IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
TONOPAH SOLAR ENERGY, LLC,[1]	Case No. 26-10060 (JKS)
Debtor.	**Objection Deadline: March 30, 2026, at 4:00 p.m. (ET)** **Hearing Date: April 6, 2026, at 3:00 p.m. (ET)**

MOTION OF THE DEBTOR FOR ENTRY OF AN ORDER APPROVING AND AUTHORIZING THE SETTLEMENT AGREEMENT BY AND BETWEEN THE DEBTOR AND FORMER MANAGER

The above-captioned debtor and debtor in possession (the "Debtor"), by and through its undersigned counsel, states as follows in support of this motion (the "Motion").[2]

RELIEF REQUESTED

1. The Debtor seeks entry of an order, substantially in the form attached to this Motion as **Exhibit A** (the "Proposed Order"), authorizing and approving that certain *Settlement Agreement and Mutual Release* by and between the Debtor and Mark Manski, a copy of which is attached to the Proposed Order as Exhibit 1 (as may be amended, supplemented, or otherwise modified from time to time, the "Agreement") and granting such other and further relief as the Court deems just and proper.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012. This is a core proceeding under 28 U.S.C. § 157(b).

[1] The Debtor in this chapter 11 case, along with the last four digits of its federal tax identification number, is Tonopah Solar Energy, LLC (1316). The Debtor's headquarters is located at 11 Gabbs Pole Line Road, Box 1071, Tonopah, NV 89049.

[2] A detailed description of the Debtor and its business, including the facts and circumstances giving rise to the Debtor's chapter 11 case, is set forth in the *Declaration of Yale Scott Bogen in Support of Debtor's Chapter 11 Petition and First Day Motions* [D.I. 12] (the "First Day Declaration"). Capitalized terms used but not otherwise defined in this Motion have the meaning given to them in the First Day Declaration.

3. Under rule 9013-1(f) of the Local Rules of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), the Debtor consents to the entry of a final order by the Court in connection with the Motion to the extent that it is later determined that the Court, absent the consent of the parties, cannot enter final orders or judgments in connection with this Motion consistent with article III of the United States Constitution.

4. Venue is proper in this District under 28 U.S.C. §§ 1408 and 1409.

5. The bases for the relief requested in this Motion are sections 105 and 363 of chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the "Bankruptcy Code"), as well as rules 9013 and 9019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Local Rule 9013-1.

BACKGROUND

A. General.

6. On January 21, 2026 (the "Petition Date"), the Debtor commenced a voluntary case under chapter 11 of the Bankruptcy Code. The Debtor is authorized to operate its business and manage its properties as debtor in possession under sections 1107(a) and 1108 of the Bankruptcy Code.

7. Additional factual background regarding the Debtor's business operations, corporate and capital structures, and restructuring efforts is described in greater detail in the First Day Declaration.

B. The Indemnification Obligations and Escrow.

8. Prior to the commencement of the Debtor's 2020 bankruptcy case (Case No. 20-11884, the "2020 Case"), the Debtor engaged Mr. Manski to serve as a manager. On December 9, 2020, the Court entered an order confirming the plan in the 2020 Case (the "2020 Plan").

9. Section 10.7 of the 2020 Plan provided, among other things, that the Debtor's "Indemnification Obligations" (as defined in the 2020 Plan) to current or former managers employed by the Debtor on or after the petition date in the 2020 Case would be deemed assumed as of the effective date of the 2020 Plan. Section 10.7 of the Plan also provided that the Debtor would establish an escrow with cash equal to $2,500,000 (the "Indemnification Escrow Account") for the Indemnification Obligations, to the extent such obligations were not satisfied by the Debtor or any applicable D&O insurance policies. The Debtor, Citibank, N.A., as escrow agent, and four former managers of the Debtor, including Mr. Manski, entered into an escrow agreement (the "Escrow Agreement"), creating and funding the Indemnification Escrow Account on December 23, 2020.

10. The Escrow Agreement provides for the release of escrowed funds pursuant to one or more "Joint Release Instructions," a "Unanimous Joint Release Instruction," and/or upon receipt by the escrow agent of a Final Determination (each as defined in the Escrow Agreement). Up to $625,000 may be released by way of Joint Release Instructions executed by the Debtor and any single indemnitee, or if not executed by the Debtor, by an order of the Bankruptcy Court; releases of more than $625,000 to a single indemnitee require a Joint Instruction agreed to by all of the indemnitees and either the Debtor or as directed by the Bankruptcy Court (or other court of competent jurisdiction).

11. In addition to the Debtor's indemnification obligations, any applicable D&O insurance, and the Escrow Indemnification Account, the Debtor also prepaid an additional legal fee retainer on behalf of Mr. Manski prior to the Petition Date. Specifically, in 2021, the Debtor funded $150,000 to the law firm of McDermott Will & Schulte LLP ("MWS") (then Schulte Roth

& Zabel, LLP), counsel for Mr. Manski. As of January 31, 2026, MWS represented that $18,260.84 of the retainer remained.

12. Since 2024, the Debtor has also engaged Mr. Manski under that certain *Consultant Agreement* (the "Existing Consulting Agreement"), under which Mr. Manski agreed to provide consulting services to the Debtor. Mr. Manski is not currently a manager or officer of the Debtor, nor is he an insider of the Debtor or any affiliate of the Debtor.

13. On February 4, 2026, the Debtor filed its bankruptcy schedules and statement of financial affairs. Mr. Manski is listed on the schedules as a creditor with respect to the Debtor's ongoing indemnification obligations. Mr. Manski's claim was scheduled as contingent and unliquidated and in an unknown amount.

14. The Debtor and Mr. Manski have conferred and wish to consensually resolve all issues between them with respect to the Indemnification Obligations, the Indemnification Escrow Account, the retainer, and the Existing Consulting Agreement (collectively, the "Resolved Matters").

C. The Agreement.

15. To address the Resolved Matters, the Debtor and Mr. Manski engaged in good faith, arms'-length negotiations regarding (i) an agreed release of certain of the funds from the Indemnification Escrow Account, (ii) the termination of the Existing Consulting Agreement, (iii) entry into a new consulting agreement with ACS Industrial Activities, Inc., the indirect parent company of the Debtor, and (iv) mutual releases between the parties, including as to any ongoing indemnification obligations. These negotiations culminated in the Agreement, which the Debtor and Mr. Manski executed on March 16, 2026, subject to this Court's approval under Bankruptcy Rule 9019.

16. Among other things, the Agreement provides that, following approval by the Court, the Debtor and Mr. Manski will execute a Joint Release Instruction (as defined in the Escrow Agreement), providing for the immediate release of $625,000 of escrowed funds, of which (a) $192,000 will be distributed to Mr. Manski as advancement of indemnified funds as set forth below (the "Manski Funds") and (b) $433,000 will be distributed to the Debtor (the "TSE Funds").[3]

17. $100,000 of the Manski Funds will be paid to Mr. Manski directly, and $92,000 of the Manski Funds will be paid to MWS as an additional retainer. Under the Agreement, Mr. Manski may, at any time after distribution and in his sole discretion, elect to receive any and all retainers held by MWS on Mr. Manski's behalf. The TSE Funds will be refunded to the Debtor, subject to the pre- and post-petition liens of the Debtor's secured lender. For the avoidance of doubt, the Debtor will have no rights at any time, including in the future, to the Manski Funds, whether or not they are ever used for indemnification.

18. Upon the effective date of the Agreement, the Debtor will no longer have or owe any advancement or indemnification obligations to Mr. Manski. Accordingly, Mr. Manski will not have a claim in this case and, therefore, will not be entitled to vote on any chapter 11 plan proposed in this case. Each of Mr. Manski and the Debtor will retain all rights under and to any applicable D&O liability insurance policy.

BASIS FOR RELIEF

19. Section 363(b) of the Bankruptcy Code governs transactions outside the ordinary course involving property of the debtor's estate. Specifically, section 363(b) provides, in relevant part, that "[t]he [debtor], after notice and a hearing, may use, sell, or lease other than in the ordinary

[3] Other than with respect to Mr. Manski, the Escrow Agreement will remain in place subject to its terms and the terms of the 2020 Plan.

course of business, property of the estate . . ." The Debtor's sale or use of property of the estate outside the ordinary course of business should be approved by the Court if the Debtor can demonstrate a sound business justification for the proposed transaction. *See In re Del. & Hudson Ry. Co.*, 124 B.R. 175 (D. Del. 1991); *Myers v. Martin (In re Martin)*, 91 F.3d 389, 394–95 (3d Cir. 1996) (citing *Fulton State Bank v. Schipper (In re Schipper)*, 933 F.2d 513 (7th Cir. 1991)).

20. In addition, Bankruptcy Rule 9019(a) provides, in relevant part, "[o]n the trustee's motion and after notice and a hearing, the court may approve a compromise or settlement." "[T]he authority to approve a compromise settlement is within the sound discretion of the bankruptcy court." *E.g., In re Key3Media Group, Inc.*, 336 B.R. 87, 92 (Bankr. D. Del. 2005). A court should approve a compromise where it "is fair, reasonable, and in the interest of the estate." *In re Marvel Entm't Group, Inc.*, 222 B.R. 243, 249 (D. Del. 1998) (quoting *In re Louise's, Inc.*, 211 B.R. 798, 801 (D. Del. 1997)); *see also In re Martin*, 91 F.3d at 394.

21. When considering the best interest of the estate, a court must "balance the value of the claim that is being compromised against the value to the estate of the acceptance of the compromise proposal." *In re Martin*, 91 F.3d at 393. In striking this balance, the court should consider: (a) the probability of success in litigation; (b) the likely difficulties in collection of any judgment; (c) the complexity of the litigation involved and the expense, inconvenience, and delay necessarily attending it; and (d) the paramount interest of creditors. *Id.* A court does not have to be convinced that the settlement is the best possible compromise. "Rather, the court must conclude that the settlement is within the reasonable range of litigation possibilities." *In re World Health Alternatives, Inc.*, 344 B.R. 291, 296 (Bankr. D. Del. 2006) (internal citations omitted). A court will normally accept the debtor's business judgment as long as a legitimate business justification exists. *E.g., Martin*, 91 F.3d at 395.

22. For avoidance of doubt, the funds in the Indemnification Escrow Account are not property of the Debtor's estate. The Debtor has contractual rights under the Escrow Agreement, however, and seeks to exercise those rights as set forth in the Agreement, which may constitute a use of property outside the ordinary course of business.

23. The Debtor has concluded, in the exercise of its business judgment, that the Agreement is fair, reasonable, and in the best interests of the Debtor and its estate and creditors. The Agreement also satisfies standards for approval under each of section 363(b) of the Bankruptcy Code and Bankruptcy Rule 9019, as well as the *Martin* factors described in this Motion, to the extent applicable.

24. Among other things, the Agreement resolves an uncertain, prospective indemnification obligation and corresponding contingent claim, and also provides for the release of the TSE Funds for the benefit of the Debtor's estate. Absent the Agreement, the funds in the Indemnification Escrow Account could remain unavailable for an undeterminable amount of time, and the Debtor is not certain to realize its reversionary interest. Through the Agreement, on the other hand, the Debtor avoids this uncertainty and realizes a large percentage of the funds being released from the escrow now, without any risk of those funds being depleted. The Agreement thus eliminates inherent uncertainty, as well as the cost of any attendant litigation.

25. That is, the proposed settlement appropriately balances potential risks, recognizes that the Debtor may not ultimately recover on its reversionary interest, and avoids otherwise guaranteed delays, uncertainty, and expense associated with waiting for the termination of the Indemnification Escrow Account. Approval of the Agreement therefore allows the Debtor to continue focusing its efforts on a value-maximizing sale transaction, timely distributions to creditors, and the efficient conclusion of this chapter 11 case via the plan confirmation process.

26. Finally, as noted above, the Agreement is the result of substantial, good faith, arms'-length negotiations by and among the Debtor and Mr. Manski, in consultation with relevant stakeholders. The Agreement is favorable to the Debtor's estate and constitutes a reasonable exercise of the Debtor's business judgment. Accordingly, for the reasons set forth in this Motion, the Debtor respectfully submits that the *Martin* factors are satisfied, and the Court should enter an order authorizing the Debtor's entry into, and performance under, the Agreement.

RESERVATION OF RIGHTS

27. Nothing contained in this Motion or the Proposed Order (i) is intended or may be deemed to constitute an assumption of any agreement under section 365 of the Bankruptcy Code or an admission as to the validity of any claim against the Debtor and its estate; (ii) impairs, prejudices, waives, or otherwise affects the rights of the Debtor and its estate with respect to the validity, priority, or amount of any claim against the Debtor and its estate; (iii) impairs, prejudices, waives, or otherwise affects the rights of the Debtor and its estate with respect to any and all claims or causes of action against any third party; or (iv) may be construed as a promise to pay a claim. Likewise, if the Court grants the relief sought in this Motion, any payment made pursuant to the Court's order is not intended to be and should not be construed as an admission to the validity, priority, or amount of any claim or a waiver of the Debtor's rights to subsequently dispute such claim.

NOTICE

28. Notice of this Motion will be provided to: (a) the U.S. Trustee; (b) the Office of the United States Attorney for the District of Delaware; (c) all creditors; (d) counsel to the Prepetition Lender and DIP Lender; (e) the Internal Revenue Service; (f) the attorneys general for the States of Delaware and Nevada; (g) the Bureau of Land Management; (h) all parties to the Indemnification Escrow Agreement; and (i) any party that has requested notice under Bankruptcy

Rule 2002. The Debtor respectfully submits that such notice is sufficient, and no other further notice of this Motion is required.

[*Remainder of page intentionally left blank*]

CONCLUSION

WHEREFORE, the Debtor respectfully requests entry of the Proposed Order, substantially in the form attached as **Exhibit A**, granting the relief requested in this Motion and such other and further relief to the Debtor as the Court may deem just and proper.

Dated: March 16, 2026
Wilmington, Delaware

Respectfully submitted,

DLA PIPER LLP (US)

/s/ Aaron S. Applebaum
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Wilmington, Delaware 19801
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- and -

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Proposed Co-Counsel to the Debtor

<u>EXHIBIT A</u>

Proposed Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: TONOPAH SOLAR ENERGY, LLC,[1] Debtor.	Chapter 11 Case No. 26-10060 (JKS) **Related D.I.: [__]**

ORDER APPROVING AND AUTHORIZING THE SETTLEMENT AGREEMENT BY AND BETWEEN THE DEBTOR AND FORMER MANAGER

Upon consideration of the motion (the "Motion")[2] of the above-captioned debtor and debtor in possession (the "Debtor") for the entry of an order approving and authorizing the Agreement by and between the Debtor and Mark Manski, attached to this Order as **Exhibit 1**, all as more fully described in the Motion; and upon consideration of the Motion and all filings related thereto; and due and proper notice of the Motion having been given; and having determined that no other or further notice of the Motion is required; and having determined that this Court has jurisdiction to consider the Motion in accordance with 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012; and having determined that this is a core proceeding under 28 U.S.C. § 157(b)(2); and having determined that venue of this proceeding and the Motion is proper under 28 U.S.C. §§ 1408 and 1409; and this Court having found and determined that the relief sought in this Motion is in the best interests of the Debtor's estate, its creditors, and other parties in interest; and this Court having reviewed the Motion and having heard statements in support of the relief requested therein at a hearing before this Court (the "Hearing"), if applicable; and this

[1] The Debtor in this chapter 11 case, along with the last four digits of its federal tax identification number, is Tonopah Solar Energy, LLC (1316). The Debtor's headquarters is located at 11 Gabbs Pole Line Road, Box 1071, Tonopah, NV 89049.

[2] Capitalized terms used but not otherwise defined in this Order have the meaning given to them in the Motion.

Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted in this Order; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED, as set forth in this Order.

2. The Agreement is APPROVED. The Debtor is authorized to enter into and perform under the Agreement, attached as **Exhibit 1**.

3. The Debtor is authorized to take any and all actions it deems necessary to complete, effectuate, and implement the terms and provisions of the Agreement and to effectuate the relief granted herein.

4. Notwithstanding any applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

5. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

EXHIBIT 1

Agreement

Execution Version

This SETTLEMENT AGREEMENT AND MUTUAL RELEASE (the "Agreement"), dated as of March 16, 2026, is entered into by and between debtor Tonopah Solar Energy, LLC ("***TSE***" or "***Debtor***"), on the one hand, and Mark Manski ("***Manski***"), on the other. TSE and Manski are referred to in this Agreement collectively as to the "***Parties***."

Recitals[1]

A. Prior to the commencement of the 2020 Case (as defined below), TSE engaged Manski to serve as a manager of TSE.

B. On July 30, 2020, TSE filed a chapter 11 petition commencing its original bankruptcy case (the "***2020 Case***").

C. On September 8, 2020, TSE filed an amended chapter 11 plan in the 2020 Case (the "***2020 Plan***").

D. On December 9, 2020, the Delaware bankruptcy court entered an order confirming the 2020 Plan.

E. Section 10.7 of the 2020 Plan provided, among other things, that TSE's "***Indemnification Obligations***" (as defined in the 2020 Plan) "to a current or former director, officer, manager or employee who was employed by the Debtor in such capacity on or after the Petition Date (including, for the avoidance of doubt, the members of the board of directors, board of managers or equivalent body of the Debtor at any time) shall be deemed assumed effective as of the Effective Date. Each Indemnification Obligation that is deemed assumed pursuant to the Plan shall (a) remain in full force and effect, (b) not be modified, reduced, discharged, impaired or otherwise affected in any way, (c) be deemed and treated as an executory contract pursuant to sections 365 and 1123 of the Bankruptcy Code regardless of whether or not proofs of claim have been filed with respect to such obligations and (d) survive Unimpaired (as defined by the Bankruptcy Code) and unaffected irrespective of whether such indemnification is owed for an act or event occurring before, on or after the Petition Date."

F. Section 10.7 of the 2020 Plan further provided that TSE would establish an escrow, with cash equal to $2,500,000 (the "***Indemnification Escrow Account***"), so that to the extent TSE's Indemnification Obligations were not satisfied by TSE or by any applicable D&O liability insurance policy(ies), the escrow funds may be utilized for such indemnification obligations.

G. On December 23, 2020, the Parties, along with Citibank, N.A., as escrow agent, and certain other former managers of the TSE entered into an escrow agreement, as contemplated by

[1] These Recitals are provided for background purposes only and are not to be construed as an admission by any Party.

Execution Version

the 2020 Plan (the "***Escrow Agreement***"), thus creating and funding the Indemnification Escrow Account.

H. [redacted]

I. [redacted]

J. The Escrow Agreement provides for the release of escrowed funds pursuant to one or more Joint Release Instructions, a Unanimous Joint Release Instruction, and/or upon receipt by the escrow agent of a Final Determination (each as defined in the Escrow Agreement). Up to $625,000 may be released by way of Joint Release Instructions executed by TSE and any single indemnitee, or if not executed by TSE, by an order of the Bankruptcy Court; releases of more than $625,000 to a single indemnitee require a Joint Instruction agreed to by all of the indemnitee and either TSE or as directed by the Bankruptcy Court (or other court of competent jurisdiction).

K. In addition to the indemnification obligations of TSE, any applicable D&O insurance, and the Escrow Indemnification Account, TSE also prepaid an additional legal fee retainer on behalf of Manski. Specifically, in 2021, TSE funded $150,000.00 to the law firm of McDermott Will & Schulte LLP ("***MWS***") (then Schulte Roth & Zabel, LLP), counsel for Manski. As of January 31, 2026, MWS represented that $18,260.84 of the retainer remained.

L. On January 21, 2026, TSE filed a second chapter 11 case (the "***2026 Case***"), through which it seeks to sell its assets and resolve other outstanding assets and liabilities, including with respect to (i) any contingent indemnification obligations to Manski and the other indemnitees under the Escrow Agreement and (ii) the Parties' respective rights related to the Escrow Agreement, the 2020 Plan, and related retainers.

M. Manski is not a current insider of TSE. Since June 2024, Manski has been engaged by TSE as a consultant, under that certain Consultant Agreement (the "***Existing Consulting Agreement***"). Manski is not a manager or officer of TSE nor is he an insider of any affiliate of TSE.

[redacted]

N. On February 4, 2026, TSE filed its bankruptcy schedules in the 2026 Case. Manski was listed on the schedules as a creditor with respect to TSE's ongoing indemnification obligations. Manski's claim was scheduled as contingent and unliquidated and in an unknown amount.

AGREEMENT

For and in consideration of the covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the terms of the settlement in this Agreement, subject to the approval of the Bankruptcy Court.

1. Bankruptcy Court Approval. This Agreement is subject to entry of a final order of the Bankruptcy Court approving this Agreement under Federal Rule of Bankruptcy 9019. The date that an order is entered approving this Agreement is referred to as the "***Agreement Approval Date***."

2. 9019 Motion. Not more than three business days after execution of this Agreement, the Debtor will submit this Agreement for approval to the Bankruptcy Court by motion filed under Bankruptcy Rule 9019 (the "***Rule 9019 Motion***"). The Debtor will notice the Rule 9019 Motion in accordance with applicable bankruptcy law, including any orders of the Bankruptcy Court limiting notice. Manski will support approval of the Rule 9019 Motion, including by appearing and testifying at any hearing on the Rule 9019 Motion if reasonably requested.

3. Escrow Release. On the Agreement Approval Date, provided that the order approving the Rule 9019 Motion has not been stayed, the Debtor and Manski will execute a Joint Release Instruction (as defined in the Escrow Agreement), providing for the immediate release of $625,000 of escrowed funds, of which (a) $192,000.00 will be distributed to Manski as set forth below (the "***Manski Funds***") as advancement of indemnified funds and (b) $433,000.00 will be distributed to the Debtor (the "***TSE Funds***"). $100,000 of the Manski Funds will be paid to Manski directly, and $92,000 of the Manski Funds will be paid to MWS as an additional retainer. Manski may, at any time after distribution and in his sole discretion, elect to receive any and all retainers held by MWS on Manski's behalf. The TSE Funds will be refunded to the Debtor, subject to the pre- and post-petition liens of TSE's secured lender. For avoidance of doubt TSE has no rights at any time, including in the future to the Manski Funds, whether they are ever used for indemnification.

4. D&O Insurance Rights Reserved. Each of Manski and the Debtor will retain all rights under and to any applicable D&O liability insurance policy.

5. Future Indemnification/Bankruptcy Claims. On the Settlement Effective Date, the Debtor will no longer have or owe any advancement or indemnification obligations to Manski. Accordingly, Manski will not have a claim in the 2026 Case and, therefore, will not be entitled to vote on any chapter 11 plan proposed in the 2026 Case.

6. Release. The Parties on their own behalf and on behalf of their respective heirs, personal representatives, successors, assigns, partners, directors, officers, stockholders, members, managers, general managers, owners, trustees, affiliates, employees, agents, and attorneys, past or present (collectively, the "***Releasing Parties***"), hereby release and forever discharge the other Parties and their respective heirs, personal representatives, successors, assigns, partners, directors, officers, stockholders, members, managers, general managers, owners, trustees, affiliates, employees, agents, and attorneys, past or present (collectively, the ("***Released Parties***"), from any and all claims, damages, causes of action, actions, demands, suits, rights, costs and expenses (including attorneys' fees), known or unknown, choate or inchoate, of whatever kind or nature, whether direct, indirect, derivative, vicarious or subrogated in nature, which the Releasing parties have, had or could have had as of the date of execution of this Agreement. The Released Parties are intended third-party beneficiaries of this release, and may enforce this release. Nothing in this paragraph affects the ability of any Party to enforce the rights and obligations specifically provided for in this Agreement or in the New Consulting Agreement (as defined below).

7. Escrow Agreement. Other than with respect to Manski, the Escrow Agreement will remain in place subject to its terms and the terms of the 2020 Plan.

8. New Consulting Agreement. Manski has separately agreed to enter into a new consulting agreement with ACS Industrial Activities, Inc. ("***ACSIA***"), a non-debtor affiliate of the Debtor (the "***New Consulting Agreement***"). Upon execution of the New Consulting Agreement, the Existing Consulting Agreement will be terminated. Under the New Consulting Agreement, ACSIA will pay Manski an initial up-front payment of $90,000, and then $15,000 per month quarterly in advance on such terms as agreed to between Manski and ACSIA. The New Consulting Agreement will expire on December 31, 2027, subject to the rights of either ACSIA or Manski to terminate on 30-days' advance notice to the other party.

9. Entire Agreement; Amendment; Assigns. All agreements, covenants, representations and warranties, express and implied, oral and written, of the Parties to this Agreement concerning its subject matter are contained herein. The Parties represent and acknowledge that in executing this Agreement, they do not rely and have not relied upon any other agreement, covenant, representation, statement or warranty, express or implied, oral or written, whether made by the Parties, or any other person or entity, with regard to the subject matter, basis or effect of this Agreement. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, representations, covenants

and warranties concerning the subject matter of this Agreement are merged herein. This is an integrated agreement. Any amendment to this Agreement must be in writing and signed by each of the Parties. This Agreement is for the benefit of, and shall be binding upon, the successors and assigns of the Parties. Neither Party may assign this Agreement without prior written consent of the other Party.

10. Consultation with Attorneys. The Parties each acknowledge and warrant that they have had sufficient time to review and consider this Agreement, and they have had the opportunity to consult with their legal counsel regarding the advisability of entering into this Agreement, including the releases provided herein.

11. Governing Law. This Agreement, and any claim arising out of, relating to, referencing, or concerning this Agreement, will be governed by Delaware law without regard to conflict-of-law principles. The Parties agree that the Agreement, and all matters related to its enforcement, will be subject to the exclusive jurisdiction of the United States Bankruptcy Court for the District of Delaware, or, if that court finds that it lacks subject-matter jurisdiction, to the exclusive jurisdiction of the courts of the State of Delaware, and the Parties agree to waive any objections to the jurisdiction of those courts with respect to such claims on the grounds of personal jurisdiction, *forum non conveniens*, venue, or similar grounds.

12. No Waiver. No waiver of any of the provisions of this Agreement will be deemed to constitute a waiver of any of the other provisions hereof, whether or not similar, nor will such waiver constitute a continuing waiver. The failure of any of the Parties to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver thereof or deprive any of the Parties of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement.

13. Interpretation; Severability. If any provision of this Agreement should require interpretation, the Parties agree there shall be no presumption for or against either Party based on drafting or preparation. If any provision of this Agreement is deemed illegal, void or non-enforceable, the Parties agree that all remaining provisions of this Agreement will remain in full force and effect to the maximum extent feasible.

14. Not Admissible in Evidence. This Agreement and the contents hereof will not be admissible as evidence in any litigation except to enforce this Agreement and will not be deemed to be an admission by any Party under this Agreement.

15. Authorization. Each Party represents and warrants that the persons signing this Agreement on its behalf are fully authorized to do so.

16. Execution; Counterparts. This Agreement may be executed in counterparts, which, taken together, will constitute one and the same Agreement. This Agreement may be signed and delivered by means of a facsimile or electronic transmission in portable document format (.pdf), and shall be treated in all respects as an original.

17. Construction. Words in the singular number in this Agreement shall be construed to include the plural, and vice versa, unless the context requires otherwise. The words "include" or

"including" when used in this Agreement shall mean "including, but not limited to." The word "or" shall not be exclusive.

18. Headings. The headings in this Agreement are provided solely for convenience and organization. They do not alter or affect the meaning of this Agreement.

19. Notices. All notices required or permitted hereunder shall be provided to the Party to be notified, in writing by both overnight delivery and email, both directly and to the Party's counsel as specified below, unless informed of a change of address in writing:

To: TSE
c/o DLA Piper LLP (US)
Attn: Aaron S. Applebaum, Esq.
1201 North Market Street, Suite 2100
Wilmington, DE 19801
Email: aaron.applebaum@us.dlapiper.com

-and-

Debevoise & Plimpton LLP
Attn: Rachel Ehrlich Albanese, Esq.
66 Hudson Boulevard
New York, NY 10001
Email: ralbanese@debevoise.com

To: Manski

Mr. Mark Manski
[redacted]

With a copy to:
McDermott Will & Schulte LLP
Attn: Douglas I. Koff
919 Third Avenue
New York, NY 10022
Email: dkoff@mcdermottlaw.com

[*Signature pages follow*]

Execution Version

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

Mark Manski

By:____________________________

Execution Version

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

Tonopah Solar Energy, LLC

By:______________________________
Name: Yale Scott Bogen
Title: Chief Restructuring Officer

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: TONOPAH SOLAR ENERGY, LLC,[1] Debtor.	Chapter 11 Case No. 26-10060 (JKS) **Objection Deadline: March 30, 2026, at 4:00 p.m. (ET)** **Hearing Date: April 6, 2026, at 3:00 p.m. (ET)**

NOTICE OF MOTION OF THE DEBTOR FOR ENTRY OF AN ORDER APPROVING AND AUTHORIZING THE SETTLEMENT AGREEMENT BY AND BETWEEN THE DEBTOR AND FORMER MANAGER

PLEASE TAKE NOTICE that, on January 21, 2026, the above-captioned debtor and debtor in possession (the "Debtor") filed its voluntary petition for relief under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the District of Delaware (the "Court").

PLEASE TAKE FURTHER NOTICE that, on March 16, 2026, the Debtor filed the *Motion of the Debtor for Entry of an Order Approving and Authorizing the Settlement Agreement by and Between the Debtor and Former Manager* (the "Motion").

PLEASE TAKE FURTHER NOTICE that a hearing on the Motion is scheduled for **April 6, 2026, at 3:00 p.m. (ET)** (the "Hearing") before the Honorable J. Kate Stickles, United States Bankruptcy Judge, at the Court, 824 North Market Street, 5th Floor, Courtroom 6, Wilmington, Delaware 19801.

PLEASE TAKE FURTHER NOTICE that any objections or responses to the Motion must be (i) made in writing and (ii) filed with the Clerk of the Court, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801, and served so as to be **received on or before 4:00 p.m. (ET) on March 30, 2026**. Service of any objection or response to the Motion is to be made to: (a) the Debtor, 11 Gabbs Pole Line Road, Box 1071, Tonopah, Nevada 89049 (Attn.: Yale Scott Bogen, proposed Chief Restructuring Officer of the Debtor [ybogen@dsiconsulting.com]); (b) counsel for the Debtor, DLA Piper LLP (US), (i) 1201 North Market Street, Suite 2100, Wilmington, Delaware 19801 (Attn.: Aaron S. Applebaum [aaron.applebaum@us.dlapiper.com]), and (ii) 1251 Avenue of the Americas, New York, New York 10020 (Attn.: David M. Riley [david.riley@us.dlapiper.com]); (c) proposed co-counsel to the Debtor, Debevoise & Plimpton LLP, 66 Hudson Boulevard, New York, New York 10001 (Attn.: Rachel Ehrlich Albanese [ralbanese@debevoise.com]); (d) the Office of the United States Trustee for Region 3, J. Caleb Boggs Federal Building, 844 King Street, Lockbox 35, Wilmington, Delaware 19801 (Attn.: Benjamin A. Hackman [benjamin.a.hackman@usdoj.gov]); and (e) counsel to the DIP Lender and Prepetition Lender, (i) Kelley Drye & Warren LLP, 3 World Trade Center, 175 Greenwich Street,

[1] The Debtor in this chapter 11 case, along with the last four digits of its federal tax identification number, is Tonopah Solar Energy, LLC (1316). The Debtor's headquarters is located at 11 Gabbs Pole Line Road, Box 1071, Tonopah, NV 89049.

New York, New York 10007 (Attn.: Joel S. Rublin [jrublin@kelleydrye.com], Eric R. Wilson [ewilson@kelleydrye.com], and Nathan Greenberg [ngreenberg@kelleydrye.com]) and (ii) Potter Anderson & Corroon LLP, 1313 North Market Street, 6th Floor, Wilmington, Delaware 19801 (Attn.: Blake Cleary [bcleary@potteranderson.com]).

PLEASE TAKE FURTHER NOTICE that if any objection or response is timely filed and served, you or your attorney must attend the Hearing.

PLEASE TAKE FURTHER NOTICE THAT IF NO OBJECTION OR RESPONSE TO THE MOTION IS TIMELY FILED, SERVED AND RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY ENTER THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

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Dated: March 16, 2026
Wilmington, Delaware

Respectfully submitted,

DLA PIPER LLP (US)

/s/ Aaron S. Applebaum
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- and -

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