

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

BURGESS BIOPOWER, LLC, *et al.*¹

Debtors.

Chapter 11

Case No. 24-10235 (LSS)

(Jointly Administered)

**NOTICE OF HEARING TO CONSIDER CONFIRMATION
OF THE CHAPTER 11 PLAN FILED BY THE DEBTORS AND
RELATED VOTING AND OBJECTION DEADLINES**

PLEASE TAKE NOTICE THAT, on April 15, 2024, the United States Bankruptcy Court for the District of Delaware (the “Court”) entered an order (the “Disclosure Statement Order”), (a) authorizing Burgess BioPower, LLC (“Burgess”) and Berlin Station, LLC (“Berlin”) and together with Burgess, the “Debtors”), to solicit acceptances for the *Joint Chapter 11 Plan of Burgess BioPower, LLC and Berlin Station, LLC* (as modified, amended, or supplemented from time to time, the “Plan”); (b) approving the *Disclosure Statement for the Joint Chapter 11 Plan of Burgess BioPower, LLC and Berlin Station, LLC* (the “Disclosure Statement”)² as containing “adequate information” pursuant to section 1125 of the Bankruptcy Code; (c) approving the solicitation materials and documents to be included in the solicitation packages; and (d) approving procedures for soliciting, receiving, and tabulating votes on the Plan and for filing objections to the Plan.

PLEASE TAKE FURTHER NOTICE THAT the hearing at which the Court will consider Confirmation of the Plan (the “Confirmation Hearing”) will commence on **May 21, 2024 at 10:00 a.m. prevailing Eastern Time**, before the Honorable Laurie Selber Silverstein, in the United States Bankruptcy Court for the District of Delaware, 824 Market Street, 6th Floor, Courtroom No. 2, Wilmington, Delaware 19801.

Please be Advised: The Confirmation Hearing may be continued from time to time by the Court or the Debtors without further notice other than by such adjournment being announced in open court.

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number are: Burgess BioPower, LLC (0971) and Berlin Station, LLC (1913). The Debtors’ corporate headquarters are located at c/o CS Operations, Inc., 631 US Hwy 1, #300, North Palm Beach, FL 33408.

² Capitalized terms used and not defined have the meanings given to them in the Disclosure Statement and Plan, as applicable.

CRITICAL INFORMATION REGARDING VOTING ON THE PLAN

Voting Record Date. The record date to determine which Claims in Class 3A (Berlin Senior Note Claims) and Class 3B (Burgess Senior Note Claims) are entitled to vote on the Plan is April 8, 2024.

Only holders of Class 3A (Berlin Senior Note Claims) and Class 3B (Burgess Senior Note Claims) are entitled to vote to accept or reject the Plan. All other classes of Claims and Interests are deemed either to accept or reject the Plan.

Voting Deadline. The deadline for voting on the Plan is on **May 14, 2024 at 4:00 p.m. prevailing Eastern Time** (the “Voting Deadline”). If you received a Solicitation Package, including a Ballot and intend to vote on the Plan you **must**: (a) follow the instructions carefully; (b) complete **all** of the required information on the ballot; and (c) execute and return your completed Ballot according to and as set forth in detail in the voting instructions so that it is **actually received** by the Debtors’ solicitation agent, Epiq Corporate Restructuring LLC (the “Solicitation Agent”), on or before the Voting Deadline. A failure to follow such instructions may disqualify your vote.

CRITICAL INFORMATION REGARDING OBJECTING TO THE PLAN

Article VIII of the Plan contains Release, Exculpation, and Injunction provisions, and Article VIII.A.3. contains a Third-Party Release. Thus, you are advised to review and consider the Plan carefully because your rights might be affected thereunder.

PLEASE TAKE FURTHER NOTICE THAT the deadline for filing objections to the Plan is **May 14, 2024 at 4:00 p.m. prevailing Eastern Time** (the “Plan Objection Deadline”). Any objection to the Plan **must**: (a) be in writing; (b) conform to the Bankruptcy Rules, the Local Rules, and any orders of the Court; (c) state, with particularity, the basis and nature of any objection to the Plan and, if practicable, a proposed modification to the Plan that would resolve such objection; and (d) be filed with the Court (contemporaneously with a proof of service) and served upon the following parties so as to be **actually received** on or before the Plan Objection Deadline: (a) the Debtors, c/o CS Operations, Inc., 631 US Hwy 1, #300, North Palm Beach, FL 33408, Attn: Dean Vomero; (b) Foley Hoag, 1301 Avenue of the Americas, 25th Floor, New York, New York 10019, Attn: Alison Bauer, Esq. (abauer@foleyhoag.com) and Jiun-Wen Bob Teoh, Esq. (jteoh@foleyhoag.com), and 155 Seaport Boulevard, Boston, Massachusetts 02210, Attn: Kenneth S. Leonetti, Esq. (ksl@foleyhoag.com); (c) Gibbons, P.C., 300 Delaware Ave., Suite 1015, Wilmington, Delaware 19801, Attn: Katharina Earle (kearle@gibbonslaw.com), and One Gateway Plaza, Newark, New Jersey, 07102, Attn: Robert K. Malone, Esq. (rmalone@gibbonslaw.com); (d) the Office of the United States Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware; 19801, Attn: Jane M. Leamy, Esq. (jane.m.leafy@usdoj.gov); (e) counsel to the DIP Lenders and the Senior Secured Noteholders, Greenberg Traurig, LLP, One International Place, Suite 2000, Boston, MA 02110, Attn: Julia Frost-Davies (julia.frostdavies@gtlaw.com), One Vanderbilt Avenue, New York, New York 10017, Attn: Oscar N. Pinkas (pinkaso@gtlaw.com), Brian E. Greer (greerb@gtlaw.com), and Leo Muchnik (muchnikl@gtlaw.com), and 222

Delaware Avenue, Suite 1600, Wilmington, Delaware 19801, Attn: Dennis Meloro (melorod@gtlaw.com).

UNLESS AN OBJECTION IS TIMELY SERVED AND FILED IN ACCORDANCE WITH THIS NOTICE (THIS “NOTICE”), IT MAY NOT BE CONSIDERED BY THE COURT.

IF THE PLAN IS CONFIRMED BY THE COURT, IT WILL BE BINDING ON ALL OF THE DEBTORS’ CREDITORS AND INTEREST HOLDERS. FAILURE TO FILE A TIMELY OBJECTION TO THE PLAN OR, WITH RESPECT TO THE RELEASES SET FORTH IN ARTICLE VIII.A.3. OF THE PLAN, TO TIMELY OPT OUT VIA BALLOT OR OPT-OUT FORM, AS APPLICABLE, WILL RESULT, IF THE PLAN IS CONFIRMED, IN THE APPLICATION OF SUCH PROVISIONS OF THE PLAN, INCLUDING THE RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS CONTAINED IN ARTICLE VIII OF THE PLAN, TO EACH OF THE DEBTORS’ CREDITORS AND INTEREST HOLDERS, AS APPLICABLE. YOU ARE ADVISED AND ENCOURAGED TO CAREFULLY REVIEW AND CONSIDER THE PLAN, INCLUDING THE RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS, AS YOUR RIGHTS MAY BE AFFECTED.

IMPORTANT INFORMATION REGARDING RELEASES, INJUNCTIONS, AND EXCULPATIONS

The Plan contains the following provisions:

Article VIII.A.2. Releases by the Debtors

Notwithstanding anything in the Plan to the contrary, pursuant to section 1123(b) of the Bankruptcy Code, in exchange for good and valuable consideration, the adequacy of which is hereby confirmed, on and after the Plan Effective Date, each Released Party is, and is deemed to be, hereby conclusively, absolutely, unconditionally, irrevocably, and forever released by each of the Debtors, their respective Estates, and any Person seeking to exercise the rights of any of the Debtors or their Estates (including any successors to any of the Debtors or their Estates or any Estate representatives appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code), in each case, on behalf of themselves and their respective successors, assigns, and representatives, and any and all other Persons who may purport to assert any Cause of Action, derivatively, by, through, for, or because of any of the foregoing Persons, from any and all Claims and Causes of Action, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereafter arising, contingent or non-contingent, in law, equity, contract, tort or otherwise, that any of the Debtors, their Estates, the Reorganized Debtors or Wind-Down Debtor(s), as applicable, or any successors to or representatives of the foregoing appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code, would have been legally entitled to assert in their own right (whether individually or collectively) or that any holder of any Claim against or any Interest in, any of the Debtors could have asserted on behalf of any of the Debtors or their Estates, based on, relating to, or in any manner arising from, in whole or in part: any of the Debtors (including the capital structure, management, ownership, or operations thereof); any Security of any of the Debtors; the subject matter of, or the transactions or

events giving rise to, any Claim, Cause of Action or Interest; the business or contractual arrangements between any Debtor and a Released Party; the Senior Notes Documents; any of the Debtors' restructuring efforts; any Avoidance Actions held by any of the Debtors or their Estates; any intercompany transactions performed by any of the Debtors; the Debtors' Chapter 11 Cases (including the Filing thereof and any relief obtained by the Debtors therein); the formulation, preparation, dissemination, negotiation, or Filing of the Plan, the Plan Supplement, the Restructuring Support Agreement, the DIP Facility, the Disclosure Statement, or the Bidding Procedures Order (and the procedures approved thereby); any Restructuring Transaction, contract, instrument, release, or other agreement or document (including any legal opinion requested by any Person regarding any transaction, contract, instrument, document or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order with respect to the Plan in lieu of such legal opinion) created or entered into in connection with the Plan, the Restructuring Support Agreement, or the Bidding Procedures Order; the solicitation of votes on the Plan, the pursuit of Confirmation of the Plan, the pursuit of Consummation of the Plan, the implementation of the Plan, including the issuance or distribution of Securities or any other property pursuant to the Plan; or any other act or omission, transaction, agreement, event, or other occurrence related or relating to any of the foregoing taking place on or before the Plan Effective Date other than Claims and liabilities resulting therefrom arising out of or relating to any act or omission of a Released Party that constitutes actual fraud, willful misconduct, or gross negligence, in each case, solely to the extent determined by a Final Order of a court of competent jurisdiction. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any post-Plan Effective Date Claims or obligations of any Person under the Plan, the Confirmation Order with respect to the Plan, any Restructuring Transaction, any Definitive Document, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan. For the avoidance of doubt, the releases set forth solely in Article VIII.A.2 of the Plan do not release any direct claims or causes of action of a third party against the Released Parties, but shall be a release of any derivative claims asserted by third parties against the Released Parties.

Article VIII.A.3. Releases by Holders of Claims and Interests In the Debtors

Except as otherwise expressly set forth in the Plan or the Confirmation Order, on and after the Plan Effective Date, in exchange for good and valuable consideration, the adequacy of which is hereby confirmed, each Released Party is, and is deemed to be, hereby conclusively, absolutely, unconditionally, irrevocably and forever, released by each Releasing Party from any and all Causes of Action, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereafter arising, contingent or non-contingent, in law, equity, contract, tort, or otherwise, including any derivative claims asserted on behalf of the Debtors, that such Person would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part: any of the Debtors (including the capital structure, management, ownership, or operation thereof); any security of any of the Debtors or any of the Reorganized Debtors; the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan; the business or contractual arrangements between any Debtor and any Released

Party; the Senior Notes Documents; the assertion or enforcement of rights and remedies against any of the Debtors; the Debtors' in- or out-of-court restructuring efforts; any Avoidance Actions held by any of the Debtor(s) or their Estates; intercompany transactions between or among a Debtor and another Debtor; the Chapter 11 Cases; the formulation, preparation, dissemination, negotiation, or Filing of the Restructuring Support Agreement, the Disclosure Statement, the Bidding Procedures Order, the Plan, or the Plan Supplement; any Restructuring Transaction, contract, instrument, release, or other agreement or document created or entered into in connection with the Restructuring Support Agreement, the DIP Facility, the Disclosure Statement, the Bidding Procedures Order, the Plan, or the Plan Supplement; the Filing of the Debtors' Chapter 11 Cases; the Disclosure Statement, the Plan, the solicitation of votes with respect to the Plan, the pursuit of Confirmation of the Plan, the pursuit of Consummation of the Plan, the administration and implementation of the Plan, including the issuance or distribution of securities pursuant to the Plan, the distribution of property under the Plan or any other related agreement, or any cancellation of debt income realized in connection with the Plan; or upon any other act or omission, transaction, agreement, event, or other occurrence related or relating to any of the foregoing taking place on or before the Plan Effective Date, other than Claims and liabilities resulting therefrom arising out of or relating to any act or omission of a Released Party that constitutes actual fraud, willful misconduct, or gross negligence, each solely to the extent as determined by a Final Order of a court of competent jurisdiction. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release (i) any party of any obligations related to customary banking products, banking services or other financial accommodations (except as may be expressly amended or modified by the Plan or any other financing document under and as defined therein) or (ii) any post-Plan Effective Date obligations of any Person under the Plan, the Confirmation Order, any Stand-Alone Restructuring Transaction, any Definitive Document or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan, including the Purchase Agreement(s), if any, or any Claim or obligation arising under the Plan.

Article VIII.A.4. Exculpation from Claims Relating to the Plan

Except as otherwise specifically provided in the Plan or the Confirmation Order with respect to the Plan, no Exculpated Party shall have or incur liability for, and each Exculpated Party is hereby exculpated from, any Claims and Causes of Action related to any act or omission occurring between and including the Petition Date and the Plan Effective Date in connection with, relating to, or arising out of: the Debtors' Chapter 11 Cases (including the Filing thereof); the formulation, preparation, dissemination, negotiation, Filing, or termination of the Restructuring Support Agreement, the Plan, the Disclosure Statement, the Bidding Procedures Order, the DIP Facility, or any contract, instrument, release or other agreement or document created or entered into in connection with the Debtors' Chapter 11 Cases, whether or not included in the Plan Supplement or constituting a Definitive Document; the Restructuring Transactions contemplated by the Plan and any prepetition transactions relating to any of the foregoing; the pursuit of Confirmation of the Plan, the pursuit of Consummation of the Plan, the administration and implementation of the Plan, including

the issuance and distribution of Securities pursuant to the Plan, or the distribution of property under the Plan; any Purchase Agreement(s); or any other related act or omission, transaction, event, or other occurrence taking place on or before or in connection with the Plan Effective Date, except for Claims and liabilities resulting therefrom related to any act or omission that is determined in a Final Order by a court of competent jurisdiction to have constituted actual fraud, willful misconduct, or gross negligence by an Exculpated Party. The Exculpated Parties shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan in all respects.

Article VIII.A.5. Injunction

Except as otherwise expressly provided in the Plan or the Confirmation Order with respect to the Plan, all Persons who have held, hold, or may hold any Claims or Causes of Action against, or Interests in, any of the Debtors that have been released, discharged, or are subject to release or exculpation hereunder are permanently enjoined, from and after the Plan Effective Date, from taking any of the following actions against any of the Debtors, the Reorganized Debtors, the Wind-Down Debtor(s), as applicable, or any of the other Exculpated Parties or any of the Released Parties: (1) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with any such Claim, Cause of Action or Interest; (2) enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order against any of the Exculpated Parties or Released Parties on account of or in connection with any such Claim, Cause of Action or Interest; (3) creating, perfecting, or enforcing any Lien or encumbrance of any kind against any of the Exculpated Parties, Released Parties or their property on account of or in connection with or with respect to any such Claim, Cause of Action or Interest; and (4) asserting any right of setoff or subrogation against any obligation due from any of the Exculpated Parties, Released Parties or against their property on account of or in connection with any such Claim, Cause of Action or Interest unless, with respect to setoff, such holder has Filed a motion requesting the right to perform such setoff on or before the Plan Effective Date or Filed a Proof of Claim that asserts or preserves any such right, and until such motion has been granted or the Filed Proof of Claim is Allowed.

Upon entry of the Confirmation Order with respect to the Plan, all holders of Claims and Causes of Action against, and Interests in, any of the Debtors and their respective Related Parties shall be enjoined from taking any actions to interfere with the implementation of the Plan or any Sale Transaction(s) (if applicable).

In addition, the Plan contains the following related definitions:

- “Released Party” means, in its capacity as such, each of: (a) the Debtors and their Estates; (b) the officers of each of the Debtors and the members of any board of managers or directors of each Debtor, and employees of each Debtor; (c) the DIP Lenders and the DIP Agent and their respective Related Parties; (d) the Senior Lenders and their respective Related Parties; (e) the Senior Notes Agent and its Related Parties; (f) all holders of Claims or Interests that (A) vote to accept the Plan; (B) vote to reject the Plan and do not elect to opt out of the releases contained in Article VIII of the Plan; or (C) are Unimpaired

and do not timely File an objection to the releases contained in Article VIII of the Plan that is not resolved before Confirmation; and (g) in the event of one or more Sale Transaction(s), each Purchaser and the Plan Administrator (if applicable); provided, however, that no Person (other than the Debtors and the employees of each of the Debtors) shall be a Released Party unless such Person is also a Releasing Party hereunder; provided further, that if any Person that otherwise would qualify as a Sponsor has not signed the Restructuring Support Agreement on or prior to the Petition Date, then such Person shall not be a Released Party in any capacity.

- “Releasing Party” means, in its capacity as such, each of: (a) the officers of each of the Debtors, the members of any board of managers of each Debtor and the managing members (or comparable governing bodies or Persons) of any Debtor; (b) the DIP Lenders and the DIP Agent; (c) the Senior Lenders; (d) the Senior Notes Agent; (e) the Sponsors and their Related Parties; (f) all holders of Claims or Interests that (A) vote to accept the Plan; (B) vote to reject the Plan and do not elect to opt out of the releases contained in Article VIII of the Plan; or (C) are Unimpaired under the Plan and elect not to opt out of the releases contained in Article VIII of the Plan (or otherwise do not object to the releases prior to the objection deadline to Confirmation of the Plan); (g) in the event of one or more Sale Transaction(s), each Purchaser and the Plan Administrator (if applicable); (h) the parties to the Restructuring Support Agreement otherwise not set forth in the preceding clauses; and (i) each Related Party of each Person in clause (a) through clause (h), but solely in their capacity as such, and solely to the extent the Person to whom they are related can bind them to releases under the terms of applicable non-bankruptcy law or otherwise obtains their agreement to be bound by the releases contained in the Plan.
- “Exculpated Parties” means (a) the Debtors; (b) the officers of each of the Debtors and the members of any board of managers or directors of each Debtor, in each case, who served in the Debtors’ Chapter 11 Cases after the Petition Date through the Plan Effective Date; (c) any independent directors of the Debtors; and (d) all Professionals retained by the Debtors or the independent directors in the Debtors’ Chapter 11 Cases.

ASSUMPTION OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES OF DEBTORS AND RELATED PROCEDURES

In accordance with Article V of the Plan, if the Stand-Alone Restructuring is consummated, on the Effective Date, except as otherwise provided in the Plan or in any contract, instrument, release, indenture, or other agreement or document entered into in connection with the Plan, all Executory Contracts and Unexpired Leases shall be deemed rejected under section 365 of the Bankruptcy Code (other than the Restructuring Support Agreement, which, if not terminated prior to Confirmation, shall be deemed assumed as of the Confirmation Date), without the need for any further notice to or action, order, or approval of the Bankruptcy Court, under section 365 of the Bankruptcy Code, unless such Executory Contract or Unexpired Lease: (1) was previously assumed by a Debtor; (2) expired or was terminated pursuant to its own terms or by agreement of the parties thereto; (3) is the subject of a motion to assume Filed by the Debtors on or before the date of entry of the applicable Confirmation Order; or (4) is listed on the Assumed Executory

Contracts and Unexpired Leases List; provided, that rejections of Unexpired Leases of non-residential real property shall be effective as of the later of (a) the Plan Effective Date and (b) the date on which the leased premises are unconditionally surrendered to the landlord under such rejected Unexpired Lease.

If the Sale Transaction is consummated, on the Effective Date, (i) each Executory Contract and Unexpired Lease designated for assumption and assignment to a Purchaser in accordance with any Purchase Agreement shall be assumed by the applicable Debtor and assigned to the applicable Purchaser pursuant to the terms of the applicable Purchase Agreement and applicable orders of the Bankruptcy Court, and (ii) all Executory Contracts and Unexpired Leases not designated for assumption and assignment to the Purchaser in any Purchase Agreement, to the extent not previously rejected or terminated, shall be automatically rejected.

Each Executory Contract and Unexpired Lease assumed pursuant to Article V.A.1 of the Plan and assigned to a Purchaser shall vest in and be fully enforceable by the applicable Purchaser in accordance with its terms, except as such terms are modified by the provisions of the Plan or any order of the Bankruptcy Court. For the avoidance of doubt, any Executory Contract or Unexpired Lease not assumed by the Debtors and assigned to the Purchaser in connection with the Sale Transaction pursuant to the Sale Transaction Documents shall be deemed rejected as of the Effective Date.

ADDITIONAL INFORMATION

Additional Information. Copies of the Plan and the Disclosure Statement, as well as other filings in the chapter 11 cases, may be obtained free of charge by: (a) calling the Debtors' restructuring hotline at (877) 556-2937 (Domestic, toll-free) or +1 (503) 843-8526 (International); (b) visiting the Debtors' restructuring website at: <https://dm.epiq11.com/case/burgess>; and/or (c) emailing Burgess@epiqglobal.com (with "Burgess BioPower Solicitation" in the subject line). You may also obtain copies of any pleadings filed in these chapter 11 cases for a fee via PACER at <http://www.deb.uscourts.gov>. Please be advised that the Solicitation Agent is authorized to answer questions about, and provide additional copies of, solicitation materials, but may not provide legal advice.

Filing the Plan Supplement. The Debtors will file the initial Plan Supplement (as defined in the Plan) on or before seven (7) days prior to the Voting Deadline and will serve notice on all holders of Claims entitled to vote on the Plan, which will: (a) inform parties that the Debtors filed the Plan Supplement; (b) list the information contained in the Plan Supplement; and (c) explain how parties may obtain copies of the Plan Supplement.

Binding Nature of the Plan:

If confirmed, the Plan will bind all holders of Claims and Interests to the maximum extent permitted by applicable law, whether or not such holder will receive or retain any property or interest in property under the Plan, has filed a Proof of Claim in these chapter 11 cases, failed to vote to accept or reject the Plan, or voted to reject the Plan.

Dated: April 19, 2024

/s/ Katharina Earle

Katharina Earle (No. 6348)

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