Docket #0561 Date Filed: 07/13/2026

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

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

DEBTORS' WITNESS AND EXHIBIT LIST FOR JULY 15, 2026

The above-captioned debtors and debtors in possession (collectively, the "Debtors") file this witness and exhibit list in connection with the virtual hearing to be held on **July 15, 2026 at 9:00 a.m. (prevailing Central Time)** (the "Hearing") before the Honorable Judge Christopher Lopez, United States Bankruptcy Judge, Courtroom 402, 515 Rusk Street, Houston, Texas 77002.

WITNESSES:

1. Linh Austin, President and Chief Executive Officer, Ascend Elements, Inc., and Chief Executive Officer of Ascend Elements, US, LLC (by declaration);
2. Any witnesses listed or called by any other party;
3. Any witness necessary to authenticate a document;
4. Any witnesses necessary to establish that notice of the Hearing has been provided; and

Judge: Honorable Judge Christopher M. Lopez
Courtroom Deputy: Yesenia Lila
Hearing Date: July 15, 2026
Hearing Time: 9:00 a.m. (prevailing Central Time)
Party's Name: Debtors
Attorneys' Names: Ryan Manns
Jason Blanchard
Maria Mokrzycka

Attorney's Phone: (713) 651-5151
(214) 855-8000

Nature of Proceeding: Conditional Approval of the Combined Disclosure Statement and Plan

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

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5. Any witnesses necessary to rebut the testimony of any witnesses called or designated by any other party.

EXHIBITS

EXHIBIT NO.	DESCRIPTION	OFFERED	OBJECTION	ADMITTED	DISPOSITION
1.	Declaration of Linh Austin in Support of the Debtors' Chapter 11 Petitions and Emergency First-Day Motions [Dkt. No. 11]				
2.	Declaration of Adam Titus in Support of Debtors' Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Use Cash Collateral, (II) Granting Adequate Protection for the Use of Cash Collateral, (III) Scheduling a Final Hearing, and (IV) Granting Related Relief [Dkt. No. 19]				
3.	Order (A) Approving Bid Procedures, (B) Authorizing Designation of a Stalking Horse Bidder, (C) Scheduling an Auction, Related Deadlines, and a Sale Hearing, and (D) Granting Related Relief [Dkt. No. 120]				
4.	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 [Dkt. No. 393]				
5.	Order (I) Approving the Sale of the Debtors' Interests in the Hopkinsville, Kentucky Assets Free and Clear of Liens, Claims, Interests and Encumbrances, (II) Approving the Assumption and Assignment of Associated Executory Contracts and Unexpired Leases and (III) Granting Related Relief [Dkt. No. 469]				

6.	Order (I)(A) Establishing Procedures for the Sale, Transfer, and Abandonment of De Minimis Assets, Free and Clear of Liens, Claims, Interests, and Encumbrances; (B) Approving Procedures to Assume and Assign Executory Contracts and Unexpired Leases; and (II) Granting Related Relief [Dkt. No. 532]				
7.	Order (I) Approving the Sale of Certain of the Debtors' Assets Free and Clear of Claims, Liens, and Encumbrances, (II) Approving the Assumption and Assignment of Designated Executory Contracts and Unexpired Leases and (III) Granting Related Relief [Dkt.No. 534]				
8.	Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., *et al*. [Dkt. No. 550]				
9.	Exhibit A to the Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., *et al*. [Dkt. No. 552-1]				
10.	Exhibit B to the Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., *et al*. [Dkt. No. 550-2]				
11.	Debtors' Emergency Motion for Entry of an Order (I) Conditionally Approving the Adequacy of the Disclosure Statement; (II) Approving the Solicitation and Notice Procedures; (III) Approving the Form of Ballot and Notices; (IV) Approving Certain Dates and Deadlines in Connection with the Solicitation and Confirmation of the Plan; and (V) Scheduling a Combined Hearing on (A) Final Approval of the Disclosure Statement and (B) Confirmation of the Plan [Dkt. No. 551]				
12.	Order (I) Conditionally Approving the Adequacy of the Disclosure Statement; (II) Approving the Solicitation and Notice Procedures; (III) Approving the Form of Ballot and Notices; (IV) Approving Certain Dates and Deadlines in Connection with the Solicitation and Confirmation of the Plan; and (V) Scheduling a Combined Hearing on (A) Final Approval of the Disclosure Statement and (B) Confirmation of the Plan				

	[Dkt. No. 551-1]				
13.	Form of Ballot, attached as Exhibit 2 to the Order (I) Conditionally Approving the Adequacy of the Disclosure Statement; (II) Approving the Solicitation and Notice Procedures; (III) Approving the Form of Ballot and Notices; (IV) Approving Certain Dates and Deadlines in Connection with the Solicitation and Confirmation of the Plan; and (V) Scheduling a Combined Hearing on (A) Final Approval of the Disclosure Statement and (B) Confirmation of the Plan [Dkt. No. 551-1]				
14.	Combined Hearing Notice attached as Exhibit 3 to the Order (I) Conditionally Approving the Adequacy of the Disclosure Statement; (II) Approving the Solicitation and Notice Procedures; (III) Approving the Form of Ballot and Notices; (IV) Approving Certain Dates and Deadlines in Connection with the Solicitation and Confirmation of the Plan; and (V) Scheduling a Combined Hearing on (A) Final Approval of the Disclosure Statement and (B) Confirmation of the Plan [Dkt. No. 551-1]				
15.	Notice of Non-Voting Status (Presumed to Reject) attached as Exhibit 4A to the Order (I) Conditionally Approving the Adequacy of the Disclosure Statement; (II) Approving the Solicitation and Notice Procedures; (III) Approving the Form of Ballot and Notices; (IV) Approving Certain Dates and Deadlines in Connection with the Solicitation and Confirmation of the Plan; and (V) Scheduling a Combined Hearing on (A) Final Approval of the Disclosure Statement and (B) Confirmation of the Plan [Dkt. No. 551-1]				
16.	Notice of Non-Voting Status (Presumed to Accept) attached as Exhibit 4B to the Order (I) Conditionally Approving the Adequacy of the Disclosure Statement; (II) Approving the Solicitation and Notice Procedures; (III) Approving the Form of Ballot and Notices; (IV) Approving Certain Dates and Deadlines in Connection with the Solicitation and Confirmation of the Plan; and (V) Scheduling a Combined Hearing on (A) Final Approval of the Disclosure Statement and (B) Confirmation of the Plan [Dkt. No. 551-1]				

17.	Any pleadings, reports, exhibits, transcripts, proposed orders, Court orders, or other documents filed in the above-captioned bankruptcy cases.				
18.	Any exhibit introduced by any other party.				
19.	Rebuttal or impeachment exhibits as necessary.				

RESERVATION OF RIGHTS

The Debtors reserve their right to: (i) amend, supplement, or remove any witnesses and/or exhibits prior to the Hearing; (ii) use additional exhibits for the purposes of rebuttal or impeachment and further supplement the foregoing witness and exhibit list as appropriate; (iii) use any exhibits presented by any other party; and (iv) ask the Court to take judicial notice of any document.

Dated: July 13, 2026

Respectfully submitted,

NORTON ROSE FULBRIGHT US LLP

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-and-

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Counsel to the Debtors and Debtors in Possession

Certificate of Service

I certify that on July 13, 2026, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas. Additionally, the foregoing document will be served as set forth in a forthcoming affidavit filed by the Debtors' claims agent.

/s/ Ryan Manns
Ryan Manns

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

In re:	)	Chapter 11
ASCEND ELEMENTS, INC. *et al.*,[1]	)	Case No. 26-90440 (ARP)
Debtors.	)	(Joint Administration Requested)

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

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

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

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

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

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

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

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

Introduction

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

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

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

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

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

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

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

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

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

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

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

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

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

I. The Debtors' Business Operations

A. Background

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

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

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

B. The Debtors' Operations and Technology

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

II. The Debtors' Corporate and Capital Structure

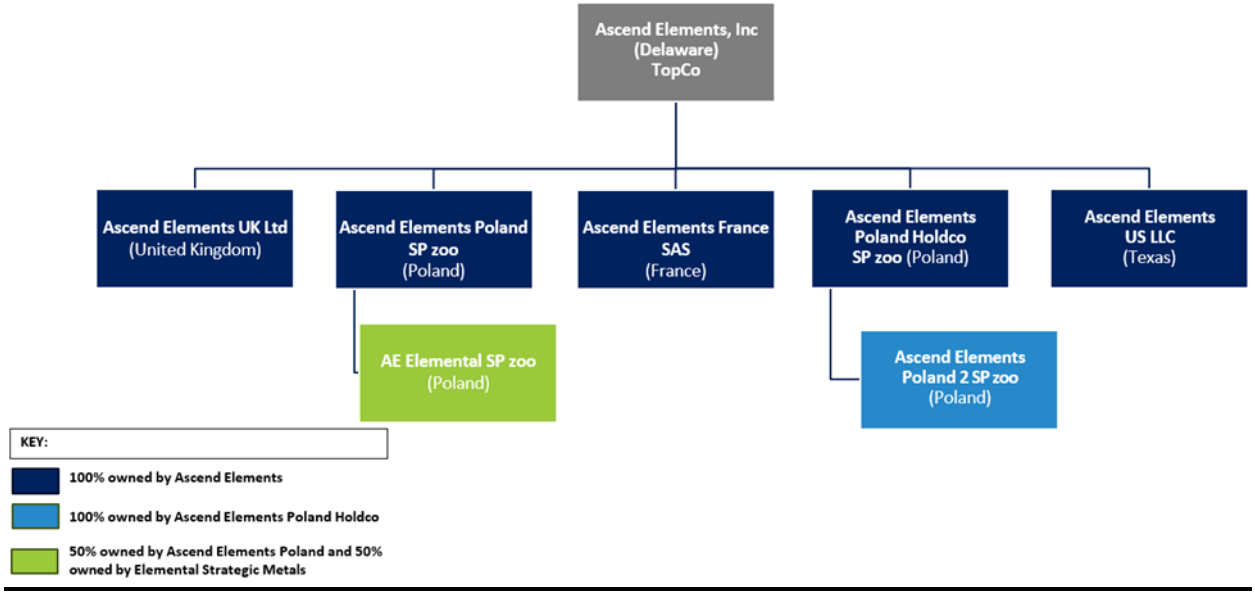
A. Corporate Structure

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

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

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

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



B. Capital Structure[2]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

III. Events Leading To The Chapter 11 Filings

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

58. The First Day Motions include the following:

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

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

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

B. Cash Collateral Motion

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

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

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

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

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

C. Wages Motion

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

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

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

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

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

D. Cash Management Motion

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

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

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

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

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

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

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

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

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

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

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

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

E. Utilities Motion

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

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

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

F. Critical Vendor Motion

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

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

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

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

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

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

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

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

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

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

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

G. Taxes Motion

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

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

85. The Taxes and Fees include:

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

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

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

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

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

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

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

H. Insurance Motion

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

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

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

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

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

I. Net Operating Loss Motion

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

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

***

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

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

[*Signature on following page*]

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

April 9, 2026

/s/ Linh Austin
Linh Austin

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

In re:	)	Chapter 11
ASCEND ELEMENTS, INC. *et al.*,[1]	)	Case No. 26-90440 (ARP)
Debtors.	)	(Joint Administration Requested)

DECLARATION OF ADAM TITUS IN SUPPORT OF DEBTORS' EMERGENCY MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO USE CASH COLLATERAL, (II) GRANTING ADEQUATE PROTECTION FOR THE USE OF CASH COLLATERAL, (III) SCHEDULING A FINAL HEARING, AND (IV) GRANTING RELATED RELIEF

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

1. I am Chief Restructuring Officer of both Ascend Elements, Inc. ("Ascend Elements") and Ascend Elements US, LLC ("AEL" and, collectively with Ascend Elements, the "Debtors" and, together with their non-Debtor affiliates, the "Company") and a Senior Director at Alvarez & Marsal North America, LLC ("A&M"). I am also the former interim Chief Financial Officer of the Company.

2. Before joining A&M in February 2009, I worked as an investment banker at Wachovia Securities in the leveraged finance group, where I underwrote and executed leveraged loans and high-yield debt offerings. I was previously an associate at Liberty Lane Partners, a middle-market private equity firm where I focused on evaluating, executing, and managing control investments in middle-market companies, including financial diligence,

[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.

transaction structuring, and portfolio company oversight. I earned a bachelor's degree in finance from Bentley University in Waltham, Massachusetts.

3. I am authorized to submit this declaration (the "Declaration")[2] on behalf of the Debtors in the above captioned cases and in support of the *Debtors' Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Use Cash Collateral, (II) Granting Adequate Protection for the Use of Cash Collateral, (III) Scheduling a Final Hearing, and (IV) Granting Related Relief* (the "Cash Collateral Motion") filed contemporaneously herewith.

4. On September 17, 2025, the Debtors retained A&M to, among other things, support liquidity management and cash flow forecasting, evaluate cost-reduction and operational efficiency initiatives, and assist in contingency planning for a potential chapter 11 filing. From the outset of A&M's engagement, my team and I have worked closely with the Debtors' management and other advisors to assess the Debtors' liquidity position, stabilize operations, and prepare for a value-maximizing restructuring process, including the potential commencement of these chapter 11 cases.

5. Following the resignation of the former CFO, I was appointed as interim CFO of the Company in January 2026. Ahmed Allouache was appointed as CFO of the Debtors on March 21, 2026. On April 3, 2026, I was appointed the CRO of the Debtors.

6. In my former role as interim CFO for the Debtors, I was responsible for overseeing the Debtors' financial planning, risk management, and cash flow management. In that capacity, and in my current role, I have been directly involved in liquidity management, cash forecasting, vendor prioritization, and oversight of the Debtors' cash disbursements in the period leading up to the Petition Date.

[2] Capitalized terms used but not defined in this Declaration shall have the meanings ascribed to them in the First Day Declaration, or Cash Collateral Motion, as applicable.

7. As a result of A&M's work with the Debtors, their affiliates, and the Debtors' other advisors, and based on my tenure with the Debtors and discussions with other members of the Debtors' management team, I have become familiar with the Company's day-to-day operations, business and financial affairs, books and records, and the circumstances leading to the commencement of these chapter 11 cases, as further described in the *Declaration of Linh Austin in Support of the Debtors' Chapter 11 Petitions and Emergency First Day Motions* (the "First Day Declaration").

8. Except as otherwise indicated, the statements set forth in this Declaration are either based on my personal knowledge, information obtained from the Debtors' management team and advisors, my review of documents and information concerning the Debtors' operations, financial affairs, or my opinions based upon my experience and knowledge. If called upon to testify, I could and would testify competently to the facts set forth herein.

I. The Debtors' Prepetition Indebtedness

9. I understand that, as of the Petition Date, the principal amount of the Debtors' funded debt obligations totals approximately $103.5 million, excluding interest, obligations under various hedging arrangements, letters of credit, and other charges, on a consolidated basis, comprised of (a) approximately $20.0 million, excluding accrued and unpaid interest thereon, outstanding on account of the Senior Secured Convertible Notes, which are secured by first priority liens on substantially all of the Debtors' personal property, including cash and cash equivalents; (b) approximately $83.1 million, excluding accrued and unpaid interest thereon, outstanding on account of the Junior Secured Convertible Notes, which are secured by second priority liens on substantially all of the Debtors' personal property, including cash and cash equivalents; and (c) approximately $0.4 million in aggregate principal amount outstanding under the Commercial Term Promissory Note secured by a mortgage on real property located in Hopkinsville, Kentucky. In addition, various Contractors have asserted

M&M Lien Claims in connection with the Debtors' Apex 0 and Apex 1 facilities exceed approximately $145 million. The Debtors are continuing to evaluate the amount, extent, validity, and priority of those claims, which are subject to ongoing review and, ultimately, resolution through these chapter 11 cases.

II. Need for Immediate Use of Cash Collateral

10. Based on my analysis of the Debtors' capital structure and financial position, the Debtors do not have sufficient unencumbered cash to maintain their business operations. Substantially all of the Debtors' personal property, including cash and cash equivalents, is subject to the Senior Secured Liens and Junior Secured Liens. In addition, the Debtors have not obtained postpetition financing. In my view, access to Cash Collateral is therefore necessary to stabilize and maintain the Debtor's operations on a limited basis, bridge the Debtors to a potential DIP Facility, and provide the runway needed to explore a potential value-maximizing transaction and other available alternatives on an expedited basis.

11. The Debtors' proposed use of Cash Collateral is necessary to fund the following categories of essential operating expenditures. First, continuity of payroll and other employee-related obligations is essential. The Debtors' workforce is necessary to safely manage the Debtors' facilities, materials, and equipment, and any disruption in wages or benefits would create a material risk of employee attrition at a time when continuity is essential to safe operations and value preservation. Second, a substantial portion of the Debtors' near-term liquidity needs relates to payments to critical vendors and service providers necessary for site safety, environmental compliance, maintenance, and operational continuity. The Debtors' facilities require ongoing oversight and support to ensure the proper handling and storage of materials and equipment and to maintain compliance with regulatory requirements. The proposed use of Cash Collateral and related first day relief will enable the Debtors to make those payments, preserve and protect their facilities, equipment, and inventory, and avoid

immediate operational disruption and related compliance risks that could impair asset value. Third, uninterrupted access to cash is necessary to maintain the Debtors' cash management system, ensure that the Debtors can manage receipts and disbursements in an orderly manner, and avoid immediate disruption to day-to-day operations during the pendency of these cases.

12. Without authority to use Cash Collateral, the Debtors would not have sufficient liquidity to satisfy ordinary operating costs, make payments to employees and vendors, or fund the administrative costs of these chapter 11 cases. In those circumstances, the Debtors would face immediate safety, environmental, and maintenance risks that could impair the value of their assets and would be forced into an unplanned curtailment, shutdown, or liquidation — causing near-complete destruction of estate value and undermining the Debtors' ability to conduct an orderly, value-maximizing transaction process.

13. Prior to the Petition Date, in consultation with A&M and the Debtors' other advisors, I reviewed and analyzed the Debtors' projected liquidity needs and developed an estimated budget of the reasonable, necessary, and foreseeable expenses to be incurred with the Debtors' business operations over the period covered by the Interim Budget. The expenses set forth in the Interim Budget are limited to those necessary to preserve asset value and maintain health, safety, environmental, and site security needs while the Debtors implement a process for a potential transaction for the benefit of their estates and all stakeholders and do not contemplate payment of any prepetition obligations except as authorized by the Court. I believe the Interim Budget is an accurate reflection of the Debtors' operating requirements and anticipated administrative expenses during that period.

III. The Proposed Use of Cash Collateral and Adequate Protection Are Appropriate

14. Based on my direct involvement in the Debtors' liquidity analysis, cash forecasting, vendor prioritization, and operational oversight, I believe the proposed use of Cash Collateral is necessary to fund reduced but essential operations, preserve asset value, satisfy

essential payroll and vendor obligations, and provide the Debtors with the runway necessary to pursue an orderly sale or other restructuring transaction. In evaluating alternatives, an immediate liquidation was not viewed as a practical or value-maximizing alternative based on the Debtors' liquidity constraints, operational status, and my experience in similar situations.

15. I understand that the Prepetition Senior Secured Parties have consented in principle to the Debtors' limited use of Cash Collateral, and that the Debtors are working in good faith to finalize the terms of the Interim Order. I further understand that, pursuant to the Subordination Agreement, the Prepetition Junior Secured Parties may be restricted from opposing use of Cash Collateral if the Prepetition Senior Secured Parties consent.

16. I understand the Debtors propose to provide customary adequate protection, including replacement liens, superpriority claims, and reporting rights.

17. The Debtors' use of Cash Collateral will be subject to the Interim Budget for the six-week bridge period reflected in the initial Interim Budget attached to the Interim Order. From a liquidity perspective, that structure addresses the Debtors' immediate operating needs, including payroll, critical vendors, and insurance, obligations that cannot be deferred without risking disruption to operations and loss of asset value while the Debtors work to finalize the DIP Facility or another value-maximizing path.

18. The Interim Budget is limited to expenditures necessary to preserve the value of the Debtors' assets and facilities, ensure the safety and health of employees and the public, address environmental and site-security needs, and fund the reasonable costs of administering these chapter 11 cases. The Prepetition Secured Parties are the primary beneficiaries of those expenditures because they help maintain the value of the collateral in which those parties assert interests. These expenditures are intended to preserve and protect the value of the collateral for all stakeholders.

19. For the reasons set forth above, it is my opinion that the proposed use of Cash Collateral is necessary to preserve operations, protect and maximize asset value, satisfy critical obligations, and provide the Debtors with a meaningful opportunity to pursue an orderly, value-maximizing transaction.

[*Signature on following page*]

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

April 10, 2026

/s/Adam Titus
Adam Titus

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

United States Bankruptcy Court
Southern District of Texas
ENTERED
April 17, 2026
Nathan Ochsner, Clerk

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

ORDER (A) APPROVING BID PROCEDURES, (B) AUTHORIZING DESIGNATION OF A STALKING HORSE BIDDER, (C) SCHEDULING AN AUCTION, RELATED DEADLINES, AND A SALE HEARING, AND (D) GRANTING RELATED RELIEF

Upon the motion (the "Motion")[2] of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for entry of an order (this "Order") (i) approving the Bid Procedures attached hereto as **Exhibit 1** (the "Bid Procedures") in connection with one or more sale transactions (each, a "Sale Transaction") involving substantially all of the Debtors' assets (the "Assets"); (ii) authorizing the Debtors, in their discretion, and subject to the consent of the Senior Secured Holders to designate one or more Stalking Horse Bidders for some or all of the Assets, to enter into one or more stalking horse asset purchase agreements, and to seek approval of any related bid protections, including any break-up fee, expense reimbursement, and minimum overbid requirement (collectively, the "Bid Protections"), in accordance with the Bid Procedures and this Order; (iii) scheduling (a) an auction in connection with a Sale Transaction (the "Auction") if the Debtors receive one or more timely and acceptable Qualified Bids (as defined below), (b) a hearing to consider approval of one or more Sale Transactions (the "Sale Hearing") as necessary, and (c) the objection deadline for approval of one or more Sale Transactions (the "Sale Objection Deadline"); (iv) approving

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

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion or the Bid Procedures, as applicable.

the form and manner of notice of the Auction and Sale Transaction attached as **Exhibit 2** hereto (the "Sale and Auction Notice"); (v) approving the form and manner of notice of the Successful Bidder attached as **Exhibit 4** hereto (the "Notice of Successful Bidder"); (vi) approving procedures (the "Assumption and Assignment Procedures") for the assumption and assignment of certain executory contracts and unexpired leases in connection with a Sale Transaction (collectively, the "Assigned Contracts and Leases"); (vii) approving the form and manner of notice to each relevant non-Debtor counterparty (each, a "Contract/Lease Counterparty") to an executory contract or unexpired lease regarding the Debtors' proposed assumption and assignment of the Assigned Contracts and Leases, including notice of proposed amounts necessary to cure any defaults thereunder (the "Cure Costs"), attached as **Exhibit 3** hereto (the "Assumption and Assignment Notice"); and (viii) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and the Court having jurisdiction over this matter in accordance with 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of Texas*, dated May 24, 2012; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and the Court having found that venue of these cases is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and the Court having considered the statements in support of the relief requested therein at a hearing before the Court (the "Bid Procedures Hearing"); and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein and that such relief is in the best interests of the Debtors, their estates, their creditors and all

parties in interest; and upon all of the proceedings had before the Court after due deliberation and sufficient cause appearing therefor, it is **FOUND AND DETERMINED THAT**:

Jurisdiction and Venue. The Court has jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. § 1334, and venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

Findings and Conclusions. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that 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.

Notice of the Bid Procedures Motion. As evidenced by the certificate of service filed on April 16, 2026 [Docket No. 111], notice of the Motion, the Bid Procedures Hearing, the dates and objection deadlines contained in this Order and the Bid Procedures, and the proposed entry of this Order was sufficient under the circumstances of these chapter 11 cases, and such notice complied with all applicable requirements of the Bankruptcy Code, Bankruptcy Rules, and the Local Rules. The notice of the Motion and of the Bid Procedures Hearing is reasonable and sufficient in light of the circumstances and nature of the relief requested in the Motion, and no other or further notice of the Motion is necessary. A reasonable and fair opportunity to object to the Motion and the relief granted in this Order has been afforded under the circumstances.

Bid Procedures. The Debtors have articulated good and sufficient reasons for the Court to approve the Bid Procedures, substantially in the form attached hereto as **Exhibit 1**, which are fair, reasonable, and appropriate under the circumstances, are designed to

maximize value for the benefit of the Debtors' estates, their creditors, and other parties in interest, and are consistent with the Debtors' exercise of their respective duties under applicable law. The Bid Procedures are reasonably designed to promote active bidding at and participation in the Auction to ensure that the highest or otherwise best value is generated for the Assets.

Sale and Auction Notice. The Sale and Auction Notice, substantially in the form attached hereto as **Exhibit 2**, is appropriate and reasonably calculated to provide interested parties with timely and proper notice of the sale of the Assets, including the sale of the Assets free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and other interests thereon, the Auction, the Sale Hearing, the Bid Procedures, and all relevant and important dates and deadlines with respect to the foregoing, and no other or further notice of the Auction, the sale of the Assets, or the Sale Hearing shall be required.

Notice of Successful Bidder. The Notice of Successful Bidder, substantially in the form attached hereto as **Exhibit 4**, is reasonably calculated to provide interested parties with timely and proper notice of the proposed Successful Bid, including: (a) the Successful Bidder; (b) the Backup Bidder, if applicable; (c) the key terms of the proposed sale to the Successful Bidder; (d) the date, time, and place of the Sale Hearing; and (e) the applicable post-Auction objection deadlines, including the Adequate Assurance Objection Deadline.

Assumption and Assignment Procedures. The Assumption and Assignment Notice, substantially in the form attached hereto as **Exhibit 3**, is reasonably calculated to provide all relevant non-Debtor counterparties to executory contracts and unexpired leases that may be assumed and assigned in connection with a Sale Transaction (collectively, the "Contract/Lease Counterparties," and each, a "Contract/Lease Counterparty") with proper notice of the potential assumption and assignment of such contracts and leases, the proposed Cure Costs relating thereto, and the related Assumption and Assignment Procedures, and no

other or further notice of such intention, the Cure Costs, or the Assumption and Assignment Procedures shall be required; *provided* that the mere listing of a contract or lease on an Assumption and Assignment Notice does not require or guarantee that such contract or lease will be assumed and assigned, and the Debtors' rights with respect thereto are reserved. The Assumption and Assignment Procedures are reasonable and appropriate and comply with the provisions of section 365 of the Bankruptcy Code and Bankruptcy Rule 6006.

The legal and factual bases set forth in the Motion establish just cause for the relief granted herein. Entry of this Order is in the best interests of the Debtors and their estates, creditors, interest holders, and all other parties in interest. The Bid Procedures appropriately preserve the Debtors' ability, in the exercise of their business judgment, to designate one or more Stalking Horse Bidders later in the sale process and, if appropriate, to seek approval of the Bid Protections, in accordance with the Bid Procedures and this Order. No Stalking Horse Bidder has been designated and no bid protections are approved under this Order except to the extent the Debtors later comply with the procedures set forth herein.

IT IS HEREBY ORDERED THAT:

1. All objections to the relief granted in this Order that have not been withdrawn with prejudice, waived, or settled, and all reservations of rights included therein, are hereby overruled, and denied on the merits with prejudice.

A. The Timeline for the Sale

2. The Debtors are authorized to proceed with the proposed sale of their assets in accordance with the Bid Procedures and the timeline approved below and are authorized to take any and all actions reasonably necessary or appropriate to implement the Bid Procedures.

3. The following dates and deadlines are approved, subject to the Debtors' right to modify them, subject to the consent of the Senior Secured Holders, without further order of the Court by filing notice of such modification with the Court:

Date and Time*[3]	Event or Deadline
May 1, 2026	**Indication of Interest Deadline** Deadline for submitting non-binding indications of interest to proposed counsel for the Debtors for the Assets, which indications should describe the proposed consideration, including whether the bid is a credit bid, a cash bid, or other form of consideration. For the avoidance of doubt, a party that does not submit a Non-Binding Indication of Interest is not precluded from submitting a Qualified Bid.
May 6, 2026	**Stalking Horse Designation Deadline** Deadline by which the Debtors may file a stalking horse notice designating any Stalking Horse Bidder and any proposed Bid Protections.
May 9, 2026	**Assumption and Assignment Notice Deadline** Deadline by which the Debtors must file and serve the Assumption and Assignment Notice on Contract/Lease Counterparties
5 Days after Service of Assumption and Assignment Deadline	**Assumption and Assignment Objection Deadline** Deadline by which parties must file any Assumption and Assignment Objection.
May 9, 2026 at 11:59 p.m. (prevailing Central Time)	**Bid Deadline** Deadline by which bidders must submit Qualified Bids.
May 11, 2026 at 12:00 p.m. (prevailing Central Time)	**Baseline Bid Deadline** Deadline by which Debtors will provide all Qualified

[3] Such dates may be extended by the Debtors with the consent of the Senior Secured Holders. The Prepetition Secured Parties (as defined in the Interim Cash Collateral Order) qualify as a Qualified Bidder and may submit a Credit Bid any time after the Bid Deadline or during the Auction (such Credit Bid, a "Prepetition Secured Party Credit Bid", and such Credit Bid shall be a Qualified Bid unless otherwise ordered by the Court for cause; *provided, however*, that the Prepetition Secured Parties that may submit a Prepetition Secured Party Credit Bid must indicate their intention to Credit Bid and deliver the material terms of such Credit Bid no later than the Baseline Bid Deadline. For the avoidance of doubt, the Prepetition Secured Parties shall not be required to comply with the Qualified Bid Requirements set forth in paragraphs (A)(7), (A)(10), and (A)(14) of the Bidding Procedures.

	Bidders with (a) a notice identifying which Qualified Bid is the Baseline Bid; and (b) a copy of each Qualified Bid, including any Credit Bid.
May 12, 2026 at 10:00 a.m. (prevailing Central Time)	**Auction (if any)** The Auction will be held either (i) at the office of Norton Rose Fulbright US LLP, 2200 Ross Ave, Suite 2000, Dallas, Texas, 75201 or (ii) at such later date and time or other location, as selected by the Debtors in accordance with the Bid Procedures.
1 Day after the conclusion of the Auction	**Notice of Successful Bidder** Deadline by which the Debtors must file and serve the Notice of Successful Bidder
3 Days after the conclusion of the Auction	**Sale Objection Deadline** Deadline by which parties must file and serve any Sale Objection.
May 21, 2026 at 9:00 a.m. (prevailing Central Time)	**Sale Hearing** Hearing to consider approval of the Sale Transaction and related relief.

4. The failure to timely file an applicable Sale Objection, Assumption and Assignment Objection, Supplemental Assumption and Assignment Objection, or Adequate Assurance Objection in accordance with this Order, the Bid Procedures, the Notice of Successful Bidder, or any Supplemental Assumption and Assignment Notice shall forever bar the assertion of such objection and shall be deemed to constitute such party's consent to the applicable relief and transactions to the extent provided in this Order and the Bid Procedures.

5. Notwithstanding anything to the contrary herein or in the Bid Procedures, the Debtors may modify the Bid Procedures in accordance with this Order and the Bid Procedures to promote a value-maximizing sale process; provided that any material modification shall be disclosed as required by the Bid Procedures and applicable law; and provided further that such modifications shall not modify the consent or consultation rights of any party.

B. The Bid Procedures

6. The Bid Procedures, attached hereto as **Exhibit 1**, are approved in their entirety and incorporated by reference as though fully set forth herein. The Debtors are authorized to take any and all actions reasonably necessary or appropriate to implement the Bid Procedures in accordance therewith. The Bid Procedures shall govern the bids and proceedings related to the Auction and the sale of the Assets. The failure to specifically include or reference any particular provision of the Bid Procedures in the Motion or this Order shall not diminish or otherwise impair the effectiveness of such procedures. The Debtors are authorized to solicit bids and conduct an Auction, if necessary, on the terms set forth in the Bid Procedures and to take all actions as are necessary or appropriate to implement the Bid Procedures. The Bid Procedures shall govern the submission, receipt, and analysis of all bids, and any party desiring to submit a bid for the Assets must do so strictly in accordance with the terms of the Bid Procedures and this Order.

7. Each bidder participating at the Auction, if held, shall be required to confirm that it has not engaged in any collusion with respect to the bidding or the sale of the Assets, as set forth in the Bid Procedures. The Auction, if held, shall be transcribed or recorded.

8. The process and requirements associated with submitting a Qualified Bid are approved as fair, reasonable, appropriate, and designed to maximize recoveries for the benefit of the Debtors' estates, creditors, and other parties in interest. As further described in the Bid Procedures, the deadline to submit a Bid shall be **May 9, 2026, at 11:59 p.m.** (prevailing Central Time).

9. Pursuant to the Bid Procedures the Debtors may, subject to the consent of the Senior Secured Holders: (a) determine which Qualified Bid is the highest or otherwise best offer for some or all of the Assets; (b) at any time prior to entry of an order of the Court approving the Successful Bid, reject any bid, other than any approved Stalking Horse Bid, if

applicable, that the Debtors determine is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bankruptcy Code or the Bid Procedures, or (iii) contrary to the best interests of the Debtors' estates and their creditors; (c) waive terms and conditions set forth herein with respect to all Qualified Bidders to the extent permissible under this Order or the Bid Procedures; (d) impose such other terms and conditions upon Qualified Bidders as the Debtors determine to be in the best interests of the Debtors' estates in these chapter 11 cases; and (e) modify the Bid Procedures, including the dates and deadlines set forth therein; *provided, however*, in the event the Debtors receive a Qualified Bid solely with respect to the Debtors' real property in Hopkinsville, Kentucky, (a)-(d) of foregoing paragraph shall not be subject to the consent of—but shall be in consultation with—the Senior Secured Holders with respect to such Qualified Bid and Qualified Bidders.

10. If the Debtors receive more than one Qualified Bid from Qualified Bidders, then the Debtors shall conduct the Auction in accordance with the Bid Procedures. If one or more Qualified Bid(s) exist for acquiring specific sub-groups of the Assets, then the Debtors may, in the exercise of their reasonable business judgment and in consultation with the Senior Secured Holders, first conduct a sub-Auction for each of the Assets that has at least one Qualified Bid pursuant to the Bid Procedures.

11. If no Qualified Bids sufficient to warrant an Auction are received by the Bid Deadline, or the Debtors determine not to conduct an Auction, in consultation with the Senior Secured Holders, the Debtors shall file a notice of cancellation of the Auction with the Court and may identify the next steps in the sale process.

12. At the Auction, if held, any Qualified Bidder who has a valid and perfected lien on any assets of the Debtors' estates (a "Secured Creditor") shall be permitted to submit a credit bid for all or a portion of the assets subject to such lien, up to the amount of such Secured Creditor's allowed claims (a "Credit Bid"), in accordance with section 363(k) of the

Bankruptcy Code; provided that such Credit Bid may be applied only with respect to those assets in which such Secured Creditor holds a valid and perfected lien. If such Secured Creditor is a junior lienholder, any Credit Bid must be accompanied by cash consideration or other means acceptable to the Debtors and the applicable senior lienholder sufficient to satisfy in full the senior lienholder's secured claim or otherwise provide for treatment satisfactory to the senior lienholder.

13. Notwithstanding the foregoing, the Debtors have all rights to object to, or otherwise dispute the validity, enforceability, priority, perfection, or amount of any claims or liens asserted in connection with any Credit Bid, and nothing herein shall be deemed to constitute an allowance or admission of such claims or liens; provided that the foregoing shall not apply to the Notes (as defined in the Interim Cash Collateral Order). In addition, nothing in this Order shall limit the ability of the official committee of unsecured creditors (the "Committee"), if appointed, or any other party in interest, to object to any Credit Bid, including on the basis that such Credit Bid is invalid in whole or in part, whether "for cause" under section 363(k) or otherwise.

14. The Debtors are authorized, but not directed, to designate, with the consent of the Senior Secured Holders, one or more Stalking Horse Bidders for some or all of the Assets in the exercise of their business judgment and in accordance with the Bid Procedures; provided that, if appointed, the Committee shall be consulted regarding any proposed Stalking Horse Bidder and any proposed Bid Protections. If the Debtors select one or more Stalking Horse Bidders, the Debtors shall file a stalking horse notice identifying the proposed Stalking Horse Bidder, the material terms of the proposed stalking horse bid, any proposed bid protections, and the deadline to object. Parties in interest shall have the opportunity to object to any proposed stalking horse designation or bid protections in accordance with the stalking horse notice procedures set forth in the Bid Procedures. Absent further order of the

Court or compliance with those procedures, no person or entity shall be entitled to any expense reimbursement, break-up fee, termination fee, or other similar payment in connection with the sale process or the Auction.

C. Sale and Auction Notice

15. The Sale and Auction Notice, substantially in the form attached hereto as **Exhibit 2**, is approved. Within three business days of the entry of this Order, the Debtors shall cause the Sale and Auction Notice to be served upon parties in interest and posted on the Debtors' case website maintained by the Claims and Noticing Agent (the "Case Website").

16. As soon as reasonably possible after entry of this Order, the Debtors shall publish the Sale and Auction Notice, with any modifications necessary for ease of publication, on one occasion in either the *New York Times* (national edition), *Financial Times* (global edition), or *Wall Street Journal* (National Edition). Such notice shall be deemed sufficient and proper notice of the sale of the Debtors' assets with respect to any potential interested parties.

D. Notice of Successful Bidder

17. The Notice of Successful Bidder, substantially in the form attached hereto as **Exhibit 4**, is approved. Promptly after the conclusion of the Auction (if held), and in any event by the deadline set forth in the Bid Procedures Order, the Debtors shall file the Notice of Successful Bidder with the Court, cause it to be served on the parties that received notice of the Motion and each Contract/Lease Counterparty that received the Assumption and Assignment Notice or any Supplemental Assumption and Assignment Notice, and publish it on the Case Website.

E. Assumption and Assignment Procedures

18. The Assumption and Assignment Procedures set forth below are approved:

a. ***Assumption and Assignment Notice***. On or before the Assumption and Assignment Notice Deadline set forth in the timeline approved above, the Debtors will file with the Court and serve via first class mail, electronic mail, or overnight delivery, the Assumption and Assignment Notice, attached as **Exhibit 3** hereto, on counterparties to executory contracts and unexpired leases that may be assumed and assigned in connection with a Sale Transaction (collectively, the "Contract/Lease Counterparties," and each, a "Contract/Lease Counterparty"), and post the Assumption and Assignment Notice on the Case Website.

b. ***Content of Assumption and Assignment Notice***. The Assumption and Assignment Notice will notify the applicable Contract/Lease Counterparties that executory contracts and unexpired leases may be subject to assumption and assignment in connection with a Sale Transaction and will contain: (i) a list of the applicable contracts and leases that may be assumed and assigned in connection with a Sale Transaction (collectively, the "Assigned Contracts and Leases"); (ii) the applicable Contract/Lease Counterparties; (iii) the Debtors' good faith estimate of the proposed amount necessary, if any, to cure any monetary defaults under each such contract or lease (the "Cure Costs"); and (iv) the deadline by which any Contract/Lease Counterparty to any such contract or lease must file an objection to the proposed assumption, assignment, or cure and the procedures relating thereto (the "Assumption and Assignment Objection"); *provided* that service of an Assumption and Assignment Notice does not constitute an admission that any contract or lease is an executory contract or unexpired lease or guarantee that such contract or lease will be assumed at any point by the Debtors or assumed and assigned pursuant to any Successful Bid.

c. ***Assumption and Assignment Objections.*** Assumption and Assignment Objections, if any, must: (i) be in writing; (ii) comply with the applicable provisions of the Bankruptcy Rules, the Local Rules, and any order governing the administration of these chapter 11 cases; (iii) state with specificity the nature of the objection and, if the Assumption and Assignment Objection pertains to the proposed Cure Costs, state the cure amount alleged to be owed to the objecting Contract/Lease Counterparty, together with any applicable and appropriate documentation in support thereof; and (iv) be filed with the Court and served on the following parties (collectively, the "Objection Notice Parties"): (a) counsel to the Debtors, Norton Rose Fulbright US LLP, 1550 Lamar Street, Suite 2000, Houston, Texas 77010, Attn: Ryan Manns, Jason Blanchard, and Maria Mokrzycka; (b) the United States Trustee for the Southern District of Texas, 515 Rusk Street, Suite 3516, Houston, Texas 77002, Attn: Ha Nguyen (Ha.Nguyen@usdoj.gov) and Vianey Garza (Vianey.Garza@usdoj.gov), (c) counsel to the collateral agent for the CLN Noteholders; (d) counsel to the Senior Secured Holders; and (e) proposed counsel for the Committee, no later than the date and time set forth for the Assumption and Assignment Objection Deadline in the

timeline approved above; *provided* that the Debtors may modify the Assumption and Assignment Objection Deadline by filing a notice of such modification with the Court.

d. ***Effects of Filing an Assumption and Assignment Objection***. A properly filed Assumption and Assignment Objection will reserve such objecting party's rights against the Debtors only with respect to the assumption and assignment of the contract or lease at issue and/or objection to the accompanying Cure Costs, as and to the extent set forth in it, but will not constitute an objection to the remaining relief requested in the Motion.

e. ***Dispute Resolution.*** Any Assumption and Assignment Objection to the proposed assumption and assignment of a contract or lease or Cure Costs that remains unresolved after the Sale Hearing shall be heard at such later date as may be agreed upon by the parties or fixed by the Court. To the extent that any Assumption and Assignment Objection cannot be resolved by the parties, such contract or lease shall be assumed and assigned only upon satisfactory resolution of the Assumption and Assignment Objection, to be determined in the applicable Successful Bidder's reasonable discretion. To the extent an Assumption and Assignment Objection remains unresolved, the contract or lease may be conditionally assumed and assigned, subject to the consent of the Successful Bidder, pending a resolution of the Assumption and Assignment Objection after notice and a hearing. If an Assumption and Assignment Objection is not satisfactorily resolved, the Successful Bidder may determine that such contract or lease should not be assigned, in which case the Successful Bidder will not be responsible for any Cure Costs in respect of such contract or lease. Notwithstanding the foregoing, if an Assumption and Assignment Objection relates solely to the Cure Costs (any such objection, a "Cure Dispute"), the applicable contract or lease may be assumed by the Debtors and assigned to the Successful Bidder *provided* that the cure amount the applicable Contract/Lease 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 Contract/Lease 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.

f. ***Supplemental Assumption and Assignment Notice***. If the Debtors discover contracts or leases inadvertently omitted from the Assumption and Assignment Notice or the Successful Bidder identifies other contracts or leases that it desires to assume or assume and assign in connection with the Sale, the Debtors may, after consultation with the Successful Bidder, at any time before the closing of the Sale supplement the Assumption and Assignment Notice with previously omitted contracts or leases or modify a previously filed Assumption and Assignment Notice, including by modifying the previously stated Cure Costs associated with any contract or lease (the "Supplemental

Assumption and Assignment Notice"). The Debtors shall serve such Supplemental Assumption and Assignment Notice on the Contract/Lease Counterparties to contracts or leases that were added or removed or to the Contract/Lease Counterparties to contracts or leases for which the Cure Costs were changed.

g. ***Objection to the Supplemental Assumption and Assignment Notice.*** Any Contract/Lease Counterparty listed on the Supplemental Assumption and Assignment Notice may file an objection (a "Supplemental Assumption and Assignment Objection") only if such objection is to the proposed assumption or assumption and assignment of the applicable contracts or leases or the proposed Cure Costs included in the Supplemental Assumption and Assignment Notice, if any. All Supplemental Assumption and Assignment Objections must: (i) state, with specificity, the legal and factual basis for the objection as well as what Cure Costs are required, if any; (ii) include appropriate documentation in support thereof; and (iii) be filed with the Court and served on the Objection Notice Parties no later than 4:00 p.m.(prevailing Central Time) on the date that is 7 days following the date of service of such Supplemental Assumption and Assignment Notice, which date will be set forth in the Supplemental Assumption and Assignment Notice.

h. ***Dispute Resolution of Supplemental Assumption and Assignment Objections.*** If a Contract/Lease Counterparty files a Supplemental Assumption and Assignment Objection in a manner that is consistent with the requirements set forth above, and the parties are unable to consensually resolve the dispute, the Debtors shall seek an expedited hearing before the Court to determine the Cure Costs, if any, and approve the assumption of the relevant contracts and leases. If there is no such objection, then the Debtors shall obtain an order of the Court fixing the Cure Costs and approving the assumption of any contract or lease listed on a Supplemental Assumption and Assignment Notice. Notwithstanding the foregoing, if a Supplemental Assumption and Assignment Objection relates solely to the Cure Costs, the applicable contract or lease may be assumed by the Debtors and assigned to the Successful Bidder *provided* that the cure amount the applicable Contract/Lease 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 Contract/Lease 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.

i. ***No Assumption and Assignment Objections.*** If no Assumption and Assignment Objections or Supplemental Assumption and Assignment Objections are timely filed, or if a Contract/Lease Counterparty does not file and serve an Assumption and Assignment Objection or a Supplemental Assumption and Assignment Objection in a manner that is consistent with the requirements set forth above, and absent a

subsequent order of the Court establishing an alternative Cure Cost, (i) the Cure Costs, if any, set forth in the Assumption and Assignment Notice (or Supplemental Assumption and Assignment Notice) will control, notwithstanding anything to the contrary in any contract or lease or any other document, and (ii) the Contract/Lease Counterparty will be deemed to have consented to the assumption or assumption and assignment of the applicable contract or lease and the Cure Costs, if any, and will be forever barred from objecting to the assumption or assumption and assignment of such contract or lease and rights thereunder, including the Cure Costs, if any, and from asserting any other claims related to such contract or lease against the Debtors or the Successful Bidder, or the property of any of them.

j. ***Adequate Assurance Objection Deadline*** Any Contract/Lease Counterparty that wishes to object to the proposed assumption and assignment of a contract or lease, the subject of which objection is a Successful Bidder's (other than the Stalking Horse Bidder's) proposed form of adequate assurance of future performance (each such objection, an "Adequate Assurance Objection"), shall file and serve such objection on the Objection Notice Parties and the Successful Bidder or its counsel, if known, no later than the date and time set forth in the Notice of Successful Bidder (the "Adequate Assurance Objection Deadline"). If no Adequate Assurance Objections are timely filed, or if an objecting party does not file and serve an Adequate Assurance Objection in a manner that is consistent with the requirements set forth above for Assumption and Assignment Objections, and absent a subsequent order of the Court, (i) the assumption shall be effective, notwithstanding anything to the contrary in any contract or lease or any other document, and (ii) the Contract/Lease Counterparty will be deemed to have consented to the assumption or assumption and assignment of the applicable contract or lease and will be forever barred from asserting any other claims related to such contract or lease against the Debtors or the Successful Bidder, or the property of any of them.

F. Sale Objection Procedures

19. All objections to the sale of the Assets (each, a "Sale Objection"), including (a) any objection to the sale of any Assets free and clear of liens, claims, interests, and encumbrances pursuant to section 363(f) of the Bankruptcy Code to the Stalking Horse Bidder, a Successful Bidder, and/or a Backup Bidder (as applicable) and (b) any objection to the entry of any Sale Order shall (a) be in writing; (b) conform to the applicable provisions of the Bankruptcy Rules and the Local Rules; (c) state with particularity the legal and factual basis for the objection and the specific grounds therefor; and (d) be filed with the Court and

served on the following parties (the "Objection Notice Parties") so as to be *actually received* no later than the Sale Objection Deadline set forth in the timeline approved above: (a) counsel for the Debtors, Norton Rose Fulbright US LLP, 1550 Lamar Street, Suite 2000, Houston, Texas 77010, Attn: Ryan Manns, Jason Blanchard, and Maria Mokrzycka; (b) the United States Trustee for the Southern District of Texas, 515 Rusk Street, Suite 3516, Houston, Texas 77002, Attn: Ha Nguyen (Ha.Nguyen@usdoj.gov) and Vianey Garza (Vianey.Garza@usdoj.gov); (c) counsel to the collateral agent for the CLN Noteholders; (d) counsel to the Senior Secured Holders; and (e) counsel for the Committee.

20. Any party who fails to file and serve a timely Sale Objection in accordance with the terms of this Order shall be forever barred from asserting, at the Sale Hearing or thereafter, any Sale Objection to the relief requested in the Motion, or to the consummation or performance of the sale of the Assets, including the transfer of Assets to the Successful Bidder free and clear of liens, claims, interests, and encumbrances pursuant to section 363(f) of the Bankruptcy Code, and shall be deemed to "consent" to such sale for purposes of section 363(f) of the Bankruptcy Code.

21. The Debtors or any other party in interest may file a reply to any Sale Objection, if any, by no later than **May 16, 2026 at 5 p.m. (prevailing Central Time)**.

22. Consummation of the sale of the Assets pursuant to a Successful Bid shall be subject to the Court's approval. The Sale Hearing to (a) approve a sale of all, substantially all, or a portion of the Assets to the Successful Bidder(s) and (b) authorize the assumption and assignment of certain executory contracts and unexpired leases shall be held before the Court on **May 21, 2026 at 9:00 a.m. (prevailing Central Time)**; *provided, that*, the Debtors may seek an adjournment or rescheduling of the Sale Hearing, consistent with the Bid Procedures and this Order. At the Sale Hearing, the Debtors will seek the Court's approval of the Successful Bid(s) and the Backup Bid(s) (if any). Unless the Court orders otherwise, the

Sale Hearing shall be an evidentiary hearing on matters relating to the sale transaction and there will be no further bidding at the Sale Hearing. If the Successful Bidder(s) cannot or refuses to consummate the Sale(s) because of the breach or failure on the part of such Successful Bidder, the Debtors may, in accordance with the Bid Procedures, designate the Backup Bid to be the new Successful Bid and the Backup Bidder to be the new Successful Bidder, and the Debtors shall be authorized, but not required, to consummate the applicable transaction with the Backup Bidder without further order of the Court.

G. Miscellaneous

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

24. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order.

25. Notwithstanding anything to the contrary herein or in the Bid Procedures, the Debtors may determine in their reasonable business judgment to suspend or cancel the sale process with respect to all or any portion of the Assets.

26. The requirements set forth in Local Rules and the Complex Case Procedures are satisfied by the contents of the Motion.

27. All persons or entities (whether or not Qualified Bidders) that participate in the bidding process shall be deemed to have knowingly and voluntarily (a) consented to the entry of a final order by the Court in connection with the Motion and (b) waived any right to jury trial in connection with any disputes relating to the any of the foregoing matters.

28. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of the Bankruptcy Rules and the Bankruptcy Local Rules are satisfied by such notice.

29. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

30. Any M&A Transaction Fee due to Jefferies as a result of the closing of any M&A Transaction shall be segregated and escrowed (for the exclusive benefit of Jefferies) from the proceeds of such M&A Transaction (including, without limitation, from the proceeds of any liquidation or other disposition of the Debtors' assets), as an express carve-out from the collateral of the Debtors' pre- and postpetition secured lenders, prior to any other use or distribution of such proceeds. If any M&A Transaction is the result of a successful bid (including on account of any successful credit bid) without a cash component sufficient to pay the corresponding M&A Transaction Fee due to Jefferies in full, then any resulting unpaid portion of the M&A Transaction Fee due to Jefferies shall be segregated and escrowed (for the exclusive benefit of Jefferies) at the closing of such M&A Transaction from the available cash of the Debtors, as an express carve-out from the collateral of the Debtors' pre- and postpetition secured lenders; provided that if the Debtors do not have sufficient cash to pay the unpaid portion of such M&A Transaction Fee in full, or any portion thereof, then the successful bidder (including on account of any successful credit bid) shall immediately set aside from its own funds and escrow (for the exclusive benefit of Jefferies) any such amount necessary to pay Jefferies such unpaid portion of the M&A Transaction Fee in full at the closing of such M&A Transaction. For the avoidance of doubt, nothing in this Order shall prohibit or be construed to prohibit the use of any unencumbered assets of the Debtors or the proceeds thereof to pay any fees and expenses of Jefferies or the assertion or allowance of an administrative priority claim under sections 503(b)(2) and 507(a)(2) of the Bankruptcy Code, if applicable, on account of any fees or expenses of Jefferies.

31. Turner-Kokosing Joint Venture, a joint venture between Turner Construction Company and Kokosing Industrial Inc. ("TKJV"), RMF Nooter, Inc. ("Nooter"), Amcon

Industrial ("Amcon"), and United Electric Company, Inc. ("United"), FE Moran Inc., Fire Protection ("FE Moran" and together with TKJV, Nooter, Amcon, and United the "M&M Lienholders"), the City of Hopkinsville, Planters Bank, Inc. ("Planters"), the Hopkinsville Industrial Foundation, Inc. ("HIF" and together with the City of Hopkinsville, Planters, and HIF, the "Mortgagees") and the Debtors shall work cooperatively and in good faith through and including April 27, 2026, to resolve all issues relating to the validity, extent, priority, and amount of the M&M Lienholders' and Mortgagees' asserted liens. If the Debtors and the M&M Lienholders and Mortgagees are unable to reach a resolution by such date, the parties shall promptly seek an expedited determination from the Court with respect to such issues, on appropriate notice and pursuant to a schedule designed to avoid any disruption to the Auction or the related sale process.

32. Nothing in this Order or the Bid Procedures shall be deemed a waiver of any rights, remedies, or defenses that the Debtors have under applicable bankruptcy and non-bankruptcy law, under any indemnity agreements, or any rights, remedies or defenses of the Debtors with respect thereto, including seeking relief from the Court with regard to the Auction, the Bid Procedures, the Sale Transaction, and any related items.

33. Nothing in this Order shall impair or extinguish any mechanics' or materialman's lien rights arising under applicable non-bankruptcy law to the extent such rights are valid and enforceable under applicable non-bankruptcy law.

34. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Signed: April 17, 2026

Christopher Lopez
United States Bankruptcy Judge

EXHIBIT 1

Bid Procedures

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)

BID PROCEDURES

On April 9, 2026, the above-captioned debtors and debtors in possession (collectively, the "Debtors") filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of Texas (the "Court").

On [●], 2026, the Court entered the *Order (A) Approving Bid Procedures, (B) Authorizing Designation of a Stalking Horse Bidder, (C) Scheduling an Auction, Related Deadlines, and a Sale Hearing, and (D) Granting Related Relief* [Dkt. No. ●] (the "Bid Procedures Order"),[2] approving procedures ("Bid Procedures") for conducting a marketing process and auction (the "Auction") for the sale of substantially all of the Debtors' assets (collectively, the "Assets") pursuant to one or more sale transactions.

The Debtors have not designated a Stalking Horse Bidder at this time. The Debtors may, in the exercise of their business judgment and in accordance with the Bid Procedures Order and these Bid Procedures, subject to the consent of the Senior Secured Holders, later designate one or more Stalking Horse Bidders for some or all of the Assets and seek approval of any related break-up fee, expense reimbursement, and minimum overbid requirement (collectively, "Bid Protections") through a stalking horse notice process. The Debtors will make a form asset purchase agreement available to prospective bidders in the Data Room, and any bidder must submit a marked purchase agreement as part of its bid package by the Bid Deadline.

Copies of the Bid Procedures Order and related documents are available at www.veritaglobal.net/ascend or may be obtained by calling (866) 927-7078 in the U.S. and Canada or 1 (310) 751-2651 internationally.

ASSETS FOR SALE

The Debtors intend to sell all or substantially all of their Assets. The ability to undertake and consummate a sale of the Assets shall be subject to competitive bidding, as set

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

[2] Capitalized terms used but not defined herein shall have the meanings given such terms in the Bid Procedures Order or the *Declaration of Linh Austin in Support of Chapter 11 Petitions and First Day Motions* [Dkt. No. 11] (the "First Day Declaration"), as applicable.

forth herein, and approval by the Court. The Debtors will consider bids for the Assets from interested parties, including any stalking horse bid later designated in accordance with these Bid Procedures and in consultation with the Senior Secured Holders.

Parties may submit bids for all or some of the Debtors' business and assets, including for parts of the Debtors' business or assets (each, a "Partial Bid"), which bids may be combined with other Partial Bids or be considered independently or together with the liquidation value (as reasonably determined by the Debtors in good faith) of the Debtors' business or assets that are not the subject of other Partial Bids. While a bidder must timely submit an asset purchase agreement, such agreement must be marked against the Form APA made available in the Data Room or, if applicable, any stalking horse agreement later designated by the Debtors.

Any party interested in submitting a bid for any of the Debtors' Assets should contact the following individuals at Jefferies LLC ("Jefferies"):

Jefferies LLC
Attn: Michael O'Hara (michael.ohara@jefferies.com)
Paul Shin (pshin@jefferies.com)
Ananth Shankar (ashankar@jefferies.com)
Project.Ember.Jef@jefferies.com

Key Dates and Deadlines

Date and Time*[3]	Event or Deadline
May 1, 2026	**Indication of Interest Deadline** Deadline for submitting non-binding indications of interest to proposed counsel for the Debtors for the Assets, which indications should describe the proposed consideration, including whether the bid is a credit bid, a cash bid, or other form of consideration. For the avoidance of doubt, a party that does not submit a Non-Binding Indication of Interest is not precluded from submitting a Qualified Bid.
May 6, 2026	**Stalking Horse Designation Deadline** Deadline by which the Debtors may file a stalking

[3] Such dates may be extended by the Debtors with the consent of the Senior Secured Holders. The Prepetition Secured Parties (as defined in the Interim Cash Collateral Order) qualify as a Qualified Bidder and may submit a Credit Bid any time after the Bid Deadline or during the Auction (such Credit Bid, a "Prepetition Secured Party Credit Bid", and such Credit Bid shall be a Qualified Bid unless otherwise ordered by the Court for cause; *provided, however*, that the Prepetition Secured Parties that may submit a Prepetition Secured Party Credit Bid must indicate their intention to Credit Bid and deliver the material terms of such Credit Bid no later than the Baseline Bid Deadline. For the avoidance of doubt, the Prepetition Secured Parties shall not be required to comply with the Qualified Bid Requirements set forth in paragraphs (A)(7), (A)(10), and (A)(14) of the Bidding Procedures.

	horse notice designating any Stalking Horse Bidder and any proposed Bid Protections.
May 9, 2026	**Assumption and Assignment Notice Deadline** Deadline by which the Debtors must file and serve the Assumption and Assignment Notice on Contract/Lease Counterparties
5 Days after Service of Assumption and Assignment Deadline	**Assumption and Assignment Objection Deadline** Deadline by which parties must file any Assumption and Assignment Objection.
May 9, 2026 at 11:59 p.m. (prevailing Central Time)	**Bid Deadline** Deadline by which bidders must submit Qualified Bids.
May 11, 2026 at 12:00 p.m. (prevailing Central Time)	**Baseline Bid Deadline** Deadline by which Debtors will provide all Qualified Bidders with (a) a notice identifying which Qualified Bid is the Baseline Bid; and (b) a copy of each Qualified Bid, including any Credit Bid.
May 12, 2026 at 10:00 a.m. (prevailing Central Time)	**Auction (if any)** The Auction will be held either (i) at the office of Norton Rose Fulbright US LLP, 2200 Ross Ave, Suite 2000, Dallas, Texas, 75201 (or (ii) at such later date and time or other location, as selected by the Debtors in accordance with the Bid Procedures.
1 Day after the conclusion of the Auction	**Notice of Successful Bidder** Deadline by which the Debtors must file and serve the Notice of Successful Bidder
3 Days after the conclusion of the Auction	**Sale Objection Deadline** Deadline by which parties must file and serve any Sale Objection.
May 21, 2026 at 9:00 a.m. (prevailing Central Time)	**Sale Hearing** Hearing to consider approval of the Sale Transaction and related relief.

PUBLIC ANNOUNCEMENT OF AUCTION

The Debtors will publish the Sale and Auction Notice,[4] with any modifications necessary for ease of publication, on one occasion in the *New York Times* (national edition),

[4] The Sale and Auction Notice is attached as **Exhibit 2** to the Bid Procedures Order.

Financial Times (global edition), or *Wall Street Journal* (national edition). The Debtors will also publish the Sale and Auction Notice on the case website: www.veritaglobal.net/ascend.

DUE DILIGENCE

A. Participation Requirements

Each person or entity that desires to participate in the Auction process (each, a "Prospective Bidder") must first deliver to Jefferies the following (the "Preliminary Bid Documents"):

- an executed confidentiality agreement, in form and substance satisfactory to the Debtors ("Confidentiality Agreement");
- a statement and other factual support demonstrating to the Debtors and their advisors, in their sole judgment, that the Prospective Bidder has a *bona fide* interest in purchasing some or all of the Assets; and
- preliminary proof of the Prospective Bidder's financial capability to close a proposed sale transaction, which may include current unaudited or verified financial statements of, or verified financial commitments obtained by, the Prospective Bidder (or, if the Prospective Bidder is an entity formed for the purpose of acquiring the Assets, the party that will bear liability for a breach by the Prospective Bidder of an asset purchase agreement or other agreement entered into in respect of the sale transaction), the adequacy of which the Debtors and their advisors will determine in their sole judgment.

Upon execution of a Confidentiality Agreement and subject to the other limitations and guidelines set forth herein, the Debtors may grant a Prospective Bidder that the Debtors identify as reasonably likely to become a Qualified Bidder (defined below) with access to the information in the Debtors' confidential electronic data room (the "Data Room") allowing such Prospective Bidder to conduct due diligence with respect to the potential acquisition of some or all of the Assets. Access may be terminated by the Debtors in their reasonable discretion at any time for any reason whatsoever, including that a Prospective Bidder does not become a Qualified Bidder, these Bid Procedures are terminated, the Prospective Bidder breaches any obligations under its Confidentiality Agreement or the Debtors become aware that information submitted by the Prospective Bidder for requesting access to the Data Room is inaccurate or misleading. The Debtors may restrict or limit access of a Prospective Bidder to the Data Room if the Debtors determine, based on their reasonable business judgment, that certain information in the Data Room is sensitive, proprietary, or otherwise not appropriate for disclosure to such Prospective Bidder.

If the Debtors determine that a Prospective Bidder is unlikely to qualify as a Qualified Bidder or fails to become a Qualified Bidder, then such Prospective Bidder shall have no further right to access due diligence or any other non-public information. The Prospective Bidder shall return or destroy any non-public information the Debtors or their advisors provided to the Prospective Bidder in accordance with the terms of the Confidentiality Agreement executed by the Debtors and the Prospective Bidder.

The Debtors will try to accommodate all reasonable requests from Prospective Bidders for additional information and due diligence access. All due diligence requests shall

be directed to Jefferies.

Subject to the obligations of the Debtors to the Senior Secured Holders under the Interim Cash Collateral Order, the Debtors shall not be obligated to furnish information of any kind whatsoever relating to their businesses or assets to any person or entity who (i) is not a Prospective Bidder, (ii) does not comply with the participation requirements set forth herein, or (iii) in the case of competitively sensitive information, is a competitor of the Debtors in the Debtors' reasonable business judgment.

Each Qualified Bidder shall be deemed to acknowledge and represent (i) that it has had an opportunity to (x) conduct any and all due diligence regarding the Assets prior to making a bid and (y) investigate and inspect any documents and the Assets in making its bid; (ii) that it has relied solely on its own independent review in making its bid; and (iii) that it did not rely on any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express, implied, by operation of law, or otherwise regarding the Assets or the completeness of any information provided in connection therewith. The Debtors and their respective estates are not responsible for, and will have no liability with respect to, any information obtained by, or provided to, any Prospective Bidders in connection with these Bid Procedures.

Each Prospective Bidder, including any Qualified Bidder, shall comply with all reasonable requests by the Debtors or their advisors regarding such Prospective Bidder and its contemplated sale transaction. Except with respect to any Prospective Bidder submitting a Credit Bid, the failure by a Prospective Bidder, including any Qualified Bidder, to comply with reasonable requests for information and due diligence may be a basis for the Debtors to determine, that such Prospective Bidder or Qualified Bidder may no longer participate in diligence (including access to the Data Room) or the Auction, or that a bid made by such Prospective Bidder is not a Qualified Bid.

B. Restrictions on Communications & Joint Bids

There shall be no communication between or among Prospective Bidders, unless Jefferies has previously authorized such communication in writing (email being sufficient). Prospective Bidders shall not, directly or indirectly, contact, initiate or engage in discussions in respect of matters relating to the Debtors or a potential sale transaction with any customer, supplier, or other contract counterparty of the Debtors without the Debtors' prior written consent (email being sufficient). The Debtors may, in consultation with those Senior Secured Holders that have not submitted a Credit Bid for the applicable assets and, if appointed, the Committee, approve joint Bids in their sole and reasonable business judgment on a case-by-case basis. For the avoidance of doubt, subject to prior notice to the Debtors, those Senior Secured Holders that have not submitted a Credit Bid for the applicable assets and, if appointed, the Committee shall have the right to communicate with any third-party that may submit, or has submitted, a Bid or a Non-Binding Indication of Interest for such assets.

The Debtors reserve the right, in their reasonable business judgment and in consultation with the Senior Secured Holders and, if appointed, the Committee, to disqualify any Prospective Bidders that have communications between or amongst themselves or submit a joint Bid without the Debtors' prior authorization.

Any Prospective Bidder that intends to participate in the Auction must submit a bid in writing on or before **May 9, 2026 at 11:59 p.m. (prevailing Central Time)** (the "Bid

Deadline"). Bids must be submitted in writing to the parties set forth below (collectively, the "Notice Parties"). Unless specifically provided otherwise, e-mail notice shall be sufficient. The Debtors may extend the Bid Deadline, in their business judgment, for all or certain Prospective Bidders.

Notice Parties and Contact Information
Counsel to the Debtors
Ryan Manns (ryan.manns@nortonrosefulbright.com) Maria Mokrzycka (maria.mokrzycka@nortonrosefulbright.com) Jason I. Blanchard (jason.blanchard@nortonrosefulbright.com) Norton Rose Fulbright US LLP 1550 Lamar, Suite 2000 Houston, TX 77010
Investment Banker to the Debtors
Jefferies LLC Ananth Shankar (ashankar@jefferies.com), Michael O'Hara (michael.ohara@jefferies.com), Paul Shin (pshin@jefferies.com) & Project.Ember.Jef@jefferies.com Jefferies LLC, 520 Madison Avenue New York, NY 10022
Financial Advisor to the Debtors
Alvarez & Marsal North America LLC Adam Titus (atitus@alvarezandmarsal.com); Hallie Ross (hross@alvarezandmarsal.com) 425 Market Street, 18th Floor, San Francisco, CA, USA
Counsel to the Certain CLN Holders
Sunny Singh (sunny.singh@weil.com) 767 Fifth Ave, New York, NY 10153; Stephanie Morrison (stephanie.morrison@weil.com) Weil, Gotshal & Manges LLP, 700 Louisiana Street, Suite 3700 Houston TX 77002
Financial Advisor to the Certain CLN Holders
Gerard Uzzi (guzzi@uzzilall.com); Keshav Lall (klall@uzzilall.com); Chris Ucko (cucko@uzzilall.com) Uzzi & Lall, 115 Broadway 5th Floor, New York, NY 10006

PROCESS FOR SUBMITTING AND REVIEWING BIDS

A. Qualified Bid Requirements[1]

To qualify as a "Qualified Bid," a bid must be in writing and satisfy the following requirements:

1. **Identification of Bidder & Corporate Authority**: A Qualified Bid must fully disclose the following: (a) the legal identity of each person or entity bidding for the Assets and/or otherwise sponsoring, financing (including through the issuance of debt in connection with such bid), or participating in (including through license or similar arrangement with respect to the Assets to be acquired in connection with such bid) the Auction in connection with such bid and the complete terms of any such participation; (b) evidence that the Prospective Bidder is legally empowered, by power of attorney or otherwise, to complete the transactions on the terms contemplated by the parties, and has obtained all necessary corporate authorizations or approvals with respect to the submission of its bid and the consummation of the transactions contemplated in such bid; and (c) any past or present connections or agreements with the Debtors, the Stalking Horse Bidder, any other known Prospective Bidder or Qualified Bidder, the Debtors' lenders, any known equity holders of the Debtors, or any officer or director of any of the foregoing (including of the Debtors' current or former officers or directors).

2. **Purchased Assets**. A Qualified Bid must identify the following:

   a. the Assets to be purchased, including any executory contracts and unexpired leases (collectively, the "Assigned Contracts and Leases") that, as of the submission of such bid, the Prospective Bidder proposes to be assumed and assigned by the Debtors in connection with the proposed sale; and

   b. the liabilities, if any, to be assumed, including any debt to be assumed.

3. **Form of Consideration**:

   a. Consideration. Each Qualified Bid must include a statement confirming that the bid is based on an all-cash offer, or if a bid includes forms of consideration other than cash, the Prospective Bidder must include an analysis or description of the value of such non-cash components, including any supporting documentation, to assist the Debtors in evaluating the bid. To the extent that consideration other than cash for the purchase of assets constituting Prepetition Collateral (as defined in the Interim Cash Collateral

[1] For the avoidance of doubt, nothing herein or in the Bidding Procedures Order modifies the Debtors' obligations under the Interim Cash Collateral Order. All parties reserve all rights with respect to allocation of value at the Sale Hearing.

Order) is included in such Bid, such consideration must be acceptable to the Senior Secured Holders.

b. Credit Bidding. Any Prospective Bidder holding a perfected security interest in any of the Assets (a "Secured Creditor") may seek to credit bid all or a portion of such Prospective Bidder's claims for the collateral in which such party holds a perfected security interest (each such bid, a "Credit Bid" and such right, "Credit Bid Right") in accordance with section 363(k) of the Bankruptcy Code. A Credit Bid may be applied only with respect to those Assets in which the party submitting such Credit Bid holds a perfected security interest. If a Secured Creditor is a junior lienholder, then such Secured Creditor may submit a Credit Bid only if such bid is accompanied by cash consideration or other means acceptable to the Debtors and the senior lienholder sufficient to satisfy in full the senior lienholder's secured claim or otherwise provide for treatment satisfactory to the senior lienholder. The Prepetition Secured Parties (as defined in the Interim Cash Collateral Order) reserve and have the right to exercise the Credit Bid Right provided that such right is exercised by the Baseline Bid Deadline. If such Credit Bid Right is exercised, the Prepetition Secured Parties may participate in the Auction as a Qualified Bidder.

Notwithstanding the foregoing, the Debtors reserve all rights to object to, or otherwise dispute the validity, enforceability, priority, perfection, or amount of any claims or liens asserted in connection with any Credit Bid, and nothing herein shall be deemed to constitute an allowance or admission of such claims or liens; *provided*, that the foregoing shall not apply to the Notes (as defined in the Interim Cash Collateral Order). Subject to the foregoing reservation of rights, a Credit Bid shall be deemed a Qualified Bid.

4. **Minimum Bid for Assets**. If the Debtors designate a Stalking Horse Bidder for particular Assets, each competing bid for such Assets must have a value to the Debtors, as determined by the Debtors, in consultation with the Senior Secured Holders, that exceeds the aggregate value of (i) the purchase price under the applicable stalking horse asset purchase agreement and (ii) the amount of any approved Bid Protections. Any Overbid at the Auction, including any bid by a Stalking Horse Bidder, shall comply with the Minimum Overbid requirements set forth below.

If the value of a bid is evaluated relative to an applicable Stalking Horse Bid and includes non-cash components, the bidder should include an analysis or description of the value of any such additional non-cash components, including any supporting documentation, to assist the Debtors in better evaluating the competing bid. The Debtors reserve the right in their reasonable discretion, in consultation with the

Senior Secured Holders, to ascribe a value to any non-cash components of competing bids and any applicable Stalking Horse Bid.[2]

5. **Proposed Asset Purchase Agreement**. A Qualified Bid must constitute an irrevocable offer and be in the form of an asset purchase agreement reflecting the terms and conditions of the bid (each, a "Proposed Asset Purchase Agreement"). A Proposed Asset Purchase Agreement shall be (a) duly authorized and executed; (b) provided in both PDF and MS-WORD format; (c) marked against the form asset purchase agreement made available to Prospective Bidders in the Data Room (the "Form APA") or, if applicable, any stalking horse agreement later designated by the Debtors, to reflect the proposed sale transaction and show any requested modifications; (d) specify the proposed purchase price for the Assets in U.S. dollars; (e) include all exhibits and schedules contemplated thereby (other than exhibits and schedules that, by their nature, must be prepared by the Debtors); and (f) identify any Assigned Contracts and Leases that, as of the submission of such bid, the Prospective Bidder proposes to be assumed and assigned by the Debtors in connection with the proposed sale transaction.

6. **Proposed Sale Order**. A Qualified Bid must include a proposed Sale Order and a comparison marked against the Debtors' proposed form of Sale Order (which the Debtors will file before the Bid Deadline).

7. **Financial Information.** A Qualified Bid, except for a Prepetition Secured Party Credit Bid, must include the following:

   a. a statement that the Prospective Bidder is financially capable of consummating the sale transaction contemplated by the Prospective Bidder's Proposed Asset Purchase Agreement;

   b. sufficient evidence, as determined by the Debtors in their reasonable discretion, in consultation with the Senior Secured Holders, to determine that the Prospective Bidder has, or will obtain, the financial wherewithal to consummate the sale transaction contemplated by the Prospective Bidder's Proposed Asset Purchase Agreement; and

   c. Adequate Assurance Information with respect to any Assigned Contracts and Leases included or that may be included in the Prospective Bidder's bid, including the identity of any known proposed assignee of the applicable Assigned Contracts and Leases (if different from the Prospective Bidder) and contact information for such proposed assignee.

[2] The Debtors reserve the right to ask any Prospective Bidder to allocate the value ascribed to a bid for any particular Asset and to inquire about any significant assumptions on which such valuations are based.

8. **Bid Representatives**: Each Qualified Bid shall identify the representatives of the Bidder that are authorized to appear and act on behalf of the Bidder in connection with the proposed Transaction.

9. **Good Faith Deposit**: Each Qualified Bid (other than any Stalking Horse Bid, if any, and any Credit Bid submitted by a Secured Creditor or its agents or designees) must be accompanied by a good faith deposit (each, a "Good Faith Deposit") in the form of cash in an amount equal to ten percent (10%) of the proposed purchase price for the Assets, to be delivered to an escrow agent selected by the Debtors (the "Escrow Agent") no later than the Bid Deadline. Good Faith Deposits shall be held in escrow and returned in accordance with these Bid Procedures. A Prospective Bidder submitting a Credit Bid will not be required to accompany its Bid with a Good Faith Deposit for the portion of the Purchase Price that is a Credit Bid, but shall be required to provide a Good Faith Deposit equal to 10% of any portion of its bid that is not a Credit Bid.

   To the extent that a Qualified Bid is modified before, during, or after the Auction in any manner that increases the purchase price contemplated by such bid, the Qualified Bidder shall, promptly and no later than one business day following the increased purchase price, increase its Good Faith Deposit so that it equals 10% of the increased cash purchase price.

10. **Adequate Assurance**. A Qualified Bid, except for a Prepetition Secured Party Credit Bid, must include evidence of the Prospective Bidder's (or any other relevant assignee's) ability to comply with section 365 of the Bankruptcy Code (to the extent applicable), including providing adequate assurance of such Prospective Bidder's (or any other relevant assignee's) ability to perform future obligations arising under any Assigned Contracts and Leases included in its bid. The Debtors may, in consultation with the Senior Secured Holders require the following information in connection with demonstrating adequate assurance of future performance: (a) information evidencing the Prospective Bidder's (or any other relevant assignee's) financial wherewithal and willingness to perform under any Assigned Contracts and Leases included in the bid, which information may include (i) a corporate organizational chart or similar disclosure identifying corporate ownership and control, (ii) financial statements, (iii) tax returns, and (iv) annual reports; and (b) the Prospective Bidder's (or any other relevant assignee's) proposed use of any leased premises or other property included in the bid (the information described in the foregoing clauses (a) and (b), the "Adequate Assurance Information").

    All Adequate Assurance Information must be in a form that will permit its prompt dissemination to the applicable Contract/Lease Counterparties.

11. **Representations and Warranties (As-Is, Where-Is).** Each Qualified Bid must include a written acknowledgement and representation that

(a) the Prospective Bidder has had an opportunity to conduct any and all due diligence regarding the Assets prior to making its Qualified Bid, (b) the Prospective Bidder has relied solely on its own or its advisors' independent review, investigation, and/or inspection of any documents and/or the Assets in making its Qualified Bid, (c) the Prospective Bidder did not rely on any written or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express, implied, by operation of law, or otherwise, regarding the Assets or the completeness of any information provided in connection therewith or the Auction, except as expressly stated in the Prospective Bidder's Proposed Asset Purchase Agreement, and (d) the Assets will be conveyed "as is, where is, with all faults," with limited representations and warranties, and no indemnification or guarantees.

12. **Authorization**. A Qualified Bid must (a) include evidence of authorization and approval from the Prospective Bidder's board of directors (or comparable governing body) with respect to the submission, execution, and delivery of any bid for the Assets, participation in the Auction, and closing of the sale transaction contemplated by the Prospective Bidder's Proposed Asset Purchase Agreement; or (b) if the Prospective Bidder is an entity formed for the purpose of effecting the proposed sale transaction, a Qualified Bid must provide written evidence acceptable to the Debtors of authorization and the approval by the equity holder(s) of such Prospective Bidder.

13. **Regulatory and Third-Party Approvals**: Each bid must include (a) a description of all governmental, licensing, regulatory, or other approvals or consents required for the Prospective Bidder to consummate the sale transaction contemplated by the Prospective Bidder's Proposed Asset Purchase Agreement and (b) evidence reasonably satisfactory to the Debtors of the Prospective Bidder's ability to obtain such approvals or consents in a timely manner, including an estimated timeframe for obtaining them and a description of any material conditions or contingencies relating thereto. A Prospective Bidder agrees that its legal counsel will coordinate in good faith with the Debtors' legal counsel and counsel to the Senior Secured Holders to discuss and explain such Prospective Bidder's regulatory analysis, strategy, and timeline for securing all such approvals as soon as reasonably practicable.

14. **Surety Bonds**: A Qualified Bid, except for a Prepetition Secured Party Credit Bid, must provide for the replacement of any existing surety bonds, deposits, guarantees or other similar instruments related to the Assets that the Bidder desires to purchase, as required by applicable law and regulations, and identify the source of such replacement.

15. **Other Requirements**. A Qualified Bid must:

    a. state that the Prospective Bidder agrees to serve as a Backup Bidder (a "Backup Bidder") for the Assets (each such bid, a

"Backup Bid") if such bidder's Qualified Bid is selected at the Auction as the next highest or next best bid after the Successful Bid; *provided, however*, that this requirement shall not apply to (i) any Stalking Horse Bidder or (ii) any bidder submitting a Credit Bid;

b. state that the bid represents a binding, good-faith, and *bona fide* offer to purchase the Assets and is not subject to or conditioned on any further due diligence, and is irrevocable (i) until the selection of the Successful Bid in accordance with these Bid Procedures; or (ii) if the bid is selected as a Successful Bid or as a Backup Bid, until the Backup Bid Expiration Date;

c. state and acknowledge that the Prospective Bidder shall not be entitled to any bid protections or payment in connection with the submission of a bid for the Assets or for participating in the sale process;

d. state that the Prospective Bidder is committed to closing the sale transaction contemplated in its bid as soon as practicable;

e. expressly waive any claim or right to assert any substantial contribution administrative expense claim under section 503(b) of the Bankruptcy Code in connection with bidding for any of the Assets or for participating in the Auction or the sale process;

f. not contain any financing contingencies of any kind;

g. not contain any conditions or contingencies relating to the validity, effectiveness, or binding nature of the bid, including contingencies for due diligence and inspection;

h. state whether the Prospective Bidder intends to offer future employment to any of the Debtors' employees and, if so, to whom;

i. certify that the Prospective Bidder did not collude with any other bidders and is not otherwise a partnership, joint venture, or other entity in which more than one bidder (or any affiliates of a bidder) has a direct or indirect interest, unless consented to in writing by the Debtors;

j. include a covenant to comply with the terms of these Bid Procedures and the Bid Procedures Order;

k. consent to the jurisdiction of the Court to adjudicate any disputes and enter final orders related to the Debtors' qualification of bids, the Auction, these Bid Procedures, any written indications of interest, Preliminary Bid Documents, Qualified Bids, Proposed Asset Purchase Agreements, and any and all other agreements entered into in connection with any proposed sale transaction;

l. waive any right to a jury trial in connection with any disputes related to the Debtors' qualification of bids, the Auction, these Bid Procedures, any written indications of interest, Preliminary Bid Documents, Qualified Bids, Proposed Asset Purchase Agreements, and any and all other agreements entered into in connection with any proposed sale transaction; and

m. contain such other information as may be reasonably requested by the Debtors.

B. Bid Review Process

The Debtors will, in consultation with the Senior Secured Holders evaluate bids and, based on their evaluation of each bid, the Debtors may, as they deem appropriate in their reasonable business judgment and in a manner consistent with their fiduciary duties and applicable law, engage in negotiations with any Prospective Bidder for the purposes of (i) curing any deficiencies in a bid that prevents them from constituting a Qualified Bid, (ii) improving the terms of the Prospective Bidder's bid, or (iii) otherwise promoting a more competitive bidding and Auction process with the goal of maximizing the value of the Assets.

In evaluating a bid, the Debtors may take into consideration any and all factors that the Debtors deem reasonably pertinent, including (i) the amount of the proposed purchase price and proposed form of consideration; (ii) any Assets included in, or excluded from, the bid, including any Assigned Contracts and Leases to be assumed and assigned; (iii) the value to be provided to the Debtors under the bid, including the net economic effect on the Debtors' estates; (iv) any benefits to the Debtors' estates from any assumption or waiver of liabilities contemplated by the bid; (v) the structure of the proposed sale transaction and any attendant execution risk, including conditions to, timing of, and certainty of closing; termination provisions; availability of financing and general financial wherewithal to meet all commitments; and any required governmental approvals; and (vi) the impact of the proposed sale transaction on the Debtors' employees, trade creditors, landlords, and any other parties-in-interest (collectively, the "Bid Assessment Criteria").

The Debtors will evaluate timely bids and will, in consultation with the Senior Secured Holders (i) determine which bids qualify as Qualified Bids and which Qualified Bid has been selected as the Baseline Bid (defined below) and (ii) notify bidders whether they are Qualified Bidders and of the Baseline Bid as soon as commercially reasonable following the Bid Deadline. Notwithstanding anything to the contrary herein, with respect to any Bid for any Assets, the Bid Assessment Criteria and any other consideration of such Bid shall be evaluated solely with respect to the value thereof, and the effect of such Bid on, the Debtors' bankruptcy estates.

A Qualified Bidder shall not (without the Debtors' consent), modify, amend, or withdraw its Qualified Bid, unless to increase the purchase price or otherwise improve the terms of the Qualified Bid, as determined by the Debtors in their reasonable business judgment.

C. Qualified Bidders

If the Debtors later designate a Stalking Horse Bidder in accordance with these Bid Procedures and the Bid Procedures Order, such Stalking Horse Bidder and bid shall be deemed a "Qualified Bidder" and a "Qualified Bid," respectively, subject to the terms of the applicable stalking horse notice and any order of the Court. Any other bidder that submits a Qualified Bid in accordance with these Bid Procedures will qualify as a "Qualified Bidder." The Debtors may in their reasonable business judgment and in a manner consistent with their fiduciary duties amend or waive the conditions precedent to qualifying as a Qualified Bidder in consultation with the Senior Secured Holders.

D. Break-Up Fee and Expense Reimbursement

No bidder or any other party shall be entitled to any termination or "break-up" fee, expense reimbursement, or any other bidding protection in connection with the submission of a bid for the Assets or otherwise participating in the Auction or the sale process **unless and until the Debtors later designate, with the consent of the Senior Secured Holders a Stalking Horse Bidder and any related protections become effective in accordance with the Bid Procedures Order and these Bid Procedures**. Any substantial contribution claims by any Bidder are deemed waived, to the extent based solely on such Bidder's submission of a Bid hereunder.

E. No Qualified Bid

If the Debtors do not receive one or more Qualified Bids sufficient to warrant an Auction, the Debtors may elect not to hold an Auction and may file a notice with the Court identifying the next steps in the sale process, including any proposed Successful Bidder.

AUCTION

A. Location and Date of Auction

If the Debtors receive one Qualified Bid (including a combination of bids that, when considered together, constitute a Qualified Bid) for the Assets, or if the Debtors otherwise determine that an Auction is unnecessary, the Debtors may, in consultation with the Senior Secured Holders elect not to conduct an Auction and may seek approval of the highest or otherwise best bid at the Sale Hearing. If the Debtors receive more than one Qualified Bid for the Assets, then the Debtors will conduct an Auction for the Assets in accordance with these Bid Procedures. If the Debtors determine not to hold an Auction, the Debtors will file with the Court and cause to be published on the Debtors' chapter 11 case website, a notice containing: (a) a statement that the Auction for the Assets has been canceled; (b) the identity of the proposed Successful Bidder; and (c) the date, time, and location of the Sale Hearing.

The Auction, if required, will be conducted **May 12, 2026, at 10:00 a.m.** (prevailing Central Time), either (a) 2200 Ross Ave, Suite 2000, Dallas, Texas, 75201 (b) some other physical location to be determined by the Debtors, or (c) virtually or at such other date, time or location as designated by the Debtors in consultation with the Senior Secured Holders. If the Debtors conduct the Auction virtually, the Debtors will provide instructions to participants and other attendees on how to attend the Auction via electronic mail. The Debtors will provide notice (via electronic mail or otherwise) of any change in the date, time or location of the Auction to Qualified Bidders and will cause publication of such change to occur on the Debtors' chapter 11 case website as soon as reasonably practicable and no later than 24 hours before the Auction. If held, the Auction will be transcribed and/or video recorded.

B. Attendees and Participants

Only Qualified Bidders are eligible to participate in the Auction, subject to other limitations as may be reasonably imposed by the Debtors, in consultation with the Senior Secured Holders in accordance with these Bid Procedures; *provided, however*, that Turner Construction Company and Kokosing Industrial Inc. ("TKJV"), RMF Nooter, Inc. ("Nooter"), Amcon Industrial ("Amcon"), United Electric Company, Inc. ("United"), FE Moran Inc., Fire Protection ("FE Moran" and together with TKJV, Nooter, Amcon, and United, the "M&M Lienholders"), the City of Hopkinsville, Planters Bank, Inc. ("Planters"), the Hopkinsville Industrial Foundation, Inc. ("HIF" and together with the City of Hopkinsville, Planters, and HIF, the "Mortgagees") may in person, or virtually, observe (but not participate in unless as a Qualified Bidder) the Auction with prior notice to the Debtor and the Consultation Parties. Qualified Bidders participating in the Auction must attend the Auction personally or through a duly authorized representative. Subject to the Auction procedures all Qualified Bidders are permitted to attend the Auction; provided that the Debtors may, in their sole discretion, in consultation with the Senior Secured Holders establish a reasonable limit on the number of representatives or professional advisors that may appear on behalf of a Qualified Bidder or otherwise attend the Auction. In addition, the professionals and/or representatives of the Senior Secured Holders shall be permitted to attend and observe the Auction.

Each Qualified Bidder participating in the Auction will be required to confirm in writing and/or on the record at the Auction that (i) it has not engaged in any collusion with respect to the Auction or the submission of any bid for any of the Assets; (ii) its Qualified Bid that gained the Qualified Bidder admission to participate in the Auction and each Qualified

Bid submitted by the Qualified Bidder at the Auction is a binding, good-faith, and bona fide offer to purchase the Assets identified in such bids; and (iii) it agrees to serve as a Backup Bidder if its Qualified Bid is selected at the Auction as the next highest or next best bid after the Successful Bid.

All Qualified Bidders shall (i) be deemed to have consented to the core jurisdiction of the Bankruptcy Court to enter any final order or orders, which shall be binding in all respects, to adjudicate any disputes relating to the Auction or sale process and (ii) waive any right to a jury trial in connection with any such disputes.

C. Auction Procedures

The Auction will be conducted in accordance with the following procedures (the "Auction Procedures"):

i. **The Debtors Shall Conduct the Auction**: The Debtors, with the assistance of their advisors, shall direct and preside over the Auction. If the Debtors receive bids for one or more Asset in lieu of all of the Debtors' Assets, the Debtors may run one or more separate Auctions for one or more of the Assets. For the avoidance of doubt, if the Debtors only receive bids for all or substantially all of the Debtors' Assets, only one Auction will be conducted. Other than as expressly set forth herein, the Debtors may conduct the Auction in the manner they determine, in consultation with the Senior Secured Holders, will result in the highest or otherwise best offer for the Assets so long as such conduct is not inconsistent in any material respect with the other terms and provisions of these Bid Procedures.

ii. **Additional Procedures**: At the commencement of or during the Auction, the Debtors may announce additional or modified procedures for conducting the Auction and related rules governing the Auction, including time periods available to all Qualified Bidders to submit successive bid(s).

iii. **Baseline Bids**. Before the commencement of the Auction, the Debtors will determine, in their reasonable business judgment and in consultation with the Senior Secured Holders, the highest or otherwise best Qualified Bid submitted for the Assets (such Qualified Bid, a "Baseline Bid"). **No later than May 11, 2026 at noon (prevailing Central Time)** (the "Baseline Bid Deadline"), the Debtors will provide all Qualified Bidders with (a) a notice identifying which Qualified Bid is the Baseline Bid; and (b) a copy of each Qualified Bid, including any Credit Bid submitted in accordance with these procedures.

iv. **Minimum Overbid**: Bidding at the Auction shall commence at the amount of the Baseline Bid. Subsequent bids at the Auction (each, an "Overbid"), including any bids by a Stalking Horse Bidder, if any, must be made in minimum increments of $500,000 (the "Minimum Overbid") of additional value over the prevailing highest or otherwise best bid (the "Prevailing Highest Bid"), and each successive Overbid

shall exceed the then-Prevailing Highest Bid by an amount not less than the Minimum Overbid; *provided, however*, that during the Auction, the Debtors may, in their reasonable discretion, announce increases or reductions to the Minimum Overbid at any time, provided the changes are not materially inconsistent with the Bid Procedures, the Bid Procedures Order, any court order, or the Bankruptcy Code in consultation with the Senior Secured Holders and without further order from the Court. After the first round of bidding and between each subsequent round of bidding, the Debtors will announce, the Prevailing Highest Bid (*i.e.*, the bid that they believe to be the highest or otherwise best offer for the Assets) and describe the material terms thereof. Each round of bidding will conclude after each participating Qualified Bidder has had the opportunity to submit a subsequent bid with full knowledge of the material terms of the Prevailing Highest Bid. For the purpose of evaluating the value of the consideration provided by additional Bids, the Debtors will consider any Bid Protections that may be payable to a Stalking Horse Bidder under the applicable stalking horse asset purchase agreement, if any. The Debtors reserve the right to announce reductions or increases in the Minimum Overbid at any time during the Auction.

v. **Announcement and Consideration of Overbids**: The Auction will include open bidding in the presence of all other Qualified Bidders. Each Qualified Bidder shall have the right to be present for all rounds of bidding and to submit additional bids and make modifications to its Proposed Asset Purchase Agreement at the Auction to improve its bid. Each Qualified Bidder will be permitted a reasonable time to respond to the Overbids at the Auction, as determined by the Debtors. The Debtors may, in their reasonable business judgment and in consultation with the Senior Secured Holders, negotiate with any and all Qualified Bidders participating in the Auction.

vi. **No Overbid-Skipping**. A Qualified Bidder that elects not to submit an Overbid in a given round shall remain eligible to participate in later rounds of the Auction unless the Debtors determine otherwise, to preserve the efficiency and integrity of the Auction.

vii. **Reservation of Rights**: The Debtors reserve the right, in their reasonable business judgment, to adjourn the Auction one or more times in consultation with the Senior Secured Holders to, among other things: (a) facilitate discussions between the Debtors and individual Qualified Bidders; (b) allow Qualified Bidders to consider how they wish to proceed; and (c) give Qualified Bidders the opportunity to provide the Debtors with additional evidence that the Qualified Bidder has sufficient internal resources, or has received sufficient non-contingent debt and/or equity funding commitments, to consummate the proposed sale transaction at the Prevailing Highest Bid amount.

For the avoidance of doubt, nothing in the Auction Procedures (if an Auction is held) will prevent the Debtors from exercising their respective fiduciary duties under applicable law.

D. Auction Results

i. **Successful Bids**. The Auction shall continue until (a) there is only one Qualified Bid for the Assets (or one or more Qualified Bids for any particular Asset or Assets) that the Debtors determine, in their reasonable business judgment, and with the consent of the Senior Secured Holders, is (or are) the highest or otherwise best Qualified Bid (or Qualified Bids) (each such Qualified Bid, a "Successful Bid" and the Qualified Bidder submitting any such Successful Bid, the "Successful Bidder"), taking into account any factors the Debtors reasonably deem relevant to the value and certainty of the Qualified Bid(s) to the Debtors' estates, including the Bid Assessment Criteria, and (b) the Debtors determine, in their reasonable business judgment, that further bidding is unlikely to result in a different Successful Bid or Successful Bids that would be reasonably acceptable to the Debtors, at which point, the Auction will be closed.

Following conclusion of the Auction and selection of a Successful Bidder, the Debtors shall present the results of the Auction at the Sale Hearing and shall seek the Court's approval to enter into a binding purchase agreement with the Successful Bidder on the terms of the Successful Bid (the order approving such entry, the "Sale Order"). Each Successful Bidder and the Debtors shall, as soon as commercially reasonable and practicable, complete and sign all agreements, contracts, instruments, or other documents **evidencing and containing the terms upon which each such Successful Bid was made.**

ii. **Backup Bids**. If an Auction is conducted, then the Qualified Bidder(s) with the next highest or otherwise best bid to the Successful Bid(s) at the Auction for the applicable Assets, as determined by the Debtors, in the exercise of their reasonable business judgment, with the consent of the Senior Secured Holders will be designated as a Backup Bidder and their bid as the Backup Bid. The identity of the Backup Bidder(s) and the amount and material terms of the Backup Bid(s) shall be announced by the Debtors at the same time the Debtors announce the identity of the Successful Bidder(s).

A Backup Bid will remain binding on the applicable Backup Bidder until the earlier of (a) the first business day after the closing of the sale transaction with the Successful Bidder for the Assets and (b) 30 days after the Sale Hearing (such date, the "Backup Bid Expiration Date"). If the sale transaction with the Successful Bidder is terminated before the Backup Bid Expiration Date, then the Backup Bidder shall be deemed the new Successful Bidder for the Assets and **shall be obligated to** consummate the Backup Bid as if it were the Successful Bid at the Auction; *provided* that the Debtors may, in their reasonable

business judgment, elect not to pursue the sale transaction contemplated by the Backup Bid.

iii. **Notice of Successful Bidder.** Promptly after the conclusion of the Auction (if any), and in any event by the deadline set forth in the Bid Procedures Order, the Debtors will file with the Court, serve on the parties that received notice of the Motion and each Contract/Lease Counterparty that received the Assumption and Assignment Notice or any Supplemental Assumption and Assignment Notice, and cause to be published on the Debtors' Case Website, the Notice of Successful Bidder, which will (a) identify each Successful Bidder and Backup Bidder; (b) include a copy of each Successful Bid and Backup Bid or a summary of the material terms of such bids, or provide instructions for accessing each Successful Bid and Backup Bid free of charge from the Debtors' Case Website; and (c) set forth the Adequate Assurance Objection Deadline, the date, time, and location of the Sale Hearing, and any other relevant dates or other information necessary to reasonably apprise parties in interest of the outcome of the Auction.

SALE HEARING AND OBJECTION DEADLINES

A. Sale Hearing

A hearing to consider the approval of the Successful Bid and the Backup Bid is currently scheduled to take place on or before **May 21, 2026** (the "Sale Hearing"), or as soon as reasonably practicable thereafter, before the Honorable Christopher M. Lopez, at the United States Bankruptcy Court for the Southern District of Texas, 515 Rusk Street, Courtroom 402, Houston, Texas 77002.

At the Sale Hearing, the Debtors will request certain findings from the Court, including that: (a) the Auction was conducted (if held) and each Successful Bidder was selected, in each case in accordance with the Bid Procedures; (b) the Auction (if held) was fair in substance and procedure; (c) the Successful Bid(s) and Backup Bid(s) were Qualified Bids as defined in the Bid Procedures; and (d) consummation of any sale transaction as contemplated by the Successful Bid(s) will provide the highest or otherwise best offer for the Assets and is in the best interests of the Debtors and their estates. **The Sale Hearing may be continued to a later date by the Debtors, in consultation with the Senior Secured Holders, by sending notice to creditors or other parties in interest prior to, or making an announcement at, the Sale Hearing. No further notice of any such continuance will be required to be provided to any party (including the Stalking Horse Bidder)**. The Debtors' presentation of the Successful Bid(s) to the Court will not constitute the Debtors' acceptance of such Bid(s), which acceptance will only occur upon approval of such Bid(s) by the Court.

B. Sale Objection Deadlines

All objections to a sale of the Assets, including (i) any objection to a sale of the Assets free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options and other interests pursuant to section 363(f) of the Bankruptcy Code and (ii) entry of the Sale Order (each such objection, a "Sale Objection") shall, by no later than the date and time set forth for the Sale Objection Deadline in the Key Dates and Deadlines table above

(the "Sale Objection Deadline"), be filed with the Court and served on: (i) counsel for the Debtors, Norton Rose Fulbright US LLP, 1550 Lamar Street, Suite 2000, Houston, Texas 77010, Attn: Ryan Manns, Jason Blanchard, and Maria Mokrzycka; (ii) the United States Trustee for the Southern District of Texas, 515 Rusk Street, Suite 3516, Houston, Texas 77002, Attn: Ha Nguyen (Ha.Nguyen@usdoj.gov) and Vianey Garza (Vianey.Garza@usdoj.gov); (iii) counsel to the Certain CLN Holders: Attn: Sunny Singh, 767 Fifth Ave., New York, NY 10153 and Stephanie N. Morrison, 700 Louisiana Street, Suite 3700, Houston, TX 77002; and (iv) proposed counsel for the Committee, if appointed (collectively, the "Objection Notice Parties").

Any Sale Objection must: (a) be in writing; (b) state with particularity the legal and factual basis for the objection; and (c) comply with the Bankruptcy Code, Bankruptcy Rules, Bankruptcy Local Rules, and all orders of the Court.

RETURN OF GOOD FAITH DEPOSITS

A. Prospective Bidders

Within five business days after the Debtors make final determinations as to which Prospective Bidders qualify as Qualified Bidders, the Escrow Agent shall return to each Prospective Bidder that did not qualify as a Qualified Bidder, as confirmed by the Debtors, such Prospective Bidder's Good Faith Deposit. Upon the authorized return of a Prospective Bidder's Good Faith Deposit in accordance with these Bid Procedures the bid of such Prospective Bidder shall be deemed terminated and no longer binding against the Prospective Bidder.

B. Qualified Bidders

i. **Forfeiture of Good Faith Deposit.** The Good Faith Deposit of a Qualified Bidder shall be forfeited if the Qualified Bidder attempts to withdraw its Qualified Bid, except as may be permitted by these Bid Procedures, during the time the Qualified Bid remains binding and irrevocable under these Bid Procedures. The Debtors and their estates shall be entitled to retain the Qualified Bidder's Good Faith Deposit as partial compensation for the damages caused to the Debtors and their estates as a result of the Qualified Bidder's failure to adhere to the terms of these Bid Procedures and/or the relevant Qualified Bid. If a Qualified Bidder's Good Faith Deposit is deemed forfeited, the Escrow Agent shall release such Good Faith Deposit by wire transfer of immediately available funds to an account designated by the Debtors within two business days after the Escrow Agent receives written notice by an authorized officer of the Debtors stating that the applicable Qualified Bidder has breached or otherwise failed to satisfy its obligations in accordance with these Bid Procedures and the applicable Qualified Bid.

ii. **Return of Good Faith Deposit.** With the exception of the Good Faith Deposits of the Successful Bidder and the Backup Bidder, the Escrow Agent shall return to any other Qualified Bidder the Qualified Bidder's Good Faith Deposit, within 10 business days after the conclusion of the Auction.

iii. **Backup Bidder.** Unless the Backup Bidder becomes the Successful Bidder, the Escrow Agent shall return the Backup Bidder's Good Faith Deposit, within 10 business days after the occurrence of the applicable Backup Bid Expiration Date; *provided*, *however*, that if the Backup Bidder becomes the Successful Bidder, its Good Faith Deposit shall be forfeited if it fails to consummate the sale transaction because of a breach that entitles the Debtors to terminate the applicable asset purchase agreement with such Backup Bidder, and the Debtors and their estates shall be entitled to retain the Backup Bidder's Good Faith Deposit as partial compensation for the damages caused to the Debtors and their estates as a result of such breach. If a Backup Bidder's Good Faith Deposit is deemed forfeited, the Escrow Agent shall release such Good Faith Deposit by wire transfer of immediately available funds to an account designated by the Debtors within two business days after the Escrow Agent receives written notice by an authorized officer of the Debtors stating that the applicable Backup Bidder has breached or otherwise failed to satisfy its obligations in accordance with these Bid Procedures and the applicable Backup Bid.

iv. **Successful Bidder**. At the closing of the sale transaction, the Successful Bidder shall be entitled to a credit against the purchase price in the amount of the Successful Bidder's Good Faith Deposit. The Good Faith Deposit of a Successful Bidder shall be forfeited if a Successful Bidder (including any Backup Bidder) either: (i) fails to consummate the relevant Transaction on or before the closing date specified in the relevant Final Purchase Agreement, (ii) breaches the Final Purchase Agreement, or (iii) otherwise fails to perform, the Debtors shall, without further order of the Court, deem such Successful Bidder to be a "*Defaulting Buyer*." The Debtors shall be entitled to (i) retain the Good Faith Deposit as part of their damages resulting from the breach or failure to perform by any Defaulting Buyer and (ii) seek all available damages from such Defaulting Buyer occurring as a result of such Defaulting Buyer's failure to perform as may be provided for pursuant to the Final Purchase Agreement and the relevant Sale Order. If a Successful Bidder's Good Faith Deposit is deemed forfeited, the Escrow Agent shall release such Good Faith Deposit by wire transfer of immediately available funds to an account designated by the Debtors within two business days after the Escrow Agent receives written notice by an authorized officer of the Debtors stating that the Successful Bidder has breached or otherwise failed to satisfy its obligations in accordance with these Bid Procedures and the Successful Bid.

RESERVATION OF RIGHTS OF THE DEBTORS AND MODIFICATIONS

Except as otherwise provided in any final purchase agreement, the Bid Procedures, the Bid Procedures Order, any other order of the Court, or the Bankruptcy Code, the Debtors reserve the right to modify these Bid Procedures in their reasonable business judgment with the consent of the Senior Secured Holders and consistent with their fiduciary duties, in any manner that will best promote the goals of the bidding process, or impose, at or before the

Auction, additional terms and conditions on the sale of the Assets, including: (a) extending the deadlines in the Bid Procedures; (b) adjourning the Auction; (c) adding procedural rules that are reasonably necessary or advisable under the circumstances for conducting the Auction; (d) canceling the Auction; (e) rejecting any or all bids or Qualified Bids; and (f) adjusting the applicable Minimum Overbid.

CONSENT AND CONSULTATION PARTIES

Throughout the bidding process, the Debtors and their advisors will regularly and timely consult with (i) Weil, Gotshal & Manges LLP ("Weil") and Uzzi & Lall ("Uzzi & Lall"), as advisors to the Certain CLN Holders, (ii) Goodwin Proctor LLP ("Goodwin"), as counsel to Fifth Wall (together with the Certain CLN Holders, the "Senior Secured Holders"), and (iii) the Committee and its advisors. The Committee shall have the same consultation rights afforded to the Senior Secured Holders under these Bid Procedures and the Bid Procedures Order, but shall not have any consent rights.

The Debtors shall promptly provide copies of all Bids (as defined below) and Non-Binding Indications of Interest received by the Debtors to the Senior Secured Holders and, if appointed, the Committee, but in no event later than 24-hours after such Bid or Non-Binding Indications of Interest is received; provided, that, the Senior Secured Holders and the Committee must treat such Bids or Non-Binding Indications of Interest and any related information as confidential and shall not publicly disclose such information without the written consent of the Debtors and the applicable Bidder; *provided further* that prior to distribution of such information, the Debtors may confirm (including through email from counsel) whether the Senior Secured Holders currently intend to submit or participate in a Bid, including any Credit Bid, for the Debtors' assets. In addition, the Debtors and their advisors shall have regular calls with the Senior Secured Holders to provide an update on the status of the marketing process, including with respect to discussions with Prospective Bidders and the status of any potential Bids. For the avoidance of doubt, any rights that the Senior Secured Holders may have pursuant to the terms of other agreements, any orders of the Court, or the Bankruptcy Code are hereby reserved and shall not be affected by these Bidding Procedures or the Bidding Procedures Order. All rights of the Senior Secured Holders with respect to the proposed Sale Transactions are fully reserved. The Committee's rights under these Bid Procedures and the Bid Procedures Order are likewise reserved. Subject to prior notice to the Debtors, the Senior Secured Holders and, if appointed, the Committee shall have the right to communicate with any third party that may submit, or has submitted, a Bid or a Non-Binding Indication of Interest.

Notwithstanding anything to the contrary herein, in the event that a Senior Secured Holder or an affiliate of the foregoing submits a Credit Bid by the Baseline Bid Deadline or a Bid that is a Qualified Bid by the Bid Deadline, or sponsors, or joins in a Non-Binding Indication of Interest for any of the Assets, such party shall no longer be a "consenting" or "consultation party" with respect to the bidding and auction process relating to the assets subject to such Bid unless and until such party has withdrawn any such indication or bid and ceased pursuing a transaction. From and after the submission of any such Non-Binding Indication of Interest or Bid, the Debtors shall have no obligation to provide such party or its affiliates with copies of other Bids or Non-Binding Indications of Interest or to consult with such party or its affiliates regarding the bidding and auction process with respect to the assets subject to such Bid until such time as such party withdraws such Bid; provided, that, the bidding party will have the same rights as any other Prospective Bidder or Qualified Bidder, as applicable, set forth in these Bid Procedures.

FIDUCIARY OUT AND CONSULTATION BY THE DEBTORS

Nothing in these Bid Procedures or the Bid Procedures Order shall require the Debtors or the board of directors, board of managers, or similar governing bodies, or the special committee of any board of any Debtor, to take any action or to refrain from taking any action related to any sale transaction or with respect to these Bid Procedures, to the extent such Debtor, board of director, board of managers, or such similar governing body reasonably determines in good faith, in consultation with counsel, that taking or failing to take such action would be inconsistent with applicable law or its fiduciary obligations under applicable law.

EXHIBIT 2

Form of Sale and Auction Notice

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)

NOTICE OF AUCTION FOR THE SALE OF THE DEBTORS' ASSETS FREE AND CLEAR OF ANY AND ALL CLAIMS, INTERESTS AND ENCUMBRANCES

PLEASE TAKE NOTICE that on [__] [●], 2026, the United States Bankruptcy Court for the Southern District of Texas (the "Court") entered the *Order (A) Approving Bid Procedures, (B) Authorizing Designation of a Stalking Horse Bidder, (C) Scheduling an Auction, Related Deadlines, and a Sale Hearing, and (D) Granting Related Relief* [Docket No. [●]] (the "Bid Procedures Order"),[2] authorizing the above-captioned debtors and debtors in possession (collectively, the "Debtors") to conduct a marketing and sale process, potentially including an auction (the "Auction"), to sell the Assets. The sale process and Auction, if any, will be governed by the Bid Procedures approved pursuant to the Bid Procedures Order and attached to the Bid Procedures Order as **Exhibit 1** (the "Bid Procedures"). ***All interested bidders should carefully read the Bid Procedures and the Bid Procedures Order***. To the extent that there are any inconsistencies between this notice and the Bid Procedures or the Bid Procedures Order, the Bid Procedures or the Bid Procedures Order, as applicable, shall govern in all respects.

Copies of the Bid Procedures Order and other related documents are available by visiting the Debtors' restructuring website at www.veritaglobal.net/ascend.

PLEASE TAKE FURTHER NOTICE that any person or entity who wishes to participate in the Auction must comply with the participation requirements, bid requirements, and other requirements set forth in the Bid Procedures. The Bid Deadline is **May 9, 2026 at 11:59 p.m. (prevailing Central Time)**. The Auction will be held on **May [__], 2026 at [●] a.m./p.m. (prevailing Central Time)**, or such other time and place as the Debtors determine. If the Auction is cancelled pursuant to the Bid Procedures, the Debtors will file a notice of cancellation of the Auction with the Court.

PLEASE TAKE FURTHER NOTICE that the Debtors expect to seek approval of the sale of the Assets at the Sale Hearing, which is presently scheduled to commence on **May [__], 2026 at [●] a.m./p.m. (prevailing Central Time)**, before United States Bankruptcy

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

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Bid Procedures Order or the Bid Procedures as applicable.

Judge, Christopher M. Lopez in Courtroom 402 of the United States Bankruptcy Court, 515 Rusk Street, Houston, Texas 77002.

PLEASE TAKE FURTHER NOTICE that the Debtors reserve the right in their reasonable business judgment to modify the Bid Procedures in accordance with the Bid Procedures and/or terminate discussions with any potential bidders.

PLEASE TAKE FURTHER NOTICE any objections to the proposed sale of the Debtors' assets, including (a) any objection to a sale of the Assets free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options and other interests pursuant to section 363(f) of the Bankruptcy Code and (b) entry of any Sale Order, *must*: (i) be in writing; (ii) conform to the applicable provisions of the Bankruptcy Rules and the Local Rules; (iii) state with particularity the legal and factual basis for the objection and the specific grounds therefor; and (d) be filed with the Court and served on the Objection Notice Parties so as to be *actually received* no later than the date and time identified as the Sale Objection Deadline in the Bid Procedures Order and the Bid Procedures (the "Sale Objection Deadline"). The "Objection Notice Parties" are: (a) counsel for the Debtors, Norton Rose Fulbright US LLP, 1550 Lamar Street, Suite 2000, Houston, Texas 77010, Attn: Ryan Manns, Jason Blanchard, and Maria Mokrzycka; (b) the United States Trustee for the Southern District of Texas, 515 Rusk Street, Suite 3516, Houston, Texas 77002, Attn: Ha Nguyen (Ha.Nguyen@usdoj.gov) and Vianey Garza (Vianey.Garza@usdoj.gov); (c) counsel to the collateral agent for the CLN Noteholders; (d) counsel to the Senior Secured Holders; and (e) counsel for the official committee of unsecured creditors.

Consequences of Failing to Timely Make an Objection Any party or entity who fails to timely object by the Sale Objection Deadline *shall be forever barred* **from asserting any objection to the sale of the Debtors' assets free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and other** interests.

No Successor Liability The Sale Order is expected to provide, among other things, that the Successful Bidder will not be deemed a successor **to the Debtors or their estates** and will not have responsibility for any successor or transferee liability under applicable federal, state, or local law, **except for** liabilities expressly assumed under the applicable purchase agreement and Sale Order**.**

Dated: April [●], 2026

Respectfully submitted,

NORTON ROSE FULBRIGHT US LLP

By: */s/ Draft*
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Proposed Counsel to the Debtors and Debtors in Possession

EXHIBIT 3

Form of Assumption and Assignment Notice

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)

NOTICE TO CONTRACT PARTIES TO POTENTIALLY ASSUMED EXECUTORY CONTRACTS AND UNEXPIRED LEASES

You are receiving this notice because you or one of your affiliates is a counterparty to an executory contract or unexpired lease with one or more of the Debtors as set forth on Schedule 1 attached hereto.

PLEASE TAKE NOTICE OF THE FOLLOWING:

On [__] [●], 2026, the United States Bankruptcy Court for the Southern District of Texas (the "Court") entered the *Order (A) Approving Bid Procedures, (B) Authorizing Designation of a Stalking Horse Bidder, (C) Scheduling an Auction, Related Deadlines, and a Sale Hearing, and (D) Granting Related Relief* [Docket No. [●]] (the "Bid Procedures Order"),[2] by which the Court approved procedures for the assumption and assignment of executory contracts and unexpired leases in connection with the sale of substantially all of the Debtors' assets (the "Sale").

POTENTIAL ASSUMPTION AND ASSIGNMENT AND CURE COSTS

In accordance with the Bid Procedures Order and the Assumption and Assignment Procedures approved therein, the Debtors may, in connection with the sale of their assets, seek to assume and assign to the Successful Bidder certain executory contracts and unexpired leases. Each executory contract and unexpired lease that potentially could be assumed and assigned in connection with the Sale, together with the Debtors' calculation of Cure Costs with respect thereto, is set forth on Schedule 1 hereto. The inclusion of any contract or lease on Schedule 1 does not constitute an admission by the Debtors, any Stalking Horse Bidder, any Successful Bidder, or any other party that such contract or lease is an executory contract or an unexpired lease within the meaning of the Bankruptcy Code or require or guarantee that such contract or lease ultimately will be assumed or assigned. All rights of the Debtors with respect thereto are reserved.

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

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Bid Procedures Order or the Bidding Procedures as applicable.

In addition, to the extent that any of the Cure Costs set forth on **Schedule 1** do not reflect (i) postpetition payments that have been made by the Debtors in respect of applicable Cure Costs or (ii) any payments that are made by the Debtors in respect of such Cure Costs after the filing of this Notice, the respective amounts required to be paid to cure any existing defaults under the applicable contracts or leases shall be reduced by any such corresponding postpetition payments, and the Debtors reserve their rights to update the Cure Costs set forth on Schedule 1 accordingly, either by filing a supplemental notice with the Court or by written notice to the applicable Contract/Lease Counterparty.

ASSUMPTION AND ASSIGNMENT OBJECTIONS

Any Contract/Lease Counterparty that wishes to object to the Debtors' proposed Cure Costs or the proposed assumption and assignment on any basis (each such objection, an "Assumption and Assignment Objection") must file with the Court and serve on the Objection Notice Parties (set forth below) its Assumption and Assignment Objection by no later than the date and time identified as the Assumption and Assignment Objection Deadline in the Bid Procedures Order and the Bid Procedures, which objection must be in writing and state, with specificity, the legal and factual bases thereof and include any appropriate documentation in support thereof.

IF A CONTRACT/LEASE COUNTERPARTY FAILS TO FILE WITH THE COURT AND SERVE ON THE OBJECTION NOTICE PARTIES A TIMELY ASSUMPTION AND ASSIGNMENT OBJECTION, THE CONTRACT/LEASE COUNTERPARTY SHALL BE (i) DEEMED TO HAVE CONSENTED TO THE ASSUMPTION BY THE DEBTORS AND ASSIGNMENT TO THE SUCCESSFUL BIDDER OF THE APPLICABLE CONTRACT OR LEASE AND (ii) FOREVER BARRED FROM ASSERTING ANY OBJECTION WITH REGARD TO THE ASSUMPTION AND ASSIGNMENT OF THE APPLICABLE CONTRACT OR LEASE OR THE COST TO CURE ANY DEFAULTS UNDER THE APPLICABLE CONTRACT OR LEASE, AND THE CURE COSTS SET FORTH ON SCHEDULE 1 HERETO SHALL BE CONTROLLING AND WILL BE THE ONLY AMOUNT NECESSARY TO CURE OUTSTANDING DEFAULTS UNDER THE APPLICABLE CONTRACT OR LEASE AND SATISFY THE REQUIREMENTS OF SECTION 365(b) OF THE BANKRUPTCY CODE, AND THE CONTRACT/LEASE COUNTERPARTY TO THE APPLICABLE CONTRACT OR LEASE SHALL BE DEEMED BOUND BY AND TO HAVE CONSENTED TO THE CURE COSTS.

NOTICE OF SUCCESSFUL BIDDER

The Auction, if required, will be conducted on **May [__], 2026 at [●] a.m./p.m. (prevailing Central Time)**. Promptly after the conclusion of the Auction (if any), and in any event by the deadline set forth in the Bid Procedures Order, the Debtors will file with the Court, serve on the parties that received notice of the Motion and each Contract/Lease Counterparty that received this Notice or any Supplemental Assumption and Assignment Notice, and cause to be published on their chapter 11 case website, located at www.veritaglobal.net/ascend (the "Case Website"), the Notice of Successful Bidder, which will, among other things, (i) identify the Successful Bidder(s) and Backup Bidder(s); (ii) either include a copy of each Successful Bid and each Backup Bid or a summary of the material terms of such bids, or provide instructions for accessing each Successful Bid and each Backup Bid free of charge from the Case Website; and (iii) set forth the date, time, and location of the hearing to approve the sale (the "Sale Hearing"), the Adequate Assurance

Objection Deadline, and any other relevant dates or other information necessary to reasonably apprise all parties in interest of the outcome of the Auction.

ADEQUATE ASSURANCE OBJECTIONS

Any Contract/Lease Counterparty that wishes to object to the proposed assumption and assignment of an executory contract or unexpired lease, the subject of which objection is the Successful Bidder's (or any other relevant assignee's, but not the Stalking Horse Bidder's) proposed form of adequate assurance of future performance with respect to such contract or lease (each such objection, an "Adequate Assurance Objection"), must file with the Court and serve on the Objection Notice Parties and the Successful Bidder or its counsel, if known, an Adequate Assurance Objection, which must state, with specificity, the legal and factual bases thereof and include any appropriate documentation in support thereof, no later than the date and time set forth in the Notice of Successful Bidder (the "Adequate Assurance Objection Deadline").

IF A COUNTERPARTY FAILS TO FILE WITH THE COURT AND SERVE ON THE OBJECTION NOTICE PARTIES A TIMELY ADEQUATE ASSURANCE OBJECTION, THE COUNTERPARTY SHALL FOREVER BE BARRED FROM ASSERTING ANY OBJECTION TO THE ASSUMPTION AND/OR ASSIGNMENT OF THE APPLICABLE CONTRACT OR LEASE WITH REGARD TO ADEQUATE ASSURANCE OF FUTURE PERFORMANCE. THE APPLICABLE SUCCESSFUL BIDDER SHALL BE DEEMED TO HAVE PROVIDED ADEQUATE ASSURANCE OF FUTURE PERFORMANCE WITH RESPECT TO THE APPLICABLE CONTRACT OR LEASE IN ACCORDANCE WITH BANKRUPTCY CODE SECTIONS 365(b)(1)(C), 365(f)(2)(B), AND, IF APPLICABLE, 365(b)(3), NOTWITHSTANDING ANYTHING TO THE CONTRARY IN SUCH CONTRACT OR LEASE OR ANY OTHER DOCUMENT.

OBJECTION NOTICE PARTIES

Any Assumption and Assignment Objection, Supplemental Assumption and Assignment Objection, or Adequate Assurance Objection must be served on the following parties (the "Objection Notice Parties"): (a) counsel for the Debtors, Norton Rose Fulbright US LLP, 1550 Lamar Street, Suite 2000, Houston, Texas 77010, Attn: Ryan Manns, Jason Blanchard, and Maria Mokrzycka; (b) the United States Trustee for the Southern District of Texas, 515 Rusk Street, Suite 3516, Houston, Texas 77002, Attn: Ha Nguyen (Ha.Nguyen@usdoj.gov) and Vianey Garza (Vianey.Garza@usdoj.gov); (c) counsel to the collateral agent for the CLN Noteholders; (d) counsel to the Senior Secured Holders; and (e) proposed counsel to the Committee. With respect to any Adequate Assurance Objection after service of the Notice of Successful Bidder, such objection also must be served on the Successful Bidder or its counsel, if known.

SALE HEARING

Sale Hearing The Sale Hearing shall take place on **May [__], 2026 at [●] a.m./p.m. (prevailing Central Time)**, before the Honorable Christopher M. Lopez, United States Bankruptcy Judge, in Courtroom 402 of the United States Bankruptcy Court, 515 Rusk Street, Houston, Texas 77002. Any Assumption and Assignment Objection, Supplemental Assumption and Assignment Objection, or Adequate Assurance Objection in connection with the Successful Bid that otherwise complies with these procedures but remains unresolved as

of the commencement of the Sale Hearing may be heard at a later date to be fixed by the Court.

ADDITIONAL INFORMATION

Copies of the Motion, the Bid Procedures Order and the Bid Procedures may be obtained free of charge by visiting the Case Website, www.veritaglobal.net/ascend .

Dated: April [●], 2026

Respectfully submitted,

NORTON ROSE FULBRIGHT US LLP

By: */s/ Draft*
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Proposed Counsel to the Debtors and Debtors in Possession

EXHIBIT 4

Form of Notice of Successful Bidder

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)

NOTICE OF SUCCESSFUL BIDDER

PLEASE TAKE NOTICE that, on April 9, 2026, each of the above-captioned debtors and debtors in possession (collectively, the "Debtors") commenced filing petitions with this Court under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the "Bankruptcy Code").

PLEASE TAKE FURTHER NOTICE that, on [__] [●], 2026, the United States Bankruptcy Court for the Southern District of Texas (the "Court") entered the *Order (A) Approving Bid Procedures, (B) Authorizing Designation of a Stalking Horse Bidder, (C) Scheduling an Auction, Related Deadlines, and a Sale Hearing, and (D) Granting Related Relief* [Docket No. [●]] (the "Bid Procedures Order"), authorizing the Debtors to solicit and select the highest or otherwise best offer(s) for a Sale Transaction of (a) all or substantially all of the assets or (b) one or more, or any combination of, assets of one or more Debtors (collectively, the "Assets").[2]

PLEASE TAKE FURTHER NOTICE that, on [__], 2026, at [__] a.m. (prevailing Central Time), pursuant to the Bid Procedures Order, the Debtors conducted the Auction with respect to the Assets by videoconference or such other form of remote communication established by the Debtors.

PLEASE TAKE FURTHER NOTICE that, upon the conclusion of the Auction, the Debtors, in the exercise of their reasonable, good-faith business judgment, have selected (a) [●] as the Successful Bidder, and (b) [●] as the Backup Bidder.

PLEASE TAKE FURTHER NOTICE that the Debtors (collectively, the "Sellers") and [●], as the Successful Bidder, entered into that certain purchase and sale agreement (the "Purchase Agreement") to effectuate the Sale Transaction on the terms set forth in the Purchase Agreement, filed contemporaneously herewith.

PLEASE TAKE FURTHER NOTICE that the Debtors have determined to effectuate the Sale Transaction.

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

[2] Capitalized terms used but not otherwise defined herein have the meanings given to them in the Bid Procedures Order.

PLEASE TAKE FURTHER NOTICE that the Debtors will seek approval of the Sale Transaction of these Assets to the Successful Bidder at the Sale Hearing scheduled to commence on **May [__], 2026 at [●] a.m./p.m. (prevailing Central Time)** before the Honorable Christopher M. Lopez, United States Bankruptcy Judge, in Courtroom 402 of the United States Bankruptcy Court, 515 Rusk Street, Houston, Texas 77002. The Sale Hearing may be adjourned by announcement in open Court or on the Court's calendar without any further notice required.

PLEASE TAKE FURTHER NOTICE that any Contract/Lease Counterparty that received an Assumption and Assignment Notice or a Supplemental Assumption and Assignment Notice and wishes to object solely to the Successful Bidder's proposed form of adequate assurance of future performance with respect to an executory contract or unexpired lease must file with the Court and serve on the Objection Notice Parties and the Successful Bidder or its counsel, if known, an Adequate Assurance Objection by **[__], 2026 at [__] p.m. (prevailing Central Time)** (the "Adequate Assurance Objection Deadline"). Any Adequate Assurance Objection must be in writing, state with specificity the legal and factual bases thereof, and include any appropriate documentation in support thereof.

PLEASE TAKE FURTHER NOTICE that at the Sale Hearing, the Debtors will seek the Court's approval of the Successful Bid by the Successful Bidder. Unless the Court orders otherwise, the Sale Hearing shall be an evidentiary hearing on matters relating to the Sale Transaction, and there will be no further bidding at the Sale Hearing.

PLEASE TAKE FURTHER NOTICE that this Notice of Successful Bidder is subject to the terms and conditions of the Motion and the Bid Procedures Order, with such Bid Procedures Order controlling in the event of any conflict, and the Debtors encourage parties in interest to review such documents in their entirety.

PLEASE TAKE FURTHER NOTICE that copies of the Bid Procedures, the Bid Procedures Order, this notice, and any other related documents are available: (a) upon request to Verita Global by telephone at (866) 927-7078 in the U.S. and Canada or 1 (310) 751-2651 internationally; (b) for a fee via PACER by visiting https://ecf.txsb.uscourts.gov; or (c) by visiting the Debtors' restructuring case website at www.veritaglobal.net/ascend.

Dated: April [●], 2026

Respectfully submitted,

NORTON ROSE FULBRIGHT US LLP

By: */s/ Draft*
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Proposed Counsel to the Debtors and Debtors in Possession

United States Bankruptcy Court
Southern District of Texas
ENTERED
May 22, 2026
Nathan Ochsner, Clerk

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

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

ORDER (I) APPROVING THE SALE OF CERTAIN OF THE DEBTORS' ASSETS 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 *Third Amended and Restated Asset Purchase Agreement* attached hereto as **Exhibit A**, dated as of May 22, 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. 378]

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 40 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 40 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 **Exhibit B**; *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 40 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 Seller's location in Hopkinsville, Kentucky (the "**Hopkinsville Facility**").

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

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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).

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.

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 Seller a non-exclusive, royalty-free (subject to the delivery of data required by Section 6.18 of the Poland APA), non-sublicensable and non-transferable 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; *provided* that the license may be transferred on the foregoing terms, in whole (and not in part), to a buyer of the Covington Facility in whole (and not in part). The foregoing license (i) shall expire upon the expiration of the last-to-expire patents included in the Covington IP and (ii) is granted on an as-is, where-is basis. In consideration for the foregoing license, Seller and any subsequent transferee 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 Seller and any subsequent transferee for the term of the Covington IP license at a cadence reasonably requested by the Buyer. Seller and any subsequent transferee hereby grants to the Buyer and its Affiliates a non-exclusive, royalty-free license to use such data in the operation of its and their respective

businesses. For the avoidance of doubt, any assignee of the license to the Covington IP granted under Section 6.18 of the Poland APA shall take such license subject to the foregoing data delivery obligation and data license.

44. The Buyer shall, upon the written request of a buyer of all assets at Seller's existing real property at 6505 John Rivers Road, Hopkinsville, Kentucky 42240 (the "**Hopkinsville Facility**" and such buyer, the "**Hopkinsville Buyer**"), grant to the Hopkinsville Buyer a royalty-free, non-exclusive, non-sublicensable, non-transferable license (subject to the delivery of data required by Section 6.19 of the Poland APA) to use the Acquired Intellectual Property (other than trademarks and other indications of origin), solely at and in the operation of the Hopkinsville Facility; *provided* that the license may be transferred by the Hopkinsville Buyer on the foregoing terms, in whole (and not in part), to a subsequent buyer of the Hopkinsville Facility in whole (and not in part). Such request by the Hopkinsville Buyer must be delivered to the Buyer no later than the closing date of the sale of the Hopkinsville Facility. Such license (i) shall expire upon the expiration of the last-to-expire patents included in the Acquired Intellectual Property; and (ii) will be granted on an as-is, where-is basis. In consideration for the foregoing license, the Hopkinsville Buyer and any subsequent transferee 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 Acquired Intellectual Property at the Hopkinsville Facility, which data shall be delivered by the Hopkinsville Buyer and any subsequent transferee for the term of the foregoing license at a cadence reasonably requested by the Buyer. The Hopkinsville Buyer and any subsequent transferee will grant to the Buyer and its Affiliates a non-exclusive, royalty-free license to use such data in the operation of its and their respective businesses.

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 37,

shall not be released): (i) any and all claims or causes of action arising under or pursuant to chapter 5 of the Bankruptcy Code or any other similar state or federal statutes or common law, including fraudulent transfer or fraudulent conveyance law (whether or not asserted as of the Closing Date), and all proceeds thereof (collectively, the "**Avoidance Actions**"), except for claims and causes of action which relate to an Acquired Asset or constitute Critical Vendor Avoidance Claims related to or arising out of the Assigned Contracts, the Acquired Entities, or other Acquired Assets, (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, which shall include the Critical Vendor Avoidance Claims (as defined in the Poland APA) and shall be transferred to the Buyer at Closing as Acquired Assets; *provided*, *further* that the Buyer may, in its sole discretion, determine whether to pursue or settle any Critical Vendor Avoidance Claim following the Closing.

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 continuing 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 Seller's location in Covington, Georgia, and any other related assets that are not Acquired Assets.

Signed: May 22, 2026

Christopher Lopez
United States Bankruptcy Judge

Exhibit A

Asset Purchase Agreement

THIRD AMENDED AND RESTATED

ASSET PURCHASE AGREEMENT

DATED AS OF MAY 22, 2026

BY AND AMONG

BLUEGRASS INFRASTRUCTURE PARTNERS HOLDINGS, LLC,
AS PURCHASER,

AND

ASCEND ELEMENTS, INC.,
AS SELLER

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Exhibit B FORM OF INTELLECTUAL PROPERTY ASSIGNMENT AGREEMENT

SECOND AMENDED AND RESTATED ASSET PURCHASE AGREEMENT

This Second Amended and Restated Asset Purchase Agreement (this "Agreement"), dated as of May 22, 2026 (the "Effective Date"), is made by and among Bluegrass Infrastructure Partners Holdings, LLC ("Purchaser") and Ascend Elements, Inc. ("Seller"). Purchaser and Seller are referred to herein individually as a "Party" and collectively as the "Parties."

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

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

WHEREAS, Purchaser and Seller entered into that certain Asset Purchase Agreement dated as of May 6, 2026 (the "Original Agreement");

WHEREAS, Purchaser and Seller entered into that certain Amended and Restated Asset Purchase Agreement dated as of May 11, 2026 (the "A&R Agreement"), pursuant to which Purchaser and Seller amended and restated the Original Agreement in its entirety;

WHEREAS, Purchaser and Seller entered into that certain Second Amended and Restated Asset Purchase Agreement dated as of May 21, 2026 (the "Second A&R Agreement"), pursuant to which Purchaser and Seller amended and restated the A&R Agreement in its entirety;

WHEREAS, Section 10.5 of the Second A&R Agreement provides that the Parties may amend the A&R Agreement in a writing signed by the Parties; and

WHEREAS, the Parties now wish to amend and restate the Second A&R Agreement in its entirety as set forth in this Agreement.

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

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

Section 1.1 Purchase and Sale of the Acquired Assets. Pursuant to Sections 105, 363 and 365 of the Bankruptcy Code, on the terms and subject to the conditions set forth herein and

subject to the entry into and terms of the Sale Order, at the Closing, Seller shall, and shall cause its Affiliates (as applicable) to, sell, transfer, assign, convey, and deliver to Purchaser, and Purchaser shall purchase, acquire, and accept from Seller and its Affiliates (as applicable), all of Seller's and its Affiliates' (as applicable) right, title and interest in and to the Acquired Assets, free and clear of all Encumbrances other than (except with respect to the Equity Interests of the Acquired Entities) Permitted Encumbrances, and in the case of the Equity Interests of Ascend Elements UK, Ltd with full title guarantee for the purposes of the Law of Property (Miscellaneous Provisions) Act 1994. "Acquired Assets" means all of Seller's and its Affiliates' (other than the Acquired Entities') right, title, and interest in and to the following specified assets of Seller and its Affiliates (other than the Acquired Entities), but excluding in all cases the Excluded Assets and subject to Section 1.5:

(a) all of the Equity Interests that Seller owns, directly or indirectly, in each of Ascend Elements UK, Ltd., a private limited company incorporated in England and Wales; Ascend Elements France, a joint stock company incorporated under the laws of France; Ascend Elements Poland Holdings sp. z o.o., a limited liability company incorporated under the laws of Poland; and Ascend Elements Poland 2 sp. z o.o., a limited liability company incorporated under the laws of Poland (collectively, the "Acquired Entities");

(b) (i) all Contracts to which any Acquired Entity is a party, (ii) all Contracts to which Seller or any of its Affiliates (other than an Acquired Entity) is a party that relates to the Seller Intellectual Property, that provides for the development of Intellectual Property or pursuant to which any Intellectual Property is licensed to Seller or any of its Affiliates (other than an Acquired Entity), (iii) all confidentiality agreements with prospective purchasers of the Acquired Assets or the Assumed Liabilities or any portion thereof, (iv) all Contracts between Seller or any of its Affiliates (other than the Acquired Entities), on the one hand, and any current or former employee of Seller or any of its Affiliates (other than the Acquired Entities) or its or their predecessors-in-interest, on the other hand, pursuant to which any such employee assigns or agrees to assign, or to maintain the confidentiality of, any Intellectual Property, (v) the option to acquire the real property located at Opole, Poland covered by land and mortgage registers under numbers: OP1O/00164138/8, OP1O/00171892/3 and OP1O/00165182/8, and the Grant Agreement, and (vi) all other Contracts held for the benefit of the operation of the Business in Poland that are set forth on Schedule 1.1(b) (and for the avoidance of doubt, excluding (x) the joint venture agreement dated 8 April 2024 between Ascend Elements, Inc. and Elemental Strategic Metals Sp. z o.o., (y) the asset purchase agreement dated 10 July 2024 between Elemental Strategic Metals Sp. z o.o.and AE Elemental sp. z o.o. and (z) the service agreement dated 10 July 2024 between Elemental Strategic Metals Sp. z o.o. and AE Elemental sp. z o.o., and any ancillary agreements thereto, in each case, unless Purchaser exercises its right to acquire the AEP Equity Interests pursuant to Section 6.13(d)) (clauses (i) through (vi), collectively, the "Assigned Contracts"); provided that in no event shall any of the license agreements or related documents constituting Excluded Intellectual Property Licenses constitute Assigned Contracts;

(c) all Documents (excluding any information to the extent prohibited from being transferred pursuant to this Agreement by applicable Law) related to the Acquired Entities, the Assigned Contracts, the Seller Intellectual Property, the other Acquired Assets or the Assumed Liabilities;

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

(e) all of the rights, interests and benefits (if any) accruing under all Permits and Governmental Authorizations, and all pending applications therefor held by any of the Acquired Entities;

(f) all Intellectual Property owned or purported to be owned by Seller or any of its Affiliates (other than the Acquired Entities), including (A) all rights to collect royalties fees, income, payments and other proceeds now or hereafter due or payable to Seller or any of its Affiliates in connection with any such Intellectual Property, (B) all rights to sue and recover for past, present and future infringements, dilutions, misappropriations of, or other conflicts with, any such Intellectual Property (regardless of whether or not such claims and causes of action have been asserted by Seller or any of its Affiliates), and (C) any and all corresponding rights that, now or hereafter, may be secured throughout the world, including the Intellectual Property set forth on Schedule 1.1(f), other than the Excluded Intellectual Property Licenses (collectively, the "Acquired Intellectual Property") (for avoidance of doubt, with respect to the intent-to-use applications filed with the United States Patent and Trademark Office pursuant to 15 USC Section 1051(b) included in the Acquired Intellectual Property (an "Intent-To-Use Trademark"), the Parties acknowledge and agree that (i) the Purchaser is the successor-in-interest to the business of Seller and its Affiliates or portion thereof to which such Intent-To-Use Trademarks pertain and that such business is ongoing and existing; (ii) a copy of all embodiments of the Acquired Intellectual Property in the possession of Seller and its Affiliates, including all Documents and data related to Acquired Intellectual Property; and (iii) all rights to any Intellectual Property pursuant to any Assigned Contract;

(g) all IT Assets of Seller and its Affiliates, including all Documents related thereto and, for the avoidance of doubt, all related passwords and other means of access, in each case to the extent related to any of the Acquired Assets or the Assumed Liabilities;

(h) all goodwill (including all goodwill associated with the Acquired Intellectual Property), payment intangibles and general intangible assets and rights of Seller and its Affiliates;

(i) the Critical Vendor Avoidance Claims to the extent related to or arising out of the Assigned Contracts, the Acquired Entities, or the other Acquired Assets; and

(j) all assets, rights, interests, contracts, land use rights, permits, and facilities of Seller and its Affiliates relating to AE Elemental sp. z.o.o., including all assets associated with the AE Elemental sp. z.o.o. facility and any related real property and equipment.

Section 1.2 Excluded Assets. Notwithstanding anything to the contrary in this Agreement, in no event shall Seller be deemed to sell, transfer, assign, convey or deliver, and Seller shall retain all right, title and interest to, in and under the following properties, rights, interests and other assets of Seller other than the Acquired Assets (collectively, the "Excluded Assets"), subject to Section 1.5, including the following (provided, notwithstanding the foregoing, any and all assets held by Acquired Entities shall not constitute Excluded Assets):

(a) all Equity Interests of Seller or any of its respective Subsidiaries, in all cases, other than Equity Interests of the Acquired Entities (Seller and its Subsidiaries (other than the Acquired Entities), collectively, the "Excluded Entities"), including the AEP Equity Interests unless Purchaser exercises its right to acquire such Equity Interests pursuant to Section 6.13(d);

(b) (i) all Cash and Cash Equivalents (excluding, for the avoidance of doubt any amounts held by or on behalf of the Acquired Entities, (ii) all bank accounts, and (iii) any retainers or similar amounts paid to Advisors or other professional service providers, in each case of Seller or any of its Affiliates (other than the Acquired Entities);

(c) all accounts receivable, notes receivable, negotiable instruments and chattel paper owing from Persons (other than the Acquired Entities), together with any unpaid interest or fees accrued thereon or other amounts due with respect thereto, in each case of Seller or any of its Affiliates (other than the Acquired Entities);

(d) all deposits, escrows, cash collateral, prepayments and similar amounts (including maintenance deposits, and security deposits for rent, electricity, Internet, telephone, or otherwise), and any and all prepaid or deferred charges and expenses (including all lease and rental payments), in each case of Seller or any of its Affiliates (other than the Acquired Entities);

(e) all Excluded Contracts;

(f) the Intellectual Property licenses listed on Schedule 1.2(f) (the "Excluded Intellectual Property Licenses");

(g) all IT Assets of Seller and its Affiliates, including all Documents related thereto and, for the avoidance of doubt, all related passwords and other means of access, in each case to the extent not related to any of the Acquired Assets or the Assumed Liabilities;

(h) all Documents (including information stored on the computer systems, data networks or servers of Seller or any Acquired Entity) (A) to the extent they relate solely to any of the Excluded Assets or Excluded Liabilities, (B) that are Seller's minute books, Organizational Documents, stock certificates or other Equity Interests instruments, stock registers and such other books and records of any Excluded Entity pertaining to the ownership, organization or existence of such Excluded Entity, Tax Returns (and any related work papers), corporate seal, checkbooks, canceled checks, employee and personnel files and records of the Business Employees who do not become Transferred Employees (other than as described in Section 1.1(b)(ii)), or (C) that contain,

and solely to the extent they contain, Personal Information and are governed under applicable data privacy Laws that prohibit the transfer or sale of Personal Information; provided that, with respect to the foregoing clause (A), (B) and (C), Purchaser shall have the right to make copies of, and have access to, any relevant portions of such Documents to the extent not prohibited by Applicable Law;

(i) (i) all bids and expressions of interest received from third parties with respect to the acquisition of any Excluded Entity's businesses or assets (including any bids and expressions of interest unrelated to the sale process undertaken by the Seller in connection with this Agreement), (ii) all privileged materials, documents and records of any Excluded Entity, including any privileged materials, documents and records that are in the possession of any Acquired Entity, and (iii) any other files or records to the extent relating exclusively to any Excluded Assets or Excluded Liabilities;

(j) all current and prior insurance policies of Seller or any of its Subsidiaries, including all director and officer insurance policies, and, subject to Section 6.8, all rights and benefits of any nature of Seller or any of its Subsidiaries with respect thereto, including all insurance recoveries thereunder and rights to assert claims with respect to any such insurance recoveries, and the sponsorship of, and all rights, interests and assets associated with, any benefit or compensation plan, program, policy, contract, or arrangement of Seller or any of its Subsidiaries and the Employee Benefit Plans;

(k) (i) Seller's claims, Causes of Action or other rights of Seller expressly set forth under this Agreement, including the Purchase Price, or any agreement, certificate, instrument, or other document executed and delivered between Seller or its Affiliates, on the one hand, and Purchaser or any member of the Purchaser Group, on the other hand, in connection with the Transactions, or any other agreement between Seller or its Affiliates, on the one hand, and Purchaser or any member of the Purchaser Group, on the other hand, entered into on or after the date hereof and (ii) except for those claims and Causes of Action which relate to an Acquired Asset acquired by Purchaser under this Agreement, all other claims and Causes of Action of Seller and its Affiliates, including without limitation: (A) Avoidance Actions, other than Critical Vendor Avoidance Claims, (B) commercial tort claims, (C) claims, Causes of Action or other rights of Seller against current or former directors or officers of Seller, other than claims and Causes of Action against any individual identified by Purchaser in writing on or before the Closing Date as an individual who will be retained by Purchaser or its Affiliates (including the Acquired Entities) in a management capacity following the Closing, and (D) any and all claims and Causes of Action of Seller or its Affiliates that do not relate to the ownership, use, function or value of the Business or any of the Acquired Assets;

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

(m) all demands, credits, statements, allowances, refunds, rebates (including any vendor or supplier rebates), rights (including under or with respect to express or implied guarantees, warranties, representations, covenants and indemnities), claims, counterclaims,

defenses, credits, Causes of Action, rights of set off, rights of recovery or rights of recoupment relating to or arising against suppliers, vendors, merchants, manufacturers and counterparties to any Contract that is not an Assigned Contract to the extent arising out of or relating to events occurring on or prior to the Closing Date, and in all cases, solely with regard to other categories of Excluded Assets set forth in the other clauses of this Section 1.2 or Excluded Liabilities;

(n) any property acquired using proceeds from grants to Seller or any of its Subsidiaries (other than an Acquired Entity), by any U.S. or foreign government body or entity, or otherwise included as part of Seller or any of its Subsidiaries' (except the Acquired Entities) cost-share under such a grant, including, without limitation, the DOE, to the extent the consent or a release of all interests in such property in a manner acceptable to Purchaser, of the relevant government body or entity has not been obtained prior to Closing in connection with the transactions contemplated hereby; and

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

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

(a) all Liabilities and obligations of Seller under the Assigned Contracts that become due from and after the Closing and only to the extent arising out of facts, circumstances, conditions or events that are first in existence after the Closing (excluding (i) any Liabilities arising from or relating to any breaches under such Assigned Contract, or any facts, circumstances, conditions or events that are in existence, on or prior to the Closing, and (ii) for the avoidance of doubt, any Seller Cure Costs);

(b) Transfer Taxes payable by Purchaser pursuant to Section 9.1, and all Liabilities for other Taxes with respect to the Acquired Entities for any taxable period (or portion thereof) beginning after the Closing Date and allocated pursuant to Section 9.5;

(c) 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 to which Seller or any of its Affiliates (other than any Acquired Entity) is a party or is bound (collectively, the "Cure Costs"); provided, however, that (i) the first $100,000 of Cure Costs in the aggregate shall be borne by Seller and shall constitute Excluded Liabilities (such portion, the

"Seller Cure Costs"), and (ii) all Cure Costs in excess of $100,000 in the aggregate shall be borne by Purchaser and shall constitute Assumed Liabilities (such excess portion, the "Purchaser Cure Costs"). By way of example, if the aggregate Cure Costs equal $300,000, then (x) $100,000 shall constitute Seller Cure Costs and Excluded Liabilities, and (y) $200,000 shall constitute Purchaser Cure Costs and Assumed Liabilities;

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

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

(a) all Liabilities of Seller and its Affiliates arising under the WARN Act, ERISA or other Laws relating to the engagement or employment, or termination of such employment or engagement, any current or former Business Employees or Business Service Providers (including any Transferred Employees), and including any current, threatened or potential claims for compensation benefits or other relief, in each such case, to the extent related to such engagement or employment, or termination of such employment or engagement, whether arising prior to, on or after the Closing Date;

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

(c) all Liabilities arising under, pursuant to or in connection with Environmental Laws, including such Liabilities (x) that are dischargeable, or capable of being sold free and clear, pursuant to Section 363 of the Bankruptcy Code, (y) that are otherwise dischargeable pursuant to Section 1141 of the Bankruptcy Code, and (z) from which the Acquired Assets are otherwise released as of the Closing pursuant to an Order of the Bankruptcy Court;

(d) any Liability of Seller or its Affiliates (including the Acquired Entities), or otherwise imposed on the Acquired Assets, Acquired Entities or with respect to the Business, in respect of any Tax, including without limitation (i) any Liability of Seller or its Affiliates for the Taxes of any other Person under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign law), as a transferee or successor, by Contract or otherwise, (ii) 50% of Transfer Taxes;

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

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

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

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

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

(j) all Liabilities of Sellers or of any of its Affiliates arising out of any Contract, Permit, or claim that is not transferred to Purchaser hereunder;

(k) all Liabilities arising prior to, on or after the Closing Date, or that relates to facts, matters, circumstances, conditions or events in existence on or prior to the Closing with respect to any former or current Business Employees and any former or current Business Service Providers who do not receive a Transfer Offer or who otherwise fail to become employed or engaged by Purchaser or its Affiliates immediately following the Closing Date (including due to refusing to accept a Transfer Offer);

(l) all Liabilities of Seller or its Affiliates arising out of any alleged infringement, misappropriation or other violation of any third party's Intellectual Property on or prior to the Closing Date, including Liabilities arising under those items set forth on Schedule 3.12(c);

(m) all Liabilities arising from any False Claims Act matters, including any matters disclosed on Schedule 3.19(c)(iv);

(n) any Liabilities related to any Government Contract that is not being assumed by Purchaser;

(o) all other Liabilities owed to the U.S. Government or any other Governmental Body that are not expressly included in the Assumed Liabilities; and

(p) all Seller Cure Costs.

Section 1.5 Assumption/Rejection of Certain Acquired Assets.

(a) Assumption and Assignment of Contracts. Seller shall provide notice of the motion seeking entry of the Sale Order to all parties to any executory Contracts or unexpired

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

(b) Excluding or Adding Acquired Assets Prior to Closing. The Parties acknowledge and agree that at the Closing, Purchaser intends to acquire the Acquired Assets and to assume solely the Assumed Liabilities. The Parties agree to cooperate in good faith to take all actions necessary or advisable to transfer all such assets to Purchaser and for Purchaser to assume only such Liabilities (and exclude all other Liabilities), effective as of the Closing and for no additional consideration, so that the intention of the Parties as set forth in the preceding sentence is effectuated. Without limiting the generality of the foregoing and subject to the last sentence of this Section 1.5(b) and Section 1.5(c), Purchaser shall have the right to notify Seller in one or more writings (any such notice, a "Designation Notice"), which may be delivered at any time or from time to time prior to the Closing, of (A) any Acquired Asset (including any Assigned Contract or Equity Interests of any Acquired Entity) or Equity Interests of Subsidiaries to be acquired directly or indirectly ("Specified Equity Interests") that it does not wish to assume or acquire, (B) any Equity Interests of an Excluded Entity, any Contract to which Seller or any of its Affiliates or any Excluded Entity is a party or otherwise relating to any assets or properties of Seller or any of its Affiliates, or any other Excluded Asset, in each case related to the operation of the Business by the Acquired Entities or the Acquired Intellectual Property, that it wishes to add as an Acquired Asset except for Excluded Assets expressly set forth in clauses (b)(i), (h), (i), (k), (l), and (m) of Section 1.2, (C) any Assumed Liability (subject to the last sentence of this Section 1.5(b)) that it reasonably determines is inconsistent with the first sentence of this Section 1.5(b)) or (D) the corresponding addition of a Person as a Seller, as a party to this Agreement, if applicable, resulting from the changes set forth in clauses (A), (B) or (C), and in any case of clauses (A), (B), (C) or

(D), as applicable, (i) any such previously considered Acquired Asset or Specified Equity Interests that Purchaser no longer wishes to assume or acquire shall be automatically deemed removed as an Acquired Asset or Acquired Entity hereunder (and removed from any applicable Schedules related to such Acquired Asset or Acquired Entity) and, notwithstanding anything to the contrary herein, automatically deemed added as an Excluded Asset hereunder (and added to the applicable Schedules related to the Excluded Assets) and any Liabilities with respect to such Acquired Asset or Acquired Entity shall automatically be deemed to be added as Excluded Liabilities hereunder (and added to the applicable Schedules related to the Excluded Liabilities), in each case, without any adjustment to the Purchase Price as a result of such exclusion or change in designation, (ii) any such previously considered Excluded Asset (including any Contracts) that such Purchaser wishes to assume or acquire as an Acquired Asset shall be automatically deemed added as an Acquired Asset hereunder (and added to the applicable Schedules related to Acquired Assets) and, notwithstanding anything to the contrary herein, automatically deemed removed as an Excluded Asset hereunder (and removed from the applicable Schedules related to Excluded Assets), and sold and assigned by Seller and/or the applicable Excluded Entities to Purchaser and accepted and assumed by Purchaser as an Acquired Asset (and added to the applicable Schedules related to Acquired Assets, including Schedule 1.1(b)), in each case, without any adjustment to the Purchase Price as a result of such assumption, acquisition or change in designation, (iii) any such previously considered Assumed Liability (subject to the last sentence of this Section 1.5(b)) that Purchaser reasonably and in good faith determines is inconsistent with the first sentence of this Section 1.5(b) shall be automatically deemed removed as an Assumed Liability hereunder (and removed from the applicable Schedules related to Assumed Liabilities) and, notwithstanding anything to the contrary herein (subject to the last sentence of this Section 1.5(b)), automatically deemed added as an Excluded Liability hereunder (and added to the applicable Schedules related to Excluded Liabilities), in each case, without any adjustment to the Purchase Price as a result of such exclusion or change in designation; and (iv) any such Person that is selling such previously considered Excluded Asset that Purchaser wishes to assume as an Acquired Asset who is not a party to this Agreement shall be joined as a party to this Agreement pursuant to a joinder agreement in form and substance reasonably acceptable to Purchaser. For the avoidance of doubt, a Designation Notice may provide that all Contracts used in the operation of the Business by the Acquired Entities or related to Acquired Intellectual Property, other than certain specified Contracts (if applicable), are designated as Assigned Contracts without reference to any of the specific Contracts that constitute the Assigned Contracts. Purchaser shall be solely responsible for the payment, performance, and discharge when due of the Liabilities under the Assigned Contracts arising or that are otherwise payable from the time of and after the Closing (or, in the case of an Assigned Contract that is transferred after the Closing, from the time of and after such transfer), except for any Seller Cure Costs. Any action of Purchaser permitted under this Section 1.5(b) shall be made in Purchaser's sole and absolute discretion. Seller shall cooperate (and shall cause its Affiliates to cooperate) with Purchaser and use reasonable best efforts, at Seller's expense, to take all actions necessary or advisable to effectuate any election made by Purchaser under this Section 1.5, including by (i) filing any necessary motions or notices with the Bankruptcy Court, (ii) executing any documents or instruments reasonably requested by Purchaser, and (iii) seeking any required Bankruptcy Court approvals in connection therewith. Notwithstanding anything herein to the contrary, in no event shall Purchaser have the right to notify Seller in writing that any Assumed Liability that is expressly set forth in Section 1.3(a) through Section 1.3(b) (other than those relating to an Assigned Contract that is to be removed in accordance with this Section 1.5 or any

Seller Cure Costs) is inconsistent with the first sentence of this Section 1.5(b), or otherwise seek to remove, limit or otherwise modify the Assumed Liabilities as set forth in Section 1.3, which the Parties agree are to remain Assumed Liabilities in any event notwithstanding any modifications made pursuant to this Section 1.5. Notwithstanding the foregoing, in no event shall Purchaser have a right to add an Acquired Asset if such asset is otherwise restricted pursuant to the Chapter 11 Cases. Notwithstanding anything to the contrary set forth in this Agreement, to the extent (A) the structure of any of the Transactions is changed pursuant to this Section 1.5(b) or Section 1.5(c), including in the event Seller becomes an Acquired Entity, or as otherwise required by applicable Law, and (B) either (I) Purchaser is required to assume any Liabilities as a result of such change in structure other than those specifically enumerated as Assumed Liabilities in Section 1.3 or (II) Purchaser is required to forego acquiring the Equity Interests in an Acquired Entity (directly or indirectly and without acquiring such Acquired Entity's assets), then the Purchase Price will be equitably adjusted to reflect the additional Liabilities that Purchaser is assuming or the exclusion of the Equity Interests in such Acquired Entity, based on a good faith determination of the value of any such Liability or Equity Interests.

(c) Cure Costs.

(i) At the Closing, Purchaser shall pay all Purchaser Cure Costs and assume, and thereafter in due course and in accordance with its respective terms, pay and fully satisfy, discharge and perform all of the applicable Assumed Liabilities under each Assigned Contract to which Seller or any of its Affiliates (other than an Acquired Entity) is a party or is bound pursuant to Section 365(b) of the Bankruptcy Code and subject to the terms and conditions hereof. Notwithstanding anything to the contrary herein, Seller shall not be required to pay or assume any Purchaser Cure Costs or provide any assurances, and Seller shall not be obligated to assume and assign any such Assigned Contract with respect to which Purchaser fails to pay the full Purchaser Cure Costs or fails to satisfy the other party to such Assigned Contract and the Bankruptcy Court as to adequate assurance of future performance.

(ii) To the extent a counterparty to any such Assigned Contract objects or otherwise challenges the Purchaser Cure Costs determined by Seller and asserts a different monetary amount that must be paid and/or nonmonetary obligations that otherwise must be satisfied, including pursuant to Section 365(b)(1)(A) and (B) of the Bankruptcy Code, in order for Purchaser to assume such Contract to this Agreement (any such Assigned Contract, a "Disputed Contract"), and such objection or challenge has not been resolved prior to the Closing, then Purchaser shall provide written notice prior to the Closing Date (or such earlier date on which the Bankruptcy Code or Bankruptcy Court otherwise would require a determination to assume or reject any such Assigned Contract) either (x) electing to remove any such Disputed Contract from Schedule 1.1(b), in which case such Disputed Contract will be an Excluded Contract and not assigned to Purchaser or (y) requesting an extension of the period of time following the Closing to resolve any such dispute (such period, an "Extension Period"); provided that any such extension period shall be no longer than ninety (90) days following the Closing Date (or such shorter period of time as required in order to wind-down or liquidate Seller);

provided, further, that Seller's obligations to provide such Extension Period is subject to Purchaser's ongoing compliance with Purchaser's obligations pursuant to the final sentence of this Section 1.5(c)(ii). If Purchaser does not deliver written notice agreeing to assume such Disputed Contract and pay all Purchaser Cure Costs associated with such Disputed Contract prior to the expiration of the Extension Period or such dispute is not resolved by the expiration of the Extension Period, such Disputed Contract shall automatically be deemed an Excluded Contract. Purchaser shall be responsible for and reimburse Seller for any reasonable and documented out-of-pocket costs and expenses of Seller arising following the Closing during any Extension Period, including any such incremental costs or expenses (A) that arise out of Seller's extension and continuation of the Bankruptcy Cases solely to the extent that such extension and continuation are attributable to the Extension Period and (B) are incurred as a result of the Seller's performance of its obligations under Section 1.5(c)(ii).

(d) Non-Assignment.

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

(ii) Notwithstanding anything to the contrary in this Agreement, if (A) an Acquired Asset requires a Consent or Governmental Authorization (other than, and in addition to and determined after giving effect to any order of the Bankruptcy Court, including the Sale Order) in order to permit the assignment, sale, or transfer (directly, or indirectly by way of the acquisition of an Acquired Entity) to Purchaser of Seller's or its Affiliates' right, title and interest in and to such asset, (B) no Order of the Bankruptcy Court, including the Sale Order, is then in effect that precludes satisfaction of such requirement, and (C) such Consent or Governmental Authorization has not been obtained prior to such time as such right, title and interest is to be assigned, sold, or transferred as an Acquired Asset hereunder, such asset shall not be an Acquired Asset hereunder and shall not be assigned, sold, or transferred to, or received by, Purchaser (directly, or indirectly by way of the acquisition of an Acquired Entity) until either (1) such an Order is in effect or (2) such Consent or Governmental Authorization has been obtained.

(iii) If any Acquired Asset is deemed not to be assigned, sold, or, transferred pursuant to Section 1.5(d)(i) or Section 1.5(d)(ii) or cannot otherwise be assigned, sold or transferred to Purchaser for any other reason outside of Purchaser's control (including if such assignment, sale or transfer would be a violation of Law), the Closing shall nonetheless take place subject to the terms and conditions set forth in this Agreement. In such event and notwithstanding anything

to the contrary set forth in this Agreement, the Purchase Price shall be equitably adjusted to reflect the Acquired Assets that are not transferred at Closing based on a good faith determination of the value of any such Acquired Asset. Thereafter, through the earliest of (A) such time as such Consent or Governmental Authorization is obtained or such restriction prohibiting the assignment, sale or transfer of such Acquired Asset is removed, (B) such time as such an Order is in effect, (C) in the case of an Assigned Contract, the expiration of the term of such Contract in accordance with its current term or the execution of a replacement Contract by Purchaser or its Affiliate, and (D) the closing of the Chapter 11 Cases or dissolution of the Seller, Seller and Purchaser shall (and Seller shall cause its Affiliates to) (1) use reasonable best efforts to secure such Consent or Governmental Authorization or Order or otherwise remove such restrictions prohibiting the transfer of such Acquired Assets as promptly as practicable after the Closing and (2) cooperate in good faith in any lawful and commercially reasonable arrangement by Purchaser and Seller and its Affiliates, including subcontracting, licensing, or sublicensing to Purchaser any or all of Seller's or its Affiliates' rights and obligations with respect to any such Acquired Asset, under which (x) Purchaser shall obtain (without infringing upon the legal rights of such third party or violating any Law) the economic rights and benefits with respect to which Consent or Governmental Authorization has not been obtained, and (y) Purchaser shall assume and discharge any related obligation with respect to such Acquired Asset. Upon the effectiveness of such Order or satisfying any requisite Consent or Governmental Authorization requirement applicable to, or otherwise removing such restrictions prohibiting the transfer of, such Acquired Assets after the Closing, the Seller shall transfer (or shall cause its Affiliates to transfer) to Purchaser and Purchaser shall accept Seller's or its Affiliates' (as applicable) right, title, and interest in and to such Acquired Asset to Purchaser, and Purchaser shall pay to Seller the portion of the Purchase Price that was withheld in respect of such Acquired Assets, in each case, in accordance with the terms of this Agreement, the Sale Order, and the Bankruptcy Code.

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

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

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

ARTICLE II
CONSIDERATION; PAYMENT; CLOSING

Section 2.1 Consideration; Payment.

(a) Subject to any adjustment pursuant to Section 1.5(b), Section 1.5(d)(iii) and Section 2.1(c), the aggregate consideration (collectively, the "Purchase Price") to be paid by Purchaser for the purchase of the Acquired Assets shall be: (i) the assumption of Assumed Liabilities, *plus* (ii) $20,000,000 of the aggregate principal amount of the Senior CLNs, any interest thereon then outstanding as of the Closing, and any other accrued and unpaid fees and expenses in respect thereof as of Closing under the Senior CLNs (the "Senior CLNs Credit Bid Amount") *plus* (iii) $78,120,777.96 of the aggregate principal amount of the Junior CLNs, any interest thereon then outstanding as of the Closing, and any other accrued and unpaid fees and expenses in respect thereof as of Closing under the Junior CLNs (the "Junior CLNs Credit Bid Amount") *plus* (iv) $3,000,000 of cash (the "Cash Consideration").

(b) In accordance with Section 2.1(a), Purchaser shall (i) satisfy the Purchase Price at the Closing as to the Senior CLNs Credit Bid Amount by discharging Seller, and Seller shall be deemed to be discharged from, $20,000,000 of the obligations under the Senior CLNs, (ii) subject to Section 2.1(c), satisfy the Purchase Price at the Closing as to the Junior CLNs Credit Bid Amount by discharging Seller, and Seller shall be deemed to be discharged from, $78,120,777.96 of the obligations under the Junior CLNs, (iii) satisfy the Purchase Price at the Closing as to the Cash Consideration by paying, or causing to be paid, to Seller an amount in cash equal to the Cash Consideration, and (iv) pay the Purchaser Cure Costs to the applicable counterparties to the applicable Assigned Contracts which such Purchaser Cure Costs are due and payable.

(c) In accordance with the order of the Bankruptcy Court approving this Agreement, the Junior CLNs Credit Bid Amount shall be increased by $5,000,000 in the event that the holders of the Junior CLNs (or an affiliate thereof, or an entity formed to be the purchaser on behalf of such holders) are not the successful bidder(s) for the assets in Covington, Georgia proposed to be sold by the Debtors in the Chapter 11 Cases (and, as a consequence, such amount of Junior CLNs remains outstanding).

Section 2.2 Closing. The closing of the purchase and sale of the Acquired Assets, the delivery of the Purchase Price, the assumption of the Assumed Liabilities in accordance with this Agreement (the "Closing") will take place by telephone conference and electronic exchange of documents (or, if the Parties agree to hold a physical closing, at a location mutually agreeable to

Seller and Purchaser) at 10:00 a.m. Eastern Time on the second (2nd) Business Day following full satisfaction or due waiver (by the Party entitled to the benefit of such condition) of the closing conditions set forth in Section 7.1, Section 7.2 and Section 7.3 (other than conditions that by their terms or nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of those conditions at the Closing), or at such other place and time, and by such other method, as the Parties may agree in writing. The date on which the Closing actually occurs is referred to herein as the "Closing Date".

Section 2.3 Closing Deliveries by Seller. At or prior to the Closing, Seller shall deliver to Purchaser:

(a) a bill of sale and assignment and assumption agreement in customary form to be mutually agreed by Purchaser and Seller and its applicable Affiliates (the "Assignment and Assumption Agreement") duly executed by Seller;

(b) an Intellectual Property assignment agreement, substantially in the form attached hereto as Exhibit B, duly executed by Seller and its Affiliates (other than Acquired Entities) that own any Acquired Intellectual Property;

(c) instruments of transfer of the Equity Interests of the Acquired Entities, in each case, in a customary form reasonably acceptable to the Purchaser, duly executed by Seller;

(d) share certificate(s) in respect of Seller's Equity Interests in Ascend Elements UK, Ltd., or an indemnity for any lost certificates duly executed by Seller, in a customary form reasonably acceptable to the Purchaser;

(e) a voting power of attorney in respect of the voting rights of Seller's Equity Interests in Ascend Elements UK, Ltd., in a customary form reasonably acceptable to the Purchaser, duly executed by Seller;

(f) written resignations, effective as of the Closing, of each director and officer of the Ascend Elements UK, Ltd. whom the Purchaser has designated to resign, in a customary form reasonably acceptable to the Purchaser, duly executed by each such director and officer;

(g) resolutions of the Seller and Ascend Elements UK, Ltd. authorizing the execution, delivery and performance of this Agreement and the other agreements contemplated hereby to which the Seller or Ascend Elements UK, Ltd., as applicable, is a party and the consummation of the transactions contemplated hereby and thereby;

(h) with respect to the Equity Interests of Ascend Elements France (an entity in which Seller holds Equity Interests directly), (i) a share transfer form (*ordre de mouvement*) in respect of all of the Equity Interests of Ascend Elements France into the name of the Purchaser, duly executed by Seller, (ii) a tax transfer form (*formulaire cerfa n°2759-SD*) in respect of all of the Equity Interests of Ascend Elements France, duly executed by Seller, (iii) the share transfer book (*registre des mouvements de titres*) and the shareholders' individual accounts (*comptes d'actionnaires*) of Ascend Elements France, which shall be up to date, and in which the transfer of all the Equity Interests of Ascend Elements France to the Purchaser shall have been recorded as of the Closing Date, and (iv) the resignation of each director, corporate officer or legal

representative of Ascend Elements France, such resignation to take effect unconditionally as of the Closing Date and to include an irrevocable waiver by the relevant director, corporate officer or legal representative of any claim against Ascend Elements France in respect of their position, in each case in form and substance reasonably satisfactory to Purchaser;

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

(j) proprietary information and inventions assignment agreements in form and substance acceptable to Purchaser from Erik Gratz;

(k) an assignment of each Government Authorization in the form required by the applicable Governmental Body;

(l) an officer's certificate, dated as of the Closing Date, executed by a duly authorized officer of Seller certifying that the conditions set forth in Sections 7.2(a), 7.2(b) and 7.2(c) have been satisfied; and

(m) with respect to the Equity Interests of Ascend Elements Poland Holdings sp. z o.o. (an entity in which Seller holds Equity Interests directly), (i) a separate share transfer deed governed by Polish law and executed in written form with signatures certified by a Polish notary or, at Seller's election, executed by Seller before a notary in another jurisdiction with such notary's signature certification authenticated by an apostille (which such apostille may be obtained promptly following the Closing) issued pursuant to the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents, in a form recognized under Polish law as equivalent to a signature certification by a Polish notary, duly executed by Seller, and (ii) a written notification, duly executed by Seller, addressed to Ascend Elements Poland Holdings sp. z o.o. and Ascend Elements Poland 2 sp. z o.o., regarding the transfer of the relevant Equity Interests and the Purchaser's status as the dominant entity over the Acquired Entities incorporated under the laws of the Republic of Poland, as required under Articles 6 and 187 of the Polish Commercial Companies Code, in each case in form and substance reasonably satisfactory to Purchaser.

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

(a) pay or cause to be paid, by wire transfer of immediately available funds, an amount in cash equal to the Cash Consideration;

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

(c) instruments of transfer of the Equity Interests of the Acquired Entities, in each case, in customary form, duly executed by Purchaser;

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

(e) with respect to the Equity Interests of Ascend Elements Poland Holdings sp. z o.o., (i) a counterpart of the Polish Share Transfer Deed referred to in Section 2.3(h)(i), duly executed by Purchaser in written form with signatures certified by a Polish notary (forma pisemna z podpisami notarialnie poświadczonymi) as required under Article 180 § 1 of the Polish Commercial Companies Code, or, at Purchaser's election, executed by Purchaser before a notary in another jurisdiction with such notary's signature certification authenticated by an apostille (which such apostille may be obtained promptly following the Closing) issued pursuant to the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents, in each case in a form recognized under Polish law as equivalent to a signature certification by a Polish notary, and (ii) a counterpart of the joint written notification referred to in Section 2.3(h)(ii), duly executed by Purchaser.

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

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrants, excepting those matters reflected in a disclosure schedule attached to this Agreement (the "Disclosure Schedule"), which shall be subject to amendment by Purchaser pursuant to Section 1.5, and subject to Section 10.10, the following to Purchaser as of the date hereof and as of the Closing Date.

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

Section 3.2 Organization and Qualification of the Acquired Entities. Each Acquired Entity is a corporation or limited liability company, as applicable, duly incorporated or organized, validly existing, and in good standing under the Laws of the jurisdiction of its incorporation or formation. Each Acquired Entity is duly licensed or qualified to do business under the Laws of each jurisdiction in which the nature of the business conducted by it makes such licensing or

qualification necessary, except where failure to be so licensed, qualified or in good standing would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

Section 3.3 Authorization of Agreement. Subject to requisite Bankruptcy Court approvals:

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

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

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

Section 3.4 Conflicts; Consents.

(a) Assuming that (a) requisite Bankruptcy Court approvals are obtained, including the Sale Order, (b) the notices, authorizations, approvals, Orders, Permits, or Consents set forth on Schedule 3.4 are made, given or obtained (as applicable), and (c) the requirements of the HSR Act, any applicable antitrust, competition, foreign direct investment or "FDI", or merger control Laws promulgated by any Governmental Body ("Competition Laws") are complied with, neither the execution and delivery by Seller of this Agreement or the other Transaction Agreements, nor the consummation by Seller of the Transactions contemplated by such Transaction Agreements, nor performance or compliance by Seller with any of the terms or provisions hereof or thereof, will (i) conflict with or violate any provision of the Organizational Documents of Seller or any Acquired Entity, (ii) subject to the entry of the Sale Order, violate any Law or Order to which Seller, Seller's applicable Affiliates or any Acquired Entity is subject, (iii) violate or constitute a breach of or default (with or without notice or lapse of time, or both) under or give rise to a right of termination, modification, acceleration, vesting or cancelation of any obligation or to the loss of any benefit, any of the terms or provisions of any Assigned Contract, or Permit or accelerate Seller's or any Acquired Entity's obligations under any such Assigned Contract or Permit, or (iv) result in the creation of any Encumbrance (other than a Permitted

Encumbrance) on any Acquired Assets, except, in the case of clauses (iii) and (iv), as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) Except as set forth on Schedule 3.4(b), Seller is not required to file, seek or obtain any notice, Governmental Authorization, approval, Order, Permit or Consent of or with any Governmental Body in connection with the execution, delivery and performance by Seller of this Agreement or the consummation by Seller of the Transactions, except (i) any filings required to be made under the HSR Act, if applicable, or (ii) where failure to obtain such Consent, approval, authorization or action, or to make such filing or notification, would not, individually or in the aggregate, reasonably be expected to prevent or materially impair the ability of Seller to consummate the Transactions.

Section 3.5 Equity Interests of Acquired Entities.

(a) Except as set forth on Schedule 3.5(a), Seller does not currently own or control, directly or indirectly, any interest in any other corporation, partnership, trust, joint venture, limited liability company, association, or other business entity or contract treated as a partnership, including for U.S. federal income tax purposes. The subsidiaries of Seller set forth on Schedule 3.5 (the "Subsidiaries") are duly formed, validly existing and in good standing under the laws of their jurisdiction of organization and have all requisite corporate power and authority to carry on their business as now conducted and as presently proposed to be conducted. Except as set forth on Schedule 3.5(a), (i) all of the Subsidiaries are wholly owned, directly, by Seller free and clear of all Encumbrances and (ii) the Sellers own all Equity Interests in the Acquired Entities, free and clear of all Encumbrances. Except as set forth on Schedule 3.5, Seller is not a participant in any joint venture, partnership or similar arrangement or contract treated as a partnership, including for U.S. federal income tax purposes.

(b) All of the Equity Interests of the Acquired Entities have been duly authorized, validly issued and are fully paid and non-assessable and held free and clear of any Encumbrances (other than Encumbrances arising under applicable securities Laws), and the Equity Interests of the Acquired Entities are not subject to, and were not issued in violation of, any preemptive or similar right. Except as set forth on Schedule 3.5(b), there are no (i) subscriptions, calls, options, warrants, rights or other securities convertible into or exchangeable or exercisable for Equity Interests of the Acquired Entities, or any other Contracts to which any Acquired Entity is a party or by which any Acquired Entity is bound obligating such Acquired Entity to issue or sell any Equity Interests in, or debt securities of, such Acquired Entity, (ii) equity equivalents, equity appreciation rights, phantom equity ownership interests or similar rights in the Acquired Entities or (iii) outstanding contractual obligations of the Acquired Entities to repurchase, redeem or otherwise acquire any Equity Interests of any Acquired Entity. There are no outstanding bonds, debentures, notes or other indebtedness of the Acquired Entities having the right to vote (or convertible into, or exchangeable for, securities having the right to vote) on any matter for which the Acquired Entities' equityholders may vote.

(c) No Subsidiary of Seller is a guarantor under, has granted Encumbrances to secure, or is otherwise an obligor under any debt securities, notes or other debt for borrowed money.

Section 3.6 Financial Statements.

(a) Seller has provided true, correct and complete copies of (i) the audited consolidated balance sheets, statements of operations, statements of stockholders' equity and statements of cash flows of Seller and its Subsidiaries as of and for the fiscal years ended December 31, 2024 (the "Audited Financial Statements"); and (ii) the internally prepared unaudited consolidated balance sheet (the "Latest Balance Sheet"), statement of operations, statement of stockholders' equity and statement of cash flows of Seller and its Subsidiaries as of and for the fiscal year ended December 31, 2025 and for the three-month period ending on March 31, 2026 (the "Unaudited Financial Statements") to Purchaser, copies of which are attached in Schedule 3.6(a).

(b) The Financial Statements (i) present fairly in all material respects the consolidated financial position of Seller and its Subsidiaries as of and for the dates and periods designated therein and the results of operations and cash flows for the periods designated therein, (ii) except as set forth on Schedule 3.6(b), have been prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto and, in the case of unaudited Financial Statements, subject to (x) normal and recurring year-end audit adjustments, (y) the absence of notes and (z) any other immaterial and non-recurring adjustments described therein, including in any notes thereto (not material in amount) and fairly present in all material respects the consolidated financial position of Seller and its consolidated Subsidiaries as of the dates thereof and the consolidated results of their operations and cash flows for the periods shown, except as may be indicated in the notes thereto.

Section 3.7 Title to Properties.

(a) Except as set forth on Schedule 3.7(a), (i) neither Seller nor any of Affiliates (including the Acquired Entities) is a party to any agreement or option to purchase any real property or interest therein, and (ii) no Acquired Entity owns, or has ever owned, directly or indirectly, any real property or any interest therein.

(b) Schedule 3.7(b) sets forth a list of all real property that is leased, subleased, licensed or otherwise occupied by any Acquired Entity or otherwise held for use in connection with the operation of the Business by the Acquired Entities. One or more of Seller or the Acquired Entities has a good and valid leasehold interest in the leased real property, free and clear of all Encumbrances (other than Permitted Encumbrances), other than those of the lessors of such leased real property.

Section 3.8 Contracts.

(a) Schedule 3.8 sets forth a list of each Material Contract, as of the date of this Agreement. "Material Contract" means (x) any material Contract to which Seller, any of its Affiliates or any Acquired Entity is a party or any material Contract relating to any Acquired Assets or Assumed Liabilities entered into prior to, on or after the date hereof, (y) Contracts listed on any Cure Schedule delivered pursuant to Section 1.5, which need not be listed in Schedule 3.8, and (z) any Contract to which Seller, any of its Affiliates or any Acquired Entity is a party, or relating to

any Acquired Assets or Assumed Liabilities, other than with respect to this clause (z) purchase orders or similar instruments and any Employee Benefit Plan, in each case, that involves:

(i) the license of, covenant not to sue with respect to, or other right to use, any patent, copyright, trademark, trade secret or other Intellectual Property, in each case whether granted to or from the Seller or any of its Affiliates (including the Acquired Entities);

(ii) any Labor Contracts; and

(iii) any commitment or agreement to enter into any of the foregoing.

(b) True, correct and complete copies of all Material Contracts, including all material amendments, supplements and modifications thereto, have previously been made available to Purchaser or Purchaser's Advisors. Subject to requisite Bankruptcy Court approvals, and assumption by Seller or an Acquired Entity of the applicable Contract in accordance with Applicable Law and except (i) as a result of the commencement of the Chapter 11 Cases, or (ii) as set forth in Schedule 3.8(b), (A) each Material Contract is valid and binding on Seller, its Affiliates or the Acquired Entity that is a party thereto and, to the Knowledge of Seller, each other party thereto, and is in full force and effect, subject to the Enforceability Exceptions, (B) Seller, its Affiliates or the Acquired Entity that is a party thereto, and, to the Knowledge of Seller, any other party thereto, have performed all obligations required to be performed by it under each Material Contract, (C) none of Seller, any of its Affiliates or any Acquired Entity has received any notice (or to the Knowledge of Seller, oral notice) of the existence of any breach or default on the part of Seller and the Acquired Entities under any Material Contract, (D) there are no events or conditions that constitute, or, after notice or lapse of time or both, will constitute a default on the part of Seller, any of its Affiliates or an Acquired Entity, or to the Knowledge of Seller, any counterparty under such Material Contract and (E) Seller and the Acquired Entities have not received any written notice (or to the Knowledge of Seller, oral notice) from any Person that such Person intends to terminate, or not renew, any Material Contract, except in each case of clauses (A) through (E), as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 3.9 No Litigation. Except as set forth on Schedule 3.9, there are no Actions pending or, to the Knowledge of Seller, threatened (whether or not in writing), against or affecting Seller or any Acquired Entities, the Acquired Assets or the Assumed Liabilities that would reasonably be expected to have a Material Adverse Effect on Seller's performance of its obligations under this Agreement or the Transaction Documents or the consummation of the Transactions, or that would otherwise be material, individually or in the aggregate, to the Business, the Acquired Assets or the Assumed Liabilities.

Section 3.10 Permits; Compliance with Laws.

(a) Except as set forth on Schedule 3.10, (i) Seller (with respect to the Business and the Acquired Assets) and each Acquired Entity is, and has been since January 1, 2023, in compliance in all material respects with all Applicable Laws and applicable Orders with respect to the Business, the Acquired Assets and the Assumed Liabilities, and (ii) Seller and the Acquired

Entities hold all licenses, identification numbers, registrations, franchises, permits, variances, certificates, approvals and authorizations from Governmental Bodies necessary for the lawful conduct of the Business as currently conducted, in each case, except as would not, individually or in the aggregate, reasonably be expected to be material, individually or in the aggregate, to the Business, the Acquired Assets or the Assumed Liabilities (collectively, "Permits"). Each of the Permits is in full force and effect, there is no ongoing proceeding that could adversely modify or terminate such Permit, and no approval of any Governmental Body is needed to transfer any such Permit to Purchaser.

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

(c) Seller and each Acquired Entity and each of their respective directors, officers, employees, agents and, to the Knowledge of Seller, any other Person acting on behalf of the Seller (with respect to the Business) or any Acquired Entity is, and for the past five (5) years has been and has acted, in compliance with Anti-Corruption Laws. Without limiting any of the foregoing, neither Seller nor any Acquired Entity, nor any of their respective directors, officers, employees, agents, nor, to the Knowledge of Seller, any other Person acting on behalf of Seller (with respect to the Business) or any Acquired Entity has paid, offered, promised, or authorized the payment of money or anything of value, directly or indirectly, to any Government Official, any political party, or any other Person for the purpose of improperly influencing any act or decision or to secure any improper advantage.

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

Section 3.11 Environmental Matters.

Except as would not, individually or in the aggregate, reasonably be expected to be material to the Acquired Entities, the Acquired Assets or the Assumed Liabilities, and in each case to the extent related to the Acquired Entities, the Acquired Assets or the Assumed Liabilities:

(a) Seller and the Acquired Entities are, and have been since January 1, 2023 (or earlier, if Liability remains), in compliance with all applicable Environmental Laws, in each case with respect to the conduct of the Business.

(b) Since January 1, 2023 (or earlier if unresolved), none of Seller or the Acquired Entities has received any written, or to the Knowledge of Seller oral, notice, report, or other information alleging that Seller or any Acquired Entity is in material violation of or materially liable under, any Environmental Law.

(c) Seller and the Acquired Entities possess and are, and since January 1, 2023 (or earlier, if Liability remains), have been, in compliance with all Permits required under applicable Environmental Laws for the operation of the Business.

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

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

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

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

(h) Seller has made available to Purchaser true, correct and complete copies of all material environmental or health and safety reports, studies, records, audits and Permits relating to Seller's or its affiliates' or predecessors', past or current businesses, operations or assets that are within Seller's possession or under their control.

Section 3.12 Intellectual Property.

(a) Schedule 3.12(a) contains a complete and accurate list of all (i) Registered Acquired Intellectual Property and (ii) patents and patent applications that are owned by third parties and exclusively licensed to Seller ("Exclusively Licensed Patents"), and specifies, where applicable, the jurisdiction in which such Registered Acquired Intellectual Property or Exclusively Licensed Patent has been registered or in which an application for such registration has been filed,

including the respective registration or application number and the name of the owner. Seller and its Affiliates exclusively own, beneficially and of record, all of the Acquired Intellectual Property, free and clear of all Encumbrances (other than Permitted Encumbrances). All of the material Acquired Intellectual Property is subsisting, and to the Knowledge of Seller, valid and enforceable.

(b) Except as would not, individually or in the aggregate, reasonably be expected to be material to the Business, (i) Seller and its Affiliates own or have sufficient rights to use all Intellectual Property necessary to or used in the conduct of the Business as currently conducted by Seller and its Affiliates, and (ii) Seller and its Affiliates take and have taken commercially reasonable steps to maintain the confidentiality of all trade secrets and other material non-public confidential Acquired Intellectual Property owned by Seller or its Affiliates or otherwise held by Seller or its Affiliates subject to an obligation of confidentiality and there have been no unauthorized uses or disclosures of any such material confidential Acquired Intellectual Property; provided that nothing in this Section 3.12(b) shall be interpreted or construed as a representation or warranty with respect to whether there is any infringement, misappropriation, or violation of any Intellectual Property, which is the subject of Section 3.12(d). Seller or one of the Acquired Entities is in possession of documentation of all trade secrets that is sufficient in all material respects to permit a person of ordinary skill in the relevant industry to exploit such trade secrets to conduct the Business.

(c) No Actions are pending or, to the Knowledge of Seller, threatened in a writing received by Seller or any of its Affiliates against Seller or any of its Affiliates, and since January 1, 2023, except as would not, individually or in the aggregate, reasonably be expected to be material to the Business, Seller and its Affiliates have not received any written notice or claim, (i) challenging the ownership, scope, validity, enforceability or use by Seller or any of its Affiliates of any Acquired Intellectual Property or (ii) alleging that Seller or any of its Affiliates in connection with the Business, or any Acquired Entity, is infringing, misappropriating or otherwise violating the Intellectual Property of any Person.

(d) To the Knowledge of Seller, since January 1, 2023, no Person has infringed, misappropriated or otherwise violated the rights of Seller or its Affiliates with respect to any Acquired Intellectual Property. The operation of the Business by Seller and its Affiliates, and the Acquired Entities, has not violated, misappropriated or infringed the Intellectual Property of any other Person, except, in each case, as would not, individually or in the aggregate, reasonably be expected to be material to the Business.

(e) Except as would not, individually or in the aggregate, reasonably be expected to be material to the Business, the consummation of the Transactions will not result in the grant of any right or license to any third party of any Acquired Intellectual Property, or the loss of any rights to any Intellectual Property necessary to, or used in, the conduct of the Business as currently conducted by Seller and its Affiliates.

(f) Each Person who is or was involved in the creation or development of any portion of any Acquired Intellectual Property has executed a valid and enforceable written agreement with Seller or its Affiliates that assigns to Seller or its Affiliates all rights, title and interest in, to and under any and all such Intellectual Property ("IP Assignment Agreement"), and all Intellectual Property in such Person's contribution is owned exclusively by Seller or one of its

Affiliates. No current or former shareholder, officer, director, or employee of Seller or its Affiliates (i) has any claim, right (whether or not currently exercisable), or ownership interest in any Acquired Intellectual Property or has excluded any Intellectual Property from their IP Assignment Agreement, or (ii) has been named as an inventor on any patent owned by, or pending patent application by, the Seller any Affiliate thereof for any device, process, design or invention of any kind now used by Seller or its Affiliates in the furtherance of their respective businesses, except for inventions that have been assigned to Seller or its Affiliates. To the Knowledge of Seller, no employee of Seller or its Affiliates is in breach of any IP Assignment Agreement.

(g) Seller or one of the Acquired Entities is in possession of a complete copy of all source code included in the Acquired Intellectual Property. No source code included in the Acquired Intellectual Property has been delivered, licensed or made available to any escrow agent or other Person who is not, as of the date of this Agreement, an employee of Seller or its Affiliates, and Seller and its Affiliates have no duty or obligation (whether present, contingent, or otherwise) to deliver, license, or make available such source code to any escrow agent or other Person. No event has occurred, and no circumstance or condition exists, that (with or without notice or lapse of time) will, or could reasonably be expected to, result in the delivery, license or disclosure of any source code included in the Acquired Intellectual Property to any other Person who is not, as of the date of this Agreement, an employee of Seller or its Affiliates.

(h) No Open Source Software has been incorporated into or combined with any software included in the Acquired Intellectual Property in such a way that would require any such software to be (i) disclosed or distributed in source code form, (ii) licensed for the purpose of making derivative works, or (iii) redistributable at no charge.

(i) No funding, facilities or personnel of a Governmental Body, or university, college, other educational institution or research center was used in the development of any of the Acquired Intellectual Property. No officer, employee or independent contractor of Seller or its Affiliates who was involved in, or who contributed to, the creation or development of any of the Acquired Intellectual Property has performed services for a Governmental Body, or university, college or other educational institution or research center, during a period of time during which such person was also performing services for Seller or its Affiliates in a manner that may give rise to any Intellectual Property ownership or use claims by such Governmental Body, university, college or other educational institution or research center with respect to any of the Acquired Intellectual Property. No Governmental Body has rights in any Acquired Intellectual Property except for Limited Rights in technical data and/or Restricted Rights in computer software (as each term is defined in 2 CFR Part 200 or 2 CFR Part 910, Appendix A to Subpart D), or other applicable similar rights pursuant to Government Contract clauses that are prescribed under applicable Laws. No prime contractor or subcontractor at any tier under any Government Contract has been granted or otherwise is entitled to any rights in any Acquired Intellectual Property pursuant to the terms of such Government Contract. Neither the Seller, nor any Acquired Entity, nor any joint venture to which the Seller or any Acquired Entity is a party, has conceived or first actually reduced to practice any "invention" (as that term is defined in 2 CFR Part 910, Appendix A to Subpart D or 37 CFR 401.14) in performance of any Government Contract.

Section 3.13 Information Systems; Data Privacy.

(a) The IT Assets (i) are adequate and sufficient in all material respects for the conduct of the Business, and (ii) to the Knowledge of Seller, do not contain any virus, malware, trojan horse, worm, back door, time bomb, drop dead device or other program, routine, instruction, device, code, contaminant, logic or effect designed or intended to disable, disrupt, erase, enable any Person to access without authorization, or otherwise affect the functionality of, any such IT Assets (collectively, "Malicious Code"). In the last two (2) years, the IT Assets have not malfunctioned or failed in a manner that has materially disrupted the conduct of the Business, except as the result of a root cause that has been remediated in all material respects as of the date hereof. Seller and the Acquired Entities have at all times implemented and maintained, and have required all third parties processing Personal Information on behalf of Seller or the Acquired Entities (collectively, "Data Partners") to implement and maintain, commercially reasonable physical, technical, and administrative security measures designed to ensure the confidentiality and security of the IT Assets and all Personal Information and other confidential information stored or contained therein or transmitted thereby or otherwise processed by or on behalf of Seller. To the Knowledge of Seller, there has been no security breach involving the IT Assets which has resulted in unauthorized access to, or use, disclosure, deletion, modification, corruption or encryption of, any material data or information of the Business contained therein or processed thereby, or which resulted in third-party control over any material portion of the IT Assets used by the Business.

(b) With respect to the access, storage, use, modification, transfer, disclosure, destruction, or any other processing of Personal Information collected or maintained by or on behalf of Seller (with respect to the Business) or any Acquired Entity, Seller and the Acquired Entities are and have since January 1, 2023 been in material compliance with the Privacy Requirements.

(c) Neither Seller nor any Acquired Entity, nor, to the Knowledge of Seller, any Data Partner with regard to its processing of Personal Information on behalf of Seller or any Acquired Entity, since January 1, 2023, (i) has received any notice from any Governmental Body or Person alleging a violation of any Privacy Requirements by such Seller or Acquired Entity; (ii) has been required to notify any Governmental Body, affected individuals or other Persons of a violation of any Privacy Requirements; (iii) has been notified, or has been required by applicable Privacy Requirements to notify, any Governmental Body, Person or other party of any Security Breach, (iv) has experienced any material Security Breaches; or (v) has been the subject of any notice, claim, Action, suit, proceeding, arbitration, complaint, charge, or to the Knowledge of Seller investigation, or any pending or threatened Action from any Governmental Body or any other Person regarding any violation of, or failure to comply with, the Privacy Requirements or any Security Breach.

Section 3.14 Tax Matters.

(a) No Acquired Entity has been a member of an affiliated, combined, consolidated or unitary Tax group and no Acquired Entity has any liability for Taxes of any Person (other than an Acquired Entity) arising from the application of Treasury Regulations Section 1.1502-6 or any analogous provision of state, local or non-U.S. Law applicable to the Acquired Entities, or as a transferee or successor or by Contract (other than a Contract entered into in the ordinary course of business the principal subject matter of which is not Taxes).

(b) No Acquired Entity has ever been classified as an association taxable as a corporation for U.S. federal or applicable state income tax purposes.

(c) Except as set forth on Schedule 3.14(c), each Acquired Entity is treated as an entity that is disregarded as separate from its owner for U.S. federal income tax purposes.

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

(e) Except as set forth on Schedule 3.14(e), all Taxes with respect to the Acquired Assets owed by Seller that are due (whether or not shown on any Tax Return) have been timely paid in full, except to the extent the nonpayment thereof is permitted or required by the Bankruptcy Code. All income and other material Taxes with respect to the Acquired Entities that are due (whether or not shown on any Tax Return) have been timely paid in full, except to the extent the nonpayment thereof is permitted or required by the Bankruptcy Code or have been adequately reserved against in accordance with GAAP.

(f) There are no Encumbrances for Taxes on any of the Acquired Assets or assets of the Acquired Entities other than Permitted Encumbrances.

(g) No written claim has been made in a jurisdiction where any Acquired Entity or Seller (with respect to the Acquired Assets), as applicable, does not file Tax Returns that such Acquired Entity or Seller (with respect to the Acquired Assets) is subject to taxation in that jurisdiction.

(h) No Acquired Entity is a party to, is bound by, or has any obligation under, any Tax indemnity agreement, Tax sharing agreement, Tax allocation agreement or similar agreement that will be in effect after Closing, in each case, other than pursuant to customary provisions of a credit agreement, other commercial agreement not principally relating to Taxes. There are no Liabilities for Taxes of Seller or its Affiliates or the Acquired Entities that could result in Liability to Purchaser or any of its Affiliates as a transferee or successor or otherwise attach to any of the Assets.

(i) Neither Seller nor any Acquired Entity has waived any statute of limitations in respect of Taxes with respect to the Acquired Assets or Taxes of the Acquired Entities or agreed to any extension of time with respect to an assessment or deficiency for Taxes with respect to the Acquired Assets or Taxes of the Acquired Entities (in each case, other than pursuant to extensions of time to file Tax Returns obtained in the Ordinary Course or in response to a request by a taxing authority in connection with an audit or similar proceeding), in each case, which waiver or extension is currently in force and would have effect after the Closing Date.

(j) Each Acquired Entity that is treated as a partnership for U.S. federal income tax purposes has a valid election in effect under Section 754 of the Code.

Section 3.15 Employee Benefit Plans.

(a) Schedule 3.15(a) sets forth a complete and correct list of each Employee Benefit Plan. For purposes of this Agreement, "Employee Benefit Plan" means each "employee benefit plan" within the meaning of Section 3(3) of ERISA (whether or not subject to ERISA), each other deferred compensation, bonus or incentive compensation, pension, retiree medical, disability or life insurance plan, program, Contract, agreement or arrangement, each employment, severance, change-of-control and each other employee benefit or compensation plan, program, Contract, agreement or arrangement, in each case that is maintained, sponsored, administered or contributed or required to be contributed to by Seller or any of its Subsidiaries for the benefit of Business Employees or former Business Employees; provided that the term "Employee Benefit Plan" shall not include any statutory benefit plan to which Sellers or any of its Subsidiaries or any Acquired Entity is required to participate in or comply with that is sponsored or administered by a Governmental Body (such as Social Security) or any "multiemployer plan" as defined in Section 3(37) of ERISA. Seller has made available to Purchaser or Purchaser's Advisors a true and complete copy of the current plan document for each material Employee Benefit Plan. Notwithstanding anything to the contrary in the foregoing, Schedule 3.15 shall exclude any at-will employment agreements, offer letters or similar Contracts that may be terminated upon notice of 30 days or less without material Liability to Seller. No Acquired Entity has any Liability, whether actual or contingent, with respect to any Employee Benefit Plan.

(b) No Employee Benefit Plan is, and none of Seller, the Acquired Entities or any ERISA Affiliate thereof contributes to, at any time contributed to or has any Liability or obligation, whether fixed or contingent, with respect to: (i) a multiemployer plan, as defined in Section 3(37) of ERISA; (ii) a single employer plan or other pension plan that is subject to Title IV of ERISA or Section 302 or 303 of ERISA or Section 412 or 430 of the Tax Code; (iii) a multiple employer plan (within the meaning of Section 413(c) of the Tax Code); (iv) a multiple employer welfare arrangement (within the meaning of Section 3(40) of ERISA); or (v) voluntary employee benefit association under Section 501(a)(9) of the Tax Code or any "funded welfare plan" within the meaning of Section 419 of the Tax Code. No Liability under Title IV of ERISA has been or could be incurred by Seller, the Acquired Entities or any of their ERISA Affiliates.

(c) Neither the execution and delivery of this Agreement, nor the consummation of the Transactions, either alone or in combination with another event (whether contingent or otherwise), will result in the payment of any amount that would not be deductible by reason of Section 280G of the Tax Code or be subject to the sanctions imposed under Section 4999 of the Tax Code. None of the Acquired Entities has any obligation to provide any tax gross up, tax equalization or other similar Tax-related payment or benefit with respect to any Taxes, including Taxes arising under Section 409A, Section 280G or Section 4999 of the Tax Code.

(d) None of the Acquired Entities currently or have ever employed any individuals.

Section 3.16 Employees.

(a) Seller has made available a complete list of each Business Employee, and for each such Business Employee as of the date hereof, true and correct information as to the

following: (i) name; (ii) job title; (iii) employing entity; (iv) date of hire; (v) rate of base compensation (hourly wage rate or annual salary, as applicable); (vi) entitlements to severance pay; (vii) target annual bonus and other incentive-based compensation; (viii) status as active or inactive and, if applicable, the reason for leave status and anticipated return date (if known); (ix) primary work location (including address, city and state); (x) exempt or non-exempt status under the Fair Labor Standards Act or similar Applicable Law; and (xi) visa or other work permit status (if applicable). All Business Employees are employed at will and may be terminated at any time, with or without cause, excluding notice that may be due under the WARN Act.

(b) Seller has made available a complete list of each Business Service Provider as of the date hereof, and, for each of the foregoing, their: (i) name; (ii) engaging entity; (iii) initial date of engagement; (iv) the rate of compensation; (v) location where services are provided; (vi) a description of services provided; and (vii) the approximate average number of hours of work they perform each week.

(c) Since January 1, 2023, Seller and all Acquired Entities have complied in all material respects with all Laws related to equal employment opportunity and with other Laws related to labor and employment practices including, but not limited to, those related to immigration, wages, hours, worker classification and collective bargaining.

(d) Neither Seller nor any Acquired Entity is bound by or subject to any written or oral, express or implied, contract, commitment or arrangement with any labor union, and no labor union has requested or, to the Knowledge of Seller, has sought to represent any of the Business Employees. There is no strike or other labor dispute involving Seller or any Acquired Entity pending, or to the Knowledge of Seller, threatened, which could have a Material Adverse Effect, nor is Seller aware of any labor organization activity involving any Business Employees.

(e) Neither Seller nor any Acquired Entity is delinquent in payments to any Business Employee for any wages, salaries, commissions, bonuses, or other direct compensation for any service performed for it to the date hereof or amounts required to be reimbursed to such Business Employees. Seller and each Acquired Entity has complied in all material respects with all applicable state and federal equal employment opportunity Laws and with other Laws related to employment, including those related to wages, hours, worker classification and collective bargaining. Seller and each applicable Acquired Entity has withheld and paid to the appropriate Governmental Body or is holding for payment not yet due to such Governmental Body all amounts required to be withheld from Business Employees and is not liable for any arrears of wages, taxes, penalties or other sums for failure to comply with any of the foregoing.

Section 3.17 Insurance; Support Obligations. Seller has in full force and effect insurance policies (the "Business Insurance Policies") as would be reasonable and customary for companies like Seller.

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

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

(d) All financial assurances, including letters of credit, sureties, bonds, or similar arrangements supporting the operation, monitoring, closure, remediation, reclamation, or post-closure obligations relating to or with respect to the Acquired Assets over the last five (5) years are set forth in Schedule 3.17(d).

Section 3.18 Brokers. Except as set forth on Schedule 3.18, the fees and expenses of which will be paid by Seller, no broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission, or the reimbursement of expenses in connection therewith, in connection with the Transactions based upon arrangements made by or on behalf of Seller or its Affiliates.

Section 3.19 Government Contracts.

(a) Except as set forth on Schedule 3.19(a): (i) no Acquired Entity, nor any joint venture to which an Acquired Entity is a party, is party to any current Government Contract; and (ii) no Assigned Contract constitutes a Government Contract.

(b) Neither the Seller, nor any Acquired Entity, nor any joint venture to which the Seller or an Acquired Entity is a party, has submitted any Government Bid, for which no award has yet been made, and which, if awarded, could result in a Government Contract.

(c) With respect to each Government Contract and any proposals or bids submitted for any Government Contract, during the past six (6) years:

(i) neither the Seller, nor any Acquired Entity, nor any joint venture to which the Seller or any Acquired Entity is a party, nor any of their Principals (as that term is defined by 48 C.F.R. § 2.101), employees, or, to the Knowledge of the Sellers, other Persons acting on their behalf, is or has been suspended or debarred, proposed for debarment or suspension, declared ineligible or determined non-responsible from holding, performing or bidding on any Government Contract, and no proceeding regarding suspension, debarment, ineligibility or non-responsibility has been commenced or threatened in writing;

(ii) no Governmental Body, prime contractor or subcontractor has notified in writing (nor to the Knowledge of the Sellers, orally) the Seller, any Acquired Entity, or any joint venture to which the Seller or any Acquired Entity is a party, of any material breach or material violation of any applicable Law relating to such Government Contract;

(iii) neither the Seller, nor any Acquired Entity, nor any joint venture to which the Seller or an Acquired Entity is a party, has received any written (or, to the Knowledge of the Seller's, oral) notice of (A) termination for default or cause, cure notice, or show cause notice relating to such Government Contract, (B) any audit (other than routine audits in the ordinary course of business) or investigation by any Governmental

Body relating to such Government Contract, or (C) any other material claim or other material dispute relating to such Government Contract;

(iv) except as set forth on Schedule 3.19(c)(iv), neither the Seller, nor any Acquired Entity, nor any joint venture to which the Seller or any Acquired Entity is party, has conducted any internal investigation or made any voluntary or mandatory disclosure to any Governmental Body, with respect to any misstatement, overpayment, or actual, alleged or potential material violation of law relating to such Government Contract;

(v) neither the Seller, nor any Acquired Entity, nor any joint venture to which the Seller or any Acquired Entity is a party, has received any written civil investigative demand or subpoena relating to any Government Contract;

(vi) except as set forth on Schedule 3.19(c)(iv), the Seller, the Acquired Entities, and any joint venture to which the Seller or any Acquired Entity is a party, has complied, in all material respects, with all laws applicable to such Government Contracts and the terms and conditions of (including all representations and certifications relating to) such Government Contract;

(vii) each representation and certification made by the Seller, the Acquired Entities, and any joint venture to which the Seller or any Acquired Entity is a party, or incorporated into any Government Contract or related bid, offer, or proposal regarding size status or other preferential status (such as small business, veteran-owned small business, service-disabled veteran-owned small business, woman-owned, HUBZone, minority-owned, etc.) was current and accurate as of the date given in all material respects;

(viii) except as set forth on Schedule 3.19(c)(iv), all invoices and claims for payment, reimbursement or adjustment submitted by the Seller, any Acquired Entity, or any joint venture to which the Seller or any Acquired Entity is a party, were current, accurate and complete in all respects as of their submission dates, and no Governmental Body, prime contractor or higher tier subcontractor has disallowed, withheld or set off, or threatened in writing or orally to disallow, withhold or set off, any amount due to the Seller, any Acquired Entity, or any joint venture to which the Seller or any of its Subsidiaries under any Government Contract; and

(ix) except as set forth on Schedule 3.19(c)(iv), all costs, fees, profit and other charges and expenses of any nature that have been charged prior to Closing to any cost reimbursable or flexibly priced type Government Contract, and all sums invoiced prior to Closing under any type of Government Contract, were properly chargeable or invoiced to such Government Contract, were charged or invoiced in amounts consistent with the requirements of such Government Contract and applicable Law, and there will be no material refunds, reimbursements or adjustments including, without limitation, any cost disallowances.

(d) Neither the Seller, nor any Acquired Entity, nor any joint venture to which the Seller or any Acquired Entity is a party holds a facility security clearance as defined in the National Industrial Security Program Operating Manual (32 C.F.R. pt 117) and neither the Seller,

nor any Acquired Entity, nor any joint venture to which the Seller or any Acquired Entity is a party needs a facility security clearance or needs its employees to hold personal security clearance(s) to perform any Government Contract.

(e) Except as set forth on Schedule 3.19(e), none of the execution, delivery, or performance of this Agreement will require: (i) the novation or (ii) assignment of any current Government Contract, or (iii) consent of any counterparty to any current Government Contract; or (iv) any notice, disclosure or approval of any foreign ownership, control, or influence ("FOCI").

(f) Except as set forth on Schedule 3.19(f), no Governmental Body has acquired any property interest in any real property or asset, including Equipment, held by the Seller, any Acquired Entity, or any Joint Venture to which the Seller or any Acquired Entity is a party, under any Government Contract.

Section 3.20 Inter-Company Transactions. A true, correct and complete list and description of all Contracts (including any amendments, supplements, restatements or modifications thereto) between Seller or any Excluded Entity, on the one hand, and an Acquired Entity, on the other, relating to the Acquired Assets, Assumed Liabilities or the Business, is set forth on Schedule 3.20, and true, correct and complete copies of such Contracts have been made available to Purchaser. No officer, director, employee or equityholder of Seller, nor any Affiliate thereof (other than an Acquired Entity) nor, to the Knowledge of Seller, any member of any such Person's immediate family: (a) has any interest in any Acquired Asset other than an indirect interest as an equityholder of Seller or (b) is party to any Contract with Seller or any of its Subsidiaries (in each case, other than services provided by, and payments made to, and other compensation provided to, employees, officers and directors (or equivalent) in the Ordinary Course, and agreements related to the acquisition or disposition of any Equity Interests of Seller).

Section 3.21 Title to Assets. Subject to any Permitted Encumbrances, Seller has good and valid title to, and the right to use and sell without limitation, free and clear of all interests and Encumbrances subject to section 363 of the Bankruptcy Code, the tangible Acquired Assets except to the extent the failure to have such title or right to use would not be expected to be material to the Business. At the Closing, pursuant to the Sale Order, Seller will convey such good and valid title to or rights to use all of the tangible Acquired Assets, free and clear of all Encumbrances (other than Permitted Encumbrances that will be released at the Closing Date) to Purchaser. The tangible Acquired Assets are (to the extent applicable) in good operating condition (ordinary wear and tear excepted) and are adequate for the uses to which they are being put, and none of such tangible Acquired Assets is in need of maintenance or repairs except for ordinary, routine maintenance and repairs.

Section 3.22 Sufficiency of Assets. The Acquired Assets constitute all of the assets and properties (tangible and intangible) necessary for the conduct of, and such assets and properties will be sufficient for Purchaser to conduct, the Business in the manner in which it was being conducted immediately prior to the Closing and since the Petition Date, other than the Excluded Assets. None of Seller or any of its Affiliates or any other Person owns, whether directly or indirectly through another Person, any other property or assets that are used in or related to the Business, other than the Excluded Assets.

Section 3.23 **No Material Adverse Effect**. Since the Balance Sheet Date through the date of this Agreement, except as set forth on Schedule 3.23, no Material Adverse Effect has occurred.

Section 3.24 **Absence of Changes**. Except as set forth on Schedule 3.24, and except as expressly contemplated by this Agreement, since the Balance Sheet Date, Seller (i) has, in all material respects, conducted the Business and operated the Acquired Assets and properties in the Ordinary Course and (ii) has not taken any action that would require the consent of Purchaser pursuant to Section 6.1 if such action had been taken during the Interim Period.

Section 3.25 **CFIUS**. Neither Seller nor any Acquired Entity engages in (a) the design, fabrication, development, testing, production, or manufacture of one or more "critical technologies" within the meaning the DPA; (b) the ownership, operation, maintenance, supply, manufacture, or servicing of "covered investment critical infrastructure" within the meaning of the DPA (where such activities are covered by column 2 of Appendix A to 31 C.F.R. Part 800); or (c) the maintenance or collection, directly or indirectly, of "sensitive personal data" of U.S. citizens within the meaning of the DPA.

Section 3.26 **Public Subsidies**. Except as set forth on Schedule 3.26 (i) no Acquired Entity is expected to return or repay any subsidy, grant, aid, benefit or other public funds in whatever form from any governmental, national or supra-national authority or agency ("**Public Subsidies**"), and (ii) each Acquired Entity complied in all material aspects with the terms of the received Public Subsidies, in particular no Acquired Entity (A) has submitted false statements or documents during the process of obtaining the Public Subsidy as well as after the Public Subsidy has been obtained, (B) has failed to notify the relevant authority of any substantial modification to any project financed from the Public Subsidies, where such notification was required under Applicable Law or agreement concerning the Public Subsidies for any Acquired Entity; (C) has failed to execute any amendment to any agreement concerning the Public Subsidies, including any amendment required to transfer such Public Subsidy to another member of the group holding the asset necessary for the implementation of the project financed by such Public Subsidy, where such amendment was required under Applicable Law or the terms of such agreement.

Section 3.27 **No Other Representations or Warranties**. Except for the representations and warranties expressly contained in this Article III (as qualified by the Schedules) and the Transaction Agreements (in each case, in accordance with the express terms and conditions (including limitations and exclusions) of this Agreement and the Transaction Agreements) (the "Express Representations") (it being understood that the Purchaser Group has relied only on the Express Representations for purposes of the Transactions), no Seller nor any other Person on behalf of any Seller makes any express or implied representation or warranty with respect to any Seller, the Acquired Assets, or the Assumed Liabilities or with respect to any information, statements, disclosures, documents, projections, forecasts or other material of any nature made available or provided by any Person (including in (x) any presentations or other materials prepared by Moelis, the "Information Presentation", (y) that certain virtual data room administered by Datasite (the "Dataroom"), or (z) in the Projections to Purchasers on behalf of Seller Parties). Without limiting the foregoing, no Seller nor any other Person will have or be subject to any Liability whatsoever to Purchaser, or any other Person, resulting from the distribution to Purchaser Group, or Purchaser Group's use of or reliance on or discussions with respect to, any such

information, statements, disclosures, documents, projections, forecasts, or other material in expectation of the Transactions, except for any Express Representations. Notwithstanding anything to the contrary herein, the foregoing shall not limit any Express Representations or claims or remedies in respect of Fraud.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser represents and warrants to Seller as follows.

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

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

Section 4.3 **Conflicts; Consents**.

(a) Assuming that (i) the Sale Order and all other requisite Bankruptcy Court approvals are obtained, and (ii) the requirements of any Competition Laws are complied with, neither the execution and delivery by Purchaser of this Agreement, nor the consummation by Purchaser of the Transactions, nor performance or compliance by Purchaser with any of the terms or provisions hereof, will (A) conflict with or violate any provision of Purchaser's Organizational Documents, (B) violate any Law or Order to which Purchaser is subject, (C) violate or constitute a breach of or default (with or without notice or lapse of time, or both) under, (x) give rise to a right of termination, modification, or cancelation of any obligation or to the loss of any benefit

under, (y) any of the terms or provisions of any loan or credit agreement or other material Contract to which Purchaser is a party, or (z) accelerate Purchaser's obligations under any such Contract, or (D) result in the creation of any Encumbrance (other than a Permitted Encumbrance) on any properties or assets of Purchaser or any of its Subsidiaries, except, in the case of clauses (A) through (D), as would not, individually or in the aggregate, reasonably be expected to prevent or materially impair, alter, or delay Purchaser's ability to consummate the Transactions.

(b) Except as set forth on Schedule 4.3(a), Purchaser is not required to file, seek or obtain any notice, Governmental Authorization, approval, Order, Permit or Consent of or with any Governmental Body in connection with the execution, delivery and performance by Purchaser of this Agreement or the consummation by Purchaser of the Transactions, except (i) any filings required to be made under the HSR Act, if applicable, or (ii) where failure to obtain such Consent, approval, authorization or action, or to make such filing or notification, would not, individually or in the aggregate, reasonably be expected to prevent or materially impair the ability of Purchaser to consummate the Transactions.

Section 4.4 Financing. Purchaser will have at the Closing sufficient funds in an aggregate amount necessary to pay all amounts payable under this Agreement, including the Purchase Price, to perform the Assumed Liabilities as they become due in accordance with their terms and to consummate all of the other Transactions, including the payment of the Purchase Price and all fees, expenses of, and other amounts required to be paid by, Purchaser in connection with the Transactions and to the actual knowledge of Purchaser, there is no circumstance or condition that would reasonably be expected to prevent the availability of such funds or otherwise impair such capability at the Closing. Purchaser affirms that it is not a condition to Closing or to any of its obligations under this Agreement that Purchaser obtain financing for the Transactions. Purchaser is and shall be capable at the Closing of satisfying the conditions contained in Sections 365(b)(1)(C) and 365(f) of the Bankruptcy Code with respect to the Assigned Contracts and the related Assumed Liabilities.

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

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

Section 4.7 Investment Representation; Investigation. The Purchaser is acquiring, the Equity Interests of the Acquired Entities for its own account with the present intention of holding such securities for investment purposes and not with a view to, or for sale in connection with, any distribution of such securities in violation of any federal or state securities Laws. Purchaser is an "accredited investor" within the meaning of Regulation D promulgated pursuant to the Securities Act. Purchaser is capable of evaluating the merits and risks of the Transactions and is able to bear the substantial economic risk of such investment for an indefinite period of time. Purchaser has been afforded access to the books and records, facilities and personnel of the

Acquired Entities for purposes of conducting a due diligence investigation and has conducted a due diligence investigation of the Acquired Entities.

Section 4.8 Certain Arrangements. As of the date hereof, except for arrangements among any holders of bonds, indentures, notes or similar instruments of Seller or an Affiliate thereof, there are no Contracts, undertakings, commitments, agreements or obligations, whether written or oral, between any member of the Purchaser Group, on the one hand, and any member of the management of Seller or its board of directors (or applicable governing body of any Affiliate of Seller), any holder of equity or debt securities of Seller, or any lender or creditor of Seller or any Affiliate of Seller, or any third party on the other hand, (a) relating in any way to the acquisition of the Acquired Assets or the Transactions (including any joint bidding, exclusivity or similar arrangement with any third party) or (b) that would be reasonably likely to prevent, restrict, impede or adversely affect the ability of Seller or any of their Affiliates to entertain, negotiate or participate in any such Transactions.

Section 4.9 No Other Representations or Warranties. Except for the representations and warranties expressly contained in this Article IV and the Transaction Agreements (in each case, in accordance with the express terms and conditions (including limitations and exclusions) of this Agreement and the Transaction Agreements (the "Express Purchaser Representations")), it is understood that Seller has relied only on the Express Purchaser Representations for purposes of the Transactions. Seller is not relying on and will not rely on the accuracy or completeness of any other express or implied representation or warranty with respect to Purchaser, the Excluded Assets, or the Excluded Liabilities, or with respect to any other information, statements, disclosures, documents, projections, forecasts or other material of any nature made available or provided by any Person to Seller on behalf of the Purchaser Group. Seller acknowledges that neither Purchaser nor any other Person on behalf of Purchaser makes any other express or implied representation or warranty with respect to Purchaser or with respect to any other information provided to Seller by Purchaser. Without limiting the foregoing, neither Purchaser nor any other Person will have or be subject to any Liability whatsoever to Seller resulting from the distribution to Seller, or Seller's use of or reliance on, any such information, statements, disclosures, documents, projections, forecasts, or other material provided in expectation of the Transactions, except for any Express Purchaser Representations. Notwithstanding anything to the contrary herein, the foregoing shall not limit any Express Purchaser Representations or claims or remedies in respect of Fraud.

ARTICLE V
BANKRUPTCY COURT MATTERS

Section 5.1 Bankruptcy Actions.

(a) Purchaser agrees that it will promptly take such actions as are reasonably requested by Seller to assist in obtaining Bankruptcy Court approval of the Sale Order.

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

(c) Purchaser shall promptly take all actions as are reasonably requested by Seller to assist in obtaining the Bankruptcy Court's entry and approval of the Sale Order, and any other Order reasonably necessary in connection with the Transactions as promptly as practicable, including furnishing affidavits, non-confidential financial information, or other documents or information for filing with the Bankruptcy Court and making such employees and Advisors of Purchaser and its Affiliates available to testify before the Bankruptcy Court for the purposes of, among other things, (i) providing necessary assurances of performance by Purchaser under this Agreement, (ii) demonstrating that Purchaser is a "good faith" purchaser under Section 363(m) of the Bankruptcy Code, (iii) establishing adequate assurance of future performance by Purchaser of the Purchaser's Assigned Contracts as required under Section 365 of the Bankruptcy Code, and (iv) demonstrating the Purchaser's ability to pay and perform or otherwise satisfy Purchaser's Assumed Liabilities following the Closing.

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

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

(f) Nothing in this Section 5.1 shall prevent Seller from modifying the bidding procedures as necessary or appropriate to maximize value for Seller's estate in accordance with Seller's fiduciary obligations, following consultation with Purchaser.

(g) Purchaser agrees not to solicit or enter into any joint bidder, exclusivity, or similar arrangement prior to the Closing without the prior written consent of Seller.

Section 5.2 **Sale Order**. The Sale Order shall, among other things, (a) approve, pursuant to Sections 105, 363 and 365 of the Bankruptcy Code (i) the execution, delivery and performance by Seller of this Agreement, (ii) the sale of the Acquired Assets to Purchaser on the terms set forth herein and free and clear of all Encumbrances (other than Encumbrances included in the Assumed Liabilities and Permitted Encumbrances), and (iii) the execution, delivery, and performance by Seller of its obligations under this Agreement, (b) authorize and empower Seller to assume and assign to Purchaser the Assigned Contracts, (c) find that Purchaser is a "good faith" purchaser within the meaning of Section 363(m) of the Bankruptcy Code, find that Purchaser is not a successor to Seller, and grant Purchaser the protections of Section 363(m) of the Bankruptcy Code, (d) find that Purchaser has provided adequate assurance (as that term is used in Section 365 of the Bankruptcy Code) of future performance in connection with the assumption of the Assigned

Contracts, and (e) find that Purchaser shall have no Liability for any Excluded Liability or responsibility for any Liability or other obligation of Seller arising under or related to the Acquired Assets other than as expressly set forth in this Agreement, including successor or vicarious Liabilities of any kind or character, including any theory of antitrust, successor, or transferee Liability, labor law, de facto merger, environmental, or substantial continuity. Without limiting Seller's obligation to take all such actions as are reasonably necessary to obtain Bankruptcy Court approval of the Sale Order, Purchaser agrees that it will promptly take such actions as are reasonably requested by Seller to assist in obtaining Bankruptcy Court approval of the Sale Order, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court for purposes, among others, of (A) demonstrating that Purchaser is a "good faith" purchaser under Section 363(m) of the Bankruptcy Code and (B) establishing adequate assurance of future performance within the meaning of Section 365 of the Bankruptcy Code.

Section 5.3 **Approval**. Seller's obligations under this Agreement and in connection with the Transactions are subject to entry of and, to the extent entered, the terms of any Orders of the Bankruptcy Court (including entry of the Sale Order). Nothing in this Agreement shall require Seller or its Affiliates to give testimony to or submit a motion to the Bankruptcy Court that is untruthful or to violate any duty of candor or other fiduciary duty to the Bankruptcy Court or its stakeholders.

ARTICLE VI
COVENANTS AND AGREEMENTS

Section 6.1 **Conduct of the Business of Seller**.

(a) Except (i) as required by applicable Law, Order or a Governmental Body, (ii) as expressly contemplated or required by this Agreement, or (iii) as set forth on Schedule 6.1, during the period from the date of this Agreement until the Closing (or such earlier date and time on which this Agreement is terminated pursuant to Article VIII), unless Purchaser otherwise consents in writing, Seller shall (and shall cause its Affiliates and the Acquired Entities to) (A) carry on the Business in the Ordinary Course, (B) conduct their business in accordance with Applicable Law and (C) use commercially reasonable efforts to maintain its Permits, material Intellectual Property, Equipment and Business Insurance Policies.

(b) Except (i) as required by Applicable Law or Order, (ii) for any limitations on operations imposed by the Bankruptcy Court or the Bankruptcy Code, as the case may be, or (iii) as expressly contemplated or required by this Agreement, and notwithstanding any other provision of this Agreement, Seller shall not, and shall cause its Affiliates not to, enter into any settlement with respect to any matters disclosed on Schedule 3.19(c)(iv) that would reasonably be expected to result in liability or payment of money damages unless Purchaser otherwise consents thereto in writing.

(c) Except (i) as required by Applicable Law, Order or a Governmental Body, or (ii) as set forth on Schedule 6.1(c), during the period from the date of this Agreement until the Closing (or such earlier date and time on which this Agreement is terminated pursuant to Article VII), unless Purchaser otherwise consents in writing, Seller shall not, and shall cause its Affiliates

and the Acquired Entities not to, take any of the following actions with respect to the Business, the Acquired Assets or the Assumed Liabilities:

(i) (A) issue, sell, encumber, or grant any Equity Interests of the Acquired Entities, (B) redeem, purchase, or otherwise acquire any of the outstanding Equity Interests of the Acquired Entities, (C) establish a record date for, declare, set aside for payment or pay any dividend or distribution on, or make any other dividend or distribution in respect of, any Equity Interests of the Acquired Entities, or (D) split, combine, subdivide, or reclassify any Equity Interests of the Acquired Entities;

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

(iii) sell or lease to any Person, in a single transaction or series of related transactions, any of the Acquired Assets or the assets held by the Acquired Entities, except (x) Ordinary Course dispositions of Inventory, or (y) Ordinary Course dispositions of obsolete, surplus or worn out assets or assets that are no longer used or useful in the conduct of the Business;

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

(v) except as permitted under Section 6.1(c)(iv), and except for acquisitions made with Purchaser's prior written consent, make any acquisition of, or investment in, any securities or business (including by merger) or consolidate with or into any legal entity, (which shall exclude acquisitions of Inventory in the Ordinary Course);

(vi) (1) increase any compensation of any current or former Business Employee (including bonus or long-term incentive opportunities), (2) hire any employee who would be a Business Employee, (3) take any action to accelerate any rights or benefits of any current or former Business Employee under any Employee

Benefit Plan or (4) terminate any Business Employee or Business Service Provider (other than for cause); provided that the foregoing shall not restrict Seller from taking any action with respect to employees who are non-Business Employees, including the termination of any employees who are non-Business Employee;

(vii) recognize any Labor Union as the bargaining representative for any Business Employee, or make any statement or take any action that would cause Purchaser or its Affiliates to be a "perfectly clear successor" (as defined by the National Labor Relations Board and courts interpreting the National Labor Relations Act) to any bargaining relationship with any Labor Union;

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

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

(x) sell, license, transfer, abandon, permit to lapse (other than by expiration), or otherwise dispose of (including through exclusive license) any material Acquired Intellectual Property, except (A) abandonment or lapse of any issued or registered material Acquired Intellectual Property rights at the end of its final, non-renewable statutory term or (B) non-exclusive licenses granted to customers, suppliers, vendors, end-users, resellers or distributors in the Ordinary Course;

(xi) settle any pending or threatened Action or consent to the entry of any order against Seller or an Acquired Entity or relating to the Business, the Acquired Assets, the assets held by the Acquired Entities or Assumed Liabilities;

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

(xiii) enter into (x) any Contract that would have been a Material Contract if entered into prior to the date hereof or (y) any Contract with a term or commitment greater than six (6) months;

(xiv) enter into, modify, assign, novate, amend or terminate any Government Contract;

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

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

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

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

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

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

(xxi) amend, supplement or modify Seller's or its Affiliates' official collection policy or payments policy;

(xxii) engage in any ad hoc communications with customers outside the Ordinary Course;

(xxiii) make any material changes to cash management practices and policies, practices and procedures with respect to collection of accounts receivable, accrual of accounts receivable (including acceleration thereof), inventory control, prepayment of expenses, payment of accounts payable (including any delay thereof), accrual of other expenses, deferral of revenue and acceptance of customer deposits;

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

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

(xxvi) amend or modify (whether by merger, consolidation or otherwise) the certificate of incorporation, bylaws or comparable organizational or governing

documents of Seller or any of its respective Affiliates in a manner that would delay, prevent or impede the consummation of the Transaction; or

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

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

Section 6.2 Access to Information.

(a) From the date hereof until the Closing (or the earlier termination of this Agreement) pursuant to Article VIII, Seller will provide Purchaser and its authorized Advisors with reasonable access (during reasonable business hours and upon reasonable advance notice) to (w) Seller and its Affiliates, to the extent related to the Business, the Acquired Assets, the Assumed Liabilities and the Acquired Entities, (x) Seller's accountants, counsel, financial advisors and other authorized outside representatives, officers and senior management in their respective principal places of business, (y) books, records and properties of Seller, to the extent related to the Business, and the Acquired Entities, except as prohibited by applicable Law and (z) such financial and operating data and other information relating to the Business as Purchaser and its authorized Advisors may reasonably request and Seller will instruct the employees, counsel and financial advisors of the Seller and their Affiliates to cooperate with Purchaser in its investigation of the Business; provided that (i) such access does not unreasonably interfere with the normal operations of Seller or any Acquired Entity, (ii) Seller and the Acquired Entities are not obligated to disclose and may redact or remove any information that is not related to the Business, the Acquired Entities, the Acquired Assets or the Assumed Liabilities, and (iii) nothing herein will require Seller or the Acquired Entities to provide access to, or to disclose any information to, Purchaser if such access or disclosure (A) would reasonably be expected to adversely affect any legal privilege, (B) would be in violation of applicable Laws (including the Competition Laws) or the provisions of any agreement to which Seller or any Acquired Entity is bound or would violate any fiduciary duty, or (C) is in respect of Excluded Tax Returns; provided further, that the Parties shall use their respective commercially reasonable efforts to provide such access in a manner so as to not result in the waiver of such privilege or the violation of such Law, agreement or fiduciary duty.

(b) From the date hereof until the Closing (or the earlier termination of this Agreement) pursuant to Article VIII, and except as would be prohibited by Applicable Law, Seller will keep Purchaser reasonably informed of any material developments related to any False Claims Act or other matter disclosed on Schedule 3.19(c)(iv), or that would have been required to be disclosed on Schedule 3.19(c)(iv) if such matter had occurred on or prior to the date hereof including, but not limited to, further discussions with the government regarding possible settlement or scope of liability.

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

(d) From the Closing Date until the later of (x) three years following the Closing Date, and (y) the date of a final, unappealable order resolving the Chapter 11 Cases, Purchaser will provide Seller and its Advisors, at no cost to Debtors, with (i) reasonable access, during normal business hours, without undue disruption, and upon reasonable advance written notice, to the books and records, including work papers, schedules, memoranda, and other documents (for the purpose of examining and copying) relating to the Acquired Assets, the Acquired Entities, the Excluded Assets, the Assumed Liabilities or the Excluded Liabilities to the extent relating to periods or occurrences prior to the Closing Date, and (ii) reasonable access, during normal business hours, without undue disruption, and upon reasonable advance written notice, to employees, officers, Advisors, accountants, offices and properties of Purchaser (including for the purpose of better understanding the books and records), in the case of each of the immediately preceding clauses (i) and (ii) solely for the purposes of Seller's wind-down activities; provided that (i) Purchaser shall not be obligated to disclose and may redact or remove any information that is not related to the Business, the Acquired Entities, the Acquired Assets, the Excluded Assets, the Excluded Liabilities or the Assumed Liabilities, and (ii) nothing herein will require Purchaser to provide access to, or to disclose any information to, Seller if such access or disclosure (A) would reasonably be expected to adversely affect any legal privilege, or (B) would be in violation of applicable Laws (including the Competition Laws) or the provisions of any agreement to which Seller or any Acquired Entity is bound or would violate any fiduciary duty; provided further, that the Parties shall use their respective commercially reasonable efforts to provide such access in a manner so as to not result in the waiver of such privilege or the violation of such Law, agreement or fiduciary duty.

(e) Purchaser will not, and will not permit any member of the Purchaser Group to, contact any officer, manager, director, employee, customer, supplier, lessee, lessor, lender, licensee, licensor, distributor, noteholder or other material business relation of Seller prior to the Closing with respect to Seller, the Business or the Transactions, without the prior written consent of Seller for each such contact, except for in accordance with Section 6.2(a).

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

Affiliates and its and their respective Advisors were Recipients (as defined in the Confidentiality Agreement) thereunder).

Section 6.4 Employee Matters.

(a) Prior to and contingent on the occurrence of the Closing, Purchaser may extend an offer of employment or engagement to one or more of the Business Employees or Business Service Providers on such terms and conditions as determined by Purchaser (such Business Employees or Business Service Providers who receive an offer of employment or engagement, the "Offer Employees"), with such employment or engagement to take effect under the terms set forth in this Section 6.4 ("Transfer Offer") and that, if accepted (which acceptances shall be delivered to Purchaser no later than the Closing Date), shall become effective immediately upon the Closing. Seller and its Affiliates shall cooperate in good faith with and provide reasonable assistance to Purchaser and its Affiliates in its or their efforts to enter into a Transfer Offer with the Offer Employees, including by (i) making the Business Employees or Business Service Providers reasonably accessible to meet and interview with Purchaser or their Affiliates, and (ii) otherwise facilitating Purchaser's and its Affiliates' interview and evaluation processes. Business Employees and Business Service Providers who accept such Transfer Offers and begin employment or engagement with Purchaser shall be collectively referred to herein as "Transferred Employees." Purchaser shall notify Seller on the Closing Date with respect to whether each such offer has been accepted or rejected. Nothing herein shall be construed as a representation or guarantee by Seller or any of its Affiliates that any Business Employees or Business Service Providers will accept the Transfer Offer, or that any Transferred Employee will continue in employment or engagement with Purchaser following the Closing for any period of time. Purchaser shall carry out all necessary actions to effect the timely employment or engagement by it of each Business Employee or Business Service Provider who has accepted a Transfer Offer. Effective as of the Closing, each Transferred Employee previously employed or engaged by Seller shall cease to be an employee or service provider of Seller.

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

(c) Purchaser shall assume, honor and be solely responsible for paying, providing and satisfying when due all compensation (including salary, wages, commissions, bonuses, incentive compensation, overtime, premium pay and shift differentials), vacation, personal days, sick pay and other paid time off, benefits and benefit claims, severance and termination pay, notice, and benefits (including any employer Taxes or other payments related thereto), in each case, accruing, incurred or arising as a direct result of employment with, or separation from employment from, Purchaser after the Closing Date with respect to Transferred Employees.

(d) The provisions of this Section 6.4 are for the sole benefit of the Parties and nothing herein, express or implied, is intended or shall be construed to confer upon or give any Person, other than the Parties and their respective permitted successors and assigns, any legal or equitable or other rights or remedies (with respect to the matters provided for in this Section 6.4 or under or by reason of any provision of this Agreement). Nothing contained herein, express or implied: (i) shall be construed to establish, amend, or modify any benefit or compensation plan,

program, agreement or arrangement; (ii) shall, subject to compliance with the other provisions of this Section 6.4, alter or limit Purchaser's or Seller's ability to amend, modify or terminate any particular benefit or compensation plan, program, agreement or arrangement; or (iii) is intended to confer upon any current or former employee any right to employment or continued employment for any period of time by reason of this Agreement, or any right to a particular term or condition of employment.

(e) Seller and its Affiliates expressly agree to retain all obligations, Liabilities, and commitments under the Worker Adjustment and Retraining Notification Act of 1988 or any similar Laws (collectively, the "WARN Act"), including any requirement to provide notice, that accrue prior to, on or after the Closing Date; provided Purchaser shall be liable for any Liabilities arising under the WARN Act solely with respect to Transferred Employees who may be entitled to notice under the WARN Act with respect to any termination of employment from Purchaser after the Closing Date, provided Seller provides to Purchaser upon the Closing Date a complete and true list of each "employment loss" (as defined under the WARN Act) of Business Employees occurring within the ninety (90) day period immediately prior to the Closing Date, by employment site, date of employment loss, and reason for employment loss. Notwithstanding anything to the contrary herein, Seller or its Affiliates shall be permitted to provide WARN Act notices prior to the Closing to any Business Employees who are owed notice under the WARN Act, in consultation with Purchaser.

(f) To the extent permitted under the applicable stop-loss insurance policy with respect to the group health plan maintained by Purchaser and its Affiliates, Purchaser and its Affiliates shall be solely responsible for any and all obligations and Liabilities arising under Section 4980B of the Tax Code and applicable state Law (including satisfaction of any related notice requirements) with respect to employees of Seller and its Affiliates whose services relate primarily to the Business and who are or may become "M&A qualified beneficiaries" as defined in 26 C.F.R. § 54.4980B- 9 as a result of a qualifying event that occurred or occurs prior to, on, or after the Closing Date; provided that Seller and its Affiliates (x) shall notify Purchaser within three days of any "qualifying event" as defined in § 1163 of ERISA and (y) provide Purchaser and its Affiliates with any reasonably requested information to permit Purchaser and its Affiliates to comply with the foregoing. For the avoidance of doubt, any such "M&A qualified beneficiaries" shall bear the full cost of continued coverage under any group health plan of Purchaser or its Affiliates. To the extent Purchaser or its Affiliates are not permitted under their applicable group health plan or stop-loss insurance policy to provide such continuation coverage, Seller and its Affiliates shall remain solely responsible for all such obligations and Liabilities.

Section 6.5 Regulatory Approvals.

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

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

(c) Notwithstanding anything to the contrary herein, Seller shall, at Seller's sole cost and expense, prepare, submit, and diligently prosecute applications, filings, submissions and other documents for the transfer, assignment or reissuance to Purchaser of any Permits desired by Purchaser and required under Law (including Environmental Law), and Seller shall reasonably cooperate with Purchaser to obtain the relevant issuing Governmental Bodies' approval of the transfer, assignment, or revocation and reissuance of such Permits. Seller covenants and agrees to provide draft applications, filings, and submissions to Purchaser at least 10 Business Days in advance of submittal or filing, unless Purchaser agrees in writing to waiver such timing, and to incorporate any reasonable Purchaser comments. Seller agrees to share any communications to or from Governmental Bodies with Purchaser regarding the Permits and to consult and coordinate with Purchaser as to any significant such communications. In the period prior to the transfer of any Permit from Seller to Purchaser, Seller agrees to continue to serve as the operator of record with respect to any equipment covered by any Permit, and in doing so Seller shall act in all respects at the direction of Purchaser, provided that Seller shall not be required to take any action that would violate applicable Law, the terms of any Permit, or any Order of the Bankruptcy Court, and Seller shall make all filings required under such Permits at the direction of and in cooperation with Purchaser.

Section 6.6 Reasonable Efforts; Cooperation.

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

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

Section 6.7 Further Assurances. Subject to the terms and conditions of this Agreement, from time to time, as and when reasonably requested by any Party and at such requesting Party's expense, any other Party will execute and deliver, or cause to be executed and

delivered, all such documents and instruments and will take, or cause to be taken, all such further or other actions as such requesting Party may reasonably deem necessary or desirable to evidence and effectuate the Transactions. Without limiting the generality of the foregoing, at Purchaser's request, Seller shall, and shall cause its Affiliates to, promptly execute and deliver such assignments and other documents, and take such other steps, as may be required to vest and perfect title to all Acquired Intellectual Property in Purchaser or its designee.

Section 6.8 Insurance Matters.

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

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

(c) For a period of six (6) months after the Closing, Seller may not release or waive any actual liability or potential liability of any insurer of a Business Insurance Policy with respect to Pre-Closing Matters (including but not limited to any cancel, lapse, or non-renewal of a Business Insurance Policy) without the prior written consent of the Purchaser.

Section 6.9 Receipt of Misdirected Assets; Liabilities.

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

(b) From and after the Closing, if Seller or any of its Affiliates is subject to a Liability that should belong to Purchaser or its Affiliates pursuant to the terms of this Agreement, Seller shall promptly transfer or cause such of its Affiliates to transfer such Liability to Purchaser, and Purchaser shall assume and accept such Liability. From and after the Closing, if Purchaser or any of its Affiliates is subject to a Liability that should belong to Seller or its Affiliates pursuant to the terms of this Agreement, Purchaser shall promptly transfer or cause such of its Affiliates to transfer such Liability to Seller or its Affiliates, and Seller or its Affiliates shall assume and accept such Liability.

Section 6.10 Acknowledgment by Purchaser.

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

(b) Purchaser acknowledges and agrees, on its own behalf and on behalf of the Purchaser Group, that (i) the Express Representations are the sole and exclusive representations,

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

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

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

Section 6.11 [Reserved].

Section 6.12 Releases.

(a) As of the Closing, Seller, on behalf of itself and its Affiliates, and its and their Affiliates' representatives, heirs, estates successors or executors, partners, members, equity holders, directors, officers, employees, controlling persons, agents, successors, stockholders, trustees, principals, parents, Subsidiaries, joint ventures, predecessors, and assigns (as applicable) (collectively, the "Seller Releasing Parties"), (a) irrevocably and unconditionally waives, releases, and forever discharges Purchaser, the Acquired entities and its and their current, former and future Affiliates, Advisors, stockholders, members, directors, managers, trustees, principals, parents,

Subsidiaries, joint ventures, predecessors, successors, assigns, beneficiaries, heirs or executors (collectively, the "Acquired Entity Released Parties") from any and all rights, commitments, actions, debts, claims, counterclaims, suits, Causes of Action, Avoidance Actions, damages, demands, losses, obligations, costs, expenses, compensation and other Liabilities of every kind and nature whatsoever, whether known or unknown, matured or contingent and whether arising in Law, in equity or otherwise, in each case based upon facts, circumstances or occurrences existing at or prior to Closing (collectively, the "Released Claims"), (b) irrevocably covenants to refrain from, directly or indirectly, asserting any claims or commencing, instituting or causing to be commenced, any Action of any kind against any Acquired Entity Released Party with respect to the Released Claims and (c) represents to the other Parties that Seller has not assigned or transferred, nor purported to assign or transfer, to any Person all or any part of, or any interest in, any Released Claim (and notwithstanding anything to the contrary in this Agreement, no such assignment or transfer shall be permitted, and any purported assignment or transfer shall be legally ineffective). Seller also hereby waives the benefits of, and any right that such Person may have under, any statute or common law principle of similar effect in any jurisdiction with respect to any Released Claim.

(b) Without limiting the foregoing, Seller, on behalf of itself and the Seller Releasing Parties, expressly waives and releases any and all rights and benefits under Section 1542 of the California Civil Code (or any analogous law of any other state), which reads as follows: "A general release does not extend to claims which the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party." Seller, on behalf of itself and the other Seller Releasing Parties, expressly waives all rights afforded by any statute which limits the effect of a release with respect to unknown claims. Seller, on behalf of itself and the other Seller Releasing Parties, understands the significance of this release of unknown claims and waiver of statutory protection against a release of unknown claims, and acknowledges and agrees that this waiver is an essential and material term of this Agreement. Seller, on behalf of itself and the other Seller Releasing Parties, acknowledges that each of the Acquired Entity Released Parties will be relying on the waivers and releases provided in Section 6.12(a) and Section 6.12(b) in connection with entering into this Agreement and that Section 6.12(a) and Section 6.12(b) are intended for the benefit of, and will grant express third party beneficiary rights to each Acquired Entity Released Party to enforce Section 6.12(a) and Section 6.12(b).

(c) As of the Closing, Purchaser, on behalf of itself and its Subsidiaries (including, after the Closing, the Acquired Entities) (collectively, the "Purchaser Releasing Parties"), representatives, heirs, estates, successors, and assigns (as applicable), (i) irrevocably and unconditionally waives, releases, and forever discharges Seller and their current, former and future Affiliates, Advisors, stockholders, members, directors, managers, trustees, principals, parents, Subsidiaries, joint ventures, predecessors, successors, assigns, beneficiaries, heirs or executors (collectively, the "Seller Released Parties") from any and all Released Claims of the Purchaser Releasing Parties against the Seller Released Parties, (ii) irrevocably covenants to refrain from, directly or indirectly, asserting any claims or commencing, instituting or causing to be commenced, any Action of any kind against any Seller Released Party with respect to the Released Claims, and (iii) represents to Seller that Purchaser has not assigned or transferred, nor purported to assign or transfer, to any Person all or any part of, or any interest in, any Released Claim (and

notwithstanding anything to the contrary in this Agreement, no such assignment or transfer shall be permitted, and any purported assignment or transfer shall be legally ineffective). Purchaser also hereby waives the benefits of, and any right that such Person may have under, any statute or common law principle of similar effect in any jurisdiction with respect to any Released Claim.

(d) Without limiting the foregoing, Purchaser, on behalf of itself and the Purchaser Releasing Parties, expressly waives and releases any and all rights and benefits under Section 1542 of the California Civil Code (or any analogous law of any other state), which reads as follows: "A general release does not extend to claims which the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party." Purchaser, on behalf of itself and the other Purchaser Releasing Parties, expressly waives all rights afforded by any statute which limits the effect of a release with respect to unknown claims. Purchaser, on behalf of itself and the Purchaser Releasing Parties, understands the significance of this release of unknown claims and waiver of statutory protection against a release of unknown claims, and acknowledges and agrees that this waiver is an essential and material term of this Agreement. Purchaser, on behalf of itself and the other Purchaser Releasing Parties, acknowledges that each of the Seller Released Parties will be relying on the waivers and releases provided in Section 6.12(c) and Section 6.12(d) in connection with entering into this Agreement and that Section 6.12(c) and Section 6.12(d) are intended for the benefit of, and will grant express third party beneficiary rights to each Seller Released Parties to enforce Section 6.12(c) and Section 6.12(d).

(e) Notwithstanding the generality of the foregoing, nothing herein constitutes a waiver or release by any Person of, and Released Claims shall not be deemed to include any claim, action, suit, right or proceeding (i) arising under or relating to this Agreement or any Transaction Agreement, including any breach of this Agreement or any Transaction Agreement, (ii) such Person may have in the Ordinary Course for compensation, vacation pay, and benefits arising under such Person's employment arrangements, (iii) arising as a result of Fraud, (iv) in respect of bonds, indentures, notes or similar instruments of Seller or any Affiliate thereof, or (v) in respect of, relating to or against any employee, contractor or other similar service provider of Seller or any of its Affiliates.

Section 6.13 Polish Matters.

(a) From and after the date hereof, and following the Closing, the Seller shall, and shall cause its Affiliates and its and their respective representatives to, use reasonable best efforts (and in any event no less than the level of efforts used in respect of its own financing arrangements) to facilitate Purchaser obtaining financing on terms substantially consistent with those set out in the mandate letter dated 17 December 2025 between AE Poland 2 sp. z o.o., AE Poland Holdings sp. z o.o. and the European Bank for Reconstruction and Development ("EBRD") in respect of financing of up to EUR 250,000,000 (the "Financing"). In particular, from and after the date hereof, and following the Closing, the Seller shall, and shall cause its Affiliates and its and their respective representatives to: (i) promptly notify EBRD of the transactions contemplated hereby and the Financing (the "EBRD Notice"); (ii) use reasonable best efforts to procure that the Purchaser (or its designated Affiliate) is accepted by EBRD as sponsor of the transactions contemplated hereby and the Financing in substitution for Seller; (iii) provide in a timely manner

all information, documentation and confirmations reasonably requested by Purchaser or EBRD in connection with the Financing, including corporate, financial and project-related information, subject only to customary confidentiality protections; (iv) participate in meetings, discussions and correspondence with EBRD and its advisers as reasonably requested by Purchaser; and (v) not take any action that would reasonably be expected to prejudice, delay or adversely affect the availability, structure or timing of the Financing.

(b) Without limiting the foregoing, from and after the date hereof, and following the Closing, the Seller shall and shall cause its Affiliates and its and their respective representatives to cooperate with, assist and take all actions, and execute and deliver all documents, agreements, instruments and certificates necessary or advisable, to enable Purchaser and the applicable Acquired Entity duly exercise the option to acquire by entering into a conditional sale agreement (*umowa zobowiązująca sprzedaży pod warunkiem*) and, following the satisfaction of the conditions set forth therein, entering into the transfer agreement (*umowa rozporządzająca*), and to become the sole owner and acquire all right, title and interest in and to, the real property located at Opole, Poland covered by land and mortgage registers under numbers: OP1O/00164138/8, OP1O/00171892/3 and OP1O/00165182/8, in each case in accordance with the applicable terms thereof.

(c) From and after the date hereof, and following the Closing, Seller shall, and shall cause its Affiliates and its and their respective representatives to, (i) consult with Purchaser and its representatives in advance of any meeting, conference or discussion with any Governmental Body in connection with the matters described in the foregoing Sections 6.13(a) and 6.13(b) (together, the "Polish Matters"); and (ii) to the extent permitted by such Governmental Body, give Purchaser, its Affiliates and its and their respective representatives the opportunity to attend and participate in any meeting, conference or discussion with any Governmental Body. From and after the date hereof, and following the Closing, Seller shall, and shall cause its Affiliates and its and their respective representatives to, (A) cooperate with Purchaser and its Affiliates and its and their respective representatives in preparing, providing, delivering, submitting, filing, updating and publishing (as applicable), as expeditiously as possible, all applications, notifications, report forms or other documents as may be required in connection with the Polish Matters, and (B) provide copies and drafts of all such applications, notifications, report forms or other documents to Purchaser and its Representatives with sufficient time for review by Purchaser and its Representatives prior to their delivery, submission, filing or publishing, as applicable, and shall take into consideration any comments provided by Purchaser or its Representatives in good faith.

(d) During the 45-day period following the Closing Date, Seller agrees to, and shall cause its Affiliates and its and their respective representatives not to, sell, transfer, convey, encumber or subject to any Encumbrance, any or all of Seller's or its Affiliates' direct or indirect right, title and interest in and to, the Equity Interests of Ascend Elements Poland sp. z o.o., a limited liability company incorporated under the laws of Poland ("AEP"), and AE Elemental sp. z o.o., a limited liability company incorporated under the laws of Poland ("AEE") (such Equity Interests, the "AEP Equity Interests"). If, during such 45-day period, Purchaser delivers (in its sole discretion) a written notice to Seller of its election to acquire all of the AEP Equity Interests that Seller and its Affiliates own, directly or indirectly, then Seller shall, and shall cause its Affiliates to, sell, transfer and convey to Purchaser, all of Seller's and its Affiliates' right, title, and interest in and to the AEP Equity Interests free and clear of all Encumbrances for no additional

consideration, and such AEP Equity Interests shall constitute Acquired Assets, and AEP and AEE shall constitute Acquired Entities, hereunder. In the event that Purchaser elects to acquire the AEP Equity Interests, Seller shall, and shall cause its Affiliates and its and their respective representatives to (x) cancel and terminate in full, without any payment of any amount or consideration by AEE or AEP, any and all intercompany notes, loans, payables or other similar amounts between AEE or AEP, on the one hand, and Seller or any of its Affiliates (other than AEE or AEP), on the other hand, in each case without further liability or obligation to Purchaser, any Acquired Entity (including AEE or AEP) or any of their respective Affiliates, and (y) deliver written evidence thereof satisfactory to Purchaser. Seller shall, and shall cause its Affiliates and its and their respective representatives to, cooperate fully with Purchaser, its Affiliates and its and their respective representatives, take all such actions necessary or advisable, execute any and all such documents, instruments, certificates and agreements necessary or advisable, and deliver any and all notices (including notices to the Polish Minister of Finance and Economy) in connection with the foregoing and to preserve the value of the AEP Equity Interests, AEP, AEE, and their respective assets and operations, and the relationships between AEP and AEE and any applicable Governmental Body or official (including the Polish Minister of Finance and Economy). From and after the date hereof, and following the Closing, Seller shall, and shall cause its Affiliates and its and their respective representatives to, (i) use best efforts to resolve any outstanding disputes or matters with respect to the joint venture partner in AEE as promptly as practicable, (ii) keep Purchaser, its Affiliates and its and their respective representatives informed of any discussions or meetings with such joint venture partner, its Affiliates or their respective representatives, (iii) provide Purchaser and its representatives with an opportunity to participate in any such meetings and to review and comment on any such correspondences prior to their delivery to such joint venture partner, its Affiliates or its and their respective representatives, and (iv) incorporate any comments provided by Purchaser or any of its representatives into any such correspondence.

(e) From and after the Closing, Seller shall, and shall cause its Affiliates and its and their respective Representatives to, at no cost to Purchaser or any Acquired Entity, use best efforts to cooperate with Purchaser and its Affiliates and to take all actions required whether by any Governmental Body or any other applicable Person or entity, in connection with (i) the transfer to the Acquired Entity that owns the Opole Property of all rights and obligations under the Grant Agreement and (ii) the exercise of the option to acquire the Opole Property.

Section 6.14 Use of Names. From and after Closing, Seller shall not, and shall cause its Affiliates not to, use the name "Ascend" or any other trademark or service mark included in the Acquired Intellectual Property, including names or marks containing or comprising the foregoing, and any name or trademark that is confusingly similar to the foregoing (collectively, the "Business Marks"). Within thirty (30) days after Closing, Seller shall, and shall cause its Affiliates to, file applicable documentation to amend their organizational and governing documents to change their corporate names to names that do not include the Business Marks. Notwithstanding the foregoing, Seller and its Affiliates shall be entitled to continue to use the Business Marks solely in a non-trademark manner to describe accurately their corporate history and otherwise for purposes of Seller's wind-down activities.

Section 6.15 Data Transfer. As promptly as practicable following the Closing, and in any event within five (5) Business Days following the Closing, Seller shall deliver to Purchaser, in the format then-maintained by Seller in the ordinary course of business, any Documents which

are stored on the IT Assets (and not previously delivered to Purchaser or its designee at the Closing or already available on the Acquired Entities' IT Assets).

Section 6.16 IT Assets. Following the Closing Date for a period of twenty (20) Business Days, Seller will, and will cause its Affiliates to provide Purchaser, its Affiliates and its and their respective representatives with access to any and all facilities or locations of Seller or any of its Affiliates in order for Purchaser to obtain and retrieve any IT Assets that related to any of the Acquired Entities, the Acquired Assets or the Assumed Liabilities. Seller shall, and shall cause its Affiliates and its and their respective representatives to fully cooperate and provide such necessary or advisable assistance to Purchaser, its Affiliates and its and their respective representatives in connection therewith.

Section 6.17 IP Transfer. Following the Closing Date, Seller will, and will cause its Affiliates to, assign any and all Acquired Intellectual Property or any interest in other Intellectual Property used by any of them in connection with the Business, that has not been assigned to Purchaser as of the Closing Date, including (a) using best efforts to obtain any required third-party consents required for any such assignment and (b) executing and delivering all additional instruments necessary to vest in Purchaser title to any Acquired Intellectual Property.

Section 6.18 Covington IP License. Effective as of immediately following the Closing Date, Purchaser hereby grants to Seller a non-exclusive, royalty-free (subject to the delivery of data required by this Section 6.18), non-sublicensable and non-transferable 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; provided that the license may be transferred on the foregoing terms, in whole (and not in part), to a buyer of the Covington Facility in whole (and not in part). The foregoing license (i) shall expire upon the expiration of the last-to-expire patents included in the Covington IP and (ii) is granted on an as-is, where-is basis. In consideration for the foregoing license, Seller and any subsequent transferee will deliver to Purchaser such data as may be reasonably requested by Purchaser from time to time regarding the results of the practice of the Covington IP at the Covington Facility, which data shall be delivered by Seller and any subsequent transferee for the term of the Covington IP license at a cadence reasonably requested by Purchaser. Seller and any subsequent transferee hereby grants to Purchaser and its Affiliates a non-exclusive, royalty-free license to use such data in the operation of its and their respective businesses. For the avoidance of doubt, any assignee of the license to the Covington IP granted under this Section 6.18 shall take such license subject to the foregoing data delivery obligation and data license.

Section 6.19 Hopkinsville IP License.

Purchaser shall, upon the written request of a buyer of all assets at Seller's existing real property at 6505 John Rivers Road, Hopkinsville, Kentucky 42240 (the "**Hopkinsville Facility**" and such buyer, the "**Hopkinsville Buyer**"), grant to the Hopkinsville Buyer a royalty-free, non-exclusive, non-sublicensable, non-transferable license (subject to the delivery of data required by this Section 6.19) to use the Acquired Intellectual Property (other than trademarks and other indications of origin), solely at and in the operation of the Hopkinsville Facility; *provided* that the

license may be transferred on the foregoing terms, in whole (and not in part), to a buyer of the Hopkinsville Facility in whole (and not in part). Such request by the Hopkinsville Buyer must be delivered to Purchaser no later than the closing date of the sale of the Hopkinsville Facility. Such license (i) shall expire upon the expiration of the last-to-expire patents included in the Acquired Intellectual Property; and (ii) will be granted on an as-is, where-is basis. In consideration for the foregoing license, the Hopkinsville Buyer and any subsequent transferee will deliver to Purchaser such data as may be reasonably requested by Purchaser from time to time regarding the results of the practice of the Acquired Intellectual Property at the Hopkinsville Facility, which data shall be delivered by the Hopkinsville Buyer and any subsequent transferee for the term of the foregoing license at a cadence reasonably requested by Purchaser. The Hopkinsville Buyer and any subsequent transferee will grant to Purchaser and its Affiliates a non-exclusive, royalty-free license to use such data in the operation of its and their respective businesses.

Section 6.20 Invention Assignments. Seller will, and will cause its Affiliates to, use best efforts to deliver to Purchaser on the Closing Date the proprietary information and inventions assignment agreements in form and substance acceptable to Purchaser from each of the individuals set forth on Schedule 6.20 (each, a "Required Invention Assignment"). To the extent any such Required Invention Assignment is not so delivered, Seller will, or will cause its Affiliates to, deliver such Required Invention Assignment within ten (10) days following the Closing Date.

ARTICLE VII
CONDITIONS TO CLOSING

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

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

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

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

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

(a) (i) the representations and warranties made by Seller in Article III (in each case, other than the Fundamental Representations and the representations and warranties in Section 3.24) shall be true and correct in all respects as of the date of this Agreement and the Closing Date with the same force and effect as though made on and as of the Closing Date (without giving effect

to materiality, Material Adverse Effect or similar phrases), except (A) that representations and warranties that are made as of a specified date need be true and correct only as of such date and (B) to the extent the failure of such representations and warranties to be true and correct as of such dates has not had or would not reasonably be expected to have a Material Adverse Effect, (ii) the representations and warranties set forth in Section 3.1, Section 3.2, Section 3.3, Section 3.4, Section 3.5, Section 3.14(b) and Section 3.18 (collectively, the "Fundamental Representations") shall be true and correct in all respects, except for any *de minimis* inaccuracies, as of the Closing Date as though made on and as of the date of this Agreement and the Closing Date, except that such Fundamental Representations and warranties that are made as of a specified date or period need be true and correct in all respects, except for any *de minimis* inaccuracies, only as of such date or period, and (iii) the representations and warranties set forth in Section 3.24 shall be true and correct as of the date of this Agreement and the Closing Date as though made on and as of the Closing Date;

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

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

(d) Seller shall have delivered, or caused to be delivered, the EBRD Notice in accordance with Section 6.13;

(e) no Action shall have been brought, initiated or asserted against Seller, any Acquired Entity, any joint venture to which Seller or any Acquired Entity is party, or any assets held by any such Acquired Entity or joint venture, or any Acquired Assets, asserting that any Governmental Body is entitled to remedies, relief or interests under or pursuant to the False Claims Act or any similar applicable Law with respect to any such Acquired Entity, joint venture or assets, including Acquired Assets;

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

(g) any and all intercompany notes, loans, payables or other similar amounts between any Acquired Entity, on the one hand, and Seller or any of its Affiliates (other than an Acquired Entity), on the other hand, shall have been cancelled and terminated in full, without any payment of any amount or consideration by any Acquired Entity, and without further liability or obligation to Purchaser, any Acquired Entity or any of their respective Affiliates, and written evidence thereof satisfactory to Purchaser shall have been delivered by Seller to Purchaser; and

(h) there has been no financing that was procured where any amounts would be (x) due, owing or payable by any Acquired Entity, or (y) for which any Acquired Entity is responsible for or in respect of which any Acquired Entity has any liability or obligation (whether known, unknown, contingent or otherwise), in each relating to any financial advisory, banker, broker or finder's fees, costs, disbursements or expenses (or any other amounts with respect

thereto), and written evidence thereof satisfactory to Purchaser shall have been delivered by Seller to Purchaser.

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

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

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

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

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

Section 7.5 Notice of Alternative Transactions.

(a) In the event that Seller or any of its Affiliates intends to accept a proposal or offer regarding an Alternative Transaction (an "Alternative Transaction Offer" or "Alternative Transaction Proposal"), Seller shall notify Purchaser of such intention to accept, in writing, within one (1) Business Day (the "Alternative Transaction Notice") of receiving such Alternative Transaction Offer, which notice shall include, among other things, the name of the applicable Person making such an offer, or with whom Seller and its affiliates are engaged in such activity with (as applicable) and all material terms of the Alternative Transaction Offer or a copy of the competing agreement. Purchaser shall have fourteen (14) calendar days after receipt of the Alternative Transaction Notice (the "Modified Offer Period") to notify Seller, in writing, as to whether it will offer substantially similar terms to the Alternative Transaction Offer. In the event that Purchaser agrees to offer substantially similar terms to the Alternative Transaction Offer, Purchaser and Seller shall revise the terms of this Agreement accordingly in order to close the Transaction on such revised terms.

(b) If following the expiration of the Modified Offer Period, Seller still intends to accept the Alternative Transaction Offer, Seller shall hold an auction (the "Auction") no later than seven (7) calendar days after the expiration of the Modified Offer Period, pursuant to which

Seller shall solicit alternative offers (each a "Formal Bid") over three (3) business days (the "Auction Period"). For the avoidance of doubt, notwithstanding the expiration of the Modified Offer Period, nothing shall prejudice Purchaser's right to submit a Formal Bid during the Auction Period, and Seller shall provide Purchaser with advanced notice of the Auction. If an Auction is conducted, and Purchaser is not the Successful Bidder but is the next highest bidder at the Auction, Purchaser may, in its sole discretion, serve as a back-up bidder (the "Backup Bidder") and keep Purchaser's bid to consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement (as the same may be revised in the auction) open and irrevocable until the earlier of the date the Bankruptcy Court enters the Sale Order or when this Agreement is otherwise terminated as set forth herein. If the Successful Bidder fails to consummate the applicable Alternative Transaction as a result of a breach or failure to perform on the part of such successful bidder, the Backup Bidder will be deemed to have the new prevailing bid, and Seller may consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement as such terms may have been improved upon in the Auction.

ARTICLE VIII
TERMINATION

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

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

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

(c) by written notice of either Purchaser or Seller, if the Closing shall not have occurred on or before June 5, 2026 (the "Outside Date"); provided that a Party shall not be permitted to terminate this Agreement pursuant to this Section 8.1(c) if the failure of the Closing to have occurred by the Outside Date was caused by such Party's material breach of any of its obligations or material breach of any of its representations or warranties under this Agreement;

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

(e) by written notice from Seller to Purchaser, upon a material breach of any covenant or agreement on the part of Purchaser, or if any representation or warranty of Purchaser will have become untrue, in each case, such that the conditions set forth in Section 7.3(a) or Section 7.3(b) would not be satisfied, including a breach of Purchaser's obligation to consummate the

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

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

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

(h) by Seller if the Bankruptcy Court does not approve the Sale Order by June 1, 2026;

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

(j) by Purchaser if the Bankruptcy Court issues any order that results in Purchaser being unable to credit bid in accordance with Section 2.1(a); or

(k) by written notice from Purchaser to Seller if Purchaser has not entered into a definitive agreement by May 20, 2026 with each of the holders of the Senior CLNs and Junior CLNs to provide for the Senior CLNs Credit Bid Amount and Junior CLNs Credit Bid Amount described in Section 2.1(a).

Section 8.2 Effect of Termination.

(a) In the event of a valid termination of this Agreement pursuant to Section 8.1, this Agreement shall become null and void and no Party nor any of its partners, officers, directors, managers or equityholders will have any Liability under this Agreement; provided that Section 6.2(b), this Section 8.2 and Article X (other than Section 10.12) shall survive

any such termination; provided further that no termination will relieve Purchaser or Seller from any Liability for Willful Breach of this Agreement prior to the date of such termination (which, for the avoidance of doubt, will be deemed to include any failure by Purchaser or Seller to consummate the Closing if and when it is obligated to do so hereunder) or relieve any Person from any Liability for Fraud. Subject to Section 10.12, nothing in this Section 8.2 will be deemed to impair the right of any Party to be entitled to specific performance or other equitable remedies to enforce specifically the terms and provisions of this Agreement prior to termination hereof.

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

ARTICLE IX
TAXES

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

Section 9.2 Allocation of Purchase Price. For U.S. federal and applicable state and local income Tax purposes, Purchaser, Seller, and their respective Affiliates shall allocate the Purchase Price (and any Assumed Liabilities or other amounts treated as part of the purchase price for U.S. federal income Tax purposes) among the Acquired Assets in accordance with section 1060 of the Tax Code and analogous provisions of Applicable Law. Within 90 days following the determination of the final Purchase Price, Purchaser shall provide a proposed allocation to Seller setting forth the allocation of the Purchase Price (and other amounts treated as part of the purchase price for U.S. federal income Tax purposes) among the Acquired Assets (the "Allocation"), for Seller's approval, which approval shall not be unreasonably withheld. Seller and Purchaser shall work in good faith to resolve any disputes relating to the Allocation within fifteen (15) days. If Seller and Purchaser are unable to resolve any such dispute, such dispute shall be resolved promptly by a nationally recognized accounting firm acceptable to Purchaser and Seller, the costs of which shall be borne by Seller. If within fifteen (15) days after receiving the Allocation, Seller

has not objected, the Allocation shall be final and binding. The Parties and their respective Affiliates shall file all Tax Returns in accordance with such Allocation (as finally determined under this Section 9.2) and not take any Tax related action inconsistent with the Allocation, in each case, unless otherwise required by a "determination" within the meaning of section 1313(a) of the Tax Code.

Section 9.3 Cooperation.

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

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

Section 9.4 Tax Sharing Agreements.

To the extent relating to any Acquired Entity, Seller shall terminate or cause to be terminated, on or before the Closing Date, the rights and obligations of the Acquired Entities pursuant to all Tax sharing agreements or Tax indemnity agreements (other than this Agreement), if any, to which an Acquired Entity, on the one hand, and Seller or any of its Affiliates (other than the Acquired Entities), on the other hand, are parties.

Section 9.5 Allocation of Taxes for Straddle Period. Any Taxes attributable to a Straddle Period required to be apportioned under this Agreement shall be apportioned as follows: (a) the amount of ad valorem and other periodic Taxes allocable to the Pre-Closing Tax Period shall be equal to (i) the amount of such Taxes for the entire Straddle Period multiplied by (ii) a fraction, the numerator of which is the number of calendar days during the Straddle Period that are in the Pre-Closing Tax Period and the denominator of which is the number of calendar days in the entire Straddle Period; and (b) all Taxes not allocated under clause (a) shall be allocated to the Pre-Closing Tax Period (including, for the avoidance of doubt, any Taxes with respect to income included pursuant to Section 951 and Section 951A of the Code) on the basis of a "closing of the books," as if such taxable period ended as of the end of the day on the Closing Date, and the taxable year of any other partnership, pass-through entity or "controlled foreign corporation" within the meaning of Section 957 of the Code that any Acquired Entity owns, directly or indirectly, shall be deemed to end at the end of the Closing Date for such purposes; provided, that exemptions, allowances or deductions that are calculated on an annual basis (including depreciation and amortization deductions) shall be allocated between the period ending on the Closing Date and the period beginning after the Closing Date in proportion to the number of calendar days in each period; provided, that for the avoidance of doubt, (x) nothing contained in this Section 9.5 shall be

construed so as to cause an Assumed Liability to become an Excluded Liability or *vice versa*, and (y) Purchaser shall be responsible and pay for all property Taxes that constitute Assumed Liabilities pursuant to Section 1.3(c).

Section 9.6 Preparation of Tax Returns and Payment of Taxes.

(a) Seller shall prepare and timely file (i) all Tax Returns with respect to the Acquired Assets, the Business, and the Acquired Entities for any Tax period ending on or before the Closing Date (the "Applicable Seller Prepared Returns") (and Purchaser shall cooperate with Seller in causing such Tax Returns to be filed) and (ii) all income Tax Returns of Seller and its Affiliates (including, for the avoidance of doubt, any combined, consolidated, or similar income Tax Return of Seller or its Affiliates that includes an Acquired Entity), and, Purchaser shall have no rights to review and comment on any such Tax Returns described in this clause (ii). Seller shall provide Purchaser with a draft of all Applicable Seller Prepared Returns at least thirty (30) days (or such shorter period of time as is reasonably practicable) prior to the filing of any such Tax Return to the extent such Applicable Seller Prepared Returns relate to any Assumed Liability or Acquired Entity. Seller shall incorporate any changes reasonably requested by Purchaser with respect to such Tax Returns that are supported at a "more likely than not" (or higher) level of confidence and consistent with past practice. Seller shall be responsible for and timely pay all Taxes due on any Tax Return Seller is obligated to file under this Section 9.6(a), except for Transfer Taxes allocated to Purchaser pursuant to Section 9.1.To the extent not otherwise provided in this Agreement, Seller shall be responsible for and shall promptly pay when due all property Taxes and levied with respect to the Acquired Assets and Acquired Entities attributable to the Pre-Closing Tax Period, including any and all interest and penalties with respect thereto (including due to any delay in payment of such property Taxes).

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

Section 9.7 Tax Treatment. Each party hereto agrees that, for U.S. federal (and applicable state and local) income Tax purposes, (i) the purchase and sale or assumption, as the case may be, of the Acquired Assets and Assumed Liabilities contemplated by this Agreement shall be treated as a taxable exchange governed by Section 1001 of the Tax Code, (ii) Purchaser shall be treated for U.S. federal income tax purposes as acquiring assets underlying the Acquired Entities (other than AE Elemental sp. z o.o.) (and, for the avoidance of doubt, as acquiring no stock of any entity classified as a "c corporation" for U.S. federal income tax purposes) and (iii) the purchase and sale of the interests of AE Elemental sp. z o.o. is intended to be treated as a purchase by the Purchaser and a sale by the Seller of a partnership interest in AE Elemental sp. z o.o., giving rise to a special basis adjustment under Section 743 of the Code (the "Intended Tax Treatment"). Each party hereto shall file any federal, state and local income tax returns on a basis consistent with the foregoing treatment, and each party hereto will assert the correctness of that treatment, and each party will not adopt any treatment that is contrary to or inconsistent with that treatment, in all dealings with the Internal Revenue Service unless otherwise required by a "final determination" within the meaning of Section 1313(a) of the Tax Code.

Section 9.8 Other Tax Matters.

(a) After the Closing, to the extent that any such action is reasonably expected to materially increase the aggregate Tax Liabilities shown as due and owing on Seller Combined Tax Returns, Purchaser shall not, and shall cause its Affiliates (including the Acquired Entities) not to, for so long as Seller remains in existence, without the prior written consent of Seller (not to be unreasonably conditioned, delayed, or withheld) (a) file any ruling or request with any taxing authority with respect to Tax Returns of an Acquired Entity for a Pre-Closing Tax Period; (b) make or initiate any voluntary contact with any taxing authority (including any voluntary disclosure agreement or similar process) with respect to the filing of any Tax Returns of an Acquired Entity for a Pre-Closing Tax Period; or (c) make or change any Tax election of an Acquired Entity that is retroactive to, any Pre-Closing Tax Period.

(b) The Parties agree to treat any payment made from one Party to another pursuant to this Agreement that is not reflected as part of the Purchase Price under this Agreement as an adjustment to the Purchase Price for all income Tax purposes to the extent permitted by applicable Law.

(c) In connection with the direct or indirect transfer of the interests in any Acquired Entity that is a partnership for U.S. federal tax purposes, pursuant to this Agreement, notwithstanding anything herein to the contrary (i) Purchaser shall be permitted to make, and Seller shall cooperate in making, in respect of any partnership (or take any action that would result in any partnership making) an election under Section 6226 of the Code and Treasury Regulation Sections 301.6226-1 (and any similar or corresponding provision of state or local Law) with respect to any Pre-Closing Tax Period and (ii) except to the extent such an election is validly in effect, the Sellers shall reasonably cooperate in connection with any Partnership making any election pursuant to Section 754 of the Code (and any similar or corresponding provision of state or local Law) for the taxable year of the applicable Partnership that includes the Closing Date.

ARTICLE X
MISCELLANEOUS

Section 10.1 Non-Survival of Representations and Warranties and Certain Covenants; Certain Waivers. Except in the case of Fraud, each of the representations and warranties and the covenants and agreements (to the extent such covenant or agreement contemplates or requires performance by such Party prior to the Closing) of the Parties set forth in this Agreement, will terminate effective immediately as of the Closing such that no claim for breach of any such representation, warranty, covenant or agreement, detrimental reliance or other right or remedy (whether in contract, in tort or at law or in equity) may be brought with respect thereto after the Closing. Each covenant and agreement in this Agreement or in any other Transaction Agreement that explicitly contemplates performance after the Closing, will, in each case and to such extent, expressly survive the Closing in accordance with its terms, and nothing in this Section 10.1 will be deemed to limit any rights or remedies of any Person for breach of any such surviving covenant or agreement. Purchaser and Seller acknowledge and agree, on their own behalf and on behalf of the Purchaser Group or Seller Parties, as the case may be, that the agreements contained in this Section 10.1 (a) require performance after the Closing to the maximum extent permitted by applicable Law and will survive the Closing and (b) are an integral

part of the Transactions and that, without the agreements set forth in this Section 10.1, none of the Parties would enter into this Agreement.

Section 10.2 Expenses. Whether or not the Closing takes place, except as otherwise provided herein, all fees, costs and expenses (including fees, costs and expenses of Advisors) incurred in connection with the negotiation of this Agreement and the other Transaction Agreements, the performance of this Agreement and the other Transaction Agreements and the consummation of the Transactions will be paid by the Party incurring such fees, costs and expenses; provided that (a) all Transfer Taxes will be allocated pursuant to Section 9.1 and (b) all Cure Costs will be allocated pursuant to Section 1.5(c).

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

Notices to Purchaser:

Kinterra Capital Corp.
Bay Adelaide – East Tower
22 Adelaide Street West, Suite 3930
Toronto, ON, M5H 4E3

Attention: Corporate Secretary
Email: notifications@kinterracapital.com

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

Latham & Watkins LLP
1271 Avenue of the Americas
New York, NY 10020

Attention: Adam Goldberg
Daniel Mun

Email: adam.goldberg@lw.com
daniel.mun@lw.com

Notices to Seller:

Ascend Elements, Inc.
133 Flanders Road

Westborough, MA 01581
Attention: Deacon Powell
Email: dpowell@ascendelements.com

with copies to (which shall not constitute notice):

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

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

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

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

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

Section 10.7 Non-Recourse. This Agreement may only be enforced against, and any Action based upon, arising out of, or related to this Agreement may only be brought against, only the Persons that are expressly named as Parties and not against any other Persons. Except to the extent named as a Party, and then only to the extent of the specific obligations of such Parties set forth in this Agreement and in the Transaction Agreements, no past, present or future shareholder,

member, partner, manager, director, officer, employee, Affiliate, agent or Advisor of any Party (each, a "Non-Recourse Person") will have any Liability (whether in contract, tort, equity or otherwise) for any of the representations, warranties, covenants, agreements or other obligations or Liabilities of any of the Parties or for any Agreement Dispute and (ii) in no event shall any Person have any shared or vicarious liability, or otherwise be the subject of legal or equitable claims, for the actions or omissions (including through equitable claims (such as unjust enrichment) not requiring proof of wrongdoing committed by the subject of such claims) of any other Person, and each of such Persons and the Non-Recourse Persons are intended third party beneficiaries of this Section 10.7 and shall be entitled to enforce this Section 10.7 as if a party directly hereto. Notwithstanding anything to the contrary set forth herein, nothing in this Section 10.7 or elsewhere herein shall limit the rights or remedies in the case of Fraud against the Person committing Fraud.

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

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

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

broaden in any way the scope of the Parties' representations and warranties. Any description of any agreement, document, instrument, plan, arrangement, or other item set forth on any Schedule is qualified in its entirety by the terms of such agreement, document, instrument, plan, arrangement, or item, and such terms will be deemed disclosed for all purposes of this Agreement. The information contained in this Agreement, the Schedules, and the Exhibits is disclosed solely for purposes of this Agreement, and no information contained in this Agreement, the Schedules, or the Exhibits will be deemed to be an admission by any Party to any third party of any matter whatsoever, including any violation of Law or breach of Contract.

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

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

performance or other equitable relief to cause Purchaser to consummate the Closing unless and until (A) all of the conditions to Closing set forth in Section 7.1 and Section 7.2 have been satisfied, (B) Seller has delivered an irrevocable written notice to Purchaser certifying that it is ready, willing and able to consummate the Closing, and (C) Purchaser does not consummate the Closing within five (5) Business Days after its receipt of such written notice from Seller.

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

Section 10.14 Governing Law; Waiver of Jury Trial.

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

(b) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY AGREEMENT DISPUTE IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND THEREFORE EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY AGREEMENT DISPUTE. EACH OF THE PARTIES AGREES AND CONSENTS THAT ANY SUCH AGREEMENT DISPUTE WILL BE DECIDED BY COURT TRIAL

WITHOUT A JURY AND THAT THE PARTIES MAY FILE AN ORIGINAL COUNTERPART OF A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES TO THE IRREVOCABLE WAIVER OF THEIR RIGHT TO TRIAL BY JURY. EACH PARTY (I) CERTIFIES THAT NO ADVISOR OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF ANY AGREEMENT DISPUTE, SEEK TO ENFORCE THE FOREGOING WAIVER AND (II) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS Section 10.14(b).

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

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

Section 10.17 Bulk Sales Laws. The Parties intend that pursuant to Section 363(f) of the Bankruptcy Code, the transfer of the Acquired Assets of the Debtors shall be free and clear of any

Encumbrances in the Acquired Assets (including any Encumbrances claims arising out of any "bulk sales," "bulk transfers," or similar Laws), except Permitted Encumbrances, and the Parties shall take such steps as may be necessary or appropriate to so provide in the Sale Order. In furtherance of the foregoing, each Party hereby waives compliance by the Parties with any "bulk sales," "bulk transfers," or similar Laws in respect of the Transactions.

ARTICLE XI
ADDITIONAL DEFINITIONS AND INTERPRETIVE MATTERS

Section 11.1 Certain Definitions.

(a) "Acquired Intellectual Property" has the meaning set forth in Section 1.1(f) of this Agreement.

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

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

(d) "AEE" has the meaning set forth in Section 6.13(d).

(e) "AEP" has the meaning set forth in Section 6.13(d).

(f) "AEP Equity Interest" has the meaning set forth in Section 6.13(d).

(g) "Affiliate" means, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person, and the term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management, affairs and policies of such Person, whether through ownership of voting securities, by Contract or otherwise. For the avoidance of doubt, the Acquired Entities will be Affiliates of Seller until Closing and Affiliates of Purchasers after Closing.

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

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

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

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

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

(m) "Applicable Law" means, with respect to any Person, any transnational, domestic or foreign federal, state, provincial, municipal or local law (statutory, common or otherwise, and including international conventions, protocols and treaties), act, statute, constitution, treaty, convention, ordinance, code, policy, rule, regulation, Order, or other similar requirement enacted, issued, adopted, promulgated, implemented, enforced or applied by or under any Governmental Body that is binding upon or applicable to such Person or its properties, as amended unless expressly specified otherwise.

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

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

(p) "Backup Bidder" has the meaning set forth in Section 7.5(b) of this Agreement.

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

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

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

(t) "Business" means the business operations of Seller and its Subsidiaries (including the Acquired Entities), including the business of recycling spent lithium-ion batteries and manufacturing scrap into pCAM and battery-grade lithium carbonate.

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

(v) "Business Employee" means each employee of Seller or its Affiliates.

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

(x) "Cash and Cash Equivalents" means all of Seller's cash or cash equivalents (including checks and deposits in transit, demand deposits, money markets or similar accounts), checking account balances, marketable securities, bankers' acceptances, and any cash equivalents whether on hand, in transit, in banks or other financial institutions, or otherwise held, in each case, to the extent readily convertible to cash within 30 days; provided, however, that "Cash and Cash Equivalents" shall not include all deposits and other credit support with third-parties, including cash security deposits, cash held as a guarantee in respect of performance of Contracts and other cash collateral posted with counterparties or to otherwise support letters of credit, in each case, including any held in connection on behalf of any Seller or with or supporting the Acquired Assets or the Assumed Liabilities.

(y) "Cash Consideration" has the meaning set forth in Section 2.1(a).

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

(aa) "Confidentiality Agreement" means that certain Non-Disclosure Agreement, effective from March 11, 2026, by and between Seller and Kinterra Capital Corp., an Ontario business corporation.

(bb) "Confirmation Order" means the Order of the Bankruptcy Court approving confirmation of a chapter 11 plan of reorganization or liquidation.

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

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

(ee) "Critical Vendor Avoidance Claims" means, collectively, any and all Avoidance Actions of Seller or its estate against vendors and suppliers that (1) are critical to the Business, as determined by the Purchaser in its sole discretion, and (2) received payments from the Debtors in accordance with any order of the Bankruptcy Court approving the Debtors' critical vendors' motion; provided that any such vendors or suppliers shall be set forth on Schedule 11.1(ff), which Schedule shall be delivered by Purchaser to Seller prior to the Closing.

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

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

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

(ii) "Documents" means all written files, documents, instruments, papers, books, reports, emails, records, tapes, microfilms, photographs, letters, budgets, forecasts, plans, operating records, safety and environmental reports, data, reports, studies, and documents, Tax Returns, ledgers, journals, customer lists, regulatory filings, plans, research materials, technical documentation (design specifications, engineering information, test results, logic manuals, processes, flow charts, etc.), user documentation (installation guides, user manuals, training materials, release notes, working papers, etc.), marketing documentation (sales brochures, flyers, pamphlets, web pages, etc.), and other similar materials, in each case whether or not in electronic form.

(jj) "DOE" means the United States Department of Energy.

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

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

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

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

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

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

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

(rr) "ERISA Affiliate" means any trade or business (whether or not incorporated) that is treated as a single employer with Seller or the Acquired Entities within the meaning of Section 414 of the Tax Code (whether or not such trade or business is incorporated or located in the U.S.). For the avoidance of doubt, any former ERISA Affiliate of any of Seller or the Acquired Entities shall continue to be considered an ERISA Affiliate thereof within the meaning of this definition with respect to the period such Person was an ERISA Affiliate of Seller or any Acquired Entity and with respect to Liabilities arising after such period for which any of the Acquired Entities could be liable under the Tax Code or ERISA.

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

(tt) "Excluded Tax Returns" means Tax Returns (or any portion of any Tax Return) and other books and records related to any consolidated, combined, affiliated or unitary group for Tax purposes that includes Seller or any of its Affiliates that is not an Acquired Entity.

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

(vv) "Fraud" means actual and intentional common law fraud with respect to the representations and warranties set forth in Article III or Article IV of this Agreement, as interpreted by Delaware courts applying Delaware law. For the avoidance of doubt, "Fraud" shall not include equitable fraud or any fraud claim based on constructive knowledge, recklessness, negligent misrepresentation or a similar theory.

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

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

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

(zz) "Government Contract" means any Contract (including any purchase, delivery, or task order, basic ordering agreement, pricing agreement, letter contract, grant, cooperative agreement, other transactional authority agreement, or change order) between the Seller, any Acquired Entity, or any Joint Venture of which the Seller or any Acquired Entity is a member, on the one hand, and any Governmental Body or any prime contractor or subcontractor (at any tier) of any Governmental Body, on the other hand.

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

(bbb) "Grant Agreement" means the grant agreement between the Polish State Treasury, represented by the Minister of Finance and Economy, and Ascend Elements Poland sp. z o.o., dated 30 December 2025.

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

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

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

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

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

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

(iii) "Junior CLNs" means, collectively, the Subordinated Secured Convertible Promissory Notes issued by Seller under that certain Subordinated Secured Convertible Note Purchase Agreement, dated as of June 13, 2025, by and among Seller and the following investors: (a) Alumni Ventures – Ascend Elements Trust, (b) AOV Co-Invest II, L.P., (c) AROP II, LLC, (d) At One Leaders I, LP, (e) At One Ventures OpCo, LLC, (f) Avenue Venture Opportunities Fund, L.P., (g) Big Harvest International (HK) Limited, (h) Clearvision Sustainability Growth Fund 1, LP, (i) CMA CGM Group Fund For Energies SAS, (j) Dahlia Investments Pte. Ltd., (k) David M. and Alena J. Schwaber JTWROS, (l) Demetrius Universal Corp., (m) DMC, II LP, (n) Doral

Energy – Tech Ventures, Limited Partnership, (o) Doral Tech SI, Limited Partnership, (p) Fifth Wall Early Stage Climate Technology Fund, L.P., (q) Fifth Wall Accelerate (Late Stage), L.P., (r) Fifth Wall Ventures SPV XXXIX, L.P., (s) HV FUND, SCS RAIF – HV FUND-VENTURE DIRECT, (t) Irongrey, LLC, (u) James A. Ellis 2018 Family Trust, (v) James O'Neill, (w) James P Baum Trust, (x) JC Bluegrass (Invest) SCSp, (y) John Harper 2002 Revocable Trust, (z) Kyle Matzke, (aa) Massachusetts Technology Development Corporation d/b/a Mass Ventures, (bb) Project Arise – Decarbonization Partners I SPV B, LP, (cc) Sandy Pool Blind Trust, (dd) TDK Ventures Inc., (ee) Ulster Investment Capital Corp., (ff) Volta One, LLC, (gg) Volta Three, a compartment of Oxygen Ventures S.à.r.l., (hh) Volta Two, LLC, (ii) Woven Capital, L.P., (jj) Avenue Venture Opportunities Fund II, L.P., (kk) ESC Sustainable Solutions Fund, L.P., and (ll) InMotion Ventures Ltd.

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

(kkk) "Labor Contract" means any collective bargaining agreement, labor agreement, works council agreement, shop agreement, employee representative agreement, memorandum of understanding, side letter, settlement agreement, or any other Contract or arrangement (whether formal or informal, and whether in effect, expired but still being applied, or pending ratification) between Seller or any of the Acquired Entities and any Labor Union.

(lll) "Labor Union" means any labor union, labor organization, works council, employee representative body, staff or employee association, bargaining unit, or similar organization, committee or group (whether certified, recognized, pending certification or recognition, or claiming to represent any employees) that has, purports to have, or seeks to exercise the authority to represent any Business Employee.

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

(nnn) "Lease" means all leases, subleases, licenses, concessions and other agreements pursuant to which any Person holds any leased real property (including all amendments, assignments, renewals, guarantees and other agreements with respect thereto).

(ooo) "Liability" means, as to any Person, any debt, adverse claim, liability, duty, responsibility, obligation, commitment, assessment, cost, expense, loss, expenditure, charge, fee, penalty, fine, contribution, or premium of any kind or nature whatsoever, whether known or unknown, asserted or unasserted, absolute or contingent, direct or indirect, accrued or unaccrued, liquidated or unliquidated, or due or to become due, and regardless of when sustained, incurred or asserted or when the relevant events occurred or circumstances existed.

(ppp) "Material Adverse Effect" means (x) a material adverse effect on the business, condition (financial or otherwise), or operations of the Business, Acquired Entities, Acquired Assets, and Assumed Liabilities, taken as whole or (y) an Effect that individually or in the aggregate, has prevented or materially delayed or would prevent or materially delay the Transactions or has materially impaired or would materially impair the ability of the Seller to consummate the Transactions; provided that none of the following, either alone or in combination, shall constitute, or be taken into account in determining whether or not there has been, a Material Adverse Effect with respect to the foregoing clause (x) solely as it relates to Article VII: any matter, event, change, development, occurrence, circumstance or effect (each, an "Effect") in, arising from, or relating to (i) general business or economic conditions; (ii) national or international political or social conditions, including tariffs, trade wars, Sanctions or International Trade Laws, riots, protests, the engagement by the United States or any other country in hostilities or the escalation of any hostilities, whether or not pursuant to the declaration of a national emergency or war, or the occurrence or the escalation of any military or terrorist (whether or not state-sponsored) attack upon the United States or any other country, or any of its territories, possessions, or diplomatic or consular offices or upon any military installation, asset, Equipment, or personnel of the United States or of any other country; (iii) any fire, flood, hurricane, earthquake, tornado, windstorm, other calamity or act of God, global or national health concern, epidemic, pandemic (whether or not declared as such by any Governmental Body), viral outbreak (including "Coronavirus" or "COVID-19") or the worsening of any outbreak, or any quarantine or trade restrictions related thereto or any other *force majeure*; (iv) to financial, banking, or securities markets (including (A) any disruption of any of such markets, (B) any change in currency exchange rates, (C) any decline or rise in the price of any security, commodity, Contract, or index, and (D) any increased cost, or decreased availability, of capital or pricing or terms related to any financing for the Transactions); (v) changes in GAAP or interpretation of GAAP; (vi) changes in Laws or other binding directives or determinations issued or made by any Governmental Body and any change in the terms or enforcement of any of the foregoing; (vii) the negotiation, announcement, or pendency of this Agreement or the Transactions (except any Effects arising from or related to the breach or inaccuracy of the representations and warranties set forth in Section 3.4); (viii) any failure, in and of itself, to achieve any budgets, projections, forecasts, estimates, plans, predictions, performance metrics or operating statistics or the inputs into such items (whether or not shared with Purchaser or its Affiliates or Advisors) and any other failure to win or maintain customers or business (provided that this clause (viii) shall not prevent a determination that any effect, change, event, condition or occurrence underlying such failure to meet projections, forecasts or budgets has resulted in a Material Adverse Effect (to the extent such effect, change, event, condition or occurrence is not otherwise excluded from this definition of Material Adverse Effect) (ix) any action taken by Purchaser or its Affiliates with respect to the Transactions or the financing of the Transactions or any breach by Purchaser of this Agreement; or (x) the commencement or pendency of the Chapter 11 Cases. However, any adverse Effect resulting or arising from any matter described in clauses (i) through (vi) shall be taken into account in determining whether there has been a Material Adverse Effect to the extent that such Effect has had a disproportionate adverse effect on Seller or any of its Affiliates or the Business relative to similarly situated participants in the industries and geographic areas in which Seller or any of its Affiliates or the Business operates.

(qqq) "Open Source Software" means any software that contains or is derived in any manner (in whole or in part) from any software, code or libraries that are distributed as free software or as open source software or under any licensing or distribution models similar to open

source, including but not limited to any software licensed under or subject to terms that require source code to be provided or made available to subsequent licensees or sublicensees (regardless of whether the license restricts source code from being distributed in modified form) or which may impose any other obligation or restriction with respect to a Person's Intellectual Property, including, without limitation, any software licensed under or subject to the Artistic License, the Mozilla Public License, the GNU Affero GPL, the GNU GPL, the GNU LGPL, any other license that is defined as an Open Source License by the Open Source Initiative, and any similar license or distribution model.

(rrr) "Opole Property" means the undeveloped plots of land located in the Opole Voivodeship, Opole City County, Opole City, Poland cadastral unit, cadastral district 166101_1.0147, Wrzoski, in the city of Opole, in the Opole-Wrzoski Subzone of the Wałbrzych Special Economic Zone INVEST-PARK, owned by WSSE "INVEST-PARK" sp. z o.o., with a total area of 43.9999 ha, consisting of plots of land no.: 668/52, 668/3, 668/4, 668/5, 668/6, 668/7, 668/11, 668/12, 668/13, 668/14, 668/15, 668/16, 668/17, 668/18, 668/19, 668/20, 668/53, 668/22, 668/55, 668/40, 668/45, 670/31, 670/33, 670/35, 670/37, 670/39, 670/41, 670/43, 618/3, 602/6, for which the District Court in Opole, 6th Land and Mortgage Register Division keeps land and mortgage registers under numbers: OP1O/00164138/8, OP1O/00171892/3 and OP1O/00165182/8.

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

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

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

(vvv) "Permitted Encumbrances" means (i) Encumbrances for Taxes not yet due and payable and that are being contested in good faith by appropriate proceedings and for which appropriate reserves have been established in accordance with GAAP, or the nonpayment of which is permitted or required by the Bankruptcy Code, (ii) easements, rights of way, restrictive covenants, encroachments, and similar non-monetary Encumbrances or non-monetary impediments against any of the Acquired Assets, in each case, that do not, individually or in the aggregate, adversely affect the operation of the Acquired Assets, (iii) applicable zoning Laws, building codes, land use restrictions and other similar restrictions imposed by Law that (a) are not violated by the current use or occupancy of the applicable leased real property as it relates to the operation of the Business, or (b) the violation of which would not reasonably be expected to

adversely affect the use or occupancy of the applicable leased real property as it relates to the operation of the Business, (iv) materialmans', mechanics', artisans', shippers', warehousemans', or other similar common law or statutory liens incurred in the Ordinary Course for amounts not yet due and payable as of the Petition Date and that are being contested by appropriate proceedings and for which appropriate reserves have been established in accordance with GAAP, (v) non-exclusive licenses of Intellectual Property granted in Ordinary Course, (vi) any Encumbrances set forth on Schedule 11.1(www), (vii) solely prior to Closing, any Encumbrances that will be removed or released by operation of the Sale Order and (viii) matters that would be disclosed by an accurate survey or inspection of the leased real property, in each case, that do not, individually or in the aggregate, adversely affect the use or occupancy of such leased real property as it relates to the operation of the Business.

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

(xxx) "Personal Information" means any data or information (i) that identifies, relates to, describes, is reasonably capable of being associated with, or would reasonably be linked, directly or indirectly, with a particular individual or household or (ii) that is otherwise subject to a Law relating to privacy or security of data or information (including such data or information that constitutes or is defined as "personal information" or "personal data" or other equivalent term under any such Law).

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

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

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

(bbbb) "Privacy Requirements" means (a) all applicable Laws concerning data protection, privacy, security and any processing of Personal Information; (ii) policies, notices, or statements concerning data protection, privacy, security and any processing of Personal Information; and (ii) privacy, security, or other commitments related to Personal Information of any Contracts, codes of conduct, or industry standards by which Seller or any Acquired Entity is bound.

(cccc) "Purchaser Group" means Purchaser, any Affiliate of Purchasers (including, following the Closing, the Acquired Entities) and each of their respective former, current or future Affiliates, officers, directors, employees, partners, members, managers, agents, Advisors, successors or permitted assigns.

(dddd) "Registered Acquired Intellectual Property" means all registrations, issuances and applications for registration for the Acquired Intellectual Property (including patents, trademarks, copyrights and domain names) that is issued by, registered with or the subject of an application filed with or recorded by any Governmental Body or registrar.

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

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

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

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

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

(jjjj) "Second A&R Agreement" has the meaning set forth in the recitals.

(kkkk) "Securities Act" means the Securities Act of 1933 and the rules and regulations promulgated thereunder.

(llll) "Security Breach" means any (i) unauthorized, accidental or unlawful access, storage, use, modification, transfer, disclosure, destruction, or any other processing of any Personal Information or IT Assets used or maintained by Seller (with respect to the Business) or Acquired Entity; (ii) phishing or other cyberattack on such IT Assets that causes a monetary loss, business disruption to the access or use of such IT Assets by Seller or any Acquired Entity, or a compromise to the security of such IT Assets or Personal Information; (iii) any other act or omission that compromises the security, integrity or confidentiality of Personal Information or such IT Assets; or (iv) occurrence that constitutes a "data breach," "security breach," "personal data breach," "security incident," "cybersecurity incident," or any similar term under any applicable Law.

(mmmm) "Seller Combined Tax Return" means any combined, consolidated, affiliated, or unitary Tax Return that includes Seller or any of its Affiliates (other than an Acquired Entity), on the one hand, and any Acquired Entity, on the other hand.

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

(oooo) "Senior CLNs" means, collectively, the Senior Secured Convertible Promissory Notes issued by Seller under that certain Senior Secured Convertible Note and Warrant Purchase Agreement, dated as of December 22, 2025, by and among Seller and the following investors: (a) Doral Energy – Tech Ventures, Limited Partnership, (b) Fifth Wall Early Stage Climate Technology Fund, L.P., (c) Fifth Wall Accelerate (Late Stage), L.P., and (d) Project Arise – Decarbonization Partners I SPV B, LP.

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

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

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

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

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

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

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

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

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

Section 11.2 Index of Defined Terms.

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

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

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

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

(d) When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the

reference date in calculating such period will be excluded. If the last day of such period is a day other than a Business Day, the period in question will end on the next succeeding Business Day.

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

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

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

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

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

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

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

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

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

[*Signature pages follow*.]

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

PURCHASER:

BLUEGRASS INFRASTRUCTURE PARTNERS HOLDINGS, LLC

By: Bluegrass Infrastructure Partners Aggregator, LP
its sole member

By: Kinterra Capital GP Corp. II,
its general partner

By:
Name: Alan de Saram
Title: Director

SELLER:

ASCEND ELEMENTS, INC.

By: Linh Austin
Linh Austin (May 22, 2026 11:36:57 PDT)
Name: Linh Austin
Title: Chief Executive Officer

EXHIBIT A

FORM OF SALE ORDER

[*See attached.*]

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 *Third Amended and Restated Asset Purchase Agreement* attached hereto as **Exhibit A**, dated as of May 22, 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. 378]

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 40 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 40 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 **Exhibit B**; *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 40 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 Seller's location in Hopkinsville, Kentucky (the "**Hopkinsville Facility**").

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

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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).

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.

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 Seller a non-exclusive, royalty-free (subject to the delivery of data required by Section 6.18 of the Poland APA), non-sublicensable and non-transferable 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; *provided* that the license may be transferred on the foregoing terms, in whole (and not in part), to a buyer of the Covington Facility in whole (and not in part). The foregoing license (i) shall expire upon the expiration of the last-to-expire patents included in the Covington IP and (ii) is granted on an as-is, where-is basis. In consideration for the foregoing license, Seller and any subsequent transferee 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 Seller and any subsequent transferee for the term of the Covington IP license at a cadence reasonably requested by the Buyer. Seller and any subsequent transferee hereby grants to the Buyer and its Affiliates a non-exclusive, royalty-free license to use such data in the operation of its and their respective

businesses. For the avoidance of doubt, any assignee of the license to the Covington IP granted under Section 6.18 of the Poland APA shall take such license subject to the foregoing data delivery obligation and data license.

44. The Buyer shall, upon the written request of a buyer of all assets at Seller's existing real property at 6505 John Rivers Road, Hopkinsville, Kentucky 42240 (the "**Hopkinsville Facility**" and such buyer, the "**Hopkinsville Buyer**"), grant to the Hopkinsville Buyer a royalty-free, non-exclusive, non-sublicensable, non-transferable license (subject to the delivery of data required by Section 6.19 of the Poland APA) to use the Acquired Intellectual Property (other than trademarks and other indications of origin), solely at and in the operation of the Hopkinsville Facility; *provided* that the license may be transferred by the Hopkinsville Buyer on the foregoing terms, in whole (and not in part), to a subsequent buyer of the Hopkinsville Facility in whole (and not in part). Such request by the Hopkinsville Buyer must be delivered to the Buyer no later than the closing date of the sale of the Hopkinsville Facility. Such license (i) shall expire upon the expiration of the last-to-expire patents included in the Acquired Intellectual Property; and (ii) will be granted on an as-is, where-is basis. In consideration for the foregoing license, the Hopkinsville Buyer and any subsequent transferee 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 Acquired Intellectual Property at the Hopkinsville Facility, which data shall be delivered by the Hopkinsville Buyer and any subsequent transferee for the term of the foregoing license at a cadence reasonably requested by the Buyer. The Hopkinsville Buyer and any subsequent transferee will grant to the Buyer and its Affiliates a non-exclusive, royalty-free license to use such data in the operation of its and their respective businesses.

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 37,

shall not be released): (i) any and all claims or causes of action arising under or pursuant to chapter 5 of the Bankruptcy Code or any other similar state or federal statutes or common law, including fraudulent transfer or fraudulent conveyance law (whether or not asserted as of the Closing Date), and all proceeds thereof (collectively, the "**Avoidance Actions**"), except for claims and causes of action which relate to an Acquired Asset or constitute Critical Vendor Avoidance Claims related to or arising out of the Assigned Contracts, the Acquired Entities, or other Acquired Assets, (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, which shall include the Critical Vendor Avoidance Claims (as defined in the Poland APA) and shall be transferred to the Buyer at Closing as Acquired Assets; *provided*, *further* that the Buyer may, in its sole discretion, determine whether to pursue or settle any Critical Vendor Avoidance Claim following the Closing.

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 continuing 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 Seller's location in Covington, Georgia, and any other related assets that are not Acquired Assets.

Signed: _____, 2026

CHRISTOPHER LOPEZ
UNITED STATES
BANKRUPTCY JUDGE

Exhibit A

Asset Purchase Agreement

Exhibit B

WPI Licenses

EXHIBIT B

IP ASSIGNMENT AGREEMENT

[*See attached.*]

INTELLECTUAL PROPERTY ASSIGNMENT AGREEMENT

This INTELLECTUAL PROPERTY ASSIGNMENT AGREEMENT (this "Agreement") is made and entered into as of May [●], 2026 (the "Effective Date") by and between Ascend Elements, Inc., a Delaware corporation ("Assignor") and Bluegrass Infrastructure Partners Holdings, LLC, a Delaware limited liability company ("Assignee"). Assignor and Assignee may, together, be referred to as the "Parties," and each, individually, a "Party." All capitalized terms used herein but not otherwise defined shall have the meanings given to them in the Purchase Agreement (as defined below).

WHEREAS, Assignor and Assignee have entered into that certain Third Amended and Restated Asset Purchase Agreement, dated as of May 22, 2026 (the "Purchase Agreement"); and

WHEREAS, pursuant to the Purchase Agreement and subject to all the terms and conditions thereof, Assignor has agreed to sell, transfer, assign, convey and deliver to Assignee the Acquired Assets, including the Acquired Intellectual Property.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties hereby agree as follows:

1. Transfer of Acquired Intellectual Property. Assignor does hereby irrevocably sell, transfer, assign, convey and deliver to Assignee and its successors and assigns, and Assignee does hereby unconditionally accept all of Assignor's right, title and interest in and to, the Acquired Intellectual Property, including the patents, trademarks and domain names set forth on Exhibit A hereto, and all issuances, registrations and applications therefor and that part of the goodwill of the business connected with the use of and symbolized thereby.

2. Proxy Service and Electronic Transfer for Domain Names. Assignor hereby authorizes and requests, and will cause any proxy service that registered any of the domain names included in the Acquired Intellectual Property on Assignor's behalf to authorize or request, the applicable registration authority to transfer such assigned domain names from Assignor or such proxy service, as the case may be, to Assignee. Assignor agrees to cooperate and to cause any such proxy service to cooperate with Assignee to initiate and complete the transfer process in relation to such assigned domain names electronically from Assignor's account to Assignee's account and servers.

3. Further Assurances. Assignor covenants and agrees that, at any time and from time to time upon the request of Assignee, at Assignee's expense, Assignor shall provide, and shall cause its Affiliates to provide, any further necessary documentation and do, and shall cause its Affiliates to do, all further acts reasonably requested by Assignee in order to transfer, convey, assign, or deliver the Acquired Intellectual Property, or to confirm and perfect title in and to the Acquired Intellectual Property in Assignee, its successors and assigns (and/or to evidence or record the same). Assignor hereby authorizes the Commissioner for Patents of the United States Patent and Trademark Office ("USPTO"), Commissioner for Trademarks of the USPTO and any other government authority to record and register this Agreement upon request by Assignee.

4. Entire Agreement. This Agreement, and the Purchase Agreement, reflect the entire understanding of the Parties relating to the sale, transfer, assignment, conveyance and delivery of the Acquired Intellectual Property from Assignor to Assignee, and supersede all prior agreements, understandings or letters of intent between or among the Parties regarding the subject matter of this Agreement and the Purchase Agreement.

5. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

6. Governing Law and Venue. Except to the extent the mandatory provisions of the Bankruptcy Code apply, this Agreement and any related dispute will be governed by and construed in accordance with the internal Laws of the State of New York applicable to agreements executed and performed entirely within such State without regard to conflicts of law principles of the State of New York or any other jurisdiction that would cause the Laws of any jurisdiction other than the State of New York to apply.

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

8. Purchase Agreement Shall Control. Nothing in this Agreement shall change, amend, limit, extend or alter (nor shall it be deemed or construed as changing, amending, extending or altering) the terms or conditions of the Purchase Agreement or any liability or obligation of the Assignor or Assignee arising under the Purchase Agreement, which shall govern the representations, warranties and obligations of the Parties with respect to the Acquired Intellectual Property. In the event that any of the provisions of this Agreement are determined to conflict with the terms of the Purchase Agreement, the terms of the Purchase Agreement shall control.

Remainder of page intentionally left blank.

IN WITNESS WHEREOF, Assignor and Assignee have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

ASSIGNOR: ASCEND ELEMENTS, INC.

By: _____

Name:

Title:

ASSIGNEE: BLUEGRASS INFRASTRUCTURE PARTNERS HOLDINGS, LLC

By: _____

Name:

Title:

Exhibit A

Patents and Patent Applications

Title	Filing Date	Application No.	Issued Date	Patent No.	Owner	Jurisdiction

Trademarks and Trademark Applications

Trademark	Filing Date	Application No.	Issued Date	Registration No.	Owner	Jurisdiction

Domain Names

Domain Name	Registrant	Registrar

Exhibit B

WPI Licenses

Annex 1 - WPI Licenses and Intellectual Property

License #1 – April 4, 2016

Docket No.:

WPI Case W12-014, A full Closed loop for recycling Lithium ion Batteries, US Patent application number 13/855,994, priority date of 2/17/12

WPI Case W15-010, Recycling of Li-Ion batteries with LiNixCoyAlzO2, US Patent Application number 62/083,470, filed 11/24/14

ClientRef	AttorneyRef	Country	ApplicationNum	PublicationNum	FilingDate	Status
	WPI14-14(BRC)DIV-CN	China	202410223124.X		2/28/2024	Pending
W12-014	WPI14-14EP (BRC)	European Patent Office	16869162.4		6/8/2018	Transferred
W12-014-01	WPI12-03P(BRC)	United States	61/620,051		4/4/2012	Expired
W12-014-02	WPI12-03 (BRC)	United States	13/855,994	20130302226	4/3/2013	Issued
W12-014-03	WPI14-14P2(BRC)	United States	62/259,161		11/24/2015	Expired
W12-014-04	WPI14-14PCT (BRC)	World Intellectual Property Organization	PCT/US16/63294	2017091562	11/22/2016	Published
W12-014-05	WPI14-14 (BRC)	United States	15/358,862	20170077564	11/22/2016	Issued
W12-014-06	WPI14-14CN (BRC)	China	201680004496.7		11/22/2018	Pending
W12-014-07	WPI14-14CA (BRC)	Canada	2979077		11/22/2016	Issued
W12-014-08	WPI14-14KR (BRC)	Republic of Korea	10-2017-7017116		6/17/2017	Allowed
W12-014-09	WPI14-14MX (BRC)	Mexico	MX/A/2018/03133		3/13/2018	Issued
W12-014-10	WPI14-14CIP(BRC)	United States	16/164,952	20190123402	10/19/2018	Issued
W12-014-11	WPI14-14CIP2 (BRC)	United States	17/412,742	20210391606	8/26/2021	Issued
W12-014-12	WPI14-14CIP2EP (BRC)	European Patent Office	21213247		12/8/2021	Transferred
W12-014-13	WPI14-14CIP2 (BRC)JP	Japan	2021-214906		12/28/2021	Pending
W12-014-14	WPI14-14CIP2 (BRC)CN	China	2022100154663		1/7/2022	Pending
W12-014-15	WPI12-03CON (BRC)	United States	17/572,079	20220131204	1/10/2022	Issued
W12-014-16	WPI14-14CIP2 (BRC)KR	Republic of Korea	10-2022-0018743		2/14/2022	Allowed
W12-014-17	WPI14-14CON(BRC)	United States	17/841,152	20220311068	6/15/2022	Issued
W12-014-18	WPI12-03CON2 (BRC)	United States	17/964,555	2023-0044374	10/12/2022	Issued
W12-014-19	WPI12-03CON3(BRC)	United States	18/113,130	20230198040	2/23/2023	Issued
W12-014-20	WPI12-03CON4(BRC)	United States	18/582,718	20240204279	2/21/2024	Issued
W12-014-21	WPI14-14CON2(BRC)	United States	18/805,482	20240413421	8/14/2024	Published
W12-014-22	WPI14-14CIP3(BRC)	United States				Unfiled
W12-014-23	WPI12-03CON5(BRC)	United States	19/205,325	20250273760	5/12/2025	Published

W15-010-01	WPI14-14P(BRC)	United States	62/083,470		11/24/2014	Expired

Amendment to License #1 - June 01, 2020
WPI Case W20-048, Facile Etching for Single Crystal Cathode Materials, US Patent Application number 63/030,414, filed 5/27/2020

ClientRef	AttorneyRef	Country	ApplicationNum	PublicationNum	FilingDate	Status
W20-048-01	WPI20-10p (BRC)	United States	63/030,414		5/27/2020	Expired
W20-048-02	WPI20-10 (BRC)	United States	17/330,922	20210372001	5/26/2021	Issued
W20-048-03	WPI20-10PCT (BRC)	World Intellectual Property Organization	PCT/US21/34209	WO 2021/242831	5/26/2021	Published
W20-048-04	WPI20-10(BRC)JP	Japan	2022-572506		11/25/2022	Issued
W20-048-05	WPI20-10(BRC)EP	European Patent Office	21813618.2	EP 4157796	12/19/2022	Published
W20-048-06	WPI20-10(BRC)CN	China		CN 115715275	12/19/2022	Issued
W20-048-07	WPI20-10(BRC)KR	Republic of Korea	2022-7044486	2023-12055	12/19/2022	Issued

Amendment to License #1 - May 01, 2021
WPI Case W21-029, Lithium Recovery Process, US Patent application number 63/174,068, filed 4/13/2021

W21-029-01	WPI21-04p(BRC)	United States	63/174,068		4/13/2021	Expired
W21-029-02	WPI21-04(BRC)	United States	17/719,080	20220325378	4/12/2022	Issued
W21-029-03	WPI21-04PCT(BRC)	World Intellectual Property Organization	PCT/US22/24431	WO2022/221285	4/12/2022	Published
W21-029-04	WPI21-04EP(BRC)	European Patent Office	22788773.4		12/15/2022	Pending
W21-029-05	WPI21-04SG(BRC)	Singapore	11202307645s		10/4/2023	Pending
W21-029-06	WPI21-04JP (BRC)	Japan	2022-577154		12/13/2022	Issued
W21-029-07	WPI21-04KR (BRC)	Republic of Korea	2022-7044166	10-2023-0044147	12/15/2022	Issued
W21-029-08	WPI21-04CN (BRC)	China	202280005042.7		12/15/2022	Pending
W21-029-09	WPI21-04CA(BRC)	Canada	3215065		10/10/2023	Pending

License #2 – June 15,2017

WPI Case W17-039, Methodof Recovering LiFePO4 and Graphite from Lithium Ion Batteries, US Patent application number 62,504, 699, filed 4/11/17

W17-039-01	WPI17-12p(BRC)	United States	62/504,699		5/11/2017	Expired
W17-039-02	WPI17-12 (BRC)	United States	15/976,981	20180261894	5/11/2018	Issued
W17-039-03	WPI17-12PCT(BRC)	World Intellectual Property Organization	PCT/US18/32186		5/11/2018	Closed

License #3 – November 30, 2021

Docket No.:

WPI Case W22-010, "Mixed Cathode Upcycling", US Patent Application Number 63/240,947, filed 9/5/21

W22-010-01	WPI21-15P(BRC)	United States	63/240,947		9/5/2021	Expired
W22-010-02	WPI21-15(BRC)	United States	17/902,021	20240079580	9/2/2022	Published
W22-010-03	WPI21-15PCT(BRC)	World Intellectual Property Organization	PCT/US22/42434	WO2023/034556	9/2/2022	Published

License #4 – November 30, 2021

Docket No.:

BRC21-02, Charge Material Synthesiized from recycled lithium-ion batteries, US Patent Application number 17/519,914, filed 11/5/21

ClientRef	AttorneyRef	Country	ApplicationNum	PublicationNum	FilingDate	Status
	BRC21-04	United States	17/519,914	20230147371	11/5/2021	Published (Jointly owned with Ascend Elements, Inc.)
	BRC21-04CN	China	202211384194.0	CN116177615	11/7/2022	Issued (Jointly owned with

						Ascend Elements, Inc.)
	BRC21-04EP	European Patent Office	22205310.0		11/3/2022	Pending (Jointly owned with Ascend Elements, Inc.)
	BRC21-04IN	India	202214063036		11/3/2022	Pending (Jointly owned with Ascend Elements, Inc.)
	BRC21-04JP	Japan	2022/176859		11/4/2022	Pending (Jointly owned with Ascend Elements, Inc.)
	BRC21-04KR	Republic of Korea	2022-146454	2023-65922	11/4/2022	Published (Jointly owned with Ascend Elements, Inc.)

United States Bankruptcy Court
Southern District of Texas
ENTERED
June 05, 2026
Nathan Ochsner, Clerk

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

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

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

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

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

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

[Docket No. 88] and upon the *Order (A) Approving Bid Procedures (B) Authorizing Designation of a Stalking Horse Bidder, (C) Scheduling an Auction, Related Deadlines, and a Sale Hearing, and (D) Granting Related Relief* [Docket No. 120] (the "Bid Procedures Order"); and upon that certain Asset Purchase Agreement, dated as of June 2, 2026 (together with all other agreements and other instruments deliverable thereunder or attached thereto or referenced therein, and as may be amended, modified, or supplemented, the "Asset Purchase Agreement"), a copy of which is attached hereto as **Exhibit 1** and the terms of which are incorporated herein, by which Turner-Kokosing Joint Venture (together with any and all of its Designees, the "Purchaser") submitted the highest or best bid for the Acquired Assets as determined by the Debtors (such offer, the "Successful Bid"); and the Debtors having held an Auction naming the Purchaser the Successful Bidder for the Acquired Assets, and the Court having conducted a hearing to consider certain relief requested in the Motion on June 3, 2026 (the "Sale Hearing"), at which time all interested parties were offered an opportunity to be heard with respect to the Motion; and the Court having reviewed and considered (i) the Motion; (ii) the Asset Purchase Agreement; (iii) the Bid Procedures Order, (iv) the First Day Declaration, (v) the O'Hara Bid Procedures Declaration, (vi) *Declaration of Michael O'Hara in Support of Entry of an Order (I) Approving the Sale of the Debtors' Interests in the Hopkinsville, Kentucky Assets Free and Clear of Liens, Claims, Interests and Encumbrances, (II) Approving the Assumption and Assignment of Associated Executory Contracts and Unexpired Leases, and (III) Granting Related Relief* [Docket No. 450], (vii) the *Declaration of Adam Titus in Support of Entry of an Order (I) Approving the Sale of the Debtors' Interests in the Hopkinsville, Kentucky Assets Free and Clear of Liens, Claims, Interests and Encumbrances, (II) Approving the Assumption and Assignment of Associated Executory Contracts and Unexpired Leases, and (III) Granting Related Relief* [Docket No. 449], ((vi) – (vii) collectively, the "Sale

Declarations"), (viii) the *Notice of Auction for the Sale of the Debtors' Hopkinsville Assets Free and Clear of Any and All Claims, Interests, and Encumbrances* [Docket No. 392] (the "Sale and Auction Notice"), (ix) the *Notice of Successful Bidder and Backup Bidder* [Docket No. 407] (the "Notice of Successful Bidder"), (x) the *First Notice to Contract Parties to Potentially Assumed Executory Contracts and Unexpired Leases* [Docket No. 240] (the "Assumption and Assignment Notice"), and (xi) the arguments of counsel made, and the evidence proffered or adduced at the Sale Hearing; and the Court having reviewed and considered any and all objections and responses thereto, and any such objections and responses being resolved or overruled; and after due deliberation the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interest of the Debtors, their estates and their creditors; and the Debtors having demonstrated good, sufficient and sound business justifications for the relief granted herein;

IT IS HEREBY FOUND AND DETERMINED THAT:[3]

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

[3] The findings and conclusions of law set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") 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. The Court's findings also shall include any oral findings of fact and conclusions of law made by the Court during the Sale Hearing.

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

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

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

D. Bid Procedures. On April 17, 2026, the Court entered the Bid Procedures Order, which among other things, (i) approved the Bid Procedures (as defined in the Motion), (ii) authorized the Debtors, in their discretion to modify the Bid Procedures in accordance with the Bid Procedures Order, Bid Procedures, and applicable law to promote a value-maximizing Sale Process, (iii) permitted potential bidders to bid for some and not all of the Debtors' assets; (iv) scheduled (a) an auction in connection with a sale of the Assets (the "Auction") if the Debtors received one or more timely and acceptable Qualified Bids, (b) a hearing to consider approval of one or more Sale Transactions as necessary, and (c) the objection deadline for approval of one or more Sale Transactions (the "Sale Objection Deadline"); (iv) approved the form and manner of Sale and Auction Notice; (v) approved the form and manner of notice of the Successful Bidder; (vi) approved procedures (the "Assumption and Assignment Procedures") for the assumption and assignment of certain executory contracts and unexpired leases in connection with a Sale Transaction (collectively, the "Assigned Contracts"); and (vii) approved the form and manner of

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

E. Notice and Opportunity to Be Heard. As evidenced by the certificates of service filed with respect to the Bid Procedures Order [Docket Nos. 110, 134, and 145], the Assumption and Assignment Notice, the *Notice of Auction for the Sale of the Debtors' Hopkinsville Assets Free and Clear of Any and All Claims, Interests, and Encumbrances; Auction Scheduled for May 26, 2026, at 12:00 P.M.* [Docket No. 395] (the "Auction Notice"), the Notice of Successful Bidder, and as demonstrated by the evidence presented at the Sale Hearing, the Debtors have complied with the Bid Procedures and otherwise have provided proper, timely, adequate and sufficient notice of, and a fair and reasonable opportunity to object and be heard with respect to, the Motion, the Bid Procedures, the Auction, the Sale Hearings, the Assumption and Assignment Procedures, and the sale of the Acquired Assets pursuant to the Asset Purchase Agreement (the "Sale Transaction") free and clear of all liens (as defined in section 101(37) of the Bankruptcy Code), claims (as defined in section 101(5) of the Bankruptcy Code), Encumbrances, and other interests within the meaning of section 363(f) of the Bankruptcy Code, and the assumption and assignment of the Assigned Contracts to be assumed and assigned to Purchaser at Closing pursuant to this Order and the terms of the Asset Purchase Agreement, in accordance

with sections 102(1), 363 and 365 of the Bankruptcy Code, Bankruptcy Rules 2002(a), 4001, 6004, 6006, 9007 and 9014, and the Bid Procedures Order, to all persons and entities entitled to such notice, and all other persons and entities as directed by the Court. Such notice was good, sufficient and appropriate under the circumstances and reasonably calculated to reach and apprise all holders of 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. With respect to parties in interest whose identities could not be reasonably ascertained by the Debtors, the Publication Notice (as defined in the Bid Procedures Order) published in *The New York Times* on April 16, 2026 [Docket No. 127], and April 23, 2026 [Docket No. 134], was sufficient and reasonably calculated to provide notice to such parties under the circumstances. No other or further notice of, opportunity to object to, or other opportunity to be heard regarding the Motion, the Sale Hearing, the Asset Purchase Agreement, the Sale, the Sale Transactions, the transactions contemplated by the Asset Purchase Agreement, or of the entry of this Sale Order is necessary or shall be required

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

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

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

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

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

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

J. Fair Consideration. The consideration to be paid by the Purchaser under the Asset Purchase Agreement constitutes (i) fair and reasonable consideration for the Acquired Assets; and (ii) reasonably equivalent value and fair consideration under the Bankruptcy Code, the Uniform Fraudulent Transfer Act, the Uniform Fraudulent Conveyance Act, the Uniform Voidable Transactions Act and other laws of the United States, any state, territory, possession thereof or the District of Columbia. Pursuant to the Bid Procedures Order and applicable law, including sections 363(b) and 363(k) of the Bankruptcy Code, the Purchaser is authorized to acquire the Acquired Assets for the Purchase Price, including, for the avoidance of doubt, the Credit Bid Amount. The Purchase Price 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 Credit Bid Amount pursuant to section 363(k) of the Bankruptcy Code.

K. Sufficiency of Marketing. As demonstrated by the Motion, the O'Hara Bid Procedures Declaration, the Sale Declarations, and the evidence set forth at the Sale Hearing, the Debtors and their professionals adequately marketed the Debtors' assets and conducted the marketing and Sale Process as set forth in and in accordance with the Motion and the Bid Procedures and conducted a fair and open Sale Process. The Sale Process and the Bid Procedures were non-collusive, duly noticed, and provided a full, fair, and reasonable opportunity for any entity to make an offer to purchase some or all of the assets, and the process conducted by the Debtors pursuant to the Bid Procedures Order obtained the highest or otherwise best value for the Acquired Assets, and there was no other transaction available or presented that would have yielded a higher or better result. Based upon the record of these proceedings, all creditors and other parties in interest and all prospective Bidders have been afforded a reasonable and fair opportunity to bid for the Acquired Assets and/or file an objection to the Sale Transaction. The marketing process undertaken by the Debtors and their professionals and each of their respective agents and other representatives with respect to the Acquired Assets has been adequate and appropriate and reasonably calculated to maximize the value for the benefit of all of the Debtors' stakeholders in all respects.

L. Free and Clear Sale. The Debtors may sell the Acquired Assets free and clear of all Encumbrances (unless otherwise expressly assumed under, or expressly permitted by, the Asset Purchase Agreement), because, in each case, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. Any holders of Encumbrances that objected to the Sale Transaction or the Motion and that have an Encumbrance on the Acquired

Assets could be compelled in a legal or equitable proceeding to accept money in satisfaction of such Encumbrance pursuant to section 363(f)(5), or fall within one or more of the other subsections of section 363(f) and, therefore, are adequately protected by having their Encumbrances on the Acquired Assets attach solely to the proceeds of the Sale Transaction ultimately attributable to the sale of the property on which such holders have Encumbrances, in the same order of priority, and with the same validity, force and effect that such Encumbrances had prior to the consummation of the Sale Transaction, subject to any rights, claims or defenses of the Debtors and their estates. Any holders of Encumbrances that did not object, or that withdrew their objections, to the Motion or the Sale Transaction, are deemed to have consented to the sale of the Acquired Assets free and clear of their respective Encumbrances on the Acquired Assets pursuant to section 363(f)(2) of the Bankruptcy Code.

M. Purchaser's Reliance on Free and Clear Sale. The Purchaser would not have entered into the Asset Purchase Agreement and would not consummate the Sale Transaction or the other transactions contemplated thereby if the sale of the Acquired Assets were not free and clear of all Encumbrances, or if the Purchaser or the Purchaser's Stakeholders (as defined below) would, or in the future could, be liable for any such Encumbrances. A sale of the Acquired Assets other than one free and clear of all Encumbrances would adversely impact the Debtors, their estates, and their creditors, and would yield substantially less value for the Acquired Assets and the Debtors' estates, with less certainty than provided by the Sale Transaction. The total consideration to be provided under the Asset Purchase Agreement reflects the Purchaser's reliance on this Order to provide it, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, with title to and

possession of the Acquired Assets free and clear of all Encumbrances, including, without limitation, any potential derivative, vicarious, transferee or successor liability Encumbrances.

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

O. Good Faith. The Debtors, the Purchaser and their respective counsel and other advisors have negotiated and entered into the Asset Purchase Agreement and each of the transactions contemplated thereby in good faith, without collusion and from arms'-length bargaining positions. The Purchaser is a good-faith purchaser and is acting in good faith within

the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to all of the protections afforded thereby. The Debtors were free to deal with any other party interested in acquiring all or some of the Acquired Assets. Neither the Debtors nor the Purchaser have engaged in any conduct that would cause or permit the Sale Transaction, the Asset Purchase Agreement or any of the transactions contemplated thereby to be avoided or subject to monetary damages under section 363(n) of the Bankruptcy Code, or that would prevent the application of sections 363(m) or 364(e) of the Bankruptcy Code. The Purchaser has not violated section 363(n) of the Bankruptcy Code by any action or inaction. Specifically, the Purchaser has not acted in a collusive manner with any person or entity, and the Purchaser's participation in and bidding at the Auction were not controlled by any agreement among bidders. All payments to be made by the Purchaser and all agreements entered into by the Purchaser and the Debtors and any other Seller under the Asset Purchase Agreement in connection with the Sale Transaction have been disclosed and are appropriate. The Asset Purchase Agreement was not entered into for the purpose of hindering, delaying or defrauding creditors under laws of the United States, any state, territory, possession or the District of Columbia.

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

Q. Assumption and Assignment of Contracts. The assumption and assignment of the Assigned Contracts are an integral part of the Sale Transaction, are in the best interests of the Debtors and their estates and represent the valid and reasonable exercise of the Debtors' sound business judgment. Specifically, the assumption and assignment of the Assigned Contracts,

including in connection with Paragraph 19 of this Order, (i) are necessary to sell the Acquired Assets to the Purchaser as contemplated by the Asset Purchase Agreement, (ii) allow the Debtors to sell the Acquired Assets to the Purchaser as a going concern, (iii) limit the losses suffered by the Contract/Lease Counterparties to the Assigned Contracts and (iv) maximize the recoveries of other creditors of the Debtors by avoiding claims against the Debtors' estates that would arise from the Debtors' rejection of the Assigned Contracts. Any Contract/Lease Counterparty to any Assigned Contract that has not actually filed with the Court and served on the Objection Notice Parties (as defined in the Bid Procedures) an objection to the assumption and/or assignment of such Assigned Contract as of the applicable date specified in the Bid Procedures Order (as such date may have been modified or extended in accordance with the terms of the Bid Procedures Order) is deemed to have consented to the assumption and assignment of the Assigned Contract.

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

shall be assigned and transferred to, and remain in full force and effect for the benefit of, the Purchaser, notwithstanding any provision in the Assigned Contracts or other restrictions prohibiting their assignment or transfer.

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

T. Validity of the Sale Transaction. The consummation of the Sale Transaction is legal, valid and properly authorized under all applicable provisions of the Bankruptcy Code, including sections 105(a), 363(b), 363(f), 363(m), 365(b) and 365(f) and all of the applicable requirements of such sections have been complied with in all respects in connection with the Sale Transaction. As of the Closing, the transfer of the Acquired Assets to the Purchaser will be a legal, valid and effective transfer of the Acquired Assets, including the Assigned Contracts, and will vest the Purchaser with all right, title and interest of the Debtors in and to the Acquired Assets free and clear of all Encumbrances. The Debtors have full corporate or other applicable authority to execute the Asset Purchase Agreement and all other documents contemplated thereby, and the Sale Transaction has been duly and validly authorized by all necessary corporate action of the Debtors. Upon entry of this Order, other than any consents identified in the Asset Purchase Agreement, no consent or approval from any other person, entity or legal authority is required to consummate the Sale Transaction.

U. No *Sub Rosa* Plan. Neither the Sale Transaction nor the Asset Purchase Agreement impermissibly restructures the rights of any of the Debtors' creditors or impermissibly dictates the terms of a liquidating plan of reorganization of the Debtors. Neither the Sale Transaction nor the Asset Purchase Agreement constitutes a *sub rosa* or *de facto* plan of reorganization or liquidation, as neither proposes to (i) impair or restructure any existing debt of,

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

V. No Stay of Order. Time is of the essence to implement the Asset Purchase Agreement and consummate the Sale Transaction. The Sale Transaction must be approved and consummated promptly in order to preserve the value of the Acquired Assets and to ensure the Debtors' compliance with their obligations under their post-petition financing agreements. The Debtors have demonstrated compelling circumstances and sound business justifications for the immediate approval and consummation of the Sale Transaction as contemplated by the Asset Purchase Agreement. Notwithstanding the provisions of Bankruptcy Rules 6004(h), 6006(d), 7062 or any applicable provisions of the Local Rules, this Order shall not be stayed and shall be effective and enforceable immediately upon entry.

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

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

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

Licenses" are the licenses and underlying intellectual property identified on Exhibit []. The Purchaser and WPI reserve all rights (but are not under any obligation) to negotiate an assignment of the WPI Licenses on a consensual basis, and any assignment of the WPI Licenses 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 Asset Purchase Agreement or this Sale Order to the contrary, nothing in the Asset Purchase Agreement or this Order approves the direct or indirect assignment or transfer of the WPI Licenses and the underlying intellectual property and the WPI Licenses shall not be Assigned Contracts unless and until such assumption and assignment is approved by further order of the Court. Notwithstanding anything herein to the contrary, including Paragraph 19 of this Order, the Designation Period and Designation Assignment Period shall not apply to the WPI Licenses. Instead, by June 26, 2026 either (i) Purchaser and WPI shall agree to a consensual disposition of the WPI Licenses, which consent may be granted or withheld by either party in its sole discretion, or (ii) Purchaser shall provide written notification to WPI counsel (email being sufficient) that it intends to pursue assignment of the WPI Licenses over WPI's objection; provided that such date may be extended in the sole discretion of WPI, with such extension in writing (email from WPI or its counsel shall be sufficient). If the parties do not agree to a consensual disposition of the WPI Licenses and the Purchaser does not advise WPI of its intent to pursue a contested assignment of the WPI Licenses by such date (as may extended by WPI), the WPI Licenses shall be deemed terminated. If the Purchaser elects to pursue a contested assignment, the parties agree to a hearing on the contested assignment as soon as reasonably practicable after the date of notification.

3. .

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

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

6. Debtors' Effectuation of Asset Purchase Agreement. The Debtors are hereby authorized and empowered to cause to be executed and filed such statements, instruments, releases and other documents with respect to the Acquired Assets that are necessary or appropriate to effectuate the Asset Purchase Agreement, the Sale Transaction or this Order, including, as

applicable, amended and restated certificates or articles of incorporation and by-laws or certificates or articles of amendment, and all such other actions, filings or recordings as may be required under appropriate provisions of the applicable laws of all applicable governmental units or as any of the officers of the Debtors may determine are necessary or appropriate.

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

8. Free and Clear Sale. Except to the extent specifically provided in this Order or the Asset Purchase Agreement, upon the Closing Date, the Debtors shall be, and hereby are, authorized and empowered, pursuant to sections 105, 363(b) and 363(f) of the Bankruptcy Code, to sell and transfer to the Purchaser the Acquired Assets. The sale and transfer of the Acquired Assets to the Purchaser shall vest the Purchaser with all right, title and interest of the Debtor in and to the Acquired Assets free and clear of any and all Encumbrances of any person or entity, with all such Encumbrances to attach to the net proceeds of the Sale Transaction ultimately attributable to the sale of the property in which such holders have a Encumbrance, in the same order of priority, and with the same validity, force and effect that such Encumbrances had prior to the consummation of the Sale Transaction, subject to any rights, claims or defenses of the Debtors or their estates. Following the Closing, no holder of any Encumbrance on any of the Acquired

Assets shall interfere with the Purchaser's use or enjoyment of any of the Acquired Assets based on or related to such Encumbrance or any actions that the Debtors have taken or may take in their Chapter 11 Cases.

9. [RESERVED].

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

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

assignments, consents or other instruments in any jurisdiction to record the release, discharge and termination of Encumbrances on the Acquired Assets pursuant to the terms of this Order.

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

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

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

15. No Successor Liability. The Purchaser and the Purchaser's Stakeholders are not and shall not be (a) deemed a "successor" in any respect to any of the Debtors or any of their estates as a result of the consummation of the Sale Transaction or any other event occurring in the Debtors' Chapter 11 Cases under any theory of law or equity; (b) deemed to have, *de facto* or otherwise, merged or consolidated with or into any of the Debtors or any of their estates; (c) deemed to be an alter ego of or have a common identity with the any of the Debtors; (d) deemed

to have a continuity of enterprise with any of the Debtors; or (e) deemed to be a continuation or substantial continuation of any of the Debtors or any enterprise of any of the Debtors, including (with respect to clauses (a) through (e) of this paragraph) within the meaning of any foreign, federal, state or local revenue, pension, ERISA, tax, labor, employment, environmental, products liability or other law, doctrine, rule or regulation (including any filing requirements under any such laws, rules or regulations) with respect to the Debtors' liability under such law, doctrine, rule or regulation.

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

Assets having any liability or responsibility to any of the Debtors except as is expressly set forth in the Asset Purchase Agreement. Pursuant to the Asset Purchase Agreement, the Purchaser shall maintain certain rights to modify the Acquired Assets and Excluded Liabilities in accordance with the terms thereunder, including any Assigned Contracts; *provided that* the Purchaser may not remove any Purchased Asset or add any Excluded Liability if such asset is otherwise restricted pursuant to the Chapter 11 Cases.

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

18. Assumption and Assignment of Contracts. Under sections 105(a), 363 and 365 of the Bankruptcy Code, and subject to paragraph 19 of this Order, and conditioned upon the closing of the Sale Transaction, the Debtors' assumption and assignment of the Assigned Contracts

to the Purchaser free and clear of all Encumbrances pursuant to the terms of the Asset Purchase Agreement, as modified by the terms of any amendments thereto, is hereby approved, and the requirements of sections 365(b)(1), 365(f)(2) and 365(b)(3) (to the extent applicable) of the Bankruptcy Code with respect thereto are hereby deemed satisfied; provided, that, there shall be no assumption without a simultaneous assignment thereof to the Purchaser. The Assigned Contracts shall be deemed assumed by the Seller and assigned to the Purchaser effective as of the Closing Date. Upon the Debtors' assumption and assignment of the Assigned Contracts to the Purchaser, each applicable Contract/Lease Counterparty shall be forever barred, estopped and permanently enjoined from raising or asserting against the Debtors, the Purchaser or their respective property, any assignment fee, default, breach, claim, pecuniary loss, liability, or obligation (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, known or unknown, liquidated or unliquidated senior or subordinate) arising under or out of, in connection with or in any way related to, the Assigned Contracts existing as of the Closing Date or arising by reason of the Closing. Upon the Debtors' assumption and assignment of the Assigned Contracts to the Purchaser, the Purchaser shall be fully and irrevocably vested with all right, title and interest of the Debtors in and to the Assigned Contracts and, pursuant to section 365(k) of the Bankruptcy Code, the Debtors shall be relieved from any further liability with respect to the Assigned Contracts. The Debtors' assumption and assignment of the Assigned Contracts to the Purchaser shall not constitute a default under or a termination of any Assigned Contract.

19. Designation Rights for Contracts and Schedules to Asset Purchase Agreement. Notwithstanding anything in the APA, from and after the Closing Date until thirty (30) days thereafter (which may be extended by thirty (30) additional days by the filing of a notice

on the Court's docket indicating such extension of the Designation Period) (the "Designation Period"), the Purchaser may, in its sole discretion, (a) designate any Contract, including any previously designated Excluded Contract, as an Assigned Contract and cause its assumption and assignment to the Purchaser or its Designee, effective on and as of the Closing, and (b) designate any Contract, including any previously designated Assigned Contract, as an Excluded Contract effective on and as of the Closing, in each case by filing a notice of such designation pursuant to this Order and serving such notice on the applicable Contract/Lease Counterparties. In addition, from and after the Closing Date until 120 days thereafter (the "Designee Assignment Period"), the Purchaser may assign any Assigned Contract to one or more of its Designees by providing notice of such assignment to such Designee and the applicable Contract/Lease Counterparty. Any Contract designated for assumption and assignment pursuant to this paragraph during the Designation Period or Designee Assignment Period shall be treated as an Assigned Contract in all respects under this Order. The Debtors shall take reasonable steps to facilitate any filings in connection with the Contracts designated as Excluded Contracts or Assigned Contracts in connection with Closing, as well as during the Designation Period and Designee Assignment Period; provided however, during the Designation Period, the Debtors shall not seek to reject any Contract or Excluded Contract without the consent of the Purchaser. In addition, the Debtors shall, upon request of the Purchaser, file a motion seeking to reject any Contract or Excluded Contract, effective as of the Closing (or such other date as agreed to by the Debtors and Purchaser). The Purchaser and Debtors shall amend Schedules 1.1(a) and 1.2(d) of the Asset Purchase Agreement to reflect any designations made pursuant to this paragraph 19 of the Order.

20. Payment of Certain Indebtedness.[4] Upon Closing, any M&A Transaction Fee payable to Jefferies LLC and Completion Fee payable to Alvarez & Marsal North America, LLC shall be paid or otherwise satisfied, escrowed or segregated from the proceeds of the Sale Transaction pursuant to and as set forth in the Bid Procedures Order.

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

22. Cure Objections. Except as provided herein, all objections to the Debtors' calculation of Cure Costs with respect to any of the Assigned Contracts (each such objection, a

[4] Capitalized terms used in paragraph 20 but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Bid Procedures Order.

"Cure Objection") have been overruled, withdrawn, waived, settled or otherwise resolved. Any Cure Objections as to applicable Cure Costs that have not been resolved by the parties may be heard at a later date as set by the Court. The pendency of a dispute relating to a particular Assigned Contract shall not prevent or delay the assumption or assignment of any other Assigned Contract or the closing of the Sale Transaction.

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

24. Adequate Assurance. The Purchaser has provided adequate assurance of future performance under the Assigned Contracts within the meaning of sections 365(b)(1)(C), 365(f)(2)(B) and 365(b)(3) (to the extent applicable) of the Bankruptcy Code. Any Assumption and Assignment Objections (as defined in the Bid Procedures) that have not been withdrawn, waived or settled and all reservations of rights included in such objections are hereby overruled on

the merits with prejudice. All other requirements and conditions under sections 363 and 365 of the Bankruptcy Code for the Debtors' assumption and assignment of the Assigned Contracts to the Purchaser have been satisfied in accordance with the terms of this Order.

25. Anti-Assignment Provisions Unenforceable. No section or provision of any Assigned Contract that purports to (a) prohibit, restrict or condition the assignment of an Assigned Contract, including, but not limited to, the conditioning of such assignment on the consent of any Contract/Lease Counterparty to such Assigned Contract; (b) authorize the termination, cancellation or modification of an Assigned Contract based on the filing of a bankruptcy case, the financial condition of the Debtors or similar circumstances; (c) declare a breach or default as a result of a change in control in respect of the Debtors; (d) prevent the Purchaser from assigning such Assigned Contract to one or more of its Designees; or (e) provide for additional payments, profit sharing, penalties, conditions, renewals, extensions, charges or other financial accommodations in favor of the Contract/Lease Counterparty to an Assigned Contract, or modification of any term or condition upon the assignment of an Assigned Contract or the occurrence of the conditions set forth in subsection (b) above, shall have any force or effect, and any such section or provision constitutes an unenforceable anti-assignment provision under section 365(f) of the Bankruptcy Code and/or is otherwise unenforceable under section 365(e) of the Bankruptcy Code.

26. Direction to Contract Counterparties. All Contract/Lease Counterparties to Contracts assigned to the Purchaser in accordance with the terms of this Order and the Asset Purchase Agreement shall cooperate with, and expeditiously execute and deliver upon, any reasonable request of the Purchaser for any instruments, applications, consents or other documents that may be required or requested by any governmental unit or other public or quasi-public

authority or other party to effectuate the applicable transfers in connection with the Debtors' assumption and assignment of the Assigned Contracts to the Purchaser or the Purchaser's assignment to its Designee(s) pursuant to this Order, as applicable.

27. Licenses and Permits. To the extent provided in the Asset Purchase Agreement and available under applicable law, the Purchaser shall be authorized, as of the Closing Date, to operate under any license, permit, registration and any other governmental authorization or approval of the Debtors with respect to the Acquired Assets and the Contracts, and all such licenses, permits, registrations and governmental authorizations and approvals are deemed to have been, and hereby are, directed to be transferred to the Purchaser as of the Closing Date. To the extent any license or permit necessary for the operation of the Acquired Assets is determined not to be an executory contract that may be assumed and assigned under section 365 of the Bankruptcy Code, the Purchaser shall apply for and obtain any necessary license or permit promptly after the Closing Date, and such license or permit of the Debtors shall remain in place for the Purchaser's benefit until a new license or permit is obtained. To the extent provided by section 525 of the Bankruptcy Code, no governmental unit may revoke or suspend any permit or license relating to the operation of the Acquired Assets sold, transferred or conveyed to the Purchaser on account of the filing or pendency of these Chapter 11 Cases or the consummation of the Sale Transaction.

28. Good-Faith Purchaser. The Purchaser is a good-faith purchaser within the meaning of section 363(m) of the Bankruptcy Code and is entitled to all of the protections afforded thereby. Pursuant to section 363(m) of the Bankruptcy Code, if any or all of the provisions of this Order are hereafter reversed, modified or vacated by a subsequent order of this Court or any other court, such reversal, modification or vacatur shall not affect the validity or enforceability of any sale, transfer or assignment under the Asset Purchase Agreement or any obligation or right granted

pursuant to the terms of this Order (unless stayed pending appeal prior to the Closing Date) and, notwithstanding any reversal, modification or vacatur, any sale, transfer or assignment under the Asset Purchase Agreement, shall be governed in all respects by the original provisions of this Order or the Asset Purchase Agreement, as applicable.

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

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

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

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

Agreement shall inure to the benefit of the Debtors, their estates, their creditors, the Purchaser, and their respective successors and assigns.

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

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

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

36. No Stay of Order. Notwithstanding Bankruptcy Rules 6004(h), 6006(d), 7062 and any applicable Local Rules, this Order shall not be stayed and shall be effective and enforceable immediately upon entry. The provisions of this Order shall be self-executing. Time

is of the essence in implementing the Asset Purchase Agreement and closing the Sale Transaction. Any party objecting to this Order or any of the relief granted herein must exercise due diligence in filing an appeal and obtaining a stay prior to the Closing of the Sale Transaction or risk its appeal being foreclosed as moot.

37. Governing Terms. To the extent this Order is inconsistent with any prior order or pleading in these Chapter 11 Cases, the terms of this Order shall govern. To the extent there is any inconsistency between the terms of this Order and the terms of the Sale Documents (defined below), the terms of this Order shall govern.

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

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

40. Government Treatment. Notwithstanding any provision to the contrary in this Order, the Asset Purchase Agreement, or any other sale document (collectively, "Sale Documents"), nothing shall: (i) release, nullify, preclude, or enjoin the enforcement of any police or regulatory power or any liability that any entity would be subject to as the owner, lessor, lessee, or operator of property that such entity owns, operates, or leases after the date of entry of this Order; (ii) affect the setoff or recoupment rights of the United States; (iii) confer exclusive

jurisdiction to the Bankruptcy Court except to the extent set forth in 28 U.S.C. § 1334 (as limited by any other provisions of the United States Code); (iv) authorize the assumption, assignment, sale, or other transfer of any federal or state (a) grants, (b) grant funds, (c) property acquired or improved with grant funds, (d) contracts, (e) agreements, (f) awards, (g) task orders, (h) property, (i) intellectual property, (j) patents, (k) leases, (l) certifications, (m) applications, (n) registrations, (o) billing numbers, (p) national provider identifiers, (q) provider transaction access numbers, (r) licenses, (s) permits, (t) covenants, (u) inventory, (v) guarantees, (w) indemnifications, (x) data, (y) records, or (z) any other interests belonging to the United States or any state (collectively, "Governmental Interests") without compliance by the Debtors and the Purchaser with all terms of the Governmental Interests and with all applicable non-bankruptcy law; (v) be interpreted to set cure amounts or to require the United States or any state to novate, approve, or otherwise consent to the sale, assumption, assignment, or other transfer of any Governmental Interests; (vi) expand the scope of 11 U.S.C.§ 525; (vii) waive, alter, or otherwise limit the United States' rights with respect to any licenses in the Acquired Assets arising pursuant to applicable non-bankruptcy law, including any rights arising under the Bayh-Dole Act (35 U.S.C. 201 *et seq*.); or (viii) affect the Debtors' or Purchaser's requirements to comply with applicable non-bankruptcy law, including, but not limited to, the Bayh-Dole Act (35 U.S.C. 201 *et seq*.).

41. DOE Specific Language. Notwithstanding anything in this Order, the Asset Purchase Agreement, or any other sale document (collectively, the "Sale Documents"), nothing shall affect or impair the rights or interests of the U.S. Department of Energy with respect to any property funded, purchased, improved or developed with the Assistance Award DE-MS0000002 (the "Funded Property") pursuant to the terms and conditions of the Assistance Award DE-MS0000002, and the Funded Property shall continue to be subject to all the terms, conditions, and

restrictions imposed by Assistance Award DE-MS0000002, its terms and conditions and 2 C.F. R. Parts 200 and 910. Any future disposition of or other action concerning the Funded Property shall comply with the Assistance Award DE-MS0000002's terms and conditions and all applicable non-bankruptcy law. Notwithstanding the foregoing, all of Purchaser's rights are reserved with respect to the foregoing, including the Assistance Award DE-MS0000002.

42. Subcontractors. Notwithstanding anything to the contrary herein, including the conveyance of the Acquired Assets to Purchaser free and clear of any and all liens, claims, interests and Encumbrances of any person or entity, (a) nothing in this Order shall waive, release, discharge, enjoin, bar, estop, extinguish or otherwise affect any valid claims, rights, remedies, defenses or causes of action held by Subcontractors[5] arising under their applicable agreements with the Purchaser or otherwise and (b) all Subcontractors shall be entitled to commence and/or continue all actions or proceedings outside of these chapter 11 proceedings other than against the Debtors with respect to such claims, rights, remedies, defenses or causes of action and nothing in this Order shall bar, estop or enjoin such action, in each case subject to any claims, rights, remedies, defenses or causes of action that may be asserted by Purchaser with respect thereto.

43. H2O Innovation Treatment. The Debtors and H2O Innovation Inc. ("H2O") are parties to certain prepetition 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"). For the avoidance of doubt, nothing in this Order or the Asset Purchase Agreement shall be a finding or determination as to whether the Debtors own any of the H2O Systems, and all rights of the Debtors,

[5] The term "Subcontractors" includes all subcontractors hired by TKJV with respect to the Property, including (but not limited to) RMF Nooter, LLC, United Electric Company, Inc., F.E. Moran, Inc. Fire Protection, Murphy Company Mechanical Contractors and Engineers, Miner, Ltd., d/b/a Great Lakes Dock & Door and SteelFab, Inc.

H2O, and the Purchaser as to ownership of the H2O Systems are reserved. Further, nothing in this Order or the Asset Purchase Agreement assumes or assumes and assigns any H2O Agreement to the Purchaser, and all rights of any party concerning any proposed assumption or assumption and assignment, or rejection of any of the H2O Agreements are expressly reserved and preserved. To the extent it is later determined that this Order approved the sale of any H2O System to the Purchaser, H2O's lien(s), if any, shall attach to the proceeds of the Sale Transaction in the same order and priority as they existed prior to the entry of this Order. 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.

44. Assumption and Payoff of Mortgage and Certain Property Taxes - City of Hopkinsville, Kentucky. Notwithstanding anything to the contrary in this Order or the Asset Purchase Agreement, Purchaser assumes and will pay in full and final satisfaction, that certain Grant Agreement dated November 15, 2022, in favor of the City of Hopkinsville, Kentucky (the "City of Hopkinsville"), secured by a mortgage on the Hopkinsville Property recorded on December 15, 2022 (the "Hopkinsville Mortgage"), in accordance with the following provisions approved by the Court: (1) the Hopkinsville Mortgage is deemed to be a perfected, secured lien and mortgage, in the amount of $3,717,000, that is secured by Lot 1 of the Hopkinsville Property, and that is junior only to the real property taxes set forth in this paragraph; (2) interest will begin to accrue on the Hopkinsville Mortgage at the rate of 3.86% upon the Closing of the Sale Transaction to Purchaser; (3) Purchaser shall pay the Hopkinsville Mortgage plus interest on the earlier to occur of (x) 90 days following the Closing of the Sale Transaction to Purchaser, and (y)

the closing of a subsequent sale between Purchaser and a subsequent buyer; and (4) the Closing of the Sale Transaction to Purchaser shall occur on or before five business days following entry of this Order. Notwithstanding anything to the contrary in this Order or the Asset Purchase Agreement, Purchaser assumes and will pay in full and final satisfaction, the taxes owed to the City of Hopkinsville, in accordance with the following terms approved by the Court: (1) the 2025 real property taxes in the amount of $511,312.50, which are deemed to be perfected, senior liens secured by the entire Hopkinsville Property (inclusive of Lot 1 and Lot 2) (the "Real Property Taxes"); (2) the 2025 personal property taxes in the amount of $1,267.11, which are deemed to be perfected, senior liens secured by all personal property located at the Hopkinsville Property (together with the Real Property Taxes, the "2025 City Taxes"); (3) on the Closing of the Sale Transaction to the Purchaser, the City of Hopkinsville will receive full payment of the 2025 City Taxes; (4) the 2026 and subsequent real and personal property taxes assessed by the City of Hopkinsville shall be paid in the ordinary course of business (but subject to any right of appeal or reassessment),[6] and are deemed to be perfected, senior liens against the entire Hopkinsville Property (inclusive of Lot 1 and Lot 2), and all personal property located at the Hopkinsville Property, as applicable. So long as the Closing of the Sale Transaction to Purchaser occurs, Turner-Kokosing Joint Venture shall be responsible for the payment of the Hopkinsville Mortgage and the 2025 City Taxes as provided herein regardless of whether or not the actual Purchaser is a designee of Turner-Kokosing Joint Venture. Upon payment of the Hopkinsville Mortgage and the 2025 City Taxes pursuant to the terms of this Order, any and all mortgages, liens or other encumbrances for the Hopkinsville Mortgage and the 2025 City Taxes against any of the Acquired Assets shall be released by the City of Hopkinsville (or the appropriate agency or lien holder). The

[6] All rights, arguments, and defenses of the parties are fully preserved regarding any such appeal or reassessment.

lien priorities set forth above for the Hopkinsville Mortgage, the 2025 City Taxes, and the 2026 taxes assessed by the City of Hopkinsville are binding on the Purchaser, other mechanics' lienholders, the Debtors, and the Debtors' estates regardless of whether or not the Closing of the Sale Transaction to the Purchaser occurs.

45. Assumption and Payoff of Foundation Mortgage. Purchaser agrees to assume the Debtors' obligations under that certain Commercial Term Promissory Note in the amount of $2,856,000 issued on November 16, 2022 in favor of Hopkinsville Industrial Foundation, Inc. (collaterally assigned to Planters Bank, Inc. on November 16, 2022) (the "Foundation Note") secured by that certain Commercial Real Estate Mortgage and Assignment of Leases by and between Ascend Elements, Inc. and Hopkinsville Industrial Foundation, Inc., dated November 16, 2022, recorded on November 18, 2022, and collaterally assigned on November 16, 2022 to Planters Bank, Inc. (such collateral assignment recorded on November 18, 2022), on Lot 2 of the Division Plat of Hopkinsville Industrial Foundation, Inc. Property, recorded in Plat Cabinet 12, Slide 519 in the Christian County, Kentucky Clerk's Records in Christian County, Kentucky, together with such related rights and interests as granted in such mortgage (the "Foundation Mortgage"). At the Closing, Purchaser shall pay the Hopkinsville Industrial Foundation, Inc. (together with Planters Bank, Inc., the "Foundation Parties") or its designee $515,000 in full and final satisfaction of the obligations under the Foundation Note and settlement of disputes between the Foundation Parties and the Purchaser (the "Settlement Payment"); *provided that*, at Closing, the Debtors shall be authorized to use up to $40,000 of proceeds from the Sale Transaction to fund the Settlement Payment; *provided, further, however*, if the Closing does not occur within 21 days of the Sale Hearing, then (i) Purchaser shall pay current all accrued interest and fees due under the Foundation Note within three (3) business days

following Purchaser's receipt of an invoice from the Foundation Parties stating the amount due and (ii) Purchaser shall pay all principal due under the terms of the Foundation Note and any remaining interest and fees accrued under the Foundation Note, in full, at Closing. Further, on or before the Closing, the Purchaser and the Foundation Parties shall enter into a settlement agreement that contains mutual releases of all claims of the Purchaser and the Foundation Parties against each other related to the Foundation Note and Foundation Mortgage, and a release of the Foundation Mortgage upon receipt of the Settlement Payment and shall be otherwise consistent with this paragraph 45.

46. Provision Regarding Committee's Rights. Notwithstanding anything in this Order or Section 6.11 of the Asset Purchase Agreement, the rights of the Committee (and any subsequent litigation trustee) to object to the claims asserted by the Purchaser in its Proof of Claim (as may be amended, modified, supplemented or restated) are expressly preserved. Moreover, notwithstanding anything to the contrary in the Asset Purchase Agreement, at Closing, Purchaser agrees to waive an additional $40,000,000 of its secured claim against the Debtors' estates. For the avoidance of doubt, when combined with the amount credit bid under the Asset Purchase Agreement, upon Closing, the Purchaser's claim against the Debtors' estates shall be reduced by a total amount of $50,000,000.

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

Signed: June 05, 2026

Christopher Lopez
United States Bankruptcy Judge

Execution Version

ASSET PURCHASE AGREEMENT

DATED AS OF JUNE 2, 2026

BY AND AMONG

TURNER-KOKOSING JOINT VENTURE,
AS PURCHASER,

AND

ASCEND ELEMENTS, INC.,
AS SELLER

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Exhibit A FORM OF SALE ORDER

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (this "Agreement"), dated as of June 2, 2026, is made by and between Turner-Kokosing Joint Venture("TKJV"), an unincorporated joint venture organized in Kentucky or one or more of its designees (each a "Designee") (TKJV and each Designee shall collectively be defined as the "Purchaser"), and Ascend Elements, Inc. ("Seller"). Purchaser and Seller are referred to herein individually as a "Party" and collectively as the "Parties."

WHEREAS, on April 9, 2026 (the "Petition Date"), Seller, and Ascend Elements US, LLC ("Elements," and together with Seller, each a "Debtor" and collectively, the "Debtors"), commenced voluntary cases under chapter 11 of the United States Code, 11 U.S.C. §§ 101-1532 (as amended, the "Bankruptcy Code"), in the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "Bankruptcy Court") (the "Chapter 11 Case");

WHEREAS, Purchaser was the Successful Bidder at the Auction conducted on May 26, 2026;

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

WHEREAS, the transactions contemplated by this Agreement are subject to the approval of the Bankruptcy Court and will be consummated only pursuant to the Sale Order (as defined below) to be entered by the Bankruptcy Court in the Bankruptcy Cases.

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

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

Section 1.1 Purchase and Sale of the Acquired Assets. Pursuant to Sections 105, 363 and 365 of the Bankruptcy Code, on the terms and subject to the conditions set forth herein and subject to the entry into and terms of the Sale Order, at the Closing, Seller shall sell, transfer, assign, convey, and deliver to Purchaser, and Purchaser shall purchase, acquire, and accept from Seller, all of Seller's right, title and interest in and to, as of the Closing, the Acquired Assets, free and clear of all Encumbrances other than Permitted Encumbrances. "Acquired Assets" means all of the properties, rights, interests, and other assets held by Seller as of the Closing, whether tangible or intangible, real, personal, or mixed, located at the Hopkinsville Property or otherwise related to the Business, and whether or not required to be reflected on a balance sheet prepared in accordance with GAAP, including any such properties, rights, interests, and other assets acquired by Seller in

connection with the Hopkinsville Property after the date hereof and prior to the Closing, and including but not limited to Seller's right, title, and interest in and to, as of the Closing, the following assets of Seller, but excluding in all cases the Excluded Assets and subject to Section 1.5:

(a) the Contracts listed on Schedule 1.1(a) to which Seller is a party and that supports, facilitates, is involved in or relates to the Business or the other Acquired Assets or any Assumed Liabilities (collectively, the "Assigned Contracts");

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

(c) all Documents (excluding any credit card numbers or related customer payment sources, social security numbers, or other information to the extent prohibited by any Law) that are related to the Business, including, but not limited to, all Documents and other information related to any grants to Seller by any U.S. or foreign government body or entity, as well as any assets, property or service acquired directly or indirectly from the proceeds of such grant;

(d) the Owned Real Property;

(e) all tangible assets (including Equipment), including the tangible assets of Seller located at the Owned Real Property and any tangible assets on order to be delivered to Seller or any of its Subsidiaries and the personal property at the Hopkinsville Property, except any assets or property acquired directly from the proceeds originating from grants to Seller by any U.S. or foreign government body or entity, or otherwise included in Seller's cost-share under such a grant, including, without limitation, the DOE, to the extent the consent, or a release of interests or Encumbrances in a manner acceptable to Purchaser, of the relevant government body or entity has not been obtained prior to Closing in connection with the transactions contemplated hereby;

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

(g) all of the rights, interests and benefits (if any) accruing under all Permits, Governmental Authorizations and any environmental credits, and all pending applications therefor;

(h) all rights in drawings, schematics, and other technical plans of the Seller's location in Hopkinsville, Kentucky;

(i) all IT Assets of Seller and its Affiliates related to the Business including all Documents related thereto, in each case, solely to the extent physically located at the Hopkinsville Property;

(j) all Inventory and supplies of Seller related to the Business, in each case, solely to the extent physically located at the Hopkinsville Property or any property leased by Seller;

(k) all goodwill (excluding any goodwill associated with the Seller Intellectual Property), payment intangibles and general intangible assets and rights of Seller related to the Business; and

(l) all deposits (including maintenance deposits, and security deposits for rent, electricity, telephone, or otherwise), or prepaid or deferred charges and expenses (including all lease and rental payments), that have been prepaid by Seller and relate to the Business or the Acquired Assets.

Section 1.2 Excluded Assets. Notwithstanding anything to the contrary in this Agreement, in no event shall Seller be deemed to sell, transfer, assign, convey or deliver, and Seller shall retain all right, title and interest to, in and under the following properties, rights, interests and other assets of Seller (collectively, the "Excluded Assets"), subject to Section 1.5:

(a) all Equity Interests of Seller or any of its respective Subsidiaries or held by Seller or its Subsidiaries in any other Person, in all cases (collectively, the "Excluded Entities");

(b) all Business Employees other than any Transferred Employees;

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

(d) all Contracts of Seller or its Affiliates listed on Schedule 1.2(d) ("Excluded Contracts");

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

(f) (i) all bids and expressions of interest received from third parties with respect to the acquisition of any Excluded Entity's businesses or assets (including any bids and expressions of interest unrelated to the sale process undertaken by the Seller in connection with

this Agreement), (ii) all privileged materials, documents and records of any Excluded Entity, including any privileged materials, documents and records that are in the possession of any Excluded Entity, and (iii) any other files or records to the extent relating exclusively to any Excluded Assets or Excluded Liabilities;

(g) all current and prior insurance policies of Seller or any Excluded Entity, including all director and officer insurance policies, and, subject to Section 6.8, all rights and benefits of any nature of Seller or any Excluded Entity with respect thereto, including all insurance recoveries thereunder and rights to assert claims with respect to any such insurance recoveries, and the sponsorship of, and all rights, interests and assets associated with, any benefit or compensation plan, program, policy, contract, or arrangement of Seller or any Excluded Entity and the Employee Benefit Plans;

(h) (i) Seller's claims, Causes of Action or other rights of Seller expressly set forth under this Agreement, including the Purchase Price, or any agreement, certificate, instrument, or other document executed and delivered between Seller or its Affiliates, on the one hand, and Purchaser or any member of the Purchaser Group, on the other hand, in connection with the Transactions, or any other agreement between Seller or its Affiliates, on the one hand, and Purchaser or any member of the Purchaser Group, on the other hand, entered into on or after the date hereof, and (ii) except for those claims and Causes of Action which relate to an Acquired Asset acquired by Purchaser under this Agreement, all other claims and Causes of Action of Seller and its Affiliates, including without limitation: (A) Avoidance Actions, other than Critical Vendor Avoidance Claims, (B) commercial tort claims, (C) claims, Causes of Action or other rights of Seller against current or former directors or officers of Seller, and (D) any and all claims and Causes of Action of Seller or its Affiliates that do not relate to the ownership, use, function or value of the Business or any of the Acquired Assets;

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

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

(k) any property acquired using proceeds from grants to Seller or any of its Subsidiaries, by any U.S. or foreign government body or entity, or otherwise included as part of Seller or any of its Subsidiaries' cost-share under such a grant, including, without limitation, the DOE, to the extent the consent or a release of all interests in such property in a manner acceptable

to Purchaser, of the relevant government body or entity has not been obtained prior to Closing in connection with the transactions contemplated hereby;

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

(m) all of the Equity Interests that Seller owns, directly or indirectly, in any Person, including Ascend Elements US, LLC, a Texas limited liability company; Battery Resources, LLC, a Massachusetts limited liability company; Ascend Elements UK Ltd, a private limited company incorporated in England and Wales; Ascend Elements France, a joint stock company incorporated under the laws of France; Ascend Elements Poland Sp. z.o.o., a limited liability company incorporated under the laws of Poland; Ascend Elements Poland Holdings sp. z.o.o., a limited liability company incorporated under the laws of Poland; AE Elemental sp. z.o.o., a limited liability company incorporated under the laws of Poland; and Ascend Elements Poland 2 Sp. z.o.o., a limited liability company incorporated under the laws of Poland (the "Excluded Entities"); and

(n) except as otherwise set forth in Section 1.1(h), all Intellectual Property owned or purported to be owned by Seller or any of its Affiliates, including, (i) (A) all rights to collect royalties and proceeds in connection with any such Intellectual Property, (B) all rights to sue and recover for past, present and future infringements, dilutions, misappropriations of, or other conflicts with, any such Intellectual Property (regardless of whether or not such claims and Causes of Action have been asserted by Seller or any of its Affiliates), and (C) any and all corresponding rights that, now or hereafter, may be secured throughout the world (collectively, the "Seller Intellectual Property").

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

(a) all Liabilities and obligations of Seller under the Assigned Contracts that arise and become due from and after the Closing and only to the extent arising out of facts, circumstances, conditions or events that are first in existence after the Closing (excluding (i) any Liabilities arising from or relating to any breaches, under such Assigned Contract, or any facts, circumstances, conditions or events that are in existence, on or prior to the Closing, and (ii) for the avoidance of doubt, any Seller Cure Costs);

(b) any Liabilities relating to any remediation at the Owned Real Property first occurring following the Closing and required under Environmental Laws because of any Release of Hazardous Materials first occurring after the Closing; provided that any such Liabilities existing prior to or continuing as of the Closing (including any pre-existing contamination or Environmental Condition) are not, in any event or circumstance, Liabilities of the Purchaser (the "Assumed Environmental Liabilities");

(c) (i) all Liabilities for property Taxes for the 2025 and 2026 tax years and any Post-Closing Tax Period, in each case solely with respect to any Owned Real Property, (ii) 50% of any Transfer Taxes related solely to the Owned Real Property, and (iii) all Liabilities for Taxes with respect to the Acquired Assets for any taxable period (or portion thereof) beginning after the Closing Date;

(d) all cure costs in respect of the Assigned Contracts as determined by the Bankruptcy Court (the "Cure Costs") in an amount not to exceed $1,000,000 ("Purchaser Cure Costs"); provided that, notwithstanding anything to the contrary herein, Seller shall be solely responsible for the payment of all other Cure Costs ("Seller Cure Costs"), including those required to be paid pursuant to Section 365 of the Bankruptcy Code in connection with the assumption and assignment of the Assigned Contracts, and such Cure Costs shall be paid by Seller from the proceeds of the sale or from the bankruptcy estate prior to or at Closing; and

(e) subject to the satisfaction of the conditions precedent to Purchaser's obligations to consummate the Closing set forth in Section 7.2(d), all obligations under (i) the City of Hopkinsville Mortgage and the Hopkinsville Grant Agreement recorded on the Hopkinsville Property, and (ii) the KY Seller Mortgage and Assignment of Leases recorded on the Hopkinsville Property, in each case, solely to the extent that the liens securing such mortgages described in the foregoing clauses (i) and (ii) are senior to or pari passu with the Mechanics Liens;

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

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

Section 1.4 Excluded Liabilities. Purchaser shall not assume, be obligated to pay, perform or otherwise discharge or in any other manner be liable or responsible for any Liabilities of Seller or any other Excluded Entity of any kind whatsoever, whether now or hereinafter existing, whether accrued, absolute, contingent or otherwise, whether known or unknown, whether due or to become due, whether related to the Business or the Acquired Assets and whether disclosed on the schedules attached hereto, and regardless of when or by whom asserted, other than the Assumed Liabilities (all such Liabilities that are not Assumed Liabilities being referred to collectively herein as the "Excluded Liabilities"). For the avoidance of doubt, Purchaser shall not be deemed a successor to Seller or the bankruptcy estate for any purpose, and no theory of successor liability, transferee liability, de facto merger, substantial continuity, or similar theory shall apply to Purchaser with respect to any Excluded Liabilities. Without limiting the generality of the foregoing, the Excluded Liabilities shall include the following Liabilities of Seller; provided

that, in the event of a conflict between the terms of clauses (a) through (m) of this Section 1.4 and Section 1.3, the resolution shall be resolved in the Purchaser's favor;

(a) except as otherwise set forth in Section 1.3(g), all Liabilities of Seller arising under the WARN Act Employee Retirement Income Security Act of 1974, and similar Laws relating to the termination of any current or former employee or contractor of Seller, or any Affiliate of Seller, and including any current, threatened or potential claims for compensation or benefits, in each such case, to the extent related to employment or contracting with Seller (or any of its Affiliates) or termination thereof, whether arising prior to, on or after the Closing Date;

(b) Liabilities at any time arising under, pursuant to or in connection with any Employee Benefit Plans (whether arising prior to, on or after the Closing Date) and all Liabilities for compliance with the requirements of section 4980B of the Tax Code and the rules and regulations thereunder with respect to all individuals who are "M&A qualified beneficiaries" (as such term is defined in 26 C.F.R. § 54.4980B-9);[1]

(c) all Liabilities arising under, pursuant to or in connection with Environmental Laws (whenever arising, whether before, on, or after the Closing Date), including such Liabilities (v) that are dischargeable, or capable of being sold free and clear, pursuant to Section 363 of the Bankruptcy Code, (w) that are otherwise dischargeable pursuant to Section 1141 of the Bankruptcy Code, (x) from which the Acquired Assets are otherwise released as of the Closing pursuant to an Order of the Bankruptcy Court, (y) any Environmental Condition, and (z) all Liabilities arising from the release, disposal, or transportation of, contamination by, or exposure of any Person to any Hazardous Materials at, on, under, or from the Hopkinsville Property or any other location to which Hazardous Materials were sent from the Hopkinsville Property, in each case to the extent arising from or relating to events, conditions, or operations occurring prior to or as of the Closing Date, in each case other than the Assumed Environmental Liabilities;

(d) except as otherwise set forth in Section 1.3(c), in each case, (i) all Taxes of Seller and all Taxes of or relating to the Excluded Assets for any Tax period, (ii) all Taxes of or relating to the Acquired Assets or Assumed Liabilities for a Pre-Closing Tax Period, and (iii) all Transfer Taxes other than 50% of the Transfer Taxes related solely to the Owned Real Property;

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

(f) all Liabilities in respect of customer warranties and production guarantees to the extent related to claims brought, or arising from facts, matters, circumstances, conditions or events in existence, on or prior to Closing Date;

(g) any Liability of Seller or of any of its predecessors associated with any and all indebtedness, including any guarantees of third party obligations and reimbursement obligations to guarantors of Seller or any of its Affiliates' or any of their respective predecessors'

1 **Note to Seller**: Seller to confirm (1) number of employees currently under medical plans and former employees on COBRA coverage or eligible for COBRA coverage and (2) number of M&A qualified beneficiaries.

obligations, and including any guarantee obligations or imputed Liability through veil piercing or similar theories or laws incurred by or through Seller or any of its Affiliates or their respective predecessors;

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

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

(j) all Liabilities outstanding as of and arising after the Closing for any contract for delivery of or returns of products previously sold to customers, whether or not any customer has provided a deposit for the sale except for under any Assigned Contract or other Acquired Asset;

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

(l) except as otherwise set forth in Section 1.3(g), all Liabilities arising prior to, on or after the Closing Date, or that relates to facts, matters, circumstances, conditions or events in existence on or prior to the Closing Date with respect to any Business Employees or Business Service Providers who do not receive a Transfer Offer or who otherwise fail to become employed or engaged by Purchaser or its Affiliates immediately following the Closing Date (including due to refusing to accept a Transfer Offer);

(m) all Liabilities arising from or relating to any litigation, action, proceeding, investigation, or claim pending as of or relating to events occurring prior to the Closing Date;

(n) all Liabilities of Seller arising from any False Claims Act matters, including any matters disclosed on Schedule 3.14(d)(iii), or any other violations of Law;

(o) any Liabilities of Seller or any of its Affiliates related to any Government Contract relating to the Business that is not being assumed by Purchaser;

(p) all other Liabilities of Seller owed to the U.S. Government or any other Governmental Body that are not expressly included in the Assumed Liabilities;

(q) all Seller Cure Costs; and

(r) all Liabilities of Seller arising under any theory of successor liability, transferee liability, de facto merger, mere continuation, substantial continuity, or similar theory, whether arising under federal, state, or foreign Law, including under antitrust, environmental, labor, employment, or Tax Laws.

Section 1.5 Assumption/Rejection of Certain Acquired Assets.

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

(b) Excluding or Adding Acquired Assets Prior to Closing. The Parties acknowledge and agree that at the Closing, Purchaser intends to acquire all assets required to operate the Business except for Excluded Assets expressly set forth in clauses (b), (d), (e), (g), (h), and (k) of Section 1.2, and to assume solely the Assumed Liabilities. The Parties agree to cooperate in good faith to take all actions necessary or advisable to transfer all such assets to Purchaser and for Purchaser to assume only such Liabilities (and exclude all other Liabilities), effective as of the Closing and for no additional consideration, so that the intention of the Parties as set forth in the preceding sentence is effectuated. Without limiting the generality of the foregoing and subject to the last sentence of this Section 1.5(b) and Section 1.5(c), Purchaser shall have the right to notify Seller in one or more writings (any such notice, a "Designation Notice") of (A) any Acquired Asset (including any Assigned Contract) to be acquired directly or indirectly that it does not wish to assume or acquire, (B) to the extent related to the Business, any Equity Interests of an Excluded Entity, any Contract to which Seller or any of its Affiliates or any Excluded Entity is a party or otherwise relating to any assets or properties of Seller or any of its Affiliates, or any other Excluded Asset, that it wishes to add as an Acquired Asset except for Excluded Assets expressly set forth in clauses (b), (d), (e), (g), (h), and (k) of Section 1.2, (C) any Assumed Liability (subject to the last sentence of this Section 1.5(b)) that it reasonably determines is inconsistent with the first sentence of this Section 1.5(b)) or (D) the corresponding addition of a Person as a Seller, as a party to this Agreement, if applicable, resulting from the changes set forth in clauses (A), (B) or (C), in any case of clauses (A), (B), (C) or (D), at any time and from time to time up to the time of the Closing,

(i) any such previously considered Acquired Asset that Purchaser no longer wishes to assume or acquire shall be automatically deemed removed as an Acquired Asset hereunder (and removed from any applicable Schedules related to such Acquired Asset) and, notwithstanding anything to the contrary herein, automatically deemed added as an Excluded Asset hereunder (and added to the applicable Schedules related to the Excluded Assets) and any Liabilities with respect to such Acquired Asset shall automatically be deemed to be added as Excluded Liabilities hereunder (and added to the applicable Schedules related to the Excluded Liabilities), in each case, without any adjustment to the Purchase Price as a result of such exclusion or change in designation, (ii) any such previously considered Excluded Asset (including any Contracts) that such Purchaser wishes to assume or acquire as an Acquired Asset shall be automatically deemed added as an Acquired Asset hereunder (and added to the applicable Schedules related to Acquired Assets) and, notwithstanding anything to the contrary herein, automatically deemed removed as an Excluded Asset hereunder (and removed from the applicable Schedules related to Excluded Assets), and sold and assigned by Seller and/or the applicable Excluded Entities to Purchaser and accepted and assumed by Purchaser as an Acquired Asset (and added to the applicable Schedules related to Acquired Assets, including Schedule 1.1(b)), in each case, without any adjustment to the Purchase Price as a result of such assumption, acquisition or change in designation, (iii) any such previously considered Assumed Liability (subject to the last sentence of this Section 1.5(b)) that Purchaser reasonably and in good faith determines is inconsistent with the first sentence of this Section 1.5(b) shall be automatically deemed removed as an Assumed Liability hereunder (and removed from the applicable Schedules related to Assumed Liabilities) and, notwithstanding anything to the contrary herein (subject to the last sentence of this Section 1.5(b)), automatically deemed added as an Excluded Liability hereunder (and added to the applicable Schedules related to Excluded Liabilities), in each case, without any adjustment to the Purchase Price as a result of such exclusion or change in designation; and (iv) any such Person that is selling such previously considered Excluded Asset that Purchaser wishes to assume as an Acquired Asset who is not a party to this Agreement shall be joined as a party to this Agreement pursuant to a joinder agreement in form and substance reasonably acceptable to Purchaser. For the avoidance of doubt, a Designation Notice may provide that all Contracts used in the Business, other than certain specified Contracts (if applicable), are designated as Assigned Contracts without reference to any of the specific Contracts that constitute the Assigned Contracts. Purchaser shall be solely responsible for the payment, performance, and discharge when due of the Liabilities under the Assigned Contracts arising or that are otherwise payable from the time of and after the Closing (or, in the case of an Assigned Contract that is transferred after the Closing, from the time of and after such transfer), except for any Seller Cure Costs. Any action of Purchaser permitted under this Section 1.5(b) shall be made in Purchaser's sole and absolute discretion. Seller shall cooperate (and shall cause its Affiliates to cooperate) with Purchaser and use reasonable best efforts, at Seller's expense, to take all actions necessary or advisable to effectuate any election made by Purchaser under this Section 1.5, including by (i) filing any necessary motions or notices with the Bankruptcy Court, (ii) executing any documents or instruments reasonably requested by Purchaser, and (iii) seeking any required Bankruptcy Court approvals in connection therewith. Notwithstanding anything herein to the contrary, in no event shall Purchaser have the right to notify Seller in writing that any Assumed Liability that is expressly set forth in Section 1.3(a) through Section 1.3(c) (other than those relating to an Assigned Contract that is to be removed in accordance with this Section 1.5 or any Seller Cure Costs) is inconsistent with the first sentence of this Section 1.5(b), or otherwise seek to remove, limit or otherwise modify the Assumed Liabilities as set forth in Section 1.3, which the

Parties agree are to remain Assumed Liabilities in any event notwithstanding any modifications made pursuant to this Section 1.5. Notwithstanding the foregoing, in no event shall Purchaser have a right to add an Acquired Asset if such asset is otherwise restricted pursuant to the Chapter 11 Cases. Notwithstanding anything to the contrary set forth in this Agreement, to the extent (A) the structure of any of the Transactions is changed pursuant to this Section 1.5(b) or Section 1.5(c), including as otherwise required by applicable Law, and (B) either Purchaser is required to assume any Liabilities as a result of such change in structure other than those specifically enumerated as Assumed Liabilities in Section 1.3, then the Purchase Price will be equitably adjusted to reflect the additional Liabilities that Purchaser is assuming, based on a good faith determination of the value of any such Liability or Equity Interests.

(c) Cure Costs.

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

(ii) To the extent a counterparty to a Contract objects or otherwise challenges the Purchaser Cure Costs determined by Seller and asserts a different monetary amount that must be paid and/or nonmonetary obligations that otherwise must be satisfied, including pursuant to Section 365(b)(1)(A) and (B) of the Bankruptcy Code, in order for Purchaser to assume such Contract to this Agreement (any such Contract, a "Disputed Contract"), and such objection or challenge has not been resolved prior to the Closing, then Purchaser shall provide written notice prior to the Closing Date (or such earlier date on which the Bankruptcy Code or Bankruptcy Court otherwise would require a determination to assume or reject any such Contract) either (x) electing to remove any such Disputed Contract from Schedule 1.1(b), in which case the Contract will be an Excluded Contract and not assigned to Purchaser or (y) requesting an extension of the period of time following the Closing to resolve any such dispute (such period, an "Extension Period"); provided that any such extension period shall be no longer than ninety (90) days following the Closing Date (or such shorter period of time as required in order to wind-down or liquidate Seller); provided, further, that Seller's obligations to provide such Extension Period is subject to

Purchaser's ongoing compliance with Purchaser's obligations pursuant to the final sentence of this Section 1.5(c)(ii). If Purchaser does not deliver written notice agreeing to assume such Disputed Contract and pay all Purchaser Cure Costs associated with such Disputed Contract prior to the expiration of the Extension Period or such dispute is not resolved by the expiration of the Extension Period, such Disputed Contract shall automatically be deemed an Excluded Contract. Purchaser shall be responsible for and reimburse Seller for any reasonable and documented out-of-pocket costs and expenses of Seller arising following the Closing during any Extension Period, including any such incremental costs or expenses (A) that arise out of Seller's extension and continuation of the Bankruptcy Cases solely to the extent that such extension and continuation are attributable to the Extension Period and (B) are incurred as a result of the Seller's performance of its obligations under Section 1.5(c)(ii).

(d) Non-Assignment.

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

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

(iii) If any Acquired Asset is deemed not to be assigned, sold, or, transferred pursuant to Section 1.5(d)(i) or Section 1.5(c)(ii) or cannot otherwise be assigned, sold or transferred to Purchaser for any other reason outside of Purchaser's control (including if such assignment, sale or transfer would be a violation of Law), the Closing shall nonetheless take place subject to the terms and conditions set forth in this Agreement. In such event and notwithstanding anything to the contrary set forth in this Agreement, the Purchase Price shall be equitably adjusted to reflect the Acquired Assets that are not transferred at Closing based on a good faith determination of the value of any such Acquired Asset. Thereafter, through the earliest of (A) such time as such Consent or Governmental Authorization is obtained or such restriction prohibiting the assignment, sale

or transfer of such Acquired Asset is removed, (B) such time as such an Order is in effect, (C) in the case of an Assigned Contract, the expiration of the term of such Contract in accordance with its current term or the execution of a replacement Contract by Purchaser or its Affiliate, and (D) the closing of the Chapter 11 Cases or dissolution of the Seller, Seller and Purchaser shall (and Seller shall cause its Affiliates to) (1) use reasonable best efforts to secure such Consent or Governmental Authorization or Order or otherwise remove such restrictions prohibiting the transfer of such Acquired Assets as promptly as practicable after the Closing and (2) cooperate in good faith in any lawful and commercially reasonable arrangement by Purchaser and Seller and its Affiliates, including subcontracting, licensing, or sublicensing to Purchaser any or all of Seller's or its Affiliates' rights and obligations with respect to any such Acquired Asset, under which (x) Purchaser shall obtain (without infringing upon the legal rights of such third party or violating any Law) the economic rights and benefits with respect to which Consent or Governmental Authorization has not been obtained, and (y) Purchaser shall assume and discharge any related obligation with respect to such Acquired Asset. Upon the effectiveness of such Order or satisfying any requisite Consent or Governmental Authorization requirement applicable to, or otherwise removing such restrictions prohibiting the transfer of, such Acquired Assets after the Closing, the Seller shall transfer (or shall cause its Affiliates to transfer) to Purchaser and Purchaser shall accept Seller's or its Affiliates' (as applicable) right, title, and interest in and to such Acquired Asset to Purchaser, and Purchaser shall pay to Seller the portion of the Purchase Price that was withheld in respect of such Acquired Assets, in each case, in accordance with the terms of this Agreement, the Sale Order, and the Bankruptcy Code.

(iv) Notwithstanding anything in this Agreement to the contrary, (A) the provisions of Section 1.5(d)(ii) shall not apply to any Consent or Governmental Authorization required under the HSR Act, if applicable, and any Foreign Competition Laws, which Consent or Governmental Authorization shall be governed by Section 6.6 and (B) neither Seller nor Purchaser will be obligated to pay any consideration to any third party from whom Consent or Governmental Authorization is requested (other than in a *de minimis* amount) or to initiate any litigation to obtain any such Consent or Governmental Authorization.

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

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

ARTICLE II
CONSIDERATION; PAYMENT; CLOSING

Section 2.1 Consideration; Payment.

(a) Subject to any adjustment pursuant to Section 1.5(b) and Section 1.5(d)(iii), the aggregate consideration (collectively, the "Purchase Price") to be paid by Purchaser for the purchase of the Acquired Assets shall be: (i) the assumption of Assumed Liabilities, *plus* (ii) credit bid pursuant to 363(k) of the Bankruptcy Code in the amount of $10,000,000 in respect of the Acquired Assets constituting real property (the "Credit Bid Amount"), *plus* (iii) an amount equal to $15,000,000 in respect of all other Acquired Assets, *less* the Good Faith Deposit (as defined in the Bidding Procedures) (the "Cash Purchase Price").

(b) In accordance with Section 2.1(a), at the Closing, Purchaser shall (i) deliver, or cause to be delivered, to Seller an aggregate amount equal to the Cash Purchase Price (the "Closing Date Payment") and (ii) satisfy the Purchase Price at the Closing as to the Credit Bid Portion by discharging Seller, and Seller shall be deemed to be discharged, from the obligations under the Mechanics Liens in an aggregate amount equal to the Credit Bid Amount.

(c) The Closing Date Payment and any payment required to be made pursuant to any other provision hereof shall be made in cash by wire transfer of immediately available funds to such bank account as shall be designated in writing by the applicable Party to (or for the benefit of) whom such payment is to be made, and such designation shall be made, at least two (2) Business Days prior to the date such payment is to be made.

Section 2.2 Closing. The closing of the purchase and sale of the Acquired Assets, the delivery of the Purchase Price, the assumption of the Assumed Liabilities in accordance with this Agreement (the "Closing") will take place by telephone conference and electronic exchange of documents (or, if the Parties agree to hold a physical closing, at a location mutually agreeable to Seller and Purchaser) at 10:00 a.m. Eastern Time on the second (2nd) Business Day following full satisfaction or due waiver (by the Party entitled to the benefit of such condition) of the closing conditions set forth in Article VII (other than conditions that by their terms or nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of those conditions at the Closing), or at such other place and time, and by such other method, as the Parties may agree in writing. The date on which the Closing actually occurs is referred to herein as the "Closing Date".

Section 2.3 Closing Deliveries by Seller. At or prior to the Closing, Seller shall deliver to Purchaser or its designee:

(a) a bill of sale and assignment and assumption agreement in customary form to be mutually agreed by Purchaser and Seller (the "Assignment and Assumption Agreement") duly executed by Seller;

(b) a certificate of the officers of the Seller certifying the complete and correct copies of the resolutions of the board of directors of the Seller authorizing the execution, delivery and performance of the Agreement and the consummation of the transactions contemplated hereby and thereby, including the transfer of the Acquired Assets and Assumed Liabilities.

(c) an original special warranty deed in customary form to be mutually agreed by Purchaser and Seller (the "Deed"), duly executed and acknowledged by Seller, conveying good and marketable indefeasible fee simple title to the Owned Real Property to Purchaser, subject only to the Permitted Encumbrances;

(d) an IRS Form W-9 executed by Seller or Seller's regarded owner for U.S. federal income tax purposes;

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

(f) an officer's certificate, dated as of the Closing Date, executed by a duly authorized officer of Seller certifying that the conditions set forth in Sections 7.2(a), 7.2(b) and 7.2(c) have been satisfied.

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

(a) the Closing Date Payment, paid by wire transfer of immediately available funds;

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

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

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

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrants (as qualified by the disclosure schedule attached to this Agreement (the "Disclosure Schedule"), which shall be subject to amendment by Purchaser pursuant to Section 1.5, and subject to Section 10.10), the following to Purchaser as of the date hereof and as of the Closing Date:

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

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

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

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

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

Section 3.3 **Conflicts; Consents**.

(a) Assuming that (a) requisite Bankruptcy Court approvals are obtained, including the Sales Order, (b) the notices, authorizations, approvals, Orders, Permits, or Consents set forth on Schedule 3.3 are made, given or obtained (as applicable), and (c) the requirements of the HSR Act, any applicable antitrust, competition, foreign direct investment or "FDI", or merger control Laws promulgated by any Governmental Body ("Foreign Competition Laws") are complied with, neither the execution and delivery by Seller of this Agreement or the other Transaction Agreements, nor the consummation by Seller of the Transactions contemplated by such Transaction Agreements, nor performance or compliance by Seller with any of the terms or provisions hereof or thereof, will (i) conflict with or violate any provision of the Organizational Documents of Seller, (ii) subject to the entry of the Sale Order, violate any Law to which Seller is

subject, (iii) violate or constitute a breach of or default (with or without notice or lapse of time, or both) under or give rise to a right of termination, modification, or cancelation of any obligation or to the loss of any benefit, any of the terms or provisions of any Material Contract or accelerate Seller's obligations under any such Material Contract, or (iv) result in the creation of any Encumbrance (other than a Permitted Encumbrance) on any Acquired Assets, except, in the case of clauses (iii) and (iv), as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) Except as set forth on Schedule 3.3(b), Seller is not required to file, seek or obtain any notice, Governmental Authorization, approval, Order, Permit or Consent of or with any Governmental Body in connection with the execution, delivery and performance by Seller or this Agreement or the consummation by Seller of the Transactions.

Section 3.4 Financial Statements.

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

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

Section 3.5 Title to Properties.

(a) Schedule 3.5(a) sets forth a list of the real property, and all easements and other rights and interests appurtenant thereto (including air, oil, gas, mineral, and water rights), owned by Seller or any of its direct and indirect Subsidiaries comprising the Hopkinsville Property (the "Owned Real Property"). Except as set forth on Schedule 3.5(a), neither Seller nor any of its direct and indirect Subsidiaries is a party to any agreement or option to purchase any real property or interest therein. With respect to each parcel of Owned Real Property: (A) Seller or its direct and indirect Subsidiaries has good and marketable indefeasible fee simple title, free and clear of all Encumbrances, except Permitted Encumbrances; (B) neither Seller nor any of its direct and

indirect Subsidiaries has leased or otherwise granted to any Person the right to use or occupy such Owned Real Property or any portion thereof; and (C) there are no outstanding options, rights of first offer or rights of first refusal to purchase such Owned Real Property or any portion thereof or interest therein.

(b) All Improvements are in good condition and repair and (to the extent applicable) sufficient for the operation of the Business as currently conducted. There are no structural deficiencies or latent defects affecting any of the Improvements and there are no facts or conditions affecting any of the Improvements that would, individually or in the aggregate, interfere in any respect with the use or occupancy of the Improvements or any portion thereof in the operation of the Business as currently conducted thereon. There is no condemnation, expropriation or other proceeding in eminent domain, pending or threatened, affecting any parcel of Owned Real Property or any portion thereof or interest therein. The Owned Real Property is in compliance with all applicable Laws, and the current use and occupancy of the Owned Real Property and operation of the Business thereon do not violate any applicable Laws. All utilities (including, without limitation, water, sewer, gas (to the extent currently used at any Owned Real Property), electricity, trash removal and telephone service) are available to the Owned Real Property in sufficient quantities to adequately serve the same for the operation of the Business as currently conducted. Schedule 3.5(b) sets forth a list of the real property leased, subleased, licensed or otherwise occupied by a Seller and/or an its direct and indirect Subsidiaries (the "Leased Real Property") and a description of all Leases to which Seller and/or its direct and indirect Subsidiaries is a party.

Section 3.6 Contracts.

(a) Schedule 3.6 sets forth a list of each Material Contract, as of the date of this Agreement. "Material Contract" means any Contract to which Seller or any of its Affiliates is party that involve any Acquired Assets or Assumed Liability including, in each case, that involves:

(i) obligations (contingent or otherwise) of, or payments to, the Seller in excess of $500,000;

(ii) the license of any patent, copyright, trademark, trade secret or other proprietary right to or from the Seller;

(iii) the grant of rights to manufacture, produce, assemble, license, market, or sell its products to any other Person that limits the Seller's exclusive right to develop, manufacture, assemble, distribute, market or sell its products; or

(iv) is a commitment or agreement to enter into any of the foregoing.

(b) True, correct and complete copies of all Material Contracts, including all material amendments, supplements and modifications thereto, have previously been made available to Purchaser or Purchaser's Advisors. Subject to requisite Bankruptcy Court approvals, and assumption by Seller or an its direct and indirect Subsidiaries of the applicable Contract in accordance with Applicable Law and except (i) as a result of the commencement of the Chapter 11 Cases, (ii) with respect to any Contract that has previously expired in accordance with its terms, been terminated, restated, or replaced, or (iii) as set forth in Schedule 3.6(b), (A) each Material

Contract is valid and binding on Seller or its direct and indirect Subsidiaries that is a party thereto and, to the Knowledge of Seller, each other party thereto, and is in full force and effect, subject to the Enforceability Exceptions, (B) Seller or its direct and indirect Subsidiaries that is a party thereto, and, to the Knowledge of Seller, any other party thereto, have performed all obligations required to be performed by it under each Material Contract, (C) Seller has not received any written (or to the Knowledge of Seller, oral) notice of the existence of any breach or default on the part of Seller under any Material Contract, (D) there are no events or conditions that constitute, or, after notice or lapse of time or both, will constitute a default on the part of Seller, or to the Knowledge of Seller, any counterparty under such Material Contract and (E) to the Knowledge of Seller, Seller has not received any written or oral notice from any Person that such Person intends to terminate, or not renew, any Material Contract.

Section 3.7 **No Litigation**. Except as set forth on Schedule 3.7, there are no Actions pending or, to the Knowledge of Seller, threatened, against or affecting Seller, the Business, the Acquired Assets, or the Assumed Liabilities that (a) would prevent or materially impair Seller's performance of its obligations under this Agreement or the consummation of the Transactions (other than any Actions that may arise after the date hereof under antitrust Laws in relation to the Transactions), or that (b) would otherwise be material, individually or in the aggregate, to the Business.

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

(a) Except as set forth on Schedule 3.8, (i) Seller (with respect to the Business and the Acquired Assets) has been since January 1, 2023, in compliance in all material respects with all Applicable Laws and applicable Orders with respect to the conduct of the Business, and (ii) Seller holds or will hold prior to Closing all licenses, identification numbers, registrations, franchises, permits, certificates, approvals and authorizations from Governmental Bodies necessary for the lawful conduct of the Business as currently conducted, in each case, except as would not, individually or in the aggregate, reasonably be expected to be material, individually or in the aggregate, to the Business (collectively, "Permits"). Each of the Permits is in full force and effect, there is no ongoing proceed that could adversely modify or terminate such Permit, and no approval of any Governmental Body is needed to transfer any such Permit to Purchaser.

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

(c) Seller and each of its directors, officers, employees, agents and, to the Knowledge of Seller, any other Person acting on behalf of the Seller (with respect to the Business), and for the past five (5) years has been and has acted, in compliance with Anti-

Corruption Laws. Without limiting any of the foregoing, neither Seller nor, nor any of its respective directors, officers, employees, agents, nor, to the Knowledge of Seller, any other Person acting on behalf of Seller (with respect to the Business) or any acquired entity has paid, offered, promised, or authorized the payment of money or anything of value, directly or indirectly, to any Government Official, any political party, or any other Person for the purpose of improperly influencing any act or decision or to secure any improper advantage.

Section 3.9 Environmental Matters.

Except as set forth in Schedule 3.9:

(a) Seller and its direct and indirect Subsidiaries are, and for the five (5) years preceding the Closing Date, have been, in compliance with all applicable Environmental Laws and Environmental Permits, in each case with respect to the operation or conduct of the Business or the occupancy of the Hopkinsville Property.

(b) For the five (5) years preceding the Closing Date, none of Seller or its direct and indirect Subsidiaries has received any written, or to the Knowledge of Seller oral, notice, report, or other information alleging that Seller or any of its direct and indirect Subsidiaries is in violation of or liable under, any Environmental Law or Environmental Permit.

(c) Seller and its direct and indirect Subsidiaries have timely obtained, possess and are, and for the five (5) years preceding the Closing Date, have been, in compliance with all Permits required under applicable Environmental Laws for the current operation of the Business or to operate or occupy the Hopkinsville Property (collectively, the "Environmental Permits"). All such Environmental Permits are in full force and effect, and no notice or Action is pending or, to the Knowledge of Seller, threatened to resubmit an application for, or modify, suspend or revoke, any Environmental Permit.

(d) There is no Action under or pursuant to any Environmental Law or related to the release, threatened release or exposure to Hazardous Materials that is pending or, to the Knowledge of Seller or its direct and indirect Subsidiaries, threatened against Seller (with respect to the Business), or the Hopkinsville Property.

(e) Seller (with respect to the Business), its direct and indirect Subsidiaries and the Hopkinsville Property are not subject to any Order imposed by any Governmental Body pursuant to Environmental Laws under which there are material uncompleted, outstanding or unresolved obligations on the part of Seller.

(f) Neither Seller (with respect to the Business) nor its direct and indirect Subsidiaries have assumed, undertaken, or provided any indemnification with respect to any Liability of any Person arising under any Environmental Law.

(g) There has been no release, disposal or transportation of, contamination by, or exposure of any Person to any Hazardous Materials at, on, under or from the Hopkinsville Property, or, to Seller's Knowledge, any other location to which Hazardous Materials generated, used, stored, or transported from the Hopkinsville Property come to be located.

(h) Seller has made available to Purchaser true, correct and complete copies of all environmental or health and safety reports, studies, records, including all Phase I environmental site assessment reports, Phase II reports, audits, and Environmental Permits relating to Seller's or its affiliates' or predecessors', the Business, or the Hopkinsville Property, that are in Seller's or its direct and indirect Subsidiaries' possession or control.

Section 3.10 [*Reserved*].

Section 3.11 Information Systems; Data Privacy

(a) Since January 1, 2023, Seller and its direct and indirect Subsidiaries have implemented commercially reasonable physical, technical, and administrative security measures and policies to ensure the confidentiality and security of the IT Assets used or maintained by Seller (with respect to the Business), and confidential information, including Personal Information, in connection with the conduct of its and their businesses, and (ii) there have been no failures, breakdowns, outages, unavailability or material disruptions of any such IT Assets that materially affected the operations of Seller (with respect to the Business). To the Knowledge of Seller, such IT Assets do not contain any virus, malware, trojan horse, worm, back door, time bomb, drop dead device or other program, routine, instruction, device, code, contaminant, logic or effect designed or intended to disable, disrupt, erase, enable any Person to access without authorization, or otherwise affect the functionality of, any such IT Assets.

(b) With respect to the access, storage, use, modification, transfer, disclosure, destruction, or any other processing of Personal Information collected or maintained by or on behalf of Seller (with respect to the Business), Seller and its direct and indirect Subsidiaries are and have since January 1, 2023 been in material compliance with the Privacy Requirements.

(c) Since January 1, 2023, Seller has not (i) received any notice from any Governmental Body or Person alleging a violation of any Privacy Requirements by such Seller or its direct and indirect Subsidiaries; (ii) been required to notify any Governmental Body, affected individuals or other Persons of a violation of any Privacy Requirements; (iii) been notified, or to the Knowledge of Seller has been required by applicable Law, Governmental Body, or any Person, to notify any Governmental Body, Person or other party of any Security Breach, (iv) experienced any material Security Breaches; or (v) been the subject of any notice, claim, Action, suit, proceeding, arbitration, complaint, charge, or to the Knowledge of Seller investigation, or any pending or threatened Action from any Governmental Body or any other Person regarding any violation of, or failure to comply with, the Privacy Requirements.

Section 3.12 Tax Matters.

(a) Schedule 3.12(a) describes (i) the terms and conditions of any Tax exemption, grants, tax reliefs, subsidies, Tax holiday or other Tax reduction agreement, incentive or order of other special regime with regard to the payment of Taxes applicable to Acquired Assets or granted by any Governmental Body (each item required to be disclosed on Schedule 3.12(a), a "Tax Incentive"), (ii) the periods for which the Tax Incentives apply and (iii) a general description of the nature of each such Tax Incentive. Copies of all documents relating to all Tax Incentives have been made available to Purchaser. Seller is not in breach of the terms and conditions of any

Tax Incentives. No written claim or challenge has been made by any Governmental Body with respect to the entitlement of any Tax Incentive.

(b) Except as set forth in Schedule 3.12(b), all material Taxes in respect of the Acquired Assets or Assumed Liabilities that are due and payable with respect to Pre-Closing Tax Periods have been paid, except for Taxes being contested in good faith through appropriate proceedings.

(c) Each of Seller and its Affiliates has properly and timely withheld, collected and deposited or paid all material amounts in respect of the Acquired Assets or the Assumed Liabilities required to be withheld, collected and deposited or paid, and has complied with all information reporting and backup withholding provisions of applicable Law.

Section 3.13 Employees.

(a) Seller has complied in all material respects with all applicable state and federal equal employment opportunity laws and with other laws related to employment, including those related to wages, hours, worker classification and collective bargaining. Seller is not bound by or subject to any written or oral, express or implied, contract, commitment or arrangement with any labor union, and no labor union has requested or, to the Knowledge of Seller, has sought to represent any of the Business Employees. There is no strike or other labor dispute involving Seller pending, or to the Knowledge of Seller, threatened, which could have a Material Adverse Effect, nor is Seller aware of any labor organization activity involving any Business Employees.

(b) Seller is not delinquent in payments to any Business Employee for any wages, salaries, commissions, bonuses, or other direct compensation for any service performed for it to the date hereof or amounts required to be reimbursed to such Business Employees. Seller has complied in all material respects with all applicable state and federal equal employment opportunity Laws and with other Laws related to employment, including those related to wages, hours, worker classification and collective bargaining. Seller has withheld and paid to the appropriate Governmental Body or is holding for payment not yet due to such Governmental Body all amounts required to be withheld from Business Employees and is not liable for any arrears of wages, taxes, penalties or other sums for failure to comply with any of the foregoing.

Section 3.14 Insurance.

(a) Seller has in full force and effect insurance policies ("Business Insurance Policies") concerning such casualties as would be reasonable and customary for companies like Seller, with extended coverage, sufficient in amount (subject to reasonable deductions) to allow it to replace any of its properties that might be damaged or destroyed.

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

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

(d) All financial assurances, including letters of credit, sureties, bonds, or similar arrangements supporting the operation, monitoring, closure, remediation, reclamation, or post-closure obligations relating to or with respect to the Acquired Assets over the last five (5) years are set forth in Schedule 3.14(d).

Section 3.15 Brokers. Except as set forth on Schedule 3.15, the fees and expenses of which will be paid by Seller, no broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission, or the reimbursement of expenses in connection therewith, in connection with the Transactions based upon arrangements made by or on behalf of Seller or its Affiliates.

Section 3.16 Government Contracts.

(a) Except as set forth on Schedule 3.16(a), the Seller is not party to any current Government Contract.

(b) No "Assigned Contact" constitutes a Government Contract.

(c) The Seller has not submitted any Government Bid, for which no award has yet been made, and which, if awarded, could result in a Government Contact.

(d) With respect to each Government Contract and any proposals or bid submitted for any Government Contract, during the past six (6) years:

(i) no Governmental Body, prime contractor or subcontractor has notified in writing (nor to the Knowledge of the Seller) the Seller of any material breach or material violation of any applicable Law relating to such Government Contract;

(ii) the Seller, has not received any written (or, to the Knowledge of the Seller) notice of (A) termination for default or cause, cure notice, or show cause notice relating to such Government Contract, (B) any audit (other than routine audits in the ordinary course of business) or investigation by any Governmental Body relating to such Government Contract, or (C) any other material claim or other material dispute relating to such Government Contract;

(iii) Except as set forth on Schedule 3.16(d)(iii), the Seller has not conducted any internal investigation or made any voluntary or mandatory disclosure to any Governmental Body, with respect to any misstatement, overpayment, or actual, alleged or potential material violation of law relating to such Government Contract;

(iv) Except as set forth on Schedule 3.16(d)(iv), the Seller has complied, in all material respects, with all laws applicable to such Government Contracts and the terms and conditions of (including all representations and certifications relating to) such Government Contract;

(v) each representation and certification made by the Seller or incorporated into any Government Contract or related bid, offer, or proposal regarding size status or other preferential status (such as small business, veteran-owned small business,

service-disabled veteran-owned small business, woman-owned, HUBZone, minority-owned, etc.) was current and accurate as of the date given in all material respects;

Section 3.17 Inter-Company Transactions. A true, correct and complete list and description of all Contracts (including any amendments, supplements, restatements or modifications thereto) between Seller, on the one hand, and any of Seller's Subsidiaries, Affiliates, shareholders, directors, officers, or employees (the "Related Parties"), on the other, relating to the Acquired Assets, Assumed Liabilities or the Business, is set forth on Schedule 3.17, and true, correct and complete copies of such Contracts have been made available to Purchaser. None of the Related Parties hold any interest in any property (real, personal or mixed and whether tangible or intangible), used in or pertaining to the Business, Acquired Assets or Assumed Liabilities as currently conducted.

Section 3.18 Title to Assets.

(a) Except as set forth on Schedule 3.18(a), Seller has good and valid title to, or the right to use, all of the tangible and intangible Acquired Assets, free and clear of all Encumbrances other than Permitted Encumbrances; provided that to the extent any Acquired Asset on or related to the Hopkinsville Property are held by an Affiliate or Subsidiary of Seller, Seller will have caused to be assigned and/or transferred such Acquired Asset to the Seller prior to Closing.

(b) At the Closing, pursuant to the Sale Order, Seller will convey such good and valid title to or rights to use all of the Acquired Assets, free and clear of all Encumbrances (other than Permitted Encumbrances), to Purchaser. The Acquired Assets are (to the extent applicable) in good operating condition (ordinary wear and tear excepted) and are adequate for the uses to which they are being put, and none of such Acquired Assets are in need of maintenance or repairs except for ordinary, routine maintenance and repairs that are not material in nature or cost. All raw materials, work-in-process, finished goods, supplies, inventory and other materials of Seller included in the Acquired Assets consist of a quality and quantity usable and salable in the ordinary course of business and maintained in accordance with all applicable Laws and normal industry practices.

Section 3.19 Sufficiency of Assets. The Acquired Assets constitute all of the assets and properties (tangible and intangible) necessary for the conduct of, and such assets and properties will be sufficient for Purchaser to conduct, the Business in the manner in which it was being conducted immediately prior to the Closing and since the Petition Date, other than the Excluded Assets. None of Seller or any of its Affiliates or any other Person owns, whether directly or indirectly through another Person, any other property or assets that are used in or related to the Business, other than the Excluded Assets.

Section 3.20 No Material Adverse Effect. Since December 31, 2025, through the date of this Agreement, except as set forth on Schedule 3.20 or in connection with the negotiation and execution of the Transaction Agreements, filings in accordance with Bankruptcy Code or the consummation of the Transactions, (a) no Material Adverse Effect has occurred, and (b) there has been no change in any method of accounting or accounting practice of the Seller, except as required by GAAP or applicable Law.

Section 3.21 No Other Representations or Warranties. Except for the representations and warranties expressly contained in this Article III (as qualified by the Disclosure Schedules) and the Transaction Agreements (in each case, in accordance with the express terms and conditions (including limitations and exclusions) of this Agreement and the Transaction Agreements) (the "Express Representations") (it being understood that the Purchaser Group has relied only on the Express Representations for purposes of the Transactions), no Seller nor any other Person on behalf of any Seller makes any express or implied representation or warranty with respect to any Seller, the Acquired Assets, or the Assumed Liabilities or with respect to any information, statements, disclosures, documents, projections, forecasts or other material of any nature made available or provided by any Person (including in (x) any presentations or other materials prepared by Jefferies, the "Information Presentation", (y) that certain virtual data room administered by Datasite (the "Dataroom"), or (z) in the Projections to Purchaser on behalf of Seller Parties). Without limiting the foregoing, no Seller nor any other Person will have or be subject to any Liability whatsoever to Purchaser, or any other Person, resulting from the distribution to Purchaser Group, or Purchaser Group's use of or reliance on or discussions with respect to, any such information, statements, disclosures, documents, projections, forecasts, or other material in expectation of the Transactions; provided, that the foregoing shall not limit any Express Representations or claims in respect of Fraud.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser represents and warrants to Seller as follows.

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

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

against Purchaser in accordance with its terms, except that such enforceability may be limited by the Enforceability Exceptions.

Section 4.3 Conflicts; Consents.

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

(b) Except as set forth on Schedule 4.3(a), Purchaser is not required to file, seek or obtain any notice, Governmental Authorization, approval, Order, Permit or Consent of or with any Governmental Body in connection with the execution, delivery and performance by Purchaser of this Agreement or the consummation by Purchaser of the Transactions, except (i) any filings required to be made under the HSR Act, if applicable, or (ii) where failure to obtain such Consent, approval, authorization or action, or to make such filing or notification, would not, individually or in the aggregate, reasonably be expected to prevent or materially impair the ability of Purchaser to consummate the Transactions.

Section 4.4 Financing. At the Closing, Purchaser will have sufficient funds in an aggregate amount necessary to pay all amounts payable under this Agreement, including the Purchase Price, to perform the Assumed Liabilities as they become due in accordance with their terms and to consummate all of the other Transactions, including the payment of the Purchase Price and all fees, expenses of, and other amounts required to be paid by, Purchaser in connection with the Transactions and does not know of any circumstance or condition that could reasonably be expected to prevent the availability of such funds or otherwise impair such capability at the Closing and such other dates that such obligations and transactions are required to be satisfied pursuant to the terms of this Agreement. Purchaser affirms that it is not a condition to Closing or to any of its obligations under this Agreement that Purchaser obtain financing for the Transactions. Purchaser is and shall be capable at the Closing of satisfying the conditions contained in Sections 365(b)(1)(C) and 365(f) of the Bankruptcy Code with respect to the Assigned Contracts and the related Assumed Liabilities.

Section 4.5 Brokers. There is no investment banker, broker, finder, or other intermediary which has been retained by or is authorized to act on behalf of Purchaser that might be entitled to any success fee or commission in connection with the Transactions.

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

Section 4.7 **Certain Arrangements**. As of the date hereof, except for arrangements among any holders of bonds, indentures, notes or similar instruments of Seller or an Affiliate thereof, there are no Contracts, undertakings, commitments, agreements or obligations, whether written or oral, between any member of the Purchaser Group, on the one hand, and any member of the management of Seller or its board of directors (or applicable governing body of any Affiliate of Seller), any holder of equity or debt securities of Seller, or any lender or creditor of Seller or any Affiliate of Seller, or any third party on the other hand, (a) relating in any way to the acquisition of the Acquired Assets or the Transactions (including any joint bidding, exclusivity or similar arrangement with any third party) or (b) that would be reasonably likely to prevent, restrict, impede or adversely affect the ability of Seller or any of their Affiliates to entertain, negotiate or participate in any such Transactions.

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

ARTICLE V
BANKRUPTCY COURT MATTERS

Section 5.1 **Bankruptcy Actions**.

(a) Purchase agrees that it will promptly take such actions as are reasonably requested by Seller to assist in obtaining Bankruptcy Court approval of the Sale Order. Seller shall promptly provide Purchaser with written notice of the terms and conditions of any proposal or offer regarding an alternative transaction ("Alternative Transaction").

(b) Purchaser agrees and acknowledges that Seller, including through its representatives, are and may continue soliciting inquiries, proposals or offers from third parties in connection with any Alternative Transaction pursuant to the terms of the Bidding Procedures Order. Seller may modify the motion seeking approval of the Sale Order pursuant to discussions with the United States Trustee assigned to the Chapter 11 Cases, the Bankruptcy Court, any creditor or committee representing a group of creditors in the Chapter 11 Cases, or any other party in interest, with such modifications being acceptable to Purchaser in its commercially reasonable discretion.

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

(d) Purchaser shall promptly take all actions as are reasonably requested by Seller to assist in obtaining the Bankruptcy Court's entry and approval of the Sale Order, and any other Order reasonably necessary in connection with the Transactions as promptly as practicable, including furnishing affidavits, non-confidential financial information, or other documents or information for filing with the Bankruptcy Court and making such employees and Advisors of Purchaser and its Affiliates available to testify before the Bankruptcy Court for the purposes of, among other things, (i) providing necessary assurances of performance by Purchaser under this Agreement, (ii) demonstrating that Purchaser is a "good faith" purchaser under Section 363(m) of the Bankruptcy Code, (iii) establishing adequate assurance of future performance by Purchaser of the Purchaser's Assigned Contracts as required under Section 365 of the Bankruptcy Code, and (iv) demonstrating the Purchaser's ability to pay and perform or otherwise satisfy Purchaser's Assumed Liabilities following the Closing.

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

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

(g) Nothing in this Section 5.1 shall prevent Seller from modifying the bidding procedures as necessary or appropriate to maximize value for Seller's estate in accordance with Seller's fiduciary obligations.

Section 5.2 **Sale Order**. The Sale Order shall, among other things, (a) approve, pursuant to Sections 105, 363 and 365 of the Bankruptcy Code (i) the execution, delivery and performance by Seller of this Agreement, (ii) the sale of the Acquired Assets to Purchaser on the terms set forth herein and free and clear of all Encumbrances (other than Encumbrances included in the Assumed Liabilities and Permitted Encumbrances), and (iii) the execution, delivery, and performance by Seller of its obligations under this Agreement, (b) authorize and empower Seller to assume and assign to Purchaser the Assigned Contracts, (c) find that Purchaser is a "good faith" purchaser within the meaning of Section 363(m) of the Bankruptcy Code, find that Purchaser is not a successor to Seller, and grant Purchaser the protections of Section 363(m) of the Bankruptcy Code, (d) find that Purchaser has provided adequate assurance (as that term is used in Section 365 of the Bankruptcy Code) of future performance in connection with the assumption of the Assigned Contracts, and (e) find that Purchaser shall have no Liability for any Excluded Liability or responsibility for any Liability or other obligation of Seller arising under or related to the Acquired Assets other than as expressly set forth in this Agreement, including successor or vicarious Liabilities of any kind or character, including any theory of antitrust, successor, or transferee Liability, labor law, de facto merger, environmental, or substantial continuity. Without limiting Seller's obligation to take all such actions as are reasonably necessary to obtain Bankruptcy Court approval of the Sale Order, Purchaser agrees that it will promptly take such actions as are reasonably requested by Seller to assist in obtaining Bankruptcy Court approval of the Sale Order, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court for purposes, among others, of (A) demonstrating that Purchaser is a "good faith" purchaser under Section 363(m) of the Bankruptcy Code and (B) establishing adequate assurance of future performance within the meaning of Section 365 of the Bankruptcy Code and in accordance with the Bidding Procedures Order.

Section 5.3 **Approval**. Seller's obligations under this Agreement and in connection with the Transactions are subject to entry of and, to the extent entered, the terms of any Orders of the Bankruptcy Court (including entry of the Sale Order). Nothing in this Agreement shall require Seller or its Affiliates to give testimony to or submit a motion to the Bankruptcy Court that is untruthful or to violate any duty of candor or other fiduciary duty to the Bankruptcy Court or its stakeholders.

ARTICLE VI
COVENANTS AND AGREEMENTS

Section 6.1 Conduct of the Business of Seller.

(a) Except (i) as required by applicable Law, Order or a Governmental Body, (ii) any limitations on operations imposed by the Bankruptcy Court or the Bankruptcy Code or the Mechanics Liens, as the case may be, (iii) as expressly contemplated or required by this Agreement, or (iv) to the extent an Excluded Asset or an Excluded Liability, and notwithstanding any other provision of this Agreement, Seller shall not, and shall cause its Affiliates not to, enter into any settlement with respect to any matters disclosed on Schedule 3.14(d)(iii) that would reasonably be expected to result in liability or payment or money damages unless Purchaser otherwise consents thereto in writing.

(b) Except (i) as required by Applicable Law, Order, or a Governmental Body, or (ii) as set forth on Schedule 6.1(b), during the period from the date of this Agreement until the Closing (or such earlier date and time on which this Agreement is terminated pursuant to Article VIII), unless Purchaser otherwise consents in writing, Seller shall use its reasonable best efforts to (A) carry on the Business in the Ordinary Course, (B) conduct its business in accordance with Applicable Law, and (C) maintain its Permits, Equipment and Business Insurance Policies.

(c) Except (i) as required by Applicable Law, Order or a Governmental Body, (ii) any limitations on operations imposed by the Bankruptcy Court or the Bankruptcy Code, as the case may be, (iii) as expressly contemplated or required by this Agreement, (iv) to the extent an Excluded Asset or an Excluded Liability, (v) as set forth on Schedule 6.1(c), during the period from the date of this Agreement until the Closing (or such earlier date and time on which this Agreement is terminated pursuant to Article VIII), unless Purchaser otherwise consents in writing, Seller shall not directly or indirectly take any action that is reasonably expected to be materially adverse to the Purchaser's interest in the Business, Acquired Assets or the Assumed Liabilities, including any of the following actions with respect to the Business:

(i) (A) incur, assume or otherwise become liable for any indebtedness for borrowed money, issue or sell any debt securities or rights to acquire any debt securities of Seller, guarantee any such indebtedness or any debt securities of another Person (collectively, "Indebtedness") that directly or indirectly adversely affects the Business or the Acquired Assets, except for (1) intercompany Indebtedness among its Affiliates, (2) letters of credit, bank guarantees, security or performance bonds or similar credit support instruments, overdraft facilities or cash management programs, in each case issued, made or entered into in the Ordinary Course, (3) Indebtedness incurred under arrangements that are not secured by the Acquired Assets, and (4) Indebtedness incurred under existing arrangements (including in respect of letters of credit), in each case of this clause (A), other than Excluded Liabilities, (B) enter into any swap or hedging transaction or other derivative agreements other than in the Ordinary Course or (C) make any loans, capital contributions or advances to, or investments in, any Person other than as permitted pursuant to Section 6.1(b)(v);

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

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

(iv) hire any employee to operate, manage or otherwise support the Hopkinsville Property or the Acquired Assets;

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

(vi) directly or indirectly grant or adversely change any Encumbrance on any of its Acquired Assets other than to secure Indebtedness and other obligations in existence at the date of this Agreement (and required to be so secured by their terms) or permitted under Section 6.1(b)(i);

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

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

(ix) enter into any Contract with respect to the Business;

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

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

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

(xiii) grant any waiver under or amend or modify, or surrender, revoke, permit to lapse or otherwise terminate any Permits;

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

(xv) make, change or rescind any material Tax election, change any annual Tax accounting period, adopt or change any Tax accounting method, file any material amended Tax Return, or enter into any closing agreement, consent or agree to any extension or waiver of the limitation period applicable to any claim or assessment in respect of a material amount of Taxes, enter into any Tax partnership agreement or any Tax allocation, sharing or indemnity Contract, agreement or arrangement that would be binding

on Purchaser or any of its Affiliates (other than a Contract, agreement or arrangement the principal subject matter of which is not Taxes), settle any material Tax claim or assessment, or file any Tax Return or take any position with respect to Taxes that is inconsistent with the Intended Tax Treatment, in each case to the extent such action would adversely affect the Acquired Assets or the Business in a Post-Closing Tax Period;

(xvi) amend, supplement or modify Seller's collection policy;

(xvii) engage in any ad hoc communications with customers outside the Ordinary Course;

(xviii) make any material changes to cash management practices and policies, practices and procedures with respect to collection of accounts receivable, accrual of accounts receivable (including acceleration thereof), inventory control, prepayment of expenses, payment of trade accounts payable (including any delay thereof), accrual of other expenses, deferral of revenue and acceptance of customer deposits; or

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

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

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

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

Section 6.2 Access to Information.

(a) From the date hereof until the Closing (or the earlier termination of this Agreement) pursuant to Article VIII, Seller will provide Purchaser and its authorized Advisors with reasonable access (during reasonable business hours (and in accordance with the reasonable procedures established by Seller) and upon reasonable advance notice) to (x) Seller, to the extent related to the Business, and (y) books, records and properties of Seller, to the extent related to the Business, except as prohibited by applicable Law; provided that (i) such access does not unreasonably interfere with the normal operations of Seller, and (ii) nothing herein will require Seller to provide access to, or to disclose any information to, Purchaser if such access or disclosure would be in violation of applicable Laws or is in respect of Excluded Tax Returns. In furtherance of the foregoing, Seller shall provide such access to Purchaser and its authorized Advisors to conduct sampling or testing of environmental media or any other investigation or assessment at the Owned Real Property including of the type commonly known as a Phase II environmental site assessment.

(b) From the date hereof until the Closing (or the earlier termination of this Agreement) pursuant to Article VII, and except as would be prohibited by Applicable Law, Seller will keep Purchaser reasonably informed of any material developments related to any False Claims Act or other matters disclosed on Section 3.16(d)(iii) of the Disclosure Schedules, or that would have been required to be disclosed on Section 3.16(d)(iii) of the Disclosure Schedules if such matter had occurred on or prior to the date hereof including, but not limited to, further discussions with the government regarding possible settlement or scope of liability.

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

(d) From the Closing Date until the date of a final, unappealable order resolving the Chapter 11 Cases or until the second anniversary of the Closing Date, if sooner, Purchaser will provide Seller and its Advisors with reasonable access, during normal business hours, and upon reasonable advance notice, to the books and records, including work papers, schedules, memoranda, and other documents (for the purpose of examining and copying) relating to the Acquired Assets, the Excluded Assets, the Assumed Liabilities or the Excluded Liabilities with respect to periods or occurrences prior to the Closing Date, and reasonable access, during normal business hours, and upon reasonable advance notice, to employees, officers, Advisors, accountants, offices and properties of Purchaser (including for the purpose of better understanding the books and records); provided that (i) such access does not unreasonably interfere with the normal operations of Purchaser, and (ii) nothing herein will require Purchaser to provide access to, or to disclose any information to, Seller if such access or disclosure would be in violation of applicable Laws. Unless otherwise consented to in writing by Seller, Purchaser will not, during such period, destroy, alter or otherwise dispose of any of such books and records without first offering to surrender to Seller such books and records or any portion thereof that Purchaser may intend to destroy, alter or dispose of.

(e) Except for communications in the ordinary course of business, Purchaser will not, and will not permit any member of the Purchaser Group to, contact any officer, manager, director, employee, customer, supplier, lessee, lessor, lender, licensee, licensor, distributor, noteholder or other material business relation of Seller prior to the Closing with respect to Seller, the Business or the Transactions, without the prior written consent of Seller for each such contact.

Section 6.3 Restricted Use of Confidential Information. From and after the Closing Date, until the earlier of (a) the dissolution of Seller and (b) the two (2) year-period following

Closing, Seller shall hold all Confidential Information (as used in the Confidentiality Agreement),[2] to the extent relating to any Acquired Assets, Assumed Liabilities, Transferred Employees, or the Business, in accordance with the confidentiality and non-use obligations set forth in the Confidentiality Agreement (as if Seller was the Recipient thereunder).

Section 6.4 Employee Matters.

(a) Prior to and contingent on the occurrence of the Closing, Purchaser may extend an offer of employment or engagement to one or more of the Business Employees or Business Service Providers on such terms and conditions as determined by Purchaser (such Business Employees or Business Service Providers who receive an offer of employment or engagement, the "Offer Employees"), with such employment or engagement to take effect under the terms set forth in this Section 6.4 ("Transfer Offer") and that, if accepted (which acceptances shall be delivered to Purchaser no later than the Closing Date), shall become effective immediately upon the Closing. Seller and its Affiliates shall cooperate in good faith with and provide reasonable assistance to Purchaser and its Affiliates in its or their efforts to enter into a Transfer Offer with the Offer Employees, including by (i) making the Business Employees or Business Service Providers reasonably accessible to meet and interview with Purchaser or their Affiliates, and (ii) otherwise facilitating Purchaser's and its Affiliates' interview and evaluation processes. Business Employees and Business Service Providers who accept such Transfer Offers and begin employment or engagement with Purchaser shall be collectively referred to herein as "Transferred Employees." Purchaser shall notify Seller on the Closing Date with respect to whether each such offer has been accepted or rejected. Nothing herein shall be construed as a representation or guarantee by Seller or any of its Affiliates that any Business Employees or Business Service Providers will accept the Transfer Offer, or that any Transferred Employee will continue in employment or engagement with Purchaser following the Closing for any period of time. Purchaser shall carry out all necessary actions to effect the timely employment or engagement by it of each Business Employee or Business Service Provider who has accepted a Transfer Offer. Effective as of the Closing, each Transferred Employee previously employed or engaged by Seller shall cease to be an employee or service provider of Seller.

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

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

(d) To the extent permitted under the applicable stop-loss insurance policy with respect to the group health plan maintained by Purchaser and its Affiliates (without material increased cost), Purchaser and its Affiliates shall be solely responsible for any and all obligations and Liabilities arising under Section 4980B of the Tax Code and applicable state Law (including satisfaction of any related notice requirements) with respect to employees of Seller and its Affiliates whose services relate primarily to the Business and who are or may become "M&A qualified beneficiaries" as defined in 26 C.F.R. § 54.4980B- 9 as a result of a qualifying event that

2 **Note to Draft**: Confidentiality Agreement details to be included in defined term.

occurred or occurs prior to, on, or after the Closing Date; provided that Seller and its Affiliates (x) shall notify Purchaser within three days of any "qualifying event" as defined in § 1163 of ERISA and (y) provide Purchaser and its Affiliates with any reasonably requested information to permit Purchaser and its Affiliates to comply with the foregoing. For the avoidance of doubt, any such "M&A qualified beneficiaries" shall bear the full cost of continued coverage under any group health plan of Purchaser or its Affiliates.

Section 6.5 Certain Approvals.

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

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

(c) The Seller shall fully and in good faith cooperate with the Purchaser to timely complete the transfer of any Environmental Permits or real estate permits, including diligently and timely completion of all actions and submittals required to be made to any Governmental Body in order to transfer, assign or reissue any of the Environmental Permits or Deeds.

Section 6.6 Reasonable Efforts; Cooperation.

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

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

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

Section 6.8 **Insurance Matters**.

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

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

(c) For a period of six (6) months after the Closing, Seller may not release or waive any actual liability or potential liability of any insurer of a Business Insurance Policy with respect to Pre-Closing Matters (including but not limited to any cancel, lapse, or non-renewal of a Business Insurance Policy) without the prior written consent of the Purchaser.

Section 6.9 Receipt of Misdirected Assets; Liabilities.

(a) From and after the Closing, if Seller or any of its Affiliates holds or receives any right, property or asset that is an Acquired Asset, the Seller shall promptly transfer or cause such of its Affiliates to transfer such right, property or asset (and shall promptly endorse and deliver any such asset that is received in the form of cash, checks or other documents) to Purchaser, and such asset will be deemed the property of Purchaser held in trust by Seller for Purchaser until so transferred. From and after the Closing, if Purchaser or any of its Affiliates holds or receives any right, property or asset that is an Excluded Asset, Purchaser shall promptly transfer or cause such of its Affiliates to transfer such asset (and shall promptly endorse and deliver any such right, property or asset that is received in the form of cash, checks, or other documents) to Seller, and such asset will be deemed the property of Seller held in trust by Purchaser for Seller until so transferred. From and after the Closing, if Purchaser or Seller discovers that any asset previously deemed an Excluded Asset should have been included as an Acquired Asset pursuant to the terms of this Agreement, Seller shall promptly transfer such asset to Purchaser.

(b) From and after the Closing, if Seller is subject to a Liability that should belong to Purchaser or its Affiliates pursuant to the terms of this Agreement, Seller shall promptly transfer such Liability to Purchaser, and Purchaser shall assume and accept such Liability. From and after the Closing, if Purchaser or any of its Affiliates is subject to a Liability that should belong to Seller or its Affiliates pursuant to the terms of this Agreement, Purchaser shall promptly transfer or cause such of its Affiliates to transfer such Liability to Seller or its Affiliates, and Seller or its Affiliates shall assume and accept such Liability.

Section 6.10 Acknowledgment by Purchaser.

(a) Purchaser acknowledges and agrees, on its own behalf and on behalf of the Purchaser Group, that it has relied solely on the Express Representations and the results of the Purchaser Group's own independent investigation and verification and have not relied on any information, statements, disclosures, documents, projections, forecasts or other material (including in the Dataroom, the Information Presentation or the Projections), in each case, whether written or oral, made available or provided to the Purchaser Group by or on behalf of the Seller Parties, or any failure of any of the foregoing to disclose or contain any information, except for the Express Representations (it being understood that the Purchaser Group has relied only on the Express Representations).

(b) Purchaser acknowledges and agrees, on its own behalf and on behalf of the Purchaser Group, that (i) the Express Representations are the sole and exclusive representations, warranties and statements of any kind made to Purchaser or any member of the Purchaser Group and on which Purchaser or any member of the Purchaser Group may rely in connection with the Transactions and (ii) all other representations, warranties and statements of any kind or nature expressed or implied, whether in written, electronic or oral form, including (A) the completeness or accuracy of, or any omission to state or to disclose, any information (other than solely to the extent expressly set forth in the Express Representations) including in the Dataroom, Information Presentation, Projections, meetings, calls or correspondence with management of Seller, any of the Seller Parties or any other Person on behalf of Seller or any of the Seller Parties or any of their respective Affiliates or Advisors and (B) any other statement relating to the historical, current or

future business, financial condition, results of operations, assets, Liabilities, properties, Contracts, environmental, health or safety conditions and compliance, employee matters, regulatory compliance, business risks and prospects of the Business, or the quality, quantity or condition of any of the Acquired Assets, are, in each case, specifically disclaimed by Seller, on its behalf and on behalf of the Seller Parties, except to the extent set forth in the Express Representations.

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

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

Section 6.11 Releases.

(a) As of the Closing, Seller, on behalf of itself and its Affiliates, and its and their Affiliates' representatives, heirs, estates successors, or executors, partners, members, equity holders, directors, officers, employees, controlling persons, agents, successors, stockholders, trustees, principals, parents, Subsidiaries, joint ventures, predecessors, and assigns (as applicable) (collectively, the "Seller Releasing Parties"), and assigns (as applicable), (i) irrevocably and unconditionally waives, releases, and forever discharges Purchaser, its direct and indirect Subsidiaries, and its and their current, former and future Affiliates, Advisors, stockholders, members, directors, managers, trustees, principals, parents, Subsidiaries, joint ventures, predecessors, successors, assigns, beneficiaries, heirs or executors (collectively, the "Acquired Entity Released Parties") from any and all rights, commitments, actions, debts, claims, counterclaims, suits, Causes of Action, Avoidance Actions, damages, demands, losses, obligations, costs, expenses, compensation and other Liabilities of every kind and nature whatsoever, whether known or unknown, matured or contingent and whether arising in Law, in equity or otherwise, in each case based upon facts, circumstances or occurrences existing at or prior to Closing (collectively, the "Released Claims"), (ii) irrevocably covenants to refrain from, directly or indirectly, asserting any claims or commencing, instituting or causing to be commenced, any Action of any kind against any Acquired Entity Released Party with respect to the Released Claims and (iii) represents to the other Parties that Seller has not assigned or transferred, nor purported to assign or transfer, to any Person all or any part of, or any interest in,

any Released Claim (and notwithstanding anything to the contrary in this Agreement, no such assignment or transfer shall be permitted, and any purported assignment or transfer shall be legally ineffective). Seller also hereby waives the benefits of, and any right that such Person may have under, any statute or common law principle of similar effect in any jurisdiction with respect to any Released Claim. Notwithstanding the generality of the foregoing, nothing herein constitutes a waiver or release by any Person of, and Released Claims shall not be deemed to include any claim or right expressly arising under this Agreement or any Transaction Agreement, including any breach of this Agreement.

(b) As of the Closing, Purchaser, on behalf of itself and its Subsidiaries, representatives, heirs, estates, partners, members, joint ventures, predecessors, successors, and assigns (as applicable) (collectively, the "Purchaser Releasing Parties"), irrevocably and unconditionally waives, releases, and forever discharges the Seller's current and former, Advisors, stockholders, members, directors, officers or managers (collectively, the "Seller Released Parties") from any and all claims, actions, suits and Causes of Action of the Purchaser Releasing Parties against the Seller Released Parties, in each case solely related to the Bidding Procedures, sale process, Auction, and negotiation of, and entering into, this Agreement and the other Transaction Agreements. Nothing in this Section 6.11 shall be deemed to release, waive, impair, prejudice or otherwise diminish in any respect (i) claims for willful misconduct, gross negligence or fraud, (ii) any claims asserted by Purchaser against the Debtors under or related to any prepetition agreement, or on account of goods and/or services provided or performed prior to the Petition Date, including, without limitation, any claims asserted in Purchaser's Proof of Claim filed on May 8, 2026 (Claim Number 32) (which may be amended, modified, restated, refiled and/or supplemented from time to time) or (iii) any claims asserted by any subcontractor of the Purchaser against any Debtor. Notwithstanding the generality of the foregoing, nothing herein constitutes a waiver or release by any Person of, and the claims released under this Section 6.11(b) shall not be deemed to include, any claim or right expressly arising under this Agreement or any Transaction Agreement, including any breach of this Agreement.

Section 6.12 Appeal of Tax Assessment for Hopkinsville Property. Seller shall, and shall cause its applicable Affiliates to, (a) request and conduct a conference with the Property Valuation Administrator, and (b) commence a timely and valid appeal of the property Tax assessment imposed on the Hopkinsville Property for the 2026 taxable year. In connection therewith, Seller shall, and Seller shall cause its applicable Affiliates to, (i) promptly and properly file, with evidence and grounds for the appeal, to have the value of the Hopkinsville Property assessed at an amount acceptable to Purchaser, (ii) provide to Purchaser and its representatives copies of such filing and related materials reasonably in advance of submitting such filing for Purchaser's review and comment, (iii) incorporate any comments proposed by Purchaser or any of its representatives, and (iv) cooperate with Purchaser and its representatives, and provide information and access to Purchaser and its representatives, in each case in connection with the foregoing. Purchaser and its representatives shall be entitled to attend any such conference.[3] At Closing, Purchaser agrees to assume, and agrees to pay, perform, and discharge when due, all obligations and liabilities of Seller arising under or relating to the Silver Oak Agreement, whether arising from services performed prior to, on, or after the Closing Date.

3 **Note to Seller**: Seller to advise on status of property tax assessment. **NRF Note to Draft**: The appeal was filed.

Section 6.13 Letters of Credit.

(a) Schedule 6.13(a) sets forth a true, correct, and complete list of all letters of credit outstanding as of the date hereof relating to the Business or Acquired Assets for which Seller is the obligor (each, an "Existing Letter of Credit," and collectively, the "Existing Letters of Credit"), including for each Existing Letter of Credit the name of the beneficiary and the face amount.

(b) Seller and Purchaser shall cooperate in good faith and use reasonable best efforts to, at, or as promptly as practicable following, the Closing, (i) cause each Existing Letter of Credit to be terminated or cancelled, and (ii) to the extent (1) any beneficiary under an Existing Letter of Credit requires a replacement letter of credit or other credit support as a condition to such termination or cancellation and (2) such Existing Letter of Credit is required pursuant to an Assumed Contract, cause Purchaser to put in place a replacement letter of credit or such other credit support on terms reasonably acceptable to the applicable beneficiary, in each case, at Purchaser's expense (each, a "Replacement Letter of Credit"). Purchaser shall reasonable best efforts to obtain each Replacement Letter of Credit, including entering into such agreements with the applicable issuing bank and beneficiaries as may be reasonably necessary to effect the substitution contemplated by this Section 6.13. Seller shall reasonably cooperate with Purchaser in connection with the foregoing, including by providing such notices, consents, and other documentation as may be reasonably requested by Purchaser or the applicable issuing bank.

(c) Until the earlier of the termination, cancellation, or expiration of an Existing Letter of Credit, Purchaser shall indemnify, defend, and hold harmless Seller and its Affiliates from and against any draw, claim or loss arising out of or relating to such Existing Letter of Credit to the extent attributable to the operation of the Business after the Closing Date; provided that this Section 6.13(c) shall apply only in respect of an Existing Letter of Credit that is required by an Assumed Contract.

Section 6.14 Title Policies. Following the Closing, Seller shall use commercially reasonable efforts to cooperate with Purchaser, at Purchaser's sole cost and expense, in connection with Purchaser's efforts to obtain title insurance policies (including any endorsements thereto) with respect to the Owned Real Property (collectively, the "Title Policies"). Such cooperation shall include, without limitation: (a) executing and delivering to the applicable title insurance company such customary affidavits, certificates, and other instruments as may be reasonably requested by Purchaser or such title insurance company; and (b) providing such information and documentation regarding the Owned Real Property as Purchaser or the applicable title insurance company may reasonably request. Notwithstanding the foregoing, (i) Seller shall not be required to incur any out-of-pocket costs or expenses in connection with this Section 6.14; (ii) Seller shall not be required to make any representations or warranties in connection with any such affidavit or instrument that Seller cannot make truthfully and in good faith; and (iii) the obligations of Seller under this Section 6.14 shall terminate on the date that is three (3) months following the Closing Date.

Section 6.15 Environmental Insurance Policies. From and after the Closing, Seller shall use reasonable best efforts to cause Purchaser to be named as an additional insured under any pollution liability insurance policy or contractor's pollution liability insurance policy maintained by Seller, in each case solely to the extent such policy provides coverage for claims, losses, or

liabilities arising out of or relating to the Hopkinsville Property. Seller shall promptly notify Purchaser in writing upon obtaining any such additional insured endorsement and shall provide Purchaser with copies of any certificates of insurance or endorsements evidencing such coverage. Notwithstanding the foregoing, nothing in this Section 6.15 shall require Seller to maintain any particular insurance policy in force or to obtain any new or additional insurance coverage.

ARTICLE VII
CONDITIONS TO CLOSING

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

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

(b) the Bankruptcy Court shall have entered the Sale Order and such order shall have become a Final Order and this Agreement shall become effective in accordance with the terms, and shall not have been stayed, reversed, or modified in a manner not reasonably acceptable to the Parties; and

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

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

(a) (i) the representations and warranties made by Seller in Article III (in each case, other than the Fundamental Representations) shall be true and correct in all respects as of the date of this Agreement and the Closing Date (without giving effect to materiality, Material Adverse Effect or similar phrases) with the same force and effect as though made on and as of the Closing Date, except (A) that representations and warranties that are made as of a specified date need be true and correct only as of such date and (B) to the extent the failure of such representations and warranties to be true and correct as of such dates has not had or would not reasonably be expected to have a Material Adverse Effect, and (ii) the representations and warranties set forth in Section 3.1, Section 3.2, Section 3.3(a)(i), Section 3.12, Section 3.17, Section 3.18, and Section 3.19 (collectively, the "Fundamental Representations") shall be true and correct in all respects (other than de minimis inaccuracies) as of the Closing Date as though made on and as of the date of this Agreement and the Closing Date, except that such Fundamental Representations and warranties that are made as of a specified date or period need be true and correct in all respects, except for any de minimis inaccuracies, only as of such date or period;

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

(c) since the Balance Sheet Date through the Closing Date, there shall not have been a Material Adverse Effect;

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

(e) Seller shall have executed and delivered to Purchaser such documents as shall be necessary to transfer and assign the Owned Real Property to Purchaser, including, without limitation, affidavits, deeds, bills of sale, general assignments, or other assurances; and

(f) no Action shall have been brought, initiated or asserted (i) against Seller or any Affiliate that holds Acquired Assets asserting that any Governmental Body is entitled to remedies, relief or interests under or pursuant to the False Claims Act or any similar applicable Law with respect to any such Person or in respect of the Acquired Assets or (ii) by any Governmental Body (A) seeking to prevent, challenge, or otherwise delay any of the transactions contemplated by this Agreement, (B) against the Purchaser in respect of the transactions contemplated hereby, or (C) that has or could have a Material Adverse Effect on the Acquired Assets or Assumed Liabilities.

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

(a) the representations and warranties made by Purchaser in Article IV shall be true and correct in all material respects as of the Closing Date with the same force and effect as though made on and as of the Closing Date, except that representations and warranties that are made as of a specified date need be true and correct in all material respects only as of such date;

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

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

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

Section 7.5 Fiduciary Duty. Notwithstanding anything to the contrary in this Agreement, if Seller receives a proposal, offer or inquiry for any Alternative Transaction (an "Alternative Transaction Offer" or "Alternative Transaction Proposal"), Seller shall in no way be prevented from fulfilling its fiduciary or statutory obligations under applicable Law, the Bankruptcy Code, or any order of the Bankruptcy Court, including, without limitation, pursuing any such Alternative Transaction.

ARTICLE VIII
TERMINATION

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

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

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

(c) by written notice of either Purchaser or Seller, if the Closing shall not have occurred on or before June 10, 2026 (the "Outside Date") (or such later date as provided in the Bidding Procedures Order); provided that a Party shall not be permitted to terminate this Agreement pursuant to this Section 8.1(c) if the failure of the Closing to have occurred by the Outside Date was caused by such Party's material breach of any of its obligations or material breach of any of its representations or warranties under this Agreement;

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

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

(f) by written notice from Purchaser to Seller, upon a breach of any covenant or agreement on the part of Seller, or if any representation or warranty of Seller will have become untrue, in each case, such that the conditions set forth in Section 7.2 would not be satisfied, including a breach of Seller's obligation to consummate the Closing; provided that (i) if such breach is curable by Seller (other than a breach or failure by Seller to close within five (5) Business Days of when required pursuant to Section 2.2) then Purchaser may not terminate this Agreement

under this Section 8.1(f) unless such breach has not been cured by the date which is the earlier of (A) two (2) Business Days prior to the Outside Date, and (B) 10 days after Purchaser notifies Seller of such breach and (ii) the right to terminate this Agreement pursuant to this Section 8.1(f) will not be available to Purchaser at any time that Purchaser is in material breach of any agreement, covenant, representation or warranty hereunder;

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

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

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

(j) by Purchaser if the Bankruptcy Court issues any order that results in Purchaser being unable to credit bid in accordance with Section 2.1(a).

Section 8.2 Effect of Termination. In the event of a valid termination of this Agreement pursuant to Section 8.1, this Agreement shall become null and void and no Party nor any of its partners, officers, directors, managers or equityholders will have any Liability under this Agreement; provided that this Section 8.2, Section 8.3, and Article X shall survive any such termination; provided further that no termination will relieve any Party from any Liability for Willful Breach of this Agreement prior to the date of such termination (which, for the avoidance of doubt, will be deemed to include any failure by Purchaser or Seller to consummate the Closing if and when they are obligated to do so hereunder). Upon any termination of this Agreement pursuant to Section 8.1(b), Section 8.1(c), Section 8.1(d), Section 8.1(f), Section 8.1(h), or Section 8.1(i), the Good Faith Deposit shall be promptly returned to Purchaser, without deduction, within three (3) Business Days of such termination. Subject to Section 10.13, nothing in this Section 8.2 will be deemed to impair the right of any Party to be entitled to specific performance or other equitable remedies to enforce specifically the terms and provisions of this Agreement prior to termination hereof.

Section 8.3 Limitation of Liability. Notwithstanding anything to the contrary in this Agreement, in the event the Closing is not consummated due to any breach of this Agreement (including any Willful Breach) by Purchaser, in no event shall Purchaser's aggregate Liability to Seller or any other Person (including any of Seller's Affiliates, creditors, or the bankruptcy estate) arising out of or relating to this Agreement or the Transactions (whether based on contract, tort, strict liability, or any other theory) exceed the Cash Purchase Price. In no event shall Purchaser be liable to Seller or any other Person for any consequential, incidental, indirect, special, exemplary, or punitive damages, or any damages for lost profits, diminution of value, or loss of business

opportunity, regardless of whether such damages were foreseeable or whether Purchaser was advised of the possibility of such damages.

ARTICLE IX
TAXES

Section 9.1 Transfer Taxes. Except as otherwise provided herein, any U.S. federal, state, local, and non-U.S. sales Tax, consumption sales, use, excise, value added, registration, real property, purchase, transfer, franchise, deed, fixed asset, stamp, documentary stamp, use or other similar Taxes and recording charges (including all related interest, penalties, and additions to any of the foregoing) payable by reason of the sale of the Acquired Assets pursuant to this Agreement or the Transactions (the "Transfer Taxes") shall be borne and timely paid 50% by Purchaser and 50% by Seller when due; provided, however, for the avoidance of doubt, that Seller shall not be liable for any Transfer Taxes that are Assumed Liabilities. Seller shall timely file all Tax Returns related to any Transfer Taxes with the appropriate Taxing Authority. The Transfer Taxes shall be calculated assuming that no exemption from Transfer Taxes is available under the Bankruptcy Code unless otherwise indicated in the Sale Order. The Parties will cooperate in good faith prior to Closing to determine the amount of Transfer Taxes required to be paid in connection with the Transactions, and shall cooperate in good faith to reduce the amount of Transfer Taxes payable, including by soliciting and providing appropriate resale exemption certificates or other evidence acceptable to Purchaser or Seller, as appropriate, of exemption from such Transfer Taxes and by discussing in good faith whether adjustments to the Transaction structure (including, for the avoidance of doubt, acquiring the equity of an entity, rather than acquiring assets directly, if doing so would avoid a material amount of Transfer Taxes becoming due) as may be warranted to minimize the liability for Transfer Taxes arising hereunder.

Section 9.2 Allocation of Purchase Price. For U.S. federal and applicable state and local income Tax purposes, Purchaser, Seller, and their respective Affiliates shall allocate the Purchase Price (and any Assumed Liabilities or other amounts treated as part of the purchase price for U.S. federal income Tax purposes) among the Acquired Assets in accordance with section 1060 of the Tax Code and analogous provisions of Applicable Law. As soon as commercially practicable, but no later than 120 days following the determination of the final Purchase Price, Purchaser shall provide an allocation to Seller setting forth the allocation of the Purchase Price (and other amounts treated as part of the purchase price for U.S. federal income Tax purposes) among the Acquired Assets (the "Allocation"). Seller and Purchaser shall work in good faith to resolve any disputes relating to the Allocation within fifteen (15) days. If Seller and Purchaser are unable to resolve any such dispute, such dispute shall be resolved promptly by a nationally recognized accounting firm acceptable to Purchaser and Seller, the costs of which shall be borne by Seller. If, within fifteen (15) days after receiving the Allocation, Seller has not objected, the Allocation shall be final and binding. The Parties and their respective Affiliates shall file all Tax Returns in accordance with such Allocation (as finally determined under this Section 9.2) and not take any Tax related action inconsistent with the Allocation, in each case, unless otherwise required by a "determination" within the meaning of section 1313(a) of the Tax Code.

Section 9.3 Cooperation.

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

Section 9.4 Proration of Taxes. Except as otherwise provided in this Agreement, Taxes attributable to the Acquired Assets shall be prorated between the Seller and Purchaser as follows: the amount of ad valorem, and other periodic Taxes (other than property taxes that constitute Assumed Liabilities pursuant to Section 1.3(c)), allocable to the Pre-Closing Tax Period shall be equal to (a) the amount of such Taxes for the entire taxable period that includes the Closing Date multiplied by (b) a fraction, the numerator of which is the number of calendar days during the taxable period that are in the Pre-Closing Tax Period and the denominator of which is the number of calendar days in the entire taxable period; provided that, for the avoidance of doubt, nothing contained in this Section 9.4 shall be construed so as to cause an Assumed Liability to become an Excluded Liability or vice versa.

ARTICLE X
MISCELLANEOUS

Section 10.1 Non-Survival of Representations and Warranties and Certain Covenants; Certain Waivers. Each of the representations and warranties and the covenants and agreements (to the extent such covenant or agreement contemplates or requires performance by such Party prior to the Closing) of the Parties set forth in this Agreement or in any other Transaction Agreement, will terminate effective immediately as of the Closing such that no claim for breach of any such representation, warranty, covenant or agreement, detrimental reliance or other right or remedy (whether in contract, in tort or at law or in equity) may be brought with respect thereto after the Closing. Each covenant and agreement in this Agreement or in any other Transaction Agreement that explicitly contemplates performance after the Closing, will, in each case and to such extent, expressly survive the Closing in accordance with its terms, and nothing in this Section 10.1 will be deemed to limit any rights or remedies of any Person for breach of any such surviving covenant or agreement. Purchaser and Seller acknowledge and agree, on their own behalf and on behalf of the Purchaser Group or Seller Parties, as the case may be, that the agreements contained in this Section 10.1 (a) require performance after the Closing to the maximum extent permitted by applicable Law and will survive the Closing and (b) are an integral part of the Transactions and that, without the agreements set forth in this Section 10.1, none of the Parties would enter into this Agreement. Notwithstanding anything to the contrary in this Agreement, the provisions of this Section 10.1, shall not prevent or limit in any way a Cause of Action on account of Fraud, it being understood that the Purchaser's or any Seller Party's representation, warranty, covenant or agreement in respect of any claim for Fraud shall survive for the applicable statute of limitations.

Section 10.2 **Expenses**. Whether or not the Closing takes place, except as otherwise provided herein, all fees, costs and expenses (including fees, costs and expenses of Advisors) incurred in connection with the negotiation of this Agreement and the other Transaction Agreements, the performance of this Agreement and the other Transaction Agreements and the consummation of the Transactions will be paid by the Party incurring such fees, costs and expenses; provided that (a) all Transfer Taxes will be allocated pursuant to Section 9.1 and (b) all Cure Costs will be allocated pursuant to Section 1.5(c).

Section 10.3 **Notices**. Except as otherwise expressly provided herein, all notices, demands and other communications to be given or delivered under or by reason of the provisions of this Agreement will be in writing and will be deemed to have been given (a) when personally delivered, (b) when transmitted by electronic mail (having obtained electronic delivery confirmation thereof), if delivered by 5:00 P.M. local time of the recipient on a Business Day and otherwise on the following Business Day, (c) the day following the day on which the same has been delivered prepaid to a reputable national overnight air courier service or (d) the third Business Day following the day on which the same is sent by certified or registered mail, postage prepaid, in each case, to the respective Party at the number, electronic mail address or street address, as applicable, set forth below, or at such other number, electronic mail address or street address as such Party may specify by written notice to the other Parties.

Notices to Purchaser:

Turner Construction Company
66 Hudson Boulevard, 35th Floor
New York, NY 10001
Attention: Patrick D. Blake
Email: pblake@tcco.com

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

Winston & Strawn LLP
200 Park Avenue
New York, NY 10166
Attention: Julissa Reynoso; Dan McGuire
Email: JReynoso@winston.com; Dmcguire@winston.com

Clifford Chance US LLP
845 Texas Avenue, Suite 2700
Houston, Texas 77002
Attention: J. Laurens Wilkes
Email: laurens.wilkes@cliffordchance.com

Notices to Seller:

Ascend Elements, Inc.
133 Flanders Road
Westborough, MA 01581

Attention: Deacon Powell
Email: dpowell@ascendelements.com

with copies to (which shall not constitute notice):

Norton Rose Fulbright US LLP
2200 Ross Avenue, Suite 3600
Dallas, Texas 75201
Attention: Ryan Manns
Scarlet McNellie
Email: ryan.manns@nortonrosefulbright.com
scarlet.mcnellie@nortonrosefulbright.com

Section 10.4 Binding Effect; Assignment. This Agreement shall be binding upon Purchaser and, subject to the terms of the Bidding Procedures Order (with respect to the matters covered thereby) and the entry and terms of the Sale Order, Seller, and shall inure to the benefit of and be so binding on the Parties and their respective successors and permitted assigns, including any trustee or estate representative appointed in the Chapter 11 Cases or any successor Chapter 7 cases; provided that neither this Agreement nor any of the rights or obligations hereunder may be assigned or delegated without the prior written consent of Purchaser and Seller, and any attempted assignment or delegation without such prior written consent shall be null and void. Notwithstanding anything to the contrary set forth herein, Purchaser may assign all or any of its rights and obligations (x) to any of its Affiliates or any special purpose entity directly or indirectly owned or controlled by the Purchaser as a Designee hereunder, provided that the Purchaser shall remain liable for any such assignees payment obligations under this Agreement or (y) to any third party as a Designee hereunder, provided that, only in the event that such Designee is assigned any obligation to fund any portion of the Cash Purchase Price, then such Designee shall provide to the Seller reasonable evidence of its creditworthiness and its ability to pay such portion of the Cash Purchase Price.

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

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

Section 10.7 Non-Recourse. This Agreement may only be enforced against, and any Action based upon, arising out of, or related to this Agreement may only be brought against, only the Persons that are expressly named as Parties and not against any other Persons. Except to the extent named as a Party, and then only to the extent of the specific obligations of such Parties set forth in this Agreement and in the Transaction Agreements, no past, present or future shareholder,

member, partner, manager, director, officer, employee, Affiliate, agent or Advisor of any Party (each, a "Non-Recourse Person") will have any Liability (whether in contract, tort, equity or otherwise) for any of the representations, warranties, covenants, agreements or other obligations or Liabilities of any of the Parties or for any Agreement Dispute and (ii) in no event shall any Person have any shared or vicarious liability, or otherwise be the subject of legal or equitable claims, for the actions or omissions (including through equitable claims (such as unjust enrichment) not requiring proof of wrongdoing committed by the subject of such claims) of any other Person, and each of such Persons and the Non-Recourse Persons are intended third party beneficiaries of this Section 10.7 and shall be entitled to enforce this Section 10.7 as if a party directly hereto. Notwithstanding anything to the contrary set forth herein, nothing in this Section 10.7 or elsewhere herein shall limit the rights or remedies in the case of Fraud against the Person committing Fraud.

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

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

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

forth in the Disclosure Schedules will be deemed to broaden in any way the scope of the Parties' representations and warranties. Any description of any agreement, document, instrument, plan, arrangement, or other item set forth on any Schedule is qualified in its entirety by the terms of such agreement, document, instrument, plan, arrangement, or item, and such terms will be deemed disclosed for all purposes of this Agreement. The information contained in this Agreement, the Disclosure Schedules, and the Exhibits is disclosed solely for purposes of this Agreement, and no information contained in this Agreement, the Disclosure Schedules, or the Exhibits will be deemed to be an admission by any Party to any third party of any matter whatsoever, including any violation of Law or breach of Contract.

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

Section 10.12 Specific Performance. The Parties agree that irreparable damage, for which monetary relief, even if available, would not be an adequate remedy, would occur in the event that any provision of this Agreement is not performed in accordance with its specific terms or is otherwise breached, including if any of the Parties fails to take any Action required of it under this Agreement. It is accordingly agreed that (a) the Parties will be entitled to seek an injunction or injunctions, specific performance or other equitable relief to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof in the courts described in Section 10.14 without proof of damages or otherwise, this being in addition to any other remedy to which the Parties are entitled under this Agreement, and (b) the right of specific performance and other equitable relief is an integral part of the Transactions and without that right, neither Seller nor Purchaser would have entered into this Agreement. The Parties acknowledge and agree that either Seller or Purchaser pursuing an injunction or injunctions or other Order to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in accordance with this Section 10.12 will not be required to provide any bond or other security in connection with any such Order. The remedies available to Seller pursuant to this Section 10.12 will be in addition to any other remedy to which they were entitled at law or in equity, and the election to pursue an injunction or specific performance will not restrict, impair or otherwise limit Seller from seeking to collect or collecting damages. If, prior to the Outside Date, any Party brings any Action, in each case in accordance with Section 10.13, to enforce specifically the performance of the terms and provisions hereof by any other Party, the Outside Date will automatically be extended (i) for the period during which such Action is pending, plus ten (10) Business Days or (ii) by such other time period established by the court presiding over such Action, as the case may be. In no event will this Section 10.12 be used, alone or together with any other provision of this Agreement, to require Seller to remedy any breach of any representation or warranty made by Seller herein. For

the avoidance of doubt, Seller shall not have the right hereunder to obtain an injunction, specific performance or other equitable relief to cause Purchaser to consummate the Closing unless and until (A) all of the conditions to Closing set forth in Section 7.1 and Section 7.2 have been satisfied, (B) Seller has delivered an irrevocable written notice to Purchaser certifying that it is ready, willing and able to consummate the Closing, and (C) Purchaser does not consummate the Closing within five (5) Business Days after its receipt of such written notice from Seller.

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

Section 10.14 Governing Law; Waiver of Jury Trial.

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

(b) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY AGREEMENT DISPUTE IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND THEREFORE EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY AGREEMENT DISPUTE. EACH OF THE PARTIES AGREES AND CONSENTS

THAT ANY SUCH AGREEMENT DISPUTE WILL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT THE PARTIES MAY FILE AN ORIGINAL COUNTERPART OF A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES TO THE IRREVOCABLE WAIVER OF THEIR RIGHT TO TRIAL BY JURY. EACH PARTY (I) CERTIFIES THAT NO ADVISOR OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF ANY AGREEMENT DISPUTE, SEEK TO ENFORCE THE FOREGOING WAIVER AND (II) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.14(b).

Section 10.15 No Right of Set Off.

(a) Purchaser, on its own behalf and on behalf of the Purchaser Group and its and their respective successors and permitted assigns, hereby reserves all rights of set-off, netting, offset, recoupment or similar rights that Purchaser, any member of the Purchaser Group or any of its or their respective successors and permitted assigns has or may have with respect to the payment of the Purchase Price or any other payments to be made by Purchaser pursuant to this Agreement or any other document or instrument delivered by Purchaser in connection herewith; provided that such rights in respect of the Mechanics Liens shall not be asserted against the Purchase Price.

(b) Seller, on its own behalf and on behalf of its Affiliates and its and their respective successors and permitted assigns, hereby waives any rights of set-off, netting, offset, recoupment or similar rights that such Seller, any of its Affiliates or any of its or their respective successors and permitted assigns has or may have with respect to any payments to be made by such Seller pursuant to this Agreement or any other document or instrument delivered by such Seller in connection herewith.

Section 10.16 Counterparts and PDF. This Agreement and any other Transaction Agreements referred to herein or therein, and any amendments hereto or thereto, may be executed in multiple counterparts, any one of which need not contain the signature of more than one party to such Transaction Agreement, but all such counterparts taken together will constitute one and the same instrument. Any counterpart, to the extent signed and delivered by means of a .PDF, DocuSign, or other electronic transmission, will be treated in all manner and respects as an original Contract and will be considered to have the same binding legal effects as if it were the original signed version of such Contract delivered in person. Minor variations in the form of the signature page to this Agreement or any Transaction Agreement, including footers from earlier versions of any such other document, will be disregarded in determining the effectiveness of such signature. At the request of any party to any Transaction Agreement, each other party to such Transaction Agreement will re-execute original forms of such Transaction Agreement and deliver them to all other parties. No party to any such Transaction Agreement will raise the use of a .PDF, DocuSign, or other electronic transmission to deliver a signature or the fact that any signature or Contract was transmitted or communicated through the use of PDF, DocuSign, or other electronic transmission as a defense to the formation of a Contract and each such party forever waives any such defense.

Section 10.17 Publicity. Neither Seller nor Purchaser shall issue any press release or public announcement concerning this Agreement or the Transactions without obtaining the prior written approval of the other Party (which approval will not be unreasonably conditioned, withheld, or delayed), unless, in the reasonable judgment of the applicable disclosing Party, disclosure is otherwise required by applicable Law or by the Bankruptcy Court with respect to filings to be made with the Bankruptcy Court in connection with this Agreement or by the applicable rules of any stock exchange on which Purchaser or Seller (or their respective Affiliates) lists securities; provided that the Party intending to make such release shall use its reasonable efforts consistent with such applicable Law or Bankruptcy Court requirement to consult with the other Party with respect to the contents of such release. However, a copy of this Agreement will be filed with the Bankruptcy Court. For the avoidance of doubt, the parties hereto acknowledge and agree that Purchaser and its Affiliates may provide general information about the Business and the subject matter of this Agreement in connection with Purchaser's or its Affiliates' fund raising, marketing, informational, reporting activities or efforts to obtain incentives from any Governmental Body, subject, in each case, to customary confidentiality obligations by the recipient of such information.

Section 10.18 Bulk Sales Laws. The Parties intend that pursuant to Section 363(f) of the Bankruptcy Code, the transfer of the Acquired Assets of the Debtors shall be free and clear of any Encumbrances in the Acquired Assets (including any Encumbrances claims arising out of any "bulk sales," "bulk transfers," or similar Laws), except Permitted Encumbrances, and the Parties shall take such steps as may be necessary or appropriate to so provide in the Sale Order. In furtherance of the foregoing, each Party hereby waives compliance by the Parties with any "bulk sales," "bulk transfers," or similar Laws in respect of the Transactions.

ARTICLE XI
ADDITIONAL DEFINITIONS AND INTERPRETIVE MATTERS

Section 11.1 Certain Definitions.

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

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

(c) "Affiliate" means, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person, and the term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause

the direction of the management, affairs and policies of such Person, whether through ownership of voting securities, by Contract or otherwise.

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

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

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

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

(h) "Applicable Law" means, with respect to any Person, any transnational, domestic or foreign federal, state, provincial, municipal or local law (statutory, common or otherwise, and including international conventions, protocols and treaties), act, statute, constitution, treaty, convention, ordinance, code, policy, rule, regulation, Order, or other similar requirement enacted, adopted, promulgated, enforced or applied by any Governmental Body that is binding upon or applicable to such Person or its properties, as amended unless expressly specified otherwise.

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

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

(k) "Avoidance Actions" means, collectively, any and all claims or Causes of Action arising under or pursuant to chapter 5 of the Bankruptcy Code or any other similar provision of Applicable Law.

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

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

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

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

(p) "Bidding Procedures" has the meaning set forth in the Bidding Procedures Order.

(q) "Bidding Procedures Order" means the Order (i) *Approving the Auction and Bidding Procedures, (ii) Approving Bidding Procedures and Bid Protections, (iii) Scheduling Certain Dates and Deadlines With Respect Thereto, (iv) Approving the Form and Manner of Notice Thereof, (v) Establishing Notice and Procedures for the Assumption And Assignment Of Contracts And Leases, (vi) Authorizing the Assumption and Assignment of Assumed Contracts, (vii) Authorizing the Sale Of Assets, and (viii) Granting Related Relief [Docket No. 120]*.

(r) "Business" means solely the business operations of Seller at the Hopkinsville Property, including the business of recycling spent lithium-ion batteries and manufacturing scrap into pCAM and battery-grade lithium carbonate, and/or including the use, ownership, or other exploitation of the Acquired Assets.

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

(t) "Business Employee" means each employee of Seller or its Affiliates.

(u) "Business Service Provider" means all service providers, contractors, suppliers and consultants that provide or have provided services to, for or on behalf of the Business.

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

(w) "Cash and Cash Equivalents" means all of Seller's cash (including checks and deposits in transit, demand deposits, money markets or similar accounts), checking account balances, marketable securities, certificates of deposits, time deposits, bankers' acceptances, and any cash equivalents whether on hand, in transit, in banks or other financial institutions, or otherwise held.

(x) "Confidentiality Agreement" means that certain Non-Disclosure Agreement, effective from April 27, 2026, by and between Seller and Purchaser.

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

(z) "Contract" means any contract, indenture, note, bond, lease, sublease, mortgage, agreement, guarantee, or other agreement that is binding upon a Person or its property, in each case, other than an invoice, a purchase order, service order, or sales order.

(aa) "Critical Vendor Avoidance Claims" means, collectively, any and all Avoidance Actions of Seller or its estate against vendors and suppliers that (1) are critical to the

Business, as determined by the Purchaser in its sole discretion, and (2) received payments from the Debtors in accordance with any order of the Bankruptcy Court approving the Debtors' critical vendors' motion; provided that any such vendors or suppliers shall be set forth on Schedule 11.1(aa), which Disclosure Schedule shall be delivered by Purchaser to Seller prior to the Closing;

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

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

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

(ee) "Documents" means, to the extent related to the Business, all of Seller's written files, documents, instruments, papers, books, reports, records, tapes, microfilms, photographs, letters, budgets, forecasts, plans, operating records, safety and environmental reports, data, studies, and documents, Tax Returns, ledgers, journals, customer lists, regulatory filings, plans, research materials, technical documentation (design specifications, engineering information, test results, logic manuals, processes, flow charts, etc.), user documentation (installation guides, user manuals, training materials, release notes, working papers, etc.), marketing documentation (sales brochures, flyers, pamphlets, web pages, etc.), and other similar materials, in each case whether or not in electronic form.

(ff) "DOE" means the United States Department of Energy.

(gg) "Employee Benefit Plan" means each "employee benefit plan" within the meaning of Section 3(3) of ERISA, each other deferred compensation, bonus or incentive compensation, pension, retiree medical, disability or life insurance plan, program, Contract, agreement or arrangement, each employment, severance, change-of-control and each other employee benefit or compensation plan, program, Contract, agreement or arrangement, in each case (i) that is maintained, sponsored, administered or contributed or required to be contributed to by Seller or any of its Subsidiaries for the benefit of Business Employees or former Business Employees, or (ii) with respect to which the Seller or its direct and indirect Subsidiaries has any Liability.

(hh) "Encumbrance" means any liens, claims, defenses (including rights of setoff and recoupment), and interests, in each case, in, on, or related to the Acquired Assets, including security interests or similar interests of whatever kind or nature, liens as defined in section 101(37) of the Bankruptcy Code, encumbrances, mortgages, deed of trust, conditional sales or other title retention agreements, pledges, deeds of trust, hypothecations, mechanics' and materialman's liens, assignments, preferences, debts, easements, charges, suits, licenses, options, profit sharing interest, rights of recovery, judgments, right of way, encroachment, right of first offer, right of first refusal, purchase, or repurchase right or option, orders and decrees of any court or foreign or domestic governmental entity, Taxes (including foreign, state, and local Taxes), licenses, covenants, restrictions, indentures, instruments, leases, options, off-sets, Causes of Action, contract rights and claims, to the fullest extent of the law, in each case, of any kind or nature in, on, or related to the Acquired Assets (including all "claims" as defined in section 101(5) of the Bankruptcy Code), known or unknown, whether prepetition or postpetition, secured or

unsecured, choate or inchoate, filed or unfiled, scheduled or unscheduled, perfected or unperfected, liquidated or unliquidated, noticed or unnoticed, recorded or unrecorded, contingent or non-contingent, material or non-material, statutory or non-statutory, matured or unmatured, legal or equitable, including any and all such liabilities, Causes of Action, contract rights and claims arising out of the Debtors' continued operations following the Closing Date.

(ii) "Environmental Condition" means (i) any pollution or contamination of the environment, nuisance, trespass, damage to the Hopkinsville Property or any other real property, personal property or natural resource or harm or alleged harm to human health or safety, or any other condition relating to the release, use, generation, treatment, storage, introduction, handling, processing, transportation or transfer of any Hazardous Materials occurring prior to the Closing Date by the Seller or any other Person related to the Business or the Acquired Assets, including the post-Closing migration or degradation of Hazardous Materials that exist prior to or as of the Closing Date that, in each case, is or may be in violation of or creates or may create Liability under any Environmental Law, whether or not at the time the facts and circumstances resulting in the condition occurred or were created were a violation of or created Liability under any Environmental Law; (ii) any noncompliance or alleged noncompliance with Environmental Laws related to the Business, the Acquired Assets or the Hopkinsville Property that occurred prior to or is continuing as of the Closing Date; and (iii) any matter set forth on Schedule 3.9, without regard, in each case, to any diligence conducted by the Purchaser or Knowledge of the Purchaser.

(jj) "Environmental Laws" means all Laws concerning or regulating pollution or protection of natural resources, the environment, or human or worker health and safety (to the extent human or worker health and safety relates to exposure to Hazardous Materials).

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

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

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

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

(oo) "Final Order" means a judgment or Order of the Bankruptcy Court (or any other court of competent jurisdiction) entered by the clerk of the Bankruptcy Court (or such other court) on the docket in the Chapter 11 Cases (or the docket of such other court), which is in full

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

(pp) "Fraud" means common law fraud with respect to the representations and warranties set forth in Article III or Article IV of this Agreement, as interpreted by Delaware courts applying Delaware law. For the avoidance of doubt, "Fraud" shall not include equitable fraud or any fraud claim based on constructive knowledge, recklessness, negligent misrepresentation or a similar theory.

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

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

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

(tt) "Government Contract" means any Contract (including any purchase, delivery, or task order, basic ordering agreement, pricing agreement, letter contract, grant, cooperative agreement, other transactional authority agreement, or change order) between the Seller, any Subsidiary of Seller, or any Joint Venture of which the Seller or any of its direct and indirect Subsidiaries is a member, on the one hand, and any Governmental Body or any prime contractor or subcontractor (at any tier) of any Governmental Body, on the other hand.

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

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

(ww) "Hopkinsville Property" has the meaning set forth in Schedule 3.5.

(xx) "Hopkinsville Grant Agreement" means that certain Grant Agreement, by and between Seller and the City of Hopkinsville, dated as of December 14, 2022, and recorded on December 15, 2022.

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

(zz) "Improvements" means buildings, structures, fixtures, building systems and equipment, and all components thereof, including the roof, foundation, load-bearing walls and other structural elements thereof, heating, ventilation, air conditioning, mechanical, electrical, plumbing and other building systems, environmental control, remediation and abatement systems, sewer, storm and waste water systems, irrigation and other water distribution systems, parking facilities, fire protection, security and surveillance systems, and telecommunications, computer, wiring and cable installations, utility installations and landscaping included in the Owned Real Property.

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

(bbb) "International Trade Laws" means any of the following: (a) any Laws concerning the importation of merchandise and other items (including technology, services, and software), including but not limited to those administered by U.S. Customs and Border Protection, (b) any Laws concerning the exportation or re-exportation of items (including technology, services, and software), including but not limited to those administered by the U.S. Department of Commerce or the U.S. Department of State, or (c) any economic sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC"), the U.S. State

Department, the United Nations, Canada, the European Union, the United Kingdom, or any other applicable economic sanctions (collectively referred to as "Sanctions").

(ccc) "Inventory" means all inventory (including finished goods, supplies, raw materials, work in progress, spare, replacement and component parts) maintained or held by, stored by or on behalf of, or in transit to, Seller or its direct and indirect Subsidiaries, including any such inventory (i) being held by customers of the Business pursuant to consignment arrangements, or (ii) being held by suppliers of the Business under tolling or similar arrangements, in each case, solely to the extent physically located at the Hopkinsville Property or any property leased by Seller.

(ddd) "IT Assets" means all hardware, computers, storage media, databases, applications, websites, software, servers, workstations, routers, hubs, switches, circuits, networks, computer network equipment or systems, data communications lines, and all other information technology equipment including parts of any of the foregoing such as firmware, screens, terminals, disks, cabling, related infrastructure, and other peripheral and associated electronic equipment and services that are owned, licensed, leased or controlled by Seller or any of its Affiliates, in each case, solely to the extent physically located at the Hopkinsville Property.

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

(fff) "KY Seller Mortgage" means the Commercial Real Estate Mortgage and Assignment of Leases, dated as of November 16, 2022, executed by Ascend Elements, Inc., for the benefit of Hopkinsville Industrial Foundation, Inc., and recorded on November 18, 2022, in the Christian County, Kentucky Clerk's Office, under Doc No. 10038904, at Book 1763 Page 419-431.

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

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

(iii) "Liability" means, as to any Person, any debt, adverse claim, liability, duty, responsibility, obligation, commitment, assessment, cost, expense, loss, expenditure, charge, fee, penalty, fine, contribution, or premium of any kind or nature whatsoever, whether known or unknown, asserted or unasserted, absolute or contingent, direct or indirect, accrued or unaccrued, liquidated or unliquidated, or due or to become due, and regardless of when sustained, incurred or asserted or when the relevant events occurred or circumstances existed.

(jjj) "Material Adverse Effect" means (x) a material adverse effect on the business, condition (financial or otherwise), or operations of the Business, Acquired Assets, and

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

(kkk) "Mechanics Liens" means each Mechanics Lien held and asserted by Purchaser against the Seller and/or the Hopkinsville Property.

(lll) "Offer Employee" has the meaning set forth in Section 6.4(a).

(mmm)"Order" means any order, injunction, judgment, decree, ruling, writ or award of a Governmental Body, including any order entered by the Bankruptcy Court in the Chapter 11 Cases (including the Sale Order).

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

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

(ppp) "Owned Real Property" has the meaning set forth in Section 3.5(a).

(qqq) "Permitted Encumbrances" means (i) Encumbrances for Taxes not yet due and payable, or that are being contested in good faith by appropriate proceedings and for which appropriate reserves have been established in accordance with GAAP, or the nonpayment of which is permitted or required by the Bankruptcy Code, (ii) easements, rights of way, restrictive covenants, encroachments, and similar non-monetary Encumbrances of record against any of the Acquired Assets, in each case, that do not, individually or in the aggregate, adversely affect the operation of the Acquired Assets and, in the case of the Owned Real Property, that do not, individually or in the aggregate, adversely affect the use or occupancy of such Owned Real Property as it relates to the operation of the Business, (iii) applicable zoning Laws, building codes, land use restrictions and other similar restrictions imposed by Law that (a) are not violated by the current use or occupancy of the applicable Owned Real Property as it relates to the operation of the Business, or (b) the violation of which would not reasonably be expected to adversely affect the use or occupancy of the applicable Owned Real Property as it relates to the operation of the Business, (iv) [*Reserved*], (v) non-exclusive licenses of Intellectual Property granted in Ordinary Course, (vi) any Encumbrances set forth on Schedule 11.1(qqq), (vii) the City of Hopkinsville Mortgage and Grant Agreement recorded on the Hopkinsville Property held by the City of Hopkinsville, KY, and the KY Seller Mortgage and Assignment of Leases recorded on the Hopkinsville Property held by Hopkinsville Industrial Foundation, Inc. (in each case, solely to the extent that the liens securing such mortgages are senior to or pari passu with the Mechanics Liens), (viii) solely prior to Closing, any Encumbrances that will be removed or released by operation of the Sale Order and (ix) matters that would be disclosed by an accurate survey or inspection of the Owned Real Property, in each case, that do not, individually or in the aggregate, adversely affect the use or occupancy of such Owned Real Property as it relates to the operation of the Business.

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

(sss) "Personal Information" means any data or information (i) that identifies, relates to, describes, is reasonably capable of being associated with, or would reasonably be linked, directly or indirectly, with a particular individual or household or (ii) that is otherwise subject to a Law relating to privacy or security of data or information (including such data or information that constitutes or is defined as "personal information" or "personal data" or other equivalent term under any such Law).

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

(uuu) "Pre-Closing Tax Period" means any Tax period ending on or before the Closing Date and the portion of any taxable period that does not end on the Closing Date through the end of the Closing Date.

(vvv) "Privacy Requirements" means (i) all applicable Laws concerning data protection, privacy, security and any processing of Personal Information; (ii) privacy policies published by Seller; and (iii) the privacy or data requirements of any Contracts, codes of conduct, or industry standards by which Seller is bound.

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

(xxx) "Purchaser Releasing Parties" has the meaning set forth in Section 6.11(b).

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

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

(aaaa) "Sale Order" means a Final Order of the Bankruptcy Court granting the Sale Motion thereunder and approving the terms of the Transactions free and clear of all liens, claims, encumbrances, and other interests pursuant to sections 105(a), 363, 365, 503, and 507 of the Bankruptcy Code, rules 2002 and 2004 of the Federal Rules of Bankruptcy Procedures, rules 40002-1(e) and 901301 of the Bankruptcy Local Rules for the Southern District of Texas, and the *Procedures for Complex Cases in the Southern District of Texas*, substantially in the form attached hereto as Exhibit A, which shall be, in form and substance, satisfactory to Purchaser.

(bbbb) "Security Breach" means any (i) unauthorized, accidental or unlawful access, storage, use, modification, transfer, disclosure, destruction, or any other processing of any Personal Information or IT Assets used or maintained by Seller (with respect to the Business) or a Subsidiary thereof; (ii) phishing or other cyberattack on such IT Assets that causes a monetary loss, business disruption to the access or use of such IT Assets by Seller , or a compromise to the security of such IT Assets or Personal Information; or (iii) any other act or omission that compromises the security, integrity or confidentiality of Personal Information or such IT Assets.

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

(dddd) "Seller Released Parties" has the meaning set forth in Section 6.11(b).

(eeee) "Silver Oak Agreement" means that certain Property Tax Consulting Service Agreement, dated May 13, 2026, by and between Seller and Silver Oak Advisors, LLC.

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

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

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

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

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

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

(llll) "Title Policies" has the meaning set forth in Section 6.14.

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

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

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

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

(qqqq) "Willful Breach" means an action or failure to act by one of the Parties hereto that constitutes a material breach of this Agreement, and such action was taken or such failure occurred with such party's knowledge or intention that such action or failure to act would reasonably be expected to constitute a material breach of this Agreement. Any failure by any Party to consummate the Closing within five (5) Business Days of when it is obligated to do so under the terms of this Agreement shall be deemed to be a Willful Breach by such Party.

Section 11.2 Index of Defined Terms.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[*Signature pages follow*.]

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

PURCHASER:

TURNER-KOKOSING JOINT VENTURE

By: Patrick D. Blake
Name: Patrick D. Blake
Title: Authorized Person

SELLER:

ASCEND ELEMENTS, INC.

By: Linh Austin
Linh Austin (Jun 1, 2026 13:51:00 PDT)
Name: Linh Austin
Title: Chief Executive Officer

EXHIBIT A

FORM OF SALE ORDER

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 THE DEBTORS' INTERESTS IN THE HOPKINSVILLE, KENTUCKY ASSETS FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES, (II) APPROVING THE ASSUMPTION AND ASSIGNMENT OF ASSOCIATED EXECUTORY CONTRACTS AND UNEXPIRED LEASES AND (III) GRANTING RELATED RELIEF

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

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

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

[Docket No. 88] and upon the *Order (A) Approving Bid Procedures (B) Authorizing Designation of a Stalking Horse Bidder, (C) Scheduling an Auction, Related Deadlines, and a Sale Hearing, and (D) Granting Related Relief* [Docket No. 120] (the "Bid Procedures Order"); and upon that certain Asset Purchase Agreement, dated as of June 2, 2026 (together with all other agreements and other instruments deliverable thereunder or attached thereto or referenced therein, and as may be amended, modified, or supplemented, the "Asset Purchase Agreement"), a copy of which is attached hereto as **Exhibit 1** and the terms of which are incorporated herein, by which Turner-Kokosing Joint Venture (together with any and all of its Designees, the "Purchaser") submitted the highest or best bid for the Acquired Assets as determined by the Debtors (such offer, the "Successful Bid"); and the Debtors having held an Auction naming the Purchaser the Successful Bidder for the Acquired Assets, and the Court having conducted a hearing to consider certain relief requested in the Motion on June 3, 2026 (the "Sale Hearing"), at which time all interested parties were offered an opportunity to be heard with respect to the Motion; and the Court having reviewed and considered (i) the Motion; (ii) the Asset Purchase Agreement; (iii) the Bid Procedures Order, (iv) the First Day Declaration, (v) the O'Hara Bid Procedures Declaration, (vi) *Declaration of Michael O'Hara in Support of Entry of an Order (I) Approving the Sale of the Debtors' Interests in the Hopkinsville, Kentucky Assets Free and Clear of Liens, Claims, Interests and Encumbrances, (II) Approving the Assumption and Assignment of Associated Executory Contracts and Unexpired Leases, and (III) Granting Related Relief* [Docket No. 450], (vii) the *Declaration of Adam Titus in Support of Entry of an Order (I) Approving the Sale of the Debtors' Interests in the Hopkinsville, Kentucky Assets Free and Clear of Liens, Claims, Interests and Encumbrances, (II) Approving the Assumption and Assignment of Associated Executory Contracts and Unexpired Leases, and (III) Granting Related Relief* [Docket No. 449], ((vi) – (vii) collectively, the "Sale

Declarations"), (viii) the *Notice of Auction for the Sale of the Debtors' Hopkinsville Assets Free and Clear of Any and All Claims, Interests, and Encumbrances* [Docket No. 392] (the "Sale and Auction Notice"), (ix) the *Notice of Successful Bidder and Backup Bidder* [Docket No. 407] (the "Notice of Successful Bidder"), (x) the *First Notice to Contract Parties to Potentially Assumed Executory Contracts and Unexpired Leases* [Docket No. 240] (the "Assumption and Assignment Notice"), and (xi) the arguments of counsel made, and the evidence proffered or adduced at the Sale Hearing; and the Court having reviewed and considered any and all objections and responses thereto, and any such objections and responses being resolved or overruled; and after due deliberation the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interest of the Debtors, their estates and their creditors; and the Debtors having demonstrated good, sufficient and sound business justifications for the relief granted herein;

IT IS HEREBY FOUND AND DETERMINED THAT:[3]

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

[3] The findings and conclusions of law set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") 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. The Court's findings also shall include any oral findings of fact and conclusions of law made by the Court during the Sale Hearing.

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

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

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

D. Bid Procedures. On April 17, 2026, the Court entered the Bid Procedures Order, which among other things, (i) approved the Bid Procedures (as defined in the Motion), (ii) authorized the Debtors, in their discretion to modify the Bid Procedures in accordance with the Bid Procedures Order, Bid Procedures, and applicable law to promote a value-maximizing Sale Process, (iii) permitted potential bidders to bid for some and not all of the Debtors' assets; (iv) scheduled (a) an auction in connection with a sale of the Assets (the "Auction") if the Debtors received one or more timely and acceptable Qualified Bids, (b) a hearing to consider approval of one or more Sale Transactions as necessary, and (c) the objection deadline for approval of one or more Sale Transactions (the "Sale Objection Deadline"); (iv) approved the form and manner of Sale and Auction Notice; (v) approved the form and manner of notice of the Successful Bidder; (vi) approved procedures (the "Assumption and Assignment Procedures") for the assumption and assignment of certain executory contracts and unexpired leases in connection with a Sale Transaction (collectively, the "Assigned Contracts"); and (vii) approved the form and manner of

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

E. Notice and Opportunity to Be Heard. As evidenced by the certificates of service filed with respect to the Bid Procedures Order [Docket Nos. 110, 134, and 145], the Assumption and Assignment Notice, the *Notice of Auction for the Sale of the Debtors' Hopkinsville Assets Free and Clear of Any and All Claims, Interests, and Encumbrances; Auction Scheduled for May 26, 2026, at 12:00 P.M.* [Docket No. 395] (the "Auction Notice"), the Notice of Successful Bidder, and as demonstrated by the evidence presented at the Sale Hearing, the Debtors have complied with the Bid Procedures and otherwise have provided proper, timely, adequate and sufficient notice of, and a fair and reasonable opportunity to object and be heard with respect to, the Motion, the Bid Procedures, the Auction, the Sale Hearings, the Assumption and Assignment Procedures, and the sale of the Acquired Assets pursuant to the Asset Purchase Agreement (the "Sale Transaction") free and clear of all liens (as defined in section 101(37) of the Bankruptcy Code), claims (as defined in section 101(5) of the Bankruptcy Code), Encumbrances, and other interests within the meaning of section 363(f) of the Bankruptcy Code, and the assumption and assignment of the Assigned Contracts to be assumed and assigned to Purchaser at Closing pursuant to this Order and the terms of the Asset Purchase Agreement, in accordance

with sections 102(1), 363 and 365 of the Bankruptcy Code, Bankruptcy Rules 2002(a), 4001, 6004, 6006, 9007 and 9014, and the Bid Procedures Order, to all persons and entities entitled to such notice, and all other persons and entities as directed by the Court. Such notice was good, sufficient and appropriate under the circumstances and reasonably calculated to reach and apprise all holders of 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. With respect to parties in interest whose identities could not be reasonably ascertained by the Debtors, the Publication Notice (as defined in the Bid Procedures Order) published in *The New York Times* on April 16, 2026 [Docket No. 127], and April 23, 2026 [Docket No. 134], was sufficient and reasonably calculated to provide notice to such parties under the circumstances. No other or further notice of, opportunity to object to, or other opportunity to be heard regarding the Motion, the Sale Hearing, the Asset Purchase Agreement, the Sale, the Sale Transactions, the transactions contemplated by the Asset Purchase Agreement, or of the entry of this Sale Order is necessary or shall be required

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

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

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

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

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

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

J. Fair Consideration. The consideration to be paid by the Purchaser under the Asset Purchase Agreement constitutes (i) fair and reasonable consideration for the Acquired Assets; and (ii) reasonably equivalent value and fair consideration under the Bankruptcy Code, the Uniform Fraudulent Transfer Act, the Uniform Fraudulent Conveyance Act, the Uniform Voidable Transactions Act and other laws of the United States, any state, territory, possession thereof or the District of Columbia. Pursuant to the Bid Procedures Order and applicable law, including sections 363(b) and 363(k) of the Bankruptcy Code, the Purchaser is authorized to acquire the Acquired Assets for the Purchase Price, including, for the avoidance of doubt, the Credit Bid Amount. The Purchase Price 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 Credit Bid Amount pursuant to section 363(k) of the Bankruptcy Code.

K. Sufficiency of Marketing. As demonstrated by the Motion, the O'Hara Bid Procedures Declaration, the Sale Declarations, and the evidence set forth at the Sale Hearing, the Debtors and their professionals adequately marketed the Debtors' assets and conducted the marketing and Sale Process as set forth in and in accordance with the Motion and the Bid Procedures and conducted a fair and open Sale Process. The Sale Process and the Bid Procedures were non-collusive, duly noticed, and provided a full, fair, and reasonable opportunity for any entity to make an offer to purchase some or all of the assets, and the process conducted by the Debtors pursuant to the Bid Procedures Order obtained the highest or otherwise best value for the Acquired Assets, and there was no other transaction available or presented that would have yielded a higher or better result. Based upon the record of these proceedings, all creditors and other parties in interest and all prospective Bidders have been afforded a reasonable and fair opportunity to bid for the Acquired Assets and/or file an objection to the Sale Transaction. The marketing process undertaken by the Debtors and their professionals and each of their respective agents and other representatives with respect to the Acquired Assets has been adequate and appropriate and reasonably calculated to maximize the value for the benefit of all of the Debtors' stakeholders in all respects.

L. Free and Clear Sale. The Debtors may sell the Acquired Assets free and clear of all Encumbrances (unless otherwise expressly assumed under, or expressly permitted by, the Asset Purchase Agreement), because, in each case, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. Any holders of Encumbrances that objected to the Sale Transaction or the Motion and that have an Encumbrance on the Acquired

Assets could be compelled in a legal or equitable proceeding to accept money in satisfaction of such Encumbrance pursuant to section 363(f)(5), or fall within one or more of the other subsections of section 363(f) and, therefore, are adequately protected by having their Encumbrances on the Acquired Assets attach solely to the proceeds of the Sale Transaction ultimately attributable to the sale of the property on which such holders have Encumbrances, in the same order of priority, and with the same validity, force and effect that such Encumbrances had prior to the consummation of the Sale Transaction, subject to any rights, claims or defenses of the Debtors and their estates. Any holders of Encumbrances that did not object, or that withdrew their objections, to the Motion or the Sale Transaction, are deemed to have consented to the sale of the Acquired Assets free and clear of their respective Encumbrances on the Acquired Assets pursuant to section 363(f)(2) of the Bankruptcy Code.

M. Purchaser's Reliance on Free and Clear Sale. The Purchaser would not have entered into the Asset Purchase Agreement and would not consummate the Sale Transaction or the other transactions contemplated thereby if the sale of the Acquired Assets were not free and clear of all Encumbrances, or if the Purchaser or the Purchaser's Stakeholders (as defined below) would, or in the future could, be liable for any such Encumbrances. A sale of the Acquired Assets other than one free and clear of all Encumbrances would adversely impact the Debtors, their estates, and their creditors, and would yield substantially less value for the Acquired Assets and the Debtors' estates, with less certainty than provided by the Sale Transaction. The total consideration to be provided under the Asset Purchase Agreement reflects the Purchaser's reliance on this Order to provide it, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, with title to and

possession of the Acquired Assets free and clear of all Encumbrances, including, without limitation, any potential derivative, vicarious, transferee or successor liability Encumbrances.

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

O. Good Faith. The Debtors, the Purchaser and their respective counsel and other advisors have negotiated and entered into the Asset Purchase Agreement and each of the transactions contemplated thereby in good faith, without collusion and from arms'-length bargaining positions. The Purchaser is a good-faith purchaser and is acting in good faith within

the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to all of the protections afforded thereby. The Debtors were free to deal with any other party interested in acquiring all or some of the Acquired Assets. Neither the Debtors nor the Purchaser have engaged in any conduct that would cause or permit the Sale Transaction, the Asset Purchase Agreement or any of the transactions contemplated thereby to be avoided or subject to monetary damages under section 363(n) of the Bankruptcy Code, or that would prevent the application of sections 363(m) or 364(e) of the Bankruptcy Code. The Purchaser has not violated section 363(n) of the Bankruptcy Code by any action or inaction. Specifically, the Purchaser has not acted in a collusive manner with any person or entity, and the Purchaser's participation in and bidding at the Auction were not controlled by any agreement among bidders. All payments to be made by the Purchaser and all agreements entered into by the Purchaser and the Debtors and any other Seller under the Asset Purchase Agreement in connection with the Sale Transaction have been disclosed and are appropriate. The Asset Purchase Agreement was not entered into for the purpose of hindering, delaying or defrauding creditors under laws of the United States, any state, territory, possession or the District of Columbia.

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

Q. Assumption and Assignment of Contracts. The assumption and assignment of the Assigned Contracts are an integral part of the Sale Transaction, are in the best interests of the Debtors and their estates and represent the valid and reasonable exercise of the Debtors' sound business judgment. Specifically, the assumption and assignment of the Assigned Contracts,

including in connection with Paragraph 19 of this Order, (i) are necessary to sell the Acquired Assets to the Purchaser as contemplated by the Asset Purchase Agreement, (ii) allow the Debtors to sell the Acquired Assets to the Purchaser as a going concern, (iii) limit the losses suffered by the Contract/Lease Counterparties to the Assigned Contracts and (iv) maximize the recoveries of other creditors of the Debtors by avoiding claims against the Debtors' estates that would arise from the Debtors' rejection of the Assigned Contracts. Any Contract/Lease Counterparty to any Assigned Contract that has not actually filed with the Court and served on the Objection Notice Parties (as defined in the Bid Procedures) an objection to the assumption and/or assignment of such Assigned Contract as of the applicable date specified in the Bid Procedures Order (as such date may have been modified or extended in accordance with the terms of the Bid Procedures Order) is deemed to have consented to the assumption and assignment of the Assigned Contract.

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

shall be assigned and transferred to, and remain in full force and effect for the benefit of, the Purchaser, notwithstanding any provision in the Assigned Contracts or other restrictions prohibiting their assignment or transfer.

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

T. Validity of the Sale Transaction. The consummation of the Sale Transaction is legal, valid and properly authorized under all applicable provisions of the Bankruptcy Code, including sections 105(a), 363(b), 363(f), 363(m), 365(b) and 365(f) and all of the applicable requirements of such sections have been complied with in all respects in connection with the Sale Transaction. As of the Closing, the transfer of the Acquired Assets to the Purchaser will be a legal, valid and effective transfer of the Acquired Assets, including the Assigned Contracts, and will vest the Purchaser with all right, title and interest of the Debtors in and to the Acquired Assets free and clear of all Encumbrances. The Debtors have full corporate or other applicable authority to execute the Asset Purchase Agreement and all other documents contemplated thereby, and the Sale Transaction has been duly and validly authorized by all necessary corporate action of the Debtors. Upon entry of this Order, other than any consents identified in the Asset Purchase Agreement, no consent or approval from any other person, entity or legal authority is required to consummate the Sale Transaction.

U. No *Sub Rosa* Plan. Neither the Sale Transaction nor the Asset Purchase Agreement impermissibly restructures the rights of any of the Debtors' creditors or impermissibly dictates the terms of a liquidating plan of reorganization of the Debtors. Neither the Sale Transaction nor the Asset Purchase Agreement constitutes a *sub rosa* or *de facto* plan of reorganization or liquidation, as neither proposes to (i) impair or restructure any existing debt of,

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

V. No Stay of Order. Time is of the essence to implement the Asset Purchase Agreement and consummate the Sale Transaction. The Sale Transaction must be approved and consummated promptly in order to preserve the value of the Acquired Assets and to ensure the Debtors' compliance with their obligations under their post-petition financing agreements. The Debtors have demonstrated compelling circumstances and sound business justifications for the immediate approval and consummation of the Sale Transaction as contemplated by the Asset Purchase Agreement. Notwithstanding the provisions of Bankruptcy Rules 6004(h), 6006(d), 7062 or any applicable provisions of the Local Rules, this Order shall not be stayed and shall be effective and enforceable immediately upon entry.

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

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

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

Licenses" are the licenses and underlying intellectual property identified on Exhibit []. The Purchaser and WPI reserve all rights (but are not under any obligation) to negotiate an assignment of the WPI Licenses on a consensual basis, and any assignment of the WPI Licenses 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 Asset Purchase Agreement or this Sale Order to the contrary, nothing in the Asset Purchase Agreement or this Order approves the direct or indirect assignment or transfer of the WPI Licenses and the underlying intellectual property and the WPI Licenses shall not be Assigned Contracts unless and until such assumption and assignment is approved by further order of the Court. Notwithstanding anything herein to the contrary, including Paragraph 19 of this Order, the Designation Period and Designation Assignment Period shall not apply to the WPI Licenses. Instead, by June 26, 2026 either (i) Purchaser and WPI shall agree to a consensual disposition of the WPI Licenses, which consent may be granted or withheld by either party in its sole discretion, or (ii) Purchaser shall provide written notification to WPI counsel (email being sufficient) that it intends to pursue assignment of the WPI Licenses over WPI's objection; provided that such date may be extended in the sole discretion of WPI, with such extension in writing (email from WPI or its counsel shall be sufficient). If the parties do not agree to a consensual disposition of the WPI Licenses and the Purchaser does not advise WPI of its intent to pursue a contested assignment of the WPI Licenses by such date (as may extended by WPI), the WPI Licenses shall be deemed terminated. If the Purchaser elects to pursue a contested assignment, the parties agree to a hearing on the contested assignment as soon as reasonably practicable after the date of notification.

3. .

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

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

6. Debtors' Effectuation of Asset Purchase Agreement. The Debtors are hereby authorized and empowered to cause to be executed and filed such statements, instruments, releases and other documents with respect to the Acquired Assets that are necessary or appropriate to effectuate the Asset Purchase Agreement, the Sale Transaction or this Order, including, as

applicable, amended and restated certificates or articles of incorporation and by-laws or certificates or articles of amendment, and all such other actions, filings or recordings as may be required under appropriate provisions of the applicable laws of all applicable governmental units or as any of the officers of the Debtors may determine are necessary or appropriate.

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

8. Free and Clear Sale. Except to the extent specifically provided in this Order or the Asset Purchase Agreement, upon the Closing Date, the Debtors shall be, and hereby are, authorized and empowered, pursuant to sections 105, 363(b) and 363(f) of the Bankruptcy Code, to sell and transfer to the Purchaser the Acquired Assets. The sale and transfer of the Acquired Assets to the Purchaser shall vest the Purchaser with all right, title and interest of the Debtor in and to the Acquired Assets free and clear of any and all Encumbrances of any person or entity, with all such Encumbrances to attach to the net proceeds of the Sale Transaction ultimately attributable to the sale of the property in which such holders have a Encumbrance, in the same order of priority, and with the same validity, force and effect that such Encumbrances had prior to the consummation of the Sale Transaction, subject to any rights, claims or defenses of the Debtors or their estates. Following the Closing, no holder of any Encumbrance on any of the Acquired

Assets shall interfere with the Purchaser's use or enjoyment of any of the Acquired Assets based on or related to such Encumbrance or any actions that the Debtors have taken or may take in their Chapter 11 Cases.

9. [RESERVED].

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

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

assignments, consents or other instruments in any jurisdiction to record the release, discharge and termination of Encumbrances on the Acquired Assets pursuant to the terms of this Order.

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

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

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

15. No Successor Liability. The Purchaser and the Purchaser's Stakeholders are not and shall not be (a) deemed a "successor" in any respect to any of the Debtors or any of their estates as a result of the consummation of the Sale Transaction or any other event occurring in the Debtors' Chapter 11 Cases under any theory of law or equity; (b) deemed to have, *de facto* or otherwise, merged or consolidated with or into any of the Debtors or any of their estates; (c) deemed to be an alter ego of or have a common identity with the any of the Debtors; (d) deemed

to have a continuity of enterprise with any of the Debtors; or (e) deemed to be a continuation or substantial continuation of any of the Debtors or any enterprise of any of the Debtors, including (with respect to clauses (a) through (e) of this paragraph) within the meaning of any foreign, federal, state or local revenue, pension, ERISA, tax, labor, employment, environmental, products liability or other law, doctrine, rule or regulation (including any filing requirements under any such laws, rules or regulations) with respect to the Debtors' liability under such law, doctrine, rule or regulation.

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

Assets having any liability or responsibility to any of the Debtors except as is expressly set forth in the Asset Purchase Agreement. Pursuant to the Asset Purchase Agreement, the Purchaser shall maintain certain rights to modify the Acquired Assets and Excluded Liabilities in accordance with the terms thereunder, including any Assigned Contracts; *provided that* the Purchaser may not remove any Purchased Asset or add any Excluded Liability if such asset is otherwise restricted pursuant to the Chapter 11 Cases.

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

18. Assumption and Assignment of Contracts. Under sections 105(a), 363 and 365 of the Bankruptcy Code, and subject to paragraph 19 of this Order, and conditioned upon the closing of the Sale Transaction, the Debtors' assumption and assignment of the Assigned Contracts

to the Purchaser free and clear of all Encumbrances pursuant to the terms of the Asset Purchase Agreement, as modified by the terms of any amendments thereto, is hereby approved, and the requirements of sections 365(b)(1), 365(f)(2) and 365(b)(3) (to the extent applicable) of the Bankruptcy Code with respect thereto are hereby deemed satisfied; provided, that, there shall be no assumption without a simultaneous assignment thereof to the Purchaser. The Assigned Contracts shall be deemed assumed by the Seller and assigned to the Purchaser effective as of the Closing Date. Upon the Debtors' assumption and assignment of the Assigned Contracts to the Purchaser, each applicable Contract/Lease Counterparty shall be forever barred, estopped and permanently enjoined from raising or asserting against the Debtors, the Purchaser or their respective property, any assignment fee, default, breach, claim, pecuniary loss, liability, or obligation (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, known or unknown, liquidated or unliquidated senior or subordinate) arising under or out of, in connection with or in any way related to, the Assigned Contracts existing as of the Closing Date or arising by reason of the Closing. Upon the Debtors' assumption and assignment of the Assigned Contracts to the Purchaser, the Purchaser shall be fully and irrevocably vested with all right, title and interest of the Debtors in and to the Assigned Contracts and, pursuant to section 365(k) of the Bankruptcy Code, the Debtors shall be relieved from any further liability with respect to the Assigned Contracts. The Debtors' assumption and assignment of the Assigned Contracts to the Purchaser shall not constitute a default under or a termination of any Assigned Contract.

19. Designation Rights for Contracts and Schedules to Asset Purchase Agreement. Notwithstanding anything in the APA, from and after the Closing Date until thirty (30) days thereafter (which may be extended by thirty (30) additional days by the filing of a notice

on the Court's docket indicating such extension of the Designation Period) (the "Designation Period"), the Purchaser may, in its sole discretion, (a) designate any Contract, including any previously designated Excluded Contract, as an Assigned Contract and cause its assumption and assignment to the Purchaser or its Designee, effective on and as of the Closing, and (b) designate any Contract, including any previously designated Assigned Contract, as an Excluded Contract effective on and as of the Closing, in each case by filing a notice of such designation pursuant to this Order and serving such notice on the applicable Contract/Lease Counterparties. In addition, from and after the Closing Date until 120 days thereafter (the "Designee Assignment Period"), the Purchaser may assign any Assigned Contract to one or more of its Designees by providing notice of such assignment to such Designee and the applicable Contract/Lease Counterparty. Any Contract designated for assumption and assignment pursuant to this paragraph during the Designation Period or Designee Assignment Period shall be treated as an Assigned Contract in all respects under this Order. The Debtors shall take reasonable steps to facilitate any filings in connection with the Contracts designated as Excluded Contracts or Assigned Contracts in connection with Closing, as well as during the Designation Period and Designee Assignment Period; provided however, during the Designation Period, the Debtors shall not seek to reject any Contract or Excluded Contract without the consent of the Purchaser. In addition, the Debtors shall, upon request of the Purchaser, file a motion seeking to reject any Contract or Excluded Contract, effective as of the Closing (or such other date as agreed to by the Debtors and Purchaser). The Purchaser and Debtors shall amend Schedules 1.1(a) and 1.2(d) of the Asset Purchase Agreement to reflect any designations made pursuant to this paragraph 19 of the Order.

20. Payment of Certain Indebtedness.[4] Upon Closing, any M&A Transaction Fee payable to Jefferies LLC and Completion Fee payable to Alvarez & Marsal North America, LLC shall be paid or otherwise satisfied, escrowed or segregated from the proceeds of the Sale Transaction pursuant to and as set forth in the Bid Procedures Order.

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

22. Cure Objections. Except as provided herein, all objections to the Debtors' calculation of Cure Costs with respect to any of the Assigned Contracts (each such objection, a

[4] Capitalized terms used in paragraph 20 but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Bid Procedures Order.

"Cure Objection") have been overruled, withdrawn, waived, settled or otherwise resolved. Any Cure Objections as to applicable Cure Costs that have not been resolved by the parties may be heard at a later date as set by the Court. The pendency of a dispute relating to a particular Assigned Contract shall not prevent or delay the assumption or assignment of any other Assigned Contract or the closing of the Sale Transaction.

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

24. Adequate Assurance. The Purchaser has provided adequate assurance of future performance under the Assigned Contracts within the meaning of sections 365(b)(1)(C), 365(f)(2)(B) and 365(b)(3) (to the extent applicable) of the Bankruptcy Code. Any Assumption and Assignment Objections (as defined in the Bid Procedures) that have not been withdrawn, waived or settled and all reservations of rights included in such objections are hereby overruled on

the merits with prejudice. All other requirements and conditions under sections 363 and 365 of the Bankruptcy Code for the Debtors' assumption and assignment of the Assigned Contracts to the Purchaser have been satisfied in accordance with the terms of this Order.

25. Anti-Assignment Provisions Unenforceable. No section or provision of any Assigned Contract that purports to (a) prohibit, restrict or condition the assignment of an Assigned Contract, including, but not limited to, the conditioning of such assignment on the consent of any Contract/Lease Counterparty to such Assigned Contract; (b) authorize the termination, cancellation or modification of an Assigned Contract based on the filing of a bankruptcy case, the financial condition of the Debtors or similar circumstances; (c) declare a breach or default as a result of a change in control in respect of the Debtors; (d) prevent the Purchaser from assigning such Assigned Contract to one or more of its Designees; or (e) provide for additional payments, profit sharing, penalties, conditions, renewals, extensions, charges or other financial accommodations in favor of the Contract/Lease Counterparty to an Assigned Contract, or modification of any term or condition upon the assignment of an Assigned Contract or the occurrence of the conditions set forth in subsection (b) above, shall have any force or effect, and any such section or provision constitutes an unenforceable anti-assignment provision under section 365(f) of the Bankruptcy Code and/or is otherwise unenforceable under section 365(e) of the Bankruptcy Code.

26. Direction to Contract Counterparties. All Contract/Lease Counterparties to Contracts assigned to the Purchaser in accordance with the terms of this Order and the Asset Purchase Agreement shall cooperate with, and expeditiously execute and deliver upon, any reasonable request of the Purchaser for any instruments, applications, consents or other documents that may be required or requested by any governmental unit or other public or quasi-public

authority or other party to effectuate the applicable transfers in connection with the Debtors' assumption and assignment of the Assigned Contracts to the Purchaser or the Purchaser's assignment to its Designee(s) pursuant to this Order, as applicable.

27. Licenses and Permits. To the extent provided in the Asset Purchase Agreement and available under applicable law, the Purchaser shall be authorized, as of the Closing Date, to operate under any license, permit, registration and any other governmental authorization or approval of the Debtors with respect to the Acquired Assets and the Contracts, and all such licenses, permits, registrations and governmental authorizations and approvals are deemed to have been, and hereby are, directed to be transferred to the Purchaser as of the Closing Date. To the extent any license or permit necessary for the operation of the Acquired Assets is determined not to be an executory contract that may be assumed and assigned under section 365 of the Bankruptcy Code, the Purchaser shall apply for and obtain any necessary license or permit promptly after the Closing Date, and such license or permit of the Debtors shall remain in place for the Purchaser's benefit until a new license or permit is obtained. To the extent provided by section 525 of the Bankruptcy Code, no governmental unit may revoke or suspend any permit or license relating to the operation of the Acquired Assets sold, transferred or conveyed to the Purchaser on account of the filing or pendency of these Chapter 11 Cases or the consummation of the Sale Transaction.

28. Good-Faith Purchaser. The Purchaser is a good-faith purchaser within the meaning of section 363(m) of the Bankruptcy Code and is entitled to all of the protections afforded thereby. Pursuant to section 363(m) of the Bankruptcy Code, if any or all of the provisions of this Order are hereafter reversed, modified or vacated by a subsequent order of this Court or any other court, such reversal, modification or vacatur shall not affect the validity or enforceability of any sale, transfer or assignment under the Asset Purchase Agreement or any obligation or right granted

pursuant to the terms of this Order (unless stayed pending appeal prior to the Closing Date) and, notwithstanding any reversal, modification or vacatur, any sale, transfer or assignment under the Asset Purchase Agreement, shall be governed in all respects by the original provisions of this Order or the Asset Purchase Agreement, as applicable.

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

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

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

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

Agreement shall inure to the benefit of the Debtors, their estates, their creditors, the Purchaser, and their respective successors and assigns.

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

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

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

36. No Stay of Order. Notwithstanding Bankruptcy Rules 6004(h), 6006(d), 7062 and any applicable Local Rules, this Order shall not be stayed and shall be effective and enforceable immediately upon entry. The provisions of this Order shall be self-executing. Time

is of the essence in implementing the Asset Purchase Agreement and closing the Sale Transaction. Any party objecting to this Order or any of the relief granted herein must exercise due diligence in filing an appeal and obtaining a stay prior to the Closing of the Sale Transaction or risk its appeal being foreclosed as moot.

37. Governing Terms. To the extent this Order is inconsistent with any prior order or pleading in these Chapter 11 Cases, the terms of this Order shall govern. To the extent there is any inconsistency between the terms of this Order and the terms of the Sale Documents (defined below), the terms of this Order shall govern.

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

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

40. Government Treatment. Notwithstanding any provision to the contrary in this Order, the Asset Purchase Agreement, or any other sale document (collectively, "Sale Documents"), nothing shall: (i) release, nullify, preclude, or enjoin the enforcement of any police or regulatory power or any liability that any entity would be subject to as the owner, lessor, lessee, or operator of property that such entity owns, operates, or leases after the date of entry of this Order; (ii) affect the setoff or recoupment rights of the United States; (iii) confer exclusive

jurisdiction to the Bankruptcy Court except to the extent set forth in 28 U.S.C. § 1334 (as limited by any other provisions of the United States Code); (iv) authorize the assumption, assignment, sale, or other transfer of any federal or state (a) grants, (b) grant funds, (c) property acquired or improved with grant funds, (d) contracts, (e) agreements, (f) awards, (g) task orders, (h) property, (i) intellectual property, (j) patents, (k) leases, (l) certifications, (m) applications, (n) registrations, (o) billing numbers, (p) national provider identifiers, (q) provider transaction access numbers, (r) licenses, (s) permits, (t) covenants, (u) inventory, (v) guarantees, (w) indemnifications, (x) data, (y) records, or (z) any other interests belonging to the United States or any state (collectively, "Governmental Interests") without compliance by the Debtors and the Purchaser with all terms of the Governmental Interests and with all applicable non-bankruptcy law; (v) be interpreted to set cure amounts or to require the United States or any state to novate, approve, or otherwise consent to the sale, assumption, assignment, or other transfer of any Governmental Interests; (vi) expand the scope of 11 U.S.C.§ 525; (vii) waive, alter, or otherwise limit the United States' rights with respect to any licenses in the Acquired Assets arising pursuant to applicable non-bankruptcy law, including any rights arising under the Bayh-Dole Act (35 U.S.C. 201 *et seq*.); or (viii) affect the Debtors' or Purchaser's requirements to comply with applicable non-bankruptcy law, including, but not limited to, the Bayh-Dole Act (35 U.S.C. 201 *et seq*.).

41. DOE Specific Language. Notwithstanding anything in this Order, the Asset Purchase Agreement, or any other sale document (collectively, the "Sale Documents"), nothing shall affect or impair the rights or interests of the U.S. Department of Energy with respect to any property funded, purchased, improved or developed with the Assistance Award DE-MS0000002 (the "Funded Property") pursuant to the terms and conditions of the Assistance Award DE-MS0000002, and the Funded Property shall continue to be subject to all the terms, conditions, and

restrictions imposed by Assistance Award DE-MS0000002, its terms and conditions and 2 C.F. R. Parts 200 and 910. Any future disposition of or other action concerning the Funded Property shall comply with the Assistance Award DE-MS0000002's terms and conditions and all applicable non-bankruptcy law. Notwithstanding the foregoing, all of Purchaser's rights are reserved with respect to the foregoing, including the Assistance Award DE-MS0000002.

42. Subcontractors. Notwithstanding anything to the contrary herein, including the conveyance of the Acquired Assets to Purchaser free and clear of any and all liens, claims, interests and Encumbrances of any person or entity, (a) nothing in this Order shall waive, release, discharge, enjoin, bar, estop, extinguish or otherwise affect any valid claims, rights, remedies, defenses or causes of action held by Subcontractors[5] arising under their applicable agreements with the Purchaser or otherwise and (b) all Subcontractors shall be entitled to commence and/or continue all actions or proceedings outside of these chapter 11 proceedings other than against the Debtors with respect to such claims, rights, remedies, defenses or causes of action and nothing in this Order shall bar, estop or enjoin such action, in each case subject to any claims, rights, remedies, defenses or causes of action that may be asserted by Purchaser with respect thereto.

43. H2O Innovation Treatment. The Debtors and H2O Innovation Inc. ("H2O") are parties to certain prepetition 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"). For the avoidance of doubt, nothing in this Order or the Asset Purchase Agreement shall be a finding or determination as to whether the Debtors own any of the H2O Systems, and all rights of the Debtors,

[5] The term "Subcontractors" includes all subcontractors hired by TKJV with respect to the Property, including (but not limited to) RMF Nooter, LLC, United Electric Company, Inc., F.E. Moran, Inc. Fire Protection, Murphy Company Mechanical Contractors and Engineers, Miner, Ltd., d/b/a Great Lakes Dock & Door and SteelFab, Inc.

H2O, and the Purchaser as to ownership of the H2O Systems are reserved. Further, nothing in this Order or the Asset Purchase Agreement assumes or assumes and assigns any H2O Agreement to the Purchaser, and all rights of any party concerning any proposed assumption or assumption and assignment, or rejection of any of the H2O Agreements are expressly reserved and preserved. To the extent it is later determined that this Order approved the sale of any H2O System to the Purchaser, H2O's lien(s), if any, shall attach to the proceeds of the Sale Transaction in the same order and priority as they existed prior to the entry of this Order. 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.

44. Assumption and Payoff of Mortgage and Certain Property Taxes - City of Hopkinsville, Kentucky. Notwithstanding anything to the contrary in this Order or the Asset Purchase Agreement, Purchaser assumes and will pay in full and final satisfaction, that certain Grant Agreement dated November 15, 2022, in favor of the City of Hopkinsville, Kentucky (the "City of Hopkinsville"), secured by a mortgage on the Hopkinsville Property recorded on December 15, 2022 (the "Hopkinsville Mortgage"), in accordance with the following provisions approved by the Court: (1) the Hopkinsville Mortgage is deemed to be a perfected, secured lien and mortgage, in the amount of $3,717,000, that is secured by Lot 1 of the Hopkinsville Property, and that is junior only to the real property taxes set forth in this paragraph; (2) interest will begin to accrue on the Hopkinsville Mortgage at the rate of 3.86% upon the Closing of the Sale Transaction to Purchaser; (3) Purchaser shall pay the Hopkinsville Mortgage plus interest on the earlier to occur of (x) 90 days following the Closing of the Sale Transaction to Purchaser, and (y)

the closing of a subsequent sale between Purchaser and a subsequent buyer; and (4) the Closing of the Sale Transaction to Purchaser shall occur on or before five business days following entry of this Order. Notwithstanding anything to the contrary in this Order or the Asset Purchase Agreement, Purchaser assumes and will pay in full and final satisfaction, the taxes owed to the City of Hopkinsville, in accordance with the following terms approved by the Court: (1) the 2025 real property taxes in the amount of $511,312.50, which are deemed to be perfected, senior liens secured by the entire Hopkinsville Property (inclusive of Lot 1 and Lot 2) (the "Real Property Taxes"); (2) the 2025 personal property taxes in the amount of $1,267.11, which are deemed to be perfected, senior liens secured by all personal property located at the Hopkinsville Property (together with the Real Property Taxes, the "2025 City Taxes"); (3) on the Closing of the Sale Transaction to the Purchaser, the City of Hopkinsville will receive full payment of the 2025 City Taxes; (4) the 2026 and subsequent real and personal property taxes assessed by the City of Hopkinsville shall be paid in the ordinary course of business (but subject to any right of appeal or reassessment),[6] and are deemed to be perfected, senior liens against the entire Hopkinsville Property (inclusive of Lot 1 and Lot 2), and all personal property located at the Hopkinsville Property, as applicable. So long as the Closing of the Sale Transaction to Purchaser occurs, Turner-Kokosing Joint Venture shall be responsible for the payment of the Hopkinsville Mortgage and the 2025 City Taxes as provided herein regardless of whether or not the actual Purchaser is a designee of Turner-Kokosing Joint Venture. Upon payment of the Hopkinsville Mortgage and the 2025 City Taxes pursuant to the terms of this Order, any and all mortgages, liens or other encumbrances for the Hopkinsville Mortgage and the 2025 City Taxes against any of the Acquired Assets shall be released by the City of Hopkinsville (or the appropriate agency or lien holder). The

[6] All rights, arguments, and defenses of the parties are fully preserved regarding any such appeal or reassessment.

lien priorities set forth above for the Hopkinsville Mortgage, the 2025 City Taxes, and the 2026 taxes assessed by the City of Hopkinsville are binding on the Purchaser, other mechanics' lienholders, the Debtors, and the Debtors' estates regardless of whether or not the Closing of the Sale Transaction to the Purchaser occurs.

45. Assumption and Payoff of Foundation Mortgage. Purchaser agrees to assume the Company's obligations under that certain Commercial Term Promissory Note in the amount of $2,856,000 issued on November 16, 2022 in favor of Hopkinsville Industrial Foundation, Inc. (collaterally assigned to Planters Bank, Inc. on November 16, 2022) (the "Foundation Note") secured by that certain Commercial Real Estate Mortgage and Assignment of Leases by and between Ascend Elements, Inc. and Hopkinsville Industrial Foundation, Inc., dated November 16, 2022, recorded on November 18, 2022, and collaterally assigned on November 16, 2022 to Planters Bank, Inc. (such collateral assignment recorded on November 18, 2022), on Lot 2 of the Division Plat of Hopkinsville Industrial Foundation, Inc. Property, recorded in Plat Cabinet 12, Slide 519 in the Christian County, Kentucky Clerk's Records in Christian County, Kentucky, together with such related rights and interests as granted in such mortgage (the "Foundation Mortgage"). At the Closing, Purchaser shall pay the Hopkinsville Industrial Foundation, Inc. (together with Planters Bank, Inc., the "Foundation Parties") or its designee $515,000 in full and final satisfaction of the obligations under the Foundation Note and settlement of disputes between the Foundation Parties and the Purchaser (the "Settlement Payment"); *provided that*, at Closing, the Debtors shall be authorized to use up to $40,000 of proceeds from Sale Transaction fund the Settlement Payment; *provided, further, however*, if the Closing does not occur within 21 days of the Sale Hearing, then (i) Purchaser shall pay current all accrued interest and fees due under the Foundation Note within three (3) business days following

Purchaser's receipt of an invoice from the Foundation Parties stating the amount due and (ii) Purchaser shall pay all principal due under the terms of the Foundation Note and any remaining interest and fees accrued under the Foundation Note, in full, at Closing. Further, on or before the Closing, the Purchaser and the Foundation Parties shall enter into a settlement agreement that contains mutual releases of all claims of the Purchaser and the Foundation Parties against each other related to the Foundation Note and Foundation Mortgage, and a release of the Foundation Mortgage upon receipt of the Settlement Payment and shall be otherwise consistent with this paragraph 45.

46. Provision Regarding Committee's Rights. Notwithstanding anything in this Order or Section 6.11 of the Asset Purchase Agreement, the rights of the Committee (and any subsequent litigation trustee) to object to the claims asserted by the Purchaser in its Proof of Claim (as may be amended, modified, supplemented or restated) are expressly preserved. Moreover, notwithstanding anything to the contrary in the Asset Purchase Agreement, at Closing, Purchaser agrees to waive an additional $40,000,000 of its secured claim against the Debtors' estates. For the avoidance of doubt, when combined with the amount credit bid under the Asset Purchase Agreement, upon Closing, the Purchaser's claim against the Debtors' estates shall be reduced by a total amount of $50,000,000.

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

Signed: June ____, 2026

CHRISTOPHER LOPEZ
UNITED STATES BANKRUPTCY JUDGE

United States Bankruptcy Court
Southern District of Texas
ENTERED
June 30, 2026
Nathan Ochsner, Clerk

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

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

ORDER (I)(A) ESTABLISHING PROCEDURES FOR THE SALE, TRANSFER, AND ABANDONMENT OF DE MINIMIS ASSETS, FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES; (B) APPROVING PROCEDURES TO ASSUME AND ASSIGN EXECUTORY CONTRACTS AND UNEXPIRED LEASES; AND (II) GRANTING RELATED RELIEF

[Relates to Dkt. No. 523]

Upon the motion (the "Motion")[2] of the above-captioned debtors and debtors in possession (the "Debtors") seeking entry of an order (this "Order") pursuant to sections 105(a), 363, 365, and 554(a) of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002, 6004, 6006, 6007, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 9013-1 of the Local Bankruptcy Rules for the Southern District of Texas (the "Local Rules"), establishing procedures for the sale, transfer, and abandonment of De Minimis Assets, approving procedures to assume and assign executory contracts and unexpired leases in connection with De Minimis Transactions, and granting related relief; and this Court having found that it has jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having

[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) Ascend Elements US, LLC 8309. The location of the Debtors' service address is: 133 Flanders Road, Westborough, MA 01581.

[2] Capitalized terms used and not defined herein have the meanings ascribed to them in the Motion.

found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and that no other notice need be provided; and this Court having reviewed the Motion; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Debtors are authorized pursuant to sections 363, 554(a), and 105(a) of the Bankruptcy Code and Bankruptcy Rule 6004 to sell, transfer, or abandon De Minimis Assets in accordance with the following procedures (the "De Minimis Asset Procedures"):

a. The De Minimis Asset Procedures shall apply to: (a) any individual De Minimis Transaction or series of related De Minimis Transactions to a single buyer with a selling price of $50,000 or less; and (b) any individual De Minimis Transaction or series of related De Minimis Transactions to a single buyer with a selling price of more than $50,000 but less than or equal to $1,000,000. Transactions with a selling price of $50,000 or less shall be subject to a three (3)-day objection period, and transactions with a selling price of more than $50,000 but less than or equal to $1,000,000 shall be subject to a five (5)-day objection period.

i. Any De Minimis Transaction shall be free and clear of all liens, claims, interests, and encumbrances, with such liens, claims, interests, and encumbrances attaching only to the sale proceeds with the same validity, extent, and priority as immediately prior to the transaction.

ii. Each purchaser in a De Minimis Transaction shall be afforded the protections of section 363(m) of the Bankruptcy Code as a good-faith purchaser.

iii. For any De Minimis Transaction, the Debtors may consummate the transaction without further order of the Court, subject to the notice procedures set forth herein, if the Debtors determine, in the reasonable exercise of their business judgment, that the transaction is in the best interests of their estates.

iv. Before closing any De Minimis Transaction, the Debtors shall provide a written notice of the transaction by e-mail (each, a "De Minimis Transaction Notice") to the United States Trustee and counsel to the Committee, all known parties holding or asserting liens, claims, encumbrances, or other interests in the assets being sold or transferred, and any other party requesting notice pursuant to Bankruptcy Rule 2002 (collectively, the "Notice Parties"), for the avoidance of doubt, , H2O Innovation, Inc. and any Governmental Unit or regulatory agency that may have an interest in any De Minimis Transaction shall be considered a Notice Party.

v. Each De Minimis Transaction Notice shall identify the assets being sold, transferred, or otherwise disposed of, the proposed purchaser, the purchase price, any other significant economic terms, including any fees or expenses to be paid in connection with the transaction, and a description of any permits, licenses, or known environmental condition related to the assets.

vi. Notice Parties shall have **three (3) days** after transmission of a De Minimis Transaction Notice for any De Minimis Transaction with a selling price of **$50,000 or less**, and **five (5) days** after transmission of a De Minimis Transaction Notice for any De Minimis Transaction with a selling price of **more than $50,000**, to file and serve any objection. If any material economic term is amended after transmission of the notice and before the applicable objection deadline, the Debtors shall serve a revised notice, and the applicable objection deadline shall be extended by an additional two (2) days.

vii. If no objection to a De Minimis Transaction is timely filed, the Debtors may immediately consummate the transaction. The Debtors may also consummate a De Minimis Transaction before the expiration of the objection period if they obtain written consent from the Notice Parties.

viii. Any objection to a De Minimis Transaction must be in writing and state the basis for the objection. If a timely objection is filed and not withdrawn or consensually resolved within three days after filing, the Debtors shall schedule a hearing to consider the unresolved objection on an expedited basis, and the transaction may be consummated if the objection is overruled, withdrawn, or otherwise resolved.

2. If the Debtors determine, in their reasonable business judgment, that a sale of any remaining asset cannot be consummated at a value greater than the reasonably estimated cost of liquidating, removing, storing, or otherwise disposing of that asset, the Debtors may abandon such asset without further order of the Court; provided that any abandoned assets with an aggregate value greater than $50,000 or with any known environmental conditions shall be

subject to notice in accordance with the De Minimis Asset Procedures. Before abandoning any asset that may contain personal or confidential information, the Debtors shall remove or safeguard such information to the extent reasonably practicable.

3. The Debtors shall provide a written report to the Court, the United States Trustee, counsel to the Committee, and parties requesting notice under Bankruptcy Rule 2002 no later than thirty days after the end of each calendar quarter, beginning with the first full quarter after entry of this Order, describing any De Minimis Transactions and abandonments consummated during the preceding quarter.

4. No timely objection to a De Minimis Transaction following service of the applicable De Minimis Transaction Notice shall be deemed consent to such transaction within the meaning of section 363(f)(2) of the Bankruptcy Code.

5. Transactions consummated pursuant to this Order shall be binding upon and govern the acts of all entities including, without limitation, filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other persons and entities 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. Each such governmental agency or department is directed to accept this Order as sole and sufficient evidence of the transfer of title contemplated hereby.

6. Nothing contained herein shall prejudice the Debtors' right to seek Court authorization for the sale, transfer, or abandonment of any asset of the Debtors by separate motion.

7. Nothing in the Motion or this Order or the relief granted herein shall be construed as (a) authority to reject any executory contract or unexpired lease, or as a request for the same; (b) an admission as to the validity, priority, or character of any claim or other asserted right or

obligation, or a waiver or other limitation on the Debtors' ability to contest the same on any ground permitted by bankruptcy or applicable nonbankruptcy law; (c) a promise to pay any claim or other obligation; (d) granting third-party beneficiary status or bestowing any additional rights on any third party; or (e) otherwise enforceable by any third party except as expressly set forth herein. For the avoidance of doubt, approval of this Order does not itself assume or assign any specific executory contract or unexpired lease except in accordance with the Assignment Procedures.

8. The Debtors are authorized to take all actions necessary or appropriate to effectuate the relief granted pursuant to this Order, including paying those reasonable and necessary fees and expenses incurred in the sale, transfer, or abandonment of De Minimis Assets, including commission fees to agents, brokers, auctioneers, and liquidators.

9. Notwithstanding anything to the contrary herein, any De Minimis Transaction with an insider (as defined in section 101 of the Bankruptcy Code), regardless of the purchase price, shall be subject to a five (5)-day objection period and the notice procedures applicable to De Minimis Transactions with a selling price of more than $50,000.

10. The Debtors are authorized, but not required, pursuant to section 365 of the Bankruptcy Code and Bankruptcy Rule 6006, to assume and assign executory contracts and unexpired leases in connection with De Minimis Transactions in accordance with the following procedures (the "Assignment Procedures"): the Debtors may file and serve an Assignment Notice identifying the contracts or leases to be assumed and assigned, the counterparties, the proposed assignee, the effective date, the proposed cure amount, and the deadlines and procedures for objecting; the Debtors shall serve the Assignment Notice on the affected counterparties, the proposed assignee, the United States Trustee, counsel to the official committee of unsecured creditors, and any party requesting notice under Bankruptcy Rule 2002; and, if requested, the Debtors shall provide evidence of adequate assurance of future

performance as soon as reasonably practicable, with any objection based on adequate assurance extended for five days after transmission of such evidence.

11. Objections to a proposed assumption and assignment, including objections to cure amounts and adequate assurance of future performance, must be filed and served within five days after service of the Assignment Notice. If no objection is timely filed, the applicable contract or lease may be assumed and assigned as of the date set forth in the Assignment Notice, the cure amount shall be binding, and counterparties shall be barred from objecting to the assumption and assignment, cure amount, or adequate assurance. If an objection is timely filed and not withdrawn or resolved within three days after filing, the Debtors shall schedule a hearing on an expedited basis; provided that, if an objection relates solely to cure, the Debtors may assume and assign the applicable agreement so long as the undisputed cure amount is paid and cash is reserved for the disputed portion.

12. The Debtors may remove any contract or lease from an Assignment Notice at any time before the effective date. Subject to and conditioned upon the occurrence of the applicable closing and except as otherwise provided in this Order, any contract or lease assigned pursuant to the Assignment Procedures shall be transferred free and clear of all liens, claims, interests, and encumbrances, with all rights and defenses preserved.

13. Notwithstanding any other provision of this Order, no sale, transfer or assignment of any rights and interests of the Debtors in any federal license or authorization issued by the Federal Communications Commission ("FCC") shall take place prior to the issuance of FCC regulatory approval for such sale, transfer or assignment pursuant to the Communications Act of 1934, as amended, and the rules and regulations promulgated under such statutes. The FCC's rights and powers to take any action pursuant to its regulatory authority, including, but not limited to, imposing any regulatory conditions on such sales, transfers and assignments and setting any regulatory fines or forfeitures, are fully preserved,

and nothing herein shall proscribe or constrain the FCC's exercise of such power or authority to the extent provided by law.

14. Notice of the Motion satisfies the requirements of Bankruptcy Rule 6004(a)

15. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon entry.

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

17. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Signed: June 30, 2026

Christopher Lopez
United States Bankruptcy Judge

United States Bankruptcy Court
Southern District of Texas
ENTERED
June 30, 2026
Nathan Ochsner, Clerk

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

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

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

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

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

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

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

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

IT IS HEREBY FOUND AND DETERMINED THAT:[3]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Signed: June 30, 2026

Christopher Lopez
United States Bankruptcy Judge

THIS IS NOT A SOLICITATION OF AN ACCEPTANCE OR REJECTION OF THE FOLLOWING COMBINED CHAPTER 11 DISCLOSURE STATEMENT AND PLAN. ACCEPTANCES OR REJECTIONS MAY NOT BE SOLICITED UNTIL THIS COMBINED DISCLOSURE STATEMENT AND PLAN HAS BEEN PROVISIONALLY APPROVED BY THE BANKRUPTCY COURT.

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)

COMBINED DISCLOSURE STATEMENT AND
JOINT PLAN OF LIQUIDATION FOR ASCEND ELEMENTS, INC., *ET AL.*

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Counsel to the Debtors and Debtors in Possession

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

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DISCLAIMER

THE DEBTORS ARE PROVIDING THE INFORMATION IN THIS COMBINED DISCLOSURE STATEMENT AND PLAN TO CERTAIN HOLDERS OF CLAIMS FOR PURPOSES OF SOLICITING VOTES TO ACCEPT OR REJECT THIS COMBINED DISCLOSURE STATEMENT AND PLAN. NOTHING IN THIS COMBINED DISCLOSURE STATEMENT AND PLAN MAY BE RELIED UPON OR USED BY ANY ENTITY FOR ANY OTHER PURPOSE. PRIOR TO DECIDING WHETHER AND HOW TO VOTE ON THE PLAN, EACH HOLDER ENTITLED TO VOTE SHOULD CAREFULLY CONSIDER ALL OF THE INFORMATION IN THIS COMBINED DISCLOSURE STATEMENT AND PLAN, INCLUDING THE RISK FACTORS DESCRIBED IN ARTICLE XVI HEREIN.

THIS COMBINED DISCLOSURE STATEMENT AND PLAN HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF TITLE 11 OF THE UNITED STATES CODE AND BANKRUPTCY RULE 3016(B) AND IS NOT NECESSARILY IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER SIMILAR LAWS.

THE CONTENTS OF THIS COMBINED DISCLOSURE STATEMENT AND PLAN SHOULD NOT BE CONSTRUED AS LEGAL, FINANCIAL, SECURITIES, TAX, OR BUSINESS ADVICE. THE DEBTORS URGE EACH HOLDER OF A CLAIM OR INTEREST TO CONSULT WITH ITS OWN ADVISORS WITH RESPECT TO ANY LEGAL, FINANCIAL, SECURITIES, TAX, OR BUSINESS ADVICE IN REVIEWING THIS COMBINED DISCLOSURE STATEMENT AND PLAN AND ALL OF THE ACTIONS NECESSARY TO EFFECTUATE THE PLAN. FURTHERMORE, THE BANKRUPTCY COURT'S APPROVAL OF THE ADEQUACY OF THE INFORMATION CONTAINED IN THIS COMBINED DISCLOSURE STATEMENT AND PLAN DOES NOT CONSTITUTE THE BANKRUPTCY COURT'S APPROVAL OF THE PLAN.

THIS COMBINED DISCLOSURE STATEMENT AND PLAN WAS NOT FILED WITH THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE AUTHORITY AND NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE AUTHORITY HAS PASSED UPON THE ACCURACY OR ADEQUACY OF THIS COMBINED DISCLOSURE STATEMENT AND PLAN OR UPON THE MERITS OF THE PLAN.

THIS COMBINED DISCLOSURE STATEMENT AND PLAN DOES NOT CONSTITUTE, AND MAY NOT BE CONSTRUED AS, AN ADMISSION OF FACT, LIABILITY, STIPULATION, OR WAIVER. THE GUC TRUSTEE MAY SEEK TO INVESTIGATE, FILE, AND PROSECUTE CLAIMS AND MAY OBJECT TO CLAIMS AFTER THE CONFIRMATION OR EFFECTIVE DATE OF THE PLAN IRRESPECTIVE OF WHETHER THIS COMBINED DISCLOSURE STATEMENT AND PLAN IDENTIFIES ANY SUCH CLAIMS OR OBJECTIONS TO CLAIMS.

THE DEBTORS ARE MAKING THE STATEMENTS AND PROVIDING THE FINANCIAL INFORMATION CONTAINED IN THIS COMBINED DISCLOSURE STATEMENT AND PLAN AS OF THE DATE HEREOF, UNLESS OTHERWISE SPECIFICALLY NOTED. ALTHOUGH THE DEBTORS MAY SUBSEQUENTLY UPDATE THE INFORMATION IN THIS COMBINED DISCLOSURE STATEMENT AND PLAN, THE DEBTORS HAVE NO AFFIRMATIVE DUTY TO DO SO, AND EXPRESSLY DISCLAIM ANY DUTY TO PUBLICLY UPDATE ANY FORWARD-LOOKING STATEMENTS, WHETHER AS A RESULT OF NEW INFORMATION, FUTURE EVENTS, OR OTHERWISE. HOLDERS OF CLAIMS AND INTERESTS REVIEWING THIS COMBINED DISCLOSURE STATEMENT AND PLAN SHOULD NOT INFER THAT, AT THE TIME OF THEIR REVIEW, THE FACTS SET FORTH HEREIN HAVE NOT CHANGED SINCE THIS

COMBINED DISCLOSURE STATEMENT AND PLAN WAS FILED. INFORMATION CONTAINED HEREIN IS SUBJECT TO COMPLETION OR AMENDMENT. THE DEBTORS RESERVE THE RIGHT TO FILE AN AMENDED COMBINED DISCLOSURE STATEMENT AND PLAN FROM TIME TO TIME.

FACTUAL INFORMATION CONTAINED IN THIS COMBINED DISCLOSURE STATEMENT AND PLAN IS THE REPRESENTATION OF THE DEBTORS ONLY AND NOT OF THEIR ATTORNEYS, ACCOUNTANTS, OR OTHER PROFESSIONALS. THE FINANCIAL INFORMATION CONTAINED HEREIN HAS NOT BEEN AUDITED BY A CERTIFIED PUBLIC ACCOUNTANT AND HAS NOT NECESSARILY BEEN PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. EXCEPT WHERE OTHERWISE SPECIFICALLY NOTED, THE DEBTORS DO NOT REPRESENT OR WARRANT THAT THE INFORMATION CONTAINED HEREIN OR ATTACHED HERETO IS WITHOUT ANY MATERIAL INACCURACY OR OMISSION.

ALL FORWARD-LOOKING STATEMENTS CONTAINED HEREIN OR OTHERWISE MADE BY THE DEBTORS INVOLVE MATERIAL RISKS AND UNCERTAINTIES AND ARE SUBJECT TO CHANGE BASED ON NUMEROUS FACTORS, INCLUDING FACTORS THAT ARE BEYOND THE DEBTORS' CONTROL. ACCORDINGLY, THE DEBTORS' FUTURE PERFORMANCE AND FINANCIAL RESULTS MAY DIFFER MATERIALLY FROM THOSE EXPRESSED OR IMPLIED IN ANY SUCH FORWARD-LOOKING STATEMENTS. SUCH FACTORS INCLUDE, BUT ARE NOT LIMITED TO, THOSE DESCRIBED IN THIS COMBINED DISCLOSURE STATEMENT AND PLAN. THE DEBTORS DO NOT INTEND TO UPDATE OR REVISE THEIR FORWARD-LOOKING STATEMENTS EVEN IF EXPERIENCE OR FUTURE CHANGES MAKE IT CLEAR THAT ANY PROJECTED RESULTS EXPRESSED OR IMPLIED THEREIN WILL NOT BE REALIZED.

ANY PROJECTED RECOVERIES TO CREDITORS SET FORTH IN THIS COMBINED DISCLOSURE STATEMENT AND PLAN ARE BASED UPON THE ANALYSES PERFORMED BY THE DEBTORS AND THEIR ADVISORS. ALTHOUGH THE DEBTORS AND THEIR ADVISORS HAVE MADE EVERY EFFORT TO VERIFY THE ACCURACY OF THE INFORMATION PRESENTED HEREIN, THE DEBTORS AND THEIR ADVISORS CANNOT MAKE ANY REPRESENTATIONS OR WARRANTIES REGARDING THE ACCURACY OF THIS INFORMATION.

CONFIRMATION AND CONSUMMATION OF THIS COMBINED DISCLOSURE STATEMENT AND PLAN ARE SUBJECT TO CERTAIN MATERIAL CONDITIONS PRECEDENT DESCRIBED IN ARTICLE IX OF THIS COMBINED DISCLOSURE STATEMENT AND PLAN. THERE IS NO ASSURANCE THAT THIS COMBINED DISCLOSURE STATEMENT AND PLAN WILL BE CONFIRMED OR, IF CONFIRMED, THAT SUCH MATERIAL CONDITIONS PRECEDENT WILL BE SATISFIED OR WAIVED. YOU ARE ENCOURAGED TO READ THIS COMBINED DISCLOSURE STATEMENT AND PLAN IN ITS ENTIRETY, INCLUDING, BUT NOT LIMITED TO, ARTICLE XVI OF THIS COMBINED DISCLOSURE STATEMENT AND PLAN ENTITLED "CERTAIN RISK FACTORS TO BE CONSIDERED BEFORE VOTING," BEFORE SUBMITTING YOUR BALLOT TO VOTE TO ACCEPT OR REJECT THIS COMBINED DISCLOSURE STATEMENT AND PLAN.

THE DEBTORS HAVE NOT AUTHORIZED ANY ENTITY TO GIVE ANY INFORMATION ABOUT OR CONCERNING THIS COMBINED DISCLOSURE STATEMENT AND PLAN OTHER THAN THAT WHICH IS CONTAINED IN THIS COMBINED DISCLOSURE STATEMENT AND PLAN. THE DEBTORS HAVE NOT AUTHORIZED ANY REPRESENTATIONS CONCERNING THE DEBTORS OR THE

VALUE OF THEIR PROPERTY OTHER THAN AS SET FORTH IN THIS COMBINED DISCLOSURE STATEMENT AND PLAN.

IF THIS COMBINED DISCLOSURE STATEMENT AND PLAN IS CONFIRMED BY THE BANKRUPTCY COURT AND THE EFFECTIVE DATE OCCURS, ALL HOLDERS OF CLAIMS AND INTERESTS (INCLUDING THOSE HOLDERS OF CLAIMS OR INTERESTS WHO DO NOT SUBMIT BALLOTS TO ACCEPT OR REJECT THIS COMBINED DISCLOSURE STATEMENT AND PLAN, OR WHO ARE NOT ENTITLED TO VOTE ON THIS COMBINED DISCLOSURE STATEMENT AND PLAN) WILL BE BOUND BY THE TERMS OF THIS COMBINED DISCLOSURE STATEMENT AND PLAN AND ANY TRANSACTIONS CONTEMPLATED THEREBY.

INTRODUCTION[2]

Ascend Elements, Inc. and Ascend Elements US, LLC (collectively, the "***Debtors***"), as debtors and debtors-in-possession in the above-captioned chapter 11 cases pending before the Bankruptcy Court, hereby propose this Combined Disclosure Statement and Joint Plan of Liquidation (together with any amendments, supplements, and exhibits thereto, the "***Disclosure Statement***," the "***Plan***," or the "***Combined Disclosure Statement and Plan***," as applicable) for the liquidation of the Debtors' remaining assets and resolution of the outstanding Claims against and Interests in the Debtors. Other agreements and documents supplementing this Plan have been, or will be, filed with the Bankruptcy Court and will be available for review prior to the Voting Deadline. Capitalized terms used in the Combined Disclosure Statement and Plan and not otherwise defined have the meanings ascribed to such terms in Article I.

Prior to the Petition Date, the Debtors were engaged in recovering critical minerals from used lithium-ion batteries and battery manufacturing scrap and processing those materials into Black Mass, lithium carbonate, precursor cathode active material, and related products for the electric vehicle battery supply chain. The Debtors commenced these chapter 11 cases to preserve liquidity, stabilize operations, and conduct an expedited, orderly sale process for their assets.

This Combined Disclosure Statement and Plan contains, among other things, a discussion of the Debtors' history, battery recycling and critical materials businesses, properties, operations, the Chapter 11 Cases, assets, liabilities, risk factors, summary and analysis of the Plan, and certain other related matters.

The Debtors have requested that the Bankruptcy Court schedule the Confirmation Hearing for **August 17, 2026 at 1:00 p.m. (prevailing Central Time), subject to the Court's availability**. At the Confirmation Hearing, the Bankruptcy Court will determine whether the Plan has been accepted by the requisite number of Holders of Claims, and whether the other standards for Confirmation of the Plan have been satisfied. Once commenced, the Confirmation Hearing may be adjourned or continued by announcement in open court without any other further notice.

ALL HOLDERS OF CLAIMS AGAINST THE DEBTORS ARE ENCOURAGED TO READ THIS COMBINED DISCLOSURE STATEMENT AND PLAN IN ITS ENTIRETY, AND TO CONSULT WITH AN ATTORNEY, BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. SUBJECT TO CERTAIN RESTRICTIONS AND REQUIREMENTS SET FORTH IN SECTION 1127 OF THE BANKRUPTCY CODE, BANKRUPTCY RULE 3019, AND IN THE PLAN, THE DEBTORS RESERVE THE RIGHT TO ALTER, AMEND, MODIFY, REVOKE OR WITHDRAW THE PLAN, OR ANY PART THEREOF, PRIOR TO ITS SUBSTANTIAL CONSUMMATION.

As demonstrated in the analysis attached hereto as Exhibit A (the "Liquidation Analysis"), the Debtors believe the plan is feasible, adequately funded, and provides an opportunity for superior recoveries for creditors compared to a chapter 7 liquidation. **The Debtors support confirmation of the Plan and, as further set forth herein, urge all holders of claims whose votes are being solicited to vote to accept the Plan**

[2] Capitalized terms used but not defined in this Introduction shall have the meanings ascribed to such terms below.

ARTICLE I.
DEFINITIONS AND RULES OF INTERPRETATION

A. DEFINITIONS

"***A&M***" means Alvarez & Marsal North America, LLC, in its capacity as restructuring advisor to the Debtors and employer of the Chief Restructuring Officer.

"***Administrative Claim***" means a Claim for costs and expenses of administration of the Chapter 11 Cases arising on or prior to the Effective Date and allowed pursuant to section 503(b) of the Bankruptcy Code and entitled to priority under sections 507(a)(2), 507(b), or 1114(e)(2) of the Bankruptcy Code, including: (i) the actual and necessary costs and expenses incurred on or after the Petition Date until and including the Effective Date of preserving the Estates; (ii) Allowed Professional Fee Claims; and (iii) all fees and charges assessed against the Estates pursuant to section 1930 of chapter 123 of title 28 of the United States Code.

"***Administrative Claims Bar Date***" means the deadline by which all requests for payment of Administrative Claims (excluding Professional Fee Claims and Section 503(b)(9) Claims) must be filed and served on the Debtors and the Committee, which shall be thirty (30) days after the Effective Date.

"***Affiliate***" has the meaning set forth in section 101(2) of the Bankruptcy Code.

"***Allowed***" means, with respect to any Claim, all or that portion, as applicable, of any Claim against any Debtor that (i) has been listed in the Schedules (as such Schedules may be amended by the Debtors from time to time) as liquidated in amount and not "disputed" or "contingent," and for which no contrary or superseding Proof of Claim has been timely Filed or that the Debtors, the Committee, or the GUC Trustee does not timely object to in accordance with the terms of the Plan, (ii) has been expressly allowed by Final Order or under the Plan, (iii) has been compromised, settled or otherwise resolved pursuant to the terms of the Plan, the Bankruptcy Rules, the Local Rules, or another Final Order of the Bankruptcy Court, or (iv) is evidenced by a Proof of Claim Filed by the Bar Date (or for which Claim under the Plan, the Bankruptcy Code, the Bar Date Order, or another Final Order of the Bankruptcy Court states that a Proof of Claim or request for payment is not and shall not be required to be Filed) that the Debtors, the Committee, the GUC Trustee, or any other party in interest do not timely object to in accordance with the terms of the Plan; *provided*, *however*, that Claims allowed solely for the purpose of voting to accept or reject the Plan shall not be considered "Allowed" for any other purpose under the Plan or otherwise, except if and to the extent otherwise determined to be Allowed as provided herein. Unless otherwise specified under the Plan, under the Bankruptcy Code, by order of the Bankruptcy Court or as otherwise agreed by the Debtors, the Committee, or the GUC Trustee, Allowed Claims shall not, for any purpose under the Plan, include any interest, costs, fees, or charges on such Claims from and after the Petition Date, and no Claim of any Entity subject to section 502(d) of the Bankruptcy Code shall be deemed Allowed unless and until such Entity pays in full the amount that it owes such Debtor or the GUC Trust, as applicable. Any Claim that has been or is hereafter listed in the Schedules as contingent, unliquidated, or disputed, and for which no Proof of Claim is or has been timely Filed, is not considered Allowed and shall be expunged without further action by the Debtors, the Committee, or the GUC Trustee and without further notice to any party or action, approval, or order of the Bankruptcy Court. For the avoidance of doubt, (i) a Proof of Claim Filed after the Bar Date shall not be Allowed for any purposes whatsoever absent entry of a Final Order allowing such late-Filed Claim, and (ii) a Claim that is disputed shall not become an Allowed Claim unless as otherwise provided for in the Plan. "***Allow***" and "***Allowing***" shall have correlative meanings.

"***APA***" means, as applicable, any one of the Poland/IP APA, Hopkinsville APA, Covington APA, or any other asset purchase agreement approved by the Bankruptcy Court in connection with the sale process in these Chapter 11 Cases.

"***APAs***" means, collectively, the Poland/IP APA, Hopkinsville APA, and Covington APA.

"***Apex 0 Facility***" means the Debtors' Covington, Georgia battery recycling and processing facility.

"***Apex 1 Facility***" means the Debtors' Hopkinsville, Kentucky battery materials manufacturing facility, comprising an approximately 500,000-square-foot facility designed for commercial-scale lithium carbonate and precursor cathode active material production.

"***Apex 2***" means the Debtors' development-stage lithium carbonate and precursor cathode active material production project in Opole, Poland, intended to use Black Mass generated by the Poland Joint Venture.

"***Ascend Elements***" means Ascend Elements, Inc., a chapter 11 debtor in the Chapter 11 Cases.

"***Avoidance Actions***" means any and all avoidance, recovery, subordination, or other claims, actions, or remedies that may be brought by or on behalf of the Debtors or their Estates or other authorized parties in interest under the Bankruptcy Code or applicable non-bankruptcy law, including actions or remedies under sections 105(a), 502(d), 510, 542 through 551, and 553 of the Bankruptcy Code, or any similar federal, state, or common law causes of action, including, without limitation, any Causes of Action arising under section 547 of the Bankruptcy Code or similar preference-related actions arising under the Bankruptcy Code or applicable non-bankruptcy law.

"***Ballot***" means the ballot form distributed to each Holder of a Claim entitled to vote to accept or reject the Plan.

"***Bankruptcy Code***" means title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as such title has been, or may be, amended from time to time, to the extent that any such amendment is applicable to the Chapter 11 Cases.

"***Bankruptcy Court***" means the United States Bankruptcy Court for the Southern District of Texas, Houston Division.

"***Bankruptcy Rules***" mean, collectively, the Federal Rules of Bankruptcy Procedure, the Official Bankruptcy Forms, as amended, the Federal Rules of Civil Procedure, as amended, as applicable to the Chapter 11 Cases or proceedings therein, and the Local Rules of the Bankruptcy Court, as applicable to the Chapter 11 Cases or proceedings therein, as the case may be.

"***Bar Date***" means the deadline to file Proofs of Claim, including requests for payment under section 503(b)(9) of the Bankruptcy Code, which shall be (i) July 20, 2026 at 5:00 p.m. (prevailing Central Time) for nongovernmental entities and (ii) October 6, 2026 at 5:00 p.m. (prevailing Central Time) for Governmental Units.

"***Bar Date Order***" means the *Order (I) Establishing Deadlines for the Filing of Proofs of Claim, (II) Approving the Forms and Manner of Notice Thereof, and (III) Granting Related Relief* [Docket No. 497].

"***Bid Procedures***" means those Bid Procedures attached as Exhibit 1 to the Bid Procedures Order, as amended or modified from time to time.

"***Bid Procedures Motion***" means the *Debtors' Emergency Motion for Entry of Orders (I)(A) Approving Bid Procedures, (B) Authorizing Designation of a Stalking Horse Bidder, (C) Scheduling an Auction, Related Deadlines, and a Sale Hearing, and (D) Granting Related Relief; and (II)(A) Approving the Sale of the Debtors' Assets, (B) Approving the Assumption and Assignment of Certain Contracts, and (C) Granting Related Relief* [Docket No. 50].

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

"***Business Day***" means any day other than a Saturday, a Sunday, or any other day on which banking institutions in New York, NY are authorized or required by law or executive order to close.

"***Cash***" means the legal tender of the United States of America or the equivalent thereof.

"***Cash Collateral***" means substantially all of the Debtors' cash in which the Prepetition Secured Parties have an interest within the meaning of section 363(a) of the Bankruptcy Code, including cash proceeds of the collateral securing the prepetition note obligations and amounts held in or deposited into the Debtors' bank accounts after the Petition Date, but excluding funds held in the Bank of America letter-of-credit account ending in 6440.

"***Cash Collateral Motion***" means the *Debtors' Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Use Cash Collateral, (II) Granting Adequate Protection for the Use of Cash Collateral, (III) Scheduling a Final Hearing, and (IV) Granting Related Relief* [Docket No. 18].

"***Cash Collateral Orders***" means, collectively, 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] and the *Final Order (I) Authorizing the Debtors to Use Cash Collateral; (II) Granting Adequate Protection to Prepetition Secured Parties; (III) Modifying Automatic Stay; and (IV) Granting Related Relief* [Docket No. 388].

"***Causes of Action***" means any action, claim, cross-claim, third-party claim, cause of action, controversy, demand, right, Lien, indemnity, contribution, guaranty, suit, obligation, liability, debt, damage, judgment, account, defense, remedy, offset, power, privilege, license and franchise of any kind or character whatsoever belonging to the Debtors, in each case whether known, unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, foreseen or unforeseen, direct or indirect, choate or inchoate, secured or unsecured, assertable directly or derivatively (including under alter ego theories), whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity or pursuant to any other theory of law. For the avoidance of doubt, Cause of Action includes: (i) any right of setoff, counterclaim or recoupment and any claim for breach of contract or for breach of duties imposed by law or in equity; (ii) the right to object to Claims; (iii) any claim pursuant to section 362 or chapter 5 of the Bankruptcy Code; (iv) any claim or defense including fraud, mistake, duress and usury, and any other defenses set forth in section 558 of the Bankruptcy Code; and (v) any claims under any state or foreign law, including Avoidance Actions.

"***Chapter 11 Cases***" means (i) when used in reference to a particular Debtor, the chapter 11 case Filed for such Debtor under chapter 11 of the Bankruptcy Code in the Bankruptcy Court; and (ii) when used in reference to all the Debtors, the jointly administered chapter 11 cases for all of the Debtors in the Bankruptcy Court and currently styled *In re Ascend Elements, Inc., et al.*, Case No. 26-90440 (CML) (Jointly Administered).

"***Chief Restructuring Officer***" or "***CRO***" means Adam Titus, in his capacity as chief restructuring officer of the Debtors.

"***Claim***" means any "claim" against any Debtor, as such term is defined in section 101(5) of the Bankruptcy Code.

"***Claim Objection***" means any objection to a Claim filed by the Debtors, the Committee, or the GUC Trustee, as applicable.

"***Class***" means a category of Holders of Claims or Interests, as described below in Article VI.

"***Combined Disclosure Statement and Plan***" has the meaning ascribed to such term in the Introduction.

"***Committee***" means the Official Committee of Unsecured Creditors appointed in the Chapter 11 Cases pursuant to section 1102(a) of the Bankruptcy Code.

"***Committee Professionals***" means the professionals retained by the Committee pursuant to sections 328 or 1103 of the Bankruptcy Code.

"***Committee Settlement***" means the settlement embodied in the Final Cash Collateral Order and the Poland/IP Sale Order among the Debtors, the Secured Noteholders, and the Committee relating to, among other things, credit bid, releases, and the allocation of value among the Poland/IP transaction and the remaining Covington Sale.

"***Confirmation***" means entry by the Bankruptcy Court of the Confirmation Order confirming this Plan.

"***Confirmation Date***" means the date of entry by the Bankruptcy Court of the Confirmation Order.

"***Confirmation Hearing***" means the hearing held by the Bankruptcy Court to consider confirmation of the Plan and final approval of the Disclosure Statement, as such hearing may be adjourned or continued from time to time.

"***Confirmation Order***" means the order entered by the Bankruptcy Court confirming the Plan pursuant to, among others, section 1129 of the Bankruptcy Code and approving the transactions contemplated thereby.

"***Consenting Creditor***" means, collectively, the following, in each case in its capacity as such with each being a "***Consenting Creditor***": all Holders of Claims or Interests that timely and affirmatively elect on the applicable Ballot or notice of non-voting status to opt in to the releases set forth in the Plan and that do not timely object to the Plan in respect of the releases contained therein in a manner that is not withdrawn or otherwise resolved before Confirmation.

"***Consummation***" means the occurrence of the Effective Date.

"***Contingent Claim***" means any Claim for which a Proof of Claim has been filed with the Bankruptcy Court but was not filed in a sum certain and which Claim has not been estimated, fixed, or liquidated by the Bankruptcy Court at a sum certain as of the Effective Date, or a Claim that has accrued but nonetheless remains dependent on the occurrence of a future event that may never occur.

"***Covington APA***" means that certain Asset Purchase Agreement, dated as of June 19, 2026, by and between Ascend Elements, Inc., as seller, and R3 Lithium, Inc., as purchaser, as may be amended, modified, or supplemented from time to time.

"***Covington Proceeds Escrow***" has the meaning ascribed to it in the Covington Sale Order.

"***Covington Sale***" means the sale of the Debtors' Covington, Georgia assets contemplated by the Covington APA.

"***Covington Sale Order***" means the order approving the sale of certain of the Debtors' assets free and clear of claims, liens, and encumbrances, approving the assumption and assignment of designated executory contracts and unexpired leases, and granting related relief, in substantially the form filed at Docket No. 487-2, as may be modified and entered by the Bankruptcy Court.

"***Credit Bid Motion***" means the Debtors' emergency motion filed on May 7, 2026 seeking to deny or limit the credit bid rights asserted by TKJV, RMF Nooter LLC, and United Electric Company, Inc. in connection with the proposed sale of the Hopkinsville facility.

"***Debtor***" or "***Debtors***" means one or more of the Debtors, in its individual capacity as a debtor and debtor in possession in the Chapter 11 Cases.

"***Debtor Professionals***" means the persons or firms retained by the Debtors pursuant to sections 327, 328, or 363 of the Bankruptcy Code.

"***De Minimis Asset Procedures***" means the procedures set forth in the Debtors' motion seeking authority to establish procedures for the sale, transfer, and abandonment of de minimis assets and the assumption and assignment of related executory contracts and unexpired leases, as approved by the *Order (I)(A) Establishing Procedures for the Sale, Transfer,* and *Abandonment of De Minimis Assets, Free and Clear of Liens, Claims, Interests, and Encumbrances; (B) Approving Procedures to Assume and Assign Executory Contracts and Unexpired Leases; and (II) Granting Related Relief* [Docket No. 532].

"***Deficiency Claims***" means any unsecured deficiency or undersecured portion of a secured claim asserted against the Debtors, including any unsecured portion of project-related secured claims; provided that Deficiency Claims do not include any claim on account of the prepetition secured note obligations satisfied or extinguished under the Cash Collateral Orders and the Poland/IP Sale Order.

"***Disallowed Claim***" means a Claim, or any portion thereof, that has been disallowed by a Final Order or by agreement of the applicable Holder, any Claim that is listed by the Debtors in the Schedules as zero or as disputed and as to which no Proof of Claim has been timely filed, or any Claim that is deemed disallowed pursuant to the terms of the Plan.

"***Disputed Claim***" means (i) any Claim or portion of a Claim as to which an objection to the allowance thereof has been interposed by the applicable deadline fixed under the Plan or by order of the Bankruptcy Court, which objection has not been withdrawn or determined by Final Order; (ii) any Claim that is not a Disallowed Claim that is scheduled by the Debtors as disputed, contingent, or unliquidated and as to which no Proof of Claim has been timely filed; or (iii) any Claim that is not a Disallowed Claim that is not listed in the Schedules and as to which no Proof of Claim has been timely filed; provided, that, to the extent an objection relates only to a portion of a Claim, such Claim shall be a Disputed Claim only to the extent of the objection.

"Disputed Claims Reserve" means one or more reserves for those Claims that are Disputed Claims established and maintained by the GUC Trustee in accordance with the Plan and the GUC Trust Agreement, as applicable.

"***Disclosure Statement***" means the disclosure statement, including all exhibits and schedules thereto and references therein (as amended, supplemented, or modified from time to time), that is embodied within this Combined Disclosure Statement and Plan and prepared and distributed in accordance with, among others, sections 1125, 1126(b), and 1145 of the Bankruptcy Code, Bankruptcy Rule 3018, and other applicable law.

"***Distribution***" means any distribution of property to a holder of an Allowed Claim on account of such Claim in accordance with the terms of the Plan.

"***DOE***" means the United States Department of Energy.

"***DOE Settlement Agreement***" means the settlement agreement between the Debtors and the United States of America, acting through the Department of Justice on behalf of DOE, as described in Article IV.G hereof and approved pursuant to the Settlement Motion.

"***Effective Date***" means the first Business Day after the later of the date on which (i) all the conditions to the occurrence of the Effective Date set forth in Article IX of this Combined Disclosure Statement and Plan have been satisfied or waived in accordance with such Article; and (ii) no stay of the Confirmation Order is in effect.

"***Entity***" has the meaning set forth in section 101(15) of the Bankruptcy Code.

"***Estate***" or "***Estates***" means, individually or collectively, the estate or estates created for such Debtor in the Chapter 11 Cases pursuant to sections 301 and 541 of the Bankruptcy Code upon the filing of the Chapter 11 Cases.

"***Exculpated Parties***" means (a) the Debtors, (b) the members of the Special Committee, (c) the CRO, (d) the Committee, and (e) the members of the Committee, each of the foregoing in items (b) through (e) solely in their capacities as such.

"***Facilities***" means the Apex 0 Facility, the Apex 1 Facility, the battery recycling facility operated by the Poland Joint Venture, and related development and intellectual property assets.

"***File***," "***Filed***," or "***Filing***" mean, respectively, file, filed, or filing with the Bankruptcy Court or its authorized designee in the Chapter 11 Cases.

"***Final Cash Collateral Order***" means the Final Order (I) Authorizing the Debtors to Use Cash Collateral; (II) Granting Adequate Protection to Prepetition Secured Parties; (III) Modifying Automatic Stay; and (IV) Granting Related Relief [Docket No. 388].

"***Final Order***" means an order, ruling, or judgment of the Bankruptcy Court (or any other court of competent jurisdiction) entered by the clerk of the Bankruptcy Court (or such other court) on the docket in the Chapter 11 Cases (or the docket of such other court), which has not been modified, amended, reversed, vacated, or stayed, and as to which (i) the time to appeal, petition for certiorari, or move for a new trial, stay, reargument, or rehearing has expired and as to which no appeal, petition for certiorari or motion for new trial, stay, reargument, or rehearing shall be pending, or (ii) if an appeal, writ of certiorari, new trial, stay, reargument, or rehearing thereof has been sought, such order or judgment of the Bankruptcy Court (or other court of competent jurisdiction) shall have been affirmed by the highest court to which such order was appealed, or certiorari shall have been denied, or a new trial, stay, reargument, or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for certiorari or move for a new trial, stay, reargument, or rehearing shall have expired, as a result of which such order shall have become final in accordance with Bankruptcy Rule 8002; *provided*, that no order shall fail to be a Final Order solely due to the possibility that a motion pursuant to section 502(j) of the Bankruptcy Code, Rules 59 or 60 of the Federal Rules of Civil Procedure, or Rule 9024 of the Bankruptcy Rules may be filed with respect to such order.

"***First Rejection Notice***" means the *First Notice of Rejection of Certain Executory Contracts and Unexpired Leases (and the Abandonment of Property)* [Docket No. 408].

"***General Unsecured Claim***" means an Unsecured Claim against a Debtor, including Deficiency Claims, but excluding any Administrative Claims (including Professional Fee Claims), Priority Tax Claims, Other Priority Claims, Other Secured Claims, Intercompany Claims, Intercompany Interests, or Interests in Ascend Elements.

"***Governmental Unit***" has the meaning set forth in section 101(27) of the Bankruptcy Code.

"***Grant Agreement***" means Assistance Agreement DE-MS0000002 between Ascend Elements, Inc. and the United States Department of Energy, relating to the construction and commissioning of the Apex 1 Facility in Hopkinsville, Kentucky.

"***GUC Trust***" means the trust established pursuant to the GUC Trust Agreement.

"***GUC Trust Agreement***" means that certain agreement made by and among the Debtors and the GUC Trustee, establishing and delineating the terms and conditions of the GUC Trust, substantially in the form to be filed as part of the Plan Supplement.

"***GUC Trust Assets***" means all assets held from time to time by the GUC Trust, the proceeds of which shall be distributed to the GUC Trust Beneficiaries in accordance with the GUC Trust Agreement, and which shall initially consist of any Cash remaining in the Debtors' Estates after funding or reserving for amounts required under the Plan, the Debtors' retained Causes of Action (including commercial tort claims and Avoidance Actions), the Debtors' current and prior directors' and officers' insurance policies and any rights thereunder, and any other assets not sold, transferred, abandoned, or otherwise disposed of pursuant to the Sale Orders or other orders of the Bankruptcy Court.

"***GUC Trust Beneficiaries***" means the Holders of Allowed General Unsecured Claims (including Deficiency Claims).

"***GUC Trust Claims***" means any and all Causes of Action and Retained Causes of Action transferred to the GUC Trust pursuant to the Plan, including Avoidance Actions and commercial tort claims.

"***GUC Trust Expenses***" means any and all reasonable fees, costs and expenses incurred by the GUC Trust or the GUC Trustee (or any professional or other Person retained by the GUC Trustee) on or after the Effective Date in connection with any of their duties under the Plan and the GUC Trust Agreement, including any administrative fees, attorneys' fees and expenses, insurance fees, taxes and escrow expenses.

"***GUC Trust Interests***" means the interests to be issued to GUC Trust Beneficiaries evidencing their interests in the GUC Trust and the right to receive distributions therefrom as set forth in the GUC Trust Agreement and this Plan.

"***GUC Trustee***" means the trustee chosen by the Committee in its sole discretion and identified in the Plan Supplement, or any successor GUC Trustee appointed in accordance with the GUC Trust Agreement.

"***Holder***" means an Entity holding a Claim against, or Interest in, any of the Debtors.

"***Hopkinsville APA***" means that certain Asset Purchase Agreement, dated as of June 2, 2026, by and among TKJV, as purchaser, and Ascend Elements, Inc., as seller, as may be amended, modified, or supplemented from time to time.

"***Hopkinsville Sale***" means the sale of the Debtors' interests in the Hopkinsville, Kentucky assets contemplated by the Hopkinsville APA.

"***Hopkinsville Sale Order***" means the *Order (I) Approving the Sale of the Debtors' Interests in the Hopkinsville, Kentucky Assets Free and Clear of Liens, Claims, Interests and Encumbrances, (II) Approving the Assumption and Assignment of Associated Executory Contracts and Unexpired Leases and (III) Granting Related Relief* [Docket No. 469].

"***Impaired***" means, when used with reference to a Claim or Interest, a Claim or Interest that is impaired within the meaning of section 1124 of the Bankruptcy Code.

"***Insurance Policies***" means all insurance policies maintained by the Debtors as of the Petition Date, specifically including, but not limited to, director and officer insurance policies.

"***Intercompany Claim***" means a Claim of a Debtor against another Debtor.

"***Intercompany Interest***" means an Interest held by a Debtor in another Debtor.

"***Interest***" means any equity security (as such term is defined in section 101(16) of the Bankruptcy Code) of a Debtor, including all issued, unissued, authorized, or outstanding shares of capital stock and any other common stock, preferred stock, limited liability company interests, and any other equity, ownership or profits interests of the Debtors, including all options, warrants, rights, stock appreciation rights, phantom stock rights, restricted stock units, redemption rights, repurchase rights, convertible, exercisable, or exchangeable securities, or other agreements, arrangements, or commitments of any character relating to, or whose value is related to, any such interest or other ownership interest in any of the Debtors, whether or not arising under or in connection with any employment agreement, and whether or not certificated, transferable, preferred, common, voting, or denominated "stock," or similar security, that existed immediately before the Effective Date.

"***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].

"***Internal Revenue Code***" means the Internal Revenue Code of 1986, as amended.

"***IRS***" means the United States Internal Revenue Service.

"***Jefferies***" means Jefferies LLC, in its capacity as investment banker to the Debtors in the Chapter 11 Cases.

"***Junior Notes Agreement***" means that certain Subordinated Secured Convertible Note and Warrant Purchase Agreement, dated as of June 13, 2025, as amended, restated, supplemented, or otherwise modified from time to time prior to the Petition Date.

"***Junior Secured Convertible Notes***" means the junior secured convertible notes issued by Ascend Elements, Inc., with approximately $83.1 million outstanding as of the Petition Date, excluding accrued and unpaid interest, secured by second-priority liens on substantially all personal property of the Debtors, as further described in the Cash Collateral Orders and the applicable note documents.

"***Junior Secured Noteholders***" means the holders of Junior Secured Convertible Notes.

"***KEIP Motion***" means the Debtors' motion filed on May 3, 2026 seeking approval of a Key Employee Incentive Plan for certain members of the Debtors' senior management team, which the Debtors ultimately did not pursue.

"***Lien***" has the meaning set forth in section 101(37) of the Bankruptcy Code.

"***Local Rules***" means the Bankruptcy Local Rules for the Southern District of Texas.

"McDermott" means McDermott Will & Schulte LLP, counsel to the Committee.

"***Non-Released Parties***" means each current and former director, manager, and officer of any of the Debtors, solely in such capacities, other than any current and former director, manager, and officer of any of the Debtors that has been previously released pursuant to a prior Order entered by the Bankruptcy Court in these Chapter 11 Cases.

"***Notice of Occurrence of Effective Date***" means the notice to be filed and served by the GUC Trustee pursuant to Article IX.D of the Plan within five (5) Business Days after the occurrence of the Effective Date, informing all Holders of Claims and Interests of the Confirmation of the Plan and the occurrence of the Effective Date.

"***Order***" means an order of the Bankruptcy Court or another court of competent jurisdiction, as applicable.

"***Other Priority Claim***" means a Claim other than an Administrative Claim or a Priority Tax Claim entitled to priority in right of payment under section 507(a) of the Bankruptcy Code.

"***Other Secured Claim***" means any Secured Claim against the Debtors other than Claims arising under the Cash Collateral Orders or the prepetition secured note obligations specifically treated under the Plan.

"***Person***" has the meaning set forth in section 101(41) of the Bankruptcy Code.

"***Petition Date***" means April 9, 2026, the date when the Debtors filed their respective voluntary chapter 11 petitions.

"***Plan***" has the meaning ascribed to such term in the Introduction.

"***Plan Supplement***" means the compilation of certain documents and forms of documents, schedules, and exhibits to the Plan (as may be altered, amended, modified, or supplemented from time to time in accordance with the terms of the Plan and in accordance with the Bankruptcy Code and the Bankruptcy Rules), including the GUC Trust Agreement, that are necessary to the implementation and effectuation of the Plan and will be Filed, in one or more filings, by the Debtors.

"***Poland/IP APA***" means that certain Third Amended and Restated Asset Purchase Agreement, dated as of May 22, 2026, by and between Ascend Elements, Inc., as seller, and Bluegrass Infrastructure Partners Holdings, LLC, as buyer, as may be amended, modified, or supplemented from time to time.

"***Poland/IP Sale***" means the sale transactions contemplated by the Poland/IP APA, including the sale of certain non-Debtor equity interests and intellectual property.

"***Poland/IP Sale Order***" means the *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. 393].

"***Poland Joint Venture***" means AE Elemental SP Z.O.O., the joint venture that operates a battery recycling facility in Zawiercie, Poland, in which Ascend Elements Poland SP Z.O.O. and Elemental Strategic Metals each hold a 50% ownership interest.

"***Prepetition Junior Secured Parties***" means, collectively, the holders of the Junior Secured Convertible Notes and Alter Domus (US) LLC, in its capacity as collateral agent for such holders.

"***Prepetition Note Documents***" means, collectively, the Senior Notes Agreement, the Junior Notes Agreement, the Subordination Agreement, and all related security agreements, collateral documents, guarantees, and ancillary documents entered into in connection therewith, in each case as amended, restated, supplemented, or otherwise modified from time to time prior to the Petition Date.

"***Prepetition Secured Parties***" means, collectively, the Prepetition Senior Secured Parties and the Prepetition Junior Secured Parties.

"***Prepetition Senior Secured Parties***" means, collectively, the holders of the Senior Secured Convertible Notes and Alter Domus (US) LLC, in its capacity as collateral agent for such holders.

"***Priority Tax Claim***" means a Claim of a Governmental Unit of the kind specified in sections 502(i) and 507(a)(8) of the Bankruptcy Code.

"***Pro Rata***" means proportionately so that, with respect to a Claim, the ratio of: (a) (i) the amount of property distributed on account of a particular Claim to (ii) the Allowed amount of the Claim, is the same as the ratio of (b) (i) the amount of property distributed on account of all Allowed Claims in the Class or Classes entitled to share in the applicable distribution to (ii) the amount of all Allowed Claims in such Class or Classes.

"***Pro Rata Share***" means the proportionate share of any Distribution or reserve allocable to a particular Holder of an Allowed Claim, determined on a Pro Rata basis.

"***Professional***" means a Person or Entity (i) employed in these Chapter 11 Cases pursuant to a Final Order in accordance with sections 327, 328, or 1103 of the Bankruptcy Code and to be compensated for services rendered prior to the Effective Date pursuant to section 327, 328, 329, 330 or 331 of the Bankruptcy Code; or (ii) for which compensation and reimbursement has been Allowed by Final Order of the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code.

"***Professional Fee Claim***" means all Claims for accrued, contingent, and/or unpaid fees and expenses (including, but not limited to, transaction fees and success fees) for compensation for services rendered or reimbursement of expenses incurred by a Professional in connection with the Chapter 11 Cases from the Petition Date through the Effective Date, to the extent such fees and expenses have not been paid pursuant to an order of the Bankruptcy Court. To the extent the Bankruptcy Court denies or reduces by a Final Order any amount of a Professional's requested fees and expenses, then the amount by which such fees or expenses are reduced or denied shall reduce the applicable Professional Fee Claim.

"***Professional Fee Claims Bar Date***" means the deadline for filing all applications for Professional Fee Claims on a final basis, which shall be thirty (30) days after the Effective Date.

"***Professional Fee Escrow Account***" means the escrow account established on or about the Petition Date for the benefit of Professionals and funded in an amount equal to the Professional Fee Reserve Amount, to be maintained solely for the payment of Allowed Professional Fee Claims.

"***Professional Fee Reserve Amount***" means the aggregate amount of Professional Fee Claims and other unpaid fees and expenses that the Professionals estimate they have incurred or will incur in rendering services to the Debtors before the Effective Date, which estimates the Professionals shall deliver to the Debtors in accordance with the Plan.

"***Proof of Claim***" shall mean a written proof of Claim Filed against any of the Debtors in the Chapter 11 Cases.

"Province" means Province, LLC, in its capacity as financial advisor to the Committee.

"***Purchaser***" means, as applicable, the purchaser or buyer under the relevant APA, including Bluegrass Infrastructure Partners Holdings, LLC under the Poland/IP APA, TKJV under the Hopkinsville APA, and R3 Lithium, Inc. under the Covington APA.

"***Rejection Damages Bar Date***" means the deadline by which a Proof of Claim on account of damages resulting from rejection of an executory contract or unexpired lease must be filed, which shall be the later of (i) the date specified by an order of the Bankruptcy Court and (ii) 5:00 p.m. (prevailing Central Time) on the date that is thirty (30) days following entry of the order approving the rejection of the applicable executory contract or unexpired lease.

"***Rejection Objection***" means a timely and properly filed objection to a notice of rejection of an executory contract or unexpired lease filed by any party in interest pursuant to the Rejection Procedures Order or the Plan.

"***Rejection Procedures Order***" means the *Order (I) Authorizing the Debtors to Reject the Initial Lease and Certain Executory Contracts, (II) Authorizing the Abandonment of Certain Personal Property, if Any, (III) Approving and Establishing Procedures to Reject Executory Contracts and Unexpired Leases, and (IV) Granting Related Relief* [Docket No. 371].

"***Related Parties***" means, with respect to an Entity, each of, and in each case in its capacity as such, such Entity's current and former Affiliates, and such Entity's and such Affiliates' current and former directors, managers, officers, committee members, members of any governing body, equity holders (regardless of whether such interests are held directly or indirectly), affiliated investment funds or investment vehicles, managed accounts or funds (including any beneficial holders for the account of whom such funds are managed), predecessors, participants, successors, assigns, subsidiaries, Affiliates, partners, limited partners, general partners, principals, members, management companies, fund advisors or managers, employees, agents, trustees, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, and other professionals and advisors and any such Person's or Entity's respective heirs, executors, estates, and nominees.

"***Released Party***" means, collectively, and in each case only in its capacity as such: (i) each of the Debtors; (ii) the CRO; (iii) the members of the Special Committee; (iv) the Professional; (v) the Committee in its capacity as such; (vi) each member of the Committee, solely in its capacity as a member of the Committee; (vii) each of the Prepetition Secured Parties, solely in their capacities as such; and (viii) with respect to each of the foregoing Entities identified in subsections (i) through (vii), each of such Entities' Related Parties, in each case other than the Non-Released Parties.

"***Releasing Party***" means, collectively, and in each case only in its capacity as such: (i) the Released Parties; (ii) each Consenting Creditor; and (iii) with respect to each of the foregoing Entities identified in subsections (i) through (ii), each of such Entities' Related Parties.

"***Reserve Amount***" has the meaning ascribed to it in Article VIII.B.3 of this Combined Disclosure Statement and Plan.

"***Retained Causes of Action***" means, collectively, all Causes of Action retained by the Debtors and transferred to the GUC Trust that are not expressly waived, relinquished, released or compromised in the Plan or an order of the Bankruptcy Court, including, without limitation, the Causes of Action identified or described in the Retained Causes of Action Schedule.

"***Retained Causes of Action Schedule***" means the schedule of Retained Causes of Action, as the same may be amended, to be retained by the Debtors and transferred to the GUC Trust.

"***Sale***" means, as applicable, any one of the Poland/IP Sale, Hopkinsville Sale, Covington Sale, or any other sale transaction approved by the Bankruptcy Court in connection with these Chapter 11 Cases.

"***Sale Order***" or "Sale Orders" means, as applicable, any one *of the* Poland/IP Sale Order, Hopkinsville Sale Order, Covington Sale Order, or any other order approving a Sale in these Chapter 11 Cases.

"***Schedules***" means, collectively, the schedules of assets and liabilities, schedules of executory contracts and unexpired leases, and statements of financial affairs Filed by the Debtors in the Chapter 11 Cases pursuant to section 521 of the Bankruptcy Code, as each may be amended and supplemented from time to time.

"***Section 503(b)(9) Claim***" means a Claim entitled to administrative expense status arising under section 503(b)(9) of the Bankruptcy Code.

"***Secured Claim***" shall mean, pursuant to section 506 of the Bankruptcy Code, that portion of a Claim that is (i) secured by a valid, perfected and enforceable security interest, lien, mortgage, or other encumbrance, that is not subject to avoidance under applicable bankruptcy or non-bankruptcy law, in

or upon any right, title or interest of the Debtors in and to property of the Estates, to the extent of the value of the Holder's interest in such property as of the relevant determination date, or (ii) Allowed as such pursuant to the terms of the Plan (subject to the Confirmation Order becoming a Final Order). The defined term Secured Claim includes any Claim that is (1) subject to an offset right under applicable law as of the Petition Date, and (2) a secured claim against the Debtors pursuant to sections 506(a) and 553 of the Bankruptcy Code.

"***Second Rejection Notice***" means the *Second Notice of Rejection of Certain Executory Contracts and Unexpired Leases (and the Abandonment of Property)*.

"***Senior Notes Agreement***" means that certain Senior Secured Convertible Note and Warrant Purchase Agreement, dated as of December 22, 2025, as amended, restated, supplemented, or otherwise modified from time to time prior to the Petition Date.

"***Senior Secured Convertible Notes***" means the senior secured convertible notes issued by Ascend Elements, Inc., with approximately $20.0 million outstanding as of the Petition Date, excluding accrued and unpaid interest, secured by first-priority liens on substantially all personal property of the Debtors, as further described in the Cash Collateral Orders and the applicable note documents.

"***Senior Secured Noteholders***" means the holders of Senior Secured Convertible Notes.

"***Settlement Motion***" means the *Debtors' Corrected Motion for Entry of an Order (I) Approving the Settlement Agreement Between the Debtors and the United States of America, (II) Authorizing Implementation of the Settlement Agreement, and (III) Granting Related Relief* [Docket No. 482].

"***Solicitation Agent***" means Kurtzman Carson Consultants, LLC d/b/a Verita Global, in its capacity as claims, noticing, and solicitation agent appointed in these Chapter 11 Cases.

"***Solicitation Procedures Order***" shall mean that certain order conditionally approving the Disclosure Statement, scheduling the Confirmation Hearing, and establishing procedures for solicitation and tabulation of votes on the Plan.

"***Special Committee***" means the special committee of the Board of Directors of Ascend Elements, Inc., established on March 24, 2026, and consisting solely of Bill Transier, an independent director, to oversee the Debtors' restructuring efforts and address potential conflicts of interest.

"***Subordination Agreement***" means that certain Subordination Agreement, dated as of December 22, 2025, by and among the Prepetition Senior Secured Noteholders, the Prepetition Junior Secured Noteholders, and Alter Domus (US) LLC, as collateral agent, and acknowledged and agreed by the Debtors, as amended, restated, supplemented, or otherwise modified from time to time prior to the Petition Date.

"***TKJV***" means Turner-Kokosing Joint Venture, the purchaser under the Hopkinsville APA.

"***Treasury Regulations***" means the regulations promulgated and proposed under the Internal Revenue Code of 1986, as amended, by the U.S. Department of the Treasury, as such regulations may be amended from time to time.

"***Unclaimed Property***" has the meaning ascribed to it in Article VIII.A.3 of this Combined Disclosure Statement and Plan.

"***Unimpaired***" means, with respect to a Claim, Interest, or a Class of Claims or Interests, not "impaired" within the meaning of section 1124 of the Bankruptcy Code.

"***Unsecured Claim***" means a Claim that is not a Secured Claim and that is not entitled to priority under section 507(a)(1)-(9) of the Bankruptcy Code.

"***U.S. Holder***" has the meaning ascribed to it in Article XVII.A of this Combined Disclosure Statement and Plan, solely for purposes of the tax consequences discussion set forth therein.

"***U.S. Trustee***" means the Office of the United States Trustee for the Southern District of Texas.

"***U.S. Trustee Fees***" means all fees payable pursuant to 28 U.S.C. § 1930(a), together with any interest thereon pursuant to 31 U.S.C. § 3717.

"***Voting Deadline***" means **August 14, 2026, at 4:00 p.m. (prevailing Central Time)**, the deadline by which Ballots to accept or reject the Plan must be actually received by the Solicitation Agent to be counted, as set forth in the Solicitation Procedures Order.

B. RULES OF INTERPRETATION

For purposes of this Combined Disclosure Statement and Plan, except as expressly provided or unless the context otherwise requires: (i) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine, and the neuter gender; (ii) any reference herein to a contract, lease, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document shall be substantially in such form or substantially on such terms and conditions; (iii) any reference herein to an existing document, schedule, or exhibit, whether or not Filed, having been Filed or to be Filed shall mean that document, schedule, or exhibit, as it may thereafter be amended, modified, or supplemented; (iv) any reference to an Entity as a Holder of a Claim or Interest includes that Entity's successors and assigns; (v) all references herein to "Articles" and "Sections" are references to Articles and Sections, respectively, of this Combined Disclosure Statement and Plan; (vi) all references herein to exhibits are references to exhibits in the Plan Supplement; (vii) the words "herein," "hereof," and "hereto" refer to this Combined Disclosure Statement and Plan in its entirety rather than to a particular portion of this Combined Disclosure Statement and Plan; (viii) any effectuating provisions may be interpreted by the GUC Trustee in such a manner that is consistent with the overall purpose and intent of the Plan all without further notice to or action, order, or approval of the Bankruptcy Court or any other Entity, and such interpretation shall control; (ix) subject to the provisions of any contract, certificate of incorporation, by-law, instrument, release, or other agreement or document entered into in connection with the Plan, the rights and obligations arising pursuant to the Plan shall be governed by, and construed and enforced in accordance with applicable federal law, including the Bankruptcy Code and the Bankruptcy Rules; (x) captions and headings to Articles are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (xi) unless otherwise specified herein, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; (xii) references to docket numbers are references to the docket numbers of documents Filed in the Chapter 11 Cases under the Bankruptcy Court's CM/ECF system; (xiii) all references to statutes, regulations, orders, rules of courts, and the like shall mean as amended from time to time, and as applicable to the Chapter 11 Cases, unless otherwise stated; (xiv) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to such term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be; (xv) the words "include," "includes," and "including," and variations thereof, shall not be deemed to be terms of limitation, and shall be deemed to be followed by the words "without limitation"; (xvi) references to "shareholders," "directors," and/or "officers" shall also include "members," "partners," and/or "managers," as applicable, as such terms are defined under the applicable state limited liability company laws; (xvii) references to "Proofs of Claim," "Holders of Claims," "disputed Claims," and the like shall include "Proofs of Interest," "Holders of Interests," "disputed Interests," and the like, as applicable; (xviii) unless otherwise specified herein, references from or through any date mean from and including or through and including; and (xix) except as otherwise provided in the Plan,

any reference to the Effective Date shall mean the Effective Date or as soon as reasonably practicable thereafter.

C. INCORPORATION OF DOCUMENTS BY REFERENCE

This Combined Disclosure Statement and Plan incorporates by reference certain documents relating to the Debtors that are not presented herein or delivered herewith. The documents that have been or will be filed in the Debtors' Chapter 11 Cases are incorporated by reference herein in their entirety, including all amendments thereto filed prior to the date set for confirmation, including, but not limited to, all exhibits and documents included in the Plan Supplement. Documents and pleadings filed in these Chapter 11 Cases are available at the following website: https://www.veritaglobal.net/ascend.

D. COMPUTATION OF TIME

Unless otherwise specifically stated herein, the provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein. If the date on which a transaction may occur pursuant to the Plan shall occur on a day that is not a Business Day, then such transaction shall instead occur on the next succeeding Business Day.

E. GOVERNING LAW

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules) or unless otherwise specifically stated, the laws of the State of Texas, without giving effect to the principles of conflict of laws, shall govern the rights, obligations, construction, and implementation of the Plan, any agreements, documents, instruments, or contracts executed or entered into in connection with the Plan (except as otherwise set forth in those agreements, documents, instruments, or contracts, in which case the governing law of such agreement shall control); *provided*, that corporate, limited liability company, or partnership governance matters relating to the Debtors or the GUC Trust, as applicable, shall be governed by the laws of the jurisdiction of incorporation or formation of the relevant Debtor or the GUC Trust, as applicable.

F. CONTROLLING DOCUMENT

In the event of any inconsistency between the Plan and any document, schedule, or exhibit contained in the Plan Supplement, the terms of the relevant provision in the Plan shall control (unless stated otherwise in such document, schedule, or exhibit, or in the Confirmation Order). In the event of any inconsistency between the Confirmation Order and the Plan, the Confirmation Order shall control.

ARTICLE II.
DEBTORS' HISTORY, ASSETS, LIABILITIES, AND MAJOR EVENTS

A. BACKGROUND AND BUSINESS OVERVIEW

Ascend Elements was founded to develop a domestic, sustainable supply chain for critical battery materials through the recycling of lithium-ion batteries and the production of battery-grade materials. The Debtors' business focused on recovering valuable critical minerals from end-of-life lithium-ion batteries and manufacturing scrap, processing those materials into Black Mass, and refining Black Mass into high-performance precursor cathode active material ("pCAM"), lithium carbonate, and other products used in the electric vehicle battery supply chain.

Prior to the Petition Date, the Debtors operated a research and development facility in Westborough, Massachusetts, a commercial recycling facility known as Apex 0 in Covington, Georgia, and a joint venture facility in Zawiercie, Poland. At the same time, the Debtors were constructing Apex 1, a large-scale battery materials manufacturing facility in Hopkinsville, Kentucky, and pursuing development of Apex 2 in Poland. These projects were intended to position the Debtors as a leading

domestic producer of recycled battery materials and support the growing demand for electric vehicle battery components throughout North America and Europe.

To finance this growth strategy, the Debtors raised substantial equity and debt capital and secured significant governmental support, including grants and funding commitments from the United States Department of Energy. Collectively, the Debtors raised approximately $650 million during 2023 and 2024 and obtained commitments for approximately $480 million of DOE funding to support the construction and commercialization of their battery recycling platform. Despite these significant investments, the capital-intensive nature of the Debtors' business required the successful and timely completion of the Apex 1 facility and the continued expansion of commercial operations.

The Debtors commenced these Chapter 11 Cases after liquidity constraints, construction delays and cost overruns at Apex 1, operating limitations at Apex 0, and adverse commodity pricing left them unable to continue operating outside of bankruptcy. Under these circumstances, the Debtors determined that a court-supervised sale process and orderly wind down represented the best available path to maximize and preserve value for their stakeholders.

B. CORPORATE STRUCTURE

Ascend Elements is a Delaware corporation headquartered in Westborough, Massachusetts and is the direct parent of Debtor Ascend Elements US, LLC and the direct or indirect parent of the Company's non-Debtor affiliates.

Ascend Elements US, LLC is a Texas limited liability company organized in 2025. Ascend Elements is the principal operating debtor and owns the substantial majority of the Debtors' property, plant, and equipment assets, employs the Debtors' workforce, and owns the vast majority of the intellectual property associated with the Debtors' operations.

The Debtors' non-Debtor affiliates include Ascend Elements UK, Ltd., Ascend Elements France, Ascend Elements Poland Holdco, and Ascend Elements Poland SP Z.O.O. Ascend Elements Poland SP Z.O.O. and non-Debtor Elemental Strategic Metals each own a 50% interest in AE Elemental SP Z.O.O., the joint venture that operates the Poland Joint Venture facility, and Ascend Elements Poland Holdco owns 100% of Ascend Elements Poland 2. An organizational chart depicting the Debtors and their principal non-Debtor affiliates is attached as **Exhibit B**.

As of the Petition Date, the Debtors had approximately 102 employees and 14 independent contractors and sub-contractors in the United States, with the largest concentrations in Georgia, Kentucky, Massachusetts, and Texas.

C. DEBTORS' BUSINESS

As of the Petition Date, the Debtors were engaged in the business of recovering critical minerals from used lithium-ion batteries and battery manufacturing scrap to produce Black Mass, lithium carbonate, and precursor cathode active material ("pCAM"), which are essential components in the manufacture of lithium-ion batteries. Through their proprietary Hydro-to-Cathode® technology, the Debtors sought to establish a closed-loop battery supply chain by recovering valuable battery materials and reintroducing them into domestic and European battery manufacturing. The Debtors' operations were supported by facilities in the United States and Europe, as well as an extensive intellectual property portfolio consisting of more than 150 issued and pending patents worldwide. The Debtors' business was organized around three principal product lines: (a) Black Mass, produced from recycled lithium-ion batteries and manufacturing scrap; (b) Lithium Carbonate, a battery-grade material refined from Black Mass; and (c) pCAM, an engineered battery material used in the manufacture of lithium-ion battery cathodes.

The Debtors' principal operating facilities and development projects consisted of the following:

1. Apex 0 – Covington, Georgia

The Debtors' Apex 0 facility, located in Covington, Georgia, serves as the Debtors' primary operating facility in the United States. The approximately 154,000-square-foot facility processes used lithium-ion batteries and manufacturing scrap into Black Mass, which serves as feedstock for downstream lithium carbonate and pCAM production. The facility also houses a pCAM pilot line used to produce commercial qualification samples for customers.

During 2025, the Debtors achieved a significant milestone when Apex 0 became the first facility in the United States to produce lithium carbonate from 100% recycled battery content at commercial scale. Although Black Mass production had resumed prior to the Petition Date, the facility required additional utility upgrades and capital expenditures to increase production capacity and achieve sustained commercial operations. At full design capacity, Apex 0 was expected to process approximately 30 kilotons of lithium battery feedstock annually into approximately 20 to 30 kilotons of Black Mass.

2. Apex 1 – Hopkinsville, Kentucky

The Debtors' Apex 1 project, located in Hopkinsville, Kentucky, was designed to become the Debtors' flagship commercial-scale lithium carbonate and pCAM manufacturing facility. Once completed, Apex 1 was expected to significantly expand the Debtors' domestic production capabilities and support growing demand for battery materials within North America.

As of the Petition Date, the approximately 500,000-square-foot facility was roughly 60% complete. Construction had been suspended following substantial cost overruns, disputes with the Debtors' primary contractor, and the Debtors' liquidity constraints. As a result, Apex 1 was not operational and was not generating revenue as of the Petition Date. Completion of the facility would have required the resolution of ongoing contractor disputes and substantial additional capital investment.

3. Poland Joint Venture – Zawiercie, Poland

Through its Polish subsidiaries, the Debtors held an indirect 50% ownership interest in a joint venture operating a battery recycling facility in Zawiercie, Poland. The Poland Joint Venture conducts battery disassembly, discharge, shredding, and Black Mass production, providing strategic access to European original equipment manufacturers and battery feedstock sources. The facility was intended to supply Black Mass for the Debtors' planned Apex 2 project.

4. Apex 2 – Opole, Poland

The Debtors also owned interests in the Apex 2 development project in Opole, Poland. Apex 2 was intended to produce lithium carbonate and pCAM using Black Mass generated by the Poland Joint Venture. The project was supported by significant financial commitments, including grant funding from the Polish government and financing commitments from the European Bank for Reconstruction and Development. As of the Petition Date, the project remained in the development stage, with a site secured but construction not yet commenced.

D. APPOINTMENT OF THE CHIEF RESTRUCTURING OFFICER

On September 17, 2025, the Debtors retained A&M to assist with liquidity management, operational planning, and the evaluation of restructuring alternatives. Following the resignation of the Debtors' former Chief Financial Officer, Adam Titus, a Senior Director at A&M, was appointed as the Debtors' interim Chief Financial Officer in January 2026. After Ahmed Allouache was appointed Chief Financial Officer on March 21, 2026, Mr. Titus was appointed as the Debtors' Chief Restructuring Officer on April 3, 2026.

As interim Chief Financial Officer and later Chief Restructuring Officer, Mr. Titus worked closely with the Debtors' management, Board of Directors, Special Committee, and the Debtors' professional advisors to manage the Debtors' liquidity, oversee financial planning and cash flow, evaluate restructuring alternatives, negotiate with stakeholders, and lead the Debtors' sale and restructuring efforts throughout these Chapter 11 Cases.

E. SPECIAL COMMITTEE

On March 24, 2026, the Board of Directors established a Special Committee consisting solely of Bill Transier, an independent director. The Special Committee was formed to oversee the Debtors' restructuring efforts, address potential conflicts of interest, and coordinate among the Board, management, and the Debtors' legal, financial, and restructuring advisors in connection with any restructuring transaction.

Initially, the Special Committee was authorized to evaluate and recommend restructuring strategies and oversee negotiations with creditors, lenders, noteholders, contract counterparties, landlords, suppliers, customers, governmental authorities, and other stakeholders. On April 8, 2026, the Board expanded the authority of the Special Committee to include:

- reviewing, evaluating, negotiating, and approving potential restructuring transactions, including financings, asset sales, restructurings, liquidations, wind-downs, and chapter 11 proceedings;
- overseeing negotiations with all restructuring constituencies;
- approving definitive agreements relating to potential restructuring transactions, subject to the Board's retained authority where applicable;
- recommending that the Board authorize the commencement of these chapter 11 cases; and
- supervising management's implementation of approved restructuring transactions.

The Board retained the exclusive authority to authorize the filing of the Debtors' voluntary chapter 11 petitions.

F. PREPETITION CAPITAL STRUCTURE

As of the Petition Date, the Debtors reported approximately $103.5 million of funded debt and mortgage-related obligations on a consolidated basis, excluding accrued and unpaid interest, obligations under various hedging arrangements, letters of credit, and other charges. The Debtors' capital structure was anchored by the Senior Secured Convertible Notes and the Junior Secured Convertible Notes, together with the Hopkinsville mortgage and grant-related obligations and substantial contractor and statutory lien claims. The summary below is qualified in its entirety by the operative debt, security, grant, and related project documents.

Debt Facility	Approx. Outstanding Principal Amount *($ millions)*	Collateral	Maturity
Senior Secured Convertible Notes	20.0	First-priority liens on substantially all personal property of the Debtors	Various
Junior Secured Convertible Notes	83.1	Second-priority liens on substantially all personal property of the Debtors	June 12, 2027
Hopkinsville Mortgage and City Grant Obligations	4.0	Mortgage obligations affecting the Hopkinsville property in favor of Hopkinsville Industrial Foundation/Planters and the City of Hopkinsville, plus related tax obligations as applicable	Various
Asserted Statutory Lien Claims	145.0	Asserted mechanics', warehouse, and materialman's lien claims relating to the Apex 0 and Apex 1 projects	Various
Unsecured Debt	36.1	Unsecured trade debt, vendor obligations, supplier claims, and other general unsecured obligations	Various

1. **Secured Convertible Notes.**

Debtor Ascend Elements is party to the Senior Secured Convertible Note and Warrant Purchase Agreement, dated December 22, 2025, and the Subordinated Secured Convertible Note and Warrant Purchase Agreement, dated June 13, 2025. As of the Petition Date, approximately $20.0 million remained outstanding under the Senior Secured Convertible Notes and approximately $83.1 million remained outstanding under the Junior Secured Convertible Notes, in each case excluding accrued and unpaid interest. The Senior Secured Convertible Notes are secured by first-priority liens on substantially all of the Debtors' personal property, including cash and cash equivalents, and the Junior Secured Convertible Notes are secured by second-priority liens on substantially all of the Debtors' personal property, with relative payment and lien priority governed by the Subordination Agreement dated December 22, 2025.

2. **Other Secured Obligations.**

In addition to the secured convertible notes, the Debtors' project-level obligations included a Commercial Term Promissory Note originally issued in the amount of $2.9 million to Hopkinsville Industrial Foundation, Inc. and collaterally assigned to Planters Bank, Inc., with approximately $0.4 million outstanding as of the Petition Date, and a November 15, 2022 City of Hopkinsville grant obligation secured by a mortgage on the Hopkinsville property in the amount of $3.6 million. The Debtors also faced real and personal property tax obligations with respect to Hopkinsville to the extent such taxes were secured by applicable law, and asserted mechanics', warehouse, and materialman's lien claims exceeding approximately $145 million arising from work and materials provided for Apex 0 and Apex 1. The Debtors also had received approximately $207 million under the DOE grant for Apex 1, and DOE asserted an undivided reversionary interest in equipment acquired with grant funds.

3. Unsecured Debt.

As of the Petition Date, the Debtors estimated they had approximately $40 million in unsecured debt obligations, including amounts owed to trade creditors, suppliers, vendors, and contract counterparties, all subject to reconciliation and the Debtors' rights to dispute.

G. EVENTS LEADING TO THE DEBTORS' BANKRUPTCY FILING

The Debtors commenced these Chapter 11 Cases after experiencing significant liquidity constraints driven by construction delays and cost overruns at Apex 1, operational challenges at Apex 0, declining battery materials prices, and limited access to additional capital. After evaluating numerous strategic alternatives, the Debtors determined that a chapter 11 filing would provide the best opportunity to preserve and maximize value through a court-supervised sale process and orderly wind down.

These challenges developed over time. As construction of Apex 1 progressed, the Debtors encountered substantial delays, escalating costs, contractor disputes, and supply chain disruptions that materially exceeded their original budgets and construction timelines. The Debtors became involved in disputes with TJKV and certain subcontractors concerning construction costs, project delays, change orders, and billing practices. Those disputes resulted in asserted mechanics' and materialmen's lien claims exceeding approximately $140 million against the Hopkinsville project, together with the Debtors' allegations that certain contractor billings exceeded contractual entitlements by more than $16 million.

At the same time, the Debtors' Apex 0 facility in Covington, Georgia required additional capital expenditures and operational improvements before reaching anticipated production levels, further straining liquidity. Market conditions also deteriorated significantly as prices for Black Mass, lithium carbonate, pCAM, and other battery materials declined while demand from battery manufacturers weakened, reducing expected revenues and impairing the Debtors' ability to generate sufficient operating cash flow. The combined effects of rising construction costs, delayed commercialization, declining commodity prices, and constrained capital markets substantially reduced the Debtors' financial flexibility.

ARTICLE III.
THE CHAPTER 11 CASES

The following is a brief description of certain material events that have occurred thus far during the Chapter 11 Cases.

A. BAR DATE

Pursuant to the Bar Date Order, the Bar Date for non-governmental entities is July 20, 2026 at 5:00 p.m. (prevailing Central Time) and the Bar Date for Governmental Units is October 6, 2026 at 5:00 p.m. (prevailing Central Time).

B. MEETING OF CREDITORS

Pursuant to section 341 of the Bankruptcy Code, the United States Trustee conducted the meeting of creditors on May 18, 2026.

C. OFFICIAL COMMITTEE OF UNSECURED CREDITORS

On April 26, 2026, the United States Trustee appointed the Official Committee of Unsecured Creditors [Docket No. 139]. The Committee is composed of representatives of AMCON Industrial, Endress + Hauser Inc., Foundation Steel LLC, H2O Innovation USA Inc., RMF Nooter, LLC, Suzhou Botree Cycling SCI and Tech Co. Ltd., and URT Umwelt-und Recyclingtechnik.

D. RETENTION OF PROFESSIONALS

On April 10, 2026, the Court entered an order authorizing Kurtzman Carson Consultants, LLC d/b/a Verita Global to serve as the Debtors' claims, noticing, and solicitation agent in these Chapter 11 Cases. Under that order, Verita was authorized to maintain the official claims register, act as the authorized repository for proofs of claim, and provide noticing, solicitation, and related case administration services, and the Debtors' restructuring website is maintained at https://www.veritaglobal.net/ascend.

The Debtors also sought and obtained authority to retain Norton Rose Fulbright US LLP as counsel to the Debtors and debtors in possession, effective as of the Petition Date, pursuant to an order entered on May 21, 2026; Alvarez & Marsal North America, LLC as restructuring advisor, with Adam Titus designated as Chief Restructuring Officer, effective as of the Petition Date, pursuant to an order entered on June 24, 2026; and Jefferies LLC as the Debtors' investment banker, effective as of the Petition Date, pursuant to an order entered on June 17, 2026.

On April 29, 2026, the Committee selected McDermott to serve as counsel to the Committee in connection with the Chapter 11 Cases, subject to Court approval. Thereafter, the Committee selected Province to serve as the Committee's financial advisor in the Chapter 11 Cases.

E. CERTAIN ORDERS AND EVENTS IN THE CHAPTER 11 CASES

1. First Day Motions.

In order to facilitate the Chapter 11 Cases, minimize disruption to the Debtors' affairs, and preserve the value of the Estates, the Debtors filed motions with the Bankruptcy Court on or shortly after the Petition Date seeking certain relief, including, without limitation:

(a) joint administration of these chapter 11 cases, complex chapter 11 case treatment, approval of a claims, noticing, and solicitation agent, and an extension of the deadline to file the Schedules and Statements of Financial Affairs [Docket Nos. 26, 27, 28, and 6];

(b) authority to pay prepetition wages, salaries, reimbursable expenses, contractor obligations, and employee benefits, and to continue postpetition employee benefit programs in the ordinary course [Docket Nos. 14 and 39];

(c) authority to continue using the Debtors' existing cash management system, maintain their existing bank accounts, honor related prepetition obligations, continue the corporate card program, and continue certain intercompany transactions and funding consistent with historical practice, which relief was granted on an interim basis on April 10, 2026 and on a final basis on May 7, 2026 [Docket Nos. 45 and 214];

(d) approval of the Debtors' proposed adequate assurance of payment for future utility services, approval of adequate assurance procedures, and protection against utility providers altering, refusing, or discontinuing service [Docket No. 15];

(e) authority to pay certain prepetition claims of critical vendors in an aggregate amount not to exceed $1.35 million [Docket No. 16];

(f) authority to pay Taxes and Fees in the ordinary course, maintain the Debtors' insurance program, surety bond program, and letters of credit, and establish procedures to protect the potential value of the Debtors' net operating losses and other tax attributes [Docket Nos. 17, 10, and 9].

2. Cash Collateral Motion.

On the Petition Date, the Debtors filed the Cash Collateral Motion seeking authority to use cash collateral to stabilize operations, fund administrative expenses, and preserve liquidity while pursuing a sale and restructuring process. The Court entered the Interim Cash Collateral Order on April 10, 2026 and the Final Cash Collateral Order on May 22, 2026. Pursuant to the Final Cash Collateral Order, the Debtors funded these chapter 11 cases through the authorized use of cash collateral rather than debtor-in-possession financing.

The Final Cash Collateral Order also approved the Committee Settlement, which, together with the Poland/IP Sale Order, provided that the obligations outstanding under the Senior Notes Agreement and substantially all obligations outstanding under the Junior Notes Agreement would be satisfied through a credit bid in connection with the Poland/IP Sale Transaction. The Committee Settlement reserved only a $5 million portion of the Junior Secured Convertible Notes for the limited purpose of a potential credit bid in connection with the proposed sale of the Covington facility. If the Junior Secured Noteholders were not the successful bidder in the Covington sale process, that remaining amount was deemed applied to the Poland/IP Sale Transaction and reduced to zero. In addition, upon consummation of the Poland/IP Sale Transaction, the secured noteholders agreed to waive any asserted interest in the Debtors' cash and cash accounts.

The Poland/IP Sale closed and was consummated on May 26, 2026. The Junior Secured Noteholders were not the successful bidder for the sale of the Covington facility. Accordingly, following consummation of the Poland/IP Sale Transaction and the Covington Sale, no obligations remained outstanding under the Senior Notes Agreement or the Junior Notes Agreement.

3. Bid Procedures Motion.

On April 10, 2026, the Debtors filed the Bid Procedures Motion seeking approval of procedures to market and sell substantially all of their assets, including auction, notice, and assumption and assignment procedures. At the time the motion was filed, no stalking horse bidder had been designated.

On April 17, 2026, the Bankruptcy Court entered the Bid Procedures Order. After entry of that order, the Debtors and Jefferies conducted the marketing and sale process that ultimately produced separate transactions for the Poland and intellectual property assets, the Hopkinsville assets, and the Covington assets.

F. SALE OF THE DEBTORS' ASSETS AND ASSUMPTION OF CERTAIN CLAIMS AND LIABILITIES

As the sale process progressed, the Debtors determined that the highest or otherwise best value for the estates would be achieved through a series of separate asset sales, including the Poland/IP Sale,

the Hopkinsville Sale, and the Covington Sale, rather than a single going-concern sale of substantially all of the Debtors' assets. Poland/IP Sale.[3]

1. IP/Poland Sale.

The Debtors' first major transaction was the Poland/IP Sale to Bluegrass Infrastructure Partners Holdings, LLC. The Bankruptcy Court approved that transaction on May 22, 2026 for $3.0 million in cash, the assumption of specified liabilities, and a $98 million credit bid of secured note obligations, and the transaction closed on May 26, 2026. Under the Committee Settlement and the Poland/IP Sale Order, the senior and junior note obligations were credit bid in full other than a $5 million junior-note amount reserved solely for a potential Covington credit bid, which would be deemed applied to the Poland/IP transaction if the Junior Secured Noteholders were not the successful bidder for Covington.

2. Hopkinsville Sale.

The Debtors next sold the Hopkinsville assets to TKJV following a competitive auction. Before closing, the Debtors filed the Credit Bid Motion seeking to deny or limit the credit bid rights asserted by TKJV, RMF Nooter LLC, and United Electric Company, Inc. based on substantial disputes regarding the validity, amount, and enforceability of the asserted mechanic's lien claims, including allegations of overbilling, defective work, project mismanagement, and overlapping lien claims. After TKJV was selected as the successful bidder, the parties resolved that dispute through the sale process rather than continued litigation. The Bankruptcy Court approved the sale on June 5, 2026, and the transaction closed on June 10, 2026. The sale also addressed the City of Hopkinsville mortgage and related obligations, preserved the Committee's rights to object to the purchaser's proof of claim, and included the purchaser's agreement at closing to waive an additional $40 million of its asserted secured claim, which, together with the amount credit bid under the asset purchase agreement, reduced the purchaser's claim against the Debtors' estates by a total of $50 million.

3. Covington Sale.

After no other Qualified Bid (as defined in the Bid Procedures) was received for the Covington assets, the Debtors designated R3 Lithium, Inc. as the successful bidder for $3.0 million in cash, the assumption of specified liabilities, and payment of the purchaser's allocated portion of cure costs. The Bankruptcy Court approved the Covington Sale on June 30, 2026. The supporting sale record also explained that asserted mechanics' lien claims relating to the Covington facility, including AMCON's asserted lien, were directed to the Debtors' leasehold and other real property interests rather than the personal property assets sold in the transaction.

4. De Minimis Asset Procedures.

Following the major sale transactions, the Debtors sought approval of De Minimis Asset Procedures to monetize or abandon residual, non-core assets and to assume and assign related executory contracts where appropriate. On June 30, 2026, the Bankruptcy Court entered the order approving those procedures [Docket No. 532]. The remaining assets consist primarily of equipment, machinery, tools, spare parts, laboratory supplies, office furniture, information technology equipment, vehicles, containers, scrap materials, maintenance inventory, and other miscellaneous personal property, and these streamlined procedures are intended to maximize recoveries and reduce unnecessary administrative costs during the wind down.

G. SETTLEMENT WITH THE UNITED STATES

[3] For the same reason, the KEIP Motion was not pursued, because the proposed incentive plan was tied to a qualifying sale of substantially all of the Debtors' assets by a specified deadline and that performance metric became unattainable as the Debtors pursued separate transactions.

The proposed DOE settlement arises from reimbursement requests submitted under the Grant Agreement for construction and commissioning of the Apex 1 Facility. After receiving information from a former employer of a subcontractor, the Debtors conducted an internal review and audit, determined that certain reimbursed contractor and subcontractor charges were excessive, duplicative, or otherwise improper, voluntarily disclosed the issues to the United States on February 18, 2025, and cooperated with DOE and the Department of Justice.

Under the DOE Settlement Agreement, the Debtors would resolve a potential liability of $15,948,453 for $7,497,555.65, of which $5,316,145.00 constitutes restitution, and the settlement amount would be satisfied through setoff or recoupment of DOE funds otherwise owed to Ascend in connection with the closeout audit, rather than an out of pocket cash payment by the estates. Upon satisfaction of the settlement amount, the United States would release specified civil claims, and Ascend would release the United States and its agencies from related claims concerning the covered conduct, investigation, and grant closeout process. The Debtors contend that the settlement is a sound exercise of business judgment because it avoids complex and expensive litigation, resolves the Apex 1 grant closeout issues, and preserves estate resources for creditors.

H. AMCON LIEN DISPUTE

Prior to the Petition Date, the Debtors became involved in a dispute with AMCON arising from construction services performed at the Debtors' Apex 0 facility in Covington, Georgia. On or about August 8, 2025, AMCON commenced litigation against the Debtors asserting claims for unpaid construction costs and seeking to foreclose on a mechanics' lien that it recorded against the Debtors' leasehold and other real property interests at the Covington facility. The parties subsequently agreed to stay the litigation and submit the dispute to private arbitration, which was stayed upon the commencement of these Chapter 11 Cases. AMCON thereafter filed Proof of Claim No. 12 asserting a claim in the amount of approximately $9.9 million, including an asserted mechanics' lien in the amount of approximately $6.23 million.

In connection with the Covington Sale, AMCON contended that its lien attached to the sale proceeds attributable to the property subject to its asserted lien. The Debtors disputed the validity, priority, extent, and enforceability of AMCON's asserted lien and further asserted that, to the extent any valid mechanics' lien existed, it attached only to the Debtors' leasehold and other real property interests at the Covington facility and not to the personal property assets sold in the transaction. The Debtors and AMCON agreed that the disputed issues regarding the validity, priority, extent, and enforceability of AMCON's asserted lien, and the allocation of the applicable sale proceeds, would be resolved in a separate proceeding following the closing of the sale. Consistent with the Covington Sale Order, the Debtors agreed to hold $1.9 million of the sale proceeds in the Covington Proceeds Escrow pending resolution of the dispute, without prejudice to either party's rights, claims, or defenses. A schedule identifying the pending litigation, arbitration, and related proceedings concerning the AMCON dispute will be included in the Plan Supplement.

I. WIND-DOWN ACTIVITIES

Collectively, the Poland/IP Sale, the Hopkinsville Sale, the Covington Sale, and the proposed disposition of residual assets under the De Minimis Asset Procedures monetized substantially all of the Debtors' operating assets and generated the principal sources of funding for the Debtors' wind down and the distributions contemplated by the Plan. Following those transactions, the Debtors ceased substantially all business operations and transitioned to administering their remaining estates, resolving claims, liquidating residual assets, and preparing for distributions in accordance with the Plan.

The remaining wind-down activities include completing environmental and facility decommissioning matters, disposing of residual assets, rejecting remaining executory contracts and unexpired leases as appropriate, resolving claims, and implementing the GUC Trust structure contemplated by the Plan.

ARTICLE IV.
UNCLASSIFIED CLAIMS

A. ADMINISTRATIVE CLAIMS

Except with respect to Professional Fee Claims and Section 503(b)(9) Claims, and except to the extent that an Administrative Claim (i) has been assumed by a Purchaser under an APA, (ii) has already been paid during the Chapter 11 Cases, or (iii) a Holder of an Allowed Administrative Claim and the applicable Debtor agree to less favorable treatment, each Holder of an Allowed Administrative Claim shall be paid in full in Cash on the Effective Date.

Except as otherwise provided in the Plan or the Bar Date Order, and except with respect to Professional Fee Claims or Section 503(b)(9) Claims, requests for payment of Administrative Claims must be filed and served on the Debtors or the GUC Trustee, as applicable, no later than the Administrative Claims Bar Date. Objections to requests for payment of Administrative Claims (other than with respect to Professional Fee Claims and Section 503(b)(9) Claims), must be filed with the Bankruptcy Court and served on the Debtors or the GUC Trustee, as applicable, and the requesting party no later than twenty-one (21) days after the service of the respective request.

HOLDERS OF ADMINISTRATIVE CLAIMS THAT ARE REQUIRED TO, BUT DO NOT, FILE AND SERVE A REQUEST FOR PAYMENT OF SUCH ADMINISTRATIVE CLAIMS BY THE ADMINISTRATIVE CLAIMS BAR DATE SHALL BE FOREVER BARRED, ESTOPPED, AND ENJOINED FROM ASSERTING SUCH ADMINISTRATIVE CLAIMS AGAINST THE DEBTORS, THE GUC TRUSTEE, THE ESTATES, OR THE PROPERTY OF ANY OF THE FOREGOING, AND SUCH ADMINISTRATIVE CLAIMS SHALL BE DEEMED DISCHARGED AS OF THE EFFECTIVE DATE.

B. PRIORITY TAX CLAIMS

Except to the extent that a Holder of an Allowed Priority Tax Claim agrees to a less favorable treatment, in full and final satisfaction, settlement, and release of and in exchange for each Allowed Priority Tax Claim, each Holder of such Allowed Priority Tax Claim shall receive Cash in an amount equal to the amount of such Allowed Priority Tax Claim. Priority Tax Claims that are Allowed and due and payable as of the Effective Date shall be paid by the Debtors on the Effective Date. To the extent any Allowed Priority Tax Claim is not due and owing on the Effective Date, such Allowed Priority Tax Claim shall be paid in accordance with the terms of any agreement between the Debtors or the GUC Trustee, as applicable, and the Holder of such Claim, or as may be due and payable under applicable nonbankruptcy law, or in the ordinary course of business.

C. U.S. TRUSTEE FEES

All U.S. Trustee Fees payable on or before the Effective Date shall be paid in full on the Effective Date by the Debtors. U.S. Trustee Fees payable after the Effective Date, if any, shall be paid by the GUC Trustee until such time as the Bankruptcy Court enters a final decree closing these Chapter 11 Cases or an order either converting these Chapter 11 Cases to cases under chapter 7 or dismissing these Chapter 11 Cases. After Confirmation, the GUC Trustee shall file with the Bankruptcy Court and shall transmit to the U.S. Trustee a statement of all disbursements made by the GUC Trustee for each quarter, or portion thereof that these Chapter 11 Cases remain open in a format prescribed by the U.S. Trustee. Notwithstanding anything to the contrary in the Plan, the U.S. Trustee shall not be required to File a request for Administrative Claims.

D. PROFESSIONAL FEE CLAIMS

All final requests for payment of Professional Fee Claims must be Filed and served no later than the Professional Fee Claims Bar Date. The Bankruptcy Court shall determine the Allowed amounts

of all Professional Fee Claims. Any objections to any Professional Fee Claims must be filed and served on counsel to the Debtors or the GUC Trustee, as applicable, the Committee, and the U.S. Trustee and the requesting party no later than twenty-one (21) days after Filing of the final applications for payment of such Professional Fee Claims.

Except to the extent that the applicable Holder of an Allowed Professional Fee Claim agrees to less favorable treatment with the Debtors or, after the Effective Date, the GUC Trustee, each Holder of an Allowed Professional Fee Claim shall be paid in full in Cash from the Professional Fee Escrow Account or the GUC Trust, as applicable. Professional Fee Claims that are Allowed Claims and due and payable as of the Effective Date shall be paid by the Debtors on the Effective Date.

Professionals shall reasonably estimate their unpaid Professional Fee Claims and other unpaid fees and expenses incurred in rendering services to the Debtors before and as of the Effective Date, as well as the estimated fees and expenses to be incurred in connection with preparing and filing any final fee applications, and shall deliver such estimate to the Debtors no later than five days before the Effective Date. If a Professional does not provide an estimate, the Debtors or the GUC Trustee may estimate the unpaid and unbilled fees and expenses of such Professional.

On or prior to the Effective Date, the Debtors shall fund the Professional Fee Escrow Account in an amount equal to the Professional Fee Reserve Amount. The Debtors or the GUC Trustee, as applicable, shall use that escrow solely to pay Allowed Professional Fee Claims, and any amount remaining after payment in full of those claims shall be transferred to the GUC Trust for distribution in accordance with the Plan.

ARTICLE V.
CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS

All Claims and Interests, except the Claims addressed in Article IV hereof, are placed in the Classes set forth below. A Claim or Interest is placed in a particular Class only to the extent that the Claim or Interest falls within the description of that Class, and is classified in other Classes to the extent that any portion of the Claim or Interest falls within the description of such other Classes. A Claim is also placed in a particular Class for the purpose of voting on the Plan and receiving Distributions pursuant to the Plan only to the extent that such Claim is an Allowed Claim in that Class and such Claim has not been paid, released, or otherwise settled.

Except as otherwise specifically provided for in the Plan, the Confirmation Order, or other order of the Bankruptcy Court, in no event shall any Holder of an Allowed Claim be entitled to receive payments that in the aggregate exceed the Allowed amount of such Claim.

The following table (i) designates the Classes of Claims and Interests for the purposes of voting on the Plan and receiving Distributions hereunder, and (ii) specifies which Classes are (a) Impaired or Unimpaired by the Plan, and (b) entitled to vote to accept or reject the Plan in accordance with section 1126 of the Bankruptcy Code.

Class	Designation	Treatment	Estimated Amount of Claims	Voting Status	Projected Recovery
1	Other Priority Claims	Unimpaired	$0.2 million	Deemed to Accept	100%
2	Other Secured Claims	Unimpaired	$[●]	Deemed to Accept	100%
3	General Unsecured Claims	Impaired	$144.1 million	Entitled to Vote	0.0% to 0.4%

4	Intercompany Claims	Impaired	$[●]	Deemed to Reject	0%
5	Intercompany Interests	Impaired	$[●]	Deemed to Reject	0%
6	Interests in Ascend Elements	Impaired	$[●]	Deemed to Reject	0%

A. CLASS 1 - OTHER PRIORITY CLAIMS

Description. Class 1 consists of all Other Priority Claims, including any employee wage, salary, commission, or PTO-related priority claims to the extent not previously paid or otherwise satisfied.

Treatment. Except to the extent that a Holder of an Allowed Other Priority Claim agrees to a less favorable treatment, each Holder of an Allowed Other Priority Claim shall receive, in full and final satisfaction, settlement, and release of, and in exchange for its Allowed Other Priority Claim, either: (i) Cash equal to the amount of such Allowed Other Priority Claim; or (ii) such other treatment that the Debtors or the GUC Trustee, as applicable, and the Holder of such Allowed Other Priority Claim have agreed upon in writing.

Voting. Class 1 is Unimpaired. Holders of Class 1 Other Priority Claims are conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code and are not entitled to vote on the Plan.

B. CLASS 2 - OTHER SECURED CLAIMS

Description. Class 2 consists of all Other Secured Claims, if any, including any secured claim later determined to exist with respect to AMCON's asserted lien or any other lien not otherwise satisfied, released, assumed, or resolved in connection with the Sale Orders or other orders in these Chapter 11 Cases.

Treatment. Except to the extent that a Holder of an Allowed Other Secured Claim agrees to a less favorable treatment, in full and final satisfaction, settlement, and release of, and in exchange for its Allowed Other Secured Claim, each Holder of an Allowed Other Secured Claim shall receive one of the following treatments: (i) payment in full in Cash; (ii) delivery of the collateral securing such Allowed Other Secured Claim; or (iii) treatment of such Allowed Other Secured Claim in any other manner that renders the Claim Unimpaired.

Voting. Class 2 is Unimpaired. Holders of Class 2 Other Secured Claims are conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code and are not entitled to vote on the Plan.

C. CLASS 3 – GENERAL UNSECURED CLAIMS

Description. Class 3 consists of all General Unsecured Claims.

Treatment. Except to the extent that a Holder of an Allowed General Unsecured Claim agrees to a different treatment, such Holder shall receive, in full and final satisfaction, settlement, release and discharge of, and in exchange for, such Allowed General Unsecured Claim, a Pro Rata Share of GUC Trust Interests, and as a GUC Trust Beneficiary, shall receive, on a distribution date, its Pro Rata Share of net Cash derived from the GUC Trust Assets available for Distribution as provided under this Combined Disclosure Statement and Plan and the GUC Trust Agreement, until all Allowed General Unsecured Claims are paid in full or the GUC Trust Assets are exhausted; *provided, however*, that all

Distributions to Holders of Allowed General Unsecured Claims shall be subject to the GUC Trustee first paying in full all GUC Trust Expenses and/or reserving for such GUC Trust Expenses in accordance with this Plan and the GUC Trust Agreement.

Voting. Class 3 is Impaired. Holders of Class 3 General Unsecured Claims are entitled to vote on the Plan.

D. CLASS 4 – INTERCOMPANY CLAIMS

Description. Class 4 consists of the Intercompany Claims of the Debtors.

Treatment. On the Effective Date, all Intercompany Claims shall either be settled, discharged, cancelled, or released without any Distribution on account of such Intercompany Claims and be of no further force or effect.

Voting. Class 4 is Impaired. Holders of Class 4 Intercompany Claims are conclusively deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code and are not entitled to vote on the Plan.

E. CLASS 5 – INTERCOMPANY INTERESTS

Description. Class 5 consists of the Intercompany Interests of the Debtors.

Treatment. On the Effective Date, all Intercompany Interests shall be extinguished without any Distribution on account of such Intercompany Interests and shall be of no further force or effect.

Voting. Class 5 is Impaired. Holders of Class 5 Intercompany Interests are conclusively deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code and are not entitled to vote on the Plan.

F. CLASS 6 – INTERESTS IN ASCEND ELEMENTS

Description. Class 6 consists of the Allowed Interests in Ascend Elements.

Treatment. On the Effective Date, all Interests in Ascend Elements shall be automatically cancelled, released, extinguished, and of no further force or effect. Holders of Interests in Ascend Elements shall neither retain nor receive any property under the Plan on account of such Interests and shall receive no Distribution.

Voting. Class 6 is Impaired. Holders of Class 6 Interests in Ascend Elements are conclusively deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code and are not entitled to vote on the Plan.

ARTICLE VI.
ACCEPTANCE OR REJECTION OF THE PLAN

A. CLASS ENTITLED TO VOTE

Because Claims in Class 3 are Impaired and Holders thereof will receive or retain property or an interest in property under the Plan, only Holders of Claims in Class 3 shall be entitled to vote to accept or reject the Plan.

B. ACCEPTANCE BY IMPAIRED CLASSES OF CLAIMS OR INTERESTS

In accordance with section 1126(c) of the Bankruptcy Code, and except as provided in section 1126(e) of the Bankruptcy Code, an Impaired Class of Claims shall have accepted the Plan if the Plan

is accepted by the Holders of at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the Allowed Claims in such Class that have timely and properly voted to accept or reject the Plan. In accordance with section 1126(d) of the Bankruptcy Code and except as provided in section 1126(e) of the Bankruptcy Code, an Impaired Class of Interests shall have accepted the Plan if such Plan is accepted by Holders of at least two-thirds (2/3) in amount of the Allowed Interests in such Class that have timely and properly voted to accept or reject the Plan.

C. PRESUMED ACCEPTANCE BY UNIMPAIRED CLASSES

Because Claims in Classes 1 and 2 are Unimpaired pursuant to section 1126(f) of the Bankruptcy Code, Holders of Claims in Classes 1 and 2 are deemed to have accepted the Plan and, therefore, such Holders of Claims are not entitled to vote to accept or reject the Plan.

D. PRESUMED REJECTIONS BY IMPAIRED CLASSES

Because Holders of Claims or Interests in Classes 4, 5, and 6 are not entitled to receive or retain any property under the Plan, pursuant to section 1126(g) of the Bankruptcy Code, such Holders of Claims or Interests are presumed to have rejected the Plan and are not entitled to vote to accept or reject the Plan.

E. CONFIRMATION PURSUANT TO SECTION 1129(B) OF THE BANKRUPTCY CODE

Section 1129(a)(10) of the Bankruptcy Code shall be satisfied for purposes of Confirmation by acceptance of the Plan by one or more of the Classes entitled to vote. To the extent that any Impaired Class rejects the Plan or is deemed to have rejected the Plan, the Debtors reserve the right to request confirmation of the Plan, as it may be modified from time to time, under section 1129(b) of the Bankruptcy Code. The Debtors reserve the right to alter, amend, modify, revoke, or withdraw the Plan, the documents submitted in support thereof or any schedule or exhibit, including to amend or modify it to satisfy the requirements of section 1129(b) of the Bankruptcy Code, if necessary.

F. CONTROVERSY CONCERNING IMPAIRMENT

If a controversy arises as to whether any Claim or Interest is Impaired under the Plan, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

G. ELIMINATION OF VACANT CLASSES

Any Class of Claims or Interests that does not contain, as of the date of the commencement of the Confirmation Hearing, a Holder of an Allowed Claim or Allowed Interest, or a Holder of a Claim temporarily allowed under Bankruptcy Rule 3018, shall be considered vacant and deemed eliminated from the Plan for all purposes, including for purposes of determining acceptance of the Plan by such Class under section 1129(a)(8) of the Bankruptcy Code.

ARTICLE VII.
MEANS FOR EXECUTION OF THE PLAN

A. OPERATIONS BETWEEN THE CONFIRMATION DATE AND EFFECTIVE DATE

During the period from the Confirmation Date through the Effective Date and to the extent applicable, the Debtors may continue to operate their businesses as debtors-in-possession in the ordinary course in a manner consistent with past practice in all material respects, and as otherwise necessary to consummate the Plan, subject to all applicable orders of the Bankruptcy Court.

B. SOURCES OF CONSIDERATION FOR PLAN DISTRIBUTIONS

On the Effective Date, the Debtors or GUC Trustee, as applicable, shall fund Distributions and satisfy applicable Allowed Claims under the Plan (other than Allowed General Unsecured Claims) in accordance with the Plan. Upon completion of such Distributions, on the Effective Date, the Debtors shall transfer to the GUC Trust all remaining Cash and other GUC Trust Assets. After the Effective Date, the GUC Trustee shall fund the Disputed Claims Reserve and make Distributions to Holders of Allowed General Unsecured Claims from the GUC Trust Assets in accordance with the Plan and GUC Trust Agreement.

C. LIMITED SUBSTANTIVE CONSOLIDATION OF THE DEBTORS

The Plan constitutes a motion for the limited consolidation of the Debtors and their respective Estates solely for purposes of voting on the Plan, confirming the Plan, and making Distributions pursuant to the Plan. Voting on the Plan shall be counted on a consolidated basis. On the Effective Date, solely for purposes of voting on the Plan, objecting to the allowance of Claims provided for under the Plan, and making Distributions under the Plan: (a) the assets of the Debtors will be pooled for the purpose of paying Allowed Claims against the Debtors; (b) any Claim filed or asserted against any of the Debtors will be deemed a Claim against all of the Debtors; (c) all Claims of each Debtor against any other Debtor will be eliminated; and (d) any obligation of any of the Debtors and all guarantees thereof executed by any of the Debtors will be deemed to be an obligation of each of the Debtors. Additionally, Holders of Allowed Claims who assert identical Claims against multiple Debtors shall be entitled to only a single satisfaction of such Claims, and any such duplicate Claims shall be deemed disallowed, expunged, and void as against the Debtors without need for the filing of a Claim Objection or further order of the Bankruptcy Court and such duplicate Claims shall receive no Distribution under the Plan.

For the avoidance of doubt, the limited consolidation described in this section shall not affect the legal and corporate structures of the Debtors. In addition, such consolidation shall not constitute a waiver of the mutuality requirement for setoff under section 553 of the Bankruptcy Code.

D. GUC TRUST

1. Establishment and purpose of GUC Trust.

On the Effective Date, the GUC Trust shall be established pursuant to the GUC Trust Agreement for the purpose of maximizing the value of the GUC Trust Assets and effectuating distributions to the GUC Trust Beneficiaries consistent with the Plan. The GUC Trust is intended to qualify as a liquidating trust pursuant to Treasury Regulations section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidation purpose of the GUC Trust.

2. Funding of and transfer of assets to the GUC Trust.

On the Effective Date, the GUC Trust Assets shall vest automatically in the GUC Trust. The transfer of the GUC Trust Assets to the GUC Trust shall be made for the benefit and on behalf of the GUC Trust Beneficiaries. The assets comprising the GUC Trust Assets will be treated for tax purposes as being transferred by the Debtors to the GUC Trust Beneficiaries pursuant to the Plan in exchange for their Allowed Claims and then by the GUC Trust Beneficiaries to the GUC Trust in exchange for the GUC Trust Interests in the GUC Trust. The GUC Trust Beneficiaries shall be treated as the grantors and owners of the GUC Trust. Upon the transfer of the GUC Trust Assets, the GUC Trust shall succeed to all of the Debtors' rights, title and interest in the GUC Trust Assets, and the Debtors will have no further interest in or with respect to the GUC Trust Assets.

To the extent that the terms of the Plan with respect to the GUC Trust are inconsistent with the terms set forth in the GUC Trust Agreement, then the terms of the GUC Trust Agreement shall govern.

3. Issuance of GUC Trust Interests.

All of the GUC Trust Interests issued pursuant to the Plan shall be duly authorized, validly issued, fully paid, and non-assessable. On the Effective Date, the GUC Trust shall issue the GUC Trust Interests for distribution pursuant to the provisions hereof and the GUC Trust Agreement. All GUC Trust Interests to be issued shall be deemed issued as of the Effective Date regardless of the date on which they are actually distributed. For the avoidance of doubt, ownership of a GUC Trust Interest will not be evidenced by any certificate, security, or receipt or in any other form or manner whatsoever, except the book entry system.

4. Appointment of the GUC Trustee.

As of the Effective Date, the GUC Trustee shall be the person or entity chosen by the Committee in its sole discretion and identified in the Plan Supplement.

5. Powers and Duties of the GUC Trustee.

As of the Effective Date, the GUC Trustee on behalf of the GUC Trust may control and exercise authority over the GUC Trust Assets, over the acquisition management, and disposition of the GUC Trust Assets, and over the management and conduct of the affairs of the GUC Trust including the potential pursuit of the GUC Trust Claims for the benefit of the GUC Trust and the GUC Trust Beneficiaries. In connection therewith, the GUC Trustee shall have standing before the Bankruptcy Court to pursue or not to pursue any and all Causes of Action that constitute GUC Trust Assets, as the GUC Trustee determines are in the best interests of the GUC Trust Beneficiaries and consistent with the purposes of the GUC Trust, the Sale Order, and the Confirmation Order. In administering the GUC Trust Assets, the GUC Trustee shall endeavor not to unduly prolong the GUC Trust's duration, with due regard that undue haste in the administration of the GUC Trust Assets may fail to maximize value for the GUC Trust Beneficiaries and otherwise be imprudent and not in the best interests of the GUC Trust Beneficiaries. Without limiting the generality of the foregoing, but subject to the Sale Order and the Confirmation Order, and the provisions of the GUC Trust Agreement, the GUC Trustee shall be expressly authorized to, with respect to the GUC Trust and the GUC Trust Assets:

(a) exercise all power and authority that may be or could have been exercised, commence all proceedings that may be or could have been commenced, and take all actions that may be or could have been taken with respect to the GUC Trust Assets, by any officer, director, member, manager, shareholder, or other party acting in the name of the Debtors or their Estates with like effect as if duly authorized, exercised, and taken by action of such officers, directors, members, managers, shareholders, or other party.

(b) open and maintain bank accounts on behalf of or in the name of the GUC Trust and designate additional authorized signers on bank accounts as may be necessary, calculate and make distributions, and take other actions consistent with the Sale Order, the Confirmation Order, and the implementation thereof, including the establishment, re-evaluation, adjustment, and maintenance of appropriate reserves, in the name of the GUC Trust.

(c) receive, manage, invest, supervise, and protect the GUC Trust Assets.

(d) hold legal title to any and all GUC Trust Assets.

(e) collect and liquidate all GUC Trust Assets and make distributions consistent with the GUC Trust Agreement and the Plan.

(f) review and, where appropriate, object to Claims payable out of the GUC Trust Assets pursuant to the Plan or the Bankruptcy Code, and, subject to the terms thereof, supervise and administer the resolution, settlement and payment of claims payable out of the GUC Trust Assets pursuant to the Plan or the Bankruptcy Code, and the distribution to the GUC Trust Beneficiaries, in accordance with the GUC Trust Agreement and the Plan.

(g) act in the same fiduciary capacity as applicable to a board of managers and officers, subject to the provisions of the GUC Trust Agreement and the Plan.

(h) as applicable, (i) seek a determination of tax liability under Bankruptcy Code section 505; (ii) file if necessary, any and all tax and information returns required with respect to the GUC Trust; (iii) make tax elections for and on behalf of the GUC Trust; and (iv) pay taxes, if any, payable for and on behalf of the GUC Trust.

(i) pay all lawful expenses, debts, charges, taxes, and liabilities of the GUC Trust.

(j) make distributions to the GUC Trust Beneficiaries as provided for, or contemplated by the GUC Trust Agreement and the Plan.

(k) withhold from the amount distributable to any person such amount as may be sufficient to pay any tax or other charge which the GUC Trustee has determined, in the GUC Trustee's sole discretion, may be required to be withheld therefrom under the income tax laws of the United States, any foreign country, or of any state, local, or political subdivision of any of the foregoing.

(l) enter into any agreement or execute any document or instrument required by or consistent with the GUC Trust Agreement and perform all obligations thereunder.

(m) if any of the GUC Trust Assets are situated in any state or other jurisdiction in which the GUC Trustee is not qualified to act as trustee, nominate and appoint a person duly qualified to act as trustee in such state or jurisdiction and require from each such trustee such security as may be designated by the GUC Trustee in the GUC Trustee's discretion; confer on such trustee all the rights, powers, privileges, and duties of the GUC Trustee under the GUC Trust Agreement, subject to the conditions and limitations of the GUC Trust Agreement, except as modified or limited by the GUC Trustee and except where the conditions and limitations may be modified by the laws of such state or other jurisdiction (in which case, the laws of the state or other jurisdiction in which such trustee is acting shall prevail to the extent necessary); require such trustee to be answerable to the GUC Trustee for all monies, assets, and other property that may be received in connection with the administration of all property; and, remove such trustee, with or without cause, and appoint a successor trustee at any time by the execution by the GUC Trustee of a written instrument declaring such trustee removed from office, and specifying the effective date and time of removal.

(n) purchase and carry all insurance policies and pay all insurance premiums and costs the GUC Trustee deems reasonably necessary or advisable.

(o) retain and compensate, without further order of the Bankruptcy Court, the services of employees, professionals, and consultants to advise and assist in the administration, prosecution and distribution of the GUC Trust Assets, to be paid solely from the funds held in trust for the GUC Trust Beneficiaries for which such costs, expenses, and obligations were incurred; *provided,* that for the avoidance of doubt and sake of efficiency, the GUC Trust may retain the same professionals and/or consultants as

previously retained by the Debtors or the Committee, unless any actual conflicts arise that may not be waived with the consent of the GUC Trust and GUC Trustee.

(p) implement, enforce, or discharge all of the terms, conditions and all other provisions of, and all duties and obligations under, the GUC Trust Agreement relating to the GUC Trust, the GUC Trust Assets, or the GUC Trustee.

(q) invest in demand and time deposits in banks or savings institutions, or temporary investments such as short term certificates of deposit or Treasury bills or other investments that a "liquidating trust" within the meaning of Treasury Regulations section 301.7701-4(d) may be permitted to hold, pursuant to the Treasury Regulations or any modification in IRS guidelines, whether set forth in IRS rulings, revenue procedures, other IRS pronouncements or otherwise.

(r) investigate and prosecute any and all GUC Trust Claims and compromise or settle such GUC Trust Claims.

(s) take all other actions that the GUC Trustee deems reasonably necessary or desirable to administer the GUC Trust in accordance with the GUC Trust Agreement.

6. Fees and Expenses of the GUC Trust.

Subject to payment in full of all Allowed Administrative Claims, and except as otherwise ordered by the Bankruptcy Court, the GUC Trust Expenses incurred on or after the Effective Date shall be paid in accordance with the GUC Trust Agreement without further order of the Bankruptcy Court.

7. Disputed Claims Reserve.

GUC Trust Assets reserved for Holders of Disputed Claims shall be treated as one or more Disputed Claims Reserves. The GUC Trustee shall treat each Disputed Claims Reserve as a "disputed ownership fund" governed by Treasury Regulation § 1.468B-9 (and make any appropriate elections consistent with such tax treatment). The GUC Trustee shall be the administrator of the Disputed Claims Reserves within the meaning of Treasury Regulation § 1.468B-9(b)(2) and shall be responsible for all Tax reporting and withholding required by the Disputed Claims Reserves. No Holder of a Claim will be treated as the grantor or deemed owner of any asset reserved for Disputed Claims until such Holder receives or is allocated an interest in such asset.

8. Resignation/Removal of the GUC Trustee.

The GUC Trustee may resign at any time upon thirty days' written notice delivered to the Bankruptcy Court; *provided*, that such resignation shall only become effective upon the appointment of a permanent or interim successor GUC Trustee, unless the GUC Trustee determines in the GUC Trustee's reasonable judgment that the GUC Trust lacks sufficient assets and financial resources, after reasonable collection efforts, to complete the duties and powers assigned to the GUC Trustee under the Sale Order, the Confirmation Order, and the GUC Trust Agreement, in which case such resignation may become effective without appointment of a successor GUC Trustee. The GUC Trustee may be removed by the Bankruptcy Court upon motion and after notice and a hearing, which motion may be brought by any party in interest. In the event of the resignation, death, disability, dissolution, or removal of the GUC Trustee, a replacement GUC Trustee shall be appointed in accordance with the GUC Trust Agreement.

9. Termination.

The GUC Trustee shall be discharged and the GUC Trust shall be terminated, at such time as: (i) (A) all of the GUC Trust Assets have been liquidated or the Allowed Claims of the GUC Trust

Beneficiaries have been satisfied, (B) all duties and obligations of the GUC Trustee under the GUC Trust Agreement have been fulfilled, and (C) all Distributions required to be made by the GUC Trustee under the GUC Trust Agreement, and the Plan have been made; or (ii) the GUC Trustee determines in the GUC Trustee's reasonable judgment that the GUC Trust lacks sufficient assets and financial resources, after reasonable collection efforts, to complete the duties and powers assigned to the GUC Trustee under the GUC Trust Agreement and/or the Plan.

E. RETAINED CAUSES OF ACTION

Except as otherwise provided herein, as of the Effective Date, in accordance with section 1123(b) of the Bankruptcy Code, each Retained Cause of Action shall be preserved and, along with the exclusive right to enforce such Cause of Action, shall vest exclusively in the GUC Trust. The Debtors or GUC Trust, as applicable, expressly reserve the Retained Causes of Action for later adjudication and, accordingly, no doctrine of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise), laches or other preclusion doctrine shall apply to the Retained Causes of Action as a consequence of the Confirmation, the Plan, the vesting of such Causes of Action in the GUC Trust, any order of the Bankruptcy Court or these Chapter 11 Cases. No Person may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any Cause of Action against them as an indication that the Debtors or the GUC Trust, as applicable, will not pursue such Cause of Action. The Retained Causes of Action Schedule shall be included in the Plan Supplement. The inclusion or failure to include any Retained Cause of Action in the Plan Supplement shall not be deemed an admission, denial or waiver of any claims, rights or Causes of Action that the Debtors, the Estates, or the GUC Trust may hold against any Person. For the avoidance of doubt, the Retained Causes of Action shall not include any Causes of Action against any Released Party to the extent released herein.

On the Effective Date, the GUC Trust or the GUC Trustee, as applicable, shall be deemed to be substituted as a party to any Retained Causes of Action litigation to which a Debtor is a party, including (but not limited to): (a) contested matters or adversary proceedings pending in the Bankruptcy Court; (b) any appeals of orders of the Bankruptcy Court; and (c) any state court or federal or state administrative proceedings.

OTHER THAN AS EXPRESSLY SET FORTH HEREIN, THE PLAN DOES NOT, AND IS NOT INTENDED TO, RELEASE ANY CAUSE OF ACTION, INCLUDING ANY AVOIDANCE ACTIONS OR OBJECTIONS TO PROOFS OF CLAIM. ALL SUCH RIGHTS ARE SPECIFICALLY PRESERVED, UNLESS SPECIFICALLY RELEASED UNDER THE PLAN.

F. DISSOLUTION OF THE COMMITTEE

The Committee shall be dissolved automatically on the Effective Date and the members of the Committee (solely in their capacities as such) and the Committee's Professionals (solely in their capacity as such) shall be released from all their duties relating to the Chapter 11 Cases, except with respect to (a) any applications for Professional Fee Claims or expense reimbursements for members of the Committee, including preparing same, objecting to same, defending same and attending any hearing with respect to same; and (b) any motions or other actions seeking enforcement or implementation of (i) the Plan or (ii) the Confirmation Order.

On the Effective Date, the Debtors' Professionals (solely in their capacity as such) shall be discharged and released from all their duties relating to the Chapter 11 Cases, except with respect to (a) any applications for Professional Fee Claims, including preparing same, objecting to same, defending same and attending any hearing with respect to same; and (b) any motions or other actions seeking enforcement or implementation of (i) the Plan or (ii) the Confirmation Order.

G. CANCELLATION OF SECURITIES, AGREEMENTS, AND INSTRUMENTS

Except as otherwise provided in the Plan, the Plan Supplement, the Confirmation Order, or any agreement, instrument, or other document incorporated in the Plan or the Plan Supplement, on the Effective Date: (i) the obligations of the Debtors under the Cash Collateral Orders, and each certificate, share, note, purchase right, option, warrant, intercreditor agreement, guaranty, indemnity, mortgage, deed of trust, or other instrument or document, directly or indirectly, evidencing or creating any indebtedness or ownership interest in the Debtors or giving rise to any Claim or Interest shall be cancelled or extinguished and the Debtors and the GUC Trustee, as applicable, shall not have any continuing obligations thereunder; and (ii) the obligations of the Debtors pursuant, relating, or pertaining to any agreements, certificates of designation, bylaws, or certificates or articles of incorporation or similar documents governing the shares, certificates, or other instruments or documents evidencing or creating any indebtedness or obligation of, or Claims against or Interests in, the Debtors shall be released and discharged; *provided*, that notwithstanding the releases set forth in Article XIII.F of the Plan, any such agreement may continue in effect solely for purposes of enabling Holders of Allowed Claims and Allowed Interests to receive distributions under the Plan as provided herein and preserving any surviving indemnification, reimbursement, or similar obligations expressly preserved under the Confirmation Order or applicable sale orders.

H. CORPORATE ACTION

On the Effective Date, all matters expressly provided for under the Plan that would otherwise require approval of the shareholders or directors and/or managers, as applicable, of one or more of the Debtors, including, but not limited to, the dissolution or merger of any of the Debtors, shall be deemed to have occurred and shall be in effect upon the Effective Date pursuant to the applicable general corporation law of the states in which the Debtors are incorporated without any requirement of action by the shareholders or directors and/or managers, as applicable, of the Debtors.

I. RESIGNATION OF OFFICERS AND DIRECTORS

Upon the Effective Date, the directors and/or manager and officers of the Debtors shall be deemed to have resigned, without further action. Upon the Effective Date, the GUC Trustee shall be empowered and authorized to act on behalf of the Debtors and to take all such actions and measures as necessary to implement the Plan, which actions or measures would otherwise be taken by an officer or a director of the Debtors.

ARTICLE VIII.
DISTRIBUTIONS

A. PROVISIONS GOVERNING DISTRIBUTIONS

1. Distributions.

The GUC Trustee will serve without bond and shall make all Distributions under the Plan. Any Distributions to be made by the GUC Trustee pursuant to the Plan shall be made to the Holders of Allowed Claims in accordance with the terms and provisions of Article IV and Article V of this Combined Disclosure Statement and Plan. To the extent required by applicable law, the GUC Trustee shall comply with all tax withholding and reporting requirements imposed on her by any Governmental Unit, and all Distributions pursuant to the Plan shall be subject to such withholding and reporting requirements. The GUC Trustee may require any Holder of an Allowed Claim entitled to a Distribution under the Plan to furnish its, his, or her employer or taxpayer identification number (the "***TIN***") assigned by the Internal Revenue Service. Any Distribution under the Plan may be conditioned on the receipt of such TIN. If any such Holder of an Allowed Claim entitled to a Distribution hereunder fails to provide a requested TIN within thirty days after the request hereof, then such failure shall be deemed to be a waiver of such Holder's interest in such Distribution, including the right to receive any future

Distributions. The GUC Trustee may but shall not be required to make any Distribution of less than $[100.00].

2. Delivery of Distributions.

Distributions and deliveries to Holders of Allowed Claims shall be made at the addresses set forth on the Debtors' Schedules and/or Proofs of Claim Filed by such Holders (if such Proofs of Claim have been Filed), or at the last known addresses of such Holders if no Proof of Claim is Filed; or if the GUC Trustee has been notified of a change of address, at the address set forth in such notice.

3. Undeliverable Distributions.

If any Distribution is returned as undeliverable, the GUC Trustee may, in her sole discretion, make such efforts to determine the current address of the Holder of the Allowed Claim with respect to which the Distribution was made as the GUC Trustee deems appropriate, but no Distribution to any Holder shall be made unless and until the GUC Trustee has determined the then-current address of the Holder, at which time the Distribution to such Holder shall be made to the Holder without interest. Amounts in respect of any undeliverable Distributions made by the GUC Trust shall be returned to, and held in trust by, the GUC Trust until the Distributions are claimed or are deemed to be unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of ninety days from the date the Distribution is made ("***Unclaimed Property***"). In the event that any Distribution to a Holder of an Allowed Claim becomes Unclaimed Property, such Distributions will revert to the GUC Trust as an asset of the GUC Trust.

4. Special Rules for Distributions to Holders of Disputed Claims.

Notwithstanding any provision otherwise in the Plan and except as may be agreed to by, as applicable, the Debtors or the GUC Trustee, as applicable, on the one hand, and the Holder of a Disputed Claim, on the other hand, no partial payments and no partial Distributions shall be made with respect to any Disputed Claim, other than with respect to Professional Fee Claims, until all Disputed Claims held by the Holder of such Disputed Claim have become Allowed Claims or have otherwise been resolved by settlement or Final Order.

5. Time Bar to Cash Payments By Check.

Checks issued by the GUC Trust to Holders of Allowed Claims shall be null and void if not negotiated within 120 days after the date of issuance thereof. Requests for the reissuance of any check that becomes null and void pursuant to this provision shall be made directly to the GUC Trustee by the Holder of such Allowed Claim to whom the check was originally issued. Any Allowed Claim in respect of such voided check shall be made in writing on or before the later of the first anniversary of the Effective Date or the first anniversary of the date on which the Claim at issue became an Allowed Claim. After that date, all Allowed Claims in respect of voided checks shall be discharged and forever barred and the proceeds of those checks shall revest in and become property of the GUC Trust as Unclaimed Property.

6. Setoffs and Recoupment.

The GUC Trustee may, but shall not be required to, setoff against, recoup from, any Claim (and the payments or other Distributions to be made pursuant to the Plan in respect of such Claim) of any nature whatsoever that the Debtors may have had against the Holder of such Claim; *provided, however*, that neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors, the Estates, or the GUC Trust of any such Claim that the Debtors, the Estates, or the GUC Trust has or may have against such Holder.

B. PROCEDURES FOR RESOLVING AND TREATING DISPUTED AND CONTINGENT CLAIMS AGAINST THE DEBTORS

1. Objection Deadline.

Unless a different date is set by order of the Bankruptcy Court, all Claim Objections shall be served and Filed no later than one hundred eighty days after the Effective Date or twenty (20) days after a particular Proof of Claim is Filed, whichever is later; *provided, however*, that such deadline may be extended pursuant to a motion filed with the Court by the GUC Trustee. Any proof of Claim filed after the Bar Date shall be of no force and effect, shall be deemed disallowed and expunged, and will not require objection.

2. Responsibility for Objecting to Claims.

Prior to the Effective Date, all parties identified by the Bankruptcy Rules may file objections to Claims. From and after the Effective Date, the GUC Trustee shall have the exclusive authority to file, settle, compromise, withdraw, or litigate to judgment any objections to Claims, including without limitation, any objections to Claims filed by the Debtors prior to the Effective Date.

3. No Distribution Pending Resolution of Claims.

Notwithstanding any other provision of the Plan, no payment or Distribution shall be made with respect to any Claim until all such Claim becomes an Allowed Claim. To the extent that the GUC Trustee makes a Distribution while a Claim is subject to a Claim Objection Filed with the Bankruptcy Court, the GUC Trustee shall hold in reserve such Holder's *pro rata* portion of the Distribution (the "***Reserve Amount***"). If such Holder's Claim is allowed by the Bankruptcy Court or agreement between the GUC Trustee and the Holder, the GUC Trustee shall distribute the Reserve Amount to such Holder. If such Holder's Claim is disallowed by the Bankruptcy Court, the GUC Trustee shall distribute the Reserve Amount *pro rata* to all other applicable Holders of Allowed Claims.

ARTICLE IX.
CONFIRMATION AND CONSUMMATION OF THE PLAN

A. CONDITIONS PRECEDENT TO THE EFFECTIVE DATE

Each of the following is a condition precedent to the occurrence of the Effective Date:

1. the final version of the Plan Supplement and all of the schedules, documents, and exhibits contained therein, and all other schedules, documents, supplements and exhibits to the Plan, including the GUC Trust Agreement, shall have been filed;

2. the Bankruptcy Court shall have entered the Confirmation Order and the Confirmation Order shall be a Final Order in full force and effect with no stay or vacation thereof then in effect;

3. all U.S. Trustee Fees shall have been paid in full; and

4. all other actions, documents, and agreements necessary to implement and consummate the Plan, including, without limitation, all actions, documents, and agreements necessary to implement any transactions contemplated under the Plan, shall have been effectuated or executed.

B. WAIVER OF CONDITIONS TO THE EFFECTIVE DATE

Any of the conditions to consummation of the Plan set forth in Article IX.A may be waived in whole or in part with the prior written consent of the Debtors and the Committee without any notice to or approval of other parties in interest or the Bankruptcy Court.

C. SUBSTANTIAL CONSUMMATION

"Substantial consummation" of the Plan, as such term is defined in section 1101(2) of the Bankruptcy Code, shall be deemed to occur on the Effective Date.

D. NOTICE OF OCCURRENCE OF EFFECTIVE DATE

Within five (5) Business Days after the occurrence of the Effective Date, the GUC Trustee shall file with the Bankruptcy Court and serve a *Notice of Occurrence of Effective Date* that informs all Holders of Claims and Interests of (i) the Confirmation of the Plan and occurrence of the Effective Date; (ii) notice of the Professional Fee Claims Bar Date; and (iii) such other matters as the GUC Trustee deems appropriate or as may be ordered by the Bankruptcy Court.

E. EFFECT OF NON-OCCURRENCE OF THE EFFECTIVE DATE

If each of the conditions specified in this Article have not been satisfied or waived in the manner provided herein within ninety days after the Confirmation Date, then: (i) the Confirmation Order shall be vacated and of no further force or effect; (ii) no Distributions under the Plan shall be made; (iii) the Debtors and all Holders of Claims against or Interests in the Debtors shall be restored to the status quo as of the day immediately preceding the Confirmation Date as though the Confirmation Date had never occurred; and (iv) all of the Debtors' obligations with respect to Claims and Interests shall remain unaffected by the Plan and nothing contained herein shall be deemed to constitute a waiver or release of any Claims by or against the Debtors or any other Entity or to prejudice in any manner the rights of the Debtors or any Entity in any further proceedings involving the Debtors, and the Plan shall be deemed withdrawn. Upon such occurrence, the Debtors shall File a written notification with the Bankruptcy Court and serve it upon such parties as the Bankruptcy Court may direct.

ARTICLE X.

TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

On the Effective Date, except to the extent otherwise set forth herein, all executory contracts and unexpired leases that have not previously been rejected pursuant to the First Rejection Notice, the Second Rejection Notice, or another order or notice of the Bankruptcy Court, and that are not expressly assumed or assumed and assigned to the Purchaser pursuant to the APAs, will be deemed rejected as of the Effective Date in accordance with, and subject to, sections 365 and 1123 of the Bankruptcy Code; *provided*, *however*, nothing in this Article shall cause the rejection, breach, or termination of any Insurance Policies benefiting the Debtors and the Estates, the Debtors' officers, managers and directors, and/or the GUC Trust. Entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of all rejections of executory contracts and unexpired leases pursuant to this Article and sections 365(a) and 1123 of the Bankruptcy Code.

Any executory contract or unexpired lease previously rejected pursuant to the First Rejection Notice, the Second Rejection Notice, or any other applicable notice or order shall be deemed rejected as of the rejection date set forth in such notice or order. All such previously rejected executory contracts and unexpired leases shall be treated as if such contracts or leases had been breached on the date immediately preceding the Petition Date, and any Claim arising from such rejection shall—to the extent asserted in a timely filed Proof of Claim—be classified as a Class 3 General Unsecured Claim for damages incurred as a result of the rejection. To the extent that any such rejection damage Claim is not asserted in a timely filed Proof of Claim, such Claim shall be forever barred and unenforceable against the Debtors' Estates.

To the extent executory, the APAs, and any other documents related to the Sale, shall be assumed.

Any Entity holding a Claim arising from the rejection of an executory contract or unexpired lease pursuant to the First Rejection Notice, the Second Rejection Notice, or any other rejection notice filed under the Rejection Procedures Order must file a Proof of Claim by the later of (i) the applicable Bar Date, (ii) 35 days after the date of filing of the applicable rejection notice, or (iii) if a Rejection Objection is timely and properly filed, 30 days after such objection is resolved, overruled, withdrawn, or adjudicated. Any Entity holding a Claim arising from the rejection of an executory contract or unexpired lease under this Plan must file a Proof of Claim by the Rejection Damages Bar Date. Claims arising from rejection under this Plan shall be treated as if such contracts or leases had been breached on the date immediately preceding the Petition Date and, to the extent timely filed, shall be classified as Class 3 General Unsecured Claims. For the avoidance of doubt, because the Second Rejection Notice is anticipated to be filed on July 3, 2026, any Claim arising therefrom shall be due no earlier than August 7, 2026, unless a Rejection Objection is timely and properly filed. Any rejection damages Claim not timely filed shall be forever barred and unenforceable against the Debtors, their Estates, and the property of the foregoing.

ARTICLE XI.
MODIFICATIONS AND AMENDMENTS

The Debtors may alter, amend, or modify the Plan or any exhibits or schedules hereto under section 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Date. After the Confirmation Date but prior to substantial Consummation of the Plan, any material or substantive alteration, amendment, or modification of the Plan or any exhibits or schedules hereto shall require the prior written consent of the Committee or, after the Effective Date, the GUC Trustee. Any Holder of a Claim that has accepted the Plan shall be deemed to have accepted the Plan, as altered, amended, or modified, if the proposed alteration, amendment, or modification does not materially and adversely change the treatment of the Claim of such Holder.

Entry of the Confirmation Order shall mean that all modifications or amendments to the Plan occurring after the solicitation thereof and on or before the Confirmation Date are approved pursuant to section 1127(a) of the Bankruptcy Code and do not require additional disclosure or re-solicitation under Bankruptcy Rule 3019.

ARTICLE XII.
RETENTION OF JURISDICTION

Pursuant to sections 105(a) and 1142 of the Bankruptcy Code, and notwithstanding entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, and related to, the Chapter 11 Cases and the Plan to the fullest extent permitted by law, including, among other things, jurisdiction to:

1. allow, disallow, determine, subordinate, liquidate, classify, estimate or establish the priority or secured or unsecured status of any Claim or Interest (whether Filed before or after the Effective Date and whether or not contingent, disputed, or unliquidated or for contribution, indemnification, or reimbursement), including the compromise, settlement, and resolution of any request for payment of any Claims or Interests, the resolution of any objections to the allowance or priority of Claims or Interests, and to hear and determine any other issue presented hereby or arising hereunder, including during the pendency of any appeal relating to any objection to such Claim or Interest to the extent permitted under applicable law;

2. grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or the Plan, for periods ending on or before the Effective Date;

3. determine and resolve any matters related to (i) the assumption, assumption and assignment, or rejection of any executory contract or unexpired lease to which the Debtors are a party or with respect to which the Debtors may be liable, and to hear, determine and, if necessary, liquidate any Claims arising therefrom; and (ii) any dispute regarding whether a contract or lease is or was executory or expired;

4. ensure that all Distributions to Holders of Allowed Claims under the Plan and the performance of the provisions of the Plan are accomplished as provided herein and resolve any issues relating to Distributions to Holders of Allowed Claims pursuant to the provisions of the Plan;

5. construe, take any action and issue such orders, prior to and following the Confirmation Date and consistent with section 1142 of the Bankruptcy Code, as may be necessary for the enforcement, implementation, execution and Consummation of the Plan and all contracts, instruments, releases, other agreements or documents created in connection with the Plan, including, without limitation, the Disclosure Statement and the Confirmation Order, for the maintenance of the integrity of the Plan in accordance with sections 524 and 1141 of the Bankruptcy Code following the occurrence of the Effective Date;

6. determine and resolve any cases, controversies, suits or disputes that may arise in connection with the Consummation, interpretation, implementation or enforcement of the Plan (and all exhibits and schedules to the Plan) or the Confirmation Order, including the releases and injunction provisions set forth in and contemplated by the Plan or the Confirmation Order, or any Entity's rights arising under or obligations incurred in connection therewith;

7. modify this Plan or the Confirmation Order before or after the Effective Date, pursuant to section 1127 of the Bankruptcy Code, as well as any contract, instrument, release, or other agreement or document created in connection with the Plan, the Disclosure Statement, or the Confirmation Order, or remedy any defect or omission or reconcile any inconsistency in any Bankruptcy Court order, the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release, or other agreement or document created in connection with this Plan or the Confirmation Order, in such manner as may be necessary or appropriate to consummate the Plan, to the extent authorized by the Bankruptcy Code and the Plan;

8. issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any entity with Consummation, implementation, or enforcement of the Plan or the Confirmation Order;

9. enter and implement such orders as may be necessary or appropriate if the Confirmation Order is for any reason reversed, stayed, revoked, modified, or vacated;

10. determine any other matters that may arise in connection with or relating to the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release, or other agreement or document created in connection with this Plan or the Confirmation Order;

11. hear and determine any and all adversary proceedings, motions, applications, and contested or litigated matters, including, but not limited to, all GUC Trust Claims, and

consider and act upon the compromise and settlement of any Claim, Interest, or Cause of Action;

12. enforce all orders, judgments, injunctions, releases, exculpations, indemnifications and rulings entered in connection with the Chapter 11 Cases;

13. hear and determine matters concerning state, local and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code;

14. determine and resolve controversies related to the Estates, the Debtors, or the GUC Trust from and after the Effective Date;

15. determine such other matters and for such other purposes as may be provided in the Confirmation Order;

16. hear and determine any other matter relating to this Plan;

17. hear any other matter not inconsistent with the Bankruptcy Code; and

18. enter a final decree closing any or all of the Chapter 11 Cases.

Nothing herein limits the jurisdiction of the Bankruptcy Court to interpret and enforce the Plan and all contracts, instruments, releases, indentures, and other agreements or documents created in connection with the Plan, or the Plan Supplement, without regard to whether the controversy with respect to which such interpretation or enforcement relates may be pending in any state or other federal court of competent jurisdiction.

If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising in, arising under, or related to the Chapter 11 Cases, including the matters set forth in this Article XIII, the provisions of this Article XIII shall have no effect on and shall not control, limit, or prohibit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such matter.

Unless otherwise specifically provided herein or in a prior order of the Bankruptcy Court, the Bankruptcy Court shall have exclusive jurisdiction to hear and determine disputes concerning Claims against or Interests in the Debtors that arose prior to the Effective Date.

ARTICLE XIII.
SETTLEMENT, RELEASE, INJUNCTION, AND RELATED PROVISIONS

A. COMPROMISE AND SETTLEMENT OF CLAIMS, INTERESTS, AND CONTROVERSIES

Pursuant to sections 363 and 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the Distributions, releases, and other benefits provided pursuant to the Plan, which Distributions, releases, and other benefits shall be irrevocable and not subject to challenge upon the Effective Date, the provisions of the Plan, and the Distributions, releases, and other benefits provided hereunder, shall constitute a good faith compromise and settlement of all Claims and Interests and controversies resolved pursuant to the Plan.

The Plan shall be deemed a motion to approve the good faith compromise and settlement of all such Claims, Interests, and controversies, pursuant to Bankruptcy Rule 9019, and the entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, as of the Effective Date, of the compromise and settlement of all such Claims, Interests, and controversies, as well as a finding by the Bankruptcy Court that all such compromises and settlements are in the best interests of the Debtors,

their Estates, and Holders of Claims and Interests and are fair, equitable, and reasonable. In accordance with the provisions of the Plan, pursuant to Bankruptcy Rule 9019, without any further notice to or action, order, or approval of the Court, after the Effective Date, the GUC Trustee, may compromise and settle Claims against, and Interests in, the Debtors and their Estates and GUC Trust Claims against other Entities.

B. LIMITED DISCHARGE OF DEBTORS AND INJUNCTION

This is a liquidating Plan, and the Debtors do not intend to engage in operations after Confirmation. Notwithstanding the foregoing, the entry of the Confirmation Order will operate as a general resolution with prejudice, as of the Effective Date, of all pending legal proceedings, if any, against the Debtors and their assets and properties and any proceedings not yet instituted against the Debtors or their assets and properties, except as otherwise provided in the Plan or the Confirmation Order. Except as otherwise expressly provided in the Plan or the Confirmation Order, all Entities who have held, hold, or may hold Claims against the Debtors are permanently enjoined on and after the Effective Date from (i) commencing or continuing in any manner any action or other proceeding of any kind against the Debtors or their Estates, or the GUC Trustee, with respect to any such Claim, (ii) the enforcement, attachment, collection or recovery by any manner or means of any judgment, award, decree or order with respect to any such Claim against the Debtors, their Estates, or the GUC Trustee, (iii) creating, perfecting, or enforcing any encumbrance of any kind against the Debtors, their Estates, or the GUC Trustee, with respect to such Claim, (iv) asserting any right of subrogation of any kind against any obligation due to the Debtors, their Estates, or the GUC Trustee, with respect to any such Claim, and (v) asserting any right of setoff or recoupment against the Debtors, their Estates, or the GUC Trustee except as specifically permitted by section 553 of the Bankruptcy Code. Unless otherwise provided in the Plan or the Confirmation Order, or by order of the Bankruptcy Court, all injunctions or automatic stays provided for in these Chapter 11 Cases pursuant to section 105, if any, or section 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date will remain in full force and effect until the Effective Date.

C. RELEASE OF LIENS

Except as otherwise specifically provided in the Plan or in any other contract, instrument, agreement or document created pursuant to the Plan or the Plan Supplement, on the Effective Date and concurrently with the applicable Distributions or other treatment made pursuant to the Plan, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall be fully released and discharged, and all of the right, title, and interest of any Holder of such mortgages, deeds of trust, Liens, pledges, or other security interests shall revert to the GUC Trust and its successors and assigns, in each case, without any further approval or order of the Bankruptcy Court and without any action or Filing being required from the Debtors or the GUC Trustee, as applicable.

D. RELEASES BY THE DEBTORS

Pursuant to section 1123(b) of the Bankruptcy Code, on and after the Effective Date, in exchange for good and valuable consideration, to the fullest extent permissible under applicable law, as such law may be extended or integrated after the Effective Date, each Released Party will be deemed conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged by each and all of the Debtors, the GUC Trust, and their respective Estates, as applicable, in each case on behalf of themselves and their respective successors, assigns, and representatives, and any and all other Entities who may purport to assert any Cause of Action, directly or derivatively, by, through, for, or because of the foregoing Entities, from any and all Causes of Action, whether known or unknown, including any derivative claims asserted or assertable on behalf of any of the Debtors, that the Debtors, the GUC Trust, or their respective Estates or Affiliates, as applicable, would have been legally entitled to assert in its own right (whether individually or collectively) or on behalf of the Holder of any Claim against, or Interest

in, a Debtor or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtors (including the governance, management, ownership, or operation thereof), the Debtors' capital structure, the assertion or enforcement of rights and remedies against the Debtors, the Debtors' in- or out-of-court restructuring efforts, intercompany transactions between or among the Debtors and/or their Affiliates, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the GUC Trust, as applicable, and the ownership thereof, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the Chapter 11 Cases and any related adversary proceedings and related prepetition activities, the formulation, preparation, dissemination, negotiation, filing, or consummation of the Plan, or any contract, instrument, release, or other agreement or document created or entered into in connection with the Cash Collateral Orders, the Prepetition Note Documents, the applicable asset purchase agreements, the sale transactions, the Disclosure Statement, the Plan, or the Plan Supplement, the Debtors' restructuring efforts, the filing of the Chapter 11 Cases, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion, any action or actions taken in furtherance or consistent with administration of the Plan, the issuance or distribution of any debt and/or securities pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release (a) any obligations of any Entity arising on or after the Effective Date under the Plan, the Confirmation Order, any applicable asset purchase agreement, any restructuring transaction, any assumed executory contract or unexpired lease, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan or an applicable section 363 asset sale; and (b) any Entity from any claim or Causes of Action related to an act or omission that is determined in a Final Order by a court of competent jurisdiction to have constituted actual fraud, willful misconduct, or gross negligence by such Entity.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the releases by the Debtors and their respective Estates set forth in this Article XIII.D, which includes by reference each of the related provisions and definitions contained herein, and, further, shall constitute the Bankruptcy Court's finding that such releases are: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the Claims and Causes of Action released by such releases; (3) in the best interests of the Debtors and their respective Estates; (4) fair, equitable and reasonable; (5) given and made after due notice and opportunity for hearing; and (6) a bar to any of the Debtors, their Estates, or the GUC Trustee, as applicable, asserting any Claim or Cause of Action released pursuant to such releases. For the avoidance of doubt, the Non-Released Parties are not Released Parties and are not subject to the releases set forth in this Article XIII.D.

E. RELEASES BY THE RELEASING PARTIES

As of the Effective Date, in exchange for good and valuable consideration, including the obligations of the Debtors under the Plan, to the fullest extent permissible under applicable law, as such law may be extended or integrated after the Effective Date, each of the Releasing Parties, in each case on behalf of itself and its respective successors, assigns, and representatives, and any and all other Entities who may purport to assert any Cause of Action, directly or derivatively, by, through, for, or because of the foregoing Entities, will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged each Debtor and other Released Party from any and all Causes of Action, whether known or unknown, that such Entity would

have been legally entitled to assert in its own right (whether individually or collectively) or on behalf of the Holder of any Claim against, or Interest in, a Debtor or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtors (including the governance, management, ownership or operation thereof), the Debtors' capital structure, the assertion or enforcement of rights and remedies against the Debtors, the Debtors' in- or out-of-court restructuring efforts, intercompany transactions between or among the Debtors and/or their Affiliates, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the GUC Trust, as applicable, and the ownership thereof, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the Cash Collateral Orders, the Prepetition Note Documents, the applicable asset purchase agreements, and the sale transactions, the Chapter 11 Cases and any related adversary proceedings and related prepetition activities, the formulation, preparation, dissemination, negotiation, filing, or consummation of the Plan, contract, instrument, release, or other agreement or document created or entered into in connection with the cash collateral orders, the Prepetition Note Documents, the applicable asset purchase agreements, the sale transactions, the Disclosure Statement, the Plan, or the Plan Supplement, the Debtors' restructuring efforts, the filing of the Chapter 11 Cases, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion, any action or actions taken in furtherance or consistent with administration of the Plan, the issuance or distribution of any debt and/or securities pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date.

Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release (a) any obligations of any Entity arising on or after the Effective Date under the Plan, the Confirmation Order, any applicable asset purchase agreement, any restructuring transaction, any assumed executory contract or unexpired lease, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan or an applicable section 363 asset sale, (b) any Entity from any claim or Causes of Action related to an act or omission that is determined in a Final Order by a court of competent jurisdiction to have constituted actual fraud, willful misconduct, or gross negligence by such Entity, or (c) any of the Debtors' commercial tort claims and Avoidance Actions transferred to the GUC Trust.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the releases by Holders of Claims and Interests set forth in this Article XIII.E, which includes by reference each of the related provisions and definitions contained herein, and, further, shall constitute the Bankruptcy Court's finding that such releases are: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the Claims and Causes of Action released by such releases; (3) in the best interests of the Debtors and their Estates; (4) fair, equitable and reasonable; (5) given and made after due notice and opportunity for hearing; (6) an essential component of the Plan; and (7) a bar to any of the Releasing Parties asserting any Claim or Cause of Action released pursuant to such releases. For the avoidance of doubt, the Non-Released Parties are not Released Parties and are not subject to the releases set forth in this Article XIII.E.

F. EXCULPATION AND LIMITATION OF LIABILITY

Except as otherwise specifically provided in the Plan, and to the fullest extent permissible under applicable law, no Exculpated Party will have or incur any liability to any Holder of a Claim or Interest, or any other party in interest, or any of their respective agents, employees, representatives, financial advisors, attorneys, or affiliates, or any of their successors or assigns, for any act or omission in connection with, relating to, or arising out of, the solicitation of votes to accept the Plan, the Chapter

11 Cases, any section 363 asset sale, the pursuit of Confirmation, the pursuit of Consummation, or the administration of the Plan or the property to be distributed under the Plan, or any transaction under the Plan, contract, instrument, or document or transaction approved by the Bankruptcy Court in the Chapter 11 Cases, except for their actual fraud, gross negligence, or willful misconduct, and in all respects shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities under the Plan.

No Holder of a Claim or Interest, no other party in interest, none of their respective agents, employees, representatives, financial advisors, attorneys, or affiliates, and no successors or assigns of the foregoing, will have any right of action against any Exculpated Party, for any act or omission in connection with, relating to, or arising out of the solicitation of votes to accept the Plan, or the pursuit of Confirmation, the pursuit of Consummation, or the administration of the Plan or the property to be distributed under the Plan, except as provided by the Plan or by law.

G. INJUNCTION

In implementation of the Plan, except as otherwise expressly provided in the Confirmation Order or the Plan, and except in connection with the enforcement of the terms of the Plan or any documents provided for or contemplated in the Plan, all entities who have held, hold or may hold Claims against or Interests in the Debtors, the Estates, or the GUC Trust or that arose prior to the Effective Date are permanently enjoined from: (a) commencing or continuing in any manner, directly or indirectly, any action or other proceeding of any kind against the Debtors, the Estates, the GUC Trust, or any of the GUC Trust Assets, with respect to any such Claim or Interest; (b) the enforcement, attachment, collection, or recovery by any manner or means, directly or indirectly, of any judgment, award, decree, or order against the Debtor, the Estates, the GUC Trust, or any of the GUC Trust Assets with respect to any such Claim or Interest; (c) creating, perfecting, or enforcing, directly or indirectly, any Lien or encumbrance of an kind against the Debtors, the Estates, or the GUC Trust, or any of the GUC Trust Assets with respect to any such Claim or Interest; and (d) any act, in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan with respect to such Claim or Interest. Nothing contained in this Section shall prohibit the Holder of a timely filed Proof of Claim from litigating its right to seek to have such Claim declared an Allowed Claim and paid in accordance with the distribution provisions of the Plan, or enjoin or prohibit the interpretation or enforcement by the Claimant of any of the obligations of the Debtors, or the GUC Trust under the Plan.

ARTICLE XIV.
MISCELLANEOUS PROVISIONS

A. BINDING EFFECT

Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code and upon the occurrence of the Effective Date, the provisions of the Plan, the final versions of the documents contained in the Plan Supplement, and the Confirmation Order, shall be immediately effective and enforceable and bind any Holder of a Claim against, or Interest in, the Debtors and such Holder's respective successors and assigns, whether or not the Claim or Interest of such Holder is Impaired under the Plan and whether or not such Holder has accepted the Plan, all Entities that are parties to or are subject to the settlements, compromises, releases, discharges, and injunctions described in the Plan, each Entity acquiring property under the Plan or the Confirmation Order, and any and all non-Debtor parties to Executory Contracts and Unexpired Leases. **To opt in to the release in Section XIII.E above, Holders of Claims and Interests must timely submit a Ballot or notice of non-voting status indicating they have opted in to the release. Holders of Claims or Interests that do not timely opt in shall not be Releasing Parties on account of such Claims or Interests.**

B. SEVERABILITY OF PLAN PROVISIONS

If, prior to Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court, at the request of a party in interest, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may be altered or interpreted in accordance with the foregoing, is: (i) valid and enforceable pursuant to its terms; (ii) integral to the Plan and may not be deleted or modified without the consent of the Debtors or the GUC Trustee, as applicable; and (iii) non-severable and mutually dependent.

C. REVOCATION, WITHDRAWAL, OR NON-CONFIRMATION OF THE PLAN

The Debtors reserve the right to revoke or withdraw the Plan prior to the Confirmation Hearing. If the Plan is revoked or withdrawn prior to the Confirmation Hearing, or if the Plan is not confirmed by the Bankruptcy Court, then (i) the Plan shall be null and void in all respects; and (ii) nothing contained in this Plan shall (a) constitute a waiver or release of any Claims by or against, or any Interests in, the Debtors or any other Entity, (b) prejudice in any manner the rights of the Debtors or any other Entity, or (c) constitute an admission acknowledgement, offer, or undertaking of any sort by the Debtors or any other Entity.

D. PAYMENT OF STATUTORY FEES; FILING OF QUARTERLY REPORTS

Notwithstanding any other provision of the Plan to the contrary, all U.S. Trustee Fees, as determined by the Bankruptcy Court at the Confirmation Hearing, shall be paid in full in Cash on or before the Effective Date. On and after the Effective Date, the GUC Trustee shall File with the Bankruptcy Court quarterly reports in a form reasonably acceptable to the U.S. Trustee for each Debtor until its case is closed, dismissed, or converted. All U.S. Trustee Fees that arise after the Effective Date shall be paid in full in Cash by the GUC Trustee when due. The GUC Trustee shall have the obligation to pay U.S. Trustee Fees pursuant to United States Code title 28 section 1930 for each and every Debtor until its particular case is closed, dismissed, or converted. Notwithstanding anything to the contrary in the Plan, the U.S. Trustee shall not be required to File any proofs of Claim with respect to U.S. Trustee Fees.

E. SUCCESSORS AND ASSIGNS

The rights, benefits and obligations of any Entity named or referred to in the Plan or the Confirmation Order shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor, or assign of such Entity.

F. FILING OF ADDITIONAL DOCUMENTS

On or before the Effective Date, the Debtors may issue, execute, deliver, and File with the Bankruptcy Court or record any agreements and other documents, and take any action as may be necessary or appropriate to effectuate, consummate and further evidence the terms and conditions of the Plan.

G. ENTIRE AGREEMENT

Except with respect to consummation of the Sale, including, but not limited to the APA, or as otherwise indicated, the Plan and the Plan Supplement supersede all previous and contemporaneous

negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into the Plan. If the Effective Date does not occur, nothing herein shall be construed as a waiver by any party in interest of any or all of such party's rights, remedies, claims, and defenses, and such parties expressly reserve any and all of their respective rights, remedies, claims and, defenses. The Plan and the documents comprising the Plan Supplement, including any drafts thereof (and any discussions, correspondence, or negotiations regarding any of the foregoing) shall in no event be construed as, or be deemed to be, evidence of an admission or concession on the part of any party in interest of any claim or fault or liability or damages whatsoever. Pursuant to Federal Rule of Evidence 408 and any applicable state rules of evidence, all negotiations, discussions, agreements, settlements, and compromises reflected in or related to the Plan and the documents comprising the Plan Supplement are part of a proposed settlement of matters that could otherwise be the subject of litigation among various parties in interest, and such negotiations, discussions, agreements, settlements, and compromises shall not be admissible into evidence in any proceeding other than a proceeding to enforce the terms of the Plan and the documents comprising the Plan Supplement.

H. FURTHER ASSURANCES

The Debtors, the GUC Trustee, all Holders of Allowed Claims receiving Distributions pursuant to the Plan, and all other parties in interest may and shall, from time to time, prepare, execute, and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan or the Confirmation Order.

ARTICLE XV.
CONFIRMATION OF THE PLAN

A. VOTING PROCEDURES AND REQUIREMENTS

1. Confirmation Procedure.

The Solicitation Procedures Order, among other things, conditionally approves this Combined Disclosure Statement and Plan for solicitation purposes only and authorizes the Debtors to solicit votes to accept or reject the Plan. The Confirmation Hearing has been scheduled virtually for August 17, 2026 at 1:00 p.m. (prevailing Central Time), subject to the Court's availability, in Courtroom 402, United States Courthouse, 515 Rusk Street, Houston, Texas 77002 to consider (i) final approval of the Disclosure Statement as providing adequate information pursuant to section 1125 of the Bankruptcy Code, and (ii) confirmation of the Plan pursuant to section 1129 of the Bankruptcy Code. The Confirmation Hearing may be adjourned from time to time by the Debtors without further notice, except for an announcement of the adjourned date made at the Confirmation Hearing or by Filing a notice with the Bankruptcy Court.

2. Procedure for Objections.

Any objection to final approval of this Combined Disclosure Statement and Plan as providing adequate information pursuant to section 1125 of the Bankruptcy Code or confirmation of the Plan must: (i) be in writing; (ii) conform to the Bankruptcy Rules, the Local Rules, and any orders of the Court; (iii) state with particularity the basis and nature of any objection to this Combined Disclosure Statement and Plan and, if practicable, a proposed modification that would resolve such objection; and (iv) be Filed with the Bankruptcy Court and served upon: (a) counsel to the Debtors, Norton Rose Fulbright US LLP, 1550 Lamar Street, Suite 2000, Houston, Texas 77010, Attn: Ryan Manns and Maria Mokrzycka, and 2200 Ross Avenue, Suite 3600, Dallas, Texas 75201, Attn: Jason I. Blanchard; (b) the U.S. Trustee for the Southern District of Texas, 515 Rusk Street, Suite 3516, Houston, Texas 77002, Attn: Ha Nguyen and Vianey Garza; and (c) counsel to the Committee, McDermott Will & Schulte LLP, Attn: Carole Wurzelbacher, Charles Gibbs, Kristin Going, Darren Azman, Joshua Lee, and Nathaniel Allard, so as to be **actually received** no later than **August 14, 2026 at 4:00 p.m. (prevailing**

Central Time). Unless an objection to this Combined Disclosure Statement and Plan is timely Filed and served, it may not be considered by the Bankruptcy Court.

3. Requirements for Confirmation.

The Bankruptcy Court will confirm the Plan only if it meets all the applicable requirements of section 1129 of the Bankruptcy Code. Among other requirements, the Plan (i) must be accepted by all Impaired Classes of Claims or Interests or, if rejected by an Impaired Class, the Plan must not "discriminate unfairly" against, and be "fair and equitable" with respect to, such Class; and (ii) must be feasible. The Bankruptcy Court must also find that: (a) the Plan has classified Claims and Interests in a permissible manner; (b) the Plan complies with the technical requirements of chapter 11 of the Bankruptcy Code; and (c) the Plan has been proposed in good faith.

4. Classification of Claims and Interests.

Section 1123 of the Bankruptcy Code provides that a plan must classify the claims and interests of a debtor's creditors and equity interest holders. In accordance with section 1123 of the Bankruptcy Code, the Plan divides Claims and Interests into Classes and sets forth the treatment for each Class (other than those claims which pursuant to section 1123(a)(1) of the Bankruptcy Code need not be and have not been classified). The Debtors also are required, under section 1122 of the Bankruptcy Code, to classify Claims and Interests into Classes that contain Claims or Interests that are substantially similar to the other Claims or Interests in such Class.

The Bankruptcy Code also requires that a plan provide the same treatment for each claim or interest of a particular class unless the claim holder or interest holder agrees to a less favorable treatment of its claim or interest. The Debtors believe that the Plan complies with such standard. If the Bankruptcy Court finds otherwise, however, it could deny confirmation of the Plan if the Holders of Claims or Interests affected do not consent to the treatment afforded them under the Plan.

A Claim or Interest is placed in a particular Class only to the extent that the Claim or Interest falls within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest falls within the description of such other Classes. A Claim also is placed in a particular Class for the purpose of receiving Distributions pursuant to the Plan only to the extent that such Claim is an Allowed Claim in that Class and such Claim has not been paid, released, or otherwise settled prior to the Effective Date.

The Debtors believe that the Plan has classified all Claims and Interests in compliance with the provisions of section 1122 of the Bankruptcy Code and applicable case law. It is possible that a Holder of a Claim or Interest may challenge the classification of Claims or Interests and that the Bankruptcy Court may find that a different classification is required for the Plan to be confirmed. If such a situation develops, the Debtors intend, in accordance with the terms of the Plan, to make such permissible modifications to the Plan as may be necessary to permit its Confirmation. Any such reclassification could adversely affect Holders of Claims by changing the composition of one or more Classes and the vote required of such Class or Classes for approval of the Plan.

EXCEPT AS SET FORTH IN THE PLAN, UNLESS SUCH MODIFICATION OF CLASSIFICATION MATERIALLY ADVERSELY AFFECTS THE TREATMENT OF A HOLDER OF A CLAIM AND REQUIRES RE-SOLICITATION, ACCEPTANCE OF THE PLAN BY ANY HOLDER OF A CLAIM PURSUANT TO THIS SOLICITATION WILL BE DEEMED TO BE A CONSENT TO THE PLAN'S TREATMENT OF SUCH HOLDER OF A CLAIM REGARDLESS OF THE CLASS AS TO WHICH SUCH HOLDER ULTIMATELY IS DEEMED TO BE A MEMBER.

The amount of any Impaired Claim that ultimately is Allowed by the Bankruptcy Court may vary from any estimated Allowed amount of such Claim and, accordingly, the total Claims that are

ultimately Allowed by the Bankruptcy Court with respect to each Impaired Class of Claims may also vary from any estimates contained herein with respect to the aggregate Claims in any Impaired Class. Thus, the actual recovery ultimately received by a particular Holder of an Allowed Claim may be adversely or favorably affected by the aggregate amount of Claims Allowed in the applicable Class. Additionally, any changes to any of the assumptions underlying the estimated Allowed amounts could result in material adjustments to recovery estimates provided herein or the actual Distribution received by Holders of Allowed Claims. The projected recoveries are based on information available to the Debtors as of the date hereof and reflect the Debtors' views as of the date hereof only.

The classification of Claims and Interests and the nature of Distributions to members of each Class are summarized herein. The Debtors believe that the consideration, if any, provided under the Plan to Holders of Allowed Claims reflects an appropriate resolution of their Claims taking into account the differing nature and priority (including applicable contractual subordination) of such Claims and Interests. The Bankruptcy Court must find, however, that a number of statutory tests are met before it may confirm the Plan. Many of these tests are designed to protect the interests of Holders of Claims or Interests who are not entitled to vote on the Plan, or do not vote to accept the Plan, but who will be bound by the provisions of the Plan if it is confirmed by the Bankruptcy Court.

5. Impaired Claims or Interests.

Pursuant to the provisions of the Bankruptcy Code, only classes of claims or interests that are "impaired" (as defined in section 1124 of the Bankruptcy Code) under a plan may vote to accept or reject such plan. Generally, a claim or interest is impaired under a plan if the holder's legal, equitable, or contractual rights are changed under such plan. In addition, if the holders of claims or interests in an impaired class do not receive or retain any property under a plan on account of such claims or interests, such impaired class is deemed to have rejected such plan under section 1126(g) of the Bankruptcy Code and, therefore, such holders are not entitled to vote on such plan.

Under the Plan, Holders of Claims in Class 3 are Impaired and are entitled to vote on the Plan. Under the Plan, Holders of Claims or Interests in Classes 4, 5, and 6 are Impaired and will not receive or retain any property under the Plan on account of such Claims or Interests and, therefore, are not entitled to vote on the Plan and are deemed to reject the Plan. Under the Plan, Holders of Claims in Classes 1 and 2 are Unimpaired and, therefore, not entitled to vote on the Plan and are deemed to accept the Plan.

ACCORDINGLY, A BALLOT FOR ACCEPTANCE OR REJECTION OF THE PLAN IS BEING PROVIDED ONLY TO HOLDERS OF CLAIMS IN CLASS 3.

6. Opt-In to Releases Under the Plan.

The Plan contains certain third-party releases by Releasing Parties, which are set forth in Article XIII.E herein. Releasing Parties include, among others, Consenting Creditors, which are limited to Holders of Claims or Interests that timely and affirmatively elect on the applicable Ballot or notice of non-voting status to opt in to the releases set forth in the Plan.

Ballots include an option for Holders of Claims to check a box to opt in to the releases contained in the Plan. Holders of Claims and Interests that are not entitled to vote will receive a notice of non-voting status that includes, among other things, an optional form to opt in to the releases under the Plan. No Entity shall be a Releasing Party unless such Entity timely and affirmatively elects to opt in to the releases under the Plan. Additionally, an Entity will not be a Releasing Party if it timely files an objection with the Bankruptcy Court to the releases contained in the Plan and such objection is not resolved before the confirmation of the Plan.

B. THE BEST INTERESTS TEST & LIQUIDATION ANALYSIS

Even if a plan is accepted by the holders of each class of claims and interests, the Bankruptcy Code requires the Bankruptcy Court to determine that such plan is in the best interests of all holders of claims or interests that are impaired by that plan and that have not accepted the plan. The "best interests" test, as set forth in section 1129(a)(7) of the Bankruptcy Code, requires a court to find either that all members of an impaired class of claims or interests have accepted the plan or that the plan will provide a member who has not accepted the plan with a recovery of property of a value, as of the effective date of the plan, that is not less than the amount that such holder would recover if the debtor were liquidated under chapter 7 of the Bankruptcy Code.

To calculate the probable distribution to holders of each impaired class of claims and interests if the debtor was liquidated under chapter 7, a court must first determine the aggregate dollar amount that would be generated from a debtor's assets if its chapter 11 cases were converted to cases under chapter 7 of the Bankruptcy Code. To determine if a plan is in the best interests of each impaired class, the present value of the distributions from the proceeds of a liquidation of the debtor's unencumbered assets and properties, after subtracting the amounts attributable to the costs, expenses and administrative claims associated with a chapter 7 liquidation, must be compared with the value offered to such impaired classes under the plan. If the hypothetical liquidation distribution to holders of claims or interests in any impaired class is greater than the distributions to be received by such parties under the plan, then such plan is not in the best interests of the holders of claims or interests in such impaired class.

As described in more detail in the liquidation analysis attached hereto as **Exhibit A**, because the Plan is a liquidating plan, the "liquidation value" in the hypothetical chapter 7 liquidation analysis for purposes of the "best interests" test is substantially similar to the estimates of the results of the chapter 11 liquidation contemplated by the Plan. However, the Debtors believe that in a chapter 7 liquidation, there would be substantial additional costs and expenses that the Estates would incur as a result of liquidating the Estates in a chapter 7 case.

The costs of liquidation under chapter 7 of the Bankruptcy Code would include the compensation of a trustee, as well as the costs of counsel and other professionals retained by the trustee. The Debtors believe such amount would exceed the amount of expenses that would be incurred in implementing the Plan and winding up the affairs of the Debtors. Conversion also would likely delay the liquidation process and ultimate Distribution to the Holders of Allowed Claims. The Estates would also be obligated to pay all unpaid expenses incurred by the Debtors during the Chapter 11 Cases (such as compensation for professionals) that are allowed in the chapter 7 cases.

It is also anticipated that a chapter 7 liquidation would result in delay in the distributions to Holders of Allowed Claims. Among other things, a chapter 7 case would trigger a new bar date for filing Claims that would be more than ninety days following conversion of the case to chapter 7. Thus, a chapter 7 liquidation would not only delay distributions, but raise the prospect of additional Claims that were not asserted in the Chapter 11 Cases.

Accordingly, the Debtors believe that Holders of Allowed Claims would receive less than anticipated under the Plan if the Chapter 11 Cases were converted to chapter 7 cases, and therefore, the classification and treatment of Claims and Interests in the Plan complies with section 1129(a)(7) of the Bankruptcy Code.

IMPORTANTLY, THE DEBTORS URGE ALL HOLDERS OF CLAIMS IN THE IMPAIRED CLASS RECEIVING BALLOTS TO VOTE TO ACCEPT THE PLAN AS CONTAINED HEREIN.

Based on the foregoing, the Plan provides an opportunity to bring the greatest return to Holders of Allowed Claims.

C. FEASIBILITY

Section 1129(a)(11) of the Bankruptcy Code requires that confirmation of a plan not be likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtors or any successor to the Debtors (unless such liquidation or reorganization is proposed in the Plan). Because the Combined Disclosure Statement and Plan proposes a liquidation of all of the Debtors' remaining assets, for purposes of this test, the Debtors and their advisors have analyzed the ability of the Debtors and the GUC Trustee, as applicable, to meet their respective obligations under the Combined Disclosure Statement and Plan. Specifically, the GUC Trustee will have access to the GUC Trust Assets, which the Debtors project will be sufficient for the Debtors and the GUC Trustee, as applicable, to fulfill their respective obligations under the Plan. Therefore, the Debtors believe that the liquidation pursuant to the Combined Disclosure Statement and Plan will meet the feasibility requirements of the Bankruptcy Code.

D. ACCEPTANCE OF THE PLAN

The rules and procedures governing eligibility to vote on the Plan, solicitation of votes, and submission of Ballots are set forth in the Solicitation Procedures Order.

For the Plan to be accepted by an Impaired Class of Claims, a majority in number and two-thirds in dollar amount of the Claims voting in such Class must vote to accept the Plan. At least one voting Class, excluding the votes of insiders, must actually vote to accept the Plan.

Holders of Claims entitled to vote on the Plan will receive instructions for submitting a Ballot to vote to accept or reject the Plan. After carefully reviewing the Disclosure Statement, including all exhibits, each Holder of a Claim (or its authorized representative) entitled to vote should follow the instructions to indicate its vote on the Ballot. All Holders of Claims (or their authorized representatives) entitled to vote must (i) carefully review the Ballot and the instructions for completing it, (ii) complete all parts of the Ballot, and (iii) submit the Ballot by **August 14, 2026, at 4:00 p.m. (prevailing Central Time)** (the "***Voting Deadline***") for the Ballot to be considered. Holders of Claims (or their authorized representatives) entitled to vote must by the Voting Deadline either: (i) submit an electronic ballot via the Solicitation Agent's website at https://www.veritaglobal.net/ascend; or (ii) deliver the Ballot(s) to the Solicitation Agent by mail or hand delivery at the following address:

If by First-Class Mail: Ascend Elements, Inc., *et al.* Ballot Processing c/o Verita 222 N Pacific Coast Highway, Suite 300 El Segundo, CA 90245
If by Hand Delivery or Overnight Mail: Ascend Elements, Inc., *et al.* Ballot Processing c/o Verita 222 N Pacific Coast Highway, Suite 300 El Segundo, CA 90245
By Electronic, Online Submission: Please visit https://www.veritaglobal.net/ascend. Click on the link and follow the prompts and directions. To access and submit your E-Ballot, you will need to enter your unique E-Ballot ID#. Each E-Ballot ID# is to be used solely for voting only those Claims described in Item 1 of

your Ballot. **Holders who cast a Ballot using the Solicitation Agent's online portal should NOT also submit a paper Ballot.**

BALLOTS MUST BE SUBMITTED SO AS TO BE ACTUALLY RECEIVED BY THE SOLICITATION AGENT NO LATER THAN THE VOTING DEADLINE. ANY BALLOTS SUBMITTED AFTER THE VOTING DEADLINE WILL NOT BE COUNTED.

HOLDERS OF CLAIMS IN CLASS 3 WHO WISH TO PROVIDE THE RELEASES SET FORTH IN ARTICLE XIII.E HEREIN MUST AFFIRMATIVELY INDICATE SO BY CHECKING THE "OPT-IN" BOX ON THEIR BALLOT.

PLEASE BE ADVISED THAT HOLDERS OF CLAIMS IN CLASS 3 THAT VOTE TO ACCEPT THE PLAN, VOTE TO REJECT THE PLAN, OR DO NOT VOTE, AND DO NOT AFFIRMATIVELY MAKE THE OPT-IN ELECTION ON THEIR BALLOT SHALL NOT BE DEEMED TO HAVE CONSENTED TO THE RELEASES SET FORTH IN ARTICLE XIII.E HEREIN.

ARTICLE XVI.
CERTAIN RISK FACTORS TO BE CONSIDERED BEFORE VOTING

THE PLAN AND ITS IMPLEMENTATION ARE SUBJECT TO CERTAIN RISKS, INCLUDING, BUT NOT LIMITED TO, THE RISK FACTORS SET FORTH BELOW. HOLDERS OF CLAIMS WHO ARE ENTITLED TO VOTE ON THE PLAN SHOULD READ AND CAREFULLY CONSIDER THE RISK FACTORS, AS WELL AS THE OTHER INFORMATION SET FORTH IN THE COMBINED DISCLOSURE STATEMENT AND PLAN AND THE DOCUMENTS DELIVERED TOGETHER HEREWITH OR REFERRED TO OR INCORPORATED BY REFERENCE HEREIN, BEFORE DECIDING WHETHER TO VOTE TO ACCEPT OR REJECT THE PLAN. THESE FACTORS SHOULD NOT, HOWEVER, BE REGARDED AS CONSTITUTING THE ONLY RISKS INVOLVED IN CONNECTION WITH THE PLAN AND ITS IMPLEMENTATION.

A. CERTAIN BANKRUPTCY LAW CONSIDERATIONS

1. Parties in Interests May Object to the Plan's Classification of Claims and Interests.

Section 1122 of the Bankruptcy Code provides that a plan may place a claim or an equity interest in a particular class only if such claim or equity interest is substantially similar to the other claims or equity interests in such class. The Debtors believe that the classification of the Claims and Interests under the Plan complies with the requirements set forth in the Bankruptcy Code because the Debtors created Classes of Claims and Interests each encompassing Claims or Interests, as applicable, that are substantially similar to the other Claims or Interests, as applicable, in each such Class. Nevertheless, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

2. The Conditions Precedent to the Effective Date of the Plan May Not Occur.

As more fully set forth in Article IX, the Effective Date is subject to a number of conditions precedent. If such conditions precedent are not satisfied or waived, the Effective Date will not take place.

3. The Plan May Not be Accepted.

The Debtors can make no assurances that the requisite acceptances to the Plan will be received, and the Debtors may need to obtain acceptances to an alternative plan of liquidation for the Debtors, or otherwise, that may not have the support of creditors and/or may be required to liquidate the Estates under chapter 7 of the Bankruptcy Code. There can be no assurance that the terms of any such alternative

restructuring arrangement or plan would be similar to or as favorable to creditors as those proposed in the Plan.

4. The Plan May Not Be Confirmed.

Even if the Debtors receive the requisite acceptances, there is no assurance that the Bankruptcy Court, which may exercise substantial discretion as a court of equity, will confirm the Plan. Even if the Bankruptcy Court determined that this Combined Disclosure Statement and Plan and the balloting procedures and results were appropriate, the Bankruptcy Court could still decline to confirm the Plan if it finds that any of the statutory requirements for Confirmation had not been met. Moreover, there can be no assurance that modifications to this Combined Disclosure Statement and Plan will not be required for Confirmation or that such modifications would not necessitate the re-solicitation of votes.

If the Plan is not confirmed, the Plan will need to be revised and it is unclear whether a chapter 11 reorganization or liquidation of the Debtors' assets could be implemented and what Distribution the Holders of Allowed Claims would receive. If an alternative could not be agreed to, it is possible that the Debtors would have to liquidate their remaining assets in chapter 7, in which case it is likely that the Holders of Allowed Claims would receive less favorable treatment than they would receive under the Plan. There can be no assurance that the terms of any such alternative would be similar to or as favorable to the Debtors' creditors as those proposed in the Plan.

5. Contingencies Could Affect Votes of the Impaired Class to Accept or Reject the Plan.

The Distributions available to Holders of Allowed Claims under the Plan can be affected by a variety of contingencies, including, without limitation, whether the Bankruptcy Court orders certain Allowed Claims to be subordinated to other Allowed Claims. The occurrence of any and all such contingencies could affect Distributions available to Holders of Allowed Claims under the Plan but may not affect the validity of the vote taken by the Impaired Class to accept or reject the Plan or require any sort of revote by the Impaired Class.

The estimated Claims and creditor recoveries set forth in this Combined Disclosure Statement and Plan are based on various assumptions, and the actual Allowed amounts of Claims may significantly differ from the estimates. Should one or more of the underlying assumptions ultimately prove to be incorrect, the actual Allowed amounts of Claims may vary from the estimated Claims contained in this Combined Disclosure Statement and Plan. Moreover, the Debtors cannot determine with any certainty at this time, the number or amount of Claims that will ultimately be Allowed. Such differences may materially and adversely affect, among other things, the percentage recoveries to Holders of Allowed Claims under the Plan.

6. Releases, Injunctions, and Exculpation Provisions May Not be Approved.

Article XIII of the Plan provides for certain releases, injunctions, and exculpations, including a release of liens and third-party releases that may otherwise be asserted against the Debtors or Released Parties, as applicable. The Bankruptcy Court's approval of the releases, injunctions, and exculpations provided in the Plan may be subject to objection by parties in interest and may not be approved.

B. FAILURE TO CONFIRM OR CONSUMMATE THE PLAN

If the Plan is not confirmed and consummated, it is possible that an alternative plan can be negotiated and presented to the Bankruptcy Court for approval; however, there is no assurance that the alternative plan, if any, will be confirmed, that the Chapter 11 Cases will not be converted to a chapter 7 liquidation, or that any alternative chapter 11 plan could or would be formulated on terms as favorable to creditors as the terms of the Plan. Holders of Interests will receive no recovery under the Plan or in a chapter 7 liquidation. If a chapter 7 liquidation were to occur, there is a risk that there would be little, if any, value available for distribution to the Holders of Allowed Claims.

ARTICLE XVII.
TAX CONSEQUENCES

A. CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES

The following discussion is a summary of certain material U.S. federal income tax consequences of the Combined Disclosure Statement and Plan to U.S. Holders (as defined below) (which solely for purposes of this discussion means the beneficial owner for U.S. federal income tax purposes) of Claims. The following summary does not address the U.S. federal income tax consequences to U.S. Holders of Claims or Interests not entitled to vote on the Combined Disclosure Statement and Plan. This summary is based on the Internal Revenue Code of 1986, as amended (the "***Internal Revenue Code***"), U.S. Department of the Treasury regulations promulgated and proposed thereunder (the "***Treasury Regulations***"), judicial decisions, and published administrative rules and pronouncements of the IRS, all as in effect on the date hereof and all of which are subject to change or differing interpretations, possibly with retroactive effect. No legal opinions have been requested or obtained from counsel with respect to any of the tax aspects of the Combined Disclosure Statement and Plan and no rulings have been or will be requested from the IRS with respect to any of the issues discussed below. The discussion below is not binding upon the IRS or the courts. No assurance can be given that the IRS would not assert, or that a court would not sustain, a different position than any position discussed herein.

This discussion does not purport to address all aspects of U.S. federal income taxation that may be relevant to U.S. Holders of Claims or Interests in light of their individual circumstances, nor does the discussion deal with tax issues with respect to U.S. Holders of Claims or Interests subject to special treatment under the U.S. federal income tax laws (including, for example, insurance companies; banks or other financial institutions; brokers, dealers, or traders in securities; real estate investment trusts; governmental authorities or agencies; tax-exempt organizations; retirement plans; individual retirement or other tax-deferred accounts; certain expatriates or former long-term residents of the United States; small business investment companies; regulated investment companies; S corporations, partnerships, or other pass-through entities for U.S. federal income tax purposes and their owners; persons whose functional currency is not the U.S. dollar; persons who use a mark-to-market method of accounting; persons required to report income on an applicable financial statement; persons holding Claims or Interests as part of a straddle, hedge, constructive sale, conversion transaction, or other integrated transaction; and persons who are not U.S. Holders (as defined below)). Furthermore, this discussion assumes that a U.S. Holder of a Claim holds such claim as a "capital asset" within the meaning of Section 1221 of the Internal Revenue Code (generally property held for investment). This discussion does not address any U.S. federal non-income (including estate or gift), state, local, or foreign taxation, alternative minimum tax, or the Medicare tax on certain net investment income.

If a partnership (or other entity or arrangement classified as a partnership for U.S. federal income tax purposes) is a U.S. Holder of Claims or Interests, the U.S. federal income tax treatment of a partner in the partnership will generally depend on the status of the partner and the activities of the partnership. A U.S. Holder of a Claim or Interest that is a partnership and the partners in such partnership should consult their tax advisors with regard to the U.S. federal income tax consequences of the Combined Disclosure Statement and Plan.

"U.S. Holder" is a Holder of a Claim that is: (1) an individual who is a citizen or resident of the U.S. for U.S. federal income tax purposes; (2) a corporation (or other Entity treated as a corporation for U.S. federal income tax purposes) created or organized under the laws of the U.S. or any state thereof or the District of Columbia; (3) an estate the income of which is subject to U.S. federal income taxation regardless of its source; or (4) a trust (A) if a court within the U.S. is able to exercise primary supervision over its administration and one or more "U.S. persons" as defined in the Internal Revenue Code have authority to control all substantial decisions of the trust or (B) that was in existence on August 20, 1996 and has a valid election in effect under the Treasury Regulations to be treated as a U.S. trust. Non-U.S. Holders should consult their own advisors concerning the tax consequences of the Plan to them.

THE FOLLOWING SUMMARY IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING AND ADVICE BASED UPON THE INDIVIDUAL CIRCUMSTANCES PERTAINING TO A U.S. HOLDER OF A CLAIM OR INTEREST. EACH U.S. HOLDER OF A CLAIM OR INTEREST IS URGED TO CONSULT WITH SUCH U.S. HOLDER'S TAX ADVISORS CONCERNING THE U.S. FEDERAL, STATE, LOCAL, FOREIGN, AND OTHER TAX CONSEQUENCES OF THE COMBINED DISCLOSURE STATEMENT AND PLAN.

B. TAX CONSEQUENCES FOR U.S. HOLDERS OF CERTAIN CLAIMS

Generally, a U.S. Holder of a Claim will be treated as disposing of its Claim in a taxable exchange governed by Section 1001 of the Internal Revenue Code. Other than with respect to any amounts received that are attributable to accrued but untaxed interest (as discussed further below), a U.S. Holder of a Claim generally will recognize gain or loss equal to the difference between the "amount realized" (if any) by such U.S. Holder in exchange for its Claim and such U.S. Holder's "adjusted tax basis" in the Claim. The "amount realized" is equal to the sum of the Cash and the fair market value of any other consideration received under the Plan in respect of a U.S. Holder's Claim. The "adjusted tax basis" of a U.S. Holder in a Claim will generally be equal to the U.S. Holder's cost therefor. To the extent applicable, the character of any recognized gain or loss (*e.g.*, ordinary income, or short-term or long-term capital gain or loss) will depend upon the status of the U.S. Holder, the nature of the Claim in the U.S. Holder's hands, the purpose and circumstances of its acquisition, the U.S. Holder's holding period of the Claim, and the extent to which the U.S. Holder previously claimed a deduction for the worthlessness of all or a portion of the Claim. If the Claim is a capital asset in the U.S. Holder's hands, any gain or loss realized generally will be characterized as capital gain or loss, and will constitute long-term capital gain or loss if the U.S. Holder has held such Claim for more than one year. Long-term capital gains of non-corporate taxpayers may be taxed at lower rates than items of ordinary income. The deductibility of capital losses is subject to limitations.

A portion of the consideration received by a U.S. Holder may be attributable to accrued but untaxed interest on its Claim. A U.S. Holder who did not previously include accrued but unpaid interest attributable to its Claim in its gross income for U.S. federal income tax purposes, and who receives a distribution on account of its Claim pursuant to the Plan, will recognize ordinary income to the extent such amounts were not taken into income by the U.S. Holder, regardless of whether such U.S. Holder realizes an overall gain or loss as a result of surrendering its Claim. A U.S. Holder who previously included accrued but unpaid interest attributable to its Claim in its gross income for U.S. federal income tax purposes should recognize a deductible loss to the extent that such accrued but unpaid interest is not satisfied in full. Such loss may be ordinary, but the tax law is unclear on this point.

C. INFORMATION REPORTING AND WITHHOLDING

In connection with the Combined Disclosure Statement and Plan, the Debtors will comply with all applicable withholding and information reporting requirements imposed by U.S. federal, state, local, and foreign taxing authorities, and all Distributions under the Combined Disclosure Statement and Plan will be subject to those withholding and information reporting requirements. U.S. Holders of Claims may be required to provide certain tax information as a condition to receiving Distributions pursuant to the Combined Disclosure Statement and Plan.

In general, information reporting requirements may apply to Distributions pursuant to the Combined Disclosure Statement and Plan. Additionally, under the backup withholding rules, a U.S. Holder may be subject to backup withholding with respect to Distributions made pursuant to the Combined Disclosure Statement and Plan, unless a U.S. Holder provides the applicable withholding agent with a taxpayer identification number, certified under penalties of perjury, as well as certain other information, or otherwise establishes an exemption from backup withholding. Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules will be allowed as a

credit against a U.S. Holder's U.S. federal income tax liability, if any, and may entitle a U.S. Holder to a refund, provided the required information is timely furnished to the IRS.

In addition, from an information reporting perspective, the Treasury Regulations generally require disclosure by a taxpayer on its U.S. federal income tax return of certain types of transactions in which the taxpayer participated, including, among other types of transactions, certain transactions that result in the taxpayer's claiming a loss in excess of specified thresholds. U.S. Holders of Claims or Interests are urged to consult their tax advisors regarding these regulations and whether the transactions contemplated by the Combined Disclosure Statement and Plan would be subject to these regulations and require disclosure on the U.S. Holder's tax returns.

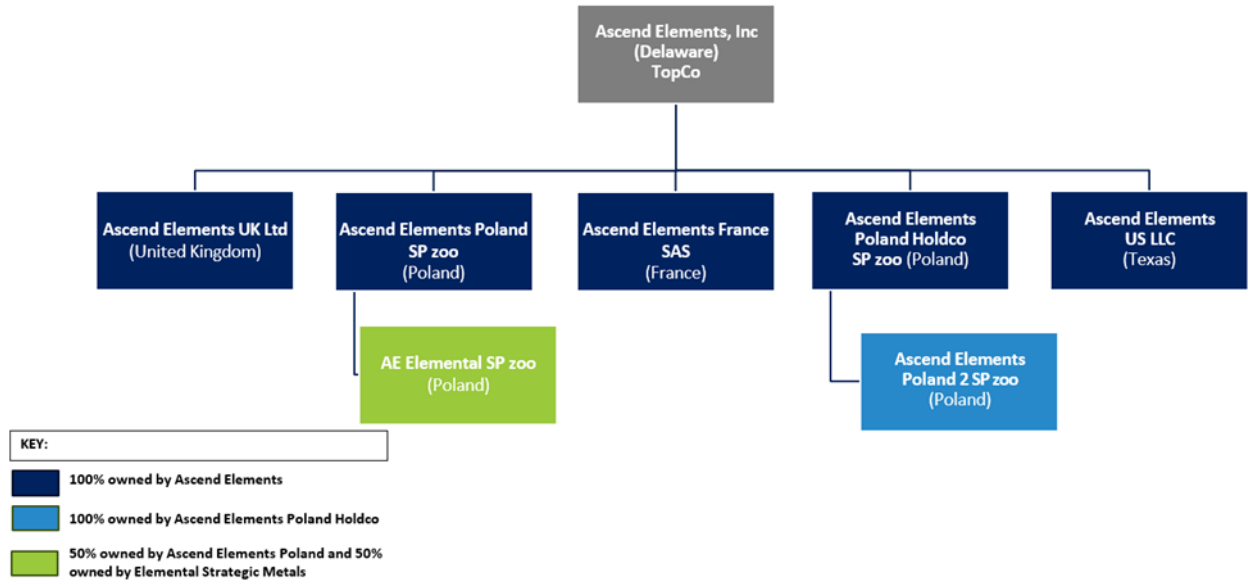
THE U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE COMBINED DISCLOSURE STATEMENT AND PLAN ARE COMPLEX. THE FOREGOING SUMMARY DOES NOT DISCUSS ALL ASPECTS OF U.S. FEDERAL INCOME TAXATION THAT MAY BE RELEVANT TO A PARTICULAR U.S. HOLDER OF A CLAIM OR INTEREST IN LIGHT OF SUCH U.S. HOLDER'S CIRCUMSTANCES. EACH U.S. HOLDER OF A CLAIM OR INTEREST IS URGED TO CONSULT WITH SUCH U.S. HOLDER'S TAX ADVISORS CONCERNING THE U.S. FEDERAL, STATE, LOCAL, FOREIGN, AND OTHER TAX CONSEQUENCES OF THE COMBINED DISCLOSURE STATEMENT AND PLAN.

ARTICLE XVIII.
CONCLUSION AND RECOMMENDATION

The Debtors believe that Confirmation of the Plan is desirable and in the best interests of all Holders of Claims and Interests. The Debtors therefore urge you to vote to accept the Plan and to evidence such acceptance by returning the Ballot(s) so that they will be received by the Voting Deadline.

July [●], 2026

/s/ Draft
Adam Titus


Ascend Elements, Inc
(Delaware)
TopCo
Ascend Elements UK Ltd
(United Kingdom)
Ascend Elements Poland SP zoo
(Poland)
Ascend Elements France SAS
(France)
Ascend Elements Poland Holdco SP zoo (Poland)
Ascend Elements US LLC
(Texas)
AE Elemental SP zoo
(Poland)
Ascend Elements Poland 2 SP zoo
(Poland)
KEY:
100% owned by Ascend Elements
100% owned by Ascend Elements Poland Holdco
50% owned by Ascend Elements Poland and 50% owned by Elemental Strategic Metals

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)

NOTICE OF FILING EXHIBIT A TO THE COMBINED DISCLOSURE STATEMENT AND JOINT PLAN OF LIQUIDATION FOR ASCEND ELEMENTS, INC., ET AL.

PLEASE TAKE NOTICE THAT on July 8, 2026, the above-captioned debtors and debtors in possession (collectively, the "Debtors") filed the Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., *et al.* [Docket No. 550] (the "Combined Disclosure Statement and Plan").

PLEASE TAKE FURTHER NOTICE THAT the Debtors hereby file **Exhibit A** to the Combined Disclosure Statement and Plan. Exhibit A is incorporated into and forms a part of the Combined Disclosure Statement and Plan as if fully set forth therein.

[*Reminder of Page Intentionally Left Blank*]

[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.

Dated: July 8, 2026

Respectfully submitted,

NORTON ROSE FULBRIGHT US LLP

By: */s/ Ryan Manns*

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Counsel to the Debtors and Debtors in Possession

EXHIBIT A

Liquidation Analysis

EXHIBIT A – LIQUIDATION ANALYSIS

INTRODUCTION

Often referred to as the "best interests of creditors" test, section 1129(a)(7) of the Bankruptcy Code requires that a Bankruptcy Court find, as a condition to confirmation of a chapter 11 plan , that, with respect to each impaired class of claims or interests, each holder of a claim or interest in such class (i) has accepted the plan; or (ii) will receive or retain under the plan on account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under chapter 7 of the Bankruptcy Code on such date.

To conduct this liquidation analysis (this "Liquidation Analysis"), the Debtors and their advisors have taken the following steps:

i) estimated the cash proceeds that a chapter 7 trustee (a "Chapter 7 Trustee") would generate if each Debtor's chapter 11 case was converted to a chapter 7 case on the Effective Date and the assets of such Debtor's Estate were liquidated in accordance with chapter 7 of the Bankruptcy Code (the "Liquidation Proceeds");

ii) determined the distribution that each Holder of a Claim or Interest would receive from the Liquidation Proceeds under the priority scheme set forth in chapter 7 (the "Liquidation Distribution"); and

iii) compared each Holder's Liquidation Distribution to the value such Holder would receive under the Plan if it were confirmed and consummated.

This Liquidation Analysis represents an estimate of Liquidation Distributions and recovery percentages based on a hypothetical chapter 7 liquidation of the Debtors' assets. It is therefore a hypothetical analysis based on certain assumptions discussed herein and in the Disclosure Statement. As such, asset values and Claims discussed herein may differ materially from amounts referred to in the Plan and Disclosure Statement. The Liquidation Analysis should be read in conjunction with the assumptions, qualifications, and explanations set forth in the Disclosure Statement and the Plan in their entirety, as well as the notes and assumptions set forth below.

The determination of the costs of, and proceeds from, the hypothetical liquidation of the Debtors' assets in a chapter 7 case involves the use of estimates and assumptions that, although considered reasonable by the Debtors based on their business judgment and input from their advisors, are subject to significant business, economic, and competitive uncertainties and contingencies beyond the control of the Debtors, their management, and their advisors. The Liquidation Analysis was prepared for the sole purpose of generating a reasonable, good faith estimate of the proceeds that would be generated if the Debtors' assets were liquidated in accordance with chapter 7 of the Bankruptcy Code. The Liquidation Analysis is not intended, and should not be used, for any other purpose.

All of the limitations and risk factors set forth in the Disclosure Statement are applicable to this Liquidation Analysis and are incorporated by reference herein. The underlying financial information supporting the Liquidation Analysis was prepared using policies that are generally

consistent with those applied in historical financial statements but was not compiled or examined by independent accountants and was not prepared to comply with GAAP or SEC reporting requirements.

THE DEBTORS AND THEIR ADVISORS MAKE NO REPRESENTATIONS OR WARRANTIES REGARDING THE ACCURACY OF THE ESTIMATES CONTAINED HEREIN OR A CHAPTER 7 TRUSTEE'S ABILITY TO ACHIEVE THE FORECASTED RESULTS. IN THE EVENT THESE CHAPTER 11 CASES ARE CONVERTED TO A CHAPTER 7 LIQUIDATION, ACTUAL RESULTS COULD VARY FROM THE ESTIMATES SET FORTH IN THIS LIQUIDATION ANALYSIS.

BASIS OF PRESENTATION

This Liquidation Analysis assumes that each of the Debtors' chapter 11 cases is converted to a chapter 7 case on or about August [14], 2026 (the "Conversion Date"). The *pro forma* values referenced herein are projected as of the Conversion Date. The Debtors have assumed that the Conversion Date is a reasonable proxy for the anticipated Effective Date.

In preparing the Liquidation Analysis, the Debtors estimated Allowed Claims based on a review of the Debtors' financial statements and forecasted results of operations and cash flow over the projection period to account for estimated liabilities, as necessary. The cessation of business in a liquidation is likely to trigger certain claims and funding requirements that would otherwise not exist under the Plan absent a liquidation. Such claims could include chapter 7 administrative expense claims, including winddown costs, trustee fees, and additional professional fees for the chapter 7 trustee's professionals ("Chapter 7 Trustee Professional Fees"), among other claims. Some of these claims and funding obligations could be significant and would be entitled to administrative or priority status in payment from liquidation proceeds. The Debtors' estimates of Allowed Claims set forth in the Liquidation Analysis should not be relied on for the purpose of determining the value of any distribution to be made on account of Allowed Claims or Interests under the Plan.

NOTHING CONTAINED IN THE LIQUIDATION ANALYSIS IS INTENDED TO BE, OR CONSTITUTES, A CONCESSION, ADMISSION, OR ALLOWANCE OF ANY CLAIM BY THE DEBTORS. THE ACTUAL AMOUNT OR PRIORITY OF ALLOWED CLAIMS IN THE CHAPTER 11 CASES COULD MATERIALLY DIFFER FROM THE ESTIMATED AMOUNTS SET FORTH AND USED IN THE LIQUIDATION ANALYSIS. THE DEBTORS RESERVE ALL RIGHTS TO SUPPLEMENT, MODIFY, OR AMEND THE ANALYSIS SET FORTH HEREIN.

Chapter 7 administrative expense claims that arise in a liquidation scenario would be paid in full from the Liquidation Proceeds prior to proceeds being made available for distribution to Holders of Allowed Claims. Under section 1129(b)(2)(B)(ii) of the Bankruptcy Code, referred to as the "absolute priority rule," with respect to a class of Unsecured Claims, the holder of any claim or interest that is junior to the claims of such class will not receive or retain under the plan on account of such junior claim or interest any property and, with respect to a class of Interests, the holder of any interest that is junior to the interests of such class will not receive or retain under the plan on account of such junior interest any property, unless the claims or interests of such class are paid in

full. The assumed distributions to creditors as reflected in the Liquidation Analysis are estimated in accordance with the absolute priority rule.

This Liquidation Analysis does not include any recoveries or related litigation costs resulting from any potential preference, fraudulent transfer, or other litigation or avoidance actions that may be available under the Bankruptcy Code because of the cost of such litigation, the uncertainty of the outcome, and potential disputes regarding these matters. In addition, the Liquidation Analysis assumes all unexpired leases and executory contracts are terminated on the Conversion Date. Rejection damages Claims have been estimated for purposes of this analysis, however, actual Claims could materially differ from estimates. Any additional diminution of value Claims would further reduce Liquidation Distributions on account of Unsecured Claims. Finally, the Liquidation Analysis does not include estimates for the tax consequences that may be triggered upon the liquidation and sale of assets in the manner described above. Such tax consequences could be material.

LIQUIDATION PROCESS

The Debtors' liquidation would be conducted pursuant to chapter 7 of the Bankruptcy Code. The Debtors have assumed that their liquidation would occur over a two-to-four months period during which the Chapter 7 Trustee would efficiently administer and wind down the Estates.

As part of the Chapter 7 Trustee's liquidation process, the initial step would be to develop a liquidation plan designed to generate proceeds from the sale of any remaining assets that it would then distribute to Holders of Claims. This liquidation process would have three major components:

i) Cash proceeds from asset sales ("Gross Distribution Proceeds");

ii) Costs to liquidate the Debtors' assets and administer the Estates under chapter 7 ("Liquidation Adjustments"); and

iii) Remaining proceeds available for distribution to claimants ("Net Distribution Proceeds").

i) Gross Distribution Proceeds

The Gross Distribution Proceeds reflect the proceeds the Chapter 7 Trustee would generate from a hypothetical chapter 7 liquidation. Under section 704 of the Bankruptcy Code, a Chapter 7 Trustee must, among other duties, collect and convert property of the Estates as expeditiously as is compatible with the best interests of parties in interest, which could result in potentially distressed recoveries. This Liquidation Analysis assumes the Chapter 7 Trustee will market the assets on an accelerated timeline and consummate the sale transactions within [one] month from the Conversion Date. Notwithstanding the foregoing, the Liquidation Analysis assumes that the estimated recoveries from the sale of any remaining assets and critical minerals inventory are consistent across both the chapter 11 and chapter 7 scenarios, as the Debtors have received [binding or] near-final bids from prospective purchasers that are expected to be consummated in advance of or concurrent with the Conversion Date. Accordingly, the Debtors do not anticipate that the accelerated timeline, loss of personnel with institutional knowledge, or the generally forced nature of a Chapter 7 liquidation would materially reduce the recoveries from such assets relative to the Chapter 11 scenario.

As set forth in the Combined Disclosure Statement and Plan, the Debtors dispute that AMCON's asserted lien attaches to the sale proceeds generated from the Covington Sale. In the Covington

Sale Order, the Debtors agreed to hold $1.9 million of the sale proceeds in the Covington Proceeds Escrow pending resolution of that dispute in a proceeding in the Bankruptcy Court in advance of the Effective Date. Solely for purposes of this Liquidation Analysis, , the Debtors have assumed that Amcon's asserted lien claims against the Debtors' estates are treated as secured claims in the amount of $1.9 million, with any remaining amounts treated as general unsecured deficiency claims. The treatment reflects a conservative assumption given that the proceedings against Amcon remain ongoing and the ultimate resolution of Amcon's asserted lien claims has not yet been determined. In the event the Debtors prevail in such proceedings, Amcon's claims would be reclassified in their entirety as general unsecured claims, the $1.9 million in the Covington Proceeds Escrow would be released to the Debtors' estates and recovered at 100%. The estimated recoveries for holders of Allowed General Unsecured Claims would be higher than those reflected herein. Proceeds will be available as unrestricted cash for distribution to holders of Allowed Claims in accordance with the priority scheme set forth in the Plan. Nothing contained in this Liquidation Analysis is intended to be, or shall constitute, a concession, admission, or waiver with respect to the validity, priority, or extent of Amcon's asserted lien claims, and the Debtors expressly reserve all rights with respect to the pending proceeding and the treatment of Amcon's claims thereunder.

The Debtors hold intercompany receivables of approximately $9.1 million owed by non-Debtor affiliates as of May 31, 2026. The Liquidation Analysis assumes no recoveries from such intercompany receivables, as the non-Debtor affiliates are assumed to have insufficient assets to satisfy amounts owed to the Debtors after satisfying their own obligations. Additionally, the Debtors currently hold a 50% interest in the Poland joint venture, AE Elemental SP Z.O.O, though Bluegrass Infrastructure Partners Holdings LLC holds an option to acquire such interest for no additional consideration that expires on July 10, 2026. Regardless of whether the option is exercised, it is assumed that no proceeds from such entity would be available for distribution to the Debtors' estates, whether through dividend, equity redemption, or otherwise, and accordingly no recovery has been attributed to the Debtors' interest in AE Elemental SP Z.O.O. in either the chapter 11 or chapter 7 scenario.

ii) The Liquidation Adjustments

The Liquidation Adjustments reflect the costs the Trustee would incur to monetize the Debtors' assets and wind down the Estates in chapter 7 and include Chapter 7 Professional Fees and Chapter 7 Trustee Fees. See below for details.

iii) Net Distribution Proceeds

The Net Distribution Proceeds reflect amounts available to Holders of Claims after the Liquidation Adjustments are netted against the Gross Distribution Proceeds. Under this analysis, the Net Distribution Proceeds are distributed to Holders of Claims against and Interests in the Debtors in accordance with the Bankruptcy Code's priority scheme:

- Unclassified Claims – Claims as a result of (i) 503(b)(9) Claims, (ii) Professional Fee Claims, (iii) Priority Tax Claims, (iv) U.S. Trustee Fees, and (v) Administrative Claims (including post-petition accounts payable and employee obligations) (as defined in the Plan).

- Other Priority Claims – Claims consisting of the Debtors' remaining employee

obligations, including any employee wage, salary, commission, or PTO-related priority claims to the extent not previously paid or otherwise satisfied

- Other Secured Claims - Amcon's asserted lien claim, if any, or any other lien not otherwise satisfied, released, assumed, or resolved in connection with the Sale Orders (as defined in the Plan).
- General Unsecured Claims – Claims including prepetition trade payables, unsecured deficiency claims, as well as contract rejection Claims and other non-priority employee and tax Claims.

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[1] Although the Liquidation Analysis assumes the liquidation process would occur over a two-to-four month period, it is possible the disposition and recovery from certain assets could take shorter or longer to realize.

CONCLUSION

The Debtors have determined, as summarized in the table below that, on the Effective Date, the Plan will provide all Holders of Allowed Claims and Interests with a recovery that is not less than what they would otherwise receive pursuant to a liquidation of the Debtors' assets under chapter 7 of the Bankruptcy Code. Accordingly, the Plan satisfies the requirement of section 1129(a)(7) of the Bankruptcy Code.

	Chapter 11 Plan Recoveries			Chapter 7 Liquidation Recoveries		
	Low	Mid	High	Low	Mid	High
Class 1 - Other Priority Claims	100%	100%	100%	78%	89%	100%
Class 2 - Other Secured Claims	100%	100%	100%	78%	89%	100%
Class 3 - General Unsecured Claims	0.0%	0.2%	0.4%	0.0%	0.0%	0.0%
Class 4 - Intercompany Claims	--	--	--	--	--	--
Class 5 - Intercompany Interests	--	--	--	--	--	--
Class 6 - Interests in Ascend Elements	--	--	--	--	--	--

The Liquidation Analysis should be reviewed with the accompanying "Specific Notes to the Liquidation Analysis" set forth on the following pages. The table below reflects the consolidation of all Debtors' and non-Debtors' liquidation analyses.

($ in millions)

		Chapter 11 Plan			Chapter 7 Liquidation			Notes
		Low	Mid	High	Low	Mid	High	
Gross Liquidation Proceeds								
Pro Forma Cash Balance at the Conversion Date		$ 15.3	$ 15.3	$ 15.3	$ 15.3	$ 15.3	$ 15.3	[A]
Ordinary Course Sale of Critical Minerals		0.2	0.2	0.2	0.2	0.2	0.2	[B]
Remaining De Minimis Asset Sales		0.2	0.2	0.2	0.2	0.2	0.2	[C]
Amcon Litigation Escrow Release		1.9	1.9	1.9	1.9	1.9	1.9	[D]
Total Liquidation Proceeds		**$ 17.6**	**$ 17.6**	**$ 17.6**	**$ 17.6**	**$ 17.6**	**$ 17.6**	
Chapter 7 Costs								
Less: Ch 7 Trustee Fees		$ -	$ -	$ -	$ (0.5)	$ (0.5)	$ (0.5)	[E]
Less: Ch 7 Professionals		-	-	-	(1.3)	(1.0)	(0.8)	[F]
Less: Other Administrative Costs		-	-	-	(0.2)	(0.2)	(0.2)	[G]
Total Ch 7 Costs		**$ -**	**$ -**	**$ -**	**$ (1.9)**	**$ (1.7)**	**$ (1.4)**	
Wind Down Costs								
Less: GUC Trustee		$ (1.3)	$ (1.0)	$ (0.8)	$ -	$ -	$ -	[H]
Less: Other Wind Down & Overhead Expenses		(0.2)	(0.2)	(0.2)	-	-	-	[I]
Total Wind Down Costs		**$ (1.4)**	**$ (1.2)**	**$ (0.9)**	**$ -**	**$ -**	**$ -**	
Net Estimated Proceeds from Liquidation Available for Distribution		**$ 16.2**	**$ 16.5**	**$ 16.7**	**$ 15.7**	**$ 15.9**	**$ 16.2**	
		Recovery - %			Ch 11 Recovery ($)			
Illustrative Claims & Recovery	**Est. Claims**	**Low**	**Mid**	**High**	**Low**	**Mid**	**High**	
Unclassified Claims								
503(b)9 Claims	$ 0.0	100.0%	100.0%	100.0%	$ 0.0	$ 0.0	$ 0.0	
Estate Professional Fee Claims	13.5	100.0%	100.0%	100.0%	13.5	13.5	13.5	
Priority Tax Claims	0.1	100.0%	100.0%	100.0%	0.1	0.1	0.1	
U.S. Trustee Fees	0.3	100.0%	100.0%	100.0%	0.3	0.3	0.3	
Other Administrative Claims	0.2	100.0%	100.0%	100.0%	0.2	0.2	0.2	
Total Administrative Claims and Recovery	**$ 14.0**	**100.0%**	**100.0%**	**100.0%**	**$ 14.0**	**$ 14.0**	**$ 14.0**	[1]
Net Proceeds Available after Administrative Claims					**$ 2.2**	**$ 2.4**	**$ 2.7**	
Priority Claims								
Class 1 - Other Priority Claims	0.2	100.0%	100.0%	100.0%	0.2	0.2	0.2	[2]
Class 2 - Other Secured Claims	1.9	100.0%	100.0%	100.0%	1.9	1.9	1.9	[3]
Total Secured Claims and Recovery	**$ 2.1**	**100.0%**	**100.0%**	**100.0%**	**$ 2.1**	**$ 2.1**	**$ 2.1**	
Net Proceeds Available after Secured Claims					**$ 0.1**	**$ 0.3**	**$ 0.6**	
Unsecured Claims								
Class 3 - General Unsecured Claims	149.6	0.0%	0.2%	0.4%	0.1	0.3	0.6	[4]
Class 4 - Intercompany Claims	-	--	--	--	-	-	-	[5]
Class 5 - Intercompany Interests	-	--	--	--	-	-	-	[6]
Class 6 - Interests in Ascend Elements	-	--	--	--	-	-	-	[7]
Total General Unsecured Claims and Recovery	**$ 149.6**	**0.0%**	**0.2%**	**0.4%**	**$ 0.1**	**$ 0.3**	**$ 0.6**	
Remaining Distributable Value after Unsecured Claims					**$ -**	**$ -**	**$ -**	

		Recovery - %			Ch 7 Recovery ($)			
Illustrative Claims & Recovery	**Est. Claims**	**Low**	**Mid**	**High**	**Low**	**Mid**	**High**	
Unclassified Claims								
503(b)9 Claims	$ 0.0	100.0%	100.0%	100.0%	$ 0.0	$ 0.0	$ 0.0	
Estate Professional Fee Claims	13.5	100.0%	100.0%	100.0%	13.5	13.5	13.5	
Priority Tax Claims	0.1	100.0%	100.0%	100.0%	0.1	0.1	0.1	
U.S. Trustee Fees	0.3	100.0%	100.0%	100.0%	0.3	0.3	0.3	
Other Administrative Claims	0.2	100.0%	100.0%	100.0%	0.2	0.2	0.2	
Total Administrative Claims and Recovery	**$ 14.0**	**100.0%**	**100.0%**	**100.0%**	**$ 14.0**	**$ 14.0**	**$ 14.0**	[1]
Net Proceeds Available after Administrative Claims					**$ 1.7**	**$ 1.9**	**$ 2.2**	
Priority Claims								
Class 1 - Other Priority Claims	0.2	77.7%	89.4%	100.0%	0.2	0.2	0.2	[2]
Class 2 - Other Secured Claims	1.9	77.7%	89.4%	100.0%	1.5	1.7	1.9	[3]
Total Secured Claims and Recovery	**$ 2.1**	**77.7%**	**89.4%**	**100.0%**	**$ 1.7**	**$ 1.9**	**$ 2.1**	
Net Proceeds Available after Secured Claims					**$ -**	**$ -**	**$ 0.0**	
Unsecured Claims								
Class 3 - General Unsecured Claims	149.6	0.0%	0.0%	0.0%	-	-	0.0	[4]
Class 4 - Intercompany Claims	-	--	--	--	-	-	-	[5]
Class 5 - Intercompany Interests	-	--	--	--	-	-	-	[6]
Class 6 - Interests in Ascend Elements	-	--	--	--	-	-	-	[7]
Total General Unsecured Claims and Recovery	**$ 149.6**	**0.0%**	**0.0%**	**0.0%**	**$ -**	**$ -**	**$ 0.0**	
Remaining Distributable Value after Unsecured Claims					**$ -**	**$ -**	**$ -**	

SPECIFIC NOTES TO THE LIQUIDATION ANALYSIS

Gross Distribution Proceeds from External Assets

A. Cash Balance at the Conversion Date

The Debtors' estimated balance of unrestricted cash and cash equivalents as of the Conversion Date is approximately $15.3 million including amounts held in escrow or reserve to cover various administrative claims and expenses.. The cash balance reflected herein consists of all unrestricted cash and restricted cash escrowed in the Professional Fee Escrow Account. Unrestricted cash is considered fully recoverable. Restricted cash in the Professional Fee Escrow Account will be applied solely toward the recovery accrued and unpaid fees and expenses of retained professionals in accordance with terms of the Final Cash Collateral Order and the interim compensation procedures approved by the Court.

In both the chapter 11 and chapter 7 scenarios, the Liquidation Analysis assumes that, as of the Conversion Date or Effective Date, the beneficiaries of the Debtors' outstanding letters of credit draw on such letters of credit and the holders thereof take the associated cash collateral pledged to secure such obligations. The cash collateral securing the letters of credit has been excluded from the cash balance available for distribution and any Claims related to the letters of credit have been removed from the Claims pool.

B. Ordinary Couse Sale of Critical Minerals

The Liquidation Analysis assumes that critical minerals, including black mass, nickel sulfate, and manganese, inventory on hand will be sold through the Debtors' ordinary course commercial channels in both the chapter 11 and chapter 7 scenarios. The estimated recoveries reflect management's good-faith estimates and the latest informal bids received from third-party purchasers.

C. Remaining De Minimis Asset Sales

The Debtors' have assumed that the transactions contemplated by the De Minimis Asset Sale Procedures are consummated after the Conversion Date. The estimated recoveries reflect the sale of machinery and equipment assets that were not sold as part of the 363 sales. Such assets include processing and production equipment, laboratory and analytical testing instrumentation, and other personal property located at the Debtors' Westborough facility. In both the chapter 11 and chapter 7 scenarios, the Debtors assume full recovery of the estimated sale proceeds based on management's good-faith estimates and the latest informal bid received from prospective purchasers.

D. Amcon Litigation Escrow Release

As explained in the Combined Disclosure Statement and Plan, the Debtor's dispute Amcon's lien and have agreed to litigation of the dispute

in a proceeding in the Bankruptcy Court in advance of the Effective Date. Out of an abundance of caution and solely for the purposes of the Liquidation Analysis, the Liquidation Analysis assumes that Amcon's lien attaches to the sale proceeds in the Covington Proceeds Escrow, and the proceeds are released and utilized to satisfy the allowed secured claim.

Liquidation Adjustments

E. Chapter 7 Trustee Fees

Section 326(a) of the Bankruptcy Code provides that Trustee fees are not to exceed 25% on the first $5,000 or less, 10% on any amount in excess of $5,000 but not in excess of $50,000, 5% on any amount in excess of $50,000 but not in excess of $1,000,000, and reasonable compensation not to exceed 3% of such moneys in excess of $1,000,000, upon all moneys disbursed or turned over in the case by the trustee to parties in interest. The Liquidation Analysis assumes the Trustee fees in the amount of 3% of Gross Distribution Proceeds.

F. Chapter 7 Professionals

The post-conversion Chapter 7 Professional Fees include estimates for certain professionals that will provide assistance and services during the wind-down period. The Liquidation Analysis assumes the Trustee will retain lawyers and financial advisors to assist in the liquidation. These advisors will assist in litigating claims and resolving tax litigation matters and resolving other matters relating to the wind-down of the Debtors' Estates. The Liquidation Analysis estimates these professional fees for two months in the low scenario and four months in the high scenario.

G. Other Administrative Costs

The post-conversion Chapter 7 Other Administrative Costs reflect estimated expenses necessary to support the orderly wind-down of the Debtors' estates during the chapter 7 liquidation period following the Conversion Date. These costs include estimated compensation and related expenses for employees and independent contractors, and information technology expenses for the maintenance and wind-down of systems critical to claims administration, financial reporting, and other estate wind-down functions.

H. Chapter 11 Professionals

Estimated fees and expenses of the GUC Trustee and his or her team appointed pursuant to the Plan to oversee the wind-down of the Debtors' remaining estates and administer the distribution of proceeds of holders of Allowed Claims. The GUC Trustee's responsibilities include, but are not limited to, liquidating remaining estate assets, reconciling and resolving outstanding Claims, and preparing and filing final tax returns.

I. Other Wind Down Costs & Overhead Expenses

The amounts in the chapter 11 scenario reflect an estimate of costs to wind-down the Debtors' Estates. These costs consist primarily of general and administrative support functions that would be required to wind-down the Estates in Chapter 11, including personnel, information technology and other costs. These wind down functions are assumed to occur over the entirety of the estimated two-to-four months wind-down period. For those persons that are retained during the liquidation process, the analysis includes estimated salary and benefits.

Net Distribution Proceeds Available for Distribution

Based on the Liquidation Analysis, the Net Distribution Proceeds available for distribution to Holders of Claims and Interests range from approximately $16.2 million to $16.7 million in the chapter 11 scenario and $15.7 million to $16.2 million in the chapter 7 scenario.

Claims sizing is based on a combination of book value of certain liabilities as of March 31, 2026, claims filed in the chapter 11 cases to date and estimates as to various other claims expected to be filed as a result of anticipated contract and lease rejections and other developments in the bankruptcy cases.

Claims

1. Administrative Claims

The Liquidation Analysis assumes approximately:

- $40 thousand in 503(b)(9) Claims.
- $13.8 million in Professional Fee Claims as of the Conversion Date. The estimate of Professional Fee Claims includes accrued and unpaid monthly fees for Professionals through confirmation.
- $0.1 million of Priority Tax Claims related to state and franchise taxes.
- $0.3 million of U.S. Trustee fees.
- $0.2 million of Other Administrative Claims held in connection with accrued and unpaid payroll as of Conversion Date and employee PTO obligations of the Debtors.

2. Class 1 – Other Priority Claims

Class 1 consists of $0.2 million of Allowed Other Priority Claims, and includes non-administrative accrued employee PTO obligations of the Debtors as of the Conversion Date.

3. Class 2 – Other Secured Claims

Class 2 consists of $1.9 million of Secured Claims as of the Conversion Date related to Amcon's lien. As explained in the Combined Disclosure Statement and Plan, the Debtor's dispute Amcon's lien and have agreed to litigation of the dispute in a proceeding in the Bankruptcy Court in advance of the Effective Date. Out of an abundance of caution and solely for the purposes of the Liquidation Analysis, the Liquidation Analysis assumes Amcon's lien attaches to the sale proceeds in the Covington Proceeds Escrow, which results in an allowed claim in the amount escrowed at the Covington sale closing. Remaining amounts of Amcon's lien are treated as general unsecured deficiency claims.

4. Class 3 – General Unsecured Claims

Class 3 consists of $149.6 million of General Unsecured Claims as of the Conversion Date. The main components are $96.9 million of unsecured deficiency claims, $39.8 million of non-priority, prepetition claims held by vendors, $12.6 million of 502(b)(6) lease rejections, and $0.3 million of unsecured employee claims and accrued employee PTO benefit plans.

5. Class 4 – Intercompany Claims

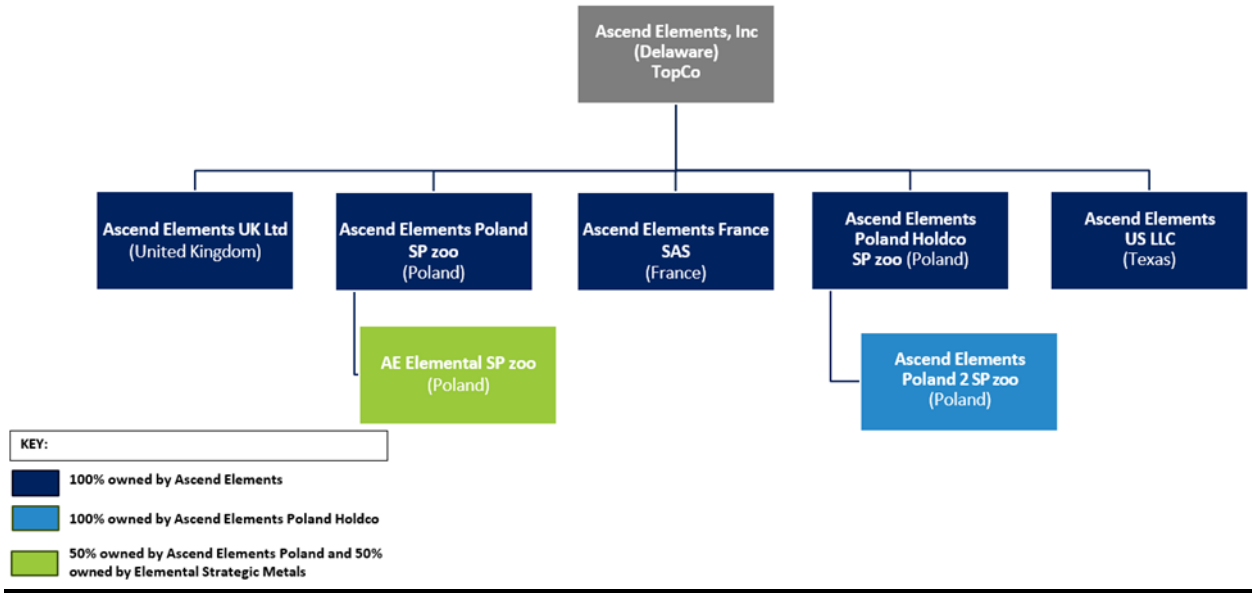
Class 4 consists of all Intercompany Claims. Intercompany Claims consist of approximately $[9.1] million owed by non-Debtor affiliates to the Debtors for prepetition and postposition intercompany activity.

6. Class 5 – Intercompany Interests

Class 5 consists of all Intercompany Interests. Intercompany Interests consist of the Debtors' de minimis equity interests in non-Debtor affiliates.

7. Class 6 – Interests in Ascend Elements

Class 6 consists of all Interests in Ascend Elements.


Ascend Elements, Inc (Delaware) TopCo
Ascend Elements UK Ltd (United Kingdom)
Ascend Elements Poland SP zoo (Poland)
Ascend Elements France SAS (France)
Ascend Elements Poland Holdco SP zoo (Poland)
Ascend Elements US LLC (Texas)
AE Elemental SP zoo (Poland)
Ascend Elements Poland 2 SP zoo (Poland)
KEY:
100% owned by Ascend Elements
100% owned by Ascend Elements Poland Holdco
50% owned by Ascend Elements Poland and 50% owned by Elemental Strategic Metals

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

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

DEBTORS' EMERGENCY MOTION FOR ENTRY OF AN ORDER (I) CONDITIONALLY APPROVING THE ADEQUACY OF THE DISCLOSURE STATEMENT; (II) APPROVING THE SOLICITATION AND NOTICE PROCEDURES; (III) APPROVING THE FORM OF BALLOT AND NOTICES; (IV) APPROVING CERTAIN DATES AND DEADLINES IN CONNECTION WITH THE SOLICITATION AND CONFIRMATION OF THE PLAN; AND (V) SCHEDULING A COMBINED HEARING ON (A) FINAL APPROVAL OF THE DISCLOSURE STATEMENT AND (B) CONFIRMATION OF THE PLAN

Emergency relief has been requested. Relief is requested not later than July 15, 2026 at 1:00 p.m. (prevailing Central Time).

If you object to the relief requested or you believe that emergency consideration is not warranted, you must appear at the hearing if one is set, or file a written response prior to the date that relief is requested in the preceding paragraph. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.

Audio communication will be by use of the Court's dial-in facility. You may access the facility at 832-917-1510. Once connected, you will be asked to enter the conference room number. Judge Lopez's conference room number is 590153. Video communication will be by use of the GoToMeeting platform. Connect via the free GoToMeeting application or click the link on Judge Lopez's homepage. The meeting code is "JudgeLopez". Click the settings icon in the upper right corner and enter your name under the personal information setting.

Hearing appearances must be made electronically in advance of both electronic and in-person hearings. To make your appearance, click the "Electronic Appearance" link on Judge Lopez's homepage. Select the case name, complete the required fields and click "Submit" to complete your appearance.

The above-captioned debtors and debtors in possession (collectively, the "***Debtors***") in the above-captioned chapter 11 cases (the "***Chapter 11 Cases***") state as follows in support of this emergency motion (this "***Motion***").

[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.

Relief Requested

1. The Debtors seek entry of an order, substantially in the form attached hereto (the "***Order***"), granting the following relief:

a. *Disclosure Statement*. Conditionally approving, for solicitation purposes only, the adequacy of the information provided in the *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., et al.* (as may be amended, modified, or supplemented from time to time, the "***Disclosure Statement***," or the "***Plan***" or the "***Combined Disclosure Statement and Plan***," as applicable),[2] substantially in the form filed contemporaneously herewith and attached to the Order as **Exhibit 1**;

b. *Solicitation and Voting Procedures*. Approving procedures for: (i) soliciting, receiving, and tabulating votes to accept or reject the Plan; (ii) voting to accept or reject the Plan; and (iii) filing objections to the Combined Disclosure Statement and Plan (collectively, the "***Solicitation and Voting Procedures***");

c. *Solicitation Packages*. Finding that the solicitation materials and documents included in the solicitation packages (the "***Solicitation Packages***") that will be sent to Holders of Claims who are entitled to vote to accept or reject the Plan are in compliance with Bankruptcy Rules 2002(b) and 3017(d);

d. *Ballots*. Approving the form of ballots, substantially in the forms attached to the Order as **Exhibit 2** (the "***Ballots***"), to be included in the Solicitation Packages;

e. *Combined Hearing Notice*. Approving the form and manner of notice of the combined hearing to consider final approval of the adequacy of the Disclosure Statement and Confirmation of the Plan (the "***Combined Hearing***"), which also includes notice of the Administrative Claims Bar Date and the release provisions under the Plan, substantially in the form attached to the Order as **Exhibit 3** (the "***Combined Hearing Notice***");

f. *Notices of Non-Voting Status*. Approving the forms of notice, substantially in the forms attached to the Order as **Exhibits 4A** and **4B** (the "***Non-Voting Status Notices***"), to be sent to Holders of Claims or Interests who are not entitled to vote on the Plan because they hold unclassified Claims or are either presumed to accept the Plan under section 1126(f) of the Bankruptcy Code or presumed to reject the Plan under section 1126(g) of the Bankruptcy Code;

[2] Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Combined Disclosure Statement and Plan.

g. *Confirmation Schedule*. Establishing certain dates and deadlines with respect to confirmation of the Plan (the "***Confirmation Schedule***") as follows:

Event or Deadline	Date and Time
Hearing on Conditional Approval of the Disclosure Statement	July 15, 2026 at 1:00 p.m. (prevailing Central Time), subject to the Court's availability
Solicitation and Notice Deadline	July 17, 2026
Plan Supplement Deadline	August 10, 2026
Plan and Disclosure Statement Objection Deadline	August 14, 2026 at 4:00 p.m. (prevailing Central Time)
Rule 3018 Motion Deadline	August 14, 2026 at 4:00 p.m. (prevailing Central Time)
Voting Record Date	August 14, 2026 at 4:00 p.m. (prevailing Central Time)
Voting and Opt-In Deadline	August 14, 2026 at 4:00 p.m. (prevailing Central Time)
Administrative Claims Bar Date	Thirty (30) days after the Effective Date
Voting Report Deadline	August 14, 2026 at 4:00 p.m. (prevailing Central Time)
Combined Hearing on Final Approval of Disclosure Statement and Confirmation of the Plan	August 17, 2026 at 1:00 p.m. (prevailing Central Time), subject to the Court's availability

Jurisdiction and Venue

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

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

4. The bases for the relief requested herein are sections 105, 1125, 1126 and 1128 of title 11 of the United States Code (the "***Bankruptcy Code***"), Bankruptcy Rules 2002, 3016, 3017, 3018, and 3020, rules 3016-2 and 9013-1 of the Bankruptcy Local Rules of the Court (the "***Local Rules***"), and the Procedures for Complex Cases in the Southern District of Texas (the "***Complex Case Procedures***").

Background

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

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

7. Additional information regarding the Debtors, their businesses, their capital structure, and the events leading to the commencement of these chapter 11 cases is set forth in the *Declaration of Linh Austin in Support of the Debtors' Chapter 11 Petitions and First Day Motions* [Docket No. 11] (the "First Day Declaration"), filed on the Petition Date. As described therein and in the Combined Disclosure Statement and Plan, the Debtors commenced these chapter 11 cases to preserve enterprise value, stabilize operations, conduct an orderly sale process under section 363 of the Bankruptcy Code, maximize recoveries for creditors and other stakeholders, and resolve the substantial liabilities arising from the construction of the Debtors' Apex 1 facility.

8. Since the Petition Date, these chapter 11 cases have progressed on an expedited timeline. Early in the cases, the Court approved the Debtors' use of cash collateral and entered the Bid Procedures Order [Docket No. 120], establishing a comprehensive marketing and sale process for substantially all of the Debtors' assets. Following an extensive marketing process, the Debtors determined that separate transactions for their Poland and intellectual property assets, the Hopkinsville assets, and the Covington assets represented the highest or otherwise best means of maximizing value for their estates.

9. On May 22, 2026, the Court entered the order approving the sale of the Debtors' Polish operations and intellectual property to Bluegrass Infrastructure Partners Holdings, LLC [Docket No. 393]. That transaction closed on May 26, 2026 [Docket No. 403], generating significant value for the estates and preserving the Debtors' intellectual property platform through a going-concern transaction.

10. The Debtors next completed the sale of their Hopkinsville assets following a competitive auction conducted pursuant to the Bid Procedures Order. Turner-Kokosing Joint Venture was selected as the successful bidder, the Court approved the transaction on June 5, 2026 [Docket No. 469], and the sale closed on June 11, 2026 [Docket No. 474]. In addition to generating value for the estates, the transaction materially reduced the Debtors' secured indebtedness through a credit bid and the purchaser's agreement to waive an additional $40 million of secured debt, resulting in an aggregate reduction of approximately $50 million of secured claims.

11. Following the closing of those transactions, the Debtors focused on completing the sale of their remaining operating assets. On June 20, 2026, after no competing qualified bids were received, the Debtors designated R3 Lithium, Inc. as the successful bidder for the Covington assets and cancelled the scheduled auction. [Docket No. 487]. On June 30, 2026, the Court entered the order approving the sale of the Covington assets to R3 Lithium, Inc.

[Docket No. 534]. The transaction contemplates approximately $3 million in cash, the assumption of specified liabilities, and payment of the purchaser's allocated cure costs.

12. At the same time, the Debtors continued their wind-down efforts by seeking authority to implement streamlined procedures to sell, transfer, or abandon residual assets that were excluded from the principal sale transactions and that continued to impose storage, maintenance, insurance, and other carrying costs on the estates. [Docket Nos. 511 & 532].

13. As a result of these transactions, the Debtors have substantially completed the monetization of their operating assets and have transitioned from operating businesses to a wind-down of their estates. The remaining tasks primarily consist of disposing of remaining assets, resolving claims and executory contract issues, reconciling administrative and priority claims, and implementing the proposed General Unsecured Claims Trust. Accordingly, the Debtors have reached the stage of these chapter 11 cases where confirmation of the Combined Disclosure Statement and Plan represents the most efficient path to conclude the administration of their estates, distribute remaining value to creditors, and complete the wind-down process.

Basis for Relief

A. The Court Should Conditionally Approve the Disclosure Statement.

14. Pursuant to section 1125 of the Bankruptcy Code, prior to or concurrently with the solicitation of votes on a plan, a plan proponent must provide "adequate information" about the plan to voting creditors and interest holders. 11 U.S.C. § 1125. The term "adequate information" means "information of a kind, and in sufficient detail, as far as is reasonably practicable" to permit an "informed judgment about the plan." 11 U.S.C. § 1125(a)(1). Determining what constitutes "adequate information" is subject to the Court's discretion. *See, e.g.*, *Mabey v. Sw. Elec. Power Co. (In re Cajun Elec. Power Coop., Inc.*), 150 F.3d 503, 518 (5th Cir. 1998).

15. The Disclosure Statement contains adequate information in sufficient detail to permit voting creditors to make an informed judgment about the Plan, including: (a) the Debtors' corporate history and prepetition capital structure; (b) the events leading to the commencement of the Chapter 11 Cases; (c) material events in the Chapter 11 Cases, including the Sale processes; (d) the classification and treatment of Claims and Interests; (e) the source of consideration for Plan distributions and the means for implementing the Plan, including establishment of the GUC Trust; (f) provisions governing distributions; (g) the releases, injunction, and exculpations under the Plan, which are conspicuously displayed in accordance with Bankruptcy Rule 3016(c); (h) the statutory requirements for Confirmation; (i) the estimated return to creditors under a hypothetical chapter 7 liquidation; (j) risk factors related to the Plan; and (k) certain U.S. federal tax consequences arising from the implementation of the Plan. *See, e.g.*, *In re Divine Ripe, L.L.C.*, 554 B.R. 395, 401-02 (Bankr. S.D. Tex. 2009) (citing *In re Metrocraft Pub. Serv., Inc.*, 39 B.R. 567-68 (Bankr. N.D. Ga. 1984) (citing factors for determining inclusion of adequate information)).

16. Local Rule 3016-2 and Section P of the Complex Case Procedures permit a plan proponent to move for conditional approval of a disclosure statement and a combined hearing to consider final approval of the disclosure statement and confirmation of the plan. Conditional approval of the Disclosure Statement pursuant to Local Rule 3016-2 and Section P of the Complex Case Procedures is warranted under the circumstances. The Motion and Order comply with the requirements for conditional approval under Local Rule 3016-2 and Section P of the Complex Case Procedures by (a) identifying Kurtzman Carson Consultants, LLC d/b/a Verita Global ("***Verita***"), the Debtors' claims, noticing, and solicitation agent (the "***Solicitation Agent***"), as the balloting agent, (b) proposing the Confirmation Schedule and Combined Hearing, (c) seeking final approval of the Solicitation and Voting Procedures, the forms of notice to be provided to creditors, and the form of Ballots, and (d) establishing the Voting

Deadline and Voting Record Date (each as defined below). Additionally, the Debtors have sold substantially all of their assets and are proposing a straightforward liquidating Plan.

17. Accordingly, the Debtors request that the Court approve the Disclosure Statement as containing "adequate information" on a conditional basis, subject to final approval at the Combined Hearing.

B. The Court Should Approve the Setting of Certain Dates and Deadlines in Connection with Plan Confirmation and Forms of the Combined Hearing Notice.

1. The Court Should Establish an Administrative Claims Bar Date.

18. The Debtors request that the Court set the deadline for filing and serving any Administrative Claims (other than Professional Fee Claims and Section 503(b)(9) Claims) against the Debtors' Estates (the "Administrative Claims Bar Date") as **thirty (30) days after the Effective Date** of the Combined Disclosure Statement and Plan.

19. The Debtors propose including notice of the Administrative Claims Bar Date in the Combined Hearing Notice, which will be served by first-class United States mail on all parties appearing on the Debtors' creditor matrix. The Debtors submit that, under the circumstances, no other or further notice is necessary.

2. The Court Should Approve the Setting of the Combined Hearing and the Form of the Combined Hearing Notice

20. Section 105(d)(2)(B)(vi) of the Bankruptcy Code expressly authorizes a court to "issue an order . . . that . . . provides that the hearing on approval of the disclosure statement may be combined with the hearing on confirmation of the plan" where the court deems a combined hearing to be "appropriate to ensure that the case is handled expeditiously and economically." 11 U.S.C. § 105(d)(2)(B)(vi); *see also In re Gulf Coast Oil Corp.*, 404 B.R. 407, 425 (Bankr. S.D. Tex. 2009) (holding that section 105(d) of the Bankruptcy Code authorizes the court to hold combined hearings for disclosure statements and plans). Moreover, Local Rule 3016-2 and Section P of the Complex Case Procedures authorize the plan proponent

to move for approval of a disclosure statement that requests a joint hearing to consider final approval of the disclosure statement and confirmation of a plan.

21. Here, an expeditious confirmation process and a single combined hearing on the Combined Disclosure Statement and Plan is appropriate given the circumstances of these Chapter 11 Cases. The Debtors have sold substantially all of their assets, and the Plan is premised on the disposition of the Debtors' remaining assets and the establishment of a GUC Trust for the benefit of the Debtors' general unsecured creditors. The Debtors respectfully request that the Court schedule the Combined Hearing on final approval of the adequacy of the information contained in the Disclosure Statement and confirmation of the Plan on August 17, 2026 at 1:00 p.m. (prevailing Central Time), subject to the Court's availability.

22. The Debtors also request that the Court approve the form of Combined Hearing Notice, which includes: (a) instructions as to how to view or obtain copies of the Combined Disclosure Statement and Plan, the Order, and all other materials in the Solicitation Package (excluding Ballots) from the Debtors' Solicitation Agent, including through the Debtors' case website maintained by the Solicitation Agent, and the Court's website via PACER; (b) notice of the Voting Deadline; (c) notice of the Plan and Disclosure Statement Objection Deadline (as defined below) and instructions for filing an objection; (d) notice of the Combined Hearing Date and information related thereto; (e) notice of the Administrative Claims Bar Date; and (f) instructions for attending the Combined Hearing electronically.

23. The Debtors propose to serve the Combined Hearing Notice on all known Holders of Claims and Interests as of the Voting Record Date and any other party entitled to notice under Bankruptcy Rule 2002 and applicable Local Rules (regardless of whether such parties are entitled to vote on the Plan) by ***no later than the Solicitation and Notice Deadline***. The Court should approve the proposed form of Combined Hearing Notice because the notice period provided after service of the Combined Hearing Notice, together with service

of notice of this Motion, will provide creditors with sufficient notice of the Combined Hearing and the Administrative Claims Bar Date.

3. The Court Should Approve the Voting Record Date

24. Bankruptcy Rule 3017(d) provides that, for the purposes of soliciting votes in connection with the confirmation of a plan, "creditors and equity security holders shall include holders of stocks, bonds, debentures, notes, and other securities of record on the date the order approving the disclosure statement is entered or another date fixed by the court, for cause, after notice and a hearing." Fed. R. Bankr. P. 3017(d). Bankruptcy Rule 3018(a) contains a similar provision regarding determination of the record date for voting purposes. Fed. R. Bankr. P. 3018(a).

25. The Debtors request that the Court exercise its authority under Bankruptcy Rules 3017(d) and 3018(a) to establish **August 14, 2026 at 4:00 p.m. (prevailing Central Time)**, as the voting record date (the "***Voting Record Date***"). The Debtors propose that, with respect to any transferred Claim, the transferee shall be entitled to receive a Solicitation Package and, if the Holder of such Claim is entitled to vote with respect to the Plan, cast a Ballot on account of such Claim only if all actions necessary to effectuate the transfer of the Claim pursuant to Bankruptcy Rule 3001(e) have been completed by the Voting Record Date. In the event a Claim is transferred after the Voting Record Date, the transferee of such Claim shall be bound by any vote on the Plan made by the Holder of such Claim as of the Voting Record Date.

4. The Court Should Approve the Voting Deadline

26. Bankruptcy Rule 3017(c) provides, in relevant part, that "[o]n or before approval of the disclosure statement, the court shall fix a time within which the holders of claims and interests may accept or reject the plan . . . ." Fed. R. Bank. P. 3017(c). The Debtors request that the Court establish **August 14, 2026, at 4:00 p.m. (prevailing Central Time)**, as

the deadline for voting on the Plan (the "***Voting Deadline***"), subject to extension in the Debtors' discretion. The Debtors anticipate serving the Solicitation Packages as soon as practicable after entry of the Order, but in no event later than the Solicitation and Notice Deadline. The Debtors propose that, for votes to be counted, all Ballots must be properly executed, completed, and delivered in the manner described in the Solicitation and Voting Procedures so that they are ***actually received*** by the Solicitation Agent no later than the Voting Deadline.

5. The Court Should Approve the Timing of the Combined Hearing and the Plan and Disclosure Statement Objection Deadline

27. Section 1128 of the Bankruptcy Code provides that a court shall hold a hearing on confirmation of a plan and that parties in interest can object to confirmation. 11 U.S.C. § 1128. Bankruptcy Rule 3020(b)(1) provides that objections to confirmation of a plan must be filed and served within a time fixed by the court. Fed. R. Bankr. P. 3020(b)(1). Bankruptcy Rule 3017(a) provides that the court shall hold a hearing on at least 28 days' notice as set forth in Bankruptcy Rule 2002 to consider a disclosure statement, and objections to a disclosure statement must be filed and served at any time before it is approved or an earlier date fixed by the court. Fed. R. Bankr. P. 3017(a). Bankruptcy Rule 2002(b) provides that there should be "not less than "28 days' notice by mail of the time fixed (1) for filing objections and the hearing to consider approval of a disclosure statement . . . " and "(2) for filing objections and the hearing to consider confirmation of a . . . chapter 11 plan." Fed. R. Bankr. P. 2002(b).

28. The Debtors request that the Court establish **August 14, 2026, at 4:00 p.m. (prevailing Central Time)** as the deadline for filing and serving objections to confirmation of the Plan and final approval of the Disclosure Statement (the "***Plan and Disclosure Statement Objection Deadline***"). The Plan and Disclosure Statement Objection Deadline is at least 28 days after the Solicitation and Notice Deadline, and the Combined Hearing is scheduled to occur at least 31 days after the Solicitation and Notice Deadline.

29. The Debtors also request that the Court direct the manner for filing objections to the final approval of the Disclosure Statement and confirmation of the Plan, as set forth in the Combined Hearing Notice, to require that such objections, if any, must:

(a) be in writing;

(b) be served on the following parties (the "***Objection Notice Parties***") so as to be received no later than the applicable deadline: (i) counsel to the Debtors, Norton Rose Fulbright US LLP, 1550 Lamar Street, Suite 2000, Houston, Texas 77010, Attn: Ryan Manns (ryan.manns@nortonrosefulbright.com), Jason Blanchard (jason.blanchard@nortonrosefulbright.com), and Maria Mokrzycka (maria.mokrzycka@nortonrosefulbright.com); (ii) the Office of the United States Trustee, Southern District of Texas, Region 7, 515 Rusk Street, Suite 3516, Houston, TX 77002, Attn: Ha Nguyen (ha.nguyen@usdoj.gov) and Vianey Garza (vianey.garza@usdoj.gov); and (iii) counsel to the Official Committee of Unsecured Creditors, McDermott Will & Schulte LLP, 2801 N. Harwood Street, Suite 2600, Dallas, TX 75201, Attn: Carole Wurzelbacher (cwurzelbacher@mcdermottlaw.com), Charles R. Gibbs (crgibbs@mcdermottlaw.com), Kristin K. Going (kgoing@mcdermottlaw.com), and Nathaniel Allard (nallard@mcdermottlaw.com);

(c) comply with the Bankruptcy Rules, the Local Rules, and any orders of the Court;

(d) state, with particularity, the legal and factual bases for the objection and, if practicable, a proposed modification to the Plan (or related materials) that would resolve such objection; and

(e) be filed with the Court and served on the Objection Notice Parties before the Plan and Disclosure Statement Objection Deadline.

C. The Court Should Approve the Solicitation and Voting Procedures and the Contents of the Solicitation Package.

30. The Debtors seek approval of the Solicitation and Voting Procedures and the contents of the Solicitation Package, as described below, to efficiently solicit votes in connection with the Plan in a manner consistent with the Bankruptcy Code and the Bankruptcy Rules. The Debtors propose to serve the Solicitation Packages on, and solicit votes to accept or reject the Plan, only from Holders of General Unsecured Claims in Class 3 (the "***Voting***

Class"). The Debtors are not proposing to solicit votes from Holders of Claims and Interests in any of the other Classes under the Plan (the "***Non-Voting Classes***").

1. The Voting and Tabulation Procedures

31. Section 1126(c) of the Bankruptcy Code sets forth the numerosity and amount requirements for determining whether a class of claims has accepted a plan. *See* 11 U.S.C. § 1126(c). Additionally, Bankruptcy Rule 3018(c) provides, in part, that "[a]n acceptance or rejection [of a plan] shall be in writing, identify the plan or plans accepted or rejected, be signed by the creditor or equity security holder or an authorized agent and conform to the appropriate Official Form." Fed. R. Bankr. P. 3018(c). Further, Bankruptcy Rule 3018(a) provides that the "court after notice and hearing may temporarily allow [a] claim or interest in an amount which the court deems proper for the purpose of accepting or rejecting a plan." Fed. R. Bankr. P. 3018(a).

32. Solely for the purpose of voting to accept or reject the Plan and not for purposes of allowance of, or distribution on account of, a Claim, each Claim within the Voting Class shall be temporarily allowed in an amount equal to (i) the amount asserted in a timely Filed Proof of Claim, or, if no timely Proof of Claim has been Filed, (ii) the liquidated, non-contingent, undisputed amount of such Claim set forth in the Schedules, subject to the following exceptions:

a. if a Claim has been estimated or otherwise Allowed for voting purposes by order of the Court, such Claim is temporarily Allowed in the amount so estimated or Allowed by this Court;

b. if (a) does not apply, but the Claim has been estimated or otherwise Allowed for voting purposes pursuant to a stipulation, settlement, or other agreement in writing reached between the Debtors and the holder of the Claim (whether such stipulation, settlement, or agreement is filed or not), such Claim is temporarily Allowed against the Debtors in the amount set forth in the stipulation, settlement, or other agreement;

c. if neither (a) nor (b) applies, then in the liquidated, non-contingent, and undisputed amount set forth on a Proof of Claim filed against the Debtors as of the Voting Record Date; provided that, if the amount set

forth on a submitted Proof of Claim filed against the Debtors is wholly unliquidated, contingent, and/or disputed (as determined on the face of the Claim or based on reasonable review by the Debtors and/or the Voting Agent), then the Claim shall be temporarily Allowed for voting purposes in the amount of $1.00;

d. if neither (a), (b), nor (c) applies, then in the liquidated, non-contingent, and undisputed amount set forth on the Debtors' Schedules; *provided that*, if the Claim appearing on the Debtors' Schedules is either contingent, unliquidated, and/or disputed, or in a $0.00 amount and the claimant has not filed a Proof of Claim against the Debtors, then the Claim shall be disallowed for voting purposes; *provided further*, that, to the extent such creditor's deadline to file a Claim arising from the rejection of an Executory Contract or Unexpired Lease has not yet occurred before the Voting Record Date, such creditor will be entitled to vote in the amount of $1.00 on account of such Claim;

e. notwithstanding anything to the contrary contained herein, any creditor who has filed or purchased duplicate Claims within the same Voting Class may be provided with only one Solicitation Package and one Ballot for voting on a single Claim in such Class, regardless of whether the Debtors have objected to such duplicate Claims; and

f. if a Proof of Claim has been amended by a later Proof of Claim that is filed against the Debtors, the later filed amended Proof of Claim shall be entitled to vote in a manner consistent with these tabulation rules, and the earlier filed Proof of Claim shall be disallowed for voting purposes, regardless of whether the Debtors have objected to such amended claim.

33. The Debtors request that the Court approve the vote tabulation methodology set forth above and as set forth in the voting instructions on the Ballots. The Debtors will not count or consider for any purpose in determining whether the Combined Disclosure Statement and Plan has been accepted or rejected the following Ballots: (a) any Ballot that is received after the Voting Deadline; (b) any Ballot that is illegible or contains insufficient information to permit the identification of the Holder; (c) any Ballot cast by a Person or Entity that does not hold a Claim or Interest in a Class that is entitled to vote on the Combined Disclosure Statement and Plan; (d) any unsigned Ballot; (e) any Ballot not marked to accept or reject the Combined Disclosure Statement and Plan, or marked both to accept and reject the Combined Disclosure Statement and Plan; and (f) any Ballot submitted by a party not entitled to cast a vote with respect to the Combined Disclosure Statement and Plan.

2. Motions to Temporarily Allow Claims for Voting Purposes

34. The Debtors also propose that any Holder that wishes to challenge the allowance or classification of its Claim for voting purposes file and serve on the Objection Notice Parties a motion (a "***Rule 3018 Motion***"), pursuant to Bankruptcy Rule 3018(a), requesting that the Court temporarily allow its Claim in a different amount or with a different classification for purposes of voting to accept or reject the Plan. Rule 3018 Motions must be filed by 4:00 p.m. (prevailing Central Time) on the later of (a) August 14, 2026 and (b) if such Rule 3018 Motion relates to a Claim that is disputed (a "***Disputed Claim***"), the fifth day after such Claim became a Disputed Claim (the "***Rule 3018 Motion Deadline***"). In accordance with Bankruptcy Rule 3018, the Debtors further propose that any Ballot submitted by a Holder of such Claim shall be counted without regard to the amount sought to be allowed or the classification sought to be applied in any Rule 3018 Motion unless and until a Claim is temporarily allowed (pursuant to an order of the Court entered prior to the Voting Deadline) in a different amount or with a different classification for purposes of voting to accept or reject the Plan.

3. The Form of the Ballots

35. The Bankruptcy Rules provide that creditors entitled to vote on a plan must be sent a form of ballot conforming to the appropriate Official Form, and that such creditors' acceptance or rejection must conform to the appropriate Official Form. *See* Fed. R. Bankr. P. 3017(d), 3018(c). The form of the Ballots is based on Official Form No. 314 and has been modified to include certain additional information that the Debtors believe to be relevant and appropriate for Holders of Claims entitled to vote on the Plan as of the Voting Record Date, including an option for such Holders to elect to opt in to the releases under the Plan. Accordingly, the Ballots comply with Bankruptcy Rules 3017(d) and 3018(c) and should be approved. *See* Fed. R. Bankr. P. 3017(d), 3018(c).

4. The Balloting Process

36. The Debtors, through the Solicitation Agent, will: (a) distribute the Solicitation Packages and solicit votes on the Plan in compliance with the Solicitation and Voting Procedures; (b) receive, tabulate, and report on Ballots; and (c) respond to inquiries relating to the solicitation and voting process, including all matters related thereto. Further, the Solicitation Agent will file a voting report (the "***Voting Report***") with the Court by **August 14, 2026 at 4:00 p.m. (prevailing Central Time)**, which is one (1) Business Day before the Combined Hearing.

37. The Debtors request that the Solicitation Agent be authorized (to the extent not already authorized by another order of the Court) to assist the Debtors in (a) distributing the Solicitation Packages, (b) receiving, tabulating, and reporting on Ballots cast to accept or reject the Plan by Holders of Claims, (c) responding to inquiries from Holders of Claims or Interests and other parties in interest relating to the Combined Disclosure Statement and Plan, the Ballot, the Solicitation Packages, and all other related documents and matters related thereto, including the procedures and requirements for voting to accept or reject the Plan and for objecting to the Plan, (d) soliciting votes on the Plan, and (e) if necessary, contacting Holders of Claims and Interests regarding the Plan. The Solicitation Agent may, but is not obligated to, contact parties that submit incomplete or otherwise deficient Ballots to make a reasonable effort to cure such deficiencies.

38. The Debtors further request that the Solicitation Agent be authorized to accept Ballots via electronic online transmission through a customized online balloting portal on the Debtors' case website to be maintained by the Solicitation Agent ("***E-Ballot***"). Parties entitled to vote through E-Ballot may cast an electronic Ballot and electronically sign and submit the Ballot instantly by utilizing E-Ballot. The encrypted data and audit trail created by such electronic submission will become part of the record of any Ballot submitted in this manner

and the creditor's electronic signature will be deemed to be immediately legally valid and effective. The Debtors request that Ballots submitted via the customized online balloting portal shall be deemed to contain an original signature. E-Ballot is the sole manner in which Ballots will be accepted via electronic or online transmission. Ballots- submitted by facsimile, email, or other means of electronic transmission will not be counted.

5. The Content and Distribution of the Solicitation Packages

39. Bankruptcy Rule 3017(d) provides that, upon approval of a disclosure statement, the plan proponent shall mail to creditors and interest holders a copy of the plan or a summary thereof, the disclosure statement, a notice of the voting deadline, and any other information as the court may direct. Fed. R. Bankr. P. 3017(d). In addition, the plan proponent must provide notice to all creditors of the deadline for filing plan objections and, with respect to voting creditors, a form of ballot conforming to Official Form No. 314. *See id.*

40. The Debtors propose to distribute the Solicitation Packages to Holders of Claims who, as of the Solicitation and Notice Deadline, are entitled to vote on the Plan by no later than the Solicitation and Notice Deadline. Each Solicitation Package will include the following materials:

(a) the Order (without exhibits);

(b) a copy of the Combined Disclosure Statement and Plan, which will be provided in electronic format by including in the Combined Hearing Notice instructions for accessing such documents on the Debtors' restructuring website;

(c) a Ballot, which includes an option to opt in to the releases under the Plan, together with detailed voting instructions with respect thereto and a pre-addressed, postage-prepaid return envelope;

(d) a copy of the Combined Hearing Notice; and

(e) such other materials as the Court may direct.

41. Due to the voluminous nature of certain documents, the Debtors request authorization to distribute the Combined Disclosure Statement and Plan and the Order (without

exhibits) by providing instructions as part of the Solicitation Package for accessing these documents through the Debtors' case website (https://www.veritaglobal.net/ascend), and, if requested, providing a hard or email copy as soon as reasonably practicable. Only the Ballot, the Order (without exhibits), the return envelope, and the notices sought to be approved by this Motion (collectively, the "***Notices***") will be provided in email or paper format. The Combined Hearing Notice will include a website address directing recipients to the electronic format of the documents and providing recipients directions for obtaining a print or email copy of such documents if they so desire. Distribution in this manner will result in significant monetary savings for the Debtors' estates and increase recoveries to creditors by reducing printing and postage costs. Further, all documents will be available in print and email on request to the Solicitation Agent and electronically, free of charge, at the Debtors' restructuring website (https://www.veritaglobal.net/ascend).

42. The Debtors further request that they not be required to mail Solicitation Packages or other solicitation materials to Holders of Claims that have already been paid in full during the Chapter 11 Cases either through a critical vendor or cure payment, that are authorized to be paid in full in the ordinary course of business pursuant to an agreement between the parties or an order previously entered by the Court, or that have been waived or released by such Holder as reflected in a document or stipulation filed with the Court or an order entered by the Court.

D. The Court Should Approve the Form of Non-Voting Status Notices

43. In compliance with section 1123(a)(1) of the Bankruptcy Code and as reflected in Article IV of the Plan, Administrative Claims, Priority Tax Claims, U.S. Trustee Fees, and Professional Fee Claims have not been classified and are not entitled to vote on the Plan. Additionally, the Holders of Claims and Interests in the Non-Voting Classes and the Holders of Claims that are subject to certain pending objections filed by the Debtors are not entitled to

vote on the Plan. As a result, the Holders of such Claims will ***not*** receive Solicitation Packages. Instead, the Debtors propose that such parties receive a Non-Voting Status Notice. The Debtors propose to serve certain Holders of Claims that are not classified in accordance with section 1123(a)(1) of the Bankruptcy Code, or who are not entitled to vote because they are Unimpaired or otherwise presumed to accept the Plan under section 1126(f) of the Bankruptcy Code, the *Notice of Non-Voting Status to Holders of Unimpaired Claims Conclusively Presumed to Accept the Plan*, substantially in the form attached as **Exhibit 4B** to the Order. Additionally, the Debtors propose to serve the *Notice of Non-Voting Status to Holders of Impaired Claims or Interests Conclusively Presumed to Reject the Plan*, substantially in the form attached as **Exhibit 4A** to the Order, to certain Holders of Claims or Interests who are not entitled to vote because they are deemed to reject the Plan under section 1126(g) of the Bankruptcy Code.

44. The Non-Voting Status Notices will include (a) instructions on how to view or obtain copies of the Combined Disclosure Statement and Plan, the Order, and all other materials in the Solicitation Package (excluding the Ballot) from the Solicitation Agent free of charge and the Court's website via PACER; (b) a disclosure regarding the release language set forth in the Plan and an Opt-In Form; (c) notice of the Plan and Disclosure Statement Objection Deadline; (d) notice of the Combined Hearing Date; (e) notice of the Administrative Claims Bar Date; and (f) related information. The transmittal of Non-Voting Status Notices in lieu of Solicitation Packages satisfies the requirements of Bankruptcy Rule 3017(d) and should be approved.

E. Undeliverable Notices and Solicitation Materials.

45. The Solicitation and Voting Procedures provide that the Debtors are not obligated to redistribute the Combined Hearing Notice, Solicitation Packages, and/or any other approved Notices related to the Confirmation of the Plan to any Entity to the extent Notices or materials sent to such Entity's listed address are returned as undeliverable. The Solicitation

and Voting Procedures do not require the Debtors to send the Combined Hearing Notice, Solicitation Package, and/or any other Notices for which the Debtors seek approval in this Motion to any address that the Debtors have sent a notice during the course of these Chapter 11 Cases, which notice was returned as undeliverable.

46. The Debtors request that the Court determine that not redistributing or not distributing, as the case may be, materials and notices to such Entities does not constitute inadequate notice of the Combined Hearing Notice, the Solicitation Package, the Combined Disclosure Statement and Plan, any deadlines sought to be approved by this Motion, or a violation of the Bankruptcy Code or Bankruptcy Rules. For purposes of serving the Solicitation Packages and Non-Voting Status Notices, the Debtors request authorization to rely on the address and/or email information for the creditors receiving such notice as compiled, updated, and maintained by the Solicitation Agent as of the Voting Record Date, without any requirement to conduct additional research for updated addresses based on undeliverable Solicitation Packages (including the Ballots) or Non-Voting Status Notices.

Emergency Consideration

47. The Debtors request emergency consideration of this Motion no later than July 15, 2026. *See* Local Rule 9013-1 and Section C of the Complex Case Procedures. The Debtors have already consummated virtually all of the Sales, other than the De Minimis Sales. Commencing solicitation and pursuing confirmation of the Plan on an expedient basis will minimize the accrual of further administrative costs and expenses and maximize the value of the Debtors' Estates for distribution to their creditors. Accordingly, emergency relief is critical to facilitate the Debtors' prompt conclusion of these Chapter 11 Cases for the benefit of all stakeholders.

Non-Substantive Modifications

48. The Debtors request authorization to make non-substantive and immaterial changes to the Combined Disclosure Statement and Plan, the materials in the Solicitation Packages, the Notices and related documents without further order of the Court. These changes could include changes to correct typographical and grammatical errors, if any, and to make conforming changes to the Disclosure Statement, the Plan, and any other materials in the Solicitation Packages before distribution.

Notice

49. The Debtors will provide notice of this Motion to: (a) the U.S. Trustee; (b) the United States Attorney's Office for the Southern District of Texas; (c) the state attorneys general for the states in which the Debtors operate; (d) the Internal Revenue Service; and (e) any party that has requested notice pursuant to Bankruptcy Rule 2002 and Local Rule 9013-1(d). In light of the nature of the relief requested, the Debtors respectfully submit that no further notice is necessary.

[Concludes on following page]

WHEREFORE, the Debtors respectfully request that the Court enter the Order granting the relief requested in this Motion and such other and further relief as the Court deems appropriate under the circumstances.

Houston, Texas
Dated: July 8, 2026

/s/ Ryan Manns

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Counsel to the Debtors and Debtors in Possession

Certificate of Accuracy

I certify that the foregoing statements are true and accurate to the best of my knowledge. This statement is being made pursuant to Local Rule 9013-1(i).

/s/ Ryan Manns
Ryan E. Manns

Certificate of Service

I certify that on July 8, 2026, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas. Additionally, the foregoing document will be served as set forth in a forthcoming affidavit filed by the Solicitation Agent.

/s/ Ryan Manns
Ryan E. Manns

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)
	)	**Re: Docket No. _____**

ORDER (I) CONDITIONALLY APPROVING THE ADEQUACY OF THE DISCLOSURE STATEMENT; (II) APPROVING THE SOLICITATION AND NOTICE PROCEDURES; (III) APPROVING THE FORM OF BALLOT AND NOTICES; (IV) APPROVING CERTAIN DATES AND DEADLINES IN CONNECTION WITH THE SOLICITATION AND CONFIRMATION OF THE PLAN; AND (V) SCHEDULING A COMBINED HEARING ON (A) FINAL APPROVAL OF THE DISCLOSURE STATEMENT AND (B) CONFIRMATION OF THE PLAN

Upon the emergency motion (the "***Motion***")[2] of the above-captioned debtors and debtors in possession (collectively, the "***Debtors***") for entry of an order (this "***Order***"): (i) authorizing, among other things, the Debtors to solicit votes on the *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., et al.* [Docket No. [●]] (as may be amended, modified, or supplemented from time to time, the "***Disclosure Statement***," or the "***Plan***" or the "***Combined Disclosure Statement and Plan***," as applicable); (ii) conditionally approving the Disclosure Statement as containing "adequate information" pursuant to section 1125 of the Bankruptcy Code; and (iii) granting related relief, all as more fully set forth in the Motion; and the Court having considered the Motion and having found it has jurisdiction over the matter pursuant to 28 U.S.C. § 1334 and the *Order of Reference to Bankruptcy Judges* from the United States District Court for the Southern District of Texas, entered May 24, 2012; and the Court having found that this is a core proceeding pursuant to 28

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

[2] Capitalized terms used but not otherwise defined herein have the meanings given to such terms in the Motion.

U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that the relief requested in the Motion is in the best interests of the Debtors' Estates, their creditors, and other parties in interest; and the Court having found that notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and the Court having reviewed the Motion and having heard the statements in support of the relief requested therein at the hearing on the Motion, if any (the "***Hearing***"); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY FOUND AND DETERMINED THAT:

A. Conditional Approval of the Disclosure Statement.

1. The Disclosure Statement, attached hereto as **Exhibit 1**, is conditionally approved as containing adequate information within the meaning of section 1125(a)(1) of the Bankruptcy Code and is subject to final approval of the Court at the Combined Hearing. No further or additional information is necessary or required.

B. Approval of the Confirmation Schedule and Certain Dates and Deadlines with Respect to the Combined Disclosure Statement and Plan.

2. The following Confirmation Schedule is hereby approved:

Event or Deadline	Date and Time
Hearing on Conditional Approval of the Disclosure Statement	July 15, 2026 at 1:00 p.m. (prevailing Central Time), subject to the Court's availability.
Solicitation and Notice Deadline	July 17, 2026
Plan Supplement Deadline	August 10, 2026
Plan and Disclosure Statement Objection Deadline	August 14, 2026 at 4:00 p.m. (prevailing Central Time)
Rule 3018 Motion Deadline	August 14, 2026 at 4:00 p.m. (prevailing Central Time)
Voting Record Date	August 14, 2026 at 4:00 p.m. (prevailing Central Time)
Administrative Claims Bar Date	Thirty (30) days after the Effective Date **o**
Voting and Opt-In Deadline	August 14, 2026 at 4:00 p.m. (prevailing Central Time)
Voting Report Deadline	August 14, 2026 at 4:00 p.m. (prevailing Central Time)
Combined Hearing on Final Approval of Disclosure Statement and Confirmation of the Plan	August 17, 2026 at 1:00 p.m. (prevailing Central Time), subject to the Court's availability

C. Approval of the Timing of the Combined Hearing and the Plan and Disclosure Statement Objection Deadline and the Procedures for Filing Objections to Confirmation of the Plan and Final Approval of the Disclosure Statement.

3. The Court shall hold the Combined Hearing on August **17, 2026 at 1:00 p.m. (prevailing Central Time), subject to the Court's availability**. The Plan and Disclosure Statement Objection Deadline shall be **August 14, 2026, at 4:00 p.m. (prevailing Central Time)**. Objections to Confirmation of the Plan and final approval of the Disclosure Statement must (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Rules; (c) state, with particularity, the legal and factual bases for the objection and, if practicable, a proposed modification to the Plan (or related materials) that would resolve such objection; and (d) be served on the Objection Notice Parties and filed with the Court on or before the Plan and Disclosure Statement Objection Deadline set forth above. Objections that fail to comply with this Order will not be considered by the Court.

D. Establishment of Administrative Claims Bar Date.

4. Each Entity that asserts a claim for administrative priority under section 503(b) of the Bankruptcy Code, other than Professional Fee Claims or Section 503(b)(9) Claims (each, an "Administrative Claim"), to the extent not already paid in the ordinary course, must file with the Court and serve on the applicable parties an application for allowance of such Administrative Claim no later than thirty (30) days after the Effective Date (the "Administrative Claims Bar Date").

E. Approval of the Solicitation and Voting Procedures.

5. The following Solicitation and Voting Procedures are approved.

6. Solely for the purpose of voting to accept or reject the Plan and not for purposes of allowance of, or distribution on account of, a Claim, each Claim within the Voting Class shall be temporarily allowed in an amount equal to (i) the amount asserted in a timely Filed Proof of Claim, or, if no timely Proof of Claim has been Filed, (ii) the liquidated, non-contingent, undisputed amount of such Claim set forth in the Schedules, subject to the following exceptions:

a. if a Claim has been estimated or otherwise Allowed for voting purposes by order of the Court, such Claim is temporarily Allowed in the amount so estimated or Allowed by this Court;

b. if (a) does not apply, but the Claim has been estimated or otherwise Allowed for voting purposes pursuant to a stipulation, settlement, or other agreement in writing reached between the Debtors and the holder of the Claim (whether such stipulation, settlement, or agreement is filed or not), such Claim is temporarily Allowed against the Debtors in the amount set forth in the stipulation, settlement, or other agreement;

c. if neither (a) nor (b) applies, then in the liquidated, non-contingent, and undisputed amount set forth on a Proof of Claim filed against the Debtors as of the Voting Record Date; provided that, if the amount set forth on a submitted Proof of Claim filed against the Debtors is wholly unliquidated, contingent, and/or disputed (as determined on the face of the Claim or based on reasonable review by the Debtors and/or the Voting Agent), then the Claim shall be temporarily Allowed for voting purposes in the amount of $1.00;

d. if neither (a), (b), nor (c) applies, then in the liquidated, non-contingent, and undisputed amount set forth on the Debtors' Schedules; provided that, if the Claim appearing on the Debtors' Schedules is either contingent, unliquidated, and/or disputed, or in a $0.00 amount and the claimant has not filed a Proof of Claim against the Debtors, then the Claim shall be disallowed for voting purposes; provided further, that, to the extent such creditor's deadline to file a Claim arising from the rejection of an Executory Contract or Unexpired Lease has not yet occurred before the Voting Record Date, such creditor will be entitled to vote in the amount of $1.00 on account of such Claim;

e. notwithstanding anything to the contrary contained herein, any creditor who has filed or purchased duplicate Claims within the same Voting Class may be provided with only one Solicitation Package and one Ballot for voting on a single Claim in such Class, regardless of whether the Debtors have objected to such duplicate Claims; and

f. if a Proof of Claim has been amended by a later Proof of Claim that is filed against the Debtors, the later filed amended Proof of Claim shall be entitled to vote in a manner consistent with these tabulation rules, and the earlier filed Proof of Claim shall be disallowed for voting purposes, regardless of whether the Debtors have objected to such amended claim.

7. If a Holder wishes to challenge the allowance or classification of its Claim for voting purposes, it must file and serve on the Objection Notice Parties a motion (a "***Rule 3018 Motion***"), pursuant to Bankruptcy Rule 3018(a), requesting that the Court temporarily allow its Claim in a different amount or with a different classification for purposes of voting to accept or reject the Plan. Rule 3018 Motions must be filed by 4:00 p.m. (prevailing Central Time) on the later of (a) August 14, 2026 and (b) if such Rule 3018 Motion relates to a Disputed Claim, the fifth day after such Claim became a Disputed Claim. Any Ballot submitted by a Holder of such Claim shall be counted without regard to the amount sought to be allowed or the classification sought to be applied in any Rule 3018 Motion unless and until a Claim is temporarily allowed (pursuant to an order of the Court entered prior to the Voting Deadline) in a different amount or with a different classification for purposes of voting to accept or reject the Plan.

8. The Solicitation Agent is authorized to assist the Debtors in (a) distributing the Solicitation Packages, (b) receiving, tabulating, and reporting on Ballots cast to accept or reject

the Plan by Holders of Claims, (c) responding to inquiries from Holders of Claims or Interests and other parties in interest relating to the Combined Disclosure Statement and Plan, the Ballots, the Solicitation Packages, and all other related documents and matters related thereto, including the procedures and requirements for voting to accept or reject the Plan and for objecting to the Plan, (d) soliciting votes on the Plan, and (e) if necessary, contacting creditors and equity holders regarding the Plan. The Solicitation Agent may, but is not obligated to, contact parties that submit incomplete or otherwise deficient Ballots to make a reasonable effort to cure such deficiencies.

9. The Solicitation Agent is also authorized to accept Ballots via electronic online transmission through a customized online balloting portal on the Debtors' case website to be maintained by the Solicitation Agent ("***E-Ballot***"). Parties entitled to vote through -E-Ballot may cast an electronic Ballot and electronically sign and submit the Ballot instantly by utilizing E-Ballot; parties entitled to submit an Opt-In Form may submit such form through -E-Ballot and electronically sign and submit the Opt-In Form instantly by utilizing E-Ballot. The encrypted data and audit trail created by such electronic submission will become part of the record of any Ballot or Opt-In Form submitted in this manner and the creditor's electronic signature will be deemed to be immediately legally valid and effective. Ballots or Opt-In Forms submitted via -E-Ballot shall be deemed to contain an original signature. E-Ballot is the sole manner in which Ballots or Opt-In Forms will be accepted via electronic or online transmission. Ballots or Opt-In Forms submitted by facsimile, email, or other means of electronic transmission will not be counted.

F. Approval of the Contents and Distribution of the Solicitation Packages.

10. The Solicitation Packages shall include the following materials, the forms of each of which are hereby approved:

a. this Order (without exhibits);

b. a copy of the Combined Disclosure Statement and Plan, which will be provided in electronic format by including in the Combined Hearing

Notice instructions for accessing such documents on the Debtors' restructuring website;

c. a Ballot, which includes an option to opt in to the releases under the Plan, substantially in the form attached to this Order as **Exhibit 2,** together with detailed voting instructions with respect thereto and a pre-addressed, postage-prepaid return envelope; and

d. a copy of the Combined Hearing Notice, substantially in the form attached to this Order as **Exhibit 3**.

11. The Solicitation Packages provide the Holders of Claims entitled to vote on the Plan with adequate information to make informed decisions with respect to voting on the Plan in accordance with Bankruptcy Rules 2002(b) and 3017(d), the Bankruptcy Code, and the Local Rules. The procedures for distributing the Solicitation Packages as set forth herein and the Solicitation and Voting Procedures satisfy the requirements of the Bankruptcy Code and the Bankruptcy Rules and are approved.

12. The Debtors shall distribute or cause to be distributed Solicitation Packages to all Entities who, as of the Solicitation and Notice Deadline, are entitled to vote to accept or reject the Plan as soon as practicable after entry of this Order, but in no event later than the Solicitation and Notice Deadline set forth above. On or before the Solicitation and Notice Deadline, the Debtors shall also provide by electronic mail complete Solicitation Packages (excluding the Ballots) in electronic format to the U.S. Trustee and all parties entitled to receive notice under Bankruptcy Rule 2002.

13. The Debtors are authorized, but not directed, to distribute the Combined Hearing Notice as a separate electronic mailing or print mailing from the remaining documents included in the Solicitation Package. If the Debtors distribute the Combined Hearing Notice separately, the Debtors are not required to include an additional copy of the Combined Hearing Notice in the Solicitation Package.

14. The Debtors shall not be required to mail Solicitation Packages or other solicitation materials to Holders of Claims and Interests that have already been paid in full

during the Chapter 11 Cases either through a critical vendor or cure payment, that are authorized to be paid in full in the ordinary course of business pursuant to an agreement between the parties or an order previously entered by the Court, or that have been waived or released by such Holder as reflected in a document or stipulation filed with the Court or an order entered by the Court.

15. Any party that receives materials in electronic format, but would prefer to receive materials in paper format, may contact the Solicitation Agent and request paper copies of the corresponding materials received in electronic format (to be provided at the Debtors' expense as soon as practicable following such request).

G. Approval of the Combined Hearing Notice

16. The Combined Hearing Notice, substantially in the form attached to this Order as **Exhibit 3**, is approved and shall be served by the Debtors on all known Holders of Claims and Interests as of the Voting Record Date and any other party entitled to notice under Bankruptcy Rule 2002 and applicable Local Rules (regardless of whether such parties are entitled to vote on the Plan) by no later than the Solicitation and Notice Deadline.

17. The Combined Hearing Notice constitutes adequate and sufficient notice of the Combined Disclosure Statement and Plan, the Combined Hearing, the Combined Hearing Date, the Plan and Disclosure Statement Objection Deadline, the Administrative Claims Bar Date, and the release, injunction, and exculpation provisions contained in the Plan. The form and manner of service of the Combined Hearing Notice comply with the Bankruptcy Rules and the Local Rules, comport with due process, and no further notice is necessary.

H. Approval of the Form of the Non-Voting Status Notices

18. The Non-Voting Status Notices, substantially in the forms attached to this Order as **Exhibits 4A and 4B**, are approved. Except to the extent that the Debtors determine otherwise, the Debtors are not required to provide Solicitation Packages to Holders of Claims

or Interests in Non-Voting Classes, as such Holders are not entitled to vote on the Plan. Instead, on or before the Solicitation and Notice Deadline, the Solicitation Agent shall serve an applicable Non-Voting Status Notice in lieu of Solicitation Packages to those Holders of Claims and Interests in the Non-Voting Classes, which classes are not entitled to vote on the Plan. Service thereof complies with the requirements of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and is approved and deemed to be sufficient and appropriate under the circumstances of these Chapter 11 Cases.

I. Service of Solicitation Materials and Undeliverable Notices and Solicitation Materials

19. For purposes of serving the Solicitation Packages and the notices approved by this Order (collectively, the "***Notices***"), the Debtors may rely on the address information for the creditors receiving such notices as compiled, updated, and maintained by the Solicitation Agent as of the Voting Record Date, without any requirement to conduct additional research for updated addresses based on undeliverable Solicitation Packages (including the Ballots) and Notices.

20. The Debtors shall be excused from (a) redistributing the Solicitation Packages and/or the Notices to any Entity to the extent any such notices or materials sent to such Entity's listed address are returned as undeliverable; and (b) sending the Solicitation Package and/or the Notices to any address that the Debtors have sent a notice in the last two (2) months, which notice was returned as undeliverable. The failure to distribute Solicitation Packages and Notices to such Entities shall not constitute inadequate notice of the Combined Hearing, the Solicitation Package, the Combined Disclosure Statement and Plan, or any deadlines approved by this Order, or a violation of the Bankruptcy Code or Bankruptcy Rules.

J. Miscellaneous

21. The Debtors' rights to modify or withdraw the Plan and Disclosure Statement at any time prior to the Confirmation Date in accordance with its terms are reserved.

22. The Debtors are authorized, but not directed, to extend the Voting Deadline or the Plan and Disclosure Statement Objection Deadline at their discretion, without further order of the Court.

23. The Debtors are authorized to make non-substantive and immaterial changes to the Combined Disclosure Statement and Plan, the Combined Hearing Notice, the Solicitation and Voting Procedures, the Ballots, the Non-Voting Status Notices, and related documents without further order of the Court.

24. Nothing in this Order shall be construed as a waiver of the rights of the Debtors or any other party in interest, as applicable, to object to a Proof of Claim after the Voting Record Date.

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

26. The requirements set forth in the Local Rules and the Complex Case Procedures are satisfied by the contents of the Motion.

27. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

28. Notwithstanding any Bankruptcy Rule to the contrary, this Order shall be immediately effective upon its entry.

29. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

EXHIBIT 1

Combined Disclosure Statement and Plan

[Filed at Dkt. No. 550]

EXHIBIT 2

Form of Ballot

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)

CLASS 3 GENERAL UNSECURED CLAIMS BALLOT FOR VOTING TO ACCEPT OR REJECT THE COMBINED DISCLOSURE STATEMENT AND JOINT PLAN OF LIQUIDATION FOR ASCEND ELEMENTS, INC., *ET AL*.

PLEASE READ AND FOLLOW THE ENCLOSED INSTRUCTIONS FOR COMPLETING BALLOTS CAREFULLY BEFORE COMPLETING THIS BALLOT.

FOR YOUR VOTE TO BE COUNTED, THIS BALLOT MUST BE COMPLETED, EXECUTED, AND RETURNED SO AS TO BE ACTUALLY RECEIVED BY THE SOLICITATION AGENT BY 4:00 P.M. (PREVAILING CENTRAL TIME) ON AUGUST 14, 2026 (THE "*VOTING DEADLINE*"). IF THIS BALLOT IS NOT PROPERLY COMPLETED, EXECUTED, AND RECEIVED BY THE SOLICITATION AGENT ON OR BEFORE THE VOTING DEADLINE, THEN THE VOTES TRANSMITTED BY THIS BALLOT WILL NOT BE COUNTED.

ACCESS TO SOLICITATION MATERIALS:
THE COMBINED PLAN AND DISCLOSURE STATEMENT AND DISCLOSURE STATEMENT ORDER, INCLUDING THE SOLICITATION AND VOTING PROCEDURES MAY BE ACCESSED FREE OF CHARGE AT: HTTPS://VERITAGLOBAL.NET/ASCEND.

YOU CAN ALSO OBTAIN COPIES IN PAPER FORMAT OF ANY SOLICITATION MATERIALS (A) FREE OF CHARGE BY (I) ACCESSING THE DEBTORS' RESTRUCTURING WEBSITE AT HTTPS://VERITAGLOBAL.NET/ASCEND; O R (II) CALLING (866) 927-7078 (TOLL FREE) OR +1 (310) 751-2651 (INTERNATIONAL) AND REQUESTING TO SPEAK WITH A MEMBER OF THE SOLICITATION GROUP; OR (B) FOR A FEE VIA PACER AT HTTP://WWW.TXS.USCOURTS.GOV.

The above-captioned debtors and debtors in possession (collectively, the "***Debtors***") are soliciting votes with respect to the Plan as set forth in the *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., et al.*, and all exhibits related thereto [Docket No. [●]] (as may be amended, supplemented, or otherwise modified from time to time, the "***Plan***," or "***Disclosure Statement***" or "***Combined Disclosure Statement and Plan***," as applicable).[2]

[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 meaning ascribed to such terms in the Combined Disclosure Statement and Plan.

The Bankruptcy Court for the Southern District of Texas (the "***Court***") has conditionally approved the Disclosure Statement as containing adequate information pursuant to section 1125 of the Bankruptcy Code by entry of an order on July 15, 2026 [Docket No. [●]] (the "***Disclosure Statement Order***"). Court approval of the Disclosure Statement does not indicate approval of the Plan by the Court.

Your rights are described in the Combined Disclosure Statement and Plan and related materials, which are available electronically free of charge on the Debtors' restructuring website at https://www.veritaglobal.net/ascend, or for a fee via PACER at http://www.txs.uscourts.gov. You may also request paper or electronic copies of such materials by (a) calling (866) 927-7078 (Toll Free) or +1 (310) 751-2651 (International) and requesting to speak with a member of the Solicitation Group.

You are receiving this ballot (the "***Ballot***") because records indicate that you are the Holder of a General Unsecured Claim in Class 3 as of August 14, 2026 at 4:00 p.m. (prevailing Central Time) (the "***Voting Record Date***").

If the Plan is confirmed by the Court, it will be binding on you whether or not you vote or if you vote to reject the Plan. To have your vote counted, you must complete, sign, and return this Ballot by the Voting Deadline, which is **August 14, 2026 at 4:00 p.m. (prevailing Central Time)**.

This Ballot may not be used for any purpose other than for casting votes to accept or reject the Plan, electing to opt in to the release provisions set forth in the Plan, and making certain certifications with respect to the Plan. If you believe you have received this Ballot in error, or if you believe you have received the wrong ballot, please contact the Solicitation Agent immediately at the address, telephone number, or email address set forth above.

ARTICLE XIII OF THE PLAN CONTAINS RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS, AND ARTICLE XIII.E CONTAINS A THIRD-PARTY RELEASE. HOLDERS OF CLAIMS IN CLASS 3 WHO WISH TO PROVIDE THE RELEASES SET FORTH IN ARTICLE XIII.E MUST AFFIRMATIVELY INDICATE SO BY CHECKING THE "OPT-IN" BOX ON THIS BALLOT. HOLDERS OF CLAIMS IN CLASS 3 THAT VOTE TO ACCEPT THE PLAN, VOTE TO REJECT THE PLAN, OR DO NOT VOTE, AND DO NOT AFFIRMATIVELY MAKE THE OPT-IN ELECTION ON THIS BALLOT SHALL NOT BE DEEMED TO HAVE CONSENTED TO THE RELEASES SET FORTH IN ARTICLE XIII.E. YOU ARE ADVISED TO REVIEW AND CONSIDER THE PLAN CAREFULLY BECAUSE YOUR RIGHTS MIGHT BE AFFECTED THEREUNDER.

You should review the Combined Disclosure Statement and Plan and the instructions contained herein before you vote. You may wish to seek legal advice concerning the Plan and the Plan's classification and treatment of your Claim.

THE DEBTORS AND THE SOLICITATION AGENT ARE NOT AUTHORIZED TO PROVIDE, AND WILL NOT PROVIDE, LEGAL ADVICE.

PLEASE SUBMIT YOUR BALLOT BY *ONLY ONE* OF THE FOLLOWING METHODS:

Via Paper Ballot. Complete, sign, and date this Ballot and return it (with an original signature) promptly in the envelope provided:

If by First-Class Mail, Hand Delivery, or Overnight Mail:

Ascend Ballot Processing Center
c/o KCC dba Verita
222 N Pacific Coast Highway, Suite 300
El Segundo, CA 90245

OR

Via E-Ballot Portal. Submit your Ballot via the Solicitation Agent's online portal, by visiting https://www.veritaglobal.net/ascend. Click on the "E-Ballot" section of the Debtors' website and follow the instructions to submit your E-Ballot.

IMPORTANT NOTE: You will need the following information to retrieve and submit your customized E-Ballot:

Unique E-Ballot Password: _____

"E-Balloting" is the sole manner in which Ballots will be accepted via electronic or online transmission. Ballots submitted by facsimile or email will not be counted.

Each E-Ballot Password is to be used solely for voting only those Claims described in Item 1 of your electronic Ballot. Please complete and submit an electronic Ballot for each E-Ballot Password you receive, as applicable. Creditors who cast a Ballot using E-Ballot should NOT also submit a paper Ballot.

Item 1. Amount of Claim.

The undersigned hereby certifies that as of the Voting Record Date, the undersigned was the Holder of General Unsecured Claims in the following aggregate unpaid amount (insert amount in box below):

$_____
Debtor _____

Any admission of Claims and Interest for purposes of voting on the Plan is not an admission of liability on the part of the Debtors or any other party for payment purposes.

Item 2. Vote on Plan.

The Holder of the General Unsecured Claims set forth in Item 1 votes to (please check only one):

☐ **ACCEPT** (vote FOR) the Plan	☐ **REJECT** (vote AGAINST) the Plan

Item 3. Important information regarding the third-party release provision in the Plan (the "*Third-Party Release*").

Article XIII.E of the Plan contains the following Third-Party Release:

As of the Effective Date, in exchange for good and valuable consideration, including the obligations of the Debtors under the Plan, to the fullest extent permissible under applicable law, as such law may be extended or integrated after the Effective Date, each of the Releasing Parties, in each case on behalf of itself and its respective successors, assigns, and representatives, and any and all other Entities who may purport to assert any Cause of Action, directly or derivatively, by, through, for, or because of the foregoing Entities, will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged each Debtor and other Released Party from any and all Causes of Action, whether known or unknown, that such Entity would have been legally entitled to assert in its own right (whether individually or collectively) or on behalf of the Holder of any Claim against, or Interest in, a Debtor or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtors (including the governance, management, ownership or operation thereof), the Debtors' capital structure, the assertion or enforcement of rights and remedies against the Debtors, the Debtors' in- or out-of-court restructuring efforts, intercompany transactions between or among the Debtors and/or their Affiliates, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the GUC Trust, as applicable, and the ownership thereof, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the Cash Collateral Orders, the Prepetition Note Documents, the applicable asset purchase agreements, and the sale transactions, the Chapter 11 Cases and any related adversary proceedings and related prepetition activities, the formulation, preparation, dissemination, negotiation, filing, or consummation of the Plan, contract, instrument, release, or other agreement or document created or entered into in connection with the cash collateral orders, the Prepetition Note Documents, the applicable asset purchase agreements, the sale transactions, the Disclosure Statement, the Plan, or the Plan Supplement, the Debtors' restructuring efforts, the filing of the Chapter 11 Cases, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion, any action or actions taken in furtherance or consistent with administration of the Plan, the issuance or distribution of any debt and/or securities pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release (a) any obligations of any Entity arising on or after the Effective Date under the Plan, the Confirmation Order, any applicable asset purchase agreement, any restructuring transaction, any assumed executory contract or unexpired lease, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan or an applicable section 363 asset sale, (b) any Entity from any claim or Causes of Action related to an act or omission that is determined in a Final Order by a court of competent jurisdiction to have constituted actual fraud, willful

misconduct, or gross negligence by such Entity, or (c) any of the Debtors' commercial tort claims and Avoidance Actions transferred to the GUC Trust.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the releases by Holders of Claims and Interests set forth in Article XIII.E of the Plan, which includes by reference each of the related provisions and definitions contained herein, and, further, shall constitute the Bankruptcy Court's finding that such releases are: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the Claims and Causes of Action released by such releases; (3) in the best interests of the Debtors and their Estates; (4) fair, equitable and reasonable; (5) given and made after due notice and opportunity for hearing; (6) an essential component of the Plan; and (7) a bar to any of the Releasing Parties asserting any Claim or Cause of Action released pursuant to such releases. For the avoidance of doubt, the Non-Released Parties are not Released Parties and are not subject to the releases set forth in this Article XIII.E.

* * *

UNDER THE PLAN, "***RELEASED PARTY***" MEANS, COLLECTIVELY, AND IN EACH CASE ONLY IN ITS CAPACITY AS SUCH: (I) EACH OF THE DEBTORS; (II) THE CRO; (III) THE MEMBERS OF THE SPECIAL COMMITTEE; (IV) THE PROFESSIONALS; (V) THE COMMITTEE IN ITS CAPACITY AS SUCH; (VI) EACH MEMBER OF THE COMMITTEE, SOLELY IN ITS CAPACITY AS A MEMBER OF THE COMMITTEE; (VII) EACH OF THE PREPETITION SECURED PARTIES, SOLELY IN THEIR CAPACITIES AS SUCH; AND (VIII) WITH RESPECT TO EACH OF THE FOREGOING ENTITIES IDENTIFIED IN SUBSECTIONS (I) THROUGH (VII), EACH OF SUCH ENTITIES' RELATED PARTIES, IN EACH CASE OTHER THAN THE NON-RELEASED PARTIES.

UNDER THE PLAN, "***RELEASING PARTY***" MEANS, COLLECTIVELY, AND IN EACH CASE ONLY IN ITS CAPACITY AS SUCH: (I) THE RELEASED PARTIES; (II) EACH CONSENTING CREDITOR; AND (III) WITH RESPECT TO EACH OF THE FOREGOING ENTITIES IDENTIFIED IN SUBSECTIONS (I) THROUGH (II), EACH OF SUCH ENTITIES' RELATED PARTIES.

IMPORTANT INFORMATION REGARDING THE RELEASES

HOLDERS OF CLAIMS IN CLASS 3 WHO WISH TO PROVIDE THE RELEASES SET FORTH IN ARTICLE XIII.E MUST AFFIRMATIVELY ELECT TO OPT IN ON THIS BALLOT. HOLDERS THAT DO NOT TIMELY OPT IN SHALL NOT BE RELEASING PARTIES ON ACCOUNT OF THEIR CLAIMS.

THE ELECTION TO GRANT THE THIRD-PARTY RELEASE IS ENTIRELY VOLUNTARY. IF YOU CHECK THE BOX BELOW AND TIMELY SUBMIT THIS BALLOT, YOU WILL BE TREATED AS A RELEASING PARTY UNDER THE PLAN ON ACCOUNT OF YOUR CLAIM, UNLESS YOU TIMELY FILE AN OBJECTION TO THE RELEASES CONTAINED IN THE PLAN AND THAT OBJECTION IS NOT RESOLVED BEFORE CONFIRMATION. IF YOU DO NOT CHECK THE BOX BELOW, YOU WILL NOT BE A RELEASING PARTY ON ACCOUNT OF YOUR CLAIM, BUT YOU WILL RECEIVE THE SAME TREATMENT ON ACCOUNT OF YOUR CLAIM UNDER THE PLAN.

OPTIONAL RELEASE ELECTION. YOU MAY ELECT TO OPT IN TO THE THIRD-PARTY RELEASE CONTAINED IN ARTICLE XIII.E OF THE PLAN ONLY IF YOU CHECK THE BOX BELOW.

The Undersigned Holder of the Claims identified in Item 1 elects to:

☐ **OPT IN to the Third-Party Release.**

Item 4. Certifications.

By signing this Ballot, the undersigned certifies to the Court and the Debtors that:

(a) as of the Voting Record Date, either: (i) the Entity is the Holder of the General Unsecured Claims being voted; or (ii) the Entity is an authorized signatory for an Entity that is a Holder of the General Unsecured Claims being voted;

(b) the Entity (or in the case of an authorized signatory, the Holder) has received the Solicitation Package and acknowledges that the solicitation is being made pursuant to the terms and conditions set forth therein;

(c) the Entity has cast the same vote with respect to all of its General Unsecured Claims; and

(d) no other Ballots with respect to the amount of the General Unsecured Claims identified in Item 1 have been cast or, if any other Ballots have been cast with respect to such General Unsecured Claims, then any such earlier Ballots are hereby revoked.

Name of Holder: _____
(Print or Type)

Signature: _____

Name of Signatory: _____
(If other than Holder)

Title: _____

Address: _____

_____

_____

Telephone Number: _____

Email: _____

Date Completed: _____

IF THE SOLICITATION AGENT DOES NOT ACTUALLY RECEIVE THIS BALLOT ON OR BEFORE 4:00 P.M. (PREVAILING CENTRAL TIME) ON AUGUST 14, **2026, AND IF THE VOTING DEADLINE IS NOT EXTENDED, YOUR VOTE TRANSMITTED BY THIS BALLOT MAY BE COUNTED TOWARD CONFIRMATION OF THE PLAN ONLY IN THE DISCRETION OF THE DEBTORS.**

INSTRUCTIONS FOR COMPLETING THIS BALLOT

1. The Debtors are soliciting the votes of Holders of Claims with respect to the Plan. **PLEASE READ THE COMBINED DISCLOSURE STATEMENT AND PLAN CAREFULLY BEFORE COMPLETING THIS BALLOT**.

2. The Plan can be confirmed by the Court and thereby made binding upon you if it is accepted by the Holders of at least two-thirds in total dollar amount and more than one-half in number of Claims in each Class entitled to vote on the Plan that actually vote on the Plan and if the Plan otherwise satisfies the requirements for Confirmation provided by section 1129(a) of the Bankruptcy Code. Please review the Disclosure Statement for more information.

3. To ensure that your Ballot is counted, you ***must*** complete and submit this Ballot as instructed herein. **Ballots will not be accepted by electronic mail or facsimile.**

4. **Use of Ballot**. To ensure that your Ballot is counted, you must: (a) complete your Ballot in accordance with these instructions; (b) clearly indicate your decision either to accept or reject the Plan in the boxes provided in Item 2 of the Ballot; and (c) clearly sign and submit your Ballot as instructed herein.

5. Your Ballot ***must*** be returned to the Solicitation Agent so as to be ***actually received*** by the Solicitation Agent on or before the Voting Deadline. **The Voting Deadline is August 14, 2026 at 4:00 p.m. (prevailing Central Time).**

6. If a Ballot is received after the Voting Deadline and if the Voting Deadline is not extended, it may be counted only in the sole and absolute discretion of the Debtors. Additionally, the following Ballots will not be counted:

    a. any Ballot that partially rejects and partially accepts the Plan;

    b. Ballots sent to the Debtors, the Debtors' agents (other than the Solicitation Agent), any agent, indenture trustee, or the Debtors' financial or legal advisors;

    c. Ballots sent by electronic mail or facsimile;

    d. any Ballot that is illegible or contains insufficient information to permit the identification of the Holder of the Claim;

    e. any Ballot cast by an Entity that does not hold a General Unsecured Claim;

    f. any Ballot submitted by a Holder not entitled to vote pursuant to the Plan;

g. any unsigned Ballot (for the avoidance of doubt, Ballots validly submitted through E-Ballot will be deemed signed);

h. any non-original Ballot (for the avoidance of doubt, Ballots validly submitted through E-Ballot will be deemed original); and/or

i. any Ballot not marked to accept or reject the Plan or any Ballot marked both to accept and reject the Plan.

7. The method of delivery of Ballots to the Solicitation Agent is at the election and risk of each Holder of a General Unsecured Claim. Except as otherwise provided herein, such delivery will be deemed made only when the Solicitation Agent ***actually receives*** the originally executed Ballot. In all cases, Holders should allow sufficient time to assure timely delivery.

8. If multiple Ballots are received from the same Holder of a Class 3 General Unsecured Claim with respect to the same Class 3 General Unsecured Claim prior to the Voting Deadline, the latest, timely received, and properly completed Ballot will supersede and revoke any earlier received Ballots.

9. You must vote all of your General Unsecured Claims, regardless if such Claims are asserted against one or multiple Debtors, either to accept or reject the Plan and may ***not*** split your vote.

10. This Ballot does ***not*** constitute, and shall not be deemed to be, (a) a Proof of Claim or (b) an assertion or admission of a Claim.

11. **Please be sure to sign and date your Ballot**. If you are signing a Ballot in your capacity as a trustee, executor, administrator, guardian, attorney in fact, officer of a corporation, or otherwise acting in a fiduciary or representative capacity, you must indicate such capacity when signing and, if required or requested by the Solicitation Agent, the Debtors, or the Court, must submit proper evidence to the requesting party to so act on behalf of such Holder. In addition, please provide your name and mailing address if it is different from that set forth on the attached mailing label or if no such mailing label is attached to the ballot.

PLEASE SUBMIT YOUR BALLOT PROMPTLY

IF THE SOLICITATION AGENT DOES NOT ACTUALLY RECEIVE THIS BALLOT ON OR BEFORE THE VOTING DEADLINE, WHICH IS AUGUST 14, 2026 AT 4:00 P.M. (PREVAILING CENTRAL TIME), AND IF THE VOTING DEADLINE IS NOT EXTENDED, YOUR VOTE TRANSMITTED HEREBY MAY BE COUNTED ONLY IN THE DISCRETION OF THE DEBTORS.

EXHIBIT 3

Combined Hearing Notice

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)

NOTICE OF (I) COMBINED HEARING TO CONSIDER FINAL APPROVAL OF DISCLOSURE STATEMENT AND CONFIRMATION OF CHAPTER 11 PLAN FILED BY THE DEBTORS, (II) RELATED VOTING AND OBJECTION DEADLINES, AND (III) BAR DATE FOR FILING ADMINISTRATIVE CLAIMS

PLEASE TAKE NOTICE that on July 15, 2026, the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "***Court***") entered an order [Docket No. [●]] (the "***Disclosure Statement Order***"): (i) authorizing Ascend Elements, Inc. and its affiliated debtors and debtors in possession (collectively, the "***Debtors***") to solicit acceptances for the *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., et al*. [Docket No. [●]] (as modified, amended, or supplemented from time to time and including all exhibits and supplements thereto, the "***Plan***," or "***Disclosure Statement***," or "***Combined Disclosure Statement and Plan***," as applicable),[2] (ii) conditionally approving the Disclosure Statement as containing "adequate information" pursuant to section 1125 of the Bankruptcy Code; (iii) approving the solicitation materials and documents to be included in the solicitation package (the "***Solicitation Package***"); (iv) approving procedures for soliciting, noticing, receiving, and tabulating votes on the Plan; and (v) scheduling certain dates with respect thereto.

PLEASE TAKE FURTHER NOTICE that a hearing to consider final approval of the Disclosure Statement and Confirmation of the Plan (the "***Combined Hearing***") will commence on **August 17,** 2026 at **1:00 p.m**. (prevailing Central Time**), subject to the Court's availability,** before the Honorable Christopher M. Lopez in the United States Bankruptcy Court for the Southern District of Texas, located at 515 Rusk Street, Courtroom 402, Houston, Texas, 77002. Please be advised that the Combined Hearing may be continued from time to time by the Court or the Debtors without further notice other than by such adjournment being announced in open court or by a notice of adjournment filed with the Court and served on other parties entitled to notice. The Plan may be modified, if necessary, prior to, during, or as a result of the Combined Hearing.

PLEASE TAKE FURTHER NOTICE that parties may participate in the Combined Hearing either in person or by an audio and video connection. Audio communication will be

[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] All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Combined Disclosure Statement and Plan.

by use of the Court's dial-in facility. You may access the facility at (832) 917-1510. Once connected, you will be asked to enter the conference room number. Judge Lopez's conference room number is 590153. Video communication will be by use of the GoToMeeting platform. Connect via the free GoToMeeting application or click the link on Judge Lopez's home page. The meeting code is "JudgeLopez". Click the settings icon in the upper right corner and enter your name under the personal information setting. Hearing appearances must be made electronically in advance of both electronic and in-person hearings. To make your appearance, click the "Electronic Appearance" link on Judge Lopez's home page. Select the case name, complete the required fields and click "Submit" to complete your appearance.

CRITICAL INFORMATION REGARDING VOTING ON THE PLAN

Voting Record Date. The voting record date is August 14, 2026 at 4:00 p.m. (prevailing Central Time) (the "***Voting Record Date***"), which is the date for determining which Holders of Claims are entitled to vote on the Plan.

Voting Deadline. The deadline to vote on the Plan is **August 14, 2026 at 4:00 p.m. (prevailing Central Time) (**the "***Voting Deadline***"). If you received the Solicitation Package, including a Ballot and intend to vote on the Plan you ***must***: (i) follow the instructions contained on your Ballot carefully; (ii) complete ***all*** of the required information on the Ballot; and (iii) execute and return your completed Ballot according to and as set forth in detail in the voting instructions so that it is ***actually received*** by the Solicitation Agent, on or before the Voting Deadline.

Temporary Allowance Deadline. If a Holder of a Claim wishes to challenge the allowance or classification of its Claim for voting purposes, it must file and serve on the Objection Notice Parties a motion pursuant to Bankruptcy Rule 3018(a), requesting that the Court temporarily allow its Claim in a different amount or with a different classification for purposes of voting to accept or reject the Plan. Such motions must be filed by 4:00 p.m. (prevailing Central Time) on **the later of (a) August 14, 2026 and (b) if such Rule 3018 Motion relates to a Disputed Claim, the fifth day after such Claim became a Disputed Claim** (the "***Rule 3018 Motion Deadline***").

Failure to follow such instructions may disqualify your vote.

CRITICAL INFORMATION REGARDING OBJECTING TO THE PLAN

ARTICLE XIII OF THE PLAN CONTAINS RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS, AND ARTICLE XIII.E CONTAINS A THIRD-PARTY RELEASE. YOU ARE ADVISED TO REVIEW AND CONSIDER THE PLAN CAREFULLY BECAUSE YOUR RIGHTS MIGHT BE AFFECTED THEREUNDER.

Confirmation Objection Deadline. The deadline for filing objections to confirmation of the Plan and the adequacy of the Disclosure Statement is **August 14, 2026 at 4:00 p.m. (prevailing Central Time)** (the "***Objection Deadline***"). Any objection to the relief sought at the Combined Hearing must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Rules; (c) state, with particularity, the legal and factual bases for the objection and, if practicable, a proposed modification to the Plan (or related materials) that would resolve such objection; and (d) be Filed with the Court and served on the Objection Notice Parties on or before the Objection Deadline.

IF AN OBJECTION TO CONFIRMATION OF THE PLAN OR FINAL APPROVAL OF THE DISCLOSURE STATEMENT IS NOT FILED AND SERVED STRICTLY AS PRESCRIBED HEREIN, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT.

ADDITIONAL INFORMATION REGARDING THE COMBINED DISCLOSURE STATEMENT AND PLAN

Obtaining Solicitation Materials. If you wish to receive paper copies of the Combined Disclosure Statement and Plan, they will be provided, as quickly as practicable, upon request to the voting agent, Kurtzman Carson Consultants, LLC d/b/a Verita Global (the "***Solicitation Agent***") by accessing the Solicitation Agent's website at https://www.veritaglobal.net/ascend and are on file with the Clerk of the Bankruptcy Court for the Southern District of Texas, and may be reviewed during the regular hours of the Court or online through the Court's website at https://www.txs.uscourts.gov/page/bankruptcy-court.

The Plan Supplement. The Debtors will file the Plan Supplement on or before **August 10, 2026,** and will serve notice on parties in interest, which will (a) inform parties that the Debtors filed the Plan Supplement; (b) list the information contained in the Plan Supplement; and (c) explain how parties may obtain copies of the Plan Supplement.

Administrative Claims Bar Date. The deadline for Holders of Administrative Claims, other than Professional Fee Claims and Section 503(b)(9) Claims, to file and serve an application for allowance of an Administrative Claim shall be **thirty (30) days after the Effective Date** (the "Administrative Claims Bar Date").

IF YOU HAVE ANY QUESTIONS REGARDING YOUR CLAIM OR THE VOTING PROCEDURES, OR IF YOU NEED A BALLOT OR ADDITIONAL COPIES OF THE COMBINED DISCLOSURE STATEMENT AND PLAN OR OTHER ENCLOSED MATERIALS, PLEASE CONTACT THE SOLICITATION AGENT AS SET FORTH ABOVE.

BINDING NATURE OF THE PLAN

IF CONFIRMED, THE PLAN SHALL BIND ALL HOLDERS OF CLAIMS AND INTERESTS TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WHETHER OR NOT SUCH HOLDER WILL RECEIVE OR RETAIN ANY PROPERTY OR INTEREST IN PROPERTY UNDER THE PLAN, HAS FILED A PROOF OF CLAIM IN THESE CHAPTER 11 CASES, OR FAILED TO VOTE TO ACCEPT OR REJECT THE PLAN OR VOTED TO REJECT THE PLAN.

[*Remainder of page intentionally left blank.*]

Houston, Texas
Dated: [●], 2026

NORTON ROSE FULBRIGHT US LLP
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and

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Email:
michael.berthiaume@nortonrosefulbright.com
Counsel to the Debtors and Debtors in Possession

EXHIBIT 4A

Notice of Non-Voting Status (Presumed to Reject)

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)

NOTICE OF NON-VOTING STATUS TO HOLDERS OF IMPAIRED CLAIMS AND INTERESTS CONCLUSIVELY DEEMED TO REJECT THE PLAN

PLEASE TAKE NOTICE THAT:

On April 9, 2026 (the "***Petition Date***"), Ascend Elements, Inc. and its affiliated debtors and debtors-in-possession each filed a voluntary petition for relief under the Bankruptcy Code. On [●], 2026, the Debtors filed the *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., et al*. [Docket No. [●]] (the "***Combined Disclosure Statement and Plan***" or, separately in relevant part, the "***Disclosure Statement***" or the "***Plan***," as applicable).[2]

By an order dated **July 15,** 2026 (the "***Disclosure Statement Order***"), the Court **conditionally approved** the Disclosure Statement as containing adequate information within the meaning of section 1125 of **the** Bankruptcy Code. The Disclosure Statement Order expressly reserves all parties' rights to raise objections to final approval of the adequacy of **the** information in the Disclosure Statement.

On August **17,** 2026 **at 1:00 p.m. (prevailing Central Time), subject to the Court's availability**, a hearing will be held before the Honorable Christopher M. Lopez in the United States Bankruptcy Court for the Southern District of Texas, 515 Rusk Street, 4th Floor, Courtroom 402, Houston, TX 77002, to consider final approval of the Disclosure Statement and Confirmation of the Plan, as the same may be amended or modified (the "***Combined Hearing***"). The Combined Hearing may be adjourned from time to time.

Non-Voting Status. You are receiving this notice (this "***Notice***") because of the nature and treatment of your Claim or Interest under the Plan. ***You are not entitled to vote on the Plan.*** Specifically, under the terms of the Plan, as a Holder of a Claim (as currently asserted against the Debtors) or Interest in the Debtors that is Impaired and conclusively deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code, you are ***not*** entitled to vote on the Plan. If, notwithstanding this Notice of your non-voting status, you believe that

[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] All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Combined Disclosure Statement and Plan.

you may have a Claim against or Interest in the Debtors that entitles you to vote on the Plan, you should immediately request the appropriate Ballot by contacting the Solicitation Agent.

Objection Deadline. The deadline for filing objections to confirmation of the Plan and final approval of the Disclosure Statement is **August 14, 2026 at 4:00 p.m. (prevailing Central Time)** (the "***Objection Deadline***"). Any objection to the relief sought at the Combined Hearing must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Rules; (c) state, with particularity, the legal and factual bases for the objection and, if practicable, a proposed modification to the Plan (or related materials) that would resolve such objection; and (d) be served on the Objection Notice Parties and filed with the Court on or before the Objection Deadline.

Administrative Claims Bar Date. The deadline for Holders of Administrative Claims, other than Professional Fee Claims and Section 503(b)(9) Claims, to file and serve an application for allowance of an Administrative Claim shall be **thirty (30) days after the Effective Date** (the "Administrative Claims Bar Date").

Copies. If you wish to receive paper copies of the Combined Disclosure Statement and Plan, they will be provided, as quickly as practicable, upon request to the voting agent, Kurtzman Carson Consultants, LLC d/b/a Verita Global **(the** "***Solicitation Agent***") by accessing the Solicitation Agent's website at https://www.veritaglobal.net/ascend and are on file with the Clerk of the Bankruptcy Court for the Southern District of Texas, and may be reviewed during the regular hours of the Court or online through the Court's website at https://www.txs.uscourts.gov/page/bankruptcy-court.

ARTICLE XIII OF THE PLAN CONTAINS RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS, AND ARTICLE XIII.E CONTAINS A THIRD-PARTY RELEASE. HOLDERS OF CLAIMS OR INTERESTS THAT WISH TO PROVIDE THE RELEASES SET FORTH IN ARTICLE XIII.E MUST AFFIRMATIVELY ELECT TO OPT IN TO THOSE RELEASES ON THE ENCLOSED FORM. HOLDERS OF CLAIMS OR INTERESTS THAT DO NOT TIMELY OPT IN SHALL NOT BE RELEASING PARTIES ON ACCOUNT OF SUCH CLAIMS OR INTERESTS. YOU ARE ADVISED TO REVIEW AND CONSIDER THE PLAN CAREFULLY BECAUSE YOUR RIGHTS MIGHT BE AFFECTED THEREUNDER. THIS NOTICE IS BEING SENT TO YOU FOR INFORMATIONAL PURPOSES ONLY.

NORTON ROSE FULBRIGHT US LLP
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and

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Tel: (214) 855-8210
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Email:
michael.berthiaume@nortonrosefulbright.com
Counsel to the Debtors and Debtors in Possession

OPTIONAL: RELEASE OPT-IN FORM

You are receiving this opt-in form (the "***Opt-In Form***") because you are a Holder of a Claim or Interest that is not entitled to vote on the *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements Inc., et al*. (as may be amended, supplemented or otherwise modified from time to time and including all exhibits and supplements thereto, the "***Plan***"). Holders of Claims or Interests that wish to provide the third-party release (the "***Third-Party Release***") set forth in the Plan and reproduced in this notice may affirmatively opt in to such releases by completing and returning this form in accordance with the directions herein on or before **4:00 p.m. (prevailing Central Time) on August 14, 2026** (the "***Opt-In Deadline***"). Holders that do not timely opt in shall not be Releasing Parties on account of such Claims or Interests.

If you believe you are a Holder of a Claim or Interest with respect to the Debtors and choose to opt in to the Third-Party Release set forth in Article XIII.E of the Plan, please promptly complete, sign, and date this Opt-In Form and return it via first class mail, overnight courier, the Solicitation Agent's online E-Ballot, or hand delivery to Kurtzman Carson Consultants, LLC d/b/a Verita Global (the "***Solicitation Agent***") at the address set forth below. Holders are strongly encouraged to submit their Opt-In Form through the Solicitation Agent's online E-Ballot. Parties that submit their Opt-In Form using E-Ballot should **NOT** also submit a paper Opt-In Form.

THIS OPT-IN FORM MUST BE ACTUALLY RECEIVED BY THE SOLICITATION AGENT BY THE OPT-IN DEADLINE. IF THE OPT-IN FORM IS RECEIVED AFTER THE OPT-IN DEADLINE, IT WILL NOT BE COUNTED.

Item 1. Important information regarding the Third-Party Release.

Article XIII.E of the Plan contains the following Third-Party

Release:

As of the Effective Date, in exchange for good and valuable consideration, including the obligations of the Debtors under the Plan, to the fullest extent permissible under applicable law, as such law may be extended or integrated after the Effective Date, each of the Releasing Parties, in each case on behalf of itself and its respective successors, assigns, and representatives, and any and all other Entities who may purport to assert any Cause of Action, directly or derivatively, by, through, for, or because of the foregoing Entities, will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged each Debtor and other Released Party from any and all Causes of Action, whether known or unknown, that such Entity would have been legally entitled to assert in its own right (whether individually or collectively) or on behalf of the Holder of any Claim against, or Interest in, a Debtor or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtors (including the governance, management, ownership or operation thereof), the Debtors' capital structure, the assertion or enforcement of rights and remedies against the Debtors, the Debtors' in- or out-of-court restructuring efforts, intercompany transactions between or among the Debtors and/or their Affiliates, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the GUC Trust, as applicable, and the ownership thereof, the subject matter of, or the transactions or events giving rise to, any Claim or Interest

that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the Cash Collateral Orders, the Prepetition Note Documents, the applicable asset purchase agreements, and the sale transactions, the Chapter 11 Cases and any related adversary proceedings and related prepetition activities, the formulation, preparation, dissemination, negotiation, filing, or consummation of the Plan, contract, instrument, release, or other agreement or document created or entered into in connection with the cash collateral orders, the Prepetition Note Documents, the applicable asset purchase agreements, the sale transactions, the Disclosure Statement, the Plan, or the Plan Supplement, the Debtors' restructuring efforts, the filing of the Chapter 11 Cases, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion, any action or actions taken in furtherance or consistent with administration of the Plan, the issuance or distribution of any debt and/or securities pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release (a) any obligations of any Entity arising on or after the Effective Date under the Plan, the Confirmation Order, any applicable asset purchase agreement, any restructuring transaction, any assumed executory contract or unexpired lease, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan or an applicable section 363 asset sale, (b) any Entity from any claim or Causes of Action related to an act or omission that is determined in a Final Order by a court of competent jurisdiction to have constituted actual fraud, willful misconduct, or gross negligence by such Entity, or (c) any of the Debtors' commercial tort claims and Avoidance Actions transferred to the GUC Trust.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the releases by Holders of Claims and Interests set forth in Article XIII.E of the Plan, which includes by reference each of the related provisions and definitions contained herein, and, further, shall constitute the Bankruptcy Court's finding that such releases are: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the Claims and Causes of Action released by such releases; (3) in the best interests of the Debtors and their Estates; (4) fair, equitable and reasonable; (5) given and made after due notice and opportunity for hearing; (6) an essential component of the Plan; and (7) a bar to any of the Releasing Parties asserting any Claim or Cause of Action released pursuant to such releases. For the avoidance of doubt, the Non-Released Parties are not Released Parties and are not subject to the releases set forth in this Article XIII.E.

* * *

UNDER THE PLAN, "***RELEASED PARTY***" MEANS, COLLECTIVELY, AND IN EACH CASE ONLY IN ITS CAPACITY AS SUCH: (I) EACH OF THE DEBTORS; (II) THE CRO; (III) THE MEMBERS OF THE SPECIAL COMMITTEE; (IV) THE PROFESSIONALS; (V) THE COMMITTEE IN ITS CAPACITY AS SUCH; (VI) EACH MEMBER OF THE COMMITTEE, SOLELY IN ITS CAPACITY AS A MEMBER OF THE COMMITTEE; (VII) EACH OF THE PREPETITION SECURED PARTIES, SOLELY IN THEIR CAPACITIES AS

SUCH; AND (VIII) WITH RESPECT TO EACH OF THE FOREGOING ENTITIES IDENTIFIED IN SUBSECTIONS (I) THROUGH (VII), EACH OF SUCH ENTITIES' RELATED PARTIES, IN EACH CASE OTHER THAN THE NON-RELEASED PARTIES.

UNDER THE PLAN, "***RELEASING PARTY***" MEANS, COLLECTIVELY, AND IN EACH CASE ONLY IN ITS CAPACITY AS SUCH: (I) THE RELEASED PARTIES; (II) EACH CONSENTING CREDITOR; AND (III) WITH RESPECT TO EACH OF THE FOREGOING ENTITIES IDENTIFIED IN SUBSECTIONS (I) THROUGH (II), EACH OF SUCH ENTITIES' RELATED PARTIES.

IMPORTANT INFORMATION REGARDING THE RELEASES

HOLDERS OF CLAIMS OR INTERESTS THAT WISH TO PROVIDE THE RELEASES SET FORTH IN ARTICLE XIII.E MUST AFFIRMATIVELY ELECT TO OPT IN ON THIS FORM. HOLDERS THAT DO NOT TIMELY OPT IN SHALL NOT BE RELEASING PARTIES ON ACCOUNT OF SUCH CLAIMS OR INTERESTS.

THE ELECTION TO GRANT THE THIRD-PARTY RELEASE IS ENTIRELY VOLUNTARY. IF YOU CHECK THE BOX BELOW AND PROPERLY SUBMIT THIS OPT-IN FORM BY THE OPT-IN DEADLINE, YOU WILL BE TREATED AS A RELEASING PARTY UNDER THE PLAN ON ACCOUNT OF YOUR CLAIM OR INTEREST, UNLESS YOU TIMELY FILE AN OBJECTION TO THE RELEASES CONTAINED IN THE PLAN AND THAT OBJECTION IS NOT RESOLVED BEFORE CONFIRMATION. IF YOU DO NOT CHECK THE BOX BELOW, YOU WILL NOT BE A RELEASING PARTY ON ACCOUNT OF YOUR CLAIM OR INTEREST, BUT YOU WILL RECEIVE THE SAME TREATMENT ON ACCOUNT OF YOUR CLAIM OR INTEREST UNDER THE PLAN.

OPTIONAL RELEASE ELECTION. YOU MAY ELECT TO OPT IN TO THE THIRD-PARTY RELEASE CONTAINED IN ARTICLE XIII.E OF THE PLAN ONLY IF YOU CHECK THE BOX BELOW:

☐ **The Undersigned Holder of the Claim or Interest elects to OPT IN to the Third-Party Release.**

Item 2. Certifications.

By signing this Ballot, the undersigned certifies to the Court and the Debtors that:

a. as of the Voting Record Date, either: (i) the Entity is the Holder of a Claim or Interest; or (ii) the Entity is an authorized signatory for the Entity that is a Holder of a Claim or Interest;

b. the Entity (or in the case of an authorized signatory, the Holder) has received a copy of the Notice of Non-Voting Status to Holders of Claims and Interests Conclusively Presumed to Reject the Plan and that this Opt-In Form is made pursuant to the terms and conditions set forth therein;

c. the Entity has submitted the same respective election concerning the releases with respect to all Claims or Interests in a single Class; and

d. no other Opt-In Form has been submitted or, if any other Opt-In Forms have been submitted with respect to such Claims or Interests, then any such earlier Opt-In Forms are hereby revoked.

Name of Holder: _____
(Print or Type)

Signature: _____

Name of Signatory: _____
(If other than Holder)

Title: _____

Address: _____

_____

_____

Telephone Number: _____

Email: _____

Date Completed: _____

IF YOU HAVE MADE THE OPTIONAL OPT-IN ELECTION, PLEASE COMPLETE, SIGN, AND DATE THIS OPT-IN FORM AND RETURN IT PROMPTLY BY ONLY ONE OF THE METHODS BELOW:

If by First-Class Mail, Hand Delivery, or Overnight Mail:
Ascend Ballot Processing Center
c/o KCC dba Verita Global
222 N Pacific Coast Highway, Suite 300
El Segundo, CA 90245

By electronic, online submission:

Please visit https://www.veritaglobal.net/ascend. Click on the "E-Ballot" section of the Debtors' website and follow the directions to submit your Opt-In Form. If you choose to submit your Opt-In Form via the Solicitation Agent's E-Ballot system, you should not also return a hard copy of your Opt-In Form.

IMPORTANT NOTE: You will need the following information to retrieve and submit your customized electronic Opt-In Form:

Unique E-Ballot Password: _____

"E-Balloting" is the sole manner in which this Opt-In Form will be accepted via electronic or online transmission. Opt-In Forms submitted by facsimile or email will not be counted.

THE OPT-IN DEADLINE IS AUGUST 14, 2026 AT 4:00 P.M. (PREVAILING CENTRAL TIME). THE SOLICITATION AGENT MUST *ACTUALLY RECEIVE* YOUR OPT-IN ELECTION ON OR BEFORE THE OPT-IN DEADLINE.

EXHIBIT 4B

Notice of Non-Voting Status (Presumed to Accept)

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)

NOTICE OF NON-VOTING STATUS TO HOLDERS OF UNCLASSIFIED AND UNIMPAIRED CLAIMS CONCLUSIVELY PRESUMED TO ACCEPT THE PLAN

PLEASE TAKE NOTICE THAT:

On April 9, 2026 (the "***Petition Date***"), Ascend Elements, Inc. and its affiliated debtors and debtors-in-possession each filed a voluntary petition for relief under the Bankruptcy Code. On [●], 2026, the Debtors filed the *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., et al*. [Docket No. [●]] (the "***Combined Disclosure Statement and Plan***" or, separately in relevant part, the "***Disclosure Statement***" or the "***Plan***," as applicable).[2]

By an order dated **July 15,** 2026 (the "***Disclosure Statement Order***"), the Court **conditionally approved** the Disclosure Statement as containing adequate information within the meaning of section 1125 of **the** Bankruptcy Code. The Disclosure Statement Order expressly reserves all parties' rights to raise objections to final approval of the adequacy of **the** information in the Disclosure Statement.

On August **17,** 2026 **at 1:00 p.m. (prevailing Central Time), subject to the Court's availability**, a hearing will be held before the Honorable Christopher M. Lopez in the United States Bankruptcy Court for the Southern District of Texas, 515 Rusk Street, 4th Floor, Courtroom 402, Houston, TX 77002, to consider final approval of the **Disclosure** Statement and Confirmation of the Plan, as the same may be amended or modified (the "***Combined Hearing***"). The Combined Hearing may be adjourned from time to time.

Non-Voting Status. You are receiving this notice (this "***Notice***") because of the nature and treatment of your Claim or Interest under the Plan. ***You are not entitled to vote on the Plan***. Specifically, under the terms of the Plan, as a Holder of a Claim (as currently asserted against the Debtors) that is (a) Unimpaired and conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code or (b) unclassified, you are ***not*** entitled to vote on the Plan.

---

[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] All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Combined Disclosure Statement and Plan.

Objection Deadline. The deadline for filing objections to confirmation of the Plan and final approval of the Disclosure Statement is **August 14, 2026 at 4:00 p.m. (prevailing Central Time)** (the "***Objection Deadline***"). Any objection to the relief sought at the Combined Hearing must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Rules; (c) state, with particularity, the legal and factual bases for the objection and, if practicable, a proposed modification to the Plan (or related materials) that would resolve such objection; and (d) be served on the Objection Notice Parties and filed with the Court on or before the Objection Deadline.

Administrative Claims Bar Date. The deadline for Holders of Administrative Claims, other than Professional Fee Claims and Section 503(b)(9) Claims, to file and serve an application for allowance of an Administrative Claim shall be **thirty (30) days after the Effective Date** (the "Administrative Claims Bar Date").

Copies. If you wish to receive paper copies of the Combined Disclosure Statement and Plan, they will be provided, as quickly as practicable, upon request to the voting agent, Kurtzman Carson Consultants, LLC d/b/a Verita Global **(the** "***Solicitation Agent***") by accessing the Solicitation Agent's website at https://www.veritaglobal.net/ascend and are on file with the Clerk of the Bankruptcy Court for the Southern District of Texas, and may be reviewed during the regular hours of the Court or online through the Court's website at https://www.txs.uscourts.gov/page/bankruptcy-court.

ARTICLE XIII OF THE PLAN CONTAINS RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS, AND ARTICLE XIII.E CONTAINS A THIRD-PARTY RELEASE. HOLDERS OF CLAIMS OR INTERESTS THAT WISH TO PROVIDE THE RELEASES SET FORTH IN ARTICLE XIII.E MUST AFFIRMATIVELY ELECT TO OPT IN TO THOSE RELEASES ON THE ENCLOSED FORM. HOLDERS OF CLAIMS OR INTERESTS THAT DO NOT TIMELY OPT IN SHALL NOT BE RELEASING PARTIES ON ACCOUNT OF SUCH CLAIMS OR INTERESTS. YOU ARE ADVISED TO REVIEW AND CONSIDER THE PLAN CAREFULLY BECAUSE YOUR RIGHTS MIGHT BE AFFECTED THEREUNDER. THIS NOTICE IS BEING SENT TO YOU FOR INFORMATIONAL PURPOSES ONLY.

[*Remainder of page intentionally left blank.*]

Houston, Texas
Dated: [●], 2026

NORTON ROSE FULBRIGHT US LLP
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and

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Tel: (214) 855-8210
Email: jason.blanchard@nortonrosefulbright.com
Email: michael.berthiaume@nortonrosefulbright.com

Counsel to the Debtors and Debtors in Possession

OPTIONAL: RELEASE OPT-IN FORM

You are receiving this opt-in form (the "***Opt-In Form***") because you are a Holder of a Claim or Interest that is not entitled to vote on the *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., et al*. (as may be amended, supplemented or otherwise modified from time to time and including all exhibits and supplements thereto, the "***Plan***"). Holders of Claims or Interests that wish to provide the third-party release (the "***Third-Party Release***") set forth in the Plan and reproduced in this notice may affirmatively opt in to such releases by completing and returning this form in accordance with the directions herein on or before **4:00 p.m. (prevailing Central Time) on August 14, 2026** (the "***Opt-In Deadline***"). Holders that do not timely opt in shall not be Releasing Parties on account of such Claims or Interests.

If you believe you are a Holder of a Claim or Interest with respect to the Debtors and choose to opt in to the Third-Party Release set forth in Article XIII.E of the Plan, please promptly complete, sign, and date this Opt-In Form and return it via first class mail, overnight courier, the Solicitation Agent's online E-Ballot, or hand delivery to Kurtzman Carson Consultants, LLC d/b/a Verita Global (the "***Solicitation Agent***") at the address set forth below. Holders are strongly encouraged to submit their Opt-In Form through the Solicitation Agent's online E-Ballot. Parties that submit their Opt-In Form using E-Ballot should **NOT** also submit a paper Opt-In Form.

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Item 1. Important information regarding the Third-Party Release.

Article XIII.E of the Plan contains the following Third-Party

Release:

As of the Effective Date, in exchange for good and valuable consideration, including the obligations of the Debtors under the Plan, to the fullest extent permissible under applicable law, as such law may be extended or integrated after the Effective Date, each of the Releasing Parties, in each case on behalf of itself and its respective successors, assigns, and representatives, and any and all other Entities who may purport to assert any Cause of Action, directly or derivatively, by, through, for, or because of the foregoing Entities, will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged each Debtor and other Released Party from any and all Causes of Action, whether known or unknown, that such Entity would have been legally entitled to assert in its own right (whether individually or collectively) or on behalf of the Holder of any Claim against, or Interest in, a Debtor or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtors (including the governance, management, ownership or operation thereof), the Debtors' capital structure, the assertion or enforcement of rights and remedies against the Debtors, the Debtors' in- or out-of-court restructuring efforts, intercompany transactions between or among the Debtors and/or their Affiliates, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the GUC Trust, as applicable, and the ownership thereof, the subject matter of, or the transactions or events giving rise to, any Claim or Interest

that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the Cash Collateral Orders, the Prepetition Note Documents, the applicable asset purchase agreements, and the sale transactions, the Chapter 11 Cases and any related adversary proceedings and related prepetition activities, the formulation, preparation, dissemination, negotiation, filing, or consummation of the Plan, contract, instrument, release, or other agreement or document created or entered into in connection with the cash collateral orders, the Prepetition Note Documents, the applicable asset purchase agreements, the sale transactions, the Disclosure Statement, the Plan, or the Plan Supplement, the Debtors' restructuring efforts, the filing of the Chapter 11 Cases, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion, any action or actions taken in furtherance or consistent with administration of the Plan, the issuance or distribution of any debt and/or securities pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release (a) any obligations of any Entity arising on or after the Effective Date under the Plan, the Confirmation Order, any applicable asset purchase agreement, any restructuring transaction, any assumed executory contract or unexpired lease, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan or an applicable section 363 asset sale, (b) any Entity from any claim or Causes of Action related to an act or omission that is determined in a Final Order by a court of competent jurisdiction to have constituted actual fraud, willful misconduct, or gross negligence by such Entity, or (c) any of the Debtors' commercial tort claims and Avoidance Actions transferred to the GUC Trust.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the releases by Holders of Claims and Interests set forth in Article XIII.E of the Plan, which includes by reference each of the related provisions and definitions contained herein, and, further, shall constitute the Bankruptcy Court's finding that such releases are: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the Claims and Causes of Action released by such releases; (3) in the best interests of the Debtors and their Estates; (4) fair, equitable and reasonable; (5) given and made after due notice and opportunity for hearing; (6) an essential component of the Plan; and (7) a bar to any of the Releasing Parties asserting any Claim or Cause of Action released pursuant to such releases. For the avoidance of doubt, the Non-Released Parties are not Released Parties and are not subject to the releases set forth in this Article XIII.E.

* * *

UNDER THE PLAN, "***RELEASED PARTY***" MEANS, COLLECTIVELY, AND IN EACH CASE ONLY IN ITS CAPACITY AS SUCH: (I) EACH OF THE DEBTORS; (II) THE CRO; (III) THE MEMBERS OF THE SPECIAL COMMITTEE; (IV) THE PROFESSIONALS; (V) THE COMMITTEE IN ITS CAPACITY AS SUCH; (VI) EACH MEMBER OF THE COMMITTEE, SOLELY IN ITS CAPACITY AS A MEMBER OF THE COMMITTEE; (VII) EACH OF THE PREPETITION SECURED PARTIES, SOLELY IN THEIR CAPACITIES AS

SUCH; AND (VIII) WITH RESPECT TO EACH OF THE FOREGOING ENTITIES IDENTIFIED IN SUBSECTIONS (I) THROUGH (VII), EACH OF SUCH ENTITIES' RELATED PARTIES, IN EACH CASE OTHER THAN THE NON-RELEASED PARTIES.

UNDER THE PLAN, "***RELEASING PARTY***" MEANS, COLLECTIVELY, AND IN EACH CASE ONLY IN ITS CAPACITY AS SUCH: (I) THE RELEASED PARTIES; (II) EACH CONSENTING CREDITOR; AND (III) WITH RESPECT TO EACH OF THE FOREGOING ENTITIES IDENTIFIED IN SUBSECTIONS (I) THROUGH (II), EACH OF SUCH ENTITIES' RELATED PARTIES.

IMPORTANT INFORMATION REGARDING THE RELEASES

HOLDERS OF CLAIMS OR INTERESTS THAT WISH TO PROVIDE THE RELEASES SET FORTH IN ARTICLE XIII.E MUST AFFIRMATIVELY ELECT TO OPT IN ON THIS FORM. HOLDERS THAT DO NOT TIMELY OPT IN SHALL NOT BE RELEASING PARTIES ON ACCOUNT OF SUCH CLAIMS OR INTERESTS.

THE ELECTION TO GRANT THE THIRD-PARTY RELEASE IS ENTIRELY VOLUNTARY. IF YOU CHECK THE BOX BELOW AND PROPERLY SUBMIT THIS OPT-IN FORM BY THE OPT-IN DEADLINE, YOU WILL BE TREATED AS A RELEASING PARTY UNDER THE PLAN ON ACCOUNT OF YOUR CLAIM OR INTEREST, UNLESS YOU TIMELY FILE AN OBJECTION TO THE RELEASES CONTAINED IN THE PLAN AND THAT OBJECTION IS NOT RESOLVED BEFORE CONFIRMATION. IF YOU DO NOT CHECK THE BOX BELOW, YOU WILL NOT BE A RELEASING PARTY ON ACCOUNT OF YOUR CLAIM OR INTEREST, BUT YOU WILL RECEIVE THE SAME TREATMENT ON ACCOUNT OF YOUR CLAIM OR INTEREST UNDER THE PLAN.

OPTIONAL RELEASE ELECTION. YOU MAY ELECT TO OPT IN TO THE THIRD-PARTY RELEASE CONTAINED IN ARTICLE XIII.E OF THE PLAN ONLY IF YOU CHECK THE BOX BELOW:

☐ **The Undersigned Holder of the Claim elects to OPT IN to the Third-Party Release.**

Item 2. Certifications.

By signing this Ballot, the undersigned certifies to the Court and the Debtors that:

a. as of the Voting Record Date, either: (i) the Entity is the Holder of a Claim; or (ii) the Entity is an authorized signatory for the Entity that is a Holder of a Claim;

b. the Entity (or in the case of an authorized signatory, the Holder) has received a copy of the Notice of Non-Voting Status to Holders of Unclassified Claims and Unimpaired Claims Conclusively Presumed to Accept the Plan and that this Opt-In Form is made pursuant to the terms and conditions set forth therein;

c. the Entity has submitted the same respective election concerning the releases with respect to all Claims in a single Class; and

d. no other Opt-In Form has been submitted or, if any other Opt-In Forms have been submitted with respect to such Claims, then any such earlier Opt-In Forms are hereby revoked.

Name of Holder: _____
(Print or Type)

Signature: _____

Name of Signatory: _____
(If other than Holder)

Title: _____

Address: _____

_____

_____

Telephone Number: _____

Email: _____

Date Completed: _____

IF YOU HAVE MADE THE OPTIONAL OPT-IN ELECTION, PLEASE COMPLETE, SIGN, AND DATE THIS OPT-IN FORM AND RETURN IT PROMPTLY BY ONLY ONE OF THE METHODS BELOW:

If by First-Class Mail, Hand Delivery, or Overnight Mail:
Ascend Ballot Processing Center
c/o KCC dba Verita Global
222 N Pacific Coast Highway, Suite 300
El Segundo, CA 90245

By electronic, online submission:

Please visit https://www.veritaglobal.net/ascend. Click on the "E-Ballot" section of the Debtors' website and follow the directions to submit your Opt-In Form. If you choose to submit your Opt-In Form via Solicitation Agent's E-Ballot system, you should not also return a hard copy of your Opt-In Form.

IMPORTANT NOTE: You will need the following information to retrieve and submit your customized electronic Opt-In Form:

Unique E-Ballot Password: _____

"E-Balloting" is the sole manner in which this Opt-In Form will be accepted via electronic or online transmission. Opt-In Forms submitted by facsimile or email will not be counted.

THE OPT-IN DEADLINE IS AUGUST 14, 2026 AT 4:00 P.M. (PREVAILING CENTRAL TIME). THE SOLICITATION AGENT MUST *ACTUALLY RECEIVE* YOUR OPT-IN ELECTION ON OR BEFORE THE OPT-IN DEADLINE.

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)
	)	**Re: Docket No. _____**

ORDER (I) CONDITIONALLY APPROVING THE ADEQUACY OF THE DISCLOSURE STATEMENT; (II) APPROVING THE SOLICITATION AND NOTICE PROCEDURES; (III) APPROVING THE FORM OF BALLOT AND NOTICES; (IV) APPROVING CERTAIN DATES AND DEADLINES IN CONNECTION WITH THE SOLICITATION AND CONFIRMATION OF THE PLAN; AND (V) SCHEDULING A COMBINED HEARING ON (A) FINAL APPROVAL OF THE DISCLOSURE STATEMENT AND (B) CONFIRMATION OF THE PLAN

Upon the emergency motion (the "***Motion***")[2] of the above-captioned debtors and debtors in possession (collectively, the "***Debtors***") for entry of an order (this "***Order***"): (i) authorizing, among other things, the Debtors to solicit votes on the *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., et al.* [Docket No. [●]] (as may be amended, modified, or supplemented from time to time, the "***Disclosure Statement***," or the "***Plan***" or the "***Combined Disclosure Statement and Plan***," as applicable); (ii) conditionally approving the Disclosure Statement as containing "adequate information" pursuant to section 1125 of the Bankruptcy Code; and (iii) granting related relief, all as more fully set forth in the Motion; and the Court having considered the Motion and having found it has jurisdiction over the matter pursuant to 28 U.S.C. § 1334 and the *Order of Reference to Bankruptcy Judges* from the United States District Court for the Southern District of Texas, entered May 24, 2012; and the Court having found that this is a core proceeding pursuant to 28

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

[2] Capitalized terms used but not otherwise defined herein have the meanings given to such terms in the Motion.

U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that the relief requested in the Motion is in the best interests of the Debtors' Estates, their creditors, and other parties in interest; and the Court having found that notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and the Court having reviewed the Motion and having heard the statements in support of the relief requested therein at the hearing on the Motion, if any (the "***Hearing***"); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY FOUND AND DETERMINED THAT:

A. Conditional Approval of the Disclosure Statement.

1. The Disclosure Statement, attached hereto as **Exhibit 1**, is conditionally approved as containing adequate information within the meaning of section 1125(a)(1) of the Bankruptcy Code and is subject to final approval of the Court at the Combined Hearing. No further or additional information is necessary or required.

B. Approval of the Confirmation Schedule and Certain Dates and Deadlines with Respect to the Combined Disclosure Statement and Plan.

2. The following Confirmation Schedule is hereby approved:

Event or Deadline	Date and Time
Hearing on Conditional Approval of the Disclosure Statement	July 15, 2026 at 1:00 p.m. (prevailing Central Time), subject to the Court's availability.
Solicitation and Notice Deadline	July 17, 2026
Plan Supplement Deadline	August 10, 2026
Plan and Disclosure Statement Objection Deadline	August 14, 2026 at 4:00 p.m. (prevailing Central Time)
Rule 3018 Motion Deadline	August 14, 2026 at 4:00 p.m. (prevailing Central Time)
Voting Record Date	August 14, 2026 at 4:00 p.m. (prevailing Central Time)
Administrative Claims Bar Date	Thirty (30) days after the Effective Date **o**
Voting and Opt-In Deadline	August 14, 2026 at 4:00 p.m. (prevailing Central Time)
Voting Report Deadline	August 14, 2026 at 4:00 p.m. (prevailing Central Time)
Combined Hearing on Final Approval of Disclosure Statement and Confirmation of the Plan	August 17, 2026 at 1:00 p.m. (prevailing Central Time), subject to the Court's availability

C. Approval of the Timing of the Combined Hearing and the Plan and Disclosure Statement Objection Deadline and the Procedures for Filing Objections to Confirmation of the Plan and Final Approval of the Disclosure Statement.

3. The Court shall hold the Combined Hearing on August **17, 2026 at 1:00 p.m. (prevailing Central Time), subject to the Court's availability**. The Plan and Disclosure Statement Objection Deadline shall be **August 14, 2026, at 4:00 p.m. (prevailing Central Time)**. Objections to Confirmation of the Plan and final approval of the Disclosure Statement must (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Rules; (c) state, with particularity, the legal and factual bases for the objection and, if practicable, a proposed modification to the Plan (or related materials) that would resolve such objection; and (d) be served on the Objection Notice Parties and filed with the Court on or before the Plan and Disclosure Statement Objection Deadline set forth above. Objections that fail to comply with this Order will not be considered by the Court.

D. Establishment of Administrative Claims Bar Date.

4. Each Entity that asserts a claim for administrative priority under section 503(b) of the Bankruptcy Code, other than Professional Fee Claims or Section 503(b)(9) Claims (each, an "Administrative Claim"), to the extent not already paid in the ordinary course, must file with the Court and serve on the applicable parties an application for allowance of such Administrative Claim no later than thirty (30) days after the Effective Date (the "Administrative Claims Bar Date").

E. Approval of the Solicitation and Voting Procedures.

5. The following Solicitation and Voting Procedures are approved.

6. Solely for the purpose of voting to accept or reject the Plan and not for purposes of allowance of, or distribution on account of, a Claim, each Claim within the Voting Class shall be temporarily allowed in an amount equal to (i) the amount asserted in a timely Filed Proof of Claim, or, if no timely Proof of Claim has been Filed, (ii) the liquidated, non-contingent, undisputed amount of such Claim set forth in the Schedules, subject to the following exceptions:

a. if a Claim has been estimated or otherwise Allowed for voting purposes by order of the Court, such Claim is temporarily Allowed in the amount so estimated or Allowed by this Court;

b. if (a) does not apply, but the Claim has been estimated or otherwise Allowed for voting purposes pursuant to a stipulation, settlement, or other agreement in writing reached between the Debtors and the holder of the Claim (whether such stipulation, settlement, or agreement is filed or not), such Claim is temporarily Allowed against the Debtors in the amount set forth in the stipulation, settlement, or other agreement;

c. if neither (a) nor (b) applies, then in the liquidated, non-contingent, and undisputed amount set forth on a Proof of Claim filed against the Debtors as of the Voting Record Date; provided that, if the amount set forth on a submitted Proof of Claim filed against the Debtors is wholly unliquidated, contingent, and/or disputed (as determined on the face of the Claim or based on reasonable review by the Debtors and/or the Voting Agent), then the Claim shall be temporarily Allowed for voting purposes in the amount of $1.00;

d. if neither (a), (b), nor (c) applies, then in the liquidated, non-contingent, and undisputed amount set forth on the Debtors' Schedules; provided that, if the Claim appearing on the Debtors' Schedules is either contingent, unliquidated, and/or disputed, or in a $0.00 amount and the claimant has not filed a Proof of Claim against the Debtors, then the Claim shall be disallowed for voting purposes; provided further, that, to the extent such creditor's deadline to file a Claim arising from the rejection of an Executory Contract or Unexpired Lease has not yet occurred before the Voting Record Date, such creditor will be entitled to vote in the amount of $1.00 on account of such Claim;

e. notwithstanding anything to the contrary contained herein, any creditor who has filed or purchased duplicate Claims within the same Voting Class may be provided with only one Solicitation Package and one Ballot for voting on a single Claim in such Class, regardless of whether the Debtors have objected to such duplicate Claims; and

f. if a Proof of Claim has been amended by a later Proof of Claim that is filed against the Debtors, the later filed amended Proof of Claim shall be entitled to vote in a manner consistent with these tabulation rules, and the earlier filed Proof of Claim shall be disallowed for voting purposes, regardless of whether the Debtors have objected to such amended claim.

7. If a Holder wishes to challenge the allowance or classification of its Claim for voting purposes, it must file and serve on the Objection Notice Parties a motion (a "***Rule 3018 Motion***"), pursuant to Bankruptcy Rule 3018(a), requesting that the Court temporarily allow its Claim in a different amount or with a different classification for purposes of voting to accept or reject the Plan. Rule 3018 Motions must be filed by 4:00 p.m. (prevailing Central Time) on the later of (a) August 14, 2026 and (b) if such Rule 3018 Motion relates to a Disputed Claim, the fifth day after such Claim became a Disputed Claim. Any Ballot submitted by a Holder of such Claim shall be counted without regard to the amount sought to be allowed or the classification sought to be applied in any Rule 3018 Motion unless and until a Claim is temporarily allowed (pursuant to an order of the Court entered prior to the Voting Deadline) in a different amount or with a different classification for purposes of voting to accept or reject the Plan.

8. The Solicitation Agent is authorized to assist the Debtors in (a) distributing the Solicitation Packages, (b) receiving, tabulating, and reporting on Ballots cast to accept or reject

the Plan by Holders of Claims, (c) responding to inquiries from Holders of Claims or Interests and other parties in interest relating to the Combined Disclosure Statement and Plan, the Ballots, the Solicitation Packages, and all other related documents and matters related thereto, including the procedures and requirements for voting to accept or reject the Plan and for objecting to the Plan, (d) soliciting votes on the Plan, and (e) if necessary, contacting creditors and equity holders regarding the Plan. The Solicitation Agent may, but is not obligated to, contact parties that submit incomplete or otherwise deficient Ballots to make a reasonable effort to cure such deficiencies.

9. The Solicitation Agent is also authorized to accept Ballots via electronic online transmission through a customized online balloting portal on the Debtors' case website to be maintained by the Solicitation Agent ("***E-Ballot***"). Parties entitled to vote through -E-Ballot may cast an electronic Ballot and electronically sign and submit the Ballot instantly by utilizing E-Ballot; parties entitled to submit an Opt-In Form may submit such form through -E-Ballot and electronically sign and submit the Opt-In Form instantly by utilizing E-Ballot. The encrypted data and audit trail created by such electronic submission will become part of the record of any Ballot or Opt-In Form submitted in this manner and the creditor's electronic signature will be deemed to be immediately legally valid and effective. Ballots or Opt-In Forms submitted via -E-Ballot shall be deemed to contain an original signature. E-Ballot is the sole manner in which Ballots or Opt-In Forms will be accepted via electronic or online transmission. Ballots or Opt-In Forms submitted by facsimile, email, or other means of electronic transmission will not be counted.

F. Approval of the Contents and Distribution of the Solicitation Packages.

10. The Solicitation Packages shall include the following materials, the forms of each of which are hereby approved:

a. this Order (without exhibits);

b. a copy of the Combined Disclosure Statement and Plan, which will be provided in electronic format by including in the Combined Hearing

Notice instructions for accessing such documents on the Debtors' restructuring website;

c. a Ballot, which includes an option to opt in to the releases under the Plan, substantially in the form attached to this Order as **Exhibit 2,** together with detailed voting instructions with respect thereto and a pre-addressed, postage-prepaid return envelope; and

d. a copy of the Combined Hearing Notice, substantially in the form attached to this Order as **Exhibit 3**.

11. The Solicitation Packages provide the Holders of Claims entitled to vote on the Plan with adequate information to make informed decisions with respect to voting on the Plan in accordance with Bankruptcy Rules 2002(b) and 3017(d), the Bankruptcy Code, and the Local Rules. The procedures for distributing the Solicitation Packages as set forth herein and the Solicitation and Voting Procedures satisfy the requirements of the Bankruptcy Code and the Bankruptcy Rules and are approved.

12. The Debtors shall distribute or cause to be distributed Solicitation Packages to all Entities who, as of the Solicitation and Notice Deadline, are entitled to vote to accept or reject the Plan as soon as practicable after entry of this Order, but in no event later than the Solicitation and Notice Deadline set forth above. On or before the Solicitation and Notice Deadline, the Debtors shall also provide by electronic mail complete Solicitation Packages (excluding the Ballots) in electronic format to the U.S. Trustee and all parties entitled to receive notice under Bankruptcy Rule 2002.

13. The Debtors are authorized, but not directed, to distribute the Combined Hearing Notice as a separate electronic mailing or print mailing from the remaining documents included in the Solicitation Package. If the Debtors distribute the Combined Hearing Notice separately, the Debtors are not required to include an additional copy of the Combined Hearing Notice in the Solicitation Package.

14. The Debtors shall not be required to mail Solicitation Packages or other solicitation materials to Holders of Claims and Interests that have already been paid in full

during the Chapter 11 Cases either through a critical vendor or cure payment, that are authorized to be paid in full in the ordinary course of business pursuant to an agreement between the parties or an order previously entered by the Court, or that have been waived or released by such Holder as reflected in a document or stipulation filed with the Court or an order entered by the Court.

15. Any party that receives materials in electronic format, but would prefer to receive materials in paper format, may contact the Solicitation Agent and request paper copies of the corresponding materials received in electronic format (to be provided at the Debtors' expense as soon as practicable following such request).

G. Approval of the Combined Hearing Notice

16. The Combined Hearing Notice, substantially in the form attached to this Order as **Exhibit 3**, is approved and shall be served by the Debtors on all known Holders of Claims and Interests as of the Voting Record Date and any other party entitled to notice under Bankruptcy Rule 2002 and applicable Local Rules (regardless of whether such parties are entitled to vote on the Plan) by no later than the Solicitation and Notice Deadline.

17. The Combined Hearing Notice constitutes adequate and sufficient notice of the Combined Disclosure Statement and Plan, the Combined Hearing, the Combined Hearing Date, the Plan and Disclosure Statement Objection Deadline, the Administrative Claims Bar Date, and the release, injunction, and exculpation provisions contained in the Plan. The form and manner of service of the Combined Hearing Notice comply with the Bankruptcy Rules and the Local Rules, comport with due process, and no further notice is necessary.

H. Approval of the Form of the Non-Voting Status Notices

18. The Non-Voting Status Notices, substantially in the forms attached to this Order as **Exhibits 4A and 4B**, are approved. Except to the extent that the Debtors determine otherwise, the Debtors are not required to provide Solicitation Packages to Holders of Claims

or Interests in Non-Voting Classes, as such Holders are not entitled to vote on the Plan. Instead, on or before the Solicitation and Notice Deadline, the Solicitation Agent shall serve an applicable Non-Voting Status Notice in lieu of Solicitation Packages to those Holders of Claims and Interests in the Non-Voting Classes, which classes are not entitled to vote on the Plan. Service thereof complies with the requirements of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and is approved and deemed to be sufficient and appropriate under the circumstances of these Chapter 11 Cases.

I. Service of Solicitation Materials and Undeliverable Notices and Solicitation Materials

19. For purposes of serving the Solicitation Packages and the notices approved by this Order (collectively, the "***Notices***"), the Debtors may rely on the address information for the creditors receiving such notices as compiled, updated, and maintained by the Solicitation Agent as of the Voting Record Date, without any requirement to conduct additional research for updated addresses based on undeliverable Solicitation Packages (including the Ballots) and Notices.

20. The Debtors shall be excused from (a) redistributing the Solicitation Packages and/or the Notices to any Entity to the extent any such notices or materials sent to such Entity's listed address are returned as undeliverable; and (b) sending the Solicitation Package and/or the Notices to any address that the Debtors have sent a notice in the last two (2) months, which notice was returned as undeliverable. The failure to distribute Solicitation Packages and Notices to such Entities shall not constitute inadequate notice of the Combined Hearing, the Solicitation Package, the Combined Disclosure Statement and Plan, or any deadlines approved by this Order, or a violation of the Bankruptcy Code or Bankruptcy Rules.

J. Miscellaneous

21. The Debtors' rights to modify or withdraw the Plan and Disclosure Statement at any time prior to the Confirmation Date in accordance with its terms are reserved.

22. The Debtors are authorized, but not directed, to extend the Voting Deadline or the Plan and Disclosure Statement Objection Deadline at their discretion, without further order of the Court.

23. The Debtors are authorized to make non-substantive and immaterial changes to the Combined Disclosure Statement and Plan, the Combined Hearing Notice, the Solicitation and Voting Procedures, the Ballots, the Non-Voting Status Notices, and related documents without further order of the Court.

24. Nothing in this Order shall be construed as a waiver of the rights of the Debtors or any other party in interest, as applicable, to object to a Proof of Claim after the Voting Record Date.

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

26. The requirements set forth in the Local Rules and the Complex Case Procedures are satisfied by the contents of the Motion.

27. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

28. Notwithstanding any Bankruptcy Rule to the contrary, this Order shall be immediately effective upon its entry.

29. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

EXHIBIT 1

Combined Disclosure Statement and Plan

[Filed at Dkt. No. 550]

EXHIBIT 2

Form of Ballot

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)

CLASS 3 GENERAL UNSECURED CLAIMS BALLOT FOR VOTING TO ACCEPT OR REJECT THE COMBINED DISCLOSURE STATEMENT AND JOINT PLAN OF LIQUIDATION FOR ASCEND ELEMENTS, INC., *ET AL*.

PLEASE READ AND FOLLOW THE ENCLOSED INSTRUCTIONS FOR COMPLETING BALLOTS CAREFULLY BEFORE COMPLETING THIS BALLOT.

FOR YOUR VOTE TO BE COUNTED, THIS BALLOT MUST BE COMPLETED, EXECUTED, AND RETURNED SO AS TO BE ACTUALLY RECEIVED BY THE SOLICITATION AGENT BY 4:00 P.M. (PREVAILING CENTRAL TIME) ON AUGUST 14, 2026 (THE "*VOTING DEADLINE*"). IF THIS BALLOT IS NOT PROPERLY COMPLETED, EXECUTED, AND RECEIVED BY THE SOLICITATION AGENT ON OR BEFORE THE VOTING DEADLINE, THEN THE VOTES TRANSMITTED BY THIS BALLOT WILL NOT BE COUNTED.

ACCESS TO SOLICITATION MATERIALS:
THE COMBINED PLAN AND DISCLOSURE STATEMENT AND DISCLOSURE STATEMENT ORDER, INCLUDING THE SOLICITATION AND VOTING PROCEDURES MAY BE ACCESSED FREE OF CHARGE AT: HTTPS://VERITAGLOBAL.NET/ASCEND.

YOU CAN ALSO OBTAIN COPIES IN PAPER FORMAT OF ANY SOLICITATION MATERIALS (A) FREE OF CHARGE BY (I) ACCESSING THE DEBTORS' RESTRUCTURING WEBSITE AT HTTPS://VERITAGLOBAL.NET/ASCEND; O R (II) CALLING (866) 927-7078 (TOLL FREE) OR +1 (310) 751-2651 (INTERNATIONAL) AND REQUESTING TO SPEAK WITH A MEMBER OF THE SOLICITATION GROUP; OR (B) FOR A FEE VIA PACER AT HTTP://WWW.TXS.USCOURTS.GOV.

The above-captioned debtors and debtors in possession (collectively, the "***Debtors***") are soliciting votes with respect to the Plan as set forth in the *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., et al.*, and all exhibits related thereto [Docket No. [●]] (as may be amended, supplemented, or otherwise modified from time to time, the "***Plan***," or "***Disclosure Statement***" or "***Combined Disclosure Statement and Plan***," as applicable).[2]

[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 meaning ascribed to such terms in the Combined Disclosure Statement and Plan.

The Bankruptcy Court for the Southern District of Texas (the "***Court***") has conditionally approved the Disclosure Statement as containing adequate information pursuant to section 1125 of the Bankruptcy Code by entry of an order on July 15, 2026 [Docket No. [●]] (the "***Disclosure Statement Order***"). Court approval of the Disclosure Statement does not indicate approval of the Plan by the Court.

Your rights are described in the Combined Disclosure Statement and Plan and related materials, which are available electronically free of charge on the Debtors' restructuring website at https://www.veritaglobal.net/ascend, or for a fee via PACER at http://www.txs.uscourts.gov. You may also request paper or electronic copies of such materials by (a) calling (866) 927-7078 (Toll Free) or +1 (310) 751-2651 (International) and requesting to speak with a member of the Solicitation Group.

You are receiving this ballot (the "***Ballot***") because records indicate that you are the Holder of a General Unsecured Claim in Class 3 as of August 14, 2026 at 4:00 p.m. (prevailing Central Time) (the "***Voting Record Date***").

If the Plan is confirmed by the Court, it will be binding on you whether or not you vote or if you vote to reject the Plan. To have your vote counted, you must complete, sign, and return this Ballot by the Voting Deadline, which is **August 14, 2026 at 4:00 p.m. (prevailing Central Time)**.

This Ballot may not be used for any purpose other than for casting votes to accept or reject the Plan, electing to opt in to the release provisions set forth in the Plan, and making certain certifications with respect to the Plan. If you believe you have received this Ballot in error, or if you believe you have received the wrong ballot, please contact the Solicitation Agent immediately at the address, telephone number, or email address set forth above.

ARTICLE XIII OF THE PLAN CONTAINS RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS, AND ARTICLE XIII.E CONTAINS A THIRD-PARTY RELEASE. HOLDERS OF CLAIMS IN CLASS 3 WHO WISH TO PROVIDE THE RELEASES SET FORTH IN ARTICLE XIII.E MUST AFFIRMATIVELY INDICATE SO BY CHECKING THE "OPT-IN" BOX ON THIS BALLOT. HOLDERS OF CLAIMS IN CLASS 3 THAT VOTE TO ACCEPT THE PLAN, VOTE TO REJECT THE PLAN, OR DO NOT VOTE, AND DO NOT AFFIRMATIVELY MAKE THE OPT-IN ELECTION ON THIS BALLOT SHALL NOT BE DEEMED TO HAVE CONSENTED TO THE RELEASES SET FORTH IN ARTICLE XIII.E. YOU ARE ADVISED TO REVIEW AND CONSIDER THE PLAN CAREFULLY BECAUSE YOUR RIGHTS MIGHT BE AFFECTED THEREUNDER.

You should review the Combined Disclosure Statement and Plan and the instructions contained herein before you vote. You may wish to seek legal advice concerning the Plan and the Plan's classification and treatment of your Claim.

THE DEBTORS AND THE SOLICITATION AGENT ARE NOT AUTHORIZED TO PROVIDE, AND WILL NOT PROVIDE, LEGAL ADVICE.

PLEASE SUBMIT YOUR BALLOT BY *ONLY ONE* OF THE FOLLOWING METHODS:

Via Paper Ballot. Complete, sign, and date this Ballot and return it (with an original signature) promptly in the envelope provided:

If by First-Class Mail, Hand Delivery, or Overnight Mail:

Ascend Ballot Processing Center
c/o KCC dba Verita
222 N Pacific Coast Highway, Suite 300
El Segundo, CA 90245

OR

Via E-Ballot Portal. Submit your Ballot via the Solicitation Agent's online portal, by visiting https://www.veritaglobal.net/ascend. Click on the "E-Ballot" section of the Debtors' website and follow the instructions to submit your E-Ballot.

IMPORTANT NOTE: You will need the following information to retrieve and submit your customized E-Ballot:

Unique E-Ballot Password: _____

"E-Balloting" is the sole manner in which Ballots will be accepted via electronic or online transmission. Ballots submitted by facsimile or email will not be counted.

Each E-Ballot Password is to be used solely for voting only those Claims described in Item 1 of your electronic Ballot. Please complete and submit an electronic Ballot for each E-Ballot Password you receive, as applicable. Creditors who cast a Ballot using E-Ballot should NOT also submit a paper Ballot.

Item 1. Amount of Claim.

The undersigned hereby certifies that as of the Voting Record Date, the undersigned was the Holder of General Unsecured Claims in the following aggregate unpaid amount (insert amount in box below):

$_____
Debtor _____

Any admission of Claims and Interest for purposes of voting on the Plan is not an admission of liability on the part of the Debtors or any other party for payment purposes.

Item 2. Vote on Plan.

The Holder of the General Unsecured Claims set forth in Item 1 votes to (please check only one):

☐ **ACCEPT** (vote FOR) the Plan	☐ **REJECT** (vote AGAINST) the Plan

Item 3. Important information regarding the third-party release provision in the Plan (the "*Third-Party Release*").

Article XIII.E of the Plan contains the following Third-Party Release:

As of the Effective Date, in exchange for good and valuable consideration, including the obligations of the Debtors under the Plan, to the fullest extent permissible under applicable law, as such law may be extended or integrated after the Effective Date, each of the Releasing Parties, in each case on behalf of itself and its respective successors, assigns, and representatives, and any and all other Entities who may purport to assert any Cause of Action, directly or derivatively, by, through, for, or because of the foregoing Entities, will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged each Debtor and other Released Party from any and all Causes of Action, whether known or unknown, that such Entity would have been legally entitled to assert in its own right (whether individually or collectively) or on behalf of the Holder of any Claim against, or Interest in, a Debtor or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtors (including the governance, management, ownership or operation thereof), the Debtors' capital structure, the assertion or enforcement of rights and remedies against the Debtors, the Debtors' in- or out-of-court restructuring efforts, intercompany transactions between or among the Debtors and/or their Affiliates, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the GUC Trust, as applicable, and the ownership thereof, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the Cash Collateral Orders, the Prepetition Note Documents, the applicable asset purchase agreements, and the sale transactions, the Chapter 11 Cases and any related adversary proceedings and related prepetition activities, the formulation, preparation, dissemination, negotiation, filing, or consummation of the Plan, contract, instrument, release, or other agreement or document created or entered into in connection with the cash collateral orders, the Prepetition Note Documents, the applicable asset purchase agreements, the sale transactions, the Disclosure Statement, the Plan, or the Plan Supplement, the Debtors' restructuring efforts, the filing of the Chapter 11 Cases, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion, any action or actions taken in furtherance or consistent with administration of the Plan, the issuance or distribution of any debt and/or securities pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release (a) any obligations of any Entity arising on or after the Effective Date under the Plan, the Confirmation Order, any applicable asset purchase agreement, any restructuring transaction, any assumed executory contract or unexpired lease, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan or an applicable section 363 asset sale, (b) any Entity from any claim or Causes of Action related to an act or omission that is determined in a Final Order by a court of competent jurisdiction to have constituted actual fraud, willful

misconduct, or gross negligence by such Entity, or (c) any of the Debtors' commercial tort claims and Avoidance Actions transferred to the GUC Trust.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the releases by Holders of Claims and Interests set forth in Article XIII.E of the Plan, which includes by reference each of the related provisions and definitions contained herein, and, further, shall constitute the Bankruptcy Court's finding that such releases are: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the Claims and Causes of Action released by such releases; (3) in the best interests of the Debtors and their Estates; (4) fair, equitable and reasonable; (5) given and made after due notice and opportunity for hearing; (6) an essential component of the Plan; and (7) a bar to any of the Releasing Parties asserting any Claim or Cause of Action released pursuant to such releases. For the avoidance of doubt, the Non-Released Parties are not Released Parties and are not subject to the releases set forth in this Article XIII.E.

* * *

UNDER THE PLAN, "***RELEASED PARTY***" MEANS, COLLECTIVELY, AND IN EACH CASE ONLY IN ITS CAPACITY AS SUCH: (I) EACH OF THE DEBTORS; (II) THE CRO; (III) THE MEMBERS OF THE SPECIAL COMMITTEE; (IV) THE PROFESSIONALS; (V) THE COMMITTEE IN ITS CAPACITY AS SUCH; (VI) EACH MEMBER OF THE COMMITTEE, SOLELY IN ITS CAPACITY AS A MEMBER OF THE COMMITTEE; (VII) EACH OF THE PREPETITION SECURED PARTIES, SOLELY IN THEIR CAPACITIES AS SUCH; AND (VIII) WITH RESPECT TO EACH OF THE FOREGOING ENTITIES IDENTIFIED IN SUBSECTIONS (I) THROUGH (VII), EACH OF SUCH ENTITIES' RELATED PARTIES, IN EACH CASE OTHER THAN THE NON-RELEASED PARTIES.

UNDER THE PLAN, "***RELEASING PARTY***" MEANS, COLLECTIVELY, AND IN EACH CASE ONLY IN ITS CAPACITY AS SUCH: (I) THE RELEASED PARTIES; (II) EACH CONSENTING CREDITOR; AND (III) WITH RESPECT TO EACH OF THE FOREGOING ENTITIES IDENTIFIED IN SUBSECTIONS (I) THROUGH (II), EACH OF SUCH ENTITIES' RELATED PARTIES.

IMPORTANT INFORMATION REGARDING THE RELEASES

HOLDERS OF CLAIMS IN CLASS 3 WHO WISH TO PROVIDE THE RELEASES SET FORTH IN ARTICLE XIII.E MUST AFFIRMATIVELY ELECT TO OPT IN ON THIS BALLOT. HOLDERS THAT DO NOT TIMELY OPT IN SHALL NOT BE RELEASING PARTIES ON ACCOUNT OF THEIR CLAIMS.

THE ELECTION TO GRANT THE THIRD-PARTY RELEASE IS ENTIRELY VOLUNTARY. IF YOU CHECK THE BOX BELOW AND TIMELY SUBMIT THIS BALLOT, YOU WILL BE TREATED AS A RELEASING PARTY UNDER THE PLAN ON ACCOUNT OF YOUR CLAIM, UNLESS YOU TIMELY FILE AN OBJECTION TO THE RELEASES CONTAINED IN THE PLAN AND THAT OBJECTION IS NOT RESOLVED BEFORE CONFIRMATION. IF YOU DO NOT CHECK THE BOX BELOW, YOU WILL NOT BE A RELEASING PARTY ON ACCOUNT OF YOUR CLAIM, BUT YOU WILL RECEIVE THE SAME TREATMENT ON ACCOUNT OF YOUR CLAIM UNDER THE PLAN.

OPTIONAL RELEASE ELECTION. YOU MAY ELECT TO OPT IN TO THE THIRD-PARTY RELEASE CONTAINED IN ARTICLE XIII.E OF THE PLAN ONLY IF YOU CHECK THE BOX BELOW.

The Undersigned Holder of the Claims identified in Item 1 elects to:

☐ **OPT IN to the Third-Party Release.**

Item 4. Certifications.

By signing this Ballot, the undersigned certifies to the Court and the Debtors that:

(a) as of the Voting Record Date, either: (i) the Entity is the Holder of the General Unsecured Claims being voted; or (ii) the Entity is an authorized signatory for an Entity that is a Holder of the General Unsecured Claims being voted;

(b) the Entity (or in the case of an authorized signatory, the Holder) has received the Solicitation Package and acknowledges that the solicitation is being made pursuant to the terms and conditions set forth therein;

(c) the Entity has cast the same vote with respect to all of its General Unsecured Claims; and

(d) no other Ballots with respect to the amount of the General Unsecured Claims identified in Item 1 have been cast or, if any other Ballots have been cast with respect to such General Unsecured Claims, then any such earlier Ballots are hereby revoked.

Name of Holder: _____
(Print or Type)

Signature: _____

Name of Signatory: _____
(If other than Holder)

Title: _____

Address: _____

_____

_____

Telephone Number: _____

Email: _____

Date Completed: _____

IF THE SOLICITATION AGENT DOES NOT ACTUALLY RECEIVE THIS BALLOT ON OR BEFORE 4:00 P.M. (PREVAILING CENTRAL TIME) ON AUGUST 14, **2026, AND IF THE VOTING DEADLINE IS NOT EXTENDED, YOUR VOTE TRANSMITTED BY THIS BALLOT MAY BE COUNTED TOWARD CONFIRMATION OF THE PLAN ONLY IN THE DISCRETION OF THE DEBTORS.**

INSTRUCTIONS FOR COMPLETING THIS BALLOT

1. The Debtors are soliciting the votes of Holders of Claims with respect to the Plan. **PLEASE READ THE COMBINED DISCLOSURE STATEMENT AND PLAN CAREFULLY BEFORE COMPLETING THIS BALLOT**.

2. The Plan can be confirmed by the Court and thereby made binding upon you if it is accepted by the Holders of at least two-thirds in total dollar amount and more than one-half in number of Claims in each Class entitled to vote on the Plan that actually vote on the Plan and if the Plan otherwise satisfies the requirements for Confirmation provided by section 1129(a) of the Bankruptcy Code. Please review the Disclosure Statement for more information.

3. To ensure that your Ballot is counted, you ***must*** complete and submit this Ballot as instructed herein. **Ballots will not be accepted by electronic mail or facsimile.**

4. **Use of Ballot**. To ensure that your Ballot is counted, you must: (a) complete your Ballot in accordance with these instructions; (b) clearly indicate your decision either to accept or reject the Plan in the boxes provided in Item 2 of the Ballot; and (c) clearly sign and submit your Ballot as instructed herein.

5. Your Ballot ***must*** be returned to the Solicitation Agent so as to be ***actually received*** by the Solicitation Agent on or before the Voting Deadline. **The Voting Deadline is August 14, 2026 at 4:00 p.m. (prevailing Central Time).**

6. If a Ballot is received after the Voting Deadline and if the Voting Deadline is not extended, it may be counted only in the sole and absolute discretion of the Debtors. Additionally, the following Ballots will not be counted:

    a. any Ballot that partially rejects and partially accepts the Plan;

    b. Ballots sent to the Debtors, the Debtors' agents (other than the Solicitation Agent), any agent, indenture trustee, or the Debtors' financial or legal advisors;

    c. Ballots sent by electronic mail or facsimile;

    d. any Ballot that is illegible or contains insufficient information to permit the identification of the Holder of the Claim;

    e. any Ballot cast by an Entity that does not hold a General Unsecured Claim;

    f. any Ballot submitted by a Holder not entitled to vote pursuant to the Plan;

g. any unsigned Ballot (for the avoidance of doubt, Ballots validly submitted through E-Ballot will be deemed signed);

h. any non-original Ballot (for the avoidance of doubt, Ballots validly submitted through E-Ballot will be deemed original); and/or

i. any Ballot not marked to accept or reject the Plan or any Ballot marked both to accept and reject the Plan.

7. The method of delivery of Ballots to the Solicitation Agent is at the election and risk of each Holder of a General Unsecured Claim. Except as otherwise provided herein, such delivery will be deemed made only when the Solicitation Agent ***actually receives*** the originally executed Ballot. In all cases, Holders should allow sufficient time to assure timely delivery.

8. If multiple Ballots are received from the same Holder of a Class 3 General Unsecured Claim with respect to the same Class 3 General Unsecured Claim prior to the Voting Deadline, the latest, timely received, and properly completed Ballot will supersede and revoke any earlier received Ballots.

9. You must vote all of your General Unsecured Claims, regardless if such Claims are asserted against one or multiple Debtors, either to accept or reject the Plan and may ***not*** split your vote.

10. This Ballot does ***not*** constitute, and shall not be deemed to be, (a) a Proof of Claim or (b) an assertion or admission of a Claim.

11. **Please be sure to sign and date your Ballot**. If you are signing a Ballot in your capacity as a trustee, executor, administrator, guardian, attorney in fact, officer of a corporation, or otherwise acting in a fiduciary or representative capacity, you must indicate such capacity when signing and, if required or requested by the Solicitation Agent, the Debtors, or the Court, must submit proper evidence to the requesting party to so act on behalf of such Holder. In addition, please provide your name and mailing address if it is different from that set forth on the attached mailing label or if no such mailing label is attached to the ballot.

PLEASE SUBMIT YOUR BALLOT PROMPTLY

IF THE SOLICITATION AGENT DOES NOT ACTUALLY RECEIVE THIS BALLOT ON OR BEFORE THE VOTING DEADLINE, WHICH IS AUGUST 14, 2026 AT 4:00 P.M. (PREVAILING CENTRAL TIME), AND IF THE VOTING DEADLINE IS NOT EXTENDED, YOUR VOTE TRANSMITTED HEREBY MAY BE COUNTED ONLY IN THE DISCRETION OF THE DEBTORS.

EXHIBIT 3

Combined Hearing Notice

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)

NOTICE OF (I) COMBINED HEARING TO CONSIDER FINAL APPROVAL OF DISCLOSURE STATEMENT AND CONFIRMATION OF CHAPTER 11 PLAN FILED BY THE DEBTORS, (II) RELATED VOTING AND OBJECTION DEADLINES, AND (III) BAR DATE FOR FILING ADMINISTRATIVE CLAIMS

PLEASE TAKE NOTICE that on July 15, 2026, the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "***Court***") entered an order [Docket No. [●]] (the "***Disclosure Statement Order***"): (i) authorizing Ascend Elements, Inc. and its affiliated debtors and debtors in possession (collectively, the "***Debtors***") to solicit acceptances for the *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., et al*. [Docket No. [●]] (as modified, amended, or supplemented from time to time and including all exhibits and supplements thereto, the "***Plan***," or "***Disclosure Statement***," or "***Combined Disclosure Statement and Plan***," as applicable),[2] (ii) conditionally approving the Disclosure Statement as containing "adequate information" pursuant to section 1125 of the Bankruptcy Code; (iii) approving the solicitation materials and documents to be included in the solicitation package (the "***Solicitation Package***"); (iv) approving procedures for soliciting, noticing, receiving, and tabulating votes on the Plan; and (v) scheduling certain dates with respect thereto.

PLEASE TAKE FURTHER NOTICE that a hearing to consider final approval of the Disclosure Statement and Confirmation of the Plan (the "***Combined Hearing***") will commence on **August 17,** 2026 at **1:00 p.m**. (prevailing Central Time**), subject to the Court's availability,** before the Honorable Christopher M. Lopez in the United States Bankruptcy Court for the Southern District of Texas, located at 515 Rusk Street, Courtroom 402, Houston, Texas, 77002. Please be advised that the Combined Hearing may be continued from time to time by the Court or the Debtors without further notice other than by such adjournment being announced in open court or by a notice of adjournment filed with the Court and served on other parties entitled to notice. The Plan may be modified, if necessary, prior to, during, or as a result of the Combined Hearing.

PLEASE TAKE FURTHER NOTICE that parties may participate in the Combined Hearing either in person or by an audio and video connection. Audio communication will be

[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] All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Combined Disclosure Statement and Plan.

by use of the Court's dial-in facility. You may access the facility at (832) 917-1510. Once connected, you will be asked to enter the conference room number. Judge Lopez's conference room number is 590153. Video communication will be by use of the GoToMeeting platform. Connect via the free GoToMeeting application or click the link on Judge Lopez's home page. The meeting code is "JudgeLopez". Click the settings icon in the upper right corner and enter your name under the personal information setting. Hearing appearances must be made electronically in advance of both electronic and in-person hearings. To make your appearance, click the "Electronic Appearance" link on Judge Lopez's home page. Select the case name, complete the required fields and click "Submit" to complete your appearance.

CRITICAL INFORMATION REGARDING VOTING ON THE PLAN

Voting Record Date. The voting record date is August 14, 2026 at 4:00 p.m. (prevailing Central Time) (the "***Voting Record Date***"), which is the date for determining which Holders of Claims are entitled to vote on the Plan.

Voting Deadline. The deadline to vote on the Plan is **August 14, 2026 at 4:00 p.m. (prevailing Central Time) (**the "***Voting Deadline***"). If you received the Solicitation Package, including a Ballot and intend to vote on the Plan you ***must***: (i) follow the instructions contained on your Ballot carefully; (ii) complete ***all*** of the required information on the Ballot; and (iii) execute and return your completed Ballot according to and as set forth in detail in the voting instructions so that it is ***actually received*** by the Solicitation Agent, on or before the Voting Deadline.

Temporary Allowance Deadline. If a Holder of a Claim wishes to challenge the allowance or classification of its Claim for voting purposes, it must file and serve on the Objection Notice Parties a motion pursuant to Bankruptcy Rule 3018(a), requesting that the Court temporarily allow its Claim in a different amount or with a different classification for purposes of voting to accept or reject the Plan. Such motions must be filed by 4:00 p.m. (prevailing Central Time) on **the later of (a) August 14, 2026 and (b) if such Rule 3018 Motion relates to a Disputed Claim, the fifth day after such Claim became a Disputed Claim** (the "***Rule 3018 Motion Deadline***").

Failure to follow such instructions may disqualify your vote.

CRITICAL INFORMATION REGARDING OBJECTING TO THE PLAN

ARTICLE XIII OF THE PLAN CONTAINS RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS, AND ARTICLE XIII.E CONTAINS A THIRD-PARTY RELEASE. YOU ARE ADVISED TO REVIEW AND CONSIDER THE PLAN CAREFULLY BECAUSE YOUR RIGHTS MIGHT BE AFFECTED THEREUNDER.

Confirmation Objection Deadline. The deadline for filing objections to confirmation of the Plan and the adequacy of the Disclosure Statement is **August 14, 2026 at 4:00 p.m. (prevailing Central Time)** (the "***Objection Deadline***"). Any objection to the relief sought at the Combined Hearing must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Rules; (c) state, with particularity, the legal and factual bases for the objection and, if practicable, a proposed modification to the Plan (or related materials) that would resolve such objection; and (d) be Filed with the Court and served on the Objection Notice Parties on or before the Objection Deadline.

IF AN OBJECTION TO CONFIRMATION OF THE PLAN OR FINAL APPROVAL OF THE DISCLOSURE STATEMENT IS NOT FILED AND SERVED STRICTLY AS PRESCRIBED HEREIN, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT.

ADDITIONAL INFORMATION REGARDING THE COMBINED DISCLOSURE STATEMENT AND PLAN

Obtaining Solicitation Materials. If you wish to receive paper copies of the Combined Disclosure Statement and Plan, they will be provided, as quickly as practicable, upon request to the voting agent, Kurtzman Carson Consultants, LLC d/b/a Verita Global (the "***Solicitation Agent***") by accessing the Solicitation Agent's website at https://www.veritaglobal.net/ascend and are on file with the Clerk of the Bankruptcy Court for the Southern District of Texas, and may be reviewed during the regular hours of the Court or online through the Court's website at https://www.txs.uscourts.gov/page/bankruptcy-court.

The Plan Supplement. The Debtors will file the Plan Supplement on or before **August 10, 2026,** and will serve notice on parties in interest, which will (a) inform parties that the Debtors filed the Plan Supplement; (b) list the information contained in the Plan Supplement; and (c) explain how parties may obtain copies of the Plan Supplement.

Administrative Claims Bar Date. The deadline for Holders of Administrative Claims, other than Professional Fee Claims and Section 503(b)(9) Claims, to file and serve an application for allowance of an Administrative Claim shall be **thirty (30) days after the Effective Date** (the "Administrative Claims Bar Date").

IF YOU HAVE ANY QUESTIONS REGARDING YOUR CLAIM OR THE VOTING PROCEDURES, OR IF YOU NEED A BALLOT OR ADDITIONAL COPIES OF THE COMBINED DISCLOSURE STATEMENT AND PLAN OR OTHER ENCLOSED MATERIALS, PLEASE CONTACT THE SOLICITATION AGENT AS SET FORTH ABOVE.

BINDING NATURE OF THE PLAN

IF CONFIRMED, THE PLAN SHALL BIND ALL HOLDERS OF CLAIMS AND INTERESTS TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WHETHER OR NOT SUCH HOLDER WILL RECEIVE OR RETAIN ANY PROPERTY OR INTEREST IN PROPERTY UNDER THE PLAN, HAS FILED A PROOF OF CLAIM IN THESE CHAPTER 11 CASES, OR FAILED TO VOTE TO ACCEPT OR REJECT THE PLAN OR VOTED TO REJECT THE PLAN.

[*Remainder of page intentionally left blank.*]

Houston, Texas
Dated: [●], 2026

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Counsel to the Debtors and Debtors in Possession

EXHIBIT 4A

Notice of Non-Voting Status (Presumed to Reject)

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)

NOTICE OF NON-VOTING STATUS TO HOLDERS OF IMPAIRED CLAIMS AND INTERESTS CONCLUSIVELY DEEMED TO REJECT THE PLAN

PLEASE TAKE NOTICE THAT:

On April 9, 2026 (the "***Petition Date***"), Ascend Elements, Inc. and its affiliated debtors and debtors-in-possession each filed a voluntary petition for relief under the Bankruptcy Code. On [●], 2026, the Debtors filed the *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., et al*. [Docket No. [●]] (the "***Combined Disclosure Statement and Plan***" or, separately in relevant part, the "***Disclosure Statement***" or the "***Plan***," as applicable).[2]

By an order dated **July 15,** 2026 (the "***Disclosure Statement Order***"), the Court **conditionally approved** the Disclosure Statement as containing adequate information within the meaning of section 1125 of **the** Bankruptcy Code. The Disclosure Statement Order expressly reserves all parties' rights to raise objections to final approval of the adequacy of **the** information in the Disclosure Statement.

On August **17,** 2026 **at 1:00 p.m. (prevailing Central Time), subject to the Court's availability**, a hearing will be held before the Honorable Christopher M. Lopez in the United States Bankruptcy Court for the Southern District of Texas, 515 Rusk Street, 4th Floor, Courtroom 402, Houston, TX 77002, to consider final approval of the Disclosure Statement and Confirmation of the Plan, as the same may be amended or modified (the "***Combined Hearing***"). The Combined Hearing may be adjourned from time to time.

Non-Voting Status. You are receiving this notice (this "***Notice***") because of the nature and treatment of your Claim or Interest under the Plan. ***You are not entitled to vote on the Plan.*** Specifically, under the terms of the Plan, as a Holder of a Claim (as currently asserted against the Debtors) or Interest in the Debtors that is Impaired and conclusively deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code, you are ***not*** entitled to vote on the Plan. If, notwithstanding this Notice of your non-voting status, you believe that

[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] All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Combined Disclosure Statement and Plan.

you may have a Claim against or Interest in the Debtors that entitles you to vote on the Plan, you should immediately request the appropriate Ballot by contacting the Solicitation Agent.

Objection Deadline. The deadline for filing objections to confirmation of the Plan and final approval of the Disclosure Statement is **August 14, 2026 at 4:00 p.m. (prevailing Central Time)** (the "***Objection Deadline***"). Any objection to the relief sought at the Combined Hearing must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Rules; (c) state, with particularity, the legal and factual bases for the objection and, if practicable, a proposed modification to the Plan (or related materials) that would resolve such objection; and (d) be served on the Objection Notice Parties and filed with the Court on or before the Objection Deadline.

Administrative Claims Bar Date. The deadline for Holders of Administrative Claims, other than Professional Fee Claims and Section 503(b)(9) Claims, to file and serve an application for allowance of an Administrative Claim shall be **thirty (30) days after the Effective Date** (the "Administrative Claims Bar Date").

Copies. If you wish to receive paper copies of the Combined Disclosure Statement and Plan, they will be provided, as quickly as practicable, upon request to the voting agent, Kurtzman Carson Consultants, LLC d/b/a Verita Global **(the** "***Solicitation Agent***") by accessing the Solicitation Agent's website at https://www.veritaglobal.net/ascend and are on file with the Clerk of the Bankruptcy Court for the Southern District of Texas, and may be reviewed during the regular hours of the Court or online through the Court's website at https://www.txs.uscourts.gov/page/bankruptcy-court.

ARTICLE XIII OF THE PLAN CONTAINS RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS, AND ARTICLE XIII.E CONTAINS A THIRD-PARTY RELEASE. HOLDERS OF CLAIMS OR INTERESTS THAT WISH TO PROVIDE THE RELEASES SET FORTH IN ARTICLE XIII.E MUST AFFIRMATIVELY ELECT TO OPT IN TO THOSE RELEASES ON THE ENCLOSED FORM. HOLDERS OF CLAIMS OR INTERESTS THAT DO NOT TIMELY OPT IN SHALL NOT BE RELEASING PARTIES ON ACCOUNT OF SUCH CLAIMS OR INTERESTS. YOU ARE ADVISED TO REVIEW AND CONSIDER THE PLAN CAREFULLY BECAUSE YOUR RIGHTS MIGHT BE AFFECTED THEREUNDER. THIS NOTICE IS BEING SENT TO YOU FOR INFORMATIONAL PURPOSES ONLY.

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Tel: (214) 855-8210
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Email:
michael.berthiaume@nortonrosefulbright.com
Counsel to the Debtors and Debtors in Possession

OPTIONAL: RELEASE OPT-IN FORM

You are receiving this opt-in form (the "***Opt-In Form***") because you are a Holder of a Claim or Interest that is not entitled to vote on the *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements Inc., et al*. (as may be amended, supplemented or otherwise modified from time to time and including all exhibits and supplements thereto, the "***Plan***"). Holders of Claims or Interests that wish to provide the third-party release (the "***Third-Party Release***") set forth in the Plan and reproduced in this notice may affirmatively opt in to such releases by completing and returning this form in accordance with the directions herein on or before **4:00 p.m. (prevailing Central Time) on August 14, 2026** (the "***Opt-In Deadline***"). Holders that do not timely opt in shall not be Releasing Parties on account of such Claims or Interests.

If you believe you are a Holder of a Claim or Interest with respect to the Debtors and choose to opt in to the Third-Party Release set forth in Article XIII.E of the Plan, please promptly complete, sign, and date this Opt-In Form and return it via first class mail, overnight courier, the Solicitation Agent's online E-Ballot, or hand delivery to Kurtzman Carson Consultants, LLC d/b/a Verita Global (the "***Solicitation Agent***") at the address set forth below. Holders are strongly encouraged to submit their Opt-In Form through the Solicitation Agent's online E-Ballot. Parties that submit their Opt-In Form using E-Ballot should **NOT** also submit a paper Opt-In Form.

THIS OPT-IN FORM MUST BE ACTUALLY RECEIVED BY THE SOLICITATION AGENT BY THE OPT-IN DEADLINE. IF THE OPT-IN FORM IS RECEIVED AFTER THE OPT-IN DEADLINE, IT WILL NOT BE COUNTED.

Item 1. Important information regarding the Third-Party Release.

Article XIII.E of the Plan contains the following Third-Party

Release:

As of the Effective Date, in exchange for good and valuable consideration, including the obligations of the Debtors under the Plan, to the fullest extent permissible under applicable law, as such law may be extended or integrated after the Effective Date, each of the Releasing Parties, in each case on behalf of itself and its respective successors, assigns, and representatives, and any and all other Entities who may purport to assert any Cause of Action, directly or derivatively, by, through, for, or because of the foregoing Entities, will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged each Debtor and other Released Party from any and all Causes of Action, whether known or unknown, that such Entity would have been legally entitled to assert in its own right (whether individually or collectively) or on behalf of the Holder of any Claim against, or Interest in, a Debtor or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtors (including the governance, management, ownership or operation thereof), the Debtors' capital structure, the assertion or enforcement of rights and remedies against the Debtors, the Debtors' in- or out-of-court restructuring efforts, intercompany transactions between or among the Debtors and/or their Affiliates, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the GUC Trust, as applicable, and the ownership thereof, the subject matter of, or the transactions or events giving rise to, any Claim or Interest

that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the Cash Collateral Orders, the Prepetition Note Documents, the applicable asset purchase agreements, and the sale transactions, the Chapter 11 Cases and any related adversary proceedings and related prepetition activities, the formulation, preparation, dissemination, negotiation, filing, or consummation of the Plan, contract, instrument, release, or other agreement or document created or entered into in connection with the cash collateral orders, the Prepetition Note Documents, the applicable asset purchase agreements, the sale transactions, the Disclosure Statement, the Plan, or the Plan Supplement, the Debtors' restructuring efforts, the filing of the Chapter 11 Cases, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion, any action or actions taken in furtherance or consistent with administration of the Plan, the issuance or distribution of any debt and/or securities pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release (a) any obligations of any Entity arising on or after the Effective Date under the Plan, the Confirmation Order, any applicable asset purchase agreement, any restructuring transaction, any assumed executory contract or unexpired lease, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan or an applicable section 363 asset sale, (b) any Entity from any claim or Causes of Action related to an act or omission that is determined in a Final Order by a court of competent jurisdiction to have constituted actual fraud, willful misconduct, or gross negligence by such Entity, or (c) any of the Debtors' commercial tort claims and Avoidance Actions transferred to the GUC Trust.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the releases by Holders of Claims and Interests set forth in Article XIII.E of the Plan, which includes by reference each of the related provisions and definitions contained herein, and, further, shall constitute the Bankruptcy Court's finding that such releases are: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the Claims and Causes of Action released by such releases; (3) in the best interests of the Debtors and their Estates; (4) fair, equitable and reasonable; (5) given and made after due notice and opportunity for hearing; (6) an essential component of the Plan; and (7) a bar to any of the Releasing Parties asserting any Claim or Cause of Action released pursuant to such releases. For the avoidance of doubt, the Non-Released Parties are not Released Parties and are not subject to the releases set forth in this Article XIII.E.

* * *

UNDER THE PLAN, "***RELEASED PARTY***" MEANS, COLLECTIVELY, AND IN EACH CASE ONLY IN ITS CAPACITY AS SUCH: (I) EACH OF THE DEBTORS; (II) THE CRO; (III) THE MEMBERS OF THE SPECIAL COMMITTEE; (IV) THE PROFESSIONALS; (V) THE COMMITTEE IN ITS CAPACITY AS SUCH; (VI) EACH MEMBER OF THE COMMITTEE, SOLELY IN ITS CAPACITY AS A MEMBER OF THE COMMITTEE; (VII) EACH OF THE PREPETITION SECURED PARTIES, SOLELY IN THEIR CAPACITIES AS

SUCH; AND (VIII) WITH RESPECT TO EACH OF THE FOREGOING ENTITIES IDENTIFIED IN SUBSECTIONS (I) THROUGH (VII), EACH OF SUCH ENTITIES' RELATED PARTIES, IN EACH CASE OTHER THAN THE NON-RELEASED PARTIES.

UNDER THE PLAN, "***RELEASING PARTY***" MEANS, COLLECTIVELY, AND IN EACH CASE ONLY IN ITS CAPACITY AS SUCH: (I) THE RELEASED PARTIES; (II) EACH CONSENTING CREDITOR; AND (III) WITH RESPECT TO EACH OF THE FOREGOING ENTITIES IDENTIFIED IN SUBSECTIONS (I) THROUGH (II), EACH OF SUCH ENTITIES' RELATED PARTIES.

IMPORTANT INFORMATION REGARDING THE RELEASES

HOLDERS OF CLAIMS OR INTERESTS THAT WISH TO PROVIDE THE RELEASES SET FORTH IN ARTICLE XIII.E MUST AFFIRMATIVELY ELECT TO OPT IN ON THIS FORM. HOLDERS THAT DO NOT TIMELY OPT IN SHALL NOT BE RELEASING PARTIES ON ACCOUNT OF SUCH CLAIMS OR INTERESTS.

THE ELECTION TO GRANT THE THIRD-PARTY RELEASE IS ENTIRELY VOLUNTARY. IF YOU CHECK THE BOX BELOW AND PROPERLY SUBMIT THIS OPT-IN FORM BY THE OPT-IN DEADLINE, YOU WILL BE TREATED AS A RELEASING PARTY UNDER THE PLAN ON ACCOUNT OF YOUR CLAIM OR INTEREST, UNLESS YOU TIMELY FILE AN OBJECTION TO THE RELEASES CONTAINED IN THE PLAN AND THAT OBJECTION IS NOT RESOLVED BEFORE CONFIRMATION. IF YOU DO NOT CHECK THE BOX BELOW, YOU WILL NOT BE A RELEASING PARTY ON ACCOUNT OF YOUR CLAIM OR INTEREST, BUT YOU WILL RECEIVE THE SAME TREATMENT ON ACCOUNT OF YOUR CLAIM OR INTEREST UNDER THE PLAN.

OPTIONAL RELEASE ELECTION. YOU MAY ELECT TO OPT IN TO THE THIRD-PARTY RELEASE CONTAINED IN ARTICLE XIII.E OF THE PLAN ONLY IF YOU CHECK THE BOX BELOW:

☐ **The Undersigned Holder of the Claim or Interest elects to OPT IN to the Third-Party Release.**

Item 2. Certifications.

By signing this Ballot, the undersigned certifies to the Court and the Debtors that:

a. as of the Voting Record Date, either: (i) the Entity is the Holder of a Claim or Interest; or (ii) the Entity is an authorized signatory for the Entity that is a Holder of a Claim or Interest;

b. the Entity (or in the case of an authorized signatory, the Holder) has received a copy of the Notice of Non-Voting Status to Holders of Claims and Interests Conclusively Presumed to Reject the Plan and that this Opt-In Form is made pursuant to the terms and conditions set forth therein;

c. the Entity has submitted the same respective election concerning the releases with respect to all Claims or Interests in a single Class; and

d. no other Opt-In Form has been submitted or, if any other Opt-In Forms have been submitted with respect to such Claims or Interests, then any such earlier Opt-In Forms are hereby revoked.

Name of Holder: _____
(Print or Type)

Signature: _____

Name of Signatory: _____
(If other than Holder)

Title: _____

Address: _____

_____

_____

Telephone Number: _____

Email: _____

Date Completed: _____

IF YOU HAVE MADE THE OPTIONAL OPT-IN ELECTION, PLEASE COMPLETE, SIGN, AND DATE THIS OPT-IN FORM AND RETURN IT PROMPTLY BY ONLY ONE OF THE METHODS BELOW:

If by First-Class Mail, Hand Delivery, or Overnight Mail:
Ascend Ballot Processing Center
c/o KCC dba Verita Global
222 N Pacific Coast Highway, Suite 300
El Segundo, CA 90245

By electronic, online submission:

Please visit https://www.veritaglobal.net/ascend. Click on the "E-Ballot" section of the Debtors' website and follow the directions to submit your Opt-In Form. If you choose to submit your Opt-In Form via the Solicitation Agent's E-Ballot system, you should not also return a hard copy of your Opt-In Form.

IMPORTANT NOTE: You will need the following information to retrieve and submit your customized electronic Opt-In Form:

Unique E-Ballot Password: _____

"E-Balloting" is the sole manner in which this Opt-In Form will be accepted via electronic or online transmission. Opt-In Forms submitted by facsimile or email will not be counted.

THE OPT-IN DEADLINE IS AUGUST 14, 2026 AT 4:00 P.M. (PREVAILING CENTRAL TIME). THE SOLICITATION AGENT MUST *ACTUALLY RECEIVE* YOUR OPT-IN ELECTION ON OR BEFORE THE OPT-IN DEADLINE.

EXHIBIT 4B

Notice of Non-Voting Status (Presumed to Accept)

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)

NOTICE OF NON-VOTING STATUS TO HOLDERS OF UNCLASSIFIED AND UNIMPAIRED CLAIMS CONCLUSIVELY PRESUMED TO ACCEPT THE PLAN

PLEASE TAKE NOTICE THAT:

On April 9, 2026 (the "***Petition Date***"), Ascend Elements, Inc. and its affiliated debtors and debtors-in-possession each filed a voluntary petition for relief under the Bankruptcy Code. On [●], 2026, the Debtors filed the *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., et al*. [Docket No. [●]] (the "***Combined Disclosure Statement and Plan***" or, separately in relevant part, the "***Disclosure Statement***" or the "***Plan***," as applicable).[2]

By an order dated **July 15,** 2026 (the "***Disclosure Statement Order***"), the Court **conditionally approved** the Disclosure Statement as containing adequate information within the meaning of section 1125 of **the** Bankruptcy Code. The Disclosure Statement Order expressly reserves all parties' rights to raise objections to final approval of the adequacy of **the** information in the Disclosure Statement.

On August **17,** 2026 **at 1:00 p.m. (prevailing Central Time), subject to the Court's availability**, a hearing will be held before the Honorable Christopher M. Lopez in the United States Bankruptcy Court for the Southern District of Texas, 515 Rusk Street, 4th Floor, Courtroom 402, Houston, TX 77002, to consider final approval of the **Disclosure** Statement and Confirmation of the Plan, as the same may be amended or modified (the "***Combined Hearing***"). The Combined Hearing may be adjourned from time to time.

Non-Voting Status. You are receiving this notice (this "***Notice***") because of the nature and treatment of your Claim or Interest under the Plan. ***You are not entitled to vote on the Plan***. Specifically, under the terms of the Plan, as a Holder of a Claim (as currently asserted against the Debtors) that is (a) Unimpaired and conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code or (b) unclassified, you are ***not*** entitled to vote on the Plan.

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

[2] All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Combined Disclosure Statement and Plan.

Objection Deadline. The deadline for filing objections to confirmation of the Plan and final approval of the Disclosure Statement is **August 14, 2026 at 4:00 p.m. (prevailing Central Time)** (the "***Objection Deadline***"). Any objection to the relief sought at the Combined Hearing must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Rules; (c) state, with particularity, the legal and factual bases for the objection and, if practicable, a proposed modification to the Plan (or related materials) that would resolve such objection; and (d) be served on the Objection Notice Parties and filed with the Court on or before the Objection Deadline.

Administrative Claims Bar Date. The deadline for Holders of Administrative Claims, other than Professional Fee Claims and Section 503(b)(9) Claims, to file and serve an application for allowance of an Administrative Claim shall be **thirty (30) days after the Effective Date** (the "Administrative Claims Bar Date").

Copies. If you wish to receive paper copies of the Combined Disclosure Statement and Plan, they will be provided, as quickly as practicable, upon request to the voting agent, Kurtzman Carson Consultants, LLC d/b/a Verita Global **(the** "***Solicitation Agent***") by accessing the Solicitation Agent's website at https://www.veritaglobal.net/ascend and are on file with the Clerk of the Bankruptcy Court for the Southern District of Texas, and may be reviewed during the regular hours of the Court or online through the Court's website at https://www.txs.uscourts.gov/page/bankruptcy-court.

ARTICLE XIII OF THE PLAN CONTAINS RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS, AND ARTICLE XIII.E CONTAINS A THIRD-PARTY RELEASE. HOLDERS OF CLAIMS OR INTERESTS THAT WISH TO PROVIDE THE RELEASES SET FORTH IN ARTICLE XIII.E MUST AFFIRMATIVELY ELECT TO OPT IN TO THOSE RELEASES ON THE ENCLOSED FORM. HOLDERS OF CLAIMS OR INTERESTS THAT DO NOT TIMELY OPT IN SHALL NOT BE RELEASING PARTIES ON ACCOUNT OF SUCH CLAIMS OR INTERESTS. YOU ARE ADVISED TO REVIEW AND CONSIDER THE PLAN CAREFULLY BECAUSE YOUR RIGHTS MIGHT BE AFFECTED THEREUNDER. THIS NOTICE IS BEING SENT TO YOU FOR INFORMATIONAL PURPOSES ONLY.

[*Remainder of page intentionally left blank.*]

Houston, Texas
Dated: [●], 2026

NORTON ROSE FULBRIGHT US LLP
Ryan Manns (SBT 24041391)
Maria Mokrzycka (SBT 24119994)
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Houston, TX 77010
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and

Jason I. Blanchard (SBT 24130197)
Michael Berthiaume (SBT 24066039)
2200 Ross Avenue, Suite 3600
Dallas, TX 75201
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Email: jason.blanchard@nortonrosefulbright.com
Email: michael.berthiaume@nortonrosefulbright.com

Counsel to the Debtors and Debtors in Possession

OPTIONAL: RELEASE OPT-IN FORM

You are receiving this opt-in form (the "***Opt-In Form***") because you are a Holder of a Claim or Interest that is not entitled to vote on the *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., et al*. (as may be amended, supplemented or otherwise modified from time to time and including all exhibits and supplements thereto, the "***Plan***"). Holders of Claims or Interests that wish to provide the third-party release (the "***Third-Party Release***") set forth in the Plan and reproduced in this notice may affirmatively opt in to such releases by completing and returning this form in accordance with the directions herein on or before **4:00 p.m. (prevailing Central Time) on August 14, 2026** (the "***Opt-In Deadline***"). Holders that do not timely opt in shall not be Releasing Parties on account of such Claims or Interests.

If you believe you are a Holder of a Claim or Interest with respect to the Debtors and choose to opt in to the Third-Party Release set forth in Article XIII.E of the Plan, please promptly complete, sign, and date this Opt-In Form and return it via first class mail, overnight courier, the Solicitation Agent's online E-Ballot, or hand delivery to Kurtzman Carson Consultants, LLC d/b/a Verita Global (the "***Solicitation Agent***") at the address set forth below. Holders are strongly encouraged to submit their Opt-In Form through the Solicitation Agent's online E-Ballot. Parties that submit their Opt-In Form using E-Ballot should **NOT** also submit a paper Opt-In Form.

THIS OPT-IN FORM MUST BE ACTUALLY RECEIVED BY THE SOLICITATION AGENT BY THE OPT-IN DEADLINE. IF THE OPT-IN FORM IS RECEIVED AFTER THE OPT-IN DEADLINE, IT WILL NOT BE COUNTED.

Item 1. Important information regarding the Third-Party Release.

Article XIII.E of the Plan contains the following Third-Party

Release:

As of the Effective Date, in exchange for good and valuable consideration, including the obligations of the Debtors under the Plan, to the fullest extent permissible under applicable law, as such law may be extended or integrated after the Effective Date, each of the Releasing Parties, in each case on behalf of itself and its respective successors, assigns, and representatives, and any and all other Entities who may purport to assert any Cause of Action, directly or derivatively, by, through, for, or because of the foregoing Entities, will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged each Debtor and other Released Party from any and all Causes of Action, whether known or unknown, that such Entity would have been legally entitled to assert in its own right (whether individually or collectively) or on behalf of the Holder of any Claim against, or Interest in, a Debtor or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtors (including the governance, management, ownership or operation thereof), the Debtors' capital structure, the assertion or enforcement of rights and remedies against the Debtors, the Debtors' in- or out-of-court restructuring efforts, intercompany transactions between or among the Debtors and/or their Affiliates, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the GUC Trust, as applicable, and the ownership thereof, the subject matter of, or the transactions or events giving rise to, any Claim or Interest

that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the Cash Collateral Orders, the Prepetition Note Documents, the applicable asset purchase agreements, and the sale transactions, the Chapter 11 Cases and any related adversary proceedings and related prepetition activities, the formulation, preparation, dissemination, negotiation, filing, or consummation of the Plan, contract, instrument, release, or other agreement or document created or entered into in connection with the cash collateral orders, the Prepetition Note Documents, the applicable asset purchase agreements, the sale transactions, the Disclosure Statement, the Plan, or the Plan Supplement, the Debtors' restructuring efforts, the filing of the Chapter 11 Cases, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion, any action or actions taken in furtherance or consistent with administration of the Plan, the issuance or distribution of any debt and/or securities pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release (a) any obligations of any Entity arising on or after the Effective Date under the Plan, the Confirmation Order, any applicable asset purchase agreement, any restructuring transaction, any assumed executory contract or unexpired lease, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan or an applicable section 363 asset sale, (b) any Entity from any claim or Causes of Action related to an act or omission that is determined in a Final Order by a court of competent jurisdiction to have constituted actual fraud, willful misconduct, or gross negligence by such Entity, or (c) any of the Debtors' commercial tort claims and Avoidance Actions transferred to the GUC Trust.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the releases by Holders of Claims and Interests set forth in Article XIII.E of the Plan, which includes by reference each of the related provisions and definitions contained herein, and, further, shall constitute the Bankruptcy Court's finding that such releases are: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the Claims and Causes of Action released by such releases; (3) in the best interests of the Debtors and their Estates; (4) fair, equitable and reasonable; (5) given and made after due notice and opportunity for hearing; (6) an essential component of the Plan; and (7) a bar to any of the Releasing Parties asserting any Claim or Cause of Action released pursuant to such releases. For the avoidance of doubt, the Non-Released Parties are not Released Parties and are not subject to the releases set forth in this Article XIII.E.

* * *

UNDER THE PLAN, "***RELEASED PARTY***" MEANS, COLLECTIVELY, AND IN EACH CASE ONLY IN ITS CAPACITY AS SUCH: (I) EACH OF THE DEBTORS; (II) THE CRO; (III) THE MEMBERS OF THE SPECIAL COMMITTEE; (IV) THE PROFESSIONALS; (V) THE COMMITTEE IN ITS CAPACITY AS SUCH; (VI) EACH MEMBER OF THE COMMITTEE, SOLELY IN ITS CAPACITY AS A MEMBER OF THE COMMITTEE; (VII) EACH OF THE PREPETITION SECURED PARTIES, SOLELY IN THEIR CAPACITIES AS

SUCH; AND (VIII) WITH RESPECT TO EACH OF THE FOREGOING ENTITIES IDENTIFIED IN SUBSECTIONS (I) THROUGH (VII), EACH OF SUCH ENTITIES' RELATED PARTIES, IN EACH CASE OTHER THAN THE NON-RELEASED PARTIES.

UNDER THE PLAN, "***RELEASING PARTY***" MEANS, COLLECTIVELY, AND IN EACH CASE ONLY IN ITS CAPACITY AS SUCH: (I) THE RELEASED PARTIES; (II) EACH CONSENTING CREDITOR; AND (III) WITH RESPECT TO EACH OF THE FOREGOING ENTITIES IDENTIFIED IN SUBSECTIONS (I) THROUGH (II), EACH OF SUCH ENTITIES' RELATED PARTIES.

IMPORTANT INFORMATION REGARDING THE RELEASES

HOLDERS OF CLAIMS OR INTERESTS THAT WISH TO PROVIDE THE RELEASES SET FORTH IN ARTICLE XIII.E MUST AFFIRMATIVELY ELECT TO OPT IN ON THIS FORM. HOLDERS THAT DO NOT TIMELY OPT IN SHALL NOT BE RELEASING PARTIES ON ACCOUNT OF SUCH CLAIMS OR INTERESTS.

THE ELECTION TO GRANT THE THIRD-PARTY RELEASE IS ENTIRELY VOLUNTARY. IF YOU CHECK THE BOX BELOW AND PROPERLY SUBMIT THIS OPT-IN FORM BY THE OPT-IN DEADLINE, YOU WILL BE TREATED AS A RELEASING PARTY UNDER THE PLAN ON ACCOUNT OF YOUR CLAIM OR INTEREST, UNLESS YOU TIMELY FILE AN OBJECTION TO THE RELEASES CONTAINED IN THE PLAN AND THAT OBJECTION IS NOT RESOLVED BEFORE CONFIRMATION. IF YOU DO NOT CHECK THE BOX BELOW, YOU WILL NOT BE A RELEASING PARTY ON ACCOUNT OF YOUR CLAIM OR INTEREST, BUT YOU WILL RECEIVE THE SAME TREATMENT ON ACCOUNT OF YOUR CLAIM OR INTEREST UNDER THE PLAN.

OPTIONAL RELEASE ELECTION. YOU MAY ELECT TO OPT IN TO THE THIRD-PARTY RELEASE CONTAINED IN ARTICLE XIII.E OF THE PLAN ONLY IF YOU CHECK THE BOX BELOW:

☐ **The Undersigned Holder of the Claim elects to OPT IN to the Third-Party Release.**

Item 2. Certifications.

By signing this Ballot, the undersigned certifies to the Court and the Debtors that:

a. as of the Voting Record Date, either: (i) the Entity is the Holder of a Claim; or (ii) the Entity is an authorized signatory for the Entity that is a Holder of a Claim;

b. the Entity (or in the case of an authorized signatory, the Holder) has received a copy of the Notice of Non-Voting Status to Holders of Unclassified Claims and Unimpaired Claims Conclusively Presumed to Accept the Plan and that this Opt-In Form is made pursuant to the terms and conditions set forth therein;

c. the Entity has submitted the same respective election concerning the releases with respect to all Claims in a single Class; and

d. no other Opt-In Form has been submitted or, if any other Opt-In Forms have been submitted with respect to such Claims, then any such earlier Opt-In Forms are hereby revoked.

Name of Holder: _____
(Print or Type)

Signature: _____

Name of Signatory: _____
(If other than Holder)

Title: _____

Address: _____

_____

_____

Telephone Number: _____

Email: _____

Date Completed: _____

IF YOU HAVE MADE THE OPTIONAL OPT-IN ELECTION, PLEASE COMPLETE, SIGN, AND DATE THIS OPT-IN FORM AND RETURN IT PROMPTLY BY ONLY ONE OF THE METHODS BELOW:

If by First-Class Mail, Hand Delivery, or Overnight Mail:
Ascend Ballot Processing Center
c/o KCC dba Verita Global
222 N Pacific Coast Highway, Suite 300
El Segundo, CA 90245

By electronic, online submission:

Please visit https://www.veritaglobal.net/ascend. Click on the "E-Ballot" section of the Debtors' website and follow the directions to submit your Opt-In Form. If you choose to submit your Opt-In Form via Solicitation Agent's E-Ballot system, you should not also return a hard copy of your Opt-In Form.

IMPORTANT NOTE: You will need the following information to retrieve and submit your customized electronic Opt-In Form:

Unique E-Ballot Password: _____

"E-Balloting" is the sole manner in which this Opt-In Form will be accepted via electronic or online transmission. Opt-In Forms submitted by facsimile or email will not be counted.

THE OPT-IN DEADLINE IS AUGUST 14, 2026 AT 4:00 P.M. (PREVAILING CENTRAL TIME). THE SOLICITATION AGENT MUST *ACTUALLY RECEIVE* YOUR OPT-IN ELECTION ON OR BEFORE THE OPT-IN DEADLINE.

EXHIBIT 2

Form of Ballot

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)

CLASS 3 GENERAL UNSECURED CLAIMS BALLOT FOR VOTING TO ACCEPT OR REJECT THE COMBINED DISCLOSURE STATEMENT AND JOINT PLAN OF LIQUIDATION FOR ASCEND ELEMENTS, INC., *ET AL*.

PLEASE READ AND FOLLOW THE ENCLOSED INSTRUCTIONS FOR COMPLETING BALLOTS CAREFULLY BEFORE COMPLETING THIS BALLOT.

FOR YOUR VOTE TO BE COUNTED, THIS BALLOT MUST BE COMPLETED, EXECUTED, AND RETURNED SO AS TO BE ACTUALLY RECEIVED BY THE SOLICITATION AGENT BY 4:00 P.M. (PREVAILING CENTRAL TIME) ON AUGUST 14, 2026 (THE "*VOTING DEADLINE*"). IF THIS BALLOT IS NOT PROPERLY COMPLETED, EXECUTED, AND RECEIVED BY THE SOLICITATION AGENT ON OR BEFORE THE VOTING DEADLINE, THEN THE VOTES TRANSMITTED BY THIS BALLOT WILL NOT BE COUNTED.

ACCESS TO SOLICITATION MATERIALS:
THE COMBINED PLAN AND DISCLOSURE STATEMENT AND DISCLOSURE STATEMENT ORDER, INCLUDING THE SOLICITATION AND VOTING PROCEDURES MAY BE ACCESSED FREE OF CHARGE AT: HTTPS://VERITAGLOBAL.NET/ASCEND.

YOU CAN ALSO OBTAIN COPIES IN PAPER FORMAT OF ANY SOLICITATION MATERIALS (A) FREE OF CHARGE BY (I) ACCESSING THE DEBTORS' RESTRUCTURING WEBSITE AT HTTPS://VERITAGLOBAL.NET/ASCEND; O R (II) CALLING (866) 927-7078 (TOLL FREE) OR +1 (310) 751-2651 (INTERNATIONAL) AND REQUESTING TO SPEAK WITH A MEMBER OF THE SOLICITATION GROUP; OR (B) FOR A FEE VIA PACER AT HTTP://WWW.TXS.USCOURTS.GOV.

The above-captioned debtors and debtors in possession (collectively, the "***Debtors***") are soliciting votes with respect to the Plan as set forth in the *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., et al.*, and all exhibits related thereto [Docket No. [●]] (as may be amended, supplemented, or otherwise modified from time to time, the "***Plan***," or "***Disclosure Statement***" or "***Combined Disclosure Statement and Plan***," as applicable).[2]

[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 meaning ascribed to such terms in the Combined Disclosure Statement and Plan.

The Bankruptcy Court for the Southern District of Texas (the "***Court***") has conditionally approved the Disclosure Statement as containing adequate information pursuant to section 1125 of the Bankruptcy Code by entry of an order on July 15, 2026 [Docket No. [●]] (the "***Disclosure Statement Order***"). Court approval of the Disclosure Statement does not indicate approval of the Plan by the Court.

Your rights are described in the Combined Disclosure Statement and Plan and related materials, which are available electronically free of charge on the Debtors' restructuring website at https://www.veritaglobal.net/ascend, or for a fee via PACER at http://www.txs.uscourts.gov. You may also request paper or electronic copies of such materials by (a) calling (866) 927-7078 (Toll Free) or +1 (310) 751-2651 (International) and requesting to speak with a member of the Solicitation Group.

You are receiving this ballot (the "***Ballot***") because records indicate that you are the Holder of a General Unsecured Claim in Class 3 as of August 14, 2026 at 4:00 p.m. (prevailing Central Time) (the "***Voting Record Date***").

If the Plan is confirmed by the Court, it will be binding on you whether or not you vote or if you vote to reject the Plan. To have your vote counted, you must complete, sign, and return this Ballot by the Voting Deadline, which is **August 14, 2026 at 4:00 p.m. (prevailing Central Time)**.

This Ballot may not be used for any purpose other than for casting votes to accept or reject the Plan, electing to opt in to the release provisions set forth in the Plan, and making certain certifications with respect to the Plan. If you believe you have received this Ballot in error, or if you believe you have received the wrong ballot, please contact the Solicitation Agent immediately at the address, telephone number, or email address set forth above.

ARTICLE XIII OF THE PLAN CONTAINS RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS, AND ARTICLE XIII.E CONTAINS A THIRD-PARTY RELEASE. HOLDERS OF CLAIMS IN CLASS 3 WHO WISH TO PROVIDE THE RELEASES SET FORTH IN ARTICLE XIII.E MUST AFFIRMATIVELY INDICATE SO BY CHECKING THE "OPT-IN" BOX ON THIS BALLOT. HOLDERS OF CLAIMS IN CLASS 3 THAT VOTE TO ACCEPT THE PLAN, VOTE TO REJECT THE PLAN, OR DO NOT VOTE, AND DO NOT AFFIRMATIVELY MAKE THE OPT-IN ELECTION ON THIS BALLOT SHALL NOT BE DEEMED TO HAVE CONSENTED TO THE RELEASES SET FORTH IN ARTICLE XIII.E. YOU ARE ADVISED TO REVIEW AND CONSIDER THE PLAN CAREFULLY BECAUSE YOUR RIGHTS MIGHT BE AFFECTED THEREUNDER.

You should review the Combined Disclosure Statement and Plan and the instructions contained herein before you vote. You may wish to seek legal advice concerning the Plan and the Plan's classification and treatment of your Claim.

THE DEBTORS AND THE SOLICITATION AGENT ARE NOT AUTHORIZED TO PROVIDE, AND WILL NOT PROVIDE, LEGAL ADVICE.

PLEASE SUBMIT YOUR BALLOT BY *ONLY ONE* OF THE FOLLOWING METHODS:

Via Paper Ballot. Complete, sign, and date this Ballot and return it (with an original signature) promptly in the envelope provided:

If by First-Class Mail, Hand Delivery, or Overnight Mail:

Ascend Ballot Processing Center
c/o KCC dba Verita
222 N Pacific Coast Highway, Suite 300
El Segundo, CA 90245

OR

Via E-Ballot Portal. Submit your Ballot via the Solicitation Agent's online portal, by visiting https://www.veritaglobal.net/ascend. Click on the "E-Ballot" section of the Debtors' website and follow the instructions to submit your E-Ballot.

IMPORTANT NOTE: You will need the following information to retrieve and submit your customized E-Ballot:

Unique E-Ballot Password: _____

"E-Balloting" is the sole manner in which Ballots will be accepted via electronic or online transmission. Ballots submitted by facsimile or email will not be counted.

Each E-Ballot Password is to be used solely for voting only those Claims described in Item 1 of your electronic Ballot. Please complete and submit an electronic Ballot for each E-Ballot Password you receive, as applicable. Creditors who cast a Ballot using E-Ballot should NOT also submit a paper Ballot.

Item 1. Amount of Claim.

The undersigned hereby certifies that as of the Voting Record Date, the undersigned was the Holder of General Unsecured Claims in the following aggregate unpaid amount (insert amount in box below):

$_____
Debtor _____

Any admission of Claims and Interest for purposes of voting on the Plan is not an admission of liability on the part of the Debtors or any other party for payment purposes.

Item 2. Vote on Plan.

The Holder of the General Unsecured Claims set forth in Item 1 votes to (please check only one):

☐ **ACCEPT** (vote FOR) the Plan	☐ **REJECT** (vote AGAINST) the Plan

Item 3. Important information regarding the third-party release provision in the Plan (the "*Third-Party Release*").

Article XIII.E of the Plan contains the following Third-Party Release:

As of the Effective Date, in exchange for good and valuable consideration, including the obligations of the Debtors under the Plan, to the fullest extent permissible under applicable law, as such law may be extended or integrated after the Effective Date, each of the Releasing Parties, in each case on behalf of itself and its respective successors, assigns, and representatives, and any and all other Entities who may purport to assert any Cause of Action, directly or derivatively, by, through, for, or because of the foregoing Entities, will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged each Debtor and other Released Party from any and all Causes of Action, whether known or unknown, that such Entity would have been legally entitled to assert in its own right (whether individually or collectively) or on behalf of the Holder of any Claim against, or Interest in, a Debtor or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtors (including the governance, management, ownership or operation thereof), the Debtors' capital structure, the assertion or enforcement of rights and remedies against the Debtors, the Debtors' in- or out-of-court restructuring efforts, intercompany transactions between or among the Debtors and/or their Affiliates, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the GUC Trust, as applicable, and the ownership thereof, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the Cash Collateral Orders, the Prepetition Note Documents, the applicable asset purchase agreements, and the sale transactions, the Chapter 11 Cases and any related adversary proceedings and related prepetition activities, the formulation, preparation, dissemination, negotiation, filing, or consummation of the Plan, contract, instrument, release, or other agreement or document created or entered into in connection with the cash collateral orders, the Prepetition Note Documents, the applicable asset purchase agreements, the sale transactions, the Disclosure Statement, the Plan, or the Plan Supplement, the Debtors' restructuring efforts, the filing of the Chapter 11 Cases, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion, any action or actions taken in furtherance or consistent with administration of the Plan, the issuance or distribution of any debt and/or securities pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release (a) any obligations of any Entity arising on or after the Effective Date under the Plan, the Confirmation Order, any applicable asset purchase agreement, any restructuring transaction, any assumed executory contract or unexpired lease, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan or an applicable section 363 asset sale, (b) any Entity from any claim or Causes of Action related to an act or omission that is determined in a Final Order by a court of competent jurisdiction to have constituted actual fraud, willful

misconduct, or gross negligence by such Entity, or (c) any of the Debtors' commercial tort claims and Avoidance Actions transferred to the GUC Trust.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the releases by Holders of Claims and Interests set forth in Article XIII.E of the Plan, which includes by reference each of the related provisions and definitions contained herein, and, further, shall constitute the Bankruptcy Court's finding that such releases are: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the Claims and Causes of Action released by such releases; (3) in the best interests of the Debtors and their Estates; (4) fair, equitable and reasonable; (5) given and made after due notice and opportunity for hearing; (6) an essential component of the Plan; and (7) a bar to any of the Releasing Parties asserting any Claim or Cause of Action released pursuant to such releases. For the avoidance of doubt, the Non-Released Parties are not Released Parties and are not subject to the releases set forth in this Article XIII.E.

* * *

UNDER THE PLAN, "***RELEASED PARTY***" MEANS, COLLECTIVELY, AND IN EACH CASE ONLY IN ITS CAPACITY AS SUCH: (I) EACH OF THE DEBTORS; (II) THE CRO; (III) THE MEMBERS OF THE SPECIAL COMMITTEE; (IV) THE PROFESSIONALS; (V) THE COMMITTEE IN ITS CAPACITY AS SUCH; (VI) EACH MEMBER OF THE COMMITTEE, SOLELY IN ITS CAPACITY AS A MEMBER OF THE COMMITTEE; (VII) EACH OF THE PREPETITION SECURED PARTIES, SOLELY IN THEIR CAPACITIES AS SUCH; AND (VIII) WITH RESPECT TO EACH OF THE FOREGOING ENTITIES IDENTIFIED IN SUBSECTIONS (I) THROUGH (VII), EACH OF SUCH ENTITIES' RELATED PARTIES, IN EACH CASE OTHER THAN THE NON-RELEASED PARTIES.

UNDER THE PLAN, "***RELEASING PARTY***" MEANS, COLLECTIVELY, AND IN EACH CASE ONLY IN ITS CAPACITY AS SUCH: (I) THE RELEASED PARTIES; (II) EACH CONSENTING CREDITOR; AND (III) WITH RESPECT TO EACH OF THE FOREGOING ENTITIES IDENTIFIED IN SUBSECTIONS (I) THROUGH (II), EACH OF SUCH ENTITIES' RELATED PARTIES.

IMPORTANT INFORMATION REGARDING THE RELEASES

HOLDERS OF CLAIMS IN CLASS 3 WHO WISH TO PROVIDE THE RELEASES SET FORTH IN ARTICLE XIII.E MUST AFFIRMATIVELY ELECT TO OPT IN ON THIS BALLOT. HOLDERS THAT DO NOT TIMELY OPT IN SHALL NOT BE RELEASING PARTIES ON ACCOUNT OF THEIR CLAIMS.

THE ELECTION TO GRANT THE THIRD-PARTY RELEASE IS ENTIRELY VOLUNTARY. IF YOU CHECK THE BOX BELOW AND TIMELY SUBMIT THIS BALLOT, YOU WILL BE TREATED AS A RELEASING PARTY UNDER THE PLAN ON ACCOUNT OF YOUR CLAIM, UNLESS YOU TIMELY FILE AN OBJECTION TO THE RELEASES CONTAINED IN THE PLAN AND THAT OBJECTION IS NOT RESOLVED BEFORE CONFIRMATION. IF YOU DO NOT CHECK THE BOX BELOW, YOU WILL NOT BE A RELEASING PARTY ON ACCOUNT OF YOUR CLAIM, BUT YOU WILL RECEIVE THE SAME TREATMENT ON ACCOUNT OF YOUR CLAIM UNDER THE PLAN.

OPTIONAL RELEASE ELECTION. YOU MAY ELECT TO OPT IN TO THE THIRD-PARTY RELEASE CONTAINED IN ARTICLE XIII.E OF THE PLAN ONLY IF YOU CHECK THE BOX BELOW.

The Undersigned Holder of the Claims identified in Item 1 elects to:

☐ **OPT IN to the Third-Party Release.**

Item 4. Certifications.

By signing this Ballot, the undersigned certifies to the Court and the Debtors that:

(a) as of the Voting Record Date, either: (i) the Entity is the Holder of the General Unsecured Claims being voted; or (ii) the Entity is an authorized signatory for an Entity that is a Holder of the General Unsecured Claims being voted;

(b) the Entity (or in the case of an authorized signatory, the Holder) has received the Solicitation Package and acknowledges that the solicitation is being made pursuant to the terms and conditions set forth therein;

(c) the Entity has cast the same vote with respect to all of its General Unsecured Claims; and

(d) no other Ballots with respect to the amount of the General Unsecured Claims identified in Item 1 have been cast or, if any other Ballots have been cast with respect to such General Unsecured Claims, then any such earlier Ballots are hereby revoked.

Name of Holder: _____
(Print or Type)

Signature: _____

Name of Signatory: _____
(If other than Holder)

Title: _____

Address: _____

_____

_____

Telephone Number: _____

Email: _____

Date Completed: _____

IF THE SOLICITATION AGENT DOES NOT ACTUALLY RECEIVE THIS BALLOT ON OR BEFORE 4:00 P.M. (PREVAILING CENTRAL TIME) ON AUGUST 14, **2026, AND IF THE VOTING DEADLINE IS NOT EXTENDED, YOUR VOTE TRANSMITTED BY THIS BALLOT MAY BE COUNTED TOWARD CONFIRMATION OF THE PLAN ONLY IN THE DISCRETION OF THE DEBTORS.**

INSTRUCTIONS FOR COMPLETING THIS BALLOT

1. The Debtors are soliciting the votes of Holders of Claims with respect to the Plan. **PLEASE READ THE COMBINED DISCLOSURE STATEMENT AND PLAN CAREFULLY BEFORE COMPLETING THIS BALLOT**.

2. The Plan can be confirmed by the Court and thereby made binding upon you if it is accepted by the Holders of at least two-thirds in total dollar amount and more than one-half in number of Claims in each Class entitled to vote on the Plan that actually vote on the Plan and if the Plan otherwise satisfies the requirements for Confirmation provided by section 1129(a) of the Bankruptcy Code. Please review the Disclosure Statement for more information.

3. To ensure that your Ballot is counted, you ***must*** complete and submit this Ballot as instructed herein. **Ballots will not be accepted by electronic mail or facsimile.**

4. **Use of Ballot**. To ensure that your Ballot is counted, you must: (a) complete your Ballot in accordance with these instructions; (b) clearly indicate your decision either to accept or reject the Plan in the boxes provided in Item 2 of the Ballot; and (c) clearly sign and submit your Ballot as instructed herein.

5. Your Ballot ***must*** be returned to the Solicitation Agent so as to be ***actually received*** by the Solicitation Agent on or before the Voting Deadline. **The Voting Deadline is August 14, 2026 at 4:00 p.m. (prevailing Central Time).**

6. If a Ballot is received after the Voting Deadline and if the Voting Deadline is not extended, it may be counted only in the sole and absolute discretion of the Debtors. Additionally, the following Ballots will not be counted:

    a. any Ballot that partially rejects and partially accepts the Plan;

    b. Ballots sent to the Debtors, the Debtors' agents (other than the Solicitation Agent), any agent, indenture trustee, or the Debtors' financial or legal advisors;

    c. Ballots sent by electronic mail or facsimile;

    d. any Ballot that is illegible or contains insufficient information to permit the identification of the Holder of the Claim;

    e. any Ballot cast by an Entity that does not hold a General Unsecured Claim;

    f. any Ballot submitted by a Holder not entitled to vote pursuant to the Plan;

g. any unsigned Ballot (for the avoidance of doubt, Ballots validly submitted through E-Ballot will be deemed signed);

h. any non-original Ballot (for the avoidance of doubt, Ballots validly submitted through E-Ballot will be deemed original); and/or

i. any Ballot not marked to accept or reject the Plan or any Ballot marked both to accept and reject the Plan.

7. The method of delivery of Ballots to the Solicitation Agent is at the election and risk of each Holder of a General Unsecured Claim. Except as otherwise provided herein, such delivery will be deemed made only when the Solicitation Agent ***actually receives*** the originally executed Ballot. In all cases, Holders should allow sufficient time to assure timely delivery.

8. If multiple Ballots are received from the same Holder of a Class 3 General Unsecured Claim with respect to the same Class 3 General Unsecured Claim prior to the Voting Deadline, the latest, timely received, and properly completed Ballot will supersede and revoke any earlier received Ballots.

9. You must vote all of your General Unsecured Claims, regardless if such Claims are asserted against one or multiple Debtors, either to accept or reject the Plan and may ***not*** split your vote.

10. This Ballot does ***not*** constitute, and shall not be deemed to be, (a) a Proof of Claim or (b) an assertion or admission of a Claim.

11. **Please be sure to sign and date your Ballot**. If you are signing a Ballot in your capacity as a trustee, executor, administrator, guardian, attorney in fact, officer of a corporation, or otherwise acting in a fiduciary or representative capacity, you must indicate such capacity when signing and, if required or requested by the Solicitation Agent, the Debtors, or the Court, must submit proper evidence to the requesting party to so act on behalf of such Holder. In addition, please provide your name and mailing address if it is different from that set forth on the attached mailing label or if no such mailing label is attached to the ballot.

PLEASE SUBMIT YOUR BALLOT PROMPTLY

IF THE SOLICITATION AGENT DOES NOT ACTUALLY RECEIVE THIS BALLOT ON OR BEFORE THE VOTING DEADLINE, WHICH IS AUGUST 14, 2026 AT 4:00 P.M. (PREVAILING CENTRAL TIME), AND IF THE VOTING DEADLINE IS NOT EXTENDED, YOUR VOTE TRANSMITTED HEREBY MAY BE COUNTED ONLY IN THE DISCRETION OF THE DEBTORS.

EXHIBIT 3

Combined Hearing Notice

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)

NOTICE OF (I) COMBINED HEARING TO CONSIDER FINAL APPROVAL OF DISCLOSURE STATEMENT AND CONFIRMATION OF CHAPTER 11 PLAN FILED BY THE DEBTORS, (II) RELATED VOTING AND OBJECTION DEADLINES, AND (III) BAR DATE FOR FILING ADMINISTRATIVE CLAIMS

PLEASE TAKE NOTICE that on July 15, 2026, the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "***Court***") entered an order [Docket No. [●]] (the "***Disclosure Statement Order***"): (i) authorizing Ascend Elements, Inc. and its affiliated debtors and debtors in possession (collectively, the "***Debtors***") to solicit acceptances for the *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., et al*. [Docket No. [●]] (as modified, amended, or supplemented from time to time and including all exhibits and supplements thereto, the "***Plan***," or "***Disclosure Statement***," or "***Combined Disclosure Statement and Plan***," as applicable),[2] (ii) conditionally approving the Disclosure Statement as containing "adequate information" pursuant to section 1125 of the Bankruptcy Code; (iii) approving the solicitation materials and documents to be included in the solicitation package (the "***Solicitation Package***"); (iv) approving procedures for soliciting, noticing, receiving, and tabulating votes on the Plan; and (v) scheduling certain dates with respect thereto.

PLEASE TAKE FURTHER NOTICE that a hearing to consider final approval of the Disclosure Statement and Confirmation of the Plan (the "***Combined Hearing***") will commence on **August 17,** 2026 at **1:00 p.m**. (prevailing Central Time**), subject to the Court's availability,** before the Honorable Christopher M. Lopez in the United States Bankruptcy Court for the Southern District of Texas, located at 515 Rusk Street, Courtroom 402, Houston, Texas, 77002. Please be advised that the Combined Hearing may be continued from time to time by the Court or the Debtors without further notice other than by such adjournment being announced in open court or by a notice of adjournment filed with the Court and served on other parties entitled to notice. The Plan may be modified, if necessary, prior to, during, or as a result of the Combined Hearing.

PLEASE TAKE FURTHER NOTICE that parties may participate in the Combined Hearing either in person or by an audio and video connection. Audio communication will be

[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] All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Combined Disclosure Statement and Plan.

by use of the Court's dial-in facility. You may access the facility at (832) 917-1510. Once connected, you will be asked to enter the conference room number. Judge Lopez's conference room number is 590153. Video communication will be by use of the GoToMeeting platform. Connect via the free GoToMeeting application or click the link on Judge Lopez's home page. The meeting code is "JudgeLopez". Click the settings icon in the upper right corner and enter your name under the personal information setting. Hearing appearances must be made electronically in advance of both electronic and in-person hearings. To make your appearance, click the "Electronic Appearance" link on Judge Lopez's home page. Select the case name, complete the required fields and click "Submit" to complete your appearance.

CRITICAL INFORMATION REGARDING VOTING ON THE PLAN

Voting Record Date. The voting record date is August 14, 2026 at 4:00 p.m. (prevailing Central Time) (the "***Voting Record Date***"), which is the date for determining which Holders of Claims are entitled to vote on the Plan.

Voting Deadline. The deadline to vote on the Plan is **August 14, 2026 at 4:00 p.m. (prevailing Central Time) (**the "***Voting Deadline***"). If you received the Solicitation Package, including a Ballot and intend to vote on the Plan you ***must***: (i) follow the instructions contained on your Ballot carefully; (ii) complete ***all*** of the required information on the Ballot; and (iii) execute and return your completed Ballot according to and as set forth in detail in the voting instructions so that it is ***actually received*** by the Solicitation Agent, on or before the Voting Deadline.

Temporary Allowance Deadline. If a Holder of a Claim wishes to challenge the allowance or classification of its Claim for voting purposes, it must file and serve on the Objection Notice Parties a motion pursuant to Bankruptcy Rule 3018(a), requesting that the Court temporarily allow its Claim in a different amount or with a different classification for purposes of voting to accept or reject the Plan. Such motions must be filed by 4:00 p.m. (prevailing Central Time) on **the later of (a) August 14, 2026 and (b) if such Rule 3018 Motion relates to a Disputed Claim, the fifth day after such Claim became a Disputed Claim** (the "***Rule 3018 Motion Deadline***").

Failure to follow such instructions may disqualify your vote.

CRITICAL INFORMATION REGARDING OBJECTING TO THE PLAN

ARTICLE XIII OF THE PLAN CONTAINS RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS, AND ARTICLE XIII.E CONTAINS A THIRD-PARTY RELEASE. YOU ARE ADVISED TO REVIEW AND CONSIDER THE PLAN CAREFULLY BECAUSE YOUR RIGHTS MIGHT BE AFFECTED THEREUNDER.

Confirmation Objection Deadline. The deadline for filing objections to confirmation of the Plan and the adequacy of the Disclosure Statement is **August 14, 2026 at 4:00 p.m. (prevailing Central Time)** (the "***Objection Deadline***"). Any objection to the relief sought at the Combined Hearing must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Rules; (c) state, with particularity, the legal and factual bases for the objection and, if practicable, a proposed modification to the Plan (or related materials) that would resolve such objection; and (d) be Filed with the Court and served on the Objection Notice Parties on or before the Objection Deadline.

IF AN OBJECTION TO CONFIRMATION OF THE PLAN OR FINAL APPROVAL OF THE DISCLOSURE STATEMENT IS NOT FILED AND SERVED STRICTLY AS PRESCRIBED HEREIN, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT.

ADDITIONAL INFORMATION REGARDING THE COMBINED DISCLOSURE STATEMENT AND PLAN

Obtaining Solicitation Materials. If you wish to receive paper copies of the Combined Disclosure Statement and Plan, they will be provided, as quickly as practicable, upon request to the voting agent, Kurtzman Carson Consultants, LLC d/b/a Verita Global (the "***Solicitation Agent***") by accessing the Solicitation Agent's website at https://www.veritaglobal.net/ascend and are on file with the Clerk of the Bankruptcy Court for the Southern District of Texas, and may be reviewed during the regular hours of the Court or online through the Court's website at https://www.txs.uscourts.gov/page/bankruptcy-court.

The Plan Supplement. The Debtors will file the Plan Supplement on or before **August 10, 2026,** and will serve notice on parties in interest, which will (a) inform parties that the Debtors filed the Plan Supplement; (b) list the information contained in the Plan Supplement; and (c) explain how parties may obtain copies of the Plan Supplement.

Administrative Claims Bar Date. The deadline for Holders of Administrative Claims, other than Professional Fee Claims and Section 503(b)(9) Claims, to file and serve an application for allowance of an Administrative Claim shall be **thirty (30) days after the Effective Date** (the "Administrative Claims Bar Date").

IF YOU HAVE ANY QUESTIONS REGARDING YOUR CLAIM OR THE VOTING PROCEDURES, OR IF YOU NEED A BALLOT OR ADDITIONAL COPIES OF THE COMBINED DISCLOSURE STATEMENT AND PLAN OR OTHER ENCLOSED MATERIALS, PLEASE CONTACT THE SOLICITATION AGENT AS SET FORTH ABOVE.

BINDING NATURE OF THE PLAN

IF CONFIRMED, THE PLAN SHALL BIND ALL HOLDERS OF CLAIMS AND INTERESTS TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WHETHER OR NOT SUCH HOLDER WILL RECEIVE OR RETAIN ANY PROPERTY OR INTEREST IN PROPERTY UNDER THE PLAN, HAS FILED A PROOF OF CLAIM IN THESE CHAPTER 11 CASES, OR FAILED TO VOTE TO ACCEPT OR REJECT THE PLAN OR VOTED TO REJECT THE PLAN.

[*Remainder of page intentionally left blank.*]

Houston, Texas
Dated: [●], 2026

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Email:
michael.berthiaume@nortonrosefulbright.com
Counsel to the Debtors and Debtors in Possession

EXHIBIT 4A

Notice of Non-Voting Status (Presumed to Reject)

by use of the Court's dial-in facility. You may access the facility at (832) 917-1510. Once connected, you will be asked to enter the conference room number. Judge Lopez's conference room number is 590153. Video communication will be by use of the GoToMeeting platform. Connect via the free GoToMeeting application or click the link on Judge Lopez's home page. The meeting code is "JudgeLopez". Click the settings icon in the upper right corner and enter your name under the personal information setting. Hearing appearances must be made electronically in advance of both electronic and in-person hearings. To make your appearance, click the "Electronic Appearance" link on Judge Lopez's home page. Select the case name, complete the required fields and click "Submit" to complete your appearance.

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The Plan Supplement. The Debtors will file the Plan Supplement on or before **August 10, 2026,** and will serve notice on parties in interest, which will (a) inform parties that the Debtors filed the Plan Supplement; (b) list the information contained in the Plan Supplement; and (c) explain how parties may obtain copies of the Plan Supplement.

Administrative Claims Bar Date. The deadline for Holders of Administrative Claims, other than Professional Fee Claims and Section 503(b)(9) Claims, to file and serve an application for allowance of an Administrative Claim shall be **thirty (30) days after the Effective Date** (the "Administrative Claims Bar Date").

IF YOU HAVE ANY QUESTIONS REGARDING YOUR CLAIM OR THE VOTING PROCEDURES, OR IF YOU NEED A BALLOT OR ADDITIONAL COPIES OF THE COMBINED DISCLOSURE STATEMENT AND PLAN OR OTHER ENCLOSED MATERIALS, PLEASE CONTACT THE SOLICITATION AGENT AS SET FORTH ABOVE.

BINDING NATURE OF THE PLAN

IF CONFIRMED, THE PLAN SHALL BIND ALL HOLDERS OF CLAIMS AND INTERESTS TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WHETHER OR NOT SUCH HOLDER WILL RECEIVE OR RETAIN ANY PROPERTY OR INTEREST IN PROPERTY UNDER THE PLAN, HAS FILED A PROOF OF CLAIM IN THESE CHAPTER 11 CASES, OR FAILED TO VOTE TO ACCEPT OR REJECT THE PLAN OR VOTED TO REJECT THE PLAN.

[*Remainder of page intentionally left blank.*]

Houston, Texas
Dated: [●], 2026

NORTON ROSE FULBRIGHT US LLP
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and

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Email:
michael.berthiaume@nortonrosefulbright.com
Counsel to the Debtors and Debtors in Possession

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)

NOTICE OF NON-VOTING STATUS TO HOLDERS OF IMPAIRED CLAIMS AND INTERESTS CONCLUSIVELY DEEMED TO REJECT THE PLAN

PLEASE TAKE NOTICE THAT:

On April 9, 2026 (the "***Petition Date***"), Ascend Elements, Inc. and its affiliated debtors and debtors-in-possession each filed a voluntary petition for relief under the Bankruptcy Code. On [●], 2026, the Debtors filed the *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., et al*. [Docket No. [●]] (the "***Combined Disclosure Statement and Plan***" or, separately in relevant part, the "***Disclosure Statement***" or the "***Plan***," as applicable).[2]

By an order dated **July 15,** 2026 (the "***Disclosure Statement Order***"), the Court **conditionally approved** the Disclosure Statement as containing adequate information within the meaning of section 1125 of **the** Bankruptcy Code. The Disclosure Statement Order expressly reserves all parties' rights to raise objections to final approval of the adequacy of **the** information in the Disclosure Statement.

On August **17,** 2026 **at 1:00 p.m. (prevailing Central Time), subject to the Court's availability**, a hearing will be held before the Honorable Christopher M. Lopez in the United States Bankruptcy Court for the Southern District of Texas, 515 Rusk Street, 4th Floor, Courtroom 402, Houston, TX 77002, to consider final approval of the Disclosure Statement and Confirmation of the Plan, as the same may be amended or modified (the "***Combined Hearing***"). The Combined Hearing may be adjourned from time to time.

Non-Voting Status. You are receiving this notice (this "***Notice***") because of the nature and treatment of your Claim or Interest under the Plan. ***You are not entitled to vote on the Plan.*** Specifically, under the terms of the Plan, as a Holder of a Claim (as currently asserted against the Debtors) or Interest in the Debtors that is Impaired and conclusively deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code, you are ***not*** entitled to vote on the Plan. If, notwithstanding this Notice of your non-voting status, you believe that

[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] All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Combined Disclosure Statement and Plan.

you may have a Claim against or Interest in the Debtors that entitles you to vote on the Plan, you should immediately request the appropriate Ballot by contacting the Solicitation Agent.

Objection Deadline. The deadline for filing objections to confirmation of the Plan and final approval of the Disclosure Statement is **August 14, 2026 at 4:00 p.m. (prevailing Central Time)** (the "***Objection Deadline***"). Any objection to the relief sought at the Combined Hearing must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Rules; (c) state, with particularity, the legal and factual bases for the objection and, if practicable, a proposed modification to the Plan (or related materials) that would resolve such objection; and (d) be served on the Objection Notice Parties and filed with the Court on or before the Objection Deadline.

Administrative Claims Bar Date. The deadline for Holders of Administrative Claims, other than Professional Fee Claims and Section 503(b)(9) Claims, to file and serve an application for allowance of an Administrative Claim shall be **thirty (30) days after the Effective Date** (the "Administrative Claims Bar Date").

Copies. If you wish to receive paper copies of the Combined Disclosure Statement and Plan, they will be provided, as quickly as practicable, upon request to the voting agent, Kurtzman Carson Consultants, LLC d/b/a Verita Global **(the** "***Solicitation Agent***") by accessing the Solicitation Agent's website at https://www.veritaglobal.net/ascend and are on file with the Clerk of the Bankruptcy Court for the Southern District of Texas, and may be reviewed during the regular hours of the Court or online through the Court's website at https://www.txs.uscourts.gov/page/bankruptcy-court.

ARTICLE XIII OF THE PLAN CONTAINS RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS, AND ARTICLE XIII.E CONTAINS A THIRD-PARTY RELEASE. HOLDERS OF CLAIMS OR INTERESTS THAT WISH TO PROVIDE THE RELEASES SET FORTH IN ARTICLE XIII.E MUST AFFIRMATIVELY ELECT TO OPT IN TO THOSE RELEASES ON THE ENCLOSED FORM. HOLDERS OF CLAIMS OR INTERESTS THAT DO NOT TIMELY OPT IN SHALL NOT BE RELEASING PARTIES ON ACCOUNT OF SUCH CLAIMS OR INTERESTS. YOU ARE ADVISED TO REVIEW AND CONSIDER THE PLAN CAREFULLY BECAUSE YOUR RIGHTS MIGHT BE AFFECTED THEREUNDER. THIS NOTICE IS BEING SENT TO YOU FOR INFORMATIONAL PURPOSES ONLY.

NORTON ROSE FULBRIGHT US LLP
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Email:
michael.berthiaume@nortonrosefulbright.com
Counsel to the Debtors and Debtors in Possession

OPTIONAL: RELEASE OPT-IN FORM

You are receiving this opt-in form (the "***Opt-In Form***") because you are a Holder of a Claim or Interest that is not entitled to vote on the *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements Inc., et al*. (as may be amended, supplemented or otherwise modified from time to time and including all exhibits and supplements thereto, the "***Plan***"). Holders of Claims or Interests that wish to provide the third-party release (the "***Third-Party Release***") set forth in the Plan and reproduced in this notice may affirmatively opt in to such releases by completing and returning this form in accordance with the directions herein on or before **4:00 p.m. (prevailing Central Time) on August 14, 2026** (the "***Opt-In Deadline***"). Holders that do not timely opt in shall not be Releasing Parties on account of such Claims or Interests.

If you believe you are a Holder of a Claim or Interest with respect to the Debtors and choose to opt in to the Third-Party Release set forth in Article XIII.E of the Plan, please promptly complete, sign, and date this Opt-In Form and return it via first class mail, overnight courier, the Solicitation Agent's online E-Ballot, or hand delivery to Kurtzman Carson Consultants, LLC d/b/a Verita Global (the "***Solicitation Agent***") at the address set forth below. Holders are strongly encouraged to submit their Opt-In Form through the Solicitation Agent's online E-Ballot. Parties that submit their Opt-In Form using E-Ballot should **NOT** also submit a paper Opt-In Form.

THIS OPT-IN FORM MUST BE ACTUALLY RECEIVED BY THE SOLICITATION AGENT BY THE OPT-IN DEADLINE. IF THE OPT-IN FORM IS RECEIVED AFTER THE OPT-IN DEADLINE, IT WILL NOT BE COUNTED.

Item 1. Important information regarding the Third-Party Release.

Article XIII.E of the Plan contains the following Third-Party

Release:

As of the Effective Date, in exchange for good and valuable consideration, including the obligations of the Debtors under the Plan, to the fullest extent permissible under applicable law, as such law may be extended or integrated after the Effective Date, each of the Releasing Parties, in each case on behalf of itself and its respective successors, assigns, and representatives, and any and all other Entities who may purport to assert any Cause of Action, directly or derivatively, by, through, for, or because of the foregoing Entities, will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged each Debtor and other Released Party from any and all Causes of Action, whether known or unknown, that such Entity would have been legally entitled to assert in its own right (whether individually or collectively) or on behalf of the Holder of any Claim against, or Interest in, a Debtor or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtors (including the governance, management, ownership or operation thereof), the Debtors' capital structure, the assertion or enforcement of rights and remedies against the Debtors, the Debtors' in- or out-of-court restructuring efforts, intercompany transactions between or among the Debtors and/or their Affiliates, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the GUC Trust, as applicable, and the ownership thereof, the subject matter of, or the transactions or events giving rise to, any Claim or Interest

that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the Cash Collateral Orders, the Prepetition Note Documents, the applicable asset purchase agreements, and the sale transactions, the Chapter 11 Cases and any related adversary proceedings and related prepetition activities, the formulation, preparation, dissemination, negotiation, filing, or consummation of the Plan, contract, instrument, release, or other agreement or document created or entered into in connection with the cash collateral orders, the Prepetition Note Documents, the applicable asset purchase agreements, the sale transactions, the Disclosure Statement, the Plan, or the Plan Supplement, the Debtors' restructuring efforts, the filing of the Chapter 11 Cases, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion, any action or actions taken in furtherance or consistent with administration of the Plan, the issuance or distribution of any debt and/or securities pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release (a) any obligations of any Entity arising on or after the Effective Date under the Plan, the Confirmation Order, any applicable asset purchase agreement, any restructuring transaction, any assumed executory contract or unexpired lease, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan or an applicable section 363 asset sale, (b) any Entity from any claim or Causes of Action related to an act or omission that is determined in a Final Order by a court of competent jurisdiction to have constituted actual fraud, willful misconduct, or gross negligence by such Entity, or (c) any of the Debtors' commercial tort claims and Avoidance Actions transferred to the GUC Trust.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the releases by Holders of Claims and Interests set forth in Article XIII.E of the Plan, which includes by reference each of the related provisions and definitions contained herein, and, further, shall constitute the Bankruptcy Court's finding that such releases are: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the Claims and Causes of Action released by such releases; (3) in the best interests of the Debtors and their Estates; (4) fair, equitable and reasonable; (5) given and made after due notice and opportunity for hearing; (6) an essential component of the Plan; and (7) a bar to any of the Releasing Parties asserting any Claim or Cause of Action released pursuant to such releases. For the avoidance of doubt, the Non-Released Parties are not Released Parties and are not subject to the releases set forth in this Article XIII.E.

* * *

UNDER THE PLAN, "***RELEASED PARTY***" MEANS, COLLECTIVELY, AND IN EACH CASE ONLY IN ITS CAPACITY AS SUCH: (I) EACH OF THE DEBTORS; (II) THE CRO; (III) THE MEMBERS OF THE SPECIAL COMMITTEE; (IV) THE PROFESSIONALS; (V) THE COMMITTEE IN ITS CAPACITY AS SUCH; (VI) EACH MEMBER OF THE COMMITTEE, SOLELY IN ITS CAPACITY AS A MEMBER OF THE COMMITTEE; (VII) EACH OF THE PREPETITION SECURED PARTIES, SOLELY IN THEIR CAPACITIES AS

SUCH; AND (VIII) WITH RESPECT TO EACH OF THE FOREGOING ENTITIES IDENTIFIED IN SUBSECTIONS (I) THROUGH (VII), EACH OF SUCH ENTITIES' RELATED PARTIES, IN EACH CASE OTHER THAN THE NON-RELEASED PARTIES.

UNDER THE PLAN, "***RELEASING PARTY***" MEANS, COLLECTIVELY, AND IN EACH CASE ONLY IN ITS CAPACITY AS SUCH: (I) THE RELEASED PARTIES; (II) EACH CONSENTING CREDITOR; AND (III) WITH RESPECT TO EACH OF THE FOREGOING ENTITIES IDENTIFIED IN SUBSECTIONS (I) THROUGH (II), EACH OF SUCH ENTITIES' RELATED PARTIES.

IMPORTANT INFORMATION REGARDING THE RELEASES

HOLDERS OF CLAIMS OR INTERESTS THAT WISH TO PROVIDE THE RELEASES SET FORTH IN ARTICLE XIII.E MUST AFFIRMATIVELY ELECT TO OPT IN ON THIS FORM. HOLDERS THAT DO NOT TIMELY OPT IN SHALL NOT BE RELEASING PARTIES ON ACCOUNT OF SUCH CLAIMS OR INTERESTS.

THE ELECTION TO GRANT THE THIRD-PARTY RELEASE IS ENTIRELY VOLUNTARY. IF YOU CHECK THE BOX BELOW AND PROPERLY SUBMIT THIS OPT-IN FORM BY THE OPT-IN DEADLINE, YOU WILL BE TREATED AS A RELEASING PARTY UNDER THE PLAN ON ACCOUNT OF YOUR CLAIM OR INTEREST, UNLESS YOU TIMELY FILE AN OBJECTION TO THE RELEASES CONTAINED IN THE PLAN AND THAT OBJECTION IS NOT RESOLVED BEFORE CONFIRMATION. IF YOU DO NOT CHECK THE BOX BELOW, YOU WILL NOT BE A RELEASING PARTY ON ACCOUNT OF YOUR CLAIM OR INTEREST, BUT YOU WILL RECEIVE THE SAME TREATMENT ON ACCOUNT OF YOUR CLAIM OR INTEREST UNDER THE PLAN.

OPTIONAL RELEASE ELECTION. YOU MAY ELECT TO OPT IN TO THE THIRD-PARTY RELEASE CONTAINED IN ARTICLE XIII.E OF THE PLAN ONLY IF YOU CHECK THE BOX BELOW:

☐ **The Undersigned Holder of the Claim or Interest elects to OPT IN to the Third-Party Release.**

Item 2. Certifications.

By signing this Ballot, the undersigned certifies to the Court and the Debtors that:

a. as of the Voting Record Date, either: (i) the Entity is the Holder of a Claim or Interest; or (ii) the Entity is an authorized signatory for the Entity that is a Holder of a Claim or Interest;

b. the Entity (or in the case of an authorized signatory, the Holder) has received a copy of the Notice of Non-Voting Status to Holders of Claims and Interests Conclusively Presumed to Reject the Plan and that this Opt-In Form is made pursuant to the terms and conditions set forth therein;

c. the Entity has submitted the same respective election concerning the releases with respect to all Claims or Interests in a single Class; and

d. no other Opt-In Form has been submitted or, if any other Opt-In Forms have been submitted with respect to such Claims or Interests, then any such earlier Opt-In Forms are hereby revoked.

Name of Holder: _____
(Print or Type)

Signature: _____

Name of Signatory: _____
(If other than Holder)

Title: _____

Address: _____

_____

_____

Telephone Number: _____

Email: _____

Date Completed: _____

IF YOU HAVE MADE THE OPTIONAL OPT-IN ELECTION, PLEASE COMPLETE, SIGN, AND DATE THIS OPT-IN FORM AND RETURN IT PROMPTLY BY ONLY ONE OF THE METHODS BELOW:

If by First-Class Mail, Hand Delivery, or Overnight Mail:
Ascend Ballot Processing Center
c/o KCC dba Verita Global
222 N Pacific Coast Highway, Suite 300
El Segundo, CA 90245

By electronic, online submission:

Please visit https://www.veritaglobal.net/ascend. Click on the "E-Ballot" section of the Debtors' website and follow the directions to submit your Opt-In Form. If you choose to submit your Opt-In Form via the Solicitation Agent's E-Ballot system, you should not also return a hard copy of your Opt-In Form.

IMPORTANT NOTE: You will need the following information to retrieve and submit your customized electronic Opt-In Form:

Unique E-Ballot Password: _____

"E-Balloting" is the sole manner in which this Opt-In Form will be accepted via electronic or online transmission. Opt-In Forms submitted by facsimile or email will not be counted.

THE OPT-IN DEADLINE IS AUGUST 14, 2026 AT 4:00 P.M. (PREVAILING CENTRAL TIME). THE SOLICITATION AGENT MUST *ACTUALLY RECEIVE* YOUR OPT-IN ELECTION ON OR BEFORE THE OPT-IN DEADLINE.

EXHIBIT 4B

Notice of Non-Voting Status (Presumed to Accept)

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)

NOTICE OF NON-VOTING STATUS TO HOLDERS OF UNCLASSIFIED AND UNIMPAIRED CLAIMS CONCLUSIVELY PRESUMED TO ACCEPT THE PLAN

PLEASE TAKE NOTICE THAT:

On April 9, 2026 (the "***Petition Date***"), Ascend Elements, Inc. and its affiliated debtors and debtors-in-possession each filed a voluntary petition for relief under the Bankruptcy Code. On [●], 2026, the Debtors filed the *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., et al*. [Docket No. [●]] (the "***Combined Disclosure Statement and Plan***" or, separately in relevant part, the "***Disclosure Statement***" or the "***Plan***," as applicable).[2]

By an order dated **July 15,** 2026 (the "***Disclosure Statement Order***"), the Court **conditionally approved** the Disclosure Statement as containing adequate information within the meaning of section 1125 of **the** Bankruptcy Code. The Disclosure Statement Order expressly reserves all parties' rights to raise objections to final approval of the adequacy of **the** information in the Disclosure Statement.

On August **17,** 2026 **at 1:00 p.m. (prevailing Central Time), subject to the Court's availability**, a hearing will be held before the Honorable Christopher M. Lopez in the United States Bankruptcy Court for the Southern District of Texas, 515 Rusk Street, 4th Floor, Courtroom 402, Houston, TX 77002, to consider final approval of the **Disclosure** Statement and Confirmation of the Plan, as the same may be amended or modified (the "***Combined Hearing***"). The Combined Hearing may be adjourned from time to time.

Non-Voting Status. You are receiving this notice (this "***Notice***") because of the nature and treatment of your Claim or Interest under the Plan. ***You are not entitled to vote on the Plan***. Specifically, under the terms of the Plan, as a Holder of a Claim (as currently asserted against the Debtors) that is (a) Unimpaired and conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code or (b) unclassified, you are ***not*** entitled to vote on the Plan.

---

[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] All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Combined Disclosure Statement and Plan.

Objection Deadline. The deadline for filing objections to confirmation of the Plan and final approval of the Disclosure Statement is **August 14, 2026 at 4:00 p.m. (prevailing Central Time)** (the "***Objection Deadline***"). Any objection to the relief sought at the Combined Hearing must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Rules; (c) state, with particularity, the legal and factual bases for the objection and, if practicable, a proposed modification to the Plan (or related materials) that would resolve such objection; and (d) be served on the Objection Notice Parties and filed with the Court on or before the Objection Deadline.

Administrative Claims Bar Date. The deadline for Holders of Administrative Claims, other than Professional Fee Claims and Section 503(b)(9) Claims, to file and serve an application for allowance of an Administrative Claim shall be **thirty (30) days after the Effective Date** (the "Administrative Claims Bar Date").

Copies. If you wish to receive paper copies of the Combined Disclosure Statement and Plan, they will be provided, as quickly as practicable, upon request to the voting agent, Kurtzman Carson Consultants, LLC d/b/a Verita Global **(the** "***Solicitation Agent***") by accessing the Solicitation Agent's website at https://www.veritaglobal.net/ascend and are on file with the Clerk of the Bankruptcy Court for the Southern District of Texas, and may be reviewed during the regular hours of the Court or online through the Court's website at https://www.txs.uscourts.gov/page/bankruptcy-court.

ARTICLE XIII OF THE PLAN CONTAINS RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS, AND ARTICLE XIII.E CONTAINS A THIRD-PARTY RELEASE. HOLDERS OF CLAIMS OR INTERESTS THAT WISH TO PROVIDE THE RELEASES SET FORTH IN ARTICLE XIII.E MUST AFFIRMATIVELY ELECT TO OPT IN TO THOSE RELEASES ON THE ENCLOSED FORM. HOLDERS OF CLAIMS OR INTERESTS THAT DO NOT TIMELY OPT IN SHALL NOT BE RELEASING PARTIES ON ACCOUNT OF SUCH CLAIMS OR INTERESTS. YOU ARE ADVISED TO REVIEW AND CONSIDER THE PLAN CAREFULLY BECAUSE YOUR RIGHTS MIGHT BE AFFECTED THEREUNDER. THIS NOTICE IS BEING SENT TO YOU FOR INFORMATIONAL PURPOSES ONLY.

[*Remainder of page intentionally left blank.*]

Houston, Texas
Dated: [●], 2026

NORTON ROSE FULBRIGHT US LLP
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and

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Tel: (214) 855-8210
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Email: michael.berthiaume@nortonrosefulbright.com

Counsel to the Debtors and Debtors in Possession

OPTIONAL: RELEASE OPT-IN FORM

You are receiving this opt-in form (the "***Opt-In Form***") because you are a Holder of a Claim or Interest that is not entitled to vote on the *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., et al*. (as may be amended, supplemented or otherwise modified from time to time and including all exhibits and supplements thereto, the "***Plan***"). Holders of Claims or Interests that wish to provide the third-party release (the "***Third-Party Release***") set forth in the Plan and reproduced in this notice may affirmatively opt in to such releases by completing and returning this form in accordance with the directions herein on or before **4:00 p.m. (prevailing Central Time) on August 14, 2026** (the "***Opt-In Deadline***"). Holders that do not timely opt in shall not be Releasing Parties on account of such Claims or Interests.

If you believe you are a Holder of a Claim or Interest with respect to the Debtors and choose to opt in to the Third-Party Release set forth in Article XIII.E of the Plan, please promptly complete, sign, and date this Opt-In Form and return it via first class mail, overnight courier, the Solicitation Agent's online E-Ballot, or hand delivery to Kurtzman Carson Consultants, LLC d/b/a Verita Global (the "***Solicitation Agent***") at the address set forth below. Holders are strongly encouraged to submit their Opt-In Form through the Solicitation Agent's online E-Ballot. Parties that submit their Opt-In Form using E-Ballot should **NOT** also submit a paper Opt-In Form.

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Item 1. Important information regarding the Third-Party Release.

Article XIII.E of the Plan contains the following Third-Party

Release:

As of the Effective Date, in exchange for good and valuable consideration, including the obligations of the Debtors under the Plan, to the fullest extent permissible under applicable law, as such law may be extended or integrated after the Effective Date, each of the Releasing Parties, in each case on behalf of itself and its respective successors, assigns, and representatives, and any and all other Entities who may purport to assert any Cause of Action, directly or derivatively, by, through, for, or because of the foregoing Entities, will be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged each Debtor and other Released Party from any and all Causes of Action, whether known or unknown, that such Entity would have been legally entitled to assert in its own right (whether individually or collectively) or on behalf of the Holder of any Claim against, or Interest in, a Debtor or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtors (including the governance, management, ownership or operation thereof), the Debtors' capital structure, the assertion or enforcement of rights and remedies against the Debtors, the Debtors' in- or out-of-court restructuring efforts, intercompany transactions between or among the Debtors and/or their Affiliates, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the GUC Trust, as applicable, and the ownership thereof, the subject matter of, or the transactions or events giving rise to, any Claim or Interest

that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the Cash Collateral Orders, the Prepetition Note Documents, the applicable asset purchase agreements, and the sale transactions, the Chapter 11 Cases and any related adversary proceedings and related prepetition activities, the formulation, preparation, dissemination, negotiation, filing, or consummation of the Plan, contract, instrument, release, or other agreement or document created or entered into in connection with the cash collateral orders, the Prepetition Note Documents, the applicable asset purchase agreements, the sale transactions, the Disclosure Statement, the Plan, or the Plan Supplement, the Debtors' restructuring efforts, the filing of the Chapter 11 Cases, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion, any action or actions taken in furtherance or consistent with administration of the Plan, the issuance or distribution of any debt and/or securities pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release (a) any obligations of any Entity arising on or after the Effective Date under the Plan, the Confirmation Order, any applicable asset purchase agreement, any restructuring transaction, any assumed executory contract or unexpired lease, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan or an applicable section 363 asset sale, (b) any Entity from any claim or Causes of Action related to an act or omission that is determined in a Final Order by a court of competent jurisdiction to have constituted actual fraud, willful misconduct, or gross negligence by such Entity, or (c) any of the Debtors' commercial tort claims and Avoidance Actions transferred to the GUC Trust.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the releases by Holders of Claims and Interests set forth in Article XIII.E of the Plan, which includes by reference each of the related provisions and definitions contained herein, and, further, shall constitute the Bankruptcy Court's finding that such releases are: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the Claims and Causes of Action released by such releases; (3) in the best interests of the Debtors and their Estates; (4) fair, equitable and reasonable; (5) given and made after due notice and opportunity for hearing; (6) an essential component of the Plan; and (7) a bar to any of the Releasing Parties asserting any Claim or Cause of Action released pursuant to such releases. For the avoidance of doubt, the Non-Released Parties are not Released Parties and are not subject to the releases set forth in this Article XIII.E.

* * *

UNDER THE PLAN, "***RELEASED PARTY***" MEANS, COLLECTIVELY, AND IN EACH CASE ONLY IN ITS CAPACITY AS SUCH: (I) EACH OF THE DEBTORS; (II) THE CRO; (III) THE MEMBERS OF THE SPECIAL COMMITTEE; (IV) THE PROFESSIONALS; (V) THE COMMITTEE IN ITS CAPACITY AS SUCH; (VI) EACH MEMBER OF THE COMMITTEE, SOLELY IN ITS CAPACITY AS A MEMBER OF THE COMMITTEE; (VII) EACH OF THE PREPETITION SECURED PARTIES, SOLELY IN THEIR CAPACITIES AS

SUCH; AND (VIII) WITH RESPECT TO EACH OF THE FOREGOING ENTITIES IDENTIFIED IN SUBSECTIONS (I) THROUGH (VII), EACH OF SUCH ENTITIES' RELATED PARTIES, IN EACH CASE OTHER THAN THE NON-RELEASED PARTIES.

UNDER THE PLAN, "***RELEASING PARTY***" MEANS, COLLECTIVELY, AND IN EACH CASE ONLY IN ITS CAPACITY AS SUCH: (I) THE RELEASED PARTIES; (II) EACH CONSENTING CREDITOR; AND (III) WITH RESPECT TO EACH OF THE FOREGOING ENTITIES IDENTIFIED IN SUBSECTIONS (I) THROUGH (II), EACH OF SUCH ENTITIES' RELATED PARTIES.

IMPORTANT INFORMATION REGARDING THE RELEASES

HOLDERS OF CLAIMS OR INTERESTS THAT WISH TO PROVIDE THE RELEASES SET FORTH IN ARTICLE XIII.E MUST AFFIRMATIVELY ELECT TO OPT IN ON THIS FORM. HOLDERS THAT DO NOT TIMELY OPT IN SHALL NOT BE RELEASING PARTIES ON ACCOUNT OF SUCH CLAIMS OR INTERESTS.

THE ELECTION TO GRANT THE THIRD-PARTY RELEASE IS ENTIRELY VOLUNTARY. IF YOU CHECK THE BOX BELOW AND PROPERLY SUBMIT THIS OPT-IN FORM BY THE OPT-IN DEADLINE, YOU WILL BE TREATED AS A RELEASING PARTY UNDER THE PLAN ON ACCOUNT OF YOUR CLAIM OR INTEREST, UNLESS YOU TIMELY FILE AN OBJECTION TO THE RELEASES CONTAINED IN THE PLAN AND THAT OBJECTION IS NOT RESOLVED BEFORE CONFIRMATION. IF YOU DO NOT CHECK THE BOX BELOW, YOU WILL NOT BE A RELEASING PARTY ON ACCOUNT OF YOUR CLAIM OR INTEREST, BUT YOU WILL RECEIVE THE SAME TREATMENT ON ACCOUNT OF YOUR CLAIM OR INTEREST UNDER THE PLAN.

OPTIONAL RELEASE ELECTION. YOU MAY ELECT TO OPT IN TO THE THIRD-PARTY RELEASE CONTAINED IN ARTICLE XIII.E OF THE PLAN ONLY IF YOU CHECK THE BOX BELOW:

☐ **The Undersigned Holder of the Claim elects to OPT IN to the Third-Party Release.**

Item 2. Certifications.

By signing this Ballot, the undersigned certifies to the Court and the Debtors that:

a. as of the Voting Record Date, either: (i) the Entity is the Holder of a Claim; or (ii) the Entity is an authorized signatory for the Entity that is a Holder of a Claim;

b. the Entity (or in the case of an authorized signatory, the Holder) has received a copy of the Notice of Non-Voting Status to Holders of Unclassified Claims and Unimpaired Claims Conclusively Presumed to Accept the Plan and that this Opt-In Form is made pursuant to the terms and conditions set forth therein;

c. the Entity has submitted the same respective election concerning the releases with respect to all Claims in a single Class; and

d. no other Opt-In Form has been submitted or, if any other Opt-In Forms have been submitted with respect to such Claims, then any such earlier Opt-In Forms are hereby revoked.

Name of Holder: _____
(Print or Type)

Signature: _____

Name of Signatory: _____
(If other than Holder)

Title: _____

Address: _____

_____

_____

Telephone Number: _____

Email: _____

Date Completed: _____

IF YOU HAVE MADE THE OPTIONAL OPT-IN ELECTION, PLEASE COMPLETE, SIGN, AND DATE THIS OPT-IN FORM AND RETURN IT PROMPTLY BY ONLY ONE OF THE METHODS BELOW:

If by First-Class Mail, Hand Delivery, or Overnight Mail:
Ascend Ballot Processing Center
c/o KCC dba Verita Global
222 N Pacific Coast Highway, Suite 300
El Segundo, CA 90245

By electronic, online submission:

Please visit https://www.veritaglobal.net/ascend. Click on the "E-Ballot" section of the Debtors' website and follow the directions to submit your Opt-In Form. If you choose to submit your Opt-In Form via Solicitation Agent's E-Ballot system, you should not also return a hard copy of your Opt-In Form.

IMPORTANT NOTE: You will need the following information to retrieve and submit your customized electronic Opt-In Form:

Unique E-Ballot Password: _____

"E-Balloting" is the sole manner in which this Opt-In Form will be accepted via electronic or online transmission. Opt-In Forms submitted by facsimile or email will not be counted.

THE OPT-IN DEADLINE IS AUGUST 14, 2026 AT 4:00 P.M. (PREVAILING CENTRAL TIME). THE SOLICITATION AGENT MUST *ACTUALLY RECEIVE* YOUR OPT-IN ELECTION ON OR BEFORE THE OPT-IN DEADLINE.