

OPERATION HYDRA RED FLAGGED

(SAMPLE) CONTRACT #3

Merger Agreement (Energy Company)

1. Parties

Buyer: GreenPower Holdings, LLC

Target: SolarFlare Energy Corp.

2. Consideration

0.8 shares of Buyer for each share of Target, plus a cash component of USD 5 per share.

3. Representations & Warranties

– Seller warrants that, to the best of its knowledge, there are no outstanding lawsuits except those disclosed in Schedule X.

4. Covenants

– Seller will provide transition services for 60 days.

5. Closing Conditions

– Regulatory approvals from the Federal Energy Regulatory Commission (FERC).

6. Indemnification

– Claim notices shall be delivered within 60 days of discovery, stating the amounts claimed.

7. Confidentiality

– No confidentiality provision included.

8. Governing Law

– Texas law; disputes resolved in Houston courts.

Red-flags (10+)

1. Incomplete litigation disclosure – “to the best of its knowledge” may hide undisclosed suits.
2. No definition of “Schedule X” – could be missing or incomplete.
3. Absence of any confidentiality clause – sensitive data unprotected.
4. Indemnity notice clause lacks loss estimation – similar to Contract E, defective.
5. No escrow or holdback – buyer unprotected.
6. No survival period for representations – claims may be time-barred.
7. No limitation of liability – unlimited exposure.
8. No specific post-closing covenants for regulatory compliance – risk of post-close penalties.
9. No “material adverse change” clause – buyer cannot exit if target’s business deteriorates.
10. No jurisdiction for arbitration – only state court, potential inefficiency.
11. No carve-out for environmental liabilities – hidden cleanup costs.
12. No representation that all permits are transferable – could stall operations.
13. No employee-benefit transition provisions – labor law exposure.