

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

ETAS ID: TM629806

<b>SUBMISSION TYPE:</b>	RESUBMISSION		
<b>NATURE OF CONVEYANCE:</b>	Assignment and Novation Agreement		
<b>RESUBMIT DOCUMENT ID:</b>	900590817		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
BG Energy Merchants, LLC		07/25/2016	Limited Liability Company: DELAWARE
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	SHELL ENERGY NORTH AMERICA (US), L.P.		
<b>Street Address:</b>	1000 Main Street		
<b>City:</b>	Houston		
<b>State/Country:</b>	TEXAS		
<b>Postal Code:</b>	77002		
<b>Entity Type:</b>	Limited Partnership: DELAWARE		
<b>PROPERTY NUMBERS Total: 2</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	4158415	INFINITE ENERGY	
<b>Registration Number:</b>	2894653	I'VE GOT GAS!	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	4048538806		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
<b>Phone:</b>	404-853-8112		
<b>Email:</b>	haleyhurowitz@eversheds-sutherland.us		
<b>Correspondent Name:</b>	Stacy Fredrich / Eversheds Sutherland		
<b>Address Line 1:</b>	999 Peachtree Street NE		
<b>Address Line 2:</b>	Suite 2300		
<b>Address Line 4:</b>	Atlanta, GEORGIA 30309		
<b>NAME OF SUBMITTER:</b>	Haley Hurowitz		
<b>SIGNATURE:</b>	/Haley Hurowitz/		
<b>DATE SIGNED:</b>	03/04/2021		
<b>Total Attachments: 54</b>			
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## ASSIGNMENT AND NOVATION AGREEMENT

THIS ASSIGNMENT AND NOVATION AGREEMENT (the "*Agreement*") is made and entered into this 25th day of July, 2016 (the "*Execution Date*") by and among BG ENERGY MERCHANTS, LLC, a Delaware limited liability company ("*BGEM*"), SHELL ENERGY NORTH AMERICA (US), L.P., a Delaware limited partnership ("*Shell Energy*"), INFINITE ENERGY, INC., a Florida corporation ("*Infinite Energy*") and Infinite Energy Holdings, Inc., a Delaware corporation ("*Infinite Guarantor*") (BGEM, Shell Energy, Infinite Energy and Infinite Guarantor are sometimes referred in this Agreement as a "*Party*" and collectively as the "*Parties*").

WHEREAS, BGEM and Infinite Energy are parties to that certain ISDA Master Agreement and Schedule thereto dated as of October 8, 2010, as restated by the Amended and Restated Schedule thereto dated as of April 24, 2015 (the "*Existing Master Agreement*");

WHEREAS, BGEM and Infinite Energy are parties to certain transactions entered into under the Existing Master Agreement (the "*Assigned Transactions*");

WHEREAS, in connection with the Existing Master Agreement and the transactions contemplated thereby, Infinite Energy and BGEM have entered into the additional agreements as described in Exhibit A attached hereto and incorporated herein (such agreements, together with the Existing Master Agreement, are herein the "*Infinite Energy Agreements*");

WHEREAS, in connection with the Infinite Energy Agreements, the Infinite Guarantor and BGEM have entered into the agreements described in Exhibit B attached hereto and incorporated herein (such agreements are herein the "*Infinite Guarantor Agreements*", and together with the Infinite Energy Agreements, the "*Assigned Agreements*");

WHEREAS, BGEM desires to assign and delegate to Shell Energy, from and after the Effective Time, all of its rights, duties and obligations in and under the Assigned Agreements and the Assigned Transactions, and Shell Energy desires to accept such assignment and delegation and to assume all such rights, duties and obligations, from and after the Effective Time (as defined below), in accordance with the terms hereof;

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. ***Assignment.*** Effective as of the Effective Time, BGEM hereby assigns to Shell Energy all of its right, title, benefit, privileges and interest in and to the Assigned Agreements the Assigned Transactions that are to be performed or accrue on and after the Effective Time and that do not relate to a calculation period or delivery period (however defined) ending before the Effective Time. For purposes of this Agreement, "*Effective Time*" shall mean the beginning of the gas day on the Novation Date, and "*Novation Date*" shall mean [August 1, 2016] or such later first of the month date that Shell Energy designates in writing with at least five business days prior notice.



2. **Assumption.** Effective as of the Effective Time, Shell Energy hereby accepts the assignment of the Assigned Agreements and the Assigned Transactions and assumes and agrees to observe and perform the Liabilities (as defined hereinafter) of BGEM under or relating to the Assigned Agreements and the Assigned Transactions, which are to be performed or accrue on and after the Effective Time, to the extent such Liabilities arise from or relate to acts, omissions or events occurring or conditions existing at or after the Effective Time (the "**Assumed Liabilities**"). All Liabilities other than the Assumed Liabilities (the "**Excluded Liabilities**"), including but not limited to Liabilities (i) arising from or relating to acts, omissions or events occurring or conditions existing prior to the Effective Time but which have not been settled, paid or performed as of the Effective Time; or (ii) due and payable or due to be performed after the Effective Time, but which accrued with respect to or otherwise related to a calculation period or delivery period (however defined) ending prior to the Effective Time, shall remain and be the obligation and responsibility of BGEM, and Shell Energy shall not assume, discharge, perform or be responsible in any way for any Excluded Liabilities. For purposes of this Agreement, "**Liabilities**" means indebtedness, obligations, duties and other liabilities (including in respect of or arising out of any breach of contract or actual or alleged failure of BGEM to perform any obligation), whether absolute, accrued, contingent, fixed or otherwise, or whether due or to become due with respect to the Assigned Agreements and the Assigned Transactions.

3. **Acceptance by Infinite Energy and the Infinite Guarantor.** Effective as of and from the Effective Time, Infinite Energy and the Infinite Guarantor each hereby consent to the assignment of the Assigned Agreements and the Assigned Transactions and accepts Shell Energy as the party to perform the Assumed Liabilities of BGEM under the Assigned Agreements and the Assigned Transactions.

4. **Releases.**

(a) Effective as of and from the Effective Time, Infinite Energy and the Infinite Guarantor each hereby release and forever discharge BGEM from any and all further obligations to Infinite Energy or the Infinite Guarantor with respect to the Assumed Liabilities, including any liability of any type as a consequence of, or relating to, the Assigned Agreements and the Assigned Transactions, including, without limitation, all manner of action and inaction, cause or causes of action, suits, debts, dues, sums of money, claims and demands whatsoever at law or in equity arising out of, or which are in any way related to, the Assigned Agreements and the Assigned Transactions, provided that, for certainty, the foregoing shall not release or discharge BGEM in respect of the settlement, payment or performance of any Excluded Liability, and all such Excluded Liabilities shall remain and be the obligation and responsibility of BGEM and shall be paid or performed by BGEM to Infinite Energy or the Infinite Guarantor in accordance with the terms of the Assigned Agreements and the Assigned Transactions as though such agreements had not been assigned.

(b) Effective as of and from the Effective Time, BGEM hereby releases and forever discharges Infinite Energy and the Infinite Guarantor from any and all further obligations to BGEM with respect to the Assigned Agreements and the Assigned Transactions and from any and all liability of any type as a consequence of, or relating to, the Assigned Agreements and the

Assigned Transactions, including, without limitation, all manner of action and inaction, cause or causes of action, suits, debts, dues, sums of money, claims and demands whatsoever at law or in equity, arising out of or which are in any way related to, the Assigned Agreements and the Assigned Transactions; provided that, for certainty, the foregoing shall not release or discharge Infinite Energy or the Infinite Guarantor in respect of the settlement, payment or performance of any liabilities or obligations: (i) arising from or relating to acts, omissions or events occurring or conditions existing prior to the Effective Time but which have not been settled, paid or performed as of the Effective Time; or (ii) due and payable or due to be performed after the Effective Time, but which accrued with respect to or otherwise related to a calculation period or delivery period (however defined) ending prior to the Effective Time (for avoidance of doubt, (i) and (ii) collectively constitute the "*Infinite Excluded Liabilities*"), and all such Infinite Excluded Liabilities shall remain and be the obligation and responsibility of Infinite Energy and the Infinite Guarantor and shall be paid or performed by Infinite Energy and the Infinite Guarantor to BGEM in accordance with the terms of the Assigned Agreements and the Assigned Transactions as though such agreements had not been assigned.

5. *No Impairment of Security.* Nothing in this Agreement shall release, waive or otherwise impair any lien or security interest securing the obligations of Infinite Energy or the Infinite Guarantor under the Assigned Agreements, and the execution and delivery of this Agreement shall not constitute a modification of any such lien or security interest, and any and all such liens or security interests shall retain their respective priorities. Without limiting Section 1 hereof and for avoidance of doubt, as of the Effective Time, all liens and security interests held by BGEM as security for the obligations of Infinite Energy or the Infinite Guarantor under the Assigned Agreements shall, without further action, be transferred to Shell Energy.

6. *Further Actions.* Each of the Parties hereto covenants and agrees, at its own expense, to execute and deliver, at the request of another Party hereto, such further instruments of transfer and assignment, and to take such other action, as such other Party may reasonably request to more effectively consummate the assignments and assumptions contemplated by this Agreement.

7. *Governing Law.* The validity, interpretation and performance of this Agreement and each of its provisions shall be governed by the applicable laws of the State of Texas.

8. *Representation.*

(a) Each Party hereby represents and warrants to the others as of the Execution Date and as of the Effective Time that:

(i) the execution, delivery, and performance by it of this Agreement does not require any consent, license, approval or authorization of, or other action by, or any notice or filing with, any governmental entity or any other person other than such as have already been obtained;

(ii) the execution, delivery and performance by it of this Agreement are within its organizational powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents or any government rule applicable to it or result in the breach, default or termination of any agreement to which it is a party;

(iii) this Agreement has been duly executed and delivered on its behalf; constitutes its legally valid and binding obligation enforceable against it in accordance with its terms, except where enforceability may be limited or otherwise impacted by bankruptcy, insolvency or other similar laws affecting creditors' rights generally and except where enforceability is subject to the application of equitable principles or remedies;

(iv) no petition or notice has been presented, no order has been presented, no order has been made and no resolution has been passed for its bankruptcy, liquidation, winding-up or dissolution, and no receiver, trustee, custodian or similar fiduciary has been appointed over the whole or any part of any of its assets or income, and it has not received any notice that any other person has any plan or intention of, filing, making or obtaining any such petition, notice, order or resolution or of seeking the appointment of a receiver, trustee, custodian or similar fiduciary.

8. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. Delivery of an executed signature page to this Agreement by facsimile, e-mail or other electronic transmission shall be as effective as delivery of a manually signed counterpart of this Agreement.


9. **No Third Party Beneficiaries.** This Agreement is entered into for the sole benefit of the Parties, and except as specifically provided herein, no other person shall be a direct or indirect beneficiary of, or shall have any direct or indirect cause of action or claim in connection with, this Agreement.

10. **Entire Agreement.** This Agreement, and all exhibits and schedules hereto, represents the entire understanding and agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral and written and all contemporaneous oral negotiations, commitments and understandings between the Parties.

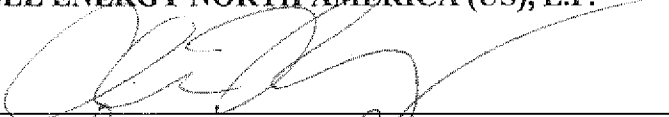
[Signature page immediately follows]

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

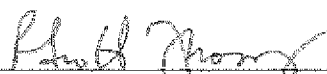
**BG ENERGY MERCHANTS, LLC**

By:   
Name: Jill Davies  
Title: VP, North Americas Gas Marketing

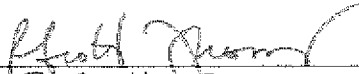
**SHELL ENERGY NORTH AMERICA (US), L.P.**

By:   
Name: Christopher Riley  
Title: Vice President

**INFINITE ENERGY, INC.**

By:   
Name: R. Scott Thomas  
Title: CFO

**INFINITE ENERGY HOLDINGS, INC.**

By:   
Name: R. Scott Thomas  
Title: CFO

## EXHIBIT A

### **The Infinite Energy Agreements**

1. ISDA Master Agreement dated as of October 8, 2010 between Infinite Energy, Inc. and BG Energy Merchants, LLC, as restated by the Amended and Restated Schedule thereto dated as of April 24, 2015.
2. Security Agreement dated November 1, 2010 between Infinite Energy, Inc., as debtor and BG Energy Merchants, LLC as secured party.
3. Deposit Account Control Agreement (Access Restricted after Notice) dated as of November 9, 2011 among Infinite Energy, Inc., BG Energy Merchants, LLC and Wells Fargo Bank, National Association.
4. First Amendment to Transaction Documents dated November 9, 2011 between Infinite Energy, Inc. and BG Energy Merchants, LLC.
5. Dodd-Frank Act Representations and Reporting Amendment Agreement dated as of August 15, 2013 between Infinite Energy, Inc. and BG Energy Merchants, LLC.
6. Intercreditor Subordination Agreement dated as of April 24, 2015 among The Brooklyn Union Gas Company d/b/a National Grid NY, BG Energy Merchants, LLC and Infinite Energy, Inc.
7. Intercreditor Subordination Agreement dated as of April 24, 2015 among KeySpan Gas East Corporation d/b/a National Grid., BG Energy Merchants, LLC and Infinite Energy, Inc.
8. Intercreditor Subordination Agreement dated as of April 24, 2015 among Niagara Mohawk Power Corporation d/b/a National Grid, BG Energy Merchants, LLC and Infinite Energy, Inc.
9. Letter Agreement from BG Energy Merchants, LLC to Infinite Energy, Inc. dated July 14, 2015.

**EXHIBIT B**

**The Infinite Guarantor Agreements**

1. Limited Guaranty dated as of November 1, 2010 between Infinite Energy Holdings, Inc. as guarantor and BG Energy Merchants, LLC as beneficiary.
2. Pledge Agreement dated November 1, 2010 between Infinite Energy Holdings, Inc. as pledgor and BG Energy Merchants, LLC as secured party.

## SECURITY AGREEMENT

This SECURITY AGREEMENT, dated as of November 1, 2010 (as the same may from time to time be amended, supplemented, restated, or otherwise modified in accordance with the provisions hereof, herein referred to as this "Agreement"), is by and between INFINITE ENERGY, INC., a Florida corporation (the "Debtor") and BG ENERGY MERCHANTS, LLC, as Secured Party ("BGEM" or "Secured Party").

### RECITALS

WHEREAS, capitalized terms used in these Recitals shall have the respective meanings set forth for such terms in Section 1.1 hereof;

WHEREAS, reference is made to the ISDA Master Agreement, dated October 8, 2010 (together with its schedules, annexes, exhibits and any confirmation thereunder, and as it may hereafter be amended, restated, supplemented or otherwise modified from time to time, the "Gas Sales Agreement"), by and between BGEM and Debtor; and

WHEREAS, in consideration of the extensions of credit and other accommodations of BGEM to Debtor resulting from the Gas Sales Agreement, Debtor has agreed to execute and deliver this Agreement with respect to any and all representations, warranties, covenants and other obligations (collectively, the "Obligations") of Debtor with respect to Secured Party under the Gas Sales Agreement and each other Transaction Document.

NOW, THEREFORE, in consideration of the premises and to induce Secured Party to enter into the Gas Sales Agreement and each other Transaction Document, Debtor agrees, for the benefit of Secured Party, as follows:

### ARTICLE 1. DEFINITIONS

Section 1.1 Terms defined above and elsewhere in this Agreement shall have their specified meanings. Capitalized terms used herein but not defined herein shall have the meanings specified by the Gas Sales Agreement. All terms used herein and defined in the UCC shall have the same definitions herein as specified therein.

Section 1.2 Where the context requires, terms relating to the Collateral or any part thereof, when used in relation to Debtor, shall refer to Debtor's Collateral or the relevant part thereof.

Section 1.3 The following terms shall have the following meanings:

"Account Debtor" shall mean the party (other than Debtor) who is obligated on or under any Account or General Intangible.

"Chattel Paper" means all of Debtor's present and future chattel paper, including electronic chattel paper.

"Collateral" has the meaning specified in Section 2.1.

"Collateral Account" means any deposit account with Secured Party which is designated, maintained, and under the sole control of Secured Party and is pledged to Secured Party which has been established pursuant to the provisions of this Agreement for the purposes described in this Agreement including collecting, holding, disbursing, or applying certain funds, all in accordance with this Agreement. Debtor agrees to execute any documents reasonably requested by Secured Party to create any Collateral Account and pledge it to Secured Party.

"Contract" shall mean all contracts, undertakings, or agreements (other than rights evidenced by Chattel Paper, Documents or Instruments) to which Debtor now is, or hereafter will be, bound, or a party, beneficiary or assignee, in any event, including all contracts, undertakings, or agreements in or under which Debtor may now or hereafter have any right, title or interest, including any agreement relating to the terms of payment or the terms of performance of any Receivable.

"Copyrights" means all of the following now owned or hereafter acquired by Debtor: (a) all copyright rights in any work subject to the copyright laws of the United States or any other country, whether as author, assignee, transferee or otherwise, and (b) all registrations and applications for registration of any such copyright in the United States or any other country and all extensions and renewals thereof, including registrations, recordings, supplemental registrations and pending applications for registration in the United States Copyright Office, including those listed in Schedule 3.7.

"Copyright Licenses" means any written agreement naming Debtor as licensor or licensee (including those listed in Schedule 3.7), granting any right under any Copyright, including the grant of rights to manufacture, distribute, exploit and sell materials derived from any Copyright.

"Copyright Security Agreement Supplement" means a supplement to this Agreement by Debtor in favor of Secured Party, substantially in the form of Annex III hereto.

"Debtor Relief Laws" means Title 11 of the United States Code (as in effect from time to time), and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"Default Notice" has the meaning specified in Section 4.4(b).

"Deposit Accounts" means all deposit accounts now or hereafter held in the name of Debtor.

"Document" means any document, including a bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold and dispose of the document and the goods it covers.

"Equipment" means all of Debtor's present or future owned or leased fixtures and equipment wherever located.

"Event of Default" has the meaning specified in Section 6.

"Fixtures" means any fixture or fixtures now or hereafter owned or leased by Debtor, or in which Debtor holds or acquires any other right, title or interest, constituting "fixtures" under the UCC.

"General Intangibles" means all general intangibles now owned or hereafter acquired by Debtor, including all right, title and interest that Debtor may now or hereafter have in or under any Contract, all payment intangibles, customer lists, Licenses, Copyrights, Trademarks, Patents, and all applications therefor and reissues, extensions or renewals thereof, rights in Intellectual Property, interests in partnerships, joint ventures and other business associations, licenses, permits, copyrights, trade secrets, software, data bases, data, processes, models, drawings, materials and records, goodwill (including the goodwill associated with any Trademark or Trademark License), all rights and claims in or under insurance policies (including insurance for fire, damage, loss and casualty, whether covering personal property, real property, tangible rights and intangible rights, all liability, life, key man and business interruption insurance, and all unearned premiums), uncertificated securities, rights to receive dividends, distributions, cash, Instruments and other property in respect of or in exchange for pledged stock and Investment Property, rights or indemnification.

"Governmental Authority" means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial taxing, regulatory or administrative powers or functions of or pertaining to government over any party hereto.

"Instruments" means all of Debtor's instruments, including all promissory notes and other evidences of indebtedness, including any intercompany instruments, other than instruments that constitute, or are a part of a group of writings that constitute, Chattel Paper.



"Intellectual Property" means all intellectual and similar property of Debtor of every kind and nature now owned or hereafter acquired by Debtor, including inventions, designs, Patents, Patent Licenses, Trademarks, Trademark Licenses, Copyrights, Copyright Licenses, domain names and domain name registrations, trade secrets, confidential or proprietary technical and business information, know-how or other data or information, software and databases and all embodiments or fixations thereof and related documentation, registrations and franchises, licenses for any of the foregoing and all license rights, and all additions, improvements and accessions to, and books and records describing or used in connection with, any of the foregoing.

"Investment Property" shall mean all investment property now owned or hereafter acquired by Debtor, wherever located, including (i) all securities, whether certificated or uncertificated, including stocks, bonds, interests in limited liability companies, partnership interests, treasuries, certificates of deposit, and mutual fund shares; (ii) all securities entitlements of Debtor, including the rights of Debtor to any securities account and the financial assets held by a securities intermediary in such securities account and any free credit balance or other money owing by any securities intermediary with respect to that account; (iii) all securities accounts of Debtor; (iv) all commodity contracts of Debtor; and (v) all commodity accounts held by Debtor.

"Inventory" means all of Debtor's present and future inventory, wherever located, including inventory, merchandise, goods and other personal property that are held by or on behalf of Debtor for sale or lease or are furnished or are to be furnished under a contract of service, or that constitute raw materials, work in process, finished goods, returned goods, or materials or supplies of any kind, nature or description used or consumed or to be used or consumed in Debtor's business or in the processing, production, packaging, promotion, delivery or shipping of the same, including all supplies, and embedded software. "Inventory" shall also include inventory in joint production with another person, inventory in which Debtor has an interest as consignor, and inventory that is returned to or stopped in transit by Debtor, and all combinations and products thereof.

"Letter-of-Credit Rights" shall mean all letter-of-credit rights now owned or hereafter acquired by Debtor, including rights to payment or performance under a letter of credit, whether or not Debtor, as beneficiary, has demanded or is entitled to demand payment or performance.

"Licenses" shall mean any Patent License, Trademark License, Copyright License or other license or sublicense to which Debtor is a party, including any franchises, permits, certificates, licenses, authorizations and the like and any other requirements of any government or any commission, board, court, agency, instrumentality or political subdivision thereof.

"Lien" shall mean (i) any lien, mortgage, pledge, assignment, security interest, charge or encumbrance of any kind (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement, and any lease in the nature thereof) and any option, trust or other preferential arrangement having the practical effect of any of the foregoing and (ii) in the case of Pledged Securities, any purchase option, call option, right of first refusal, matching right or similar right of a third party with respect to such Pledged Securities.

"Liquid Assets" shall mean all cash and cash equivalents at any time held by Debtor, including all amounts from time to time held in any checking, savings, deposit or other account of Debtor, all monies, proceeds or sums due or to become due therefrom or thereon and all documents (including passbooks, certificates and receipts) evidencing all funds and investments held in such accounts.

"Patents" means all of the following now owned or hereafter acquired by Debtor: (a) all letters patent of the United States or any other country, all registrations and recordings thereof, and all applications for letters patent of the United States or any other country, including registrations, recordings and pending applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof, or any other country, including any of the foregoing referred to in Schedule 3.7, and (b) all reissues, continuations, divisions, continuations-in-part, renewals or extensions thereof, and the inventions disclosed or claimed therein, including the right to make, use and/or sell the inventions disclosed or claimed therein.

"Patent License" means all agreements, whether written or oral, providing for the grant by or to Debtor of any right to manufacture, use or sell any invention covered in whole or in part by a Patent, including any of the foregoing referred to in Schedule 3.7.

"Patent Security Agreement Supplement" means a supplement to this Agreement by Debtor in favor of Secured Party, substantially in the form of Annex I hereto.

"Person" means any individual, partnership, corporation (including a business trust and a public benefit corporate), joint stock company, estate, association, firm, enterprise, trust, limited liability company, unincorporated association, joint venture and any other entity or Governmental Authority.

"Pledged Securities" shall mean, with respect to Debtor, (a) all shares or other equity interests held by Debtor in any corporations or other entities (including those corporations or other entities described in Schedule 3.3 that are directly held by Debtor), together with all warrants to purchase, all depository shares and all other rights of Debtor in respect of such equity interests, (b) all certificates, instruments or other documents evidencing same and registered or held in the name of, or otherwise in the possession of, Debtor, and (c) all present and future payments, dividend distributions, instruments, compensation, property, assets, interests and rights in connection with or related to the equity interests described in clause (a) above, and all monies due or to become due and payable to Debtor in connection with or related to such equity interests or otherwise paid, issued or distributed in respect of or in exchange therefor (including all proceeds of dissolution or liquidation).

"Proceeds" means all of Debtor's present and future (a) proceeds of the Collateral, whether arising from the collection, sale, lease, exchange, assignment, licensing, or other disposition of the Collateral, (b) any and all payments (in any form whatsoever) made or due and payable from time to time in connection with any requisition, confiscation, condemnation, seizure or forfeiture of all or any part of the Collateral by any Governmental Authority (or any person acting under color of governmental authority), (c) claims against third parties for impairment, loss, damage, or impairment of the value of such property, and (d) any and all proceeds of, and all claims for, any insurance, indemnity, warranty or guaranty payable from time to time with respect to any of the Collateral, including any credit insurance with respect to Receivables, in each case whether represented as money, deposit accounts, accounts, general intangibles, securities, instruments, documents, chattel paper, inventory, equipment, fixtures, or goods.

"Receivables" means all of Debtor's present and future accounts, accounts from governmental agencies, instruments and general intangibles, including those arising from the provision of services or goods to the customers of Debtor, and rights to payment under all Contracts, rights to payments under hedging or other agreements incidental to the conduct of Debtor's business, income tax refunds, and other rights to the payment of money, together with all of the right, title and interest of Debtor in and to (a) all security pledged, assigned, hypothecated or granted to or held by Debtor to secure the foregoing, (b) all of Debtor's right, title and interest in and to any goods or services, the sale of which gave rise thereto, (c) all guarantees, endorsements and indemnifications on, or of, any of the foregoing, (d) all powers of attorney granted to Debtor for the execution of any evidence of indebtedness or security or other writing in connection therewith, (e) all credit information, reports and memoranda relating thereto, and (f) all other writings related in any way to the foregoing.

"Records" means all of Debtor's present and future books, accounting records, files, customer lists, blueprints, technical specifications, manuals, computer printouts, tapes, disks computer files, computer programs, correspondence, credit files, records, ledger cards, invoices, and other records primarily related to any other items of Collateral, including all similar information stored on a magnetic medium or other similar storage device and other papers and documents in the possession or under the control of Debtor or any computer bureau from time to time acting for Debtor.

"Secured Obligations" means (a) the Obligations and liabilities of Debtor to Secured Party under and pursuant to the Gas Sales Agreement and the other Transaction Documents; (b) the payment of all costs and expenses reasonably incurred by Secured Party in collecting amounts owed to Secured Party under the Transaction Documents and in exercising its rights hereunder or thereunder or under any other document described in any of the Transaction Documents or in any document evidencing any mortgage or security interest given to secure payment of any indebtedness evidenced by the Transaction Documents; and (c) any increases, extensions, renewals,

replacements, and rearrangements of the foregoing obligations under any amendments, supplements, and other modifications of the agreements creating the foregoing obligations, in each case, whether direct or indirect, absolute or contingent.

"Secured Party" means BGEM, as the secured party hereunder, and its successors and assigns hereunder.

"State of Organization" means the jurisdiction of organization of Debtor, as listed on Schedule 3.3.

"Supporting Obligations" shall mean all supporting obligations, including letters of credit and guaranties issued in support of Accounts, Chattel Paper, Documents, General Intangibles, Instruments, or Investment Property.

"Trademarks" means all of the following now owned or hereafter acquired by Debtor: all trademarks, service marks, trade names, corporate names, company names, business names, fictitious business names, trade styles, trade dress, logos, other source or business identifiers, designs and general intangibles of like nature, now existing or hereafter adopted or acquired, all registrations and recordings thereof, and all registration and recording applications filed in connection therewith, including registrations and registration applications in the United States Patent and Trademark Office, any State of the United States or any similar offices in any other country or any political subdivision thereof, and all extensions or renewals thereof, including any of the foregoing referred to in Schedule 3.7.

"Trademark License" means any agreement, whether written or oral, providing for the grant by or to Debtor of any right to use any Trademark, including any of the foregoing referred to in Schedule 3.7.

"Trademark Security Agreement Supplement" shall mean a supplement to this Agreement, by Debtor in favor of Secured Party, substantially in the form of Annex II hereto.

"UCC" means the Uniform Commercial Code as in effect on the date hereof in the State of New York, as amended from time to time, and any successor statute.

Section 1.4 Interpretation. References to "Sections," "Exhibits" and "Schedules" shall be to Sections, Exhibits and Schedules, as the case may be, of this Agreement unless otherwise specifically provided. Any of the terms defined herein may, unless the context otherwise requires, be used in the singular or the plural, depending on the reference. The use herein of the word "include" or "including," when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not nonlimiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter. All references herein to provisions of the UCC shall include all successor provisions under any subsequent version or amendment to any Article of the UCC.

## SECTION 2. GRANT OF SECURITY INTEREST

Section 2.1 Grant of Security Interest. Debtor hereby grants to Secured Party a security interest in all of Debtor's right, title, and interest in and to the following property (the "Collateral"), whether now owned or existing or hereafter acquired or arising, to secure the payment and performance of the Secured Obligations: (a) all Chattel Paper, all Collateral Accounts, all commercial tort claims (including those commercial tort claims listed on Schedule 3.4 hereto), all Contracts, all Deposit Accounts, all Documents, all Equipment, all Fixtures, all General Intangibles, all Instruments, all Intellectual Property, all Inventory, all Investment Property (including the Pledged Securities), all Letter-of-Credit Rights, all Liquid Assets, all Receivables, all Records, and all Supporting Obligations, (b) any and all additions, accessions and improvements to, all substitutions and replacements for, and all products of, or derived from, the foregoing, and (c) all Proceeds of the foregoing.

To the extent that the Collateral is not subject to the UCC, Debtor collaterally assigns all of Debtor's right, title, and interest in and to such Collateral to Secured Party to secure the payment and performance of the Secured Obligations to the full extent that such a collateral assignment is possible under the laws of the State of New York.

Section 2.2 Debtor Remains Liable. Anything herein to the contrary notwithstanding: (a) Debtor shall remain liable under the Contracts included in the Collateral to the extent set forth therein to perform Debtor's obligations thereunder to the same extent as if this Agreement had not been executed; (b) the exercise by Secured Party of any rights hereunder shall not release Debtor from any obligations under the Contracts included in the Collateral; and (c) Secured Party shall not have any obligation under the Contracts included in the Collateral by reason of this Agreement, nor shall Secured Party be obligated to perform or fulfill any of the obligations of Debtor thereunder, including any obligation to make any inquiry as to the nature or sufficiency of any payment Debtor may be entitled to receive thereunder, to present or file any claim, or to take any action to collect or enforce any claim for payment thereunder.

### SECTION 3. REPRESENTATIONS AND WARRANTIES

To induce Secured Party to enter into the transactions set forth in the Gas Sales Agreement, Debtor hereby represents and warrants to Secured Party that:

Section 3.1 Title: No Other Liens. Except for the security interests granted to Secured Party pursuant to this Agreement and the Liens permitted under Part 13(b)(i) of the Schedule to the Gas Sales Agreement, Debtor owns each item of the Collateral free and clear of any and all Liens or claims of others. No financing statement or other public notice with respect to all or any part of the Collateral is on file or of record in any public office, except such as have been filed in favor of Secured Party, pursuant to this Agreement or as are permitted by the Gas Sales Agreement.

Section 3.2 Perfected First Priority Liens. The security interests granted pursuant to this Agreement (a) upon completion of the filing of financing statements describing the Collateral in the offices located in the jurisdictions listed on Schedule 3.3, the recording in the United States Patent and Trademark Office of the Trademark Security Agreement Supplement and the Patent Security Agreement Supplement and in the United States Copyright Office of the Copyright Security Agreement Supplement, as applicable, the taking of all applicable actions in respect of perfection contemplated by Sections 4.3, 4.4, and 4.9 in respect of Collateral (in which a security interest cannot be perfected by the filing of a financing statement or such recordings in the United States Patent and Trademark Office or the United States Copyright Office), will constitute valid perfected security interests in all of the Collateral in favor of Secured Party to the extent that such Collateral is subject to Article 9 of the UCC, as collateral security for Debtor's Secured Obligations, enforceable in accordance with the terms hereof against all creditors of Debtor and any Persons purporting to purchase any Collateral from Debtor and (b) are prior to all other Liens on the Collateral except for Liens permitted under Part 13(b)(i) of the Schedule to the Gas Sales Agreement.

Section 3.3 Debtor's Legal Name; Jurisdiction of Organization; Chief Executive Office. Debtor's exact legal name is set forth on the signature page hereof, and from and after an amendment or modification thereto, on a written notification delivered to Secured Party pursuant to Section 4.2. On the date hereof, Debtor's jurisdiction of organization, type of organization, identification number from the jurisdiction of organization (if any), and the location of Debtor's chief executive office or sole place of business or principal residence, as the case may be, are specified on Schedule 3.3.

Section 3.4 Certain Collateral. None of the Collateral constitutes, or is the Proceeds of, farm products and none of the Collateral has been purchased for, or will be used by Debtor primarily for personal, family or household purposes. Except as set forth on Schedules 3.4 and 3.7 or otherwise notified to Secured Party pursuant to Sections 4.6 or 4.9, respectively:

(a) none of the Account Debtors or other persons obligated on any of the Collateral of Debtor is a Governmental Authority subject to the Federal Assignment of Claims Act or like federal or state statute or rule in respect of such Collateral of the type described in Section 4.9(a);

(b) Debtor holds no commercial tort claims;

(c) Debtor holds no interest in, title to or power to transfer any Patents, Trademarks or Copyrights;

(d) Debtor holds no interest in, title to or power to transfer any Intellectual Property that is registered or for which an application has been filed in the United States Patent and Trademark Office or the United States Copyright Office; and

(e) Debtor owns no vessels, rolling stock (other than rolling stock having an aggregate value of not more than \$250,000), or aircraft.

Section 3.5 Investment Property, Chattel Paper, and Instruments.

(a) Debtor is the legal and beneficial owner of the Pledged Securities as set forth on Schedule 3.5. The Pledged Securities have been duly authorized, validly issued and are fully paid and non-assessable, and none of the Pledged Securities constitutes margin stock (within the meaning of Regulation U issued by the Board of Governors of the Federal Reserve System of the United States of America, or any successor Governmental Authority). Except as set forth on Schedule 3.5, the Pledged Securities constitute all of the issued and outstanding shares of stock or other equity interests of each of the respective issuers thereof and no such issuer has any obligation to issue any additional shares of stock or other equity interests or rights or options thereto.

(b) Except as may be required in connection with any disposition of any portion of the Pledged Securities by laws affecting the offering and sale of securities generally, no consent of any Person and no license, permit, approval or authorization of, exemption by, notice or report to, or registration, filing or declaration with, any Governmental Authority is required in connection with (i) the execution, delivery, performance, validity or enforceability of this Agreement, (ii) the perfection or maintenance of the security interest created hereby (including the first priority nature thereof), or (iii) the exercise by Secured Party of the rights and remedies provided for in this Agreement.

(c) Each of the Instruments and Chattel Paper pledged by Debtor hereunder constitutes the legal, valid and binding obligation of the obligor with respect thereto, enforceable in accordance with its terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally, and general principles of equity.

(d) Debtor is the record and beneficial owner of, and has good title to the Investment Property pledged by it hereunder, free of any and all Liens or options in favor of, or claims of, any other Person, except the security interest created by this Agreement and the Liens permitted under Part 13(b)(i) of the Schedule to the Gas Sales Agreement.

Section 3.6 Receivables.

(a) No amount payable to Debtor under or in connection with any Receivable is evidenced by any Instrument or Chattel Paper which has not been delivered to Secured Party to the extent required by Section 5.

(b) The amounts represented by Debtor to Secured Party from time to time as owing to Debtor in respect of the Receivables will at such times be accurate in all material respects.

(c) All Receivables of Debtor existing on the Closing Date arise from bona fide sales or leases by Debtor of goods and services or hedging or other activities incidental to the conduct of Debtor's business.

Section 3.7 Intellectual Property.

(a) Schedule 3.7 lists all Intellectual Property necessary for the conduct of Debtor's business as currently conducted that is owned by Debtor in its own name on the date hereof.

(b) On the date hereof, all material Intellectual Property of Debtor described on Schedule 3.7 is valid, subsisting, unexpired and enforceable, has not been abandoned and, except as otherwise disclosed on Schedule 3.7, does not infringe the intellectual property rights of any other Person in any material respect.

(c) Except as set forth in Schedule 3.7, on the date hereof, none of such Intellectual Property is the subject of any licensing or franchise agreement pursuant to which Debtor is the licensor or franchisor.

(d) Except as set forth in Schedule 3.7, no holding, decision or judgment has been rendered by any Governmental Authority which would limit, cancel or question the validity of, or Debtor's rights in, any such Intellectual Property in any respect.

(e) No action or proceeding is pending, or, to the knowledge of Debtor, threatened, on the date hereof (i) seeking to limit, cancel or question the validity of any such Intellectual Property or Debtor's ownership interest therein, or (ii) which, if adversely determined, would reasonably be expected to have a material adverse effect on the value of such Collateral or any portion thereof, the ability of Grantor or Secured Party to dispose of such Collateral or any portion thereof, or the rights and remedies of Secured Party in relation thereto.

Section 3.8 Authority: Due Authorization.

(a) Debtor has the full power and authority to enter into this Agreement and to perform its obligations hereunder, and has taken all necessary action to authorize its execution, delivery and performance of, and grant of the security interest in the Collateral pursuant to, this Agreement.

(b) The making and performance of this Agreement has been authorized by all necessary corporate action of Debtor. The consummation of this Agreement will not violate any provision of law (to the best of Debtor's knowledge) or Debtor's organizational or governing documents or result in the creation of any Lien, charge or encumbrance (except as created hereunder) upon any property or asset of Debtor pursuant to any indenture, bank loan, credit agreement or other agreement or instrument to which Debtor is a party or by which it or its property may be bound or affected.

SECTION 4. COVENANTS AND AGREEMENTS

Debtor covenants and agrees with Secured Party that, from and after the date of this Agreement until this Agreement terminates in accordance with Section 8.14(a):

Section 4.1 Maintenance of Perfected Security Interest; Further Documentation; Filing Authorization; Further Assurances; Power of Attorney.

(a) Debtor shall maintain the security interest created by this Agreement as a perfected first priority security subject to the Liens permitted under Part 13(b)(i) of the Schedule to the Gas Sales Agreement and shall defend such security interest against the claims and demands of all Persons whomsoever. Except as expressly permitted in the Transaction Documents, Debtor will keep the Collateral free from any adverse Lien, security interest, financing statement or other encumbrance and Debtor will defend the right, title and interest of Secured Party in and to any of the Collateral against all claims and demands of all persons at any time claiming the same or any interest therein.

(b) Debtor will furnish to Secured Party from time to time statements and schedules further identifying and describing the assets and property of Debtor and such other reports in connection with the Collateral as Secured Party may reasonably request, all in reasonable detail. Debtor (a) will keep at its address shown in the Gas Sales Agreement satisfactory and reasonably complete records concerning the Collateral, which records shall be of such character as will enable Secured Party or its designee to determine at any time the status thereof; (b) will furnish the Secured Party such information concerning Debtor, the Collateral and the Account Debtors as the Secured Party may from time to time reasonably request; and (c) will permit Secured Party and its designees, from time to time, not more frequently than semi annually, at a time mutually convenient (using reasonable efforts) to Debtor and Secured Party, and upon no less than two (2) Business Days prior notice, to reasonably inspect, audit and make copies of and extracts from all records and all other papers in the possession of Debtor; *provided, however*, that those records and papers that Debtor cannot disclose to Secured Party because of obligations owed to third parties to keep such records and papers confidential may not be inspected, audited or extracted from by Secured



Party unless and until Debtor and Secured Party shall have taken such steps as are required to permit disclosure of such records or papers to Secured Party.

(c) Subject in each case to Section 5, Debtor further agrees to take any other action reasonably requested by Secured Party to ensure the attachment, perfection and priority of, and the ability of Secured Party to enforce, the security interest in any and all of the Collateral including, (i) executing, delivering and, where appropriate, filing financing statements and amendments relating thereto under the UCC, to the extent, if any, that Debtor's signature thereon is required therefor; (ii) causing Secured Party's names to be noted as secured party on any certificate of title for a titled good if such notation is a condition to attachment, perfection or priority of, or ability of Secured Party to enforce, the security interest in such Collateral; (iii) complying with any provision of any statute, regulation or treaty of the United States or any other country as to any Collateral if compliance with such provision is a condition to the attachment, perfection or priority of, or the ability of Secured Party to enforce, the security interest in such Collateral; (iv) using all commercially reasonable efforts to obtain waivers from mortgagees, landlords and any other person who has possession of or any interest in any Collateral with a value in excess of \$100,000 or any real property on which any Collateral may be located, in form and substance satisfactory to Secured Party; and (v) taking all actions required by the UCC or by other law, as applicable in any relevant Uniform Commercial Code jurisdiction, or by other law as applicable in any foreign jurisdiction.

(d) Debtor hereby irrevocably authorizes Secured Party at any time and from time to time to file in any jurisdiction in which the Uniform Commercial Code has been adopted any initial financing statements and amendments thereto that (a) indicate the Collateral (i) as all assets of Debtor or words of similar effect, or (ii) as being of an equal or lesser scope or with greater detail, and (b) contain any other information required by the UCC for the sufficiency or filing office acceptance of any initial financing statement or amendment. Debtor agrees to furnish any such information to Secured Party promptly upon request. Debtor also ratifies its authorization for Secured Party to have filed in any Uniform Commercial Code jurisdiction any like initial financing statements or amendments thereto if filed prior to the date hereof.

(e) During the existence of an Event of Default,

(i) At the request of Secured Party, Debtor shall take any actions reasonably requested by Secured Party with respect to such Event of Default, including diligently endeavoring to cure any material defect existing or claimed, and taking all reasonably necessary and desirable steps for the defense of any legal proceedings, including the employment of counsel, the prosecution or defense of litigation, and the release or discharge of all adverse claims;

(ii) Secured Party, whether or not named as a party to any legal proceedings, is authorized to take any additional steps as it deems reasonably necessary or desirable for the defense of any such legal proceedings or the protection of the validity or priority of this Agreement and the liens, security interests, and assignments created hereunder, including the employment of independent counsel, the prosecution or defense of litigation, the compromise or discharge of any adverse claims made with respect to any Collateral and the payment or removal of prior liens or security interests, and the reasonable expenses of Secured Party in taking such action shall be paid by Debtor; and

(iii) Debtor agrees that, if Debtor fails to perform under this Agreement or any other Transaction Document, Secured Party may, but shall not be obligated to, perform Debtor's obligations under this Agreement or such other Transaction Document, and any reasonable expenses incurred by Secured Party in performing Debtor's obligations shall be paid by Debtor. Any such performance by Secured Party may be made by Secured Party in reasonable reliance on any statement, invoice, or claim. The amount and nature of any expense of Secured Party hereunder shall be conclusively established by a certificate of any officer of Secured Party absent manifest error.

(iv) Debtor irrevocably appoints Secured Party as Debtor's attorney in fact, with full authority to act for Debtor and in the name of Debtor, to take any action and execute any agreement which Secured Party deems necessary or advisable to accomplish the purposes of this Agreement, including the matters that Secured Party is expressly authorized to take pursuant to this Agreement (including the matters described in

paragraph (c) above), and instituting proceedings that Secured Party deems necessary or desirable to enforce the rights of Secured Party with respect to this Agreement.

(v) Secured Party may in its own name or in the name of others communicate with the Account Debtors to verify with them to its satisfaction the existence, amount and terms of any Collateral.

(f) Except to the extent the same would not reasonably be expected to have a material and adverse effect upon Debtor's rights or interests under any Collateral or upon the rights and interests of Secured Party created hereby or upon the value of the security interest created hereunder, Debtor will not fail to exercise promptly and diligently each and every right which it may have under any agreement forming a part of or related to the Collateral.

(g) Debtor shall comply with all acts, rules, regulations and orders of any legislative, administrative or judicial body or official, applicable to the Collateral or any part thereof, or to the operation of its business; *provided however*, that it may contest any acts, rules, regulations, orders and directions of such bodies or officials in any reasonable manner which will not, in Secured Party's sole opinion, adversely affect the right or priority of its lien or security interest in the Collateral.

Section 4.2 Changes in Name, etc. Debtor will not, except as expressly permitted by the Gas Sales Agreement and upon 30 days' prior written notice to Secured Party and delivery to Secured Party of all additional approved or executed financing statements and other executed documents reasonably requested by Secured Party to maintain the validity, perfection and priority of the security interests provided for herein: (a) change its type of organization, jurisdiction of organization or other legal structure from that referred to in Section 3.3, (b) change its organizational number if it has one, or (c) change its name.

Section 4.3 Delivery of Instruments, Chattel Paper, and Documents. If any amount payable under or in connection with any of the Collateral is or becomes evidenced by any Instrument or Chattel Paper, such Instrument or Chattel Paper shall, to the extent required by Section 5, be immediately delivered to Secured Party, duly endorsed in a manner satisfactory to Secured Party, to be held as Collateral pursuant to this Agreement. If any goods are or become covered by a negotiable Document, such Document shall, to the extent required by Section 5, be immediately delivered to Secured Party to be held as Collateral pursuant to this Agreement.

Section 4.4 Investment Property. With respect to Investment Property and Pledged Securities:

(a) If Debtor shall at any time hold or acquire any Pledged Securities which are certificated securities, whether as a stock split, stock dividend, or other distribution with respect to Pledged Securities, or otherwise, Debtor shall promptly, and in any event within ten (10) Business Days after receipt thereof, deliver the same to Secured Party, accompanied by such instruments of transfer or assignment duly executed in blank as Secured Party may from time to time specify. If any Pledged Securities now owned or hereafter acquired by Debtor are uncertificated securities and are issued to Debtor or its nominee directly by the issuer thereof, Debtor shall immediately notify Secured Party thereof, and shall take any actions requested by Secured Party to enable Secured Party to obtain "control" (within the meaning of Section 8-106 of the UCC) with respect thereto. If any Pledged Securities, whether certificated securities or uncertificated securities, or other Investment Property now or hereafter acquired by Debtor are held or acquired by Debtor or its nominee through a securities intermediary or commodity intermediary, Debtor shall immediately notify Secured Party thereof and, shall take any actions requested by Secured Party to enable Secured Party to obtain "control" (within the meaning of Section 8-106 and/or Section 9-106 of the UCC, as applicable) with respect thereto. To the extent that Secured Party has the right pursuant to the foregoing to give entitlement orders or instructions or directions to any issuer, securities intermediary or commodity intermediary or to withhold its consent to the exercise of any withdrawal or dealing rights by Debtor, Secured Party agrees with Debtor that Secured Party shall not give any such entitlement orders or instructions or directions to any such issuer, securities intermediary or commodity intermediary, and shall not withhold its consent to the exercise of any withdrawal or dealing rights by Debtor, unless an Event of Default has occurred and is continuing.

(b) Until such time as Secured Party gives Debtor notice that an Event of Default has occurred and is continuing (a "Default Notice"), Debtor shall be entitled to exercise, in a manner not inconsistent with the terms hereof, the voting power with respect to the Pledged Securities of Debtor, and for that purpose Secured Party shall (if any Pledged Securities shall be registered in the name of Secured Party or its nominee) execute or cause to be



executed from time to time, at the expense of the Debtor, such proxies or other instruments in favor of Debtor or its nominee, in such form and for such purposes as shall be reasonably requested by Debtor, to enable it to exercise such voting power with respect to the Pledged Securities. Upon delivery of a Default Notice to Debtor, all rights of Debtor to exercise or refrain from exercising the voting and other consensual rights that it would otherwise be entitled to exercise pursuant to this Section 4.4(b) shall cease, and thereupon Secured Party shall be entitled to exercise all voting power with respect to the Pledged Securities and otherwise to act with respect to the Pledged Securities as outright owner thereof.

(c) So long as no Event of Default has occurred and is continuing, and except as otherwise provided herein or in the Gas Sales Agreement, Debtor shall be entitled to receive and retain for its own account any and all payments, proceeds, dividends, distributions, property, assets, or rights to the extent such are permitted pursuant to the terms of the Gas Sales Agreement. Upon the occurrence and during the continuance of any Event of Default, all rights of Debtor to receive the payments, proceeds, dividends, distributions, property, assets, or rights that Debtor would otherwise be authorized to receive and retain pursuant to this Section 4.4(c) shall cease, and thereupon Secured Party shall be entitled to exercise all voting power with respect to the Pledged Securities and to receive and retain, as additional collateral hereunder, any and all payments, proceeds, dividends, distributions, property, assets, or rights at any time declared or paid upon any of the Pledged Securities during such an Event of Default and otherwise to act with respect to the Pledged Securities as outright owner thereof.

(d) All payments, proceeds, dividends, distributions, property, assets, instruments or rights that are received by Debtor contrary to the provisions of this Section 4.4 shall be received and held in trust for the benefit of Secured Party, shall be segregated by Debtor from other funds of Debtor and shall be forthwith paid over to Secured Party as Pledged Securities in the same form as so received (with any necessary endorsement).

(e) Debtor hereby authorizes and instructs each issuer of any Pledged Securities pledged by Debtor hereunder to (i) comply with any instruction received by it from Secured Party in writing that (x) states that an Event of Default has occurred and is continuing and (y) is otherwise in accordance with the terms of this Agreement, without any other or further instructions from Debtor, and Debtor agrees that each such issuer shall be fully protected in so complying, and (ii) unless otherwise expressly permitted hereby, pay any dividends or other payments with respect to the Pledged Securities directly to Secured Party.

Section 4.5 Deposit Accounts. Without limiting the obligations of Debtor under the Gas Sales Agreement or any restricted account control agreement entered into between Debtor and Secured Party pursuant thereto, for each Deposit Account which is Collateral, Debtor shall, at Secured Party's request and option, take any actions requested by Secured Party to enable Secured Party to obtain "control" (within the meaning of Section 9-104 of the UCC) with respect thereto. Secured Party agrees with Debtor that Secured Party will not give any instructions to a depository bank directing the disposition of funds from time to time credited to any Deposit Account or withhold any withdrawal rights from Debtor, unless an Event of Default has occurred and is continuing and Secured Party has provided a Default Notice to Debtor.

Section 4.6 Modifications of Receivables, Chattel Paper, Instruments and Payment Intangibles. Without limiting the obligations of Debtor under the Gas Sales Agreement, Debtor will not, without Secured Party's prior written consent (which consent shall not be unreasonably withheld or delayed): (a) compromise or grant any extension of the time of payment of any of the Collateral consisting of Receivables, Chattel Paper, Instruments or payment intangibles, (b) settle the same for less than the full amount thereof, (c) release, wholly or partly, any obligor liable for the payment thereof or (d) allow any credit or discount whatsoever thereon; provided, that so long as no Event of Default has occurred and is continuing, this Section 4.6 shall not restrict any extensions, credits, discounts, compromises or settlements (i) granted or made by Debtor with respect to Receivables, Chattel Paper, Instruments or payment intangibles which individually or in the aggregate are not material to Debtor, or (ii) granted or made by Debtor in the ordinary course of Debtor's business and consistent with such prudent practices used in industries that are the same as or similar to those which Debtor is engaged.

Section 4.7 Intellectual Property. With respect to Intellectual Property:

(a) Debtor will (i) continue to use each Trademark necessary to the conduct of its business, in Debtor's sole discretion, on the appropriate trademark class of goods applicable to its current line as reflected in its

current catalogs, brochures and price lists in order to maintain such Trademark in full force free from any claim of abandonment for non-use, (ii) maintain as in the past substantially the same quality of products and services offered under such Trademark, (iii) use such Trademark with the appropriate notice of registration and substantially all other notices and legends required by applicable laws, (iv) not knowingly adopt or use any mark which is confusingly similar or a colorable imitation of such Trademark unless Secured Party shall obtain a perfected security interest in such mark pursuant to this Agreement, and (v) not (and not knowingly permit any licensee or sublicensee thereof to) do any act or knowingly omit to do any act whereby such Trademark may become invalidated or impaired in any way;

(b) Debtor will not do any act, or omit to do any act, whereby any Patent necessary for the conduct of its business may become forfeited, abandoned or dedicated to the public;

(c) Debtor (i) will employ each Copyright necessary for the conduct of its business and (ii) will not (and will not knowingly permit any licensee or sublicensee thereof to) do any act or knowingly omit to do any act whereby any material portion of such Copyrights may become invalidated or otherwise impaired. Debtor will not (either itself or through licensee) do any act whereby any material portion of such Copyrights may fall into the public domain;

(d) Debtor will not do any act that knowingly and improperly uses any Intellectual Property necessary for the conduct of its business to infringe the Intellectual Property rights of any other Person;

(e) Debtor will notify Secured Party immediately if it knows, or has reason to know, that any application or registration relating to any Intellectual Property necessary for the conduct of its business may become forfeited, abandoned or dedicated to the public, or of any adverse determination or development (including the institution of, or any such determination or development in, any proceeding in the United States Patent and Trademark Office, the United States Copyright Office) regarding Debtor's ownership of, or the validity of, any such Intellectual Property or Debtor's right to register the same or to own and maintain the same;

(f) Whenever Debtor, either by itself or through any agent, employee, licensee or designee, shall file an application for the registration of any Intellectual Property necessary for the conduct of its business with the United States Patent and Trademark Office, the United States Copyright Office, Debtor shall report such filing to Secured Party within 30 days after the date on which such filing occurs. Upon request of Secured Party, Debtor shall promptly execute and deliver, and have recorded, any and all agreements, instruments, documents, and papers as Secured Party may reasonably request to evidence the security interest granted hereunder to Secured Party in any Copyright, Patent or Trademark necessary for the conduct of its business and the goodwill and general intangibles of Debtor relating thereto or represented thereby;

(g) Debtor will take all reasonable and necessary steps, including in any proceeding before the United States Patent and Trademark Office, the United States Copyright Office, to maintain and pursue each application relating to any Intellectual Property necessary for the conduct of its business (and to obtain the relevant registration) and to maintain each registration of such material Intellectual Property, including filing of applications for renewal, affidavits of use and affidavits of incontestability; and

(h) In the event that any Intellectual Property necessary for the conduct of its business is infringed, misappropriated or diluted by a third party, Debtor shall (i) take such actions as Debtor shall reasonably deem appropriate under the circumstances to protect such Intellectual Property and (ii) if such Intellectual Property is of material economic value, promptly notify Secured Party after it learns thereof and take such actions as Debtor shall reasonably deem appropriate under the circumstances.

Section 4.8 Collateral in the Possession of a Bailee. Except for Gas held in Storage, and other Collateral held by a bailee in the ordinary course of Debtor's business, if any Collateral with a value in excess of \$25,000 are at any time in the possession of a bailee, Debtor shall promptly notify Secured Party thereof and, if requested by Secured Party, shall promptly use all commercially reasonable efforts to obtain an acknowledgement from such bailee, in form and substance satisfactory to Secured Party, that such bailee holds such Collateral for the benefit of Secured Party and shall act upon the instructions of Secured Party, without the further consent of Debtor. Secured Party agrees with Debtor that Secured Party shall not give any such instructions unless an Event of Default

has occurred and is continuing. Notwithstanding the foregoing, to the extent Debtor is unable to promptly obtain an acknowledgement from such bailee, then, at the request of Secured Party, Debtor shall promptly move such Collateral to a bailee that shall authenticate a record acknowledging that it is holding the Collateral for the benefit of Secured Party.

Section 4.9 Actions With Respect to Certain Collateral.

(a) If any of the account debtors or other Persons obligated on any of the Receivables, Chattel Paper, Instruments or payment intangibles with a value in excess of \$100,000, or on any Contract with a value in excess of \$100,000 in any twelve month period, is or becomes a Governmental Authority subject to the Federal Assignment of Claims Act or like federal or state statute or rule in respect of such Collateral, Debtor shall promptly (i) notify Secured Party in a writing signed by Debtor that such account debtor or other Person obligated on such Collateral is a Governmental Authority subject to the Federal Assignment of Claims Act or like federal or state statute or rule and (ii) take all actions reasonably required by Secured Party to insure the attachment, perfection or priority of, or the ability of Secured Party to enforce, the security interest in such Collateral.

(b) If Debtor shall at any time hold or acquire a commercial tort claim with a value in excess of \$500,000, Debtor shall promptly notify Secured Party in a writing signed by Debtor of the brief details thereof and grant to Secured Party in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Agreement, with such writing to be in form and substance satisfactory to Secured Party. Notwithstanding the foregoing, any such security interest in commercial tort claims shall, prior to the occurrence of an Event of Default (and after the occurrence of an Event of Default unless Secured Party have demanded the attachment of such security interest thereto), not be required to attach to the extent the value of any such commercial tort claim does not exceed \$500,000. Notwithstanding the foregoing, nor anything to the contrary herein, Debtor does not grant, and Secured Party does not take, a security interest in any of Debtor's claims pending in *Infinite Energy, Inc. v. Econnergy Energy Company*, Case No. 1:06-cv-00124-SPM-AK, currently pending in the United States District Court for the Northern District of Florida.

(c) If Debtor shall at any time hold or acquire any vessel or aircraft, in each case, with a value in excess of \$100,000, Debtor shall promptly notify Secured Party in a writing signed by Debtor, and shall take all actions reasonably requested by Secured Party to insure the attachment, perfection and priority of, and the ability of Secured Party to enforce, a security interest therein.

SECTION 5. LIMITATION ON PERFECTION OF SECURITY INTEREST

## SECTION 6. EVENTS OF DEFAULT

An event of default hereunder shall be (each an "Event of Default"):

Section 6.1 The occurrence and continuation of any "Event of Default" (as defined therein) under either the Gas Sales Agreement or default under the Lockbox Control Agreement;

Section 6.2 Any representation, warranty or certification made or deemed made by or on behalf of Debtor in any Transaction Document (other than the Gas Sales Agreement) or by or on behalf of Debtor in connection with any Transaction Document (including in any document delivered in connection with any Transaction Document other than the Gas Sales Agreement) shall prove to have been incorrect in any material respect when made or deemed made;

Section 6.3 Debtor shall fail to comply with any material covenant or agreement of any Transaction Document (other than the Gas Sales Agreement), and such noncompliance has not been waived by Secured Party in writing or (a) if curable, has remained unremedied for thirty (30) days after notice thereof from Secured Party to Debtor, or (b) if incurable, immediately upon the occurrence of such noncompliance; or

Section 6.4 Except pursuant to a valid, binding and enforceable termination or release permitted under the Transaction Documents and executed by Secured Party or as otherwise expressly permitted under any Transaction Document, (a)(i) any provision of any Transaction Document shall, at any time after the delivery of such Transaction Document, fail to be valid and binding on, or enforceable against, Debtor or (ii) any Transaction Document purporting to grant a Lien to secure any "Obligation" (as defined herein or in the Pledge Agreement) shall, at any time after the delivery of such Transaction Document, fail to create a valid and enforceable Lien on any collateral purported to be covered thereby or such Lien shall fail or cease to be a perfected Lien with the priority required in the relevant Transaction Document, in each such case as a result of an act or omission of Debtor, its Affiliates, subsidiaries, officers, directors, employees, attorneys, agents, or representatives or (b) Debtor shall state in writing that any of the events described in clause (a)(i) or (a)(ii) above shall have occurred.

## SECTION 7. REMEDIAL PROVISIONS

During the existence of an Event of Default, and following submittal of a Default Notice to Debtor, Secured Party may, at Secured Party's option, exercise one or more of the remedies specified elsewhere in this Agreement or the following remedies:

### Section 7.1 General Interim Remedies

(a) To the extent permitted by law, Secured Party may exercise all the rights and remedies of a secured party under the UCC.

(b) Secured Party may prosecute actions in equity or at law for the specific performance of any covenant or agreement herein contained or in aid of the execution of any power herein granted or for the enforcement of any other appropriate legal or equitable remedy.

(c) Secured Party may require Debtor to promptly assemble any tangible Collateral of Debtor and make it available to Secured Party at a place to be designated by Secured Party. Secured Party may occupy any premises owned or leased by Debtor where the Collateral is assembled for a reasonable period in order to effectuate Secured Party's rights and remedies hereunder or under law, without obligation to Debtor with respect to such occupation.

Section 7.2 Receivables, Chattel Paper, Instruments and Payment Intangibles. Without limiting the obligations of Debtor under the Gas Sales Agreement, Secured Party may establish Collateral Accounts for the

purpose of collecting the payments due to Debtor under any Contracts or otherwise with respect to the Receivables, Chattel Paper, Instruments and/or payment intangibles and holding the proceeds thereof, and may, or may direct Debtor to, instruct all makers and/or all obligors with respect thereto to make all payments with respect to such Collateral directly to Secured Party for deposit into such Collateral Account. After such direction to Debtor, all payments, whether of principal, interest, or other amounts, under any Contracts or otherwise with respect to the Receivables, Chattel Paper, Instruments and/or payment intangibles shall be directed to such Collateral Accounts. All such payments which may from time to time come into the possession of Debtor shall be held in trust for Secured Party, segregated from the other funds of Debtor, and delivered to Secured Party immediately in the form received with any necessary endorsement for deposit into such Collateral Account, such delivery in no event to be later than one Business Day after receipt thereof by Debtor. In connection with the foregoing, Secured Party shall have the right at any time during the existence of an Event of Default to take any of the following actions, in Secured Party's own name or in the name of Debtor: compromise or extend the time for payment of any payments due with respect to any Instrument or Chattel Paper upon such terms as Secured Party may reasonably determine; endorse the name of Debtor, on checks, instruments, or other evidences of payment with respect to any such Collateral; make written or verbal requests for verification of amount owing on any such Collateral from the maker thereof or obligor thereunder; open mail addressed to Debtor which Secured Party reasonably believes relates to any such Collateral, and, to the extent of checks or other payments with respect to any such Collateral, dispose of same in accordance with this Agreement; take action in Secured Party's name or Debtor's name, to enforce collection; and take all other action necessary to carry out this Agreement and give effect to Secured Party's rights hereunder. Costs and expenses incurred by Secured Party in collection and enforcement of amounts owed under any Contracts or otherwise with respect to the Receivables, Chattel Paper, Instruments and/or payment intangibles, including attorneys' fees and out-of-pocket expenses, shall be reimbursed by Debtor to Secured Party on demand.

Section 7.3 Contracts. Secured Party may, at its option, exercise one or more of the following remedies with respect to the Contracts that constitute Collateral:

(a) (i) take any action permitted under Section 7.2 and (ii) in the place and stead of Debtor, exercise any other rights of Debtor under the Contracts in accordance with the terms thereof. Without limitation of the foregoing, Debtor agrees that under the foregoing circumstances, Secured Party may give notices, consents and demands and make elections under the Contracts, modify or waive the terms of the Contracts and enforce the Contracts, in each case, to the same extent and on the same terms as Debtor might have done. It is understood and agreed that notwithstanding the exercise of such rights and/or the taking or such actions by Secured Party, Debtor shall remain liable for performance of its obligations under the Contracts;

(b) upon receipt by Secured Party of notice from any counterparty to any Contract of such Person's intent to terminate such Contract, Secured Party shall be entitled to (i) cure or cause to be cured the condition giving rise to such Person's right of termination of such Contract, or (ii) acquire and assume (or assign and cause the assumption by a third party of) the rights and obligations of Debtor under such Contract; and

(c) upon termination of any Contract by operation of law or otherwise, Secured Party shall be entitled to enter into a new agreement ("Successor Agreement") with the counterparty to such terminated Contract, on the same terms and with the same provisions as such terminated Contract. Debtor agrees that Debtor shall have no rights whatsoever with respect to any Successor Agreement.

Section 7.4 Pledged Securities.

(a) Secured Party shall have the right to sell any or all of the Pledged Securities in accordance with the terms of this Agreement.

(b) Debtor recognizes that Secured Party may be unable to effect a public sale of any or all the Pledged Securities, by reason of certain prohibitions contained in the Securities Act and applicable state securities laws or otherwise, and may be compelled to resort to one or more private sales thereof to a restricted group of purchasers which will be obliged to agree, among other things, to acquire such securities for its own account for investment and not with a view to the distribution or resale thereof Debtor acknowledges and agrees that any such private sale may result in prices and other terms less favorable than if such sale were a public sale and, notwithstanding such circumstances, agrees that any such private sale shall be deemed to have been made in a

commercially reasonable manner. Secured Party shall be under no obligation to delay a sale of any of the Pledged Securities for the period of time necessary to permit the issuer thereof to register such securities for public sale under the Securities Act, or under applicable state securities laws, even if such issuer would agree to do so.

(c) Debtor agrees to use its best efforts to do or cause to be done all such other acts as may be necessary to make such sale or sales of all or any portion of the Pledged Securities pursuant to this Section 7.4 valid and binding and in compliance with any and all other applicable laws.

Section 7.5 Foreclosure.

(a) Secured Party may foreclose on the Collateral in any manner permitted by the courts of or in the State of New York or the jurisdiction in which any Collateral is located. If Secured Party should institute a suit for the collection of the Secured Obligations and for the foreclosure of this Agreement, Secured Party may at any time before the entry of a final judgment dismiss the same, and take any other action permitted by this Agreement.

(b) To the extent permitted by law, Secured Party may exercise all the foreclosure rights and remedies of a secured party under the UCC. In connection therewith, Secured Party may sell any Collateral at public or private sale, at the office of any of Secured Party or elsewhere, for cash or credit and upon such other terms as Secured Party deem commercially reasonable. Secured Party may sell any Collateral at one or more sales, and the security interest granted hereunder shall remain in effect as to the unsold portion of the Collateral. Debtor agrees that to the extent permitted by law such sales may be made without notice. If notice is required by law, Debtor hereby deems ten days advance notice of the time and place of any public or private sale reasonable notification, recognizing that if any portion of the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, shorter notice may be reasonable. Secured Party shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. Secured Party may adjourn any sale by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was adjourned. In the event that any sale hereunder is not completed or is defective in the opinion of Secured Party, Secured Party shall have the right to cause subsequent sales to be made hereunder. Any statements of fact or other recitals made in any bill of sale, assignment, or other document representing any sale hereunder, including statements relating to the occurrence of an Event of Default, acceleration of the Secured Obligations, notice of the sale, the time, place, and terms of the sale, and other actions taken by Secured Party in relation to the sale may be conclusively relied upon by the purchaser at any sale hereunder. Secured Party may delegate to any agent the performance of any acts in connection with any sale hereunder, including the sending of notices and the conduct of the sale.

Section 7.6 Application of Proceeds.

(a) Unless otherwise specified herein, any cash proceeds received by Secured Party from the sale of, collection of, or other realization upon any part of the Collateral or any other amounts received by Secured Party hereunder may be, at the reasonable discretion of Secured Party (i) held by Secured Party in one or more Collateral Accounts as cash collateral for the Secured Obligations or (ii) applied to the Secured Obligations.

(b) Amounts applied to the Secured Obligations shall be applied in the following order:

First, to the payment of the costs and expenses of Secured Party in exercising Secured Party's rights hereunder, whether expressly provided for herein or otherwise (including reasonable attorneys' fees and disbursements); and

Second, to the payment of the Secured Obligations.

Any surplus cash collateral or cash proceeds held by Secured Party after payment in full of the Secured Obligations and the termination of any commitments of Secured Party to Debtor shall be paid over to Debtor or to whomever may be lawfully entitled to receive such surplus.

Section 7.7 Waiver of Certain Rights. To the full extent Debtor may do so, Debtor shall not insist upon, plead, claim, or take advantage of any law providing for any appraisalment, valuation, stay, extension, or



redemption, and Debtor hereby waives and releases the same, and all rights to a marshaling of the assets of Debtor, including the Collateral of Debtor, or to a sale in inverse order of alienation in the event of foreclosure of the liens and security interests hereby created. Debtor shall not assert any right under any law pertaining to the marshaling of assets, sale in inverse order of alienation, the administration of estates of decedents or other matters whatever to defeat, reduce, or affect the right of Secured Party under the terms of this Agreement.

**Section 7.8 Remedies.** Secured Party's remedies under this Agreement and the Transaction Documents to which Debtor is a party shall be cumulative, and no delay in enforcing this Agreement and the Transaction Documents to which Debtor is a party shall act as a waiver of Secured Party's rights hereunder. Notwithstanding anything to the contrary hereunder, Secured Party shall be entitled to seek specific performance and injunctive or other equitable remedies for any breach of this Agreement.

**Section 7.9 Reinstatement.** The obligations of Debtor under this Agreement shall continue to be effective or automatically be reinstated, as the case may be, if at any time payment of any of the Secured Obligations is rescinded or otherwise must be restored or returned by Secured Party upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of Debtor or any other obligor or otherwise, all as though such payment had not been made.

**Section 7.10 Transition Services.** If Secured Party exercises remedies under this Agreement and forecloses on all or part of the Collateral, then, if requested by Secured Party, for a period of up to 90 days after the date of such foreclosure and sale of the Collateral pursuant hereto, Debtor will in good faith assist and reasonably cooperate with Secured Party to facilitate the transfer and ongoing management of such Collateral to Secured Party (or its designee); provided, that Secured Party will reimburse Debtor for any reasonable out-of-pocket costs and expenses incurred by Debtor in connection with such transition services provided by Debtor.

## SECTION 8. MISCELLANEOUS

**Section 8.1 Amendments.** No amendment, modification or waiver in respect of this Agreement will be effective unless in writing and executed by each of the parties hereto.

**Section 8.2 Notices.** All notices, requests and demands to or upon Secured Party or Debtor shall be effected in the manner provided for in Section 12 of the Gas Sales Agreement. All notices, requests and demands hereunder to Debtor shall be given to it at its address or telecopy number provided for in Section 12 of the Gas Sales Agreement.

**Section 8.3 No Waiver by Course of Conduct; Cumulative Remedies; No Duty.** No failure to exercise, nor any delay in exercising, on the part of either the Debtor or the Secured Party, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by either the Debtor or the Secured Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy that either the Debtor or the Secured Party would otherwise have on any future occasion. The powers conferred on Secured Party under this Agreement are solely to protect Secured Party's rights under this Agreement and shall not impose any duty upon it to exercise any such powers. Except as elsewhere provided hereunder, Secured Party shall have no duty as to any of the Collateral or as to the taking of any necessary steps to preserve rights against prior parties or any other rights pertaining to the Collateral.

### Section 8.4 Enforcement Expenses; Indemnification.

(a) Debtor agrees to pay, or reimburse Secured Party and each holder of the Secured Obligations for, all reasonable costs and expenses incurred in connection with the enforcement, attempted enforcement, if successful, exercise, or preservation of any rights or remedies under this Agreement or the other Transaction Documents to which Debtor is a party (including all such costs and expenses incurred during any "workout" or restructuring in respect of the Secured Obligations and during any legal proceeding, including any proceeding under any Debtor Relief Law), including all reasonable attorneys' fees, expenses and disbursements.

(b) Debtor agrees to pay, and to indemnify and hold Secured Party and each holder of the Secured Obligations harmless from, any and all liabilities with respect to, or resulting from any delay in paying, any and all stamp, excise, sales or other taxes which may be payable or determined to be payable with respect to any of the Collateral or in connection with any of the transactions contemplated by this Agreement, to the extent such delay is not caused by Secured Party or the holder of the Secured Obligations.

(c) All amounts due under this Section 8.3 shall be payable upon demand therefor. The agreements in this Section shall survive repayment of the Secured Obligations and all other amounts payable under the Gas Sales Agreement and the other Transaction Documents.

Section 8.3 Successors and Assigns. This Agreement shall be binding upon the successors and assigns of Debtor and shall inure to the benefit of Secured Party and its successors and assigns; *provided that* Debtor may not assign, transfer or delegate any of its rights or obligations under this Agreement without the prior written consent of Secured Party. Secured Party may assign this Agreement, without the prior consent of Debtor, to any assignee of Secured Party under the Gas Sales Agreement; *provided, however,* Secured Party shall provide Debtor with notice of such assignment within thirty (30) days after such assignment taking place.

Section 8.6 Intentionally Deleted.

Section 8.7 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 8.8 Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 8.9 Section Headings. The Section headings used in this Agreement are included for convenience of reference only and shall not affect the interpretation of this Agreement.

Section 8.10 Integration. This Agreement, together with the other Transaction Documents, comprises the complete and integrated agreement of the parties on the subject matter hereof and thereof and supersedes all prior agreements, written or oral, on such subject matter. In the event of any conflict between this Agreement and the Gas Sales Agreement, the terms of the Gas Sales Agreement shall control.

Section 8.11 GOVERNING LAW. THIS AGREEMENT WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REFERENCE TO CHOICE OF LAW DOCTRINE.

Section 8.12 SUBMISSION TO JURISDICTION; WAIVERS. WITH RESPECT TO ANY SUIT, ACTION OR PROCEEDING RELATING TO THIS AGREEMENT ("PROCEEDINGS"), EACH OF THE PARTIES HERETO HEREBY AGREES THAT (A) THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS, AND ANY TEXAS STATE COURT SITTING IN HARRIS COUNTY, TEXAS AND (B) UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA, AND ANY FLORIDA STATE COURT SITTING IN ALACHUA COUNTY, FLORIDA ARE THE EXCLUSIVE FORLMS FOR RESOLVING ANY DISPUTE OR CONTROVERSY UNDER OR WITH RESPECT TO THIS AGREEMENT, AND EACH OF THE PARTIES HERETO FURTHER SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY OF THE AFOREMENTIONED COURTS IN WHICH A PROCEEDING IS BROUGHT FOR PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT IT MAY EFFECTIVELY DO SO, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF THE VENUE OF ANY SUCH PROCEEDING BROUGHT IN SUCH A COURT AND ANY CLAIM THAT ANY SUCH PROCEEDING BROUGHT IN SUCH A COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.



Section 8.13 WAIVER OF JURY TRIAL. EACH OF SECURED PARTY AND DEBTOR HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS LIMITED GUARANTY OR ANY OTHER DOCUMENT RELATING HERETO AND FOR ANY COUNTERCLAIM THEREIN.

Section 8.14 Termination; Releases.

(a) Except for the provision of transition services pursuant to Section 7.10 above (which shall survive until the expiration of the period set forth therein) or as otherwise expressly set forth herein, this Agreement and the security interest created hereby shall terminate when all the Secured Obligations have been indefeasibly paid in full in cash and the Gas Sales Agreement shall have terminated, at which time Secured Party shall execute and deliver to Debtor or Debtor's designee, at Debtor's expense, all Uniform Commercial Code termination statements and similar documents which Debtor shall reasonably request from time to time to evidence such termination. Any execution and delivery of termination statements or documents pursuant to this Section 8.14(a) shall be without recourse to or warranty by Secured Party.

(b) If any of the Collateral shall be sold, transferred or otherwise disposed of by Debtor in a transaction permitted by the Gas Sales Agreement, the security interest created hereby in any Collateral that is so sold, transferred or otherwise disposed of shall automatically terminate and be released upon the closing of such sale, transfer or other disposition, and such Collateral shall be sold free and clear of the Lien and security interest created hereby; *provided, however*, that such security interest will continue to attach to all proceeds of such sales or other dispositions. In connection with any of the foregoing, Secured Party shall execute and deliver to Debtor or Debtor's designee, at Debtor's expense, all Uniform Commercial Code termination statements and similar documents that Debtor shall reasonably request from time to time to evidence such termination. Any execution and delivery of termination statements or documents pursuant to this Section 8.14(b) shall be without recourse to or warranty by Secured Party.

[SIGNATURE PAGES FOLLOW.]

Kyle Wamstad  
kylewamstad@eversheds-sutherland.com  
2020-07-24 17:30 EDT  
108.195.94.0

IN WITNESS WHEREOF, the hereto have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first written above.

INFINITE ENERGY, INC.

By: 

Name: Darin R. Cook

Title: President & Co-CEO

BG ENERGY MERCHANTS, LLC

By: 

Name: Mark Evans

Title: Vice President

SIGNATURE PAGE  
of USNY Agreement

kylewamstad@eversheds-sutherland.com  
2020-07-24 17:30 EDT  
108.195.94.0

TRADEMARK  
REEL: 007210 FRAME: 0703

SCHEDULE 3.3  
TO SECURITY AGREEMENT

ORGANIZATIONAL & LOCATION INFORMATION

Debtor	Jurisdiction & Type of Organization	Organizational ID#	Chief Executive Office or Sole Place of Business
Infinite Energy, Inc.	Florida corporation	P94000035390	7001 SW 24 <sup>th</sup> Ave. Gainesville, FL 32607

CERTAIN COLLATERAL

(a)

[REDACTED]

[REDACTED]

(b)

a.

[REDACTED]

b.

c.

d.

Kyle Wamstad  
kylewamstad@eversheds-sutherland.com  
2020-07-24 17:30 EDT  
108.195.94.0

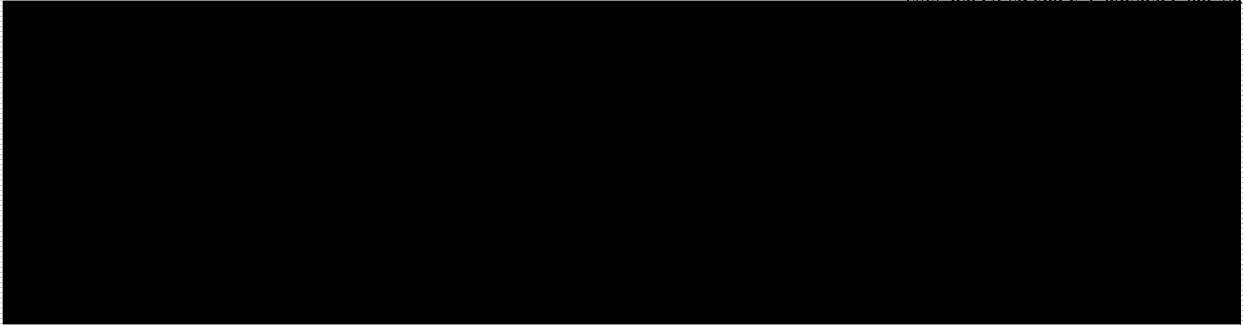
- (c) Intellectual Property: See Schedule 3.7 to the Security Agreement. Additionally, Infinite Energy, Inc. has licensed the right to use the federally registered trademark Intelligent Energy® and is in the final stages of purchasing that mark pursuant to the license agreement.
- (d) Registered Intellectual Property: See Schedule 3.7 to the Security Agreement.
- (e) Vessels, etc.: None.

Kyle Wamstad  
kylewamstad@eversheds-sutherland.com  
2020-07-24 17:30 EDT  
108.195.94.0

**TRADEMARK**  
**REEL: 007210 FRAME: 0706**

Kyle Wamstad  
kylewamstad@eversheds-sutherland.com  
2020-07-24 17:30 EDT  
108.195.94.0

SCHEDULE 3.5



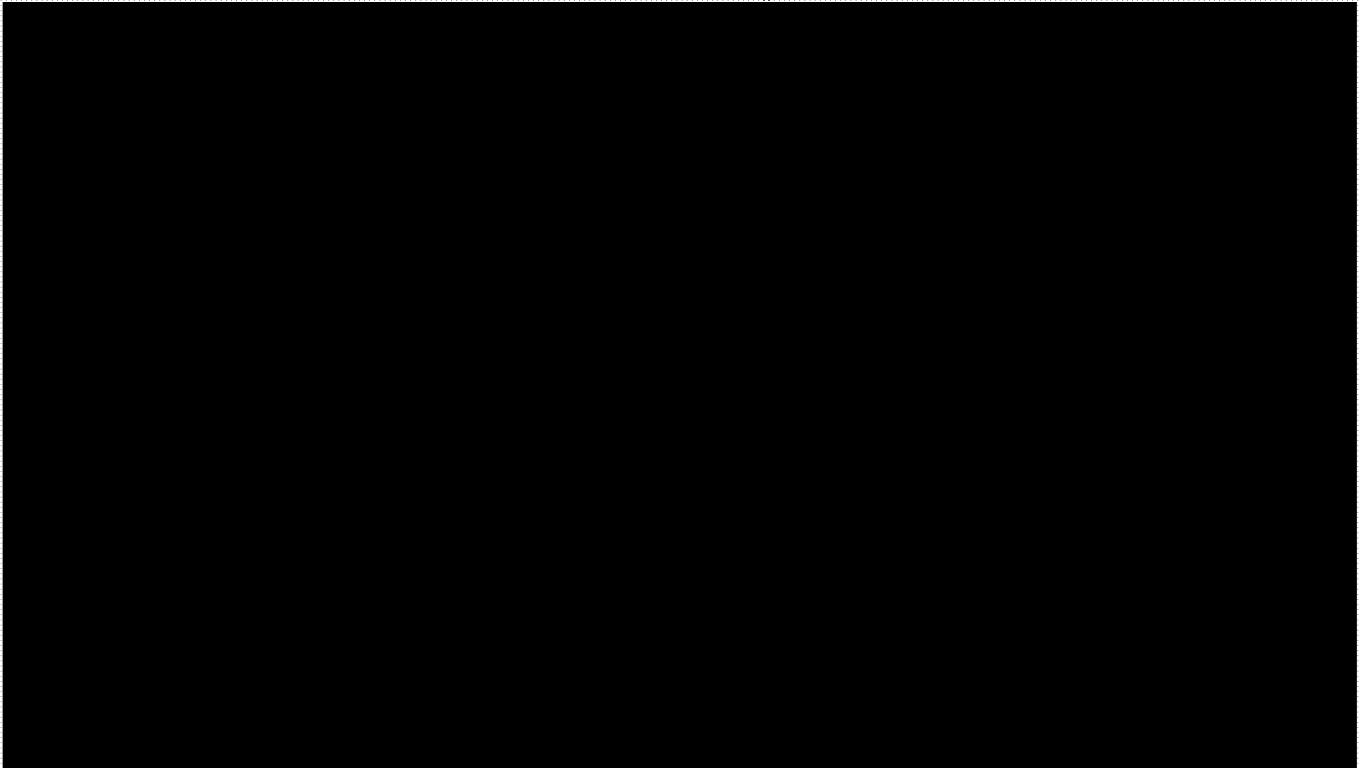
Kyle Wamstad  
kylewamstad@eversheds-sutherland.com  
2020-07-24 17:30 EDT  
108.195.94.0

TRADEMARK  
REEL: 007210 FRAME: 0707

INTELLECTUAL PROPERTY

1. Registered Intellectual Property. See Schedules 1-A to Copyright Security Agreement Supplement and Trademark Security Agreement Supplement. Also IEI operates under the trade name "Intelligent Energy®" in its Northeast service areas due to the non-ownership of the federal trademark to Infinite Energy (see Section 3 below). IEI currently licenses the rights to Intelligent Energy® from EQT IP Ventures, LLC. This license agreement, dated June 4, 2004, is currently in auto renewal status and IEI is in the final stages of purchasing this mark from EQT IP Ventures, LLC. The mark has been assigned United States Registration No. 2,209,555.

2. Unregistered Intellectual Property. Please see the below listing:



PATENT SECURITY AGREEMENT SUPPLEMENT

WHEREAS, Infinite Energy, Inc., a Florida corporation (herein referred to as the "Debtor"), whose address is [ ] owns the letters patent, and/or applications for letters patent, of the United States of America, more particularly described on Schedule I-A annexed hereto as part hereof (the "Patents");

WHEREAS, Debtor and BG Energy Merchants, LLC, a Delaware limited liability company (the "Secured Party") have entered into an ISDA Master Agreement, dated [ ], 2010 (together with its schedules, annexes, exhibits and any confirmation thereunder, and as it may hereafter be amended, restated, supplemented or otherwise modified from time to time, the "Gas Sales Agreement"); and

WHEREAS, Debtor has entered into a Security Agreement (as amended, supplemented, restated, replaced or otherwise modified from time to time, the "Security Agreement") in favor of Secured Party, pursuant to which Debtor has granted to Secured Party, a security interest in all right, title and interest of Debtor in and to the Patents, together with all registrations and recordings thereof, including, without limitation, applications, registrations and recordings in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof or any other country or any political subdivision thereof, all whether now or hereafter owned or licensable by Debtor, and all reissues, continuations, continuations-in-part, term restorations or extensions thereof, all Patent Licenses (as defined in the Security Agreement) and all proceeds thereof, including, without limitation, any claims by Debtor against third parties for infringement thereof for the full term of the Patents (the "Collateral"), to secure the prompt payment, performance and observance of the Secured Obligations;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, Debtor does hereby further confirm, and put on the public record, its grant to Secured Party of a security interest in the Collateral to secure the prompt payment, performance and observance of the Secured Obligations.

Debtor does hereby further acknowledge and affirm that the rights and remedies of Secured Party with respect to the grant of and security interest in the Collateral made hereby are more fully set forth in the Security Agreement, the terms and provisions of which are hereby incorporated herein by reference as if fully set forth herein.

Secured Party's address is [ ].



Kyle Wamstad  
kylewamstad@eversheds-sutherland.com  
2020-07-24 17:30 EDT  
108.195.94.0

IN WITNESS WHEREOF, Infinite Energy, Inc. has duly executed or caused this Supplement to the Security Agreement to be duly executed as of \_\_\_\_\_ 201\_\_\_\_\_.

INFINITE ENERGY, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ANNEX I  
SECURITY AGREEMENT  
Kyle Wamstad  
kylewamstad@eversheds-sutherland.com  
2020-07-24 17:30 EDT  
108.195.94.0

TRADEMARK  
REEL: 007210 FRAME: 0710

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 201\_, before me personally appeared \_\_\_\_\_, to me known, who, being by me duly sworn, did depose and say that he/she resides at \_\_\_\_\_ and that he/she is \_\_\_\_\_ of Debtor; and that he/she signed his/her name thereto in his/her capacity as an authorized officer of said \_\_\_\_\_ pursuant to such authority.

\_\_\_\_\_  
Notary Public

Schedule 1-A

TO THE PATENT SECURITY AGREEMENT SUPPLEMENT

Description	Application Date	Application No.

TRADEMARK SECURITY AGREEMENT SUPPLEMENT

WHEREAS, Infinite Energy, Inc., a Florida corporation (herein referred to as the "Debtor"), whose address is [\_\_\_\_], (1) has adopted, used and is using, or (2) has intended to use and filed an application indicating that intention, but has not yet filed an allegation of use under Section 1(c) or 1(d) of the Trademark Act, or (3) has filed an application based on an intention to use and has since used and has filed an allegation of use under Section 1(c) or 1(d) of the Trademark Act, the trademarks, trade names, trade styles and service marks listed on the annexed Schedule I-A, which trademarks, trade names, trade styles and service marks are registered in the United States Patent and Trademark Office (the "Trademarks"); and

WHEREAS, Debtor and BG Energy Merchants, LLC, a Delaware limited liability company (the "Secured Party") have entered into an ISDA Master Agreement, dated [\_\_\_\_], 2010 (together with its schedules, annexes, exhibits and any confirmation thereunder, and as it may hereafter be amended, restated, supplemented or otherwise modified from time to time, the "Gas Sales Agreement"); and

WHEREAS, Debtor has entered into a Security Agreement (as amended, supplemented, restated, replaced or otherwise modified from time to time, the "Security Agreement") in favor of Secured Party, pursuant to which Debtor has granted to Secured Party, a security interest in all right, title and interest of Debtor in and to the Trademarks, together with all prints and labels on which said Trademarks have appeared or appear, designs and general intangibles of like nature, now existing or hereafter adopted or acquired, and the goodwill of the business symbolized by the Trademarks and the applications, registrations and recordings in the United States Patent and Trademark Office or in any similar office or agency of the United States of America, any State thereof, or any other country or any political subdivision thereof, all whether now or hereafter owned or licensable by Debtor, and all reissues, extensions or renewals thereof, all Trademark Licenses (as defined in the Security Agreement) and all proceeds thereof, including, without limitation, any claims by Debtor against third parties for infringement thereof (the "Collateral"), to secure the payment, performance and observance of the Secured Obligations;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, Debtor does hereby further confirm, and put on the public record, its grant to Secured Party a security interest in the Collateral to secure the prompt payment, performance and observance of the Secured Obligations.

Debtor does hereby further acknowledge and affirm that the rights and remedies of Secured Party with respect to the grant of, security interest in and mortgage on the Collateral made hereby are more fully set forth in the Security Agreement; the terms and provisions of which are hereby incorporated herein by reference as if fully set forth herein.

Secured Party's address is [ ].

Kyle Wamstad  
kylewamstad@eversheds-sutherland.com  
2020-07-24 17:30 EDT  
108.195.94.0

IN WITNESS WHEREOF, Infinite Energy, Inc. has duly executed or caused this Supplement to the Security Agreement to be duly executed as of \_\_\_\_\_, 201\_\_\_\_\_.

INFINITE ENERGY, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ANNEX II  
SECURITY AGREEMENT  
Kyle Wamstad  
kylewamstad@eversheds-sutherland.com  
2020-07-24 17:30 EDT  
108.195.94.0

TRADEMARK  
REEL: 007210 FRAME: 0714



SCHEDULE 1-A TO THE TRADEMARK SECURITY AGREEMENT SUPPLEMENT

Trademark Applications	Application Date	Application Serial No.
INFINITE ENERGY	August 31, 2010	85119395
INFINITE ENERGY	August 30, 2010	85118534
YOUR THERMS, YOUR CHOICE	January 29, 2010	77923484
THERMS	January 28, 2010	77922493

Trademark Registrations	Registration Date	Registration No.
I'VE GOT GAS!	October 19, 2004	2894653
INFINITE SOFTWARE	December 4, 2007	3347034

COPYRIGHT SECURITY AGREEMENT SUPPLEMENT

WHEREAS, Infinite Energy, Inc., a Florida corporation (herein referred to as the "Debtor"), whose address is [\_\_\_\_], has adopted, used and is using the copyrights listed on the annexed Schedule I-A, which copyrights are registered in the United States Copyright Office (the "Copyrights");

WHEREAS, and BG Energy Merchants, LLC, a Delaware limited liability company (the "Secured Party") have entered into an ISDA Master Agreement, dated [\_\_\_\_], 2010 (together with its schedules, annexes, exhibits and any confirmation thereunder, and as it may hereafter be amended, restated, supplemented or otherwise modified from time to time, the "Gas Sales Agreement"); and

WHEREAS, Debtor has entered into a Security Agreement (as amended, supplemented, restated, replaced or otherwise modified from time to time, the "Security Agreement") in favor of Secured Party pursuant to which Debtor has granted to Secured Party a security interest in all right, title and interest of Debtor in and to the Copyrights, and the registrations and recordings thereof in the United States Copyright Office or any other country or any political subdivision thereof, all whether now or hereafter owned or licensable by Debtor and all extensions or renewals thereof and all licenses thereof and all proceeds thereof, including, without limitation, any claims by Debtor against third parties for infringement thereof (the "Collateral"), to secure the payment, performance and observance of the Secured Obligations;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, Debtor does hereby further confirm, and put on the public record, its grant to Secured Party of a security interest in, and mortgage on, the Collateral to secure the prompt payment, performance and observance of the Secured Obligations.

Debtor does hereby further acknowledge and affirm that the rights and remedies of Secured Party with respect to the grant, assignment of and security interest in the Collateral made hereby are more fully set forth in the Security Agreement, the terms and provisions of which are hereby incorporated herein by reference as if fully set forth herein.

Secured Party's address is [ ]



Kyle Wamstad  
kylewamstad@eversheds-sutherland.com  
2020-07-24 17:30 EDT  
108.195.94.0

IN WITNESS WHEREOF, Infinite Energy, Inc. has duly executed or caused this Supplement to the Security Agreement to be duly executed as of \_\_\_\_\_ 201\_\_\_\_\_.

INFINITE ENERGY, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ANNEX III  
SECURITY AGREEMENT

Kyle Wamstad  
kylewamstad@eversheds-sutherland.com  
2020-07-24 17:30 EDT  
108.195.94.0

TRADEMARK  
REEL: 007210 FRAME: 0718

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_, before me personally appeared \_\_\_\_\_, to me known, who, being by me duly sworn, did depose and say that he/she resides at \_\_\_\_\_ and that he/she is \_\_\_\_\_ of Debtor; and that he/she signed his/her name thereto in his/her capacity as an authorized officer of said \_\_\_\_\_ pursuant to such authority.

\_\_\_\_\_  
Notary Public

SCHEDULE I-A TO THE COPYRIGHT SECURITY AGREEMENT SUPPLEMENT

COPYRIGHTS

Copyright	Application or Registration Date	Application Serial No. or Registration No.
Continuous Gas Service and Sales Agreement	November 15, 2006	TXu001318809

Kyle Wamstad  
kylewamstad@eversheds-sutherland.com  
2020-07-24 17:30 EDT  
108.195.94.0

# COPYRIGHT

Kyle Wamstad  
kylewamstad@eversheds-sutherland.com  
2020-07-24 17:30 EDT  
108.195.94.0

**TRADEMARK**  
**REEL: 007210 FRAME: 0721**

COPYRIGHT SECURITY AGREEMENT SUPPLEMENT

WHEREAS, Infinite Energy, Inc., a Florida corporation (herein referred to as the "Debtor"), whose address is 7001 SW 24th Ave., Gainesville, FL 32607, has adopted, used and is using the copyrights listed on the annexed Schedule I.A, which copyrights are registered in the United States Copyright Office (the "Copyrights");

WHEREAS, and BG Energy Merchants, LLC, a Delaware limited liability company (the "Secured Party") have entered into an ISDA Master Agreement, dated October 8, 2010 (together with its schedules, annexes, exhibits and any confirmation thereunder, and as it may hereafter be amended, restated, supplemented or otherwise modified from time to time, the "Gas Sales Agreement"); and

WHEREAS, Debtor has entered into a Security Agreement (as amended, supplemented, restated, replaced or otherwise modified from time to time, the "Security Agreement") in favor of Secured Party pursuant to which Debtor has granted to Secured Party a security interest in all right, title and interest of Debtor in and to the Copyrights, and the registrations and recordings thereof in the United States Copyright Office or any other country or any political subdivision thereof, all whether now or hereafter owned or licensable by Debtor and all extensions or renewals thereof and all licenses thereof and all proceeds thereof, including, without limitation, any claims by Debtor against third parties for infringement thereof (the "Collateral"), to secure the payment, performance and observance of the Secured Obligations;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, Debtor does hereby further confirm, and put on the public record, its grant to Secured Party of a security interest in, and mortgage on, the Collateral to secure the prompt payment, performance and observance of the Secured Obligations.

Debtor does hereby further acknowledge and affirm that the rights and remedies of Secured Party with respect to the grant, assignment of and security interest in the Collateral made hereby are more fully set forth in the Security Agreement, the terms and provisions of which are hereby incorporated herein by reference as if fully set forth herein.

Secured Party's address is:

BG Energy Merchants, LLC  
5444 Westheimer, Suite 1200  
Houston, Texas 77056  
Attn: Chief Counsel, North America  
Tel: 713-599-5000  
Fax: 713-599-3924

Kyle Wamstad  
kylewamstad@eversheds-sutherland.com  
2020-07-24 17:30 EDT  
108.195.94.0

IN WITNESS WHEREOF, Infinite Energy, Inc. has duly executed or caused this Supplement to the Security Agreement to be duly executed as of October 8, 2010.

INFINITE ENERGY, INC.

By:   
Name: Daris R. Cook  
Title: President & Co-CEO

Copyright Security Agreement Supplement

Kyle Wamstad  
kylewamstad@eversheds-sutherland.com  
2020-07-24 17:30 EDT  
108.195.94.0

TRADEMARK  
REEL: 007210 FRAME: 0723

STATE OF Florida  
COUNTY OF Alachua

On this 8<sup>th</sup> day of August, 2010, before me personally appeared David K. Coon, to me known, who, being by me duly sworn, did depose and say that he/she resides at \_\_\_\_\_ and that he/she is Debitent, CEC of Debtor, and that he/she signed his/her name thereto in his/her capacity as an authorized officer of said Debitent, CEC pursuant to such authority.



Lucy E. McCullough  
Notary Public

Kyle Wamstad  
kylewamstad@eversheds-sutherland.com  
2020-07-24 17:30 EDT  
108.195.94.0

SCHEDULE I-A TO THE COPYRIGHT SECURITY AGREEMENT SUPPLEMENT

COPYRIGHTS

Copyright	Application or Registration Date	Application Serial No. or Registration No.
Continuous Gas Service and Sales Agreement	November 15, 2006	TXu001318809



Kyle Wamstad  
kylewamstad@eversheds-sutherland.com  
2020-07-24 17:30 EDT  
108.195.94.0

# TRADEMARK

Kyle Wamstad  
kylewamstad@eversheds-sutherland.com  
2020-07-24 17:30 EDT  
108.195.94.0

**TRADEMARK**  
**REEL: 007210 FRAME: 0726**

TRADEMARK SECURITY AGREEMENT SUPPLEMENT

WHEREAS, Infinite Energy, Inc., a Florida corporation (herein referred to as the "Debtor"), whose address is 7001 SW 24th Ave., Gainesville, FL 32607, (1) has adopted, used and is using, or (2) has intended to use and filed an application indicating that intention, but has not yet filed an allegation of use under Section 1(c) or 1(d) of the Trademark Act, or (3) has filed an application based on an intention to use and has since used and has filed an allegation of use under Section 1(c) or 1(d) of the Trademark Act, the trademarks, trade names, trade styles and service marks listed on the annexed Schedule I-A, which trademarks, trade names, trade styles and service marks are registered in the United States Patent and Trademark Office (the "Trademarks"); and

WHEREAS, Debtor and BG Energy Merchants, LLC, a Delaware limited liability company (the "Secured Party") have entered into an ISDA Master Agreement, dated October 8, 2010 (together with its schedules, annexes, exhibits and any confirmation thereunder, and as it may hereafter be amended, restated, supplemented or otherwise modified from time to time, the "Gas Sales Agreement"); and

WHEREAS, Debtor has entered into a Security Agreement (as amended, supplemented, restated, replaced or otherwise modified from time to time, the "Security Agreement") in favor of Secured Party, pursuant to which Debtor has granted to Secured Party, a security interest in all right, title and interest of Debtor in and to the Trademarks, together with all prints and labels on which said Trademarks have appeared or appear, designs and general intangibles of like nature, now existing or hereafter adopted or acquired, and the goodwill of the business symbolized by the Trademarks and the applications, registrations and recordings in the United States Patent and Trademark Office or in any similar office or agency of the United States of America, any State thereof, or any other country or any political subdivision thereof, all whether now or hereafter owned or licensable by Debtor, and all reissues, extensions or renewals thereof, all Trademark Licenses (as defined in the Security Agreement) and all proceeds thereof, including, without limitation, any claims by Debtor against third parties for infringement thereof (the "Collateral"), to secure the payment, performance and observance of the Secured Obligations;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, Debtor does hereby further confirm, and put on the public record, its grant to Secured Party a security interest in the Collateral to secure the prompt payment, performance and observance of the Secured Obligations.

Debtor does hereby further acknowledge and affirm that the rights and remedies of Secured Party with respect to the grant of, security interest in and mortgage on the Collateral made hereby are more fully set forth in the Security Agreement; the terms and provisions of which are hereby incorporated herein by reference as if fully set forth herein.

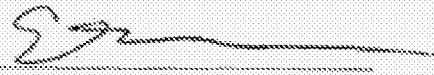
Secured Party's address is:

BG Energy Merchants, LLC  
3444 Weathermer, Suite 1200  
Houston, Texas 77056  
Attn: Chief Counsel, North America  
Tel: 713-599-5000  
Fax: 713-599-3924

Kyle Wamstad  
kylewamstad@eversheds-sutherland.com  
2020-07-24 17:30 EDT  
108.195.94.0

IN WITNESS WHEREOF, Infinite Energy, Inc. has duly executed or caused this Supplement to the Security Agreement to be duly executed as of October 8, 2010.

INFINITE ENERGY, INC.

By:   
Name: Darin R. Cook  
Title: President & Co-CEO

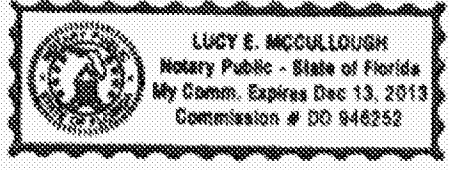
Trademark Security Agreement Supplement  
kylewamstad@eversheds-sutherland.com  
2020-07-24 17:30 EDT  
108.195.94.0

TRADEMARK  
REEL: 007210 FRAME: 0728

STATE OF FLORIDA  
COUNTY OF ALACHUA

On this 8<sup>th</sup> day of OCTOBER, 2010, before me personally appeared DAVID R. CAN to me known, who, being by me duly sworn, did depose and say that he/she resides at \_\_\_\_\_ and that he/she is President, LLC of Debtor; and that he/she signed his/her name thereto in his/her capacity as an authorized officer of said DAVID R. CAN pursuant to such authority.

*Lucy E. McCullough*  
Notary Public



SCHEDULE 1-A TO THE TRADEMARK SECURITY AGREEMENT SUPPLEMENT

Trademark Applications	Application Date	Application Serial No.
INFINITE ENERGY	August 31, 2010	85119395
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