

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549**

**FORM 8-K  
CURRENT REPORT**

**PURSUANT TO SECTION 13 OR 15(D) OF THE  
SECURITIES EXCHANGE ACT OF 1934**

Date of Report (Date of earliest event reported): May 17, 2019

NEXTDECADE CORPORATION  
(Exact Name of Registrant as Specified in Charter)

Delaware (State or Other Jurisdiction of Incorporation)	001-36842 (Commission File Number)	46-5723951 (IRS Employer Identification No.)
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1000 Louisiana Street, Suite 3900, Houston, Texas 77002  
(Address of Principal Executive Offices) (Zip Code)

(713) 574-1880  
(Registrant's Telephone Number, Including Area Code)

N/A  
(Former Name or Former Address, if Changed Since Last Report)

Securities registered pursuant to Section 12(b) of the Act:

<u>Title of each class:</u>	<u>Trading Symbol</u>	<u>Name of each exchange on which registered:</u>
Common Stock, \$0.0001 par value	NEXT	The NASDAQ Stock Market LLC

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

***Series B Convertible Preferred Stock Purchase Agreement***

On May 17, 2019, NextDecade Corporation (the “Company”) entered into a Series B Convertible Preferred Stock Purchase Agreement (the “Series B Stock Purchase Agreement”) with each of (i) York Tactical Energy Fund, L.P. (“York”), (ii) the Valinor Funds (as defined below), (iii) the Bardin Hill Funds (as defined below), and (iv) and HGC NEXT INV LLC (“HCG” and together with York, the Valinor Funds and the Bardin Hill Funds, the “Purchasers”) pursuant to which the Company agreed to sell, and the Purchasers agreed to purchase, an aggregate of \$20.945 million of shares (the “Series B Shares”) of the Company’s Series B Convertible Preferred Stock, par value \$0.0001 per share (the “Series B Preferred Stock”), together with associated Warrants (as defined below). The shares of Series B Preferred Stock to be issued pursuant to the Series B Stock Purchase Agreements were previously approved by the Company’s stockholders at the Special Meeting of Stockholders on September 25, 2018. The transactions contemplated by the Series B Stock Purchase Agreements are expected to close on or before May 24, 2019 (the “Closing Date”).

The term “Valinor Funds” means Valinor Capital Partners, L.P. and Valinor Capital Partners Offshore Master Fund, L.P. and the term “Bardin Hill Funds” means First Series of HDML Fund I LLC, Bardin Hill Event Driven Master Fund LP, and HCN LP.

Each Purchaser is a Company stockholder. Pursuant to that certain Agreement and Plan of Merger, dated as of April 17, 2017, by and among the Company, each of York, the Valinor Funds and the Bardin Hill Funds and/or one or more of their affiliates, and the other parties named therein, three individuals, two individuals, and one individual from York, the Valinor Funds and the Bardin Hill Funds, respectively, were appointed to the Company’s board of directors (the “Board”). Furthermore, pursuant to that certain Purchaser Rights Agreement, dated as of August 23, 2018, by and between the Company and HGC, a member of the Board was appointed by HGC.

The Company is conducting the Offering in reliance on the exemption from the registration requirements provided by Regulation D promulgated under the Securities Act of 1933, as amended (the “Securities Act”), or any other applicable Securities Act exemptions available to the Company.

The following is a summary of the material terms of the Series B Stock Purchase Agreements, which is qualified in its entirety by reference to the full text of the Series B Stock Purchase Agreements attached hereto as Exhibit 10.1, Exhibit 10.3, Exhibit 10.3 and Exhibit 10.4.

*Purchase Price.* The purchase price of the Series B Preferred Stock is \$1,000 per share, for an aggregate purchase price of \$20.945 million (the “Aggregate Purchase Price”), exclusive of the additional shares of Series B Preferred Stock required to be issued to the Purchasers as origination fees for the Offering (described below).

*Number of Shares of Series B Preferred Stock.* The Purchasers have agreed to purchase an aggregate of 20,945 Series B Shares for the Aggregate Purchase Price.

*Origination Fee.* The Company will pay an origination fee to each of the Purchasers in additional shares of Series B Preferred Stock equal to approximately two percent (2%) of the Aggregate Purchase Price to be paid by each of the Purchasers for the shares of Series B Preferred Stock purchased by each of the Purchasers under the Series B Stock Purchase Agreements. York, the Valinor Funds, the Bardin Hill Funds, and HGC will receive 100, 100, 66, and 152 shares of Series B Preferred Stock, respectively, as origination fees.

*Representations, Warranties and Covenants.* The Series B Stock Purchase Agreements contain customary representations, warranties and covenants from the Company and the Purchasers.

*Other Agreements.* Additional agreements are required to be executed and delivered on the Closing Date, including the Warrant Agreements, the Registration Rights Agreement and the Purchaser Rights Agreements. Forms of these agreements are summarized below and are attached as exhibits hereto.

## ***Certificate of Designations of Series B Preferred Stock***

The Series B Preferred Stock are governed by the Certificate of Designations of Series B Convertible Preferred Stock (the “Series B Certificate of Designations”) filed by the Company with the Delaware Secretary of State on September 28, 2018. Pursuant to the Series B Certificate of Designations, the Company is authorized to issue fifty thousand (50,000) shares of Series B Preferred Stock, subject to adjustment for shares of Series B Preferred Stock issued as origination fees contemplated by the Series B Purchase Agreement and paid-in-kind dividends on Series B Preferred Stock.

The following is a summary of the material terms of the Series B Certificate of Designations and is qualified in its entirety by reference to the full text of the Series B Certificate of Designations, which is attached hereto as Exhibit 3.1.

***Optional Conversion.*** The Company has the option to convert all, but not less than all, of the Series B Preferred Stock into shares of common stock, par value \$0.0001 per share (the “Common Stock”), at a conversion price of \$7.50 per share of Common Stock (the “Conversion Price”) on any date on which the volume weighted average trading price of shares of Common Stock for each trading day during any sixty (60) of the prior ninety (90) trading days is equal to or greater than 175% of the Conversion Price, in each case subject to certain terms and conditions. In the event that the Company elects to convert the Series B Preferred Stock, the Company must also convert each series of then-issued and outstanding Parity Stock (as defined in the Series B Certificate of Designations) at the same time (if permitted in accordance with the terms of any other series of Parity Stock (as defined in the Series B Certificate of Designations) issued after the Closing Date).

***Mandatory Conversion.*** The Company must convert all of the Series B Preferred Stock into shares of Common Stock at the Conversion Price on the earlier of (i) ten (10) Business Days (as defined in the Series B Certificate of Designations) following a FID Event (as defined in the Series B Certificate of Designations) and (ii) the date that is the tenth (10<sup>th</sup>) anniversary of the Closing Date.

***Dividends.*** The Company will pay dividends on the Series B Preferred Stock and such dividends will be cumulative and accrue at a rate of twelve percent (12%) per annum on the then existing Series B Liquidation Preference (as defined in the Series B Certificate of Designations) and will be payable in cash or in-kind quarterly, at the Company’s option. The Series B Preferred Stock will also participate, on an as-converted basis, in any dividends paid to the holders of shares of Common Stock. The Company currently anticipates that it will elect to pay dividends on the Series B Preferred Stock in-kind, as opposed to paying dividends in cash, prior to the conversion of such shares to Common Stock.

***Anti-Dilution.*** The Conversion Price and the exercise price for the Warrants (as described below) will be subject to proportional adjustment for certain transactions relating to the Company’s capital stock, including stock splits, stock dividends and similar transactions and the Conversion Price will be subject to adjustments to reflect additional issuances of Common Stock, subject to certain exceptions.

***Equity Issuances.*** The Company is permitted to issue shares of Series C Convertible Preferred Stock (the “Series C Preferred Stock”) in an aggregate amount not to exceed \$50 million at any time on or after March 28, 2020; provided, however, that the issuance of Series C Preferred Stock shall have *pari passu* priority with the Series B Preferred Stock. If the Board authorizes the issuance of Series C Preferred Stock in the future, then such issuance may require the approval of the Company’s stockholders voting together as a single class.

### ***Form of Warrant Agreement***

The following is a summary of the material terms of the Form of Warrant Agreement and is qualified in its entirety by reference to the full text of the Form of Warrant Agreement, which is attached hereto as Exhibit 4.1.

***Warrants.*** The Series B Preferred Stock will be issued with detached warrants (the “Warrants”). The Warrants will represent the right to acquire in the aggregate a number of shares of Common Stock equal to (a)(i) the Aggregate Purchase Price paid by each of the Purchasers for the shares of Series B Preferred Stock divided by (ii) \$35 million, multiplied by (b) (i) 0.5% multiplied by (ii) the number of fully diluted shares of all outstanding shares of Common Stock on the Exercise Date (as defined in the Series B Certificate of Designations) with a strike price of \$0.01 per share. The Warrants will have a fixed three-year term commencing on the Closing Date.

**Warrant Exercise.** The Warrants may only be exercised by holders of Warrants at the expiration of such three-year term, except that the Company can force exercise of the Warrants prior to the expiration of the term if (i) the volume weighted average trading price of shares of Common Stock for each trading day during any sixty (60) of the prior ninety (90) trading days is equal to or greater than 175% of the Conversion Price and (ii) the Company simultaneously elects to force a mandatory exercise of all other warrants then-outstanding and unexercised and held by any holder of Parity Stock (as defined in the Series B Certificate of Designations).

***Form of Registration Rights Agreement***

The following is a summary of the material terms of the Form of Registration Rights Agreement and is qualified in its entirety by reference to the full text of the Form of Registration Rights Agreement, which is attached hereto as Exhibit 10.5.

**Registration Rights.** The holders of shares of Series B Preferred Stock will have customary demand and piggy-back registration rights covering shares of Common Stock underlying (i) the Series B Preferred Stock (including any Common Stock underlying the Series B Preferred Stock issued (a) as payment-in-kind dividends, and (b) in respect of the origination fees), and (ii) the Warrants.

***Form of Purchaser Rights Agreement***

The following is a summary of the material terms of the Form of Purchaser Rights Agreement and is qualified in its entirety by reference to the full text of the Form of Purchaser Rights Agreement, which is attached hereto as Exhibit 10.6.

Pursuant to the Purchaser Rights Agreement, the Company will grant the Purchasers the following additional rights, subject to certain limitations:

**Project Equity Rights.** The Purchasers will have a right of first refusal to purchase any project-level equity or equity-linked securities (including, without limitation, preferred equity, combinations of equity or any other instruments or forms of equity capital) issued to finance the development, construction, commissioning and/or operation of the Company's Rio Grande LNG facility to be located on the U.S. Gulf Coast (the "Project"). The project-level equity rights shall be applied (i) as to a final investment decision ("FID") on the first two liquefaction trains to be constructed as part of the Project, up to a maximum of \$149.61 million and (ii) as to a FID on the third liquefaction train to be constructed as part of the Project, up to a maximum of \$59.84 million, for a combined total amount not to exceed \$209.45 million. The project equity rights are subject to certain transfer restrictions.

**Series C Preferred Stock Purchase Rights.** Prior to an FID Event (as defined in the Purchaser Rights Agreement), the Purchasers will have the right to purchase their *pro rata* share of any future issuance of shares of Series C Preferred Stock of the Company in accordance with the terms of the Purchaser Rights Agreement.

***No Offer or Solicitation***

**THE INFORMATION CONTAINED IN THIS CURRENT REPORT ON FORM 8-K IS NOT AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY SHARES OF SERIES B PREFERRED STOCK OR ANY OTHER SECURITIES OF THE COMPANY. THE SHARES OF SERIES B PREFERRED STOCK AND THE WARRANTS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT AND MAY NOT BE OFFERED OR SOLD IN THE UNITED STATES ABSENT REGISTRATION UNDER THE SECURITIES ACT OR AN APPLICABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT. THE COMPANY IS FILING THIS CURRENT REPORT ON FORM 8-K WITH THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION FOR THE SOLE PURPOSE OF REPORTING ITS ENTRY INTO THE SERIES B STOCK PURCHASE AGREEMENT, AS REQUIRED BY THE RULES AND REGULATIONS OF THE COMMISSION.**

**Item 3.02. Unregistered Sales of Equity Securities.**

The information set forth in Item 1.01 of this Current Report on Form 8-K is incorporated herein by reference in response to this Item 3.02.

**Item 9.01. Financial Statements and Exhibits.**

(d) Exhibits.

- 3.1<sup>(1)</sup> [Certificate of Designations of Series B Convertible Preferred Stock, dated September 28, 2018.](#)
- 4.1 [Form of Warrant Agreement.](#)
- 10.1 [Series B Convertible Preferred Stock Purchase Agreement, dated as of May 17, 2019, entered into by and between NextDecade Corporation and York Tactical Energy Fund, L.P.](#)
- 10.2 [Series B Convertible Preferred Stock Purchase Agreement, dated as of May 17, 2019, entered into by and between NextDecade Corporation and the Valinor Funds.](#)
- 10.3 [Series B Convertible Preferred Stock Purchase Agreement, dated as of May 17, 2019, entered into by and between NextDecade Corporation and the Bardin Hill Funds.](#)
- 10.4 [Series B Convertible Preferred Stock Purchase Agreement, dated as of May 17, 2019, entered into by and between NextDecade Corporation and HGC NEXT INV LLC.](#)
- 10.5 [Form of Registration Rights Agreement.](#)
- 10.6 [Form of Purchaser Rights Agreement.](#)

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<sup>(1)</sup> Incorporated by reference to Exhibit 3.4 of the Registrant's Quarterly Report on Form 10-Q, filed November 9, 2018.

**SIGNATURE**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Dated: May 20, 2019

NEXTDECADE CORPORATION

By: /s/ Krysta De Lima

Name: Krysta De Lima

Title: General Counsel

**[FORM OF WARRANT AGREEMENT]**

**THIS WARRANT AND THE SECURITIES ISSUABLE UPON THE EXERCISE HEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. THEY MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED, HYPOTHECATED, OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT REGISTRATION IS NOT REQUIRED.**

Warrant No. \_\_\_\_\_

Void After \_\_\_\_\_

**NEXTDECADE CORPORATION  
WARRANT TO PURCHASE SHARES**

This Warrant is issued to [Investor] (“Investor”) by NextDecade Corporation, a Delaware corporation (the “Company”), in connection with a private offering of Series B Preferred Stock pursuant to which certain accredited investors are purchasing shares of the Company’s Series B Convertible Preferred Stock, which include this Warrant.

1. Purchase of Shares. Subject to the terms and conditions hereinafter set forth, the Investor or other holder of this Warrant pursuant to a valid transfer made in accordance with the terms hereof (“Holder”) is entitled, upon surrender of this Warrant at the principal office of the Company (or at such other place as the Company shall notify the holder in writing), to purchase from the Company up to an aggregate number of fully paid and nonassessable shares (each a “Share” and collectively the “Shares”) of Company common stock, par value \$0.0001 per share (the “Common Stock”), equal to [●]%' of the Common Stock on a Fully Diluted Basis (defined below) on the Exercise Date (defined below) at an exercise price of \$0.01 per Share (such price, as adjusted from time to time, is herein referred to as the “Exercise Price”).

For purposes of this Warrant, “Fully Diluted Basis” shall mean, at any time, without duplication, the number of outstanding shares of Common Stock, after giving effect to (i) all shares of Common Stock actually outstanding at the time of determination, (ii) all shares of Common Stock issuable upon the exercise of any option, warrant (other than this Warrant) or similar right outstanding at the time of determination, and (iii) all shares of Common Stock issuable upon the exercise of any conversion or exchange right contained in any security outstanding at the time of determination and convertible into or exchangeable for shares of Common Stock; provided, however, (i) Fully Diluted Basis shall not include any Common Stock issued pursuant to, but not yet vested pursuant to, any Company equity incentive plan and (ii) any warrants issued by Harmony Merger Corporation (12,081,895 as of the date hereof) shall be reduced by dividing the

1. Calculation: A percentage equal to (a) (i) the Purchase Price (as defined in the Series B Convertible Preferred Stock Purchase Agreement by and between the Company and Investor) divided by (ii) \$35 million, multiplied by (b) 0.5%.

outstanding number by 2.9167, which shall be proportionately adjusted pursuant to any appropriate adjustments contained in Section 6 of this Warrant.

2. Exercise Date. This Warrant may be exercisable by Holder before 5 p.m. Central Standard Time on the third anniversary date of the issuance date of this Warrant, or 5 p.m. Central Standard Time on [●]<sup>2</sup> (the “Exercise Date”); provided, the Company can force a mandatory exercise of the Warrants prior to the Exercise Date if (a) the volume weighted average trading price of shares of Common Stock for each trading day during any sixty (60) of the prior ninety (90) trading days is equal to or greater than 175% of \$7.50 per share of Common Stock of the Company and (b) the Company simultaneously elects to force a mandatory exercise of all other warrants then-outstanding and unexercised and held by any holder of Parity Stock; provided, further, that such trigger price shall be appropriately adjusted consistent with Section 6 of this Warrant for any of the events described therein. All rights of Holder under this Warrant shall cease after 5:00 p.m. Central time on the Expiration Date. For purposes of this Section 2, “Parity Stock” has the meaning ascribed to such term in that certain Certificate of Designations of Series B Convertible Preferred Stock of NextDecade Corporation, dated as of September 28, 2018 (the “Series B Certificate of Designations”).

3. Method of Exercise. While this Warrant remains outstanding and exercisable in accordance with Section 2 above, the Holder may exercise from time to time, in whole or in part, the purchase rights evidenced hereby. Such exercise shall be effected by:

(i) the surrender of the Warrant, together with a notice of exercise to the Secretary of the Company at its principal offices; and

(ii) the payment to the Company of an amount equal to the aggregate Exercise Price for the number of Shares being purchased.

4. Certificates for Shares. Upon the exercise of the purchase rights evidenced by this Warrant, one or more certificates for the number of Shares so purchased shall be issued as soon as practicable thereafter, and in any event, within thirty (30) days of the delivery of the subscription notice.

5. Issuance of Shares. The Company covenants that (i) the Shares, when issued pursuant to the exercise of this Warrant, will be duly and validly issued, fully paid and nonassessable and free from all taxes, liens, and charges with respect to the issuance thereof, (ii) the Company will reserve from its authorized and unissued Common Stock sufficient Shares in order to perform its obligations under this Warrant, and (iii) such Shares will be eligible to be registered under the Securities Act in accordance with the terms of the Registration Rights Agreement, dated as of the date hereof, by and between the Company and the Investor.

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2. Note: Fixed, three-year (3) term from the closing date of the issuance of the Series B Convertible Preferred Stock to the Investor.



6. Adjustment of Exercise Price and Number of Shares. The number of and kind of securities purchasable upon exercise of this Warrant and the Exercise Price shall be subject to adjustment from time to time as follows:

(a) Subdivisions, Combinations, Dividends and Other Issuances. If at any time before the expiration of this Warrant (x) the outstanding Shares are subdivided, by split-up or otherwise, or any additional Shares are issued as a dividend or otherwise (including any deemed dividend or distribution pursuant to Section 6(b)), then on the effective date of such subdivision or issuance, the number of Shares issuable on the exercise of this Warrant shall forthwith be increased in proportion to such increase in outstanding Shares or (y) the number of outstanding Shares is decreased by a consolidation, combination, reverse share split or reclassification of the Shares or other similar event, then, on the effective date of such consolidation, combination, reverse share split, reclassification or similar event, the number of Shares issuable on exercise of each Warrant shall forthwith be decreased in proportion to such decrease in outstanding Shares. Whenever the number of Shares purchasable upon the exercise of this Warrant is adjusted as provided herein, the Exercise Price shall be adjusted by multiplying such Exercise Price immediately prior to such adjustment by a fraction (x) the numerator of which shall be the number of Shares purchasable upon the exercise of this Warrant immediately prior to such adjustment, and (y) the denominator of which shall be the number of Shares or other securities so purchasable immediately thereafter, such that the aggregate purchase price payable for the total number of Shares purchasable under this Warrant (as adjusted) shall remain the same. Any adjustment under this Section 6(a) shall become effective at the close of business on the date the subdivision or combination becomes effective, or as of the record date of such dividend, or in the event that no record date is fixed, upon the making of such dividend.

(b) Rights Offerings. An offering of rights, options, securities or other instruments convertible into Shares, or other similar offering to holders of Shares entitling holders to purchase Shares at a price less than the “Fair Market Value” (as defined below) shall be deemed a stock dividend of a number of Shares equal to the product of (i) the number of Shares actually sold in such rights offering (or issuable under any other equity securities sold in such rights offering that are convertible into or exercisable for Shares) multiplied by (ii) one (1) minus the quotient of (x) the aggregate price per Share payable for such offering divided by (y) the Fair Market Value. For purposes of this Section 6(b), (i) if the rights offering is for securities convertible into or exercisable for the Shares, in determining the price payable for the Shares, there shall be taken into account any consideration received for such rights, as well as any additional amount payable upon exercise or conversion and (ii) “Fair Market Value” means the volume weighted average price of the Shares as reported during the ten (10) trading day period ending on the trading day prior to the first date on which the Shares trade on the applicable exchange or in the applicable market, regular way, with the right to receive such rights.

(c) Reclassification, Reorganization and Consolidation. In case of any reclassification, capital reorganization, or change in the capital stock of the Company (other than as a result of a subdivision, combination, or stock dividend provided for in Section 6(a) above), or in the case of any merger, consolidation or other business combination of the Company with or into another Person (other than a consolidation or merger in which the Company is the continuing corporation and that does not result in any reclassification or reorganization of the outstanding Shares), or in the case of any sale or conveyance to another Person of the assets or other property of the Company

as an entirety or substantially as an entirety, the Holder of this Warrant shall thereafter have the right to purchase and receive, upon the basis and upon the terms and conditions specified in the Warrants and in lieu of the Shares of the Company immediately theretofore purchasable and receivable upon the exercise of the rights represented thereby, the kind and amount of shares of stock or other securities or property (including cash) receivable upon such reclassification, reorganization, merger or consolidation, or upon a dissolution following any such sale or transfer, that the Holder of this Warrant would have received if such Holder had exercised this Warrant immediately prior to such event (the “Alternative Issuance” ); provided, however, that (i) if the holders of the Shares were entitled to exercise a right of election as to the kind or amount of securities, cash or other assets receivable upon such consolidation or merger, then the kind and amount of securities, cash or other assets constituting the Alternative Issuance for which each Warrant shall become exercisable shall be deemed to be the weighted average of the kind and amount received per share by the holders of the Shares in such consolidation or merger that affirmatively make such election, and (ii) if a tender, exchange or redemption offer shall have been made to and accepted by the holders of the Shares under circumstances in which, upon completion of such tender or exchange offer, the maker thereof, together with members of any group (within the meaning of Rule 13d-5(b)(1) under the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (the “Exchange Act”)) of which such maker is a part, and together with any affiliate or associate of such maker (within the meaning of Rule 12b-2 under the Exchange Act) and any members of any such group of which any such affiliate or associate is a part, own beneficially (within the meaning of Rule 13d-3 under the Exchange Act) more than 50% of the outstanding shares of Common Stock, the Holder of this Warrant shall be entitled to receive as the Alternative Issuance, the highest amount of cash, securities or other property to which such Holder would actually have been entitled as a stockholder if the Holder of this Warrant had exercised the Warrant prior to the expiration of such tender or exchange offer, accepted such offer and all of the Shares held by such Holder had been purchased pursuant to such tender or exchange offer, subject to adjustments (from and after the consummation of such tender or exchange offer) as nearly equivalent as possible to the adjustments provided for in this Section 6. For purposes of this Section 6(c), “Person” means any corporation, limited liability company, partnership, joint venture, trust, or any other entity or organization of any kind.

(d) Special Distributions. In case the Company shall declare a dividend or make any other distribution (excluding dividends payable in Shares and other dividends or distributions referred to in Section 6(a)), including, without limitation, in cash, property or assets, to holders of Shares (a “Special Distribution”), then the board of directors of the Company shall make provision so that upon the exercise of this Warrant, the Holder of this Warrant shall be entitled to receive such dividend or distribution that the Holder would have received had this Warrant been exercised immediately prior to the record date for such dividend or distribution. When a Special Distribution is authorized by the board of directors of the Company to be made, the Company shall promptly notify the Holder of this Warrant of such event in writing and the dividend or other distribution that the Holder of this Warrant are entitled to receive.

(e) Other Events. In case any event shall occur affecting the Company as to which none of the provisions of preceding subsections of this Section 6 are strictly applicable, but which would require an adjustment to the terms of this Warrant in order to (i) avoid an adverse impact on this Warrant and (ii) effectuate the intent and purpose of this Section 6, then, in each such case, the Company shall appoint a firm of independent public accountants, investment banking or other

appraisal firm of recognized national standing, which shall give its opinion as to whether or not any adjustment to the rights represented by the Warrants is necessary to effectuate the intent and purpose of this Section 6 and, if such firm determines that an adjustment is necessary, the terms of such adjustment. The Company shall adjust the terms of the Warrants in a manner that is consistent with any adjustment recommended in such opinion.

(f) Notice of Adjustment. When any adjustment is required to be made in the number or kind of shares purchasable upon exercise of the Warrant, or in the Exercise Price, the Company shall promptly notify the Holder in writing of the adjustment and of the number of Shares or other securities or property thereafter purchasable upon exercise of this Warrant and provide the Holder with a certificate of its Chief Financial Officer setting forth the adjustment and the facts upon which the adjustment is based. The Company shall, upon written request, furnish the Holder a certificate setting forth the Exercise Price in effect upon the date thereof and the series of adjustments leading to such Exercise Price.

7. No Fractional Shares or Script. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant, but in lieu of such fractional shares the Company shall make a cash payment therefor on the basis of the Exercise Price then in effect.

8. Representations of the Company. The Company represents and warrants to the Holder as follows:

(a) The Company has been duly formed, and is validly existing in good standing, under the laws of the State of Delaware. The Company has the requisite corporate power and authority to enter into and perform this Warrant, to own and operate its properties and assets and to carry on its business as currently conducted and as presently proposed to be conducted. The Company is duly qualified to do business as a foreign company and is in good standing in all jurisdictions in which it is required to be qualified to do business as the Company's business is currently conducted and as presently proposed to be conducted by the Company, except for jurisdictions in which failure to so qualify would not have a material adverse effect on the business and operations of the Company taken as a whole.

(b) All corporate actions on the part of the Company, its officers, directors and stockholders necessary for (i) the authorization, execution, delivery of, and the performance of all obligations of the Company under this Warrant and (ii) the authorization, issuance, reservation for issuance and delivery of this Warrant and all of the Common Stock to allow for the exercise of this Warrant.

(c) This Warrant is, and any Warrant issued in substitution for or replacement of this Warrant shall be, upon issuance, duly authorized and validly issued. All Shares which may be issued upon the exercise of the purchase right represented by this Warrant, shall, upon issuance, be duly authorized, validly issued, fully paid and nonassessable, and free of any liens and encumbrances except for restrictions on transfer provided for herein, the Company's governing documents and in any documents relating to the Shares, each as may be amended from time to time, and all such securities will be issued in compliance with all applicable federal and state securities laws.

(d) The Company is not in violation or default in any material respect of any provisions of the Company's Second Amended and Restated Certificate of Incorporation (the "Certificate of Incorporation") or Amended and Restated Bylaws of the Corporation, both as amended to date, and the Company is in compliance in all material respects with all applicable statutes, laws, regulations and executive orders of the United States of America and all states, foreign countries or other governmental bodies and agencies having jurisdiction over the Company's business or properties. The Company has not received any notice of any violation of any such statute, law, regulation or order which has not been remedied prior to the date hereof. The execution, delivery and performance of this Warrant will not result in any such violation or default, or be in conflict with or result in a violation or breach of, with or without the passage of time or the giving of notice or both, the Company's Certificate of Incorporation, any judgment, order or decree of any court or arbitrator to which the Company is a party or is subject, any material agreement or instrument by which it is bound or to which its properties or assets are subject or a violation of any statute, law, regulation or order, or an event which results in the creation of any lien, charge or encumbrance upon any asset of the Company.

9. Representations and Warranties by the Holder. The Holder represents and warrants to the Company as follows:

(a) This Warrant and the Shares issuable upon exercise thereof are being acquired for its own account, for investment and not with a view to, or for resale in connection with, any distribution or public offering thereof within the meaning of the Securities Act of 1933, as amended (the "Act"). Upon exercise of this Warrant, the Holder shall, if so requested by the Company, confirm in writing, in a form satisfactory to the Company, that the securities issuable upon exercise of this Warrant are being acquired for investment and not with a view toward distribution or resale.

(b) The Holder understands that the Warrant and the Shares have not been registered under the Act by reason of their issuance in a transaction exempt from the registration and prospectus delivery requirements of the Act pursuant to Regulation D thereof, and that they must be held by the Holder indefinitely, and that the Holder must therefore bear the economic risk of such investment indefinitely, unless a subsequent disposition thereof is registered under the Act or is exempted from such registration.

(c) The Holder has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of the purchase of this Warrant and the Shares purchasable pursuant to the terms of this Warrant and of protecting its interests in connection therewith.

(d) The Holder is able to bear the economic risk of the purchase of the Shares pursuant to the terms of this Warrant.

(e) The Holder is an "accredited investor" as such term is defined in Rule 501 of Regulation D promulgated under the Act.

10. Restrictive Legend. Until such time as the Shares issued upon the conversion of this Warrant have been sold pursuant to an effective registration statement under the Act, or Shares

issued upon the exercise of this Warrant are eligible for resale pursuant to Rule 144 promulgated under the Act without any restriction as to the number of securities as of a particular date that can then be immediately sold, each certificate issued with respect to Shares issued upon the exercise of this Warrant will bear a legend in substantially the following form:

THE SECURITIES EVIDENCED BY THIS WARRANT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. THE SECURITIES MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT (1) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OR (2) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, IN EACH CASE IN ACCORDANCE WITH ALL APPLICABLE STATE SECURITIES LAWS AND THE SECURITIES LAWS OF OTHER JURISDICTIONS, AND IN THE CASE OF A TRANSACTION EXEMPT FROM REGISTRATION, UNLESS THE COMPANY HAS RECEIVED AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE COMPANY THAT SUCH TRANSACTION DOES NOT REQUIRE REGISTRATION UNDER THE SECURITIES ACT OR SUCH OTHER APPLICABLE LAWS.

In connection with a transfer of Shares issued upon the exercise of this Warrant in reliance on Rule 144 promulgated under the Act, the Holder or its broker shall deliver to the Company a broker representation letter providing to the Company any information the Company reasonably deems necessary to determine that such sale is made in compliance with Rule 144 promulgated under the Act, including, as may be appropriate, a certification that such Holder is not an affiliate of the Company (as defined in Rule 144 promulgated under the Act) and a certification as to the length of time the applicable equity interests have been held. Upon receipt of such representation letter, the Company shall promptly remove the restrictive legend on Shares, and the Company shall bear all costs associated with the removal of such legend from Shares. At such time as Shares issued upon the conversion of this Warrant (A) have been sold pursuant to an effective registration statement under the Act, (B) have been held by the Holder for more than one year where the Holder is not, and has not been in the preceding three months, an affiliate of the Company (as defined in Rule 144 promulgated under the Securities Act), or (C) no longer require such restrictive legend on Shares, as set forth in an opinion of counsel reasonably satisfactory to the Company, if the restrictive legend is still in place, the Company agrees, upon request of such Holder, to take all steps necessary to promptly effect the removal of such legend, and the Company shall bear all costs associated with such removal of such legend. The Company shall cooperate with the Holder to effect the removal of such legend from Shares at any time such legend is no longer appropriate.

11. Limitation on Transferability of this Warrant. THIS WARRANT IS NOT TRANSFERRABLE WITHOUT THE CONSENT OF THE COMPANY, EXCEPT THAT, WITHOUT THE CONSENT OF THE COMPANY, THE INVESTOR SHALL BE ENTITLED TO TRANSFER THIS WARRANT TO AN AFFILIATE OF THE INVESTOR. FOR PURPOSES OF THIS SECTION 11, THE TERM "AFFILIATE" HAS THE MEANING ASCRIBED TO SUCH TERM IN THE SERIES B CERTIFICATE OF DESIGNATIONS.

12. Lost, Stolen or Mutilated Warrant. Upon receipt by the Company of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant, and, in the case of loss, theft or destruction, of any indemnification undertaking by the Holder to the Company in customary form or the provision of reasonable security by the Holder to the Company and, in the case of mutilation, upon surrender and cancellation of this Warrant, the Company shall execute and deliver to the Holder a new Warrant (in accordance with Section 6(f)) representing the right to purchase the Shares then underlying this Warrant.

13. Exchangeable for Multiple Warrants. This Warrant is exchangeable, upon the surrender hereof by the Holder at the principal office of the Company together with all applicable transfer taxes, for a new Warrant or Warrants (in accordance with Section 14) representing in the aggregate the right to purchase the number of Shares then underlying this Warrant, and each such new Warrant will represent the right to purchase such portion of such Shares as is designated by the Holder at the time of such surrender; provided, however, that the Company shall not be required to issue Warrants for fractional shares of Common Stock hereunder.

14. Issuance of New Warrants. Whenever the Company is required to issue a new Warrant pursuant to the terms of this Warrant, such new Warrant shall (i) be of like tenor with this Warrant, (ii) represent, as indicated on the face of such new Warrant, the right to purchase the Shares then underlying this Warrant (or in the case of a new Warrant being issued pursuant to Section 12, the Shares designated by the Holder which, when added to the number of Shares underlying the other new Warrants issued in connection with such issuance, does not exceed the number of Shares then underlying this Warrant), (iii) have an issuance date, as indicated on the face of such new Warrant which is the same as the Issuance Date and (iv) have the same rights and conditions as this Warrant.

15. Rights of Stockholders. Except as expressly provided herein, no Holder of this Warrant shall be entitled, by virtue of being a Holder, to vote or receive dividends or be deemed a Holder of Shares or any other securities of the Company which may at any time be issuable on the exercise hereof for any purpose, nor shall anything contained herein be construed to confer upon a Holder of this Warrant, as such, any of the rights of a stockholder of the Company or any right to vote for the election of directors or upon any matter submitted to stockholders at any meeting thereof, or to give or withhold consent to any corporate action (whether upon any recapitalization, issuance of stock, reclassification of stock, change of par value, consolidation, merger, conveyance, or otherwise) or to receive notice of meetings, or to receive dividends or subscription rights or otherwise until the Warrant shall have been exercised and the Shares purchasable upon the exercise hereof shall have become deliverable, as provided herein.

16. Notices. All notices and other communications required or permitted hereunder shall be in writing, shall be effective when given, and shall in any event be deemed to be given upon receipt or, if earlier, (a) five (5) days after deposit with the U.S. Postal Service or other applicable postal service, if delivered by first class mail, postage prepaid, (b) upon delivery, if delivered by hand, or (c) one business day after the business day of deposit with Federal Express or similar overnight courier, freight prepaid, and shall be addressed (i) if to the Holder, at the Holder's address as set forth on the Schedule of Holders attached hereto as Exhibit B, and (ii) if to the Company, at the address of its principal corporate offices (attention: Krysta DeLima), with a copy to Sean Jones, K&L Gates LLP, 214 North Tryon Street, 47<sup>th</sup> Floor, Charlotte,

North Carolina 28202 (which copy shall not be deemed to constitute notice to the Company) or at such other address as a party may designate by ten days advance written notice to the other party pursuant to the provisions above.

17. Governing Law. This Warrant and all actions arising out of or in connection with this Warrant shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to the conflicts of law provisions of the State of Delaware.

18. Rights and Obligations Survive Exercise of Warrant. Unless otherwise provided herein, the rights and obligations of the Company, of the holder of this Warrant and of the holder of the Shares issued upon exercise of this Warrant, shall survive the exercise of this Warrant.

19. Counterparts. This Warrant may be executed in any number of original or facsimile counterparts and each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

20. Amendment. No amendment, waiver, consent, modification or termination of any provision of this Agreement shall be effective unless signed in writing by each of the parties hereto and each other Holder, if any, to which this Warrant may have been validly transferred pursuant to the terms set forth herein.

21. Severability. This Warrant shall be deemed severable, and the invalidity or unenforceability of any term or provision hereof shall not affect the validity or enforceability of this Warrant or of any other term or provision hereof. Furthermore, in lieu of any such invalid or unenforceable term or provision, the parties hereto intend that there shall be added as a part of this Warrant a provision as similar in terms to such invalid or unenforceable provision as may be possible and be valid and enforceable.

[Signature Page Follows]

**NEXTDECADE CORPORATION**

By: \_\_\_\_\_  
[Name:]  
[Title:]

*[Signature Page to Warrant Agreement]*

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**EXHIBIT A**

**NOTICE OF EXERCISE**

**To: NextDecade Corporation  
1000 Louisiana Street, Suite 3900  
Houston, Texas 77002  
Attention: [●]**

1. The undersigned hereby elects to purchase shares of Common Stock of NextDecade Corporation (the "Shares") pursuant to the terms of the attached Warrant.
2. The undersigned elects to exercise the attached Warrant by means of a cash payment, and tenders herewith payment in full for the purchase price of the shares being purchased, together with all applicable transfer taxes, if any.
3. Please issue a certificate or certificates representing said Shares in the name of the undersigned or in such other name as is specified below:

EXHIBIT A-1

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**EXHIBIT B**

**SCHEDULE OF HOLDERS**

[INVESTOR]

[•]

[•]

[•]

Attention: [•]

with copies to (which shall not be deemed to constitute notice to the Holder) to:

[•]

[•]

[•]

Attention: [•]

[•]

EXHIBIT B-1

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**SERIES B CONVERTIBLE PREFERRED STOCK PURCHASE AGREEMENT**

This SERIES B CONVERTIBLE PREFERRED STOCK PURCHASE AGREEMENT (this “Agreement”), dated as of May 17, 2019, is entered into by and between NextDecade Corporation, a Delaware corporation (“NextDecade” or the “Company”), and York Tactical Energy Fund, L.P. (the “Purchaser”). NextDecade and the Purchaser are referred to herein individually as a “Party” and collectively as the “Parties.”

**RECITALS:**

WHEREAS, the Company has commenced a convertible preferred equity and warrant offering (the “Series B Preferred Equity Offering”), pursuant to which the Company has offered the Purchaser an opportunity to purchase shares of Series B Preferred Stock (as defined herein), together with certain associated Warrants (as defined herein), substantially on the terms and conditions set forth in the Certificate of Designations of Series B Convertible Preferred Stock of NextDecade Corporation attached to this Agreement as Exhibit C (the “Certificate of Designation”); and

WHEREAS, the Company desires to sell to the Purchaser, and the Purchaser desires to purchase from the Company, Series B Preferred Stock, together with associated Warrants, as more fully set forth herein.

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

Section 1. **DEFINITIONS.** As used in this Agreement, the following terms shall have the following meanings:

“Addendum” has the meaning assigned to it in Section 10.9.

“Affiliate” means, with respect to any specified Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such specified Person.

“Agreement” has the meaning assigned to it in the preamble hereto; it includes the Exhibits and Schedules hereto.

“Assumption Agreement” has the meaning assigned to it in Section 10.9.

“Business Day” means any day that is not a Saturday, a Sunday or other day on which banks are required or authorized by Law to be closed in the City of New York.

“Certificate of Designations” has the meaning assigned to it in the Recitals hereto.

“Charter Documents” means, collectively, the certificate of incorporation, articles of incorporation, bylaws, certificate of designations or board resolutions establishing the terms of any security, certificate of formation, operating agreement, limited liability company agreement and similar formation or organizational documents of any entity.

“Closing” has the meaning assigned to it in Section 2.4.

“Closing Actions” has the meaning assigned to it in Section 2.6.

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“Closing Date” means May 24, 2019.

“Code” means the Internal Revenue Code of 1986.

“Common Stock” means the common stock of the Company, \$0.0001 par value.

“Company” has the meaning assigned to it in the preamble hereto.

“Company Benefit Plan” means each (i) “employee benefit plan” within the meaning of Section 3(3) of ERISA, (ii) other benefit and compensation plan, contract, policy, program, practice, arrangement or agreement, including, but not limited to, pension, profit-sharing, savings, termination, executive compensation, phantom stock, change-in-control, retention, salary continuation, vacation, sick leave, disability, death benefit, insurance, hospitalization, medical, dental, life (including all individual life insurance policies as to which the Company or its Subsidiaries are the owners, the beneficiaries, or both), employee loan, educational assistance, fringe benefit, deferred compensation, retirement or post-retirement, severance, equity or equity-based, incentive and bonus plan, contract, policy, program, practice, arrangement or agreement, and (iii) other employment, consulting or other individual agreement, plan, practice, policy, contract, program, and arrangement, in each case, (x) which is sponsored or maintained by the Company or any of its ERISA Affiliates in respect of any current or former employees, directors, independent contractors, consultants or leased employees of the Company or any of its Subsidiaries or (y) with respect to which the Company or any of its Subsidiaries has any actual or potential liability.

“Control” (including the terms “control” “controlled by” and “under common control with”), with respect to the relationship between or among two or more Persons, means the possession, directly or indirectly or as trustee, personal representative or executor, of the power to direct or cause the direction of the affairs, policies or management of a Person, whether through the ownership of voting securities, as trustee, personal representative or executor, by contract, credit arrangement or otherwise.

“Encumbrance” means any security interest, pledge, mortgage, lien, claim, option, charge, restriction or encumbrance.

“Environmental Claim” means any claim, action, cause of action, suit, proceeding, investigation, Order, demand or notice by any Person alleging liability (including liability for investigatory costs, cleanup costs, governmental response costs, natural resources damages, property damages, personal injuries, attorneys’ fees, fines or penalties) arising out of, based on, resulting from or relating to (a) the presence or Release of, or exposure to, any Hazardous Materials; (b) circumstances forming the basis of any violation, or alleged violation, of any Environmental Law; or (c) any other matters covered or regulated by, or for which liability is imposed under, Environmental Laws.

“Environmental Laws” means all applicable Laws relating to pollution, the protection, restoration or remediation of or prevention of harm to the environment or natural resources (including plant and animal species), or the protection of human health and safety, including Laws relating to: (i) the exposure to, or Releases or threatened Releases of, Hazardous Materials; (ii) the generation, manufacture, processing, distribution, use, treatment, containment, disposal, storage, transport or handling of Hazardous Materials; or (iii) recordkeeping, notification, disclosure and reporting requirements respecting Hazardous Materials

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“ERISA Affiliate” means any Person (whether or not incorporated) that together with the Company or any of its Subsidiaries is treated as a single employer within the meaning of Section 414 of the Code.

“Exchange Act” means the Securities Exchange Act of 1934, as amended from time to time, and the rules and regulations promulgated thereunder, or any successor statute.

“Final Order” means a final, nonappealable Order of a court of competent jurisdiction.

“Fundamental Representations” means (i) with respect to the Company, those representations and warranties of the Company set forth in Sections 3.1 (*Organization and Qualification; Subsidiaries*), 3.2 (*Authorization; Enforcement; Validity*), 3.3 (*No Conflicts*), 3.4 (*Consents and Approvals*), 3.5 (*Capitalization*) and 3.6 (*Valid Issuance*), and (ii) with respect to the Purchaser, those representations and warranties of the Purchaser set forth in Sections 4.1 (*Organization and Qualification*), 4.2 (*Authorization; Enforcement; Validity*), 4.3 (*No Conflicts*) and 4.4 (*Consents and Approvals*).

“Governmental Authority” means any federal, national, supranational, foreign, state, provincial, local, county, municipal or other government, any governmental, regulatory or administrative authority, agency, department, bureau, board, commission or official or any quasi-governmental or private body exercising any regulatory, taxing, importing or other governmental or quasi-governmental authority, or any court, tribunal, judicial or arbitral body, or any Self-Regulatory Organization.

“Hazardous Materials” means: (a) any hazardous materials, hazardous wastes, hazardous substances, toxic wastes, solid wastes, and toxic substances as those or similar terms are defined under any Environmental Laws; (b) any asbestos or asbestos containing material; (c) polychlorinated biphenyls (“PCBs”), or PCB containing materials or fluids; (d) radon; (e) any petroleum, petroleum hydrocarbons, petroleum products, crude oil and any fractions or derivatives thereof; and (f) any other substance, material, chemical, waste, pollutant, or contaminant that, whether by its nature or its use, or exposure to is subject to regulation or could give rise to liability under any Laws relating to pollution, waste, human health and safety, or the environment.

“Indemnified Party” means the Purchaser, its Affiliates, and each of their respective directors, managers, officers, principals, partners, members, equity holders (regardless of whether such interests are held directly or indirectly), trustees, controlling persons, predecessors, successors and assigns, Subsidiaries, employees, agents, advisors, attorneys and representatives.

“Insolvency Event” means, with respect to any Person, the occurrence of any of the following:

(a) such Person shall (A) (i) voluntarily commence any proceeding or file any petition seeking relief under Title 11 of the United States Code, Sections 101 et. seq. (the “Bankruptcy Code”) or any other federal, state or foreign bankruptcy, insolvency, liquidation or similar Law, (ii) consent to the institution of, or fail to contravene in a timely and appropriate manner, any such proceeding or the filing of any such petition, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator or similar official for such Person or for a substantial part of its property or assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing or (B) such Person shall become unable, admit in writing its inability or fail generally to pay its debts as they become due; or

(b) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (A) relief in respect of such Person or of a substantial part of the property or assets of such Person, under the Bankruptcy Code or any other federal, state or foreign bankruptcy, insolvency, receivership or similar Law,

(B) the appointment of a receiver, trustee, custodian, sequestrator or similar official for such Person or for a substantial part of the property of such Person or (C) the winding-up or liquidation of such Person; and such proceeding or petition shall continue undismissed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall have been entered.

“Intellectual Property” means the following intellectual property rights, both statutory and common law rights, if applicable: (a) copyrights and registrations and applications for registration thereof, (b) trademarks, service marks, trade names, slogans, domain names, logos, trade dress, and registrations and applications for registrations thereof, (c) patents, as well as any reissued and reexamined patents and extensions thereto, and any patent applications, continuations, continuations in part and divisional applications and patents issuing therefrom, and (d) trade secrets and confidential information, including ideas, designs, concepts, compilations of information, methods, techniques, procedures, processes and other know-how, whether or not patentable.

“Knowledge” means with respect to the Company, the actual knowledge after due inquiry of the persons set forth on Schedule 1.1(a).

“Law” means any federal, national, supranational, foreign, state, provincial, local, county, municipal or similar statute, law, common law, guideline, policy, ordinance, regulation, rule, code, constitution, treaty, requirement, judgment or judicial or administrative doctrines enacted, promulgated, issued, enforced or entered by any Governmental Authority.

“Material Adverse Effect” means any effect, change, event, occurrence, development, or state of facts that, individually or in the aggregate with all other such effects, changes, events, occurrences, developments, or states of fact, (A) has had, or would reasonably be expected to have, a material adverse effect on the business, assets, liabilities, condition (financial or otherwise), or results of operations of the Company and its Subsidiaries, taken as a whole or (B) would, or would reasonably be expected to, prevent or materially impair the ability of the Company to consummate the transactions contemplated by this Agreement, *but expressly excluding* in the case of the foregoing clause (A) any such effect, change, event, occurrence, development, or state of facts, either alone or in combination, to the extent arising out of or resulting from:

(a) the execution or delivery of this Agreement, the consummation of the transactions contemplated by this Agreement or the public announcement or other publicity with respect to any of the foregoing; *provided, however*, that the exception set forth in this clause (a) shall not apply to the representations and warranties set forth in clauses (b) and (c) of Section 3.3 or to the representations and warranties set forth in Section 3.4;

(b) general economic conditions (or changes in such conditions) in the United States or conditions in the global economy generally that do not affect the Company and its Subsidiaries, taken as a whole, disproportionately as compared to other similarly situated participants in the liquefied natural gas export industry (in which case only such disproportionate impact shall be considered);

(c) changes in the trading price or trading volume of the Common Stock.

(d) conditions (or changes in such conditions) generally affecting the liquefied natural gas export industry that do not affect the Company and its Subsidiaries, taken as a whole, disproportionately as compared to other similarly situated participants in the liquefied natural gas export industry (in which case only such disproportionate impact shall be considered);

(e) conditions (or changes in such conditions) in the financial markets, credit markets or capital markets in the United States or any other country or region, including (i) changes in interest rates in the United States or any other country and changes in exchange rates for the currencies of any countries or (ii) any suspension of trading in securities (whether equity, debt, derivative or hybrid securities) generally (other than a suspension of the trading of the Company's Common Stock, which constitutes a Material Adverse Effect, provided such suspension is not part of a broader suspension of securities) on any securities exchange or over-the-counter market operating in the United States or any other country or region in each case, that do not affect the Company as a whole disproportionately as compared to other similarly situated participants in the liquefied natural gas export industry (in which case only such disproportionate impact shall be considered);

(f) any actions taken or omitted to be taken at the written request or with the written consent of the Purchaser; or

(g) any changes in any Laws or any accounting regulations or principles that do not affect the Company, taken as a whole, disproportionately as compared to other similarly situated participants in the liquefied natural gas export industry (in which case only such disproportionate impact shall be considered).

Notwithstanding any provision of the preceding sentence to the contrary, the occurrence of an Insolvency Event in respect of the Company or any Subsidiary of the Company shall be deemed to constitute a Material Adverse Effect.

“Material Contracts” means all “material contracts” of the Company within the meaning of Item 601 of Regulation S-K of the SEC.

“NextDecade” has the meaning assigned to it in the preamble hereto.

“OFAC” means the Office of Foreign Assets Control of the U.S. Department of the Treasury.

“Offering Documents” means, collectively, all agreements, documents, or instruments related to or in connection with the Series B Preferred Equity Offering, including this Agreement and any other documents or exhibits related to or contemplated in the foregoing.

“Order” means any order, writ, judgment, injunction, decree, ruling, directive, stipulation, determination or award made, issued or entered by or with any Governmental Authority, whether preliminary, interlocutory or final.

“Party” or “Parties” has the meaning assigned to it in the preamble hereto.

“Person” means any individual, partnership, firm, corporation, limited liability company, association, joint venture, trust, Governmental Authority, unincorporated organization or other entity, as well as any syndicate or group that would be deemed to be a person under Section 13(d)(3) of the Exchange Act.

“Permits” means all permits, consents, approvals, registrations, licenses, authorizations, qualifications and filings with and under all federal, state, local or foreign Laws and Governmental Authorities.

“Purchase Price” has the meaning assigned to it in Section 2.2.

“Purchaser” has the meaning assigned to it in the preamble hereto.

“Purchaser Default” means the failure by the Purchaser to deliver and pay the Purchase Price to be paid pursuant to this Agreement.

“Purchaser Material Adverse Effect” means any event, circumstance, development, change or effect that, individually or in the aggregate with all other events, circumstances, developments, changes or effects, has or would reasonably be expected to prevent, materially delay or materially impair the ability of the Purchaser to consummate the transactions contemplated hereby.

“Purchaser Rights Agreement” means the Purchaser Rights Agreement, in substantially the form attached hereto as Exhibit G.

“Purchaser Termination” means the termination of this Agreement by the Purchaser.

“Purchaser Termination Event” has the meaning assigned to it in Section 8(a).

“Registration Rights Agreement” means the Registration Rights Agreement, in substantially the form attached hereto as Exhibit F.

“Release” means any release, spill, emission, discharge, leaking, pouring, dumping or emptying, pumping, injection, deposit, disposal, dispersal, leaching or migration into the indoor or outdoor environment (including, without limitation, soil, ambient air, surface water, groundwater and surface or subsurface strata) or into or out of any property, including the movement of Hazardous Materials through or in the air, soil, surface water, groundwater or property.

“Sanctioned Person” means any Person that is the target of Sanctions, including, (a) any Person listed in any Sanctions related list of designated Persons maintained by OFAC or the U.S. Department of State, by the United Nations Security Council, the European Union or Her Majesty’s Treasury of the United Kingdom, (b) any Person located, organized or resident in a Sanctioned Territory, or (c) any Person directly or indirectly owned or controlled by any such Person or Persons described in the foregoing clauses (a) and (b).

“Sanctions” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by relevant Governmental Authorities, including, but not limited those administered by the U.S. government through OFAC or the U.S. Department of State, the United Nations Security Council, the European Union or Her Majesty’s Treasury of the United Kingdom.

“SEC” has the meaning assigned to it in Section 3.7(a).

“SEC Reports” has the meaning assigned to it in Section 3.7(a).

“Securities Act” means the Securities Act of 1933, as amended from time to time, and the rules and regulations promulgated thereunder, or any successor statute.

“Self-Regulatory Organization” means any securities exchange, futures exchange, contract market, any other exchange or corporation or similar self-regulatory body or organization applicable to a Party to this Agreement.

“Series B Preferred Equity Offering” has the meaning assigned to it in the Recitals hereto.



“Series B Preferred Stock” means the Series B Convertible Preferred Stock of the Company (including any Series B Preferred Stock issued in respect of dividend payments thereon).

“Subsidiary” means, with respect to any Person, any other Person of which the first Person owns, directly or indirectly, securities or other ownership interests having voting power to elect a majority of the board of directors or other Persons performing similar functions for such Person (or, if there are no such voting interests, more than 50% of the equity interests allowing for effective control of the second Person).

“Survival Period” has the meaning assigned to it in Section 10.3.

“Tax” (and, with correlative meaning, “Taxes” and “Taxable”) means: (a) any taxes, customs, duties, charges, fees, levies, penalties or other assessments, fees and other governmental charges imposed by any Governmental Authority, including, but not limited to, income, profits, gross receipts, net proceeds, windfall profit, severance, property, personal property (tangible and intangible), production, sales, use, leasing or lease, license, excise, duty, franchise, capital stock, net worth, employment, occupation, payroll, withholding, social security (or similar), unemployment, disability, payroll, fuel, excess profits, occupational, premium, severance, estimated, alternative or add-on minimum, ad valorem, value added, turnover, transfer, stamp or environmental tax, or any other tax, custom, duty, fee, levy or other like assessment or charge of any kind whatsoever, together with any interest, penalty, addition to tax, or additional amount attributable thereto; and (b) any liability for the payment of amounts with respect to payment of a type described in clause (a), including (i) as a result of being a member of an affiliated, consolidated, combined or unitary group, (ii) as a result of succeeding to such liability as a result of merger, conversion or asset transfer or (iii) as a result of any obligation under any Tax sharing, Tax allocation, Tax indemnity, or similar agreement or arrangement.

“Tax Representations” means those representations and warranties of the Company set forth in Section 3.19.

“Tax Returns” means any return, report, statement, information return or other document (including any amendments thereto and any related or supporting information) filed or required to be filed with any Governmental Authority in connection with the determination, assessment, collection or administration of any Taxes or the administration of any laws, regulations or administrative requirements relating to any Taxes.

“Treasury Regulations” means the regulations promulgated under the Code, by the United States Department of the Treasury, as such regulations may be amended from time to time. All references herein to specific sections of the regulations shall be deemed also to refer to any corresponding provisions of succeeding regulations, and any reference to temporary regulations shall be deemed also to refer to any corresponding provisions of final regulations.

“Warrants” means detached warrants in the form attached hereto as Exhibit D.

## Section 2. AGREEMENT TO SELL AND PURCHASE.

2.1 Sale and Purchase of Shares. Subject to the terms of this Agreement, at the Closing, the Company hereby agrees to issue and sell to the Purchaser, and the Purchaser hereby agrees, to purchase from the Company, 5,000 shares of Series B Preferred Stock, together with the associated Warrants, free and clear of all Encumbrances.

2.2 Purchase Price. The purchase price for the Series B Preferred Stock to be purchased by the Purchaser hereby shall be \$1,000 per share such that the aggregate purchase price to be paid by the Purchaser shall be \$5,000,000 (the "Purchase Price").

2.3 Origination Fee. Subject to the terms of this Agreement, at the Closing, the Company hereby agrees to issue to the Purchaser 100 additional shares of Series B Preferred Stock (but excluding the associated Warrants), representing an origination fee in an aggregate amount equal to \$100,000 or approximately two percent (2%) of the Purchase Price, free and clear of all Encumbrances.

2.4 Closing. Subject to the terms of this Agreement, the closing of the transactions contemplated hereby (the "Closing") will occur on the Closing Date, unless otherwise agreed by the mutual consent of the Parties. The Closing shall take place at the offices of NextDecade Corporation, 1000 Louisiana Street, Suite 3900, Houston, Texas 77002 or such other place as the Parties mutually agree. The Parties agree that the Closing may occur via delivery of facsimiles or photocopies of the applicable Offering Documents. Unless otherwise provided herein, all proceedings to be taken and all documents to be executed and delivered by all Parties at the Closing will be deemed to have been taken and executed simultaneously, and no proceedings will be deemed to have been taken nor documents executed or delivered until all have been taken, executed and delivered.

2.5 Rounding of Shares. The number of shares of Series B Preferred Stock issued to the Purchaser pursuant to the terms of this Agreement shall be rounded in accordance with the terms of the Certificate of Designations to avoid fractional shares.

2.6 Actions at the Closing. At the Closing, the Purchaser and the Company (as applicable) shall take or cause to be taken the following actions ("Closing Actions"):

(a) Payment of the Purchase Price. The Purchaser shall pay the Purchase Price in respect of the shares purchased by the Purchaser pursuant to Section 2.1 to the Company by wire transfer of immediately available funds to the account specified by the Company to the Purchaser in writing not less than five (5) Business Days prior to the Closing.

(b) Issuance of Series B Preferred Stock. The Company shall deliver to the Purchaser a true, correct and complete certificate, or other applicable evidence of ownership acceptable to the Purchaser, representing the shares of Series B Preferred Stock purchased by the Purchaser pursuant to this Section 2, duly authorized by all requisite corporate action on the part of the Company, together with all instruments of transfer in respect of the Purchaser's interests in such shares, and in the form required by the Certificate of Designation.

(c) Warrants. The Company shall deliver to the Purchaser the Warrants, duly authorized by all requisite corporate action on the part of the Company, together with all instruments of transfer in respect of the Purchaser's interests in such Warrants.

(d) Purchaser Rights Agreement. The Purchaser and the Company shall execute and deliver the Purchaser Rights Agreement.

(e) Registration Rights Agreement. The Purchaser and the Company shall execute and deliver the Registration Rights Agreement.

2.7 Transfer Taxes. All of the Series B Preferred Stock issued to the Purchaser pursuant to this Agreement will be delivered with any and all issue, stamp, transfer or similar taxes or duties payable in connection with such delivery duly paid by the Company.

Section 3. **REPRESENTATIONS AND WARRANTIES OF THE COMPANY**. The Company hereby represents and warrants to the Purchaser as of the date hereof and, with respect to the Fundamental Representations, as of the date hereof and as of the Closing Date (except for representations and warranties that are made as of a specific date, which are made only as of such date), on behalf of itself and not any other Party, as follows:

3.1 Organization and Qualification; Subsidiaries. The Company and each of its Subsidiaries has been duly organized and is validly existing and, except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, is in good standing under the laws of its jurisdictions of organization, with the requisite power and authority to own its properties and conduct its business as currently conducted.

3.2 Authorization; Enforcement; Validity. The Company has all necessary corporate power and authority to enter into this Agreement and to carry out its obligations hereunder, including the issuance to the Purchaser of the Series B Preferred Stock and Warrants (and the Common Stock issuable upon the conversion or exercise of such Series B Preferred Stock and Warrants, as applicable) pursuant to Sections 2.1 and 2.3 of this Agreement. The execution and delivery by the Company of this Agreement and the performance by the Company of its obligations hereunder, have been duly authorized by all requisite action on the part of the Company, and no other action on the part of the Company or any of its Subsidiaries is necessary to authorize the execution and delivery by the Company of this Agreement or the consummation of the transactions contemplated by this Agreement. This Agreement has been duly executed and delivered by the Company, and assuming due authorization, execution and delivery by the Purchaser, this Agreement constitutes the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium or similar Laws now or hereafter in effect relating to creditors' rights generally and subject to general principles of equity.

3.3 No Conflicts. Assuming that all consents, approvals, authorizations and other actions described in Section 3.4 have been obtained, and except as may result from any facts or circumstances relating solely to the Purchaser, the execution, delivery and performance by the Company of this Agreement and the consummation of the transactions contemplated hereby do not and will not: (a) violate, conflict with or result in the breach of the Charter Documents of the Company or any of its Subsidiaries; (b) conflict with or violate any Law or Order applicable to the Company or any of its Subsidiaries, or any of its or their respective assets or properties; or (c) violate, conflict with, result in any breach of, constitute a default (or event which with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which the Company or any of its Subsidiaries is a party or to which any of their respective assets or properties are subject, or result in the creation of any Encumbrance on any of their respective assets or properties, except, in the case of clauses (b) and (c), for any such conflict, violation, breach or default that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

3.4 Consents and Approvals. The execution, delivery and performance by the Company of this Agreement do not require any consent, approval, authorization or other Order of, action by, filing with or notification to, any Governmental Authority or any other Person under any of the terms, conditions or provisions of any Law or Order applicable to the Company or any of its Subsidiaries or by which any of its or their assets or properties may be bound, any contract or agreement to which the Company or any of its Subsidiaries is a party or

by which the Company or any of its Subsidiaries may be bound, except for any consent, approval, authorization or other Order of, action by, filing with or notification to, any Governmental Authority or any other Person under any of the terms, conditions or provisions of any Law or Order applicable to the Company or any of its Subsidiaries that, if not made or obtained, would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

### 3.5 Capitalization.

(a) As of the date of this Agreement, and immediately prior to the issuance and sale of the Series B Preferred Stock (including the associated Warrants), the capitalization of the Company and each of its Subsidiaries is set forth in Schedule 3.5(a).

(b) Except as set forth in Schedule 3.5(b), there are no outstanding options, warrants, “phantom” stock rights, claims, calls, puts, convertible or exchangeable securities or other contracts or rights of any nature obligating the Company or any of its Subsidiaries to issue, return, redeem, repurchase, transfer, deliver or sell equity interests or other securities or ownership interests in the Company or any of its Subsidiaries, and no Person is entitled to any preemptive or similar right with respect to the issuance of securities or other equity interests in the Company or any of its Subsidiaries.

(c) Except as set forth in Schedule 3.5(c), (x) to the Knowledge of the Company, there are no voting agreements, voting trusts, shareholder agreements, proxies or other similar agreements or understandings with respect to the equity interests of the Company or any of its Subsidiaries or that restrict or grant any right, preference or privilege with respect to the transfer of such equity interests, and (y) there are no contracts to declare, make or pay any dividends or distributions, whether current or accumulated, or due or payable, on the equity interests of the Company or any of its Subsidiaries.

(d) Except as contemplated by Section 5.5(c), the Company has no authorized or outstanding class of equity securities ranking as to dividends, redemption or distribution of assets upon a liquidation senior to or pari passu with the Series B Preferred Stock or that would otherwise constitute “Senior Stock” (as defined in the Certificate of Designations) or “Parity Stock” (as defined in the Certificate of Designations).

### 3.6 Valid Issuance.

(a) Upon payment of the Purchase Price and the occurrence of the Closing, the Purchaser will be the owner, of record and beneficially, of 5,100 duly and validly issued, fully paid, and non-assessable shares of Series B Preferred Stock. The Purchaser shall have good and valid title to such Series B Preferred Stock, free and clear of any Encumbrances.

(b) Assuming the accuracy of the Purchaser’s representations and warranties set forth herein, the offer, sale and issuance of such Series B Preferred Stock as contemplated hereby are exempt from the registration and qualification of the Securities Act, and will be issued in compliance with all applicable federal and state securities and blue sky laws. Neither the Company nor any Person acting on behalf of the Company has taken any action that would cause the loss of such exemption.

### 3.7 SEC Reports; Financial Statements.

(a) The Company has filed or furnished with the Securities and Exchange Commission (“SEC”) all forms, reports, schedules, proxy statements (collectively, and in each case including all exhibits

and schedules thereto and documents incorporated by reference therein and including all registration statements and prospectuses filed with the SEC, the “SEC Reports”) required to be filed or furnished by the Company with the SEC since July 25, 2017. As of its date of filing or furnishing, each SEC Report complied in all material respects with the requirements of the Exchange Act or the Securities Act, and none of such SEC Reports (including any and all financial statements included therein) contained when filed or furnished (except to the extent revised or superseded by a subsequent filing with the SEC that is publicly available prior to the date hereof) any untrue statement of a material fact or omitted or omits to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading.

(b) Each of the consolidated financial statements (including the notes thereto) included in the SEC Reports (i) complied as to form required by published rules and regulations of the SEC related thereto as of its date of filing with the SEC, (ii) complied in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto, (iii) has been prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto or otherwise permitted by the SEC on Form 10-Q or any successor form under the Exchange Act) and (iv) presents fairly in all material respects the consolidated financial position of Company and its consolidated Subsidiaries as of the dates thereof and the consolidated results of their operations and cash flows for the periods then ended, subject (in the case of unaudited financial statements) to normal year-end adjustments and any other adjustments described therein or in the notes or schedules thereto or the absence of footnotes (none of which are material).

(c) The unaudited balance sheet and the related unaudited statement of operations and unaudited statement of cash flows for the Company’s most recently filed Quarterly Report on Form 10-Q as of the date of this Agreement (i) present fairly in all material respects the financial condition of the Company as of such date and the results of operations for the three (3) month period then ended and (ii) were prepared on a basis consistent with the Company’s past practice, subject to normal year-end adjustments and the absence of footnotes.

3.8 Undisclosed Liabilities. Except as set forth in Schedule 3.8, and except for liabilities included or reserved for in the unaudited consolidated balance sheet of the Company or disclosed in the notes thereto included in the Company’s most recently filed Quarterly Report on Form 10-Q as of the date of this Agreement, neither the Company nor any of its Subsidiaries has incurred liabilities, including contingent liabilities, or any other obligations of a nature required to be disclosed on a consolidated balance sheet or in the notes thereto, except liabilities that are not material and were incurred in the ordinary course of business subsequent to the date of the consolidated balance sheet contained in the Company’s most recently filed Quarterly Report on Form 10-Q as of the date of this Agreement.

3.9 Contracts. Except as set forth in Schedule 3.9, neither the Company nor any of its Subsidiaries is, or to the Knowledge of the Company, is alleged to be (nor, to the Company’s Knowledge, is any other party to any Material Contract) in material default under, or in material breach or material violation of, any Material Contract, and no event has occurred which, with the giving of notice or passage of time or both, would constitute a material default by the Company or any other party under any Material Contract. Other than Material Contracts which have terminated or expired in accordance with their terms, each of the Material Contracts is in full force and effect and is a legal, valid and binding obligation of the Company and, to the Knowledge of the Company, the other parties thereto enforceable against the Company and, to the Knowledge of the Company, such other parties 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 equitable principles (whether considered in a proceeding in equity or at law).

3.10 Affiliate Transactions. Except as set forth in Schedule 3.10, there are no transactions between the Company, on the one hand, and any (A) officer or director of the Company or any of its Subsidiaries, (B) to the Knowledge of the Company, record or beneficial owner of five (5) percent or more of the voting securities of the Company or (C) Affiliate or family member of any such officer or director or, to the Knowledge of the Company, record or beneficial owner, on the other hand, except employee benefit plans, executive compensation or director compensation, employment agreements, consulting agreements, indemnification agreements and similar transactions. Neither the Company nor any of its Subsidiaries is a guarantor or indemnitor of any indebtedness of any of the persons set forth in the foregoing clause (A) or, to the Knowledge of the Company, clauses (B) through (C).

3.11 Title. The Company and each of its Subsidiaries has good and marketable title to their respective owned properties and assets, and good leasehold title to their respective leasehold estates in leased properties and assets, in each case, subject to no Encumbrances, other than Encumbrances that would not reasonably be expected to result in, individually or in the aggregate, a Material Adverse Effect.

3.12 Compliance with Law; Permits.

(a) Neither the Company nor any of its Subsidiaries (i) is in material violation or default of the Charter Documents of the Company or any of its Subsidiaries, (ii) is in violation or default of any Order or any Law, except for such violations and defaults that would not reasonably be expected to result in, individually or in the aggregate, a Material Adverse Effect or (iii) has received, since August 23, 2018, any written notice of, and to the Knowledge of the Company, no investigation or review is in process or threatened by any Governmental Authority with respect to, any material violation or alleged violation of any Order or Law.

(b) Except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (i) the Company and its Subsidiaries hold all Permits necessary for the lawful conduct of their respective businesses as they are presently being conducted, (ii) all Permits are in full force and effect, (iii) the Company and its Subsidiaries are in compliance with the terms of the Permits, (iv) there are no pending or, to the Knowledge of the Company, threatened, modifications, amendments, cancellations, suspensions, limitations, nonrenewals or revocations of any Permit, and (v) there has occurred no event which (whether with notice or lapse of time or both) could reasonably be expected to result in or constitute the basis for such a modification, amendment, cancellation, suspension, limitation, nonrenewal or revocation thereof.

3.13 Litigation. Except as set forth in Schedule 3.13, no action, suit, claim, demand, hearing, investigation or other proceeding is pending against the Company or any of its Subsidiaries, or, to the Knowledge of the Company, any officer, director, manager, member, shareholder or employee of any such Person, and none of the Company or any of its Subsidiaries, or, to the Knowledge of the Company, any officer, director, manager, member, shareholder or employee of any such Person, is subject to any outstanding injunction, judgment, order, decree, ruling or charge or, to the Knowledge of the Company, is threatened with being made a party to any action, suit, proceeding, hearing or investigation of, in, or before any Governmental Authority or before any arbitrator, all cases, that are required to be described in the SEC Reports but are not described as required in the SEC Reports, or that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

3.14 Intellectual Property. The Company and its Subsidiaries own or have obtained valid and enforceable licenses for, or other legal and valid rights to use, the Intellectual Property necessary for the conduct of the business of the Company and its Subsidiaries as currently conducted, except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Neither the Company nor any of its Subsidiaries has received from any third party a claim in writing that the Company or any of its Subsidiaries is infringing in any material respect the Intellectual Property rights of any third party.

3.15 Insurance. Schedule 3.15 sets forth a true, correct and complete list of all of the insurance maintained for or on behalf of the Company or any of its Subsidiaries and claims made to date. All premiums with respect to such policies have been paid to the extent due and payable. No written notice of cancellation or termination has been received by the Company or any of its Subsidiaries with respect to any such policies that have not been replaced on substantially similar terms prior to the date of such cancellation or termination.

3.16 Environmental Matters. The Company and its Subsidiaries have at all times been in compliance in all material respects with all Environmental Laws. To the Knowledge of the Company, there are no locations or premises where Hazardous Materials have been Released such that (A) the Company or any of its Subsidiaries would reasonably be expected to be obligated to remove, remediate or otherwise respond to pursuant to any Environmental Laws or (B) would reasonably be expected to result in a liability of the Company or any of its Subsidiaries to any Person under any Environmental Laws. There are no Environmental Claims pending, or to the Knowledge of the Company threatened against the Company or any of its Subsidiaries, and there no actions, activities, circumstances, facts, conditions, events or incidents, including the presence of any Hazardous Material, which would be reasonably likely to form the basis of any such Environmental Claim.

3.17 Company Benefits Plans.

(a) Schedule 3.17 lists each material Company Benefit Plan.

(b) Neither the Company nor any of its ERISA Affiliates has ever maintained, sponsored, contributed to, or had an obligation to maintain, sponsor or contribute to, or has any liability under or with respect to (i) a “defined benefit plan,” as defined in Section 3(35) of ERISA, (ii) a pension plan subject to the minimum funding standards of Section 302 of ERISA or Section 412 of the Code, (iii) a “multiemployer plan,” as defined in Section 3(37) of ERISA, (iv) a “multiple employer plan” (within the meaning of Section 413 of the Code), (v) a “voluntary employees’ beneficiary association” (within the meaning of Section 501(c)(9) of the Code), (vi) an organization or trust described in Sections 501(c)(17) or 501(c)(20) of the Code or (vii) a “welfare benefits fund” described in Section 419(e) of the Code. No current or former employee, officer, director, consultant or other service provider of the Company or any of its Subsidiaries is or may become entitled under any Company Benefit Plan to receive health, life insurance or other welfare benefits (whether or not insured), beyond their retirement or other termination of service, other than health continuation coverage as required by Section 4980B of the Code.

(c) Each Company Benefit Plan has been administered in all material respects in accordance with its terms and applicable Law. Each Company Benefit Plan intended to be qualified under Section 401(a) of the Code has either received a favorable determination letter from the IRS or may rely on a favorable opinion letter issued by the IRS, and, to the Knowledge of the Company, nothing has occurred since the date of such determination or opinion letter that would reasonably be expected to adversely affect such qualification.

(d) Except as would not be reasonably likely to result in a Material Adverse Effect, there are no actions, suits, audits or investigations by any Governmental Authority or other claims (except

for routine claims for benefits) pending or, to the Knowledge of the Company, threatened, against or involving any Company Benefit Plan.

(e) Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby will (whether alone or upon the occurrence of any additional or further acts or events) (i) result in any payment becoming due to any current or former employee, officer, director or independent contractor of the Company or any Subsidiary thereof or satisfy any prerequisite (whether exclusive or non-exclusive) to any payment or benefit to any current or former employee, director or independent contractor of the Company or any Subsidiary thereof, (ii) increase any benefits under any Company Benefit Plan, (iii) result in the acceleration of the time of payment, vesting or funding of any such benefits under any Company Benefit Plan, or (iv) result in the forgiveness of any indebtedness of any current or former employee, officer, director or independent contractor of the Company or any Subsidiary thereof.

### 3.18 Labor.

(a) Neither the Company nor any of its Subsidiaries is a party to any labor or collective bargaining agreement.

(b) There are no (i) strikes, work stoppages, work slowdowns or lockouts pending or, to the Knowledge of the Company, threatened against or involving the Company or any of its Subsidiaries, or (ii) unfair labor practice charges, grievances or complaints pending or, to the Knowledge of the Company, threatened by or on behalf of any employee or group of employees of the Company or any of its Subsidiaries, except in each case as would not have a Material Adverse Effect.

### 3.19 Tax Matters. Except as set forth in Schedule 3.19:

(a) As of the date of this Agreement, the Company has timely filed all material Tax Returns required to be filed (after giving effect to any extensions that have been requested by and granted to such party by the applicable Governmental Authority) and has paid or caused to be paid on its behalf all Taxes due and owing, other than those (i) that are being contested in good faith and for which adequate reserves have been established in accordance with GAAP or (ii) that, if not paid, would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. All such Tax Returns are true, correct and complete in all material respects. There are no past, current, pending or, to the Knowledge of the Company, threatened audits, claims or proceedings by any Governmental Authority relating to Taxes. The Company has not waived any statutes of limitation or agreed to any extension of time with respect to any Tax assessment or deficiency. The Company has not received written notice from any Governmental Authority in a jurisdiction where it does not file Tax Returns claiming that it is subject to Tax in that jurisdiction. There are no liens for Taxes against the property of the Company or the Project except for Taxes not yet due and payable.

(b) The Company has complied with all Laws relating to the withholding and collection of Taxes relating to the Company. The Company has not engaged in any reportable transaction within the meaning of Treasury Regulations Section 1.6011-4(b).

(c) Neither the Company nor any of its Subsidiaries has made an election under Section 965(h) of the Code.

(d) The Company (A) has not entered into any agreement with any Governmental Authority that would impact the amount of Taxes due by it, (B) has never been a member of an affiliated,



combined, consolidated or unitary group for purposes of filing any Tax Return or has any liability for the Taxes of any other Person (1) under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign law), or (2) as a transferee or successor, by Contract, or otherwise, or (C) is not a party to, or has any liability under, any Tax sharing, Tax allocation, Tax indemnity, or similar agreement or arrangement.

3.20 Investment Company Act. The Company is not and, after giving effect to the transactions contemplated by this Agreement will not be, an “investment company” as that term is defined in, nor is the Company otherwise subject to registration or regulation under, the Investment Company Act of 1940.

3.21 OFAC and Related Matters. None of the transactions contemplated hereby will violate (i) any Sanctions, or (ii) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, Public Law 107-56 (October 26, 2001). The Company is in compliance with Sanctions in all material respects. There are no pending or threatened claims or legal actions, or investigations by any Governmental Authority, of or against the Company, nor are there any judgments imposed (or threatened to be imposed) upon the Company by or before any Governmental Authority, in each case, in connection with any alleged violation of Sanctions. Neither the Purchase Price nor any other proceeds received by the Company hereunder will be used in any dealings or transactions with any Sanctioned Person or in any manner that will result in a violation of Sanctions. The Company has not violated any provision of the U.S. Foreign Corrupt Practices Act of 1977 or the U.K. Bribery Act 2010.

3.22 Broker; Fees. Neither the Company nor any of its Subsidiaries has employed any broker or finder, or incurred any liability for any brokerage or finders’ fees or any similar fees or commissions in connection with the transactions contemplated by this Agreement for which the Purchaser is liable.

Section 4. **REPRESENTATIONS AND WARRANTIES OF THE PURCHASER.** The Purchaser represents and warrants to the Company as of the date hereof and, with respect to the Fundamental Representations, as of the date hereof and as of the Closing Date (except for representations and warranties that are made as of a specific date, which are made only as of such date), as follows:

4.1 Organization and Qualification. The Purchaser has been duly organized and is validly existing and, except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect, is in good standing under the laws of its jurisdiction of organization, with the requisite power and authority to own its properties and conduct its business as currently conducted.

4.2 Authorization; Enforcement; Validity. The Purchaser has all necessary corporate, limited liability company or equivalent power and authority to enter into this Agreement and to carry out, or cause to be carried out, its obligations hereunder in accordance with the terms hereof. The execution and delivery by the Purchaser of this Agreement and the performance by the Purchaser of its obligations hereunder have been duly authorized by all requisite action on the part of the Purchaser, and no other action on the part of the Purchaser is necessary to authorize the execution and delivery by the Purchaser of this Agreement or the consummation of the transactions contemplated by this Agreement. This Agreement has been duly executed and delivered by the Purchaser, and assuming due authorization, execution and delivery by the Company, this Agreement constitutes the legal, valid and binding obligation of the Purchaser, enforceable against the Purchaser in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium or similar Laws now or hereafter in effect relating to creditors’ rights generally and subject to general principles of equity.

4.3 No Conflicts. The execution, delivery, and performance by the Purchaser of this Agreement do not and will not (a) violate any provision of the organizational documents of the Purchaser; (b) conflict with or

violate any Law or Order applicable to the Purchaser or any of its respective assets or properties; or (c) violate, conflict with, result in any breach of, constitute a default (or event which with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which the Purchaser is a party or to which any of its assets or properties are subject, or result in the creation of any Encumbrance on any of its assets or properties, except, in the case of clauses (b) and (c), for any such conflict, violation, breach or default that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

4.4 Consents and Approvals. The execution, delivery and performance by the Purchaser of this Agreement do not require the Purchaser to obtain any consent, approval, authorization or other Order of, action by, filing with or notification to, any Governmental Authority or any other Person under any of the terms, conditions or provisions of any Law or Order applicable to the Purchaser or by which any of its assets or properties may be bound, any contract to which the Purchaser is a party or by which the Purchaser may be bound, except for any consent, approval, authorization or other Order of, action by, filing with or notification to, any Governmental Authority or any other Person under any of the terms, conditions or provisions of any Law or Order applicable to the Purchaser that, if not made or obtained, would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect with respect to the Purchaser.

4.5 Purchaser Representation. (i) The Purchaser is either (A) a qualified institutional buyer as defined in Rule 144A of the Securities Act, (B) an accredited investor as defined in Rule 501(a)(1), (2), (3), (7) or (8) under the Securities Act, (C) a non-U.S. person under Regulation S under the Securities Act, or (D) the foreign equivalent of (A) or (B) above, and (ii) any securities of the Company acquired by the Purchaser under this Agreement will have been acquired for investment and not with a view to distribution or resale in violation of the Securities Act.

4.6 Sufficient Funds. The Purchaser has sufficient assets (or the ability to call sufficient capital from its equityholders) and the financial capacity to perform all of its obligations under this Agreement, including the ability to fully fund the Purchase Price at the Closing.

## Section 5. ADDITIONAL COVENANTS.

5.1 Commercially Reasonable Efforts. Each of the Company and the Purchaser hereby agrees to use its commercially reasonable efforts to timely satisfy (if applicable) each of the conditions applicable to such Party under Sections 6 and 7, respectively, of this Agreement.

5.2 Further Assurances. Each Party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other Party may reasonably request to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

5.3 Use of Proceeds. The Company shall use the proceeds from the transactions contemplated hereby solely as provided for in Exhibit E to this Agreement.

5.4 Expenses. The Company shall bear all of its own expenses in connection with the execution, delivery and performance of this Agreement and the transactions contemplated hereby, including without limitation all fees and expenses of its agents, representatives, counsel and accountants.

5.5 Conduct of the Business of Company. From the date hereof until the Closing Date, except (a) as expressly permitted by this Agreement, (b) as required by Law, or (c) with the written consent of the Purchaser (such consent not to be unreasonably withheld, conditioned or delayed), the Company shall conduct its business and operations in the ordinary course of business consistent with past practice and use commercially reasonable efforts to (i) preserve intact its present business organization; (ii) maintain good relationships with its vendors, suppliers, and others having material business relationships with it; and (iii) manage its working capital in the ordinary course of business consistent with past practice. Without limiting the generality of the foregoing, and, except as contemplated in this Agreement or as described in Schedule 5.5, during the period from the date of this Agreement through the Closing Date, without the prior written consent of the Purchaser (which consent shall not be unreasonably withheld or delayed), the Company shall not, and shall not permit any of its Subsidiaries to:

- (a) amend any of its Charter Documents;
- (b) split, combine, subdivide or reclassify any of its equity securities;
- (c) authorize, sell, issue or grant any equity securities or sell, issue or grant any option, warrant or right to acquire any equity securities or sell, issue or grant any security convertible into or exchangeable for equity securities, or sell, transfer or dispose of, or grant or permit any Encumbrance on, any equity interest;
- (d) except as required pursuant to applicable Law or the terms of any Company Benefit Plan in existence as of the date hereof, (A) make or grant any increases in the compensation or fringe benefits of any current or former employee or service provider of the Company or its Subsidiaries except in the ordinary course of business consistent with past practice (x) for current employees whose annual base salary or annual fee is less than \$150,000 or (y) in respect of fringe benefits, increases in fringe benefits that do not result in a material increase in cost to the Company or its Subsidiaries; (B) take any action to accelerate the vesting or payment of any compensation or benefits under any Company Benefit Plan or any action to fund or secure the payment of compensation or benefits under any Company Benefit Plan; (C) amend, adopt or terminate any Company Benefit Plan other than in connection with routine, immaterial or ministerial amendments to health and welfare plans that do not materially increase benefits or result in a material increase in administrative costs; or (D) enter into, modify or terminate any collective bargaining agreement or other agreement or arrangement with any labor union, works council, labor organization or other employee-representative body.
- (e) declare, set aside for payment or pay any dividend on, or make any other distribution in respect of its equity interests or otherwise make any payments to any holder of such interests in its capacity as such;
- (f) take or fail to take any action the result of which would cause the creation of an Encumbrance on any of its equity interests;
- (g) make any material change to its financial reporting and accounting methods other than as required by a change in GAAP;
- (h) make any material change in its Tax reporting or Tax accounting methods, including making or changing any material Tax elections except as required by applicable Law;
- (i) acquire any Person or other business organization, division or business by merger, consolidation, purchase of an equity interest or assets, or by any other manner;

- (j) take any action to liquidate, dissolve, or wind up its business;
- (k) take any action that would require the consent of the Purchaser as the holder of the Series B Preferred Stock pursuant to the Certificate of Designations if such action were to occur after the Closing; or
- (l) commit itself to do any of the foregoing.

5.6 Public Announcements. No press release or other public announcement related to this Agreement or the transactions contemplated herein shall be issued or made without the joint approval of the Company and the Purchaser, unless such release or announcement is required by law or the rules of any securities exchange on which securities of the Company are traded (including, for the avoidance of doubt, any Current Report on Form 8-K required to be filed by the Company with the SEC describing this Agreement or the transactions contemplated herein), in which case the Purchaser shall be afforded a reasonable opportunity to review such public announcement prior to publication.

Section 6. **CONDITIONS TO THE PURCHASER'S OBLIGATIONS.** The obligations of the Purchaser to consummate the transactions contemplated hereby pursuant to this Agreement on the Closing Date shall be subject to the satisfaction at or prior to the Closing Date of each of the following conditions, any one or more of which may be waived in writing by the Purchaser:

6.1 Fundamental Representations and Warranties. All of the Fundamental Representations made by the Company in this Agreement shall be true and correct in all respects as of the Closing Date as though made on and as of the Closing Date (except to the extent such representations and warranties expressly speak as of an earlier date, in which case such representations and warranties shall be true and correct as of such date).

6.2 Performance of Closing Actions. The Company shall have performed each of the Closing Actions required to be performed by them at the Closing.

6.3 No Legal Impediment to Issuance; No Material Adverse Effect. No Law or Order shall have become effective or been enacted, adopted or issued by any Governmental Authority that prohibits the implementation of this Agreement or the transactions contemplated herein, and no Material Adverse Effect shall have occurred.

Section 7. **CONDITIONS TO THE COMPANY'S OBLIGATIONS.** The obligations of the Company to issue and sell to the Purchaser the Series B Preferred Stock (including the Warrants) pursuant to this Agreement shall be subject to the satisfaction at or prior to the Closing Date of each of the following conditions, any one or more of which may be waived in writing by the Company:

7.1 Fundamental Representations and Warranties. All of the Fundamental Representations made by the Purchaser in this Agreement shall be true and correct in all respects as of the Closing Date as though made on and as of the Closing Date (except to the extent such representations and warranties expressly speak as of an earlier date, in which case such representations and warranties shall be true and correct as of such date).

7.2 Performance of Closing Actions. The Purchaser shall have performed each of the Closing Actions required to be performed by it at the Closing.

7.3 No Legal Impediment to Issuance. No Law or Order shall have become effective or been enacted, adopted or issued by any Governmental Authority that prohibits the implementation of this Agreement or the transactions contemplated by this Agreement.

Section 8. **TERMINATION**.

(a) Termination by the Purchaser. This Agreement may be terminated at any time prior to the Closing by the Purchaser following the occurrence of any of the following events (each a "Purchaser Termination Event") immediately upon delivery of written notice to the Company; *provided, however* that the Purchaser shall not be permitted to terminate this Agreement if at the time of such termination the Purchaser is in breach of any representation, warranty or covenant applicable to it in any material respect under this Agreement:

(i) the Closing does not occur on or before the Closing Date;

(ii) the failure of any of the conditions set forth in Section 6 hereof to be satisfied, which failure cannot be cured or is not cured before the earlier of (A) fifteen (15) Business Days after receipt of written notice thereof by the Company from the Purchaser and (B) the Closing Date;

(iii) the Company breaches any representation or warranty or breaches any covenant applicable to it in any material respect under this Agreement and if such breach is curable, it is not cured before the earlier of (A) fifteen (15) Business Days after receipt of written notice by the Company from the Purchaser and (B) the Closing Date; or

(iv) any Governmental Authority of competent jurisdiction, enters a Final Order declaring this Agreement or any material portion hereof to be unenforceable.

(b) Termination by the Company. This Agreement may be terminated at any time prior to the Closing by the Company following the occurrence of any of the following events immediately upon delivery of written notice to the Parties except as set forth below; *provided, however* that the Company shall not be permitted to terminate this Agreement if, at the time of such termination, the Company is in breach of any representation, warranty or covenant applicable to it in any material respect under this Agreement:

(i) the failure of any of the conditions set forth in Section 7 hereof to be satisfied, which failure cannot be cured or is not cured before the earlier of (A) fifteen (15) Business Days after receipt of written notice thereof by the Purchaser from the Company and (B) the Closing Date;

(ii) the Purchaser breaches any representation or warranty or breaches any covenant applicable to it in any material respect under this Agreement and if such breach is curable, it is not cured before the earlier of (A) fifteen (15) Business Days after receipt of written notice by the Purchaser from the Company and (B) the Closing Date;

(iii) any Governmental Authority of competent jurisdiction, enters a Final Order declaring this Agreement or any material portion hereof to be unenforceable; or

(iv) the Closing does not occur on or before the Closing Date.

(c) Purchaser Default. Subject to Section 10.19, the Purchaser agrees that, in the event of a Purchaser Default, the Company shall be entitled to all remedies available at law and at equity, including to enforce rights of damages and/or specific performance pursuant to Section 10.18.

(d) Mutual Termination. This Agreement may be terminated by the mutual written consent of the Company and the Purchaser.

(e) Effect of Purchaser Termination. Upon a termination of this Agreement in accordance with Section 8(a), the Purchaser shall have no continuing liability or obligation to the Company and the provisions of this Agreement shall have no further force or effect with respect to the Purchaser, except for the provisions in Sections 8, 9, and 10, each of which shall survive termination of this Agreement; *provided, however*, that no such termination shall relieve the Purchaser from liability for its breach or non-performance of its obligations hereunder prior to the date of such termination and the rights of the Company as it relates to such breach or non-performance by the Purchaser shall be preserved in the event of the occurrence of such breach or non-performance.

(f) Effect of Company or Mutual Termination. Upon a termination of this Agreement in accordance with Sections 8(b) or 8(d), neither Party shall have any continuing liability or obligation to the other Party hereunder and the provisions of this Agreement shall have no further force or effect except for the provisions in Sections 8, 9, and 10, each of which shall survive termination of this Agreement; *provided* that no such termination shall relieve either Party from liability for its breach or non-performance of its obligations hereunder prior to the date of such termination and the rights of the other Party as it relates to such breach or non-performance by the Party shall be preserved in the event of the occurrence of such breach or non-performance.

Section 9. INDEMNIFICATION. The Company agrees to indemnify and hold harmless the Indemnified Parties from and against any and all claims, damages, losses, liabilities and expenses (including, without limitation, fees and disbursements of counsel), that may be incurred by or asserted or awarded against any Indemnified Party, in each case arising out of this Agreement (including as a result of any breach or inaccuracy of any representation, warranty or covenant herein), the other Offering Documents, or the transactions contemplated hereby or thereby, solely to the extent such Offering Documents or transactions contemplated thereby relate to this Agreement and the Series B Preferred Equity Offering, any use made or proposed to be made with the proceeds of the Series B Preferred Equity Offering, or any claim, litigation, investigation or proceeding relating to any of the foregoing, regardless of whether any Indemnified Party is a party thereto, and the Company shall reimburse each Indemnified Party upon demand for reasonable and documented fees and expenses of counsel (which, so long as there are no conflicts among such Indemnified Parties, shall be limited to one law firm serving as counsel for the Indemnified Parties) and other expenses incurred by it in connection with investigating, preparing to defend or defending, or providing evidence in or preparing to serve or serving as a witness with respect to, any lawsuit, investigation, claim or other proceeding relating to any of the foregoing, irrespective of whether the transactions contemplated hereby are consummated, except to the extent such claim, damage, loss, liability, or expense is found in a Final Order to have resulted from such Indemnified Party's bad faith, actual fraud, gross negligence, or willful misconduct. No Indemnified Party shall have any liability (whether direct or indirect, in contract, tort or otherwise) to the Company for or in connection with the transactions contemplated hereby, except to the extent such liability is found in a final, non-appealable order of a court of competent jurisdiction to have resulted from such Indemnified Party's bad faith, actual fraud, gross negligence or willful misconduct. In no event, however, shall the Company or any Indemnified Party be liable on any theory of liability for any special, indirect, consequential or punitive damages. Without the prior written consent of the Indemnified Parties, the Company agrees that it will not enter into any settlement of any lawsuit, claim or other proceeding arising out of this Agreement, the other Offering Documents, or the transactions contemplated hereby or thereby, solely to the extent such Offering Documents or transactions contemplated thereby relate to this Agreement and the Series B Preferred Equity Offering, unless such settlement (i) includes an explicit and unconditional release from the party bringing such lawsuit, claim or other proceeding of all Indemnified Parties and (ii) does not include

a statement as to or an admission of fault, culpability, or a failure to act by or on behalf of any Indemnified Party. No Indemnified Party shall be liable for any damages arising from the use by unauthorized persons of any information made available to the Indemnified Parties by the Company or any of its representatives through electronic, telecommunications or other information transmission systems that is intercepted by such persons. No Indemnified Party shall settle any lawsuit, claim, or other proceeding arising out of this Agreement, the other Offering Documents, or the transactions contemplated hereby or thereby without the prior written consent of the Company (such consent not to be unreasonably withheld or delayed). Notwithstanding the foregoing, an Indemnified Party shall be entitled to no indemnification by the Company for any claim, damage, loss, liability, or expense incurred by or asserted or awarded against such Indemnified Party for any violation of Law by such Indemnified Party.

#### Section 10. **MISCELLANEOUS.**

10.1 **Payments.** All payments made by or on behalf of the Company or any of their Affiliates to the Purchaser or its assigns, successors or designees pursuant to this Agreement shall be without withholding, set-off, counterclaim or deduction of any kind.

10.2 **Arm's Length Transaction.** The Company acknowledges and agrees that (i) the Series B Preferred Equity Offering and any other transactions described in this Agreement are an arm's-length commercial transaction between the Parties and (ii) the Purchaser has not assumed nor will it assume an advisory or fiduciary responsibility in the Company's favor with respect to any of the transactions contemplated by this Agreement or the process leading thereto, and the Purchaser has no obligation to the Company with respect to the transactions contemplated by this Agreement except those obligations expressly set forth in this Agreement or the Offering Documents to which it is a party.

10.3 **Survival.** The representations, warranties, covenants, agreements and obligations of the Parties shall survive the Closing as follows (each such survival period, a "Survival Period"): (i) except for Fundamental Representations and the Tax Representations, the representations and warranties made by each Party in this Agreement shall survive the Closing until the first anniversary of the Closing; (ii) Fundamental Representations shall survive the Closing until the fifth anniversary of the Closing, (iii) Tax Representations shall survive the Closing for the full period of all applicable statutes of limitations related thereto (after giving effect to any waiver or extension thereof), and (iv) the covenants, agreements, obligations and other undertakings of the Parties shall survive the Closing until fully performed in accordance with their terms. All liability of the Indemnifying Parties with respect to the representations, warranties, covenants, agreements and obligations hereunder shall be extinguished at the end of the applicable Survival Period, except to the extent that notice of an alleged breach of such representations, warranties, covenants, agreements or obligations has been provided before such date; provided that if notice is given prior to the expiration of the applicable Survival Period, the claim with respect to such representation, warranty, covenant, agreement or obligation shall continue indefinitely until finally resolved.

10.4 **No Waiver of Rights.** All waivers hereunder must be made in writing, and the failure of any Party at any time to require another Party's performance of any obligation under this Agreement shall not affect the right subsequently to require performance of that obligation. Any waiver of any breach of any provision of this Agreement shall not be construed as a waiver of any continuing or succeeding breach of such provision or a waiver or modification of any other provision.

10.5 **Notices.** All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given or made (and shall be deemed to have been duly given or made upon receipt) by delivery in person, by an internationally recognized overnight courier service, by email or registered or certified mail (postage prepaid, return receipt requested) to the respective Parties at the following addresses (or at such

other address for any Party as shall be specified by such Party in a notice given in accordance with this Section 10.5).

(a) If to the Company, to:

NextDecade Corporation  
1000 Louisiana Street, Suite 3900  
Houston, Texas 77002  
Attention: Krysta De Lima, General Counsel  
krysta@next-decade.com

With a copy (which shall not constitute notice to the Company) to:

K&L Gates LLP  
214 North Tryon Street, 47<sup>th</sup> Floor  
Charlotte, North Carolina 28202  
Attention: Sean M. Jones  
Sean.Jones@klgates.com

(b) If to the Purchaser, to the address set forth on Exhibit H.

Any of the foregoing addresses may be changed by giving notice of such change in the foregoing manner, except that notices for changes of address shall be effective only upon receipt.

10.6 Headings. The section and subsection headings in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

10.7 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any Law or public policy, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect for so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible.

10.8 Entire Agreement. This Agreement and the agreements and documents referenced herein constitute the entire agreement of the Parties with respect to the subject matter hereof and supersede all prior agreements and undertakings, both written and oral, between the Parties with respect to the subject matter hereof.

10.9 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Except as set forth below, neither this Agreement nor any of the rights, interests or obligations under this Agreement may be assigned by either Party (whether by operation of law or otherwise) without the prior written consent of the other Party. Notwithstanding the foregoing and subject to the restriction on transfer contained in Section 10.10, the rights, obligations and interests hereunder may be assigned, delegated or transferred, in whole or in part, by the Purchaser to (i) any Affiliate of the Purchaser without the consent of the Company, or (ii) one or more other third parties with the consent of the Company, which consent shall not be unreasonably withheld or delayed; *provided, however*, that any such transferee, as a condition precedent to such transfer, becomes a Party to this Agreement and assumes the obligations of the



Purchaser with respect to the transferred shares under this Agreement by executing an addendum substantially in the form set forth in Exhibit A (the “Addendum”) and an assumption agreement in substantially the form set forth in Exhibit B hereto (the “Assumption Agreement”) and deliver the same to the Company in accordance with Section 10.5, and *provided, further*, that (a) with respect to a transfer to an Affiliate of the Purchaser, the Purchaser either (i) shall have provided an adequate equity support letter or a guarantee of such Affiliate-transferee’s obligations, in form and substance reasonably acceptable to the Company or (ii) shall remain fully obligated to fund the Purchase Price, and (b) with respect to a transfer to a third party, the Company, acting in good faith, shall have consented in writing to such transfer (which consent shall not be unreasonably withheld, conditioned or delayed) and shall have determined, in its reasonable discretion, after due inquiry and investigation, that such transferee is reasonably capable of fulfilling such obligations, or, absent such a determination, the proposed transferee shall have deposited with an agent of the Company or into an escrow account under arrangements satisfactory to the Company funds sufficient, in the reasonable determination of the Company, to satisfy such proposed transferee’s obligations. Any transfer that is made in violation of the immediately preceding sentence shall be null and void ab initio, and the Company shall have the right to enforce the voiding of such transfer.

10.10 Limitations on Transfer of Series B Preferred Stock. THE SERIES B PREFERRED STOCK (INCLUDING ANY SERIES B PREFERRED STOCK ISSUED IN RESPECT OF DIVIDEND PAYMENTS THEREON) SHALL NOT BE TRANSFERRED BY THE PURCHASER TO ANY OTHER PERSON WITHOUT THE CONSENT OF THE COMPANY, WHICH CONSENT SHALL NOT BE UNREASONABLY WITHHELD OR DELAYED, EXCEPT THAT THE PURCHASER SHALL BE ENTITLED TO TRANSFER ANY OR ALL SHARES OF ITS SERIES B PREFERRED STOCK TO ANY AFFILIATE OF THE PURCHASER.

10.11 No Third-Party Beneficiaries. This Agreement shall be binding upon and inure solely to the benefit of the Parties and their respective successors and permitted assigns and, except as expressly set forth in Section 9, nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever.

10.12 Amendment. This Agreement may not be altered, amended, or modified except by a written instrument executed by or on behalf of the Company and the Purchaser.

10.13 Governing Law. This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of New York, without regard to the conflicts of law principles thereof.

10.14 Consent to Jurisdiction. Each of the Parties (a) irrevocably and unconditionally agrees that any actions, suits or proceedings, at law or equity, arising out of or relating to this Agreement or any agreements or transactions contemplated hereby shall be heard and determined by the federal or state courts located in New York County in the State of New York; (b) irrevocably submits to the jurisdiction of such courts in any such action, suit or proceeding; (c) consents that any such action, suit or proceeding may be brought in such courts and waives any objection that such Party may now or hereafter have to the venue or jurisdiction of such courts or that such action or proceeding was brought in an inconvenient forum; and (d) agrees that service of process in any such action, suit or proceeding may be effected by providing a copy thereof by any of the methods of delivery permitted by Section 10.5 to such Party at its address as provided in Section 10.5 (provided that nothing herein shall affect the right to effect service of process in any other manner permitted by Law).

10.15 Waiver of Jury Trial. EACH OF THE PARTIES HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY

(WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY). EACH OF THE PARTIES HERETO HEREBY (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE TRANSACTIONS, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.14.

10.16 Currency. Unless otherwise specified in this Agreement, all references to currency, monetary values and dollars set forth herein shall mean United States (U.S.) dollars and all payments hereunder shall be made in United States dollars.

10.17 Counterparts. This Agreement may be executed and delivered (including by facsimile or electronic transmission) in one or more counterparts, and by the different Parties in separate counterparts, each of which when executed shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement. Signatures of the Parties transmitted by electronic mail shall be deemed to be their original signatures for all purposes.

10.18 Specific Performance. Each Party acknowledges that, in view of the uniqueness of the securities referenced herein and the transactions contemplated by this Agreement, the other Party would not have an adequate remedy at law for money damages in the event that this Agreement has not been performed in accordance with its terms, and therefore agrees that the other Party shall be entitled to specific performance and injunctive or other equitable relief, without the necessity of proving the inadequacy of monetary damages as a remedy.

10.19 Waiver of Consequential Damages. Notwithstanding any provision in this Agreement to the contrary, in no event shall any Party or its Affiliates, or their respective managers, members, shareholders or representatives, be liable hereunder at any time for punitive, incidental, consequential special or indirect damages, including loss of future profits, revenue or income, or loss of business reputation of any other Party or any of its Affiliates, whether in contract, tort (including negligence), strict liability or otherwise, and each Party hereby expressly releases each other Party, its Affiliates, and their respective managers, members, shareholders, partners, consultants, representatives, successors and assigns therefrom.

10.20 Rules of Construction. The Parties and their respective legal counsel participated in the preparation of this Agreement, and therefore, this Agreement shall be construed neither against nor in favor of any of the Parties, but rather in accordance with the fair meaning thereof. All definitions set forth in this Agreement are deemed applicable whether the words defined are used in this Agreement in the singular or in the plural, and correlative forms of defined terms have corresponding meanings. The term "including" is not limiting and means "including without limitation." The term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or." The words "hereof," "herein," "hereby," "hereunder" and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. Section, subsection, clause, schedule, annex and exhibit references are to this Agreement unless otherwise specified. Any reference to this Agreement shall include all alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, and supplements thereto and thereof, as applicable. Whenever the context may require, any pronoun includes the corresponding masculine, feminine and neuter forms.

*[No further text appears; signature pages follow]*

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

NEXTDECADE CORPORATION

By: /s/ Matthew Schatzman

Name: Matthew Schatzman

Title: President and Chief Executive Officer

[Series B Preferred Stock Purchase Agreement]

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PURCHASER

YORK TACTICAL ENERGY FUND, L.P.

By: /s/ Richard P. Swanson

Name: Richard P. Swanson

Title: General Counsel

[Series B Preferred Stock Purchase Agreement]

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## Exhibit A

### ADDENDUM

Reference is made to that certain Series B Convertible Preferred Stock Purchase Agreement (as amended, modified or supplemented from time to time, the “Agreement”) by and between NextDecade Corporation, a Delaware corporation (“NextDecade”), and York Tactical Energy Fund, L.P. or a successor thereof. Each capitalized term used but not defined herein shall have the meaning given to it in the Agreement.

Upon execution and delivery of this Addendum by the undersigned, as provided in Section 10.9 of the Agreement, the undersigned hereby becomes the Purchaser with respect to [●] shares of Series B Preferred Stock, as applicable thereunder and bound thereby effective as of the date of the Agreement.

By executing and delivering this Addendum, the undersigned represents and warrants, for itself and for the benefit of the Company, that:

- (a) as of the date of this Addendum, the undersigned has executed and delivered an Assumption and Joinder Agreement therefor (a copy of which is attached to this Addendum);
- (b) as of the date of this Addendum, with respect to each transferee that (i) is an individual, such transferee has all requisite authority to enter into this Addendum and to carry out the transactions contemplated by, and perform its respective obligation under, the Agreement and (ii) is not an individual, such transferee is duly organized, validly existing, and in good standing under the laws of the state of its organization, and has all requisite corporate, partnership, or limited liability company power and authority to enter into this Addendum and to carry out the transactions contemplated by, and perform its respective obligations under, the Agreement;
- (c) assuming the due execution and delivery of the Agreement by NextDecade, the Addendum and the Agreement are legally valid and binding obligations of it, enforceable against it in accordance with its terms, except as may be limited by bankruptcy, insolvency or similar laws, or by equitable principles relating to or limiting creditors’ rights generally; and
- (d) as of the date of this Addendum, it is not aware of any event that, due to any fiduciary or other duty to any other person, would prevent it from taking any action required of it under the Agreement and this Addendum.

By executing and delivering this Addendum to NextDecade, the undersigned agrees to be bound by all the terms of the Agreement with respect to [●] shares of Series B Preferred Stock.

The undersigned acknowledges and agrees that once delivered to NextDecade, it may not revoke, withdraw, amend, change or modify this Addendum unless the Agreement has been terminated.

[Series B Preferred Stock Purchase Agreement]

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THIS ADDENDUM SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES THAT WOULD REQUIRE THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION.

This Addendum may be executed in one or more counterparts, each of which, when so executed, shall constitute the same instrument and the counterparts may be delivered by facsimile transmission or by electronic mail in portable document format (.pdf).

[Signature on Following Page]

[Series B Preferred Stock Purchase Agreement]

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IN WITNESS WHEREOF, the Parties have caused this Addendum to be duly executed and delivered by their proper and duly authorized officers as of this [●] day of [●].

TRANSFeree WHO BECOMES THE PURCHASER

[NAME]

\_\_\_\_\_

as a Purchaser

Name:

[Series B Preferred Stock Purchase Agreement]

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**Exhibit B**

**ASSUMPTION AND JOINDER AGREEMENT**

Reference is made to (i) that certain Series B Convertible Preferred Stock Purchase Agreement (as amended, modified or supplemented from time to time, the “Agreement”), dated as of May 17, 2019, by and between NextDecade Corporation, a Delaware corporation (“NextDecade”), and York Tactical Energy Fund, L.P. or a successor thereof, and (ii) that certain Addendum, dated as of [●], [●] (the “Transferor Addendum”) submitted by [●], as transferor (the “Transferor”). Each capitalized term used but not defined herein shall have the meaning given to it in the Agreement.

As a condition precedent to becoming the Purchaser with respect to [●] shares of Series B Preferred Stock, the undersigned (the “Transferee”) hereby agrees to become bound by all the terms, conditions and obligations set forth in the Agreement and the Transferor Addendum, copies of which are attached hereto as Annex I. This Assumption and Joinder Agreement shall take effect and shall become an integral part of the Agreement and the Transferor Addendum immediately upon its execution, and the Transferee shall be deemed to be bound by all of the terms, conditions and obligations of the Agreement and the Transferor Addendum as of the date thereof. The Transferee shall hereafter be deemed to be the “Purchaser” with respect to [●] shares of Series B Preferred Stock and a “Party” for all purposes under the Agreement.

[Signatures on Following Page]

[Series B Preferred Stock Purchase Agreement]

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IN WITNESS WHEREOF, this Assumption and Joinder Agreement has been duly executed by each of the undersigned as of the date specified below.

Date: [●]

\_\_\_\_\_  
Name of Transferor

\_\_\_\_\_  
Name of Transferee

\_\_\_\_\_  
Authorized Signatory of Transferor

\_\_\_\_\_  
Authorized Signatory of Transferee

\_\_\_\_\_  
(Type or Print Name and Title of Authorized Signatory)

\_\_\_\_\_  
(Type or Print Name and Title of Authorized Signatory)

Address of Transferee:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Attn:

\_\_\_\_\_  
Tel:

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

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

\_\_\_\_\_

\_\_\_\_\_

**Exhibit C**

**CERTIFICATE OF DESIGNATIONS  
OF  
SERIES B CONVERTIBLE PREFERRED STOCK**

*[see attached]*

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**Exhibit D**

**FORM OF WARRANT AGREEMENT**

*[see attached]*

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## **Exhibit E**

### **USE OF PROCEEDS**

Proceeds from the Series B Preferred Equity Offering shall be used by the Company for development activities related to the liquefaction of natural gas and the sale of liquefied natural gas (“LNG”) in international markets, including:

- Development activities related to the Rio Grande LNG terminal facility at the Port of Brownsville in southern Texas and an associated 137-mile Rio Bravo pipeline to supply gas to the terminal, in each case, including activities and businesses reasonably complementary or ancillary thereto and reasonable extensions thereof;
  - Development activities related to an approximate 1,000-acre site near Texas City, Texas for a second potential LNG terminal, including activities and businesses reasonably complementary or ancillary thereto and reasonable extensions thereof; and
  - Development activities conducted in overseas locations (including, but not limited to China and Singapore) in direct support of the Company’s businesses as set forth above.
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**Exhibit F**

**REGISTRATION RIGHTS AGREEMENT**

*[see attached]*

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**Exhibit G**

**PURCHASER RIGHTS AGREEMENT**

*[see attached]*

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**Exhibit H**

**PURCHASER NOTICE ADDRESS**

York Tactical Energy Fund, L.P.  
c/o York Capital Management Global Advisors, LLC  
767 Fifth Avenue, 17<sup>th</sup> Floor  
New York, NY 10153

Attention: Brian Traficante  
btraficante@yorkcapital.com

with a copy (which shall not constitute notice to the foregoing Purchaser) to:

Weil, Gotshal & Manges LLP  
767 Fifth Avenue, 17<sup>th</sup> Floor  
New York, NY 10153

Attention: Jaclyn L. Cohen  
Jackie.Cohen@weil.com

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**SERIES B CONVERTIBLE PREFERRED STOCK PURCHASE AGREEMENT**

This SERIES B CONVERTIBLE PREFERRED STOCK PURCHASE AGREEMENT (this “Agreement”), dated as of May 17, 2019, is entered into by and between NextDecade Corporation, a Delaware corporation (“NextDecade” or the “Company”), and each of the parties set forth on the signature pages hereto under the heading “Purchasers” (the “Purchasers”). NextDecade and the Purchasers are referred to herein individually as a “Party” and collectively as the “Parties.”

**RECITALS:**

WHEREAS, the Company has commenced a convertible preferred equity and warrant offering (the “Series B Preferred Equity Offering”), pursuant to which the Company has offered the Purchasers an opportunity to purchase shares of Series B Preferred Stock (as defined herein), together with certain associated Warrants (as defined herein), substantially on the terms and conditions set forth in the Certificate of Designations of Series B Convertible Preferred Stock of NextDecade Corporation attached to this Agreement as Exhibit C (the “Certificate of Designation”); and

WHEREAS, the Company desires to sell to the Purchasers, and the Purchasers desire to purchase from the Company, Series B Preferred Stock, together with associated Warrants, as more fully set forth herein.

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

Section 1. **DEFINITIONS.** As used in this Agreement, the following terms shall have the following meanings:

“Addendum” has the meaning assigned to it in Section 10.9.

“Affiliate” means, with respect to any specified Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such specified Person.

“Agreement” has the meaning assigned to it in the preamble hereto; it includes the Exhibits and Schedules hereto.

“Assumption Agreement” has the meaning assigned to it in Section 10.9.

“Business Day” means any day that is not a Saturday, a Sunday or other day on which banks are required or authorized by Law to be closed in the City of New York.

“Certificate of Designations” has the meaning assigned to it in the Recitals hereto.

“Charter Documents” means, collectively, the certificate of incorporation, articles of incorporation, bylaws, certificate of designations or board resolutions establishing the terms of any security, certificate of formation, operating agreement, limited liability company agreement and similar formation or organizational documents of any entity.

“Closing” has the meaning assigned to it in Section 2.4.

“Closing Actions” has the meaning assigned to it in Section 2.6.

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“Closing Date” means May 24, 2019.

“Code” means the Internal Revenue Code of 1986.

“Common Stock” means the common stock of the Company, \$0.0001 par value.

“Company” has the meaning assigned to it in the preamble hereto.

“Company Benefit Plan” means each (i) “employee benefit plan” within the meaning of Section 3(3) of ERISA, (ii) other benefit and compensation plan, contract, policy, program, practice, arrangement or agreement, including, but not limited to, pension, profit-sharing, savings, termination, executive compensation, phantom stock, change-in-control, retention, salary continuation, vacation, sick leave, disability, death benefit, insurance, hospitalization, medical, dental, life (including all individual life insurance policies as to which the Company or its Subsidiaries are the owners, the beneficiaries, or both), employee loan, educational assistance, fringe benefit, deferred compensation, retirement or post-retirement, severance, equity or equity-based, incentive and bonus plan, contract, policy, program, practice, arrangement or agreement, and (iii) other employment, consulting or other individual agreement, plan, practice, policy, contract, program, and arrangement, in each case, (x) which is sponsored or maintained by the Company or any of its ERISA Affiliates in respect of any current or former employees, directors, independent contractors, consultants or leased employees of the Company or any of its Subsidiaries or (y) with respect to which the Company or any of its Subsidiaries has any actual or potential liability.

“Control” (including the terms “control” “controlled by” and “under common control with”), with respect to the relationship between or among two or more Persons, means the possession, directly or indirectly or as trustee, personal representative or executor, of the power to direct or cause the direction of the affairs, policies or management of a Person, whether through the ownership of voting securities, as trustee, personal representative or executor, by contract, credit arrangement or otherwise.

“Encumbrance” means any security interest, pledge, mortgage, lien, claim, option, charge, restriction or encumbrance.

“Environmental Claim” means any claim, action, cause of action, suit, proceeding, investigation, Order, demand or notice by any Person alleging liability (including liability for investigatory costs, cleanup costs, governmental response costs, natural resources damages, property damages, personal injuries, attorneys’ fees, fines or penalties) arising out of, based on, resulting from or relating to (a) the presence or Release of, or exposure to, any Hazardous Materials; (b) circumstances forming the basis of any violation, or alleged violation, of any Environmental Law; or (c) any other matters covered or regulated by, or for which liability is imposed under, Environmental Laws.

“Environmental Laws” means all applicable Laws relating to pollution, the protection, restoration or remediation of or prevention of harm to the environment or natural resources (including plant and animal species), or the protection of human health and safety, including Laws relating to: (i) the exposure to, or Releases or threatened Releases of, Hazardous Materials; (ii) the generation, manufacture, processing, distribution, use, treatment, containment, disposal, storage, transport or handling of Hazardous Materials; or (iii) recordkeeping, notification, disclosure and reporting requirements respecting Hazardous Materials

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“ERISA Affiliate” means any Person (whether or not incorporated) that together with the Company or any of its Subsidiaries is treated as a single employer within the meaning of Section 414 of the Code.

“Exchange Act” means the Securities Exchange Act of 1934, as amended from time to time, and the rules and regulations promulgated thereunder, or any successor statute.

“Final Order” means a final, nonappealable Order of a court of competent jurisdiction.

“Fundamental Representations” means (i) with respect to the Company, those representations and warranties of the Company set forth in Sections 3.1 (*Organization and Qualification; Subsidiaries*), 3.2 (*Authorization; Enforcement; Validity*), 3.3 (*No Conflicts*), 3.4 (*Consents and Approvals*), 3.5 (*Capitalization*) and 3.6 (*Valid Issuance*), and (ii) with respect to the Purchasers, those representations and warranties of the Purchasers set forth in Sections 4.1 (*Organization and Qualification*), 4.2 (*Authorization; Enforcement; Validity*), 4.3 (*No Conflicts*) and 4.4 (*Consents and Approvals*).

“Governmental Authority” means any federal, national, supranational, foreign, state, provincial, local, county, municipal or other government, any governmental, regulatory or administrative authority, agency, department, bureau, board, commission or official or any quasi-governmental or private body exercising any regulatory, taxing, importing or other governmental or quasi-governmental authority, or any court, tribunal, judicial or arbitral body, or any Self-Regulatory Organization.

“Hazardous Materials” means: (a) any hazardous materials, hazardous wastes, hazardous substances, toxic wastes, solid wastes, and toxic substances as those or similar terms are defined under any Environmental Laws; (b) any asbestos or asbestos containing material; (c) polychlorinated biphenyls (“PCBs”), or PCB containing materials or fluids; (d) radon; (e) any petroleum, petroleum hydrocarbons, petroleum products, crude oil and any fractions or derivatives thereof; and (f) any other substance, material, chemical, waste, pollutant, or contaminant that, whether by its nature or its use, or exposure to is subject to regulation or could give rise to liability under any Laws relating to pollution, waste, human health and safety, or the environment.

“Indemnified Party” means the Purchasers, each of their Affiliates, and each of their respective directors, managers, officers, principals, partners, members, equity holders (regardless of whether such interests are held directly or indirectly), trustees, controlling persons, predecessors, successors and assigns, Subsidiaries, employees, agents, advisors, attorneys and representatives.

“Insolvency Event” means, with respect to any Person, the occurrence of any of the following:

(a) such Person shall (A) (i) voluntarily commence any proceeding or file any petition seeking relief under Title 11 of the United States Code, Sections 101 et. seq. (the “Bankruptcy Code”) or any other federal, state or foreign bankruptcy, insolvency, liquidation or similar Law, (ii) consent to the institution of, or fail to contravene in a timely and appropriate manner, any such proceeding or the filing of any such petition, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator or similar official for such Person or for a substantial part of its property or assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing or (B) such Person shall become unable, admit in writing its inability or fail generally to pay its debts as they become due; or

(b) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (A) relief in respect of such Person or of a substantial part of the property or assets of such Person, under the Bankruptcy Code or any other federal, state or foreign bankruptcy, insolvency, receivership or similar Law, (B) the appointment of a receiver, trustee, custodian, sequestrator or similar official for such Person or for a substantial part of the property of such Person or (C) the winding-up or liquidation of such Person; and such proceeding or petition shall continue undismissed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall have been entered.

“Intellectual Property” means the following intellectual property rights, both statutory and common law rights, if applicable: (a) copyrights and registrations and applications for registration thereof, (b) trademarks, service marks, trade names, slogans, domain names, logos, trade dress, and registrations and applications for registrations thereof, (c) patents, as well as any reissued and reexamined patents and extensions thereto, and any patent applications, continuations, continuations in part and divisional applications and patents issuing therefrom, and (d) trade secrets and confidential information, including ideas, designs, concepts, compilations of information, methods, techniques, procedures, processes and other know-how, whether or not patentable.

“Knowledge” means with respect to the Company, the actual knowledge after due inquiry of the persons set forth on Schedule 1.1(a).

“Law” means any federal, national, supranational, foreign, state, provincial, local, county, municipal or similar statute, law, common law, guideline, policy, ordinance, regulation, rule, code, constitution, treaty, requirement, judgment or judicial or administrative doctrines enacted, promulgated, issued, enforced or entered by any Governmental Authority.

“Material Adverse Effect” means any effect, change, event, occurrence, development, or state of facts that, individually or in the aggregate with all other such effects, changes, events, occurrences, developments, or states of fact, (A) has had, or would reasonably be expected to have, a material adverse effect on the business, assets, liabilities, condition (financial or otherwise), or results of operations of the Company and its Subsidiaries, taken as a whole or (B) would, or would reasonably be expected to, prevent or materially impair the ability of the Company to consummate the transactions contemplated by this Agreement, *but expressly excluding* in the case of the foregoing clause (A) any such effect, change, event, occurrence, development, or state of facts, either alone or in combination, to the extent arising out of or resulting from:

(a) the execution or delivery of this Agreement, the consummation of the transactions contemplated by this Agreement or the public announcement or other publicity with respect to any of the foregoing; *provided, however*, that the exception set forth in this clause (a) shall not apply to the representations and warranties set forth in clauses (b) and (c) of Section 3.3 or to the representations and warranties set forth in Section 3.4;

(b) general economic conditions (or changes in such conditions) in the United States or conditions in the global economy generally that do not affect the Company and its Subsidiaries, taken as a whole, disproportionately as compared to other similarly situated participants in the liquefied natural gas export industry (in which case only such disproportionate impact shall be considered);

(c) changes in the trading price or trading volume of the Common Stock.

(d) conditions (or changes in such conditions) generally affecting the liquefied natural gas export industry that do not affect the Company and its Subsidiaries, taken as a whole, disproportionately as compared to other similarly situated participants in the liquefied natural gas export industry (in which case only such disproportionate impact shall be considered);

(e) conditions (or changes in such conditions) in the financial markets, credit markets or capital markets in the United States or any other country or region, including (i) changes in interest rates in the United States or any other country and changes in exchange rates for the currencies of any countries or (ii) any suspension of trading in securities (whether equity, debt, derivative or hybrid securities) generally (other than a suspension of the trading of the Company’s Common Stock, which constitutes a Material Adverse Effect, provided such suspension is not part of a broader suspension of securities) on any securities exchange or over-the-counter market operating in the United States or any other country or region in each

case, that do not affect the Company as a whole disproportionately as compared to other similarly situated participants in the liquefied natural gas export industry (in which case only such disproportionate impact shall be considered);

(f) any actions taken or omitted to be taken at the written request or with the written consent of the Purchasers; or

(g) any changes in any Laws or any accounting regulations or principles that do not affect the Company, taken as a whole, disproportionately as compared to other similarly situated participants in the liquefied natural gas export industry (in which case only such disproportionate impact shall be considered).

Notwithstanding any provision of the preceding sentence to the contrary, the occurrence of an Insolvency Event in respect of the Company or any Subsidiary of the Company shall be deemed to constitute a Material Adverse Effect.

“Material Contracts” means all “material contracts” of the Company within the meaning of Item 601 of Regulation S-K of the SEC.

“NextDecade” has the meaning assigned to it in the preamble hereto.

“OFAC” means the Office of Foreign Assets Control of the U.S. Department of the Treasury.

“Offering Documents” means, collectively, all agreements, documents, or instruments related to or in connection with the Series B Preferred Equity Offering, including this Agreement and any other documents or exhibits related to or contemplated in the foregoing.

“Order” means any order, writ, judgment, injunction, decree, ruling, directive, stipulation, determination or award made, issued or entered by or with any Governmental Authority, whether preliminary, interlocutory or final.

“Party” or “Parties” has the meaning assigned to it in the preamble hereto.

“Person” means any individual, partnership, firm, corporation, limited liability company, association, joint venture, trust, Governmental Authority, unincorporated organization or other entity, as well as any syndicate or group that would be deemed to be a person under Section 13(d)(3) of the Exchange Act.

“Permits” means all permits, consents, approvals, registrations, licenses, authorizations, qualifications and filings with and under all federal, state, local or foreign Laws and Governmental Authorities.

“Purchase Price” has the meaning assigned to it in Section 2.2.

“Purchasers” has the meaning assigned to it in the preamble hereto.

“Purchaser Default” means the failure by the Purchasers to deliver and pay the Purchase Price to be paid pursuant to this Agreement.

“Purchaser Material Adverse Effect” means any event, circumstance, development, change or effect that, individually or in the aggregate with all other events, circumstances, developments, changes or effects, has or would reasonably be expected to prevent, materially delay or materially impair the ability of the Purchasers to consummate the transactions contemplated hereby.

“Purchaser Rights Agreement” means the Purchaser Rights Agreement, in substantially the form attached hereto as Exhibit G.

“Purchaser Termination” means the termination of this Agreement by the Purchasers.

“Purchaser Termination Event” has the meaning assigned to it in Section 8(a).

“Registration Rights Agreement” means the Registration Rights Agreement, in substantially the form attached hereto as Exhibit F.

“Release” means any release, spill, emission, discharge, leaking, pouring, dumping or emptying, pumping, injection, deposit, disposal, dispersal, leaching or migration into the indoor or outdoor environment (including, without limitation, soil, ambient air, surface water, groundwater and surface or subsurface strata) or into or out of any property, including the movement of Hazardous Materials through or in the air, soil, surface water, groundwater or property.

“Sanctioned Person” means any Person that is the target of Sanctions, including, (a) any Person listed in any Sanctions related list of designated Persons maintained by OFAC or the U.S. Department of State, by the United Nations Security Council, the European Union or Her Majesty’s Treasury of the United Kingdom, (b) any Person located, organized or resident in a Sanctioned Territory, or (c) any Person directly or indirectly owned or controlled by any such Person or Persons described in the foregoing clauses (a) and (b).

“Sanctions” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by relevant Governmental Authorities, including, but not limited those administered by the U.S. government through OFAC or the U.S. Department of State, the United Nations Security Council, the European Union or Her Majesty’s Treasury of the United Kingdom.

“SEC” has the meaning assigned to it in Section 3.7(a).

“SEC Reports” has the meaning assigned to it in Section 3.7(a).

“Securities Act” means the Securities Act of 1933, as amended from time to time, and the rules and regulations promulgated thereunder, or any successor statute.

“Self-Regulatory Organization” means any securities exchange, futures exchange, contract market, any other exchange or corporation or similar self-regulatory body or organization applicable to a Party to this Agreement.

“Series B Preferred Equity Offering” has the meaning assigned to it in the Recitals hereto.

“Series B Preferred Stock” means the Series B Convertible Preferred Stock of the Company (including any Series B Preferred Stock issued in respect of dividend payments thereon).

“Subsidiary” means, with respect to any Person, any other Person of which the first Person owns, directly or indirectly, securities or other ownership interests having voting power to elect a majority of the board of directors or other Persons performing similar functions for such Person (or, if there are no such voting interests, more than 50% of the equity interests allowing for effective control of the second Person).

“Survival Period” has the meaning assigned to it in Section 10.3.

“Tax” (and, with correlative meaning, “Taxes” and “Taxable”) means: (a) any taxes, customs, duties, charges, fees, levies, penalties or other assessments, fees and other governmental charges imposed by any Governmental Authority, including, but not limited to, income, profits, gross receipts, net proceeds, windfall profit, severance, property, personal property (tangible and intangible), production, sales, use, leasing or lease, license, excise, duty, franchise, capital stock, net worth, employment, occupation, payroll, withholding, social security (or similar), unemployment, disability, payroll, fuel, excess profits, occupational, premium, severance, estimated, alternative or add-on minimum, ad valorem, value added, turnover, transfer, stamp or environmental tax, or any other tax, custom, duty, fee, levy or other like assessment or charge of any kind whatsoever, together with any interest, penalty, addition to tax, or additional amount attributable thereto; and (b) any liability for the payment of amounts with respect to payment of a type described in clause (a), including (i) as a result of being a member of an affiliated, consolidated, combined or unitary group, (ii) as a result of succeeding to such liability as a result of merger, conversion or asset transfer or (iii) as a result of any obligation under any Tax sharing, Tax allocation, Tax indemnity, or similar agreement or arrangement.

“Tax Representations” means those representations and warranties of the Company set forth in Section 3.19.

“Tax Returns” means any return, report, statement, information return or other document (including any amendments thereto and any related or supporting information) filed or required to be filed with any Governmental Authority in connection with the determination, assessment, collection or administration of any Taxes or the administration of any laws, regulations or administrative requirements relating to any Taxes.

“Treasury Regulations” means the regulations promulgated under the Code, by the United States Department of the Treasury, as such regulations may be amended from time to time. All references herein to specific sections of the regulations shall be deemed also to refer to any corresponding provisions of succeeding regulations, and any reference to temporary regulations shall be deemed also to refer to any corresponding provisions of final regulations.

“Warrants” means detached warrants in the form attached hereto as Exhibit D.

## Section 2. AGREEMENT TO SELL AND PURCHASE.

2.1 Sale and Purchase of Shares. Subject to the terms of this Agreement, at the Closing, the Company hereby agrees to issue and sell to the Purchasers, and the Purchasers hereby agree, severally and not jointly, to purchase from the Company, an aggregate amount of 5,000 shares of Series B Preferred Stock, together with the associated Warrants, free and clear of all Encumbrances, in the amounts, with respect to each such Purchaser, set forth on Schedule A hereto.

2.2 Purchase Price. The purchase price for the Series B Preferred Stock to be purchased by the Purchasers hereby shall be \$1,000 per share (the “Purchase Price”) such that the aggregate purchase price to be paid by the Purchasers shall be \$5,000,000.

2.3 Origination Fee. Subject to the terms of this Agreement, at the Closing, the Company hereby agrees to issue to the Purchasers 100 additional shares of Series B Preferred Stock (but excluding the associated Warrants), representing an origination fee in an aggregate amount equal to \$100,000 or approximately two percent (2%) of the Purchase Price, free and clear of all Encumbrances, in the amounts, with respect to each such Purchaser, set forth on Schedule A hereto.

2.4 Closing. Subject to the terms of this Agreement, the closing of the transactions contemplated hereby (the “Closing”) will occur on the Closing Date, unless otherwise agreed by the mutual consent of the

Parties. The Closing shall take place at the offices of NextDecade Corporation, 1000 Louisiana Street, Suite 3900, Houston, Texas 77002 or such other place as the Parties mutually agree. The Parties agree that the Closing may occur via delivery of facsimiles or photocopies of the applicable Offering Documents. Unless otherwise provided herein, all proceedings to be taken and all documents to be executed and delivered by all Parties at the Closing will be deemed to have been taken and executed simultaneously, and no proceedings will be deemed to have been taken nor documents executed or delivered until all have been taken, executed and delivered.

2.5 Rounding of Shares. The number of shares of Series B Preferred Stock issued to each Purchaser pursuant to the terms of this Agreement shall be rounded in accordance with the terms of the Certificate of Designations to avoid fractional shares.

2.6 Actions at the Closing. At the Closing, each Purchaser and the Company (as applicable) shall take or cause to be taken the following actions ("Closing Actions"):

(a) Payment of the Purchase Price. Each Purchaser shall pay the applicable Purchase Price in respect of the shares purchased by such Purchaser pursuant to Section 2.1 to the Company by wire transfer of immediately available funds to the account specified by the Company to such Purchaser in writing not less than five (5) Business Days prior to the Closing.

(b) Issuance of Series B Preferred Stock. The Company shall deliver to each Purchaser a true, correct and complete certificate, or other applicable evidence of ownership acceptable to the Purchasers, representing the shares of Series B Preferred Stock purchased by the Purchasers pursuant to this Section 2, duly authorized by all requisite corporate action on the part of the Company, together with all instruments of transfer in respect of such Purchaser's interests in such shares, and in the form required by the Certificate of Designation.

(c) Warrants. The Company shall deliver to each Purchaser the Warrants, duly authorized by all requisite corporate action on the part of the Company, together with all instruments of transfer in respect of such Purchaser's interests in such Warrants.

(d) Purchaser Rights Agreement. The Purchasers and the Company shall execute and deliver the Purchaser Rights Agreement.

(e) Registration Rights Agreement. The Purchasers and the Company shall execute and deliver the Registration Rights Agreement.

2.7 Transfer Taxes. All of the Series B Preferred Stock issued to the Purchasers pursuant to this Agreement will be delivered with any and all issue, stamp, transfer or similar taxes or duties payable in connection with such delivery duly paid by the Company.

Section 3. REPRESENTATIONS AND WARRANTIES OF THE COMPANY. The Company hereby represents and warrants to each Purchaser as of the date hereof and, with respect to the Fundamental Representations, as of the date hereof and as of the Closing Date (except for representations and warranties that are made as of a specific date, which are made only as of such date), on behalf of itself and not any other Party, as follows:

3.1 Organization and Qualification; Subsidiaries. The Company and each of its Subsidiaries has been duly organized and is validly existing and, except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, is in good standing under the laws of its jurisdictions of organization, with the requisite power and authority to own its properties and conduct its business as currently conducted.

3.2 Authorization; Enforcement; Validity. The Company has all necessary corporate power and authority to enter into this Agreement and to carry out its obligations hereunder, including the issuance to the Purchasers of the Series B Preferred Stock and Warrants (and the Common Stock issuable upon the conversion or exercise of such Series B Preferred Stock and Warrants, as applicable) pursuant to Sections 2.1 and 2.3 of this Agreement. The execution and delivery by the Company of this Agreement and the performance by the Company of its obligations hereunder, have been duly authorized by all requisite action on the part of the Company, and no other action on the part of the Company or any of its Subsidiaries is necessary to authorize the execution and delivery by the Company of this Agreement or the consummation of the transactions contemplated by this Agreement. This Agreement has been duly executed and delivered by the Company, and assuming due authorization, execution and delivery by each Purchaser, this Agreement constitutes, as to each such Purchaser, the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium or similar Laws now or hereafter in effect relating to creditors' rights generally and subject to general principles of equity.

3.3 No Conflicts. Assuming that all consents, approvals, authorizations and other actions described in Section 3.4 have been obtained, and except as may result from any facts or circumstances relating solely to a Purchaser, the execution, delivery and performance by the Company of this Agreement and the consummation of the transactions contemplated hereby do not and will not: (a) violate, conflict with or result in the breach of the Charter Documents of the Company or any of its Subsidiaries; (b) conflict with or violate any Law or Order applicable to the Company or any of its Subsidiaries, or any of its or their respective assets or properties; or (c) violate, conflict with, result in any breach of, constitute a default (or event which with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which the Company or any of its Subsidiaries is a party or to which any of their respective assets or properties are subject, or result in the creation of any Encumbrance on any of their respective assets or properties, except, in the case of clauses (b) and (c), for any such conflict, violation, breach or default that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

3.4 Consents and Approvals. The execution, delivery and performance by the Company of this Agreement do not require any consent, approval, authorization or other Order of, action by, filing with or notification to, any Governmental Authority or any other Person under any of the terms, conditions or provisions of any Law or Order applicable to the Company or any of its Subsidiaries or by which any of its or their assets or properties may be bound, any contract or agreement to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries may be bound, except for any consent, approval, authorization or other Order of, action by, filing with or notification to, any Governmental Authority or any other Person under any of the terms, conditions or provisions of any Law or Order applicable to the Company or any of its Subsidiaries that, if not made or obtained, would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

3.5 Capitalization.

(a) As of the date of this Agreement, and immediately prior to the issuance and sale of the Series B Preferred Stock (including the associated Warrants), the capitalization of the Company and each of its Subsidiaries is set forth in Schedule 3.5(a).

(b) Except as set forth in Schedule 3.5(b), there are no outstanding options, warrants, "phantom" stock rights, claims, calls, puts, convertible or exchangeable securities or other contracts or rights of any nature obligating the Company or any of its Subsidiaries to issue, return, redeem, repurchase, transfer,



deliver or sell equity interests or other securities or ownership interests in the Company or any of its Subsidiaries, and no Person is entitled to any preemptive or similar right with respect to the issuance of securities or other equity interests in the Company or any of its Subsidiaries.

(c) Except as set forth in Schedule 3.5(c), (x) to the Knowledge of the Company, there are no voting agreements, voting trusts, shareholder agreements, proxies or other similar agreements or understandings with respect to the equity interests of the Company or any of its Subsidiaries or that restrict or grant any right, preference or privilege with respect to the transfer of such equity interests, and (y) there are no contracts to declare, make or pay any dividends or distributions, whether current or accumulated, or due or payable, on the equity interests of the Company or any of its Subsidiaries.

(d) Except as contemplated by Section 5.5(c), the Company has no authorized or outstanding class of equity securities ranking as to dividends, redemption or distribution of assets upon a liquidation senior to or pari passu with the Series B Preferred Stock or that would otherwise constitute “Senior Stock” (as defined in the Certificate of Designations) or “Parity Stock” (as defined in the Certificate of Designations).

### 3.6 Valid Issuance.

(a) Upon payment of the Purchase Price and the occurrence of the Closing, the Purchasers will be the owners, of record and beneficially, of 5,100 duly and validly issued, fully paid, and non-assessable shares of Series B Preferred Stock. The Purchasers shall have good and valid title to such Series B Preferred Stock, free and clear of any Encumbrances.

(b) Assuming the accuracy of each Purchaser’s representations and warranties set forth herein, the offer, sale and issuance of such Series B Preferred Stock as contemplated hereby are exempt from the registration and qualification of the Securities Act, and will be issued in compliance with all applicable federal and state securities and blue sky laws. Neither the Company nor any Person acting on behalf of the Company has taken any action that would cause the loss of such exemption.

### 3.7 SEC Reports; Financial Statements.

(a) The Company has filed or furnished with the Securities and Exchange Commission (“SEC”) all forms, reports, schedules, proxy statements (collectively, and in each case including all exhibits and schedules thereto and documents incorporated by reference therein and including all registration statements and prospectuses filed with the SEC, the “SEC Reports”) required to be filed or furnished by the Company with the SEC since July 25, 2017. As of its date of filing or furnishing, each SEC Report complied in all material respects with the requirements of the Exchange Act or the Securities Act, and none of such SEC Reports (including any and all financial statements included therein) contained when filed or furnished (except to the extent revised or superseded by a subsequent filing with the SEC that is publicly available prior to the date hereof) any untrue statement of a material fact or omitted or omits to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading.

(b) Each of the consolidated financial statements (including the notes thereto) included in the SEC Reports (i) complied as to form required by published rules and regulations of the SEC related thereto as of its date of filing with the SEC, (ii) complied in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto, (iii) has been prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto or otherwise permitted by the SEC on Form 10-Q or any successor form under

the Exchange Act) and (iv) presents fairly in all material respects the consolidated financial position of Company and its consolidated Subsidiaries as of the dates thereof and the consolidated results of their operations and cash flows for the periods then ended, subject (in the case of unaudited financial statements) to normal year-end adjustments and any other adjustments described therein or in the notes or schedules thereto or the absence of footnotes (none of which are material).

(c) The unaudited balance sheet and the related unaudited statement of operations and unaudited statement of cash flows for the Company's most recently filed Quarterly Report on Form 10-Q as of the date of this Agreement (i) present fairly in all material respects the financial condition of the Company as of such date and the results of operations for the three (3) month period then ended and (ii) were prepared on a basis consistent with the Company's past practice, subject to normal year-end adjustments and the absence of footnotes.

3.8 Undisclosed Liabilities. Except as set forth in Schedule 3.8, and except for liabilities included or reserved for in the unaudited consolidated balance sheet of the Company or disclosed in the notes thereto included in the Company's most recently filed Quarterly Report on Form 10-Q as of the date of this Agreement, neither the Company nor any of its Subsidiaries has incurred liabilities, including contingent liabilities, or any other obligations of a nature required to be disclosed on a consolidated balance sheet or in the notes thereto, except liabilities that are not material and were incurred in the ordinary course of business subsequent to the date of the consolidated balance sheet contained in the Company's most recently filed Quarterly Report on Form 10-Q as of the date of this Agreement.

3.9 Contracts. Except as set forth in Schedule 3.9, neither the Company nor any of its Subsidiaries is, or to the Knowledge of the Company, is alleged to be (nor, to the Company's Knowledge, is any other party to any Material Contract) in material default under, or in material breach or material violation of, any Material Contract, and no event has occurred which, with the giving of notice or passage of time or both, would constitute a material default by the Company or any other party under any Material Contract. Other than Material Contracts which have terminated or expired in accordance with their terms, each of the Material Contracts is in full force and effect and is a legal, valid and binding obligation of the Company and, to the Knowledge of the Company, the other parties thereto enforceable against the Company and, to the Knowledge of the Company, such other parties 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 equitable principles (whether considered in a proceeding in equity or at law).

3.10 Affiliate Transactions. Except as set forth in Schedule 3.10, there are no transactions between the Company, on the one hand, and any (A) officer or director of the Company or any of its Subsidiaries, (B) to the Knowledge of the Company, record or beneficial owner of five (5) percent or more of the voting securities of the Company or (C) Affiliate or family member of any such officer or director or, to the Knowledge of the Company, record or beneficial owner, on the other hand, except employee benefit plans, executive compensation or director compensation, employment agreements, consulting agreements, indemnification agreements and similar transactions. Neither the Company nor any of its Subsidiaries is a guarantor or indemnitor of any indebtedness of any of the persons set forth in the foregoing clause (A) or, to the Knowledge of the Company, clauses (B) through (C).

3.11 Title. The Company and each of its Subsidiaries has good and marketable title to their respective owned properties and assets, and good leasehold title to their respective leasehold estates in leased properties and assets, in each case, subject to no Encumbrances, other than Encumbrances that would not reasonably be expected to result in, individually or in the aggregate, a Material Adverse Effect.

### 3.12 Compliance with Law; Permits.

(a) Neither the Company nor any of its Subsidiaries (i) is in material violation or default of the Charter Documents of the Company or any of its Subsidiaries, (ii) is in violation or default of any Order or any Law, except for such violations and defaults that would not reasonably be expected to result in, individually or in the aggregate, a Material Adverse Effect or (iii) has received, since August 23, 2018, any written notice of, and to the Knowledge of the Company, no investigation or review is in process or threatened by any Governmental Authority with respect to, any material violation or alleged violation of any Order or Law.

(b) Except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (i) the Company and its Subsidiaries hold all Permits necessary for the lawful conduct of their respective businesses as they are presently being conducted, (ii) all Permits are in full force and effect, (iii) the Company and its Subsidiaries are in compliance with the terms of the Permits, (iv) there are no pending or, to the Knowledge of the Company, threatened, modifications, amendments, cancellations, suspensions, limitations, nonrenewals or revocations of any Permit, and (v) there has occurred no event which (whether with notice or lapse of time or both) could reasonably be expected to result in or constitute the basis for such a modification, amendment, cancellation, suspension, limitation, nonrenewal or revocation thereof.

3.13 Litigation. Except as set forth in Schedule 3.13, no action, suit, claim, demand, hearing, investigation or other proceeding is pending against the Company or any of its Subsidiaries, or, to the Knowledge of the Company, any officer, director, manager, member, shareholder or employee of any such Person, and none of the Company or any of its Subsidiaries, or, to the Knowledge of the Company, any officer, director, manager, member, shareholder or employee of any such Person, is subject to any outstanding injunction, judgment, order, decree, ruling or charge or, to the Knowledge of the Company, is threatened with being made a party to any action, suit, proceeding, hearing or investigation of, in, or before any Governmental Authority or before any arbitrator, all cases, that are required to be described in the SEC Reports but are not described as required in the SEC Reports, or that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

3.14 Intellectual Property. The Company and its Subsidiaries own or have obtained valid and enforceable licenses for, or other legal and valid rights to use, the Intellectual Property necessary for the conduct of the business of the Company and its Subsidiaries as currently conducted, except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Neither the Company nor any of its Subsidiaries has received from any third party a claim in writing that the Company or any of its Subsidiaries is infringing in any material respect the Intellectual Property rights of any third party.

3.15 Insurance. Schedule 3.15 sets forth a true, correct and complete list of all of the insurance maintained for or on behalf of the Company or any of its Subsidiaries and claims made to date. All premiums with respect to such policies have been paid to the extent due and payable. No written notice of cancellation or termination has been received by the Company or any of its Subsidiaries with respect to any such policies that have not been replaced on substantially similar terms prior to the date of such cancellation or termination.

3.16 Environmental Matters. The Company and its Subsidiaries have at all times been in compliance in all material respects with all Environmental Laws. To the Knowledge of the Company, there are no locations or premises where Hazardous Materials have been Released such that (A) the Company or any of its Subsidiaries would reasonably be expected to be obligated to remove, remediate or otherwise respond to pursuant to any Environmental Laws or (B) would reasonably be expected to result in a liability of the Company or any of its Subsidiaries to any Person under any Environmental Laws. There are no Environmental Claims pending, or to

the Knowledge of the Company threatened against the Company or any of its Subsidiaries, and there no actions, activities, circumstances, facts, conditions, events or incidents, including the presence of any Hazardous Material, which would be reasonably likely to form the basis of any such Environmental Claim.

### 3.17 Company Benefits Plans.

(a) Schedule 3.17 lists each material Company Benefit Plan.

(b) Neither the Company nor any of its ERISA Affiliates has ever maintained, sponsored, contributed to, or had an obligation to maintain, sponsor or contribute to, or has any liability under or with respect to (i) a “defined benefit plan,” as defined in Section 3(35) of ERISA, (ii) a pension plan subject to the minimum funding standards of Section 302 of ERISA or Section 412 of the Code, (iii) a “multiemployer plan,” as defined in Section 3(37) of ERISA, (iv) a “multiple employer plan” (within the meaning of Section 413 of the Code), (v) a “voluntary employees’ beneficiary association” (within the meaning of Section 501(c)(9) of the Code), (vi) an organization or trust described in Sections 501(c)(17) or 501(c)(20) of the Code or (vii) a “welfare benefits fund” described in Section 419(e) of the Code. No current or former employee, officer, director, consultant or other service provider of the Company or any of its Subsidiaries is or may become entitled under any Company Benefit Plan to receive health, life insurance or other welfare benefits (whether or not insured), beyond their retirement or other termination of service, other than health continuation coverage as required by Section 4980B of the Code.

(c) Each Company Benefit Plan has been administered in all material respects in accordance with its terms and applicable Law. Each Company Benefit Plan intended to be qualified under Section 401(a) of the Code has either received a favorable determination letter from the IRS or may rely on a favorable opinion letter issued by the IRS, and, to the Knowledge of the Company, nothing has occurred since the date of such determination or opinion letter that would reasonably be expected to adversely affect such qualification.

(d) Except as would not be reasonably likely to result in a Material Adverse Effect, there are no actions, suits, audits or investigations by any Governmental Authority or other claims (except for routine claims for benefits) pending or, to the Knowledge of the Company, threatened, against or involving any Company Benefit Plan.

(e) Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby will (whether alone or upon the occurrence of any additional or further acts or events) (i) result in any payment becoming due to any current or former employee, officer, director or independent contractor of the Company or any Subsidiary thereof or satisfy any prerequisite (whether exclusive or non-exclusive) to any payment or benefit to any current or former employee, director or independent contractor of the Company or any Subsidiary thereof, (ii) increase any benefits under any Company Benefit Plan, (iii) result in the acceleration of the time of payment, vesting or funding of any such benefits under any Company Benefit Plan, or (iv) result in the forgiveness of any indebtedness of any current or former employee, officer, director or independent contractor of the Company or any Subsidiary thereof.

### 3.18 Labor.

(a) Neither the Company nor any of its Subsidiaries is a party to any labor or collective bargaining agreement.

(b) There are no (i) strikes, work stoppages, work slowdowns or lockouts pending or, to the Knowledge of the Company, threatened against or involving the Company or any of its Subsidiaries,

or (ii) unfair labor practice charges, grievances or complaints pending or, to the Knowledge of the Company, threatened by or on behalf of any employee or group of employees of the Company or any of its Subsidiaries, except in each case as would not have a Material Adverse Effect.

3.19 Tax Matters. Except as set forth in Schedule 3.19:

(a) As of the date of this Agreement, the Company has timely filed all material Tax Returns required to be filed (after giving effect to any extensions that have been requested by and granted to such party by the applicable Governmental Authority) and has paid or caused to be paid on its behalf all Taxes due and owing, other than those (i) that are being contested in good faith and for which adequate reserves have been established in accordance with GAAP or (ii) that, if not paid, would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. All such Tax Returns are true, correct and complete in all material respects. There are no past, current, pending or, to the Knowledge of the Company, threatened audits, claims or proceedings by any Governmental Authority relating to Taxes. The Company has not waived any statutes of limitation or agreed to any extension of time with respect to any Tax assessment or deficiency. The Company has not received written notice from any Governmental Authority in a jurisdiction where it does not file Tax Returns claiming that it is subject to Tax in that jurisdiction. There are no liens for Taxes against the property of the Company or the Project except for Taxes not yet due and payable.

(b) The Company has complied with all Laws relating to the withholding and collection of Taxes relating to the Company. The Company has not engaged in any reportable transaction within the meaning of Treasury Regulations Section 1.6011-4(b).

(c) Neither the Company nor any of its Subsidiaries has made an election under Section 965(h) of the Code.

(d) The Company (A) has not entered into any agreement with any Governmental Authority that would impact the amount of Taxes due by it, (B) has never been a member of an affiliated, combined, consolidated or unitary group for purposes of filing any Tax Return or has any liability for the Taxes of any other Person (1) under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign law), or (2) as a transferee or successor, by Contract, or otherwise, or (C) is not a party to, or has any liability under, any Tax sharing, Tax allocation, Tax indemnity, or similar agreement or arrangement.

3.20 Investment Company Act. The Company is not and, after giving effect to the transactions contemplated by this Agreement will not be, an “investment company” as that term is defined in, nor is the Company otherwise subject to registration or regulation under, the Investment Company Act of 1940.

3.21 OFAC and Related Matters. None of the transactions contemplated hereby will violate (i) any Sanctions, or (ii) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, Public Law 107-56 (October 26, 2001). The Company is in compliance with Sanctions in all material respects. There are no pending or threatened claims or legal actions, or investigations by any Governmental Authority, of or against the Company, nor are there any judgments imposed (or threatened to be imposed) upon the Company by or before any Governmental Authority, in each case, in connection with any alleged violation of Sanctions. Neither the Purchase Price nor any other proceeds received by the Company hereunder will be used in any dealings or transactions with any Sanctioned Person or in any manner that will result in a violation of Sanctions. The Company has not violated any provision of the U.S. Foreign Corrupt Practices Act of 1977 or the U.K. Bribery Act 2010.

3.22 Broker; Fees. Neither the Company nor any of its Subsidiaries has employed any broker or finder, or incurred any liability for any brokerage or finders' fees or any similar fees or commissions in connection with the transactions contemplated by this Agreement for which any Purchaser is liable.

Section 4. **REPRESENTATIONS AND WARRANTIES OF THE PURCHASERS.** Each Purchaser, severally and not jointly, represents and warrants to the Company as of the date hereof and, with respect to the Fundamental Representations, as of the date hereof and as of the Closing Date (except for representations and warranties that are made as of a specific date, which are made only as of such date), as follows:

4.1 Organization and Qualification. Such Purchaser has been duly organized and is validly existing and, except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect, is in good standing under the laws of its jurisdiction of organization, with the requisite power and authority to own its properties and conduct its business as currently conducted.

4.2 Authorization; Enforcement; Validity. Such Purchaser has all necessary corporate, limited liability company or equivalent power and authority to enter into this Agreement and to carry out, or cause to be carried out, its obligations hereunder in accordance with the terms hereof. The execution and delivery by such Purchaser of this Agreement and the performance by such Purchaser of its obligations hereunder have been duly authorized by all requisite action on the part of such Purchaser, and no other action on the part of such Purchaser is necessary to authorize the execution and delivery by such Purchaser of this Agreement or the consummation of the transactions contemplated by this Agreement. This Agreement has been duly executed and delivered by such Purchaser, and assuming due authorization, execution and delivery by the Company, this Agreement constitutes the legal, valid and binding obligation of such Purchaser, enforceable against such Purchaser in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium or similar Laws now or hereafter in effect relating to creditors' rights generally and subject to general principles of equity.

4.3 No Conflicts. The execution, delivery, and performance by such Purchaser of this Agreement do not and will not (a) violate any provision of the organizational documents of such Purchaser; (b) conflict with or violate any Law or Order applicable to such Purchaser or any of its respective assets or properties; or (c) violate, conflict with, result in any breach of, constitute a default (or event which with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which such Purchaser is a party or to which any of its assets or properties are subject, or result in the creation of any Encumbrance on any of its assets or properties, except, in the case of clauses (b) and (c), for any such conflict, violation, breach or default that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

4.4 Consents and Approvals. The execution, delivery and performance by such Purchaser of this Agreement do not require such Purchaser to obtain any consent, approval, authorization or other Order of, action by, filing with or notification to, any Governmental Authority or any other Person under any of the terms, conditions or provisions of any Law or Order applicable to such Purchaser or by which any of its assets or properties may be bound, any contract to which such Purchaser is a party or by which such Purchaser may be bound, except for any consent, approval, authorization or other Order of, action by, filing with or notification to, any Governmental Authority or any other Person under any of the terms, conditions or provisions of any Law or Order applicable to such Purchaser that, if not made or obtained, would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect with respect to such Purchaser.

4.5 Purchaser Representation. (i) Such Purchaser is either (A) a qualified institutional buyer as defined in Rule 144A of the Securities Act, (B) an accredited investor as defined in Rule 501(a)(1), (2), (3), (7) or (8)

under the Securities Act, (C) a non-U.S. person under Regulation S under the Securities Act, or (D) the foreign equivalent of (A) or (B) above, and (ii) any securities of the Company acquired by such Purchaser under this Agreement will have been acquired for investment and not with a view to distribution or resale in violation of the Securities Act.

4.6 Sufficient Funds. Such Purchaser has sufficient assets (or the ability to call sufficient capital from its equityholders) and the financial capacity to perform all of its obligations under this Agreement, including the ability to fully fund its respective portion of the Purchase Price at the Closing.

#### Section 5. ADDITIONAL COVENANTS.

5.1 Commercially Reasonable Efforts. Each of the Company and each Purchaser hereby agrees to use its commercially reasonable efforts to timely satisfy (if applicable) each of the conditions applicable to such Party under Sections 6 and 7, respectively, of this Agreement.

5.2 Further Assurances. Each Party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other Party may reasonably request to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

5.3 Use of Proceeds. The Company shall use the proceeds from the transactions contemplated hereby solely as provided for in Exhibit E to this Agreement.

5.4 Expenses. The Company shall bear all of its own expenses in connection with the execution, delivery and performance of this Agreement and the transactions contemplated hereby, including without limitation all fees and expenses of its agents, representatives, counsel and accountants.

5.5 Conduct of the Business of Company. From the date hereof until the Closing Date, except (a) as expressly permitted by this Agreement, (b) as required by Law, or (c) with the written consent of the Purchasers (such consent not to be unreasonably withheld, conditioned or delayed), the Company shall conduct its business and operations in the ordinary course of business consistent with past practice and use commercially reasonable efforts to (i) preserve intact its present business organization; (ii) maintain good relationships with its vendors, suppliers, and others having material business relationships with it; and (iii) manage its working capital in the ordinary course of business consistent with past practice. Without limiting the generality of the foregoing, and, except as contemplated in this Agreement or as described in Schedule 5.5, during the period from the date of this Agreement through the Closing Date, without the prior written consent of the Purchasers (which consent shall not be unreasonably withheld or delayed), the Company shall not, and shall not permit any of its Subsidiaries to:

- (a) amend any of its Charter Documents;
- (b) split, combine, subdivide or reclassify any of its equity securities;
- (c) authorize, sell, issue or grant any equity securities or sell, issue or grant any option, warrant or right to acquire any equity securities or sell, issue or grant any security convertible into or exchangeable for equity securities, or sell, transfer or dispose of, or grant or permit any Encumbrance on, any equity interest;
- (d) except as required pursuant to applicable Law or the terms of any Company Benefit Plan in existence as of the date hereof, (A) make or grant any increases in the compensation or fringe benefits of any current or former employee or service provider of the Company or its Subsidiaries except in

the ordinary course of business consistent with past practice (x) for current employees whose annual base salary or annual fee is less than \$150,000 or (y) in respect of fringe benefits, increases in fringe benefits that do not result in a material increase in cost to the Company or its Subsidiaries; (B) take any action to accelerate the vesting or payment of any compensation or benefits under any Company Benefit Plan or any action to fund or secure the payment of compensation or benefits under any Company Benefit Plan; (C) amend, adopt or terminate any Company Benefit Plan other than in connection with routine, immaterial or ministerial amendments to health and welfare plans that do not materially increase benefits or result in a material increase in administrative costs; or (D) enter into, modify or terminate any collective bargaining agreement or other agreement or arrangement with any labor union, works council, labor organization or other employee-representative body.

(e) declare, set aside for payment or pay any dividend on, or make any other distribution in respect of its equity interests or otherwise make any payments to any holder of such interests in its capacity as such;

(f) take or fail to take any action the result of which would cause the creation of an Encumbrance on any of its equity interests;

(g) make any material change to its financial reporting and accounting methods other than as required by a change in GAAP;

(h) make any material change in its Tax reporting or Tax accounting methods, including making or changing any material Tax elections except as required by applicable Law;

(i) acquire any Person or other business organization, division or business by merger, consolidation, purchase of an equity interest or assets, or by any other manner;

(j) take any action to liquidate, dissolve, or wind up its business;

(k) take any action that would require the consent of the Purchasers as the holder of the Series B Preferred Stock pursuant to the Certificate of Designations if such action were to occur after the Closing; or

(l) commit itself to do any of the foregoing.

5.6 **Public Announcements.** No press release or other public announcement related to this Agreement or the transactions contemplated herein shall be issued or made without the joint approval of the Company and each of the Purchasers, unless such release or announcement is required by law or the rules of any securities exchange on which securities of the Company are traded (including, for the avoidance of doubt, any Current Report on Form 8-K required to be filed by the Company with the SEC describing this Agreement or the transactions contemplated herein), in which case each of the Purchasers shall be afforded a reasonable opportunity to review such public announcement prior to publication.

Section 6. **CONDITIONS TO EACH PURCHASER'S OBLIGATIONS.** The obligations of each Purchaser to consummate the transactions contemplated hereby pursuant to this Agreement on the Closing Date shall be subject to the satisfaction at or prior to the Closing Date of each of the following conditions, any one or more of which may be waived in writing by the Purchasers:

6.1 **Fundamental Representations and Warranties.** All of the Fundamental Representations made by the Company in this Agreement shall be true and correct in all respects as of the Closing Date as though made on



and as of the Closing Date (except to the extent such representations and warranties expressly speak as of an earlier date, in which case such representations and warranties shall be true and correct as of such date).

6.2 Performance of Closing Actions. The Company shall have performed each of the Closing Actions required to be performed by them at the Closing.

6.3 No Legal Impediment to Issuance; No Material Adverse Effect. No Law or Order shall have become effective or been enacted, adopted or issued by any Governmental Authority that prohibits the implementation of this Agreement or the transactions contemplated herein, and no Material Adverse Effect shall have occurred.

Section 7. **CONDITIONS TO THE COMPANY'S OBLIGATIONS**. The obligations of the Company to issue and sell to the Purchasers the Series B Preferred Stock (including the Warrants) pursuant to this Agreement shall be subject to the satisfaction at or prior to the Closing Date of each of the following conditions, any one or more of which may be waived in writing by the Company:

7.1 Fundamental Representations and Warranties. All of the Fundamental Representations made by the Purchasers in this Agreement shall be true and correct in all respects as of the Closing Date as though made on and as of the Closing Date (except to the extent such representations and warranties expressly speak as of an earlier date, in which case such representations and warranties shall be true and correct as of such date).

7.2 Performance of Closing Actions. Each Purchaser shall have performed each of the Closing Actions required to be performed by it at the Closing.

7.3 No Legal Impediment to Issuance. No Law or Order shall have become effective or been enacted, adopted or issued by any Governmental Authority that prohibits the implementation of this Agreement or the transactions contemplated by this Agreement.

Section 8. **TERMINATION**.

(a) Termination by the Purchasers. This Agreement may be terminated at any time prior to the Closing by the Purchasers following the occurrence of any of the following events (each a "Purchaser Termination Event") immediately upon delivery of written notice to the Company; *provided, however* that the Purchasers shall not be permitted to terminate this Agreement if at the time of such termination any Purchaser is in breach of any representation, warranty or covenant applicable to it in any material respect under this Agreement:

(i) the Closing does not occur on or before the Closing Date;

(ii) the failure of any of the conditions set forth in Section 6 hereof to be satisfied, which failure cannot be cured or is not cured before the earlier of (A) fifteen (15) Business Days after receipt of written notice thereof by the Company from any Purchaser and (B) the Closing Date;

(iii) the Company breaches any representation or warranty or breaches any covenant applicable to it in any material respect under this Agreement and if such breach is curable, it is not cured before the earlier of (A) fifteen (15) Business Days after receipt of written notice by the Company from any Purchaser and (B) the Closing Date; or

(iv) any Governmental Authority of competent jurisdiction, enters a Final Order declaring this Agreement or any material portion hereof to be unenforceable.

(b) Termination by the Company. This Agreement may be terminated at any time prior to the Closing by the Company following the occurrence of any of the following events immediately upon delivery of written notice to the Parties except as set forth below; *provided, however* that the Company shall not be permitted to terminate this Agreement if, at the time of such termination, the Company is in breach of any representation, warranty or covenant applicable to it in any material respect under this Agreement:

(i) the failure of any of the conditions set forth in Section 7 hereof to be satisfied, which failure cannot be cured or is not cured before the earlier of (A) fifteen (15) Business Days after receipt of written notice thereof by the Purchasers from the Company and (B) the Closing Date;

(ii) a Purchaser breaches any representation or warranty or breaches any covenant applicable to it in any material respect under this Agreement and if such breach is curable, it is not cured before the earlier of (A) fifteen (15) Business Days after receipt of written notice by the Purchasers from the Company and (B) the Closing Date;

(iii) any Governmental Authority of competent jurisdiction, enters a Final Order declaring this Agreement or any material portion hereof to be unenforceable; or

(iv) the Closing does not occur on or before the Closing Date.

(c) Purchaser Default. Subject to Section 10.19, the Purchasers agree that, in the event of a Purchaser Default, the Company shall be entitled to all remedies available at law and at equity, including to enforce rights of damages and/or specific performance pursuant to Section 10.18.

(d) Mutual Termination. This Agreement may be terminated by the mutual written consent of the Company and the Purchasers.

(e) Effect of Purchaser Termination. Upon a termination of this Agreement in accordance with Section 8(a), the Purchasers shall have no continuing liability or obligation to the Company and the provisions of this Agreement shall have no further force or effect with respect to the Purchasers, except for the provisions in Sections 8, 9, and 10, each of which shall survive termination of this Agreement; *provided, however*, that no such termination shall relieve the Purchasers from liability for its breach or non-performance of its obligations hereunder prior to the date of such termination and the rights of the Company as it relates to such breach or non-performance by the Purchasers shall be preserved in the event of the occurrence of such breach or non-performance.

(f) Effect of Company or Mutual Termination. Upon a termination of this Agreement in accordance with Sections 8(b) or 8(d), neither Party shall have any continuing liability or obligation to the other Party hereunder and the provisions of this Agreement shall have no further force or effect except for the provisions in Sections 8, 9, and 10, each of which shall survive termination of this Agreement; *provided* that no such termination shall relieve either Party from liability for its breach or non-performance of its obligations hereunder prior to the date of such termination and the rights of the other Party as it relates to such breach or non-performance by the Party shall be preserved in the event of the occurrence of such breach or non-performance.

Section 9. **INDEMNIFICATION.** The Company agrees to indemnify and hold harmless the Indemnified Parties from and against any and all claims, damages, losses, liabilities and expenses (including, without limitation, fees and disbursements of counsel), that may be incurred by or asserted or awarded against any Indemnified Party, in each case arising out of this Agreement (including as a result of any breach or inaccuracy of any representation, warranty or covenant herein), the other Offering Documents, or the transactions

contemplated hereby or thereby, solely to the extent such Offering Documents or transactions contemplated thereby relate to this Agreement and the Series B Preferred Equity Offering, any use made or proposed to be made with the proceeds of the Series B Preferred Equity Offering, or any claim, litigation, investigation or proceeding relating to any of the foregoing, regardless of whether any Indemnified Party is a party thereto, and the Company shall reimburse each Indemnified Party upon demand for reasonable and documented fees and expenses of counsel (which, so long as there are no conflicts among such Indemnified Parties, shall be limited to one law firm serving as counsel for the Indemnified Parties) and other expenses incurred by it in connection with investigating, preparing to defend or defending, or providing evidence in or preparing to serve or serving as a witness with respect to, any lawsuit, investigation, claim or other proceeding relating to any of the foregoing, irrespective of whether the transactions contemplated hereby are consummated, except to the extent such claim, damage, loss, liability, or expense is found in a Final Order to have resulted from such Indemnified Party's bad faith, actual fraud, gross negligence, or willful misconduct. No Indemnified Party shall have any liability (whether direct or indirect, in contract, tort or otherwise) to the Company for or in connection with the transactions contemplated hereby, except to the extent such liability is found in a final, non-appealable order of a court of competent jurisdiction to have resulted from such Indemnified Party's bad faith, actual fraud, gross negligence or willful misconduct. In no event, however, shall the Company or any Indemnified Party be liable on any theory of liability for any special, indirect, consequential or punitive damages. Without the prior written consent of the Indemnified Parties, the Company agrees that it will not enter into any settlement of any lawsuit, claim or other proceeding arising out of this Agreement, the other Offering Documents, or the transactions contemplated hereby or thereby, solely to the extent such Offering Documents or transactions contemplated thereby relate to this Agreement and the Series B Preferred Equity Offering, unless such settlement (i) includes an explicit and unconditional release from the party bringing such lawsuit, claim or other proceeding of all Indemnified Parties and (ii) does not include a statement as to or an admission of fault, culpability, or a failure to act by or on behalf of any Indemnified Party. No Indemnified Party shall be liable for any damages arising from the use by unauthorized persons of any information made available to the Indemnified Parties by the Company or any of its representatives through electronic, telecommunications or other information transmission systems that is intercepted by such persons. No Indemnified Party shall settle any lawsuit, claim, or other proceeding arising out of this Agreement, the other Offering Documents, or the transactions contemplated hereby or thereby without the prior written consent of the Company (such consent not to be unreasonably withheld or delayed). Notwithstanding the foregoing, an Indemnified Party shall be entitled to no indemnification by the Company for any claim, damage, loss, liability, or expense incurred by or asserted or awarded against such Indemnified Party for any violation of Law by such Indemnified Party.

Section 10. **MISCELLANEOUS.**

10.1 **Payments.** All payments made by or on behalf of the Company or any of their Affiliates to the Purchaser or its assigns, successors or designees pursuant to this Agreement shall be without withholding, set-off, counterclaim or deduction of any kind.

10.2 **Arm's Length Transaction.** The Company acknowledges and agrees that (i) the Series B Preferred Equity Offering and any other transactions described in this Agreement are an arm's-length commercial transaction between the Parties and (ii) no Purchaser has assumed nor will it assume an advisory or fiduciary responsibility in the Company's favor with respect to any of the transactions contemplated by this Agreement or the process leading thereto, and no Purchaser has any obligation to the Company with respect to the transactions contemplated by this Agreement except those obligations expressly set forth in this Agreement or the Offering Documents to which it is a party.

10.3 **Survival.** The representations, warranties, covenants, agreements and obligations of the Parties shall survive the Closing as follows (each such survival period, a "Survival Period"): (i) except for Fundamental

Representations and the Tax Representations, the representations and warranties made by each Party in this Agreement shall survive the Closing until the first anniversary of the Closing; (ii) Fundamental Representations shall survive the Closing until the fifth anniversary of the Closing, (iii) Tax Representations shall survive the Closing for the full period of all applicable statutes of limitations related thereto (after giving effect to any waiver or extension thereof), and (iv) the covenants, agreements, obligations and other undertakings of the Parties shall survive the Closing until fully performed in accordance with their terms. All liability of the Indemnifying Parties with respect to the representations, warranties, covenants, agreements and obligations hereunder shall be extinguished at the end of the applicable Survival Period, except to the extent that notice of an alleged breach of such representations, warranties, covenants, agreements or obligations has been provided before such date; provided that if notice is given prior to the expiration of the applicable Survival Period, the claim with respect to such representation, warranty, covenant, agreement or obligation shall continue indefinitely until finally resolved.

10.4 No Waiver of Rights. All waivers hereunder must be made in writing, and the failure of any Party at any time to require another Party's performance of any obligation under this Agreement shall not affect the right subsequently to require performance of that obligation. Any waiver of any breach of any provision of this Agreement shall not be construed as a waiver of any continuing or succeeding breach of such provision or a waiver or modification of any other provision.

10.5 Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given or made (and shall be deemed to have been duly given or made upon receipt) by delivery in person, by an internationally recognized overnight courier service, by email or registered or certified mail (postage prepaid, return receipt requested) to the respective Parties at the following addresses (or at such other address for any Party as shall be specified by such Party in a notice given in accordance with this Section 10.5).

(a) If to the Company, to:

NextDecade Corporation  
1000 Louisiana Street, Suite 3900  
Houston, Texas 77002  
Attention: Krysta De Lima, General Counsel  
krysta@next-decade.com

With a copy (which shall not constitute notice to the Company) to:

K&L Gates LLP  
214 North Tryon Street, 47<sup>th</sup> Floor  
Charlotte, North Carolina 28202  
Attention: Sean M. Jones  
Sean.Jones@klgates.com

(b) If to the Purchasers, to the addresses set forth with respect to each such Purchaser on Exhibit H.

Any of the foregoing addresses may be changed by giving notice of such change in the foregoing manner, except that notices for changes of address shall be effective only upon receipt.

10.6 Headings. The section and subsection headings in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

10.7 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any Law or public policy, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect for so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible.

10.8 Entire Agreement. This Agreement and the agreements and documents referenced herein constitute the entire agreement of the Parties with respect to the subject matter hereof and supersede all prior agreements and undertakings, both written and oral, between the Parties with respect to the subject matter hereof.

10.9 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Except as set forth below, neither this Agreement nor any of the rights, interests or obligations under this Agreement may be assigned by either Party (whether by operation of law or otherwise) without the prior written consent of the other Party. Notwithstanding the foregoing and subject to the restriction on transfer contained in Section 10.10, the rights, obligations and interests hereunder may be assigned, delegated or transferred, in whole or in part, by a Purchaser to (i) any Affiliate of such Purchaser without the consent of the Company, or (ii) one or more other third parties with the consent of the Company, which consent shall not be unreasonably withheld or delayed; *provided, however*, that any such transferee, as a condition precedent to such transfer, becomes a Party to this Agreement and assumes the obligations of such Purchaser with respect to the transferred shares under this Agreement by executing an addendum substantially in the form set forth in Exhibit A (the “Addendum”) and an assumption agreement in substantially the form set forth in Exhibit B hereto (the “Assumption Agreement”) and deliver the same to the Company in accordance with Section 10.5, and *provided, further*, that (a) with respect to a transfer to an Affiliate of a Purchaser, such Purchaser either (i) shall have provided an adequate equity support letter or a guarantee of such Affiliate-transferee’s obligations, in form and substance reasonably acceptable to the Company or (ii) shall remain fully obligated to fund the Purchase Price, and (b) with respect to a transfer to a third party, the Company, acting in good faith, shall have consented in writing to such transfer (which consent shall not be unreasonably withheld, conditioned or delayed) and shall have determined, in its reasonable discretion, after due inquiry and investigation, that such transferee is reasonably capable of fulfilling such obligations, or, absent such a determination, the proposed transferee shall have deposited with an agent of the Company or into an escrow account under arrangements satisfactory to the Company funds sufficient, in the reasonable determination of the Company, to satisfy such proposed transferee’s obligations. Any transfer that is made in violation of the immediately preceding sentence shall be null and void ab initio, and the Company shall have the right to enforce the voiding of such transfer.

10.10 Limitations on Transfer of Series B Preferred Stock. THE SERIES B PREFERRED STOCK (INCLUDING ANY SERIES B PREFERRED STOCK ISSUED IN RESPECT OF DIVIDEND PAYMENTS THEREON) SHALL NOT BE TRANSFERRED BY ANY PURCHASER TO ANY OTHER PERSON WITHOUT THE CONSENT OF THE COMPANY, WHICH CONSENT SHALL NOT BE UNREASONABLY WITHHELD OR DELAYED, EXCEPT THAT ANY PURCHASER SHALL BE ENTITLED TO TRANSFER ANY OR ALL SHARES OF ITS SERIES B PREFERRED STOCK TO ANY AFFILIATE OF ANY PURCHASER.

10.11 No Third-Party Beneficiaries. This Agreement shall be binding upon and inure solely to the benefit of the Parties and their respective successors and permitted assigns and, except as expressly set forth in Section 9, nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever.

10.12 Amendment. This Agreement may not be altered, amended, or modified except by a written instrument executed by or on behalf of the Company and the Purchasers.

10.13 Governing Law. This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of New York, without regard to the conflicts of law principles thereof.

10.14 Consent to Jurisdiction. Each of the Parties (a) irrevocably and unconditionally agrees that any actions, suits or proceedings, at law or equity, arising out of or relating to this Agreement or any agreements or transactions contemplated hereby shall be heard and determined by the federal or state courts located in New York County in the State of New York; (b) irrevocably submits to the jurisdiction of such courts in any such action, suit or proceeding; (c) consents that any such action, suit or proceeding may be brought in such courts and waives any objection that such Party may now or hereafter have to the venue or jurisdiction of such courts or that such action or proceeding was brought in an inconvenient forum; and (d) agrees that service of process in any such action, suit or proceeding may be effected by providing a copy thereof by any of the methods of delivery permitted by Section 10.5 to such Party at its address as provided in Section 10.5 (provided that nothing herein shall affect the right to effect service of process in any other manner permitted by Law).

10.15 Waiver of Jury Trial. EACH OF THE PARTIES HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY). EACH OF THE PARTIES HERETO HEREBY (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE TRANSACTIONS, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.14.

10.16 Currency. Unless otherwise specified in this Agreement, all references to currency, monetary values and dollars set forth herein shall mean United States (U.S.) dollars and all payments hereunder shall be made in United States dollars.

10.17 Counterparts. This Agreement may be executed and delivered (including by facsimile or electronic transmission) in one or more counterparts, and by the different Parties in separate counterparts, each of which when executed shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement. Signatures of the Parties transmitted by electronic mail shall be deemed to be their original signatures for all purposes.

10.18 Specific Performance. Each Party acknowledges that, in view of the uniqueness of the securities referenced herein and the transactions contemplated by this Agreement, the other Party would not have an adequate remedy at law for money damages in the event that this Agreement has not been performed in accordance with its terms, and therefore agrees that the other Party shall be entitled to specific performance and injunctive or other equitable relief, without the necessity of proving the inadequacy of monetary damages as a remedy.

10.19 Waiver of Consequential Damages. Notwithstanding any provision in this Agreement to the contrary, in no event shall any Party or its Affiliates, or their respective managers, members, shareholders or representatives, be liable hereunder at any time for punitive, incidental, consequential special or indirect damages, including loss of future profits, revenue or income, or loss of business reputation of any other Party or any of its Affiliates, whether in contract, tort (including negligence), strict liability or otherwise, and each Party hereby

expressly releases each other Party, its Affiliates, and their respective managers, members, shareholders, partners, consultants, representatives, successors and assigns therefrom.

10.20 Purchaser Obligations. The Parties hereby agree and acknowledge that (a) all obligations of the Purchasers hereunder, including with respect to each Purchaser's compliance with all applicable covenants and the making by each Purchaser of the representations and warranties set forth in Section 4, are several and not joint and (b) no Purchaser shall have any obligation or liability of any kind to the Company or to any other Person in respect of any breach or noncompliance with respect to this Agreement by any other Purchaser.

10.21 Rules of Construction. The Parties and their respective legal counsel participated in the preparation of this Agreement, and therefore, this Agreement shall be construed neither against nor in favor of any of the Parties, but rather in accordance with the fair meaning thereof. All definitions set forth in this Agreement are deemed applicable whether the words defined are used in this Agreement in the singular or in the plural, and correlative forms of defined terms have corresponding meanings. The term "including" is not limiting and means "including without limitation." The term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or." The words "hereof," "herein," "hereby," "hereunder" and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. Section, subsection, clause, schedule, annex and exhibit references are to this Agreement unless otherwise specified. Any reference to this Agreement shall include all alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, and supplements thereto and thereof, as applicable. Whenever the context may require, any pronoun includes the corresponding masculine, feminine and neuter forms.

*[No further text appears; signature pages follow]*

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

NEXTDECADE CORPORATION

By: /s/ Matthew Schatzman

Name: Matthew Schatzman

Title: President and Chief Executive Officer

[Series B Preferred Stock Purchase Agreement]

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PURCHASERS

VALINOR CAPITAL PARTNERS, L.P.

By: /s/ Owen Schmidt

Name: Owen Schmidt

Title: Authorized Signatory

VALINOR CAPITAL PARTNERS

OFFSHORE MASTER FUND, L.P.

By: /s/ Owen Schmidt

Name: Owen Schmidt

Title: Authorized Signatory

[Series B Preferred Stock Purchase Agreement]

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**Schedule A**

<b>Purchaser</b>	<b>Number of Shares to be Purchased</b>	<b>Aggregate Purchase Price</b>	<b>Origination Fee Shares</b>
Valinor Capital Partners, L.P.	1,300	\$1,300,000	26
Valinor Capital Partners Offshore Master Fund, L.P.	3,700	\$3,700,000	74
Total	<b>5,000</b>	<b>\$5,000,000</b>	<b>100</b>

[Series B Preferred Stock Purchase Agreement]

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## Exhibit A

### ADDENDUM

Reference is made to that certain Series B Convertible Preferred Stock Purchase Agreement (as amended, modified or supplemented from time to time, the “Agreement”) by and between NextDecade Corporation, a Delaware corporation (“NextDecade”), and [PURCHASER] or a successor thereof. Each capitalized term used but not defined herein shall have the meaning given to it in the Agreement.

Upon execution and delivery of this Addendum by the undersigned, as provided in Section 10.9 of the Agreement, the undersigned hereby becomes a Purchaser with respect to [●] shares of Series B Preferred Stock, as applicable thereunder and bound thereby effective as of the date of the Agreement.

By executing and delivering this Addendum, the undersigned represents and warrants, for itself and for the benefit of the Company, that:

- (a) as of the date of this Addendum, the undersigned has executed and delivered an Assumption and Joinder Agreement therefor (a copy of which is attached to this Addendum);
- (b) as of the date of this Addendum, with respect to each transferee that (i) is an individual, such transferee has all requisite authority to enter into this Addendum and to carry out the transactions contemplated by, and perform its respective obligation under, the Agreement and (ii) is not an individual, such transferee is duly organized, validly existing, and in good standing under the laws of the state of its organization, and has all requisite corporate, partnership, or limited liability company power and authority to enter into this Addendum and to carry out the transactions contemplated by, and perform its respective obligations under, the Agreement;
- (c) assuming the due execution and delivery of the Agreement by NextDecade, the Addendum and the Agreement are legally valid and binding obligations of it, enforceable against it in accordance with its terms, except as may be limited by bankruptcy, insolvency or similar laws, or by equitable principles relating to or limiting creditors’ rights generally; and
- (d) as of the date of this Addendum, it is not aware of any event that, due to any fiduciary or other duty to any other person, would prevent it from taking any action required of it under the Agreement and this Addendum.

By executing and delivering this Addendum to NextDecade, the undersigned agrees to be bound by all the terms of the Agreement with respect to [●] shares of Series B Preferred Stock.

The undersigned acknowledges and agrees that once delivered to NextDecade, it may not revoke, withdraw, amend, change or modify this Addendum unless the Agreement has been terminated.

[Series B Preferred Stock Purchase Agreement]

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THIS ADDENDUM SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES THAT WOULD REQUIRE THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION.

This Addendum may be executed in one or more counterparts, each of which, when so executed, shall constitute the same instrument and the counterparts may be delivered by facsimile transmission or by electronic mail in portable document format (.pdf).

[Signature on Following Page]

[Series B Preferred Stock Purchase Agreement]

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IN WITNESS WHEREOF, the Parties have caused this Addendum to be duly executed and delivered by their proper and duly authorized officers as of this [●] day of [●].

TRANSFEREE WHO BECOMES A PURCHASER

[NAME]

\_\_\_\_\_

as a Purchaser

Name:

[Series B Preferred Stock Purchase Agreement]

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**Exhibit B**

**ASSUMPTION AND JOINDER AGREEMENT**

Reference is made to (i) that certain Series B Convertible Preferred Stock Purchase Agreement (as amended, modified or supplemented from time to time, the “Agreement”), dated as of May 17, 2019, by and between NextDecade Corporation, a Delaware corporation (“NextDecade”), and [PURCHASER] or a successor thereof, and (ii) that certain Addendum, dated as of [●], [●] (the “Transferor Addendum”) submitted by [●], as transferor (the “Transferor”). Each capitalized term used but not defined herein shall have the meaning given to it in the Agreement.

As a condition precedent to becoming a Purchaser with respect to [●] shares of Series B Preferred Stock, the undersigned (the “Transferee”) hereby agrees to become bound by all the terms, conditions and obligations set forth in the Agreement and the Transferor Addendum, copies of which are attached hereto as Annex I. This Assumption and Joinder Agreement shall take effect and shall become an integral part of the Agreement and the Transferor Addendum immediately upon its execution, and the Transferee shall be deemed to be bound by all of the terms, conditions and obligations of the Agreement and the Transferor Addendum as of the date thereof. The Transferee shall hereafter be deemed to be a “Purchaser” with respect to [●] shares of Series B Preferred Stock and a “Party” for all purposes under the Agreement.

[Signatures on Following Page]

[Series B Preferred Stock Purchase Agreement]

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IN WITNESS WHEREOF, this Assumption and Joinder Agreement has been duly executed by each of the undersigned as of the date specified below.

Date: [●]

\_\_\_\_\_  
Name of Transferor

\_\_\_\_\_  
Name of Transferee

\_\_\_\_\_  
Authorized Signatory of Transferor

\_\_\_\_\_  
Authorized Signatory of Transferee

\_\_\_\_\_  
(Type or Print Name and Title of Authorized Signatory)

\_\_\_\_\_  
(Type or Print Name and Title of Authorized Signatory)

Address of Transferee:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Attn:

\_\_\_\_\_  
Tel:

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

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

\_\_\_\_\_

\_\_\_\_\_

**Exhibit C**

**CERTIFICATE OF DESIGNATIONS  
OF  
SERIES B CONVERTIBLE PREFERRED STOCK**

*[see attached]*

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**Exhibit D**

**FORM OF WARRANT AGREEMENT**

*[see attached]*

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## **Exhibit E**

### **USE OF PROCEEDS**

Proceeds from the Series B Preferred Equity Offering shall be used by the Company for development activities related to the liquefaction of natural gas and the sale of liquefied natural gas (“LNG”) in international markets, including:

- Development activities related to the Rio Grande LNG terminal facility at the Port of Brownsville in southern Texas and an associated 137-mile Rio Bravo pipeline to supply gas to the terminal, in each case, including activities and businesses reasonably complementary or ancillary thereto and reasonable extensions thereof;
  - Development activities related to an approximate 1,000-acre site near Texas City, Texas for a second potential LNG terminal, including activities and businesses reasonably complementary or ancillary thereto and reasonable extensions thereof; and
  - Development activities conducted in overseas locations (including, but not limited to China and Singapore) in direct support of the Company’s businesses as set forth above.
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**Exhibit F**

**REGISTRATION RIGHTS AGREEMENT**

[see attached]

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**Exhibit G**

**PURCHASER RIGHTS AGREEMENT**

*[see attached]*

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**Exhibit H**

**PURCHASER NOTICE ADDRESSES**

VALINOR CAPITAL PARTNERS, L.P.

and

VALINOR CAPITAL PARTNERS OFFSHORE MASTER FUND, L.P.

(For notice purposes)

[Applicable Purchaser]

c/o Valinor Management, L.P.

510 Madison Avenue, 25<sup>th</sup> Floor

New York, NY 10022

Attention: Owen Schmidt  
OSchmidt@valinor.com

with a copy (which shall not constitute notice to the foregoing Purchaser) to:

Weil, Gotshal & Manges LLP

767 Fifth Avenue, 17<sup>th</sup> Floor

New York, NY 10153

Attention: Jaclyn L. Cohen  
Jackie.Cohen@weil.com

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**SERIES B CONVERTIBLE PREFERRED STOCK PURCHASE AGREEMENT**

This SERIES B CONVERTIBLE PREFERRED STOCK PURCHASE AGREEMENT (this “Agreement”), dated as of May 17, 2019, is entered into by and between NextDecade Corporation, a Delaware corporation (“NextDecade” or the “Company”), and each of the parties set forth on the signature pages hereto under the heading “Purchasers” (the “Purchasers”). NextDecade and the Purchasers are referred to herein individually as a “Party” and collectively as the “Parties.”

**RECITALS:**

WHEREAS, the Company has commenced a convertible preferred equity and warrant offering (the “Series B Preferred Equity Offering”), pursuant to which the Company has offered the Purchasers an opportunity to purchase shares of Series B Preferred Stock (as defined herein), together with certain associated Warrants (as defined herein), substantially on the terms and conditions set forth in the Certificate of Designations of Series B Convertible Preferred Stock of NextDecade Corporation attached to this Agreement as Exhibit C (the “Certificate of Designation”); and

WHEREAS, the Company desires to sell to the Purchasers, and the Purchasers desire to purchase from the Company, Series B Preferred Stock, together with associated Warrants, as more fully set forth herein.

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

Section 1. **DEFINITIONS.** As used in this Agreement, the following terms shall have the following meanings:

“Addendum” has the meaning assigned to it in Section 10.9.

“Affiliate” means, with respect to any specified Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such specified Person.

“Agreement” has the meaning assigned to it in the preamble hereto; it includes the Exhibits and Schedules hereto.

“Assumption Agreement” has the meaning assigned to it in Section 10.9.

“Business Day” means any day that is not a Saturday, a Sunday or other day on which banks are required or authorized by Law to be closed in the City of New York.

“Certificate of Designations” has the meaning assigned to it in the Recitals hereto.

“Charter Documents” means, collectively, the certificate of incorporation, articles of incorporation, bylaws, certificate of designations or board resolutions establishing the terms of any security, certificate of formation, operating agreement, limited liability company agreement and similar formation or organizational documents of any entity.

“Closing” has the meaning assigned to it in Section 2.4.

“Closing Actions” has the meaning assigned to it in Section 2.6.

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“Closing Date” means May 24, 2019.

“Code” means the Internal Revenue Code of 1986.

“Common Stock” means the common stock of the Company, \$0.0001 par value.

“Company” has the meaning assigned to it in the preamble hereto.

“Company Benefit Plan” means each (i) “employee benefit plan” within the meaning of Section 3(3) of ERISA, (ii) other benefit and compensation plan, contract, policy, program, practice, arrangement or agreement, including, but not limited to, pension, profit-sharing, savings, termination, executive compensation, phantom stock, change-in-control, retention, salary continuation, vacation, sick leave, disability, death benefit, insurance, hospitalization, medical, dental, life (including all individual life insurance policies as to which the Company or its Subsidiaries are the owners, the beneficiaries, or both), employee loan, educational assistance, fringe benefit, deferred compensation, retirement or post-retirement, severance, equity or equity-based, incentive and bonus plan, contract, policy, program, practice, arrangement or agreement, and (iii) other employment, consulting or other individual agreement, plan, practice, policy, contract, program, and arrangement, in each case, (x) which is sponsored or maintained by the Company or any of its ERISA Affiliates in respect of any current or former employees, directors, independent contractors, consultants or leased employees of the Company or any of its Subsidiaries or (y) with respect to which the Company or any of its Subsidiaries has any actual or potential liability.

“Control” (including the terms “control” “controlled by” and “under common control with”), with respect to the relationship between or among two or more Persons, means the possession, directly or indirectly or as trustee, personal representative or executor, of the power to direct or cause the direction of the affairs, policies or management of a Person, whether through the ownership of voting securities, as trustee, personal representative or executor, by contract, credit arrangement or otherwise.

“Encumbrance” means any security interest, pledge, mortgage, lien, claim, option, charge, restriction or encumbrance.

“Environmental Claim” means any claim, action, cause of action, suit, proceeding, investigation, Order, demand or notice by any Person alleging liability (including liability for investigatory costs, cleanup costs, governmental response costs, natural resources damages, property damages, personal injuries, attorneys’ fees, fines or penalties) arising out of, based on, resulting from or relating to (a) the presence or Release of, or exposure to, any Hazardous Materials; (b) circumstances forming the basis of any violation, or alleged violation, of any Environmental Law; or (c) any other matters covered or regulated by, or for which liability is imposed under, Environmental Laws.

“Environmental Laws” means all applicable Laws relating to pollution, the protection, restoration or remediation of or prevention of harm to the environment or natural resources (including plant and animal species), or the protection of human health and safety, including Laws relating to: (i) the exposure to, or Releases or threatened Releases of, Hazardous Materials; (ii) the generation, manufacture, processing, distribution, use, treatment, containment, disposal, storage, transport or handling of Hazardous Materials; or (iii) recordkeeping, notification, disclosure and reporting requirements respecting Hazardous Materials

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“ERISA Affiliate” means any Person (whether or not incorporated) that together with the Company or any of its Subsidiaries is treated as a single employer within the meaning of Section 414 of the Code.

“Exchange Act” means the Securities Exchange Act of 1934, as amended from time to time, and the rules and regulations promulgated thereunder, or any successor statute.

“Final Order” means a final, nonappealable Order of a court of competent jurisdiction.

“Fundamental Representations” means (i) with respect to the Company, those representations and warranties of the Company set forth in Sections 3.1 (*Organization and Qualification; Subsidiaries*), 3.2 (*Authorization; Enforcement; Validity*), 3.3 (*No Conflicts*), 3.4 (*Consents and Approvals*), 3.5 (*Capitalization*) and 3.6 (*Valid Issuance*), and (ii) with respect to the Purchasers, those representations and warranties of the Purchasers set forth in Sections 4.1 (*Organization and Qualification*), 4.2 (*Authorization; Enforcement; Validity*), 4.3 (*No Conflicts*) and 4.4 (*Consents and Approvals*).

“Governmental Authority” means any federal, national, supranational, foreign, state, provincial, local, county, municipal or other government, any governmental, regulatory or administrative authority, agency, department, bureau, board, commission or official or any quasi-governmental or private body exercising any regulatory, taxing, importing or other governmental or quasi-governmental authority, or any court, tribunal, judicial or arbitral body, or any Self-Regulatory Organization.

“Hazardous Materials” means: (a) any hazardous materials, hazardous wastes, hazardous substances, toxic wastes, solid wastes, and toxic substances as those or similar terms are defined under any Environmental Laws; (b) any asbestos or asbestos containing material; (c) polychlorinated biphenyls (“PCBs”), or PCB containing materials or fluids; (d) radon; (e) any petroleum, petroleum hydrocarbons, petroleum products, crude oil and any fractions or derivatives thereof; and (f) any other substance, material, chemical, waste, pollutant, or contaminant that, whether by its nature or its use, or exposure to is subject to regulation or could give rise to liability under any Laws relating to pollution, waste, human health and safety, or the environment.

“Indemnified Party” means the Purchasers, each of their Affiliates, and each of their respective directors, managers, officers, principals, partners, members, equity holders (regardless of whether such interests are held directly or indirectly), trustees, controlling persons, predecessors, successors and assigns, Subsidiaries, employees, agents, advisors, attorneys and representatives.

“Insolvency Event” means, with respect to any Person, the occurrence of any of the following:

(a) such Person shall (A) (i) voluntarily commence any proceeding or file any petition seeking relief under Title 11 of the United States Code, Sections 101 et. seq. (the “Bankruptcy Code”) or any other federal, state or foreign bankruptcy, insolvency, liquidation or similar Law, (ii) consent to the institution of, or fail to contravene in a timely and appropriate manner, any such proceeding or the filing of any such petition, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator or similar official for such Person or for a substantial part of its property or assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing or (B) such Person shall become unable, admit in writing its inability or fail generally to pay its debts as they become due; or

(b) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (A) relief in respect of such Person or of a substantial part of the property or assets of such Person, under the Bankruptcy Code or any other federal, state or foreign bankruptcy, insolvency, receivership or similar Law, (B) the appointment of a receiver, trustee, custodian, sequestrator or similar official for such Person or for a substantial part of the property of such Person or (C) the winding-up or liquidation of such Person; and such proceeding or petition shall continue undismissed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall have been entered.



“Intellectual Property” means the following intellectual property rights, both statutory and common law rights, if applicable: (a) copyrights and registrations and applications for registration thereof, (b) trademarks, service marks, trade names, slogans, domain names, logos, trade dress, and registrations and applications for registrations thereof, (c) patents, as well as any reissued and reexamined patents and extensions thereto, and any patent applications, continuations, continuations in part and divisional applications and patents issuing therefrom, and (d) trade secrets and confidential information, including ideas, designs, concepts, compilations of information, methods, techniques, procedures, processes and other know-how, whether or not patentable.

“Knowledge” means with respect to the Company, the actual knowledge after due inquiry of the persons set forth on Schedule 1.1(a).

“Law” means any federal, national, supranational, foreign, state, provincial, local, county, municipal or similar statute, law, common law, guideline, policy, ordinance, regulation, rule, code, constitution, treaty, requirement, judgment or judicial or administrative doctrines enacted, promulgated, issued, enforced or entered by any Governmental Authority.

“Material Adverse Effect” means any effect, change, event, occurrence, development, or state of facts that, individually or in the aggregate with all other such effects, changes, events, occurrences, developments, or states of fact, (A) has had, or would reasonably be expected to have, a material adverse effect on the business, assets, liabilities, condition (financial or otherwise), or results of operations of the Company and its Subsidiaries, taken as a whole or (B) would, or would reasonably be expected to, prevent or materially impair the ability of the Company to consummate the transactions contemplated by this Agreement, *but expressly excluding* in the case of the foregoing clause (A) any such effect, change, event, occurrence, development, or state of facts, either alone or in combination, to the extent arising out of or resulting from:

(a) the execution or delivery of this Agreement, the consummation of the transactions contemplated by this Agreement or the public announcement or other publicity with respect to any of the foregoing; *provided, however*, that the exception set forth in this clause (a) shall not apply to the representations and warranties set forth in clauses (b) and (c) of Section 3.3 or to the representations and warranties set forth in Section 3.4;

(b) general economic conditions (or changes in such conditions) in the United States or conditions in the global economy generally that do not affect the Company and its Subsidiaries, taken as a whole, disproportionately as compared to other similarly situated participants in the liquefied natural gas export industry (in which case only such disproportionate impact shall be considered);

(c) changes in the trading price or trading volume of the Common Stock.

(d) conditions (or changes in such conditions) generally affecting the liquefied natural gas export industry that do not affect the Company and its Subsidiaries, taken as a whole, disproportionately as compared to other similarly situated participants in the liquefied natural gas export industry (in which case only such disproportionate impact shall be considered);

(e) conditions (or changes in such conditions) in the financial markets, credit markets or capital markets in the United States or any other country or region, including (i) changes in interest rates in the United States or any other country and changes in exchange rates for the currencies of any countries or (ii) any suspension of trading in securities (whether equity, debt, derivative or hybrid securities) generally (other than a suspension of the trading of the Company’s Common Stock, which constitutes a Material Adverse Effect, provided such suspension is not part of a broader suspension of securities) on any securities exchange or over-the-counter market operating in the United States or any other country or region in each

case, that do not affect the Company as a whole disproportionately as compared to other similarly situated participants in the liquefied natural gas export industry (in which case only such disproportionate impact shall be considered);

(f) any actions taken or omitted to be taken at the written request or with the written consent of the Purchasers; or

(g) any changes in any Laws or any accounting regulations or principles that do not affect the Company, taken as a whole, disproportionately as compared to other similarly situated participants in the liquefied natural gas export industry (in which case only such disproportionate impact shall be considered).

Notwithstanding any provision of the preceding sentence to the contrary, the occurrence of an Insolvency Event in respect of the Company or any Subsidiary of the Company shall be deemed to constitute a Material Adverse Effect.

“Material Contracts” means all “material contracts” of the Company within the meaning of Item 601 of Regulation S-K of the SEC.

“NextDecade” has the meaning assigned to it in the preamble hereto.

“OFAC” means the Office of Foreign Assets Control of the U.S. Department of the Treasury.

“Offering Documents” means, collectively, all agreements, documents, or instruments related to or in connection with the Series B Preferred Equity Offering, including this Agreement and any other documents or exhibits related to or contemplated in the foregoing.

“Order” means any order, writ, judgment, injunction, decree, ruling, directive, stipulation, determination or award made, issued or entered by or with any Governmental Authority, whether preliminary, interlocutory or final.

“Party” or “Parties” has the meaning assigned to it in the preamble hereto.

“Person” means any individual, partnership, firm, corporation, limited liability company, association, joint venture, trust, Governmental Authority, unincorporated organization or other entity, as well as any syndicate or group that would be deemed to be a person under Section 13(d)(3) of the Exchange Act.

“Permits” means all permits, consents, approvals, registrations, licenses, authorizations, qualifications and filings with and under all federal, state, local or foreign Laws and Governmental Authorities.

“Purchase Price” has the meaning assigned to it in Section 2.2.

“Purchasers” has the meaning assigned to it in the preamble hereto.

“Purchaser Default” means the failure by the Purchasers to deliver and pay the Purchase Price to be paid pursuant to this Agreement.

“Purchaser Material Adverse Effect” means any event, circumstance, development, change or effect that, individually or in the aggregate with all other events, circumstances, developments, changes or effects, has or would reasonably be expected to prevent, materially delay or materially impair the ability of the Purchasers to consummate the transactions contemplated hereby.

“Purchaser Rights Agreement” means the Purchaser Rights Agreement, in substantially the form attached hereto as Exhibit G.

“Purchaser Termination” means the termination of this Agreement by the Purchasers.

“Purchaser Termination Event” has the meaning assigned to it in Section 8(a).

“Registration Rights Agreement” means the Registration Rights Agreement, in substantially the form attached hereto as Exhibit F.

“Release” means any release, spill, emission, discharge, leaking, pouring, dumping or emptying, pumping, injection, deposit, disposal, dispersal, leaching or migration into the indoor or outdoor environment (including, without limitation, soil, ambient air, surface water, groundwater and surface or subsurface strata) or into or out of any property, including the movement of Hazardous Materials through or in the air, soil, surface water, groundwater or property.

“Sanctioned Person” means any Person that is the target of Sanctions, including, (a) any Person listed in any Sanctions related list of designated Persons maintained by OFAC or the U.S. Department of State, by the United Nations Security Council, the European Union or Her Majesty’s Treasury of the United Kingdom, (b) any Person located, organized or resident in a Sanctioned Territory, or (c) any Person directly or indirectly owned or controlled by any such Person or Persons described in the foregoing clauses (a) and (b).

“Sanctions” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by relevant Governmental Authorities, including, but not limited those administered by the U.S. government through OFAC or the U.S. Department of State, the United Nations Security Council, the European Union or Her Majesty’s Treasury of the United Kingdom.

“SEC” has the meaning assigned to it in Section 3.7(a).

“SEC Reports” has the meaning assigned to it in Section 3.7(a).

“Securities Act” means the Securities Act of 1933, as amended from time to time, and the rules and regulations promulgated thereunder, or any successor statute.

“Self-Regulatory Organization” means any securities exchange, futures exchange, contract market, any other exchange or corporation or similar self-regulatory body or organization applicable to a Party to this Agreement.

“Series B Preferred Equity Offering” has the meaning assigned to it in the Recitals hereto.

“Series B Preferred Stock” means the Series B Convertible Preferred Stock of the Company (including any Series B Preferred Stock issued in respect of dividend payments thereon).

“Subsidiary” means, with respect to any Person, any other Person of which the first Person owns, directly or indirectly, securities or other ownership interests having voting power to elect a majority of the board of directors or other Persons performing similar functions for such Person (or, if there are no such voting interests, more than 50% of the equity interests allowing for effective control of the second Person).

“Survival Period” has the meaning assigned to it in Section 10.3.

“Tax” (and, with correlative meaning, “Taxes” and “Taxable”) means: (a) any taxes, customs, duties, charges, fees, levies, penalties or other assessments, fees and other governmental charges imposed by any Governmental Authority, including, but not limited to, income, profits, gross receipts, net proceeds, windfall profit, severance, property, personal property (tangible and intangible), production, sales, use, leasing or lease, license, excise, duty, franchise, capital stock, net worth, employment, occupation, payroll, withholding, social security (or similar), unemployment, disability, payroll, fuel, excess profits, occupational, premium, severance, estimated, alternative or add-on minimum, ad valorem, value added, turnover, transfer, stamp or environmental tax, or any other tax, custom, duty, fee, levy or other like assessment or charge of any kind whatsoever, together with any interest, penalty, addition to tax, or additional amount attributable thereto; and (b) any liability for the payment of amounts with respect to payment of a type described in clause (a), including (i) as a result of being a member of an affiliated, consolidated, combined or unitary group, (ii) as a result of succeeding to such liability as a result of merger, conversion or asset transfer or (iii) as a result of any obligation under any Tax sharing, Tax allocation, Tax indemnity, or similar agreement or arrangement.

“Tax Representations” means those representations and warranties of the Company set forth in Section 3.19.

“Tax Returns” means any return, report, statement, information return or other document (including any amendments thereto and any related or supporting information) filed or required to be filed with any Governmental Authority in connection with the determination, assessment, collection or administration of any Taxes or the administration of any laws, regulations or administrative requirements relating to any Taxes.

“Treasury Regulations” means the regulations promulgated under the Code, by the United States Department of the Treasury, as such regulations may be amended from time to time. All references herein to specific sections of the regulations shall be deemed also to refer to any corresponding provisions of succeeding regulations, and any reference to temporary regulations shall be deemed also to refer to any corresponding provisions of final regulations.

“Warrants” means detached warrants in the form attached hereto as Exhibit D.

## Section 2. **AGREEMENT TO SELL AND PURCHASE.**

2.1 Sale and Purchase of Shares. Subject to the terms of this Agreement, at the Closing, the Company hereby agrees to issue and sell to the Purchasers, and the Purchasers hereby agree, severally and not jointly, to purchase from the Company, an aggregate amount of 3,300 shares of Series B Preferred Stock, together with the associated Warrants, free and clear of all Encumbrances, in the amounts, with respect to each such Purchaser, set forth on Schedule A hereto.

2.2 Purchase Price. The purchase price for the Series B Preferred Stock to be purchased by the Purchasers hereby shall be \$1,000 per share (the “Purchase Price”) such that the aggregate purchase price to be paid by the Purchasers shall be \$3,300,000.

2.3 Origination Fee. Subject to the terms of this Agreement, at the Closing, the Company hereby agrees to issue to the Purchasers 66 additional shares of Series B Preferred Stock (but excluding the associated Warrants), representing an origination fee in an aggregate amount equal to \$66,000 or approximately two percent (2%) of the Purchase Price, free and clear of all Encumbrances, in the amounts, with respect to each such Purchaser, set forth on Schedule A hereto.

2.4 Closing. Subject to the terms of this Agreement, the closing of the transactions contemplated hereby (the “Closing”) will occur on the Closing Date, unless otherwise agreed by the mutual consent of the

Parties. The Closing shall take place at the offices of NextDecade Corporation, 1000 Louisiana Street, Suite 3900, Houston, Texas 77002 or such other place as the Parties mutually agree. The Parties agree that the Closing may occur via delivery of facsimiles or photocopies of the applicable Offering Documents. Unless otherwise provided herein, all proceedings to be taken and all documents to be executed and delivered by all Parties at the Closing will be deemed to have been taken and executed simultaneously, and no proceedings will be deemed to have been taken nor documents executed or delivered until all have been taken, executed and delivered.

2.5 Rounding of Shares. The number of shares of Series B Preferred Stock issued to each Purchaser pursuant to the terms of this Agreement shall be rounded in accordance with the terms of the Certificate of Designations to avoid fractional shares.

2.6 Actions at the Closing. At the Closing, each Purchaser and the Company (as applicable) shall take or cause to be taken the following actions (“Closing Actions”):

(a) Payment of the Purchase Price. Each Purchaser shall pay the applicable Purchase Price in respect of the shares purchased by such Purchaser pursuant to Section 2.1 to the Company by wire transfer of immediately available funds to the account specified by the Company to such Purchaser in writing not less than five (5) Business Days prior to the Closing.

(b) Issuance of Series B Preferred Stock. The Company shall deliver to each Purchaser a true, correct and complete certificate, or other applicable evidence of ownership acceptable to the Purchasers, representing the shares of Series B Preferred Stock purchased by the Purchasers pursuant to this Section 2, duly authorized by all requisite corporate action on the part of the Company, together with all instruments of transfer in respect of such Purchaser’s interests in such shares, and in the form required by the Certificate of Designation.

(c) Warrants. The Company shall deliver to each Purchaser the Warrants, duly authorized by all requisite corporate action on the part of the Company, together with all instruments of transfer in respect of such Purchaser’s interests in such Warrants.

(d) Purchaser Rights Agreement. The Purchasers and the Company shall execute and deliver the Purchaser Rights Agreement.

(e) Registration Rights Agreement. The Purchasers and the Company shall execute and deliver the Registration Rights Agreement.

2.7 Transfer Taxes. All of the Series B Preferred Stock issued to the Purchasers pursuant to this Agreement will be delivered with any and all issue, stamp, transfer or similar taxes or duties payable in connection with such delivery duly paid by the Company.

Section 3. **REPRESENTATIONS AND WARRANTIES OF THE COMPANY**. The Company hereby represents and warrants to each Purchaser as of the date hereof and, with respect to the Fundamental Representations, as of the date hereof and as of the Closing Date (except for representations and warranties that are made as of a specific date, which are made only as of such date), on behalf of itself and not any other Party, as follows:

3.1 Organization and Qualification; Subsidiaries. The Company and each of its Subsidiaries has been duly organized and is validly existing and, except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, is in good standing under the laws of its jurisdictions of organization, with the requisite power and authority to own its properties and conduct its business as currently conducted.

3.2 Authorization; Enforcement; Validity. The Company has all necessary corporate power and authority to enter into this Agreement and to carry out its obligations hereunder, including the issuance to the Purchasers of the Series B Preferred Stock and Warrants (and the Common Stock issuable upon the conversion or exercise of such Series B Preferred Stock and Warrants, as applicable) pursuant to Sections 2.1 and 2.3 of this Agreement. The execution and delivery by the Company of this Agreement and the performance by the Company of its obligations hereunder, have been duly authorized by all requisite action on the part of the Company, and no other action on the part of the Company or any of its Subsidiaries is necessary to authorize the execution and delivery by the Company of this Agreement or the consummation of the transactions contemplated by this Agreement. This Agreement has been duly executed and delivered by the Company, and assuming due authorization, execution and delivery by each Purchaser, this Agreement constitutes, as to each such Purchaser, the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium or similar Laws now or hereafter in effect relating to creditors' rights generally and subject to general principles of equity.

3.3 No Conflicts. Assuming that all consents, approvals, authorizations and other actions described in Section 3.4 have been obtained, and except as may result from any facts or circumstances relating solely to a Purchaser, the execution, delivery and performance by the Company of this Agreement and the consummation of the transactions contemplated hereby do not and will not: (a) violate, conflict with or result in the breach of the Charter Documents of the Company or any of its Subsidiaries; (b) conflict with or violate any Law or Order applicable to the Company or any of its Subsidiaries, or any of its or their respective assets or properties; or (c) violate, conflict with, result in any breach of, constitute a default (or event which with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which the Company or any of its Subsidiaries is a party or to which any of their respective assets or properties are subject, or result in the creation of any Encumbrance on any of their respective assets or properties, except, in the case of clauses (b) and (c), for any such conflict, violation, breach or default that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

3.4 Consents and Approvals. The execution, delivery and performance by the Company of this Agreement do not require any consent, approval, authorization or other Order of, action by, filing with or notification to, any Governmental Authority or any other Person under any of the terms, conditions or provisions of any Law or Order applicable to the Company or any of its Subsidiaries or by which any of its or their assets or properties may be bound, any contract or agreement to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries may be bound, except for any consent, approval, authorization or other Order of, action by, filing with or notification to, any Governmental Authority or any other Person under any of the terms, conditions or provisions of any Law or Order applicable to the Company or any of its Subsidiaries that, if not made or obtained, would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

3.5 Capitalization.

(a) As of the date of this Agreement, and immediately prior to the issuance and sale of the Series B Preferred Stock (including the associated Warrants), the capitalization of the Company and each of its Subsidiaries is set forth in Schedule 3.5(a).

(b) Except as set forth in Schedule 3.5(b), there are no outstanding options, warrants, "phantom" stock rights, claims, calls, puts, convertible or exchangeable securities or other contracts or rights of any nature obligating the Company or any of its Subsidiaries to issue, return, redeem, repurchase, transfer, deliver or sell equity interests or other securities or ownership interests in the Company or any of its

Subsidiaries, and no Person is entitled to any preemptive or similar right with respect to the issuance of securities or other equity interests in the Company or any of its Subsidiaries.

(c) Except as set forth in Schedule 3.5(c), (x) to the Knowledge of the Company, there are no voting agreements, voting trusts, shareholder agreements, proxies or other similar agreements or understandings with respect to the equity interests of the Company or any of its Subsidiaries or that restrict or grant any right, preference or privilege with respect to the transfer of such equity interests, and (y) there are no contracts to declare, make or pay any dividends or distributions, whether current or accumulated, or due or payable, on the equity interests of the Company or any of its Subsidiaries.

(d) Except as contemplated by Section 5.5(c), the Company has no authorized or outstanding class of equity securities ranking as to dividends, redemption or distribution of assets upon a liquidation senior to or pari passu with the Series B Preferred Stock or that would otherwise constitute “Senior Stock” (as defined in the Certificate of Designations) or “Parity Stock” (as defined in the Certificate of Designations).

### 3.6 Valid Issuance.

(a) Upon payment of the Purchase Price and the occurrence of the Closing, the Purchasers will be the owners, of record and beneficially, of 3,366 duly and validly issued, fully paid, and non-assessable shares of Series B Preferred Stock. The Purchasers shall have good and valid title to such Series B Preferred Stock, free and clear of any Encumbrances.

(b) Assuming the accuracy of each Purchaser’s representations and warranties set forth herein, the offer, sale and issuance of such Series B Preferred Stock as contemplated hereby are exempt from the registration and qualification of the Securities Act, and will be issued in compliance with all applicable federal and state securities and blue sky laws. Neither the Company nor any Person acting on behalf of the Company has taken any action that would cause the loss of such exemption.

### 3.7 SEC Reports; Financial Statements.

(a) The Company has filed or furnished with the Securities and Exchange Commission (“SEC”) all forms, reports, schedules, proxy statements (collectively, and in each case including all exhibits and schedules thereto and documents incorporated by reference therein and including all registration statements and prospectuses filed with the SEC, the “SEC Reports”) required to be filed or furnished by the Company with the SEC since July 25, 2017. As of its date of filing or furnishing, each SEC Report complied in all material respects with the requirements of the Exchange Act or the Securities Act, and none of such SEC Reports (including any and all financial statements included therein) contained when filed or furnished (except to the extent revised or superseded by a subsequent filing with the SEC that is publicly available prior to the date hereof) any untrue statement of a material fact or omitted or omits to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading.

(b) Each of the consolidated financial statements (including the notes thereto) included in the SEC Reports (i) complied as to form required by published rules and regulations of the SEC related thereto as of its date of filing with the SEC, (ii) complied in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto, (iii) has been prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto or otherwise permitted by the SEC on Form 10-Q or any successor form under the Exchange Act) and (iv) presents fairly in all material respects the consolidated financial position of

Company and its consolidated Subsidiaries as of the dates thereof and the consolidated results of their operations and cash flows for the periods then ended, subject (in the case of unaudited financial statements) to normal year-end adjustments and any other adjustments described therein or in the notes or schedules thereto or the absence of footnotes (none of which are material).

(c) The unaudited balance sheet and the related unaudited statement of operations and unaudited statement of cash flows for the Company's most recently filed Quarterly Report on Form 10-Q as of the date of this Agreement (i) present fairly in all material respects the financial condition of the Company as of such date and the results of operations for the three (3) month period then ended and (ii) were prepared on a basis consistent with the Company's past practice, subject to normal year-end adjustments and the absence of footnotes.

3.8 Undisclosed Liabilities. Except as set forth in Schedule 3.8, and except for liabilities included or reserved for in the unaudited consolidated balance sheet of the Company or disclosed in the notes thereto included in the Company's most recently filed Quarterly Report on Form 10-Q as of the date of this Agreement, neither the Company nor any of its Subsidiaries has incurred liabilities, including contingent liabilities, or any other obligations of a nature required to be disclosed on a consolidated balance sheet or in the notes thereto, except liabilities that are not material and were incurred in the ordinary course of business subsequent to the date of the consolidated balance sheet contained in the Company's most recently filed Quarterly Report on Form 10-Q as of the date of this Agreement.

3.9 Contracts. Except as set forth in Schedule 3.9, neither the Company nor any of its Subsidiaries is, or to the Knowledge of the Company, is alleged to be (nor, to the Company's Knowledge, is any other party to any Material Contract) in material default under, or in material breach or material violation of, any Material Contract, and no event has occurred which, with the giving of notice or passage of time or both, would constitute a material default by the Company or any other party under any Material Contract. Other than Material Contracts which have terminated or expired in accordance with their terms, each of the Material Contracts is in full force and effect and is a legal, valid and binding obligation of the Company and, to the Knowledge of the Company, the other parties thereto enforceable against the Company and, to the Knowledge of the Company, such other parties 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 equitable principles (whether considered in a proceeding in equity or at law).

3.10 Affiliate Transactions. Except as set forth in Schedule 3.10, there are no transactions between the Company, on the one hand, and any (A) officer or director of the Company or any of its Subsidiaries, (B) to the Knowledge of the Company, record or beneficial owner of five (5) percent or more of the voting securities of the Company or (C) Affiliate or family member of any such officer or director or, to the Knowledge of the Company, record or beneficial owner, on the other hand, except employee benefit plans, executive compensation or director compensation, employment agreements, consulting agreements, indemnification agreements and similar transactions. Neither the Company nor any of its Subsidiaries is a guarantor or indemnitor of any indebtedness of any of the persons set forth in the foregoing clause (A) or, to the Knowledge of the Company, clauses (B) through (C).

3.11 Title. The Company and each of its Subsidiaries has good and marketable title to their respective owned properties and assets, and good leasehold title to their respective leasehold estates in leased properties and assets, in each case, subject to no Encumbrances, other than Encumbrances that would not reasonably be expected to result in, individually or in the aggregate, a Material Adverse Effect.



### 3.12 Compliance with Law; Permits.

(a) Neither the Company nor any of its Subsidiaries (i) is in material violation or default of the Charter Documents of the Company or any of its Subsidiaries, (ii) is in violation or default of any Order or any Law, except for such violations and defaults that would not reasonably be expected to result in, individually or in the aggregate, a Material Adverse Effect or (iii) has received, since August 23, 2018, any written notice of, and to the Knowledge of the Company, no investigation or review is in process or threatened by any Governmental Authority with respect to, any material violation or alleged violation of any Order or Law.

(b) Except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (i) the Company and its Subsidiaries hold all Permits necessary for the lawful conduct of their respective businesses as they are presently being conducted, (ii) all Permits are in full force and effect, (iii) the Company and its Subsidiaries are in compliance with the terms of the Permits, (iv) there are no pending or, to the Knowledge of the Company, threatened, modifications, amendments, cancellations, suspensions, limitations, nonrenewals or revocations of any Permit, and (v) there has occurred no event which (whether with notice or lapse of time or both) could reasonably be expected to result in or constitute the basis for such a modification, amendment, cancellation, suspension, limitation, nonrenewal or revocation thereof.

3.13 Litigation. Except as set forth in Schedule 3.13, no action, suit, claim, demand, hearing, investigation or other proceeding is pending against the Company or any of its Subsidiaries, or, to the Knowledge of the Company, any officer, director, manager, member, shareholder or employee of any such Person, and none of the Company or any of its Subsidiaries, or, to the Knowledge of the Company, any officer, director, manager, member, shareholder or employee of any such Person, is subject to any outstanding injunction, judgment, order, decree, ruling or charge or, to the Knowledge of the Company, is threatened with being made a party to any action, suit, proceeding, hearing or investigation of, in, or before any Governmental Authority or before any arbitrator, all cases, that are required to be described in the SEC Reports but are not described as required in the SEC Reports, or that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

3.14 Intellectual Property. The Company and its Subsidiaries own or have obtained valid and enforceable licenses for, or other legal and valid rights to use, the Intellectual Property necessary for the conduct of the business of the Company and its Subsidiaries as currently conducted, except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Neither the Company nor any of its Subsidiaries has received from any third party a claim in writing that the Company or any of its Subsidiaries is infringing in any material respect the Intellectual Property rights of any third party.

3.15 Insurance. Schedule 3.15 sets forth a true, correct and complete list of all of the insurance maintained for or on behalf of the Company or any of its Subsidiaries and claims made to date. All premiums with respect to such policies have been paid to the extent due and payable. No written notice of cancellation or termination has been received by the Company or any of its Subsidiaries with respect to any such policies that have not been replaced on substantially similar terms prior to the date of such cancellation or termination.

3.16 Environmental Matters. The Company and its Subsidiaries have at all times been in compliance in all material respects with all Environmental Laws. To the Knowledge of the Company, there are no locations or premises where Hazardous Materials have been Released such that (A) the Company or any of its Subsidiaries would reasonably be expected to be obligated to remove, remediate or otherwise respond to pursuant to any Environmental Laws or (B) would reasonably be expected to result in a liability of the Company or any of its Subsidiaries to any Person under any Environmental Laws. There are no Environmental Claims pending, or to

the Knowledge of the Company threatened against the Company or any of its Subsidiaries, and there no actions, activities, circumstances, facts, conditions, events or incidents, including the presence of any Hazardous Material, which would be reasonably likely to form the basis of any such Environmental Claim.

### 3.17 Company Benefits Plans.

(a) Schedule 3.17 lists each material Company Benefit Plan.

(b) Neither the Company nor any of its ERISA Affiliates has ever maintained, sponsored, contributed to, or had an obligation to maintain, sponsor or contribute to, or has any liability under or with respect to (i) a “defined benefit plan,” as defined in Section 3(35) of ERISA, (ii) a pension plan subject to the minimum funding standards of Section 302 of ERISA or Section 412 of the Code, (iii) a “multiemployer plan,” as defined in Section 3(37) of ERISA, (iv) a “multiple employer plan” (within the meaning of Section 413 of the Code), (v) a “voluntary employees’ beneficiary association” (within the meaning of Section 501(c)(9) of the Code), (vi) an organization or trust described in Sections 501(c)(17) or 501(c)(20) of the Code or (vii) a “welfare benefits fund” described in Section 419(e) of the Code. No current or former employee, officer, director, consultant or other service provider of the Company or any of its Subsidiaries is or may become entitled under any Company Benefit Plan to receive health, life insurance or other welfare benefits (whether or not insured), beyond their retirement or other termination of service, other than health continuation coverage as required by Section 4980B of the Code.

(c) Each Company Benefit Plan has been administered in all material respects in accordance with its terms and applicable Law. Each Company Benefit Plan intended to be qualified under Section 401(a) of the Code has either received a favorable determination letter from the IRS or may rely on a favorable opinion letter issued by the IRS, and, to the Knowledge of the Company, nothing has occurred since the date of such determination or opinion letter that would reasonably be expected to adversely affect such qualification.

(d) Except as would not be reasonably likely to result in a Material Adverse Effect, there are no actions, suits, audits or investigations by any Governmental Authority or other claims (except for routine claims for benefits) pending or, to the Knowledge of the Company, threatened, against or involving any Company Benefit Plan.

(e) Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby will (whether alone or upon the occurrence of any additional or further acts or events) (i) result in any payment becoming due to any current or former employee, officer, director or independent contractor of the Company or any Subsidiary thereof or satisfy any prerequisite (whether exclusive or non-exclusive) to any payment or benefit to any current or former employee, director or independent contractor of the Company or any Subsidiary thereof, (ii) increase any benefits under any Company Benefit Plan, (iii) result in the acceleration of the time of payment, vesting or funding of any such benefits under any Company Benefit Plan, or (iv) result in the forgiveness of any indebtedness of any current or former employee, officer, director or independent contractor of the Company or any Subsidiary thereof.

### 3.18 Labor.

(a) Neither the Company nor any of its Subsidiaries is a party to any labor or collective bargaining agreement.

(b) There are no (i) strikes, work stoppages, work slowdowns or lockouts pending or, to the Knowledge of the Company, threatened against or involving the Company or any of its Subsidiaries,

or (ii) unfair labor practice charges, grievances or complaints pending or, to the Knowledge of the Company, threatened by or on behalf of any employee or group of employees of the Company or any of its Subsidiaries, except in each case as would not have a Material Adverse Effect.

3.19 Tax Matters. Except as set forth in Schedule 3.19:

(a) As of the date of this Agreement, the Company has timely filed all material Tax Returns required to be filed (after giving effect to any extensions that have been requested by and granted to such party by the applicable Governmental Authority) and has paid or caused to be paid on its behalf all Taxes due and owing, other than those (i) that are being contested in good faith and for which adequate reserves have been established in accordance with GAAP or (ii) that, if not paid, would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. All such Tax Returns are true, correct and complete in all material respects. There are no past, current, pending or, to the Knowledge of the Company, threatened audits, claims or proceedings by any Governmental Authority relating to Taxes. The Company has not waived any statutes of limitation or agreed to any extension of time with respect to any Tax assessment or deficiency. The Company has not received written notice from any Governmental Authority in a jurisdiction where it does not file Tax Returns claiming that it is subject to Tax in that jurisdiction. There are no liens for Taxes against the property of the Company or the Project except for Taxes not yet due and payable.

(b) The Company has complied with all Laws relating to the withholding and collection of Taxes relating to the Company. The Company has not engaged in any reportable transaction within the meaning of Treasury Regulations Section 1.6011-4(b).

(c) Neither the Company nor any of its Subsidiaries has made an election under Section 965(h) of the Code.

(d) The Company (A) has not entered into any agreement with any Governmental Authority that would impact the amount of Taxes due by it, (B) has never been a member of an affiliated, combined, consolidated or unitary group for purposes of filing any Tax Return or has any liability for the Taxes of any other Person (1) under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign law), or (2) as a transferee or successor, by Contract, or otherwise, or (C) is not a party to, or has any liability under, any Tax sharing, Tax allocation, Tax indemnity, or similar agreement or arrangement.

3.20 Investment Company Act. The Company is not and, after giving effect to the transactions contemplated by this Agreement will not be, an “investment company” as that term is defined in, nor is the Company otherwise subject to registration or regulation under, the Investment Company Act of 1940.

3.21 OFAC and Related Matters. None of the transactions contemplated hereby will violate (i) any Sanctions, or (ii) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, Public Law 107-56 (October 26, 2001). The Company is in compliance with Sanctions in all material respects. There are no pending or threatened claims or legal actions, or investigations by any Governmental Authority, of or against the Company, nor are there any judgments imposed (or threatened to be imposed) upon the Company by or before any Governmental Authority, in each case, in connection with any alleged violation of Sanctions. Neither the Purchase Price nor any other proceeds received by the Company hereunder will be used in any dealings or transactions with any Sanctioned Person or in any manner that will result in a violation of Sanctions. The Company has not violated any provision of the U.S. Foreign Corrupt Practices Act of 1977 or the U.K. Bribery Act 2010.

3.22 Broker; Fees. Neither the Company nor any of its Subsidiaries has employed any broker or finder, or incurred any liability for any brokerage or finders' fees or any similar fees or commissions in connection with the transactions contemplated by this Agreement for which any Purchaser is liable.

Section 4. **REPRESENTATIONS AND WARRANTIES OF THE PURCHASERS.** Each Purchaser, severally and not jointly, represents and warrants to the Company as of the date hereof and, with respect to the Fundamental Representations, as of the date hereof and as of the Closing Date (except for representations and warranties that are made as of a specific date, which are made only as of such date), as follows:

4.1 Organization and Qualification. Such Purchaser has been duly organized and is validly existing and, except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect, is in good standing under the laws of its jurisdiction of organization, with the requisite power and authority to own its properties and conduct its business as currently conducted.

4.2 Authorization; Enforcement; Validity. Such Purchaser has all necessary corporate, limited liability company or equivalent power and authority to enter into this Agreement and to carry out, or cause to be carried out, its obligations hereunder in accordance with the terms hereof. The execution and delivery by such Purchaser of this Agreement and the performance by such Purchaser of its obligations hereunder have been duly authorized by all requisite action on the part of such Purchaser, and no other action on the part of such Purchaser is necessary to authorize the execution and delivery by such Purchaser of this Agreement or the consummation of the transactions contemplated by this Agreement. This Agreement has been duly executed and delivered by such Purchaser, and assuming due authorization, execution and delivery by the Company, this Agreement constitutes the legal, valid and binding obligation of such Purchaser, enforceable against such Purchaser in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium or similar Laws now or hereafter in effect relating to creditors' rights generally and subject to general principles of equity.

4.3 No Conflicts. The execution, delivery, and performance by such Purchaser of this Agreement do not and will not (a) violate any provision of the organizational documents of such Purchaser; (b) conflict with or violate any Law or Order applicable to such Purchaser or any of its respective assets or properties; or (c) violate, conflict with, result in any breach of, constitute a default (or event which with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which such Purchaser is a party or to which any of its assets or properties are subject, or result in the creation of any Encumbrance on any of its assets or properties, except, in the case of clauses (b) and (c), for any such conflict, violation, breach or default that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

4.4 Consents and Approvals. The execution, delivery and performance by such Purchaser of this Agreement do not require such Purchaser to obtain any consent, approval, authorization or other Order of, action by, filing with or notification to, any Governmental Authority or any other Person under any of the terms, conditions or provisions of any Law or Order applicable to such Purchaser or by which any of its assets or properties may be bound, any contract to which such Purchaser is a party or by which such Purchaser may be bound, except for any consent, approval, authorization or other Order of, action by, filing with or notification to, any Governmental Authority or any other Person under any of the terms, conditions or provisions of any Law or Order applicable to such Purchaser that, if not made or obtained, would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect with respect to such Purchaser.

4.5 Purchaser Representation. (i) Such Purchaser is either (A) a qualified institutional buyer as defined in Rule 144A of the Securities Act, (B) an accredited investor as defined in Rule 501(a)(1), (2), (3), (7) or (8)

under the Securities Act, (C) a non-U.S. person under Regulation S under the Securities Act, or (D) the foreign equivalent of (A) or (B) above, and (ii) any securities of the Company acquired by such Purchaser under this Agreement will have been acquired for investment and not with a view to distribution or resale in violation of the Securities Act.

4.6 Sufficient Funds. Such Purchaser has sufficient assets (or the ability to call sufficient capital from its equityholders) and the financial capacity to perform all of its obligations under this Agreement, including the ability to fully fund its respective portion of the Purchase Price at the Closing.

Section 5. **ADDITIONAL COVENANTS**.

5.1 Commercially Reasonable Efforts. Each of the Company and each Purchaser hereby agrees to use its commercially reasonable efforts to timely satisfy (if applicable) each of the conditions applicable to such Party under Sections 6 and 7, respectively, of this Agreement.

5.2 Further Assurances. Each Party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other Party may reasonably request to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

5.3 Use of Proceeds. The Company shall use the proceeds from the transactions contemplated hereby solely as provided for in Exhibit E to this Agreement.

5.4 Expenses. The Company shall bear all of its own expenses in connection with the execution, delivery and performance of this Agreement and the transactions contemplated hereby, including without limitation all fees and expenses of its agents, representatives, counsel and accountants.

5.5 Conduct of the Business of Company. From the date hereof until the Closing Date, except (a) as expressly permitted by this Agreement, (b) as required by Law, or (c) with the written consent of the Purchasers (such consent not to be unreasonably withheld, conditioned or delayed), the Company shall conduct its business and operations in the ordinary course of business consistent with past practice and use commercially reasonable efforts to (i) preserve intact its present business organization; (ii) maintain good relationships with its vendors, suppliers, and others having material business relationships with it; and (iii) manage its working capital in the ordinary course of business consistent with past practice. Without limiting the generality of the foregoing, and, except as contemplated in this Agreement or as described in Schedule 5.5, during the period from the date of this Agreement through the Closing Date, without the prior written consent of the Purchasers (which consent shall not be unreasonably withheld or delayed), the Company shall not, and shall not permit any of its Subsidiaries to:

- (a) amend any of its Charter Documents;
- (b) split, combine, subdivide or reclassify any of its equity securities;
- (c) authorize, sell, issue or grant any equity securities or sell, issue or grant any option, warrant or right to acquire any equity securities or sell, issue or grant any security convertible into or exchangeable for equity securities, or sell, transfer or dispose of, or grant or permit any Encumbrance on, any equity interest;
- (d) except as required pursuant to applicable Law or the terms of any Company Benefit Plan in existence as of the date hereof, (A) make or grant any increases in the compensation or fringe benefits of any current or former employee or service provider of the Company or its Subsidiaries except in

the ordinary course of business consistent with past practice (x) for current employees whose annual base salary or annual fee is less than \$150,000 or (y) in respect of fringe benefits, increases in fringe benefits that do not result in a material increase in cost to the Company or its Subsidiaries; (B) take any action to accelerate the vesting or payment of any compensation or benefits under any Company Benefit Plan or any action to fund or secure the payment of compensation or benefits under any Company Benefit Plan; (C) amend, adopt or terminate any Company Benefit Plan other than in connection with routine, immaterial or ministerial amendments to health and welfare plans that do not materially increase benefits or result in a material increase in administrative costs; or (D) enter into, modify or terminate any collective bargaining agreement or other agreement or arrangement with any labor union, works council, labor organization or other employee-representative body.

(e) declare, set aside for payment or pay any dividend on, or make any other distribution in respect of its equity interests or otherwise make any payments to any holder of such interests in its capacity as such;

(f) take or fail to take any action the result of which would cause the creation of an Encumbrance on any of its equity interests;

(g) make any material change to its financial reporting and accounting methods other than as required by a change in GAAP;

(h) make any material change in its Tax reporting or Tax accounting methods, including making or changing any material Tax elections except as required by applicable Law;

(i) acquire any Person or other business organization, division or business by merger, consolidation, purchase of an equity interest or assets, or by any other manner;

(j) take any action to liquidate, dissolve, or wind up its business;

(k) take any action that would require the consent of the Purchasers as the holder of the Series B Preferred Stock pursuant to the Certificate of Designations if such action were to occur after the Closing; or

(l) commit itself to do any of the foregoing.

5.6 Public Announcements. No press release or other public announcement related to this Agreement or the transactions contemplated herein shall be issued or made without the joint approval of the Company and each of the Purchasers, unless such release or announcement is required by law or the rules of any securities exchange on which securities of the Company are traded (including, for the avoidance of doubt, any Current Report on Form 8-K required to be filed by the Company with the SEC describing this Agreement or the transactions contemplated herein), in which case each of the Purchasers shall be afforded a reasonable opportunity to review such public announcement prior to publication.

Section 6. **CONDITIONS TO EACH PURCHASER'S OBLIGATIONS**. The obligations of each Purchaser to consummate the transactions contemplated hereby pursuant to this Agreement on the Closing Date shall be subject to the satisfaction at or prior to the Closing Date of each of the following conditions, any one or more of which may be waived in writing by the Purchasers:

6.1 Fundamental Representations and Warranties. All of the Fundamental Representations made by the Company in this Agreement shall be true and correct in all respects as of the Closing Date as though made on

and as of the Closing Date (except to the extent such representations and warranties expressly speak as of an earlier date, in which case such representations and warranties shall be true and correct as of such date).

6.2 Performance of Closing Actions. The Company shall have performed each of the Closing Actions required to be performed by them at the Closing.

6.3 No Legal Impediment to Issuance; No Material Adverse Effect. No Law or Order shall have become effective or been enacted, adopted or issued by any Governmental Authority that prohibits the implementation of this Agreement or the transactions contemplated herein, and no Material Adverse Effect shall have occurred.

Section 7. **CONDITIONS TO THE COMPANY'S OBLIGATIONS.** The obligations of the Company to issue and sell to the Purchasers the Series B Preferred Stock (including the Warrants) pursuant to this Agreement shall be subject to the satisfaction at or prior to the Closing Date of each of the following conditions, any one or more of which may be waived in writing by the Company:

7.1 Fundamental Representations and Warranties. All of the Fundamental Representations made by the Purchasers in this Agreement shall be true and correct in all respects as of the Closing Date as though made on and as of the Closing Date (except to the extent such representations and warranties expressly speak as of an earlier date, in which case such representations and warranties shall be true and correct as of such date).

7.2 Performance of Closing Actions. Each Purchaser shall have performed each of the Closing Actions required to be performed by it at the Closing.

7.3 No Legal Impediment to Issuance. No Law or Order shall have become effective or been enacted, adopted or issued by any Governmental Authority that prohibits the implementation of this Agreement or the transactions contemplated by this Agreement.

Section 8. **TERMINATION.**

(a) Termination by the Purchasers. This Agreement may be terminated at any time prior to the Closing by the Purchasers following the occurrence of any of the following events (each a "Purchaser Termination Event") immediately upon delivery of written notice to the Company; *provided, however* that the Purchasers shall not be permitted to terminate this Agreement if at the time of such termination any Purchaser is in breach of any representation, warranty or covenant applicable to it in any material respect under this Agreement:

(i) the Closing does not occur on or before the Closing Date;

(ii) the failure of any of the conditions set forth in Section 6 hereof to be satisfied, which failure cannot be cured or is not cured before the earlier of (A) fifteen (15) Business Days after receipt of written notice thereof by the Company from any Purchaser and (B) the Closing Date;

(iii) the Company breaches any representation or warranty or breaches any covenant applicable to it in any material respect under this Agreement and if such breach is curable, it is not cured before the earlier of (A) fifteen (15) Business Days after receipt of written notice by the Company from any Purchaser and (B) the Closing Date; or

(iv) any Governmental Authority of competent jurisdiction, enters a Final Order declaring this Agreement or any material portion hereof to be unenforceable.

(b) Termination by the Company. This Agreement may be terminated at any time prior to the Closing by the Company following the occurrence of any of the following events immediately upon delivery of written notice to the Parties except as set forth below; *provided, however* that the Company shall not be permitted to terminate this Agreement if, at the time of such termination, the Company is in breach of any representation, warranty or covenant applicable to it in any material respect under this Agreement:

(i) the failure of any of the conditions set forth in Section 7 hereof to be satisfied, which failure cannot be cured or is not cured before the earlier of (A) fifteen (15) Business Days after receipt of written notice thereof by the Purchasers from the Company and (B) the Closing Date;

(ii) a Purchaser breaches any representation or warranty or breaches any covenant applicable to it in any material respect under this Agreement and if such breach is curable, it is not cured before the earlier of (A) fifteen (15) Business Days after receipt of written notice by the Purchasers from the Company and (B) the Closing Date;

(iii) any Governmental Authority of competent jurisdiction, enters a Final Order declaring this Agreement or any material portion hereof to be unenforceable; or

(iv) the Closing does not occur on or before the Closing Date.

(c) Purchaser Default. Subject to Section 10.19, the Purchasers agree that, in the event of a Purchaser Default, the Company shall be entitled to all remedies available at law and at equity, including to enforce rights of damages and/or specific performance pursuant to Section 10.18.

(d) Mutual Termination. This Agreement may be terminated by the mutual written consent of the Company and the Purchasers.

(e) Effect of Purchaser Termination. Upon a termination of this Agreement in accordance with Section 8(a), the Purchasers shall have no continuing liability or obligation to the Company and the provisions of this Agreement shall have no further force or effect with respect to the Purchasers, except for the provisions in Sections 8, 9, and 10, each of which shall survive termination of this Agreement; *provided, however*, that no such termination shall relieve the Purchasers from liability for its breach or non-performance of its obligations hereunder prior to the date of such termination and the rights of the Company as it relates to such breach or non-performance by the Purchasers shall be preserved in the event of the occurrence of such breach or non-performance.

(f) Effect of Company or Mutual Termination. Upon a termination of this Agreement in accordance with Sections 8(b) or 8(d), neither Party shall have any continuing liability or obligation to the other Party hereunder and the provisions of this Agreement shall have no further force or effect except for the provisions in Sections 8, 9, and 10, each of which shall survive termination of this Agreement; *provided* that no such termination shall relieve either Party from liability for its breach or non-performance of its obligations hereunder prior to the date of such termination and the rights of the other Party as it relates to such breach or non-performance by the Party shall be preserved in the event of the occurrence of such breach or non-performance.

Section 9. INDEMNIFICATION. The Company agrees to indemnify and hold harmless the Indemnified Parties from and against any and all claims, damages, losses, liabilities and expenses (including, without limitation, fees and disbursements of counsel), that may be incurred by or asserted or awarded against any Indemnified Party, in each case arising out of this Agreement (including as a result of any breach or inaccuracy of any representation, warranty or covenant herein), the other Offering Documents, or the transactions



contemplated hereby or thereby, solely to the extent such Offering Documents or transactions contemplated thereby relate to this Agreement and the Series B Preferred Equity Offering, any use made or proposed to be made with the proceeds of the Series B Preferred Equity Offering, or any claim, litigation, investigation or proceeding relating to any of the foregoing, regardless of whether any Indemnified Party is a party thereto, and the Company shall reimburse each Indemnified Party upon demand for reasonable and documented fees and expenses of counsel (which, so long as there are no conflicts among such Indemnified Parties, shall be limited to one law firm serving as counsel for the Indemnified Parties) and other expenses incurred by it in connection with investigating, preparing to defend or defending, or providing evidence in or preparing to serve or serving as a witness with respect to, any lawsuit, investigation, claim or other proceeding relating to any of the foregoing, irrespective of whether the transactions contemplated hereby are consummated, except to the extent such claim, damage, loss, liability, or expense is found in a Final Order to have resulted from such Indemnified Party's bad faith, actual fraud, gross negligence, or willful misconduct. No Indemnified Party shall have any liability (whether direct or indirect, in contract, tort or otherwise) to the Company for or in connection with the transactions contemplated hereby, except to the extent such liability is found in a final, non-appealable order of a court of competent jurisdiction to have resulted from such Indemnified Party's bad faith, actual fraud, gross negligence or willful misconduct. In no event, however, shall the Company or any Indemnified Party be liable on any theory of liability for any special, indirect, consequential or punitive damages. Without the prior written consent of the Indemnified Parties, the Company agrees that it will not enter into any settlement of any lawsuit, claim or other proceeding arising out of this Agreement, the other Offering Documents, or the transactions contemplated hereby or thereby, solely to the extent such Offering Documents or transactions contemplated thereby relate to this Agreement and the Series B Preferred Equity Offering, unless such settlement (i) includes an explicit and unconditional release from the party bringing such lawsuit, claim or other proceeding of all Indemnified Parties and (ii) does not include a statement as to or an admission of fault, culpability, or a failure to act by or on behalf of any Indemnified Party. No Indemnified Party shall be liable for any damages arising from the use by unauthorized persons of any information made available to the Indemnified Parties by the Company or any of its representatives through electronic, telecommunications or other information transmission systems that is intercepted by such persons. No Indemnified Party shall settle any lawsuit, claim, or other proceeding arising out of this Agreement, the other Offering Documents, or the transactions contemplated hereby or thereby without the prior written consent of the Company (such consent not to be unreasonably withheld or delayed). Notwithstanding the foregoing, an Indemnified Party shall be entitled to no indemnification by the Company for any claim, damage, loss, liability, or expense incurred by or asserted or awarded against such Indemnified Party for any violation of Law by such Indemnified Party.

Section 10. **MISCELLANEOUS.**

10.1 **Payments.** All payments made by or on behalf of the Company or any of their Affiliates to the Purchaser or its assigns, successors or designees pursuant to this Agreement shall be without withholding, set-off, counterclaim or deduction of any kind.

10.2 **Arm's Length Transaction.** The Company acknowledges and agrees that (i) the Series B Preferred Equity Offering and any other transactions described in this Agreement are an arm's-length commercial transaction between the Parties and (ii) no Purchaser has assumed nor will it assume an advisory or fiduciary responsibility in the Company's favor with respect to any of the transactions contemplated by this Agreement or the process leading thereto, and no Purchaser has any obligation to the Company with respect to the transactions contemplated by this Agreement except those obligations expressly set forth in this Agreement or the Offering Documents to which it is a party.

10.3 **Survival.** The representations, warranties, covenants, agreements and obligations of the Parties shall survive the Closing as follows (each such survival period, a "**Survival Period**"): (i) except for Fundamental

Representations and the Tax Representations, the representations and warranties made by each Party in this Agreement shall survive the Closing until the first anniversary of the Closing; (ii) Fundamental Representations shall survive the Closing until the fifth anniversary of the Closing, (iii) Tax Representations shall survive the Closing for the full period of all applicable statutes of limitations related thereto (after giving effect to any waiver or extension thereof), and (iv) the covenants, agreements, obligations and other undertakings of the Parties shall survive the Closing until fully performed in accordance with their terms. All liability of the Indemnifying Parties with respect to the representations, warranties, covenants, agreements and obligations hereunder shall be extinguished at the end of the applicable Survival Period, except to the extent that notice of an alleged breach of such representations, warranties, covenants, agreements or obligations has been provided before such date; provided that if notice is given prior to the expiration of the applicable Survival Period, the claim with respect to such representation, warranty, covenant, agreement or obligation shall continue indefinitely until finally resolved.

10.4 No Waiver of Rights. All waivers hereunder must be made in writing, and the failure of any Party at any time to require another Party's performance of any obligation under this Agreement shall not affect the right subsequently to require performance of that obligation. Any waiver of any breach of any provision of this Agreement shall not be construed as a waiver of any continuing or succeeding breach of such provision or a waiver or modification of any other provision.

10.5 Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given or made (and shall be deemed to have been duly given or made upon receipt) by delivery in person, by an internationally recognized overnight courier service, by email or registered or certified mail (postage prepaid, return receipt requested) to the respective Parties at the following addresses (or at such other address for any Party as shall be specified by such Party in a notice given in accordance with this Section 10.5).

(a) If to the Company, to:

NextDecade Corporation  
1000 Louisiana Street, Suite 3900  
Houston, Texas 77002  
Attention: Krysta De Lima, General Counsel  
krysta@next-decade.com

With a copy (which shall not constitute notice to the Company) to:

K&L Gates LLP  
214 North Tryon Street, 47<sup>th</sup> Floor  
Charlotte, North Carolina 28202  
Attention: Sean M. Jones  
Sean.Jones@klgates.com

(b) If to the Purchasers, to the addresses set forth with respect to each such Purchaser on Exhibit H.

Any of the foregoing addresses may be changed by giving notice of such change in the foregoing manner, except that notices for changes of address shall be effective only upon receipt.

10.6 Headings. The section and subsection headings in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

10.7 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any Law or public policy, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect for so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible.

10.8 Entire Agreement. This Agreement and the agreements and documents referenced herein constitute the entire agreement of the Parties with respect to the subject matter hereof and supersede all prior agreements and undertakings, both written and oral, between the Parties with respect to the subject matter hereof.

10.9 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Except as set forth below, neither this Agreement nor any of the rights, interests or obligations under this Agreement may be assigned by either Party (whether by operation of law or otherwise) without the prior written consent of the other Party. Notwithstanding the foregoing and subject to the restriction on transfer contained in Section 10.10, the rights, obligations and interests hereunder may be assigned, delegated or transferred, in whole or in part, by a Purchaser to (i) any Affiliate of such Purchaser without the consent of the Company, or (ii) one or more other third parties with the consent of the Company, which consent shall not be unreasonably withheld or delayed; *provided, however*, that any such transferee, as a condition precedent to such transfer, becomes a Party to this Agreement and assumes the obligations of such Purchaser with respect to the transferred shares under this Agreement by executing an addendum substantially in the form set forth in Exhibit A (the “Addendum”) and an assumption agreement in substantially the form set forth in Exhibit B hereto (the “Assumption Agreement”) and deliver the same to the Company in accordance with Section 10.5, and *provided, further*, that (a) with respect to a transfer to an Affiliate of a Purchaser, such Purchaser either (i) shall have provided an adequate equity support letter or a guarantee of such Affiliate-transferee’s obligations, in form and substance reasonably acceptable to the Company or (ii) shall remain fully obligated to fund the Purchase Price, and (b) with respect to a transfer to a third party, the Company, acting in good faith, shall have consented in writing to such transfer (which consent shall not be unreasonably withheld, conditioned or delayed) and shall have determined, in its reasonable discretion, after due inquiry and investigation, that such transferee is reasonably capable of fulfilling such obligations, or, absent such a determination, the proposed transferee shall have deposited with an agent of the Company or into an escrow account under arrangements satisfactory to the Company funds sufficient, in the reasonable determination of the Company, to satisfy such proposed transferee’s obligations. Any transfer that is made in violation of the immediately preceding sentence shall be null and void ab initio, and the Company shall have the right to enforce the voiding of such transfer.

10.10 Limitations on Transfer of Series B Preferred Stock. THE SERIES B PREFERRED STOCK (INCLUDING ANY SERIES B PREFERRED STOCK ISSUED IN RESPECT OF DIVIDEND PAYMENTS THEREON) SHALL NOT BE TRANSFERRED BY ANY PURCHASER TO ANY OTHER PERSON WITHOUT THE CONSENT OF THE COMPANY, WHICH CONSENT SHALL NOT BE UNREASONABLY WITHHELD OR DELAYED, EXCEPT THAT ANY PURCHASER SHALL BE ENTITLED TO TRANSFER ANY OR ALL SHARES OF ITS SERIES B PREFERRED STOCK TO ANY AFFILIATE OF ANY PURCHASER.

10.11 No Third-Party Beneficiaries. This Agreement shall be binding upon and inure solely to the benefit of the Parties and their respective successors and permitted assigns and, except as expressly set forth in Section 9, nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever.

10.12 Amendment. This Agreement may not be altered, amended, or modified except by a written instrument executed by or on behalf of the Company and the Purchasers.

10.13 Governing Law. This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of New York, without regard to the conflicts of law principles thereof.

10.14 Consent to Jurisdiction. Each of the Parties (a) irrevocably and unconditionally agrees that any actions, suits or proceedings, at law or equity, arising out of or relating to this Agreement or any agreements or transactions contemplated hereby shall be heard and determined by the federal or state courts located in New York County in the State of New York; (b) irrevocably submits to the jurisdiction of such courts in any such action, suit or proceeding; (c) consents that any such action, suit or proceeding may be brought in such courts and waives any objection that such Party may now or hereafter have to the venue or jurisdiction of such courts or that such action or proceeding was brought in an inconvenient forum; and (d) agrees that service of process in any such action, suit or proceeding may be effected by providing a copy thereof by any of the methods of delivery permitted by Section 10.5 to such Party at its address as provided in Section 10.5 (provided that nothing herein shall affect the right to effect service of process in any other manner permitted by Law).

10.15 Waiver of Jury Trial. EACH OF THE PARTIES HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY). EACH OF THE PARTIES HERETO HEREBY (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE TRANSACTIONS, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.14.

10.16 Currency. Unless otherwise specified in this Agreement, all references to currency, monetary values and dollars set forth herein shall mean United States (U.S.) dollars and all payments hereunder shall be made in United States dollars.

10.17 Counterparts. This Agreement may be executed and delivered (including by facsimile or electronic transmission) in one or more counterparts, and by the different Parties in separate counterparts, each of which when executed shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement. Signatures of the Parties transmitted by electronic mail shall be deemed to be their original signatures for all purposes.

10.18 Specific Performance. Each Party acknowledges that, in view of the uniqueness of the securities referenced herein and the transactions contemplated by this Agreement, the other Party would not have an adequate remedy at law for money damages in the event that this Agreement has not been performed in accordance with its terms, and therefore agrees that the other Party shall be entitled to specific performance and injunctive or other equitable relief, without the necessity of proving the inadequacy of monetary damages as a remedy.

10.19 Waiver of Consequential Damages. Notwithstanding any provision in this Agreement to the contrary, in no event shall any Party or its Affiliates, or their respective managers, members, shareholders or representatives, be liable hereunder at any time for punitive, incidental, consequential special or indirect damages, including loss of future profits, revenue or income, or loss of business reputation of any other Party or any of its Affiliates, whether in contract, tort (including negligence), strict liability or otherwise, and each Party hereby

expressly releases each other Party, its Affiliates, and their respective managers, members, shareholders, partners, consultants, representatives, successors and assigns therefrom.

10.20 Purchaser Obligations. The Parties hereby agree and acknowledge that (a) all obligations of the Purchasers hereunder, including with respect to each Purchaser's compliance with all applicable covenants and the making by each Purchaser of the representations and warranties set forth in Section 4, are several and not joint and (b) no Purchaser shall have any obligation or liability of any kind to the Company or to any other Person in respect of any breach or noncompliance with respect to this Agreement by any other Purchaser.

10.21 Rules of Construction. The Parties and their respective legal counsel participated in the preparation of this Agreement, and therefore, this Agreement shall be construed neither against nor in favor of any of the Parties, but rather in accordance with the fair meaning thereof. All definitions set forth in this Agreement are deemed applicable whether the words defined are used in this Agreement in the singular or in the plural, and correlative forms of defined terms have corresponding meanings. The term "including" is not limiting and means "including without limitation." The term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or." The words "hereof," "herein," "hereby," "hereunder" and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. Section, subsection, clause, schedule, annex and exhibit references are to this Agreement unless otherwise specified. Any reference to this Agreement shall include all alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, and supplements thereto and thereof, as applicable. Whenever the context may require, any pronoun includes the corresponding masculine, feminine and neuter forms.

*[No further text appears; signature pages follow]*

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

NEXTDECADE CORPORATION

By: /s/ Matthew Schatzman  
Name: Matthew Schatzman  
Title: President and Chief Executive Officer

[Series B Preferred Stock Purchase Agreement]

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PURCHASERS  
FIRST SERIES OF HDML FUND I LLC

By: /s/ John Freese

Name: John Freese

Title: Authorized Signatory

By: /s/ Suzanne McDermott

Name: Suzanne McDermott

Title: Authorized Signatory

BARDIN HILL EVENT-DRIVEN MASTER FUND LP

By: /s/ John Freese

Name: John Freese

Title: Authorized Signatory

By: /s/ Suzanne McDermott

Name: Suzanne McDermott

Title: Authorized Signatory

HCN LP

By: /s/ John Freese

Name: John Freese

Title: Authorized Signatory

By: /s/ Suzanne McDermott

Name: Suzanne McDermott

Title: Authorized Signatory

[Series B Preferred Stock Purchase Agreement]

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**Schedule A**

<b>Purchaser</b>	<b>Number of Shares to be Purchased</b>	<b>Aggregate Purchase Price</b>	<b>Origination Fee Shares</b>
First Series of HDML Fund I LLC	2,000	\$2,000,000	40
Bardin Hill Event-Driven Master Fund LP	180	\$180,000	4
HCN LP	1,120	\$1,120,000	22
Total	<b>3,300</b>	<b>\$3,300,000</b>	<b>66</b>

[Series B Preferred Stock Purchase Agreement]

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## Exhibit A

### ADDENDUM

Reference is made to that certain Series B Convertible Preferred Stock Purchase Agreement (as amended, modified or supplemented from time to time, the “Agreement”) by and between NextDecade Corporation, a Delaware corporation (“NextDecade”), and [PURCHASER] or a successor thereof. Each capitalized term used but not defined herein shall have the meaning given to it in the Agreement.

Upon execution and delivery of this Addendum by the undersigned, as provided in Section 10.9 of the Agreement, the undersigned hereby becomes a Purchaser with respect to [●] shares of Series B Preferred Stock, as applicable thereunder and bound thereby effective as of the date of the Agreement.

By executing and delivering this Addendum, the undersigned represents and warrants, for itself and for the benefit of the Company, that:

- (a) as of the date of this Addendum, the undersigned has executed and delivered an Assumption and Joinder Agreement therefor (a copy of which is attached to this Addendum);
- (b) as of the date of this Addendum, with respect to each transferee that (i) is an individual, such transferee has all requisite authority to enter into this Addendum and to carry out the transactions contemplated by, and perform its respective obligation under, the Agreement and (ii) is not an individual, such transferee is duly organized, validly existing, and in good standing under the laws of the state of its organization, and has all requisite corporate, partnership, or limited liability company power and authority to enter into this Addendum and to carry out the transactions contemplated by, and perform its respective obligations under, the Agreement;
- (c) assuming the due execution and delivery of the Agreement by NextDecade, the Addendum and the Agreement are legally valid and binding obligations of it, enforceable against it in accordance with its terms, except as may be limited by bankruptcy, insolvency or similar laws, or by equitable principles relating to or limiting creditors’ rights generally; and
- (d) as of the date of this Addendum, it is not aware of any event that, due to any fiduciary or other duty to any other person, would prevent it from taking any action required of it under the Agreement and this Addendum.

By executing and delivering this Addendum to NextDecade, the undersigned agrees to be bound by all the terms of the Agreement with respect to [●] shares of Series B Preferred Stock.

The undersigned acknowledges and agrees that once delivered to NextDecade, it may not revoke, withdraw, amend, change or modify this Addendum unless the Agreement has been terminated.

[Series B Preferred Stock Purchase Agreement]

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THIS ADDENDUM SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES THAT WOULD REQUIRE THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION.

This Addendum may be executed in one or more counterparts, each of which, when so executed, shall constitute the same instrument and the counterparts may be delivered by facsimile transmission or by electronic mail in portable document format (.pdf).

[Signature on Following Page]

[Series B Preferred Stock Purchase Agreement]

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IN WITNESS WHEREOF, the Parties have caused this Addendum to be duly executed and delivered by their proper and duly authorized officers as of this [●] day of [●].

TRANSFeree WHO BECOMES A PURCHASER

[NAME]

---

as a Purchaser

Name:

[Series B Preferred Stock Purchase Agreement]

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**Exhibit B**

**ASSUMPTION AND JOINDER AGREEMENT**

Reference is made to (i) that certain Series B Convertible Preferred Stock Purchase Agreement (as amended, modified or supplemented from time to time, the “Agreement”), dated as of May 17, 2019, by and between NextDecade Corporation, a Delaware corporation (“NextDecade”), and [PURCHASER] or a successor thereof, and (ii) that certain Addendum, dated as of [●], [●] (the “Transferor Addendum”) submitted by [●], as transferor (the “Transferor”). Each capitalized term used but not defined herein shall have the meaning given to it in the Agreement.

As a condition precedent to becoming a Purchaser with respect to [●] shares of Series B Preferred Stock, the undersigned (the “Transferee”) hereby agrees to become bound by all the terms, conditions and obligations set forth in the Agreement and the Transferor Addendum, copies of which are attached hereto as Annex I. This Assumption and Joinder Agreement shall take effect and shall become an integral part of the Agreement and the Transferor Addendum immediately upon its execution, and the Transferee shall be deemed to be bound by all of the terms, conditions and obligations of the Agreement and the Transferor Addendum as of the date thereof. The Transferee shall hereafter be deemed to be a “Purchaser” with respect to [●] shares of Series B Preferred Stock and a “Party” for all purposes under the Agreement.

[Signatures on Following Page]

[Series B Preferred Stock Purchase Agreement]

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IN WITNESS WHEREOF, this Assumption and Joinder Agreement has been duly executed by each of the undersigned as of the date specified below.

Date: [●]

\_\_\_\_\_  
Name of Transferor

\_\_\_\_\_  
Name of Transferee

\_\_\_\_\_  
Authorized Signatory of Transferor

\_\_\_\_\_  
Authorized Signatory of Transferee

\_\_\_\_\_  
(Type or Print Name and Title of Authorized Signatory)

\_\_\_\_\_  
(Type or Print Name and Title of Authorized Signatory)

Address of Transferee:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Attn:

\_\_\_\_\_  
Tel:

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

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

\_\_\_\_\_

\_\_\_\_\_

**Exhibit C**

**CERTIFICATE OF DESIGNATIONS  
OF  
SERIES B CONVERTIBLE PREFERRED STOCK**

*[see attached]*

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**Exhibit D**

**FORM OF WARRANT AGREEMENT**

*[see attached]*

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## **Exhibit E**

### **USE OF PROCEEDS**

Proceeds from the Series B Preferred Equity Offering shall be used by the Company for development activities related to the liquefaction of natural gas and the sale of liquefied natural gas (“LNG”) in international markets, including:

- Development activities related to the Rio Grande LNG terminal facility at the Port of Brownsville in southern Texas and an associated 137-mile Rio Bravo pipeline to supply gas to the terminal, in each case, including activities and businesses reasonably complementary or ancillary thereto and reasonable extensions thereof;
  - Development activities related to an approximate 1,000-acre site near Texas City, Texas for a second potential LNG terminal, including activities and businesses reasonably complementary or ancillary thereto and reasonable extensions thereof; and
  - Development activities conducted in overseas locations (including, but not limited to China and Singapore) in direct support of the Company’s businesses as set forth above.
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**Exhibit F**

**REGISTRATION RIGHTS AGREEMENT**

[see attached]

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**Exhibit G**

**PURCHASER RIGHTS AGREEMENT**

*[see attached]*

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**Exhibit H**

**PURCHASER NOTICE ADDRESSES**

FIRST SERIES OF HDML FUND I LLC  
BARDIN HILL EVENT-DRIVEN MASTER FUND LP  
and  
HCN LP

(For notice purposes)  
[Applicable Purchaser]  
c/o Bardin Hill Investment Partners LP  
477 Madison Avenue, 8th Floor  
New York, NY 10022  
Attention: Avinash Kripalani  
akripalani@bardinhill.com

with a copy (which shall not constitute notice to the foregoing Purchaser) to:  
Weil, Gotshal & Manges LLP  
767 Fifth Avenue, 17<sup>th</sup> Floor  
New York, NY 10153  
Attention: Jaclyn L. Cohen  
Jackie.Cohen@weil.com

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**SERIES B CONVERTIBLE PREFERRED STOCK PURCHASE AGREEMENT**

This SERIES B CONVERTIBLE PREFERRED STOCK PURCHASE AGREEMENT (this “Agreement”), dated as of May 17, 2019, is entered into by and between NextDecade Corporation, a Delaware corporation (“NextDecade” or the “Company”), and HGC NEXT INV LLC, a Delaware limited liability company (the “Purchaser”). NextDecade and the Purchaser are referred to herein individually as a “Party” and collectively as the “Parties.”

**RECITALS:**

WHEREAS, the Company has commenced a convertible preferred equity and warrant offering (the “Series B Preferred Equity Offering”), pursuant to which the Company has offered the Purchaser an opportunity to purchase shares of Series B Preferred Stock (as defined herein), together with certain associated Warrants (as defined herein), substantially on the terms and conditions set forth in the Certificate of Designations of Series B Convertible Preferred Stock of NextDecade Corporation attached to this Agreement as Exhibit C (the “Certificate of Designation”); and

WHEREAS, the Company desires to sell to the Purchaser, and the Purchaser desires to purchase from the Company, Series B Preferred Stock, together with associated Warrants, as more fully set forth herein.

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

Section 1. **DEFINITIONS.** As used in this Agreement, the following terms shall have the following meanings:

“Addendum” has the meaning assigned to it in Section 10.9.

“Affiliate” means, with respect to any specified Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such specified Person.

“Agreement” has the meaning assigned to it in the preamble hereto; it includes the Exhibits and Schedules hereto.

“Assumption Agreement” has the meaning assigned to it in Section 10.9.

“Business Day” means any day that is not a Saturday, a Sunday or other day on which banks are required or authorized by Law to be closed in the City of New York.

“Certificate of Designations” has the meaning assigned to it in the Recitals hereto.

“Charter Documents” means, collectively, the certificate of incorporation, articles of incorporation, bylaws, certificate of designations or board resolutions establishing the terms of any security, certificate of formation, operating agreement, limited liability company agreement and similar formation or organizational documents of any entity.

“Closing” has the meaning assigned to it in Section 2.4.

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“Closing Actions” has the meaning assigned to it in Section 2.6.

“Closing Date” means May 24, 2019.

“Code” means the Internal Revenue Code of 1986.

“Common Stock” means the common stock of the Company, \$0.0001 par value.

“Company” has the meaning assigned to it in the preamble hereto.

“Company Benefit Plan” means each (i) “employee benefit plan” within the meaning of Section 3(3) of ERISA, (ii) other benefit and compensation plan, contract, policy, program, practice, arrangement or agreement, including, but not limited to, pension, profit-sharing, savings, termination, executive compensation, phantom stock, change-in-control, retention, salary continuation, vacation, sick leave, disability, death benefit, insurance, hospitalization, medical, dental, life (including all individual life insurance policies as to which the Company or its Subsidiaries are the owners, the beneficiaries, or both), employee loan, educational assistance, fringe benefit, deferred compensation, retirement or post-retirement, severance, equity or equity-based, incentive and bonus plan, contract, policy, program, practice, arrangement or agreement, and (iii) other employment, consulting or other individual agreement, plan, practice, policy, contract, program, and arrangement, in each case, (x) which is sponsored or maintained by the Company or any of its ERISA Affiliates in respect of any current or former employees, directors, independent contractors, consultants or leased employees of the Company or any of its Subsidiaries or (y) with respect to which the Company or any of its Subsidiaries has any actual or potential liability.

“Control” (including the terms “control” “controlled by” and “under common control with”), with respect to the relationship between or among two or more Persons, means the possession, directly or indirectly or as trustee, personal representative or executor, of the power to direct or cause the direction of the affairs, policies or management of a Person, whether through the ownership of voting securities, as trustee, personal representative or executor, by contract, credit arrangement or otherwise.

“Encumbrance” means any security interest, pledge, mortgage, lien, claim, option, charge, restriction or encumbrance.

“Environmental Claim” means any claim, action, cause of action, suit, proceeding, investigation, Order, demand or notice by any Person alleging liability (including liability for investigatory costs, cleanup costs, governmental response costs, natural resources damages, property damages, personal injuries, attorneys’ fees, fines or penalties) arising out of, based on, resulting from or relating to (a) the presence or Release of, or exposure to, any Hazardous Materials; (b) circumstances forming the basis of any violation, or alleged violation, of any Environmental Law; or (c) any other matters covered or regulated by, or for which liability is imposed under, Environmental Laws.

“Environmental Laws” means all applicable Laws relating to pollution, the protection, restoration or remediation of or prevention of harm to the environment or natural resources (including plant and animal species), or the protection of human health and safety, including Laws relating to: (i) the exposure to, or Releases or threatened Releases of, Hazardous Materials; (ii) the generation, manufacture, processing, distribution, use, treatment, containment, disposal, storage, transport or handling of Hazardous Materials; or (iii) recordkeeping, notification, disclosure and reporting requirements respecting Hazardous Materials

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“ERISA Affiliate” means any Person (whether or not incorporated) that together with the Company or any of its Subsidiaries is treated as a single employer within the meaning of Section 414 of the Code.

“Exchange Act” means the Securities Exchange Act of 1934, as amended from time to time, and the rules and regulations promulgated thereunder, or any successor statute.

“Final Order” means a final, nonappealable Order of a court of competent jurisdiction.

“Fundamental Representations” means (i) with respect to the Company, those representations and warranties of the Company set forth in Sections 3.1 (*Organization and Qualification; Subsidiaries*), 3.2 (*Authorization; Enforcement; Validity*), 3.3 (*No Conflicts*), 3.4 (*Consents and Approvals*), 3.5 (*Capitalization*) and 3.6 (*Valid Issuance*), and (ii) with respect to the Purchaser, those representations and warranties of the Purchaser set forth in Sections 4.1 (*Organization and Qualification*), 4.2 (*Authorization; Enforcement; Validity*), 4.3 (*No Conflicts*) and 4.4 (*Consents and Approvals*).

“Governmental Authority” means any federal, national, supranational, foreign, state, provincial, local, county, municipal or other government, any governmental, regulatory or administrative authority, agency, department, bureau, board, commission or official or any quasi-governmental or private body exercising any regulatory, taxing, importing or other governmental or quasi-governmental authority, or any court, tribunal, judicial or arbitral body, or any Self-Regulatory Organization.

“Hazardous Materials” means: (a) any hazardous materials, hazardous wastes, hazardous substances, toxic wastes, solid wastes, and toxic substances as those or similar terms are defined under any Environmental Laws; (b) any asbestos or asbestos containing material; (c) polychlorinated biphenyls (“PCBs”), or PCB containing materials or fluids; (d) radon; (e) any petroleum, petroleum hydrocarbons, petroleum products, crude oil and any fractions or derivatives thereof; and (f) any other substance, material, chemical, waste, pollutant, or contaminant that, whether by its nature or its use, or exposure to is subject to regulation or could give rise to liability under any Laws relating to pollution, waste, human health and safety, or the environment.

“Indemnified Party” means the Purchaser, its Affiliates, and each of their respective directors, managers, officers, principals, partners, members, equity holders (regardless of whether such interests are held directly or indirectly), trustees, controlling persons, predecessors, successors and assigns, Subsidiaries, employees, agents, advisors, attorneys and representatives.

“Insolvency Event” means, with respect to any Person, the occurrence of any of the following:

(a) such Person shall (A) (i) voluntarily commence any proceeding or file any petition seeking relief under Title 11 of the United States Code, Sections 101 et. seq. (the “Bankruptcy Code”) or any other federal, state or foreign bankruptcy, insolvency, liquidation or similar Law, (ii) consent to the institution of, or fail to contravene in a timely and appropriate manner, any such proceeding or the filing of any such petition, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator or similar official for such Person or for a substantial part of its property or assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing or (B) such Person shall become unable, admit in writing its inability or fail generally to pay its debts as they become due; or

(b) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (A) relief in respect of such Person or of a substantial part of the property or assets of such Person, under the Bankruptcy Code or any other federal, state or foreign bankruptcy, insolvency, receivership or similar Law, (B)

the appointment of a receiver, trustee, custodian, sequestrator or similar official for such Person or for a substantial part of the property of such Person or (C) the winding-up or liquidation of such Person; and such proceeding or petition shall continue undismissed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall have been entered.

“Intellectual Property” means the following intellectual property rights, both statutory and common law rights, if applicable: (a) copyrights and registrations and applications for registration thereof, (b) trademarks, service marks, trade names, slogans, domain names, logos, trade dress, and registrations and applications for registrations thereof, (c) patents, as well as any reissued and reexamined patents and extensions thereto, and any patent applications, continuations, continuations in part and divisional applications and patents issuing therefrom, and (d) trade secrets and confidential information, including ideas, designs, concepts, compilations of information, methods, techniques, procedures, processes and other know-how, whether or not patentable.

“Knowledge” means with respect to the Company, the actual knowledge after due inquiry of the persons set forth on Schedule 1.1(a).

“Law” means any federal, national, supranational, foreign, state, provincial, local, county, municipal or similar statute, law, common law, guideline, policy, ordinance, regulation, rule, code, constitution, treaty, requirement, judgment or judicial or administrative doctrines enacted, promulgated, issued, enforced or entered by any Governmental Authority.

“Material Adverse Effect” means any effect, change, event, occurrence, development, or state of facts that, individually or in the aggregate with all other such effects, changes, events, occurrences, developments, or states of fact, (A) has had, or would reasonably be expected to have, a material adverse effect on the business, assets, liabilities, condition (financial or otherwise), or results of operations of the Company and its Subsidiaries, taken as a whole or (B) would, or would reasonably be expected to, prevent or materially impair the ability of the Company to consummate the transactions contemplated by this Agreement, *but expressly excluding* in the case of the foregoing clause (A) any such effect, change, event, occurrence, development, or state of facts, either alone or in combination, to the extent arising out of or resulting from:

(a) the execution or delivery of this Agreement, the consummation of the transactions contemplated by this Agreement or the public announcement or other publicity with respect to any of the foregoing; *provided, however*, that the exception set forth in this clause (a) shall not apply to the representations and warranties set forth in clauses (b) and (c) of Section 3.3 or to the representations and warranties set forth in Section 3.4;

(b) general economic conditions (or changes in such conditions) in the United States or conditions in the global economy generally that do not affect the Company and its Subsidiaries, taken as a whole, disproportionately as compared to other similarly situated participants in the liquefied natural gas export industry (in which case only such disproportionate impact shall be considered);

(c) changes in the trading price or trading volume of the Common Stock.

(d) conditions (or changes in such conditions) generally affecting the liquefied natural gas export industry that do not affect the Company and its Subsidiaries, taken as a whole, disproportionately as compared to other similarly situated participants in the liquefied natural gas export industry (in which case only such disproportionate impact shall be considered);

(e) conditions (or changes in such conditions) in the financial markets, credit markets or capital markets in the United States or any other country or region, including (i) changes in interest rates in the United States or any other country and changes in exchange rates for the currencies of any countries or (ii) any suspension of trading in securities (whether equity, debt, derivative or hybrid securities) generally (other than a suspension of the trading of the Company's Common Stock, which constitutes a Material Adverse Effect, provided such suspension is not part of a broader suspension of securities) on any securities exchange or over-the-counter market operating in the United States or any other country or region in each case, that do not affect the Company as a whole disproportionately as compared to other similarly situated participants in the liquefied natural gas export industry (in which case only such disproportionate impact shall be considered);

(f) any actions taken or omitted to be taken at the written request or with the written consent of the Purchaser; or

(g) any changes in any Laws or any accounting regulations or principles that do not affect the Company, taken as a whole, disproportionately as compared to other similarly situated participants in the liquefied natural gas export industry (in which case only such disproportionate impact shall be considered).

Notwithstanding any provision of the preceding sentence to the contrary, the occurrence of an Insolvency Event in respect of the Company or any Subsidiary of the Company shall be deemed to constitute a Material Adverse Effect.

“Material Contracts” means all “material contracts” of the Company within the meaning of Item 601 of Regulation S-K of the SEC.

“MSIP” means Morgan Stanley Infrastructure, Inc., any Affiliate thereof, or any Person, investment account, investment fund or Affiliate or Subsidiary thereof, in each case, managed or controlled by Morgan Stanley Infrastructure, Inc.

“NextDecade” has the meaning assigned to it in the preamble hereto.

“OFAC” means the Office of Foreign Assets Control of the U.S. Department of the Treasury.

“Offering Documents” means, collectively, all agreements, documents, or instruments related to or in connection with the Series B Preferred Equity Offering, including this Agreement and any other documents or exhibits related to or contemplated in the foregoing.

“Order” means any order, writ, judgment, injunction, decree, ruling, directive, stipulation, determination or award made, issued or entered by or with any Governmental Authority, whether preliminary, interlocutory or final.

“Party” or “Parties” has the meaning assigned to it in the preamble hereto.

“Person” means any individual, partnership, firm, corporation, limited liability company, association, joint venture, trust, Governmental Authority, unincorporated organization or other entity, as well as any syndicate or group that would be deemed to be a person under Section 13(d)(3) of the Exchange Act.

“Permits” means all permits, consents, approvals, registrations, licenses, authorizations, qualifications and filings with and under all federal, state, local or foreign Laws and Governmental Authorities.



“Purchase Price” has the meaning assigned to it in Section 2.2.

“Purchaser” has the meaning assigned to it in the preamble hereto.

“Purchaser Default” means the failure by the Purchaser to deliver and pay the Purchase Price to be paid pursuant to this Agreement.

“Purchaser Material Adverse Effect” means any event, circumstance, development, change or effect that, individually or in the aggregate with all other events, circumstances, developments, changes or effects, has or would reasonably be expected to prevent, materially delay or materially impair the ability of the Purchaser to consummate the transactions contemplated hereby.

“Purchaser Rights Agreement” means the Purchaser Rights Agreement, in substantially the form attached hereto as Exhibit G.

“Purchaser Termination” means the termination of this Agreement by the Purchaser.

“Purchaser Termination Event” has the meaning assigned to it in Section 8(a).

“Registration Rights Agreement” means the Registration Rights Agreement, in substantially the form attached hereto as Exhibit F.

“Release” means any release, spill, emission, discharge, leaking, pouring, dumping or emptying, pumping, injection, deposit, disposal, dispersal, leaching or migration into the indoor or outdoor environment (including, without limitation, soil, ambient air, surface water, groundwater and surface or subsurface strata) or into or out of any property, including the movement of Hazardous Materials through or in the air, soil, surface water, groundwater or property.

“Sanctioned Person” means any Person that is the target of Sanctions, including, (a) any Person listed in any Sanctions related list of designated Persons maintained by OFAC or the U.S. Department of State, by the United Nations Security Council, the European Union or Her Majesty’s Treasury of the United Kingdom, (b) any Person located, organized or resident in a Sanctioned Territory, or (c) any Person directly or indirectly owned or controlled by any such Person or Persons described in the foregoing clauses (a) and (b).

“Sanctions” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by relevant Governmental Authorities, including, but not limited those administered by the U.S. government through OFAC or the U.S. Department of State, the United Nations Security Council, the European Union or Her Majesty’s Treasury of the United Kingdom.

“SEC” has the meaning assigned to it in Section 3.7(a).

“SEC Reports” has the meaning assigned to it in Section 3.7(a).

“Securities Act” means the Securities Act of 1933, as amended from time to time, and the rules and regulations promulgated thereunder, or any successor statute.

“Self-Regulatory Organization” means any securities exchange, futures exchange, contract market, any other exchange or corporation or similar self-regulatory body or organization applicable to a Party to this Agreement.

“Series B Preferred Equity Offering” has the meaning assigned to it in the Recitals hereto.

“Series B Preferred Stock” means the Series B Convertible Preferred Stock of the Company (including any Series B Preferred Stock issued in respect of dividend payments thereon).

“Subsidiary” means, with respect to any Person, any other Person of which the first Person owns, directly or indirectly, securities or other ownership interests having voting power to elect a majority of the board of directors or other Persons performing similar functions for such Person (or, if there are no such voting interests, more than 50% of the equity interests allowing for effective control of the second Person).

“Survival Period” has the meaning assigned to it in Section 10.3.

“Tax” (and, with correlative meaning, “Taxes” and “Taxable”) means: (a) any taxes, customs, duties, charges, fees, levies, penalties or other assessments, fees and other governmental charges imposed by any Governmental Authority, including, but not limited to, income, profits, gross receipts, net proceeds, windfall profit, severance, property, personal property (tangible and intangible), production, sales, use, leasing or lease, license, excise, duty, franchise, capital stock, net worth, employment, occupation, payroll, withholding, social security (or similar), unemployment, disability, payroll, fuel, excess profits, occupational, premium, severance, estimated, alternative or add-on minimum, ad valorem, value added, turnover, transfer, stamp or environmental tax, or any other tax, custom, duty, fee, levy or other like assessment or charge of any kind whatsoever, together with any interest, penalty, addition to tax, or additional amount attributable thereto; and (b) any liability for the payment of amounts with respect to payment of a type described in clause (a), including (i) as a result of being a member of an affiliated, consolidated, combined or unitary group, (ii) as a result of succeeding to such liability as a result of merger, conversion or asset transfer or (iii) as a result of any obligation under any Tax sharing, Tax allocation, Tax indemnity, or similar agreement or arrangement.

“Tax Representations” means those representations and warranties of the Company set forth in Section 3.19.

“Tax Returns” means any return, report, statement, information return or other document (including any amendments thereto and any related or supporting information) filed or required to be filed with any Governmental Authority in connection with the determination, assessment, collection or administration of any Taxes or the administration of any laws, regulations or administrative requirements relating to any Taxes.

“Treasury Regulations” means the regulations promulgated under the Code, by the United States Department of the Treasury, as such regulations may be amended from time to time. All references herein to specific sections of the regulations shall be deemed also to refer to any corresponding provisions of succeeding regulations, and any reference to temporary regulations shall be deemed also to refer to any corresponding provisions of final regulations.

“Warrants” means detached warrants in the form attached hereto as Exhibit D.

## Section 2. **AGREEMENT TO SELL AND PURCHASE.**

2.1 **Sale and Purchase of Shares.** Subject to the terms of this Agreement, at the Closing, the Company hereby agrees to issue and sell to the Purchaser, and the Purchaser hereby agrees, to purchase from the Company, 7,645 shares of Series B Preferred Stock, together with the associated Warrants, free and clear of all Encumbrances.

2.2 Purchase Price. The purchase price for the Series B Preferred Stock to be purchased by the Purchaser hereby shall be \$1,000 per share such that the aggregate purchase price to be paid by the Purchaser shall be \$7,645,000 (the “Purchase Price”).

2.3 Origination Fee. Subject to the terms of this Agreement, at the Closing, the Company hereby agrees to issue to the Purchaser 152 additional shares of Series B Preferred Stock (but excluding the associated Warrants), representing an origination fee in an aggregate amount equal to \$152,900 or approximately two percent (2%) of the Purchase Price, free and clear of all Encumbrances.

2.4 Closing. Subject to the terms of this Agreement, the closing of the transactions contemplated hereby (the “Closing”) will occur on the Closing Date, unless otherwise agreed by the mutual consent of the Parties. The Closing shall take place at the offices of NextDecade Corporation, 1000 Louisiana Street, Suite 3900, Houston, Texas 77002 or such other place as the Parties mutually agree. The Parties agree that the Closing may occur via delivery of facsimiles or photocopies of the applicable Offering Documents. Unless otherwise provided herein, all proceedings to be taken and all documents to be executed and delivered by all Parties at the Closing will be deemed to have been taken and executed simultaneously, and no proceedings will be deemed to have been taken nor documents executed or delivered until all have been taken, executed and delivered.

2.5 Rounding of Shares. The number of shares of Series B Preferred Stock issued to the Purchaser pursuant to the terms of this Agreement shall be rounded in accordance with the terms of the Certificate of Designations to avoid fractional shares.

2.6 Actions at the Closing. At the Closing, the Purchaser and the Company (as applicable) shall take or cause to be taken the following actions (“Closing Actions”):

(a) Payment of the Purchase Price. The Purchaser shall pay the Purchase Price in respect of the shares purchased by the Purchaser pursuant to Section 2.1 to the Company by wire transfer of immediately available funds to the account specified by the Company to the Purchaser in writing not less than five (5) Business Days prior to the Closing.

(b) Issuance of Series B Preferred Stock. The Company shall deliver to the Purchaser a true, correct and complete certificate, or other applicable evidence of ownership acceptable to the Purchaser, representing the shares of Series B Preferred Stock purchased by the Purchaser pursuant to this Section 2, duly authorized by all requisite corporate action on the part of the Company, together with all instruments of transfer in respect of the Purchaser’s interests in such shares, and in the form required by the Certificate of Designation.

(c) Warrants. The Company shall deliver to the Purchaser the Warrants, duly authorized by all requisite corporate action on the part of the Company, together with all instruments of transfer in respect of the Purchaser’s interests in such Warrants.

(d) Purchaser Rights Agreement. The Purchaser and the Company shall execute and deliver the Purchaser Rights Agreement.

(e) Registration Rights Agreement. The Purchaser and the Company shall execute and deliver the Registration Rights Agreement.

(f) Secretary’s Certificates. (i) The Purchaser shall deliver to the Company a certificate signed by its secretary and certifying as to its incumbent officers, Charter Documents, good standing and

authorization; and (ii) the Company shall deliver to the Purchaser a certificate signed by its secretary and certifying as to its incumbent officers, Charter Documents, good standing and authorization.

2.7 Transfer Taxes. All of the Series B Preferred Stock issued to the Purchaser pursuant to this Agreement will be delivered with any and all issue, stamp, transfer or similar taxes or duties payable in connection with such delivery duly paid by the Company.

Section 3. **REPRESENTATIONS AND WARRANTIES OF THE COMPANY**. The Company hereby represents and warrants to the Purchaser as of the date hereof and, with respect to the Fundamental Representations, as of the date hereof and as of the Closing Date (except for representations and warranties that are made as of a specific date, which are made only as of such date), on behalf of itself and not any other Party, as follows:

3.1 Organization and Qualification; Subsidiaries. The Company and each of its Subsidiaries has been duly organized and is validly existing and, except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, is in good standing under the laws of its jurisdictions of organization, with the requisite power and authority to own its properties and conduct its business as currently conducted.

3.2 Authorization; Enforcement; Validity. The Company has all necessary corporate power and authority to enter into this Agreement and to carry out its obligations hereunder, including the issuance to the Purchaser of the Series B Preferred Stock and Warrants (and the Common Stock issuable upon the conversion or exercise of such Series B Preferred Stock and Warrants, as applicable) pursuant to Sections 2.1 and 2.3 of this Agreement. The execution and delivery by the Company of this Agreement and the performance by the Company of its obligations hereunder, have been duly authorized by all requisite action on the part of the Company, and no other action on the part of the Company or any of its Subsidiaries is necessary to authorize the execution and delivery by the Company of this Agreement or the consummation of the transactions contemplated by this Agreement. This Agreement has been duly executed and delivered by the Company, and assuming due authorization, execution and delivery by the Purchaser, this Agreement constitutes the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium or similar Laws now or hereafter in effect relating to creditors' rights generally and subject to general principles of equity.

3.3 No Conflicts. Assuming that all consents, approvals, authorizations and other actions described in Section 3.4 have been obtained, and except as may result from any facts or circumstances relating solely to the Purchaser, the execution, delivery and performance by the Company of this Agreement and the consummation of the transactions contemplated hereby do not and will not: (a) violate, conflict with or result in the breach of the Charter Documents of the Company or any of its Subsidiaries; (b) conflict with or violate any Law or Order applicable to the Company or any of its Subsidiaries, or any of its or their respective assets or properties; or (c) violate, conflict with, result in any breach of, constitute a default (or event which with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which the Company or any of its Subsidiaries is a party or to which any of their respective assets or properties are subject, or result in the creation of any Encumbrance on any of their respective assets or properties, except, in the case of clauses (b) and (c), for any such conflict, violation, breach or default that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

3.4 Consents and Approvals. The execution, delivery and performance by the Company of this Agreement do not require any consent, approval, authorization or other Order of, action by, filing with or

notification to, any Governmental Authority or any other Person under any of the terms, conditions or provisions of any Law or Order applicable to the Company or any of its Subsidiaries or by which any of its or their assets or properties may be bound, any contract or agreement to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries may be bound, except for any consent, approval, authorization or other Order of, action by, filing with or notification to, any Governmental Authority or any other Person under any of the terms, conditions or provisions of any Law or Order applicable to the Company or any of its Subsidiaries that, if not made or obtained, would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

### 3.5 Capitalization.

(a) As of the date of this Agreement, and immediately prior to the issuance and sale of the Series B Preferred Stock (including the associated Warrants), the capitalization of the Company and each of its Subsidiaries is set forth in Schedule 3.5(a).

(b) Except as set forth in Schedule 3.5(b), there are no outstanding options, warrants, “phantom” stock rights, claims, calls, puts, convertible or exchangeable securities or other contracts or rights of any nature obligating the Company or any of its Subsidiaries to issue, return, redeem, repurchase, transfer, deliver or sell equity interests or other securities or ownership interests in the Company or any of its Subsidiaries, and no Person is entitled to any preemptive or similar right with respect to the issuance of securities or other equity interests in the Company or any of its Subsidiaries.

(c) Except as set forth in Schedule 3.5(c), (x) to the Knowledge of the Company, there are no voting agreements, voting trusts, shareholder agreements, proxies or other similar agreements or understandings with respect to the equity interests of the Company or any of its Subsidiaries or that restrict or grant any right, preference or privilege with respect to the transfer of such equity interests, and (y) there are no contracts to declare, make or pay any dividends or distributions, whether current or accumulated, or due or payable, on the equity interests of the Company or any of its Subsidiaries.

(d) Except as contemplated by Section 5.5(c), the Company has no authorized or outstanding class of equity securities ranking as to dividends, redemption or distribution of assets upon a liquidation senior to or pari passu with the Series B Preferred Stock or that would otherwise constitute “Senior Stock” (as defined in the Certificate of Designations) or “Parity Stock” (as defined in the Certificate of Designations).

### 3.6 Valid Issuance.

(a) Upon payment of the Purchase Price and the occurrence of the Closing, the Purchaser will be the owner, of record and beneficially, of 7,797 duly and validly issued, fully paid, and non-assessable shares of Series B Preferred Stock. The Purchaser shall have good and valid title to such Series B Preferred Stock, free and clear of any Encumbrances.

(b) Assuming the accuracy of the Purchaser’s representations and warranties set forth herein, the offer, sale and issuance of such Series B Preferred Stock as contemplated hereby are exempt from the registration and qualification of the Securities Act, and will be issued in compliance with all applicable federal and state securities and blue sky laws. Neither the Company nor any Person acting on behalf of the Company has taken any action that would cause the loss of such exemption.

### 3.7 SEC Reports; Financial Statements.

(a) The Company has filed or furnished with the Securities and Exchange Commission (“SEC”) all forms, reports, schedules, proxy statements (collectively, and in each case including all exhibits and schedules thereto and documents incorporated by reference therein and including all registration statements and prospectuses filed with the SEC, the “SEC Reports”) required to be filed or furnished by the Company with the SEC since July 25, 2017. As of its date of filing or furnishing, each SEC Report complied in all material respects with the requirements of the Exchange Act or the Securities Act, and none of such SEC Reports (including any and all financial statements included therein) contained when filed or furnished (except to the extent revised or superseded by a subsequent filing with the SEC that is publicly available prior to the date hereof) any untrue statement of a material fact or omitted or omits to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading.

(b) Each of the consolidated financial statements (including the notes thereto) included in the SEC Reports (i) complied as to form required by published rules and regulations of the SEC related thereto as of its date of filing with the SEC, (ii) complied in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto, (iii) has been prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto or otherwise permitted by the SEC on Form 10-Q or any successor form under the Exchange Act) and (iv) presents fairly in all material respects the consolidated financial position of Company and its consolidated Subsidiaries as of the dates thereof and the consolidated results of their operations and cash flows for the periods then ended, subject (in the case of unaudited financial statements) to normal year-end adjustments and any other adjustments described therein or in the notes or schedules thereto or the absence of footnotes (none of which are material).

(c) The unaudited balance sheet and the related unaudited statement of operations and unaudited statement of cash flows for the Company’s most recently filed Quarterly Report on Form 10-Q as of the date of this Agreement (i) present fairly in all material respects the financial condition of the Company as of such date and the results of operations for the three (3) month period then ended and (ii) were prepared on a basis consistent with the Company’s past practice, subject to normal year-end adjustments and the absence of footnotes.

3.8 Undisclosed Liabilities. Except as set forth in Schedule 3.8, and except for liabilities included or reserved for in the unaudited consolidated balance sheet of the Company or disclosed in the notes thereto included in the Company’s most recently filed Quarterly Report on Form 10-Q as of the date of this Agreement, neither the Company nor any of its Subsidiaries has incurred liabilities, including contingent liabilities, or any other obligations of a nature required to be disclosed on a consolidated balance sheet or in the notes thereto, except liabilities that are not material and were incurred in the ordinary course of business subsequent to the date of the consolidated balance sheet contained in the Company’s most recently filed Quarterly Report on Form 10-Q as of the date of this Agreement.

3.9 Contracts. Except as set forth in Schedule 3.9, neither the Company nor any of its Subsidiaries is, or to the Knowledge of the Company, is alleged to be (nor, to the Company’s Knowledge, is any other party to any Material Contract) in material default under, or in material breach or material violation of, any Material Contract, and no event has occurred which, with the giving of notice or passage of time or both, would constitute a material default by the Company or any other party under any Material Contract. Other than Material Contracts which have terminated or expired in accordance with their terms, each of the Material Contracts is in full force and effect and is a legal, valid and binding obligation of the Company and, to the Knowledge of the Company,

the other parties thereto enforceable against the Company and, to the Knowledge of the Company, such other parties 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 equitable principles (whether considered in a proceeding in equity or at law).

3.10 Affiliate Transactions. Except as set forth in Schedule 3.10, there are no transactions between the Company, on the one hand, and any (A) officer or director of the Company or any of its Subsidiaries, (B) to the Knowledge of the Company, record or beneficial owner of five (5) percent or more of the voting securities of the Company or (C) Affiliate or family member of any such officer or director or, to the Knowledge of the Company, record or beneficial owner, on the other hand, except employee benefit plans, executive compensation or director compensation, employment agreements, consulting agreements, indemnification agreements and similar transactions. Neither the Company nor any of its Subsidiaries is a guarantor or indemnitor of any indebtedness of any of the persons set forth in the foregoing clause (A) or, to the Knowledge of the Company, clauses (B) through (C).

3.11 Title. The Company and each of its Subsidiaries has good and marketable title to their respective owned properties and assets, and good leasehold title to their respective leasehold estates in leased properties and assets, in each case, subject to no Encumbrances, other than Encumbrances that would not reasonably be expected to result in, individually or in the aggregate, a Material Adverse Effect.

3.12 Compliance with Law; Permits.

(a) Neither the Company nor any of its Subsidiaries (i) is in material violation or default of the Charter Documents of the Company or any of its Subsidiaries, (ii) is in violation or default of any Order or any Law, except for such violations and defaults that would not reasonably be expected to result in, individually or in the aggregate, a Material Adverse Effect or (iii) has received, since August 23, 2018, any written notice of, and to the Knowledge of the Company, no investigation or review is in process or threatened by any Governmental Authority with respect to, any material violation or alleged violation of any Order or Law.

(b) Except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (i) the Company and its Subsidiaries hold all Permits necessary for the lawful conduct of their respective businesses as they are presently being conducted, (ii) all Permits are in full force and effect, (iii) the Company and its Subsidiaries are in compliance with the terms of the Permits, (iv) there are no pending or, to the Knowledge of the Company, threatened, modifications, amendments, cancellations, suspensions, limitations, nonrenewals or revocations of any Permit, and (v) there has occurred no event which (whether with notice or lapse of time or both) could reasonably be expected to result in or constitute the basis for such a modification, amendment, cancellation, suspension, limitation, nonrenewal or revocation thereof.

3.13 Litigation. Except as set forth in Schedule 3.13, no action, suit, claim, demand, hearing, investigation or other proceeding is pending against the Company or any of its Subsidiaries, or, to the Knowledge of the Company, any officer, director, manager, member, shareholder or employee of any such Person, and none of the Company or any of its Subsidiaries, or, to the Knowledge of the Company, any officer, director, manager, member, shareholder or employee of any such Person, is subject to any outstanding injunction, judgment, order, decree, ruling or charge or, to the Knowledge of the Company, is threatened with being made a party to any action, suit, proceeding, hearing or investigation of, in, or before any Governmental Authority or before any arbitrator, all cases, that are required to be described in the SEC Reports but are not described as required in the

SEC Reports, or that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

3.14 Intellectual Property. The Company and its Subsidiaries own or have obtained valid and enforceable licenses for, or other legal and valid rights to use, the Intellectual Property necessary for the conduct of the business of the Company and its Subsidiaries as currently conducted, except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Neither the Company nor any of its Subsidiaries has received from any third party a claim in writing that the Company or any of its Subsidiaries is infringing in any material respect the Intellectual Property rights of any third party.

3.15 Insurance. Schedule 3.15 sets forth a true, correct and complete list of all of the insurance maintained for or on behalf of the Company or any of its Subsidiaries and claims made to date. All premiums with respect to such policies have been paid to the extent due and payable. No written notice of cancellation or termination has been received by the Company or any of its Subsidiaries with respect to any such policies that have not been replaced on substantially similar terms prior to the date of such cancellation or termination.

3.16 Environmental Matters. The Company and its Subsidiaries have at all times been in compliance in all material respects with all Environmental Laws. To the Knowledge of the Company, there are no locations or premises where Hazardous Materials have been Released such that (A) the Company or any of its Subsidiaries would reasonably be expected to be obligated to remove, remediate or otherwise respond to pursuant to any Environmental Laws or (B) would reasonably be expected to result in a liability of the Company or any of its Subsidiaries to any Person under any Environmental Laws. There are no Environmental Claims pending, or to the Knowledge of the Company threatened against the Company or any of its Subsidiaries, and there no actions, activities, circumstances, facts, conditions, events or incidents, including the presence of any Hazardous Material, which would be reasonably likely to form the basis of any such Environmental Claim.

3.17 Company Benefits Plans.

(a) Schedule 3.17 lists each material Company Benefit Plan.

(b) Neither the Company nor any of its ERISA Affiliates has ever maintained, sponsored, contributed to, or had an obligation to maintain, sponsor or contribute to, or has any liability under or with respect to (i) a “defined benefit plan,” as defined in Section 3(35) of ERISA, (ii) a pension plan subject to the minimum funding standards of Section 302 of ERISA or Section 412 of the Code, (iii) a “multiemployer plan,” as defined in Section 3(37) of ERISA, (iv) a “multiple employer plan” (within the meaning of Section 413 of the Code), (v) a “voluntary employees’ beneficiary association” (within the meaning of Section 501(c)(9) of the Code), (vi) an organization or trust described in Sections 501(c)(17) or 501(c)(20) of the Code or (vii) a “welfare benefits fund” described in Section 419(e) of the Code. No current or former employee, officer, director, consultant or other service provider of the Company or any of its Subsidiaries is or may become entitled under any Company Benefit Plan to receive health, life insurance or other welfare benefits (whether or not insured), beyond their retirement or other termination of service, other than health continuation coverage as required by Section 4980B of the Code.

(c) Each Company Benefit Plan has been administered in all material respects in accordance with its terms and applicable Law. Each Company Benefit Plan intended to be qualified under Section 401(a) of the Code has either received a favorable determination letter from the IRS or may rely on a favorable opinion letter issued by the IRS, and, to the Knowledge of the Company, nothing has occurred since the date of such determination or opinion letter that would reasonably be expected to adversely affect such qualification.



(d) Except as would not be reasonably likely to result in a Material Adverse Effect, there are no actions, suits, audits or investigations by any Governmental Authority or other claims (except for routine claims for benefits) pending or, to the Knowledge of the Company, threatened, against or involving any Company Benefit Plan.

(e) Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby will (whether alone or upon the occurrence of any additional or further acts or events) (i) result in any payment becoming due to any current or former employee, officer, director or independent contractor of the Company or any Subsidiary thereof or satisfy any prerequisite (whether exclusive or non-exclusive) to any payment or benefit to any current or former employee, director or independent contractor of the Company or any Subsidiary thereof, (ii) increase any benefits under any Company Benefit Plan, (iii) result in the acceleration of the time of payment, vesting or funding of any such benefits under any Company Benefit Plan, or (iv) result in the forgiveness of any indebtedness of any current or former employee, officer, director or independent contractor of the Company or any Subsidiary thereof.

### 3.18 Labor.

(a) Neither the Company nor any of its Subsidiaries is a party to any labor or collective bargaining agreement.

(b) There are no (i) strikes, work stoppages, work slowdowns or lockouts pending or, to the Knowledge of the Company, threatened against or involving the Company or any of its Subsidiaries, or (ii) unfair labor practice charges, grievances or complaints pending or, to the Knowledge of the Company, threatened by or on behalf of any employee or group of employees of the Company or any of its Subsidiaries, except in each case as would not have a Material Adverse Effect.

### 3.19 Tax Matters. Except as set forth in Schedule 3.19:

(a) As of the date of this Agreement, the Company has timely filed all material Tax Returns required to be filed (after giving effect to any extensions that have been requested by and granted to such party by the applicable Governmental Authority) and has paid or caused to be paid on its behalf all Taxes due and owing, other than those (i) that are being contested in good faith and for which adequate reserves have been established in accordance with GAAP or (ii) that, if not paid, would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. All such Tax Returns are true, correct and complete in all material respects. There are no past, current, pending or, to the Knowledge of the Company, threatened audits, claims or proceedings by any Governmental Authority relating to Taxes. The Company has not waived any statutes of limitation or agreed to any extension of time with respect to any Tax assessment or deficiency. The Company has not received written notice from any Governmental Authority in a jurisdiction where it does not file Tax Returns claiming that it is subject to Tax in that jurisdiction. There are no liens for Taxes against the property of the Company or the Project except for Taxes not yet due and payable.

(b) The Company has complied with all Laws relating to the withholding and collection of Taxes relating to the Company. The Company has not engaged in any reportable transaction within the meaning of Treasury Regulations Section 1.6011-4(b).

(c) Neither the Company nor any of its Subsidiaries has made an election under Section 965(h) of the Code.

(d) The Company (A) has not entered into any agreement with any Governmental Authority that would impact the amount of Taxes due by it, (B) has never been a member of an affiliated, combined, consolidated or unitary group for purposes of filing any Tax Return or has any liability for the Taxes of any other Person (1) under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign law), or (2) as a transferee or successor, by Contract, or otherwise, or (C) is not a party to, or has any liability under, any Tax sharing, Tax allocation, Tax indemnity, or similar agreement or arrangement.

3.20 Investment Company Act. The Company is not and, after giving effect to the transactions contemplated by this Agreement will not be, an “investment company” as that term is defined in, nor is the Company otherwise subject to registration or regulation under, the Investment Company Act of 1940.

3.21 OFAC and Related Matters. None of the transactions contemplated hereby will violate (i) any Sanctions, or (ii) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, Public Law 107-56 (October 26, 2001). The Company is in compliance with Sanctions in all material respects. There are no pending or threatened claims or legal actions, or investigations by any Governmental Authority, of or against the Company, nor are there any judgments imposed (or threatened to be imposed) upon the Company by or before any Governmental Authority, in each case, in connection with any alleged violation of Sanctions. Neither the Purchase Price nor any other proceeds received by the Company hereunder will be used in any dealings or transactions with any Sanctioned Person or in any manner that will result in a violation of Sanctions. The Company has not violated any provision of the U.S. Foreign Corrupt Practices Act of 1977 or the U.K. Bribery Act 2010.

3.22 Broker; Fees. Neither the Company nor any of its Subsidiaries has employed any broker or finder, or incurred any liability for any brokerage or finders’ fees or any similar fees or commissions in connection with the transactions contemplated by this Agreement for which the Purchaser is liable.

Section 4. **REPRESENTATIONS AND WARRANTIES OF THE PURCHASER.** The Purchaser represents and warrants to the Company as of the date hereof and, with respect to the Fundamental Representations, as of the date hereof and as of the Closing Date (except for representations and warranties that are made as of a specific date, which are made only as of such date), as follows:

4.1 Organization and Qualification. The Purchaser has been duly organized and is validly existing and, except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect, is in good standing under the laws of its jurisdiction of organization, with the requisite power and authority to own its properties and conduct its business as currently conducted.

4.2 Authorization; Enforcement; Validity. The Purchaser has all necessary corporate, limited liability company or equivalent power and authority to enter into this Agreement and to carry out, or cause to be carried out, its obligations hereunder in accordance with the terms hereof. The execution and delivery by the Purchaser of this Agreement and the performance by the Purchaser of its obligations hereunder have been duly authorized by all requisite action on the part of the Purchaser, and no other action on the part of the Purchaser is necessary to authorize the execution and delivery by the Purchaser of this Agreement or the consummation of the transactions contemplated by this Agreement. This Agreement has been duly executed and delivered by the Purchaser, and assuming due authorization, execution and delivery by the Company, this Agreement constitutes the legal, valid and binding obligation of the Purchaser, enforceable against the Purchaser in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium or similar Laws now or hereafter in effect relating to creditors’ rights generally and subject to general principles of equity.

4.3 No Conflicts. The execution, delivery, and performance by the Purchaser of this Agreement do not and will not (a) violate any provision of the organizational documents of the Purchaser; (b) conflict with or violate any Law or Order applicable to the Purchaser or any of its respective assets or properties; or (c) violate, conflict with, result in any breach of, constitute a default (or event which with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of, any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which the Purchaser is a party or to which any of its assets or properties are subject, or result in the creation of any Encumbrance on any of its assets or properties, except, in the case of clauses (b) and (c), for any such conflict, violation, breach or default that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

4.4 Consents and Approvals. The execution, delivery and performance by the Purchaser of this Agreement do not require the Purchaser to obtain any consent, approval, authorization or other Order of, action by, filing with or notification to, any Governmental Authority or any other Person under any of the terms, conditions or provisions of any Law or Order applicable to the Purchaser or by which any of its assets or properties may be bound, any contract to which the Purchaser is a party or by which the Purchaser may be bound, except for any consent, approval, authorization or other Order of, action by, filing with or notification to, any Governmental Authority or any other Person under any of the terms, conditions or provisions of any Law or Order applicable to the Purchaser that, if not made or obtained, would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect with respect to the Purchaser.

4.5 Purchaser Representation. (i) The Purchaser is either (A) a qualified institutional buyer as defined in Rule 144A of the Securities Act, (B) an accredited investor as defined in Rule 501(a)(1), (2), (3), (7) or (8) under the Securities Act, (C) a non-U.S. person under Regulation S under the Securities Act, or (D) the foreign equivalent of (A) or (B) above, and (ii) any securities of the Company acquired by the Purchaser under this Agreement will have been acquired for investment and not with a view to distribution or resale in violation of the Securities Act.

4.6 Sufficient Funds. The Purchaser has sufficient assets (or the ability to call sufficient capital from its equityholders) and the financial capacity to perform all of its obligations under this Agreement, including the ability to fully fund the Purchase Price at the Closing.

## Section 5. ADDITIONAL COVENANTS.

5.1 Commercially Reasonable Efforts. Each of the Company and the Purchaser hereby agrees to use its commercially reasonable efforts to timely satisfy (if applicable) each of the conditions applicable to such Party under Sections 6 and 7, respectively, of this Agreement.

5.2 Further Assurances. Each Party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other Party may reasonably request to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

5.3 Use of Proceeds. The Company shall use the proceeds from the transactions contemplated hereby solely as provided for in Exhibit E to this Agreement.

5.4 Expenses. The Company shall bear all of its own expenses in connection with the execution, delivery and performance of this Agreement and the transactions contemplated hereby, including without limitation all fees and expenses of its agents, representatives, counsel and accountants.

5.5 Conduct of the Business of Company. From the date hereof until the Closing Date, except (a) as expressly permitted by this Agreement, (b) as required by Law, or (c) with the written consent of the Purchaser (such consent not to be unreasonably withheld, conditioned or delayed), the Company shall conduct its business and operations in the ordinary course of business consistent with past practice and use commercially reasonable efforts to (i) preserve intact its present business organization; (ii) maintain good relationships with its vendors, suppliers, and others having material business relationships with it; and (iii) manage its working capital in the ordinary course of business consistent with past practice. Without limiting the generality of the foregoing, and, except as contemplated in this Agreement or as described in Schedule 5.5, during the period from the date of this Agreement through the Closing Date, without the prior written consent of the Purchaser (which consent shall not be unreasonably withheld or delayed), the Company shall not, and shall not permit any of its Subsidiaries to:

- (a) amend any of its Charter Documents;
- (b) split, combine, subdivide or reclassify any of its equity securities;
- (c) authorize, sell, issue or grant any equity securities or sell, issue or grant any option, warrant or right to acquire any equity securities or sell, issue or grant any security convertible into or exchangeable for equity securities, or sell, transfer or dispose of, or grant or permit any Encumbrance on, any equity interest;
- (d) except as required pursuant to applicable Law or the terms of any Company Benefit Plan in existence as of the date hereof, (A) make or grant any increases in the compensation or fringe benefits of any current or former employee or service provider of the Company or its Subsidiaries except in the ordinary course of business consistent with past practice (x) for current employees whose annual base salary or annual fee is less than \$150,000 or (y) in respect of fringe benefits, increases in fringe benefits that do not result in a material increase in cost to the Company or its Subsidiaries; (B) take any action to accelerate the vesting or payment of any compensation or benefits under any Company Benefit Plan or any action to fund or secure the payment of compensation or benefits under any Company Benefit Plan; (C) amend, adopt or terminate any Company Benefit Plan other than in connection with routine, immaterial or ministerial amendments to health and welfare plans that do not materially increase benefits or result in a material increase in administrative costs; or (D) enter into, modify or terminate any collective bargaining agreement or other agreement or arrangement with any labor union, works council, labor organization or other employee-representative body.
- (e) declare, set aside for payment or pay any dividend on, or make any other distribution in respect of its equity interests or otherwise make any payments to any holder of such interests in its capacity as such;
- (f) take or fail to take any action the result of which would cause the creation of an Encumbrance on any of its equity interests;
- (g) make any material change to its financial reporting and accounting methods other than as required by a change in GAAP;

(h) make any material change in its Tax reporting or Tax accounting methods, including making or changing any material Tax elections except as required by applicable Law;

(i) acquire any Person or other business organization, division or business by merger, consolidation, purchase of an equity interest or assets, or by any other manner;

(j) take any action to liquidate, dissolve, or wind up its business;

(k) take any action that would require the consent of the Purchaser as the holder of the Series B Preferred Stock pursuant to the Certificate of Designations if such action were to occur after the Closing; or

(l) commit itself to do any of the foregoing.

5.6 Public Announcements. No press release or other public announcement related to this Agreement or the transactions contemplated herein shall be issued or made without the joint approval of the Company and the Purchaser, unless such release or announcement is required by law or the rules of any securities exchange on which securities of the Company are traded (including, for the avoidance of doubt, any Current Report on Form 8-K required to be filed by the Company with the SEC describing this Agreement or the transactions contemplated herein), in which case the Purchaser shall be afforded a reasonable opportunity to review such public announcement prior to publication.

Section 6. CONDITIONS TO THE PURCHASER'S OBLIGATIONS. The obligations of the Purchaser to consummate the transactions contemplated hereby pursuant to this Agreement on the Closing Date shall be subject to the satisfaction at or prior to the Closing Date of each of the following conditions, any one or more of which may be waived in writing by the Purchaser:

6.1 Fundamental Representations and Warranties. All of the Fundamental Representations made by the Company in this Agreement shall be true and correct in all respects as of the Closing Date as though made on and as of the Closing Date (except to the extent such representations and warranties expressly speak as of an earlier date, in which case such representations and warranties shall be true and correct as of such date).

6.2 Performance of Closing Actions. The Company shall have performed each of the Closing Actions required to be performed by them at the Closing.

6.3 No Legal Impediment to Issuance; No Material Adverse Effect. No Law or Order shall have become effective or been enacted, adopted or issued by any Governmental Authority that prohibits the implementation of this Agreement or the transactions contemplated herein, and no Material Adverse Effect shall have occurred.

Section 7. CONDITIONS TO THE COMPANY'S OBLIGATIONS. The obligations of the Company to issue and sell to the Purchaser the Series B Preferred Stock (including the Warrants) pursuant to this Agreement shall be subject to the satisfaction at or prior to the Closing Date of each of the following conditions, any one or more of which may be waived in writing by the Company:

7.1 Fundamental Representations and Warranties. All of the Fundamental Representations made by the Purchaser in this Agreement shall be true and correct in all respects as of the Closing Date as though made on and as of the Closing Date (except to the extent such representations and warranties expressly speak as of an earlier date, in which case such representations and warranties shall be true and correct as of such date).

7.2 Performance of Closing Actions. The Purchaser shall have performed each of the Closing Actions required to be performed by it at the Closing.

7.3 No Legal Impediment to Issuance. No Law or Order shall have become effective or been enacted, adopted or issued by any Governmental Authority that prohibits the implementation of this Agreement or the transactions contemplated by this Agreement.

Section 8. **TERMINATION.**

(a) Termination by the Purchaser. This Agreement may be terminated at any time prior to the Closing by the Purchaser following the occurrence of any of the following events (each a "Purchaser Termination Event") immediately upon delivery of written notice to the Company; *provided, however* that the Purchaser shall not be permitted to terminate this Agreement if at the time of such termination the Purchaser is in breach of any representation, warranty or covenant applicable to it in any material respect under this Agreement:

(i) the Closing does not occur on or before the Closing Date;

(ii) the failure of any of the conditions set forth in Section 6 hereof to be satisfied, which failure cannot be cured or is not cured before the earlier of (A) fifteen (15) Business Days after receipt of written notice thereof by the Company from the Purchaser and (B) the Closing Date;

(iii) the Company breaches any representation or warranty or breaches any covenant applicable to it in any material respect under this Agreement and if such breach is curable, it is not cured before the earlier of (A) fifteen (15) Business Days after receipt of written notice by the Company from the Purchaser and (B) the Closing Date; or

(iv) any Governmental Authority of competent jurisdiction, enters a Final Order declaring this Agreement or any material portion hereof to be unenforceable.

(b) Termination by the Company. This Agreement may be terminated at any time prior to the Closing by the Company following the occurrence of any of the following events immediately upon delivery of written notice to the Parties except as set forth below; *provided, however* that the Company shall not be permitted to terminate this Agreement if, at the time of such termination, the Company is in breach of any representation, warranty or covenant applicable to it in any material respect under this Agreement:

(i) the failure of any of the conditions set forth in Section 7 hereof to be satisfied, which failure cannot be cured or is not cured before the earlier of (A) fifteen (15) Business Days after receipt of written notice thereof by the Purchaser from the Company and (B) the Closing Date;

(ii) the Purchaser breaches any representation or warranty or breaches any covenant applicable to it in any material respect under this Agreement and if such breach is curable, it is not cured before the earlier of (A) fifteen (15) Business Days after receipt of written notice by the Purchaser from the Company and (B) the Closing Date;

(iii) any Governmental Authority of competent jurisdiction, enters a Final Order declaring this Agreement or any material portion hereof to be unenforceable; or

(iv) the Closing does not occur on or before the Closing Date.

(c) Purchaser Default. Subject to Section 10.19, the Purchaser agrees that, in the event of a Purchaser Default, the Company shall be entitled to all remedies available at law and at equity, including to enforce rights of damages and/or specific performance pursuant to Section 10.18.

(d) Mutual Termination. This Agreement may be terminated by the mutual written consent of the Company and the Purchaser.

(e) Effect of Purchaser Termination. Upon a termination of this Agreement in accordance with Section 8(a), the Purchaser shall have no continuing liability or obligation to the Company and the provisions of this Agreement shall have no further force or effect with respect to the Purchaser, except for the provisions in Sections 8, 9, and 10, each of which shall survive termination of this Agreement; *provided, however*, that no such termination shall relieve the Purchaser from liability for its breach or non-performance of its obligations hereunder prior to the date of such termination and the rights of the Company as it relates to such breach or non-performance by the Purchaser shall be preserved in the event of the occurrence of such breach or non-performance.

(f) Effect of Company or Mutual Termination. Upon a termination of this Agreement in accordance with Sections 8(b) or 8(d), neither Party shall have any continuing liability or obligation to the other Party hereunder and the provisions of this Agreement shall have no further force or effect except for the provisions in Sections 8, 9, and 10, each of which shall survive termination of this Agreement; *provided* that no such termination shall relieve either Party from liability for its breach or non-performance of its obligations hereunder prior to the date of such termination and the rights of the other Party as it relates to such breach or non-performance by the Party shall be preserved in the event of the occurrence of such breach or non-performance.

Section 9. **INDEMNIFICATION**. The Company agrees to indemnify and hold harmless the Indemnified Parties from and against any and all claims, damages, losses, liabilities and expenses (including, without limitation, fees and disbursements of counsel), that may be incurred by or asserted or awarded against any Indemnified Party, in each case arising out of this Agreement (including as a result of any breach or inaccuracy of any representation, warranty or covenant herein), the other Offering Documents, or the transactions contemplated hereby or thereby, solely to the extent such Offering Documents or transactions contemplated thereby relate to this Agreement and the Series B Preferred Equity Offering, any use made or proposed to be made with the proceeds of the Series B Preferred Equity Offering, or any claim, litigation, investigation or proceeding relating to any of the foregoing, regardless of whether any Indemnified Party is a party thereto, and the Company shall reimburse each Indemnified Party upon demand for reasonable and documented fees and expenses of counsel (which, so long as there are no conflicts among such Indemnified Parties, shall be limited to one law firm serving as counsel for the Indemnified Parties) and other expenses incurred by it in connection with investigating, preparing to defend or defending, or providing evidence in or preparing to serve or serving as a witness with respect to, any lawsuit, investigation, claim or other proceeding relating to any of the foregoing, irrespective of whether the transactions contemplated hereby are consummated, except to the extent such claim, damage, loss, liability, or expense is found in a Final Order to have resulted from such Indemnified Party's bad faith, actual fraud, gross negligence, or willful misconduct. No Indemnified Party shall have any liability (whether direct or indirect, in contract, tort or otherwise) to the Company for or in connection with the transactions contemplated hereby, except to the extent such liability is found in a final, non-appealable order of a court of competent jurisdiction to have resulted from such Indemnified Party's bad faith, actual fraud, gross negligence or willful misconduct. In no event, however, shall the Company or any Indemnified Party be liable on any theory of liability for any special, indirect, consequential or punitive damages. Without the prior written consent of the Indemnified Parties, the Company agrees that it will not enter into any settlement of any lawsuit, claim or other proceeding

arising out of this Agreement, the other Offering Documents, or the transactions contemplated hereby or thereby, solely to the extent such Offering Documents or transactions contemplated thereby relate to this Agreement and the Series B Preferred Equity Offering, unless such settlement (i) includes an explicit and unconditional release from the party bringing such lawsuit, claim or other proceeding of all Indemnified Parties and (ii) does not include a statement as to or an admission of fault, culpability, or a failure to act by or on behalf of any Indemnified Party. No Indemnified Party shall be liable for any damages arising from the use by unauthorized persons of any information made available to the Indemnified Parties by the Company or any of its representatives through electronic, telecommunications or other information transmission systems that is intercepted by such persons. No Indemnified Party shall settle any lawsuit, claim, or other proceeding arising out of this Agreement, the other Offering Documents, or the transactions contemplated hereby or thereby without the prior written consent of the Company (such consent not to be unreasonably withheld or delayed). Notwithstanding the foregoing, an Indemnified Party shall be entitled to no indemnification by the Company for any claim, damage, loss, liability, or expense incurred by or asserted or awarded against such Indemnified Party for any violation of Law by such Indemnified Party.

#### Section 10. MISCELLANEOUS.

10.1 Payments. All payments made by or on behalf of the Company or any of their Affiliates to the Purchaser or its assigns, successors or designees pursuant to this Agreement shall be without withholding, set-off, counterclaim or deduction of any kind.

10.2 Arm's Length Transaction. The Company acknowledges and agrees that (i) the Series B Preferred Equity Offering and any other transactions described in this Agreement are an arm's-length commercial transaction between the Parties and (ii) the Purchaser has not assumed nor will it assume an advisory or fiduciary responsibility in the Company's favor with respect to any of the transactions contemplated by this Agreement or the process leading thereto, and the Purchaser has no obligation to the Company with respect to the transactions contemplated by this Agreement except those obligations expressly set forth in this Agreement or the Offering Documents to which it is a party.

10.3 Survival. The representations, warranties, covenants, agreements and obligations of the Parties shall survive the Closing as follows (each such survival period, a "Survival Period"): (i) except for Fundamental Representations and the Tax Representations, the representations and warranties made by each Party in this Agreement shall survive the Closing until the first anniversary of the Closing; (ii) Fundamental Representations shall survive the Closing until the fifth anniversary of the Closing, (iii) Tax Representations shall survive the Closing for the full period of all applicable statutes of limitations related thereto (after giving effect to any waiver or extension thereof), and (iv) the covenants, agreements, obligations and other undertakings of the Parties shall survive the Closing until fully performed in accordance with their terms. All liability of the Indemnifying Parties with respect to the representations, warranties, covenants, agreements and obligations hereunder shall be extinguished at the end of the applicable Survival Period, except to the extent that notice of an alleged breach of such representations, warranties, covenants, agreements or obligations has been provided before such date; provided that if notice is given prior to the expiration of the applicable Survival Period, the claim with respect to such representation, warranty, covenant, agreement or obligation shall continue indefinitely until finally resolved.

10.4 No Waiver of Rights. All waivers hereunder must be made in writing, and the failure of any Party at any time to require another Party's performance of any obligation under this Agreement shall not affect the right subsequently to require performance of that obligation. Any waiver of any breach of any provision of this Agreement shall not be construed as a waiver of any continuing or succeeding breach of such provision or a waiver or modification of any other provision.



10.5 Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given or made (and shall be deemed to have been duly given or made upon receipt) by delivery in person, by an internationally recognized overnight courier service, by email or registered or certified mail (postage prepaid, return receipt requested) to the respective Parties at the following addresses (or at such other address for any Party as shall be specified by such Party in a notice given in accordance with this Section 10.5).

(a) If to the Company, to:

NextDecade Corporation  
1000 Louisiana Street, Suite 3900  
Houston, Texas 77002  
Attention: Krysta De Lima, General Counsel  
krysta@next-decade.com

With a copy (which shall not constitute notice to the Company) to:

K&L Gates LLP  
214 North Tryon Street, 47<sup>th</sup> Floor  
Charlotte, North Carolina 28202  
Attention: Sean M. Jones  
Sean.Jones@klgates.com

(b) If to the Purchaser, to the address set forth on Exhibit H.

Any of the foregoing addresses may be changed by giving notice of such change in the foregoing manner, except that notices for changes of address shall be effective only upon receipt.

10.6 Headings. The section and subsection headings in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

10.7 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any Law or public policy, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect for so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible.

10.8 Entire Agreement. This Agreement and the agreements and documents referenced herein constitute the entire agreement of the Parties with respect to the subject matter hereof and supersede all prior agreements and undertakings, both written and oral, between the Parties with respect to the subject matter hereof.

10.9 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Except as set forth below, neither this Agreement nor any of the rights, interests or obligations under this Agreement may be assigned by either Party (whether by operation of law or otherwise) without the prior written consent of the other Party. Notwithstanding the foregoing and subject to the restriction on transfer contained in Section 10.10, the rights, obligations and interests hereunder

may be assigned, delegated or transferred, in whole or in part, by the Purchaser to (i) any Affiliate of the Purchaser without the consent of the Company, (ii) MSIP without the consent of the Company or (iii) one or more other third parties with the consent of the Company, which consent shall not be unreasonably withheld or delayed; *provided, however*, that any such transferee, as a condition precedent to such transfer, becomes a Party to this Agreement and assumes the obligations of the Purchaser with respect to the transferred shares under this Agreement by executing an addendum substantially in the form set forth in Exhibit A (the “Addendum”) and an assumption agreement in substantially the form set forth in Exhibit B hereto (the “Assumption Agreement”) and deliver the same to the Company in accordance with Section 10.5, and *provided, further*, that (a) with respect to a transfer to an Affiliate of the Purchaser, the Purchaser either (i) shall have provided an adequate equity support letter or a guarantee of such Affiliate-transferee’s obligations, in form and substance reasonably acceptable to the Company or (ii) shall remain fully obligated to fund the Purchase Price, (b) with respect to a transfer to MSIP, such transfer shall not occur prior to the Closing and (c) with respect to a transfer to a third party (other than MSIP), the Company, acting in good faith, shall have consented in writing to such transfer (which consent shall not be unreasonably withheld, conditioned or delayed) and shall have determined, in its reasonable discretion, after due inquiry and investigation, that such transferee is reasonably capable of fulfilling such obligations, or, absent such a determination, the proposed transferee shall have deposited with an agent of the Company or into an escrow account under arrangements satisfactory to the Company funds sufficient, in the reasonable determination of the Company, to satisfy such proposed transferee’s obligations. Any transfer that is made in violation of the immediately preceding sentence shall be null and void ab initio, and the Company shall have the right to enforce the voiding of such transfer.

10.10 Limitations on Transfer of Series B Preferred Stock. THE SERIES B PREFERRED STOCK (INCLUDING ANY SERIES B PREFERRED STOCK ISSUED IN RESPECT OF DIVIDEND PAYMENTS THEREON) SHALL NOT BE TRANSFERRED BY THE PURCHASER TO ANY OTHER PERSON WITHOUT THE CONSENT OF THE COMPANY, WHICH CONSENT SHALL NOT BE UNREASONABLY WITHHELD OR DELAYED, EXCEPT THAT THE PURCHASER SHALL BE ENTITLED TO TRANSFER ANY OR ALL SHARES OF ITS SERIES B PREFERRED STOCK TO (I) ANY AFFILIATE OF THE PURCHASER OR (II) MSIP.

10.11 No Third-Party Beneficiaries. This Agreement shall be binding upon and inure solely to the benefit of the Parties and their respective successors and permitted assigns and, except as expressly set forth in Section 9, nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever.

10.12 Amendment. This Agreement may not be altered, amended, or modified except by a written instrument executed by or on behalf of the Company and the Purchaser.

10.13 Governing Law. This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of New York, without regard to the conflicts of law principles thereof.

10.14 Consent to Jurisdiction. Each of the Parties (a) irrevocably and unconditionally agrees that any actions, suits or proceedings, at law or equity, arising out of or relating to this Agreement or any agreements or transactions contemplated hereby shall be heard and determined by the federal or state courts located in New York County in the State of New York; (b) irrevocably submits to the jurisdiction of such courts in any such action, suit or proceeding; (c) consents that any such action, suit or proceeding may be brought in such courts and waives any objection that such Party may now or hereafter have to the venue or jurisdiction of such courts or that such action or proceeding was brought in an inconvenient forum; and (d) agrees that service of process in any such action, suit or proceeding may be effected by providing a copy thereof by any of the methods of delivery

permitted by Section 10.5 to such Party at its address as provided in Section 10.5 (provided that nothing herein shall affect the right to effect service of process in any other manner permitted by Law).

10.15 Waiver of Jury Trial. EACH OF THE PARTIES HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY). EACH OF THE PARTIES HERETO HEREBY (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE TRANSACTIONS, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.14.

10.16 Currency. Unless otherwise specified in this Agreement, all references to currency, monetary values and dollars set forth herein shall mean United States (U.S.) dollars and all payments hereunder shall be made in United States dollars.

10.17 Counterparts. This Agreement may be executed and delivered (including by facsimile or electronic transmission) in one or more counterparts, and by the different Parties in separate counterparts, each of which when executed shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement. Signatures of the Parties transmitted by electronic mail shall be deemed to be their original signatures for all purposes.

10.18 Specific Performance. Each Party acknowledges that, in view of the uniqueness of the securities referenced herein and the transactions contemplated by this Agreement, the other Party would not have an adequate remedy at law for money damages in the event that this Agreement has not been performed in accordance with its terms, and therefore agrees that the other Party shall be entitled to specific performance and injunctive or other equitable relief, without the necessity of proving the inadequacy of monetary damages as a remedy.

10.19 Waiver of Consequential Damages. Notwithstanding any provision in this Agreement to the contrary, in no event shall any Party or its Affiliates, or their respective managers, members, shareholders or representatives, be liable hereunder at any time for punitive, incidental, consequential special or indirect damages, including loss of future profits, revenue or income, or loss of business reputation of any other Party or any of its Affiliates, whether in contract, tort (including negligence), strict liability or otherwise, and each Party hereby expressly releases each other Party, its Affiliates, and their respective managers, members, shareholders, partners, consultants, representatives, successors and assigns therefrom.

10.20 Rules of Construction. The Parties and their respective legal counsel participated in the preparation of this Agreement, and therefore, this Agreement shall be construed neither against nor in favor of any of the Parties, but rather in accordance with the fair meaning thereof. All definitions set forth in this Agreement are deemed applicable whether the words defined are used in this Agreement in the singular or in the plural, and correlative forms of defined terms have corresponding meanings. The term "including" is not limiting and means "including without limitation." The term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or." The words "hereof," "herein," "hereby," "hereunder" and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. Section, subsection, clause, schedule, annex and exhibit references are to this Agreement unless otherwise specified. Any reference to this Agreement shall include all alterations, amendments, changes, extensions,

modifications, renewals, replacements, substitutions, and supplements thereto and thereof, as applicable. Whenever the context may require, any pronoun includes the corresponding masculine, feminine and neuter forms.

*[No further text appears; signature pages follow]*

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

NEXTDECADE CORPORATION

By: /s/ Matthew Schatzman

Name: Matthew Schatzman

Title: President and Chief Executive Officer

[Series B Preferred Stock Purchase Agreement]

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PURCHASER

HGC NEXT INV LLC

By: /s/ Hae Young Lee  
Name: Hae Young Lee  
Title: President

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[Series B Preferred Stock Purchase Agreement]

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## Exhibit A

### ADDENDUM

Reference is made to that certain Series B Convertible Preferred Stock Purchase Agreement (as amended, modified or supplemented from time to time, the “Agreement”) by and between NextDecade Corporation, a Delaware corporation (“NextDecade”), and HGC NEXT INV LLC, a Delaware limited liability company, or a successor thereof. Each capitalized term used but not defined herein shall have the meaning given to it in the Agreement.

Upon execution and delivery of this Addendum by the undersigned, as provided in Section 10.9 of the Agreement, the undersigned hereby becomes the Purchaser with respect to [●] shares of Series B Preferred Stock, as applicable thereunder and bound thereby effective as of the date of the Agreement.

By executing and delivering this Addendum, the undersigned represents and warrants, for itself and for the benefit of the Company, that:

- (a) as of the date of this Addendum, the undersigned has executed and delivered an Assumption and Joinder Agreement therefor (a copy of which is attached to this Addendum);
- (b) as of the date of this Addendum, with respect to each transferee that (i) is an individual, such transferee has all requisite authority to enter into this Addendum and to carry out the transactions contemplated by, and perform its respective obligation under, the Agreement and (ii) is not an individual, such transferee is duly organized, validly existing, and in good standing under the laws of the state of its organization, and has all requisite corporate, partnership, or limited liability company power and authority to enter into this Addendum and to carry out the transactions contemplated by, and perform its respective obligations under, the Agreement;
- (c) assuming the due execution and delivery of the Agreement by NextDecade, the Addendum and the Agreement are legally valid and binding obligations of it, enforceable against it in accordance with its terms, except as may be limited by bankruptcy, insolvency or similar laws, or by equitable principles relating to or limiting creditors’ rights generally; and
- (d) as of the date of this Addendum, it is not aware of any event that, due to any fiduciary or other duty to any other person, would prevent it from taking any action required of it under the Agreement and this Addendum.

By executing and delivering this Addendum to NextDecade, the undersigned agrees to be bound by all the terms of the Agreement with respect to [●] shares of Series B Preferred Stock.

The undersigned acknowledges and agrees that once delivered to NextDecade, it may not revoke, withdraw, amend, change or modify this Addendum unless the Agreement has been terminated.

[Series B Preferred Stock Purchase Agreement]

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THIS ADDENDUM SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES THAT WOULD REQUIRE THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION.

This Addendum may be executed in one or more counterparts, each of which, when so executed, shall constitute the same instrument and the counterparts may be delivered by facsimile transmission or by electronic mail in portable document format (.pdf).

[Signature on Following Page]

[Series B Preferred Stock Purchase Agreement]

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IN WITNESS WHEREOF, the Parties have caused this Addendum to be duly executed and delivered by their proper and duly authorized officers as of this [●] day of [●].

TRANSFeree WHO BECOMES THE PURCHASER

[NAME]

\_\_\_\_\_

as a Purchaser

Name:

[Series B Preferred Stock Purchase Agreement]

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**Exhibit B**

**ASSUMPTION AND JOINDER AGREEMENT**

Reference is made to (i) that certain Series B Convertible Preferred Stock Purchase Agreement (as amended, modified or supplemented from time to time, the “Agreement”), dated as of May 17, 2019, by and between NextDecade Corporation, a Delaware corporation (“NextDecade”), and HGC NEXT INV LLC, a Delaware limited liability company, or a successor thereof, and (ii) that certain Addendum, dated as of [●], [●] (the “Transferor Addendum”) submitted by [●], as transferor (the “Transferor”). Each capitalized term used but not defined herein shall have the meaning given to it in the Agreement.

As a condition precedent to becoming the Purchaser with respect to [●] shares of Series B Preferred Stock, the undersigned (the “Transferee”) hereby agrees to become bound by all the terms, conditions and obligations set forth in the Agreement and the Transferor Addendum, copies of which are attached hereto as Annex I. This Assumption and Joinder Agreement shall take effect and shall become an integral part of the Agreement and the Transferor Addendum immediately upon its execution, and the Transferee shall be deemed to be bound by all of the terms, conditions and obligations of the Agreement and the Transferor Addendum as of the date thereof. The Transferee shall hereafter be deemed to be the “Purchaser” with respect to [●] shares of Series B Preferred Stock and a “Party” for all purposes under the Agreement.

[Signatures on Following Page]

[Series B Preferred Stock Purchase Agreement]

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IN WITNESS WHEREOF, this Assumption and Joinder Agreement has been duly executed by each of the undersigned as of the date specified below.

Date: [●]

\_\_\_\_\_  
Name of Transferor

\_\_\_\_\_  
Name of Transferee

\_\_\_\_\_  
Authorized Signatory of Transferor

\_\_\_\_\_  
Authorized Signatory of Transferee

\_\_\_\_\_  
(Type or Print Name and Title of Authorized Signatory)

\_\_\_\_\_  
(Type or Print Name and Title of Authorized Signatory)

Address of Transferee:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Attn:

\_\_\_\_\_  
Tel:

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

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

\_\_\_\_\_

\_\_\_\_\_

**Exhibit C**

**CERTIFICATE OF DESIGNATIONS  
OF  
SERIES B CONVERTIBLE PREFERRED STOCK**

*[see attached]*

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**Exhibit D**

**FORM OF WARRANT AGREEMENT**

*[see attached]*

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## **Exhibit E**

### **USE OF PROCEEDS**

Proceeds from the Series B Preferred Equity Offering shall be used by the Company for development activities related to the liquefaction of natural gas and the sale of liquefied natural gas (“LNG”) in international markets, including:

- Development activities related to the Rio Grande LNG terminal facility at the Port of Brownsville in southern Texas and an associated 137-mile Rio Bravo pipeline to supply gas to the terminal, in each case, including activities and businesses reasonably complementary or ancillary thereto and reasonable extensions thereof;
  - Development activities related to an approximate 1,000-acre site near Texas City, Texas for a second potential LNG terminal, including activities and businesses reasonably complementary or ancillary thereto and reasonable extensions thereof; and
  - Development activities conducted in overseas locations (including, but not limited to China and Singapore) in direct support of the Company’s businesses as set forth above.
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**Exhibit F**

**REGISTRATION RIGHTS AGREEMENT**

*[see attached]*

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**Exhibit G**

**PURCHASER RIGHTS AGREEMENT**

*[see attached]*

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**Exhibit H**

**PURCHASER NOTICE ADDRESS**

HGC NEXT INV LLC  
300 Frank W. Burr Blvd. Suite 52  
Teaneck, NJ 07666  
Attention: Haeyoung Lee  
haeyoung.lee@hanwha.com

with a copy (which shall not constitute notice to the foregoing Purchaser) to:

Skadden, Arps, Slate, Meagher & Flom LLP  
1000 Louisiana Street, Suite 6800  
Houston, TX 77002-5026  
Attention: Eric Otness  
eric.otness@skadden.com

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**REGISTRATION RIGHTS AGREEMENT**

This REGISTRATION RIGHTS AGREEMENT (this "Agreement"), dated as of May [•], 2019, is made and entered into by and among NextDecade Corporation, a Delaware corporation (the "Company"), and certain entities listed on Schedule I (the "Holders") attached hereto. Capitalized terms used but not otherwise defined in this Agreement shall have the meaning ascribed to such term in the Purchase Agreement (as defined below).

**RECITALS:**

WHEREAS, reference is made to that certain Series B Convertible Preferred Stock Purchase Agreement, dated as of May 17, 2019 (the "Purchase Agreement"), by and between the Company and the Holders;

WHEREAS, pursuant to Section 2 of the Purchase Agreement, the Company issued [•] Preferred Shares (as defined herein) (which include associated Warrants) to the Holders;

WHEREAS, the Company and the Holders wish to determine registration rights with respect to the Preferred Shares and the Warrants (and underlying securities).

NOW, THEREFORE, in consideration of the premises and the mutual promises and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged,

IT IS AGREED as follows:

Section 1. **DEFINITIONS.** As used in this Agreement, the following terms shall have the following meanings:

"Agreement" shall have the meaning set forth in the introductory paragraph hereof.

"Board" shall mean the Board of Directors of the Company.

"Business Day" shall mean any Monday, Tuesday, Wednesday, Thursday, or Friday that is not a day on which banking institutions in New York or Texas are authorized or obligated by applicable law, regulation or executive order to close.

"Commission" shall mean the United States Securities and Exchange Commission.

"Common Stock" shall mean the common stock of the Company, par value \$0.0001 per share.

"Company" shall have the meaning set forth in the introductory paragraph hereof.

"Controlling Person" shall have the meaning set forth in Section 5(a) of this Agreement.

"Demand Notice" shall have the meaning set forth in Section 2(a)(i) of this Agreement.

"Demand Registration" shall have the meaning set forth in Section 2(b)(i) of this Agreement.

"Demand Registration" Statement shall have the meaning set forth in Section 2(b)(i) of this Agreement.

"Depository" shall mean The Depository Trust Company, or any other depository appointed by the Company.

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“Effectiveness Deadline” shall have the meaning set forth in Section 2(a)(i) of this Agreement.

“End of Suspension Notice” shall have the meaning set forth in Section 3(b) of this Agreement.

“Equity Securities” means (a) any capital stock, partnership, membership, joint venture or other ownership or equity interest, participation or securities in or of any Person (whether voting or non-voting, whether preferred, common or otherwise, and including any stock appreciation, contingent interest or similar right), and (b) any option, warrant, security or other right (including debt securities) directly or indirectly convertible into or exercisable or exchangeable for, or otherwise to acquire directly or indirectly, any stock, interest, participation or security described in clause (a) above.

“Exchange Act” shall mean the Securities Exchange Act of 1934, as amended (or any corresponding provision of succeeding law), and the rules and regulations thereunder.

“FINRA” shall mean the Financial Industry Regulatory Authority.

“Holder” shall mean each holder of Equity Securities of the Company, listed in Schedule I attached hereto, in its capacity as a holder of Registrable Securities, and its direct and indirect transferees. For purposes of this Agreement, the Company may deem and treat the registered holder of a Registrable Security as the Holder and absolute owner thereof, unless notified to the contrary in writing by the registered Holder thereof.

“Holders’ Minimum Amount” shall have the meaning set forth in Section 2(a)(iii) of this Agreement.

“Legal Proceeding” shall mean any action, suit, hearing, claim, lawsuit, litigation, investigation (formal or informal), inquiry, arbitration or proceeding (in each case, whether civil, criminal or administrative or at law or in equity) by or before a governmental or legal entity.

“Liabilities” shall have the meaning set forth in Section 5(a)(i) of this Agreement.

“Majority” with respect to any group of Registrable Securities, means more than half the total number of shares of Common Stock included in such group and, for the avoidance of doubt, does not include the number of Preferred Shares or Warrants in any such group.

“Maximum Threshold” shall have the meaning set forth in Section 2(d)(i) of this Agreement.

“Person” shall mean any individual, partnership, corporation, limited liability company, joint venture, association, trust, unincorporated organization or other governmental or legal entity.

“Piggyback Registration” shall have the meaning set forth in Section 2(c)(i) of this Agreement.

“Preferred Shares” shall mean the shares of Series B Convertible Preferred Stock of the Company issued pursuant to the Purchase Agreement (including any shares of Series B Convertible Preferred Stock of the Company issued as dividends thereon).

“Prospectus” means the prospectus or prospectuses included in any Registration Statement (including without limitation, any prospectus subject to completion and a prospectus that includes any information previously omitted from a prospectus filed as part of an effective registration statement in reliance upon Rule 430A promulgated under the Securities Act and any term sheet filed pursuant to Rule 434 under the Securities Act), as amended or supplemented by any prospectus supplement with respect to the terms of the offering of any portion of the Registrable Securities covered by such Registration Statement and by all other amendments and

supplements to the prospectus, including post-effective amendments and all material incorporated by reference or deemed to be incorporated by reference in such prospectus or prospectuses.

“Purchase Agreement” shall have the meaning set forth in the Recitals hereof.

“Registrable Securities” with respect to any Holder, shall mean at any time (i) all of the shares of Common Stock into which the Preferred Shares are convertible, and (ii) all shares of Common Stock issuable upon the exercise of the Warrants, together with any class of equity securities of the Company or of a successor to the entire business of the Company which are issued in exchange for the Common Stock, the Preferred Shares or the Warrants; provided, however, that such Registrable Securities shall cease to be Registrable Securities with respect to any Holder upon the earliest to occur of (a) the date on which a Registration Statement with respect to the sale of such Holder’s Registrable Securities shall have been declared effective under the Securities Act and all of such Holder’s Registrable Securities shall have been sold, transferred, disposed of or exchanged in accordance with such Registration Statement and (b) the date on which such securities shall have ceased to be outstanding.

“Registration Expenses” shall mean (a) the fees and disbursements of counsel and independent public accountants for the Company incurred in connection with the Company’s performance of or compliance with this Agreement, including the expenses of any special audits or “comfort” letters required by or incident to such performance and compliance, and any premiums and other costs of policies of insurance obtained by the Company against liabilities arising out of the sale of any securities, (b) all registration, filing and stock exchange fees, all fees and expenses of complying with securities or “blue sky” laws, all fees and expenses of custodians, transfer agents and registrars, all printing expenses, messenger and delivery expenses and any fees and disbursements of Selling Holders’ Counsel, (c) expenses relating to any analyst or investor presentations or any “road shows” undertaken in connection with the registration, marketing or selling of the Registrable Securities, (d) fees and expenses in connection with any review by FINRA of the underwriting arrangements or other terms of the offering, and all fees and expenses of any “qualified independent underwriter,” including the reasonable fees and expenses of any counsel thereto, (e) costs of printing and producing any agreements among underwriters, underwriting agreements, any “blue sky” or legal investment memoranda and any selling agreements and other documents in connection with the offering, sale or delivery of the Registrable Securities; provided, however, that “Registration Expenses” shall not include any out-of-pocket expenses of the Holders (other than as set forth in clause (b) above), transfer taxes, underwriting or brokerage commissions or discounts associated with effecting any sales of Registrable Securities that may be offered, which expenses shall be borne by each Holder of Registrable Securities on a pro rata basis with respect to the Registrable Securities so sold.

“Registration Statement” means any registration statement of the Company filed with the Commission under the Securities Act which covers any of the Registrable Securities pursuant to the provisions of this Agreement, including the Prospectus, amendments and supplements to such Registration Statement, including post-effective amendments, all exhibits and all materials incorporated by reference or deemed to be incorporated by reference in such Registration Statement.

“Securities Act” shall mean the Securities Act of 1933, as amended (or any corresponding provision of succeeding law), and the rules and regulations thereunder.

“Selling Holders’ Counsel” shall mean counsel for the Holders that is selected by the Holders holding a Majority of the Registrable Securities included in a Registration Statement and that is reasonably acceptable to the Company.

“Shelf Registration Statement” shall have the meaning set forth in Section 2(a)(i) of this Agreement.

“Suspension Event” shall have the meaning set forth in Section 3(b) of this Agreement.

“Suspension Notice” shall have the meaning set forth in Section 3(a) of this Agreement.

“Underwritten Demand Holders” shall have the meaning set forth in Section 2(a)(iii) of this Agreement.

“Underwritten Offering” shall mean a sale of securities of the Company to an underwriter or underwriters for reoffering to the public.

“Warrants” shall mean the warrants to purchase shares of Common Stock provided for in the Purchase Agreement.

“Withdrawn Demand Registration” shall have the meaning set forth in Section 2(b)(iv) of this Agreement.

Section 2. **SHELF REGISTRATIONS, DEMAND REGISTRATIONS AND PIGGYBACK REGISTRATIONS.**

(a) Shelf Registration.

(i) Filing. The Company shall, as soon as practicable after the date that is ninety (90) days from the date of this Agreement, but in any event within thirty (30) days after the date that is ninety (90) days from the date of this Agreement, file a Registration Statement under the Securities Act to permit the public resale of all the Registrable Securities held by the Holders from time to time as permitted by Rule 415 under the Securities Act (or any successor or similar provision adopted by the Commission then in effect) (the “Shelf Registration Statement”) on the terms and conditions specified in this Section 2(a) and shall use its reasonable best efforts to cause such Shelf Registration Statement to be declared effective as soon as practicable after the filing thereof, but in any event no later than the earlier of (i) ninety (90) days (or one hundred and twenty (120) days if the Commission notifies the Company that it will “review” the Shelf Registration Statement) after the date that is ninety (90) days from the date of this Agreement and (ii) the tenth (10th) business day after the date the Company is notified (orally or in writing, whichever is earlier) by the Commission that such Shelf Registration Statement will not be “reviewed” or will not be subject to further review (such earlier date, the “Effectiveness Deadline”). The Shelf Registration Statement filed with the Commission pursuant to this Section 2(a) shall be on Form S-3 or, if Form S-3 is not then available to the Company, on Form S-1 or such other form of registration statement as is then available to effect a registration for resale of such Registrable Securities, covering such Registrable Securities, and shall contain a prospectus in such form as to permit any Holder to sell such Registrable Securities pursuant to Rule 415 under the Securities Act (or any successor or similar provision adopted by the Commission then in effect) at any time beginning on the effective date for such Shelf Registration Statement. A Shelf Registration Statement filed pursuant to this Section 2(a) shall provide for the resale pursuant to any method or combination of methods legally available to, and requested by, the Holders. As soon as practicable following the effective date of a Shelf Registration Statement filed pursuant to this Section 2(a), but in any event within three (3) business days of such date, the Company shall notify the Holders of the effectiveness of such Registration Statement. When effective, a Shelf Registration Statement filed pursuant to this Section 2(a) (including the documents incorporated therein by reference) will comply as to form in all material respects with all applicable requirements of the Securities Act and the Exchange Act and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading (in the case of any Prospectus contained in such Shelf Registration Statement, in the light of the circumstances under which such statement is made).

(ii) Continued Effectiveness. The Company shall use its reasonable best efforts to cause the Shelf Registration Statement to remain effective and to be supplemented and amended

to the extent necessary to ensure that such Shelf Registration Statement is available or, if not available, that another registration statement is available, for the resale of all the Registrable Securities held by the Holders until the earliest of (A) the date all such Registrable Securities have ceased to be Registrable Securities and (B) the date all such Registrable Securities covered by such Shelf Registration Statement can be sold publicly without restriction or limitation under Rule 144 under the Securities Act and without the requirement to be in compliance with Rule 144(c)(1) under the Securities Act.

(iii) Underwritten Offering and Selection of Underwriters. If the Holders of at least twenty percent (20%) of the then outstanding number of Registrable Securities held by the Holders (the “Underwritten Demand Holders”) elect to dispose of Registrable Securities under a Shelf Registration Statement or other Registration Statement pursuant to an Underwritten Offering of all or part of such Registrable Securities that are registered by such Shelf Registration Statement or other Registration Statement and reasonably expect aggregate gross proceeds in excess of \$[•]<sup>1</sup> (the “Holders’ Minimum Amount”) from such Underwritten Offering, then the Company shall, upon the written demand of such Underwritten Demand Holder(s), enter into an underwriting agreement in a form as is customary in Underwritten Offerings of securities by the Company with the managing underwriter or underwriters selected by the Underwritten Demand Holders and shall take all such other reasonable actions as are requested by the managing underwriter or underwriters in order to expedite or facilitate the disposition of such Registrable Securities; provided, however, that the Company shall have no obligation to facilitate or participate in more than two (2) Underwritten Offerings in any twelve (12)-month period, pursuant to this Section 2(a) or Section 2(b). In connection with any Underwritten Offering contemplated by this Section 2(a) or Section 2(b), the underwriting agreement into which each Holder and the Company shall enter shall contain such representations, covenants, indemnities and other rights and obligations as are customary in underwritten offerings of securities by the Company. No Holder shall be required to make any representations or warranties to or agreements with the Company or the underwriters other than representations, warranties or agreements regarding such Holder’s authority to enter into such underwriting agreement and to sell, and its ownership of, the securities being registered on its behalf, its intended method of distribution, the accuracy of information provided by a Holder specifically for use in the Registration Statement or Prospectus, and any other representation required by law; provided, that each Holder other than the Underwritten Demand Holders shall be afforded five (5) Business Days to decide to include in any such Underwritten Offering up to its pro rata share of Registrable Securities based on the percentage of Registrable Securities owned by the Underwritten Demand Holders that are included in such Underwritten Offering; provided further, that to the extent such other Holders wish to include additional Registrable Securities held by such Holders in an Underwritten Offering in excess of their allotted proportion, such other Holders may request, within the same five (5) Business Day notice period outlined above, that the Underwritten Demand Holders consider including such additional shares as Registrable Securities. Upon receipt of such notice, and subject to Section 2(d)(i), the Underwritten Demand Holders may elect to include or exclude such additional Registrable Securities from the Underwritten Offering in their sole and absolute discretion.

(b) Demand Registrations.

(i) Right to Request Registration. So long as the Company does not have an effective Shelf Registration Statement with respect to the Registrable Securities, the Holders of at least twenty percent (20%) of the then-outstanding number of Registrable Securities (the “Demand Holders”) may request registration under the Securities Act of all or part of their Registrable Securities with an

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<sup>1</sup> Equal to the Purchase Price (as defined in the Purchase Agreement by and between the Company and the Holders).

anticipated aggregate offering price of at least \$[•]<sup>2</sup> at any time and from time to time (“Demand Registration”).

Within seven (7) Business Days after receipt of any such request for Demand Registration, the Company shall give written notice of such request to each other Holder of Registrable Securities, if any, and shall, subject to the provisions of Section 2(d)(i) hereof, include in such registration up to the pro rata share Registrable Securities of each such Holder based on the percentage Registrable Securities owned by the Demand Holders that are to be included in the Demand Registration and with respect to which the Company has received written requests for inclusion therein within five (5) Business Days after the receipt of the Company’s notice; provided, that to the extent such other Holders wish to include additional Registrable Securities held by such Holders in the Demand Registration in excess of their allotted proportion, such other Holders may request, within the same five (5) Business Day notice period outlined above, that the Demand Holders consider including such additional shares as Registrable Securities. Upon receipt of such notice, and subject to Section 2(d)(i), the Demand Holders may elect to include or exclude such additional Registrable Securities from the Demand Registration their sole and absolute discretion. The Company shall use its reasonable best efforts to file with the Commission following receipt of any such request for Demand Registration (but in no event more than thirty (30) days following receipt of such request) one or more registration statements with respect to all such Registrable Securities with respect to which the Company has received written requests for inclusion therein in accordance with this paragraph under the Securities Act (the “Demand Registration Statement”). The Company shall use its reasonable best efforts to cause such Demand Registration Statement to be declared effective by the Commission as soon as practicable after the filing thereof. The Demand Registration Statement shall be on an appropriate form and the Registration Statement and any form of Prospectus included therein (or Prospectus supplement relating thereto) shall reflect the plan of distribution or method of sale as the Holders of shares registered on such Registration Statement may from time to time notify the Company. Subject to the foregoing and to Section 2(d)(i), following the receipt by the Company of any request for Demand Registration, all of the Registrable Securities of any Holder electing to register Registrable Securities in accordance with this paragraph shall be included in the Demand Registration Statement without any further action by any Holder. The Demand Holders who have requested a Demand Registration may cause the Company to postpone or withdraw the filing or the effectiveness of such Demand Registration at any time in their sole discretion.

(ii) Restrictions on Demand Registrations. The Company shall not be obligated to effect any Demand Registration within ninety (90) days after the effective date of (A) a previous Demand Registration or (B) a previous registration under which any Holder or Holders had piggyback rights pursuant to Section 2(c) hereof and in which the Holders exercising such piggyback rights were permitted to register, and sold, at least fifty percent (50%) of the Registrable Securities requested to be included therein. In addition, the Company shall not be obligated to effect any Demand Registration after the Company has effected two (2) Demand Registrations in any twelve (12)-month period if all such registrations effected by the Company have been declared and ordered effective.

(iii) Underwritten Offering and Selection of Underwriters. If the Underwritten Demand Holders elect to dispose of Registrable Securities under a Demand Registration pursuant to an Underwritten Offering, then each other Holder shall be afforded the right to include in any such Underwritten Offering up to its pro rata share of Registrable Securities based on the percentage of Registrable Securities owned by the Underwritten Demand Holders that are included in such Underwritten Offering. If any of the Registrable Securities covered by a Demand Registration hereof are to be sold in

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<sup>2</sup> Equal to the Purchase Price (as defined in the Purchase Agreement by and between the Company and the Holders).

an Underwritten Offering, then the Underwritten Demand Holders shall have the right to select the managing underwriter or underwriters to administer any such Underwritten Offering.

(iv) Effective Period of Demand Registrations. After any Demand Registration Statement filed pursuant to this Agreement has become effective, the Company shall use its reasonable best efforts to keep such Demand Registration Statement effective for a period equal to one hundred eighty (180) days from the date on which the Commission declares such Demand Registration Statement effective (or if such Demand Registration Statement is not effective during any period within such one hundred eighty (180) days, such 180-day period shall be extended by the number of days during such period when such Demand Registration Statement is not effective), or such shorter period that shall terminate when all of the Registrable Securities covered by such Demand Registration Statement have been sold pursuant to such Demand Registration. If the Company shall withdraw or reduce the number of shares of Registrable Securities that is subject to any Demand Registration pursuant to Section 2(d)(i) (a “Withdrawn Demand Registration”), the Demanding Holders of the Registrable Securities remaining unsold and originally covered by such Withdrawn Demand Registration shall be entitled to a replacement Demand Registration that (subject to the provisions of this Section 2(b)) the Company shall use its reasonable best efforts to keep effective for a period commencing on the effective date of such Demand Registration and ending on the earlier to occur of the date (i) that is one hundred eighty (180) days from the effective date of such Demand Registration and (ii) on which all of the Registrable Securities covered by such Demand Registration have been sold. Such additional Demand Registration otherwise shall be subject to all of the provisions of this Agreement.

(c) Piggyback Registrations.

(i) Right to Piggyback. Whenever the Company proposes (i) to register any of its Common Stock under the Securities Act (other than a registration statement on Form S-8 or on Form S-4 or any similar successor forms thereto), whether for its own account or for the account of one or more stockholders of the Company, and the registration form to be used may be used for any registration of Registrable Securities (a “Piggyback Registration”), or (ii) to file a prospectus supplement to an effective shelf registration statement relating to the sale of equity securities of the Company, the Company shall give prompt (but in no event less than ten (10) days before the anticipated filing date of such registration statement or such prospectus supplement) written notice to all Holders of its intention to effect such a registration or filing, which notice shall (A) describe the amount and type of securities to be included in such offering, the intended method of distribution, and the name of the proposed managing underwriter, if any, in such offering, and (B) offer to all Holders of Registrable Securities the opportunity to register the same of such number of Registrable Securities as such Holders may request in writing within five (5) Business Days after receipt of such written notice from the Company. The Company shall, subject to Sections 2(d)(ii) and 2(d)(iii), include in such registration or offering all Registrable Securities with respect to which the Company has received written requests for inclusion therein within five (5) Business Days after the receipt of the Company’s notice. The Company may postpone or withdraw the filing or the effectiveness of a Piggyback Registration at any time in its sole discretion upon reasonable notice to any participating Holders.

(ii) Withdrawal; Opt-Out. Any Holder may elect to withdraw such Holder’s request for inclusion of Registrable Securities in any Piggyback Registration by giving written notice to the Company of such request to withdraw prior to the effectiveness of the Registration Statement. The Company (whether on its own determination or as the result of a withdrawal by Persons making a demand pursuant to written contractual obligations) may withdraw a Registration Statement at any time prior to the effectiveness of the Registration Statement without thereby incurring any liability to the Holders of



Registrable Securities. Notwithstanding any such withdrawal, the Company shall pay all expenses incurred by the Holders in connection with such Piggyback Registration as provided in Section 8(d). Any Holder may deliver written notice (an “Opt-Out Notice”) to the Company requesting that such Holder not receive notice from the Company of any proposed Piggyback Registration; *provided, however*, that such Holder may later revoke any such Opt-Out Notice in writing. Following receipt of an Opt-Out Notice from a Holder (unless subsequently revoked by such Holder), the Company shall not be required to deliver any notice to such Holder pursuant to this Section 2(c) and such Holder shall no longer be entitled to participate in a Piggyback Registration by the Company pursuant to this Section 2(c) until such Holder’s Opt-Out Notice is revoked.

(iii) Selection of Underwriters. If any of the Registrable Securities of the Holders covered by a Piggyback Registration hereof are to be sold in an Underwritten Offering, then the Company shall have the right to select the managing underwriter or underwriters to administer any such offering.

(d) Priority.

(i) Priority on Shelf and Demand Registrations. If the managing underwriters of a requested Demand Registration or an Underwritten Offering under a Shelf Registration Statement, advise the Company in writing that, in their opinion, the number of Registrable Securities requested to be included in such Demand Registration Statement or Shelf Registration Statement exceeds the number that can be sold in such offering and/or that the number of Registrable Securities proposed to be included in any such registration would adversely affect the price per share of the Company’s equity securities to be sold in such offering (such maximum number of securities or Registrable Securities, as applicable, the “Maximum Threshold”), the underwriting shall be allocated among the Company and all Holders as follows: (A) first, the shares comprised of Registrable Securities, as to which registration has been requested and is required pursuant to the registration rights hereof, based on the amount of such Registrable Securities initially requested to be registered by such Holders that can be sold without exceeding the Maximum Threshold; (B) second, to the extent that the Maximum Threshold has not been reached under the foregoing clause (A), the shares of Common Stock or other securities that the Company desires to sell that can be sold without exceeding the Maximum Threshold; and (C) third, to the extent the Maximum Threshold has not been reached under the foregoing clauses (A) and (B), any additional Registrable Securities of Holders other than the Demand Holders or Underwritten Demand Holders as to which registration has been requested and that the Demand Holders or Underwritten Demand Holders, as applicable, determine, in their sole discretion, can be sold.

(ii) Priority on Primary Registrations. If a Piggyback Registration is an underwritten primary registration on behalf of the Company, and the managing underwriters advise the Company in writing that in their opinion the number of securities requested to be included in such registration exceeds the Maximum Threshold, the underwriting shall be allocated among the Company and all Holders as follows: (A) first, the shares of Common Stock or other securities that the Company desires to sell that can be sold without exceeding the Maximum Threshold; and (B) second, to the extent that the Maximum Threshold has not been reached under the foregoing clause (A), the shares comprised of Registrable Securities, as to which registration has been requested pursuant to the registration rights hereof, based on the amount of such Registrable Securities initially requested to be registered by such Holders that can be sold without exceeding the Maximum Threshold.

(iii) Notwithstanding the foregoing, if the Holders of at least twenty percent (20%) of the then-outstanding number of Registrable Securities wish to engage in an underwritten block trade off of an effective Shelf Registration Statement, Demand Registration Statement or Piggyback

Registration, such Holders may notify the Company of the block trade offering on the day such offering is to commence and the Company shall as expeditiously as possible use its reasonable best efforts to facilitate such offering (which may close as early as three (3) Business Days after the date it commences); provided that in the case of such underwritten block trade, only such Holders shall have a right to notice of and to participate in such offering.

Section 3. **BLACK-OUT PERIODS.**

(a) Notwithstanding Section 2, and subject to the provisions of this Section 3, the Company shall be permitted, in limited circumstances, to suspend the use, from time to time, of the Prospectus that is part of a Shelf Registration Statement (and therefore suspend sales of the Registrable Securities under such Shelf Registration Statement), by providing written notice (a "Suspension Notice") to the Selling Holders' Counsel, if any, and the Holders, for such times as the Company reasonably may determine is necessary and advisable (but in no event for more than an aggregate of ninety (90) days in any rolling twelve (12)-month period commencing on the date of this Agreement or more than forty-five (45) consecutive days, except as a result of a refusal by the Commission to declare any post-effective amendment to the Shelf Registration Statement effective after the Company has used all reasonable best efforts to cause the post-effective amendment to be declared effective by the Commission, in which case, the Company must terminate the black-out period immediately following the effective date of the post-effective amendment) if either of the following events shall occur: (i) a majority of the Board determines in good faith that (A) the offer or sale of any Registrable Securities would materially impede, delay or interfere with any proposed financing, offer or sale of securities, acquisition, corporate reorganization or other material transaction involving the Company, (B) after the advice of counsel, the sale of Registrable Securities pursuant to the Shelf Registration Statement would require disclosure of non-public material information not otherwise required to be disclosed under applicable law, and (C) (x) the Company has a bona fide business purpose for preserving the confidentiality of such transaction, (y) disclosure would have a material adverse effect on the Company or the Company's ability to consummate such transaction, or (z) such transaction renders the Company unable to comply with Commission requirements, in each case under circumstances that would make it impractical or inadvisable to cause the Shelf Registration Statement (or such filings) to become effective or to promptly amend or supplement the Shelf Registration Statement on a post-effective basis, as applicable; or (ii) a majority of the Board determines in good faith, upon the advice of counsel, that it is in the Company's best interest or it is required by law, rule or regulation to supplement the Shelf Registration Statement or file a post-effective amendment to the Shelf Registration Statement in order to ensure that the Prospectus included in the Shelf Registration Statement (1) contains the information required under Section 10(a)(3) of the Securities Act; (2) discloses any facts or events arising after the effective date of the Shelf Registration Statement (or of the most recent post-effective amendment) that, individually or in the aggregate, represents a fundamental change in the information set forth therein; or (3) discloses any material information with respect to the plan of distribution that was not disclosed in the Shelf Registration Statement or any material change to such information. Upon the occurrence of any such suspension, the Company shall use its reasonable best efforts to cause the Shelf Registration Statement to become effective or to promptly amend or supplement the Shelf Registration Statement on a post-effective basis or to take such action as is necessary to make resumed use of the Shelf Registration Statement as soon as possible.

(b) In the case of an event that causes the Company to suspend the use of a Shelf Registration Statement as set forth in paragraph (a) above (a "Suspension Event"), the Company shall give a Suspension Notice to the Selling Holders' Counsel, if any, and the Holders to suspend sales of the Registrable Securities and such Suspension Notice shall state generally the basis for the notice and that such suspension shall continue only for so long as the Suspension Event or its effect is continuing and the

Company is using its reasonable best efforts and taking all reasonable steps to terminate suspension of the use of the Shelf Registration Statement as promptly as possible. A Holder shall not effect any sales of the Registrable Securities pursuant to such Shelf Registration Statement (or such filings) at any time after it has received a Suspension Notice from the Company and prior to receipt of an End of Suspension Notice (as defined below). If so directed by the Company, each Holder will deliver to the Company (at the expense of the Company) all copies other than permanent file copies then in such Holder's possession of the Prospectus covering the Registrable Securities at the time of receipt of the Suspension Notice. The Holders may recommence effecting sales of the Registrable Securities pursuant to the Shelf Registration Statement (or such filings) following further written notice to such effect (an "End of Suspension Notice") from the Company, which End of Suspension Notice shall be given by the Company to the Holders and to the Selling Holders' Counsel, if any, promptly following the conclusion of any Suspension Event and its effect.

(c) Notwithstanding any provision herein to the contrary, if the Company shall give a Suspension Notice with respect to any Shelf Registration Statement pursuant to this Section 3, the Company agrees that it shall extend the period of time during which such Shelf Registration Statement shall be maintained effective pursuant to this Agreement by the number of days during the period from the date of receipt by the Holders of the Suspension Notice to and including the date of receipt by the Holders of the End of Suspension Notice and provide copies of the supplemented or amended Prospectus necessary to resume sales, with respect to each Suspension Event; provided that such period of time shall not be extended beyond the date that Common Stock covered by such Shelf Registration Statement are no longer Registrable Securities.

#### Section 4. **REGISTRATION PROCEDURES.**

(a) In connection with the filing of any Registration Statement or sale of Registrable Securities as provided in this Agreement, the Company shall use its reasonable best efforts to, as expeditiously as reasonably practicable:

(i) prepare and file with the Commission the Registration Statement, within the relevant time period specified in Section 2, on the appropriate form under the Securities Act, which form, subject to Section 2(a), (1) shall be selected by the Company, (2) shall be available for the registration and sale of the Registrable Securities by the selling Holders thereof, (3) shall comply as to form in all material respects with the requirements of the applicable form and include or incorporate by reference all financial statements required by the Commission to be filed therewith or incorporated by reference therein, and (4) shall comply in all respects with the requirements of Regulation S-T under the Securities Act, and otherwise comply with its obligations under Section 2 hereof;

(ii) prepare and file with the Commission such amendments and post-effective amendments to each Registration Statement as may be necessary under applicable law to keep such Registration Statement effective for the applicable period; and cause each Prospectus to be supplemented by any required Prospectus supplement, and as so supplemented to be filed pursuant to Rule 424 (or any similar provision then in force) under the Securities Act and comply with the provisions of the Securities Act, the Exchange Act and the rules and regulations thereunder applicable to them with respect to the disposition of all securities covered by each Registration Statement during the applicable period in accordance with the intended method or methods of distribution by the selling Holders thereof;

(iii) (1) notify each Holder of Registrable Securities, at least five (5) Business Days after filing, that a Registration Statement with respect to the Registrable Securities has been filed and advise such Holders that the distribution of Registrable Securities will be made in accordance with

any method or combination of methods legally available by the Holders of any and all Registrable Securities; (2) furnish to each Holder of Registrable Securities and to each underwriter of an Underwritten Offering of Registrable Securities, if any, without charge, as many copies of each Prospectus, including each preliminary Prospectus, and any amendment or supplement thereto and such other documents as such Holder or underwriter may reasonably request, including financial statements and schedules in order to facilitate the public sale or other disposition of the Registrable Securities; and (3) hereby consent to the use of the Prospectus or any amendment or supplement thereto by each of the selling Holders of Registrable Securities in connection with the offering and sale of the Registrable Securities covered by the Prospectus or any amendment or supplement thereto;

(iv) use its reasonable best efforts to register or qualify the Registrable Securities under all applicable state securities or “blue sky” laws of such jurisdictions as any Holder of Registrable Securities covered by a Registration Statement and each underwriter of an Underwritten Offering of Registrable Securities shall reasonably request by the time the applicable Registration Statement is declared effective by the Commission, and do any and all other acts and things which may be reasonably necessary or advisable to enable each such Holder and underwriter to consummate the disposition in each such jurisdiction of such Registrable Securities owned by such Holder; provided, however, that the Company shall not be required to (1) qualify as a foreign corporation or as a dealer in securities in any jurisdiction where it would not otherwise be required to qualify but for this Section 4(a)(iv), or (2) take any action which would subject it to general service of process or taxation in any such jurisdiction where it is not then so subject;

(v) immediately notify each Holder of Registrable Securities under a Registration Statement and, if requested by such Holder, confirm such advice in writing promptly at the address determined in accordance with Section 8(f) of this Agreement (1) when a Registration Statement has become effective and when any post-effective amendments and supplements thereto become effective, (2) of any request by the Commission or any state securities authority for post-effective amendments and supplements to a Registration Statement and Prospectus or for additional information after the Registration Statement has become effective, (3) of the issuance by the Commission or any state securities authority of any stop order suspending the effectiveness of a Registration Statement or the initiation of any proceedings for that purpose, (4) if, between the effective date of a Registration Statement and the closing of any sale of Registrable Securities covered thereby, the representations and warranties of the Company contained in any underwriting agreement, securities sales agreement or other similar agreement, if any, relating to the offering cease to be true and correct in all material respects, (5) of the happening of any event or the discovery of any facts during the period a Registration Statement is effective as a result of which such Registration Statement or any document incorporated by reference therein contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading or, in the case of the Prospectus, contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading (which information shall be accompanied by an instruction to suspend the use of the Registration Statement and the Prospectus (such instruction to be provided in the same manner as a Suspension Notice) until the requisite changes have been made, at which time notice of the end of suspension shall be delivered in the same manner as an End of Suspension Notice), (6) of the receipt by the Company of any notification with respect to the suspension of the qualification of the Registrable Securities, for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose and (7) of the filing of a post-effective amendment to such Registration Statement;

(vi) furnish Selling Holders' Counsel, if any, copies of any comment letters relating to the selling Holders received from the Commission or any other request by the Commission or any state securities authority for amendments or supplements to a Registration Statement and Prospectus or for additional information relating to the selling Holders;

(vii) make every reasonable effort to obtain the withdrawal of any order suspending the effectiveness of a Registration Statement at the earliest possible moment;

(viii) furnish to each Holder of Registrable Securities, and each underwriter, if any, without charge, at least one conformed copy of each Registration Statement and any post-effective amendment thereto, including financial statements and schedules (without documents incorporated therein by reference and all exhibits thereto, unless requested);

(ix) cooperate with the selling Holders to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be sold and not bearing any restrictive legends; and enable such Registrable Securities to be in such denominations and registered in such names as the selling Holders or the underwriters, if any, may reasonably request at least two (2) Business Days prior to the closing of any sale of Registrable Securities;

(x) upon the occurrence of any event or the discovery of any facts, as contemplated by Sections 4(a)(v)(5) and 4(a)(v)(6) hereof, as promptly as practicable after the occurrence of such an event, use its reasonable best efforts to prepare a supplement or post-effective amendment to the Registration Statement or the related Prospectus or any document incorporated therein by reference or file any other required document so that, as thereafter delivered to the purchasers of the Registrable Securities, such Prospectus will not contain at the time of such delivery any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, or will remain so qualified, as applicable. At such time as such public disclosure is otherwise made or the Company determines that such disclosure is not necessary, in each case to correct any misstatement of a material fact or to include any omitted material fact, the Company agrees promptly to notify each Holder of such determination and to furnish each Holder such number of copies of the Prospectus as amended or supplemented, as such Holder may reasonably request;

(xi) within a reasonable time prior to the filing of any Registration Statement, any Prospectus, any amendment to a Registration Statement or amendment or supplement to a Prospectus, provide copies of such document to the Selling Holders' Counsel, if any, on behalf of such Holders, and make representatives of the Company as shall be reasonably requested by the Holders of Registrable Securities available for discussion of such document;

(xii) obtain a CUSIP number for the Registrable Securities not later than the effective date of a Registration Statement, and provide the Company's transfer agent with printed certificates for the Registrable Securities, in a form eligible for deposit with the Depository, in each case, to the extent necessary or applicable;

(xiii) enter into agreements (including underwriting agreements) and take all other customary appropriate actions in order to expedite or facilitate the disposition of such Registrable Securities whether or not an underwriting agreement is entered into and whether or not the registration is an underwritten registration;

1. make such representations and warranties to the Holders of such Registrable Securities and the underwriters, if any, in form, substance and scope as are customarily made by issuers to underwriters in similar Underwritten Offerings as may be reasonably requested by them;

2. obtain opinions of counsel to the Company and updates thereof (which counsel and opinions (in form, scope and substance) shall be reasonably satisfactory to any managing underwriter(s) and their counsel) addressed to the underwriters, if any (and in the case of an underwritten registration, each selling Holder), covering the matters customarily covered in opinions requested in Underwritten Offerings and such other matters as may be reasonably requested by the underwriter(s);

3. obtain “comfort” letters and updates thereof from the Company’s independent registered public accounting firm (and, if necessary, any other independent certified public accountants of any subsidiary of the Company or of any business acquired by the Company for which financial statements are, or are required to be, included in the Registration Statement) addressed to the underwriter(s), if any, and use reasonable efforts to have such letter addressed to the selling Holders in the case of an underwritten registration (to the extent consistent with Statement on Auditing Standards No. 72 of the American Institute of Certified Public Accounts), such letters to be in customary form and covering matters of the type customarily covered in “comfort” letters to underwriters in connection with similar Underwritten Offerings;

4. enter into a securities sales agreement with the Holders and an agent of the Holders providing for, among other things, the appointment of such agent for the selling Holders for the purpose of soliciting purchases of Registrable Securities, which agreement shall be in form, substance and scope customary for similar offerings;

5. if an underwriting agreement is entered into, cause the same to set forth indemnification provisions and procedures substantially equivalent to the indemnification provisions and procedures set forth in Section 5 hereof with respect to the underwriters and all other parties to be indemnified pursuant to said Section or, at the request of any underwriters, in the form customarily provided to such underwriters in similar types of transactions; and

6. deliver such documents and certificates as may be reasonably requested and as are customarily delivered in similar offerings to the Holders of a Majority of the Registrable Securities being sold, and the managing underwriters, if any;

(xiv) make available for inspection by any underwriter participating in any disposition pursuant to a Registration Statement, Selling Holders’ Counsel and any accountant retained by a Majority of the Registrable Securities being sold, all financial and other records, pertinent corporate documents and properties or assets of the Company reasonably requested by any such Persons, and cause the respective officers, directors, employees, and any other agents of the Company to supply all information reasonably requested by any such representative, underwriter, counsel or accountant in connection with a Registration Statement, and make such representatives of the Company available for discussion of such documents as shall be reasonably requested by the Company; provided, however, that the Selling Holders’ Counsel, if any, and the representatives of any underwriters will use its reasonable best efforts, to the extent reasonably practicable, to coordinate the foregoing inspection and information gathering and to not materially disrupt the Company’s business operations;

(xv) a reasonable time prior to filing any Registration Statement, any Prospectus forming a part thereof, any amendment to such Registration Statement, or amendment or supplement to

such Prospectus, provide copies of such document to the underwriter(s) of an Underwritten Offering of Registrable Securities; within five (5) Business Days after the filing of any Registration Statement, provide copies of such Registration Statement to Selling Holders' Counsel; make such changes in any of the foregoing documents prior to the filing thereof, or in the case of changes received from Selling Holders' Counsel by filing an amendment or supplement thereto, as the underwriter or underwriters, or in the case of changes received from Selling Holders' Counsel relating to the selling Holders or the plan of distribution of Registrable Securities, as Selling Holders' Counsel, reasonably requests; not file any such document in a form to which any underwriter shall not have previously been advised and furnished a copy of or to which the Selling Holders' Counsel, if any, on behalf of the Holders of Registrable Securities, or any underwriter shall reasonably object; not include in any amendment or supplement to such documents any information about the selling Holders or any change to the plan of distribution of Registrable Securities that would limit the method of distribution of the Registrable Securities unless Selling Holders' Counsel has been advised in advance and has approved such information or change; and make the representatives of the Company available for discussion of such document as shall be reasonably requested by the Selling Holders' Counsel, if any, on behalf of such Holders, Selling Holders' Counsel or any underwriter;

(xvi) use its reasonable best efforts to cause all Registrable Securities to be listed or quoted on any national securities exchange on which the Company's Common Stock is then listed or quoted;

(xvii) otherwise comply with all applicable rules and regulations of the Commission and make available to its security holders, as soon as reasonably practicable, an earnings statement covering at least twelve (12) months which shall satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder;

(xviii) cooperate and assist in any filings required to be made with the FINRA and in the performance of any due diligence investigation by any underwriter and its counsel (including any "qualified independent underwriter" that is required to be retained in accordance with the rules and regulations of the FINRA);

(xix) if Registrable Securities are to be sold in an Underwritten Offering, to include in the registration statement, or in the case of a Shelf Registration, a Prospectus supplement, to be used all such information as may be reasonably requested by the underwriters for the marketing and sale of such Registrable Securities;

(xx) cause the appropriate officers of the Company to (i) prepare and make presentations at any "road shows" and before analysts and rating agencies, as the case may be, (ii) take other actions to obtain ratings for any Registrable Securities and (iii) use their reasonable best efforts to cooperate as reasonably requested by the underwriters in the offering, marketing or selling of the Registrable Securities.

(b) The Company may (as a condition to a Holder's participation in a Shelf Registration, Demand Registration or Piggyback Registration) require each Holder of Registrable Securities to furnish to the Company such information regarding the Holder and the proposed distribution by such Holder of such Registrable Securities as the Company may from time to time reasonably request in writing.

(c) Each Holder agrees that, upon receipt of any notice from the Company of the happening of any event or the discovery of any facts of the type described in Section 4(a)(v) hereof, such

Holder will forthwith discontinue disposition of Registrable Securities pursuant to a Registration Statement relating to such Registrable Securities until such Holder's receipt of the copies of the supplemented or amended Prospectus contemplated by Section 4(a)(v) hereof, and, if so directed by the Company, such Holder will deliver to the Company (at the Company's expense) all copies in such Holder's possession, other than permanent file copies then in such Holder's possession, of the Prospectus covering such Registrable Securities current at the time of receipt of such notice.

Section 5. **INDEMNIFICATION.**

(a) **Indemnification by the Company.** The Company agrees to indemnify and hold harmless each Holder, and the respective officers, directors, partners, employees, representatives and agents of any such Person, and each Person (a "**Controlling Person**"), if any, who controls (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) any of the foregoing Persons, as follows:

(i) against any and all loss, penalty, liability, claim, damage, judgment, suit, action, other liabilities and expenses whatsoever ("**Liabilities**"), as incurred, arising out of or based on any untrue statement or alleged untrue statement of a material fact contained in any Registration Statement (including any final, preliminary or summary Prospectus contained therein or any amendment or supplement thereto) pursuant to which Registrable Securities were registered under the Securities Act, including all documents incorporated therein by reference, or any other disclosure document produced by or on behalf of the Company or any of its subsidiaries including reports and other documents filed under the Exchange Act, or the omission or alleged omission therefrom of a material fact required to be stated therein or necessary to make the statements therein not misleading, or arising out of or based on any untrue statement or alleged untrue statement of a material fact contained in any Prospectus (or any amendment or supplement thereto) or the omission or alleged omission therefrom at such date of a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(ii) against any and all Liabilities, as incurred, to the extent of the aggregate amount paid in settlement of any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or of any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission; **provided** that (subject to Section 5(d) below) any such settlement is effected with the written consent of the Company, which consent shall not be unreasonably withheld; and

(iii) against any and all expense whatsoever, as incurred (including the fees and disbursements of counsel chosen by any indemnified party), reasonably incurred in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever arising out of or based upon any such untrue statement or omission, or any such alleged untrue statement or omission, to the extent that any such expense is not paid under subparagraph (i) or (ii) above; **provided, however,** that this indemnity agreement shall not apply to any Liabilities to the extent arising out of any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with written information furnished to the Company by the Holder expressly for use in a Registration Statement (or any amendment thereto) or any Prospectus (or any amendment or supplement thereto).

The indemnity in this Section 5(a) shall be in addition to any liability the Company may otherwise have. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Holder or any indemnified party and shall survive any transfer of such securities by such Holder. The Company shall



also indemnify underwriters, selling brokers, dealer managers and similar securities industry professionals participating in the offering, their officers and directors and each Person who controls such Persons (within the meaning of the Securities Act and the Exchange Act) to the same extent as provided above with respect to the indemnification of the indemnified parties.

(b) Indemnification by the Holders. Each Holder severally, but not jointly, agrees to indemnify and hold harmless the Company and the other selling Holders, and each of their respective officers, directors, partners, employees, representatives and agents, against any and all Liabilities described in the indemnity contained in Section 5(a) hereof, as incurred, but only with respect to untrue statements or omissions, or alleged untrue statements or omissions, made in a Registration Statement (or any amendment thereto) or any Prospectus included therein (or any amendment or supplement thereto) in reliance upon and in conformity with written information such Holder furnished to the Company by such Holder expressly for use in the Registration Statement (or any amendment thereto) or such Prospectus (or any amendment or supplement thereto); provided, however, that no such Holder shall be liable for any claims hereunder in excess of the amount of net proceeds received by such Holder from the sale of Registrable Securities pursuant to such Registration Statement.

(c) Notices of Claims, etc. Each indemnified party shall give notice as promptly as reasonably practicable to each indemnifying party of any action or proceeding commenced against it in respect of which indemnity may be sought hereunder; provided, however, that failure to so notify an indemnifying party shall not relieve such indemnifying party from any liability hereunder to the extent it is not materially prejudiced as a result thereof and in any event shall not relieve it from any liability which it may have otherwise than on account of this indemnity agreement. An indemnifying party may participate at its own expense in the defense of such action; provided, however, that counsel to the indemnifying party shall not (except with the consent of the indemnified party) also be counsel to the indemnified party. Other than in the case of any actual or potential conflict that may arise from a single counsel representing more than one indemnified party, the indemnifying party or parties shall not be liable for the fees and expenses of more than one counsel (in addition to any local counsel) separate from their own counsel for all indemnified parties in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances. No indemnifying party shall, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever in respect of which indemnification or contribution could be sought under this Section 5 (whether or not the indemnified parties are actual or potential parties thereto), unless such settlement, compromise or consent (i) includes an unconditional release of each indemnified party from all liability arising out of such litigation, investigation, proceeding or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

(d) Indemnification Payments. If at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel, such indemnifying party agrees that it shall be liable for any settlement of the nature contemplated by Section 5(a)(ii) effected without its written consent if (i) such settlement is entered into more than forty-five (45) days after receipt by such indemnifying party of the aforesaid request, (ii) such indemnifying party shall have received notice of the terms of such settlement at least thirty (30) days prior to such settlement being entered into and (iii) such indemnifying party shall not have reimbursed such indemnified party in accordance with such request prior to the date of such settlement.

(e) Contribution. If the indemnification provided for in this Section 5 is for any reason unavailable to or insufficient to hold harmless an indemnified party in respect of any Liabilities referred to therein, then each indemnifying party shall contribute to the aggregate amount of such Liabilities incurred by such indemnified party, as incurred, in such proportion as is appropriate to reflect the relative fault of the Company, on the one hand, and the Holders, on the other hand, in connection with the acts, statements or omissions which resulted in such Liabilities, as well as any other relevant equitable considerations.

The relative fault of the Company on the one hand and the Holders on the other hand shall be determined by reference to, among other things, whether any such untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Company or the Holders and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

The Company and the Holders agree that it would not be just and equitable if contribution pursuant to this Section 5 were determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to above in this Section 5. The aggregate amount of Liabilities incurred by an indemnified party and referred to above in this Section 5 shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue or alleged untrue statement or omission or alleged omission. Notwithstanding the provisions of this Section 5(e), no Holder shall be liable for any claims hereunder in excess of the amount of net proceeds received by such Holder from the sale of Registrable Securities pursuant to any such Registration Statement.

No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation.

For purposes of this Section 5, each Person, if any, who controls a Holder within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act shall have the same rights to contribution as a Holder, and each director of the Company, and each Person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act shall have the same rights to contribution as the Company.

Section 6. **HOLDBACK AGREEMENT.**

(a) Each Holder agrees not to effect any sale, transfer, or other actual or pecuniary transfer (including hedging and similar arrangements) of any Registrable Securities or of any other equity securities of the Company, or any securities convertible into or exchangeable or exercisable for such stock or securities, during the period beginning seven (7) days prior to, and ending ninety (90) days after (or for such shorter period as to which the managing underwriter(s) may agree), the date of the underwriting agreement of each Underwritten Offering made pursuant to a Registration Statement other than Registrable Securities sold pursuant to such Underwritten Offering, provided that (i) notwithstanding the foregoing, the duration of the foregoing restrictions shall be no longer than the duration of the shortest restriction generally imposed by the underwriters on any of the Company, the officers, directors or any other affiliate of the Company or any other stockholder of the Company on whom a restriction is imposed or with whom the Company has granted registration rights for any of its equity securities; and (ii) the Holders shall not be subject to the foregoing restrictions if and to the extent that the managing underwriter(s) agree to waive the restriction set forth in such underwriting agreement for any of the Persons set forth in the immediately preceding clause (i); provided further, that none of the restrictions in

this Section 6(a) shall apply to a Holder if such Holder has provided an Opt-Out Notice to the Company in accordance with Section 2(c)(ii) prior to receiving notice of such Underwritten Offering and has not revoked such Opt-Out Notice; and (b) the Company agrees not to effect any public sale or distribution of its equity securities (or any securities convertible into or exchangeable or exercisable for such securities) during the seven (7) days prior to and during the ninety (90)-day period beginning on the effective date of any underwritten Demand Registration (or for such shorter period as to which the managing underwriter or underwriters may agree), except as part of such Demand Registration or in connection with any employee benefit or similar plan, any dividend reinvestment plan, or a business acquisition or combination and to use all reasonable efforts to cause each holder of at least five percent (5%) (on a fully diluted basis) of its equity securities (or any securities convertible into or exchangeable or exercisable for such securities) which are or may be purchased from the Company at any time after the date of this Agreement (other than in a registered offering) to agree not to effect any sale or distribution of any such securities during such period (except as part of such Underwritten Offering, if otherwise permitted). Each Holder agrees to enter into any agreements reasonably requested by any managing underwriter reflecting the terms of this Section 6.

Section 7. **TERMINATION.**

(a) **Survival.** This Agreement and the rights of each Holder hereunder shall terminate upon the date that all of the Registrable Securities cease to be Registrable Securities. Notwithstanding the foregoing, the obligations of the parties under Section 5 of this Agreement shall remain in full force and effect following such time.

Section 8. **MISCELLANEOUS.**

(a) **Covenants Relating To Rule 144.** For so long as the Company is subject to the reporting requirements of Section 13 or 15 of the Securities Act, the Company covenants that it will file the reports required to be filed by it under the Securities Act and Section 13(a) or 15(d) of the Exchange Act and the rules and regulations adopted by the Commission thereunder. If the Company ceases to be so required to file such reports, the Company covenants that it will upon the request of any Holder of Registrable Securities (a) make publicly available such information as is necessary to permit sales pursuant to Rule 144 under the Securities Act, (b) deliver such information to a prospective purchaser as is necessary to permit sales pursuant to Rule 144A under the Securities Act and it will take such further action as any Holder of Registrable Securities may reasonably request, and (c) take such further action that is reasonable in the circumstances, in each case, to the extent required, from time to time, to enable such Holder to sell its Registrable Securities without registration under the Securities Act within the limitation of the exemptions provided by (i) Rule 144 under the Securities Act, as such Rule may be amended from time to time, (ii) Rule 144A under the Securities Act, as such rule may be amended from time to time, or (iii) any similar rules or regulations hereafter adopted by the Commission. Upon the request of any Holder of Registrable Securities, the Company will deliver to such Holder a written statement as to whether it has complied with such requirements and of the Securities Act and the Exchange Act (at any time after it has become subject to the reporting requirements of the Exchange Act), a copy of the most recent annual and quarterly report(s) of the Company, and such other reports, documents or stockholder communications of the Company, and take such further actions consistent with this Section 8(a), as a Holder may reasonably request in availing itself of any rule or regulation of the Commission allowing a Holder to sell any such Registrable Securities without registration.

(b) **Cooperation.** The Company shall cooperate with the Holders in any sale and or transfer of Registrable Securities including by means not involving a registration statement.

(c) No Inconsistent Agreements. The Company has not entered into and the Company will not after the date of this Agreement enter into any agreement which is inconsistent with the rights granted to the Holders of Registrable Securities pursuant to this Agreement or otherwise conflicts with the provisions of this Agreement. The rights granted to the Holders hereunder do not and will not for the term of this Agreement in any way conflict with the rights granted to the holders of the Company's other issued and outstanding securities under any such agreements.

(d) Expenses. All Registration Expenses of any Holder shall be borne by the Company, whether or not any Registration Statement related thereto becomes effective or other sale takes place.

(e) Amendments and Waivers. The provisions of this Agreement may be amended or waived at any time only by the written agreement of the Company and the Holders of a Majority of the Registrable Securities. Any waiver, permit, consent or approval of any kind or character on the part of any such Holders of any provision or condition of this Agreement must be made in writing and shall be effective only to the extent specifically set forth in writing. Any amendment or waiver effected in accordance with this paragraph shall be binding upon each Holder of Registrable Securities and the Company.

(f) Notices. All notices and other communications provided for or permitted hereunder shall be made in writing by hand delivery, registered first-class mail, facsimile, email or any courier guaranteeing overnight delivery: (a) if to a Holder, at the most current address given by such Holder to the Company by means of a notice given in accordance with the provisions of this Section 8(f); and (b) if to the Company, to NextDecade Corporation, Attention: Krysta De Lima (facsimile: (832) 403-2198; email: Krysta@next-decade.com). All such notices and communications shall be deemed to have been duly given: (i) if personally delivered, at the time delivered by hand; (ii) if by email, on receipt of a read receipt email from the correct address, twenty-four (24) hours from delivery if sent to the correct email address and no notice of delivery failure is received, or on receipt of confirmation of receipt from the recipient; (iii) if mailed, two (2) Business Days after being deposited in the mail, postage prepaid; (iv) if sent by facsimile (provided confirmation of transmission is mechanically or electronically generated and kept on file by the sending party), when receipt is acknowledged; and (v) if by courier guaranteeing overnight delivery, on the next Business Day if timely delivered to an air courier guaranteeing overnight delivery.

(g) Successor and Assigns. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the Company. If any transferee of any Holder shall acquire Registrable Securities, in any manner, whether by operation of law or otherwise, and such transferee executed a joinder to this Agreement, then such Registrable Securities so acquired by such transferee shall be held subject to all of the terms, and entitled to all of the benefits, of this Agreement, and by executing such joinder such transferee shall be conclusively deemed to have agreed to be bound by and to perform all of the terms and provisions of this Agreement, including the restrictions on resale set forth in this Agreement, and such transferee shall be entitled to receive the benefits hereof.

(h) Obligations Limited to Parties to Agreement. Each of the parties hereto covenants, agrees and acknowledges that no Person other than the Holders and the Company shall have any obligation hereunder and that, notwithstanding that one or more of the Holders may be a corporation, partnership or limited liability company, no recourse under this Agreement or under any documents or instruments delivered in connection herewith or therewith shall be had against any former, current or future director, officer, employee, agent, general or limited partner, manager, member, stockholder or affiliate of any Holder or any former, current or future director, officer, employee, agent, general or limited partner,

manager, member, stockholder or affiliate of any of the foregoing, whether by the enforcement of any assessment or by any legal or equitable proceeding, or by virtue of any applicable law, it being expressly agreed and acknowledged that no personal liability whatsoever shall attach to, be imposed on or otherwise by incurred by any former, current or future director, officer, employee, agent, general or limited partner, manager, member, stockholder or affiliate of any of the Holders or any former, current or future director, officer, employee, agent, general or limited partner, manager, member, stockholder or affiliate of any of the foregoing, as such, for any obligations of the Holders under this Agreement or any documents or instruments delivered in connection herewith or therewith or for any claim based on, in respect of or by reason of such obligation or its creation, except in each case for any transferee or assignee of a Holder hereunder.

(i) Specific Enforcement. Without limiting the remedies available to the Holders, the Company acknowledges that any failure by the Company to comply with its obligations under Section 2 hereof may result in material irreparable injury to the Holders for which there is no adequate remedy at law, that it would not be possible to measure damages for such injuries precisely and that, in the event of any such failure, a Holder may obtain such relief as may be required to specifically enforce the Company's obligations under Section 2 hereof.

(j) Counterparts. This Agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

(k) Headings. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

(l) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAW OF THE STATE OF DELAWARE REGARDLESS OF THE LAW THAT MIGHT OTHERWISE GOVERN UNDER APPLICABLE PRINCIPLES OF CONFLICTS OF LAW THEREOF.

(m) Severability. In the event that any one or more of the provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal or unenforceable, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions contained herein shall not be affected or impaired thereby.

(n) Jurisdiction and Venue; WAIVER OF JURY TRIAL. The undersigned irrevocably consents to the exclusive jurisdiction and venue of the courts of the State of Delaware or the federal courts located in the State of Delaware in connection with any matter based upon or arising out of this Agreement, agrees that process may be served upon it in any manner authorized by the laws of the State of Delaware and waives and covenants not to assert or plead any objection which it might otherwise have to such manner of service of process. The undersigned waives, and shall not assert as a defense in any legal dispute, that (a) it is not personally subject to the jurisdiction of the above named courts for any reason, (b) such Legal Proceeding may not be brought or is not maintainable in such court, (c) its property is exempt or immune from execution, (d) such Legal Proceeding is brought in an inconvenient forum or (e) the venue of such Legal Proceeding is improper. THE UNDERSIGNED UNCONDITIONALLY WAIVES ANY RIGHT TO TRIAL BY JURY ON ANY CLAIMS OR COUNTERCLAIMS ASSERTED IN ANY LEGAL DISPUTE RELATING TO THIS AGREEMENT. IF THE SUBJECT MATTER OF ANY SUCH LEGAL DISPUTE IS ONE IN WHICH THE WAIVER OF JURY TRIAL IS PROHIBITED, THE UNDERSIGNED SHALL NOT ASSERT IN SUCH LEGAL DISPUTE A NONCOMPULSORY COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT. FURTHERMORE,

THE UNDERSIGNED SHALL NOT SEEK TO CONSOLIDATE ANY SUCH LEGAL DISPUTE WITH A SEPARATE ACTION OR OTHER LEGAL PROCEEDING IN WHICH A JURY TRIAL CANNOT BE WAIVED.

*[Signature page follows]*

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

NEXTDECADE CORPORATION

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

*[Signature Page to Registration Rights Agreement]*

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

[HOLDER]

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

[HOLDER]

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

*[Signature Page to Registration Rights Agreement]*

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SCHEDULE I

HOLDERS

1. [HOLDER]

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**PURCHASER RIGHTS AGREEMENT**

This PURCHASER RIGHTS AGREEMENT (this “Agreement”), dated as of May [●], 2019, is entered into by and between NextDecade Corporation, a Delaware corporation (“NextDecade” or the “Company”), and each of the parties set forth on the signature pages hereto under the heading “Purchasers” (the “Purchasers”). Each of NextDecade and the Purchasers are referred to herein as a “Party” and collectively as the “Parties.”

**RECITALS:**

WHEREAS, the Company has commenced a convertible preferred equity and warrant offering (the “Series B Preferred Equity Offering”), pursuant to which the Purchasers have purchased shares of the Company’s Series B Convertible Preferred Stock (the “Series B Preferred Stock”), together with certain associated Warrants (as defined herein); and

WHEREAS, in connection with the purchase of the Series B Preferred Stock, the Purchasers were granted the additional rights set forth in this Agreement.

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

Section 1. **DEFINITIONS.** As used in this Agreement, the following terms shall have the following meanings:

“Affiliate” means, with respect to any specified Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such specified Person.

“Agreement” has the meaning assigned to it in the preamble hereto.

“Board” means the board of directors of the Company.

“Business Day” means any day that is not a Saturday, a Sunday or other day on which banks are required or authorized by Law to be closed in the City of New York.

“Commission” means the United States Securities and Exchange Commission.

“Common Stock” means the common stock of the Company, \$0.0001 par value.

“Company” has the meaning assigned to it in the preamble hereto.

“EPC Contract” means a fixed price, date certain engineering, procurement and construction contract with respect to the Project.

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“FID Equity” means capital or funds raised by the Company or any of its controlled affiliates on or after FID in order to finance the development, construction, commissioning and/or operation of the Project.

“FID Equity Notice” has the meaning set forth in Section 2(a) of this Agreement.

“FID Equity Securities” means any equity or equity-linked securities (including, without limitation, preferred equity, combinations of equity and/or any other instruments or forms of equity capital, as well as warrants, options, purchase rights, and other securities that are exercisable or exchangeable for or convertible into, equity securities of the Company or its controlled affiliates), issued by the Company or any of its controlled affiliates, whether offered and sold in a private placement or as part of a public offering, to the extent such securities or other instruments are issued in exchange for FID Equity.

“Final Investment Decision” or “FID” means the Board has affirmatively voted or consented to undertake construction of the Project and the Company has given a full notice to proceed under an EPC Contract.

“Governmental Authority” means any federal, national, supranational, foreign, state, provincial, local, county, municipal or other government, any governmental, regulatory or administrative authority, agency, department, bureau, board, commission or official or any quasi-governmental or private body exercising any regulatory, taxing, importing or other governmental or quasi-governmental authority, or any court, tribunal, judicial or arbitral body, or any Self-Regulatory Organization.

“Law” means any federal, national, supranational, foreign, state, provincial, local, county, municipal or similar statute, law, common law, guideline, policy, ordinance, regulation, rule, code, constitution, treaty, requirement, judgment or judicial or administrative doctrines enacted, promulgated, issued, enforced or entered by any Governmental Authority.

“NextDecade” has the meaning assigned to it in the preamble hereto.

“Party” or “Parties” has the meaning assigned to it in the preamble hereto.

“Person” means any individual, partnership, firm, corporation, limited liability company, association, joint venture, trust, Governmental Authority, unincorporated organization or other entity, as well as any syndicate or group that would be deemed to be a person under Section 13(d)(3) of the Exchange Act.

“Project” means the LNG liquefaction and export facility to be located on the U.S. Gulf Coast known as the Rio Grande LNG Project.

“Purchasers” has the meaning assigned to it in the preamble hereto.

“Purchaser FID Equity Preference Amount” means an aggregate amount of FID Equity Securities equal to \$[●] million, which amount shall be applied (i) as to an FID on Trains 1 and 2, up to a maximum of \$[●] million and (ii) as to an FID on Train 3, up to a maximum of \$[●] million such that the Purchaser FID Equity Preference Amount does not exceed \$[●] million.

“Purchaser Rights Agreement” means this Agreement.

“Self-Regulatory Organization” means any securities exchange, futures exchange, contract market, any other exchange or corporation or similar self-regulatory body or organization applicable to a Party to this Agreement.

“Series B Certificate of Designations” means the Certificate of Designations of Series B Convertible Preferred Stock of NextDecade Corporation, dated as of September 28, 2018.

“Series B Preferred Equity Offering” has the meaning assigned to it in the Recitals hereto.

“Series B Preferred Stock” has the meaning assigned to it in the Recitals hereto.

“Series B Purchase Price” means the aggregate purchase price to be paid by the Purchasers pursuant to the Series B Stock Purchase Agreement in respect of all shares of Series B Preferred Stock that the Purchasers have purchased pursuant thereto.

“Series B Stock Purchase Agreement” means that certain Series B Convertible Preferred Stock Purchase Agreement, dated as of May 17, 2019, by and among the Company and the Purchasers.

“Series C Notice” has the meaning assigned to it in Section 3(a) of this Agreement.

“Series C Preferred Stock” has the meaning assigned to such term in the Series B Certificate of Designations.

“Trains 1 and 2” means the first two liquefaction units to be constructed as part of the Project.

“Train 3” means the third liquefaction unit to be constructed as part of the Project.

“Warrants” means the warrants to purchase shares of Common Stock provided for in the Series B Stock Purchase Agreement.

## Section 2. **FID EQUITY RIGHT OF FIRST REFUSAL**

As an inducement for the Purchasers to enter into the transactions contemplated by the Series B Stock Purchase Agreement, the Company agrees, effective upon the Purchasers’ funding the Series B Purchase Price in full, as follows:

(a) If the Company proposes to consummate the issuance and sale of FID Equity Securities, then Company shall give written notice (an “FID Equity Notice”) to the Purchasers of the proposed issuance and sale of all such FID Equity Securities. The FID Equity Notice shall provide information consistent with notices to other third-party prospective investors, as determined by the Company with its financial advisor.

(b) The Purchasers shall have the right to participate in the process to raise FID Equity Securities by the Company and its advisors. The Purchasers shall be required

to comply with the syndication process as established by the Company's advisors, and will have access to information consistent with third-party prospective investors. Provided that any Purchaser gives notice to the Company consistent with the syndication process, the Purchasers, collectively, shall have the right, but not the obligation, to purchase up to the Purchaser FID Equity Preference Amount of FID Equity Securities, on the same terms and conditions as other investors who purchase a comparable amount of FID Equity Securities (with each such Purchaser electing to participate in such syndication participating pro rata based on its percentage ownership of the Company, determined on a fully diluted basis, relative to the other Purchasers who have elected to participate).

(c) To the extent that the Purchasers do not exercise their right, pursuant to Section 2(b), to purchase the full amount of the Purchaser FID Equity Preference Amount of FID Equity Securities, then Company shall be free to issue the FID Equity Securities with respect to which such exercise was not made; provided, however, that if the terms of such FID Equity Securities allocated for sale to third parties are more favorable than the terms originally offered to the Purchasers, the Company shall be obligated to offer those same, improved, terms to the Purchasers and the Purchasers shall be allowed another opportunity to accept or reject such improved terms as provided herein. If one or more Purchasers elects to purchase FID Equity Securities pursuant to Section 2(b), then the Company shall sell to such Purchasers, and such Purchasers shall purchase from the Company, for the consideration and on the terms as established by the syndication process, the FID Equity Securities that such Purchasers have duly elected to purchase pursuant to this Section 2(c) and the Company may issue the balance, if any, of the FID Equity Securities it proposed to issue in such FID Equity Notice in accordance with the immediately preceding sentence.

(d) If the sale of the FID Equity Securities is not completed within six (6) months of the date on which the FID Equity Notice is given, then the Company shall not thereafter sell FID Equity Securities without complying anew with the procedures described in this Section 2.

(e) Upon the advice of its financial adviser, the Company may modify the process and timing related to Section 2.

### Section 3. **SERIES C PURCHASE RIGHT**.

As an inducement for the Purchasers to enter into the transactions contemplated by the Series B Stock Purchase Agreement, until FID, the Company agrees, effective upon the Purchasers' funding the Series B Purchase Price in full, as follows:

(a) If the Company proposes to consummate the issuance and sale of any shares of Series C Preferred Stock, then Company shall give written notice (a "Series C Notice") to the Purchasers of the proposed issuance and sale of all such shares of Series C Preferred Stock. The Series C Notice shall provide information consistent with notices to other third-party prospective investors, as determined by the Company with its financial advisor.

(b) Each Purchaser shall have the right to purchase a number of shares of Series C Preferred Stock equal to its pro rata share of any issuance of Series C Preferred Stock, which pro rata share shall be determined based on (i) such Purchaser's percentage ownership of the then outstanding Series B Preferred Stock and Series A Preferred Stock (treating all such Series B Preferred Stock and Series A Preferred Stock as a single class), or (ii) if no Series A Preferred Stock or Series B Preferred Stock is then outstanding, such Purchaser's percentage ownership of Series B Preferred Stock and Series A Preferred Stock as of the last date on which such securities were outstanding.

(c) To the extent that any Purchaser does not exercise its right, pursuant to Section 3(b), to purchase the total number of shares of Series C Preferred Stock that such Purchaser is entitled to purchase, then Company shall be free to sell such shares of Series C Preferred Stock with respect to which such exercise was not made; provided, however, that if the terms of the issuance of such shares of Series C Preferred Stock allocated for sale to third parties are more favorable than the terms of the Series C Preferred Stock originally offered to the Purchasers, the Company shall offer those same, improved, terms to the Purchasers and the Purchasers shall be allowed another opportunity to accept or reject the more favorable terms as provided herein. If any Purchaser elects to purchase shares of Series C Preferred Stock pursuant to Section 3(b), then the Company shall sell to such Purchaser, and such Purchaser shall purchase from the Company, for the consideration and on the terms as established in connection with such offering, the shares of Series C Preferred Stock that such Purchasers have duly elected to purchase pursuant to this Section 3.

(d) If the sale of the Series C Preferred Stock is not completed within six (6) months of the date on which the Series C Notice is given, then the Company shall not thereafter sell Series C Preferred Stock without complying anew with the procedures described in this Section 3.

Section 4. **MISCELLANEOUS.**

4.1 **Representations and Warranties.** The Company hereby represents to the Purchasers that (i) it has full organizational power and authority to execute and deliver this Agreement and to comply with its obligations hereunder; (ii) the execution and delivery of this Agreement by it have been duly and validly authorized by all necessary organizational action on its part; and (iii) this Agreement has been duly and validly executed and delivered by it and the provisions of this Agreement constitute valid and binding obligations of it, enforceable against it in accordance with the terms hereof, except that such enforceability (x) may be limited by bankruptcy, insolvency, moratorium or other similar laws affecting or relating to the enforcement of creditors' rights generally, and (y) is subject to general principles of equity and the discretion of the court before which any proceedings seeking injunctive relief or specific performance may be brought.

4.2 **Payments.** All payments made by or on behalf of the Company or any of their Affiliates to the Purchasers or their respective assigns, successors or designees pursuant to this Agreement shall be without withholding, set-off, counterclaim or deduction of any kind.

4.3 Arm's Length Transaction. The Company acknowledges and agrees that (i) the Series B Preferred Equity Offering and any other transactions described in this Agreement are an arm's-length commercial transaction between the Parties and (ii) no Purchaser has assumed nor will any Purchaser assume an advisory or fiduciary responsibility in the Company's favor with respect to any of the transactions contemplated by this Agreement or the process leading thereto, and no Purchaser has any obligation to the Company with respect to the transactions contemplated by this Agreement except those obligations expressly set forth in this Agreement or the Offering Documents to which it is a party.

4.4 No Waiver of Rights. All waivers hereunder must be made in writing, and the failure of any Party at any time to require another Party's performance of any obligation under this Agreement shall not affect the right subsequently to require performance of that obligation. Any waiver of any breach of any provision of this Agreement shall not be construed as a waiver of any continuing or succeeding breach of such provision or a waiver or modification of any other provision.

4.5 Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given or made (and shall be deemed to have been duly given or made upon receipt) by delivery in person, by an internationally recognized overnight courier service, by email or registered or certified mail (postage prepaid, return receipt requested) to the respective Parties at the following addresses (or at such other address for any Party as shall be specified by such Party in a notice given in accordance with this Section 4.5).

(a) If to the Company, to:

NextDecade Corporation  
1000 Louisiana Street, Suite 3900  
Houston, Texas 77002  
Attention: Krysta De Lima, General Counsel  
krysta@next-decade.com

With a copy (which shall not constitute notice to the Company) to:

K&L Gates LLP  
214 North Tryon Street, 47<sup>th</sup> Floor  
Charlotte, North Carolina 28202  
Fax: (704) 353-3106  
Attention: Sean M. Jones  
Sean.Jones@klgates.com

(b) If to any Purchaser to the applicable notice addresses set forth in the Stock Purchase Agreement.

Any of the foregoing addresses may be changed by giving notice of such change in the foregoing manner, except that notices for changes of address shall be effective only upon receipt.

4.6 Headings. The section and subsection headings in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

4.7 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any Law or public policy, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect for so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible.

4.8 Entire Agreement. This Agreement and the agreements and documents referenced herein constitute the entire agreement of the Parties with respect to the subject matter hereof and supersede all prior agreements and undertakings, both written and oral, between the Parties with respect to the subject matter hereof.

4.9 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Except as set forth below or as otherwise agreed by the Parties in writing, neither this Agreement nor any of the rights, interests or obligations under this Agreement may be assigned by either Party (whether by operation of law or otherwise) without the prior written consent of the other Party. Notwithstanding the foregoing, the rights, obligations and interests of the Purchasers in this Agreement may be assigned or otherwise transferred, in whole or in part, by a Purchaser to any Affiliate of such Purchaser without the consent of the Company; provided, however, that any such assignee or transferee, as a condition precedent to such transfer, becomes a Party to this Agreement and assumes the obligations of such Purchaser, in each case, with respect to the transferred rights under this Agreement.

4.10 No Third-Party Beneficiaries. This Agreement shall be binding upon and inure solely to the benefit of the Parties and their respective successors and permitted assigns and, except as expressly set forth in Section 4.9 of this Agreement, nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever.

4.11 Amendment. This Agreement may not be altered, amended, or modified except by a written instrument executed by or on behalf of the Company and the Purchasers.

4.12 Governing Law. This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of New York, without regard to the conflicts of law principles thereof.

4.13 Consent to Jurisdiction. Each of the Parties (a) irrevocably and unconditionally agrees that any actions, suits or proceedings, at law or equity, arising out of or relating to this Agreement or any agreements or transactions contemplated hereby shall be heard and determined by the federal or state courts located in New York County in the State of New York; (b) irrevocably



submits to the jurisdiction of such courts in any such action, suit or proceeding; (c) consents that any such action, suit or proceeding may be brought in such courts and waives any objection that such Party may now or hereafter have to the venue or jurisdiction of such courts or that such action or proceeding was brought in an inconvenient forum; and (d) agrees that service of process in any such action, suit or proceeding may be effected by providing a copy thereof by any of the methods of delivery permitted by Section 4.5 to such Party at its address as provided in Section 4.5 (provided that nothing herein shall affect the right to effect service of process in any other manner permitted by Law).

4.14 Waiver of Jury Trial. EACH OF THE PARTIES HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT (WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY). EACH OF THE PARTIES HERETO HEREBY (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 4.14.

4.15 Counterparts. This Agreement may be executed and delivered (including by facsimile or electronic transmission) in one or more counterparts, and by the different Parties in separate counterparts, each of which when executed shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement. Signatures of the Parties transmitted by electronic mail shall be deemed to be their original signatures for all purposes.

4.16 Specific Performance. Each Party acknowledges that, in view of the uniqueness of the securities referenced herein and the transactions contemplated by this Agreement, the other Parties would not have an adequate remedy at law for money damages in the event that this Agreement has not been performed in accordance with its terms, and therefore agrees that the other Parties shall be entitled to specific performance and injunctive or other equitable relief, without the necessity of proving the inadequacy of monetary damages as a remedy.

4.17 Amendment of Company Documents. Neither the Company nor the Board shall (a) permit the bylaws or certificate of incorporation of the Company to be amended in any manner that would eliminate or have any negative impact on any of the provisions hereof or the rights conveyed to the Purchasers hereunder or (b) enter into any agreement, instrument or other arrangement that conflicts with the rights and provisions of this Agreement.

4.18 Waiver of Consequential Damages. In no event shall any Party or its Affiliates, or their respective managers, members, shareholders or representatives, be liable hereunder at any time for punitive, incidental, consequential special or indirect damages, including loss of future profits, revenue or income, or loss of business reputation of any other Party or any of its Affiliates, whether in contract, tort (including negligence), strict liability or otherwise, and each Party hereby

expressly releases each other Party, its Affiliates, and their respective managers, members, shareholders, partners, consultants, representatives, successors and assigns therefrom.

4.19 Rules of Construction. The Parties and their respective legal counsel participated in the preparation of this Agreement, and therefore, this Agreement shall be construed neither against nor in favor of any of the Parties, but rather in accordance with the fair meaning thereof. All definitions set forth in this Agreement are deemed applicable whether the words defined are used in this Agreement in the singular or in the plural, and correlative forms of defined terms have corresponding meanings. The term “including” is not limiting and means “including without limitation.” The term “or” has, except where otherwise indicated, the inclusive meaning represented by the phrase “and/or.” The words “hereof,” “herein,” “hereby,” “hereunder” and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. Section, subsection, clause, schedule, annex and exhibit references are to this Agreement unless otherwise specified. Any reference to this Agreement shall include all alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, and supplements thereto and thereof, as applicable. Whenever the context may require, any pronoun includes the corresponding masculine, feminine and neuter forms.

***[Signature pages follow]***

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

NEXTDECADE CORPORATION

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

**PURCHASERS:**

[PURCHASER]

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

Name:

Title:

[PURCHASER]

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

Name:

Title: