Docket #0593 Date Filed: 07/24/2026

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	)	Chapter 11
ASCEND ELEMENTS, INC. *et al.*,[1]	)	Case No. 26-90440 (CML)
Debtors.	)	(Jointly Administered)

DEBTORS' MOTION FOR SUMMARY JUDGMENT DETERMINING THAT AMCON INDUSTRIAL'S ASSERTED MECHANIC'S AND MATERIALMAN'S LIEN DOES NOT ATTACH TO (I) THE DEBTORS' LEASEHOLD INTEREST IN THE COVINGTON PROPERTY OR (II) THE PERSONAL PROPERTY SOLD IN THE COVINGTON SALE

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Ascend Elements, Inc. (2893) and Ascend Elements US, LLC (8309). The location of the Debtors' service address is: 133 Flanders Road, Westborough, MA 01581.

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The above-captioned debtors and debtors in possession (collectively, the "Debtors") in the above-captioned chapter 11 cases (the "Chapter 11 Cases") move for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure, made applicable to this matter through Rules 9014 and 7056 of the Federal Rules of Bankruptcy Procedure, seeking a determination that AM Construction Inc. d/b/a AMCON Industrial ("AMCON") does not hold a valid mechanic's and materialman's lien against the Debtors' leasehold interest, personal property, or the proceeds of the Covington Sale (as defined below).[2] In support of this motion (the "Motion"), the Debtors respectfully state as follows:

I. SUMMARY OF THE ARGUMENT

1. This Motion presents two legal issues the parties agreed the Court would resolve under the Scheduling Order: whether, under Georgia law, AMCON's asserted mechanic's and materialman's lien attached to (i) the Debtors' leasehold interest in the Covington Property and (ii) the equipment, machinery, fixtures, trade fixtures, tenant improvements, and other personal property sold in connection with the Covington Sale. The answer to both questions is a resounding "no." Because there are no genuine disputes of material fact, both Issues are appropriate for resolution as a matter of law on summary judgment.

2. The undisputed record establishes that AMCON's asserted lien never attached to the Debtors' leasehold interest, fixtures, or any improvements made to the Covington Property. Read as a whole, the Covington Lease grants Ascend only a limited contractual right to occupy and use the premises while reserving substantial dominion and control to the landlord. Under Georgia law, the Covington Lease created a usufruct—not an estate for years—and a mechanic's and materialman's lien cannot attach to a usufruct. Although the Covington

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms elsewhere in this Motion.

Lease exceeds five years and therefore carries a rebuttable presumption that it created an estate for years, the Covington Lease itself conclusively rebuts that presumption.

3. AMCON's alternative theory—that its lien extends to the Debtors' personal property—fails for two independent reasons. First, Georgia's mechanic's and materialman's lien statute grants contractors a lien only against real property interests improved by their work; it does not create a lien on equipment, machinery, trade fixtures, inventory, or other personal property. Second, even if Georgia law permitted such a lien, AMCON's own recorded Lien Statement never purported to encumber any personal property. Instead, it asserted a lien only against the Debtors' alleged leasehold interest in the Covington real property and attached only the legal description of that real property.

4. Because AMCON's Lien neither attached to the Debtors' leasehold interest nor to the property sold in the Covington Sale, AMCON holds no valid lien against the escrowed sale proceeds. Those proceeds should be released to the Debtors.

II. JURISDICTION & VENUE

5. The United States Bankruptcy Court for the Southern District of Texas (the "Court") has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This matter is a core proceeding under 28 U.S.C. § 157(b)(2)(K) and (M). The Debtors confirm their consent, pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

6. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

7. The bases for the relief requested herein are sections 105 and 363 of title 11 of the United States Code (the "Bankruptcy Code"), and Bankruptcy Rules 9014 and 7056.

III. STATEMENT OF UNDISPUTED FACTS

A. Procedural History

8. On April 9, 2026 (the "Petition Date"), each of the Debtors commenced the Chapter 11 Cases by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code. Since the Petition Date, the Debtors have continued to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

9. On April 26, 2026, the Office of the United States Trustee for the Southern District of Texas (the "US Trustee") appointed the official committee of unsecured creditors (the "Committee") pursuant to section 1102 of the Bankruptcy Code. No trustee or examiner has been appointed in these chapter 11 cases. AMCON is one of the members of the Committee.[3]

10. Early in these Chapter 11 Cases, the Court authorized procedures for a sale process designed to market and monetize the Debtors' operating assets through one or more transactions. On April 17, 2026, the Court entered the *Order (A) Approving Bid Procedures, (B) Authorizing Designation of a Stalking Horse Bidder, (C) Scheduling an Auction, Related Deadlines, and a Sale Hearing, and (D) Granting Related Relief* [Dkt. No. 120] (the "Bid Procedures Order").

11. Pursuant to the Bid Procedures Order, the Debtors implemented a marketing and sale process that resulted in three separate going-concern transactions. That process ultimately resulted in the Covington Sale at issue here.

[3] The Debtors understand that the Committee supports the relief requested in this Motion and intends to join in the Debtors' arguments. The Debtors further understand that, in connection with this Motion, the Committee has maintained its independence and has not shared with AMCON any Committee communications, deliberations, or work product relating to the issues presented herein.

B. The Covington Sale and APA

12. On June 30, 2026, the Court entered the *Order (I) Approving the Sale of Certain of the Debtors' Assets Free and Clear of Claims, Liens, and Encumbrances, (II) Approving the Assumption and Assignment of Designated Executory Contracts and Unexpired Leases and (III) Granting Related Relief* [Dkt. No. 534] (the "Covington Sale Order"),[4] which approved the sale of all of the Debtors' assets related to the Debtors' prepetition Covington, Georgia facility (the "Covington Sale" and "Covington Assets") to R3 Lithium Inc. ("R3 Lithium") free and clear of all claims, interests, and encumbrances. The Covington Sale closed on July 7, 2026. *See* Dkt. No. 548.

13. In connection with the Covington Sale, the Debtors and R3 Lithium entered into that certain Asset Purchase Agreement, dated June 19, 2026, as subsequently amended (the "APA").[5] Under the APA, R3 Lithium acquired the Debtors' interest in the Acquired Leased Real Property and the lease to which that property is subject, together with the Debtors' tangible personal property associated with the Covington facility. Specifically, section 1.1(a) transferred the Debtors' interest in the "Acquired Leased Real Property" and in "each Lease to which such Acquired Leased Real Property is subject." APA § 1.1(a). Pursuant to the APA amendment, the only lease assigned to R3 Lithium was the Covington Lease.

14. The APA separately conveyed the Debtors' personal property. Section 1.1(d) transferred "all tangible assets (including Equipment and IT Assets) located at or on the Acquired Leased Real Property . . . and the personal property located at the Acquired Leased Real Property." APA § 1.1(d). In addition, Section 1.1(e) conveyed "all tangible assets (including Equipment and IT Assets) that are not located at or on the Acquired Leased Real

[4] A true and correct copy of the Covington Sale Order attached is hereto as Exhibit 1.

[5] A true and correct copy of the APA is attached hereto as Exhibit 2.

Property that are intended primarily for use in connection with Seller's business conducted at the Acquired Leased Real Property." APA § 1.1(e).

15. Thus, the APA separately conveyed (i) the Debtors' leasehold interest under the Covington Lease and (ii) the Debtors' tangible personal property, including equipment and other assets located *both* on-site and off-site that were used in connection with the Covington facility.

16. Under the Covington Sale Order, the Debtors agreed to hold in escrow $1,900,000 of the proceeds of the Covington Sale (the "Covington Proceeds Escrow") "pending the Court's determination of the validity, enforceability, priority, extent, and amount of all Encumbrances attaching to such proceeds." Covington Sale Order ¶ 39. The Covington Sale Order further provides that "[n]o distributions shall be made from the Covington Proceeds Escrow on account of any administrative expense, regulatory claim, environmental claim, tax claim, cure cost, professional fee, or other claim without either further order of the Court entered after notice to AMCON and an opportunity to be heard or the written consent of AMCON." *Id.*

17. On June 23, 2026, AMCON filed a proof of claim in the amount of $9,881,478.40 that was designated as claim number 12 on the Court's claims register (the "Proof of Claim").[6] In support of the Proof of Claim, AMCON attached the Lien Statement (as defined below).

18. Following the entry of the Covington Sale Order, the Debtors, AMCON, and the Committee entered into the stipulation and agreed scheduling order [Dkt. No. 565] (the "Scheduling Order"), which established an expedited procedure for resolving the validity and

[6] A true copy of the Proof of Claim is attached hereto as Exhibit 3. For the avoidance of doubt, the Debtors do not offer the Proof of Claim for the truth of the matters asserted therein. Rather, the Debtors submit the Proof of Claim solely to establish that AMCON filed its Proof of Claim and that, in support of it, attached the Lien Statement.

extent of AMCON's asserted lien against the Covington Sale proceeds. The parties agreed that the Court would resolve the following two issues (the "Issues") as a contested matter under Bankruptcy Rule 9014:

> 1. Whether, under Georgia law, AMCON's asserted M&M Lien attaches to the Debtors' leasehold interest, if any, in the Covington property; and
>
> 2. Whether, under Georgia law, AMCON's asserted M&M Lien attaches to equipment, machinery, fixtures, trade fixtures, tenant improvements, or other assets located at the Covington facility and sold in connection with the Covington Sale, excluding any off-site feedstock or other off-site inventory.

Scheduling Order ¶ 1.

19. The Scheduling Order further provides that the parties waived any objection to resolving these Issues through a contested matter under Bankruptcy Rule 9014, including any contention that an adversary proceeding under Bankruptcy Rule 7001 was required. *Id.* ¶ 2. The parties also agreed to conduct limited discovery directed to the Issues and to present those Issues to the Court through cross-motions for summary judgment under Federal Rule of Civil Procedure 56, made applicable by Bankruptcy Rules 7056 and 9014(c). *Id.* ¶¶ 3-4. Accordingly, the parties agreed that the Issues presented here are appropriately resolved on summary judgment based on the undisputed documentary record.

C. The Covington Lease and its Relevant Terms

20. Prior to the Petition Date, Debtor Ascend Elements, as Tenant,[7] leased the real property located at 9176 Industrial Drive NE, Covington, Georgia 30014 (the "Covington Property") from Covington Industrial LLC, as Landlord, pursuant to a Lease Agreement dated December 31, 2021 (as amended, the "Covington Lease").[8] The original Covington Lease covered approximately 154,041 rentable square feet in a 333,426-square-foot industrial

[7] Debtor Ascend Elements was formerly known as Battery Resourcers, Inc.

[8] A true and correct copy of the Covington Lease is attached hereto as Exhibit 4.

building and fixed the tenant's proportionate share at 46.20%. The parties later amended the Covington Lease through a First Amendment to Lease Agreement effective January 7, 2025, (the "First Amendment").[9]

a. What the Covington Lease Conveys

21. The Covington Lease expressly recognizes Covington Industrial as the fee owner of the Covington Property and grants the Tenant only the contractual right to occupy and use the Premises (as defined therein) pursuant to the terms of the lease. *See* Covington Lease §§ 1.1, 5.5. The granting provision does not convey an estate in land; it simply provides that "Landlord leases to Tenant, and Tenant leases from Landlord, for the Term, the 'Premises,'" and nowhere states that the lease conveys an "estate for years." *See* Covington Lease § 1.1. The only references to a "leasehold estate" appear in discrete protective provisions—most notably the notice-of-commencement language in section 5.5 and the condemnation clause in section 12.3—not in the operative grant itself.

b. What Restrictions the Covington Lease Imposes on the Use of the Premises and Access Thereto

22. The Covington Lease strictly limits the Tenant's use of the premises. *See* Covington Lease Art. III. Section 3.1 provides that the premises may be used and occupied only for the use specified in the Lease Summary defined as "the operation of a lithium battery recycling facility and for no other purpose, to be conducted under Tenant's Trade Name." *See* Lease Summary. The Tenant is prohibited from using the premises in a manner that would create a nuisance or hazard, violate legal requirements, or breach the use restrictions in Exhibit C. The Tenant is also prohibited from using signage absent Landlord approval. *See* Covington Lease § 3.3. The Covington Lease imposes extensive environmental controls, including on the use and storage of hazardous-substances, the types of equipment and machinery the Tenant

[9] A true and correct copy of the First Amendment is attached hereto as Exhibit 5.

was required to install, and subjects the Tenant to mandatory reporting requirements, and continuing Landlord oversight, and grants the Landlord full access to Tenant's records, personnel, and facilities for inspection purposes. *See* Covington Lease § 3.4; Rider 1 § 2.

23. Exhibit D imposes numerous additional rules and regulations regarding the Tenant's use of the premises. For example, it requires the Tenant to perform repairs, maintenance, alterations, and improvements only at times agreed in advance by Landlord; prohibits animals and bicycles in or around the building except as designated by Landlord; regulates deliveries through entrances and corridors designated by Landlord; restricts food and beverage service absent Landlord's consent; and requires Tenant to comply with Landlord's rules governing loading, unloading, exterior storage, and parking arrangements. *See* Covington Lease Ex. D §§ 3, 7, 8, 10, 15; Covington Lease Art. XIII.

24. By contrast, the Covington Lease authorizes the Landlord to enter the premises on notice to examine the premises, make repairs, and access building systems; show the premises to prospective purchasers, brokers, lenders, and, during the final year, prospective tenants; and keep all common areas "at all times ... under the exclusive control and management of Landlord." Covington Lease §§ 4.1, 4.2, 11.1. Article XI further authorizes the Landlord to alter, add to, subtract from, or re-arrange facilities in or around the building, provided access remains available. Rider 1 separately (i) required lender approval of the lease and of the Tenant's intended use, (ii) prohibited alterations or use before that approval or substitute financing was in place, and (iii) authorized termination if the approval or financing conditions were not satisfied.

c. How the Covington Lease Allocates Payment of Taxes and Other Costs

25. Section 2.3 requires the Tenant to reimburse its 46.20% share of "Operating Costs," defined as amounts paid or payable by or on behalf of the landlord to repair, maintain, insure, manage, and operate the premises, building, land, and common areas, including "all

real estate ... and other ad valorem taxes" and landlord-carried insurance. The Tenant separately remained responsible for taxes on its own personal property, utilities, janitorial service, garbage removal, trash removal, and the installation and maintenance of utility infrastructure needed for its operations. *See* Covington Lease §§ 2.3(c)–(d), 2.4, 5.6.

d. How the Covington Lease Allocates Duties to Keep and Maintain the Premises

26. The Covington Lease also leaves the principal incidents of ownership with the Landlord. Section 5.1 requires the Landlord to maintain and repair the structure, roof, exterior walls, base building systems, utility lines, driveways, parking areas, landscaping, and common areas, while section 5.2 makes the Tenant responsible for maintaining only the premises and systems exclusively serving the premises, subject to Landlord approval of contractors and work. Section 5.3 provides that, except as expressly permitted, the Tenant may not make alterations, additions, or improvements without the Landlord's prior written consent, and all approved work remains subject to the Landlord's review and contractual requirements. In addition, leasehold improvements and alterations made by the Tenant generally become the property of the Landlord at the expiration or earlier termination of the Lease unless the Landlord elects to require their removal at the Tenant's expense. *See* Covington Lease § 5.4. Thus, the Tenant never acquires an unrestricted ownership interest in improvements affixed to the Premises.

e. What Transfer Restrictions Were Imposed by the Covington Lease

27. Except for limited affiliate and successor transactions, the Tenant may not "enter into, consent to, or permit any Transfer" without the Landlord's prior written consent; if the Tenant seeks an assignment or a sublease of more than fifty percent of the remaining term, the Landlord may terminate the lease or recapture the space; the landlord retains the unrestricted right to "sell, lease, convey, or otherwise dispose of the Building or any part thereof." Covington Lease §§ 8.1, 8.2. In condemnation, "all compensation awarded or paid ... including

the value of the leasehold estate created hereby shall belong to and be the property of Landlord," and the Tenant may pursue only separate claims for its own stock, trade fixtures, furniture, and other personal property. Covington Lease § 12.3. Holdover is treated as a sufferance tenancy at 150% of the last month's rent. Covington Lease § 14.2.

f. The First Amendment Reinforces the Covington Lease's Restrictions

28. According to the First Amendment, the Tenant had made material "Unreviewed Alterations" and was occupying approximately 46,465 square feet of "Additional Outdoor Space" that did not previously form part of the premises. *See* First Amendment Recitals C-E. The Landlord agreed to add that space only on new conditions: payment of accrued rent, delivery of additional security, payment of a substantial alterations fee and legal fees, acceptance of the outdoor space in its then-existing "as-is" condition, a fencing requirement within sixty days, and a prohibition on enclosing any portion of the outdoor area with walls or roof material without the Landlord's prior written consent, which could be granted or withheld in the Landlord's sole discretion. *See* First Amendment §§ 2, 4, 5, 7, 11.

D. The Debtors' Prepetition Relationship with AMCON

29. Prepetition, AMCON and Ascend were parties to two separate construction contracts. Effective May 24, 2023, Ascend and AMCON entered into a Professional Services Agreement (the "PSA"),[10] pursuant to which AMCON agreed to furnish labor, materials, equipment, supervision, and construction services for the Apex-0 Project located at the Covington Property. On March 12, 2024, Ascend and AMCON entered into a Master Agreement Construction Services (the "MSA"),[11] which superseded the PSA except with respect to certain existing work orders that remained in effect. The MSA expressly incorporated existing work relating to the Lithium Extraction, Wet Shredding Line, Wastewater Treatment,

[10] A true and correct copy of the PSA is attached hereto as Exhibit 6.

[11] A true and correct copy of the MSA is attached hereto as Exhibit 7.

Rental Equipment, General Facilities, Management Personnel, and pCAM Design/Build projects. *See* MSA § 1.1.1.

30. As construction neared completion under the MSA, disputes arose concerning AMCON's outstanding invoices, the adequacy of AMCON's supporting documentation, and Ascend's contractual audit rights. Consistent with the dispute resolution procedures under the MSA, the parties participated in mediation. *See* Complaint ¶ 24; *see* also MSA § 12.3.1.

31. On August 8, 2025, following an unsuccessful mediation, AMCON commenced an action in the Superior Court of Newton County, Georgia, Civil Action File No. SUCV2025002393, asserting claims for breach of contract, quantum meruit, and foreclosure of an alleged mechanic's and materialmen's lien.[12] AMCON alleged that Ascend owed at least $7,468,741.11 under the parties' agreements. *See* Complaint ¶ 32. AMCON acknowledged that Ascend did not own the Covington Property. *See* Complaint ¶ 10. Instead, AMCON alleged that Ascend possessed only a "leasehold or other interest" in the "Property" which it defined as the real property consisting of the Covington Property. *See* Complaint ¶ 53. Consistent with those allegations, AMCON did not seek to foreclose upon the fee interest owned by Covington Industrial. Rather, AMCON requested that the Georgia court enter judgment foreclosing upon "whatever property interest Ascend has in the Property." *See* Complaint ¶ 59.

32. On the same date, August 8, 2025, AMCON recorded its Claim of Lien on Leasehold Estate and Interest (the "Lien Statement"),[13] with the Clerk of the Superior Court of Newton County, Georgia, asserting a lien in the principal amount of $6,232,621.09, together with interest and other amounts allegedly recoverable (the "Lien").

33. In its Lien Statement, AMCON asserts a lien "on the leasehold estate for years and any other property interests held by Ascend Elements, Inc., the lessee, in certain buildings

[12] A true and correct copy of the Complaint is attached hereto as Exhibit 8.

[13] A true and correct copy of the Lien Statement is attached hereto as Exhibit 9.

and/or structures and in the premises of real estate upon which such are erected or built described as 9172 Industrial Drive NE, Covington, Georgia 30014, Land Lot 273, 9th District, Newton County, State of Georgia, and detailed more specifically on that legal description attached as Exhibit A for satisfaction of a claim[.]" Exhibit A to the Lien Statement contains a legal description of the real property that identifies the property's physical boundaries and location. The Lien Statement did not identify, describe, or otherwise purport to encumber any specific machinery, equipment, inventory, furniture, trade fixtures, or other items of personal property owned by Ascend. *See generally* Lien Statement. Nor does it claim that AMCON repaired or manufactured any personal property against which its Lien may attach.

IV. LEGAL STANDARD

34. Federal Rule of Civil Procedure 56, made applicable to this contested matter by Bankruptcy Rules 7056 and 9014(c), governs this Motion. Summary judgment is appropriate where "there is no genuine dispute as to any material fact" and the movant "is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). In considering cross-motions for summary judgment, the Court evaluates each motion separately, viewing the evidence in the light most favorable to the non-moving party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986); *Reaves Brokerage Co. v. Sunbelt Fruit & Vegetable Co.*, 336 F.3d 410, 412 (5th Cir. 2003); *Sw. Bell Tel. Co. v. Fitch*, 801 F. Supp. 2d 555, 565 (S.D. Tex. 2011).

35. Here, AMCON bears the burden of proving the validity, priority, and extent of its asserted interest in the Covington Assets. 11 U.S.C. § 363(p)(2); *In re Meill*, 441 B.R. 610, 613 (B.A.P. 8th Cir. 2010). Accordingly, the Debtors satisfy their burden on summary judgment by identifying the absence of evidence supporting AMCON's asserted Lien and demonstrating that, as a matter of Georgia law, the Covington Lease constitutes a usufruct and AMCON's recorded Lien does not attach to the property sold in the Covington Sale. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 325 (1986); *see also Wilmington Trust, N.A. v. BOH*

Park Highlands NV, L.P. (In re November 2005 Land Investors, LLC), 636 F. App'x 723, 725–26 (9th Cir. 2016) (affirming the bankruptcy court's grant of summary judgment that claimant failed to prove an interest in the proceeds from the sale of the debtor's property under section 363(p)(2)).

36. Summary judgment is particularly appropriate because this dispute presents only legal questions arising from undisputed documents. The Court need only examine the Covington Lease, the Lien Statement, the Complaint, the APA, the Covington Sale Order, and the Scheduling Order, and apply settled Georgia law to determine whether AMCON's asserted mechanic's and materialman's lien attached to any asset sold in the Covington Sale. The classification of a lease as a usufruct or an estate for years is determined from the terms of the written instrument itself. *Allright Parking of Ga., Inc. v. Joint City-County Bd. of Tax Assessors*, 260 S.E.2d 315, 320 (Ga. 1979) ("the [lease] agreement involved must be carefully searched for the intention of the parties") (internal citations omitted); *Clayton Cnty. Bd. of Tax Assessors v. Aldeasa Atlanta Joint Venture*, 815 S.E.2d 870, 872 (Ga. 2018) (scrutinizing the terms of the parties' contract to ascertain the parties' intentions); *GeorgiaCarry.Org, Inc. v. Atlanta Botanical Garden, Inc.*, 834 S.E.2d 27, 35 (Ga. 2019) (same). Likewise, whether AMCON's Lien reaches the Debtors' personal property is determined from the language of the Lien Statement and the governing Georgia lien statutes. Because there are no genuine disputes of material fact, the Debtors are entitled to summary judgment as a matter of law.

V. ARGUMENT

A. AMCON Lacks An Enforceable Lien Over The Debtors' Leasehold Interest In The Covington Property Because That Interest Is A Usufruct.

37. Georgia law starts with the basic distinction AMCON's position overlooks. A lease that grants only the right to possess and enjoy property creates a landlord-tenant relationship in which the tenant only holds a usufruct, while a lease that conveys a present estate for a fixed term creates an estate for years. *See* O.C.G.A. §§ 44-7-1(a), 44-6-100, 44-6-

103. That distinction is outcome determinative here. Only an estate for years passes a lienable property interest, *see Bennett Iron Works, Inc. v. Underground Atlanta, Inc.*, 204 S.E.2d 331, 332 (Ga. Ct. App. 1974), while a usufruct remains part of the landlord's estate and may not be subjected to a lien.[14] *See* O.C.G.A. § 44-7-1(a); *Jones v. E. I. Rooks & Son*, 52 S.E.2d 580, 582 (Ga. Ct. App. 1949) (holding that leasehold interest was a usufruct and therefore could not be subjected to a materialman's lien); *In re Ionosphere Clubs, Inc.*, 145 B.R. 386, 389 (Bankr. S.D.N.Y. 1992) (holding that the debtor's leasehold interest was a usufruct under Georgia law and therefore claimant's mechanic's lien could not attach to that interest).

38. The reason for the distinction rests on the nature of the leasehold interest. "[A]n estate for years is essentially a lease by which one person acquires a right to use real estate of a finite period 'in as absolute a manner as may be done with a greater estate,' so long as neither the property nor the person entitled to the reversionary interest in it is injured by that use." *Pinnacle Props. V, LLC v. Mainline Supply of Atlanta, LLC*, 735 S.E.2d 166, 169 (Ga. Ct. App. 2012) (citing O.C.G.A. §§ 44-6-102, 103). "A usufruct, by contrast, is created when the owner of real estate grants to another person the right to use and enjoy the property for a fixed time or at the will of the grantor, as in a landlord-tenant relationship, but no property interest arises in the grantee." *Id.*; *see also GeorgiaCarry.Org*, 834 S.E.2d at 35 ("Because a usufruct is not considered an estate in real property under Georgia law, the creation of a usufruct in favor of a tenant does not pass any estate out of the hands of the landlord. Thus, during the term of a usufruct, the landlord continues to hold the present estate in the property.") (internal citation

[14] The usufruct distinction is also relevant under Georgia tax law, as a usufruct is not subject to ad valorem real property taxes. *Joint Dev. Authority of Jasper Cnty. v. McKenzie*, 887 S.E.2d 372, 386 (Ga. Ct. App. 2023). For that reason, many of the cited cases address the taxability of a lease, rather than statutory lien attachment. The usufruct principles, however, apply equally to taxing authorities as to purported lienholders. *See, e.g., Pinnacle Props. V, LLC v. Mainline Supply of Atlanta, LLC*, 735 S.E.2d 166, 169 (Ga. Ct. App. 2012) (applying case law regarding the taxability of a lease to determine whether a lien could be asserted against a leasehold).

omitted); *see also* O.C.G.A. § 44-6-103 ("[a]n estate for years carries with it the right to use the property in as absolute a manner as may be done with a greater estate.").

39. If a lease is for greater than five years, a rebuttable presumption arises that the interest is an estate for years. *Macon-Bibb Cnty. Bd. of Tax Assessors v. Atl. Se. Airlines, Inc.*, 414 S.E.2d 635, 636 (Ga. 1992); O.C.G.A. § 44-7-1(b). However, the presumption is frequently rebutted by Georgia courts, even for leases that vastly exceed a 5-year term. *See Chatham Cnty. Bd. of Assessors v. Jay Lalaji, Inc., Airport Hotels,* 849 S.E.2d 768, 770 (Ga. Ct. App. 2020) (holding a fifty-year lease agreement to be a usufruct); *Joint Dev. Auth. of Jasper Cnty.*, 887 S.E.2d at 390 (lease agreement with five-year increments auto-renewed for twenty years was a usufruct); *City of College Park v. Paradies-Atlanta, LLC*, 815 S.E.2d 246, 250 (Ga. Ct. App. 2018) (seven-year leases held to be usufructs); *Richmond Cnty. Bd. of Tax Assessors v. Richmond Bonded Warehouse Corp.*, 325 S.E.2d 891, 893 (Ga. Ct. App. 1985) (fifty-year lease held to be a usufruct); *Diversified Golf, LLC v. Hart Cnty. Bd. of Tax Assessors*, 598 S.E.2d 791, 797-98 (Ga. Ct. App. 2004) (fifty-year lease held to be a usufruct); *E. Air Lines v. Joint City-County Bd. of Tax Assessors*, 315 S.E.2d 890, 892 (Ga. 1984) (thirty-year leases conveyed a usufruct); *Allright Parking* 260 S.E.2d at 320 (thirty-five year lease was a usufruct).

40. Here, the Covington Lease commenced on January 1, 2022 and expires on March 31, 2029, with two five-year renewal options. *See* Lease Summary ¶ 13; Rider 1 § 1. That initial term exceeds five years, so the lease is presumed to create an estate for years. But the presumption is rebuttable, and the Covington Lease, read as a whole, unmistakably creates only a usufruct.

41. Courts apply a five-factor test to determine whether parties intended to create a usufruct or an estate for years:

> (i) the terms used in the instrument of conveyance to describe the grantee's rights;
>
> (ii) any provisions in the instrument addressing the parties' understanding as to liability for ad valorem taxes;

> (iii) the grantor's retention of dominion or control over the leased property;
>
> (iv) which party has retained the duties to keep and maintain the premises and appurtenances; and
>
> (v) whether the grantee may assign the lease or allow any part of the leased premises to be used by others without the grantor's consent.

Chatham Cnty. Bd. of Assessors, 849 S.E.2d at 770.

42. Courts must read the instrument as a whole, give its words their usual meaning, and avoid creating an estate by implication. O.C.G.A. § 13-2-2(2), (4), (8). Indeed, Georgia courts have repeatedly held that the classification of a lease as either a usufruct or an estate for years is determined from the written instrument itself. *Allright Parking*, 260 S.E.2d at 320 ("the cardinal rule ... is that the terms of the instrument itself must be scrutinized to ascertain what interest the parties intended to be conveyed or demised"); *GeorgiaCarry.Org*, 834 S.E.2d at 35 (the court "must examine the terms of the lease agreement and determine what interests the parties intended to convey"); *Diversified Golf, LLC*, 598 S.E.2d at 797 (rejecting consideration of parol evidence regarding the meaning of the lease).

43. Thus, the Court's inquiry is not how the parties later characterized the lease, or how AMCON characterizes it in this litigation, but what interest the Covington Lease actually conveyed. Applying each of the five factors to the terms of the Covington Lease confirms that the Covington Lease conveyed only a usufruct. Therefore, AMCON's Lien does not attach to the Debtors' leasehold interest.

a. The Terms Used in the Covington Lease Confirm a Usufruct was Conveyed to Ascend, Not an Estate for Years.

44. The first factor examines the language of the lease to determine whether the parties intended to create a usufruct or an estate for years. *Chatham Cnty. Bd. of Assessors*, 849 S.E.2d at 770. Although courts consider whether a lease expressly identifies the interest conveyed, the absence or presence of particular labels is not dispositive. Rather, the "key inquiry turns upon whether various restrictions in the agreement, limiting the lessee's use of

the premises, sufficiently negate the presumption that this is an estate for years." *Clayton Cnty. Bd. of Tax Assessors*, 815 S.E.2d at 872. Likewise, a usufruct exists where the lessee possesses only a "circumscribed and limited use of the premises" and the lease imposes restrictions that are "fundamentally inconsistent with the concept of an estate for years." *Diversified Golf*, 598 S.E.2d at 796 ("It has been said that a usufruct exists where the lessee takes only a circumscribed and limited use of the premises and facilities, where 'the restrictions imposed . . . are so pervasive as to be fundamentally inconsistent with the concept of an estate for years,' or where the owner retains 'dominion and control' over the property or the business operated thereon.") (internal citations omitted).

45. This factor strongly favors that the Covington Lease created a usufruct. The operative grant is expressly conditioned and uses only ordinary landlord-tenant language, not words of present conveyance associated with an estate in land. Section 1.1 provides "[u]pon and subject to the covenants, agreements, terms, provisions, and conditions of this Lease" and then continues to say only "Landlord leases to Tenant, and Tenant leases from Landlord, for the Term, the 'Premises.'" Covington Lease § 1.1.

46. The Covington Lease therefore grants Ascend only a contractual right to occupy and use the Premises for the lease term. Moreover, Ascend could use the Premises only "for the operation of a lithium battery recycling facility and ***for no other purpose***." Covington Lease § 3.1 (emphasis added). The Covington Lease further prohibited uses that increased the landlord's insurance premiums, required compliance with detailed environmental requirements and building rules, such as parking, delivery, and food and beverage restrictions, restricted signage without the landlord's approval, and prohibited the enclosure or expansion of the additional outdoor space without the landlord's prior written consent. *See* Covington Lease §§ 3.1, 3.3, 3.4, Exs. C & D; First Amendment. These restrictions are incompatible with an estate for years, which carries "the right to use the property in as absolute a manner as may be

done with a greater estate." O.C.G.A. § 44-6-103. Instead, they reflect the "circumscribed and limited use of the premises" characteristic of a usufruct. *Chatham Cnty. Bd. of Assessors*, 849 S.E.2d at 770 (language prohibiting all uses of the premises other than those expressly authorized indicative of a usufruct); *Diversified Golf*, 598 S.E.2d at 796–97 (lessee's rights described as "possession, use or occupancy" suggested a usufruct.).

47. The Court of Appeals in *Chatham Cnty. Bd. of Assessors* held that the agreement created a usufruct because it established only a "limited series of rights," described the tenant's interest as "specified rights and privileges," prohibited all uses not expressly authorized, and granted possession only "subject to the terms and provisions" of the agreement. 849 S.E.2d at 770-71. As described above, the Covington Lease is materially similar: it grants Ascend the Premises only "[u]pon and subject to the covenants, agreements, terms, provisions and conditions of this Lease," limits Ascend's use to the operation of a lithium battery recycling facility "and for no other purpose," and subjects that use to detailed Landlord controls. Covington Lease §§ 1.1, 3.1, 3.3, 3.4; First Amendment § 2.

48. The isolated references to a "leasehold estate" in Sections 5.5 and 12.3 do not define the nature of the interest conveyed and do not change the result, because the references appear in protective clauses, not in the operative grant. Georgia courts have repeatedly recognized that such labels are not controlling and that the lease must instead be construed as a whole to determine the parties' intent. *See, e.g., Allright Parking of Georgia, In*c., 260 S.E.2d at 318 (language expressly conveying a usufruct was not outcome determinative). That distinction is especially important because the Georgia cases finding an estate for years involved much stronger language. In *Jekyll Development*, the lease expressly created a "leasehold estate" and defined the interest as an "estate for years." *Jekyll Dev. Assocs., L.P. v. Glynn Cnty. Bd. of Tax Assesors,* 370, 372-373 (Ga. Ct. App. 1999). And as the Court of Appeals emphasized in *Joint Dev. Auth. of Jasper Cnty*. when distinguishing

GeorgiaCarry.Org, those estate-for-years cases involved leases granting broader rights of "exclusive control, possession, and enjoyment." 887 S.E.2d at 388, 390. The Covington Lease contains no comparable estate-granting language and no comparable transfer of exclusive control.

b. The Covington Lease's Treatment of Ad Valorem Taxes on the Leased Premises Demonstrates the Lease Was a Usufruct.

49. The second factor examines whether the lease reflects the parties' understanding that the tenant's leasehold interest would be subject to ad valorem taxation. *City of College Park*, 815 S.E.2d at 251. Under Georgia law, a usufruct is not an interest in land and therefore is not separately subject to ad valorem taxation on the real estate. *Diversified Golf*, 598 S.E.2d at 10 ("But a usufruct is not considered an interest in land and therefore it is not subject to ad valorem taxation."); *Fulton Cnty. Bd. Of Assessors v. McKinsey & Co., Inc.*, 481 S.E.2d 580, 582-83 (Ga. Ct. App. 1997) (because the lease did not create an estate for years, certain improvements to leased space subject to ad valorem taxes were not directly taxable by the county assessor to the tenant).

50. Where a lease expressly contemplates that the tenant's leasehold interest will be subject to ad valorem taxation, that language might support the existence of an estate for years. *Chatham Cnty. Bd. of Assessors*, 849 S.E.2d at 770 (holding that lease language obligating lessee to pay ad valorem taxes could be reflective of an estate for years, but was not dispositive); *but see Joint Dev. Auth. of Jasper County*, 887 S.E.2d at 531 ("Even where a lease specifically provides that the lessee pay ad valorem taxes – without providing any financial offset – we have determined that such a clause "is not dispositive of an intent to create an estate for years.") (internal citations omitted) (collecting cases). Where, as here, however, the lease treats the Landlord as the taxpayer and allocates what is effectively only a reimbursement obligation to the Tenant, that structure confirms a usufruct. *See City of College Park*, 815 S.E.2d at 251 ("These provisions, however, which do not explicitly address ad valorem real

property taxes, shed no light on whether [the tenants'] interest are subject to such taxes in the first place.").

51. The Covington Lease reflects the latter arrangement. The Covington Lease does not provide that Ascend's leasehold interest is subject to ad valorem taxation or that Ascend would be directly liable for real property taxes. Instead, the Lease defines "Operating Costs" to include the Landlord's pass-through real estate taxes and requires Ascend to reimburse only its 46.20% proportionate share of those costs. Covington Lease § 2.3(c), (d). Ascend was only directly responsible for payment of personal property taxes attributable to its own business. Covington Lease § 2.4. The Covington Lease therefore recognizes that the obligation to pay ad valorem taxes remains with Covington Industrial as the owner of the fee estate, while Ascend's obligation is merely contractual reimbursement of a portion of the Landlord's operating expenses. Had the parties intended to create an estate for years, they could have expressly provided that Ascend's leasehold interest would be subject to ad valorem taxation for the leased premises. They did not.

c. Covington Industrial, as Landlord, Retained Significant "Dominion and Control" Over the Covington Real Property.

52. The third factor looks to the extent to which the landlord retains "dominion or control" over the leased property. *City of College Park*, 815 S.E.2d at 250. Courts analyzing this factor look both to whether the terms of the lease limit the tenant's use of the property as well as the extent to which a tenant may be responsible for or obligated to perform maintenance or improvements on the real estate. *Compare Joint Dev. Auth. of Jasper County*, 887 S.E.2d at 531 (usufruct found where there were use and signage restrictions despite obligations on tenant to perform improvements); *with GeorgiaCarry.Org*, 834 S.E.2d at 805 (finding an estate for years where the tenant was granted "exclusive control, possession, and enjoyment" as well as "exclusive control and management.").

53. Here, Covington Industrial retained strict control over Ascend Elements' use of the leased property. An entire article of the Covington Lease is dedicated to that control. *See, e.g.* Article XI "Control of Building by Landlord." Article III further restricts Ascend's use of the leased premises "only for the use specified in the Lease Summary," which, as noted above is "[t]he operation of a lithium battery recycling facility and for no other purpose, to be conducted under Tenant's Trade Name." *See Chatham Cnty. Bd. of Assessors*, 849 S.E.2d at 771 (concluding that the tenant held a usufruct where the agreement restricted the permitted use of the land, prohibited repairs without commission approval, and reserved the commission's right to enter "at all reasonable times" for inspections).

54. Exhibit D and the related operating restrictions further demonstrate the Landlord's control. The Landlord dictated when Ascend could perform repairs, where vehicles could be kept, how the premises had to be maintained, and whether signage could be used, and reserved broad inspection rights throughout the tenancy. *See* Covington Lease § 3.4(f) Exhibit D. Georgia courts have consistently held that comparable inspection, signage, and operating restrictions are incompatible with the unfettered use characteristic of an estate for years. *See, e.g.*, *In re Ionosphere Clubs, Inc.*, 145 B.R. at 389 (landlord approval for signs, among other rules and regulations, reflective of usufruct); *City of College Park,* 815 S.E.2d at 250–51 (right of inspection to the lessor constitutes a retention of control consistent with the grant of a usufruct); *Joint Dev. Auth. of Jasper Cnty.*, 887 S.E.2d at 388 (broad inspection rights subject to notice, extensive environmental restrictions, and limits on usage of billboards and signage indicative of usufruct).

55. Additional provisions reinforce the same point. Ascend's parking rights are expressly non-exclusive and remain subject to the Landlord's designation and redesignation of parking locations; the Landlord may alter, add to, subtract from, and rearrange facilities in or around the Building; Rider 1 barred Ascend from making any use of the Premises or alterations

at all until the Landlord's lender approved both the lease and Ascend's intended use, with termination available if those conditions were not satisfied. *See* Covington Lease §§ 11.2, 13; Rider 1 § 3. Georgia courts treat comparable retained rights over access, ancillary areas, and the tenant's practical ability to use the premises as strong indicia of a usufruct. *See City of College Park*, 815 S.E.2d at 250-51; *Allright Parking*, 260 S.E.2d at 321.

56. The condemnation clause points in the same direction. All condemnation value attributable to the leasehold belongs to the Landlord, and Ascend may pursue only separate claims for its own stock, trade fixtures, furniture, and other personal property. Covington Lease § 12.3. That allocation is consistent with the landlord retaining the core economic incidents of ownership while the tenant holds only a limited right of use. *See, e.g., Diversified Golf*, 598 S.E.2d at 795-96 (lease provision that title to any property or improvements acquired in connection with eminent domain proceedings vested in the landlord demonstrated significant degree of dominion and control by the landlord).

57. Taken together, these provisions go well beyond the sort of minor limitations that may burden an estate for years. They show continuing landlord dominion over use, access, and the economic consequences of a taking, which is why Georgia courts classify similar leases as usufructs.

d. Covington Industrial Retained the Duty to Maintain and Repair the Premises, Confirming a Usufruct.

58. The fourth factor seeks to identify which party is responsible for the maintenance of the premises leased, with courts typically finding a usufruct where the landlord retains some duty to maintain or at least some control over the tenant's maintenance. *See Chatham Cnty. Bd. of Assessors*, 849 S.E.2d at 771 ("Although [tenant] has a duty to maintain the premises, the [landlord] has significant authority to govern the maintenance, landscaping, and to control how any improvements are made upon the land."); *Joint Dev. Auth. of Jasper Cnty.*, 887 S.E.2d at 389 (where tenant had the duty to maintain, the court noted that "[i]f the parties had intended

to convey an estate for a term of years, the duties described would have been the lessee's responsibility under the law, thus making it unnecessary to insert such a provision in the body of the agreement.") (quoting *Richmond Cnty. Bd. of Tax Assessors*, 325 S.E.2d at 893). Further, courts have found that lease provisions which "obligate the lessee to expend certain minimum sums in making repairs and improvements . . . are consistent with the grant of a usufruct." *Jekyll Dev. Assocs., L.P.*, 523 S.E.2d at 373; *see also Chatham Cnty. Bd. of Assessors*, 849 S.E.2d at 771 (finding a usufruct where tenant was required to make $2.75 million in improvements which would vest in the landlord at the termination of the lease).

59. Under the Covington Lease, the Landlord—not the Tenant—must maintain the structural frame, roof, exterior walls, base-building HVAC, plumbing, electrical and mechanical systems to the point of connection, utility lines, entrances, driveways, grounds, sidewalks, parking areas, landscaping, and other common areas. *See* Covington Lease § 5.1. The Tenant's duties are narrower and still landlord-controlled: Ascend must maintain only improvements and systems exclusively serving the premises, use landlord-approved contractors and workmen, maintain an HVAC service contract with an approved or appropriately licensed contractor, and reimburse the Landlord if the Landlord must step in to make emergency repairs. *See* Covington Lease § 5.2. Leasehold improvements ordinarily become the Landlord's property at lease end unless the Landlord elects to require removal. *See* Covington Lease § 5.4; *see also Jacobi v. Timmers Chevrolet, Inc.*, 296 S.E.2d 777, 779 (Ga. Ct. App. 1982) ("The commonly accepted requirement in a leasehold contemplates that the lessor (owner) will make capital improvements or repairs as opposed to repairs or modification essentially beneficial to the lessee…The logic of this is apparent as capital improvements or repairs normally work to the advantage of the owner and not to the lessee who normally enjoys only a usufruct.").

e. Ascend Elements Could Not Assign, Sublease, or Encumber the Covington Lease Without Covington Industrial's Consent, Confirming a Usufruct.

60. The final factor asks whether the tenant may freely transfer its interest. Free alienability is consistent with an estate for years; a landlord consent right is consistent with a usufruct. *See Macon-Bibb Cnty. Bd. of Tax Assessors*, 414 S.E.2d at 637 (lease restrictions on sublease "without permission of the city or the Authority, indicate a usufruct."); *Joint Dev. Auth. of Jasper Cnty.*, 887 S.E.2d at 390 (lease which did not allow tenant "to convey any rights, interests, or duties in the Rental Agreement, or to sublet the Project, except to an affiliate, unless it first obtains [the landlord's] consent" suggested a usufruct); *Chatham Cnty. Bd. of Assessors*, 849 S.E.2d at 771 ("[T]he Agreement expressly prohibits [the tenant] from subletting the premises, or assigning or transferring any of its rights under the Agreement without [the landlord's] consent. This language indicates a usufruct."); *City of College Park*, 815 S.E.2d at 250-51 (prohibition on "subletting, assigning, transferring, or encumbering" rights under the agreements without the landlord's consent reflective of a usufruct); *Allright Parking of Georgia, Inc.*, 260 S.E.2d at 321 (lessee prevented from subletting or assigning its interests without landlord's approval indicative of a usufruct).

61. Under the Covington Lease, Ascend Elements is prohibited from transferring, assigning, subleasing, or encumbering the lease without the Landlord's consent except to assign or sublet the lease to Ascend's affiliates or controlled entities, and the Landlord reserves the unrestricted right to sell the premises. Covington Lease § 8.1.

B. AMCON Does Not Hold A Lien On Any Of The Debtors' Property Interests Sold In Connection With The Covington Sale Or On The Covington Proceeds Thereof.

62. Under Georgia law, "[a]ll contractors, all subcontractors, and all materialmen" have a lien for furnishing labor, services, or materials "for the improvement of ***real estate***." O.C.G.A. § 44-14-361(a)(2) (emphasis added). Such lien attaches to the "***real estate*** of the owner for which the labor, services, or materials are furnished at the instance of the owner,

contractor, or some other person acting for the owner or contractor[.]" O.C.G.A. § 44-14-361(b) (emphasis added). Based on the plain language of the statute, a contractor's lien exists only for labor, services, or materials furnished for the improvement of real estate, and the lien reaches only the owner's interest in real property. *See id.*; *Bennett Iron Works, Inc.* 204 S.E.2d at 332 (stating that a materialman may have a lien that attaches to the interest of a lessee in an estate for year for furnishing material for the improvement of real estate); *D & N Elec., Inc. v. Underground Festival, Inc.*, 414 S.E.2d 891, 892 (Ga. Ct. App. 1991) (holding that lessee was the "true owner" against whose leasehold interest in the real property a viable lien could attach).

63. By contrast, only "mechanics" have a distinct statutory lien "on personal property" under Georgia's lien laws and only "for work done and material furnished in manufacturing or repairing the personal property and for storage of the personal property after its manufacture or repair…." O.C.G.A. § 44-14-363(a).

64. Georgia law provides different mechanisms for asserting liens against real and personal property. For a contractor's lien to be effective and enforceable against real estate it must comply with various notice and recording requirements, including filing a record of the lien claim with the clerk of the superior court of the county where the real property is located for which the labor, services, or materials were furnished and describing the real property against which the lien claim is asserted, followed by commencement of a lien action within a year. *See* O.C.G.A. § 44-14-361.1(a). Mechanics' liens against personal property are asserted differently, either by retention of the personal property, or by surrendering the personal property and subsequently recording a lien claim with the clerk of the superior court of the county where the personal property is located that specifically describes the subject property. *See* O.C.G.A. § 44-14-363(a), (c).

65. To determine whether AMCON's Lien attaches to the property sold by the Debtors through the Covington Sale, the Court therefore must determine on which side of that

line the disputed asset categories fall. That classification question is dispositive because Georgia's lien statutes are strictly construed in favor of the property owner and against the lien claimant. *See Mull v. Mickey's Lumber & Supply Co., Inc.*, 461 S.E.2d 270, 272-73 (Ga. Ct. App. 1995); *Handy Andy of Eastman, Inc. v. Evans*, 712 S.E.2d 589, 591 (Ga. Ct. App. 2011)

66. AMCON's Lien fails to attach to any of the assets sold in the Covington Sale for two reasons. First, fixtures and permanent tenant improvements are part of the realty and, because Ascend's interest is a non-lienable usufruct, AMCON's Lien does not attach to them. Second, with respect to machinery, equipment, trade fixtures, and other personal property, Georgia's lien statutes provide no basis for AMCON's Lien, and AMCON's own recorded Lien Statement does not purport to encumber any personal property.

a. Because Ascend's Interest is a Non-Lienable Usufruct, AMCON's Lien Does Not Attach to the Leasehold, Fixtures, or Improvements on the Covington Property.

67. Georgia law defines "realty" or "real estate" to include "all lands and the buildings thereon," "all things permanently attached to land or to the buildings thereon," and "[a]ny interest existing in, issuing out of, or dependent upon land or the buildings thereon." O.C.G.A. § 44-1-2. A "fixture" is anything intended to remain permanently in place, even if not actually attached to the land, and such a fixture "constitutes a part of the realty and passes with it." O.C.G.A. § 44-1-6(a). Consistent with those definitions, Georgia courts treat permanent leasehold improvements as part of the realty rather than separate personal property. *See Fulton Cnty. Bd. of Assessors v. McKinsey & Co., Inc.*, 481 S.E.2d 580, 581-82 (Ga. Ct. App. 1997); *Clayton Cnty. Bd. of Tax Assessors,* 815 S.E.2d at 875.

68. The Covington Lease adopts that same distinction. Section 5.4 provides that all leasehold improvements, other than unattached, movable trade fixtures, either become Landlord's property or must be removed at Landlord's election. Covington Lease § 5.4. Section 5.5 goes further: it expressly provides that no interest of Landlord in the Premises, Building,

or Land shall be subject to any lien for improvements made by Tenant, and it requires any notice of commencement to state that Tenant's interest is only a leasehold estate and that Landlord's fee simple interest is not subject to construction liens. Covington Lease § 5.5.

69. For the reasons set forth above, the Covington Lease conveyed a non-lienable usufruct to Ascend. Because fixtures and permanent tenant improvements are part of the underlying realty, AMCON's Lien does not attach to those categories of property. *See* O.C.G.A. § 44-7-1(a); *Jones*, 52 S.E.2d at 582 (materialman's lien asserted against leasehold that constituted a usufruct did not attach to the real estate or improvements thereon); *see also City of College Park*, 815 S.E.2d at 252 (purported "leasehold improvements" were improvements on the realty and therefore constituted one item of property not subject to taxation for the lessee's usufruct interest); *Clayton Cnty. Bd. of Tax Assessors*, 815 S.E.2d at 875 (because lessee's interest was a non-taxable usufruct, lessee was not subject to taxation for improvements and fixtures to realty).

b. AMCON's Lien Does Not Attach to the Equipment, Machinery, Trade Fixtures, or Other Personal Property the Debtors Sold

70. Georgia law provides that "[m]achinery which is not actually attached to the realty but is movable at pleasure is not a part of the realty." O.C.G.A. § 44-1-6(b). Further "machinery" are defined as an assemblage of parts that transmits force, motion, and energy to accomplish a specific objective, and "equipment" is defined as tangible personal property other than machinery and industrial materials, including durable devices designed for long-term continuous or repetitive use. *See* O.C.G.A. § 48-8-3.2(a)(3), (7).

71. Trade fixtures are treated separately from ordinary fixtures. During the tenancy, a tenant may remove trade fixtures it erected, and if they are not removed before the tenancy ends they become the landlord's property. O.C.G.A. § 44-7-12. Georgia courts likewise treat trade fixtures as removable tenant property even when attached to the premises. *See Lay Bros., Inc. v. Golden Pantry Food Stores, Inc.*, 616 S.E.2d 160, 163-64 (Ga. Ct. App. 2005); *S.S. Air,*

Inc. v. City of Vidalia, 628 S.E.2d 117, 119 (Ga. Ct. App. 2006) ("In Georgia, trade fixtures are defined as articles annexed to the realty by a tenant for the purpose of carrying on a trade") (citing *Lay Bros.*).

72. The Covington Sale conveyed tangible personal property located at or on the Covington leased real property. APA §§ 1.1(d), (e). Moreover, the Covington Lease distinguishes between personal and real property interests. Section 5.4 of the Covington Lease separates "unattached, movable trade fixtures" from leasehold improvements. Section 12.3 separately refers to "stock, trade fixtures, furniture, and other personal property." Section 2.4 separately allocates taxes on "personal property" and "trade fixtures." Covington Lease §§ 2.4, 5.4, 12.3.

73. For AMCON's Lien to attach to machinery, equipment, trade fixtures, furniture, or other personal property sold by the Debtors in connection with the Covington Sale, AMCON must have performed work or furnished materials for the manufacture, repair, or storage of personal property belonging to Ascend. *See* O.C.G.A. § 44-14-363. AMCON did not do so. Rather, AMCON provided labor, services, and materials in connection with work on the Covington Property. MSA § 1.1.1; Lien Statement (AMCON "was hired by Ascend Elements, Inc. to engage in the business of improving real estate by furnishing labor and materials…."). Even if AMCON could assert a valid lien against such personal property, AMCON was required to proceed under O.C.G.A. § 44-14-363. AMCON did not do that either. AMCON did not assert retention over any personal property belonging to the Ascend, nor did it file a lien statement describing the personal property against which it purported to assert a lien. *See* O.C.G.A. § 44-14-363(c).

74. In the Complaint, AMCON alleged that Ascend had only a "leasehold or other interest" in the Property and sought foreclosure only on "whatever property interest Ascend has in the Property." Complaint ¶¶ 53, 59. The recorded Lien Statement likewise claims a lien

only "on the leasehold estate for years and any other property interests" in the described premises or real estate and attaches only a legal description of the real property. *See* Lien Statement. Nothing in either the Complaint or the Lien Statement identifies any machinery, equipment, trade fixtures, furniture, inventory, or other personal property. That omission is fatal. The description in a lien claim must make possible the identification of the real or personal property claimed. *See Mull*, 461 S.E.2d at 273; *Bollers v. Noir Enterprises, Inc.*, 677 S.E.2d 338, 344 (Ga. Ct. App. 2009). At bottom, a lien recorded only against the described premises or real estate cannot be stretched to reach personal property that the lien claimant never identified and never recorded a lien against.

75. Because Georgia's lien statutes are strictly construed in favor of the property owner and against the lien claimant, the Court may not recharacterize AMCON's recorded real-property lien as a different lien on personal property that AMCON never recorded. *See Mull*, 461 S.E.2d at 273; *Bollers*, 677 S.E.2d at 344. The Court therefore should not enlarge AMCON's recorded real-property lien beyond what Georgia's lien statutes authorize or beyond what AMCON actually recorded.

VI. RESERVATION OF RIGHTS

76. To the extent the Court disagrees with the analysis above and holds that AMCON in fact held a cognizable interest in certain of the Debtors' interests conveyed by the Covington Lease, the Debtors reserve all rights as set forth in the Scheduling Order, including the right to assert at a later stage that AMCON's Lien, if any, attaches only to a portion of the proceeds of the Covington Sale, and that any value associated with the Debtors' leasehold interest by itself is negligible.

VII. CONCLUSION

77. For the foregoing reasons, and because AMCON cannot satisfy its burden of proving a valid lien under Georgia law against any property sold in the Covington Sale, the Debtors are entitled to summary judgment as a matter of law and to the release of the $1,900,000 held in the Covington Proceeds Escrow. Therefore, the Debtors respectfully request that the Court enter the Order granting the relief requested in this Motion and such other and further relief as the Court deems appropriate under the circumstances.

Dated: July 24, 2026

Respectfully submitted,

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Counsel to the Debtors and Debtors in Possession

Certificate of Service

I certify that on July 24, 2026, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Ryan Manns
Ryan E. Manns

Docket #0534 Date Filed: 06/30/2026
United States Bankruptcy Court
Southern District of Texas
ENTERED
June 30, 2026
Nathan Ochsner, Clerk

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	)	Chapter 11
ASCEND ELEMENTS, INC. *et al.*,[1]	)	Case No. 26-90440 (CML)
Debtors.	)	(Jointly Administered)

ORDER (I) APPROVING THE SALE OF CERTAIN OF THE DEBTORS' ASSETS FREE AND CLEAR OF CLAIMS, LIENS, AND ENCUMBRANCES, (II) APPROVING THE ASSUMPTION AND ASSIGNMENT OF DESIGNATED EXECUTORY CONTRACTS AND UNEXPIRED LEASES AND (III) GRANTING RELATED RELIEF

Upon the motion [Docket No. 50] (the "Motion")[2] filed by the debtors and debtors in possession (collectively, the "Debtors") in the above-captioned chapter 11 cases (the "Chapter 11 Cases") seeking, among other things, entry of an order (this "Order") approving the sale of the Debtors' assets and approving the assumption and assignment of certain contracts pursuant to the Asset Purchase Agreement (as defined below) with R3 Lithium, Inc., and upon the *Declaration of Linh Austin in Support of the Debtors' Chapter 11 Petitions and First Day Motions* (the "First Day Declaration") [Docket No. 11], the *Declaration Of Michael O'Hara Of Jefferies LLC In Support Of The Debtors' Emergency Motion For Entry Of Order (I)(A) Approving Bid Procedures, (B) Authorizing Designation Of A Stalking Horse Bidder, (C) Scheduling An Auction, Related Deadlines, And A Sale Hearing, And (D) Granting Related Relief; And (II)(A) Approving The Sale*

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Ascend Elements, Inc. (2893) and Ascend Elements US, LLC (8309). The location of the Debtors' service address is: 133 Flanders Road, Westborough, MA 01581.

[2] Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the Motion or the Asset Purchase Agreement (as hereinafter defined), as applicable.

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Of The Debtors' Assets, (B) Approving The Assumption And Assignment Of Certain Contracts, And (C) Granting Related Relief, ("O'Hara Bid Procedures Declaration") [Docket No. 88] and upon the *Order (A) Approving Bid Procedures (B) Authorizing Designation of a Stalking Horse Bidder, (C) Scheduling an Auction, Related Deadlines, and a Sale Hearing, and (D) Granting Related Relief* [Docket No. 120] (the "Bid Procedures Order"); and that certain Asset Purchase Agreement, dated as of June 19, 2026 (together with all other agreements and other instruments deliverable thereunder or attached thereto or referenced therein, and as may be amended, modified, or supplemented, the "Asset Purchase Agreement"), a copy of which is attached hereto as **Exhibit 1**, by which R3 Lithium, Inc. (the "Purchaser") submitted the highest or best bid for the Acquired Assets (as defined in the Asset Purchase Agreement) as determined by the Debtors (such offer, the "Successful Bid"); and the Debtors having received no Qualified Bids for the Acquired Assets, other than the Purchaser's Successful Bid; and the Debtors accordingly, pursuant to the Bid Procedures, having canceled the Auction solely with respect to the Acquired Assets; and the Court having conducted a hearing to consider certain relief requested in the Motion on June 29, 2026 (the "Sale Hearing"), at which time all interested parties were offered an opportunity to be heard with respect to the Motion; and the Court having reviewed and considered (i) the Motion; (ii) the Asset Purchase Agreement; (iii) the Bid Procedures Order, (iv) the First Day Declaration, (v) the O'Hara Bid Procedures Declaration, (vi) the *Declaration of Paul Shin in Support of Entry of an Order (I) Approving the Sale of the Debtors' Interests in the Covington, Georgia Assets Free and Clear of Encumbrances, Claims, Interests and Encumbrances, (II) Approving the Assumption and Assignment of Associated Executory Contracts and Unexpired Leases, and (III) Granting Related Relief* [Docket No. 520], (vii) the *Declaration of Adam Titus in Support of Entry of an Order (I) Approving the Sale of the Debtors' Interests in the Covington, Georgia Assets Free and*

Clear of Encumbrances, Claims, Interests and Encumbrances, (II) Approving the Assumption and Assignment of Associated Executory Contracts and Unexpired Leases, and (III) Granting Related Relief [Docket No. 521], (vi) – (vii) collectively, the "Sale Declarations"), (viii) the *Notice of (I) Designation of R3 Lithium, Inc., as Successful Bidder for the Debtors' Covington, Georgia Assets and (II) Cancellation of Auction with Respect to Such Assets* [Docket No. [487] (the "Notice of Successful Bidder"), (ix) the *Notice of Hearing to Consider Approval of the Sale of the Covington Assets* [Docket No. 489, 510] (collectively, the "Sale Hearing Notice"), (x) the *First Notice to Contract Parties to Potentially Assumed Executory Contracts and Unexpired Leases* [Docket No. 240] (the "Assumption and Assignment Notice"), (xi) the *Second Notice to Contract Parties to Potentially Assumed Executory Contracts and Unexpired Leases* [Docket No. 488] (the "Supplemental Assumption and Assignment Notice") and (xii) the arguments of counsel made, and the evidence proffered or adduced at the Sale Hearing; and after due deliberation the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interest of the Debtors, their estates and their creditors, and the Debtors having demonstrated good, sufficient and sound business justifications for the relief granted herein;

IT IS HEREBY FOUND AND DETERMINED THAT:[3]

A. Jurisdiction and Venue. The Court has jurisdiction to hear and consider the Motion and the relief requested therein pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of Texas*, dated May 24, 2012. Without limiting the generality of the foregoing, this Court has exclusive *in rem*

[3] The findings and conclusions of law set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such.

jurisdiction over the Acquired Assets pursuant to 28 U.S.C. § 1334(e), as such Assets are property of the Debtors' chapter 11 estates, and, as a result of such jurisdiction, this Court has all necessary power and authority to grant the relief contained herein. This is a core proceeding under 28 U.S.C. § 157(b), and the Court may enter a final order hereon under Article III of the United States Constitution. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

B. Final Order. This Order constitutes a final order within the meaning of 28 U.S.C. § 158(a).

C. Statutory Predicates. The statutory and other legal predicates for the relief sought by the Motion are sections 105(a), 363, 365, and 503 of title 11 of the United States Code, as amended (the "Bankruptcy Code"), Bankruptcy Rules 2002, 6004, 6006, 9006, 9007, 9008 and 9014, Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Southern District of Texas 2002-1 and 4002-1, and the Procedures for Complex Cases in the Southern District of Texas (the "Complex Case Procedures").

D. Bid Procedures. On April 17, 2026, the Court entered the Bid Procedures Order, which among other things, (i) approved the Bid Procedures (as defined in the Motion), (ii) authorized the Debtors, in their discretion to designate one or more Stalking Horse Bidders for some or all of the Assets, to enter into one or more stalking horse asset purchase agreements, and to seek approval of any Bid Protections, (iii) scheduled (a) an auction in connection with a sale of the Assets if the Debtors receive one or more timely and acceptable Qualified Bids, (b) a hearing to consider approval of one or more Sale Transactions as necessary, and (c) the objection deadline for approval of one or more Sale Transactions (the "Sale Objection Deadline"); (iv) approved the form and manner of notice of Sale Hearing Notice; (v) approved the form and manner of notice of the Successful Bidder; (vi) approved procedures (the "Assumption and Assignment Procedures")

for the assumption and assignment of certain executory contracts and unexpired leases in connection with a Sale Transaction (collectively, the "Assigned Contracts"); and (vii) approved the form and manner of notice to each relevant non-Debtor counterparty (each, a "Contract/Lease Counterparty") to an executory contract or unexpired lease regarding the Debtors' proposed assumption and assignment of the Assigned Contracts, including notice of proposed amounts (the "Cure Costs") necessary to cure any defaults thereunder. The Bid Procedures were substantively and procedurally fair to all parties and all potential bidders and afforded notice and a full, fair and reasonable opportunity for any person to make a higher or otherwise better offer to purchase the Debtors' assets. The Debtors conducted the sale process in accordance with the Bid Procedures and without collusion.

E. Notice and Opportunity to Be Heard. As evidenced by the certificates of service filed with respect to the Bid Procedures Order •Docket Nos. 110, 134, and 145], the Assumption and Assignment Notice, the Supplemental Assumption and Assignment Notice, the Notice of Successful Bidder, the Sale Hearing Notice, and as demonstrated by the evidence presented at the Sale Hearing, the Debtors have complied with the Bid Procedures and otherwise have provided proper, timely, adequate and sufficient notice of, and a fair and reasonable opportunity to object and be heard with respect to, the Motion, the Bid Procedures, the Sale Hearing, the Assumption and Assignment Procedures, the sale of the Acquired Assets pursuant to the Asset Purchase Agreement (the "Sale Transaction") free and clear of all Encumbrances (as defined in the Asset Purchase Agreement) other than the Permitted Encumbrances (also as defined in the Asset Purchase Agreement), and the assumption and assignment of the Assigned Contracts to be assumed and assigned to Purchaser at Closing pursuant to this Order and the terms of the Asset Purchase Agreement, in accordance with sections 102(1), 363 and 365 of the Bankruptcy

Code, Bankruptcy Rules 2002(a), 4001, 6004, 6006, 9007 and 9014, and the Bid Procedures Order, to all persons and entities entitled to such notice, and all other persons and entities as directed by the Court. Such notice was good, sufficient and appropriate under the circumstances and reasonably calculated to reach and apprise all holders of Encumbrances, claims, and other interests, including, without limitation, rights or claims based on any successor, transferee, derivative, or vicarious liabilities of their right to appear and be heard, and was provided in accordance with the applicable requirements of the Bankruptcy Code, the Bankruptcy Rules, and the procedural due process requirements of the United States Constitution. With respect to parties in interest whose identities could not be reasonably ascertained by the Debtors, the Publication Notice (as defined in the Bid Procedures Order) published in *The New York Times* on April 16, 2026 [Docket No. 127], and April 23, 2026 [Docket No. 134], was sufficient and reasonably calculated to provide notice to such parties under the circumstances. No other or further notice of, opportunity to object to, or other opportunity to be heard regarding the Motion, the Sale Hearing, the Asset Purchase Agreement, the Sale, the Sale Transactions, the transactions contemplated by the Asset Purchase Agreement, or of the entry of this Sale Order is necessary or shall be required.

F. Disclosures. The disclosures made by the Debtors in the Bid Procedures Motion, the Motion, the Sale Hearing Notice, the Assumption and Assignment Notice, the Supplemental Assumption and Assignment Notice, the Notice of Successful Bidder, and all other related notices and documents filed with the Court concerning the Asset Purchase Agreement and Sale Transaction were complete and adequate.

G. Sound Business Purpose. The Debtors, having determined that the Successful Bid was the highest and best offer for the Acquired Assets made by the Purchaser, have demonstrated good, sufficient and sound business purposes and justifications that approval and

entry into the Sale Transaction, the Asset Purchase Agreement and any ancillary agreements thereto (i) are a result of due deliberation by the Debtors and constitute a sound and reasonable exercise of the Debtors' business judgment consistent with their fiduciary duties; (ii) provide value and are beneficial to the Debtors' estates, and are in the best interests of the Debtors, their estates and their stakeholders; and (iii) are reasonable and appropriate under the circumstances. Business justifications for entry into the Sale Transaction and the Asset Purchase Agreement include, but are not limited to, (a) the Asset Purchase Agreement constitutes the highest or best offer received for the Acquired Assets; (b) the Asset Purchase Agreement presents the best opportunity to maximize the value of the Acquired Assets on a going-concern basis and to avoid decline and devaluation as a result of delay or liquidation; (c) failure to consummate the Sale Transaction expeditiously, as provided under the Asset Purchase Agreement, could materially diminish creditor recoveries; and (d) the immediate consummation of the Sale Transaction is necessary to maximize the value of the Debtors' estates.

H. Compliance with Bid Procedures. The Debtors conducted an open and fair Sale Process. The Sale Process was non-collusive in all respects, and all interested parties were provided a full, fair and reasonable opportunity to make an offer to purchase the Acquired Assets. The Debtors, the Purchaser and their respective counsel and other advisors have complied with the Bid Procedures and the Bid Procedures Order in all respects to the extent such are applicable.

I. Highest or Best Value. The Debtors determined, in their reasonable business judgment, in a manner consistent with their fiduciary duties and in consultation with the Consultation Parties, that the Purchaser's Successful Bid, as documented in the Asset Purchase Agreement, was the highest or otherwise best Qualified Bid for the Acquired Assets. Consummating the Sale Transaction will yield greater value to the Debtors' estates than would

have been provided by any other available alternative transaction. The Debtors have demonstrated that entry into and consummation of the Sale Transaction constitutes the exercise by the Debtors of sound business judgment, and such acts are in the best interests of the Debtors, their estates, and creditors, and all parties in interest, and the Debtors, and their respective current members, managers, officers, directors, employees, advisors, professionals or agents (in each case, solely in their capacity as such), shall have or incur no liability to the estates or any stakeholder in or against the Debtors or their assets for any act or omission in connection with, related to, or arising out of the negotiations or the consummation of the Sale Transaction, other than liability arising out of or relating to any fraud, as determined by a court of competent jurisdiction.

J. Fair Consideration. The consideration to be paid by the Purchaser under the Asset Purchase Agreement constitutes (i) fair and reasonable consideration for the Acquired Assets; and (ii) reasonably equivalent value and fair consideration under the Bankruptcy Code, the Uniform Fraudulent Transfer Act, the Uniform Fraudulent Conveyance Act, the Uniform Voidable Transactions Act and other laws of the United States, any state, territory, possession thereof or the District of Columbia.

K. Sufficiency of Marketing. As demonstrated by the Motion, the O'Hara Bid Procedures Declaration, the Sale Declarations, and the evidence set forth at the Sale Hearing, the Debtors and their professionals adequately marketed the Debtors' assets and conducted the marketing and sale process as set forth in and in accordance with the Motion and the Bid Procedures and conducted a fair and open sale process. The sale process and the Bid Procedures were non-collusive, duly noticed, and provided a full, fair, and reasonable opportunity for any entity to make an offer to purchase the assets, and the process conducted by the Debtors pursuant to the Bid Procedures Order obtained the highest or otherwise best value for the Debtors' assets,

and there was no other transaction available or presented that would have yielded a higher or better result. Based upon the record of these proceedings, all creditors and other parties in interest and all prospective Bidders have been afforded a reasonable and fair opportunity to bid for the assets and/or file an objection to the Sale Transaction. The marketing process undertaken by the Debtors and their professionals and each of their respective agents and other representatives with respect to the assets has been adequate and appropriate and reasonably calculated to maximize the value for the benefit of all of the Debtors' stakeholders in all respects.

L. Free and Clear Sale. The Debtors are authorized to sell the Acquired Assets free and clear of all Encumbrances (unless otherwise expressly assumed under, or expressly permitted by, the Asset Purchase Agreement), because, in each case, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. Any holders of Encumbrances that objected to the Sale Transaction or the Motion and that have an Encumbrance on the Acquired Assets could be compelled in a legal or equitable proceeding to accept money in satisfaction of such Encumbrance pursuant to section 363(f)(5), or fall within one or more of the other subsections of section 363(f) and, therefore, are adequately protected by having their Encumbrances on the Acquired Assets attach solely to the proceeds of the Sale Transaction ultimately attributable to the sale of the property in which such holders have an Encumbrance, in the same order of priority, and with the same validity, force and effect that such Encumbrances had prior to the consummation of the Sale Transaction, subject to any rights, claims or defenses of the Debtors and their estates. Any holders of Encumbrances that did not object, or that withdrew their objections, to the Motion or the Sale Transaction, are deemed to have consented to the sale

of the Acquired Assets free and clear of their respective Encumbrances on the Acquired Assets pursuant to section 363(f)(2) of the Bankruptcy Code.

M. Purchaser's Reliance on Free and Clear Sale. The Purchaser would not have entered into the Asset Purchase Agreement and would not consummate the Sale Transaction or the other transactions contemplated thereby if the sale of the Acquired Assets were not free and clear of all Encumbrances, or if the Purchaser would, or in the future could, be liable for any such Encumbrances. A sale of the Acquired Assets other than one free and clear of all Encumbrances would adversely impact the Debtors, their estates and their creditors, and would yield substantially less value for the Acquired Assets and the Debtors' estates, with less certainty than provided by the Sale Transaction. The total consideration to be provided under the Asset Purchase Agreement reflects the Purchaser's reliance on this Order to provide it, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, with title to and possession of the Acquired Assets free and clear of all Encumbrances, including, without limitation, any potential derivative, vicarious, transferee or successor liability Encumbrances.

N. No Successor or Other Derivative Liability. By consummating the Sale Transaction pursuant to the Asset Purchase Agreement, the Purchaser is not a mere continuation of any of the Debtors or any Debtor's estate, and there is no continuity of enterprise or otherwise or common identity between the Purchaser and any Debtor. The Purchaser is not holding itself out as a continuation of any Debtor. The Purchaser is not a successor to any Debtor or any Debtor's estate by reason of any theory of law or equity, and the Sale Transaction does not amount to a consolidation, merger or de facto merger of the Purchaser and the Debtors or any of their estates. Neither the Purchaser nor any of its affiliates or their respective successors, assigns, members, partners, principals or shareholders (or the equivalent thereof) shall assume or in any way be

responsible for any obligation or liability of any Debtor (or any affiliate of any Debtor) or any Debtor's estate, except as expressly provided in the Asset Purchase Agreement. The sale and transfer of the Acquired Assets to the Purchaser, including the assumption by the Debtors and assignment, transfer and/or sale to the Purchaser of any of the Assigned Contracts, will not subject the Purchaser to any liability with respect to the operation of the Debtors' businesses prior to the Closing or by reason of such transfer, except that, upon the Closing, the Purchaser shall remain liable for the applicable Assumed Liabilities (as defined in the Asset Purchase Agreement).

O. Good Faith. The Debtors, the Purchaser and their respective counsel and other advisors have negotiated and entered into the Asset Purchase Agreement and each of the transactions contemplated thereby in good faith, without collusion and from arms'-length bargaining positions. The Purchaser is a good-faith purchaser and is acting in good faith within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to all of the protections afforded thereby. The Debtors were free to deal with any other party interested in acquiring all or some of the Acquired Assets. Neither the Debtors nor the Purchaser have engaged in any conduct that would cause or permit the Sale Transaction, the Asset Purchase Agreement or any of the transactions contemplated thereby to be avoided or subject to monetary damages under section 363(n) of the Bankruptcy Code, or that would prevent the application of sections 363(m) or 364(e) of the Bankruptcy Code. The Purchaser has not violated section 363(n) of the Bankruptcy Code by any action or inaction. Specifically, the Purchaser has not acted in a collusive manner with any person or entity, and the Purchaser's participation in and submission of a Qualified Bid were not controlled by any agreement among bidders. All payments to be made by the Purchaser and all agreements entered into by the Purchaser and the Debtors and any other Seller under the Asset Purchase Agreement in connection with the Sale Transaction have been disclosed and are

appropriate. The Asset Purchase Agreement was not entered into for the purpose of hindering, delaying or defrauding creditors under laws of the United States, any state, territory, possession or the District of Columbia.

P. Insider Status. The Purchaser is not an "insider" of any Debtor, as that term is defined in section 101(31) of the Bankruptcy Code. No common identity of directors or controlling stockholders (or the equivalent thereof) exists between the Purchaser and any of the Debtors.

Q. Assumption and Assignment of Contracts. The assumption and assignment of the Assigned Contracts are an integral part of the Sale Transaction, are in the best interests of the Debtors and their estates and represent the valid and reasonable exercise of the Debtors' sound business judgment. Specifically, the assumption and assignment of the Assigned Contracts (i) are necessary to sell the Acquired Assets to the Purchaser as contemplated by the Asset Purchase Agreement, (ii) allow the Debtors to sell the Acquired Assets to the Purchaser as a going concern, (iii) limit the losses suffered by the Contract/Lease Counterparties to the Assigned Contracts and (iv) maximize the recoveries of other creditors of the Debtors by avoiding claims against the Debtors' estates that would arise from the Debtors' rejection of the Assigned Contracts. Any Contract/Lease Counterparty to any Contract that has not actually filed with the Court and served on the Objection Notice Parties (as defined in the Bid Procedures) an objection to the assumption and/or assignment of such Assigned Contract as of the applicable date specified in the Bid Procedures Order (as such date may have been modified or extended in accordance with the terms

of the Bid Procedures Order) is deemed to have consented to the assumption and assignment of the Assigned Contract.

R. Compliance with Section 365 of the Bankruptcy Code. The Debtors have met all requirements of section 365(b) of the Bankruptcy Code with respect to the assumption and assignment of each of the Assigned Contracts. The Debtors have provided adequate assurance (within the meaning of section 365(b)(1) of the Bankruptcy Code) of cure of any default existing under any of the Assigned Contracts on or before the Closing Date (as defined in the Asset Purchase Agreement). The Purchaser has demonstrated adequate assurance of future performance of and under the Assigned Contracts within the meaning of sections 365(b)(1)(C), 365(f)(2)(B) and 365(b)(3) (to the extent applicable) of the Bankruptcy Code. The notice and opportunity to object provided to the Contract/Lease Counterparties to such Assigned Contracts and to other parties in interest, as set forth in the Assumption and Assignment Procedures contained in the Bid Procedures Order, fairly and reasonably protects any rights that such Contract/Lease Counterparties and other parties in interest may have with respect to such Assigned Contracts. Pursuant to section 365(f) of the Bankruptcy Code, the Assigned Contracts shall be assigned and transferred to, and remain in full force and effect for the benefit of, the Purchaser, notwithstanding any provision in the Assigned Contracts or other restrictions prohibiting their assignment or transfer.

S. Property of the Estates. The Acquired Assets constitute property of the Debtors' estates within the meaning of section 541(a) of the Bankruptcy Code.

T. Validity of the Sale Transaction. The consummation of the Sale Transaction is legal, valid and properly authorized under all applicable provisions of the Bankruptcy Code, including sections 105(a), 363(b), 363(f), 363(m), 365(b) and 365(f) and all of

the applicable requirements of such sections have been complied with in all respects in connection with the Sale Transaction. As of the Closing, the transfer of the Acquired Assets to the Purchaser will be a legal, valid and effective transfer of the Acquired Assets, including the Assigned Contracts, and will vest the Purchaser with all right, title and interest of the Debtors in and to the Acquired Assets free and clear of all Encumbrances (unless otherwise expressly assumed under, or expressly permitted by, the Asset Purchase Agreement). The Debtors have full corporate or other applicable authority to execute the Asset Purchase Agreement and all other documents contemplated thereby, and the Sale Transaction has been duly and validly authorized by all necessary corporate action of the Debtors. Upon entry of this Order, other than any consents identified in the Asset Purchase Agreement, no consent or approval from any other person, entity or legal authority is required to consummate the Sale Transaction.

U. No *Sub Rosa* Plan. Neither the Sale Transaction nor the Asset Purchase Agreement impermissibly restructures the rights of any of the Debtors' creditors or impermissibly dictates the terms of a liquidating plan of reorganization of the Debtors. Neither the Sale Transaction nor the Asset Purchase Agreement constitutes a sub rosa or de facto plan of reorganization or liquidation, as neither proposes to (i) impair or restructure any existing debt of, or equity interests in, the Debtors; (ii) impair or circumvent voting rights with respect to any plan proposed by the Debtors; (iii) circumvent chapter 11 safeguards, such as those set forth in sections 1125 and 1129 of the Bankruptcy Code; or (iv) classify claims or equity interests or extend debt maturities.

V. No Stay of Order. Time is of the essence to implement the Asset Purchase Agreement and consummate the Sale Transaction. The Sale Transaction must be approved and consummated promptly in order to preserve the value of the Acquired Assets and to ensure the

Debtors' compliance with their obligations under their post-petition financing agreements. The Debtors have demonstrated compelling circumstances and sound business justifications for the immediate approval and consummation of the Sale Transaction as contemplated by the Asset Purchase Agreement. Notwithstanding the provisions of Bankruptcy Rules 6004(h), 6006(d), and 7062 or any applicable provisions of the Local Rules, this Order shall not be stayed and shall be effective and enforceable immediately upon entry.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. Motion Granted. The Motion and the relief requested therein (to the extent not previously granted by the Court pursuant to the Bid Procedures Order or otherwise) are GRANTED and approved as set forth herein.

2. Objections Overruled. Any objections to the Motion or the relief requested therein that have not been withdrawn, waived or settled and all reservations of rights included such objections are hereby overruled on the merits with prejudice; *provided, however*, that the Limited Objection and Reservation of Rights filed by AM Construction Inc. d/b/a AMCON Industrial [Dkt. No. 498] is resolved by paragraphs 39 and 40 of this Order, and is hereby withdrawn with prejudice as to the specific issues addressed by such modifications. All other rights reserved by AMCON in such filing, including those set forth in AMCON's Proof of Claim [ECF Claim No. 12], are expressly preserved.

3. Sale Transaction Approved. The Asset Purchase Agreement and all transactions contemplated thereby are APPROVED. The Debtors have satisfied all requirements of sections 363(b) and 363(f) of the Bankruptcy Code, and all other requirements and standards applicable to a sale outside the ordinary course of business, free and clear of all liens, claims, encumbrances, and interests.

4. Debtors' Performance Authorized. Pursuant to sections 105(a), 363(b) and 363(f) of the Bankruptcy Code, the Debtors are hereby authorized to enter into and perform their obligations under the Asset Purchase Agreement, and to take such other actions as may be necessary or desirable to effectuate the terms of the Asset Purchase Agreement and other instruments or documents that may be reasonably necessary or desirable to implement and effectuate the terms of the Asset Purchase Agreement, the Sale Transaction or this Order, including, without limitation, deeds, assignments, stock powers, transfers of membership interests and any other instruments of transfer, without further order of the Court. The Debtors are hereby further authorized to take all other actions as may reasonably be requested by the Purchaser or otherwise for the purpose of assigning, transferring, granting, conveying and conferring to the Purchaser, or reducing to the Purchaser's possession any or all of the Acquired Assets, including the Assigned Contracts, as may be necessary or appropriate for the Debtors to perform their obligations under the Asset Purchase Agreement and consummate the Sale Transaction, without further order of the Court.

5. Debtors' Effectuation of Asset Purchase Agreement. The Debtors are hereby authorized and empowered to cause to be executed and filed such statements, instruments, releases and other documents with respect to the Acquired Assets that are necessary or appropriate to effectuate the Asset Purchase Agreement, the Sale Transaction or this Order, including, as applicable, amended and restated certificates or articles of incorporation and by-laws or certificates or articles of amendment, and all such other actions, filings or recordings as may be required under appropriate provisions of the applicable laws of all applicable governmental units or as any of the officers of the Debtors may determine are necessary or appropriate.

6. Valid Transfer. Effective as of the Closing Date, the sale and assignment of the Acquired Assets and the Assigned Contracts by the Debtors to the Purchaser shall constitute a legal, valid and effective transfer of the Acquired Assets and the Assigned Contracts, notwithstanding any requirement for approval or consent by any person, and will vest the Purchaser with all right, title and interest of the Debtors in and to the Acquired Assets and the Assigned Contracts, free and clear of all Encumbrances (unless otherwise expressly assumed under, or expressly permitted by, the Asset Purchase Agreement), pursuant to section 363(f) of the Bankruptcy Code.

7. Free and Clear Sale. Except to the extent specifically provided in the Asset Purchase Agreement, upon the Closing Date, the Debtors shall be, and hereby are, authorized and empowered, pursuant to sections 105, 363(b) and 363(f) of the Bankruptcy Code, to sell and transfer to the Purchaser the Acquired Assets. The sale and transfer of the Acquired Assets to the Purchaser shall vest the Purchaser with all right, title and interest of the Debtor in and to the Acquired Assets free and clear of any and all Encumbrances of any person or entity (unless otherwise expressly assumed under, or expressly permitted by, the Asset Purchase Agreement), with all such Encumbrances to attach to the net proceeds of the Sale Transaction ultimately attributable to the sale of the property in which such holders have an Encumbrance, in the same order of priority, and with the same validity, force and effect that such Encumbrances had prior to the consummation of the Sale Transaction, subject to any rights, claims or defenses of the Debtors or their estates. Following the Closing, no holder of any Encumbrance on any of the Acquired Assets shall interfere with the Purchaser's use or enjoyment of any of the Acquired Assets based on or related to such Encumbrance or any actions that the Debtors have taken or may take in their Chapter 11 Cases.

8. Sale Effective. At Closing, the transfer of the Acquired Assets to the Purchaser, including, without limitation, the assumption, assignment and transfer of the Assigned Contracts, will be a legal, valid, and effective transfer thereof, and vest the Purchaser with all right, title, and interest of the Debtors in and to the Acquired Assets, to the greatest extent permitted by applicable law, free and clear of all Encumbrances accruing or arising any time prior to the Closing Date, and except as expressly set forth in the Asset Purchase Agreement with respect to the Assumed Liabilities or Permitted Encumbrances. Except as expressly permitted by the Asset Purchase Agreement or this Order, all persons and entities holding Encumbrances of any kind or nature whatsoever (other than the Permitted Encumbrances and Assumed Liabilities) are hereby forever barred, estopped, and permanently enjoined from asserting their respective Encumbrances against the Purchaser, any of the Purchaser's Stakeholders, any of its or their respective representatives, and each of their respective Acquired Assets and assets.

9. Sale Self-Effectuating. The provisions of this Order authorizing the sale and transfer of the Acquired Assets free and clear of Encumbrances shall be self-executing, and neither the Debtors nor the Purchaser shall be required to execute or file releases, termination statements, assignments, consents or other instruments in order to effectuate, consummate or implement the provisions of this Order. For the avoidance of doubt, on or after the Closing Date, the Debtors and/or the Purchaser shall be authorized, but not directed, to file any such releases, termination statements, assignments, consents or other instruments in any jurisdiction to record the release, discharge and termination of Encumbrances on the Acquired Assets pursuant to the terms of this Order.

10. Direction to Creditors. This Order shall be (a) effective as a determination that, as of the Closing Date, all Encumbrances on the Acquired Assets (unless otherwise expressly

assumed under, or expressly permitted by, the Asset Purchase Agreement) shall be unconditionally released, discharged and terminated as to the Purchaser and the Acquired Assets; and (b) binding upon all persons and entities, including all the Debtors' creditors and any holder of an Encumbrance in any of the Acquired Assets, and all such persons and entities are hereby authorized and directed to execute such documents and take all other actions as may be reasonably necessary to release their respective Encumbrances on the Acquired Assets, if any. If any person or entity that has filed a financing statement, mortgage, mechanics lien, lis pendens or other document, instrument, notice or agreement evidencing any Encumbrance on the Acquired Assets has not delivered to the Debtors on or before the Closing, in proper form for filing and executed by the appropriate parties, termination statements, releases or instruments of satisfaction that the person or entity has with respect to the Acquired Assets, the Debtors and/or the Purchaser are authorized to (x) execute and file such termination statements, releases, instruments of satisfaction or other documents with respect to the Acquired Assets on behalf of the applicable person or entity; and (y) file, register or otherwise record a certified copy of this Order which, once filed, registered or otherwise recorded, shall constitute conclusive evidence of the release of all Encumbrances on the Acquired Assets. This Order is deemed to be in recordable form sufficient to be placed in the filing or recording system of each and every federal, state, local, tribal or foreign government agency, department or office.

11. Direction to Recording Officers. This Order shall be binding upon all persons and entities, including filing agents or officers, title agents or companies, recorders of mortgages or deeds, registrars, administrative agencies, governmental units or departments, secretaries of state, governmental officials and all other persons or entities that may be required by operation of law, the duties of their office or contract to accept, file, register or otherwise record

or release any documents or instruments regarding the Acquired Assets or who may be required to report or insure any title or state of title in or to the Acquired Assets, (collectively, the "Recording Officers"). All Recording Officers are hereby authorized and directed to (a) accept any and all documents or instruments necessary and appropriate to consummate the Sale Transaction or to record and reflect that the Purchaser is the owner of the Acquired Assets free and clear of all Encumbrances (unless otherwise expressly assumed under, or expressly permitted by, the Asset Purchase Agreement) and (b) strike all recorded Encumbrances on the Acquired Assets from their records.

12. Direction to Surrender the Acquired Assets. All persons or entities in possession or control of any of the Acquired Assets, either presently or on or before the Closing Date, are directed to surrender possession or control of the Acquired Assets to the Purchaser on the Closing Date.

13. No Successor Liability. The Purchaser and its affiliates and their respective predecessors, successors, assigns, members, partners, officers, directors, principals and shareholders (or the equivalent thereof) are not and shall not be (a) deemed a "successor" in any respect to any of the Debtors or any of their estates as a result of the consummation of the Sale Transaction or any other event occurring in the Debtors' Chapter 11 Cases under any theory of law or equity; (b) deemed to have, de facto or otherwise, merged or consolidated with or into any of the Debtors or any of their estates; (c) deemed to be an alter ego of or have a common identity with the any of the Debtors; (d) deemed to have a continuity of enterprise with any of the Debtors; or (e) deemed to be a continuation or substantial continuation of any of the Debtors or any enterprise of any of the Debtors, including (with respect to clauses (a) through (e) of this paragraph) within the meaning of any foreign, federal, state or local revenue, pension, ERISA, tax,

labor, employment, environmental, products liability or other law, doctrine, rule or regulation (including any filing requirements under any such laws, rules or regulations) with respect to the Debtors' liability under such law, doctrine, rule or regulation.

14. No Assumption by Purchaser. The Purchaser shall not assume, nor be deemed to have assumed or in any way be responsible for, any liability or obligation of any of the Debtors or any of their estates including, but not limited to, any Excluded Liabilities (as defined in the Asset Purchase Agreement), any bulk sales law, successor or vicarious liability, liability or responsibility for any claim against any of the Debtors or against any insider of any of the Debtors or similar liability, except as otherwise expressly provided in the Asset Purchase Agreement, and the Motion, the Notice of Successful Bidder, the Sale Hearing Notice, the Assumption and Assignment Notice, or the Supplemental Assumption and Assignment Notice, which contain sufficient notice of such limitation in accordance with applicable law. Except for the Assumed Liabilities (as defined in the Asset Purchase Agreement), the transfer of the Acquired Assets and the Assigned Contracts to the Purchaser under the Asset Purchase Agreement shall not result in (a) the Purchaser, its affiliates or any of their respective predecessors, successors, assigns, members, partners, officers, directors, principals or shareholders (or the equivalent thereof) or any of the Acquired Assets having any liability or responsibility for any claim against any of the Debtors or against any insider of any of the Debtors (including, without limitation, Excluded Liabilities); (b) the Purchaser, its affiliates or any of their respective predecessors, successors, assigns, members, partners, officers, directors, principals or shareholders (or the equivalent thereof) or any of the Acquired Assets having any liability whatsoever with respect to, or being required to satisfy in any manner, whether at law or in equity, whether by payment, setoff or otherwise, directly or indirectly, any Encumbrances or Excluded Liabilities; or (c) the Purchaser,

its affiliates or any of their respective predecessors, successors, assigns, members, partners, officers, directors, principals or shareholders (or the equivalent thereof) or any of the Acquired Assets having any liability or responsibility to any of the Debtors except as is expressly set forth in the Asset Purchase Agreement. Pursuant to the Asset Purchase Agreement, the Purchaser shall maintain certain rights to modify the Acquired Assets and Excluded Liabilities in accordance with the terms thereunder, including any Assigned Contracts; *provided that* the Purchaser may not remove any Acquired Asset or add any Excluded Liability if such asset is otherwise restricted pursuant to the Chapter 11 Cases.

15. Prohibition on Proceeding Against Purchaser. Effective upon the Closing Date, all persons and entities are forever prohibited and enjoined from commencing or continuing in any manner any action or other proceeding, whether in law or equity, in any judicial, administrative, arbitral or other proceeding against the Purchaser, its assets (including the Acquired Assets) or its successors or assigns, with respect to any (a) Encumbrance on the Acquired Assets or (b) successor, transferee, vicarious or other similar liability or theory of liability, including (i) commencing or continuing any action or other proceeding pending or threatened, in any manner or place, that does not comply with, or is inconsistent with, the provisions of this Order or other orders of the Court or the agreements or actions contemplated or taken in respect hereof or thereof; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order; (iii) creating, perfecting or enforcing any Encumbrance; (iv) asserting any setoff, right of subrogation or recoupment of any kind; or (v) revoking, terminating or failing or refusing to renew any license, permit or authorization to operate any of the Acquired Assets or conduct any of the businesses operated with the Acquired Assets.

16. Assumption and Assignment of Contracts. Under sections 105(a), 363 and 365 of the Bankruptcy Code, and subject to and conditioned upon the closing of the Sale Transaction, the Debtors' assumption and assignment of the Assigned Contracts to the Purchaser free and clear of all Encumbrances pursuant to the terms of the Asset Purchase Agreement, as modified by the terms of any amendments reached by the Purchaser and the respective Counterparty, is hereby approved, and the requirements of sections 365(b)(1), 365(f)(2) and 365(b)(3) (to the extent applicable) of the Bankruptcy Code with respect thereto are hereby deemed satisfied. Upon the Debtors' assumption and assignment of the Assigned Contracts to the Purchaser, each applicable Contract/Lease Counterparty shall be forever barred, estopped and permanently enjoined from raising or asserting against the Debtors, the Purchaser or their respective property, any assignment fee, default, breach, claim, pecuniary loss, liability or obligation (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, known or unknown, liquidated or unliquidated senior or subordinate) arising under or out of, in connection with or in any way related to, the Assigned Contracts existing as of the Closing Date or arising by reason of the Closing. Upon the Debtors' assumption and assignment of the Assigned Contracts to the Purchaser, the Purchaser shall be fully and irrevocably vested with all right, title and interest of the Debtors in and to the Assigned Contracts and, pursuant to section 365(k) of the Bankruptcy Code, the Debtors shall be relieved from any further liability with respect to the Assigned Contracts. The Debtors' assumption and assignment of the Assigned Contracts to the Purchaser shall not constitute a default under or a termination of any Contract.

17. Cure Obligations. Unless such Cure Costs are subject to any timely objection, the Cure Costs as to Assigned Contracts are hereby fixed at the amounts set forth in the Assumption and Assignment Notice, or any Supplemental Assumption and Assignment Notice.

Any defaults or other obligations under the Assigned Contracts shall be deemed cured by the Debtors' or the Purchaser's (as applicable) payment or other satisfaction of the Cure Costs, if any, associated with the Assigned Contracts. Payment of the applicable Cure Costs (if any), including any subsequent payments made after the Court's resolution of any dispute regarding the Cure Cost, shall, pursuant to section 365 of the Bankruptcy Code and other applicable law, (i) effect a cure, or provide adequate assurance of cure, of all defaults existing thereunder as of the Closing and (ii) compensate, or provide adequate assurance of compensation, for any actual pecuniary loss to such non-Debtor party resulting from such default. Accordingly, on and as of the Closing Date, other than such payments, neither the Debtors nor the Purchaser shall have any further liabilities or obligations to the non-Debtor parties to the Assigned Contracts with respect to, and the non-Debtor parties to the Assigned Contracts shall be forever enjoined and barred from seeking, any additional amounts or claims (as defined in section 101(5) of the Bankruptcy Code) as a result of any defaults that arose, accrued or were incurred at any time on or prior to the Closing.

18. Cure Objections. Except as provided herein, all objections to the Debtors' calculation of Cure Costs with respect to any of the Assigned Contracts (each such objection, a "Cure Objection") have been overruled, withdrawn, waived, settled or otherwise resolved. Any Cure Objections as to applicable Cure Costs that have not been resolved by the parties may be heard at a later date as set by the Court. The pendency of a dispute relating to a particular Contract shall not prevent or delay the assumption or assignment of any other Contract or the closing of the Sale Transaction.

19. Disputed Contracts. In the event of an objection by a Contract/Lease Counterparty to the Cure Costs asserted by Debtors or to the Debtors' ability to assume and assign or reject any Contract (such contract, a "Disputed Contract"), and such objection has not been

resolved by the Closing, then the Debtors, with the consent of the Purchaser, and in accordance with the Asset Purchase Agreement or this Order, may elect to (a) not assume and assign such Disputed Contract; or (b) postpone the assumption of such Disputed Contract until the resolution of such objection; *provided that*, in no event shall any Debtor settle a Cure Costs objection with regard to any Disputed Contract without the express written consent of Purchaser (with an email consent being sufficient). In the event that a dispute regarding a Disputed Contract has not been resolved, pending resolution of the dispute pursuant to this Order, the Contract/Lease Counterparty to such Disputed Contract shall not have any claim against the Debtors or the Purchaser (or any of its Designees) for breach, infringement or any other similar type of claim for the use of any rights by the Purchaser under such Disputed Contract.

20. Adequate Assurance. The Purchaser has provided adequate assurance of future performance under the Assigned Contracts within the meaning of sections 365(b)(1)(C), 365(f)(2)(B) and 365(b)(3) (to the extent applicable) of the Bankruptcy Code. Any Assumption and Assignment Objections (as defined in the Bid Procedures) that have not been withdrawn, waived or settled and all reservations of rights included in such objections are hereby overruled on the merits with prejudice. All other requirements and conditions under sections 363 and 365 of the Bankruptcy Code for the Debtors' assumption and assignment of the Assigned Contracts to the Purchaser have been satisfied in accordance with the terms of this Order.

21. Anti-Assignment Provisions Unenforceable. No section or provision of any Contract that purports to (a) prohibit, restrict or condition the assignment of a Contract, including, but not limited to, the conditioning of such assignment on the consent of any Contract/Lease Counterparty to such Contract; (b) authorize the termination, cancellation or modification of a Contract based on the filing of a bankruptcy case, the financial condition of the Debtors or similar

circumstances; (c) declare a breach or default as a result of a change in control in respect of the Debtors; or (d) provide for additional payments, profit sharing, penalties, conditions, renewals, extensions, charges or other financial accommodations in favor of the Contract/Lease Counterparty to a Contract, or modification of any term or condition upon the assignment of a Contract or the occurrence of the conditions set forth in subsection (b) above, shall have any force or effect, and any such section or provision constitutes an unenforceable anti-assignment provision under section 365(f) of the Bankruptcy Code and/or is otherwise unenforceable under section 365(e) of the Bankruptcy Code.

22. Direction to Contract Counterparties. All Contract/Lease Counterparties to Assigned Contracts assigned to the Purchaser in accordance with the terms of this Order and the Asset Purchase Agreement shall cooperate with, and expeditiously execute and deliver upon, any reasonable request of the Purchaser for any instruments, applications, consents or other documents that may be required or requested by any governmental unit or other public or quasi-public authority or other party to effectuate the applicable transfers in connection with the Debtors' assumption and assignment of the Assigned Contracts to the Purchaser or the Purchaser's assignment to its designee(s) pursuant to this Order, as applicable.

23. Licenses and Permits. To the extent provided in the Asset Purchase Agreement and available under applicable law, the Purchaser shall be authorized, as of the Closing Date, to operate under any license, permit, registration and any other governmental authorization or approval of the Debtors with respect to the Acquired Assets and the Assigned Contracts, and all such licenses, permits, registrations and governmental authorizations and approvals are deemed to have been, and hereby are, directed to be transferred to the Purchaser as of the Closing Date. To the extent any license or permit necessary for the operation of the Acquired Assets is determined

not to be an executory contract that may be assumed and assigned under section 365 of the Bankruptcy Code, the Purchaser shall apply for and obtain any necessary license or permit promptly after the Closing Date, and such license or permit of the Debtors shall remain in place for the Purchaser's benefit until a new license or permit is obtained. To the extent provided by section 525 of the Bankruptcy Code, no governmental unit may revoke or suspend any permit or license relating to the operation of the Acquired Assets sold, transferred or conveyed to the Purchaser on account of the filing or pendency of these Chapter 11 Cases or the consummation of the Sale Transaction.

24. Good-Faith Purchaser. The Purchaser is a good-faith purchaser within the meaning of section 363(m) of the Bankruptcy Code and is entitled to all of the protections afforded thereby. Pursuant to section 363(m) of the Bankruptcy Code, if any or all of the provisions of this Order are hereafter reversed, modified or vacated by a subsequent order of this Court or any other court, such reversal, modification or vacatur shall not affect the validity or enforceability of any sale, transfer or assignment under the Asset Purchase Agreement or obligation or right granted pursuant to the terms of this Order (unless stayed pending appeal prior to the Closing Date) and, notwithstanding any reversal, modification or vacatur, any sale, transfer or assignment under the Asset Purchase Agreement, shall be governed in all respects by the original provisions of this Order or the Asset Purchase Agreement, as applicable.

25. No Avoidance. Neither the Sale Transaction nor the Asset Purchase Agreement is subject to avoidance, and no party is entitled to any damages or other recovery in connection therewith under section 363(n) of the Bankruptcy Code.

26. Bulk Sales. No bulk sales law, bulk transfer law or similar law of any state or other jurisdiction shall apply in any way to the Sale Transaction.

27. Amendments. The Asset Purchase Agreement may be amended, supplemented or otherwise modified by the parties thereto and in accordance with the terms thereof, without further order of the Court; provided that, any such amendment, supplement or modification shall not have a material adverse effect on the Debtors' estates.

28. Binding Order. This Order and the Asset Purchase Agreement shall be binding upon and govern the acts of all persons and entities, including without limitation, the Debtors and the Purchaser, their respective successors and permitted assigns, including, without limitation, any chapter 11 trustee hereinafter appointed for the Debtors' estates or any trustee appointed in a chapter 7 case of any of the Debtors if any of these Chapter 11 Cases is converted from a case under chapter 11 to a case under chapter 7, all creditors of any and all of the Debtors (whether known or unknown), all Contract/Lease Counterparties to any Assigned Contracts and all Recording Officers. Neither the Sale Transaction nor the Asset Purchase Agreement shall be subject to rejection or avoidance under any circumstances. This Order and the Asset Purchase Agreement shall inure to the benefit of the Debtors, their estates, their creditors, the Purchaser and its respective successors and assigns.

29. Failure to Specify Provisions; Conflicts. The failure specifically to include or mention any particular provision of the Asset Purchase Agreement in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court, the Debtors and the Purchaser that the Asset Purchase Agreement be authorized and approved in its entirety, including any amendments thereto as may be made by the parties thereto in accordance with the terms thereof and this Order.

30. Further Assurances. From time to time, as and when requested, all parties to the Sale Transaction shall execute and deliver, or cause to be executed and delivered, all such

documents and instruments and shall take, or cause to be taken, all such further or other actions as the requesting party may reasonably deem necessary or desirable to consummate the Sale Transaction, including such actions as may be necessary to vest, perfect, confirm, record or otherwise in the Purchaser its right, title and interest in and to the Acquired Assets and the Assigned Contracts.

31. Automatic Stay. The automatic stay pursuant to section 362 of the Bankruptcy Code is hereby modified to the extent necessary, without further order of the Court, to allow the Purchaser to deliver any notice provided for in the Asset Purchase Agreement and to take any and all actions permitted or required under the Asset Purchase Agreement in accordance with the terms and conditions thereof.

32. No Stay of Order. Notwithstanding Bankruptcy Rules 6004(h), 6006(d), and 7062 and any applicable Local Rules, this Order shall not be stayed and shall be effective and enforceable immediately upon entry. The provisions of this Order shall be self-executing. Time is of the essence in implementing the Asset Purchase Agreement and closing the Sale Transaction. Any party objecting to this Order or any of the relief granted herein must exercise due diligence in filing an appeal and obtaining a stay prior to the Closing of the Sale Transaction or risk its appeal being foreclosed as moot.

33. Governing Terms. To the extent this Order is inconsistent with any prior order or pleading in these Chapter 11 Cases, the terms of this Order shall govern. To the extent there is any inconsistency between the terms of this Order and the terms of the Asset Purchase Agreement, the terms of this Order shall govern.

34. Retention of Jurisdiction. This Court shall retain exclusive jurisdiction to (a) interpret, implement and enforce the terms and provisions of this Order, the Asset Purchase

Agreement, including all amendments thereto and any waivers and consents thereunder and each of the agreements executed in connection therewith; and (b) decide any issues or disputes concerning this Order, the Asset Purchase Agreement or the rights and duties of the parties hereunder or thereunder, including the interpretation of the terms, conditions and provisions hereof and thereof, and the status, nature and extent of the Acquired Assets and the Assigned Contracts.

35. Debtors' Authorization. The Debtors are authorized and empowered to take all actions necessary or appropriate to implement the relief granted in this Order.

36. Government Treatment. Notwithstanding any provision to the contrary in this Order, the Asset Purchase Agreement, or any other sale document (collectively, "Sale Documents"), nothing shall: (i) release, nullify, preclude, or enjoin the enforcement of any police or regulatory power or any liability that any entity would be subject to as the owner, lessor, lessee, or operator of property that such entity owns, operates, or leases after the date of entry of this Order; (ii) affect the setoff or recoupment rights of the United States; (iii) confer exclusive jurisdiction to the Bankruptcy Court except to the extent set forth in 28 U.S.C. § 1334 (as limited by any other provisions of the United States Code); (iv) authorize the assumption, assignment, sale, or other transfer of any federal or state (a) grants, (b) grant funds, (c) property acquired or improved with grant funds, (d) contracts, (e) agreements, (f) awards, (g) task orders, (h) property, (i) intellectual property, (j) patents, (k) leases, (l) certifications, (m) applications, (n) registrations, (o) billing numbers, (p) national provider identifiers, (q) provider transaction access numbers, (r) licenses, (s) permits, (t) covenants, (u) inventory, (v) guarantees, (w) indemnifications, (x) data, (y) records, or (z) any other interests belonging to the United States or any state (collectively, "Governmental Interests") without compliance by the Debtors and the Purchaser with all terms of the Governmental Interests and with all applicable non-bankruptcy law; (v) be interpreted to set

cure amounts or to require the United States or any state to novate, approve, or otherwise consent to the sale, assumption, assignment, or other transfer of any Governmental Interests; (vi) expand the scope of 11 U.S.C.§ 525; (vii) waive, alter, or otherwise limit the United States' rights with respect to any licenses in the Acquired Assets arising pursuant to applicable non-bankruptcy law, including any rights arising under the Bayh-Dole Act (35 U.S.C. 201 *et seq*.); or (viii) affect the Debtors' or Purchaser's requirements to comply with applicable non-bankruptcy law, including, but not limited to, the Bayh-Dole Act (35 U.S.C. 201 *et seq*.).

37. DOE Specific Language. Notwithstanding any provision to the contrary in the Sale Documents, nothing shall affect or impair the rights or interests of the U.S. Department of Energy with respect to any property funded, purchased, improved or developed with the Assistance Award DE-MS0000002 (the "Funded Property") pursuant to the terms and conditions of the Assistance Award DE-MS0000002, and the Funded Property shall continue to be subject to all the terms, conditions, and restrictions imposed by Assistance Award DE-MS0000002, its terms and conditions and 2 C.F. R. Parts 200 and 910. Any future disposition of or other action concerning the Funded Property shall comply with the Assistance Award DE-MS0000002's terms and conditions and all applicable non-bankruptcy law. Notwithstanding the foregoing, all of Purchaser's rights are reserved with respect to the foregoing, including the Assistance Award DE-MS0000002.

38. Conflict. In the event of an inconsistency or conflict between any provision of the Sale Documents and any provision of this Order, as to the United States or any state, the provisions of this Order and federal and state law shall govern.

39. AMCON Specific Language. Notwithstanding anything in this Order to the contrary foregoing, $1.9 million of the $3 million cash purchase price of the Sale Transaction shall

be segregated and held in a separate, interest-bearing escrow account maintained by the Debtors (the "Covington Proceeds Escrow") pending the Court's determination of the validity, enforceability, priority, extent, and amount of all Encumbrances attaching to such proceeds, including the mechanics' and materialmen's lien asserted by AM Construction Inc. d/b/a AMCON Industrial ("AMCON") recorded in the Office of the Clerk of Superior Court, Newton County, Georgia (Book 306, Pages 221-223, Doc. No. L2025-007034) (the "M&M Lien"), the allocation of the Cash Purchase Price among the Acquired Assets, and the priority of all competing claims to such proceeds. No distributions shall be made from the Covington Proceeds Escrow on account of any asserted administrative expense, regulatory claim, environmental claim, tax claim, cure cost, professional fee, or other claim without either further order of the Court entered after notice to AMCON and an opportunity to be heard or the written consent of AMCON.

40. Lien Litigation Timeline. AMCON and the Debtors have agreed to expedited litigation of the validity, priority, extent, enforceability, and amount of AMCON's asserted M&M Lien, and the allocation of sale proceeds, if any, attributable to AMCON's asserted M&M Lien, with a targeted final hearing or resolution date no later than July 31, 2026, subject to the Court's availability.

41. AMCON Reservation of Rights. Notwithstanding any other provision of this Order: (a) nothing in this Order shall prejudice, impair, or constitute a waiver of AMCON's rights to assert the validity, enforceability, perfection, priority, extent, and amount of its M&M Lien against the Covington Proceeds Escrow, including the right to assert that the M&M Lien is senior to or independent from any other claimed liens or interests in the proceeds; (b) nothing in this Order shall prejudice or impair AMCON's rights against Covington Industrial LLC (the landlord) or any other non-debtor party; (c) the Court shall retain jurisdiction to determine the

allocation of the Cash Purchase Price among the categories of Acquired Assets, including the amount of the Cash Purchase Price attributable to assets or property interests subject to AMCON's asserted M&M Lien, the validity, priority, extent, and amount of AMCON's M&M Lien against the proceeds, and the priority of all competing claims to the Covington Proceeds Escrow; and (d) AMCON's consent to the sale free and clear of Encumbrances pursuant to section 363(f) of the Bankruptcy Code is conditioned on the protections set forth in this paragraph and paragraph 39.

42. Debtors' Reservation of Rights Regarding AMCON. Notwithstanding any other provision of this Order, nothing in this Order, including the Debtors' agreement to the Covington Proceeds Escrow, constitutes any determination or admission regarding the validity, extent, priority, enforceability, or amount of AMCON's asserted lien or the allocation of the purchase price. The Covington Proceeds Escrow reflects a negotiated resolution between the Debtors and AMCON to facilitate the sale and should not be construed as an agreement regarding the relative value of AMCON's collateral or the amount of proceeds, if any, attributable to AMCON's asserted lien. For the avoidance of doubt, nothing in this paragraph shall limit or modify the escrow requirements set forth in paragraph 39 of this Order.

43. GA EPD Specific Language. The Georgia Department of Natural Resources, Environmental Protection Division ("GA EPD") consents to the transfer to the Purchaser of that certain Variance granted by the GA EPD to Ascend Elements, Inc. by letter dated December 12, 2022 (the "Variance"). The Purchaser agrees to adhere to the requirements of the Variance, including maintenance of current security in place. Within ninety (90) days of the date of entry of this Order, the Purchaser and GA EPD agree to conduct a review of the Purchaser's operations and determine whether (i) the Variance will be maintained, (ii) a RCRA Part B permit will be required, or (iii) neither a Variance nor a RCRA Part B permit will be required. If it is

determined that a RCRA Part B permit is required (which determination shall be made no later than 120 days of this Order), GA EPD agrees that the Variance shall remain in place until the date that (i) a RCRA Part B permit has been issued or (ii) the GA EPD finally determines, after all appeals have been exhausted, that a RCRA Part B permit will be issued.

Signed: June 30, 2026

Christopher Lopez
United States Bankruptcy Judge

Execution Version
CONFIDENTIAL

ASSET PURCHASE AGREEMENT

DATED AS OF JUNE 19, 2026

BY AND BETWEEN

R3 LITHIUM, INC.,
AS PURCHASER,

AND

ASCEND ELEMENTS, INC.,
AS SELLER

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ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (this "Agreement"), dated as of June 19, 2026 (the "Effective Date"), is made by and between R3 Lithium, Inc. or its assignee ("Purchaser") and Ascend Elements, Inc. ("Seller"). Purchaser and Seller are referred to herein individually as a "Party" and collectively as the "Parties."

WHEREAS, on April 9, 2026 (the "Petition Date"), Seller, together with certain of Seller's Subsidiaries and Affiliates, commenced voluntary cases under chapter 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"), in the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "Bankruptcy Court") (the "Chapter 11 Case"); and

WHEREAS, Purchaser desires to purchase, acquire and accept the Acquired Assets and assume the Assumed Liabilities from Seller, and Seller desires to sell, transfer, convey, assign, and deliver to Purchaser the Acquired Assets together with the Assumed Liabilities, in a sale authorized by the Bankruptcy Court pursuant to, inter alia, Sections 105, 363 and 365 of the Bankruptcy Code, in accordance with the other applicable provisions of the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure and the local rules for the Bankruptcy Court, all on the terms and subject to the conditions set forth in this Agreement and subject to the entry and terms of the Sale Order;

NOW, THEREFORE, in consideration of the foregoing and the mutual representations, warranties, covenants, and agreements set forth herein, intending to be legally bound hereby, the Purchaser and Seller hereby agree as follows.

ARTICLE I
PURCHASE AND SALE OF ACQUIRED ASSETS; ASSUMPTION OF ASSUMED LIABILITIES

Section 1.1 Purchase and Sale of the Acquired Assets. Pursuant to Sections 105, 363 and 365 of the Bankruptcy Code, on the terms and subject to the conditions set forth herein and subject to the issuance and terms of the Sale Order, at the Closing, Seller shall sell, transfer, assign, convey, and deliver to Purchaser, and Purchaser shall purchase, acquire, and accept from Seller, all of Seller's right, title and interest in and to the Acquired Assets, free and clear of all Encumbrances other than Permitted Encumbrances. "Acquired Assets" means all of Seller's right, title, and interest in and to the assets of the Business, including the following assets of Seller, but excluding in all cases the Excluded Assets and subject to Section 1.5:

(a) The Leased Real Property listed on Schedule 1.1(a) (the "Acquired Leased Real Property" and each Lease to which such Acquired Leased Real Property is subject, an "Acquired Lease");

(b) all Contracts to which Seller is a party that support, facilitate, or relate to the Business and the other Acquired Assets or any Assumed Liabilities, including without limitation those listed on Schedule 1.1(b) (collectively, the "Assigned Contracts");

(c) all Documents relating to any of the Acquired Assets or Assumed Liabilities (excluding any Documents or information that may not be transferred pursuant to this Agreement by applicable Law);

(d) all tangible assets (including Equipment and IT Assets) located at or on the Acquired Leased Real Property, including the tangible assets of Seller or any of its Subsidiaries located at the Acquired Leased Real Property and any tangible assets on order to be delivered to Seller or any of its Subsidiaries at, or for use or installation at, the Acquired Leased Real Property, and the personal property located at the Acquired Leased Real Property;

(e) all tangible assets (including Equipment and IT Assets) that are not located at or on the Acquired Leased Real Property that are intended primarily for use in connection with Seller's business conducted at the Acquired Leased Real Property, and any tangible assets on order to be delivered to Seller or any of its Subsidiaries at, or for use in connection with or installation at, the Acquired Leased Real Property, including without limitation those tangible assets listed on Schedule 1.1(e);

(f) except as set forth in Section 1.2(h), all rights and claims against third parties (including customers, suppliers, vendors, merchants, manufacturers and counterparties to any Assigned Contract) other than with respect solely to Excluded Assets or Excluded Liabilities, including Causes of Action, claims, counterclaims, defenses, credits, rebates (including any vendor or supplier rebates), demands, allowances, refunds (other than Tax refunds described in Section 1.2(h)), rights of set off, rights of recovery, rights of recoupment or rights under or with respect to express or implied guarantees, warranties, representations, covenants or indemnities made or provided by such third parties, and other similar rights, in each case, whether direct or derivative, unknown, liquidated or unliquidated, contingent or otherwise, in each case, including with respect to any of the Acquired Assets or Assumed Liabilities;

(g) all of the rights, interests and benefits (if any) accruing under all Permits, Governmental Authorizations and Environmental Credits, and all pending applications therefor, in each case to the extent relating to or covering the Acquired Leased Real Property, any other Acquired Assets or any Assumed Liabilities, including without limitation those Permits, Governmental Authorizations and Environmental Credits listed on Schedule 1.1(g);

(h) all Inventory and supplies of Seller located at, purchased for use or consumption at, on order to be delivered to Seller or any of its Subsidiaries at, or for use or consumption at, the Acquired Leased Real Property or otherwise relating to any of the Acquired Assets or the Business; and

(i) all deposits, escrows, cash collateral, prepayments and similar amounts (including maintenance deposits, and security deposits for rent, electricity, Internet, telephone, or otherwise), and all prepaid or deferred charges and expenses (including all lease and rental payments) in connection with the Acquired Leased Real Property or any other Acquired Assets, including without limitation those listed on Schedule 1.1(i), including Cash and Cash Equivalents and other cash collateral posted in support of Transferred Letters of Credit and Replacement Letters of Credit pursuant to Section 6.13(b).

Section 1.2 **Excluded Assets**. Notwithstanding anything to the contrary in this Agreement, in no event shall Seller be deemed to sell, transfer, assign, convey or deliver, and Seller shall retain all right, title and interest to, in and under assets other than the Acquired Assets, including, without limitation, the following properties, rights, interests and other assets of Seller (collectively, the "Excluded Assets"), subject to Section 1.5:

(a) subject to the option granted to Purchaser pursuant to Section 6.14 hereof, all Equity Interests of Seller or any of its respective Subsidiaries (collectively, the "Excluded Entities");

(b) (i) all Cash and Cash Equivalents (excluding, for the avoidance of doubt any deposits, escrows or other amounts described in Section 1.1(i)), (ii) all bank accounts, and (iii) any retainers or similar amounts paid to Advisors or other professional service providers;

(c) all Excluded Contracts;

(d) all Documents (including information stored on the computer systems, data networks or servers of Seller or any of its Affiliates) (i) to the extent they relate solely to any of the Excluded Assets or Excluded Liabilities, (ii) that are Seller's or its Affiliate's minute books, Organizational Documents, stock certificates or other Equity Interests instruments, stock registers and other books and records pertaining to the ownership, organization or existence of Seller or its Affiliates, Tax Returns (and any related work papers), corporate seal, checkbooks, canceled checks, employee and personnel files and records of the Business Employees, or (iii) that contain, and solely to the extent they contain, Personal Information that is subject to applicable data privacy Laws that prohibit the transfer or sale thereof; provided that, with respect to the foregoing clause (i), (ii) and (iii), Purchaser shall have the right to make copies of, and have access to, any relevant portions of such Documents to the extent not prohibited by Applicable Law;

(e) all privileged materials, documents, files and records to the extent relating exclusively to any Excluded Assets or Excluded Liabilities;

(f) other than those included in the Assigned Contracts, all current and prior insurance policies of Seller or any of its Subsidiaries that are not included among the Assigned Contracts, including all director and officer insurance policies (collectively, the "Business Insurance Policies"), all of which are subject to Section 6.8, and the sponsorship of, and all rights, interests and assets associated with, any benefit or compensation plan, program, policy, contract, or arrangement of Seller or any of its Subsidiaries and the Employee Benefit Plans;

(g) (i) Seller's claims, Causes of Action or other rights of Seller expressly set forth under this Agreement, including the Purchase Price, or any agreement, certificate, instrument, or other document executed and delivered between Seller, on the one hand, and Purchaser or any member of the Purchaser Group, on the other hand, in connection with the Transactions, or any other agreement between Seller, on the one hand, and Purchaser or any member of the Purchaser Group, on the other hand, entered into on or after the date hereof and (ii) except for those claims and Causes of Action which relate to an Acquired Asset or an Assumed Liability acquired or assumed by Purchaser under this Agreement, all other claims and Causes of Action of Seller and its Affiliates, including without limitation: (A) Avoidance Actions, (B) commercial tort claims,

(C) claims, Causes of Action or other rights of Seller against current or former directors or officers of Seller, and (D) any and all claims and Causes of Action of Seller or its Affiliates that do not relate to the ownership, use, function or value of any of the Acquired Assets;

(h) all Tax refunds, Tax attributes and Tax assets of Seller allocable to the Pre-Closing Tax Period other than (i) any such Tax refunds, attributes or assets that transfer by operation of Law, (ii) any such Tax refunds, attributes or assets that are Acquired Assets and (iii) for the avoidance of doubt, any grants or credits that are earned or otherwise paid to Purchaser or an Affiliate thereof in a Post-Closing Tax Period;

(i) all demands, credits, statements, allowances, refunds, rebates (including any vendor or supplier rebates), rights (including under or with respect to express or implied guarantees, warranties, representations, covenants and indemnities), claims, counterclaims, defenses, credits, Causes of Action, rights of set off, rights of recovery or rights of recoupment relating to or arising against suppliers, vendors, merchants, manufacturers and counterparties to any Contract that is not an Assigned Contract to the extent arising out of or relating to events occurring on or prior to the Closing Date, and in all cases, solely with regard to other categories of Excluded Assets set forth in the other clauses of this Section 1.2 or Excluded Liabilities;

(j) the sponsorship of, and all rights, interests and assets associated with, the Employee Benefit Plans of Seller or its Affiliates, including for the avoidance of doubt all director and officer insurance policies, and all rights and benefits of any nature of Seller or its Affiliates with respect thereto, including all insurance recoveries thereunder and rights to assert claims with respect to any such insurance recoveries;

(k) all accounts receivable, notes receivable, negotiable instruments and chattel paper owing from Persons, together with any unpaid interest or fees accrued thereon or other amounts due with respect thereto;

(l) all Leased Real Property of Seller and its Affiliates, and all owned real property of Seller and its Affiliates other than the Acquired Leased Real Property;

(m) all Intellectual Property of Seller and its Affiliates other than any rights, interests and benefits under the Covington IP License; and

(n) all IT Assets of Seller and its Affiliates, wherever located, to the extent not used in connection with the Business.

Section 1.3 Assumption of Certain Liabilities. On the terms and subject to the conditions set forth herein and subject to the entry and terms of the Sale Order, effective as of the Closing, in addition to the payment of the Purchase Price in accordance with Section 2.1, Purchaser shall irrevocably assume from Seller, and from and after the Closing, pay, perform, discharge, or otherwise satisfy in accordance with their respective terms, and Seller shall irrevocably transfer, assign, convey, and deliver to Purchaser, only the following Liabilities (which shall exclude any such Liabilities which are Liabilities for Taxes except as set forth in clause (c)), without duplication and only to the extent not paid on or prior to the Closing (collectively, the "Assumed Liabilities"), subject to Section 1.5:

(a) all Liabilities and obligations of Seller under the Assigned Contracts that first become due after the Closing and only to the extent arising out of facts, circumstances, conditions or events that first occur or first come into existence after the Closing (but excluding any Liabilities arising from or relating to any breaches under such Assigned Contract, or any facts, circumstances, conditions or events that first occur or first come into existence, on or prior to the Closing);

(b) any Liabilities relating to any remediation at the Acquired Leased Real Property first occurring following the Closing and required under Environmental Laws because of any Release of Hazardous Materials first occurring after the Closing (the "Assumed Environmental Liabilities"); provided that, for the avoidance of doubt, no Liability arising out of any Release of Hazardous Materials, condition or violation of Environmental Law in existence on or prior to the Closing Date (whether or not known to either Party or first identified or manifested following the Closing) shall be an Assumed Environmental Liability;

(c) all Liabilities for property Taxes allocable to the 2025 and 2026 tax years as identified on Schedule 1.3(c) and any Post-Closing Tax Period, in each case solely with respect to the Acquired Leased Real Property, and 50% of the Transfer Taxes payable by Purchaser pursuant to Section 9.1;

(d) Purchaser's Allocated Portion of the cure costs required to be paid pursuant to Section 365(b) of the Bankruptcy Code in connection with the assumption and assignment of the Assigned Contracts (the "Cure Costs");

(e) all Liabilities relating to amounts required to be paid, or actions required to be taken or not to be taken, by Purchaser under this Agreement; and

(f) all Liabilities relating to Transferred Employees that arise after the Closing Date and that do not relate to facts, matters, circumstances, conditions or events occurring or in existence on or prior to the Closing Date.

Section 1.4 Excluded Liabilities. Purchaser shall not assume, be obligated to pay, perform or otherwise discharge or in any other manner be liable or responsible for any Liabilities of Seller or any Subsidiary of Seller, other than the Assumed Liabilities (all such Liabilities that are not Assumed Liabilities being referred to collectively herein as the "Excluded Liabilities"). Without limiting the generality of the foregoing, the Excluded Liabilities shall include the following Liabilities of Seller and its Affiliates:

(a) All Cure Costs other than Purchaser's Allocated Portion, with Seller acknowledging that Seller's allocated portion of the Cure Costs are to be paid by Seller from the proceeds of the sale or from the bankruptcy estate prior to or at Closing;

(b) all Liabilities of Seller arising under the WARN Act, ERISA or other Laws relating to the engagement or employment, payment or compensation, or termination of employment or engagement, of any current or former Business Employees or Business Service Providers, and including any current, threatened or potential claims for compensation, benefits or other relief, in each such case, to the extent related to such engagement or employment, payment

or compensation, or termination of employment or engagement, whether arising prior to, on or after the Closing Date;

(c) all Liabilities at any time arising under, pursuant to or in connection with any Employee Benefit Plans (whether arising prior to, on or after the Closing Date) and all Liabilities for compliance with the requirements of section 4980B of the Tax Code and the rules and regulations thereunder with respect to all individuals who are "M&A qualified beneficiaries" (as such term is defined in 26 C.F.R. § 54.4980B-9);

(d) all Liabilities arising under, pursuant to or in connection with Environmental Laws, including such Liabilities (x) that are dischargeable, or capable of being sold free and clear, pursuant to Section 363 of the Bankruptcy Code, (y) that are otherwise dischargeable pursuant to Section 1141 of the Bankruptcy Code, and (z) from which the Acquired Assets are otherwise released as of the Closing pursuant to an Order of the Bankruptcy Court, in each case other than the Assumed Environmental Liabilities (for the avoidance of doubt and without limitation, the Excluded Liabilities include (i) all Liabilities arising from or relating to any Notice of Violation, Consent Order or other administrative or judicial enforcement action issued by the Georgia Environmental Protection Division or any other Governmental Body relating to the Acquired Leased Real Property on or prior to the Closing Date, including any fines, penalties, remediation, monitoring or compliance obligations arising therefrom; (ii) all Liabilities arising from or relating to any OSHA citation, complaint, inspection finding or enforcement action commenced or pending on or prior to the Closing Date relating to the Acquired Leased Real Property; and (iii) any Liability arising out of any Release of Hazardous Materials, condition, exceedance or violation of any Environmental Law first occurring or first in existence on or prior to the Closing Date, whether or not known to either Party or first identified or manifested following the Closing);

(e) any Liability of Seller or any of its Affiliates, or otherwise imposed on the Acquired Assets or with respect to the Business, in respect of any Tax, including without limitation (i) any Liability of Seller for the Taxes of any other Person under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign law), as a transferee or successor, by Contract or otherwise, (ii) 50% of Transfer Taxes, but excluding property Taxes allocable to any Post-Closing Tax Period to the extent constituting Assumed Liabilities pursuant to Section 1.3(c);

(f) all Liabilities relating to Transferred Employees that relate to facts, matters, circumstances, conditions or events on or prior to the Closing Date;

(g) any Liability of Seller or any of its Affiliates or any of their respective predecessors associated with any and all indebtedness, including any guarantees of third party obligations and reimbursement obligations to guarantors of Seller's or any of its Affiliates' or any of their respective predecessors' obligations, and including any guarantee obligations or imputed Liability through veil piercing or similar theories or Laws incurred by or through Seller or any of its Affiliates or their respective predecessors;

(h) all Liability of Seller, any of its Affiliates or any of their respective predecessors associated with payments for the purchase of goods for the period prior to Closing, including but not limited to customer deposits and prepaid amounts;

(i) all Liabilities of Seller or any of its Affiliates or any of their respective predecessors to their respective equity holders with respect to dividends, distributions in liquidation, redemptions of interests, option payments or otherwise;

(j) all Liabilities outstanding as of and arising after the Closing for any Contract for delivery of or returns of products previously sold to customers, whether or not any customer has provided a deposit for the sale, except under any Assigned Contract to the extent constituting Assumed Liabilities pursuant to Section 1.3(a);

(k) all Liabilities of Seller or of any of its predecessors arising out of any Contract, Permit, or claim that is not transferred to Purchaser hereunder;

(l) except as otherwise set forth in Section 1.3(f), all Liabilities arising prior to, on or after the Closing Date, or that relates to facts, matters, circumstances, conditions or events on, prior to, on or following the Closing with respect to any former or current Business Employees and any former or current Business Service Providers;

(m) all Liabilities of Seller, its Affiliates or any of its or their predecessors arising out of any alleged infringement, misappropriation or other violation of any third party's Intellectual Property on or prior to the Closing Date, including Liabilities arising out of or related to the Intellectual Property related to the Business on or prior to the Closing Date; and

(n) all other Liabilities owed to any third party, the U.S. Government or any other Governmental Body that are not expressly included in the Assumed Liabilities.

Section 1.5 Assumption/Rejection of Certain Acquired Assets.

(a) Assumption and Assignment of Contracts. Seller shall provide notice of its motion seeking entry of the Sale Order to all parties to any executory Contracts or unexpired Leases to which a Seller is a party that are Assigned Contracts, and take all other actions reasonably necessary to cause such Contracts to be assumed by Seller and assigned to Purchaser pursuant to Section 365 of the Bankruptcy Code to the extent that such Contracts are Assigned Contracts at Closing. The Sale Order shall provide that as of and conditioned upon the occurrence of the Closing, Seller shall assign or cause to be assigned to Purchaser, as applicable, the Assigned Contracts, each of which shall be identified by the name or appropriate description and date of the Assigned Contract (if available), the counterparty to the Assigned Contract and the address of such counterparty for notice purposes, all being included in a notice filed with the Bankruptcy Court. Such notice to Assigned Contract counterparties shall also set forth Seller's good faith estimate of the amounts necessary to cure any defaults under each of the Assigned Contracts, as determined by Seller based on its books and records or as otherwise determined by the Bankruptcy Court, and summarizing the procedures for objecting thereto. At the Closing, or as soon as reasonably practicable thereafter, Seller shall, pursuant to the Sale Order, and the Assignment and Assumption Agreement, assume and assign to Purchaser (the consideration for which is included in the Purchase Price) and Purchaser shall accept and assume all Assigned Contracts that may be assigned by Seller to Purchaser pursuant to Sections 363 and 365 of the Bankruptcy Code, subject to adjustment pursuant to Section 1.5(b). Subject to entry of the Sale Order, at or prior to Closing (or, in the case of any Contract that is to be assigned following the Closing pursuant to

Section 1.5(d)(iii), on or prior to the date of such assignment), (i) Seller shall pay, or cause to be paid, the first $750,000 of the Cure Costs, and Purchaser shall pay, or cause to be paid, all remaining Cure Costs (such payment to be made in the manner expressed in Section 1.3(d) hereof) (such Cure Costs allocated to Purchaser pursuant to this Section 1.5(a)(i), "Purchaser's Allocated Portion"), (ii) following satisfaction of clause (i), Seller shall assign such Assigned Contracts to Purchaser pursuant to the Assignment and Assumption Agreement in accordance with the provisions of Section 365 of the Bankruptcy Code and this Agreement, and (iii) following satisfaction of clause (ii), Purchaser shall in accordance with its respective terms pay and fully satisfy, discharge and perform all of the obligations under each Assigned Contract to the extent such obligations are Assumed Liabilities. Attached as Schedule 1.5(a) hereto is Seller's good-faith estimate of the Cure Costs for each Assigned Contract, identifying any disputed or unliquidated amounts. Seller shall use commercially reasonable efforts to obtain, prior to Closing, any written counterparty consent to assignment required under any of the Assigned Contracts.

(b) Excluding or Adding Acquired Assets Prior to Closing. The Parties acknowledge and agree that at the Closing, Purchaser intends to acquire solely the Acquired Assets, and to assume solely the Assumed Liabilities. The Parties agree to cooperate in good faith to take all actions necessary or advisable to transfer all such Acquired Assets to Purchaser and for Purchaser to assume only such Assumed Liabilities (and exclude all other Liabilities), effective as of the Closing and for no additional consideration, so that the intention of the Parties as set forth in the preceding sentence is effectuated. Without limiting the generality of the foregoing and subject to the last sentence of Section 1.5(c), Purchaser shall have the right to notify Seller through one or more notices (any such notice, a "Designation Notice") of (i) any Acquired Asset (including any Assigned Contract) that it does not wish to assume or acquire, (ii) any Contract to which Seller or any of its Affiliates is a party or otherwise relating to any assets or properties of Seller or any of its Affiliates, or any other Excluded Asset, that it wishes to add as an Acquired Asset except for Excluded Assets expressly set forth in clauses (b)(i), (d), (e), (g), (h), and (k) of Section 1.2, (iii) any Assumed Liability that it reasonably determines is inconsistent with the first sentence of this Section 1.5(b), or (iv) the corresponding addition of a Person as a Seller, as a party to this Agreement, if applicable, resulting from the changes set forth in clauses (i), (ii), (iii) or (iv), in any case of clauses (i), (ii), (iii), or (iv), at any time and from time to time up to the time of the Closing, (A) any such previously considered Acquired Asset that Purchaser has informed Seller that it no longer wishes to assume or acquire shall be automatically deemed removed as an Acquired Asset hereunder (and removed from any applicable Schedules related to such Acquired Asset) and, notwithstanding anything to the contrary herein, automatically deemed added as an Excluded Asset hereunder (and added to the applicable Schedules related to the Excluded Assets) and any Liabilities with respect to such Acquired Asset shall automatically be deemed to be added as Excluded Liabilities hereunder (and added to the applicable Schedules related to the Excluded Liabilities), in each case, without any adjustment to the Purchase Price as a result of such exclusion or change in designation, (B) any such previously considered Excluded Asset (including any Contracts) that such Purchaser wishes to assume or acquire as an Acquired Asset shall be automatically deemed added as an Acquired Asset hereunder (and added to the applicable Schedules related to Acquired Assets) and, notwithstanding anything to the contrary herein, automatically deemed removed as an Excluded Asset hereunder (and removed from the applicable Schedules related to Excluded Assets), and sold and assigned by Seller to Purchaser and accepted and assumed by Purchaser as an Acquired Asset (and added to the applicable Schedules related to Acquired Assets, including Schedule 1.1(b)), in each case, without any adjustment to the Purchase

Price as a result of such assumption, acquisition or change in designation, (C) any such previously considered Assumed Liability that Purchaser in good faith determines is inconsistent with the first sentence of this Section 1.5(b) shall be automatically deemed removed as an Assumed Liability hereunder (and removed from the applicable Schedules related to Assumed Liabilities) and, notwithstanding anything to the contrary herein, automatically deemed added as an Excluded Liability hereunder (and added to the applicable Schedules related to Excluded Liabilities), in each case, without any adjustment to the Purchase Price as a result of such exclusion or change in designation; and (D) any such Person that is selling such previously considered Excluded Asset that Purchaser wishes to assume as an Acquired Asset who is not a party to this Agreement shall be joined as a party to this Agreement pursuant to a joinder agreement in form and substance reasonably acceptable to Purchaser. Any action of Purchaser permitted under this Section 1.5(b) shall be made in Purchaser's sole and absolute discretion. Notwithstanding anything herein to the contrary, in no event shall Purchaser have the right to notify Seller in writing that any Assumed Liability that is expressly set forth in Section 1.3(a) through Section 1.3(c) (other than those relating to an Assigned Contract that is to be removed in accordance with this Section 1.5) is inconsistent with the first sentence of this Section 1.5(b), or otherwise seek to remove, limit or otherwise modify the Assumed Liabilities as set forth in Section 1.3, which the Parties agree are to remain Assumed Liabilities in any event notwithstanding any modifications made pursuant to this Section 1.5. Notwithstanding the foregoing, in no event shall Purchaser have a right to add an Acquired Asset if the transfer or inclusion of such asset is otherwise restricted pursuant to the Chapter 11 Cases.

(c) Cure Costs.

(i) Schedule 1.5(c)(i) sets forth each Assigned Contract and Seller's good faith estimate as of the Effective Date of the amount of the Cure Costs payable with respect to each such Assigned Contract; *provided* that if no Cure Cost is estimated by Seller to be payable with respect to any particular Assigned Contract, the amount of such Cure Cost designated for such Contract shall be "$0.00".

(ii) At the Closing, Purchaser shall pay Purchaser's Allocated Portion of Cure Costs and assume, and thereafter in due course and in accordance with its respective terms, pay and fully satisfy, discharge and perform all of the applicable Assumed Liabilities with respect to each Assigned Contract pursuant to Section 365(b) of the Bankruptcy Code and subject to the terms and conditions hereof. If Purchaser does not pay Purchaser's Allocated Portion of Cure Costs associated with the assignment and assumption of an Assigned Contract or fails to provide adequate assurance of future performance as required by the Bankruptcy Court, (x) such Contract(s) shall not be an Assigned Contract(s) and such Contract(s) shall be automatically deemed removed from Schedule 1.1(b) without any adjustment to the Purchase Price, subject to any procedures set forth in the Bidding Procedures Order, if applicable, and (y) Purchaser is and shall remain obligated to timely consummate the Closing (including paying the Purchase Price in full at Closing) and comply with its obligations under this Agreement and any Ancillary Document and shall not have the right to terminate this Agreement as a result of the failure to assume and assign any such Contract. Notwithstanding anything to the contrary herein, Seller shall not be required to pay or assume any Purchaser's Allocated Portion of

Cure Costs or provide any assurances, and Seller shall not be obligated to assume and assign any Contract with respect to which Purchaser fails to pay Purchaser's Allocated Portion of Cure Costs or fails to satisfy the party to the proposed Assigned Contract and the Bankruptcy Court as to adequate assurance of future performance.

(iii) To the extent a counterparty to an Assigned Contract objects or otherwise challenges the Cure Costs determined by Seller and asserts a different monetary amount that must be paid and/or nonmonetary obligations that otherwise must be satisfied, including pursuant to Section 365(b)(1)(A) and (B) of the Bankruptcy Code, in order for Purchaser to acquire and assume such Assigned Contract pursuant to this Agreement (any such Contract, a "Disputed Contract"), and such objection or challenge has not been resolved prior to the Closing, then Purchaser shall provide written notice to Seller prior to the Closing Date (or such earlier date on which the Bankruptcy Code or Bankruptcy Court otherwise would require a determination to assume or reject any such Assigned Contract) either (x) electing to remove any such Disputed Contract from Schedule 1.1(b), in which case the Disputed Contract will be an Excluded Contract and not assigned to Purchaser at Closing or (y) requesting an extension of the period of time following the Closing to resolve any such dispute (such period, an "Extension Period"); provided that any such extension period shall be no longer than ninety (90) days following the Closing Date (or such shorter period of time as required in order to wind-down or liquidate Seller); provided, further, that Seller's obligations to provide such Extension Period is subject to Purchaser's ongoing compliance with Purchaser's obligations pursuant to the final sentence of this Section 1.5(c)(iii). If Purchaser does not deliver written notice to Seller agreeing to assume such Disputed Contract and pay all Purchaser's Allocated Portion of Cure Costs associated with such Disputed Contract prior to the expiration of the Extension Period or such dispute is not resolved by the expiration of the Extension Period, such Disputed Contract shall automatically be deemed an Excluded Contract. Purchaser shall be responsible for and reimburse Seller for any reasonable and documented out-of-pocket costs and expenses of Seller arising following the Closing during any Extension Period, including any such incremental costs or expenses (A) that arise out of Seller's extension and continuation of the Bankruptcy Cases solely to the extent that such extension and continuation are attributable to the Extension Period and (B) are incurred as a result of the Seller's performance of its obligations under Section 1.5(c)(iii).

(d) Non-Assignment.

(i) Notwithstanding anything to the contrary in this Agreement, a Contract shall not be an Assigned Contract hereunder and shall not be assigned to, or assumed by, Purchaser to the extent that such Contract is rejected by Seller or its Affiliates or is terminated by Seller, its Affiliates or any other party thereto, in either case subject to Purchaser's prior written consent to such action in its sole discretion, or terminates or expires by its terms without the right of renewal, on or prior to such time as it is to be assumed by Purchaser as an Assigned Contract hereunder and is not continued or otherwise extended upon assumption.

(ii) Schedule 1.5(d)(ii) sets forth each Acquired Asset that requires a Consent or Governmental Authorization (other than, and in addition to and determined after giving effect to any order of the Bankruptcy Court, including the Sale Order) in order to permit the assignment, sale, or transfer to Purchaser of Seller's right, title and interest in and to such Acquired Asset (each, a "Required Consent"). Seller shall send letters seeking each Required Consent within five Business Days after the Sale Order is entered. Notwithstanding anything to the contrary in this Agreement, if (A) an Acquired Asset is subject to a Required Consent, (B) no Order of the Bankruptcy Court, including the Sale Order, is then in effect that precludes satisfaction of such Required Consent, and (C) such Required Consent has not been obtained prior to such time as such right, title and interest is to be assigned, sold, or transferred by Purchaser as an Acquired Asset hereunder, such asset shall not be an Acquired Asset hereunder and shall not be assigned, sold, or transferred to, or received by, Purchaser until either (1) such an Order is in effect or (2) such Required Consent has been obtained.

(iii) If any Acquired Asset is deemed not to be assigned, sold, or, transferred pursuant to Section 1.5(d)(i) or Section 1.5(d)(ii) or cannot otherwise be assigned, sold or transferred to Purchaser for any other reason outside of Purchaser's control (including if such assignment, sale or transfer would be a violation of Law), the Closing shall nonetheless take place subject to the terms and conditions set forth in this Agreement. In such event and notwithstanding anything to the contrary set forth in this Agreement, the Purchase Price shall be equitably adjusted to reflect the Acquired Assets that are not transferred at Closing based on a good faith determination of the value of any such Acquired Asset. Thereafter, through the earliest of (A) such time as such Consent or Governmental Authorization is obtained or such restriction prohibiting the assignment, sale or transfer of such Acquired Asset is removed, (B) such time as such an Order is in effect, (C) in the case of an Assigned Contract, the expiration of the term of such Contract in accordance with its current term or the execution of a replacement Contract by Purchaser or its Affiliate, and (D) the closing of the Chapter 11 Cases or dissolution of the Seller, Seller and Purchaser shall (and Seller shall cause its Affiliates to) (1) use reasonable best efforts to secure such Consent or Governmental Authorization or Order or otherwise remove such restrictions prohibiting the transfer of such Acquired Assets as promptly as practicable after the Closing and (2) cooperate in good faith in any lawful and commercially reasonable arrangement by Purchaser and Seller and its Affiliates, including subcontracting, licensing, or sublicensing to Purchaser any or all of Seller's or its Affiliates' rights and obligations with respect to any such Acquired Asset, under which (x) Purchaser shall obtain (without infringing upon the legal rights of such third party or violating any Law) the economic rights and benefits with respect to which Consent or Governmental Authorization has not been obtained, and (y) Purchaser shall assume and discharge any related obligation with respect to such Acquired Asset. Upon the effectiveness of such Order or satisfying any requisite Consent or Governmental Authorization requirement applicable to, or otherwise removing such restrictions prohibiting the transfer of, such Acquired Assets after the Closing, the Seller shall transfer (or shall cause its Affiliates to transfer) to Purchaser and Purchaser shall

accept Seller's or its Affiliates' (as applicable) right, title, and interest in and to such Acquired Asset to Purchaser, and Purchaser shall pay to Seller the portion of the Purchase Price that was withheld in respect of such Acquired Assets, in each case, in accordance with the terms of this Agreement, the Sale Order, and the Bankruptcy Code.

(iv) Notwithstanding anything in this Agreement to the contrary, (A) the provisions of Section 1.5(d)(ii) shall not apply to any Consent or Governmental Authorization required under the HSR Act, if applicable, and any Competition Laws, which Consent or Governmental Authorization shall be governed by Section 6.5 and (B) neither Seller nor Purchaser will be obligated to pay any consideration to any third party from whom Consent or Governmental Authorization is requested (other than in a *de minimis* amount) or to initiate any litigation to obtain any such Consent or Governmental Authorization.

(v) The Parties shall reasonably cooperate to effect any transfers or other arrangements described in this Section 1.5 in a manner that is mutually Tax efficient for the Parties and their respective Affiliates, including by treating any Seller (or applicable Affiliate thereof) initially in possession of any payment referenced in this Section 1.5 after the Closing as holding such payment as an agent or nominee for the Purchaser for income and other applicable Tax purposes to the extent permitted by applicable Law.

(vi) Notwithstanding anything in this Agreement to the contrary, neither Seller nor Purchaser shall be obligated to pay any fees or other consideration to obtain any third party consent for the transfer of Acquired Assets under this Section 1.5(d), except for Cure Costs which shall be paid in accordance with this Agreement and filing fees and other ordinary administrative or other charges provided for in the Assigned Contracts which shall be paid by Purchaser to the third party from whom such approval, consent or waiver is requested.

ARTICLE II
CONSIDERATION; PAYMENT; CLOSING

Section 2.1 Consideration; Payment.

(a) Subject to any adjustment pursuant to Section 1.5(b) and Section 1.5(d)(iii), the aggregate consideration (collectively, the "Purchase Price") to be paid by Purchaser for the purchase of the Acquired Assets shall be: (i) the assumption of Assumed Liabilities, *plus* (ii) cash in an amount equal to US$3,000,000.00 (the "Cash Purchase Price").

(b) In accordance with Section 2.1(a), Purchaser shall (i) deliver, or cause to be delivered, to Seller an aggregate amount equal to the Cash Purchase Price, and (ii) pay Purchaser's Allocated Portion of Cure Costs.

(c) The Parties acknowledge that Purchaser has paid to or on behalf of Seller a good faith deposit in the amount of US$300,000.00 (the "Deposit Amount"), which has been deposited by Seller into a separate, interest-bearing bank account with a federally insured banking

institution. At the Closing, the Deposit Amount shall be applied towards the Cash Purchase Price and Purchaser shall deliver, or cause to be delivered, to Seller the difference between the Cash Purchase Price and such Deposit Amount (such difference, the "Closing Date Payment"). The Closing Date Payment and any payment required to be made pursuant to any other provision hereof shall be made in cash by wire transfer of immediately available funds to such bank account as shall be designated in writing by the applicable Party to (or for the benefit of) whom such payment is to be made, and such designation shall be made, at least two (2) Business Days prior to the date such payment is to be made.

Section 2.2 Closing. The closing of the purchase and sale of the Acquired Assets, the delivery of the Purchase Price, the assumption of the Assumed Liabilities in accordance with this Agreement (the "Closing") will take place by telephone conference and electronic exchange of documents (or, if the Parties agree to hold a physical closing, at a location mutually agreeable to Seller and Purchaser) as soon as is practicable following full satisfaction or due waiver (by the Party entitled to the benefit of such condition) of the closing conditions set forth in Section 7.1, Section 7.2 and Section 7.3 (other than conditions that by their terms or nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of those conditions at the Closing), or at such other place and time, and by such other method, as the Parties may agree in writing. The date on which the Closing actually occurs is referred to herein as the "Closing Date".

Section 2.3 Closing Deliveries by Seller. At or prior to the Closing, Seller shall deliver, or cause to be delivered, as applicable, to Purchaser:

(a) a bill of sale and assignment and assumption agreement in the form to be mutually and reasonably agreed to by Seller and Purchaser consistent with the terms of this Agreement between the Effective Date and the Closing Date and to thereafter be attached hereto as **Exhibit B** (the "Assignment and Assumption Agreement"), duly executed by Seller;

(b) an IRS Form W-9 executed by Seller or Seller's regarded owner for U.S. federal income Tax purposes; provided that Purchaser's sole remedy for the failure to provide any such form shall be to withhold any required amount under applicable Tax Law;

(c) if requested by Purchaser, an assignment of each Government Authorization in the form required by the applicable Governmental Body;

(d) an officer's certificate, dated as of the Closing Date, executed by a duly authorized officer of Seller (i) certifying that the conditions set forth in Sections 7.2(a), 7.2(b) and 7.2(c) have been satisfied, (ii) attaching and certifying on behalf of Seller complete and correct copies of the resolutions of the special committee of Seller authorizing the execution, delivery, and performance by Seller of this Agreement and the Transactions, which resolutions or consent shall be dated prior to the Effective Date, and (iii) certifying on behalf of Seller the incumbency of each officer of Seller or other authorized person executing this Agreement or any document delivered in connection with the Closing on behalf of Seller;

(e) with respect to each Assigned Contract constituting an Acquired Lease, an assignment and assumption agreement conveying all rights, title and interest of Seller under such Acquired Lease to Purchaser, in each case in the form to be mutually and reasonably agreed to by

Seller and Purchaser consistent with the terms of this Agreement between the Effective Date and the Closing Date and to thereafter be attached hereto as **Exhibit C** or, if required by any landlord to an Acquired Lease, such other customary form approved by Purchaser (each, a "Lease Assignment Agreement"), duly executed by Seller and the applicable landlord;

(f) the Covington IP License Assignment, in a form to be mutually and reasonably agreed to by Seller and Purchaser consistent with the terms of this Agreement between the Effective Date and the Closing Date and to thereafter be attached hereto as **Exhibit D**, duly executed by Seller and Bluegrass; and

(g) a transition services agreement in the form to be mutually and reasonably agreed to by Seller and Purchaser between the Effective Date and the Closing Date consistent with the terms of this Agreement and attached hereto as **Exhibit E** (the "Transition Services Agreement"), duly executed by Seller.

Section 2.4 Closing Deliveries by Purchaser. At the Closing, Purchaser shall deliver to (or at the direction of) Seller:

(a) the Closing Date Payment;

(b) the Assignment and Assumption Agreement, duly executed by Purchaser;

(c) an officer's certificate, dated as of the Closing Date, executed by a duly authorized officer of Purchaser, certifying that the conditions set forth in 7.3(a) and 7.3(b) have been satisfied;

(d) the Lease Assignment Agreements, duly executed by Purchaser;

(e) the Covington IP License Agreement, duly executed by Purchaser; and

(f) the Transition Services Agreement, duly executed by Purchaser.

Section 2.5 Withholding. Purchaser shall be entitled to deduct and withhold any Taxes from any amounts otherwise payable pursuant to this Agreement, as Purchaser is required to deduct and withhold under any applicable Tax law; provided, that if Purchaser believes any such deduction or withholding of Tax (other than any deduction or withholding resulting from Seller's failure to satisfy its obligations under Section 2.3(b)) is required, Purchaser shall use commercially reasonable efforts to provide notice to Seller prior to making such deduction or withholding and shall reasonably cooperate with Seller to reduce or eliminate the requirement to deduct and withhold Tax. Such withheld amounts that are paid to the appropriate taxing authority shall be treated for all purposes of this Agreement as having been paid to the applicable Seller in respect of whom such deduction or withholding was made.

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrants, excepting those matters reflected in a disclosure schedule attached to this Agreement (the "Disclosure Schedule"), which shall be subject to Section 10.10, the following to Purchaser as of the date hereof and as of the Closing Date.

Section 3.1 Organization and Qualification. Seller is a corporation duly incorporated, validly existing, and in good standing under the Laws of the jurisdiction of its incorporation and has all the requisite corporate power and authority to own or lease all of its properties and assets and to carry on its business as it is now being conducted. Seller has made available to Purchaser complete and correct copies of its respective constitutive documents, in each case as amended. Seller is duly licensed or qualified to do business under the Laws of each jurisdiction in which the nature of the business conducted by it makes such licensing or qualification necessary, except where failure to be so licensed, qualified or in good standing would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

Section 3.2 Authorization of Agreement. Subject to requisite Bankruptcy Court approvals:

(a) Seller has all necessary power and authority to execute and deliver this Agreement and the other Transaction Agreements to which Seller is a party and to perform its obligations hereunder and thereunder and to consummate the Transactions;

(b) the execution, delivery and performance by Seller of this Agreement and the other Transaction Agreements to which Seller is a party, and the consummation by Seller of the Transactions, have been duly authorized by all requisite corporate action or limited liability company action on the part of Seller, as applicable and no other organizational proceedings on Seller's part are necessary to authorize the execution, delivery and performance by Seller of this Agreement or the other Transaction Agreements and the consummation by it of the Transactions; and

(c) this Agreement and the other Transaction Agreements to which Seller is a party have been, or will be, duly executed and delivered by Seller and, assuming due authorization, execution and delivery hereof and thereof by Purchaser and Seller, as applicable, constitutes, or will constitute, legal, valid and binding obligations of Seller, enforceable against Seller in accordance with its and their terms, except that such enforceability (i) may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other similar Laws of general application affecting or relating to the enforcement of creditors' rights generally and (ii) is subject to general principles of equity, whether considered in a proceeding at law or in equity (collectively, the "Enforceability Exceptions").

Section 3.3 Conflicts; Consents.

(a) Assuming that (a) requisite Bankruptcy Court approvals are obtained, including the Sale Order, (b) the notices, authorizations, approvals, Orders, Permits, or Consents set forth on Schedule 3.3 are made, given or obtained (as applicable), and (c) the requirements of the HSR Act, any applicable antitrust, competition, foreign direct investment or "FDI", or merger

control Laws promulgated by any Governmental Body ("Competition Laws"), if applicable, are complied with, neither the execution and delivery by Seller of this Agreement or the other Transaction Agreements, nor the consummation by Seller of the Transactions contemplated by such Transaction Agreements, nor performance or compliance by Seller with any of the terms or provisions hereof or thereof, will (i) conflict with or violate any provision of the Organizational Documents of Seller, (ii) subject to the entry of the Sale Order, violate any Law or Order to which Seller or Seller's applicable Affiliates is subject, (iii) violate or constitute a breach of or default (with or without notice or lapse of time, or both) under or give rise to a right of termination, modification, acceleration, vesting or cancelation of any obligation or to the loss of any benefit, any of the terms or provisions of any Assigned Contract or Permit included in the Acquired Assets or accelerate Seller's obligations under any such Assigned Contract or Permit, or (iv) result in the creation of any Encumbrance (other than a Permitted Encumbrance) on any Acquired Assets, except, in the case of clauses (iii) and (iv), as would not, individually or in the aggregate, reasonable be expected to have a Material Adverse Effect.

(b) Except for the Sale Order and as set forth on Schedule 3.3(b), Seller is not required to file, seek or obtain any notice, Governmental Authorization, approval, Order, Permit or Consent of or with any Governmental Body or any other Person in connection with the execution, delivery and performance by Seller of this Agreement or the consummation by Seller of the Transactions, except (i) any filings required to be made under the HSR Act, if applicable, or (ii) where failure to obtain such Consent, approval, authorization or action, or to make such filing or notification, would not, individually or in the aggregate, reasonably be expected to prevent or materially impair the ability of Seller to consummate the Transactions.

Section 3.4 Financial Statements.

(a) Seller has provided true, correct and complete copies of the (i) the audited consolidated balance sheets, statements of operations, statements of stockholders' equity and statements of cash flows of Seller and its Subsidiaries as of and for the fiscal years ended December 31, 2024 (the "Audited Financial Statements"); and (ii) the internally prepared unaudited consolidated balance sheet (the "Latest Balance Sheet"), statement of operations, statement of stockholders' equity and statement of cash flows of Seller and its Subsidiaries as of and for the fiscal year ended December 31, 2025 and for the four-month period ending on April 30, 2026 (the "Unaudited Financial Statements") to Purchaser, copies of which are attached in Schedule 3.4(a).

(b) The Financial Statements (i) present fairly in all material respects the consolidated financial position of Seller and its Subsidiaries as of and for the dates and periods designated therein and the results of operations and cash flows for the periods designated therein, (ii) except as set forth on Schedule 3.4(b), have been prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto and, in the case of unaudited Financial Statements, subject to (x) normal and recurring year-end audit adjustments, (y) the absence of notes and (z) any other immaterial and non-recurring adjustments described therein, including in any notes thereto (not material in amount) and fairly present in all material respects the consolidated financial position of Seller and its consolidated Subsidiaries as of the dates thereof and the consolidated results of their operations and cash flows for the periods shown, except as may be indicated in the notes thereto.

Section 3.5 **Title to Properties**. Seller has a good and valid leasehold interest in the Acquired Leased Real Property, free and clear of all Encumbrances (other than Permitted Encumbrances), other than those interests of the lessors of such Acquired Leased Real Property.

Section 3.6 **Contracts**.

(a) Schedule 3.6 sets forth a list of each Material Contract, as of the date of this Agreement. "Material Contract" means any Contract to which Seller or any of its Affiliates is a party relating to any Acquired Assets or Assumed Liabilities, other than purchase orders.

(b) True, correct and complete copies of all Material Contracts, including all material amendments, supplements and modifications thereto, have previously been made available to Purchaser or Purchaser's Advisors. Subject to requisite Bankruptcy Court approvals, and assumption by Seller of the applicable Contract in accordance with Applicable Law and except (i) as a result of the commencement of the Chapter 11 Cases, or (ii) as set forth in Schedule 3.6(b), (A) each Material Contract is valid and binding on Seller or its Affiliate that is a party thereto and, to the Knowledge of Seller, each other party thereto, and is in full force and effect, subject to the Enforceability Exceptions, (B) Seller or its Affiliate that is a party thereto, and, to the Knowledge of Seller, any other party thereto, have performed all obligations required to be performed by it under each Material Contract, (C) none of Seller or any of its Affiliates has received any notice (or to the Knowledge of Seller, oral notice) of the existence of any breach or default on the part of Seller under any Material Contract, (D) there are no events or conditions that constitute, or, after notice or lapse of time or both, will constitute a default on the part of Seller or any of its Affiliates, or to the Knowledge of Seller, any counterparty under such Material Contract and (E) Seller has not received any written notice (or to the Knowledge of Seller, oral notice) from any Person that such Person intends to terminate, or not renew, any Material Contract, except in each case of clauses (A) through (E), as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 3.7 **No Litigation**. Except as set forth on Schedule 3.7, there are no Actions pending or, to the Knowledge of Seller, threatened (whether or not in writing), against or affecting Seller, the Acquired Assets or the Assumed Liabilities that would reasonably be expected to have an adverse effect on Seller's performance of its obligations under this Agreement or the Transaction Documents or the consummation of the Transactions, or that would otherwise be material, individually or in the aggregate, to the Acquired Assets or the Assumed Liabilities.

Section 3.8 **Permits; Compliance with Laws**.

(a) Except as set forth on Schedule 3.8, (i) Seller (with respect to the Business and the Acquired Assets) is, and has been since January 1, 2021, in compliance in all material respects with all Applicable Laws and applicable Orders with respect to the Business, the Acquired Assets and the Assumed Liabilities, and (ii) Seller holds all licenses, identification numbers, registrations, franchises, permits, variances, certificates, approvals and authorizations from Governmental Bodies necessary for the lawful conduct of the Business at the Acquired Leased Real Property as currently conducted, in each case, except as would not, individually or in the aggregate, reasonably be expected to be material, individually or in the aggregate, to the Acquired Assets or the Assumed Liabilities (collectively, "Permits"). Schedule 1.1(g) set forth a list of all

Permits necessary for (A) the lawful conduct of the Business in the ordinary course of business as currently conducted by Seller, and (B) the occupancy and operation of the Business at the Acquired Leased Real Property

(b) Seller and each of its Subsidiaries and each of their respective directors, officers and employees acting in such capacity and, to the Knowledge of Seller, each of its and their other agents acting on its or their behalf, is, and has been, since April 24, 2019 with respect to Sanctions and for the last five (5) years with respect to International Trade Laws, in compliance with applicable Sanctions and International Trade Laws. Without limiting any of the foregoing, neither Seller nor any Subsidiary, nor any of their respective directors, officers, or employees, nor, to the Knowledge of Seller, any other Person acting on behalf of Seller or any Subsidiary (i) is a Sanctioned Person, (ii) is subject to debarment or any list-based designations under any International Trade Laws, or (iii) has engaged in any business or dealings, directly or indirectly, with or involving a Sanctioned Country or a Sanctioned Person, or otherwise in violation of applicable Sanctions or International Trade Laws.

(c) Neither Seller nor any Subsidiary has received from any Governmental Body or any other Person any written or verbal notice of any violation, alleged violation, or any suspected violation of any Sanctions, Anti-Corruption Law or International Trade Law, or conducted any internal investigation with respect to, or made any voluntary or involuntary disclosure to a Governmental Body, or been the subject of any investigation by a Governmental Body concerning, any actual, suspected, or alleged violation of any Sanctions, Anti-Corruption Law or International Trade Law. Seller and each Subsidiary has maintained books and records that, in reasonable detail, accurately and fairly reflect their transactions and dispositions of assets, and Seller and each Subsidiary has implemented and maintained effective policies, procedures, and internal controls that promote compliance with all applicable Sanctions, Anti-Corruption Laws and International Trade Laws.

Section 3.9 Environmental Matters.

Except as would not, individually or in the aggregate, reasonably be expected to be material to the Acquired Assets or the Assumed Liabilities, and except as set forth on Schedule 3.9:

(a) Seller and the Subsidiaries are, and have been since January 1, 2021 (or earlier, if Liability remains), in compliance with all applicable Environmental Laws, in each case with respect to the conduct of the Business or the occupancy or operation of the Acquired Leased Real Property.

(b) Since January 1, 2021 (or earlier if unresolved), none of Seller or the Subsidiaries has received any written, or to the Knowledge of Seller oral, notice, report, or other information alleging that Seller or any Subsidiary is in material violation of or materially liable under, any Environmental Law.

(c) Seller and the Subsidiaries possess and are, and since January 1, 2021 (or earlier, if Liability remains), have been, in compliance with all Permits required under applicable

Environmental Laws for the operation of the Business or to occupy the Acquired Leased Real Property.

(d) There is no Action under or pursuant to any Environmental Law that is pending or, to the Knowledge of Seller, threatened against Seller (with respect to the Business) or any Subsidiary

(e) Seller (with respect to the Business, the Acquired Assets or the Assumed Liabilities) and the Subsidiaries are not subject to any Order imposed by any Governmental Body pursuant to Environmental Laws under which there are material uncompleted, outstanding or unresolved obligations on the part of Seller or any Subsidiary.

(f) Neither Seller (with respect to the Business, the Acquired Assets or the Assumed Liabilities) nor the Subsidiaries have assumed, undertaken, or provided any indemnification with respect to any material Liability of any Person arising under any Environmental Law or otherwise assumed any material Liability under Environmental Law via operation of Law.

(g) There has been no Release, disposal or transportation of, contamination by, or exposure of any Person to any Hazardous Materials at, from, or to any location, in each case for which Seller (with respect to the Business, the Acquired Assets or the Assumed Liabilities) or the Subsidiaries are or could be materially liable under any Environmental Law.

(h) Seller has made available to Purchaser true, correct and complete copies of all material environmental or health and safety reports, studies, records, audits and Permits relating to Seller's or its affiliates' or predecessors', past or current businesses, operations or assets, including, without limitation, the Acquired Assets and Assumed Liabilities, that are within Seller's possession or under their control.

Section 3.10 Intellectual Property. No Intellectual Property owned or licensed by Seller or its Affiliates, or otherwise in which Seller or its Affiliates has any right, title or interest, is included or embodied in any of the Acquired Assets, and, to the extent that any such Intellectual Property is found to be included or embodied in any of the Acquired Assets in any way, Seller hereby waives, on behalf of itself and its Affiliates, successors and assigns, any and all claims or remedies that it or they may have against Purchaser or its Affiliates, successors or assigns, with respect to such inclusion of embodiment of such Intellectual Property in the Acquired Assets; provided that nothing herein shall be deemed to cause any such Intellectual Property, or any licenses or rights with respect thereto, to become, or otherwise be deemed to be, Acquired Assets.

Section 3.11 Tax Matters.

(a) Seller (or its applicable Affiliate) has prepared (or caused to be prepared) and timely filed (taking into account valid extensions of time within which to file obtained in the Ordinary Course) all Tax Returns required to be filed by or with respect to it or the Acquired Assets. All such Tax Returns (taking into account all amendments thereto) are true, complete and accurate in all material respects.

(b) Except as set forth on Schedule 3.11(b), all Taxes owed by Seller that are due (whether or not shown on any Tax Return) have been timely paid in full, except to the extent the nonpayment thereof is permitted or required by the Bankruptcy Code.

(c) Except as set forth on Schedule 3.11(b), all Taxes owed by or with respect to Seller that are due (whether or not shown on any Tax Return) have been timely paid in full.

(d) There are no Encumbrances for Taxes on any of the Acquired Assets other than Permitted Encumbrances.

(e) No written claim has been made in a jurisdiction where Seller does not file Tax Returns that Seller (with respect to the Acquired Assets) is or may be subject to taxation in that jurisdiction.

(f) Seller has not waived any statute of limitations in respect of Taxes or agreed to any extension of time with respect to an assessment or deficiency for Taxes , in each case, which waiver or extension is currently in force and would have effect after the Closing Date.

(g) Seller has complied with all applicable Laws relating to the withholding of Taxes and the payment thereof to appropriate authorities, including Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee or independent contractor, and Taxes required to be withheld and paid pursuant to Tax Code Sections 1441 and 1442 or similar provisions under foreign Law.

(h) Seller is not a "foreign person" as defined in Tax Code Section 1445(f)(3) or a "foreign entity" as defined in Tax Code Section 1473(5), and the transaction contemplated herein is not subject to the withholding provisions of Code Sec. 3406, subchapter A of Chapter 3 of the Tax Code or Chapter 4 of the Tax Code.

(i) Seller is not a party to any Tax allocation or sharing agreement and Seller has not been a member of an affiliated group filing a consolidated federal income Tax Return (other than a group the common parent of which is Seller) or has any Tax Liability of any Person under Treasury Regulation Section 1.1502-6 or any similar provision of state, local or foreign law (other than the other members of the consolidated group of which Seller is parent), or as a transferee or successor, by contract or otherwise.

Section 3.12 Insurance; Support Obligations. Seller has in full force and effect insurance policies (the "Business Insurance Policies") as would be reasonable and customary for companies like Seller.

(b) True, correct and complete copies of the Business Insurance Policies have been made available to Purchaser.

(c) All premiums due and payable under the Business Insurance Policies have been paid when due, and there have been no material defaults under any such Insurance Policy by the Seller or any of its Subsidiaries in the past year.

(d) All financial assurances, including letters of credit, sureties, bonds, or similar arrangements supporting the operation, monitoring, closure, remediation, reclamation, or post-closure obligations relating to or with respect to the Acquired Assets over the last five (5) years are set forth in Schedule 3.12(d).

Section 3.13 Brokers. Except as set forth on Schedule 3.13, the fees and expenses of which will be paid by Seller, no broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission, or the reimbursement of expenses in connection therewith, in connection with the Transactions based upon arrangements made by or on behalf of Seller or its Affiliates.

Section 3.14 Inter-Company Transactions. A true, correct and complete list and description of all Contracts (including any amendments, supplements, restatements or modifications thereto) between Seller or any of its Affiliates, or between any Affiliates of Seller, relating to any Acquired Assets or any Assumed Liabilities, is set forth on Schedule 3.14, and true, correct and complete copies of such Contracts have been made available to Purchaser.

Section 3.15 Title to Assets. Subject to any Permitted Encumbrances and except as set forth on Schedule 3.15, Seller has good and valid title to, and the right to use and sell without limitation, free and clear of all interests and Encumbrances subject to section 363 of the Bankruptcy Code, the tangible Acquired Assets except to the extent the failure to have such title or right to use would not be expected to be material to the Business. At the Closing, pursuant to the Sale Order, Seller will convey such good and valid title to or rights to use all of the tangible Acquired Assets, free and clear of all Encumbrances (other than Permitted Encumbrances that will be released at the Closing Date) to Purchaser. The tangible Acquired Assets are (to the extent applicable) in good operating condition and working order (ordinary wear and tear excepted) and are adequate for the uses to which they are being put, and none of such tangible Acquired Assets is in need of maintenance or repairs except for ordinary, routine maintenance and repairs.

Section 3.16 No Material Adverse Effect. Since the Balance Sheet Date through the date of this Agreement, except as set forth on Schedule 3.16, no Material Adverse Effect has occurred.

Section 3.17 Absence of Changes. Except as set forth on Schedule 3.17, and except as expressly contemplated by this Agreement, since the Balance Sheet Date, Seller (i) has, in all material respects, conducted the Business and operated the Acquired Assets and properties in the Ordinary Course and (ii) has not taken any action that would require the consent of Purchaser pursuant to Section 6.1 if such action had been taken during the Interim Period.

Section 3.18 CFIUS. Neither Seller nor any Subsidiary engages in (a) the design, fabrication, development, testing, production, or manufacture of one or more "critical technologies" within the meaning the DPA; (b) the ownership, operation, maintenance, supply, manufacture, or servicing of "covered investment critical infrastructure" within the meaning of the DPA (where such activities are covered by column 2 of Appendix A to 31 C.F.R. Part 800); or (c) the maintenance or collection, directly or indirectly, of "sensitive personal data" of U.S. citizens within the meaning of the DPA.

Section 3.19 No Other Representations or Warranties. Except for the representations and warranties expressly contained in this Article III (as qualified by the Schedules) and the Transaction Agreements (in each case, in accordance with the express terms and conditions (including limitations and exclusions) of this Agreement and the Transaction Agreements) (the "Express Seller Representations") (it being understood that the Purchaser Group has relied only on the Express Seller Representations for purposes of the Transactions), no Seller nor any other Person on behalf of any Seller makes any express or implied representation or warranty with respect to any Seller, the Acquired Assets, or the Assumed Liabilities or with respect to any information, statements, disclosures, documents, projections, forecasts or other material of any nature made available or provided by any Person (including in (x) any presentations or other materials prepared by Moelis, the "Information Presentation", (y) that certain virtual data room administered by Datasite (the "Dataroom"), or (z) in the Projections to Purchaser on behalf of Seller Parties).

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser represents and warrants to Seller as follows.

Section 4.1 Organization and Qualification. Purchaser is a Delaware corporation duly formed, validly existing, and in good standing under the Laws of the State of Delaware and has all requisite power and authority necessary to carry on its business as it is now being conducted, except (other than with respect to Purchaser's due formation and valid existence) as would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on such Purchaser's ability to consummate the Transactions. Purchaser is duly licensed or qualified to do business and is in good standing (where such concept is recognized under applicable Law) in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned or used by it makes such licensing or qualification necessary, except where the failure to be so licensed, qualified, or in good standing would not, individually or in the aggregate, reasonably be expected to prevent or adversely affect such Purchaser's ability to consummate the Transactions.

Section 4.2 Authorization of Agreement. Purchaser has all necessary organizational power and authority to execute and deliver this Agreement and the Transaction Agreements and to perform its obligations in this Agreement and to consummate the Transactions. The execution, delivery, and performance by Purchaser of this Agreement, and the consummation by Purchaser of the Transactions, subject to requisite Bankruptcy Court approvals, have been duly authorized by all requisite corporate or similar organizational action and no other corporate or similar organizational proceedings on Purchaser's part are necessary to authorize the execution, delivery, and performance by Purchaser of this Agreement and the consummation by it of the Transactions. Subject to requisite Bankruptcy Court approvals, this Agreement has been duly executed and delivered by Purchaser and, assuming due authorization, execution, and delivery of this Agreement by the other Parties, constitutes a legal, valid, and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms, except that such enforceability may be limited by the Enforceability Exceptions.

Section 4.3 Conflicts; Consents.

(a) Assuming that (i) the Sale Order and all other requisite Bankruptcy Court approvals are obtained, and (ii) the requirements of any Competition Laws are complied with, neither the execution and delivery by Purchaser of this Agreement, nor the consummation by Purchaser of the Transactions, nor performance or compliance by Purchaser with any of the terms or provisions hereof, will (A) conflict with or violate any provision of Purchaser's Organizational Documents, (B) violate any Law or Order to which Purchaser is subject, (C) violate or constitute a breach of or default (with or without notice or lapse of time, or both) under, (x) give rise to a right of termination, modification, or cancelation of any obligation or to the loss of any benefit under, (y) any of the terms or provisions of any loan or credit agreement or other material Contract to which Purchaser is a party, or (z) accelerate Purchaser's obligations under any such Contract, or (D) result in the creation of any Encumbrance (other than a Permitted Encumbrance) on any properties or assets of Purchaser or any of its Subsidiaries, except, in the case of clauses (A) through (D), as would not, individually or in the aggregate, reasonably be expected to prevent or materially impair, alter, or delay Purchaser's ability to consummate the Transactions.

(b) Purchaser is not required to file, seek or obtain any notice, Governmental Authorization, approval, Order, Permit or Consent of or with any Governmental Body in connection with the execution, delivery and performance by Purchaser of this Agreement or the consummation by Purchaser of the Transactions, except (i) any filings required to be made under the HSR Act, if applicable, or (iii) where failure to obtain such Consent, approval, authorization or action, or to make such filing or notification, would not, individually or in the aggregate, reasonably be expected to prevent or materially impair the ability of Purchaser to consummate the Transactions.

Section 4.4 Financing. At the Closing, Purchaser will have sufficient funds in an aggregate amount necessary to pay all amounts payable under this Agreement, including the Purchase Price and to perform the Assumed Liabilities as they become due in accordance with their terms, and (b) Purchaser is and shall be capable at the Closing of satisfying the conditions contained in Sections 365(b)(1)(C) and 365(f) of the Bankruptcy Code with respect to the Assigned Contracts and the related Assumed Liabilities.

Section 4.5 Brokers. Except for any such person whose fees and expenses will be paid by Purchaser or an Affiliate thereof, there is no investment banker, broker, finder, or other intermediary which has been retained by or is authorized to act on behalf of Purchaser that might be entitled to any success fee or commission in connection with the Transactions.

Section 4.6 No Litigation. There are no Actions pending or, to Purchaser's actual knowledge, threatened against or affecting Purchaser that will or would reasonably be expected to materially and adversely affect Purchaser's performance of its obligations under this Agreement or the consummation of the Transactions.

Section 4.7 Certain Arrangements. As of the date hereof, except for arrangements among any holders of bonds, indentures, notes or similar instruments of Seller or an Affiliate thereof, there are no Contracts, undertakings, commitments, agreements or obligations, whether written or oral, between any member of the Purchaser Group, on the one hand, and any member

of the management of Seller or its board of directors (or applicable governing body of any Affiliate of Seller), any holder of equity or debt securities of Seller, or any lender or creditor of Seller or any Affiliate of Seller, or any third party on the other hand, (a) relating in any way to the acquisition of the Acquired Assets or the Transactions (including any joint bidding, exclusivity or similar arrangement with any third party) or (b) that would be reasonably likely to prevent, restrict, impede or adversely affect the ability of Seller or any of their Affiliates to entertain, negotiate or participate in any such Transactions.

Section 4.8 No Other Representations or Warranties. Except for the representations and warranties expressly contained in this Article IV and the Transaction Agreements (in each case, in accordance with the express terms and conditions (including limitations and exclusions) of this Agreement and the Transaction Agreements (the "Express Purchaser Representations")), it is understood that Seller has relied only on the Express Purchaser Representations for purposes of the Transactions. Seller is not relying on and will not rely on the accuracy or completeness of any other express or implied representation or warranty with respect to Purchaser, the Excluded Assets, or the Excluded Liabilities, or with respect to any other information, statements, disclosures, documents, projections, forecasts or other material of any nature made available or provided by any Person to Seller on behalf of the Purchaser Group. Seller acknowledges that neither Purchaser nor any other Person on behalf of Purchaser makes any other express or implied representation or warranty with respect to Purchaser or with respect to any other information provided to Seller by Purchaser. Without limiting the foregoing, neither Purchaser nor any other Person will have or be subject to any Liability whatsoever to Seller resulting from the distribution to Seller, or Seller's use of or reliance on, any such information, statements, disclosures, documents, projections, forecasts, or other material provided in expectation of the Transactions, except for any Express Purchaser Representations. Notwithstanding anything to the contrary herein, the foregoing shall not limit any Express Purchaser Representations or claims or remedies in respect of Fraud.

ARTICLE V
BANKRUPTCY COURT MATTERS

Section 5.1 Bankruptcy Actions.

(a) If applicable, the bidding procedures to be employed with respect to this Agreement shall be the Bidding Procedures reflected in the Bidding Procedures Order. Purchaser agrees and acknowledges that Seller, including through its representatives, are and may continue soliciting inquiries, proposals or offers from third parties in connection with any Alternative Transaction pursuant to the terms of the Bidding Procedures Order. Seller may modify the motion seeking approval of the Sale Order pursuant to discussions with the United States Trustee assigned to the Chapter 11 Cases, the Bankruptcy Court, any creditor or committee representing a group of creditors in the Chapter 11 Cases, or any other party in interest, with such modifications being subject to the approval of Purchaser in its commercially reasonable discretion. Notwithstanding the foregoing, any resulting changes to this Agreement or any related document or resulting material changes to the Sale Order shall be subject to the approval of Purchaser, which approval may be withheld by Purchaser in its commercially reasonable discretion. Seller shall (A) provide Purchaser with drafts of any and all other pleadings and proposed orders to be filed or submitted in connection with this Agreement and the Transactions, and such pleadings and proposed orders shall be in form and substance reasonably acceptable to Purchaser and (B) make reasonable efforts

to consult and cooperate with Purchaser regarding any discovery taken in connection with seeking entry of the Sale Order (including any depositions).

(b) From the date hereof until the earlier of (i) the termination of this Agreement in accordance with Section 8.1 and (ii) the Closing Date, the Parties shall use their respective commercially reasonable efforts to obtain entry by the Bankruptcy Court of the Sale Order.

(c) Each of Seller and Purchaser shall (i) appear formally or informally in the Bankruptcy Court if reasonably requested by the other Party or required by the Bankruptcy Court in connection with the Transactions and (ii) keep the other reasonably apprised of the status of material matters related to the Agreement, including, upon reasonable request promptly furnishing the other with copies of notices or other communications received by Seller from the Bankruptcy Court with respect to the Transactions.

(d) If any party other than Purchaser or Seller appeals or seeks a stay of the Sale Order, Seller shall promptly notify Purchaser of such appeal or stay request and shall promptly provide to Purchaser a copy of the related notice of appeal or order of stay. Seller shall also provide Purchaser with written notice of any motion or application filed in connection with any appeal from either of such orders.

(e) Seller and Purchaser acknowledge that this Agreement and the sale of the Acquired Assets are subject to the possible receipt by Seller of higher and better bids and Bankruptcy Court approval. Purchaser acknowledges that Seller is required by Applicable Law to act in good faith and take reasonable steps to demonstrate that it has sought to obtain the highest or otherwise best price for the Acquired Assets, including giving notice thereof to the creditors of Seller and other interested parties, providing information about Seller and the Business to prospective bidders, entertaining higher and better offers from such prospective bidders, and, in the event that additional qualified prospective bidders desire to bid for the Acquired Assets, conducting an Auction.

(f) Purchaser shall use commercially reasonable efforts to provide adequate assurance of future performance as required under Section 365 of the Bankruptcy Code for the Assigned Contracts and to demonstrate that Purchaser is a "good faith" purchaser under Section 363(m) of the Bankruptcy Code. Purchaser agrees that it will use commercially reasonable efforts to assist in obtaining a Bankruptcy Court finding that there has been a sufficient demonstration of adequate assurance of future performance under the Assigned Contracts, such as furnishing affidavits, non-confidential financial information and other documents or information for filing with the Bankruptcy Court and making Purchaser's Advisors available to testify before the Bankruptcy Court.

(g) From and after the Effective Date and prior to the Closing or the termination of this Agreement in accordance with Section 8.1, Seller shall not take any action which is intended to (or is reasonably likely to), or fail to take any action the intent (or the reasonably likely result) of which failure to act is to, result in the reversal, voiding, modification or staying of the Sale Order or this Agreement. Notwithstanding the foregoing, nothing in this Section 5.1 shall prevent Seller from modifying the Bidding Procedures reflected in the Bidding Procedures Order as necessary or appropriate to maximize value for Seller's estate in accordance with Seller's fiduciary

obligations, which modifications shall be subject to the prior approval of Purchaser in its commercially reasonable discretion.

(h) Purchaser agrees not to solicit or enter into any joint bidder, exclusivity, or similar arrangement with respect to the Transactions prior to the Closing without the prior written consent of Seller, which consent shall not be unreasonably withheld.

Section 5.2 **Sale Order**. The Sale Order shall, among other things, (a) approve, pursuant to Sections 105, 363 and 365 of the Bankruptcy Code (i) the execution, delivery and performance by Seller of this Agreement, (ii) the sale of the Acquired Assets to Purchaser on the terms set forth herein and free and clear of all Encumbrances (other than Permitted Encumbrances), and (iii) the execution, delivery, and performance by Seller of its obligations under this Agreement, (b) authorize and empower Seller to assume and assign to Purchaser the Assigned Contracts, (c) find that Purchaser is a "good faith" purchaser within the meaning of Section 363(m) of the Bankruptcy Code, find that Purchaser is not a successor to Seller, and grant Purchaser the protections of Section 363(m) of the Bankruptcy Code, (d) find that Purchaser has provided adequate assurance (as that term is used in Section 365 of the Bankruptcy Code) of future performance in connection with the assumption of the Assigned Contracts, and (e) find that Purchaser shall have no Liability for any Excluded Liability or responsibility for any Liability or other obligation of Seller arising under or related to the Acquired Assets other than as expressly set forth in this Agreement, including successor or vicarious Liabilities of any kind or character, including any theory of antitrust, successor, or transferee Liability, labor law, de facto merger, environmental, or substantial continuity. Without limiting Seller's obligation to take all such actions as are reasonably necessary to obtain Bankruptcy Court approval of the Sale Order, Purchaser agrees that it will promptly take such actions as are reasonably requested by Seller to assist in obtaining Bankruptcy Court approval of the Sale Order, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court for purposes, among others, of (A) demonstrating that Purchaser is a "good faith" purchaser under Section 363(m) of the Bankruptcy Code and (B) establishing adequate assurance of future performance within the meaning of Section 365 of the Bankruptcy Code and in accordance with the Bidding Procedures Order (if applicable). Without limiting the generality of the foregoing, Seller shall request that the Sale Order (i) expressly provide that, pursuant to Section 363(f) of the Bankruptcy Code, all Encumbrances (other than Permitted Encumbrances), including without limitation any mechanics', contractor's, statutory, tax and utility liens, shall attach to the proceeds of the Sale Transaction with the same validity and priority as such liens had against the Acquired Assets and shall not attach to or follow the Acquired Assets; (ii) expressly authorize the assumption and assignment to Purchaser of the Assigned Contracts, in each case notwithstanding any anti-assignment, ipso facto, change-of-control, material-adverse-change or similar provisions therein, to the extent permissible under Sections 365(e) and 365(f) of the Bankruptcy Code; (iii) expressly find that all pre-Closing environmental enforcement actions, notices of violation, consent orders, OSHA citations, and pre-Closing environmental remediation obligations of Seller relating to the Acquired Leased Real Property are Excluded Liabilities and shall not be assumed by or imposed on Purchaser; and (iv) provide such other findings, protections and authorizations as are customary in Section 363 sale orders entered by the Bankruptcy Court.

Section 5.3 **Approval**. Seller's obligations under this Agreement and in connection with the Transactions are subject to entry of and, to the extent entered, the terms of any Orders of

the Bankruptcy Court (including entry of the Sale Order). Nothing in this Agreement shall require Seller or its Affiliates to give testimony to or submit a motion to the Bankruptcy Court that is untruthful or to violate any duty of candor or other fiduciary duty to the Bankruptcy Court or its stakeholders.

ARTICLE VI
COVENANTS AND AGREEMENTS

Section 6.1 Conduct of the Business of Seller.

(a) Except (i) as required by Applicable Law, Order or a Governmental Body, (ii) any limitations on operations imposed by the Bankruptcy Court or the Bankruptcy Code, as the case may be, (iii) as expressly contemplated or required by this Agreement, or (iv) as set forth on Schedule 6.1, during the period from the Effective Date until the Closing (or such earlier date and time on which this Agreement is terminated pursuant to Article VIII), unless Purchaser otherwise consents in writing, Seller shall (and shall cause its Affiliates to) (A) carry on the Business in the Ordinary Course, (B) conduct the Business in accordance with Applicable Law and (C) use commercially reasonable efforts to maintain its Permits, Equipment and Business Insurance Policies.

(b) [*Reserved*.]

(c) Except (i) as required by Applicable Law, Order or a Governmental Body, or (ii) as set forth on Schedule 6.1(c), during the period from the Effective Date until the Closing (or such earlier date and time on which this Agreement is terminated pursuant to Article VIII), unless Purchaser otherwise consents in writing, Seller shall not, and shall cause its Affiliates not to, take any of the following actions with respect to the Business, the Acquired Assets or the Assumed Liabilities:

(i) (A) incur, assume or otherwise become liable for any indebtedness for borrowed money, issue or sell any debt securities or rights to acquire any debt securities of Seller, guarantee any such indebtedness or any debt securities of another Person (collectively, "Indebtedness"), except for (1) letters of credit, bank guarantees, security or performance bonds or similar credit support instruments, overdraft facilities or cash management programs, in each case issued, made or entered into in the Ordinary Course and that do not constitute Assumed Liabilities, (2) Indebtedness incurred under arrangements that are not secured by the Acquired Assets and that do not constitute Assumed Liabilities, and (3) Indebtedness incurred under existing arrangements (including in respect of letters of credit) that do not constitute Assumed Liabilities, in each case of this clause (A), other than Excluded Liabilities, (B) enter into any swap or hedging transaction or other derivative agreements, or (C) make any loans, capital contributions or advances to, or investments in, any Person;

(ii) sell or lease to any Person, in a single transaction or series of related transactions, any of the Acquired Assets;

(iii) make or authorize capital expenditures including for property, plant and Equipment;

(iv) except for acquisitions made with Purchaser's prior written consent, make any acquisition of, or investment in, any securities or business (including by merger) or consolidate with or into any legal entity, (which shall exclude acquisitions of Inventory in the Ordinary Course);

(v) make any changes in financial accounting methods, principles or practices affecting the consolidated assets, Liabilities or results of operations of Seller and its Affiliates with respect to the Business, the Acquired Assets or the Assumed Liabilities except insofar as may be required (A) by GAAP (or any interpretation thereof), (B) by any applicable Law or (C) by any Governmental Body or quasi-governmental authority (including the Financial Accounting Standards Board or any similar organization);

(vi) grant any Encumbrance (other than Permitted Encumbrances) on any of the Acquired Assets other than to secure Indebtedness and other obligations in existence at the date of this Agreement (and required to be so secured by their terms);

(vii) settle any pending or threatened Action or consent to the entry of any order against Seller or any Subsidiary relating to the Business, the Acquired Assets or Assumed Liabilities;

(viii) amend, supplement or modify in any material respect, terminate, reject or waive any material term under, exercise any material option under or give any material consent with respect to any Assigned Contract;

(ix) enter into any Contract that would have been a Material Contract if entered into prior to the date hereof without the prior written consent of Purchaser, which consent shall not be unreasonably withheld;

(x) acquire any material assets that would be Acquired Assets;

(xi) resolve any Liability that would be an Assumed Liability;

(xii) satisfy any Excluded Liability with an Acquired Asset;

(xiii) grant any waiver under or amend or modify, or surrender, revoke, permit to lapse or otherwise terminate any Permits, other than waivers, amendments or modifications in the Ordinary Course;

(xiv) acquire any fee interest (or local equivalent) or leasehold interest in any real property;

(xv) make, change or rescind any material Tax election, change any annual tax accounting period, adopt or change any Tax accounting method, file any

material amended Tax Return, or enter into any closing agreement, consent or agree to any extension or waiver of the limitation period applicable to any claim or assessment in respect of a material amount of Taxes, enter into any Tax partnership agreement or any Tax allocation, sharing or indemnity Contract, agreement or arrangement that would be binding on Purchaser or any of its Affiliates (other than a Contract, agreement or arrangement the principal subject matter of which is not Taxes), settle any material Tax claim or assessment, or file any Tax Return or take any position with respect to Taxes that is inconsistent with the Intended Tax Treatment, in each case to the extent such action would adversely affect the Acquired Assets or the Business in a Post-Closing Tax Period;

(xvi) file any claim for loss under any Business Insurance Policy without the prior written consent of the Purchaser (not to be unreasonably withheld, conditioned, or denied);

(xvii) dissolve, liquidate or otherwise terminate its existence in a manner that would delay, prevent or impede the consummation of the Transactions;

(xviii) amend or modify (whether by merger, consolidation or otherwise) the certificate of incorporation, bylaws or comparable organizational or governing documents of Seller or any of its respective Affiliates in a manner that would delay, prevent or impede the consummation of the Transaction; or

(xix) commit or agree to take any of the foregoing actions.

(d) Nothing contained in this Agreement is intended to give Purchaser or its Affiliates, directly or indirectly, the right to control or direct the Business (or the other business of Seller and its Affiliates) prior to the Closing, and nothing contained in this Agreement is intended to give Seller, directly or indirectly, the right to control or direct Purchaser's or its Subsidiaries' operations. Prior to the Closing, each of Purchaser and Seller shall exercise, consistent with the terms and conditions of this Agreement, complete control and supervision over its and its Subsidiaries' respective operations.

Section 6.2 Access to Information.

(a) From the Effective Date until the Closing (or the earlier termination of this Agreement) pursuant to Article VIII, Seller will provide Purchaser and its authorized Advisors with reasonable access (during reasonable business hours and upon reasonable advance notice) to (w) Seller and its Affiliates, to the extent related to the Acquired Assets and the Assumed Liabilities, (x) Seller's accountants, counsel, financial advisors and other authorized outside representatives, officers and senior management in their respective principal places of business, (y) books, records and properties of Seller, to the extent related to the Acquired Assets and the Assumed Liabilities, except as prohibited by Applicable Law and (z) such financial and operating data and other information relating to the Acquired Assets and Assumed Liabilities as Purchaser and its authorized Advisors may reasonably request and Seller will instruct the employees, counsel and financial advisors of the Seller and their Affiliates to cooperate with Purchaser in its investigation of the Acquired Assets and Assumed Liabilities; provided that (i) such access does

not unreasonably interfere with the normal operations of Seller or any Subsidiary, (ii) Seller and its Affiliates are not obligated to disclose and may redact or remove any information that is not related to the Acquired Assets or the Assumed Liabilities, and (iii) nothing herein will require Seller or its Affiliates to provide access to, or to disclose any information to, Purchaser if such access or disclosure (A) would reasonably be expected to adversely affect any legal privilege, (B) would be in violation of applicable Laws (including the Competition Laws) or the provisions of any agreement to which Seller or any Affiliate thereof is bound or would violate any fiduciary duty, or (C) is in respect of Excluded Tax Returns; provided further, that the Parties shall use their respective commercially reasonable efforts to provide such access in a manner so as to not result in the waiver of such privilege or the violation of such Law, agreement or fiduciary duty.

(b) The information provided pursuant to Section 6.2(a) will be used solely for the purpose of consummating the Transactions, and will be governed by all the terms and conditions of the Confidentiality Agreement, which Confidentiality Agreement shall not terminate upon the execution of this Agreement (but, for the avoidance of doubt, shall terminate on the earlier of (i) the date the Confidentiality Agreement terminates in accordance with its terms and (ii) the Closing Date) notwithstanding anything to the contrary therein. Purchaser will, and will cause its Advisors to, abide by the terms of the Confidentiality Agreement with respect to such access and any information furnished to Purchaser or any of its Advisors. Seller and its Affiliates make no representation or warranty as to the accuracy of any information, if any, provided pursuant to this Section 6.2, and Purchaser may not rely on the accuracy of any such information, in each case, other than the Express Seller Representations.

(c) From the Closing Date until the earlier of (x) two years following the Closing Date, and (y) the date of a final, unappealable order resolving the Chapter 11 Cases, Purchaser will provide Seller and its Advisors, at Seller's sole cost and expense, with (i) reasonable access, during normal business hours, without undue disruption, and upon reasonable advance written notice, to the books and records, including work papers, schedules, memoranda, and other documents (for the purpose of examining and copying) relating to the Acquired Assets, the Excluded Assets, the Assumed Liabilities or the Excluded Liabilities to the extent relating to periods or occurrences prior to the Closing Date, and (ii) reasonable access, during normal business hours, without undue disruption, and upon reasonable advance written notice, to employees, officers, Advisors, accountants, offices and properties of Purchaser (including for the purpose of better understanding the books and records), in the case of each of the immediately preceding clauses (i) and (ii) solely for the purposes of Seller's wind-down activities; provided that (i) Purchaser shall not be obligated to disclose and may redact or remove any information that is not related to the Acquired Assets, the Excluded Assets, the Excluded Liabilities or the Assumed Liabilities, and (ii) nothing herein will require Purchaser to provide access to, or to disclose any information to, Seller if such access or disclosure (A) would reasonably be expected to adversely affect any legal privilege, or (B) would be in violation of applicable Laws (including the Competition Laws) or the provisions of any agreement to which Purchaser or Seller is bound or would violate any fiduciary duty; provided further, that the Parties shall use their respective commercially reasonable efforts to provide such access in a manner so as to not result in the waiver of such privilege or the violation of such Law, agreement or fiduciary duty.

(d) Purchaser will not, and will not permit any member of the Purchaser Group to, contact any officer, manager, director, employee, customer, supplier, lessee, lessor, lender,

licensee, licensor, distributor, noteholder or other material business relation of Seller prior to the Closing with respect to Seller, the Business or the Transactions, without the prior written consent of Seller for each such contact, except for in accordance with Section 6.2(a).

Section 6.3 Restricted Use of Confidential Information. From and after the Closing Date, until the earlier of (a) the dissolution of Seller and (b) the two (2) year-period following Closing, Seller shall, and shall cause its Affiliates and its and their respective Advisors to, hold all Confidential Information, to the extent relating to any Acquired Assets, Assumed Liabilities, Transferred Employees, or the Business, in accordance with the confidentiality and non-use obligations set forth in the Confidentiality Agreement (as if Seller, its Affiliates and its and their respective Advisors were Recipients (as defined in the Confidentiality Agreement) thereunder).

Section 6.4 Employee Matters.

(a) Prior to and contingent on the occurrence of the Closing, Purchaser may extend an offer of employment or engagement to one or more of the Business Employees or Business Service Providers on such terms and conditions as determined by Purchaser (such Business Employees or Business Service Providers who receive an offer of employment or engagement, the "Offer Employees"), with such employment or engagement to take effect under the terms set forth in this Section 6.4 ("Transfer Offer") and that, if accepted (which acceptances shall be delivered to Purchaser no later than the Closing Date), shall become effective immediately upon the Closing. No later than five days following the date hereof, Seller shall provide to Purchaser a list of all Business Employees and Business Service Providers as of the Effective Date and sets forth for each such individual the following: (i) name, (ii) title or position (including whether full-time or part-time); (iii) hire or retention date; (iv) current compensation rate or contract fee; (v) commission, bonus or other incentive-based compensation; and (vi) a reasonable description of the fringe benefits provided to each such individual as of the Effective Date. Seller and its Affiliates shall cooperate in good faith with and provide reasonable assistance to Purchaser and its Affiliates in its or their efforts to enter into a Transfer Offer with the Offer Employees, including by (A) making the Business Employees or Business Service Providers reasonably accessible to meet and interview with Purchaser or their Affiliates, and (B) otherwise facilitating Purchaser's and its Affiliates' interview and evaluation processes. Business Employees and Business Service Providers who accept such Transfer Offers and begin employment or engagement with Purchaser shall be collectively referred to herein as "Transferred Employees." Purchaser shall notify Seller on the Closing Date with respect to whether each such offer has been accepted or rejected. Nothing herein shall be construed as a representation or guarantee by Seller or any of its Affiliates that any Business Employees or Business Service Providers will accept the Transfer Offer, or that any Transferred Employee will continue in employment or engagement with Purchaser following the Closing for any period of time. Purchaser shall carry out all necessary actions to effect the timely employment or engagement by it of each Business Employee or Business Service Provider who has accepted a Transfer Offer. Effective as of the Closing, each Transferred Employee previously employed or engaged by Seller shall cease to be an employee or service provider of Seller.

(b) On the Closing, Transferred Employees (and their eligible dependents and beneficiaries) shall cease active participation in the Employee Benefit Plans (if applicable).

(c) Purchaser shall be responsible for paying, providing and satisfying when due all compensation for Transferred Employees, solely to the extent it arises from employment or engagement with the Purchaser after the Closing Date, and to the extent set forth in the Transfer Offer.

(d) At the Closing, Seller and Purchaser shall enter into the Transition Services Agreement, pursuant to which Purchaser shall, for the period set forth therein following the Closing, cause certain Transferred Employees identified therein to provide transition services to Seller's estate in accordance with the terms thereof.

(e) Except as otherwise set forth in Section 1.3(f), Seller and its Affiliates expressly agree to retain all obligations, Liabilities, and commitments with respect to its or their employees, including, without limitation, all obligations, Liabilities, and commitments under the Worker Adjustment and Retraining Notification Act of 1988 or any similar Laws (collectively, the "WARN Act"), including any requirement to provide notice, that accrue prior to, on or after the Closing Date. Notwithstanding anything to the contrary herein, Seller or its Affiliates shall be permitted to provide WARN Act notices prior to the Closing to any Business Employees who are owed notice under the WARN Act, in consultation with Purchaser.

(f) Purchaser and its Affiliates shall be solely responsible for any and all obligations and Liabilities arising under Section 4980B of the Tax Code and applicable state Law (including satisfaction of any related notice requirements) with respect to employees of Seller and its Affiliates whose services relate primarily to the Business and who are or may become "M&A qualified beneficiaries" as defined in 26 C.F.R. § 54.4980B- 9 as a result of a qualifying event that occurred or occurs on or after the Closing Date.

Section 6.5 Regulatory Approvals.

(a) Seller will (i) cooperate with Purchaser in exchanging such information and providing such assistance as Purchaser may reasonably request in connection with any filings made by the Purchaser Group pursuant to Section 6.5(b), and (ii) (A) supply promptly any additional information and documentary material that may be requested in connection with the filings made pursuant to this Section 6.5(a) or Section 6.5(b) and (B) use reasonable best efforts to take all actions necessary to obtain all required clearances in connection with such filings.

(b) Purchaser will, and will cause its Affiliates and Advisors to, (i) make or cause to be made all filings and submissions required to be made by any member of the Purchaser Group under any applicable Laws for the consummation of the Transactions, if any, (ii) cooperate with Seller in exchanging such information and providing such assistance as Seller may reasonably request in connection with any filings made by Seller pursuant to Section 6.5(a), and (iii) (A) supply reasonably promptly any additional information and documentary material that may be requested in connection with the filings made pursuant to this Section 6.5(b) or Section 6.5(a) and (B) use reasonable best efforts to take all actions necessary to obtain all required clearances.

(c) Notwithstanding anything to the contrary herein, Seller shall, at Sellers's sole cost and expense, prepare, submit, and diligently prosecute applications, filings, submissions

and other documents for the transfer, assignment or reissuance to Purchaser of any Permits desired by Purchaser and required under Law (including Environmental Law) to the extent such Permits are included in the Acquired Assets, and Seller shall reasonably cooperate with Purchaser to obtain the relevant issuing Governmental Bodies' approval of the transfer, assignment, or revocation and reissuance of such Permits.

Section 6.6 Reasonable Efforts; Cooperation.

(a) Subject to the other terms of this Agreement, each Party shall, and shall (whether directly or through its Advisors), use its reasonable best efforts to perform its obligations hereunder and to take, or cause to be taken, and do, or cause to be done, all things necessary, proper or advisable to cause the Transactions to be effected as soon as practicable, but in any event on or prior to the Outside Date, in accordance with the terms hereof, including the satisfaction of the conditions to the Closing set forth in Article VII, and to cooperate with each other Party and its Advisors in connection with any step required to be taken as part of its obligations hereunder.

(b) The obligations of Seller pursuant to this Agreement, including this Section 6.6, shall be subject to any Orders entered, or approvals or authorizations granted or required, by or under the Bankruptcy Court or the Bankruptcy Code (including in connection with the Chapter 11 Cases), Seller's debtor-in-possession financing, and Seller's obligations as Debtor to comply with any Order of the Bankruptcy Court (including the Bidding Procedures Order, if applicable, and the Sale Order).

Section 6.7 Further Assurances. Subject to the terms and conditions of this Agreement, from time to time, as and when reasonably requested by any Party and at such requesting Party's expense, any other Party will execute and deliver, or cause to be executed and delivered, all such documents and instruments and will take, or cause to be taken, all such further or other actions as such requesting Party may reasonably deem necessary or desirable to evidence and effectuate the Transactions.

Section 6.8 Insurance Matters.

(a) Purchaser acknowledges that, upon Closing, all nontransferable insurance coverage provided in relation to Seller and the Acquired Assets that is maintained by Seller or its Affiliates (whether such policies are maintained with third party insurers or with Seller or its Affiliates) shall cease to provide any coverage to Purchaser, the Acquired Assets, and the Assumed Liabilities, and no further coverage shall be available to Purchaser with respect to the Acquired Assets or the Assumed Liabilities under any such policies. From and after the Closing, Purchaser shall have the right to make claims and to receive proceeds from such claims with respect to any matter to the extent related to the Acquired Assets or Assumed Liabilities for periods prior to the Closing, and Seller shall cooperate in seeking recovery or allowing Purchaser to seek recovery under the applicable occurrence-based insurance policies, and Seller shall cooperate with Purchaser's reasonable requests if it seeks recovery, with respect to such matters and shall remit (or, at Purchaser's request, direct any such insurer to pay directly to Purchaser) any insurance proceeds actually obtained with respect to such claims (net of Seller's reasonable and documented out-of-pocket costs and expenses of seeking recovery, to the extent not otherwise paid or reimbursed by Purchaser) to Purchaser.

(b) To the extent that any Business Insurance Policy covers any Liability relating to the Acquired Assets and relating to or arising out of Pre-Closing Matters, Seller shall cooperate with Purchaser in submitting claims and seeking recovery with respect to Pre-Closing Matters on behalf of Purchaser under the Business Insurance Policies. Seller shall, on request from Purchaser, with respect to any claim arising from an Assumed Liability that is covered or potentially covered by the Seller's Insurance Policies, (A) report such claim to the appropriate insurer as promptly as practicable after such claim is reported to Seller, and (B) instruct that any proceeds of such Business Insurance Policy are paid as soon as reasonably practicable following the Closing directly to Purchaser, the attorneys handling the defense of such claim or, where applicable, to the claimant as a result of any judgment or settlement, rather than to Seller (but subject to all limitations and deductibles and exclusions under such policies and net of Seller's reasonable and documented out-of-pocket costs and expenses of seeking such recovery and any Taxes incurred by Seller with respect to such recovery, all of which shall be paid directly to Seller).

(c) For a period of one year after the Closing, Seller may not release or waive any actual liability or potential liability of any insurer of a Business Insurance Policy with respect to Pre-Closing Matters (including but not limited to any cancel, lapse, or non-renewal of a Business Insurance Policy) without the prior written consent of Purchaser.

Section 6.9 Receipt of Misdirected Assets; Liabilities.

(a) From and after the Closing, if Seller or any of its Affiliates becomes aware that any right, property or asset forming part of the Acquired Assets has not been transferred to Purchaser or receives any right, property or asset that is an Acquired Asset, the Seller shall (at no cost to Purchaser) promptly (i) notify Purchaser and (ii) transfer or cause such of its Affiliates to transfer such right, property or asset (and shall promptly endorse and deliver any such asset that is received in the form of cash, checks or other documents) to Purchaser, and such asset will be deemed the property of Purchaser held in trust by Seller for Purchaser until so transferred. From and after the Closing, if Purchaser or any of its Affiliates receives any right, property or asset that is an Excluded Asset, Purchaser shall promptly transfer or cause such of its Affiliates to transfer such asset (and shall promptly endorse and deliver any such right, property or asset that is received in the form of cash, checks, or other documents) to Seller, and such asset will be deemed the property of Seller held in trust by Purchaser for Seller until so transferred. From and after the Closing, if Purchaser or Seller discovers that any asset previously deemed an Excluded Asset should have been included as an Acquired Asset pursuant to the terms of this Agreement, Seller shall promptly (at no cost to Purchaser) transfer such asset to Purchaser.

(b) From and after the Closing, if Seller or any of its Affiliates is subject to a Liability that is an Assumed Liability and therefore should belong to Purchaser or its Affiliates pursuant to the terms of this Agreement, Seller shall promptly transfer or cause such of its Affiliates to transfer such Assumed Liability to Purchaser, and Purchaser shall be deemed to have assumed and accepted such Assumed Liability without the need for any further action by Purchaser. From and after the Closing, if Purchaser or any of its Affiliates is subject to a Liability that is an Excluded Liability and should belong to Seller or its Affiliates pursuant to the terms of this Agreement, Purchaser shall promptly transfer or cause such of its Affiliates to transfer such Excluded Liability to Seller or its Affiliates, and Seller or its Affiliates shall be deemed to have assumed and accepted such Excluded Liability without the need for any further action by Seller.

Section 6.10 Acknowledgment by Purchaser.

(a) Purchaser acknowledges and agrees, on its own behalf and on behalf of the Purchaser Group, that it has conducted an independent investigation and verification of the Acquired Assets and the Assumed Liabilities and, in making its determination to execute this Agreement and proceed with the Transactions, the Purchaser Group has relied, is relying, and will rely solely on the Express Seller Representations and the results of the Purchaser Group's own independent investigation and verification and have not relied on, are not relying on, and will not rely on, any information, statements, disclosures, documents, projections, forecasts or other material (including in the Dataroom, the Information Presentation or the Projections), in each case, whether written or oral, made available or provided to the Purchaser Group by or on behalf of the Seller Parties, or any failure of any of the foregoing to disclose or contain any information, except for the Express Seller Representations (it being understood that the Purchaser Group has relied only on the Express Seller Representations).

(b) Purchaser acknowledges and agrees, on its own behalf and on behalf of the Purchaser Group, that (i) the Express Seller Representations are the sole and exclusive representations, warranties and statements of any kind made to Purchaser or any member of the Purchaser Group and on which Purchaser or any member of the Purchaser Group may rely in connection with the Transactions and (ii) all other representations, warranties and statements of any kind or nature expressed or implied, whether in written, electronic or oral form, including (A) the completeness or accuracy of, or any omission to state or to disclose, any information (other than solely to the extent expressly set forth in the Express Seller Representations) including in the Dataroom, Information Presentation, Projections, meetings, calls or correspondence with management of Seller, any of the Seller Parties or any other Person on behalf of Seller or any of the Seller Parties or any of their respective Affiliates or Advisors and (B) any other statement relating to the historical, current or future business, financial condition, results of operations, assets, Liabilities, properties, Contracts, environmental, health or safety conditions and compliance, employee matters, regulatory compliance, business risks and prospects of the Business, or the quality, quantity or condition of any of the Acquired Assets, are, in each case, specifically disclaimed by Seller, on its behalf and on behalf of the Seller Parties, except to the extent set forth in the Express Seller Representations.

(c) Without limiting the generality of the foregoing, in connection with the investigation by the Purchaser Group, Purchaser and the members of the Purchaser Group, and the Advisors of the foregoing, have received or may receive, from or on behalf of Seller, or other Seller Parties, certain projections, forward-looking statements and other forecasts (whether in written, electronic, or oral form, and including in the Information Presentation, Dataroom, management meetings, etc.) (collectively, the "Projections"). Seller represents and warrants to Purchaser that the Projections were prepared and made in good faith. Purchaser acknowledges and agrees, on behalf of itself and the Purchaser Group, that (i) such Projections are being provided solely for the convenience of Purchaser to facilitate its own independent investigation of Seller, (ii) there are uncertainties inherent in attempting to make such Projections, (iii) Purchaser is familiar with such uncertainties, and (iv) Purchaser is taking full responsibility for making its own evaluation of the adequacy and accuracy of all Projections (including the reasonableness of the assumptions underlying such Projections), except, in each case, to the extent expressly set forth in the Express Seller Representations.

(d) Purchaser acknowledges and agrees, on its own behalf and on behalf of the Purchaser Group, that the covenants and agreements contained in this Section 6.10 (i) require performance after the Closing to the maximum extent permitted by applicable Law and (ii) are an integral part of the Transactions and that, without these agreements set forth in this Section 6.10, Seller would not enter into this Agreement.

Section 6.11 Releases.

(a) As of the Closing, Seller, on behalf of itself and its Affiliates, and its and their Affiliates' representatives, heirs, estates successors or executors, partners, members, equity holders, directors, officers, employees, controlling persons, agents, successors, stockholders, trustees, principals, parents, Subsidiaries, joint ventures, predecessors, and assigns (as applicable) (collectively, the "Seller Releasing Parties"), (a) irrevocably and unconditionally waives, releases, and forever discharges Purchaser and its current, former and future Affiliates, Advisors, stockholders, members, directors, managers, trustees, principals, parents, Subsidiaries, joint ventures, predecessors, successors, assigns, beneficiaries, heirs or executors (collectively, the "Purchaser Released Parties") from any and all rights, commitments, actions, debts, claims, counterclaims, suits, Causes of Action, Avoidance Actions, damages, demands, losses, obligations, costs, expenses, compensation and other Liabilities of every kind and nature whatsoever, whether known or unknown, matured or contingent and whether arising in Law, in equity or otherwise, in each case based upon facts, circumstances or occurrences existing at or prior to Closing (collectively, the "Released Claims"), (b) irrevocably covenants to refrain from, directly or indirectly, asserting any claims or commencing, instituting or causing to be commenced, any Action of any kind against any Purchaser Released Party with respect to the Released Claims and (c) represents to the other Parties that Seller has not assigned or transferred, nor purported to assign or transfer, to any Person all or any part of, or any interest in, any Released Claim (and notwithstanding anything to the contrary in this Agreement, no such assignment or transfer shall be permitted, and any purported assignment or transfer shall be legally ineffective). Seller also hereby waives the benefits of, and any right that such Person may have under, any statute or common law principle of similar effect in any jurisdiction with respect to any Released Claim.

(b) Without limiting the foregoing, Seller, on behalf of itself and the Seller Releasing Parties, expressly waives and releases any and all rights and benefits under Section 1542 of the California Civil Code (or any analogous law of any other state), which reads as follows: "A general release does not extend to claims which the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party." Seller, on behalf of itself and the other Seller Releasing Parties, expressly waives all rights afforded by any statute which limits the effect of a release with respect to unknown claims. Seller, on behalf of itself and the other Seller Releasing Parties, understands the significance of this release of unknown claims and waiver of statutory protection against a release of unknown claims, and acknowledges and agrees that this waiver is an essential and material term of this Agreement. Seller, on behalf of itself and the other Seller Releasing Parties, acknowledges that each of the Purchaser Released Parties will be relying on the waivers and releases provided in Section 6.11(a) and Section 6.11(b) in connection with entering into this Agreement and that Section 6.11(a) and

Section 6.11(b) are intended for the benefit of, and will grant express third party beneficiary rights to each Purchaser Released Party to enforce Section 6.11(a) and Section 6.11(b).

(c) As of the Closing, Purchaser, on behalf of itself and its Affiliates, representatives, heirs, estates, partners, members, joint ventures, predecessors, successors, and assigns (as applicable) (collectively, the "Purchaser Releasing Parties"), (i) irrevocably and unconditionally waives, releases, and forever discharges Seller and their current, former and future Affiliates, Advisors, stockholders, members, directors, managers, trustees, principals, parents, Subsidiaries, joint ventures, predecessors, successors, assigns, beneficiaries, heirs or executors (collectively, the "Seller Released Parties") from any and all Released Claims of the Purchaser Releasing Parties against the Seller Released Parties, (ii) irrevocably covenants to refrain from, directly or indirectly, asserting any claims or commencing, instituting or causing to be commenced, any Action of any kind against any Seller Released Party with respect to the Released Claims, and (iii) represents to Seller that Purchaser has not assigned or transferred, nor purported to assign or transfer, to any Person all or any part of, or any interest in, any Released Claim (and notwithstanding anything to the contrary in this Agreement, no such assignment or transfer shall be permitted, and any purported assignment or transfer shall be legally ineffective). Purchaser also hereby waives the benefits of, and any right that such Person may have under, any statute or common law principle of similar effect in any jurisdiction with respect to any Released Claim.

(d) Without limiting the foregoing, Purchaser, on behalf of itself and the Purchaser Releasing Parties, expressly waives and releases any and all rights and benefits under Section 1542 of the California Civil Code (or any analogous law of any other state), which reads as follows: "A general release does not extend to claims which the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party." Purchaser, on behalf of itself and the other Purchaser Releasing Parties, expressly waives all rights afforded by any statute which limits the effect of a release with respect to unknown claims. Purchaser, on behalf of itself and the Purchaser Releasing Parties, understands the significance of this release of unknown claims and waiver of statutory protection against a release of unknown claims, and acknowledges and agrees that this waiver is an essential and material term of this Agreement. Purchaser, on behalf of itself and the other Purchaser Releasing Parties, acknowledges that each of the Seller Released Parties will be relying on the waivers and releases provided in Section 6.11(c) and Section 6.11(d) in connection with entering into this Agreement and that Section 6.11(c) and Section 6.11(d) are intended for the benefit of, and will grant express third party beneficiary rights to each Seller Released Parties to enforce Section 6.11(c) and Section 6.11(d).

(e) Notwithstanding the generality of the foregoing, nothing herein constitutes a waiver or release by any Person of, and Released Claims shall not be deemed to include any claim, action, suit, right or proceeding (i) arising under or relating to this Agreement or any Transaction Agreement, including any breach of this Agreement or any Transaction Agreement, (ii) arising as a result of Fraud or Willful Breach, (iii) in respect of bonds, indentures, notes or similar instruments of Seller or any Affiliate thereof, or (iv) in respect of, relating to or against any employee, contractor or other similar service provider of Seller or any of its Affiliates.

Section 6.12 Environmental Insurance Policies. From and after the Closing, Seller shall use reasonable best efforts to cause Purchaser to be named as an additional insured under any pollution liability insurance policy or contractor's pollution liability insurance policy maintained by Seller, in each case solely to the extent such policy provides coverage for claims, losses, or liabilities arising out of or relating to the Acquired Leased Property. Seller shall promptly notify Purchaser in writing upon obtaining any such additional insured endorsement and shall provide Purchaser with copies of any certificates of insurance or endorsements evidencing such coverage. Notwithstanding the foregoing, nothing in this Section 6.12 shall require Seller to obtain any new or additional insurance coverage.

Section 6.13 Letters of Credit.

(a) Schedule 6.13(a) sets forth a true, correct, and complete list of all letters of credit outstanding as of the date hereof relating to any Acquired Asset, Assigned Contract or Assumed Liability for which Seller is the obligor (each, an "Existing Letter of Credit," and collectively, the "Existing Letters of Credit"), including for each Existing Letter of Credit the name of the beneficiary, the face amount, the amount of any Cash and Cash Equivalents or other cash collateral posted in support thereof, and the Acquired Asset, Assigned Contract or Assumed Liability to which it relates.

(b) From and after the date hereof, and following Closing, Seller and Purchaser shall cooperate in good faith and use reasonable commercial efforts to cause, as soon as is reasonably practicable, each Existing Letter of Credit to be (i) terminated or cancelled without any replacement obligation by Purchaser (each, a "Terminated Letter of Credit"), (ii) assigned or otherwise transferred to Purchaser (each, a "Transferred Letter of Credit"), or (iii) replaced by Purchaser with a letter of credit or such other credit support on terms reasonably acceptable to Purchaser and the applicable beneficiary (each, a "Replacement Letter of Credit"). To the extent Purchaser is required to obtain a Replacement Letter of Credit, Seller shall reasonably cooperate with Purchaser in connection with obtaining any such Replacement Letter of Credit, including by providing such notices, consents, and other documentation as may be reasonably requested by Purchaser or the applicable issuing bank. With respect to each Terminated Letter of Credit, all Cash and Cash Equivalents and other cash collateral posted in support of each Terminated Letter of Credit shall be released to Seller. With respect to each Transferred Letter of Credit, all Cash and Cash Equivalents and other cash collateral posted in support of each Transferred Letter of Credit shall be transferred to Purchaser. With respect to each Replacement Letter of Credit, all Cash and Cash Equivalents and other cash collateral posted in support of the Existing Letter of Credit to which the Replacement Letter of Credit relates shall be transferred to Purchaser.

Section 6.14 AE Poland Purchase Option. In the event Bluegrass does not timely deliver written notice to Seller to exercise Bluegrass's option to acquire all of Seller's or its Affiliates' direct or indirect right, title and interest in and to, the Equity Interests of Ascend Elements Poland sp. z o.o., a limited liability company incorporated under the laws of Poland ("AEP"), and AE Elemental sp. z o.o., a limited liability company incorporated under the laws of Poland ("AEE") (such Equity Interests, the "AEP Equity Interests") within the period specified in and pursuant to Section 6.3(d) of that certain Third A&R Asset Purchase Agreement with Seller, then, promptly following the expiration of Bluegrass's purchase option, Seller shall notify Purchaser in writing that Bluegrass did not timely exercise its purchase option (the "Purchase

Option Notice"). For a period of thirty days following Purchaser's receipt of the Purchase Option Notice, Purchaser shall have the right to acquire the AEP Equity Interests by delivering a written notice to Seller of its election to exercise such option (in its discretion). Within ten (10) business days following Seller's receipt of such notice, Seller shall, and shall cause its Affiliates to sell, transfer and convey to Purchaser, all of Seller's and its Affiliates' right, title, and interest in and to the AEP Equity Interests free and clear of all Encumbrances for no additional consideration or purchase price from Purchaser, and such AEP Equity Interests shall constitute Acquired Assets. In the event that Purchaser elects to acquire the AEP Equity Interests pursuant to the option set forth in this section, Seller shall, and shall cause its Affiliates and its and their respective representatives to (x) cancel and terminate in full, without any payment of any amount or consideration by AEE or AEP, any and all intercompany notes, loans, payables or other similar amounts between AEE or AEP, on the one hand, and Seller or any of its Affiliates (other than AEE or AEP), on the other hand, in each case without further liability or obligation to Purchaser, AEE, AEP or any of their respective Affiliates, and (y) deliver written evidence thereof satisfactory to Purchaser. Seller shall, and shall cause its Affiliates and its and their respective representatives to, cooperate fully with Purchaser, its Affiliates and its and their respective representatives, take all such actions necessary or advisable, execute any and all such documents, instruments, certificates and agreements necessary or advisable, and deliver any and all notices in connection with the foregoing and to preserve the value of the AEP Equity Interests, AEP, AEE, and their respective assets and operations, and the relationships between AEP and AEE and any applicable Governmental Body or official. From and after the date hereof, and following the Closing, Seller shall, and shall cause its Affiliates and its and their respective representatives to, (i) use best efforts to resolve any outstanding disputes or matters with respect to the joint venture partner in AEE as promptly as practicable, (ii) keep Purchaser, its Affiliates and its and their respective representatives informed of any discussions or meetings with such joint venture partner, its Affiliates or their respective representatives, (iii) provide Purchaser and its representatives with an opportunity to participate in any such meetings and to review and comment on any such correspondences prior to their delivery to such joint venture partner, its Affiliates or its and their respective representatives, and (iv) incorporate any comments provided by Purchaser or any of its representatives into any such correspondence.

Section 6.15 Material Assigned Contracts and Material Permits. Within ten days following the Effective Date, Seller shall provide to Purchaser Schedule 6.15 listing (a) each Assigned Contract identified by Seller as a material Assigned Contact necessary for Purchaser to operate the Business in the ordinary course following the Closing in the same manner as operated by the Seller prior to the Closing, and (b) each Permit, Governmental Authorization or Environmental Credit, the absence or termination of which would materially impair the ability of the Purchaser to operate the Business in the ordinary course following the Closing in the same manner as operated by the Seller prior to the Closing.

Section 6.16 Appeal of Tax Assessment for Acquired Leased Real Property. Within five days following the Effective Date, Seller shall, and shall cause its applicable Affiliates to, (a) request and use reasonable best efforts to conduct a conference with the applicable Governmental Body that imposed the Tax assessment on the Acquired Leased Real Property for the 2025 and 2026 taxable years, and (b) commence a timely and valid appeal of such property Tax assessments. In connection therewith, Seller shall, and Seller shall cause its applicable Affiliates to, (i) promptly and properly file, with evidence and grounds for the appeal, to have the value of the Acquired

Leased Real Property assessed at an amount acceptable to Purchaser, (ii) provide to Purchaser and its representatives copies of such filing and related materials reasonably in advance of submitting such filing for Purchaser's review and comment, (iii) incorporate any comments proposed by Purchaser or any of its representatives, and (iv) cooperate with Purchaser and its representatives, and provide information and access to Purchaser and its representatives, in each case in connection with the foregoing. Purchaser and its representatives shall be entitled to attend any such conference.

ARTICLE VII
CONDITIONS TO CLOSING

Section 7.1 **Conditions Precedent to the Obligations of Purchaser and Sellers**. The respective obligations of each Party to consummate the Closing are subject to the satisfaction (or to the extent permitted by Law, written waiver by the party receiving the benefit of such obligation) on or prior to the Closing Date, of each of the following conditions:

(a) no Law shall be in effect that prohibits or makes illegal the Transactions;

(b) the Bankruptcy Court shall have entered the Sale Order approving the sale free and clear of all Encumbrances (other than Permitted Encumbrances), and such order shall have become a Final Order and this Agreement shall become effective in accordance with the terms, and shall not have been stayed, reversed, or modified in a manner not reasonably acceptable to the Parties; and

(c) all approvals, clearances, authorizations, expirations or waiting period expirations or terminations required under Competition Laws for the consummation of the Transactions shall have been issued or obtained, or shall have occurred, as applicable.

Section 7.2 **Conditions Precedent to the Obligations of Purchaser**. The obligations of Purchaser to consummate the Closing are subject to the satisfaction (or to the extent permitted by Law, written waiver by Purchaser in its sole discretion), on or prior to the Closing Date, of each of the following conditions:

(a) (i) the representations and warranties made by Seller in Article III (in each case, other than the Fundamental Representations) shall be true and correct in all respects as of the date of this Agreement and the Closing Date with the same force and effect as though made on and as of the Closing Date (without giving effect to materiality, Material Adverse Effect or similar phrases), except (A) that representations and warranties that are made as of a specified date need be true and correct only as of such date and (B) to the extent the failure of such representations and warranties to be true and correct as of such dates has not had or would not reasonably be expected to have a Material Adverse Effect, and (ii) the representations and warranties set forth in Section 3.1, Section 3.2, Section 3.3, Section 3.5, Section 3.11, Section 3.13 and Section 3.15 (collectively, the "Fundamental Representations") shall be true and correct in all respects as of the Closing Date as though made on and as of the date of this Agreement and the Closing Date, except that such Fundamental Representations and warranties that are made as of a specified date or period need be true and correct in all respects only as of such date or period;

(b) Seller shall have performed and complied with the covenants required to be performed or complied with by Seller under this Agreement on or prior to Closing;

(c) there shall not have been a Material Adverse Effect since the date of the Balance Sheet Date;

(d) Seller shall have used commercially reasonable efforts to obtain any relevant consents, as applicable, related to assignment of all Permits, Governmental Authorizations and Environmental Credits;

(e) Purchaser shall have received approval from its board of directors or other governing body to consummate the Transactions;

(f) Seller shall have used commercially reasonable efforts to obtain any Required Consents, including without limitation those related to Assigned Contracts or Permits, Governmental Authorizations, and Environmental Credits listed in Schedule 6.15; and

(g) Seller shall have delivered, or caused to be delivered, to Purchaser all of the items set forth in Section 2.3.

Section 7.3 Conditions Precedent to the Obligations of Seller. The obligations of Seller to consummate the Closing are subject to the satisfaction (or to the extent permitted by Law, written waiver by Seller in its sole discretion), on or prior to the Closing Date, of each of the following conditions:

(a) the representations and warranties made by Purchaser in Article IV shall be true and correct as of the Closing Date with the same force and effect as though made on and as of the Closing Date, except that representations and warranties that are made as of a specified date need be true and correct only as of such date, except where the failure of such representations and warranties to be so true and correct would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the ability of Purchaser to perform its obligations pursuant to this Agreement or to consummate the Transactions in a timely manner;

(b) Purchaser shall have performed and complied with the covenants required to be performed or complied with by it under this Agreement on or prior to the Closing Date in all material respects; and

(c) Purchaser shall have delivered, or caused to be delivered, to Seller all of the items set forth in Section 2.4.

Section 7.4 Waiver of Conditions. None of Purchaser or Seller may rely on the failure of any condition set forth in this Article VII, as applicable, to be satisfied if such failure was caused by such Party's failure to perform any of its obligations under this Agreement, including its obligation to use its reasonable best efforts to consummate the Transactions as required under this Agreement or otherwise comply with any provision of this Agreement, in all material respects.

Section 7.5 Fiduciary Duty. Notwithstanding anything to the contrary in this Agreement, if, prior to Bankruptcy Court approval of the Transactions contemplated herein, Seller

receives a proposal, offer, or inquiry for any Alternative Transaction (an "Alternative Transaction Offer" or "Alternative Transaction Proposal"), Seller shall in no way be prevented from fulfilling its fiduciary or statutory obligations under applicable Law, the Bankruptcy Code, or any order of the Bankruptcy Court, including, without limitation, pursuing any such Alternative Transaction.

ARTICLE VIII
TERMINATION

Section 8.1 Termination of Agreement. This Agreement may be terminated only in accordance with this Section 8.1. This Agreement may be terminated at any time prior to the Closing:

(a) by the mutual written consent of Seller and Purchaser;

(b) by written notice of either Purchaser or Seller, upon the issuance of an Order by a court of competent jurisdiction restraining, enjoining or otherwise prohibiting the consummation of the Closing or declaring unlawful the Transactions, and such Order having become final, binding and non-appealable; provided that no Party may terminate this Agreement under this Section 8.1(b) if the issuance of such Order was caused by such Party's material breach of its obligations under this Agreement;

(c) by written notice of either Purchaser or Seller, if the Closing shall not have occurred on or before July 3, 2026 (the "Outside Date") (or such later date as provided in the Bidding Procedures Order, if applicable); provided that a Party shall not be permitted to terminate this Agreement pursuant to this Section 8.1(c) if the failure of the Closing to have occurred by the Outside Date was caused by such Party's material breach of any of its obligations or material breach of any of its representations or warranties under this Agreement;

(d) by written notice from Seller to Purchaser, if the board of directors, board of managers, or such similar governing body of Seller determines, after consulting with external counsel, if required by its fiduciary duties under applicable Law, to pursue an Alternative Transaction, as contemplated by and permitted under the Bidding Procedures (if applicable), and consummates such Alternative Transaction promptly following termination hereof;

(e) by written notice from Seller to Purchaser, upon a material breach of any covenant or agreement on the part of Purchaser, or if any representation or warranty of Purchaser will have become untrue, in each case, such that the conditions set forth in Section 7.3(a) or Section 7.3(b) would not be satisfied, including a breach of Purchaser's obligation to consummate the Closing; provided that (i) if such breach is curable by Purchaser (other than a breach or failure by Purchaser to consummate the Closing within five (5) Business Days of when required pursuant to Section 2.2) then Seller may not terminate this Agreement under this Section 8.1(e) unless such breach has not been cured by the date which is the earlier of (A) two (2) Business Days prior to the Outside Date and (B) 10 Business Days after Seller notifies Purchaser in writing of such breach and (ii) Seller's right to terminate this Agreement pursuant to this Section 8.1(e) will not be available to Seller at any time that Seller is in material breach of any agreement, covenant, representation or warranty of Seller hereunder;

(f) by written notice from Purchaser to Seller, upon a material breach of any covenant or agreement on the part of Seller, or if any representation or warranty of Seller will have become untrue, in each case, such that any of the conditions set forth in Section 7.1 or Section 7.2 would not be satisfied, including a breach of Seller's obligation to consummate the Closing; provided that (i) if such breach is curable by Seller (other than a breach or failure by Seller to consummate the Closing within five (5) Business Days of when required pursuant to Section 2.2) then Purchaser may not terminate this Agreement under this Section 8.1(f) unless such breach has not been cured by the date which is the earlier of (A) two (2) Business Days prior to the Outside Date, and (B) 10 Business Days after Purchaser notifies Seller in writing of such breach and (ii) Purchaser's right to terminate this Agreement pursuant to this Section 8.1(f) will not be available to Purchaser at any time that Purchaser is in material breach of any agreement, covenant, representation or warranty of Purchaser hereunder;

(g) by written notice from either Seller or Purchaser, if all of the conditions set forth in Sections 7.1 and 7.2 have been satisfied (other than conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction and waiver of such conditions at the Closing) or waived, and the other Party fails to complete the Closing within five (5) Business Days of the time required by Section 2.2;

(h) by written notice from Purchaser to Seller, if all of the conditions set forth in Section 7.2 have not been satisfied or will not be satisfied by the Closing;

(i) by written notice of either Purchaser or Seller, if (i) Seller enters into one or more Alternative Transactions with one or more Persons other than Purchaser or the Successful Bidder or the Backup Bidder at the Auction or (ii) the Bankruptcy Court approves an Alternative Transaction other than with the Successful Bidder or the Backup Bidder;

(j) by written notice from either Purchaser or Seller, if Purchaser (i) is not the Successful Bidder or the Backup Bidder at the Auction or (ii) is the Backup Bidder at the Auction and Seller consummates an Alternative Transaction with the Successful Bidder; or

(k) by Purchaser if any of the Chapter 11 Cases are converted to a case under Chapter 7 of the Bankruptcy Code.

Section 8.2 Effect of Termination.

(a) In the event of a valid termination of this Agreement pursuant to Section 8.1, this Agreement shall become null and void and no Party nor any of its partners, officers, directors, managers or equityholders will have any Liability under this Agreement, other than Seller's obligation to return the Deposit Amount to Purchaser in accordance with the terms of that certain Letter Agreement dated June 16, 2026 between Seller and Purchaser regarding return of the Deposit; provided that Section 6.2(a), this Section 8.2 and Article X (other than Section 10.12) shall survive any such termination; provided further that no termination will relieve Purchaser or Seller from any Liability for Willful Breach of this Agreement prior to the date of such termination (which, for the avoidance of doubt, will be deemed to include any failure by Purchaser or Seller to consummate the Closing if, and at the time that is, required to do so hereunder) or relieve any Person from any Liability for Fraud. Subject to Section 10.12, nothing

in this Section 8.2 will be deemed to impair the right of any Party to be entitled to specific performance or other equitable remedies to enforce specifically the terms and provisions of this Agreement prior to termination hereof.

(b) Subject in all cases to Section 10.12, prior to the Closing, in the event of any breach by either Party of this Agreement, the sole and exclusive remedy of the non-breaching Party shall be to terminate this Agreement in accordance with Section 8.1.

ARTICLE IX
TAXES

Section 9.1 Transfer Taxes. Any U.S. federal, state, local, and non-U.S., sales Tax, consumption sales, use, excise, value added, registration, real property, purchase, transfer, franchise, deed, fixed asset, stamp, documentary stamp, use or other similar Taxes and recording charges (including all related interest, penalties, and additions to any of the foregoing) payable by reason of the sale of the Acquired Assets or the assumption of the Assumed Liabilities under this Agreement or the Transactions (the "Transfer Taxes") shall be borne and timely paid 50% by Purchaser and 50% by Seller when due; Seller shall timely file all Tax Returns related to any Transfer Taxes with the appropriate Taxing Authority. The Transfer Taxes shall be calculated assuming that no exemption from Transfer Taxes is available under the Bankruptcy Code unless otherwise indicated in the Sale Order. The Parties will cooperate in good faith prior to Closing to determine the amount of Transfer Taxes required to be paid in connection with the Transactions, and shall cooperate in good faith to reduce the amount of Transfer Taxes payable, including by soliciting and providing appropriate resale exemption certificates or other evidence acceptable to Purchaser or Seller, as appropriate, of exemption from such Transfer Taxes and by discussing in good faith whether adjustments to the Transaction structure (excluding acquiring the equity of an entity, rather than acquiring assets directly) as may be warranted to minimize the liability for Transfer Taxes arising hereunder.

Section 9.2 Allocation of Purchase Price. For U.S. federal and applicable state and local income Tax purposes, Purchaser, Seller, and their respective Affiliates shall allocate the Purchase Price (and any Assumed Liabilities or other amounts treated as part of the purchase price for U.S. federal income Tax purposes) among the Acquired Assets in accordance with section 1060 of the Tax Code and analogous provisions of Applicable Law. Within 90 days following the Closing, Purchaser shall provide a proposed allocation to Seller setting forth the allocation of the Purchase Price (and other amounts treated as part of the purchase price for U.S. federal income Tax purposes) among the Acquired Assets (the "Allocation"), for Seller's approval, which approval shall not be unreasonably withheld. Seller and Purchaser shall work in good faith to resolve any disputes relating to the Allocation within fifteen (15) days. If Seller and Purchaser are unable to resolve any such dispute, such dispute shall be resolved promptly by a nationally recognized accounting firm acceptable to Purchaser and Seller, the costs of which shall be borne by Seller. If within fifteen (15) days after receiving the Allocation, Seller has not objected, the Allocation shall be final and binding on the Parties without any further action by either Party. The Parties and their respective Affiliates shall file all income Tax Returns in accordance with such Allocation (as finally determined under this Section 9.2) and not take any income Tax related action inconsistent with the Allocation, in each case, unless otherwise required by a "determination" within the meaning of section 1313(a) of the Tax Code.

Section 9.3 Cooperation.

(a) Purchaser and Seller shall reasonably cooperate, as and to the extent reasonably requested by the other Party, in connection with the filing of Tax Returns and any Action, audit, litigation, or other proceeding with respect to Taxes; provided that in providing such information, assistance and access, each Party shall be entitled to redact information that is not related to the Acquired Assets or Assumed Liabilities. Notwithstanding anything to the contrary in this Agreement, Seller shall not be obligated to provide or disclose any Excluded Tax Returns, provided, that Seller shall provide any reasonably requested information related to the Acquired Assets or Assumed Liabilities contained in any Excluded Tax Returns.

(b) Seller shall reasonably cooperate with Purchaser, as and to the extent reasonably requested by Purchaser, to amend the structure of the transactions undertaken pursuant to this Agreement in order to qualify for the Intended Tax Treatment or otherwise achieve a Tax-efficient outcome for the parties.

Section 9.4 Allocation of Taxes for Straddle Period. Any Taxes attributable to a Straddle Period required to be apportioned under this Agreement shall be apportioned as follows: (a) the amount of ad valorem and other periodic Taxes allocable to the Pre-Closing Tax Period shall be equal to (i) the amount of such Taxes for the entire Straddle Period multiplied by (ii) a fraction, the numerator of which is the number of calendar days during the Straddle Period that are in the Pre-Closing Tax Period and the denominator of which is the number of calendar days in the entire Straddle Period; and (b) all Taxes not allocated under clause (a) shall be allocated to the Pre-Closing Tax Period (including, for the avoidance of doubt, any Taxes with respect to income included pursuant to Section 951 and Section 951A of the Code) on the basis of a "closing of the books," as if such taxable period ended as of the end of the day on the Closing Date; provided, that exemptions, allowances or deductions that are calculated on an annual basis (including depreciation and amortization deductions) shall be allocated between the period ending on the Closing Date and the period beginning after the Closing Date in proportion to the number of calendar days in each period; provided, that for the avoidance of doubt, (x) nothing contained in this Section 9.4 shall be construed so as to cause an Assumed Liability to become an Excluded Liability or *vice versa*, and (y) Purchaser shall be responsible and pay for all property Taxes that constitute Assumed Liabilities pursuant to Section 1.3(c).

Section 9.5 Preparation of Tax Returns and Payment of Taxes.

(a) Seller shall prepare and timely file (i) all Tax Returns with respect to the Acquired Assets or Assumed Liabilities for any Tax period ending on or before the Closing Date (the "Applicable Seller Prepared Returns") (and Purchaser shall cooperate with Seller in causing such Tax Returns to be filed) and (ii) all income Tax Returns of Seller and its Affiliates and all other Tax Returns relating exclusively to the Excluded Assets or Excluded Liabilities, and, Purchaser shall have no rights to review and comment on any such Tax Returns described in this clause (ii). Seller shall provide Purchaser with a draft of all Applicable Seller Prepared Returns at least thirty (30) days (or such shorter period of time as is reasonably practicable) prior to the filing of any such Tax Return to the extent such Applicable Seller Prepared Returns relate to any Assumed Liability or Acquired Asset. Seller shall incorporate any changes reasonably requested by Purchaser with respect to such Tax Returns that are supported at a "more likely than not" (or

higher) level of confidence and consistent with past practice. Seller shall be responsible for and timely pay all Taxes due on any Tax Return Seller is obligated to file under this Section 9.5(a), except for Transfer Taxes allocated to Purchaser pursuant to Section 9.1. To the extent not otherwise provided in this Agreement, Seller shall be responsible for and shall promptly pay when due all property Taxes and levied with respect to the Acquired Assets attributable to the Pre-Closing Tax Period, including any and all interest and penalties with respect thereto (including due to any delay in payment of such property Taxes).

(b) The parties agree that for purposes of filing any Tax Return related to the transactions contemplated by this Agreement the parties shall not apply the principles of Pierce v. Commissioner, 326 F. 2d 67 (8th Cir. 1964) with respect to any prepaid amount received or deferred revenue accrued prior to the Closing in connection with the Acquired Assets.

Section 9.6 Tax Treatment. Each party hereto agrees that, for U.S. federal (and applicable state and local) income Tax purposes, the purchase and sale or assumption, as the case may be, of the Acquired Assets and Assumed Liabilities contemplated by this Agreement shall be treated as a taxable exchange governed by Section 1001 of the Tax Code (the "Intended Tax Treatment"). Each party hereto shall file any federal, state and local income Tax Returns on a basis consistent with the Intended Tax Treatment, and each party hereto will assert the correctness of that treatment, and each party will not adopt any treatment that is contrary to or inconsistent with that treatment, in all dealings with the Internal Revenue Service unless otherwise required by a "determination" within the meaning of Section 1313(a) of the Tax Code.

ARTICLE X
MISCELLANEOUS

Section 10.1 Non-Survival of Representations and Warranties and Certain Covenants; Certain Waivers. Except in the case of Fraud, each of the representations and warranties and the covenants and agreements (to the extent such covenant or agreement contemplates or requires performance by such Party prior to the Closing) of the Parties set forth in this Agreement, will terminate effective immediately as of the Closing such that no claim for breach of any such representation, warranty, covenant or agreement, detrimental reliance or other right or remedy (whether in contract, in tort or at law or in equity) may be brought with respect thereto after the Closing. Each covenant and agreement in this Agreement or in any other Transaction Agreement that explicitly contemplates performance after the Closing, will, in each case and to such extent, expressly survive the Closing in accordance with its terms, and nothing in this Section 10.1 will be deemed to limit any rights or remedies of any Person for breach of any such surviving covenant or agreement. Purchaser and Seller acknowledge and agree, on their own behalf and on behalf of the Purchaser Group or Seller Parties, as the case may be, that the agreements contained in this Section 10.1 (a) require performance after the Closing to the maximum extent permitted by applicable Law and will survive the Closing and (b) are an integral part of the Transactions and that, without the agreements set forth in this Section 10.1, none of the Parties would enter into this Agreement.

Section 10.2 Expenses. Whether or not the Closing takes place, except as otherwise provided herein, all fees, costs and expenses (including fees, costs and expenses of Advisors) incurred in connection with the negotiation of this Agreement and the other Transaction

Agreements, the performance of this Agreement and the other Transaction Agreements and the consummation of the Transactions will be paid by the Party incurring such fees, costs and expenses; provided that (a) all Transfer Taxes will be allocated pursuant to Section 9.1 and (b) all Cure Costs will be allocated pursuant to Section 1.5(c).

Section 10.3 Notices. Except as otherwise expressly provided herein, all notices, demands and other communications to be given or delivered under or by reason of the provisions of this Agreement will be in writing and will be deemed to have been given (a) when personally delivered, (b) when transmitted by electronic mail (provided, that no "bounce back" or other automatic notice of non-delivery is generated), (c) the day following the day on which the same has been delivered prepaid to a reputable national overnight air courier service or (d) the third Business Day following the day on which the same is sent by certified or registered mail, postage prepaid, in each case, to the respective Party at the number, electronic mail address or street address, as applicable, set forth below, or at such other number, electronic mail address or street address as such Party may specify by written notice to the other Parties.

Notices to Purchaser:

R3 Lithium, Inc.
One, Embarcadero Center, Suite 1200
San Francisco, CA 94111
Attention: Jacques-Alexandre Gerber
Email: jag@axial.partners

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

Jones Walker LLP
201 St. Charles Avenue, Suite 5100
New Orleans, LA 70170
Attention: Curtis R. Hearn
Meredith G. Maxwell
Email: chearn@joneswalker.com
mmaxwell@joneswalker.com

Notices to Seller:

Ascend Elements, Inc.
133 Flanders Road
Westborough, MA 01581
Attention: Deacon Powell
Email: dpowell@ascendelements.com

with copies to (which shall not constitute notice):

Norton Rose Fulbright US LLP
2200 Ross Avenue, Suite 3600
Dallas, Texas 75201
Attention: Ryan Manns
Scarlet McNellie

Email: ryan.manns@nortonrosefulbright.com
Scarlet.mcnellie@nortonrosefulbright.com

Section 10.4 Binding Effect; Assignment. This Agreement shall be binding upon Purchaser and, subject to the terms of the Bidding Procedures Order, if applicable (with respect to the matters covered thereby) and the entry and terms of the Sale Order, Seller, and shall inure to the benefit of and be so binding on the Parties and their respective successors and permitted assigns, including any trustee or estate representative appointed in the Chapter 11 Cases or any successor Chapter 7 cases; provided that neither this Agreement nor any of the rights or obligations hereunder may be assigned or delegated without the prior written consent of Purchaser and Seller, and any attempted assignment or delegation without such prior written consent shall be null and void, except that Purchaser may assign or transfer any or all of its rights and/or obligations under this Agreement (including any of its rights to acquire any of the Acquired Assets hereunder or any of its obligations to assume any Assumed Liabilities hereunder) to one or more of its Affiliates without the prior written consent of any other party hereto (provided, however, that such assignment shall not relieve Purchaser of its obligations hereunder).

Section 10.5 Amendment and Waiver. Any provision of this Agreement or the Schedules or exhibits hereto may be (a) amended only in a writing signed by Purchaser and Seller or (b) waived only in a writing executed by the Party against which enforcement of such waiver is sought. No waiver of any provision hereunder or any breach or default thereof will extend to or affect in any way any other provision or prior or subsequent breach or default.

Section 10.6 Third Party Beneficiaries. Except as otherwise expressly provided herein, nothing expressed or referred to in this Agreement will be construed to give any Person other than (i) for purposes of Section 10.7, the Non-Recourse Persons, and (ii) the Parties and such permitted assigns, any legal or equitable right, remedy, or claim under or with respect to this Agreement or any provision of this Agreement.

Section 10.7 Non-Recourse. This Agreement may only be enforced against, and any Action based upon, arising out of, or related to this Agreement may only be brought against, only the Persons that are expressly named as Parties and not against any other Persons. Except to the extent named as a Party, and then only to the extent of the specific obligations of such Parties set forth in this Agreement and in the Transaction Agreements, no past, present or future shareholder, member, partner, manager, director, officer, employee, Affiliate, agent or Advisor of any Party (each, a "Non-Recourse Person") will have any Liability (whether in contract, tort, equity or otherwise) for any of the representations, warranties, covenants, agreements or other obligations or Liabilities of any of the Parties or for any Agreement Dispute and (ii) in no event shall any Person have any shared or vicarious liability, or otherwise be the subject of legal or equitable claims, for the actions or omissions (including through equitable claims (such as unjust

enrichment) not requiring proof of wrongdoing committed by the subject of such claims) of any other Person, and each of such Persons and the Non-Recourse Persons are intended third party beneficiaries of this Section 10.7 and shall be entitled to enforce this Section 10.7 as if a party directly hereto. Notwithstanding anything to the contrary set forth herein, nothing in this Section 10.7 or elsewhere herein shall limit the rights or remedies in the case of Fraud against the Person committing Fraud.

Section 10.8 Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable Law in any jurisdiction, such provision will be ineffective only to the extent of such prohibition or invalidity in such jurisdiction, without invalidating the remainder of such provision or the remaining provisions of this Agreement or in any other jurisdiction.

Section 10.9 Construction. The language used in this Agreement will be deemed to be the language chosen by the Parties to express their mutual intent, and no rule of strict construction will be applied against any Party. The headings of the sections and paragraphs of this Agreement have been inserted for convenience of reference only and will in no way restrict or otherwise modify any of the terms or provisions hereof.

Section 10.10 Schedules. The Schedules have been arranged for purposes of convenience in separately numbered sections corresponding to the sections of this Agreement. However, each section of the Schedules will be deemed to incorporate by reference all information disclosed in any other section of the Schedules, and any disclosure in the Schedules will be deemed a disclosure against any representation or warranty set forth in this Agreement, in each case only to the extent the applicability of such disclosure to such section of the Schedules is readily apparent on the face of such disclosure. Capitalized terms used in the Schedules and not otherwise defined therein have the meanings given to them in this Agreement. The specification of any dollar amount or the inclusion of any item in the representations and warranties contained in this Agreement, the Schedules, or the Exhibits does not imply that the amounts, or higher or lower amounts, or the items so included, or other items, are or are not required to be disclosed (including whether such amounts or items are required to be disclosed as material or threatened) or are within or outside of the Ordinary Course, and no Party will use the fact of the setting of the amounts or the fact of the inclusion of any item in this Agreement, the Schedules, or Exhibits in any Agreement Dispute or other controversy between the Parties as to whether any obligation, item, or matter not set forth or included in this Agreement, the Schedules, or Exhibits is or is not required to be disclosed (including whether the amount or items are required to be disclosed as material or threatened) or are within or outside of the Ordinary Course. In addition, matters reflected in the Schedules are not necessarily limited to matters required by this Agreement to be reflected in the Schedules. Such additional matters are set forth for informational purposes only and do not necessarily include other matters of a similar nature. No information set forth in the Schedules will be deemed to broaden in any way the scope of the Parties' representations and warranties. Any description of any agreement, document, instrument, plan, arrangement, or other item set forth on any Schedule is qualified in its entirety by the terms of such agreement, document, instrument, plan, arrangement, or item, and such terms will be deemed disclosed for all purposes of this Agreement. The information contained in this Agreement, the Schedules, and the Exhibits is disclosed solely for purposes of this Agreement, and no information contained in this Agreement, the Schedules,

or the Exhibits will be deemed to be an admission by any Party to any third party of any matter whatsoever, including any violation of Law or breach of Contract.

Section 10.11 Complete Agreement. This Agreement, together with the Confidentiality Agreements and other agreements expressly referred to herein, and the other Transaction Agreements, contains the entire agreement of the Parties respecting the sale and purchase of the Acquired Assets and the Assumed Liabilities and the Transactions and supersedes all prior agreements and documents among the Parties respecting the sale and purchase of the Acquired Assets and the Assumed Liabilities and the Transactions. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, the terms and provisions of the execution version of this Agreement will control and prior drafts of this Agreement and the other Transaction Agreements will not be considered or analyzed for any purpose (including in support of parol evidence proffered by any Person in connection with this Agreement), will be deemed not to provide any evidence as to the meaning of the provisions of this Agreement or the intent of the Parties, and will be deemed joint work product of the Parties.

Section 10.12 Specific Performance. The Parties agree that irreparable damage, for which monetary relief, even if available, would not be an adequate remedy, would occur in the event that any provision of this Agreement is not performed in accordance with its specific terms or is otherwise breached, including if any of the Parties fails to take any Action required of it under this Agreement. It is accordingly agreed that (a) the Parties will be entitled to an injunction or injunctions, specific performance or other equitable relief to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof in the courts described in Section 10.13 without proof of damages or otherwise, this being in addition to any other remedy to which the Parties are entitled under this Agreement, and (b) the right of specific performance and other equitable relief is an integral part of the Transactions and without that right, neither Seller nor Purchaser would have entered into this Agreement. The Parties acknowledge and agree that either Seller or Purchaser pursuing an injunction or injunctions or other Order to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in accordance with this Section 10.12 will not be required to provide any bond or other security in connection with any such Order. The remedies available to Seller pursuant to this Section 10.12 will be in addition to any other remedy to which they were entitled at law or in equity, and the election to pursue an injunction or specific performance will not restrict, impair or otherwise limit Seller from seeking to collect or collecting damages. If, prior to the Outside Date, any Party brings any Action, in each case in accordance with Section 10.13, to enforce specifically the performance of the terms and provisions hereof by any other Party, the Outside Date will automatically be extended (i) for the period during which such Action is pending, plus ten (10) Business Days or (ii) by such other time period established by the court presiding over such Action, as the case may be. In no event will this Section 10.12 be used, alone or together with any other provision of this Agreement, to require Sellers to remedy any breach of any representation or warranty made by Seller herein. For the avoidance of doubt, Seller shall not have the right hereunder to obtain an injunction, specific performance or other equitable relief to cause Purchaser to consummate the Closing unless and until (A) all of the conditions to Closing set forth in Section 7.1 and Section 7.2 have been satisfied, (B) Seller has delivered an irrevocable written notice to Purchaser certifying that it is ready, willing and able to consummate the Closing, and (C) Purchaser does not consummate the Closing within five (5) Business Days after its receipt of such written notice from Seller.

Section 10.13 Jurisdiction and Exclusive Venue. Each of the Parties irrevocably agrees that any Action of any kind whatsoever, including a counterclaim, cross-claim, or defense, regardless of the legal theory under which any Liability or obligation may be sought to be imposed, whether sounding in contract or in tort or under statute, or whether at law or in equity, or otherwise under any legal or equitable theory, that may be based upon, arising out of, or related to this Agreement, the negotiation, execution, or performance of this Agreement, or the Transactions and any questions concerning the construction, interpretation, validity, and enforceability of this Agreement (each, an "Agreement Dispute") brought by any other Party or its successors or assigns will be brought and determined only in (a) the Bankruptcy Court and any federal court to which an appeal from the Bankruptcy Court may be validly taken or (b) if the Bankruptcy Court is unwilling or unable to hear such Action, in the Court of Chancery of the State of Delaware (or if such court lacks jurisdiction, any other state or federal court sitting in the State of Delaware) (clauses (a) and (b), the "Chosen Courts"). Each of the Parties irrevocably submits to the exclusive jurisdiction of the Chosen Courts for the pendency of the Chapter 11 Cases for itself and with respect to its property, generally and unconditionally, with regard to any Agreement Dispute. No Party shall commence any Agreement Dispute except in the Chosen Courts, other than Actions in any court of competent jurisdiction to enforce any Order, decree, or award rendered by any Chosen Courts, and no Party will file a motion to dismiss any Agreement Dispute filed in a Chosen Court on any jurisdictional or venue-related grounds, including the doctrine of *forum non-conveniens*. The Parties irrevocably agree that venue would be proper in any of the Chosen Courts, and each Party hereby irrevocably waives any objection that any Chosen Court is an improper or inconvenient forum for resolving any Agreement Dispute. Each of the Parties further irrevocably and unconditionally consents to service of process in the manner provided for notices in Section 10.3. Nothing in this Agreement will affect the right of any Party to serve process in any other manner permitted by Law.

Section 10.14 Governing Law; Waiver of Jury Trial.

(a) Except to the extent the mandatory provisions of the Bankruptcy Code apply, this Agreement and any Agreement Dispute will be governed by and construed in accordance with the internal Laws of the State of Delaware without regards to conflicts of law principles of the State of Delaware or any other jurisdiction that would cause the Laws of any jurisdiction other than the State of Delaware to apply.

(b) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY AGREEMENT DISPUTE IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND THEREFORE EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY AGREEMENT DISPUTE. EACH OF THE PARTIES AGREES AND CONSENTS THAT ANY SUCH AGREEMENT DISPUTE WILL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT THE PARTIES MAY FILE AN ORIGINAL COUNTERPART OF A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES TO THE IRREVOCABLE WAIVER OF THEIR RIGHT TO TRIAL BY JURY. EACH PARTY (I) CERTIFIES THAT NO ADVISOR OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF ANY AGREEMENT DISPUTE, SEEK TO ENFORCE THE FOREGOING WAIVER AND (II) ACKNOWLEDGES THAT IT AND THE

OTHER PARTIES HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS Section 10.14(b).

Section 10.15 Counterparts and PDF. This Agreement and any other Transaction Agreements referred to herein or therein, and any amendments hereto or thereto, may be executed in multiple counterparts, any one of which need not contain the signature of more than one party to such Transaction Agreement, but all such counterparts taken together will constitute one and the same instrument. Any counterpart, to the extent signed and delivered by means of a .PDF, DocuSign, or other electronic transmission, will be treated in all manner and respects as an original Contract and will be considered to have the same binding legal effects as if it were the original signed version of such Contract delivered in person. Minor variations in the form of the signature page to this Agreement or any Transaction Agreement, including footers from earlier versions of any such other document, will be disregarded in determining the effectiveness of such signature. At the request of any party to any Transaction Agreement, each other party to such Transaction Agreement will re-execute original forms of such Transaction Agreement and deliver them to all other parties. No party to any such Transaction Agreement will raise the use of a .PDF, DocuSign, or other electronic transmission to deliver a signature or the fact that any signature or Contract was transmitted or communicated through the use of PDF, DocuSign, or other electronic transmission as a defense to the formation of a Contract and each such party forever waives any such defense.

Section 10.16 Publicity. Neither Seller nor Purchaser shall issue any press release or public announcement concerning this Agreement or the Transactions without obtaining the prior written approval of the other Party (which approval will not be unreasonably conditioned, withheld, or delayed), unless, in the reasonable judgment of the applicable disclosing Party, disclosure is otherwise required by applicable Law or by the Bankruptcy Court with respect to filings to be made with the Bankruptcy Court in connection with this Agreement or by the applicable rules of any stock exchange on which Purchaser or Seller (or their respective Affiliates) lists securities; provided that the Party intending to make such release shall use its reasonable efforts consistent with such applicable Law or Bankruptcy Court requirement to consult with the other Party with respect to the contents of such release. However, a copy of this Agreement will be filed with the Bankruptcy Court. For the avoidance of doubt, the parties hereto acknowledge and agree that Purchaser and its Affiliates may provide general information about the Business and the subject matter of this Agreement in connection with Purchaser's or its Affiliates' fund raising, marketing, informational, reporting activities or efforts to obtain incentives or consents from any Governmental Body, subject, in each case, to customary confidentiality obligations by the recipient of such information.

Section 10.17 Bulk Sales Laws. The Parties intend that pursuant to Section 363(f) of the Bankruptcy Code, the transfer of the Acquired Assets of the Debtors shall be free and clear of any Encumbrances in the Acquired Assets (including any Encumbrances claims arising out of any "bulk sales," "bulk transfers," or similar Laws), except Permitted Encumbrances, and the Parties shall take such steps as may be necessary or appropriate to so provide in the Sale Order. In furtherance of the foregoing, each Party hereby waives compliance by the Parties with any "bulk sales," "bulk transfers," or similar Laws in respect of the Transactions.

ARTICLE XI
ADDITIONAL DEFINITIONS AND INTERPRETIVE MATTERS

Section 11.1 Certain Definitions.

(a) "Action" means any action, suit, claim, charge, inspection, inquiry, litigation, arbitration, mediation, audit, proceeding (including any civil, criminal, administrative, public, private, arbitral, investigative or appellate proceeding), prosecution of any kind whatsoever whether sounding in contract or tort, or whether at law or in equity, or otherwise under any legal or equitable theory, and any subpoena, request for information, notice of violation, deficiency notice, or similar enforcement or investigative communication, commenced, brought, conducted or heard by or before any Governmental Body.

(b) "Advisors" means, with respect to any Person as of any relevant time, any directors, officers, employees, investment bankers, financial advisors, accountants, agents, attorneys, consultants, or other representatives of such Person.

(c) "Affiliate" means, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person, and the term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management, affairs and policies of such Person, whether through ownership of voting securities, by Contract or otherwise.

(d) "Alternative Transaction" means any transaction (or series of transactions), whether direct or indirect, whereby any Person or group of Persons (other than Seller and its Affiliates or Purchaser and its Affiliates) acquires (i) beneficial ownership of a majority of the Equity Interests of Seller or (ii) any Acquired Assets (other than a de minimis amount), in each case whether by merger, sale of assets or equity, transfer, exchange, recapitalization, plan of reorganization or otherwise. A liquidation or wind-down of Seller's estates (or a plan in the Chapter 11 Cases approving a liquidation or wind-down) shall not be an Alternative Transaction.

(e) "Alternative Transaction Offer" has the meaning set forth in Section 7.5 of this Agreement.

(f) "Alternative Transaction Proposal" has the meaning set forth in Section 7.5 of this Agreement.

(g) "Anti-Corruption Laws" means the U.S. Foreign Corrupt Practices Act of 1977, as amended (15 U.S.C. §§ 78dd-1, et seq.), the U.K. Bribery Act 2010, and any other applicable anti-bribery and anti-corruption Laws.

(h) "Applicable Law" means, with respect to any Person, any transnational, domestic or foreign federal, state, provincial, municipal or local law (statutory, common or otherwise, and including international conventions, protocols and treaties), act, statute, constitution, treaty, convention, ordinance, code, policy, rule, regulation, Order, or other similar requirement enacted, issued, adopted, promulgated, implemented, enforced or applied by or under

any Governmental Body that is binding upon or applicable to such Person or its properties, as amended unless expressly specified otherwise.

(i) "Assumed Environmental Liabilities" has the meaning set forth in Section 1.3(b) of this Agreement.

(j) "Auction" shall have the meaning ascribed to such term in the Bidding Procedures Order.

(k) "Avoidance Actions" means, collectively, any and all claims or causes of action arising under or pursuant to chapter 5 of the Bankruptcy Code or any other similar state or federal statutes or common law, including fraudulent transfer or fraudulent conveyance law.

(l) "Backup Bidder" has the meaning set forth in the Bidding Procedures Order.

(m) "Balance Sheet Date" means March 31, 2026.

(n) "Bankruptcy Code" has the meaning set forth in the preamble of this Agreement.

(o) "Bankruptcy Court" has the meaning set forth in the preamble of this Agreement.

(p) "Bidding Procedures" means the procedures employed with respect to the proposed sale of the Assets and the assumption of the Assumed Liabilities set forth on Exhibit 1 to the Bidding Procedures Order.

(q) "Bidding Procedures Order" means the Order *(A) Approving Bid Procedures, (B) Authorizing Designation of a Stalking Horse Bidder, (C) Scheduling an Auction, Related Deadlines, and a Sale Hearing, and (D) Granting Related Relief Docket No. 120*.

(r) "Bluegrass" means Bluegrass Infrastructure Partners Holdings, LLC.

(s) "Business" means the business operations of Seller conducted at the Acquired Leased Real Property.

(t) "Business Day" means any day other than a Saturday, Sunday or other day on which banks in New York City, New York are authorized or required by Law to be closed.

(u) "Business Employee" means each employee of Seller or its Affiliates providing services to the Business.

(v) "Business Service Provider" means each individual independent contractor (whether providing services directly or through an entity wholly owned by them), consultant, or other natural Person, other than a Business Employee, providing services to the Business.

(w) "Cash and Cash Equivalents" means all of Seller's cash or cash equivalents (including checks and deposits in transit, demand deposits, money markets or similar accounts), checking account balances, marketable securities, bankers' acceptances, and any cash equivalents whether on hand, in transit, in banks or other financial institutions, or otherwise held, including, for the avoidance of doubt, all deposits, cash security deposits, cash held as a guarantee in respect of performance of, and other cash collateral posted with counterparties, in each case to support Existing Letters of Credit.

(x) "Cause of Action" means any and all claims, demands, Actions, causes of action, choses in action, counterclaims, judgments, costs, expenses, damages, and liabilities (whether known or unknown), including Avoidance Actions.

(y) "Confidentiality Agreement" means that certain Non-Disclosure Agreement, effective from March 26, 2026, by and between Seller and Purchaser.

(z) "Consent" means any approval, consent, ratification, permission, waiver or authorization, or an Order of the Bankruptcy Court that deems or renders unnecessary the same.

(aa) "Contract" means any contract, indenture, note, bond, lease, sublease, mortgage, agreement, guarantee, or other agreement, commitment or understanding that is binding upon a Person or its property.

(bb) "Covington IP License" means the non-terminable, irrevocable, royalty-free, transferrable license to use any Intellectual Property used by Seller in connection with the Business prior to the Petition Date, granted by Bluegrass to Seller pursuant to that certain Third A&R Asset Purchase Agreement with Seller, as such license shall be transferred from Seller to Purchaser pursuant to the Covington IP License Agreement.

(cc) "Covington IP License Assignment" means an agreement among Seller, Purchaser and Bluegrass, whereby Seller assigns to Purchaser the Covington IP License, and Bluegrass consents to such assignment and grants Purchaser direct contract and enforcement rights against Bluegrass under the Covington IP License and otherwise establishes direct privity of contract between Bluegrass and Purchaser.

(dd) "Cure Costs" has the meaning set forth in Section 1.3(d) of this Agreement.

(ee) "Debtors" means, collectively, the debtors-in-possession in the Chapter 11 Cases.

(ff) "Designation Notice" has the meaning given to such term in Section 1.5(b).

(gg) "Documents" means all written information, databases, files, documents, instruments, papers, books, reports, emails, records, tapes, microfilms, photographs, letters, budgets, forecasts, plans, operating records, safety and environmental reports, data, reports, studies, and documents, Tax Returns, ledgers, journals, customer lists, regulatory filings, plans, research materials, technical documentation (architectural drawings, design specifications, engineering information, test results, logic manuals, processes, flow charts, etc.), user documentation (installation guides, user manuals, training materials, release notes, working

papers, etc.), marketing documentation (sales brochures, flyers, pamphlets, web pages, etc.), proprietary documentation and other similar materials, in each case whether or not in electronic form.

(hh) "DPA" means Section 721 of the Defense Production Act of 1950, as amended, including all implementing regulations.

(ii) "Employee Benefit Plan" means each "employee benefit plan" within the meaning of Section 3(3) of ERISA, each other deferred compensation, bonus or incentive compensation, pension, retiree medical, disability or life insurance plan, program, Contract, agreement or arrangement, each employment, severance, change-of-control and each other employee benefit or compensation plan, program, Contract, agreement or arrangement, in each case that is maintained, sponsored, administered or contributed or required to be contributed to by Seller or any of its Subsidiaries for the benefit of Business Employees or former Business Employees; provided that the term "Employee Benefit Plan" shall not include any statutory benefit plan to which Seller or any of its Subsidiaries or any Acquired Entity is required to participate in or comply with that is sponsored or administered by a Governmental Body (such as Social Security) or any "multiemployer plan" as defined in Section 3(37) of ERISA.

(jj) "Encumbrance" means any liens, claims, defenses (including rights of setoff and recoupment), and interests, in each case, in, on, or related to the Acquired Assets, including security interests or similar interests of whatever kind or nature, liens as defined in Section 101(37) of the Bankruptcy Code, encumbrances, mortgages, deed of trust, conditional sales or other title retention agreements, pledges, deeds of trust, hypothecations, mechanic's, workmen's, repairmen's, materialmen's, warehousemen's, carrier's and other similar statutory or inchoate lien, assignments, preferences, debts, easements, charges, suits, licenses, options, profit sharing interest, rights of recovery, judgments, right of way, encroachment, right of first offer, right of first refusal, purchase, or repurchase right or option, orders and decrees of any court or foreign or domestic governmental entity, taxes (including foreign, state, and local taxes), licenses, covenants, restrictions, indentures, instruments, leases, options, off-sets, causes of action, contract rights and claims, to the fullest extent of the law, in each case, of any kind or nature in, on, or related to the Acquired Assets (including all "claims" as defined in Section 101(5) of the Bankruptcy Code), known or unknown, whether prepetition or postpetition, secured or unsecured, choate or inchoate, filed or unfiled, scheduled or unscheduled, perfected or unperfected, liquidated or unliquidated, noticed or unnoticed, recorded or unrecorded, contingent or non-contingent, material or non-material, statutory or non-statutory, matured or unmatured, legal or equitable, including any and all such liabilities, causes of action, contract rights and claims arising out of the Debtors' continued operations following the Closing Date.

(kk) "Environmental Credits" means all air emissions credits, allowances, offsets, or other environmental attributes held by Seller at any point in the year prior to the Effective Date.

(ll) "Environmental Laws" means all Laws concerning Hazardous Materials, pollution or protection of natural resources, the environment, or human or worker health and safety.

(mm) "Equipment" means equipment, computers, furniture, furnishings, fixtures, office supplies, vehicles and other fixed assets.

(nn) "Equity Interests" means, with respect to a Person, any (a) membership interests, partnership interests, profits interests, capital stock or other equity securities (including profit participation features or stock or equity appreciation rights, "phantom" stock rights, stock-based performance units, or other similar rights) or other ownership interests of such Person, or (b) any securities (including debt securities or other indebtedness), options, warrants, rights to subscribe to, purchase rights, calls or commitments relating to the issuance, purchase, or sale or repurchase of or exercisable or exchangeable for or convertible into, or other rights to acquire any of the items in clause (a) of such Person.

(oo) "ERISA" means the Employee Retirement Income Security Act of 1974.

(pp) "Excluded Contracts" means, collectively, all Contracts to which Seller or any of its Affiliates is a party, or in respect of which any assets or properties of Seller or any of its Affiliates is subject to or bound, other than the Assigned Contracts, in each case subject to, for the avoidance of doubt, Section 1.5.

(qq) "Excluded Tax Returns" means Tax Returns (or any portion of any Tax Return) and other books and records related to any consolidated, combined, affiliated or unitary group for Tax purposes that includes Seller or any of its Affiliates.

(rr) "Existing Letter of Credit" or "Existing Letters of Credit" each has the meaning set forth in Section 6.13(a).

(ss) "Final Order" means a judgment or Order of the Bankruptcy Court (or any other court of competent jurisdiction) entered by the clerk of the Bankruptcy Court (or such other court) on the docket in the Chapter 11 Cases (or the docket of such other court), which is in full force and effect, which has not been modified, amended, reversed, vacated or stayed and as to which (a) the time to appeal, petition for *certiorari,* or move for a new trial, stay, reargument or rehearing has expired and as to which no appeal, petition for *certiorari* or motion for new trial, stay, reargument or rehearing is then pending or (b) if an appeal, writ of *certiorari* new trial, reargument or rehearing thereof has been sought, such Order or judgment of the Bankruptcy Court or other court of competent jurisdiction has been affirmed by the highest court to which such Order was appealed, or *certiorari* has been denied, or a new trial, stay, reargument or rehearing has been denied or resulted in no modification of such Order, and the time to take any further appeal, petition for *certiorari* or move for a new trial, reargument or rehearing has expired, as a result of which such order has become final in accordance with Rule 8002 of the Federal Rules of Bankruptcy Procedure; provided, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be filed relating to such Order, will not cause such Order not to be a Final Order as long as such motion has not been filed.

(tt) "Fraud" means fraud with respect to the representations and warranties set forth in Article III or Article IV of this Agreement, as interpreted by Delaware courts applying Delaware law.

(uu) "GAAP" means United States generally accepted accounting principles as in effect from time to time.

(vv) "Governmental Authorization" means any permit, license, certificate, approval, consent, permission, clearance, designation, qualification or authorization issued, granted, given or otherwise made available by or under the authority of any Governmental Body or pursuant to any Law.

(ww) "Governmental Body" means any government, quasi-governmental entity, or other governmental, administrative, or regulatory body, of any nature, whether foreign or domestic, federal, state, provincial, or local, or any agency, branch, department, official, entity, instrumentality, political subdivision, or authority of any of the foregoing, or any court, tribunal, judicial, or arbitral body of competent jurisdiction.

(xx) "Government Official" means (i) any official, employee, agent or representative of, or any Person acting in an official capacity for or on behalf of, any Governmental Body, (ii) any official, employee, agent or representative of, or any Person acting in an official capacity for or on behalf of, a company, business, enterprise or other entity owned, in whole or in part, or controlled by any Governmental Body or (iii) any official, employee, agent or representative of, or any Person acting in an official capacity for or on behalf of, a public international organization.

(yy) "Hazardous Material" means any material, substance or waste that is listed, regulated, or defined as "hazardous," "toxic," "radioactive," or as a "pollutant" or "contaminant," under, or for which liability or standards of conduct may be imposed pursuant to, Environmental Laws, including but not limited to petroleum, petroleum products and by-products, asbestos or asbestos-containing materials, per- and polyfluoroalkyl substances, polychlorinated biphenyls, radioactive materials, noise, odor, lead, urea formaldehyde, radon gas or mold.

(zz) "HSR Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976 and the rules and regulations promulgated thereunder.

(aaa) "Intellectual Property" means (i) patents, patent applications, and patent disclosures, and continuations, continuations-in-part, divisionals, renewals, extensions, reexaminations, revisions, substitutions, provisionals and reissues thereof; (ii) trademarks, service marks, trade dress, logos, corporate names, and Internet domain names, together with all associated goodwill; (iii) copyrights and copyrightable subject matter (including literary works and any other original works of authorship fixed in any tangible medium, whether or not published); (iv) issuances, registrations and applications for any of clauses (i) through (iii); (v) trade secrets and other rights in confidential proprietary information, including know-how, inventions, processes, formulae, models and methodologies, techniques, protocols, source code, algorithms, layouts, specifications and databases; (vi) rights in software; (vii) rights in drawings, schematics, and other technical plans; (viii) sui generis rights to databases; (ix) raw data, reports, test sheets, procedures, studies, and any other related or similar data, whether or not published; and (x) all other intellectual property in any jurisdiction in the world.

(bbb) "International Trade Laws" means (a) all applicable trade, export control, import, and antiboycott Laws imposed, administered, or enforced by the U.S. government, including the Arms Export Control Act (22 U.S.C. § 1778), the International Emergency Economic Powers Act (50 U.S.C. §§ 1701–1706), Section 999 of the Internal Revenue Code, the U.S. customs laws at Title 19 of the U.S. Code, the Export Control Reform Act of 2018 (50 U.S.C. §§ 4801-4861), the International Traffic in Arms Regulations (22 C.F.R. Parts 120–130), the Export Administration Regulations (15 C.F.R. Parts 730-774), the U.S. customs regulations at 19 C.F.R. Chapter 1, and the Foreign Trade Regulations (15 C.F.R. Part 30); and (b) all applicable trade, export control, import, and antiboycott Laws imposed, administered or enforced by any other country, except to the extent inconsistent with U.S. Law.

(ccc) "Inventory" means all inventory (including finished goods, supplies, raw materials, work in progress, spare, replacement and component parts) maintained or held by, stored by or on behalf of, or in transit to, Seller or the Subsidiaries, including any such inventory (i) being held by customers of the Business pursuant to consignment arrangements, or (ii) being held by suppliers of the Business under tolling or similar arrangements.

(ddd) "IT Assets" means all hardware, computers, storage media, databases, applications, websites, software, servers, workstations, routers, hubs, switches, circuits, networks, computer network equipment or systems, data communications lines, and all other information technology equipment and assets including parts of any of the foregoing such as firmware, screens, terminals, disks, cabling, related infrastructure, and other peripheral and associated electronic equipment and services that are owned, licensed, leased, or used or accessed on a different legal basis, or controlled by Seller or any of its Affiliates.

(eee) "Knowledge of Seller", or words of like import, means the actual knowledge, after due inquiry of direct reports of Linh Austin, Ahmed Allouache, Eric Gratz, Adam Titus, Tomasz Poznar, Deacon Powell, and Barbara Knight, none of whom shall have any personal Liability or obligations regarding such knowledge.

(fff) "Law" means any domestic, foreign, international, transnational, multinational, federal, state, provincial, local, municipal, or other law, statute, legislation, constitution, principle of common law, ordinance, code, decree, treaty, convention, rule, protocol, regulation, act, Order, or other similar requirement in each case, issued, enacted, adopted, promulgated, implemented, enforced, applied or otherwise put into effect by or under the authority of any Governmental Body.

(ggg) "Lease" means all leases, subleases, licenses, concessions and other agreements pursuant to which any Person holds any Leased Real Property (including all amendments, assignments, renewals, guarantees and other agreements with respect thereto).

(hhh) "Leased Real Property" means all real property used in the Business that is leased, subleased, licensed or otherwise occupied by Seller.

(iii) "Liability" means, as to any Person, any debt, adverse claim, liability, duty, responsibility, obligation, commitment, assessment, cost, expense, loss, expenditure, charge, fee, penalty, fine, contribution, or premium of any kind or nature whatsoever, whether known or

unknown, asserted or unasserted, absolute or contingent, direct or indirect, accrued or unaccrued, liquidated or unliquidated, or due or to become due, and regardless of when sustained, incurred or asserted or when the relevant events occurred or circumstances existed.

(jjj) "Material Adverse Effect" means (x) a material adverse effect on the business, condition (financial or otherwise), or operations of the Acquired Assets and Assumed Liabilities, taken as whole or (y) an Effect that individually or in the aggregate, has prevented or materially delayed or would prevent or materially delay the Transactions or has materially impaired or would materially impair the ability of the Seller to consummate the Transactions; provided that none of the following, either alone or in combination, shall constitute, or be taken into account in determining whether or not there has been, a Material Adverse Effect with respect to the foregoing clause (x) solely as it relates to Article VII: any matter, event, change, development, occurrence, circumstance or effect (each, an "Effect") in, arising from, or relating to (i) general business or economic conditions; (ii) national or international political or social conditions, including tariffs, trade wars, Sanctions or International Trade Laws, riots, protests, the engagement by the United States or any other country in hostilities or the escalation of any hostilities, whether or not pursuant to the declaration of a national emergency or war, or the occurrence or the escalation of any military or terrorist (whether or not state-sponsored) attack upon the United States or any other country, or any of its territories, possessions, or diplomatic or consular offices or upon any military installation, asset, Equipment, or personnel of the United States or of any other country; (iii) any fire, flood, hurricane, earthquake, tornado, windstorm, other calamity or act of God, global or national health concern, epidemic, pandemic (whether or not declared as such by any Governmental Body), viral outbreak (including "Coronavirus" or "COVID-19") or the worsening of any outbreak, or any quarantine or trade restrictions related thereto or any other *force majeure*; (iv) to financial, banking, or securities markets (including (A) any disruption of any of such markets, (B) any change in currency exchange rates, (C) any decline or rise in the price of any security, commodity, Contract, or index, and (D) any increased cost, or decreased availability, of capital or pricing or terms related to any financing for the Transactions); (v) changes in GAAP or interpretation of GAAP; (vi) changes in Laws or other binding directives or determinations issued or made by any Governmental Body and any change in the terms or enforcement of any of the foregoing; (vii) the negotiation, announcement, or pendency of this Agreement or the Transactions (except any Effects arising from or related to the breach or inaccuracy of the representations and warranties set forth in Section 3.3); (viii) any failure, in and of itself, to achieve any budgets, projections, forecasts, estimates, plans, predictions, performance metrics or operating statistics or the inputs into such items (whether or not shared with Purchaser or its Affiliates or Advisors) and any other failure to win or maintain customers or business (provided that this clause (viii) shall not prevent a determination that any effect, change, event, condition or occurrence underlying such failure to meet projections, forecasts or budgets has resulted in a Material Adverse Effect (to the extent such effect, change, event, condition or occurrence is not otherwise excluded from this definition of Material Adverse Effect) (ix) any action taken by Purchaser or its Affiliates with respect to the Transactions or the financing of the Transactions or any breach by Purchaser of this Agreement; or (x) the commencement or pendency of the Chapter 11 Cases. However, any adverse Effect resulting or arising from any matter described in clauses (i) through (vi) shall be taken into account in determining whether there has been a Material Adverse Effect to the extent that such Effect has had a disproportionate adverse effect on Seller or the Business relative to similarly situated participants in the industries and geographic areas in which Seller or the Business operates.

(kkk) "Offer Employees" has the meaning set forth in Section 6.4(a).

(lll) "Order" means any order, injunction, judgment, decree, ruling, writ, assessment, subpoena, directive, determination, or award entered, enacted, or enforced by a Governmental Body, including any order entered by the Bankruptcy Court in the Chapter 11 Cases (including the Sale Order) and any consent, settlement, or compliance order of, or settlement or conciliation agreement with, and any interpretation thereof, by any Governmental Body

(mmm)"Ordinary Course" means the ordinary and usual course of operations of the Business, taken as a whole, taking into account the contemplation, commencement and pendency of the Chapter 11 Cases and recent past practice in response to any tariffs, Sanctions, or International Trade Laws implemented by any Governmental Body.

(nnn) "Organizational Documents" means, with respect to any Person other than a natural person, the constituent documents or agreements by which such Person was organized (such as a certificate of incorporation, certificate of formation, certificate of limited partnership or articles of organization, and including any certificates of designation for preferred stock or other forms of preferred equity) or that relate to the internal governance of such Person (such as bylaws, a partnership agreement or an operating, limited liability or members agreement).

(ooo) "Permitted Encumbrances" means (i) Encumbrances for Taxes not yet due and payable and that are being contested in good faith by appropriate proceedings and for which appropriate reserves have been established in accordance with GAAP, or the nonpayment of which is permitted or required by the Bankruptcy Code, (ii) easements, rights of way, restrictive covenants, encroachments, and similar non-monetary Encumbrances or non-monetary impediments against any of the Acquired Assets, in each case, that do not, individually or in the aggregate, adversely affect the operation of the Acquired Assets and, in the case of the Acquired Leased Real Property, that do not, individually or in the aggregate, adversely affect the use or occupancy of such Acquired Leased Real Property as it relates to the operation of the Business, (iii) applicable zoning Laws, building codes, land use restrictions and other similar restrictions imposed by Law that (a) are not violated by the current use or occupancy of the applicable Acquired Leased Real Property as it relates to the operation of the Business, or (b) the violation of which would not reasonably be expected to adversely affect the use or occupancy of the applicable Acquired Leased Real Property as it relates to the operation of the Business, (iv) solely prior to Closing, any Encumbrances that will be removed or released by operation of the Sale Order, or (v) matters that would be disclosed by an accurate survey or inspection of the Acquired Leased Real Property, in each case, that do not, individually or in the aggregate, adversely affect the use or occupancy of such Acquired Leased Real Property as it relates to the operation of the Business.

(ppp) "Person" means an individual, corporation, partnership, limited liability company, joint venture, association, trust, unincorporated organization, labor union, organization, estate, Governmental Body or other entity or group.

(qqq) "Personal Information" means any data or information (i) that identifies, relates to, describes, is reasonably capable of being associated with, or would reasonably be linked, directly or indirectly, with a particular individual or household or (ii) that is otherwise subject to a Law relating to privacy or security of data or information (including such data or information that

constitutes or is defined as "personal information" or "personal data" or other equivalent term under any such Law).

(rrr) "Post-Closing Tax Period" mean any Tax period beginning after the Closing Date and that portion of a Straddle Period beginning after the Closing Date.

(sss) "Pre-Closing Matters" means occurrences or events on or prior to the Closing.

(ttt) "Pre-Closing Tax Period" means any Tax period ending on or before the Closing Date and the portion of any Straddle Period through the end of the Closing Date.

(uuu) "Purchase Option Notice" has the meaning set forth in Section 6.14.

(vvv) "Purchaser Group" means Purchaser, any Affiliate of Purchaser and each of their respective former, current or future Affiliates, officers, directors, employees, partners, members, managers, agents, Advisors, successors or permitted assigns.

(www) "Purchaser's Allocated Portion" has the meaning set forth in Section 1.5(a)(i).

(xxx) "Release" means any actual or threatened release, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, placing, discarding, abandonment, disposing or migration.

(yyy) "Replacement Letter of Credit" has the meaning set forth in Section 6.13(b).

(zzz) "Required Consent" has the meaning set forth in Section 1.5(d)(ii).

(aaaa) "Sale Order" means a Final Order of the Bankruptcy Court granting the Sale Motion and approving the terms of the Transactions free and clear of all liens, claims, encumbrances, and other interests pursuant to Sections 105, 363, 365, 503, and 507 of the Bankruptcy Code. Bankruptcy Rules 2002, 6004, 6006, 9006, 9007, 9008, and 9014, Bankruptcy Local Rules 2002-1 and 4002-1, and the *Procedures for Complex Cases in the Southern District of Texas*, substantially in the form attached hereto as **Exhibit A**, which shall be, in form and substance, satisfactory to Purchaser.

(bbbb) "Sanctioned Country" means at any time, a country or territory that is itself the target of comprehensive Sanctions (currently, Cuba, Iran, North Korea, Syria (before July 1, 2025), the Crimea region of Ukraine, the so-called Donetsk People's Republic, and so-called Luhansk People's Republic).

(cccc) "Sanctioned Person" means (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC") or the U.S. Department of State, the United Nations Security Council, the European Union, any Member State of the European Union, or the United Kingdom; (b) any Person operating, organized, or resident in a Sanctioned Country; (c) the government of a Sanctioned Country or the Government of Venezuela; or (d) any Person 50% or

more owned or controlled by any such Person or Persons or acting for or on behalf of such Person or Persons.

(dddd) "Sanctions" means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by OFAC or the U.S. Department of State, or (b) the United Nations Security Council, the European Union, any European Union member state or the United Kingdom.

(eeee) "Seller Parties" means Seller and its former, current, or future Affiliates, officers, directors, employees, partners, members, equityholders, controlling or controlled Persons, managers, agents, Advisors, successors or permitted assigns.

(ffff) "Straddle Period" means any taxable period that includes but does not end on the Closing Date.

(gggg) "Subsidiary" or "Subsidiaries" means, with respect to any Person, any corporation, limited liability company, or other entity of which a majority of the total voting power of shares of stock or other Equity Interests entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, trustees, or other governing body of such Person is at the time owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person or a combination thereof or any partnership, association, or other business entity of which a majority of the partnership or other similar ownership interest is at the time owned or controlled, directly or indirectly, by such Person or one or more Subsidiaries of such Person or a combination thereof.

(hhhh) "Successful Bidder" has the meaning set forth in the Bidding Procedures.

(iiii) "Tax" or "Taxes" means any and all federal, state, local, non-U.S. (or any governmental unit, agency, or political subdivision of any of the foregoing) or other taxes, customs, duties, charges, fees, levies, or other like assessments of whatever kind or nature, including all income, corporate, profits, employment (including Social Security, unemployment insurance and employee income tax withholding), franchise, license, gross receipts, sales, use, transfer, stamp, occupation, property, capital, severance, premium, alternative minimum, windfall profits, ad valorem, value added, excise, payroll, withholding, recapture and escheat payments; including any interest, penalty, fine or addition with respect thereto, that are imposed, assessed or collected by any Governmental Body, in each case, whether disputed or not and including any express or implied obligations to indemnify or otherwise assume or succeed to the liability of any other Person for any such amounts.

(jjjj) "Tax Code" means the United States Internal Revenue Code of 1986, as amended.

(kkkk) "Tax Return" means any return, claim for refund, report, statement or information return relating to Taxes filed or required to be filed with a Governmental Body, including any schedule or attachment thereto, and including any amendments thereto.

(llll) "Taxing Authority" means any U.S. federal, state, local, municipal, or foreign government, any subdivision, agency, commission or authority thereof or any quasi-Governmental Body exercising Tax regulatory authority.

(mmmm) "Terminated Letter of Credit" has the meaning set forth in Section 6.13(b).

(nnnn) "Transaction Agreements" means this Agreement and any other agreements, instruments or documents entered into pursuant to this Agreement.

(oooo) "Transactions" means the transactions contemplated by this Agreement and the other Transaction Agreements.

(pppp) "Transfer Offer" has the meaning set forth in Section 6.4(a).

(qqqq) "Transferred Employees" has the meaning set forth in Section 6.4(a).

(rrrr) "Transferred Letter of Credit" has the meaning set forth in Section 6.13(b).

(ssss) "Transition Services Agreement" has the meaning set forth in Section 2.3(g).

(tttt) "Willful Breach" means a knowing and intentional material breach of this Agreement that is a consequence of an act taken by the breaching Party, or the failure by the breaching Party to take an act it is required to take under this Agreement, in each case with actual knowledge that the taking of, or the failure to take, such act would, or would reasonably be expected to, cause a breach of this Agreement.

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Section 11.3 Rules of Interpretation. Unless otherwise expressly provided in this Agreement, the following will apply to this Agreement, the Schedules and any Transaction Agreement.

(a) The terms "hereof," "herein" and "hereunder" and terms of similar import are references to this Agreement as a whole and not to any particular provision of this Agreement. Section, clause, Schedule, and Exhibit references in this Agreement are references to Sections, clauses, Schedules and Exhibits in or to this Agreement, unless otherwise specified. All Exhibits and Schedules annexed to this Agreement or referred to in this Agreement are incorporated in and made a part of this Agreement as if set forth in full in this Agreement. Any capitalized terms used but not defined in any Schedule or Exhibit shall be defined as set forth in this Agreement.

(b) Whenever the words "include," "includes" or "including" are used in this Agreement, they will be deemed to be followed by the words "without limitation," whether or not such words are actually included. Where the context permits, the use of the term "or" will be equivalent to the use of the term "and/or."

(c) The words "to the extent" shall mean "the degree by which" and not simply "if."

(d) When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period will be excluded. If the last day of such period is a day other than a Business Day, the period in question will end on the next succeeding Business Day.

(e) Words denoting any gender will include all genders, including the neutral gender. Where a word is defined herein, references to the singular will include references to the plural and vice versa.

(f) The word "will" will be construed to have the same meaning and effect as the word "shall". The words "shall," "will," or "agree(s)" are mandatory. The word "May" is permissive.

(g) References to "$" and dollars will be deemed to refer to United States currency unless otherwise specifically provided.

(h) References to a day or days will be deemed to refer to a calendar day or calendar days, as applicable, unless otherwise specifically provided.

(i) Any document or item will be deemed "delivered," "provided" or "made available" by Sellers, within the meaning of this Agreement if such document or item is (i) included in the Dataroom at least 24 hours prior to the execution of this Agreement or (ii) actually delivered or provided to Purchaser or any of Purchaser's Advisors.

(j) Any reference to any agreement or Contract will be a reference to such agreement or Contract, as amended, modified, supplemented or waived.

(k) Any reference to any particular Bankruptcy Code or Tax Code section or any Law will be interpreted to include any amendment to, revision of or successor to that section or Law regardless of how it is numbered or classified; provided that, for the purposes of the representations and warranties set forth herein, with respect to any violation of or non-compliance with, or alleged violation of or non-compliance, with any Bankruptcy Code or Tax Code section or Law, the reference to such Bankruptcy Code or Tax Code section or Law means such Bankruptcy Code or Tax Code section or Law as in effect at the time of such violation or non-compliance or alleged violation or non-compliance.

(l) A reference to any Party to this Agreement or any other agreement or document shall include such Party's successors and assigns, but only if such successors and assigns are not prohibited by this Agreement.

(m) A reference to a Person in a particular capacity excludes such Person in any other capacity or individually.

[*Signature pages follow*.]

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

PURCHASER:

R3 LITHIUM, INC.

By: _____
Name: Jacques-Alexandre Gerber
Title: Director

SELLER:

ASCEND ELEMENTS, INC.

By: Linh Austin
Linh Austin (Jun 19, 2026 13:38:47 PDT)
Name: Linh Austin
Title: Chief Executive Officer

EXHIBIT A

FORM OF SALE ORDER

[*See attached.*]

PRIVILEGED/CONFIDENTIAL
NRF DRAFT AS OF 6.19.26

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	)	Chapter 11
ASCEND ELEMENTS, INC. *et al.*,[1]	)	Case No. 26-90440 (CML)
Debtors.	)	(Jointly Administered)

ORDER (I) APPROVING THE SALE OF CERTAIN OF THE DEBTORS' ASSETS FREE AND CLEAR OF CLAIMS, LIENS, AND ENCUMBRANCES, (II) APPROVING THE ASSUMPTION AND ASSIGNMENT OF DESIGNATED EXECUTORY CONTRACTS AND UNEXPIRED LEASES AND (III) GRANTING RELATED RELIEF

Upon the motion [Docket No. 50] (the "Motion")[2] filed by the debtors and debtors in possession (collectively, the "Debtors") in the above-captioned chapter 11 cases (the "Chapter 11 Cases") seeking, among other things, entry of an order (this "Order") approving the sale of the Debtors' assets and approving the assumption and assignment of certain contracts, and upon the *Declaration of Linh Austin in Support of the Debtors' Chapter 11 Petitions and First Day Motions* (the "First Day Declaration") [Docket No. 11], the *Declaration Of Michael O'Hara Of Jefferies LLC In Support Of The Debtors' Emergency Motion For Entry Of Order (I)(A) Approving Bid Procedures, (B) Authorizing Designation Of A Stalking Horse Bidder, (C) Scheduling An Auction, Related Deadlines, And A Sale Hearing, And (D) Granting Related Relief; And (II)(A) Approving The Sale Of The Debtors' Assets, (B) Approving The Assumption And Assignment Of Certain*

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Ascend Elements, Inc. (2893) and Ascend Elements US, LLC (8309). The location of the Debtors' service address is: 133 Flanders Road, Westborough, MA 01581.

[2] Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the Motion or the Asset Purchase Agreement (as hereinafter defined), as applicable.

Contracts, And (C) Granting Related Relief, ("O'Hara Bid Procedures Declaration") [Docket No. 88] and upon the *Order (A) Approving Bid Procedures (B) Authorizing Designation of a Stalking Horse Bidder, (C) Scheduling an Auction, Related Deadlines, and a Sale Hearing, and (D) Granting Related Relief* [Docket No. 120] (the "Bid Procedures Order"); and that certain Asset Purchase Agreement, dated as of June 19, 2026 (together with all other agreements and other instruments deliverable thereunder or attached thereto or referenced therein, and as may be amended, modified, or supplemented, the "Asset Purchase Agreement"), a copy of which is attached hereto as **Exhibit 1**, by which R3 Lithium, Inc. (the "Purchaser") submitted the highest or best bid for the Acquired Assets (as defined in the Asset Purchase Agreement) as determined by the Debtors (such offer, the "Successful Bid"); and the Debtors having held an Auction[3] naming the Purchaser the Successful Bidder for the Acquired Assets, and the Court having conducted a hearing to consider certain relief requested in the Motion on June [•], 2026 (the "Sale Hearing"), at which time all interested parties were offered an opportunity to be heard with respect to the Motion; and the Court having reviewed and considered (i) the Motion; (ii) the Asset Purchase Agreement; (iii) the Bid Procedures Order, (iv) the First Day Declaration, (v) the O'Hara Bid Procedures Declaration, (vi) the *Declaration of Michael O'Hara in Support of Entry of an Order (I) Approving the Sale of the Debtors' Interests in the Covington, Georgia Assets Free and Clear of Encumbrances, Claims, Interests and Encumbrances, (II) Approving the Assumption and Assignment of Associated Executory Contracts and Unexpired Leases, and (III) Granting Related Relief* [Docket No. [•]], (vii) the *Declaration of Adam Titus in Support of Entry of an Order (I) Approving the Sale of the Debtors' Interests in the Covington, Georgia Assets Free and Clear of Encumbrances, Claims, Interests and Encumbrances, (II) Approving the Assumption and*

[3] **NRF NTD:** If no other bidders are qualified, NRF will update the sale order to remove references to the auction and related auction notices.

Assignment of Associated Executory Contracts and Unexpired Leases, and (III) Granting Related Relief [Docket No. [•]], ((vi) – (vii) collectively, the "Sale Declarations"), (viii) the *Notice of Auction for the Sale of the Debtors' Covington, Georgia Assets Free and Clear of Any and All Claims, Interests, and Encumbrances* [Docket No. [•]] (the "Sale and Auction Notice"), (ix) the *Notice of Successful Bidder and Backup Bidder* [Docket No. [•]] (the "Notice of Successful Bidder"), (x) the *First Notice to Contract Parties to Potentially Assumed Executory Contracts and Unexpired Leases* [Docket No. 240] (the "Assumption and Assignment Notice"), and (xi) the arguments of counsel made, and the evidence proffered or adduced at the Sale Hearing; and after due deliberation the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interest of the Debtors, their estates and their creditors, and the Debtors having demonstrated good, sufficient and sound business justifications for the relief granted herein;

IT IS HEREBY FOUND AND DETERMINED THAT:[4]

A. Jurisdiction and Venue. The Court has jurisdiction to hear and consider the Motion and the relief requested therein pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of Texas*, dated May 24, 2012. Without limiting the generality of the foregoing, this Court has exclusive *in rem* jurisdiction over the Acquired Assets pursuant to 28 U.S.C. § 1334(e), as such Assets are property of the Debtors' chapter 11 estates, and, as a result of such jurisdiction, this Court has all necessary power and authority to grant the relief contained herein. This is a core proceeding under 28 U.S.C.

[4] The findings and conclusions of law set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such.

§ 157(b), and the Court may enter a final order hereon under Article III of the United States Constitution. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

B. Final Order. This Order constitutes a final order within the meaning of 28 U.S.C. § 158(a).

C. Statutory Predicates. The statutory and other legal predicates for the relief sought by the Motion are sections 105(a), 363, 365, and 503 of title 11 of the United States Code, as amended (the "Bankruptcy Code"), Bankruptcy Rules 2002, 6004, 6006, 9006, 9007, 9008 and 9014, Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Southern District of Texas 2002-1 and 4002-1, and the Procedures for Complex Cases in the Southern District of Texas (the "Complex Case Procedures").

D. Bid Procedures. On April 17, 2026, the Court entered the Bid Procedures Order, which among other things, (i) approved the Bid Procedures (as defined in the Motion), (ii) authorized the Debtors, in their discretion to designate one or more Stalking Horse Bidders for some or all of the Assets, to enter into one or more stalking horse asset purchase agreements, and to seek approval of any Bid Protections, (iii) scheduled (a) an auction in connection with a sale of the Assets (the "Auction") if the Debtors receive one or more timely and acceptable Qualified Bids, (b) a hearing to consider approval of one or more Sale Transactions as necessary, and (c) the objection deadline for approval of one or more Sale Transactions (the "Sale Objection Deadline"); (iv) approved the form and manner of notice of Sale and Auction Notice; (v) approved the form and manner of notice of the Successful Bidder; (vi) approved procedures (the "Assumption and Assignment Procedures") for the assumption and assignment of certain executory contracts and unexpired leases in connection with a Sale Transaction (collectively, the "Assigned Contracts"); and (vii) approved the form and manner of notice to each relevant non-Debtor counterparty (each,

a "Contract/Lease Counterparty") to an executory contract or unexpired lease regarding the Debtors' proposed assumption and assignment of the Assigned Contracts, including notice of proposed amounts (the "Cure Costs") necessary to cure any defaults thereunder (the "Assumption and Assignment Notice"). The Bid Procedures were substantively and procedurally fair to all parties and all potential bidders and afforded notice and a full, fair and reasonable opportunity for any person to make a higher or otherwise better offer to purchase the Debtors' assets. The Debtors conducted the sale process in accordance with the Bid Procedures and without collusion.

E. Notice and Opportunity to Be Heard. As evidenced by the certificates of service filed with respect to the Bid Procedures Order [Docket Nos. 110, 134, and 145], the Assumption and Assignment Notice, the *Notice of Auction for the Sale of the Debtors' Convington, Georgia Assets Free and Clear of Any and All Claims, Interests, and Encumbrances; Auction Scheduled for [•].* [Docket No. [•]] (the "Auction Notice"), the Notice of Successful Bidder, and as demonstrated by the evidence presented at the Sale Hearing, the Debtors have complied with the Bid Procedures and otherwise have provided proper, timely, adequate and sufficient notice of, and a fair and reasonable opportunity to object and be heard with respect to, the Motion, the Bid Procedures, the Auction, the Sale Hearings, the Assumption and Assignment Procedures, the sale of the Acquired Assets pursuant to the Asset Purchase Agreement (the "Sale Transaction") free and clear of all Encumbrances (as defined in the Asset Purchase Agreement) other than the Permitted Encumbrances (also as defined in the Asset Purchase Agreement), and the assumption and assignment of the Assigned Contracts to be assumed and assigned to Purchaser at Closing pursuant to this Order and the terms of the Asset Purchase Agreement, in accordance with sections 102(1), 363 and 365 of the Bankruptcy Code, Bankruptcy Rules 2002(a), 4001, 6004, 6006, 9007 and 9014, and the Bid Procedures Order, to all persons and entities entitled to such

notice, and all other persons and entities as directed by the Court. Such notice was good, sufficient and appropriate under the circumstances and reasonably calculated to reach and apprise all holders of Encumbrances, claims, and other interests, including, without limitation, rights or claims based on any successor, transferee, derivative, or vicarious liabilities of their right to appear and be heard, and was provided in accordance with the applicable requirements of the Bankruptcy Code, the Bankruptcy Rules, and the procedural due process requirements of the United States Constitution. With respect to parties in interest whose identities could not be reasonably ascertained by the Debtors, the Publication Notice (as defined in the Bid Procedures Order) published in *The New York Times* on April 16, 2026 [Docket No. 127], and April 23, 2026 [Docket No. 134], was sufficient and reasonably calculated to provide notice to such parties under the circumstances. No other or further notice of, opportunity to object to, or other opportunity to be heard regarding the Motion, the Sale Hearing, the Asset Purchase Agreement, the Sale, the Sale Transactions, the transactions contemplated by the Asset Purchase Agreement, or of the entry of this Sale Order is necessary or shall be required.

F. Disclosures. The disclosures made by the Debtors in the Bid Procedures Motion, the Motion, the Sale and Auction Notice, the Assumption and Assignment Notice, the Notice of Successful Bidder, and all other related notices and documents filed with the Court concerning the Asset Purchase Agreement and Sale Transaction were complete and adequate.

G. Sound Business Purpose. The Debtors, having determined that the Successful Bid was the highest and best offer for the Acquired Assets made by the Purchaser, have demonstrated good, sufficient and sound business purposes and justifications that approval and entry into the Sale Transaction, the Asset Purchase Agreement and any ancillary agreements thereto (i) are a result of due deliberation by the Debtors and constitute a sound and reasonable

exercise of the Debtors' business judgment consistent with their fiduciary duties; (ii) provide value and are beneficial to the Debtors' estates, and are in the best interests of the Debtors, their estates and their stakeholders; and (iii) are reasonable and appropriate under the circumstances. Business justifications for entry into the Sale Transaction and the Asset Purchase Agreement include, but are not limited to, (a) the Asset Purchase Agreement constitutes the highest or best offer received for the Acquired Assets; (b) the Asset Purchase Agreement presents the best opportunity to maximize the value of the Acquired Assets on a going-concern basis and to avoid decline and devaluation as a result of delay or liquidation; (c) failure to consummate the Sale Transaction expeditiously, as provided under the Asset Purchase Agreement, could materially diminish creditor recoveries; and (d) the immediate consummation of the Sale Transaction is necessary to maximize the value of the Debtors' estates.

H. Compliance with Bid Procedures. The Debtors conducted an open and fair Sale Process. The Sale Process was non-collusive in all respects, and all interested parties were provided a full, fair and reasonable opportunity to make an offer to purchase the Acquired Assets. The Debtors, the Purchaser and their respective counsel and other advisors have complied with the Bid Procedures and the Bid Procedures Order in all respects to the extent such are applicable.

I. Highest or Best Value. The Debtors determined, in their reasonable business judgment, in a manner consistent with their fiduciary duties and in consultation with the Consultation Parties, that the Purchaser's Successful Bid, as documented in the Asset Purchase Agreement, was the highest or otherwise best Qualified Bid for the Acquired Assets. Consummating the Sale Transaction will yield greater value to the Debtors' estates than would have been provided by any other available alternative transaction. The Debtors have demonstrated that entry into and consummation of the Sale Transaction constitutes the exercise by the Debtors

of sound business judgment, and such acts are in the best interests of the Debtors, their estates, and creditors, and all parties in interest, and the Debtors, and their respective current members, managers, officers, directors, employees, advisors, professionals or agents (in each case, solely in their capacity as such), shall have or incur no liability to the estates or any stakeholder in or against the Debtors or their assets for any act or omission in connection with, related to, or arising out of the negotiations or the consummation of the Sale Transaction, other than liability arising out of or relating to any fraud, as determined by a court of competent jurisdiction.

J. Fair Consideration. The consideration to be paid by the Purchaser under the Asset Purchase Agreement constitutes (i) fair and reasonable consideration for the Acquired Assets; and (ii) reasonably equivalent value and fair consideration under the Bankruptcy Code, the Uniform Fraudulent Transfer Act, the Uniform Fraudulent Conveyance Act, the Uniform Voidable Transactions Act and other laws of the United States, any state, territory, possession thereof or the District of Columbia.

K. Sufficiency of Marketing. As demonstrated by the Motion, the O'Hara Bid Procedures Declaration, the Sale Declarations, and the evidence set forth at the Sale Hearing, the Debtors and their professionals adequately marketed the Debtors' assets and conducted the marketing and sale process as set forth in and in accordance with the Motion and the Bid Procedures and conducted a fair and open sale process. The sale process and the Bid Procedures were non-collusive, duly noticed, and provided a full, fair, and reasonable opportunity for any entity to make an offer to purchase the assets, and the process conducted by the Debtors pursuant to the Bid Procedures Order obtained the highest or otherwise best value for the Debtors' assets, and there was no other transaction available or presented that would have yielded a higher or better result. Based upon the record of these proceedings, all creditors and other parties in interest and

all prospective Bidders have been afforded a reasonable and fair opportunity to bid for the assets and/or file an objection to the Sale Transaction. The marketing process undertaken by the Debtors and their professionals and each of their respective agents and other representatives with respect to the assets has been adequate and appropriate and reasonably calculated to maximize the value for the benefit of all of the Debtors' stakeholders in all respects.

L. Free and Clear Sale. The Debtors are authorized to sell the Acquired Assets free and clear of all Encumbrances (unless otherwise expressly assumed under, or expressly permitted by, the Asset Purchase Agreement), because, in each case, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. Any holders of Encumbrances that objected to the Sale Transaction or the Motion and that have a Encumbrance on the Acquired Assets could be compelled in a legal or equitable proceeding to accept money in satisfaction of such Encumbrance pursuant to section 363(f)(5), or fall within one or more of the other subsections of section 363(f) and, therefore, are adequately protected by having their Encumbrances on the Acquired Assets attach solely to the proceeds of the Sale Transaction ultimately attributable to the sale of the property in which such holders have a Encumbrance, in the same order of priority, and with the same validity, force and effect that such Encumbrances had prior to the consummation of the Sale Transaction, subject to any rights, claims or defenses of the Debtors and their estates. Any holders of Encumbrances that did not object, or that withdrew their objections, to the Motion or the Sale Transaction, are deemed to have consented to the sale of the Acquired Assets free and clear of their respective Encumbrances on the Acquired Assets pursuant to section 363(f)(2) of the Bankruptcy Code.

M. Purchaser's Reliance on Free and Clear Sale. The Purchaser would not have entered into the Asset Purchase Agreement and would not consummate the Sale Transaction or the

other transactions contemplated thereby if the sale of the Acquired Assets were not free and clear of all Encumbrances, or if the Purchaser would, or in the future could, be liable for any such Encumbrances. A sale of the Acquired Assets other than one free and clear of all Encumbrances would adversely impact the Debtors, their estates and their creditors, and would yield substantially less value for the Acquired Assets and the Debtors' estates, with less certainty than provided by the Sale Transaction. The total consideration to be provided under the Asset Purchase Agreement reflects the Purchaser's reliance on this Order to provide it, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, with title to and possession of the Acquired Assets free and clear of all Encumbrances, including, without limitation, any potential derivative, vicarious, transferee or successor liability Encumbrances.

N. No Successor or Other Derivative Liability. By consummating the Sale Transaction pursuant to the Asset Purchase Agreement, the Purchaser is not a mere continuation of any of the Debtors or any Debtor's estate, and there is no continuity of enterprise or otherwise or common identity between the Purchaser and any Debtor. The Purchaser is not holding itself out as a continuation of any Debtor. The Purchaser is not a successor to any Debtor or any Debtor's estate by reason of any theory of law or equity, and the Sale Transaction does not amount to a consolidation, merger or de facto merger of the Purchaser and the Debtors or any of their estates. Neither the Purchaser nor any of its affiliates or their respective successors, assigns, members, partners, principals or shareholders (or the equivalent thereof) shall assume or in any way be responsible for any obligation or liability of any Debtor (or any affiliate of any Debtor) or any Debtor's estate, except as expressly provided in the Asset Purchase Agreement. The sale and transfer of the Acquired Assets to the Purchaser, including the assumption by the Debtors and assignment, transfer and/or sale to the Purchaser of any of the Assigned Contracts, will not subject

the Purchaser to any liability with respect to the operation of the Debtors' businesses prior to the Closing or by reason of such transfer, except that, upon the Closing, the Purchaser shall remain liable for the applicable Assumed Liabilities (as defined in the Asset Purchase Agreement).

O. Good Faith. The Debtors, the Purchaser and their respective counsel and other advisors have negotiated and entered into the Asset Purchase Agreement and each of the transactions contemplated thereby in good faith, without collusion and from arms'-length bargaining positions. The Purchaser is a good-faith purchaser and is acting in good faith within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to all of the protections afforded thereby. The Debtors were free to deal with any other party interested in acquiring all or some of the Acquired Assets. Neither the Debtors nor the Purchaser have engaged in any conduct that would cause or permit the Sale Transaction, the Asset Purchase Agreement or any of the transactions contemplated thereby to be avoided or subject to monetary damages under section 363(n) of the Bankruptcy Code, or that would prevent the application of sections 363(m) or 364(e) of the Bankruptcy Code. The Purchaser has not violated section 363(n) of the Bankruptcy Code by any action or inaction. Specifically, the Purchaser has not acted in a collusive manner with any person or entity, and the Purchaser's participation in and bidding at the Auction (to the extent held) were not controlled by any agreement among bidders. All payments to be made by the Purchaser and all agreements entered into by the Purchaser and the Debtors and any other Seller under the Asset Purchase Agreement in connection with the Sale Transaction have been disclosed and are appropriate. The Asset Purchase Agreement was not entered into for the purpose

of hindering, delaying or defrauding creditors under laws of the United States, any state, territory, possession or the District of Columbia.

P. Insider Status. The Purchaser is not an "insider" of any Debtor, as that term is defined in section 101(31) of the Bankruptcy Code. No common identity of directors or controlling stockholders (or the equivalent thereof) exists between the Purchaser and any of the Debtors.

Q. Assumption and Assignment of Contracts. The assumption and assignment of the Assigned Contracts are an integral part of the Sale Transaction, are in the best interests of the Debtors and their estates and represent the valid and reasonable exercise of the Debtors' sound business judgment. Specifically, the assumption and assignment of the Assigned Contracts (i) are necessary to sell the Acquired Assets to the Purchaser as contemplated by the Asset Purchase Agreement, (ii) allow the Debtors to sell the Acquired Assets to the Purchaser as a going concern, (iii) limit the losses suffered by the Contract/Lease Counterparties to the Assigned Contracts and (iv) maximize the recoveries of other creditors of the Debtors by avoiding claims against the Debtors' estates that would arise from the Debtors' rejection of the Assigned Contracts. Any Contract/Lease Counterparty to any Contract that has not actually filed with the Court and served on the Objection Notice Parties (as defined in the Bid Procedures) an objection to the assumption and/or assignment of such Assigned Contract as of the applicable date specified in the Bid Procedures Order (as such date may have been modified or extended in accordance with the terms of the Bid Procedures Order) is deemed to have consented to the assumption and assignment of the Assigned Contract.

R. Compliance with Section 365 of the Bankruptcy Code. The Debtors have met all requirements of section 365(b) of the Bankruptcy Code with respect to the assumption and

assignment of each of the Assigned Contracts. The Debtors have provided adequate assurance (within the meaning of section 365(b)(1) of the Bankruptcy Code) of cure of any default existing under any of the Assigned Contracts on or before the Closing Date (as defined in the Asset Purchase Agreement). The Purchaser has demonstrated adequate assurance of future performance of and under the Assigned Contracts within the meaning of sections 365(b)(1)(C), 365(f)(2)(B) and 365(b)(3) (to the extent applicable) of the Bankruptcy Code. The notice and opportunity to object provided to the Contract/Lease Counterparties to such Assigned Contracts and to other parties in interest, as set forth in the Assumption and Assignment Procedures contained in the Bid Procedures Order, fairly and reasonably protects any rights that such Contract/Lease Counterparties and other parties in interest may have with respect to such Assigned Contracts. Pursuant to section 365(f) of the Bankruptcy Code, the Assigned Contracts shall be assigned and transferred to, and remain in full force and effect for the benefit of, the Purchaser, notwithstanding any provision in the Assigned Contracts or other restrictions prohibiting their assignment or transfer.

S. Property of the Estates. The Acquired Assets constitute property of the Debtors' estates within the meaning of section 541(a) of the Bankruptcy Code.

T. Validity of the Sale Transaction. The consummation of the Sale Transaction is legal, valid and properly authorized under all applicable provisions of the Bankruptcy Code, including sections 105(a), 363(b), 363(f), 363(m), 365(b) and 365(f) and all of the applicable requirements of such sections have been complied with in all respects in connection with the Sale Transaction. As of the Closing, the transfer of the Acquired Assets to the Purchaser will be a legal, valid and effective transfer of the Acquired Assets, including the Assigned Contracts, and will vest the Purchaser with all right, title and interest of the Debtors in and to the

Acquired Assets free and clear of all Encumbrances (unless otherwise expressly assumed under, or expressly permitted by, the Asset Purchase Agreement). The Debtors have full corporate or other applicable authority to execute the Asset Purchase Agreement and all other documents contemplated thereby, and the Sale Transaction has been duly and validly authorized by all necessary corporate action of the Debtors. Upon entry of this Order, other than any consents identified in the Asset Purchase Agreement, no consent or approval from any other person, entity or legal authority is required to consummate the Sale Transaction.

U. No *Sub Rosa* Plan. Neither the Sale Transaction nor the Asset Purchase Agreement impermissibly restructures the rights of any of the Debtors' creditors or impermissibly dictates the terms of a liquidating plan of reorganization of the Debtors. Neither the Sale Transaction nor the Asset Purchase Agreement constitutes a sub rosa or de facto plan of reorganization or liquidation, as neither proposes to (i) impair or restructure any existing debt of, or equity interests in, the Debtors; (ii) impair or circumvent voting rights with respect to any plan proposed by the Debtors; (iii) circumvent chapter 11 safeguards, such as those set forth in sections 1125 and 1129 of the Bankruptcy Code; or (iv) classify claims or equity interests or extend debt maturities.

V. No Stay of Order. Time is of the essence to implement the Asset Purchase Agreement and consummate the Sale Transaction. The Sale Transaction must be approved and consummated promptly in order to preserve the value of the Acquired Assets and to ensure the Debtors' compliance with their obligations under their post-petition financing agreements. The Debtors have demonstrated compelling circumstances and sound business justifications for the immediate approval and consummation of the Sale Transaction as contemplated by the Asset Purchase Agreement. Notwithstanding the provisions of Bankruptcy Rules 6004(h), 6006(d), and

7062 or any applicable provisions of the Local Rules, this Order shall not be stayed and shall be effective and enforceable immediately upon entry.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. Motion Granted. The Motion and the relief requested therein (to the extent not previously granted by the Court pursuant to the Bid Procedures Order or otherwise) are GRANTED and approved as set forth herein.

2. Objections Overruled. Any objections to the Motion or the relief requested therein that have not been withdrawn, waived or settled and all reservations of rights included such objections are hereby overruled on the merits with prejudice.

3. Sale Transaction Approved. The Asset Purchase Agreement and all transactions contemplated thereby are APPROVED. The Debtors have satisfied all requirements of sections 363(b) and 363(f) of the Bankruptcy Code, and all other requirements and standards applicable to a sale outside the ordinary course of business, free and clear of all liens, claims, encumbrances, and interests.

4. Debtors' Performance Authorized. Pursuant to sections 105(a), 363(b) and 363(f) of the Bankruptcy Code, the Debtors are hereby authorized to enter into and perform their obligations under the Asset Purchase Agreement, and to take such other actions as may be necessary or desirable to effectuate the terms of the Asset Purchase Agreement and other instruments or documents that may be reasonably necessary or desirable to implement and effectuate the terms of the Asset Purchase Agreement, the Sale Transaction or this Order, including, without limitation, deeds, assignments, stock powers, transfers of membership interests and any other instruments of transfer, without further order of the Court. The Debtors are hereby further authorized to take all other actions as may reasonably be requested by the Purchaser or

otherwise for the purpose of assigning, transferring, granting, conveying and conferring to the Purchaser, or reducing to the Purchaser's possession any or all of the Acquired Assets, including the Assigned Contracts, as may be necessary or appropriate for the Debtors to perform their obligations under the Asset Purchase Agreement and consummate the Sale Transaction, without further order of the Court.

5. Debtors' Effectuation of Asset Purchase Agreement. The Debtors are hereby authorized and empowered to cause to be executed and filed such statements, instruments, releases and other documents with respect to the Acquired Assets that are necessary or appropriate to effectuate the Asset Purchase Agreement, the Sale Transaction or this Order, including, as applicable, amended and restated certificates or articles of incorporation and by-laws or certificates or articles of amendment, and all such other actions, filings or recordings as may be required under appropriate provisions of the applicable laws of all applicable governmental units or as any of the officers of the Debtors may determine are necessary or appropriate.

6. Valid Transfer. Effective as of the Closing Date, the sale and assignment of the Acquired Assets and the Assigned Contracts by the Debtors to the Purchaser shall constitute a legal, valid and effective transfer of the Acquired Assets and the Assigned Contracts, notwithstanding any requirement for approval or consent by any person, and will vest the Purchaser with all right, title and interest of the Debtors in and to the Acquired Assets and the Assigned Contracts, free and clear of all Encumbrances (unless otherwise expressly assumed under, or expressly permitted by, the Asset Purchase Agreement), pursuant to section 363(f) of the Bankruptcy Code.

7. Free and Clear Sale. Except to the extent specifically provided in the Asset Purchase Agreement, upon the Closing Date, the Debtors shall be, and hereby are, authorized and

empowered, pursuant to sections 105, 363(b) and 363(f) of the Bankruptcy Code, to sell and transfer to the Purchaser the Acquired Assets. The sale and transfer of the Acquired Assets to the Purchaser shall vest the Purchaser with all right, title and interest of the Debtor in and to the Acquired Assets free and clear of any and all Encumbrances of any person or entity (unless otherwise expressly assumed under, or expressly permitted by, the Asset Purchase Agreement), with all such Encumbrances to attach to the net proceeds of the Sale Transaction ultimately attributable to the sale of the property in which such holders have a Encumbrance, in the same order of priority, and with the same validity, force and effect that such Encumbrances had prior to the consummation of the Sale Transaction, subject to any rights, claims or defenses of the Debtors or their estates. Following the Closing, no holder of any Encumbrance on any of the Acquired Assets shall interfere with the Purchaser's use or enjoyment of any of the Acquired Assets based on or related to such Encumbrance or any actions that the Debtors have taken or may take in their Chapter 11 Cases.

8. Sale Effective. At Closing, the transfer of the Acquired Assets to the Purchaser, including, without limitation, the assumption, assignment and transfer of the Assigned Contracts, will be a legal, valid, and effective transfer thereof, and vest the Purchaser with all right, title, and interest of the Debtors in and to the Acquired Assets, to the greatest extent permitted by applicable law, free and clear of all Encumbrances accruing or arising any time prior to the Closing Date, and except as expressly set forth in the Asset Purchase Agreement with respect to the Assumed Liabilities or Permitted Encumbrances. Except as expressly permitted by the Asset Purchase Agreement or this Order, all persons and entities holding Encumbrances of any kind or nature whatsoever (other than the Permitted Encumbrances and Assumed Liabilities) are hereby forever barred, estopped, and permanently enjoined from asserting their respective Encumbrances

against the Purchaser, any of the Purchaser's Stakeholders, any of its or their respective representatives, and each of their respective Acquired Assets and assets.

9. Sale Self-Effectuating. The provisions of this Order authorizing the sale and transfer of the Acquired Assets free and clear of Encumbrances shall be self-executing, and neither the Debtors nor the Purchaser shall be required to execute or file releases, termination statements, assignments, consents or other instruments in order to effectuate, consummate or implement the provisions of this Order. For the avoidance of doubt, on or after the Closing Date, the Debtors and/or the Purchaser shall be authorized, but not directed, to file any such releases, termination statements, assignments, consents or other instruments in any jurisdiction to record the release, discharge and termination of Encumbrances on the Acquired Assets pursuant to the terms of this Order.

10. Direction to Creditors. This Order shall be (a) effective as a determination that, as of the Closing Date, all Encumbrances on the Acquired Assets (unless otherwise expressly assumed under, or expressly permitted by, the Asset Purchase Agreement) shall be unconditionally released, discharged and terminated as to the Purchaser and the Acquired Assets; and (b) binding upon all persons and entities, including all the Debtors' creditors and any holder of a Encumbrance in any of the Acquired Assets, and all such persons and entities are hereby authorized and directed to execute such documents and take all other actions as may be reasonably necessary to release their respective Encumbrances on the Acquired Assets, if any. If any person or entity that has filed a financing statement, mortgage, mechanics lien, lis pendens or other document, instrument, notice or agreement evidencing any Encumbrance on the Acquired Assets has not delivered to the Debtors on or before the Closing, in proper form for filing and executed by the appropriate parties, termination statements, releases or instruments of satisfaction that the person or entity has with

respect to the Acquired Assets, the Debtors and/or the Purchaser are authorized to (x) execute and file such termination statements, releases, instruments of satisfaction or other documents with respect to the Acquired Assets on behalf of the applicable person or entity; and (y) file, register or otherwise record a certified copy of this Order which, once filed, registered or otherwise recorded, shall constitute conclusive evidence of the release of all Encumbrances on the Acquired Assets. This Order is deemed to be in recordable form sufficient to be placed in the filing or recording system of each and every federal, state, local, tribal or foreign government agency, department or office.

11. Direction to Recording Officers. This Order shall be binding upon all persons and entities, including filing agents or officers, title agents or companies, recorders of mortgages or deeds, registrars, administrative agencies, governmental units or departments, secretaries of state, governmental officials and all other persons or entities that may be required by operation of law, the duties of their office or contract to accept, file, register or otherwise record or release any documents or instruments regarding the Acquired Assets or who may be required to report or insure any title or state of title in or to the Acquired Assets, (collectively, the "Recording Officers"). All Recording Officers are hereby authorized and directed to (a) accept any and all documents or instruments necessary and appropriate to consummate the Sale Transaction or to record and reflect that the Purchaser is the owner of the Acquired Assets free and clear of all Encumbrances (unless otherwise expressly assumed under, or expressly permitted by, the Asset Purchase Agreement) and (b) strike all recorded Encumbrances on the Acquired Assets from their records.

12. Direction to Surrender the Acquired Assets. All persons or entities in possession or control of any of the Acquired Assets, either presently or on or before the Closing

Date, are directed to surrender possession or control of the Acquired Assets to the Purchaser on the Closing Date.

13. No Successor Liability. The Purchaser and its affiliates and their respective predecessors, successors, assigns, members, partners, officers, directors, principals and shareholders (or the equivalent thereof) are not and shall not be (a) deemed a "successor" in any respect to any of the Debtors or any of their estates as a result of the consummation of the Sale Transaction or any other event occurring in the Debtors' Chapter 11 Cases under any theory of law or equity; (b) deemed to have, de facto or otherwise, merged or consolidated with or into any of the Debtors or any of their estates; (c) deemed to be an alter ego of or have a common identity with the any of the Debtors; (d) deemed to have a continuity of enterprise with any of the Debtors; or (e) deemed to be a continuation or substantial continuation of any of the Debtors or any enterprise of any of the Debtors, including (with respect to clauses (a) through (e) of this paragraph) within the meaning of any foreign, federal, state or local revenue, pension, ERISA, tax, labor, employment, environmental, products liability or other law, doctrine, rule or regulation (including any filing requirements under any such laws, rules or regulations) with respect to the Debtors' liability under such law, doctrine, rule or regulation.

14. No Assumption by Purchaser. The Purchaser shall not assume, nor be deemed to have assumed or in any way be responsible for, any liability or obligation of any of the Debtors or any of their estates including, but not limited to, any Excluded Liabilities (as defined in the Asset Purchase Agreement), any bulk sales law, successor or vicarious liability, liability or responsibility for any claim against any of the Debtors or against any insider of any of the Debtors or similar liability, except as otherwise expressly provided in the Asset Purchase Agreement, and the Motion, the Notice of Successful Bidder, the Sale and Auction Notice, or the Assumption and

Assignment Notice, which contain sufficient notice of such limitation in accordance with applicable law. Except for the Assumed Liabilities (as defined in the Asset Purchase Agreement), the transfer of the Acquired Assets and the Assigned Contracts to the Purchaser under the Asset Purchase Agreement shall not result in (a) the Purchaser, its affiliates or any of their respective predecessors, successors, assigns, members, partners, officers, directors, principals or shareholders (or the equivalent thereof) or any of the Acquired Assets having any liability or responsibility for any claim against any of the Debtors or against any insider of any of the Debtors (including, without limitation, Excluded Liabilities); (b) the Purchaser, its affiliates or any of their respective predecessors, successors, assigns, members, partners, officers, directors, principals or shareholders (or the equivalent thereof) or any of the Acquired Assets having any liability whatsoever with respect to, or being required to satisfy in any manner, whether at law or in equity, whether by payment, setoff or otherwise, directly or indirectly, any Encumbrances or Excluded Liabilities; or (c) the Purchaser, its affiliates or any of their respective predecessors, successors, assigns, members, partners, officers, directors, principals or shareholders (or the equivalent thereof) or any of the Acquired Assets having any liability or responsibility to any of the Debtors except as is expressly set forth in the Asset Purchase Agreement. Pursuant to the Asset Purchase Agreement, the Purchaser shall maintain certain rights to modify the Acquired Assets and Excluded Liabilities in accordance with the terms thereunder, including any Assigned Contracts; *provided that* the Purchaser may not remove any Acquired Asset or add any Excluded Liability if such asset is otherwise restricted pursuant to the Chapter 11 Cases.

15. Prohibition on Proceeding Against Purchaser. Effective upon the Closing Date, all persons and entities are forever prohibited and enjoined from commencing or continuing in any manner any action or other proceeding, whether in law or equity, in any judicial,

administrative, arbitral or other proceeding against the Purchaser, its assets (including the Acquired Assets) or its successors or assigns, with respect to any (a) Encumbrance on the Acquired Assets or (b) successor, transferee, vicarious or other similar liability or theory of liability, including (i) commencing or continuing any action or other proceeding pending or threatened, in any manner or place, that does not comply with, or is inconsistent with, the provisions of this Order or other orders of the Court or the agreements or actions contemplated or taken in respect hereof or thereof; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order; (iii) creating, perfecting or enforcing any Encumbrance; (iv) asserting any setoff, right of subrogation or recoupment of any kind; or (v) revoking, terminating or failing or refusing to renew any license, permit or authorization to operate any of the Acquired Assets or conduct any of the businesses operated with the Acquired Assets.

16. Assumption and Assignment of Contracts. Under sections 105(a), 363 and 365 of the Bankruptcy Code, and subject to and conditioned upon the closing of the Sale Transaction, the Debtors' assumption and assignment of the Assigned Contracts to the Purchaser free and clear of all Encumbrances pursuant to the terms of the Asset Purchase Agreement, as modified by the terms of any amendments reached by the Purchaser and the respective Counterparty, is hereby approved, and the requirements of sections 365(b)(1), 365(f)(2) and 365(b)(3) (to the extent applicable) of the Bankruptcy Code with respect thereto are hereby deemed satisfied. Upon the Debtors' assumption and assignment of the Assigned Contracts to the Purchaser, each applicable Contract/Lease Counterparty shall be forever barred, estopped and permanently enjoined from raising or asserting against the Debtors, the Purchaser or their respective property, any assignment fee, default, breach, claim, pecuniary loss, liability or obligation (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or

non-contingent, known or unknown, liquidated or unliquidated senior or subordinate) arising under or out of, in connection with or in any way related to, the Assigned Contracts existing as of the Closing Date or arising by reason of the Closing. Upon the Debtors' assumption and assignment of the Assigned Contracts to the Purchaser, the Purchaser shall be fully and irrevocably vested with all right, title and interest of the Debtors in and to the Assigned Contracts and, pursuant to section 365(k) of the Bankruptcy Code, the Debtors shall be relieved from any further liability with respect to the Assigned Contracts. The Debtors' assumption and assignment of the Assigned Contracts to the Purchaser shall not constitute a default under or a termination of any Contract.

17. Payment of Certain Indebtedness.[5] Upon Closing, any M&A Transaction Fee payable to Jefferies LLC and Completion Fee payable to Alvarez & Marsal North America, LLC shall be paid or otherwise satisfied, escrowed or segregated from the proceeds of the Sale Transaction pursuant to and as set forth in the Bid Procedures Order.

18. Cure Obligations. Unless such Cure Costs are subject to any timely objection, the Cure Costs as to Assigned Contracts are hereby fixed at the amounts set forth in the Assumption and Assignment Notice or any Supplemental Assumption and Assignment Notice. Any defaults or other obligations under the Assigned Contracts shall be deemed cured by the Debtors' or the Purchaser's (as applicable) payment or other satisfaction of the Cure Costs, if any, associated with the Assigned Contracts. Payment of the applicable Cure Costs (if any), including any subsequent payments made after the Court's resolution of any dispute regarding the Cure Cost, shall, pursuant to section 365 of the Bankruptcy Code and other applicable law, (i) effect a cure, or provide adequate assurance of cure, of all defaults existing thereunder as of the Closing and (ii)

[5] Capitalized terms used in paragraph [17] but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Bid Procedures Order.

compensate, or provide adequate assurance of compensation, for any actual pecuniary loss to such non-Debtor party resulting from such default. Accordingly, on and as of the Closing Date, other than such payments, neither the Debtors nor the Purchaser shall have any further liabilities or obligations to the non-Debtor parties to the Assigned Contracts with respect to, and the non-Debtor parties to the Assigned Contracts shall be forever enjoined and barred from seeking, any additional amounts or claims (as defined in section 101(5) of the Bankruptcy Code) as a result of any defaults that arose, accrued or were incurred at any time on or prior to the Closing.

19. Cure Objections. Except as provided herein, all objections to the Debtors' calculation of Cure Costs with respect to any of the Assigned Contracts (each such objection, a "Cure Objection") have been overruled, withdrawn, waived, settled or otherwise resolved. Any Cure Objections as to applicable Cure Costs that have not been resolved by the parties may be heard at a later date as set by the Court. The pendency of a dispute relating to a particular Contract shall not prevent or delay the assumption or assignment of any other Contract or the closing of the Sale Transaction.

20. Disputed Contracts. In the event of an objection by a Contract/Lease Counterparty to the Cure Costs asserted by Debtors or to the Debtors' ability to assume and assign or reject any Contract (such contract, a "Disputed Contract"), and such objection has not been resolved by the Closing, then the Debtors, with the consent of the Purchaser, and in accordance with the Asset Purchase Agreement or this Order, may elect to (a) not assume and assign such Disputed Contract; or (b) postpone the assumption of such Disputed Contract until the resolution of such objection; *provided that*, in no event shall any Debtor settle a Cure Costs objection with regard to any Disputed Contract without the express written consent of Purchaser (with an email consent being sufficient). In the event that a dispute regarding a Disputed Contract has not been

resolved, pending resolution of the dispute pursuant to this Order, the Contract/Lease Counterparty to such Disputed Contract shall not have any claim against the Debtors or the Purchaser (or any of its Designees) for breach, infringement or any other similar type of claim for the use of any rights by the Purchaser under such Disputed Contract.

21. Adequate Assurance. The Purchaser has provided adequate assurance of future performance under the Assigned Contracts within the meaning of sections 365(b)(1)(C), 365(f)(2)(B) and 365(b)(3) (to the extent applicable) of the Bankruptcy Code. Any Assumption and Assignment Objections (as defined in the Bid Procedures) that have not been withdrawn, waived or settled and all reservations of rights included in such objections are hereby overruled on the merits with prejudice. All other requirements and conditions under sections 363 and 365 of the Bankruptcy Code for the Debtors' assumption and assignment of the Assigned Contracts to the Purchaser have been satisfied in accordance with the terms of this Order.

22. Anti-Assignment Provisions Unenforceable. No section or provision of any Contract that purports to (a) prohibit, restrict or condition the assignment of a Contract, including, but not limited to, the conditioning of such assignment on the consent of any Contract/Lease Counterparty to such Contract; (b) authorize the termination, cancellation or modification of a Contract based on the filing of a bankruptcy case, the financial condition of the Debtors or similar circumstances; (c) declare a breach or default as a result of a change in control in respect of the Debtors; or (d) provide for additional payments, profit sharing, penalties, conditions, renewals, extensions, charges or other financial accommodations in favor of the Contract/Lease Counterparty to a Contract, or modification of any term or condition upon the assignment of a Contract or the occurrence of the conditions set forth in subsection (b) above, shall have any force or effect, and any such section or provision constitutes an unenforceable anti-assignment provision

under section 365(f) of the Bankruptcy Code and/or is otherwise unenforceable under section 365(e) of the Bankruptcy Code.

23. Direction to Contract Counterparties. All Contract/Lease Counterparties to Assigned Contracts assigned to the Purchaser in accordance with the terms of this Order and the Asset Purchase Agreement shall cooperate with, and expeditiously execute and deliver upon, any reasonable request of the Purchaser for any instruments, applications, consents or other documents that may be required or requested by any governmental unit or other public or quasi-public authority or other party to effectuate the applicable transfers in connection with the Debtors' assumption and assignment of the Assigned Contracts to the Purchaser or the Purchaser's assignment to its designee(s) pursuant to this Order, as applicable.

24. Licenses and Permits. To the extent provided in the Asset Purchase Agreement and available under applicable law, the Purchaser shall be authorized, as of the Closing Date, to operate under any license, permit, registration and any other governmental authorization or approval of the Debtors with respect to the Acquired Assets and the Assigned Contracts, and all such licenses, permits, registrations and governmental authorizations and approvals are deemed to have been, and hereby are, directed to be transferred to the Purchaser as of the Closing Date. To the extent any license or permit necessary for the operation of the Acquired Assets is determined not to be an executory contract that may be assumed and assigned under section 365 of the Bankruptcy Code, the Purchaser shall apply for and obtain any necessary license or permit promptly after the Closing Date, and such license or permit of the Debtors shall remain in place for the Purchaser's benefit until a new license or permit is obtained. To the extent provided by section 525 of the Bankruptcy Code, no governmental unit may revoke or suspend any permit or license relating to the operation of the Acquired Assets sold, transferred or conveyed to the

Purchaser on account of the filing or pendency of these Chapter 11 Cases or the consummation of the Sale Transaction.

25. Good-Faith Purchaser. The Purchaser is a good-faith purchaser within the meaning of section 363(m) of the Bankruptcy Code and is entitled to all of the protections afforded thereby. Pursuant to section 363(m) of the Bankruptcy Code, if any or all of the provisions of this Order are hereafter reversed, modified or vacated by a subsequent order of this Court or any other court, such reversal, modification or vacatur shall not affect the validity or enforceability of any sale, transfer or assignment under the Asset Purchase Agreement or obligation or right granted pursuant to the terms of this Order (unless stayed pending appeal prior to the Closing Date) and, notwithstanding any reversal, modification or vacatur, any sale, transfer or assignment under the Asset Purchase Agreement, shall be governed in all respects by the original provisions of this Order or the Asset Purchase Agreement, as applicable.

26. No Avoidance. Neither the Sale Transaction nor the Asset Purchase Agreement is subject to avoidance, and no party is entitled to any damages or other recovery in connection therewith under section 363(n) of the Bankruptcy Code.

27. Bulk Sales. No bulk sales law, bulk transfer law or similar law of any state or other jurisdiction shall apply in any way to the Sale Transaction.

28. Amendments. The Asset Purchase Agreement may be amended, supplemented or otherwise modified by the parties thereto and in accordance with the terms thereof, without further order of the Court; provided that, any such amendment, supplement or modification shall not have a material adverse effect on the Debtors' estates.

29. Binding Order. This Order and the Asset Purchase Agreement shall be binding upon and govern the acts of all persons and entities, including without limitation, the

Debtors and the Purchaser, their respective successors and permitted assigns, including, without limitation, any chapter 11 trustee hereinafter appointed for the Debtors' estates or any trustee appointed in a chapter 7 case of any of the Debtors if any of these Chapter 11 Cases is converted from a case under chapter 11 to a case under chapter 7, all creditors of any and all of the Debtors (whether known or unknown), all Contract/Lease Counterparties to any Assigned Contracts and all Recording Officers. Neither the Sale Transaction nor the Asset Purchase Agreement shall be subject to rejection or avoidance under any circumstances. This Order and the Asset Purchase Agreement shall inure to the benefit of the Debtors, their estates, their creditors, the Purchaser and its respective successors and assigns.

30. Failure to Specify Provisions; Conflicts. The failure specifically to include or mention any particular provision of the Asset Purchase Agreement in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court, the Debtors and the Purchaser that the Asset Purchase Agreement be authorized and approved in its entirety, including any amendments thereto as may be made by the parties thereto in accordance with the terms thereof and this Order.

31. Further Assurances. From time to time, as and when requested, all parties to the Sale Transaction shall execute and deliver, or cause to be executed and delivered, all such documents and instruments and shall take, or cause to be taken, all such further or other actions as the requesting party may reasonably deem necessary or desirable to consummate the Sale Transaction, including such actions as may be necessary to vest, perfect, confirm, record or otherwise in the Purchaser its right, title and interest in and to the Acquired Assets and the Assigned Contracts.

32. Automatic Stay. The automatic stay pursuant to section 362 of the Bankruptcy Code is hereby modified to the extent necessary, without further order of the Court, to allow the Purchaser to deliver any notice provided for in the Asset Purchase Agreement and to take any and all actions permitted or required under the Asset Purchase Agreement in accordance with the terms and conditions thereof.

33. No Stay of Order. Notwithstanding Bankruptcy Rules 6004(h), 6006(d), and 7062 and any applicable Local Rules, this Order shall not be stayed and shall be effective and enforceable immediately upon entry. The provisions of this Order shall be self-executing. Time is of the essence in implementing the Asset Purchase Agreement and closing the Sale Transaction. Any party objecting to this Order or any of the relief granted herein must exercise due diligence in filing an appeal and obtaining a stay prior to the Closing of the Sale Transaction or risk its appeal being foreclosed as moot.

34. Governing Terms. To the extent this Order is inconsistent with any prior order or pleading in these Chapter 11 Cases, the terms of this Order shall govern. To the extent there is any inconsistency between the terms of this Order and the terms of the Asset Purchase Agreement, the terms of this Order shall govern.

35. Retention of Jurisdiction. This Court shall retain exclusive jurisdiction to (a) interpret, implement and enforce the terms and provisions of this Order, the Asset Purchase Agreement, including all amendments thereto and any waivers and consents thereunder and each of the agreements executed in connection therewith; and (b) decide any issues or disputes concerning this Order, the Asset Purchase Agreement or the rights and duties of the parties hereunder or thereunder, including the interpretation of the terms, conditions and provisions hereof and thereof, and the status, nature and extent of the Acquired Assets and the Assigned Contracts.

36. Debtors' Authorization. The Debtors are authorized and empowered to take all actions necessary or appropriate to implement the relief granted in this Order.

37. Government Treatment. Notwithstanding any provision to the contrary in this Order, the Asset Purchase Agreement, or any other sale document (collectively, "Sale Documents"), nothing shall: (i) release, nullify, preclude, or enjoin the enforcement of any police or regulatory power or any liability that any entity would be subject to as the owner, lessor, lessee, or operator of property that such entity owns, operates, or leases after the date of entry of this Order; (ii) affect the setoff or recoupment rights of the United States; (iii) confer exclusive jurisdiction to the Bankruptcy Court except to the extent set forth in 28 U.S.C. § 1334 (as limited by any other provisions of the United States Code); (iv) authorize the assumption, assignment, sale, or other transfer of any federal or state (a) grants, (b) grant funds, (c) property acquired or improved with grant funds, (d) contracts, (e) agreements, (f) awards, (g) task orders, (h) property, (i) intellectual property, (j) patents, (k) leases, (l) certifications, (m) applications, (n) registrations, (o) billing numbers, (p) national provider identifiers, (q) provider transaction access numbers, (r) licenses, (s) permits, (t) covenants, (u) inventory, (v) guarantees, (w) indemnifications, (x) data, (y) records, or (z) any other interests belonging to the United States or any state (collectively, "Governmental Interests") without compliance by the Debtors and the Purchaser with all terms of the Governmental Interests and with all applicable non-bankruptcy law; (v) be interpreted to set cure amounts or to require the United States or any state to novate, approve, or otherwise consent to the sale, assumption, assignment, or other transfer of any Governmental Interests; (vi) expand the scope of 11 U.S.C.§ 525; (vii) waive, alter, or otherwise limit the United States' rights with respect to any licenses in the Acquired Assets arising pursuant to applicable non-bankruptcy law, including any rights arising under the Bayh-Dole Act (35 U.S.C. 201 *et seq*.); or (viii) affect the

Debtors' or Purchaser's requirements to comply with applicable non-bankruptcy law, including, but not limited to, the Bayh-Dole Act (35 U.S.C. 201 *et seq*.).

38. DOE Specific Language. Notwithstanding any provision to the contrary in the Sale Documents, nothing shall affect or impair the rights or interests of the U.S. Department of Energy with respect to any property funded, purchased, improved or developed with the Assistance Award DE-MS0000002 (the "Funded Property") pursuant to the terms and conditions of the Assistance Award DE-MS0000002, and the Funded Property shall continue to be subject to all the terms, conditions, and restrictions imposed by Assistance Award DE-MS0000002, its terms and conditions and 2 C.F. R. Parts 200 and 910. Any future disposition of or other action concerning the Funded Property shall comply with the Assistance Award DE-MS0000002's terms and conditions and all applicable non-bankruptcy law. Notwithstanding the foregoing, all of Purchaser's rights are reserved with respect to the foregoing, including the Assistance Award DE-MS0000002.

39. Conflict. In the event of an inconsistency or conflict between any provision of the Sale Documents and any provision of this Order, as to the United States or any state, the provisions of this Order and federal and state law shall govern.

Signed: June ____, 2026

CHRISTOPHER LOPEZ
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

[*To be mutually agreed to by Seller and Purchaser between the Effective Date and the Closing Date.*]

EXHIBIT C

FORM OF LEASE ASSIGNMENT AGREEMENT

[*To be mutually agreed to by Seller and Purchaser between the Effective Date and the Closing Date.*]

EXHIBIT D

FORM OF COVINGTON IP LICENSE AGREEMENT

[*To be mutually agreed to by Seller and Purchaser between the Effective Date and the Closing Date.*]

EXHIBIT E

FORM OF TRANSITION SERVICES AGREEMENT

[*To be mutually agreed to by Seller and Purchaser between the Effective Date and the Closing Date.*]

Final Form

DISCLOSURE SCHEDULE

As of June 19, 2026

This Disclosure Schedule is made and given pursuant to Article III of the Asset Purchase Agreement, dated as of June 19, 2026 (the "**Agreement**"), by and among Ascend Elements, Inc. (the "**Seller**") and R3 Lithium, Inc. (the "**Purchaser**"). All capitalized terms used but not defined herein shall have the meanings as defined in the Agreement, unless otherwise provided. The schedule numbers below correspond to the section numbers of the representations and warranties in the Agreement; provided, however, that any information disclosed herein under any schedule number shall be deemed to be disclosed and incorporated into any other schedule number, in each case only to the extent the applicability of such disclosure to such schedule of this Disclosure Schedule is readily apparent on the face of such disclosure. Nothing in this Disclosure Schedule is intended to broaden the scope of any representation or warranty contained in the Agreement or to create any covenant, except to the extent expressly set forth in the Agreement. Inclusion of any item in this Disclosure Schedule (1) does not represent a determination that such item is material or establish a standard of materiality, (2) does not represent a determination that such item did not arise in the ordinary course of business, (3) does not represent a determination that the transactions contemplated by the Agreement require the consent of third parties, and (4) shall not constitute, or be deemed to be, an admission to any third party concerning such item. This Disclosure Schedule includes brief descriptions or summaries of certain agreements and instruments and such descriptions do not purport to be comprehensive, and are qualified in their entirety by reference to the text of the documents described, true and complete copies of which have been provided to the Purchaser.

Schedule 1.1(a)
Acquired Leased Real Property

1. Lease Agreement dated December 31, 2021, by and between Covington Industrial LLC, as landlord, and the Seller, as tenant, regarding property located at 9176 Industrial Drive Northeast, Covington, Georgia 30014, as amended by that certain First Amendment to Lease Agreement, effective as of January 7, 2025, by and between Covington Industrial LLC, as landlord, and the Seller, as tenant (the "Covington Industrial Lease Agreement").

2. Lease Agreement dated May 8, 2023, by and between J. Hart Properties, LLC, as landlord, and the Seller, as tenant, regarding property located at 10157 Industrial Drive, Covington, Georgia 30014 (the "J. Hart Lease Agreement").

Schedule 1.1(b)
Assigned Contracts

1. Covington Industrial Lease Agreement
2. J. Hart Lease Agreement

See attached.

Schedule 1.1(a)

Assigned Contracts

Counterparty	Debtor	Lease/Contract Description	Location	Contract Type	Original Cure Amount	Negotiated Settlement	Updated Cure	Cure Notes
ADP, INC.	Ascend Elements, Inc.	AMENDMENT TO GLOBAL MASTER SERVICES AGREEMENT, DATED 11/25/2025	Enterprise	Payroll	$0.00	N	$0.00	
ADVANCED METAL RESOURCES	Ascend Elements, Inc.	SALES AGREEMENT, DATED 11/06/2025	Enterprise	Customer	$0.00	N	$0.00	
AESC UK PLANT 2 LIMITED	Ascend Elements, Inc.	BATTERY FEEDSTOCK AGREEMENT, DATED 04/16/2025	Elemental / Covington	Feedstock	$0.00	N	$0.00	
AKASOL INC.	Ascend Elements, Inc.	BATTERY RECYCLING MATERIAL PURCHASE AGREEMENT, DATED 06/26/2024	Covington	Feedstock	$0.00	N	$0.00	
AON CONSULTING, INC.	Ascend Elements, Inc.	10/31/2025	Enterprise	Employee Benefits (Broker)	$0.00	N	$0.00	
ASAP PROFESSIONAL SERVICES	Ascend Elements, Inc.	BATTERY FEEDSTOCK	Enterprise	Customer	$0.00	N	$0.00	
ASAP PROFESSIONAL SERVICES	Ascend Elements, Inc.	BATTERY FEEDSTOCK	Enterprise	Customer	$0.00	N	$0.00	
AXIOM STAFFING GROUP	Ascend Elements, Inc.	MASTER SERVICE AGREEMENT, DATED 01/12/2024	Covington	Staffing Agency	$3,644.28	$0.00	$0.00	
B2B VOLKSWAGON	Ascend Elements, Inc.	BATTERY FEEDSTOCK, DATED 01/30/2026	Covington	Feedstock	$0.00	N	$0.00	
B2B VOLKSWAGON	Ascend Elements, Inc.	PRODUCT SALES AGREEMENT, DATED 01/29/2026	Covington	Feedstock	$0.00	N	$0.00	
BLUEOVAL SK, LLC (BOSK)	Ascend Elements, Inc.	SCRAP SALE/DISPOSAL AGREEMENT, DATED 01/23/2026	Covington	Feedstock	$0.00	N	$0.00	
BLUE WHALE MATERIALS, LLC	Ascend Elements, Inc.	TOLLING PROGRAM AGREEMENT, DATED 9/18/2025	Covington	Tolling	$24,025.65	N	$24,025.65	
CABLE MANAGEMENT LLC	Ascend Elements, Inc.	EXECUTED ESTIMATE, DATED 02/03/2022	Covington	Spars for Dry-Shred	$0.00	N	$0.00	
CIRBA SOLUTIONS	Ascend Elements, Inc.	TOLLING AGREEMENT, DATED 11/11/2025	Covington	Tolling	$0.00	N	$0.00	
CITY OF COVINGTON	Ascend Elements, Inc.	INDUSTRIAL WASTEWATER DISCHARGE PERMIT, DATED 11/09/2023	Covington	Permits	$7,614.18	N	$7,614.18	
CITY OF COVINGTON	Ascend Elements, Inc.	PERMIT, DATED 08/22/2025	Covington	Permits	$0.00	N	$0.00	
COVINGTON INDUSTRIAL LLC	Ascend Elements, Inc.	LEASE AGREEMENT, DATED 12/31/2021	Covington	Lease	$838,000.00	N	$838,000.00	Latest cure proposal - $400k
DESCARTES SYSTEMS (USA) LLC	Ascend Elements, Inc.	MASTER SERVICES AGREEMENT (MSA), DATED 07/09/2025	Enterprise	Supplier Screening Serv	$0.00	N	$0.00	
DESCARTES SYSTEMS (USA) LLC	Ascend Elements, Inc.	OTHER, DATED 07/11/2025	Enterprise	Supplier Screening Serv	$0.00	N	$0.00	
ECO-BAT TECHNOLOGIES LIMITED	Ascend Elements, Inc.	TOLLING AGREEMENT, DATED JUL, 2025	Covington	Tolling	$0.00	N	$0.00	
ECOVERSE SOLUTIONS	Ascend Elements, Inc.	BATTERY FEEDSTOCK - CUSTOMER	Enterprise	Customer	$0.00	N	$0.00	
ECOVERSE SOLUTIONS	Ascend Elements, Inc.	BATTERY FEEDSTOCK, DATED 12/17/2025	Enterprise	Customer	$0.00	N	$0.00	
EIKON-X LLC	Ascend Elements, Inc.	ENGAGEMENT LETTER, DATED NOV, 2025	Enterprise	IT Subcontractor	$22,855.40	$0.00	$0.00	
EIKON-X LLC	Ascend Elements, Inc.	CONSULTING SERVICES AGREEMENT , DATED NOV, 2025						
ENTEC SYSTEMS INC	Ascend Elements, Inc.	GENERAL SERVICES AGREEMENT	Covington	Fire Protection Services/monitoring	$10,034.00	$5,434.00	$5,434.00	
FISHER SCIENTIFIC CO. LLC	Ascend Elements, Inc.	PARTNER PLUS AGREEMENT, DATED 05/20/2024	Enterprise	Lab Equipment	$7,744.12	N	$7,744.12	
FIVE STAR BREAKTIME SOLUTIONS, INC	Ascend Elements, Inc.	MARKET SERVICES AGREEMENT, DATED 07/01/2025	Covington	breakroom supplies	$0.00	N	$0.00	
FORD MOTOR COMPANY LIMITED	Ascend Elements, Inc.	FORD MOTOR COMPANY, GLOBAL ASSET MANAGEMENT SALES AGREEMENT, DATED 12/15/2024	Covington	Feedstock	$0.00	N	$0.00	
GEORGIA ENVIRONMENTAL PROTECTION DIVISION	Ascend Elements, Inc.	EXECUTED AIR QUALITY PERMIT, DATED 12/06/2022	Covington	Regulatory	$0.00	N	$0.00	
GLENCORE LTD.	Ascend Elements, Inc.	SALES AGREEMENT, DATED SEP, 2025	Enterprise	Customer	$0.00	N	$0.00	
GOSHEN GUARD LLC	Ascend Elements, Inc.	SERVICE AGREEMENT, DATED 05/18/2023	Covington	Security	$72,788.57	$36,400.00	$36,400.00	
HILLER COMPANIES, LLC	Ascend Elements, Inc.	CONSULTING SERVICES AGREEMENT, DATED JAN, 2026	Covington	EPA Environmental	$42,765.00	N	$42,765.00	Latest cure proposal - $22,765
HONDA TRADING AMERICA CORPORATION	Ascend Elements, Inc.	SALE OF GOODS AGREEMENT, DATED 10/01/2024	Covington	HSE OSHA	$0.00	N	$0.00	
J. HART PROPERTIES	Ascend Elements, Inc.	LEASE AGREEMENT, DATED 05/08/2023	Covington	Warehouse	$2,038.76	N	$2,038.76	
J. HART PROPERTIES	Ascend Elements, Inc.	LANDLORD CONSENT AGREEMENT, DATED JANUARY 2026	Covington	WAREHOUSE				
J. HART PROPERTIES	Ascend Elements, Inc.	TERMINATION LETTER, DATED OCTOBER 2025	Covington	WAREHOUSE				
JAGUAR LAND ROVER LIMITED	Ascend Elements, Inc.	SUPPLEMENTAL TERMS AND CONDITIONS TO JAGUAR LAND ROVER LIMITED AND AFFILIATES GLOBAL TERMS AND CONDITIONS FOR NON-PRODUCTION SERVICES; DATED 11/01/2024	Covington	Feedstock	$0.00	N	$0.00	
KPA / NOVARA	Ascend Elements, Inc.	SOFTWARE AGREEMENT, DATED 04/29/2025	Enterprise	OSHA training	$0.00	N	$0.00	
LUCID USA, INC.	Ascend Elements, Inc.	TERMS AND CONDITIONS FOR THE SALE OF SCRAP LITHIUM-ION BATTERIES; DATED 02/01/2023	Covington	Feedstock	$0.00	N	$0.00	
LUCID USA, INC.	Ascend Elements, Inc.	PRODUCT SALE AGREEMENT, DATED 04/22/2024	Covington	Feedstock	$0.00	N	$0.00	
MEXICHEM FLUOR INC. ("KOURA")	Ascend Elements, Inc.	JOINT DEVELOPMENT AGREEMENT, DATED 08/19/2020	Enterprise	Customer	$0.00	N	$0.00	
MEXICHEM FLUOR INC. ("KOURA")	Ascend Elements, Inc.	MULTI YEAR SUPPLY AGREEMENT, AS AMENDED, DATED 10/07/2022	Enterprise	Customer	$0.00	N	$0.00	
MINDSHARE PR, INC	Ascend Elements, Inc.	PUBLIC RELATIONS AGREEMENT, DATED SEP, 2025	Enterprise	Pro Services - PR	$0.00	N	$0.00	
ORACLE AMERICA, INC	Ascend Elements, Inc.	SOFTWARE SERVICE AGREEMENT, DATED 10/02/2025	Enterprise	DCMS	$0.00	N	$0.00	
ORACLE AMERICA, INC	Ascend Elements, Inc.	SOFTWARE SERVICE AGREEMENT, DATED JUN, 2025	Enterprise	Cost Control Module	$0.00	N	$0.00	
PLANET ENVIRONMENTAL SOLUTIONS, LLC.	Ascend Elements, Inc.	BATTERY RECYCLING MATERIAL PURCHASE AGREEMENT	Covington	Feedstock	$0.00	N	$0.00	
POLARIUM INC.	Ascend Elements, Inc.	BATTERY RECYCLING MATERIAL PURCHASE AGREEMENT	Covington	Feedstock	$0.00	N	$0.00	
PRINCIPAL LIFE INSURANCE COMPANY; DELAND, GIBSON INSURANCE ASSOCIATES, INC.	Ascend Elements, Inc.	PRINCIPAL 2025 RENEWAL, DATED 11/20/2024	Enterprise	Employee Benefits	$0.00	N	$0.00	
Ramboll Americas Engineering Solutions Inc	Ascend Elements, Inc.	MSA of 2/13/24, several POs	Enterprise	EHS AIR PERMITTING	$19,250.58	N	$19,250.58	Latest cure proposal - $5,000
RED WING BRANDS OF AMERICA, INC	Ascend Elements, Inc.	SERVICE AGREEMENT, DATED 08/24/2024	Enterprise	HSE OSHA (Shoes)	$380.19	N	$380.19	
SAMSUNG SDI CO. LTD.; JAE YOUNG TECH CO., LTD	Ascend Elements, Inc.	AMENDED AND RESTATED TRIAL TEST AGREEMENT, DATED 01/17/2024	Covington	Feedstock	$0.00	N	$0.00	
SIEMENS INDUSTRY, INC	Ascend Elements, Inc.	PROFESSIONAL SERVICE AGREEMENT (PSA), DATED 09/17/2025	Enterprise	HSE EMERGENY RESPONSE SYSTEM	$0.00	N	$0.00	
SK BATTERY AMERICA, INC	Ascend Elements, Inc.	BATTERY FEEDSTOCK , DATED 09/26/2023	Covington	Feedstock	$0.00	N	$0.00	
SK BATTERY AMERICA, INC	Ascend Elements, Inc.	QUOTATION FOR SCRAP RFQ RESPONSE NARRATIVE - 2021-10-6 QUOTATION NO. Q210820461, DATED 10/06/2021	Covington	Feedstock	$0.00	N	$0.00	
SK BATTERY AMERICA, INC	Ascend Elements, Inc.	SCRAP SALE/DISPOSAL AGREEMENT, DATED 01/01/2024	Covington	Feedstock	$0.00	N	$0.00	
STARPLUS ENERGY	Ascend Elements, Inc.	SCRAP MATERIALS SALES AGREEMENT, DATED 11/05/2024	Covington	Feedstock	$312,040.48	$218,428.34	$218,428.34	

Schedule 1.1(a)

Assigned Contracts

TEAM INDUSTRIAL SERVICES, INC	Ascend Elements, Inc.	TEAM INDUSTRIAL PROFESSIONAL SERVICES AGREEMENT, DATED 06/10/2024	Covington	HSE - Leak Detection and Repairs	$2,070.20	N	$2,070.20	
TESLA	Ascend Elements, Inc.	AMENDED AND RESTATED PRODUCTION PRICING AGREEMENT FOR BATTERY RAW MATERIALS; DATED 12/01/2025	Enterprise	Customer	$0.00	N	$0.00	
TRAFIGURA TRADING LLC	Ascend Elements, Inc.	PURCHASE CONTRACT, DATED 10/08/2025	Enterprise	Customer	$0.00	N	$0.00	
UNITED HEALTHCARE INSURANCE COMPANY	Ascend Elements, Inc.	LIFE POLICY_373711, DATED 01/01/2026	Enterprise	Employee Benefits	$0.00	N	$0.00	
UNITED HEALTHCARE INSURANCE COMPANY	Ascend Elements, Inc.	STD_LTD POLICY_373711, DATED 01/01/2026	Enterprise	Employee Benefits	$0.00	N	$0.00	
VEOLIA ES TECHNICAL SOLUTIONS, LLC	Ascend Elements, Inc.	RECYCLING/RECLAMATION SERVICES AGREEMENT (MODIFIED), DATED 11/01/2023	Covington	Feedstock	$0.00	N	$0.00	
VIATEC, INC.	Ascend Elements, Inc.	BATTERY RECYCLING MATERIAL PURCHASE AGREEMENT, DATED 01/31/2025	Covington	Feedstock	$0.00	N	$0.00	
VOLKSWAGON	Ascend Elements, Inc.	USER AGREEMENT, DATED 01/30/2026	Covington	Feedstock	$0.00	N	$0.00	
WASTE MANAGEMENT	Ascend Elements, Inc.	WASTE MANAGEMENT AGREEMENT, DATED 11/24/2025	Covington	Trash PU	$0.00	N	$0.00	
COVINGTON TRANSFER & STORAGE LLC	Ascend Elements, Inc.	LEASE AGREEMENT, DATED 09/01/2022	Covington	EQUIPMENT	$0.00	N	$0.00	
COVINGTON TRANSFER & STORAGE LLC	Ascend Elements, Inc.	LEASE AGREEMENT, DATED 09/01/2022	Covington	EQUIPMENT	$0.00	N	$0.00	
TOTAL QUALITY LOGISTICS	Ascend Elements, Inc.	PARKING AGREEMENT, DATED 01/13/2025	Covington	Parking lot	$443,335.00	$261,500.00	$261,500.00	Still pending but TQL countered $261,500
TOTAL QUALITY LOGISTICS	Ascend Elements, Inc.	LOGISTIC AGREEMENT, DATED 01/08/2025		Transportation				
TOTAL QUALITY LOGISTICS	Ascend Elements, Inc.	LOGISTIC AGREEMENT, DATED 11/08/2024						
METRO TRAILER LEASING	Ascend Elements, Inc.	PROFESSIONAL SERVICES AGREEMENT, DATED 04/26/2024	Covington	Trailer Rental for Battery Storage	$193,632.00	$60,000.00	$60,000.00	
DOCUSIGN, INC.	Ascend Elements, Inc.	Document E-Signature Order Form, DATED 8/4/2022	Enterprise	IT	$0.00	N	$0.00	
ATERA NETWORKS LTD.	Ascend Elements, Inc.	EXECUTED QUOTE, DATED 01/28/2026	Enterprise	IT	$327.69	N	$327.69	
NAVEX GLOBAL UK LTD	Ascend Elements, Inc.	SERVICE AGREEMENT, DATED 02/26/2024 (WhistleB	Software		$0.00	N	$0.00	
VELOCITYEHS HOLDINGS, INC.	Ascend Elements, Inc.	MASTER SUBSCRIPTION AND SERVICES AGREEMENT, DATED 12/19/2024	Enterprise	IT - EHS	$199.98	N	$199.98	
				Total	**$2,002,746.08**		**$1,526,178.69**	

Schedule 1.1(e)
Tangible Assets and Personal Property Not Located at Acquired Leased Real Property

See attached.

Schedule 1.1(e)

Tangible Assets (Westborough)

Type	Equipment	Accessories	Number	Purpose
Benchtop development	Rotary kiln	Tubing, scrubber, manual	1	BM roasting
	Box furnace	Vacuum pump and tubing	1	BM roasting
	Ovens		2	BM and product drying
	Mixers		3	BM leaching
	Beakers	4L, 2L, and other sizes	10	BM leaching and benchtop processes
	Chillers		2	BM leaching
	5L reactors	Agitator, stand, etc.	2	Precipitation or dissolution
	Columns	Pumps, containers, etc.	3	Purification
	Funnels	Filter papers, filter flasks	5	Filtration, separation
	Pumps	Tubing	3	Feeding
	Balances		2	Weighing BM or product
	Sieve shaker	Screens	1	BM sieving
	pH meters and probes		3	Leaching/precipitation pH measurement and cocntrol
	Vacuum pumps		3	
	Jacketed beaker		2	
Analytical	ISE		1	F measurement
	Density meter		1	Density measurement
Tech grade Li Pilot Line	400L reactors	Tubing, pH transmitters and probes	2	Leaching and precipitation
	BM filter press	Tubing, pressure gages, bin, etc.	1	BM filtration and separation
	Li product filter press	Tubing, pressure gages, bin, etc.	1	Li product filtration
	Pilot heater	Tubing	1	For precipitation tank
	Cone bottom tank	Pumps	1	Solution storage
	pH transmitter	Probes, cable, etc.	2	For reactors
	Drager gas analyzer	Tubing, scrubber, manual	1	Gas analysis

Schedule 1.1(e)
Tangible Assets (Marsh)

Owner	LOCATION	PO # or Orignal Process	MM Tracking # (Tag- ID, Serial #)	Line #	Nomenclature (general specs if availble)	Model or Specifications	PO /Google Cost Estimate	Photos
Ascend	Marsh		NA		Electric Cabinet		$600.00	Alibaba Mkt. China 380 V
Ascend	Marsh		SX30-2		Electric Cabinet	5 Starters, 10 General Purpose Relays, 5 3Pole Circuit Breakers, 1 2Pole Circuit Breaker, 5 Red Pilot, 5 Green Pilot, 5 yellow pilot, 5 Green Push Buttons, 5 Red Push Buttons, 5 Selector Switches	$600.00	Alibaba Mkt. China 380 V
Ascend	Marsh		SX30-1		Electric Cabinet	6 Starters, 12 General Purpose Relays, 6 3Pole Circuit Breakers, 1 2Pole Circuit Breakers, 6 Red Pilos, 6 Green Pilots, 6 yellow pilots, 6 Green Push Buttons, 6 Red push buttons, 6 Selector Switch	$600.00	Alibaba Mkt. China 380 V
Ascend	Marsh		AA01		Electric Cabinet	5 Starters, 1 Main Circuit Breaker, 5 Selector Switch, 11 Green Pilots, 11 Red Pilots, 11 Yellow Pilots, 11 Green Push Buttons, 11 Red Push Buttons, 12 General Purpose Relays	$600.00	Alibaba Mkt. China 380 V
Ascend	Marsh		AA02		Electric Cabinet	6 Starters, 1 Main Circuit Breaker, 5 Selector Switch, 11 Green Pilots, 11 Red Pilots, 11 Yellow Pilots, 11 Green Push Buttons, 11 Red Push Buttons, 12 General Purpose Relays	$600.00	Alibaba Mkt. China 380 V
Ascend	Marsh		SX30-4		Electric Cabinet	3ABB, 480V, 2.1A VFDs, Asstd Circuit Breakers, Main CB w/ Door Operator, 1 Fan, 1 Panel Light	$600.00	Alibaba Mkt. China 380 V
Ascend	Marsh		SX30-5		Electric Cabinet	3ABB, 480V, 2.1A VFDs, Asstd Circuit Breakers, Main CB w/ Door Operator, 1 Fan, 1 Panel Light	$600.00	Alibaba Mkt. China 380 V
Ascend	Marsh		SX20		Electric Cabinet	5 3Phase Main Circuit Breakers, Asstd Circuit Breakers, 1 Fan, 2 Lights	$600.00	Alibaba Mkt. China 380 V
Ascend	Marsh		SX10-1		Electric Cabinet	6 Yellow Pilots, 6 Red Pilots, 6 Green Pilots, 6 Selector Switches, 6 Red Push Buttons, 6 Green Push Buttons, Main Circuit Breaker, 6 Starters, 6 General Purpose Relays, 8 3pole Circuit Breakers, 1 2Pole Circuit Breaker	$600.00	Alibaba Mkt. China 380 V
Ascend	Marsh		SX20-5		Electric Cabinet	7 Drives ABB, Main Circuit Breaker, Panel Light, Fan	$600.00	Alibaba Mkt. China 380 V
Ascend	Marsh		SX01-2		Electric Cabinet	3 Mitsibishi Drives, 380-500v AC, 3A meters, 1 V Meter	$600.00	Alibaba Mkt. China 380 V
Ascend	Marsh		SX01-3		Electric Cabinet	Main Circuit Breaker, Fuse Holders, 3A Meter, 9 ABB Starters, 14 Relays, 1V Meter	$600.00	Alibaba Mkt. China 380 V
Ascend	Marsh	Covington Electric	SX01-1		Electric Cabinet	Main Circuit Breaker, Fuse Holders, 3A Meter, 3 Mitsibish VFDs, 3 Line Reactors, Asstd Overloads, 3 HIM	$600.00	Alibaba Mkt. China 380 V
Ascend	Marsh		SX20-2		Electric Cabinet	3 VFDs ABB, 3ABB Line Filters, 3 HIM, Fan, Light	$600.00	Alibaba Mkt. China 380 V
Ascend	Marsh		SX01		Electric Cabinet	Main Circuit Breaker, Assorted Circuit Breakers, 3 Amp Meters, 1 Volt Meter, 1 Fan, 1 light	$600.00	Alibaba Mkt. China 380 V
Ascend	Marsh		SX20-1		Electric Cabinet	3 ABB VFDs, 3 HIM, 3 ABB Line Filters, Assorted Circuit Breakers, Light, Van	$600.00	Alibaba Mkt. China 380 V
Ascend	Marsh		SX10-2		Electric Cabinet	Disconnect, 9 Circuit Breakers, 5 Starters, 10 General Purpose Relays, 5 Selector Switches, 5 Red Push Buttons, 5 Green Push Buttons, 5 Red Pilots, 5 Yellow Pilots, 5 Green Pilots, Main Circuit Breaker	$600.00	Alibaba Mkt. China 380 V
Ascend	Marsh		SX10-3		Electric Cabinet	5 Red Pilots, 5 Green Pilots, 5 Yellow Pilots, 5 Red Push Buttons, 5 Green Push Buttons, 5 Selector Switches, 5 Starters, 10 General Purpose Relays, 5 3Pole Circuit Breakers, 1 2Pole Circuit Breakers, Main Circuit Breake	$600.00	Alibaba Mkt. China 380 V
Ascend	Marsh		SX20-3		Electric Cabinet	5 Red Pilots, 5 Green Pilots, 5 Yellow Pilots, 5 Red Push Buttons, 5 Green Push Buttons, 5 Selector Switches, 5 Starters, 10 General Purpose Relays, 5 3Pole Circuit Breakers, 1 2Pole Circuit Breakers, Main Circuit Breake	$600.00	Alibaba Mkt. China 380 V
Ascend	Marsh		PLC-2		Electric Cabinet	Can't Access Inside	$900.00	Alibaba Mkt. US Voltage
Ascend	Marsh		1#PLC-1		Electric Cabinet	Can't Access Inside	$900.00	Alibaba Mkt. US Voltage
Ascend	Marsh		PLC		Electric Cabinet	Can't Access Inside	$900.00	Alibaba Mkt. US Voltage
Ascend	Marsh		SX20-4		Electric Cabinet	Fan, Light, Main Circuit Breaker, 7 VFDs ABB	$600.00	Alibaba Mkt. China 380 V
Ascend	Marsh		SX10-		Electric Cabinet	6 Red Pilots, 6 Green Pilots, 6 Yellow Pilots, 6 Green Push Buttons, 6 Red Push Buttons, 6 Starters, 12 General Purpose Relays, Main Circuit Breaker	$600.00	Alibaba Mkt. China 380 V
Ascend	Marsh		SX10		Electric Cabinet			
Ascend	Marsh		No Tag			1: Main Switch, 2: Switch w/ 4 Breakers, 3: Open Space, 4: 800amp/700 trip, 800amp, 600 trip, 800 amp/ 600		
Ascend	Marsh		No Tag					

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Tangible Assets (Marsh)

Ascend	Marsh		No Tag			4: 800amp/ 700 trip, 800amp, 600 trip, 800 amp/ 600 trip, 800amp frame/600 trip, 400amp frame/ 400 trip		
Ascend	Marsh		No Tag					
Ascend	Marsh		3#PLC-2			Eaton MSB 2		
Ascend	Marsh		3#PLC-1			Eaton MSB 3		
Ascend	Marsh		C002049		Filter Press, PO 2775	630-8-AOP-15-MAN4 (Filter Press 1)	$9,000.00	Engineering - Weave Filter Press 2.pdf - All Documents (sharepoint.co
Ascend	Marsh		C002049		Filter Press, PO 2775	630-8-AOP-15-MAN4 (Filter Press 2)	$9,000.00	Engineering - Weave Filter Press 2.pdf - All Documents (sharepoint.co
Ascend	Marsh	Covington Mechanical	EM15		Magnetic Remover	Green Frame	$45,000.00	Engineering - EM15 -Chanzhou Electro Mag Eperstor.pdf - All Docume
Ascend	Marsh		P-12001		Pump	C7 (4x3x10H) / D, 8.84 in trim, 10HP, 1750 RPM	$14,426.00	
Ascend	Marsh		P-12002		Pump	A3 (3x1.5x6) / C 4.75 in trim, 5HP, 3500	$7,234.00	
Ascend	Marsh		P-12006		Pump	A3 (3x1.5x6) / C 4.725 in trim, 5HP, 3500 RPM	$7,234.00	
Ascend	Marsh		P-12007		Pump	A3 (3x1.5x6) / C 4.725 in trim, 5HP, 3500 RPM	$7,234.00	
Ascend	Marsh		P-12008		Pump	A3 (3x1.5x6) / C 4.725 in trim, 5HP, 3500 RPM	$7,234.00	
Ascend	Marsh		P-12010		Pump	A1 (1.5x1x6) / C 4.45 in trim, 3HP, 3500 RPM	$6,452.00	
Ascend	Marsh		P-12011		Pump	A1 (1.5x1x6) / C 4.45 in trim, 3HP, 3500 RPM	$6,452.00	
Ascend	Marsh		P-12020		Pump	A3 (3x1.5x6) / C 4.725 in trim, 5HP, 3500 RPM	$7,234.00	
Ascend	Marsh		P-12024		Pump	A1 (1.5x1x6) / C 4.45 in trim, 3HP, 3500 RPM	$6,452.00	
Ascend	Marsh		P-12029		Pump	C7 (4x3x10H) / F (spiral), 10.275 in trim, 20 HP, 1750RPM	$17,143.00	
Ascend	Marsh		P-12030		Pump	A3 (3x1.5x6) / C 4.725 in trim, 5HP, 3500 RPM	$7,234.00	
Ascend	Marsh		P-12031		Pump	A3 (3x1.5x6) / C 4.725 in trim, 5HP, 3500 RPM	$7,234.00	
Ascend	Marsh		P-12033		Pump	C6 (4x3x10) / D, 8.5 in trim, 7.5 HP, 1750 RPM	$14,108.00	
Ascend	Marsh		P-12034		Pump	A3 (3x1.5x6) / C 4.725 in trim, 5HP, 3500 RPM	$7,234.00	
Ascend	Marsh		P-12036		Pump	A1 (1.5x1x6) / C 4.45 in trim, 3HP, 3500 RPM	$6,452.00	
Ascend	Marsh		P-12037		Pump	A1 (1.5x1x6) / C 4.45 in trim, 3HP, 3500 RPM	$6,452.00	
Ascend	Marsh		P-12042		Pump	C7 (4x3x10H) / F, 10.275 in trim, 20HP, 1750	$16,348.00	
Ascend	Marsh	1952	P-12045		Pump	C7 (4x3x10H) / F, 10.275 in trim, 20HP, 1750	$15,918.00	
Ascend	Marsh		P-12048A		Pump	C7 (4x3x10H) / F, 10.275 in trim, 20HP, 1750	$16,348.00	
Ascend	Marsh		P-12048B		Pump	C7 (4x3x10H) / F, 10.275 in trim, 20HP, 1750	$16,348.00	
Ascend	Marsh		P-12049B		Pump	A1 (1.5x1x6) / C, 5.125 in trim, 3HP, 3500 RPM	$6,501.00	
Ascend	Marsh		P-12051		Pump	C7 (4x3x10H) / F, 10.275 in trim, 20HP, 1750	$15,918.00	
Ascend	Marsh		P-12054		Pump	C7 (4x3x10H) / F, 10.275 in trim, 20HP, 1750	$15,918.00	
Ascend	Marsh		P-12055		Pump	A1 (1.5x1x6) / C 4.45 in trim, 3HP, 3500 RPM	$6,452.00	
Ascend	Marsh		P-12057		Pump	C7 (4x3x10H) / F, 10.275 in trim, 20HP, 1750	$16,348.00	
Ascend	Marsh		P-12083		Pump	A1 (1.5x1x6) / C, 5.125 in trim, 3HP, 3500 RPM	$6,501.00	

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Tangible Assets (Marsh)

Ascend	Marsh		P-12087		Pump	C6 (4x3x10) / F, 6.75 in trim, 20 HP, 3500 RPM	$17,111.00	
Ascend	Marsh		P-12090		Pump	A1 (1.5x1x6) / C, 5.125 in trim, 3HP, 3500 RPM	$6,501.00	
Ascend	Marsh		P-12099A		Pump	C9 (6x4x8) / G, 7.25 in Trim, 40HP, 3500 RPM	$21,790.00	
Ascend	Marsh		P-12099B		Pump	C9 (6x4x8) / G, 7.25 in Trim, 40HP, 3500 RPM	$21,790.00	
Ascend	Marsh		P-14001		Pump	A1 (1.5x1x6) / C, 5.125 in trim, 3HP, 3500 RPM	$6,501.00	
Ascend	Marsh		P-14002		Pump	A1 (1.5x1x6) / C, 5.125 in trim, 3HP, 3500 RPM	$6,501.00	
Ascend	Marsh		P-06001		Pump	A1 (1.5x1x6) / C (spiral), 6.225 in trim, 5HP, 3500 RPM	$7,400.00	
Ascend	Marsh		1-P-06003		Pump	A1 (1.5x1x6) / C, 4.325 in trim, 3HP, 3500 RPM	$6,501.00	
Ascend	Marsh		1-P-12014			C7 (4x3x10H) / D, 8.425 in trim, 10 HP, 1750	$14,188.00	
Ascend	Marsh		1-P-12013		Pump	C7 (4x3x10H) / D, 8.425 in trim, 10 HP, 1750	$14,188.00	
Ascend	Marsh		P-11001A	14	Pump	Durco Mark III 2k4x3-13RV HC276 Pump, double mechanical seal and support system, spacer coupling, coupling guard, 20 HP, 1800 RPM, IEEE 841 electric motor.	$43,485.00	Engineering - 1-P-11001A.pdf - All Documents (sharepoint.com)
Ascend	Marsh		P-11001B	14	Pump	Durco Mark III 2k4x3-13RV HC276 Pump, double mechanical seal and support system, spacer coupling, coupling guard, 20 HP, 1800 RPM, IEEE 841 electric motor.	$43,485.00	Engineering - 1-P11001B.pdf - All Documents (sharepoint.com)
Ascend	Marsh		P-11002	14	Pump	Durco Mark III 2k4x3-13RV HC276 Pump, double mechanical seal and support system, spacer coupling, coupling guard, 20 HP, 1800 RPM, IEEE 841 electric motor.	$43,485.00	Engineering - 1-P-11002.pdf - All Documents (sharepoint.com)
Ascend	Marsh		es	11	Pump	Durco Inline 1k2x1.5v-6RV DI/SS Vertical pump, spacer coupling, coupling guard, 5 HP, 3600 RPM, IEEE 841 electric motor.	$9,155.00	Engineering - 1-P-13011A.pdf - All Documents (sharepoint.com)
Ascend	Marsh		P-13011B	11	Pump	Durco Inline 1k2x1.5v-6RV DI/SS Vertical pump, spacer coupling, coupling guard, 5 HP, 3600 RPM, IEEE 841 electric motor.	$9,155.00	Engineering - 1-P-13011B.pdf - All Documents (sharepoint.com)
Ascend	Marsh		P-13012	9	Pump	Durco Mark III 2k3x2-10ARV CD4, Pump, baseplate, spacer coupling, coupling guard, 5 HP, 1800 RPM, IEEE 841 ele.ctric motor.	$12,420.00	Engineering - 1-P-13012.pdf - All Documents (sharepoint.com)
Ascend	Marsh		1-P-12089A	10	Pump	Durco Inline 2k4x3V-13RV DI/SS Vertical pump, spacer coupling, coupling guard, 25 HP, 1800 RPM, IEEE 841 electric motor with space heater.	$15,278.00	Engineering - 1-P-12089A.pdf - All Documents (sharepoint.com)
Ascend	Marsh		1-P-12089B	10	Pump	Durco Inline 2k4x3V-13RV DI/SS Vertical pump, spacer coupling, coupling guard, 25 HP, 1800 RPM, IEEE 841 electric motor with space heater.	$15,278.00	Engineering - 1-P-12089B.pdf - All Documents (sharepoint.com)
Ascend	Marsh		1-P-13002	16	Pump	Durco Mark III 1k3x1.5-82RV HC-276 Pump, double mechanical seal and support system, spacer coupling, coupling guard, 7.5 HP, 3600 RPM, IEEE 841 electric motor.	$31,369.00	Engineering - 1-P-13002.pdf - All Documents (sharepoint.com)
Ascend	Marsh		1-P-06002	12	Pump	Durco Inline 2k4x3V-13RV DI/SS, Vertical pump, spacer coupling, coupling guard, 15 HP, 1800 RPM, IEEE 841 electric motor.	$13,833.00	Engineering - 1-P-06002.pdf - All Documents (sharepoint.com)
Ascend	Marsh		1-P-11009A	8	Pump	Durco Mark III 2k4x3-13HHRV HC-276 Pump, double mechanical seal and support system, baseplate, spacer coupling, coupling guard, 50 HP, 1800 RPM, IEEE 841 electric motor with space heater.	$49,110.00	Engineering - 1-P-11009A.pdf - All Documents (sharepoint.com)
Ascend	Marsh		1-P-11009B	8	Pump	Durco Mark III 2k4x3-13HHRV HC-276 Pump, double mechanical seal and support system, baseplate, spacer coupling, coupling guard, 50 HP, 1800 RPM, IEEE 841 electric motor with space heater.	$49,110.00	Engineering - 1-P-11009B.pdf - All Documents (sharepoint.com)
Ascend	Marsh		1-P-13008		Pump	Durco Mark III 1k3x1.5-82RV HC-276 Pump, double mechanical seal and support system, spacer coupling, coupling guard, 7.5 HP, 3600 RPM, IEEE 841 electric motor.	$31,369.00	Engineering - 1-P-13008.pdf - All Documents (sharepoint.com)
Ascend	Marsh	1928	1-P-11020		Pump	Durco Mark III 1k3x1.5-82RV HC-276 Pump, double mechanical seal and support system, spacer coupling, coupling guard, 10 HP, 3600 RPM, IEEE 841 electric motor.	$34,995.00	Engineering - 1-P-11020.pdf - All Documents (sharepoint.com)
Ascend	Marsh		P-11016		Pump	DURCO MARK III 2K4X3-13HHRV HC-276, Pump, double mechanical seal and support system, baseplate, spacer coupling, coupling guard, 50 HP, 1800 RPM, IEEE 841 electric motor with space heater.	$49,110.00	Engineering - 1-P-11016.pdf - All Documents (sharepoint.com)

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Ascend	Marsh		P-13001A		Pump	Durco Inline 2k4x3V-13RV DI/SS Vertical pump, spacer coupling, coupling guard, 25 HP, 1800 RPM, IEEE 841 electric motor with space heater.	$15,278.00	Engineering - 1-P-13001A.pdf - All Documents (sharepoint.com)
Ascend	Marsh		P-13001B		Pump	Durco Inline 2k4x3V-13RV DI/SS Vertical pump, spacer coupling, coupling guard, 25 HP, 1800 RPM, IEEE 841 electric motor with space heater.	$15,278.00	Engineering - 1-P-13001B.pdf - All Documents (sharepoint.com)
Ascend	Marsh		P-06011		Pump	DURCO SELF PRIMING SUMP PUMP 2K3X2US-10RV HC-276, Self-Priming Sump Pump, coupling, coupling guard, mounting plate, 10 HP, 1800 RPM, IEEE 841 electric motor.	$44,952.00	Engineering - 1-P-06011.pdf - All Documents (sharepoint.com)
Ascend	Marsh		P-06012		Pump	DURCO SELF PRIMING SUMP PUMP 2K3X2US-10RV HC-276, Self-Priming Sump Pump, coupling, coupling guard, mounting plate, 10 HP, 1800 RPM, IEEE 841 electric motor.	$44,952.00	Engineering - 1-P-06012.pdf - All Documents (sharepoint.com)
Ascend	Marsh		P-06013A		Pump	DURCO SELF PRIMING SUMP PUMP 2K3X2US-10RV HC-276, Self-Priming Sump Pump, coupling, coupling guard, mounting plate, 10 HP, 1800 RPM, IEEE 841 electric motor.	$44,952.00	Engineering - 1-P-06013A.pdf - All Documents (sharepoint.com)
Ascend	Marsh		P-06013B		Pump	DURCO SELF PRIMING SUMP PUMP 2K3X2US-10RV HC-276, Self-Priming Sump Pump, coupling, coupling guard, mounting plate, 10 HP, 1800 RPM, IEEE 841 electric motor.	$44,952.00	Engineering - 1-P-06013B.pdf - All Documents (sharepoint.com)
Ascend	Marsh		P-110XX			Durco Polychem PS3x2-10CL Teflon Lined, 7.5 HP, 1800 RPM, IEEE 841	$13,205.00	Engineering - 1-P-110XX.pdf - All Documents (sharepoint.com)
Ascend	Marsh		P-12035			Durco Polychem PS3x2-100P Teflon Lined, Pump, baseplate, spacer coupling, coupling guard, 25 HP, 1800 RPM, IEEE 841 electric motor with space heater.	$18,935.00	Engineering - 1-P-12035.pdf - All Documents (sharepoint.com)
Ascend	Marsh		P-12017			Durco Polychem PS3x2-10CL Teflon Lined Pump, double mechanical seal and support system, spacer coupling, coupling guard, 25 HP, 3600 RPM, IEEE 841 electric motor with space heater.	$24,492.00	Engineering - 1-P-12017.pdf - All Documents (sharepoint.com)
Ascend	Marsh		P-06014		Pump	DURCO SELF PRIMING SUMP PUMP 2K3X2US-10RV HC-276, Self-Priming Sump Pump, coupling, coupling guard, mounting plate, 10 HP, 1800 RPM, IEEE 841 electric motor.	$44,952.00	Engineering - 1-P-06014.pdf - All Documents (sharepoint.com)
Ascend	Marsh		P-06015		Pump	DURCO SELF PRIMING SUMP PUMP 2K3X2US-10RV HC-276, Self-Priming Sump Pump, coupling, coupling guard, mounting plate, 10 HP, 1800 RPM, IEEE 841 electric motor.	$44,592.00	Engineering - 1-P-06015.pdf - All Documents (sharepoint.com)
Ascend	Marsh		P-11011			Durco Polychem PS3x2-10CL Teflon Lined, Pump, baseplate, spacer coupling, coupling guard.	$13,205.00	
Ascend	Marsh		P-11014C		Pump	Durco Mark III 2k4x3-13HHRV HC276 Pump, double mechanical seal and support system, baseplate, spacer coupling, coupling guard, 50 HP, 1800 RPM, IEEE 841 electric motor with space heater	$49,110.00	Engineering - 1-P-11014C.pdf - All Documents (sharepoint.com)
Ascend	Marsh		No Tag		3 Phase Induction Motor	380V, 1715 RPM, 1.1Kw (1.5 HP), 60 HZ	$3,000.00	Engineering - Pallet A.pdf - All Documents
Ascend	Marsh		No Tag		4" 316SS Manual Ball Valves, CF8M Body		$10,200.00	Engineering - Pallet B.pdf - All Documents
Ascend	Marsh		05FT0502		Magnetic Flowmeters	INTEGRAL / 4-20MA / HART COMMUNICATION SIZE 80MM	$3,498.00	Engineering - Pallet C.pdf - All Documents
Ascend	Marsh		05FT0506				$3,498.00	
Ascend	Marsh		05FT0606				$3,498.00	
Ascend	Marsh		05FT0703				$3,498.00	
Ascend	Marsh		05FT0127				$3,498.00	
Ascend	Marsh		05FT0139				$3,498.00	
Ascend	Marsh		05FT0128				$3,498.00	
Ascend	Marsh		05FT0125				$3,498.00	
Ascend	Marsh		05FT0118				$3,498.00	
Ascend	Marsh		05FT0117				$3,498.00	
Ascend	Marsh		05FT0406				$3,498.00	
Ascend	Marsh		05FT0138				$3,498.00	
Ascend	Marsh		05FT0126				$3,498.00	
Ascend	Marsh		05FT0415				$3,498.00	
Ascend	Marsh		05FT0414				$3,498.00	
Ascend	Marsh		05FT0303				$3,498.00	
Ascend	Marsh		05FT0102				$3,498.00	

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Tangible Assets (Marsh)

Ascend	Marsh	05FT0103				$3,498.00	
Ascend	Marsh	05FT0204				$3,498.00	
Ascend	Marsh	05FT0121				$3,498.00	
Ascend	Marsh	05FT0301				$3,498.00	
Ascend	Marsh	05FT0122				$3,498.00	
Ascend	Marsh	05FT0411				$3,498.00	
Ascend	Marsh	05FT0208		Rotameters	RAMC05-D4SS-72L5-J90424/BG/FS1	$3,139.00	Engineering - Pallet D.pdf - All Documents
Ascend	Marsh	05FT0605			RAMC05-D4SS-72L5-J90424/BG/FS2	$3,139.00	
Ascend	Marsh	05FT0708			RAMC05-D4SS-72L5-J90424/BG/FS3	$3,139.00	
Ascend	Marsh	05FT0702			RAMC05-D4SS-72L5-J90424/BG/FS4	$3,139.00	
Ascend	Marsh	05FT0705			RAMC05-D4SS-72L5-J90424/BG/FS5	$3,139.00	
Ascend	Marsh	05FT0131			RAMC05-D4SS-72L5-J90424/BG/FS6	$3,139.00	
Ascend	Marsh	05FT0701			RAMC05-D4SS-72L5-J90424/BG/FS7	$3,139.00	
Ascend	Marsh	05FT0409			RAMC05-D4SS-72L5-J90424/BG/FS8	$3,139.00	
Ascend	Marsh	05FT0604			RAMC05-D4SS-72L5-J90424/BG/FS9	$3,139.00	
Ascend	Marsh	05FT0602			RAMC05-D4SS-72L5-J90424/BG/FS10	$3,139.00	
Ascend	Marsh	05FT0601			RAMC05-D4SS-72L5-J90424/BG/FS11	$3,139.00	
Ascend	Marsh	05FT0108			RAMC05-D4SS-72L5-J90424/BG/FS12	$3,139.00	
Ascend	Marsh	05FT0709			RAMC05-D4SS-72L5-J90424/BG/FS13	$3,139.00	
Ascend	Marsh	05FT0716			RAMC05-D4SS-72L5-J90424/BG/FS14	$3,139.00	
Ascend	Marsh	05FT0707			RAMC05-D4SS-72L5-J90424/BG/FS15	$3,139.00	
Ascend	Marsh	05FT0129			RAMC05-D4SS-72L5-J90424/BG/FS16	$3,139.00	
Ascend	Marsh	05FT0130			RAMC05-D4SS-72L5-J90424/BG/FS17	$3,139.00	
Ascend	Marsh	05FT0102			RAMC05-D4SS-72L5-J90424/BG/FS18	$3,139.00	
Ascend	Marsh	05FT0711			RAMC05-D4SS-72L5-J90424/BG/FS19	$3,139.00	
Ascend	Marsh	05FT0135			RAMC05-D4SS-72L5-J90424/BG/FS20	$3,139.00	
Ascend	Marsh	05FT0137			RAMC05-D4SS-72L5-J90424/BG/FS21	$3,139.00	
Ascend	Marsh	05FT0115			RAMC05-D4SS-72L5-J90424/BG/FS22	$3,139.00	
Ascend	Marsh	05FT0137			RAMC05-D4SS-72L5-J90424/BG/FS23	$3,139.00	
Ascend	Marsh	05FT0116			RAMC05-D4SS-72L5-J90424/BG/FS24	$3,139.00	
Ascend	Marsh	No Tag		CS Pipe Tee	4"x4"	Scrap - No MTR	Engineering - Pallet E.pdf - All Documents
Ascend	Marsh	No Tag		CS Reducer Tee	6"x4"	Scrap - No MTR	
Ascend	Marsh	No Tag		CS Reducer Tee	6"x5"	Scrap - No MTR	
Ascend	Marsh	No Tag		CS Pipe Tee	6"x6"	Scrap - No MTR	
Ascend	Marsh	LIT-3052			16...35V DC/ 2-WIRE / 4...20mA HART	$2,534.73	Engineering - Pallet F.pdf - All Documents
Ascend	Marsh	LIT-3054				$2,534.73	
Ascend	Marsh	LIT-3014				$2,534.73	
Ascend	Marsh	LIT-3013				$2,534.73	
Ascend	Marsh	LIT-1821				$2,534.73	
Ascend	Marsh	LIT-1820				$2,534.73	
Ascend	Marsh	LIT-3043				$2,534.73	
Ascend	Marsh	LIT-3044				$2,534.73	
Ascend	Marsh	LIT-3011				$2,534.73	
Ascend	Marsh	LIT-3012				$2,534.73	
Ascend	Marsh	LIT-1801				$2,534.73	
Ascend	Marsh	LIT-1802				$2,534.73	
Ascend	Marsh	LIT-3041				$2,534.73	
Ascend	Marsh	LIT-3042				$2,534.73	
Ascend	Marsh	LIT-1811				$2,534.73	
Ascend	Marsh	LIT-1810				$2,534.73	
Ascend	Marsh	LIT-1911				$2,534.73	
Ascend	Marsh	LIT-1910				$2,534.73	
Ascend	Marsh	LIT-3001				$2,534.73	
Ascend	Marsh	LIT-3000				$2,534.73	
Ascend	Marsh	No Tag		3 Phase Induction Motor	380V, 1715 RPM, 1.1Kw (1.5 HP), 60 HZ	$3,600.00	Engineering - Pallet G.pdf - All Documents
Ascend	Marsh	No Tag		3 Phase Induction Motor	380V, 1715 RPM, 1.1Kw (1.5 HP), 60 HZ	$3,000.00	Engineering - Pallet H.pdf - All Documents
Ascend	Marsh	No Tag		Spring Loaded Safety Valve	Spring Loaded Safty Valve 2" x 11/4 PN25 WCB	$15.00	Engineering - Pallet I.pdf - All Documents
Ascend	Marsh	D1XC02318		ROTA METER	RAMC05-D4SS-72L5-J90424/BG/FS13	$3,139.00	
Ascend	Marsh	D1XC02320		ROTA METER	RAMC05-D4SS-72L5-J90424/BG/FS13	$3,139.00	
Ascend	Marsh	05LT8005			RAMC05-D4SS-72L5-J90424/BG/FS13	$3,139.00	
Ascend	Marsh	FIT-3041			PROMAG W 300, 5W3B50	$6,392.00	
Ascend	Marsh	D1XC02321		ROTA METER	RAMC05-D4SS-72L5-J90424/BG/FS13	$3,139.00	
Ascend	Marsh	TIT-3012				$2,000.00	
Ascend	Marsh	TIT-3052				$2,000.00	

Schedule 1.1(e)

Tangible Assets (Marsh)

Ascend	Marsh		TIT-3020			T14 PT100 Thermometer Measuring range: -200 to 600°C (-328 to 1112°F) Protection class: IP66/67	$2,000.00	Engineering - Pallet J.pdf - All Documents
Ascend	Marsh		TIT-3011				$2,000.00	
Ascend	Marsh		TIT-3051				$2,000.00	
Ascend	Marsh		TIT-1802				$2,000.00	
Ascend	Marsh		TIT-1801				$2,000.00	
Ascend	Marsh		TIT-3042				$2,000.00	
Ascend	Marsh	Covington	TIT-1910				$2,000.00	
Ascend	Marsh	(Warehouse 117)	TIT-1820				$2,000.00	
Ascend	Marsh		TIT-1810				$2,000.00	
Ascend	Marsh		NO TAG (TIT)				$2,000.00	
Ascend	Marsh		NO Tag		2" Ball Valve	UPVC	$150.00	
Ascend	Marsh		No Tag		1" Ball Valve	UPVC	$150.00	
Ascend	Marsh		No Tag		1/2" Safety Valve/ Back Pressure Valve	DN15	$550.00	
Ascend	Marsh		No Tag		Explosion Electric Actuator	QT941F-16R/TOP-Ex110mT, 1/2", 380V, 60HZ	$129.00	Engineering - Pallet K.pdf - All Documents
Ascend	Marsh		No Tag		3 Phase Induction Motor	380V, 1715 RPM, 1.1Kw (1.5 HP), 60 HZ	$3,000.00	Engineering - Pallet L.pdf - All Documents
Ascend	Marsh		No Tag		Pump	380V	$2,975.90	Engineering - Pallet M.pdf - All Documents
Ascend	Marsh		No Tag		3 Phase Asynchronous Motor	480 V	$1,355.86	Engineering - Pallet N.pdf - All Documents
Ascend	Marsh		No Tag		Agitator Motor	7.5 HP, 60 HZ, 200/400 V	$9,500.00	Engineering - Pallet O.pdf - All Documents
Ascend	Marsh		No Tag		3 Phase Induction Motor	380V, 1715 RPM, 1.1Kw (1.5 HP), 60 HZ	$4,200.00	Engineering - Pallet P.pdf - All Documents
Ascend	Marsh		No Tag		Gate Valve	CPVC - 2"	$75.00	
Ascend	Marsh		05PG0704		Pressure Gauge	**GS 01C50H01-01EN YTA610** / YTA610-JA1A2NN/C3/N4/CM1/FU1	$2,149.00	Engineering - Pallet Q.pdf - All Documents
Ascend	Marsh		Multiple Tags		Temperature Transmitters	Model YTA 610 JA 1 A2NN\C3\C4	$6,720.00	
Ascend	Marsh		MULTIPLE TAGS		SITRANS L150	SITRANS LR150	$4,500.00	
Ascend	Marsh		NO TAG		3 PHASE INDUCTION MOTOR	380V, 1715 RPM, 1.1Kw (1.5 HP), 60 HZ	$600.00	Engineering - Pallet S.pdf - All Documents
Ascend	Marsh		NO TAG		Actuated Control Valve	5" INLET	$6,000.00	
Ascend	Marsh		No Tag		Motor	7.5 HP, 60 HZ, 200/400 V	$9,500.00	Engineering - Pallet O.pdf - All Documents
Ascend	Marsh		NO TAG		3 PHASE INDUCTION MOTOR	380V, 1715 RPM, 1.1Kw (1.5 HP), 60 HZ	$3,600.00	Engineering - Pallet U.pdf - All Documents
Ascend	Marsh		NO TAG		3 PHASE INDUCTION MOTOR	380V, 1715 RPM, 1.1Kw (1.5 HP), 60 HZ	$2,400.00	Engineering - Pallet W.pdf - All Documents
Ascend	Marsh		NO TAG		THREADED FLANGE	LOW CARBON PMI	Scrap - No MTR	Engineering - Pallet X.pdf - All Documents
Ascend	Marsh		NO TAG		LIP FLANGE	LOW CARBON PMI	Scrap - No MTR	
Ascend	Marsh		NO TAG		METERING PUMP	380V SD8682P SERIES G - SD METERING PUMP SIZE CODE 8 127 GPH (481 LPH) 75 PSI (5 BAR)	$22,544.00	Engineering - Pallets AU-AC-AI-AG.pdf - All Documents
Ascend	Marsh		NO TAG		METERING PUMP	380V SD8682P SERIES G - SD METERING PUMP SIZE CODE 8 127 GPH (481 LPH) 75 PSI (5 BAR)	$16,908.00	
Ascend	Marsh		NO TAG		METERING PUMP	380V SD8682P SERIES G - SD METERING PUMP SIZE CODE 8 127 GPH (481 LPH) 75 PSI (5 BAR)	$22,544.00	
Ascend	Marsh		NO TAG		METERING PUMP	380V SD8682P SERIES G - SD METERING PUMP SIZE CODE 8 127 GPH (481 LPH) 75 PSI (5 BAR)	$16,908.00	
Ascend	Marsh				Spool Piece, Double Bolt On Flanges	CS/ PTFE Lined 2.5" x PN10xCL150 FF L=200		Engineering - AY Flanges.pdf - All Documents
Ascend	Marsh				Spool Piece, Double Bolt On Flanges	CS/ PTFE Lined 1.5" x PN10xCL150 FF L=200		
Ascend	Marsh				Spool Piece, Double Bolt On Flanges	CS/ PTFE Lined 2" x PN10xCL150 FF L=200		
Ascend	Marsh				Pneumatic Regulating Valve	50mm, 1.6 MPa, <250 C	$1,560.00	Engineering - Pallet AB.pdf - All Documents
Ascend	Marsh				Manual Ball Valve	6" WCB Body, 304 SS 1.0MPa, <150 C	$19,720.00	Engineering - Pallet AD.pdf - All Documents
Ascend	Marsh				Manual Globe Valve	6" WCB Body, 304 SS	$1,928.00	
Ascend	Marsh				NI Crystal Drying Equipment Special Exciter	0~15kN, 1.1 kW, 480V, 60 HZ	$260.00	Engineering - Pallet AE.pdf - All Documents

Schedule 1.1(e)

Tangible Assets (Marsh)

Ascend	Marsh					5" CS, PTFE Lined 90 Elbow		Engineering - Pallet AJ .pdf - All Documents
Ascend	Marsh					6"-5" CS, PTFE Line Reducing Coupling		
Ascend	Marsh					5" CS, PTFE, Coupling		
Ascend	Marsh					12" CS, PTFE Coupling		
Ascend	Marsh					1" Ball Valve, WCB, 304 SS	$5,800.00	Engineering - Pallet AK.pdf - All Documents
Ascend	Marsh					1 1/2" Ball Valve, WCB, 304 SS	$1,026.00	
Ascend	Marsh					2" Ball Valve, WCB, 304 SS	$55,527.00	
Ascend	Marsh					2 1/2" Ball Valve, WCB, 304 SS	$2,176.00	
Ascend	Marsh					3" Ball Valve, WCB, 304 SS	$12,087.00	
Ascend	Marsh					4" Ball Valve, WCB, 304 SS	$8,379.00	
Ascend	Marsh				Pump w/ motor	Pump: IHJ32-25-160A, 24 M Head, 3m/h flow, 3KW Motor: 480V, 5.5Kw, 60 HZ	$1,000.00	Engineering - Pallet AP.pdf - All Documents
Ascend	Marsh				Pump w/motor	Pump: IHJ32-25-160A, 24 M Head, 3m/h flow, 3KW Motor: 480V, 5.5Kw, 60 HZ	$200.00	Engineering - Pallet AQ.pdf - All Documents
Ascend	Marsh				Agitator Motors	Model: Y30.00dEX(FC)-4/TMH11-V, RPM: 500/1600, Motor 30KW		Engineering - Pallet AR, AS, AT.pdf - All Documents
Ascend	Marsh				METERING PUMP	380V SD8682P SERIES G - SD METERING PUMP SIZE CODE 8 127 GPH (481 LPH) 75 PSI (5 BAR)	$5,636.00	Engineering - Pallet AV.pdf - All Documents
Ascend	Marsh				3 Phase Induction Motor	380V, 1715 RPM, 1.1Kw (1.5 HP), 60 HZ	$600.00	
Ascend	Marsh					5" Elbow Carbon Steel	Scrap - No MTR	Engineering - Pallet AX.pdf - All Documents
Ascend	Marsh					3"x3" Tee Carbon Steel	Scrap - No MTR	
Ascend	Marsh					4" Elbow Carbon Steel	Scrap - No MTR	
Ascend	Marsh					3"x2" Tee Reducer Carbon Steel	Scrap - No MTR	
Ascend	Marsh					2.5"x2.5" Tee Carbon Steel	Scrap - No MTR	
Ascend	Marsh					2.5" Elbow Carbon Steel	Scrap - No MTR	
Ascend	Marsh					3" Elbow Carbon Steel	Scrap - No MTR	
Ascend	Marsh					2"x2" Tee Carbon Steel	Scrap - No MTR	
Ascend	Marsh					2"x1"Tee Carbon Steel	Scrap - No MTR	
Ascend	Marsh					Model: ZXFI32-20-I60 Pump: 4kw HP, 30m Head Motor: 380v, 60Hz	$6,120.00	Engineering - Pallet 9.pdf - All Documents
Ascend	Marsh	Covington Tanks			Tank # 1	PVC Height 156" Width 120"		
Ascend	Marsh				Tank # 2	PPH Height 132" Width 68"		
Ascend	Marsh				Tank # 3	PPH, Height 148" Width 87"		
Ascend	Marsh				Tank # 4	PPH, Height 152" Width 96"		
Ascend	Marsh				Tank # 5	PPH, Height 108" Width 84"		
Ascend	Marsh				Tank # 6	PPH, Height 108" Width 84"		
Ascend	Marsh				Tank # 7	PPH, Height 108" Width 84"		
Ascend	Marsh				Tank # 8	PPH, Height 148" Width 84"		
Ascend	Marsh				Tank # 9	PPH, Height 101" Width 78"		
Ascend	Marsh				Tank # 10	PPH, Height 108" Width 67"		
Ascend	Marsh				Tank # 11	Plastic, Height 64" Width 66"		
Ascend	Marsh				Tank # 12	PVC, Height 108" Width 86"		
Ascend	Marsh				Tank # 13	PPH, Height 120" Width 88"		
Ascend	Marsh				Tank # 14	PPH, Height 108" Width 84"		
Ascend	Marsh				Tank # 15	PPH, Height 164" Width 118"		
Ascend	Marsh				Tank # 16	PPH, Height 88" Width 84"		
Ascend	Marsh				Tank # 17	PPH, Height 156" Width 84"		
Ascend	Marsh				Tank # 18	PPH, Height 108" Width 84"		
Ascend	Marsh				Tank # 19	PPH, Height 108" Width 86"		
Ascend	Marsh				Tank # 20	PPH, Height 108" Width 84"		
Ascend	Marsh				Tank # 21	PPH, Height 180" Width 138"		
Ascend	Marsh				Tank # 22	PPH, Height 148" Width 124"		
Ascend	Marsh				Tank # 23	PPH, Height 118" Width 88"		
Ascend	Marsh				Tank # 24	PPH, Height 108" Width 84"		
Ascend	Marsh				Tank # 25	PPH, Height 120" Width 86"		
Ascend	Marsh				Tank # 26	PVC, Height 108" Width 86"		
Ascend	Marsh				Tank # 27	PPH, Height 118" Width 86"		
Ascend	Marsh				Tank # 28	Plastic, Height 156" Width 125"		
Ascend	Marsh				Tank # 29	PPH, Height 152" Width 84"		
Ascend	Marsh				Tank # 30	PPH, Height 120" Width 87"		

Schedule 1.1(e)

Tangible Assets (Marsh)

Ascend	Marsh				Tank # 31	PVC, Height 118" Width 88"		
Ascend	Marsh				Tank # 32	PPH, Height 120" Width 86"		
Ascend	Marsh				Tank # 33	PPH, Height 108" Width 84"		
Ascend	Marsh				Tank # 34	PPH, Height 108" Width 84"		
Ascend	Marsh				Tank # 35	Height 116" Width 86"		
Ascend	Marsh				Tank # 36	Height 116" Width 92"		
Ascend	Marsh				Tank # 37	Height 116" Width 86"		
Ascend	Marsh				Tank # 38	Height 116" Width 86"		
Ascend	Marsh				Tank # 39	Height 110" Width 88"		
Ascend	Marsh				Tank Base			
Ascend	Marsh				Underground Pipe at Apex 1 (Corugated and Plastic)			
Owner	Location	TAG	PALLET	Sections	Sections	Order	Item	Drawing
Ascend	Marsh	1-MCC-E-130	1/1	1, 2, 3, 4	4		[illegible]	[illegible]
Ascend	Marsh	1-MPP-C-131-B	1/1	1	1	3010030563	146020	MISSING DOCUMENTATION
Ascend	Marsh	1-PDP-C-143	1/1	1	1	3010030563	151020	MISSING DOCUMENTATION
Ascend	Marsh	1-PDP-E-1	1/1	1, 2, 3, 4	4	3009982590	M-58479286	3009982590-66000
Ascend	Marsh	1-PDP-U-2	1/1	1, 2, 3, 4	4	3008872589	M-58479286	3008872589-89000
Ascend	Marsh	UNKNOWN TAG	1/2	1, 2, 3, 4	8	3009982590	M-58479286	3009982590-47000
Ascend	Marsh	UNKNOWN TAG	2/2	5,6,7,8	8	3009982590	L-86964206	3009982590-47000
Ascend	Marsh	Siemens Transform	1/1	1	1	MX371409 (Date R2209)	0001	-
Ascend	Marsh	Siemens Transform	1/1	1	1	MX371424 (Date R2210)	0001	-
Ascend	Marsh	Rex Transformer, 75	1/1	1	1	V43453	01	-
Ascend	Marsh	Rex Transformer, 75	1/1	1	1	V43453	02	-
Ascend	Marsh	Rex Transformer, 75	1/1	1	1	V43453	03	-
Ascend	Marsh	Rex Transformer, 75	1/1	1	1	V43453	04	-
Ascend	Marsh	Rex Transformer, 75	1/1	1	1	V43453	05	-
Owner	LOC	**PO # or Orignal**	**MM Tracking # (Tag- ID, Serial #)**	**Nome**	**Model or Specifications**	**PO /Google Cost Estimate**	**Photos**	**Quantity**
Ascend	Marsh		1-PG-21302B	Guage	PRESS GAUGES AREA 212- PG:10BR+B:10AD			1
Ascend	Marsh		1-PG-21312A	Guage	PRESS GAUGES AREA 212- PG:10BR+B:10AD			1
Ascend	Marsh		1-PG-21304	Guage	PRESS GAUGES AREA 212- PG:10BR+B:10AD			1
Ascend	Marsh		1-PG-21302A	Guage	PRESS GAUGES AREA 212- PG:10BR+B:10AD			1
Ascend	Marsh		1-PG-21303	Guage	PRESS GAUGES AREA 212- PG:10BR+B:10AD			1
Ascend	Marsh		1-PG-21312B	Guage	PRESS GAUGES AREA 212- PG:10BR+B:10AD			1
Ascend	Marsh		1-PIT-21308		PMP71B-5PTN6/101			1
Ascend	Marsh		1-PIT-21304B		PMP71B-5PTN6/115			1
Ascend	Marsh		1-PIT-21303B		PMP71B-5PTN6/115			1
Ascend	Marsh		1-PIT-21309		PMP71B-5PTP4/101		Engineering - 213 Instrument Box - Multiple Tags.pdf - All Documents (sharepoint.com)	1
Ascend	Marsh		1-PIT-21304C		PMP71B-5PTN6/115			1
Ascend	Marsh		1-PIT-21307		PMP71B-5PTP4/101			1
Ascend	Marsh		1-PIT-21302A		PMP71B-6KP38/101			1
Ascend	Marsh		1-LS-21302B		FTL62-1H2L0/0			1
Ascend	Marsh		1-LIT-21302A		FMR62B-RP90/0			1
Ascend	Marsh		1-LIT-21302B		FMR62B-11K42/0			1
Ascend	Marsh		1-TT-21302C		TH14-8Y12A2LHL6AK			1
Ascend	Marsh		1-TT-21302D		TH14-8Y12A2LHL6AK			1
Ascend	Marsh		1-LS-21302A		FTL62-1H2L0/0			1
Ascend	Marsh		1-TT-21302B		T14-F2Y98A3LHKKK1			1
Ascend	Marsh		1-XV-213020	n			Engineering - 1-XV-21302 O-P.pdf - All Documents (sharepoint.com)	1
Ascend	Marsh		1-XV-21302P	n				1
Ascend	Marsh		1-XV-21304E	AVCO	6" Ball Valve, 9100 Series, 2 pc, V02…		Engineering - 1-XV-21302K - 21304E.pdf - All Documents	1
Ascend	Marsh		1-XV-21302K	AVCO	6" Ball Valve, 9100 Series, 2 pc, V02…			1
Ascend	Marsh		1-XV-21302E	Avco	6" Ball Valve, 9100 Series, 2 pc, V02…		Engineering - 1-XV-21302 E-L.pdf - All Documents (sharepoint.com)	1
Ascend	Marsh		1-XV-21302L	Avco	6" Ball Valve, 9100 Series, 2 pc, V02…			1
Ascend	Marsh		1-XV-21312H	Avco	6" Ball Valve, 9100 Series, 2 pc, V02…		Engineering - 1-XV21312H - 21304J.pdf - All Documents	1
Ascend	Marsh		1-XV-21304J	Avco	6" Ball Valve, 9100 Series, 2 pc, V02…			1
Ascend	Marsh		1-P-21313B		Flowserve			1
Ascend	Marsh	2616/ 2630	1-P-22025B	OS	MODEL CRN5-15, 5 HP, 3600 RPM, 460V		Engineering - 1-P-22025B.pdf - All Documents (sha	1
Ascend	Marsh		1-P-21220		Mag Drive - Excess			
Ascend	Marsh		P-12004	Pump	A3 (3x1.5x6) / C, 4.725 in trim, 3HP, 3500 RPM	7234		1
Ascend	Marsh	1952	P-12005	Pump	A3 (3x1.5x6) / C 4.725 in trim, 5HP, 3500 RPM	7381		1
Ascend	Marsh		P-12082	Pump	A1 (1.5x1x6) / C 4.45 in trim, 3HP, 3500 RPM	6452		1

Schedule 1.1(e)

Tangible Assets (Marsh)

Ascend	Marsh		P-14004	Pump	A1 (1.5x1x6) / C, 5.125 in trim, 3HP, 3500 RPM	6501			1
Ascend	Marsh		1-P-11005A	Pump	Durco Mark III 2k4x3-13HHRV HC-276, Pump, doul	49110	Engineering - 1-P-11005A.pdf - All Do		1
Ascend	Marsh		1-P-11005B	Pump	Durco Mark III 2k4x3-13HHRV HC-276, Pump, doul	49110	Engineering - 1-P-11005B.pdf - All Do		1
Ascend	Marsh		1-P-11007A	Pump	Durco Mark III 2k4x3-13HHRV HC-276, Pump, doul	49110	Engineering - 1-P-11007A.pdf - All Do		1
Ascend	Marsh		1-P-11007B	Pump	Durco Mark III 2k4x3-13HHRV HC-276, Pump, doul	49110	Engineering - 1-P-11007B.pdf - All Do		1
Ascend	Marsh		1-P-12100A	Pump	Wilden Pump PSSOO/PKPPP/TWS/TF/PTV Polypro	6042	Engineering - 1-P-12100A-B.pdf - All		1
Ascend	Marsh		1-P-12100B	Pump	Wilden Pump PSSOO/PKPPP/TWS/TF/PTV Polypro	6042			1
Ascend	Marsh		P-11003A	Pump	DURCO MARK III 2K4X3-13HHRV HC-276, Pump, d	49110	Engineering - 1-P-11003A.pdf - All Do		1
Ascend	Marsh		P-11003B	Pump	DURCO MARK III 2K4X3-13HHRV HC-276, Pump, d	49110	Engineering - 1-P-11003B.pdf - All Do		1
Ascend	Marsh	1928	P-11004A	Pump	DURCO MARK III 2K4X3-13HHRV HC-276, Pump, d	49110	Engineering - 1-P-11004A.pdf - All Do		1
Ascend	Marsh		P-11004B	Pump	DURCO MARK III 2K4X3-13HHRV HC-276, Pump, d	49110	Engineering - 1-P-11004B.pdf - All Do		1
Ascend	Marsh		P-11015	Pump	DURCO MARK III 2K4X3-13HHRV HC-276, Pump, d	49110	Engineering - 1-P-11015.pdf - All Doc		1
Ascend	Marsh		P-11017	Pump	DURCO MARK III 2K4X3-13HHRV HC-276, Pump, d	49110	Engineering - 1-P-11017.pdf - All Doc		1
Ascend	Marsh		P-12015A	Pump	DURCO MARK III 2K4X3-13HHRV HC-276 Pump, dc	49110	Engineering - 1-P-12015A.pdf - All Do		1
Ascend	Marsh		P-12086	Pump	DURCO MARK III 2K4X3-13HHRV HC-276 Pump, dc	49110	Engineering - 1-P-12086.pdf - All Doc		1
Ascend	Marsh		P-11014A	Pump	Durco Mark III 2k4x3-13HHRV HC276 Pump, doubl	49110	Engineering - 1-P-11014A.pdf - All Do		1
Ascend	Marsh		P-11014B	Pump	Durco Mark III 2k4x3-13HHRV HC276 Pump, doubl	49110	Engineering - 1-P-11014B.pdf - All Do		1
Ascend	Marsh		P-12015B	Pump	DURCO MARK III 2K4X3-13HHRV HC-276 Pump, dc	49110	Engineering - 1-P-12015B.pdf - All Do		1

Schedule 1.1(e)
Tangible Assets (Marsh)

Quantity	Vendor (Supplier)	Storage Location	Notes
1	Botree system supplied	Marsh Warehouse Receiving Dock	See Note 1 breakers, VFD, PLC as spare parts, or sell to the market.
1	Botree system supplied	Marsh Warehouse Receiving Dock	See Note 1 breakers, VFD, PLC as spare parts, or sell to the market.
1	Botree system supplied	Marsh Warehouse Receiving Dock	See Note 1 breakers, VFD, PLC as spare parts, or sell to the market.
1	Botree system supplied	Marsh Warehouse Receiving Dock	See Note 1 breakers, VFD, PLC as spare parts, or sell to the market.
1	Botree system supplied	Marsh Warehouse Receiving Dock	See Note 1 breakers, VFD, PLC as spare parts, or sell to the market.
1	Botree system supplied	Marsh Warehouse Receiving Dock	See Note 1 breakers, VFD, PLC as spare parts, or sell to the market.
1	Botree system supplied	Marsh Warehouse Receiving Dock	See Note 1 breakers, VFD, PLC as spare parts, or sell to the market.
1	Botree system supplied	Marsh Warehouse Receiving Dock	See Note 1 breakers, VFD, PLC as spare parts, or sell to the market.
1	Botree system supplied	Marsh Warehouse Receiving Dock	See Note 1 breakers, VFD, PLC as spare parts, or sell to the market.
1	Botree system supplied	Marsh Warehouse Receiving Dock	See Note 1 breakers, VFD, PLC as spare parts, or sell to the market.
1	Botree system supplied	Marsh Warehouse Receiving Dock	See Note 1 breakers, VFD, PLC as spare parts, or sell to the market.
1	Botree system supplied	Marsh Warehouse Receiving Dock	See Note 1 breakers, VFD, PLC as spare parts, or sell to the market.
1	Botree system supplied	Marsh Warehouse Receiving Dock	See Note 1 breakers, VFD, PLC as spare parts, or sell to the market.
1	Botree system supplied	Marsh Warehouse Receiving Dock	See Note 1 breakers, VFD, PLC as spare parts, or sell to the market.
1	Botree system supplied	Marsh Warehouse Receiving Dock	See Note 1 breakers, VFD, PLC as spare parts, or sell to the market.
1	Botree system supplied	Marsh Warehouse Receiving Dock	See Note 1 breakers, VFD, PLC as spare parts, or sell to the market.
1	Botree system supplied	Marsh Warehouse Receiving Dock	See Note 1 breakers, VFD, PLC as spare parts, or sell to the market.
1	Botree system supplied	Marsh Warehouse Receiving Dock	See Note 1 breakers, VFD, PLC as spare parts, or sell to the market.
1	Botree system supplied	Marsh Warehouse Receiving Dock	See Note 1 breakers, VFD, PLC as spare parts, or sell to the market.
1	Botree system supplied	Marsh Warehouse Receiving Dock	See Note 1 breakers, VFD, PLC as spare parts, or sell to the market.
1	ENCO - US voltage	Marsh Warehouse Receiving Dock	See Note 1 breakers, VFD, PLC as spare parts, or sell to the market.
1	ENCO - US voltage	Marsh Warehouse Receiving Dock	See Note 1 breakers, VFD, PLC as spare parts, or sell to the market.
1	ENCO - US voltage	Marsh Warehouse Receiving Dock	See Note 1 breakers, VFD, PLC as spare parts, or sell to the market.
1	Botree system supplied	Marsh Warehouse Receiving Dock	See Note 1 breakers, VFD, PLC as spare parts, or sell to the market.
1	Botree system supplied	Marsh Warehouse Receiving Dock	See Note 1 breakers, VFD, PLC as spare parts, or sell to the market.
	Lakeshore - Eaton		
	Lakeshore - Eaton		

Shaowei comments

Schedule 1.1(e)

Tangible Assets (Marsh)

	Lakeshore - Eaton			
	Lakeshore - Eaton			
1	Weave Filtration	Marsh Warehouse Southwest Corner	BT: Dispose/Resell.	3rd Filterpress moved to BG warehouse in Carterville, GA
1	Weave Filtration	Marsh Warehouse Southwest Corner	BT: Dispose/Resell.	https://batteryresourcers0.sharepoint.com/sites/Engineering/Shared%20Documents/Forms/AllItems.aspx?id=%2Fsites%2FEngineering%2FShared%20Documents%2FPM%27s%2FBase1%2F5%2D%20Mini%20Lithium%20Extraction%2FManuals%2FWEAVE%20630mm%20A%2EO%20Filter%20Press%20Manual%2Epdf&q=PO%202775&parent=%2Fsites%2FEngineering%2FShared%20Documents%2FPM%27s%2FBase1%2F5%2D%20Mini%20Lithium%20Extraction%2FManuals&parentview=7
1	Chanzhou Best Han Tech Intelligent Equipent Co. LTD	Marsh Warehouse Southwest Corner	BT: Hold. This could be used by Wbo. Need to provide weight, dimensions, power rating.	batteryresourcers0.sharepoint.com/sites/Engineering/Shared Documents/Forms/AllItems.aspx?id=%2Fsites%2FEngineering%2FShared Documents%2FAPEX 1 Plant%2F15 - Logistics and Materials%2F1%2E Logistics and Shipment Documents%2FPO 2318 BHT electronic magnetic Seperator - R%26D%2Fproforma invoice%2Epdf&parent=%2Fsites%2FEngineering%2FShared Documents%2FAPEX 1 Plant%2F15 - Logistics and Materials%2F1%2E Logistics and Shipment Documents%2FPO 2318 BHT electronic magnetic Seperator - R%26D
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	

Schedule 1.1(e)

Tangible Assets (Marsh)

1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	Flowserve US Skid Pumps			
1	Flowserve US Skid Pumps	Marsh Warehouse - North Wall	Preservation Turned and lubed. BT: AME Mechanical to review and confirm	
1	IPEG (Sealed)	Marsh Warehouse - North Wall	BT: AME Mechanical to review and confirm	Repurpose
1	IPEG (Sealed)	Marsh Warehouse - North Wall	BT: AME Mechanical to review and confirm	Repurpose
1	IPEG (Sealed)	Marsh Warehouse - North Wall	BT: AME Mechanical to review and confirm	Repurpose
1	IPEG (Sealed)	Marsh Warehouse - North Wall	BT: AME Mechanical to review and confirm	Repurpose
1	IPEG (Sealed)	Marsh Warehouse - North Wall	BT: AME Mechanical to review and confirm	Repurpose
1	IPEG (Sealed)	Marsh Warehouse - North Wall	BT: AME Mechanical to review and confirm	Repurpose
1	IPEG (Sealed)	Marsh Warehouse - North Wall	BT: AME Mechanical to review and confirm	Repurpose
1	IPEG (Sealed)	Marsh Warehouse - North Wall	BT: AME Mechanical to review and confirm	Repurpose
1	IPEG (Sealed)	Marsh Warehouse - North Wall	BT: AME Mechanical to review and confirm	Repurpose
1	IPEG (Sealed)	Marsh Warehouse - North Wall	BT: AME Mechanical to review and confirm	Repurpose
1	IPEG (Sealed)	Marsh Warehouse - North Wall	BT: AME Mechanical to review and confirm	Repurpose
1	IPEG (Sealed)	Marsh Warehouse - North Wall	BT: AME Mechanical to review and confirm	Repurpose
1	IPEG (Sealed)	Marsh Warehouse - North Wall	BT: AME Mechanical to review and confirm	Repurpose

Schedule 1.1(e)
Tangible Assets (Marsh)

1	IPEG (Sealed)	Marsh Warehouse - North Wall	BT: AME Mechanical to review and confirm	Repurpose
1	IPEG (Sealed)	Marsh Warehouse - North Wall	BT: AME Mechanical to review and confirm	Repurpose
1	IPEG (Sealed)	Marsh Warehouse - North Wall	BT: AME Mechanical to review and confirm	Repurpose
1	IPEG (Sealed)	Marsh Warehouse - North Wall	BT: AME Mechanical to review and confirm	Repurpose
1	IPEG (Sealed)	Marsh Warehouse - North Wall	BT: AME Mechanical to review and confirm	Repurpose
1	IPEG (Sealed)	Marsh Warehouse - North Wall	BT: AME Mechanical to review and confirm	Repurpose
1	IPEG (Sealed)		BT: AME Mechanical to review and confirm	
1	IPEG (Sealed)		BT: AME Mechanical to review and confirm	
1	IPEG (Sealed)		BT: AME Mechanical to review and confirm	
1	IPEG (Sealed)	Marsh Warehouse - North Wall	BT: AME Mechanical to review and confirm	Repurpose
1	IPEG (Sealed)	Marsh Warehouse - North Wall	BT: AME Mechanical to review and confirm	Repurpose
1	IPEG (Sealed)	Marsh Warehouse - North Wall	BT: AME Mechanical to review and confirm	Repurpose
5	Botree?	Marsh Warehouse SW Row	3Hp 1800RPM 3Ph Electric Motor - quoted for US standard (480v) - $600 per unit	
17	Botree?	Marsh Warehouse SW Row	Online prices ranged from $600-$2000	
1		Marsh Warehouse SW Row		
1		Marsh Warehouse SW Row		
1		Marsh Warehouse SW Row		
1		Marsh Warehouse SW Row		
1		Marsh Warehouse SW Row		
1		Marsh Warehouse SW Row		
1		Marsh Warehouse SW Row		
1		Marsh Warehouse SW Row		
1		Marsh Warehouse SW Row		
1		Marsh Warehouse SW Row		
1		Marsh Warehouse SW Row		
1	Yokogawa/ Botree?	Marsh Warehouse SW Row		
1		Marsh Warehouse SW Row		
1		Marsh Warehouse SW Row		
1		Marsh Warehouse SW Row		
1		Marsh Warehouse SW Row		
1		Marsh Warehouse SW Row		

Schedule 1.1(e)

Tangible Assets (Marsh)

1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	5537580&campaignid=21375600422&adgroupid=&creative=&matchtype=&network=x&device=c&keywo
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1	Yokogawa/ Botree?	Marsh Warehouse SW Row	RAMC02-A1SS-51S0-E90242/BG/SD Flow Meter by YOKOGAWA
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1	NA	Marsh Warehouse SW Row	
9	NA	Marsh Warehouse SW Row	
1	NA	Marsh Warehouse SW Row	
3	NA	Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	https://www.instrumart.com/configuration/45750?53232=287219&53233=287243&53234=287257&53
1		Marsh Warehouse SW Row	235=287280&53236=287295&53237=287313&53241=287384&53242=287395&96335=544767&53243
1	Endress & Hauser	Marsh Warehouse SW Row	=287408&96336=544773&53244=287422&53245=287424&53264=287543&53266=287570&53268=28
1		Marsh Warehouse SW Row	7572&96299=544385&53269=287575&96329=544714&53270=287580&53271=287589&56518=30427
1		Marsh Warehouse SW Row	2&gad_source=1&gclid=EAIaIQobChMIz8DRtrO8iwMVizgIBR2t8QhREAYYByABEgLbevD_BwE
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
1		Marsh Warehouse SW Row	
6	NA	Marsh Warehouse SW Row	3Hp 1800RPM 3Ph Electric Motor - quoted for US standard (480v) - $600 per unit
5	NA	Marsh Warehouse SW Row	3Hp 1800RPM 3Ph Electric Motor - quoted for US standard (480v) - $600 per unit
1		Marsh Warehouse SW Row	Cooker Steam Boiler Spring Loaded Full Lift Pressure Safety Valve with Price | Bestsuppliers.com
1	YOKOGAWA	Marsh Warehouse SW Row	RAMC02-A1SS-51S0-E90242/BG/SD Flow Meter by YOKOGAWA
1	YOKOGAWA	Marsh Warehouse SW Row	RAMC02-A1SS-51S0-E90242/BG/SD Flow Meter by YOKOGAWA
1	YOKOGAWA	Marsh Warehouse SW Row	RAMC02-A1SS-51S0-E90242/BG/SD Flow Meter by YOKOGAWA
1	Endress & Hauser	Marsh Warehouse SW Row	5W3B50-CSEIMABEFADUA1K0AA2 - E+H Proline Promag W 300 Electromagnetic Flow Meter | Instrumart
1	Yokogawa	Marsh Warehouse SW Row	
1	Endress & Hauser	Marsh Warehouse SW Row	
1	Endress & Hauser	Marsh Warehouse SW Row	

Schedule 1.1(e)

Tangible Assets (Marsh)

1	Endress & Hauser	Marsh Warehouse SW Row	https://www.instrumart.com/products/47468/eh-t14-pt100-thermometer
1	Endress & Hauser	Marsh Warehouse SW Row	
1	Endress & Hauser	Marsh Warehouse SW Row	
1	Endress & Hauser	Marsh Warehouse SW Row	
1	Endress & Hauser	Marsh Warehouse SW Row	
1	Endress & Hauser	Marsh Warehouse SW Row	
1	Endress & Hauser	Marsh Warehouse SW Row	
1	Endress & Hauser	Marsh Warehouse SW Row	
1	Endress & Hauser	Marsh Warehouse SW Row	
1	Endress & Hauser	Marsh Warehouse SW Row	
4	TCrystal	Marsh Warehouse SW Row	
5	TCrystal	Marsh Warehouse SW Row	
11		Marsh Warehouse SW Row	Safety valve Pressure Relief Valve / Safety Valve / Back Pressure Valve Accessor	eBay
3	Beijing Kaigao	Marsh Warehouse SW Row	Sq05 24v Dc Explosion-proof Electric Actuator Compatible With 1inch Dn25 Copper Flanged Ball Valve Product Type Valve Parts - Buy Dc24v Explosion-proof Electric Actuator explosion-proof Electric Actuator Fit For Threaded Flanged Ball Valve 1inch Dn25 Threaded Flanged Ball Valve Actuator dc24v Electric Explosion-proof Actuator electric Actuator For Valve threaded Flanged Ball Valve Actuator Dc24v explosion-proof Actuator For Flanged Ball Valve oem Compatible Electric Actuator copper Material Valve Parts Product on Alibaba.com
5		Marsh Warehouse SW Row	3Hp 1800RPM 3Ph Electric Motor - quoted for US standard (480v) - $600 per unit
1	Unknown	Marsh Warehouse SW Row	Goulds 53BF1J9A0, Centrifugal Pump, Series 3656 LH, 5 HP, 208-230/460 Volts, 3 Phase, 3 NPT Discharge, 3500 RPM, Bronze Fitted
1	Unknown	Marsh Warehouse SW Row	
1	Fusion Fluid Equipment	Marsh Warehouse SW Row	Fusion Fluid Mixer FG-7FSWB-1 25HP MIXER	eBay
7		Marsh Warehouse SW Row	3Hp 1800RPM 3Ph Electric Motor - quoted for US standard (480v) - $600 per unit
6		Marsh Warehouse SW Row	
1	JIT	Marsh Warehouse SW Row	
7	Yokogawa	Marsh Warehouse SW Row	YTA610-JA1A4DN/C3/N4/G/S1/VE Temperature Transmitter by YOKOGAWA - not exact model
5	SIEMENS	Marsh Warehouse SW Row	7ML5340-1AC07-4AF3	ALL4SPS	express delivery	purch. 900.00 $
1		Marsh Warehouse SW Row	3Hp 1800RPM 3Ph Electric Motor - quoted for US standard (480v) - $600 per unit
1		Marsh Warehouse SW Row	Assembly
1	Fusion Fluid Equipment	Marsh Warehouse SW Row	SAME AS PALLET O https://www.ebay.com/itm/276353717075
6	WULONG	Marsh Warehouse SW Row	3Hp 1800RPM 3Ph Electric Motor
4		Marsh Warehouse SW Row	3Hp 1800RPM 3Ph Electric Motor - quoted for US standard (480v) - $600 per unit
27		Marsh Warehouse SW Row	
11		Marsh Warehouse SW Row	
4	MILTON ROY	Marsh Warehouse SW Row	https://www.radwell.com/Shop?source=GoogleShopping&IgnoreRedirect=true&ItemSingleId=53832561&adlclid=c01acf9c1d4b1efe4c19a8291c958b16&msclkid=c01acf9c1d4b1efe4c19a8291c958b16&utm_source=bing&utm_medium=cpc&utm_campaign=%5BLegacy%5D%20%5BPLA%5D%20SC%20Shopping%20-%20Preorder%20-%20Generic%20-%20Bing&utm_term=4580771607285277&utm_content=SC%20-%20Preorder%20-%20Generic
3	MILTON ROY	Marsh Warehouse SW Row	SD8682P Metering Pump by MILTON ROY
4	MILTON ROY	Marsh Warehouse SW Row	SD8682P Metering Pump by MILTON ROY
3	MILTON ROY	Marsh Warehouse SW Row	SD8682P Metering Pump by MILTON ROY
1		Marsh Warehouse	
1		Marsh Warehouse	
24		Marsh Warehouse	
3	Huizheng Automatic Control Valve Group	Marsh Warehouse	Zjhp-16p Zjhp-25p Zjhp-40p Zjhp-64p Zjhp-100p Cf8 Pneumatic Steam Control Valve - Buy Steam Control Valve,Pneumatic Control Valve,Cf8 Pneumatic Control Valve Product on Alibaba.com
10	Baiqiang	Marsh Warehouse	Jomar 600-212 6" Carbon Steel Ball Valve, Full Port, Flanged, Class 150
1			SHARPE VALVES, For Oil/Steam/Water Media, Carbon Steel, Globe Valves - 802EV7|4371006640 - Grainger
2	Henan Province Xinxiang Yubowei Motor Co.	Marsh Warehouse	AC Electric Vibration Motor for Industrial Use - AC Motor and Electric Motor

Schedule 1.1(e)

Tangible Assets (Marsh)

3		Marsh Warehouse		
3		Marsh Warehouse		
4		Marsh Warehouse		
2		Marsh Warehouse		
20			1 Stainless Flanged Ball Manual	
2			1-1/2 Stainless Flanged Ball Manual	
83		Marsh Warehouse	2 Stainless Flanged Ball Manual	
4		Marsh Warehouse		
17		Marsh Warehouse		
7			Stainless Steel (316) Flange Ball Valve - 2pc, 150LB	
5		Marsh Warehouse		
1		Marsh Warehouse		
3		Marsh Warehouse	Quadro Y Tron Agitator Drive, Model Y30.00 | Federal Equipment Company	
1		Marsh Warehouse	SD8682P Metering Pump by MILTON ROY	
1		Marsh Warehouse	3Hp 1800RPM 3Ph Electric Motor	
10		Marsh Warehouse		
3		Marsh Warehouse		
26		Marsh Warehouse		
2		Marsh Warehouse		
3		Marsh Warehouse		
10		Marsh Warehouse		
8		Marsh Warehouse		
12		Marsh Warehouse		
1		Marsh Warehouse		
4	Botree	Marsh Warehouse	1 new message	
1		Marsh Warehouse Yard	NA	SP: Sale - Sell
1		Marsh Warehouse Yard	05V0605	SP: Sale - Sell
1		Marsh Warehouse Yard	21-199A-003	SP: Sale - Sell
1		Marsh Warehouse Yard	05V0111	SP: Sale - Sell
1		Marsh Warehouse Yard	NA	SP: Sale - Sell
1		Marsh Warehouse Yard	NA	SP: Sale - Sell
1		Marsh Warehouse Yard	05V0401	~~SP: Sale - Sell~~
1		Marsh Warehouse Yard	05V043	SP: Sale - Sell
1		Marsh Warehouse Yard	09V0101A	SP: Sale - Sell
1		Marsh Warehouse Yard	05V8001	SP: Sale - Sell
1	Poly Processing	Marsh Warehouse Yard	22-062s-002	SP: Sale - Sell
1		Marsh Warehouse Yard	03V02	SP: Sale - Sell
1		Marsh Warehouse Yard	09V0101B	SP: Sale - Sell
1		Marsh Warehouse Yard	05V0602	SP: Sale - Sell
1		Marsh Warehouse Yard	05V0702	SP: Sale - Sell
1		Marsh Warehouse Yard	05V0604	SP: Sale - Sell
1		Marsh Warehouse Yard	05V0112	SP: Sale - Sell
1		Marsh Warehouse Yard	05V0701	SP: Sale - Sell
1		Marsh Warehouse Yard	03V08	SP: Sale - Sell
1		Marsh Warehouse Yard	22-062S-003	SP: Sale - Sell
1		Marsh Warehouse Yard	NA	SP: Sale - Sell
1		Marsh Warehouse Yard	NA	SP: Sale - Sell
1		Marsh Warehouse Yard	04V03	SP: Sale - Sell
1		Marsh Warehouse Yard	05V0705	SP: Sale - Sell
1		Marsh Warehouse Yard	03V04	SP: Sale - Sell
1		Marsh Warehouse Yard	05V0708	SP: Sale - Sell
1		Marsh Warehouse Yard	05V0709	SP: Sale - Sell
1	Poly Processing	Marsh Warehouse Yard	05V0704	SP: Sale - Sell
1		Marsh Warehouse Yard	03V07 05V0407 WRITTEN ON DUCT TAPE	SP: Sale - Sell
1		Marsh Warehouse Yard	04V01A 05V0501 WRITTEN ON TANK	SP: Sale - Sell

Schedule 1.1(e)

Tangible Assets (Marsh)

1		Marsh Warehouse Yard	03V01 5V0401 WRITTEN ON TANK	SP: Sale - Sell
1		Marsh Warehouse Yard	21-1999A-010 05V0110 WRITTEN ON TANK	SP: Sale - Sell
1		Marsh Warehouse Yard	05V0601	SP: Sale - Sell
1		Marsh Warehouse Yard	04V02	SP: Sale - Sell
1		Marsh Warehouse Yard	03V09 05V408 WRITTEN ON TANK	SP: Sale - Sell
1		Marsh Warehouse Yard	04V04 05V0504 WRITTEN ON TANK	SP: Sale - Sell
1		Marsh Warehouse Yard	NA	SP: Sale - Sell
1		Marsh Warehouse Yard	05V0707	SP: Sale - Sell
1		Marsh Warehouse Yard	03V05 05V0405B IS WRITTEN ON TANK	SP: Sale - Sell
1		Marsh Warehouse Yard	03V06	SP: Sale - Sell
200+				

TYPE	P/N	AME NOTE	OTHER NOTE
MCC	TIASTAR		MCC style panel with 4 vert sections
PANELBOARD	P5E60ML120ATS		Not Previously Reviewed by AME
PANELBOARD	P5E60ML600ATS		Not Previously Reviewed by AME
MCC	TIASTAR	See Note 2 ; re-purpose or re-use for Apex1 pCAM north project	
MCC	TIASTAR		MCC style panel with 4 vert sections
MCC	TIASTAR		MCC style panel with 8 total vert sections
MCC	TIASTAR		MCC style panel with 8 total vert sections
Transformer	3F6Y300D16		Nonstandard 380/220 secondary voltages
Transformer	424-4307-529		Nonstandard 380/220 secondary voltages
Transformer	BC75H-M/Z3/HLC	Potential use as general purpose transformer	
Transformer	BC75H-M/Z3/HLC	Potential use as general purpose transformer	
Transformer	BC75H-M/Z3/HLC	Potential use as general purpose transformer	
Transformer	BC75H-M/Z3/HLC	Potential use as general purpose transformer	
Transformer	BC75H-M/Z3/HLC	Potential use as general purpose transformer	

Vendor (Supplier	Received/ Inventory Date	Storage Location	Packaging
Endress and Haus	10-Oct	Marsh Warehouse Spare Parts	
Endress and Haus	10-Oct	MARSH WAREHOUSE Spare Parts	
Endress and Haus	10-Oct	Marsh Warehouse Spare Parts	
Endress and Haus	10-Oct	Marsh Warehouse Spare Parts	
Endress and Haus	10-Oct	Marsh Warehouse Spare Parts	
Endress and Haus	10-Oct	Marsh Warehouse Spare Parts	
Endress and Haus	10-Oct	Marsh Warehouse Spare Parts	
Endress and Haus	10-Oct	Marsh Warehouse Spare Parts	
Endress and Haus	10-Oct	Marsh Warehouse Spare Parts	
Endress and Haus	10-Oct	Marsh Warehouse Spare Parts	
Endress and Haus	10-Oct	Marsh Warehouse Spare Parts	
Endress and Haus	10-Oct	Marsh Warehouse Spare Parts	
Endress and Haus	10-Oct	Marsh Warehouse Spare Parts	
Endress and Haus	10-Oct	Marsh Warehouse Spare Parts	
Endress and Haus	10-Oct	Marsh Warehouse Spare Parts	
Endress and Haus	10-Oct	Marsh Warehouse Spare Parts	
Endress and Haus	10-Oct	Marsh Warehouse Spare Parts	
Endress and Haus	10-Oct	Marsh Warehouse Spare Parts	
Endress and Haus	10-Oct	Marsh Warehouse Spare Parts	
Endress and Haus	10-Oct	Marsh Warehouse Spare Parts	
Endress and Haus	10-Oct	Marsh Warehouse Spare Parts	1 PALLETIZED CARDBOARD BOX
Ferguson	10-Oct	Marsh Warehouse Spare Parts	
Ferguson	10-Oct	Marsh Warehouse Spare Parts	PALLET
Endress and Haus	10-Oct	MARSH WAREHOUSE Spare Parts	
Endress and Haus	10-Oct	MARSH WAREHOUSE Spare Parts	PALLET
Endress and Hauser		MARSH WAREHOUSE Spare Parts	
Endress and Hauser		MARSH WAREHOUSE Spare Parts	Pallet
Endress and Hauser		MARSH WAREHOUSE Spare Parts	
Endress and Hauser		MARSH WAREHOUSE Spare Parts	Pallet
IPEG	10-Oct	Marsh Warehouse Pump Area	
IPEG	10-Oct	Marsh Warehouse Spare Parts	

Flowserve US Skic	45501	Marsh Warehouse - North Wall
Flowserve US Skic	45501	Marsh Warehouse - North Wall
Flowserve US Skic	45501	Marsh Warehouse - North Wall

Schedule 1.1(e)

Tangible Assets (Marsh)

Flowserve US Skic	45501	Marsh Warehouse - North Wall	
IPEG (Sealed)	45553	Marsh Warehouse - North Wall	
IPEG (Sealed)	45553	Marsh Warehouse - North Wall	
IPEG (Sealed)	45553	Marsh Warehouse - North Wall	
IPEG (Sealed)	45556	Marsh Warehouse - North Wall	
IPEG (Sealed)	45556	Marsh Warehouse - North Wall	
IPEG (Sealed)	45577	Marsh Warehouse - North Wall	
IPEG (Sealed)	45577	Marsh Warehouse - North Wall	
IPEG (Sealed)	45577	Marsh Warehouse - North Wall	
IPEG (Sealed)	45577	Marsh Warehouse - North Wall	
IPEG (Sealed)	45577	Marsh Warehouse - North Wall	
IPEG (Sealed)	45577	Marsh Warehouse - North Wall	
IPEG (Sealed)	45577	Marsh Warehouse - North Wall	
IPEG (Sealed)	45577	Marsh Warehouse - North Wall	
IPEG (Sealed)	45597	Marsh Warehouse - North Wall	
IPEG (Sealed)	45597	Marsh Warehouse - North Wall	
IPEG (Sealed)	45597	Marsh Warehouse - North Wall	

Schedule 1.1(g)
Permits, Governmental Authorizations and Environmental Credits

1. City of Covington Wastewater Department – Wastewater Permit (14 (T1))

2. Georgia Environmental Protection Division ("GA EPD") Stormwater Permit (GAIS14572)

3. GA EPD – Variance from Classification of Certain Hazardous Materials as Solid Waste – Batteries

4. GA EPD – Air Permit – Wet, Dry, and Lithium Lines (Permit No. 3691-217-0076-B-01-0 and 1)

5. EPA Large Quantity Generator (GAR000094110)

6. EPA – Large Quantity Handler of Universal Waste (GAR0000102475)

7. EPA – Large Quantity Handler of Universal Waste (GAR000096420)

Schedule 1.1(i)
Deposits, Escrows, and Prepaid Amounts

1. Covington Industrial (9176)
    a. Security Deposit: $415,911.00
2. J. Hart Properties (10157)
    a. Security Deposit: $21,042.00
3. J. Hart Properties (10117)
    a. Security Deposit: $9,929.33 less credit used for repairs ($-6,647.91) = $3,281.42
4. Starplus (Feedstock / Commercial)
    a. Deposit: $100,000.00

Schedule 1.3(c)
2025 and 2026 Property Tax Liabilities

1. 2025 Property Taxes: Newton County Property Tax in the amount of $1,025,148.95 as of 6/12/2026.

2. 2026 Property Taxes: Newton County Property Tax estimated to be approximately $427,348 assessed year to date.

Schedule 1.5(a)
Cure Costs

Attachment to Schedule 1.1(b) is hereby incorporated by reference.

Schedule 1.5(c)(i)
Cure Costs

Attachment to Schedule 1.1(b) is hereby incorporated by reference.

Schedule 1.5(d)(ii)
Required Consents

1. City of Covington Wastewater Department – Wastewater Permit (14 (T1))

2. Georgia Environmental Protection Division ("GA EPD") Stormwater Permit (GAIS14572)

3. GA EPD – Variance from Classification of Certain Hazardous Materials as Solid Waste – Batteries

4. GA EPD – Air Permit – Wet, Dry, and Lithium Lines (Permit No. 3691-217-0076-B-01-0 and 1)

5. EPA Large Quantity Generator (GAR000094110)

6. EPA – Large Quantity Handler of Universal Waste (GAR0000102475)

7. EPA – Large Quantity Handler of Universal Waste (GAR000096420)

8. Covington Industrial Lease Agreement

9. Consultant Services Agreement, dated November 2025, and related Engagement Letter, dated November 2025, each by and between the Seller and Eikon-X LLC

10. Partner Plus Agreement, dated May 20, 2024, by and between the Seller and Fisher Scientific Co. LLC

11. Service Agreement, dated May 18, 2023, by and between the Seller and Goshen Guard LLC

12. Consulting Services Agreement, dated January 2026, by and between the Seller and Hiller Companies, LLC

Schedule 3.3
Conflicts; Consents

(a)

1. Senior Secured Convertible Note and Warrant Purchase Agreement, dated as of December 22, 2025, by and among the Seller and the investors listed on Exhibit A thereto.

2. Security Agreement, dated December 22, 2025, by and among the Seller, Alter Domus (US) LLC, as collateral agent, and the investors party thereto (as amended).

3. Subordinated Secured Convertible Note Purchase Agreement, dated as of June 13, 2025, by and among the Seller and the investors listed on Exhibit A thereto, as amended August 22, 2025 and December 22, 2025.

4. Security Agreement, dated June 13, 2025, by and among the Seller, Alter Domus (US) LLC, as collateral agent, and the investors party thereto (as amended).

(b)

1. City of Covington Wastewater Department – Wastewater Permit (14 (T1))

2. Georgia Environmental Protection Division ("GA EPD") Stormwater Permit (GAIS14572)

3. GA EPD – Variance from Classification of Certain Hazardous Materials as Solid Waste – Batteries

4. GA EPD – Air Permit – Wet, Dry, and Lithium Lines (Permit No. 3691-217-0076-B-01-0 and 1)

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10. Partner Plus Agreement, dated May 20, 2024, by and between the Seller and Fisher Scientific Co. LLC

11. Service Agreement, dated May 18, 2023, by and between the Seller and Goshen Guard LLC

12. Consulting Services Agreement, dated January 2026, by and between the Seller and Hiller Companies, LLC

Schedule 3.4(a)
Financial Statements

See attached financial statements.

Ascend Elements, Inc. and Subsidiaries

Consolidated Financial Statements

December 31, 2024 and 2023

Ascend Elements, Inc.

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December 31, 2024 and 2023

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KPMG LLP
Two Financial Center
60 South Street
Boston, MA 02111

Independent Auditors' Report

Audit Committee
Ascend Elements, Inc.:

Opinion

We have audited the consolidated financial statements of Ascend Elements, Inc. and its subsidiaries (the Company), which comprise the consolidated balance sheets as of December 31, 2024 and December 31, 2023, and the related consolidated statements of operations, comprehensive loss, changes in stockholders' equity, and cash flows for the years then ended, and the related notes to the consolidated financial statements.

In our opinion, the accompanying consolidated financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2024 and 2023, and the results of its operations and its cash flows for the years then ended in accordance with U.S. generally accepted accounting principles.

Basis for Opinion

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditors' Responsibilities for the Audit of the Consolidated Financial Statements section of our report. We are required to be independent of the Company and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Substantial Doubt About the Entity's Ability to Continue as a Going Concern

The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 1 to the consolidated financial statements, the Company has suffered recurring losses and negative cash flows from operations since inception, has an accumulated deficit and net working capital deficiency, has delayed payments with suppliers, and has stated that substantial doubt exists about the Company's ability to continue as a going concern. Management's evaluation of the events and conditions and management's plans regarding these matters are also described in Note 1. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty. Our opinion is not modified with respect to this matter.

Responsibilities of Management for the Consolidated Financial Statements

Management is responsible for the preparation and fair presentation of the consolidated financial statements in accordance with U.S. generally accepted accounting principles, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the consolidated financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern for one year after the date that the consolidated financial statements are issued.

KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee.

KPMG

Auditors' Responsibilities for the Audit of the Consolidated Financial Statements

Our objectives are to obtain reasonable assurance about whether the consolidated financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the consolidated financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the consolidated financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the consolidated financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control related matters that we identified during the audit.

KPMG LLP

Boston, Massachusetts
June 30, 2025

Ascend Elements, Inc.

Consolidated Balance Sheets

December 31, 2024 and 2023

(in thousands, except par value and share amounts)

	2024	2023
Assets		
Current assets:		
Cash and cash equivalents	$ 93,584	$ 330,239
Current portion of inventory	8,375	16,430
Trade accounts receivable, net	4,355	4,886
Grant and other receivables	578	21,073
Prepaid expenses and other current assets	2,533	2,030
Total current assets	109,425	374,658
Restricted cash	10,399	11,785
Property, plant and equipment, net	1,020,975	439,387
Operating lease right-of-use assets	45,955	45,963
Inventory	2,802	1,417
Intangible assets, net	5,017	2,397
Equity investment	1,169	-
Other assets	3,134	742
Total assets	$ 1,198,876	$ 876,349
Liabilities and stockholders' equity		
Current liabilities:		
Accounts payable	$ 175,935	$ 65,874
Accrued expenses	4,549	3,176
Current portion of operating lease liability	3,921	1,675
Current portion of long-term debt	23,260	23,220
Total current liabilities	207,665	93,945
Operating lease liability	57,170	47,043
Contingent grant liability	207,007	25,193
Long-term debt	839	19,109
Warrant liabilities	4,727	4,100
Total liabilities	477,408	189,390

The accompanying notes are an integral part of these consolidated financial statements.

Ascend Elements, Inc.

Consolidated Balance Sheets

December 31, 2024 and 2023

(in thousands, except par value and share amounts)

	2024	2023
Stockholders' equity:		
Common stock ($0.0001 par value) 28,000,000 shares authorized; 7,670,117 and 7,116,446 shares issued and outstanding as of December 31, 2024 and 2023, respectively.	$ 1	$ 1
Series A convertible preferred stock ($0.0001 par value; 2,970,950 shares authorized and issued; liquidation preference of $1,550 as of December 31, 2024 and 2023)	1,550	1,550
Series B convertible preferred stock ($0.0001 par value; 13,541,003 shares authorized and issued; liquidation preference of $22,617 as of December 31, 2024 and 2023)	21,771	21,771
Series C-1 convertible preferred stock ($0.0001 par value) 28,401,871 shares authorized and 27,128,642 issued; liquidation preference of $168,325 as of December 31, 2024 and 2023)	162,439	162,439
Series C-1 SHDW convertible preferred stock ($0.0001 par value; 12,732,091 shares authorized and 12,224,605 shares issued; liquidation preference of $31,000 as of December 31, 2024 and 2023)	62,271	62,271
Series C-2 convertible preferred stock ($0.0001 par value; 8,828,666 shares authorized and issued; liquidation preference of $82,169 as of December 31, 2024 and 2023)	81,997	81,997
Series D-1 convertible preferred stock ($0.0001 par value, 61,778,604 shares authorized and 61,036,772 and 47,946,008 shares issued; liquidation preference of $650,000 and $510,592 as of December 31, 2024 and 2023, respectively.	627,806	508,550
Additional paid-in-capital	13,301	6,219
Accumulated deficit	(249,624)	(157,839)
Accumulated other comprehensive loss	(44)	-
Total stockholders' equity	721,468	686,959
Total liabilities and stockholders' equity	$ 1,198,876	$ 876,349

The accompanying notes are an integral part of these consolidated financial statements

Ascend Elements, Inc.

Consolidated Statements of Operations

December 31, 2024 and 2023

(in thousands)

	2024	2023
Revenue	$ 20,568	$ 17,491
Cost of goods sold	47,375	63,998
Gross loss	(26,807)	(46,507)
Operating expenses:		
Research and development	22,217	16,623
Selling, general and administrative	51,050	39,325
Loss on disposal of fixed assets	995	628
Total operating expenses	74,262	56,576
Loss from operations	(101,069)	(103,083)
Other income (expense):		
Interest income	10,185	9,193
Grant income	1,422	1,408
Other income	29	100
Loss on equity-method investment activity	(1,725)	-
Change in fair value of warrant liabilities	(627)	4,477
Total other income (expense)	9,284	15,178
Net loss	$ (91,785)	$ (87,905)

The accompanying notes are an integral part of these consolidated financial statements.

Ascend Elements, Inc.

Consolidated Statements of Comprehensive Loss

December 31, 2024 and 2023

(in thousands)

	2024	2023
Net loss	$ (91,785)	$ (87,905)
Other comprehensive (loss) income:		
Foreign currency translation adjustment, net of tax	(44)	-
Comprehensive loss attributable to Ascend Elements, Inc.	$ (91,829)	$ (87,905)

The accompanying notes are an integral part of these consolidated financial statements.

Ascend Elements, Inc.

Consolidated Statements of Changes in Stockholders' Equity

For the Years Ended December 31, 2024 and 2023

(in thousands except share amounts)

	Convertible Preferred Stock		Common Stock					
	Shares	Amount	Shares	Amount	Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Loss	Total Stockholders' Equity
Balance, December 31, 2022	55,865,200	$ 248,058	5,745,004	$ 1	$ 1,905	$ (69,934)	$ -	$ 180,030
Series C-1 issuance costs	-	(27)	-	-	-	-	-	(27)
Issuance of Series C-2 convertible preferred stock, net of issuance costs of $172	8,828,666	81,997	-	-	-	-	-	81,997
Issuance of Series D-1 convertible preferred stock, net of issuance costs of $2,042	47,946,008	508,550	-	-	-	-	-	508,550
Issuance of common stock due to exercise of stock options	-	-	1,371,442	-	666	-	-	666
Stock compensation expense	-	-	-	-	3,648	-	-	3,648
Net loss	-	-	-	-	-	(87,905)	-	(87,905)
Balance, December 31, 2023	112,639,874	$ 838,578	7,116,446	$ 1	$ 6,219	$ (157,839)	$ -	$ 686,959
Issuance of Series D-1 convertible preferred stock, net of issuance costs of $22,194	13,090,764	119,256	-	-	-	-	-	119,256
Issuance of common stock due to exercise of stock options	-	-	553,671	-	630	-	-	630
Stock compensation expense	-	-	-	-	6,452	-	-	6,452
Foreign currency translation adjustment	-	-	-	-	-	-	(44)	(44)
Net loss	-	-	-	-	-	(91,785)	-	(91,785)
Balance, December 31, 2024	125,730,638	$ 957,834	7,670,117	$ 1	$ 13,301	$ (249,624)	$ (44)	$ 721,468

The accompanying notes are an integral part of these consolidated financial statements.

Ascend Elements, Inc.

Consolidated Statements of Cash Flows

December 31, 2024 and 2023

(in thousands)

	2024	2023
Cash flows from operating activities:		
Net Loss	$ (91,785)	$ (87,905)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization expense	5,969	2,472
Loss on disposal of fixed assets	996	628
Stock compensation expense	6,452	3,648
Non-cash lease expense	12,380	2,270
Change in fair value of warrant liabilities	627	(4,477)
Changes in operating assets and liabilities:		
Inventory	6,670	(2,591)
Other receivables	688	(20,560)
Accounts receivable	21,440	15,965
Prepaids and other current assets	239	420
Other assets	(1,164)	(376)
Accounts payable	13,605	(7,175)
Accrued expenses	(3,073)	406
Deferred joint development income	-	(240)
Net cash used in operating activities	(26,956)	(97,515)
Cash flows from investing activities:		
Purchase of property, plant and equipment	(486,504)	(301,378)
Proceeds from sales of fixed assets	285	-
Equity investment	(2,937)	-
DOE funds received	181,403	2,663
Net cash used by investing activities	(307,753)	(298,715)
Cash flows from financing activities:		
Proceeds from issuance of long-term debt and warrants, net of issuance costs	-	13,218
Proceeds from issuance of convertible preferred stock, net of issuance costs	119,256	590,520
Principal payments of promissory notes	(23,219)	(681)
Proceeds from issuance of common stock due to exercise of stock options	630	666
Net cash provided by financing activities	96,667	603,723
Effect of exchange rate changes on cash and cash equivalents and restricted cash	1	-
Net increase in cash, cash equivalents and restricted cash	(238,041)	207,493
Cash, cash equivalents and restricted cash - beginning of period	342,024	134,531
Cash, cash equivalents and restricted cash - end of period	$ 103,983	$ 342,024
Supplemental cash flow information:		
Cash paid for interest	$ 4,384	$ 4,881
Supplemental disclosure of non-cash investing and financing activities:		
Purchase of property, plant and equipment included in accounts payable	$ 146,909	$ 56,781

The accompanying notes are an integral part of these consolidated financial statements.

Ascend Elements, Inc.

Notes to Consolidated Financial Statements

December 31, 2024 and 2023

(Amounts in thousands, except share amounts)

NOTE 1. Nature of Activities

Ascend Elements Inc., together with its consolidated subsidiaries (the “Company”), was organized in 2015 as Battery Resourcers, LLC, under the laws of Massachusetts. In 2017, the Company reorganized as Battery Resourcers, Inc., under the laws of Delaware. On January 19, 2022, the Company changed its name to Ascend Elements, Inc., with its business purpose remaining unchanged.

The Company is focused on changing the dynamics for processing end of life lithium-ion batteries through its technology, which incorporates the best of Hydro Process Recycling and Direct Recycling to accept a mixed input of battery material chemistries to produce a defined premium grade cathode output. Through this process, the Company provides a sustainable closed-loop battery cathode supply chain solution.

Since its inception, the Company has devoted substantially all of its efforts to business planning, research and development, recruiting management and technical staff, raising capital, and increasing output capacity. The Company has financed its operations primarily through the issuance of convertible preferred stock, convertible notes, long term debt and warrants, receipt of government research and construction grants, and customer revenues. There can be no assurance that the Company’s research and development programs will be successful, that products developed will obtain necessary patents or that any patented technologies will be commercially viable.

The Company is subject to risks and uncertainties common to early-stage companies in the battery recycling industry including, but not limited to, new technological innovations, protection of proprietary technology, dependence on key personnel, compliance with government regulations and the need to obtain additional financing. The Company operates in an environment of rapid change in technology and substantial competition from lithium-ion battery manufacturers and recyclers. In addition, the Company is dependent upon the services of its employees and consultants.

In accordance with Accounting Standards Codification (“ASC”) 205-40, Going Concern, ("ASC 205-40") the Company evaluated whether there are conditions and events, considered in the aggregate, that raise substantial doubt about the Company’s ability to continue as a going concern within one year after the date on which these consolidated financial statements have been issued.

The Company has incurred recurring losses and significant negative cash flows since inception, has an accumulated deficit of $249,624 and a working capital deficit of $98,240 at December 31, 2024, has delayed payments with suppliers, and is forecasting negative cash flows. The Company’s ability to continue as a going concern is dependent upon its ability to obtain the necessary financing to meet its obligations and repay its liabilities arising from normal business operations when they come due, and to generate profitable operations in the future.

Management plans to finance its cash needs through a combination of equity offerings, debt financings, collaborations, strategic alliances, licensing arrangements, private and government grants and other sources of funding. If the Company is unable to raise additional funds through equity or debt financings or other sources of funding when needed, the Company may be required to delay, limit, reduce or terminate product development, future commercialization efforts, or capital expenditures directed towards manufacturing plant expansion. There can be no assurance that the Company will be able to raise additional capital to fund operations when needed with terms acceptable to the Company, or at all. Because certain elements of management’s plans to mitigate the conditions that raised substantial doubt about the Company’s ability to continue as a going concern are outside of the Company’s control, including the ability to raise capital through an equity or other financing, those elements cannot be considered probable according to ASC 205-40, and therefore cannot be considered in the evaluation of mitigating factors. As a result, management has concluded that substantial doubt exists about the Company’s ability to continue as a going concern for 12 months from the date these consolidated financial statements are issued.

The consolidated financial statements as of December 31, 2024 have been prepared under the assumption that the Company will continue as a going concern for the next 12 months and that contemplates the

realization of assets and satisfaction of liabilities and commitments in the normal course of business. The Company's ability to continue as a going concern is dependent upon its uncertain ability to obtain additional capital, reduce expenditures and/or execute on its business plan. These consolidated financial statements do not include any adjustments to the carrying amounts and classification of assets, liabilities, and reported expenses that may be necessary if the Company were unable to continue as a going concern.

NOTE 2. Summary of Significant Accounting Policies

Basis of accounting

The accompanying consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States ("GAAP") and are presented in U.S. Dollars. Any reference in these notes to applicable guidance is meant to refer to the authoritative GAAP as found in the Accounting Standards Codification ("ASC") and an Accounting Standards Update ("ASU") of the Financial Accounting Standards Board ("FASB").

Reclassifications

Certain reclassifications have been made to prior-period amounts to conform to current-period classifications.

Principles of consolidation

The accompanying consolidated financial statements include the accounts of the Company and those entities required to be consolidated under GAAP. All material intercompany profits, transactions, and balances among the consolidated entities have been eliminated.

Ascend Elements UK, LTD ("AE UK"), a wholly owned subsidiary, was formed as a European holding company on December 19, 2022. There were no transactions conducted by the AE UK entity during the years ended December 31, 2024 and 2023.

Ascend Elements France ("AE France"), a wholly owned subsidiary, was formed as a France holding company on April 10, 2024. There were no transactions conducted by the AE France entity during the year ended December 31, 2024.

Ascend Elements Poland SP Z.O.O ("AE Poland"), a wholly owned subsidiary, was formed as a Poland holding company on March 28, 2024. The Company recorded general and administrative expenses as well as its share of activity related to the joint venture with the company below during the year ended December 31, 2024.

AE Elemental SP. Z O.O ("AEE"), a joint venture between the Company and Elemental Strategic Metals SP. Z O.O ("ESM"). The Company acquired a 50% ownership interest in the equity of AEE (the "Venture") on July 12, 2024. The Venture is recorded as an equity investment through the Company's wholly owned subsidiary, AE Poland on the Company's consolidated financial statements for its share of activity during the year ended December 31, 2024 (Note 7).

Use of estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts in the financial statements and accompanying notes. Such estimates and assumptions include revenue recognition, allowance for expected credit losses ("ACL"), the net realizable value of inventory, the useful lives of property and equipment, the valuation of long-lived assets, the valuation of warrant liabilities, stock-based compensation, lease accounting and income taxes. On an ongoing basis, management evaluates its estimates. Actual results could differ from those estimates, and such differences may be material to the consolidated financial statements.

Cash and cash equivalents

The Company considers all highly liquid investments purchased with an original maturity of three months or less to be cash equivalents. Cash equivalents at December 31, 2024 and 2023 consist primarily of money market funds and interest-bearing cash accounts.

Restricted cash

Restricted cash represents cash and cash equivalents that are restricted as to withdrawal or use as of the reporting period date. Restricted cash typically relates to deposits to secure letters of credit. A commercial bank issues standby letters of credit on behalf of the company as requested. The standby letter of credit is valid until canceled or matured and is collateralized by the amount deposit to restricted cash accounts. No amounts have been drawn under the standard letters of credit.

Fair value measurements and disclosures

The Company follows the guidance of ASC 820, Fair Value Measurements, which establishes a framework for measuring fair value, and expands disclosures about fair value measurements. The standard provides a consistent definition of fair value which focuses on an exit price which is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The standard establishes a three-level hierarchy for fair value measurements based on the nature of inputs used in the valuation of an asset or liability as of the measurement date.

- Level 1: Pricing inputs are quoted prices available in active markets for identical investments as of the reporting date.
- Level 2: Pricing inputs are quoted prices for similar investments, or inputs that are observable, either directly or indirectly, for substantially the full term through corroboration with observable market data.
- Level 3: Pricing inputs include unobservable inputs that reflect the reporting entity's own assumptions about the assumptions market participants would use in pricing the asset or liability, which are developed based on the best information available.

To the extent that valuation is based on models or inputs that are less observable or unobservable in the market, the determination of fair value requires more judgment. Accordingly, the degree of judgment exercised by the Company in determining fair value is greatest for instruments categorized in Level 3. Thus, a financial instrument's level within the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurement.

The Company invests primarily in money market funds, which are measured and recorded at fair value on a recurring basis and are classified within Level 1 of the fair value hierarchy because they are valued based on quoted market prices in active markets. The Company revalues the fair value of warrant liabilities at each reporting period and the respective fair values were as follows at:

	December 31, 2024			
	Level 1	Level 2	Level 3	Total
Money market funds	$40,664	-	-	$40,664
Warrant liabilities (Note 9)	-	-	$4,727	$4,727

	December 31, 2023			
	Level 1	Level 2	Level 3	Total
Money market funds	$146,431	-	-	$146,431
Warrant liabilities (Note 9)	-	-	$4,100	$4,100

The carrying amounts reflected on the consolidated balance sheets for accounts payable and accrued expenses approximate their respective fair values because of the short-term maturity of those financial instruments. The carrying amount of the Company's outstanding debt approximates the fair value as the debt predominately bears interest at a rate that approximates prevailing market and fixed rates.

Inventories

Inventories are stated at standard cost, subject to the lower of cost or net realizable value. Cost includes materials, labor, and manufacturing overhead related to the purchase and production of inventories. Net realizable value is the estimated selling price less estimated costs of completion, disposal, and transportation. The Company regularly reviews inventory quantities on hand, future purchase commitments with its suppliers, and the estimated utility of its inventory. If the Company's review indicates a reduction in utility below carrying value, the Company reduces its inventory to a new cost basis through a charge to the cost of goods sold.

Property, plant and equipment, net

Property, plant and equipment, net, including improvements that significantly add to productive capacity or extend useful life, are stated at historical cost less accumulated depreciation. Depreciation is computed using the straight-line method over the estimated useful lives of the assets. Production equipment is depreciated over 7-10 years. Computers, equipment and furniture are depreciated over 3-5 years. Leasehold improvements are amortized over the lesser of the remaining useful life of the improved asset or the remaining term of the lease. Land is not depreciated. Buildings, when placed in service up to 39 years. The Company capitalizes interest on certain projects with long-term construction periods. Maintenance and repairs expenditures are charged to expense as incurred.

Intangible assets, net

Intangible assets, net primarily consist of identified finite-lived intangible assets related to internally developed completed technologies. The Company capitalizes all software implementation costs that meet the criteria for capitalization, including those that relate to a service contract (e.g. hosting arrangement). These costs are amortized together with the costs of the related software license; however, the implementation costs related to a service arrangement are amortized over the term of the arrangement. The amortization period for all capitalized implementation costs is generally between 3 and 10 years.

Impairment of long-lived assets

Long-lived assets consist of Property, plant and equipment, net and other finite-lived intangibles, such as finite-lived intangibles. These assets are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of the asset may not be recoverable.

Long-lived assets are tested for impairment whenever events or changes in business circumstances indicate that the carrying amount of the assets may not be fully recoverable. Factors that the Company considers in deciding when to perform an impairment review include significant underperformance of the business in relation to expectations, significant negative industry or economic trends and significant changes or planned changes in the use of the assets. If an impairment review is performed to evaluate a long-lived asset group for recoverability, the Company compares forecasts of undiscounted cash flows expected to result from the use and eventual disposition of the long-lived asset group to its carrying value. An impairment loss would be recognized when estimated undiscounted future cash flows expected to result from the use of an asset group are less than its carrying amount. If such assets are not impaired, but their useful lives have decreased, the remaining net book value is amortized over the revised useful life. No impairments of long-lived assets were made for fiscal years 2024 and 2023.

Leases

The Company accounts for leases in accordance with GAAP. At the inception of an arrangement, the Company determines whether the arrangement is a lease arrangement or contains a lease based on the

unique facts and circumstances present. Leases with a term greater than 12 months are recognized on the balance sheet as right-of-use ("ROU") assets with a corresponding lease liability. The Company has elected not to recognize on the consolidated balance sheets leases with an initial term of 12 months or less. Leases with an initial term of 12 months or less are directly expensed as incurred. Leases are classified as either operating or finance depending on the specific terms of the arrangement.

The Company's leases mainly consist of facilities, office equipment, and vehicles. The majority of leases are classified as operating leases. Certain lease agreements contain provisions for future rent increases. Lease payments included in the measurement of the lease liability comprise fixed payments and future rent increases tied to an index or rate. Future rent increases dependent on an index or rate are initially measured at the index or rate at the commencement date. The Company's leases typically do not contain residual value guarantees.

At the commencement date, operating and finance lease liabilities and their corresponding ROU assets are recorded based on the present value of lease payments over the expected lease term. The lease term includes the non-cancelable period of the lease, plus any additional periods covered by either a Company option to extend (or not to terminate) the lease that the Company is reasonably certain to exercise, or an option to extend (or not to terminate) the lease controlled by the lessor. The interest rate implicit in a lease contract is typically not readily determinable, therefore an incremental borrowing rate is used to calculate the lease liability. The incremental borrowing rate is the rate incurred to borrow on a collateralized basis over a similar term an amount equal to the lease payments in a similar economic environment. Certain adjustments to the ROU asset may be required for items such as prepayments, lease incentives received or initial direct costs paid.

An abandoned lease is one where the lessee, also known as the tenant, decides to cease the use of a ROU asset immediately or at a future date. The decision to abandon an asset is an indicator of impairment for a held and used long-lived asset. When a lessee ceases the use of an ROU asset, but intends to sublease the asset, the asset is not considered abandoned. A lease impairment is when the carrying amount of the asset exceeds its recoverable amount. It is recognized as a reduction of the ROU asset and a recording of an impairment loss in the financial statements. Lease abandonment is different because it relates to the lessee's decision to stop using a leased asset before the end of the lease term. Ceasing to use the ROU asset is an impairment indicator unless the lessee intends to sublease the asset.

The Company entered into a lease agreement for a facility on November 1, 2023. Prior to occupying the facility, on October 2, 2024, the Company sent via certified letter to the lessor's attorney notifying the party that it filed a complaint with the Middlesex Superior Court for breach of contract. The Company does not intend to occupy nor sublease the ROU asset. The Company concluded that the asset was abandoned during 2024 and determined that the cease-use date was on October 2, 2024. The Company recorded a loss on the abandonment of $7,681 in Selling, general and administrative in the consolidated statements of operations for the year ended December 31, 2024.

Industrial revenue bonds

On December 1, 2023, the Company closed an industrial revenue bond transaction with the County of Newton, Georgia (the "County") in order to receive a 6-year personal property tax abatement on its property, plant, and equipment, net ("Personal Property") within its manufacturing plant in Covington, Georgia ("Covington"). Pursuant to this transaction, the County issued a principal amount of $100,000 of its industrial revenue bonds to the Company and then used the proceeds to purchase the Personal Property from the Company (Note 12).

Accounts receivable

A receivable is a right to consideration that is unconditional (i.e., only the passage of time is required before payment is due). Accounts receivables are presented net of an allowance for credit losses, which is an estimate of amounts that may not be collectible. The allowance for doubtful accounts is our estimate of current expected credit losses ("CECL") based on historical loss experience. The Company periodically

performs detailed reviews to assess the adequacy of the allowance. The Company exercises judgment in estimating the timing, frequency and severity of losses. The Company uses an aging schedule method to estimate current expected credit losses based on days of delinquency, including information about past events and current economic conditions, as well as future forecasts of economic conditions. The Company's accounts receivable is separated into two categories using a portfolio methodology to evaluate the allowance under the CECL impairment model based on sales categorization and similar credit quality and worthiness of the customers: government grants and regular trade customers. The receivables in each category share similar risk characteristics. The Company increases the ACL when the Company determines all or a portion of a receivable is uncollectible. The Company recognizes recoveries as a decrease to the ACL. Adjustments to the ACL are recorded as selling, general and administrative expenses in the consolidated statements of operations. There was no ACL deemed necessary as of December 31, 2024 or 2023.

Revenue

Revenue is recognized on contracts with customers when transfer of control to the customer occurs in exchange for an amount reflecting the consideration that the Company expects to be entitled. In order to achieve this core principle, the Company applies the following five step approach:

(1) Identify the contract with a customer—The Company considers customer purchase orders, which in some cases are governed by master agreements, to be customer contracts. A contract exists when it is approved by both parties, each party's rights and obligations are identified, payment terms are known, customer has the ability and intent to pay and the contract has commercial substance. The Company uses judgment in determining the customer's ability and intent to pay, which is based on factors such as the customer's historical payment experience or, for new customers, credit and financial information pertaining to the customers.

(2) Identify the performance obligations in the contract—Performance obligations are identified as products and services that will be transferred to the customer that are both capable of being distinct, whereby the customer can benefit from the product or service either on its own or together with other resources that are readily available from third parties or from the Company, and are distinct in the context of the contract, whereby the transfer of the products or services is separately identifiable from other promises in the contract. Substantially, all of the Company's contracts with customers contain a single performance obligation, such as the sale of black mass and related biproducts.

(3) Determine the transaction price—The transaction price is determined based on the consideration to which the Company expects to be entitled in exchange for transferring products to the customer. Variable consideration is included in the transaction price if, in the Company's judgment, it is probable that no significant future reversal of cumulative revenue under the contract will occur.

(4) Allocate the transaction price to the performance obligations in the contract—If the contract contains a single performance obligation, the entire transaction price is allocated to that performance obligation. Contracts that contain multiple performance obligations require an allocation of the transaction price to each performance obligations based on a relative standalone selling price.

(5) Recognize revenue when a performance obligation is satisfied—Revenue is recognized when control of the product is transferred to the customer (i.e., when the Company's performance obligation is satisfied), which typically occurs point in time at shipment or delivery, depending on the terms of the contract.

Product revenue

Product revenue includes sales from products that are raw materials extracted from recycled lithium-ion batteries, such as cobalt, manganese, nickel, lithium, aluminum, copper, etc. Revenue recognition occurs when control of the products has transferred to the customer, typically when products have been shipped

to the customers. The amount of product revenue recognized is adjusted for expected returns, which are estimated based on the historical data. The amount of consideration exchanged with the customer is variable and is based on prevailing market prices and concentration of metals within the product. Estimates of variable consideration are not constrained, as the Company is able to determine such estimates based on publicly available market prices and its own content-testing process. Typical payment terms range from 30 days to 60 days. The product is delivered by a 3rd party shipping company and the revenue is recognized when the 3rd party retrieves the goods from the shipping point.

Processing revenue

Processing revenue includes charges for processing goods sent by customers. The revenue is recognized at a fixed price, which includes the Company's estimated labor and overhead cost, plus estimated profit. The processing revenue is recognized when the Company completes the processing and ships goods to the customer's designated location. The goods that are processed do not meet the definition of "distinct"; therefore, the consideration paid to the customer in exchange for goods provided is accounted for as a reduction of the transaction price.

Other revenue recognition policies

Shipping and handling activities are not considered a contractual performance obligation. The Company records shipping and handling costs billed to customers as revenue with offsetting costs recorded as cost of goods sold.

If applicable, taxes assessed by a governmental authority that are both imposed on and concurrent with a specific revenue-producing transaction, that are collected by the Company from a customer, are excluded from revenue and included in other current liability.

Contract assets and contract liabilities

Contract assets and contract liabilities (deferred revenue) are reported net at the contract level for each reporting period. Contract assets typically result from contracts when revenue recognized exceeds the amount billed to the customer, and right to payment is not just subject to the passage of time. Contract assets are transferred to accounts receivable when the rights become unconditional.

As of December 31, 2024 and December 31, 2023, the Company had $0 and $134, respectively, of contract assets, which consists of raw material purchased from the customer that will be returned to the customer after processing in a future period. Contract liabilities typically result from billings in excess of revenues recognized and relate to products shipped near the end of the reporting period for which the required revenue recognition criteria were not met. The Company had no contract liabilities as of December 31, 2024 and December 31, 2023.

Product revenue cost of goods sold

Cost of goods sold includes direct materials, labor costs, manufacturing overhead, freight costs, depreciation, maintenance, supplies, and other manufacturing costs.

Processing revenue cost of goods sold

Cost of goods sold includes direct labor costs, manufacturing overhead, freight costs, depreciation, maintenance, supplies, and other manufacturing costs.

Grant income

The Company recognizes funding received from grants as other income, rather than as a reduction of research and development expenses, because the Company is the principal in conducting the research and development activities and these grants are not central to the Company's ongoing operations.

For grant funds received in reimbursement of expenses – if upon receipt the Company has satisfied all requirements to keep the funds (and incurred / recorded the associated expense), the grant revenue will

be recorded in the Company's consolidated statements of operations rather than as a liability and amortized to the Company's consolidated statements of operations later. This follows the concept that government grants should be recognized in the Company's consolidated statements of operations in a manner that mirrors the period when the entity recognizes the underlying costs for which the grant is intended to compensate.

Income recognized upon incurring qualifying expenses in advance of receipt of funding is recorded as unbilled receivables, a component of prepaid expenses and other current assets, on the Consolidated balance sheets. Income from grants that are funded in advance is deferred and recognized over time in line with the methods above. The Company recognizes other income only after the qualifying expenses related to the grants have been incurred and it is reasonably assured that the expenses will be reimbursed, and the revenue will be collectible. The related costs incurred are included in research and development expense in the Company's consolidated statements of operations.

The Company has been the recipient of government grants.

The Company has determined that the grants are not within the scope of ASC 606 as they do not meet the definition of a contract with a customer. The Company has concluded that the grants meet the definition of ASC 832.

The details of the Company's major grants are provided below.

On November 16, 2022, the Company purchased approximately 79 acres ("Lot 2") from Hopkinsville Industrial Foundation ("HIF") and was given approximately 67 acres ("Lot 1," referred to collectively with Lot 2 as the "Site") pursuant to a separate grant agreement (the "Grant Agreement") with the City of Hopkinsville (the "City"). The Grant Agreement was negotiated with the City to provide $3,642 solely in cash. Pursuant to the Grant Agreement, the purpose of the grant is for the construction, equipping and operation of a manufacturing plant on property located in the Hopkinsville Industrial Park. The Company agreed, in consideration for the grant, to generate at least $5,822 in Occupational Tax Revenue (the "Release Amount") during the 21-year period following the commencement of construction. If the sum of the Occupational Tax Revenue for any period is less than the guaranteed amount in that period, the Company is required to repay the City of Hopkinsville for the amount of the deficiency. In the event that the Company pays the Release Amount within fifteen years after the date of the Amended and Restated Real Estate Purchase Agreement, the Company will be entitled to an additional grant in the form of a rebate of fifty percent of the Occupational Tax Revenue generated solely from employees working at the Site (the "Additional Grant"). The Additional Grant applies for a period beginning on the date on which the Company has repaid the Release Amount through the 15th anniversary of the Grant Agreement.

The Company has recorded a deferred grant income liability and facility construction in process ("CIP") gross on the Company's consolidated balance sheets. Upon the facility being placed into service, the Company will reclassify the CIP to buildings and begin recognizing depreciation expense and grant income ratably over the useful life of the facility. On the Company's consolidated statements of operations, depreciation expense associated with the facility being presented separately from amortization of the deferred grant income liability. At each reporting period, the Company assesses whether it is probable that it will have to return any portion of the Grant Funds. The amount of any estimated return would result in either (a) establishment of a refund liability with an offset to expense, for the amount of the grant that had already been recognized as income or (b) cease recognizing the deferred grant income liability into income, for the amount of the grant that had not been amortized but the Company expects to be obligated to return.

In 2022, the United States Department of Energy ("DOE") granted funds to the Company in the amount of $316,187 (the "Grant Funds"), the majority of the Grant Funds will reimburse the Company for capital expenditures. The Company will apply the same gross accounting model as the Kentucky land Grant Agreement above, as these Grants Funds all relate to a single capital project. That is, the Company will record the cash and an offsetting grant liability that will be released into the Company's consolidated statements of operations (as other income) when the construction project is placed into service.

The grant agreements provide the Company must use the Grant Funds received for the purpose of construction, equipping, and operation of a manufacturing plant on the Kentucky property. The Company must incur and pay for qualifying expenditures in full using unrestricted/operational funds prior to requesting reimbursement from the Federal Government. Total estimated project cost is the sum of the Government share and the Company's share of the estimated project costs. The Company's cost share must come from non-Federal sources unless otherwise allowed by law. The Company is liable for its percentage share of total allowable project costs, on a budget period basis, even if the project is terminated early or is not funded to its completion. This cost sharing for budget periods 1 and 2, which run from September 1, 2023 to February 28, 2025 and March 1, 2025 to August 31, 2026, respectfully, for the Company and the DOE are approximately $277,747, and $259,072, respectfully, and $59,368 and $57,115, respectfully.

At each reporting period, the Company assesses whether it is probable that it will have to return any portion of the Grant Funds. The Grant Funds are only repayable if the Company does not meet its cost share obligation. If the Company does not meet its cost share obligation, the amount of any estimated return of Grant Funds would result in either (a) establishment of a refund liability with an offset to expense, for the amount of the grant that had already been recognized as income or (b) cease recognizing the deferred grant income liability into income, for the amount of the grant that had not been amortized but the Company expects to be obligated to return. As of December 31, 2024 and through the date of issuance of these Consolidated Financial Statements, the Company has not recognized any of the Grant Funds as income and does not believe it is probable that it will have to return any Grant Funds.

Income from grants within the scope of ASC 832 was $1,422 and $1,408 for the fiscal years 2024 and 2023, respectively. Income related to reimbursement of certain operating costs from the Grant Funds has been recorded when requested and none of the assets for which funds were received and a contingent liability has been recorded for, were placed in service as of December 31, 2024.

The Company's receivable balance related to Grant Funds was $411 and $20,218 at December 31, 2024 and December 31, 2023, respectively. The Grant Funds have a project period that ends August 31, 2026.

The following table includes additional information about the Company's contingent grant liability as of December 31:

	Value
Balance, December 31, 2022	$ 3,642
Cash received	2,663
Adjustment	(1,330)
Amounts in grants receivable	20,218
Balance, December 31, 2023	25,193
Cash received	181,403
Amounts in grants receivable	411
Balance, December 31, 2024	$ 207,007

Research and development costs

All expenditures related to research and development are expensed as incurred. Research and development expenses include payroll, employee benefits, and other headcount-related expenses associated with developing processes for extracting materials from used lithium-ion batteries. Research and development expenses also include rent, supplies, contracted services, license fees for incomplete technology and depreciation expense for equipment purchased for research and development activities.

Stock compensation expense

The Company periodically grants stock options to employees and non-employees in non-capital raising transactions as compensation for services rendered. The Company accounts for stock option grants to

employees based on the authoritative guidance provided by the FASB where the value of the award is measured on the date of grant and recognized over the vesting period. The Company accounts for stock option grants to non-employees in accordance with the authoritative guidance of the FASB where the value of the stock compensation is determined based upon the measurement date at either a) the date at which a performance commitment is reached, or b) at the date at which the necessary performance to earn the equity instruments is complete. Non-employee stock-based compensation charges generally are amortized over the vesting period on a straight-line basis. In certain circumstances where there are no future performance requirements by the non-employee, option grants are immediately vested and the total stock-based compensation charge is recorded in the period of the measurement date.

The fair value of the Company's common stock option grants is estimated using a Black-Scholes option pricing model, which uses certain assumptions related to risk-free interest rates, expected volatility, expected life of the common stock options, and future dividends. Compensation expense is recorded based upon the value derived from the Black-Scholes option pricing model and based on actual experience. The Company accounts for forfeitures as they occur. The assumptions used in the Black-Scholes option pricing model could materially affect compensation expense recorded in future periods.

Income taxes

The Company recognizes deferred tax assets and liabilities for the expected future tax consequences of events that have been included in the financial statements or tax returns. Under this method, assets and liabilities are determined based on the difference between the financial statement and tax bases of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to reverse. A valuation allowance is provided to reduce the gross deferred tax assets to a level that, more likely than not, will be realized.

The Company recognizes tax benefits when a tax position is more likely than not to be sustained upon examination by the applicable taxing authority. The tax benefits recognized in the financial statements from such positions are then measured based on the largest benefit that has a greater than 50% likelihood of being realized upon settlement. The Company recognizes penalties and interest related to uncertain tax positions within the provision for income taxes.

Other Comprehensive Loss

Other comprehensive loss refers to revenues, expenses, gains and losses that are excluded from net income as these amounts are recorded directly as an adjustment to stockholders' equity, net of tax. The Company's other comprehensive loss was composed of foreign currency translation adjustments.

Foreign Currency Translation and Transactions

The Company's reporting currency is the U.S. Dollar. The financial statements of the Company's foreign subsidiaries are translated from local currency into U.S. dollars using the current exchange rate at the balance sheet date for assets and liabilities, and the average exchange rate in effect during the period for net sales and expenses. The functional currency for the Company's international subsidiaries is considered to be the local currency for each entity, and, accordingly, translation adjustments for these entities are included as a component of accumulated other comprehensive loss in the Company's consolidated balance sheets.

Equity-method investments

The Company accounts for investments in common stock under the equity method if the Company has the ability to exercise significant influence, but not control, over an investee. Investments in equity-method investees are included within "Equity investment" in the consolidated balance sheets. The Company's proportional share of the earnings or losses as reported by equity-method investees are classified as "Loss on equity equity-method investment activity" in the consolidated statements of operations. The Company regularly evaluates these investments, which are not carried at fair value, for other-than-temporary

impairment and records any impairment charge in earnings when the decline in value below the carrying amount of its equity method investment is determined to be other-than-temporary (Note 7).

Concentrations of credit risk and of significant suppliers

The Company is subject to concentrations of credit risk principally from cash and cash equivalents. The majority of the Company's cash is held by a reputable financial institution within the United States, which at times, may exceed federally insured limits. The Company may face exposure, including constraint on liquidity and access to capital, if there is failure by these or other financial institutions. As of December 31, 2024, 80% of the Company's accounts receivable was due from two customers and as of December 31, 2023, 91% of the Company's accounts receivable was due from one customer. For the year ended December 31, 2024, three customers represented more than 10% of revenue, of which one, represented approximately 60%. For the year ended December 31, 2023, 94% of the Company's revenue was generated by contracts with one customer. For the years ended December 31, 2024 and 2023, 68% and 93%, respectively of inventory was purchased from one supplier.

Recent Accounting Pronouncements

In December 2023, the FASB issued ASU No. 2023-09, Income Taxes (Topic 740), Improvements to Income Tax Disclosures ("ASU 2023-09"). ASU 2023-09 requires entities to provide additional information of the Company's tax rate reconciliation, as well as additional disclosures about income taxes paid by jurisdiction. ASU 2023-09 is effective for annual reporting periods beginning after December 15, 2025, with early adoption permitted. ASU 2023-09 should be applied prospectively, but entities have the option to apply it retrospectively for each period presented. The Company does not anticipate this guidance will have an adverse impact on its results of operations, cash flows, or financial condition, but it will result in expanded disclosure within the financial statements.

NOTE 3. Inventory

Inventory consists of the following at December 31:

	2024	2023
Raw materials	$ 7,186	$ 14,893
Finished goods	1,189	1,527
Spare parts	2,802	1,417
Work in process	-	10
Total inventory	$ 11,177	$ 17,847

NOTE 4. Contract Assets

During 2022, the Company agreed to purchase scrap batteries from a customer, process those batteries, and sell the material back to the customer after processing. Once the Company takes possession of scrap batteries sent by the customer, the Company recognizes a liability and pays the customer based on agreed-upon payment terms.

As of December 31, 2024 and December 31, 2023, the Company had $0 and $134, respectively, of contract assets, which consists of raw material purchased from the customer that will be returned to the customer after being processed in a future period.

NOTE 5. Property Plant and Equipment, net

Property plant and equipment, net consists of the following at December 31:

	2024	2023
Land	$ 6,070	$ 6,070
Production equipment	17,703	13,836
Computers, equipment and furniture	681	2,619
Leasehold improvements	20,913	18,026
Construction in process	984,619	402,145
Total, at cost	1,029,986	442,696
Less: accumulated depreciation	(9,011)	(3,309)
Total, Net	$ 1,020,975	$ 439,387

Construction in process relates to several ongoing projects at the Company's research and development sites, Covington plant and Hopkinsville, Kentucky site ("Hopkinsville"), which are anticipated to be placed into service at various points through 2026. During 2024 and 2023, the Company capitalized interest of $4,384 and $9,955, respectively to construction in process. The total amount of capitalized interest included in construction in process as of December 31, 2024 and December 31, 2023 was $14,339 and $9,955, respectively. Depreciation expense for the years ended December 31, 2024, and 2023, amounted to $5,701 and $2,450, respectively.

NOTE 6. Intangibles, net

Intangibles, net consists of the following at December 31:

	2024	2023
Completed technologies	$ 5,321	$ 2,433
Total, at cost	5,321	2,433
Less: accumulated amortization	(304)	(36)
Total, Net	$ 5,017	$ 2,397

Amortization expense for the years ended December 31, 2024, and 2023, amounted to $268 and $22, respectively.

As of December 31, 2024, amortization expense of intangible assets is expected to be as follows:

Year Ending December 31,	
2025	$ 254
2026	253
2027	253
2028	246
2029	241
Thereafter	3,770
Total	$ 5,017

NOTE 7. Equity investment

On April 8, 2024, the Company and ESM, (the "Venturers") entered into an agreement stating that they intended to establish a Venture to develop and operate certain battery recycling and black mass production activities in Europe which include:

- Commission and construct battery recycling and lithium extraction facilities in Poland, Germany, and Western Europe, and
- Perform a business feasibility study for metal extraction, and depending on the results of the study, proceed with constructing and commissioning a metal extraction facility in Poland.

The Company acquired a 50% ownership interest in equity of the Venture on July 12, 2024.

The Company's interests in the Venture are comprised of 50% of the common share capital of the Venture provided in connection with the $40,000 funding commitment, of which the Company has funded $2,937 as of December 31, 2024. The aggregate value of both ESM and the Company's investments in the Venture is $80,000, with each party providing up to $40,000 by December 31, 2026.

In addition to this initial equity funding commitment, the total aggregate commitment is to be increased by the value of negative operational cash flows of the Venture incurred over the first two years of operations, which may exceed this initial $40,000 funding commitment for each. The Venturers may only make cash contributions to the Venture.

The Company does not consolidate the Venture and reports its share of losses as loss on equity-method activity in the consolidated statements of operations and its share of its investment in the Venture as Equity Investment in its consolidated balance sheets as of December 31, 2024.

NOTE 8. Operating Leases

The Company determines if an arrangement is or contains a lease at inception, which is the date on which the terms of the contract are agreed to and the agreement creates enforceable rights and obligations. The Company also considers whether its service arrangements include the right to control the use of an asset.

The Company has operating leases for manufacturing facilities and corporate offices. The leases have remaining lease terms of 3 months to 137 months, some of which include options to extend the leases for up to 10 years, and some of which include options to terminate the lease within 1 year. The Company does not have any leases classified as finance leases except as stated in Note 12. Some leases include one or more options to exercise renewal terms, generally at the Company's sole discretion, that can extend the lease term. Certain leases contain rights to terminate whereby those termination options are held by either the Company, the lessor, or both parties. These options to extend or terminate a lease are included in the lease term only when it is reasonably certain that the Company will exercise that option. The Company's leases generally do not contain any material restrictive covenants. The lease agreements do not provide an implicit rate; therefore, the Company generally uses its incremental borrowing rate based on the estimated rate of interest for collateralized borrowing over a similar term of the lease payments at commencement date.

Operating lease expense relating to leases recorded under ASC 842 totaled $3,687 and $3,776 for the years ended December 31, 2024 and 2023, respectively. Short-term lease expense totaled $4,307 and $2,802 for the years ended December 31, 2024 and 2023, respectively.

Supplemental cash flow information related to leases is as follows for years ended December 31:

	2024	2023
Cash paid for amounts included in the measurement of operating lease liabilities	$ 5,178	$ 1,506
Operating lease right-of-use assets obtained in exchange for lease liabilities	11,286	47,924

Supplemental Balance Sheet information related to leases is as follows as of December 31:

	2024	2023
Operating lease right-of-use assets	$ 45,955	$ 45,963
Current operating lease liabilities	3,921	1,675
Long-term operating lease liabilities	57,170	47,043

The weighted average remaining term for the Company's operating leases as of December 31, 2024 and 2023 was approximately 8.7 and 10.6 years, respectively. The weighted average discount rate for the Company's operating leases as of December 31, 2024 and 2023 was 6.68% and 16.00%, respectively.

The following is a scheduled by year of the maturities of operating lease liabilities as of December 31, 2024:

Year Ending December 31,	Operating Lease Payments
2025	$ 11,435
2026	11,334
2027	11,418
2028	9,701
2029	8,814
Thereafter	55,559
Total undiscounted future minimum lease payments	108,261
Less imputed interest	(47,170)
Total discounted future minimum lease payments	$ 61,091

During 2024, the Company entered into four new operating leases, including: a renewal of research and development space in Massachusetts, two imbedded service agreement leases in Kentucky and one in Georgia. The research and development space has a lease term of 60 months. The two service agreements in Kentucky each have terms of 48 months and the service agreement in Georgia has a term of 36 months.

NOTE 9. Long-term Debt and Warrants

On December 29, 2022, the Company entered into a loan and security agreement with Avenue Capital Management Funds and Impact Fund (affiliates of the Venture Opportunities Fund) which included $30,000 being funded at the time of closing and additional $50,000 to be funded as the Company achieves certain milestones as defined in the agreement. On May 22, 2023, the Company drew down an additional $15,000. The maturity date of the agreement is December 29, 2025 and can extend to December 29, 2026 if mutually agreed by all parties. The loan and security agreement has a variable interest rate of 4.5% plus Prime Rate (as published by Wall Street Journal), which totaled 12% and 13% as of December 31, 2024 and 2023, respectively. Borrowings under the agreement contain interest only payments for the first 12 months and then interest plus equal payment of principal amounts from 13th month through the remaining loan period. The loan includes a final payment of $3,600 due upon the termination or upon the prepayment of the loan. The loan and security agreement contains customary representations and warranties and was secured by substantially all assets of the Company. The Company used part of the loan proceeds to pay off the existing borrowings under the loan entered with Venture Opportunities Fund as mentioned above. The Company accounted for the December refinancing as a debt modification as the refinanced loan was entered into with the same lenders and the changes in terms did not result in the modified debt to be considered substantially different. Under modification accounting, lender fees, primarily related to warrants issued (see below), increased the balance of unamortized debt discount, and third-party fees are expensed. The final payment is reflected in the computation of the effective interest rate and recognized as part of periodic interest expenses. The effective interest rate of the amended loan is 31.4%.

Also included in long-term debt is a promissory note with an initial balance of $2,556, related to a land acquisition which occurred in 2022. The promissory note has a stated interest rate of 5.5%, providing for seven semi-annual payments of $406. The first installment was due on May 1, 2023, and the remaining installments are due on each November 1st and May 1st thereafter. The outstanding balance of this note was $1,155 and $1,875 as of December 31, 2024 and December 31, 2023, respectively.

The Company's outstanding loan balances are summarized as follows as of December 31:

	2024	2023
Principal amount	$ 23,655	$ 46,875
Unamortized premium (discount)	444	(4,546)
Total Long-term debt	24,099	42,329
Less Current portion of long-term debt	(23,260)	(23,220)
Long-term debt, net of current portion	$ 839	$ 19,109

The future principal maturities of debt as of December 31, 2023, are as follows:

Years ending December 31	
2025	$ 23,260
2026	839
	$ 24,099

Cash paid for interest for the years ended December 31, 2024 and 2023 was $4,384 and $4,881, respectively.

On November 5, 2021 the Company issued warrants (the "2021 Warrants"). The 2021 Warrants have expiration dates of November 30, 2031. The 2021 Warrants entitle the holders to purchase a total fixed amount of 507,486 shares of Series C-1 SHDW Preferred Stock at an exercise price of $2.52 per share.

In conjunction with the December 29, 2022 loan agreement, the Company issued warrants (the "2022 Warrants") that permit the warrant holders to invest $2,400 plus 3% of the aggregate loan amount to purchase Series C-2 preferred stock or the preferred stock issued in the next round of financing at an exercise price of either Series C-1 Preferred Price of approximately $6.20 or the lowest share price of the preferred stock issued in the next round of financing (excluding the issuance of up to $60,000 of Series C-2 preferred stock) but including discounts to such next round of financing provided for in outstanding convertible securities. The 2022 Warrants entitle the holders in aggregate to purchase 531,844 shares of Series C-2 Preferred Stock at an exercise price of $2.52 per share. The 2022 Warrants have expiration dates of December 31, 2032.

In addition to the 2022 Warrants issued from the December 29, 2022 loan agreement above, the Company issued additional warrants on May 23, 2023 (the "2023 Warrants"). The 2023 Warrants entitle the holders in aggregate to purchase 72,526 shares of Series C-2 Preferred Stock at an exercise price of $2.52 per share. The 2023 Warrants have expiration dates of December 31, 2032.

The Company's 2021 Warrants, 2022 Warrants and 2023 Warrants were recorded as liabilities and measured at inception and each reporting date at fair value using Level 3 Inputs, with the change in fair value recorded within other income (expense) in the consolidated statements of operations. The Company estimated the fair value of its warrants by using a scenario analysis based on a binomial model and Black Scholes option pricing models.

The assumptions used to estimate the fair value of the warrants were based on the Company's equity value calculated during the period including a potential liquidity event in the future. The Company's volatility was determined based on the observed equity / asset volatilities for guideline companies over a period commensurate with the expected term. The Company's risk-free rate was based on U.S. Treasury bonds with a maturity commensurate with the expected term. Finally, a dividend rate was also used as of the December 31, 2024 and 2023 valuation dates.

The following table includes additional information about the Company's outstanding warrants as of December 31:

	Value
Balance, December 31, 2022	$ 8,266
Warrants issued on May 22, 2023	311
Change in fair value	(4,477)
Balance, December 31, 2023	4,100
Change in fair value	627
Balance, December 31, 2024	$ 4,727

NOTE 10. Convertible Preferred Stock

During 2017, the Company issued 2,970,950 shares of its Series A Convertible Preferred Stock at approximately $0.52 per share for aggregate cash proceeds of $1,550.

During 2021, the Company issued 13,541,003 shares of its Series B Convertible Preferred Stock (Series B Preferred Stock) at approximately $1.67 per share for net cash proceeds totaling $19,492 and 600,000 shares of Series B Preferred Stock associated with amendments to a prior license agreement (Note 14). In conjunction with issuing Series B Preferred Stock, the convertible notes and accrued interest totaling $1,279 converted to 738,796 shares of Series B Preferred Stock. The Company incurred expenses totaling $846 associated with the issuance of Series B Preferred Stock.

During July 2022, the board of directors (the "Board") and stockholders increased the number of authorized shares of common and preferred stock to 80,000,000 and 59,535,621, respectively. During August 2023, the Board and stockholders increased the number of authorized shares of common and preferred stock to 155,205,430 and 128,253,185, respectively.

During 2022, the Company issued 27,128,642 shares of its Series C-1 Convertible Preferred Stock at $6.20 per share for net cash proceeds totaling $163,252. The Company incurred expenses totaling $27 during the year ended December 31, 2023 associated with the issuance of Series C-1 Preferred Stock.

Concurrently with the issuance of Series C-1 Convertible Preferred Stock, the Company's previous SAFE was automatically converted into 11,894,211 shares of Series C-1 SHDW Preferred Stock at approximately $2.52 per share.

On July 19, 2022, pursuant to the Series C Preferred Stock Purchase Agreement, the Company granted the investors in Series C-1 Preferred Stock of the Company (the "Original Investors") a right to purchase 6,446,731 shares of Series C-2 Preferred Stock at a per share price of approximately $9.31 within 12 months from the initial closing of Series C-1 Preferred Stock (the "Series C-2 Call Option").

The Series C-2 Call Option was fully exercised on April 12, 2023, and July 18, 2023, and the Company issued to the Original Investors 6,446,731 shares of Series C-2 Preferred Stock at the approximate $9.31 per share (the "Series C-2 Original Issue Price"). On April 12, 2023, the Company issued an additional 2,381,935 shares of Series C-2 Preferred Stock at a per share price of approximately $9.31 to investors other than the Original Investors.

During 2023, pursuant to the Series D Preferred Stock Purchase Agreement (the "Agreement"), the Company issued 47,946,008 shares of Series D Preferred Stock at a per share price of approximately $10.65 to certain investors.

During 2024, the Company, pursuant to the Agreement, issued an additional 13,090,764 shares of Series D Preferred Stock at a per share price of approximately $10.65 to certain investors.

As of December 31, 2024, preferred stock consists of the following:

Preferred Stock Series:	Shares Authorized	Shares Outstanding	Net Carrying Value	Liquidation Preference
Series A	2,970,950	2,970,950	$ 1,550	$ 1,550
Series B	13,541,003	13,541,003	21,771	22,617
Series C-1	28,401,871	27,128,642	162,439	168,325
Series C-1 SHDW	12,732,091	12,224,605	62,271	31,000
Series C-2	8,828,666	8,828,666	81,997	82,169
Series D-1	61,778,604	61,036,772	627,806	650,000

The rights and preferences of the preferred stock are as follows:

Voting Rights

Except as described below under “Directors”, the holders of common stock and preferred stock vote together as a single class. The common stock is entitled to one vote per share. The preferred stock is entitled to one vote for each share of common stock into which the preferred stock is convertible.

Dividends

The holders of the Series B, C-1, C-1 SHDW and D-1 Preferred Stock are entitled to receive, when and if declared, dividends at the rate of 8% per year based on the original issue price per share for each respective series, as adjusted for stock dividend, stock split, combination or the like. After dividends are paid to the holders of Series B, C-1, C-1 SHDW and D-1 Preferred Stock, the holders of the Series A Preferred Stock are entitled to receive, when and if declared, dividends at the same rate as dividends that are paid to the holders of common stock. Through December 31, 2024, no dividends have been declared or paid.

Liquidation Rights

In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Company or Deemed Liquidation Event (as defined below), first the holders of the Series D-1 Convertible Preferred Stock (the "Series D-1 Preferred Stock") would receive an amount per share equal to the original share price per share of Series D-1 Preferred Stock, plus declared but unpaid dividends on each share thereof (the "Series D-1 Preference"), second the holders of the Series C Preferred would receive in the case of the Series C-1 and C-1 SHDW Preferred Stock, the Original Series C-1 and C-1 SHDW per share price, plus declared but unpaid dividends on each share thereof (the "Series C-1 and C-1 SHDW Preference") and, in the case of the Series C-2 Preferred, the Original Series C-2 per share price, plus declared but unpaid dividends on each share thereof (together with the Series C-1 Preference, the "Series C Preference"), third the holders of the Series B Convertible Preferred Stock (the "Series B Preferred Stock") would receive an amount per share equal to the original share price per share of Series B Preferred Stock, plus declared but unpaid dividends on each share thereof (the "Series B Preference"), and fourth the holders of Series A Convertible Preferred Stock would receive an amount equal to the original share price per share of Series A Preferred (adjusted appropriately for stock splits, stock dividends, recapitalizations and the like) (the "Series A Preference" and collectively with the Series D-1 Preference, Series C Preference and the Series B Preference, the "Preferred Preference"). After payment in full of the Preferred Preference, any remaining proceeds would be distributed to the holders of the Common shares.

Each of the following events shall be considered a “Deemed Liquidation Event” unless the holders of at least two-third of the outstanding shares of preferred stock elect otherwise by written notice sent to the Corporation at least 30 days prior to the effective date of any such event:

(a) a merger or consolidation in which the Company or its subsidiary is a constituent party and the Company issues shares of its capital stock pursuant to such merger or consolidation, except any such merger or consolidation involving the Company or a subsidiary in which the share of capital stock of the Company outstanding immediately prior to such merger or consolidation continue to

represent, or are converted into or exchanged for shares of capital stock that represent, immediately following the such merger or consolidation, at least a majority, by voting power, of the capital stock of (1) the surviving or resulting corporation, or (2) if the surviving or resulting corporation is a wholly owned subsidiary of another corporation immediately following such merger or consolidation, the parent corporation of such surviving or resulting corporation; or

(b) (1) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Company or any subsidiary of the Company of all or substantially all the assets of the Company and its subsidiaries taken as a whole, or (2) the sale or disposition (whether by merger, consolidation, or otherwise, and whether in a single transaction or a series of related transactions) of one (1) or more subsidiaries of the Company if substantially all of the assets of the Company and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except where such sale, lease, transfer, exclusive license or other disposition is to a wholly owned subsidiary of the Company.

Conversion

The preferred stock is convertible into common stock of the Company at the option of the stockholder or automatically upon either (i) a majority vote of the preferred stockholders of (ii) the closing of a public offering of the Company's common stock resulting in at least $50,000 of proceeds. Conversion into common stock is subject to adjustment based on future issuances of stock that are deemed anti-dilutive. As of December 31, 2023 and 2024 each share of preferred stock is convertible into one share of common stock.

Directors

The holders of Series B, Series C, Series D Preferred Stock and common stock shall be entitled to appoint two directors each to the Board of the Company.

NOTE 11. Stock Option Plans

The Company, at inception, adopted a stock option plan (the "2017 Plan") providing for the granting of nonstatutory stock options to the employees, officers, directors, and consultants of the Company. Vesting generally occurs ratably over four years from the date of hire or involvement with the Company, and the options generally expire ten years from the date of issuance.

On March 9, 2020, the Board approved, and the Stockholders of the Company voted to accept, the adoption of the 2020 Equity Incentive Plan (the "2020 Plan"). The 2020 Plan makes available incentive stock options, nonqualified stock options, restricted stock, and restricted stock units to the Company's employees, consultants, nonemployee directors, non-U.S. service providers and Directors of the Company and its affiliates. Vesting of employee awards under the 2020 Plan generally occurs ratably over four years from the date of hire or involvement with the Company, and the options generally expire ten years from the date of issuance. Certain awards are fully vested upon issuance or upon the achievement of certain milestones. Upon adoption of the 2020 Plan, the Company increased the number of common shares allocated to the Company's combined stock option plans from 1,000,000 to 3,500,000, with the 2017 Plan pool increased to 1,417,000 and the 2020 Plan pool established at 2,083,000.

During August 2023, the Board voted to increase the number of authorized shares reserved for the 2020 Plan to 20,791,508.

During the year ended December 31, 2024, the Company recognized stock-based compensation totaling $6,452 of which $1,159 was charged to research and development expense, $237 was charged to cost of goods sold, and $5,056 was charged to selling, general and administrative expenses.

During the year ended December 31, 2023, the Company recognized stock-based compensation totaling $3,648 of which $60 was charged to research and development expense, $825 was charged to cost of goods sold, and $2,763 was charged to selling, general and administrative expenses.

As of December 31, 2024, there was approximately $27,010 of unrecognized compensation costs related to options that will be recognized over a weighted-average vesting period of approximately 3.0 years. Substantially all outstanding options are vested or expected to vest.

Information about the stock option activity for the year ended December 31, 2024, is summarized in the following table:

	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term	Aggregate Intrinsic Value
Balance, January 1, 2024	12,427,212	$2.18	8.61	$4,470
Granted	11,700,453	$3.52	-	-
Exercised	587,651	$1.11	-	$1,807
Forfeited	(2,729,989)	$2.46	-	-
Canceled	(1,095,275)	$1.45	-	-
Balance, December 31, 2024	19,714,750	$3.01	8.11	$27,029
Exercisable, December 31, 2024	6,607,709	$1.91	7.03	$16,300

The Company uses the Black-Scholes option-pricing model to estimate the grant-date fair value of stock option grants. The weighted-average grant-date fair value of options granted during 2024 and 2023 were $2.87 and $1.41 per share, respectively. The Company estimated the expected volatility of its option at the grant date based on the volatility of comparable public companies. The Company estimates an expected term consistent with the simplified method, which calculates the expected term as the midpoint between the vesting and contractual terms of the award and is used due to the limited exercise history. The assumed dividend yield is based upon the Company's expectation of not paying dividends in the foreseeable future. The risk-free rate for periods within the estimated life of the option is based on the US Treasury yield curve in effect at the time of grant. For options that vest over time, compensation expense is amortized on a straight-line basis over the requisite service period of the options, which is generally four years. For options that fully vest upon issuance or vest upon achievements of milestones, the compensation expense commences when performance condition is considered probable of achievement.

The fair value of the common stock underlying the stock options has been determined by the Board at each award date based on a variety of factors, including the illiquid nature of the investment in the Company's common stock, the Company's historical performance, the preferences (including liquidation) of the Company's outstanding preferred stock, the Company's future prospects, the risks associated with the completion of the Company's business plan and products, and the purchase price of the Company's stock, including preferred stock, issued to third parties in arm's-length transactions.

The Company used the following key assumptions to determine grant-date fair value pursuant to the Black-Scholes option-pricing model:

	2024	2023
Expected volatility	70.05%	59.90%
Weighted average risk-free interest rate	4.21%	3.84%
Expected dividends yield	0%	0%
Expected term (in years)	6.12	6.14

Common stock reserved for future issuance as of December 31, 2024, consisted of the following:

Conversion of Series A, B, C, C-1, C-1 SHDW, C-2 and D-1 Preferred Stock	128,253,185
Stock option plans	1,076,758
Total	129,329,943

NOTE 12. Commitments and Contingencies

Noncancellable purchase obligations

Future minimum payments under purchase obligations with suppliers related to engineering, equipment procurement, and construction as of December 31, 2024 totaled approximately $114,694, substantially all of which are expected to be procured in fiscal year 2025.

Legal proceedings

The Company is subject to various legal proceedings, and claims, and regulatory examinations or investigations arising in the normal course of business, the outcomes of which are subject to significant uncertainty, and the Company's ultimate liability, if any, is difficult to predict. The Company records an accrual for legal contingencies when it is determined that it is probable that a liability has been incurred and the amount of the loss can be reasonably estimated. In making such determinations, the Company evaluates, among other things, the degree of probability of an unfavorable outcome and, when it is probable that a liability has been incurred, the ability to make a reasonable estimate of the loss. If the occurrence of liability is probable and estimable, the Company will disclose the nature of the contingency and, if estimable, will provide the likely amount of such loss or range of loss.

On February 14, 2025, the Company learned that Turner-Kokosing Joint Venture, Turner Construction Company, and Kokosing Industrial, Inc. (all three plaintiffs referred to in this litigation as "TK") have filed suit in the Circuit Court of Christian County, Kentucky against the Company and additional defendants (the "Defendants") with respect to the Company's development and construction of the Apex 1 Battery Recycling Facility at its Hopkinsville site (the "Project"). The case against the Defendants will be referred to as (the "Litigation"). The Litigation is titled Turner-Kokosing Joint Venture v. Ascend Elements, Inc., Cause No. 25-CI-00120 (filed February 14, 2025).

As of December 31, 2024, the Company has accrued for any and all work performed through that date in both its accounts payable and accrued expenses. The Company has been in a business dispute with TK about work performed at the Project. The Company is prepared to pay for all authorized and legitimate work performed, but the Company is also committed to being responsible stewards of both public and private funds. As a result, the Company is reviewing all the work performed by TK and its subcontractors. The Company is taking action in an attempt to resolve this dispute in arbitration, according to the terms of the Company's agreement with TK.

Through the date of issuance of these Consolidated Financial Statements, the Company had entered into settlement agreements (the "Agreements") with four of the subcontractors and commenced payments according to the terms with these Agreements.

The Company does not believe there are any other current matters that could have a material adverse effect on its financial position, results of operations or cash flows.

Environmental matters

The Company establishes accrued liabilities for environmental matters when it is probable that a liability has been incurred and the amount of the liability can be reasonably estimated. If the contingency is resolved for an amount greater or less than the accrual, or the Company's share of the contingency increases or decreases or other assumptions relevant to the development of the estimate were to change, the Company would recognize an additional expense or benefit in the consolidated statements of operations during the

period such determination was made. No environmental accruals were established at December 31, 2024 or December 31, 2023.

Industrial revenue bonds

On December 1, 2023, the Company closed an industrial revenue bond transaction with the County for its Covington plant (Note 1). As of December 31, 2024 and 2023, the amount of Personal Property sold to the County and leased back to the Company was $84,936.

The County then leased the facilities back to the Company under a finance lease, the terms of which provide for the payment of basic rent in an amount sufficient to pay principal and interest on the bonds. The Company's obligation to pay rent under the lease is in the same amount and due on the same date as the obligation to pay debt service on the bonds which the Company holds. The lease permits the Company to present the bonds at any time for cancellation, upon which our obligation to pay basic rent would be canceled. At the bonds' maturity the facilities will revert to the Company for a nominal price. If the Company were to present the bonds for cancellation prior to maturity, a nominal fee could be incurred.

The Company recorded the land and building assets as property, plant, and equipment, net, on its consolidated balance sheets under a finance lease. The lease payment on the facilities is sufficient to pay principal and interest on the bonds. Because the Company owns all of the outstanding bonds, has a legal right to set-off, and intends to set-off the corresponding lease and interest payment, the Company netted the finance lease obligation with the bond asset and, in turn, reflected no amount for the obligation or the corresponding asset on its consolidated balance sheets at December 31, 2024 and 2023.

NOTE 13. Income Taxes

No provision for income taxes is recorded due to the Company's net losses and full valuation allowance.

The Company's 2024 effective tax rate differed from the statutory rate primarily due to the valuation allowance and permanent reversal of the change in value of the warrant liability. The Company's effective tax rate for 2023 differed from the statutory rate primarily due to the valuation allowance and reversal of the change in value of the warrant liability.

Net deferred tax assets result from temporary differences in the recognition of income and expenses for financial statements and income tax purposes.

Components of the Company's net deferred tax assets are as follows as of December 31:

	2024	2023
Deferred tax assets:		
Net operating loss carryforwards	$ 35,069	$ 18,651
Accruals and other	3,805	5,448
Tax credits	2,572	1,459
Stock based compensation	1,518	533
R&D expense capitalization	7,154	4,194
Total deferred tax assets	50,118	30,285
Valuation allowance	(49,567)	(29,665)
Net total deferred tax assets	551	620
Deferred tax liabilities:		
Depreciation and amortization	(551)	(620)
Total deferred tax liabilities	(551)	(620)
Net deferred tax assets	$ -	$ -

As of December 31, 2024, the Company had federal net operating loss carryforwards ("NOLs") of approximately $164,228 of which $164,165 may be available to offset future income tax liabilities indefinitely, while $63 of carryforwards that were in existence as of December 31, 2017 may offset future income tax liabilities up through 2037. The Company had state net operating loss carryforwards of approximately $9,469 to offset future state taxable income which will expire at various times through 2037. The Company also had U.S. federal research and development tax credit carryforwards of $2,657 available to offset future U.S. federal income taxes which expire at various times through 2043.

As of December 31, 2024, the Company had state tax credit carryforwards of $1,723 which expire at various times through 2038 and may be used to offset future state taxable income.

The NOL and tax credit carryforwards are subject to review and possible adjustment by the Internal Revenue Service and state tax authorities. Net operating loss and tax credit carryforwards may become subject to an annual limitation in the event of certain cumulative changes in the ownership interest of significant shareholders over a three-year period in excess of 50%, as defined under Section 382 and 383 of the Internal Revenue Code, respectively, as well as similar state provisions. This could limit the amount of tax attributes that can be utilized annually to offset future taxable income or tax liabilities. The amount of the annual limitation is determined based on the value of the Company immediately prior to the ownership change. Subsequent ownership changes may further affect the limitation in future years.

ASC 740 requires a valuation allowance to reduce the deferred tax assets reported if, based on weight of the evidence, it is more likely than not that some portion or all of the deferred tax assets will not be realized. After consideration of all the evidence, both positive and negative, the Company has recorded a valuation allowance against all of its deferred tax assets at December 31, 2024 and 2023, respectively, because the Company's management determined that it is more likely than not that these assets will not be realized.

The increase in the valuation allowance recorded during the year primarily relates to the net loss incurred by the Company.

The Company accounts for Uncertainty in Income Taxes under the provisions of ASC 740 which defines the thresholds for recognizing the benefits of tax return positions in the financial statements as "more likely than not" to be sustained by the taxing authority. The tax benefit is measured based on the largest benefit that has a greater than 50% likelihood of being realized upon ultimate settlement. As of December 31, 2024 and 2023, the Company has recorded an unrecognized tax benefit in the amount of $1,446 and $786, respectively.

The Company's policy is to recognize both interest and penalties related to unrecognized tax benefits as a component of income tax expense. As of December 31, 2024 and 2023, there were no interest or penalties associated with unrecognized tax benefits.

The Company files income tax returns in the U.S. federal jurisdictions and various state jurisdictions. In the normal course of business, the Company is examined by various tax authorities, including the Internal Revenue Service in the United States. There are currently no federal or state audits in process. The Company's federal and state tax years for 2021 and forward are subject to tax examinations by tax authorities.

NOTE 14. Related Party Transactions

Worcester Polytechnic Institute

On April 4, 2016, and June 5, 2017, Worcester Polytechnic Institute ("WPI") granted certain patent rights (the "Agreements") to the Company. The Agreements require the Company to make the greater of a minimum royalty payment or 2% of net product sales generated from the patents covered in the Agreements. The Agreements also require the Company to reimburse WPI for patent maintenance expenses and grants WPI 15% of all amounts the Company receives from sublicensing the patent. For the years ended December 31, 2024 and 2023, the Company paid WPI the minimum royalty payment of $30,000.

The Company also pays WPI for contracted services. During the years ended December 31, 2024 and 2023, the Company recognized operating expenses of approximately $0 and $9, respectively, related to the Agreements and contracted services. As of December 31, 2024 and 2023, the Company had $30 and $28, respectively, of these expenses recorded as a current liability.

The Company is also a subrecipient of grant funds that WPI receives. Grant income recognized under this program totaled $130 and $77 for the years ended December 31, 2024 and 2023, respectively.

A123 Systems, LLC

On April 12, 2021, the Company subleased Novi, Michigan facility from A123 Systems, LLC, a stockholder of the Company. During the years ended December 31, 2024 and 2023, the Company recognized and paid the related rent expense of $158 and $90, respectively. During the years ended December 31, 2024 and 2023, the Company recognized and paid the related building and use charges and utilities of $86 and $197, respectively. As of December 31, 2024 and 2023, the Company had $0 and $35, respectively, of building and use charges and utilities recorded as a current liability.

SK Battery America

The Company has engaged SK Battery America ("SKBA"), a stockholder of the Company, as a supplier of its inventory. Also, an SKBA representative holds one seat on the Company's Board. The Company purchased $2,842 and $45,825 of inventory from SKBA during the years ended December 31, 2024 and 2023, respectively. As of December 31, 2024 and 2023, the Company had $538 and $3,879, respectively, of these inventory costs recorded as a current liability.

Koura Global

Mexichem Fluor S.A de C.V., an affiliate of Orbia Ventures, Inc. and also known as “Koura Global”, is a stockholder and joint development agreement partner of the Company. Also, a Koura Global representative holds one seat on the Company’s Board. In accordance with accounting guidance for collaboration agreements, the contra expense recognized under this joint development agreement for the years ended December 31, 2024 and 2023, totaled $0 and $240, respectively. This agreement was terminated in 2024.

Yan Wang

The Company engaged Yan Wang, stockholder, Board member and co-founder of the Company, as a contractor during the years ended December 31, 2024 and 2023. Contracted services totaled $50 for the year ended December 31, 2024 and $60 for the year ended December 31, 2023. As of December 31, 2024 and 2023, the Company had $0 and $5, respectively, of these contracted services recorded as a current liability. As of December 31, 2024 and 2023, the Company had $10 and $0, respectively, of these contracted services recorded as a current receivable as Mr. Wang’s arrangement ended on October 31, 2024 and was paid for the full quarter.

Linh Austin

The Company engaged Linh Austin, Board member of the Company, as a contractor under Austin Consultancy LLC during the year ended December 31, 2024. Mr. Austin became President of the Company in November 2024. Contracted services totaled $25 for the year ended December 31, 2024. There were no amounts due and as noted Mr. Austin is an executive and maintains his Board seat as of December 31, 2024.

AEE

The Company paid certain fees totaling $31 and $0 on behalf of AEE during 2024 and 2023, respectively. As of December 31, 2024 and 2023, the Company had $4 and $0, respectively, of these fees recorded in accounts receivable. In addition, the Company has a contract with a third-party customer for which AEE provided services totaling $328 and $0 on behalf of the Company during 2024 and 2023, respectively. As of December 31, 2024 and 2023, the Company had $328 and $0, respectively, of these services recorded in accounts payable.

NOTE 15. Subsequent Events

The Company has evaluated all subsequent events occurring through June 30, 2025, the date these consolidated financial statements were available to be issued, for potential recognition or disclosure.

On June 13, 2025, the Company executed an Avenue Capital waiver, consent and second amendment to loan document (the “Second Amendment”), subordinated secured convertible note purchase agreement (the “Convertible Notes” or the “Notes”), security agreement (“Security Agreement”), and subordination agreement (“Subordination Agreement”).

The Second Amendment relates to a loan agreement from December 29, 2022 with Avenue Capital Management Funds and Impact Fund (affiliates of the Venture Opportunities Fund) (the “Lenders”). This amendment provides written consent of the Lenders to issue subordinated secured convertible notes up to $150,000, secured by a second priority lien on the collateral within the Lenders’ securitization from the original loan. It also waives any current and future defaults for the Company’s failure to comply with certain loan agreement requirements.

The Company issued Convertible Notes in an aggregate amount up to $150,000 and a stated interest rate of 15% per annum due in 2 years from the date of closing. These notes are governed by a purchase agreement, a security agreement, and a subordination agreement. The initial closing and receipt of approximately $50,000 occurred on June 13, 2025. The Company also has two call options that allow the Company to require the investors to purchase additional notes with an aggregate value of $20,000 at any time after August 1, 2025 (the “First Call Option”), and notes with an aggregate value of approximately

$2,200 any time after November 1, 2025 (the “Second Call Option”). In addition, in consideration of commercial feedstock supply or product offtake arrangements, the Company may issue additional notes up to $10,000 with a stated repayment multiple, subject to approval by the Board and majority interest. Both call options are subject to several financial and operational conditions that the Company must satisfy and/or certify to in future periods.

The Company shall use the proceeds from the sale of the Notes solely for the purposes set forth on the agreements with maximum payment thresholds.

The Security Agreement’s purpose is to secure the timely payment and performance of all of the Company’s obligations by pledging collateral to the collateral agent for the benefit of itself and the investors. The Subordination Agreement alters the priority of creditors by entering into a subordination agreement between junior and senior creditors, facilitated by Alter Domus (US) LLC and Avenue Capital Management II, L.P.

Ascend Elements, Inc.
Consolidated Balance Sheets
As of December 31, 2025 and 2024
(in thousands, except par value and share amounts)

	2025	2024
Assets		
Current assets:		
Cash and cash equivalents	$ 19,939	$ 93,584
Current portion of inventory	4,492	8,375
Trade accounts receivable, net	902	4,355
Grant and other receivables	227	578
Prepaid expenses and other current assets	5,378	2,533
Total current assets	30,938	109,425
Restricted cash	5,946	10,399
Property, plant and equipment, net	1,045,729	1,020,975
Operating lease right-of-use assets	12,522	45,955
Inventory	2,740	2,802
Intangible assets, net	4,846	5,017
Equity investment	4,102	1,169
Other assets	1,668	3,134
Total assets	$ 1,108,491	$ 1,198,876
Liabilities, non-controlling interests and stockholders' equity		
Current liabilities:		
Accounts payable	$ 166,728	$ 175,935
Accrued expenses	13,835	4,549
Current portion of operating lease liability	4,593	3,921
Current portion of long-term debt	396	23,260
Total current liabilities	185,552	207,665
Operating lease liability	49,040	57,170
Contingent grant liability	207,007	207,007
Long-term debt	84,463	839
Warrant liabilities	209,198	4,727
Total liabilities	735,260	477,408
Stockholders' equity:		
Common stock 106,427,819 and 7,670,117 shares issued and outstanding as of December 31, 2025 and 2024, respectively.	11	1
Series A convertible preferred stock ($0.0001 par value; 0 and 2,970,950 shares authorized and issued; liquidation preference of $0 and $1,550 as of December 31, 2025 and 2024, respectively.)	-	1,550
Series B convertible preferred stock ($0.0001 par value; 0 and 13,541,003 shares authorized and 0 and 27,128,642 issued; liquidation preference of $0 and December 31, 2025 and 2024, respectively.)	-	21,771
Series C-1 convertible preferred stock ($0.0001 par value) 0 and 28,401,871 shares authorized and 0 and 27,128,642 issued; liquidation preference of $0 and $168,325 as of December 31, 2025 and 2024, respectively.)	-	162,439
Series C-1 SHDW convertible preferred stock ($0.0001 par value; 0 and 12,732,091 authorized and issued; liquidation preference of $0 and $82,169 as of December $0 and $31,000 as of December 31, 2025 and 2024, respectively.)	-	62,271
Series C-2 convertible preferred stock ($0.0001 par value; 0 and 8,828,666 shares authorized and issued; liquidation preference of $0 and $82,169 as of December 31, 2025 and 2024, respectively.)	-	81,997
Series D-1 convertible preferred stock ($0.0001 par value, 61,778,604 shares authorized and 61,036,772 and 47,946,008 shares issued; liquidation preference of $650,000 and $510,592 as of December 31, 2024 and 2023, respectively.	-	627,806
Treasury stock (at cost); 116,840 and 0 shares as of December 31, 2025 and 2024, respectively.	(98)	-
Additional paid-in-capital	985,120	13,301
Accumulated deficit	(613,836)	(249,624)
Accumulated other comprehensive loss	2,034	(44)
Equity attributable to Ascend Elements, Inc.	373,231	721,468
Total stockholders' equity	373,231	721,468
Total liabilities and stockholders' equity	$ 1,108,491	$ 1,198,876

Ascend Elements, Inc.
Consolidated Statements of Operations
For the Years Ended December 31, 2025 and 2024
(in thousands)

	2025	2024
Revenue	$ 2,347	$ 20,568
Cost of goods sold	45,977	47,375
Gross loss	(43,630)	(26,807)
Operating expenses:		
Research and development	12,573	22,217
Selling, general and administrative	89,975	51,050
Loss on disposal of fixed assets	508	995
Total operating expenses	103,056	74,262
Loss from operations	(146,686)	(101,069)
Other income (expense):		
Interest income	1,329	10,185
Grant income	-	1,422
Other income	219	29
Interest expense	(11,247)	-
Loss on equity-method investment activity	(3,356)	(1,725)
Change in fair value of warrant liabilities	(204,471)	(627)
Total other income (expense)	(217,526)	9,284
Net loss	$ (364,212)	$ (91,785)

Ascend Elements, Inc.
Consolidated Statements of Cash Flows
For the Years Ended December 31, 2025 and 2024
(in thousands)

	2025	2024
Cash flows from operating activities:		
Net Loss	$ (364,212)	$ (91,785)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization expense	6,470	5,969
Allowance for credit losses	2,881	-
Non-cash deferred financing cost write-off	2,452	-
Non-cash interest expense	9,895	-
Loss on disposal of fixed assets	508	996
Stock compensation expense	13,733	6,452
Non-cash lease expense	25,976	12,380
Change in fair value of warrant liabilities	204,471	627
Changes in operating assets and liabilities:		
Inventory	3,946	6,670
Other receivables	(706)	688
Accounts receivable	548	21,440
Prepaids and other current assets	(2,845)	239
Other assets	1,558	(1,164)
Accounts payable	(16,143)	13,605
Accrued expenses	(3,760)	(3,073)
Net cash used in operating activities	(115,228)	(26,956)
Cash flows from investing activities:		
Purchase of property, plant and equipment	(36,136)	(486,504)
Proceeds from sales of fixed assets	-	285
Equity investment	(5,603)	(2,937)
DOE funds received	578	181,403
Net cash used by investing activities	(41,161)	(307,753)
Cash flows from financing activities:		
Proceeds from issuance of long-term debt and warrants, net of issuance costs	84,957	-
Proceeds from issuance of convertible preferred stock, net of issuance costs	19,974	119,256
Principal payments on issuance of promissory note	(26,860)	(23,219)
Proceeds from issuance of common stock due to exercise of stock options	318	630
Purchase of treausry stock	(98)	-
Net cash provided by financing activities	78,291	96,667
Effect of exchange rate changes on cash and cash equivalents and restricted cash	-	1
Net increase in cash, cash equivalents and restricted cash	(78,098)	(238,041)
Cash, cash equivalents and restricted cash - beginning of period	103,983	342,024
Cash, cash equivalents and restricted cash - end of period	$ 25,885	$ 103,983
Supplemental cash flow information:		
Cash paid for interest	$ 1,321	$ 4,384
Supplemental disclosure of non-cash investing and financing activities:		
Purchase of property, plant and equipment included in accounts payable	$ 137,828	$ 146,909

Ascend Elements, Inc.
Unaudited Monthly Consolidated Balance Sheets
From Dec-2025 thru Mar-2026

	Dec 31, 2025	Jan 31, 2026	Feb 28, 2026	Mar 31, 2026
	1,112,802,663	1,103,394,613	1,103,816,826	1,099,538,199
Assets	1,112,802,663	1,103,394,613	1,103,816,826	1,099,538,199
Current Assets	44,946,542	36,990,989	38,927,631	35,014,009
Cash & Equivalents	31,207,995	23,258,989	24,713,001	22,335,255
Accounts Receivable	1,129,460	1,480,609	2,003,294	1,584,303
Inventories	7,231,542	7,107,188	7,277,414	6,143,814
Other Current Assets	5,377,546	5,144,203	4,933,923	4,950,637
Non-Current Assets	1,067,856,121	1,066,403,624	1,064,889,195	1,064,524,190
Property Plant & Equipment (Net)	1,058,250,881	1,057,079,874	1,055,882,869	1,055,139,301
Property Plant & Equipment (Gross)	1,073,360,399	1,072,704,688	1,072,022,979	1,071,631,160
Accumulated Depreciation	(15,109,518)	(15,624,814)	(16,140,109)	(16,491,859)
Other Non-Current Assets	9,605,241	9,323,751	9,006,326	9,384,888
Intangible Assets	5,404,169	5,404,169	5,404,169	5,404,169
Accumulated Amortization	(558,732)	(579,782)	(600,832)	(621,882)
Long-Term Investments	4,759,804	4,499,364	4,202,989	4,602,602
Liabilities and Equity	(1,112,802,663)	(1,103,394,613)	(1,103,816,826)	(1,099,538,199)
Liabilities	(740,584,128)	(737,845,270)	(744,880,238)	(749,432,799)
Current Liabilities	(177,800,070)	(171,468,959)	(170,142,680)	(172,551,909)
Accounts Payable	(166,885,902)	(164,509,838)	(163,121,531)	(164,915,413)
Other Payable	(10,914,168)	(6,959,120)	(7,021,149)	(7,636,496)
Other Non-Current Liabilities	(562,784,059)	(566,376,312)	(574,737,558)	(576,880,890)
Equity	(372,218,535)	(365,549,343)	(358,936,588)	(350,105,400)
Equity - Reserve Accounts	(985,120,229)	(985,491,415)	(985,866,149)	(986,244,167)
Equity - Subscribed Capital	252,046,313	613,149,899	613,448,855	613,790,203
Profit and Loss in Current Year	360,855,381	6,792,173	13,480,706	22,348,564

Ascend Elements, Inc.
Unaudited Monthly Consolidated Statements of Operations
From Jan-2026 thru Mar-2026

FPA2 Financial Statement Format	YTD 2025	January 2026	YTD Jan & Feb	February 2026	YTD Jan-Mar	March 2026
Net Income	360,855,381	6,792,173	13,480,706	6,688,533	22,348,564	8,867,858
Operating Income	350,648,251	5,371,141	10,780,939	5,409,799	17,881,489	7,100,550
Gross Margin	43,630,276	2,256,188	4,599,004	2,342,816	6,825,723	2,226,719
Net Revenue	(2,346,872)	(266,261)	(856,567)	(590,306)	(2,924,421)	(2,067,854)
Gross Revenue	(2,347,606)	(266,261)	(856,567)	(590,306)	(2,924,421)	(2,067,854)
Sales Deductions	734	-	-	-	-	-
Cost of Goods Sold	45,977,148	2,522,449	5,455,571	2,933,122	9,750,144	4,294,573
YB18 Cost of Goods Sold	1,931,340	253,841	717,211	463,371	1,422,135	704,923
YB20 Production	41,771,080	2,278,503	4,878,427	2,599,924	7,662,237	2,783,810
YB99 Dummy functional area	-	(9,895)	(140,068)	(130,173)	665,772	805,840
SG&A	307,017,975	3,114,953	6,181,936	3,066,983	11,055,766	4,873,831
Operating Cost	307,017,975	3,114,953	6,181,936	3,066,983	11,055,766	4,873,831
YB30 Sales and Distribution: Includes Sales & Strategy	2,305,726	124,905	237,191	112,286	414,108	176,918
YB40 Administration: Includes Finance, Operations & Systems, IT, Marl	289,906,480	2,209,714	4,375,714	2,166,000	8,351,732	3,976,018
YB50 Research & Development: Includes Corp, PDE, WBO, Novi, Apex I	12,572,678	726,235	1,454,217	727,983	2,140,702	686,485
YB61 Construction: Includes Corp Construction	(48,472)	1,225	2,456	1,231	3,775	1,320
YB62 Engineering: Includes AME, IE & China Engineering	2,281,563	52,874	112,358	59,484	145,448	33,090
Other Income and Expense	274,656	(113,601)	(314,354)	(200,753)	(238,798)	75,556
Non-Operating Income	(1,575,717)	(142,355)	(339,321)	(196,966)	(316,439)	22,882
Non-Operating Revenue	(1,575,717)	(142,355)	(339,321)	(196,966)	(316,439)	22,882
YB70 Other gains	(247,186)	(96,947)	(257,733)	(160,786)	(194,692)	63,041
YB77 Gain from investments	(1,328,531)	(45,407)	(81,588)	(36,180)	(121,747)	(40,159)
Non-Operating Expense	1,850,373	28,754	24,967	(3,787)	77,641	52,674
YB75 Other expenses	1,850,373	28,754	24,967	(3,787)	77,641	52,674
Interest	9,932,474	1,534,633	3,014,120	1,479,487	4,705,873	1,691,753
Interest Expense	9,932,474	1,534,633	3,014,120	1,479,487	4,705,873	1,691,753
YB85 Interest & similar costs	9,932,474	1,534,633	3,014,120	1,479,487	4,705,873	1,691,753
P+L result	360,855,381	6,792,173	13,480,706	6,688,533	22,348,564	8,867,858
1010 Calculated Result	360,855,381	6,792,173	13,480,706	6,688,533	22,348,564	8,867,858
VIE	2,463,103	308,705	588,030	279,326	719,720	131,689
Total P&L Result	363,318,484	7,100,877	14,068,736	6,967,859	23,068,284	8,999,548

Ascend Elements, Inc.
Unaudited Monthly Consolidated Statement of Cashflows
From Jan-2026 thru Mar-2026

		Jan 2026	Feb 2026	Mar 2026	Q1
Operrating Activities					
	Net Loss	$ (7,100,877.31)	$ (6,967,858.98)	$ (8,988,671.27)	$ (23,057,407.57)
Adjustment to reconcile net loss to net cash used for operating activities					
	Depreciation and amortization expense	$ 536,345.87	$ 536,345.54	$ 499,751.37	$ 1,572,442.78
	Non-cash interest expense	$ 1,534,632.94	$ 1,479,487.41	$ 1,690,969.31	$ 4,705,089.66
	Gain or loss on disposal of asset	$ -	$ -	$ 42,759.74	$ 42,759.74
	Stock compensation expense	$ 371,185.65	$ 374,733.83	$ 371,719.25	$ 1,117,638.73
	Changes in asset accounts:				
	Change in accounts receivable	$ (513,481.31)	$ (542,539.88)	$ 309,710.26	$ (746,310.93)
	Change in miscellaneous receivables	$ 143,887.57	$ -	$ 81,609.53	$ 225,497.10
	Change in inventory	$ 124,354.26	$ (170,225.66)	$ 1,133,599.79	$ 1,087,728.39
	Change in prepaid expenses	$ 237,041.87	$ 209,545.02	$ (17,488.71)	$ 429,098.19
	Change in other asset accounts	$ 325,970.99	$ 274,059.36	$ 114,173.81	$ 714,204.15
	Changes in liability accounts:				
	Change in accounts payable	$ (1,121,894.67)	$ (1,669,273.35)	$ 1,568,275.49	$ (1,222,892.54)
	Change in accrued expenses	$ 680,259.47	$ 121,311.08	$ 741,884.07	$ 1,543,454.62
	Change in accrued interest	$ (153,226.90)	$ (192,300.39)	$ 1,812.41	$ (343,714.88)
	Change in accrued payroll & bonus	$ (108,857.23)	$ (65,924.48)	$ (134,586.00)	$ (309,367.71)
	Change in goods received not invoiced	$ 25,127.85	$ 168,958.26	$ 260,047.56	$ 454,133.67
	Change in other liability accounts	$ 63.09	$ 52,738.30	$ (3,374.05)	$ 49,427.34
	Change in operating leases (net)	$ (5,074,774.84)	$ 247,832.65	$ 225,119.77	$ (4,601,822.42)
Net Cash (used for) provided by operating activities		$ (10,094,242.70)	$ (6,143,111.29)	$ (2,102,687.68)	$ (18,340,041.67)
Investing Activities					
	Acquisition of property and equipment	$ (794,526.49)	$ 516,998.03	$ (40,846.01)	$ (318,374.47)
	Proceeds from sales of fixed assets	$ -	$ -	$ 7,600.00	$ 7,600.00
	Investment in JV	$ -	$ -	$ (1,456,507.08)	$ (1,456,507.08)
	Poland 2	$ (4,635.27)	$ -	$ -	$ (4,635.27)
Net Cash used for investing activities		$ (799,161.76)	$ 516,998.03	$ (1,489,753.09)	$ (1,771,916.82)
Financing Activities					
	Interco Loan for JV	$ -	$ -	$ 728,253.54	$ 728,253.54
	Proceeds from lt debt & warrants, net issua	$ 2,944,381.66	$ 7,080,000.00	$ 480,000.00	$ 10,504,381.66
	Proceeds from Common Stock issued	$ (0.00)	$ 0.00	$ 6,300.00	$ 6,300.00
Net cash (used for) provided by financing activities		$ 2,944,381.66	$ 7,080,000.00	$ 1,214,553.54	$ 11,238,935.20
Net increase (decrease) in cash and cash equivalents		$ (7,949,022.80)	$ 1,453,886.74	$ (2,377,887.23)	$ (8,873,023.29)
	FX on cash	$ 17.36	$ 124.62	$ 141.66	$ 283.64
Cash and Cash Equivalents, beginning of period		$ 31,207,994.62	$ 23,258,989.18	$ 24,713,000.53	$ 31,207,994.62
Cash and Cash Equivalents, end of period		$ 23,258,989.18	$ 24,713,000.53	$ 22,335,254.97	$ 22,335,254.97
Property & Equipment (Capex) included in Accounts Payable		$ 134,915,327.23	$ 135,004,389.46	$ 135,004,389.46	$ 135,004,389.46
Property & Equipment (Capex) included in Accrued Expenses		$ 1,715,000.00	$ 1,715,000.00	$ 1,715,000.00	$ 1,715,000.00

Schedule 3.4(b)
Financial Statements

None.

Schedule 3.6
Contracts

See attached.

Schedule 3.6(a)

Contracts

Counterparty	Debtor	Lease/Contract Description	Location	Contract Type	Original Cure Amount	Negotiated Settlement	Updated Cure	Cure Notes
ADP, INC.	Ascend Elements, Inc.	AMENDMENT TO GLOBAL MASTER SERVICES AGREEMENT, DATED 11/25/2025	Enterprise	Payroll	$0.00	N	$0.00	
ADVANCED METAL RESOURCES	Ascend Elements, Inc.	SALES AGREEMENT, DATED 11/06/2025	Enterprise	Customer	$0.00	N	$0.00	
AESC UK PLANT 2 LIMITED	Ascend Elements, Inc.	BATTERY FEEDSTOCK AGREEMENT, DATED 04/16/2025	Elemental / Covington	Feedstock	$0.00	N	$0.00	
AKASOL INC.	Ascend Elements, Inc.	BATTERY RECYCLING MATERIAL PURCHASE AGREEMENT, DATED 06/26/2024	Covington	Feedstock	$0.00	N	$0.00	
AON CONSULTING, INC.	Ascend Elements, Inc.	10/31/2025	Enterprise	Employee Benefits (Broker)	$0.00	N	$0.00	
ASAP PROFESSIONAL SERVICES	Ascend Elements, Inc.	BATTERY FEEDSTOCK	Enterprise	Customer	$0.00	N	$0.00	
ASAP PROFESSIONAL SERVICES	Ascend Elements, Inc.	BATTERY FEEDSTOCK	Enterprise	Customer	$0.00	N	$0.00	
AXIOM STAFFING GROUP	Ascend Elements, Inc.	MASTER SERVICE AGREEMENT, DATED 01/12/2024	Covington	Staffing Agency	$3,644.28	$0.00	$0.00	
B2B VOLKSWAGON	Ascend Elements, Inc.	BATTERY FEEDSTOCK, DATED 01/30/2026	Covington	Feedstock	$0.00	N	$0.00	
B2B VOLKSWAGON	Ascend Elements, Inc.	PRODUCT SALES AGREEMENT, DATED 01/29/2026	Covington	Feedstock	$0.00	N	$0.00	
BLUEOVAL SK, LLC (BOSK)	Ascend Elements, Inc.	SCRAP SALE/DISPOSAL AGREEMENT, DATED 01/23/2026	Covington	Feedstock	$0.00	N	$0.00	
BLUE WHALE MATERIALS, LLC	Ascend Elements, Inc.	TOLLING PROGRAM AGREEMENT, DATED 9/18/2025	Covington	Tolling	$24,025.65	N	$24,025.65	
CABLE MANAGEMENT LLC	Ascend Elements, Inc.	EXECUTED ESTIMATE, DATED 02/03/2022	Covington	Spars for Dry-Shred	$0.00	N	$0.00	
CIRBA SOLUTIONS	Ascend Elements, Inc.	TOLLING AGREEMENT, DATED 11/11/2025	Covington	Tolling	$0.00	N	$0.00	
CITY OF COVINGTON	Ascend Elements, Inc.	INDUSTRIAL WASTEWATER DISCHARGE PERMIT, DATED 11/09/2023	Covington	Permits	$7,614.18	N	$7,614.18	
CITY OF COVINGTON	Ascend Elements, Inc.	PERMIT, DATED 08/22/2025	Covington	Permits	$0.00	N	$0.00	
COVINGTON INDUSTRIAL LLC	Ascend Elements, Inc.	LEASE AGREEMENT, DATED 12/31/2021	Covington	Lease	$838,000.00	N	$838,000.00	Latest cure proposal - $400k
DESCARTES SYSTEMS (USA) LLC	Ascend Elements, Inc.	MASTER SERVICES AGREEMENT (MSA), DATED 07/09/2025	Enterprise	Supplier Screening Serv	$0.00	N	$0.00	
DESCARTES SYSTEMS (USA) LLC	Ascend Elements, Inc.	OTHER, DATED 07/11/2025	Enterprise	Supplier Screening Serv	$0.00	N	$0.00	
ECO-BAT TECHNOLOGIES LIMITED	Ascend Elements, Inc.	TOLLING AGREEMENT, DATED JUL, 2025	Covington	Tolling	$0.00	N	$0.00	
ECOVERSE SOLUTIONS	Ascend Elements, Inc.	BATTERY FEEDSTOCK - CUSTOMER	Enterprise	Customer	$0.00	N	$0.00	
ECOVERSE SOLUTIONS	Ascend Elements, Inc.	BATTERY FEEDSTOCK, DATED 12/17/2025	Enterprise	Customer	$0.00	N	$0.00	
EIKON-X LLC	Ascend Elements, Inc.	ENGAGEMENT LETTER, DATED NOV, 2025	Enterprise	IT Subcontractor	$22,855.40	$0.00	$0.00	
EIKON-X LLC	Ascend Elements, Inc.	CONSULTING SERVICES AGREEMENT , DATED NOV, 2025						
ENTEC SYSTEMS INC	Ascend Elements, Inc.	GENERAL SERVICES AGREEMENT	Covington	Fire Protection Services/monitoring	$10,034.00	$5,434.00	$5,434.00	
FISHER SCIENTIFIC CO. LLC	Ascend Elements, Inc.	PARTNER PLUS AGREEMENT, DATED 05/20/2024	Enterprise	Lab Equipment	$7,744.12	N	$7,744.12	
FIVE STAR BREAKTIME SOLUTIONS, INC	Ascend Elements, Inc.	MARKET SERVICES AGREEMENT, DATED 07/01/2025	Covington	breakroom supplies	$0.00	N	$0.00	
FORD MOTOR COMPANY LIMITED	Ascend Elements, Inc.	FORD MOTOR COMPANY, GLOBAL ASSET MANAGEMENT SALES AGREEMENT, DATED 12/15/2024	Covington	Feedstock	$0.00	N	$0.00	
GEORGIA ENVIRONMENTAL PROTECTION DIVISION	Ascend Elements, Inc.	EXECUTED AIR QUALITY PERMIT, DATED 12/06/2022	Covington	Regulatory	$0.00	N	$0.00	
GLENCORE LTD.	Ascend Elements, Inc.	SALES AGREEMENT, DATED SEP, 2025	Enterprise	Customer	$0.00	N	$0.00	
GOSHEN GUARD LLC	Ascend Elements, Inc.	SERVICE AGREEMENT, DATED 05/18/2023	Covington	Security	$72,788.57	$36,400.00	$36,400.00	
HILLER COMPANIES, LLC	Ascend Elements, Inc.	CONSULTING SERVICES AGREEMENT, DATED JAN, 2026	Covington	EPA Environmental	$42,765.00	N	$42,765.00	Latest cure proposal - $22,765
HONDA TRADING AMERICA CORPORATION	Ascend Elements, Inc.	SALE OF GOODS AGREEMENT, DATED 10/01/2024	Covington	HSE OSHA	$0.00	N	$0.00	
J. HART PROPERTIES	Ascend Elements, Inc.	LEASE AGREEMENT, DATED 05/08/2023	Covington	Warehouse	$2,038.76	N	$2,038.76	
J. HART PROPERTIES	Ascend Elements, Inc.	LANDLORD CONSENT AGREEMENT, DATED JANUARY 2026	Covington	WAREHOUSE				
J. HART PROPERTIES	Ascend Elements, Inc.	TERMINATION LETTER, DATED OCTOBER 2025	Covington	WAREHOUSE				
JAGUAR LAND ROVER LIMITED	Ascend Elements, Inc.	SUPPLEMENTAL TERMS AND CONDITIONS TO JAGUAR LAND ROVER LIMITED AND AFFILIATES GLOBAL TERMS AND CONDITIONS FOR NON-PRODUCTION SERVICES; DATED 11/01/2024	Covington	Feedstock	$0.00	N	$0.00	
KPA / NOVARA	Ascend Elements, Inc.	SOFTWARE AGREEMENT, DATED 04/29/2025	Enterprise	OSHA training	$0.00	N	$0.00	
LUCID USA, INC.	Ascend Elements, Inc.	TERMS AND CONDITIONS FOR THE SALE OF SCRAP LITHIUM-ION BATTERIES; DATED 02/01/2023	Covington	Feedstock	$0.00	N	$0.00	
LUCID USA, INC.	Ascend Elements, Inc.	PRODUCT SALE AGREEMENT, DATED 04/22/2024	Covington	Feedstock	$0.00	N	$0.00	
MEXICHEM FLUOR INC. ("KOURA")	Ascend Elements, Inc.	JOINT DEVELOPMENT AGREEMENT, DATED 08/19/2020	Enterprise	Customer	$0.00	N	$0.00	
MEXICHEM FLUOR INC. ("KOURA")	Ascend Elements, Inc.	MULTI YEAR SUPPLY AGREEMENT, AS AMENDED, DATED 10/07/2022	Enterprise	Customer	$0.00	N	$0.00	
MINDSHARE PR, INC	Ascend Elements, Inc.	PUBLIC RELATIONS AGREEMENT, DATED SEP, 2025	Enterprise	Pro Services - PR	$0.00	N	$0.00	
ORACLE AMERICA, INC	Ascend Elements, Inc.	SOFTWARE SERVICE AGREEMENT, DATED 10/02/2025	Enterprise	DCMS	$0.00	N	$0.00	
ORACLE AMERICA, INC	Ascend Elements, Inc.	SOFTWARE SERVICE AGREEMENT, DATED JUN, 2025	Enterprise	Cost Control Module	$0.00	N	$0.00	
PLANET ENVIRONMENTAL SOLUTIONS, LLC.	Ascend Elements, Inc.	BATTERY RECYCLING MATERIAL PURCHASE AGREEMENT	Covington	Feedstock	$0.00	N	$0.00	
POLARIUM INC.	Ascend Elements, Inc.	BATTERY RECYCLING MATERIAL PURCHASE AGREEMENT	Covington	Feedstock	$0.00	N	$0.00	
PRINCIPAL LIFE INSURANCE COMPANY; DELAND, GIBSON INSURANCE ASSOCIATES, INC.	Ascend Elements, Inc.	PRINCIPAL 2025 RENEWAL, DATED 11/20/2024	Enterprise	Employee Benefits	$0.00	N	$0.00	
Ramboll Americas Engineering Solutions Inc	Ascend Elements, Inc.	MSA of 2/13/24, several POs	Enterprise	EHS AIR PERMITTING	$19,250.58	N	$19,250.58	Latest cure proposal - $5,000
RED WING BRANDS OF AMERICA, INC	Ascend Elements, Inc.	SERVICE AGREEMENT, DATED 08/24/2024	Enterprise	HSE OSHA (Shoes)	$380.19	N	$380.19	
SAMSUNG SDI CO. LTD.; JAE YOUNG TECH CO., LTD	Ascend Elements, Inc.	AMENDED AND RESTATED TRIAL TEST AGREEMENT, DATED 01/17/2024	Covington	Feedstock	$0.00	N	$0.00	
SIEMENS INDUSTRY, INC	Ascend Elements, Inc.	PROFESSIONAL SERVICE AGREEMENT (PSA), DATED 09/17/2025	Enterprise	HSE EMERGENY RESPONSE SYSTEM	$0.00	N	$0.00	
SK BATTERY AMERICA, INC	Ascend Elements, Inc.	BATTERY FEEDSTOCK , DATED 09/26/2023	Covington	Feedstock	$0.00	N	$0.00	
SK BATTERY AMERICA, INC	Ascend Elements, Inc.	QUOTATION FOR SCRAP RFQ RESPONSE NARRATIVE - 2021-10-6 QUOTATION NO. Q210820461, DATED 10/06/2021	Covington	Feedstock	$0.00	N	$0.00	
SK BATTERY AMERICA, INC	Ascend Elements, Inc.	SCRAP SALE/DISPOSAL AGREEMENT, DATED 01/01/2024	Covington	Feedstock	$0.00	N	$0.00	
STARPLUS ENERGY	Ascend Elements, Inc.	SCRAP MATERIALS SALES AGREEMENT, DATED 11/05/2024	Covington	Feedstock	$312,040.48	$218,428.34	$218,428.34	

Schedule 3.6(a)

Contracts

TEAM INDUSTRIAL SERVICES, INC	Ascend Elements, Inc.	TEAM INDUSTRIAL PROFESSIONAL SERVICES AGREEMENT, DATED 06/10/2024	Covington	HSE - Leak Detection and Repairs	$2,070.20	N	$2,070.20	
TESLA	Ascend Elements, Inc.	AMENDED AND RESTATED PRODUCTION PRICING AGREEMENT FOR BATTERY RAW MATERIALS; DATED 12/01/2025	Enterprise	Customer	$0.00	N	$0.00	
TRAFIGURA TRADING LLC	Ascend Elements, Inc.	PURCHASE CONTRACT, DATED 10/08/2025	Enterprise	Customer	$0.00	N	$0.00	
UNITED HEALTHCARE INSURANCE COMPANY	Ascend Elements, Inc.	LIFE POLICY_373711, DATED 01/01/2026	Enterprise	Employee Benefits	$0.00	N	$0.00	
UNITED HEALTHCARE INSURANCE COMPANY	Ascend Elements, Inc.	STD_LTD POLICY_373711, DATED 01/01/2026	Enterprise	Employee Benefits	$0.00	N	$0.00	
VEOLIA ES TECHNICAL SOLUTIONS, LLC	Ascend Elements, Inc.	RECYCLING/RECLAMATION SERVICES AGREEMENT (MODIFIED), DATED 11/01/2023	Covington	Feedstock	$0.00	N	$0.00	
VIATEC, INC.	Ascend Elements, Inc.	BATTERY RECYCLING MATERIAL PURCHASE AGREEMENT, DATED 01/31/2025	Covington	Feedstock	$0.00	N	$0.00	
VOLKSWAGON	Ascend Elements, Inc.	USER AGREEMENT, DATED 01/30/2026	Covington	Feedstock	$0.00	N	$0.00	
WASTE MANAGEMENT	Ascend Elements, Inc.	WASTE MANAGEMENT AGREEMENT, DATED 11/24/2025	Covington	Trash PU	$0.00	N	$0.00	
COVINGTON TRANSFER & STORAGE LLC	Ascend Elements, Inc.	LEASE AGREEMENT, DATED 09/01/2022	Covington	EQUIPMENT	$0.00	N	$0.00	
COVINGTON TRANSFER & STORAGE LLC	Ascend Elements, Inc.	LEASE AGREEMENT, DATED 09/01/2022	Covington	EQUIPMENT	$0.00	N	$0.00	
TOTAL QUALITY LOGISTICS	Ascend Elements, Inc.	PARKING AGREEMENT, DATED 01/13/2025	Covington	Parking lot	$443,335.00	$261,500.00	$261,500.00	Still pending but TQL countered $261,500
TOTAL QUALITY LOGISTICS	Ascend Elements, Inc.	LOGISTIC AGREEMENT, DATED 01/08/2025		Transportation				
TOTAL QUALITY LOGISTICS	Ascend Elements, Inc.	LOGISTIC AGREEMENT, DATED 11/08/2024						
METRO TRAILER LEASING	Ascend Elements, Inc.	PROFESSIONAL SERVICES AGREEMENT, DATED 04/26/2024	Covington	Trailer Rental for Battery Storage	$193,632.00	$60,000.00	$60,000.00	
DOCUSIGN, INC.	Ascend Elements, Inc.	Document E-Signature Order Form, DATED 8/4/2022	Enterprise	IT	$0.00	N	$0.00	
ATERA NETWORKS LTD.	Ascend Elements, Inc.	EXECUTED QUOTE, DATED 01/28/2026	Enterprise	IT	$327.69	N	$327.69	
NAVEX GLOBAL UK LTD	Ascend Elements, Inc.	SERVICE AGREEMENT, DATED 02/26/2024 (WhistleB	Software		$0.00	N	$0.00	
VELOCITYEHS HOLDINGS, INC.	Ascend Elements, Inc.	MASTER SUBSCRIPTION AND SERVICES AGREEMENT, DATED 12/19/2024	Enterprise	IT - EHS	$199.98	N	$199.98	
				Total	**$2,002,746.08**		**$1,526,178.69**	

Schedule 3.6(a)

Contracts

Counterparty	Debtor	Lease/Contract Description	Location	Contract Type	Cure Amount	Monthly Spend
AIRGAS USA, LLC	Ascend Elements, Inc.	PRODUCT SALE AGREEMENT, AS AMENDED, DATED 02/19/2024	Enterprise - incl. COV	PSA	$ 45,521.21	$ 20,000.00
ALBANY ROAD/TRUX JV LLC	Ascend Elements, Inc.	LEASE AGREEMENT	Covington	Lease	$ -	Lease terminated
ALLIANCE TECHNICAL GROUP, LLC	Ascend Elements, Inc.	MASTER SERVICES AGREEMENT (MSA)	Covington	SERVICES	$ -	PO
AM CONSTRUCTION INC. DBA AMCOM INDUSTRIAL	Ascend Elements, Inc.	PROFESSIONAL SERVICES AGREEMENT, DATED 05/26/2023	Covington	CONTRACTOR	$ -	PO
AMCON INDUSTRIAL	Ascend Elements, Inc.	MASTER SERVICES AGREEMENT (MSA), DATED 03/12/2024	Covington	CONTRACTOR	$ -	By scope of work
AMCON INDUSTRIAL	Ascend Elements, Inc.	MASTER SERVICES AGREEMENT (MSA), DATED 05/24/2023	Covington	CONTRACTOR	$ -	By scope of work
AMCON INDUSTRIAL	Ascend Elements, Inc.	MASTER SERVICES AGREEMENT (MSA), DATED JAN, 2024	Covington	CONTRACTOR	$ -	By scope of work
APPLIED TECHNICAL SERVICES, LLC	Ascend Elements, Inc.	PROFESSIONAL SERVICE AGREEMENT (PSA), DATED 03/27/2025	Covington	SERVICES	$ -	PO
ASSTRA PROJECT LOGISTICS LLC	Ascend Elements, Inc.	PROFESSIONAL SERVICE AGREEMENT (PSA), DATED 03/31/2025	Covington	LOGISTICS	$ -	PO
BEPEX INTERNATIONAL, LLC	Ascend Elements, Inc.	EQUIPMENT PURCHASE AGREEMENT (EPA), DATED 02/24/2023	Covington	EQUIPMENT	$ -	PO
BEPEX INTERNATIONAL, LLC	Ascend Elements, Inc.	EQUIPMENT PURCHASE AGREEMENT, DATED 03/03/2023	Covington	EQUIPMENT	$ -	PO
BIONOMIC INDUSTRIES, INC	Ascend Elements, Inc.	EQUIPMENT PURCHASE AGREEMENT, DATED 02/09/2024	Covington	MATERIALS	$ -	PO
BLUEGRASS SUPPLY CHAIN SERVICES, LLC	Ascend Elements, Inc.	MASTER SERVICES AGREEMENT (MSA), DATED 12/14/2023	Covington	EQUIPMENT	$ -	PO
Carrier Vibrating Equipment, Inc.	Ascend Elements, Inc.	GSA of 8/29/24, several POs	Covington	EQUIPMENT	$ 153,136.00	PO
CINTAS CORPORATION	Ascend Elements, Inc.	MASTER SERVICES AGREEMENT (MSA), DATED 02/05/2024	Enterprise - incl. COV	MRO	$ 27,988.57	$ 8,000.00
CLEAN HARBORS ENVIRONMENTAL SERVICES, INC.	Ascend Elements, Inc.	MASTER SERVICES AGREEMENT (MSA), DATED 03/15/2024	Enterprise - incl. COV	HAZ WASTE	$ 401,271.05	$ 75,000.00
CONTROL & POWER SYSTEMS INC.	Ascend Elements, Inc.	PROFESSIONAL SERVICE AGREEMENT (PSA)	Covington	EQUIPMENT	$ 124,518.74	PO
CONTROL & POWER SYSTEMS INC.	Ascend Elements, Inc.	PROFESSIONAL SERVICES AGREEMENT, DATED 09/10/2025	Covington	EQUIPMENT	$ -	PO
CONTROL & POWER SYSTEMS INC.	Ascend Elements, Inc.	PROFESSIONAL SERVICES AGREEMENT, DATED 09/19/2022	Covington	EQUIPMENT	$ -	PO
COPERION K-TRON SALINA, INC.	Ascend Elements, Inc.	EQUIPMENT PURCHASE AGREEMENT, DATED 03/27/2024	Covington	EQUIPMENT	$ -	PO
COPERION K-TRON SALINA, INC.	Ascend Elements, Inc.	EQUIPMENT PURCHASE AGREEMENT, DATED 12/11/2023	Covington	EQUIPMENT	$ -	PO
COPERION K-TRON SALINA, INC.	Ascend Elements, Inc.	EQUIPMENT PURCHASE AGREEMENT, DATED MAR, 2024	Covington	EQUIPMENT	$ -	PO
COPERION PROCESS SOLUTIONS LLC	Ascend Elements, Inc.	EPA of 3/27/24 and POs 4500001937, 2139 and 2159	Covington	EQUIPMENT	$ 56,654.10	PO
COVINGTON TRANSFER & STORAGE LLC	Ascend Elements, Inc.	LEASE AGREEMENT, DATED 09/01/2022	Covington	EQUIPMENT	$ -	$ 15,000.00
COVINGTON TRANSFER & STORAGE LLC	Ascend Elements, Inc.	LEASE AGREEMENT, DATED 09/01/2022	Covington	EQUIPMENT	$ -	$ 15,000.00
ECS SOUTHEAST, LLP	Ascend Elements, Inc.	MASTER SERVICES AGREEMENT (MSA), DATED 06/01/2023	Covington	SERVICES	$ -	PO
ENDRESS & HAUSER INC	Ascend Elements, Inc.	EQUIPMENT PURCHASE AGREEMENT, DATED 02/22/2024	Enterprise - incl. COV	EQUIPMENT	$ 635,157.28	PO
FIVOS GROUP	Ascend Elements, Inc.	PROFESSIONAL SERVICE AGREEMENT (PSA), DATED NOV, 2025	Covington	STAFFING SERVICES	$ -	no longer use
FULTON	Ascend Elements, Inc.	RENTAL AGREEMENT, DATED 10/12/2023	Covington	EQUIPMENT	$ -	no longer use
GISH PLLC	Ascend Elements, Inc.	Engagement Letter of 11/11/23	Covington	Pro Services - Legal	$ 493,393.44	$ 225,000.00
GLOBAL EQUIPMENT COMPANY INC.	Ascend Elements, Inc.	EQUIPMENT PURCHASE AGREEMENT, DATED 02/12/2024	Covington	EQUIPMENT	$ -	PO
GRAINGER	Ascend Elements, Inc.	MASTER SERVICES AGREEMENT (MSA), DATED 05/01/2024	Enterprise - incl. COV	MRO	$ 10,773.23	PO
INSURE TECHNOLOGY	Ascend Elements, Inc.	OTHER, DATED 05/09/2025	Covington	HR - Staffing Serv	$ -	$ -
LEE FAMILY TRUST	Ascend Elements, Inc.	LEASE AGREEMENT, DATED 08/01/2022	Covington	LEASE	$ -	Lease terminated
LEE FAMILY TRUST	Ascend Elements, Inc.	STANDARD INDUSTRIAL/COMMERCIAL SINGLETENANT LEASE GROSS, DATED 06/01/2022	Covington	LEASE	$ -	Lease terminated
LEE MOLNAR & ASSOCIATES FIRE PROTECTION CONSULTANTS, LLC	Ascend Elements, Inc.	MASTER SERVICES AGREEMENT (MSA), DATED JUL, 2024	Covington	FP CONSULTING	$ -	PO
MOBILE MINI	Ascend Elements, Inc.	MASTER SERVICES AGREEMENT (MSA), DATED 11/20/2024	Covington	OFFICE TRAILER RENT	$ -	$ -
MOBILE MINI	Ascend Elements, Inc.	RENTAL AGREEMENT, DATED 01/06/2025	[Covington]	OFFICE TRAILER RENT	$ -	$ -
MSC INDUSTRIAL SUPPLY CO.	Ascend Elements, Inc.	MASTER SERVICES AGREEMENT (MSA), DATED 04/15/2024	Covington	MRO	$ 2,883.17	PO
MSC INDUSTRIAL SUPPLY CO.	Ascend Elements, Inc.	MASTER SERVICES AGREEMENT (MSA), DATED 07/29/2024	Covington	MRO	$ -	PO
MSC INDUSTRIAL SUPPLY CO.	Ascend Elements, Inc.	MASTER SERVICES AGREEMENT (MSA), DATED 12/15/2023	Covington	MRO	$ -	PO
MSC INDUSTRIAL SUPPLY CO.	Ascend Elements, Inc.	MASTER SERVICES AGREEMENT (MSA), DATED 12/15/2023	Covington	MRO	$ -	PO
MSC INDUSTRIAL SUPPLY CO.	Ascend Elements, Inc.	TERMINATION LETTER, DATED OCT, 2025	Covington	MRO	$ -	PO
MSC INDUSTRIAL SUPPLY CO.	Ascend Elements, Inc.	MASTER SERVICE AGREEMENT, DATED 12/15/2023	Covington	MRO	$ -	PO
MUNSON MACHINERY, CO. INC.	Ascend Elements, Inc.	EQUIPMENT PURCHASE AGREEMENT, DATED 02/14/2024	Covington	EQUIPMENT	$ -	PO

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Contracts

MUNSON MACHINERY, CO. INC.	Ascend Elements, Inc.	EQUIPMENT PURCHASE AGREEMENT, DATED FEB, 2024	Covington	EQUIPMENT	$ -	PO
NEWTON COUNTY BOARD OF TAX ASSESSORS; NEWTON COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY	Ascend Elements, Inc.	PROJECT AGREEMENT, DATED 12/01/2023	Covington	Tax services	$ -	by scope of work
NEWTON COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY	Ascend Elements, Inc.	BOND PURCHASE AGREEMENT, DATED 12/01/2023	Covington	Non-Trade	$ -	by scope of work
NEWTON COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY	Ascend Elements, Inc.	CLOSING MEMORANDUM,INDEX FOR CLOSING TRANSCRIPT AND EXECUTIVE SUMMARY - $100,000,000 NEWTON COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY TAXABLE REVENUE BOND (ASCEND ELEMENTS, INC. PROJECT) SERIES 2023, DATED 12/13/2023	Covington	Non-Trade	$ -	by scope of work
NEWTON COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY	Ascend Elements, Inc.	LEASE AGREEMENT, DATED 12/01/2023	Covington	LEASE	$ -	by scope of work
NEWTON COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY	Ascend Elements, Inc.	REQUISITION AND BILL OF SALE, DATED 12/01/2023	Covington	Non-Trade	$ -	by scope of work
PROCESS EQUIPMENT & CONTROLS	Ascend Elements, Inc.	TERMINATION LETTER, DATED 11/15/2024	Covington	EQUIPMENT	$ 738.00	PO
SCHENCK PROCESS LLC	Ascend Elements, Inc.	EQUIPMENT PURCHASE AGREEMENT, DATED 12/28/2023	Covington	EQUIPMENT	$ -	PO
SCHWEITZER ENGINEERING LABORATORIES, INC.	Ascend Elements, Inc.	EQUIPMENT PURCHASE AGREEMENT, DATED 03/22/2024	Covington	EQUIPMENT	$ -	PO
SHRAM BROKERS, LLC	Ascend Elements, Inc.	BROKER/SHIPPER TRANSPORTATION AGREEMENT, DATED 10/03/2022	Covington	LOGISTICS	$ -	PO
SHRAM LOGISTICS SOLUTIONS	Ascend Elements, Inc.	LOGISTICS, DATED 10/03/2022	Covington	LOGISTICS	$ -	PO
SIGNATURE SCAPES	Ascend Elements, Inc.	PROFESSIONAL SERVICE AGREEMENT (PSA), DATED 08/23/2023	Covington	LANDSCAPE SERVICES	$ 11,979.97	$ 2,000.00
SLY, LLC	Ascend Elements, Inc.	GENERAL SERVICE AGREEMENT, DATED 09/15/2024	Covington	CONTRACTOR	$ -	PO
SSOE SYSTEMS, INC.	Ascend Elements, Inc.	CONSTRUCTION AGREEMENT, DATED 03/09/2022	Covington	CONTRACTOR	$ -	PO
Sunbelt Rentals, Inc	Ascend Elements, Inc.	Rental Service Agreement	Enterprise - incl. COV	RENTAL EQUIPMENT	$ 28,283.02	$ 16,000.00
SUPERIOR INDUSTRIAL & MAINTENANCE SERVICE LLC	Ascend Elements, Inc.	MASTER SERVICE AGREEMENT, DATED 02/01/2024	Covington	SERVICES	$ -	PO
SUZHOU BOTREE	Ascend Elements, Inc.	EQUIPMENT PURCHASE AGREEMENT (EPA), DATED 07/12/2021	Covington	EQUIPMENT	$ 1,626,300.00	PO
SUZHOU BOTREE	Ascend Elements, Inc.	EQUIPMENT SERVICES AGREEMENT, DATED 07/12/2021	Covington	EQUIPMENT	$ -	PO
SUZHOU BOTREE	Ascend Elements, Inc.	PROFESSIONAL SERVICE AGREEMENT (PSA), DATED 07/21/2021	Covington	EQUIPMENT	$ -	PO
SUZHOU BOTREE	Ascend Elements, Inc.	TECHNOLOGY SERVICES AGREEMENT, DATED 07/12/2021	Covington	EQUIPMENT	$ -	PO
THE ROVISYS COMPANY	Ascend Elements, Inc.	PROFESSIONAL SERVICE AGREEMENT (PSA), DATED 11/06/2025	Covington	ENGINEERING	$ 1,654.00	PO
UNITED RENTALS	Ascend Elements, Inc.	RENTAL AGREEMENT, DATED 01/01/2026	Enterprise - incl. COV	Lease - Equipment	$ 115,890.00	$ 17,000.00
URT EURO	Ascend Elements, Inc.	EQUIPMENT PURCHASE AGREEMENT (EPA), DATED 02/10/2022	Covington	EQUIPMENT	$ 1,160,000.00	PO
URT EURO	Ascend Elements, Inc.	EQUIPMENT PURCHASE AGREEMENT (EPA), DATED 07/12/2021	Covington	EQUIPMENT	$ -	PO
URT EURO	Ascend Elements, Inc.	OTHER, DATED 12/23/2024	Covington	EQUIPMENT	$ -	PO
URT UMWELT UND RECYCLINGTECHNIK GMBH	Ascend Elements, Inc.	CONTRACT, DATED 02/10/2022	Covington	EQUIPMENT	$ -	PO
URT UMWELT UND RECYCLINGTECHNIK GMBH	Ascend Elements, Inc.	CONTRACT, DATED 07/12/2021	Covington	EQUIPMENT	$ -	PO
VENTURE NETCOMM, INC.	Ascend Elements, Inc.	GENERAL SERVICE AGREEMENT, DATED 12/06/2024	Covington	SERVICES	$ -	PO
VIATEC, INC.	Ascend Elements, Inc.	BATTERY RECYCLING MATERIAL PURCHASE AGREEMENT, DATED 01/31/2023	Covington	PO	$ -	PO
WAISN CONTROL SYSTEM EQUIPMENT (LANGFANG) CO., LTD	Ascend Elements, Inc.	EQUIPMENT PURCHASE AGREEMENT, DATED 07/06/2023	Covington	EQUIPMENT	$ -	PO
WALSN CONTROL SYSTEM EQUIPMENT	Ascend Elements, Inc.	EQUIPMENT PURCHASE AGREEMENT, DATED 08/10/2023	Covington	EQUIPMENT	$ -	PO
XALT ENERGY MI, LLC	Ascend Elements, Inc.	BATTERY RECYCLING MATERIAL PURCHASE AGREEMENT, DATED 08/14/2023	Covington	(OUT OF BUSINESS) FEEDSTOCK	$ 100,428.24	by scope of work
ACC BUSINESS	Ascend Elements, Inc.	AT&T Dedicated Internet Service Pricing Schedule 1/27/2023; Account Number: 0001233404	Covington	Telecommunications	$ 1,210.85	$ 1,250.00
APX NET INC	Ascend Elements, Inc.	APX Net, Inc Service Order Agreement; Covington - Account Number: 10917	Covington	Telecommunications	$ -	$ 660.00
SASKATCHEWAN RESEARCH COUNCIL, SRC	Ascend Elements, Inc.	PROFESSIONAL SERVICES AGREEMENT, DATED 01/26/2026	Covington	Precipitation Modeling Report	$ 39,778.56	PO
WORCESTER POLYTECHNIC INSTITUTE	Ascend Elements, Inc.	EXCLUSIVE LICENSE AGREEMENT, DATED 06/01/2020	Covington	IP Licenses	$ 40,000.00	$ 3,333.33
WORCESTER POLYTECHNIC INSTITUTE	Ascend Elements, Inc.	EXCLUSIVE LICENSE AGREEMENT, DATED 05/01/2021	Covington			
WORCESTER POLYTECHNIC INSTITUTE	Ascend Elements, Inc.	EXCLUSIVE LICENSE AGREEMENT, DATED 06/15/2017	Covington			
WORCESTER POLYTECHNIC INSTITUTE	Ascend Elements, Inc.	EXCLUSIVE LICENSE AGREEMENT, DATED 11/30/2021	Covington			

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Contracts

Porter Logistics, Inc.	Ascend Elements, Inc.	Warehouse Agreement Signed	Covington	Lease - Lot	$ 331.25	$ 331.00
SAP AMERICA, INC	Ascend Elements, Inc.	ORDER FORM FOR CONCUR TECHNOLOGIES, INC., DATED 11/5/2024 and 2/20/2024	Enterprise	ERP - excl. Ariba	$0.00	$2,000.00
SAP AMERICA, INC	Ascend Elements, Inc.	SAP CLOUD ORDER FORM, DATED 6/28/2024	Enterprise	ERP - excl. Ariba	$0.00	$ -
DATASITE LLC	Ascend Elements, Inc.	STATEMENT OF WORK, DATED 04/02/2020	Enterprise	DATA ROOM	$82,910.06	PO
DEEL GROUP	Ascend Elements, Inc.	MASTER SERVICES AGREEMENT (MSA), DATED 10/21/2025	Enterprise	EMPLOYMENT	$89,533.80	
WM. THOMAS CRAIG	Ascend Elements, Inc.	PROFESSIONAL LEGAL SERVICES AGREEMENT, DATED 03/13/2025	Covington	Legal Services	$0.00	$ 10,000.00
TRANE US, INC	Ascend Elements, Inc.	MASTER SERVICES AGREEMENT, DATED 11/28/2023	Covington / Hopkinsville	HVAC Preservation	$9,334.00	$ 3,100.00
SAP AMERICA, INC	Ascend Elements, Inc.	ORDER FORM FOR SAP CLOUD SERVICES, DATED 03/27/2023	Enterprise	ERP - excl. Ariba	$0.00	$ 28,000.00
SAP AMERICA, INC	Ascend Elements, Inc.	PROFESSIONAL SERVICE AGREEMENT (PSA), DATED 03/24/2023	Enterprise	ERP - excl. Ariba	$0.00	

Schedule 3.6(b)
Contracts

None.

Schedule 3.7
No Litigation

1. Duesenfeld Patent Litigation

   On October 20, 2023, a private German company, Duesenfeld GmbH ("**Duesenfeld**") filed a Complaint for patent infringement against the Company in the United States District Court for the District of Delaware. Duesenfeld asserts violations of two (2) U.S. Patents (the "097 Patent" and the "463 Patent", respectively, both of which purport to cover a method for recycling batteries. Duesenfeld alleges that the Company infringes because it uses machinery for wet shredding/drying supplied to the Company by URT Umwelt- und Recyclingtechnik GmbH ("**URT**"). Parallel proceedings to determine the validity of Duesenfeld's patents did not declare the patents *prima facie* invalid and the District Court lifted its stay order to allow both claims to proceed. Company's counsel has expressed some confidence in an ultimately favorable outcome due to objective differences in and obviousness of the process employed by the Company, particularly following recent modifications to those processes. The Complaint seeks a one-time penalty payment and a continuing royalty tied to black mass production at the Covington, GA plant. The Complaint does not seek to invalidate, take ownership over, or narrow any of the Company's patents (part of the IP now sold but licensable on a royalty-free basis to a buyer of the Covington, GA plant). The Scheduling Order set this matter for trial in January 2027 before the proceedings were stayed by the Company's bankruptcy filing.

2. Amcon Dispute

   In November 2025, the Company agreed to resolve at private arbitration an ongoing dispute with Amcon Industrial, Inc. ("**Amcon**"), the contractor for construction project services at the Apex-0 facility in Covington, GA. The arbitration involves Amcon's claim that the Company is improperly withholding time and materials payments amounting to circa $8M and the Company's counterclaim that Amcon improperly invoiced the Company for circa $5M. The Company is contractually entitled to withhold amounts disputed in good faith, and Company's withholding is based on audit's findings of, among other things, incorrect application and calculation of sales taxes, non-contract rates applied to trucking services, and misapplication of higher labor rates to lower labor classifications. Furthermore, Amcon withheld requested information during the course of the audit. Meantime, Amcon filed a mechanics lien in the Newton County, GA on the Company's property at the Covington, GA facility in an amount of circa $6M. The arbitration hearing to commence in mid-April 2026 was stayed by the Company's bankruptcy filing.

3. Miscellaneous Matters.

   Certain of the Company's other vendors, suppliers, contractors, and consultants who have past due accounts with the Company threatened to take legal action to recover amounts alleged to be due from and owing by the Company. **Newton County, GA** issued a "final notice" for property taxes of circa $950K, which amount continues to accrue late payment penalties and interest.

Schedule 3.8
Permits; Compliance with Laws

None.

Schedule 3.9
Environmental Matters

3.9(a-c)

In March 2026, a thermal incident occurred during transportation of charged batteries from the Seller's Lithonia, Georgia lot to a third-party toller in Ohio. There were no injuries or property damage other than one hybrid pack was smoking, and we cannot rule out the possibility that three adjacent packs were impacted as well. The contract between the Seller and the third-party toller indicates that the third party toller is responsible for the transportation of the load and liability arising out of this incident. The Seller does not expect to have any liability with this shipment. However, the third-party toller has been slow to respond to the thermal event.

The Seller has had the below listed non-compliance periods in the past but all have been fully and finally resolved, and there are no outstanding obligations, injunctions, penalties, or orders associated with any of the following matters:

- 9176 Industrial Drive Covington, GA – Main Facility
    - NOV under the Resource Conservation and Recovery Act ("RCRA") regarding Universal Waste hold time was issued by the Georgia Environmental Protection Division ("GA EPD") in September 2025. The matter was determined to be resolved in November 2025 by the GA EPD with no penalty. The facility is presently processing all batteries within 24 hours of receipt at the facility and does not need any further permit pursuant to RCRA or other hazardous waste laws in order to operate (including with respect to battery accumulation and storage periods) as it has operated, and at the maximum processing levels experienced, since September 2025.
    - RCRA Consent Order issued by the GA EPD in December 2024 regarding 15 findings resulting in a $38,300 fee that was paid in March 2025. The matter was determined to be resolved in June 2025 by the GA EPD.
    - Stormwater Discharge Monitoring Report noncompliance for two quarters in 2024 due to untimely submittal regarding the inactive status of the facility to the GA EPD. The matter was resolved December 2025 through the submittal of appropriate non-operating reports to the GA EPD, and no enforcement action was taken.
- 10157 Industrial Drive Covington, GA – Warehouse
    - An informal RCRA noncompliance citation for waste characterization and determination and training in March 2025. A response was provided to GA EPD in May 2025, and the matter is now resolved.

The Seller has had several Occupational Safety and Health Administration ("**OSHA**") inspections resulting in the following citations or complaints, and with the exception of the whistleblower complaint of March 16, 2026, at Covington, all have been fully and finally resolved, and there are no outstanding obligations, injunctions, penalties, or orders associated with these matters:

- 9176 Industrial Drive Covington, GA
    - A whistleblower complaint on June 20, 2024 regarding exposure to respiratory hazards. This matter was resolved in August 2025.

- Bunker 3 Thermal Event. NOVs issued in August 2025 from OSHA regarding emergency response plan, lockout/tagout procedures, and employee training. The matter has been resolved through a settlement agreement with OSHA, resulting in a fine paid of $22,698.60.
- A whistleblower complaint on March 16, 2026. The Seller believes a former employee insinuated exposure to airborne contaminants. The Seller provided respirator fit test records, PPE, safety programs, and training documentation to OSHA during the visit. OSHA returned to the site to collect air samples near the wet line last week. The Seller doesn't expect results for several weeks. This is an on-going matter.

The Seller had a Department of Transportation inspection in Covington, GA on March 25 and 26, 2025. The inspection resulted in a citation and fine of $2,819.39. There are no outstanding obligations, injunctions, penalties, or orders associated with this matter.

Schedule 3.11
Tax Matters

(b)
The following outstanding 2025 property taxes, including estimates of 2026 accruals on such taxes:

1. Newton County Tax Commissioner in the amount of $1,025,148.95 as of 6/12/2026.

Schedule 3.12(d)
Financial Assurances for Acquired Asset Obligations

1. $200,000 Letter of Credit (#68199874) issued by Bank of America, N.A. with Ascend Elements, Inc. as Debtor and Airgas USA, LLC as Beneficiary.

2. $1,930,048 Letter of Credit (#68202327) issued by Bank of America, N.A. with Ascend Elements, Inc. as Debtor and Covington Industrial LLC as Beneficiary.

3. $750,000 Letter of Credit (#681999065) issued by Bank of America, N.A. with Ascend Elements, Inc. as Debtor and the Georgia Department of Natural Resources, Environmental Protection Division as Beneficiary.

4. $50,000 Letter of Credit (#68197104) issued by Bank of America, N.A. with Ascend Elements, Inc. as Debtor and United States Surety Company, and/or U.S. Specialty Insurance Company, and/or American Contractors Indemnity Company as Beneficiary.

5. $177,990 Surety Bond (#615128824) issued by Carrier United States Fire Insurance Company for Georgia Power Company as Beneficiary, Start Date 9/15/2025, End Date: 09/15/2026.

Schedule 3.13
Brokers

Jefferies LLC, pursuant to that certain engagement letter with the Seller dated November 20, 2025.

Schedule 3.14
Inter-Company Transactions

None.

Schedule 3.15
Title to Assets

1. Claim of Lien on Leasehold Estate and interests, executed by AM Construction Inc. d/b/a AMCON Industrial, and recorded on August 8, 2025, in the Clerk of Superior Court, Newton County, Georgia, under Doc No. L2025-007034, at Book 306 Page 221-223. The amount remaining unpaid is $6,232,621.09 plus statutory interest.

    a. Real Property: Real property commonly known as 9176 Industrial Drive NE, Covington, Georgia 30014, Land Lot 273, 9th District, Newton County, State of Georgia and detailed more specifically on that legal description attached as Exhibit A thereto.

UCC Liens

DEBTOR	SECURED PARTY	ITEM	FILING NUMBER	JURISDICTION	FILING DATE	DESCRIPTION OF COLLATERAL/NOTES
Ascend Elements, Inc.	Alter Domus (US) LLC, as Collateral Agent	Financing Statement	20254279706	Delaware Secretary of State	06/13/2025	All assets of the Debtor whether now owned or hereafter acquired.
Ascend Elements, Inc.	Newton County	Judgment Lien	311/825 NEWTON COUNTY	Superior Court Clerks' Cooperative Authority	3/12/2026	Judgment lien on non-abated account (P43027237) in the aggregate amount of $955,705.06
Ascend Elements, Inc.	Alter Domus (US) LLC, as Collateral Agent	Financing Statement	20262640973	Delaware Secretary of State	04/02/2026	All assets of the Debtor whether now owned or hereafter acquired.

Schedule 3.16
No Material Adverse Effect

None.

Schedule 3.17
Absence of Changes

None.

Schedule 6.1(a)
Conduct of the Business of Seller

None.

Schedule 6.1(c)
Restricted Actions of Seller

None.

Schedule 6.13(a)
Letters of Credit

1. $1,930,048 Letter of Credit (#68202327) issued by Bank of America, N.A. with Ascend Elements, Inc. as Debtor and Covington Industrial LLC as Beneficiary.

2. $750,000 Letter of Credit (#681999065) issued by Bank of America, N.A. with Ascend Elements, Inc. as Debtor and the Georgia Department of Natural Resources, Environmental Protection Division as Beneficiary.

3. $177,990 Surety Bond (#615128824) issued by Carrier United States Fire Insurance Company for Georgia Power Company as Beneficiary, Start Date 9/15/2025, End Date: 09/15/2026.

AMENDMENT
TO ASSET PURCHASE AGREEMENT

This Amendment to Asset Purchase Agreement (this "Amendment"), dated effective as of July 3, 2026, is entered into by and between R3 Lithium, Inc. or its assignee ("Purchaser") and Ascend Elements, Inc. ("Seller"), and amends that certain Asset Purchase Agreement by and between the parties dated June 19, 2026 (the "Agreement"). All capitalized terms not otherwise defined herein have the same meanings ascribed to them in the Agreement.

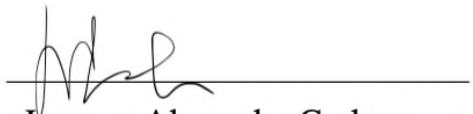
1. Section 8.1(c) of the Agreement is hereby deleted in its entirety and replaced with the following:

> "by written notice of either Purchaser or Seller, if the Closing shall not have occurred on or before July 7, 2026, including satisfactory resolution of the objections to the Transactions raised by Total Quality Logistics, LLC and Victory Equipment & Services, LLC by such date (the "Outside Date"); provided that a Party shall not be permitted to terminate this Agreement pursuant to this Section 8.1(c) if the failure of the Closing to have occurred by the Outside Date was caused by such Party's material breach of any of its obligations or material breach of any of its representations or warranties under this Agreement;"

2. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original but all of which, when taken together, shall constitute but one and the same instrument. Delivery of a signature page of this Amendment signed electronically by one party to the other party shall be effective as delivery of a manually executed signature page.

3. Except as expressly modified by, or inconsistent with, the terms of this Amendment, all other terms and provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their duly authorized representatives on the date set forth above.

R3 LITHIUM, INC.		**ASCEND ELEMENTS, INC.**	
By:		By:	Linh Austin Linh Austin (Jul 3, 2026 11:59:55 PDT)
Name:	Jacques-Alexandre Gerber	Name:	Linh Austin
Title:	Director	Title:	Chief Executive Officer

SECOND AMENDMENT
TO ASSET PURCHASE AGREEMENT

This Second Amendment to Asset Purchase Agreement (this "Amendment"), dated effective as of July 6, 2026, is entered into by and between R3 Lithium, Inc. or its assignee ("Purchaser") and Ascend Elements, Inc. ("Seller"), and further amends that certain Asset Purchase Agreement by and between the parties dated June 19, 2026, as amended by that certain Amendment to Asset Purchase Agreement, dated July 3, 2026 (the "Agreement"). All capitalized terms not otherwise defined herein have the same meanings ascribed to them in the Agreement.

1. Notwithstanding anything to the contrary in the Agreement or the Disclosure Schedule, Seller and Purchaser hereby agree that the Lease Agreement dated May 8, 2023, by and between J. Hart Properties, LLC, as landlord, and the Seller, as tenant, regarding property located at 10157 Industrial Drive, Covington, Georgia 30014 (the "J. Hart Lease Agreement") shall be neither an Acquired Leased Real Property nor an Assigned Contract.

2. Schedule 1.1(a) and Schedule 1.1(b) of the Disclosure Schedule to the Agreement are hereby amended to remove in their entirety all references to the J. Hart Lease Agreement and any other related Contract with J. Hart Properties disclosed on Schedule 1.1(b).

3. Schedule 1.1(b) of the Disclosure Schedule to the Agreement is hereby amended to (a) replace the schedule reference in the heading of the spreadsheet attached to Schedule 1.1(b) listing additional Assigned Contracts from "Schedule 1.1(a)" to "Schedule 1.1(b)", and (b) remove in their entirety all references to Contracts with the following counterparties, which Contracts shall not be Assigned Contracts: (i) ADP, Inc., (ii) Optum Bank, (iii) Empower Advisory Group, LLC, (iv) United Healthcare Insurance Company, (v) Principal Life Insurance Company, and (vi) Oracle America, Inc.

4. Schedule 1.1(i) of the Disclosure Schedule to the Agreement is hereby amended to remove in their entirety all references to the security deposits for the J. Hart Lease Agreement.

5. Seller and Purchaser hereby agree to add the following sentence at the end of Section 2.2 of the Agreement:

"The Closing shall be effective as of 12:01am on the Closing Date."

6. Seller and Purchaser hereby agree that delivery of an assignment of the J. Hart Lease Agreement by Seller to Purchaser is no longer a deliverable required to be provided at or prior to the Closing in accordance with Section 2.3(e) or Section 2.4(d) of the Agreement.

7. Seller and Purchaser hereby agree that the Covington IP License Agreement to be executed by Seller and Purchaser at Closing shall not require Bluegrass to join such agreement for purpose of providing its consent or granting Purchaser direct contract and enforcement rights against Bluegrass under the Covington IP License.

8. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original but all of which, when taken together, shall constitute but one and the same instrument. Delivery of a signature page of this Amendment signed electronically by one party to the other party shall be effective as delivery of a manually executed signature page.

9. Except as expressly modified by, or inconsistent with, the terms of this Amendment, all other terms and provisions of the Agreement shall remain in full force and effect.

[*Signatures on Following Page*]

IN WITNESS WHEREOF, the parties hereto have caused this Second Amendment to be executed by their duly authorized representatives on the date set forth above.

R3 LITHIUM, INC.

By: Jacques-A. Gerber
Jacques-A. Gerber (Jul 6, 2026 19:19:03 PDT)

Name: Jacques-Alexandre Gerber

Title: Director

ASCEND ELEMENTS, INC.

By: Linh Austin
Linh Austin (Jul 6, 2026 19:02:09 PDT)

Name: Linh Austin

Title: Chief Executive Officer

Fill in this information to identify the case:

Debtor 1: Ascend Elements, Inc.

Debtor 2 (Spouse, if filing):

United States Bankruptcy Court for the: Southern District of Texas

Case number: 26-90440

Official Form 410

Proof of Claim

04/16

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) **that you received.**

Part 1: Identify the Claim

1. **Who is the current creditor?**

AM Construction Inc. d/b/a AMCON Industrial
Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor

2. **Has this claim been acquired from someone else?**

✓ No
Yes. From whom?

3. **Where should notices and payments to the creditor be sent?**
Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Where should notices to the creditor be sent?	**Where should payments to the creditor be sent?** (if different)
Jackson Walker LLP c/o Zachary McKay	AMCON Industrial c/o Coleen Phillips
Name	Name
1401 McKinney Street, Suite 1900	1375 Oakley Industrial Blvd
Number Street	Number Street
Houston TX 77010	Fairburn GA 30213
City State ZIP Code	City State ZIP Code
Contact phone (713) 752-4261	Contact phone (770) 251-4710
Contact email zmckay@jw.com	Contact email Coleen@amconindustrial.com

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

4. **Does this claim amend one already filed?**

✓ No
— Yes. Claim number on court claims registry (if known) _____ Filed on ____ / ____ / ____ (MM / DD / YYYY)

5. **Do you know if anyone else has filed a proof of claim for this claim?**

✓ No
Yes. Who made the earlier filing?

269044026062300000000006

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. **Do you have any number you use to identify the debtor?**
✓ No
Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ____ ____ ____ ____

7. **How much is the claim?** $ 9,881,478.48 . **Does this amount include interest or other charges?**
*Plus interest, fees and all other amounts owed pursuant to applicable law or equity
No
✓ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. **What is the basis of the claim?**
Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.
Work, labor, materials, and equipment provided, per Addendum

9. **Is all or part of the claim secured?**
No
✓ Yes. The claim is secured by a lien on property.
Nature of property:
✓ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim.*
Motor vehicle
✓ Other. Describe: All of the right, title and interest of the Property and Project
Basis for perfection: Recorded Mechanics' and Materialman's Lien Statement
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
Value of property: $____
Amount of the claim that is secured: $ 9,881,478.48
Amount of the claim that is unsecured: $ 0.00 (The sum of the secured and unsecured amounts should match the amount in line 7.)
Amount necessary to cure any default as of the date of the petition: $ 9,881,478.48
Annual Interest Rate (when case was filed)_____%
Fixed
Variable

10. **Is this claim based on a lease?**
✓ No
Yes. **Amount necessary to cure any default as of the date of the petition.** $____

11. **Is this claim subject to a right of setoff?**
✓ No
Yes. Identify the property: _____

12. **Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?**

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

✓ No

Yes. *Check one:*

	Amount entitled to priority
Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	$_____
Up to $2,850* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	$_____
__ Wages, salaries, or commissions (up to $12,850*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	$_____
Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	$_____
Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	$_____
Other. Specify subsection of 11 U.S.C. § 507(a)(__) that applies.	$_____

* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

✓ I am the creditor.

__ I am the creditor's attorney or authorized agent.

I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

— I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 06/23/2026
MM / DD / YYYY

Coleen Phillips
Signature

Print the name of the person who is completing and signing this claim:

Name: Coleen Phillips
First name Middle name Last name

Title: Chief Financial Officer

Company: AMCON Industrial
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address: 1375 Oakley Industrial Blvd
Number Street

Fairburn GA 30213
City State ZIP Code

Contact phone (770) 251-4710 Email Coleen@amconindustrial.com

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	§	
	§	Chapter 11
ASCEND ELEMENTS, INC., *et al.*[1]	§	Case No. 26-90440 (CML)
Debtor.	§	
	§	

ADDENDUM TO SECURED PROOF OF CLAIM OF AM CONSTRUCTION INC. D/B/A AMCON INDUSTRIAL

AM Construction Inc. d/b/a AMCON Industrial ("Claimant") submits the following in support of its proof of claim (the "Proof of Claim"). This Addendum provides greater specificity as to the nature of Claimant's Claim (as defined below). Capitalized terms not defined herein shall have the meaning ascribed to them in the MSA (as defined below).

A. Background

1. On April 9, 2026 (the "Petition Date"), the Debtors filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of Texas (the "Court").

2. In 2022, Claimant began performing work as a subcontractor to a prior general contractor at the Covington facility. Upon information and belief, Ascend Elements, Inc. ("Ascend") terminated its contract with the prior general contractor and sought to contract with Claimant directly. In May 2023, Claimant entered into a Professional Services Agreement (the "PSA") with Ascend, effective May 24, 2023, to provide labor, services and materials on the project known as Apex-0 located at 9176 Industrial Drive NE, Covington, Newton County, Georgia 30014 (the "Property"). The owner of the Property is Covington Industrial LLC (the "Landlord"), which leases the Property to Ascend. The PSA was structured on a Time & Materials, cost-plus basis.

3. On March 12, 2024, Claimant and Ascend entered into a Master Agreement for Construction Services (the "MSA"), which, except for certain existing open work orders, superseded the PSA. Pursuant to the MSA, Claimant agreed to serve as the general contractor for construction project services at the Apex-0 facility (the "Project"). The MSA was likewise structured on a Time & Materials, cost-plus basis.

4. Claimant performed work and furnished labor, materials, and equipment for the improvement of the Property pursuant to the PSA and MSA from 2022 through July 2, 2025.

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[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Ascend Elements, Inc. (2893) and Ascend Elements US, LLC (8309). The location of the Debtors' service address is: 133 Flanders Road, Westborough, MA 01581.

Despite Claimant's diligent performance, in or around the summer of 2024, Ascend began to fall significantly behind on payment of Claimant's invoices. At no point during this time did Ascend notify Claimant that it disputed any of Claimant's invoices pursuant to the dispute provisions of the MSA. Despite multiple formal demands for payment, including demands issued on August 22, 2024, and March 17, 2025, and a payment plan agreed to by the parties, Ascend failed to pay Claimant the amounts due and owing. The last date that labor, equipment, materials and/or other services were provided to the Property by Claimant was July 2, 2025.

5. Prior to the Petition Date, on August 8, 2025, Claimant filed a Complaint for Damages against Ascend in the Superior Court of Newton County, Georgia (Civil Action File No. SUCV2025002393), asserting claims for breach of contract, quantum meruit, and foreclosure of lien. The parties had previously attended mediation as required by the MSA, which was unsuccessful. The state court action is currently stayed pursuant to 11 U.S.C. § 362.

6. Also on August 8, 2025, Claimant properly filed and recorded a mechanics' and materialmen's lien (the "M&M Lien") in the Office of the Clerk of Superior Court, Newton County, Georgia (Book 306, Pages 221-223, Doc. No. L2025-007034), encumbering the leasehold estate for years and any other property interests held by Ascend Elements, Inc. in the Property, securing payment for labor, materials, equipment, and services furnished on the Project in the amount of $6,232,621.09 (the "Lien Amount"). A copy of the recorded M&M Lien is attached hereto as **Exhibit A**. The M&M Lien was properly recorded within 90 days after the completion of the work and the last date that materials or machinery were furnished, as required by O.C.G.A. § 44-14-361.1.

7. Claimant asserts that its M&M Lien is valid, perfected, and enforceable under Georgia law to secure payment to Claimant in the amount of $6,232,621.09, plus interest and all costs incurred in the enforcement of its M&M Lien, which continue to accrue. Claimant's claim includes unpaid amounts for work performed by Claimant, interest as permitted by O.C.G.A. § 7-4-2, attorney's fees, and costs. Interest accrued through the Petition Date brings Claimant's total secured claim to $9,881,478.48 (the "Indebtedness"). The total Indebtedness is calculated in detail on the spreadsheet attached hereto as **Exhibit B**.

8. As such, Claimant holds a valid secured claim totaling $9,881,478.48 against the leasehold estate and any other property interests held by Ascend Elements, Inc. in the Property, including but not limited to any personal property, leasehold improvements, tenant improvements, betterments, furniture, fixtures, trade fixtures, equipment, and contents.

9. The Indebtedness does not yet include post-petition interest, attorneys' fees, or costs, but to the extent that Claimant is oversecured, Claimant intends to amend and/or supplement this Proof of Claim and the Indebtedness amount to assert all such amounts as are allowed pursuant to 11 U.S.C. § 506(b). To the extent the value of the Property exceeds the value of Claimant's secured claim, the claim includes all rights to additional interest, fees, and damages in respect thereof.

B. Amendment to Proof of Claim

10. Claimant hereby reserves its right to amend or supplement this Proof of Claim from time to time to, among other things, recharacterize in any manner the claims set forth herein, refine amounts owing, and/or reflect any additional amounts owing from the Debtors, and to include herein any further relevant information.

NO ADMISSIONS AND RESERVATION OF RIGHTS

11. All exhibits are incorporated into this Addendum by reference, and this Addendum is incorporated into the Proof of Claim by reference. The Debtors should already be in possession of all documents and invoices in support of the Indebtedness. Documentation in support of this Proof of Claim is in the possession of Claimant. Such documentation and requests for further documentation or additional information should be directed to counsel for Claimant.

12. The assertion of the claim herein by Claimant is not a concession or admission as to the correct characterization or treatment of such claim, nor a waiver of any rights of Claimant. The execution and filing of this Proof of Claim does not constitute: (a) a waiver or release of Claimant's rights against any other entity or person liable for or any other source of recovery in connection with all or part of the claim; (b) a consent by Claimant to the jurisdiction of this Court with respect to any proceeding commenced against or otherwise involving Claimant; (c) a consent by Claimant to the treatment of any non-core claim against it as a core claim; (d) a waiver, release or limitation of Claimant's right to have any and all final orders in any and all non-core matters or proceedings entered only after de novo review by a United States District Court Judge; (e) a waiver of the right to move to withdraw the reference with respect to the subject matter of the claim or otherwise; (f) a waiver of any right to the subordination, in favor of Claimant, of indebtedness or liens held by other creditors of the Debtors; (g) an election of remedies that waives or otherwise affects any other remedies; (h) a waiver of defaults; (i) a waiver or limitation on any rights, remedies, claims, counterclaims, defenses (procedural or substantive) or interests, including any rights to claim specific assets or any other rights or rights of action that Claimant has or may have against the Debtors, the Landlord, any non-debtor obligor, or other entity or person liable for all or part of the claim described herein; (j) a waiver of any right to arbitration or other alternative dispute resolution mechanism that is otherwise applicable; (k) a waiver of any rights that Claimant may have pursuant to section 506(b) of the Bankruptcy Code; or (l) a waiver of any additional claims or other rights that Claimant may have against the Debtors.

13. Claimant, on behalf of itself, expressly: (a) reserves all legal, equitable and contractual rights against all parties (including the Debtors, the Landlord, or any other person that is or may become a debtor) with respect to the claim and otherwise and does not waive any right or remedy of Claimant, including without limitation any right to any security held by or for it, or any right to claim an interest in specific assets or any other rights or causes of action that it has or may have against the Debtors, the Landlord, or any other person or persons, and expressly reserves all such rights; (b) reserves the right to file additional proofs of claim and to amend, supplement or modify this Proof of Claim in any respect and at any time, including without limitation by (i) specifying the dollar amount of any part of the claim that is not stated in specific amounts herein, (ii) specifying the amount of fees, costs, and charges owed to Claimant to the extent not set forth herein, (iii) specifying additional interest, fees, costs, or charges arising prior or subsequent to the

date of confirmation of any plan of reorganization, or (iv) restating the amount of any portion of the claim; and (c) reserves the right to assert that all or any part of the claim described herein is a postpetition administrative expense entitled to priority under sections 503, 507(a)(2) and 507(b) of the Bankruptcy Code, including, but not limited to, costs and expenses (including attorneys' fees and disbursements) incurred by Claimant that remain unpaid.

14. Without limiting the generality of the foregoing, nothing in this Proof of Claim or any action taken by Claimant in connection with the Debtors' bankruptcy cases, including, without limitation, the filing of this Proof of Claim, participation in any sale process under 11 U.S.C. § 363, any credit bid submitted by Claimant, any consent or objection (or absence thereof) with respect to any bid or sale, or any distribution received from the Debtors' estates, shall be deemed to constitute a release, waiver, impairment, satisfaction, or discharge of, or an election of remedies with respect to, any and all claims, rights, and remedies that Claimant holds or may hold directly against the Landlord, whether arising under applicable lien statutes, bond claims, or otherwise at law or in equity. Claimant expressly reserves all such claims, rights, and remedies against the Landlord in full, without limitation.

15. To the extent that the Debtors assert any claims against Claimant, Claimant reserves its rights to assert that any such claim is subject to rights of setoff and/or recoupment, whether or not arising under the transactions set forth in this Proof of Claim, which rights are treated as secured claims under the Bankruptcy Code, or state and federal laws of similar import as well as in equity.

16. Nothing in this Proof of Claim shall be deemed an admission by Claimant. Claimant expressly reserves the right to withdraw all or any part of the claim as if it had never been filed. No judgment has been rendered on the claims set forth in this Proof of Claim.

EXHIBIT A

BK: 306 PG: 221-223
Filed and Recorded
08-08-2025 10:56 AM
DOC# L2025-007034
STEPHANIE FINNIE
CLERK OF SUPERIOR COURT
NEWTON COUNTY

After recording, return to:
AM Construction d/b/a Amcon Industrial
Linda Lilly
1375 Oakley Industrial Blvd
Fairburn, GA 30213

CLAIM OF LIEN ON LEASEHOLD ESTATE AND INTERESTS

STATE OF GEORGIA
COUNTY OF NEWTON

AM Construction Inc. d/b/a AMCON Industrial ("Lienor"), a general contractor, who was hired by Ascend Elements, Inc. to engage in the business of improving real estate by furnishing labor and materials, claims a lien in the amount of $6,232,621.09 (Six Million Two Hundred Thirty-Two Thousand Six Hundred Twenty-One Dollars and Nine Cents) plus interest as provided by law on the leasehold estate for years and any other property interests held by **Ascend Elements, Inc.** the lessee, in certain buildings and/or structures and in the premises or real estate upon which such are erected or built described as 9172 Industrial Drive NE, Covington, Georgia 30014, Land Lot 273, 9th District, Newton County, State of Georgia, and detailed more specifically on that legal description attached as **Exhibit "A,"** for satisfaction of a claim which became due on or after July 2, 2025 which is the last date that labor, equipment, materials and/or other services were provided to said property by Lienor. The Owner of said premises or real estate is **Covington Industrial LLC.**

THIS CLAIM OF LIEN EXPIRES AND IS VOID 395 DAYS FROM THE DATE OF FILING OF THE CLAIM OF LIEN IF NO NOTICE OF COMMENCEMENT OF LIEN ACTION IS FILED IN THAT TIME PERIOD.

PURSUANT TO O.C.G.A. §44-14-368, THE OWNER OF THE REAL PROPERTY DESCRIBED HEREIN, OR THE OWNER'S AGENT OR ATTORNEY, OR THE CONTRACTOR'S AGENT OR ATTORNEY SHALL HAVE THE RIGHT TO ELECT TO CONTEST THIS LIEN AND SHORTEN THE TIME PRESCRIBED IN WHICH TO COMMENCE A LIEN ACTION TO ENFORCE THIS CLAIM OF LIEN BY RECORDING IN THE SUPERIOR COURT CLERK'S OFFICE A NOTICE OF CONTEST OF LIEN, ALL AS PROVIDED FOR IN O.C.G.A. § 44-14-368.

This claim of lien is filed for record, pursuant to the provisions of O.C.G.A. §§ 44-14-360 et seq. within 90 days after the completion of the work or within 90 days after the material or machinery is furnished.

This the 8th day of August, 2025.

AM Construction, Inc.

Linda Lilly

By: Linda Lilly
Its: Accounting Specialist

PAMELA HANLEY
Notary Public, Georgia
Cobb County
My Commission Expires
February 09, 2027

Sworn to and subscribed before me Linda Lilly this 8th day of August, 2025

Notary Public _____ My Commission Expires: February 09, 2027

EXHIBIT A

[Legal Description]

All that tract or parcel of land lying and being in Land Lot 273 of the 9th District, City of Covington, Newton County, Georgia and being more particularly described as follows:

Commencing at a right of way monument found at the intersection of the westerly side of the right of way of Alcovy Road (a variable right of way) and the southerly side of the right of way of Interstate 20 Limited Access Highway (a variable right of way), thence running easterly along the southerly side of the right of way of Interstate 20 Limited Access Highway a distance of 485.02' to a ½" rebar set at the **TRUE POINT OF BEGINNING** (the above referenced distance is more particularly described by the following six (6) courses and distances: North 88 degrees 02 minutes 13 seconds East a distance of 114.40 feet to a right of way monument found; thence along a curve to the left an arc length of 115.20 feet, said curve having a radius of 248.00' and a chord bearing of North 79 degrees 14 minutes 54 seconds East and a chord distance of 114.16 feet to a right of way monument found; thence North 66 degrees 33 minutes 04 seconds East a distance of 126.11 feet to a right of way monument found; thence North 87 degrees 17 minutes 25 seconds East a distance of 48.21 feet to a right of way monument found; thence North 53 degrees 54 minutes 44 seconds East a distance of 30.61 feet to a right of way monument found; thence North 81 degrees 31 minutes 01 seconds East a distance of 50.49 feet to an iron pin set at the **TRUE POINT OF BEGINNING**). From point **TRUE POINT OF BEGINNING** thus established continue along the southerly side of the right of way of Interstate 20 Limited Access Highway North 81 degrees 48 minutes 47 seconds East a distance of 165.76 feet to a nail set; thence continuing along the southerly side of said right of way North 89 degrees 37 minutes 14 seconds East a distance of 462.40 feet to a right of monument found; thence continuing along the southerly side of said right of way South 89 degrees 06 minutes 22 seconds East a distance of 455.76 feet to a right of way monument found at the intersection of the southerly side of the right of way of Interstate 20 Limited Access Highway and the southerly side of the right of way of Industrial Drive (a 60' right of way); thence running along the southerly side of the right of way of Industrial Drive North 89 degrees 53 minutes 43 seconds East a distance of 13.31 feet to a ½" rebar found; thence leaving the southerly side of the right of way of Industrial Drive South 00 degrees 09 minutes 59 seconds West a distance of 705.16 feet to a ½" rebar found; thence North 74 degrees 07 minutes 51 seconds East a distance of 645.09 feet to a rock found; thence South 27 degrees 41 minutes 45 seconds East a distance of 169.19 feet to an iron pin set; thence South 09 degrees 20 minutes 10 seconds West a distance of 207.97 feet to an iron pin set on the northwesterly side of the right of way of the Georgia Railroad (a 200' right of way); thence running along the northwesterly side of said Georgia Railroad right of way South 50 degrees 33 minutes 00 seconds West a distance of 872.57 feet to a ½" rebar found at the intersection of the northwesterly side of said Georgia Railroad right of way with the northeasterly line of property now or formerly owned by CSX Railroad; thence leaving the northwesterly side of said Georgia Railroad right of way and running northwesterly along the northeasterly boundary line of adjacent property now or formerly owned by CSX Railroad the following courses and distances: along the northeasterly boundary line

of the adjacent property now or formerly owned by CSX Railroad along a curve to the right an arc length of 559.93 feet, said curve having a radius of 557.35' and a chord bearing of North 73 degrees 54 minutes 17 seconds West and a chord distance of 536.68 feet to a point; North 47 degrees 09 minutes 42 seconds West a distance of 19.33 feet to a point; North 45 degrees 40 minutes 29 seconds West a distance of 98.45 feet to a point; North 45 degrees 14 minutes 27 seconds West a distance of 99.85 feet to a point; North 40 degrees 53 minutes 24 seconds West a distance of 188.34 feet to a ½" rebar found; thence leaving said northeasterly boundary line of the adjacent property now or formerly owned by CSX Railroad North 89 degrees 56 minutes 41 seconds West a distance of 28.58 feet to a point in the centerline of a railroad spur line; thence North 35 degrees 18 minutes 32 seconds West a distance of 205.51 feet to a ½" rebar found; thence North 01 degrees 04 minutes 15 seconds East a distance of 272.97 feet to a 2" brass disc found; thence South 85 degrees 05 minutes 55 seconds West a distance of 56.44 feet to an iron pin set; thence North 05 degrees 10 minutes 29 seconds West a distance of 209.58 feet to a 2" brass disc found; thence South 88 degrees 22 minutes 36 seconds West a distance of 71.40 feet to a 2" brass disc found; thence North 00 degrees 19 minutes 08 seconds West a distance of 332.71 feet to an iron pin set on the southerly side of the right of way of Interstate 20 Limited Access Highway at the **TRUE POINT OF BEGINNING.**

Commonly known as 9172 Industrial Drive, Covington, Georgia.

Together with the rights, easements, privileges and obligations appurtenant to the above described land created and established under that certain Reciprocal Easement Agreement by and between Pactiv Corporation and Tyco Plastics, LP, dated as of May 28, 2002, recorded in Deed Book 1232, Page 550, Newton County, Georgia Records.

Said tract or parcel, containing approximately 1,628,755 square feet or 37.39 acres, is more accurately shown on that certain ALTA/ACSM Land Title Survey, dated November 13, 2014, prepared for IPA Covington, LLC, Atlantic Capital Bank and Chicago Title Insurance Company, by Travis Pruitt & Associates, Inc., last revised December 10, 2014.

EXHIBIT B

Job No	Job Name	Work Order #	Invoice No	Invoice Description	Inv Date	0 - 1 days	2 - 31 days	32 - 61 days	62 + days	Age	Due Date
1010	ASCEND AUDIT CHARGES	N/A	25019	LOT TOOL BACK CHARGE	5/20/2025	-	-	-	861,583.00	323	5/20/2025
1010	ASCEND AUDIT CHARGES	N/A	25020	INTEREST FEES THRU 06.11.25	6/11/2025	-	-	-	1,110,362.15	271	7/11/2025
1010	ASCEND AUDIT CHARGES	N/A	25021	LUMP SUM WORK COMPLETE	6/11/2025	-	-	-	433,621.00	271	7/11/2025
1010	ASCEND AUDIT CHARGES	N/A	25088	INTEREST CHARGES 6.11-7.28.25	7/28/2025	-	-	-	125,757.87	224	8/27/2025
1010	ASCEND AUDIT CHARGES	N/A	25302	INTEREST 7.28.25 - 11.13.25	11/13/2025	-	-	-	246,975.22	116	12/13/2025
1010	ASCEND AUDIT CHARGES	N/A	25599	CREDIT FOR SALES TAX ADJ INTER	4/8/2026	(27,543.73)	-	-	-	-30	5/8/2026
1010	ASCEND AUDIT CHARGES	N/A	25600	INTEREST THRU 03.30.26	4/8/2026	292,686.82	-	-	-	-30	5/8/2026
				Job Total	3,043,442.33	265,143.09	-	-	2,778,299.24		
10-23115	Rental Equipment	1	24665	16M01A LI ROASTING MECH & EQUI	1/8/2025	-	-	-	25,897.18	425	2/7/2025
10-23115	Rental Equipment	1	24723	RENTAL EQ JANUARY 2025	1/31/2025	-	-	-	72,507.73	402	3/2/2025
10-23115	Rental Equipment	1	24777	FEB 2025 T&M BILLING	3/10/2025	-	-	-	34,031.97	364	4/9/2025
10-23115	Rental Equipment	1	24822	MAR 2025 T&M	3/27/2025	-	-	-	29,992.84	347	4/26/2025
10-23115	Rental Equipment	1	24906	APRIL 2025 T&M BILLING	5/5/2025	-	-	-	21,249.15	308	6/4/2025
10-23115	Rental Equipment	1	24986	MAY 2025 T&M	6/11/2025	-	-	-	5,575.99	271	7/11/2025
				Job Total	189,254.86	-	-	-	189,254.86		
10-23116	General Facilities Ma	1	24312-A	T&M Billing June 2024	6/27/2024	-	-	-	125,073.26	620	7/27/2024
10-23117	Site Management	1	24667	December 2024 T&M	1/8/2025	-	-	-	25,529.72	425	2/7/2025
10-23117	Site Management	1	24724	SITE MGMT - JAN 2025	1/31/2025	-	-	-	107,217.99	402	3/2/2025
10-23117	Site Management	1	24778	FEB 2025 T&M BILLING	3/10/2025	-	-	-	85,646.53	364	4/9/2025
10-23117	Site Management	1	24824	MAR 2025 T&M	3/27/2025	-	-	-	72,417.12	347	4/26/2025
10-23117	Site Management	1	24907	APRIL 2025 T&M BILLING	5/5/2025	-	-	-	26,526.88	308	6/4/2025
10-23117	Site Management	1	24989	MAY 2025 T&M	6/11/2025	-	-	-	4,891.04	271	7/11/2025
				Job Total	322,229.28	-	-	-	322,229.28		
10-23162	16M01A Li Roast Mec Eq Set T&M	1	24663	December 2024 T&M	1/8/2025	-	-	-	81,859.00	425	2/7/2025
10-23162	16M01A Li Roast Mec Eq Set T&M	1	24721	LITHIUM - JAN 2025	1/31/2025	-	-	-	1,879,555.01	402	3/2/2025
10-23162	16M01A Li Roast Mec Eq Set T&M	1	24775	FEB 2025 T&M BILLING	3/10/2025	-	-	-	424,610.43	364	4/9/2025
10-23162	16M01A Li Roast Mec Eq Set T&M	1	24820	MAR 2025 T&M	3/27/2025	-	-	-	121,262.33	347	4/26/2025
10-23162	16M01A Li Roast Mec Eq Set T&M	1	24904	APRIL 2025 T&M BILLING	5/5/2025	-	-	-	176,387.94	308	6/4/2025
10-23162	16M01A Li Roast Mec Eq Set T&M	1	24987	MAY 2025 T&M	6/11/2025	-	-	-	151,412.24	271	7/11/2025
				Job Total	2,835,086.95	-	-	-	2,835,086.95		
10-24028	PCAM Production Line (Mech)	14	24668	December 2024 T&M	1/8/2025	-	-	-	158,233.10	425	2/7/2025
10-24028	PCAM Production Line (Mech)	14	24725	PCAM JAN 2025	1/31/2025	-	-	-	36,595.34	402	3/2/2025
10-24028	PCAM Production Line (Mech)	14	24779	FEB 2025 T&M BILLING	3/10/2025	-	-	-	1,015,853.93	364	4/9/2025
10-24028	PCAM Production Line (Mech)	14	24825	MAR 2025 T&M	3/27/2025	-	-	-	579,449.10	347	4/26/2025
10-24028	PCAM Production Line (Mech)	14	24908	APRIL 2025 T&M BILLING	5/5/2025	-	-	-	267,114.83	308	6/4/2025
10-24028	PCAM Production Line (Mech)	14	24990	MAY 2025 T&M	6/11/2025	-	-	-	149,791.13	271	7/11/2025
10-24028	PCAM Production Line (Mech)	14	25030	June 2025	6/26/2025	-	-	-	9.07	256	7/26/2025
10-24028	PCAM Production Line (Mech)	14	25037	July 2025	7/10/2025	-	-	-	36,163.75	242	8/9/2025
10-24028	PCAM Production Line (Mech)	14	25039	July 2025	7/10/2025	-	-	-	1,950.00	242	8/9/2025
10-24028	PCAM Production Line (Mech)	14	25040	July 2025	7/10/2025	-	-	-	60,990.00	242	8/9/2025
10-24028	PCAM Production Line (Mech)	14	25042	July 2025	7/11/2025	-	-	-	343,225.00	241	8/10/2025
10-24028	PCAM Production Line (Mech)	14	25078	JULY 2025 LABOR	7/22/2025	-	-	-	17,236.72	230	8/21/2025
				Job Total	2,666,611.97	-	-	-	2,666,611.97		
10-24083	General Facilities Maint	14	24666	December 2024 T&M	1/8/2025	-	-	-	14,391.52	425	2/7/2025
20-23162	16M01A-LI Roasting Duct Bank	1	24664	December 2024 T&M	1/8/2025	-	-	-	121,134.20	425	2/7/2025
20-23162	16M01A-LI Roasting Duct Bank	1	24722	LI - JANUARY 2025	1/31/2025	-	-	-	95,274.27	402	3/2/2025
20-23162	16M01A-LI Roasting Duct Bank	1	24776	FEB 2025 T&M BILLING	3/10/2025	-	-	-	86,190.09	364	4/9/2025
20-23162	16M01A-LI Roasting Duct Bank	1	24821	MAR 2025 T&M	3/27/2025	-	-	-	61,309.66	347	4/26/2025
20-23162	16M01A-LI Roasting Duct Bank	1	24905	APRIL 2025 T&M BILLING	5/5/2025	-	-	-	29,046.23	308	6/4/2025
20-23162	16M01A-LI Roasting Duct Bank	1	24985	MAY 2025 T&M	6/11/2025	-	-	-	18,153.71	271	7/11/2025
				Job Total	411,108.16	-	-	-	411,108.16		
20-24028	PCAM Production Line (Elec)	14	24669	December 2024 T&M	1/8/2025	-	-	-	95,095.25	425	2/7/2025
20-24028	PCAM Production Line (Elec)	14	24726	PCAM - JAN 2025	1/31/2025	-	-	-	35,333.30	402	3/2/2025
20-24028	PCAM Production Line (Elec)	14	24780	FEB 2025 T&M BILLING	3/10/2025	-	-	-	84,794.31	364	4/9/2025
20-24028	PCAM Production Line (Elec)	14	24826	MAR 2025 T&M	3/27/2025	-	-	-	59,057.29	347	4/26/2025
				Job Total	274,280.15	-	-	-	274,280.15		
				Grand Total	**9,881,478.48**	**265,143.09**	**-**	**-**	**9,616,335.39**		

LEASE AGREEMENT

BETWEEN

COVINGTON INDUSTRIAL LLC, a Delaware limited liability company,

AS LANDLORD

AND

BATTERY RESOURCERS, INC, a Delaware corporation

AS TENANT

LOCATED AT

9176 INDUSTRIAL DRIVE NORTHEAST, COVINGTON, GEORGIA, 30014

LEASE SUMMARY

The following is a summary of basic lease provisions with respect to the Lease. It is an integral part of the Lease, and terms defined or dollar amounts specified in this Lease Summary shall have the meanings or amounts as stated, unless expanded upon in the text of the Lease and its Exhibits, which are attached to and made a part of this Lease Summary.

1.	Date of Lease Execution, Effective Date of Lease:	December 31, 2021
2.	"Landlord":	Covington Industrial LLC, a Delaware limited liability company
3.	Landlord's Address:	Covington Industrial LLC c/o David Alpert Underhill Properties LLC 157 East New England Avenue Suite 400 Winter Park FL 32789 with a copy to: Thomas L. Brodie 114 East 72nd Street New York, NY 10021
	Landlord's Address for Rent Payments:	for payments by standard mail delivery: Covington Industrial LLC c/o David Alpert Underhill Properties LLC 157 East New England Avenue Suite 400 Winter Park FL 32789 for payments by overnight courier service delivery: Covington Industrial LLC c/o David Alpert Underhill Properties LLC 157 East New England Avenue Suite 400 Winter Park FL 32789 for payments by ACH Information: Bank of America For: Covington Industrial LLC Routing – 021000322 Account #483071211047 Note – Tenant shall not send any rent or other payments to any other ACH account information without Landlord's prior written approval.

4.	"Tenant":	Battery Resourcers, Inc.
5.	Tenant's Address:	Prior to occupancy: Battery Resourcers, Inc. 133 Flanders Road Westborough, MA 01581 Attention: President With a copy to: Battery Resourcers, Inc 133 Flanders Road Westborough, MA 01581 Following occupancy: Battery Resourcers, Inc. (Premises) 9176 Industrial Drive NE Covington, GA 30014 Attention: President With a copy to: Battery Resourcers, Inc. 133 Flanders Road Westborough, MA 01581 Attention: President
6.	"Guarantor":	None
7.	Guarantor's Address:	NA
8.	Premises:	9176 Industrial Drive NE, Covington, GA 30014
9.	Rentable Area of Premises:	Approximately 154,041 rentable square feet.
10.	Rentable Area of Building:	Approximately 333,426 rentable square feet
11.	Tenant's Proportionate Share:	46.20%
12.	"Permitted Use" of Premises:	The operation of a lithium battery recycling facility and for no other purpose, to be conducted under Tenant's Trade Name.
13.	Term of Lease:	7 years, 3 months (87) months "Commencement Date": January 1, 2022 "Rent Commencement Date" April 1, 2022 "Expiration Date": March 31, 2029

14. "Base Rent":

LEASE YEAR	ANNUAL BASE RENT RATE PER SQUARE FOOT	MONTHLY BASE RENT
1	$4.75	$60,974.56
2	$4.89	$62,803.80
3	$5.04	$64,687.91
4	$5.19	$66,628.55
5	$5.35	$68,627.41
6	$5.51	$70,686.23
7	$5.67	$72,806.82

15. Prepaid Rent: $60,974.56 + $8,343.88 (estimate of 1st month's Operating Costs) = $69,318.44 (due upon execution of Lease; to be applied to first full month that Base Rent is due)

16. Security Deposit: $415,911.00 (due upon execution of Lease)

17. Cost Pass-Throughs: Operating Costs, on a "triple net" basis (estimated, but not guaranteed or capped at $0.65 per square foot for the first full or partial calendar year; Landlord's evidentiary documentation supporting such cost shall be delivered to Tenant prior to Tenant's execution of the Lease)

18. Parking: Automobile, truck and trailer parking shall be permitted in the areas identified on the Site Plan (as defined below).

19. Broker(s): Stephen Bridges and Palmer Thomas of JLL (Jones Lang LaSalle IP, Inc.) represent the Landlord and Patrich Jett and Darren Ross of Colliers International represent the Tenant (hereafter, "Landlord's Broker" or "Tenant's Broker" as applicable)

20. Tenant Improvement Allowance: $154,041.00. The Tenant Improvement Allowance shall be paid by Landlord to Tenant in six (6) equal and consecutive monthly installments, the first of which shall be due the first month following the date that Tenant commences construction of the Tenant Improvements with all required governmental approvals and permits, copies of which shall be delivered to Landlord prior to any payments being due to Tenant. In the event that any payments are due in months that Tenant owes rent to Landlord, Tenant shall be permitted to credit against the Base Rent due for such month an amount equal to the installment due from Landlord for such month. Tenant shall be solely responsible for any and all costs and expenses with respect to the construction of the Tenant Improvements which exceed the Tenant Improvement Allowance.

21. Tenant Improvements: Those improvements required or desired by Tenant upon and to operate the Premises for the Permitted Use as identified on Schedule 1 attached hereto. Tenant shall also comply with the review and approval provisions identified in Section 2 of Rider 1 prior to undertaking any Tenant Improvements.

22. Option to Renew: See Rider 1

LEASE AGREEMENT

THIS LEASE (the "Lease"), dated December 31, 2021, is made between Covington Industrial LLC, a Delaware limited liability company (the "Landlord"), and Battery Resourcers, Inc., a Delaware corporation (the "Tenant").

ARTICLE I
GRANT; TERM; IMPROVEMENTS

1.1 Grant. Upon and subject to the covenants, agreements, terms, provisions and conditions of this Lease, Landlord leases to Tenant, and Tenant leases from Landlord, for the Term, the "Premises," which Premises are outlined on the site plan attached hereto and made a part hereof as Exhibit "A." (the "Site Plan") The Premises are located in that certain industrial building (the "Building") located on the land described in Exhibit "B," attached hereto and made a part hereof (the "Land"). The rentable area of the Premises (which includes a proportionate share of the Common Areas) and the Building are approximately as shown on the Lease Summary.

1.2 Term. The "Term" of the Lease is the period from the Commencement Date as specified in the Lease Summary, through the Expiration Date, as specified in the Lease Summary. Notwithstanding that the Commencement Date may occur and the Term and rent payments may commence after the date of execution of this Lease, upon delivery and acceptance of this Lease in accordance with the terms of this Lease, this Lease shall be in full force and effect and valid and binding against the parties in accordance with, but on and subject to, the terms and conditions of this Lease. Tenant shall be entitled to and shall take possession of the Premises on the Commencement Date. Within thirty (30) days after the Commencement Date, the parties shall confirm in writing the exact Commencement Date, Rent Commencement Date and Expiration Date in the form attached hereto and made a part hereof as Exhibit "E."

1.3 No Improvements by Landlord. Landlord shall have no construction or improvement obligations with respect to the alteration of the Premises.

ARTICLE II
RENT

2.1 Covenant to Pay. Tenant shall pay to Landlord all sums due hereunder from time to time from the Rent Commencement Date without prior demand, together with all applicable Georgia sales tax thereon; however, unless otherwise provided in this Lease, payments other than Tenant's regular monthly payments of Base Rent and Operating Costs shall be payable by Tenant to Landlord within twenty (20) days following written demand. All rent or other charges that are required to be paid by Tenant to Landlord shall be payable at Landlord's address indicated in the Lease Summary. Base Rent and additional rent for any "Lease Year" consisting of less than twelve (12) months shall be prorated on a per diem basis, based upon a period of 365 days. The first "Lease Year" is (i) the twelve (12) full calendar months commencing on the Rent Commencement Date, if the Rent Commencement Date is the first day of a month; or (ii) the balance of the calendar month in which the Rent Commencement Date occurs plus the twelve (12) full calendar months thereafter, if the Rent Commencement Date is not the first day of a month. For purposes of this Lease, the initial three (3) month free rent period between the Commencement Date and the Rent Commencement Date shall be considered a part of the first Lease Year, but shall not be included in the determination of the beginning or end of the first Lease Year for purposes of the payment of, or increases to, Base Rent or Operating Costs. Subsequent Lease Years shall be the twelve (12) month periods ending on the anniversary of the expiration of the first Lease Year. However, the final Lease Year may contain less than twelve (12) months due to expiration or sooner termination of the Term. Tenant agrees that its covenant to pay rent and all other sums under this Lease is an independent covenant and that all such amounts are payable without demand, deduction or set-off, except as expressly provided for in this Lease.

2.2 Base Rent. Subject to any escalation which may be provided for in this Lease, Tenant shall pay Base Rent for the Premises during the Term in the initial amount specified in the Lease Summary, which, except for the first installment, shall be payable throughout the Term in equal monthly installments in advance on the first day of each calendar month of each year of the Term commencing on the Rent Commencement Date, such monthly installments to be in the amounts (subject to escalation) specified in the Lease Summary. The first monthly installment of Base Rent shall be due on the date of this Lease. The Base Rent shall be adjusted as provided in the Lease Summary.

2.3 Operating Costs.

(a) Commencing on the Rent Commencement Date, Tenant shall pay to Landlord the Tenant's Proportionate Share of Operating Costs, as hereinafter defined, plus applicable sales tax. The amount of Operating Costs payable to Landlord may be reasonably estimated by Landlord for such period as Landlord determines from time to time (not to exceed twelve (12) months), and Tenant agrees to pay to Landlord the amounts so estimated in equal installments, in advance, on the first day of each month during such period. Notwithstanding the foregoing, when bills for all or any portion of Operating Costs so estimated are actually received by Landlord, Landlord may bill Tenant for Tenant's Proportionate Share thereof, less any amount previously paid by Tenant to Landlord on account of such item(s) by way of estimated Operating Costs payments.

(b) Within one hundred twenty (120) days after the end of the period for which estimated payments have been made, Landlord shall submit to Tenant a reasonably detailed statement ("Statement") from Landlord setting forth the actual amounts payable by Tenant based on actual costs, together with such supportive documentation and calculations as may be requested by Tenant. If the amount Tenant has paid based on estimates is less than the amount due based on actual costs, Tenant shall pay such deficiency within thirty (30) days after submission of such Statement. If the amount paid by Tenant is greater than the amount actually due, the excess may be retained by Landlord to be credited and applied by Landlord to the next due installments of Tenant's Proportionate Share of Operating Costs, or as to the final Lease Year, provided Tenant is not in default, Landlord will refund such excess to Tenant. Tenant's Proportionate Share of actual Operating Costs for the final estimate period of the Term of this Lease shall be due and payable even though it may not be finally calculated until after the expiration of the Term. Accordingly, Landlord shall have the right to continue to hold Tenant's security deposit following expiration of the Term until Tenant's Proportionate Share of actual Operating Costs has been paid. Tenant shall have the right to dispute the correctness of any Statement, supportive documentation and calculations, or any of them, by giving notice to Landlord in writing that it disputes the correctness thereof, specifying in reasonable detail the basis for such assertion. Provided that Tenant is not in uncured financial default under this Lease, upon reasonable notice, Landlord shall make available for Tenant's inspection at Landlord's office where such records are kept, during normal business hours, during the four (4) month period described below Landlord's records relating to the Operating Costs for such preceding calendar year. Within four (4) months after Tenant's receipt of the Statement for the prior calendar year, Tenant shall have the right to audit Landlord's books and records in accordance with this Section 2.3(b). Tenant shall exercise such audit right by providing Landlord with a written notice of Tenant's exercise of such audit right within such four (4) month period (the "Audit Notice"). Such audit shall be performed by Tenant's chief financial officer or an independent, reputable certified public accounting firm charging for its services on an hourly rate (and not a contingent fee) basis for the purpose of inspecting and auditing Landlord's books and records relating to the objections raised in Tenant's Audit Notice. Any such audit shall be performed at Landlord's office. All costs and expenses of any such audit shall be paid by Tenant. Notwithstanding anything contained herein to the contrary, Tenant shall be entitled to exercise its audit right pursuant to this Section 2.3(b) only in strict accordance with the foregoing procedures no more often than once per calendar year and each such audit shall relate only to the Statement for the calendar year most recently ended. In the event that Tenant fails to notify Landlord within the foregoing four (4) month period that Tenant objects to the Statement, then Tenant's right to audit such year's Statement shall be null and void. This Section 2.3 shall survive the expiration or any earlier termination of this Lease.

(c) For purposes of this Lease, Tenant's Proportionate Share shall be a fraction, the numerator of which is the rentable area of the Premises, and the denominator of which is the rentable area of the Building (which is set forth in the Lease Summary). Tenant's Proportionate Share is as set forth in the Lease Summary. The term "Operating Costs" shall mean any amounts paid or payable whether by Landlord or by others on behalf of Landlord, to repair, maintain, insure, manage and operate the Premises, Building, Land and Common Areas, including, without limitation: (i) the cost of all real estate, personal property owned by Landlord and located in or on the Building, Land and Common Areas, and other ad valorem taxes, and any other levies, charges, local improvement taxes, and assessments whatsoever assessed or charged against the Building, Land and Common Areas, the equipment and improvements owned by Landlord therein contained, and including any amounts assessed or charged in substitution for or in lieu of any such taxes, excluding only income or capital gains taxes imposed upon Landlord, and including all costs associated with the appeal of any assessment or taxes; (ii) the cost of insurance which Landlord is obligated or permitted to obtain under this Lease and any deductible amount applicable to any claim made by Landlord under such insurance (except for amortized capital expenditures described in Section 2.2(e)(8) below); (iii) the cost of ordinary repairs, cleaning and maintenance of the Common Areas, the cost of security, janitorial, landscaping, garbage removal, and trash

removal services; (iv) the cost of heating, ventilating, and air conditioning, to the extent incurred with respect to the Premises, Building, and Common Areas, or with respect to any shared systems; (v) the cost of all fuel, water, electricity, telephone, sewer, sprinkler and any other utilities used in the maintenance, operation, or administration of the Premises, Building, Land and Common Areas; (vi) salaries, wages, and any other amounts paid or payable for all personnel involved in the repair, maintenance, operation, security, supervision, or cleaning of the Premises, Building, and Common Areas (including, without limitation, the elevators); (vii) a management fee not to exceed three percent (3%) of the Base Rent and Tenant's Proportionate Share of Operating Costs; and (viii) the cost of any capital improvements or replacement of capital items if such capital improvements or capital items are (a) intended by Landlord in good faith to achieve a verifiable expense savings in Operating Costs or (b) required in order to comply with Legal Requirements adopted after the date of this Lease or (c) to replace all or any part of the roof, HVAC system or resurfacing of the driveways and parking area serving the Premises, then such cost shall be evenly amortized over the life of the capital improvement with interest imputed on the unamortized portion at the interest rate customarily utilized by Landlord in its amortization of capital improvements. Notwithstanding the above, in the event Tenant's use of the Premises shall result in an increase in the insurance premiums for Landlord's policies of insurance with respect to the Building, Tenant shall be solely responsible for the payment of said increase.

(d) The pass-through of each of the taxes described in subsection (c)(i) above and the insurance described in subsection (c)(ii) above may be charged as separate pass-through items from the other Operating Costs, which taxes and insurance shall otherwise be billed to Tenant in the same manner as the pass-through of Operating Costs as provided herein. In addition, in determining the amount of Operating Costs for any calendar year, if less than ninety-five (95%) percent of the Building shall have been occupied by tenants, Operating Costs shall be increased to an amount equal to the Operating Costs which would normally be expected to be incurred had such occupancy been ninety-five (95%) percent during the entire calendar year.

(e) Notwithstanding anything to the contrary contained in this Lease, the following costs and expenses shall be excluded from Operating Costs:

(1) expenses relating to the leasing of space in the Building (including tenant improvements and painting, decorating, Landlord construction allowances or contributions, leasing commissions, rental concessions, and advertising expenses incurred in connection with the listing of available space in the Building);

(2) legal fees and disbursements incurred for negotiation of leases or enforcement of leases;

(3) the cost of utilities to the extent paid for directly by tenants;

(4) expenditures for financing and refinancing and for mortgage debt service or any other cost incurred in respect of any mortgage or other financing of the Building except for expenditures incurred in connection with items which (i) if leased, the lease payments with respect to which would be included in Operating Costs or (ii) if purchased would be amortizable pursuant to item (8) below;

(5) depreciation of the Building and amortization except as otherwise expressly set forth herein;

(6) franchise, transfer, gains, inheritance, estate, mortgage recording, and income taxes imposed upon Landlord;

(7) salaries, fringe benefits, bonuses and other compensation (A) of personnel above the grade of building manager, (B) above the industry standard, or (C) to or for those who do not devote 100% of their working time to the operation or management of the Building (in which case an appropriate proportionate amount of such sums may be included in Operating Costs based on the amount of working time devoted to the Building);

(8) costs for which Landlord receives a credit against any payment due from Landlord to Tenant or any third party costs and expenses otherwise includible in Operating Costs, to the extent that Landlord is reimbursed from other sources for such costs and expenses;

(9) rent and additional rent payable under a ground lease or any other superior lease affecting the Building;

(10) costs for which Landlord is compensated by insurance proceeds exclusive of deductibles;

(11) costs incurred in connection with a sale of all or a portion of the Building or the sale or transfer of any beneficial ownership interest in and to Landlord and/or the Building or the grant of a ground lease or any other superior lease affecting the Building;

(12) any fee or expenditure paid to a related party materially in excess of the amount which would be paid in an arm's-length transaction for materials or services of comparable quality (but only to the extent of such excess);

(13) salaries or fringe benefits of personnel not employed exclusively at the Building, to the extent such salaries and benefits relate to work performed not at the Building, as determined on a pro rata basis;

(14) any expense fully reimbursed to Landlord by Tenant or any other tenant of the Building, or any expense billed to and paid directly by same for their own account or on Landlord's behalf (other than Operating Costs passed through to all tenants pursuant to lease provisions substantially similar to this Section 2.3);

(15) advertising and promotional expenditures;

(16) any bad debt loss, rent loss, or reserves for bad debts or rent loss; and

(17) costs incurred by Landlord for repairs or replacements to the extent that Landlord is reimbursed under warranties or guarantees.

2.4 Payment of Personal Property Taxes. Tenant shall pay, when due, all taxes attributable to the personal property, trade fixtures, business, occupancy, or sales of Tenant.

2.5 Rent; Late Charges. For purposes of this Lease, all sums due from Tenant, including, but not limited to, Base Rent and Tenant's Proportionate Share of Operating Costs, shall be deemed to be "rent" whether or not specifically designated as such. Tenant shall pay all applicable sales and use taxes levied or assessed against all rent payments due under this Lease, if any, simultaneously with each such rent payment. If any payment due from Tenant shall be overdue by five (5) days or more, a late charge of five (5%) percent of the delinquent sum may be charged by Landlord. If any payment due from Tenant shall remain overdue for more than thirty (30) days, an additional late charge in an amount equal to the lesser of the highest rate permitted by law or 16% per annum times the delinquent amount may be charged by Landlord, such charge to be computed for the entire period for which the amount is overdue and which shall be in addition to and not in lieu of the five (5%) percent late charge or any other remedy available to Landlord. Further, (a) Landlord and Tenant agree that any such late charge is not intended as a penalty but is instead intended to compensate Landlord for additional administrative charges and other damages incurred by Landlord on account of such late payment; (b) Landlord and Tenant agree that the actual damages to be suffered by Landlord in such event shall be difficult, if not impossible, to ascertain; and (c) such late charge is a reasonable estimate of such charges and damages.

2.6 Security Deposit. Landlord acknowledges receipt of a security deposit in the amount specified in the Lease Summary to be held by Landlord, without any liability for interest thereon, as security for the performance by Tenant of all its obligations under this Lease. Landlord shall be entitled to commingle the security deposit with Landlord's other funds. If Tenant defaults in any of its obligations under this Lease, Landlord may at its option, but without prejudice to any other rights which Landlord may have, apply all or part of the security deposit to compensate Landlord for any loss, damage, or expense sustained by Landlord as a result of such default. If all or any part of the security deposit is so applied, Tenant shall restore the security deposit to its original amount on demand of Landlord. Subject to the provisions of Section 2.3, within thirty (30) days following termination of this Lease, if Tenant is not then in default, the security deposit will be returned by Landlord to Tenant.

2.7 Landlord's Lien. To secure the payment of all rent and other sums of money due and to become due hereunder and the faithful performance of this Lease by Tenant, Tenant hereby gives to Landlord an express first and prior contract lien and security interest in all fixtures and equipment placed in the Premises and also upon all proceeds of any insurance which may accrue to Tenant by reason of destruction of or damage to any such property. Such property shall not be removed from the Premises without the prior written consent of Landlord until all arrearages in rental and other sums of money then due to Landlord hereunder shall first have been paid. All exemption laws are hereby waived in favor of said lien and security interest. This lien and security interest is given in addition to Landlord's statutory lien and shall be cumulative thereto. Landlord shall, in addition to all of its rights hereunder, also have all of the rights and remedies of a secured party under the Uniform Commercial Code as adopted in the State in which the Premises is located. To the extent permitted by law, this Lease shall constitute a security agreement under Article 9 of the Georgia Uniform Commercial Code. Notwithstanding the foregoing, Landlord agrees to subordinate its lien to a bona fide institutional lender providing acquisition financing or lease financing for Tenant's fixtures and equipment, so that Landlord will have a second lien on such fixtures and equipment. Notwithstanding anything to the contrary, in no event and at no time shall the amount of such lien and security interest granted to Landlord exceed the amount of the rent owed and to be owed to Landlord through the end of the then existing Term of this Lease and other sums of money under this Lease.

ARTICLE III
USE OF PREMISES

3.1 Permitted Use. The Premises shall be used and occupied only for the use specified in the Lease Summary. Tenant shall not do, omit, permit, or suffer to be done or exist upon the Premises anything which shall result in a nuisance, hazard, or bring about a breach of any provision of this Lease or any applicable Legal Requirements (as hereinafter defined) or violate the Use Restrictions identified on Exhibit "C". Tenant shall observe the rules and regulations for the Building attached to and made a part of this Lease as Exhibit "D," and such reasonable modifications and additions thereto (which will be applicable to all similarly situated Building tenants with similar uses) as Landlord may from time to time make; provided, however, such modifications and additions shall not materially interfere with Tenant's use and enjoyment of the Premises. In the event of any conflicts between the rules and regulations for the Building and the terms and provisions of this Lease, the terms and provisions of this Lease shall control. Landlord and Tenant acknowledge that Tenant's intended use of the Premises as identified in this Lease, including but not limited to the Tenant Improvements identified on Schedule 1 and the lists of Hazardous Substances (as defined below) and Hazardous Substances Equipment (as defined below) identified on Schedule 3.4 attached hereto, have been reviewed by Landlord's insurance company providing the insurance coverages in effect on the Commencement Date hereof. Tenant shall not change the use of the Premises for any purpose or in any manner that would cause any of Landlord's policies of insurance with respect to the Building or Land to be canceled (including, specifically, changes in any processes or materials used or processed by Tenant); provided that if Tenant's use does result in the cancellation of any of Landlord's policies of insurance, Tenant shall be permitted the right to obtain insurance of the same type and coverage as that canceled within ten (10) days of the date of written notice from Landlord to Tenant of such cancellation. In the event Tenant's use of the Premises shall result in an increase in the insurance premiums for Landlord's policies of insurance with respect to the Building or Land, Tenant shall be solely responsible for the payment of said increase.

3.2 Compliance with Laws. The Premises shall be used and occupied in a safe and lawful manner so as not to contravene any present or future governmental or quasi-governmental laws, regulations, or orders (collectively, "Legal Requirements"), or the requirements of Landlord's or Tenant's insurers. Tenant agrees to be wholly responsible at Tenant's sole cost and expense for the compliance of any alterations made by Tenant in the Premises with the Americans with Disabilities Act of 1990, as amended (the "ADA") and all Environmental Laws (as defined below).

3.3 Signs. Tenant may install the signage depicted in Exhibit "F" attached to this Lease and approved through the execution of this Lease. With respect to all other signage, so long as such signage is in compliance with all applicable laws and municipal codes, and so long as Landlord approves the design, specification and location of such signage, in its sole but reasonable discretion, in writing in advance, Tenant shall have the right to install at its sole cost suitable signage on the Premises' exterior, as well as directional, wayfinding and existing monument identification signage for the Building, Premises and/or Tenant, all in such locations as Landlord shall designate from time to time. Tenant shall remove all signage installed by or on behalf of Tenant at the expiration or earlier termination of this Lease

and repair any damage caused by the installation, maintenance or removal of such signage at Tenant's sole cost and expense.

3.4 Environmental Provisions.

(a) As used in this Lease: (i) "Environmental Laws" means any federal, regional, state, county and local statutes, ordinances, rules, regulations, judicial decisions, codes, orders, directives and the judgment or decree of a governmental authority, arbitrator or other private adjudicator, pertaining to industrial hygiene, occupational safety, damage to or protection of the environment, environmental conditions, injuries or damages to natural resources, Releases or threatened Releases of Hazardous Substances into the environment or the use, analysis, manufacture, processing, distribution, treatment, storage, generation, disposal, transport or handling of Hazardous Substances, as now or at any time hereafter in effect, and any and all rules, regulations, guidelines and guidance documents promulgated or created under the foregoing; including, but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. §9601 et. seq., the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6901, et. seq., the Federal Water Pollution Control Act, 33 U.S.C. §1251 et. seq., the Clean Air Act, 42 U.S.C. §7401 et. Seq, the Georgia Hazardous Waste Management Act, Ga. Code Ann. § 12-8-60, et seq., the Georgia Hazardous Site Response Act, Ga. Code Ann. § 12-8-90, et seq., the Georgia Underground Storage Act, Ga. Code Ann. § 12-13-1, et seq., and Ga. Code Ann. § 25-2-16 (hazardous substances), all applicable rules and regulations, including but not limited to Hazardous Waste Management, Ga. Comp. R. & Regs. 391-3-11, et seq., Hazardous Site Response, Ga. Comp. R. & Regs. 391-3-19, et seq., Rules and Regulations for Flammable and Combustible Liquids, Ga. Comp. R. & Regs. 120-3-11, et seq., and Underground Storage Tank Management, Ga. Comp. R. & Regs. 391-3-15, et seq., (ii) "Hazardous Substances" means any substances, materials, pollutants, contaminants, hazardous or other waste, including any medical waste, whether solid, liquid or gaseous, that are infectious, toxic, hazardous, explosive, corrosive, flammable or radioactive, or which are defined, designated, listed, regulated or included in any Environmental Law; (iii) "Release" means any intentional or unintentional, active or passive, release of a Hazardous Substance into the environment, and includes, without limitation, any spilling, dripping, seeping, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of a Hazardous Substance; and (iv) "Remedial Action" shall mean all actions as may be required by Environmental Laws to: (a) clean-up, remove, treat, remediate or address any Release of Hazardous Substances in any surface or subsurface soils, groundwater, surface water, air, indoor air, the workplace and any other media or strata ("Environmental Media") on, at, or in the Premises or the Land; (b) prevent or minimize any Release so that a Hazardous Substance does not migrate or endanger or threaten human health or welfare or Environmental Media; (c) perform any corrective or curative actions necessary to resolve any alleged or actual violations of Environmental Law; or (d) perform pre-remedial studies and investigations and post-remedial monitoring and care with respect to any Release of Hazardous Substance.

(b) **Schedule 3.4** attached hereto and made a part hereof identifies the specific Hazardous Substances that Tenant intends to use in its operations at the Premises and or to store in tanks to be located on the Land (the "Permitted Hazardous Substances"). Schedule 3.4 also identifies the machinery, tanks, piping and other equipment intended to be installed by Tenant at the Premises or on the Land that will hold, store, process, treat or otherwise come into contact with Hazardous Substances and be used by Tenant in its operations at the Premises (the "Hazardous Substances Equipment"). Landlord hereby approves of Tenant's use of the Permitted Hazardous Substances and the Hazardous Substances Equipment at the Premises and the Land subject to all of the other terms and conditions of this Lease. Tenant shall also comply with the review and approval provisions identified in Section 2 of Rider 1 prior to the installation and use of any Hazardous Substance Equipment and Hazardous Substances in the Premises or on the Land. Tenant shall not cause or permit the use, generation, release, manufacture, refining, production, processing, storage or disposal of any Hazardous Substances on, under or about the Land, Building or the Premises, or the transportation to or from the Premises of any Hazardous Substances, except as necessary and appropriate for its Permitted Use (including specifically the use of the Permitted Hazardous Substances and the Hazardous Substances Equipment) in which case the use, storage or disposal of such Hazardous Substances shall be performed in compliance with the Environmental Laws. If during the Lease Term Tenant intends to use any Hazardous Substances other than the Permitted Hazardous Substances or any equipment that will come into contact with Hazardous Substances other than the Hazardous Substances Equipment, Tenant must obtain Landlord's prior written consent to the use of such additional Hazardous Substances or Hazardous Substances Equipment, which approval shall not be unreasonably withheld, conditioned or delayed so long as Tenant is able to confirm that the use of such substances or equipment

will comply with all Environmental Laws and this Lease and will be covered by Tenant's environmental insurance coverages required pursuant to Section 6.1 hereof.

(c) If and only if Tenant complies with all of the following conditions and with this Section 3.4, Tenant may use and store in the Premises the Permitted Hazardous Substances identified on Schedule 3.4: (i) prior to using or storing any Hazardous Substances in the Premises, Tenant maintains and delivers to Landlord copies of the Materials Safety Data Sheets ("MSDS") for such Hazardous Substances at the Premises, (ii) Tenant takes all precautions necessary and uses its best efforts to prevent the Release of any Hazardous Substances within and outside of the Premises, (iii) Tenant uses and stores all Hazardous Substances in accordance with the MSDS Sheets that Tenant maintains, (iv) Tenant uses and stores all Hazardous Substances in accordance with all applicable Legal Requirements, including but not limited all applicable Environmental Laws, (v) Tenant does not use or store any Hazardous Substances in a manner that would cause the Premises to become subject to regulation as a hazardous waste treatment, storage or disposal facility under RCRA or the regulations promulgated thereunder, and (vi) Tenant shall not use or store any Hazardous Substances in a manner as to cause Tenant to become regulated as a generator under RCRA other than as a "Conditionally Exempt Small Quantity Generator" or as a "Very Small Quantity Generator", which shall mean the current RCRA definition of a generator of not more than 100 kg of hazardous wastes per month. Tenant shall promptly notify Landlord of, and shall promptly provide Landlord with true, correct, complete and legible copies of all of the following environmental items relating to the Premises which may be filed or prepared by or on behalf of, or delivered to or served upon, Tenant: reports filed pursuant to any self-reporting requirements, reports filed pursuant to any applicable laws or this Lease, all permit applications, permits, monitoring reports, workplace exposure and community exposure warnings or notices and all other reports, disclosures, plans or documents (even those which may be characterized as confidential) relating to water discharges, air pollution, waste generation or disposal, underground storage tanks or Hazardous Substances.

(d) Tenant shall obtain and comply with all permits, licenses, approvals, and authorizations (and all conditions and provisions of same) required under applicable laws or required by governmental agencies in connection with all Tenant Improvements planned or sought by Tenant relating to the Premises before Tenant installs or operates any such Tenant Improvements. Tenant shall maintain, inspect, and manage all tanks, drums, containers, storage tanks, chemicals, chemical or waste storage/management areas, and other Tenant Improvements at the Premises in a good and workmanlike manner and in accordance with applicable laws, including but not limited to, with all containment measures and secondary containment required by any permits, licenses, approvals, authorizations, or applicable laws. Tenant shall obtain and maintain all necessary insurance, including but not limited to financial assurance or financial responsibility, required under applicable laws. Tenant shall provide to Landlord written proof of such compliance and documentation at the request of Landlord. Tenant shall also provide access to Landlord at Landlord’s request to observe and to verify the status, condition, or compliance of any such Tenant Improvements at the Premises under this Lease or applicable laws. Tenant shall comply with all applicable laws and legal requirements relating to the inspection, management, recordkeeping, manifesting, collection, transportation, and disposal of waste materials, chemicals or substances, contamination, and Hazardous Substances generated or present at the Premises in connection with the Tenant Improvements.

(e) Tenant shall immediately (i) notify Landlord of (a) any violation by Tenant, its employees, agents, representatives, customers, invitees or contractors ("Tenant's Representatives") of any Environmental Laws on, under or about the Land, Building or the Premises, or (b) the Release of any Hazardous Substances on, under or about the Land, Building or the Premises, and (ii) deliver to Landlord any notice received by Tenant relating to (i)(a) and (i)(b) above from any source.

(f) Landlord and Landlord's agents and employees shall have the right, but not the obligation, to inspect, investigate, sample and/or monitor the Premises and the portion of the Land upon which any of the Hazardous Substances Equipment may be located, including any soil, water, groundwater or other sampling, and any other testing, digging, drilling or analysis, at any time to determine whether Tenant is complying with the terms of this Lease, and in connection therewith, Tenant shall provide Landlord with full access to all relevant facilities, records and personnel. If Tenant is not in compliance with any of the provisions of this Lease, then, after three (3) Business Days prior notice (except in the event of an emergency when no notice is required), Landlord and Landlord's agents and employees shall have the right, but not the obligation, without limitation upon any of Landlord's other rights and remedies under this Lease to immediately enter upon the Premises and to discharge Tenant's obligations under this Section 3.4 at Tenant's expense, notwithstanding any other provision of this Lease. Landlord and Landlord's agents and employees shall

endeavor to minimize interference with Tenant's business but shall not be liable for any such interference. If Tenant is not in compliance with this Lease, all sums reasonable disbursed, deposited or incurred by Landlord in connection therewith, including, but not limited to, all costs, expenses and actual attorneys' fees, shall be due and payable by Tenant to Landlord, as an item of additional rent, on demand by Landlord, together with interest thereon at the maximum interest rate permitted by law from the date of such demand until paid by Tenant.

(g) Tenant shall indemnify Landlord and Landlord's managing agent from any and all claims, losses, liabilities, costs, expenses and damages, including attorneys' fees, costs of testing and remediation costs, incurred by Landlord in connection with any breach by Tenant of its obligations under this Section 3.4. This indemnification by Tenant of Landlord includes, without limitation, any and all costs incurred in connection with any investigation of site conditions or any clean up, remedial or restoration work required by any federal, state or local governmental agency or political subdivision because of the presence of such Hazardous Substances in, on or about the Premises or the soil or ground water on or under the Land or any portion thereof. The covenants and obligations under this Section 3.4 shall survive the expiration or earlier termination of this Lease.

(h) Landlord has provided Tenant with a copy of Landlord's Phase I Environmental Site Assessment for the Land and Building prepared by AEI Consultants dated October 10, 2017. Landlord covenants and agrees that if any Hazardous Substances, other than Permitted Hazardous Substances, as that term is defined below, are discovered to have been Released to the Land, Building or Premises by someone other than Tenant or Tenant's Representatives in such amounts and locations so as to be in violation of Environmental Laws such that clean-up, remediation or other corrective action (collectively "Corrective Action") is required under such Environmental Laws, then Landlord shall complete any required Corrective Action of such Hazardous Substances in accordance with all Environmental Laws; provided that, so long as such Hazardous Substances are not causing a health hazard to Tenant or its employees, if Landlord is pursuing a third party based on such party's Release of the Hazardous Substances on the Land, Building or Premises, Landlord may postpone the Corrective Action during the time Landlord is actively pursuing such party to remove or cause the removal of such Hazardous Substances. If Tenant or Tenant’s Representatives are responsible for the Release requiring Corrective Action, then Tenant shall complete any required Corrective Action within a reasonable period of time. All Corrective Actions by Landlord shall be accomplished in a manner that does not cause an unreasonable disruption to Tenant's operations in the Premises. The term "Permitted Hazardous Substances" shall mean such Hazardous Substances as are commonly and legally used or stored as a consequence of using, maintaining or operating the Land, the Building and the Premises, but only so long as the quantities thereof do not pose a threat to public health or to the environment or would necessitate a "response action" as that term is defined under CERCLA or other Environmental Laws, and so long as Tenant complies or causes compliance with all Environmental Laws. Any Corrective Action required herein shall comply with all Environmental Laws and any applicable laws governing required or permitted alteration, repair, maintenance, restoration, removal or other work in or about the Premises, Building or Land that involves or affects any Hazardous Substances other than Permitted Hazardous Substances. In all applications for the storage, use, handling and disposal of Hazardous Substances on or from the Premises, Building or Land by Tenant or any of Tenant's Representatives and if any Corrective Actions are required as a result of an action or inaction by Tenant or any of Tenant's Representatives, Tenant shall be identified as the permittee and responsible party in all such ways, including in any and all financial assurance and financial responsibility matters.

(i) In the event that Landlord determines in its reasonable judgment that it is in Landlord's best interest to join and participate in any legal proceedings or actions initiated in connection with any claims or causes of action arising out of the storage, generation, use or disposal by Tenant, its agents, employees, contractors or invitees, of Hazardous Substances in, on, under, from or about the Premises or any other portion of the Land, Landlord, at Tenant's sole cost and expense, shall have the right, but not the obligation, to do so. If the presence of any Hazardous Substances in, on, under or about the Premises or any other portion of the Land caused by Tenant, its agents, employees, contractors or invitees, results in (i) injury to any person, (ii) injury to or any contamination of the Premises or (iii) injury to or contamination of any real or personal property wherever situated, Tenant, at its sole cost and expense, shall promptly take all actions necessary to return the Premises or such other portion of the Land, to the condition existing prior to the introduction of such Hazardous Substances to the Premises and to remedy or repair any such injury or contamination. Notwithstanding the foregoing, Tenant shall not, without Landlord's prior written consent, not to be unreasonably withheld, take any remedial action in response to the presence of any Hazardous Substances in, on, under or about Premises or any other portion of the Land, or enter into any settlement agreement, consent decree or other compromise with any governmental agency with respect to any Hazardous Substance claims; provided, however, Landlord's prior written consent shall not be necessary in the event that the presence of Hazardous

Substances in, on, under or about the Premises or any other portion of the Land (i) poses an immediate threat to the health, safety or welfare of any individual or (ii) is of such a nature that an immediate remedial response is necessary and is not possible to obtain Landlord's consent before taking such action. If any governmental entity or third party asserts or alleges non-compliance against Landlord on the basis of Landlord's ownership of the Land, Building or Premises in connection with a Release by Tenant or any Tenant Representative of Hazardous Substances, Tenant shall take and assume any and all responsibility and response, even if Landlord is also identified or alleged to be a responsible party.

(j) Upon the expiration or sooner terminated of this Lease, Tenant covenants to decommission and remove from the Premises and/or the Land, at its sole cost and expense, any and all Hazardous Substances and the Hazardous Substances Equipment and any additional tanks, equipment or systems containing Hazardous Substances or which, during the Term of the Lease held, used, stored or treated Hazardous Substances or which are brought upon, stored, used, generated or released into the environment by Tenant, its agents, employees, contractors or invitees in accordance with applicable laws. Tenant shall provide written proof of same to Landlord to Landlord's satisfaction. In connection therewith, Landlord may require Tenant, at Tenant's sole cost and expense, to immediately hire an outside consultant satisfactory to Landlord to perform a complete environmental audit of the Premises or any other portion of the Land, an executed copy of which shall be delivered to Landlord within thirty (30) days after Landlord's request therefor. If Tenant or the environmental audit discloses the existence of Hazardous Substances, in, on, under or about the Premises or the Land and such Hazardous Substances are subject to the indemnification and cleanup obligation contained herein, Tenant shall, at Landlord's request, immediately prepare and submit to Landlord within thirty (30) days after such request a comprehensive plan, subject to Landlord's approval, specifying the actions to be taken by Tenant to return the Premises or any other portion of the Land to the condition existing prior to the introduction of such Hazardous Substances. Upon Landlord's approval, of such clean-up plan, Tenant shall, at Tenant's sole cost and expense, without limitation on any rights and remedies of Landlord under this Lease, immediately implement such plan and proceed to clean up such Hazardous Materials in accordance with all applicable laws and as required by such plan and this Lease.

ARTICLE IV
ACCESS AND ENTRY

4.1 Right of Examination. Landlord shall be entitled at all reasonable times and upon twenty-four (24) hours' prior notice (but no notice is required in emergencies) to enter the Premises to examine them; to make repairs, alterations, or improvements thereto; to have access to underfloor facilities and access panels to mechanical shafts and risers and to check, calibrate, adjust, and balance controls and other parts of the heating, air conditioning, ventilating, climate control, telecommunications and other Building systems. Landlord reserves to itself the right to install, maintain, use, and repair pipes, ducts, conduits, vents, wires, and other installations leading in, through, over, or under the Premises, and for this purpose, Landlord may take all material into and upon the Premises which is required therefor. Tenant shall not unduly obstruct any pipes, conduits, or mechanical or other electrical equipment so as to prevent reasonable access thereto. Landlord reserves the right to use all exterior walls and roof area. Landlord shall exercise its rights under this Section, to the extent possible in the circumstances, in such manner so as to minimize interference with Tenant's use and enjoyment of the Premises.

4.2 Right to Show Premises. Landlord and its agents have the right to enter the Premises at all reasonable times and upon one (1) Business Day prior notice to show them to prospective purchasers, brokers, lenders, or anyone having a prospective interest in the Building, and, during the last twelve (12) months of the Term (or the last twelve (12) months of any renewal term if this Lease is renewed), to show them to prospective tenants.

ARTICLE V
MAINTENANCE, REPAIRS, AND ALTERATIONS

5.1 Maintenance and Repairs by Landlord. Landlord covenants to keep the following in good operating condition consistent with the operation of a warehouse/industrial facility and to make all necessary repairs, replacements and maintenance to: (i) the structure of the Building including the foundation, footings, structural frame of the Building, structural portions of load-bearing walls, structural floors and subfloors, structural columns and beams, curtain/tilt walls, exterior walls and roofs/roof membranes; (ii) the base Building's central HVAC (if any), plumbing, electrical, and mechanical systems located in the Building to the point of connection for the Premises; (iii) the utility and

telecommunications lines servicing the Building; (iv) the entrances, driveways, grounds, alleys, landscape, landscaping sprinkler systems, sidewalks, corridors, parking areas and other facilities from time to time comprising the Common Areas; (v) the exterior of the Building (including painting, caulking and sealing); and (vi) any items associated with the foregoing. Excepting repairs and replacements to the aforementioned structural elements that are capital in nature, which shall be made at Landlord's sole cost and expense and shall not be passed through to the Tenant except as set forth below and/or in Section 2.3(c) above, the cost of repairs, replacements and maintenance for the items in subparts (i) – (vi) above shall be included in Operating Costs. Notwithstanding any other provisions of this Lease, if any part of the Building is damaged or destroyed or requires repair, replacement, or alteration as a result of the negligence or misuse of Tenant, its employees, agents, invitees, licensees, or contractors, Landlord shall have the right to perform same and the cost of such repairs, replacement, or alterations shall be paid by Tenant to Landlord upon demand. In addition, if, in an emergency, it shall become necessary to make promptly any repairs or replacements required to be made by Tenant, Landlord may re-enter the Premises and proceed forthwith to have the repairs or replacements made and pay the costs thereof. Upon demand, Tenant shall reimburse Landlord for the cost of making the repairs. Subject to the provisions set forth in Section 9.5 of this Lease, so long as Landlord is acting in good faith, Landlord shall not be responsible for any damages caused to Tenant by reason of failure of any equipment or facilities serving the Building or delays in the performance of any work for which Landlord is responsible pursuant to this Lease.

5.2 Maintenance and Repairs by Tenant. Landlord agrees to deliver all improvements and systems exclusively servicing the Premises to Tenant in good operating condition and repair, and warrants such condition for one (1) year from the Commencement Date. Tenant shall, at its sole cost, repair and maintain the Premises including, but not limited to, all improvements and systems exclusively servicing the Premises, in good repair and condition (reasonable wear and tear, casualty and condemnation excepted) consistent with the operation of premises within a warehouse/industrial facility, with the exception only of those repairs which are the obligation of Landlord pursuant to this Lease. Without limiting the generality of the foregoing, Tenant is specifically required to maintain and make repairs to (i) the portion of any life-safety and sprinkler systems, pipes, sprinklers, lines, ducts, wires, or conduits contained within the Premises up to the points of common connection; (ii) windows, plate glass, doors, and any fixtures or appurtenances composed of glass; (iii) Tenant's sign; (iv) any heating or air conditioning equipment exclusively serving the Premises ("HVAC") (which shall include, without limitation, a preventive maintenance HVAC service contract, which service contract shall be entered into (A) between Tenant and one of Landlord's approved HVAC contractors, or (b) a reputable and appropriately licensed maintenance contractor selected by Tenant for servicing all equipment within the Premises, and such service contract shall include, without limitation, preventive HVAC maintenance no less than semi-annually); and (v) the Premises or the Building when repairs to the same are necessitated by the negligence or misuse of Tenant, or the failure of Tenant to perform its obligations under this Lease or caused by the operation of Tenant's equipment within the Premises to the extent that same causes damage to the Premises or the Building. All repair and maintenance performed by Tenant in the Premises shall be performed by contractors or workmen pre-approved by Landlord. At the expiration or earlier termination of the Term, Tenant shall surrender the Premises to Landlord in as good condition and repair as Tenant is required to maintain the Premises throughout the Term, reasonable wear and tear, casualty and condemnation excepted. Tenant shall also furnish, maintain, and replace all electric light bulbs, tubes, and tube casings located within or serving the Premises and Tenant's signage, all at Tenant's sole cost and expense. Landlord will assign or make available to Tenant the benefit of any manufacturer's warranties with respect to the mechanical, electrical, and plumbing systems.

5.3 Approval of Tenant's Alterations. Except with respect to the Tenant Improvements identified in Schedule 1 to this Lease, the exact scope, size, location and methods of installation of which shall be subject to the review process in Section 2 of Rider 1 attached hereto, no alterations to the Premises, other than alterations or improvements to the Premises which are interior and nonstructural and costing no more than $25,000.00 for any one alteration/improvement or related series of alterations/improvements ("Minor Alterations"), shall be made to the Premises without Landlord's written approval, which shall not be unreasonably withheld, conditioned or delayed; provided that exterior or structural alterations and alterations which affect the base building systems, may be withheld in Landlord's sole discretion. Tenant shall be permitted to make Minor Alterations to the Premises without Landlord's prior written consent. Any alterations by Tenant shall be performed at the sole cost of Tenant, by contractors and workmen approved by Landlord and insured to Landlord's reasonable satisfaction, in a good and workmanlike manner, and in accordance with all applicable Legal Requirements. Tenant shall pay to Landlord or Landlord's designee Landlord's reasonable out of pocket costs incurred in connection with having Tenant's proposed improvements, processes and materials reviewed and commented on by Landlord's architects, engineers and environmental consultants. Tenant shall also pay to

Landlord or Landlord's designee a fee for the supervision of any such alterations, other than Minor Alterations, made by or on behalf of Tenant, in the amount of five (5%) percent of all hard costs and soft costs incurred by Tenant in connection therewith. Such fee shall be due and payable within thirty (30) days following written demand therefor by Landlord. Upon completion of the work or prior to the date any contractor or supplier has the right to file a lien, Tenant shall deliver to Landlord lien waivers or releases from all contractors, subcontractors and materialmen who performed work or supplied materials for any such alterations undertaken by Tenant.

5.4 Removal of Improvements and Fixtures. All leasehold improvements (other than unattached, movable trade fixtures which can be removed without damage to the Premises) shall at the expiration or earlier termination of this Lease, at Landlord's sole election, either become Landlord's property or Tenant shall remove such leasehold improvements. Tenant may, during the Term, in the usual course of its business, remove its trade fixtures; and Tenant shall, at the expiration or earlier termination of the Term, at its sole cost, remove such of the leasehold improvements (except for improvements installed by Landlord prior to the Commencement Date) and trade fixtures in the Premises as Landlord shall require to be removed and restore the Premises to the condition existing prior to the installation thereof. Tenant shall at its own expense repair any damage caused to the Premises and the Building by such removal, including but not limited to filling all holes in the floor of the Premises caused by Tenant's installation of its improvements and equipment with cement or other appropriate material so that the floor is level and without perforations caused by Tenant or its contractors. If Tenant does not remove its trade fixtures at the expiration or earlier termination of the Term, the trade fixtures shall, at the option of Landlord, become the property of Landlord and may be removed from the Premises and sold or disposed of by Landlord in such manner as it deems advisable without any accounting to Tenant.

5.5 Liens. Tenant shall promptly pay for all materials supplied and work done in respect of the Premises for work contracted for by Tenant or its agents, employees or contractors so as to ensure that no lien is recorded against any portion of the Building or the Land or against Landlord's or Tenant's interest therein. If a lien is so recorded, Tenant shall discharge the lien within five (5) days after the date Tenant first becomes aware of the same by payment or bonding. If any such lien against the Building or the Land or Landlord's interest therein is recorded and not discharged by Tenant as above required within ten (10) days following written request from Landlord, Landlord shall have the right to remove such lien by bonding or payment and the cost thereof shall be paid immediately by Tenant to Landlord. Landlord and Tenant expressly agree and acknowledge that no interest of Landlord in the Premises, the Building or the Land shall be subject to any lien for improvements made by Tenant in or for the Premises or on the Building or the Land, and Landlord shall not be liable for any lien for any improvements made by Tenant, such liability being expressly prohibited by the terms of this Lease. Tenant shall, prior to any construction, provide such assurances to Landlord (including, but not limited to, waivers of lien, surety company payment and performance bonds and personal guarantees) as Landlord shall require to protect Landlord against any loss from any mechanics', laborers' or materialmen's liens, or other liens. Tenant shall record a Memorandum of Lease or other notice in the office of the Clerk of Newton County, Georgia, identifying Tenant as the party for whom Tenant's work is being performed ("Notice of Commencement"). Any Notice of Commencement shall clearly state that the interest of Tenant in the Premises is that of a leasehold estate and shall also state that the interest of Landlord as the fee simple owner of the Premises and the Land shall not be subject to construction liens on account of the work which is the subject of such Notice of Commencement. If such statements are not set forth in a recorded Memorandum of this Lease and are to be filed as a separate document, then such separate document shall be furnished to and approved by Landlord and its attorneys prior to the recording thereof. Tenant hereby agrees to inform all contractors and materialmen performing work in or for or supplying materials to the Premises and or the Land of the existence of said notice and incorporate a notice of Landlord's non-liability for any such liens in all contracts between Tenant and its contractors, subcontractors and material suppliers.

5.6 Utilities; Janitorial. Except as specifically provided below in this Section 5.6, Tenant shall pay to Landlord, or as Landlord directs, all gas, electricity, water, and other utility charges applicable to the Premises as separately metered or, if not so metered, as part of Tenant's proportionate share of Operating Costs or upon such alternative method agreed upon by Landlord and Tenant that accurately reflects Tenant's use of such utility service. Tenant shall directly pay the cost of janitorial, garbage removal, and trash removal services for the Premises and the cost of heating, ventilating, and air conditioning the Premises. Tenant has disclosed to Landlord that Tenant's intended use of the Premises shall require utilities, including but not limited to, electrical power, gas, water and sewer service, in excess of the building standard services provided by Landlord. Notwithstanding any other provision of the Lease to the contrary, the Tenant hereby accepts all of the electrical, gas, water, sewer and other utility services and plumbing

fixtures existing in and serving the Premises on the Effective Date of the Lease in their "as is" condition and shall, at Tenant's sole cost and expense, and as a part of the Tenant Improvements, install, maintain and pay for all installation, operational, maintenance, repair and replacement costs of the electrical, gas, water, sewer and other utilities needed by Tenant for the intended use of the Premises. Tenant shall also install, or cause to be installed, at Tenant's sole cost and expense, separate meters for all utilities used in or by the Premises, including, but not limited to, electrical power, gas, water and sewer services.

ARTICLE VI
INSURANCE AND INDEMNITY
[Note – This Section is under review by Landlord and its consultant]

6.1 Tenant's Insurance.

(a) Tenant's Insurance. Effective as of the earlier of the date Tenant enters or occupies the Premises, or the Commencement Date, and continuing throughout the Term, Tenant, at Tenant's expense, shall maintain the following insurance policies:

(i) All Risk (special form or equivalent) property insurance including coverage the full replacement value of Tenant's improvements, betterments, furniture, fixtures, equipment and contents. The insurer used by Tenant hereunder shall waive rights of subrogation against Landlord for losses payable under such property insurance.

(ii) Commercial General Liability insurance policy (hereinafter referred to as a "Liability Policy"). Such Liability Policy shall include Landlord and Underhill Properties LLC (and any other party reasonably required by Landlord, including, without limitation, any mortgage), as additional insureds and be written on an "occurrence basis" including, without limitation, Blanket Contractual Liability coverage, Broad Form Property Damage, and Personal Injury coverage protecting Landlord against liability (except for liability resulting from gross negligence or willful misconduct of Landlord) occasioned by any occurrence on or about the Premises, which insurance shall be primary and non-contributory. Such Liability Policy shall be maintained in an amount not less than $5,000,000 per location for an aggregate single occurrence limit and $10,000,000 per location for an aggregate limit, and, in addition, $25,000,000 of Excess or Umbrella Liability Insurance, per location for an aggregate limit, which Excess or Umbrella Liability Insurance shall be primary and non-contributory.

(iii) Business Auto Liability covering owned, non-owned and hired vehicles with a limit of not less than $5,000,000.00 per accident, which insurance shall be primary and non-contributory.

(iv) Business interruption insurance with a limit of liability representing loss of at least approximately twelve (12) months of income.

(v) Statutory Workers Compensation and Employer's Liability insurance with the following Employer's Liability minimum limits, which required limits may be satisfied in combination of both Primary and Excess or Umbrella Liability Insurance:

Bodily injury by disease per person	$5,000,000
Bodily injury by accident policy limit	$5,000,000
Bodily injury by disease policy limit	$5,000,000

(vi) Contractor's Pollution Liability insurance and Owner's / Tenant's Pollution Liability insurance (each an “Environmental Pollution Policy”) in the amount of $20,000,000.00 with a deductible not to exceed $50,000.00 (said amounts subject to adjustment as provided for in this Section 6.1), providing coverage for, and/or to insure against any Remedial Action required by, or damages pursuant to any Environmental Law, including any claims alleging that Releases of Hazardous Substances have occurred on, at, to or from the Premises or the Land, that such pollution has migrated from the Premises and or the Land and has caused damages outside of the Premises arising during the Lease Term. Landlord, Underhill Properties LLC and the Landlord's mortgagee shall be additional insureds, though the policies will provide that only Tenant is responsible for premium payment. Tenant shall require

its general contractor for any Tenant Improvements to obtain a Contractor's Pollution Liability Policy providing coverage in the amount of $20,000,000.00 with a deductible not to exceed $50,000.00. Before commencement of construction of any Tenant Improvements, Tenant shall deliver to Landlord a certificate of insurance with applicable endorsements evidencing that Tenant's general contractor has obtained a Contractor's Pollution Liability Policy required by this Section, as reasonably satisfactory to Landlord. Tenant shall require its environmental pollution policy in effect at the Effective Date to be written as primary and not to be affected by any other primary insurance and the insurer will not seek contribution from any other insurance available to the insured and shall thereafter cause its insurer(s) to issue similar Environmental Pollution Policies in connection with the Premises.

(vii) Tenant shall carry and maintain, or cause to be carried and maintained, at all times during the Term of this Lease and at Tenant's expense such other insurance or such additional amounts of insurance with respect to the Premises as is generally maintained by persons having similar exposures or properties similarly situated and as Landlord shall from time to time reasonably require; including but not limited to all risk coverages on Tenant's owned or leased machinery and equipment incorporated into the Premises or on the Land and Tenant's Environmental Pollution Policies.

(viii) The insurance required under this Section shall be written by insurers authorized and licensed to conduct business in the state where the Premises is located and have an A.M. Best Company rating of "A" or better and financial size category of not less than VIII.

(ix) If any of the insurance required under this Section is canceled (in whole or in part) for any reason whatsoever, other than nonpayment of premium, such cancellation shall not be effective as to Landlord until at least thirty (30) days after receipt by Landlord of written notice from each insurer of such cancellation. Tenant shall furnish Landlord with evidence premium payment on an annual basis, along with the required certificates of insurance.

(x) Certificates of Insurance executed by authorized representatives of insurance companies shall be issued in connection with each of the policies required under this Section and delivered to Landlord on or prior to the Commencement Date and from time to time upon renewal of such coverage as soon as reasonably practicable, but in no event later than the expiration date of the policy.

(xi) Notwithstanding anything to the contrary in this Section or in this Lease, Tenant's liability obligations under this Lease shall not be limited to the policy limits contained in Tenant's insurance policies as detailed above.

(xii) Tenant may place the coverage required under this Section under blanket insurance policies covering other properties of Tenant, provided that (A) any such blanket insurance policy shall specify therein, or the insurer under such policy shall certify to Landlord, any material sub-limits in such blanket policy applicable to the Premises, which sub-limits shall not be less than the amounts required pursuant to this Section, (B) any such blanket insurance policy shall comply in all respects with the other provisions of this Section, and (C) any deductibles and self-insured retention must be approved by Landlord.

(xiii) Whenever Tenant undertakes any Tenant Improvements, alterations, additions, or other improvements in, to, or about the Premises, Builder's Risk insurance on an "all risk" basis and on a completed value form including Permission to Complete and Occupy endorsement and the other aforesaid insurance protections on all work to be done by the Tenant and covering the structure of the Building and any improvements to be made by Tenant on the Land, must be carried by the contractors and subcontractors and extend to and include injuries to persons and damage to property arising in connection with such work, and any contractor(s) engaged by Tenant and any subcontractors engaged by Tenant's contractor for such work shall provide the aforesaid insurance protection stated in this Section and such insurance shall name Landlord, Underhill Properties LLC and such other parties as Landlord may from time to time designate (including, without limitation, any mortgagee) as named insureds. The policies of or certificates evidencing all such insurance must be delivered to Landlord prior to the commencement of any such work. Tenant shall require its contractor to execute and deliver the Contract Agreement Rider substantially in the form attached hereto as Rider 2 prior to commencing any work at the Premises.

(b) Landlord's Insurance. Landlord, as part of Operating Costs, shall throughout the Term carry: (i) all risks (special form or equivalent) insurance on the Building and the machinery and equipment contained therein or

servicing the Building and owned by Landlord (excluding any personal property of Tenant and other tenants which Tenant or such other tenants, as applicable, are obliged to insure), insuring the full insurable replacement cost thereof (excluding the costs of below basement/below ground excavations, foundations and footings except to the extent such coverage is required by Landlord's mortgage, if any, in which case such coverage shall be included in Operating Costs); (ii) commercial general liability and property damage insurance covering the Building; and (iii) such other forms of insurance as Landlord or its mortgagee reasonably considers advisable, provided that such insurance shall be in such amounts and with such deductibles as would be carried by a prudent owner of a similar building, having regard to size, age, and location. To the extent that any costs or premiums for the insurance to be carried by Landlord as provided herein is increased specifically as a result of Tenant's fixtures, equipment or activities on or in the Premises, Building or Land, Tenant shall pay, as part of Operating Costs, such additional amounts.

6.2 Indemnification. Tenant shall, and does hereby indemnify, defend, and hold harmless Landlord, its partners, principals, and agents from and against all claims, causes of actions, liabilities, judgments, damages, losses, costs and expenses, including reasonable attorneys' fees and costs actually incurred through all appeals, incurred or suffered by Landlord, its partners, principals and agents, and arising from any injury to person or property: (i) occurring in the Premises following the date Landlord delivers possession of the Premises to Tenant, except to the extent caused by the gross negligence or willful misconduct of Landlord or Landlord's agents, employees or contractors; (ii) occurring in or on the Building or Land (other than within the Premises) to the extent caused by the negligence or willful misconduct of Tenant or Tenant's agents, employees or contractors, or (iii) arising out of the installation, operation, maintenance, repair or removal of any property of Tenant located in or about the Building or the Land, except to the extent caused by the gross negligence or willful misconduct of Landlord or Landlord's agents, employees or contractors.

6.3 Loss or Damage. Landlord shall not be liable for any death or injury arising from or out of any occurrence in, upon, at, or relating to the Building or damage to property of Tenant or of others located on the Premises or elsewhere in the Building, nor shall it be responsible for any loss of or damage to any property of Tenant or others from any cause, unless such death, injury, loss, or damage results from the gross negligence or willful misconduct of Landlord. Without limiting the generality of the foregoing, Landlord shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, falling ceiling tile, falling fixtures, steam, gas, electricity, water, rain, flood, or leaks from any part of the Premises or from the pipes, sprinklers, appliances, plumbing works, roof, windows, or subsurface of any floor or ceiling of the Building or from the street or any other place or by dampness, or by any other cause whatsoever.

6.4 Waiver of Claims/Subrogation. Notwithstanding anything to the contrary contained herein, Landlord and Tenant each hereby waive any and all rights of recovery, claim, action, or cause of action, against the other, its agents, officers, or employees, for any loss or damage that may occur to the Premises, or any improvements thereto, or the Building, which could be insured against under the terms of the property insurance policy referred to in this Article or is otherwise insured against under an insurance policy maintained by the party suffering such loss or damage, regardless of cause or origin, except gross negligence or willful misconduct of the other party hereto and/or its agents, officers, or employees, and each party covenants that no insurer shall hold any right of subrogation against such other party. The special form property insurance policies, Liability Policies, business auto liability policies, umbrella policies, Environmental Pollution Policies and worker's compensation insurance policies maintained by Landlord and Tenant as provided in this Lease shall include an endorsement containing an express waiver of any rights of subrogation by the insurance company against Landlord and Tenant, as applicable.

6.5 Landlord's Replacement Insurance. Tenant hereby acknowledges that because of Tenant's intended use of the Premises and portions of the Land, including, but not limited to, the processes that will involve the storage, handling and disposal of Hazardous Substances, Landlord will be required to obtain new policies of insurance for the types of insurance identified in Section 6.1(b) hereof. Landlord is required to maintain such coverages not only for the Premises but also for the other improvements and other tenants located on the Land. As a result, provided Tenant and Tenant's contractor obtains the Builder's Risk Insurance required pursuant to Section 6.1(a)(xiii) hereof, Tenant shall be permitted to construct and or install Tenant's Improvements in the Premises and on the Land as otherwise provided in this Lease. However, Tenant hereby agrees that it shall not bring any Hazardous Materials onto the Land or into the Premises or begin any testing or operations of the Tenant Improvements until Landlord has been able to obtain the replacement policies for those identified in Section 6.1(b) hereof. All such replacement policies must be from an admitted carrier (licensed to do business in the state where the Premises are located) and with a carrier having

at least an "A" or better rating by A.M. BEST. Landlord agrees to use commercially reasonable efforts to obtain such replacement policies and Tenant agrees to provide information required by applicable insurance companies and otherwise to cooperate with Landlord as required to obtain such coverages.

ARTICLE VII
DAMAGE AND DESTRUCTION

7.1 Damage to Premises. If the Premises are partially destroyed due to fire or other casualty, Landlord shall diligently repair the Premises, to the extent of its obligations under Section 5.1, and Base Rent shall abate proportionately to the portion of the Premises, if any, rendered untenantable from the date of destruction or damage until Landlord's repairs have been substantially completed. If the Premises are totally destroyed due to fire or other casualty, Landlord shall diligently repair the Premises to the extent of its obligations under Section 5.1, and Base Rent shall abate entirely from the date of destruction or damage to such date which is the earlier of (i) the date tenantable, or (ii) thirty (30) days after Landlord's repairs have been substantially completed. Landlord's obligation hereunder with respect to the Premises shall be limited to the reconstruction of such leasehold improvements as were originally required to be made by Landlord pursuant to this Lease. Tenant agrees that during any period of reconstruction or repair of the Premises, it will continue the operation of its business within the Premises to the extent practicable. If all or any part of the Premises shall be damaged by fire or other casualty and the fire or other casualty is caused by the fault of neglect of Tenant or Tenant's agents, guests, or invitees, rent and all other charges shall be abated only to the extent Landlord is compensated for such rent and other charges by loss of rents insurance proceeds, if any. Landlord's application of any insurance proceeds related to damage or destruction to the Premises and or the Building shall be subject to the requirements of any lender holding a mortgage or deed of trust on the Building and or the Land.

7.2 Termination for Damage. Notwithstanding Section 7.1, if: (i) damage or destruction which has occurred to the Premises or the Building is such that in the reasonable opinion of Landlord such reconstruction or repair cannot be completed within one hundred eighty (180) days of the happening of the damage or destruction, or (ii) such damage or destruction occurs within the last twelve (12) months of the initial Term or any Renewal Term, then either Landlord or Tenant may, at its option, terminate this Lease on written notice given to the other party within thirty (30) days after such damage or destruction and Tenant shall immediately deliver vacant possession of the Premises in accordance with the terms of this Lease.

ARTICLE VIII
ASSIGNMENT, SUBLEASES, AND TRANSFERS

8.1 Transfer by Tenant.

(a) Except as hereinafter provided, Tenant shall not enter into, consent to, or permit any Transfer, as hereinafter defined, without the prior written consent of Landlord in each instance, which consent shall not be unreasonably withheld, conditioned or delayed. For purposes of this Lease, "Transfer" means an assignment of this Lease in whole or in part; a sublease of all or any part of the Premises; any transaction whereby the rights of Tenant under this Lease or to the Premises are transferred to another; any mortgage or encumbrance of this Lease or the Premises or any part thereof or other arrangement under which either this Lease or the Premises become security for any indebtedness or other obligations; and if Tenant is a corporation, limited liability company or a partnership, the transfer of a controlling interest in the stock of the corporation or membership or partnership interests, as applicable. If there is a permitted Transfer, Landlord may collect rent or other payments from the transferee and apply the net amount collected to the rent or other payments required to be paid pursuant to this Lease but no acceptance by Landlord of any payments by a transferee shall be deemed a waiver of any provisions hereof regarding Tenant. Notwithstanding any Transfer, Tenant shall not be released from any of its obligations under this Lease. If Tenant shall make a transfer for a rental or other payment in the nature of rental in excess of the rental charges payable under this Lease, Tenant shall pay to Landlord fifty percent (50%) of any such excess rental upon receipt after Tenant recovers all of its costs reasonably and actually incurred of entering into the Transfer, including (i) any changes, alterations and improvements made to the Leased Premises, and/or any tenant improvement allowance or other economic concessions (rental abatement, space planning allowance, moving expenses, etc.) provided by Tenant to the transferee, in connection with the transfer, assignment or sublease, (ii) any reasonable and customary brokerage commissions and advertising expenses in connection with the Transfer, and (iii) any other reasonable out-of-pocket costs of Tenant related thereto (including reasonable legal fees incurred by Tenant). Without limiting Landlord's right to withhold its consent to any

Transfer by Tenant, and regardless of whether Landlord shall have consented to any such Transfer, neither Tenant nor any other person having an interest in the possession, use, or occupancy of the Premises or any part thereof shall enter into any lease, sublease, license, concession, assignment, or other Transfer or agreement for possession, use, or occupancy of all or any portion of the Premises which provides for rent or other payment for such use, occupancy, or utilization based, in whole or in part, on the net income or profits derived by any person or entity from the space so leased, used, or occupied, and any such purported lease, sublease, license, concession, assignment, or other Transfer or agreement shall be absolutely void and ineffective as a conveyance of any right or interest in the possession, use, or occupancy of all or any part of the Premises. There shall be no deduction from the rental payable under any sublease or other transfer nor from the amount thereof passed on to any person or entity, for any expenses or costs related in any way to the subleasing or transfer of such space.

(b) Without limiting the circumstances that would allow Landlord to reasonably withhold Landlord's consent, Landlord's consent shall not be deemed unreasonably withheld, conditioned or delayed if any one or more of the following circumstances exists: (i) the proposed subtenant or assignee's financial responsibility and character is not comparable to that of Tenant at time the Lease was executed; (ii) the proposed assignee or subtenant is a governmental entity or agency (or subdivision thereof); or (iii) the proposed assignee or subtenant is a current or prospective tenant of the Building or the project of which the Building is a part with whom Landlord has exchanged written proposals during the previous six (6) months (unless Landlord cannot accommodate the same within the Building or the project of which the Building is a part. In no event shall any sublease or assignment be made or allowed which would (x) in any way violate any exclusive use provisions granted to, or any prohibitions of certain uses agreed to by Landlord with, any other tenants or occupants of the Building; or (y) in Landlord's reasonable judgment, cause physical harm to the Building or harm to the reputation of the Building which would result in an impairment of Landlord's ability to lease space in the Building or a diminution in the rental value of space in the Building.

(c) Except as hereinafter provided in Section 8.1(d) of this Lease, in the event that Tenant desires to assign this Lease or to enter into a sublease of all or any portion of the Premises for a period of time that is in excess of fifty percent (50%) of the Term then remaining under the Lease, Landlord shall have the option to terminate this Lease (in the case of a proposed assignment by Tenant) or to exclude from the Premises covered by this Lease the space proposed to be sublet by Tenant, effective as of the proposed commencement date of the proposed assignment or sublease by Tenant. Landlord may exercise said option by giving Tenant written notice within twenty (20) days after receipt by Landlord of Tenant's notice of the proposed assignment or sublease. If Landlord exercises said option, Tenant shall surrender possession of the Premises or the proposed sublease space to Landlord on the effective date of the termination of this Lease or the exclusion of said space from the Premises covered by this Lease, as applicable, and, except as otherwise provided herein, neither party hereto shall have any further rights or liabilities with respect to the Premises or said sublease space arising under this Lease, as applicable. Effective as of the date of exclusion of any portion of the Premises covered by this Lease pursuant to this paragraph, unless the sublease specifies the exact per square foot rate for the Base Rent applicable to the excluded space (in which event the Base Rent for this Lease shall be reduced by such rate multiplied by the applicable excluded square footage), (i) the Base Rent shall be reduced in the same proportion as the number of square feet of net rentable area contained in the portion of the Premises so excluded bears to the number of square feet of rentable area contained in the Premises immediately prior to such exclusion, (ii) the rentable area of the Premises shall be decreased by the number of square feet of rentable area contained in the portion of the Premises so excluded, for all purposes under this Lease, and (iii) the number of parking spaces to which Tenant is entitled shall be reduced in the same proportion as the Base Rent is reduced.

(d) Notwithstanding anything to the contrary contained in this Lease, Tenant may assign this Lease or sublet all of the Premises from time to time, without Landlord's consent but only after five (5) Business Days' prior written notice (unless prior notice is prohibited by law), to: (i) any Affiliate (as defined below) of Tenant; (ii) any entity controlling, controlled by, or under common control with Tenant, or to any successor of Tenant resulting from a merger or consolidation of Tenant, or as a result of a sale by Tenant of all or substantially all of its assets or stock; provided, however, that (A) no such assignment or sublease shall relieve Tenant from any liability under this Lease, whether accrued to the date of such assignment or sublease, or thereafter accruing, and (B) such assignee or sublessee expressly assumes, in writing, all of Tenant's obligations under this Lease, in form and content reasonably acceptable to Landlord (except, as between a sublessee and Tenant, for the specific business deal between Tenant and such sublessee), and (iii) no series of one or more of such transactions shall be used by Tenant to "spin-off" this Lease to independent third parties. In addition, any change in the controlling interest in the stock of Tenant as a result of an

initial public offering of Tenant's stock, and any transfer of the capital stock of Tenant by persons or parties through the "over-the-counter market" or through any recognized stock exchange or through a tender offer, shall not be deemed to be a Transfer requiring Landlord's consent. For the purposes of this Lease "Affiliate" shall mean (1) any subsidiary or entity that is directly or indirectly controlled by Battery Resourcers, Inc. or any of its Affiliates, and (2) a person or entity directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with the tenant in question, or in which the tenant in question holds a controlling ownership interest. The term "control," as used in the immediately preceding sentence, means, with respect to an entity that is a corporation, the right to the exercise, directly or indirectly, of more than fifty percent (50%) of the voting rights attributable to the shares of the controlled corporation and, with respect to an entity that is not a corporation, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled entity.

8.2 Assignment by Landlord. Landlord shall have the unrestricted right to sell, lease, convey, or otherwise dispose of the Building or any part thereof and this Lease or any interest of Landlord in this Lease. To the extent that the purchaser or assignee from Landlord assumes the obligations of Landlord under this Lease, Landlord shall thereupon and without further agreement be released of all further liability under this Lease. If Landlord sells its interest in the Premises, it shall deliver any security deposit made pursuant to this Lease to the purchaser and Landlord will thereupon be released from any further liability with respect to any such security deposit or its return to Tenant and the purchaser shall become directly responsible to Tenant therefor.

ARTICLE IX
DEFAULT

9.1 Defaults. A default by Tenant shall be deemed to have occurred hereunder, if and whenever: (i) any Base Rent or Tenant's Proportionate Share of Operating Costs, is not paid within five (5) days after becoming due whether or not any notice or demand for payment has been made by Landlord; (ii) any other additional rent is in arrears and is not paid within twenty (20) days after written demand by Landlord; (iii) Tenant has breached any of its obligations in this Lease (other than the payment of rent) and Tenant fails to remedy such breach within thirty (30) days after written notice thereof from Landlord; provided, however, that if such breach cannot reasonably be remedied within thirty (30) days, then if Tenant fails promptly to commence to remedy and thereafter proceed diligently to remedy such breach within a reasonable time (not to exceed sixty (60) days unless Tenant notifies Landlord of the need for additional time, the reason for same and the amount thereof); or (iv) a petition in bankruptcy or insolvency is filed by or against Tenant and Tenant fails to secure a stay or discharge thereof within thirty (30) days thereafter, or if a receiver is appointed for Tenant's business or assets and the appointment of the receiver is not vacated or set aside within thirty (30) days thereafter.

9.2 Remedies. In the event of any default hereunder by Tenant, then without prejudice to any other rights which it has pursuant to this Lease or at law or in equity, Landlord shall have the following rights and remedies, which are cumulative and not alternative:

(a) Landlord may cancel this Lease and retake possession of the Premises for Landlord's account, or may terminate Tenant's right to possession (without terminating this Lease), for the account of Tenant. In either event, Tenant shall then quit and surrender the Premises to Landlord. Tenant's liability under all of the provisions of this Lease shall continue notwithstanding any expiration and surrender, or any re-entry, repossession, or disposition hereunder. Landlord may, in its sole discretion and election, re-enter and take possession of the Premises without recourse to the Georgia summary eviction statute provided Landlord may do so only if Landlord can accomplish the eviction without a "breach of the peace".

(b) To the extent permitted by applicable laws, Landlord may enter the Premises as agent of Tenant to take possession of any property of Tenant on the Premises, to remove and store such property at the expense and risk of Tenant or to sell or otherwise dispose of such property in accordance with the terms of this Lease. Landlord shall not be liable in any way in connection with its actions pursuant to this Section, to the extent that its actions are in accordance with applicable law.

(c) If Tenant's right to possession is terminated (without terminating this Lease) under subsection (a) above, Tenant shall remain liable (in addition to accrued liabilities) to the extent legally permissible for all rent and all of the charges Tenant would have been required to pay until the date this Lease would have expired had

such cancellation not occurred. Tenant's liability for rent shall continue notwithstanding re-entry or repossession of the Premises by Landlord, less the net proceeds, if any, of any reletting of the Premises by Landlord, after deducting the cost of repairs, alterations, additions, redecorating, attorneys' fees and costs reasonably and actually incurred by Landlord, and brokerage commissions and other expenses reasonably and actually incurred in connection with such reletting of the Premises.

(d) Landlord may relet all or any part of the Premises for all or any part of the unexpired portion of the Term of this Lease or for any longer period, and may accept any rent then attainable, grant any concessions of rent, and agree to paint or make any special repairs, alterations, and decorations for any new Tenant as it may deem advisable in its reasonable discretion. Landlord shall be under no obligation to relet or to attempt to relet the Premises.

(e) If Tenant's right to possession is terminated (without terminating this Lease) under subsection (a) above, and Landlord so elects, the rent hereunder shall be accelerated and Tenant shall pay Landlord damages in an amount equal to the present value (using a discount factor equal to the stated prime lending rate on the date of Tenant's default as published in the Wall Street Journal) of the difference of any and all sums which would have been due for the remainder of the Term, less the then-current fair market rental value of the Premises for the remainder of the Term (taking into consideration the reasonable costs of marketing and reletting the Premises). Upon such acceleration of such amounts, Tenant agrees to pay the same at once, together with all Rent and other amounts theretofore due, at Landlord's address as provided herein; provided however, that such payment shall not constitute a penalty or forfeiture but shall constitute liquidated damages for Tenant's failure to comply with the terms and provisions of this Lease (Landlord and Tenant agreeing that Landlord's actual damages in such an event are impossible to ascertain and that the amount set forth above is a reasonable estimate thereof).

(f) Landlord may remedy or attempt to remedy any default of Tenant under this Lease for the account of Tenant and enter upon the Premises for such purposes. No notice of Landlord's intention to perform such covenants need be given Tenant unless expressly required by this Lease. Landlord shall not be liable to Tenant for any loss or damage caused by acts of Landlord in remedying or attempting to remedy such default and Tenant shall pay to Landlord all reasonable expenses incurred by Landlord in connection with remedying or attempting to remedy such default. Any expenses incurred by Landlord shall accrue interest from the date of payment by Landlord until repaid by Tenant at an interest rate at the lower of sixteen percent (16%) per annum or the highest rate permitted by law if such rate is less than sixteen percent (16%) per annum.

9.3 Costs. Tenant shall pay to Landlord all costs actually and reasonably incurred by Landlord, including attorneys' fees and costs, actually incurred by Landlord in enforcing any of the obligations of Tenant under this Lease. In addition, upon any default by Tenant, Tenant shall also be liable to Landlord for the expenses to which Landlord may be put in re-entering the Premises; repossessing the Premises; painting, altering, or dividing the Premises; combining the Premises with an adjacent space for any new tenant; putting the Premises in proper repair; protecting and preserving the Premises by placing watchmen and caretakers therein; reletting the Premises (including attorneys' fees and disbursements actually incurred, marshall's fees, and brokerage fees, in so doing); and any other expenses reasonably incurred by Landlord.

9.4 Additional Remedies; Waiver. The rights and remedies of Landlord set forth herein shall be in addition to any other right and remedy now and hereinafter provided by law. All rights and remedies shall be cumulative and non-exclusive of each other. No delay or omission by Landlord in exercising a right or remedy shall exhaust or impair the same or constitute a waiver of, or acquiescence to, a default.

9.5 Default by Landlord. Landlord shall be in default if it fails to perform any term, condition, covenant or obligation required under this Lease for a period of thirty (30) days after written notice thereof from Tenant to Landlord; provided, however, that if the term, condition, covenant or obligation to be performed by Landlord is such that it cannot reasonably be performed within thirty (30) days, such default shall be deemed to have been cured if Landlord commences such performance within said thirty-day period and thereafter diligently completes the required action within a reasonable time. Notwithstanding anything to the contrary contained in this Lease, in the event that Tenant is reasonably unable to access the Premises or all or a material portion of the Premises is rendered reasonably untenantable as a result of any Landlord failure to perform the terms, conditions, covenants or obligations required

under this Lease, then, except as attributable to casualty, the exercise of eminent domain or force majeure (which shall be treated as otherwise set forth in this Lease), following five (5) days' prior written notice to Landlord and opportunity to cure, Base Rent shall equitably and proportionately abate during any period of time that the Premises is inaccessible and for any portion of the Premises that is untenantable until such access or use is restored by Landlord. If the event of a default not cured by Landlord or on behalf of Landlord within the cure periods set forth above, as applicable, Tenant may, at its option, have any one or more of the following described remedies: (i) the right, upon not less than ten (10) Business Days' prior written notice to Landlord describing in reasonable detail the actions proposed to be taken by Tenant and the estimated cost thereof, to remedy such default or breach within the Leased Premises and be reimbursed the reasonable costs thereof within thirty (30) days after Landlord's receipt of a paid invoice and contractor's lien waivers as applicable, therefor; (ii) the right to pursue the remedy of specific performance; and (iii) any and all other rights available to Tenant under law and equity. The reasonable amount of the cost and expense so incurred by Tenant, together with the amount of any reasonable actual attorneys' fees in successfully instituting, prosecuting or defending any action or proceeding by reason of any default of Landlord hereunder, shall be paid by Landlord to Tenant.

9.6 Prevailing Party. Notwithstanding anything to the contrary contained in this Lease, in the event of any litigation between Landlord and Tenant arising out of this Lease or Tenant's use and occupancy of the Premises, the prevailing party shall be entitled to recover its costs and expenses incurred in such litigation, including attorneys' fees and costs actually incurred, at all levels, including appeals.

9.7 Limitation of Landlord's Personal Liability. The liability of Landlord for any default by Landlord under this Lease shall be limited to the interest of Landlord in the Building and Tenant agrees to look solely to Landlord's interest in the Building for the recovery of any judgment from Landlord, it being intended that Landlord shall not be personally liable for any judgment or deficiency.

ARTICLE X
ESTOPPEL CERTIFICATE; SUBORDINATION

10.1 Estoppel Certificate. Within ten (10) days after written request by Landlord, Tenant shall deliver in a form supplied by Landlord, an estoppel certificate to Landlord as to the status of this Lease, including whether this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect as modified and identifying the modification agreements); the amount of Base Rent and additional rent then being paid and the dates to which same have been paid; whether or not there is any existing or alleged default by either party with respect to which a notice of default has been served, or any facts exist which, with the passing of time or giving of notice, would constitute a default and, if there is any such default or facts, specifying the nature and extent thereof; and any other matters pertaining to this Lease as to which Landlord, Landlord's lender or a prospective purchaser of the Land shall reasonably request in such certificate. Landlord, and any prospective purchaser, lender, or ground lessor shall have the right to rely on such certificate.

10.2 Subordination; Attornment. This Lease and all rights of Tenant shall be subject and subordinate to any and all mortgages, security agreements, or like instruments resulting from any financing, refinancing, or collateral financing (including renewals or extensions thereof), and to any and all ground leases, made or arranged by Landlord of its interests in all or any part of the Building, from time to time in existence against the Building, whether now existing or hereafter created. Such subordination shall not require any further instrument to evidence such subordination. However, on request, Tenant shall further evidence its agreement to subordinate this Lease and its rights under this Lease to any and all documents and to all advances made under such documents. The form of such subordination shall be made as required by Landlord, its lender, or ground lessor, with such changes as Tenant and such counterparty may reasonably agree. Landlord agrees to provide to Tenant a subordination, non-disturbance and attornment agreement with respect to any superior mortgager or ground lease, the form of which shall be subject to Tenant's review and approval, not to be unreasonably withheld, conditioned or delayed. In the event of the enforcement by a lender of the remedies provided for by law or by any mortgage now or hereafter encumbering the Building or any portion thereof, Tenant will, upon request of any person succeeding to the interest of Landlord as a result of such enforcement, automatically become the lessee of said successor-in-interest, without change in the terms or other provisions of this Lease; provided, however, that said successor-in-interest shall not be (i) bound by any payment of rent for more than one (1) month in advance; (ii) liable for any security deposit unless said successor-in-interest actually receives such funds; (iii) liable for any act, omission or default of any prior Landlord; (iv) subject to any

offsets, claims or defenses that Tenant may have against any prior Landlord occurring prior to the succession (but such successor shall be subject to the continuing obligations of Landlord hereunder first arising from and after such succession; or (v) bound by any amendment or modification of the Lease made without the consent of lender or ground lessor, except for those amendments and modifications permitted to be made by Landlord without such lender's or ground lessor's consent pursuant to the terms of the underlying loan documents between Landlord and such lender, or the underlying ground lease between Landlord and such ground lessor, as applicable. Within ten (10) days of a written request by said successor in interest, Tenant shall execute and deliver an instrument or instruments confirming such attornment.

ARTICLE XI
CONTROL OF BUILDING BY LANDLORD

11.1 Use and Maintenance of Common Areas. Tenant, its employees, agents, licensees and those doing business with Tenant for purposes associated with Tenant's business on the Premises, shall have a non-exclusive license to use the Common Areas for their intended purposes during normal business hours in common with others entitled thereto and subject to any reasonable rules and regulations imposed by Landlord. Landlord shall keep the Common Areas in good repair and condition and shall clean the Common Areas when necessary. Tenant acknowledges that all Common Areas shall at all times be under the exclusive control and management of Landlord. For purposes of this Lease, "Common Areas" shall mean those areas, facilities, utilities, improvements, equipment, and installations of the Building and Land which serve or are for the benefit of the tenants of more than one component of the Building and which are not designated or intended by Landlord to be leased, from time to time, or which are provided or designated from time to time by Landlord for the benefit or use of all tenants in the Building, their employees, customers, and invitees, in common with others entitled to the use or benefit of same, including, without limitation, the parking facilities.

11.2 Alterations by Landlord. Landlord may (i) alter, add to, subtract from, construct improvements on, re-arrange, and construct additional facilities in, adjoining, or proximate to the Building; (ii) relocate the facilities and improvements in or comprising the Building or erected on the land; (iii) do such things on or in the Building as required to comply with any laws, by-laws, regulations, orders, or directives affecting the land or any part of the Building; and (iv) do such other things on or in the Building as Landlord, in the use of good business judgment determines to be advisable, provided that notwithstanding anything contained in this Section 11.2, access to the Premises shall be available at all times, except in the case of emergencies.

11.3 Access. Access to the Premises shall be available to Tenant 24 hours per day, 7 days per week, 365 days per year, subject to reasonable security measures and except for emergency events which cause Landlord to limit access to tenants.

ARTICLE XII
CONDEMNATION

12.1 Total or Partial Taking. If all or any substantial part of the Building or Common Areas shall be taken by any public authority under the power of eminent domain or sold to any public authority under threat or in lieu of such taking (each, a "Taking"), Landlord may terminate this Lease by giving written notice to Tenant on or before the date possession or title shall be taken by such public authority, whichever is earlier ("Taking Date"). In the event of a Taking of the whole of the Premises, or such portion thereof as will make the Premises impractical for Tenant to use for the Permitted Use, Tenant may terminate this Lease by giving written notice to Landlord on or before the Taking Date. Upon any such termination, the rent and all other charges shall be paid up to the Taking Date with a proportionate refund by Landlord of any rent and all other charges paid for a period subsequent to the Taking Date. If less than the whole of the Premises, or less than such portion thereof as will make the Premises impractical for Tenant to use for the Permitted Use, Landlord, at its sole cost, shall proceed with due diligence to repair, alter and restore the remaining portion of the Premises substantially to their former condition to the extent of its obligations under Section 5.1, to the extent commercially reasonable, the Term shall cease only as to the part so taken as of the Taking Date, and Tenant shall pay rent and other charges up to the Taking Date, with appropriate credit by Landlord (toward the next installment of rent due from Tenant) of any rent or charges paid for a period subsequent to the Taking Date. Base Rent and other charges payable to Landlord shall be reduced in proportion to the amount of the Premises taken.

12.2 Taking for Temporary Use. If there is a taking of the Premises for temporary use, this Lease shall continue in full force and effect, and Tenant shall continue to comply with Tenant's obligations under this Lease, except to the extent compliance shall be rendered impossible or impracticable by reason of the taking. Base Rent and other charges payable to Landlord shall be reduced in proportion to the amount of the Premises taken for the period of such temporary use.

12.3 Award. All compensation awarded or paid upon a total or partial taking of the Premises or Building including the value of the leasehold estate created hereby shall belong to and be the property of Landlord without any participation by Tenant; Tenant shall have no claim to any such award based on Tenant's leasehold interest. However, nothing contained herein shall be construed to preclude Tenant, at its cost, from independently prosecuting any claim directly against the condemning authority in such condemnation proceeding for damage to, or cost of removal of, stock, trade fixtures, furniture, and other personal property belonging to Tenant; provided, however, that no such claim shall diminish or otherwise adversely affect Landlord's award or the award of any mortgagee.

ARTICLE XIII
PARKING

Subject to all of the terms, provisions, covenants, and conditions contained herein, Tenant shall have the right to use the number of parking spaces indicated in the Lease Summary in the parking area which Landlord shall provide for the use of tenants of the Premises as identified on the Site Plan. Landlord shall not be liable for any damage of any nature whatsoever to, or any theft of, automobiles or other vehicles or the contents thereof, while in or about the parking area. Tenant acknowledges that its non-exclusive right to use any parking facilities forming part of the Building may be subject to such rules and regulations as reasonably imposed by Landlord from time to time. Landlord shall have a right to designate the location of Tenant's parking and alter such designation upon reasonable notice to Tenant; provided that Landlord does not decrease the number of parking spaces identified for Tenant's use in the Lease Summary and any such changes in location of the parking spaces, including costs of striping and preparation of such spaces for Tenant's use, shall be at Landlord's sole cost and expense. Landlord shall also have the right to establish or modify the methods used to control parking in the parking area, including, without limitation, the installation of certain control devices or the hiring of parking attendants or a managing agent and/or parking operator. If Landlord contracts with a parking operator, at Landlord's request, Tenant shall enter into a separate parking agreement between such operator and Tenant, and Landlord will cause the operator of the parking area to agree to provide Tenant during the Term with the number of parking spaces indicated in the Lease Summary at no cost to Tenant so long as Tenant complies with the terms and conditions set forth in the parking agreement. Tenant acknowledges that all driveways used to access Tenant's parking and that run through Tenant's parking are intended for the joint use of all tenants of the Land and their invitees and that owners of property adjacent to the Land have certain easement rights over some of the driveways located on the Land.

ARTICLE XIV
GENERAL PROVISIONS

14.1 Delay. Except as expressly provided in this Lease, whenever Landlord or Tenant is delayed in the fulfillment of any obligation under this Lease, other than the payment of rent or other charges, by an unavoidable occurrence which is not the fault of the party delayed in performing such obligation, then the time for fulfillment of such obligation shall be extended during the period in which such circumstances operate to delay the fulfillment of such obligation.

14.2 Holding Over. If Tenant remains in possession of the Premises after the end of the Term without having executed and delivered a new lease or an agreement extending the Term, there shall be no tacit renewal of this Lease or the Term, Tenant shall be deemed to be occupying the Premises as a Tenant at sufferance at a monthly rent payable in advance on the first day of each month equal to one hundred fifty percent (150%) of the monthly amount of rent payable during the last month of the Term, and otherwise upon the same terms as are set forth in this Lease, so far as they are applicable to a tenancy at sufferance and shall be in default of this Lease if such hold over exceeds two (2) months in length.

14.3 Waiver; Partial Invalidity. If either Landlord or Tenant excuses or condones any default by the other of any obligation under this Lease, this shall not be a waiver of such obligation in respect of any continuing or subsequent default and no such waiver shall be implied. All of the provisions of this Lease are to be construed as covenants even

though not expressed as such. If any such provision is held or rendered illegal or unenforceable it shall be considered separate and severable from this Lease and the remaining provisions of this Lease shall remain in force and bind the parties as though the illegal or unenforceable provision had never been included in this Lease.

14.4 Recording. Neither Tenant nor anyone claiming under Tenant shall record this Lease or any memorandum hereof in any public records without the prior written consent of Landlord and Tenant.

14.5 Notices. Any notice, consent, or other instrument required or permitted to be given under this Lease shall be in writing and shall be delivered in person, or sent by certified mail, return receipt requested, or overnight express mail courier, postage prepaid, addressed to each party's address set forth in the Lease Summary. Any such notice or other instruments shall be deemed to have been given and received on the day upon which personal delivery or delivery by overnight express mail courier is made or, if mailed, then 48 hours following the date of mailing. Either party may give notice to the other of any change of address and after the giving of such notice, the address therein specified is deemed to be the address of such party for the giving of notices. If postal service is interrupted or substantially delayed, all notices or other instruments shall be delivered in person or by overnight express mail courier. Once the Tenant has taken occupancy of the Premises, any notice from Landlord to Tenant shall be effective if delivered to the Premises address in the manner provided in this paragraph.

14.6 Successors; Joint and Several Liability. The rights and liabilities created by this Lease extend to and bind the successors and assigns of Landlord and the heirs, executors, administrators, and permitted successors and assigns of Tenant. No rights, however, shall inure to the benefit of any transferee unless such Transfer complies with the provisions of Article VIII.

14.7 Captions and Section Numbers. The captions, Section numbers, and article numbers appearing in this Lease are inserted only as a matter of convenience and in no way affect the substance of this Lease.

14.8 Extended Meanings. The words "hereof," "hereto," "hereunder," and similar expressions used in this Lease relate to the whole of this Lease and not only to the provisions in which such expressions appear. This Lease shall be read with all changes in number and gender as may be appropriate or required by the context. Any reference to Tenant includes, when the context allows, the employees, agents, invitees, and licensees of Tenant and all others over whom Tenant might reasonably be expected to exercise control. This Lease has been fully reviewed and negotiated by each party and their counsel and shall not be more strictly construed against either party.

14.9 Entire Agreement; Governing Law; Time. This Lease and the Exhibits and Riders, if any, attached hereto are incorporated herein and set forth the entire agreement between Landlord and Tenant concerning the Premises and there are no other agreements or understandings between them. This Lease and its Exhibits and Riders may not be modified except by agreement in writing executed by Landlord and Tenant. This Lease shall be construed in accordance with and governed by the laws of the State of Georgia. Time is of the essence of this Lease, including specifically, but not limited to, the terms and conditions contained in Rider 1 attached hereto.

14.10 No Partnership. Nothing in this Lease creates any relationship between the parties other than that of lessor and lessee and nothing in this Lease constitutes Landlord a partner of Tenant or a joint venturer or member of a common enterprise with Tenant.

14.11 Quiet Enjoyment. Provided that Tenant pays rent and other charges and observes and performs all of its other obligations under this Lease, Landlord warrants and covenants that Tenant shall have peaceful and quiet enjoyment of the Premises for the Term without interruption or interference by Landlord or any person claiming through Landlord.

14.12 Brokerage. Landlord and Tenant each represent and warrant one to the other that except as set forth in the Lease Summary, neither of them has employed any broker in connection with the negotiations of the terms of this Lease or the execution thereof. Landlord and Tenant hereby agree to indemnify and to hold each other harmless against any loss, expense, or liability (including, without limitation, reasonable attorneys' fees and costs actually incurred) with respect to any claims for commissions or brokerage fees arising from or out of any breach of the foregoing representation and warranty. Landlord shall pay any commissions payable to Landlord's Broker pursuant

to separate agreement, and Landlord shall cause Landlord's Broker to pay any commissions payable to Tenant's Broker pursuant to separate agreement between Landlord's Broker and Tenant's Broker.

14.13 Telecommunications.

(a) Tenant shall, at Tenant's sole cost and expense, be solely responsible for securing such telephone and other electronic telecommunications service from the Building's common connection point to the Premises as Tenant may require for its use and occupancy thereof, and Landlord shall have no obligations or liability whatsoever to Tenant with respect the installation, operation or maintenance of any equipment or facilities relating to the telecommunications services from the Building's common connection point to the Premises.

(b) None of Landlord's approval of, or requirements concerning, any telecommunications work, lines, equipment, plans, specifications or drawings or any equipment related thereto, Tenant's telecommunications provider or Tenant's and/or Tenant's telecommunications provider's contractors or subcontractors, shall be deemed a warranty as to the adequacy, suitability, competence or financial strength thereof, and Landlord hereby disclaims any responsibility or liability for the same. Further, Landlord makes no representation to Tenant regarding the condition, security, availability, competence, financial strength or suitability for Tenant's purposes of any telecommunications services presently located within the Building, and Tenant hereby acknowledges that Landlord shall have no obligation or liability and hereby waives any claim against Landlord for any damages or problems in the event that Tenant's telecommunications services, lines or equipment are in any way inadequate, do not satisfy Tenant's requirements, are interrupted, curtailed, discontinued, disconnected, terminated, damaged or otherwise interfered with, or fail, except to the extent caused by the negligence or willful misconduct of Landlord, its employees or agents.

(c) Any telegraphic, telephone or data lines, cabling, and wiring installed in the Premises and/or the Building by or on behalf of Tenant shall be appropriately tagged with Tenant's name and the name of the provider, and all of such wiring shall be removed by Tenant, at Tenant's expense, upon the expiration or termination of this Lease unless Landlord notifies Tenant that Tenant shall leave all such lines, cabling, and wiring in place for use by Landlord and/or a future occupant.

14.14 Business Days. For all purposes of this Lease, a "Business Day" means any day other than a Saturday, Sunday or legal holiday declared by the federal government.

14.15 Authority. Tenant and Landlord and the individuals and/or entities executing this Lease on behalf of them represent to the other party to this Lease that such party is authorized to do so and that this Lease has been duly authorized and executed by such party.

14.16 Rents From Real Property. Landlord and Tenant agree that all rent payable by Tenant to Landlord shall qualify as "rents from real property" within the meaning of both Sections 512(b)(3) and 856(d) of the Internal Revenue Code of 1986, as amended (the "Code") and the U.S. Department of Treasury Regulations promulgated thereunder (the "Regulations"). If Landlord, in its sole discretion, determines that there is any risk that all or part of any rent shall not qualify as rents from real property for the purposes of the Code and the Regulations, Tenant agrees to cooperate with Landlord (at Landlord's expense) by entering into such amendment or amendments as Landlord deems necessary to qualify all rent as rents from real property, in form and content reasonably acceptable to Tenant; provided, however, that any adjustments required pursuant to this paragraph shall be made so as to produce the equivalent rent (in economic terms) payable prior to such adjustment.

14.17 OFAC Compliance. Tenant represents and warrants that (a) neither Tenant nor any person or entity that owns an equity interest in it nor any of its officers, directors, or managing members is a person or entity (each, a "Prohibited Person") with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including Executive Order 13224 (the "Executive Order") signed on September 24, 2001 and entitled "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism"), or other governmental action, (b) Tenant's activities do not violate the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 or the regulations or orders promulgated thereunder (as amended from time to time, the "Money

Laundering Act") (i.e., Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the "Patriot Act"), and (c) Tenant shall comply with the Executive Order, the Money Laundering Act, and the Patriot Act.

14.18 WAIVERS BY TENANT. Tenant expressly waives all of the following: (i) The requirement under Georgia law, if any, that the plaintiff in his distress for rent action file a bond payable to Tenant in the sum, or any multiple thereof, demanded by the plaintiff, it being understood that no bond shall be required in any such action; (ii) the right of Tenant to replevy distrained property; (iii) in the event of suit by or against Landlord, then the venue of such suit shall be in Newton County, Georgia, and Tenant hereby waives for itself whatever rights it may have in the selection of venue; (iv) the right of counterclaim in any action brought by Landlord against Tenant for damages or for possession of the Premises due to nonpayment of Base Rent or other sums required of Tenant under this Lease; (v) the notice requirements set under Georgia law for actions based on leases of commercial property and (vi) the right to tender payment pursuant to GA Code Ann. 44-7-52.

14.19 TRIAL BY JURY. LANDLORD AND TENANT EACH HEREBY WAIVES ITS RIGHT TO A JURY TRIAL OF ANY ISSUE OR CONTROVERSY ARISING UNDER THIS LEASE.

14.20 Counterparts This Lease may be executed by each of the parties in separate counterparts with the same effect as if all parties executed the same counterpart. Each such counterpart shall be deemed an original and all of such counterparts together shall constitute one instrument. Any counterpart executed by facsimile or via email as a portable document format (.pdf), shall be deemed to be an original in all cases.

[signature page follows]

IN WITNESS WHEREOF, the parties have executed this Lease as of the date first above written.

LANDLORD'S TWO WITNESSES:

Print Name: Renee L. Brodie

Print Name: Isabella J. Brodie

LANDLORD:

Covington Industrial LLC, a Delaware limited liability company

By: 9172 Industrial MM LLC, its Manager

By: T Brodie
Name: Thomas L. Brodie
Title: Managing Member

TENANT'S TWO WITNESSES:

Print Name: _____

Print Name: _____

TENANT:

Battery Resourcers, Inc., a Delaware corporation

By: _____
Print Name: _____
Title: _____

IN WITNESS WHEREOF, the parties have executed this Lease as of the date first above written.

LANDLORD'S TWO WITNESSES:

_____
Print Name:_____

_____
Print Name:_____

LANDLORD:

Covington Industrial LLC, a Delaware limited liability company

By: 9172 Industrial MM LLC, its Manager

By:_____
Name:_____
Title: Managing Member

TENANT'S TWO WITNESSES:

_____
Print Name: Andrew Aberdale

_____
Print Name: LIAM LOCHHEAD

TENANT:

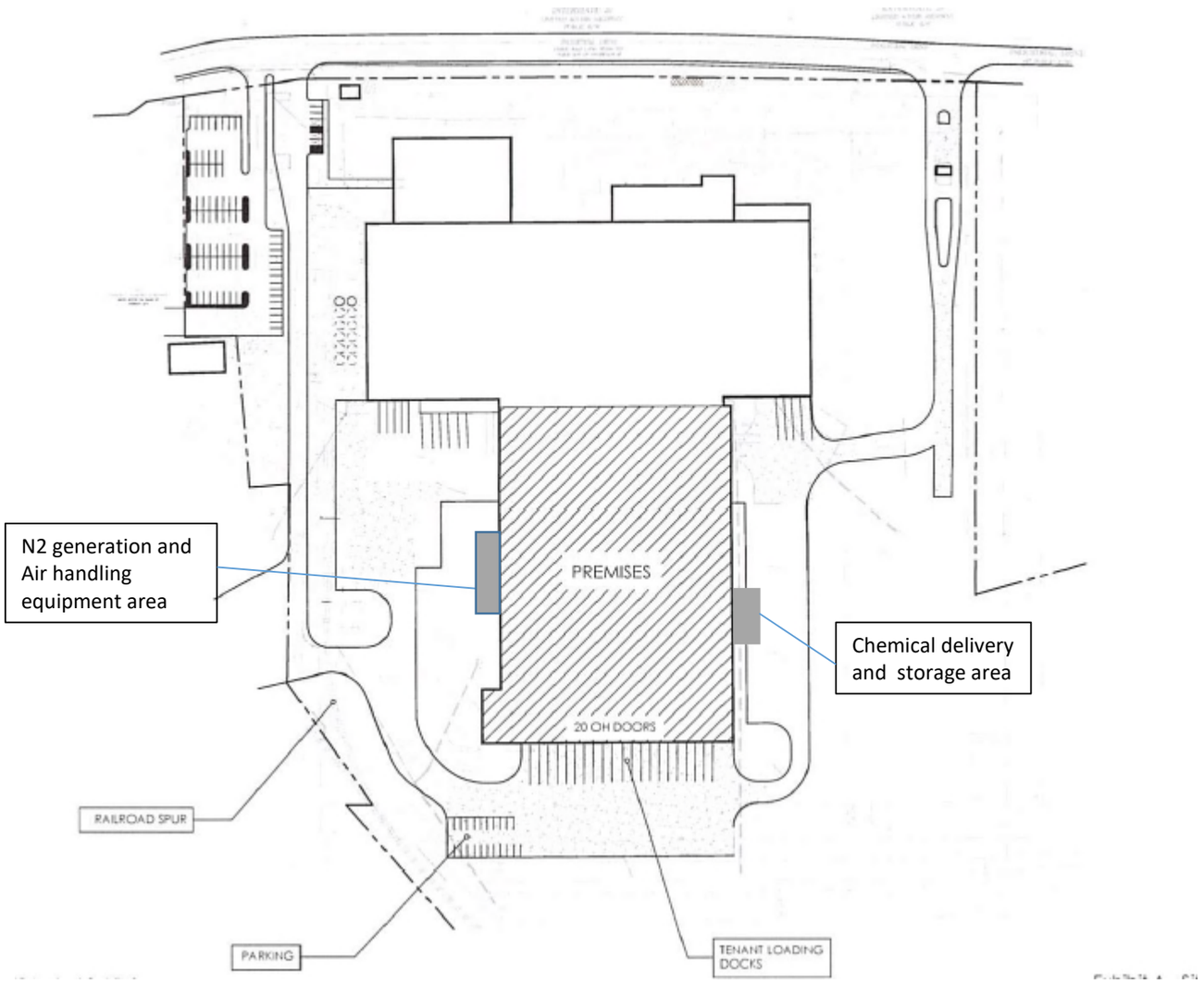
Battery Resourcers, Inc., a Delaware corporation

By:_____
Print Name: Michael O'Kronley
Title: CEO

EXHIBIT "A"

SITE PLAN OF PREMISES

[See Attached Sketch]


N2 generation and Air handling equipment area
PREMISES
Chemical delivery and storage area
20 OH DOORS
RAILROAD SPUR
PARKING
TENANT LOADING DOCKS

60950474;5

EXHIBIT "B"

LEGAL DESCRIPTION OF THE LAND

All that tract or parcel of land lying and being in Land Lot 273 of the 9th District, City of Covington, Newton County, Georgia and being more particularly described as follows:

Commencing at a right of way monument found at the intersection of the westerly side of the right of way of Alcovy Road (a variable right of way) and the southerly side of the right of way of Interstate 20 Limited Access Highway (a variable right of way), thence running easterly along the southerly side of the right of way of Interstate 20 Limited Access Highway a distance of 485.02' to a ½" rebar set at the **TRUE POINT OF BEGINNING** (the above referenced distance is more particularly described by the following six (6) courses and distances: North 88 degrees 02 minutes 13 seconds East a distance of 114.40 feet to a right of way monument found; thence along a curve to the left an arc length of 115.20 feet, said curve having a radius of 248.00' and a chord bearing of North 79 degrees 14 minutes 54 seconds East and a chord distance of 114.16 feet to a right of way monument found; thence North 66 degrees 33 minutes 04 seconds East a distance of 126.11 feet to a right of way monument found; thence North 87 degrees 17 minutes 25 seconds East a distance of 48.21 feet to a right of way monument found; thence North 53 degrees 54 minutes 44 seconds East a distance of 30.61 feet to a right of way monument found; thence North 81 degrees 31 minutes 01 seconds East a distance of 50.49 feet to an iron pin set at the **TRUE POINT OF BEGINNING)**. From point **TRUE POINT OF BEGINNING** thus established continue along the southerly side of the right of way of Interstate 20 Limited Access Highway North 81 degrees 48 minutes 47 seconds East a distance of 165.76 feet to a nail set; thence continuing along the southerly side of said right of way North 89 degrees 37 minutes 14 seconds East a distance of 462.40 feet to a right of monument found; thence continuing along the southerly side of said right of way South 89 degrees 06 minutes 22 seconds East a distance of 455.76 feet to a right of way monument found at the intersection of the southerly side of the right of way of Interstate 20 Limited Access Highway and the southerly side of the right of way of Industrial Drive (a 60' right of way); thence running along the southerly side of the right of way of Industrial Drive North 89 degrees 53 minutes 43 seconds East a distance of 13.31 feet to a ½" rebar found; thence leaving the southerly side of the right of way of Industrial Drive South 00 degrees 09 minutes 59 seconds West a distance of 705.16 feet to a ½" rebar found; thence North 74 degrees 07 minutes 51 seconds East a distance of 645.09 feet to a rock found; thence South 27 degrees 41 minutes 45 seconds East a distance of 169.19 feet to an iron pin set; thence South 09 degrees 20 minutes 10 seconds West a distance of 207.97 feet to an iron pin set on the northwesterly side of the right of way of the Georgia Railroad (a 200' right of way); thence running along the northwesterly side of said Georgia Railroad right of way South 50 degrees 33 minutes 00 seconds West a distance of 872.57 feet to a ½" rebar found at the intersection of the northwesterly side of said Georgia Railroad right of way with the northeasterly line of property now or formerly owned by CSX Railroad; thence leaving the northwesterly side of said Georgia Railroad right of way and running northwesterly along the northeasterly boundary line of adjacent property now or formerly owned by CSX Railroad the following courses and distances: along the northeasterly boundary line of the adjacent property now or formerly owned by CSX Railroad along a curve to the right an arc length of 559.93 feet, said curve having a radius of 557.35' and a chord bearing of North 73 degrees 54 minutes 17 seconds West and a chord distance of 536.68 feet to a point; North 47 degrees 09 minutes 42 seconds West a distance of 19.33 feet to a point; North 45 degrees 40 minutes 29 seconds West a distance of 98.45 feet to a point; North 45 degrees 14 minutes 27 seconds West a distance of 99.85 feet to a point; North 40 degrees 53 minutes 24 seconds West a distance of 188.34 feet to a ½" rebar found; thence leaving said northeasterly boundary line of the adjacent property now or formerly owned by CSX Railroad North 89 degrees 56 minutes 41 seconds West a distance of 28.58 feet to a point in the centerline of a railroad spur line; thence North 35 degrees 18 minutes 32 seconds West a distance of 205.51 feet to a ½" rebar found; thence North 01 degrees 04 minutes 15 seconds East a distance of 272.97 feet to a 2" brass disc found; thence South 85 degrees 05 minutes 55 seconds West a distance of 56.44 feet to an iron pin set; thence North 05 degrees 10 minutes 29 seconds West a distance of 209.58 feet to a 2" brass disc found; thence South 88 degrees 22 minutes 36 seconds West a distance of 71.40 feet to a 2" brass disc found; thence North 00 degrees 19 minutes 08 seconds West a distance of 332.71 feet to an iron pin set on the southerly side of the right of way of Interstate 20 Limited Access Highway at the **TRUE POINT OF BEGINNING.**

EXHIBIT "C"

USE RESTRICTIONS

Without intending to expand on Tenant's Permitted Use of the Premises, in no event may the Premises be used for any of the following uses:

1. Businesses that generate unsightliness noxious, offensive, unhealthy or harmful odors, fumes, dust, smoke, waste, glare or excessive light, noise, vibration or any other unlawful, or unreasonably objectionable use; provided that if any other tenant of the Property complains about Tenant's use of the Premises or the Land for any of the reasons identified above, Tenant shall take commercially reasonable efforts to mitigate any such activities to reasonably acceptable levels.

2. Drilling and exploring for and/or removal of oil, gas or other hydrocarbon substances

3. Adult entertainment or oriented businesses (e.g., gentlemen's clubs, adult videos or bookstore)

4. The sale or servicing of firearms, explosives, weapons of any kind or other similar dangerous products

5. Shooting range

6. Animal breeding or the sale of animals

7. Animal hospitals or veterinarian services

8. Kennels or dog pounds

9. Boarding and rescue (animals)

10. Stockyard or slaughter of animals

11. Tallow processing

12. Refining of petroleum or its products

13. Dance or night clubs

14. Laboratories utilizing Hazardous Substances; provided, however, that Landlord acknowledges that Tenant's use and storage of chemicals typically used in the conduct of Tenant's business for the Permitted Use which are used and stored in accordance with the terms of the Lease will not violate the foregoing restriction

15. Placement, transportation, holding, locating, disposal, manufacture, storage or dumping of Hazardous Substances; provided, however, that Landlord acknowledges that Tenant's use and storage of chemicals typically used in the conduct of Tenant's business for the Permitted Use which are used and stored in accordance with the terms of the Lease will not violate the foregoing restriction

16. Amusement center

17. Bingo or game parlor

18. Billiards parlor

19. Beauty parlor

20. Recording studio or any related commercial music production use

21. Sale or distribution of graphically-explicit sexual images

22. Central laundry or dry cleaning plant

23. Funeral parlor or mortuary

24. Off-track betting establishment

25. Sale, display, rental, leasing, repair or storage of parts for automobiles, motorcycles, boats, trucks, trailers, recreational vehicles, mobile homes or other motor vehicles

26. Tattoo parlor

27. Church

28. Cannabis grow facility

29. Any uses that are in violation of the applicable zoning uses of the city or county applicable to the Land, Building and Premises

EXHIBIT "D"

RULES AND REGULATIONS

1. Security. Landlord may from time to time adopt appropriate systems and procedures for the security or safety of the Building, any persons occupying, using, or entering the same, or any equipment, furnishings, or contents thereof, and Tenant shall comply with Landlord's reasonable requirements relative thereto.

2. Return of Keys. At the end of the Term, Tenant shall promptly return to Landlord all keys for the Building and Premises which are in the possession of Tenant. If Tenant fails to return keys, Landlord may retain $500 of Tenant's security deposit for locksmith work and administration.

3. Repair, Maintenance, Alterations, and Improvements. Tenant shall carry out Tenant's repair, maintenance, alterations, and improvements in the Premises only during times agreed to in advance by Landlord and in a manner which will not interfere with the rights of other tenants in the Building.

4. Water Fixtures. Tenant shall not use water fixtures for any purpose for which they are not intended, nor shall water be wasted by tampering with such fixtures. Any cost or damage resulting from such misuse by Tenant shall be paid for by Tenant.

5. Personal Use of Premises. The Premises shall not be used or permitted to be used for residential, lodging, or sleeping purposes.

6. Heavy Articles. Tenant shall not place in or move about the Premises without Landlord's prior written consent any safe or other heavy article which in Landlord's reasonable opinion may damage the Building, and Landlord may designate the location of any such heavy articles in the Premises. Notwithstanding the foregoing, Tenant shall be permitted to install any equipment used in conducting Tenant's business operations in compliance with the Permitted Use without prior approval, subject to Landlord's approval with respect to the appropriate placement of such equipment within the Premises.

7. Bicycles, Animals. Tenant shall not bring any animals (excepting only dogs trained to assist handicapped persons) into the Building, and shall not permit bicycles or other vehicles inside or on the sidewalks outside the Building except in areas designated from time to time by Landlord for such purposes; provided, however, that the foregoing shall not prohibit the use of forklifts in or around the Building.

8. Deliveries. Tenant shall ensure that deliveries of supplies, fixtures, equipment, furnishings, wares, and merchandise to the Premises are made through such entrances, elevators, and corridors as may from time to time be designated by Landlord, and shall promptly pay or cause to be paid to Landlord the cost of repairing any damage in the Building caused by any person making improper deliveries.

9. Solicitations. Landlord reserves the right to restrict or prohibit canvassing, soliciting, or peddling in the Building.

10. Food and Beverages. Except as is customary for general office purposes, or with Landlord's prior written consent and in accordance with arrangements approved by Landlord, Tenant shall not permit on the Premises the use of equipment for dispensing food or beverages or for the preparation, solicitation of orders for, sale, serving, or distribution of food or beverages.

11. Refuse. Tenant shall place all refuse in proper receptacles provided by Tenant at its expense in the Premises or in areas designated by Landlord for the Building and shall not place or allow its employees, agents or contractors to place any refuse on sidewalks and driveways outside the Building, and lobbies, corridors, stairwells, ducts, and shafts of the Building.

12. Proper Conduct. Tenant shall not conduct itself in any manner which is inconsistent with the character of the Building as a first quality building or which will impair the comfort and convenience of other tenants in the Building.

13. Employees, Agents, and Invitees. In these Rules and Regulations, "Tenant" includes the employees, agents, invitees, and licensees of Tenant and others permitted by Tenant to use or occupy the Premises.

14. Parking. If Landlord designates tenant parking areas for the Building, each tenant shall park its vehicles and shall cause its employees and agents to park their vehicles only in such designated parking areas. Landlord may itself or through any agent designated for such purpose, make, administer, and enforce additional rules and regulations regarding parking by tenants and by their employees or agents, including, without limitation, rules and regulations permitting Landlord or such agent to move any vehicles improperly parked to the designated tenant or employee parking areas. No trucks, tractors, or similar vehicles can be parked anywhere other than in Tenant's own truck dock area. Tractor-trailers which must be unhooked or parked with dolly wheels beyond the concrete loading areas must use steel plates or wood blocks under the dolly wheels to prevent damage to the asphalt paving surfaces. No parking or storing of such trailers will be permitted in the parking areas or on streets adjacent thereto.

15. Traffic Flow. During periods of loading and unloading, Tenant shall not obstruct the traffic flow and loading and unloading areas of other tenants. All products, materials, or goods must be stored within Tenant's Premises and not in any exterior areas, including, but not limited to, exterior dock platforms, against the exterior of the Building, parking areas and driveway areas. Tenant agrees to keep the exterior of the Premises clean and free of nails, wood, pallets, packing materials, barrels and any other debris produced from their operation.

16. Waiver. Landlord may, upon request by any tenant, waive the compliance by such tenant of any of the rules and regulations provided that (i) no waiver shall be effective unless signed by Landlord or Landlord's authorized agent, (ii) any such waiver shall not relieve such tenant from the obligation to comply with such rule or regulation in the future unless expressly consented to by Landlord, and (iii) no waiver granted to any tenant shall relieve any other tenant from the obligation of complying with the rules and regulations unless such other tenant has received a similar waiver in writing from Landlord. Landlord is not responsible for other tenants' violations of these rules and regulations; provided, however, Landlord shall use good faith efforts to enforce the rules and regulations uniformly.

EXHIBIT "E"

COMMENCEMENT DATE CONFIRMATION

Re: Lease dated _____, 2021 (the "Lease"), between Covington Industrial LLC, a Delaware limited liability company (the "Landlord"), and Battery Resourcers, Inc., a ____ corporation (the "Tenant"), regarding approximately 154,510 rentable square feet located at 9176 Industrial Drive Northeast, Covington, Georgia 30014 (the "Premises").

In accordance with the Lease, Landlord and Tenant hereby confirm that the Commencement Date of the Lease is _____, 202__, the Rent Commencement Date is _____, 202__ and that the Expiration Date of the Lease is _____, 20__.

Tenant hereby accepts the Premises as being in the condition required under the Lease.

Executed this _____ day of _____, 202__.

LANDLORD:

Covington Industrial LLC, a Delaware limited liability company

By:_____
Name:_____
Title:_____

TENANT:

Battery Resourcers, Inc., a _____ corporation

By:_____
Print Name:_____
Title:_____

EXHIBIT "F"
TENANT'S APPROVED SIGNAGE

[To Be Provided By Tenant Along With Its Plans and Specifications For The Tenant Improvements]

RIDER 1

SPECIAL STIPULATIONS

1. Options to Renew.

(a) Landlord hereby grants Tenant the option to renew (the "Renewal Options") the Term (not to include, for purposes of this Rider, the Renewal Term, as hereinafter defined) for two (2) additional terms of sixty (60) months each (the "Renewal Terms"), the first such Renewal Term, if exercised, commencing as of the date immediately following the expiration of the Term and the second such Renewal Term, if exercised, commencing as of the date immediately following the expiration of the first Renewal Term, such option to be subject to the covenants and conditions hereinafter set forth in this Rider.

(b) Tenant shall give Landlord written notice (the "Renewal Notice") of Tenant's election to exercise its Renewal Options not later than twelve (12) months prior to the expiration of the initial Term of the Lease or the expiration of the first Renewal Term, as applicable; provided that Tenant's failure to give the Renewal Notice by said date, whether due to Tenant's oversight or failure to cure any existing defaults or otherwise, shall render the Renewal Option null and void and of no further force or effect. Time is of the essence as to the delivery of the Renewal Notice.

(c) Tenant shall not be permitted to exercise the Renewal Options at any time during which Tenant is in default under the Lease, subject to applicable notice and grace periods (if any). The second Renewal Term can only be exercised by Tenant if Tenant has properly exercised the first Renewal Term.

(d) Tenant shall be deemed to have accepted the Premises in "as-is" condition as of the commencement of each of the Renewal Terms, subject to any other repair and maintenance obligations of Landlord under the Lease, it being understood and agreed that Landlord shall have no additional obligation to renovate or remodel the Premises or any portion of the Building as a result of Tenant's renewals of the Lease.

(e) The covenants and conditions of the Lease in force during the Term, as the same may be modified from time to time, shall continue to be in effect during the Renewal Terms, except as follows:

(i) The "Commencement Date" and the "Rent Commencement Date" for the purpose of the Lease shall both be the first day of the applicable Renewal Term.

(ii) The Base Rent for the first Lease Year of the Renewal Terms shall be an amount equal to the greater of i) three percent (3%) above the Base Rent amount in effect for the last Lease Year of the initial Term of the Lease or the last Lease Year of the first Renewal Term, as applicable, or ii) the then Fair Market Rental Value of the Premises. "Fair Market Rental Value" of the Premises shall be an amount determined in accordance with this Subsection 1(e)(ii) to be the effective rental rate then being offered by landlords to tenants desiring to lease comparable space, which is the size of the Premises, in the other comparable industrial buildings located in comparable projects in the Covington/Conyers, Georgia area, for a comparable term, with comparable on-site amenities and services, including heavy power for manufacturing equal to the amount of power available on a per foot basis as the Premises and with a comparable number of transformers and comparable parking rights and privileges and access to a railroad spur line. In the event Tenant submits a Renewal Notice as set forth above, Landlord shall, within thirty (30) days after Landlord's receipt of such Renewal Notice, provide Tenant notice of Landlord's proposed "Fair Market Rental Value" for the Premises for such Renewal Term, as reasonably determined by Landlord ("Landlord's Rent Proposal"). In no event shall Base Rent for any year of the Renewal Terms be less than the amount of Base Rent for the immediately prior Lease Year. Following Tenant's receipt of Landlord's Rent Proposal, Landlord and Tenant shall have forty-five (45) days to negotiate in good faith a mutual determination of the Fair Market Rental Value. If, after negotiating in good faith, Landlord and Tenant are unable to agree on the Fair Market Rental Value within said forty-five (45) day period, Tenant shall have ten (10) days to elect to withdraw its exercise of the option to extend, in which case this Lease will expire at the end of the then current base Term or Renewal Term, as the case may be. Within thirty (30) days following the mutual agreement of the determination of the Fair Market Rental Value in question,

Landlord and Tenant shall execute an amendment to this Lease stating the Base Rent for the Renewal Term. The Base Rent for each Lease Year of the exercised Renewal Terms after the initial Lease Year thereof shall increase at the rate of three percent (3%) per year over the Base Rent in effect for the prior Lease Year.

(iii) Following expiration of the second Renewal Term, Tenant shall have no further right to renew or extend the Lease.

(f) Tenant's option to renew the Lease shall not be transferable by Tenant, except in conjunction with a permissible Transfer in accordance with the applicable provisions of the Lease.

2. Required Review of all Tenant Improvements, Tenant Alterations and Processes Involving Hazardous Substances.

During the Term of this Lease, Tenant shall provide plans and specifications for all Tenant Improvements, Tenant alterations and all processes involving Hazardous Substances to be used on the Premises and or the Land to Landlord in advance of Tenant's construction activities related to same. Landlord shall promptly review and notify Tenant of whether it approves of the submitted plans and specifications within thirty (30) days after Tenant's submission thereof. Such approval shall not be unreasonably withheld, conditioned or delayed. If Landlord disapproves of such plans and specifications, then Landlord shall notify Tenant thereof specifying in reasonable detail the reasons for such disapproval, in which case Tenant shall, within five (5) Business Days after such notice, revise such plans and specifications to address Landlord's objections and submit to Landlord for its review and approval. Landlord shall notify Tenant in writing whether it approves of the resubmitted plans and specifications within five (5) Business Days after its receipt thereof. This process shall be repeated until the plans and specifications have been finally approved by Landlord and Tenant. Landlord and Tenant shall act diligently and in good faith to expeditiously resolve any dispute between the parties related to Landlord's disapproval of any of the items submitted to Landlord for approval. Any work done in connection with the Tenant Improvements, Tenant alterations and all processes involving Hazardous Substances by Tenant shall be performed at the sole cost of Tenant by reputable contractors selected by Tenant, in a good and workmanlike manner, and in accordance with all applicable Legal Requirements, including but not limited to all Environmental Laws. Tenant shall pay to or reimburse Landlord for Landlord's fees and costs charged by Landlord's architect and or engineer and incurred in connection with their review of plans and inspection of any work done in connection with any Tenant Improvements, Tenant alterations and all processes involving Hazardous Substances. Such fees and costs shall be due and payable within thirty (30) days following written demand therefor by Landlord. Upon completion of the work or prior to the date any contractor or supplier has the right to file a lien, Tenant shall deliver to Landlord lien waivers or releases from all contractors, subcontractors and materialmen who performed work or supplied materials for any such work undertaken by Tenant. Landlord's review and approval of plans and specifications for any and all Tenant Improvements, Tenant alterations and all processes involving Hazardous Substances to be used on the Premises and or the Land shall not be deemed to be and shall not be confirmation, consent or approval that such plans and specification comply with any or all Laws, including but not limited to any and all Environmental Laws. Tenant shall be responsible for confirming that its plans and specifications for any and all Tenant Improvements, Tenant alterations and all processes involving Hazardous Substances to be used on the Premises and or the Land comply with all applicable Laws, including but not limited to any and all Environmental Laws.

3. Tenant Refinancing of Existing Loan.

(a) The Land is currently encumbered by a Deed to Secure Debt and Security Agreement dated October 30, 2017 from Landlord to Ameritas Life Insurance Corp ("Lender") recorded in Official Records Book 3627 at Page 449 of the Public Records of Newton County, Georgia (the "Deed of Trust"). The Deed of Trust secures a loan (the "Loan") evidenced by that certain promissory note from Landlord to Lender also dated October 30, 2017 in the original principal amount of $6,200,000.00 (the "Note") and other related documents (the Note, Deed of Trust and other Loan documents are collectively referred to herein as the "Loan Documents"). As discussed by the parties, the Landlord will be required to obtain the Lender's approval of the Lease and Tenant's intended use of the Premises. Within five (5) Business Days after the Effective Date of this Lease, Landlord shall request from Lender approval of this Lease and Tenant's intended use of the Premises.

(b) In the event that the Lender does not approve of the Lease and/or Tenant's proposed use of the Premises then Tenant agrees that it shall either: (i) if the Lender will agree to assign the Loan and Loan Documents to Tenant, Tenant shall, within five (5) Business Days after Landlord's notice that the Lender will not approve of the Lease and or Tenant's use, pay to the Lender all principal, accrued interest and other fees and costs due to Lender under the Loan Documents and accept an assignment of the Loan and Loan Documents from Lender and enter into a modification of the Loan Documents with Landlord consistent with the terms and conditions identified in Subsection 3(c) below, or (ii) if the Lender will not agree to assign the Loan and Loan Documents to Tenant, Tenant shall, within five (5) Business Days after Landlord's notice that the Lender will not approve of the Lease and or Tenant's use, pay to the Lender all principal, accrued interest and other fees and costs due to Lender under the Loan Documents and enter into a new loan with Landlord on terms and conditions reasonably acceptable to Landlord and Tenant, including but not limited to those identified in Subsection 3(d) below.

(c) If the Lender will agree to assign the Loan and Loan Documents to Tenant, then upon the assignment of the Loan and Loan Documents to Tenant, Tenant and Landlord shall enter into an amendment of the Loan Documents (or such individual Loan Documents as appropriate) amending them with the following terms and conditions: (i) the outstanding principal balance of the Loan shall be modified to equal all amounts paid by Tenant to the Lender for the assignment of the Loan to Tenant including any prepayment or yield maintenance fees and any penalties; (ii) the interest rate under the Loan shall be six percent (6%) per annum for the first twelve (12) months of the Loan and eight percent (8%) per annum for the next twelve (12) months of the Loan; (iii) during the term of the Loan payments will be interest only with the full principal amount due upon pay-off or refinancing of the Loan; (iv) the Maturity Date of the Loan (as defined in the Note) shall be modified to be the date that is twenty-four (24) months after the date of the Loan modification; (v) the Loan can be prepaid at any time without any prepayment penalty or yield maintenance requirements; (vi) Tenant shall agree not to assign the Loan or Loan documents during the term of the Loan unless requested by Landlord to do so for a future refinancing of the Loan; (vii) neither Landlord nor any of Landlord's managers or other affiliated parties will be required to guaranty the Loan; (viii) Tenant shall not have the right to review, approve or disapprove of any of Landlord's actions with respect to any other current or future tenant of the Building or the Land; (ix) Landlord will not have to escrow annual real estate taxes and insurance payments with Tenant; (x) any covenants, obligations, indemnities and requirements in the Loan Documents that may otherwise be applicable to the Tenant's storage, use, handling and disposal of Hazardous Substances shall not apply to Tenant's storage, use, handling and disposal of Hazardous Substances; and (xi) that this Lease shall be deemed to be a Permitted Exception under the Loan Documents.

(d) If the Lender will not agree to assign the Loan and Loan Documents to Tenant, then upon the prepayment of the Loan by Tenant, Tenant and Landlord shall enter into a new promissory note, deed of trust and other appropriate loan documents to evidence a new loan from Tenant to Landlord (the "New Loan") provided such New Loan shall have the following terms and conditions: (i) the outstanding principal balance of the New Loan shall be equal to all amounts paid by Tenant to the Lender to payoff and satisfy the Loan including any prepayment or yield maintenance fees and any penalties; (ii) the interest rate under the New Loan shall be six percent (6%) per annum for the first twelve (12) months of the New Loan and eight percent (8%) per annum for the next twelve (12) months of the New Loan; (iii) during the term of the New Loan payments will be interest only with the full principal amount due upon pay-off or refinancing of the New Loan; (iv) the maturity date of the New Loan shall be the date that is twenty-four (24) months after the date of the New Loan; (v) the New Loan can be prepaid at any time without any prepayment penalty or yield maintenance requirements; (vi) Tenant shall agree not to assign the New Loan during the term of the New Loan unless requested by Landlord to do so for a future refinancing of the New Loan; (vii) neither Landlord nor any of Landlord's managers or other affiliated parties will be required to guaranty the New Loan; (viii) Tenant shall not have the right to review, approve or disapprove of any of Landlord's actions with respect to any other current or future tenant of the Building or the Land; (ix) Landlord will not have to escrow annual real estate taxes and insurance payments with Tenant; (x) any covenants, obligations, indemnities and requirements in the Loan Documents that may otherwise be applicable to the Tenant's storage, use, handling and disposal of Hazardous Substances shall not apply to Tenant's storage, use, handling and disposal of Hazardous Substances; and (xi) this Lease shall be deemed to be a Permitted Exception under the New Loan.

(e) Tenant agrees that during the term of the Loan, if assigned to Tenant, or the New Loan, Tenant shall reasonably cooperate with Landlord in Landlord's efforts to refinance the Loan or New Loan.

(f) To avoid a default under the Loan Documents, Tenant agrees that it shall not make any alterations to the Premises, Building or the Land and shall not make any use of the Premises, Building or Land until either (i) Lender has approved of the Lease and Tenant's intended use of the Premises or (ii) Tenant has (a) obtained an assignment of the Loan and Loan Documents from Lender and entered into a modification of the Loan Documents with Landlord as provided herein or (b) paid to Lender the outstanding principal, accrued interest and any other fees and costs due under the Loan and entered into the New Loan with Landlord on terms and conditions acceptable to Landlord, including but not limited to those identified above for the New Loan.

(g) If the Lender does not approve of the Lease and or the Tenant's intended use of the Premises and the Landlord and Tenant have not completed either (i) the assignment and modification of the Loan or (ii) the completion and execution of the documents for the New Loan within twenty (20) Business Days of the Effective Date of this Lease, then Landlord may elect to terminate this Lease by delivering a notice of termination to the Tenant and, if terminated by Landlord, this Lease shall be of no further force or effect.

SCHEDULE 1

TENANT IMPROVEMENTS

Battery Resourcers, Covington Facility
Environmental and Safety Compliance Plan

Battery Resourcers Inc., a supplier of premium battery materials, is planning to expand its supply chain for sustainably sourced battery materials. A key element of that plan is the addition of 3 recovery lines to reprocess both battery manufacturing scrap and end-of-life lithium battery cells. SSOE Group ("SSOE") in consultation with Battery Resourcers, developed this plan to ensure safe operation of and minimal environmental impact from these operations, based on a proposed installation at 9176 Industrial Drive in Covington.

1. Recovery Equipment

The three recovery lines process different feedstocks and recovery different battery materials:

- Dry Shredding – Reduces battery manufacturing scrap to granular (“black sand”) material & separates for further processing. This is limited to manufacturing scraps never wetted with battery solvent.

- Wet Shredding – Reduces batteries to granular (“black sand”) material & separates for further processing, including removal of battery solvent for sale.

- Metals Extraction – Removes metals from dried granular feed (“black sand”) using liquid leaching and extraction processes and separates those metals into battery grade raw materials.

2. Fire and Chemical Safety

Key elements of the building will be upgraded to allow for additional protection with the installation of these recovery processes and storage of the chemicals needed to perform the metals separations

- Upgraded fire water sprinkler coverage in chemical process/storage areas.

- Installation of H-4 chemical room for diluted corrosive chemicals feeding the process.

- Separation of recovered battery solvent tanks from the rest of Wet Shredding.

- Placement of concentrated chemical feed tanks external to the building in outside containment area.

- Installation of collection trenches and tank for fire water and/or chemical spill events.
- Added egress doors to ensure adequate egress distances.
- Temperature monitoring and fire suppression systems for solvent recovery equipment.
- Containment curbs inside to contain spills and separate incompatible chemicals.
- Additional separation walls and fire doors as needed.
- Chemical delivery truck containment facilities to contain spills.
- Safety Shower and Eye Wash (SSEW) stations throughout of manufacturing facility.

3. Stormwater/Runoff

All applicable NPDES (National Pollutant Discharge Elimination System) standards will be followed, especially with respect to exterior construction, such as tank-farm and interior containment.

- CGP (Construction Storm Water General Permit)
- SWPPP (Storm Water Pollution Prevention Plan

4. Air Permitting

The recovery lines are designed to recover the maximum amount of materials with minimum waste. In reviewing all facility support equipment and recovery line equipment, we have identified the following air emissions from normal operations:

- Dust Collection Vent – Typically 99.9% efficient. Recovered dust is recovered for sale.
- Packaged gas boiler vent – Small unit with low NOx burners
- Aqueous chemical storage vents – low VOC and acid vapor flow from tank breathing
- Regenerative Thermal Oxidizer (RTO) vent – battery solvent condensers recovery > 99% of battery solvent and a gas washer removes > 98% of fluorine compounds before destruction of the remaining solvent in the vent gas by the RTO.

All 3 recovery processes are low pressure and low temperature. In the case of equipment failure, emergency vents exhaust to the roof to allow adequate dispersion of any vapors.

5. Wastewater

We have also reviewed the water use and wastewater needs for the building support and recovery processes and identified the following streams from normal operations:

Concentrated Salts

SSOE is working with Battery Resourcers to design wastewater treatment systems to concentrate and remove concentrated, non-hazardous salts for resale or off-site disposal.

Dilute Wastewater

This includes multiple utility and process wastes compatible with discharge to the Covington Water Reclamation Facility including:

- Cooling Tower (CT) blowdown
- Packaged boiler blowdown
- Vent gas vapor scrubber blowdown
- City water purification (RO/DI) reject/blowdown
- Salt concentrate condensate recovery blowdown

6. By Products

This facility will produce non-hazardous byproducts that are sold into the metals recycling market as well as the steel production industry. These include:

- Carbon black / graphite
- Iron (Fe) & Aluminum (Al) mixed metal

7. Process Safety Management (PSM)/Hazardous Substances Planning/Accidental Release Prevention

Two Chemicals used in the Leaching and Separation processes (37% HCL solution & 31% H2O2) require additional planning and monitoring when stored and used in large quantities. SSOE is experienced in this process and is preparing the appropriate documents and summaries for permit approvals.

SCHEDULE 3.4

LISTS OF HAZARDOUS SUBSTANCES AND HAZARDOUS SUBSTANCE EQUIPMENT

A. LIST OF HAZARDOUS SUBSTANCES

1. Hydrogen peroxide
2. Hydrochloric acid
3. Sulfuric acid
4. Sodium carbonate
5. Sodium phosphate
6. Sodium hydroxide
7. Sodium metabisulfite
8. C272 (CAS#83411-71-6)
9. P507 (CAS#14802-03-0)
10. P204 (CAS#298-07-7)
11. Nickel Sulfate

B. LIST OF HAZARDOUS SUBSTANCE EQUIPMENT

The hazardous chemicals listed are used in the metals extraction process. Equipment in the process consists of raw material tanks, distribution piping, process tanks, process filters, and process piping.

Rider 2

Contract Agreement Rider

1. **Indemnity.** In consideration of the Contract Agreement, and to the fullest extent permitted by law, the Contractor shall defend and shall indemnify, and hold harmless, at Contractor's sole expense, the Owner, and the officers, directors, agents, employees, successors and assigns of each of them from and against all liability or claimed liability for bodily injury or death to any person(s), and for any and all property damage, including all reasonable attorney fees, disbursements and related costs, arising out of or resulting from the Work covered by this Contract Agreement to the extent such Work was performed by or contracted through the Contractor or by anyone for whose acts the Contractor may be held liable, excluding only liability created by the sole and exclusive negligence of the Indemnified Parties. This indemnity agreement shall survive the completion of the work specified in the Contract Agreement.

2. **Insurance.** The Contractor shall procure and shall maintain until final acceptance of the Work, such insurance as will protect the Contractor, all entities the Contractor is required to indemnify and hold harmless, the Owner, and their officers, directors, agents and employees, for claims arising out of or resulting from Contractor's Work under this Contract Agreement, whether performed by the Contractor, or by anyone directly or indirectly employed by Contractor, or by anyone for whose acts Contractor may be liable. Such insurance shall be provided by an insurance carrier rated "A" or better by A.M. Best and lawfully authorized to do business in the jurisdiction where the Work is being performed.

2.1 The Contractor's insurance shall include contractual liability coverage and additional insured coverage for the benefit of the Owner and anyone else the Owner is required to name (as set forth in the schedule below), and shall specifically include coverage for completed operations. The insurance required to be carried by the Contractor and any Subcontractors shall be PRIMARY AND NON-CONTRIBUTORY. With respect to each type of insurance specified hereunder, the Owners insurance shall be excess to Contractor's insurance.

2.2 The Contractor warrants that the coverage provided under the commercial general liability policy shall be written on an "occurrence" basis with coverage as broad as the Insurance Service Office Inc.'s form and that no policy provisions shall restrict, reduce, limit or otherwise impair contractual liability coverage or Owner’s (or others as required and as listed below) status as additional insured.

2.3 Not less than five (5) days prior to commencement of the Work and until final acceptance of the Work, Contractor shall provide the Owner with certificate(s) of insurance evidencing the required insurance coverage with the limits stated below or elsewhere in the Contract documents. The Contractor shall provide the Owner thirty (30) days written notice of a change or cancellation in coverage. In addition, all insurance policies shall state that the insurer will provide Contractor thirty (30) days prior written notice of a change or cancellation in coverage.

2.4 Unless otherwise stipulated in the Contract Agreement, the Contractor shall maintain no less than the limits specified for each of the following insurance coverages:

a) Commercial General Liability using an industry standard unmodified coverage form including contractual liability & products/completed operations, with minimum limits of $5,000,000 each occurrence, $10,000,000 aggregate with either per project or per location endorsement for property damage and bodily injury; the products/completed operations coverage shall remain in effect for at least two (2) years from the date the work is substantially completed and, in addition, $25,000,000 of Excess or Umbrella Liability Insurance, per location for an aggregate limit, which Excess or Umbrella Liability Insurance shall be primary and non-contributory

b) Comprehensive Automobile Liability insurance with minimum limits of $5,000,000 combined single limit each accident, including bodily injury and property damage liability.

c) Workers' Compensation and disability benefit insurance including Occupational Disease with the following Employer's Liability minimum limits, which required limits may be satisfied in combination of both Primary and Excess or Umbrella Liability Insurance:

Bodily injury by disease per person	$5,000,000
Bodily injury by accident policy limit	$5,000,000
Bodily injury by disease policy limit	$5,000,000

2.5 The Contractor and his insurer shall waive all rights of subrogation against the Owner and any other indemnified party, except as respects Worker's Compensation insurance.

2.6 If Contractor engages a Subcontractor, it is the affirmative duty of the Contractor to ensure that any Subcontractor complies with the insurance and indemnification requirements of this Contract Agreement.

List of Indemnified Parties and Additional Insureds:

Covington Industrial LLC, a Delaware limited liability company
Underhill Properties LLC
Owner's lender, to be identified by Owner

Acknowledged by:

Owner _____

Signature: _____
Name: _____
Title: _____
Date: _____

Contractor _____

Signature: _____
Name: _____
Title: _____
Date: _____

FIRST AMENDMENT TO LEASE AGREEMENT

THIS FIRST AMENDMENT TO LEASE AGREEMENT ("**First Amendment**"), is effective as of January 7, 2025 ("**First Amendment Effective Date**"), by and between COVINGTON INDUSTRIAL LLC, a Delaware limited liability company ("**Landlord**"), and ASCEND ELEMENTS, INC. f/k/a Battery Resources, Inc., a Delaware corporation ("**Tenant**").

RECITALS:

A. WHEREAS, Landlord and Tenant are parties to that certain Lease Agreement dated December 31, 2021 ("**Lease**"), whereby Landlord leases to Tenant, and Tenant leases from Landlord, the Premises, as more particularly described in the Lease;

B. WHEREAS, the Commencement Date of the Lease occurred on January 1, 2022;

C. WHEREAS, Tenant has made material alterations to the Premises and additional areas of the Land that were not identified to the Landlord prior to the installation of such alterations by Tenant as required under Paragraph 21 of the Lease Summary and Section 5.3 of the Lease (collectively, the "**Unreviewed Alterations**");

D. WHEREAS, Landlord will be required to incur significantly greater costs than anticipated in the Lease and provided for though the current Security Deposit to remove the Unreviewed Alterations, if required to do so at the termination of the Lease;

E. WHEREAS, Tenant is occupying and has installed and/or constructed portions of the Unreviewed Alternations in those certain outdoor portions of the Land consisting of approximately 46,465 exterior square feet more specifically described in Exhibit A attached hereto (the "**Additional Outdoor Space**"), which such areas as of the date hereof do not form part of the Premises leased to Tenant;

F. WHEREAS, Paragraph 21 of the Lease Summary provides: "Tenant Improvements: Those improvements required or desired by Tenant upon and to operate the Premises for the Permitted Use as identified on Schedule 1 attached hereto. Tenant shall also comply with the review and approval provisions identified in Section 2 of Rider 1 prior to undertaking any Tenant Improvements." and Section 5.3 of the Lease required Tenant to identify the "exact scope, size, location and methods of installation" of the Tenant Improvements identified in Schedule 1 to the Lease for Landlord's review and approval prior to installation but Tenant has not done so and some or all of those improvements may constitute a part of the Unreviewed Alterations; and

G. WHEREAS, Tenants has requested and Landlord has agreed to add the Additional Outdoor Space as an area leased to Tenant pursuant to the Lease and accept the Unreviewed Alterations, subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

1. Capitalized Terms and Recitals. Any capitalized terms used in this First Amendment and not otherwise defined herein shall have the meanings ascribed to them in the Lease. The foregoing recitals are incorporated herein by reference and Tenant warrants that the same are true and correct.

2. Additional Outdoor Space. Landlord hereby leases to Tenant the Additional Outdoor Space as such space is depicted on Exhibit A attached hereto. The Exhibit A attached hereto hereby replaces the Exhibit A attached to the Lease. Upon payment by Tenant to Landlord of (i) the Additional Outdoor Space Accrued Base Rent set forth in Section 4 below, (ii) the additional Security Deposit amount set forth in Section 5 below, (iii) the Alterations Fee set forth in Section 7 below, and (iv) the First Amendment Legal Fees set forth in Section 11 below, the Additional Outdoor Space shall be added to the Premises and, going forward, the term "**Premises**" shall (except for the Additional Outdoor Space Base Rent and renewal options identified below) mean the initial Premises identified in the Lease plus the Additional Outdoor Space identified in this Amendment. The Additional Outdoor Space is leased from Landlord to Tenant in its "as-is" condition as of the date initially occupied by Tenant and shall be subject to all of the terms and conditions of the Lease. For avoidance of doubt, the Additional Outdoor Space is separate and apart from those certain exterior areas identified as "chemical delivery and storage area" and "N2 generation and air handling equipment area" in the original Exhibit A of the Lease and on the Exhibit A attached hereto, which currently form part of the Premises. Consistent with Section 3.2 of the Lease, Tenant shall keep the Additional Outdoor Space in compliance with all Legal Requirements, the ADA and all Environmental Laws. Tenant shall, within sixty (60) days of the First Amendment Effective Date, enclose the entire Additional Outdoor Space with fencing of a quality that will protect Tenant's improvements constructed or placed in such areas. Tenant shall not enclose all or any portions of the Additional Outdoor Space within any walls or roof material without the Landlord's prior written consent which may be granted or withheld in Landlord's sole discretion. Other than within the Additional Outdoor Space and the areas identified on Exhibit A as "N2 generating and Air handling equipment area" and the "Chemical delivery and storage area" Tenant shall not place or store, whether temporarily or permanently, any equipment, materials, products or personal property of Tenant on any portion of the Land outside of the Building without Landlord's prior written approval.

3. Additional Outdoor Space Base Rent. Throughout the Term of the Lease, in addition to the rent due for the Premises, Tenant agrees to pay Landlord the following annual Base Rent for the Additional Outdoor Space (the "**Additional Outdoor Space Base Rent**"), together with the applicable sales tax, payable in equal monthly installments, in advance, on the first (1st) day of each month during the Term. The Additional Outdoor Space Base Rent payable during the Term shall be as follows:

Lease Year	Annual Additional Outdoor Space Base Rent Per Square Foot	Annual Base Rent
2	$3.00	$104,546.25*
3	$3.09	$143,576.85
4	$3.18	$147,884.16
5	$3.28	$152,320.68
6	$3.38	$156,890.30
7	$3.48	$161,597.01

* This is a partial Lease Year composed of nine (9) calendar months for the period commencing July 1, 2023 through March 31, 2024.

4. Accrued Additional Outdoor Space Base Rent. In order to bring the Additional Outdoor Space Base Rent current through the December 31, 2024, Tenant shall pay to Landlord the Additional Outdoor Space Base Rent for the period commencing on July 1, 2023 through and including December 31, 2024, in the amount of $212,228.89 (the "**Additional Outdoor Space Accrued Base Rent**") on or before two (2) Business Days after the First Amendment Effective Date. For avoidance of doubt the foregoing $212,228.89 amount is based on the sum of (a) $104,546.25 due for the period commencing July 1, 2023 through March 31, 2024 plus (b) $107,682.64 due for the period commencing on April 1, 2024 through December 31, 2024.

5. Security Deposit. As of the date hereof, Landlord is holding a cash Security Deposit in the amount of $415,911.00. Landlord and Tenant hereby agreed that the amount of the Security Deposit identified in Paragraph 16 of the Lease Summary shall be increased to be a total of $2,500,000.00 consisting of (i) the $415,911.00 currently held by Landlord pursuant to Paragraph 16 of the Lease Summary, (ii) the Tenant Improvement Allowance in the amount of $154,041.00, as set forth in Paragraph 20 of the Lease Summary, shall be held and disbursed by Landlord as a part of the Security Deposit, and (iii) on or before two (2) Business Days after the First Amendment Effective Date, Tenant shall deposit with Landlord a letter of credit ("**Letter**") in the amount of $1,930,048.00 pursuant to the requirements identified in the Letter of Credit Requirements attached hereto and made a part hereof as Exhibit "G". The Security Deposit, as increased above, shall be held, drawn upon, reduced and/or released in accordance with Section 2.6 of the Lease and the Letter of Credit Requirements attached hereto and made a part hereof as Exhibit "G". Notwithstanding the above, in the event that (x) Tenant has an initial public offering of its stock on a public stock market located in the United States or (y) Tenant records Net Income exceeding $50,000,000.00 each year for two (2) consecutive years, then the amount of the Letter may be reduced by $750,000.00 from $1,930,048.00 to $1,180,048.00 for the remaining term of the Lease, as the same may be extended. After such reduction, the total amount of the Security Deposit shall be $1,750,000.00. For purposes of this Section, the term "Net Income" shall mean that Tenant's income exceeds its expenses as determined by generally accepted accounting principles. The Landlord and Tenant hereby agree that the form of the Letter attached hereto as Exhibit “G-1” is acceptable for purposes of meeting the requirements of Exhibit “G”.

6. Tenant's Unreviewed Alterations. Tenant represents and warrants to Landlord that (i) all of the Unreviewed Alterations have been performed in a good and workmanlike manner, and in accordance with all applicable Legal Requirements, and (ii) there are no contractors, subcontractors, or any other third parties with lien rights against any portion of the Building or the Land or against Landlord's or Tenant's interest therein.

7. Alterations Fee. In accordance with Section 5.3 of the Lease, Tenant and Landlord have agreed that Tenant shall pay to Landlord an agreed upon fee in the amount of $750,000.00 (the "**Alterations Fee**") on or before two (2) Business Days after the First Amendment Effective Date. The foregoing stipulated amount of the Alterations Fee shall only relate to the alterations which have been constructed by Tenant as of the First Amendment Effective Date. The fifth (5^{th}) sentence of Section 5.3 is hereby amended to read: "Tenant shall also pay to Landlord or Landlord's designee a

fee for the supervision of any and all such alterations, other than Minor Alterations, made by or on behalf of Tenant, in the amount of two and one/half percent (2.5%) of all hard costs and soft costs incurred by Tenant in connection therewith."

8. Additional Outdoor Space Renewal Options. The Renewal Options set forth in Rider 1 to the Lease shall apply to the Additional Outdoor Space, provided that the Additional Outdoor Space Base Rent due for the Additional Outdoor Space for the first year of the Renewal Terms shall be at a per square foot rate that is the higher of (i) one half (1/2) the Base Rent due for the Premises for the first year of the Renewal Terms or (ii) One Hundred and Three Percent (103%) of the Additional Outdoor Space Base Rent due during the immediately preceding Lease Year. The Additional Outdoor Space Base Rent for each Lease Year of the exercised Renewal Terms after the initial Lease Year thereof shall increase at the rate of three percent (3%) per year over the Base Rent in effect for the prior Lease Year. Notwithstanding the foregoing or anything to the contrary in the Lease, the Tenant shall not have the right to exercise the Renewal Options for the Additional Outdoor Space unless it is also exercising each of the Renewals Options as to the Premises.

9. Tenant's Proportionate Share. Note that because the Additional Outdoor Space does not affect the square footage of the Building within which the Premises are located, the Tenant's Proportionate Share shall not be increased from the current 46.20% amount.

10. Tenant Improvement Allowance. As provided in Section 5 above, the Tenant Improvement Allowance in the amount of $154,041.00, as set forth in the Lease Summary, shall be held and disbursed by Landlord as a part of the Security Deposit.

11. Landlord's Legal Fees. On or before two (2) Business Days after the First Amendment Effective Date, Tenant shall reimburse Landlord for Landlord's legal fees incurred in connection with the negotiations concerning Tenant's non-compliance with the Lease terms and the preparation and negotiation of this First Amendment in the amount of $25,000.00. (the "**First Amendment Legal Fees**").

12. Insurance. Together with the execution of this First Amendment, Tenant shall deliver to Landlord a full copy of the current insurance policy(s) insuring the Premises and the Additional Outdoor Space in PDF format as the evidence of insurance required under Article VI of the Lease. During the remaining Term of the Lease, at the request of Landlord, and from time to time upon renewal of such coverage, Tenant shall also deliver to Landlord a full copy of the then current insurance policy(s) insuring the Premises and the Additional Outdoor Space in PDF format as the evidence of insurance required under Article VI of the Lease. Landlord shall maintain the confidentiality of the evidence of insurance, and shall not, without the Tenant's prior written consent, disclose or permit the disclosure of any such information to any other person other than those who require such knowledge, such as the Landlord's agents, employees, members, partners, consultants, accountants, lenders and attorneys and who are notified of the confidentiality of such information.

13. Conflict. In the event of any conflict between the terms of this First Amendment and the other terms and conditions of the Lease, the terms of this First Amendment shall control. Except as specifically modified, amended or supplemented by the provisions of this First Amendment, all of the terms, obligations and conditions of the Lease are hereby ratified by Landlord and Tenant, remain

unmodified and continue in full force and effect. Effective as of the First Amendment Effective Date, this First Amendment will be deemed part of the defined term Lease.

14. No Rule of Construction. Landlord and Tenant have each been represented by counsel in the negotiation and preparation of this First Amendment. Therefore, this First Amendment shall be deemed to be drafted and negotiated collectively by Landlord and Tenant, and no rule of construction shall be invoked respecting the authorship of this First Amendment.

15. Entire Agreement. This First Amendment sets forth the entire agreement with respect to the matters set forth herein. No modification, supplementation, or amendment to the Lease or this First Amendment shall be effective unless made by written agreement between Landlord and Tenant.

16. Governing Law. This First Amendment shall be construed in accordance with and governed by the laws of the State of Georgia.

17. Authority. To the extent required, Tenant has obtained all necessary authorization and consent to amend the Lease. Each party represents to the other that it has full power and authority to execute this First Amendment

18. Brokers. Section 14.12 of the Lease is hereby amended to provide that, as to any of the terms or conditions of this First Amendment, including but not limited to the addition of the Additional Outdoor Space or the payment of the Additional Outdoor Space Base Rent and or the Additional Outdoor Space Accrued Base Rent, Landlord shall pay any commissions or brokerage fees due to Landlord's Broker or any third party broker that represented Landlord pursuant to any agreement between Landlord and Landlord's Broker or such third party and Tenant shall pay any commissions or brokerage fees due to Tenant's Broker or any third party broker that represented Tenant pursuant to any agreement between Tenant and Tenant's Broker or such third party.

19. Waiver of Defaults. Upon payment by Tenant to Landlord of (i) the Additional Outdoor Space Accrued Base Rent set forth in Section 4 hereof, (ii) the additional Security Deposit amount set forth in Section 5 hereof, including, but not limited to, delivery of the letter of credit required thereunder, and (iii) the Alterations Fee set forth in Section 7 hereof, and the delivery to Landlord of the insurance policy(s) as provided in Section 12 hereof, any prior defaults that were known or should have been known by the Landlord as of December 15, 2024 are hereby waived by Landlord; provided, however, such waiver does not extend to any violations of Legal Requirements, including, but not limited to, violations of Environmental Laws.

20. Miscellaneous. This First Amendment may be executed in any number of counterparts and by the different parties to this First Amendment on separate counterparts, each of which, when so executed, (a) will be deemed an original, but all such counterparts will constitute one and the same First Amendment, and (b) will be deemed part of the "Lease". Any signature delivered by a party by facsimile transmission or electronic mail will be deemed to be an original signature.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, each of the respective parties have duly executed this First Amendment, which First Amendment shall be effective as of the First Amendment Effective Date.

LANDLORD:

COVINGTON INDUSTRIAL LLC,
a Delaware limited liability company

By: Covington Industrial MM LLC, its Manager

DocuSigned by:
By: Thomas L. Brodie
Name: Thomas L. Brodie
Title: Managing Member

TENANT:

ASCEND ELEMENTS, INC.,
a Delaware corporation

DocuSigned by:
By: Andrew Aberdale
Name: Andrew Aberdale
Title: CFO

EXHIBIT A

PREMISES AND ADDITIONAL OUTDOOR AREA

(attached)

Docusign Envelope ID: 3B438613-3CB5-4A48-BD05-E2C082AD1F90

INTERSTATE 20
LIMITED ACCESS HIGHWAY
PUBLIC R/W

INDUSTRIAL DRIVE
(PUBLIC ROAD LYING WITHIN THE PUBLIC R/W OF INTERSTATE 20)

INDUSTRIAL DRIVE
(60' PUBLIC R/W)

BUILDING 1
BRICK AND CONCRETE BLOCK BUILDING
146,535 SQ. FT.

BUILDING 3
STUCCO BUILDING
16,429 SQ. FT.
(OFFICES)

BUILDING 4
BRICK BUILDING
9,042 SQ. FT.

BUILDING 5
BRICK BUILDING
2,233 SQ. FT.

BUILDING 6
METAL BUILDING

METAL BUILDING

LEASE AGREEMENT
TOTAL: ±4245 SF

LEASE AGREEMENT
TOTAL: ±3080 SF

AREA OF ADDITIONAL
OUTDOOR SPACE
TOTAL: ±25200 SF

AREA OF ADDITIONAL
OUTDOOR SPACE
TOTAL: ±26050 SF

RAILROAD
SPUR

PARKING

TENANT LOADING
DOCKS

NOW OR FORMERLY
CSX RAILROAD

NOW OR FORMERLY
GEORGIA
RAILROAD
(100' R/W)

Grid North (GA West Zone)

SITE

LOCATION MAP
NOT TO SCALE

NO	DATE	DESCRIPTION	BY
8			
7			
6			
5			
4			
3			
2			
1			

REVISIONS

4317 Park Drive, Suite 400
Norcross, Georgia 30093
Phone: (770) 416-7511
Fax: (770) 416-4759
www.travispruitt.com

Certificate of Authorization Number 613

"EXHIBIT A"

9172 INDUSTRIAL DRIVE

AUTHORIZED BY: COVINGTON INDUSTRIAL LLC

LAND LOT 273 • 6TH DISTRICT • CITY OF COVINGTON • NEWTON COUNTY • GEORGIA

GRAPHIC SCALE - IN FEET
0 60 120 180 240

For The Firm
Travis Pruitt & Associates, Inc.

This survey was prepared in conformity with The Technical Standards for Property Surveys in Georgia as set forth in Chapter 180-7 of the Rules of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in the Georgia Plat Act O.C.G.A. 15-6-67.

PLAT DATE:	12/13/2024
FIELD DATE:	05/07/2024
SCALE:	1" = 60'
JN:	1-17-0433.664
FN:	218-E-178
SHEET NO:	1 of 1

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Travis Pruitt & Associates, Inc.
These drawings and their reproductions are the property of the Surveyor and may not be reproduced, published, or used in any way without the written permission of this Surveyor.

EXHIBIT "G"

LETTER OF CREDIT REQUIREMENTS

1. As a part of the Security Deposit for Tenant's obligations under the Lease, Tenant shall deliver, or cause to be delivered, to Landlord one (1) unconditional, irrevocable, and transferable Letter of Credit (the "Letter," which term shall be deemed to include each replacement thereof), issued by a bank (the "Issuer") licensed to do business in the State of Georgia, and acceptable to Landlord in its reasonable judgment. The Letter shall be in the amount of $1,930,048.00 as shown in Section 5 of the First Amendment to Lease Agreement to which this Exhibit is attached and shall have an expiration date no earlier than one (1) year from its date of issuance. The Letter shall automatically renew for a period of no less than one (1) year from its expiration date, unless Issuer provides Landlord with at least sixty (60) days' notice of nonrenewal by certified mail, return receipt requested. The Letter shall be in a form acceptable to Landlord and shall provide that it may be drawn against, in whole or in part, by presentation to the Issuer of a sight draft in the appropriate amount identifying the Letter being drawn, along with a letter from Landlord to the Issuer stating that Tenant is in default of the Lease. No other requirements shall be imposed as a condition of drawing on the Letter. The Letter shall state that if the Letter is presented for payment prior to 10:00 a.m. on a business day, payment will be made by the close of business on the following business day. The Letter shall be accompanied by a letter from an officer of the Issuer naming the officer(s) empowered to bind the Issuer on such Letter. The letter shall be manually signed by the corporate secretary (or another officer) of the Issuer who shall also certify that as of the date of issue of the Letter the officer(s) executing same was fully empowered to execute such Letter and to bind the Issuer thereby.

2. If at any time Landlord receives notice of nonrenewal of the Letter as described above, then within thirty (30) days after Landlord receives such notice, Tenant shall deliver to Landlord a replacement Letter for the Letter, which replacement Letter shall (a) be unconditional, irrevocable, and transferable, (b) be issued by Issuer or another bank licensed to do business in the State of Georgia, and acceptable to Landlord in its reasonable judgment, (c) be in an amount not less than the undrawn balance of the Letter being replaced. or as may be approved by Landlord in writing, (d) have an expiration date no earlier than twelve (12) months from its issuance, and (e) be in form acceptable to Landlord and shall be available by sight draft with no additional documents or requirements, other than those stated above. If Tenant fails to properly deliver to Landlord any required replacement Letter, Landlord may draw upon the unreplaced Letter for all or any part of the amount thereof.

3. Without notice to Tenant, Landlord shall be entitled to draw the full amount, or any remaining portion thereof, of the Letter if (i) a default under the Lease has occurred and is continuing and Landlord is entitled to exercise its rights and remedies under the Lease, or (ii) Landlord is not furnished any replacement Letter when and in accordance with the terms hereof. If the Letter is drawn in full, the amounts received by Landlord pursuant thereto may be applied to the amounts due under the Lease in such order or manner as Landlord may, in its sole discretion, elect.

4. Notwithstanding the foregoing, Landlord shall not be required to release all or any remaining portion of the Letter if there exists any uncured default under the Lease after applicable

notice and cure periods, or an event or circumstance has occurred which, with the giving of notice or the passing of time, or both, would constitute a default under the Lease. In addition, if at any time during the term of the Lease the rating of the Issuer by Standard & Poor, Moody's, or a similar nationally recognized rating organization is ever lower than the rating of the Issuer as of the date of the First Amendment to Lease Agreement to which this Exhibit is attached, then, at Landlord's option, Tenant shall replace the Letter with a Letter issued by a different bank reasonably acceptable to Landlord, or, if Tenant is unable to replace the Letter, Tenant shall post a cash security deposit with Landlord in the amount of the Letter.

EXHIBIT "G-1"

FORM OF LETTER OF CREDIT

(attached)

BANK OF AMERICA - CONFIDENTIAL PAGE: 1
DATE: DECEMBER 11, 2024
IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER:

APPLICANT
ASCEND ELEMENTS, INC.
133 FLANDERS ROAD
WESTBOROUGH, MA 01581

BENEFICIARY
COVINGTON INDUSTRIAL LLC
C/O SILVERPOINT PROPERTIES GROUP, INC. 6231 PGA BLVD., SUITE 104-423
PALM BEACH GARDENS, FL 33418

ISSUING BANK
BANK OF AMERICA, N.A.
ONE FLEET WAY
PA6-580-02-30
SCRANTON, PA 18507-1999

AMOUNT
NOT EXCEEDING USD 1,930,048.00
NOT EXCEEDING ONE MILLION NINE HUNDRED THIRTY THOUSAND FORTY EIGHT AND 00/100'S US DOLLARS

EXPIRATION
NOVEMBER 30, 2025 AT OUR COUNTERS

LADIES/GENTLEMEN:

WE HEREBY ISSUE THIS IRREVOCABLE STANDBY LETTER OF CREDIT NO. _____ IN FAVOR OF COVINGTON INDUSTRIAL, LLC, FOR THE ACCOUNT OF THE APPLICANT, FOR UP TO AN AGGREGATE AMOUNT OF USD 1,930,048.00.

"THIS LETTER OF CREDIT MAY BE CALLED ONLY AFTER AN EVENT OF DEFAULT AND ALL NOTICE AND APPLICABLE GRACE PERIODS HAVE EXPIRED."

FUNDS UNDER THIS LETTER OF CREDIT ARE AVAILABLE TO YOU AGAINST PRESENTATION OF YOUR SIGHT DRAFT(S) IN THE FORM ATTACHED HERETO AS EXHIBIT A AND ACCOMPANIED BY THE FOLLOWING:

1. BENEFICIARY'S WRITTEN AND DATED STATEMENT ON BENEFICIARY'S LETTERHEAD, SIGNED BY AN AUTHORIZED SIGNATORY READING:

"BENEFICIARY IS PERMITTED TO DRAW ON THIS LETTER OF CREDIT UNDER THE EXPRESS TERMS OF THE LEASE DATED DECEMBER 31, 2021, AS AMENDED BY THE FIRST AMENDMENT TO THE LEASE AND ANY SUBSEQUENT AMENDMENTS, BY AND BETWEEN ASCEND ELEMENTS, INC., F/K/A BATTERY RESOURCERS, INC., AS TENANT, AND BENEFICIARY, AS LANDLORD."

2. THE ORIGINAL OF THIS LETTER OF CREDIT AND AMENDMENT(S), IF ANY.

PARTIAL DRAWINGS AND MULTIPLE PRESENTATIONS ARE PERMITTED. DRAWINGS SHALL BE MADE WITHOUT ANY DEDUCTION OR WITHHOLDING (WHETHER IN RESPECT OF SET OFF, COUNTERCLAIM, DUTIES, PRESENT OR FUTURE TAXES,

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THIS IS AN INTEGRAL PART OF LETTER OF CREDIT NUMBER: [redacted]

CHARGES OR OTHERWISE WHATSOEVER). BANK OF AMERICA, N.A. WILL MAKE PAYMENT UNDER THIS LETTER OF CREDIT WITHIN TWO (2) BUSINESS DAYS AFTER THE DATE OF RECEIPT OF A COMPLYING DEMAND AS STATED HEREIN, PROVIDED THAT IF DEMAND FOR PAYMENT IS PRIOR TO 10:00 A.M. ON A BUSINESS DAY, PAYMENT WILL BE MADE BY THE CLOSE OF BUSINESS ON THE FOLLOWING BUSINESS DAY.

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT IS DEEMED TO BE AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR PERIOD(S) OF ONE YEAR EACH FROM THE CURRENT EXPIRY DATE HEREOF, OR ANY FUTURE EXPIRATION DATE, UNLESS AT LEAST SIXTY (60) DAYS PRIOR TO ANY EXPIRATION DATE, WE NOTIFY YOU BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, OR OVERNIGHT COURIER SERVICE, AT THE ABOVE LISTED ADDRESS, WITH COPY TO AKERMAN LLP, ATTN: JORGE DELGADO, 98 SE 7TH STREET, SUITE 1100, MIAMI, FL 33131, THAT WE ELECT NOT TO CONSIDER THIS LETTER OF CREDIT EXTENDED FOR ANY SUCH ADDITIONAL PERIOD. HOWEVER, IN NO EVENT WILL THIS LETTER OF CREDIT AUTOMATICALLY EXTEND BEYOND THE FINAL EXPIRY DATE OF JUNE 30, 2029. AT ANY TIME OR FROM TIME TO TIME BENEFICIARY MAY CHANGE ITS ADDRESS FOR SUCH NOTICES, BY NOTICE TO BANK OF AMERICA, N.A. IN WRITING, SENT BY RECEIPTED OVERNIGHT COURIER OR BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUIRED.

ANY SUCH NOTICE SHALL BE EFFECTIVE WHEN SENT BY US AND UPON SUCH NOTICE TO YOU, YOU MAY DRAW AT ANY TIME PRIOR TO THE THEN CURRENT EXPIRATION DATE, UP TO THE FULL AMOUNT THEN AVAILABLE HEREUNDER, AGAINST YOUR DRAFT(S) DRAWN ON US AT SIGHT AND THE ORIGINAL OF THIS LETTER OF CREDIT AND ALL AMENDMENTS THERETO, ACCOMPANIED BY YOUR STATEMENT, SIGNED BY DAVID J. ALPERT OR THOMAS L. BRODIE, OR ANOTHER OFFICER OR MANAGER OF THE BENEFICIARY, AS AN AUTHORIZED SIGNATORY, (EACH AN "AUTHORIZED SIGNATORY") ON YOUR LETTERHEAD STATING THAT YOU ARE IN RECEIPT OF BANK OF AMERICA, N.A.'S NOTICE OF NON-EXTENSION UNDER LETTER OF CREDIT NO. _____ AND THE APPLICANT'S OBLIGATION TO YOU REMAINS.

THIS LETTER OF CREDIT IS TRANSFERABLE IN FULL AND NOT IN PART. ANY TRANSFER MADE HEREUNDER MUST CONFORM STRICTLY TO THE TERMS HEREOF AND TO THE CONDITIONS OF RULE 6 OF THE INTERNATIONAL STANDBY PRACTICES (ISP98) FIXED BY THE INTERNATIONAL CHAMBER OF COMMERCE, PUBLICATION NO. 590. SHOULD YOU WISH TO EFFECT A TRANSFER UNDER THIS LETTER OF CREDIT, SUCH TRANSFER WILL BE SUBJECT TO THE RETURN TO US OF THIS ORIGINAL LETTER OF CREDIT INSTRUMENT ALONG WITH AMENDMENT(S), IF ANY, ACCOMPANIED BY OUR FORM OF TRANSFER, PROPERLY COMPLETED AND SIGNED BY AN AUTHORIZED SIGNATORY OF YOUR FIRM, BEARING YOUR BANKER'S SIGNATURE AUTHENTICATION AND PAYMENT OF OUR TRANSFER FEE. SUCH TRANSFER FORM IS AVAILABLE UPON REQUEST.

PRESENTATION OF SUCH DRAFT(S) AND DOCUMENT(S) MAY BE MADE AT OUR OFFICE LOCATED AT BANK OF AMERICA, N.A., 1 FLEET WAY, MC: PA6-580-02-30, SCRANTON, PA 18507-1999, BY OVERNIGHT COURIER, PROVIDED THAT IF THE FOREGOING OFFICE IS PERMANENTLY CLOSED, PRESENTATION MAY BE MADE AT ANY OTHER OFFICE OF BANK OF AMERICA, N.A.

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THIS IS AN INTEGRAL PART OF LETTER OF CREDIT NUMBER:

THAT WE BANK OF AMERICA, N.A. NOTIFY YOU OF IN WRITTING. ALTERNATIVELY, PRESENTATION OF BENEFICIARY'S DRAFT(S) MAY BE MADE BY FAX TRANSMISSION TO 800-755-8743, CONFIRMED BY TELEPHONE TO 1-800-370-7519 OR SUCH OTHER FAX NUMBER IDENTIFIED BY BANK OF AMERICA, N.A. IN A WRITTEN NOTICE GIVEN TO YOU BY RECEIPTED OVERNIGHT COURIER ("NEXT BUSINESS DAY DELIVERY") OR BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUIRED.

WE HEREBY AGREE WITH YOU THAT DRAFT(S) AND DOCUMENT(S) DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT SHALL BE DULY HONORED UPON DUE PRESENTATION TO US. THE OBLIGATION OF BANK OF AMERICA, N.A. UNDER THIS LETTER OF CREDIT IS THE INDIVIDUAL OBLIGATION OF BANK OF AMERICA, N.A. AND IS IN NO WAY CONTINGENT UPON REIMBURSEMENT WITH RESPECT THERETO.

WE HEREBY AGREE TO HONOR EACH DRAFT DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THIS LETTER OF CREDIT IF PRESENTED, AS SPECIFIED, AT OUR OFFICE ON OR BEFORE THE THEN EXPIRATION DATE. WE HEREBY FURTHER AGREE THAT ALL DRAFTS PRESENTED UNDER THIS LETTER OF CREDIT SHALL BE PAID NOTWITHSTANDING ANY CLAIM BY ANY PERSON THAT THE SUM DEMANDED IS NOT DUE OR THAT SAID DRAFT(S) ARE NOT TO BE HONORED FOR ANY OTHER REASON. IN ADDITION, BENEFICIARY'S RIGHTS AND ABILITY TO DRAW ON THIS LETTER OF CREDIT, TO RECEIVE ALL OR PORTIONS OF THE PROCEEDS HEREOF AND TO USE, APPLY, OR RETAIN THE WHOLE OR ANY PART OF SUCH PROCEEDS, SHALL NOT TAKE INTO ACCOUNT, OR OTHERWISE BE AFFECTED BY, ANY OF THE MODIFICATIONS, REDUCTIONS OR OTHER LIMITATIONS OF OR ON THE APPLICANT'S OBLIGATIONS OR LIABILITIES RESULTING FROM THE VOLUNTARY OR INVOLUNTARY LIQUIDATION, DISSOLUTION, SALE OR OTHER DISPOSITION OF ALL OR SUBSTANTIALLY ALL THE ASSETS, MARSHALING OF ASSETS AND LIABILITIES, RECEIVERSHIP, INSOLVENCY, BANKRUPTCY, ASSIGNMENT FOR THE BENEFIT OF CREDITORS, REORGANIZATION, ARRANGEMENT OR READJUSTMENT OF, OR OTHER SIMILAR PROCEEDING AFFECTING THE APPLICANT, OR THE APPLICANT'S PREDECESSORS, OR THE APPLICANT'S SUCCESSORS, OR ANY OF THEIR ASSETS OR THE DISAFFIRMANCE, REJECTION OR POSTPONEMENT IN ANY SUCH PROCEEDING OF ANY OF APPLICANT'S OBLIGATIONS OR UNDERTAKINGS.

IN THE EVENT THAT THE APPLICANT BECOMES A DEBTOR IN A CASE UNDER TITLE 11 OF THE UNITED STATES CODE (THE "BANKRUPTCY CODE", OR IN ANY OTHER INSOLVENCY OR SIMILAR PROCEEDING, THE OBLIGATIONS OF ISSUER TO BENEFICIARY SHALL NOT BE REDUCED, LIMITED, IMPAIRED, DISCHARGED, DEFERRED, SUSPENDED, STAYED, TERMINATED OR OTHERWISE AFFECTED BY REASON THEREOF OR BY REASON OF ANY PROVISION OF THE BANKRUPTCY CODE (INCLUDING, BUT NOT LIMITED TO, SECTIONS 362 AND 502(B) OF THE BANKRUPTCY CODE), OR THE PROVISION OF ANY OTHER INSOLVENCY OR SIMILAR LAW.

ALL FEES AND CHARGES UNDER THIS LETTER OF CREDIT, INCLUDING TRANSFER FEES, ARE FOR THE ACCOUNT OF THE APPLICANT, ANY FAILURE TO PAY THE FEES OR CHARGES, INCLUDING ANY TRANSFER CHARGES SHALL NOT AFFECT OUR ABILITY TO DRAW ON THIS LETTER OF CREDIT OR TRANSFER THIS LETTER OF

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THIS IS AN INTEGRAL PART OF LETTER OF CREDIT NUMBER: _____.

CREDIT.

THIS LETTER OF CREDIT IS SUBJECT TO THE INTERNATIONAL STANDBY PRACTICES (ISP98), THE INTERNATIONAL CHAMBER OF COMMERCE, PUBLICATION NO. 590, AND AS TO MATTERS NOT GOVERNED BY THE ISP98, SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF GEORGIA AND APPLICABLE U.S. FEDERAL LAW.

IF YOU REQUIRE ANY ASSISTANCE OR HAVE ANY QUESTIONS REGARDING THIS TRANSACTION, PLEASE CALL 800-370-7519.

draft

AUTHORIZED SIGNATURE

DRAFT COPY
FOR DISCUSSION AND REVIEW PURPOSES ONLY
PLEASE SIGNIFY YOUR ACCEPTANCE & APPROVAL
TO ISSUE THIS FORM

AUTHORIZED SIGNATURE(S)

DATE

Docusign Envelope ID: 3B438613-3CB5-4A48-BD05-E2C082AD1F80

THIS IS AN INTEGRAL PART OF LETTER OF CREDIT NUMBER: [illegible]

EXHIBIT A
FORM OF SIGHT DRAFT

SIGHT DRAFT
AT SIGHT, PAY TO THE ORDER OF_____ , THE SUM
OF_____ UNITED STATES DOLLARS ($_____).
DRAWN UNDER BANK OF AMERICA, N.A. LETTER OF CREDIT
NO._____
DATED_____

.BENEFICIARY DIRECTS ISSUER TO PAY THE PROCEEDS OF THIS
SIGHT DRAFT SOLELY TO THIS ACCOUNT OF
BENEFICIARY:_____ .

.NAME AND
SIGNATURE BLOCK,
WITH BENEFICIARY
SIGNATURE..
DATE:_____
_____
_____
_____
_____

docusign

Certificate Of Completion

Envelope Id: 3B438613-3CB5-4A48-BD05-E2C082AD1F90 Status: Completed
Subject: Complete with Docusign: First Amendment to Lease Agreement - Covington Industrial -Ascend Ele...
Source Envelope:
Document Pages: 16 Signatures: 2
Certificate Pages: 5 Initials: 0
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-05:00) Eastern Time (US & Canada)

Envelope Originator:
Beverly Sutton
495 N Keller Rd Ste 300
Maitland, 32751-8656
beverly.sutton@akerman.com
IP Address: 199.168.199.86

Record Tracking

Status: Original
1/7/2025 10:53:24 AM

Holder: Beverly Sutton
beverly.sutton@akerman.com

Location: DocuSign

Signer Events	Signature	Timestamp
Andrew Aberdale aaberdale@ascendelements.com CFO Ascend Elements, Inc. Security Level: Email, Account Authentication (None)	DocuSigned by: 37EC7AE24B9243C...	Sent: 1/7/2025 10:56:41 AM Viewed: 1/7/2025 1:47:55 PM Signed: 1/7/2025 1:48:00 PM
	Signature Adoption: Uploaded Signature Image Using IP Address: 24.63.44.230	
Electronic Record and Signature Disclosure: Accepted: 1/7/2025 1:47:55 PM ID: 289e4469-8d07-4132-9a2f-7314e91f680a		
Thomas L. Brodie tbrodie@NianticPartners.com Authorized Signatory Security Level: Email, Account Authentication (None)	DocuSigned by: Thomas L. Brodie C9181E298CDC4C2...	Sent: 1/7/2025 10:56:42 AM Viewed: 1/7/2025 10:58:01 AM Signed: 1/7/2025 10:58:49 AM
	Signature Adoption: Pre-selected Style Using IP Address: 98.7.37.165	
Electronic Record and Signature Disclosure: Accepted: 1/7/2025 10:58:01 AM ID: 7e47f973-fd03-4206-9bae-358cd6419158		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Jorge Delgado jorge.delgado@akerman.com Security Level: Email, Account Authentication (None)	COPIED	Sent: 1/7/2025 10:56:43 AM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		

Carbon Copy Events	Status	Timestamp
Scott Seitz sseitz@ascendelements.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 1/7/2025 10:56:43 AM Viewed: 1/7/2025 11:09:52 AM

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	1/7/2025 10:56:43 AM
Certified Delivered	Security Checked	1/7/2025 10:58:01 AM
Signing Complete	Security Checked	1/7/2025 10:58:49 AM
Completed	Security Checked	1/7/2025 1:48:00 PM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Akerman, Senterfitt & Eidson, PA (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a $0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Akerman, Senterfitt & Eidson, PA:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: danny.rhinehart@akerman.com

To advise Akerman, Senterfitt & Eidson, PA of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at danny.rhinehart@akerman.com and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from Akerman, Senterfitt & Eidson, PA

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to danny.rhinehart@akerman.com and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Akerman, Senterfitt & Eidson, PA

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;

ii. send us an email to danny.rhinehart@akerman.com and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: https://support.docusign.com/guides/signer-guide-signing-system-requirements.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Akerman, Senterfitt & Eidson, PA as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Akerman, Senterfitt & Eidson, PA during the course of your relationship with Akerman, Senterfitt & Eidson, PA.

ASCEND ELEMENTS

Principal Document

ASCEND ELEMENTS PROFESSIONAL SERVICES AGREEMENT

This Agreement (the "Agreement" or "Contract ") sets forth terms under which, AM Construction Inc dba Amcon Industrial a company organized under the laws of the State of Georgia with offices at 1375 Oakley Industrial Blvd Fairburn GA 30213 ("Contractor") will, at the request of Ascend Elements, Inc., a Delaware corporation with offices at 133 Flanders Rd. Westborough, MA 01581 or an Affiliate ("Ascend Elements") provide certain services either directly to Ascend Elements or to customers of Ascend Elements. This Agreement is effective as of **May 24, 2023** ("Effective Date"). The parties agree as follows:

1. Definitions.

"Action" means a claim, suit, action, allegation, charge, or investigation, in each case brought by a third party, governmental authority or industry body.

"**Affiliate"** means an entity that, directly or indirectly, owns or controls, is owned or is controlled by or is under common ownership or control with a party hereto. As used herein, "control" means the power to direct the management or affairs of an entity and "ownership" means the beneficial ownership of fifty percent (50%) or more of the voting equity securities or other equivalent voting interests of an entity.

"**Anti-Corruption Laws**" means anti-corruption or anti-bribery Laws, including the United States Foreign Corrupt Practices Act of 1977.

"**Deliverables**" means any report, code, scripts or software (whether in object or source code form), audio or visual material (including but not limited to, any content, print, images, photos, or digital media), documentation or other material or deliverables of any type provided by Contractor to Ascend Elements in connection with the Services as well as any related products, know-how, techniques, processes, algorithms, computer programs, databases, user interfaces, encoding techniques, inventions, ideas, concepts, discoveries, improvements, specifications, designs, methods, devices, systems, flow charts, diagrams, drawings, notes, documents or other materials or innovations of any kind (in any medium and in any stage of development or completion) made, conceived of, developed or first reduced to practice by Contractor (including any of its employees, agents or permitted subcontractors), alone or jointly with others, in connection with performing the Services.

"**Law(s)**" means any and all laws, treaties, conventions, directives, regulations, rules, ordinances, and judicial decisions in courts and tribunals of competent jurisdiction applicable to the Services or a party, including any subsequent amendments, modifications and revisions thereto, or subsequent versions thereof.

2. Services.

2.1 **Work Orders.** The request for Services shall be by means of **Work Orders (WO)**. Each WO shall include the scope of work, services required to the extent of availability complete with documentation, drawings, specifications (collectively the "SOW" or "Statement of Work"), Work Order Sum, Cost/Rates, Compensation Basis, Work Order Time, Work Execution Plan and any other requirements (refer to Exhibit B for WO sample template).

WO as may be modified by Change Orders shall become part of this Agreement upon execution by Contractor and Ascend Elements.

Contractor will provide services ("**Services**") to Ascend Elements as described in the WO as may be modified by Change Order.

Any of Ascend Elements Affiliates may enter into separate WO with Contractor for the provision of Services hereunder and each such WO shall be deemed a legal obligation of the Affiliate and not that of Ascend Elements Inc. and for all purposes hereunder Ascend Elements as used herein shall be deemed to mean such Affiliate. Contractor will perform the Services in a prompt manner and at all times in accordance with the terms and conditions of the applicable WO and this Agreement, including, without limitation, providing each Deliverable (if any) by no later than the delivery dates specified in the applicable WO. At the direction of Ascend Elements, Contractor will provide Services directly to Ascend Elements or to customers of Ascend Elements on Ascend Elements behalf.

The estimated price of the Services is as stated in the Work Order Sum and the compensation basis shall be as stated in the WO. Unless otherwise specifically stated the price of any goods, materials and equipment, if any that are furnished as part of this Agreement shall include all packaging, transportation costs, insurance, and fees and unless tax exemption has been granted all applicable taxes, including, but not limited to, all sales, use or excise taxes.

In the event tax exemption has been granted the price of goods, materials and equipment shall be reduced accordingly. No increase in the Price is effective, whether due to increased material, labor or transportation costs or otherwise, without the prior written approval of Ascend Elements

2.2 **Schedule of Rates**. Contractor's Schedule of Rates to be used for establishing the Work Order Sum shall be as set forth in Exhibit C.

2.3 **Safety and Health Requirements.** The Services shall be performed in accordance with the Safety and Health requirements as set forth in Exhibit D.

3. Subcontractors. Contractor will perform all Services only through its regular, full-time employees and may not subcontract any element of the Services without the prior express written consent of Ascend Elements. To the extent any such subcontractors are authorized by Ascend Elements, Contractor will (i) remain directly responsible to Ascend Elements for the acts or omissions of each subcontractor and (ii) ensure that each subcontractor is bound in writing to terms equally as protective of Ascend Elements as the terms and conditions of this Agreement.

4. Title and Risk of Loss. Title and risk of loss to all Deliverables passes to Ascend Elements upon delivery of the Deliverables to Ascend Elements.

5. Representations and Warranties.

5.1 **Contractor's Representations and Warranties**. Contractor hereby represents and warrants to Ascend Elements that:

(a) **Due Authority**. Contractor has full right and power to enter into and perform this Agreement without the consent of any third party, and its performance under this Agreement will not conflict with any other obligation Contractor may have to any other party.

(b) **Standard of Performance**. Contractor will perform the Services in a timely, professional and workmanlike manner and with a degree of quality equal to or higher than applicable industry standards for similar services. In addition, all Services and each Deliverable will conform in all material respects with the description and any other requirements set forth in the applicable WO.

(c) **Compliance with Laws**. Contractor will ensure that the Services (including all Deliverables, if any) and Contractor's performance of its obligations under this Agreement are in compliance at all times with all applicable Law.

(d) **Licenses.** Contractor shall obtain, at its sole cost, all licenses, permits, certificates and authorizations necessary (i) for Contractor to do business in all jurisdictions where any part of this Agreement is to be performed, and (ii) in connection with Contractor's performance hereunder, and give all notices required under applicable Law.

(e) **Employment Law Compliance**. At all times during performance of this Agreement, Contractor shall remain in full compliance with all applicable Laws regarding the employment of Contractor's employees who are assigned to perform Services in connection with this Agreement, including, without limitation, all wage and hour obligations (including overtime compensation when applicable), the federal Fair Labor Standards Act, all other laws governing the payment of employee compensation, and all laws governing discrimination in employment, harassment, leaves of absence, reasonable accommodation of disabilities and other employment-related responsibilities of employers.

(f) **Payroll**. Contractor further understands and agrees that it shall have exclusive control over timekeeping and payroll for all Contractor's employees, and that it shall maintain all records and make all wage and other payments to employees in full compliance with applicable Laws. Ascend Elements shall have no role in paying or determining the compensation of Contractor employees.

(g) **No Litigation**. There are no pending Actions, and Contractor is not aware of any threatened Actions, pertaining to Contractor, the Services or the Deliverables. Contractor will notify Ascend Elements promptly if Contractor becomes aware of any actual or threatened Actions that would reasonably be expected to affect its ability to fully perform its duties under this Agreement.

(h) **Non-Solicitation of Personnel**. During the term of this Agreement and for a period of one (1) year thereafter, Contractor and its Affiliates will not, directly or indirectly, solicit or encourage any employee or consultant of Ascend Elements or its Affiliates to leave for any reason, including, without limitation, to accept employment or an engagement with any other company; provided that an employee or consultant being hired or engaged directly as a result of a general solicitation to the public shall not be deemed to be a violation of this provision. This provision is reciprocal.

5.2 **Examination of Requirements.** Contractor acknowledges that it has had the opportunity and has carefully examined the job site, all specifications, drawings, designs, instructions and other information

related to this Agreement as well as governmental restrictions permits and license requirements, and all other law and rules applicable to the work to be performed under this Agreement, and has made all other investigations necessary to obtain a complete understanding of what is required to fully perform its obligations under this Agreement. Contractor further represents that, based on these examinations and investigations that it has all necessary business, professional and technical expertise as well as the equipment, plant and employee resources required to perform the Services required of this Agreement.

5.3 Remedy of Defects. Contractor will, without charge, correct any non-conformity, defect or malfunction in any Deliverable reported by Ascend Elements within thirty (30) days of receipt of notice from Ascend Elements. The remedies set forth in this Section 5.3 will be non-exclusive.

6. Review and Inspection. Ascend Elements review of Contractor's and/or Contractor's vendors technical documents/testing reports, inspection or failure to review, accept, reject such documents/testing reports, or failure to detect defects by inspection, shall not relieve Contractor and/or its vendors from the responsibility to comply with specification and/or requirements in the WO in the performance of Services. Notwithstanding, both parties and their representatives shall endeavor to identify any defect and/or shortcoming and/or non-compliance to specifications the earliest possible to enable rectification soonest. Ascend Elements payment for the Services shall not constitute its acceptance of the Services. Payment, if any, made for Services rejected hereunder shall be promptly refunded by Contractor.

7. Ownership of Deliverables. Contractor agrees that all Deliverables will be the sole and exclusive property of Ascend Elements. Contractor will and hereby does irrevocably assign to Ascend Elements all right, title and interest in and to the Deliverables and all related intellectual property rights.

8. Payment. In exchange for Contractor's obligations under this Agreement, Ascend Elements will pay Contractor the set forth in the applicable WO or Compensation Schedule. All undisputed payments are due in U.S. Dollars within thirty (30) calendar days of Ascend Elements receipt of a correct invoice and appropriate supporting documents. Ascend Elements will not be liable for any taxes that Contractor fails to invoice. Ascend Elements may withhold amounts disputed in good faith while the parties attempt to resolve the dispute, and this will not constitute a breach. Contractor will not invoice Ascend Elements until Ascend Elements acceptance of the Services or Deliverables (as applicable) in accordance with the applicable WO. Ascend Elements will not reimburse Contractor for any expenses unless such expenses are specified in the applicable WO. When specified in the applicable WO, travel and related expenses incurred by Contractor in performing the Services shall be compensated in accordance with rates as set forth in the Compensation Schedule. Any other reimbursable costs shall be subject to Ascend Elements prior approval in writing but only in accordance with Ascend Elements then-current travel and expense policies, including, without limitation, the furnishing of copies of receipts and other customary documentation for any expenses for which Contractor requests reimbursement. Ascend Elements will have no obligation to pay any reimbursable expenses that Contractor fails to invoice within ninety (90) days after the fees or expenses were incurred. Contractor acknowledges that this Section 7 sets forth the only compensation that Contractor is entitled to receive in exchange for the Services and the Deliverables, and Contractor will not be entitled to any other payments, reimbursements, royalties or consideration of any kind.

9. Term and Termination.

9.1 **Term.** This Agreement remains in effect unless terminated in accordance with this Section 9.

9.2 **Termination.** Either party may terminate this Agreement if the other party: (a) fails to cure any breach of this Agreement (including any applicable WO) within thirty (30) days after written notice of such breach; (b) ceases operation without a successor; or (c) seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is instituted against such party (and not dismissed within sixty (60) days thereafter). In addition, either party may terminate this Agreement at any time when there is no WO in effect for at least one hundred eighty (180) days upon ten (10) days' advance written notice to the other party. Notwithstanding anything to the contrary, Ascend Elements may terminate this Agreement, including any and all WOs, for convenience at any time upon fifteen (15) days' advance written notice to the other party. Any termination hereunder by Ascend Elements for a breach by Contractor which is subsequently determined not to be a breach shall be treated as a termination for convenience. In the event Ascend Elements terminates a Statement of Work (whether terminated for convenience or otherwise), Ascend

Elements only liability will be to pay Contractor the work completed due under the WO with respect to Services provided through the date of termination.

9.3 **Effect of Termination**. Upon any expiration or termination of this Agreement for any reason, or upon earlier request by Ascend Elements, Contractor will promptly deliver to Ascend Elements all Deliverables (in whatever state of completion) and return or (if directed by Ascend Elements) destroy all Confidential Information and derivatives thereof. Except for termination for convenience, the termination of this Agreement is not an exclusive remedy and the exercise of either party of any remedy under this Agreement will be without prejudice to any other remedies it may have under this Agreement, by law or otherwise. Sections 5 (Representations and Warranties), 7 (Ownership of Deliverables), 10 (Independent Contractor), 12 (Confidential Information), 13 (Access to Ascend Elements Facilities), 14 (Publicity and Records), 15 (Indemnification), 16 (Limitation of Liability), 17 (Bankruptcy), 19 (Inventions), 20 (Intellectual Property), 25 (Governing Law), 26 (Dispute Resolution) and the provisions of this Section 9 will survive any expiration or termination of this Agreement.

10. Independent Contractor. Contractor will be solely responsible and liable for any compensation due to Contractor's employees, agents or permitted subcontractors and employment-related taxes, insurance premiums or other employment benefits required to be provided to Contractor's employees, agents or permitted subcontractors under applicable foreign, federal, state and local laws, statutes, orders and regulations. Neither Contractor nor any of Contractor's employees, agents or permitted subcontractors will be eligible for any benefits from Ascend Elements (including, without limitation, vacation or illness payments, stock awards, bonus plans, profit sharing, health insurance or retirement benefits) normally provided by Ascend Elements to its employees. Contractor will defend, indemnify and hold harmless Ascend Elements, its Affiliates and its and their officers, directors, and employees from and against all Actions and all related losses, liabilities, damages, expenses and costs (including attorneys' fees and court costs) arising from or relating to any liability imposed on Ascend Elements or its Affiliates to pay any withholding taxes, social security, unemployment or disability insurance or similar items in connection with compensation received by Contractor pursuant to this Agreement. Contractor will perform services and/or work under this Agreement or any WO in the capacity of independent contractor, and not as an employee, partner, agent or joint venture partner. Ascend Elements will not be responsible for the payment of any duties or taxes imposed on the income or profits of Contractor. Neither party will make any commitment, by contract or otherwise, binding upon the other or represent that it has any authority to do so.

11. Insurance. Contractor is solely responsible for maintaining such health, automobile, workers' compensation, unemployment compensation, disability, liability, and any other type of insurance required by law as set forth in Exhibit A. The WO may set forth additional insurance requirements for Contractor.

12. Confidential Information. Other than in the performance of the Agreement, Contractor nor Contractor's agents, employees, or subcontractors will use or disclose to any person or entity any Confidential Information (as defined below) of Ascend Elements, whether in written, oral, electronic or other form, that is obtained from Ascend Elements or otherwise prepared or discovered either in the performance of this Agreement or while on Ascend Elements premises. "Confidential Information" means any and all information designated by Ascend Elements as confidential or proprietary, all information or data concerning or related to Ascend Elements products or services (including the discovery, invention, research, improvement, development, manufacture, or sale thereof), processes, or business operations (including sales, costs, profits, pricing methods, organization, and employee and customer lists), including any information of the foregoing nature received from Ascend Elements related to Ascend Elements customers or suppliers, and any other information that is of such a nature that a reasonable person would believe it to be confidential or proprietary. The Deliverables constitute Confidential Information of Ascend Elements. The provisions of this Section 11 relating to use and disclosure will not apply to any information that: (i) is rightfully known to Contractor prior to disclosure by Ascend Elements, (ii) is rightfully obtained by Contractor from any third party without restrictions on disclosure, (iii) is or becomes available to the public without restrictions, (iv) is independently developed by Contractor without violating its obligations under this Agreement, or (v) is disclosed with the prior written approval. Contractor may make disclosures to the extent required by law or court order, provided that Contractor notifies Ascend Elements in advance and cooperates in any effort to obtain confidential treatment. Contractor acknowledges that

unauthorized use or disclosure of Confidential Information may cause substantial harm for which damages alone may not be a sufficient remedy.

In event of actual or threatened unauthorized use or disclosure by Contractor, its employees, agents, or subcontractor, Ascend Elements will be entitled to seek appropriate equitable relief in addition to whatever other remedies it might have at law. The obligations set forth in this Section will survive any expiration or termination of this Agreement.

13. Access to Ascend Elements Facilities. To the extent Contractor is granted access to Ascend Elements facilities, Contractor will comply with any safety, control, protection, and other policies and guidelines as Ascend Elements may provide from time-to-time and will be solely liable for its acts or omissions while at any site, including, without limitation, those resulting in personal injury or property damage.

14. Publicity and Records. Contractor will not publicize or disclose the existence or terms of this Agreement to any third party without the prior written consent of Ascend Elements, except as may be required by Law. No references to Ascend Elements, its Affiliates, trade names, trademarks, service marks, brands, marks, logos, codes, drawings or specifications will be used in any of Contractor's advertising, promotional efforts or any publicity of any kind, without Ascend Elements prior written consent, which consent may be withheld in Ascend Elements sole discretion in accordance with Ascend Elements policy that may be changed from time to time. In particular, no press releases will be made without the mutual written consent of each party. Written consent from Ascend Elements shall only be valid if issued by an authorized representative. Contractor will keep and maintain complete and accurate records in connection with its performance of the Services, providing of the Deliverables and all fees charged to Ascend Elements under this Agreement and will retain these records for at least three (3) years after the amounts documented in these records become due. Ascend Elements may audit such systems, procedures and records during regular business hours upon reasonable advance notice and subject to reasonable confidentiality procedures.

15. Indemnification.

(a) Unless caused by the sole negligence of Ascend Elements, its Affiliates or its subcontractors not in connection with Contractor's performance of this Agreement, Contractor will defend, indemnify and hold harmless Ascend Elements, its Affiliates and its officers, directors, employees, customers, agents, attorneys and insurers from and against any and all third party Actions and all related losses, liabilities, damages, expenses and costs (including reasonable attorneys' fees and court costs) to the extent arising from or relating to: (i) any breach or alleged breach of any representation, warranty, covenant or other provision of this Agreement (including any WO); (ii) any violation of law; (iii) infringement or misappropriation of patent, copyright, trade secrets or other intellectual property rights of any third party; (iv) any injury including bodily injury, disability or death, personal injury or property damage or any damages, resulting from a Product or Service which is defective in materials, design or workmanship, sustained by Ascend Elements or by Ascend Elements agents, subcontractors or employees; or (v) any injury including bodily injury, disability or death, personal injury or property damage or any damages, regardless of fault, sustained by Contractor, or by Contractor's agents, subcontractors or employees, unless incident or action is a direct cause of Ascend Elements.

(b) **Indemnification Procedures.** Ascend Elements will give Contractor written notice of any such Action or claim as to which Contractor has a duty to indemnify Ascend Elements hereto under this Section. Contractor shall have the right to control the defense (using counsel reasonably acceptable to Ascend Elements) of any claim brought against Ascend Elements as to which Contractor has a duty to provide indemnity under this Section, with all reasonable attorneys' fees, costs and other expenses of such defense being paid in full by Contractor. Ascend Elements has the right to participate in the defense of any such Action. In no event will Contractor settle, compromise or consent to the entry of judgment in any Action without Ascend Elements prior written consent, which shall not be unreasonably withheld, delayed or conditioned.

16. Limitation of Liability. In no event shall Ascend Elements aggregate liability arising out of or related to this Agreement, whether arising out of or related to breach of contract, tort (including negligence) or otherwise exceed the lesser of: (i) Contractor's actual damages, or (ii) the total aggregate amount paid by Ascend Elements to Contractor for Services performed in accordance with this Agreement in the month before such liability is assessed or the month before termination of the Agreement, whichever is earlier. NOTWITHSTANDING ANYTHING TO THE CONTRARY, ASCEND ELEMENTS WILL NOT BE LIABLE TO CONTRACTOR FOR INDIRECT, EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL

OR CONSEQUENTIAL DAMAGES OR LOSSES, OR FOR LOST PROFITS OR BUSINESS OPPORTUNITIES, UNDER ANY LEGAL THEORY (INCLUDING NEGLIGENCE).

17. Bankruptcy. The parties agree that, in the event of the commencement of bankruptcy proceedings by or against a party under applicable Law, the other party will be entitled, at its option, to retain all of its rights under this Agreement pursuant to applicable Law.

18. Force Majeure. Force Majeure shall mean an occurrence beyond the control and without the fault or negligence of the party affected including, but not limited to, acts of God or the public enemy; expropriation or confiscation of whole or part of the Facilities; war, rebellion, sabotage or riots; pandemic, lockdowns; sanctions, embargoes; severe disruptions to the labor supply or supply chain, earthquakes, severe flooding or unusually severe weather that could not reasonably have been anticipated; fires, explosions or other catastrophes; unresolved community protest, authorities restrictions that prevents construction of the facilities in the current selected location; strikes or any other concerted acts of workmen; or other similar o:ccurrences which are not within the control of the party affected and which by the exercise of reasonable diligence said party is unable to prevent or provide against. The parties agree that the remedy for Force Majeure occurrences shall be as follows:

(a) Should either party be delayed in performance of this Agreement by an occurrence which it considers to be Force Majeure and should either party be unable to avoid or prevent said delay by reasonable effort, the party affected shall promptly give notice to other party and shall do all things reasonably possible to remove the cause and mitigate its effects. If Contractor's and/or its vendors performance is delayed by Force Majeure, appropriate adjustments shall be made to the work schedule and equipment delivery dates. Notwithstanding there shall be NO adjustment to Price NOR any claim for damages, consequential losses or loss of anticipated profits.

(b) Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages, consequential losses or loss of anticipated profits if, and to the extent, such delay or failure is caused by Force Majeure.

(c) If performance of this Agreement is suspended for sixty [60] consecutive days, then the parties shall mutually agree on the amicable way forward which may include termination of the Agreement as a last resort.

19. Inventions. Contractor shall promptly disclose to Ascend Elements all inventions, discoveries, and improvements [whether patentable or not] conceived or made by Contractor's personnel, either alone or jointly with others, or its vendors in the course of performance of this Agreement. At Ascend Elements request, Contractor shall assign and require its personnel to assign to Ascend Elements or to its designee, each such invention, discovery, and improvement. Contractor shall also require its employees to execute such papers as Ascend Elements requests in connection with the assignment or prosecution of patents or patent applications covering each such invention, discovery, or improvement in all countries specified by Ascend Elements and to render reasonable assistance to Ascend Elements in connection with protecting Ascend Elements rights to such invention, discovery or improvements.

20. Intellectual Property. If Ascend Elements furnishes the design for the equipment/materials or requires Contractor to prepare a design for the equipment/materials, then Ascend Elements will own all intellectual property rights relating to such design and Contractor agrees to assign all rights in such designs to Ascend Elements. Ascend Elements does not transfer to Contractor and/or its employees, personnel, agents, subcontractors, entities providing services under the Contractor for this Agreement any patent, trade secret, trademark, service mark, copyright, or other intellectual property right of Ascend Elements. Contractor will indemnify, protect, defend or settle (at Contractor's expense), and hold harmless Ascend Elements, its parents, affiliates, and its and their directors, officers, employees, agents, successors and assigns, and the users of equipment/materials ("Indemnitees") from all liabilities, and all other obligations and proceedings, and all fines and penalties imposed upon, Indemnitees and all attorney fees and any other cost of litigation (collectively "Labilities") incurred as a result of actual or alleged infringement of any present or future or actual or alleged intellectual property right of any third party arising from Ascend Elements use of Deliverables and/or use or sale of equipment/materials supplied by Contractor under this Agreement under this Agreement. In the event of an allegation of intellectual property infringement or if the use of Deliverables and/or sale of the equipment/materials supplied by Contractor under this Agreement are enjoined, Contractor will, at its own expense and at

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Ascend Elements option, either (i) procure the right to continue using the Deliverables and/or equipment/materials; (ii) make such alterations modifications or adjustments to the Deliverables and/or equipment/materials so that they become non-infringing without incurring a material diminution in performance or function; (iii) replace the same with a non-infringing equivalent; or (iv) remove the equipment/materials and refund the purchase price and the transportation and installation costs thereof. All such obligations of Contractor to indemnify, hold harmless, protect and defend Ascend Elements are in addition to Contractor's warranty obligations and all other rights or remedies of Ascend Elements and will survive acceptance and use of, and payment for, the Deliverables and /or equipment/materials, and completion, termination, or cancellation of this Agreement if any settlement requires an affirmative obligation (other than ceasing use of the Deliverables and/or equipment/materials) of, results in any ongoing liability to or prejudice or detrimentally impacts Ascend Elements in any material way, then such settlement shall require Ascend Elements written consent and Ascend Elements may have its own counsel in attendance at all proceedings and substantive negotiations relating to such liabilities.

21. Anti-Corruption; Morals.

(a) Contractor represents and warrants to Ascend Elements that Contractor and Contractor personnel are currently complying, and have at all times complied with, and will comply with all Anti-Corruption Laws. After Contractor's reasonable inquiry, neither Contractor nor Contractor personnel have during the five (5) years prior to the Effective Date: (1) taken any direct or indirect action that would result in a violation of any applicable Federal or State Anti-Corruption Laws, including, for purposes of securing an improper advantage, the making, offering or authorizing any bribe, facilitation or other payment, gift, entertainment, rebate, or any other thing of value to any government official or employee, political party or official, or candidate, a public international organization, a commercial entity or individual, whether tangible or intangible, to secure an improper advantage, (2) been under, an administrative, civil or criminal investigation, in connection with alleged or possible violations of applicable Federal or State Anti-Corruption Laws, or (3) received notice from, or made a voluntary disclosure to, any governmental entity regarding alleged or possible violations of any applicable Federal or State Anti-Corruption Laws; and to Contractor's knowledge, its financial records are sufficiently accurate and complete to demonstrate its compliance with the applicable Federal or State Anti-Corruption Laws, represent actual bona fide transactions, and have been maintained in accordance with sound business practices, including the maintenance of adequate internal accounting controls. If Contractor suspects any breach of this provision, to the fullest extent permitted by applicable Federal or State Anti-Corruption Laws, Contractor will promptly notify Ascend Elements in writing of its suspicions and cooperate with Ascend Elements in the resolution of issues raised.

(b) If Contractor or any of its officers, directors, board members, principals, employees, agents, or representatives of Contractor commits any act which, in the reasonable and good faith opinion of Ascend Elements, would disparage or impair the reputation and/or integrity of Ascend Elements (including, without limitation, being convicted of any felony or a crime involving moral turpitude, ethical violations or any other act of moral turpitude) or fails to comply with the Code of Conduct Policy for Business Partners, Ascend Elements shall have the right to terminate this Agreement without liability to Contractor upon thirty (30) days written notice.

22. Non-Exclusivity. This Agreement shall not be construed as granting to Contractor the exclusive right to provide the Services for Ascend Elements. Ascend Elements reserves the right to contract with other parties for such Services as it deems necessary. The Parties further agree that Ascend Elements is not obligated to purchase any minimum amount of Services from Contractor under this Agreement.

23. Assignment. Contractor may not assign this Agreement without the prior written consent of Ascend Elements and any attempt to do so will be void. Notwithstanding the foregoing, Ascend Elements may assign this Agreement to (a) an Affiliate or (b) any other entity in connection with a reorganization, merger, consolidation, acquisition, or other restructuring involving all or substantially all of the voting securities or assets of Ascend Elements. All rights, benefits, and protections granted to Ascend Elements pursuant to this Agreement extend to its Affiliates. Any notice or consent under this Agreement will be in writing, which may be delivered personally or via mailed, by prepaid, certified mail or overnight courier, to the address specified below.

24. Waiver. No provision of this Agreement will be waived by any act, omission or knowledge of a party or its agents or employees except by an instrument in writing expressly waiving such provision and signed by a duly authorized officer of the waiving party.

No indulgence or concession granted by Ascend Elements in relation to any of the terms of this Agreement shall in any way affect or prejudice Ascend Elements rights hereunder and any such indulgence or concession may be withdrawn at any time by Ascend Elements without prior notice. Waiver by Ascend Elements of any breach or non-observance of the terms of this Agreement shall not constitute or be construed as a waiver of any succeeding breach or non-observance of the same or any other term.

None of the following constitutes a waiver or estoppel of any right, remedy, power, privilege or condition by Ascend Elements arising from this Agreement: (a) any failure or delay in exercising any right, remedy, power, or privilege or in enforcing any condition under this Agreement, or (b) any act, omission, or course of dealing between the Parties. If any provision of this Agreement is adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect.

25. Governing Law. This Agreement will be deemed to have been made in and will be construed pursuant to the laws of the State of Delaware and the United States without regard to conflicts of law's provisions thereof, and without regard to the United Nations Convention on the International Sale of Goods.

26. Dispute Resolution. Any dispute, controversy or claim arising out of or relating to this contract, including the formation, interpretation, breach or termination thereof, including whether the claims asserted are arbitrable, will be referred to and finally determined by arbitration in accordance with the JAMS International Arbitration Rules. The Tribunal will consist of three arbitrators. The place of arbitration will be Suffolk County, Massachusetts. The language to be used in the arbitral proceedings will be English. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Ascend Elements failure to assert any right is not a waiver of such right or any other right. Any remedies provided herein to Ascend Elements are cumulative and in addition to any other remedies provided in law or equity or by statute. **EACH PARTY KNOWINGLY AND VOLUNTARILY WAIVES TRIAL BY JURY AND THE RIGHT THERETO IN ANY ACTION OR PROCEEDING OF ANY KIND, ARISING UNDER OR OUT OF, OR OTHERWISE RELATED TO OR OTHERWISE CONNECTED WITH THIS AGREEMENT AND ANY RELATED DOCUMENT**

27. Severability. Should any provision hereof be found to violate any statute or regulation or by the operation of law be deemed invalid, all other provisions contained herein shall be considered separable and shall remain in full force and effect, and the parties shall negotiate in good faith to replace the invalid clause or clauses with provisions having similar business purposes that are consistent with this Agreement.

28. Entire Contract. Any amendments to this Agreement or any WO or Compensation Schedule will be effective only if made in writing signed by a representative of the respective parties. Both parties agree that this Agreement (including any executed WOs or Compensation Schedule) is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Agreement. This Agreement may be executed in counterparts, each of which will be deemed an original and all of which together will be considered one and the same agreement. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature by any of the parties to any other party and the receiving party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.

[THIS SPACE INTENTIONALLY LEFT BLANK.
SIGNATURE PAGE FOLLOWS]

ASCEND ELEMENTS

Accepted and agreed to as of the Effective Date by the authorized representative of each party:

Amcon Industrial		**Ascend Elements Inc.**	
Signature:	Coleen Phillips	Signature:	Andrew Aberdale (May 30, 2023 10:25 EDT)
Print Name:	Coleen Phillips	Print Name:	Andrew Aberdale
Print Title:	Executive Vice President & Secretary	Print Title:	Chief Financial Officer
Date:	05/26/2023	Date:	May 30, 2023

Notice Address:
1375 Oakley Industrial Blvd
Fairburn GA 30213
Attention: Diana Griffin / Coleen Phillips
Email:
coleen@amconindustrial.com

Notice Address:
133 Flanders Rd. Westborough, MA 01581
Attention: Legal Department
Email:
llochhead@ascendelements.com

ASCEND ELEMENTS

Exhibit A
INSURANCE REQUIREMENTS

Prior to commencement of provision of Services or Contractor entering Ascend Elements operation or performing work for Ascend Elements, and annually thereafter, a Certificate of Insurance ("COI") evidencing the following insurance carried by the Contractor at its own expense must be presented in an acceptable form to Ascend Elements:

COVERAGE LIMIT REQUIREMENTS

Commercial General Liability (including Products/Completed Operations and Umbrella/Excess Liability):

Commercial General Liability (CGL) and Umbrella/Excess Liability Insurance in an amount not less than $3,000,000 per occurrence and $3,000,000 annual aggregate.

Workers' Compensation & Employers Liability:

Workers' Compensation insurance in compliance with applicable statutory requirements, as well as Employers' Liability insurance in an amount not less than $ 1,000,000 each accident.

Automobile Liability:

Automobile Liability insurance for bodily injury and property damage, including coverage for owned, non-owned and hired vehicles in an amount not less than $1,000,000 Combined Single Limit. All Contractor personnel who drive personal or company vehicles onto Ascend Elements premises must show proof of Automobile Liability insurance.

Contractors Pollution Liability Insurance:

If applicable to the products or services being provided by Contractor, a policy covering the liability arising out of any sudden and/or non-sudden pollution or impairment of the environment, including cleanup costs and defense, that arise from the operation, in an amount not less than $2,000,000 per Pollution Condition Limit of Liability.

Errors & Omissions / Professional Liability:

When Contractor is providing a professional service, Ascend Elements requires such coverage in an amount not less than $1,000,000 per occurrence and aggregate.

Fidelity Insurance:

When a Contractor is providing services which could result in the loss of money and/or securities, Ascend Elements requires the placement and evidence of $5,000,000 per occurrence and aggregate of Fidelity Insurance with a client property amendment, as well as Ascend Elements listed as a "Loss Payee".

Technology Errors and Omissions Insurance (where applicable):

When a Contractor is providing IT products or services to Ascend Elements, during the term of the agreement Contractor shall procure and maintain Technology Errors and Omissions insurance in an amount not less than $5,000,000 per claim and aggregate.

Cyber Insurance (where applicable):

If a Contractor has access to Confidential Information or personally identifiable information, Contractor shall carry Privacy and Network Security (also known as Cyber) insurance in the amount of not less than $5,000,000 for each claim and in the aggregate. Such policy shall include coverage for all costs incurred to respond to the theft, loss, unauthorized disclosure, wrongful collection or access to information, and all damages resulting from such breach, including fines and penalties imposed.

*In addition to showing the limits of liability specified above for each coverage, the certificate of insurance must provide:

(a.) A waiver of subrogation where allowed by law in favor of Ascend Elements;

(b.) Coverage for Ascend Elements and Affiliates as an additional insured where allowed by law. A copy of the CGL additional insured endorsement must be attached to the certificate of insurance. Ascend Elements reserves the right to reject any such endorsement that provides less coverage to Ascend Elements than would be afforded by the standard additional insured endorsements issued by the Insurance Services Office (ISO).
(c.) A statement that Ascend Elements will receive 30 days' notice if any coverages are cancelled.
(d.) Coverage should be on a primary and non-contributory basis

Contractor shall require all approved subcontractors to maintain insurance that satisfies the requirements set forth herein. Upon request by Ascend Elements, Contractor shall provide Ascend Elements a complete copy of the policies carried by Contractor and Contractor's approved subcontractors.

ASCEND ELEMENTS

Exhibit B
WORK ORDER TEMPLATE

Typical Content of Work Order shall be as per below.

PREAMBLE: This Work Order is issued under the Professional Services Agreement between Ascend Elements and Contractor (referred to as "PSA") and save for the provisions specific for this Work Order the other terms and conditions are as stipulated in the PSA.

A) Statement of Work
- Scope of Work write-up.
- Services required.
- To the extent of availability complete with documentation, drawings, specifications.

B) Work Order Sum
The Work Order Sum shall be a XXXXXX 'Not to Exceed Value' or 'Lump Sum Price' to be determined on a case to case basis.

C) Compensation
Various Options - Time Rate or Unit Rate or Reimbursable Cost Plus or Lump Sum Price or Combination type compensation to be determined on a case to case basis.

D) Time and Unit Rates For Changes
As available.

E) Payment Terms
The payment terms shall be in accordance with the PSA.

F) Invoicing
Invoicing shall be in accordance with the PSA.

G) Work Order Time
To be determined on a case to case basis.

H) Other Specific Requirements
To be determined on a case to case basis.

ASCEND ELEMENTS

Exhibit C
SCHEDULE OF RATES

A) TIME RATES FOR PERSONNEL

RATES ARE EFFECTIVE THROUGH DECEMBER 31ST, 2023.

CLASSIFICATION	DAY SHIFT STRAIGHT TIME (per Hr)	DAY SHIFT OVERTIME (per Hr)	NIGHT SHIFT STRAIGHT TIME (per Hr)	NIGHT SHIFT OVERTIME (per Hr)
Project Manager	$128.25	$179.55.		
Safety Manager	$91.00	$136.50		
Superintendent	$75.10	$112.65	$79.52	$119.27
Foreman	$66.26	$99.39	$70.68	$106.02
Mechanical Journeyman	$56.22	$77.31	$59.96	$83.93
Mechanical Helper	$36.81	$55.22	$41.23	$61.85
Materials Specialist	$36.81	$55.22	$41.23	$61.85
Controls Engineer	$83.93	$125.90	$88.35	$132.53
Electrical Journeyman	$57.43	$86.14	$61.85	$92.77
Electrical Helper	$36.81	$55.22	$41.23	$61.85
Field Admin	$69.66	$94.05	$74.71	$100.85
Office Admin	$69.66	$94.05	$74.71	$100.85
Office Management	$85.32	$107.98		

B) WORKING HOURS

a) Straight Time is during normal working hours - Monday through Friday, 40 hours per week.

b) Overtime is in effect after 40 normal working hours and all day Saturday and Sunday.

c) Double Time applies on Thanksgiving, Christmas, New Years, Memorial Day, July Fourth and Labor Day.

C) OTHER EXPENSES

Reimbursable Cost (RC) for accommodation, flights, rental cars, supplies, etc. shall be subject to Ascend Elements Representative prior approval. RC shall be billed at cost plus mark-up 15%

D) PER DIEM

Per diem for incidentals, living expenses, meals, accommodation etc. for eligible personnel subject to Ascend Elements Representative prior approval shall be $125/day/person. Any other per diem shall be negotiated on a case to case basis to be approved by Ascend Elements project manager accordingly. The agreed cost to be incorporated in the Work Order accordingly for compensation.

E) PROCUREMENT

Procurement shall be performed on Reimbursable Cost plus 5% mark-up basis.

ASCEND ELEMENTS

F) RATES FOR CONTRACTOR OWNED EQUIPMENT

RATES ARE EFFECTIVE THROUGH DECEMBER 31ST, 2023.

1) CRANE AND RIGGING EQUIPMENT RATES

EQUIPMENT	DAILY RATE US$	WEEKLY RATE US$
<10K Forklift	$345	$1,375
15K Forklift	$750	$3,000
25/35 Versa Lift	$2,000	$8,000
40/60 Versa Lift	$2,500	$10,000
15 Ton Carry Deck	$550	$2,000
45 Ton Boom Truck	$950	$4,600
75 Ton Crane	$2,100	$10,500
110 Ton Crane	$2,240	$11,200
160 Ton Crane	$2,560	$12,800
250 Ton Crane	$3,360	$16,800

2) CRANE AND RIGGING EQUIPMENT LABOR RATES

CLASSIFICATION	DAY SHIFT STRAIGHT TIME (per Hr)	DAY SHIFT OVERTIME (per Hr)	NIGHT SHIFT STRAIGHT TIME (per Hr)	NIGHT SHIFT OVERTIME (per Hr)
Project Manager	$135	$203	$138	$212
Rigging Superintendent	$102	$153	$109	$185
Rigging Foreman	$74	$110	$82	$139
Riggers	$70	$105	$76	$129
Operator	$80	$120	$87	$147
Truck Driver	$65	$97	$70	$121
Helper	$45	$64	$50	$84

3) WORKING HOURS

The working hours, application of straight time, overtime and double time shall be the same as section B) above i.e.

a) Straight Time is during normal working hours - Monday through Friday, 40 hours per week.

b) Overtime is in effect after 40 normal working hours and all day Saturday and Sunday.

c) Double Time applies on Thanksgiving, Christmas, New Years, Memorial Day, July Fourth and Labor Day.

4) OTHER CHARGES

The above rates do not include expendables, trucking expense and any negotiated per diem expenses as applicable. In the event such costs are applicable it shall be negotiated on a case to case basis to be approved by Ascend Elements project manager accordingly. The agreed cost to be incorporated in the Work Order accordingly for compensation.

^ including fuel surcharges

05.26.23

ASCEND ELEMENTS

Herc Rentals Inc. - Pricing Schedule

A M Construction

HercRentals™

AFFECTED REGIONS / BRANCHES

US National (Excluding Hawaii, North Dakota & Greater Permian)

EFFECTIVE DATES: FROM: 04/01/2023 THROUGH: 03/31/2024 **Pricing Schedule #: 19655**

CAT-CLASS		DESCRIPTION	DAY	WEEK	4 WEEK
AERIAL - BOOM LIFTS ARTICULATED					
410	2010	BOOM ARTICULATED 30FT JIB NARROW ELEC	$310.00	$795.00	$1,655.00
410	2020	BOOM ARTICULATED 30FT NAR ROT JIB ELEC	$310.00	$795.00	$1,655.00
410	2030	BOOM ARTICULATED 33FT ELEC	$310.00	$795.00	$1,655.00
410	2045	BOOM ARTICULATED 34FT NARROW JIB ELEC	$310.00	$795.00	$1,655.00
410	2050	BOOM ARTICULATED 34FT WIDE JIB ELEC	$310.00	$795.00	$1,655.00
410	2070	BOOM ARTICULATED 40FT NARROW JIB ELEC	$375.00	$905.00	$1,895.00
410	2080	BOOM ARTICULATED 40FT NAR ROT JIB ELEC	$375.00	$905.00	$1,895.00
410	2100	BOOM ARTICULATED 40FT WIDE ROT JIB ELEC	$375.00	$905.00	$1,895.00
410	2130	BOOM ARTICULATED 45FT ELEC	$375.00	$905.00	$1,895.00
410	2140	BOOM ARTICULATED 45FT JIB ELEC	$375.00	$905.00	$1,895.00
410	3030	BOOM ARTICULATED 34FT JIB 4WD DF	$360.00	$850.00	$1,725.00
410	3040	BOOM ARTICULATED 34FT JIB 4WD DSL	$360.00	$850.00	$1,725.00
410	3070	BOOM ARTICULATED 45FT 4WD DF	$375.00	$905.00	$1,895.00
410	3080	BOOM ARTICULATED 45FT JIB 4WD DF	$375.00	$905.00	$1,895.00
410	3110	BOOM ARTICULATED 45FT 4WD DSL	$375.00	$905.00	$1,895.00
410	3120	BOOM ARTICULATED 45FT JIB 4WD DSL	$375.00	$905.00	$1,895.00
410	3140	BOOM ARTICULATED 60FT JIB 2WD DF	$475.00	$1,150.00	$2,470.00
410	3180	BOOM ARTICULATED 60FT JIB 4WD DF	$475.00	$1,150.00	$2,470.00
410	3190	BOOM ARTICULATED 60FT 4WD DSL	$475.00	$1,150.00	$2,470.00
410	3200	BOOM ARTICULATED 60FT JIB 4WD DSL	$475.00	$1,150.00	$2,470.00
410	3300	BOOM ARTICULATED 80FT JIB 4WD DSL	$795.00	$2,025.00	$3,990.00
410	3350	BOOM ARTICULATED 125FT JIB 4WD DSL	$1,705.00	$3,615.00	$10,345.00
410	3360	BOOM ARTICULATED 135FT JIB 4WD DSL	$1,710.00	$4,140.00	$10,420.00
AERIAL - BOOM LIFTS STRAIGHTMAST					
410	4030	BOOM STRAIGHT 40FT 4WD DF	$375.00	$905.00	$1,895.00
410	4040	BOOM STRAIGHT 40FT 4WD DSL	$375.00	$905.00	$1,895.00
410	4090	BOOM STRAIGHT 45FT JIB 4WD DSL	$375.00	$905.00	$1,895.00
410	4140	BOOM STRAIGHT 60FT 4WD DSL	$475.00	$1,150.00	$2,470.00
410	4145	BOOM STRAIGHT 60FT JIB 4WD DSL	$475.00	$1,150.00	$2,470.00
410	4180	BOOM STRAIGHT 65FT JIB 4WD DF	$480.00	$1,230.00	$2,575.00
410	4190	BOOM STRAIGHT 65FT JIB 4WD DSL	$480.00	$1,230.00	$2,575.00
410	4195	BOOM STRAIGHT 65FT JIB DSL HIGH CAP	$480.00	$1,230.00	$2,575.00
410	4240	BOOM STRAIGHT 80FT 4WD DSL	$795.00	$2,025.00	$3,990.00
410	4242	BOOM STRAIGHT 80FT 4WD DSL HIGH CAP	$795.00	$2,025.00	$3,990.00
410	4270	BOOM STRAIGHT 85FT JIB 4WD DF	$935.00	$2,215.00	$4,520.00
410	4300	BOOM STRAIGHT 85FT JIB 4WD DSL	$935.00	$2,215.00	$4,520.00
410	4305	BOOM STRAIGHT 85FT JIB 4WD DSL HIGH CAP	$935.00	$2,215.00	$4,520.00

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PRINT DATE: Tuesday, April 25, 2023

ASCEND ELEMENTS

AFFECTED REGIONS / BRANCHES

US National (Excluding Hawaii, North Dakota & Greater Permian)

EFFECTIVE DATES: FROM: 04/01/2023 THROUGH: 03/31/2024 **Pricing Schedule #: 19655**

CAT-CLASS	DESCRIPTION	DAY	WEEK	4 WEEK
AERIAL - BOOM LIFTS STRAIGHTMAST				
410 4400	BOOM STRAIGHT 120FT JIB 4WD DSL	$1,705.00	$3,615.00	$10,345.00
410 4410	BOOM STRAIGHT 125FT JIB 4WD DSL	$1,705.00	$3,615.00	$10,345.00
410 4420	BOOM STRAIGHT 135FT JIB 4WD DSL	$1,710.00	$4,140.00	$10,420.00
AERIAL - BOOM LIFTS TOWABLE				
410 1010	BOOM TOWABLE 35FT BATTERY	$320.00	$785.00	$1,840.00
410 1030	BOOM TOWABLE 50FT BATTERY	$365.00	$1,000.00	$1,985.00
410 1040	BOOM TOWABLE 50FT GAS	$365.00	$1,000.00	$1,985.00
AERIAL - ELECTRIC SCISSOR LIFTS				
405 1060	SCISSOR LIFT 12-13FT 30IN ELEC	$130.00	$295.00	$460.00
405 1062	SCISSOR LIFT 13FT 30IN COMPACT LCS ELEC	$130.00	$295.00	$460.00
405 1070	SCISSOR LIFT 14FT 30IN ELEC	$130.00	$295.00	$460.00
405 1085	SCISSOR LIFT 19FT NARROW COMPACT ELEC	$130.00	$295.00	$460.00
405 1087	SCISSOR LIFT 19FT COMPACT FLUID CONTAIN	$130.00	$295.00	$460.00
405 1090	SCISSOR LIFT 19FT NARROW ELEC	$125.00	$265.00	$405.00
405 1100	SCISSOR LIFT 20FT NARROW ELEC	$135.00	$330.00	$495.00
405 1140	SCISSOR LIFT 26FT 32" WIDE ELEC	$155.00	$370.00	$620.00
405 1150	SCISSOR LIFT 26FT 46" WIDE ELEC	$155.00	$370.00	$620.00
405 1200	SCISSOR LIFT 32FT 32" WIDE ELEC	$215.00	$520.00	$960.00
405 1210	SCISSOR LIFT 32FT 46" WIDE ELEC	$210.00	$510.00	$940.00
405 1260	SCISSOR LIFT 40FT 47" WIDE ELEC	$310.00	$725.00	$1,295.00
405 1270	SCISSOR LIFT 40FT 69" WIDE ELEC	$330.00	$810.00	$1,475.00
AERIAL - ROUGH TERRAIN SCISSOR LIFTS				
405 1430	SCISSOR LIFT 26FT RT DF	$285.00	$720.00	$1,125.00
405 1450	SCISSOR LIFT 26FT RT DSL	$285.00	$720.00	$1,125.00
405 1770	SCISSOR LIFT 40-45FT RT 94IN DECK DF	$390.00	$980.00	$1,795.00
405 1780	SCISSOR LIFT 40-45FT RT 94IN DECKOUTR DF	$390.00	$980.00	$1,795.00
405 1800	SCISSOR LIFT 40-45FT RT 94IN DECKOUTRDSL	$390.00	$980.00	$1,795.00
405 1850	SCISSOR LIFT 50-53FT RT OUTRIG DF	$425.00	$1,200.00	$2,250.00
405 1860	SCISSOR LIFT 50-53FT RT OUTRIG DSL	$425.00	$1,200.00	$2,250.00
AERIAL - VERTICAL MAST LIFTS				
400 1220	MAST LIFT 30FT PUSH AROUND OUTR BATT	$170.00	$385.00	$650.00
400 1270	MAST LIFT 12FT DRIVABLE BATT	$115.00	$250.00	$420.00
400 1280	MAST LIFT 15FT-16FT DRIVABLE BATT	$150.00	$285.00	$440.00
400 1290	MAST LIFT 20FT DRIVABLE BATT	$160.00	$295.00	$460.00
AIR COMPRESSORS - DIESEL				
140 1220	COMPRESSOR TOWABLE 100-125 CFM DSL	$100.00	$280.00	$625.00
140 1260	COMPRESSOR TOWABLE 175-195 CFM DSL	$155.00	$340.00	$710.00

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PRINT DATE: Tuesday, April 25, 2023

ASCEND ELEMENTS

AFFECTED REGIONS / BRANCHES

US National (Excluding Hawaii, North Dakota & Greater Permian)

EFFECTIVE DATES: FROM: 04/01/2023 THROUGH: 03/31/2024 **Pricing Schedule #: 19655**

CAT-CLASS		DESCRIPTION	DAY	WEEK	4 WEEK
AIR COMPRESSORS - DIESEL					
140	1360	COMPRESSOR TOWABLE 375-425CFM DSL	$245.00	$485.00	$1,445.00
140	1380	COMPRESSOR TOWABLE 825CFM DSL	$440.00	$1,040.00	$3,290.00
140	1480	COMPRESSOR TOWABLE INS QUAL 1600CFM DSL	$910.00	$2,155.00	$7,120.00
AIR COMPRESSORS - ELECTRIC					
140	1020	COMPRESSOR PORTABLE 4 CFM ELECTRIC	$60.00	$240.00	$520.00
140	1040	COMPRESSOR PORTABLE 7 CFM ELECTRIC	$60.00	$240.00	$520.00
AIR COMPRESSORS - SMALL PORTABLE					
140	1100	COMPRESSOR PORTABLE 14 CFM GAS	$65.00	$265.00	$565.00
CLIMATE CONTROL - DIRECT FIRED					
715	0408	50K-60K BTU RADIANT HEATER DSL	$60.00	$175.00	$390.00
715	0430	150K BTU DIRECT FORCED AIR HEATER LPG/NG	$65.00	$190.00	$395.00
715	0435	150K BTU RADIANT HEATER DSL	$105.00	$285.00	$595.00
715	0450	200K BTU DIRECT FORCED AIR HEATER KERO	$95.00	$230.00	$525.00
715	0460	400K BTU DIRECT FORCED AIR HEATER LPG	$120.00	$320.00	$660.00
715	0470	400K BTU DIRECT FORCED AIR HEATER KERO	$120.00	$320.00	$660.00
715	0550	1.5M BTU DIRECT FORCED AIR HEATER LPG/NG	$275.00	$645.00	$1,655.00
COMPACTION AND PAVING - DOUBLE DRUM					
150	2820	ROLLER RIDE-ON SMOOTH 35IN DBL 1 TON GAS	$210.00	$600.00	$1,625.00
150	2860	ROLLER RIDE-ON SMOOTH 47IN DBL 3 TON DSL	$285.00	$905.00	$2,135.00
COMPACTION AND PAVING - RAMMERS					
150	1080	RAMMER JUMPING JACK 100LB - 199LB GAS	$105.00	$415.00	$900.00
COMPACTION AND PAVING - SINGLE DRUM					
150	2730	ROLLER RIDE-ON SMOOTH 54IN SNG 5 TON	$400.00	$1,120.00	$2,630.00
150	2760	ROLLER RIDE-ON SMOOTH 66IN SNG 8 TON	$515.00	$1,395.00	$3,255.00
150	2770	ROLLER RIDE-ON SMOOTH 84IN SNG 11 TON	$595.00	$1,670.00	$4,045.00
COMPACTION AND PAVING - TRENCH ROLLERS					
150	2260	ROLLER TRENCH VIBRA DBL DRUM 32IN DSL	$335.00	$820.00	$1,590.00
CONCRETE AND MASONRY - BUGGIES					
100	1870	CONCRETE WHEEL POWER BUGGY 16 CU. FT.	$165.00	$440.00	$1,165.00
100	1890	CONCRETE TRACK POWER BUGGY 16 CU. FT.	$205.00	$810.00	$1,750.00
CONCRETE AND MASONRY - CORE DRILLS					
100	1440	CORE DRILL UPTO 6IN HAND HELD/STAND ELEC	$110.00	$410.00	$815.00
100	1470	CORE DRILL UP T0 12IN STAND ELEC	$130.00	$505.00	$1,085.00

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PRINT DATE: Tuesday, April 25, 2023

ASCEND ELEMENTS

AFFECTED REGIONS / BRANCHES

US National (Excluding Hawaii, North Dakota & Greater Permian)

EFFECTIVE DATES: FROM: 04/01/2023 THROUGH: 03/31/2024 **Pricing Schedule #: 19655**

CAT-CLASS	DESCRIPTION	DAY	WEEK	4 WEEK
CONCRETE AND MASONRY - HANDHELD CUTOFF SAWS				
100 2700	CONCRETE CUTOFF SAW 12IN DUSTLES HH ELEC	$75.00	$305.00	$660.00
100 2710	CONCRETE CUTOFF SAW 14IN HAND HELD ELEC	$75.00	$305.00	$660.00
100 2730	CONCRETE CUTOFF SAW 14IN HAND HELD GAS	$90.00	$330.00	$710.00
100 2740	CONCRETE CUTOFF SAW 16IN HAND HELD GAS	$95.00	$370.00	$805.00
100 2780	CONCRETE CUTNBRK SAW 16IN HAND HELD GAS	$90.00	$330.00	$710.00
CONCRETE AND MASONRY - TROWELS				
100 2600	CONCRETE TROWEL MACHINE 36IN W/B GAS	$80.00	$330.00	$805.00
100 2610	CONCRETE TROWEL MACHINE 46IN W/B GAS	$95.00	$365.00	$900.00
CONCRETE AND MASONRY - VIBRATORS				
100 2120	CONCRETE VIBRATOR 2HP ELEC	$70.00	$285.00	$615.00
100 2360	CONCRETE VIBRATOR BACKPACK GAS	$75.00	$305.00	$660.00
CONCRETE AND MASONRY - WALK-BEHIND SAWS				
100 2810	CONCRETE PUSH W/B SAW 10-19 HP GAS	$110.00	$440.00	$945.00
100 2820	CONCRETE SELFPROP W/B SAW 10-19 HP GAS	$135.00	$550.00	$1,180.00
100 2840	CONCRETE SELFPROP W/B SAW 20-29 HP GAS	$165.00	$655.00	$1,420.00
100 2910	CONCRETE SELFPROP W/B SAW 40 - 49 HP DSL	$350.00	$1,090.00	$2,310.00
100 2950	CONCRETE EARLY ENTRY SAW PUSH 1.18IN GAS	$150.00	$590.00	$1,275.00
110 1555	LIGHT CART 400 WATT LED 2-HEAD	$75.00	$160.00	$420.00
CONTRACTOR AND INDUSTRIAL - COLD WATER PRESSURE WASHERS				
105 2020	WASHER 2000-2999 PSI GAS	$95.00	$370.00	$805.00
105 2050	WASHER 3000-3999 PSI GAS	$115.00	$460.00	$990.00
105 2060	WASHER 4000-4999 PSI GAS	$115.00	$460.00	$990.00
105 2070	WASHER 5000-5999 PSI GAS	$170.00	$680.00	$1,465.00
CONTRACTOR AND INDUSTRIAL - ELECTRIC BREAKERS				
100 1250	BREAKER 10-19LB ELEC	$70.00	$265.00	$565.00
100 1260	BREAKER 20-29LB ELEC	$80.00	$305.00	$660.00
100 1270	BREAKER 30-39LB ELEC	$95.00	$370.00	$805.00
100 1300	BREAKER 60-69LB ELEC	$110.00	$440.00	$945.00
100 1320	CART FOR ELECTRIC BREAKER	$70.00	$285.00	$615.00
CONTRACTOR AND INDUSTRIAL - HORIZONTAL DRILLS				
100 1550	DRILL 1/2IN ELEC	$20.00	$90.00	$190.00
CONTRACTOR AND INDUSTRIAL - HOT WATER PRESSURE WASHERS				
105 2515	WASHER 3000-3999 PSI HOT WATER GAS	$215.00	$855.00	$1,845.00
CONTRACTOR AND INDUSTRIAL - LIGHT TOWERS				
510 1030	LIGHT TOWER VERT MAST MAN NARROW BODY	$125.00	$280.00	$580.00

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PRINT DATE: Tuesday, April 25, 2023

ASCEND ELEMENTS

AFFECTED REGIONS / BRANCHES

US National (Excluding Hawaii, North Dakota & Greater Permian)

EFFECTIVE DATES: FROM: 04/01/2023 THROUGH: 03/31/2024 **Pricing Schedule #: 19655**

CAT-CLASS		DESCRIPTION	DAY	WEEK	4 WEEK
CONTRACTOR AND INDUSTRIAL - LIGHT TOWERS					
510	1035	LIGHT TOWER HORIZ MAST MAN NARROW BODY	$125.00	$280.00	$580.00
510	1040	LIGHT TOWER VERT MAST ELEC NARROW BODY	$125.00	$280.00	$580.00
510	1055	LIGHT TOWER VERT MAST LED TRAILER	$180.00	$475.00	$1,090.00
510	1080	LIGHT TOWER MAN MAST 16FT LED CART 120V	$100.00	$245.00	$695.00
510	1082	LIGHT TOWER ELEC MAST 23FT LED CART 120V	$110.00	$275.00	$790.00
510	1160	LIGHT TOWER CUBE VERT MAST LED SKID	$230.00	$575.00	$1,470.00
CONTRACTOR AND INDUSTRIAL - PIPE THREADERS					
125	2300	PIPE THREADER 535 1/8-2 ELEC	$125.00	$460.00	$925.00
125	2310	PIPE THREADER 1224 1/4-4 ELEC	$210.00	$535.00	$1,260.00
125	2320	PIPE THREADER 700 POWER PONY	$75.00	$230.00	$660.00
125	2360	PIPE THREADER 300 1/8-2 ELEC	$125.00	$460.00	$925.00
CONTRACTOR AND INDUSTRIAL - PORTABLE LIGHTS					
110	1550	LIGHT STAND 1-HEAD FLOOD LED	$20.00	$90.00	$190.00
110	1570	LIGHT WOBBLE 36IN LED	$45.00	$175.00	$380.00
110	1577	LIGHT STAND LED 360 DEGREE BATTERY	$20.00	$65.00	$190.00
110	1580	LIGHT BALLOON LAMP 300/575 WATT LED	$85.00	$195.00	$535.00
110	1590	LIGHT BALLOON LAMP 1000 WATT HALIDE	$85.00	$195.00	$535.00
CONTRACTOR AND INDUSTRIAL - STREET SWEEPERS					
105	3000	SWEEPER CONTRUCTION RIDE ON 3 WHEEL	$350.00	$905.00	$1,745.00
105	3020	SWEEPER CONTRUCTION RIDE ON 4 WHEEL CAB	$405.00	$1,000.00	$2,440.00
CONTRACTOR AND INDUSTRIAL - WELDERS					
550	1280	WELDER STATIONARY 250 - 299 AMPS ELEC	$40.00	$95.00	$230.00
550	1300	WELDER STATIONARY 350 - 399 AMPS ELEC	$45.00	$135.00	$330.00
550	1540	WELDER STATIONARY 180 - 189 AMPS GAS	$100.00	$280.00	$625.00
550	1600	WELDER STATIONARY 250 - 299 AMPS GAS	$100.00	$280.00	$625.00
550	1760	WELDER STATIONARY 250 - 299 AMPS LPN	$100.00	$280.00	$625.00
550	1850	WELDER TOWABLE 300 - 349 AMPS DSL	$105.00	$285.00	$645.00
550	1870	WELDER TOWABLE 400 - 449 AMPS DSL	$115.00	$295.00	$695.00
CONTRACTOR AND INDUSTRIAL - WELDING ACCESSORIES					
550	1950	WELDER WIRE FEEDER 120 VOLT ELEC	$65.00	$190.00	$375.00
EARTHMOVING - BACKHOE LOADERS					
210	1200	BACKHOE COMPACT TLB 24-29HP 4WD ROPS DSL	$325.00	$930.00	$2,175.00
EARTHMOVING - EXCAVATORS ATTACHMENTS					
290	5000	MINI-EX ATTACHMENT AUGER MED TORQUE	$95.00	$265.00	$625.00
290	5160	MINI-EX ATTACHMENT BREAKER 391-600 LBS	$220.00	$675.00	$1,270.00

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PRINT DATE: Tuesday, April 25, 2023

ASCEND ELEMENTS

AFFECTED REGIONS / BRANCHES

US National (Excluding Hawaii, North Dakota & Greater Permian)

EFFECTIVE DATES: FROM: 04/01/2023 THROUGH: 03/31/2024 **Pricing Schedule #: 19655**

CAT-CLASS		DESCRIPTION	DAY	WEEK	4 WEEK
EARTHMOVING - EXCAVATORS ATTACHMENTS					
290	6700	EXC TLB ATTACH BREAKER 1251-1800 LBS	$345.00	$1,040.00	$1,970.00
EARTHMOVING - MINI EXCAVATORS					
240	1000	MINI-EXCAVATOR 2000-2999 LBS DSL ROPS	$285.00	$850.00	$1,650.00
240	1200	MINI-EXCAVATOR 4000-4999 LBS DSL ROPS	$295.00	$875.00	$1,695.00
240	1300	MINI-EXCAVATOR 5000-6999 LBS DSL ROPS	$295.00	$875.00	$1,695.00
240	1400	MINI-EXCAVATOR 7000-8999 LBS DSL ROPS	$325.00	$925.00	$1,895.00
240	1410	MINI-EXCAVATOR 7000-8999 LBS DSL CAB	$335.00	$960.00	$1,995.00
240	1500	MINI-EXCAVATOR 9000-11999 LBS DSL ROPS	$365.00	$1,040.00	$2,545.00
240	1510	MINI-EXCAVATOR 9000-11999 LBS DSL CAB	$380.00	$1,070.00	$2,595.00
240	1710	MINI-EXCAVATOR 14000-19000 LBS DSL CAB	$565.00	$1,535.00	$3,350.00
EARTHMOVING - MINI-SKIDSTEER TRACK MACHINE ATTACHMENTS					
290	1000	WB LOADER ATTACHMENT AUGER	$55.00	$170.00	$375.00
290	1025	WB LOADER ATTACHMENT BREAKER	$195.00	$560.00	$1,170.00
290	1035	WB LOADER ATTACHMENT BUCKET	$10.00	$35.00	$95.00
EARTHMOVING - SKIDSTEER LOADERS					
200	1350	SKIDSTEER LOADER 1751-2099LB ROPS	$240.00	$690.00	$1,580.00
200	1351	SKIDSTEER LOADER 1751-2099LB CAB	$255.00	$740.00	$1,610.00
200	1360	SKIDSTEER LOADER 2100-2399LB ROPS	$300.00	$830.00	$1,720.00
200	1361	SKIDSTEER LOADER 2100-2399LB CAB	$310.00	$875.00	$1,745.00
200	1370	SKIDSTEER LOADER 2400-2999LB ROPS	$300.00	$830.00	$1,720.00
200	1371	SKIDSTEER LOADER 2400-2999LB CAB	$310.00	$875.00	$1,745.00
EARTHMOVING - TRACK LOADERS					
200	1430	COMPACT TRACK LOADER 1300-1699LB ROPS	$385.00	$985.00	$2,325.00
200	1440	COMPACT TRACK LOADER 1700-1999LB ROPS	$385.00	$985.00	$2,325.00
200	1450	COMPACT TRACK LOADER 2000-2399LB ROPS	$385.00	$985.00	$2,325.00
200	1451	COMPACT TRACK LOADER 2000-2399LB CAB	$395.00	$1,015.00	$2,410.00
200	1460	COMPACT TRACK LOADER 2400-2799LB ROPS	$405.00	$1,050.00	$2,465.00
200	1470	COMPACT TRACK LOADER 2800LB & OVER ROPS	$415.00	$1,150.00	$2,795.00
200	1471	COMPACT TRACK LOADER 2800LB & OVER CAB	$425.00	$1,205.00	$2,895.00
EARTHMOVING - TRACKED MINI SKIDLOADERS					
200	1020	MINI TRACK LOADER W/B < 600LB CAP GAS	$250.00	$710.00	$1,535.00
200	1030	MINI TRACK LOADER W/B < 600LB CAP DSL	$250.00	$710.00	$1,535.00
200	1040	MINI TRACK LOADER W/B > 600LB CAP DSL	$285.00	$765.00	$1,645.00
EARTHMOVING - WALK-BEHIND TRENCHERS					
280	1020	TRENCHER W/B TRACK 24IN GAS	$215.00	$625.00	$1,300.00
280	1040	TRENCHER W/B TRACK 36IN GAS	$215.00	$625.00	$1,300.00

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PRINT DATE: Tuesday, April 25, 2023

ASCEND ELEMENTS

AFFECTED REGIONS / BRANCHES
US National (Excluding Hawaii, North Dakota & Greater Permian)

EFFECTIVE DATES: FROM: 04/01/2023 THROUGH: 03/31/2024 **Pricing Schedule #: 19655**

CAT-CLASS		DESCRIPTION	DAY	WEEK	4 WEEK
EARTHMOVING - WALK-BEHIND TRENCHERS					
280	1060	TRENCHER W/B WHEEL 0IN TO 18IN GAS	$195.00	$530.00	$1,190.00
FLOOR CARE AND SURFACE PREP - CONCRETE GRINDERS					
100	4220	GRINDER CONCRETE FLOOR 1.5 HP DUAL ELEC	$190.00	$765.00	$1,655.00
100	4230	GRINDER CONCRETE FLOOR 1.5HP SINGLE ELEC	$165.00	$655.00	$1,420.00
100	4250	GRINDER CONCRETE FLOOR 11 HP SINGLE GAS	$190.00	$765.00	$1,655.00
100	4260	GRINDER CONCRETE FLOOR 11 HP DUAL GAS	$190.00	$765.00	$1,655.00
FLOOR CARE AND SURFACE PREP - FLOOR STRIPPERS					
100	4000	FLOOR STRIPPER W/B 120LB ELEC	$150.00	$575.00	$1,275.00
100	4020	FLOOR STRIPPER W/B 425LB ELEC	$300.00	$900.00	$2,100.00
100	4025	FLOOR STRIPPER W/B 500LB ELEC	$475.00	$1,425.00	$3,350.00
100	4030	FLOOR STRIPPER RIDE-ON BATTERY 2300LB	$1,000.00	$3,000.00	$6,300.00
LIGHTING - PORTABLE LIGHTS					
110	1575	LIGHT STAND LED 360 DEGREE W/TRIPOD	$15.00	$50.00	$140.00
MATERIAL HANDLING - CHAIN HOISTS					
480	2240	HOIST CHAIN 1-1/2 TON 20-40	$15.00	$35.00	$95.00
480	3400	HOIST CHAIN 3 TON 20-40	$20.00	$50.00	$135.00
480	3040	POWERED HAND CRANE 300 LBS CAP BATT	$60.00	$140.00	$405.00
480	3475	MATERIAL LIFT 450 LBS 12 FT MANUAL	$70.00	$265.00	$525.00
480	3480	MATERIAL LIFT 650 LBS 12 FT MANUAL	$70.00	$265.00	$525.00
480	3540	MATERIAL LIFT 650 LBS 18 FT MANUAL	$75.00	$280.00	$605.00
480	3600	MATERIAL LIFT 650 LBS 24 FT MANUAL	$95.00	$335.00	$715.00
480	3660	MATERIAL LIFT 1100 LBS 15 FT MANUAL	$95.00	$350.00	$750.00
MATERIAL HANDLING - DOLLIES					
480	1060	DOLLY STAIR CLIMBER 1500# CAP	$80.00	$330.00	$710.00
480	1080	ROLALIFT 6000LBS HYD DOLLY	$95.00	$370.00	$805.00
MATERIAL HANDLING - EQUIPMENT ROLLER SYSTEMS					
480	1340	MACHINE ROLLERS 8 TON SET OF 4	$75.00	$230.00	$460.00
MATERIAL HANDLING - TELEHANDLER FORKLIFTS					
460	1010	TELEHANDLER 5500LB 16-20FT LIFT ROPS	$415.00	$1,040.00	$2,050.00
460	1015	TELEHANDLER 5500LB 16-20FT LIFT CAB	$425.00	$1,070.00	$2,100.00
460	1020	TELEHANDLER 6000LB 34-36FT LIFT ROPS	$445.00	$1,090.00	$2,295.00
460	1025	TELEHANDLER 6000LB 34-36FT LIFT CAB	$460.00	$1,150.00	$2,345.00
460	1030	TELEHANDLER 6000LB 42-44FT LIFT ROPS	$445.00	$1,090.00	$2,295.00
460	1035	TELEHANDLER 6000LB 42-44FT LIFT CAB	$460.00	$1,150.00	$2,345.00
460	1040	TELEHANDLER 8000LB 42-44FT LIFT ROPS	$455.00	$1,200.00	$2,495.00

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PRINT DATE: Tuesday, April 25, 2023

ASCEND ELEMENTS

AFFECTED REGIONS / BRANCHES

US National (Excluding Hawaii, North Dakota & Greater Permian)

EFFECTIVE DATES: FROM: 04/01/2023 THROUGH: 03/31/2024 **Pricing Schedule #: 19655**

CAT-CLASS		DESCRIPTION	DAY	WEEK	4 WEEK
MATERIAL HANDLING - TELEHANDLER FORKLIFTS					
460	1045	TELEHANDLER 8000LB 42-44FT LIFT CAB	$480.00	$1,255.00	$2,595.00
460	1060	TELEHANDLER 10000LB 42-44FT LIFT ROPS	$585.00	$1,590.00	$3,595.00
460	1065	TELEHANDLER 10000LB 42-44FT LIFT CAB	$595.00	$1,635.00	$3,675.00
460	1070	TELEHANDLER 10000LB 50-56FT LIFT ROPS	$585.00	$1,590.00	$3,595.00
460	1075	TELEHANDLER 10000LB 50-56FT LIFT CAB	$595.00	$1,635.00	$3,675.00
460	1080	TELEHANDLER 12000LB 55-56FT LIFT ROPS	$750.00	$2,575.00	$4,575.00
460	1085	TELEHANDLER 12000LB 55-56FT LIFT CAB	$765.00	$2,685.00	$4,675.00
MATERIAL HANDLING - WAREHOUSE FORKLIFT ATTACHMENTS					
490	1000	FORKLIFT ATTACHMENT LIFTING HOOK 10000LB	$55.00	$130.00	$295.00
490	1010	FORKLIFT ATTACHMENT TRUSS BOOM	$65.00	$160.00	$355.00
490	1020	FORKLIFT ATTACHMENT JIB	$65.00	$160.00	$355.00
490	1030	FORKLIFT ATTACHMENT CARPET POLE	$45.00	$105.00	$250.00
490	1215	FORKLIFT ATTACHMENT BIN DUMPER 2YD	$70.00	$170.00	$465.00
MATERIAL HANDLING - WAREHOUSE FORKLIFTS					
450	2020	WAREHOUSE FORKLIFT 3000LB PNEU DF	$255.00	$625.00	$1,320.00
450	2110	WAREHOUSE FORKLIFT 5000LB PNEU DSL	$285.00	$675.00	$1,365.00
450	2120	WAREHOUSE FORKLIFT 5000LB PNEU DF	$255.00	$625.00	$1,320.00
450	2160	WAREHOUSE FORKLIFT 5000LB LOWPRO PNEU DF	$285.00	$675.00	$1,365.00
450	2170	WAREHOUSE FORKLIFT 5000LB 4MAST PNEU DF	$305.00	$710.00	$1,475.00
450	2180	WAREHOUSE FORKLIFT 6000LB PNEU DSL	$295.00	$695.00	$1,425.00
450	2190	WAREHOUSE FORKLIFT 6000LB PNEU DF	$295.00	$695.00	$1,425.00
450	2240	WAREHOUSE FORKLIFT 6000LB 4MAST PNEU DF	$305.00	$710.00	$1,475.00
450	2260	WAREHOUSE FORKLIFT 8000LB PNEU DSL	$340.00	$930.00	$1,890.00
450	2270	WAREHOUSE FORKLIFT 8000LB PNEU DF	$340.00	$930.00	$1,890.00
450	2280	WAREHOUSE FORKLIFT 8000LB PNEU LPG	$340.00	$930.00	$1,890.00
450	2310	WAREHOUSE FORKLIFT 10000LB PNEU DSL	$380.00	$1,070.00	$2,400.00
450	2320	WAREHOUSE FORKLIFT 10000LB PNEU DF	$380.00	$1,070.00	$2,400.00
POWER GENERATION - GENERATORS					
501	1020	20KW GENERATOR DSL	$230.00	$540.00	$1,260.00
501	1040	40KW GENERATOR DSL	$285.00	$655.00	$1,655.00
501	1055	55KW GENERATOR DSL	$350.00	$810.00	$1,970.00
501	1060	55KW GENERATOR SKID MOUNTED DSL	$350.00	$810.00	$1,970.00
501	1100	100KW GENERATOR DSL	$415.00	$1,015.00	$2,845.00
501	1105	100KW GENERATOR SKID MOUNTED DSL	$415.00	$1,015.00	$2,845.00
POWER GENERATION - PORTABLE					
500	1025	2KW SILENT PORTABLE GENERATOR	$60.00	$215.00	$475.00
500	1030	3KW PORTABLE GENERATOR	$70.00	$275.00	$615.00
500	1035	3KW SILENT PORTABLE GENERATOR	$70.00	$275.00	$615.00

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ASCEND ELEMENTS

AFFECTED REGIONS / BRANCHES

US National (Excluding Hawaii, North Dakota & Greater Permian)

EFFECTIVE DATES: FROM: 04/01/2023 THROUGH: 03/31/2024 **Pricing Schedule #: 19655**

CAT-CLASS		DESCRIPTION	DAY	WEEK	4 WEEK
POWER GENERATION - PORTABLE					
500	1050	5KW PORTABLE GENERATOR	$80.00	$300.00	$660.00
500	1060	6KW PORTABLE GENERATOR	$95.00	$330.00	$755.00
500	1075	7KW SILENT PORTABLE GENERATOR	$115.00	$440.00	$945.00
500	1100	10KW PORTABLE GENERATOR	$140.00	$525.00	$1,175.00
PUMP - TRASH PUMPS					
801	1230	PUMP VAC ASSIST 6IN DSL	$250.00	$650.00	$1,750.00
TRUCKS AND TRAILERS - CRANE TRUCKS					
659	6380	TRUCK CRANE 18 T SINGLE DSL	$750.00	$1,970.00	$5,035.00
TRUCKS AND TRAILERS - DUMP TRUCKS					
659	6110	TRUCK DUMP 3-4 YD GAS	$385.00	$930.00	$2,200.00
659	6120	TRUCK DUMP 3-4 YD DSL	$385.00	$930.00	$2,200.00
659	6130	TRUCK DUMP 3-4 YD CREW 4WD DSL	$385.00	$930.00	$2,200.00
659	6135	TRUCK DUMP 3-4 YD CREW 4WD GAS	$385.00	$930.00	$2,200.00
659	6150	TRUCK DUMP 5-6 YD GAS	$410.00	$1,040.00	$2,630.00
659	6160	TRUCK DUMP 5-6 YD GAS NON CDL	$410.00	$1,040.00	$2,630.00
659	6170	TRUCK DUMP 5-6 YD DSL	$410.00	$1,040.00	$2,630.00
659	6180	TRUCK DUMP 5-6 YD DSL NON CDL	$410.00	$1,040.00	$2,630.00
659	6200	TRUCK DUMP 12-14 YD MANUAL DSL	$655.00	$2,190.00	$5,145.00
659	6210	TRUCK DUMP 12-14 YD AUTO DSL	$655.00	$2,190.00	$5,145.00
TRUCKS AND TRAILERS - PICK-UP TRUCKS					
659	5000	TRUCK PICKUP COMPACT	$105.00	$420.00	$1,300.00
659	5010	TRUCK PICKUP 1/2 T STD 4WD GAS	$125.00	$480.00	$1,315.00
659	5020	TRUCK PICKUP 1/2 T STD 2WD GAS	$125.00	$480.00	$1,315.00
659	5030	TRUCK PICKUP 1/2 T SUP 4WD GAS	$125.00	$480.00	$1,315.00
659	5040	TRUCK PICKUP 1/2 T SUP 2WD GAS	$125.00	$480.00	$1,315.00
659	5050	TRUCK PICKUP 1/2 T CREW 4WD GAS	$135.00	$515.00	$1,445.00
TRUCKS AND TRAILERS - STAKE BODY TRUCKS					
659	5630	TRUCK STKBD 12 FT 1-1/2-2 T STD 4WD GAS	$275.00	$880.00	$2,400.00
659	5640	TRUCK STKBD 12 FT 1-1/2-2 T STD 4WD DSL	$275.00	$880.00	$2,400.00
659	5650	TRUCK STKBD 12 FT 1-1/2-2 T STD 2WD GAS	$275.00	$880.00	$2,400.00
659	5725	TRUCK STKBD 12 FT 1-1/2-2 T CREW 4WD GAS	$330.00	$1,055.00	$2,500.00
659	5730	TRUCK STKBD 12 FT 1-1/2-2 T CREW 4WD DSL	$330.00	$1,055.00	$2,500.00
659	5790	TRUCK STKBD 22 FT 2-1/2-3 T STD 2WD GAS	$395.00	$1,260.00	$3,400.00
659	5800	TRUCK STKBD 22 FT 2-1/2-3 T STD 2WD DSL	$395.00	$1,260.00	$3,400.00
TRUCKS AND TRAILERS - UTILITY & CONTRACTOR TRUCKS					
659	5888	TRUCK UTLTY 3/4 T CREW 4WD GAS	$400.00	$985.00	$2,600.00

A M CONSTRUCTION

Customer agrees to keep confidential the information contained herein and not to reproduce or disclose any such information, in whole or in part, to any individual or entity, without the prior written consent of Herc Rentals. Customer and Herc hereby agree to the equipment and pricing as detailed herein and Customer agrees to be responsible for all applicable fees and charges as published at HercRentals.com, including, without limitation, environmental and emissions, refueling, vehicle licensing fees, preventative maintenance and transportation charges. Any equipment that is ordered by or on behalf of Customer locally at a Herc branch or other such location, that is not on the list of equipment in this schedule, will be negotiated locally at time of rental, up to an amount not to exceed the then-current list price for a standard rental shift, plus any additional hours, as published at HercRentals.com. Herc may at its sole discretion modify or terminate any pricing herein with 30 days notice to customer.

PRINT DATE: Tuesday, April 25, 2023

ASCEND ELEMENTS

AFFECTED REGIONS / BRANCHES

US National (Excluding Hawaii, North Dakota & Greater Permian)

EFFECTIVE DATES: FROM: 04/01/2023 THROUGH: 03/31/2024 **Pricing Schedule #: 19655**

CAT-CLASS	DESCRIPTION	DAY	WEEK	4 WEEK
TRUCKS AND TRAILERS - UTILITY & CONTRACTOR TRUCKS				
659 5925	TRUCK UTLTY 1 T CREW 4WD GAS	$400.00	$985.00	$2,600.00
TRUCKS AND TRAILERS - WATER TRAILERS				
610 2420	TRAILER WATER 500 GALLON	$135.00	$385.00	$760.00
TRUCKS AND TRAILERS - WATER TRUCKS				
659 6030	TRUCK WATER 2000 GALLON GAS	$515.00	$1,265.00	$3,000.00
659 6040	TRUCK WATER 2000 GALLON DSL	$515.00	$1,265.00	$3,000.00
659 6050	TRUCK WATER 4000 GALLON DSL	$630.00	$1,805.00	$4,750.00
BULK & MISCELLANEOUS				
912 4536	WELDING CABLE W/ GROUND CLAMP 2/0X50	$16.00	$34.00	$60.00
912 4545	WELDING CABLE W/ ROD HOLDER 2/0X50	$16.00	$34.00	$60.00
925 1734	AIR HOSE ASSY 3/4X50 CRWFT CPLNG	$8.00	$24.00	$65.00
930 6080	SET OF PALLET FORKS F/BUCKETS	$43.00	$100.00	$180.00
930 6166	SKIDSTEER FRAME & FORK SET 48 CL2	$47.00	$118.00	$235.00

A M CONSTRUCTION

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PRINT DATE: Tuesday, April 25, 2023

ASCEND ELEMENTS

AFFECTED REGIONS / BRANCHES

US National (Excluding Hawaii, North Dakota & Greater Permian)

EFFECTIVE DATES: FROM: 04/01/2023 THROUGH: 03/31/2024 **Pricing Schedule #: 19655**

CAT-CLASS DESCRIPTION	DAY	WEEK	4 WEEK

ADDITIONAL INFORMATION / TERMS:

BILLING: 28 DAY

DELIVERY: $135 Each way within 25 miles for towable and rollback deliveries
$176 Each way within 25 miles for semi-truck deliveries
$2.00/mile after 25 miles.

Oversized loads are negotiated locally.

OUTSIDE HAULING AND AFTER HOURS DELIVERY ARE NEGOTIATED LOCALLY. TOLLS AND PERMITS ARE NOT INCLUDED.

FUEL: $7.50 PER GALLON

ADDITIONAL INFO: Customer to be exempt from Transportation Surcharge.

CUSTOMER NUMBERS

CUSTOMER NAME	CUSTOMER NUMBER
AM CONSTRUCTION	2866135

A M CONSTRUCTION

Customer agrees to keep confidential the information contained herein and not to reproduce or disclose any such information, in whole or in part, to any individual or entity, without the prior written consent of Herc Rentals. Customer and Herc hereby agree to the equipment and pricing as detailed herein and Customer agrees to be responsible for all applicable fees and charges as published at HercRentals.com, including, without limitation, environmental and emissions, refueling, vehicle licensing fees, preventative maintenance and transportation charges. Any equipment that is ordered by or on behalf of Customer locally at a Herc branch or other such location, that is not on the list of equipment in this schedule, will be negotiated locally at time of rental, up to an amount not to exceed the then-current list price for a standard rental shift, plus any additional hours, as published at HercRentals.com. Herc may at its sole discretion modify or terminate any pricing herein with 30 days notice to customer.

PRINT DATE: Tuesday, April 25, 2023

ASCEND ELEMENTS

Exhibit D
SAFETY AND HEALTH REQUIREMENTS

Refer to Ascend Elements Safety Manual issued April 24, 2023 as may be upgraded and/or modified during the course of work executed by Contractor. All contractors and subcontractors shall comply with all guidelines established in Exhibit D during the course of Work.



ASCEND ELEMENTS

*A*SCEND ELEMENTS CONSTRUCTION QUALITY

Issued April 24, 2023

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Tests and Inspections

Contractor shall give Ascend Elements timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.

Ascend Elements shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:

- for inspections, tests, or approvals covered by this Exhibit below;
- that costs incurred in connection with tests or inspections conducted pursuant to This Exhibit shall be paid as provided in This Exhibit; and
- as otherwise specifically provided in the Contract Documents.

If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection, and furnish Ascend Elements the required certificates of inspection or approval.

Contractor shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Ascend Elements' and Ascend Elements' acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Ascend Elements.

General Conditions

If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Ascend Elements, Contractor shall, if requested by Ascend Elements, uncover such Work for observation.

Uncovering Work: Uncovering Work as provided in This Exhibit shall be at Contractor's expense unless Contractor has given Ascend Elements timely notice of Contractor's intention to cover the same and Ascend Elements has not acted with reasonable promptness in response to such notice.

If any Work is covered contrary to the written request of Ascend Elements, it must, if requested by Ascend Elements, be uncovered for Ascend Elements' observation and replaced at Contractor's expense.

If Ascend Elements considers it necessary or advisable that covered Work be observed by Ascend Elements or inspected or tested by others, Contractor, at Ascend Elements' request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Ascend Elements may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment.

If it is found that the uncovered Work is defective, Contractor shall pay all costs and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others). If the uncovered Work is not found to be defective, Contractor shall be allowed through Field Work Order to an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction.

Correction or Removal of Defective Work: If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, Ascend Elements may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Ascend Elements to stop the Work shall not give rise to any duty on the part of Ascend Elements to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

Promptly after receipt of written notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Ascend Elements, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all costs arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

When correcting defective Work under the terms of this This Exhibit, Contractor shall take no action that would void or otherwise impair Ascend Elements' special warranty and guarantee, if any, on said Work.

Correction Period: If within one year after the date of Substantial Completion any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Ascend Elements or permitted by Laws and Regulations is found to be defective, Contractor shall promptly, without cost to Ascend Elements and in accordance with Ascend Elements' written instructions:

- repair such defective land or areas; or
- correct such defective Work; or
- if the defective Work has been rejected by Ascend Elements, remove it from the Project and replace it with Work that is not defective, and
- satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.

If Contractor does not promptly comply with the terms of Ascend Elements' written instructions, or in an emergency where delay would cause serious risk of loss or damage, Ascend Elements may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All costs arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.
In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.

Contractor's obligations under this This Exhibit are in addition to any other obligation or warranty. The provisions of this Exhibit shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

Acceptance of Defective Work: If, instead of requiring correction or removal and replacement of defective Work, Ascend Elements prefers to accept it, Ascend Elements may do so. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of Ascend Elements' architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to Ascend Elements' evaluation of and determination to accept such defective Work and for the diminished value of the Work to the extent not otherwise paid by Contractor pursuant to this sentence. If any such acceptance occurs prior to Ascend Elements' final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and Ascend Elements shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, Ascend Elements may make a Claim therefore. If the acceptance occurs after such final payment, an appropriate amount will be paid by Contractor to Ascend Elements.

Ascend Elements May Correct Defective Work: If Contractor fails within a reasonable time after written notice from Ascend Elements to correct defective Work, or to remove and replace rejected Work as required by Ascend Elements in accordance with this Exhibit, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Ascend Elements may, after three (3) days written notice to Contractor, correct, or remedy any such deficiency.
In exercising the rights and remedies under this This Exhibit, Ascend Elements shall proceed expeditiously. In connection with such corrective or remedial action, Ascend Elements may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which Ascend Elements has paid Contractor but which are stored elsewhere. Contractor shall allow Ascend Elements, agents and employees, Ascend Elements' other contractors, and Ascend Elements' consultants access to the Site to enable Ascend Elements to exercise the rights and remedies under This Exhibit.
All costs incurred or sustained by Ascend Elements in exercising the rights and remedies under this This Exhibit will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Ascend Elements shall be entitled to an appropriate decrease in the Contract Price.
Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Ascend Elements of Ascend Elements' rights and remedies under this Exhibit.

Kevin Mulholland
Kevin Mulholland (May 26, 2023 11:29 EDT)

Kevin Mulholland
Sr. Manager, Sourcing
Ascend Elements

AERIC KHONG
AERIC KHONG (May 26, 2023 23:55 GMT+8)

AERIC KHONG
Contracts & Purchasing Manager
Ascend Elements Inc.

Rodrigo Almeida

Rodrigo Almeida
Supply Chain Director
Ascend Elements

Colin Davis (May 26, 2023 11:59 EDT)

Colin Davis
Construction PM
Ascend Elements

Wenqing Su (May 26, 2023 13:51 EDT)

Wenqing Su
VP, Engineering and Construction
Ascend Elements, Inc.

Liam Lochhead

Liam Lochhead
Vice President of Contracts
Ascend Elements, Inc.

Daniel Russell (May 27, 2023 07:55 EDT)

Daniel Russell
COO
Ascend Elements

Amcon Agreement - Covington

Final Audit Report 2023-05-30

Created:	2023-05-26
By:	Kevin Mulholland (kmulholland@ascendelements.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAaFOjlJLLjy4TCRdv2PEwhgqr524a4GwU

"Amcon Agreement - Covington" History

Document created by Kevin Mulholland (kmulholland@ascendelements.com)
2023-05-26 - 3:26:40 PM GMT

Document e-signed by Kevin Mulholland (kmulholland@ascendelements.com)
Signature Date: 2023-05-26 - 3:29:53 PM GMT - Time Source: server

Document emailed to akhong@ascendelements.com for signature
2023-05-26 - 3:29:59 PM GMT

Email viewed by akhong@ascendelements.com
2023-05-26 - 3:53:28 PM GMT

Signer akhong@ascendelements.com entered name at signing as AERIC KHONG
2023-05-26 - 3:55:00 PM GMT

Document e-signed by AERIC KHONG (akhong@ascendelements.com)
Signature Date: 2023-05-26 - 3:55:02 PM GMT - Time Source: server

Document emailed to Rodrigo Almeida (ralmeida@ascendelements.com) for signature
2023-05-26 - 3:55:05 PM GMT

Email viewed by Rodrigo Almeida (ralmeida@ascendelements.com)
2023-05-26 - 3:56:33 PM GMT

Document e-signed by Rodrigo Almeida (ralmeida@ascendelements.com)
Signature Date: 2023-05-26 - 3:56:51 PM GMT - Time Source: server

Document emailed to cdavis@ascendelements.com for signature
2023-05-26 - 3:56:55 PM GMT

Email viewed by cdavis@ascendelements.com
2023-05-26 - 3:57:59 PM GMT

Signer cdavis@ascendelements.com entered name at signing as Colin Davis
2023-05-26 - 3:59:45 PM GMT

Document e-signed by Colin Davis (cdavis@ascendelements.com)
Signature Date: 2023-05-26 - 3:59:47 PM GMT - Time Source: server

Document emailed to Wenqing Su (wsu@ascendelements.com) for signature
2023-05-26 - 3:59:51 PM GMT

Email viewed by Wenqing Su (wsu@ascendelements.com)
2023-05-26 - 5:49:40 PM GMT

Document e-signed by Wenqing Su (wsu@ascendelements.com)
Signature Date: 2023-05-26 - 5:51:32 PM GMT - Time Source: server

Document emailed to Liam Lochhead (llochhead@ascendelements.com) for signature
2023-05-26 - 5:51:37 PM GMT

Email viewed by Liam Lochhead (llochhead@ascendelements.com)
2023-05-26 - 5:53:26 PM GMT

Document e-signed by Liam Lochhead (llochhead@ascendelements.com)
Signature Date: 2023-05-26 - 5:53:58 PM GMT - Time Source: server

Document emailed to drussell@ascendelements.com for signature
2023-05-26 - 5:54:02 PM GMT

Email viewed by drussell@ascendelements.com
2023-05-27 - 11:51:43 AM GMT

Signer drussell@ascendelements.com entered name at signing as Daniel Russell
2023-05-27 - 11:54:59 AM GMT

Document e-signed by Daniel Russell (drussell@ascendelements.com)
Signature Date: 2023-05-27 - 11:55:01 AM GMT - Time Source: server

Document emailed to Andrew Aberdale (aaberdale@ascendelements.com) for signature
2023-05-27 - 11:55:05 AM GMT

Email viewed by Andrew Aberdale (aaberdale@ascendelements.com)
2023-05-30 - 2:24:34 PM GMT

Document e-signed by Andrew Aberdale (aaberdale@ascendelements.com)
Signature Date: 2023-05-30 - 2:25:29 PM GMT - Time Source: server

Agreement completed.
2023-05-30 - 2:25:29 PM GMT

Adobe Acrobat Sign

MASTER AGREEMENT CONSTRUCTION SERVICES

AGREEMENT between **Ascend Elements Inc** ("Owner") and **AmCon Industrial** ("Contractor") dated as of **March 12, 2024**("Master Agreement Effective Date").

1. SCOPE OF WORK, GENERALLY

1.1. "Work" Generally

1.1.1. The "Work" included in the Master Agreement consists, generally, of the construction, installation, and related services required by the Master Agreement, whether completed or partly completed, and includes provision of all project management, supervision, scheduling, coordination, quality control, labor, materials, equipment, tools, and other services and things required to properly complete the Work, as outlined in previous work orders and the individual project documents Exhibit A associated with each scope of work to be performed, in accordance with the Master Agreement Documents. Subject only to the express exceptions stated in **Exhibit A**, the Work will also include providing all temporary services and utilities, and obtaining governmental approvals and permits required for the Work. The Work will be carried out as part of the Owner's overall projects to complete the Facility identified in **Exhibit A**. This description is a general summary only, and is supplemented and qualified by the remaining provisions of the Master Agreement Documents. Existing Open Work Orders, listed below shall be subject to this Master Agreement , but will not require any Work Order revision under the new Exhibit A format. In the event f any conflict between any previous agreement and this Agreement, the terms and conditions of this Agreement shall prevail.

Existing Open Work Orders

WO 1 – Lithium Extraction
WO 2 – Wet Shredding Line
WO 3 – Wastewater Treatment
WO 4 – Rental Equipment
WO 7 – General Facilities
WO 8 – Management Personnel
WO 14 – pCAM Design/Build

All work performed under time and materials shall be subject to the rates set forth in Exhibit P, attached hereto.

1.1.2. The Contractor will obtain and maintain any contractor's or other licenses that may be required in the state in which the Facility is located. To the extent required by applicable Laws, the Contractor shall also obtain all permits and other governmental authorizations necessary for its Work, except those permits or authorizations which **Exhibit A** states will be obtained by others. The Contractor shall not begin Work without all legally required licenses, permits, and governmental authorizations. The "Laws" are all applicable laws, codes, regulations, ordinances, and statutory requirements of any governmental authority having jurisdiction over the Work of the Facility, including, without limitation, those laws relating to building design, construction, use or occupancy,

payment of subcontractors or suppliers, employees, health and safety, and protection of the environment.

1.1.3. The Contractor shall use its best skill and attention to complete the Work so that it is in strict accordance with the requirements of the Master Agreement.

1.1.4. The Work shall be carried out in a good and workmanlike manner, in accordance with sound modern practices of the applicable trades. At the Owner's request or as required by the Master agreement Documents, the Contractor shall deliver to the Owner reasonable evidence of the kind and quality of materials incorporated into the Work.

1.1.5. If the detailed design of any portion of the Work is to be provided by the Contractor to meet performance and other specifications stated in the Master Agreement Documents, the Contractor shall have the detailed design prepared and sealed by a qualified Professional Engineer licensed in the state in which the Facility is located, unless the parties have agreed otherwise, in writing. The Engineer and/or Owner will review Submittals with respect to Work designed by the Contractor only to ascertain that the requirements of this Subparagraph have been met and for overall compliance with the Master Agreement Documents. (The "Engineer" is the design professional for the project, identified in **Exhibit A**. The term "Submittal" is defined in Subparagraph 1.6.1. Such a review will not include detailed checking of the design details or calculations, and will be for the sole benefit of the Owner. The Contractor and its design professional will remain responsible for the design's compliance with the Contract requirements.

Commented [CP1]: What if contractor is not internally providing design or hiring the design team. As it stands on this project, SSOE is Engineer of record, who is contracted directly by Ascend. AMCON has no control or liability to their design contractually.

Commented [JB2R1]: This only applies when the AE is subcontracted through you.

1.2. "Master Agreement" and "Master Agreement Documents" Defined

The Master Agreement consists of the following "Master Agreement Documents" only: this Agreement, its Exhibits, the Drawings, Technical Specifications (performance and/or prescriptive), any other identified Master Agreement Documents listed in **Exhibit A**, and such additional documents as are incorporated by reference into the listed Master Agreement Documents. The term "Master Agreement" means the parties' complete and integrated agreement, as expressed by the Master Agreement Documents. The Master Agreement supersedes any prior or contemporaneous agreements, negotiations, discussions, or understandings. Master Agreement Documents within the Exhibits will also serve as Individual Project Scope of work Documents.

1.3. Interpretation/Order of Precedence

Change Directives and Change Orders take precedence over the documents that have been issued to modify. To the extent reasonably possible, all of the other Master Agreement Documents shall be read to be complementary, and to constitute a single, consistent agreement. If there is a conflict among the provisions, the Master Agreement Documents will be given the following order of precedence: (1) the Master Agreement, (2) the Owner's performance-based Technical Specifications or requirements identified in **Exhibit A**, (3) other Technical Specifications and the Drawings and other requirements listed in **Exhibit A**, (4) the remaining Exhibits, and (5) other Master Agreement Documents. In executing the Master Agreement, the Contractor represents that it has carefully examined the Master Agreement Documents and has confirmed that any prescriptive Technical Specifications are consistent with the performance-based Technical Specifications in accordance with which the Contractor will provide detailed design on an individual project basis.

Contractor: _____
Owner: _____

1.4. Pre-Project Site Examination/Review of Site-Related Documents

By entering into the Project Scope of work (SOW) Forms on an individual project basis, the Contractor represents that it has conducted a thorough visual examination of the Facility site to ascertain its nature and location and other conditions relevant to the Project SOW Work, including, without limitation, topographical features, water on or near the Facility site, roads, the size and shape of the Facility site and its ability to accommodate the various trades and any required storage, features affecting transportation, vegetation or physical barriers, rocks, rubble, existing structures or impediments to construction, and as-built conditions. The Contractor further represents that it has carefully examined any Facility site-related geotechnical, as-built, or other information made available by the Owner.

1.5. Staffing; Key Personnel

1.5.1. The Contractor shall devote as many people and man hours to the Work as are needed to meet its obligations under the on the Individual Project SOW, including the obligation to complete the Work within the Individual Project SOW Times specified in **Exhibit A**. The Work shall be performed under the direct supervision of a qualified and experienced superintendent approved by the Owner. The Contractor's superintendent (or a designated substitute, during times when the superintendent is ill or on vacation) shall be present on the Project Site at all times when Work is in progress there, until Substantial Completion has been achieved, and thereafter shall devote a sufficient amount of his or her time to the Work to assure that Final Completion is achieved within the allowed time.

1.5.2. If the Owner requires that other identified Key Persons be assigned to the Work for specified tasks or periods during the Individual Project SOW term, then such Key Persons are reflected in **Exhibit L** and the Contractor shall provide the listed Key Persons for the tasks or periods indicated in the Exhibit.

1.5.3. Neither the superintendent nor any Key Persons may be replaced during the Individual Project SOW term, except if they become unavailable due to death, illness, resignation, dismissal, or personal circumstances that do not reasonably permit them to continue on the Project. If the superintendent or any Key Person must be replaced during the Individual Project SOW term for these reasons, the Contractor will promptly notify the Owner, in writing, and propose a properly qualified substitute for the Owner's approval, which will not be unreasonably withheld. The waiver of consequential damages in Paragraph 12.4 does NOT apply to consequential or incidental damages arising from failure to retain the superintendent on the Project, for reasons other than those specified in this Subparagraph or failure to promptly provide a suitable substitute when the originally designated superintendent becomes unavailable; the Owner retains its rights to seek consequential or incidental damages for such a breach.

1.5.4. If the Owner notifies the Contractor, in writing, that it is dissatisfied with the performance of any of the Contractor's personnel, the Contractor shall replace the person(s) to whom objection has been made within seven (7) days of the written notice. However, removal of the superintendent or other Key Persons will be required only for reasonable cause, which the Owner shall identify, in writing.

1.5.5. The Contractor shall employ in the Work only those employees and subcontractors who will work together in harmony and who will cooperate with one another and the Contractor in the Work.

1.5.6. The Contractor shall enforce strict discipline, good order, and harmony among its employees and its subcontractors. The Contractor shall promptly remove from the Work any employee or subcontractor who violates the Laws or the Owner's policies stated in **Exhibit I, J, and K**, or who otherwise is unfit or has behaved inappropriately. The Contractor shall comply promptly with any request by the Owner to remove an unsuitable person from the Facility site.

1.6. Submittals

1.6.1. "Submittals" are shop drawings, samples, product data, and similar submittals. The Contractor shall prepare, or cause its subcontractors to prepare, and shall submit to the Owner (or at the Owner's direction to the Engineer) for review, all Submittals required by the Individual Project SOW Documents. The data shown in Submittals shall be complete as to quantities, dimensions, specified performance and design criteria, materials and similar data to show the materials and equipment the Contractor proposes to use and to indicate precisely the Work to be performed. The Submittals shall provide for the proper construction and functioning of all components or systems. Samples shall be identified clearly as to materials, supplies, pertinent data such as catalogue numbers, and the use for which the material is intended, and shall conform to the requirements of the Individual Project SOW Documents.

1.6.2. The Contractor shall carefully review all Submittals before delivering them to the Owner or Engineer. By providing Submittals to the Owner or Engineer, the Contractor certifies that (1) the Submittals are complete, (2) the Submittals comply with all Individual Project SOW requirements, and (3) the Contractor has verified materials, field measurements and field construction information related to the Submittals.

1.6.3. Submittals shall be reviewed, approved, and submitted to the Owner or Engineer at the times and in the sequence required by the Individual Project SOW Schedule. Except to the extent that the Owner agrees otherwise, in writing, the Individual Project SOW Schedule will allow the Owner and/or the Engineer at least fourteen (14) days within which to review and act on the Submittals.

1.6.4. The Contractor shall not perform any portion of the Work as to which Submittals are required without first obtaining the Owner's or Engineer's approval of the relevant Submittals. All Work subject to Submittal requirements shall be performed strictly in accordance with the approved Submittals.

1.6.5. The Owner's or Engineer's approval of a Submittal that fails to comply with the requirements of the Individual Project SOW will not authorize the Contractor to depart from the Individual Project SOW. In order to avoid confusion, the Contractor must specifically inform the Owner or Engineer of any Submittal that departs from Individual Project SOW requirements at the time of submittal, so that consideration may be given as to whether any proposed alternates or variations should be permitted. However, delays that arise from Submittals that depart from the

Individual Project SOW, proposed claimed "equals" or alternates, or Submittals that seek relief from Contract requirements, are not Excusable Delays.

1.6.6. Subcontractors in the mechanical and electrical trades shall prepare composite shop drawings. If the Individual Project SOW Documents create conflicts in the Work required of these trades, the Contractor shall request the Engineer's assistance as appropriate. The Contractor shall not be entitled to an increase in the Individual Project SOW Price due to any such conflict unless the conflict is brought to the Owner's attention before the affected Work is installed, and the Contractor provides reasonable evidence that the conflict has increased or will, despite prompt notice, increase the Contractor's costs. Conflicts or inefficiencies that arise due to the Contractor's failure to carefully manage and coordinate the orderly installation of Work by the subcontractors will not entitle the Contractor to either an extension of time or additional compensation.

1.7. Responsibility for Work/Means and Methods

The Contractor is fully responsible to the Owner for the acts and omissions of his employees, agents, suppliers, subcontractors, and their agents and employees. The Contractor is responsible for all construction means, methods, techniques, sequences and procedures and for proper coordination of all construction and installation required to complete the Work.

1.8. Field Measurements

The Contractor shall take field measurements and verify field conditions and carefully compare the resulting information with information provided by the Individual Project SOW before beginning Work. The Contractor shall report to the Owner, promptly and in writing, any discrepancies between its field observations and measurements and the measurements or conditions indicated in the Individual Project SOW Documents. If the Contractor proceeds with affected Work before reporting such discrepancies, the Owner will not be liable to the Contractor for any added costs the Contractor incurs, and any resulting delay will be Inexcusable Delay.

1.9. Cutting and Patching

The Contractor is responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. The Contractor shall not damage or undermine any portion of the Work, the work of Separate Contractors, or the Owner's property on the Project Site, by cutting, patching, or altering the construction, or by excavating or blasting. The Contractor may not cut or modify construction by Separate Contractors or others without first obtaining the written consent of the Owner. The Contractor shall not unreasonably withhold its consent to cutting or altering of its Work to accommodate the work of other contractors. See Subparagraph 2.2 for the definition of Separate Contractors. In the event contractor's work is cut or altered by separate contractor, warranty and liability of that section and any connecting sections transfers to contractor that altered the work.

1.10. Testing, Inspections and Approvals

1.10.1. Testing, inspections, and approvals of portions of the Work required by the Individual Project SOW or by the applicable legal requirements shall be made at an appropriate time. Unless specified otherwise in the technical specifications or elsewhere in the Individual Project SOW

Documents, the Contractor will make arrangements for required tests, inspections and approvals to be carried out by an independent testing laboratory or third-party inspector or testing agency acceptable to the Owner, or by the appropriate public authority, and the Owner will pay all related costs directly to the inspector or testing agency, without mark-up by the Contractor. The Contractor will make arrangements with the inspector or testing agency to invoice the Owner directly to avoid delay in processing payments. The Contractor shall give the Owner and Engineer timely notice when portions of the Work subject to testing or inspection are ready for sampling, testing or inspection so that they may have representatives present, if they wish.

1.10.2. If the Owner or Engineer doubts that the Work is in accordance with the Individual Project SOW, either of them may require additional testing or inspection, at their expense. The Contractor shall furnish for such testing samples of all materials and component parts of the Work the Engineer or Owner may require. All such inspection or testing shall be done in a timely manner so as to avoid unnecessary delay in the completion of the Work.

1.10.3. Any Work done without proper inspection or testing as required by the Individual Project SOW is subject to rejection. If any Work is covered up before the required inspection or testing, it must be uncovered for inspection and testing and properly restored as provided for in Subparagraph 1.10.4.

1.10.4. When the Owner or Engineer directs, the Contractor shall uncover any portion of the Work that has been covered, to permit observation, inspection or testing, and after testing or inspection, the Contractor shall restore the Work to a condition that complies with the Individual Project SOW. If the Work was covered contrary to the requirements of applicable Laws, the Individual Project SOW, or the Engineer or Owner's timely request, the uncovering and recovering shall be carried out at the Contractor's own cost, without reimbursement by the Owner or adjustment to the Individual Project SOW Price, whether or not the Work proves to be in accordance with the Individual Project SOW. In all other cases, if the Work uncovered was in accordance with the Individual Project SOW, the Owner will reimburse the Contractor for the reasonably documented cost of uncovering and recovering plus 10%, and if the Work uncovered was not in accordance with the Individual Project SOW, the Contractor shall bear that cost, without reimbursement by the Owner or increase to the Individual Project SOW t Price.

1.11. Storage of Material

The Contractor shall provide for safe and clean storage of materials and construction equipment acquired for installation in the Work in such manner, only at such places on the Project Site as are designated by the Owner. The Contractor shall not store materials on the Project Site in a location or manner that would damage any structure or otherwise affect the integrity or safety of the Project Site. The Contractor shall take reasonable measures to protect the Work and stored materials from damage.

1.12. Limitations on Use of/Access to Project Site

Any limitations on the hours during which Work can be carried out, or other limitations on access to and use of the Project Site are stated in **Exhibit A**, and the Contractor acknowledges it has taken these limitations into account in entering in the Individual Project SOW and will abide by them.

1.13. Housekeeping/Clean-Up

The Contractor shall keep the Facility site and surrounding areas free from undue accumulation of waste materials or rubbish caused by the Work that would create unsafe or unsanitary conditions or fire hazards, attract vermin, or violate any Laws. At the completion of the Work, the Contractor shall remove from the Facility site all waste materials, rubbish, the Contractor's and subcontractors' tools, equipment, signs, and surplus materials. If additional requirements apply, they are stated in **Exhibit A** to the Agreement.

1.14. Record Documents/As-Built Documentation

The Contractor shall maintain at the Facility site one record copy of all Construction Documents, Change Orders, and permitted field modifications to those documents, in good order and currently marked up to show all changes made during the performance of the Work. The Contractor shall keep these record documents, and all Submittals, readily available for the Owner's and Engineer's reference or inspection at all times and shall deliver them to the Owner as a condition of Final Completion

1.15. SAFETY, PROTECTION OF PERSONS AND PROPERTY Compliance With Laws

1.15.1. The Contractor shall comply with OSHA and all other local, state, or federal safety and health requirements to the extent that they apply to the Work. In accordance with state or federal requirements or both, the Contractor shall formulate and implement its own safety program to promote safe and orderly prosecution of the Work. The rules shall provide for frequent and regular inspection of the Facility site, materials and equipment by competent persons designated by the Contractor. "Competent persons" means those capable of identifying existing and predictable hazards and who have the authority to take prompt corrective measures to eliminate them. The Contractor shall provide the Owner with satisfactory evidence that the required Safety Program has been formulated and put in place before beginning Work on the Facility site. The Owner's receipt of such evidence without objection will not relieve the Contractor from its responsibility for carrying out the Work safely and in accordance with applicable Laws relating to health, safety, and protection of the environment.

1.15.2. The Contractor shall provide and maintain any safety devices or measures that are required by applicable Laws, or by conditions on the Facility site, to protect persons and property on the Facility site, including, as examples only, safety nets, barricades, fire prevention equipment, and appropriate signs.

1.16. Compliance with Owner's Rules and Regulations

The Contractor shall also comply with the requirements of **Exhibit I, J, and K** and any safety directions or rules reasonably issued by the Owner to prevent injury or assure compliance with applicable law.

1.17. Protection Against Property Loss or Damage

The Contractor shall:

1.17.1. Properly store and protect equipment and materials delivered but not yet installed from damage by the elements or by persons at the Facility site, and from theft;

1.17.2. Protect Work already completed from damage until Substantial Completion;

1.17.3. Avoid loading any part of the Work so as to damage the Work;

1.17.4. Ensure that neither the Contractor, any of its subcontractors at any tier, nor any material or equipment supplier damages the Owner's property at the Facility site; and

1.17.5. Take all reasonable measures to monitor the activities of employees and subcontractors while they are on the Facility site, to prevent property loss or damage, to theft, vandalism, or unexplained disappearance.

1.18. Reports of Accidents

The Contractor shall immediately notify the Owner by telephone or messenger of any accident resulting in death or personal injury or material property damage, providing as complete a description of the accident and its consequences as it reasonably can at the time. The Contractor shall promptly supplement its initial notice, in writing, providing all relevant details of the accident, the nature and extent of any injuries or property damage, the names of all witnesses and other persons having knowledge of the circumstances of the accident, and any other details that the Owner or its insurers may require. The Contractor shall cooperate fully with the Owner and the Owner's insurers in dealing with any claims resulting from an accident. The Contractor shall create and maintain a complete accident file in such form and containing such information as the Owner or applicable Laws may require for the longest of the following: (a) three years from Final Completion, (b) until all disputes arising from any Work-related accident have been finally resolved, or (c) the period required by the Laws.

1.19. Emergencies

If an emergency threatening health, life or property arises, the Contractor shall immediately, and without awaiting direction from the Owner: (a) take all actions necessary to save lives and protect persons from injury, and (b) after averting injury to persons, take reasonable actions to safeguard property from damage or loss. The Contractor shall notify the Owner of any such emergency as promptly as is practicable under the circumstances, initially by telephone or messenger, and in writing promptly afterward.

1.20. Hazardous Materials

1.20.1. A "Hazardous Material" is any substance defined by applicable state or federal Laws as hazardous to health and regulated as such, including, without limitation, PCBs and asbestos. The Contractor shall not bring or release onto the Facility site, or use in the Work, any Hazardous Material, unless expressly authorized to do so in a writing signed by the Owner. If the Contractor, its subcontractors, or their employees, or agents cause any Hazardous Material to be released onto the Facility site, bring any Hazardous Material onto the Facility site without written authorization, or handle any authorized Hazardous Material in a negligent manner so that it is dispersed, spilled, or otherwise released on the Facility site or in other areas, the Contractor shall defend, indemnify and hold harmless the Owner, the Engineer, the Separate Contractors, and their respective

directors, officers, employees, and agents from all resulting Losses, including, without limitation, any Losses arising from penalties, fines, regulatory or environmental violations, or orders to clean up the Hazardous Materials. "Losses" are claims, damages, regulatory and other fines assessed by any governmental entity, losses, expenses, liabilities, causes of action, costs, and expenses, including, without limitation, reasonable attorneys' and consultants' fees.

1.20.2. Bringing or releasing Hazardous Materials onto the Facility site without authorization, or handling them negligently, is a material breach of the Master Agreement, justifying termination for default. The indemnity in this Paragraph is in addition to indemnities required by other provisions of the Master Agreement Documents. Delays due to the Contractor's breach of its duties under Subparagraph 1.6.2 are Inexcusable Delays.

1.20.3. If the Contractor discovers Hazardous Materials on the Facility site, the Contractor shall report its discovery to the Owner at once, stop Work in the affected area, and not resume Work in the area until the Owner has notified the Contractor, in writing, that the material has been determined not to be hazardous or has been removed or rendered non-hazardous. If the discovery of Hazardous Materials on the Facility site causes delay or additional cost to the Contractor, the Contractor may seek modifications in the Individual Project SOW Price in accordance with Article 6 of the Agreement, and/or changes to the Individual Project SOW Time(s) in accordance with Article 5. Furthermore, if the Contractor has complied with the provisions of this Subparagraph, the Owner shall defend and indemnify the Contractor against all Losses arising from the presence of such Hazardous Materials on the Facility site.

2. OWNER-SUPPLIED MATERIALS OR SERVICES/SEPARATE CONTRACTORS

2.1. Owner-Supplied Materials or Services

If **Exhibit B** reflects that the Owner will supply any materials, temporary facilities or utilities, or other services for the Contractor's use in completing the Work ("Owner-Supplied Items"), the Owner-Supplied Items will be supplied by the dates specified in **Exhibit A**. If the Owner fails to deliver any Owner-Supplied Item within the agreed times and this failure causes a delay on the critical path for completion of the Work, the delay is Excusable Delay and the Contractor is entitled to an extension of time subject to the provisions of Article 5. The Contractor shall conduct a careful visual inspection of any equipment, materials, tools, or utility connections provided as Owner-Supplied Items, and notify the Owner, in writing, if they are damaged or in any respect not in conformity with the Contract requirements. Unless the Contractor notifies the Owner of any such damage or defect within five (5) days of delivery of the items, the Contractor will be deemed to have accepted the items as free from non-conformities reasonably discoverable by visual inspection.

2.2. Separate Contractors

2.2.1. The Owner has the right to hire other contractors, under separate contracts, to perform work outside the scope of Individual Project SOW for completion of the overall Facility ("Separate Contractors"), and to have those Separate Contractors present at and working on or adjacent to the Facility site while the Contractor is also working on the Facility site. In agreeing to the Individual Project SOW Times, the Contractor has taken into account such information about Separate Contractors and coordination and sequencing requirements as is included in **Exhibit B**.

2.2.2. The Contractor shall cooperate reasonably and in good faith with the Owner to properly coordinate its Work with the work of the Separate Contractors. This cooperation will include, without limitation, (1) adhering strictly to the Individual Project SOW requirements in developing the initial Individual Project SOW Schedule and in updating the Individual Project SOW Schedule, (2) notifying the Owner's Project Manager (identified in **Exhibit H**) of any actual or anticipated delays or disruptions to the Contractor's Work due to the activities of any Separate Contractor in accordance with Subparagraph 5.4.3 and Paragraph 5.6, to allow the Owner's Project Manager to act to prevent or mitigate the delays or disruptions, (3) attending and participating reasonably and in good faith in all meetings with the Separate Contractors that the Project Manager may reasonably schedule, and (4) actively working with the Owner's Project Manager and Separate Contractors to anticipate and avoid conflicts between the Contractor's Work and the work of the Separate Contractors.

2.2.3. The Contractor will cooperate reasonably, diligently, and in good faith with the Owner's Project Manager and the Separate Contractors to promote proper coordination of its Work with that of the Separate Contractors, and thus to avoid defects in the Facility as a whole. If any part of the Contractor's Work that depends or connects with work of Separate Contractors, the Contractor will not proceed with its dependent or connecting Work until Owner is notified and approves the work. as being free from reasonably discoverable deficiencies that would adversely affect the Contractor's Work. See also Paragraph 1.9.

2.2.4. If the Contractor fails to comply with the provisions of Subparagraph 2.2.1 through 2.2.3, and its Work is delayed or disrupted as a result, the delay is Inexcusable Delay. Further, the parties expressly agree that, to the extent that the Contractor's failure to comply with Subparagraphs 2.2.1 through 2.2.3, to carry out the Work in accordance with the Individual Project SOW Schedule, or to complete the Work within the Individual Project SOW Times causes delay or disruption to the work of Separate Contractors, the Contractor will be liable to the Owner for the resulting added costs. Such costs are not regarded by the parties as consequential, but direct, and are not waived by the waiver of consequential damages in Paragraph 12.4. To the extent that the Separate Contractor's failure to comply with Subparagraphs 2.2.1 through 2.2.3, to carry out the Work in accordance with the Individual Project SOW Schedule, or to complete the Work within the Individual Project SOW Times causes delay or disruption to the work of Contractors, the Contractor will not be liable to the Owner for the resulting added costs. Remedy of compensation or time delay by Separate Contractor to the Owner and Contractor will be regarded by the parties as consequential, and are not waived by the waiver of consequential damages in Paragraph 12.4

3. Individual Project SOW and/or Master Agreement **PRICE**

3.1. Amount and Timing of Payments

3.1.1. The Owner shall pay the Contractor the Price specified in **Exhibit B** to the Individual Project SOW and/or the Master Agreement. The Price shall be paid in a series of progress payments and a final payment, in accordance with the payment schedule in **Exhibit B**. If any retainage is applicable to progress payments, it is identified in **Exhibit B**. Except to the extent otherwise stated in **Exhibit B**, all payments shall be in United States dollars, and no adjustments to the Individual Project SOW

and/or Master agreement Price or agreed unit price or hourly rates will be made on account of currency exchange fluctuations.

3.1.2. If any portion of the Price is to be paid on a unit-price or hourly rate basis, that portion of the Individual Project SOW and/or Master Agreement Price shall be paid based on the actual number of defined units delivered or the number of hours actually worked, multiplied by the agreed unit price or hourly rate, and not based on any estimated quantities that may be referred to in the Individual Project SOW and/or Master Agreement Documents. In such a case, **Exhibit B** includes the relevant description of the methods by which actual quantities are to be determined.

3.2. Taxes

The Individual Project SOW and/or Master Agreement Price includes all applicable sales and use taxes, except to the extent stated otherwise in **Exhibit B**.

3.3. Invoicing Requirements

3.3.1. The Contractor shall comply with the invoicing requirements stated in **Exhibit B** to the Master Agreement. If any portion of the Price, as adjusted for changes, is based on actual cost, the invoices must be accompanied by the cost documentation reasonably acceptable to the Owner in content and form. The AIA G702/G703 forms (Or agreed upon equivalent forms identified in Exhibit A) The summary form with project manager signature should be submitted along with the invoice in order to be approved for payment on Individual Project SOW projects.

3.3.2. With each invoice for interim or progress payment, the Contractor shall submit a release of claims and liens in the form shown in **Exhibit F** to the Agreement. With the invoice for final payment, the Contractor shall submit a release of claims in liens in the form shown in **Exhibit G** to the Agreement. If the Contractor has subcontracted portions of the Work, the Contractor must submit similar waivers of claim and lien signed by each subcontractor with any invoice that includes amounts attributable to that subcontractor's Work.

3.3.3. With each monthly invoice submittal, the Contractor shall confirm that all amounts currently sought for subcontractor or supplier Work are currently due and owing to the subcontractors and suppliers,. The Contractor shall comply with all requirements of all applicable laws in its dealings with subcontractors and suppliers,, and all backup documentation must be made available.

3.4. Construction or Mechanics' Liens

If any person places a mechanic's or construction lien on the Owner's or any person's interest in the Facility or the property on which it is located, or on any construction fund, despite the Owner's having paid the Contractor in accordance with the Individual Project SOW, the Contractor shall promptly remove the lien, by bonding it off or otherwise, and shall defend, indemnify, and hold the Owner harmless against all Losses the Owner incurs as a result of the lien. In the event the Owner has not paid outstanding amounts due, Contractor is not obligated to remove the lien until the outstanding amounts are satisfied and adequate time has passed for Contractor to pay it's suppliers as outlined by the state laws governing payment.

3.5. Disputed Amounts

If the Owner, acting in good faith, disputes any amount invoiced by the Contractor, the Owner shall promptly notify the Contractor of the dispute within 10 business days of receipt of invoice, providing a reasonable description of the nature and extent of the dispute, and specifying the amount that is disputed. The Owner shall pay the Contractor the amount, if any, that is not disputed, within the time specified in **Exhibit B**. The Owner's refusal to make payments on amounts disputed in good faith will not entitle the Contractor to suspend Work or to terminate the Individual Project SOW and/or the Master Agreement. Work shall continue during all such disputes, and a failure to continue without delay or interruption is a material breach.

4. OWNER-DIRECTED SUSPENSIONS

4.1. Authorized

At any time, the Owner may direct the Contractor to suspend all or an identified portion of the Work for the Owner's convenience. All such directions must be in writing, and signed by the Owner's Authorized Representative. If the Owner issues such a direction, the Contractor shall immediately confer with the Owner to (a) agree on measures to carry out the suspension in a safe and orderly manner, (b) render the Contractor's best good faith advice on mitigating the costs associated with the suspension order and its execution, and (c) advise the Owner of likely delays to the Work as a result of the suspension order. The Contractor shall carry out the suspension in accordance with the Owner's written direction, any suspension procedures and measures on which the parties agree, in writing, and in the exercise of its good faith efforts to mitigate costs and delays due to the suspension.

4.2. Adjustments to Master Agreement Project **Time(s) and Price Due to Suspension for Convenience**

All delays to completion of the Work that are caused solely by the Owner's suspension of Work for its convenience are Excusable Delays for which the Contractor is entitled to an extension of time, subject to the provisions of Article 5. The Contractor is also entitled to a Change Order adjusting the Individual Project SOW and/or Master Agreement Price for costs added costs which the Contractor reasonably incurs in carrying out the Work due to an order to suspend Work for the Owner's convenience, and which the Contractor would not have incurred absent the order, subject to the provisions of Article 6**.** If the Owner directs an acceleration after suspending Work for its convenience, Paragraph 4.8 will apply. This Paragraph does not entitle the Contractor to extensions of time or adjustments to the Individual Project SOW and/or Master Agreement Price due to suspensions that result, in whole or in part, from the Contractor's breach of Agreement, failure to comply with Master Agreement provisions, or Force Majeure.

5. Master Agreement and/or Individual Project SOW **TIMES, SCHEDULE, DELAYS, AND SCHEDULE UPDATE REPORTING**

5.1. Master Agreement and/or Individual Project SOW **Times Specified/Liquidated Delay Damages for Unexcused Delay**

Time is of the essence for performing work associated with the Master Agreement and/or Individual Project SOW. The Contractor shall achieve Substantial Completion by the "Required Completion Date" reflected in **Exhibit A**, as that date may be adjusted on account of Excusable Delay, and shall carry out the Work in accordance with any other agreed Individual Project SOW Times in **Exhibit A**. If the Contractor fails to achieve Substantial Completion by the Required Completion Date, as adjusted on account of Excusable Delay, the Contractor shall pay the Owner, or the Owner may withhold from amounts otherwise due to the Contractor, the liquidated delay damages specified in **Exhibit C**. If liquidated damages have been agreed with respect to late completion of Work by other Master Agreement and/or Individual Project SOW Times, they are stated in **Exhibit C** as well. Payment of the specified liquidated damages will not, however, excuse the Contractor from continued good faith diligent efforts to complete the Work without further delay.

5.2. Individual Project SOW **Schedule**

5.2.1. If the parties have agreed upon a Project Schedule as of the Individual Project SOW's Effective Date, it is attached as part of **Exhibit A**. If they have not agreed upon a Project Schedule as of the Individual Project SOW's Effective Date, the Contractor shall, within the time specified in **Exhibit A**, submit to the Owner, for its review and approval, a proposed schedule for the completion of the Work. The proposed schedule shall take into account all relevant information, including information which the Contractor has been provided concerning the work of Separate Contractors. When approved, this schedule will become the Individual Project SOW Schedule. The proposed Individual Project SOW Schedule shall be prepared using the critical path method and shall be in sufficient detail to clearly show the Contractor's actual planned sequencing, dates, and durations of all relevant Work activities including, without limitation, any engineering or design Work which the Individual Project SOW requires of the Contractor, procurement of materials and equipment (with exception to materials and equipment procured by the owner), preparation and review of Submittals, equipment and materials transportation time, construction mobilization, installation and construction activities, and all required testing, inspections, commissioning, and systems start-up. The Project Schedule shall be in sufficient detail to allow proper management of the Work and to allow proper coordination of the Work with the Owner's activities and those of any Separate Contractors. Owner acknowledges that Contractor is not liable or responsible for delays to the project caused by separate contractors schedule delays outside of Contractor's control.

5.2.2. The Contractor shall perform the Work in accordance with the Individual Project SOW Schedule, which may not be modified except with the Owner's consent. The Owner's consent will not be unreasonably withheld, provided that the proposed changes do not result in delay to the projected date of Substantial Completion and do not result in delay or disruption to the work of Separate Contractors or the Owner's own operations in completing the Facility.

5.3. Progress Meetings

5.3.1. The Contractor shall schedule and attend weekly progress meetings at which the Owner, the Contractor, Engineer of Record, and Separate Contractors will discuss safety issues, the progress of the Work, the Individual Project SOW Schedule, and any factors likely to affect the completion of the Work within the Project Times, the quality of the Work, or the Project Price, or coordination of the Contractor's Work with the work of Separate Contractors. The Contractor shall be represented

at these meetings by its Authorized Representative and, if the Owner so requests, other relevant and knowledgeable persons.

5.3.2. The Owner's Project Manager will prepare minutes of the weekly meetings and distribute them, within two (2) working days, to the attendees and such other persons as the attendees request or the Owner deems appropriate. Any party may object, in writing, to statements in the minutes or omissions from the minutes within three (3) working days of their issuance. Meetings required by this Paragraph are in addition to any meetings with subconsultants, subcontractors, suppliers, Engineers of Record, or employees that the Contractor considers prudent to manage the Work, and any other meetings with the Contractor that the Owner reasonably requests.

5.4. Schedule Update Report

5.4.1. The Contractor shall submit to the Owner monthly (or frequency determined by Owner at project kickoff), on a date specified by the Owner, a Schedule Update Report in such digital format and hard copy format as the Owner's Project Manager reasonably requires for the Individual Project SOW.

5.4.2. The Schedule Update Report shall include an eight-week look-ahead schedule. It shall include an updated critical path method for Individual Project SOW Schedule, based on (1) actual conditions of Work progress, (2) the Contractor's best projection of the actual date by which the Work will achieve Substantial Completion and any Milestones defined in **Exhibit A** will be achieved, and (3) any updated information the Contractor has about the work of Separate Contractors, including actual progress of such work.

5.4.3. If the Contractor becomes aware of any event or circumstance that would likely have a significant effect on the currently approved Individual Project SOW Schedule, it shall not await the next Schedule Update Report, but shall notify the Owner as soon as reasonably possible.

5.4.4. The Schedule Update Report shall include a schedule narrative in plain English that (a) identifies any delays or developing delays on the critical path or near-critical paths, (2) states what steps the Contractor has taken or will take to avoid or reduce the delay, (3) identifies any differences between actual or currently projected manpower and resource loading and the manpower and resource loading shown in the original agreed Individual Project SOW Schedule, and (4) states what actions the Owner can take to avoid or mitigate the delay (whether contractually required or not), and the dates by which those actions must be taken, provided that the Contractor's statement will not impose upon the Owner any obligation to take actions that it is not contractually obligated to take. The Contractor shall point out, in its narrative, changes that have occurred since the last update, including those related to major changes in the scope of the Work, activities modified since the last update, revised projections of durations, progress and completion, revisions to the schedule logic or assumptions, the activities or Separate Contractors, Engineers of Record, and other relevant changes.

5.5. Excusable Delay/Extensions of Time

5.5.1. An "Excusable Delay" is delay on the critical path for a Individual Project SOW Time for which the Contractor is not held responsible under this Master Agreement, and is limited to delay caused by (1) Owner-directed changes in the Work; (2) other actions of the Owner, the Engineer,

the Separate Contractors, if any, or their agents or representatives, or their failure to take actions required by the Individual Project SOW with the time required by the Master Agreement and/or the Individual Project SOW; (3) Differing Site Conditions, or (4) Force Majeure Events. An "Inexcusable Delay" is a delay other than Excusable Delay, for which the Contractor is not entitled to an extension of time.

5.5.2. "Differing Site Conditions" are concealed subsurface, soils, or other physical conditions at the Facility site, whether natural or as-built, which differ materially from those indicated in the Individual Project SOW Documents or separate geotechnical information the Owner provided to the Contractor before the C Individual Project SOW's Effective Date and which the Contractor neither discovered nor reasonably should have discovered by examining the Facility site as required by Paragraph 1.4.

5.5.3. "**Force Majeure Events**" are (1) exceptional events or circumstances which are (2) beyond the affected party's control, (3) which that party could not reasonably have anticipated and provided against before entering into the Master Agreement (4) which, having arisen, the party could not reasonably have avoided or overcome, and (5) which are not substantially attributable to the other party. Force Majeure Events may include, but are not limited to, the following circumstances or events: war, invasion, act of foreign enemies, rebellion, terrorism, insurrection, military or usurped power, civil war, riot, or commotion, epidemics, pandemics, government required quarantine, natural catastrophes such as earthquake, flooding, hurricane, tropical storms, typhoon, volcanic activity, or extraordinarily adverse weather conditions beyond those that could reasonably have been anticipated, given the nature of the Work, the Facility's location, and the time of year during which the Work was planned to occur. A party's financial incapacity or bankruptcy or inability to pay amounts due when due, for any reason, is not a Force Majeure Event. Delay in transportation or other delays in receipt of materials or performance of Work by subcontractors or shortages of materials are not Force Majeure Events, unless all five of the numbered conditions stated above are met. Strikes or lockouts engaged in by the managers, supervisors, staff, labor, or other employees of the Contractor or its subcontractors or suppliers are not Force Majeure Events, unless the strike or lockout is part of a regional or national-wide strike or lockout.

5.5.4. The Contractor is entitled to an extension of time, and potential monetary change order, with respect to a Individual Project SOW Time or Times if and only if the Contractor has suffered an Excusable Delay to the Work, and the Contractor has given the Owner written notice of the delay in accordance with Paragraph 5.6.

5.6. Required Notice/Documentation of Delay

5.6.1. The Contractor must give the Owner written notice of a delay as soon as possible, but in no event more than five (5) days after discovering the circumstance, event, or action that gives rise to the claimed delay. If the delay-causing circumstance is a Differing Site Condition, this notice must also be given before the condition has been disturbed. The written notice shall identify the cause of the claimed delay and state whether the Contractor regards the delay as an Excusable Delay. To the extent reasonably possible, the notice shall also identify the particular activities that will be delayed and to what extent delay is expected to occur.

5.6.2. The initial notice of delay shall be followed, within seven (7) days of the initial notice, by reasonable documentation of the extent of the claimed delay and of any adjustments the Contractor seeks in any of the Individual Project SOW Times due to the delay. See also Paragraph 6.2 for notice and documentation requirements if an adjustment to the Master Agreement and/or Individual Project SOW Price is sought.

5.7. Contractor's Delay-Related Costs

5.7.1. The Contractor is entitled to an increase in the Individual Project SOW Price for delay-caused additional costs if and only if it shows that (1) it suffered an Excusable Delay that was caused solely by the acts or omissions of the Owner, Engineer, Separate Contactors, or their agents or contractors, and (2) there were no concurrent delays for which the Contractor is responsible under the Master Agreement or which were due to Force Majeure; (3) the delay caused the Contractor's costs of performance to increase, and (4) the Contractor has taken reasonable measures to mitigate the added delay-caused costs including, without limitation, complying fully with the requirements of Paragraph 2.2.

5.7.2. The amount of a Price adjustment due to delay-caused costs is limited to the actual, documented direct costs arising from the delay, plus the agreed mark-up reflected in **Exhibit B** for all indirect and overhead costs and profit. In no event is the Contractor entitled to any additional amounts, including home office overhead, unabsorbed or under-absorbed overheads, or other indirect costs, whether based on an Eichleay calculation or otherwise. In no event is the Contractor entitled to an increase in the Price based on its own or a subcontractor's claimed losses on other projects or work foregone, or any other alleged costs or losses not arising directly from the Work.

5.8. Acceleration

The Owner may, at its election, request that the Contractor accelerate the Work to recover Excusable Delays, rather than granting an extension of time. If the Owner requests acceleration, the Contractor shall promptly confer with the Owner on what acceleration measures are feasible and actually likely to recover or reduce delays, and the costs associated with such acceleration measures. If the Owner continues to wish the Contractor to accelerate in light of the Contractor's information, the Owner will issue a Change Order authorizing specific acceleration measures.

6. CHANGES

6.1. Change Authorized

The Owner may, without invalidating the Contract, and without notice to or approval of any surety, order changes in the Work by Change Order A "Change Order" is a writing signed by the Authorized Representatives of both parties, authorizing an identified change and stating the agreed adjustments to the Individual Project SOW Times, Individual Project SOW Price. Any other affected terms due to the change outside of the Master Agreement Terms will need to be reviewed and agreed to with Owner. All Change Orders shall be in the form attached hereto as **Exhibit M**.

6.2. Required Notice of Claimed Changes or Change Events

The Contractor shall give the Owner written notice of a claimed change to the Individual Project SOW or Work within five (5) days of the events giving rise to the claimed change, identifying the claimed

changes and stating, to the extent reasonably possible, the adjustments to the Individual Project SOW (s), Price or other terms the Contractor believes to be appropriate, given the claimed change. The initial notice of change shall be followed, within seven (7) days of the initial notice, by reasonable documentation of the extent of the claimed change and the effects it has or will have on the Individual Project SOW Time(s), Price, or other Project terms.

6.3. Contractor's Entitlement to Adjustments to the Individual Project SOW **Price**

The Contractor is entitled to a Change Order modifying the Individual Project SOW Price if and only if the cost of performing the Work is materially increased by any of the following circumstances:

6.3.1. the Owner's directing a change to the Work

6.3.2. the Owner's order to accelerate or re-sequence the Work, except where the order is issued to mitigate the effects of an Inexcusable Delay; or

6.3.3. the Owner's, Separate Contractors', or the Engineer's', or their agents' other acts that delay or disrupt the Work or materially change the conditions under which it is to be carried out, or the Owner's failures to take actions required under the Individual Project SOW; or,

6.3.4. Differing Site Conditions, or

6.3.5. Force Majeure.

6.4. Amount of Adjustments to Individual Project SOW **Price**

6.4.1. If a change requires increases or decreases to the quantity of Work covered by unit prices set forth in **Exhibit B**, the Individual Project SOW Price listed in Exhibit A will be modified using the appropriate unit price and the actual number of units performed or provided, unless the parties agree otherwise.

6.4.2. In all other cases, if reasonably possible, the Owner and Contractor will agree upon a lump sum amount to adjust the Individual Project SOW Price, and set forth their agreement in a Change Order.

6.4.3. If unit-price adjustments do not apply, and the parties do not agree upon a lump-sum adjustment to the Individual Project SOW Price for changes to the Work, the adjustment will be calculated as follows: actual increase in the direct costs of the changed Work plus an additional **10%** on account of indirect costs, overheads, and profit. For purposes of this Paragraph, direct costs attributable to changes in subcontracted Work will be based either on unit prices in the relevant subcontracts or on time and material cost records, kept in accordance with Subparagraph 6.4.4. Delegation of changed Work to tiers lower than contractor or supplier is prohibited without the Owner's express written consent. Where a change results in increases in some costs and decreases in others, the increases and decreases shall be netted against each other in calculating the adjustment.

6.4.4. If the parties do not agree on a lump-sum adjustment, or if they agree to price a change based on actual incurred costs, the Contractor will keep, and cause its affected subcontractors to keep, detailed records to document the actual costs incurred with respect to the affected Work, and to make the records available for the Owner's review, copying, and audit upon reasonable notice,

for a period ending one year after Final Completion or the date on which all disputes arising from the Individual Project SOW have been finally resolved, whichever is later. In such cases, and in cases in which the Contractor claims a change has occurred and the Owner disagrees, the Contractor or any subcontractor performing the disputed Work shall keep daily time records that identify each person directly engaged in performing the disputed Work, and reflecting the number of hours spent in performing that Work. These records shall be submitted to a designated field representative of the Owner at the end of each working day. If the Owner's representative agrees with the tally of persons and hours working on the disputed Work for the day, he or she will sign the daily time records. This signature does not constitute an acknowledgment that any disputed Work is actually changed Work, but only as a confirmation of the number of persons and hours expended in performing the identified Work.

6.5. Failure to Agree/Duty to Proceed

If the Contractor claims entitlement to a change in the Individual Project SOW or existing work order and the Owner responds, in writing, that it does not agree that any action or event has occurred to justify any change in time or compensation, the Contractor will nevertheless proceed with the base scope Work per Exhibit A , without interruption or delay, and may make a claim as provided in Article 12 of the Agreement.

6.6. Executed Change Orders Final

Except to the extent expressly agreed otherwise in a particular Change Order, the Contractor agrees that any Change Order executed by the Owner and Contractor constitutes the Contractor's full and final adjustment for all costs, delays, disruptions, inefficiencies, accelerations, schedule impacts, or other consequences arising from the change in question, or from any claimed cumulative effect of changes made to the date of the Change Order, and that any further adjustments in compensation or time shall be sought or made with respect to changes will require an additional Change Order.

7. COMPLETION AND ACCEPTANCE

7.1. Substantial Completion

7.1.1. "Substantial Completion" is the point at which (1) the Work, or an agreed, identified portion of the Work, is complete and is ready for use for its intended purposes, and (2) only minor punch list items, not affecting normal use and operation, remain to be completed. If certificates of occupancy are necessary to allow the Work to be used for its intended purpose, Substantial Completion does not occur until the required certificates of occupancy, either temporary or final, have been obtained. If local laws permit occupancy and use based on issuance of a temporary certificate of occupancy, the Contractor shall, promptly after obtaining the temporary certification of occupancy, complete any remaining Work required to obtain a final, permanent certificate of occupancy.

7.1.2. The Contractor shall promptly notify the Owner, in writing, when it believes it has achieved Substantial Completion, and promptly submit a proposed punch list identifying all punch list Items requiring correction or completion. The Owner and, at the Owner's option, the Engineer, will promptly inspect the Work. If the Owner agrees that Substantial Completion has been achieved, it will issue a written acknowledgment of Substantial Completion, identifying any additional punch list Items, as appropriate. If the Owner does not agree that Substantial Completion has been achieved, the Owner will so notify the Contractor, in writing, identifying, in reasonable detail, the Work that remains incomplete. If the Owner must conduct more than one inspection for Substantial Completion, the Contractor shall pay any additional costs the Owner incurs in conducting the repeated inspection.

7.2. Final Completion

7.2.1. "Final Completion" occurs when Substantial Completion has been achieved, all punch list items noted at Substantial Completion have been completed, and the Contractor has delivered to the Owner all documents which the Individual Project SOW requires be delivered as a condition of Final Completion

7.2.2. The Contractor shall notify the Owner, in writing, when it believes it has achieved Final Completion. The Owner and, at the Owner's option, the Engineer, will promptly inspect the Work. If the Owner agrees that Final Completion has been achieved, the Owner will issue a written acknowledgment of Final Completion. If the Owner does not that Final Completion has been achieved, the Owner will promptly inform the Contractor identifying, in reasonable detail, the Work that remains incomplete.

7.3. Effect of Final Payment

7.3.1. The making of final payment shall constitute a waiver of the Owner's claims against the Contractor, EXCEPT those arising from: mechanic's liens, security interests, or encumbrances arising out the Contract; failure of the Work to comply with the requirements of the Master Agreement and/or Individual Project SOW Documents; terms of warranties made under the Master Agreement and/or Individual Project SOW Documents; and/or the Contractor's duty to defend and indemnify under any provision of the Master Agreement and Exhibits or under applicable Laws.

7.3.2. The Contractor's acceptance of final payment shall constitute a waiver of its claims against the Owner EXCEPT for those which have been asserted, in writing, before the application for final payment and in accordance with the time limits and other provisions of the Master Agreement or Individual Project SOW, and which the Contractor has identified as still outstanding, in a written list attached to the request for final payment.

8. DEFECTS CORRECTION AND WARRANTIES

8.1. Defects Discovered Before Substantial Completion

8.1.1. If the Owner notifies the Contractor of, or the Contractor becomes aware of, any non-conformity in the Work before Substantial Completion, the Contractor shall promptly correct the non-conformity at its own cost. If the Owner issues a written notice directing that a defect be corrected, and the Contractor will respond and provide a plan for the defect within seven (7) days, the Owner may have the defect corrected by others, without further notice to the Contractor, and charge the resulting cost to the Contractor or withhold the cost from amounts otherwise due to the Contractor. Any delay due to such non-conformities or their correction is Inexcusable Delay.

8.1.2. If the Contractor fails to correct the non-conformities promptly, and the Owner concludes that permitting Work to proceed without the corrections would create a risk of further non-conformities or risk of damage to other portions of the Facility, the Owner has the right, but not the obligation, to order that the Work or a specified portion of the Work, be suspended until the required corrections are made. Any delay due to such a suspension is Inexcusable Delay.

8.2. Warranty Extent and Duration

The Contractor warrants that (a) all of its Work is of good quality, (b) all installation and construction has been carried out in a good and workmanlike manner, in accordance with sound modern practices of the applicable trades, (c) all materials and equipment supplied by the Contractor or its subcontractors or suppliers are free from any manufacturing or other defects, and (d) the Work is otherwise in accordance with the Individual Project SOW requirements. This warranty shall extend for the Warranty Period stated in **Exhibit D**, or such longer Warranty Period as is specified elsewhere in the Individual Project SOW. This warranty is in addition to, and does not limit, any manufacturer's, supplier's, subcontractor's, or additional guarantee or warranty required by other provisions of the Master Agreement Documents.

8.3. Acknowledgment and Cure of Warranty Defects

8.3.1. If the Owner gives the Contractor written notice of any warranty defect, the notice shall state whether the non-conformity is a Minor Warranty Item or a Major Warranty Item. A "Major Warranty Item" is one which (1) renders the products to be produced by the Facility unsalable under the Owner's quality standards, (2) materially affects the Facility's production rate, (3) results in the violation of any Laws, or (3) creates a safety hazard. A "Minor Warranty Item" is any warranty defect other than a Major Warranty Item. The Contractor shall acknowledge all notices of warranty defect within twenty-four (24) hours after receiving them. If the defect is a Major Warranty Item, the Contractor shall begin meaningful repair or replacement work to cure the Item within forty-eight (48) hours after the Owner's notice and continue its cure efforts diligently thereafter until they are completed. If the defect is a Minor Warranty Item, the Contractor shall begin meaningful repair or

replacement work to cure the Item within one (1) week after the Owner's notice and continue its cure efforts diligently thereafter until they are completed. If the Contractor does not comply with the requirements of this Subparagraph, the Owner may proceed to carry out the correction itself, and charge the resulting costs to the Contractor. In such a case, the Contactor shall pay the costs within thirty (30) days after the date of the Owner's invoice with applicable support, and the Contractor's warranty shall continue in effect, as if the Contractor had carried out the corrections.

8.3.2. The Owner may include in any notice of warranty defect a proposal that the Owner itself carry out a specified repair or replacement, to allow more rapid or efficient correction of the defect. In such cases, the Contractor shall include, in its acknowledgment, its concurrence with or objection to the Owner's proposal. If the Owner's proposal is accepted, the Owner may proceed with the repair or replacement and invoice the Contractor for the agreed cost or, if there is no agreed cost, the actually incurred cost of the repair or replacement. In such a case, the Contactor shall pay the agreed costs (or if there are no agreed costs, the actually incurred costs) within thirty (30) days after the date of the Owner's invoice, and the Contractor's warranty shall continue as if the Contractor had made the corrections. If the Contractor objects to the Owner's proposed repair or replacement, the Contractor shall proceed to provide a cure itself, in accordance with Subparagraph 8.3.1.

8.4. Warranty Rights Cumulative

The warranty rights provided by this Paragraph are in addition to, and not a limitation upon, the rights and remedies otherwise available to the Owner for defective or nonconforming Work, normal wear and tear, poor maintenance and misuse not included within warranty.and do not establish any limitation period with respect to those other rights and remedies. Neither final payment by the Owner nor Final Completion of the Work will relieve the Contractor from its responsibilities under this Article.

9. INTELLECTUAL PROPERTY ISSUES

9.1. License to Owner/Representations

To the extent that the Contractor provides detailed design for any portion of the Work, the Contractor:

9.1.1. grants to the Owner, and will cause its relevant design professionals to grant to the Owner, a perpetual, worldwide, non-cancellable, non-exclusive, full-paid-up license to use the design for purposes of completing, operating, and maintaining the Facility, subject only to the Owner's duty to make payments for the design in accordance with the Master Agreement; and

9.1.2. represents that the Contractor or its relevant design professionals own right, title and interest in any patents or copyrights that may apply to the designs, or have obtained all required licenses entitling them to convey to the Owner the required license to use the design to complete, operate, and maintain the Facility, without the Owner's having to pay any license or other fees, either to the Contractor or to others, other than such fees as have already been taken into account and made part of the Contract Price.

9.2. Other Duties With Respect to Intellectual Property

9.2.1. The Contractor shall defend and indemnify the Owner, and its directors, officers, and employees, against any claims asserted by any person or entity that any design provided by the Contractor or its design professionals as part of the Work infringes upon his or its patent or copyright rights when used for the purposes disclosed by the Master Agreement ("Infringement Claim"), and the Contractor shall pay any judgments and/or awards of costs that may be awarded against the Owner as a result of Infringement Claims. The duty to defend and indemnify is conditioned only on the Owner's providing prompt notice of any Infringement Claim of which it becomes aware, and tendering its defense to the Contractor.

9.2.2. The Contractor has no duty to discover that any design provided by the Owner or Engineer may infringe upon the rights of other persons. If, however, the Contractor believes that any design provided by the Owner or Engineer does infringe on intellectual property rights of another, the Contractor shall notify the Owner, in writing, before proceeding with the affected Work.

10. INSURANCE AND FINANCIAL GUARANTEES; INDEMNITY

10.1. Contractor's Required Insurance

10.1.1. The Contractor shall obtain and maintain insurance in accordance with **Exhibit E** to the Agreement, and shall also cause its subcontractors to comply with the provisions of **Exhibit E** relating to subcontractor insurance. If any subcontractor does not obtain and maintain the insurance required by **Exhibit E**, the Contractor shall defend, indemnify, and hold harmless the Owner and Owner's Project Manager, and their respective affiliates, directors, agents, employees, representatives, officers, directors, and managers against all Losses arising out of or incident to the subcontractor's failure to be so insured.

10.2. Requirements for Bonding or Other Financial Guarantees

The Contractor shall provide the bonds or other financial guarantees, if any, required by **Exhibit E** to the Agreement.

10.3. Indemnity Obligations

10.3.1. To the maximum extent permitted by applicable law, the Contractor agrees to defend, indemnify, and hold harmless the Owner, the Owner's Project Manager and Engineer, the Separate Contractors, and their respective affiliates, directors, officers, employees. and agents ("Indemnified Parties"), from and against all Losses arising out of or incident to the Master Agreement and/or the Individual Project SOW, the performance of the Work, and/or the presence on the Facility site of the Contractor's employees, agents, or invitees ("Contractor Parties") if the Losses are caused, in whole or in part, by the negligence or willful misconduct of any of the Contractor Parties or the Contractor's failure to perform any of its Contract obligations, including, without limitation, its obligations relating to the health and safety of persons and compliance with OSHA or other applicable Laws, EXCEPT that the Contractor is not required to defend or indemnify against Losses that were caused solely or in part by the Indemnified Parties or any of them and the Contractor is not required to defend or indemnify for actual Losses with respect to which the parties have agreed on liquidated damages under the Contract.

10.3.2. The Contractor's indemnification obligations under Paragraph 10.3.1 are not limited by workers' compensation or other disability or employee benefit laws and, solely with respect to the obligations of Paragraph 10.3.1, the Contractor hereby expressly waives any rights it might have to assert any immunities or defense that it may have under such laws against any Indemnified Party, but not against any employee of the Contractor.

11. CONFIDENTIALITY OBLIGATIONS

11.1. Obligations, Generally

11.1.1. In connection with the Work, the Owner may make available to the Contractor trade secrets, know-how, or other proprietary and confidential information of the Owner and/or its affiliates. This information ("Confidential Information") may include, for example, data about the Owner's manufacturing process, the Owner's proprietary design information, actual or projected production or sales volumes, products, customers, business plans, or business relationships. The Contractor shall use Confidential Information solely for purposes of carrying out the Work, and for no other purpose, and shall maintain Confidential Information in its possession using reasonable measures at least as stringent as those it applies to its own confidential data to preserve it from unauthorized disclosure or dissemination. The Contractor may disclose Confidential Information to those employees, subcontractor, or suppliers as reasonably need to know the information to carry out the Work, but only after informing them that the information is confidential and obtaining their written agreement to abide by the confidentiality provisions of this Article. With the exceptions stated in Paragraph 11.2, the Contractor shall not disclose the Confidential Information to any other persons or entities, for any reason, without the prior written consent of the Owner. The Owner does not, by disclosing proprietary design information to the Contractor, transfer to the Contractor any patents, copyrights, or other intellectual property of the Owner relating to the proprietary design information (including particularly, design of the conical kettles).

11.2. Exceptions

The obligations of Paragraph 11.1 do not apply if the Contractor can show that (a) the information was in the public domain when the Owner provided it to the Contractor, (b) the information came into the public domain after the initial communication by the Owner to the Contractor, through no act or omission of the Contractor or its agents or employees; (c) the information was properly provided to the Contractor without restriction by a third party lawfully entitled to do so; (d) the information was already in the Contractor's lawful possession at the time of it was first received from the Owner under a confidential designation; or (e) the Contractor is required, by subpoena or other valid order of court, law, regulation, or action of any governmental agency or authority, to disclose the information. Before making any disclosure in response to a subpoena or other valid governmental or court order, the Contractor shall (a) notify the Owner, in writing, that the Contractor is being required to provide the Confidential Information to a third party, to give the Owner the opportunity to seek a protective order or other similar order preventing or limiting the proposed disclosure, and (b) give the Owner reasonable assistance in seeking such protective order or other similar order. The Contractor shall disclose Confidential Information only to the extent required to comply with the order to produce.

12. CLAIMS AND DISPUTES

12.1. Notice of Claims

If the Contractor disputes any direction or determination made by the Owner, or any action taken by the Owner, in connection with the Master Agreement, it shall deliver a written notice of claim to the Owner no later than thirty (30) days after the Owner's decision or determination, or the decision will be deemed final and binding upon both parties. The notice shall identify the decision that is being disputed, explain the circumstances giving rise to the claim, and specify the relief sought.

12.2. Duty to Continue Work

If the Contractor disagrees with any direction, determination, or action by the Owner, or any claim or dispute otherwise arises involving the Master Agreement, the Contractor shall proceed with the approved Individual Scope of Work and/or approved Change Orders, without interruption or delay, shall follow the Owner's directions, and may bring a claim as provided in this Article. The Contractor's failure to proceed with the Work as directed during the pendency of any claim or dispute shall constitute a material breach of the Master Agreement.

12.3. Mediation and Arbitration

12.3.1. All disputes arising from or in connection with the Master Agreement or its breach, and which the parties are unable to resolve through negotiation within thirty (30) days after the notice of claim shall be first submitted to mediation under the Mediation Rules of the American Arbitration Association. Mediation may be demanded by either party and is a condition precedent to arbitration or litigation of any claim. The mediator's fees and other costs of mediation, the AAA fees and costs, and rental charges for facilities for the mediation sessions shall be shared equally by the parties. Each party is, however, responsible for the cost of its own efforts, personnel, counsel, and experts in connection with the mediation. All mediation sessions shall be conducted in **Worcester County, Massachusetts** unless the parties agree otherwise. The Contractor expressly agrees that it may be joined in any mediation between the Owner and one or more third parties if the third-parties have asserted claim for which the Owner may seek contribution or indemnity from the Contractor, or if the Contractor has asserted claims against the Owner for which the Owner may seek contribution or indemnity from the third parties.

12.3.2. All disputes arising from or in connection with the Contract or it breach, and which are not resolved by negotiation or mediation, shall be decided by litigation exclusively in the Worcester County (**Massachusetts** Superior Court or, if federal jurisdiction exists and either party timely elects, in a United States District Court for the State of **Massachusetts**. Both parties consent to personal jurisdiction in these courts for purposes of resolving disputes arising under or in connection with the Contract or its breach, and waive any forum non conveniens objections they might otherwise have to the specified venue. **THE PARTIES EXPRESSLY WAIVE THEIR RIGHT TO A JURY TRIAL OF ANY SUCH DISPUTES.**

12.3.3. The Owner has the right to include the Contractor, by consolidation, joinder or in any other manner, in any arbitration proceeding involving separate professionals, contractors or other persons, firms or entities arising out of the project to design and build the Facility, with whom the Owner has entered into an agreement to arbitrate, regardless of who originally initiated such proceedings, if the disputes involve common issues of fact or law.

12.4. Waiver of Consequential Damages

Each party waives all rights it might otherwise have to recover consequential damages from the other arising from or relating to the Master Agreement. This provision shall not, however, relieve the Contractor of the obligation to pay any liquidated damages that are specified in **Exhibit C**.

13. TERMINATION

13.1. By the Owner, For Default

13.1.1. Grounds for Termination

The Owner may terminate the Master Agreement for default if the Contractor fails materially to perform any of its duties or obligations under the Master Agreement and/or Individual Project SOW. In particular, but without limitation, the Owner may terminate the Master agreement if the Contractor fails to prosecute the Work diligently and in accordance with the agreed Project Schedule, delivers Equipment that fails materially to conform to the Master Agreement requirements, is reasonably determined to have abandoned the Work, has failed to pay any subcontractors, laborers, mechanics, materialmen or suppliers when payment is due, or becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition in bankruptcy or an involuntary petition filed against it, has a receiver appointed, or files for dissolution or is otherwise dissolved.

13.2. Default Termination Procedures

The Owner must provide the Contractor with written notice of its intent to terminate the Master Agreement under this provision thirty (30) days before actually putting the termination into effect. If the Contractor has begun meaningful curative action and has made progress satisfactory to the Owner within the thirty (30) days, the Owner may so notify the Contractor and the termination will not take effect. Otherwise, the termination shall take effect after fourteen days without further notice or opportunity to cure.

13.3. By the Contractor, For Non-Payment

If the Owner fails to make payments in accordance with the Master Agreement, the Contractor may cease Work thirty (30) days after giving the Owner written notice of the failure to pay and the Contractor's intention to cease Work as a result, unless payment is made during that time. If payment is still not forthcoming within ten (10) further days, the Contractor may declare the Master Agreement terminated for the Owner's breach. The Owner's refusal to pay amounts as to which a good faith dispute has been asserted under Paragraph 3.5 is not, however, a breach of the Master Agreement, and does not justify the Contractor's suspending Work or terminating the Contract.

13.4. For Owner's Convenience

13.4.1. The Owner may, upon seven (7) days' written notice to the Contractor, terminate the Master Agreement, in whole or specified part, for its convenience. The notice of termination will state the effective date of termination, the extent of the termination, and any specific instructions with respect to winding up the Work.

13.4.2. After receiving notice of termination for convenience, the Contractor shall (1) stop its Work

as of the effective date of the termination and stop issuing subcontracts or supply agreements for the Work; (2) consult with the Owner regarding the disposition of existing supply agreements, subcontracts, and orders for materials, equipment, or software, and use its best efforts to terminate them on terms favorable to the Owner; (3) consult with the Owner to decide what actions should be taken to protect Work in place and Equipment and materials that have been delivered and not yet installed, and proceed to take such actions as may be agreed upon or, absent agreement, as may be reasonable; (4) take necessary action to protect and preserve property in the Contractor's possession in which the Owner has or may acquire an interest and, (5) as directed by the termination notice or other order from the Owner, deliver the property to the Owner or assist the Owner in disposing of the property. The Contactor shall also promptly notify the Owner, in writing, of any legal proceeding arising from any subcontract or supply agreement related to the terminated portion of the Work and, in consultation with the Owner, settle outstanding liabilities arising out of the terminated portion of the Work on the best terms reasonably possible.

13.4.3. The Contractor is entitled to receive the following upon a termination for convenience:

13.4.3.1. the amounts payable for any Work performed on Individual Project SOW as of the date of the notice of termination's effective date for which a price is stated in Exhibit A

13.4.3.2. the cost plus 10% of any materials ordered for the Work which have been delivered to the Contractor or for which the Contractor is liable to accept delivery (and such materials shall become the property of the Owner when payment is made and shall be placed at the Owner's disposal);

13.4.3.3. the cost of canceling any outstanding orders or subcontracts; and

13.4.3.4. other reasonable costs of winding up the Work, including any measures agreed with the Owner to render the Facility site safe, if construction had begun at the time of the termination, or to proper secure Equipment delivered to the Facility and protect it from damage, and including agreed amounts or, if no amounts were previously agreed, the costs incurred plus 10%, for assisting the Owner to dispose of property if the Owner has requested such assistance.

13.5. By Either Party, For Force Majeure

If the execution of a substantial portion of the Work in progress is prevented for a continuous period of **30** days or for multiple periods which total more than **60** days due to Force Majeure, then either party may elect to terminate the Master Agreement in whole or in part, without default. The party electing to terminate the Master Agreement in whole or in part for this reason shall give the other party notice of the termination, in writing, and the termination shall take effect immediately upon the other party's receipt of the notice. After giving or receiving such a notice, the Contractor shall promptly take all commercially reasonable measures to cancel outstanding material orders and subcontracts and otherwise mitigate the costs associated with terminating the Master Agreement in whole or in part. In case of termination due to Force Majeure, unless otherwise specified in **Exhibit N**, the Contractor shall be entitled to payment for the same amounts as for termination for convenience.

14. MISCELLANEOUS

14.1. Language of Master Agreement

If there is more than one version of the Master Agreement, the official version is the English version. All communications concerning the Master Agreement shall be conducted in English.

14.2. Governing Law

The Contract shall be construed in accordance with and governed by the laws of Massachussets, without regard to that state's conflict of laws principles, except that any arbitration agreement included in the Contract shall be governed by the United States Arbitration Act. The United Nations Convention on Contracts for the International Sale of Goods (the Vienna Sales Convention) and the Convention on the Limitation period in the International Sale of Goods shall not apply to the Master Agreement.

14.3. Independent Contractor

In carrying out all its obligations under the Master Agreement, the Contractor will act as an independent contractor, and not as an employee, agent, or joint venture of the Owner. The Contractor has exclusive authority to manage, direct, and control the Work, and will be responsible for all construction means, methods, techniques, sequences, and procedures, as well as for safety.

14.4. Subcontracting

The Contractor will remain fully responsible for all subcontracted Work as if the Work had been performed with its own forces, and for all acts or omissions of its subcontractors and suppliers in connection with the Work.

14.5. Owner's Right to Audit

If any portion of the Master Agreement Price, in whole or in part, as adjusted, or any claim, is based on incurred costs, the Contractor shall maintain records of those costs in accordance with generally accepted accounting principles, and make the records available to the Owner, upon reasonable notice, for review, copying, and audit. Payment of amounts priced based on incurred cost is conditioned on the Contractor's compliance with this provision. Records documenting costs in accordance with this provision shall be maintained for the longer of one year from the date of Final Completion or until all disputes between the Owner and Contractor in connection with the Master Agreement have been finally resolved. This provision will apply, regardless of whether the parties are engaged in dispute resolution, and the Owner will not be required to engage in discovery to obtain this information.

14.6. Parties' Authorized Representatives/Designation and Authority

14.6.1. Owner

The Owner designates the person(s) identified in **Exhibit H** as the Owner's Representative(s) for this Master Agreement. The name, address, telephone and fax numbers, and e-mail address(es) of each Owner's Authorized Representative are shown in **Exhibit H** to this Agreement, together with any applicable limits on the authority of each Owner's Authorized Representative. The Owner may change its designated Owner's Authorized Representative(s) and/or their contact information, at

Contractor: _____
Owner: _____

any time, upon seven (7) days' written notice to the Contractor, signed by one of the currently designated Owner's Representatives. The Owner will NOT make any oral designations of authority to act on its behalf and will NOT change the current designation orally.

14.6.2. Contractor

The Contractor designates the person identified in **Exhibit H** as the Contractor's Authorized Representative, authorized to take all actions on behalf of the Contractor with respect to the Contract, and to receive all notices called for under the Master Agreement. The name, address, telephone and fax numbers, and e-mail address(es) of the Contractor's Authorized Representative are shown in **Exhibit H** to this Agreement. The Contractor may change its designated Contractor's Authorized Representative and/or his or her contact information, at any time, upon seven (7) days' written notice to the Owner.

14.7. Responsible Development

The approach and expectations of Owner with regard to its suppliers are formalized in **Exhibit O** attached hereto and incorporated herein by reference. The Contractor declares that it has read **Exhibit O** and complies with its principles and hereby agrees to be subject to audit from time to time by Owner in order to confirm Contractor's compliance with the terms of this section

14.8. No Gift Policy

Contractor acknowledges that it is familiar with the restrictions contained in Owner's Gifts Guidelines (the "Guidelines"), available on the Ascend elements website, which prohibit employees from soliciting or accepting gifts, as that term is used in the Policy, from suppliers or potential suppliers or business partners to the Owner. Contractor acknowledges and agrees that this Agreement may be terminated immediately if Contractor violates, or attempts to induce an employee to violate, the Guidelines.

14.9. No Third-Party Beneficiary Rights

Nothing in the Contract shall be construed as creating third-party beneficiary rights in any person or entity.

14.10. Notices/Communications

All formal notices or communications required or permitted under the Master Agreement shall be in writing and shall be hand delivered or sent by registered or certified mail, postage prepaid, return receipt requested, or by fax or recognized overnight courier, to the other party's Authorized Representative at the address shown in **Exhibit H** or in a subsequent written notice of a change of contact information. If any additional notice requirements apply, they are stated in **Exhibit H**. Any such notice is effective upon the earlier of the other party's actual receipt or deemed delivery. Delivery shall be deemed to have occurred as follows: if hand delivered, on the day delivered; if mailed, three business days after the date mailed; if sent by fax, upon written confirmation by the sending machine of effective transmission or upon telephone confirmation of receipt (provided that a confirming copy is also sent by recognized overnight courier); and if sent by recognized overnight courier, the next business day. Each party shall endeavor to send all such notices also by e-mail to the Authorized Representative's designated e-mail address or addresses, to promote more rapid

communication, but notice will not be effective, as a contractual matter, unless and until the delivery of the notice via the other means specified in this Paragraph or until the receiving party acknowledges receipt of the communication, in writing.

14.11. Recoupment or Offset

The Contractor authorizes the Owner to recoup or offset against amounts otherwise due and owing to the Contractor under the Agreement any and all amounts due to the Owner from the Contractor, regardless of the origin of such obligations.

14.12. Binding Effect; Assignment

The Master Agreement is for the benefit of, and is binding on and enforceable by, the parties and their respective successors and permitted assigns. The Contractor acknowledges that, in entering into the Masster Agreement, the Owner has relied on the particular qualifications of the Contractor, and the Contractor therefore shall not delegate or assign any of its duties or obligations under the Master Agreement, except in accordance with the Contract's provisions relating to subcontracting, or with the Owner's prior written consent. The Contractor shall not assign its rights under the Master Agreement, including the right to all or a portion of its compensation, without the Owner's prior written consent. Any attempted delegation or assignment made contrary to the provisions of this Paragraph is null and void, and will entitle the Owner to terminate the Master Agreement for default.

14.13. Survival

All agreements and representations of the Contractor contained in the Master Agreement or in any certificate or document furnished pursuant to the Contract shall survive termination or expiration of the Master Agreement, including, without limitation, the Contractor' s indemnity obligations pursuant to the Master Agreement.

14.14. No Waiver

If the Owner waives any power, right, or remedy arising from the Master Agreement or any applicable law, the waiver shall not be deemed to be a waiver of the power, right, or remedy on the later recurrence of any similar events. No act, delay, or course of conduct by the Owner shall be deemed to constitute the Owner's waiver, which may be effected only by an express written waiver signed by the Owner.

14.15. Remedies Cumulative

Unless specifically provided to the contrary in the Master Agreement Documents, all remedies set forth in the Master Agreement are cumulative and not exclusive. The Owner's rights and remedies will be exercised at its sole discretion, and shall not be regarded as conferring any obligation on the Owner to exercise those rights or remedies for the benefit of the Contractor or any other person or entity. Neither the Warranty Period nor the Extended Warranty Period shall operate as a limitations period limiting the Owner's exercise of rights, other than warranty rights.

14.16. Headings/Captions

The headings or captions used in this Agreement are for convenience only and shall not be deemed to constitute a part of the Master Agreement, nor shall they be used in interpreting the Master Agreement.

14.17. Modification of Agreement

No modifications to the Master Agreement, in whole or in part, shall be effective unless made in writing signed by both the Owner and the Contractor, unless otherwise expressly provided to the contrary in the Master Agreement.

14.18. Execution in Counterparts

The Master Agreement may be executed in counterparts which, when taken together, shall constitute a single agreement. The Master Agreement will not be binding on the Owner until it has been executed by both parties and the Contractor has delivered to the Owner the Contractor's executed signature page.

14.19. Electronic Signatures

Both parties consent to the use of electronic signatures in the execution of this Master Agreement.

[Ascend Elements Inc]

DocuSigned by:
Liam Lochhead
AE7106CA09EF441...

By: Liam Lochhead

Title: VP of Contracts

3/23/2024

[Amcon Industrial]

DocuSigned by:
Coleen Phillips
12855E54E501241C...

By: Coleen Phillips

Title: Co-Founder & VP Product

AMCON Industrial

3/20/2024

EXHIBIT A
PROJECT SCOPE OF WORK FORM
EQUIPMENT AND SOFTWARE TO BE SUPPLIED

Identification of Facility, Facility Site, and Limitations on Access to or Use of Site

[ENTER ANY LIMITATIONS ON ACCESS TO OR USE OF SITE]

Identification of Engineer

The Engineer is:

Identification of Drawings, Specifications, and Other Project Documents

[LIST ALL DRAWINGS AND SPECIFICATIONS BY NAME, NUMBER, REVISION NUMBER, AND DATE; LIST ALL OTHER PROJECT DOCUMENTS]

By executing the Project Scope of Work Form, the Contractor represents that it has been given copies of or access to all of the above-listed Project Documents before the Project's Effective Date.

NOTE: If a purchase order is issued together with the Project Scope of Work form, to facilitate processing of payments and for other accounting functions by the Owner, any terms and conditions appearing on the purchase order are aligned to the Master Agreement terms and/or listed in Exhibit A and routed for signature

Required Submittals

The Contract shall submit for the Owner's review and approval, the Submittals as follows:

[LIST HERE ANY REQUIRED SUBMITTALS, INCLUDING LAYOUTS, ARRANGEMENT DRAWINGS, INSTALLATION DETAILS, P&IDs, SAMPLES OF MATERIALS, ETC. OR REFER THE CONTRACTOR TO APPROPRIATE TECHNICAL SPECIFICATIONS]

Title and Risk of Loss

Title to the Work, or identified portions of the Work, will pass to the Owner at the earlier of (1) the Owner's payment for the Work or identified portions of the Work or (2) delivery of the Work or identified portion of the Work to the Facility site. For the avoidance of doubt, if the Owner pays for specified pieces of Equipment which the Contractor will deliver under the Project Scope of Work Form, title to those pieces of Equipment will pass to the Owner at earlier of the Owner's payment for those pieces of Equipment or their delivery to the Facility site. Transfer of title will not be delayed until the Owner has paid for all of the Work to be performed under the

Project Scope of Work Form, but will occur incrementally, as payment is made for particular pieces of Equipment and particular identified portions of the Work. Risk of loss with respect to the Equipment and materials to be incorporated into the Work or identified portions of the Work will pass to the Owner upon delivery of that Work at the Facility site EXCEPT if Owner places a builder's risk policy. In such event, the Contractor will remain liable for loss of, damage to or destruction of the Work within the deductible of the builder's risk insurance if the loss, damage, or destruction is caused, in whole or in part, by the Contractor's willfully wrongful conduct or negligence, or that of its subcontractors or suppliers.

[Exclusions from Scope of Supply/Clarifications

[ENTER ANY APPLICABLE PROVISIONS. IF NONE, ENTER "NONE."]

Owner-Supplied Items

The Owner will supply the following to the Contractor for use in completing the Work:

[LIST ALL APPLICABLE OWNER-SUPPLIED UTILITIES, ETC. (E.G., ELECTRICITY, WATER, FUEL, GEOTECH INFORMATION, TEMPORARY TELEPHONE, SOFTWARE SPECIALISTS OR OTHER STAFF, COMPUTERS, EQUIPMENT, MATERIALS. IF THE OWNER WILL SUPPLY MATERIALS OR EQUIPMENT FOR THE WORK, MAKE SURE EXHIBIT C REFLECTS BY WHAT DATE THOSE THINGS MUST BE AVAILABLE TO AVOID DELAY.]

Other Required Technical Documentation/Deliverables

[ENTER HERE ALL REQUIREMENTS FOR ALL ADDITIONAL REQUIRED TECHNICAL DOCUMENTATION, OTHER THAN AS-BUILT DOCUMENTS, WHICH ARE COVERED IN THE PROJECT SCOPE OF WORK FORM'S TEXT. SPECIFY DETAILS INCLUDING FORMATTING AND NUMBER OF COPIES, UNLESS ADDRESSED IN SPECS ATTACHED ABOVE.]

Contract Times Schedule and Pricing

The Required Completion Date is [**ENTER**].

[ENTER ALSO ANY OTHER RELEVANT MILESTONE COMPLETION DATES. WITHOUT LIMITATION, IF THE PARTIES DID NOT AGREE UPON A PROJECT SCHEDULE BEFORE THE PROJECT'S EFFECTIVE DATE, SPECIFY WHEN THE CONTRACTOR MUST SUBMIT A PROPOSED PROJECT SCHEDULE AND PROPOSAL FOR REVIEW AND APPROVAL. STATE WHEN ANY OWNER-SUPPLIED ITEMS MUST BE DELIVERED. IF A MILESTONE MATTERS FOR PAYMENT PURPOSES ONLY, IT SHOULD GO IN THE PROJECT SCOPE OF WORK FORM.]

EXHIBIT B
MASTER AGREEMENT PRICE AND PAYMENT TERMS

The Master Agreement Price and schedule for payment are as follows:

PROJECT SCHEDULES, T&M RATES, AND LUMP SUM PROPOSALS WILL BE ROUTED FOR APPROVAL ON AN INDIVIDUAL PROJECT BASIS WITH THE PROJECT SCOPE OF WORK FORM AND ADDED AS AN AMENDMENT TO THE MASTER AGREEMENT

IF THE PARTIES AGREE TO PAYMENT MILESTONES ON EQUIPMENT, THEY SHOULD BE IDENTIFIED WITHIN THE PROJECT SCOPE OF WORK FORM ON AN INDIVIDUAL PROJECT BASIS.

PAYMENT TERMS ON ALL INDIVIDUAL PROJECTS WILL BE NET 30 DAYS RECEIPT OF INVOICE

RETAINAGE WILL BE WITHHELD FROM INTERIM PAYMENTS, AT A RATE OF 10% UNTIL SUBSTANTIAL COMPLETION , WITH 5% REMAINING UNTIL 30 DAYS POST FINAL COMPLETION PUNCHLIST IS COMPLETED .]

The following unit prices and agreed hourly rates will apply in pricing changes prices on a unit-priced or cost-reimbursable basis:

T&M RATES BY ROLE STRAIGHT TIME AND OVERTIME – BY LINE ITEM WILL BE SUBMITTED ANNUALLY FOR REVIEW AND APPROVAL BY BOTH PARTIES, AND ATTACHED TO THE MASTER AGREEMENT. The following mark-up will apply to cover indirect costs and overheads in pricing compensable delay costs governed by Paragraph 5.7:

10%]

The Contractor shall comply with the following requirements as to content and timing of invoices or requests for payment, and as to required supporting documentation:

Unless the Owner agrees otherwise, in writing, all invoices will include the below documents: :.

The AIA G702/G703 forms (Or agreed upon equivalent forms identified in Exhibit A) The summary form (G702 or equivalent) with project manager signature should be submitted along with the invoice in order to be approved for payment on Individual Project SOW projects.

EXHIBIT C
MASTER AGREEMENT LIQUIDATED DAMAGES FOR DELAY

Liquidated Delay Damages

The Contractor shall pay to the Owner, or the Owner may withhold from amounts otherwise due to the Contractor, the following liquidated damages for failure to achieve Substantial Completion by the Required Project Scope of Work Completion Date, for reasons other than Excusable Delay:

[LIQUIDATED DELAY DAMAGES

1% of work not completed if 30 days past final completion date

2% work not completed if 60 days past final completion date

4% work not completed if 90 days or more past final completion date]

The above liquidated damages are intended to compensate the Owner for damages it will suffer due to late completion, consisting of losses of income and added costs. These liquidated damages are not intended to compensate the Owner for any added costs it may have to pay Separate Contractors due to the Contractor's failure to carry out Work in accordance with the Project Schedule, the Project Times, and Paragraph 2.2 of the Agreement. Any such additional costs are separately addressed and expressly treated as direct damages, not consequential damages, under this Master Agreement.

EXHIBIT D
PROJECT SCOPE OF WORK WARRANTY PROVISIONS FORM

The Warranty Period for the warranty on the Work is 12 **Months**

The Contractor offers the Owner an Extended Warranty Period as follows:

[ENTER LENGTH OF EXTENDED WARRANTY TERM, PRICE, AND DATE BY WHICH THE OPTION MUST BE EXERCISED.]

[ENTER ANY ADDITIONAL PROVISIONS]

EXHIBIT E

Master Agreement Insurance and Bonds

While performing any work or providing products or services related to this Master Agreement, any applicable SOW or PO, any extension thereof, or as indicated otherwise herein, Contractor agrees to maintain, at its own expense, all necessary insurance for itself and its personnel of at least the following kinds and limits, with reputable and financially strong independent insurance companies licensed or permitted to do business in the jurisdiction(s) where the work, products or services will be provided and rated at a minimum of "A-" VIII by AM Best (or similarly recognized rating agency in the country where the coverage was obtained):

1. Workers' Compensation – in accordance with statutory requirements for all locations where work, products or services are to be provided.

   1.1 The policy shall be amended to include a waiver of subrogation endorsement in favor of Owner Parties, which shall be defined as: Owner, its affiliates and each of their respective members, directors, officers, stockholders and employees (the "Owner Parties").

   [Note: Section 2. If contractor is a sole proprietor and can purchase Workers compensation in the jurisdiction the work is performed it should be purchased. If WC insurance for some reason cannot be obtained a discussion should take place with Risk Management. Employer's Liability insurance requirement may be waived if Supplier has no employees, however, if Contractor is required to carry workers' compensation coverage, it shall also be required to carry employer's liability insurance.]

2. Employer's Liability – with a limit not less than $1,000,000 each employee by disease, $1,000,000 each accident, and $1,000,000 disease policy limit.

   2.1 The policy shall be amended to include a waiver of subrogation endorsement in favor of Owner Parties.

3. Commercial General Liability – with a limit of not less than $5,000,000 per occurrence, $2,000,000 for products and completed operations, and $5,000,000 in the aggregate including, but not limited to, coverage for bodily injury, death, property damage, products and completed operations, independent contractors, premises/operations, sudden and accidental pollution coverage, and contractual, explosion, collapse, underground, and personal and advertising injury liabilities.

3.1

a. Policy shall include endorsements ISO form CG 20 26 and CG 20 37 including Owner Parties as additional insureds. Owner Parties are to be afforded the same types of coverage as listed in declarations page of the named insured's policy.
b. Policy shall include a waiver of subrogation endorsement in favor of Owner Parties.
c. Policy shall include a cross-liability and severability of interest clauses.
d. Policy shall contain endorsement 20 01 noting that Contractor's insurance is primary and any other insurance carried by Owner shall be noncontributory.
e. Policy shall not contain any exclusions or limitations related to nature of products or services being provided under this Agreement.

4. Commercial Automobile Liability – with a combined single limit of not less than $2,000,000 per occurrence for bodily injury, death and property damage for all owned, non-owned, hired or leased vehicles operated by Contractor personnel.

4.1

a. Policy shall include an endorsement, including Owner Parties as additional insureds. Owner Parties are to be afforded the same types of coverage as listed in declarations page of the named insured's policy.
b. Policy shall include a waiver of subrogation endorsement in favor of Owner Parties.
c. Policy shall include a cross-liability endorsement and severability of interest clauses.
d. Policy shall contain an endorsement noting that Contractor's insurance is primary and any other insurance carried by Owner shall be noncontributory.

5. Excess\Umbrella Liability – with a limit of not less than $5,000,000 per occurrence, at least with respect to policies required in 2., 3. and 4.; coverage shall provide excess limits and be at least follow form or broader.
   a. Policy shall include Owner Parties as additional insureds. Owner Parties are to be afforded the same types of coverage as listed in declarations page of the named insured's policy. Policy shall include a waiver of subrogation endorsement in favor of Owner Parties.
   b. Policy shall include a cross-liability and severability of interest clauses.
   c. Policy shall contain an endorsement noting that Contractor's insurance is primary and any other insurance carried by Owner shall be noncontributory.

[Note: Section 6. Professional Liability (Errors & Omissions) insurance requirement applies to Contractors that perform professional services (i.e. accounting, legal,

architects/engineering, technology, consulting, tax, public relations/marketing, etc.). If no professional services are provided, coverage may be waived.]

6. Professional Liability (Errors & Omissions) – with a limit of not less than $2,000,000 per claim and covering claims arising out of or related to acts, errors or omissions in connection with work or services provided by Contractor. The policy shall have a retroactive date on or before the Agreement date or the date of Contractor's first professional service, whichever is earlier. Contractor shall use commercially reasonable efforts to maintain such coverage for five (5) consecutive years following final delivery of work or services.

[NOTE: Section 9. Pollution Liability applies to Contractors who provide services will involve the work with, remediation of, or removal of hazardous substances (i.e. asbestos abatement, removal of hazardous material from the location). If the aforementioned exposures don't apply, the requirement may be waived. If you are unsure, please contact Risk Management.]

7. Contractor Pollution Liability, naming Owner as an additional insured, with a limit of not less than $2,000,000 dollars per pollution condition and $2,000,000 in the aggregate written on an occurrence form with no sunset clause, if applicable, for losses caused by pollution conditions that arise from the operations of the Contractor described under the scope of services to be provided related to this project. Such conditions shall include
    a. Bodily injury, sickness, and disease to include mental anguish or shock, sustained by any one person; including death
    b. Property damage including physical damage to or destruction of tangible property including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically destroyed.
    c. Defense including costs, charges, and expenses incurred in the investigation, adjustment of defense claims for such compensatory damages;
    d. Transportation coverage including the loading and unloading of products, goods, and/or waste

8. All insurance policies required to be maintained by Contractor, except for Professional Liability, must be written on an occurrence form (claims-made form, occurrence reported form or modified occurrence not allowed) and shall be maintained without interruption during the term of this Agreement or as specified otherwise. Policies specified above may be maintained with limits listed in other foreign currencies, as long as they are equivalent to the amounts required herein. Contractor's required insurance limits may be satisfied by a combination of primary and excess/umbrella policies.

9. Owner will be provided with certificates of insurance and, where applicable, copies of policy endorsements, declaration pages and forms schedules prior to beginning of work or delivery of products or services and annually upon renewal of Contractor's insurance programs evidencing that the aforementioned policies are in force and including the coverage required above. Contractor shall not commence work until the required certificates, declaration pages, form schedules and endorsement copies have been provided and approved by Owner.

10. The required insurance policies shall not be canceled, reduced in scope or allowed to expire until at least 30 days' prior written notice has been given by Contractor, its insurance broker or carrier to Owner. The policies shall contain an endorsement requiring the insurer to give Owner written notice of reduction, expiration and/or cancellation.

11. Contractor shall require all subcontractors performing work related to this Agreement to maintain insurance coverage in compliance with all terms and conditions as required herein and to name Owner Parties as an additional insured as outlined above. Contractor shall not allow any subcontractor to commence work until evidence of required insurance coverage has been provided and verified by Contractor. Construction Manager shall indemnify, defend and hold harmless Owner Parties from and against all Losses arising out of or incident to the failure of any such subcontractor to be so insured. Subcontractor Default Insurance will be required when subcontractors are engaged at the Project level or within the Master agreement work

12. If any of the foregoing insurance coverages are required to remain in force after expiration or termination of this Agreement, additional certificates evidencing continuation of such coverage shall be submitted on an annual basis to Owner. Information concerning reduction of coverage on account of revised limits or claims paid under the general aggregate, or both, shall be furnished to Owner as soon as reasonably possible in accordance with Contractor's information and belief.

13. Should any loss occur under any of Contractor's or subcontractor's required insurance policies, Contractor or subcontractor shall be liable for the amount of any deductibles, retentions or other self-insurance mechanisms specified in such policies. Furthermore, Contractor and subcontractor waive any claims they might have against Owner Parties for payment of any deductibles or retentions or other self-insurance mechanisms.

14. None of the requirements contained herein as to types or limits or Owner's approval of insurance coverage to be maintained by Contractor are intended to, and shall not in any manner, limit, qualify or quantify any liabilities and obligations assumed by Contractor under the Master Agreement or otherwise provided by law. Owner reserves the right to review insurance requirements at any point in time and make changes in order to address

additional exposures, which may exist as a result of Contractor's performance under the Master Agreement. Owner's failure to monitor compliance or to object to noncompliance or unsatisfactory compliance with any terms of these insurance requirements does not modify or waive Contractor's obligations in any way. In the event of any failure by the Contractor to comply with the insurance provisions of this Master Agreement, Owner may, without or in any way compromising or waiving any right or remedy at law or in equity, upon notice to the Contractor, purchase such insurance, at the Contractor's expense, provided that Owner shall have no obligation to do so, and if Owner shall do so, the Contractor shall not be relieved of or excused from the obligation to obtain and maintain such insurance amounts and coverages.

15. Protection of Property. Contractor shall, and shall ensure that any subcontractor thereof shall, use suitable precautions to prevent damage to Owner's property. If any such property is damaged by the fault or negligence of Contractor or any subcontractor thereof, Contractor shall, at no cost to Owner, promptly and equitably reimburse Owner for such damage or repair or otherwise make good such property to Owner's satisfaction. If Contractor fails to do so, Owner may do so and recover from Contractor the cost thereof.

EXHIBIT F

PROJECT FORM OF LIEN WAIVER (PROGRESS PAYMENTS)(CONDITIONED ON PAYMENT)

Property Owner:	Ascend Elements Inc.
Property Description:	[ENTER ADDRESS AND DESCRIPTION]
Project Description:	[ENTER NAME OF FACILITY]

1. Contingent only on receipt of the sum of _____ ("Progress Payment Amount"), the undersigned waives and releases all rights he/she/it has to assert mechanic's liens, materialman's liens, or construction liens against the interest of the Owner or any other person in the identified Property and against any construction funds with respect to work performed or labor, materials, or equipment supplied through _____ ("Applicable Release Date"), EXCEPT with respect to such claims as are listed on the reverse of this page ("Identified Claims"), and except with respect to any applicable unpaid retainage.

2. As an inducement to the Owner's making the requested payment, the undersigned represents and warrants the following:

- upon payment of the Progress Payment Amount, the undersigned will have been paid in full for all amounts due and owing for labor and/or materials supplied for the Project through the Applicable Release Date, except for retainage and any Identified Claims;
- the undersigned has not assigned any lien right against the Property of the construction funds to any other person or entity with respect to labor performed and/or materials supplied through the Applicable Release Date; and
- the undersigned will keep the Property free of all claims or liens of third parties for labor or material or both furnished to the undersigned for the Project through the Applicable Release Date, except as to the Identified Claims and unpaid retainage; and
- if any lien has already been placed on the Property related to the undersigned's work on the Project through the Applicable Release Date, for amounts other than the Identified Claims and unpaid retainage, the undersigned will cause the lien to be released immediately after receiving the Payment Amount; and
- no security interest has been given or executed by the undersigned in connection with any materials or equipment placed upon or installed on the Property or as part of the work through the Applicable Release Date.

[CONTRACTOR'S OR SUBCONTRACTOR'S NAME]

_____

By:

Typed Name and Title:

EXHIBIT G

PROJECT FORM OF LIEN AND CLAIM WAIVER (FINAL PAYMENT)(CONDITIONED ON PAYMENT)

Property Owner:	Ascend Elements Inc.
Property Description:	[ENTER ADDRESS AND DESCRIPTION]
Project Description:	[ENTER NAME OF FACILITY]

1. Contingent only on receipt of the sum of _____ ("Final Payment Amount"), the undersigned waives and releases all rights the undersigned has to assert mechanic's lien, materialman's lien, construction lien, or other lien rights against any interest of the Owner or any other person in the Property or in any construction fund.

2. As an inducement to the Owner's making the requested payment, the undersigned represents and warrants the following:

> upon payment of the Final Payment Amount, the undersigned will have been paid in full for all amounts due and owing for labor and/or materials supplied for the Project;

> the undersigned has not assigned any lien right against the Property or the construction funds to any other person or entity with respect to labor performed and/or materials supplied for the Project; and

> the undersigned will keep the Property free of all claims or liens of third parties for labor or material or both furnished to the undersigned for the Project; and

> if any lien has already been placed on the Property related to the undersigned's work on the Project through the Applicable Release Date, the undersigned will cause the lien to be released immediately after receiving the Payment Amount; and

> no security interest has been given or executed by the undersigned in connection with any materials or equipment placed upon or installed on the Property or as part of the work through the Applicable Release Date.

[CONTRACTOR'S OR SUBCONTRACTOR'S NAME]

_____

By:

Typed Name and Title:

EXHIBIT H
PARTIES' AUTHORIZED REPRESENTATIVES

The Owner designates the following persons to act as its Owner's Representatives for the Master Agreement:

Jill Baker
Sr. Category Manager - Purchasing
jbaker@ascendelements.com

Alternate Owner's Representative:

_____
_____
_____

(All formal notices required or permitted under the Master Agreement **MUST** also be sent to the Alternate Owner's Representative, as well as by one of the officially recognized means stated in Paragraph 14.10, to constitute effective notice.)

[ENTER NAME AND CONTACT INFORMATION FOR OWNER'S REP Alternate to act in absence.

Rodrigo Almeida – Supply Chain Director ralmeida@ascendelements.com

The Contractor designates the following person to act as its Contractor's Representative:

[ENTER NAME, ADDRESS, TELEPHONE AND FAX NUMBERS, AND E-MAIL ADDRESS.]

EXHIBIT I
PROJECT SITE SAFETY RULES

PROVIDED BY ASCEND ELEMENTS PROJECT MANAGER FOR EACH INDIVIDUAL PROJECT SCOPE OF WORK FORM]

EXHIBIT J
PROJECT (ASCEND ELEMENTS INC)
"SAFETY INFORMATION AND INSTRUCTIONS FOR CONTRACTORS"

[Provided by Ascend elements site EHS manager for each individual project scope of work form **]**

EXHIBIT K
PROJECT FORM - ALCOHOL AND DRUG ABUSE POLICY AGREEMENT FOR CONTRACTOR EMPLOYEES ON COMPANY PREMISES

Where applicable

EXHIBIT L
INDIVIDUAL PROJECT FORM KEY PERSONNEL

NAME/TITLE	PERIOD REQUIRED/ PERCENTAGE OF TIME REQUIRED
[ENTER APPLICABLE INFORMATION]	

Contractor: _____
Owner: _____

EXHIBIT M

PROJECT REQUIRED CHANGE ORDER FORM
CHANGE ORDER NO __

[Ascend Elements Inc.] ("Owner") and **[ENTER CONTRACTOR'S NAME]** ("Contractor") hereby agree to modify Contract No. _____, dated _____, as follows:

The Work is modified as follows:

The Contract Price is modified as follows:

Original Contract Price	$ _____
Changes Made by Prior Change Orders (Total)	$ _____
Change Made by This Change Order	$ _____
TOTAL REVISED CONTRACT PRICE	$ _____

The Project Times are modified as follows (if no change is reflected below, the Project Times are not modified on account of changes made by this Change Order):

No other changes to the Project Scope of Work Form are made by this Change Order. All Contract terms not expressly modified by the Change Order remain unchanged.

The Contractor agrees that this Change Order constitutes its full and final adjustment for all costs, delays, disruptions, inefficiencies, accelerations, schedule impacts, or other consequences arising from the identified change, whether caused by the change itself, or by any claimed cumulative effect of changes made to the date of the Change Order, and that no further adjustments in compensation or time shall be sought or made with respect to the change.

The effective date of this Change Order is _____.

[ENTER CONTRACTOR'S NAME] **ASCEND ELEMENTS, INC**

By: _____ By: _____

Title: _____ Title: _____

EXHIBIT N
ADDITIONAL CONTRACT TERMS

[ENTER ANY APPLICABLE PROVISIONS. IF NONE, ENTER "NONE."]

EXHIBIT O

RESPONSIBLE DEVELOPMENT

Ascend Elements Inc has adopted a policy of responsible purchasing, an integral part of the Responsible Development policies. The approach and expectations of the Ascend Elements Inc Group with regard to its suppliers are formalized in the "Suppliers Code of Conduct" available on request.

In addition to this Suppliers Code of Conduct (SCoC), Ascend Elements Inc has set up an alert system for suppliers allowing them to report any event or conduct non-compliant with applicable laws and regulations, international rules or with the principles of the SCoC. Any alert may be sent through the email address HR@ASCENDELEMENTS.COM

As part of its "Responsible Purchasing" policy, and in application of its vigilance plan, Ascend Elements Inc conducts a supplier analysis based on its risks mapping before assessing, if necessary, its suppliers' environmental, social and ethical practices through documentation reviews or on-site audits, on the basis of international standards (hereinafter referred to as the "Evaluations"). Should these assessments show any disparities between the standard reference framework used and the supplier's practices, Ascend Elements Inc will define with the supplier the corrective measures to be implemented. Any failure to implement these measures may result in the supplier being delisted and in the early termination for breach of this agreement and all other agreements concluded with Ascend Elements Inc companies.

The Supplier confirms that it has read, and complies with, the SCoC. The Supplier acknowledges that Owner may conduct Evaluations on the Supplier and agrees to provide the necessary assistance for that purpose.

COMPLIANCE

The Supplier undertakes to fulfil the compliance obligations set forth in this article. In addition, the Supplier shall require its own suppliers and subcontractors to comply with the same rules. Ascend Elements Inc is entitled to conduct audits in order to ensure the compliance to these rules.

Depending on the situation, the term "Ascend Elements Inc", as used in this Exhibit may refer to Owner and/or all companies and legal entities which belong to Ascend Elements Inc. Ascend Elements Inc consists of any and all companies and legal entities directly or indirectly detained and/or controlled by "Ascend Elements Inc", a company headquartered at 133 Flanders Rd, Westborough MA, 01581.

FIGHT AGAINST CORRUPTION

The Supplier warrants that it has not provided or promised any undue advantage to Ascend Elements Inc, any person employed by Ascend Elements Inc, or any third party to obtain the benefit of this Agreement.

The Supplier shall comply and require that all of its affiliated companies, officers, employees, representatives, subcontractors, and agents (the "**Supplier's Representatives"**) comply with the Suppliers' SCoC and applicable laws on preventing corruption. In particular, the Supplier and the Supplier's Representatives shall not directly or indirectly promise, offer, or grant to any public official or any other person any undue advantage with a view to making this person do or abstain from doing something, in breach of their legal or professional obligations.

The Supplier shall keep accurate accounts in accordance with its country's generally accepted accounting principles and in which all financial flows generated by this Agreement shall be correctly recorded; and shall inform Ascend Elements Inc, as soon as it may be aware, of any solicitation to commit an act of bribery or corruption occurring during the performance of the Master Agreement.

ECONOMIC SANCTIONS

The Supplier undertakes to comply with any laws and regulations on economic sanctions applicable to the activities covered by this Agreement. These may include instruments adopted by the United Nations or the United States.

For all matters pertaining to the execution of this Master Agreement, the Supplier undertakes that it will not enter into transactions with any person or entity with whom commercial transactions are forbidden or restricted by the United States.

The Supplier also undertakes to inform Ascend Elements Inc promptly in the event that any of the materials, products and/or components (including software or services) covered by this Master Agreement, are wholly or partly subject to any re-export restriction; and/or originate from the United States or incorporate content manufactured in the United States. In any such event, the Supplier shall provide Ascend Elements Inc with all related (and reasonably necessary) information and documents.

SUSPENSION OF OBLIGATIONS

Either Party shall be entitled to suspend temporarily or definitively the performance of its obligations under the Master Agreement without any liability to the other if, at any time, new

economic sanctions and/or export regulations enter into force and render the execution of the Master Agreement either impossible or illegal for one Party.

SUPPLIER BREACH OF ITS OBLIGATIONS

- Evaluations and audits

The Supplier authorizes Ascend Elements Inc to conduct evaluations and audits at any time in order to make sure that the Supplier is complying with its obligations under this Exhibit "**RESPONSIBLE DEVELOPMENT**". In this regard, the Supplier shall provide all the documents and data required to prepare and conduct the evaluation or the audit and give access to the site of the Supplier or its affiliated companies.

Organization and performance of evaluations or audits may include exchange and storage of personal data, mainly work-related.

- Master Agreement suspension

If Ascend Elements Inc has reasons to believe that the Supplier is not fulfilling the obligations contained in this Exhibit **RESPONSIBLE DEVELOPMENT**, Ascend Elements Inc shall inform the Supplier and may suspend performance of the Master Agreement until the Supplier provides reasonable proof that it has not committed or is not about to commit a breach. Ascend Elements Inc company shall under no circumstances be liable for any damage or loss caused to the Supplier by the suspension of the Master Agreement.

- Agreement termination

In case of an actual breach by the Supplier or the Supplier's Representatives of the provisions of this Exhibit **RESPONSIBLE DEVELOPMENT**, Ascend Elements Inc shall be entitled to terminate the Master Agreement, ipso jure with immediate effect, by registered letter with acknowledgement of receipt, without paying any compensation and without prejudice to any damages or remedies which Ascend Elements Inc may be able to claim as provided for by law.

Any and all general exclusions or limitations of liability mentioned elsewhere in the Master Agreement shall not be applicable to claims arising from or in connection with the Supplier's breach of obligations under this Exhibit **"RESPONSIBLE DEVELOPMENT".**

EXHIBIT P

CONSTRUCTION RATES ARE EFFECTIVE FEBERUARY 1 - DECEMBER 31ST, 2024.

AMCON
An AM Construction Company

CONSTRUCTION RATES

RATES ARE EFFECTIVE FEBERUARY 1 - DECEMBER 31ST, 2024.

CLASSIFICATION	DAY SHIFT - STRAIGHT TIME	DAY SHIFT - OVERTIME	NIGHT SHIFT - STRAIGHT TIME	NIGHT SHIFT - OVERTIME
Project Manager	$137.22	$192.19	--	--
Safety	$97.37	$146.06	--	--
General Foreman	$82.61	$123.92	$87.47	$131.20
Foreman	$72.89	$109.33	$77.75	$116.62
Mechanical Journeyman	$61.82	$85.05	$65.96	$92.32
Mechanical Helper	$44.17	$66.26	$49.48	$74.22
Material Manager	$44.17	$66.26	$49.48	$74.22
Controls	$92.32	$138.49	$97.19	$145.78
Electrical Journeyman	$63.17	$94.75	$68.03	$102.05
Electrical Helper	$44.17	$66.26	$49.48	$74.22
Field Admin	$76.63	$103.46	$82.18	$110.94
Office Admin	$76.63	$103.46	$82.18	$110.94
Office Management	$91.29	$115.54	--	--
Line Worker/General Labor	$43.92	$60.78	$49.19	$66.36

RIGUPATL
A GA RIGGING COMPANY

CRANE & RIGGING MANPOWER	HOURLY RATES (8 HR MIN)	OVERTIME RATES (8 HR MIN ON WEEKENDS)
FOREMAN	$72	$108
RIGGER	$65	$98
HELPER	$52	$78
OPERATOR	$70	$105
EQUIPMENT	OPERATED RATES	OVERTIME RATE
BOOM TRUCK	$200	$240
12K LULL	$125	$165
25/35 RIGGER LIFT	$250	$290
40/60 RIGGER LIFT	$350	$390

Non-Solicitation of Employees and Contractors. During the term of this Agreement and for one (1) year following the last day on which AMCON performs services for Customer under this Agreement, Customer will not, directly or indirectly, employ or offer employment to any employee of AMCON or contractor provided by AMCON, or assist any related corporation, affiliate or third party in doing so, without first contacting AMCON and obtaining the AMCON's express consent with respect to the specific employee(s) in question.

Contractor: _____
Owner: _____

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WORKING HOURS

STRAIGHT TIME IS DURING NORMAL WORKING HOURS - MONDAY THROUGH FRIDAY, 40 HOURS PER WEEK.

OVERTIME IS IN EFFECT AFTER 40 NORMAL WORKING HOURS AND ALL-DAY SATURDAY AND SUNDAY.

DOUBLE TIME APPLIES ON **HOLIDAYS**:

THANKSGIVING, CHRISTMAS, NEW YEARS, MEMORIAL DAY, JULY

FOURTH, LABOR DAY

OTHER EXPENSES

TO BE BILLED PER THE MASTER SERVICES AGREEMENT

TRUCKING AND HAULING PERMITS NOT INCLUDED AND WILL BE BILLED SEPARATELY IF APPLICABLE.

OWNED EQUIPMENT EXPENSES

SERVICE/YARD TRUCK $125/DAY OR $600/WEEK PER PERSON

STAKE BODY TRUCK $225/DAY

LOT TOOLS/EQUIPMENT $350/WEEK PER SET UP

PER DIEM $150/DAY/PERSON // $155/DAY/SAFETY PERSON

Non-Solicitation of Employees and Contractors. During the term of this Agreement and for one (1) year following the last day on which AMCON performs services for Customer under this Agreement, Customer will not, directly or indirectly, employ or offer employment to any employee of AMCON or contractor provided by AMCON, or assist any related corporation, affiliate or third party in doing so, without first contacting AMCON and obtaining the AMCON's express consent with respect to the specific employee(s) in question.

Contractor: _____
Owner: _____

Contractor: _____
Owner: _____

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ITEMS IN AQUA ARE PROJECT SCOPE OF WORK TEMPLATE FORMS AND MUST BE FILLED OUT ON A PROJECT BASIS AND ROUTED FOR APPROVALS WITH PROPOSALS

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Certificate Of Completion

Envelope Id: DBCB4A003BE64D42A64181353B8A057F
Status: Completed
Subject: CW4350 - Amcon, MSA.pdf
Source Envelope:
Document Pages: 61
Signatures: 2
Certificate Pages: 5
Initials: 0
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Envelope Originator:
Michelle Mann
133 Flanders Rd
Westborough, MA 01581
mmann@ascendelements.com
IP Address: 35.223.106.21

Record Tracking

Status: Original
3/12/2024 2:01:26 PM
Holder: Michelle Mann
mmann@ascendelements.com
Location: DocuSign

Signer Events	Signature	Timestamp
Coleen Phillips coleen@amconindustrial.com Co-Founder & VP Product AMCON Industrial Security Level: Email, Account Authentication (None)	DocuSigned by:  12855E54E01241C... Signature Adoption: Pre-selected Style Using IP Address: 108.196.162.148	Sent: 3/14/2024 11:37:31 AM Resent: 3/14/2024 11:37:40 AM Resent: 3/18/2024 5:38:05 AM Viewed: 3/20/2024 3:26:26 AM Signed: 3/20/2024 3:27:37 AM
Electronic Record and Signature Disclosure: Accepted: 1/11/2024 5:25:49 PM ID: 0ce6d644-1a9e-4f2c-a50a-b0562c3a4ba5		
Liam Lochhead llochhead@ascendelements.com VP of Contracts Ascend Elements, Inc. Security Level: Email, Account Authentication (None)	DocuSigned by:  AE7106CA09EF441... Signature Adoption: Uploaded Signature Image Using IP Address: 98.62.48.154	Sent: 3/22/2024 11:55:59 AM Resent: 3/22/2024 11:56:33 AM Viewed: 3/23/2024 8:43:44 AM Signed: 3/23/2024 8:44:01 AM
Electronic Record and Signature Disclosure: Accepted: 3/23/2024 8:43:44 AM ID: c98f6655-5bae-476a-8a22-4d5430c9534f		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Aeric Khong akhong@ascendelements.com CONTRACTS & PURCHASING MANAGER ASCEND ELEMENTS INC Security Level: Email, Account Authentication (None)	COPIED	Sent: 3/23/2024 8:44:04 AM
Electronic Record and Signature Disclosure: Accepted: 6/19/2023 4:28:01 PM ID: 15b64521-d427-48a4-8937-b438c13dcb7a		

Carbon Copy Events	Status	Timestamp
Colin Davis cdavis@ascendelements.com Program Manager, Construction Ascend Elements Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 3/20/2024 11:53:56 AM ID: de8bb545-f0ae-49da-80db-d57db95a3f35	COPIED	Sent: 3/23/2024 8:44:04 AM
Jill Baker jbaker@ascendelements.com Sr. Category Manager Ascend Elements Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 3/23/2024 8:44:04 AM
Rodrigo Almeida ralmeida@ascendelements.com Supply Chain Director Ascend Elements Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 3/23/2024 8:44:04 AM

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	3/12/2024 2:03:08 PM
Envelope Updated	Security Checked	3/14/2024 11:37:30 AM
Envelope Updated	Security Checked	3/14/2024 11:37:30 AM
Envelope Updated	Security Checked	3/22/2024 11:55:58 AM
Certified Delivered	Security Checked	3/23/2024 8:43:44 AM
Signing Complete	Security Checked	3/23/2024 8:44:01 AM
Completed	Security Checked	3/23/2024 8:44:04 AM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Battery Resourcers (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a $0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Battery Resourcers:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: aaberdale@batteryresourcers.com

To advise Battery Resourcers of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at aaberdale@batteryresourcers.com and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from Battery Resourcers

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to aaberdale@batteryresourcers.com and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Battery Resourcers

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;

ii. send us an email to aaberdale@batteryresourcers.com and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: https://support.docusign.com/guides/signer-guide-signing-system-requirements.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Battery Resourcers as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Battery Resourcers during the course of your relationship with Battery Resourcers.

EFILED IN OFFICE
CLERK OF SUPERIOR COURT
NEWTON COUNTY, GEORGIA
SUCV2025002393
G. KEVIN MORRIS
AUG 08, 2025 04:14 PM
Stephanie Finnie, Clerk
Newton County Superior Court

IN THE SUPERIOR COURT OF NEWTON COUNTY
STATE OF GEORGIA

A.M. CONSTRUCTION, INC.	*	
	*	
Plaintiff,	*	CIVIL ACTION FILE NO.
	*	
v.	*	SUCV2025002393
	*	
ASCEND ELEMENTS, INC.	*	
	*	
Defendant.	*	
	*	

COMPLAINT FOR DAMAGES

COMES NOW, A.M. Construction, Inc. d/b/a AMCON Industrial ("AMCON"), through its undersigned counsel, and hereby files this Complaint for Damages against Ascend Elements, Inc. ("Ascend"), showing the Court as follows:

PARTIES, JURISDICTION, AND VENUE

1. AMCON is a Georgia corporation with its principal place of business located at 1375 Oakley Industrial Boulevard, Fairburn, Fulton County, Georgia 30213.

2. Ascend is a Delaware corporation registered to transact business in the State of Georgia with its principal place of business located at 133 Flanders Road, Westborough, Massachusetts 01581. Defendant also maintains an office in the State of Georgia at 9176 Industrial Dr NE, Covington, Georgia 30014. Ascend may be served with process via its registered agent, Cogency Global Inc., located at 900 Old Roswell Lakes Parkway, Suite 310, Roswell, Fulton County, Georgia, 30076.

3. Jurisdiction and venue are proper in this Court.

FACTUAL BACKGROUND

4. AMCON is a Georgia industrial contractor specializing in turnkey installation of

industrial projects across the United States.

5. Ascend is an international corporation specializing in the recycling and manufacturing of lithium batteries used in electric vehicles.

6. In 2022, AMCON was working as a subcontractor to an entity called SSOE, which was contracted directly with Ascend to perform work on a project in Covington, Georgia. Upon information and belief, Ascend terminated its contract with SSOE and sought to contract with AMCON directly.

7. In May 2023, AMCON entered into a Professional Services Agreement ("PSA") with Ascend to provide labor, services and materials to Ascend as described in individual Work Orders ("WO"), which would include the scope of work, services required, drawings, specifications, cost/rates, etc.. *See* PSA §§ 2.1, 2.2, Ex. C. A true and correct copy of the PSA is attached hereto as **Exhibit A**.

8. In exchange for AMCON's services, Ascend was required to pay AMCON the rate set forth in the applicable WO or compensation schedule. *See* PSA § 8. Any undisputed payments were due within thirty (30) calendar days of Ascend's receipt of an invoice and appropriate supporting documents. Id.

9. The PSA was structured on a Time & Materials, cost-plus basis. For every billing period, AMCON provided a detailed Time and Materials worksheet showing personnel, titles, rates, materials, equipment, and markup; and all invoices included backup documentation for materials and equipment charges.

10. From May 2023 until March 2024, AMCON performed work and submitted its invoices as required under the terms of the PSA on a project known as Apex-0 located in Covington, Newton County, Georgia (the "Project"), which was the same location where AMCON

had previously done work under SSOE. Specifically, the Project was located at 9176 Industrial Drive NE, Covington, Georgia 30014 upon property owned by Covington Industrial LLC (the "Property").

11. On March 12, 2024, AMCON and Ascend entered into a Master Agreement for Construction Services ("MSA"), a true and correct copy of which is attached hereto as **Exhibit B**. Except for certain existing open work orders, the MSA superseded the PSA. *See* MSA § 1.2. Notably, the MSA stated that it would be "construed with and governed by the laws of Massachusetts." *See* MSA § 14.2.

12. The MSA provided, in pertinent part, that AMCON would perform certain "Work" as outlined in certain existing open work orders and Scope of Work forms ("SOW") associated with individual projects. *See* MSA § 1.1.1. A template for each SOW was included as Exhibit B thereto. *See* MSA Ex. B.

13. The MSA permits Ascend to dispute any amount invoiced by Ascend, but only if it notifies AMCON within ten (10) business days of receipt of the invoice, provides a reasonable description of the nature and extent of the dispute, and specifies the amount disputed. *See* MSA § 3.5. Otherwise, undisputed amounts must be paid as set forth in the invoices.

14. Similar to the prior PSA, the MSA was structured on a Time & Materials, cost-plus basis, and, for every billing period, AMCON submitted time and materials worksheets showing personnel, titles, rates, materials, equipment and markup, along with backup documentation for materials and equipment charges.

15. Despite AMCON's diligent provision of manpower and materials under the terms of the MSA, in or around the summer of 2024, Ascend began to fall significantly behind on payment of AMCON's invoices to the extent that, at one point, Ascend was over $20 million in

arrears on payment.

16. At no point during this time did Ascend notify AMCON that it disputed any of AMCON's invoices.

17. AMCON continued working on the Project and paying its subcontractors despite the fact that Ascend did not pay AMCON in accordance with the MSA.

18. On August 22, 2024, AMCON issued a formal payment demand letter to Ascend, at which time Ascend owed AMCON $13,834,017.89 for work performed under the MSA. At that time, Ascend acknowledged it was behind on payment and promised to "get us right." A true and correct copy of this correspondence is attached hereto and incorporated herein as **Exhibit C**.

19. As a result of these formal demands, Ascend agreed to enter into a payment plan with AMCON. This payment plan is summarized in a letter from AMCON to Ascend memorializing the agreement sent on September 23, 2024. A true and correct copy of that letter is attached hereto and incorporated herein as **Exhibit D**.

20. While Ascend caught up to some extent with payments to AMCON, Ascend remained several million dollars in arrears in payments.

21. On March 17th, 2025, AMCON issued another formal demand for payment to Ascend. At that time, AMCON was owed $8,379,645.03 plus interest. A true and correct copy of that demand is attached hereto and incorporated herein as **Exhibit E**.

22. To date, Ascend has not paid AMCON for any time and materials work or any equipment rentals performed in 2025 under the terms of the MSA.

23. As of August 7th, 2025, Ascend has not paid AMCON $7,468,741.11 that AMCON has invoiced to Ascend and to which AMCON is entitled.

24. The parties attended mediation in late July 2025, which was a condition precedent

to filing suit. See MSA § 12.3.1. The mediation was ultimately unsuccessful.

25. As a result of Ascend's nonpayment, AMCON recorded a Claim of Lien in the amount of $6,232,621.09 in the lien records of the Clerk of the Superior Court of Newton County, Georgia, in Lien Book 2025, Page 7034 (the "Lien"). A true and correct copy of the Lien is attached hereto as **Exhibit F.**

26. To date, and despite multiple demands, Ascend has failed and refused to pay AMCON for the amounts due and owing to AMCON for the work it performed on the Project.

27. All conditions precedent to AMCON's right to recover damages and enforce its statutory rights have occurred, or have been performed, waived, satisfied, or otherwise excused by Ascend.

COUNT I:
BREACH OF CONTRACT

28. AMCON hereby incorporates by reference the allegations contained in Paragraphs 1 through 27 as if fully restated herein.

29. AMCON provided labor, services and materials to the Project in accordance with the terms of the PSA and the MSA, respectively.

30. Pursuant to the PSA and MSA, respectively, Ascend was required to compensate AMCON for the work it performed on the Project.

31. Despite AMCON's performance and submission of proper invoices and supporting documentation, Ascend has failed and refused to remit full payment to AMCON for its work on the Project (collectively, the "Unpaid Invoices").

32. Ascend owes AMCON at least $7,468,741.11 for the work performed on the Project, as reflected in the Unpaid Invoices.

33. Interest has accrued on the amount owed at the rate of 1% per month (or 12% per

annum) since AMCON submitted each Unpaid Invoice to Ascend and Ascend failed to timely pay each such Unpaid Invoice. *See* Mass. G.L. c. 231, § 6C. Interest continues to accrue on each Unpaid Invoice until AMCON is paid in full.

34. Ascend's failure to pay AMCON the amounts due as reflected in the Unpaid Invoices constitutes a breach of contract, entitling AMCON to recover for its damages.

35. As a direct result of this breach, Ascend owes AMCON the principal amount of at least $7,468,741.11, plus pre-judgment interest as provided by law. *See* Mass. G.L. c. 231, § 6C.

36. Because Ascend has failed and refused to pay AMCON in full for the materials and labor supplied to the Project, AMCON had to retain counsel to file this action.

37. Ascend has acted in bad faith, been stubbornly litigious, and has caused AMCON undue burden and expense such that an award of attorneys' fees pursuant to Massachusetts law is appropriate.

COUNT II:
QUANTUM MERUIT

38. AMCON hereby incorporates by reference the allegations contained in Paragraphs 1 through 27 as if fully restated herein.

39. In the alternative, if the Court finds that there is no binding and enforceable contract between AMCON and Ascend, AMCON is entitled to recover under a theory of implied contract.

40. AMCON furnished Ascend with labor, services, and materials at the express request and direction of Ascend with the expectation of receiving reasonable compensation in return.

41. AMCON's labor, services, and materials were incorporated into the Project. Ascend accepted and benefited from the labor, services, and materials provided to it by AMCON, which conferred substantial value on Ascend.

42. By accepting the benefit of AMCON's labor, services, and materials, Ascend impliedly promised to pay AMCON the reasonable value of the benefit received by.

43. It would be unjust for Ascend to retain the benefit of the labor, services, and materials provided by AMCON without providing fair and reasonable compensation.

44. AMCON is entitled to payment for the reasonable value of the labor, services, and materials accepted by Ascend.

45. AMCON has demanded payment from Ascend for the reasonable value of the work it performed on the Project, yet Ascend has failed to pay AMCON without legal justification or excuse.

46. Thus, Ascend has breached its implied promise to pay AMCON.

47. As a direct result of this breach, Ascend owes AMCON in the principal amount of at least $7,468,741.11, plus pre-judgment interest as provided by law. *See* Mass. G.L. c. 231, § 6C.

48. Because Ascend has failed and refused to pay AMCON in full for the materials and labor supplied to the Project, AMCON had to retain counsel to file this action.

49. Ascend has acted in bad faith, been stubbornly litigious, and has caused AMCON undue burden and expense such that an award of attorneys' fees pursuant to Massachusetts law is appropriate.

COUNT III:
FORECLOSURE OF LIEN

50. AMCON incorporates by reference the allegations of Paragraphs 1 through 49 as if fully restated herein.

51. AMCON fully performed its time and materials work under the PSA and MSA and completed improvements to the Property on or about July 2, 2025.

52. Ascend failed to pay AMCON for the amount due and owing for the labor, services

and materials AMCON supplied to the Property under the terms of the PSA and MSA.

53. Upon information and belief, Ascend has a leasehold or other interest in the Property by virtue of an agreement with Covington Industrial, LLC, the Property Owner.

54. On August 7th, 2025, within 90 days of completion of the work on the Project, AMCON filed and recorded the Lien against Ascend's interest in the Property in the amount of $6,232,621.09. *See* Ex. F.

55. In accordance with OCGA § 44-14-361.1(a)(2), AMCON timely sent a true and accurate copy of the Claim of Lien by certified mail to the owner of the Property within two (2) business days after the date the Lein was filed.

56. In accordance with O.C.G.A. § 44-14-361.1(a)(3), AMCON timely filed this action against Ascend within 365 days from the date of filing of the Lien.

57. In accordance with O.C.G.A. § 44-14-361.1(a)(3), AMCON has filed or will timely file a Notice of Commencement of Lien Action in the Office of the Clerk of Superior Court of Newton County, Georgia within 30 days after commencing this lien action.

58. Defendant Ascend has not paid AMCON the $6,232,621.09, plus interest and attorney's fees, due and owing to satisfy the Lien.

59. Therefore, AMCON is entitled to a judgment perfecting its Lien as against whatever property interest Ascend has in the Property, including all interest, attorneys' fees, and costs.

WHEREFORE, AMCON respectfully requests that this Court enter judgment against Ascend as follows:

a. For Count I, damages for breach of contract in the amount of at least $7,468,741.11 plus prejudgment interest;

b. For Count II, in the alternative to Count I, damages for breach of the implied

contract and quantum meruit in the amount of at least $7,468,741.11 plus prejudgment interest;

c. For Count III, that AMCON be awarded judgment perfecting its Lien in the amount of $6,232,621.09 plus prejudgment interest;

d. For an award of its attorneys' fees and costs incurred in this matter in an amount determined at trial pursuant to Massachusetts state law; and

e. For such other and further relief as the Court deems just and appropriate under the circumstances.

Respectfully submitted this ___ day of August, 2025.

HUDSON LAMBERT PARROTT, LLC

/s/ C. Damon Gunnels
C. Damon Gunnels, Esq.
Georgia Bar No. 843266
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EXHIBIT A

ASCEND ELEMENTS

Principal Document

ASCEND ELEMENTS PROFESSIONAL SERVICES AGREEMENT

This Agreement (the "Agreement" or "Contract ") sets forth terms under which, AM Construction Inc dba Amcon Industrial a company organized under the laws of the State of Georgia with offices at 1375 Oakley Industrial Blvd Fairburn GA 30213 ("Contractor") will, at the request of Ascend Elements, Inc., a Delaware corporation with offices at 133 Flanders Rd. Westborough, MA 01581 or an Affiliate ("Ascend Elements") provide certain services either directly to Ascend Elements or to customers of Ascend Elements. This Agreement is effective as of **May 24, 2023** ("Effective Date"). The parties agree as follows:

1. Definitions.

"Action" means a claim, suit, action, allegation, charge, or investigation, in each case brought by a third party, governmental authority or industry body.

"**Affiliate"** means an entity that, directly or indirectly, owns or controls, is owned or is controlled by or is under common ownership or control with a party hereto. As used herein, "control" means the power to direct the management or affairs of an entity and "ownership" means the beneficial ownership of fifty percent (50%) or more of the voting equity securities or other equivalent voting interests of an entity.

"**Anti-Corruption Laws**" means anti-corruption or anti-bribery Laws, including the United States Foreign Corrupt Practices Act of 1977.

"**Deliverables**" means any report, code, scripts or software (whether in object or source code form), audio or visual material (including but not limited to, any content, print, images, photos, or digital media), documentation or other material or deliverables of any type provided by Contractor to Ascend Elements in connection with the Services as well as any related products, know-how, techniques, processes, algorithms, computer programs, databases, user interfaces, encoding techniques, inventions, ideas, concepts, discoveries, improvements, specifications, designs, methods, devices, systems, flow charts, diagrams, drawings, notes, documents or other materials or innovations of any kind (in any medium and in any stage of development or completion) made, conceived of, developed or first reduced to practice by Contractor (including any of its employees, agents or permitted subcontractors), alone or jointly with others, in connection with performing the Services.

"**Law(s)**" means any and all laws, treaties, conventions, directives, regulations, rules, ordinances, and judicial decisions in courts and tribunals of competent jurisdiction applicable to the Services or a party, including any subsequent amendments, modifications and revisions thereto, or subsequent versions thereof.

2. Services.

2.1 **Work Orders.** The request for Services shall be by means of **Work Orders (WO)**. Each WO shall include the scope of work, services required to the extent of availability complete with documentation, drawings, specifications (collectively the "SOW" or "Statement of Work"), Work Order Sum, Cost/Rates, Compensation Basis, Work Order Time, Work Execution Plan and any other requirements (refer to Exhibit B for WO sample template).

WO as may be modified by Change Orders shall become part of this Agreement upon execution by Contractor and Ascend Elements.

Contractor will provide services ("**Services**") to Ascend Elements as described in the WO as may be modified by Change Order.

Any of Ascend Elements Affiliates may enter into separate WO with Contractor for the provision of Services hereunder and each such WO shall be deemed a legal obligation of the Affiliate and not that of Ascend Elements Inc. and for all purposes hereunder Ascend Elements as used herein shall be deemed to mean such Affiliate. Contractor will perform the Services in a prompt manner and at all times in accordance with the terms and conditions of the applicable WO and this Agreement, including, without limitation, providing each Deliverable (if any) by no later than the delivery dates specified in the applicable WO. At the direction of Ascend Elements, Contractor will provide Services directly to Ascend Elements or to customers of Ascend Elements on Ascend Elements behalf.

The estimated price of the Services is as stated in the Work Order Sum and the compensation basis shall be as stated in the WO. Unless otherwise specifically stated the price of any goods, materials and equipment, if any that are furnished as part of this Agreement shall include all packaging, transportation costs, insurance, and fees and unless tax exemption has been granted all applicable taxes, including, but not limited to, all sales, use or excise taxes.

In the event tax exemption has been granted the price of goods, materials and equipment shall be reduced accordingly. No increase in the Price is effective, whether due to increased material, labor or transportation costs or otherwise, without the prior written approval of Ascend Elements

2.2 **Schedule of Rates**. Contractor's Schedule of Rates to be used for establishing the Work Order Sum shall be as set forth in Exhibit C.

2.3 **Safety and Health Requirements.** The Services shall be performed in accordance with the Safety and Health requirements as set forth in Exhibit D.

3. Subcontractors. Contractor will perform all Services only through its regular, full-time employees and may not subcontract any element of the Services without the prior express written consent of Ascend Elements. To the extent any such subcontractors are authorized by Ascend Elements, Contractor will (i) remain directly responsible to Ascend Elements for the acts or omissions of each subcontractor and (ii) ensure that each subcontractor is bound in writing to terms equally as protective of Ascend Elements as the terms and conditions of this Agreement.

4. Title and Risk of Loss. Title and risk of loss to all Deliverables passes to Ascend Elements upon delivery of the Deliverables to Ascend Elements.

5. Representations and Warranties.

5.1 **Contractor's Representations and Warranties**. Contractor hereby represents and warrants to Ascend Elements that:

(a) **Due Authority**. Contractor has full right and power to enter into and perform this Agreement without the consent of any third party, and its performance under this Agreement will not conflict with any other obligation Contractor may have to any other party.

(b) **Standard of Performance**. Contractor will perform the Services in a timely, professional and workmanlike manner and with a degree of quality equal to or higher than applicable industry standards for similar services. In addition, all Services and each Deliverable will conform in all material respects with the description and any other requirements set forth in the applicable WO.

(c) **Compliance with Laws**. Contractor will ensure that the Services (including all Deliverables, if any) and Contractor's performance of its obligations under this Agreement are in compliance at all times with all applicable Law.

(d) **Licenses.** Contractor shall obtain, at its sole cost, all licenses, permits, certificates and authorizations necessary (i) for Contractor to do business in all jurisdictions where any part of this Agreement is to be performed, and (ii) in connection with Contractor's performance hereunder, and give all notices required under applicable Law.

(e) **Employment Law Compliance**. At all times during performance of this Agreement, Contractor shall remain in full compliance with all applicable Laws regarding the employment of Contractor's employees who are assigned to perform Services in connection with this Agreement, including, without limitation, all wage and hour obligations (including overtime compensation when applicable), the federal Fair Labor Standards Act, all other laws governing the payment of employee compensation, and all laws governing discrimination in employment, harassment, leaves of absence, reasonable accommodation of disabilities and other employment-related responsibilities of employers.

(f) **Payroll**. Contractor further understands and agrees that it shall have exclusive control over timekeeping and payroll for all Contractor's employees, and that it shall maintain all records and make all wage and other payments to employees in full compliance with applicable Laws. Ascend Elements shall have no role in paying or determining the compensation of Contractor employees.

(g) **No Litigation**. There are no pending Actions, and Contractor is not aware of any threatened Actions, pertaining to Contractor, the Services or the Deliverables. Contractor will notify Ascend Elements promptly if Contractor becomes aware of any actual or threatened Actions that would reasonably be expected to affect its ability to fully perform its duties under this Agreement.

(h) **Non-Solicitation of Personnel**. During the term of this Agreement and for a period of one (1) year thereafter, Contractor and its Affiliates will not, directly or indirectly, solicit or encourage any employee or consultant of Ascend Elements or its Affiliates to leave for any reason, including, without limitation, to accept employment or an engagement with any other company; provided that an employee or consultant being hired or engaged directly as a result of a general solicitation to the public shall not be deemed to be a violation of this provision. This provision is reciprocal.

5.2 **Examination of Requirements.** Contractor acknowledges that it has had the opportunity and has carefully examined the job site, all specifications, drawings, designs, instructions and other information

related to this Agreement as well as governmental restrictions permits and license requirements, and all other law and rules applicable to the work to be performed under this Agreement, and has made all other investigations necessary to obtain a complete understanding of what is required to fully perform its obligations under this Agreement. Contractor further represents that, based on these examinations and investigations that it has all necessary business, professional and technical expertise as well as the equipment, plant and employee resources required to perform the Services required of this Agreement.

5.3 Remedy of Defects. Contractor will, without charge, correct any non-conformity, defect or malfunction in any Deliverable reported by Ascend Elements within thirty (30) days of receipt of notice from Ascend Elements. The remedies set forth in this Section 5.3 will be non-exclusive.

6. Review and Inspection. Ascend Elements review of Contractor's and/or Contractor's vendors technical documents/testing reports, inspection or failure to review, accept, reject such documents/testing reports, or failure to detect defects by inspection, shall not relieve Contractor and/or its vendors from the responsibility to comply with specification and/or requirements in the WO in the performance of Services. Notwithstanding, both parties and their representatives shall endeavor to identify any defect and/or shortcoming and/or non-compliance to specifications the earliest possible to enable rectification soonest. Ascend Elements payment for the Services shall not constitute its acceptance of the Services. Payment, if any, made for Services rejected hereunder shall be promptly refunded by Contractor.

7. Ownership of Deliverables. Contractor agrees that all Deliverables will be the sole and exclusive property of Ascend Elements. Contractor will and hereby does irrevocably assign to Ascend Elements all right, title and interest in and to the Deliverables and all related intellectual property rights.

8. Payment. In exchange for Contractor's obligations under this Agreement, Ascend Elements will pay Contractor the set forth in the applicable WO or Compensation Schedule. All undisputed payments are due in U.S. Dollars within thirty (30) calendar days of Ascend Elements receipt of a correct invoice and appropriate supporting documents. Ascend Elements will not be liable for any taxes that Contractor fails to invoice. Ascend Elements may withhold amounts disputed in good faith while the parties attempt to resolve the dispute, and this will not constitute a breach. Contractor will not invoice Ascend Elements until Ascend Elements acceptance of the Services or Deliverables (as applicable) in accordance with the applicable WO. Ascend Elements will not reimburse Contractor for any expenses unless such expenses are specified in the applicable WO. When specified in the applicable WO, travel and related expenses incurred by Contractor in performing the Services shall be compensated in accordance with rates as set forth in the Compensation Schedule. Any other reimbursable costs shall be subject to Ascend Elements prior approval in writing but only in accordance with Ascend Elements then-current travel and expense policies, including, without limitation, the furnishing of copies of receipts and other customary documentation for any expenses for which Contractor requests reimbursement. Ascend Elements will have no obligation to pay any reimbursable expenses that Contractor fails to invoice within ninety (90) days after the fees or expenses were incurred. Contractor acknowledges that this Section 7 sets forth the only compensation that Contractor is entitled to receive in exchange for the Services and the Deliverables, and Contractor will not be entitled to any other payments, reimbursements, royalties or consideration of any kind.

9. Term and Termination.

9.1 **Term.** This Agreement remains in effect unless terminated in accordance with this Section 9.

9.2 **Termination.** Either party may terminate this Agreement if the other party: (a) fails to cure any breach of this Agreement (including any applicable WO) within thirty (30) days after written notice of such breach; (b) ceases operation without a successor; or (c) seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is instituted against such party (and not dismissed within sixty (60) days thereafter). In addition, either party may terminate this Agreement at any time when there is no WO in effect for at least one hundred eighty (180) days upon ten (10) days' advance written notice to the other party. Notwithstanding anything to the contrary, Ascend Elements may terminate this Agreement, including any and all WOs, for convenience at any time upon fifteen (15) days' advance written notice to the other party. Any termination hereunder by Ascend Elements for a breach by Contractor which is subsequently determined not to be a breach shall be treated as a termination for convenience. In the event Ascend Elements terminates a Statement of Work (whether terminated for convenience or otherwise), Ascend

Elements only liability will be to pay Contractor the work completed due under the WO with respect to Services provided through the date of termination.

9.3 **Effect of Termination**. Upon any expiration or termination of this Agreement for any reason, or upon earlier request by Ascend Elements, Contractor will promptly deliver to Ascend Elements all Deliverables (in whatever state of completion) and return or (if directed by Ascend Elements) destroy all Confidential Information and derivatives thereof. Except for termination for convenience, the termination of this Agreement is not an exclusive remedy and the exercise of either party of any remedy under this Agreement will be without prejudice to any other remedies it may have under this Agreement, by law or otherwise. Sections 5 (Representations and Warranties), 7 (Ownership of Deliverables), 10 (Independent Contractor), 12 (Confidential Information), 13 (Access to Ascend Elements Facilities), 14 (Publicity and Records), 15 (Indemnification), 16 (Limitation of Liability), 17 (Bankruptcy), 19 (Inventions), 20 (Intellectual Property), 25 (Governing Law), 26 (Dispute Resolution) and the provisions of this Section 9 will survive any expiration or termination of this Agreement.

10. Independent Contractor. Contractor will be solely responsible and liable for any compensation due to Contractor's employees, agents or permitted subcontractors and employment-related taxes, insurance premiums or other employment benefits required to be provided to Contractor's employees, agents or permitted subcontractors under applicable foreign, federal, state and local laws, statutes, orders and regulations. Neither Contractor nor any of Contractor's employees, agents or permitted subcontractors will be eligible for any benefits from Ascend Elements (including, without limitation, vacation or illness payments, stock awards, bonus plans, profit sharing, health insurance or retirement benefits) normally provided by Ascend Elements to its employees. Contractor will defend, indemnify and hold harmless Ascend Elements, its Affiliates and its and their officers, directors, and employees from and against all Actions and all related losses, liabilities, damages, expenses and costs (including attorneys' fees and court costs) arising from or relating to any liability imposed on Ascend Elements or its Affiliates to pay any withholding taxes, social security, unemployment or disability insurance or similar items in connection with compensation received by Contractor pursuant to this Agreement. Contractor will perform services and/or work under this Agreement or any WO in the capacity of independent contractor, and not as an employee, partner, agent or joint venture partner. Ascend Elements will not be responsible for the payment of any duties or taxes imposed on the income or profits of Contractor. Neither party will make any commitment, by contract or otherwise, binding upon the other or represent that it has any authority to do so.

11. Insurance. Contractor is solely responsible for maintaining such health, automobile, workers' compensation, unemployment compensation, disability, liability, and any other type of insurance required by law as set forth in Exhibit A. The WO may set forth additional insurance requirements for Contractor.

12. Confidential Information. Other than in the performance of the Agreement, Contractor nor Contractor's agents, employees, or subcontractors will use or disclose to any person or entity any Confidential Information (as defined below) of Ascend Elements, whether in written, oral, electronic or other form, that is obtained from Ascend Elements or otherwise prepared or discovered either in the performance of this Agreement or while on Ascend Elements premises. "Confidential Information" means any and all information designated by Ascend Elements as confidential or proprietary, all information or data concerning or related to Ascend Elements products or services (including the discovery, invention, research, improvement, development, manufacture, or sale thereof), processes, or business operations (including sales, costs, profits, pricing methods, organization, and employee and customer lists), including any information of the foregoing nature received from Ascend Elements related to Ascend Elements customers or suppliers, and any other information that is of such a nature that a reasonable person would believe it to be confidential or proprietary. The Deliverables constitute Confidential Information of Ascend Elements. The provisions of this Section 11 relating to use and disclosure will not apply to any information that: (i) is rightfully known to Contractor prior to disclosure by Ascend Elements, (ii) is rightfully obtained by Contractor from any third party without restrictions on disclosure, (iii) is or becomes available to the public without restrictions, (iv) is independently developed by Contractor without violating its obligations under this Agreement, or (v) is disclosed with the prior written approval. Contractor may make disclosures to the extent required by law or court order, provided that Contractor notifies Ascend Elements in advance and cooperates in any effort to obtain confidential treatment. Contractor acknowledges that

unauthorized use or disclosure of Confidential Information may cause substantial harm for which damages alone may not be a sufficient remedy.

In event of actual or threatened unauthorized use or disclosure by Contractor, its employees, agents, or subcontractor, Ascend Elements will be entitled to seek appropriate equitable relief in addition to whatever other remedies it might have at law. The obligations set forth in this Section will survive any expiration or termination of this Agreement.

13. Access to Ascend Elements Facilities. To the extent Contractor is granted access to Ascend Elements facilities, Contractor will comply with any safety, control, protection, and other policies and guidelines as Ascend Elements may provide from time-to-time and will be solely liable for its acts or omissions while at any site, including, without limitation, those resulting in personal injury or property damage.

14. Publicity and Records. Contractor will not publicize or disclose the existence or terms of this Agreement to any third party without the prior written consent of Ascend Elements, except as may be required by Law. No references to Ascend Elements, its Affiliates, trade names, trademarks, service marks, brands, marks, logos, codes, drawings or specifications will be used in any of Contractor's advertising, promotional efforts or any publicity of any kind, without Ascend Elements prior written consent, which consent may be withheld in Ascend Elements sole discretion in accordance with Ascend Elements policy that may be changed from time to time. In particular, no press releases will be made without the mutual written consent of each party. Written consent from Ascend Elements shall only be valid if issued by an authorized representative. Contractor will keep and maintain complete and accurate records in connection with its performance of the Services, providing of the Deliverables and all fees charged to Ascend Elements under this Agreement and will retain these records for at least three (3) years after the amounts documented in these records become due. Ascend Elements may audit such systems, procedures and records during regular business hours upon reasonable advance notice and subject to reasonable confidentiality procedures.

15. Indemnification.

(a) Unless caused by the sole negligence of Ascend Elements, its Affiliates or its subcontractors not in connection with Contractor's performance of this Agreement, Contractor will defend, indemnify and hold harmless Ascend Elements, its Affiliates and its officers, directors, employees, customers, agents, attorneys and insurers from and against any and all third party Actions and all related losses, liabilities, damages, expenses and costs (including reasonable attorneys' fees and court costs) to the extent arising from or relating to: (i) any breach or alleged breach of any representation, warranty, covenant or other provision of this Agreement (including any WO); (ii) any violation of law; (iii) infringement or misappropriation of patent, copyright, trade secrets or other intellectual property rights of any third party; (iv) any injury including bodily injury, disability or death, personal injury or property damage or any damages, resulting from a Product or Service which is defective in materials, design or workmanship, sustained by Ascend Elements or by Ascend Elements agents, subcontractors or employees; or (v) any injury including bodily injury, disability or death, personal injury or property damage or any damages, regardless of fault, sustained by Contractor, or by Contractor's agents, subcontractors or employees, unless incident or action is a direct cause of Ascend Elements.

(b) **Indemnification Procedures**. Ascend Elements will give Contractor written notice of any such Action or claim as to which Contractor has a duty to indemnify Ascend Elements hereto under this Section. Contractor shall have the right to control the defense (using counsel reasonably acceptable to Ascend Elements) of any claim brought against Ascend Elements as to which Contractor has a duty to provide indemnity under this Section, with all reasonable attorneys' fees, costs and other expenses of such defense being paid in full by Contractor. Ascend Elements has the right to participate in the defense of any such Action. In no event will Contractor settle, compromise or consent to the entry of judgment in any Action without Ascend Elements prior written consent, which shall not be unreasonably withheld, delayed or conditioned.

16. Limitation of Liability. In no event shall Ascend Elements aggregate liability arising out of or related to this Agreement, whether arising out of or related to breach of contract, tort (including negligence) or otherwise exceed the lesser of: (i) Contractor's actual damages, or (ii) the total aggregate amount paid by Ascend Elements to Contractor for Services performed in accordance with this Agreement in the month before such liability is assessed or the month before termination of the Agreement, whichever is earlier. NOTWITHSTANDING ANYTHING TO THE CONTRARY, ASCEND ELEMENTS WILL NOT BE LIABLE TO CONTRACTOR FOR INDIRECT, EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL

OR CONSEQUENTIAL DAMAGES OR LOSSES, OR FOR LOST PROFITS OR BUSINESS OPPORTUNITIES, UNDER ANY LEGAL THEORY (INCLUDING NEGLIGENCE).

17. Bankruptcy. The parties agree that, in the event of the commencement of bankruptcy proceedings by or against a party under applicable Law, the other party will be entitled, at its option, to retain all of its rights under this Agreement pursuant to applicable Law.

18. Force Majeure. Force Majeure shall mean an occurrence beyond the control and without the fault or negligence of the party affected including, but not limited to, acts of God or the public enemy; expropriation or confiscation of whole or part of the Facilities; war, rebellion, sabotage or riots; pandemic, lockdowns; sanctions, embargoes; severe disruptions to the labor supply or supply chain, earthquakes, severe flooding or unusually severe weather that could not reasonably have been anticipated; fires, explosions or other catastrophes; unresolved community protest, authorities restrictions that prevents construction of the facilities in the current selected location; strikes or any other concerted acts of workmen; or other similar o:ccurrences which are not within the control of the party affected and which by the exercise of reasonable diligence said party is unable to prevent or provide against. The parties agree that the remedy for Force Majeure occurrences shall be as follows:

(a) Should either party be delayed in performance of this Agreement by an occurrence which it considers to be Force Majeure and should either party be unable to avoid or prevent said delay by reasonable effort, the party affected shall promptly give notice to other party and shall do all things reasonably possible to remove the cause and mitigate its effects. If Contractor's and/or its vendors performance is delayed by Force Majeure, appropriate adjustments shall be made to the work schedule and equipment delivery dates. Notwithstanding there shall be NO adjustment to Price NOR any claim for damages, consequential losses or loss of anticipated profits.

(b) Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages, consequential losses or loss of anticipated profits if, and to the extent, such delay or failure is caused by Force Majeure.

(c) If performance of this Agreement is suspended for sixty [60] consecutive days, then the parties shall mutually agree on the amicable way forward which may include termination of the Agreement as a last resort.

19. Inventions. Contractor shall promptly disclose to Ascend Elements all inventions, discoveries, and improvements [whether patentable or not] conceived or made by Contractor's personnel, either alone or jointly with others, or its vendors in the course of performance of this Agreement. At Ascend Elements request, Contractor shall assign and require its personnel to assign to Ascend Elements or to its designee, each such invention, discovery, and improvement. Contractor shall also require its employees to execute such papers as Ascend Elements requests in connection with the assignment or prosecution of patents or patent applications covering each such invention, discovery, or improvement in all countries specified by Ascend Elements and to render reasonable assistance to Ascend Elements in connection with protecting Ascend Elements rights to such invention, discovery or improvements.

20. Intellectual Property. If Ascend Elements furnishes the design for the equipment/materials or requires Contractor to prepare a design for the equipment/materials, then Ascend Elements will own all intellectual property rights relating to such design and Contractor agrees to assign all rights in such designs to Ascend Elements. Ascend Elements does not transfer to Contractor and/or its employees, personnel, agents, subcontractors, entities providing services under the Contractor for this Agreement any patent, trade secret, trademark, service mark, copyright, or other intellectual property right of Ascend Elements. Contractor will indemnify, protect, defend or settle (at Contractor's expense), and hold harmless Ascend Elements, its parents, affiliates, and its and their directors, officers, employees, agents, successors and assigns, and the users of equipment/materials ("Indemnitees") from all liabilities, and all other obligations and proceedings, and all fines and penalties imposed upon, Indemnitees and all attorney fees and any other cost of litigation (collectively "Labilities") incurred as a result of actual or alleged infringement of any present or future or actual or alleged intellectual property right of any third party arising from Ascend Elements use of Deliverables and/or use or sale of equipment/materials supplied by Contractor under this Agreement under this Agreement. In the event of an allegation of intellectual property infringement or if the use of Deliverables and/or sale of the equipment/materials supplied by Contractor under this Agreement are enjoined, Contractor will, at its own expense and at

Ascend Elements option, either (i) procure the right to continue using the Deliverables and/or equipment/materials; (ii) make such alterations modifications or adjustments to the Deliverables and/or equipment/materials so that they become non-infringing without incurring a material diminution in performance or function; (iii) replace the same with a non-infringing equivalent; or (iv) remove the equipment/materials and refund the purchase price and the transportation and installation costs thereof. All such obligations of Contractor to indemnify, hold harmless, protect and defend Ascend Elements are in addition to Contractor's warranty obligations and all other rights or remedies of Ascend Elements and will survive acceptance and use of, and payment for, the Deliverables and /or equipment/materials, and completion, termination, or cancellation of this Agreement if any settlement requires an affirmative obligation (other than ceasing use of the Deliverables and/or equipment/materials) of, results in any ongoing liability to or prejudice or detrimentally impacts Ascend Elements in any material way, then such settlement shall require Ascend Elements written consent and Ascend Elements may have its own counsel in attendance at all proceedings and substantive negotiations relating to such liabilities.

21. Anti-Corruption; Morals.

(a) Contractor represents and warrants to Ascend Elements that Contractor and Contractor personnel are currently complying, and have at all times complied with, and will comply with all Anti-Corruption Laws. After Contractor's reasonable inquiry, neither Contractor nor Contractor personnel have during the five (5) years prior to the Effective Date: (1) taken any direct or indirect action that would result in a violation of any applicable Federal or State Anti-Corruption Laws, including, for purposes of securing an improper advantage, the making, offering or authorizing any bribe, facilitation or other payment, gift, entertainment, rebate, or any other thing of value to any government official or employee, political party or official, or candidate, a public international organization, a commercial entity or individual, whether tangible or intangible, to secure an improper advantage, (2) been under, an administrative, civil or criminal investigation, in connection with alleged or possible violations of applicable Federal or State Anti-Corruption Laws, or (3) received notice from, or made a voluntary disclosure to, any governmental entity regarding alleged or possible violations of any applicable Federal or State Anti-Corruption Laws; and to Contractor's knowledge, its financial records are sufficiently accurate and complete to demonstrate its compliance with the applicable Federal or State Anti-Corruption Laws, represent actual bona fide transactions, and have been maintained in accordance with sound business practices, including the maintenance of adequate internal accounting controls. If Contractor suspects any breach of this provision, to the fullest extent permitted by applicable Federal or State Anti-Corruption Laws, Contractor will promptly notify Ascend Elements in writing of its suspicions and cooperate with Ascend Elements in the resolution of issues raised.

(b) If Contractor or any of its officers, directors, board members, principals, employees, agents, or representatives of Contractor commits any act which, in the reasonable and good faith opinion of Ascend Elements, would disparage or impair the reputation and/or integrity of Ascend Elements (including, without limitation, being convicted of any felony or a crime involving moral turpitude, ethical violations or any other act of moral turpitude) or fails to comply with the Code of Conduct Policy for Business Partners, Ascend Elements shall have the right to terminate this Agreement without liability to Contractor upon thirty (30) days written notice.

22. Non-Exclusivity. This Agreement shall not be construed as granting to Contractor the exclusive right to provide the Services for Ascend Elements. Ascend Elements reserves the right to contract with other parties for such Services as it deems necessary. The Parties further agree that Ascend Elements is not obligated to purchase any minimum amount of Services from Contractor under this Agreement.

23. Assignment. Contractor may not assign this Agreement without the prior written consent of Ascend Elements and any attempt to do so will be void. Notwithstanding the foregoing, Ascend Elements may assign this Agreement to (a) an Affiliate or (b) any other entity in connection with a reorganization, merger, consolidation, acquisition, or other restructuring involving all or substantially all of the voting securities or assets of Ascend Elements. All rights, benefits, and protections granted to Ascend Elements pursuant to this Agreement extend to its Affiliates. Any notice or consent under this Agreement will be in writing, which may be delivered personally or via mailed, by prepaid, certified mail or overnight courier, to the address specified below.

24. Waiver. No provision of this Agreement will be waived by any act, omission or knowledge of a party or its agents or employees except by an instrument in writing expressly waiving such provision and signed by a duly authorized officer of the waiving party.

No indulgence or concession granted by Ascend Elements in relation to any of the terms of this Agreement shall in any way affect or prejudice Ascend Elements rights hereunder and any such indulgence or concession may be withdrawn at any time by Ascend Elements without prior notice. Waiver by Ascend Elements of any breach or non-observance of the terms of this Agreement shall not constitute or be construed as a waiver of any succeeding breach or non-observance of the same or any other term.

None of the following constitutes a waiver or estoppel of any right, remedy, power, privilege or condition by Ascend Elements arising from this Agreement: (a) any failure or delay in exercising any right, remedy, power, or privilege or in enforcing any condition under this Agreement, or (b) any act, omission, or course of dealing between the Parties. If any provision of this Agreement is adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect.

25. Governing Law. This Agreement will be deemed to have been made in and will be construed pursuant to the laws of the State of Delaware and the United States without regard to conflicts of law's provisions thereof, and without regard to the United Nations Convention on the International Sale of Goods.

26. Dispute Resolution. Any dispute, controversy or claim arising out of or relating to this contract, including the formation, interpretation, breach or termination thereof, including whether the claims asserted are arbitrable, will be referred to and finally determined by arbitration in accordance with the JAMS International Arbitration Rules. The Tribunal will consist of three arbitrators. The place of arbitration will be Suffolk County, Massachusetts. The language to be used in the arbitral proceedings will be English. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Ascend Elements failure to assert any right is not a waiver of such right or any other right. Any remedies provided herein to Ascend Elements are cumulative and in addition to any other remedies provided in law or equity or by statute. **EACH PARTY KNOWINGLY AND VOLUNTARILY WAIVES TRIAL BY JURY AND THE RIGHT THERETO IN ANY ACTION OR PROCEEDING OF ANY KIND, ARISING UNDER OR OUT OF, OR OTHERWISE RELATED TO OR OTHERWISE CONNECTED WITH THIS AGREEMENT AND ANY RELATED DOCUMENT**

27. Severability. Should any provision hereof be found to violate any statute or regulation or by the operation of law be deemed invalid, all other provisions contained herein shall be considered separable and shall remain in full force and effect, and the parties shall negotiate in good faith to replace the invalid clause or clauses with provisions having similar business purposes that are consistent with this Agreement.

28. Entire Contract. Any amendments to this Agreement or any WO or Compensation Schedule will be effective only if made in writing signed by a representative of the respective parties. Both parties agree that this Agreement (including any executed WOs or Compensation Schedule) is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Agreement. This Agreement may be executed in counterparts, each of which will be deemed an original and all of which together will be considered one and the same agreement. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature by any of the parties to any other party and the receiving party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.

[THIS SPACE INTENTIONALLY LEFT BLANK.
SIGNATURE PAGE FOLLOWS]

Accepted and agreed to as of the Effective Date by the authorized representative of each party:

Amcon Industrial		**Ascend Elements Inc.**	
Signature:	Coleen Phillips	Signature:	
Print Name:	Coleen Phillips	Print Name:	Andrew Aberdale
Print Title:	Executive Vice President & Secretary	Print Title:	Chief Financial Officer
Date:	05/26/2023	Date:	

Notice Address:
1375 Oakley Industrial Blvd
Fairburn GA 30213
Attention: Diana Griffin / Coleen Phillips
Email:
coleen@amconindustrial.com

Notice Address:
133 Flanders Rd. Westborough, MA 01581
Attention: Legal Department
Email:
llochhead@ascendelements.com

ASCEND ELEMENTS

Exhibit A
INSURANCE REQUIREMENTS

Prior to commencement of provision of Services or Contractor entering Ascend Elements operation or performing work for Ascend Elements, and annually thereafter, a Certificate of Insurance ("COI") evidencing the following insurance carried by the Contractor at its own expense must be presented in an acceptable form to Ascend Elements:

COVERAGE LIMIT REQUIREMENTS

Commercial General Liability (including Products/Completed Operations and Umbrella/Excess Liability):

Commercial General Liability (CGL) and Umbrella/Excess Liability Insurance in an amount not less than $3,000,000 per occurrence and $3,000,000 annual aggregate.

Workers' Compensation & Employers Liability:

Workers' Compensation insurance in compliance with applicable statutory requirements, as well as Employers' Liability insurance in an amount not less than $ 1,000,000 each accident.

Automobile Liability:

Automobile Liability insurance for bodily injury and property damage, including coverage for owned, non-owned and hired vehicles in an amount not less than $1,000,000 Combined Single Limit. All Contractor personnel who drive personal or company vehicles onto Ascend Elements premises must show proof of Automobile Liability insurance.

Contractors Pollution Liability Insurance:

If applicable to the products or services being provided by Contractor, a policy covering the liability arising out of any sudden and/or non-sudden pollution or impairment of the environment, including cleanup costs and defense, that arise from the operation, in an amount not less than $2,000,000 per Pollution Condition Limit of Liability.

Errors & Omissions / Professional Liability:

When Contractor is providing a professional service, Ascend Elements requires such coverage in an amount not less than $1,000,000 per occurrence and aggregate.

Fidelity Insurance:

When a Contractor is providing services which could result in the loss of money and/or securities, Ascend Elements requires the placement and evidence of $5,000,000 per occurrence and aggregate of Fidelity Insurance with a client property amendment, as well as Ascend Elements listed as a "Loss Payee".

Technology Errors and Omissions Insurance (where applicable):

When a Contractor is providing IT products or services to Ascend Elements, during the term of the agreement Contractor shall procure and maintain Technology Errors and Omissions insurance in an amount not less than $5,000,000 per claim and aggregate.

Cyber Insurance (where applicable):

If a Contractor has access to Confidential Information or personally identifiable information, Contractor shall carry Privacy and Network Security (also known as Cyber) insurance in the amount of not less than $5,000,000 for each claim and in the aggregate. Such policy shall include coverage for all costs incurred to respond to the theft, loss, unauthorized disclosure, wrongful collection or access to information, and all damages resulting from such breach, including fines and penalties imposed.

*In addition to showing the limits of liability specified above for each coverage, the certificate of insurance must provide:

(a.) A waiver of subrogation where allowed by law in favor of Ascend Elements;

(b.) Coverage for Ascend Elements and Affiliates as an additional insured where allowed by law. A copy of the CGL additional insured endorsement must be attached to the certificate of insurance. Ascend Elements reserves the right to reject any such endorsement that provides less coverage to Ascend Elements than would be afforded by the standard additional insured endorsements issued by the Insurance Services Office (ISO).
(c.) A statement that Ascend Elements will receive 30 days' notice if any coverages are cancelled.
(d.) Coverage should be on a primary and non-contributory basis

Contractor shall require all approved subcontractors to maintain insurance that satisfies the requirements set forth herein. Upon request by Ascend Elements, Contractor shall provide Ascend Elements a complete copy of the policies carried by Contractor and Contractor's approved subcontractors.

ASCEND ELEMENTS

Exhibit B
WORK ORDER TEMPLATE

Typical Content of Work Order shall be as per below.

PREAMBLE: This Work Order is issued under the Professional Services Agreement between Ascend Elements and Contractor (referred to as "PSA") and save for the provisions specific for this Work Order the other terms and conditions are as stipulated in the PSA.

A) Statement of Work
- Scope of Work write-up.
- Services required.
- To the extent of availability complete with documentation, drawings, specifications.

B) Work Order Sum
The Work Order Sum shall be a XXXXXX 'Not to Exceed Value' or 'Lump Sum Price' to be determined on a case to case basis.

C) Compensation
Various Options - Time Rate or Unit Rate or Reimbursable Cost Plus or Lump Sum Price or Combination type compensation to be determined on a case to case basis.

D) Time and Unit Rates For Changes
As available.

E) Payment Terms
The payment terms shall be in accordance with the PSA.

F) Invoicing
Invoicing shall be in accordance with the PSA.

G) Work Order Time
To be determined on a case to case basis.

H) Other Specific Requirements
To be determined on a case to case basis.

ASCEND ELEMENTS

Exhibit C
SCHEDULE OF RATES

A) TIME RATES FOR PERSONNEL

RATES ARE EFFECTIVE THROUGH DECEMBER 31ST, 2023.

CLASSIFICATION	DAY SHIFT STRAIGHT TIME (per Hr)	DAY SHIFT OVERTIME (per Hr)	NIGHT SHIFT STRAIGHT TIME (per Hr)	NIGHT SHIFT OVERTIME (per Hr)
Project Manager	$128.25	$179.55.		
Safety Manager	$91.00	$136.50		
Superintendent	$75.10	$112.65	$79.52	$119.27
Foreman	$66.26	$99.39	$70.68	$106.02
Mechanical Journeyman	$56.22	$77.31	$59.96	$83.93
Mechanical Helper	$36.81	$55.22	$41.23	$61.85
Materials Specialist	$36.81	$55.22	$41.23	$61.85
Controls Engineer	$83.93	$125.90	$88.35	$132.53
Electrical Journeyman	$57.43	$86.14	$61.85	$92.77
Electrical Helper	$36.81	$55.22	$41.23	$61.85
Field Admin	$69.66	$94.05	$74.71	$100.85
Office Admin	$69.66	$94.05	$74.71	$100.85
Office Management	$85.32	$107.98		

B) WORKING HOURS

a) Straight Time is during normal working hours - Monday through Friday, 40 hours per week.

b) Overtime is in effect after 40 normal working hours and all day Saturday and Sunday.

c) Double Time applies on Thanksgiving, Christmas, New Years, Memorial Day, July Fourth and Labor Day.

C) OTHER EXPENSES

Reimbursable Cost (RC) for accommodation, flights, rental cars, supplies, etc. shall be subject to Ascend Elements Representative prior approval. RC shall be billed at cost plus mark-up 15%

D) PER DIEM

Per diem for incidentals, living expenses, meals, accommodation etc. for eligible personnel subject to Ascend Elements Representative prior approval shall be $125/day/person. Any other per diem shall be negotiated on a case to case basis to be approved by Ascend Elements project manager accordingly. The agreed cost to be incorporated in the Work Order accordingly for compensation.

E) PROCUREMENT

Procurement shall be performed on Reimbursable Cost plus 5% mark-up basis.

ASCEND ELEMENTS

F) RATES FOR CONTRACTOR OWNED EQUIPMENT

RATES ARE EFFECTIVE THROUGH DECEMBER 31ST, 2023.

1) CRANE AND RIGGING EQUIPMENT RATES

EQUIPMENT	DAILY RATE US$	WEEKLY RATE US$
<10K Forklift	$345	$1,375
15K Forklift	$750	$3,000
25/35 Versa Lift	$2,000	$8,000
40/60 Versa Lift	$2,500	$10,000
15 Ton Carry Deck	$550	$2,000
45 Ton Boom Truck	$950	$4,600
75 Ton Crane	$2,100	$10,500
110 Ton Crane	$2,240	$11,200
160 Ton Crane	$2,560	$12,800
250 Ton Crane	$3,360	$16,800

2) CRANE AND RIGGING EQUIPMENT LABOR RATES

CLASSIFICATION	DAY SHIFT STRAIGHT TIME (per Hr)	DAY SHIFT OVERTIME (per Hr)	NIGHT SHIFT STRAIGHT TIME (per Hr)	NIGHT SHIFT OVERTIME (per Hr)
Project Manager	$135	$203	$138	$212
Rigging Superintendent	$102	$153	$109	$185
Rigging Foreman	$74	$110	$82	$139
Riggers	$70	$105	$76	$129
Operator	$80	$120	$87	$147
Truck Driver	$65	$97	$70	$121
Helper	$45	$64	$50	$84

3) WORKING HOURS

The working hours, application of straight time, overtime and double time shall be the same as section B) above i.e.

a) Straight Time is during normal working hours - Monday through Friday, 40 hours per week.

b) Overtime is in effect after 40 normal working hours and all day Saturday and Sunday.

c) Double Time applies on Thanksgiving, Christmas, New Years, Memorial Day, July Fourth and Labor Day.

4) OTHER CHARGES

The above rates do not include expendables, trucking expense and any negotiated per diem expenses as applicable. In the event such costs are applicable it shall be negotiated on a case to case basis to be approved by Ascend Elements project manager accordingly. The agreed cost to be incorporated in the Work Order accordingly for compensation.

^ including fuel surcharges

05.26.23

ASCEND ELEMENTS

Herc Rentals Inc. - Pricing Schedule

A M Construction

HercRentals™

AFFECTED REGIONS / BRANCHES

US National (Excluding Hawaii, North Dakota & Greater Permian)

EFFECTIVE DATES: FROM: 04/01/2023 THROUGH: 03/31/2024 **Pricing Schedule #: 19655**

CAT-CLASS		DESCRIPTION	DAY	WEEK	4 WEEK
AERIAL - BOOM LIFTS ARTICULATED					
410	2010	BOOM ARTICULATED 30FT JIB NARROW ELEC	$310.00	$795.00	$1,655.00
410	2020	BOOM ARTICULATED 30FT NAR ROT JIB ELEC	$310.00	$795.00	$1,655.00
410	2030	BOOM ARTICULATED 33FT ELEC	$310.00	$795.00	$1,655.00
410	2045	BOOM ARTICULATED 34FT NARROW JIB ELEC	$310.00	$795.00	$1,655.00
410	2050	BOOM ARTICULATED 34FT WIDE JIB ELEC	$310.00	$795.00	$1,655.00
410	2070	BOOM ARTICULATED 40FT NARROW JIB ELEC	$375.00	$905.00	$1,895.00
410	2080	BOOM ARTICULATED 40FT NAR ROT JIB ELEC	$375.00	$905.00	$1,895.00
410	2100	BOOM ARTICULATED 40FT WIDE ROT JIB ELEC	$375.00	$905.00	$1,895.00
410	2130	BOOM ARTICULATED 45FT ELEC	$375.00	$905.00	$1,895.00
410	2140	BOOM ARTICULATED 45FT JIB ELEC	$375.00	$905.00	$1,895.00
410	3030	BOOM ARTICULATED 34FT JIB 4WD DF	$360.00	$850.00	$1,725.00
410	3040	BOOM ARTICULATED 34FT JIB 4WD DSL	$360.00	$850.00	$1,725.00
410	3070	BOOM ARTICULATED 45FT 4WD DF	$375.00	$905.00	$1,895.00
410	3080	BOOM ARTICULATED 45FT JIB 4WD DF	$375.00	$905.00	$1,895.00
410	3110	BOOM ARTICULATED 45FT 4WD DSL	$375.00	$905.00	$1,895.00
410	3120	BOOM ARTICULATED 45FT JIB 4WD DSL	$375.00	$905.00	$1,895.00
410	3140	BOOM ARTICULATED 60FT JIB 2WD DF	$475.00	$1,150.00	$2,470.00
410	3180	BOOM ARTICULATED 60FT JIB 4WD DF	$475.00	$1,150.00	$2,470.00
410	3190	BOOM ARTICULATED 60FT 4WD DSL	$475.00	$1,150.00	$2,470.00
410	3200	BOOM ARTICULATED 60FT JIB 4WD DSL	$475.00	$1,150.00	$2,470.00
410	3300	BOOM ARTICULATED 80FT JIB 4WD DSL	$795.00	$2,025.00	$3,990.00
410	3350	BOOM ARTICULATED 125FT JIB 4WD DSL	$1,705.00	$3,615.00	$10,345.00
410	3360	BOOM ARTICULATED 135FT JIB 4WD DSL	$1,710.00	$4,140.00	$10,420.00
AERIAL - BOOM LIFTS STRAIGHTMAST					
410	4030	BOOM STRAIGHT 40FT 4WD DF	$375.00	$905.00	$1,895.00
410	4040	BOOM STRAIGHT 40FT 4WD DSL	$375.00	$905.00	$1,895.00
410	4090	BOOM STRAIGHT 45FT JIB 4WD DSL	$375.00	$905.00	$1,895.00
410	4140	BOOM STRAIGHT 60FT 4WD DSL	$475.00	$1,150.00	$2,470.00
410	4145	BOOM STRAIGHT 60FT JIB 4WD DSL	$475.00	$1,150.00	$2,470.00
410	4180	BOOM STRAIGHT 65FT JIB 4WD DF	$480.00	$1,230.00	$2,575.00
410	4190	BOOM STRAIGHT 65FT JIB 4WD DSL	$480.00	$1,230.00	$2,575.00
410	4195	BOOM STRAIGHT 65FT JIB DSL HIGH CAP	$480.00	$1,230.00	$2,575.00
410	4240	BOOM STRAIGHT 80FT 4WD DSL	$795.00	$2,025.00	$3,990.00
410	4242	BOOM STRAIGHT 80FT 4WD DSL HIGH CAP	$795.00	$2,025.00	$3,990.00
410	4270	BOOM STRAIGHT 85FT JIB 4WD DF	$935.00	$2,215.00	$4,520.00
410	4300	BOOM STRAIGHT 85FT JIB 4WD DSL	$935.00	$2,215.00	$4,520.00
410	4305	BOOM STRAIGHT 85FT JIB 4WD DSL HIGH CAP	$935.00	$2,215.00	$4,520.00

A M CONSTRUCTION

Customer agrees to keep confidential the information contained herein and not to reproduce or disclose any such information, in whole or in part, to any individual or entity, without the prior written consent of Herc Rentals. Customer and Herc hereby agree to the equipment and pricing as detailed herein and Customer agrees to be responsible for all applicable fees and charges as published at HercRentals.com, including, without limitation, environmental and emissions, refueling, vehicle licensing fees, preventative maintenance and transportation charges. Any equipment that is ordered by or on behalf of Customer locally at a Herc branch or other such location, that is not on the list of equipment in this schedule, will be negotiated locally at time of rental, up to an amount not to exceed the then-current list price for a standard rental shift, plus any additional hours, as published at HercRentals.com. Herc may at its sole discretion modify or terminate any pricing herein with 30 days notice to customer.

PRINT DATE: Tuesday, April 25, 2023

ASCEND ELEMENTS

AFFECTED REGIONS / BRANCHES

US National (Excluding Hawaii, North Dakota & Greater Permian)

EFFECTIVE DATES: FROM: 04/01/2023 THROUGH: 03/31/2024 **Pricing Schedule #: 19655**

CAT-CLASS	DESCRIPTION	DAY	WEEK	4 WEEK
AERIAL - BOOM LIFTS STRAIGHTMAST				
410 4400	BOOM STRAIGHT 120FT JIB 4WD DSL	$1,705.00	$3,615.00	$10,345.00
410 4410	BOOM STRAIGHT 125FT JIB 4WD DSL	$1,705.00	$3,615.00	$10,345.00
410 4420	BOOM STRAIGHT 135FT JIB 4WD DSL	$1,710.00	$4,140.00	$10,420.00
AERIAL - BOOM LIFTS TOWABLE				
410 1010	BOOM TOWABLE 35FT BATTERY	$320.00	$785.00	$1,840.00
410 1030	BOOM TOWABLE 50FT BATTERY	$365.00	$1,000.00	$1,985.00
410 1040	BOOM TOWABLE 50FT GAS	$365.00	$1,000.00	$1,985.00
AERIAL - ELECTRIC SCISSOR LIFTS				
405 1060	SCISSOR LIFT 12-13FT 30IN ELEC	$130.00	$295.00	$460.00
405 1062	SCISSOR LIFT 13FT 30IN COMPACT LCS ELEC	$130.00	$295.00	$460.00
405 1070	SCISSOR LIFT 14FT 30IN ELEC	$130.00	$295.00	$460.00
405 1085	SCISSOR LIFT 19FT NARROW COMPACT ELEC	$130.00	$295.00	$460.00
405 1087	SCISSOR LIFT 19FT COMPACT FLUID CONTAIN	$130.00	$295.00	$460.00
405 1090	SCISSOR LIFT 19FT NARROW ELEC	$125.00	$265.00	$405.00
405 1100	SCISSOR LIFT 20FT NARROW ELEC	$135.00	$330.00	$495.00
405 1140	SCISSOR LIFT 26FT 32" WIDE ELEC	$155.00	$370.00	$620.00
405 1150	SCISSOR LIFT 26FT 46" WIDE ELEC	$155.00	$370.00	$620.00
405 1200	SCISSOR LIFT 32FT 32" WIDE ELEC	$215.00	$520.00	$960.00
405 1210	SCISSOR LIFT 32FT 46" WIDE ELEC	$210.00	$510.00	$940.00
405 1260	SCISSOR LIFT 40FT 47" WIDE ELEC	$310.00	$725.00	$1,295.00
405 1270	SCISSOR LIFT 40FT 69" WIDE ELEC	$330.00	$810.00	$1,475.00
AERIAL - ROUGH TERRAIN SCISSOR LIFTS				
405 1430	SCISSOR LIFT 26FT RT DF	$285.00	$720.00	$1,125.00
405 1450	SCISSOR LIFT 26FT RT DSL	$285.00	$720.00	$1,125.00
405 1770	SCISSOR LIFT 40-45FT RT 94IN DECK DF	$390.00	$980.00	$1,795.00
405 1780	SCISSOR LIFT 40-45FT RT 94IN DECKOUTR DF	$390.00	$980.00	$1,795.00
405 1800	SCISSOR LIFT 40-45FT RT 94IN DECKOUTRDSL	$390.00	$980.00	$1,795.00
405 1850	SCISSOR LIFT 50-53FT RT OUTRIG DF	$425.00	$1,200.00	$2,250.00
405 1860	SCISSOR LIFT 50-53FT RT OUTRIG DSL	$425.00	$1,200.00	$2,250.00
AERIAL - VERTICAL MAST LIFTS				
400 1220	MAST LIFT 30FT PUSH AROUND OUTR BATT	$170.00	$385.00	$650.00
400 1270	MAST LIFT 12FT DRIVABLE BATT	$115.00	$250.00	$420.00
400 1280	MAST LIFT 15FT-16FT DRIVABLE BATT	$150.00	$285.00	$440.00
400 1290	MAST LIFT 20FT DRIVABLE BATT	$160.00	$295.00	$460.00
AIR COMPRESSORS - DIESEL				
140 1220	COMPRESSOR TOWABLE 100-125 CFM DSL	$100.00	$280.00	$625.00
140 1260	COMPRESSOR TOWABLE 175-195 CFM DSL	$155.00	$340.00	$710.00

A M CONSTRUCTION

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PRINT DATE: Tuesday, April 25, 2023

ASCEND ELEMENTS

AFFECTED REGIONS / BRANCHES

US National (Excluding Hawaii, North Dakota & Greater Permian)

EFFECTIVE DATES: FROM: 04/01/2023 THROUGH: 03/31/2024 **Pricing Schedule #: 19655**

CAT-CLASS		DESCRIPTION	DAY	WEEK	4 WEEK
AIR COMPRESSORS - DIESEL					
140	1360	COMPRESSOR TOWABLE 375-425CFM DSL	$245.00	$485.00	$1,445.00
140	1380	COMPRESSOR TOWABLE 825CFM DSL	$440.00	$1,040.00	$3,290.00
140	1480	COMPRESSOR TOWABLE INS QUAL 1600CFM DSL	$910.00	$2,155.00	$7,120.00
AIR COMPRESSORS - ELECTRIC					
140	1020	COMPRESSOR PORTABLE 4 CFM ELECTRIC	$60.00	$240.00	$520.00
140	1040	COMPRESSOR PORTABLE 7 CFM ELECTRIC	$60.00	$240.00	$520.00
AIR COMPRESSORS - SMALL PORTABLE					
140	1100	COMPRESSOR PORTABLE 14 CFM GAS	$65.00	$265.00	$565.00
CLIMATE CONTROL - DIRECT FIRED					
715	0408	50K-60K BTU RADIANT HEATER DSL	$60.00	$175.00	$390.00
715	0430	150K BTU DIRECT FORCED AIR HEATER LPG/NG	$65.00	$190.00	$395.00
715	0435	150K BTU RADIANT HEATER DSL	$105.00	$285.00	$595.00
715	0450	200K BTU DIRECT FORCED AIR HEATER KERO	$95.00	$230.00	$525.00
715	0460	400K BTU DIRECT FORCED AIR HEATER LPG	$120.00	$320.00	$660.00
715	0470	400K BTU DIRECT FORCED AIR HEATER KERO	$120.00	$320.00	$660.00
715	0550	1.5M BTU DIRECT FORCED AIR HEATER LPG/NG	$275.00	$645.00	$1,655.00
COMPACTION AND PAVING - DOUBLE DRUM					
150	2820	ROLLER RIDE-ON SMOOTH 35IN DBL 1 TON GAS	$210.00	$600.00	$1,625.00
150	2860	ROLLER RIDE-ON SMOOTH 47IN DBL 3 TON DSL	$285.00	$905.00	$2,135.00
COMPACTION AND PAVING - RAMMERS					
150	1080	RAMMER JUMPING JACK 100LB - 199LB GAS	$105.00	$415.00	$900.00
COMPACTION AND PAVING - SINGLE DRUM					
150	2730	ROLLER RIDE-ON SMOOTH 54IN SNG 5 TON	$400.00	$1,120.00	$2,630.00
150	2760	ROLLER RIDE-ON SMOOTH 66IN SNG 8 TON	$515.00	$1,395.00	$3,255.00
150	2770	ROLLER RIDE-ON SMOOTH 84IN SNG 11 TON	$595.00	$1,670.00	$4,045.00
COMPACTION AND PAVING - TRENCH ROLLERS					
150	2260	ROLLER TRENCH VIBRA DBL DRUM 32IN DSL	$335.00	$820.00	$1,590.00
CONCRETE AND MASONRY - BUGGIES					
100	1870	CONCRETE WHEEL POWER BUGGY 16 CU. FT.	$165.00	$440.00	$1,185.00
100	1890	CONCRETE TRACK POWER BUGGY 16 CU. FT.	$205.00	$810.00	$1,750.00
CONCRETE AND MASONRY - CORE DRILLS					
100	1440	CORE DRILL UPTO 6IN HAND HELD/STAND ELEC	$110.00	$410.00	$815.00
100	1470	CORE DRILL UP T0 12IN STAND ELEC	$130.00	$505.00	$1,085.00

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PRINT DATE: Tuesday, April 25, 2023

ASCEND ELEMENTS

AFFECTED REGIONS / BRANCHES

US National (Excluding Hawaii, North Dakota & Greater Permian)

EFFECTIVE DATES: FROM: 04/01/2023 THROUGH: 03/31/2024 **Pricing Schedule #: 19655**

CAT-CLASS	DESCRIPTION	DAY	WEEK	4 WEEK
CONCRETE AND MASONRY - HANDHELD CUTOFF SAWS				
100 2700	CONCRETE CUTOFF SAW 12IN DUSTLES HH ELEC	$75.00	$305.00	$660.00
100 2710	CONCRETE CUTOFF SAW 14IN HAND HELD ELEC	$75.00	$305.00	$660.00
100 2730	CONCRETE CUTOFF SAW 14IN HAND HELD GAS	$90.00	$330.00	$710.00
100 2740	CONCRETE CUTOFF SAW 16IN HAND HELD GAS	$95.00	$370.00	$805.00
100 2780	CONCRETE CUTNBRK SAW 16IN HAND HELD GAS	$90.00	$330.00	$710.00
CONCRETE AND MASONRY - TROWELS				
100 2600	CONCRETE TROWEL MACHINE 36IN W/B GAS	$80.00	$330.00	$805.00
100 2610	CONCRETE TROWEL MACHINE 46IN W/B GAS	$95.00	$365.00	$900.00
CONCRETE AND MASONRY - VIBRATORS				
100 2120	CONCRETE VIBRATOR 2HP ELEC	$70.00	$285.00	$615.00
100 2360	CONCRETE VIBRATOR BACKPACK GAS	$75.00	$305.00	$660.00
CONCRETE AND MASONRY - WALK-BEHIND SAWS				
100 2810	CONCRETE PUSH W/B SAW 10-19 HP GAS	$110.00	$440.00	$945.00
100 2820	CONCRETE SELFPROP W/B SAW 10-19 HP GAS	$135.00	$550.00	$1,180.00
100 2840	CONCRETE SELFPROP W/B SAW 20-29 HP GAS	$165.00	$655.00	$1,420.00
100 2910	CONCRETE SELFPROP W/B SAW 40 - 49 HP DSL	$350.00	$1,090.00	$2,310.00
100 2950	CONCRETE EARLY ENTRY SAW PUSH 1.18IN GAS	$150.00	$590.00	$1,275.00
110 1555	LIGHT CART 400 WATT LED 2-HEAD	$75.00	$160.00	$420.00
CONTRACTOR AND INDUSTRIAL - COLD WATER PRESSURE WASHERS				
105 2020	WASHER 2000-2999 PSI GAS	$95.00	$370.00	$805.00
105 2050	WASHER 3000-3999 PSI GAS	$115.00	$460.00	$990.00
105 2060	WASHER 4000-4999 PSI GAS	$115.00	$460.00	$990.00
105 2070	WASHER 5000-5999 PSI GAS	$170.00	$680.00	$1,465.00
CONTRACTOR AND INDUSTRIAL - ELECTRIC BREAKERS				
100 1250	BREAKER 10-19LB ELEC	$70.00	$265.00	$565.00
100 1260	BREAKER 20-29LB ELEC	$80.00	$305.00	$660.00
100 1270	BREAKER 30-39LB ELEC	$95.00	$370.00	$805.00
100 1300	BREAKER 60-69LB ELEC	$110.00	$440.00	$945.00
100 1320	CART FOR ELECTRIC BREAKER	$70.00	$285.00	$615.00
CONTRACTOR AND INDUSTRIAL - HORIZONTAL DRILLS				
100 1550	DRILL 1/2IN ELEC	$20.00	$90.00	$190.00
CONTRACTOR AND INDUSTRIAL - HOT WATER PRESSURE WASHERS				
105 2515	WASHER 3000-3999 PSI HOT WATER GAS	$215.00	$855.00	$1,845.00
CONTRACTOR AND INDUSTRIAL - LIGHT TOWERS				
510 1030	LIGHT TOWER VERT MAST MAN NARROW BODY	$125.00	$280.00	$580.00

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PRINT DATE: Tuesday, April 25, 2023

ASCEND ELEMENTS

AFFECTED REGIONS / BRANCHES

US National (Excluding Hawaii, North Dakota & Greater Permian)

EFFECTIVE DATES: FROM: 04/01/2023 THROUGH: 03/31/2024 **Pricing Schedule #: 19655**

CAT-CLASS		DESCRIPTION	DAY	WEEK	4 WEEK
CONTRACTOR AND INDUSTRIAL - LIGHT TOWERS					
510	1035	LIGHT TOWER HORIZ MAST MAN NARROW BODY	$125.00	$280.00	$580.00
510	1040	LIGHT TOWER VERT MAST ELEC NARROW BODY	$125.00	$280.00	$580.00
510	1055	LIGHT TOWER VERT MAST LED TRAILER	$180.00	$475.00	$1,090.00
510	1080	LIGHT TOWER MAN MAST 16FT LED CART 120V	$100.00	$245.00	$695.00
510	1082	LIGHT TOWER ELEC MAST 23FT LED CART 120V	$110.00	$275.00	$790.00
510	1160	LIGHT TOWER CUBE VERT MAST LED SKID	$230.00	$575.00	$1,470.00
CONTRACTOR AND INDUSTRIAL - PIPE THREADERS					
125	2300	PIPE THREADER 535 1/8-2 ELEC	$125.00	$460.00	$925.00
125	2310	PIPE THREADER 1224 1/4-4 ELEC	$210.00	$535.00	$1,260.00
125	2320	PIPE THREADER 700 POWER PONY	$75.00	$230.00	$660.00
125	2360	PIPE THREADER 300 1/8-2 ELEC	$125.00	$460.00	$925.00
CONTRACTOR AND INDUSTRIAL - PORTABLE LIGHTS					
110	1550	LIGHT STAND 1-HEAD FLOOD LED	$20.00	$90.00	$190.00
110	1570	LIGHT WOBBLE 36IN LED	$45.00	$175.00	$380.00
110	1577	LIGHT STAND LED 360 DEGREE BATTERY	$20.00	$65.00	$190.00
110	1580	LIGHT BALLOON LAMP 300/575 WATT LED	$85.00	$195.00	$535.00
110	1590	LIGHT BALLOON LAMP 1000 WATT HALIDE	$85.00	$195.00	$535.00
CONTRACTOR AND INDUSTRIAL - STREET SWEEPERS					
105	3000	SWEEPER CONTRUCTION RIDE ON 3 WHEEL	$350.00	$905.00	$1,745.00
105	3020	SWEEPER CONTRUCTION RIDE ON 4 WHEEL CAB	$405.00	$1,000.00	$2,440.00
CONTRACTOR AND INDUSTRIAL - WELDERS					
550	1280	WELDER STATIONARY 250 - 299 AMPS ELEC	$40.00	$95.00	$230.00
550	1300	WELDER STATIONARY 350 - 399 AMPS ELEC	$45.00	$135.00	$330.00
550	1540	WELDER STATIONARY 180 - 189 AMPS GAS	$100.00	$280.00	$625.00
550	1600	WELDER STATIONARY 250 - 299 AMPS GAS	$100.00	$280.00	$625.00
550	1760	WELDER STATIONARY 250 - 299 AMPS LPN	$100.00	$280.00	$625.00
550	1850	WELDER TOWABLE 300 - 349 AMPS DSL	$105.00	$285.00	$645.00
550	1870	WELDER TOWABLE 400 - 449 AMPS DSL	$115.00	$295.00	$695.00
CONTRACTOR AND INDUSTRIAL - WELDING ACCESSORIES					
550	1950	WELDER WIRE FEEDER 120 VOLT ELEC	$65.00	$190.00	$375.00
EARTHMOVING - BACKHOE LOADERS					
210	1200	BACKHOE COMPACT TLB 24-29HP 4WD ROPS DSL	$325.00	$930.00	$2,175.00
EARTHMOVING - EXCAVATORS ATTACHMENTS					
290	5000	MINI-EX ATTACHMENT AUGER MED TORQUE	$95.00	$265.00	$625.00
290	5160	MINI-EX ATTACHMENT BREAKER 391-600 LBS	$220.00	$675.00	$1,270.00

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ASCEND ELEMENTS

AFFECTED REGIONS / BRANCHES

US National (Excluding Hawaii, North Dakota & Greater Permian)

EFFECTIVE DATES: FROM: 04/01/2023 THROUGH: 03/31/2024 **Pricing Schedule #: 19655**

CAT-CLASS		DESCRIPTION	DAY	WEEK	4 WEEK
EARTHMOVING - EXCAVATORS ATTACHMENTS					
290	6700	EXC TLB ATTACH BREAKER 1251-1800 LBS	$345.00	$1,040.00	$1,970.00
EARTHMOVING - MINI EXCAVATORS					
240	1000	MINI-EXCAVATOR 2000-2999 LBS DSL ROPS	$285.00	$850.00	$1,650.00
240	1200	MINI-EXCAVATOR 4000-4999 LBS DSL ROPS	$295.00	$875.00	$1,695.00
240	1300	MINI-EXCAVATOR 5000-6999 LBS DSL ROPS	$295.00	$875.00	$1,695.00
240	1400	MINI-EXCAVATOR 7000-8999 LBS DSL ROPS	$325.00	$925.00	$1,895.00
240	1410	MINI-EXCAVATOR 7000-8999 LBS DSL CAB	$335.00	$960.00	$1,995.00
240	1500	MINI-EXCAVATOR 9000-11999 LBS DSL ROPS	$365.00	$1,040.00	$2,545.00
240	1510	MINI-EXCAVATOR 9000-11999 LBS DSL CAB	$380.00	$1,070.00	$2,595.00
240	1710	MINI-EXCAVATOR 14000-19000 LBS DSL CAB	$565.00	$1,535.00	$3,350.00
EARTHMOVING - MINI-SKIDSTEER TRACK MACHINE ATTACHMENTS					
290	1000	WB LOADER ATTACHMENT AUGER	$55.00	$170.00	$375.00
290	1025	WB LOADER ATTACHMENT BREAKER	$195.00	$560.00	$1,170.00
290	1035	WB LOADER ATTACHMENT BUCKET	$10.00	$35.00	$95.00
EARTHMOVING - SKIDSTEER LOADERS					
200	1350	SKIDSTEER LOADER 1751-2099LB ROPS	$240.00	$690.00	$1,580.00
200	1351	SKIDSTEER LOADER 1751-2099LB CAB	$255.00	$740.00	$1,610.00
200	1360	SKIDSTEER LOADER 2100-2399LB ROPS	$300.00	$830.00	$1,720.00
200	1361	SKIDSTEER LOADER 2100-2399LB CAB	$310.00	$875.00	$1,745.00
200	1370	SKIDSTEER LOADER 2400-2999LB ROPS	$300.00	$830.00	$1,720.00
200	1371	SKIDSTEER LOADER 2400-2999LB CAB	$310.00	$875.00	$1,745.00
EARTHMOVING - TRACK LOADERS					
200	1430	COMPACT TRACK LOADER 1300-1699LB ROPS	$385.00	$985.00	$2,325.00
200	1440	COMPACT TRACK LOADER 1700-1999LB ROPS	$385.00	$985.00	$2,325.00
200	1450	COMPACT TRACK LOADER 2000-2399LB ROPS	$385.00	$985.00	$2,325.00
200	1451	COMPACT TRACK LOADER 2000-2399LB CAB	$395.00	$1,015.00	$2,410.00
200	1460	COMPACT TRACK LOADER 2400-2799LB ROPS	$405.00	$1,050.00	$2,465.00
200	1470	COMPACT TRACK LOADER 2800LB & OVER ROPS	$415.00	$1,150.00	$2,795.00
200	1471	COMPACT TRACK LOADER 2800LB & OVER CAB	$425.00	$1,205.00	$2,895.00
EARTHMOVING - TRACKED MINI SKIDLOADERS					
200	1020	MINI TRACK LOADER W/B < 600LB CAP GAS	$250.00	$710.00	$1,535.00
200	1030	MINI TRACK LOADER W/B < 600LB CAP DSL	$250.00	$710.00	$1,535.00
200	1040	MINI TRACK LOADER W/B > 600LB CAP DSL	$285.00	$765.00	$1,645.00
EARTHMOVING - WALK-BEHIND TRENCHERS					
280	1020	TRENCHER W/B TRACK 24IN GAS	$215.00	$625.00	$1,300.00
280	1040	TRENCHER W/B TRACK 36IN GAS	$215.00	$625.00	$1,300.00

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CAT-CLASS	DESCRIPTION	DAY	WEEK	4 WEEK
EARTHMOVING - WALK-BEHIND TRENCHERS				
280 1060	TRENCHER W/B WHEEL 0IN TO 18IN GAS	$195.00	$530.00	$1,190.00
FLOOR CARE AND SURFACE PREP - CONCRETE GRINDERS				
100 4220	GRINDER CONCRETE FLOOR 1.5 HP DUAL ELEC	$190.00	$765.00	$1,655.00
100 4230	GRINDER CONCRETE FLOOR 1.5HP SINGLE ELEC	$165.00	$655.00	$1,420.00
100 4250	GRINDER CONCRETE FLOOR 11 HP SINGLE GAS	$190.00	$765.00	$1,655.00
100 4260	GRINDER CONCRETE FLOOR 11 HP DUAL GAS	$190.00	$765.00	$1,655.00
FLOOR CARE AND SURFACE PREP - FLOOR STRIPPERS				
100 4000	FLOOR STRIPPER W/B 120LB ELEC	$150.00	$575.00	$1,275.00
100 4020	FLOOR STRIPPER W/B 425LB ELEC	$300.00	$900.00	$2,100.00
100 4025	FLOOR STRIPPER W/B 500LB ELEC	$475.00	$1,425.00	$3,350.00
100 4030	FLOOR STRIPPER RIDE-ON BATTERY 2300LB	$1,000.00	$3,000.00	$6,300.00
LIGHTING - PORTABLE LIGHTS				
110 1575	LIGHT STAND LED 360 DEGREE W/TRIPOD	$15.00	$50.00	$140.00
MATERIAL HANDLING - CHAIN HOISTS				
480 2240	HOIST CHAIN 1-1/2 TON 20-40	$15.00	$35.00	$95.00
480 3400	HOIST CHAIN 3 TON 20-40	$20.00	$50.00	$135.00
480 3040	POWERED HAND CRANE 300 LBS CAP BATT	$60.00	$140.00	$405.00
480 3475	MATERIAL LIFT 450 LBS 12 FT MANUAL	$70.00	$265.00	$525.00
480 3480	MATERIAL LIFT 650 LBS 12 FT MANUAL	$70.00	$265.00	$525.00
480 3540	MATERIAL LIFT 650 LBS 18 FT MANUAL	$75.00	$280.00	$605.00
480 3600	MATERIAL LIFT 650 LBS 24 FT MANUAL	$95.00	$335.00	$715.00
480 3660	MATERIAL LIFT 1100 LBS 15 FT MANUAL	$95.00	$350.00	$750.00
MATERIAL HANDLING - DOLLIES				
480 1060	DOLLY STAIR CLIMBER 1500# CAP	$80.00	$330.00	$710.00
480 1080	ROLALIFT 6000LBS HYD DOLLY	$95.00	$370.00	$805.00
MATERIAL HANDLING - EQUIPMENT ROLLER SYSTEMS				
480 1340	MACHINE ROLLERS 8 TON SET OF 4	$75.00	$230.00	$460.00
MATERIAL HANDLING - TELEHANDLER FORKLIFTS				
460 1010	TELEHANDLER 5500LB 16-20FT LIFT ROPS	$415.00	$1,040.00	$2,050.00
460 1015	TELEHANDLER 5500LB 16-20FT LIFT CAB	$425.00	$1,070.00	$2,100.00
460 1020	TELEHANDLER 6000LB 34-36FT LIFT ROPS	$445.00	$1,090.00	$2,295.00
460 1025	TELEHANDLER 6000LB 34-36FT LIFT CAB	$460.00	$1,150.00	$2,345.00
460 1030	TELEHANDLER 6000LB 42-44FT LIFT ROPS	$445.00	$1,090.00	$2,295.00
460 1035	TELEHANDLER 6000LB 42-44FT LIFT CAB	$460.00	$1,150.00	$2,345.00
460 1040	TELEHANDLER 8000LB 42-44FT LIFT ROPS	$455.00	$1,200.00	$2,495.00

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AFFECTED REGIONS / BRANCHES

US National (Excluding Hawaii, North Dakota & Greater Permian)

EFFECTIVE DATES: FROM: 04/01/2023 THROUGH: 03/31/2024 **Pricing Schedule #: 19655**

CAT-CLASS		DESCRIPTION	DAY	WEEK	4 WEEK
MATERIAL HANDLING - TELEHANDLER FORKLIFTS					
460	1045	TELEHANDLER 8000LB 42-44FT LIFT CAB	$480.00	$1,255.00	$2,595.00
460	1060	TELEHANDLER 10000LB 42-44FT LIFT ROPS	$585.00	$1,590.00	$3,595.00
460	1065	TELEHANDLER 10000LB 42-44FT LIFT CAB	$595.00	$1,635.00	$3,675.00
460	1070	TELEHANDLER 10000LB 50-56FT LIFT ROPS	$585.00	$1,590.00	$3,595.00
460	1075	TELEHANDLER 10000LB 50-56FT LIFT CAB	$595.00	$1,635.00	$3,675.00
460	1080	TELEHANDLER 12000LB 55-56FT LIFT ROPS	$750.00	$2,575.00	$4,575.00
460	1085	TELEHANDLER 12000LB 55-56FT LIFT CAB	$765.00	$2,685.00	$4,675.00
MATERIAL HANDLING - WAREHOUSE FORKLIFT ATTACHMENTS					
490	1000	FORKLIFT ATTACHMENT LIFTING HOOK 10000LB	$55.00	$130.00	$295.00
490	1010	FORKLIFT ATTACHMENT TRUSS BOOM	$65.00	$160.00	$355.00
490	1020	FORKLIFT ATTACHMENT JIB	$65.00	$160.00	$355.00
490	1030	FORKLIFT ATTACHMENT CARPET POLE	$45.00	$105.00	$250.00
490	1215	FORKLIFT ATTACHMENT BIN DUMPER 2YD	$70.00	$170.00	$485.00
MATERIAL HANDLING - WAREHOUSE FORKLIFTS					
450	2020	WAREHOUSE FORKLIFT 3000LB PNEU DF	$255.00	$625.00	$1,320.00
450	2110	WAREHOUSE FORKLIFT 5000LB PNEU DSL	$285.00	$675.00	$1,365.00
450	2120	WAREHOUSE FORKLIFT 5000LB PNEU DF	$255.00	$625.00	$1,320.00
450	2160	WAREHOUSE FORKLIFT 5000LB LOWPRO PNEU DF	$285.00	$675.00	$1,365.00
450	2170	WAREHOUSE FORKLIFT 5000LB 4MAST PNEU DF	$305.00	$710.00	$1,475.00
450	2180	WAREHOUSE FORKLIFT 6000LB PNEU DSL	$295.00	$695.00	$1,425.00
450	2190	WAREHOUSE FORKLIFT 6000LB PNEU DF	$295.00	$695.00	$1,425.00
450	2240	WAREHOUSE FORKLIFT 6000LB 4MAST PNEU DF	$305.00	$710.00	$1,475.00
450	2260	WAREHOUSE FORKLIFT 8000LB PNEU DSL	$340.00	$930.00	$1,890.00
450	2270	WAREHOUSE FORKLIFT 8000LB PNEU DF	$340.00	$930.00	$1,890.00
450	2280	WAREHOUSE FORKLIFT 8000LB PNEU LPG	$340.00	$930.00	$1,890.00
450	2310	WAREHOUSE FORKLIFT 10000LB PNEU DSL	$380.00	$1,070.00	$2,400.00
450	2320	WAREHOUSE FORKLIFT 10000LB PNEU DF	$380.00	$1,070.00	$2,400.00
POWER GENERATION - GENERATORS					
501	1020	20KW GENERATOR DSL	$230.00	$540.00	$1,260.00
501	1040	40KW GENERATOR DSL	$285.00	$655.00	$1,655.00
501	1055	55KW GENERATOR DSL	$350.00	$810.00	$1,970.00
501	1060	55KW GENERATOR SKID MOUNTED DSL	$350.00	$810.00	$1,970.00
501	1100	100KW GENERATOR DSL	$415.00	$1,015.00	$2,845.00
501	1105	100KW GENERATOR SKID MOUNTED DSL	$415.00	$1,015.00	$2,845.00
POWER GENERATION - PORTABLE					
500	1025	2KW SILENT PORTABLE GENERATOR	$60.00	$215.00	$475.00
500	1030	3KW PORTABLE GENERATOR	$70.00	$275.00	$615.00
500	1035	3KW SILENT PORTABLE GENERATOR	$70.00	$275.00	$615.00

A M CONSTRUCTION

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PRINT DATE: Tuesday, April 25, 2023

ASCEND ELEMENTS

AFFECTED REGIONS / BRANCHES

US National (Excluding Hawaii, North Dakota & Greater Permian)

EFFECTIVE DATES: FROM: 04/01/2023 THROUGH: 03/31/2024 **Pricing Schedule #: 19655**

CAT-CLASS		DESCRIPTION	DAY	WEEK	4 WEEK
POWER GENERATION - PORTABLE					
500	1050	5KW PORTABLE GENERATOR	$80.00	$300.00	$660.00
500	1060	6KW PORTABLE GENERATOR	$95.00	$330.00	$755.00
500	1075	7KW SILENT PORTABLE GENERATOR	$115.00	$440.00	$945.00
500	1100	10KW PORTABLE GENERATOR	$140.00	$525.00	$1,175.00
PUMP - TRASH PUMPS					
801	1230	PUMP VAC ASSIST 6IN DSL	$250.00	$650.00	$1,750.00
TRUCKS AND TRAILERS - CRANE TRUCKS					
659	6380	TRUCK CRANE 18 T SINGLE DSL	$750.00	$1,970.00	$5,035.00
TRUCKS AND TRAILERS - DUMP TRUCKS					
659	6110	TRUCK DUMP 3-4 YD GAS	$385.00	$930.00	$2,200.00
659	6120	TRUCK DUMP 3-4 YD DSL	$385.00	$930.00	$2,200.00
659	6130	TRUCK DUMP 3-4 YD CREW 4WD DSL	$385.00	$930.00	$2,200.00
659	6135	TRUCK DUMP 3-4 YD CREW 4WD GAS	$385.00	$930.00	$2,200.00
659	6150	TRUCK DUMP 5-6 YD GAS	$410.00	$1,040.00	$2,630.00
659	6160	TRUCK DUMP 5-6 YD GAS NON CDL	$410.00	$1,040.00	$2,630.00
659	6170	TRUCK DUMP 5-6 YD DSL	$410.00	$1,040.00	$2,630.00
659	6180	TRUCK DUMP 5-6 YD DSL NON CDL	$410.00	$1,040.00	$2,630.00
659	6200	TRUCK DUMP 12-14 YD MANUAL DSL	$655.00	$2,190.00	$5,145.00
659	6210	TRUCK DUMP 12-14 YD AUTO DSL	$655.00	$2,190.00	$5,145.00
TRUCKS AND TRAILERS - PICK-UP TRUCKS					
659	5000	TRUCK PICKUP COMPACT	$105.00	$420.00	$1,300.00
659	5010	TRUCK PICKUP 1/2 T STD 4WD GAS	$125.00	$480.00	$1,315.00
659	5020	TRUCK PICKUP 1/2 T STD 2WD GAS	$125.00	$480.00	$1,315.00
659	5030	TRUCK PICKUP 1/2 T SUP 4WD GAS	$125.00	$480.00	$1,315.00
659	5040	TRUCK PICKUP 1/2 T SUP 2WD GAS	$125.00	$480.00	$1,315.00
659	5050	TRUCK PICKUP 1/2 T CREW 4WD GAS	$135.00	$515.00	$1,445.00
TRUCKS AND TRAILERS - STAKE BODY TRUCKS					
659	5630	TRUCK STKBD 12 FT 1-1/2-2 T STD 4WD GAS	$275.00	$880.00	$2,400.00
659	5640	TRUCK STKBD 12 FT 1-1/2-2 T STD 4WD DSL	$275.00	$880.00	$2,400.00
659	5650	TRUCK STKBD 12 FT 1-1/2-2 T STD 2WD GAS	$275.00	$880.00	$2,400.00
659	5725	TRUCK STKBD 12 FT 1-1/2-2 T CREW 4WD GAS	$330.00	$1,055.00	$2,500.00
659	5730	TRUCK STKBD 12 FT 1-1/2-2 T CREW 4WD DSL	$330.00	$1,055.00	$2,500.00
659	5790	TRUCK STKBD 22 FT 2-1/2-3 T STD 2WD GAS	$395.00	$1,260.00	$3,400.00
659	5800	TRUCK STKBD 22 FT 2-1/2-3 T STD 2WD DSL	$395.00	$1,260.00	$3,400.00
TRUCKS AND TRAILERS - UTILITY & CONTRACTOR TRUCKS					
659	5888	TRUCK UTLTY 3/4 T CREW 4WD GAS	$400.00	$985.00	$2,600.00

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PRINT DATE: Tuesday, April 25, 2023

ASCEND ELEMENTS

AFFECTED REGIONS / BRANCHES

US National (Excluding Hawaii, North Dakota & Greater Permian)

EFFECTIVE DATES: FROM: 04/01/2023 THROUGH: 03/31/2024 **Pricing Schedule #: 19655**

CAT-CLASS		DESCRIPTION	DAY	WEEK	4 WEEK
TRUCKS AND TRAILERS - UTILITY & CONTRACTOR TRUCKS					
659	5925	TRUCK UTLTY 1 T CREW 4WD GAS	$400.00	$985.00	$2,600.00
TRUCKS AND TRAILERS - WATER TRAILERS					
610	2420	TRAILER WATER 500 GALLON	$135.00	$385.00	$760.00
TRUCKS AND TRAILERS - WATER TRUCKS					
659	6030	TRUCK WATER 2000 GALLON GAS	$515.00	$1,265.00	$3,000.00
659	6040	TRUCK WATER 2000 GALLON DSL	$515.00	$1,265.00	$3,000.00
659	6050	TRUCK WATER 4000 GALLON DSL	$630.00	$1,805.00	$4,750.00
BULK & MISCELLANEOUS					
912	4536	WELDING CABLE W/ GROUND CLAMP 2/0X50	$16.00	$34.00	$60.00
912	4545	WELDING CABLE W/ ROD HOLDER 2/0X50	$16.00	$34.00	$60.00
925	1734	AIR HOSE ASSY 3/4X50 CRWFT CPLNG	$8.00	$24.00	$65.00
930	6080	SET OF PALLET FORKS F/BUCKETS	$43.00	$100.00	$180.00
930	6166	SKIDSTEER FRAME & FORK SET 48 CL2	$47.00	$118.00	$235.00

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PRINT DATE: Tuesday, April 25, 2023

ASCEND ELEMENTS

AFFECTED REGIONS / BRANCHES
US National (Excluding Hawaii, North Dakota & Greater Permian)

EFFECTIVE DATES: FROM: 04/01/2023 THROUGH: 03/31/2024 **Pricing Schedule #: 19655**

CAT-CLASS DESCRIPTION	DAY	WEEK	4 WEEK
BA			

ADDITIONAL INFORMATION / TERMS:

BILLING: 28 DAY

DELIVERY: $135 Each way within 25 miles for towable and rollback deliveries
$176 Each way within 25 miles for semi-truck deliveries
$2.00/mile after 25 miles.

Oversized loads are negotiated locally.

OUTSIDE HAULING AND AFTER HOURS DELIVERY ARE NEGOTIATED LOCALLY. TOLLS AND PERMITS ARE NOT INCLUDED.

FUEL: $7.50 PER GALLON

ADDITIONAL INFO: Customer to be exempt from Transportation Surcharge.

CUSTOMER NUMBERS

CUSTOMER NAME	CUSTOMER NUMBER
AM CONSTRUCTION	2866135

A M CONSTRUCTION

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PRINT DATE: Tuesday, April 25, 2023

ASCEND ELEMENTS

Exhibit D
SAFETY AND HEALTH REQUIREMENTS

Refer to Ascend Elements Safety Manual issued April 24, 2023 as may be upgraded and/or modified during the course of work executed by Contractor. All contractors and subcontractors shall comply with all guidelines established in Exhibit D during the course of Work.

ASCEND ELEMENTS

*A*SCEND ELEMENTS CONSTRUCTION QUALITY

Issued April 24, 2023

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Tests and Inspections

Contractor shall give Ascend Elements timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.

Ascend Elements shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:

- for inspections, tests, or approvals covered by this Exhibit below;
- that costs incurred in connection with tests or inspections conducted pursuant to This Exhibit shall be paid as provided in This Exhibit; and
- as otherwise specifically provided in the Contract Documents.

If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection, and furnish Ascend Elements the required certificates of inspection or approval.

Contractor shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Ascend Elements' and Ascend Elements' acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Ascend Elements.

General Conditions

If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Ascend Elements, Contractor shall, if requested by Ascend Elements, uncover such Work for observation.

Uncovering Work: Uncovering Work as provided in This Exhibit shall be at Contractor's expense unless Contractor has given Ascend Elements timely notice of Contractor's intention to cover the same and Ascend Elements has not acted with reasonable promptness in response to such notice.

If any Work is covered contrary to the written request of Ascend Elements, it must, if requested by Ascend Elements, be uncovered for Ascend Elements' observation and replaced at Contractor's expense.

If Ascend Elements considers it necessary or advisable that covered Work be observed by Ascend Elements or inspected or tested by others, Contractor, at Ascend Elements' request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Ascend Elements may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment.

If it is found that the uncovered Work is defective, Contractor shall pay all costs and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others). If the uncovered Work is not found to be defective, Contractor shall be allowed through Field Work Order to an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction.

Correction or Removal of Defective Work: If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, Ascend Elements may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Ascend Elements to stop the Work shall not give rise to any duty on the part of Ascend Elements to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

Promptly after receipt of written notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Ascend Elements, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all costs arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

When correcting defective Work under the terms of this This Exhibit, Contractor shall take no action that would void or otherwise impair Ascend Elements' special warranty and guarantee, if any, on said Work.

Correction Period: If within one year after the date of Substantial Completion any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Ascend Elements or permitted by Laws and Regulations is found to be defective, Contractor shall promptly, without cost to Ascend Elements and in accordance with Ascend Elements' written instructions:

- repair such defective land or areas; or
- correct such defective Work; or
- if the defective Work has been rejected by Ascend Elements, remove it from the Project and replace it with Work that is not defective, and
- satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.

If Contractor does not promptly comply with the terms of Ascend Elements' written instructions, or in an emergency where delay would cause serious risk of loss or damage, Ascend Elements may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All costs arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.
In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.

Contractor's obligations under this This Exhibit are in addition to any other obligation or warranty. The provisions of this Exhibit shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

Acceptance of Defective Work: If, instead of requiring correction or removal and replacement of defective Work, Ascend Elements prefers to accept it, Ascend Elements may do so. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of Ascend Elements' architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to Ascend Elements' evaluation of and determination to accept such defective Work and for the diminished value of the Work to the extent not otherwise paid by Contractor pursuant to this sentence. If any such acceptance occurs prior to Ascend Elements' final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and Ascend Elements shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, Ascend Elements may make a Claim therefore. If the acceptance occurs after such final payment, an appropriate amount will be paid by Contractor to Ascend Elements.

Ascend Elements May Correct Defective Work: If Contractor fails within a reasonable time after written notice from Ascend Elements to correct defective Work, or to remove and replace rejected Work as required by Ascend Elements in accordance with this Exhibit, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Ascend Elements may, after three (3) days written notice to Contractor, correct, or remedy any such deficiency.
In exercising the rights and remedies under this This Exhibit, Ascend Elements shall proceed expeditiously. In connection with such corrective or remedial action, Ascend Elements may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which Ascend Elements has paid Contractor but which are stored elsewhere. Contractor shall allow Ascend Elements, agents and employees, Ascend Elements' other contractors, and Ascend Elements' consultants access to the Site to enable Ascend Elements to exercise the rights and remedies under This Exhibit.
All costs incurred or sustained by Ascend Elements in exercising the rights and remedies under this This Exhibit will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Ascend Elements shall be entitled to an appropriate decrease in the Contract Price.
Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Ascend Elements of Ascend Elements' rights and remedies under this Exhibit.

EXHIBIT B

MASTER AGREEMENT CONSTRUCTION SERVICES

AGREEMENT between **Ascend Elements Inc** ("Owner") and **AmCon Industrial** ("Contractor") dated as of **March 12, 2024**("Master Agreement Effective Date").

1. SCOPE OF WORK, GENERALLY

1.1. "Work" Generally

1.1.1. The "Work" included in the Master Agreement consists, generally, of the construction, installation, and related services required by the Master Agreement, whether completed or partly completed, and includes provision of all project management, supervision, scheduling, coordination, quality control, labor, materials, equipment, tools, and other services and things required to properly complete the Work, as outlined in previous work orders and the individual project documents Exhibit A associated with each scope of work to be performed, in accordance with the Master Agreement Documents. Subject only to the express exceptions stated in **Exhibit A**, the Work will also include providing all temporary services and utilities, and obtaining governmental approvals and permits required for the Work. The Work will be carried out as part of the Owner's overall projects to complete the Facility identified in **Exhibit A**. This description is a general summary only, and is supplemented and qualified by the remaining provisions of the Master Agreement Documents. Existing Open Work Orders, listed below shall be subject to this Master Agreement , but will not require any Work Order revision under the new Exhibit A format. In the event f any conflict between any previous agreement and this Agreement, the terms and conditions of this Agreement shall prevail.

Existing Open Work Orders

WO 1 – Lithium Extraction
WO 2 – Wet Shredding Line
WO 3 – Wastewater Treatment
WO 4 – Rental Equipment
WO 7 – General Facilities
WO 8 – Management Personnel
WO 14 – pCAM Design/Build

All work performed under time and materials shall be subject to the rates set forth in Exhibit P, attached hereto.

1.1.2. The Contractor will obtain and maintain any contractor's or other licenses that may be required in the state in which the Facility is located. To the extent required by applicable Laws, the Contractor shall also obtain all permits and other governmental authorizations necessary for its Work, except those permits or authorizations which **Exhibit A** states will be obtained by others. The Contractor shall not begin Work without all legally required licenses, permits, and governmental authorizations. The "Laws" are all applicable laws, codes, regulations, ordinances, and statutory requirements of any governmental authority having jurisdiction over the Work of the Facility, including, without limitation, those laws relating to building design, construction, use or occupancy,

Contractor: _____
Owner: _____

payment of subcontractors or suppliers, employees, health and safety, and protection of the environment.

1.1.3. The Contractor shall use its best skill and attention to complete the Work so that it is in strict accordance with the requirements of the Master Agreement.

1.1.4. The Work shall be carried out in a good and workmanlike manner, in accordance with sound modern practices of the applicable trades. At the Owner's request or as required by the Master agreement Documents, the Contractor shall deliver to the Owner reasonable evidence of the kind and quality of materials incorporated into the Work.

1.1.5. If the detailed design of any portion of the Work is to be provided by the Contractor to meet performance and other specifications stated in the Master Agreement Documents, the Contractor shall have the detailed design prepared and sealed by a qualified Professional Engineer licensed in the state in which the Facility is located, unless the parties have agreed otherwise, in writing. The Engineer and/or Owner will review Submittals with respect to Work designed by the Contractor only to ascertain that the requirements of this Subparagraph have been met and for overall compliance with the Master Agreement Documents. (The "Engineer" is the design professional for the project, identified in **Exhibit A**. The term "Submittal" is defined in Subparagraph 1.6.1. Such a review will not include detailed checking of the design details or calculations, and will be for the sole benefit of the Owner. The Contractor and its design professional will remain responsible for the design's compliance with the Contract requirements.

Commented [CP1]: What if contractor is not internally providing design or hiring the design team. As it stands on this project, SSOE is Engineer of record, who is contracted directly by Ascend. AMCON has no control or liability to their design contractually.

Commented [JB2R1]: This only applies when the AE is subcontracted through you.

1.2. "Master Agreement" and "Master Agreement Documents" Defined

The Master Agreement consists of the following "Master Agreement Documents" only: this Agreement, its Exhibits, the Drawings, Technical Specifications (performance and/or prescriptive), any other identified Master Agreement Documents listed in **Exhibit A**, and such additional documents as are incorporated by reference into the listed Master Agreement Documents. The term "Master Agreement" means the parties' complete and integrated agreement, as expressed by the Master Agreement Documents. The Master Agreement supersedes any prior or contemporaneous agreements, negotiations, discussions, or understandings. Master Agreement Documents within the Exhibits will also serve as Individual Project Scope of work Documents.

1.3. Interpretation/Order of Precedence

Change Directives and Change Orders take precedence over the documents that have been issued to modify. To the extent reasonably possible, all of the other Master Agreement Documents shall be read to be complementary, and to constitute a single, consistent agreement. If there is a conflict among the provisions, the Master Agreement Documents will be given the following order of precedence: (1) the Master Agreement, (2) the Owner's performance-based Technical Specifications or requirements identified in **Exhibit A**, (3) other Technical Specifications and the Drawings and other requirements listed in **Exhibit A**, (4) the remaining Exhibits, and (5) other Master Agreement Documents. In executing the Master Agreement, the Contractor represents that it has carefully examined the Master Agreement Documents and has confirmed that any prescriptive Technical Specifications are consistent with the performance-based Technical Specifications in accordance with which the Contractor will provide detailed design on an individual project basis.

Contractor: _____
Owner: _____

1.4. Pre-Project Site Examination/Review of Site-Related Documents

By entering into the Project Scope of work (SOW) Forms on an individual project basis, the Contractor represents that it has conducted a thorough visual examination of the Facility site to ascertain its nature and location and other conditions relevant to the Project SOW Work, including, without limitation, topographical features, water on or near the Facility site, roads, the size and shape of the Facility site and its ability to accommodate the various trades and any required storage, features affecting transportation, vegetation or physical barriers, rocks, rubble, existing structures or impediments to construction, and as-built conditions. The Contractor further represents that it has carefully examined any Facility site-related geotechnical, as-built, or other information made available by the Owner.

1.5. Staffing; Key Personnel

1.5.1. The Contractor shall devote as many people and man hours to the Work as are needed to meet its obligations under the on the Individual Project SOW, including the obligation to complete the Work within the Individual Project SOW Times specified in **Exhibit A**. The Work shall be performed under the direct supervision of a qualified and experienced superintendent approved by the Owner. The Contractor's superintendent (or a designated substitute, during times when the superintendent is ill or on vacation) shall be present on the Project Site at all times when Work is in progress there, until Substantial Completion has been achieved, and thereafter shall devote a sufficient amount of his or her time to the Work to assure that Final Completion is achieved within the allowed time.

1.5.2. If the Owner requires that other identified Key Persons be assigned to the Work for specified tasks or periods during the Individual Project SOW term, then such Key Persons are reflected in **Exhibit L** and the Contractor shall provide the listed Key Persons for the tasks or periods indicated in the Exhibit.

1.5.3. Neither the superintendent nor any Key Persons may be replaced during the Individual Project SOW term, except if they become unavailable due to death, illness, resignation, dismissal, or personal circumstances that do not reasonably permit them to continue on the Project. If the superintendent or any Key Person must be replaced during the Individual Project SOW term for these reasons, the Contractor will promptly notify the Owner, in writing, and propose a properly qualified substitute for the Owner's approval, which will not be unreasonably withheld. The waiver of consequential damages in Paragraph 12.4 does NOT apply to consequential or incidental damages arising from failure to retain the superintendent on the Project, for reasons other than those specified in this Subparagraph or failure to promptly provide a suitable substitute when the originally designated superintendent becomes unavailable; the Owner retains its rights to seek consequential or incidental damages for such a breach.

1.5.4. If the Owner notifies the Contractor, in writing, that it is dissatisfied with the performance of any of the Contractor's personnel, the Contractor shall replace the person(s) to whom objection has been made within seven (7) days of the written notice. However, removal of the superintendent or other Key Persons will be required only for reasonable cause, which the Owner shall identify, in writing.

1.5.5. The Contractor shall employ in the Work only those employees and subcontractors who will work together in harmony and who will cooperate with one another and the Contractor in the Work.

1.5.6. The Contractor shall enforce strict discipline, good order, and harmony among its employees and its subcontractors. The Contractor shall promptly remove from the Work any employee or subcontractor who violates the Laws or the Owner's policies stated in **Exhibit I, J, and K**, or who otherwise is unfit or has behaved inappropriately. The Contractor shall comply promptly with any request by the Owner to remove an unsuitable person from the Facility site.

1.6. Submittals

1.6.1. "Submittals" are shop drawings, samples, product data, and similar submittals. The Contractor shall prepare, or cause its subcontractors to prepare, and shall submit to the Owner (or at the Owner's direction to the Engineer) for review, all Submittals required by the Individual Project SOW Documents. The data shown in Submittals shall be complete as to quantities, dimensions, specified performance and design criteria, materials and similar data to show the materials and equipment the Contractor proposes to use and to indicate precisely the Work to be performed. The Submittals shall provide for the proper construction and functioning of all components or systems. Samples shall be identified clearly as to materials, supplies, pertinent data such as catalogue numbers, and the use for which the material is intended, and shall conform to the requirements of the Individual Project SOW Documents.

1.6.2. The Contractor shall carefully review all Submittals before delivering them to the Owner or Engineer. By providing Submittals to the Owner or Engineer, the Contractor certifies that (1) the Submittals are complete, (2) the Submittals comply with all Individual Project SOW requirements, and (3) the Contractor has verified materials, field measurements and field construction information related to the Submittals.

1.6.3. Submittals shall be reviewed, approved, and submitted to the Owner or Engineer at the times and in the sequence required by the Individual Project SOW Schedule. Except to the extent that the Owner agrees otherwise, in writing, the Individual Project SOW Schedule will allow the Owner and/or the Engineer at least fourteen (14) days within which to review and act on the Submittals.

1.6.4. The Contractor shall not perform any portion of the Work as to which Submittals are required without first obtaining the Owner's or Engineer's approval of the relevant Submittals. All Work subject to Submittal requirements shall be performed strictly in accordance with the approved Submittals.

1.6.5. The Owner's or Engineer's approval of a Submittal that fails to comply with the requirements of the Individual Project SOW will not authorize the Contractor to depart from the Individual Project SOW. In order to avoid confusion, the Contractor must specifically inform the Owner or Engineer of any Submittal that departs from Individual Project SOW requirements at the time of submittal, so that consideration may be given as to whether any proposed alternates or variations should be permitted. However, delays that arise from Submittals that depart from the

Individual Project SOW, proposed claimed "equals" or alternates, or Submittals that seek relief from Contract requirements, are not Excusable Delays.

1.6.6. Subcontractors in the mechanical and electrical trades shall prepare composite shop drawings. If the Individual Project SOW Documents create conflicts in the Work required of these trades, the Contractor shall request the Engineer's assistance as appropriate. The Contractor shall not be entitled to an increase in the Individual Project SOW Price due to any such conflict unless the conflict is brought to the Owner's attention before the affected Work is installed, and the Contractor provides reasonable evidence that the conflict has increased or will, despite prompt notice, increase the Contractor's costs. Conflicts or inefficiencies that arise due to the Contractor's failure to carefully manage and coordinate the orderly installation of Work by the subcontractors will not entitle the Contractor to either an extension of time or additional compensation.

1.7. Responsibility for Work/Means and Methods

The Contractor is fully responsible to the Owner for the acts and omissions of his employees, agents, suppliers, subcontractors, and their agents and employees. The Contractor is responsible for all construction means, methods, techniques, sequences and procedures and for proper coordination of all construction and installation required to complete the Work.

1.8. Field Measurements

The Contractor shall take field measurements and verify field conditions and carefully compare the resulting information with information provided by the Individual Project SOW before beginning Work. The Contractor shall report to the Owner, promptly and in writing, any discrepancies between its field observations and measurements and the measurements or conditions indicated in the Individual Project SOW Documents. If the Contractor proceeds with affected Work before reporting such discrepancies, the Owner will not be liable to the Contractor for any added costs the Contractor incurs, and any resulting delay will be Inexcusable Delay.

1.9. Cutting and Patching

The Contractor is responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. The Contractor shall not damage or undermine any portion of the Work, the work of Separate Contractors, or the Owner's property on the Project Site, by cutting, patching, or altering the construction, or by excavating or blasting. The Contractor may not cut or modify construction by Separate Contractors or others without first obtaining the written consent of the Owner. The Contractor shall not unreasonably withhold its consent to cutting or altering of its Work to accommodate the work of other contractors. See Subparagraph 2.2 for the definition of Separate Contractors. In the event contractor's work is cut or altered by separate contractor, warranty and liability of that section and any connecting sections transfers to contractor that altered the work.

1.10. Testing, Inspections and Approvals

1.10.1. Testing, inspections, and approvals of portions of the Work required by the Individual Project SOW or by the applicable legal requirements shall be made at an appropriate time. Unless specified otherwise in the technical specifications or elsewhere in the Individual Project SOW

Documents, the Contractor will make arrangements for required tests, inspections and approvals to be carried out by an independent testing laboratory or third-party inspector or testing agency acceptable to the Owner, or by the appropriate public authority, and the Owner will pay all related costs directly to the inspector or testing agency, without mark-up by the Contractor. The Contractor will make arrangements with the inspector or testing agency to invoice the Owner directly to avoid delay in processing payments. The Contractor shall give the Owner and Engineer timely notice when portions of the Work subject to testing or inspection are ready for sampling, testing or inspection so that they may have representatives present, if they wish.

1.10.2. If the Owner or Engineer doubts that the Work is in accordance with the Individual Project SOW, either of them may require additional testing or inspection, at their expense. The Contractor shall furnish for such testing samples of all materials and component parts of the Work the Engineer or Owner may require. All such inspection or testing shall be done in a timely manner so as to avoid unnecessary delay in the completion of the Work.

1.10.3. Any Work done without proper inspection or testing as required by the Individual Project SOW is subject to rejection. If any Work is covered up before the required inspection or testing, it must be uncovered for inspection and testing and properly restored as provided for in Subparagraph 1.10.4.

1.10.4. When the Owner or Engineer directs, the Contractor shall uncover any portion of the Work that has been covered, to permit observation, inspection or testing, and after testing or inspection, the Contractor shall restore the Work to a condition that complies with the Individual Project SOW. If the Work was covered contrary to the requirements of applicable Laws, the Individual Project SOW, or the Engineer or Owner's timely request, the uncovering and recovering shall be carried out at the Contractor's own cost, without reimbursement by the Owner or adjustment to the Individual Project SOW Price, whether or not the Work proves to be in accordance with the Individual Project SOW. In all other cases, if the Work uncovered was in accordance with the Individual Project SOW, the Owner will reimburse the Contractor for the reasonably documented cost of uncovering and recovering plus 10%, and if the Work uncovered was not in accordance with the Individual Project SOW, the Contractor shall bear that cost, without reimbursement by the Owner or increase to the Individual Project SOW t Price.

1.11. Storage of Material

The Contractor shall provide for safe and clean storage of materials and construction equipment acquired for installation in the Work in such manner, only at such places on the Project Site as are designated by the Owner. The Contractor shall not store materials on the Project Site in a location or manner that would damage any structure or otherwise affect the integrity or safety of the Project Site. The Contractor shall take reasonable measures to protect the Work and stored materials from damage.

1.12. Limitations on Use of/Access to Project Site

Any limitations on the hours during which Work can be carried out, or other limitations on access to and use of the Project Site are stated in **Exhibit A**, and the Contractor acknowledges it has taken these limitations into account in entering in the Individual Project SOW and will abide by them.

1.13. Housekeeping/Clean-Up

The Contractor shall keep the Facility site and surrounding areas free from undue accumulation of waste materials or rubbish caused by the Work that would create unsafe or unsanitary conditions or fire hazards, attract vermin, or violate any Laws. At the completion of the Work, the Contractor shall remove from the Facility site all waste materials, rubbish, the Contractor's and subcontractors' tools, equipment, signs, and surplus materials. If additional requirements apply, they are stated in **Exhibit A** to the Agreement.

1.14. Record Documents/As-Built Documentation

The Contractor shall maintain at the Facility site one record copy of all Construction Documents, Change Orders, and permitted field modifications to those documents, in good order and currently marked up to show all changes made during the performance of the Work. The Contractor shall keep these record documents, and all Submittals, readily available for the Owner's and Engineer's reference or inspection at all times and shall deliver them to the Owner as a condition of Final Completion

1.15. SAFETY, PROTECTION OF PERSONS AND PROPERTY Compliance With Laws

1.15.1. The Contractor shall comply with OSHA and all other local, state, or federal safety and health requirements to the extent that they apply to the Work. In accordance with state or federal requirements or both, the Contractor shall formulate and implement its own safety program to promote safe and orderly prosecution of the Work. The rules shall provide for frequent and regular inspection of the Facility site, materials and equipment by competent persons designated by the Contractor. "Competent persons" means those capable of identifying existing and predictable hazards and who have the authority to take prompt corrective measures to eliminate them. The Contractor shall provide the Owner with satisfactory evidence that the required Safety Program has been formulated and put in place before beginning Work on the Facility site. The Owner's receipt of such evidence without objection will not relieve the Contractor from its responsibility for carrying out the Work safely and in accordance with applicable Laws relating to health, safety, and protection of the environment.

1.15.2. The Contractor shall provide and maintain any safety devices or measures that are required by applicable Laws, or by conditions on the Facility site, to protect persons and property on the Facility site, including, as examples only, safety nets, barricades, fire prevention equipment, and appropriate signs.

1.16. Compliance with Owner's Rules and Regulations

The Contractor shall also comply with the requirements of **Exhibit I, J, and K** and any safety directions or rules reasonably issued by the Owner to prevent injury or assure compliance with applicable law.

1.17. Protection Against Property Loss or Damage

The Contractor shall:

1.17.1. Properly store and protect equipment and materials delivered but not yet installed from damage by the elements or by persons at the Facility site, and from theft;

1.17.2. Protect Work already completed from damage until Substantial Completion;

1.17.3. Avoid loading any part of the Work so as to damage the Work;

1.17.4. Ensure that neither the Contractor, any of its subcontractors at any tier, nor any material or equipment supplier damages the Owner's property at the Facility site; and

1.17.5. Take all reasonable measures to monitor the activities of employees and subcontractors while they are on the Facility site, to prevent property loss or damage, to theft, vandalism, or unexplained disappearance.

1.18. Reports of Accidents

The Contractor shall immediately notify the Owner by telephone or messenger of any accident resulting in death or personal injury or material property damage, providing as complete a description of the accident and its consequences as it reasonably can at the time. The Contractor shall promptly supplement its initial notice, in writing, providing all relevant details of the accident, the nature and extent of any injuries or property damage, the names of all witnesses and other persons having knowledge of the circumstances of the accident, and any other details that the Owner or its insurers may require. The Contractor shall cooperate fully with the Owner and the Owner's insurers in dealing with any claims resulting from an accident. The Contractor shall create and maintain a complete accident file in such form and containing such information as the Owner or applicable Laws may require for the longest of the following: (a) three years from Final Completion, (b) until all disputes arising from any Work-related accident have been finally resolved, or (c) the period required by the Laws.

1.19. Emergencies

If an emergency threatening health, life or property arises, the Contractor shall immediately, and without awaiting direction from the Owner: (a) take all actions necessary to save lives and protect persons from injury, and (b) after averting injury to persons, take reasonable actions to safeguard property from damage or loss. The Contractor shall notify the Owner of any such emergency as promptly as is practicable under the circumstances, initially by telephone or messenger, and in writing promptly afterward.

1.20. Hazardous Materials

1.20.1. A "Hazardous Material" is any substance defined by applicable state or federal Laws as hazardous to health and regulated as such, including, without limitation, PCBs and asbestos. The Contractor shall not bring or release onto the Facility site, or use in the Work, any Hazardous Material, unless expressly authorized to do so in a writing signed by the Owner. If the Contractor, its subcontractors, or their employees, or agents cause any Hazardous Material to be released onto the Facility site, bring any Hazardous Material onto the Facility site without written authorization, or handle any authorized Hazardous Material in a negligent manner so that it is dispersed, spilled, or otherwise released on the Facility site or in other areas, the Contractor shall defend, indemnify and hold harmless the Owner, the Engineer, the Separate Contractors, and their respective

directors, officers, employees, and agents from all resulting Losses, including, without limitation, any Losses arising from penalties, fines, regulatory or environmental violations, or orders to clean up the Hazardous Materials. "Losses" are claims, damages, regulatory and other fines assessed by any governmental entity, losses, expenses, liabilities, causes of action, costs, and expenses, including, without limitation, reasonable attorneys' and consultants' fees.

1.20.2. Bringing or releasing Hazardous Materials onto the Facility site without authorization, or handling them negligently, is a material breach of the Master Agreement, justifying termination for default. The indemnity in this Paragraph is in addition to indemnities required by other provisions of the Master Agreement Documents. Delays due to the Contractor's breach of its duties under Subparagraph 1.6.2 are Inexcusable Delays.

1.20.3. If the Contractor discovers Hazardous Materials on the Facility site, the Contractor shall report its discovery to the Owner at once, stop Work in the affected area, and not resume Work in the area until the Owner has notified the Contractor, in writing, that the material has been determined not to be hazardous or has been removed or rendered non-hazardous. If the discovery of Hazardous Materials on the Facility site causes delay or additional cost to the Contractor, the Contractor may seek modifications in the Individual Project SOW Price in accordance with Article 6 of the Agreement, and/or changes to the Individual Project SOW Time(s) in accordance with Article 5. Furthermore, if the Contractor has complied with the provisions of this Subparagraph, the Owner shall defend and indemnify the Contractor against all Losses arising from the presence of such Hazardous Materials on the Facility site.

2. OWNER-SUPPLIED MATERIALS OR SERVICES/SEPARATE CONTRACTORS

2.1. Owner-Supplied Materials or Services

If **Exhibit B** reflects that the Owner will supply any materials, temporary facilities or utilities, or other services for the Contractor's use in completing the Work ("Owner-Supplied Items"), the Owner-Supplied Items will be supplied by the dates specified in **Exhibit A**. If the Owner fails to deliver any Owner-Supplied Item within the agreed times and this failure causes a delay on the critical path for completion of the Work, the delay is Excusable Delay and the Contractor is entitled to an extension of time subject to the provisions of Article 5. The Contractor shall conduct a careful visual inspection of any equipment, materials, tools, or utility connections provided as Owner-Supplied Items, and notify the Owner, in writing, if they are damaged or in any respect not in conformity with the Contract requirements. Unless the Contractor notifies the Owner of any such damage or defect within five (5) days of delivery of the items, the Contractor will be deemed to have accepted the items as free from non-conformities reasonably discoverable by visual inspection.

2.2. Separate Contractors

2.2.1. The Owner has the right to hire other contractors, under separate contracts, to perform work outside the scope of Individual Project SOW for completion of the overall Facility ("Separate Contractors"), and to have those Separate Contractors present at and working on or adjacent to the Facility site while the Contractor is also working on the Facility site. In agreeing to the Individual Project SOW Times, the Contractor has taken into account such information about Separate Contractors and coordination and sequencing requirements as is included in **Exhibit B**.

2.2.2. The Contractor shall cooperate reasonably and in good faith with the Owner to properly coordinate its Work with the work of the Separate Contractors. This cooperation will include, without limitation, (1) adhering strictly to the Individual Project SOW requirements in developing the initial Individual Project SOW Schedule and in updating the Individual Project SOW Schedule, (2) notifying the Owner's Project Manager (identified in **Exhibit H**) of any actual or anticipated delays or disruptions to the Contractor's Work due to the activities of any Separate Contractor in accordance with Subparagraph 5.4.3 and Paragraph 5.6, to allow the Owner's Project Manager to act to prevent or mitigate the delays or disruptions, (3) attending and participating reasonably and in good faith in all meetings with the Separate Contractors that the Project Manager may reasonably schedule, and (4) actively working with the Owner's Project Manager and Separate Contractors to anticipate and avoid conflicts between the Contractor's Work and the work of the Separate Contractors.

2.2.3. The Contractor will cooperate reasonably, diligently, and in good faith with the Owner's Project Manager and the Separate Contractors to promote proper coordination of its Work with that of the Separate Contractors, and thus to avoid defects in the Facility as a whole. If any part of the Contractor's Work that depends or connects with work of Separate Contractors, the Contractor will not proceed with its dependent or connecting Work until Owner is notified and approves the work. as being free from reasonably discoverable deficiencies that would adversely affect the Contractor's Work. See also Paragraph 1.9.

2.2.4. If the Contractor fails to comply with the provisions of Subparagraph 2.2.1 through 2.2.3, and its Work is delayed or disrupted as a result, the delay is Inexcusable Delay. Further, the parties expressly agree that, to the extent that the Contractor's failure to comply with Subparagraphs 2.2.1 through 2.2.3, to carry out the Work in accordance with the Individual Project SOW Schedule, or to complete the Work within the Individual Project SOW Times causes delay or disruption to the work of Separate Contractors, the Contractor will be liable to the Owner for the resulting added costs. Such costs are not regarded by the parties as consequential, but direct, and are not waived by the waiver of consequential damages in Paragraph 12.4. To the extent that the Separate Contractor's failure to comply with Subparagraphs 2.2.1 through 2.2.3, to carry out the Work in accordance with the Individual Project SOW Schedule, or to complete the Work within the Individual Project SOW Times causes delay or disruption to the work of Contractors, the Contractor will not be liable to the Owner for the resulting added costs. Remedy of compensation or time delay by Separate Contractor to the Owner and Contractor will be regarded by the parties as consequential, and are not waived by the waiver of consequential damages in Paragraph 12.4

3. Individual Project SOW and/or Master Agreement **PRICE**

3.1. Amount and Timing of Payments

3.1.1. The Owner shall pay the Contractor the Price specified in **Exhibit B** to the Individual Project SOW and/or the Master Agreement. The Price shall be paid in a series of progress payments and a final payment, in accordance with the payment schedule in **Exhibit B**. If any retainage is applicable to progress payments, it is identified in **Exhibit B**. Except to the extent otherwise stated in **Exhibit B**, all payments shall be in United States dollars, and no adjustments to the Individual Project SOW

and/or Master agreement Price or agreed unit price or hourly rates will be made on account of currency exchange fluctuations.

3.1.2. If any portion of the Price is to be paid on a unit-price or hourly rate basis, that portion of the Individual Project SOW and/or Master Agreement Price shall be paid based on the actual number of defined units delivered or the number of hours actually worked, multiplied by the agreed unit price or hourly rate, and not based on any estimated quantities that may be referred to in the Individual Project SOW and/or Master Agreement Documents. In such a case, **Exhibit B** includes the relevant description of the methods by which actual quantities are to be determined.

3.2. Taxes

The Individual Project SOW and/or Master Agreement Price includes all applicable sales and use taxes, except to the extent stated otherwise in **Exhibit B**.

3.3. Invoicing Requirements

3.3.1. The Contractor shall comply with the invoicing requirements stated in **Exhibit B** to the Master Agreement. If any portion of the Price, as adjusted for changes, is based on actual cost, the invoices must be accompanied by the cost documentation reasonably acceptable to the Owner in content and form. The AIA G702/G703 forms (Or agreed upon equivalent forms identified in Exhibit A) The summary form with project manager signature should be submitted along with the invoice in order to be approved for payment on Individual Project SOW projects.

3.3.2. With each invoice for interim or progress payment, the Contractor shall submit a release of claims and liens in the form shown in **Exhibit F** to the Agreement. With the invoice for final payment, the Contractor shall submit a release of claims in liens in the form shown in **Exhibit G** to the Agreement. If the Contractor has subcontracted portions of the Work, the Contractor must submit similar waivers of claim and lien signed by each subcontractor with any invoice that includes amounts attributable to that subcontractor's Work.

3.3.3. With each monthly invoice submittal, the Contractor shall confirm that all amounts currently sought for subcontractor or supplier Work are currently due and owing to the subcontractors and suppliers,. The Contractor shall comply with all requirements of all applicable laws in its dealings with subcontractors and suppliers,, and all backup documentation must be made available.

3.4. Construction or Mechanics' Liens

If any person places a mechanic's or construction lien on the Owner's or any person's interest in the Facility or the property on which it is located, or on any construction fund, despite the Owner's having paid the Contractor in accordance with the Individual Project SOW, the Contractor shall promptly remove the lien, by bonding it off or otherwise, and shall defend, indemnify, and hold the Owner harmless against all Losses the Owner incurs as a result of the lien. In the event the Owner has not paid outstanding amounts due, Contractor is not obligated to remove the lien until the outstanding amounts are satisfied and adequate time has passed for Contractor to pay it's suppliers as outlined by the state laws governing payment.

3.5. Disputed Amounts

If the Owner, acting in good faith, disputes any amount invoiced by the Contractor, the Owner shall promptly notify the Contractor of the dispute within 10 business days of receipt of invoice, providing a reasonable description of the nature and extent of the dispute, and specifying the amount that is disputed. The Owner shall pay the Contractor the amount, if any, that is not disputed, within the time specified in **Exhibit B**. The Owner's refusal to make payments on amounts disputed in good faith will not entitle the Contractor to suspend Work or to terminate the Individual Project SOW and/or the Master Agreement. Work shall continue during all such disputes, and a failure to continue without delay or interruption is a material breach.

4. OWNER-DIRECTED SUSPENSIONS

4.1. Authorized

At any time, the Owner may direct the Contractor to suspend all or an identified portion of the Work for the Owner's convenience. All such directions must be in writing, and signed by the Owner's Authorized Representative. If the Owner issues such a direction, the Contractor shall immediately confer with the Owner to (a) agree on measures to carry out the suspension in a safe and orderly manner, (b) render the Contractor's best good faith advice on mitigating the costs associated with the suspension order and its execution, and (c) advise the Owner of likely delays to the Work as a result of the suspension order. The Contractor shall carry out the suspension in accordance with the Owner's written direction, any suspension procedures and measures on which the parties agree, in writing, and in the exercise of its good faith efforts to mitigate costs and delays due to the suspension.

4.2. Adjustments to Master Agreement Project **Time(s) and Price Due to Suspension for Convenience**

All delays to completion of the Work that are caused solely by the Owner's suspension of Work for its convenience are Excusable Delays for which the Contractor is entitled to an extension of time, subject to the provisions of Article 5. The Contractor is also entitled to a Change Order adjusting the Individual Project SOW and/or Master Agreement Price for costs added costs which the Contractor reasonably incurs in carrying out the Work due to an order to suspend Work for the Owner's convenience, and which the Contractor would not have incurred absent the order, subject to the provisions of Article 6**.** If the Owner directs an acceleration after suspending Work for its convenience, Paragraph 4.8 will apply. This Paragraph does not entitle the Contractor to extensions of time or adjustments to the Individual Project SOW and/or Master Agreement Price due to suspensions that result, in whole or in part, from the Contractor's breach of Agreement, failure to comply with Master Agreement provisions, or Force Majeure.

5. Master Agreement and/or Individual Project SOW **TIMES, SCHEDULE, DELAYS, AND SCHEDULE UPDATE REPORTING**

5.1. Master Agreement and/or Individual Project SOW **Times Specified/Liquidated Delay Damages for Unexcused Delay**

Time is of the essence for performing work associated with the Master Agreement and/or Individual Project SOW. The Contractor shall achieve Substantial Completion by the "Required Completion Date" reflected in **Exhibit A**, as that date may be adjusted on account of Excusable Delay, and shall carry out the Work in accordance with any other agreed Individual Project SOW Times in **Exhibit A**. If the Contractor fails to achieve Substantial Completion by the Required Completion Date, as adjusted on account of Excusable Delay, the Contractor shall pay the Owner, or the Owner may withhold from amounts otherwise due to the Contractor, the liquidated delay damages specified in **Exhibit C**. If liquidated damages have been agreed with respect to late completion of Work by other Master Agreement and/or Individual Project SOW Times, they are stated in **Exhibit C** as well. Payment of the specified liquidated damages will not, however, excuse the Contractor from continued good faith diligent efforts to complete the Work without further delay.

5.2. Individual Project SOW **Schedule**

5.2.1. If the parties have agreed upon a Project Schedule as of the Individual Project SOW's Effective Date, it is attached as part of **Exhibit A**. If they have not agreed upon a Project Schedule as of the Individual Project SOW's Effective Date, the Contractor shall, within the time specified in **Exhibit A**, submit to the Owner, for its review and approval, a proposed schedule for the completion of the Work. The proposed schedule shall take into account all relevant information, including information which the Contractor has been provided concerning the work of Separate Contractors. When approved, this schedule will become the Individual Project SOW Schedule. The proposed Individual Project SOW Schedule shall be prepared using the critical path method and shall be in sufficient detail to clearly show the Contractor's actual planned sequencing, dates, and durations of all relevant Work activities including, without limitation, any engineering or design Work which the Individual Project SOW requires of the Contractor, procurement of materials and equipment (with exception to materials and equipment procured by the owner), preparation and review of Submittals, equipment and materials transportation time, construction mobilization, installation and construction activities, and all required testing, inspections, commissioning, and systems start-up. The Project Schedule shall be in sufficient detail to allow proper management of the Work and to allow proper coordination of the Work with the Owner's activities and those of any Separate Contractors. Owner acknowledges that Contractor is not liable or responsible for delays to the project caused by separate contractors schedule delays outside of Contractor's control.

5.2.2. The Contractor shall perform the Work in accordance with the Individual Project SOW Schedule, which may not be modified except with the Owner's consent. The Owner's consent will not be unreasonably withheld, provided that the proposed changes do not result in delay to the projected date of Substantial Completion and do not result in delay or disruption to the work of Separate Contractors or the Owner's own operations in completing the Facility.

5.3. Progress Meetings

5.3.1. The Contractor shall schedule and attend weekly progress meetings at which the Owner, the Contractor, Engineer of Record, and Separate Contractors will discuss safety issues, the progress of the Work, the Individual Project SOW Schedule, and any factors likely to affect the completion of the Work within the Project Times, the quality of the Work, or the Project Price, or coordination of the Contractor's Work with the work of Separate Contractors. The Contractor shall be represented

at these meetings by its Authorized Representative and, if the Owner so requests, other relevant and knowledgeable persons.

5.3.2. The Owner's Project Manager will prepare minutes of the weekly meetings and distribute them, within two (2) working days, to the attendees and such other persons as the attendees request or the Owner deems appropriate. Any party may object, in writing, to statements in the minutes or omissions from the minutes within three (3) working days of their issuance. Meetings required by this Paragraph are in addition to any meetings with subconsultants, subcontractors, suppliers, Engineers of Record, or employees that the Contractor considers prudent to manage the Work, and any other meetings with the Contractor that the Owner reasonably requests.

5.4. Schedule Update Report

5.4.1. The Contractor shall submit to the Owner monthly (or frequency determined by Owner at project kickoff), on a date specified by the Owner, a Schedule Update Report in such digital format and hard copy format as the Owner's Project Manager reasonably requires for the Individual Project SOW.

5.4.2. The Schedule Update Report shall include an eight-week look-ahead schedule. It shall include an updated critical path method for Individual Project SOW Schedule, based on (1) actual conditions of Work progress, (2) the Contractor's best projection of the actual date by which the Work will achieve Substantial Completion and any Milestones defined in **Exhibit A** will be achieved, and (3) any updated information the Contractor has about the work of Separate Contractors, including actual progress of such work.

5.4.3. If the Contractor becomes aware of any event or circumstance that would likely have a significant effect on the currently approved Individual Project SOW Schedule, it shall not await the next Schedule Update Report, but shall notify the Owner as soon as reasonably possible.

5.4.4. The Schedule Update Report shall include a schedule narrative in plain English that (a) identifies any delays or developing delays on the critical path or near-critical paths, (2) states what steps the Contractor has taken or will take to avoid or reduce the delay, (3) identifies any differences between actual or currently projected manpower and resource loading and the manpower and resource loading shown in the original agreed Individual Project SOW Schedule, and (4) states what actions the Owner can take to avoid or mitigate the delay (whether contractually required or not), and the dates by which those actions must be taken, provided that the Contractor's statement will not impose upon the Owner any obligation to take actions that it is not contractually obligated to take. The Contractor shall point out, in its narrative, changes that have occurred since the last update, including those related to major changes in the scope of the Work, activities modified since the last update, revised projections of durations, progress and completion, revisions to the schedule logic or assumptions, the activities or Separate Contractors, Engineers of Record, and other relevant changes.

5.5. Excusable Delay/Extensions of Time

5.5.1. An "Excusable Delay" is delay on the critical path for a Individual Project SOW Time for which the Contractor is not held responsible under this Master Agreement, and is limited to delay caused by (1) Owner-directed changes in the Work; (2) other actions of the Owner, the Engineer,

the Separate Contractors, if any, or their agents or representatives, or their failure to take actions required by the Individual Project SOW with the time required by the Master Agreement and/or the Individual Project SOW; (3) Differing Site Conditions, or (4) Force Majeure Events. An "Inexcusable Delay" is a delay other than Excusable Delay, for which the Contractor is not entitled to an extension of time.

5.5.2. "Differing Site Conditions" are concealed subsurface, soils, or other physical conditions at the Facility site, whether natural or as-built, which differ materially from those indicated in the Individual Project SOW Documents or separate geotechnical information the Owner provided to the Contractor before the C Individual Project SOW's Effective Date and which the Contractor neither discovered nor reasonably should have discovered by examining the Facility site as required by Paragraph 1.4.

5.5.3. "**Force Majeure Events**" are (1) exceptional events or circumstances which are (2) beyond the affected party's control, (3) which that party could not reasonably have anticipated and provided against before entering into the Master Agreement (4) which, having arisen, the party could not reasonably have avoided or overcome, and (5) which are not substantially attributable to the other party. Force Majeure Events may include, but are not limited to, the following circumstances or events: war, invasion, act of foreign enemies, rebellion, terrorism, insurrection, military or usurped power, civil war, riot, or commotion, epidemics, pandemics, government required quarantine, natural catastrophes such as earthquake, flooding, hurricane, tropical storms, typhoon, volcanic activity, or extraordinarily adverse weather conditions beyond those that could reasonably have been anticipated, given the nature of the Work, the Facility's location, and the time of year during which the Work was planned to occur. A party's financial incapacity or bankruptcy or inability to pay amounts due when due, for any reason, is not a Force Majeure Event. Delay in transportation or other delays in receipt of materials or performance of Work by subcontractors or shortages of materials are not Force Majeure Events, unless all five of the numbered conditions stated above are met. Strikes or lockouts engaged in by the managers, supervisors, staff, labor, or other employees of the Contractor or its subcontractors or suppliers are not Force Majeure Events, unless the strike or lockout is part of a regional or national-wide strike or lockout.

5.5.4. The Contractor is entitled to an extension of time, and potential monetary change order, with respect to a Individual Project SOW Time or Times if and only if the Contractor has suffered an Excusable Delay to the Work, and the Contractor has given the Owner written notice of the delay in accordance with Paragraph 5.6.

5.6. Required Notice/Documentation of Delay

5.6.1. The Contractor must give the Owner written notice of a delay as soon as possible, but in no event more than five (5) days after discovering the circumstance, event, or action that gives rise to the claimed delay. If the delay-causing circumstance is a Differing Site Condition, this notice must also be given before the condition has been disturbed. The written notice shall identify the cause of the claimed delay and state whether the Contractor regards the delay as an Excusable Delay. To the extent reasonably possible, the notice shall also identify the particular activities that will be delayed and to what extent delay is expected to occur.

5.6.2. The initial notice of delay shall be followed, within seven (7) days of the initial notice, by reasonable documentation of the extent of the claimed delay and of any adjustments the Contractor seeks in any of the Individual Project SOW Times due to the delay. See also Paragraph 6.2 for notice and documentation requirements if an adjustment to the Master Agreement and/or Individual Project SOW Price is sought.

5.7. Contractor's Delay-Related Costs

5.7.1. The Contractor is entitled to an increase in the Individual Project SOW Price for delay-caused additional costs if and only if it shows that (1) it suffered an Excusable Delay that was caused solely by the acts or omissions of the Owner, Engineer, Separate Contactors, or their agents or contractors, and (2) there were no concurrent delays for which the Contractor is responsible under the Master Agreement or which were due to Force Majeure; (3) the delay caused the Contractor's costs of performance to increase, and (4) the Contractor has taken reasonable measures to mitigate the added delay-caused costs including, without limitation, complying fully with the requirements of Paragraph 2.2.

5.7.2. The amount of a Price adjustment due to delay-caused costs is limited to the actual, documented direct costs arising from the delay, plus the agreed mark-up reflected in **Exhibit B** for all indirect and overhead costs and profit. In no event is the Contractor entitled to any additional amounts, including home office overhead, unabsorbed or under-absorbed overheads, or other indirect costs, whether based on an Eichleay calculation or otherwise. In no event is the Contractor entitled to an increase in the Price based on its own or a subcontractor's claimed losses on other projects or work foregone, or any other alleged costs or losses not arising directly from the Work.

5.8. Acceleration

The Owner may, at its election, request that the Contractor accelerate the Work to recover Excusable Delays, rather than granting an extension of time. If the Owner requests acceleration, the Contractor shall promptly confer with the Owner on what acceleration measures are feasible and actually likely to recover or reduce delays, and the costs associated with such acceleration measures. If the Owner continues to wish the Contractor to accelerate in light of the Contractor's information, the Owner will issue a Change Order authorizing specific acceleration measures.

6. CHANGES

6.1. Change Authorized

The Owner may, without invalidating the Contract, and without notice to or approval of any surety, order changes in the Work by Change Order A "Change Order" is a writing signed by the Authorized Representatives of both parties, authorizing an identified change and stating the agreed adjustments to the Individual Project SOW Times, Individual Project SOW Price. Any other affected terms due to the change outside of the Master Agreement Terms will need to be reviewed and agreed to with Owner. All Change Orders shall be in the form attached hereto as **Exhibit M**.

6.2. Required Notice of Claimed Changes or Change Events

The Contractor shall give the Owner written notice of a claimed change to the Individual Project SOW or Work within five (5) days of the events giving rise to the claimed change, identifying the claimed

changes and stating, to the extent reasonably possible, the adjustments to the Individual Project SOW (s), Price or other terms the Contractor believes to be appropriate, given the claimed change. The initial notice of change shall be followed, within seven (7) days of the initial notice, by reasonable documentation of the extent of the claimed change and the effects it has or will have on the Individual Project SOW Time(s), Price, or other Project terms.

6.3. Contractor's Entitlement to Adjustments to the Individual Project SOW **Price**

The Contractor is entitled to a Change Order modifying the Individual Project SOW Price if and only if the cost of performing the Work is materially increased by any of the following circumstances:

6.3.1. the Owner's directing a change to the Work

6.3.2. the Owner's order to accelerate or re-sequence the Work, except where the order is issued to mitigate the effects of an Inexcusable Delay; or

6.3.3. the Owner's, Separate Contractors', or the Engineer's', or their agents' other acts that delay or disrupt the Work or materially change the conditions under which it is to be carried out, or the Owner's failures to take actions required under the Individual Project SOW; or,

6.3.4. Differing Site Conditions, or

6.3.5. Force Majeure.

6.4. Amount of Adjustments to Individual Project SOW **Price**

6.4.1. If a change requires increases or decreases to the quantity of Work covered by unit prices set forth in **Exhibit B**, the Individual Project SOW Price listed in Exhibit A will be modified using the appropriate unit price and the actual number of units performed or provided, unless the parties agree otherwise.

6.4.2. In all other cases, if reasonably possible, the Owner and Contractor will agree upon a lump sum amount to adjust the Individual Project SOW Price, and set forth their agreement in a Change Order.

6.4.3. If unit-price adjustments do not apply, and the parties do not agree upon a lump-sum adjustment to the Individual Project SOW Price for changes to the Work, the adjustment will be calculated as follows: actual increase in the direct costs of the changed Work plus an additional **10%** on account of indirect costs, overheads, and profit. For purposes of this Paragraph, direct costs attributable to changes in subcontracted Work will be based either on unit prices in the relevant subcontracts or on time and material cost records, kept in accordance with Subparagraph 6.4.4. Delegation of changed Work to tiers lower than contractor or supplier is prohibited without the Owner's express written consent. Where a change results in increases in some costs and decreases in others, the increases and decreases shall be netted against each other in calculating the adjustment.

6.4.4. If the parties do not agree on a lump-sum adjustment, or if they agree to price a change based on actual incurred costs, the Contractor will keep, and cause its affected subcontractors to keep, detailed records to document the actual costs incurred with respect to the affected Work, and to make the records available for the Owner's review, copying, and audit upon reasonable notice,

for a period ending one year after Final Completion or the date on which all disputes arising from the Individual Project SOW have been finally resolved, whichever is later. In such cases, and in cases in which the Contractor claims a change has occurred and the Owner disagrees, the Contractor or any subcontractor performing the disputed Work shall keep daily time records that identify each person directly engaged in performing the disputed Work, and reflecting the number of hours spent in performing that Work. These records shall be submitted to a designated field representative of the Owner at the end of each working day. If the Owner's representative agrees with the tally of persons and hours working on the disputed Work for the day, he or she will sign the daily time records. This signature does not constitute an acknowledgment that any disputed Work is actually changed Work, but only as a confirmation of the number of persons and hours expended in performing the identified Work.

6.5. Failure to Agree/Duty to Proceed

If the Contractor claims entitlement to a change in the Individual Project SOW or existing work order and the Owner responds, in writing, that it does not agree that any action or event has occurred to justify any change in time or compensation, the Contractor will nevertheless proceed with the base scope Work per Exhibit A , without interruption or delay, and may make a claim as provided in Article 12 of the Agreement.

6.6. Executed Change Orders Final

Except to the extent expressly agreed otherwise in a particular Change Order, the Contractor agrees that any Change Order executed by the Owner and Contractor constitutes the Contractor's full and final adjustment for all costs, delays, disruptions, inefficiencies, accelerations, schedule impacts, or other consequences arising from the change in question, or from any claimed cumulative effect of changes made to the date of the Change Order, and that any further adjustments in compensation or time shall be sought or made with respect to changes will require an additional Change Order.

7. COMPLETION AND ACCEPTANCE

7.1. Substantial Completion

7.1.1. "Substantial Completion" is the point at which (1) the Work, or an agreed, identified portion of the Work, is complete and is ready for use for its intended purposes, and (2) only minor punch list items, not affecting normal use and operation, remain to be completed. If certificates of occupancy are necessary to allow the Work to be used for its intended purpose, Substantial Completion does not occur until the required certificates of occupancy, either temporary or final, have been obtained. If local laws permit occupancy and use based on issuance of a temporary certificate of occupancy, the Contractor shall, promptly after obtaining the temporary certification of occupancy, complete any remaining Work required to obtain a final, permanent certificate of occupancy.

7.1.2. The Contractor shall promptly notify the Owner, in writing, when it believes it has achieved Substantial Completion, and promptly submit a proposed punch list identifying all punch list Items requiring correction or completion. The Owner and, at the Owner's option, the Engineer, will promptly inspect the Work. If the Owner agrees that Substantial Completion has been achieved, it will issue a written acknowledgment of Substantial Completion, identifying any additional punch list Items, as appropriate. If the Owner does not agree that Substantial Completion has been achieved, the Owner will so notify the Contractor, in writing, identifying, in reasonable detail, the Work that remains incomplete. If the Owner must conduct more than one inspection for Substantial Completion, the Contractor shall pay any additional costs the Owner incurs in conducting the repeated inspection.

7.2. Final Completion

7.2.1. "Final Completion" occurs when Substantial Completion has been achieved, all punch list items noted at Substantial Completion have been completed, and the Contractor has delivered to the Owner all documents which the Individual Project SOW requires be delivered as a condition of Final Completion

7.2.2. The Contractor shall notify the Owner, in writing, when it believes it has achieved Final Completion. The Owner and, at the Owner's option, the Engineer, will promptly inspect the Work. If the Owner agrees that Final Completion has been achieved, the Owner will issue a written acknowledgment of Final Completion. If the Owner does not that Final Completion has been achieved, the Owner will promptly inform the Contractor identifying, in reasonable detail, the Work that remains incomplete.

7.3. Effect of Final Payment

7.3.1. The making of final payment shall constitute a waiver of the Owner's claims against the Contractor, EXCEPT those arising from: mechanic's liens, security interests, or encumbrances arising out the Contract; failure of the Work to comply with the requirements of the Master Agreement and/or Individual Project SOW Documents; terms of warranties made under the Master Agreement and/or Individual Project SOW Documents; and/or the Contractor's duty to defend and indemnify under any provision of the Master Agreement and Exhibits or under applicable Laws.

7.3.2. The Contractor's acceptance of final payment shall constitute a waiver of its claims against the Owner EXCEPT for those which have been asserted, in writing, before the application for final payment and in accordance with the time limits and other provisions of the Master Agreement or Individual Project SOW, and which the Contractor has identified as still outstanding, in a written list attached to the request for final payment.

8. DEFECTS CORRECTION AND WARRANTIES

8.1. Defects Discovered Before Substantial Completion

8.1.1. If the Owner notifies the Contractor of, or the Contractor becomes aware of, any non-conformity in the Work before Substantial Completion, the Contractor shall promptly correct the non-conformity at its own cost. If the Owner issues a written notice directing that a defect be corrected, and the Contractor will respond and provide a plan for the defect within seven (7) days, the Owner may have the defect corrected by others, without further notice to the Contractor, and charge the resulting cost to the Contractor or withhold the cost from amounts otherwise due to the Contractor. Any delay due to such non-conformities or their correction is Inexcusable Delay.

8.1.2. If the Contractor fails to correct the non-conformities promptly, and the Owner concludes that permitting Work to proceed without the corrections would create a risk of further non-conformities or risk of damage to other portions of the Facility, the Owner has the right, but not the obligation, to order that the Work or a specified portion of the Work, be suspended until the required corrections are made. Any delay due to such a suspension is Inexcusable Delay.

8.2. Warranty Extent and Duration

The Contractor warrants that (a) all of its Work is of good quality, (b) all installation and construction has been carried out in a good and workmanlike manner, in accordance with sound modern practices of the applicable trades, (c) all materials and equipment supplied by the Contractor or its subcontractors or suppliers are free from any manufacturing or other defects, and (d) the Work is otherwise in accordance with the Individual Project SOW requirements. This warranty shall extend for the Warranty Period stated in **Exhibit D**, or such longer Warranty Period as is specified elsewhere in the Individual Project SOW. This warranty is in addition to, and does not limit, any manufacturer's, supplier's, subcontractor's, or additional guarantee or warranty required by other provisions of the Master Agreement Documents.

8.3. Acknowledgment and Cure of Warranty Defects

8.3.1. If the Owner gives the Contractor written notice of any warranty defect, the notice shall state whether the non-conformity is a Minor Warranty Item or a Major Warranty Item. A "Major Warranty Item" is one which (1) renders the products to be produced by the Facility unsalable under the Owner's quality standards, (2) materially affects the Facility's production rate, (3) results in the violation of any Laws, or (3) creates a safety hazard. A "Minor Warranty Item" is any warranty defect other than a Major Warranty Item. The Contractor shall acknowledge all notices of warranty defect within twenty-four (24) hours after receiving them. If the defect is a Major Warranty Item, the Contractor shall begin meaningful repair or replacement work to cure the Item within forty-eight (48) hours after the Owner's notice and continue its cure efforts diligently thereafter until they are completed. If the defect is a Minor Warranty Item, the Contractor shall begin meaningful repair or

replacement work to cure the Item within one (1) week after the Owner's notice and continue its cure efforts diligently thereafter until they are completed. If the Contractor does not comply with the requirements of this Subparagraph, the Owner may proceed to carry out the correction itself, and charge the resulting costs to the Contractor. In such a case, the Contactor shall pay the costs within thirty (30) days after the date of the Owner's invoice with applicable support, and the Contractor's warranty shall continue in effect, as if the Contractor had carried out the corrections.

8.3.2. The Owner may include in any notice of warranty defect a proposal that the Owner itself carry out a specified repair or replacement, to allow more rapid or efficient correction of the defect. In such cases, the Contractor shall include, in its acknowledgment, its concurrence with or objection to the Owner's proposal. If the Owner's proposal is accepted, the Owner may proceed with the repair or replacement and invoice the Contractor for the agreed cost or, if there is no agreed cost, the actually incurred cost of the repair or replacement. In such a case, the Contactor shall pay the agreed costs (or if there are no agreed costs, the actually incurred costs) within thirty (30) days after the date of the Owner's invoice, and the Contractor's warranty shall continue as if the Contractor had made the corrections. If the Contractor objects to the Owner's proposed repair or replacement, the Contractor shall proceed to provide a cure itself, in accordance with Subparagraph 8.3.1.

8.4. Warranty Rights Cumulative

The warranty rights provided by this Paragraph are in addition to, and not a limitation upon, the rights and remedies otherwise available to the Owner for defective or nonconforming Work, normal wear and tear, poor maintenance and misuse not included within warranty.and do not establish any limitation period with respect to those other rights and remedies. Neither final payment by the Owner nor Final Completion of the Work will relieve the Contractor from its responsibilities under this Article.

9. INTELLECTUAL PROPERTY ISSUES

9.1. License to Owner/Representations

To the extent that the Contractor provides detailed design for any portion of the Work, the Contractor:

9.1.1. grants to the Owner, and will cause its relevant design professionals to grant to the Owner, a perpetual, worldwide, non-cancellable, non-exclusive, full-paid-up license to use the design for purposes of completing, operating, and maintaining the Facility, subject only to the Owner's duty to make payments for the design in accordance with the Master Agreement; and

9.1.2. represents that the Contractor or its relevant design professionals own right, title and interest in any patents or copyrights that may apply to the designs, or have obtained all required licenses entitling them to convey to the Owner the required license to use the design to complete, operate, and maintain the Facility, without the Owner's having to pay any license or other fees, either to the Contractor or to others, other than such fees as have already been taken into account and made part of the Contract Price.

9.2. Other Duties With Respect to Intellectual Property

9.2.1. The Contractor shall defend and indemnify the Owner, and its directors, officers, and employees, against any claims asserted by any person or entity that any design provided by the Contractor or its design professionals as part of the Work infringes upon his or its patent or copyright rights when used for the purposes disclosed by the Master Agreement ("Infringement Claim"), and the Contractor shall pay any judgments and/or awards of costs that may be awarded against the Owner as a result of Infringement Claims. The duty to defend and indemnify is conditioned only on the Owner's providing prompt notice of any Infringement Claim of which it becomes aware, and tendering its defense to the Contractor.

9.2.2. The Contractor has no duty to discover that any design provided by the Owner or Engineer may infringe upon the rights of other persons. If, however, the Contractor believes that any design provided by the Owner or Engineer does infringe on intellectual property rights of another, the Contractor shall notify the Owner, in writing, before proceeding with the affected Work.

10. INSURANCE AND FINANCIAL GUARANTEES; INDEMNITY

10.1. Contractor's Required Insurance

10.1.1. The Contractor shall obtain and maintain insurance in accordance with **Exhibit E** to the Agreement, and shall also cause its subcontractors to comply with the provisions of **Exhibit E** relating to subcontractor insurance. If any subcontractor does not obtain and maintain the insurance required by **Exhibit E**, the Contractor shall defend, indemnify, and hold harmless the Owner and Owner's Project Manager, and their respective affiliates, directors, agents, employees, representatives, officers, directors, and managers against all Losses arising out of or incident to the subcontractor's failure to be so insured.

10.2. Requirements for Bonding or Other Financial Guarantees

The Contractor shall provide the bonds or other financial guarantees, if any, required by **Exhibit E** to the Agreement.

10.3. Indemnity Obligations

10.3.1. To the maximum extent permitted by applicable law, the Contractor agrees to defend, indemnify, and hold harmless the Owner, the Owner's Project Manager and Engineer, the Separate Contractors, and their respective affiliates, directors, officers, employees. and agents ("Indemnified Parties"), from and against all Losses arising out of or incident to the Master Agreement and/or the Individual Project SOW, the performance of the Work, and/or the presence on the Facility site of the Contractor's employees, agents, or invitees ("Contractor Parties") if the Losses are caused, in whole or in part, by the negligence or willful misconduct of any of the Contractor Parties or the Contractor's failure to perform any of its Contract obligations, including, without limitation, its obligations relating to the health and safety of persons and compliance with OSHA or other applicable Laws, EXCEPT that the Contractor is not required to defend or indemnify against Losses that were caused solely or in part by the Indemnified Parties or any of them and the Contractor is not required to defend or indemnify for actual Losses with respect to which the parties have agreed on liquidated damages under the Contract.

10.3.2. The Contractor's indemnification obligations under Paragraph 10.3.1 are not limited by workers' compensation or other disability or employee benefit laws and, solely with respect to the obligations of Paragraph 10.3.1, the Contractor hereby expressly waives any rights it might have to assert any immunities or defense that it may have under such laws against any Indemnified Party, but not against any employee of the Contractor.

11. CONFIDENTIALITY OBLIGATIONS

11.1. Obligations, Generally

11.1.1. In connection with the Work, the Owner may make available to the Contractor trade secrets, know-how, or other proprietary and confidential information of the Owner and/or its affiliates. This information ("Confidential Information") may include, for example, data about the Owner's manufacturing process, the Owner's proprietary design information, actual or projected production or sales volumes, products, customers, business plans, or business relationships. The Contractor shall use Confidential Information solely for purposes of carrying out the Work, and for no other purpose, and shall maintain Confidential Information in its possession using reasonable measures at least as stringent as those it applies to its own confidential data to preserve it from unauthorized disclosure or dissemination. The Contractor may disclose Confidential Information to those employees, subcontractor, or suppliers as reasonably need to know the information to carry out the Work, but only after informing them that the information is confidential and obtaining their written agreement to abide by the confidentiality provisions of this Article. With the exceptions stated in Paragraph 11.2, the Contractor shall not disclose the Confidential Information to any other persons or entities, for any reason, without the prior written consent of the Owner. The Owner does not, by disclosing proprietary design information to the Contractor, transfer to the Contractor any patents, copyrights, or other intellectual property of the Owner relating to the proprietary design information (including particularly, design of the conical kettles).

11.2. Exceptions

The obligations of Paragraph 11.1 do not apply if the Contractor can show that (a) the information was in the public domain when the Owner provided it to the Contractor, (b) the information came into the public domain after the initial communication by the Owner to the Contractor, through no act or omission of the Contractor or its agents or employees; (c) the information was properly provided to the Contractor without restriction by a third party lawfully entitled to do so; (d) the information was already in the Contractor's lawful possession at the time of it was first received from the Owner under a confidential designation; or (e) the Contractor is required, by subpoena or other valid order of court, law, regulation, or action of any governmental agency or authority, to disclose the information. Before making any disclosure in response to a subpoena or other valid governmental or court order, the Contractor shall (a) notify the Owner, in writing, that the Contractor is being required to provide the Confidential Information to a third party, to give the Owner the opportunity to seek a protective order or other similar order preventing or limiting the proposed disclosure, and (b) give the Owner reasonable assistance in seeking such protective order or other similar order. The Contractor shall disclose Confidential Information only to the extent required to comply with the order to produce.

12. CLAIMS AND DISPUTES

12.1. Notice of Claims

If the Contractor disputes any direction or determination made by the Owner, or any action taken by the Owner, in connection with the Master Agreement, it shall deliver a written notice of claim to the Owner no later than thirty (30) days after the Owner's decision or determination, or the decision will be deemed final and binding upon both parties. The notice shall identify the decision that is being disputed, explain the circumstances giving rise to the claim, and specify the relief sought.

12.2. Duty to Continue Work

If the Contractor disagrees with any direction, determination, or action by the Owner, or any claim or dispute otherwise arises involving the Master Agreement, the Contractor shall proceed with the approved Individual Scope of Work and/or approved Change Orders, without interruption or delay, shall follow the Owner's directions, and may bring a claim as provided in this Article. The Contractor's failure to proceed with the Work as directed during the pendency of any claim or dispute shall constitute a material breach of the Master Agreement.

12.3. Mediation and Arbitration

12.3.1. All disputes arising from or in connection with the Master Agreement or its breach, and which the parties are unable to resolve through negotiation within thirty (30) days after the notice of claim shall be first submitted to mediation under the Mediation Rules of the American Arbitration Association. Mediation may be demanded by either party and is a condition precedent to arbitration or litigation of any claim. The mediator's fees and other costs of mediation, the AAA fees and costs, and rental charges for facilities for the mediation sessions shall be shared equally by the parties. Each party is, however, responsible for the cost of its own efforts, personnel, counsel, and experts in connection with the mediation. All mediation sessions shall be conducted in **Worcester County, Massachusetts** unless the parties agree otherwise. The Contractor expressly agrees that it may be joined in any mediation between the Owner and one or more third parties if the third-parties have asserted claim for which the Owner may seek contribution or indemnity from the Contractor, or if the Contractor has asserted claims against the Owner for which the Owner may seek contribution or indemnity from the third parties.

12.3.2. All disputes arising from or in connection with the Contract or it breach, and which are not resolved by negotiation or mediation, shall be decided by litigation exclusively in the Worcester County (**Massachusetts** Superior Court or, if federal jurisdiction exists and either party timely elects, in a United States District Court for the State of **Massachusetts**. Both parties consent to personal jurisdiction in these courts for purposes of resolving disputes arising under or in connection with the Contract or its breach, and waive any forum non conveniens objections they might otherwise have to the specified venue. **THE PARTIES EXPRESSLY WAIVE THEIR RIGHT TO A JURY TRIAL OF ANY SUCH DISPUTES.**

12.3.3. The Owner has the right to include the Contractor, by consolidation, joinder or in any other manner, in any arbitration proceeding involving separate professionals, contractors or other persons, firms or entities arising out of the project to design and build the Facility, with whom the Owner has entered into an agreement to arbitrate, regardless of who originally initiated such proceedings, if the disputes involve common issues of fact or law.

12.4. Waiver of Consequential Damages

Each party waives all rights it might otherwise have to recover consequential damages from the other arising from or relating to the Master Agreement. This provision shall not, however, relieve the Contractor of the obligation to pay any liquidated damages that are specified in **Exhibit C**.

13. TERMINATION

13.1. By the Owner, For Default

13.1.1. Grounds for Termination

The Owner may terminate the Master Agreement for default if the Contractor fails materially to perform any of its duties or obligations under the Master Agreement and/or Individual Project SOW. In particular, but without limitation, the Owner may terminate the Master agreement if the Contractor fails to prosecute the Work diligently and in accordance with the agreed Project Schedule, delivers Equipment that fails materially to conform to the Master Agreement requirements, is reasonably determined to have abandoned the Work, has failed to pay any subcontractors, laborers, mechanics, materialmen or suppliers when payment is due, or becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition in bankruptcy or an involuntary petition filed against it, has a receiver appointed, or files for dissolution or is otherwise dissolved.

13.2. Default Termination Procedures

The Owner must provide the Contractor with written notice of its intent to terminate the Master Agreement under this provision thirty (30) days before actually putting the termination into effect. If the Contractor has begun meaningful curative action and has made progress satisfactory to the Owner within the thirty (30) days, the Owner may so notify the Contractor and the termination will not take effect. Otherwise, the termination shall take effect after fourteen days without further notice or opportunity to cure.

13.3. By the Contractor, For Non-Payment

If the Owner fails to make payments in accordance with the Master Agreement, the Contractor may cease Work thirty (30) days after giving the Owner written notice of the failure to pay and the Contractor's intention to cease Work as a result, unless payment is made during that time. If payment is still not forthcoming within ten (10) further days, the Contractor may declare the Master Agreement terminated for the Owner's breach. The Owner's refusal to pay amounts as to which a good faith dispute has been asserted under Paragraph 3.5 is not, however, a breach of the Master Agreement, and does not justify the Contractor's suspending Work or terminating the Contract.

13.4. For Owner's Convenience

13.4.1. The Owner may, upon seven (7) days' written notice to the Contractor, terminate the Master Agreement, in whole or specified part, for its convenience. The notice of termination will state the effective date of termination, the extent of the termination, and any specific instructions with respect to winding up the Work.

13.4.2. After receiving notice of termination for convenience, the Contractor shall (1) stop its Work

as of the effective date of the termination and stop issuing subcontracts or supply agreements for the Work; (2) consult with the Owner regarding the disposition of existing supply agreements, subcontracts, and orders for materials, equipment, or software, and use its best efforts to terminate them on terms favorable to the Owner; (3) consult with the Owner to decide what actions should be taken to protect Work in place and Equipment and materials that have been delivered and not yet installed, and proceed to take such actions as may be agreed upon or, absent agreement, as may be reasonable; (4) take necessary action to protect and preserve property in the Contractor's possession in which the Owner has or may acquire an interest and, (5) as directed by the termination notice or other order from the Owner, deliver the property to the Owner or assist the Owner in disposing of the property. The Contactor shall also promptly notify the Owner, in writing, of any legal proceeding arising from any subcontract or supply agreement related to the terminated portion of the Work and, in consultation with the Owner, settle outstanding liabilities arising out of the terminated portion of the Work on the best terms reasonably possible.

13.4.3. The Contractor is entitled to receive the following upon a termination for convenience:

13.4.3.1. the amounts payable for any Work performed on Individual Project SOW as of the date of the notice of termination's effective date for which a price is stated in Exhibit A

13.4.3.2. the cost plus 10% of any materials ordered for the Work which have been delivered to the Contractor or for which the Contractor is liable to accept delivery (and such materials shall become the property of the Owner when payment is made and shall be placed at the Owner's disposal);

13.4.3.3. the cost of canceling any outstanding orders or subcontracts; and

13.4.3.4. other reasonable costs of winding up the Work, including any measures agreed with the Owner to render the Facility site safe, if construction had begun at the time of the termination, or to proper secure Equipment delivered to the Facility and protect it from damage, and including agreed amounts or, if no amounts were previously agreed, the costs incurred plus 10%, for assisting the Owner to dispose of property if the Owner has requested such assistance.

13.5. By Either Party, For Force Majeure

If the execution of a substantial portion of the Work in progress is prevented for a continuous period of **30** days or for multiple periods which total more than **60** days due to Force Majeure, then either party may elect to terminate the Master Agreement in whole or in part, without default. The party electing to terminate the Master Agreement in whole or in part for this reason shall give the other party notice of the termination, in writing, and the termination shall take effect immediately upon the other party's receipt of the notice. After giving or receiving such a notice, the Contractor shall promptly take all commercially reasonable measures to cancel outstanding material orders and subcontracts and otherwise mitigate the costs associated with terminating the Master Agreement in whole or in part. In case of termination due to Force Majeure, unless otherwise specified in **Exhibit N**, the Contractor shall be entitled to payment for the same amounts as for termination for convenience.

14. MISCELLANEOUS

14.1. Language of Master Agreement

If there is more than one version of the Master Agreement, the official version is the English version. All communications concerning the Master Agreement shall be conducted in English.

14.2. Governing Law

The Contract shall be construed in accordance with and governed by the laws of Massachussets, without regard to that state's conflict of laws principles, except that any arbitration agreement included in the Contract shall be governed by the United States Arbitration Act. The United Nations Convention on Contracts for the International Sale of Goods (the Vienna Sales Convention) and the Convention on the Limitation period in the International Sale of Goods shall not apply to the Master Agreement.

14.3. Independent Contractor

In carrying out all its obligations under the Master Agreement, the Contractor will act as an independent contractor, and not as an employee, agent, or joint venture of the Owner. The Contractor has exclusive authority to manage, direct, and control the Work, and will be responsible for all construction means, methods, techniques, sequences, and procedures, as well as for safety.

14.4. Subcontracting

The Contractor will remain fully responsible for all subcontracted Work as if the Work had been performed with its own forces, and for all acts or omissions of its subcontractors and suppliers in connection with the Work.

14.5. Owner's Right to Audit

If any portion of the Master Agreement Price, in whole or in part, as adjusted, or any claim, is based on incurred costs, the Contractor shall maintain records of those costs in accordance with generally accepted accounting principles, and make the records available to the Owner, upon reasonable notice, for review, copying, and audit. Payment of amounts priced based on incurred cost is conditioned on the Contractor's compliance with this provision. Records documenting costs in accordance with this provision shall be maintained for the longer of one year from the date of Final Completion or until all disputes between the Owner and Contractor in connection with the Master Agreement have been finally resolved. This provision will apply, regardless of whether the parties are engaged in dispute resolution, and the Owner will not be required to engage in discovery to obtain this information.

14.6. Parties' Authorized Representatives/Designation and Authority

14.6.1. Owner

The Owner designates the person(s) identified in **Exhibit H** as the Owner's Representative(s) for this Master Agreement. The name, address, telephone and fax numbers, and e-mail address(es) of each Owner's Authorized Representative are shown in **Exhibit H** to this Agreement, together with any applicable limits on the authority of each Owner's Authorized Representative. The Owner may change its designated Owner's Authorized Representative(s) and/or their contact information, at

any time, upon seven (7) days' written notice to the Contractor, signed by one of the currently designated Owner's Representatives. The Owner will NOT make any oral designations of authority to act on its behalf and will NOT change the current designation orally.

14.6.2. Contractor

The Contractor designates the person identified in **Exhibit H** as the Contractor's Authorized Representative, authorized to take all actions on behalf of the Contractor with respect to the Contract, and to receive all notices called for under the Master Agreement. The name, address, telephone and fax numbers, and e-mail address(es) of the Contractor's Authorized Representative are shown in **Exhibit H** to this Agreement. The Contractor may change its designated Contractor's Authorized Representative and/or his or her contact information, at any time, upon seven (7) days' written notice to the Owner.

14.7. Responsible Development

The approach and expectations of Owner with regard to its suppliers are formalized in **Exhibit O** attached hereto and incorporated herein by reference. The Contractor declares that it has read **Exhibit O** and complies with its principles and hereby agrees to be subject to audit from time to time by Owner in order to confirm Contractor's compliance with the terms of this section

14.8. No Gift Policy

Contractor acknowledges that it is familiar with the restrictions contained in Owner's Gifts Guidelines (the "Guidelines"), available on the Ascend elements website, which prohibit employees from soliciting or accepting gifts, as that term is used in the Policy, from suppliers or potential suppliers or business partners to the Owner. Contractor acknowledges and agrees that this Agreement may be terminated immediately if Contractor violates, or attempts to induce an employee to violate, the Guidelines.

14.9. No Third-Party Beneficiary Rights

Nothing in the Contract shall be construed as creating third-party beneficiary rights in any person or entity.

14.10. Notices/Communications

All formal notices or communications required or permitted under the Master Agreement shall be in writing and shall be hand delivered or sent by registered or certified mail, postage prepaid, return receipt requested, or by fax or recognized overnight courier, to the other party's Authorized Representative at the address shown in **Exhibit H** or in a subsequent written notice of a change of contact information. If any additional notice requirements apply, they are stated in **Exhibit H**. Any such notice is effective upon the earlier of the other party's actual receipt or deemed delivery. Delivery shall be deemed to have occurred as follows: if hand delivered, on the day delivered; if mailed, three business days after the date mailed; if sent by fax, upon written confirmation by the sending machine of effective transmission or upon telephone confirmation of receipt (provided that a confirming copy is also sent by recognized overnight courier); and if sent by recognized overnight courier, the next business day. Each party shall endeavor to send all such notices also by e-mail to the Authorized Representative's designated e-mail address or addresses, to promote more rapid

communication, but notice will not be effective, as a contractual matter, unless and until the delivery of the notice via the other means specified in this Paragraph or until the receiving party acknowledges receipt of the communication, in writing.

14.11. Recoupment or Offset

The Contractor authorizes the Owner to recoup or offset against amounts otherwise due and owing to the Contractor under the Agreement any and all amounts due to the Owner from the Contractor, regardless of the origin of such obligations.

14.12. Binding Effect; Assignment

The Master Agreement is for the benefit of, and is binding on and enforceable by, the parties and their respective successors and permitted assigns. The Contractor acknowledges that, in entering into the Masster Agreement, the Owner has relied on the particular qualifications of the Contractor, and the Contractor therefore shall not delegate or assign any of its duties or obligations under the Master Agreement, except in accordance with the Contract's provisions relating to subcontracting, or with the Owner's prior written consent. The Contractor shall not assign its rights under the Master Agreement, including the right to all or a portion of its compensation, without the Owner's prior written consent. Any attempted delegation or assignment made contrary to the provisions of this Paragraph is null and void, and will entitle the Owner to terminate the Master Agreement for default.

14.13. Survival

All agreements and representations of the Contractor contained in the Master Agreement or in any certificate or document furnished pursuant to the Contract shall survive termination or expiration of the Master Agreement, including, without limitation, the Contractor' s indemnity obligations pursuant to the Master Agreement.

14.14. No Waiver

If the Owner waives any power, right, or remedy arising from the Master Agreement or any applicable law, the waiver shall not be deemed to be a waiver of the power, right, or remedy on the later recurrence of any similar events. No act, delay, or course of conduct by the Owner shall be deemed to constitute the Owner's waiver, which may be effected only by an express written waiver signed by the Owner.

14.15. Remedies Cumulative

Unless specifically provided to the contrary in the Master Agreement Documents, all remedies set forth in the Master Agreement are cumulative and not exclusive. The Owner's rights and remedies will be exercised at its sole discretion, and shall not be regarded as conferring any obligation on the Owner to exercise those rights or remedies for the benefit of the Contractor or any other person or entity. Neither the Warranty Period nor the Extended Warranty Period shall operate as a limitations period limiting the Owner's exercise of rights, other than warranty rights.

14.16. Headings/Captions

The headings or captions used in this Agreement are for convenience only and shall not be deemed to constitute a part of the Master Agreement, nor shall they be used in interpreting the Master Agreement.

14.17. Modification of Agreement

No modifications to the Master Agreement, in whole or in part, shall be effective unless made in writing signed by both the Owner and the Contractor, unless otherwise expressly provided to the contrary in the Master Agreement.

14.18. Execution in Counterparts

The Master Agreement may be executed in counterparts which, when taken together, shall constitute a single agreement. The Master Agreement will not be binding on the Owner until it has been executed by both parties and the Contractor has delivered to the Owner the Contractor's executed signature page.

14.19. Electronic Signatures

Both parties consent to the use of electronic signatures in the execution of this Master Agreement.

[Ascend Elements Inc]

DocuSigned by:
Liam Lochhead
AE7106CA09EF441...

By: Liam Lochhead

Title: VP of Contracts

3/23/2024

[Amcon Industrial]

DocuSigned by:
Coleen Phillips
12855E54E01241C...

By: Coleen Phillips

Title: Co-Founder & VP Product

AMCON Industrial

3/20/2024

EXHIBIT A
PROJECT SCOPE OF WORK FORM
EQUIPMENT AND SOFTWARE TO BE SUPPLIED

Identification of Facility, Facility Site, and Limitations on Access to or Use of Site

[ENTER ANY LIMITATIONS ON ACCESS TO OR USE OF SITE]

Identification of Engineer

The Engineer is:

Identification of Drawings, Specifications, and Other Project Documents

[LIST ALL DRAWINGS AND SPECIFICATIONS BY NAME, NUMBER, REVISION NUMBER, AND DATE; LIST ALL OTHER PROJECT DOCUMENTS]

By executing the Project Scope of Work Form, the Contractor represents that it has been given copies of or access to all of the above-listed Project Documents before the Project's Effective Date.

NOTE: If a purchase order is issued together with the Project Scope of Work form, to facilitate processing of payments and for other accounting functions by the Owner, any terms and conditions appearing on the purchase order are aligned to the Master Agreement terms and/or listed in Exhibit A and routed for signature

Required Submittals

The Contract shall submit for the Owner's review and approval, the Submittals as follows:

[LIST HERE ANY REQUIRED SUBMITTALS, INCLUDING LAYOUTS, ARRANGEMENT DRAWINGS, INSTALLATION DETAILS, P&IDs, SAMPLES OF MATERIALS, ETC. OR REFER THE CONTRACTOR TO APPROPRIATE TECHNICAL SPECIFICATIONS]

Title and Risk of Loss

Title to the Work, or identified portions of the Work, will pass to the Owner at the earlier of (1) the Owner's payment for the Work or identified portions of the Work or (2) delivery of the Work or identified portion of the Work to the Facility site. For the avoidance of doubt, if the Owner pays for specified pieces of Equipment which the Contractor will deliver under the Project Scope of Work Form, title to those pieces of Equipment will pass to the Owner at earlier of the Owner's payment for those pieces of Equipment or their delivery to the Facility site. Transfer of title will not be delayed until the Owner has paid for all of the Work to be performed under the

Project Scope of Work Form, but will occur incrementally, as payment is made for particular pieces of Equipment and particular identified portions of the Work. Risk of loss with respect to the Equipment and materials to be incorporated into the Work or identified portions of the Work will pass to the Owner upon delivery of that Work at the Facility site EXCEPT if Owner places a builder's risk policy. In such event, the Contractor will remain liable for loss of, damage to or destruction of the Work within the deductible of the builder's risk insurance if the loss, damage, or destruction is caused, in whole or in part, by the Contractor's willfully wrongful conduct or negligence, or that of its subcontractors or suppliers.

[Exclusions from Scope of Supply/Clarifications

[ENTER ANY APPLICABLE PROVISIONS. IF NONE, ENTER "NONE."]

Owner-Supplied Items

The Owner will supply the following to the Contractor for use in completing the Work:

[LIST ALL APPLICABLE OWNER-SUPPLIED UTILITIES, ETC. (E.G., ELECTRICITY, WATER, FUEL, GEOTECH INFORMATION, TEMPORARY TELEPHONE, SOFTWARE SPECIALISTS OR OTHER STAFF, COMPUTERS, EQUIPMENT, MATERIALS. IF THE OWNER WILL SUPPLY MATERIALS OR EQUIPMENT FOR THE WORK, MAKE SURE EXHIBIT C REFLECTS BY WHAT DATE THOSE THINGS MUST BE AVAILABLE TO AVOID DELAY.]

Other Required Technical Documentation/Deliverables

[ENTER HERE ALL REQUIREMENTS FOR ALL ADDITIONAL REQUIRED TECHNICAL DOCUMENTATION, OTHER THAN AS-BUILT DOCUMENTS, WHICH ARE COVERED IN THE PROJECT SCOPE OF WORK FORM'S TEXT. SPECIFY DETAILS INCLUDING FORMATTING AND NUMBER OF COPIES, UNLESS ADDRESSED IN SPECS ATTACHED ABOVE.]

Contract Times Schedule and Pricing

The Required Completion Date is [**ENTER**].

[ENTER ALSO ANY OTHER RELEVANT MILESTONE COMPLETION DATES. WITHOUT LIMITATION, IF THE PARTIES DID NOT AGREE UPON A PROJECT SCHEDULE BEFORE THE PROJECT'S EFFECTIVE DATE, SPECIFY WHEN THE CONTRACTOR MUST SUBMIT A PROPOSED PROJECT SCHEDULE AND PROPOSAL FOR REVIEW AND APPROVAL. STATE WHEN ANY OWNER-SUPPLIED ITEMS MUST BE DELIVERED. IF A MILESTONE MATTERS FOR PAYMENT PURPOSES ONLY, IT SHOULD GO IN THE PROJECT SCOPE OF WORK FORM.]

EXHIBIT B
MASTER AGREEMENT PRICE AND PAYMENT TERMS

The Master Agreement Price and schedule for payment are as follows:

PROJECT SCHEDULES, T&M RATES, AND LUMP SUM PROPOSALS WILL BE ROUTED FOR APPROVAL ON AN INDIVIDUAL PROJECT BASIS WITH THE PROJECT SCOPE OF WORK FORM AND ADDED AS AN AMENDMENT TO THE MASTER AGREEMENT

IF THE PARTIES AGREE TO PAYMENT MILESTONES ON EQUIPMENT, THEY SHOULD BE IDENTIFIED WITHIN THE PROJECT SCOPE OF WORK FORM ON AN INDIVIDUAL PROJECT BASIS.

PAYMENT TERMS ON ALL INDIVIDUAL PROJECTS WILL BE NET 30 DAYS RECEIPT OF INVOICE

RETAINAGE WILL BE WITHHELD FROM INTERIM PAYMENTS, AT A RATE OF 10% UNTIL SUBSTANTIAL COMPLETION , WITH 5% REMAINING UNTIL 30 DAYS POST FINAL COMPLETION PUNCHLIST IS COMPLETED .]

The following unit prices and agreed hourly rates will apply in pricing changes prices on a unit-priced or cost-reimbursable basis:

T&M RATES BY ROLE STRAIGHT TIME AND OVERTIME – BY LINE ITEM WILL BE SUBMITTED ANNUALLY FOR REVIEW AND APPROVAL BY BOTH PARTIES, AND ATTACHED TO THE MASTER AGREEMENT. The following mark-up will apply to cover indirect costs and overheads in pricing compensable delay costs governed by Paragraph 5.7:

10%]

The Contractor shall comply with the following requirements as to content and timing of invoices or requests for payment, and as to required supporting documentation:

Unless the Owner agrees otherwise, in writing, all invoices will include the below documents: :.

The AIA G702/G703 forms (Or agreed upon equivalent forms identified in Exhibit A) The summary form (G702 or equivalent) with project manager signature should be submitted along with the invoice in order to be approved for payment on Individual Project SOW projects.

EXHIBIT C
MASTER AGREEMENT LIQUIDATED DAMAGES FOR DELAY

Liquidated Delay Damages

The Contractor shall pay to the Owner, or the Owner may withhold from amounts otherwise due to the Contractor, the following liquidated damages for failure to achieve Substantial Completion by the Required Project Scope of Work Completion Date, for reasons other than Excusable Delay:

[LIQUIDATED DELAY DAMAGES

1% of work not completed if 30 days past final completion date

2% work not completed if 60 days past final completion date

4% work not completed if 90 days or more past final completion date]

The above liquidated damages are intended to compensate the Owner for damages it will suffer due to late completion, consisting of losses of income and added costs. These liquidated damages are not intended to compensate the Owner for any added costs it may have to pay Separate Contractors due to the Contractor's failure to carry out Work in accordance with the Project Schedule, the Project Times, and Paragraph 2.2 of the Agreement. Any such additional costs are separately addressed and expressly treated as direct damages, not consequential damages, under this Master Agreement.

EXHIBIT D
PROJECT SCOPE OF WORK WARRANTY PROVISIONS FORM

The Warranty Period for the warranty on the Work is 12 **Months**

The Contractor offers the Owner an Extended Warranty Period as follows:

[ENTER LENGTH OF EXTENDED WARRANTY TERM, PRICE, AND DATE BY WHICH THE OPTION MUST BE EXERCISED.]

[ENTER ANY ADDITIONAL PROVISIONS]

EXHIBIT E

Master Agreement Insurance and Bonds

While performing any work or providing products or services related to this Master Agreement, any applicable SOW or PO, any extension thereof, or as indicated otherwise herein, Contractor agrees to maintain, at its own expense, all necessary insurance for itself and its personnel of at least the following kinds and limits, with reputable and financially strong independent insurance companies licensed or permitted to do business in the jurisdiction(s) where the work, products or services will be provided and rated at a minimum of "A-" VIII by AM Best (or similarly recognized rating agency in the country where the coverage was obtained):

1. Workers' Compensation – in accordance with statutory requirements for all locations where work, products or services are to be provided.

   1.1 The policy shall be amended to include a waiver of subrogation endorsement in favor of Owner Parties, which shall be defined as: Owner, its affiliates and each of their respective members, directors, officers, stockholders and employees (the "Owner Parties").

   [Note: Section 2. If contractor is a sole proprietor and can purchase Workers compensation in the jurisdiction the work is performed it should be purchased. If WC insurance for some reason cannot be obtained a discussion should take place with Risk Management. Employer's Liability insurance requirement may be waived if Supplier has no employees, however, if Contractor is required to carry workers' compensation coverage, it shall also be required to carry employer's liability insurance.]

2. Employer's Liability – with a limit not less than $1,000,000 each employee by disease, $1,000,000 each accident, and $1,000,000 disease policy limit.

   2.1 The policy shall be amended to include a waiver of subrogation endorsement in favor of Owner Parties.

3. Commercial General Liability – with a limit of not less than $5,000,000 per occurrence, $2,000,000 for products and completed operations, and $5,000,000 in the aggregate including, but not limited to, coverage for bodily injury, death, property damage, products and completed operations, independent contractors, premises/operations, sudden and accidental pollution coverage, and contractual, explosion, collapse, underground, and personal and advertising injury liabilities.

3.1

a. Policy shall include endorsements ISO form CG 20 26 and CG 20 37 including Owner Parties as additional insureds. Owner Parties are to be afforded the same types of coverage as listed in declarations page of the named insured's policy.
b. Policy shall include a waiver of subrogation endorsement in favor of Owner Parties.
c. Policy shall include a cross-liability and severability of interest clauses.
d. Policy shall contain endorsement 20 01 noting that Contractor's insurance is primary and any other insurance carried by Owner shall be noncontributory.
e. Policy shall not contain any exclusions or limitations related to nature of products or services being provided under this Agreement.

4. Commercial Automobile Liability – with a combined single limit of not less than $2,000,000 per occurrence for bodily injury, death and property damage for all owned, non-owned, hired or leased vehicles operated by Contractor personnel.

4.1

a. Policy shall include an endorsement, including Owner Parties as additional insureds. Owner Parties are to be afforded the same types of coverage as listed in declarations page of the named insured's policy.
b. Policy shall include a waiver of subrogation endorsement in favor of Owner Parties.
c. Policy shall include a cross-liability endorsement and severability of interest clauses.
d. Policy shall contain an endorsement noting that Contractor's insurance is primary and any other insurance carried by Owner shall be noncontributory.

5. Excess\Umbrella Liability – with a limit of not less than $5,000,000 per occurrence, at least with respect to policies required in 2., 3. and 4.; coverage shall provide excess limits and be at least follow form or broader.
   a. Policy shall include Owner Parties as additional insureds. Owner Parties are to be afforded the same types of coverage as listed in declarations page of the named insured's policy. Policy shall include a waiver of subrogation endorsement in favor of Owner Parties.
   b. Policy shall include a cross-liability and severability of interest clauses.
   c. Policy shall contain an endorsement noting that Contractor's insurance is primary and any other insurance carried by Owner shall be noncontributory.

[Note: Section 6. Professional Liability (Errors & Omissions) insurance requirement applies to Contractors that perform professional services (i.e. accounting, legal,

architects/engineering, technology, consulting, tax, public relations/marketing, etc.). If no professional services are provided, coverage may be waived.]

6. Professional Liability (Errors & Omissions) – with a limit of not less than $2,000,000 per claim and covering claims arising out of or related to acts, errors or omissions in connection with work or services provided by Contractor. The policy shall have a retroactive date on or before the Agreement date or the date of Contractor's first professional service, whichever is earlier. Contractor shall use commercially reasonable efforts to maintain such coverage for five (5) consecutive years following final delivery of work or services.

[NOTE: Section 9. Pollution Liability applies to Contractors who provide services will involve the work with, remediation of, or removal of hazardous substances (i.e. asbestos abatement, removal of hazardous material from the location). If the aforementioned exposures don't apply, the requirement may be waived. If you are unsure, please contact Risk Management.]

7. Contractor Pollution Liability, naming Owner as an additional insured, with a limit of not less than $2,000,000 dollars per pollution condition and $2,000,000 in the aggregate written on an occurrence form with no sunset clause, if applicable, for losses caused by pollution conditions that arise from the operations of the Contractor described under the scope of services to be provided related to this project. Such conditions shall include
    a. Bodily injury, sickness, and disease to include mental anguish or shock, sustained by any one person; including death
    b. Property damage including physical damage to or destruction of tangible property including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically destroyed.
    c. Defense including costs, charges, and expenses incurred in the investigation, adjustment of defense claims for such compensatory damages;
    d. Transportation coverage including the loading and unloading of products, goods, and/or waste

8. All insurance policies required to be maintained by Contractor, except for Professional Liability, must be written on an occurrence form (claims-made form, occurrence reported form or modified occurrence not allowed) and shall be maintained without interruption during the term of this Agreement or as specified otherwise. Policies specified above may be maintained with limits listed in other foreign currencies, as long as they are equivalent to the amounts required herein. Contractor's required insurance limits may be satisfied by a combination of primary and excess/umbrella policies.

9. Owner will be provided with certificates of insurance and, where applicable, copies of policy endorsements, declaration pages and forms schedules prior to beginning of work or delivery of products or services and annually upon renewal of Contractor's insurance programs evidencing that the aforementioned policies are in force and including the coverage required above. Contractor shall not commence work until the required certificates, declaration pages, form schedules and endorsement copies have been provided and approved by Owner.

10. The required insurance policies shall not be canceled, reduced in scope or allowed to expire until at least 30 days' prior written notice has been given by Contractor, its insurance broker or carrier to Owner. The policies shall contain an endorsement requiring the insurer to give Owner written notice of reduction, expiration and/or cancellation.

11. Contractor shall require all subcontractors performing work related to this Agreement to maintain insurance coverage in compliance with all terms and conditions as required herein and to name Owner Parties as an additional insured as outlined above. Contractor shall not allow any subcontractor to commence work until evidence of required insurance coverage has been provided and verified by Contractor. Construction Manager shall indemnify, defend and hold harmless Owner Parties from and against all Losses arising out of or incident to the failure of any such subcontractor to be so insured. Subcontractor Default Insurance will be required when subcontractors are engaged at the Project level or within the Master agreement work

12. If any of the foregoing insurance coverages are required to remain in force after expiration or termination of this Agreement, additional certificates evidencing continuation of such coverage shall be submitted on an annual basis to Owner. Information concerning reduction of coverage on account of revised limits or claims paid under the general aggregate, or both, shall be furnished to Owner as soon as reasonably possible in accordance with Contractor's information and belief.

13. Should any loss occur under any of Contractor's or subcontractor's required insurance policies, Contractor or subcontractor shall be liable for the amount of any deductibles, retentions or other self-insurance mechanisms specified in such policies. Furthermore, Contractor and subcontractor waive any claims they might have against Owner Parties for payment of any deductibles or retentions or other self-insurance mechanisms.

14. None of the requirements contained herein as to types or limits or Owner's approval of insurance coverage to be maintained by Contractor are intended to, and shall not in any manner, limit, qualify or quantify any liabilities and obligations assumed by Contractor under the Master Agreement or otherwise provided by law. Owner reserves the right to review insurance requirements at any point in time and make changes in order to address

additional exposures, which may exist as a result of Contractor's performance under the Master Agreement. Owner's failure to monitor compliance or to object to noncompliance or unsatisfactory compliance with any terms of these insurance requirements does not modify or waive Contractor's obligations in any way. In the event of any failure by the Contractor to comply with the insurance provisions of this Master Agreement, Owner may, without or in any way compromising or waiving any right or remedy at law or in equity, upon notice to the Contractor, purchase such insurance, at the Contractor's expense, provided that Owner shall have no obligation to do so, and if Owner shall do so, the Contractor shall not be relieved of or excused from the obligation to obtain and maintain such insurance amounts and coverages.

15. Protection of Property. Contractor shall, and shall ensure that any subcontractor thereof shall, use suitable precautions to prevent damage to Owner's property. If any such property is damaged by the fault or negligence of Contractor or any subcontractor thereof, Contractor shall, at no cost to Owner, promptly and equitably reimburse Owner for such damage or repair or otherwise make good such property to Owner's satisfaction. If Contractor fails to do so, Owner may do so and recover from Contractor the cost thereof.

EXHIBIT F

PROJECT FORM OF LIEN WAIVER (PROGRESS PAYMENTS)(CONDITIONED ON PAYMENT)

Property Owner:	Ascend Elements Inc.
Property Description:	[ENTER ADDRESS AND DESCRIPTION]
Project Description:	[ENTER NAME OF FACILITY]

1. Contingent only on receipt of the sum of _____ ("Progress Payment Amount"), the undersigned waives and releases all rights he/she/it has to assert mechanic's liens, materialman's liens, or construction liens against the interest of the Owner or any other person in the identified Property and against any construction funds with respect to work performed or labor, materials, or equipment supplied through _____ ("Applicable Release Date"), EXCEPT with respect to such claims as are listed on the reverse of this page ("Identified Claims"), and except with respect to any applicable unpaid retainage.

2. As an inducement to the Owner's making the requested payment, the undersigned represents and warrants the following:

- upon payment of the Progress Payment Amount, the undersigned will have been paid in full for all amounts due and owing for labor and/or materials supplied for the Project through the Applicable Release Date, except for retainage and any Identified Claims;
- the undersigned has not assigned any lien right against the Property of the construction funds to any other person or entity with respect to labor performed and/or materials supplied through the Applicable Release Date; and
- the undersigned will keep the Property free of all claims or liens of third parties for labor or material or both furnished to the undersigned for the Project through the Applicable Release Date, except as to the Identified Claims and unpaid retainage; and
- if any lien has already been placed on the Property related to the undersigned's work on the Project through the Applicable Release Date, for amounts other than the Identified Claims and unpaid retainage, the undersigned will cause the lien to be released immediately after receiving the Payment Amount; and
- no security interest has been given or executed by the undersigned in connection with any materials or equipment placed upon or installed on the Property or as part of the work through the Applicable Release Date.

[CONTRACTOR'S OR SUBCONTRACTOR'S NAME]

_____

By:

Typed Name and Title:

EXHIBIT G

PROJECT FORM OF LIEN AND CLAIM WAIVER (FINAL PAYMENT)(CONDITIONED ON PAYMENT)

Property Owner:	Ascend Elements Inc.
Property Description:	[ENTER ADDRESS AND DESCRIPTION]
Project Description:	[ENTER NAME OF FACILITY]

1. Contingent only on receipt of the sum of _____ ("Final Payment Amount"), the undersigned waives and releases all rights the undersigned has to assert mechanic's lien, materialman's lien, construction lien, or other lien rights against any interest of the Owner or any other person in the Property or in any construction fund.

2. As an inducement to the Owner's making the requested payment, the undersigned represents and warrants the following:

- upon payment of the Final Payment Amount, the undersigned will have been paid in full for all amounts due and owing for labor and/or materials supplied for the Project;
- the undersigned has not assigned any lien right against the Property or the construction funds to any other person or entity with respect to labor performed and/or materials supplied for the Project; and
- the undersigned will keep the Property free of all claims or liens of third parties for labor or material or both furnished to the undersigned for the Project; and
- if any lien has already been placed on the Property related to the undersigned's work on the Project through the Applicable Release Date, the undersigned will cause the lien to be released immediately after receiving the Payment Amount; and
- no security interest has been given or executed by the undersigned in connection with any materials or equipment placed upon or installed on the Property or as part of the work through the Applicable Release Date.

[CONTRACTOR'S OR SUBCONTRACTOR'S NAME]

_____

By:

Typed Name and Title:

EXHIBIT H
PARTIES' AUTHORIZED REPRESENTATIVES

The Owner designates the following persons to act as its Owner's Representatives for the Master Agreement:

Jill Baker
Sr. Category Manager - Purchasing
jbaker@ascendelements.com

Alternate Owner's Representative:

_____
_____
_____

(All formal notices required or permitted under the Master Agreement **MUST** also be sent to the Alternate Owner's Representative, as well as by one of the officially recognized means stated in Paragraph 14.10, to constitute effective notice.)

[ENTER NAME AND CONTACT INFORMATION FOR OWNER'S REP Alternate to act in absence.

Rodrigo Almeida – Supply Chain Director ralmeida@ascendelements.com

The Contractor designates the following person to act as its Contractor's Representative:

[ENTER NAME, ADDRESS, TELEPHONE AND FAX NUMBERS, AND E-MAIL ADDRESS.]

EXHIBIT I
PROJECT SITE SAFETY RULES

PROVIDED BY ASCEND ELEMENTS PROJECT MANAGER FOR EACH INDIVIDUAL PROJECT SCOPE OF WORK FORM]

EXHIBIT J
PROJECT (ASCEND ELEMENTS INC)
"SAFETY INFORMATION AND INSTRUCTIONS FOR CONTRACTORS"

[Provided by Ascend elements site EHS manager for each individual project scope of work form **]**

EXHIBIT K
PROJECT FORM - ALCOHOL AND DRUG ABUSE POLICY AGREEMENT FOR CONTRACTOR EMPLOYEES ON COMPANY PREMISES

Where applicable

EXHIBIT L
INDIVIDUAL PROJECT FORM KEY PERSONNEL

NAME/TITLE	PERIOD REQUIRED/ PERCENTAGE OF TIME REQUIRED
[ENTER APPLICABLE INFORMATION]	

Contractor: _____
Owner: _____

EXHIBIT M

PROJECT REQUIRED CHANGE ORDER FORM
CHANGE ORDER NO __

[Ascend Elements Inc.] ("Owner") and **[ENTER CONTRACTOR'S NAME]** ("Contractor") hereby agree to modify Contract No. _____, dated _____, as follows:

The Work is modified as follows:

The Contract Price is modified as follows:

Original Contract Price	$ _____
Changes Made by Prior Change Orders (Total)	$ _____
Change Made by This Change Order	$ _____
TOTAL REVISED CONTRACT PRICE	$ _____

The Project Times are modified as follows (if no change is reflected below, the Project Times are not modified on account of changes made by this Change Order):

No other changes to the Project Scope of Work Form are made by this Change Order. All Contract terms not expressly modified by the Change Order remain unchanged.

The Contractor agrees that this Change Order constitutes its full and final adjustment for all costs, delays, disruptions, inefficiencies, accelerations, schedule impacts, or other consequences arising from the identified change, whether caused by the change itself, or by any claimed cumulative effect of changes made to the date of the Change Order, and that no further adjustments in compensation or time shall be sought or made with respect to the change.

The effective date of this Change Order is _____.

[ENTER CONTRACTOR'S NAME] **ASCEND ELEMENTS, INC**

By: _____ By: _____

Title: _____ Title: _____

EXHIBIT N
ADDITIONAL CONTRACT TERMS

[ENTER ANY APPLICABLE PROVISIONS. IF NONE, ENTER "NONE."]

EXHIBIT O

RESPONSIBLE DEVELOPMENT

Ascend Elements Inc has adopted a policy of responsible purchasing, an integral part of the Responsible Development policies. The approach and expectations of the Ascend Elements Inc Group with regard to its suppliers are formalized in the "Suppliers Code of Conduct" available on request.

In addition to this Suppliers Code of Conduct (SCoC), Ascend Elements Inc has set up an alert system for suppliers allowing them to report any event or conduct non-compliant with applicable laws and regulations, international rules or with the principles of the SCoC. Any alert may be sent through the email address HR@ASCENDELEMENTS.COM

As part of its "Responsible Purchasing" policy, and in application of its vigilance plan, Ascend Elements Inc conducts a supplier analysis based on its risks mapping before assessing, if necessary, its suppliers' environmental, social and ethical practices through documentation reviews or on-site audits, on the basis of international standards (hereinafter referred to as the "Evaluations"). Should these assessments show any disparities between the standard reference framework used and the supplier's practices, Ascend Elements Inc will define with the supplier the corrective measures to be implemented. Any failure to implement these measures may result in the supplier being delisted and in the early termination for breach of this agreement and all other agreements concluded with Ascend Elements Inc companies.

The Supplier confirms that it has read, and complies with, the SCoC. The Supplier acknowledges that Owner may conduct Evaluations on the Supplier and agrees to provide the necessary assistance for that purpose.

COMPLIANCE

The Supplier undertakes to fulfil the compliance obligations set forth in this article. In addition, the Supplier shall require its own suppliers and subcontractors to comply with the same rules. Ascend Elements Inc is entitled to conduct audits in order to ensure the compliance to these rules.

Depending on the situation, the term "Ascend Elements Inc", as used in this Exhibit may refer to Owner and/or all companies and legal entities which belong to Ascend Elements Inc. Ascend Elements Inc consists of any and all companies and legal entities directly or indirectly detained and/or controlled by "Ascend Elements Inc", a company headquartered at 133 Flanders Rd, Westborough MA, 01581.

FIGHT AGAINST CORRUPTION

The Supplier warrants that it has not provided or promised any undue advantage to Ascend Elements Inc, any person employed by Ascend Elements Inc, or any third party to obtain the benefit of this Agreement.

The Supplier shall comply and require that all of its affiliated companies, officers, employees, representatives, subcontractors, and agents (the "**Supplier's Representatives"**) comply with the Suppliers' SCoC and applicable laws on preventing corruption. In particular, the Supplier and the Supplier's Representatives shall not directly or indirectly promise, offer, or grant to any public official or any other person any undue advantage with a view to making this person do or abstain from doing something, in breach of their legal or professional obligations.

The Supplier shall keep accurate accounts in accordance with its country's generally accepted accounting principles and in which all financial flows generated by this Agreement shall be correctly recorded; and shall inform Ascend Elements Inc, as soon as it may be aware, of any solicitation to commit an act of bribery or corruption occurring during the performance of the Master Agreement.

ECONOMIC SANCTIONS

The Supplier undertakes to comply with any laws and regulations on economic sanctions applicable to the activities covered by this Agreement. These may include instruments adopted by the United Nations or the United States.

For all matters pertaining to the execution of this Master Agreement, the Supplier undertakes that it will not enter into transactions with any person or entity with whom commercial transactions are forbidden or restricted by the United States.

The Supplier also undertakes to inform Ascend Elements Inc promptly in the event that any of the materials, products and/or components (including software or services) covered by this Master Agreement, are wholly or partly subject to any re-export restriction; and/or originate from the United States or incorporate content manufactured in the United States. In any such event, the Supplier shall provide Ascend Elements Inc with all related (and reasonably necessary) information and documents.

SUSPENSION OF OBLIGATIONS

Either Party shall be entitled to suspend temporarily or definitively the performance of its obligations under the Master Agreement without any liability to the other if, at any time, new

economic sanctions and/or export regulations enter into force and render the execution of the Master Agreement either impossible or illegal for one Party.

SUPPLIER BREACH OF ITS OBLIGATIONS

- Evaluations and audits

The Supplier authorizes Ascend Elements Inc to conduct evaluations and audits at any time in order to make sure that the Supplier is complying with its obligations under this Exhibit "**RESPONSIBLE DEVELOPMENT**". In this regard, the Supplier shall provide all the documents and data required to prepare and conduct the evaluation or the audit and give access to the site of the Supplier or its affiliated companies.

Organization and performance of evaluations or audits may include exchange and storage of personal data, mainly work-related.

- Master Agreement suspension

If Ascend Elements Inc has reasons to believe that the Supplier is not fulfilling the obligations contained in this Exhibit **RESPONSIBLE DEVELOPMENT**, Ascend Elements Inc shall inform the Supplier and may suspend performance of the Master Agreement until the Supplier provides reasonable proof that it has not committed or is not about to commit a breach. Ascend Elements Inc company shall under no circumstances be liable for any damage or loss caused to the Supplier by the suspension of the Master Agreement.

- Agreement termination

In case of an actual breach by the Supplier or the Supplier's Representatives of the provisions of this Exhibit **RESPONSIBLE DEVELOPMENT**, Ascend Elements Inc shall be entitled to terminate the Master Agreement, ipso jure with immediate effect, by registered letter with acknowledgement of receipt, without paying any compensation and without prejudice to any damages or remedies which Ascend Elements Inc may be able to claim as provided for by law.

Any and all general exclusions or limitations of liability mentioned elsewhere in the Master Agreement shall not be applicable to claims arising from or in connection with the Supplier's breach of obligations under this Exhibit **"RESPONSIBLE DEVELOPMENT".**

EXHIBIT P

CONSTRUCTION RATES ARE EFFECTIVE FEBERUARY 1 - DECEMBER 31ST, 2024.

AMCON
An AM Construction Company

CONSTRUCTION RATES
RATES ARE EFFECTIVE FEBERUARY 1 - DECEMBER 31ST, 2024.

CLASSIFICATION	DAY SHIFT - STRAIGHT TIME	DAY SHIFT - OVERTIME	NIGHT SHIFT - STRAIGHT TIME	NIGHT SHIFT - OVERTIME
Project Manager	$137.22	$192.19	--	--
Safety	$97.37	$146.06	--	--
General Foreman	$82.61	$123.92	$87.47	$131.20
Foreman	$72.89	$109.33	$77.75	$116.62
Mechanical Journeyman	$61.82	$85.05	$65.96	$92.32
Mechanical Helper	$44.17	$66.26	$49.48	$74.22
Material Manager	$44.17	$66.26	$49.48	$74.22
Controls	$92.32	$138.49	$97.19	$145.78
Electrical Journeyman	$63.17	$94.75	$68.03	$102.05
Electrical Helper	$44.17	$66.26	$49.48	$74.22
Field Admin	$76.63	$103.46	$82.18	$110.94
Office Admin	$76.63	$103.46	$82.18	$110.94
Office Management	$91.29	$115.54	--	--
Line Worker/General Labor	$43.92	$60.78	$49.19	$66.36

RIGUPATL
A GA RIGGING COMPANY

CRANE & RIGGING MANPOWER	HOURLY RATES (8 HR MIN)	OVERTIME RATES (8 HR MIN ON WEEKENDS)
FOREMAN	$72	$108
RIGGER	$65	$98
HELPER	$52	$78
OPERATOR	$70	$105
EQUIPMENT	OPERATED RATES	OVERTIME RATE
BOOM TRUCK	$200	$240
12K LULL	$125	$165
25/35 RIGGER LIFT	$250	$290
40/60 RIGGER LIFT	$350	$390

Non-Solicitation of Employees and Contractors. During the term of this Agreement and for one (1) year following the last day on which AMCON performs services for Customer under this Agreement, Customer will not, directly or indirectly, employ or offer employment to any employee of AMCON or contractor provided by AMCON, or assist any related corporation, affiliate or third party in doing so, without first contacting AMCON and obtaining the AMCON's express consent with respect to the specific employee(s) in question.

Contractor: _____
Owner: _____

WORKING HOURS

STRAIGHT TIME IS DURING NORMAL WORKING HOURS - MONDAY THROUGH FRIDAY, 40 HOURS PER WEEK.

OVERTIME IS IN EFFECT AFTER 40 NORMAL WORKING HOURS AND ALL-DAY SATURDAY AND SUNDAY.

DOUBLE TIME APPLIES ON **HOLIDAYS**:

THANKSGIVING, CHRISTMAS, NEW YEARS, MEMORIAL DAY, JULY

FOURTH, LABOR DAY

OTHER EXPENSES

TO BE BILLED PER THE MASTER SERVICES AGREEMENT

TRUCKING AND HAULING PERMITS NOT INCLUDED AND WILL BE BILLED SEPARATELY IF APPLICABLE.

OWNED EQUIPMENT EXPENSES

SERVICE/YARD TRUCK $125/DAY OR $600/WEEK PER PERSON

STAKE BODY TRUCK $225/DAY

LOT TOOLS/EQUIPMENT $350/WEEK PER SET UP

PER DIEM $150/DAY/PERSON // $155/DAY/SAFETY PERSON

Non-Solicitation of Employees and Contractors. During the term of this Agreement and for one (1) year following the last day on which AMCON performs services for Customer under this Agreement, Customer will not, directly or indirectly, employ or offer employment to any employee of AMCON or contractor provided by AMCON, or assist any related corporation, affiliate or third party in doing so, without first contacting AMCON and obtaining the AMCON's express consent with respect to the specific employee(s) in question.

Contractor: _____
Owner: _____

Contractor: _____
Owner: _____

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ITEMS IN AQUA ARE PROJECT SCOPE OF WORK TEMPLATE FORMS AND MUST BE FILLED OUT ON A PROJECT BASIS AND ROUTED FOR APPROVALS WITH PROPOSALS

EXHIBIT C

From:	Coleen Phillips
To:	Colin Davis; Kevin McCreary; Michael Couch; Aeric Khong; Michelle Wooten
Cc:	Wade Jeane; Gregg Martin; Aaron Phillips; Danny Pettus; Justin Harmond; OLD - Diana Griffin
Subject:	AMCON 30-Day Notice 08.22.24
Attachments:	image001.png image002.png image003.png image004.png image005.png image006.png image007.png image008.png image010.png image011.png image012.png image013.png image014.png image015.png image016.png image017.png 1.Notice Letter_ Ascend 08.22.24.pdf
Importance:	High

Ascend Team,
Please find the attached 30-day notice letter as outlined in section 13.3 of the MSA.
Per this section, please take this as formal notice of our intent to terminate the contract for breach of payment terms.

While we appreciate the partnership and project, we must act in accordance of best interest of AMCON.
In the event payment of all past due funds is received, this letter and notice will be void and work will continue beyond the 30-day period referenced.

We appreciate your efforts to assist to get this resolved and keep the project moving forward.

Thank you,

Coleen Phillips
Chief Operating Officer

Design I Engineering | Detailing I Fabrication I Installation
770-251-4710 770-301-2946 (770) 251-4549
amconindustrial.com
coleen@amconindustrial.com

App Banner Image

From: Colin Davis <cdavis@ascendelements.com>
Sent: Monday, August 19, 2024 9:34 AM
To: Diana Griffin <Diana@amconindustrial.com>; Coleen Phillips <Coleen@amconindustrial.com>
Cc: Wade Jeane <wade@amconindustrial.com>
Subject: RE: Past Due

Ladies,
Spoke with my treasury department last week – I'm expecting payout on all your remaining overdue invoices this week. I've also asked my head of treasury (Kevin McCreary) to give you a direct call today – both to walk through the invoices and make sure all are accounted for, and to give some more updated timeline on when exactly this week those transfers should occur.

Again – I appreciate the patience, and I recognize the strain this is putting on your team. Still working on getting us right.

Colin Davis
Construction PM
C: 404-788-6827
cdavis@ascendelements.com





From: Diana Griffin <Diana@amconindustrial.com>
Sent: Wednesday, August 14, 2024 12:29 PM
To: Colin Davis <cdavis@ascendelements.com>
Cc: Coleen Phillips <Coleen@amconindustrial.com>
Subject: Past Due

Colin,

Good morning,

Last week we received a good bit less than we had anticipated and I do not see anything for today or this Friday.
At this point, the lack of getting caught up is hindering us from operating our company.

The internal PO issue you had can no longer be used as a reason to delay the processing of our invoices.
Ascend Elements is $8,9333,897.43 past due outside of terms.

If you are unable to get us caught up by the end of this month, we will have to seek counsel on the best way to go forward.

Kind Regards,

Diana Griffin
Chief Financial Officer

Design I Detailing I Fabrication I Installation I Engineering
770-251-4710 678-409-6236 (770) 251-4549
amconindustrial.com
diana@amconindustrial.com

App Banner Image

08/22/2024

Dear Ascend Management

Please accept this letter as AMCON Industrial's ("AMCON") Notice of Non-Payment to Ascend Elements, Inc. for the Covington, Georgia Project ("the Project") pursuant to Section 13.3 of the Master Services Agreement ("MSA") between the parties. To date, AMCON is owed $13,834,017.89 for work AMCON performed for which it has not been paid. Under the terms of the MSA, Ascend agreed to pay AMCON within 30 days for invoices submitted. Of the total amount owed to AMCON by Ascend, $8,490,700 is more than 30 days overdue.

AMCON hereby provides written notice to Ascend under Section 13.3 of the MSA that due to Ascend's failure to pay for work performed in accordance with the MSA, AMCON intends to suspend performance of the work on the Project in 30 days. Ascend has not disputed any of AMCON's invoices and has provided no legal or contractual basis for its failure to pay.

While AMCON values the professional and business relationship between the parties, Ascend's non-payment of over thirteen million dollars has placed AMCON in an untenable financial position that must be rectified. AMCON reserves the right to take all legal and contractual steps necessary to protect itself, including placing a lien on the property and bringing legal action to enforce its right to payment.

Thank you,



Aaron Phillips

CEO

EXHIBIT D

09/23/2024

RE: Continued Notice of Nonpayment/Reservation of Rights

Dear Ascend Management

AMCON Industrial("AMCON") hereby provides this Continued Notice of Non-Payment and Reservation of Rights to Ascend Elements, Inc. ("Ascend") for the Covington, Georgia Project ("the Project") pursuant to Section 13.3 of the Master Services Agreement ("MSA") between the parties. This letter incorporates AMCON's previous Notices sent August 22 and August 28, 2024 providing notice to Ascend that AMCON is owed $11,095,262.27 for work AMCON performed for which it has not been paid.

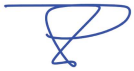
Under the terms of the MSA, AMCON maintains the right to suspend its performance on the Project due to non-payment. In response to AMCON's previous Notice letters, Ascend agreed to pay AMCON per the below payment schedule.

Invoice no.	Invoice date	Currency	Invoice amount	Scheduled Pay Date
24363	07/24/2024	USD	$ 447,582.02	9/20/2024
24364	07/24/2024	USD	$ 160,021.71	9/20/2024
24365	07/24/2024	USD	$ 89,099.70	9/20/2024
24366	07/24/2024	USD	$ 160,071.56	9/20/2024
24367	07/24/2024	USD	$ 511,852.30	9/20/2024
24368	07/24/2024	USD	$ 1,327,473.08	9/20/2024
24369	07/24/2024	USD	$ 51,844.60	9/27/2024
24370	07/24/2024	USD	$ 1,136,148.65	9/27/2024
24371	07/24/2024	USD	$ 141,128.41	9/27/2024
24372	07/24/2024	USD	$ 4,800.00	9/27/2024
24378	07/25/2024	USD	$ 14,660.38	9/27/2024
24382	07/26/2024	USD	$ 197,299.02	10/4/2024
24383	07/26/2024	USD	$ 1,101,336.55	10/4/2024
24418	08/25/2024	USD	$ 1,377.54	10/18/2024
24419	08/26/2024	USD	$ 537,064.26	10/18/2024
24420	08/26/2024	USD	$ 173,409.90	10/18/2024
24421	08/26/2024	USD	$ 25,197.80	10/18/2024
24422	08/26/2024	USD	$ 147,617.10	10/18/2024
24423	08/26/2024	USD	$ 247,982.06	10/18/2024
24424	08/26/2024	USD	$ 916,247.39	10/25/2024
24426	08/26/2024	USD	$ 27,666.58	10/25/2024
24427	08/26/2024	USD	$ 22,019.33	10/25/2024
24428	08/26/2024	USD	$ 546,592.47	10/25/2024
24429	08/26/2024	USD	$ 290,318.32	10/25/2024
24430	08/26/2024	USD	$ 39,945.10	10/25/2024
24431	08/26/2024	USD	$ 37,129.70	10/25/2024
24432	08/26/2024	USD	$ 2,520,157.53	11/1/2024

In light of Ascend's promise to pay, AMCON has agreed to continue working on the Project, subject to a reservation of rights to suspend performance in the event of Ascend's failure to pay.

In the event that Ascend fails to abide by its promise to pay, AMCON intends to exercise its contractual right to cease work, and to pursue the outstanding balance by all available means. AMCON sincerely hopes that such action will not be necessary but reserves all legal and contractual rights under the terms of the MSA.

Thank you,



Aaron Phillips

CEO

EXHIBIT E

03/17/2025

RE: Notice of Nonpayment

Dear Ascend Management:

AMCON Industrial("AMCON") hereby provides this Notice of Non-Payment and Reservation of Rights to Ascend Elements, Inc. ("Ascend") for the Covington, Georgia Project ("the Project") pursuant to Section 13.3 of the Master Services Agreement ("MSA") between the parties. AMCON points out that it has sent prior Notices of Nonpayment in August of 2024, of which there remains $125,073.26 outstanding. As of today, AMCON is owed a total of $8,379,645.03 plus interest which continues to accrue.

Of note, the MSA requires that all invoices will be paid within 30 days of receipt. The total amount noted above is more than 30 days past due. This failure of timely payment continues to place AMCON in a financial bind, as AMCON is essentially financing the work on the Project.

I understand that Ascend is conducting an audit of AMCON's invoices in connection with what are potentially a few inadvertent duplicate tax charges on material purchases. While there may be a few minor errors in prior billings, which will be rectified, that does not excuse the nonpayment of almost five million dollars' worth of paste due invoices.

If Ascend continues to delay payment, AMCON intends to exercise its contractual right to cease work, and to pursue the outstanding balance by all available means. AMCON sincerely hopes that such action will not be necessary but reserves all legal and contractual rights under the terms of the MSA.

AMCON has exercised its contractual right to lien the project. Ascend has requested this be removed as ongoing work is still being performed and the audit is actively engaged.

Conditional to the lien being removed by End of Day, March 19, 2025, and AMCON providing Ascend with written documentation of the lien removal, Ascend agrees to the below:

- AMCON is due a remaining balance of $1,274,820.90 for firm price work that is undisputed and Ascend agrees to pay within 10 business days from the notice date.

- AMCON has an outstanding balance of $7,104,824.13 for T&M work performed under the MSA.
    - Of which, $4,748,623.61 is past due and incorporated into the audit being performed by Ascend.
    - Ascend agrees to pay $500,000 per week towards the outstanding balance subject to audit through audit reconciliation
        - If the amount payable due to AMCON becomes less than or equal to, $1,000,000, Ascend will not be required to continue progress payments in the event the audit reconciliation is ongoing.
    - Ascend agrees to pay past due amounts in full less any potential credit back to Ascend in values of $500,000 per week until the sum is mutually settled.
    - Ascend agrees to pay other outstanding invoices and future invoices by the net terms as outlined in the MSA.

Thank you,

Aaron Phillips, CEO

Ascend Authorized Signature: Luis Porras

Name & Title: VP SCM

Date: 03/19/2025

EXHIBIT F

BK: 306 PG: 221-223
Filed and Recorded
08-08-2025 10:56 AM
DOC# L2025-007034

STEPHANIE FINNIE
CLERK OF SUPERIOR COURT
NEWTON COUNTY

After recording, return to:
AM Construction d/b/a Amcon Industrial
Linda Lilly
1375 Oakley Industrial Blvd
Fairburn, GA 30213

CLAIM OF LIEN ON LEASEHOLD ESTATE AND INTERESTS

STATE OF GEORGIA
COUNTY OF NEWTON

AM Construction Inc. d/b/a AMCON Industrial ("Lienor"), a general contractor, who was hired by Ascend Elements, Inc. to engage in the business of improving real estate by furnishing labor and materials, claims a lien in the amount of $6,232,621.09 (Six Million Two Hundred Thirty-Two Thousand Six Hundred Twenty-One Dollars and Nine Cents) plus interest as provided by law on the leasehold estate for years and any other property interests held by **Ascend Elements, Inc.** the lessee, in certain buildings and/or structures and in the premises or real estate upon which such are erected or built described as 9172 Industrial Drive NE, Covington, Georgia 30014, Land Lot 273, 9th District, Newton County, State of Georgia, and detailed more specifically on that legal description attached as **Exhibit "A,"** for satisfaction of a claim which became due on or after July 2, 2025 which is the last date that labor, equipment, materials and/or other services were provided to said property by Lienor. The Owner of said premises or real estate is **Covington Industrial LLC.**

THIS CLAIM OF LIEN EXPIRES AND IS VOID 395 DAYS FROM THE DATE OF FILING OF THE CLAIM OF LIEN IF NO NOTICE OF COMMENCEMENT OF LIEN ACTION IS FILED IN THAT TIME PERIOD.

PURSUANT TO O.C.G.A. §44-14-368, THE OWNER OF THE REAL PROPERTY DESCRIBED HEREIN, OR THE OWNER'S AGENT OR ATTORNEY, OR THE CONTRACTOR'S AGENT OR ATTORNEY SHALL HAVE THE RIGHT TO ELECT TO CONTEST THIS LIEN AND SHORTEN THE TIME PRESCRIBED IN WHICH TO COMMENCE A LIEN ACTION TO ENFORCE THIS CLAIM OF LIEN BY RECORDING IN THE SUPERIOR COURT CLERK'S OFFICE A NOTICE OF CONTEST OF LIEN, ALL AS PROVIDED FOR IN O.C.G.A. § 44-14-368.

This claim of lien is filed for record, pursuant to the provisions of O.C.G.A. §§ 44-14-360 et seq. within 90 days after the completion of the work or within 90 days after the material or machinery is furnished.

This the 8th day of August, 2025.

AM Construction, Inc.

Linda Lilly

By: Linda Lilly
Its: Accounting Specialist

PAMELA HANLEY
Notary Public, Georgia
Cobb County
My Commission Expires
February 09, 2027

Sworn to and subscribed before me Linda Lilly this 8th day of August, 2025

Notary Public _____ My Commission Expires: February 09, 2027

EXHIBIT A

[Legal Description]

All that tract or parcel of land lying and being in Land Lot 273 of the 9th District, City of Covington, Newton County, Georgia and being more particularly described as follows:

Commencing at a right of way monument found at the intersection of the westerly side of the right of way of Alcovy Road (a variable right of way) and the southerly side of the right of way of Interstate 20 Limited Access Highway (a variable right of way), thence running easterly along the southerly side of the right of way of Interstate 20 Limited Access Highway a distance of 485.02' to a ½" rebar set at the **TRUE POINT OF BEGINNING** (the above referenced distance is more particularly described by the following six (6) courses and distances: North 88 degrees 02 minutes 13 seconds East a distance of 114.40 feet to a right of way monument found; thence along a curve to the left an arc length of 115.20 feet, said curve having a radius of 248.00' and a chord bearing of North 79 degrees 14 minutes 54 seconds East and a chord distance of 114.16 feet to a right of way monument found; thence North 66 degrees 33 minutes 04 seconds East a distance of 126.11 feet to a right of way monument found; thence North 87 degrees 17 minutes 25 seconds East a distance of 48.21 feet to a right of way monument found; thence North 53 degrees 54 minutes 44 seconds East a distance of 30.61 feet to a right of way monument found; thence North 81 degrees 31 minutes 01 seconds East a distance of 50.49 feet to an iron pin set at the **TRUE POINT OF BEGINNING**). From point **TRUE POINT OF BEGINNING** thus established continue along the southerly side of the right of way of Interstate 20 Limited Access Highway North 81 degrees 48 minutes 47 seconds East a distance of 165.76 feet to a nail set; thence continuing along the southerly side of said right of way North 89 degrees 37 minutes 14 seconds East a distance of 462.40 feet to a right of monument found; thence continuing along the southerly side of said right of way South 89 degrees 06 minutes 22 seconds East a distance of 455.76 feet to a right of way monument found at the intersection of the southerly side of the right of way of Interstate 20 Limited Access Highway and the southerly side of the right of way of Industrial Drive (a 60' right of way); thence running along the southerly side of the right of way of Industrial Drive North 89 degrees 53 minutes 43 seconds East a distance of 13.31 feet to a ½" rebar found; thence leaving the southerly side of the right of way of Industrial Drive South 00 degrees 09 minutes 59 seconds West a distance of 705.16 feet to a ½" rebar found; thence North 74 degrees 07 minutes 51 seconds East a distance of 645.09 feet to a rock found; thence South 27 degrees 41 minutes 45 seconds East a distance of 169.19 feet to an iron pin set; thence South 09 degrees 20 minutes 10 seconds West a distance of 207.97 feet to an iron pin set on the northwesterly side of the right of way of the Georgia Railroad (a 200' right of way); thence running along the northwesterly side of said Georgia Railroad right of way South 50 degrees 33 minutes 00 seconds West a distance of 872.57 feet to a ½" rebar found at the intersection of the northwesterly side of said Georgia Railroad right of way with the northeasterly line of property now or formerly owned by CSX Railroad; thence leaving the northwesterly side of said Georgia Railroad right of way and running northwesterly along the northeasterly boundary line of adjacent property now or formerly owned by CSX Railroad the following courses and distances: along the northeasterly boundary line

of the adjacent property now or formerly owned by CSX Railroad along a curve to the right an arc length of 559.93 feet, said curve having a radius of 557.35' and a chord bearing of North 73 degrees 54 minutes 17 seconds West and a chord distance of 536.68 feet to a point; North 47 degrees 09 minutes 42 seconds West a distance of 19.33 feet to a point; North 45 degrees 40 minutes 29 seconds West a distance of 98.45 feet to a point; North 45 degrees 14 minutes 27 seconds West a distance of 99.85 feet to a point; North 40 degrees 53 minutes 24 seconds West a distance of 188.34 feet to a ½" rebar found; thence leaving said northeasterly boundary line of the adjacent property now or formerly owned by CSX Railroad North 89 degrees 56 minutes 41 seconds West a distance of 28.58 feet to a point in the centerline of a railroad spur line; thence North 35 degrees 18 minutes 32 seconds West a distance of 205.51 feet to a ½" rebar found; thence North 01 degrees 04 minutes 15 seconds East a distance of 272.97 feet to a 2" brass disc found; thence South 85 degrees 05 minutes 55 seconds West a distance of 56.44 feet to an iron pin set; thence North 05 degrees 10 minutes 29 seconds West a distance of 209.58 feet to a 2" brass disc found; thence South 88 degrees 22 minutes 36 seconds West a distance of 71.40 feet to a 2" brass disc found; thence North 00 degrees 19 minutes 08 seconds West a distance of 332.71 feet to an iron pin set on the southerly side of the right of way of Interstate 20 Limited Access Highway at the **TRUE POINT OF BEGINNING.**

Commonly known as 9172 Industrial Drive, Covington, Georgia.

Together with the rights, easements, privileges and obligations appurtenant to the above described land created and established under that certain Reciprocal Easement Agreement by and between Pactiv Corporation and Tyco Plastics, LP, dated as of May 28, 2002, recorded in Deed Book 1232, Page 550, Newton County, Georgia Records.

Said tract or parcel, containing approximately 1,628,755 square feet or 37.39 acres, is more accurately shown on that certain ALTA/ACSM Land Title Survey, dated November 13, 2014, prepared for IPA Covington, LLC, Atlantic Capital Bank and Chicago Title Insurance Company, by Travis Pruitt & Associates, Inc., last revised December 10, 2014.

BK: 306 PG: 221-223
Filed and Recorded
08-08-2025 10:56 AM
DOC# L2025-007034

STEPHANIE FINNIE
CLERK OF SUPERIOR COURT
NEWTON COUNTY

After recording, return to:
AM Construction d/b/a Amcon Industrial
Linda Lilly
1375 Oakley Industrial Blvd
Fairburn, GA 30213

CLAIM OF LIEN ON LEASEHOLD ESTATE AND INTERESTS

STATE OF GEORGIA
COUNTY OF NEWTON

AM Construction Inc. d/b/a AMCON Industrial ("Lienor"), a general contractor, who was hired by Ascend Elements, Inc. to engage in the business of improving real estate by furnishing labor and materials, claims a lien in the amount of $6,232,621.09 (Six Million Two Hundred Thirty-Two Thousand Six Hundred Twenty-One Dollars and Nine Cents) plus interest as provided by law on the leasehold estate for years and any other property interests held by Ascend Elements, Inc. the lessee, in certain buildings and/or structures and in the premises or real estate upon which such are erected or built described as 9172 Industrial Drive NE, Covington, Georgia 30014, Land Lot 273, 9th District, Newton County, State of Georgia, and detailed more specifically on that legal description attached as **Exhibit "A,"** for satisfaction of a claim which became due on or after July 2, 2025 which is the last date that labor, equipment, materials and/or other services were provided to said property by Lienor. The Owner of said premises or real estate is **Covington Industrial LLC.**

THIS CLAIM OF LIEN EXPIRES AND IS VOID 395 DAYS FROM THE DATE OF FILING OF THE CLAIM OF LIEN IF NO NOTICE OF COMMENCEMENT OF LIEN ACTION IS FILED IN THAT TIME PERIOD.

PURSUANT TO O.C.G.A. §44-14-368, THE OWNER OF THE REAL PROPERTY DESCRIBED HEREIN, OR THE OWNER'S AGENT OR ATTORNEY, OR THE CONTRACTOR'S AGENT OR ATTORNEY SHALL HAVE THE RIGHT TO ELECT TO CONTEST THIS LIEN AND SHORTEN THE TIME PRESCRIBED IN WHICH TO COMMENCE A LIEN ACTION TO ENFORCE THIS CLAIM OF LIEN BY RECORDING IN THE SUPERIOR COURT CLERK'S OFFICE A NOTICE OF CONTEST OF LIEN, ALL AS PROVIDED FOR IN O.C.G.A. § 44-14-368.

This claim of lien is filed for record, pursuant to the provisions of O.C.G.A. §§ 44-14-360 et seq. within 90 days after the completion of the work or within 90 days after the material or machinery is furnished.

This the 8th day of August, 2025.

AM Construction, Inc.

Linda Lilly

By: Linda Lilly
Its: Accounting Specialist

PAMELA HANLEY
Notary Public, Georgia
Cobb County
My Commission Expires
February 09, 2027

Sworn to and subscribed before me Linda Lilly this 8th day of August, 2025

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