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 (ARP)
Debtors.	)	(Joint Administration Requested)

DECLARATION OF LINH AUSTIN IN SUPPORT OF
CHAPTER 11 PETITIONS AND EMERGENCY FIRST-DAY MOTIONS

I, Linh Austin, pursuant to section 1746 of title 28 of the United States Code, hereby declare that the following is true and correct to the best of my knowledge, information, and belief:

1. I am the President and Chief Executive Officer of Ascend Elements, Inc. ("Ascend Elements") and Chief Executive Officer of Ascend Elements, US, LLC ("AEL" and, collectively with Ascend Elements, the "Debtors" and, together with their non-Debtor affiliates, the "Company"). I am authorized to submit this declaration (the "Declaration") on behalf of the Debtors in the above captioned cases.

2. I submit this Declaration in support of (i) the Debtors' voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") filed on April 9, 2026 (the "Petition Date") and (ii) first day motions (collectively, the "First Day Motions"), filed with the Court contemporaneously herewith. If called upon to testify, I could and would testify competently to the facts set forth herein.

3. Before my appointment as President and CEO of Debtor Ascend Elements in March 2025, I was asked to step into a more direct advisor role in December 2024 after serving as a

[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.

member of its board of directors since September 2024. I have over 30 years of progressive experience in directing corporations in the energy industry, including extensive experience in working at senior-level roles at internationally focused energy businesses like Arco/BP, ADNOC, and McDermott. Over the course of my career, I have served as a director on multiple boards of directors for public and private companies. Before joining the Debtors, I worked as a Senior Energy Advisor to an Abu Dhabi-based investment program aimed at doubling oil and gas production, as Regional CEO and Senior Vice President of the Middle East & North Africa division of McDermott International, Ltd., and most recently acted as Chairman of the Board of Fluitron, LLC, a company focused on compression technology for industrial gases. I earned a Bachelor of Science in Mechanical Engineering from the University of California – Irvine and a Master of Business Administration in Strategy and Finance from the University of Southern California.

4. In my respective roles with the Debtors, I am responsible for overseeing their operations, strategy, financial activities, business relationships, workforce issues, and financial planning. As a result of my tenure with the Debtors and discussions with other members of the Debtors' management team, I am familiar with the Debtors' business, financial condition, policies and procedures, day-to-day operations, and books and records. Except as otherwise indicated, the statements set forth in this Declaration are either based on my personal knowledge, information obtained from the Debtors' management team and advisors, my review of documents and information concerning the Debtors' operations, financial affairs, and restructuring initiatives, or my opinions based upon my experience and knowledge.

Introduction

5. Ascend Elements and its affiliates are in the business of recovering critical minerals from used lithium-ion batteries and giga-factory scraps to create Black Mass – a valuable

intermediate generated during the battery recycling process – and then refining it to produce other materials at scale, namely high-performance precursor cathode active material (pCAM) and lithium carbonate, which are crucial to the fast-growing battery industry.

6. The Company currently operates a research and development facility in Westborough, Massachusetts and two facilities producing these key materials; one in Covington, Georgia ("Apex 0"), and an international joint-venture factory in Zawiercie, Poland ("Poland JV"). Additional plants are mid-construction in Hopkinsville, Kentucky ("Apex 1") and in Poland ("Apex 2"). The Company also boasts a robust technology and intellectual property portfolio of 154 patents worldwide, which separates it from competitors in the battery materials space. For example, the Company's patented Hydro-to-Cathode technology – enables clean recycling – about 90% cleaner than traditional processes – and is designed to streamline the supply chain by converting mixed inputs into standard outputs, shortening qualification cycles and reducing manufacturing complexity.

7. Furthermore, Ascend Elements and its affiliates sit in a strategically advantageous position amid a fundamental shift in global energy production and storage. The market for battery materials is strong, and is expected to continue growing. Global demand for lithium batteries and the underlying materials required to manufacture them is projected to grow nearly four-fold over the next decade, driven by burgeoning demand for stationary energy storage and reliability/backup power needs, including from data centers and broader grid resilience initiatives, and electric vehicles both in the U.S. and internationally.

8. At the same time, the Company's strategy addresses a major imbalance in the global battery materials market. China's dominance in refining and battery materials – backed by industrial supply and scale – has created dependence risks for U.S. and European manufacturers.

The Company offers a closed loop, low-carbon, North American and European alternative source of battery materials, aligned with U.S. policy priorities concerning critical minerals, national security, and supply chain resilience, including incentives to localize the production of refined battery materials and reduce reliance on foreign-controlled processing capacity. The Company's materials and technologies also serve important defense technology applications, making its domestic production capacity critical to national security. Advanced battery materials are essential inputs for defense systems, autonomous platforms, and next-generation military technologies that the U.S. government has prioritized securing through domestic supply chains. Reflecting this positioning, in recent years the Company has secured hundreds of millions of dollars in grants from the U.S. Department of Energy ("DOE") and the Republic of Poland, hundreds of millions of dollars in financing commitments from the European Bank for Reconstruction and Development, and nearly a billion dollars in investor funding.

9. Despite these tailwinds and the Company's significant long-term market outlook, near-term liquidity constraints driven by legacy obligations and project timing mismatches have limited available options. Specifically, material cash requirements and construction-related claims came due before the Company could reach sustained run-rate production and the scale necessary to absorb those obligations. Construction delays and cost overruns at the Apex 1 facility in Hopkinsville, Kentucky have delayed the Company's ability to bring significant pCAM and lithium carbonate volumes to market, postponing associated revenue and intensifying liquidity pressures. Challengingly, price volatility of critical materials – particularly, nickel, cobalt, and lithium – exacerbated by China's supply-chain dominance has made profitably recycling these materials more challenging.

10. While the Company has market-leading revenue opportunities on the horizon and over $2 billion of future commitments from customers and contract counterparties, additional investment is required to fully realize its potential. The lack of early, sustained revenue generation – exacerbated by construction delays, cost overruns, and production constraints – has created a near-term liquidity shortfall that limited available alternatives. Although the construction and operation of the Company's existing facilities demonstrate the feasibility of the Company's closed-loop recycling process, the factors described above have delayed the Company's profitability and contributed to the shortfall.

11. Due to these constraints, and despite the Company's long-term prospects, strategic domestic importance, and anticipated revenue from its facilities under development, the Company determined that chapter 11 offers the best available option to preserve and maximize value for stakeholders under current market and operational conditions. The Debtors enter these cases with a substantially refreshed leadership – eight of the eleven senior leaders have joined the Company since 2025 – committed to a disciplined and value-maximizing path forward.

12. The Debtors commenced these chapter 11 cases to stabilize operations, preserve liquidity, and provide the breathing room necessary to explore a value-maximizing transaction or other restructuring alternatives for the benefit of all stakeholders. To that end, the Debtors have, with the assistance of their proposed investment banker, Jefferies LLC ("Jefferies"), commenced a marketing process for their assets and for debtor-in-possession financing, and will continue to do so in chapter 11.

13. The Debtors have also filed the First Day Motions requesting various forms of "first day" relief. The relief requested in the First Day Motions is narrowly tailored to preserve the value of the Debtors' assets, stabilize the enterprise, and maintain safety and regulatory compliance

while the Debtors evaluate strategic alternatives during these cases. Importantly, the First Day Motions do not seek authority to allow the Debtors to expand operations or restart construction.

14. This Declaration is divided into four parts. Part I provides background on the Debtors and their business operations. Part II describes the Debtors' corporate organization and capital structure. Part III explains the circumstances leading to the commencement of the chapter 11 cases and the need for bankruptcy relief. Part IV sets forth the facts supporting the First Day Motions.

I. The Debtors' Business Operations

A. Background

15. The Company was born out of research and development at the Worcester Polytechnic Institute, where the founding team developed technology capable of recovery of approximately 80% of the mass of spent lithium ion batteries. Following the filing of provisional patents, the founders formed Battery Resourcers, LLC in 2015 to commercialize the break-through technology. Over the next several years, the Company steadily expanded its production capabilities, recorded its first cathode output sales, and obtained additional patents. These efforts did not go unnoticed—the Company secured grants from the National Science Foundation and the Massachusetts Clean Energy Center, and executed partnership agreements with Apple, Dell, and Honda.

16. Beginning in 2021, the Company entered a period of rapid expansion, scaling up its operations and securing multiple rounds of equity and debt financing. It rebranded as Ascend Elements, announced and launched industrial-scale operations in Georgia, and expanded its workforce accordingly. Over the next several years, the Company increased production capacity to commercial scale, received significant support from the U.S. Department of Energy (securing two DOE grants totaling $480 million), and expanded its footprint in the United States and Europe,

including forming a joint venture in Poland. This rapid expansion was accompanied by growing industry recognition: the Company was named Fastmarkets 2024 Recycler of the Year and appeared on TIME Magazine's "Top Green Tech Companies" for two consecutive years.

B. The Debtors' Operations and Technology

17. The Company's core business is best understood as advanced critical-minerals refining and engineered materials manufacturing. The Company's objective is not merely to collect and process end-of-life batteries, but to produce battery-grade, specification-driven materials—including lithium carbonate and precursor cathode active material (pCAM)—suitable for integration into U.S. and European battery supply chains at commercial scale.

18. The Company's patented technologies are a crucial part of its positioning as a market leader in the battery recycling space. For example, its Hydro-to-Cathode process technology is designed specifically for recycling lithium-ion batteries, combining the strengths of hydrometallurgy and direct recycling while avoiding the toxic waste and emissions associated with other upstream processes. Moreover, unlike traditional metallurgical methods that remove impurities, separate metals, and then recombine them with pCAM, the Company's proprietary recycling process converts mixed battery chemistries directly into a single cathode chemistry product while simultaneously removing impurities. This reduces cost and lead time for manufacturers and enables cleaner, more efficient recycling, enabling reintroduction of critical materials into the domestic battery supply chain at or below competitor costs.

19. Beyond commercial applications, the Company's domestically produced battery materials are critical inputs for defense technology systems and platforms, including those used in national security and military applications. The ability to produce these materials at scale within the United States, independent of foreign-controlled supply chains, is consistent with U.S. national security priorities and reduces strategic vulnerabilities identified by federal agencies.

20. The Company's operations have been based on leveraging its technological advantages with the goal of developing the most critical components of minerals and battery materials, namely Black Mass, lithium carbonate, and pCAM at the Debtor's facilities, which are described more fully below.

i. Apex 0 (Covington, GA) - Black Mass/Lithium Carbonate

21. The Apex 0 project is a 154,000 sq. ft. facility located in Covington, Georgia, approximately 35 miles east of Atlanta. The facility shreds factory scrap and used EV batteries to produce Black Mass, which feeds the Company's downstream lithium carbonate and pCAM production processes, with excess volumes available for third-party sale.

22. Shredding operations at Apex 0 began in 2022, with construction upgrades continuing through the present. Black Mass operations were restarted in third quarter of 2025 following operational reconfiguration, and the Company is currently producing Black Mass. Further capital expenditures are required to expand this facility's production capabilities and ramp toward run-rate capacity. With the required capital expenditures and at nameplate capacity, Apex 0 is projected to process roughly 30 kilotons of lithium battery feedstock into 20-30 kilotons of Black Mass annually.

23. In August 2025, the Company achieved a landmark milestone: it became the first company in U.S. history to produce lithium carbonate from 100% recycled battery content at commercial scale. This significant achievement, which has been verified by a third-party engineering report and confirmed through testing according to industry QC/QA standards with multiple potential customers, marks an inflection point in the development of a domestic, closed-loop battery materials supply chain. Upon completion of planned utility upgrades, Covington is expected to become the first, and only, U.S. commercial recycled lithium carbonate production

facility operating at scale. The facility also houses a pCAM pilot line currently used to produce commercial samples for customer qualification.

24. There is no comparable facility anywhere in the United States, and replicating what the Company has built — its proprietary process technology, purpose-built infrastructure, regulatory approvals, and customer-validated product — would require years of development and substantial capital investment by any new entrant. Moreover, these recent milestones have been achieved under the Company's current leadership team, the substantial majority of which joined within the past year and have brought renewed operational discipline and focus to realizing the Company's commercial potential.

ii. Apex 1 (Hopkinsville, KY) - Lithium Carbonate/pCAM

25. The Apex 1 project is under construction in Hopkinsville, Kentucky, about 70 miles northwest of Nashville, Tennessee. If completed, the plant will encompass roughly 500,000 sq. ft., making it the Company's largest site, with an initial focus on lithium carbonate production. As of the Petition Date, the facility is approximately 60% complete and construction has been paused pending resolution of outstanding disputes with the Company's primary contractor.

26. The Apex 1 facility is not operational and does not currently generate revenue. Any future development of extraction facilities at the site remains subject to completion of construction, resolution of the outstanding contractor disputes, and additional capital investment. Development of extraction facilities is scheduled to begin in the near term, with initial revenue targeted shortly thereafter.

iii. Poland JV Project (Zawiercie, Poland) - Black Mass

27. Debtor Ascend Elements is the 100% owner of Ascend Elements Poland SP Z.O.O., which along with non-Debtor Polish company Elemental Strategic Metals, each own a 50% interest in AE Elemental SP. Z.O.O., for the purpose of operating a large, state-of-the-art multi-

metal extraction facility in Zawiercie, Poland focused on the recovery of battery metals and platinum group metals. The joint venture has been operational since 2024 and is engaged in spent battery disassembly, discharge, and shredding, enabling strategic access to EU OEMs and feed stock sources. Black Mass produced at the Poland JV Facility will serve as the primary feedstock for the Company's planned Apex 2 (discussed below) lithium carbonate and pCAM production operations in Poland.

28. Although small amounts of Black Mass are currently produced at this facility, further capital expenditures are required to expand this facility's production capabilities. With required capital expenditure fundings, the facility will be able to process 12 kilotons of lithium batteries per year into 6-8 kilotons of Black Mass per year.

iv. Apex 2 (Poland) - Lithium Carbonate/pCAM

29. Non-Debtor affiliate and Polish company Ascend Elements Poland Holdco holds a 100% interest in Ascend Elements Poland 2, an entity established for the purpose of developing Lithium Carbonate and pCAM extraction facilities in Poland. The Company has planned for the Apex 2 facility to include both production lines, to be built in phases, with Black Mass feedstock to be supplied by the Poland JV Facility. Construction for the project is supported by a $340 million grant from the Polish government, among other significant financial backing from the Polish government and European Bank for Reconstruction and Development.

30. Apex 2 is currently at the project development stage, with a suitable site identified and secured, and no material capital deployed beyond the existing JV. The Company is also developing a joint venture partnership with an experienced industry partner expected to contribute equity, operational expertise, and supply chain access, further de-risking the project's execution.

II. The Debtors' Corporate and Capital Structure

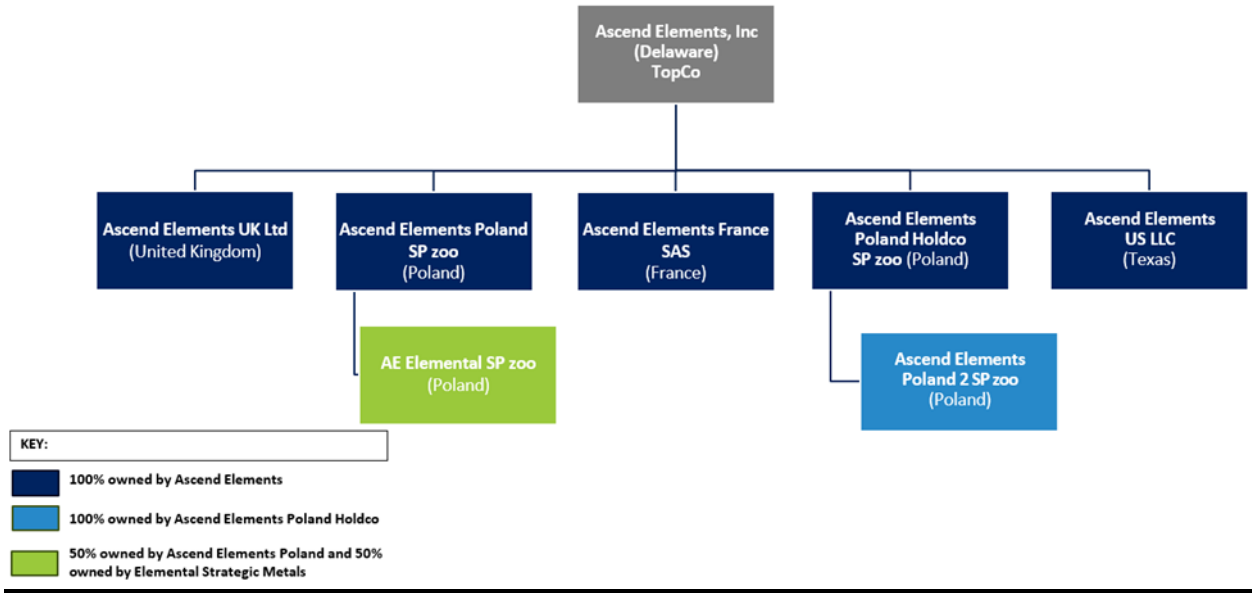
A. Corporate Structure

31. Debtor Ascend Elements is a corporation that was organized in 2017 under the laws of the State of Delaware with headquarters in Westborough, Massachusetts. It is the direct parent company of Debtor AEL and direct or indirect parent company of all non-Debtor affiliates that make up the Company. Debtor AEL is a limited liability company that was organized in 2025 under the laws of the state of Texas.

32. Non-Debtors Ascend Elements UK, Ltd., Ascend Elements France, Ascend Elements Poland Holdco, and Ascend Elements Poland SP Z.O.O. are wholly owned subsidiaries of Ascend Elements. As mentioned, non-Debtor subsidiary Ascend Elements Poland SP Z.O.O. and non-debtor Elemental Strategic Metals, each own a 50% interest in AE Elemental SP Z.O.O., a joint venture for operating the Poland JV facility. Ascend Elements Poland Holdco, owns a 100% interest in a lower subsidiary Ascend Elements Poland 2.

33. Debtor Ascend Elements is the main operating entity that owns the substantial majority of the Debtors' property, plant, and equipment assets; employs the Debtors' staff; and owns the vast majority of the intellectual property associated with the Debtors' operations. As of April 9, 2026, the Debtors have approximately 102 employees and 14 independent contractors and sub-contractors in the United States working onsite and remotely, with the largest concentrations in Georgia, Kentucky, Massachusetts, and Texas.

34. The Debtor's organizational chart is shown below:



B. Capital Structure[2]

35. As of the Petition Date, the principal amount of the Debtors' funded debt obligations total approximately $103.5 million (excluding interest, obligations under various hedging arrangements, letters of credit, and other charges) on a consolidated basis, as summarized in the table below:

Instrument		Outstanding Principal
Senior Secured Convertible Loan Notes	$	20,000
Junior Secured Convertible Loan Notes		83,121
Kentucky Mortgage Debt		396
Total	**$**	**103,516**

36. ***Secured Convertible Notes.*** Debtor Ascend Elements is a party to that certain

[2] The descriptions in this Declaration of the Company's debt and other secured obligations, including any security in respect of such debt, are provided for the convenience of the Court and parties in interest. In certain cases, amounts stated are approximate. The descriptions are not intended to be comprehensive nor should they be construed as an admission with respect to terms, amount, validity or enforceability of any debt, any lien or security, or any other right or obligation. These descriptions are qualified in their entirety by the operative relevant debt and related documents. The Debtors and their advisors are continuing to review their debt obligations and related matters and expressly reserve all rights relating thereto

Senior Secured Convertible Note and Warrant Purchase Agreement, dated December 22, 2025, (as amended, restated, amended and restated supplemented or otherwise modified from time to time, the "Senior Notes Agreement") pursuant to which it agreed to sell and issue (i) convertible promissory notes (collectively, the "Senior Secured Convertible Notes") to certain identified Investors therein (the "Senior Secured Noteholders") in an aggregate principal amount not to exceed $39,999,950, and (ii) warrants to purchase 27,925,000 shares of the Company's common stock (the "Warrants") to certain identified Investors (the "Warrantholders") at an exercise price of .01 per share. The Senior Secured Convertible Notes mature on June 12, 2027 and are secured by first priority, senior liens and security interests (the "Senior Secured Liens") in substantially all of the Debtors' personal property, including cash and cash equivalents (the "Prepetition SSN Collateral"). The Warrants will expire on the earlier of (i) the 10th anniversary of the issuance or (ii) a Deemed Liquidation Event or IPO (as defined in and further set forth the Warrants).

37. The Senior Noteholders' liens are evidenced by certain security documents, including that certain Security Agreement, dated as of December 22, 2025 (the "Senior Security Agreement" and together with the Senior Notes Agreement, the "Prepetition SSN Documents") by and between Debtor Ascend Elements, Inc., the Investors (as defined therein), and Alter Domus (US), LLC as collateral agent for the Investors (in such capacity, the "SSN Collateral Agent" and together with the Senior Noteholders, the "Prepetition Senior Secured Parties").

38. As of the Petition Date, approximately $20.0 million, excluding accrued and unpaid interest thereon, remains outstanding on account of the Senior Secured Convertible Notes.

39. Debtor Ascend Elements is also a party to that certain Subordinated Secured Convertible Note Purchase Agreement, dated as of June 13, 2025 (as amended, restated, amended and restated supplemented or otherwise modified from time to time, the "Junior Notes

Agreement"), pursuant to which it agreed to sell and issue convertible promissory notes (collectively, the "Junior Secured Convertible Notes" and together with the Senior Secured Convertible Notes, the "Notes") to certain Investors identified therein (the "Junior Secured Noteholders" and together with the Senior Secured Noteholders, the "Secured Noteholders") in an aggregate principal amount not to exceed $150,000,000. The Junior Secured Convertible Notes mature on June 12, 2027 and are secured by second priority liens and security interests ("Junior Secured Liens" and together with the Senior Secured Liens, the "Prepetition Liens") in substantially all of the Debtors' personal property, including cash and cash equivalents (the "Prepetition JN Collateral" and together with Prepetition SSN Collateral, the "Prepetition Collateral").

40. The Junior Noteholders' liens are evidenced by certain security documents, including that certain Security Agreement, dated as of June 13, 2025 (the "Junior Security Agreement" and together with the Junior Note Purchase Agreement, the "Prepetition JN Documents" and together with the Prepetition SSN Documents, the "Prepetition Notes Documents") by and between Debtor Ascend Elements, Inc., the Investors (as defined therein), and Alter Domus (US), LLC as collateral agent for the Investors (in such capacity, the "JN Collateral Agent" and together with the Junior Secured Noteholders, the "Prepetition Junior Secured Parties," and together with the Prepetition Senior Secured Parties, the "Prepetition Secured Parties").

41. As of the Petition Date, approximately $83.1 million, excluding accrued and unpaid interest thereon, remains outstanding on account of the Junior Secured Convertible Notes.

42. In connection with the Senior Notes Agreement, the Junior Secured Noteholders and Senior Secured Noteholders entered into that certain Subordination Agreement, dated

December 22, 2025, and acknowledged and agreed by the Debtors, whereby the parties to the Subordination Agreement agreed and acknowledged that the payment and lien priority of the Secured Noteholders with respect to the Notes and the Collateral securing the Notes are governed by the terms and conditions set forth therein.

43. ***The Kentucky Mortgage Debt.*** In connection with that certain Amended and Restated Purchase and Sale Agreement, dated as of November 16, 2022 (as amended, restated, amended and restated supplemented or otherwise modified from time to time), for the purchase of 146 acres of land in Hopkinsville Industrial Park, Kentucky (the "Hopkinsville Property") where the Debtors' Apex 1 facility is being built, Debtor Ascend Elements, as borrower, executed that certain Commercial Term Promissory Note, dated as of November 16, 2022, in favor of Hopkinsville Industrial Foundation, Inc., a Kentucky non-profit corporation in the original principal amount equal to $2.9 million, secured by a mortgage on the Hopkinsville Property. As of the Petition Date, the aggregate amount outstanding under the Commercial Term Promissory Note was approximately $0.4 million.

44. ***Statutory Lien Claims.*** As of the Petition Date, contractors, subcontractors, materialmen, and various suppliers had recorded or noticed mechanics, warehouse, and materialman's liens in connection with services, material, and other types of work and materials provided for the Debtor's Apex 0 and Apex 1 facilities in an aggregate amount exceeding approximately $145 million.[3]

45. ***U.S. Department of Energy Grants.*** In 2022, the DOE awarded the Debtor Ascend Elements a federal grant under that certain Assistance Agreement Award No. DE-MS0000002 (the

[3] The statutory lien claims against the Debtors are comprised primarily of an approximately $140 million lien claim asserted by the prime contractor for the Apex 1 facility as well as additional lien claims by its various subcontracts and suppliers. Accordingly, the total amount of such asserted claims substantially exceeds the Debtors' alleged liability for the work, goods, and services allegedly provided.

"DOE Grant") in the aggregate amount of $311 million to construct an industrial scale battery precursor production facility in the United States – the Apex 1 facility in Hopkinsville, Kentucky. In 2025, the grant was canceled due to spending cuts recommended by the Department of Government Efficiency. As of the Petition Date, Ascend Elements has received $207 million of the DOE Grant. Pursuant to the DOE Grant, the DOE asserts an undivided reversionary interest in equipment acquired by the Debtors with funds awarded under the DOE grant.

46. ***City of Hopkinsville Conditional Grant.*** In connection with the purchase of the Hopkinsville Property, the Company received a grant from the City of Hopkinsville, Kentucky in the aggregate amount of approximately $3.6 million as an incentive for the acquisition, subject to certain recapture obligations.

47. ***Unsecured Debt.*** As of the Petition Date, the Debtors estimate they have approximately $40 million in unsecured debt obligations, including amounts owed to, among others, trade creditors, suppliers, vendors, and contract counterparties, which are subject to the Debtors' rights to dispute.

III. Events Leading To The Chapter 11 Filings

48. The Debtors' decision to commence these chapter 11 cases reflects the culmination of operational, financial, and market-driven challenges that have intensified over the past several years. Although the Debtors' operations are strategically located and technologically advanced, the Debtors have recently faced headwinds in developing and commercializing their revolutionary intellectual property. Since 2025, the Company has substantially refreshed its senior leadership. Eight of the Company's eleven senior leaders are new, and this reconstituted management team inherited a set of pre-existing operational and financial challenges, including near-term liquidity pressures, construction delays, and cost disputes with contractors, that are described below. The

new management team has moved expeditiously to assess the Company's position, implement operational controls, and identify the best path forward to preserve value for all stakeholders.

49. The Debtors have encountered significant obstacles in completing the Apex 1 facility in Kentucky, preventing the facility from achieving profitability. In 2023-2024, the Debtors raised roughly $650 million to fund the buildout of the Apex 0 and Apex 1 facilities. Apex 0 began operations in 2022, but needed additional capital to expand its shredding capabilities and to construct its lithium carbonate processing unit. These delays and capital needs, in turn, tightened near-term liquidity, limiting the Debtors' flexibility notwithstanding the long-term value expected from these assets.

50. As of the Petition Date, Apex 1 is approximately 60% complete and its development has come to a standstill. In late 2024, the Debtors' primary contractor, Turner-Kokosing Joint Venture ("TKJV"), notified Ascend Elements of unforeseen cost escalations requiring Ascend to enter an additional capital raise to complete the project. In early 2025, following an internal review of the Apex 1 project and cost overruns, and skeptical of TKJV's revised estimates while also suspecting fraudulent billing, the Debtors paused further capital expenditures on Apex 1 and instead invested in preserving and winterizing the construction site pending further developments. These actions were necessary to conserve limited liquidity while the Debtors evaluated the most value-protective course of action.

51. The construction pause and investigation into the cost overruns has resulted in a legacy accounts payable balance for work performed by TKJV and other subcontractors, many of whom have recorded mechanics'/materialmen's liens, in the asserted amount of approximately $138.4 million.[4] TKJV also filed a lawsuit against Ascend Elements and others in Kentucky state

[4] This asserted amount does not reflect reductions for settlements the Debtors recently reached with certain subcontractors of TKJV.

court. Although TKJV's claims have been compelled to arbitration, the state court declined to stay the additional lien claims asserted by subcontractors and suppliers pending the arbitration. Ascend Elements has appealed the denial of the stay, an appeal which remains pending. The arbitration is ongoing. TKJV asserts it is owed approximately $138.4 million for work performed on Apex 1. Ascend has asserted defenses and counterclaims against TKJV and one of its subcontractors, alleging they negligently and/or fraudulently overcharged the project by at least $16 million. Until the disputes are resolved and work can resume, Apex 1 cannot be completed, placed into service, or contribute to revenue generation – further constraining near-term liquidity and narrowing available alternatives.

52. The Debtors have also experienced setbacks with the Apex 0 project. The Georgia facility has been unable to ramp-up its lithium carbonate production to commercially viable levels because of necessary upgrades to the plant's utility connection. While the Debtors have identified a solution, implementing it will require time and capital, further delaying Apex 0's contribution to profitability and reinforcing the near-term liquidity shortfall.

53. Market volatility for Black Mass, lithium carbonate, and pCAM has compounded these challenges by constraining the Debtors ability to market the limited material they are currently able to produce. China's dominant position in the battery material market – supported by significant contributions from the Chinese government – has enabled the sustained export of low-cost lithium carbonate, cobalt, and pCAM, exerting downward pressure on prices. Although experts predict a market bottom in 2025 and a recovery is anticipated in 2026, current pricing dynamics have limited cash generation and heightened the Debtors' liquidity constraints. Collectively, these factors adversely impacted the Debtors' liquidity position. As a result, the Debtors are now delinquent on certain obligations to their key vendors and trade creditors.

54. In Q1 2025, the Debtors' current management team implemented weekly cash management and spend controls to support operational discipline. Beginning in the fall of 2025, the Debtors' management and advisors undertook a comprehensive review of strategic alternatives to address their liquidity position. With the assistance of their advisors, the Debtors began negotiating with a group of their prepetition noteholders holding a majority of their outstanding indebtedness regarding bridge financing to stabilize operations and provide adequate liquidity while the Debtors explored potential restructuring solutions. Those efforts resulted in the sale and issuance of the Senior Notes in December 2025. This liquidity allowed the Debtors to continue operating while they assessed their long-term capital needs and explored restructuring alternatives. During this period, however, it became clear that it would be impracticable to restructure outside of bankruptcy in light of the Debtors' legacy liabilities, the amount of new capital required, the Debtors' continuing operational challenges and liquidity pressures, and deteriorating relationships with their vendors. As a result of the foregoing, in the weeks preceding the commencement of these cases, the Debtors and a third-party lender commenced negotiations of a term sheet that framed the principal terms under which the lender would have provided debtor-in-possession financing and an asset purchase agreement for the sale of substantially all of the Debtors' assets. Ultimately, however, those negotiations did not result in the execution of a definitive financing or asset purchase agreement.

55. The Debtors determined that commencing these chapter 11 cases is the best available option to stabilize operations, preserve and maximize value, address legacy liabilities in an orderly and transparent manner, and provide the runway to explore a value-maximizing transaction or other restructuring alternatives for the benefit of their estates and all stakeholders. To that end, the Debtors are actively engaged in discussions with potential DIP lenders and prospective stalking horse purchasers, and have concurrently filed the *Debtors' Motion For Entry Of Orders(I)(A) Approving Bid Procedures, (B) Designating 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 Contracts, And (C) Granting Related Relief* (the "Bid Procedures Motion") for approval of a sale process during the pendency of these chapter 11 cases. As explained in greater detail in the Bid Procedures Motion and declarations filed in support thereof, the Debtors seek to implement a fair, competitive, and swift process for the sale of substantially all their assets and designate one or more parties to act as a stalking horse bidder to generate the highest or best recoveries for the Debtors' stakeholders under the circumstances.

IV. Evidentiary Support For Certain First-Day Emergency Motions And Applications

56. Contemporaneously with the filing of this Declaration, the Debtors filed various emergency First Day Motions, which the Debtors believe are necessary to stabilize their operations with minimum disruption and to preserve the value of their assets as the Debtors obtain the breathing room to pursue a sale, or other restructuring alternative for the benefit of the Debtors' estates and stakeholders.

57. The relief requested in the First Day Motions is narrowly tailored to meet the following goals of these chapter 11 cases: (a) continuing the Debtors' operations in chapter 11

with minimal disruption; (b) maintaining the confidence and support of their vendors, customers, employees, and other key constituencies; (c) providing adequate runway for the Debtors to explore and effectuate a process for a value-maximizing transaction; and (d) establishing procedures for the efficient administration of these chapter 11 cases.

58. The First Day Motions include the following:

A. Administrative Motions – the Joint Administration Motion, Complex Case Notice, Schedules Extension Motion, Creditor Matrix and Noticing Motion, and Claims Agent Retention Application

59. It is my understanding that these pleadings are designed to streamline the administration of the Debtors' chapter 11 cases by, among other things: (1) jointly administering the Debtors' bankruptcy cases into one case and granting related relief; (2) approving typical complex case treatment for these chapter 11 cases, including relief related to the filing of a master service list; (3) authorizing the filing of a consolidated creditor matrix, redaction of certain personal identifying information and sensitive business information from documents filed in the chapter 11 cases, and the form and manner of notices; (4) extending the deadline by which the Debtors must file required Schedules and Statements of Financial Affairs by 45 days for a total of 59 days from the Petition Date; and (5) approving the retention of a claims and noticing agent for the Debtors.

60. It is my opinion that the relief sought in the Administrative Motions will streamline the administration of these Chapter 11 Cases through procedural consolidation, facilitate the noticing process to interested parties, reduce the administrative expenses ultimately incurred by the Debtors, and reduce confusion. It is my understanding that the Administrative Motions seek non-substantive relief that is routinely granted in larger chapter 11 cases in this District and that is necessary and appropriate under the circumstances.

B. Cash Collateral Motion

61. Pursuant to the Cash Collateral Motion, the Debtors seek entry of an order (i) authorizing the use of cash collateral, as that term is defined in section 363(a) of the Bankruptcy Code ("Cash Collateral") on an interim basis in accordance with the budget attached to the proposed interim order as Exhibit 1 (the "Budget"); (ii) granting adequate protection described herein for the use of the prepetition collateral, including Cash Collateral; (iii) modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of the Interim Order and the Final Order; (iv) scheduling a final hearing on the Cash Collateral Motion within 21 days of the entry of the interim order; and (v) granting related relief.

62. The Debtors require immediate access to Cash Collateral to maintain limited operations, including funding day-to-day payroll and vendor payments necessary to protect the health and safety of the Debtors' employees and the public, maintain the integrity of the Debtors' facilities, and safely store equipment and other assets, while the Debtors explore a potential value maximizing transaction and other available alternatives. The ability to satisfy these expenses as and when they come due is essential to the Debtors' continued, albeit reduced, operation of their businesses during the pendency of these chapter 11 cases.

63. Under these circumstances, the relief requested by the Cash Collateral Motion appears appropriate, reasonable, and, in the Debtors' business judgment, essential to enable it to continue operating. I believe that the inability to use Cash Collateral during the Chapter 11 Cases would cripple the Debtors' business operations, causing immediate and irreparable harm to the Debtors and their estates.

64. The Debtors request authority to provide the CLN Secured Parties with adequate protection as set forth in the Cash Collateral Motion and in accordance with the Budget attached

thereto. I have reviewed the Budget attached to the Cash Collateral Motion and believe it is reasonable and necessary under the circumstances to support the Debtors' limited operations. I believe that the relief requested in the Cash Collateral Motion is in the best interests of the Debtors' estates, their creditors, and all other parties in interest and will enable the Debtors to continue to operate their business in chapter 11 without disruption. Absent access to cash collateral, the Debtors could not operate and bridge to a value-maximizing transaction or other restructuring alternative that provides for greater recoveries for all creditors than a liquidation. More importantly, without access to Cash Collateral to stabilize the business, a potential hazard to the health and safety of the public could result, forcing the Debtors to shutdown operations and irreparably impair the value of the Debtor' assets. Accordingly, on behalf of the Debtors, I respectfully submit that the Cash Collateral Motion should be approved.

C. Wages Motion

65. Pursuant to the Wages Motion, the Debtors seek entry of an order (i) authorizing the Debtors to: (a) pay prepetition wages, salaries, other compensation and reimbursable expenses to Employees and Contractors (each as defined below) (collectively, the "Compensation") and (b) continue providing Employees with benefits (the "Benefits") pursuant to the Employee Benefits Programs (as defined below) in the ordinary course of business, including payment of certain prepetition obligations related thereto.

66. As of the Petition Date, the Debtors employ approximately 102 employees (collectively, the "Employees"). All Employees are employed by Debtor Ascend Elements, Inc. None of the Employees are represented by a union or employed pursuant to a collective bargaining agreement. As of the Petition Date, the Debtors have also retained 14 independent contractors and sub-contractors, and from time to time may seek to engage additional independent and sub-contractors (the "Contractors").

67. The Employees and Contractors provide a broad range of essential services that are critical to the Debtors' business operations and restructuring efforts. Their specialized skills, institutional knowledge, and familiarity with the Debtors' infrastructure and processes are crucial to maintaining the continuity and stability of the Debtors' businesses while the Debtors pursue a value-maximizing sale. Many of the Employees and Contractors possess expertise that is not easily replaced, including safety and compliance-related knowledge particularly needed by the Debtors during their limited operations, and any disruption to their services would impair the Debtors' ability to advance these chapter 11 cases. The Debtors further believe that most of the Employees and Contractors depend on their wages and benefits as their primary source of income to cover daily living expenses and support their families. Without continued payment of Compensation and, to the extent applicable, provision of Benefits, the Employees and Contractors would likely face substantial financial hardship. To avoid such personal hardship and the resulting adverse impact on workforce morale and retention, through the Wages Motion, the Debtors seek authority to satisfy the obligations described therein as they become due. The Debtors intend to maintain their prepetition employee compensation practices, benefits programs, and related policies in the ordinary course of business on a postpetition basis, subject to the Court's approval of the relief requested.

68. The Debtors also provide eligible Employees with Benefits further outlined in the Wages Motion. The Debtors believe that, as of the Petition Date, the aggregate amount of accrued Compensation and Benefits due and owing is approximately $1,401,700. The prepetition amounts owing in relation to the Compensation and Benefits that the Debtors are seeking authority to pay pursuant to the Wages Motion are summarized in the following table:

Employee Compensation and Benefits	Estimated Prepetition Amount Outstanding
Compensation	
Employee Compensation	$325,200
Withholding Obligations	$178,800
Employer Payroll Taxes	$34,900
Reimbursable Expenses	$24,000
Contractors and Staffing Agency Obligations	$159,300
Administration Fees	$19,800
Employee Benefits Programs	
Medical Benefit Programs	$31,200
Insurance Benefit Programs	$2,200
Workers' Compensation Program	$0
401(k) Plan	$1,800
Leave Policy	$617,000
Bonus and Incentive Programs	$7,500
Benefits Administration Fees	$0
TOTAL:	$1,401,700

D. Cash Management Motion

69. Pursuant to the Cash Management Motion, the Debtors seek authority to (i) continue operating their cash management system, (ii) maintain their existing bank accounts, (iii) honor related pre-petition obligations, and (iv) continue to perform intercompany transactions and funding consistent with the Debtors' historical practice.

70. The Debtors utilize a centralized and integrated cash management system to facilitate the collection, transfer, and disbursement of funds generated through their ongoing business activities. A schematic illustrating the structure of the Debtors' cash management system is attached as Exhibit A to the Cash Management Motion.

71. As of the Petition Date, the Company's cash management system consists of twenty (20) bank accounts, which are identified on Exhibit B to the Cash Management Motion. The Debtors maintain seven (7) bank accounts, which are held at Bank of America, N.A. and Silicon Valley Bank, a Division of First Citizens Bank. A description of each of the Debtors' bank accounts is provided under paragraph 9 of the Cash Management Motion.

72. In the ordinary course of business, each bank charges certain service fees, which are automatically deducted from the Debtors' bank accounts. The Debtors pay approximately $3,000 per month in bank fees, all of which are generally due and paid monthly. The Debtors estimate that approximately $1,200 in prepetition bank fees have accrued and are unpaid as of the Petition Date.

73. Additionally, the Debtors use corporate credit cards issued by American Express. As of the Petition Date, fifty three (53) corporate credit cards have been issued for use by the Debtors' employees to cover business expenses incurred in the ordinary course of carrying out their employment responsibilities. The Debtors repay the amounts outstanding on the corporate credit cards directly to the card issuer. The average monthly balance on the corporate credit cards is approximately $109,000. As of the Petition Date, the corporate cards have a balance of approximately $160,000. My understanding is that if the Debtors' corporate credit card program is discontinued, AMEX could attempt to collect funds from the Debtors' employees, potentially resulting in injury to their personal credit and finances and claims against the Debtors' estates.

Consequently, the continued functionality of the corporate cards is critical to avoid disruptions to the Debtors' ordinary business operations.

74. In the ordinary course of business, the Debtors maintain business relationships with each other and their non-debtor affiliates and regularly engage in intercompany transactions. At any given time, intercompany balances may be owing between the Debtors and between the Debtors and their non-debtor affiliates as a result of such intercompany transactions. These intercompany transactions arise, among other ways, pursuant to arrangements by which certain entities satisfy ordinary course obligations of other entities.

75. For example, in the ordinary course of business the Debtors manage the working capital needs of their foreign non-Debtor affiliates that are critical to the Debtors' European operations. As these foreign non-Debtor affiliates generate limited revenue and have limited funds in their bank accounts, they rely on the Debtors for their operational needs. The Debtors have historically satisfied ordinary course obligations on behalf of their non-Debtor affiliates by making payments directly to their vendors and service providers upon receipt of invoices, or by making payments to their non-Debtor affiliates upon request therefrom in connection with various intercompany loan agreements. On a monthly basis, the Debtors have historically made payments of approximately $55,000 on behalf of their foreign non-Debtor affiliates for such expenses.

76. The Debtors expect to continue to engage in such intercompany transaction on a post-petition basis, which are critical to ensuring that the Debtors are able to maintain their operations and preserve the value of their businesses as the Debtors pursue a value maximizing transaction for the benefit of all stakeholders. With respect to intercompany transactions with their foreign non-Debtor affiliates, the Debtors are only seeking authority to undertake such intercompany transactions on a postpetition basis in a manner consistent with historic prepetition

business practices, subject to a cap of $100,000 in the aggregate without further approval of the Court, and only to the extent necessary to fund such affiliates' ordinary course operational expenses that are essential to minimizing disruptions to the Debtors' operations and preserving the value of the enterprise. The Debtors maintain records of all transfers and can ascertain, trace and account for the intercompany transfers and will continue to do so during these chapter 11 cases.

77. As part of the Debtors' cash management system, the Debtors use a variety of preprinted business forms (including checks, letterhead, correspondence forms, invoices, and other business forms) in the ordinary course of business. The Debtors also maintain books and records to document their financial results and a wide array of operating information. To avoid a significant disruption to their business operations and to minimize administrative expense to their estates, the Debtors request authority to continue using all of the preprinted business forms and books and records in a manner consistent with prepetition practice, without reference to the Debtors' status as chapter 11 debtors in possession.

78. The relief sought in the Cash Management Motion is necessary. The cash management system provides material benefits to the Debtors, including the ability to control corporate funds, ensure the availability of funds when necessary, and reduce costs and administrative expenses by facilitating the quick movement of funds. Disruptions to the Debtors' cash management system could lead to delays in satisfying the Debtors' obligations to employees, vendors, and suppliers. To avoid the potential erosion of value that could ensue from any such disruptions, it is imperative that the Debtors continue using their cash management system consistent with historical practice.

E. Utilities Motion

79. Pursuant to the Utilities Motion, the Debtors seek entry of an order (a) approving the Debtors' proposed adequate assurance of payment for future utility services, (b) approving the

Adequate Assurance Procedures (as defined therein), (c) prohibiting utility providers from altering, refusing, or discontinuing services, and (d) granting related relief. In connection with the regular operations of the Debtors' businesses, the Debtors use electricity, gas, water, telephone, telecommunications, and similar services. Historically, the Debtors have paid on average approximately $294,000 each month for the Utility Services in the aggregate, as calculated based on utility payments made during the past year. The Debtors have provided certain of the Utility Providers with letters of credit or surety bonds. The Debtors estimate the amount of these assurances is approximately $499,000 ("Prepetition Deposits"). The Utility Services are essential to maintain the Debtors' business operations.

80. The Debtors propose to hold adequate assurance deposits totaling $20,316.00 in a segregated account for the benefit of their utility companies during these chapter 11 cases. The Adequate Assurance Deposit is equal to approximately one-half of the Debtors' average monthly cost of Utility Services, as calculated based on utility payments made during the past year less the amount of Prepetition Deposits for certain Utility Providers. The relief requested in the Utilities Motion is warranted because utility services are essential for ongoing business operations and therefore the overall success of these cases. Additionally, the proposed adequate assurance payment and procedures for resolving any objections by the utility companies are reasonable and should be approved. The utility companies should also be prohibited from altering, refusing, or discontinuing service to the Debtors. Should any utility company refuse or discontinue service, even for a brief period, the Debtors' business operations would be disrupted. The relief sought in the Utilities Motion is necessary to ensure that the Debtors maintain continued services from their utility service providers to allow the Debtors to continue operating in the normal course during these chapter 11 cases.

F. Critical Vendor Motion

81. In the critical vendor motion, the Debtors seek entry of interim and final orders: (a) authorizing the Debtors to pay, in the ordinary course of business, based on their sound business judgment, certain prepetition amounts owing on account of Vendor Claims,(as defined therein) in an amount not to exceed $1.35 million pursuant to the Interim Order, and, in the aggregate, inclusive of amounts paid pursuant to the Interim Order, an amount not to exceed $1.35 million pursuant to the Final Order and (b) granting certain related relief. The Debtors' business relies on continuing access to, and relationships with, the Critical Vendors (as defined herein), which includes a network of highly specialized vendors and suppliers that provide the Debtors with unique and essential services for their business. The Debtors, with the assistance of their advisors, have spent significant time reviewing and analyzing the Debtors' books and records, accounts payable, key contracts, purchase orders, and vendor lists, consulted with key Debtor employees, and analyzed applicable laws, regulations, and historical practice to identify the vendors most critical to efficiently maximizing the value of the Debtors' estates (the "Critical Vendors"). In determining which vendors the Debtors consider to be Critical Vendors, the Debtors and their advisors considered, among other things:

a. the importance of the services provided by a vendor or supplier to the Debtors' business;

b. whether services are provided pursuant to a contract or on a purchase order basis;

c. whether failure to pay all or part of a particular vendor's claim could cause the vendor to refuse to provide services on a postpetition basis;

d. whether the vendor is bound by an agreement pursuant to which the Debtors could compel such vendor to continue performing on prepetition terms;

e. whether the failure to pay a particular vendor could result in the negotiated trade terms being altered as a matter of applicable non-bankruptcy commercial law or regulations;

f. whether the vendor is a sole- or limited-source or high-volume supplier for the services;

g. whether alternative vendors are available that could provide the requisite volume of similar services on equal or better terms, and, if so, whether the Debtors would be able to continue operating without significant disruption to their postpetition operations while transitioning business thereto; and

h. whether certain specifications or contract requirements and conditions prevent, directly or indirectly, the Debtors from obtaining the services from alternative sources.

82. Based on this analysis, the Debtors identified the Critical Vendors whose support is essential to the Debtors' ability to preserve and enhance the value of their estates. Accordingly, the Debtors, with the assistance of their advisors, identified a limited set of vendors that provide essential services without which the Debtors would struggle to preserve asset value and maintain compliance with local, state and federal regulations during these cases. In total, the Critical Vendors identified only account for 9% of the Debtors total trade disbursements in the twelve months prior to the Petition Date.

83. The Critical Vendors identified in the Critical Vendor Motion are limited to those Critical Vendors necessary to preserve and enhance the value of their estates, maintain compliance with relevant local, state and federal guidelines, and efficiently administer the estate in a manner that preserves value for all stakeholders. Should it become necessary, based upon restructuring alternatives available to the Company, the Debtors reserve all rights to file a second Critical Vendor Motion seeking relief with respect to a broader subset of Critical Vendors.

G. Taxes Motion

84. In the ordinary course of their business, the Debtors are subject to a variety of franchise taxes, property taxes, licensing and permitting fees, regulatory fees and assessments, and related obligations including fees owed to tax service providers on account of tax consulting services provided to the Debtors (collectively, the "Taxes and Fees"). The Debtors pay the Taxes

and Fees to various local, state, and federal taxing and regulatory authorities (collectively, the "Taxing and Regulatory Authorities") on a periodic basis as required by applicable laws and regulations. The Debtors may also receive tax credits from time to time for overpayments or refunds in respect of the Taxes and Fees, which the Debtors generally use to offset against future Taxes and Fees or have the amount of such credits refunded to the Debtors. For the 2025 tax year, the Debtors paid approximately $504,000 in Taxes and Fees. As of the Petition Date, the Debtors believe that approximately $5,410,000 in Taxes and Fees are accrued and/or outstanding. The continued payment of the Taxes and Fees will ultimately preserve the resources of the Debtors' estates. In addition, the Debtors collect and hold certain potential Taxes and Fees in the trust for the benefit of certain Taxing and Regulatory Authorities, and these funds may not constitute property of the Debtors' estates. In all cases, the Debtors' failure to pay Taxes and Fees could have a material adverse impact on their ability to operate in the ordinary course of business.

85. The Taxes and Fees include:

a. *Income and Franchise Taxes*. The Debtors are subject to federal and state income tax and franchise tax liabilities ("Income and Franchise Taxes"). The Debtors are required under certain circumstances to pay Income and Franchise Taxes to various states. As of the Petition Date, the Debtors estimate that they currently have $110,000 outstanding accrued prepetition amounts on account of Income and Franchise Taxes. The Debtors request authority to pay any prepetition amounts that may come due on account of such Income and Franchise Taxes.

b. *Property Taxes*. The Debtors are required to pay personal property and real property taxes in the ordinary course of operating their business (the "Property Taxes") at the city, county, and state level. The Debtors believe that approximately $5,300,000 in personal and real property taxes are due as of the Petition Date. The Debtors request authority to pay the prepetition Property Taxes in the ordinary course of business.

c. *Regulatory and Other Taxes and Fees*. The Debtors incur, in the ordinary course of business, certain regulatory assessments, permitting, licensing and other operational fees, in order to maintain compliance with, among other things, state and federal environmental regulations (collectively, the "Regulatory and Other Taxes and Fees"). The Regulatory and Other Taxes

and Fees include, but are not limited to, fees associated with: air quality, chemical storage, construction, environmental waste, water and zoning. The Debtors generally pay the Regulatory and Other Taxes and Fees as they come due. The Debtors do not believe there is any amount due and owing on account of Regulatory and Other Taxes and Fees relating to the prepetition period as of the Petition Date. Out of an abundance of caution, however, the Debtors request authority to pay any such amounts in the ordinary course of business.

d. *Audits*. From time to time, the Debtors are subject to audits by the Taxing and Regulatory Authorities for prior obligation periods (collectively, the "Audits"). Currently, the Debtors are not subject to a refund Audit. Out of an abundance of caution, the Debtors seek authority, but not direction, to pay any Taxes and Fees that may be assessed as a result of any Audits as they may arise in the ordinary course of the Debtors' business, including as a result of any settlements of issues addressed in any Audits.

e. *Tax Service Providers.* The Debtors use third-party tax service providers and consultants in the ordinary course of business who provide tax calculations, tax return preparation, and related compilation of tax information. The Debtors' business is highly complex and requires precise tax compliance to operate effectively. Such a monumental task simply would not be possible without the Tax Service Providers, on whom the Debtors rely for tax monitoring compliance, timely tax payment, and accurate calculations of tax exposure. Simply put, the Tax Service Providers provide a critical—and, given the nature of the Debtors' business, among the most critical—service to the Debtors. Ensuring that the Debtors have continued access to the services that the Tax Service Providers perform is therefore of paramount importance to their ability to efficiently reorganize. The Debtors believe that approximately $100,000 is due as of the Petition Date to the Debtors' tax service provider, CBIZ MHM, LLC. To the extent the Debtors determine amounts owing to tax service providers, the Debtors request authority to pay such amounts in the ordinary course of business.

86. The continued payment of the Taxes and Fees will ultimately preserve the resources of the Debtors' estates.

H. Insurance Motion

87. The Debtors maintain approximately 43 insurance policies (as may be amended, modified, or supplemented as described herein and, together with any insurance policies that the Debtors may purchase after the date hereof, the "Insurance Policies") administered by approximately 34 third-party insurance carriers (collectively, the "Insurance Carriers") in the

ordinary course of their business. The Insurance Policies provide coverage for, among other things: general commercial liability, automobile liability, builders risk, equipment breakdown, pollution and environmental liability, cyber liability, workers compensation liability, directors and officers liability, foreign liability, and excess liability. The Insurance Policies are essential to the ongoing operation of the Debtors' business and the relief requested in this Motion is necessary to ensure uninterrupted coverage under the Insurance Policies.

88. The Debtors utilize financing agreements to finance certain of their Insurance Premiums (the "Premium Financing Agreements"). The Premium Financing Agreements are serviced by First Insurance Funding ("FIF"). Under the Premium Financing Agreements, the Debtors pay a down payment equal to approximately 25% of their annual premiums with respect to certain of the Debtors' general liability and property insurance policies, with monthly payments due thereafter in equal ratable amounts. The Debtors believe that Premium Financing Agreement obligations totaling approximately $1,165,000 will become due and owing within thirty days of the Petition Date.

89. With respect to the Insurance Policies, the Debtors obtain insurance brokerage services from Bluestone Advisors (collectively "Brokers"). The Brokers assist the Debtors in obtaining comprehensive insurance coverage for the Debtors' operations by aiding with the procurement and negotiation of the Insurance Policies and enabling the Debtors to obtain those policies on advantageous terms at competitive rates.

90. In the ordinary course of business, the Debtors are required to provide surety bonds to certain third parties, often governmental units or other public agencies, to secure the Debtors' payment or performance of certain insurance obligations (the "Surety Bond Program"). As of the Petition Date, the Debtors have approximately $177,900 in surety bonds issued on their behalf. To preserve value during these chapter 11 cases, the Debtors must maintain the existing Surety Bond Program, including paying bond premiums and related fees as they come due. In addition, in the ordinary course of business, the Debtors are required to provide to third parties letters of credit (the "Letters of Credit") as financial assurances for the Debtors' obligations related to, among other things, certain insurance obligations, obligations to municipalities, customs requirements, lease obligations, and environmental liabilities. As of the Petition Date, the Debtors had posted approximately $6 million in outstanding letters of credit on the Debtors' behalf. Failing to provide, maintain, increase, or timely replace their surety bonds and Letters of Credit (and those surety bonds and Letters of Credit maintained on their behalf) will prevent the Debtors from undertaking essential functions related to their operations and reorganization of their business.

I. Net Operating Loss Motion

91. A company generates net operating losses ("NOLs") if its expenses exceed revenues generated during a single tax year. The Debtors estimate that as of December 31, 2025, the Debtors have NOLs of approximately $338.9 million and $11.5 million for federal and state tax reporting purposes, respectively. In addition, as of December 31, 2024, the Debtors have approximately $2.7 million and $2.1 million in federal and state research and development tax credits ("R&D Credits"), and approximately $197,000 in general business credits (including charitable contribution carryforwards) ("Business Credits," and together with the R&D Credits, and the NOLs, the "Tax Attributes") for tax reporting purposes. The Debtors further estimate that they may generate additional prepetition Tax Attributes in 2026.

92. The Tax Attributes are extremely valuable assets of the Debtors' estates because, as described above, the Debtors may "carry forward" certain Tax Attributes to offset future taxable income or directly offset federal tax liability in future years. The Debtors' Tax Attributes may result in significant potential future tax savings. Accordingly, the value of the Tax Attributes could provide a significant benefit to the Debtors' estates.

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93. I have consulted with advisors regarding the First Day Motions and understand each of the First Day Motions and the relief requested therein. To the best of my knowledge and belief, the factual statements contained in each of the First Day Motions are true and accurate, and each such factual statement is incorporated herein by reference. Further, I believe that the relief requested in each First Day Motion is necessary, in the best interests of the Debtors' estates, their creditors, and all other parties in interest, and will allow the Debtors to operate with minimal disruption and maximum value preservation during the pendency of these chapter 11 cases. I also understand that failure to grant the relief requested in any of the First Day Motions may result in immediate and irreparable harm to the Debtors, their business, and their respective estates.

94. Accordingly, I respectfully request that the Court grant all of the relief requested in the First Day Motions and such other and further relief as may be just and proper.

[*Signature on following page*]

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

April 9, 2026

/s/ Linh Austin
Linh Austin