in any way to the Sale, (iii) compel delivery of the Subject Assets to the Purchaser; (iii) enforce the injunctions and limitations of liability set forth in this Sale Order and (iv) enter any orders under Sections 363 and 365 of the Bankruptcy Code with respect to the Assigned Contracts.

48. All time periods set forth in this Sale Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

49. The automatic stay pursuant to section 362 of the Bankruptcy Code is hereby vacated, modified, and terminated with respect to the Debtors to the extent necessary, without further order of the Court, (i) to allow the Purchaser to give the Debtors any notice provided for in the Purchase Agreement, (ii) to allow the Purchaser to take any and all actions permitted by the Purchase Agreement in accordance with the terms and conditions thereof, including, without limitation, effectuating the Sale and the other transactions contemplated by the Purchase Agreement and (iii) to otherwise implement the terms and provisions of the Purchase Agreement and this Sale Order. The automatic stay imposed by section 362 of the Bankruptcy Code is modified solely to the extent necessary to implement the preceding sentence and the other provisions of the Purchase Agreement and this Sale Order, and this Court shall retain exclusive jurisdiction over any and all disputes with respect thereto.

50. To the extent that this Sale Order is inconsistent with any prior order or pleading with respect to the Motion, the terms of this Sale Order shall govern. To the extent there are any inconsistencies between the terms of this Sale Order, on the one hand, and the Purchase Agreement or any Transaction Document, on the other hand, the terms of this Sale Order shall govern.

IT IS SO ORDERED

Thomas M. Horan

Dated: January 17th, 2025
Wilmington, Delaware

THOMAS M. HORAN
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1
Purchase Agreement

Execution Version

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the "Agreement") is entered into as of January 3, 2025, by and among **PCL ADMINISTRATION LLC**, a Delaware limited liability company, as Agent on behalf of the Lenders under the Credit Agreement (each as defined herein) ("Purchaser") and **FULCRUM BIOENERGY, INC.**, a Delaware corporation (as in existence on the date hereof, as a debtor-in-possession, the "Company" or "Seller[1]"). Purchaser and Seller are referred to herein individually as a "Party" and collectively as "Parties."

RECITALS

A. **WHEREAS**, on September 9, 2024 (the "Petition Date"), the Seller and certain of its subsidiaries filed voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"), in the United States Bankruptcy Court for the District of Delaware (the "Court"), commencing the chapter 11 cases (the "Chapter 11 Cases");

B. **WHEREAS**, on October 11, 2024, the Court entered an Order Pursuant to Sections 105, 363, 364, 365 and 541 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006 and 9007 and Del. Bankr. L.R. 2002-1 and 6004-1 (A) Approving Bidding Procedures for the Sale of Substantially All of the Debtors' Assets; (B) Approving the Debtors' Entry into Stalking Horse Agreement and Related Bid Protections; (C) Approving Procedures for the Assumption and Assignment or Rejection of Designated Executory Contracts and Unexpired Leases; (D) Scheduling an Auction and Sale Hearing; (E) Approving Forms and Manner of Notice of Respective Dates, Times, and Places in Connection Therewith; and (F) Granting Related Relief [Docket No. 153] (the "Bidding Procedures Order");

C. **WHEREAS**, pursuant to that certain Credit Agreement dated as of June 23, 2023 (as amended, restated, amended and restated, supplemented, or otherwise modified from time to time, including by that certain First Amendment to Credit Agreement and Waiver dated September 29, 2023, and that certain Assignment and Assumption Agreement and Second Amendment to Credit Agreement dated May 20, 2024, the "Credit Agreement"), by and among the Company (the "Borrower") and certain of its subsidiaries party thereto (collectively, the "Guarantors"; and collectively with the Borrower, the "Credit Parties"), PCL Administration, LLC (the "Agent"), and the lenders party thereto (the "Lenders"; and collectively with the Agent, the "Secured Parties"), the Secured Parties made loans and other financial accommodations to and for the benefit of the Borrower (all such loans and other financial accommodations being herein referred to collectively as the "Loans"). Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Credit Agreement;

D. **WHEREAS**, pursuant to that certain Guaranty and Security Agreement dated as of June 23, 2023, (the "Guaranty and Security Agreement") and that certain Patent Security Agreement dated as of June 23, 2023 (the "Patent Security Agreement" and, collectively with the Guaranty and Security Agreement, the "Security Agreements"), the Loans and all other liabilities

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[1] "Seller" shall also include Fulcrum Sierra Finance Company, LLC, Fulcrum Sierra BioFuels, LLC, and Fulcrum Sierra Holdings, LLC, solely with respect to the assets described in section 2.1(b) below.

and obligations of the Credit Parties to the Secured Parties under the Credit Agreement, howsoever created, arising, or evidenced (collectively, the "Obligations"), are secured by a first priority lien and security interest in favor of Agent, for the benefit of the Secured Parties, in substantially all of the Credit Parties' assets. The Credit Agreement and the Security Agreements, together with any other documents evidencing, securing, guaranteeing, or otherwise related to the Loans are referred to herein as the "Financing Documents";

E. **WHEREAS**, the Credit Parties were engaged in the business of seeking to develop, construct, equip, own, and operate plants to convert waste into renewable transportation fuel and develop related intellectual property.

F. **WHEREAS**, the Credit Parties are familiar with the Subject Assets (as hereinafter defined) and the funding status of the support costs of the Subject Assets;

G. **WHEREAS**, as a result of the $90,500,000.00[2] of principal outstanding under the Financing Documents, Agent and the other Secured Parties are entitled to exercise their rights to credit bid under the terms of the Bidding Procedures Order;

H. **WHEREAS**, Purchaser, on behalf of the Lenders, made the only qualified bid pursuant to the Bidding Procedures Order for the Seller's assets and desires to purchase and acquire the Subject Assets on behalf of the Lenders, and Seller agrees to sell Purchaser such Subject Assets; and

I. **WHEREAS**, based on the foregoing, Seller desires to sell, transfer, and deliver to Purchaser (on behalf of the Lenders) or its designee, and Purchaser (on behalf of the Lenders) or its designee desires to acquire from Seller, for value and on the terms and subject to the conditions hereinafter set forth, all of the Credit Parties' right, title, and interest in and to the Subject Assets (as hereinafter defined).

NOW, THEREFORE, in consideration of the premises, representations, warranties and covenants herein contained and other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, and intending to be legally bound, the Parties hereto agree as follows:

1. Incorporation of Recitals; Definitions. The Recitals set forth above are true and correct and are incorporated into and form an integral part of this Agreement between the Parties. Capitalized terms used but not otherwise defined herein have the meanings given to them in the Credit Agreement.

2. Purchase and Sale of Subject Assets.

2.1. Subject Assets. Subject to the terms and conditions set forth in this Agreement, in consideration of the Purchase Price (as hereinafter defined), at the Closing (as

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[2] With interest and fees, the "Obligations" due under the Credit Agreement are not less than $112,058,488.00. *See* Proof of Claim No. 46.

hereinafter defined) pursuant to the Bankruptcy Code and other applicable law, Seller shall sell, assign, transfer and deliver to Purchaser, and Purchaser shall purchase, acquire and take assignment and delivery of the following assets (such assets collectively, the "Subject Assets"):

a. all of Seller's assets described in **Exhibit 1** attached hereto, including all books and records related to (b)-(d) in **Exhibit 1**; *provided*, however, that nothing in this Agreement shall provide for or require the sale or transfer, or include the waiver of, any attorney client, work product, or other privileged information;[3]

b. Seller and each of Seller's direct and indirect subsidiaries' claims and causes of action (of any kind or nature whatsoever, whether individually or collectively, arising on or prior to the date hereof, whether arising at law or in equity, known or unknown, direct or indirect, actual or potential, liquidated or unliquidated, absolute or contingent, foreseen or unforeseen, asserted or unasserted) against: (i) Agent (in its capacity as agent under the Credit Agreement and as agent under the Sierra BioFuels Term Loan Facility (as defined in Docket No. 9)), (ii) each Lender under the Credit Agreement and the Sierra BioFuels Term Loan Facility, and (iii) each Related Party[4] of those listed in (i) and (ii) as related to such Related Party's role on behalf of the party listed in (i) or (ii) or otherwise in connection with such parties' dealings with Seller and each of Seller's direct and indirect subsidiaries; and

c. All of the Seller's rights, defenses, claims, and arguments with respect to TRI's (as defined in section 5.3 hereof) assertions against the Seller in connection with the Subject Assets; *provided, however,* that the assignment of such rights shall not affect the Seller's ability and right to object to and defend against any proofs of claim asserted by TRI in the Chapter 11 Cases and, to the extent necessary, Purchaser, at no cost to Purchaser, will provide to or on behalf of Seller, the defense or objection to any proofs of claim filed by TRI. For the sake of clarity, Buyer does not take ownership of Seller's monetary obligations or other monetary liabilities to TRI, if any, with respect to the Subject Assets.

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[3] Seller shall have the right to retain copies of and have access to its books and records for all reasonably necessary purposes.

[4] "Related Party" means, with respect to a Person, collectively, (a) such Person's current and former affiliates and (b) such Person's and such Person's current and former affiliates' directors, managers, officers, shareholders, equity holders (regardless of whether such interests are held directly or indirectly), affiliated investment funds or investment vehicles, predecessors, participants, successors, assigns (whether by operation of law or otherwise), subsidiaries, current, former, and future associated entities, managed or advised entities, accounts or funds, partners, limited partners, general partners, principals, members, management companies, fund advisors, managers, fiduciaries, trustees, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, other representatives, and other professionals, representatives, advisors, predecessors, successors, and assigns, each solely in their capacities as such (including any other attorneys or professionals retained by any current or former director or manager in his or her capacity as director or manager of a Person), and the respective heirs, executors, estates, servants, and nominees of the foregoing. For the avoidance of doubt, Related Party does not include any of the Debtors' current or former officers, directors, or managers.

"Person" means any individual, firm, corporation, business enterprise, trust, association, joint venture, partnership, governmental body, or any other entity, whether acting in an individual, fiduciary or other capacity.

To the extent the transfer of a Subject Asset in Section 2.1(a) requires the consent of a third party, and applicable bankruptcy law requires such consent upon a sale pursuant to Section 363 of the Bankruptcy Code, the Purchaser and Seller will undertake reasonable best efforts, at no material cost to the Debtors' estates, to obtain such consent. Such Subject Asset will only be deemed transferred when such consent is provided, in writing, by the applicable counterparty.

2.2. Excluded Assets. Notwithstanding anything to the contrary set forth in this Agreement, in no event shall Seller be deemed to sell, transfer, assign or convey the assets, properties, interests and rights listed on **Exhibit 2** attached hereto (collectively, the "Excluded Assets"). To the extent an asset is included on both **Exhibit 1** and **Exhibit 2**, such asset shall be an Excluded Asset.

2.3. Assumed Liabilities; Cure Costs.

a. Subject to the terms and conditions set forth in this Agreement, at the Closing, Purchaser shall not assume or be liable for any liabilities of the Seller or any of their subsidiaries; and

b. Should there be any cure costs associated with the assumption and assignment of any of the Subject Assets listed on **Exhibit 1**, Purchaser agrees to pay such amount, to the extent agreed with the applicable counterparty; *provided* that if the Purchaser and applicable counterparty cannot reach an agreement regarding assumption and assignment and the related cure costs, such contract will not be assumed and neither Seller nor Purchaser will be obligated to pay cure costs associated with the relevant contract.

2.4. Cure Notices. To the extent the Seller has not served any counterparty to a contract intended to be assumed and assigned hereunder adequate notice thereof, the Seller will provide such notice to such counterparty within three (3) business days following the entry of an order approving the sale. The applicable counterparty shall have fourteen (14) days to object to such notice. In the event of an objection, the Purchaser, the Debtors, and the counterparty shall cooperate to resolve such objection without any further action of the Bankruptcy Court. Any Subject Asset subject to any such cure objection will only be transferred to Purchaser when such objection if resolved, in writing, by the applicable counterparty.

2.5. IP Licenses; Non-Transferable Assets. Nothing in this Agreement shall be construed as an agreement to assign any agreement, contract, license, permit, or other Subject Asset that, by its terms or pursuant to applicable law, is not capable of being sold, assigned, transferred, or delivered without the consent or waiver of the contract counterparty, another third party, or a governmental authority unless and until such consent or waiver is obtained. The Purchaser and Seller will undertake reasonable best efforts, at no material cost to the Debtors' estates, to obtain such consent or waiver. For the avoidance of doubt, neither Seller nor Purchaser makes any representations or warranties about its ability to obtain any such consent or waiver with respect to such Subject Assets.

3. Instruments of Transfer. The sale, assignment, transfer, conveyance and delivery of the Subject Assets to Purchaser shall be made by bill of sale and such other instruments as may

reasonably be requested by Purchaser or Agent to transfer, convey, assign and deliver the Subject Assets to Purchaser.

4. Consideration.

4.1. Purchase Price. The total consideration to be paid by Purchaser to Seller for the Subject Assets shall be ((a) through (d) collectively, the "Purchase Price"):

a. a credit bid in U.S. dollars in the amount of $10,000,000.00 (the "Credit Bid Amount"), which amount shall reduce the Obligations outstanding under the Credit Agreement on a dollar-for-dollar basis;

b. the Agent will consent to the sale of the FT Cans containing FT Catalyst (the "Catalyst"), which cans are currently being stored in a warehouse currently leased by the Debtors in Sparks Nevada; *provided* that the liens of the Agent will attach to the proceeds of the sale of the Catalyst (the "Catalyst Proceeds") with the same priority and validity as the Agent's existing liens;

c. the Agent (i) will authorize the Seller to use the Catalyst Proceeds, which constitute the Agent's cash collateral (the "Cash Collateral"), to, among other things, pay the costs of administering the Company's Chapter 11 Case; (ii) will permit any remaining Catalyst Proceeds to be distributed to Seller's unsecured creditors pursuant to Seller's chapter 11 plan or, if no plan is confirmed, the Bankruptcy Code, after giving effect to the agreement set forth herein; and (iii) will waive any adequate protection lien or claim in, on, or related to the Catalyst Proceeds; and

d. the Secured Parties agree that any remaining Catalyst Proceeds and the first additional $1.1 million of available recovery to which the Agent would otherwise be entitled to under a plan shall be deemed applied to the Secured Parties' Claim in partial satisfaction of the Loans and then be made available for distribution to Seller's other unsecured creditors in accordance with Seller's chapter 11 plan or, if no plan is confirmed, the Bankruptcy Code, after giving effect to the agreement set forth herein.

5. Liabilities and Liens that Remain Outstanding; Purchaser Assumes No Liabilities.

5.1. Each of the Seller and Purchaser specifically acknowledges and agrees that, except to the extent of the Credit Bid Amount actually and finally applied to the Obligations (which will occur on the Closing Date), the Loans and other liabilities and Obligations under the Financing Documents shall remain outstanding, and the Secured Parties do not release any, but instead specifically reserve all, Liens and other encumbrances and rights relating thereto, in all assets and Collateral described in the Financing Documents which are not included in the Subject Assets and any other assets which are not sold to Purchaser hereunder.

5.2. Except as provided for in Sections 2.3(b) and 5.3, Seller agrees that neither the Secured Parties nor the Purchaser have assumed any liability with respect to any of the Subject Assets, and under no circumstance (including, without limitation, with respect or pursuant to this Agreement), will the Purchaser or the Secured Parties assume any liability with respect to any of the Subject Assets.

5.3. Claims of TRI. Notwithstanding anything to the contrary herein, Purchaser agrees to purchase all Subject Assets described in Section 2.1(a) subject to the alleged coownership interests in, and claims against, the Subject Assets asserted by ThermoChem Recovery International, Inc. ("TRI", and such asserted claims and interests, the "TRI Claims"), without prejudice to the TRI Claims, all of which are expressly preserved. For the avoidance of doubt, Purchaser is not admitting to the validity of the TRI Claims and will assume from the Debtors any and all rights, defenses, claims, and arguments with respect to the TRI Claims and may use such rights, defenses, claims, and arguments when seeking to resolve the TRI Claims as if Purchaser is the Seller.

6. Closing.

6.1. Closing Date.

a. The closing of the Sale (the "Closing") shall occur virtually via exchange of documents via PDF as soon as reasonably practicable but in no event later than the second (2nd) Business Day following the satisfaction or waiver of the conditions to Closing, or at such other time as Purchaser and Seller may agree. The date on which the Closing occurs is referred to herein as the "Closing Date". All actions to be taken on the Closing Date pursuant to this Agreement shall be deemed to have occurred simultaneously, and no act, document or transaction shall be deemed to have been taken, delivered, or effected until all such actions, documents, and transactions have been taken, delivered, or effected.

b. On the Closing Date, Seller will:

i. transfer to Purchaser, in mutually agreeable format, of all of the Subject Assets (including, for the avoidance of doubt, as set forth and as limited by Section 2.1(a), books and records related to certain of the Subject Assets);[5]

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[5] The Seller will cooperate with the Purchaser should Purchaser have a good-faith belief that the transferred files inadvertently excluded any Subject Assets or books and records related thereto. The Seller may maintain a copy of any digital Subject Assets for purposes relating to winding down its Chapter 11 Cases; provided, that the Debtors do not have, and may not represent that they have, any property interest in such Subject Assets following the Closing Date; *provided* further that, nothing in this Agreement shall provide for or require the sale or transfer, or include the waiver of, any attorney client, work product, or other privileged information. Until the earlier of closure of the Debtors' Chapter 11 Cases and three (3) years following the closing of the Sale, Purchaser will use reasonable efforts not to dispose of or destroy any of the records received as Subject Assets and will allow the Debtors and any successor thereto and any of their respective directors, officers, employees, counsel, accountants, and auditors reasonable access during business hours, upon reasonable advance notice, to any record included in the Subject Assets for purposes relating to these Chapter 11 Cases, the wind-down of the Debtors' businesses and the implementation of any plan of liquidation following the closing of the Sale. This three-year period may be extended for an additional (1) year period upon reasonable request made to the Purchaser in writing and sent in accordance with Section 9.1 of this Agreement by the Debtors or any successor thereto or any of their respective officers, directors, counsel, or advisors.

ii. deliver to Purchaser a fully executed bill of sale, substantially in the form attached hereto as **Exhibit 3** (the "Bill of Sale"); and

iii. Deliver to Purchaser a fully executed transfer statement, substantially in the form attached hereto as **Exhibit 4** (the "Transfer Statement");

6.2. Conditions to Closing. The obligation of the Purchaser and Seller to close the transactions contemplated hereby is subject to the following conditions:

a. the entry of a sale order ("Sale Order") by the Court acceptable to the Purchaser and Seller, which Sale Order shall be in full force and effect and not subject to appeal at the time of Closing, and shall include (x) language acknowledging that Agent's Proof of Claim No. 46 is allowed in the amount of $102,058,488.00 (after adjusting for the Credit Bid Amount) and not subject to objection, plus any fees and interest to which Agent may be entitled, (y) language acknowledging that Agent's Proof of Claim No. 47 is allowed in the amount of $44,772,257.00, and not subject to objection, and (z) customary findings and provisions for a sale of this type, including:

i. the sale being free and clear of all liens, claims, and encumbrances on the Subject Assets to the fullest extent permitted under the Bankruptcy Code and applicable law (but subject to TRI's assertions, as set forth herein);

ii. the Purchaser being a good-faith purchaser;

iii. the Purchaser not having engaged in any conduct that would permit the sale to be avoidable or avoided;

iv. the Purchaser not being a successor to the Company;

v. the other applicable provisions included in the proposed form of order filed at Docket No. 244; and

vi. the Purchaser's agreement to (A) allow Seller and its affiliated debtors and debtors in possession to use the Catalyst Proceeds to pay, at the discretion of Seller and its affiliated debtors and debtors in possession, allowed administrative claims and administer their bankruptcy cases and (B) distribute any remaining Catalyst Proceeds to the Seller's other creditors pursuant to Seller's chapter 11 plan.

7. Effectiveness; Termination. This Agreement will become binding and effective upon entry of the Sale Order.

8. Additional Agreements.

8.1. Further Action. Upon the terms and subject to the conditions hereof, each Party hereto shall use its reasonable best efforts to take or cause to be taken all appropriate action and to do or cause to be done all things necessary, proper, or advisable under applicable law, to consummate the transactions contemplated by this Agreement as promptly as practicable. Each Party hereto agrees to reasonably cooperate in obtaining any other consents and approvals that may be required in connection with the transactions contemplated by this Agreement; *provided*, *however*, that none of the Agent, the Purchaser, nor Seller shall be required to compensate any third party to obtain any such consent or approval; *provided, further*, that in obtaining any of the foregoing, Seller shall not be required to incur any material cost to the Debtors' estates. This Section 8.1 shall not prohibit Seller from winding-down its business and affairs in the Chapter 11 Cases or otherwise through the Bankruptcy Code, upon the completion of which Seller's obligations under this Section 8.1 shall terminate.

8.2. No Assumption of Obligations or Liabilities. Except as provided for in Sections 2.3(b) and 5, neither Purchaser nor any of the other Secured Parties shall assume, nor be deemed to have assumed, any liability or obligation related to the Subject Assets.

8.3. Representations and Warranties.

a. Seller Representations and Warranties. Seller represents and warrants to Purchaser that: (i) upon entry of the Sale Order, the execution, delivery and performance of this Agreement by Seller will have been duly authorized by Seller; (ii) upon the execution and delivery hereof and entry of the Sale Order, this Agreement will be valid, binding, and enforceable upon it in accordance with its terms; and (iii) the execution and delivery of this Agreement does not and will not contravene, conflict with, violate, or constitute a default under any of its governing agreements.

b. Purchaser's Representations and Warranties. Purchaser represents and warrants to Seller that: (i) it has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder; (ii) upon the execution and delivery hereof and entry of the Sale Order, this Agreement will be valid, binding, and enforceable upon it in accordance with its terms; and (iii) the execution and delivery of this Agreement does not and will not contravene, conflict with, violate or constitute a default under any of its governing agreements.

8.4. No Implied Rights or Remedies. Except as otherwise expressly provided herein, nothing in this Agreement is intended or shall be construed to confer upon or to give any person other than Agent (on behalf of itself and the other Secured Parties) and Purchaser any rights or remedies under or by reason of this Agreement.

8.5. AS-IS WHERE-IS. PURCHASER ACKNOWLEDGES AND AGREES THAT SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY MATTER RELATING TO THE SUBJECT ASSETS. PURCHASER ACKNOWLEDGES THAT PURCHASER HAS CONDUCTED AN INDEPENDENT INSPECTION AND INVESTIGATION OF THE CONDITION OF ALL SUBJECT ASSETS AND ALL SUCH OTHER MATTERS RELATING TO OR AFFECTING THE SUBJECT ASSETS AS PURCHASER DEEMS NECESSARY OR APPROPRIATE AND THAT IN PROCEEDING WITH ITS ACQUISITION OF THE SUBJECT

ASSETS, EXCEPT FOR ANY REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT, PURCHASER IS DOING SO BASED SOLELY UPON SUCH INDEPENDENT INSPECTIONS AND INVESTIGATIONS. ACCORDINGLY, PURCHASER WILL ACCEPT THE SUBJECT ASSETS AT THE CLOSING "AS IS," "WHERE IS," AND "WITH ALL FAULTS.".

8.6. Limited Responsibility. It is the mutual intent of the Parties that the obligations, representations, warranties, and covenants hereunder or as a result hereof or of the transactions contemplated hereby are and shall be limited to only those expressly set forth herein, and not enlarged by implication, operation of law, or otherwise.

9. Miscellaneous.

9.1. Notices. Unless otherwise provided herein, any notice, tender, or delivery to be given hereunder by any Party to the other may be effected by standard overnight courier and shall be deemed communicated as of the date of confirmed delivery. Notices shall be addressed as set forth below, but each Party may change its address by written notice in accordance with this Section.

To Purchaser:
PCL Administration LLC
730 Third Avenue
New York, NY 10017
Attn: Trevor Sanford
Email: Trevor.Sanford@nuveen.com

With a copy to:
Katten Muchin Rosenman LLP
525 W. Monroe Street
Chicago, IL 60661-3693
Attn: Peter Knight and Joshua Altman
Email: peter.knight@katten.com
josh.altman@katten.com

To Seller:
Fulcrum BioEnergy, Inc.
P.O. Box 220
Pleasanton, CA 94566
Email: msmith@fulcrum-bioenergy.com;
rbarraza@fulcrum-bioenergy.com

With a copy to:

Morris, Nichols, Arsht & Tunnell LLP
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19899-1347
Attn: Robert Dehney Sr. and Curtis S. Miller
Email: RDehney@morrisnichols.com;

CMiller@morrisnichols.com

9.2. Entire Agreement. This instrument and the documents to be executed pursuant hereto contain the entire agreement between the Parties relating to the sale of the Subject Assets. Any oral representations or modifications concerning this Agreement or any such other document shall be of no force and effect excepting a subsequent modification in writing, signed by the Party to be charged.

9.3. Modification. This Agreement may be modified, amended, or supplemented only by a written instrument duly executed by each Party hereto and with the consent of the Official Committee of Unsecured Creditors (the "Committee") or approval by the Bankruptcy Court.

9.4. Severability. Should any term, provision or paragraph of this Agreement be determined to be illegal or void or of no force and effect, the balance of this Agreement shall survive.

9.5. Waiver. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by Party making the waiver.

9.6. Captions. All captions and headings contained in this Agreement are for convenience of reference only and shall not be construed to limit or extend the terms or conditions of this Agreement.

9.7. Payment of Fees and Expenses. Except as provided herein, each Party to this Agreement shall be responsible for, and shall pay, all of its own fees and expenses, including those of its counsel, incurred in the negotiation, preparation and consummation of this Agreement and the transaction described herein. For the avoidance of doubt, other than through the consideration provided under this Agreement, including the use of Cash Collateral, Agent and Lenders shall have no obligation to fund any costs of the Debtors' sale process or the Chapter 11 Cases and the Seller waives any right to surcharge Agent's collateral in the Chapter 11 Cases.

9.8. Tax Matters. Purchaser and Seller will cooperate to effectuate the Transaction in the most tax-efficient manner.

9.9. Survival. The representations, warranties, covenants, and agreements of Seller and Purchaser herein, or in any documents delivered prior to or at the Closing, shall not be deemed waived or otherwise affected by the Closing, except as otherwise set forth herein.

9.10. Assignments. This Agreement shall be binding on and inure to the benefit of the Parties and their respective successors and assigns, including any trustee or estate representative appointed in the Chapter 11 Cases or any successor Chapter 7 case. In furtherance of the foregoing, Purchaser may, without the consent of Seller, designate, in accordance with the terms of this paragraph and effective as of the Closing, an entity directly or indirectly wholly owned by Purchaser and/or the Lenders to acquire all, or any portion of, the Subject Assets and assume all or any portion of the assumed liabilities hereunder; provided, that for the avoidance of doubt, any such assignment shall not relieve Purchaser of its obligation to deliver the Purchase

Price under Section 4.1. The above designation may be made by Purchaser by written notice to Seller at any time prior to the Closing Date and such designee will purchase the Subject Assets directly from the Seller. Purchaser intends to designate all of its rights hereunder to an acquisition vehicle wholly owned by Agent and/or the Lenders prior to Closing.

9.11. Governing Law; Jurisdiction.

a. The validity and construction of this Agreement shall be governed by the internal laws of the State of Delaware without regard to principles of conflicts of laws. Each of the Parties irrevocably agrees that any action of any kind whatsoever, including a counterclaim, cross-claim, or defense, regardless of the legal theory under which any liability or obligation may be sought to be imposed, whether sounding in contract or under statute, or whether at law or in equity, or otherwise under any legal or equitable theory, that may be based upon, arising out of, or related to this Agreement and any questions concerning the construction, interpretation, validity, and enforceability of this Agreement (each, an "Agreement Dispute") brought by any other Party or its successors or assigns will be brought and determined only in (a) the Bankruptcy Court, any federal court to which an appeal from the Bankruptcy Court may be validly taken, and the District Court for the District of Delaware to review proposed findings of fact and conclusions of law from the Bankruptcy Court or (b) if the Bankruptcy Court is unwilling or unable to hear such Action, in the Court of Chancery of the State of Delaware (or if such court lacks jurisdiction, any other state or federal court sitting in the State of Delaware) (the "Chosen Courts"), and each of the Parties hereby irrevocably submits to the exclusive jurisdiction of the Chosen Courts for itself and with respect to its property, generally and unconditionally, with regard to any Agreement Dispute.

b. THE PARTIES, TO THE EXTENT PERMITTED BY APPLICABLE LAW, HEREBY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF, IN CONNECTION WITH OR RELATING TO, THIS AGREEMENT AND ANY OTHER TRANSACTIONS CONTEMPLATED HEREBY. THIS WAIVER APPLIES TO ANY ACTION, SUIT OR PROCEEDING WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE. EACH PARTY HERETO (A) CERTIFIES THAT NO OTHER PARTY AND NO AGENT, REPRESENTATIVE OR OTHER PERSON AFFILIATED WITH OR RELATED TO 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 (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT, BY THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS [SECTION 11.11(b)]. EACH OF THE PARTIES REPRESENTS AND WARRANTS THAT IT HAS HAD THE OPPORTUNITY TO REVIEW THE JURY WAIVER CONTAINED IN THIS [SECTION 11.11(b)] WITH LEGAL COUNSEL.

9.12. Construction. In the interpretation and construction of this Agreement, the Parties acknowledge that the terms hereof reflect extensive negotiations between the Parties and that this Agreement shall not be deemed, for the purpose of construction and interpretation, drafted by either Party hereto.

9.13. Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute but one and the same instrument. Delivery

of an executed counterpart of this Agreement by facsimile transmission or e-mail (in .pdf or similar format) shall be as effective as delivery of a manually executed counterpart hereof, shall be treated as an original signature for all purposes of this Agreement and shall be fully effective to bind such Party to the terms of this Agreement.

9.14. Time is of the Essence. Time is of the essence in this Agreement, and all of the terms, covenants and conditions hereof.

9.15. Interpretation and Rules of Construction. In this Agreement, except to the extent that the context otherwise requires:

a. when a reference is made in this Agreement to a Section, Schedule or Exhibit, such reference is to a Section of, or a Schedule or Exhibit to, this Agreement unless otherwise indicated;

b. whenever the words "include," "includes" or "including" are used in this Agreement, they are deemed to be followed by the words "without limitation";

c. the words "hereof," "herein" and "hereunder" and works of similar import, when used in this Agreement, refer to this Agreement as a whole and not to any particular provision of this Agreement;

d. the definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms;

e. any law defined or referred to herein or in any agreement or instrument that is referred to herein means such law or statute as from time to time amended, modified or supplemented, including by succession of comparable successor laws;

f. references to a person are also to its permitted successors and assigns; and

g. the use of "or" is not intended to be exclusive unless expressly indicated otherwise.

[*Signature Page Follows.*]

IN WITNESS WHEREOF, the Parties hereto have duly executed this Asset Purchase Agreement as of the date first written above.

Fulcrum BioEnergy, Inc., as Seller

By: Signed by: 106E9382FA0C4EC... _____
Name: Mark J. Smith
Title: Chief Restructuring Officer

Fulcrum Sierra Finance Company, LLC, as Seller

By: Signed by: 106E9382FA0C4EC... _____
Name: Mark J. Smith
Title: Chief Restructuring Officer

Fulcrum Sierra BioFuels, LLC, as Seller

By: Signed by: 106E9382FA0C4EC... _____
Name: Mark J. Smith
Title: Chief Restructuring Officer

Fulcrum Sierra Holdings, LLC, as Seller

By: Signed by: 106E9382FA0C4EC... _____
Name: Mark J. Smith
Title: Chief Restructuring Officer

IN WITNESS WHEREOF, the Parties hereto have duly executed this Asset Purchase Agreement as of the date first written above.

PCL Administration LLC, as Agent on behalf of the Lenders under the Credit Agreement

By: Signed by: Trevor Sanford EADBD8603ADC4E1...
Name: [illegible]
Title: Assistant Secretary

Exhibit 1

Subject Assets

All of the following property[6] of Fulcrum BioEnergy, Inc. (other than the Excluded Assets) whether presently existing or hereafter created or acquired, and wherever located, including, but not limited to:

(a) all insurance receivables, chattel paper (including tangible and electronic chattel paper), documents (including negotiable documents), equipment in the Seller's or an independent contractor's possession (including all accessions and additions thereto), general intangibles (including payment intangibles and software), goods (including fixtures) in Seller's possession, instruments (including promissory notes), investment property (including securities and securities entitlements), and, subject to Section 2.1(a) of this Agreement, all of the Credit Parties' books and records with respect to (b)-(d) below; *provided* that, for the avoidance of doubt, among other assets set forth on **Exhibit 2**, Purchaser is not acquiring any commercial tort claims or chapter 5 causes of action;

(b) all common law and statutory copyrights and copyright registrations, applications for registration, now existing or hereafter arising, in the United States of America or in any foreign jurisdiction, obtained or to be obtained on or in connection with any of the foregoing, or any parts thereof or any underlying or component elements of any of the foregoing, together with the right to copyright and all rights to renew or extend such copyrights and the right (but not the obligation) of the Secured Party to sue in its own name and/ or in the name of the Credit Parties for past, present and future infringements of copyright;

(c) all trademarks, service marks, trade names and service names and the goodwill associated therewith, together with the right to trademark and all rights to renew or extend such trademarks and the right (but not the obligation) of the Secured Party to sue in its own name and/or in the names of the Credit Parties for past, present and future infringements of trademark;

(d) all (i) patents and patent applications filed in the United States Patent and Trademark Office or any similar office of any foreign jurisdiction, and interests under patent license agreements, including, without limitation, the inventions and improvements described and claimed therein, (ii) licenses pertaining to any patent whether the Credit Parties are licensor or licensee, (iii) income, royalties, damages, payments, accounts and accounts receivable now or hereafter due and/or payable under and with respect thereto, including, without limitation, damages and payments for past, present or future infringements thereof, (iv) right (but not the obligation) to sue in the names of the Credit Parties and/or in the name of the Secured Party for past, present and future infringements thereof, (v) rights corresponding thereto throughout the world in all jurisdictions in which such patents have been issued or applied for, and (vi) reissues, divisions, continuations, renewals, extensions and continuations- in-part with respect to any of the foregoing; and

(e) any and all cash proceeds and/or noncash proceeds of any of the foregoing, including, without limitation, insurance proceeds, and all supporting obligations and the security therefor or for any right to payment. All terms above have the meanings given to them in the UCC.

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[6] For the avoidance of doubt, the property the Purchaser is acquiring on this **Exhibit 1** is property of Fulcrum BioEnergy, Inc. and not property of any direct or indirect subsidiaries.

Without limiting the generality of the foregoing, the Subject Assets include (but are not limited to) the assets listed on the schedules that follow.

1. ***Patents, trade secrets and other Intellectual Property licensed under the following agreements:***

    a. Master Development Agreement for International Projects, dated September 19, 2018, between the Company and Marubeni Corporation.

    b. Amended Development License and Technical and Development Services Agreement, dated May 17, 2023, between the Company and Blue Arrow Biojet Holdings, LLC.

2. Trade Secrets

Extensive trade secrets relating to the Company's process for converting municipal solid waste to syncrude, jet fuel, diesel and ethanol.

3. United States Trademark Applications

No.	Owner	Mark	Application No.	Application Date	Status
1.	Fulcrum BioEnergy, Inc.	FULCRUM BIOENERGY and Design 	97459578	6/15/2022	Pending (**Intent-to-Use**)
2.	Fulcrum BioEnergy, Inc.	FULCRUM BIOENERGY and Design 	97459551	6/15/2022	Pending (**Intent-to-Use**)
3.	Fulcrum BioEnergy, Inc.	FULCRUM BIOENERGY and Design 	97459567	6/15/2022	Pending (**Intent-to-Use**)
4.	Fulcrum BioEnergy, Inc.	FULCRUM BIOENERGY	97459584	6/15/2022	Pending (**Intent-to-Use**)

5.	Fulcrum BioEnergy, Inc.	FULCRUM BIOENERGY	97347944	4/5/2022	Pending (**Intent-to-Use**)
6.	Fulcrum BioEnergy, Inc.	FULCRUM BIOENERGY	97347943	4/5/2022	Pending (**Intent-to-Use**)
7.	Fulcrum BioEnergy, Inc.	FULCRUM	97252190	2/3/2022	Pending (**Intent-to-Use**)

No.	**Owner**	**Mark**	**Application No.**	**Application Date**	**Status**
8.	Fulcrum BioEnergy, Inc.	FULCRUM	97252194	2/3/2022	Pending (**Intent-to-Use**)
9.	Fulcrum BioEnergy, Inc.	FULCRUM	97252200	2/3/2022	Pending (**Intent-to-Use**)
10.	Fulcrum BioEnergy, Inc.	FULCRUM FUEL	90033839	7/2/2020	Pending (Allowed) **Intent-to-Use**
11.	Fulcrum BioEnergy, Inc.	FULCRUM FUEL	90033840	7/2/2020	Pending (Allowed) **Intent-to-Use**
12.	Fulcrum BioEnergy, Inc.	TRASH TO FUEL	90033841	7/2/2020	Pending (Allowed) **Intent-to-Use**
13.	Fulcrum BioEnergy, Inc.	FULCRUMJET	90033843	7/2/2020	Pending (Allowed) **Intent-to-Use**
14.	Fulcrum BioEnergy, Inc.	FULCRUMJET	90033845	7/2/2020	Pending (Allowed) **Intent-to-Use**
15.	Fulcrum BioEnergy, Inc.	POWERED BY FULCRUM	90033847	7/2/2020	Pending (Allowed) **Intent-to-Use**
16.	Fulcrum BioEnergy, Inc.	FLY WITH FULCRUM	90033848	7/2/2020	Pending (Allowed) **Intent-to-Use**
17.	Fulcrum BioEnergy, Inc.	WE FLY ON GARBAGE	90033850	7/2/2020	Pending (Allowed) **Intent-to-Use**

18.	Fulcrum BioEnergy, Inc.	FULCRUM ZERO CARBON	90033851	7/2/2020	Pending (Allowed) **Intent-to-Use**
19.	Fulcrum BioEnergy, Inc.	FULCRUM ZERO CARBON	90033853	7/2/2020	Pending (Allowed) **Intent-to-Use**
20.	Fulcrum BioEnergy, Inc.	FULCRUM	88923062	5/19/2020	Pending (Allowed) **Intent-to-Use**

No.	**Owner**	**Mark**	**Application No.**	**Application Date**	**Status**
21.	Fulcrum BioEnergy, Inc.	FULCRUM BIOENERGY	88923063	5/19/2020	Pending (Allowed) **Intent-to-Use**
22.	Fulcrum BioEnergy, Inc.	FULCRUM BIOENERGY and Design 	88923065	5/19/2020	Pending (Allowed) **Intent-to-Use**

4. Foreign Trademark Registrations

No.	**Owner**	**Mark**	**Country**	**Application No.**	**Appl. Date**	**Registration No.**	**Reg. Date**
1	Fulcrum BioEnergy, Inc.	Fulcrum NorthPoint	United Kingdom	UK00003620103	4/1/2021	UK00003620103	12/17/2021
2	Fulcrum BioEnergy, Inc.	FULCRUM BIOENERGY	United Kingdom	UK00003557280	11/18/2020	UK00003557280	5/21/2021
3.	Fulcrum BioEnergy, Inc.	FULCRUM BIOENERGY and Design 	*International Register* (United Kingdom)	1453281	1/11/2019	1453281	1/11/2019

4.	Fulcrum BioEnergy, Inc.	FULCRUM BIOENERGY and Design 	United Kingdom (WIPO)	WO0000001453281	1/11/2019	WO0000001453281	4/20/2021

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5. Patent Portfolio Table

Ref. No. Country	Subject Matter	Title	Appl No. Filing Date	Patent No. Issue Date Exp. Date	Status	Inventors	Owner
UNITED STATES							
427440-006 U.S.	Ethanol from MSW	Processes for Recovering Waste Heat from Gasification Systems for Converting Municipal Solid Waste into Ethanol	13/023,497 02/08/2011	**8,604,088 12/10/2013 02/10/2032**	**Granted**	Stephen H. LUCAS James R. JONES Jr. Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-008 U.S.	Ethanol from MSW	Product Recycle Loops in Process for converting Municipal Solid Waste into Ethanol	13/023,505 02/08/2011	**8,614,257 12/24/2013 01/18/2032**	**Granted**	Stephen H. LUCAS James R. JONES Jr. Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-010 U.S.	Ethanol from MSW	Gas Recycle Loops in Process for Converting Municipal Solid Waste into Ethanol	13/023,510 02/08/2011	**8,604,089 12/10/2013 02/09/2032**	**Granted**	Stephen H. LUCAS James R. JONES Jr. Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-017 U.S.	Ethanol from MSW	Gas Recycle Loops in Process for Converting Municipal Solid Waste into Ethanol	14/138,635 12/23/2013	**9,458,073 10/04/2016 02/08/2031**	**Granted**	Stephen H. LUCAS James R. JONES Jr. Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-020 U.S.	Claims to the high biogenic fuel and fuel additive	Fuels and Fuel Additives that Have High Biogenic Content Derived from Renewable Organic Feedstock	14/947,820 11/20/2015		Under examination	Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc

Ref. No. Country	Subject Matter	Title	Appl No. Filing Date	Patent No. Issue Date Exp. Date	Status	Inventors	Owner
427440-021 U.S.	Claims to the system design	Processes for Producing High Biogenic Concentration Fischer- Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	14/842,729 09/01/2015	**10,760,018 09/01/2020 02/08/2031**	**Granted**	Peter G. TIVERIOS Stephen H. LUCAS Lewis L. RICH	Fulcrum BioEnergy, Inc.
427440-024 U.S.	Claims to the process of producing high biogenic F-T liquids from MSW	Processes for Producing High Biogenic Concentration Fischer- Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	15/077,782 03/22/2016	**9,738,579 08/22/2017 02/08/2031**	**Granted**	Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-025 U.S.	Continuation application of matter 024 filed with additional process claims	Processes for Producing High Biogenic Concentration Fischer- Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	15/682,368 08/21/2017	**10,344,232 07/09/2019 02/08/2031**	**Granted**	Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-027 U.S.	Claims to the product-by-process, including fuel and fuel additive products	Processes for Producing High Biogenic Concentration Fischer- Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	15/791,045 10/23/2017	**10,344,233 07/09/2019 02/08/2031**	**Granted**	Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.

Ref. No. Country	Subject Matter	Title	Appl No. Filing Date	Patent No. Issue Date Exp. Date	Status	Inventors	Owner
427440-044 U.S.	Continuation application of matter 025 filed with additional process claims with no percentages in main claim	Processes for Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	16/458,928 07/01/2019	**10,704,002 07/07/2020 02/08/2031**	**Granted**	Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-045 U.S.	Continuation application of matter 027 filed with additional fuel claims derived from process with no percentages	Processes for Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	16/505,428 07/08/2019	**10,975,320 04/13/2021 02/08/2031**	**Granted**	Peter G. TIVERIOS Stephen H. LUCAS Lewis L. RICH	Fulcrum BioEnergy, Inc.
427440-046 U.S.	Feedstock Processing Patent application (CIP)	Feedstock Processing Systems and Methods for Producing Fischer-Tropsch Liquids and Transportation Fuels	16/864,124 04/30/2020	**11,525,097 12/13/2022 02/08/2031**	**Granted**	Peter G. TIVERIOS James E. MACIAS Stephen H. LUCAS Lewis L. RICH Gregor A. THOMSON	Fulcrum BioEnergy, Inc.
427440-049 U.S.	Continuation application of matter 044, now granted to mine additional claims from specification	Processes for Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	16/921,536 07/06/2020	**11,098,258 08/24/2021 02/08/2031**	**Granted**	Peter G. TIVERIOS Stephen H. LUCAS Lewis L. RICH	Fulcrum BioEnergy, Inc

Ref. No. Country	Subject Matter	Title	Appl No. Filing Date	Patent No. Issue Date Exp. Date	Status	Inventors	Owner
427440-050 U.S.	Continuation application of matter 021, the system patent to claim additional features of the system	Process for Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	17/007,674 08/31/2020		Under examination	Peter G. TIVERIOS Stephen H. LUCAS Lewis L. RICH	Fulcrum BioEnergy, Inc
427440-052 U.S.	Continuation application of matter 045	Process for Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstock	17/228,307 04/12/2021	**11,680,215 06/20/2023 02/08/2031**	**Granted**	Peter G. TIVERIOS Stephen H. LUCAS Lewis L. RICH	Fulcrum BioEnergy, Inc
427440-054 U.S.	Feedstock Processing Patent application Divisional application of matter 046	Feedstock Processing Systems and Methods for Producing Fischer-Tropsch Liquids and Transportation Fuels	17/535,310 11/24/2021		Under examination	Peter G. TIVERIOS James E. MACIAS Stephen H. LUCAS Lewis L. RICH Gregor A. THOMSON	Fulcrum BioEnergy, Inc.
427440-058 U.S.	Continuation application of matter of matter 049	Processes for Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	17/409,643 08/23/2021	**11,655,426 05/23/2023 02/08/2031**	**Granted**	Peter G. TIVERIOS Stephen H. LUCAS Lewis L. RICH	Fulcrum BioEnergy, Inc.
427440-066 U.S.	Divisional application of matter of matter 020	Fuels And Fuel Additives That Have High Biogenic Content Derived From Renewable Organic Feedstock	18/197,635 05/15/2023		Awaiting examination	Peter G. TIVERIOS Stephen H. LUCAS Lewis L. RICH	Fulcrum BioEnergy, Inc.

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Ref. No. Country	Subject Matter	Title	Appl No. Filing Date	Patent No. Issue Date Exp. Date	Status	Inventors	Owner
427440-068 U.S.	Continuation application of matter of matter 046	Feedstock Processing Systems And Methods For Producing Fischer-Tropsch Liquids And Transportation Fuels	18/079,773 12/12/2022		Under examination	Peter G. TIVERIOS James E. MACIAS Stephen H. LUCAS Lewis L. RICH Gregor A. THOMSON	Fulcrum BioEnergy, Inc.
427440-102 U.S.	Continuation application of matter of matter 058	Processes For Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived From Municipal Solid Wastes (MSW) Feedstocks	18/200,169 05/22/2023		Under examination	Peter G. TIVERIOS Stephen H. LUCAS Lewis L. RICH	Fulcrum BioEnergy, Inc.
AUSTRALIA							
427440-028 Australia	Claims of all the foreign applications listed here are to the system design (matter 021) and the process (matter 024)	Processes for Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	2015402524 10/30/2015	Closed in favor of matter 061		Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-036 Australia	Claims of all the foreign applications listed below are to the high biogenic fuel and fuel additive	Fuels and Fuel Additives That Have High Biogenic Content Derived from Renewable Organic Feedstock	2015408249 12/29/2015[1]	Closed in favor of matter 051		Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.

[1] Note that the filing date of the international applications is listed as the earliest international filing date, which is the date of filing the PCT application, however we entered the national phase in 2018.

Ref. No. Country	Subject Matter	Title	Appl No. Filing Date	Patent No. Issue Date Exp. Date	Status	Inventors	Owner
427440-051 Australia	Divisional application of Australian matter 036	Fuels and Fuel Additives That Have High Biogenic Content Derived from Renewable Organic Feedstock	2020286234 12/29/2015	Closed in favor of matter 093		Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-061 Australia	Divisional application of Australian matter 028	Processes For Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived From Municipal Solid Wastes (MSW) Feedstocks	2022202571 10/30/2015		Under examination	Peter G. Tiverios Stephen H. Lucas Lewis L. Rich	Fulcrum BioEnergy, Inc.
427440-073 Australia	Feedstock processing system and method	Feedstock Processing Systems And Methods For Producing Fischer-Tropsch Liquids And Transportation Fuels	2021262819 4/30/2021		Awaiting examination	Peter G. Tiverios E. James Macias Stephen H. Lucas Lewis L. Rich Gregor A. Thomson	Fulcrum BioEnergy, Inc.
427440-093 Australia	Divisional application of Australian matter 051	Fuels and Fuel Additives That Have High Biogenic Content Derived from Renewable Organic Feedstock	2023201612 12/29/2015		Under examination	Peter G. Tiverios Stephen H. Lucas Lewis L. Rich	Fulcrum BioEnergy, Inc.
BRAZIL							
427440-029 Brazil	Process and system	Process for Economically Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstock	BR1120180008362 10/30/2015		Under examination	Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.

Ref. No. Country	Subject Matter	Title	Appl No. Filing Date	Patent No. Issue Date Exp. Date	Status	Inventors	Owner
427440-037 Brazil	Fuel and system	Fuels and Fuel That Have High Biogenic Content Derived from Renewable Organic Feedstock	BR1120180041688 12/29/2015		Under examination	Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-074 Brazil	National Phase Application Based on PCT/US2021/030287 Filed 4/30/2021	Feedstock Processing Systems and Methods for Producing Fischer-Tropsch Liquids and Transportation Fuels	BR1120220217030 10/26/2022		Awaiting examination	Peter G. TIVERIOS James E. MACIAS Stephen H. LUCAS Lewis L. RICH Gregor A. THOMSON	Fulcrum BioEnergy, Inc.
CANADA							
427440-030 Canada	Process and system	Process for Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstock	2,992,422 10/30/2015		**Allowed**	Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-038 Canada	Fuel and system	Fuels and Fuel That Have High Biogenic Content Derived from Renewable Organic Feedstock	2,996,612 12/29/2015	**2,996,612 08/22/2023 12/29/2035**	**Granted**	Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-075 Canada	National Phase Application Based on PCT/US2021/030287 Filed 4/30/2021	Feedstock Processing Systems and Methods for Producing Fischer-Tropsch Liquids and Transportation Fuels	3,177,225 10/28/2022		Awaiting examination	Peter G. TIVERIOS James E. MACIAS Stephen H. LUCAS Lewis L. RICH Gregor A. THOMSON	Fulcrum BioEnergy, Inc.

Ref. No. Country	Subject Matter	Title	Appl No. Filing Date	Patent No. Issue Date Exp. Date	Status	Inventors	Owner
COLUMBIA							
427440-071 Colombia	National Phase Application Based on PCT/US2021/030287 Filed 4/30/2021	Feedstock Processing Systems and Methods for Producing Fischer-Tropsch Liquids and Transportation Fuels	NC2022/0016963 04/30/2021		Under examination	Peter G. TIVERIOS James E. MACIAS Stephen H. LUCAS Lewis L. RICH Gregor A. THOMSON	Fulcrum BioEnergy, Inc.
EUROPE							
427440-031 Europe	Process and system	Processes for Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	15898468.2 10/30/2015		Under examination	Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-039 Europe	Fuel and system	Fuels and Fuel Additives That Have High Biogenic Content Derived from Renewable Organic Feedstock	15903290.3 12/29/2015		Under examination	Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-080 Europe	Feedstock processing system and method	Feedstock Processing Systems And Methods For Producing Fischer-Tropsch Liquids And Transportation Fuels	21796935.1 4/30/2021		Under examination	Peter G. Tiverios E. James Macias Stephen H. Lucas Lewis L. Rich Gregor A. Thomson	Fulcrum BioEnergy, Inc.

Ref. No. Country	Subject Matter	Title	Appl No. Filing Date	Patent No. Issue Date Exp. Date	Status	Inventors	Owner
GREAT BRITAIN							
427440-032 Great Britain	Process and system claims	Process for Economically Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstock	1802132.9 10/30/2015	**2556584 08/17/2022 10/30/2035**	**Granted**	Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-040 Great Britain	System claims	Fuels and Fuel Additives That Have High Biogenic Content Derived from Renewable Organic Feedstock	1804526.0 12/29/2015	**2561716 10/19/2022 12/29/2035**	**Granted**	Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-060 Great Britain	Divisional application of GB matter 040	Fuels and Fuel Additives That Have High Biogenic Content Derived from Renewable Organic Feedstock	2203360.9 03/10/2022 Priority date is 12/29/2015	**2601703 11/30/2022 12/29/2035**	**Granted**	Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-062 Great Britain New divisional with broader claims, filed from matter 032 that has granted	Process and system	Process for Economically Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstock	2208736.5 06/14/2022 Priority date is 10/30/2015	**2605099 12/14/2022 10/30/2035**	**Granted**	Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.

Ref. No. Country	Subject Matter	Title	Appl No. Filing Date	Patent No. Issue Date Exp. Date	Status	Inventors	Owner
427440-065 Great Britain New divisional with broader claims, filed from matter 032 that has granted	Process and system	Process for Economically Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstock	2211828.5 08/12/2022 Priority date is 10/30/2015	**2608028 03/29/2023 10/30/2035**	**Granted**	Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-069 Great Britain	Process and system	Processes For Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	2215181.5 10/30/2015	**2608943 05/24/2023 10/30/2035**	**Granted**	Peter G. Tiverios Stephen H. Lucas Lewis L. Rich	Fulcrum BioEnergy, Inc.
427440-076 Great Britain	Feedstock processing system and method	Feedstock Processing Systems And Methods For Producing Fischer-Tropsch Liquids And Transportation Fuels	2216198.8 04/30/2021		Awaiting examination	Peter G. Tiverios E. James Macias Stephen H. Lucas Lewis L. Rich Gregor A. Thomson	Fulcrum BioEnergy, Inc.
427440-085 Great Britain		Processes For Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	2218890.8 11/04/2022	**2610152 05/17/2023 10/30/2035**	**Granted**	Peter G. Tiverios Stephen H. Lucas Lewis L. Rich	Fulcrum BioEnergy, Inc.

Ref. No. Country	Subject Matter	Title	Appl No. Filing Date	Patent No. Issue Date Exp. Date	Status	Inventors	Owner
427440-091 Great Britain		Processes For Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	2302077.9 02/08/2023	**2612924 08/09/2023 10/30/2035**	**Granted**	Peter G. Tiverios Stephen H. Lucas Lewis L. Rich	Fulcrum BioEnergy, Inc.
427440-094 Great Britain	Divisional application of GB matter 091	Processes For Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	2305536.1 10/30/2015	**2615003 02/28/2024 10/30/2035**	**Granted**	Peter G. Tiverios Stephen H. Lucas Lewis L. Rich	Fulcrum BioEnergy, Inc.
427440-095 Great Britain	Divisional application of GB matter 094	Processes For Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	2306338.1 10/30/2015	**2615036 02/28/2024 10/30/2035**	**Granted**	Peter G. Tiverios Stephen H. Lucas Lewis L. Rich	Fulcrum BioEnergy, Inc.
427440-096 Great Britain	Divisional application of GB matter 095	Processes For Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	2306383.7 10/30/2015	**2615037 03/13/2024 10/30/2035**	**Granted**	Peter G. Tiverios Stephen H. Lucas Lewis L. Rich	Fulcrum BioEnergy, Inc.

Ref. No. Country	Subject Matter	Title	Appl No. Filing Date	Patent No. Issue Date Exp. Date	Status	Inventors	Owner
HONG KONG							
427440-033 Hong Kong	Process and system	Process for Economically Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstock	18109648.7 10/30/2015	Closed in favor of matter 063		Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-041 Hong Kong	Fuel and system	Fuels and Fuel That Have High Biogenic Content Derived from Renewable Organic Feedstock	18111480.4 12/29/2015		Filed/awaiting grant (via Europe)	Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-063 Hong Kong		Processes For Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	42022061813.6 10/30/2015	**HK40073372 05/12/2023 10/30/2035**	**Granted**	Peter G. Tiverios Stephen H. Lucas Lewis L. Rich	Fulcrum BioEnergy, Inc.
427440-067 Hong Kong	Registration of GB Patent Application No. 2203360.9	Fuels and Fuel Additives That Have High Biogenic Content Derived from Renewable Organic Feedstock	42022059430.3 12/29/2015	**HK40071393 06/30/2023 12/29/2035**	**Granted**	Peter G. TIVERIOS Stephen H. LUCAS Lewis L. RICH	Fulcrum BioEnergy, Inc.
427440-070 Hong Kong		Processes For Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	42022066294.4 10/30/2015	**HK40076580 09/29/2023 10/30/2035**	**Granted**	Peter G. Tiverios Stephen H. Lucas Lewis L. Rich	Fulcrum BioEnergy, Inc.

Ref. No. Country	Subject Matter Title	Appl No. Filing Date	Patent No. Issue Date Exp. Date	Status	Inventors	Owner
427440-082 Hong Kong	Feedstock Processing Systems And Methods For Producing Fischer-Tropsch Liquids And Transportation Fuels	62023074014.9 04/30/2021	Filed/ awaiting Via UK case	grant	Peter G. Tiverios E. James Macias Stephen H. Lucas Lewis L. Rich Gregor A. Thomson	Fulcrum BioEnergy, Inc.
427440-089 Hong Kong	Processes For Producing High Biogenic Concentration Fischer- Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	42023067635.5 10/30/2015	**HK40077716 07/28/2023 10/30/2035**	**Granted**	Peter G. Tiverios Stephen H. Lucas Lewis L. Rich	Fulcrum BioEnergy, Inc.
427440-090 Hong Kong	Processes For Producing High Biogenic Concentration Fischer- Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	42023070774.7 10/30/2015	**HK40081645 12/22/2023 10/30/2035**	**Granted**	Peter G. Tiverios Stephen H. Lucas Lewis L. Rich	Fulcrum BioEnergy, Inc.
427440-098 Hong Kong	Processes For Producing High Biogenic Concentration Fischer- Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	42023076206.4 10/30/2015	**HK40086857 03/15/2024 10/30/2035**	**Granted**	Peter G. Tiverios Stephen H. Lucas Lewis L. Rich	Fulcrum BioEnergy, Inc.
427440-099 Hong Kong	Processes For Producing High Biogenic Concentration Fischer- Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	42023077515.7 10/30/2015		Filed	Peter G. Tiverios Stephen H. Lucas Lewis L. Rich	Fulcrum BioEnergy, Inc.

Ref. No. Country	Subject Matter	Title	Appl No. Filing Date	Patent No. Issue Date Exp. Date	Status	Inventors	Owner
427440-100 Hong Kong		Processes For Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	42023077514.0 10/30/2015		Filed	Peter G. Tiverios Stephen H. Lucas Lewis L. Rich	Fulcrum BioEnergy, Inc.
427440-101 Hong Kong		Processes For Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	42023077804.5 10/30/2015		Filed	Peter G. Tiverios Stephen H. Lucas Lewis L. Rich	Fulcrum BioEnergy, Inc.
427440-103 Hong Kong		Feedstock Processing Systems And Methods For Producing Fischer-Tropsch Liquids And Transportation Fuels	62023076074.1 04/30/2021		Filed	Peter G. Tiverios E. James Macias Stephen H. Lucas Lewis L. Rich Gregor A. Thomson	Fulcrum BioEnergy, Inc.
JAPAN							
427440-034 Japan	Process and system	Processes for Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	2018-521818 10/30/2015	**7105690 07/14/2022 10/30/2035**	**Granted**	Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.

Ref. No. Country	Subject Matter	Title	Appl No. Filing Date	Patent No. Issue Date Exp. Date	Status	Inventors	Owner
427440-042 Japan	Fuel and system	Fuels and Fuel Additives That Have High Biogenic Content Derived from Renewable Organic Feedstock	2018-530482 12/29/2015	**7202182 12/27/2022 12/29/2035**	**Granted**	Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-048 Japan	A divisional application filed to pursue separate claim sets to the process which have been allowed in the US	Processes for Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	2020-003690 10/30/2015	**7353993 09/22/2023 10/30/2035**	**Granted**	Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-055 Japan	A divisional application filed to pursue separate claim sets to the process which have been allowed in the US	Processes for Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstocks	2021-83832 10/30/2015	**7064041 04/25/2022 10/30/2035**	**Granted**	Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-056 Japan	Divisional application of Japan matter 042	Fuels and Fuel Additives That Have High Biogenic Content Derived from Renewable Organic Feedstock	2021-83831 12/29/2015	**7372282 10/23/2023 12/29/2035**	**Granted**	Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-077 Japan		Feedstock Processing Systems And Methods For Producing Fischer-Tropsch Liquids And Transportation Fuels	2022-566224 04/30/2021		Awaiting examination	Peter G. Tiverios E. James Macias Stephen H. Lucas Lewis L. Rich Gregor A. Thomson	Fulcrum BioEnergy, Inc.

Ref. No. Country	Subject Matter	Title	Appl No. Filing Date	Patent No. Issue Date Exp. Date	Status	Inventors	Owner
427440-092 Japan	Divisional application of Japan matter 056	Fuels and Fuel Additives That Have High Biogenic Content Derived from Renewable Organic Feedstock	2023-039719 12/29/2015		Awaiting examination	Peter G. TIVERIOS Stephen H. LUCAS Lewis L. RICH	Fulcrum BioEnergy, Inc.
KUWAIT							
427440-083 Kuwait	National Phase Application Based on PCT/US2021/030287 Filed 4/30/2021	Feedstock Processing Systems and Methods for Producing Fischer-Tropsch Liquids and Transportation Fuels	KW/P/2022/1529 04/30/2021		Awaiting Examination	Peter G. TIVERIOS James E. MACIAS Stephen H. LUCAS Lewis L. RICH Gregor A. THOMSON	Fulcrum BioEnergy, Inc.
MEXICO							
427440-035 Mexico	Process and system	Process for Economically Producing High Biogenic Concentration Fischer-Tropsch Liquids Derived from Municipal Solid Wastes (MSW) Feedstock	Mx/a/2018/000530 10/30/2015	**407523 10/26/23 10/30/2035**	**Granted**	Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-043 Mexico	Fuel and system	Fuels and Fuel That Have High Biogenic Content Derived from Renewable Organic Feedstock	Mx/a/2018/002109 12/29/2015	**406519 09/21/23 12/29/2035**	**Granted**	Stephen H. LUCAS Lewis L. RICH Peter G. TIVERIOS	Fulcrum BioEnergy, Inc.
427440-078 Mexico	National Phase Application Based on PCT/US2021/030287 Filed 4/30/2021	Feedstock Processing Systems and Methods for Producing Fischer-Tropsch Liquids and Transportation Fuels	MX/a/2022/013636 04/30/2021		Awaiting Examination	Peter G. TIVERIOS James E. MACIAS Stephen H. LUCAS Lewis L. RICH Gregor A. THOMSON	Fulcrum BioEnergy, Inc.

Ref. No. Country	Subject Matter	Title	Appl No. Filing Date	Patent No. Issue Date Exp. Date	Status	Inventors	Owner
QATAR							
427440-084 Qatar	National Phase Application Based on PCT/US2021/030287 Filed 4/30/2021	Feedstock Processing Systems and Methods for Producing Fischer-Tropsch Liquids and Transportation Fuels	QA/202210/000746 04/30/2021		Awaiting Examination	Peter G. TIVERIOS James E. MACIAS Stephen H. LUCAS Lewis L. RICH Gregor A. THOMSON	Fulcrum BioEnergy, Inc.
SAUDI ARABIA							
427440-079 Saudi Arabia	National Phase Application Based on PCT/US2021/030287 Filed 4/30/2021	Feedstock Processing Systems and Methods for Producing Fischer-Tropsch Liquids and Transportation Fuels	522441128 04/30/2021		Under examination	Peter G. TIVERIOS James E. MACIAS Stephen H. LUCAS Lewis L. RICH Gregor A. THOMSON	Fulcrum BioEnergy, Inc.
SOUTH KOREA							
427440-059 South Korea	National Stage Application of PCT application matter 053	Feedstock Processing Systems and Methods for Producing Fischer-Tropsch Liquids and Transportation Fuels	10-2021-7033086 04/30/2021		Awaiting examination	Peter G. TIVERIOS James E. MACIAS Stephen H. LUCAS Lewis L. RICH Gregor A. THOMSON	Fulcrum BioEnergy, Inc.
SPAIN							
427440-081 Spain	National Phase Application Based on PCT/US2021/030287 Filed 4/30/2021	Feedstock Processing Systems and Methods for Producing Fischer-Tropsch Liquids and Transportation Fuels	202290073 04/30/2021		Awaiting Examination	Peter G. TIVERIOS James E. MACIAS Stephen H. LUCAS Lewis L. RICH Gregor A. THOMSON	Fulcrum BioEnergy, Inc.

Ref. No. Country	Subject Matter	Title	Appl No. Filing Date	Patent No. Issue Date Exp. Date	Status	Inventors	Owner
UNITED ARAB EMIRATES							
427440-072 United Arab Emirates	National Phase Application Based on PCT/US2021/030287 Filed 4/30/2021	Feedstock Processing Systems and Methods for Producing Fischer-Tropsch Liquids and Transportation Fuels	P6002255/2022 04/30/2021		Awaiting Examination	Peter G. TIVERIOS James E. MACIAS Stephen H. LUCAS Lewis L. RICH Gregor A. THOMSON	Fulcrum BioEnergy, Inc.
PCT							
427440-053 PCT	Feedstock Processing Patent application – International PCT application based from matter-046	Feedstock Processing Systems and Methods for Producing Fischer-Tropsch Liquids and Transportation Fuels	PCT/US2021/030287 04/30/2021	Closed now that national stage applications have been filed.		Peter G. TIVERIOS James E. MACIAS Stephen H. LUCAS Lewis L. RICH Gregor A. THOMSON	Fulcrum BioEnergy, Inc.

* * * * *

Exhibit 2

Excluded Assets

SECURITIES AND INVESTMENT PROPERTY

1. Stocks

Name of Credit Party	Issuer	Certificate Number(s)	Number of Shares	Class of Stock	Percentage of Outstanding Shares
Fulcrum BioEnergy, Inc.	Fulcrum BioEnergy, Ltd.	1	1	Ordinary share	100%

2. Other Securities or Other Investment Property (Certificated and Uncertificated)

Name of Credit Party	Issuer	Description of Collateral	Percentage Ownership Interest
Fulcrum BioEnergy, Inc.	Fulcrum Technology Company, LLC	Uncertificated LLC membership interests	100%
Fulcrum BioEnergy, Inc.	Fulcrum Brighton BioFuels, LLC	Uncertificated LLC membership interests	100%
Fulcrum BioEnergy, Inc.	Riley Land Management, LLC	Uncertificated LLC membership interests	100%
Fulcrum BioEnergy, Inc.	Fulcrum Trinity Fuels, LLC	Uncertificated LLC membership interests	100%
Fulcrum BioEnergy, Inc.	Sierra Feedstock Processing, LLC	Uncertificated LLC membership interests	100%

DEPOSIT ACCOUNTS

Bank Name	Account Number	Branch Address	Company/ Subsidiary	Purpose of Account
Wells Fargo Bank, N.A.	4124809641	420 Montgomery St. San Francisco, CA 94104	Fulcrum BioEnergy, Inc.	Checking
Wells Fargo Bank, N.A.	4124809658	420 Montgomery St. San Francisco, CA 94104	Fulcrum BioEnergy, Inc.	Payroll
Wells Fargo Bank, N.A.	5250922209	420 Montgomery St. San Francisco, CA 94104	Fulcrum BioEnergy, Inc.	Credit Card Account (currently inactive)
JPMorgan Chase Bank, N.A.	000000812550769	P O Box 182051 Columbus, OH 43218 - 2051	Fulcrum BioEnergy, Inc.	Escrow Account
JPMorgan Chase Bank, N.A.	000000812550975	P O Box 182051 Columbus, OH 43218 - 2051	Fulcrum BioEnergy, Inc.	Escrow Account

SECURITIES ACCOUNTS

Bank or Brokerage Name	Account Number	Branch Address	Company/ Subsidiary	Purpose of Account
JPMorgan Chase Bank, N.A.	5031655(1)	1 Chase Plaza New York, NY 10005	Fulcrum BioEnergy, Inc.	Investment

CLAIMS AND CAUSES OF ACTION

- Commercial tort claims and chapter 5 causes of action.
- Claims against the Debtors' former and current officers and directors.
- Claims, rights, actions or causes of action held by any of the Debtors against Abeinsa Abener Teyma General Partnership or Abengoa, S.A.

EQUIPMENT

- Laptops or computers in the possession of independent contractors.

RAW MATERIALS

- "FT CAN" means a catalyst carrier device (currently stored in a warehouse in Sparks, NV) substantially as described in any of the JM Davy (as defined in the Master Catalyst Supply Agreement ("Catalyst Agreement"), dated July 19, 2018, by and between Johnson Matthey Davy Technologies Limited and Fulcrum Sierra BioFuels, LLC) patents together with future variants thereof and improvements and developments thereto designed to be inserted into a single or multi-tubular reactor and designed to hold FT Catalyst.

- "FT Catalyst" means the proprietary catalyst (currently stored in a warehouse in Sparks, NV) required to effect the Fischer-Tropsch Reaction to be supplied by JM Davy in compliance with Article 6 of the Catalyst Agreement.

INSURANCE

- Directors and officers insurance policies and any related proceeds.

Exhibit 3

Bill of Sale

BILL OF SALE

In connection with that certain Asset Purchase Agreement dated as of [___], 2024 (the "Asset Purchase Agreement") by and among **FULCRUM BIOENERGY, INC.**, a Delaware corporation (as in existence on the date hereof, as a debtor-in-possession, the "Company" or "Seller") and [____], a [Delaware limited liability company] ("Purchaser"), Seller, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby surrender and irrevocably convey, assign, transfer and deliver to Purchaser, a transferee pursuant to Section 363 *et seq*. of the United States Bankruptcy Code (the "Bankruptcy Code"), all the right, title, and interest of all of the Seller's assets described in the Asset Purchase Agreement as the "Subject Assets". For the avoidance of doubt, the Subject Assets do not include the Excluded Assets (as defined in the Asset Purchase Agreement). Capitalized terms used but not otherwise defined in this Bill of Sale have the meanings ascribed to such terms in the Asset Purchase Agreement.

Other than as set forth in the Asset Purchase Agreement, Purchaser does not assume any of Seller's liabilities.

On or after the date hereof, Seller will, from time to time at Purchaser's reasonable request, execute and deliver such further instruments and take or cause to be taken such other action to carry out the effect, intent, and purpose of the conveyance, assignment, and transfer to Purchaser hereunder and otherwise as is reasonably necessary to carry out of the intent and purpose of this Bill of Sale; *provided*, that the foregoing shall not prohibit Seller from winding-down its business and affairs in the Chapter 11 Cases or otherwise through the Bankruptcy Code, upon the completion of which Seller's obligations under this Bill of Sale shall terminate.

This Bill of Sale may be executed by electronic mail, facsimile, and/or in counterparts, each of which shall be deemed to be an original but all of which together shall constitute a single agreement.

[*Signature Page Follows.*]

IN WITNESS WHEREOF, the Parties hereto have duly executed this Bill of Sale as of the date first written above.

Fulcrum BioEnergy, Inc., as Seller

By: _____
Name:
Title:

Fulcrum Sierra Finance Company, LLC, as Seller

By: _____
Name:
Title:

Fulcrum Sierra BioFuels, LLC, as Seller

By: _____
Name:
Title:

Fulcrum Sierra Holdings, LLC, as Seller

By: _____
Name:
Title:

IN WITNESS WHEREOF, the Parties hereto have duly executed this Bill of Sale as of the date first written above.

[_____], as Purchaser

By: _____
Name: _____
Title: _____

Exhibit 4

Form Transfer Statement

Execution Version

TRANSFER STATEMENT

This Transfer Statement, is made and entered into as of [____], 2024 by and among Fulcrum BioEnergy, Inc., a Delaware corporation ("Seller") and [___], a [Delaware limited liability company] (the "Purchaser"). Capitalized terms used, but not defined herein, shall have the meanings ascribed to them in the Asset Purchase Agreement (as hereinafter defined).

WHEREAS, on September 9, 2024 (the "Petition Date"), the Seller and certain of its subsidiaries filed voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"), in the United States Bankruptcy Court for the District of Delaware (the "Court"), commencing the chapter 11 cases (the "Chapter 11 Cases").

WHEREAS, on October 11, 2024, the Court entered an Order Pursuant to Sections 105, 363, 364, 365 and 541 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006 and 9007 and Del. Bankr. L.R. 2002-1 and 6004-1 (A) Approving Bidding Procedures for the Sale of Substantially All of the Debtors' Assets; (B) Approving the Debtors' Entry into Stalking Horse Agreement and Related Bid Protections; (C) Approving Procedures for the Assumption and Assignment or Rejection of Designated Executory Contracts and Unexpired Leases; (D) Scheduling an Auction and Sale Hearing; (E) Approving Forms and Manner of Notice of Respective Dates, Times, and Places in Connection Therewith; and (F) Granting Related Relief [Docket No. 153] (the "Bidding Procedures Order");

WHEREAS, pursuant to that certain Credit Agreement dated as of June 23, 2023 (as amended, restated, amended and restated, supplemented, or otherwise modified from time to time, including by that certain First Amendment to Credit Agreement and Waiver dated September 29, 2023, and that certain Assignment and Assumption Agreement and Second Amendment to Credit Agreement dated May 20, 2024, the "Credit Agreement"), by and among the Company (the "Borrower") and certain of its subsidiaries party thereto (collectively, the "Guarantors"; and collectively with the Borrower, the "Credit Parties"), Agent, and the lenders party thereto (the "Lenders"; and collectively with the Agent, the "Secured Parties"), the Secured Parties made loans and other financial accommodations to and for the benefit of the Borrower (all such loans and other financial accommodations being herein referred to collectively as the "Loans"). Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Credit Agreement;

WHEREAS, pursuant to that certain Guaranty and Security Agreement dated as of June 23, 2023, (the "Guaranty and Security Agreement") and that certain Patent Security Agreement dated as of June 23, 2023 (the "Patent Security Agreement" and, collectively with the Guaranty and Security Agreement, the "Security Agreements"), the Loans and all other liabilities and obligations of the Credit Parties to the Secured Parties under the Credit Agreement, howsoever created, arising, or evidenced (collectively, the "Obligations"), are secured by a first priority lien and security interest in favor of Agent, for the benefit of the Secured Parties, in substantially all of the Credit Parties' assets. The Credit Agreement and the Security Agreements, together with any other documents evidencing, securing, guaranteeing, or otherwise related to the Loans are referred to herein as the "Financing Documents";

WHEREAS, the Bankruptcy Court entered an order [Docket No. [__]] approving a sale of certain assets from Seller to Purchaser pursuant to that certain Asset Purchase Agreement dated as of [___], 2024 (the "Asset Purchase Agreement")];

WHEREAS, by reason of the Sale, and as evidenced by the Bill of Sale attached hereto as **Exhibit 1**, Purchaser has acquired Seller's rights in the Subject Assets;

WHEREAS, the mailing address of Seller is: c/o Fulcrum BioEnergy, Inc., P.O. Box 220 Pleasanton, CA 94566; and

WHEREAS, the mailing address of Purchaser is: [____], 730 Third Avenue, New York, NY 10017, Attn: Don Dimitrievich, Julie Findlay, Tom Pollock, Adam Ren.

NOW THEREFORE, pursuant to the Bankruptcy Code and other applicable law, Purchaser is entitled to the transfer of record of all rights of Seller in the Subject Assets in any official filing, recording, registration, or certificate-of-title system covering the Subject Assets. If this transfer statement is presented with the applicable fee and request form, if any, to the official or office responsible for maintaining the system, such official or office shall: (1) accept this transfer statement; (2) promptly amend its records to reflect the transfer described herein; and (3) if applicable, issue a new appropriate certificate of title in the name of Purchaser.

[*Signature Page Follows.*]

IN WITNESS WHEREOF, the Parties hereto have duly executed this Transfer Statement as of the date first written above.

Fulcrum BioEnergy, Inc., as Seller

By: _____
Name:
Title:

Fulcrum Sierra Finance Company, LLC, as Seller

By: _____
Name:
Title:

Fulcrum Sierra BioFuels, LLC, as Seller

By: _____
Name:
Title:

Fulcrum Sierra Holdings, LLC, as Seller

By: _____
Name:
Title:

IN WITNESS WHEREOF, the Parties hereto have duly executed this Transfer Statement as of the date first written above.

[_____], as Purchaser

By: _____
Name: _____
Title: _____

Exhibit 1 to Transfer Statement

BILL OF SALE

(See attached)