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 AND INTERESTS 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 (the "**Motion**") dated April 10, 2026 [Docket No. 50], of the above-captioned debtors and debtors in possession (collectively, the "**Debtors**"), seeking, among other things, entry of an order (i) authorizing the sale of the Acquired Assets (as defined in the Poland APA) (the "**Acquired Assets**") free and clear of all Encumbrances (as defined herein) and the assumption of Assumed Liabilities, except as otherwise provided in that certain *Second Amended and Restated Asset Purchase Agreement* attached hereto as **Exhibit A**, dated as of May 21, 2026 (together with all other agreements, documents, and instruments deliverable thereunder or attached thereto or referenced therein, and as may be amended, modified, or supplemented, the "**Poland APA**")[2] by and between Debtor Ascend Elements, Inc. (the "**Seller**") and Bluegrass Infrastructure Partners Holdings, LLC (the "**Buyer**" or "**NewCo**" and transactions contemplated in the Poland APA, the "**Sale Transactions**"), (ii) authorizing 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 not otherwise defined herein shall have the meanings ascribed to such terms in the Motion or the APA, as applicable.

Assigned Contracts as set forth more fully in Section 1.1(b) of the Poland APA as may be modified or amended in accordance with the Poland APA and this Sale Order (the "**Assigned Contracts**"), and (iii) granting related relief, all as more fully set forth in the Motion; and the Court having entered the *Order (A) Approving Bid Procedures; (B) Authorizing Designation of 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**"), among other things, approving the Bid procedures attached thereto as Exhibit 1 (the "**Bid Procedures**"), all as more fully described in the Bid Procedures Order; and the Debtors having received no Qualified Bids for certain of the Debtors' Assets, including the Debtors' intellectual property, other than the Buyer's Qualified Bid; and the Debtors accordingly, pursuant to the Bid Procedures, having canceled the Auction solely with respect to assets and interests set forth in this Sale Order, while the Auction remains scheduled to proceed with respect to the Debtors' other assets; and the Buyer having been selected as the Successful Bidder with respect to the Debtors' intellectual property and certain of the Debtors' Assets [Docket No. 352]; and this Court having conducted the Sale Hearing on May 21, 2026; and all parties in interest having been heard, or having had the opportunity to be heard, regarding the Poland APA, the Sale and this order (the "**Sale Order**"); and this Court having reviewed and considered all objections and responses thereto, and the arguments of counsel made, and the evidence adduced, at the Bid Procedures Hearing and the Sale Hearing; and upon the entire record of the Bid Procedures Hearing and the Sale Hearing, and after due deliberation thereon, and good cause appearing therefor:

THE COURT HEREBY FINDS, CONCLUDES, AND DETERMINES THAT:[3]

Jurisdiction, Final Order and Statutory Predicates

A. This Court has jurisdiction to hear and determine the approval of the Sale under 28 U.S.C. §§ 1334. 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. § 157(b), and the Court may enter a final order hereon under Article III of the United States Constitution. Venue of these Chapter 11 Cases and approval of the Sale and Sale Transactions contemplated by the Poland APA is proper in this district under 28 U.S.C. §§ 1408 and 1409.

B. This Sale Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), and to any extent necessary under Bankruptcy Rule 9014 and Rule 54(b) of the Federal Rules of Civil Procedure, as made applicable by Bankruptcy Rule 7054, this Court expressly finds that there is no just reason for delay in the implementation of this Sale Order, authorizes the closing of all transactions contemplated hereby, including, without limitation, the Sale Transactions, without regard to any stay or delay in its implementation, and expressly directs entry of judgment as set forth herein.

C. The statutory predicates for the relief sought by the Motion are sections 105(a), 363, 365, and 503 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, 9006, 9007, 9008 and 9014, and Local Rules of Bankruptcy Practice and Procedure of the United

[3] The findings and conclusions set forth herein constitute this 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 that any of the following findings of fact constitute conclusions of law, they are adopted as such.

States Bankruptcy Court for the Southern District of Texas (the "**Local Rules**") 2002-1 and 4002-1, and the Procedures for Complex Cases in the Southern District of Texas (the "**Complex Case Procedures**").

D. The findings and conclusions set forth herein constitute this 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. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such. This Court's findings shall also include any oral findings of fact and conclusions of law made by this Court during or at the conclusion of the Sale Hearing.

Notice of the Sale, Auction and the Cure Costs

E. As evidenced by the *Declaration of Michael O'Hara in Support of Entry of an Order (I) Approving the Sale of Certain of the Debtors' Assets and Interests 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* [Docket No. 373] filed concurrently herewith, the *Declaration of Adam Titus in Support of Entry of an Order (I) Approving the Sale of Certain of the Debtors' Assets and Interests 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* [Docket No. 374] filed concurrently herewith, and the *Declaration of Laura Fernandez in Support of Order (I) Approving the Sale of Certain of the Debtors' Assets and Interests 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* [Docket No. [●]

filed concurrently herewith (the "**Sale Declarations**"), and based upon the record of the Sale Hearing and as previously determined by this Court in the Bid Procedures Order, (i) due, proper, timely, adequate, and sufficient notice of the Motion, the Bid Procedures Order, the Poland APA, the Sale Hearing, the Sale, the Sale Transactions, and transactions contemplated by the Poland APA, including the assumption, assignment and/or transfer of the Assigned Contracts, and a reasonable opportunity to object or be heard with respect thereto and to the entry of this Sale Order, has been afforded to all known interested persons and entities entitled to receive such notice, including, but not limited to the Notice Parties set forth in the Bid Procedures, (ii) such notice was and is good, sufficient, and appropriate under the circumstances and reasonably calculated to reach and apprise all holders of liens, claims, encumbrances, 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; and (iii) no other or further notice of, opportunity to object to, or other opportunity to be heard regarding the Motion, the Sale Hearing, the Poland APA, the Sale, the Sale Transactions, the transactions contemplated by the Poland APA, or of the entry of this Sale Order is necessary or shall be required.

F. In accordance with the provisions of the Bid Procedures Order, the Debtors have served the *First Notice to Contract Parties to Potentially Assumed Executory Contracts and Unexpired Leases* [Docket No. 240] ("**Cure Notice**") upon all of the counterparties to the contracts and leases set forth on the schedule attached as Exhibit 1 (the "**Contract and Lease Schedule**") to the Cure Notice, setting forth: (i) the contract(s) and/or lease(s) that may be assumed by the Seller and assigned to the Buyer; (ii) the name of the counterparty thereto; (iii) notice of the right

of the Seller and/or the Buyer to withdraw such request for assumption and assignment of the Assigned Contract(s) prior to the Closing; and (iv) the amount, if any, determined by the Seller to be necessary to be paid by the Seller to cure and compensate for any existing default in accordance with sections 365(b) and 365(f)(2) of the Bankruptcy Code (the "**Cure Amount**"). *See* the *Certificate of Service* filed with the Court on May 14, 2026 [Docket No. 319]. The deadline for a non-Debtor counterparty to file an objection regarding the ability of the Buyer to provide adequate assurance of future performance or to the stated Cure Amount in the Cure Notice (a "**Cure Notice Objection**") has expired and, to the extent any such party timely filed a Cure Objection and such executory contract or unexpired lease is being assumed and assigned pursuant to the Poland APA, all such Cure Notice Objections have been resolved, withdrawn, overruled or denied. To the extent that any non-Debtor counterparty did not timely file a Cure Notice Objection by the objection deadline listed in the Cure Notice (the "**Cure Notice Objection Deadline**"), such party shall be deemed to have consented to the (i) assumption and assignment of the Assigned Contract, (ii) proposed Cure Amount set forth on the Cure Notice, and (iii) adequate assurance of the Buyer's future performance previously provided.

G. The service of such Cure Notice (i) was good, sufficient and appropriate under the circumstances of these Chapter 11 Cases; (ii) provided such counterparties with a full and fair opportunity to object to such assumption, assignment, or transfer and to the proposed Cure Amount set forth in the Cure Notice; and (iii) was in compliance with the Bid Procedures Order and applicable provisions of the Bankruptcy Code, the Bankruptcy Rules and Local Rules. Accordingly, no other or further notice need be given in connection with such assumption, assignment, or transfer of the Assigned Contracts or with respect to the Cure Costs with respect to the Assigned Contracts.

H. As evidenced by the Certificates of Service previously filed with this Court and as approved under the Bid Procedures Order: (i) due, proper, timely, adequate and sufficient notice of the Sale Hearing, the assumption and assignment of the Assigned Contracts, the entry of this Sale Order, and the Sale has been provided to all parties in interest; (ii) such notice was, and is, good, sufficient and appropriate under the circumstances of these Chapter 11 Cases, provided a fair and reasonable opportunity for parties in interest to object, and to be heard, with respect thereto, and was provided in accordance with the Bid Procedures Order, sections 102(1), 363 and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, 9006, 9007 and 9014, and the applicable Local Rules; and (iii) no other or further notice of such matters is necessary or shall be required.

Business Judgment

I. The Debtors have demonstrated good, sufficient and sound business reasons and justifications for, and compelling circumstances to promptly consummate, the Sale and all Sale Transactions contemplated by the Poland APA and any additional or ancillary documents contemplated thereby (the "**Transaction Documents**"), including, without limitation, the assumption, assignment, and/or transfer of the Assigned Contracts pursuant to sections 363 and 365 of the Bankruptcy Code, prior to and outside of a plan of reorganization, and such action is an appropriate exercise of the Debtors' business judgment and in the best interests of the Debtors, their estates, and their creditors. Such business reasons include, but are not limited to, the facts that: (i) there is substantial risk of depreciation of the value of the Acquired Assets if the Sale is not consummated promptly; (ii) the consideration provided by the Buyer under the Poland APA constitutes the highest or otherwise best offer for the Acquired Assets and Interests; (iii) the Poland APA and the Closing will provide a greater recovery for the Debtors' estates for the benefit of all

stakeholders than would be provided by any other available alternative, including an orderly liquidation of the Acquired Assets and Interests; and (iv) unless the Sale is concluded expeditiously as provided for in this Sale Order and pursuant to the Poland APA, potential creditor recoveries may be substantially diminished.

Good Faith of the Buyer; No Collusion

J. The Buyer's equity holders include Kinterra Capital Corp., certain Senior Noteholders, and certain Junior Noteholders (each as defined herein). Neither the Buyer nor any of its affiliates, officers, directors, managers, shareholders, members, or any of their respective successors or assigns is an "insider" or "affiliate" (as those terms are defined in section 101 of the Bankruptcy Code) of any of the Debtors or any of their Affiliates. No common identity of directors, managers, controlling shareholders, or members exists between the Debtors and the Buyer.

K. The Debtors, the Buyer, and their respective principals, counsel, and advisors have negotiated, proposed, and entered into the Poland APA in good faith, without collusion, and from arm's-length bargaining positions. The Court finds that the Debtors, with the approval of their independent director, exercised their valid and non-conflicted business judgment in approving a joint bid among Kinterra Capital Corp. (and its affiliates) and certain of the Senior Noteholders[4] and Junior Noteholders[5] in accordance with the Bid Procedures Order. The Court further finds that such joint bid does not constitute impermissible collusion or otherwise negatively impact

[4] "**Senior Noteholders**" means, collectively, the holders of notes issued under that certain Senior Secured Convertible Note and Warrant Purchase Agreement, dated December 22, 2025 (as may have been amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the "**Senior Note Purchase Agreement**").

[5] "**Junior Noteholders**" means, collectively, the holders of notes issued under 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 Note Purchase Agreement**").

competition for the purchase of the Debtors' assets, the validity of the Auction (if any), or the Debtors' sale process.

L. The Buyer is purchasing the Acquired Assets in good faith, and is a good faith purchaser, within the meaning of section 363(m) of the Bankruptcy Code. The protections afforded by section 363(m) of the Bankruptcy Code are integral to the Sale Transactions, and the Buyer would not consummate the Sale Transactions without such protections. Accordingly, the Buyer is entitled to, and hereby granted pursuant to paragraph 32 below, the full rights, benefits, privileges, and protections of section 363(m) of the Bankruptcy Code. The Buyer and the Seller have each proceeded in good faith in all respects in connection with the Transaction in that, *inter alia*: (i) the Buyer recognized that the Debtors were free to deal with any other party interested in acquiring the Acquired Assets; (ii) the Buyer complied with the provisions in the Bid Procedures Order; (iii) the Buyer subjected its bid as reflected in the Poland APA to the competitive Bid procedures set forth in the Bid Procedures Order; (iv) all payments to be made by the Buyer and other agreements or arrangements entered into by the Buyer in connection with the Sale have been disclosed; (v) the Buyer has not violated section 363(n) of the Bankruptcy Code by any action or inaction; (vi) no common identity of directors or controlling stockholders exists between the Buyer on the one hand, and any of the Debtors, on the other hand; and (vii) the negotiation and execution of the Poland APA and Transaction Documents were at arms' length and in good faith.

M. None of the Debtors, the Buyer, or any of their respective current and former officers, directors, managers, members, partners, managed funds, affiliates, agents, advisors, professionals, and representatives (collectively, the "**Representatives**"), has engaged in any conduct that would cause or permit the Poland APA or any of the Transaction Documents, or the consummation of the Transaction, to be avoidable or avoided, or for costs or damages to be

imposed, under section 363(n) of the Bankruptcy Code or any other law of the United States, any state, territory, possession thereof, or the District of Columbia, any foreign law, or any other applicable law, or has acted in bad faith or in any improper or collusive manner with any Person in connection therewith. The Poland APA was not entered into for the purpose of hindering, delaying, or defrauding creditors under the Bankruptcy Code or under laws of the United States, any state, territory, or possession, or the District of Columbia, any foreign law, or any other applicable law. Neither the Debtors nor the Buyer are entering into the Poland APA or consummating the Sale with any fraudulent or otherwise improper purpose.

N. The Sale, which includes the sale of the Acquired Assets pursuant to the Poland APA and all covenants in and conditions thereto, is an integrated transaction, meaning that each component is an essential part of every other component and that the Sale can be consummated only if all of the components are consummated. Accordingly, each component of the Sale is subject to, and is protected by, the provisions of section 363(m) of the Bankruptcy Code.

Sale Terms

O. Pursuant to the Bid Procedures Order, applicable law, including Bankruptcy Code sections 363(b) and 363(k), the Buyer is authorized to acquire the Debtors' equity interests in certain non-Debtor subsidiaries and the intellectual property of the Debtors and their affiliates in exchange for (i) $3,000,000 in cash and (ii) subject to paragraph 39 hereof, a credit bid in the amount of $98,120,777.96, comprised of (A) $20,000,000 of obligations owing under the Senior Note Purchase Agreement (as defined herein) and (B) subject to paragraph 39 hereof, $78,120,777.96 of obligations owing under the Junior Note Purchase Agreement (as defined herein) (together, such obligations, the "**CLN Obligations**," and such credit bid, the "**Credit Bid**"). The Buyer was expressly authorized by the Senior Noteholders and the Junior Noteholders

to credit bid on their behalf, and such authority is hereby confirmed. The Buyer is authorized to include the Credit Bid as consideration under the Poland APA, and no additional or further evidence of the Buyer's ability to include the Credit Bid as consideration under the Poland APA is required. The Credit Bid, together with the cash consideration and the assumption of the Assumed Liabilities, constitutes the entirety of the Purchase Price under the Poland APA, is a valid and proper offer pursuant to the Bid Procedures Order and Bankruptcy Code sections 363(b) and 363(k), and there is no cause to limit the amount of the Credit Bid pursuant to section 363(k) of the Bankruptcy Code.

Highest and Best Offer

P. As demonstrated by the Sale Declarations, the Motion, any evidence proffered or adduced at the Sale Hearing, and the representations of counsel made at the Sale Hearing, the Debtors and their advisors engaged in a robust, diligent and extensive marketing and sale process, which was substantively and procedurally open and fair, in accordance with the Bid Procedures Order and the sound exercise of the Debtors' business judgment. The sale process set forth in the Bid Procedures Order afforded a full, fair, and reasonable opportunity for any person or entity to submit a higher or otherwise better offer to purchase the Acquired Assets.

Q. In accordance with the Bid Procedures Order, the Poland APA was deemed a Qualified Bid (as defined in the Bid Procedures Order) and was eligible to participate at the Auction. Because the Poland APA was the only Qualified Bid for the Acquired Assets covered thereby, the Debtors, in accordance with the Bid Procedures Order did not conduct an Auction for such Acquired Assets.

R. The Poland APA constitutes the highest or otherwise best offer for the Acquired Assets and will provide a greater recovery for the Debtors' estates than would be provided by any

other available alternative. The Debtors' determination that the Poland APA constitutes the highest and best offer for the Acquired Assets constitutes a valid and sound exercise of the Debtors' fiduciary duties and business judgment.

S. The Poland APA represents a fair and reasonable offer to purchase the Acquired Assets under the circumstances of these Chapter 11 Cases. No other Person or entity or group of entities has offered to purchase the Acquired Assets for greater economic value to the Debtors' Estates than the Buyer.

T. Approval of the Poland APA, and the prompt consummation of the Sale Transactions contemplated thereby, is in the best interests of the Debtors, their creditors, their Estates and other parties in interest.

No Fraudulent Transfer; Not a Successor

U. The Poland APA and Transaction Documents were not entered into, and the Sale Transactions are not being consummated, for the purpose of hindering, delaying or defrauding creditors of the Debtors under applicable Law, and none of the Parties to the Poland APA or any of the Transaction Documents are consummating the Sale Transactions with any fraudulent or otherwise improper purpose. The Purchase Price for the Acquired Assets constitutes, (i) reasonably equivalent value under the Bankruptcy Code, the Uniform Voidable Transactions Act and the Uniform Fraudulent Transfer Act, (ii) fair consideration under the Uniform Fraudulent Conveyance Act and (iii) reasonably equivalent value, fair consideration, and fair value under any other applicable laws of the United States, any state, territory, possession, or the District of Columbia.

V. Except as expressly set forth in the Poland APA with respect to the Assumed Liabilities, to the greatest extent permitted by applicable law, after the Closing, the Buyer shall not

have any liability, responsibility, or obligation of any kind or nature whatsoever for any Encumbrance (as defined below) of or against the Debtors, or otherwise related to the Acquired Assets (except as expressly set forth in the Poland APA with respect to the Permitted Encumbrances and Assumed Liabilities), and arising prior to the Closing, by reason of the transfer of the Acquired Assets to the Buyer. Additionally, the Buyer shall not be liable for any acts or omissions of the Seller arising under or related to the Acquired Assets, other than as set forth in the Poland APA. The Buyer shall not be deemed, as a result of any action taken in connection with the Sale Transactions, to: (1) be a successor (or other such similarly situated party) to any of the Debtors (other than with respect to the Assumed Liabilities as expressly stated in the Poland APA); (2) have, *de facto* or otherwise, merged or consolidated with or into any of the Debtors; or (3) be a mere continuation or substantial continuation of the Seller or its enterprise. To the greatest extent permitted by applicable Law, the Buyer is not acquiring or assuming any Encumbrance arising prior to the Closing, except as expressly set forth in the Poland APA with respect to the Assumed Liabilities.

Validity of Transfer

W. Subject to the entry of this Sale Order, the Debtors have full corporate power and authority (i) to perform all of their obligations under the Poland APA and the Transaction Documents, and the Debtors' prior execution and delivery thereof and performance thereunder, is hereby ratified in full, and (ii) to consummate the Sale Transactions. The Poland APA and Transaction Documents, and the Sale Transactions contemplated thereby, have been duly and validly authorized by all necessary corporate action. No further consents or approvals are required for the Debtors to consummate the Sale Transactions or otherwise perform their respective

obligations under the Poland APA or the Transaction Documents, except in each case as otherwise expressly set forth in the Poland APA or applicable Transaction Documents.

X. Other than that certain patent described as "Anode Recovery in Recycled Batteries" (63/036,066), the Acquired Assets (including intellectual property) were not purchased, improved, or developed with federal grant funds.

Y. At Closing, the transfer of the Acquired Assets to the Buyer, including, without limitation, the assumption, assignment and transfer of the Assigned Contracts, will be a legal, valid, and effective transfer thereof, and vest the Buyer with all right, title, and interest of the Seller in and to the Acquired Assets, to the greatest extent permitted by applicable Law, free and clear of all Encumbrances (as defined in paragraph BB of this Sale Order) accruing or arising any time prior to the Closing Date, and except as expressly set forth in the Poland APA with respect to the Assumed Liabilities or Permitted Encumbrances.

Section 363(f) is Satisfied

Z. The Buyer would not have entered into the Poland APA and would not consummate the Sale Transactions if the sale of the Acquired Assets, including the assumption, assignment and transfer of the Assigned Contracts, to the Buyer were not free and clear of all Encumbrances of any kind or nature whatsoever (except as expressly set forth in the Poland APA with respect to the Permitted Encumbrances and Assumed Liabilities), including, without limitation, any Encumbrances based on any successor or transferee liability, or if (i) the Buyer or any of its respective past, present and future Affiliates, subsidiaries, members, partners, principals, equity holders (whether direct or indirect), parents, agents, representatives, successors and assigns, and directors, managers, officers, and employees of each of the foregoing, (ii) the Senior Noteholders in their capacity as such or as a former director of a Debtor, and (iii) the Junior Noteholders in

their capacity as such or as a former director of the Debtor (collectively, the "**Newco Stakeholders**") would, or in the future could, be liable for any of such Encumbrances of any kind or nature whatsoever (except as expressly set forth in the Poland APA with respect to the Permitted Encumbrances and Assumed Liabilities). The Buyer will not consummate the Sale Transactions unless this Court expressly orders that none of the Newco Stakeholders or the Acquired Assets will have any liability whatsoever with respect to, or be required to satisfy in any manner, whether at law or equity, or by payment, setoff, or otherwise, directly or indirectly, any such Encumbrance, including, without limitation, rights or claims based on any successor or transferee liability other than as expressly set forth in the Poland APA.

AA. The Seller may sell or otherwise transfer the Acquired Assets free and clear of all Encumbrances (except as expressly set forth in the Poland APA with respect to the Permitted Encumbrances and Assumed Liabilities) 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. Those holders of Encumbrances against the Debtors, their estates or any portion or subpart of the Acquired Assets who did not object, or who withdrew their objections, to the Sale or Sale Transactions are deemed to have consented thereto pursuant to section 363(f)(2) of the Bankruptcy Code. Those holders of such Encumbrance who did object fall within one or more of the other subsections of section 363(f) and are adequately protected by having their liens, claims, encumbrances, or other Encumbrances, if any, automatically attach to the proceeds of the Sale, ultimately attributable to that portion or subpart of the Acquired Assets in which such creditor alleges or asserts any Encumbrances, in the same order of priority, with the same validity, force and effect, that such Encumbrances had immediately prior to consummation of the Sale as against such portion or subpart of the Acquired

Assets, subject to any claims and defenses the Debtors and their estates may possess with respect thereto.

BB. As used in this Sale Order, the term "**Encumbrances**" includes, in addition to the types of claims described in paragraph CC below any lien (as defined in section 101(37) of the Bankruptcy Code), encumbrance, claim (as defined in section 101(5) of the Bankruptcy Code), including claims or Liability (as defined in the Poland APA) based on successor liability theories or otherwise under any theory of Law (as defined in the Poland APA) or equity, right, guarantees, actions, suits, deposits, credits, allowances, options, contractual commitments, liabilities, demand, charge, mortgage, deed of trust, option, pledge, security interest or similar interests, hypothecs, trusts or deemed trusts, community property interest, equitable interest, title defects, hypothecations, easements, rights of way, restrictive covenants, rights of first refusal, conditions, encroachments, preemptive rights, judgments, conditional sale or other title retention agreements and other similar impositions, imperfections or defects of title or restrictions on transfer, voting or use or receipt of income or exercise of any attribute of ownership, whether secured or unsecured, noticed or unnoticed, perfected or unperfected, allowed or disallowed, matured or unmatured, liquidated or unliquidated, disputed or undisputed, choate or inchoate, filed or unfiled, scheduled or unscheduled, recorded or unrecorded, contingent or non-contingent, material or non-material, known or unknown, whether existing in the United States or elsewhere, whether imposed by agreement, understanding, law, equity, or otherwise, including claims arising under any theory, law, or doctrine of successor liability or related theories, including, but not limited to, (a) liens (including, without limitation, mechanics', materialmens', and other consensual and non-consensual liens and statutory liens), mortgages, deeds of trust, pledges, charges of any kind or nature, interests, security interests, equity interests, hypothecations, encumbrances, easements,

burdens, options, privileges, servitudes, leases, subleases, rights-of-way, encroachments, licenses, restrictive covenants, restrictions on transferability or other similar restrictions, rights of setoff (except for setoffs validly exercised before the Petition Date), rights of use or possession, subleases, capital leases, leases, conditional sale arrangements, deferred purchase price obligations, judgments, demands, obligations, liabilities, guarantees, defects in title, decrees of any court or foreign or domestic governmental entity, debts arising in any way in connection with any agreements, acts, or failures to act, contractual or other commitments, or any similar rights; (b) all claims (as that term is defined in the Bankruptcy Code), including, without limitation, all rights or causes of action (whether in law or equity), proceedings, warranties, guarantees, indemnities, rights of first refusal, recovery rights, setoff rights (except for setoffs validly exercised before the Petition Date), recoupment rights, subrogation rights, exoneration rights, labor rights, equitable rights, employment rights, pension rights, rights of recovery, indemnity or contribution, demands, indemnification claims, or liabilities relating to any act or omission of the Debtors or any other person, consent rights, options, contract rights, covenants, and interests of any kind or nature whatsoever (known or unknown, matured or unmatured, accrued, or contingent and regardless of whether currently exercisable), whether arising prior to or subsequent to the commencement of these Chapter 11 Cases, and whether imposed by agreement, understanding, law, equity, or otherwise; (c) all debts, liabilities, contractual claims, and labor, employment, and pension claims; (d) any rights that purport to give any party a right or option to effect any forfeiture, modification, right of first offer or first refusal, or consents, or termination of the Debtors' or the Buyer's interest in the Acquired Assets, or any similar rights; (e) any rights under labor or employment agreements; (f) any rights under pension, multiemployer plan (as such term is defined in section 3(37) or section 4001(a)(3) of the Employee Retirement Income Security Act of 1974 (as amended, "**ERISA**")),

health or welfare, compensation or other employee benefit plans, agreements, practices, and programs, including, without limitation, any pension plans of the Debtors or any multiemployer plan to which the Debtors have at any time contributed to or had any liability or potential liability; (g) any other employee claims related to worker's compensation, occupational disease, or unemployment or temporary disability, including, without limitation, claims that might otherwise arise under or pursuant to (i) ERISA, (ii) the Fair Labor Standards Act, (iii) Title VII of the Civil Rights Act of 1964, (iv) the Federal Rehabilitation Act of 1973, (v) the National Labor Relations Act, (vi) the Age Discrimination and Employment Act of 1967 and the Age Discrimination in Employment Act, each as amended, (vii) the Americans with Disabilities Act of 1990, (viii) the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, including, without limitation, the requirements of Part 6 of Subtitle B of Title I of ERISA and section 4980B of the Internal Revenue Code or any similar state law, (ix) state discrimination laws, (x) state unemployment compensation laws or any other similar state laws, (xi) any other state or federal benefits or claims relating to any employment with the Debtors or any of their predecessors, or (xii) the WARN Act (29 U.S.C. §§ 2101, et seq.) or any state or other laws of similar effect; (h) any bulk sales or similar law; (i) any environmental liabilities, debts, claims, or obligations that may be asserted on any basis, including, without limitation, under the Comprehensive Environmental Response, Compensation and Liability Act ("**CERCLA**"), the Resource Conservation and Recovery Act ("**RCRA**"), the Clean Water Act, the Clean Air Act, or any other applicable federal, state, or local environmental law or regulation (collectively, "**Environmental Laws**"), whether known or unknown, contingent or non-contingent, and whether arising from or related to the condition of the Acquired Assets, the operations of the Debtors, or any acts or omissions of the Debtors or any of their predecessors, affiliates, or subsidiaries; (j) 50% of any

taxes arising under or out of, in connection with, or in any way relating to the operation of the Acquired Assets or business of the Debtors before the closing of the Sale pursuant to Section [9.1] of the Poland APA; (k) any unexpired and executory contract or unexpired lease to which the Debtors are a party that is not assumed; (l) any other excluded liabilities under the Poland APA; and (m) Encumbrances or other interests arising under or in connection with any acts, or failures to act, of the Debtors or any of their predecessors, affiliates, or subsidiaries, including, but not limited to, Encumbrances or other interests arising under any doctrines of successor liability (to the greatest extent permitted by applicable law), or transferee or vicarious liability, violation of the Securities Act of 1933, the Securities Exchange Act of 1934, or other applicable securities laws or regulations, breach of fiduciary duty, or aiding or abetting breach of fiduciary duty, or any similar theories under Contract, applicable Law, equity or otherwise.

CC. Except as expressly set forth in the Poland APA with respect to the Assumed Liabilities or Permitted Encumbrances, and without limiting the nature or scope of paragraph AA above, the transfer of the Acquired Assets, including the assumption, assignment and/or transfer of the Assigned Contracts, to the Buyer, will not subject the Buyer, or any of its Affiliates or subsidiaries, or any of their respective Representatives to, or subject any Acquired Assets to or provide recourse for, any liability or encumbrance whatsoever with respect to the operation or condition of the Acquired Assets prior to the Closing or with respect to any facts, acts, actions, omissions, circumstances or conditions existing, occurring or accruing with respect thereto prior to the Closing Date, including, without limitation, any liability or encumbrance arising from any of the following: (i) any employment or labor agreements, consulting agreements, severance arrangements, change in control agreements or other similar agreements to which any Debtor is or was a party, (ii) any pension, welfare, compensation or other employee benefit plans, agreements,

practices, and programs, including without limitation, any pension plan of the Debtors, (iii) the cessation of the Debtors' operations, dismissal of employees, or termination of employment or labor agreements or pension, welfare, compensation or other employee benefit plans, agreements, practices and programs and any obligations with respect thereto that arise from the Employee Retirement Income Security Act of 1974, the Fair Labor Standards Act, Title VII of the Civil Rights Act of 1964, the Age Discrimination and Employment Act of 1967, the Americans with Disabilities Act of 1990, the Federal Rehabilitation Act of 1973, the National Labor Relations Act, the Consolidated Omnibus Budget Reconciliation Act of 1985 or the Worker Adjustment and Retraining Notification Act, (iv) workmen's compensation, occupational disease or unemployment or temporary disability insurance claims, (v) environment liabilities, debts, claims or obligations that may be asserted on any basis, including, without limitation, under the Comprehensive Environmental Response, Compensation and Liability Act or any Environmental Laws, (vi) products liability or warranties, (vii) any bulk sales or similar law, (viii) any litigation by or against the Debtors and (ix) the Laws of the United States, any state, territory or possession thereof, or the District of Columbia based in any theory of products liability, or successor, vicarious or transferee liability. For the avoidance of doubt, the liabilities and encumbrances set forth in this paragraph are included in the defined term "**Encumbrances**" for all purposes of this Sale Order.

Assumption, Assignment and/or Transfer of the Assigned Contracts

DD. The assumption, assignment and/or transfer of the Assigned Contracts to the Buyer pursuant to the terms of this Sale Order is integral to the Poland APA and is in the best interests of the Debtors and their estates, creditors and other parties in interest, and represents the reasonable exercise of sound and prudent business judgment by the Debtors.

EE. To the extent necessary or required by applicable Law and pursuant to the terms of the Poland APA, the Seller for any amounts up to $100,000, or the Buyer for any amounts in excess of $100,000, has or will have as of the Closing Date, at the Seller's or Buyer's (as applicable) sole cost and expense: (i) cured, or provided adequate assurance of cure, of any default existing prior to the Closing Date with respect to the Assigned Contracts, within the meaning of sections 365(b)(1)(A) and 365(f)(2)(A) of the Bankruptcy Code, and (ii) provided compensation, or adequate assurance of compensation, to any party for any actual pecuniary loss to such party resulting from such default, within the meaning of section 365(b)(1)(B) of the Bankruptcy Code. Payment of the applicable Cure Costs is the sole amount required under sections 365(b)(1)(A) and 365(f)(2)(A) of the Bankruptcy Code to cure all such monetary defaults and pay all actual pecuniary losses under the Assigned Contracts.

FF. The promise of the Buyer to perform the obligations first arising under the Assigned Contracts after their assumption and assignment to the Buyer, the Buyer's financial wherewithal to consummate the Sale Transactions contemplated by the Poland APA and the evidence presented at the Sale Hearing demonstrating the Buyer's ability to perform the obligations under the Assigned Contracts after the Closing Date constitute adequate assurance of future performance within the meaning of sections 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code to the extent that any such assurance is required and not waived by the counterparties to such Assigned Contracts. Any objection, response or request with respect to the foregoing, whether formal or informal, the determination of any Cure Amount, or otherwise related to or in connection with the assumption, assignment or transfer of any of the Assigned Contracts to the Buyer is hereby overruled on the merits or otherwise treated as set forth in paragraph 4 below. Those non-Debtor parties to Assigned Contracts who did not object to the assumption, assignment or transfer of their

applicable Assigned Contract, or to their applicable Cure Amount, are deemed to have consented thereto for all purposes to the assumption and assignment of such Assigned Contract pursuant to this Sale Order.

GG. Pursuant to Section [1.5] of the Poland APA, the Buyer shall maintain certain rights to modify the list of the Assigned Contracts, Acquired Assets, and Assumed Liabilities after the date of this Sale Order and prior to the Closing Date as set forth in such section. Such modification rights include, but are not limited to, the right of the Buyer, prior to the Closing Date, to (a) designate a Contract for assumption by the Seller and assignment to the Buyer as well as the right to redesignate any Assigned Contract as an Excluded Contract, (b) remove any Acquired Asset (including the Equity Interests of any Acquired Entity or any Indirect Equity Interests, each as defined in the Poland APA) that the Buyer does not wish to acquire, (c) add any Excluded Asset (other than those excluded under Section [1.2] of the Poland APA) as an Acquired Asset, and (d) remove any Assumed Liability that the Buyer reasonably and in good faith determines is inconsistent with the intent of the parties as set forth in the Poland APA, in each case without any adjustment to the Purchase Price except as expressly provided in the Poland APA. Notwithstanding the foregoing, the Buyer may not remove any Assumed Liability expressly set forth in Section [1.3] of the Poland APA (other than those relating to an Assigned Contract that is removed), nor may the Buyer add an Acquired Asset if such asset is otherwise restricted pursuant to these Chapter 11 Cases. The Buyer would not have agreed to the Sale Transactions without such modification rights.

HH. The notice and opportunity to object provided to 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 counterparties and other parties in interest may have with respect to such Contracts.

Compelling Circumstances for an Immediate Sale

II. To preserve the value of the Acquired Assets and maximize the value of the Debtors' estates, it is essential that the Sale of the Acquired Assets occur within the time constraints set forth in the Poland APA. Time is of the essence in consummating the Sale. The Court expressly finds that there is no just reason for delay in the implementation of this Sale Order. Accordingly, there is sufficient cause to waive the 14-day stay provided in the Bankruptcy Rules 6004(h) and 6006(d).

JJ. Given all of the circumstances of these Chapter 11 Cases and the adequacy and fair value of the Purchase Price under the Poland APA, the proposed transfer of the Acquired Assets to the Buyer constitutes a reasonable and sound exercise of the Debtors' business judgment, is in the best interests of the Debtors, their estates, and their creditors, and should be approved.

KK. The consummation of the Sale Transactions is legal, valid and properly authorized under all applicable provisions of the Bankruptcy Code, including, without limitation, sections 105, 363 and 365 of the Bankruptcy Code, and all of the applicable requirements of such sections have been complied with in respect of the Sale Transactions.

LL. The Sale does not constitute a *de facto* plan of reorganization or liquidation or an element of such a plan for any of the Debtors, as it does not and does not propose to: (i) impair or restructure existing debt of, or equity interests in, the Debtors; (ii) impair or circumvent voting rights with respect to any future plan proposed by the Debtors; (iii) circumvent chapter 11 plan safeguards, such as those set forth in sections 1125 and 1129 of the Bankruptcy Code; or (iv) classify claims or equity interests, compromise controversies or extend debt maturities.

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

General Provisions

1. The Sale Transactions contemplated by the Poland APA and the Transaction Documents are approved, as set forth in this Sale Order.

2. This Court's findings of fact and conclusions of law set forth in the Bid Procedures Order are incorporated herein by reference.

3. This Court's findings of fact and conclusions of law set forth herein are applicable for this sale of the Acquired Assets (as defined herein) only, and will have no res judicata, collateral estoppel or other preclusive effect on future proposed sales of the Debtors' assets.

4. All objections to the Sale that have not been withdrawn, waived, resolved, or otherwise settled as set forth herein, as announced to this Court at the Sale Hearing or by stipulation filed with this Court, and all reservations of rights included therein, are hereby denied and overruled on the merits with prejudice. All persons and entities who did not object or withdrew their objections to the Motion are deemed to have consented to the Sale and entry of this Sale Order pursuant to section 363(f)(2) of the Bankruptcy Code. For the avoidance of doubt, the foregoing does not apply to the *Preliminary Objection of Worcester Polytechnic Institute* ("**WPI**") *to Assignment of Licenses* [Docket No. 289] (the "**WPI Objection**"), and the resolution of such objection is hereby deferred without prejudice to the rights of the Buyer and WPI. The Buyer and WPI reserve all rights (but are not under any obligation) to negotiate an assignment of such licenses on a consensual basis, which shall be subject to further order of the Court if an agreement is reached. For the further avoidance of doubt, and notwithstanding anything in the Transaction Documents or this Sale Order to the contrary, nothing in the Transaction Documents or this Sale Order approves the direct or indirect assignment or transfer of (i) the licenses under which WPI is

the licensor, as may have been amended from time to time, and (ii) WPI's sole or joint ownership interest in the subject intellectual property, in each case of (i) and (ii) as identified on the attached Annex 1; *provided*, that to the extent any such intellectual property is jointly owned by a Debtor or one of its affiliates, such Debtor or such affiliate may assign its joint ownership interest in such intellectual property; *provided*, *further*, for the avoidance of doubt, that this Sale Order does not adjudicate or modify the extent of WPI's ownership in such intellectual property.

Approval of Poland APA; Binding Nature

5. The Poland APA and the other Transaction Documents, and all of the terms and conditions thereof, are hereby approved as set forth herein.

6. The execution, delivery and performance by the Seller of the Poland APA is approved pursuant to sections 105, 363, and 365 of the Bankruptcy Code.

7. The consideration consisting of the cash consideration, the Credit Bid and the assumption of the Assumed Liabilities provided by the Buyer for the Acquired Assets under the Poland APA is fair and reasonable and shall be deemed for all purposes to constitute reasonably equivalent value, fair value, and fair consideration under the Bankruptcy Code and any other applicable Law, and the Sale Transactions may not be avoided, or costs or damages imposed or awarded, under section 363(n) or any other provision of the Bankruptcy Code.

8. Pursuant to sections 363 and 365 of the Bankruptcy Code, the Debtors are authorized and empowered to take any and all actions necessary or appropriate to (a) consummate the Sale and the other Sale Transactions pursuant to and in accordance with the terms and conditions of the Poland APA and the Transaction Documents, and (b) execute and deliver, perform under, consummate, implement, and take any and all other acts or actions as may be reasonably necessary or appropriate to the performance of their respective obligations as

contemplated by the Poland APA and the Transaction Documents, in each case without further notice to or order of this Court. The Sale Transactions authorized herein shall be of full force and effect, regardless of any Debtor's lack or purported lack of good standing in any jurisdiction in which such Debtor is formed or authorized to transact business.

9. This Sale Order shall be binding in all respects upon the Debtors, their estates, all creditors, all holders of equity interests in any Debtor, all holders of any claim(s) (whether known or unknown) against any Debtor, any holders of Encumbrances of any kind or nature whatsoever against, in or on all or any portion of the Acquired Assets, all non-Debtor parties to the Assigned Contracts, the Buyer and all successors and assigns of the Buyer, including, without limitation, any trustee, if any, subsequently appointed in these Chapter 11 Cases or upon a conversion to cases under chapter 7 under the Bankruptcy Code of any of these Chapter 11 Cases. For the avoidance of doubt, the Debtors hold title to the entirety of the Acquired Assets, including the equity interests described herein, and none of the Acquired Assets (other than that certain patent described as "Anode Recovery in Recycled Batteries" (63/036,066)) were purchased, improved, acquired, developed, or created with funding provided by the United States Department of Energy ("**DOE**") or any of its agencies or any other federal grant funds, and no reversionary interest or other governmental interest of the DOE or any other federal agency exists in or to any of the Acquired Assets.

Transfer of Acquired Assets Free and Clear of Encumbrances; Injunction

10. Pursuant to sections 105(a), 363(b), 363(f), 365(b) and 365(f) of the Bankruptcy Code, the Debtors are authorized and directed to transfer the Acquired Assets, including but not limited to the Assigned Contracts, to the Buyer on the Closing Date in accordance with the Poland APA and Transaction Documents. Upon and as of the Closing Date, such transfer shall constitute

a legal, valid, binding, effective and full and complete general assignment, conveyance and transfer of such Acquired Assets transferring good and marketable and indefeasible title and interest in the Acquired Assets to the Buyer, and the Buyer shall take title to and possession of such Acquired Assets free and clear of all Encumbrances of any kind or nature whatsoever to the greatest extent permitted by applicable Law, except as expressly set forth in the Poland APA with respect to the Permitted Encumbrances and Assumed Liabilities.

11. For the avoidance of doubt, subject to the requisite approvals from the government of Poland and the terms of the Poland APA, the Buyer shall acquire the applicable Equity Interests in Ascend Elements Poland Holdings sp. z o.o., and thereby indirectly acquire Ascend Elements Poland 2 sp. z o.o., the non-Debtor entity holding the right to purchase approximately 44–45 hectares of real property located in Opole, Poland from the Wałbrzych Special Economic Zone "INVEST-PARK" sp. z o.o. (the "**Polish Land Purchase**" and such real property, the "**Poland Land**"). Any funding provided by the Buyer to exercise the Polish Land Purchase shall not constitute cash consideration for the Acquired Assets or otherwise constitute the Purchase Price under the Poland APA. Such Equity Interests, together with the Debtors' rights, title, and interests, if any, in and to the Polish Land Purchase and the Poland Land, shall be transferred free and clear of all Encumbrances to the greatest extent permitted by applicable Law, with all such Encumbrances to attach to the net proceeds of the Sale in the order of their priority, with the same validity, force, and effect that such Encumbrances had against such Equity Interests and such rights, title, and interests, if any, prior to the Sale, subject to any claims and defenses the Debtors and their estates may possess with respect thereto, pursuant to sections 363(b) and 363(f) of the Bankruptcy Code.

12. Notwithstanding anything to the contrary contained herein or in the Transaction Documents, upon the Closing of the transaction evidenced by the Poland APA, the CLN Obligations in an amount equal to the Credit Bid shall be deemed fully and finally satisfied.

13. All such Encumbrances shall automatically attach solely to the proceeds of the Sale with the same validity, priority, force and effect that they now have as against the Acquired Assets, subject to any claims and defenses the Debtors and their Estates may possess with respect thereto. This Sale Order shall be effective as a determination that, on and as of the Closing, all Encumbrances of any kind or nature whatsoever (except as expressly set forth in the Poland APA with respect to the Permitted Encumbrances and Assumed Liabilities) have to the greatest extent permitted by applicable Law been unconditionally released, discharged and terminated in, on or against the Acquired Assets. The provisions of this Sale Order authorizing and approving the transfer of the Acquired Assets free and clear of all Encumbrances shall be self-executing, and neither the Debtors nor the Buyer shall be required to execute or file releases, termination statements, assignments, consents, or other instruments in order to effectuate, consummate and implement the provisions of this Sale Order.

14. Except as expressly permitted by the Poland APA or this Sale 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 Buyer, any of their respective Affiliates and subsidiaries, and any of their respective Representatives, and each of their respective Acquired Assets and assets, including, without limitation, the Acquired Assets. On and after the Closing Date, to the extent the holder of an Encumbrance of which the Acquired Assets are free and clear pursuant to the terms hereof does not comply with paragraph 13 of this Sale Order, the

Buyer shall be authorized to execute and file such documents, and to take all other actions as may be necessary, on behalf of each holder of an Encumbrance to release, discharge and terminate such Encumbrances in, on and against the Acquired Assets as provided for herein, as such Encumbrances may have been recorded or may otherwise exist. On and after the Closing Date, and without limiting the foregoing, to the extent the holder of an Encumbrance (as to which the Acquired Assets are being sold free and clear of pursuant to the terms hereof) does not comply with paragraph 13 of this Sale Order, the Buyer shall be authorized to file termination statements or lien terminations in any required jurisdiction to remove any record, notice filing, or financing statement recorded to attach, perfect or otherwise notice any Encumbrance that is extinguished or otherwise released pursuant to this Sale Order. This Sale Order constitutes authorization under all applicable jurisdictions and versions of the Uniform Commercial Code for the Buyer to file, in accordance with the terms of this Sale Order, UCC termination statements with respect to all security interests in or liens on the Acquired Assets.

15. Other than as specifically provided for in the Poland APA or in this Sale Order, the transfer of the Acquired Assets to the Buyer pursuant to the Poland APA and Transaction Documents does not require any consents.

16. On and after the Closing, the persons holding an Encumbrance (as to which the Acquired Assets are being sold free and clear of pursuant to the terms hereof) other than a Permitted Encumbrance or an Assumed Liability, hereby are required to execute such documents and take all other actions as may be reasonably necessary to release their respective Encumbrances in the Acquired Assets, as such Encumbrances may have been recorded or otherwise filed. The Buyer may, but shall not be required to, file a certified copy of this Sale Order in any filing or recording office in any federal, state, county or other jurisdiction in which any Debtor is

incorporated or has real or personal Acquired Assets, or with any other appropriate clerk or recorded with any other appropriate recorder, and such filing or recording shall be sufficient to release, discharge and terminate any of the Encumbrances as to which the Acquired Assets are being sold free and clear of pursuant to the terms hereof, as set forth in this Sale Order as of the Closing Date. All persons and entities that are in possession of any portion of the Acquired Assets on the Closing Date shall promptly surrender possession thereof to the Buyer at the Closing.

17. This Sale Order is and shall be binding upon and govern the acts of all persons and entities (including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, and secretaries of state, federal and local officials) who 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, or who may be required to report or insure any title or state of title in or to any lease. Each of the foregoing persons and entities is authorized to accept for filing any and all of the documents and instruments necessary and appropriate to release, discharge and terminate any of the Encumbrances as to which the Acquired Assets are being sold free and clear of pursuant to the terms hereof, or to otherwise consummate the Sale Transactions contemplated by this Sale Order, the Poland APA or any Transaction Document.

Payment of Certain Indebtedness

18. Upon Closing, the following shall be paid or otherwise satisfied in accordance with the Poland APA: (a) the Buyer shall pay the cash consideration in accordance with the Poland APA, including $3,000,000 in cash consideration for certain of the Debtors' Assets and Interests

(as more fully set forth in the Poland APA); and (b) subject to paragraph 39 hereof, the CLN Obligations in an amount of $98,120,777.96 shall be satisfied by the Credit Bid.

Assigned Contracts; Cure Payments

19. Pursuant to sections 105(a), 363 and 365 of the Bankruptcy Code, and subject to and conditioned upon the Closing Date, the Seller's assumption, assignment and transfer to the Buyer of the Assigned Contracts are hereby authorized and approved in full subject to the terms set forth below.

20. Upon and as of the Closing, the Seller is authorized and empowered to, and shall, assume, assign and/or transfer each of the Assigned Contracts to the Buyer free and clear of all Encumbrances, except as expressly set forth in the Poland APA with respect to the Permitted Encumbrances and Assumed Liabilities. Payment by the Seller of the applicable Cure Costs (if any), or the later payment by the Seller to such counterparty after the Court's resolution of any dispute regarding the Cure Amount, 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; *provided*, *further*, for the avoidance of doubt, all 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 are Excluded Liabilities of the Seller under the Poland APA, and the Buyer shall not be responsible for, or have any obligation to pay, any Cure Costs. Accordingly, on and as of the Closing Date, other than such payment, neither the Debtors nor the Buyer 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. The Buyer has provided adequate assurance of future performance under the relevant Assigned Contracts within the meaning of sections 365(b) and (f) of the Bankruptcy Code and in accordance with the Bid Procedures to the extent that any such assurance is required and not waived by the counterparties to such Assigned Contracts. Upon the payment of the applicable Cure Amount, the Assigned Contracts will remain in full force and effect, and no default shall exist, or be deemed to exist, under the Assigned Contracts as of the Closing Date, including any event or condition that, with the passage of time or giving of notice, or both, would constitute such a default.

21. To the extent any provision in any Assigned Contract assumed and assigned pursuant to this Sale Order (including, without limitation, any "change of control" provision) (a) prohibits, restricts or conditions, or purports to prohibit, restrict or condition, such assumption or assignment, or (b) is modified, breached or terminated, or deemed modified, breached or terminated by any of the following: (i) the commencement of these Chapter 11 Cases, (ii) the insolvency or financial condition of any Debtor at any time before the closing of these Chapter 11 Cases, (iii) any Seller's assumption or assumption and assignment (as applicable) of such Assigned Contract, or (iv) the consummation of the Sale Transactions, then such provision shall be deemed modified so as to not entitle the non-Debtor party thereto to prohibit, restrict or condition such assumption or assignment, to modify or terminate such Assigned Contract, or to exercise any other default-related rights or remedies with respect thereto, including, without limitation, any such provision that purports to allow the non-Debtor party thereto to recapture such Assigned Contracts, impose any penalty thereunder, condition any renewal or extension thereof, impose any rent acceleration or assignment fee, or increase or otherwise impose any other fees or

other charges in connection therewith. All such provisions constitute unenforceable anti-assignment provisions that are void and of no force and effect pursuant to sections 365(b), 365(e) and 365(f) of the Bankruptcy Code.

22. All requirements and conditions under sections 363 and 365 of the Bankruptcy Code for the assumption by the Seller and assignment to the Buyer of the Assigned Contracts have been satisfied. Upon the Closing, in accordance with sections 363 and 365 of the Bankruptcy Code, the Buyer shall be fully and irrevocably vested with all right, title and interest of the Seller in and under the Assigned Contracts, and each Assigned Contract shall be fully enforceable by the Buyer in accordance with its respective terms and conditions, except as limited or modified by the provisions of this Sale Order. Upon and as of the Closing, the Buyer shall be deemed to be substituted for the Seller as a party to the applicable Assigned Contracts and, accordingly, the Seller shall be relieved, pursuant to section 365(k) of the Bankruptcy Code, from any further liability under the Assigned Contracts.

23. Except as provided in the Poland APA or this Sale Order, after the Closing, the Debtors and their estates shall have no further liabilities or obligations with respect to any Assumed Liabilities, and all holders of Claims with respect to any Assumed Liabilities are forever barred and estopped from asserting such Claims against the Debtors, their successors or assigns, their property, or their assets or estates.

24. Subject to the provisions concerning WPI in paragraph 3 of this Sale Order which shall control, the rights of the Buyer to modify the list of the Assigned Contracts, Acquired Assets, and Assumed Liabilities after the date of this Sale Order and prior to the Closing Date as set forth in Section [1.5] of the Poland APA, are hereby approved in all respects. Notwithstanding anything herein to the contrary (but subject to the provisions concerning WPI in paragraph 3 of this Sale

Order which shall control) and subject to the Poland APA, prior to Closing and in the Buyer's sole and absolute discretion (subject to the terms of the Poland APA), the Buyer may notify Seller in writing of (v) any Assigned Contract that it does not wish to assume, (w) any Contract to which Seller is a party that the Buyer wishes to add as an Assigned Contract, (x) any Acquired Asset (including any Equity Interests of any Acquired Entity or any Indirect Equity Interests, each as defined in the Poland APA) that the Buyer does not wish to acquire, or (y) any Assumed Liability that the Buyer reasonably and in good faith determines is inconsistent with the intent of the parties, in each case up to the Closing Date and without any adjustment to the Purchase Price except as expressly provided in the Poland APA, and (i) any previously considered Assigned Contract that the Buyer no longer wishes to assume shall be automatically deemed removed from the Schedules related to Assigned Contracts and automatically deemed added to the Schedules related to Excluded Contracts; (ii) any previously considered Excluded Contract or Asset that the Buyer wishes to add shall be automatically deemed added as an Acquired Asset or Assigned Contract, automatically removed from any Excluded schedule, and sold and assigned by Seller to the Buyer, in each case without any adjustment to the Purchase Price (with any Cure Costs allocated in accordance with the Poland APA); and (iii) any previously considered Assumed Liability that the Buyer reasonably and in good faith determines is inconsistent with the intent of the parties shall be automatically deemed removed as an Assumed Liability and added as an Excluded Liability, without any adjustment to the Purchase Price. Notwithstanding the foregoing, the Buyer may not exercise the modification rights described in clause (y) with respect to any Assumed Liability expressly set forth in Section [1.3] of the Poland APA (other than those relating to an Assigned Contract that is removed), nor may the Buyer add an Acquired Asset if such asset is otherwise

restricted pursuant to these Chapter 11 Cases or if such asset was purchased, improved, or developed with federal grant funds.

25. To the extent that any counterparty to an Assigned Contract did not object to its Cure Amount or the assumption and assignment of the Assigned Contract, such counterparty to the Assigned Contracts shall be deemed to have consented to such assumption and assignment under section 365(c)(1)(B) of the Bankruptcy Code and the Buyer shall enjoy all the Seller's rights, benefits and privileges under each such Assigned Contract as of the applicable date of assumption and assignment without the necessity to obtain any non-Debtor parties' written consent to the assumption or assignment thereof. Notwithstanding anything to the contrary herein, if an Assumption and Assignment Objection (as defined in the Bid Procedures Order) relates solely to the Cure Amount (any such objection, a "**Cure Dispute**"), the applicable contract or lease may be assumed by the Debtors and assigned to the Buyer, provided that the cure amount the applicable counterparty asserts is required to be paid under section 365(b)(1)(A) and (B) of the Bankruptcy Code (or such lower amount as agreed to by such counterparty) is deposited in a segregated account by the Debtors pending the Court's adjudication of the Cure Dispute or the parties' consensual resolution of the Cure Dispute.

26. Nothing in this Sale Order, the Motion, or in any notice or any other document is or shall be deemed an admission by the Debtors or the Buyer that any Assigned Contract is an executory contract or unexpired lease under section 365 of the Bankruptcy Code.

27. The failure of the Debtors or the Buyer, as applicable, to enforce at any time one or more terms or conditions of any Assigned Contract shall not be a waiver of such terms or conditions, or of its respective rights to enforce every term and condition of the Assigned Contracts.

Additional Injunction; No Successor Liability

28. Effective upon the Closing Date and except as expressly set forth in the Poland APA and the Transaction Documents with respect to the Permitted Encumbrances and Assumed Liabilities, all persons and entities are forever prohibited and permanently enjoined from (a) commencing or continuing in any manner any action or other proceeding, the employment of process, or any act (whether in law or equity, in any judicial, administrative, arbitral or other proceeding), to collect, recover or offset any Encumbrance of which the Acquired Assets are sold free and clear; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order with respect to an Encumbrance; (c) creating, perfecting or enforcing any Encumbrance; (d) asserting any setoff (except for setoffs validly exercised before the Closing) or right of subrogation of any kind with respect to an Encumbrance; (e) exercising any rights or remedies based on or arising from any asserted default that occurred on, prior to, or as a result of the Closing, including any default of the type specified in section 365(b)(1)(A) of the Bankruptcy Code; or (f) commencing or continuing any action in any manner or place that does not comply, or is inconsistent, with the provisions of this Sale Order or the agreements or actions contemplated or taken in respect thereof, in each case as against the Newco Stakeholders, or any of their respective assets, including the Acquired Assets. Following the Closing, no party shall interfere with the Buyer's title to or use and enjoyment of the Acquired Assets based on or related to any such Encumbrance, or based on any act or omission the Debtors have taken or may take in these Chapter 11 Cases or any successor cases, or otherwise.

29. The Sale Transactions contemplated by the Poland APA and the Transaction Documents do not cause there to be, and there is not (a) a consolidation, merger, or *de facto* merger of the Buyer, on the one hand, with or into the Debtors or the Debtors' estates, on the other hand,

or vice versa, (b) a substantial continuity between the Buyer, on the one hand, and the Debtors or the Debtors' estates, on the other hand, (c) a common identity between the Buyer, on the one hand, and the Debtors or the Debtors' estates, on the other hand, or (d) a mere continuation of the Debtors or their estates, on the one hand, with the Buyer, on the other hand.

30. Except to the extent expressly set forth in the Poland APA, including with respect to the Permitted Encumbrances and Assumed Liabilities, the transfer of the Acquired Assets, including, without limitation, the assumption, assignment and transfer of any Assigned Contract, to the Buyer shall not cause or result in, or be deemed to cause or result in, any Newco Stakeholder having any liability, obligation, or responsibility for, or any Acquired Assets being subject to, or providing recourse for, any Encumbrance arising prior to the Closing whatsoever, whether arising under any doctrines or theories of foreign, federal, state, or local antitrust, environmental, successor, tax, ERISA, assignee, transferee or vicarious liability, labor, product liability, employment, de facto merger, substantial continuity, breach of fiduciary duty, aiding or abetting breach of fiduciary duty, or any other law, rule, or regulation, whether known or unknown as of the Closing Date, now existing or hereafter arising, whether asserted or unasserted, fixed or contingent, liquidated or unliquidated, whether at Law or in equity, directly or indirectly, and whether by payment, setoff (except for setoffs validly exercised before the Closing), or otherwise.

31. For the avoidance of doubt, notwithstanding the consummation of the Sale Transactions and the employment by the Buyer of certain persons previously employed by the Debtors, (a) except as set forth in the Poland APA, the Buyer shall not have any obligations or liabilities to any employee of the Debtors or in respect of any employee benefits owing to any employee of the Debtors by the Debtors or by any plan or program administered by the Debtors or for the benefit of the Debtors' employees, and (b) any obligations of the Buyer to any such Person

shall be expressly limited to (i) those obligations owing to any employee solely as a result of the Buyer's employment of such employee following the Closing Date; (ii) those obligations expressly agreed upon by the Buyer with such Person; and (iii) those obligations explicitly assumed by the Buyer under the Poland APA. Upon the Closing, solely with respect to the Seller and the Acquired Assets, the Buyer shall be, and shall be deemed to be, a new employer for purposes of, among other things, any and all federal or state unemployment laws, including any unemployment compensation or tax laws, or any other similar federal or state laws, and neither the Buyer nor any of its Affiliates shall, or shall be deemed to: (x) have any common law successorship liability or controlled group liability (as such terms are used under ERISA and the Internal Revenue Code) in relation to any employee benefit plans of the Debtors, including, without limitation, with respect to withdrawal liability or contribution obligations under any multiemployer plan (as such term is defined in section 3(37) or section 4001(a)(3) of ERISA) to which the Debtors have at any time contributed to or had any liability or potential liability; or (y) be liable for any acts or omissions of the Seller other than as expressly set forth in the Poland APA.

Good Faith

32. The Sale Transactions contemplated by this Sale Order, the Poland APA and Transaction Documents are undertaken by the Newco Stakeholders without collusion and in good faith, as that term is defined in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale and other Sale Transactions shall not alter, affect, limit, or otherwise impair the validity of the Sale or such other Sale Transactions (including the assumption, assignment and/or transfer of the Assigned Contracts), unless such authorization and consummation are duly stayed pending such appeal. Each of the Newco Stakeholders is a good faith purchaser within the meaning of section

363(m) of the Bankruptcy Code and, as such, is entitled to, and hereby granted, the full rights, benefits, privileges and protections of section 363(m) of the Bankruptcy Code. The Debtors and the Newco Stakeholders have acted, and will be acting, in good faith within the meaning of section 363(m) if they proceed to consummate the Sale Transactions at any time after the entry of this Sale Order. Pursuant to section 363(m) of the Bankruptcy Code, if any or all of the provisions of this Sale 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 and enforceability of the Sale or any obligation or right granted pursuant to the terms of this Sale Order (unless stayed pending appeal prior to the Closing), and, notwithstanding any reversal, modification, or vacatur, the Sale shall be governed in all respects by the original provisions of this Sale Order and the Poland APA.

33. Neither the Debtors nor the Newco Stakeholders have engaged in any action or inaction that would cause or permit the Sale to be avoided or costs or damages to be imposed under section 363(n) of the Bankruptcy Code. The consideration provided by the Buyer for the Acquired Assets under the Poland APA is fair and reasonable, and the Sale may not be avoided, and costs and damages may not be imposed, under section 363(n) of the Bankruptcy Code. Accordingly, neither the Debtors nor any successor in interest to the Debtors' estates nor any other party in interest shall be entitled to bring an action against any Newco Stakeholder, and no party shall be entitled to any damages or other recovery pursuant to section 363(n) of the Bankruptcy Code, in each case, solely in respect of the Poland APA or the Sale Transactions.

34. Under no circumstances shall any Newco Stakeholder be deemed a successor of or to any of the Debtors for any Encumbrance against, in, or to the Debtors or the Acquired Assets. Except with respect to the Assumed Liabilities expressly set forth in the Poland APA, upon

Closing: (i) the Debtors and each of their past, present, and future officers, directors, managers, employees, agents, representatives, advisors, and any subsequently appointed chapter 11 trustee, chapter 7 trustee, liquidating trustee, plan agent, or similar representative (collectively, "**Estate Entities**") shall irrevocably and unconditionally release and forever discharge the Newco Stakeholders from any and all suits, legal or administrative proceedings, claims, demands, damages, losses, costs, liabilities, interests, or causes of action whatsoever, at law or in equity, known or unknown, which the Estate Entities might now or subsequently may have, based on, relating to, or arising out of or in connection with the Debtors' Chapter 11 Cases, the Sale process, or the Sale Transactions; and (ii) the Newco Stakeholders shall have no liability or responsibility for any claim, liability, or obligation of the Debtors or their estates arising prior to or in connection with the Closing, except as expressly assumed pursuant to the Poland APA.

35. The Debtors are hereby authorized and directed, at the Buyer's reasonable request and at no cost to the Buyer (except as expressly provided in the Poland APA), to execute, acknowledge, and deliver all such further assignments, conveyances, notices, releases, acquittances, and other instruments and documents, and to take all further actions, as may be reasonably necessary or appropriate (a) to assure unto the Buyer the full benefit of the Acquired Assets, (b) to more fully and effectively vest in the Buyer all right, title, and interest in and to the Acquired Assets free and clear of all Encumbrances (except as expressly set forth in the Poland APA with respect to the Permitted Encumbrances and Assumed Liabilities), and (c) to otherwise carry out the purposes and intent of this Sale Order and the Poland APA. The Buyer shall be entitled to seek specific performance of any such obligation in this Court, and this Court shall retain jurisdiction to enforce such obligations.

36. Upon the Closing, pursuant to Section 6.12 of the Poland APA, the Buyer (on behalf of itself and its Subsidiaries, including after the Closing the Acquired Entities, and their respective representatives, heirs, estates, successors, and assigns, collectively the "**Purchaser Releasing Parties**") shall irrevocably and unconditionally release and forever discharge the Seller and its current, former, and future advisors, stockholders, members, directors, managers, trustees, principals, parents, subsidiaries, joint ventures, predecessors, successors, assigns, beneficiaries, heirs, and executors (collectively, the "**Seller Released Parties**") from any and all Released Claims (as defined in the Poland APA) of the Purchaser Releasing Parties against the Seller Released Parties; *provided that* such release shall not affect (i) any claim or right arising under the Poland APA or any Transaction Agreement, including any breach thereof, (ii) any claim or right in the ordinary course for compensation, vacation pay, and benefits arising under any employment arrangement, (iii) any claim or right arising as a result of Fraud (as defined in the Poland APA), or (iv) any claim in respect of bonds, indentures, notes, or similar instruments of Seller or any Affiliate thereof, all as more fully set forth in the Poland APA.

37. Upon the Closing, the Debtors (on behalf of themselves and their subsidiaries, representatives, heirs, estates, successors, and assigns) unconditionally, irrevocably, and fully forever release, remise, acquit, relinquish, irrevocably waive, and discharge each of the Senior Noteholders and Junior Noteholders, solely in their capacities as such, each of their respective affiliates, former, current, or future officers, employees, directors, agents, representatives, owners, members, partners, financial advisors, legal advisors, shareholders, managers, consultants, accountants, attorneys, affiliates, assigns, agents, and predecessors in interest, and Kojo Ako-Asare and Robin Duggan, solely in their capacities as former directors, of and from any and all claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness and

obligations, rights, assertions, allegations, actions, suits, controversies, proceedings, losses, damages, injuries, attorneys' fees, costs, expenses, or judgments of every type, whether known, unknown, asserted, unasserted, suspected, unsuspected, accrued, unaccrued, fixed, contingent, pending, or threatened, including, without limitation, all legal and equitable theories of recovery, arising under common law, statute, or regulation or by contract, of every nature and description, in each case based on facts, circumstances, or occurrences existing at or prior to Closing, including, without limitation, (i) any so-called "lender liability" or equitable subordination claims or defenses, (ii) any and all claims and causes of action arising under the Bankruptcy Code, and (iii) any and all claims and causes of action regarding the validity, priority, extent, enforceability, perfection, or avoidability of the liens or claims of the Prepetition Secured Parties. Notwithstanding anything to the contrary in the foregoing, the releases contained in this paragraph shall not be construed as releasing any party from claims or causes of action arising from an act or omission that is judicially determined by a final order to have constituted actual fraud, willful misconduct, or gross negligence.

Other Provisions

38. For the avoidance of doubt, the Acquired Assets do not include drawings, schematics, or other technical plans of the Hopkinsville Facility (as defined below).

39. Upon entry of this Sale Order: (i) the Senior Noteholders and the Junior Noteholders, or the Buyer, as applicable, shall be entitled to credit bid all obligations owing under the Senior Note Purchase Agreement and Junior Note Purchase Agreement (the "**Prepetition Secured Obligations**"), as applicable, without further challenge from any other party in interest, and upon the closing of the transaction evidenced by the Poland APA: (i) all of the Prepetition Secured Obligations shall be deemed legal, valid, and binding obligations of the Debtors, (ii) the

obligations owing under the Junior Note Purchase Agreement shall, after application of the Credit Bid, be reduced to $5,000,000 solely for purposes of a potential credit bid for the Debtors' assets in Covington, Georgia (the "**Remaining Junior Prepetition Secured Obligations**"), (iii) the liens securing such Prepetition Secured Obligations shall not be subject to any Challenges (as defined in the Interim Cash Collateral Order[6] and any final order granting use of cash collateral) and any such Challenges (as defined in the Interim Cash Collateral Order and any final order granting use of cash collateral) by any party in interest (including, but not limited, to the Debtors, the official committee of unsecured creditors, any chapter 7 or chapter 11 trustee, and any other party in interest) shall be deemed forever waived, barred, and released, and (iv) the Challenge Period (as defined in the Interim Cash Collateral Order and any final order granting use of cash collateral) shall terminate, the Challenge Period Termination Date (as defined in the Interim Cash Collateral Order and any final order granting use of cash collateral) shall occur, and no party shall be permitted to assert any Challenge and all such Challenges shall be deemed forever waived, barred, and released. Notwithstanding anything else herein, the Remaining Junior Prepetition Secured Obligations cannot be used relative to any bid on the Hopkinsville Facility.

40. The Junior Noteholders shall be permitted to use the Remaining Junior Prepetition Secured Obligations solely to credit bid in connection with the potential sale of the Debtors' assets in Covington, Georgia. To the extent the Junior Noteholders (or an affiliate thereof) are not the successful bidder for such assets or the Debtors' assets in Covington, Georgia are not sold, then (i) the Purchase Price under the Poland APA shall be automatically deemed adjusted to have included the Remaining Junior Prepetition Secured Obligations in the Credit Bid and (ii)

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[6] "**Interim Cash Collateral Order**" means the *Interim Order (I) Authorizing the Debtors to Use Cash Collateral; (II) Granting Adequate Protection to Prepetition Secured Parties; (III) Modifying Automatic Stay; (IV) Scheduling a Final Hearing; and (V) Granting Related Relief* (Docket No. 74).

the obligations owing under the Junior Note Purchase Agreement shall, after application of the Credit Bid, be reduced to $0 retroactively as of the Closing. To the extent the Junior Noteholders (or an affiliate thereof) are the successful bidder for such assets, then the obligations owing under the Junior Note Purchase Agreement shall, after application of the credit bid in connection with such assets, be reduced to $0.

41. Notwithstanding any provision to the contrary in this Sale Order or any 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 Sale 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 (a) grants, (b) grant funds, (c) contracts, (d) agreements, (e) awards, (f) task orders, (g) leases, (h) certifications, (i) applications, (j) registrations, (k) billing numbers, (l) national provider identifiers, (m) provider transaction access numbers, (n) permits, (o) covenants, (p) guarantees, (q) indemnifications, (r) data, or (s) records, (collectively, "**Federal Interests**") without compliance with all terms of the Federal Interests and with all applicable non-bankruptcy law; (v) be interpreted to set cure amounts with respect to any Federal Interests 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 Federal 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 Seller's or Buyer'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.).

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

43. Effective as of immediately following the Closing Date, the Buyer hereby grants to the Seller a non-exclusive, non-transferable royalty-free (subject to the delivery of data required by this Section 42), non-sublicensable license to use any Acquired Intellectual Property (other than trademarks and other indications of origin) used as of the date hereof and to the scale as of the date hereof at Seller's location in Covington, Georgia ("**Covington Facility**") in the ordinary course of business ("**Covington IP**"), solely at and in the operation of the Covington Facility in the ordinary course of business. The foregoing license (i) shall expire upon the expiration of the last-to-expire patents included in the Covington IP; (ii) is granted on an as-is, where-is basis and (iii) is assignable only in whole in connection with a sale or other transfer of the Covington Facility. In consideration for the foregoing license, the Seller will deliver to the Buyer such data as may be reasonably requested by the Buyer from time to time regarding the results of the practice of the Covington IP at the Covington Facility, which data shall be delivered by the Seller for the term of the Covington IP license at a cadence reasonably requested by Buyer. The Seller hereby grants to the Buyer a non-exclusive, royalty-free license to use such data in the operation of its business.

44. Effective as of immediately following the Closing Date, the Buyer shall grant to a buyer of all assets at the Seller's location in Hopkinsville, Kentucky ("**Hopkinsville Facility**" and such buyer, the "**Hopkinsville Buyer**") a non-exclusive, non-sublicensable, non-transferable

license (subject to the delivery of data required by this Section 43 and payment of royalties at market rates to be agreed between the Buyer and the Hopkinsville Buyer) to use any Acquired Intellectual Property (other than trademarks and other indications of origin) used as of the date hereof at the Hopkinsville Facility in the ordinary course of business ("**Hopkinsville IP**"), solely at and in the operation of the Hopkinsville Facility in the ordinary course of business. Such license (i) shall expire upon the expiration of the last-to-expire patents included in the Hopkinsville IP; and (ii) will be granted on an as-is, where-is basis. In consideration for the foregoing license, the Hopkinsville Buyer will deliver to the Buyer such data as may be reasonably requested by the Buyer from time to time regarding the results of the practice of the Hopkinsville IP at the Hopkinsville Facility, which data shall be delivered by the Hopkinsville Buyer for the term of the Hopkinsville IP license at a cadence reasonably requested by the Buyer. The Hopkinsville Buyer will grant to the Buyer a non-exclusive, royalty-free license to use such data in the operation of its business. In the event that the Buyer and the Hopkinsville Buyer do not agree on the market rate for royalties in connection with the license described in this paragraph, the Buyer and Hopkinsville Buyer shall be bound to the determination of market rate by a panel of three independent experts, with each of the Buyer and Hopkinsville Buyer selecting one independent expert and the third expert selected by the two experts selected by the parties.

45. The Seller will deliver to the Buyer on the Closing Date the proprietary information and inventions assignment agreement executed by Eric Gratz. In addition, the Seller will, and will cause its affiliates to, use best efforts to deliver to the Buyer on the Closing Date the proprietary information and inventions assignment agreements in form and substance acceptable to the Buyer from each of the individuals set forth on Schedule 6.16 to the Poland APA (each, a "**Required Invention Assignment**"). To the extent any such Required Invention Assignment is not so

delivered, the Seller will, or will cause its Affiliates to, deliver such Required Invention Assignment within ten (10) days following the Closing Date.

46. Notwithstanding anything to the contrary in the Poland APA or in this Sale Order, until the later of (a) the closure of these cases pursuant to a final, unappealable order and (b) three (3) years after the Closing Date, Buyer will use reasonable efforts not to dispose of or destroy any of the records received as Acquired Assets and will allow the Debtors and any successor thereto, including a liquidation trust (if any), and any of their respective directors, officers, employees, counsel, advisors, Representatives, accountants and auditors reasonable access during normal business hours, upon reasonable advance notice, to any record included in the Acquired Assets for the purposes relating to these cases, the wind-down of the operations and the implementation of any plan of liquidation following the Sale Closing. The three-year (3) period referenced in this Paragraph 46 may be extended upon reasonable request made to the Buyer by the Debtors or any successor thereto, including a liquidating trust (if any), or any of their respective officers, directors, counsel, advisors or Representatives.

47. Notwithstanding anything to the contrary in this Sale Order, the Poland APA, or any other filings or documents in connection therewith, each of the following shall constitute Excluded Assets and, for the avoidance of doubt, except as otherwise provided in paragraph 36, shall not be released nor transferred to the Buyer (collectively, "**Avoidance Actions**"): (i) all causes of action, lawsuits, judgments, claims, refunds, rights of recovery, rights of set-off, counterclaims, defenses, demands, warranty claims, rights to indemnification, contribution, advancement of expenses or reimbursement, or similar rights of the Seller (at any time or in any manner arising or existing, whether choate or inchoate, known or unknown, now existing or hereafter acquired, contingent or noncontingent), including all Claims, rights, lawsuits, rights of

recovery, objections, causes of action, avoidance actions, and similar rights of Seller arising under or pursuable through Chapter 5 of the Bankruptcy Code or any other similar state or federal statutes or under common law, including fraudulent transfer or fraudulent conveyance law (whether or not asserted as of the Closing Date), and all proceeds thereof; *provided* that Avoidance Actions shall not include any causes of action or rights to the extent related to the Assigned Contracts (to the extent those contracts are assumed through the Sale), the Assumed Liabilities, or any Acquired Asset; (ii) commercial tort claims; (iii) claims, Causes of Action, or other rights of the Seller against current or former directors or officers of the Seller; and (iv) claims and Causes of Action of the Seller or its Affiliates that do not relate to the ownership, use, function, or value of the Business or any of the Acquired Assets, excluding the Critical Vendor Avoidance Claims (as defined in the Poland APA). Notwithstanding the preceding sentence, the Critical Vendor Avoidance Claims (as defined in the Poland APA) shall constitute Acquired Assets and shall be transferred to the Buyer at Closing. The Buyer may, in its sole discretion, determine whether to pursue or settle any Critical Vendor Avoidance Claim following the Closing. To the extent that any cause of action, right, or interest described in this section relates to the Assigned Contracts (to the extent those contracts are assumed through the Sale), the Assumed Liabilities, or any Acquired Asset, such cause of action, right, or interest shall constitute an Acquired Asset and shall be transferred to the Buyer at Closing, together with all rights and interests necessary or appropriate for the Buyer to effectively prosecute, defend, or obtain the benefits of the foregoing.

48. The Debtors and H2O Innovation Inc. ("**H2O**") are parties to certain agreements (collectively, the "**H2O Agreements**") whereby, among other things, the Debtors agreed to buy from H2O, and H2O agreed to sell to the Debtors, certain equipment (each, an "**H2O System**," and collectively, the "**H2O Systems**"). H2O asserts that various amounts remain due and owing

and continue to accrue on the H2O Systems pursuant to the H2O Agreements. For the avoidance of doubt, nothing in this Sale Order approves the sale of the H2O Systems, including any associated intellectual property related thereto, or assumes and assigns the H2O Agreements, to the Buyer. Nothing in this paragraph shall be deemed to waive, modify, or otherwise impair the respective rights of the Debtors and H2O under the H2O Agreements, to the H2O Systems, or under applicable law, and the Debtors and H2O expressly reserve all of their respective rights and remedies whether now existing or hereafter arising under the H2O Agreements and/or applicable law.

49. Nothing contained in any plan of reorganization or liquidation, or order of any type or kind entered in (a) these Chapter 11 Cases, (b) any subsequent chapter 7 case into which any such Chapter 11 Case may be converted, or (c) any related proceeding subsequent to entry of this Sale Order, shall conflict with or derogate from the provisions of the Poland APA or the terms of this Sale Order. To the extent of any such conflict or derogation, the terms of this Sale Order shall govern.

50. Pursuant to Bankruptcy Rules 6004(h) and 6006(d), this Sale Order shall not be stayed after the entry hereof, but shall be effective and enforceable immediately upon entry, and the 14-day stay provided in Bankruptcy Rules 6004(h) and 6006(d) is hereby expressly waived and shall not apply. Accordingly, the Debtors are authorized and empowered to close the Sale and other Sale Transactions immediately upon entry of this Sale Order.

51. Nothing in this Sale Order shall modify or waive any closing conditions, post-closing covenants or termination rights in Articles [VI and VII] of the Poland APA, and all such conditions and rights shall remain in full force and effect in accordance with their terms.

52. No bulk sales law or any similar law of any state or other jurisdiction applies in any way to the Sale Transactions.

53. No Governmental Authority (as defined in section 101(27) of the Bankruptcy Code) or any representative thereof may deny, revoke, suspend or refuse to renew any permit, license, registration, governmental authorization or approval or similar grant (each a "**License**") relating to the operation of the Acquired Assets sold, transferred, or conveyed to the Buyer on account of the filing or pendency of these Chapter 11 Cases or the consummation of the Sale Transactions contemplated by the Poland APA and the Transaction Documents, and each such Governmental Authority is hereby directed to transfer or reissue all such Licenses to the Buyer as of the Closing to the fullest extent permitted by applicable law. The Buyer shall be authorized, as of the Closing, to operate under the Licenses listed on Schedule 3.12 of the Poland APA (except for those Licenses set forth on Schedule 1.2(f) of the Poland APA) and, to the extent provided for in the Poland APA and the Transaction Documents, such Licenses are deemed to have been, and are hereby directed to be, transferred to the Buyer as of the Closing. This Court shall retain jurisdiction to enforce this provision against any Governmental Authority that fails to comply herewith.

54. All payment or reimbursement obligations of the Buyer to obtain replacements for, or be substituted as the primary obligor with respect to, any Seller's Support Obligations, and all payment obligations of the Seller owed to the Buyer pursuant to the Poland APA or the Transaction Documents, shall be paid solely in accordance with the terms thereof and in the manner provided therein, without further notice to or order of this Court. Pursuant to section 1107(a) of the Bankruptcy Code, the Debtors, in their capacity as debtors-in-possession in these Chapter 11 Cases, are the "trustee" of the Debtors' estates for purposes of state, local, or municipal law or regulation applicable to the transfer of any License to the Buyer. The Debtors' officers shall be

authorized to, and hereby have the authority to, execute, on behalf of the Debtors and all other current holders of the Licenses (if any), all documents and forms required by any applicable authorities to transfer the Licenses to the Buyer, subject to approval by such authorities, as applicable. All existing Licenses applicable to the Business shall remain in place for the Buyer's benefit until either new Licenses are obtained or existing Licenses are transferred in accordance with applicable administrative procedures. The Debtors shall reasonably cooperate with the Buyer prior to and after the Closing in connection with the Buyer's efforts to transfer or obtain new Licenses.

55. The failure specifically to include any particular provision of the Poland APA in this Sale Order shall not diminish or impair the effectiveness of such provision, it being the intent of this Court that the Poland APA be authorized and approved in their entirety.

56. The Poland APA and Transaction Documents may be modified, amended or supplemented in a writing signed by the parties thereto and in accordance with the terms thereof, without further notice to or order of this Court, *provided that* any such modification, amendment or supplement shall not have a material adverse effect on the Debtors' estates unless approved by order of this Court and all changes to the schedules shall be filed on the docket.

57. For the avoidance of doubt, nothing in this Sale Order shall constitute, pursuant to section 1146(a), the grant of a tax exemption under a plan confirmed under section 1129 or 1191 of the Bankruptcy Code.

58. This Court retains jurisdiction, pursuant to its statutory powers under 28 U.S.C. § 157(b), to, among other things, (i) interpret, implement, and enforce the terms and provisions of this Sale Order, the Poland APA, the Transaction Documents, and any amendments thereto and any waivers and consents given thereunder, (ii) adjudicate, if necessary, any and all disputes

concerning or relating in any way to the Sale, (iii) compel delivery of the Acquired Assets to the Buyer, (iv) enforce the injunctions and limitations of liability set forth in this Sale Order, and (v) enter any orders under sections 363 and 365 of the Bankruptcy Code with respect to the Assigned Contracts.

59. All time periods set forth in this Sale Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

60. The automatic stay pursuant to section 362 of the Bankruptcy Code is hereby vacated, modified, and terminated with respect to the Debtors to the extent necessary, without further order of the Court, (i) to allow the Buyer to give the Debtors any notice provided for in the Poland APA, (ii) to allow the Buyer to take any and all actions permitted by the Poland APA in accordance with the terms and conditions thereof, including, without limitation, effectuating the Sale and the other Sale Transactions contemplated by the Poland APA and (iii) to otherwise implement the terms and provisions of the Poland APA and this Sale Order. The automatic stay imposed by section 362 of the Bankruptcy Code is modified solely to the extent necessary to implement the preceding sentence and the other provisions of the Poland APA and this Sale Order, and this Court shall retain exclusive jurisdiction over any and all disputes with respect thereto.

61. To the extent that this Sale Order is inconsistent with any prior order or pleading with respect to the Motion, the terms of this Sale Order shall govern. To the extent there are any inconsistencies between the terms of this Sale Order or the Bid Procedures Order, on the one hand, and the Poland APA or any Transaction Document, on the other hand, the terms of this Sale Order and the Bid Procedures Order shall govern, as applicable.

62. For the avoidance of doubt, the rights of all parties and the estates are reserved with respect to the sale of the Debtors' Hopkinsville Facility and the Covington Facility and any other related assets that are not Acquired Assets.

Signed: _____, 2026

CHRISTOPHER LOPEZ
UNITED STATES BANKRUPTCY JUDGE

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 AND INTERESTS 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 (the "**Motion**") dated April 10, 2026 [Docket No. 50], of the above-captioned debtors and debtors in possession (collectively, the "**Debtors**"), seeking, among other things, entry of an order (i) authorizing the sale of the Acquired Assets (as defined in the Poland APA) (the "**Acquired Assets**") free and clear of all Encumbrances (as defined herein) and the assumption of Assumed Liabilities, except as otherwise provided in that certain *Second Amended and Restated Asset Purchase Agreement* attached hereto as **Exhibit ~~[~~A~~]~~**, dated as of May ~~[●]~~21, 2026 ~~(together with all other~~ (together with all other agreements, documents, and instruments deliverable thereunder or attached thereto or referenced therein, and as may be amended, modified, or supplemented, the "**Poland APA**")[2] by and between Debtor Ascend Elements, Inc. (the "**Seller**") and Bluegrass Infrastructure Partners Holdings, LLC (the "**Buyer**" or "**NewCo**" and transactions contemplated in the Poland APA, the "**Sale Transactions**"), (ii) authorizing the assumption and assignment ~~Assigned Contracts as set more fully in Section~~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 not otherwise defined herein shall have the meanings ascribed to such terms in the Motion or the APA, as applicable.

Assigned Contracts as set forth more fully in Section 1.1(b) of the Poland APA as may be modified ~~1.1(b) the APA, as such schedule of the APA may be modified~~ or amended in accordance with the Poland APA and this Sale Order (the "**Assigned Contracts**"), and (iii) granting related relief, all as more fully set forth in the Motion; and the Court having entered the *Order (A) Approving Bid Procedures; (B) Authorizing Designation of 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**"), among other things, approving the Bid procedures attached thereto as Exhibit 1 (the "**Bid Procedures**"), all as more fully described in the Bid Procedures Order; and the Debtors having received no Qualified Bids for certain of the Debtors' Assets, including the Debtors' intellectual property, other than the Buyer's Qualified Bid; and the Debtors accordingly, pursuant to the Bid Procedures, having canceled the Auction solely with respect to assets and interests set forth in this Sale Order, while the Auction remains scheduled to proceed with respect to the Debtors' other assets; and the Buyer having been selected as the Successful Bidder with respect to the Debtors' intellectual property and certain of the Debtors' Assets [Docket No. ~~[●]~~352]; and this Court having conducted the Sale Hearing on ~~[●]~~May 21, 2026; and all parties in interest having been heard, or having had the opportunity to be heard, regarding the Poland APA, the Sale and this order (the "**Sale Order**"); and this Court having reviewed and considered all objections and responses thereto, and the arguments of counsel made, and the evidence adduced, at the Bid Procedures Hearing and the Sale Hearing; and upon the entire record of the Bid Procedures Hearing and the Sale Hearing, and after due deliberation thereon, and good cause appearing therefor:

THE COURT HEREBY FINDS, CONCLUDES, AND DETERMINES THAT:[3]

Jurisdiction, Final Order and Statutory Predicates

A. This Court has jurisdiction to hear and determine the approval of the Sale under 28 U.S.C. §§ 1334. 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. § 157(b), and the Court may enter a final order hereon under Article III of the United States Constitution. Venue of these Chapter 11 Cases and approval of the Sale and Sale Transactions contemplated by the Poland APA is proper in this district under 28 U.S.C. §§ 1408 and 1409.

B. This Sale Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), and to any extent necessary under Bankruptcy Rule 9014 and Rule 54(b) of the Federal Rules of Civil Procedure, as made applicable by Bankruptcy Rule 7054, this Court expressly finds that there is no just reason for delay in the implementation of this Sale Order, authorizes the closing of all transactions contemplated hereby, including, without limitation, the Sale Transactions, without regard to any stay or delay in its implementation, and expressly directs entry of judgment as set forth herein.

C. The statutory predicates for the relief sought by the Motion are sections 105(a), 363, 365, and 503 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, 9006, 9007, 9008 and 9014, and Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Southern District of Texas (the "**Local Rules**") 2002-1 and 4002-

[3] The findings and conclusions set forth herein constitute this 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 that any of the following findings of fact constitute conclusions of law, they are adopted as such.

States Bankruptcy Court for the Southern District of Texas (the "**Local Rules**") 2002-1 and 4002-1, and the Procedures for Complex Cases in the Southern District of Texas (the "**Complex Case Procedures**").

D. The findings and conclusions set forth herein constitute this 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. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such. This Court's findings shall also include any oral findings of fact and conclusions of law made by this Court during or at the conclusion of the Sale Hearing.

Notice of the Sale, Auction and the Cure Costs

E. As evidenced by the *Declaration of Michael O'Hara ~~In~~in Support of Entry of an Order (I) Approving the Sale of Certain of the Debtors' Assets and Interests 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* [Docket No. 373] filed concurrently herewith, the *Declaration of Adam Titus in Support of Entry of an Order (I) Approving the Sale of Certain of the Debtors' Assets and Interests 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* [Docket No. ~~[~~]374] filed concurrently herewith, and the *Declaration of ~~Adam Titus In~~Laura Fernandez in Support of ~~Entry of~~ Order (I) Approving the Sale of Certain of the Debtors' Assets and Interests 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 [Docket No. [●] ~~(collectively, the "**Sale Declarations**") and the certificates of service filed with the Court [Docket No. [●]~~

~~(collectively, the "**Certificates of Service**~~filed concurrently herewith (the "**Sale Declarations**"), and based upon the record of the Sale Hearing and as previously determined by this Court in the Bid Procedures Order, (i) due, proper, timely, adequate, and sufficient notice of the Motion, the Bid Procedures Order, the Poland APA, the Sale Hearing, the Sale, the Sale Transactions, and transactions contemplated by the Poland APA, including the assumption, assignment and/or transfer of the Assigned Contracts, and a reasonable opportunity to object or be heard with respect thereto and to the entry of this Sale Order, has been afforded to all known interested persons and entities entitled to receive such notice, including, but not limited to the Notice Parties set forth in the Bid Procedures, (ii) such notice was and is good, sufficient, and appropriate under the circumstances and reasonably calculated to reach and apprise all holders of liens, claims, encumbrances, 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; and (iii) no other or further notice of, opportunity to object to, or other opportunity to be heard regarding the Motion, the Sale Hearing, the Poland APA, the Sale, the Sale Transactions, the transactions contemplated by the Poland APA, or of the entry of this Sale Order is necessary or shall be required.

F. In accordance with the provisions of the Bid Procedures Order, the Debtors have served the *First Notice to Contract Parties to Potentially Assumed Executory Contracts and Unexpired Leases* [Docket No. 240] ("**Cure Notice**") upon all of the counterparties to the

contracts and leases set forth on the schedule attached ~~thereto~~ as Exhibit 1 (the "**Contract and Lease Schedule**") to the Cure Notice, setting forth: (i) the contract(s) and/or lease(s) that may be assumed by the Seller and assigned to the Buyer; (ii) the name of the counterparty thereto; (iii) notice of the right of the Seller and/or the Buyer to withdraw such request for assumption and assignment of the Assigned Contract(s) prior to the Closing; and (iv) the amount, if any, determined by the Seller to be necessary to be paid by the Seller to cure and compensate for any existing default in accordance with sections 365(b) and 365(f)(2) of the Bankruptcy Code (the "**Cure Amount**"). *See* the *Certificate of Service* filed with the Court on May 14, 2026 [Docket No. 319] ~~(the "**Certificates of Service**")~~. The deadline for a non-Debtor counterparty to file an objection regarding the ability of the Buyer to provide adequate assurance of future performance or to the stated Cure Amount in the Cure Notice (a "**Cure Notice Objection**") has expired and, to the extent any such party timely filed a Cure Objection and such executory contract or unexpired lease is being assumed and assigned pursuant to the Poland APA, all such Cure Notice Objections have been resolved, withdrawn, overruled or denied. To the extent that any non-Debtor counterparty did not timely file a Cure Notice Objection by the objection deadline listed in the Cure Notice (the "**Cure Notice Objection Deadline**"), such party shall be deemed to have consented to the (i) assumption and assignment of the Assigned Contract, (ii) proposed Cure Amount set forth on the Cure Notice, and (iii) adequate assurance of the Buyer's future performance previously provided.

G. The service of such Cure Notice (i) was good, sufficient and appropriate under the circumstances of these Chapter 11 Cases; (ii) provided such counterparties with a full and fair opportunity to object to such assumption, assignment, or transfer and to the proposed Cure Amount

set forth in the Cure Notice; and (iii) was in compliance with the Bid Procedures Order and applicable provisions of the Bankruptcy Code, the Bankruptcy Rules and Local Rules. Accordingly, no other or further notice need be given in connection with such assumption, assignment, or transfer of the Assigned Contracts or with respect to the Cure Costs with respect to the Assigned Contracts.

H. As evidenced by the Certificates of Service previously filed with this Court and as approved under the Bid Procedures Order: (i) due, proper, timely, adequate and sufficient notice of the Sale Hearing, the assumption and assignment of the Assigned Contracts, the entry of this Sale Order, and the Sale has been provided to all parties in interest; (ii) such notice was, and is, good, sufficient and appropriate under the circumstances of these Chapter 11 Cases, provided a fair and reasonable opportunity for parties in interest to object, and to be heard, with respect thereto, and was provided in accordance with the Bid Procedures Order, sections 102(1), 363 and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, 9006, 9007 and 9014, and the applicable Local Rules; and (iii) no other or further notice of such matters is necessary or shall be required.

Business Judgment

I. The Debtors have demonstrated good, sufficient and sound business reasons and justifications for, and compelling circumstances to promptly consummate, the Sale and all Sale Transactions contemplated by the Poland APA and any additional or ancillary documents contemplated thereby (the "**Transaction Documents**"), including, without limitation, the assumption, assignment, and/or transfer of the Assigned Contracts pursuant to sections 363 and 365 of the Bankruptcy Code, prior to and outside of a plan of reorganization, and such action is an appropriate exercise of the Debtors' business judgment and in the best interests of the Debtors, their estates, and their creditors. Such business reasons include, but are not limited to, the facts

that: (i) there is substantial risk of depreciation of the value of the Acquired Assets if the Sale is not consummated promptly; (ii) the consideration provided by the Buyer under the Poland APA constitutes the highest or otherwise best offer for the Acquired Assets and Interests; (iii) the Poland APA and the Closing will provide a greater recovery for the Debtors' estates for the benefit of all stakeholders than would be provided by any other available alternative, including an orderly liquidation of the Acquired Assets and Interests; and (iv) unless the Sale is concluded expeditiously as provided for in this Sale Order and pursuant to the Poland APA, potential creditor recoveries may be substantially diminished.

Good Faith of the Buyer; No Collusion

J. The Buyer's equity holders include Kinterra Capital Corp., certain Senior Noteholders, and certain Junior Noteholders (each as defined herein). Neither the Buyer nor any of its affiliates, officers, directors, managers, shareholders, members, or any of their respective successors or assigns is an "insider" or "affiliate" (as those terms are defined in section 101 of the Bankruptcy Code) of any of the Debtors or any of their Affiliates. No common identity of directors, managers, controlling shareholders, or members exists between the Debtors and the Buyer.

K. The Debtors, the Buyer, and their respective principals, counsel, and advisors have negotiated, proposed, and entered into the Poland APA in good faith, without collusion, and from ~~arm's-~~ arm's-length bargaining positions. The Court finds that the Debtors, with the approval of their independent director, exercised their valid and non-conflicted business judgment in approving a joint bid among Kinterra Capital Corp. (and its affiliates) and certain of the Senior Noteholders[4] and Junior Noteholders[5] in accordance with the Bid Procedures Order. The Court further finds that such joint bid does not constitute impermissible collusion or otherwise negatively impact ~~competition for the purchase of the Debtors' assets, the validity of the Auction (if any), or the Debtors' sale process.~~

~~L. The Buyer is purchasing the Acquired Assets in good faith, and is a good faith purchaser, within the meaning of section 363(m) of the Bankruptcy Code. The protections afforded by section 363(m) of the Bankruptcy Code are integral to the Sale Transactions, and the Buyer would not consummate the Sale Transactions without such protections. Accordingly, the Buyer is~~

[4] "**Senior Noteholders**" means, collectively, the holders of notes issued under that certain Senior Secured Convertible Note and Warrant Purchase Agreement, dated December 22, 2025 (as may have been amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the "**Senior Note Purchase Agreement**").

[5] "**Junior Noteholders**" means, collectively, the holders of notes issued under 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 Note Purchase Agreement**").

competition for the purchase of the Debtors' assets, the validity of the Auction (if any), or the Debtors' sale process.

L. The Buyer is purchasing the Acquired Assets in good faith, and is a good faith purchaser, within the meaning of section 363(m) of the Bankruptcy Code. The protections afforded by section 363(m) of the Bankruptcy Code are integral to the Sale Transactions, and the Buyer would not consummate the Sale Transactions without such protections. Accordingly, the Buyer is entitled to, and hereby granted pursuant to paragraph ~~[~~32~~]~~ below, the full rights, benefits, privileges, and protections of section 363(m) of the Bankruptcy Code. The Buyer and the Seller have each proceeded in good faith in all respects in connection with the Transaction in that, *inter alia*: (i) the Buyer recognized that the Debtors were free to deal with any other party interested in acquiring the Acquired Assets; (ii) the Buyer complied with the provisions in the Bid Procedures Order; (iii) the Buyer subjected its bid as reflected in the Poland APA to the competitive Bid procedures set forth in the Bid Procedures Order; (iv) all payments to be made by the Buyer and other agreements or arrangements entered into by the Buyer in connection with the Sale have been

disclosed; (v) the Buyer has not violated section 363(n) of the Bankruptcy Code by any action or inaction; (vi) no common identity of directors or controlling stockholders exists between the Buyer on the one hand, and any of the Debtors, on the other hand; and (vii) the negotiation and execution of the Poland APA and Transaction Documents were at arms' length and in good faith.

M. None of the Debtors, the Buyer, or any of their respective current and former officers, directors, managers, members, partners, managed funds, affiliates, agents, advisors, professionals, and representatives (collectively, the "**Representatives**"), has engaged in any conduct that would cause or permit the Poland APA or any of the Transaction Documents, or the consummation of the Transaction, to be avoidable or avoided, or for costs or damages to be imposed, under section 363(n) of the Bankruptcy Code or any other law of the United States, any state, territory, possession thereof, or the District of Columbia, any foreign law, or any other applicable law, or has acted in bad faith or in any improper or collusive manner with any Person in connection therewith. The Poland APA was not entered into for the purpose of hindering, delaying, or defrauding creditors under the Bankruptcy Code or under laws of the United States, any state, territory, or possession, or the District of Columbia, any foreign law, or any other applicable law. Neither the Debtors nor the ~~Purchaser~~Buyer are entering into the Poland APA or consummating the Sale with any fraudulent or otherwise improper purpose.

N. The Sale, which includes the sale of the Acquired Assets pursuant to the Poland APA and all covenants in and conditions thereto, is an integrated transaction, meaning that each component is an essential part of every other component and that the Sale can be consummated only if all of the components are consummated. Accordingly, each component of the Sale is subject to, and is protected by, the provisions of section 363(m) of the Bankruptcy Code.

Sale Terms

O. Pursuant to the Bid Procedures Order, applicable law, including Bankruptcy Code

sections 363(b) and 363(k), the Buyer is authorized to acquire the Debtors' equity interests in certain non-Debtor subsidiaries and the intellectual property of the Debtors and their affiliates in exchange for (i) $3,000,000 in cash and (ii) subject to paragraph 39 hereof, a credit bid in ~~an~~the amount ~~to be determined~~of $98,120,777.96, comprised of (A) $20,000,000 of obligations owing under ~~(A)~~ the Senior Note Purchase Agreement (as defined herein) and (B) subject to paragraph 39 hereof, $78,120,777.96 of obligations owing under the Junior Note Purchase Agreement (as defined herein) (together, such obligations, the "**CLN Obligations**," and such credit bid, the "**Credit Bid**"). The Buyer was expressly authorized by the Senior Noteholders and the Junior Noteholders to credit bid on their behalf, and such authority is hereby confirmed. The Buyer is authorized to include the Credit Bid as consideration under the Poland APA, and no additional or further evidence of the Buyer's ability to include the Credit Bid as consideration under the Poland APA is required. The Credit Bid, together with the cash consideration and the assumption of the Assumed Liabilities, constitutes the entirety of the Purchase Price under the Poland APA, is a valid and proper offer pursuant to the Bid Procedures Order and Bankruptcy Code sections 363(b) and 363(k), and there is no cause to limit the amount of the Credit Bid pursuant to section 363(k) of the Bankruptcy Code.

Highest and Best Offer

P. As demonstrated by the Sale Declarations, the Motion, any evidence proffered or adduced at the Sale Hearing, and the representations of counsel made at the Sale Hearing, the Debtors and their advisors engaged in a robust, diligent and extensive marketing and sale process, which was substantively and procedurally open and fair, in accordance with the Bid Procedures Order and the sound exercise of the Debtors' business judgment. The sale process set forth in the Bid Procedures Order afforded a full, fair, and reasonable opportunity for any person or entity to

submit a higher or otherwise better offer to purchase the Acquired Assets.

Q. In accordance with the Bid Procedures Order, the Poland APA was deemed a Qualified Bid (as defined in the Bid Procedures Order) and was eligible to participate at the Auction. Because the Poland APA was the only Qualified Bid for the Acquired Assets covered thereby, the Debtors, in accordance with the Bid Procedures Order did not conduct an Auction for such Acquired Assets.

R. The Poland APA constitutes the highest or otherwise best offer for the Acquired Assets and will provide a greater recovery for the Debtors' estates than would be provided by any other available alternative. The Debtors' determination that the Poland APA constitutes the highest and best offer for the Acquired Assets constitutes a valid and sound exercise of the Debtors' fiduciary duties and business judgment.

S. The Poland APA represents a fair and reasonable offer to purchase the Acquired Assets under the circumstances of these Chapter 11 Cases. No other Person or entity or group of entities has offered to purchase the Acquired Assets for greater economic value to the Debtors' Estates than the Buyer.

T. Approval of the Poland APA, and the prompt consummation of the Sale Transactions contemplated thereby, is in the best interests of the Debtors, their creditors, their Estates and other parties in interest.

No Fraudulent Transfer; Not a Successor

U. The Poland APA and Transaction Documents were not entered into, and the Sale Transactions are not being consummated, for the purpose of hindering, delaying or defrauding creditors of the Debtors under applicable Law, and none of the Parties to the Poland APA or any of the Transaction Documents are consummating the Sale Transactions with any fraudulent or otherwise improper purpose. The Purchase Price for the Acquired Assets constitutes, (i)

reasonably equivalent value under the Bankruptcy Code, the Uniform Voidable Transactions Act and the Uniform Fraudulent Transfer Act, (ii) fair consideration under the Uniform Fraudulent Conveyance Act and (iii) reasonably equivalent value, fair consideration, and fair value under any other applicable laws of the United States, any state, territory, possession, or the District of Columbia.

V. Except as expressly set forth in the Poland APA with respect to the Assumed Liabilities, to the greatest extent permitted by applicable law, after the Closing, the Buyer shall not have any liability, responsibility, or obligation of any kind or nature whatsoever for any Encumbrance (as defined below) of or against the Debtors, or otherwise related to the Acquired Assets (except as expressly set forth in the Poland APA with respect to the Permitted Encumbrances and Assumed Liabilities), and arising prior to the Closing, by reason of the transfer of the Acquired Assets to the Buyer. Additionally, the Buyer shall not be liable for any acts or omissions of the Seller arising under or related to the Acquired Assets, other than as set forth in the Poland APA. The Buyer shall not be deemed, as a result of any action taken in connection with the Sale Transactions, to: (1) be a successor (or other such similarly situated party) to any of the Debtors (other than with respect to the Assumed Liabilities as expressly stated in the Poland APA); (2) have, *de facto* or otherwise, merged or consolidated with or into any of the Debtors; or (3) be a mere continuation or substantial continuation of the Seller or its enterprise. To the greatest extent permitted by applicable Law, the Buyer is not acquiring or assuming any Encumbrance arising prior to the Closing, except as expressly set forth in the Poland APA with respect to the Assumed Liabilities.

Validity of Transfer

W. Subject to the entry of this Sale Order, the Debtors have full corporate power and authority (i) to perform all of their obligations under the Poland APA and the Transaction

Documents, and the Debtors' prior execution and delivery thereof and performance thereunder, is hereby ratified in full, and (ii) to consummate the Sale Transactions. The Poland APA and Transaction Documents, and the Sale Transactions contemplated thereby, have been duly and validly authorized by all necessary corporate action. No further consents or approvals are required for the Debtors to consummate the Sale Transactions or otherwise perform their respective obligations under the Poland APA or the Transaction Documents, except in each case as otherwise expressly set forth in the Poland APA or applicable Transaction Documents.

X. Other than that certain patent described as "Anode Recovery in Recycled Batteries" (63/036,066), the Acquired Assets (including intellectual property) were not purchased, improved, or developed with federal grant funds.

~~X~~Y. At Closing, the transfer of the Acquired Assets to the Buyer, including, without limitation, the assumption, assignment and transfer of the Assigned Contracts, will be a legal, valid, and effective transfer thereof, and vest the Buyer with all right, title, and interest of the Seller in and to the Acquired Assets, to the greatest extent permitted by applicable Law, free and clear of all Encumbrances (as defined in paragraph ~~[AA]~~BB of this Sale Order) accruing or arising any time prior to the Closing Date, and except as expressly set forth in the Poland APA with respect to the Assumed Liabilities or Permitted Encumbrances.

Section 363(f) is Satisfied

~~Y~~Z. The Buyer would not have entered into the Poland APA and would not consummate the Sale Transactions if the sale of the Acquired Assets, including the assumption, assignment and transfer of the Assigned Contracts, to the Buyer were not free and clear of all Encumbrances of any kind or nature whatsoever (except as expressly set forth in the Poland APA with respect to the Permitted Encumbrances and Assumed Liabilities), including, without limitation, any Encumbrances based on any successor or transferee liability, or if (i) the Buyer or any of its

respective past, present and future Affiliates, subsidiaries, members, partners, principals, equity holders (whether direct or indirect), parents, agents, representatives, successors and assigns, and directors, managers, officers, and employees of each of the foregoing, (ii) the Senior Noteholders in ~~all~~their capacit~~ies~~y as such or as a former director of a Debtor, and (iii) the Junior Noteholders in ~~all capacities~~

their capacity as such or as a former director of the Debtor (collectively, the "**Newco Stakeholders**") would, or in the future could, be liable for any of such Encumbrances of any kind or nature whatsoever (except as expressly set forth in the Poland APA with respect to the Permitted Encumbrances and Assumed Liabilities). The Buyer will not consummate the Sale Transactions unless this Court expressly orders that none of the Newco Stakeholders or the Acquired Assets will have any liability whatsoever with respect to, or be required to satisfy in any manner, whether at law or equity, or by payment, setoff, or otherwise, directly or indirectly, any such Encumbrance, including, without limitation, rights or claims based on any successor or transferee liability other than as expressly set forth in the Poland APA.

~~Z~~AA. The Seller may sell or otherwise transfer the Acquired Assets free and clear of all Encumbrances (except as expressly set forth in the Poland APA with respect to the Permitted Encumbrances and Assumed Liabilities) 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. Those holders of

Encumbrances against the Debtors, their estates or any portion or subpart of the Acquired Assets who did not object, or who withdrew their objections, to the Sale or Sale Transactions are deemed to have consented thereto pursuant to section 363(f)(2) of the Bankruptcy Code. Those holders of such Encumbrance who did object fall within one or more of the other subsections of section 363(f) and are adequately protected by having their liens, claims, encumbrances, or other Encumbrances, if any, automatically attach to the proceeds of the Sale,

ultimately attributable to that portion or subpart of the Acquired Assets in which such creditor alleges or asserts any Encumbrances, in the same order of priority, with the same validity, force and effect, that such Encumbrances had immediately prior to consummation of the Sale as against such portion or subpart of the Acquired

Assets, subject to any claims and defenses the Debtors and their estates may possess with respect thereto.

~~AA~~BB. As used in this Sale Order, the term "**Encumbrances**" includes, in addition to the types of claims described in paragraph ~~[BB]~~CC below any lien (as defined in section 101(37) of the Bankruptcy Code), encumbrance, claim (as defined in section 101(5) of the Bankruptcy Code), including claims or Liability (as defined in the Poland APA) based on successor liability theories or otherwise under any theory of Law (as defined in the Poland APA) or equity, right, guarantees, actions, suits, deposits, credits, allowances, options, contractual commitments, liabilities, demand, charge, mortgage, deed of trust, option, pledge, security interest or similar interests, hypothecs, trusts or deemed trusts, community property interest, equitable interest, title defects, hypothecations, easements, rights of way, restrictive covenants, rights of first refusal, conditions, encroachments, preemptive rights, judgments, conditional sale or other title retention agreements and other similar impositions, imperfections or defects of title or restrictions on transfer, voting or use or receipt of income or exercise of any attribute of ownership, whether secured or unsecured, noticed or

unnoticed, perfected or unperfected, allowed or disallowed, matured or unmatured, liquidated or unliquidated, disputed or undisputed, choate or inchoate, filed or unfiled, scheduled or unscheduled, recorded or unrecorded, contingent or non-contingent, material or non-material, known or unknown, whether existing in the United States or elsewhere, whether imposed by agreement, understanding, law, equity, or otherwise, including claims arising under any theory,

law, or doctrine of successor liability or related theories, including, but not limited to, (a) liens (including, without limitation, mechanics', materialmens', and other consensual and non-consensual liens and statutory liens), mortgages, deeds of trust, pledges, charges of any kind or nature, interests, security interests, equity interests, hypothecations, encumbrances, easements, burdens, options, privileges, servitudes, leases, subleases, rights-of-way, encroachments, licenses, restrictive covenants, restrictions on transferability or other similar restrictions, rights of setoff (except for setoffs validly exercised before the Petition Date), rights of use or possession, subleases, capital leases, leases, conditional sale arrangements, deferred purchase price obligations, judgments, demands, obligations, liabilities, guarantees, defects in title, decrees of any court or foreign or domestic governmental entity, debts arising in any way in connection with any agreements, acts, or failures to act, contractual or other commitments, or any similar rights; (b) all claims (as that term is defined in the Bankruptcy Code), including, without limitation, all rights or causes of action (whether in law or equity), proceedings, warranties, guarantees, indemnities, rights of first refusal, recovery rights, setoff rights (except for setoffs validly exercised before the Petition Date), recoupment rights, subrogation rights, exoneration rights, labor rights, equitable rights, employment rights, pension rights, rights of recovery, indemnity or contribution, demands, indemnification claims, or liabilities relating to any act or omission of the Debtors or any other person, consent rights, options, contract rights, covenants, and interests of any kind or nature whatsoever (known or unknown, matured or unmatured, accrued, or contingent and regardless of whether currently exercisable), whether arising prior to or subsequent to the commencement of these Chapter 11 Cases, and whether imposed by agreement, understanding, law, equity, or otherwise; (c) all debts, liabilities, contractual claims, and labor, employment, and pension claims; (d) any rights that purport to give any party a right or option to effect any forfeiture, modification, right of first offer or first refusal, or consents, or termination of the Debtors' or the Buyer's interest

in the Acquired Assets, or any similar rights; (e) any rights under labor or employment agreements; (f) any rights under pension, multiemployer plan (as such term is defined in section 3(37) or section 4001(a)(3) of the Employee Retirement Income Security Act of 1974 (as amended, "**ERISA**")), health or welfare, compensation or other employee benefit plans, agreements, practices, and programs, including, without limitation, any pension plans of the Debtors or any multiemployer plan to which the Debtors have at any time contributed to or had any liability or potential liability; (g) any other employee claims related to worker's compensation, occupational disease, or unemployment or temporary disability, including, without limitation, claims that might otherwise arise under or pursuant to (i) ERISA, (ii) the Fair Labor Standards Act, (iii) Title VII of the Civil Rights Act of 1964, (iv) the Federal Rehabilitation Act of 1973, (v) the National Labor Relations Act, (vi) the Age Discrimination and Employment Act of 1967 and the Age Discrimination in Employment Act, each as amended, (vii) the Americans with Disabilities Act of 1990, (viii) the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, including, without limitation, the requirements of Part 6 of Subtitle B of Title I of ERISA and section 4980B of the Internal Revenue Code or any similar state law, (ix) state discrimination laws, (x) state unemployment compensation laws or any other similar state laws, (xi) any other state or federal benefits or claims relating to any employment with the Debtors or any of their predecessors, or (xii) the WARN Act (29 U.S.C. §§ 2101, et seq.) or any state or other laws of similar effect; (h) any bulk sales or similar law; (i) any environmental liabilities, debts, claims, or obligations that may be asserted on any basis, including, without limitation, under the Comprehensive Environmental Response, Compensation and Liability Act ("**CERCLA**"), the Resource Conservation and Recovery Act ("**RCRA**"), the Clean Water Act, the Clean Air Act, or any other applicable federal, state, or local environmental law or regulation (collectively, "**Environmental Laws**"), whether known or unknown, contingent or non-contingent, and whether arising from or

related to the condition of the Acquired Assets, the operations of the Debtors, or any acts or omissions of the Debtors or any of their predecessors, affiliates, or subsidiaries; (j) 50% of any taxes arising under or out of, in connection with, or in any way relating to the operation of the Acquired Assets or business of the Debtors before the closing of the Sale pursuant to Section [9.1] of the Poland APA; (k) any unexpired and executory contract or unexpired lease to which the Debtors are a party that is not assumed; (l) any other excluded liabilities under the Poland APA; and (m) Encumbrances or other interests arising under or in connection with any acts, or failures to act, of the Debtors or any of their predecessors, affiliates, or subsidiaries, including, but not limited to, Encumbrances or other interests arising under any doctrines of successor liability (to the greatest extent permitted by applicable law), or transferee or vicarious liability, violation of the Securities Act of 1933, the Securities Exchange Act of 1934, or other applicable securities laws or regulations, breach of fiduciary duty, or aiding or abetting breach of fiduciary duty, or any similar theories under Contract, applicable Law, equity or otherwise.

~~BB~~CC. Except as expressly set forth in the Poland APA with respect to the Assumed Liabilities or Permitted Encumbrances, and without limiting the nature or scope of paragraph ~~[Z]~~AA above, the transfer of the Acquired Assets, including the assumption, assignment and/or transfer of the

Assigned Contracts, to the Buyer, will not subject the Buyer, or any of its Affiliates or subsidiaries, or any of their respective Representatives to, or subject any Acquired Assets to or provide recourse for, any liability or encumbrance whatsoever with respect to the operation or condition of the Acquired Assets prior to the Closing or with respect to any facts, acts, actions, omissions, circumstances or conditions existing, occurring or accruing with respect thereto prior to the Closing Date, including, without limitation, any liability or encumbrance arising from any of the following: (i) any employment or labor agreements, consulting agreements, severance

arrangements, change in control agreements or other similar agreements to which any Debtor is or was a party, (ii) any pension, welfare, compensation or other employee benefit plans, agreements, practices, and programs, including without limitation, any pension plan of the Debtors, (iii) the cessation of the Debtors' operations, dismissal of employees, or termination of employment or labor agreements or pension, welfare, compensation or other employee benefit plans, agreements, practices and programs and any obligations with respect thereto that arise from the Employee Retirement Income Security Act of 1974, the Fair Labor Standards Act, Title VII of the Civil Rights Act of 1964, the Age Discrimination and Employment Act of 1967, the Americans with Disabilities Act of 1990, the Federal Rehabilitation Act of 1973, the National Labor Relations Act, the Consolidated Omnibus Budget Reconciliation Act of 1985 or the Worker Adjustment and Retraining Notification Act, (iv) workmen's compensation, occupational disease or unemployment or temporary disability insurance claims, (v) environment liabilities, debts, claims or obligations that may be asserted on any basis, including, without limitation, under the Comprehensive Environmental Response, Compensation and Liability Act or any Environmental Laws, (vi) products liability or warranties, (vii) any bulk sales or similar law, (viii) any litigation by or against the Debtors and (ix) the Laws of the United States, any state, territory or possession thereof, or the District of Columbia based in any theory of products liability, or successor, vicarious or transferee liability. For the avoidance of doubt, the liabilities and encumbrances set forth in this paragraph are included in the defined term "**Encumbrances**" for all purposes of this Sale Order.

Assumption, Assignment and/or Transfer of the Assigned Contracts

~~CC~~DD. The assumption, assignment and/or transfer of the Assigned Contracts to the Buyer pursuant to the terms of this Sale Order is integral to the Poland APA and is in the best interests of the Debtors and their estates, creditors and other parties in interest, and represents the reasonable exercise of sound and prudent business judgment by the Debtors.

~~DD~~EE. To the extent necessary or required by applicable Law and pursuant to the terms of the Poland APA, the Seller for any amounts up to $100,000, or the Buyer for any amounts in excess of $100,000, has or will have as of the Closing Date, at the Seller's or Buyer's (as applicable) sole cost and expense ~~(which expenses shall be paid from the cash consideration provided by the Buyer)~~: (i) cured, or provided adequate assurance of cure, of any default existing prior to the Closing Date with respect to the Assigned Contracts, within the meaning of sections 365(b)(1)(A) and 365(f)(2)(A) of the Bankruptcy Code, and (ii) provided compensation, or adequate assurance of compensation, to any party for any actual pecuniary loss to such party resulting from such default, within the meaning of section 365(b)(1)(B) of the Bankruptcy Code. Payment of the applicable Cure Costs is the sole amount required under sections 365(b)(1)(A) and 365(f)(2)(A) of the Bankruptcy Code to cure all such monetary defaults and pay all actual pecuniary losses under the Assigned Contracts.

~~EE~~FF. The promise of the Buyer to perform the obligations first arising under the Assigned Contracts after their assumption and assignment to the Buyer, the Buyer's financial wherewithal to consummate the Sale Transactions contemplated by the Poland APA and the evidence presented at the Sale Hearing demonstrating the Buyer's ability to perform the obligations under the Assigned Contracts after the Closing Date constitute adequate assurance of future performance within the

meaning of sections 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code to the extent that any such assurance is required and not waived by the counterparties to such Assigned Contracts. Any objection, response or request with respect to the foregoing, whether formal or informal, the determination of any Cure Amount, or otherwise related to or in connection with the assumption, assignment or transfer of any of the Assigned Contracts to the Buyer is hereby overruled on the merits or otherwise treated as set forth in paragraph ~~[3]~~4 below. Those

non-Debtor parties to Assigned Contracts who did not object to the assumption, assignment or transfer of their

applicable Assigned Contract, or to their applicable Cure Amount, are deemed to have consented thereto for all purposes to the assumption and assignment of such Assigned Contract pursuant to this Sale Order.

~~FF~~GG. Pursuant to Section [1.5] of the Poland APA, the Buyer shall maintain certain ~~rights to~~

rights to modify the list of the Assigned Contracts, Acquired Assets, and Assumed Liabilities after the date of this Sale Order and prior to the Closing Date as set forth in such section. Such modification rights include, but are not limited to, the right of the Buyer, prior to the Closing Date, to (a) designate a Contract for assumption by the Seller and assignment to the Buyer as well as the right to redesignate any Assigned Contract as an Excluded Contract, (b) remove any Acquired Asset (including the Equity Interests of any Acquired Entity or any Indirect Equity Interests, each as defined in the Poland APA) that the Buyer does not wish to acquire, (c) add any Excluded Asset (other than those excluded under Section [1.2] of the Poland APA) as an Acquired Asset, and (d) ~~remove any~~

remove any Assumed Liability that the Buyer reasonably and in good faith determines is inconsistent with the intent of the parties as set forth in the Poland APA, in each case without any adjustment to the Purchase Price except as expressly provided in the Poland APA. Notwithstanding the foregoing, the Buyer may not remove any Assumed Liability expressly set forth in Section

[1.3] of the Poland APA (other than those relating to an Assigned Contract that is removed), nor may the Buyer add an Acquired Asset if such asset is otherwise restricted pursuant to these Chapter 11 Cases. The Buyer would not have agreed to the Sale Transactions without such modification

rights.

~~GG~~HH. The notice and opportunity to object provided to 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 counterparties and other parties in interest may have with respect to such Contracts.

Compelling Circumstances for an Immediate Sale

~~HH.~~ II. To preserve the value of the Acquired Assets and maximize the value of the Debtors' estates, it is essential that the Sale of the Acquired Assets occur within the time constraints set forth in the Poland APA. Time is of the essence in consummating the Sale. The Court expressly finds that there is no just reason for delay in the implementation of this Sale Order. Accordingly, there is sufficient cause to waive the 14-day stay provided in the Bankruptcy Rules 6004(h) and 6006(d).

~~II.~~ JJ. Given all of the circumstances of these Chapter 11 Cases and the adequacy and fair value of the Purchase Price under the Poland APA, the proposed transfer of the Acquired Assets to the Buyer constitutes a reasonable and sound exercise of the Debtors' business judgment, is in the best interests of the Debtors, their estates, and their creditors, and should be approved.

~~JJ~~KK. The consummation of the Sale Transactions is legal, valid and properly authorized under all applicable provisions of the Bankruptcy Code, including, without limitation, sections 105, 363 and 365 of the Bankruptcy Code, and all of the applicable requirements of such sections have been complied with in respect of the Sale Transactions.

~~KK~~LL. The Sale does not constitute a *de facto* plan of reorganization or liquidation or an element of such a plan for any of the Debtors, as it does not and does not propose to: (i) impair or

restructure existing debt of, or equity interests in, the Debtors; (ii) impair or circumvent voting rights with respect to any future plan proposed by the Debtors; (iii) circumvent chapter 11 plan safeguards, such as those set forth in sections 1125 and 1129 of the Bankruptcy Code; or (iv) classify claims or equity interests, compromise controversies or extend debt maturities.

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

General Provisions

1. The Sale Transactions contemplated by the Poland APA and the Transaction Documents are approved, as set forth in this Sale Order.

2. This Court's findings of fact and conclusions of law set forth in the Bid Procedures Order are incorporated herein by reference.

3. This Court's findings of fact and conclusions of law set forth herein are applicable for this sale of the Acquired Assets (as defined herein) only, and will have no res judicata, collateral estoppel or other preclusive effect on future proposed sales of the Debtors' assets.

~~3~~4. All objections to the Sale that have not been withdrawn, waived, resolved, or otherwise settled as set forth herein, as announced to this Court at the Sale Hearing or by stipulation filed with this Court, and all reservations of rights included therein, are hereby denied and overruled on the merits with prejudice. All persons and entities who did not object or withdrew their objections to the Motion are deemed to have consented to the Sale and entry of this Sale Order pursuant to section 363(f)(2) of the Bankruptcy Code. For the avoidance of doubt, the foregoing does not apply to the *Preliminary Objection of Worcester Polytechnic Institute* ("**WPI**") *to Assignment of Licenses* [Docket No. 289] (the "**WPI Objection**"), and the resolution of such objection is hereby deferred without prejudice to the rights of the Buyer and WPI. The Buyer and WPI reserve all rights (but are not under any obligation) to negotiate an assignment of such licenses on a consensual basis, which shall be subject to further order of the

Court if an agreement is reached. For the further avoidance of doubt, and notwithstanding anything in the Transaction Documents or this Sale Order to the contrary, nothing in the Transaction Documents or this Sale Order approves the direct or indirect assignment or transfer of (i) the licenses under which WPI is the licensor, as may have been amended from time to time, and (ii) WPI's sole or joint ownership interest in the subject intellectual property, in each case of (i) and (ii) as identified on the attached Annex 1; *provided*, that to the extent any such intellectual property is jointly owned by a Debtor or one of its affiliates, such Debtor or such affiliate may assign its joint ownership interest in such intellectual property; *provided*, *further*, for the avoidance of doubt, that this Sale Order does not adjudicate or modify the extent of WPI's ownership in such intellectual property.

Approval of Poland APA; Binding Nature

45. The Poland APA and the other Transaction Documents, and all of the terms and conditions thereof, are hereby approved as set forth herein.

56. The execution, delivery and performance by the Seller of the Poland APA is approved pursuant to sections 105, 363, and 365 of the Bankruptcy Code.

67. The consideration consisting of the cash consideration, the Credit Bid and the assumption of the Assumed Liabilities provided by the Buyer for the Acquired Assets under the Poland APA is fair and reasonable and shall be deemed for all purposes to constitute reasonably equivalent value, fair value, and fair consideration under the Bankruptcy Code and any other applicable Law, and the Sale Transactions may not be avoided, or costs or damages imposed or awarded, under section 363(n) or any other provision of the Bankruptcy Code.

78. Pursuant to sections 363 and 365 of the Bankruptcy Code, the Debtors are authorized and empowered to take any and all actions necessary or appropriate to (a) consummate the Sale and the other Sale Transactions pursuant to and in accordance with the terms and

conditions of the Poland APA and the Transaction Documents, and (b) execute and deliver, perform under, consummate, implement, and take any and all other acts or actions as may be reasonably necessary or appropriate to the performance of their respective obligations as contemplated by the Poland APA and the Transaction Documents, in each case without further notice to or order of this Court. The Sale Transactions authorized herein shall be of full force and effect, regardless of any Debtor's lack or purported lack of good standing in any jurisdiction in which such Debtor is formed or authorized to transact business.

~~8~~9. This Sale Order shall be binding in all respects upon the Debtors, their estates, all creditors, all holders of equity interests in any Debtor, all holders of any claim(s) (whether known or unknown) against any Debtor, any holders of Encumbrances of any kind or nature whatsoever against, in or on all or any portion of the Acquired Assets, all non-Debtor parties to the Assigned Contracts, the Buyer and all successors and assigns of the Buyer, including, without limitation, any trustee, if any, subsequently appointed in these Chapter 11 Cases or upon a conversion to cases under chapter 7 under the Bankruptcy Code of any of these Chapter 11 Cases. For the avoidance of doubt, the Debtors hold title to the entirety of the Acquired Assets, including the equity interests described herein, and none of the Acquired Assets ~~were~~(other than that certain patent described as "Anode Recovery in Recycled Batteries" (63/036,066)) were purchased, improved, acquired, developed, or created with funding provided by the United States Department of Energy ("**DOE**") or any of its agencies or any other federal grant funds, and no reversionary interest or other governmental interest of the DOE or any other federal agency exists in or to any of the Acquired Assets.

Transfer of Acquired Assets Free and Clear of Encumbrances; Injunction

~~9~~10. Pursuant to sections 105(a), 363(b), 363(f), 365(b) and 365(f) of the Bankruptcy Code, the Debtors are authorized and directed to transfer the Acquired Assets, including but not

limited to the Assigned Contracts, to the Buyer on the Closing Date in accordance with the Poland APA and Transaction Documents. Upon and as of the Closing Date, such transfer shall constitute a legal, valid, binding, effective and full and complete general assignment, conveyance and transfer of such Acquired Assets transferring good and marketable and indefeasible title and interest in the Acquired Assets to the Buyer, and the Buyer shall take title to and possession of such Acquired Assets free and clear of all Encumbrances of any kind or nature whatsoever to the greatest extent permitted by applicable Law, except as expressly set forth in the Poland APA with respect to the Permitted Encumbrances and Assumed Liabilities.

~~10~~11. For the avoidance of doubt, subject to the requisite approvals from the government of Poland and the terms of the Poland APA, the Buyer shall acquire the applicable Equity Interests in Ascend Elements Poland Holdings sp. z o.o., and thereby indirectly acquire Ascend Elements Poland 2 sp. z o.o., the non-Debtor entity holding the right to purchase approximately 44–45 hectares of real property located in Opole, Poland from the Wałbrzych Special Economic Zone "INVEST-PARK" sp. z o.o. (the "**Polish Land Purchase**" and such real property, the "**Poland Land**"). Any funding provided by the Buyer to exercise the Polish Land Purchase shall not constitute cash consideration for the Acquired Assets or otherwise constitute the Purchase Price under the Poland APA. Such Equity Interests, together with the Debtors' rights, title, and interests, if any, in and to the Polish Land Purchase and the Poland Land, shall be transferred free and clear of all Encumbrances to the greatest extent permitted by applicable Law, with all such Encumbrances to attach to the net proceeds of the Sale in the order of their priority, with the same validity, force, and effect that such Encumbrances had against such Equity Interests and such rights, title, and interests, if any, prior to the Sale, subject to any claims and defenses the Debtors and their estates may possess with respect thereto, pursuant to sections 363(b) and 363(f) of the Bankruptcy Code.

~~11~~12. Notwithstanding anything to the contrary contained herein or in the Transaction Documents, upon the Closing of the ~~T~~transaction evidenced by the Poland APA, the CLN Obligations in an amount equal to the Credit Bid shall be deemed fully and finally satisfied.

~~12~~13. All such Encumbrances shall automatically attach solely to the proceeds of the Sale with the same validity, priority, force and effect that they now have as against the Acquired Assets, subject to any claims and defenses the Debtors and their Estates may possess with respect thereto. This Sale Order shall be effective as a determination that, on and as of the Closing, all Encumbrances of any kind or nature whatsoever (except as expressly set forth in the Poland APA with respect to the Permitted Encumbrances and Assumed Liabilities) have to the greatest extent permitted by applicable Law been unconditionally released, discharged and terminated in, on or against the Acquired Assets. The provisions of this Sale Order authorizing and approving the transfer of the Acquired Assets free and clear of all Encumbrances shall be self-executing, and neither the Debtors nor the Buyer shall be required to execute or file releases, termination statements, assignments, consents, or other instruments in order to effectuate, consummate and implement the provisions of this Sale Order.

~~13~~14. Except as expressly permitted by the Poland APA or this Sale 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 Buyer, any of their respective Affiliates and subsidiaries, and any of their respective Representatives, and each of their respective Acquired Assets and assets, including, without limitation, the Acquired Assets. On and after the Closing Date, to the extent the holder of an Encumbrance of which the Acquired Assets are free and clear pursuant to the terms hereof does not comply with paragraph ~~[12]~~13 of this Sale Order, the

Buyer shall be authorized to execute and file such documents, and to take all other actions as may be necessary, on behalf of each holder of an Encumbrance to release, discharge and terminate such Encumbrances in, on and against the Acquired Assets as provided for herein, as such Encumbrances may have been recorded or may otherwise exist. On and after the Closing Date, and without limiting the foregoing, to the extent the holder of an Encumbrance (as to which the Acquired Assets are being sold free and clear of pursuant to the terms hereof) does not comply with paragraph ~~[12]~~13 of this Sale Order, the Buyer shall be authorized to file termination statements or lien terminations in any required jurisdiction to remove any record, notice filing, or financing statement recorded to attach, perfect or otherwise notice any Encumbrance that is extinguished or otherwise released pursuant to this Sale Order. This Sale Order constitutes authorization under all applicable jurisdictions and versions of the Uniform Commercial Code for the Buyer to file, in accordance with the terms of this Sale Order, UCC termination statements with respect to all security interests in or liens on the Acquired Assets.

~~14~~15. Other than as specifically provided for in the Poland APA or in this Sale Order, the transfer of the Acquired Assets to the Buyer pursuant to the Poland APA and Transaction Documents does not require any consents.

~~15~~16. On and after the Closing, the persons holding an Encumbrance (as to which the Acquired Assets are being sold free and clear of pursuant to the terms hereof) other than a Permitted Encumbrance or an Assumed Liability, hereby are required to execute such documents and take all other actions as may be reasonably necessary to release their respective Encumbrances in the Acquired Assets, as such Encumbrances may have been recorded or otherwise filed. The Buyer may, but shall not be required to, file a certified copy of this Sale Order in any filing or recording office in any federal, state, county or other jurisdiction in which any Debtor is incorporated or has real or personal Acquired Assets, or with any other appropriate clerk or

recorded with any other appropriate recorder, and such filing or recording shall be sufficient to release, discharge and terminate any of the Encumbrances as to which the Acquired Assets are being sold free and clear of pursuant to the terms hereof, as set forth in this Sale Order as of the Closing Date. All persons and entities that are in possession of any portion of the Acquired Assets on the Closing Date shall promptly surrender possession thereof to the Buyer at the Closing.

~~16~~17. This Sale Order is and shall be binding upon and govern the acts of all persons and entities (including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, and secretaries of state, federal and local officials) who 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, or who may be required to report or insure any title or state of title in or to any lease. Each of the foregoing persons and entities is authorized to accept for filing any and all of the documents and instruments necessary and appropriate to release, discharge and terminate any of the Encumbrances as to which the Acquired Assets are being sold free and clear of pursuant to the terms hereof, or to otherwise consummate the Sale Transactions contemplated by this Sale Order, the Poland APA or any Transaction Document.

Payment of Certain Indebtedness

~~17~~18. Upon Closing, the following shall be paid or otherwise satisfied in accordance with the Poland APA: (a) the Buyer shall pay the cash consideration in accordance with the Poland APA, including

$3,000,000 in cash consideration for certain of the Debtors' Assets and Interests (as more fully set forth in the Poland APA); and (b) subject to paragraph 39 hereof, the CLN Obligations in an amount ~~to be determined~~of $98,120,777.96 shall be satisfied by the Credit Bid.

Assigned Contracts; Cure Payments

~~18~~19. Pursuant to sections 105(a), 363 and 365 of the Bankruptcy Code, and subject to and conditioned upon the Closing Date, the Seller's assumption, assignment and transfer to the Buyer of the Assigned Contracts are hereby authorized and approved in full subject to the terms set forth below.

~~19~~20. Upon and as of the Closing, the Seller is authorized and empowered to, and shall, assume, assign and/or transfer each of the Assigned Contracts to the Buyer free and clear of all Encumbrances, except as expressly set forth in the Poland APA with respect to the Permitted Encumbrances and Assumed Liabilities. Payment by the Seller of the applicable Cure Costs (if any), or the later payment by the Seller to such counterparty after the Court's resolution of any dispute regarding the Cure Amount, 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; *provided*, *further*, for the avoidance of doubt, all 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 are Excluded Liabilities of the Seller under the Poland APA, and the Buyer shall not be responsible for, or have any obligation to pay, any Cure Costs. Accordingly, on and as of the Closing Date, other than such payment, neither the Debtors nor the Buyer 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.

The Buyer has provided adequate assurance of future performance under the relevant Assigned Contracts within the meaning of sections 365(b) and (f) of the Bankruptcy Code and in accordance with the Bid Procedures to the extent that any such assurance is required and not waived by the counterparties to such Assigned Contracts. Upon the payment of the applicable Cure Amount, the Assigned Contracts will remain in full force and effect, and no default shall exist, or be deemed to exist, under the Assigned Contracts as of the Closing Date, including any event or condition that, with the passage of time or giving of notice, or both, would constitute such a default.

~~20~~21. To the extent any provision in any Assigned Contract assumed and assigned pursuant to this Sale Order (including, without limitation, any "change of control" provision) (a) prohibits, restricts or conditions, or purports to prohibit, restrict or condition, such assumption or assignment, or (b) is modified, breached or terminated, or deemed modified, breached or terminated by any of the following: (i) the commencement of these Chapter 11 Cases, (ii) the insolvency or financial condition of any Debtor at any time before the closing of these Chapter 11 Cases, (iii) any Seller's assumption or assumption and assignment (as applicable) of such Assigned Contract, or (iv) the consummation of the Sale Transactions, then such provision shall be deemed modified so as to not entitle the non-Debtor party thereto to prohibit, restrict or condition such assumption or assignment, to modify or terminate such Assigned Contract, or to exercise any other default-related rights or remedies with respect thereto, including, without limitation, any such provision that purports to allow the non-Debtor party thereto to recapture such Assigned Contracts, impose any penalty thereunder, condition any renewal or extension thereof, impose any rent acceleration or assignment fee, or increase or otherwise impose any other fees or other charges in connection therewith. All such provisions constitute unenforceable anti-assignment provisions that are void and of no force and effect pursuant to sections 365(b), 365(e) and 365(f) of the Bankruptcy Code.

~~21~~22. All requirements and conditions under sections 363 and 365 of the Bankruptcy Code for the assumption by the Seller and assignment to the Buyer of the Assigned Contracts have been satisfied. Upon the Closing, in accordance with sections 363 and 365 of the Bankruptcy Code, the Buyer shall be fully and irrevocably vested with all right, title and interest of the Seller in and under the Assigned Contracts, and each Assigned Contract shall be fully enforceable by the Buyer in accordance with its respective terms and conditions, except as limited or modified by the provisions of this Sale Order. Upon and as of the Closing, the Buyer shall be deemed to be substituted for the Seller as a party to the applicable Assigned Contracts and, accordingly, the Seller shall be relieved, pursuant to section 365(k) of the Bankruptcy Code, from any further liability under the Assigned Contracts.

~~22~~23. Except as provided in the Poland APA or this Sale Order, after the Closing, the Debtors and their estates shall have no further liabilities or obligations with respect to any Assumed

Liabilities, and all holders of Claims with respect to any Assumed Liabilities are forever barred and estopped from asserting such Claims against the Debtors, their successors or assigns, their property, or their assets or estates.

~~23.~~ ~~The~~24. Subject to the provisions concerning WPI in paragraph 3 of this Sale Order which shall control, the rights of the Buyer to modify the list of the Assigned Contracts, Acquired Assets, and Assumed Liabilities after the date of this Sale Order and prior to the Closing Date as set forth in Section [1.5] of the Poland APA, are hereby approved in all respects. Notwithstanding anything

herein to the contrary (but subject to the provisions concerning WPI in paragraph 3 of this Sale ~~herein to the~~Order which shall contr~~ary~~ol) and subject to the Poland APA, prior to Closing and in the Buyer's sole and absolute discretion (subject to the terms of the Poland APA), the Buyer may

notify Seller in writing of (v) any Assigned Contract that it does not wish to assume, (w) any Contract to which Seller is a party that the Buyer wishes to add as an Assigned Contract, (x) any Acquired Asset (including any Equity Interests of any Acquired Entity or any Indirect Equity Interests, each as defined in the Poland APA) that the Buyer does not wish to acquire, or (y) any Assumed Liability that the Buyer reasonably and in good faith determines is inconsistent with the intent of the parties, in each case up to the Closing Date and without any adjustment to the Purchase Price except as expressly provided in the Poland APA, and (i) any previously considered Assigned Contract that the Buyer no longer wishes to assume shall be automatically deemed removed from the Schedules related to Assigned Contracts and automatically deemed added to the Schedules related to Excluded Contracts; (ii) any previously considered Excluded Contract or Asset that the Buyer wishes to add shall be automatically deemed added as an Acquired Asset or Assigned Contract, automatically removed from any Excluded schedule, and sold and assigned by Seller to the Buyer, in each case without any adjustment to the Purchase Price (with any Cure Costs allocated in accordance with the Poland APA); and (iii) any previously considered Assumed Liability that the Buyer reasonably and in good faith determines is inconsistent with the intent of the parties shall be automatically deemed removed as an Assumed

Liability and added as an Excluded Liability, without any adjustment to the Purchase Price. Notwithstanding the foregoing, the Buyer may not exercise the modification rights described in clause (y) with respect to any Assumed Liability expressly set forth in Section [1.3] of the Poland APA (other than those relating to an Assigned

Contract that is removed), nor may the Buyer add an Acquired Asset if such asset is otherwise restricted pursuant to these Chapter 11 Cases or if such asset was purchased, improved, or developed with federal grant funds.

~~24~~25. To the extent that any counterparty to an Assigned Contract did not object to its Cure Amount or the assumption and assignment of the Assigned Contract, such counterparty to the Assigned Contracts shall be deemed to have consented to such assumption and assignment under section 365(c)(1)(B) of the Bankruptcy Code and the Buyer shall enjoy all the Seller's rights, benefits and privileges under each such Assigned Contract as of the applicable date of assumption and assignment without the necessity to obtain any non-Debtor parties' written consent to the assumption or assignment thereof. Notwithstanding anything to the contrary herein, if an Assumption and Assignment Objection (as defined in the Bid Procedures Order) relates solely to the Cure Amount (any such objection, a "**Cure Dispute**"), the applicable contract or lease may be assumed by the Debtors and assigned to the Buyer, provided that the cure amount the applicable counterparty asserts is required to be paid under section 365(b)(1)(A) and (B) of the Bankruptcy Code (or such lower amount as agreed to by such counterparty) is deposited in a segregated account by the Debtors pending the Court's adjudication of the Cure Dispute or the parties' consensual resolution of the Cure Dispute.

~~25~~26. Nothing in this Sale Order, the Motion, or in any notice or any other document is or shall be deemed an admission by the Debtors or the Buyer that any Assigned Contract is an executory contract or unexpired lease under section 365 of the Bankruptcy Code.

~~26~~27. The failure of the Debtors or the Buyer, as applicable, to enforce at any time one or more terms or conditions of any Assigned Contract shall not be a waiver of such terms or conditions, or of its respective rights to enforce every term and condition of the Assigned Contracts.

Additional Injunction; No Successor Liability

~~27~~28. Effective upon the Closing Date and except as expressly set forth in the Poland APA and the Transaction Documents with respect to the Permitted Encumbrances and Assumed

Liabilities, all persons and entities are forever prohibited and permanently enjoined from (a) commencing or continuing in any manner any action or other proceeding, the employment of process, or any act (whether in law or equity, in any judicial, administrative, arbitral or other proceeding), to collect, recover or offset any Encumbrance of which the Acquired Assets are sold free and clear; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order with respect to an Encumbrance; (c) creating, perfecting or enforcing any Encumbrance; (d) asserting any setoff (except for setoffs validly exercised before the Closing) or right of subrogation of any kind with respect to an Encumbrance; (e) exercising any rights or remedies based on or arising from any asserted default that occurred on, prior to, or as a result of the Closing, including any default of the type specified in section 365(b)(1)(A) of the Bankruptcy Code; or (f) commencing or continuing any action in any manner or place that does not comply, or is inconsistent, with the provisions of this Sale Order or the agreements or actions contemplated or taken in respect thereof, in each case as against the Newco Stakeholders, or any of their respective assets, including the Acquired Assets. Following the Closing, no party shall interfere with the Buyer's title to or use and enjoyment of the Acquired Assets based on or related to any such

Encumbrance, or based on any act or omission the Debtors have taken or may take in these Chapter 11 Cases or any successor cases, or otherwise.

~~28~~29. The Sale Transactions contemplated by the Poland APA and the Transaction Documents do not cause there to be, and there is not (a) a consolidation, merger, or *de facto* merger of the Buyer, on the one hand, with or into the Debtors or the Debtors' estates, on the other hand, or vice versa, (b) a substantial continuity between the Buyer, on the one hand, and the Debtors or the Debtors' estates, on the other hand, (c) a common identity between the Buyer, on the one hand, and the Debtors or the Debtors' estates, on the other hand, or (d) a mere continuation of the Debtors

or their estates, on the one hand, with the Buyer, on the other hand.

~~29~~30. Except to the extent expressly set forth in the Poland APA, including with respect to the Permitted Encumbrances and Assumed Liabilities, the transfer of the Acquired Assets, including, without limitation, the assumption, assignment and transfer of any Assigned Contract, to the Buyer shall not cause or result in, or be deemed to cause or result in, any Newco Stakeholder having any liability, obligation, or responsibility for, or any Acquired Assets being subject to, or providing recourse for, any Encumbrance arising prior to the Closing whatsoever, whether arising under any doctrines or theories of foreign, federal, state, or local antitrust, environmental, successor, tax, ERISA, assignee, transferee or vicarious liability, labor, product liability, employment, de facto merger, substantial continuity, breach of fiduciary duty, aiding or abetting breach of fiduciary duty, or any other law, rule, or regulation, whether known or unknown as of the Closing Date, now existing or hereafter arising, whether asserted or unasserted, fixed or contingent, liquidated or unliquidated, whether at Law or in equity, directly or indirectly, and whether by payment, setoff (except for setoffs validly exercised before the Closing), or otherwise.

~~30~~31. For the avoidance of doubt, notwithstanding the consummation of the Sale Transactions and the employment by the Buyer of certain persons previously employed by the Debtors, (a) except as set forth in the Poland APA, the Buyer shall not have any obligations or liabilities to any employee of the Debtors or in respect of any employee benefits owing to any employee of the Debtors by the Debtors or by any plan or program administered by the Debtors or for the benefit of the Debtors' employees, and (b) any obligations of the Buyer to any such Person shall be expressly limited to (i) those obligations owing to any employee solely as a result of the Buyer's employment of such employee following the Closing Date; (ii) those obligations expressly agreed upon by the Buyer with such Person; and (iii) those obligations explicitly assumed by the Buyer under the Poland APA. Upon the Closing, solely with respect to the Seller and the Acquired

Assets, the Buyer shall be, and shall be deemed to be, a new employer for purposes of, among other things, any and all federal or state unemployment laws, including any unemployment compensation or tax laws, or any other similar federal or state laws, and neither the Buyer nor any of its Affiliates shall, or shall be deemed to: (x) have any common law successorship liability or controlled group liability (as such terms are used under ERISA and the Internal Revenue Code) in relation to any employee benefit plans of the Debtors, including, without limitation, with respect to withdrawal liability or contribution obligations under any multiemployer plan (as such term is defined in section 3(37) or section 4001(a)(3) of ERISA) to which the Debtors have at any time contributed to or had any liability or potential liability; or (y) be liable for any acts or omissions of the Seller other than as expressly set forth in the Poland APA.

Good Faith

~~31~~32. The Sale Transactions contemplated by this Sale Order, the Poland APA and Transaction Documents are undertaken by the Newco Stakeholders without collusion and in good faith, as that

term is defined in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale and other Sale Transactions shall not alter, affect, limit, or otherwise impair the validity of the Sale or such other Sale Transactions (including the assumption, assignment and/or transfer of the Assigned Contracts), unless such authorization and consummation are duly stayed pending such appeal. Each of the Newco Stakeholders is a good faith purchaser within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to, and hereby granted, the full rights, benefits, privileges and protections of section 363(m) of the Bankruptcy Code. The Debtors and the Newco Stakeholders have acted, and will be acting, in good faith within the meaning of section 363(m) if they proceed to consummate the Sale Transactions at any time after the entry of this Sale

Order. Pursuant to section 363(m) of the Bankruptcy Code, if any or all of the provisions of this Sale 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 and enforceability of the Sale or any obligation or right granted pursuant to the terms of this Sale Order (unless stayed pending appeal prior to the Closing), and, notwithstanding any reversal, modification, or vacatur, the Sale shall be governed in all respects by the original provisions of this Sale Order and the Poland APA.

~~32~~33. Neither the Debtors nor the Newco Stakeholders have engaged in any action or inaction that would cause or permit the Sale to be avoided or costs or damages to be imposed under section 363(n) of the Bankruptcy Code. The consideration provided by the Buyer for the Acquired Assets under the Poland APA is fair and reasonable, and the Sale may not be avoided, and costs and damages may not be imposed, under section 363(n) of the Bankruptcy Code. Accordingly, neither the Debtors nor any successor in interest to the Debtors' estates nor any other party in interest shall be entitled to bring an action against any Newco Stakeholder, and no party shall be entitled to any

damages or other recovery pursuant to section 363(n) of the Bankruptcy Code, in each case, solely in respect of the Poland APA or the Sale Transactions.

~~33~~34. Under no circumstances shall any Newco Stakeholder be deemed a successor of or to any of the Debtors for any Encumbrance against, in, or to the Debtors or the Acquired Assets. Except with respect to the Assumed Liabilities expressly set forth in the Poland APA, upon Closing: (i) the Debtors and each of their past, present, and future officers, directors, managers, employees, agents, representatives, advisors, and any subsequently appointed chapter 11 trustee, chapter 7 trustee, liquidating trustee, plan agent, or similar representative (collectively, "**Estate Entities**") shall irrevocably and unconditionally release and forever discharge the Newco

Stakeholders from any and all suits, legal or administrative proceedings, claims, demands, damages, losses, costs, liabilities, interests, or causes of action whatsoever, at law or in equity, known or unknown, which the Estate Entities might now or subsequently may have, based on, relating to, or arising out of or in connection with the Debtors' Chapter 11 Cases, the Sale process, or the Sale Transactions; and (ii) the Newco Stakeholders shall have no liability or responsibility for any claim, liability, or obligation of the Debtors or their estates arising prior to or in connection with the Closing, except as expressly assumed pursuant to the Poland APA.

~~34~~35. The Debtors are hereby authorized and directed, at the Buyer's reasonable request and at no cost to the Buyer (except as expressly provided in the Poland APA), to execute, acknowledge, and deliver all such further assignments, conveyances, notices, releases, acquittances, and other instruments and documents, and to take all further actions, as may be reasonably necessary or appropriate (a) to assure unto the Buyer the full benefit of the Acquired Assets, (b) to more fully and effectively vest in the Buyer all right, title, and interest in and to the Acquired Assets free and clear of all Encumbrances (except as expressly set forth in the Poland APA with respect to the Permitted

Encumbrances and Assumed Liabilities), and (c) to otherwise carry out the purposes and intent of this Sale Order and the Poland APA. The Buyer shall be entitled to seek specific performance of any such obligation in this Court, and this Court shall retain jurisdiction to enforce such obligations.

~~35~~36. Upon the Closing, pursuant to Section 6.12 of the Poland APA, the Buyer (on behalf ~~of~~ of itself and its Subsidiaries, including after the Closing the Acquired Entities, and their respective representatives, heirs, estates, successors, and assigns, collectively the "**Purchaser Releasing Parties**") shall irrevocably and unconditionally release and forever discharge the Seller and its

current, former, and future advisors, stockholders, members, directors, managers, trustees, principals, parents, subsidiaries, joint ventures, predecessors, successors, assigns, beneficiaries, heirs, and executors (collectively, the "**Seller Released Parties**") from any and all Released Claims (as defined in the Poland APA) of the Purchaser Releasing Parties against the Seller Released Parties; *provided that* such release shall not affect (i) any claim or right arising under the Poland APA or any Transaction Agreement, including any breach thereof, (ii) any claim or right in the ordinary course for compensation, vacation pay, and benefits arising under any employment arrangement, (iii) any claim or right arising as a result of Fraud (as defined in the Poland APA), or (iv) any claim in respect of bonds, indentures, notes, or similar instruments of Seller or any Affiliate thereof, all as more fully set forth in the Poland APA.

37. Upon the Closing, the Debtors (on behalf of themselves and their subsidiaries, representatives, heirs, estates, successors, and assigns) unconditionally, irrevocably, and fully forever release, remise, acquit, relinquish, irrevocably waive, and discharge each of the Senior Noteholders and Junior Noteholders, solely in their capacities as such, each of their respective affiliates, former, current, or future officers, employees, directors, agents, representatives, owners, members, partners, financial advisors, legal advisors, shareholders, managers, consultants, accountants, attorneys, affiliates, assigns, agents, and predecessors in interest, and Kojo Ako-Asare and Robin Duggan, solely in their capacities as former directors, of and from any and all claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, rights, assertions, allegations, actions, suits, controversies, proceedings, losses, damages, injuries, attorneys' fees, costs, expenses, or judgments of every type, whether known, unknown, asserted, unasserted, suspected, unsuspected, accrued, unaccrued, fixed, contingent, pending, or threatened, including, without limitation, all legal and equitable theories of recovery, arising under common law, statute, or regulation or by contract, of every nature and description,

in each case based on facts, circumstances, or occurrences existing at or prior to Closing, including, without limitation, (i) any so-called "lender liability" or equitable subordination claims or defenses, (ii) any and all claims and causes of action arising under the Bankruptcy Code, and (iii) any and all claims and causes of action regarding the validity, priority, extent, enforceability, perfection, or avoidability of the liens or claims of the Prepetition Secured Parties. Notwithstanding anything to the contrary in the foregoing, the releases contained in this paragraph shall not be construed as releasing any party from claims or causes of action arising from an act or omission that is judicially determined by a final order to have constituted actual fraud, willful misconduct, or gross negligence.

~~36. The Buyer has assumed or shall assume the Seller's Support Obligations (as defined in the APA) in accordance with the terms of Section 6.11 of the APA. From and after the Closing,~~

~~the Buyer shall use commercially reasonable efforts to obtain full and unconditional releases of the Seller and its Affiliates from all Seller's Support Obligations, including by causing the Buyer or one of its Subsidiaries to be substituted as the primary obligor with respect to each such Seller's Support Obligation. Until each Seller's Support Obligation has been fully replaced or released, the Buyer shall indemnify, defend, and hold harmless the Seller and its Affiliates from and against any amounts paid, drawn, or payable in connection with any unreleased Seller's Support Obligation, including costs and expenses in connection therewith. The obligations of the Buyer under this paragraph shall constitute Assumed Liabilities under the APA and shall continue following the Closing until fully satisfied.]~~

Other Provisions

38. For the avoidance of doubt, the Acquired Assets do not include drawings, schematics, or other technical plans of the Hopkinsville Facility (as defined below).

39. Upon entry of this Sale Order: (i) the Senior Noteholders and the Junior Noteholders, or the Buyer, as applicable, shall be entitled to credit bid all obligations owing under the Senior Note Purchase Agreement and Junior Note Purchase Agreement (the "**Prepetition Secured Obligations**"), as applicable, without further challenge from any other party in interest, and upon the closing of the transaction evidenced by the Poland APA: (i) all of the Prepetition Secured Obligations shall be deemed legal, valid, and binding obligations of the Debtors, (ii) the obligations owing under the Junior Note Purchase Agreement shall, after application of the Credit Bid, be reduced to $5,000,000 solely for purposes of a potential credit bid for the Debtors' assets in Covington, Georgia (the "**Remaining Junior Prepetition Secured Obligations**"), (iii) the liens securing such Prepetition Secured Obligations shall not be subject to any Challenges (as defined in the Interim Cash Collateral Order[6] and any final order granting use of cash collateral) and any such Challenges (as defined in the Interim Cash Collateral Order and any final order granting use of cash collateral) by any party in interest (including, but not limited, to the Debtors, the official committee of unsecured creditors, any chapter 7 or chapter 11 trustee, and any other party in interest) shall be deemed forever waived, barred, and released, and (iv) the Challenge Period (as defined in the Interim Cash Collateral Order and any final order granting use of cash collateral) shall terminate, the Challenge Period Termination Date (as defined in the Interim Cash Collateral Order and any final order granting use of cash collateral) shall occur, and no party shall be permitted to assert any Challenge and all such Challenges shall be deemed forever waived, barred, and released. Notwithstanding anything else herein, the Remaining Junior Prepetition Secured Obligations cannot be used relative to any bid on the Hopkinsville Facility.

40. The Junior Noteholders shall be permitted to use the Remaining Junior Prepetition Secured Obligations solely to credit bid in connection with the potential sale of the Debtors' assets in Covington, Georgia. To the extent the Junior Noteholders (or an affiliate thereof) are not the

successful bidder for such assets or the Debtors' assets in Covington, Georgia are not sold, then (i) the Purchase Price under the Poland APA shall be automatically deemed adjusted to have included the Remaining Junior Prepetition Secured Obligations in the Credit Bid and (ii) the obligations owing under the Junior Note Purchase Agreement shall, after application of the Credit Bid, be reduced to $0 retroactively as of the Closing. To the extent the Junior Noteholders (or an affiliate thereof) are the successful bidder for such assets, then the obligations owing under the Junior Note Purchase Agreement shall, after application of the credit bid in connection with such assets, be reduced to $0.

[6] "**Interim Cash Collateral Order**" means the *Interim Order (I) Authorizing the Debtors to Use Cash Collateral; (II) Granting Adequate Protection to Prepetition Secured Parties; (III) Modifying Automatic Stay; (IV) Scheduling a Final Hearing; and (V) Granting Related Relief* (Docket No. 74).

~~37~~41. Notwithstanding any provision to the contrary in this Sale Order ~~("**Order"),~~or any 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 Sale Order; (ii) affect the setoff or recoupment rights of the United States ~~or any state against the Debtors or their estates; (iii) authorize the transfer or assignment of any governmental license, permit, registration, authorization, certification, or approval, or the discontinuation of any obligation thereunder, without compliance with all applicable legal requirements and approvals under police or regulatory law; (iv) divest any tribunal of any jurisdiction it may have under police or regulatory law to interpret this Order or to adjudicate any defense asserted under this Order; or (v) expand the scope of 11 U.S.C.§ 525.~~; (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 (a) grants, (b) grant funds, (c) contracts, (d) agreements, (e) awards, (f) task orders, (g) leases, (h) certifications, (i) applications, (j) registrations, (k) billing numbers, (l) national provider identifiers, (m) provider transaction access numbers, (n) permits, (o) covenants, (p) guarantees, (q) indemnifications, (r) data, or (s) records, (collectively, "**Federal Interests**") without compliance with all terms of the Federal Interests and with all applicable non-bankruptcy law; (v) be interpreted to set cure amounts with respect to any Federal Interests 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 Federal 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 Seller's or Buyer'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.).

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

43. Effective as of immediately following the Closing Date, the Buyer hereby grants to the Seller a non-exclusive, non-transferable royalty-free (subject to the delivery of data required by this Section 42), non-sublicensable license to use any Acquired Intellectual Property (other than trademarks and other indications of origin) used as of the date hereof and to the scale as of the date hereof at Seller's location in Covington, Georgia ("**Covington Facility**") in the ordinary course of business ("**Covington IP**"), solely at and in the operation of the Covington Facility in the ordinary

course of business. The foregoing license (i) shall expire upon the expiration of the last-to-expire patents included in the Covington IP; (ii) is granted on an as-is, where-is basis and (iii) is assignable only in whole in connection with a sale or other transfer of the Covington Facility. In consideration for the foregoing license, the Seller will deliver to the Buyer such data as may be reasonably requested by the Buyer from time to time regarding the results of the practice of the Covington IP at the Covington Facility, which data shall be delivered by the Seller for the term of the Covington IP license at a cadence reasonably requested by Buyer. The Seller hereby grants to the Buyer a non-exclusive, royalty-free license to use such data in the operation of its business.

44. Effective as of immediately following the Closing Date, the Buyer shall grant to a buyer of all assets at the Seller's location in Hopkinsville, Kentucky ("**Hopkinsville Facility**" and such buyer, the "**Hopkinsville Buyer**") a non-exclusive, non-sublicensable, non-transferable license (subject to the delivery of data required by this Section 43 and payment of royalties at market rates to be agreed between the Buyer and the Hopkinsville Buyer) to use any Acquired Intellectual Property (other than trademarks and other indications of origin) used as of the date hereof at the Hopkinsville Facility in the ordinary course of business ("**Hopkinsville IP**"), solely at and in the operation of the Hopkinsville Facility in the ordinary course of business. Such license (i) shall expire upon the expiration of the last-to-expire patents included in the Hopkinsville IP; and (ii) will be granted on an as-is, where-is basis. In consideration for the foregoing license, the Hopkinsville Buyer will deliver to the Buyer such data as may be reasonably requested by the Buyer from time to time regarding the results of the practice of the Hopkinsville IP at the Hopkinsville Facility, which data shall be delivered by the Hopkinsville Buyer for the term of the Hopkinsville IP license at a cadence reasonably requested by the Buyer. The Hopkinsville Buyer will grant to the Buyer a non-exclusive, royalty-free license to use such data in the operation of its business. In the event that the Buyer and the Hopkinsville Buyer do not agree on the market rate

for royalties in connection with the license described in this paragraph, the Buyer and Hopkinsville Buyer shall be bound to the determination of market rate by a panel of three independent experts, with each of the Buyer and Hopkinsville Buyer selecting one independent expert and the third expert selected by the two experts selected by the parties.

45. The Seller will deliver to the Buyer on the Closing Date the proprietary information and inventions assignment agreement executed by Eric Gratz. In addition, the Seller will, and will cause its affiliates to, use best efforts to deliver to the Buyer on the Closing Date the proprietary information and inventions assignment agreements in form and substance acceptable to the Buyer from each of the individuals set forth on Schedule 6.16 to the Poland APA (each, a "**Required Invention Assignment**"). To the extent any such Required Invention Assignment is not so delivered, the Seller will, or will cause its Affiliates to, deliver such Required Invention Assignment within ten (10) days following the Closing Date.

~~38~~46. Notwithstanding anything to the contrary in the Poland APA or in this Sale Order, until the later of (a) the closure of these cases pursuant to a final, unappealable order and (b) three (3) years after the Closing Date, Buyer will use reasonable efforts not to dispose of or destroy any of the records received as Acquired Assets and will allow the Debtors and any successor thereto, including a liquidation trust (if any), and any of their respective directors, officers, employees, counsel, advisors, Representatives, accountants and auditors reasonable access during normal business hours, upon reasonable advance notice, to any record included in the Acquired Assets for the purposes relating to these cases, the wind-down of the operations and the implementation of any plan of liquidation following the Sale Closing. The three-year (3) period referenced in this Paragraph ~~38~~46 may be extended upon reasonable request made to the Buyer by the Debtors or any successor thereto, including a liquidating trust (if any), or any of their respective officers, directors, counsel, advisors or Representatives.

~~39~~47. Notwithstanding anything to the contrary in this Sale Order, the Poland APA, or any other filings or documents in connection therewith, ~~(i)~~ each of the following ~~are~~shall constitute Excluded Assets and, for the avoidance of doubt, except as otherwise provided in paragraph 36, shall not be released nor transferred to the Buyer (collectively, "**Avoidance Actions**"): (~~A~~i) all causes of action, lawsuits, judgments, claims, refunds, rights of recovery, rights of set-off, counterclaims, defenses, demands, warranty claims, rights to indemnification, contribution, advancement of expenses or reimbursement, or similar rights of the Seller (at any time or in any manner arising or existing, whether choate or inchoate, known or unknown, now existing or hereafter acquired, contingent or noncontingent), including all Claims, rights, lawsuits, rights of

recovery, objections, causes of action, avoidance actions, and similar rights of Seller arising under or pursuable through Chapter 5 of the Bankruptcy Code or any other similar state or federal statutes or under common law, including fraudulent transfer or fraudulent conveyance law (whether or not asserted as of the Closing Date), and all proceeds thereof~~, in each case~~,; *provided* that Avoidance Actions shall not include any causes of action or rights to the extent related to the Assigned Contracts (to the extent those contracts are assumed through the Sale), ~~or~~ the Assumed Liabilities, or any Acquired Asset~~, along with all rights and interests to the extent necessary or appropriate for the Buyer to effectively prosecute, defend or obtain the benefits of the foregoing, except to the extent any item described in subsection (ii) hereof would otherwise constitute an Avoidance Action (collectively, the "**Avoidance Actions**"), (B)~~; (ii) commercial tort claims,; (~~C~~iii) claims, Causes of Action, or other rights of the Seller against current or former directors or officers of the Seller,; and (~~D~~iv) claims and Causes of Action of the Seller or its Affiliates that do not relate to the ownership, use, function, or value of the Business or any of the Acquired Assets, ~~which shall include~~excluding the Critical Vendor Avoidance Claims (as defined in the Poland

APA). Notwithstanding the preceding sentence, the Critical Vendor Avoidance Claims (as defined in the Poland APA) shall constitute Acquired Assets and shall be transferred to the Buyer at Closing ~~as Acquired Assets; *provided, further* that~~. ~~t~~The Buyer may, in its sole discretion, determine whether to pursue or settle any Critical Vendor Avoidance Claim following the Closing. To the extent that any cause of action, right, or interest described in this section relates to the Assigned Contracts (to the extent those contracts are assumed through the Sale), the Assumed Liabilities, or any Acquired Asset, such cause of action, right, or interest shall constitute an Acquired Asset and shall be transferred to the Buyer at Closing, together with all rights and interests necessary or appropriate for the Buyer to effectively prosecute, defend, or obtain the benefits of the foregoing.

48. The Debtors and H2O Innovation Inc. ("**H2O**") are parties to certain agreements (collectively, the "**H2O Agreements**") whereby, among other things, the Debtors agreed to buy from H2O, and H2O agreed to sell to the Debtors, certain equipment (each, an "**H2O System**," and collectively, the "**H2O Systems**"). H2O asserts that various amounts remain due and owing and continue to accrue on the H2O Systems pursuant to the H2O Agreements. For the avoidance of doubt, nothing in this Sale Order approves the sale of the H2O Systems, including any associated intellectual property related thereto, or assumes and assigns the H2O Agreements, to the Buyer. Nothing in this paragraph shall be deemed to waive, modify, or otherwise impair the respective rights of the Debtors and H2O under the H2O Agreements, to the H2O Systems, or under applicable law, and the Debtors and H2O expressly reserve all of their respective rights and remedies whether now existing or hereafter arising under the H2O Agreements and/or applicable law.

~~40~~49. Nothing contained in any plan of reorganization or liquidation, or order of any type or kind entered in (a) these Chapter 11 Cases, (b) any subsequent chapter 7 case into which any

such Chapter 11 Case may be converted, or (c) any related proceeding subsequent to entry of this Sale Order, shall conflict with or derogate from the provisions of the Poland APA or the terms of this Sale Order. To the extent of any such conflict or derogation, the terms of this Sale Order shall govern.

~~41~~50. Pursuant to Bankruptcy Rules 6004(h) and 6006(d), this Sale Order shall not be stayed after the entry hereof, but shall be effective and enforceable immediately upon entry, and the 14-day stay provided in Bankruptcy Rules 6004(h) and 6006(d) is hereby expressly waived and shall not apply. Accordingly, the Debtors are authorized and empowered to close the Sale and other Sale Transactions immediately upon entry of this Sale Order.

~~42~~51. Nothing in this Sale Order shall modify or waive any closing conditions, post-closing covenants or termination rights in Articles [VI and VII] of the Poland APA, and all ~~such~~ such conditions and rights shall remain in full force and effect in accordance with their terms.

~~43~~52. No bulk sales law or any similar law of any state or other jurisdiction applies in any way to the Sale Transactions.

~~44~~53. No Governmental Authority (as defined in section 101(27) of the Bankruptcy Code) or any representative thereof may deny, revoke, suspend or refuse to renew any permit, license, registration, governmental authorization or approval or similar grant (each a "**License**") relating to the operation of the Acquired Assets sold, transferred, or conveyed to the Buyer on account of the filing or pendency of these Chapter 11 Cases or the consummation of the Sale Transactions contemplated by the Poland APA and the Transaction Documents, and each such Governmental Authority is hereby directed to transfer or reissue all such Licenses to the Buyer as of the Closing to the fullest extent permitted by applicable law. The Buyer shall be authorized, as of the Closing, to operate under the Licenses listed on Schedule ~~[●]~~3.12 of the Poland APA ~~and,~~

~~to the extent provided for in~~(except for those Licenses ~~the~~ set forth on Schedule 1.2(f) of the Poland APA) and, to the extent provided for in the Poland APA and the Transaction Documents, such Licenses are deemed to have been, and are hereby directed to be, transferred to the Buyer as of the Closing. This Court shall retain jurisdiction to enforce this provision against any Governmental Authority that fails to comply herewith.

54~~5~~. All payment or reimbursement obligations of the Buyer to obtain replacements for, or be substituted as the primary obligor with respect to, any Seller's Support Obligations, and all payment obligations of the Seller owed to the Buyer pursuant to the Poland APA or the Transaction Documents, shall be paid solely in accordance with the terms thereof and in the manner provided therein, without further notice to or order of this Court. Pursuant to section 1107(a) of the Bankruptcy Code, the Debtors, in their capacity as debtors-in-possession in these Chapter 11 Cases, are the "trustee" of the Debtors' estates for purposes of state, local, or municipal law or regulation applicable to the transfer of any License to the Buyer. The Debtors' officers shall be authorized to, and hereby have the authority to, execute, on behalf of the Debtors and all other current holders of the Licenses (if any), all documents and forms required by any applicable authorities to transfer the Licenses to the Buyer, subject to approval by such authorities, as applicable. All existing Licenses applicable to the Business shall remain in place for the Buyer's benefit until either new Licenses are obtained or existing Licenses are transferred in accordance with applicable administrative procedures. The Debtors shall reasonably cooperate with the Buyer prior to and after the Closing in connection with the Buyer's efforts to transfer or obtain new Licenses.

~~46~~55. The failure specifically to include any particular provision of the Poland APA in this Sale Order shall not diminish or impair the effectiveness of such provision, it being the intent of this Court that the Poland APA be authorized and approved in their entirety.

~~47~~56. The Poland APA and Transaction Documents may be modified, amended or supplemented in a writing signed by the parties thereto and in accordance with the terms thereof, without further notice to or order of this Court, *provided that* any such modification, amendment or supplement shall not have a material adverse effect on the Debtors' estates unless approved by order of this Court and all changes to the schedules shall be filed on the docket.

~~48~~57. For the avoidance of doubt, nothing in this Sale Order shall constitute, pursuant to section 1146(a), the grant of a tax exemption under a plan confirmed under section 1129 or 1191 of the Bankruptcy Code.

~~49~~58. This Court retains jurisdiction, pursuant to its statutory powers under 28 U.S.C. § 157(b), to, among other things, (i) interpret, implement, and enforce the terms and provisions of this Sale Order, the Poland APA, the Transaction Documents, and any amendments thereto and any waivers and consents given thereunder, (ii) adjudicate, if necessary, any and all disputes concerning or relating in any way to the Sale, (iii) compel delivery of the Acquired Assets to the Buyer, (iv) enforce the injunctions and limitations of liability set forth in this Sale Order, and (v) enter any orders under sections 363 and 365 of the Bankruptcy Code with respect to the Assigned Contracts.

~~50~~59. All time periods set forth in this Sale Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

~~51~~60. The automatic stay pursuant to section 362 of the Bankruptcy Code is hereby vacated, modified, and terminated with respect to the Debtors to the extent necessary, without further order of the Court, (i) to allow the Buyer to give the Debtors any notice provided for in the Poland APA, (ii) to allow the Buyer to take any and all actions permitted by the Poland APA in accordance with the terms and conditions thereof, including, without limitation, effectuating the Sale and the other Sale Transactions contemplated by the Poland APA and (iii) to otherwise

implement the terms and provisions of the Poland APA and this Sale Order. The automatic stay imposed by section 362 of the Bankruptcy Code is modified solely to the extent necessary to implement the preceding sentence and the other provisions of the Poland APA and this Sale Order, and this Court shall retain exclusive jurisdiction over any and all disputes with respect thereto.

~~52~~61. To the extent that this Sale Order is inconsistent with any prior order or pleading with respect to the Motion, the terms of this Sale Order shall govern. To the extent there are any inconsistencies between the terms of this Sale Order or the Bid Procedures Order, on the one hand, and the Poland APA or any Transaction Document, on the other hand, the terms of this Sale Order and the Bid Procedures Order shall govern, as applicable.

62. For the avoidance of doubt, the rights of all parties and the estates are reserved with respect to the sale of the Debtors' Hopkinsville Facility and the Covington Facility and any other related assets that are not Acquired Assets.

~~Signed: _____, 2026~~

Signed: _____, 2026

CHRISTOPHER LOPEZ
UNITED STATES
BANKRUPTCY JUDGE

Summary report: **Litera Compare for Word 11.14.0.42 Document comparison done on 5/21/2026 4:13:59 PM**	
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Intelligent Table Comparison: Active	
Original filename: AE Sale Original Order.pdf	
Modified filename: Ascend Elements - Poland and IP - Sale Order.pdf	
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~~Delete~~	162
~~Move From~~	25
Move To	25
Table Insert	1
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Table moves to	0
~~Table moves from~~	0
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Embedded Excel	0
Format changes	0
Total Changes:	592