

# SECURITIES & EXCHANGE COMMISSION EDGAR FILING

**Attis Industries Inc.**

**Form: 8-K**

**Date Filed: 2018-06-01**

Corporate Issuer CIK: 949721

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported) May 25, 2018

**ATTIS INDUSTRIES INC.**

(Exact name of registrant as specified in its charter)

**New York**

(State or other jurisdiction  
of incorporation)

**001-13984**

(Commission File Number)

**13-3832215**

(IRS Employer  
Identification No.)

**12540 Broadwell Road, Suite 2104**

**Milton, GA 30004**

(Address of principal executive offices, including Zip Code)

**(678) 580-5661**

(Registrant's telephone number, including area code)

**N/A**

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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## Item 1.01 Entry into a Material Definitive Agreement.

### Securities Purchase Agreement

Effective May 25, 2017 (the "Closing Date"), Attis Industries Inc. (the "Company"), the Company's wholly-owned subsidiary, Attis Innovations, LLC ("Innovations"), GreenShift Corporation ("GreenShift"), and GreenShift's wholly-owned subsidiary, GS CleanTech Corporation ("CleanTech"), among others, entered into a Securities Purchase Agreement ("SPA") and related transaction documents pursuant to which the Company acquired 80% of the membership interest units ("80% Units") of FLUX Carbon LLC ("JVCo"), and \$10,000,000 of GreenShift's subordinate secured debt, in exchange for an earn-out based purchase price equal to the greater of (i) \$18,000,000 ("Floor Price"); (ii) five (5) times JVCo's Consolidated EBITDA during 2018, 2019, and 2020; (iii) four (4) times JVCo's Consolidated EBITDA during 2021, 2022, and 2023; (iv) three (3) times JVCo's Consolidated EBITDA during 2024 and 2025; (v) two (2) times JVCo's Consolidated EBITDA during 2026; or (vi) one (1) times JVCo's Consolidated EBITDA during 2027. JVCo's "Consolidated EBITDA" is defined in the SPA as the aggregate annual earnings before interest, taxes, depreciation and amortization ("EBITDA") deriving from: (i) all use of now and hereinafter-owned JVCo Assets, including, without limitation, JVCo's now and hereinafter-owned Intellectual Property Assets by JVCo, Buyer, Attis, and/or any Related Person ("Buyer Entities"); and (ii), the operations, assets, investments, licenses and other agreements of JVCo and JVCo's now and hereinafter-existing subsidiaries ("JVCo Entities"). The agreements additionally called for the Company to pay \$200,000 over sixty days, and for GreenShift to pay certain working capital surplus equal to about \$200,000 to JVCo. An initial payment against the SPA purchase price was paid at Closing in the form of 2,000,000 restricted shares of the Company's common stock and 180,000 shares of the Company's Series G Stock. GreenShift is required to use the first proceeds received upon sale of the shares to pay or refinance its senior secured debt.

The SPA transaction documents also include an Amended and Restated Limited Liability Company Operating Agreement and a Management Agreement ("JVCo Agreements") under which GreenShift and CleanTech have in essence 'outsourced' its operations to JVCo, which the parties have agreed to fully capitalize to meet a number of specific objectives, including servicing the continuing and future needs of licensees, investing in growth with the parties' combined intellectual properties, protecting GreenShift's intellectual properties, and supporting all pending and future litigation for infringement and related matters. The JVCo Agreements further require that no distributions shall be paid by JVCo prior to the date on which GreenShift's senior secured lender is fully paid.

On and subject to the terms and conditions of the SPA and related transaction documents, at the Closing, GreenShift issued to the Company a subordinate secured convertible debenture in the original principal amount of \$10,000,000 ("Debenture"). Commencing November 22, 2018, the Debenture shall be convertible into GreenShift's common stock at the sole and exclusive option of the holder in one or more installments up to 9.9% of the GreenShift's issued and outstanding common stock at the time of conversion (when taken with any other shares of GreenShift common stock held by the holder at the time of conversion). The Debenture converts into GreenShift common stock at the greater of (i) \$0.10 per share or (ii) 100% of the lowest closing market price per share for the GreenShift common stock for the thirty (30) Trading Days preceding conversion. The Debenture shall accrue interest at the lesser of 2% or the minimum allowable rate under applicable law, and shall be waived if the GreenShift Debenture is converted or otherwise fully paid on or before June 30, 2028. The Debenture shall be exclusively paid in the form of GreenShift common stock, provided, however, that the principal balance due under the Debenture shall be reduced on a dollar for dollar basis in an amount equal to any distributions paid as provided for in the SPA and JVCo Agreements.

### Membership Interest Purchase Agreement

As previously reported in the Company's Current Report on Form 8-K dated November 29, 2017, effective November 29, 2017, the Company, Innovations, and four individual sellers (the "ALB Sellers") entered into an agreement pursuant to which the Company and Innovations agreed to acquire all of the issued and outstanding equity of Advanced Lignin Biocomposites, LLC ("ALB") in exchange for \$3,200,000 in Company stock.

On May 25, 2018, the Company, Innovations, and the assignee of one of the ALB Sellers, Gaula Ventures, LLC ("GV"), a Georgia limited liability company, entered into and closed under a Membership Interest Purchase Agreement ("MIPA") and related transaction documents (i) to amend, restate and supersede the November 2017 ALB agreement in respect of GV's ownership interest in ALB, (ii) to include terms for the acquisition of GV's ownership interest in Genarex FD LLC ("Genarex"), a Delaware limited liability company ("Genarex"), and (iii) to consolidate the purchase price consideration payable to GV in connection with both acquisitions on terms which limit the amount of Company stock issuable in exchange for GV's interests in ALB and Genarex. The MIPA and applicable transaction documents replaced, supplanted, and in all respects superseded the parties prior November 2017 agreement in connection with ALB. Consequently, the consideration payable and other rights granted thereunder were forfeited and surrendered by GV to the Company upon Closing under the MIPA.

Under the new agreement, the Company and Innovations agreed to purchase GV's interests in both ALB and Genarex in exchange for an Earn-Out Payment tied to Innovations' consolidated earnings before interest, taxes, depreciation and amortization, equal to (i) a floor price of \$2,266,667, plus, upon confirmation by the Company's board of directors, (ii) 8% of Innovations' annual consolidated EBITDA, and (iii) 8% of the Company's cash proceeds upon the sale (a) by Innovations of any of its material assets, or (b) by the Company of any portion of its equity in Innovations. An initial payment against the MIPA purchase price was paid at Closing in the form of 1,000,000 restricted shares of the Company's common stock and 22,600 shares of the Company's Series G Stock. The Company and Innovations assigned their respective beneficial ownership interests in, to and under the membership interests of ALB and Genarex to JVCo in connection with the Closing under the SPA and MIPA.

### Registration Rights Agreement

In connection with the SPA and MIPA, the Company entered into a Registration Rights Agreement (the "Registration Rights Agreement") with each of GreenShift and GV, pursuant to which the Company shall, on the 10th calendar day after the first date on which the Company is permitted to file the initial Registration Statement pursuant to the terms and conditions of the Preferred F Registration Rights Agreement (the form of which was previously filed by the Company on its Current Report on Form 8-K with the United States Securities and Exchange Commission ("SEC") on February 22, 2018), file with the SEC an initial Registration Statement on Form S-3 covering the resale of all shares of common stock comprising the units or the largest amount thereof permissible. The Company shall use its best efforts to have such initial Registration Statement, and each other Registration Statement required to be filed pursuant to the terms of the Registration Rights Agreement, declared effective by the SEC as soon as practicable.

If the Company does not deliver registered and freely-trading shares of common stock to GreenShift as and when due under the SPA, then the Company shall pay cash to GreenShift to redeem shares issuable upon conversion of the Series G Stock at the rate of \$100,000 per month commencing August 31, 2018 (the "Series G Redemption Payment"), and continuing on the first of each month thereafter until such time as the Company delivers conforming registered and freely-tradable shares of Common Stock to as and when due hereunder in compliance with applicable provisions of the transaction documents.

### ***Transaction Summary***

JVCo manages an existing engineering and licensing business, and beneficially owns various investments in early-stage technology development companies. JVCo also holds the rights to many proprietary, patented, and patent-pending technologies, including, without limitation, (i) methods for real-time data acquisition, verification, and analytics in renewable energy applications, (ii) methods of using blockchain to manage commodity risk in emerging carbon and agricultural markets, (iii) low temperature catalysis of carbon dioxide into renewable fuels, (iv) power production from low temperature thermal emissions, and (v) methods to increase the efficiency and profitability of corn ethanol production facilities by intercepting and processing corn ethanol coproducts into value-added renewable offsets for fossil fuel-derived products.

Genarex is a technology development company focused on refining low-cost renewable feedstocks into functional biofillers for use in value-added plastics applications, with an emphasis on converting corn ethanol coproducts due to the large volumes, low costs, and high post-conversion values as compared to conventional feedstocks. The Genarex transaction adds its portfolio of strategically-compatible biorefining technologies, existing commercial pilot capabilities, and established product and project development pipelines to the Company's growing biorefining capabilities.

ALB's patented and patent-pending lignin polymer technologies also have application potential in the corn ethanol industry, as well as the lignocellulosic coproducts of the cellulosic ethanol and pulp and paper industries. ALB's flowable resin extender has shown outstanding mechanical properties and processing characteristics for the plastics market. The combination of the Genarex and ALB portfolios adds value to a vast array of plastics conversion technologies, including blown and cast films, injection molding, profile and sheet extrusion, thermoforming, and rotational molding. Bioplastics including PLA, PBAT, PBS, and traditional plastics including PE, PP, PVC, and PS are just a few of the resin systems which can be extended or improved with the combined portfolio of products. The products are entirely biobased and offer resin extension at cost parity or cost savings to existing fossil fuel-derived feedstocks.

The above description of the SPA, JVCo Agreements, Debenture, Registration Rights Agreement and MIPA do not purport to be complete and are qualified in their entirety by the full text of the forms of such documents, which are provided as Exhibit 10.1, Exhibit 10.2, Exhibit 10.3, Exhibit 10.4 and Exhibit 10.6, respectively, to this Current Report on Form 8-K and incorporated herein by reference.

### **Item 2.01 Completion of Acquisition or Disposition of Assets**

The information set forth in Item 1.01 of this Current Report on Form 8-K is incorporated by reference into this Item 2.01.

### **Item 3.02 Unregistered Sales of Equity Securities.**

The information set forth in Item 1.01 of this Current Report on Form 8-K is incorporated by reference into this Item 3.02.

The securities issued pursuant to the SPA and MIPA were not registered under the Securities Act of 1933, as amended (the "Securities Act"), but qualified for exemption under Section 4(a)(2) and/or Regulation D the Securities Act. The securities were exempt from registration under Section 4(a)(2) of the Securities Act because the issuance of such securities by the Company did not involve a "public offering," as defined in Section 4(a)(2) of the Securities Act, due to the insubstantial number of persons involved in the transaction, size of the offering, manner of the offering and number of securities offered. All of the securities were issued without registration under the Securities Act of 1933 in reliance upon the exemption provided in Section 4(a)(2).

### **Item 3.03 Material Modification to Rights of Security Holders.**

The information set forth in Item 1.01 of this Current Report on Form 8-K is incorporated by reference into this Item 3.03.

### **Amendment to Certificate of Incorporation**

In connection with the closing of the Purchase Agreement, the Company submitted for filing with the Secretary of State of the State of New York, on June 1, 2018, the Certificate of Amendment to the Certificate of Incorporation of the Company (the "Amendment to Certificate"), which established 500,000 shares of the Series G Stock, par value \$0.001 per share, having such designations, rights and preferences as set forth in the Amendment to Certificate.

The shares of Series G Stock have a stated value of \$100.00 per share, are convertible into Common Stock at a price of the greater of \$0.50 per share or 100% of the lowest closing market price per share for the thirty days prior to conversion, subject to certain adjustments and beneficial ownership limitations. Shares of the Series G Stock are non-voting, but, in the event a dividend is declared by the Board of Directors, entitle the holder of each share of Series G Stock to receive a cumulative dividend, in each case equal in amount and kind to that payable to the holder of the number of shares of the Company's common stock into which that holder's Series G Stock could be converted on the record date for the dividend without giving effect to the 9.9% conversion limitation stated above. The shares of Series G Stock rank senior to the common stock, Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and any other class or series of capital stock of the Company thereafter created.

Notwithstanding anything in the Company's Amendment to Certificate to the contrary, if the Company has not obtained Shareholder Approval (as defined in the Amendment to Certificate), then the Company may not issue, upon conversion of the Series G Stock a number of shares of Common Stock which, when aggregated with any shares of Common Stock issued to one or more of the Holders on or after the date of the first issuance of Series G Stock and prior to such Conversion Date in connection with any conversion of Series G Stock, would exceed 19.99% of the Company's issued and outstanding Common Stock on the date of the filing of Amendment to Certificate.

The foregoing descriptions of the Amendment to Certificate and the Series G Stock designations do not purport to be complete and are subject to, and qualified in their entirety by, the Amendment to Certificate, a copy of which is attached as Exhibit 3.1 to this Current Report on Form 8-K and incorporated herein by reference.

**Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.**

The information set forth in Item 3.03 of this Current Report on Form 8-K is incorporated by reference into this Item 5.03.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits

<b>Exhibit No.</b>	<b>Description</b>
3.1	<a href="#">Certificate of Amendment to Certificate of Incorporation*</a>
10.1	<a href="#">Securities Purchase Agreement among Greenshift Corporation, Flux Carbon LLC and Attis Industries Inc.*</a>
10.2	<a href="#">Amended and Restated Limited Liability Company Operating Agreement of Flux Carbon LLC*</a>
10.3	<a href="#">Debenture*</a>
10.4	<a href="#">Registration Rights Agreement*</a>
10.5	<a href="#">Membership Interest Purchase Agreement (incorporated herein by reference to the Current Report to Exhibit 10.2 to the Attis Industries Inc. Current Report filed with the SEC on December 5, 2017)</a>
10.6	<a href="#">Membership Interest Purchase Agreement among Gaula Ventures, LLC, Genarex FD LLC and Attis Industries Inc.*</a>

\* filed herewith

**SIGNATURE**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

**ATTIS INDUSTRIES INC.**

Date: June 1, 2018

By: /s/ Jeffrey Cosman

Name: Jeffrey Cosman

Title: Chief Executive Officer

CERTIFICATE OF  
AMENDMENT OF  
THE  
CERTIFICATE OF  
INCORPORATION OF  
Attis Industries Inc.

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*(Insert the Current Name of Domestic  
Corporation)*

Under Section 805 of the Business  
Corporation Law

FIRST: The current name of the corporation is:

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Attis Industries Inc.

If the name of the corporation has been previously changed, the name under which it was originally formed is:

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CIP, Inc.

SECOND: The date of filing of the certificate of incorporation with the Department of State is:

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November 12, 1993

THIRD: The amendment effected by this certificate of amendment is as follows:

Paragraph Fourth of the Certificate of Incorporation relating to:

capitalization of the corporation and designations of classes of preferred stock is amended as follows to amend the designations, rights and references for the Series G Preferred Stock and, to:

is amended to read in its entirety as follows:

A. replace subparagraph c. of the first paragraph thereof with the following:

Of the 5,000,000 shares of Preferred Stock that the corporation is authorized to issue, (i) fifty- one (51) shares shall be designated Series A Preferred Stock, \$0.001 par value per share, having such preferences and rights as are described in Section d. below; (ii) seventy one thousand one hundred and twenty (71,120) shares shall be designated Series B Preferred Stock, \$0.001 par value per share, having such preferences and rights as are described in Section e. below; (iii) sixty-seven thousand three hundred sixty-one (67,361) shares shall be designated Series C Preferred Stock, \$0.001 par value per share, having such preferences and rights as are described in Section f. below; (iv) one hundred forty-one thousand (141,000) shares shall be designated Series D Preferred Stock, \$0.001 par value per share, having such preferences and rights as are described in Section h. below; (v) three hundred thousand (300,000) shares shall be designated Series E Preferred Stock, \$0.001 par value per share, having such preferences and rights as are described in Section i. below; (vi) three thousand four hundred (3,400) shares shall be designated Series F Preferred Stock, \$0.001 par value per share, having such preferences and rights as are described in Section j. below; (vii) five hundred thousand (500,000) shares shall be designated Series G Convertible Preferred Stock, having such preferences and rights as are described in Section k. below; and (viii) three million nine hundred seventeen thousand sixty-eight (3,917,068) shares shall remain available for designation upon the determination of the Board of Directors in accordance with the corporation's Certificate of Incorporation, as amended.

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B. Include the following as new paragraph k., following the final paragraph thereof:

***[DESIGNATIONS, PREFERENCES AND  
RIGHTS OF SERIES G CONVERTIBLE  
PREFERRED STOCK,  
\$0.001 PAR VALUE PER SHARE]***

**I. DESIGNATION AND AMOUNT; DIVIDENDS**

A. Designation. The designation of said series of preferred stock shall be Series G Convertible Preferred Stock, \$0.001 par value per share (the "Series G Preferred").

B. Number of Shares. The number of shares of Series G Preferred authorized shall be Five Hundred Thousand (500,000) shares. Each share of Series G Preferred shall have a stated value equal to \$100 (as may be adjusted for any stock dividends, combinations or splits with respect to such shares) (the "Series G Stated Value").

C. Dividends. In the event that the Corporation's Board of Directors declares a dividend payable to holders of any class of stock, the holder of each share of Series G Preferred Stock shall be entitled to receive a cumulative dividend, in each case equal in amount and kind to that payable to the holder of the number of shares of the Corporation's Common Stock into which that holder's Series G Preferred Stock could be converted on the record date for the dividend without giving effect to the conversion limitation set forth in Section III(D) hereof, but subject, however, to the Issuable Maximum set forth in Section III(E) hereof in the event that such dividends are paid in kind.

**II. LIQUIDATION PREFERENCE**

In the event of any liquidation, dissolution or winding up of the Company, either voluntary or involuntary, the holders of record of shares of Series G Preferred shall be entitled to receive, immediately prior and in preference to any distribution to the holders of the Company's Common Stock, a liquidation preference equal to \$110 per share (the "Liquidation Preference Amount"). If upon the occurrence of such event (a "Liquidation Event") the assets and funds thus distributed among the Holders shall be insufficient to permit the payment to such holders of the full preferential amounts due to the holders of the Series G Preferred, then the entire assets and funds of the Company legally available for distribution shall be distributed among the Holders, pro rata, based on the liquidation amounts to which such Holders are entitled.



Upon the completion of the distribution required by this Section, if assets remain in this Company, they shall be distributed to holders of parity securities (unless holders of parity securities have received distributions pursuant to this section) and junior securities in accordance with the Certificate of Incorporation, as amended.

Notwithstanding the foregoing, at the option of the Holder of shares of Series G Preferred, such Holder may elect to convert the entire Liquidation Preference Amount into shares of Common Stock pursuant to a Voluntary Conversion as set forth in Section 5(a), effective immediately prior to a Liquidation Event.

A consolidation or merger of the Company with or into any other corporation or corporations, or a sale or transfer of more than 50% of the assets of the Company, or the effectuation by the Company of a transaction or series of transactions in which more than 50% of the voting shares of the Company is disposed of or conveyed, shall not be deemed to be a liquidation, dissolution, or winding up within the meaning of this Section II.

### **III. CONVERSION**

A. Optional Conversion. Upon such approval as may be required by the applicable rules and regulations of the Nasdaq Stock Market (or any successor entity) from the shareholders of the Company with respect to the issuance of all of the shares of Common Stock underlying the Series G Preferred in excess of 19.99% of the issued and outstanding Common Stock on the date of the filing of these designations, rights and preferences for the Series G Preferred ("Shareholder Approval"), subject to the limitations set forth below, each Holder shall have the right, at any time commencing after the issuance, to convert the Stated Value of such shares collectively "Conversion Amount") into fully paid and non-assessable shares of Common Stock of the Company ("Conversion Shares"). The number of Conversion Shares issuable upon conversion of the Conversion Amount shall equal the Conversion Amount divided by the Conversion Price then in effect. The "Conversion Price" of the Series G Preferred shall be the greater of (i) 100% of the lowest closing market price per share for the Common Stock on the Company's principal trading market for the thirty (30) Trading Days preceding conversion ("Market Price") and (ii) \$0.50, subject to adjustment and except as otherwise set forth below. No fractional shares of Common Stock shall be issued upon conversion of Series G Preferred. In lieu of any fractional share to which the holder would otherwise be entitled, the Company shall round up to the nearest whole share. In order to convert Series G Preferred into shares of Common Stock, the Holder shall surrender the certificate or certificates therefor, duly endorsed, to the office of the Company, and shall give written notice to the Company at such office that the Holder elects to convert the same, the number of shares of Series G Preferred so converted and a calculation of the Conversion Price (with an advance copy of the certificate(s) and the notice by facsimile) (the "Conversion Notice"); provided, however, that the Company shall not be obligated to issue certificates evidencing shares of Common Stock issuable upon such conversion unless such shares of Series G Preferred are delivered to the Company as provided above, or the Holder notifies the Company or its transfer agent that such certificates have been lost, stolen or destroyed and executes an agreement satisfactory to the Company and its transfer agent to indemnify the Company from any loss incurred by it in connection with such certificates. Notice of conversion may be given by a Holder at any time during the day up to 5:00 p.m. New York City time and such conversion shall be deemed to have been made immediately prior to the close of business on the date notice of conversion is received by the Company. Within three (3) business days after the notice of conversion is delivered in accordance with the procedures set forth above, the Company shall deliver, or cause to be delivered, certificates evidencing such shares of its Common Stock and to forward the same to the Holder, or upon the election of the Holder, the Company shall transmit the shares of Common Stock to the Holder by crediting the account of the Holder's prime broker with The Depository Trust Company through its Deposit or Withdrawal at Custodian system ("DWAC") if the Company is then a participant in such system and either (A) there is an effective registration statement permitting the issuance of the shares to or resale of the shares by the Holder or (B) the shares are eligible for resale by the Holders without volume or manner-of-sale limitations pursuant to Rule 144, and otherwise by physical delivery to the Holder.

In case of conversion under this Section III of only a part of the shares of Series G Preferred represented by a certificate surrendered to the Company, the Company shall issue and deliver a new certificate for the number of shares of Series G Preferred which have not been converted, upon receipt of the original certificate or certificates representing shares of Series G Preferred so converted. Until such time as the certificate or certificates representing shares of Series G Preferred which have been converted are surrendered to the Company and a certificate or certificates representing the Common Stock into which such shares of Series G Preferred have been converted have been issued and delivered, the certificate or certificates representing the shares of Series G Preferred Stock which have been converted shall evidence the shares of Common Stock into which such shares of Series G Preferred have been converted.

B. Reserved.

C. Certain Adjustments. The Conversion Price will be adjusted proportionately in the event of stock splits, reverse stock splits or stock dividends.

D. Conversion Limitations. In no event shall the Holder, or any future Holder, be entitled to convert any portion of the Series G Preferred in excess of that portion of the Series G Preferred upon conversion of which the sum of (1) the number of shares of Common Stock beneficially owned by the Holder and its affiliates (other than shares of Common Stock which may be deemed beneficially owned through the ownership of the unconverted portion of the Series G Preferred or the unexercised or unconverted portion of any other security of the Company subject to a limitation on conversion of exercise analogous to the limitations contained herein) and (2) the number of shares of Common Stock issuable upon the conversion of the portion of the Series G Preferred with respect to which the determination of this proviso is being made, would result in beneficial ownership by the Holder and its affiliates of more than 9.99% of the outstanding shares of Common Stock of the Company. For the purposes of the immediately preceding sentence, beneficial ownership shall be determined in accordance with Section 13(d) of Securities Exchange Act of 1934, as amended, and Rule 13d-3 thereunder. Subject to the foregoing, the Holder may exercise multiple conversions that would, in the aggregate, result in the issuance of more than 9.99%. The restriction described in this paragraph may be waived, in whole or in part, upon sixty-one (61) days' prior notice from the Holder to the Company to increase such percentage; provided, however, that such waiver will not be effective to the extent that it results in such Holder beneficially owning more than 19.99% of the outstanding shares of Common Stock of the Company.

E. Issuance Limitations. Notwithstanding anything herein to the contrary, if the Company has not obtained Shareholder Approval, then the Company may not issue, upon conversion of the Series G Preferred, a number of shares of Common Stock which, when aggregated with any shares of Common Stock issued to one or more of the Holders on or after the date of the first issuance of Series G Preferred and prior to such Conversion Date in connection with any conversion of Series G Preferred, would exceed 1,555,480 shares of Common Stock (subject to adjustment for forward and reverse stock splits, recapitalizations and the like) (such number of shares, the "Issuable Maximum"). Each Holder shall be entitled to a portion of the Issuable Maximum equal to the quotient obtained by dividing (x) the original Stated Value of such Holder's Series G Preferred by (y) the aggregate Stated Value of all Series G Preferred.

F. Delivery Failure. If within five (5) business days of the Company's receipt of the Conversion Notice (the "Share Delivery Period") the Company shall fail to issue and deliver to a holder the number of shares of Common Stock to which such Holder is entitled upon such holder's conversion of the Series G Preferred Stock (a "Conversion Failure"), in addition to all other available remedies which such holder may pursue, the Company shall pay additional damages to such Holder on each business day after such fifth (5th) business day that such conversion is not timely effected in an amount equal 0.5% of the product of (A) the sum of the number of shares of Common Stock not issued to the Holder on a timely basis pursuant to Section III A and to which such Holder is entitled and (B) the VWAP of the Common Stock on the last possible date which the Company could have issued such Common Stock to such Holder without violating this Section.

G. Reservation of Shares. The Company shall, so long as any shares of Series G Preferred are outstanding, to the extent practicable, reserve and keep available out of its authorized and unissued Common Stock, solely for the purpose of effecting the conversion of the Series G Preferred, such number of shares of Common Stock as shall from time to time be sufficient to effect the conversion of all of the Series G Preferred then outstanding; provided that the number of shares of Common Stock so reserved shall at no time be less than 120% of the number of shares of Common Stock for which the shares of Series G Preferred are at any time convertible (without regard to the limitations on conversion set forth in Section III(D) hereof). In the event that there are not a sufficient number of authorized and unissued shares of Common Stock available for the effecting of conversions of the Series G Preferred, the Company will use commercially reasonable efforts to effect an increase in the number of authorized shares or take other corporate action in order to satisfy such requirements for reservation of shares. The initial number of shares of Common Stock reserved for conversions of the Series G Preferred and each increase in the number of shares so reserved shall be allocated pro rata among the Holders of the Series G Preferred based on the number of shares of Series G Preferred held by each Holder at the time of issuance of the Series G Preferred Stock or increase in the number of reserved shares, as the case may be. In the event a Holder shall sell or otherwise transfer any of such Holder's shares of Series G Preferred, each transferee shall be allocated a pro rata portion of the number of reserved shares of Common Stock reserved for such transferor. Any shares of Common Stock reserved and which remain allocated to any person or entity which does not hold any shares of Series G Preferred shall be allocated to the remaining Holders of Series G Preferred, pro rata based on the number of shares of Series G Preferred then held by such Holder.

#### **IV. RANK**

All shares of the Series G Preferred shall rank (i) senior to the Company's Common Stock, Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and any other class or series of capital stock of the Company hereafter created, the terms of which specifically provide that such class or series shall rank junior to the Series G Preferred (each of the securities in clause (i) collectively referred to as "Junior Securities") (ii) *pari passu* with any class or series of capital stock of the Company hereafter created and specifically ranking, by its terms, on par with the Series G Preferred and (iii) junior to the Series D Preferred Stock, Series E Preferred Stock, Series F Preferred Stock, and any class or series of capital stock of the Company hereafter created specifically ranking, by its terms, senior to the Series G Preferred, in each case as to dividend distributions or distributions of assets upon liquidation, dissolution or winding up of the Company, whether voluntary or involuntary.

#### **V. VOTING RIGHTS**

Except as otherwise provided herein or as otherwise required by law, the Series G Preferred shall have no voting rights. However, as long as any shares of Series G Preferred are outstanding, the Company shall not, without the affirmative vote of the Holders of a majority of the then outstanding shares of the Series G Preferred, (a) alter or change adversely the powers, preferences or rights given to the Series G Preferred, (b) amend its certificate of incorporation or other charter documents in any manner that adversely affects any rights of the Holders, (c) increase the number of authorized shares of Series G Preferred, or (d) enter into any agreement with respect to any of the foregoing.

#### **VI. REDEMPTION**

The Company may, in its sole discretion, elect to redeem all or a portion of the outstanding shares of Series G Preferred at the Redemption Amount ("Voluntary Redemption"), upon ten (10) days' prior written notice (such effective date of redemption, the "Voluntary Redemption Date"). The Company shall provide written notice to the Holders ten (10) days prior to the Voluntary Redemption Date specifying the Voluntary Redemption Date (the "Redemption Notice"). A Redemption Notice shall also include a provision to allow the Holders to elect to convert the Series G Preferred into Common Stock rather than accept the Redemption Amount. The Redemption Amount shall be delivered to the Holders within ten (10) business days of the Voluntary Redemption Date. As used herein, the term "Redemption Amount" shall equal the Series G Stated Value, or \$100 per share of Series G Preferred.

## VII. MISCELLANEOUS

A. Status of Redeemed Stock. In case any shares of Series G Preferred shall be redeemed or otherwise repurchased, reacquired or returned for cancellation, the shares so redeemed, repurchased, reacquired or returned for cancellation shall resume the status of authorized but unissued shares of preferred stock, and shall no longer be designated as Series G Preferred.

B. Lost or Stolen Certificates. Upon receipt by the Company of (i) evidence of the loss, theft, destruction or mutilation of any Preferred Stock Certificate(s) and (ii) in the case of loss, theft or destruction, indemnity (with a bond or other security) reasonably satisfactory to the Company, or in the case of mutilation, the Preferred Stock Certificate(s) (surrendered for cancellation), the Company shall execute and deliver new Preferred Stock Certificates.

C. Waiver. Notwithstanding any provision in this Certificate of Designation to the contrary, any provision contained herein and any right of the Holders granted hereunder may be waived as to all shares of Series G Preferred (and the holders thereof) upon the unanimous written consent of the Holders.

D. Notices. Any notices required or permitted to be given under the terms hereof shall be sent by certified or registered mail (return receipt requested) or delivered personally, by nationally recognized overnight carrier or by confirmed facsimile transmission, and shall be effective five (5) days after being placed in the mail, if mailed, or upon receipt or refusal of receipt, if delivered personally or by nationally recognized overnight carrier or confirmed facsimile transmission, in each case addressed to a party as set forth below, or such other address and telephone and fax number as may be designated in writing hereafter in the same manner as set forth in this Section.

If to the Company:

Attis Industries Inc.  
One Glenlake Parkway NE Suite 900  
Atlanta, GA30328  
Attention: Jeffrey Cosman  
Fax: (678) 566-6938

If to the Holders, to the address listed in the Company's books and records.

4. The certificate of amendment was authorized by: the vote of the board of directors followed by a vote of a majority of all outstanding shares entitled to vote thereon at a meeting of shareholders.

IN WITNESS WHEREOF, the undersigned has executed this Certificate this 1<sup>st</sup> day of June 2018.

/s/ Jeffrey S. Cosman

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Name: Jeffrey Cosman

Title: Chief Executive Officer

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SECURITIES PURCHASE AGREEMENT

AMONG

GREENSHIFT CORPORATION,  
AS SELLER,

FLUX CARBON LLC,

AND

ATTIS INDUSTRIES INC.,  
AS BUYER

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MAY 25, 2018

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## SECURITIES PURCHASE AGREEMENT

This **SECURITIES PURCHASE AGREEMENT** (this "Agreement"), dated as of **MAY 25, 2018** ("Effective Date"), is entered into by and among **ATTIS INDUSTRIES INC.**, a New York corporation ("Buyer"), and **GREENSHIFT CORPORATION**, a Delaware corporation ("Seller" or "GreenShift").

**WHEREAS**, this Agreement is executed and delivered in reliance upon an exemption from securities registration pursuant to Section 4(2), Rule 506 of Regulation D ("Regulation D"), as promulgated by the U.S. Securities and Exchange Commission (the "SEC") under the Securities Act of 1933, as amended (the "Securities Act");

**WHEREAS**, Seller, through its wholly-owned subsidiary, **GS CLEANTECH CORPORATION** ("CleanTech"), develops and commercializes technologies that facilitate the more efficient use of natural resources, and owns an intellectual property portfolio comprised, *inter alia*, of patented, patent-pending and proprietary processes designed to increase the efficiency and profitability of corn ethanol production facilities by intercepting and processing corn ethanol co-products into value-added renewable offsets for fossil fuel-derived fuels, plastics, adhesives, and other products ("CleanTech IP");

**WHEREAS**, CleanTech generates revenue by licensing technologies included in the CleanTech IP to third parties in exchange for ongoing royalties tied to the use of the CleanTech IP, by providing ongoing technical support and maintenance services to its licensees, and by designing and building industrial processes for third parties (the "CleanTech Business");

**WHEREAS**, Seller and CleanTech are party to certain litigation in which, *inter alia*, CleanTech has asserted claims against several third parties involving infringing uses of the CleanTech IP, the existence of which have frustrated Seller's ability to qualify for financing to provide growth capital, to cover ongoing and new litigation and technology development costs, and to pay outstanding debts;

**WHEREAS**, the foregoing circumstances have also caused Seller to rely on expensive secured debt financing that is difficult to refinance, thereby compounding Seller's difficulties in using its existing capital structure to obtain financing, and causing Seller to seek alternatives which do not involve transfers of CleanTech's assets, such as formation of a financeable joint venture company with a strategic partner on terms that attempt to preserve and maximize the competitive advantage and value of the CleanTech IP and CleanTech Business for Seller's and CleanTech's licensees, creditors, shareholders, and other stakeholders;

**WHEREAS**, Buyer, through its wholly-owned subsidiary, **ATTIS INNOVATIONS LLC** ("Attis"), has acquired and developed intellectual properties which cover, *inter alia*, the conversion of products and co-products produced by processes covered by the CleanTech IP into value-added renewable alternatives for fossil fuel-derived products ("Attis IP"), and which have strong application potential in the corn ethanol industry (among others), the primary industry in which CleanTech has operated and in which CleanTech has many existing licensees and relationships, all of which could contribute materially to the development of Buyer's and Attis' business;

**WHEREAS**, Kevin Kreisler ("Principal") is the beneficial owner (i) of the majority of the issued and outstanding capital stock of Seller, and (ii) 100% of the issued and outstanding capital stock of **CANDENT CORPORATION**, a Delaware corporation ("Original Member"), the holder of all of the issued and outstanding membership interests (the "FC Units") of **FLUX CARBON LLC**, a Delaware limited liability company ("JVCo");

**WHEREAS**, JVCo is the direct and indirect owner, *inter alia*, of additional intellectual property rights that are complimentary to the CleanTech IP and the Attis IP, and which are comprised in part of the patented and patent-pending technologies itemized in **Schedule 3.9.2** of the Seller Disclosure Schedule hereto ("FLUX IP"), including, without limitation, (i) methods for real-time data acquisition, verification, and analytics in renewable energy applications, (ii) methods of using blockchain to manage commodity risk in emerging carbon and agricultural markets, (iii) low temperature catalysis of carbon dioxide into renewable fuels, (iv) power production from low temperature thermal emissions, (v) self-charging electronic devices, and (vi) related know-how and Confidential Information;

**WHEREAS**, JVCo has good and marketable title to the JVCo Assets set forth in Section 3.9 of the Seller Disclosure Schedule attached hereto, which JVCo has acquired and developed for an aggregate cost of about \$7,967,378;

**WHEREAS**, Buyer and Seller desire to form a joint venture utilizing JVCo in which Attis and CleanTech combine their respective efforts on terms which leverage the Parties' combined intellectual property portfolio, technology development expertise, and Buyer's financing capabilities and other resources to build value for each of their respective clients and shareholders, while enabling Seller and CleanTech to grow, to reduce debt, and to cover ongoing litigation and other costs in the Ordinary Course of Business;



**WHEREAS**, as a beneficial owner of Seller, Principal will be materially benefitted from Buyer's performance of its obligations under this Agreement and the Transaction Documents, including, without limitation, Buyer's agreements hereunder to pay the Earn-Out Payment to CleanTech in connection with the operation and growth of JVCo and to make an investment in Seller, the proceeds of which will be used, *inter alia*, to provide funds for Seller (i) to build, own and operate a facility based on the CleanTech IP, Attis IP and/or FLUX IP ("Seller Facility"), and (ii) to refinance and/or fully pay and satisfy Seller's and CleanTech's secured debt and other obligations subject and pursuant to the terms and conditions of this Agreement and the Transaction Documents;

**WHEREAS**, Principal has consequently agreed, subject and pursuant to the terms and conditions of this Agreement and the Transaction Documents, to cause Original Member to make a capital contribution of the FC Units to and for the benefit of Seller (the "Capital Contribution"), free and clear of Liens except for Permitted Encumbrances, by assigning, transferring, and delivering at the Closing, **ON BEHALF OF AND FOR THE BENEFIT OF SELLER**,

(i) **EIGHTY PERCENT (80%)** of the FC Units directly to Attis ("80% Units"), and

(ii) **TWENTY PERCENT (20%)** of the FC Units directly to CleanTech ("20% Units"); and,

**WHEREAS**, Buyer desires to purchase, and Seller desires to sell, upon and subject to the terms and conditions herein, the Seller Interests and Seller Securities on and subject to the terms and provisions hereinafter set forth.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

## **1. Certain Definitions**

Except as otherwise expressly provided herein or unless the context otherwise requires, initially capitalized terms used in this Agreement have the meanings set forth in Schedule 1.0. Otherwise, capitalized terms used but not defined herein shall have that meaning ascribed to them in the Transaction Documents.

## **2. Purchase and Sale**

**2.1 Acquisition.** On and subject to the terms and conditions of this Agreement and the Transaction Documents, at the Closing and at all relevant times thereafter, Buyer and Attis shall, on a joint and several basis, pay the Purchase Price to Seller and/or Seller's Permitted Designee in exchange for the sale, assignment, transfer, and delivery of the Purchased Equity to Buyer and/or Buyer's Permitted Designee in accordance with the terms of Schedule 2.0 hereto. As used herein, the term "Acquisition" shall mean and refer to the purchase of the Purchased Equity in exchange for payment of the Purchase Price.

**2.2 The Closing.** Upon the terms and subject to the conditions hereinbefore and hereinafter set forth, the consummation of this Agreement and the Acquisition contemplated herein (the "Closing") shall take place on **MAY 25, 2018**, or, if all of the conditions to the Closing are not satisfied on that date, on the first date thereafter on which all of such conditions are satisfied. As used herein, the term "Closing Date" shall mean and refer to the purchase of the Purchased Equity by Buyer. The Closing may take place by delivery and exchange of documents by facsimile or electronic mail with originals to follow by overnight courier.

**2.3 Deliveries and Actions of Seller at Closing.** At or prior to Closing, Seller shall deliver (or cause to be delivered) to Buyer documents, instruments, agreements and other materials itemized in Schedule 2.3.

**2.4 Deliveries and Actions of Buyer at Closing.** At or prior to Closing, Buyer shall deliver (or cause to be delivered) to Seller documents, instruments, agreements and other materials itemized in Schedule 2.4.

**2.5 Taking of Necessary Action; Further Action.** The Buyer, Seller and JVCo will take all reasonable and lawful action as may be necessary or appropriate in order to effectuate the Acquisition in accordance with this Agreement on the Closing Date.

### **3. Warranties and Representations Relating to Seller and JVCo**

Seller and Original Member represent and warrant to Buyer that the statements contained in this Section 3 are true, correct and complete as of the Effective Date and as of the Closing Date, subject to and except as set forth in the Seller Disclosure Schedule delivered by Seller to Buyer on the date hereof. Nothing in the Seller Disclosure Schedule shall be deemed adequate to disclose an exception to a representation or warranty made herein unless the Seller Disclosure Schedule identifies the exception with reasonable particularity and describes the relevant facts in reasonable detail. Without limiting the generality of the foregoing, the mere listing (or inclusion of a copy) of a document or other item shall not be deemed adequate to disclose an exception to a representation or warranty made herein (unless the representation or warranty has to do with the existence of the document or other item itself). The Seller Disclosure Schedule will be arranged in paragraphs corresponding to the lettered and numbered paragraphs contained in this Section 3.

#### **3.1 Due Organization, Authorization and Good Standing.**

**3.1.1 Seller.** Seller is duly organized, validly existing and in good standing under the laws of Delaware. Seller is qualified to do business and is in good standing as a foreign Person, as the case may be, in each jurisdiction in which the ownership of its properties and the nature and extent of the activities transacted by it makes such qualification necessary. Seller has full corporate power and corporate authority to carry on its business, to own and use the properties owned and used by it and to perform its obligations under this Agreement.

**3.1.2 JVCo.** JVCo is duly organized, validly existing and in good standing under the laws of Delaware. JVCo is qualified to do business and is in good standing as a foreign Person, as the case may be, in each jurisdiction in which the ownership of its properties and the nature and extent of the activities transacted by it makes such qualification necessary. JVCo has full corporate power and corporate authority to carry on its business, to own and use the properties owned and used by it and to perform its obligations under this Agreement.

**3.2 Capitalization.** Original Member is the sole member and unit holder of JVCo and owns all of the outstanding membership interests and units of JVCo, consisting as of the Closing of 80 Class A Units and 20 Class B Units. There are no warrants, rights, options, conversion privileges, stock purchase plans or other contractual obligations which obligate JVCo to offer, issue, purchase or redeem any equity or other interest of JVCo or other ownership interest or debt or other securities convertible into or exchangeable for membership interests or units or such other ownership interest (now, in the future or upon the occurrence of any contingency) or which provides for any equity appreciation or similar right. There are no warrants, rights, options, conversion privileges, stock purchase plans or other contractual obligations which obligate JVCo or any of its subsidiaries to offer, issue, purchase or redeem any equity or other interest of any of such companies, or other ownership interest or debt or other securities convertible into or exchangeable for membership interests or units or such other ownership interest (now, in the future or upon the occurrence of any contingency) or which provides for any equity appreciation or similar right.

**3.3 Authorization.** Seller and Original Member have the requisite power and authority to enter into, execute, deliver and perform this Agreement, and/or to consummate all transactions contemplated thereby. The execution and delivery of this Agreement by Seller and Original Member and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action, and no other corporate or partnership proceedings on the part of Seller or Original Member are necessary to authorize this Agreement or to consummate the transactions so contemplated. This Agreement is the valid and legally binding obligation of Seller and Original Member, enforceable against each of them in accordance with the terms, subject to bankruptcy, insolvency, moratorium, reorganization and similar laws of general applicability affecting the rights and remedies of creditors and to general principles of equity, regardless of whether enforcement is sought in proceedings in equity or at law.

#### **3.4 No Violation or Approval.**

**3.4.1** Subject to and except as set forth on Section 3.4 of the Seller Disclosure Schedule, neither the execution and delivery of this Agreement by Seller, nor the consummation or performance of any of the Contemplated Transactions will, directly or indirectly (with or without notice or lapse of time): (i) Breach or otherwise conflict with any provision of the Organizational Documents of Original Member, Seller, JVCo, or contravene any resolution adopted by the officers, managers, or members of Original Member, Seller or JVCo; (ii) Breach or otherwise conflict with any Legal Requirement or Order to which Original Member, Seller or JVCo may be subject or give any Governmental Body or other Person the right to challenge the Contemplated Transactions or to exercise any remedy or obtain any relief under any Legal Requirement or any Order to which Original Member, Seller or JVCo may be subject; (iii) Breach or otherwise conflict with or result in a violation or Breach of any of the terms or requirements of, or give any Governmental Body the right to revoke, withdraw, suspend, cancel, terminate or modify, any Governmental Authorization that is held or being applied for by or on behalf of JVCo, or that otherwise relates to JVCo, the JVCo Assets, or JVCo's Business; (iv) cause Buyer (or any Related Person thereof) to become subject to, or to become liable for the payment of, any Tax; (v) Breach or otherwise conflict with any provision of, or give any Person the right to declare a default or exercise any remedy under, or to accelerate the maturity or performance of, or payment under, or to cancel, terminate or modify, any contract or agreement to which JVCo is a party or by which JVCo is bound; or (vi), result in the imposition or creation of any Lien on JVCo, the JVCo Assets, or JVCo's Business.

**3.4.2** Subject to and except as set forth on Section 3.4 of the Seller Disclosure Schedule, neither Seller nor JVCo are required to give any notice to, or obtain any Consent from, any Person in connection with the execution and delivery of this Agreement or the consummation of any of the Contemplated Transactions, including any Consent required in order to preserve and maintain all Governmental Authorizations required for the ownership and continued operation of JVCo's Business, either before or after Closing, and the consummation of the Contemplated Transactions. Any registration, declaration, or filing with, or Consent, or Governmental Authorization or Order by, any Governmental Body with respect to JVCo that is required in connection with the consummation of the Contemplated Transactions has been completed, made, or obtained on or before the Closing Date.

**3.5 Litigation.** Except as set forth in Section 3.5 of the Seller Disclosure Schedule (which lists pending or threatened Proceedings, all of which are referred to as "Current Litigation Matters"), (i) there is no pending or, to Seller's Knowledge, threatened Proceeding by or against Seller or JVCo that relates to or may affect JVCo, the JVCo Assets, or JVCo's Business, that challenges, or that may have the effect of preventing, delaying, making illegal or otherwise interfering with, any of the Contemplated Transactions; (ii) no event has occurred or circumstance exists that is reasonably likely to give rise to or serve as a Basis for the commencement of any such Proceeding; (iii) there is no Order to which Seller or JVCo, the JVCo Assets, or JVCo's Business are subject or that in any way relates to or could reasonably be expected to affect JVCo, the JVCo Assets, or JVCo's Business; (iv) no officer, director, member, manager, agent or employee of the JVCo is subject to any Order that prohibits such officer, director member, manager, agent or employee from engaging in or continuing any conduct, activity or practice relating to JVCo's Business; (v) each of Seller and JVCo are, and at all times have been, in compliance with all of the terms and requirements of any Order; (vi) no event has occurred or circumstance exists that is reasonably likely to constitute or result in (with or without notice or lapse of time) a violation of or failure to comply with any term or requirement of any such Order; and (vi), neither Seller nor JVCo has received any notice or other communication (whether written or oral) from any Governmental Body or any other Person regarding any actual, alleged, possible or potential violation of, or failure to comply with, any term or requirement of any such Order.

**3.6 JVCo Financial Matters.** An internal draft of JVCo's unaudited balance sheet and statement of income (collectively, the "JVCo Financial Statements") as of and for the fiscal year ended December 31, 2017, shall be provided on or before June 30, 2018. The JVCo Financial Statements (including the notes thereto) have been prepared in good faith by Seller's staff in accordance with GAAP applied on a consistent basis throughout the periods covered thereby, present fairly the financial condition of the JVCo as of such dates and the results of operations of JVCo for such periods, are correct and complete, and are consistent with the books and records of JVCo (which books and records are correct and complete); provided, however, that the JVCo Financial Statements are subject to normal adjustments (which will not be material individually or in the aggregate) and lack footnotes and other presentation items. Subject to and except as disclosed in Section 3.6 of the Seller Disclosure Schedule, (i) JVCo has not incurred any Liability, and there is no Basis for any present or future action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand against JVCo giving rise to any Liability; (ii) all Accounts Receivable that are reflected in the JVCo Financial Statements and/or in the business records of JVCo represent valid obligations arising from sales actually made or services actually performed by JVCo in the Ordinary Course of Business; (iii) there is no contest, defense or right of set-off currently being claimed or, to the Knowledge of Seller, expected to be claimed, by any account debtor with respect to any Account Receivable, or any part thereof; (iv) except to the extent paid prior to the Closing Date, such Accounts Receivable are or will be as of the Closing Date current and collectible net of the respective reserves shown on the JVCo Financial Statements and/or in the business records of JVCo (which reserves are adequate and calculated consistent with past practice); (v) subject to such reserves, each of such Accounts Receivable either has been or will be collected in full, without any setoff, within ninety (90) days after the day on which it first becomes due and payable; and (vi), Seller has provided Buyer with a complete and accurate list of JVCo's current Accounts Receivable current to within five (5) days of the Closing Date, which list sets forth the aging of each such Account Receivable.

**3.7 Taxes.** Except as set forth in Section 3.7 of the Seller Disclosure Schedule, JVCo has duly filed, on a timely basis all Tax Returns which they are required to file, and all material liabilities for Tax (including interest and penalties) have been paid. JVCo has paid all required withholding taxes with respect to employees and independent contractors. Except as set forth in the Seller Disclosure Schedule, there are in effect no waivers or extensions of the applicable statutes of limitations for tax liabilities for any period, and no taxing authority has asserted either orally or in writing any adjustment that could result in an additional Tax for which JVCo is or may be liable and there is no pending audit, examination, investigation, dispute, proceeding or claim for which JVCo has received notice relating to any Tax for which any one of them is or may be liable. Except as set forth in the Seller Disclosure Schedule, there are no agreements in writing with any taxing authority by JVCo. Except as set forth in the Seller Disclosure Schedule, JVCo has not been nor is it included in any consolidated, affiliated, combined, unitary or other similar Tax Returns and there are no tax sharing agreements to which JVCo has now or ever has been a party. Except as set forth in the Seller Disclosure Schedule, JVCo is not a party to any agreement, contract, arrangement or plan that would result in the payment of any "excess parachute payments" within the meaning of Code Section 280G (or any comparable provision of state, local or foreign law).

**3.8 Title to 80% Units.** Except for encumbrances as defined and itemized in Section 3.8 of the Seller Disclosure Schedule, Original Member has good and valid title to the 80% Units, in each case free and clear of all claim, charge, lease, covenant, easement, encumbrance, security interest, lien, option, pledge, rights of others, or restriction (whether on voting, sale, transfer, disposition or otherwise), whether imposed by agreement, understanding, law, equity or otherwise, of any kind or character (collectively, "Liens").

**3.9 Title to Assets.** JVCo has good and marketable title to the Flux IP and all of the assets reflected in the JVCo Financial Statements as owned by them (other than assets disposed of since the date of the last JVCo Financial Statements in the Ordinary Course of Business or as contemplated by this Agreement), or acquired since the date of the last JVCo Financial Statements, or as set forth in Section 3.9 of the Seller Disclosure Schedule ("JVCo Assets"), free and clear of any and all Liens, except as set forth in the Seller Disclosure Schedule.

**3.9.1 Real Property; Tangible Personal Property.** JVCo does not own, lease or sublease real property. Except as disclosed in the Seller Disclosure Schedule, (i) each item of Tangible Personal Property of JVCo (including any and all Tangible Personal Property set forth on Section 3.9.1 of the Seller Disclosure Schedule) is in good repair and good operating condition, ordinary wear and tear excepted, is suitable for immediate use in the Ordinary Course of Business, is free from latent and patent defects and is being operated and maintained in all material respects in accordance with industry standards and prescribed operating instructions (if any) necessary to ensure the effectiveness of equipment warranties and/or service plans; and (ii), no item of Tangible Personal Property is in need of repair or replacement other than as part of routine maintenance in the Ordinary Course of Business. If applicable, Tangible Personal Property owned or leased by JVCo is and will be as of Closing in JVCo's possession.

**3.9.2 Intangible Personal Property; Intellectual Property Assets.** Section 3.9.2 of the Seller Disclosure Schedule contains a complete and accurate list and summary of all Intellectual Property owned or possessed by JVCo, or which JVCo has the right to use pursuant to a valid and enforceable, written license, sublicense, agreement, or permission (collectively and together with the Intangible Personal Property, the "Intellectual Property Assets"). Such Intellectual Property Assets constitute all of the Intellectual Property necessary for the operation of the businesses of JVCo as presently conducted. The Intellectual Property Assets do not infringe on the intellectual property rights of any Person. JVCo is the owner or licensee of all right, title and interest in and to each of the Intellectual Property Assets, free and clear of all Liens except for Permitted Encumbrances. JVCo has the right to use all of the Intellectual Property Assets without payment to any third party except as disclosed in the applicable agreements disclosed in then Seller Disclosure Schedule. JVCo owns or has the right to use pursuant to ownership, license, sublicense, agreement, permission, or free and unrestricted availability to general public, all of the Intellectual Property Assets used by JVCo, subject to the terms of applicable agreements itemized in the Seller Disclosure Schedule. JVCo has not interfered with, infringed upon, misappropriated, or otherwise come into conflict with any Intellectual Property rights of third parties, and neither Seller nor JVCo, or their respective members, managers, directors and officers and employees has ever received any charge, complaint, claim, demand, or notice alleging any such interference, infringement, misappropriation, or violation (including any claim that JVCo must license or refrain from using any intellectual property rights of any third party). Except as disclosed in the Seller Disclosure Schedule, to the Knowledge of Seller, no third party has interfered with, infringed upon, misappropriated, or otherwise come into conflict with any proprietary intellectual property rights of JVCo.

**3.10 Operations in Conformity with Law, Etc.** Except as set forth in Section 3.10 of the Seller Disclosure Schedule: (i) JVCo is, and at all times has been, in full compliance with each Legal Requirement that is or was applicable to it or to the conduct or operation of JVCo, the JVCo Assets, and JVCo's Business; (ii) no event has occurred or circumstance exists that (with or without notice or lapse of time) (a) may constitute or result in a violation by JVCo of, or a failure on the part of JVCo to comply with, any Legal Requirement, or (b) may give rise to any obligation on the part of JVCo to undertake, or to bear all or any portion of the cost of, any Remedial Action of any nature; and (iii), neither the Seller nor JVCo have received any notice or other communication (whether oral or written) from any Governmental Body or any other Person regarding (a) any actual, alleged, possible or potential violation of, or failure to comply with, any Legal Requirement, or (b) any actual, alleged, possible or potential obligation on the part of JVCo to undertake, or to bear all or any portion of the cost of, any Remedial Action of any nature.

**3.11 Labor Relations.** JVCo has complied in all respects at all times with all Legal Requirements, including all Occupational Safety and Health Laws, relating to employment practices, terms and conditions of employment, equal employment opportunity, nondiscrimination, immigration, wages, hours, benefits, payment of social security and similar Taxes, collective bargaining and other requirements under applicable Legal Requirements. To Seller's Knowledge, JVCo is not liable for the payment of any Taxes, including any social security and similar Taxes, fines, penalties, interest, back wages, front pay, liquidated or compensatory damages, exemplary damages or other amounts, however designated, for failure to comply with any of the foregoing Legal Requirements. JVCo has not been, and are not now, a party to any collective bargaining agreement or other labor Contract. There has not been, there is not presently pending or existing, and to Seller's Knowledge, there is not threatened, any strike, slowdown, picketing, work stoppage or employee grievance process involving JVCo. No event has occurred or circumstance exists that could provide the Basis for any work stoppage or other labor dispute. There has not been, there is not presently pending or existing, and, to the Knowledge of Seller, there is not overtly threatened any Proceeding, charge, grievance proceeding or other claim against or affecting JVCo (or any director, officer, manager, member or employee thereof) relating to the actual or alleged violation of any Legal Requirement pertaining to labor relations or employment matters, including any charge or complaint filed by an employee or union with the National Labor Relations Board, the Equal Employment Opportunity Commission or any comparable Governmental Body, and there is no organizational activity or other labor dispute against or affecting JVCo or its business. There is no organizational activity or other labor dispute against or affecting JVCo and no application or petition for an election of or for certification of a collective bargaining agent is pending. No grievance or arbitration Proceeding exists that might have a Material Adverse Effect upon JVCo or the conduct of its business. Neither JVCo nor Seller have been served notice of, and JVCo and Seller do not otherwise have Knowledge of, any grievance or arbitration Proceeding by any employee of JVCo that might have an adverse effect upon JVCo, the JVCo Assets, or the conduct of JVCo's business. There has been no charge of discrimination filed against or, to Seller's Knowledge, threatened against JVCo with the Equal Employment Opportunity Commission or similar Governmental Body. There is no lockout by JVCo of any employees of JVCo, and no such action is contemplated by Seller or JVCo.

**3.12 No Adverse Change.** Since the formation of JVCo, there has not been any Material Adverse Change in JVCo's Business, operations, prospects, JVCo Assets, results of operations or condition (financial or other) of the JVCo, and, to the Knowledge of Seller, no event has occurred or circumstance exists that may result in such a Material Adverse Change. Neither Seller nor JVCo have received any notice or other communication (written or oral) from any Governmental Body or any other Person regarding the ability of JVCo to own or operate the JVCo Assets, or the intention of any Governmental Body to challenge or oppose the Buyer's ownership or operation of same. No action has been taken by the Seller or JVCo, or any other officer, director, manager, or member of either Seller or JVCo, that would have a Material Adverse Effect on JVCo or the Contemplated Transactions. JVCo has conducted its businesses only in the Ordinary Course of Business. Except as set forth in the Seller Disclosure Schedule, without limiting the generality of the foregoing, since the Closing Date: (i) JVCo has not entered into any agreement, Contract, lease, or license (or series of related agreements, contracts, leases, and licenses) outside the Ordinary Course of Business; (ii) no party (including JVCo) has accelerated, terminated, modified, given rise to a notice of default, or cancelled any agreement, Contract, lease, Permit, Governmental Authorization, or license (or series of related agreements, contracts, leases, and licenses) to which JVCo is a party, or by which it is bound, or which affects the JVCo Assets; (iii) JVCo has not granted any Liens upon any of the JVCo Assets, tangible or intangible; (iv) JVCo has made no capital expenditure (or series of related capital expenditures) outside the Ordinary Course of Business; (v) JVCo has made no capital investment in, any loan to, or any acquisition of the securities or assets of, any other Person (or series of related capital investments, loans, and acquisitions); (vi) JVCo has not issued any note, bond, or other debt security, or created, incurred, assumed, or guaranteed any indebtedness for borrowed money or capitalized lease obligation; (vii) JVCo has not transferred, assigned, or granted any license or sublicense of any rights under or with respect to any JVCo Assets; (viii) JVCo has not caused any change to be made or authorized in the Organizational Documents of JVCo; (ix) JVCo has not issued, sold, pledged or otherwise disposed of any of its equity interests, or granted any options, warrants, or other rights to purchase or obtain (including upon conversion, exchange, or exercise) any of equity interests or securities; (x) JVCo has not declared, set aside, or paid any dividend or made any distribution with respect to its equity interests (whether in cash or in kind) or redeemed, purchased, or otherwise acquired any of its equity interests; (xi) JVCo has not experienced any damage, destruction, or loss (whether or not covered by insurance) to its property and JVCo Assets, including any Property or any Business; (xii) JVCo has not made any loan to, or entered into any other transaction with, any of its members, managers, officers, directors, or employees; (xiii) JVCo has not entered into any employment Contract, severance or other benefit agreement, consulting agreement or collective bargaining agreement, written or oral, or modified the terms of any existing such Contract or agreement; (xiv) JVCo has not granted any increase in the base compensation of any of its officers, directors, members, managers or employees outside the Ordinary Course of Business; (xv) JVCo has not adopted, amended, modified, or terminated any bonus, profit sharing, incentive, severance, or other plan, contract, or commitment for the benefit of any of its members, managers, officers, directors and employees (or taken any such action with respect to any other Employee Benefit Plan); (xvi) JVCo has not made any other change in employment terms for any of its directors, officers, members, managers and employees outside the Ordinary Course of Business; (xvii) JVCo has not made or pledged to make any charitable or other capital contribution; (xviii) JVCo has not discharged, in whole or in part, a material Liability or Lien outside the Ordinary Course of Business; (xix) JVCo has not disclosed any Confidential Information; (xx) there has not been any other material occurrence, event, incident, action, failure to act, or transaction outside the Ordinary Course of Business involving JVCo; (xxi) there has been no indication by any customer or supplier of JVCo of an intention to discontinue or change the terms of its relationship with the JVCo; (xxii) there has been no change in the accounting methods, principles or practices for financial accounting with respect to JVCo (except for those changes required by JVCo's independent auditors to comply with GAAP) or for IRS reporting purposes; and (xxiii), neither the Seller nor JVCo has committed to do any of the foregoing.

**3.13 Permits.** Section 3.13 of the Seller Disclosure Schedule contains a complete and accurate list of all permits, licenses, Consents, Governmental Authorizations and Approvals (collectively, the "Permits"): (i) owned by JVCo that are necessary or required to own, construct, operate and develop the businesses of JVCo, the JVCo Assets, and the Properties; and (ii), for which JVCo has made application with respect to the ownership, operation, construction, and development of its business and the Properties where such application is still pending as of the date hereof and at Closing. JVCo has not received any notice (written or oral) from any Governmental Body of rejection of any such application or any notice (written or oral) that any such application is being considered for rejection. Each Permit is valid and in full force and effect, as applicable. The Permits listed or required to be listed in Section 3.13 of the Seller Disclosure Schedule collectively constitute all of the Permits necessary or required to permit the JVCo to lawfully conduct and operate its business in accordance with all Legal Requirements. JVCo is, and at all times has been, in full compliance with all of the terms and requirements of each Permit listed or required to be listed in Section 3.13 of the Seller Disclosure Schedule. Seller has delivered, or has caused to be delivered, to Buyer (or its Representatives) copies of all Permits and Approvals and applications therefor referred to above in this Section 3.15, and all other correspondence between Seller or JVCo (or their respective Representatives) and the applicable Governmental Bodies in connection with such Permits and applications therefor. No event has occurred or circumstance exists that may (with or without notice or lapse of time) constitute or result directly or indirectly in a violation of or a failure to comply with any term or requirement of any Permit, or result directly or indirectly in the revocation, withdrawal, suspension, cancellation or termination of, or any modification to, any Permit or Approval. Neither Seller nor JVCo have received any notice or other communication (whether oral or written) from any Governmental Body or any other Person regarding any actual, alleged, possible or potential violation of or failure to comply with any term or requirement of any Permit, or any actual, proposed, possible or potential revocation, withdrawal, suspension, cancellation, termination of or modification to any Permit. All applications required to have been filed for the renewal of the Governmental Authorizations listed or required to be listed in Section 3.13 of the Seller Disclosure Schedule have been duly filed on a timely basis with the appropriate Governmental Bodies, and all other filings required to have been made with respect to such Permits have been duly made on a timely basis with the appropriate Governmental Bodies.

**3.14 Environmental Matters.** JVCo has not treated, stored, disposed of, arranged for or permitted the disposal of, transported, handled, manufactured, distributed, or released any substance, including without limitation any Hazardous Material, or owned or operated any property or facility (and no such property or facility is contaminated by any such substance) so as to give rise to any current or future Liabilities, including any Liability for fines, penalties, response costs, corrective action costs, personal injury, property damage, natural resources damages or attorney's fees, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), the Solid Waste Disposal Act, as amended ("SWDA") or any other Environmental Laws. The Properties do not now contain nor have the Properties contained any underground storage tanks or Hazardous Material. Neither this Agreement nor the consummation of the Contemplated Transactions will result in any obligations for site investigation or cleanup, or notification to or consent of government agencies or third parties, pursuant to any of the so-called "*transaction-triggered*" or "*responsible property transfer*" Environmental Laws. JVCo has not assumed, or has otherwise become subject to, any Liability, including without limitation any obligation for corrective or Remedial Action, of any other Person relating to Environmental Laws. JVCo has complied in all respects, and is presently in compliance in all respects, with all applicable Environmental Laws pertaining to the ownership and operation of the JVCo Assets, the Properties and JVCo's Business. Neither Seller nor JVCo have received any communication alleging that they are not in compliance with any Environmental Law. JVCo has not taken any action that could reasonably result in any Liability (other than minor Liabilities of nominal or no financial or other consequence) relating to (i) the environmental conditions on, under, or about the Properties or any real property that is presently owned, leased or otherwise used by JVCo, or upon which JVCo locates any Tangible Personal Property; or (ii), the present use, management, handling, transport, treatment, generation, storage, disposal or release of any Hazardous Material. There are no pending or threatened Proceedings of any nature resulting from any Environmental, Health and Safety Liabilities or arising under or pursuant to any Environmental Law with respect to or affecting JVCo, the JVCo Assets, the Properties, or JVCo's Business. No Property contains wetlands, vegetation, animal species or significant historic/archaeological sites which are subject to special regulations or limitations under any Legal Requirement. No unacceptable material has deposited or buried on or under the Properties in violation of any Permit, Governmental Authorization or Legal Requirement; no toxic wastes or Hazardous Materials have been deposited, disposed of, stored, generated or released on or from the Properties, and there are no cemeteries, grave sites or other burial sites located on the Properties.

**3.15 Contractual Obligations.** The only Contracts to which JVCo is a party are described in Section 3.15 of the Seller Disclosure Schedule (“Contracts”), and correct and complete copies of all such Contracts have been provided to Buyer. Except as set forth in applicable Contracts, Seller does not have and may not acquire any rights under any Contract. Subject to and except as set forth in Section 3.15 of the Seller Disclosure Schedule: (i) the Contracts are legal, valid, binding, enforceable, and in full force and effect (except as enforcement thereof may be limited by applicable Insolvency Laws), and will continue to be legal, valid, binding, enforceable, and in full force and effect on identical terms following the consummation of the Contemplated Transactions; (ii) none of the Contracts will upon completion or performance thereof have a Material Adverse Effect on JVCo’s Business, the JVCo Assets, or JVCo’s Business; (iii) JVCo is, and at all times has been, in compliance with all applicable terms and requirements of the Contracts; (iv) no event has occurred or circumstance exists that (with or without notice or lapse of time) may contravene, conflict with or result in a Breach of, or give JVCo or any other Person the right to declare a default or exercise any remedy under, or to accelerate the maturity or performance of, or payment under, or to cancel, terminate or modify, the Contracts; (v) no party to the Contracts has threatened to terminate its business relationship with JVCo for any reason; (vi) neither Seller nor JVCo has given to or received from any other Person any notice or other communication (whether oral or written) regarding the actual, alleged, possible or potential Breach of any Contract; and (vii), no event has occurred or circumstance exists under or by virtue of any Contract that (with or without notice or lapse of time) would cause the creation of any Lien affecting any of the JVCo Assets. There are no renegotiations of, attempts to renegotiate or outstanding rights to renegotiate any material amounts paid or payable under the Contracts with any Person having the contractual or statutory right to demand or require such renegotiation and no such Person has made written demand for such renegotiation. Each Contract relating to the sale or provision of services has been entered into in the Ordinary Course of Business and has been entered into without the commission of any act alone or in concert with any other Person, or any consideration having been paid or promised, that is or would be in violation of any Legal Requirement. Seller has provided to Buyer a complete list of the recurring customers of JVCo’s Business, whether or not such recurring customers are bound by a written contract or agreement with JVCo.

**3.16 Bank Accounts.** Section 3.16 of the Seller Disclosure Schedule lists all bank, money market, savings and similar accounts and safe deposit boxes of JVCo, specifying the account numbers and the authorized signatories or persons having access to them.

**3.17 Insurance.** The Seller Disclosure Schedule accurately sets forth a list of all current policies of insurance held by JVCo. All such policies of insurance are in full force and effect, and no notice of cancellation has been received with respect thereto, and all premiums owed to date have been paid in full.

**3.18 Affiliated Transactions.** Except as set forth in Section 3.18 of the Seller Disclosure Schedule, no member, employee, or any members of their immediate families owns, directly or indirectly (whether as undisclosed principal or otherwise), individually or collectively, any interest in any corporation, partnership, firm or other entity which has any agreement, arrangement or other contractual relationship with JVCo.

**3.19 Operating Agreement.** Seller has heretofore delivered or caused to be delivered (or will hereinafter deliver or cause to be delivered prior to the Closing Date) to Buyer or its counsel accurate and complete copies of the JVCo Operating Agreement, the ACR operating agreement, the GFD operating agreement, and applicable written consents and membership books. Nothing contained in any of the foregoing prevents or adversely affects the consummation of the transactions contemplated by this Agreement. True and correct copies of the each such entity's operating agreement as amended, are attached hereto and made a part hereof as **Exhibit 7.1**, which agreements are in full force and effect and have not been amended or modified in any way.

**3.20 Restrictive Covenants.** JVCo is not party to or bound or affected by any commitment, agreement or document which limits the freedom of JVCo to compete in any line of business, transfer or move any of the JVCo Assets, or JVCo's operations, or which does or could materially and adversely affect JVCo's Business after the Closing.

**3.21 Worker's Compensation.** There are no notices of assessment or any other communications which JVCo has received from any workplace safety and insurance board or similar authorities and there are no assessments which have not been paid or accrued on the date hereof, and there are no facts or circumstances which may result in a material increase in liability to any of JVCo from any applicable workers' compensation legislation or applicable employee health and safety, training or similar legislation, regulations or rules after the Closing Date.

**3.22 Investment Purpose.** Seller is acquiring the Buyer Securities for its own account for investment only and not with a view towards, or for resale in connection with, the public sale or distribution thereof.

**3.23 Accredited Seller Status.** Seller is an "accredited investor" as that term is defined in Rule 501 of Regulation D, as promulgated under the Act of 1933.

**3.24 Reliance on Exemptions.** Seller understands that the Buyer Securities are being offered and sold to it in reliance on specific exemptions from the registration requirements of United States federal and state securities laws and that Buyer is relying in part upon the truth and accuracy of, and Seller's compliance with, the representations, warranties, agreements, acknowledgments and understandings of Seller set forth herein in order to determine the availability of such exemptions and the eligibility of Seller to acquire the Buyer Securities .

**3.25 Information.** Seller and its advisors, if any, have been furnished with all materials they have requested relating to the business, finances and operations of Buyer and information Seller deemed material to making an informed investment decision regarding its purchase of the Buyer Securities . Seller and its advisors, if any, have been afforded the opportunity to ask questions of Buyer and its management. Neither such inquiries, nor any materials provided to Seller, nor any other due diligence investigations conducted by Seller or its advisors, if any, or its representatives, shall modify, amend or affect Seller's right to fully rely on Buyer's representations and warranties contained in Article VI below. Seller understands that its investment in the Buyer Securities involves a high degree of risk. Seller is in a position regarding Buyer, which, based upon economic bargaining power, enabled and enables Seller to obtain information from Buyer in order to evaluate the merits and risks of this investment. Seller has sought such accounting, legal and tax advice as it has considered necessary to make an informed investment decision with respect to its acquisition of the Buyer Securities.

**3.26 No Governmental Review.** Seller understands that no United States federal or state Governmental Authority has passed on or made any recommendation or endorsement of the Buyer Securities , or the fairness or suitability of the investment in the Buyer Securities , nor have such Governmental Authorities passed upon or endorsed the merits of the offering of the Buyer Securities.

**3.27 Authorization, Enforcement.** This Agreement has been duly and validly authorized, executed and delivered on behalf of Seller and is a valid and binding agreement of Seller, enforceable in accordance with its terms, except as such enforceability may be limited by general principles of equity or applicable bankruptcy, insolvency, reorganization, moratorium, liquidation and other similar laws relating to, or affecting generally, the enforcement of applicable creditors' rights and remedies.

**3.28 Corrupt Practices.** Except in compliance with all Legal Requirements, neither the Seller nor JVCo, nor any of their Related Persons, or each of their respective officers, directors, employees or agents, have, directly or indirectly, ever made, offered or agreed to offer anything of value to (i) any employees, Representatives or agents of any customers of Seller or JVCo for the purpose of attracting business to Seller or JVCo, or (ii) any domestic governmental official, political party or candidate for government office or any of their employees, Representatives or agents.



**3.29 Brokers, Finders, Etc.** No broker, finder or investment banker or other party is entitled to any brokerage, finder's or similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of JVCo or Seller.

**3.30 Jurisdictions.** Section 3.30 of the Seller Disclosure Schedule sets forth a complete list of each State in which (i) Seller and/or CleanTech conduct their Businesses, (ii) Original Member conducts its Business, and (iii) JVCo conducts its Business.

**3.31 CleanTech IP.** Section 3.31 of the Seller Disclosure Schedule sets forth all of the CleanTech IP.

**3.32 Title to CleanTech IP.** CleanTech has good and marketable title to all of the CleanTech IP free and clear of any and all Liens, except as set forth in Section 3.32 of the Seller Disclosure Schedule.

**3.33 CleanTech Financial Matters.** Seller has delivered to Buyer CleanTech's unaudited financial statements (balance sheet, statement of operations, and statement of cash flows) for the fiscal year ended December 31, 2016, and its unaudited financial statements (balance sheet, statement of operations, and statement of cash flows) as at, and for the nine-month period ended September 30, 2017 (collectively, the "CleanTech Financial Statements"). The CleanTech Financial Statements: (i) are true, accurate and complete in all respects; (ii) are consistent with the books and records of CleanTech; (iii) present fairly and accurately, in all material respects, the results of operations and financial condition of the business of CleanTech for the respective periods covered or as of their respective dates; and (iv), have been prepared in accordance with U.S. GAAP, applied on a consistent basis throughout the periods covered. As of the date of this Agreement, all indebtedness of CleanTech is set forth in **Schedule 3.32**, and shall mean and include the principal, accreted value, accrued and unpaid interest, prepayment and redemption premiums or penalties (including breakage costs, penalties and fees), if any, unpaid fees or expenses and other monetary obligations as of such time in respect of: (a) all indebtedness of CleanTech for borrowed money or for the deferred or unpaid purchase price of property or services; (b) any other indebtedness of CleanTech which is evidenced by a note, bond, debenture or similar instrument or commercial paper (including a purchase money obligation); (c) all deferred obligations of CleanTech to reimburse any bank or other person in respect of amounts paid or advanced under a letter of credit, surety bond, performance bond or other instrument; (d) all indebtedness of others guaranteed, directly or indirectly, by CleanTech or as to which CleanTech has an obligation (contingent or otherwise) that is substantially the economic equivalent of a guarantee; (e) all obligations of CleanTech under financing or capital leases; (f) all indebtedness of others secured by (or for which the holder of such obligation has an existing right, contingent or otherwise, to be secured by) any Lien on any property or assets of CleanTech (whether or not such obligation is assumed by CleanTech); (g) the aggregate net liability pursuant to any derivative instruments, including any interest rate or currency swaps, caps, collars, options, futures or purchase or repurchase obligations, or other similar derivative instruments. CleanTech does not have any liabilities of any nature, including without limitation expenses, whether accrued, absolute, contingent or otherwise, and whether due or to become due or whether or not required to be included on the CleanTech Financial Statements pursuant to the U.S. GAAP, probable of assertion or not, except liabilities that are reflected or disclosed in the notes of the most recent CleanTech Financial Statements, or were incurred in the Ordinary Course of Business and in the aggregate do not exceed \$50,000. No other information provided by or on behalf of CleanTech to Buyer, including, without limitation, information referred to in this Agreement, contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

**3.34 JVCo Pre-Closing Operating Agreement.** Attached hereto as **Exhibit 3.36** is a true and correct copy of the Operating Agreement of JVCo (the "JVCo Pre-Closing Operating Agreement"). The JVCo Pre-Closing Operating Agreement is in full force and effect and has not been amended or modified in any way.

**3.35 Capitalization; Voting Rights; Valid Issuance of the Shares.** The authorized capital stock of the Seller consists of 2,500,000,000 shares of Seller's common stock, par value \$0.0001 per share ("Seller Common Stock"), of which about 20,055,632 shares of Seller Common Stock are issued and outstanding as of the date hereof, and 5,000,000 shares of Seller's preferred stock, par value \$0.001 per share ("Seller Preferred Stock" and, together with the Seller Common Stock, the "Seller Stock"), of which about 3,280,544 shares of Seller Preferred Stock are issued and outstanding as of the date hereof. All of such outstanding shares have been validly issued and are fully paid and nonassessable. Except as disclosed in the Seller Disclosure Schedule, no shares of Seller Stock are subject to preemptive rights or any other similar rights or any liens or encumbrances suffered or permitted by Seller. Section 3.37 of the Seller Disclosure Schedule contains an accurate itemization of: (i) all issued, outstanding, and authorized shares of Seller's capital stock, stating all holders in excess of 4.9% of Seller's partially-diluted and fully-diluted capital stock; (ii) all outstanding options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating either to or rights convertible into any shares of capital stock of Seller or any of its subsidiaries, or contracts, commitments, understandings or arrangements by which Seller or any of its subsidiaries is or may become bound to issue additional shares of capital stock of Seller or any of its subsidiaries or options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into, any shares of capital stock of Seller or any of its subsidiaries; (iii) agreements or arrangements under which Seller or any of its subsidiaries is obligated to register the sale of any of their securities under the Securities Act (except pursuant to an S-8 Registration Statement); (iv) outstanding registration statements (except for an S-8 Registration Statement) and comment letters from the SEC or any other regulatory agency; and (v), securities or instruments containing anti-dilution or similar provisions that will be triggered by the issuance of the Seller Stock described in this Agreement. Seller has furnished to Buyer true and correct copies of Seller's Articles of Incorporation, as amended and as in effect on the date hereof, and Seller's Bylaws, as in effect on the date hereof, and the terms of all securities convertible into or exercisable for Seller Common Stock and the material rights of the holders thereof in respect thereto other than stock options issued to employees and consultants. The Seller Securities are duly authorized and, upon issuance in accordance with the terms hereof, shall be duly issued, fully paid and nonassessable, free from all taxes, liens and charges with respect to the issue thereof. The shares of Seller Common Stock issuable upon conversion of the Seller Debenture ("Seller Conversion Shares") have been duly authorized and reserved for issuance. The Seller Conversion Shares will be duly issued, fully paid and nonassessable upon conversion or exercise in accordance with this Agreement and any applicable Transaction Document.

**3.36 No Omissions.** No other information provided by or on behalf of Seller or JVCo to Buyer, including, without limitation, information referred to in this Agreement, contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

**3.37 Valid Issuance.** The 80% Units have been duly authorized and are validly issued, fully paid and non-assessable, and are subject to no options to purchase, or any similar rights or to any restrictions on transferability, except for such options and restrictions on transferability contained in the operating agreement for the JVCo. Each certificate or document of title constituting the 80% Units is genuine in all respects and represents what it purports to be.

**3.38 JVCo Subsidiaries.** Seller represents and warrants to Buyer that the statements contained in **Exhibit 3.38** are true and correct as of the Closing Date, except as set forth in the Seller Disclosure Schedule.

#### **4. Warranties and Representations Relating to the Buyer**

Buyer represents and warrants to Seller that the statements contained in this Section 4 are true and correct as of the Closing Date, except as set forth in the Buyer Disclosure Schedule.

**4.1 Due Organization, Authorization and Good Standing of Buyer.** Buyer is duly organized, validly existing and in good standing under the laws of New York. Buyer is qualified to do business and is in good standing as a foreign Person, as the case may be, in each jurisdiction in which the ownership of its properties and the nature and extent of the activities transacted by it makes such qualification necessary. Buyer has full corporate power and corporate authority to carry on its business, to own and use the properties owned and used by it and to perform its obligations under this Agreement.

**4.2 Authority Relative to this Agreement.** Buyer has the requisite corporate power and corporate authority to execute, deliver and perform this Agreement, and consummate all transactions contemplated hereby. The execution and delivery of this Agreement by Buyer and the consummation by the Buyer of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action, and no other corporate proceedings on the part of Buyer are necessary to authorize this Agreement or to consummate the transactions so contemplated, including the filing of registration statements and issuance of shares of Buyer's Common Stock upon conversion of the Series G Stock. This Agreement is the valid and legally binding obligation of Buyer, enforceable against them in accordance with its terms, subject to bankruptcy, insolvency, moratorium, reorganization and similar laws of general applicability affecting the rights and remedies of creditors and to general principles of equity, regardless of whether enforcement is sought in proceedings in equity or at law.

**4.3 No Violation or Approval.** Except as set forth herein and in **Schedule 4.3**, the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby will not result in the breach or violation of, or a default under the Articles of Incorporation or Bylaws of Buyer, or any statute applicable to Buyer or any material agreement to which Buyer is a party or by which any of its properties are bound, any fiduciary duty or any order, judgment, decree, rule or regulation of any court or any Government Authority or body having jurisdiction over Buyer or its properties, except where such failure would result in any change in or effect on the business of Buyer, which has a material adverse effect on the ability of Buyer to consummate the transactions contemplated by this Agreement. No consent, approval, order or authorization of, or negotiation, declaration or filing with, any Governmental Authority or entity or other party is required of, and has not been obtained or made by Buyer in connection with the execution and delivery of this Agreement or the consummation of any of the transactions contemplated hereby. Buyer's and Attis' entry into and performance under this Agreement will require consent of third parties pursuant to the provisions of that certain Second Amended and Restated Credit and Guaranty Agreement entered into by Buyer, Attis and other parties dated on or about April 20, 2018, as same has or will be amended from time to time (the "**Credit Agreement**"). Buyer has not obtained any consent required under the Credit Agreement from such third parties and will not obtain same prior to the closing of the Contemplated Transactions. Failure to obtain such consent will constitute a default by Buyer and Attis under the Credit Agreement. Seller acknowledges that Buyer has made the Credit Agreement available to Seller for Seller's inspection. Buyer hereby represents and warrants that the occurrence of the foregoing default will not have a Material Adverse Effect on Buyer's, Attis' and/or JVCo's ability to perform under this Agreement and the Transaction Documents. Seller hereby agrees that any event in which Buyer's senior secured lender declares default or initiates any action to enforce its rights under Buyer's Pre-Existing Secured Debt Agreements as a result of the execution and delivery by Buyer, Attis and JVCo of this Agreement or the Transaction Documents shall not constitute a Breach or Event of Default hereunder.

**4.4 Capitalization; Voting Rights; Valid Issuance of the Shares.** The capitalization of the Buyer is as set forth on Schedule 4.4, which Schedule 4.4 shall also include, to the Buyer's knowledge, the number of shares of Buyer's common stock (the "**Common Stock**") owned beneficially, and of record, by Affiliates of the Buyer as of the date hereof. The Buyer has not issued any capital stock since its most recently filed periodic report under the Securities Act, other than as reflected in Schedule 4.4 or pursuant to the exercise of employee stock options under the Buyer's stock option plans, the issuance of shares of Common Stock to employees pursuant to the Buyer's employee stock purchase plans and pursuant to the conversion and/or exercise of Common Stock equivalents outstanding as of the date of the most recently filed periodic report under the Securities Act. Except as a result of the Contemplated Transactions, or as set forth in Schedule 4.4, there are no outstanding options, warrants, scrip rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exercisable or exchangeable for, or giving any Person any right to subscribe for or acquire any shares of Common Stock or the capital stock of any Subsidiary, or contracts, commitments, understandings or arrangements by which the Buyer or any Subsidiary is or may become bound to issue additional shares of Common Stock or Common Stock equivalents or capital stock of any Subsidiary. The issuance and sale of the Securities will not obligate the Buyer or any Subsidiary to issue shares of Common Stock or other securities to any Person (other than the Purchasers) and will not result in a right of any holder of Buyer securities to adjust the exercise, conversion, exchange or reset price under any of such securities.

**4.5 Buyer Financial Statements.** Buyer has delivered to Seller its unaudited financial statements (balance sheet, statement of operations, and statement of cash flows) for the fiscal year ended December 31, 2016, and its unaudited financial statements (balance sheet, statement of operations, and statement of cash flows) as at, and for the nine-month period ended September 30, 2017 (collectively, the "**Buyer Financial Statements**"). The Buyer Financial Statements: (i) are true, accurate and complete in all respects; (ii) are consistent with the books and records of Buyer; (iii) present fairly and accurately, in all material respects, the results of operations and financial condition of the business of Buyer for the respective periods covered or as of their respective dates; and (iv), have been prepared in accordance with U.S. GAAP, applied on a consistent basis throughout the periods covered. Buyer has delivered to Seller or their representatives, or made available through the SEC's website at <http://www.sec.gov>, true and complete copies of the SEC Documents. As of their respective dates, the Buyer Financial Statements disclosed in the SEC Documents complied as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto. As of the date of this Agreement, all indebtedness of the Buyer is set forth in Section 4.5 of the Buyer Disclosure Schedule ("**Buyer Indebtedness**"), and shall mean and include the principal, accreted value, accrued and unpaid interest, prepayment and redemption premiums or penalties (including breakage costs, penalties and fees), if any, unpaid fees or expenses and other monetary obligations as of such time in respect of: (a) all indebtedness of the Buyer for borrowed money or for the deferred or unpaid purchase price of property or services; (b) any other indebtedness of the Buyer which is evidenced by a note, bond, debenture or similar instrument or commercial paper (including a purchase money obligation); (c) all deferred obligations of the Buyer to reimburse any bank or other person in respect of amounts paid or advanced under a letter of credit, surety bond, performance bond or other instrument; (d) all indebtedness of others guaranteed, directly or indirectly, by the Buyer or as to which the Buyer has an obligation (contingent or otherwise) that is substantially the economic equivalent of a guarantee; (e) all obligations of the Buyer under financing or capital leases; (f) all indebtedness of others secured by (or for which the holder of such obligation has an existing right, contingent or otherwise, to be secured by) any Lien on any property or assets of the Buyer (whether or not such obligation is assumed by the Buyer); (g) the aggregate net liability pursuant to any derivative instruments, including any interest rate or currency swaps, caps, collars, options, futures or purchase or repurchase obligations, or other similar derivative instruments. Buyer does not have any liabilities of any nature, including without limitation expenses, whether accrued, absolute, contingent or otherwise, and whether due or to become due or whether or not required to be included on the Buyer Financial Statements pursuant to the U.S. GAAP, probable of assertion or not, except liabilities that are reflected or disclosed in the notes of the most recent Buyer Financial Statements, or were incurred in the Ordinary Course of Business and in the aggregate do not exceed \$50,000. No other information provided by or on behalf of Buyer to Seller which is not included in the SEC Documents, including, without limitation, information referred to in this Agreement, contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

**4.6 Taxes.** Except as set forth in the Buyer Disclosure Schedule, Buyer has duly filed, on a timely basis all Tax Returns which it is required to file, and all material liabilities for Tax (including interest and penalties) have been paid. Buyer has paid all required withholding taxes with respect to employees and independent contractors. Except as set forth in the Buyer Disclosure Schedule, there are in effect no waivers or extensions of the applicable statutes of limitations for tax liabilities for any period, and no taxing authority has asserted either orally or in writing any adjustment that could result in an additional Tax for which Buyer is or may be liable and there is no pending audit, examination, investigation, dispute, proceeding or claim for which Buyer has received notice relating to any Tax for which any one of them is or may be liable. Except as set forth in the Buyer Disclosure Schedule, there are no agreements in writing with any taxing authority by Buyer. Except as set forth in the Buyer Disclosure Schedule, Buyer has not been nor is it included in any consolidated, affiliated, combined, unitary or other similar Tax Returns and there are no tax sharing agreements to which Buyer has now or ever has been a party. Except as set forth in the Buyer Disclosure Schedule, Buyer is not a party to any agreement, contract, arrangement or plan that would result in the payment of any "excess parachute payments" within the meaning of Code Section 280G (or any comparable provision of state, local or foreign law).

**4.7 No Material Adverse Breaches, etc.** Except as set forth in the SEC Documents, neither Buyer nor any of its subsidiaries is subject to any charter, corporate or other legal restriction, or any judgment, decree, order, rule or regulation which in the judgment of Buyer's officers has or is expected in the future to have a material adverse effect on the business, properties, operations, financial condition, results of operations or prospects of Buyer or its subsidiaries. Except as set forth in the SEC Documents, neither Buyer nor any of its subsidiaries is in breach of any contract or agreement which breach, in the judgment of Buyer's officers, has or is expected to have a material adverse effect on the business, properties, operations, financial condition, results of operations or prospects of Buyer or its subsidiaries.

**4.8 Litigation.** There is no action pending against, affecting or, to the knowledge of Buyer, threatened against it or any of its properties before any court or arbitrator or any governmental body, agent or official which in any manner challenges or seeks to prevent, enjoin, alter or materially delay any of the transactions contemplated by this Agreement or would materially adversely affect Buyer's ability to consummate the transactions contemplated hereby.

**4.9 No Omissions.** No other information provided by or on behalf of Buyer or its Related Persons to Seller, including, without limitation, information referred to in this Agreement, contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

## **5. Covenants Relating to Principal, Original Member, Seller, CleanTech and JVCo**

**5.1 Best Efforts.** Seller shall use its best efforts timely to satisfy each of the conditions to be satisfied by it hereunder.

**5.2 Restrictions on Transfer, Proxies and Noninterference.** Seller and JVCo shall not, directly or indirectly, except pursuant to the terms of this Agreement (i) offer for sale, sell, transfer, tender, pledge, encumber, assign or otherwise dispose of, or enter into any contract, option or other arrangement or understanding with respect to or consent to the offer for sale, transfer, tender, pledge, encumbrance, assignment or other disposition of, any or all 80% Units; (ii) grant any proxies or powers of attorney, deposit any such 80% Units into a voting trust or enter into a voting agreement with respect to any such 80% Units; or (iii), take any action that would make any representation or warranty contained in Section 3 untrue or incorrect or have the effect of preventing or disabling any Entity from performing its obligations under this Agreement.

**5.3 Conduct of Business by JVCo Pending the Closing.** From the date hereof and on and prior to the Closing, except as otherwise disclosed, permitted or required by this Agreement, JVCo will conduct business only in the Ordinary Course of Business and substantially as presently operated and use reasonable efforts to maintain the value of JVCo's Business as a going concern. From the date hereof and prior to the Closing, JVCo will not, without the prior written consent of the Seller: enter into any transactions otherwise than on an arms' length basis with any Affiliate of JVCo (other than as contemplated by this Agreement and the transactions in the Ordinary Course of Business of JVCo); pay any compensation other than in the Ordinary Course of Business or increase any compensation of any officer or employee; enter into any new contracts or agreements to incur any Liabilities (including without limitation, any capital lease); amend the operating agreement of JVCo; sell, lease or otherwise dispose of any material assets (except for sales and other dispositions in the Ordinary Course of Business and as may otherwise be permitted by the terms of this Agreement); propose or adopt any changes to the accounting principles used by JVCo material to its financial condition or business except as permitted by Generally Accepted Accounting Principles; make any capital expenditures in any month with respect to JVCo's Business or enter into any contract or commitment therefor other than in the Ordinary Course of Business; pay any dividends; or, commit to do any of the foregoing.

**5.4 Registration and Exemption.** Seller agrees and acknowledges that the Series G Stock may not be sold or transferred unless: (i) such shares are sold pursuant to an effective registration statement under the Securities Act; or (ii), the Buyer or its transfer agent shall have been furnished with an opinion of counsel (which opinion shall be in form, substance and scope customary for opinions of counsel in comparable transactions) to the effect that the shares to be sold or transferred may be sold or transferred pursuant to an exemption from such registration; or (iii), such shares are sold or transferred pursuant to Rule 144 under the Securities Act (or a successor rule) ("Rule 144"); or (iv), such shares are transferred to an "*affiliate*" (as defined in Rule 144) of the Sellers who is an Accredited Investor (as defined in the Securities Act), and who agrees to sell or otherwise transfer the shares only in accordance with this Section 5.4. Until such time as the Series G Stock have been registered under the Securities Act or otherwise may be sold pursuant to Rule 144 without any restriction as to the number of securities as of a particular date that can then be immediately sold, each certificate for shares of the Common Stock that has not been so included in an effective registration statement, or that has not been sold pursuant to an effective registration statement or an exemption that permits removal of the legend, shall bear a legend substantially in the following form, as appropriate:

**"NEITHER THE ISSUANCE AND SALE OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES INTO WHICH THESE SECURITIES ARE EXERCISABLE HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (a) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (b) AN OPINION OF COUNSEL (WHICH COUNSEL SHALL BE SELECTED BY THE HOLDER), IN A GENERALLY ACCEPTABLE FORM, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR (II) UNLESS SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES."**

**5.5 Further Assurances: Cooperation.** Original Member and Seller shall use their best efforts to cooperate with Buyer and to diligently perform under the Transaction Documents. At and after the Closing, Seller shall execute and deliver such further instruments of conveyance and transfer as Buyer (and/or Buyer's designee) may reasonably request to convey and transfer effectively the 80% Units.

**5.6 Conveyance of CleanTech IP.** For so long as Buyer, Attis, and JVCo are in compliance with all applicable terms of the Transaction Documents, upon the later to occur of the (i) Seller Performance Date, (ii) the Buyer Performance Date, or (iii) the date on which all CleanTech Matters pending as of the Closing Date have been resolved (which later to occur date shall be referred to herein as the "Compliant Transfer Date"), CleanTech shall assign the CleanTech IP to JVCo, with full warranty of title free and clear of all third party claims or liens. **NOTWITHSTANDING ANYTHING STATED TO THE CONTRARY HEREIN, NOTHING STATED OR IMPLIED IN THIS AGREEMENT OR IN ANY TRANSACTION DOCUMENT SHALL BE CONSTRUED TO CONSTITUTE A SALE, ASSIGNMENT OR OTHER TRANSFER, EITHER AS OF THE CLOSING DATE, OR AT ANY TIME THEREAFTER PRIOR TO THE OCCURRENCE OF THE COMPLIANT TRANSFER DATE, OF ANY ASSETS OWNED BY SELLER AND/OR CLEANTECH, OR WHICH MAY OTHERWISE BE INCLUDED IN THE SELLER COLLATERAL COVERED BY SELLER'S PRE-EXISTING SECURED DEBT AGREEMENTS.**

**5.6.1 Title to CleanTech Assets.** Buyer and Attis acknowledge and agree that, notwithstanding anything stated to the contrary herein or the Transaction Documents, (i) **TITLE TO THE CLEANTECH ASSETS COLLATERAL SHALL BE AND REMAIN WITH CLEANTECH**, and (ii), for avoidance of doubt, inasmuch as the CleanTech IP and CleanTech Matters are included in the CleanTech Assets, all now and hereinafter-arising CleanTech IP and CleanTech Matters shall be and remain in the name of CleanTech until and unless an appropriate assignment is made on or after the Compliant Transfer Date.

**5.7 Non-Competition and Non-Solicitation.** Through and including **APRIL 30, 2023** (the "Restrictive Period"), upon and subject to the terms and conditions of the Transaction Documents, except as otherwise stated in the JVCo Operating Agreement and JVCo Management Agreement, and for so long as no Event of Default has occurred under the Transaction Documents, Principal, Original Member, Seller and CleanTech (collectively, the "Transferors"), each on their own behalf, hereby agree that they shall not, directly or indirectly, for itself or on behalf of, or in conjunction with, any other person, company, firm, partnership, association, corporation or business or organization, entity or enterprise,

**5.7.1** within the United States or Canada be engaged or employed in any capacity by, or own, operate, manage or control a business which is competitive with the business of Attis or JVCo (except for passive, minority equity investments in, or providing senior or mezzanine debt financing to, a business that is competitive with JVCo's Business, which shall be allowed);

**5.7.2** solicit or attempt to solicit business from any third party which was a customer or prospective customer of Attis or JVCo within two (2) years prior to the date of this Agreement with a view to sell or provide any products or services competitive with any products or services of Attis or JVCo; or

**5.7.3** for any reason whatsoever, employ or attempt to employ or assist anyone else in employing any employee of Buyer, JVCo or Attis (whether or not such employment is full-time or is pursuant to a written contract).

In the event the enforceability of this Section 5.7 shall be challenged in a court of competent jurisdiction and any applicable Transferor is not enjoined from breaching any term of this Agreement, then, if such court finds that the challenged term is enforceable, the applicable time periods set forth herein shall be deemed tolled upon the filing of the lawsuit challenging the enforceability of the applicable provision until the dispute is finally resolved and all periods of appeal have expired. In the event any Party is required to engage the services of an attorney at law to enforce any provision of this Agreement, said Party may recover from the breaching Party, in addition to any other damages to which it may be entitled, including, without limitation, its reasonable attorneys' fees and expenses of litigation. Transferors each hereby acknowledge that breach of any of the provisions contained in this Section 4 could result in irreparable damage and injury to Buyer, which injury could not be adequately compensated by money damages or other legal remedies. Accordingly, in the event of such a breach of any of the provisions of this Section 4, in addition to, and not in limitation of, any remedies which may be available to Buyer under the Transaction Documents, Buyer may seek equitable relief against the breaching Party for such breaches, including, without limitation, an injunction or an order for a specific performance. If Buyer seeks to enjoin any such breaching Party from breaching any such provision of this paragraph, the breaching Party hereby waives the defense that Buyer has or will then have an adequate remedy at law. Nothing in this paragraph shall be deemed to limit Buyer's remedies at law or equity for any breach by any Transferor of any provision of the Transaction Documents which may be pursued or availed by Buyer.

**5.8 Original Member Matters.** Original Member hereby agrees that,

**5.8.1** for so long as Buyer, Attis and their respective Related Persons are in compliance with the terms and conditions of this Agreement and Transaction Documents, Original Member will not, directly or indirectly, take any action to accelerate or demand payment of any amount due under the February 2015 Loan Agreements from any Party, or to exercise any remedies against any Party in connection therewith, or which otherwise in any way involves the Acquired Assets, including, without limitation, by amending, modifying, or increasing any lien rights in favor of Original Member beyond those associated with the Pre-Existing Senior Lien;

**5.8.2** within five (5) Business Days of the Buyer Performance Date, Original Member shall execute, acknowledge and deliver all such further instruments, and do all such other acts, as may be reasonably required by Buyer's counsel to release and satisfy all obligations evidenced by the February 2015 Loan Agreements, to release all of the Acquired Assets from the Pre-Existing Senior Lien, and to complete and file UCC-3s or other forms as may be reasonably required by Buyer's counsel to record Original Member's release of the Pre-Existing Senior Lien;

**5.8.3** in reliance upon and subject to the terms and conditions of this Agreement and the Transaction Documents, without which Original Member would not be willing to execute this Agreement, Original Member hereby consents to the completion of the Contemplated Transactions; and,

**5.8.4** as a material inducement to Buyer and Attis to enter into this Agreement, and the Transaction Documents, Original Member represents and warrants to Buyer and Attis that it has not conveyed any interest in any of the February 2015 Loan Agreements or the Pre-Existing Lien to any third party.

**5.9 Seller Restructuring.** Unless waived by Buyer, Seller shall use commercially reasonable efforts to fully convert Seller's remaining shares of preferred stock into Seller Common Stock except for the minimum amount necessary to maintain compliance with applicable pledge agreements and tax regulations regarding the availability of Seller's net operating losses, and reduce Seller's authorized Common Stock to no more than twice Seller's fully-diluted Common Stock as of the date on which the Seller Restructuring is completed ("Seller Restructuring").

**5.10 Seller's SEC Filings.** Seller shall use commercially reasonable efforts to bring its outstanding filings current, and to thereafter file all reports, schedules, forms, statements and other documents required to be filed by it with the SEC under of the Exchange Act (all of the foregoing filed prior to the date hereof or amended after the date hereof and all exhibits included therein and financial statements and schedules thereto and documents incorporated by reference therein, being hereinafter referred to as the "SEC Documents"). Until the earlier of (i) the date as of which the Buyer may sell all of the Seller Conversion Shares without restriction pursuant to Rule 144(k) promulgated under the Securities Act (or successor thereto), or (ii) the date on which (a) the Seller shall have sold all the Seller Conversion Shares and (b) the Seller Debenture is fully paid, Seller shall file in a timely manner all reports required to be filed with the SEC pursuant to the Exchange Act and the regulations of the SEC thereunder, Seller shall not terminate its status as an issuer required to file reports under the Exchange Act even if the Exchange Act or the rules and regulations thereunder would otherwise permit such termination.

## **6. Covenants Relating to Buyer**

**6.1 Best Efforts.** Buyer shall use its best efforts timely to satisfy each of the conditions to be satisfied by it hereunder.

**6.2 Corporate Existence.** So long as any of the Series G Stock remain outstanding, Buyer shall not directly or indirectly consummate any merger, reorganization, restructuring, reverse stock split, consolidation, sale of all or substantially all of Buyer's assets or any similar transaction or related transactions (each such transaction, an "Organizational Change") unless, prior to the consummation an Organizational Change, Buyer obtains the written consent of Seller. In any such case, Buyer shall make appropriate provision with respect to Seller's rights and interests to insure that the provisions of the Transaction Documents will thereafter be applicable to Series G Stock after any such Organizational Change.

**6.3 Buyer's SEC Filings.** Buyer shall file all reports, schedules, forms, statements and other documents required to be filed by it with the SEC under of the Securities Exchange Act of 1934, as amended (the "Exchange Act") (all of the foregoing filed prior to the date hereof or amended after the date hereof and all exhibits included therein and financial statements and schedules thereto and documents incorporated by reference therein, being hereinafter referred to as the "SEC Documents"). Until the earlier of (i) the date as of which the Seller may sell all of the Series G Conversion Shares without restriction pursuant to Rule 144(k) promulgated under the Securities Act (or successor thereto), or (ii) the date on which (a) the Seller shall have sold all the Series G Conversion Shares and (b) none of the Series G Stock are outstanding (the "Registration Period"), Buyer shall file in a timely manner all reports required to be filed with the SEC pursuant to the Exchange Act and the regulations of the SEC thereunder, Buyer shall not terminate its status as an issuer required to file reports under the Exchange Act even if the Exchange Act or the rules and regulations thereunder would otherwise permit such termination.

**6.4 Listings or Quotation.** Buyer shall maintain the Common Stock's authorization for quotation on the NASDAQ, NYSE, or OTCQX public trading markets or stock exchanges.

**6.5 Registration Rights.** Buyer and Seller shall enter into a registration rights agreement in substantially the same form as the form attached in **Exhibit 6.5** hereto ("**Registration Rights Agreement**"), pursuant to which Buyer shall use its best efforts to register the Series G Stock, Series G Conversion Shares, and Buyer Closing Shares on a **TIME IS OF THE ESSENCE** basis, but in no event later than **August 31, 2018**.

**6.6 Reservation of Shares.** Notwithstanding the foregoing, Buyer shall take all action reasonably necessary, commercially reasonable action to at all times have authorized, and reserved for the purpose of issuance, such number of shares of Common Stock issuable hereunder, and otherwise as shall be necessary to effect the issuance of all of the Series G Conversion Shares due upon conversion of the Series G Stock.

**6.7 Transfer Agent Instructions.** Buyer shall issue instructions to its transfer agent in the form(s) attached hereto as **Exhibit 6.7** for the purpose of having certificates issued, registered in the name of the Seller or its respective designee(s) or nominee(s), for the Closing Common Shares and Series G Conversion Shares representing such amounts of Series G Stock as specified from time to time to Buyer upon conversion of the Series G Stock ("**Transfer Agent Instructions**"). Buyer warrants that no instruction other than the Transfer Agent Instructions will be given by Buyer to its transfer agent and that the Buyer Closing Shares and Series G Conversion Shares shall otherwise be freely transferable on the books and records of Buyer as and to the extent provided in this Agreement. Nothing in this Section 6.7 shall effect in any way any obligations and agreements to comply with all applicable securities laws upon resale of any shares of Buyer Stock. If a holder of the Series G Stock provides Buyer with an opinion of counsel, in form, scope and substance customary for opinions of counsel in comparable transactions to the effect that registration of a resale of any of the Series G Conversion Shares is not required under applicable laws, Buyer shall within two (2) business days instruct its transfer agent to issue one or more certificates in such name and in such denominations as specified by Seller, subject only to the restrictions stated in the Series G Certificate of Designations, and otherwise herein. Buyer acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to Seller by vitiating the intent and purpose of the transactions contemplated hereby. Accordingly, Buyer acknowledges that the remedy at law for a breach of its obligations under this Section 6.7 will be inadequate, and hereby agrees, in the event of a breach or threatened breach by Buyer of the provisions of this Section 6.7, that the Seller shall be entitled, in addition to all other available remedies, to an injunction restraining any breach and requiring immediate issuance and transfer, without the necessity of showing economic loss and without any bond or other security being required.

**6.8 Further Assurances: Cooperation.** Buyer shall use its best efforts to cooperate with Seller and to diligently perform under the Transaction Documents. At and after the Closing, Buyer shall execute and deliver such further instruments of conveyance and transfer as Seller (and/or Seller's designee) may reasonably request to convey and transfer effectively the Series G Stock, Series G Conversion Shares, and any and all amounts and shares due and payable thereunder, or which may otherwise be due and payable under any other Transaction Document.

## **7. Corporate Matters**

**7.1 Operating Agreement.** Buyer, Attis, JVCo, Seller, and CleanTech shall execute and deliver an amended and restated JVCo operating agreement on or before the Closing in substantially the same form as the form of operating agreement attached in **Exhibit 7.1** hereto ("**JVCo Operating Agreement**"), and a management agreement in substantially the same form as the form of management agreement attached in **Exhibit 7.1(a)** hereto ("**JVCo Management Agreement**"), which agreements shall be effective immediately as of the Closing Date. JVCo's managers shall be comprised of the Persons set forth in **Schedule 7.1** hereto, effective immediately after the Closing Date.

**7.2 Allocation of Purchase Price.** Within one hundred twenty (120) days after the Closing (unless required sooner to meet the reasonable IRS filing requirements of one of the parties) the parties agree to complete duplicate IRS Form 8594 ("**Acquisition Statement**") as required by the Internal Revenue Code. The parties further agree to make no change or alteration of the Form 8594 and to file no Supplement Statement Form 8594 without at least fifteen (15) days prior written notice to the other party of the nature and extent of the changes, which notice shall include the revised or Supplemental Statement Form 8594.



**7.3 Confidentiality.** The term “Confidential Information” shall mean that information of a Party (“Disclosing Party”) which is disclosed to another Party (“Receiving Party”) pursuant to this Agreement, and shall include, but not be limited to, trade secrets, know-how, inventions, techniques, processes, algorithms, software programs, schematics, designs, contracts, customer lists, financial information, sales and marketing plans and business information. The Parties agree that the term “Confidential Information” shall also be construed to include the existence and identity of specific third parties named in the Seller Disclosure Schedule that were, are, or which may become party to one or more agreements, transactions, disputes, or litigation involving JVCo, and the existence and nature of any of the foregoing (collectively, “Proprietary Matters”). The Parties hereby agree and acknowledge that any disclosure of Confidential Information involving Proprietary Matters could materially adversely effect the relationship or rights of JVCo in connection with such matters, and that, notwithstanding anything stated herein to the contrary, no disclosure of Confidential Information involving Proprietary Matters shall be made by any Party without the express written consent of the other Parties hereto unless as may be required by law, and, even then, on a need-to-disclose basis after exhausting all available confidential treatment and such other options to prevent general public disclosure. Each Party acknowledges that in the course of the performance of this Agreement, it may obtain the Confidential Information of the other Party. The Receiving Party shall, at all times, both during the term of this Agreement and thereafter, keep in confidence and trust all of the Disclosing Party’s Confidential Information received by it. The Receiving Party shall not use the Confidential Information of the Disclosing Party other than as expressly permitted under the terms of this Agreement or by a separate written agreement. The Receiving Party shall take all reasonable steps to prevent unauthorized disclosure or use of the Disclosing Party’s Confidential Information and to prevent it from falling into the public domain or into the possession of unauthorized persons. The Receiving Party shall not disclose Confidential Information of the Disclosing Party to any person or entity other than its officers, employees, consultants and permitted sublicensees who need access to such Confidential Information in order to effect the intent of this Agreement and who have entered into confidentiality agreements with such person’s employer which protects the Confidential Information of the Disclosing Party. The Receiving Party shall promptly give notice to the Disclosing Party of any unauthorized use or disclosure of Disclosing Party’s Confidential Information. The Receiving Party agrees to assist the Disclosing Party to remedy such unauthorized use or disclosure of its Confidential Information, which remedies shall include injunctive relief without the necessity of posting a bond or proving damages. These obligations shall not apply to the extent that Confidential Information includes information which: is already known to the Receiving Party at the time of disclosure, which knowledge the Receiving Party shall have the burden of proving; is, or, through no act or failure to act of the Receiving Party, becomes publicly known; is received by the Receiving Party from a third party without restriction on disclosure; is independently developed by the Receiving Party without reference to the Confidential Information of the Disclosing Party, which independent development the Receiving Party will have the burden of proving; is approved for release by written authorization of the Disclosing Party; is required to be disclosed by a government agency to further the objectives of this Agreement, by a proper order of a court of competent jurisdiction, or is required to be disclosed by law or pursuant to the requirements of a recognized stock exchange; provided, however that the Receiving Party will use its best efforts to minimize such disclosure and will consult with and assist the Disclosing Party in obtaining a protective order prior to such disclosure. For avoidance of doubt, no public disclosure shall be made by any Party hereto at any time in the absence of the prior written consent of each of the other Parties hereto, including pursuant to any applicable requirement to file a current report on Form 8K, or other regulatory disclosure in connection with the execution hereof.

**7.4 Indemnification.**

**7.4.1 Survival.** Subject to the provisions of this Section 7, all representations, warranties, covenants and obligations of the Parties contained in this Agreement and in the agreements, instruments and other documents delivered pursuant to this Agreement will survive the Closing and the consummation of the Contemplated Transactions.

**7.4.2 Indemnification by Buyer.** Buyer hereby covenants and agrees that, to the fullest extent permitted by Legal Requirement, it will defend, indemnify and hold harmless Seller and its Related Persons and Representatives, and their respective officers, directors, members, managers, employees, agents, and Representatives, and all successors and assigns of the foregoing (collectively, the “Seller Indemnified Persons”), for, from and against any Adverse Consequences, arising from or in connection with: (i) any Breach of any representation, warranty, covenant, obligation or agreement made by Buyer in the Transaction Documents, the Schedules and Exhibits hereto, the certificates delivered hereunder, any transfer instrument, or any other certificate, document, writing or instrument delivered by Buyer pursuant to or otherwise in connection with the Transaction Documents; (ii) any Liability of Buyer, Attis, or either of their Related Persons; or (iii), any claim by any Person for any brokerage or finder’s fee, commission or similar payment based upon any agreement or understanding made, or alleged to have been made, by any Person with Buyer in connection with this Agreement or any of the Contemplated Transactions.

**7.4.3 Indemnification by Seller.** Seller hereby covenants and agree that, to the fullest extent permitted by Legal Requirement, they will defend, indemnify and hold harmless Buyer, and its Related Persons and Representatives, and their respective officers, directors, members, managers, employees, agents, and Representatives, and all successors and assigns of the foregoing (collectively, the “**Buyer Indemnified Persons**”), for, from and against any Adverse Consequences arising from or in connection with: (i) any Breach of any representation, warranty, covenant, obligation or agreement made by Seller in the Transaction Documents, the Schedules and Exhibits hereto, the certificates delivered hereunder, any transfer instrument, or any other certificate, document, writing or instrument delivered by Seller pursuant to or otherwise in connection with the Transaction Documents; (ii) any Liability of JVCo based on facts, events or circumstances occurring before the Closing Date, or arising out of or in connection with the ownership and operation of JVCo, the JVCo Assets, and JVCo’s Business prior to the Closing Date, or facts and circumstances relating specifically to JVCo, the JVCo Assets, and JVCo’s Business existing at or prior to the Closing, respectively, whether or not such Liabilities or claims were known or unknown, absolute, accrued or contingent, on such date; (iii) any Liability of JVCo to Seller or any Related Person of Seller (except in connection with Permitted Encumbrances prior to the Buyer Performance Date); or (iv), any claim by any Person for any brokerage or finder’s fee, commission or similar payment based upon any agreement or understanding alleged to have been made by such Person with any Seller in connection with this Agreement or any of the Contemplated Transactions.

**7.4.3.1** In addition to its indemnification obligations under Section 7.4.3, Seller hereby covenant and agree that, to the fullest extent permitted by Legal Requirement, they will defend, indemnify and hold harmless the Buyer Indemnified Persons for, from and against any Adverse Consequences (including costs of cleanup, containment or other Remedial Action) arising out of acts or neglect occurring or conditions existing at or before Closing from or in connection with: (i) any Environmental, Health and Safety Liabilities arising out of or relating to (a) the conduct of any activity by Seller, JVCo, or their Related Persons, or any employee, contractor, agent or Representative thereof, relating to the JVCo Assets or Business, (b) the ownership or operation by any Person at any time on or prior to the Closing Date of any of the JVCo Assets or Business, or (c), any Hazardous Materials or other contaminants that were present on the JVCo Assets at any time on or prior to the Closing Date; or (ii), any bodily injury (including illness, disability or death, regardless of when such bodily injury occurred, was incurred or manifested itself), personal injury, property damage (including trespass, nuisance, wrongful eviction and deprivation of the use of real property) or other damage of or to any Person or any of the JVCo Assets, in any way arising from or allegedly arising from (a) any Hazardous Activity conducted by Seller, JVCo, their Related Persons or any employee, contractor, agent or Representative thereof, with respect to the JVCo Assets or Business, or (b), from any Hazardous Material that was present or suspected to be present on or before the Closing Date on or at the Properties (or present or suspected to be present on any other property, if such Hazardous Material emanated or allegedly emanated from any Property and was present or suspected to be present on any Property, on or prior to the Closing Date), or Released or allegedly Released by Seller, JVCo, their Related Persons, or any Person, on or at any of the Properties or JVCo Assets at any time on or prior to the Closing Date. Buyer, either directly or through JVCo, will be entitled to control any Remedial Action, any Proceeding relating to a claim that any Environmental Law has been violated and any other Proceeding with respect to which indemnity may be sought under this Section 7.4.

#### **7.4.4 Time Limitations.**

**7.4.4.1** For purposes of this Agreement, a Buyer Indemnified Person may only assert a claim for indemnification under Section 7.4.2 during the applicable period of time (the “**Buyer Claims Period**”) commencing on the date of this Agreement and continuing until the date that is **TWO (2) YEARS** after the Closing Date; provided, however, that with respect to any such indemnification claim regarding the Breach by Seller of any obligation hereunder or under any related agreement that is intended to survive and continue after the Closing, the Buyer Claims Period will continue for as long as such obligation is outstanding.

**7.4.4.2** For purposes of this Agreement, a Seller Indemnified Person may only assert a claim for indemnification under Section 7.4.3 during the applicable period of time (the “**Seller Claims Period**”) commencing on the date of this Agreement and continuing until the date that is **TWO (2) YEARS** after the Closing Date; provided, however, that with respect to any such indemnification claim regarding the Breach by Buyer of any obligation hereunder or under any related agreement that is intended to survive and continue after the Closing, the Seller Claims Period will continue for as long as such obligation is outstanding.

**7.4.4.3** Notwithstanding anything to the contrary in this Section 7, if before 5:00 p.m. (eastern time) on the last day of the applicable Buyer Claims Period or Seller Claims Period, any Party against which an indemnification claim has been made hereunder has been properly notified in writing of such claim for indemnity hereunder and the basis thereof, including with reasonable supporting details for such claim (to the extent then known), and such claim has not been finally resolved or disposed of as of such date, then such claim will continue to survive and will remain a basis for indemnity hereunder until such claim is finally resolved or disposed of in accordance with the terms of this Agreement.

**7.4.5 Payment of Claims.** A claim for indemnification may be asserted by written notice to the Party from whom indemnification is sought and will be paid promptly after such notice, together with satisfactory proof of Adverse Consequences or other documents evidencing the basis of the Adverse Consequences sought, are received.

**7.4.6 Third-Party Claims.** No later than ten (10) Business Days after receipt by a Person entitled to indemnity under Section 7 hereof (an "Indemnified Person") of notice of the assertion of a Third-Party Claim against it, such Indemnified Person shall give notice to the Person obligated to indemnify under such section (an "Indemnifying Person") of the assertion of such Third-Party Claim and a copy of any writing by which, such Third-Party assertion is made. The failure to notify the Indemnifying Person will relieve the Indemnifying Person of any liability that it may have to any Indemnified Person to the extent that the Indemnifying Person demonstrates that the defense of such Third-Party Claim is materially prejudiced by the Indemnified Person's failure to give such notice. If an Indemnified Person gives notice to the Indemnifying Person hereunder of the assertion of a Third-Party Claim, the Indemnifying Person shall be entitled to participate in the defense of such Third-Party Claim and, to the extent that it wishes (unless (i) the Indemnifying Person is also a Person against whom the Third-Party Claim is made and the Indemnified Person determines in good faith that joint representation would be inappropriate, or (ii), the Indemnifying Person fails to provide reasonable assurance to the Indemnified Person of its financial capacity to defend such Third-Party Claim and provide indemnification with respect to such Third-Party Claim), to assume the defense of such Third-Party Claim with counsel reasonably satisfactory to the Indemnified Person (provided, such counsel has appropriate experience in the subject matter relating to the claim). After notice from the Indemnifying Person to the Indemnified Person of its election to assume the defense of such Third-Party Claim, the Indemnifying Person shall not, so long as it diligently conducts such defense, be liable to the Indemnified Person hereunder for any fees of other counsel or any other expenses with respect to the defense of such Third-Party Claim, in each case subsequently incurred by the Indemnified Person in connection with the defense of such Third-Party Claim, other than reasonable costs of investigation. If the Indemnifying Person assumes the defense of a Third-Party Claim, such assumption will conclusively establish for purposes of this Agreement that the claims made in that Third-Party Claim are within the scope of and subject to indemnification, and no compromise or settlement of such Third-Party Claims may be effected by the Indemnifying Person without the Indemnified Person's Consent unless there is no finding or admission of any violation of Legal Requirement or any violation of the rights of any Person, the sole relief provided is monetary damages that are paid in full by the Indemnifying Person; and, the Indemnified Person shall have no liability with respect to any compromise or settlement of such Third-Party Claims effected without its Consent, which shall not be unreasonably withheld. If notice is given to an Indemnifying Person of the assertion of any Third-Party Claim and the Indemnifying Person does not, within ten (10) days after the Indemnified Person's notice is given, give notice to the Indemnified Person of its election to assume the defense of such Third-Party Claim, the Indemnifying Person will be bound by any determination made in such Third-Party Claim or any compromise or settlement effected by the Indemnified Person.

**7.4.6.1** Notwithstanding the foregoing, if an Indemnified Person determines in good faith that there is a reasonable probability that a Third-Party Claim may adversely affect it or its Related Persons other than as a result of monetary damages for which it would be entitled to indemnification under this Agreement, the Indemnified Person may, by notice to the Indemnifying Person, assume the exclusive right to defend, compromise or settle such Third-Party Claim, but the Indemnifying Person will not be bound by any determination of any Third-Party Claim so defended for the purposes of this Agreement or any compromise or settlement effected without its Consent (which may not be unreasonably withheld).

**7.4.6.2** Seller hereby consents to the nonexclusive jurisdiction of any court in which a Proceeding in respect of a Third-Party Claim is brought against any Buyer Indemnified Person for purposes of any claim that a Buyer Indemnified Person may have under this Agreement with respect to such Proceeding or the matters alleged therein and agree that process may be served on Seller with respect to such a claim anywhere in the world.

**7.4.6.3** With respect to any Third-Party Claim subject to indemnification under this Section 7, both the Indemnified Person and the Indemnifying Person, as the case may be, shall keep the other Person fully informed of the status of such Third-Party Claim and any related Proceedings at all stages thereof where such Person is not represented by its own counsel; and the parties agree (each at its own expense) to render to each other such assistance as they may reasonably require of each other and to cooperate in good faith with each other in order to ensure the proper and adequate defense of any Third-Party Claim.

**7.4.6.4** With respect to any Third-Party Claim subject to indemnification under this Section 7, the parties agree to cooperate in such a manner as to preserve in full (to the extent possible) the confidentiality of all Confidential Information and the attorney-client and work-product privileges. In connection therewith, each party agrees that: it will use its best efforts, in respect of any Third-Party Claim in which it has assumed or participated in the defense, to avoid production of Confidential Information (consistent with applicable law and rules of procedure); and all communications between any party hereto and counsel responsible for or participating in the defense of any Third-Party Claim shall, to the extent possible, be made so as to preserve any applicable attorney-client or work-product privilege.

**7.4.7 Other Remedies.** The foregoing right of any setoff provisions, holdback provisions and indemnification provisions are in addition to, and not in derogation of, any statutory, equitable, or common law remedy any Party may have in connection with this Agreement and the Contemplated Transactions.

**7.5 Effect of Cross-Indemnification; No Offset or Reduction of Buyer Obligations or Seller Obligations.** Notwithstanding anything to the contrary in this Agreement or the Transaction Documents, the Parties hereby agree that, regardless of whether or not a claim is filed or pending under the Buyer Indemnity, the Seller Indemnity, or the Principal Indemnity, (i) the Buyer Obligations shall be fully paid and performed on the terms specified in the Transaction Documents, (ii) the Seller Obligations shall be fully paid and performed on the terms specified in the Transaction Documents, (iii) no amount paid in connection with the Buyer Obligations and/or Seller Obligations shall be refundable in any manner for any reason, and (iv) no amount payable in connection with the Buyer Obligations and/or Seller Obligations shall be subject to reduction or setoff of any kind, for any reason, including for any actual, anticipated, or alleged Breach hereunder or under any Transaction Document. If any amounts are mutually agreed or otherwise determined to be due as a result of any claim(s) filed under the Buyer Indemnity, the Seller Indemnity, and/or the Principal Indemnity, then any such amount(s) shall be separately paid and resolved by the applicable indemnifying Party without any effect whatsoever on the performance of the Buyer Obligations or Seller Obligations. In the event and to the extent that this Section 7.5 conflicts with the terms and conditions of the Buyer Indemnity, Seller Indemnity, Principal Indemnity, this Agreement, or the Transaction Documents, then the terms and conditions of this Section 7.5 shall govern; provided, however, that the terms and conditions of the Buyer Indemnity, Seller Indemnity, and Principal Indemnity shall in all other respects govern (e.g., terms involving timing and procedures).

**7.6 Contribution to Principal Indemnity.** Buyer and Attis hereby (i) acknowledge that Seller and CleanTech have previously agreed to defend, indemnify and hold harmless Principal to the fullest extent permitted by Legal Requirement; and (ii), accordingly agree to use commercially reasonable efforts to exhaust all available remedies under the Seller Indemnity prior to taking action under the Principal Indemnity for any reason

## **8. Additional Actions and Transactions**

**8.1 Access to Information; Confidentiality.** Upon reasonable notice, Seller and JVCo shall afford to the officers, employees, accountants, counsel and other representatives of Buyer, reasonable access, during the period prior to the Closing Date, to all properties, books, contracts, commitments and records; and, during such period, Seller and JVCo shall furnish promptly to Buyer, as the case may be, all information concerning JVCo's business, properties and personnel as such parties may reasonably request, and Seller and JVCo shall make available to Buyer and its representatives the appropriate individuals, including attorneys, accountants and other professionals for discussion of its business, properties and personnel as such parties may reasonably request.

**8.2 Continued Disclosure.** From time to time, on and prior to the Closing Date, Buyer, Seller and JVCo shall each promptly notify the other parties upon becoming aware of any fact, occurrence or event that would cause any of their respective representations and warranties contained to be inaccurate or incomplete in any material respect.

**8.3 Supplemental Schedules.** Buyer, Seller and JVCo may (but will not be required to) from time to time prior to the Closing Date, by notice in accordance with the Agreement, supplement or amend their respective disclosure schedules hereto, including without limitation one or more supplements or amendments to correct any matter which would otherwise constitute a breach of any representation, warranty or covenant herein contained.

## 9. Conditions to the Acquisition

**9.1 Conditions to the Obligations of Buyer.** The obligations of Buyer, to consummate the Closing are subject to the satisfaction, or written waiver by Buyer ("Seller Exception Notice"), of the following conditions:

**9.1.1 Representations and Warranties.** The representations and warranties of Seller contained herein, and in any certificate or other writing delivered by Seller or pursuant hereto, shall be true and correct in all material respects at and as of the Closing Date as if made at and as of such time, except for (i) changes contemplated by this Agreement, and (ii) those representations and warranties which address matters only as of a particular date (which shall have been true and correct as of such date) with the same force and effect as if made at and as of the Closing Date.

**9.1.2 Agreements and Covenants: Seller Closing Deliverables.** The Seller and JVCo shall have performed or complied in all material respects with all agreements and covenants required by this Agreement to be performed or complied with by them at or prior to the Closing Date. Seller and JVCo shall have delivered or caused to be delivered to Buyer all of the items specified in Schedule 2.3. All material written consents, assignments, waivers or authorizations that are required as a result of the transactions contemplated by this Agreement shall have been obtained.

**9.1.3 Material Adverse Effect.** No proceeding challenging this Agreement or the transactions contemplated hereby or seeking to prohibit, alter, prevent or materially delay the Closing shall have been instituted by any person before any court, arbitrator or governmental authority nor shall any such proceeding be pending. There shall have not occurred any events or developments, individually or in the aggregate, resulting in a Material Adverse Effect with respect to JVCo.

**9.1.4 Consummation of Contemplated Transactions.** All Contemplated Transactions involving Buyer, Seller, JVCo and their respective Related Persons shall have been consummated as of the Closing Date, as such term is defined in applicable Transaction Documents.

**9.2 Conditions to the Obligations of Seller.** The obligations of Seller, to consummate the Closing are subject to the satisfaction, or written waiver by Seller ("Buyer Exception Notice"), of the following conditions:

**9.2.1 Representations and Warranties.** The representations and warranties of Buyer contained in this Agreement, and in any certificate or other writing delivered by Buyer pursuant hereto, shall be true and correct in all material respects at and as of the Closing Date as if made at and as of such time, except for (i) changes contemplated by this Agreement, and (ii) those representations and warranties which address matters only as of a particular date (which shall have been true and correct as of such date), with the same force and effect as if made on and as of the Closing Date.

**9.2.2 Agreements and Covenants: Buyer Closing Deliverables.** Buyer shall have performed or complied in all material respects with all agreements and covenants required by this Agreement to be performed or complied with by them at or prior to the Closing Date. Buyer shall have delivered or caused to be delivered to Seller all of the items specified in Schedule 2.4. All material written consents, assignments, waivers or authorizations that are required as a result of the transactions contemplated by this Agreement shall have been obtained.

**9.2.3 Material Adverse Effect.** No proceeding challenging this Agreement or the transactions contemplated hereby or seeking to prohibit, alter, prevent or materially delay the Closing shall have been instituted by any person before any court, arbitrator or governmental authority nor shall any such proceeding be pending. There shall have not occurred any events or developments, individually or in the aggregate, resulting in a Material Adverse Effect with respect to Buyer.

**9.2.4 Consummation of Contemplated Transactions.** All Contemplated Transactions involving Buyer, Seller, JVCo and their respective Related Persons shall have been consummated as of the Closing Date, as such term is defined in applicable Transaction Documents.

**9.3 Escrow.** As security for Buyer's performance under the Transaction Documents, Buyer and Attis shall grant Seller the Buyer's Closing Lien, which grant shall be evidenced by the execution and delivery of substantially the same form of security agreements as are included in **Exhibit 9.3** hereto ("**Escrow Agreement**"). In connection with the Escrow Agreement, the Acquired Assets shall be delivered at the Closing to **James Sonageri, Esq., Sonageri & Fallon LLC** (the "**Escrow Agent**"), who shall hold the Acquired Assets in escrow (the "**Escrow Account**") pending performance of Buyer's obligations under the Transaction Documents. Except as set forth in the Buyer Disclosure Schedule, Buyer shall not, under any circumstances, grant any interest or rights in or to the Acquired Assets without the express prior written consent of Seller. The Acquired Assets shall be released from the Escrow Account in accordance with the terms and conditions of the Escrow Agreement. Seller hereby agrees that it shall not enter into any security, pledge, guaranty or other agreement under which it agrees to grant any Lien or other interest in, to and under the rights granted to Seller in connection with the Escrow Agreements.

## **10. Termination**

**10.1 Termination.** This Agreement may be terminated at any time prior to the Closing Date by mutual written consent of the Buyer and the Seller. In the event of a termination of this Agreement pursuant to this Section 10, this Agreement shall forthwith become void and there shall be no liability on the part of any party hereto or any of its affiliates, directors, officers, stockholders or members except that nothing herein shall relieve any party from liability for any breach hereof occurring prior to termination. All fees and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such expenses, whether or not the Acquisition is consummated.

**10.2 Events of Default.** For purposes of this Agreement, an "**Event of Default**" shall be additionally construed to mean the occurrence of one or more of the following events of Breach by any Party after the date hereof that remains uncured SIXTY (60) days following written notice of default (each, a "**Default Notice**") to the breaching Party(ies) ("**Breaching Party**" or "**Breaching Parties**") from any one or more non-breaching Party(ies) ("**Non-Breaching Party**" or "**Non-Breaching Parties**"):

**10.2.1 Payment Default.** If any Breaching Party shall, for any reason, fail to comply with any payment obligations as and when due, including, without limitation, any of (i) the Buyer Obligations, (ii) the Seller Obligations, (iii) the CleanTech Obligations, or (iv) the JVCo Obligations;

**10.2.2 Seller's Senior Debt Agreements.** If Seller's Senior Lender declares default or initiates any action to enforce its rights against Seller and/or CleanTech under Seller's Senior Debt agreements;

**10.2.3 Representations.** If any representation or warranty made by or on behalf of any Breaching Party, whether contained in this Agreement, or in any other Transaction Document with one or more of the Non-Breaching Parties, and which the Non-Breaching Party(ies) asserting Breach has (or have) proven to have been false or incorrect in any material respect when made;

**10.2.4 Voluntary Insolvency Proceedings.** If Buyer or Seller shall (i) apply for or consent to or acquiesce in the appointment of or the taking of possession by a receiver, liquidator, custodian or trustee of itself or of all or any part of its property, (ii) admit in writing its inability, or be generally unable, to pay its debts as such debts become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under the bankruptcy laws of the United States of America (as now or hereafter in effect) or any similar foreign law, (v) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, or (vi) take any action for the purpose of effecting any of the foregoing;

**10.2.5 Involuntary Insolvency Proceedings.** A proceeding or case shall be commenced, without the application or consent of Buyer or Seller in any court of competent jurisdiction, seeking (i) liquidation, reorganization, dissolution, winding-up or composition or adjustment of debts of Buyer or Seller, (ii) the appointment of a trustee, receiver, liquidator, custodian or the like of Buyer or Seller, or of all or any part of any of their assets, (iii) similar relief under any law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts, and such proceeding or case shall continue undismissed, for a period of forty five (45) days; or (iv) any order for relief against Buyer or Seller, shall be entered in an involuntary case under bankruptcy laws of the United States of America, or any similar foreign law, and shall continue undismissed for a period of forty five (45) days;

**10.2.6 Judgments and Tax Liens.** If one or more judgments, attachments, or tax liens exceeding \$100,000 in the aggregate are entered against Buyer or Seller, or against Buyer's or Seller's property, and remain unpaid, unstayed on appeal, undischarged, unbonded or undismissed for a period of thirty (30) days, or enforcement proceedings are commenced with respect to any judgment, attachment, or tax lien against Buyer or Seller;

**10.2.7 Divestiture of Assets.** If any order, judgment, or decree shall be entered in any proceeding requiring Buyer or Seller to divest itself of any material part of its assets, and if, within forty-five (45) days after entry thereof (unless or until enforcement is sooner commenced), such order, judgment or decree shall not have been discharged or execution thereof stayed pending appeal, or if, within ten (10) days after the expiration of any such stay (unless or until enforcement is sooner commenced), such judgment, order or decree shall not have been discharged; or,

**10.2.8 Cross Default.** The occurrence of any default or Event of Default by Buyer, Attis, JVCo, Seller and/or CleanTech under any Transaction Document.

## 11. General

**11.1 Acknowledgement of Security Interest.** Buyer hereby acknowledges that the Acquired Assets are subject to the Pre-Existing Senior Lien granted in favor of Original Member.

**11.2 Modifications.** Any Transaction Documents may be modified only in writing that specifically refers to the proposed modification and applicable Transaction Document(s), and which is signed by an authorized representative of each Party; provided, however, that until the Buyer Performance Date, any amendment or modification of this Agreement shall require the prior written consent of Original Member.

**11.3 Governing Law; Consent to Jurisdiction.** Other than as to Section 5.7 of this Agreement, this Agreement shall be governed by and interpreted in accordance with the laws of the State of New Jersey, without regard to the principles of conflict of laws. Section 5.7 of this Agreement shall be governed by and interpreted in accordance with the laws of the State of Georgia, without regard to the principles of conflict of law. Any dispute arising under, relating to or in connection with this Agreement or related to any matter which is the subject of or incidental to this Agreement or Transaction Documents shall be subject to the exclusive jurisdiction and venue of the Superior Court of New Jersey, Bergen County.

**11.4 Assignment.** This Agreement shall not be assigned by operation of law or otherwise in the absence of the prior written consent of each the Parties hereto. Until the Buyer Performance Date, no assignment hereof shall be permitted without the prior written consent of Original Member.

**11.5 Notices.** All notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally or by commercial overnight delivery service, or mailed by registered or certified mail (return receipt requested) to the parties at the below address (or at such other address for a party as shall be specified by like notice). Notice shall be deemed effective upon the earlier of (a) actual receipt, (b) one business day following transmission by commercial overnight delivery services, or (c) three business days following registered or certified mail.

if to Buyer, to: Attis Industries Inc.  
12540 Broadwell Road, Suite 2104  
Milton, Georgia 30004  
Attention: Jeff Cosman  
E-mail: [jcosman@attisind.com](mailto:jcosman@attisind.com)

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

Richard J. Dreger, Attorney at Law, P.C.  
11660 Alpharetta Highway, Building 700, Suite 730  
Roswell, Georgia 30076  
Attention: Richard J. Dreger, Esq.  
Email: [Rick@rdregerlaw.com](mailto:Rick@rdregerlaw.com)

if to Seller, to: GreenShift Corporation  
c/o Sonageri & Fallon LLC  
411 Hackensack Avenue  
Hackensack, New Jersey 07601  
Attention: James Sonageri, Esq.  
E-mail: [jls@sonageri-fallon.com](mailto:jls@sonageri-fallon.com)

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

Kevin Kreisler  
c/o Robert Brantl, Esq.  
52 Mulligan Lane  
Irvington, New York 10533  
Attention: Robert Brantl, Esq.  
E-mail: [robertbrantl@earthlink.net](mailto:robertbrantl@earthlink.net)

**11.6 Severability.** In the event that any provision of this Agreement is held to be unenforceable by any rule of law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties so closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the fullest extent possible.

**11.7 Entire Agreement.** This Agreement, the Transaction Documents, and the documents and instruments and other agreements specifically referred to herein or delivered pursuant hereto, including the Exhibits, the Seller Disclosure Schedule, the Buyer Disclosure Schedule, and the other Schedules constitute the entire agreement among the parties with respect to the subject matter hereof and supersede all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof, and are not intended to confer upon any other person any rights or remedies hereunder.

**11.8 Amendment and Waiver.** This Agreement may be amended only by a written agreement executed by the parties hereto. No provision of this Agreement may be waived except by a written document executed by the party entitled to the benefits of the provision. No waiver of a provision will be deemed to be or will constitute a waiver of any other provision of this Agreement. A waiver will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver.

**11.9 Parties in Interest.** This Agreement shall be binding upon and inure solely to the benefit of each party hereto, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any right, benefit or remedy of any nature whatsoever under or by reasons of this Agreement.

**11.10 Failure or Indulgence Not Waiver; Remedies Cumulative.** No failure or delay on the part of any party hereto in the exercise of any right hereunder shall impair such right to be construed to be a waiver of, or acquiescence in, any breach of any representation, warranty or agreement herein, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or of any other right. Except as otherwise set forth herein, any and all remedies herein expressly conferred upon a party will be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity upon such party, and the exercise by a party of any one remedy will not preclude the exercise of any other remedy. The Parties hereto shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof, this being in addition to any other remedy to which they are entitled at law or in equity, and the Parties hereto hereby waive the requirement of any posting of a bond in connection with the remedies described herein

**11.11 Counterparts.** This Agreement may be executed in any number of counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original, but all of which together shall constitute one and the same agreement.

**11.12 Waiver of Jury Trial.** AS A MATERIAL INDUCEMENT TO ENTER INTO THIS AGREEMENT, EACH PARTY HERETO IRREVOCABLY, VOLUNTARILY, AND KNOWINGLY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING RELATED IN ANY WAY TO THIS AGREEMENT AND/OR ANY AND ALL OTHER DOCUMENTS RELATED TO THIS TRANSACTION.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK  
- SIGNATURE PAGE FOLLOWS]



IN WITNESS WHEREOF the parties have duly executed, or caused their duly authorized representative, to execute this Securities Purchase Agreement.

**GREENSHIFT CORPORATION**

By: /s/ Kevin Kreisler  
Name: Kevin Kreisler  
Title: Chief Executive Officer

**ATTIS INDUSTRIES INC.**

By: /s/ Jeffrey S. Cosman  
Name: Jeffrey S. Cosman  
Title: Chief Executive Officer

**AGREED AND ACKNOWLEDGED TO BY:  
GS CLEANTECH CORPORATION**

By: /s/ Kevin Kreisler  
Name: Kevin Kreisler  
Title: Chief Executive Officer

**ATTIS INNOVATIONS, LLC**

By: /s/ Jeffrey S. Cosman  
Name: Jeffrey S. Cosman  
Title: Manager

**FLUX CARBON LLC**

By: /s/ Kevin Kreisler  
Name: Kevin Kreisler  
Title: Manager

**AGREED ONLY AS TO THE ORIGINAL MEMBER TERMS:  
CANDENT CORPORATION**

By: /s/ Kevin Kreisler  
Name: Kevin Kreisler  
Title: Chief Executive Officer

**AGREED ONLY AS TO SECTION 5.7:  
PRINCIPAL**

By: /s/ Kevin Kreisler  
Kevin Kreisler  
Individually

[SIGNATURE PAGE TO SECURITIES PURCHASE AGREEMENT]

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## SCHEDULE 1.0

### Certain Definitions

**20% Units** has the meaning set forth in the preface.

**80% Units** has the meaning set forth in the preface.

**Accounts Receivable** means (i) all trade and other accounts receivable and other rights to payment from past or present customers of JVCo, and the full benefit of all security for such accounts or rights to payment, including all trade and other accounts receivable representing amounts receivable in respect of services rendered to customers of the Business, and (ii) any claim, remedy or other right related to any of the foregoing

**Acquired Assets** shall mean the 20% Units, the 80% Units, and the JVCo Assets as of the Closing Date.

**Action** shall mean any claim, action, cause of action or suit (in contract, tort or otherwise), inquiry, proceeding or investigation by or before any governmental authority.

**Adverse Consequences** shall mean all actions, suits, Proceedings, hearings, investigations, charges, complaints, claims, demands, diminutions in value, injunctions, judgments, orders, decrees, rulings, damages, dues, penalties, fines, costs, amounts paid in settlement or claims, obligations, Taxes, Liens, losses, interest, expenses (including costs of investigation and defense), any other Liability and fees, including court costs and reasonable attorneys' fees and expenses, whether or not involving a Third-Party Claim.

**Affiliate** shall mean, any Person directly or indirectly controlling, controlled by or under common control with the specified Party or Person. For purposes of this definition, the term control including the terms controlling, controlled by and under common control with) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities or otherwise.

**Affiliated Group** means any affiliated group within the meaning of Code Section 1504(a) or any similar group defined under a similar provision of state, local or foreign law.

**Agreement** has the meaning set forth in the preface.

**ACR** means **APPLIED COMBUSTION RESEARCH LLC**, a Delaware limited liability company.

**Approval** means those certain Governmental Authorizations, if any, to be obtained by Seller on or before the Closing in the name of the applicable Company from any Governmental Body having jurisdiction over the Properties, or the Businesses, in order for the Permits to be issued to Buyer.

**Attis** has the meaning set forth in the preface.

**Attis IP** has the meaning set forth in the preface.

**Basis** shall mean any past or present fact, situation, circumstance, status, condition, activity, practice, plan, occurrence, event, incident, action, failure to act, or transaction that forms or could form the basis for any specified consequence.

**Breach** shall mean any breach of, or any inaccuracy in, any representation or warranty or any breach of, or failure to perform or comply with, any covenant, obligation or agreement, in or of this Agreement or any other Contract, agreement or instrument (whether or not related to this Agreement), or in or of any corporate, Company or partnership organizational document or agreement, any Governmental Authorization, Order or Legal Requirement, or any other breach of any written instrument, or any event which with the passing of time or the giving of notice, or both, would constitute such a breach, inaccuracy or failure

**Business Day** means any day other than a Saturday or Sunday or any other day on which banks in Tennessee are permitted or required by Legal Requirement to be closed.

**Business** shall mean the operating and other activities currently conducted in the ordinary course of the applicable entity's business.

**Buyer Disclosure Schedule** shall be the disclosure schedule set forth in **Schedule 4.0**.

**Buyer Entities** has the meaning set forth in Section 2.2.1.1 of **Schedule 2.0** hereto.

**Buyer** has the meaning set forth in the preface.

**Buyer Indemnity** means the indemnity provided by Buyer in Section 7.4.2 hereof.

**Buyer Obligations** shall mean all obligations of Buyer, Attis and JVCo under this Agreement and the Transaction Documents, including, without limitation, the payment of the Purchase Price and the performance of all actions and transactions in connection therewith on and after the Closing Date.

**Buyer Performance Date** shall mean the date on which the Buyer Obligations have been fully paid, performed and satisfied.

**Buyer Return Date** shall mean the date on which the sum of Buyer's cash proceeds deriving from sales of Seller Securities, other amounts received in connection with the Seller Debenture, and Distributions paid to or for the benefit of Buyer and/or Attis by JVCo, including, without limitation, proceeds from Lump Sum Recovered Amounts, paid to Buyer and/or Attis under the JVCo Operating Agreement, exceeds the Floor Price.

**Buyer's Closing Lien** shall mean the security interest granted in favor of Seller on the Purchased Equity pursuant to the Buyer Security Agreement, subject, as applicable, only to the rights granted in connection with the Pre-Existing Senior Lien and the Buyer's Pre-Existing Secured Debt Agreements.

**Buyer's Pre-Existing Secured Debt Agreements** shall mean any security interests that may automatically arise as a result of Buyer's and Buyer's Related Persons' pre-existing secured debt agreements in effect prior to and as of the Closing Date.

**Bylaws** shall mean, each the bylaws or operating agreement of the applicable entity.

**Original Member** has the meaning set forth in the preface.

**Original Member Terms** shall mean the terms and conditions of this SPA which state Original Member's agreements to perform, including, without limitation, Sections 3.2, 3.3, 3.4.1, 3.8, 3.30, 5.5, 5.7, and 5.8 hereof.

**Capital Contribution** has the meaning set forth in the preface.

**Class A Agreement** has the meaning set forth in [Exhibit 3.9](#) hereto.

**Class B Agreement** has the meaning set forth in [Exhibit 3.9](#) hereto.

**CleanTech** has the meaning set forth in the preface.

**CleanTech Assets** shall mean all Seller Collateral directly owned by CleanTech, including, without limitation, the Pre-Existing License Agreements, CleanTech IP, and CleanTech Matters.

**CleanTech Business** has the meaning set forth in the preface.

**CleanTech Exclusions** shall mean the prohibition on the sale, transfer or assignment of any right, title or interest in, to or under any CleanTech Assets prior to the Compliant Transfer Date, as stated in Section 5.6 hereof.

**CleanTech IP** has the meaning set forth in the preface.

**CleanTech License Agreements** has the meaning set forth in the Confidential Side Letter.

**CleanTech Matters** has the meaning set forth in [Exhibit 3.9](#) hereto.

**CleanTech Obligations** means Seller's agreements in respect of the Seller Debenture, and Seller's and CleanTech's agreements regarding administration of the CleanTech Assets in accordance with the terms and conditions of applicable Transaction Documents.

**CleanTech Payments** shall mean all amounts payable to CleanTech in any way in connection with the CleanTech Assets or CleanTech Business.

**Closing Common Shares** shall have that meaning set forth in [Schedule 2.0](#) hereto.

**Closing Preferred Shares** shall have that meaning set forth in [Schedule 2.0](#) hereto.

**COBRA** means the requirements of Part 6 of Subtitle B of Title I of ERISA and Code Section 4980B and of any similar state law.

**Code** means the Internal Revenue Code of 1986, as amended.

**Compliant Transfer Date** shall have the meaning set forth in Section 5.6.

**Confidential Information** has the meaning set forth in Section 7.3.

**Confidential Side Letter** means the confidential letter attached in Exhibit 3.9 hereto, which includes Confidential Information pertaining to certain matters summarized the Seller Disclosure Schedule.

**Consent** shall mean any approval, consent, ratification, waiver or other authorization.

**Consolidated EBITDA** has the meaning set forth in Schedule 2.0.

**Contemplated Transactions** shall mean all of the transactions contemplated by this Agreement and Transaction Documents.

**Contract** means any agreement, contract, license, lease, consensual obligation, promise or undertaking (whether written or oral and whether express or implied), whether or not legally binding.

**Earn-Out Payment** has the meaning set forth in Section 2.2.1 of Schedule 2.0 hereto.

**EBITDA** has the meaning set forth in Schedule 2.0.

**Effective Date** has the meaning set forth in the preface.

**Employee Benefit Plan** means all employee benefit plans as defined by Section 3(3) of the Employee Retirement Income Security Act of 1974 (ERISA), all specified fringe benefit plans as defined in Section 6039D of the Code, and all other bonus, incentive-compensation, deferred-compensation, profit-sharing, stock-option, stock-appreciation-right, stock-bonus, stock-purchase, employee-stock-ownership, savings, severance, change-in-control, supplemental-unemployment, layoff, salary-continuation, retirement, pension, health, life-insurance, disability, accident, group-insurance, vacation, holiday, sick-leave, fringe-benefit or welfare plan, and any other employee compensation or benefit plan, agreement, policy, practice, commitment, contract or understanding (whether qualified or nonqualified, currently effective or terminated, written or unwritten) and any trust, escrow or other agreement related thereto that (i) is maintained or contributed to by JVCo or any other corporation or trade or business controlled by, controlling or under common control with Sellers (within the meaning of Section 414 of the Code or Section 4001(a)(14) or 4001(b) of ERISA) (ERISA Affiliate) or has been maintained or contributed to in the last six (6) years by JVCo or any ERISA Affiliate, or with respect to which any Company or any ERISA Affiliate has or may have any liability, and (ii) provides benefits, or describes policies or procedures applicable to any current or former director, officer, employee or service provider of any Company or any ERISA Affiliate, or the dependents of any thereof, regardless of how (or whether) liabilities for the provision of benefits are accrued or assets are acquired or dedicated with respect to the funding thereof.

**Employee Welfare Benefit Plan** has the meaning set forth in ERISA Section 3(1).

**Environment** means soil, land surface or subsurface strata, surface waters, groundwaters, drinking water supply, stream sediments, ambient air (including indoor air), plant and animal life and any other environmental medium or natural resource.

**Environmental Law** means any Legal Requirement that requires or relates to (i) advising appropriate Governmental Bodies, employees or the public of any intended Release, actual Release or Threat of Release of pollutants or Hazardous Materials, violations of discharge limits or other prohibitions and the commencement of activities, such as resource extraction or construction, that could have significant impact on the Environment; (ii) preventing or reducing to acceptable levels the Release of pollutants or Hazardous Materials into the Environment; (iii) reducing the quantities, preventing the Release or minimizing the hazardous characteristics of wastes that are generated; (iv) assuring that products are designed, formulated, packaged and used so that they do not present unreasonable risks to human health or the Environment when used or disposed of; (v) protecting resources, species or ecological amenities; (vi) reducing to acceptable levels the risks inherent in the transportation of pollutants, Hazardous Materials or other potentially harmful substances; (vii) cleaning up pollutants that have been Released, preventing the Threat of Release or paying the costs of such clean up or prevention; (viii) making responsible Persons pay private parties, or groups of them, for damages done to their health or the Environment or permitting self-appointed representatives of the public interest to recover for injuries done to public assets; or (ix), governing or regulating any Hazardous Activities.

**Environmental, Health and Safety Liabilities** means any and all costs, damages, Adverse Consequences, expenses, Liabilities and/or other responsibility arising from or under any Environmental Law or Occupational Safety and Health Law, including those consisting of or relating to: (i) any environmental, health or safety matter or condition (including on-site or off-site contamination, and/or occupational safety and health regulation of any chemical substance or product); (ii) any fine, penalty, judgment, award, settlement, Proceeding, damages, Adverse Consequence, loss, claim, demand or response, remedial or inspection cost or expense arising under any Environmental Law or Occupational Safety and Health Law; (iii) financial responsibility under any Environmental Law or Occupational Safety and Health Law for cleanup costs or corrective action, including any cleanup, removal, containment or other remediation or response actions (Cleanup) required by any Environmental Law or Occupational Safety and Health Law (whether or not such Cleanup has been required or requested by any Governmental Body or any other Person) and for any natural resource damages; and/or (iv), any other compliance, corrective or remedial measure required under any Environmental Law or Occupational Safety and Health Law. For purposes of this definition, the terms removal, remedial and response action include the types of activities covered by the United States Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

**Event of Default** means

**FC Units** has the meaning set forth in the preface.

**February 2015 Loan Documents** shall mean those certain agreements attached hereto in **Exhibit 3.5.1**.

**FLUX IP** has the meaning set forth in the preface.

**FPC** means **FLUX PHOTON CORPORATION**, a Delaware corporation.

**GAAP** or **Generally Accepted Accounting Principles** means generally accepted accounting principles as in effect in the United States of America, as determined by the Financial Accounting Standards Board from time to time, applied on a consistent basis as of the date of any application thereof.

**GFD** means **GENAREX FD LLC**, a Delaware limited liability company.

**GX** means **GENAREX LLC**, a Delaware limited liability company.

**Governmental Authorization** means any zoning approvals, permits (including the Permits), franchise rights, rights-of-way, Consent, license, permission, registration, permit or other right or approval issued, granted, given or otherwise made available by or under the authority of any Governmental Body or pursuant to any Legal Requirement and all pending applications therefor or renewals thereof.

**Governmental Body** means any (i) nation, state, county, city, town, borough, village, district or other jurisdiction; (ii) federal, state, county, local, municipal, foreign or other government; (iii) governmental or quasi-governmental authority of any nature (including any agency, branch, department, board, commission, court, tribunal or other entity exercising governmental or quasi-governmental powers); (iv) body exercising, or entitled or purporting to exercise, any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; (v) Indian tribal authority; (vi) multinational organization or body, or (vii) official of any of the foregoing.

**Hazardous Activity** means, with respect to any Person (including any Party or their Related Persons), the distribution, generation, handling, importing, management, manufacturing, processing, production, refinement, Release, storage, transfer, transportation, treatment or use (including any withdrawal or other use of groundwater) of Hazardous Material in, on, under, about or from any Property or other facility or real property owned, leased, operated or otherwise used by such Person or any of its contractors in connection with the conduct of the business of such Person, or from any other asset of such Person, into the Environment and any other act, business, operation or thing that increases the danger, or risk of danger, or poses an unreasonable risk of harm, to persons or property, whether on or off the aforementioned Properties, facilities or other real property, beyond what is authorized by any Environmental Law relating to the business of such Person.

**Hazardous Material** means any substance, material or waste which is or will foreseeably be regulated by any Governmental Body, including any material, substance or waste which is defined as a hazardous waste, hazardous material, hazardous substance, extremely hazardous waste, restricted hazardous waste, contaminant, pollutant, toxic waste or toxic substance under any provision of Environmental Law, and including petroleum, petroleum products, asbestos, presumed asbestos-containing material or asbestos-containing material, urea formaldehyde and polychlorinated biphenyls.

**Improvements** means all 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, all of which are included in the Properties.

**Indebtedness** or **Debt** means: (a) any indebtedness (including all accrued interest) for borrowed money or issued in substitution for or exchange of indebtedness for borrowed money; (b) any indebtedness evidenced by any note, bond, debenture or other debt security; (c) any indebtedness for the deferred purchase price of property or services with respect to Seller or JVCo is liable, contingently or otherwise, as obligor or otherwise; (d) any commitment by which Seller or JVCo assures a creditor against loss (including, without limitation, contingent reimbursement obligations with respect to letters of credit); (e) any indebtedness guaranteed in any manner by Seller or JVCo (including, without limitation, guarantees in the form of an agreement to repurchase or reimburse); (f) any obligations under capitalized leases with respect to which Seller or JVCo is liable, contingently or otherwise, as obligor, guarantor or otherwise, or with respect to which obligations Seller or JVCo assures a creditor against loss; (g) any TRAC or synthetic leases; (h) any indebtedness secured by a Lien on the 80% Units or the JVCo Assets; (i) any unsatisfied obligation for withdrawal liability to a Multiemployer Plan as such terms are defined under ERISA; (j) the deficit or negative balance, if any, in JVCo's checking account; and (k), any credit card debt.

**Indemnified Person** has the meaning set forth in Section 7.4.

**Indemnifying Person** has the meaning set forth in Section 7.4.

**Insolvency Laws** means any bankruptcy, insolvency, reorganization, moratorium or other similar Legal Requirement affecting the enforcement of creditors rights generally, and general principles of equity (regardless of whether enforcement is considered in a proceeding in law or equity).

**Insolvent** means being unable to pay debts as they mature, or as obligations become due and payable.

**Intangible Personal Property** means all intangible property used or held for use by JVCo, of whatever type or description, including (a) the business as a going concern; (b) goodwill of JVCo; (c) all files, records and correspondence; (d) telephone numbers, telecopy numbers; (e) all rights in Internet web sites and Internet domain names presently used by JVCo, and links; (f) all registered and unregistered copyrights in both published works and unpublished works; (g) all names or trade names of or used by JVCo, assumed fictional business names, trade names, registered and unregistered trademarks, service marks and applications; (h) all know-how, trade secrets, confidential or proprietary information, customer lists, software, technical information, data, process technology, plans, drawings and blue prints; and (i), all right, title and interest in and to all Company Documents, Company Contracts, and all Permits, Governmental Authorizations, Approvals, Consents, licenses and other permits and approvals of JVCo.

**Intellectual Property Assets** shall mean all Intellectual Property owned or possessed by JVCo as itemized in Section 3.9 of **Schedule 3.0**, or which JVCo has the right to use pursuant to a valid and enforceable, written license, sublicense, agreement, or permission, and the Intangible Personal Property itemized in Section 3.9 of **Schedule 3.0**.

**IRS** means the United States Internal Revenue Services and, to the extent relevant, the United States Department of the Treasury.

**Junior Secured Debt** shall mean all amounts payable by Seller and CleanTech to Seller's Junior Lender as of the Closing Date, as described more fully in Section 3.8 of **Schedule 3.0** hereto.

**JVCo** has the meaning set forth in the preface.

**JVCo Assets** means 100% of JVCo's now and hereinafter-existing assets, including, without limitation, the assets itemized in Section 3.9 of **Schedule 3.0** to the Seller's Disclosure Schedule.

**JVCo Collateral** shall have that meaning set forth in Exhibit A to the JVCo Security Agreement.

**JVCo Entities** has the meaning set forth in Section 2.2.1.1 of **Schedule 2.0** hereto.

**JVCo Obligations** shall mean all obligations of JVCo under the Transaction Documents, including, without limitation, the performance of all actions and transactions set forth in the JVCo Operating Agreement, JVCo Management Agreement, and Master License Agreement on and after the Closing Date.

**JVCo Operating Agreement** shall mean the amended and restated JVCo management and operating agreement by and among Buyer or its designee and JVCo, executed and delivered on or before the Closing in substantially the same form as the form of operating agreement attached in **Exhibit 7.1** hereto.

**JVCo Pre-Closing Operating Agreement** has the meaning set forth in Section 3.36.



**Knowledge** means, when used to qualify a representation, warranty or other statement of a Party to this Agreement, (i) the knowledge that management of the Party actually has with respect to the particular fact or matter that is the subject of such representation, warranty or other statement, and (ii) the knowledge that management of the Party could reasonably be expected to have as prudent and responsible owners and operators of the assets and the businesses of such Party, or in the case of Seller, the ownership and operation of JVCo, after having conducted a reasonably comprehensive inquiry or investigation with respect to the fact or matter that is the subject of such representation, warranty or other statement. A Person (other than an individual) will be deemed to have Knowledge of a particular fact or other matter if any individual who is serving, or who has at any time served, as a director, officer, partner, member, manager, executor or trustee of that Person (or in any similar capacity) has, or at any time had, Knowledge of that fact or other matter (as set forth in (a) and (b) above), and any such individual (and any individual party to this Agreement) will be deemed to have conducted a reasonably comprehensive investigation regarding the accuracy of the representations and warranties made herein by that Person or individual.

**Legal Requirement** means any federal, state, local, municipal, foreign, international, multinational or other constitution, law, ordinance, principle of common law, code, regulation, statute or treaty.

**Liability** means with respect to any Person (including any Party), any Indebtedness, liability, penalty, damage, loss, cost or expense, obligation, claim, deficiency, or guaranty of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of such Person, including any liability for Taxes.

**Lien** means with respect to any Person, any mortgage, right of way, easement, encroachment, any restriction on use, servitude, pledge, lien, charge, hypothecation, security interest, encumbrance, adverse right, interest or claim, community or other marital property interest, condition, equitable interest, encumbrance, license, covenant, title defect, option, or right of first refusal or offer or similar restriction, voting right, transfer, receipt of income or exercise of any other attribute of ownership, except for any liens for taxes not yet due or delinquent or being contested in good faith by appropriate proceedings for which adequate reserves have been established and accrued on the financial statements of such Person in accordance with GAAP.

**Litigation Counsel** shall have the meaning set forth in Section 3.18 of Schedule 3.0.

**Lump Sum Recovered Amount** means the amount payable upon resolution of any CleanTech Matter under conditions resulting in a net present value or such other lump sum Recovered Amount payment. Lump Sum Recovered Amounts are excluded from the definition of Consolidated EBITDA in Schedule 2.0, and subject to Section 2.2.1.2 of Schedule 2.0, which, *inter alia*, states that all Lump Sum Recovered Amounts shall be paid by for the benefit of JVCo as special distributions immediately upon receipt according to the following priorities: first, to Seller's Senior Lender until paid in full on the Seller Performance Date; second, to CleanTech until paid in full on the Buyer Performance Date; third, to Buyer and/or Attis until paid in full on the Buyer Return Date; and fourth, equally, on a dollar-for-dollar, 50:50, pari passu basis to Attis and CleanTech without regard for their respective equity interests in JVCo.

**Management Committee** shall have that meaning set forth in the JVCo Operating Agreement.

**Material Adverse Effect** or **Material Adverse Change** means any effect or change that would be materially adverse to the business, assets, condition (financial or otherwise), operating results, operations, or business prospects of the applicable Party, taken as a whole, including the ability for such Party to own, construct, operate and develop its business, the transfer or issuance, if applicable, of any Permit, Consent, Governmental Authorization, license or other permit or approval contemplated by this Agreement or reasonably necessary to the continued operation of the applicable Party's business, or on the ability of either Party to timely consummate the Contemplated Transactions, except for any adverse change or event arising from or relating to (a) general economic conditions or conditions which generally affect the business of the applicable Party and the industry in which it competes, and (b) public or industry knowledge of the Contemplated Transactions.

**Measurement and Payment Date** has the meaning set forth in Section 2.2 of Schedule 2.0 hereto.

**Member** or **Members** shall have that meaning set forth in the JVCo Operating Agreement.

**Multiemployer Plan** has the meaning set forth in ERISA Section 3(37).

**NTI** means **NOVEDA TECHNOLOGIES, INC.**, a Delaware corporation.

**Occupational Safety and Health Law** means any Legal Requirement designed to provide safe and healthful working conditions and to reduce occupational safety and health hazards, including the Occupational Safety and Health Act, and any program, whether governmental or private (such as those promulgated or sponsored by industry associations and insurance companies), designed to provide safe and healthful working conditions.

**Order** means any order, injunction, judgment, decree, ruling, assessment or arbitration award of any Governmental Body or arbitrator.

**Ordinary Course of Business** means an action taken by a Person will be deemed to have been taken in the ordinary course of business only if that action (i) is consistent in nature, scope and magnitude with the past practices of such Person and is taken in the ordinary course of the normal, day-to-day operations of such Person; (ii) does not require authorization by the board of directors, owners, shareholders, interest holders, members or managers of such Person (or by any Person or group of Persons exercising similar authority) and does not require any other separate or special authorization of any nature; and (iii), is similar in nature, scope and magnitude to actions customarily taken, without any separate or special authorization, in the ordinary course of the normal, day-to-day operations of other Persons that are in the same line of business as such Person).

**Organizational Documents** means: (i) with respect to a corporation, the certificate or articles of incorporation and bylaws; (ii) with respect to any other Person any charter or similar document adopted or filed in connection with the creation, formation or organization of a Person; (iii) any operating agreement, partnership agreement, shareholder agreement or similar agreement; and (iv), any amendment to any of the foregoing.

**Original Member** has the meaning set forth in the preface.

**Party** and **Parties** shall mean and refer to one or more of the undersigned, as applicable.

**Permits** has the meaning set forth in Section 3.13.

**Permitted Designee** shall mean, as applicable, the designee or assignee of a Party hereto.

**Permitted Encumbrances** has the meaning set forth in Section 3.8 of **Schedule 3.0**.

**Person** means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock holding company, a trust, a joint venture, an unincorporated organization, any other business entity, joint venture or other entity Governmental Body (or any department, agency, or political subdivision thereof).

**Pre-Existing License Agreement** has the meaning set forth in **Exhibit 3.9** hereto.

**Pre-Existing Senior Lien** shall mean those certain lien and security rights originally granted in favor of Original Member on February 18, 2015, pursuant and subject to the February 2015 Loan Agreements, as amended, which first lien shall be and remain in full force and effect until the Buyer Performance Date.

**Principal** has the meaning set forth in the Preamble to this Agreement.

**Principal Indemnity** means the indemnity provided by Principal in the Principal Indemnity Agreement.

**Principal Market** has the meaning set forth in **Schedule 2.0**.

**Principal's Closing Lien** shall mean the security interest granted in favor of Buyer pursuant to the Buyer Security Agreement, subject, as applicable, only to the rights granted in connection with the Seller's Pre-Existing Secured Debt Agreements.

**Principal's Interest** means 100% of Principal's direct and indirect ownership interest in, to and under the equity of Seller and CleanTech.

**Proceeding** means any action, arbitration, audit, hearing, investigation, litigation or suit (whether civil, criminal, administrative, judicial or investigative, whether formal or informal, whether public or private) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Body, court, or arbitrator.

**Property** or **Properties** has the meaning set forth in the background facts described in the Seller Disclosure Schedule, including, without limitation, the JVCo Assets, Tangible Personal Property, Intellectual Property Assets, Intellectual Property, and Intangible Personal Property (including air, oil, gas, mineral, and water rights together with all Permits).

**Purchase Price** has that meaning set forth in Section 2.2 of **Schedule 2.0** hereto.

**Purchased Equity** has the meaning set forth in Section 2.1 of Schedule 2.0 hereto.

**Real Property Lease** means (i) any long-term lease of land in which most of the rights and benefits comprising ownership of the land and the Improvements thereon or to be constructed thereon, if any, are transferred to the tenant for the term thereof or (ii) any lease or rental agreement pertaining to the occupancy of any improved space on any real property.

**Recovered Amount** means the amount payable upon resolution of any CleanTech Matter.

**Related Person** means: (i) with respect to a particular individual: (a) each other member of such individual's Family; (b) any Person that is directly or indirectly controlled by any one or more members of such individual's Family; (c) any Person in which members of such individual's Family hold (individually or in the aggregate) a Material Interest; and (d), any Person with respect to which one or more members of such individual's Family serves as a director, officer, partner, executor or trustee (or in a similar capacity); and, (ii) with respect to a specified Person other than an individual: (a) any Person that directly or indirectly controls, is directly or indirectly controlled by or is directly or indirectly under common control with such specified Person; (b) any Person that holds a Material Interest in such specified Person; (c) each Person that serves as a director, officer, partner, executor or trustee of such specified Person (or in a similar capacity); (d) any Person in which such specified Person holds a Material Interest; and (e), any Person with respect to which such specified Person serves as a general partner or a trustee (or in a similar capacity). For purposes of this definition, (a) control (including controlling, controlled by, and under common control with) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, and shall be construed as such term is used in the rules promulgated under the Securities Act; (b) the Family of an individual includes (i) the individual; (ii) the individual's spouse; (iii) any other natural person who is related to the individual or the individual's spouse within the second degree; and (iv), any other natural person who resides with such individual; and (c), Material Interest means direct or indirect beneficial ownership (as defined in Rule 13d-3 under the Exchange Act of 1934) of voting securities or other voting interests representing at least ten percent (10%) of the outstanding voting power of a Person or equity securities or other equity interests representing at least ten percent (10%) of the outstanding equity securities or equity interests in a Person.

**Release** means any release, spill, emission, leaking, pumping, pouring, dumping, emptying, injection, deposit, disposal, discharge, dispersal, leaching or migration on or into the Environment or into or out of any property.

**Remedial Action** means all actions, including any capital expenditures, required or voluntarily undertaken: (i) to clean up, remove, treat or in any other way address any Hazardous Material or other substance; (ii) to prevent the Release or Threat of Release or to minimize the further Release of any Hazardous Material or other substance so it does not migrate or endanger or threaten to endanger public health or welfare or the Environment; (iii) to perform pre-remedial studies and investigations or post-remedial monitoring and care; or (iv), to bring the Properties and the operations conducted (or to be conducted) thereon into compliance with Environmental Laws and environmental Governmental Authorizations.

**Representative** means with respect to a particular Person, any director, officer, manager, employee, agent, consultant, advisor, accountant, financial advisor, legal counsel or other representative of that Person.

**SEC Documents** has the meaning set forth in Section 6.3.

**SEC** has the meaning set forth in the preface.

**Securities Act** means the Securities Act of 1933, as amended.

**Seller** has the meaning set forth in the preface.

**Seller Debenture** has the meaning set forth in Schedule 2.0.

**Seller Debenture Maturity Date** shall mean June 30, 2028, pursuant to the Seller Debenture attached in Exhibit 2.2.1.

**Seller Disclosure Schedule** shall mean the disclosure schedule set forth in Schedule 3.0.

**Seller Fair Market Value Conversion Price** shall mean the greater of (i) \$0.10 per share or (ii) 100% of the lowest closing market price per share for the Seller's Common Stock for the thirty (30) Trading Days preceding conversion under the Seller Debenture.

**Seller Indemnity** means the indemnity provided by Seller in Section 7.4.3 hereof.

**Seller Obligations** shall mean all amounts due from Seller and CleanTech to Seller's Senior Lender in connection with the Senior Secured Debt.

**Seller Performance Date** shall mean the date on the Seller Obligations have been fully paid, performed and satisfied.

**Seller Restructuring** shall have that meaning set forth in Section 5.9 hereof.

**Seller Security Agreement** shall have that meaning set forth in Section 2.3.4 of **Schedule 2.0** of the Seller's Disclosure Schedule.

**Seller's Closing Lien** shall mean (i) the security interest granted in favor of Buyer on the Buyer Securities pursuant to the Share Security Agreement, and (ii) the security interest granted in favor of Buyer and Attis on the Seller Collateral pursuant to the Seller Security Agreement.

**Seller's Junior Lender** shall have the meaning set forth in Seller's Certification Regarding Secured Creditors attached in **Exhibit 3.32**.

**Seller's Pre-Existing Secured Debt Agreements** shall mean Seller's pre-existing secured debt agreements in effect prior to and as of the Closing Date, including, without limitation, in connection with the Senior Secured Debt, the Junior Secured Debt, the Subordinate Secured Debt, and any security interests that may automatically arise thereunder.

**Seller's Senior Lender** shall have the meaning set forth in Seller's Certification Regarding Secured Creditors attached in **Exhibit 3.32**.

**Seller's Subordinate Lender** shall have the meaning set forth in Seller's Certification Regarding Secured Creditors attached in **Exhibit 3.32**.

**Senior Secured Debt** shall mean all amounts payable by Seller and CleanTech to Seller's Senior Lender as of the Closing Date and thereafter under Seller's and CleanTech's agreements with Seller's Senior Lender, as described more fully in Section 3.8 of **Schedule 3.0** hereto.

**Seller Securities** shall mean the Seller Debenture and all shares of Seller Common Stock issuable upon conversion thereof.

**Series G Conversion Shares** shall mean all shares of Buyer Common Stock issuable upon conversion of the Series G Stock issuable hereunder.

**Series G Stock** shall mean Buyer's Series G Preferred Stock, issued in accordance with the terms, conditions, rights and privileges set forth in the Series G Certificate of Designations, including, without limitation, the Closing Preferred Shares and Earn-Out Shares issuable hereunder.

**Share Security Agreement** shall have that meaning set forth in Section 2.3.1 of **Schedule 2.0** of the Seller's Disclosure Schedule.

**Subordinate Secured Debt** shall mean all amounts payable by Seller and CleanTech to Seller's Subordinate Lender as of the Closing Date, as described more fully in Section 3.8 of **Schedule 3.0** hereto.

**Super Majority Vote** means, (i) with respect to the Members, the vote or assent of the Members holding at least sixty percent (60%) of all Units (regardless of class), and (ii) with respect to the Management Committee, the vote or assent of at least sixty percent (60%) of the Management Committee entitled to vote, voting per capita.

**Tangible Personal Property** means the tangible personal property itemized on in Section 3.9.1 of the Seller Disclosure Schedule, and all other tangible personal property used or useful in the Business, including all machinery, equipment, scales, compactors, containers, bailers, tools, spare parts, furniture, office equipment, computer hardware, supplies, materials, vehicles, trade fixtures and other items of tangible personal property of every kind owned or leased by JVCo (wherever located and whether or not carried on the books of JVCo or Seller), together with any express or implied warranty by the manufacturers or lessors of any item or component part thereof and all maintenance records and other documents relating thereto.

**Tax** or **Taxes** means any income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, property, environmental, windfall profit, customs, vehicle, airplane, boat, vessel or other title or registration, capital stock, franchise, employees' income withholding, foreign or domestic withholding, social security, unemployment, disability, real property, personal property, sales, use, transfer, value added, alternative, add-on minimum and other tax, fee, assessment, levy, tariff, charge or duty of any kind whatsoever and any interest, penalty, addition or additional amount thereon imposed, assessed or collected by or under the authority of any Governmental Body or payable under any tax-sharing agreement or any other Contract, whether disputed or not and including any obligations to indemnify or otherwise assume or succeed to the Tax liability of any other Person.

**Tax Return** means any return (including any information return), report, statement, schedule, notice, form, declaration, claim for refund or other document or information filed with or submitted to, or required to be filed with or submitted to, any Governmental Body in connection with the determination, assessment, collection or payment of any Tax or in connection with the administration, implementation or enforcement of or compliance with any Legal Requirement relating to any Tax.

**Third Party Claim** means any claim, issuance of any Order or the commencement of any Proceeding by any Person who is not a Party to this Agreement, including a Related Person of a Party, any domestic or foreign court, or Governmental Body.

**Threat of Release** means a reasonable likelihood of a Release that may require action in order to prevent or mitigate damage to the Environment that may result from such Release.

**Trading Day** means any day during which the Principal Market shall be open for business.

**Transaction Documents** shall mean this Agreement, and any and all documents, instruments and certificates executed, delivered and/or issued before, at and after Closing in connection herewith and therewith and all further actions and transactions included in the Contemplated Transactions, including all schedules and exhibits hereto and thereto, each of which are hereby incorporated by reference herein.

**Units** shall have that meaning set forth in the JVCo Operating Agreement.

## SCHEDULE 2.0

### The Acquisition

On and subject to the terms and conditions of this Agreement and the Transaction Documents, at the Closing and at all relevant times thereafter, Buyer shall pay the Purchase Price to Seller and/or Seller's Permitted Designee in exchange for the sale, assignment, transfer, and delivery of the Purchased Equity to Buyer and/or Buyer's Permitted Designee in accordance with the terms of this **Schedule 2.0**. As used herein, the term "Acquisition" shall mean and refer to the purchase of the Purchased Equity in exchange for payment of the Purchase Price.

**2.1 Purchased Equity.** As used herein, the term "Purchased Equity" shall mean the sum of the 80% Units, Seller Interests, and Seller Securities issuable to Buyer and/or Buyer's Permitted Designee at the Closing and at all relevant times thereafter in exchange for the Purchase Price in accordance with the terms of this **Schedule 2.0** and, as applicable, the Agreement and Transaction Documents.

**2.1.1 80% Units.** On and subject to the terms and conditions of this Agreement and the Transaction Documents, in consideration of Buyer's agreement to the terms of this Agreement and the Transaction Documents, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, effective immediately prior to the Closing hereunder, Original Member shall make the Capital Contribution **ON BEHALF OF AND FOR THE BENEFIT OF SELLER** by executing and delivering (i) the form of assignment attached hereto in **Exhibit 2.1(a)** to give effect to the assignment by Original Member of the 20% Units directly to Seller's Permitted Designee, CleanTech ("20% Unit Assignment"), and (ii) the form of assignment attached hereto in **Exhibit 2.1(b)** to give effect to the assignment by Original Member of the 80% Units directly to Buyer's Permitted Designee, Attis ("80% Unit Assignment"), in each case free and clear of all Liens other than the Pre-Existing Senior Lien.

**2.1.1.1 Seller Interests.** Notwithstanding Original Member's execution and delivery of the 80% Unit Assignment directly to Buyer, free and clear of all Liens other than the Pre-Existing Senior Lien, in an abundance of caution, Seller shall execute and deliver to Buyer the form of assignment attached hereto in **Exhibit 2.1(c)** to give effect to the assignment by Seller to Buyer's Permitted Designee, Attis, of any right, title and interest of any kind that Seller may have prior to or at the Closing in, to and under the 80% Units and/or the JVCo Assets, or in respect of any other interest involving JVCo except for the 20% Units, whether known or unknown ("Seller Interests"). The Parties acknowledge that the Capital Contribution is intended to be made on behalf of and for the benefit of Seller as an added inducement for Buyer to complete the Acquisition hereunder, and that the 80% Unit Assignment would not be made directly to Attis on behalf of and for the benefit of Seller but for Buyer's agreement pay the Purchase Price directly to Seller and/or Seller's Permitted Designee on and subject to the terms and conditions of this Agreement.

**2.1.1.2 Release Agreement.** On or before the Closing, Original Member shall deliver to Buyer (i) the form of assignment attached hereto in **Exhibit 2.1(d)**, and (ii) the form of release agreement attached hereto in **Exhibit 2.1(e)**.

**2.1.2 Seller Securities.** On and subject to the terms and conditions of this Agreement and the Transaction Documents, at the Closing, Seller shall issue to Buyer a subordinate secured convertible debenture in the original principal amount of **TEN MILLION DOLLARS (\$10,000,000.00)** in substantially the same form as the form of debenture attached hereto in **Exhibit 2.2.1** ("Seller Debenture"). Commencing on **OCTOBER 1, 2018**, the Seller Debenture shall be convertible into Seller's Common Stock at the sole and exclusive option of the holder in one or more installments at the Seller Fair Market Value Conversion Price on a per share basis, up to 9.9% of the Seller's issued and outstanding Seller Common Stock at the time of conversion (when taken with any other shares of Seller Common Stock held by the holder at the time of conversion). As used herein, the term "Seller Fair Market Value Conversion Price" shall mean the greater of (i) \$0.10 per share or (ii) 100% of the lowest closing market price per share for the Seller's Common Stock for the thirty (30) Trading Days preceding conversion. The Seller Debenture shall accrue interest at the lesser of 2% or the minimum allowable rate under applicable law, and shall be waived if the Seller Debenture is converted or otherwise fully paid on or before **JUNE 30, 2028** ("Seller Debenture Maturity Date"). The Seller Debenture shall be exclusively paid in the form of Seller Common Stock, provided, however, that the principal balance due under the Seller Debenture shall be reduced on a dollar for dollar basis in an amount equal to any Distributions paid by JVCo, including, without limitation, proceeds from Lump Sum Recovered Amounts, to Buyer and/or Attis under the JVCo Operating Agreement. Buyer agrees, in the event and to the extent it decides to sell or convert the Seller Debenture, that shares of Seller's Common Stock issuable upon conversion of the Seller Debenture shall not, in the absence of Seller's prior written consent, be sold in public market transactions at a monthly rate that exceeds 20% of the average monthly trading volume for Seller's Common Stock for the three months prior to sale. No assignment of the Seller Debenture, or any portion or all of the amounts due under Seller Debenture, shall be permitted in the absence of Seller's prior written consent.

**2.2 Purchase Price.** As used herein, the term “Purchase Price” shall mean the Earn-Out Payment, including, without limitation, the Floor Price and the sum of all Buyer Securities and other amounts payable to Seller and/or Seller’s Permitted Designee(s) at the Closing and at all relevant times thereafter in exchange for the Purchased Equity in accordance with the terms of this **Schedule 2.0** and, as applicable, the Agreement and Transaction Documents.

**2.2.1 Earn-Out Payment.** On and subject to the terms and conditions of this Agreement and the Transaction Documents, and at all relevant times thereunder, Buyer and Attis shall, on a joint and several basis, pay the greater of the following to Seller and Seller’s Permitted Designee, CleanTech (the “Earn-Out Payment”): (i) \$18,000,000 (“Floor Price”); (ii) five (5) times JVCo’s Consolidated EBITDA during 2018, 2019, and 2020; (iii) four (4) times JVCo’s Consolidated EBITDA during 2021, 2022, and 2023; (iv) three (3) times JVCo’s Consolidated EBITDA during 2024 and 2025; (v) two (2) times JVCo’s Consolidated EBITDA during 2026; or (vi), one (1) times JVCo’s Consolidated EBITDA during 2027.

**2.2.1.1 Consolidated EBITDA.** The term “Consolidated EBITDA” shall mean the aggregate annual earnings before interest, taxes, depreciation and amortization (“EBITDA”) deriving from: (i) all use of now and hereinafter-owned JVCo Assets, including, without limitation, JVCo’s now and hereinafter-owned Intellectual Property Assets by JVCo, Buyer, Attis, and/or any Related Person (“Buyer Entities”); and (ii), the operations, assets, investments, licenses and other agreements of JVCo and JVCo’s now and hereinafter-existing subsidiaries (“JVCo Entities”). Notwithstanding anything stated herein to the contrary, the term Consolidated EBITDA shall **exclude** Lump Sum Recovered Amounts, which amounts shall be administered in accordance with Section 2.2.1.2 of this **Schedule 2.0**. For avoidance of doubt, Recovered Amounts that are **not** Lump Sum Recovered Amounts shall be **included** in the definition of Consolidated EBITDA. The Consolidated EBITDA and applicable Earn-Out Payment shall be measured as of each fiscal year end commencing on **December 31, 2018**, and paid on a rolling, quarterly basis commencing on **March 31, 2019**, with a rolling quarterly true-up to prior payments, as may be applicable (each, a “Measurement and Payment Date”). Any Earn-Out Payment payable hereunder as of any one or more Measurement and Payment Dates shall be due and payable in full as of each applicable date, and shall be paid in the form of (i) immediately available U.S. cash funds, or (ii), at Buyer’s option for so long as Buyer and Attis are in compliance with the terms of this Agreement and the Transaction Documents, additional registered shares of Series G Stock at the rate of **ONE HUNDRED DOLLARS (\$100.00)** per share of Series G Stock (“Earn-Out Shares”).

**2.2.1.2 Allocation and Payment of Excluded Amounts.** Notwithstanding anything stated to the contrary herein, all Lump Sum Recovered Amounts shall be paid for the benefit of JVCo as special distributions immediately upon receipt according to the following priorities: first, to Seller’s Senior Lender until paid in full on the Seller Performance Date; second, to CleanTech until paid in full on the Buyer Performance Date; third, to Buyer and/or Attis until paid in full on the Buyer Return Date; and fourth, equally, on a dollar-for-dollar, 50:50, pari passu basis to Attis and CleanTech without regard for their respective equity interests in JVCo.

**2.2.2 Buyer Securities.** On and subject to the terms and conditions of this Agreement and the Transaction Documents, at the Closing, as an initial payment against the Purchase Price due hereunder, Buyer shall issue to Seller and/or Seller’s Designee(s):

**2.2.2.1 TWO MILLION (2,000,000)** shares of Buyer’s issued and outstanding Common Stock as of the Closing Date (“Closing Common Shares”), and

**2.2.2.2 ONE HUNDRED EIGHTY THOUSAND (180,000)** shares of Buyer’s Series G Preferred Stock (“Closing Preferred Shares” and, together with all Earn-Out Shares, Series G Conversion Shares, and the Closing Common Shares, the “Buyer Securities”).

**2.2.3 Series G Stock.** The Series G Stock shall be convertible into Buyer’s Common Stock at the sole and exclusive option of the holder in one or more installments at the rate equal to **ONE HUNDRED DOLLARS (\$100.00)** per share of Series G Stock divided by the Fair Market Value Conversion Price on a per share basis, up to 9.9% of the Company’s issued and outstanding Common Stock at the time of conversion (when taken with any other shares of Common Stock held by the holder at the time of conversion), subject to the terms, conditions, rights and privileges set forth in the certificate of designations for Buyer’s Series G Preferred Stock attached hereto in **Exhibit 2.2.3** (“Series G Certificate of Designations”), and which shall in all relevant respects govern notwithstanding anything stated herein to the contrary. Voting and cumulative dividend rights shall be on an as converted basis. As used herein, the term “Fair Market Value Conversion Price” shall mean the greater of \$0.50 (“Conversion Floor”) or 100% of the lowest closing market price per share for the Common Stock on the Principal Market for the thirty (30) Trading Days preceding conversion (“Market Price”); provided, however, that upon the occurrence of any Event of Default, and continuing for so long as any such Event of Default remains uncured, the Conversion Floor shall cease to apply, and the Fair Market Conversion Price shall equal the Market Price.

**2.2.4 Registration.** Buyer shall register the Buyer Securities on a best efforts, **TIME IS OF THE ESSENCE** basis after the Closing Date, such that the Closing Common Shares and Series G Conversion Shares shall be registered and freely-trading on or before **August 31, 2018** ("Registration Date"). If Buyer does not deliver registered and freely-trading shares of Common Stock to Seller and/or Seller's Permitted Designee as and when due hereunder, or if any Closing Common Shares or Series G Conversion Shares cannot otherwise be deposited and/or sold after commercially reasonable attempts are made to do so, then Buyer shall pay cash to Seller to redeem Series G Conversion Shares issuable upon conversion of the Acquisition Shares at the rate of \$100,000 per month commencing **August 31, 2018** (the "Series G Redemption Payment"), and continuing on the first of each month thereafter until such time as Buyer delivers conforming registered and freely-tradable shares of Common Stock to as and when due hereunder in compliance with applicable provisions of the Transaction Documents. Notwithstanding anything to the contrary contained herein, contemporaneously with Buyer's payment of each Series G Redemption Payment, Seller shall file a Conversion Notice in an amount equal to the number of shares of Buyer Common Stock to be redeemed by Buyer, Buyer shall issue the applicable number of Series G Conversion Shares to Seller, and Seller shall re-convey said shares to Buyer.

**2.2.5 Leakage.** Seller agrees, in the event and to the extent it decides to sell Series G Conversion Shares or Closing Common Shares, that it shall not, in the absence of Buyer's prior written consent, sell Series G Conversion Shares or Closing Common Shares in public market transactions at a monthly rate that exceeds the greater of (i) \$500,000 worth of Common Stock, (ii) 500,000 shares of Common Stock, or (iii) 2.5% of the average monthly trading volume for Buyer's Common Stock for the three months prior to sale.

**2.2.6 Conversion.** Upon receipt of each Conversion Notice, Buyer shall, within three (3) Business Days following its receipt of each applicable Conversion Notice, cause its transfer agent to issue and deliver certificates representing such additional freely-tradable shares of Common Stock to Seller and/or Seller's Permitted Designee, **SUBJECT, AS MAY BE APPLICABLE, TO THE TERMS OF THE ESCROW AGREEMENT AND SHARE SECURITY AGREEMENT UNTIL THE OCCURRENCE OF THE SELLER PERFORMANCE DATE.**

**2.2.7 Net Cash Proceeds.** If, in the event that Seller has not been able to sell the Buyer Securities, or for any other reason, the Net Cash Proceeds are less than the Floor Price due and payable as of **JUNE 1, 2022**, then Buyer and Attis shall, on a joint and several basis, pay the difference between the Floor Price and the Net Cash Proceeds in full in immediately available U.S. cash funds on or before **JULY 1, 2022**. Upon receipt of any such payment from Buyer, in the event and to the extent that Seller still holds any portion of the Closing Preferred Shares, then Seller shall assign and surrender to Buyer any such shares on or before **AUGUST 1, 2022**. As used herein, the term "Net Cash Proceeds" shall mean the sum of (i) Seller's and CleanTech's (and/or Seller's Permitted Designee's) gross cash sales proceeds upon sale of the Series G Conversion Shares (less applicable legal, issuance, deposit and/or clearance costs incurred by Seller and/or Seller's Permitted Designee), (ii) all Earn-Out Payments paid in cash hereunder, (iii) all payments of Lump Sum Recovered Amounts under Section 2.2.1.2 of Schedule 2.0 hereof, and (iv), except for amounts payable under the Principal Employment Agreement and JVCo Management Agreement, any and all other cash amounts paid by Buyer, Attis and/or JVCo to Seller, CleanTech and/or Seller's Permitted Designee(s) in connection with this Agreement and the Transaction Documents. No failure by Seller to submit any Conversion Notice or other document on or before any specific date, or any other action, shall be deemed to constitute a waiver of any rights hereunder. Seller hereby agrees that any sales of Buyer's Common Stock by or on behalf of Seller shall be completed in accordance with applicable securities laws and in good faith for the highest prices reasonably available at the time of each individual sale. Buyer hereby grants, for any shares of Common Stock issuable hereunder, including, without limitation, upon conversion of the Series G Stock, registration rights on Form S-3, S-1 or such other form as may be applicable pursuant to the Securities Act, which the Buyer shall file with the Securities Exchange Commission (the "SEC") as soon as shall be reasonably practicable. Buyer shall respond to all SEC comments and correspondence in connection with each registration statement filed hereunder as soon as shall be reasonably practicable. Except as provided herein, Buyer shall pay all expenses in connection with all registration, issuance, deposit and clearance of Common Stock issuable to Seller and/or Seller's Permitted Designee hereunder. Notwithstanding the foregoing, Seller and/or Seller's Permitted Designee shall be responsible for its own internal administrative and similar costs, which shall not constitute registration expenses.



**2.2.8 Use of Proceeds.** Seller hereby agrees that it shall use 100% of the first Net Cash Proceeds realized in connection with the Purchase Price payments hereunder as follows ("Use of Proceeds"):

**2.2.8.1 FIRST**, to refinance, accelerate, pay or otherwise fully satisfy all amounts due to Seller's Senior Lender;

**2.2.8.2 SECOND**, to pay all amounts due to Stroock & Stroock & Lavan LLP ("Stroock") in the Ordinary Course of Business;

**2.2.8.3 THIRD**, to design, build, and operate a new facility based on the Method II extraction, Method III oleaginous microbe, and/or other processes included in the JVCo Assets ("Seller Facility"), and

**2.2.8.4 FOURTH**, after the Senior Lender and Stroock have been fully paid, to refinance, accelerate, pay or otherwise fully satisfy all amounts due to Seller's Junior Lender.

## **2.3 Security Interests.**

**2.3.1 Pre-Existing Senior Lien on 80% Units, 20% Units, and JVCo Assets.** Subject to the provisions of 5.8 hereof, the Parties hereby agree and acknowledge that the Pre-Existing Senior Lien, including, without limitation, the security and other rights granted to Original Member in connection with the Acquired Assets under the February 2015 Loan Agreements, shall be and remain in full force and effect in first and senior position, in both payment and priority, until the occurrence of the Buyer performance date, without reduction or setoff of any kind or for any reason.

**2.3.2 Buyer's Closing Lien on 80% Units.** Notwithstanding anything stated to the contrary in this Agreement and in the Transaction Documents, Buyer and Attis shall timely take all reasonably necessary action on a best efforts, **TIME IS OF THE ESSENCE** basis, to grant at Closing, and to thereafter maintain at all relevant times prior to the Buyer Performance Date, the Buyer's Closing Lien, subject only to the Pre-Existing Senior Lien in the case of the 80% Units. and, as may be applicable, Buyer's Pre-Existing Secured Debt Agreements as of the Closing Date.

**2.3.3 Seller's Escrow of Buyer Securities Until Seller Performance Date.** Unless waived in writing by Buyer, (i) the Buyer Securities to be issued to Seller pursuant to this **Schedule 2.0** shall be subject to substantially the same form of security agreement as the agreement attached hereto in **Exhibit 2.3.1** (the "Share Security Agreement"), which shall be executed and delivered at the Closing, and which shall secure Seller's and CleanTech's Use of Proceeds and other obligations involving the Buyer Securities under this **Schedule 2.0** until the occurrence of the Seller Performance Date; and (ii), the Buyer Securities issuable hereunder shall be delivered to and administered by the Escrow Agent for Seller's benefit in accordance with the Use of Proceeds and other terms and conditions of the applicable Transaction Documents until the occurrence of the Seller Performance Date, after which all remaining Buyer Securities shall be released to Seller.

**2.3.4 Matters Involving Seller's Senior Lender. NOTWITHSTANDING ANYTHING STATED HEREIN TO THE CONTRARY, THE PARTIES HEREBY AGREE AND ACKNOWLEDGE THAT THE SECURITY AND OTHER RIGHTS GRANTED TO SELLER'S SENIOR LENDER UNDER THE SENIOR SECURED DEBT AGREEMENTS IN CONNECTION WITH THE SELLER COLLATERAL ARE NOW AND SHALL HERINAFTER REMAIN IN FIRST AND SENIOR POSITION, IN BOTH PAYMENT AND PRIORITY, UNTIL THE OCCURRENCE OF THE SELLER PERFORMANCE DATE.**

**2.3.4.1 Seller Collateral.** Seller shall execute and deliver to Buyer at the Closing a security agreement (the "Seller Security Agreement") in the form of **Exhibit 2.3.2** conveying a subordinate security interest in Seller's and CleanTech's assets ("Seller Collateral") to collateralize Seller's and CleanTech's compliance with their respective performance requirements under the Seller Debenture and JVCo Operating Agreement, which security interest shall be (i) subordinate in all respects to the Seller's Senior Lender's interests, and (ii) subject, solely in connection with the 20% Units held by CleanTech after the Closing, to the Pre-Existing Senior Lien; provided, however, that such grant and Seller Security Agreement shall not be effective in the absence of Seller's Senior Lender's written consent.

**2.3.4.2 Principal's Interest.** Principal shall execute and deliver to Buyer a security agreement (the "Principal Security Agreement") in the form of **Exhibit 2.3.3** conveying a subordinate security interest in the Principal's Interest to collateralize CleanTech's compliance with its performance requirements under the Transaction Documents, which interest shall be subject to no encumbrances other than the those created in favor of (i) Seller's Senior Lender, in first position, solely in connection with amounts due to Seller's Senior Lender from Seller, (ii) Seller's Junior Lender, in second position, solely in connection with amounts due to Seller's Junior Lender from Seller, and (iii) Buyer, in third position, solely in connection with Seller's and CleanTech's compliance with their respective performance requirements under the Seller Debenture and JVCo Operating Agreement; provided, however, that such grant and Principal Security Agreement shall not be effective in the absence of Seller's Senior Lender's written consent.

**2.3.4.3 Cooperation.** Buyer and Seller shall cooperate on best efforts, **TIME IS OF THE ESSENCE** basis: (i) to obtain the consent of Seller's Senior Lender for the Seller Security Agreement and Principal Security Agreement, as well as all other consents which may be reasonably required under Seller's Pre-Existing Secured Debt Agreements; (ii) to cause amended credit and subordination agreements to be executed by and between Seller's Senior Lender and Seller's Junior Lender, or other such documents as may be reasonably necessary (a) to give effect to an extension of the term of each of Seller's Pre-Existing Secured Debt Agreements to provide reasonably sufficient time to implement the Use of Proceeds and other applicable terms hereof, and (b) provide Buyer and Attis, as third-party beneficiaries, with reasonable rights to cure any defaults by Seller or CleanTech upon reasonable written notice; and (iii), to use the Buyer Securities and any proceeds deriving therefrom to refinance, accelerate, pay, and/or otherwise fully satisfy all amounts due to Seller's Senior Lender, either directly and/or indirectly with the support of one or more third party investors. Notwithstanding anything stated or implied in this paragraph to the contrary, Buyer and Seller agree and acknowledge that each of the consents, amendments, agreements, actions and transactions described in this paragraph requires one or more third party approvals which many not be provided, and therefore the Parties hereby agree that the failure to obtain or provide any of the foregoing consents, amendments, or agreements, or to refinance or accelerate any payment to Seller's Senior Lender, either at all or by any specific date, shall not constitute an Event of Default under this Agreement or the Transaction Documents.

## SCHEDULE 2.3

### Deliveries and Actions of Seller at Closing

At or prior to Closing, Seller shall deliver (or cause to be delivered) to Buyer the following fully executed documents, instruments, agreements and other materials:

1. Written Consent of Seller;
2. Written Consent of JVCo;
3. JVCo Management and Operating Agreement;
4. 80% Units (delivered to the Escrow Agent);
5. Unit Assignment;
6. Written Consent of Original Member;
7. Transaction Documents;
8. Seller's Written Buyer Exception Notice, if applicable
9. Share Security Agreement;
10. Seller Bring Down Certificate;
11. JVCo Operating Agreement;
12. Principal Indemnity Agreement in the form of **Exhibit 2.3.4**; and,
13. Key Management Employment Agreements.

## SCHEDULE 2.4

### Deliveries and Actions of Buyer at Closing

At or prior to Closing, Buyer shall deliver (or cause to be delivered) to Seller the following documents, instruments, agreements and other materials:

1. Written Consent of Buyer;
2. Closing Preferred Shares subject to Share Security Agreement and Escrow Agreement;
3. Closing Common Shares subject to Share Security Agreement and Escrow Agreement;
4. Transfer Agent Instructions;
5. Registration Rights Agreement;
6. Transaction Documents; and,
7. Buyer's written Seller Exception Notice, if applicable.

**AMENDED AND RESTATED LIMITED LIABILITY COMPANY  
OPERATING AGREEMENT**

This **AMENDED AND RESTATED OPERATING AGREEMENT** (the "Agreement"), is dated as of **MAY 25, 2018** ("Effective Date"), by and among the undersigned members, **ATTIS INNOVATION, LLC**, a Delaware limited liability company ("Attis" or "Member"), and **GS CLEANTECH CORPORATION** ("CleanTech" or "Member" and, collectively with Attis, the "Members") of **FLUX CARBON LLC**, a Delaware limited liability company (the "Company" or "JVCo"), and the undersigned managers (each, a "Manager" and, collectively, the "Managers"), and executed as a further condition of those certain Transaction Documents executed on even date herewith by and among the Members and their respective Related Parties, including, without limitation, **ATTIS INDUSTRIES INC.**, a New York corporation ("Buyer"), and **GREENSHIFT CORPORATION**, a Delaware corporation ("Seller"). Capitalized terms used but not defined herein shall have that meaning ascribed to them in the Transaction Documents.

**WITNESSETH**

**WHEREAS**, on January 3, 2017, the original member of the Company, **CANDENT CORPORATION**, a Delaware corporation ("Original Member"), caused to be delivered to the Secretary of State of Delaware the Certificate of Formation (the "Certificate") of the Company, on which date the Secretary accepted the Certificate for filing and the Company was formed as a limited liability company under the Limited Liability Company Act (the "Act") of the State of Delaware.

**WHEREAS**, effective as of the Effective Date hereof, in reliance upon and subject to the terms and conditions of this Agreement and the Transaction Documents, in consideration of Buyer's agreement to the terms of each of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Original Member made a Capital Contribution on behalf of and for the benefit of Seller by executing and delivering (i) an assignment agreement to give effect to the assignment by Original Member of 20 Units to CleanTech, corresponding to 20% of the Company's issued and outstanding equity ("20% Units"), and (ii) an assignment agreement to give effect to the assignment by Original Member of 80 Units to Attis, corresponding to 80% of the Company's issued and outstanding equity ("80% Units"), in each case free and clear of all Liens except for Permitted Encumbrances filed in favor of Original Member and ratified by the Members on even date herewith.

**WHEREAS**, the Managers and Members mutually desire to agree upon and set forth their respective rights, responsibilities and obligations to each other and with respect to the Company.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions hereinafter set forth, and other good and valuable consideration the receipt and sufficiency of which the parties acknowledge, the Members, each intending to be legally bound, do hereby agree as follows:

**ARTICLE 1  
CERTAIN DEFINITIONS**

Except as otherwise expressly provided herein or unless the context otherwise requires, initially capitalized terms used in this Agreement have the meanings set forth in the SPA and other Transaction Documents.

**ARTICLE II  
NAME**

**2.1 Name.** The name of the Company is **FLUX CARBON LLC**. The Company may do business under any other name or names selected by the Management Committee. If the Company does any business under a name other than as set forth in its Certificate, then the Company shall file a trade name certificate as required by law.

**2.2 LLC Election.** The Company has been organized as a Delaware limited liability company. The Members are entitled to limitations on their liability with respect to the operations of the Company as contained in Article XII.

**2.3 Investment Representations.**

**2.3.1 Investment Intent.** Each Member hereby represents and warrants to the other Members and the Company that it has acquired its interest in the Company solely for its own account with the intention of holding such interest for investment purposes only.

**2.3.2 Units.** The Members specify, acknowledge and agree that all Units (and the Membership Interests represented thereby) are securities governed by Article 8 (including Section 8-102(a)(15) thereof) as in effect from time to time in the State of Delaware and all other provisions of the Uniform Commercial Code, and pursuant to the terms of Section 8-103(c) of the Uniform Commercial Code, such interests shall be "securities" for all purposes under such Article 8 and under all other provisions of the Uniform Commercial Code of any other applicable jurisdiction that now or hereafter, substantially includes the 1994 revisions to Article 8 thereof, as adopted by the American Law Institute and the National Conference of Commissioners on Uniform State Laws. All Units shall be represented by certificates executed by the Manager on behalf of Company substantially in the form attached hereto as **Exhibit B**, shall be recorded in a register thereof maintained by Company, and shall be subject to such rules for the issuance thereof in compliance with this Agreement, as the Manager may from time to time determine. The LLC shall maintain a register for the purpose of registering any issuance, transfer, cancellation, and/or surrender of Membership Interests

### ARTICLE III TERM

The Company was formed on the last date appearing on the signature page of this Agreement, and shall, unless earlier terminated pursuant to the provisions hereof, continue in perpetuity (the "Term"). If the Company is dissolved, then on and after the date of such dissolution the Company shall continue its existence only for such purpose until the completion of the windup events described in Article XI, at which time the Termination Date will be deemed to have occurred. The existence of the Company as a separate legal entity shall continue until the cancellation of the Company's Certificate of Formation in the manner required by the Act.

### ARTICLE IV PURPOSE AND OPERATIONS

The Company was formed for the purpose of, *inter alia*, developing and commercializing technologies that facilitate the more efficient use of natural resources, including, without limitation, by licensing, producing, marketing, and distributing, or any combination thereof, products for resale, and such other activities ancillary or related thereto as determined by the Management Committee, including, at minimum, the following performance, management and other activities (the "Mandatory Operations"):

**4.1 CleanTech Business.** Seller and CleanTech hereby agree that Seller's and CleanTech's interests in the CleanTech Assets and CleanTech Business shall be managed and administered exclusively by and through the Company commencing immediately after the Closing Date, subject only to the CleanTech Exclusions, and on and subject to the terms and conditions of the Transaction Documents.

**4.2 Objectives.** Buyer, Seller, Attis, CleanTech and the Company shall use their respective best efforts to diligently and aggressively give effect to, perform, and cause the completion of the Objectives. The term "Objectives" shall be construed to mean, *inter alia*, the intent of the Members for CleanTech to in essence 'outsource' management of the CleanTech Business to the Company as part of the Company's broader operations, in a manner which enables the CleanTech Business to be capitalized with the resources needed to, *inter alia*, protect, preserve, and build value with the CleanTech Assets and CleanTech Business, including, without limitation, (i) by servicing the continuing and future needs of CleanTech's licensees, (ii) by growing and operating the CleanTech Business as part of, and along with, the Company Business, (iii) by causing and facilitating the protection, prosecution, amplification, settlement and resolution of now and hereinafter-arising infringement and other CleanTech Matters, (iv) by providing Seller and CleanTech with the Buyer Securities and applicable provisions of the Transaction Documents to provide sufficient cash proceeds to, among other things, refinance, accelerate, or otherwise fully satisfy all amounts due to Seller's Senior Lender, and (v) by providing the Company with the cash amounts stated in the JVCo Management Agreement and applicable Transaction Documents, subject only to Seller's Senior Lender payments, which Seller and CleanTech shall continue to make in the Ordinary Course of Business until paid in full.

### ARTICLE V CAPITALIZATION

**5.1 Capital Contributions.** Except as otherwise stated herein, each Person who is or hereafter becomes a Member shall make Capital Contributions in such amounts and at such times as determined by the Board of Managers. **Exhibit A** sets forth the initial Capital Contributions of the Members as of the Effective Date and shall be revised by the Members from time to time to reflect changes thereto. The initial Capital Contributions of the initial Members indicate the value, as agreed upon by the initial Members, of the property contributed to the Company on the Effective Date. CleanTech shall not be required to make any Capital Contribution prior to the Buyer Performance Date.

**5.1.1 Post-Closing Capital Contributions.** Notwithstanding anything stated herein to the contrary, the 20% Units and rights arising in connection therewith under this Agreement shall be **NON-DILUTABLE** until the Buyer Performance Date, such that, in the event and to the extent that Buyer or Attis make a Capital Contribution hereunder from and after the Closing Date (excluding any amounts due under the Transaction Documents as of the Closing Date), CleanTech shall not be required to make proportionate Capital Contributions to the Company prior to the Buyer Performance Date.

**5.2 Authorized Number of Units and Certification.** The Company may issue an unlimited number of Units subject (i) Unanimous Vote of the Members if issued prior to the Buyer Performance Date or (ii) majority vote of Members based upon Units, if issued after the Buyer Performance Date. All Units shall be represented by certificates substantially in the form set forth in Exhibit B that shall include a restrictive legend indicating that the Units evidenced by the certificates are subject to the restrictions in this Agreement, the Federal Act and applicable state securities laws. Each certificate will be executed by a person designated by the Management Committee, and all Units and certificates shall be recorded in a register that will record the issuance and transfer thereof, and shall be subject to such rules for issuance thereof as the Management Committee may from time to time determine in accordance with this Agreement.

### **5.3 Capital Calls.**

**5.3.1 General.** Subject to the exclusions stated herein involving the 20% Units, the Members shall have the right, upon a Super Majority Vote of the Members, and upon thirty (30) days' prior written notice, to call for all of the Members to make additional Capital Contributions in such amounts as the Members shall determine to be necessary for the successful operation of the Company's business ("Capital Call"). Each Member shall be liable for such Member's pro rata share of such Capital Call based on the Percentage Interest of the Member at the time the Capital Call notice is issued.

**5.3.2 Capital Call Default.** If a Member fails to make a Capital Contribution in response to a Capital Call under this Article, the Management Committee shall give written notice to such Defaulting Member of default ("Capital Call Default Notice"). If the full amount of such additional Capital Call is not received by the Company within three (3) business days after the delivery of such Capital Call Default Notice, then, without limitation to Article 11, such Member shall be a Defaulting Member and the following provisions shall apply with respect to such Defaulting Member:

(i) The Management Committee may cause to be deducted from any amounts otherwise distributable to the Defaulting Member the amount of such deficiency, plus an amount computed as interest at the prime rate then being charged by the principal bank of the Company plus three percent (3%) per annum, or the maximum rate permitted by law, whichever is less, on the deficiency until such amount is paid in full.

(ii) The Defaulting Member shall remain fully liable to the Company to the full extent of any unpaid Capital Call plus interest at the prime rate then being charged by the principal bank of the Company plus three percent (3%) per annum, or the maximum rate permitted by law, whichever is less, from the date of default until the obligation is satisfied.

(iii) No right, power or remedy conferred upon the Company or the Management Committee in this Section shall be exclusive, and each such right, power, or remedy, whether conferred in this Section or now or hereafter available at law or in equity or by statute or otherwise. No course of dealing between the Company and any Defaulting Member and no delay in the exercise of any right, power or remedy conferred in this Section or now or hereafter existing shall operate as a waiver or otherwise prejudice any such right or power.

**5.4 Interest On and Return of Capital Contributions.** No Member shall have the right to demand or receive the return of all or part of such Member's Capital Contribution, except as provided in Article X; provided, however, that the Management Committee may authorize the return of capital to the Members in such amounts as may be necessary from time to time to cause all of the Members' Net Capital Contributions to be in proportion to their Percentage Interest. No Member shall be entitled to interest on its Capital Contribution. Neither the Management Committee nor any Member shall have any personal liability for the repayment of any Member's Capital Contribution or any returns thereon.

**5.5 Loans to Company.** Nothing in this Agreement shall prevent any Member from making secured or unsecured loans to the Company on such terms and conditions as approved by the Management Committee.

## **ARTICLE VI MANAGEMENT COMMITTEE**

**6.1 Management Committee.** The business and affairs of the Company shall be managed by the Management Committee, which shall have and may exercise all of the powers that may be exercised or be performed by the Company. Except for those situations in which the approval of the Members is required by this Agreement, the Management Committee shall have full and complete authority, power and discretion to manage and control the business, affairs and assets of the Company, to make all decisions regarding those matters, and to perform any and all other acts or activities customary or incident to the management of the Company's business without any further approval.

**6.2 Number, Tenure, Vacancies.** The Management Committee shall be comprised of THREE (3) members. Attis shall be entitled to designate two members of the Management Committee. CleanTech shall be entitled to designate one member of the Management Committee. The initial members of the Management Committee shall be **Jeffrey Cosman, David Winsness, and Kevin Kreisler**. The chairman (the "Chairman") of the Management Committee shall be appointed by the members of the Management Committee by a Super Majority Vote of the members of the Management Committee. Each member of the Management Committee shall be entitled to hold office for a **THREE (3)** year term or until the first to occur of: (i) the expiration of such term, or (ii) his or her death, incapacity, resignation, or removal from the Management Committee. The Members shall fill vacancies on the Management Committee in accordance with this Section 6.2. A member of the Management Committee whose term has expired may be re-appointed to the Management Committee.

**6.3 Removal.** Kevin Kreisler shall under no circumstance be removed as a member of the Management Committee until and unless the Buyer Performance Date has occurred. Otherwise, any member of the Management Committee may be removed from the Management Committee For Cause upon the Super Majority Vote of the Members, at a meeting with respect to which three (3) days prior written notice of such purpose is given to all Members and the meeting is otherwise duly called and held.

**6.4 Manner of Action; Quorum.** The Management Committee may not take any action permitted to be taken by the Management Committee unless the Management Committee acts at a regular or special meeting held in accordance with Section 6.5 or by consent in accordance with Section 6.6. A majority of the Management Committee shall constitute a quorum for the transaction of business at any meeting. All recommendations and decisions, including resolutions, of the Management Committee shall require a Majority Vote of the Management Committee.

**6.5 Meetings.** The Management Committee shall meet, from time to time, on call of any member of the Management Committee. All notices shall be given in writing or by email at least three (3) days prior to the scheduled meeting. No notice need be given for any meeting if all of the members of the Management Committee attend, or if they waive notice in writing or by email. Management Committee members may attend and participate in meetings either in person, by means of conference telephones or similar communications equipment by means of which all persons participating in the meeting can hear one another, or by group email in which all members consent to making the decision by email either expressly or by action, and participation in a meeting by such means of communication shall constitute presence in person at the meeting for all purposes. Attendance at such a meeting shall constitute a waiver of any required notice.

**6.6 Action in Lieu of Meeting.** Any action that may be taken at a meeting of the Management Committee may be taken without a meeting if those members of the Management Committee that are required to approve such action, consent to such action. Such consent must be in writing.



**6.7 Powers and Responsibilities of Management Committee** . Subject to the right of the Members to approve Major Decisions after recommendation by the Management Committee as provided in Section 8.1, the Management Committee shall have full power and authority to conduct the business of the Company. Without limiting the foregoing, the Management Committee shall have full power and authority to authorize the Company to:

**6.7.1** To make all changes to Exhibit A to reflect any changes thereto;

**6.7.2** To create executive offices and delegate executive responsibility to them, and to appoint individuals to serve as such officers at the pleasure of the Management Committee;

**6.7.3** To establish and modify Company policies and procedures affecting management, administration, and the operation of the Company;

**6.7.4** To hire employees and determine the Company's staffing needs and establish policies for hiring, compensation, supervision and the discharge of employees, in each case subject to the Initial Budget or other then-current approved budget;

**6.7.5** To engage accountants, legal counsel, financial advisors, consultants or other experts to perform services for the Company and to compensate them from Company funds, in each case subject to the Initial Budget or other then-current approved budget;

**6.7.6** To enter into any and all other agreements on behalf of the Company, with any Person for any purpose in the ordinary course of the Company's business, in such form and under such terms and conditions as the Management Committee may approve;

**6.7.7** To acquire property from any Person in the ordinary course of the Company's business;

**6.7.8** To sell or dispose of the Company's assets in the ordinary course of the Company's business;

**6.7.9** To purchase insurance to protect the Company's property and business;

**6.7.10** To invest the Company's funds temporarily, including, without limitation, in time deposits, short-term governmental obligations, or commercial paper;

**6.7.11** To cause the Company to borrow funds up to \$250,000.00, in each case subject to the Initial Budget or other then-current approved budget;

**6.7.12** To execute on behalf of the Company all instruments and documents, including, without limitation, checks, drafts, notes and other negotiable instruments, security agreements, financing statements, documents providing for the acquisition or disposition of the Company's property, assignments, bills of sale, leases, and any other instruments or documents necessary or appropriate, in the opinion of the Management Committee, to the business of the Company;

**6.7.13** To cause the Company's tax returns to be prepared and filed;

**6.7.14** To make recommendations to the Members for their approval in accordance with Article 8 with respect to the admission of new Members into the Company and to make all changes to Exhibit A with respect to such admission;

**6.7.15** To prepare and amend from time to time as is necessary or appropriate, in the opinion of the Management Committee, budgets for the Company for approval of the Members as set forth in Paragraph 8.1.6;

**6.7.16** To make recommendations to the Members as to the amount of distributions to the Members, the timing of such distributions, the retention of appropriate Reserves and all other matters pertaining to distributions to Members, and to maintain record of such distributions, Reserves and all other matters pertaining to distributions to Members;

**6.7.17** To submit any matter to arbitration or litigation and to prosecute, defend, settle or compromise any claim by or against the Company;

**6.7.18** To take all actions necessary to change the name of the Company, including amending this Agreement;

**6.7.19** After the Buyer Performance Date, to make all Major Decisions for the Company; and,

**6.7.20** To do and perform all other acts as may be necessary or appropriate to the conduct of the Company's business.

**6.8 Delegation of Authority.** The Management Committee may authorize and delegate to specific Members, employees or other agents of the Company such powers and authorities of the Management Committee that the Management Committee shall, from time to time, specify. No Member or other person shall have authority to bind the Company unless the Member or person has been authorized by the Management Committee in writing to act on behalf of the Company in accordance with a specific grant of authority held by the Management Committee or pursuant to general policy or practice adopted by the Management Committee within its discretion. If a Member has an affiliation or connection with an Interested Party that desires to enter into a business transaction with the Company, the Member shall disclose such affiliation or connection to the Management Committee and the fact of such affiliation or connection shall not prohibit the Management Committee from dealing with such Interested Party.

## **ARTICLE VII OFFICERS**

**7.1 Officers.** The Management Committee may designate certain employees as Officers of the Company. Officers shall serve at the pleasure of the Management Committee and may be appointed or removed by the Management Committee at any time and from time to time with or without cause. In each case, the Management Committee shall specify the authority and responsibility of such Officer. Any Officer, once so appointed, shall continue to serve in such capacity unless removed by the Management Committee or such person's earlier death, disability, resignation or termination. The same person may hold two or more offices simultaneously. The initial Officers of the Company shall be:

Chief Executive Officer	Jeffrey Cosman
President	David Winsness
Vice President	Kevin Kreisler

**7.2 Tax Matters Partner.** All elections required or permitted to be made by the Company under the Code shall be made by the Management Committee. For all purposes permitted or required by the Code, the Management Committee shall appoint a Member as the Tax Matters Partner from time to time. The provisions on limitations of liability of Members contained herein and indemnification in Section 12.3 hereof shall be fully applicable to the Tax Matters Partner in its capacity as such. The Tax Matters Partner may resign at any time by giving written notice to the Company and each of the other Members. Upon the resignation of the Tax Matters Partner, a new Tax Matters Partner shall be appointed by the Management Committee.

## **ARTICLE VIII MEMBER DECISIONS**

**8.1 Major Decisions Prior to the Buyer Performance Date.** Until the Buyer Performance Date, and subject to first receiving an affirmative recommendation from the Management Committee, a Unanimous Vote of the Members shall be necessary to approve the following actions of the Company (the "Major Decisions"):

**8.1.1** Admitting a new Member;

**8.1.2** Merging the Company with or into another entity, or entering into negotiations or discussions pertaining to any such merger or other acquisition, equity sale or change of control transaction;

**8.1.3** Incurrence by the Company of secured indebtedness and any indebtedness of \$250,000 or more;

**8.1.4** Amending this Agreement other than any Amendment changing the name of the Company;

**8.1.5** Authorizing the Initial Budget and any annual or other subsequent budgets for the capitalization and operation of the Company or any subsidiary;

**8.1.6** Formation of any subsidiary or other entity, or execution of any agreement in any way involving the production, use, sales and/or marketing of any Company intellectual property or any products produced using any Company intellectual property;

**8.1.7** Execution of any license involving any Company intellectual property, or any other agreement which in any way grants or transfers any rights to or ownership of any Company intellectual property to any third party;

**8.1.8** Sale, transfer, pledge or hypothecation of any Company asset that is not in the Ordinary Course of Business;

**8.1.9** To make any investments in other Persons;

**8.1.10** Decisions in connection with the preparation of the Company's tax returns;

**8.1.11** Issuing Units to existing and new Members and purchasing Units from Members;

**8.1.12** Dissolution of the Company; provided, however, that in the event the Company becomes insolvent and the Management Committee determines to seek a Voluntary Bankruptcy or otherwise seek protection from its creditors, only a Majority Vote shall be required for dissolution following such action;

**8.1.13** Casting any vote requiring the unanimous consent of the members of any minority or majority owned subsidiary of the Company.

**8.2 Major Decisions After the Buyer Performance Date.** After the Buyer Performance Date, all Major Decisions shall be made by the Management Committee.

**8.3 Meetings.** The Members shall meet, from time to time, on call by any member of the Management Committee by at least three (3) days prior written notice, which may be transmitted by electronic medium. No notice need be given for any meeting if all of the Members attend or if they waive notice. Members may attend and participate in meetings in person or by means of telephones or similar communications equipment by means of which all persons participating in the meeting can hear one another, or group email if all participants consent to such group email expressly or by action, and participation in a meeting by such means of communication shall constitute in person at the meeting for all purposes. Attendance in person at such a meeting shall constitute a waiver of any required notice.

**8.4 Action in Lieu of Meetings.** Any action of the Company that requires a meeting of the Members may be taken without a meeting if those Members who are required to approve such action consent to such action in writing.

## **ARTICLE IX ALLOCATIONS AND DISTRIBUTIONS**

**9.1 Allocations.** It is the intent of the Members that each Member's distributive share of income, gain, loss, deduction, credit (or item thereof) be determined and allocated consistently with the provisions of the Code, including Section 704(b) and 704(c) of the Code. The Management Committee is hereby authorized and directed to recommend to the Members allocation of income, gain, loss, deduction or credit (or items thereof) arising in any year consistently with each Member's interest in the Company and in compliance with the applicable provisions of the Code for the allocations of profits and losses. The allocations made pursuant to this Section shall be pursuant to Super Majority Vote of the Members. In making any such recommendation of allocations under this Section, the Management Committee is authorized to act in reliance upon advice of tax counsel to the Company or the Company's regular certified public accountants as to the compliance of such allocations with the applicable provisions of the Code in order to ensure that each Member's distributive share of income, gain, loss, deduction or credit (or items thereof) are determined and allocated in accordance with the Code and each Member's interest in the Company.

**9.2 Distributions.** Subject to the provisions of this Article and Article VIII the Company shall make distributions of Distributable Cash from time to time as directed by the Management Committees, to the extent funds are available for such distributions. All regular distributions from Distributable Cash to the Members (other than with respect to payment of loans or pursuant to other agreements between the Member and the Company) shall be made to the Members proportionately to their respective Percentage Interests unless otherwise specified herein. Special distributions may be made as approved by a Super Majority Vote of the Members and need not be distributed ratably to the Members in accordance with their respective Percentage Interests.

**9.2.1 Distributions During Performance Under the SPA.** Notwithstanding anything stated to the contrary herein, with the sole exception of the amounts referenced in Sections 9.2.2 and 9.2.3 below, (i) no distributions shall be paid prior to the Seller Performance Date, (ii) distributions shall be made proportionately to the Members between the Seller Performance Date and the Buyer Performance Date, (iii) no distributions shall be made to CleanTech (or its successor-in-interest, if applicable) between the Buyer Performance Date and the Buyer Return Date, and (iv) distributions shall be made proportionately to the Members after the Buyer Return Date.

**9.2.2 Distributions of Lump Sum Recovered Amounts.** Notwithstanding anything stated to the contrary herein or the Transaction Documents, unless otherwise mutually agreed in writing by each Party to the SPA, 100% of the proceeds received upon payment of any Lump Sum Recovered Amounts shall be paid as special distributions immediately upon receipt by the Company according to the priorities set forth in Section 2.2.1.2 of Schedule 2.0 to the SPA.

**9.2.3 Reimbursement of Costs and Expenses.** For avoidance of doubt, reimbursement or other payment of allocable costs and expenses incurred by Attis and/or CleanTech or any Related Person on behalf of the Company in the Ordinary Course of Business under the JVCo Management Agreement shall not be deemed to be distributions hereunder.

## ARTICLE X ENCUMBERANCES AND DISPOSITIONS

### 10.1 Required Consents and Conditions.

**10.1.1 Consents.** Except as expressly permitted in this Agreement, no Member shall, directly or indirectly, Encumber or Dispose of all or any part of its Unit or its share of capital, profits, losses, allocations or distributions hereunder without the express prior written consent of the Management Committee, which consent may be withheld for any reason or no reason. The giving of consent in any one or more instances of Encumbrance or Disposition shall not limit or waive the need for such consent in any other or subsequent instances.

**10.1.2 Disclosure.** Prior to making any permitted Encumbrance or Disposition under this Agreement, the Member taking such action shall inform the party to the applicable transaction giving rise to such Encumbrance or Disposition and the applicable provisions that apply thereto.

**10.1.3 Transfers.** Except as otherwise explicitly provided in this Article X, no Member shall have the right to Dispose, whether by sale, assignment, pledge, gift, bequest or by any other means (), all or any part of such Member's Membership Interest. A Member may Dispose all or any portion of its Membership Interest provided that the transferee is one of the following (each, a "Permitted Transferee"):

**10.1.3.1** the individual who owns at least a majority of the equity in the transferring Member, or an entity (including a general partnership, a limited partnership, a limited liability partnership, a limited liability company, a trust, an association, a corporation or any other legal or commercial entity), 100% of the legal and beneficial interests of which are owned by or under common ownership with the transferring Member;

**10.1.3.2** one or more of the transferring Member's relatives by consanguinity or marriage (including children, parents and siblings), or an entity (including a general partnership, a limited partnership, a limited liability partnership, a limited liability company, a trust, an association, a corporation or any other legal or commercial entity), formed for the exclusive benefit of one or more of the transferring Member's relatives by consanguinity or marriage (including children, parents and siblings); or,

**10.1.3.3** a then-current Member.

The transferee of any Disposition made pursuant to the provisions of paragraph (i) or (ii), above, must comply with the requirements of Section 10.3. A transferee receiving a Membership Interest under this Section 10.1 shall automatically be admitted as a Member (and therefore succeed to the rights of the transferor). The Membership Interest transferred shall remain subject to this Agreement.

**10.2 Right of First Refusal.** Notwithstanding Section 10.1, and subject to the carve-out provisions of Section 10.5 hereof, each Member (such Member being referred to herein in connection with such circumstance as an “Offeror”) shall have the right to Dispose of its Units to a Third Person Purchaser pursuant to the following conditions:

**10.2.1** The Offeror shall provide written notice to the non-Disposer Members (the “Offeree”) of a valid and bona fide offer (the “Offer”) from a Third Person Purchaser. Such written notice shall specify (i) the amount of Units to be sold, (ii) the amount of the purchase price or its cash equivalent, including the valuation criteria, (iii) the payment terms, (iv) the identity of the prospective buyer (including its ultimate parent company), and (v) all other terms and conditions associated with the Offer.

**10.2.2** The Offeree shall have a right of first refusal with regard to the Offer pursuant to the following conditions:

(a) The Offeree shall have sixty (60) days from the date of the Offeror’s notice to notify the Offeror in writing of its decision as to whether or not to exercise its right of first refusal to acquire all (but not less than all) of the Units subject to the Offer.

(b) If the Offeree exercises such right within such 60-day period, then the Disposition shall be completed within the following sixty (60) days after the exercise of such notice, under the terms and conditions contained in the Offer, provided that the Offeree may elect to pay cash in lieu of non-cash payments offered by the Third Person Purchaser.

(c) If the Offeree does not exercise such right within such 60-day period, or if such Disposition to the Offeree is not completed within such following 60-day period, then the Offeror may proceed to sell its Units to the Third Person Purchaser on terms and conditions no more favorable to such Third Person Purchaser than those contained in the Offer, provided that such sale is consummated within sixty (60) days after the Offeror is authorized to proceed and the Third Person Purchaser complies with the provisions set out in Sections 10.3.

(d) Upon the Disposition of a Member’s Units and the execution by the Disposer of this Agreement, the Disposer shall be admitted as a Member at the time the Disposition is completed.

**10.3 Admission of Additional Members.** A Person who is to become a Member must agree to abide by the terms of this Agreement and must execute a copy hereof prior to actually becoming a Member. Once a Person becomes a Member, such Person shall be considered a Member for all purposes of this Agreement and the Members shall cause this Agreement, including **Exhibit A**, to be amended, as necessary, to reflect such new Member.

**10.4 Restraining Order.** If any Member shall at any time Encumber or Dispose or attempt to Encumber or Dispose of its Unit or any part thereof in violation of the provisions of this Agreement, then the other Member(s) shall, in addition to all rights and remedies at law and in equity, be entitled to a decree or order restraining and enjoining such Encumbrance or Disposition, and the offending Member agrees not to plead in defense thereto that there would be an adequate remedy at law. The Members expressly acknowledge and agree that damages at law would be an inadequate remedy for a breach or threatened breach of the violation of the provisions concerning Encumbrances and Disposition set forth in this Agreement. Any attempt to Encumber or Dispose of any Unit in violation of this Agreement shall be null and void.

**10.5 Exempt Transfers.** Notwithstanding anything stated to the contrary herein, transfers of the Company’s Units shall be permitted in connection with the applicable security interests referenced in Section 4.6 hereof.

**ARTICLE XI  
DEFAULT AND DISSOLUTION**

**11.1 Events of Default.** The occurrence of any of the following events shall constitute an event of default of this Agreement (“Event of Default”) on the part of the Member with respect to whom such event occurs (a “Defaulting Member”):

**11.1.1** A default under any Transaction Document by the Defaulting Member;

**11.1.2** The violation by the Defaulting Member of any of the restrictions set forth in Article X;

**11.1.3** A general assignment by the Defaulting Member for the benefit of creditors;

**11.1.4** The filing by the Defaulting Member or a Person having Control of the Defaulting Member of a Voluntary Bankruptcy;

**11.1.5** The institution against the Defaulting Member or a Person having Control of the Defaulting Member of an Involuntary Bankruptcy, which Involuntary Bankruptcy is not dismissed or discharged within a period of 60 calendar days after the institution thereof;

**11.1.6** Fraud or intentional material misrepresentation by the Defaulting Member against the Company or any other Defaulting Member(s) in connection with this Agreement and/or the Company;

**11.1.7** Material breach of any fiduciary duty by the Defaulting Member to the Company or the other Defaulting Member(s) in connection with this Agreement or the Company; or

**11.1.8** Failure to cure any other material breach of any representation or warranty or any default in the performance of or failure to comply with any other material agreements, obligations or undertakings of the Defaulting Member, in connection with this Agreement or the Company, within thirty (30) days after receiving written notice thereof from the other Defaulting Member(s); provided, however, if such default is susceptible to cure but cannot be cured during such thirty (30) day period, failure to diligently and continuously pursue a cure at any time thereafter before such default is cured.

**11.2 Dissolution and Winding Up.** The Company shall be dissolved and wound up upon the earlier occurrence of any of the following:

**11.2.1** An Event of Default occurs and the non-Defaulting Member(s) elect to dissolve the Company; or

**11.2.2** A dissolution of the Company is approved by a Unanimous Vote of the Members;

**11.3 Procedures for Dissolution and Winding Up of the Company.** In the event of a dissolution and winding up of the Company, the Management Committee shall be responsible for selecting a liquidator, which shall be approved by Super Majority Vote of the Members.

**11.3.1 Distribution of Assets/Liabilities.** Upon termination of the Company, any net equity or assets remaining after discharging or otherwise providing for Company liabilities and the actual and documented expenses of the liquidator (in the order of priority as provided by law) shall be divided among the Members first to return any Net Capital Contributions and then in accordance with their relative Percentage Interests during the then current year.

**11.3.2 Goodwill in Dissolution and Winding Up.** In connection with the dissolution and winding up of the Company, no value shall be attributed to any goodwill of the Company that is distributed to the Members.

**11.4 Liquidator’s Rights.** The liquidator shall be authorized to timely dispose of salvageable Company assets by sale, auction, partition or in-kind distribution, in the liquidator’s discretion and will be obligated to notify the Members when such actions have been completed.

**11.5 Termination.** Upon receipt of notice from the liquidator that the winding up activities have been completed, and verification of same by the Management Committee, this Agreement shall terminate, and the Members shall be released from and shall have no obligation hereunder arising on and after the Termination Date, except for such obligations that expressly survive the termination hereof.

**11.6 Disposition of Documents and Records.** All documents of the Company shall be retained upon termination of the Company for a period of not less than seven (7) years by FD. The costs and expenses of personnel and storage costs associated therewith shall be shared by the Members equally during such seven (7) year period. The Documents shall be available during normal business hours to all Members for inspection and copying at such Member’s cost and expense.

**11.7 Deficit Capital Accounts.** If any Member has a deficit balance in its capital account (after giving effect to all contributions, distributions and allocations for all Fiscal Years, including the Fiscal Year during which the liquidation of the Company occurs), such Member shall have no obligation to make any Capital Contribution to the Company with respect to such deficit, and such deficit shall not be considered a debt owed to the Company or to any other Person for any purpose whatsoever. However, any Member having a deficit balance in its capital account shall not be entitled to receive any distribution following liquidation until such deficit balance has been satisfied.

**ARTICLE XII  
REMEDIES; LIABILITY; EXCULPATION AND INDEMNIFICATION**

**12.1 Remedies.** Each Member expressly understands and agrees that the covenants and agreements to be rendered and performed by it pursuant to this Agreement are special, unique, and of an extraordinary character, and in the event of any default, breach or threatened breach hereof by such Member, the other Member(s) and the Company shall be entitled, if it so elects, to institute and prosecute proceedings in any court of competent jurisdiction, either at law or in equity, and shall be entitled to such relief as may be available to it pursuant hereto, at law or in equity. Except as otherwise specifically provided in this Agreement, all rights and remedies of any party hereto, including, without limitation, a Member's right to recover damages from the other Member, are cumulative of each and every other right or remedy such party may otherwise have at law, in equity or hereunder, and the exercise of one or more rights or remedies shall not prejudice or impair the concurrent or subsequent exercise of other rights or remedies.

**12.2 Limited Liability.** Except as otherwise provided by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and no Covered Person shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Covered Person.

**12.2 Exculpation.**

**12.2.1** No Covered Person shall be liable to the Company or any other Covered Person for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the Company and in a manner within the scope of authority conferred on such Covered Person by this Agreement, except that a Covered Person shall be liable to the Company for any such loss, damage or claim incurred by reason of such Covered Person's gross negligence, intentional misconduct, dishonesty, criminal activity, reckless dereliction of duties, breach of fiduciary duty or a transaction for which such Covered Person received a personal benefit in violation or breach of the provisions of the Agreement and to other Covered Persons in accordance with Section 12.3.

**12.2.2** Following the Effective Date, a Covered Person shall be fully protected in relying in good faith upon the records of the Company without actual knowledge of their inaccuracy of such records and upon such information, opinions, reports or statements presented to the Company by any Person selected by the Company as to matters the Covered Person reasonably believes are within such other Person's professional or expert competence, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits, losses, or any other facts pertinent to the existence and amount of assets from which distributions to Members might properly be paid.

**12.3 Indemnification.** To the fullest extent permitted by applicable law, a Covered Person shall be entitled to indemnification from the Company for any loss, damage or claim incurred by such Covered Person by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the Company and in a manner within the scope of authority conferred on such Covered Person by this Agreement, except that no Covered Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by such Covered Person by reason of such Covered Person's gross negligence, intentional misconduct, dishonesty, criminal activity, reckless dereliction of duties, breach of fiduciary duty or a transaction for which such Covered Person received a personal benefit in violation or breach of the provisions of the Agreement, provided that any indemnity under this Section 12.3 shall be provided out of and to the extent of Company assets only, and no Covered Person shall have any personal liability on account thereof.

**12.4 Expenses.** To the fullest extent permitted by applicable law, expenses (including reasonable legal fees) incurred by a Covered Person in defending any claim, demand, action, suit or proceeding for which it is entitled to be indemnified under Section 12.3, shall, from time to time, be advanced by the Company prior to the final disposition of such claim, demand, action, suit or proceeding. As a condition to such advance, the Covered Person shall agree in writing to promptly repay such amount if it shall be determined that the Covered Person is not entitled to be indemnified under Section 12.3.

### **ARTICLE XIII CONFIDENTIALITY**

**13.1 Confidentiality Obligation.** In recognition of the Company's and each Member's need to protect its respective legitimate business interests, each Member covenants and agrees that it shall regard and treat each item of information or data constituting a Trade Secret or Confidential Information of either the Company or any and all other Member(s) as strictly confidential and wholly owned by the Company or such other Member, and that it will not use, distribute, disclose, reproduce or otherwise communicate any such item of information or data to any Person for any purpose other than in accordance with the terms of this Agreement or with the written consent of the Company and/or Member having the Trade Secret or Confidential Information. The covenant contained in the preceding sentence shall apply: (i) with respect to Confidential Information, at all times during the Term of the Company and for a period of three (3) years thereafter; and (ii) with respect to Trade Secrets, at all times such data or information remains a "trade secret" under applicable Law.

**13.2 Permitted Disclosures.** A Member may disclose Confidential Information and Trade Secrets of the Company or the other Member to those of its officers, directors, employees, agents, independent contractors and advisors who need to know such Confidential Information or Trade Secrets for a purpose reasonably incidental to the performance of this Agreement. Each Member shall be responsible for ensuring the continued confidentiality of all Trade Secrets and Confidential Information of the Company or other Member known by, disclosed or made available to such of its officers, directors, employees, agents, independent contractors and advisors in connection with this Agreement, including, without limitation, instructing its officers, employees, independent contractors, agents and advisors to maintain the confidentiality of such Confidential Information and Trade Secrets and obtaining written confidentiality agreements where practicable or as requested by the other Member.

**13.3 Required Disclosures.** If a Member becomes legally required to disclose any Confidential Information or Trade Secrets of the Company or the other Member (whether by judicial or administrative order, applicable law, rule or regulation, applicable rules of any stock exchange, or otherwise), such Member will use its reasonable efforts to provide the Company or the other Member, as applicable, with prior notice thereof so that the Company or the other Member, as applicable, may seek a protective order or other appropriate remedy to prevent such disclosure; provided, however, that such Member will use all reasonable efforts (at the other Member's or the Company's expense, as applicable,) to maintain the confidentiality of such Confidential Information and Trade Secrets. If such protective order or other remedy is not obtained prior to the time such disclosure is required, such Member will only disclose that portion of such Confidential Information and Trade Secrets which it is legally required to disclose.

**13.4 Return of Confidential Information.** Upon ceasing to be a Member in the Company, such prior Member shall return to the Company or the other Member(s), as applicable, all copies, versions or abstracts of written or descriptive materials of any kind that contain or discuss any Confidential Information or Trade Secrets of the Company or such other Member(s), as applicable, respectively, and the confidentiality obligations of this Agreement shall continue in full force and effect.

### **ARTICLE XIV MISCELLANEOUS**

**14.1 Notice.** Unless otherwise specifically provided for in this Agreement, notices may be made orally. To the extent that a notice is specified to be delivered in writing, such notice shall be signed by the party giving the notice, and shall be deemed given and effective (a) when hand-delivered (either in person by the party giving such notice, or by its designated agent, or by delivery by commercial overnight courier service to the address for the party receiving such notice); (b) on the third (3<sup>rd</sup>) business day (which term means a day when the United States Postal Service, or its legal successor (" Postal Service") is making regular deliveries of mail on all of its regularly appointed week-day round in Wilmington Delaware) following the day (as evidenced by proof of mailing) upon which such notice is deposited, postage pre-paid, certified mail, return receipt requested, with the Postal Service; or (c ) upon facsimile confirmation of receipt of same, if delivered by facsimile transmission to the designated telephone number for such person as reflected on the Company's books and records. All notices shall be addressed, in the case of the Company to the attention of the Management Committee at the Company's principal place of business and to any Member at the most recent address provided by such Member.



**14.2 Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of New Jersey, without regard to the principles of conflict of laws.

**14.3 Entire Agreement.** This Agreement constitutes the entire understanding and agreement among the parties with respect to the matters set forth herein.

**14.4 Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, subject to the transfer restrictions set forth herein.

**14.5 Headings Descriptive.** The headings in this Agreement are for convenience of reference only and shall not constitute a part of this Agreement for any other purpose or be given any substantive affect.

**14.6 Consent and Jurisdiction.** Any dispute arising under, relating to or in connection with this Agreement or related to any matter which is the subject of or incidental to this Agreement or Transaction Documents shall be subject to the exclusive jurisdiction and venue of the Superior Court of New Jersey, Bergen County, or the United States District Court for the District of New Jersey, Newark, New Jersey.

**14.7 Construction.** Whenever the singular number is used in this Agreement and when required by context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genres and vice versa.

**14.8 Severability.** A determination that any provision of this Agreement is unenforceable or invalid shall not affect the enforceability or validity of any other provision and the Members shall negotiate in good faith to amend this Agreement as necessary to implement the intent of such provision to the extent permitted by law.

**14.9 Non-Waiver.** None of the provisions of this Agreement shall be considered waived by a Member except when such waiver is given in writing and signed by the Member waiving such provision. The failure of a Member to insist in any one or more instances upon strict performance of any of the provisions of this Agreement or to take advantage of any of its rights under any provision shall not be construed as a waiver of any such provision or the relinquishment of any such rights for the future, and such provisions shall continue and remain in full force and effect.

**14.10 Counterparts.** This Agreement may be executed in several counterparts, all of which together shall constitute on and the same Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK  
- SIGNATURE PAGE FOLLOWS]

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by their duly authorized representatives on the dates indicated by the respective signatures:

**ATTIS INDUSTRIES INC.**

By: /s/ Jeffrey Cosman  
Name: Jeffrey Cosman  
Title: Chief Executive Officer

**ATTIS INNOVATIONS, LLC**

By: /s/ Jeffrey Cosman  
Name: Jeffrey Cosman  
Title: Manager

**FLUX CARBON LLC**

By: /s/ Jeffrey Cosman  
Name: Jeffrey Cosman  
Title: Manager

**MANAGERS:**

**JEFFERY COSMAN**

By: /s/ Jeffrey Cosman  
Name: Jeffrey Cosman  
Title: Manager

**DAVID WINSNESS**

By: /s/ David Winsness  
Name: David Winsness  
Title: Manager

**GREENSHIFT CORPORATION**

By: /s/ Kevin Kreisler  
Name: Kevin Kreisler  
Title: Chief Executive Officer

**GS CLEANTECH CORPORATION**

By: /s/ Kevin Kreisler  
Name: Kevin Kreisler  
Title: Chief Executive Officer

**KEVIN KREISLER**

By: /s/ Kevin Kreisler  
Name: Kevin Kreisler  
Title: Manager

**SCHEDULE A  
INITIAL BUDGET**

NEITHER THIS DEBENTURE NOR THE SECURITIES INTO WHICH THIS DEBENTURE IS CONVERTIBLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS.

May 25, 2018 (the “Effective Date”)  
GERS – ATTIS 001

\$10,000,000.00

**GREENSHIFT CORPORATION**

**Convertible Debenture**

**Due June 30, 2028**

**FOR VALUE RECEIVED, GREENSHIFT CORPORATION**, a Delaware corporation (“Seller”), hereby promises to pay to **ATTIS INDUSTRIES INC.** (the “Buyer”), or its successors and assigns, the principal sum of **TEN MILLION DOLLARS (\$10,000,000.00)** in exchange for the Purchase Price consideration payable by Buyer under that certain Securities Purchase Agreement by and among Buyer and Seller of even date herewith (“SPA”) and applicable Transaction Documents. Capitalized terms used herein and not otherwise defined in this Debenture shall have the same meaning ascribed to such terms in the SPA and the Transaction Documents.

Interest. Interest shall accrue under this debenture (“Seller Debenture” or “Debenture”) at the lesser of **TWO PERCENT (2%)** or the minimum allowable rate under applicable law, but shall be waived if the Debenture is converted or otherwise fully paid on or before **JUNE 30, 2028** (“Seller Debenture Maturity Date” or “Maturity Date”). Interest shall be calculated on the basis of a 365-day year and the actual number of days elapsed, to the extent permitted by applicable law.

Payment. The Seller Debenture shall be exclusively paid in the form of Seller’s Common Stock, provided, however, that the principal balance due hereunder shall be reduced on a dollar for dollar basis in an amount equal to any Distributions paid by JVCo, including, without limitation, proceeds from Lump Sum Recovered Amounts, to Buyer and/or its Related Persons under the JVCo Operating Agreement. For avoidance of doubt, at no time shall Seller be obligated to pay any amount due hereunder in the form of cash. Rather, Seller shall be obligated to issue Buyer and/or its designee(s) shares of Seller’s Common Stock upon and subject to the terms and conditions hereof. Buyer agrees, in the event and to the extent it decides to sell or convert the Seller Debenture, that shares of Seller’s Common Stock issuable upon conversion of the Seller Debenture shall not, in the absence of Seller’s prior written consent, be sold in public market transactions at a monthly rate that exceeds 20% of the average monthly trading volume for Seller’s Common Stock for the three months prior to sale. No assignment of the Seller Debenture, or any portion or all of the amounts due under Seller Debenture, shall be permitted in the absence of Seller’s prior written consent.

This Debenture is subject to the following additional provisions:

Section 1. Conversion.

(a) Conversion Procedure.

(i) This Debenture shall be convertible into Seller’s Common Stock at the sole and exclusive option of Buyer in one or more installments at the Seller Fair Market Value Conversion Price on a per share basis, up to 9.9% of the Seller’s issued and outstanding Seller Common Stock at the time of conversion (when taken with any other shares of Seller Common Stock held by the holder at the time of conversion) (subject to the limitations on conversion set forth in Sections 1(b) and 1(c) hereof).

(ii) The Buyer shall effect conversions by delivering to the Seller a completed notice in the form attached hereto as **Exhibit A** (a “Conversion Notice”). The date on which a Conversion Notice is delivered is the “Conversion Date.” Unless the Buyer is converting the entire principal amount outstanding under this Debenture, the Buyer is not required to physically surrender this Debenture to the Seller in order to effect conversions. Conversions hereunder shall have the effect of lowering the outstanding principal amount of this Debenture in an amount equal to the applicable conversion. The Buyer and the Seller shall maintain records showing the principal amount converted and the date of such conversions. In the event of any dispute or discrepancy, the records of the Buyer shall be controlling and determinative in the absence of manifest error.

(b) Certain Conversion Restrictions. A Buyer may not convert this Debenture to the extent such conversion would result in the Buyer, together with any affiliate thereof, beneficially owning (as determined in accordance with Section 13(d) of the Exchange Act and the rules promulgated thereunder) in excess of 9.99% of the then issued and outstanding shares of Common Stock, including shares issuable upon conversion of this Debenture held by such Buyer after application of this Section. Since the Buyer will not be obligated to report to the Seller the number of shares of Common Stock it may hold at the time of a conversion hereunder, unless the conversion at issue would result in the issuance of shares of Common Stock in excess of 9.99% of the then outstanding shares of Common Stock without regard to any other shares which may be beneficially owned by the Buyer or an affiliate thereof, the Buyer shall have the authority and obligation to determine whether the restriction contained in this Section will limit any particular conversion hereunder and to the extent that the Buyer determines that the limitation contained in this Section applies, the determination of which portion of the principal amount of this Debenture is convertible shall be the responsibility and obligation of the Buyer. If the Buyer has delivered a Conversion Notice for a principal amount of this Debenture that, without regard to any other shares that the Buyer or its affiliates may beneficially own, would result in the issuance in excess of the permitted amount hereunder, the Seller shall notify the Buyer of this fact and shall honor the conversion for the maximum principal amount permitted to be converted on such Conversion Date in accordance with the periods described in *Section 1(a)(i)* and, at the option of the Buyer, either retain any principal amount tendered for conversion in excess of the permitted amount hereunder for future conversions or return such excess principal amount to the Buyer. The provisions of this Section may be waived by a Buyer (but only as to itself and not to any other Buyer) upon not less than 65 days prior notice to the Seller. Other Buyers shall be unaffected by any such waiver.

(c) Conversion Price and Adjustments to Conversion Price.

(i) As used herein, the terms "Seller Fair Market Value Conversion Price" and "Conversion Price" shall mean the greater of (i) \$0.10 per share or (ii) 100% of the lowest closing market price per share for the Seller's Common Stock for the thirty (30) Trading Days preceding conversion.

(ii) In case of any reclassification of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is converted into other securities, cash or property, the Buyer shall have the right thereafter to, at its option, (A) convert the then outstanding principal amount and any other amounts then owing hereunder in respect of this Debenture into the shares of stock and other securities, cash and property receivable upon or deemed to be held by Buyers of the Common Stock following such reclassification or share exchange, and the Buyer of this Debenture shall be entitled upon such event to receive such amount of securities, cash or property as the shares of the Common Stock of the Seller into which the then outstanding principal amount and any other amounts then owing hereunder in respect of this Debenture could have been converted immediately prior to such reclassification or share exchange would have been entitled, or (B) require the Seller to prepay the outstanding principal amount of this Debenture, plus all other amounts due and payable thereon. The entire prepayment price shall be paid in cash. This provision shall similarly apply to successive reclassifications or share exchanges. All calculations under this *Section 1* shall be rounded up to the nearest \$0.00001 or whole share.

Section 2. Notices. Any notices, consents, waivers or other communications required or permitted to be given under the terms hereof must be in writing and will be deemed to have been delivered: (i) upon receipt, when delivered personally; (ii) upon receipt, when sent by facsimile (provided confirmation of transmission is mechanically or electronically generated and kept on file by the sending party); or (iii) one (1) trading day after deposit with a nationally recognized overnight delivery service, in each case properly addressed to the party to receive the same. The addresses and facsimile numbers for such communications shall be at such other address and/or facsimile number and/or to the attention of such other person as the recipient party has specified by written notice given to each other party three (3) business days prior to the effectiveness of such change. Written confirmation of receipt (i) given by the recipient of such notice, consent, waiver or other communication, (ii) mechanically or electronically generated by the sender's facsimile machine containing the time, date, recipient facsimile number and an image of the first page of such transmission or (iii) provided by a nationally recognized overnight delivery service, shall be rebuttable evidence of personal service, receipt by facsimile or receipt from a nationally recognized overnight delivery service in accordance with clause (i), (ii) or (iii) above, respectively.

IN WITNESS WHEREOF, the Seller has caused this Debenture to be duly executed by a duly authorized officer as of the date set forth above.

**SELLER:**  
**GREENSHIFT CORPORATION**

By: /s/ Kevin Kreisler  
Name: Kevin Kreisler  
Title: Chief Executive Officer

**EXHIBIT "A"**

**NOTICE OF CONVERSION**

**(To be executed by the Buyer in order to convert the Debenture)**

**TO:**

The undersigned hereby irrevocably elects to convert \$ \_\_\_\_\_ of the principal amount of the above Debenture into Shares of Common Stock of GREENSHIFT CORPORATION according to the conditions stated therein, as of the Conversion Date written below.

**Conversion Date:** \_\_\_\_\_

**Applicable Conversion Price:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Amount to be converted:** \$ \_\_\_\_\_

**Amount of Debenture unconverted:** \$ \_\_\_\_\_

**Conversion Price per share:** \$ \_\_\_\_\_

**Number of shares of Common Stock to be issued:** \_\_\_\_\_

**Please issue the shares of Common Stock in the following name and to the following address:**

**Issue to:** \_\_\_\_\_

**Authorized Signature:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Phone Number:** \_\_\_\_\_

**Broker DTC Participant Code:** \_\_\_\_\_

**Account Number:** \_\_\_\_\_

## REGISTRATION RIGHTS AGREEMENT

This **REGISTRATION RIGHTS AGREEMENT** this "Agreement", dated as of **MAY** \_\_\_\_, **2018** (the "Effective Date"), is entered into by and between **ATTIS INDUSTRIES, INC.**, a New York corporation ("Company") and **GREENSHIFT CORPORATION**, a Delaware corporation ("GreenShift" or "Holder").

### RECITALS

**A** . In connection with the SPA by and between, inter alia, Company and GreenShift dated as of the date hereof (the "SPA"), the Company has agreed, upon the terms and subject to the conditions of the SPA, to issue and sell to Holder and/or its Permitted Designee(s) the Buyer Securities, consisting of certain shares of Company's Common Stock and Series G Stock, including, without limitation, the Closing Common Shares, the Closing Series G Stock, the Earn-Out Shares, and the Series G Conversion Shares.

**B** . To induce GreenShift to consummate the transactions contemplated by the SPA, the Company has agreed to provide certain registration rights under the Securities Act of 1933, as amended, and the rules and regulations thereunder, or any similar successor statute (collectively, the "Securities Act"), and applicable state securities laws.

### AGREEMENT

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and Holder hereby agree as follows:

1. Definitions.

Capitalized terms used herein and not otherwise defined herein shall have the respective meanings set forth in the SPA. As used in this Agreement, the following terms shall have the following meanings:

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

(b) "Holder" has that meaning set forth in the preamble, along with any transferee or assignee of any Registrable Securities or Series G Stock, as applicable, to whom a Holder assigns its rights under this Agreement and who agrees to become bound by the provisions of this Agreement in accordance with Section 9 and any transferee or assignee thereof to whom a transferee or assignee of any Registrable Securities, assigns its rights under this Agreement and who agrees to become bound by the provisions of this Agreement in accordance with Section 9.

(c) "Closing Date" shall have the meaning set forth in the SPA.

(d) "Company Counsel" means Lucosky Brookman LLP.

(e) "Effective Date" means the date that the applicable Registration Statement has been declared effective by the SEC.

(f) "Effectiveness Deadline" means with respect to the initial Registration Statement required to be filed pursuant to Section 2(a), September 1, 2018.

(g) "Filing Deadline" means, with respect to the initial Registration Statement required to be filed pursuant to Section 2(a), the 10<sup>th</sup> calendar day after the first date on which the Company is permitted to file the initial Registration Statement pursuant to the terms and conditions of the Preferred F Registration Rights Agreement.

(h) "Full Review" in respect of any Registration Statement shall mean an instance where the staff of the SEC does not inform the Company either that the Registration Statement will not be reviewed or that such review will be on a limited, monitor or expedited (or other similar) basis.

(i) "Person" means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization or a government or any department or agency thereof.

(j) "Preferred F Registration Rights Agreement" means the Registration Rights Agreement entered into by and among the Company and the investors in the Company's Offering of shares of Series F Preferred Stock, entered into on February 21, 2018.

(k) "register," "registered," and "registration" refer to a registration effected by preparing and filing one or more Registration Statements in compliance with the Securities Act and pursuant to Rule 415 and the declaration of effectiveness of such Registration Statement(s) by the SEC.



(l) "Registrable Securities" means (i) the Closing Common Shares, (ii) the Closing Preferred Shares, and (iii) any capital stock of the Company issued or issuable with respect to the Series G Stock, including without limitation, (1) as a result of any stock split, stock dividend, recapitalization, exchange or similar event or otherwise, and (2) shares of capital stock of the Company into which the shares of Company's Common Stock (otherwise referred to herein as "Common Stock") are converted or exchanged, without regard to any limitations on exercise with respect to the Series G Stock ; provided, however, that Registrable Securities shall not include (A) any securities of the Company that have previously been registered and remain subject to a currently effective registration statement or which have been sold to the public either pursuant to a registration statement or Rule 144, or which have been sold in a private transaction in which the transferor's rights under this Section 1 are not assigned, or which may be sold immediately without registration under the Securities Act and without volume restrictions pursuant to Rule 144, or (B) any shares of Common Stock underlying shares of Series G Stock that have been cancelled pursuant to a Redemption.

(m) "Registration Statement" means a registration statement or registration statements of the Company filed under the Securities Act covering Registrable Securities.

(n) "Required Holder" means the holders of at least a majority of the Registrable Securities.

(o) "Required Registration Amount" means the Registrable Securities required to be registered hereunder.

(p) "Response Deadline" means the date which is ten (10) calendar days after receipt of a letter of comment or telephonic comments from the SEC.

(q) "Rule 144" means Rule 144 promulgated by the SEC under the Securities Act, as such rule may be amended from time to time, or any other similar or successor rule or regulation of the SEC that may at any time permit the Investors to sell securities of the Company to the public without registration.

(r) "Rule 415" means Rule 415 promulgated by the SEC under the Securities Act, as such rule may be amended from time to time, or any other similar or successor rule or regulation of the SEC providing for offering securities on a continuous or delayed basis.

(s) "SEC" means the United States Securities and Exchange Commission or any successor thereto.

## 2. Registration.

(a) Mandatory Registration. The Company shall prepare and, as soon as practicable, but in no event later than the Filing Deadline, file with the SEC an initial Registration Statement on Form S-3 covering the resale of all of the Registrable Securities, or the largest amount thereof permissible; provided that such initial Registration Statement shall register for resale at least the number of shares of Common Stock equal to the Required Registration Amount as of the date such Registration Statement is initially filed with the SEC. Such initial Registration Statement, and each other Registration Statement required to be filed pursuant to the terms of this Agreement, shall contain (except if otherwise directed by the Required Holder) the "Selling Stockholders" and "Plan of Distribution" sections in substantially the form attached hereto as Exhibit A. The Company shall use its best efforts to have such initial Registration Statement, and each other Registration Statement required to be filed pursuant to the terms of this Agreement, declared effective by the SEC as soon as practicable.

(b) [intentionally omitted]

(c) Sufficient Number of Shares Registered. In the event the number of shares available under any Registration Statement is insufficient to cover all of the Registrable Securities required to be covered by such Registration Statement or an Investor's allocated portion of the Registrable Securities pursuant to Section 2(f), the Company shall amend such Registration Statement (if permissible), or file with the SEC a new Registration Statement (on the short form available therefor, if applicable), or both, so as to cover at least the Required Registration Amount as of the Trading Day immediately preceding the date of the filing of such amendment or new Registration Statement, in each case, as soon as practicable. The Company shall use its best efforts to cause such amendment to such Registration Statement and/or such new Registration Statement (as the case may be) to become effective as soon as practicable following the filing thereof with the SEC. For purposes of the foregoing provision, the number of shares available under a Registration Statement shall be deemed "insufficient to cover all of the Registrable Securities" if at any time the number of shares of Common Stock available for resale is insufficient.

(d) Effect of Failure to Obtain Prior to Effectiveness Deadline or Maintain Effectiveness. If (i) a Registration Statement covering the resale of all of the Registrable Securities required to be covered thereby (disregarding any reduction pursuant to Section 2(e)) and required to be filed by the Company pursuant to this Agreement is not declared effective by the SEC on or before the Effectiveness Deadline for such Registration Statement (an "Effectiveness Failure"), (ii) other than during an Allowable Grace Period (as defined below), on any day after the Effective Date of a Registration Statement, sales of all of the Registrable Securities required to be included on such Registration Statement (disregarding any reduction pursuant to Section 2(e)) cannot be made pursuant to such Registration Statement (including, without limitation, because of a failure to keep such Registration Statement effective, a failure to disclose such information as is necessary for sales to be made pursuant to such Registration Statement, on or after the Closing Date a suspension or delisting of (or a failure to timely list) the Common Stock on an Eligible Market (as defined in the SPA), or a failure to register a sufficient number of shares of Common Stock or by reason of a stop order) or the prospectus contained therein is not available for use for any reason (a "Maintenance Failure"), or (iii) at any time when a Registration Statement is not effective for any reason or the prospectus contained therein is not available for use for any reason, the Company fails to file with the SEC any required reports under Section 13 or 15(d) of the 1934 Act such that it is not in compliance with Rule 144(c)(1) (or Rule 144(i)(2), if applicable) (a "Current Public Information Failure") as a result of which any of the Holders are unable to sell Registrable Securities without restriction under Rule 144 (including, without limitation, volume restrictions), then, as partial relief for the damages to any holder by reason of any such delay in, or reduction of, its ability to sell the underlying shares of Common Stock (which remedy shall not be exclusive of any other remedies available at law or in equity), the Company shall pay penalties as follows: (1) in the event of an Effectiveness Failure, by no later than the first day of the month immediately following the date of the Effectiveness Failure, and on the first day of each month thereafter for so long that the Effectiveness Failure is continuing, each Holder will return to the Company for cancellation such Holder's pro rata portion (based on Holder's percentage ownership of the Registrable Securities relative to the total number of Registrable Securities) of 1,000 shares of Series G Stock, and within five (5) Business Days of such cancellation, the Company shall deliver to each Holder \$100 in cash for each share of Series G Stock cancelled (the "Redemption"), (2) in the event of a Maintenance Failure or Current Public Information Failure, to each holder of Registrable Securities relating to such Registration Statement an amount in cash equal to one half of one percent (0.5%) of such Holder's Purchase Price on the Closing Date (1) on the date of such Maintenance Failure or Current Public Information Failure, as applicable, and (2) on every thirty (30) day anniversary or portion thereof of (I) a Maintenance Failure until such Maintenance Failure is cured; and (II) a Current Public Information Failure until the earlier of (i) the date such Current Public Information Failure is cured and (ii) such time that such public information is no longer required pursuant to Rule 144 (in each case, pro rated for periods totaling less than thirty (30) days). The payments to which a holder of Registrable Securities shall be entitled pursuant to this Section 2(d) are referred to herein as "Registration Delay Payments." Following the initial Registration Delay Payment for any particular event or failure (which shall be paid on the date of such event or failure, as set forth above), without limiting the foregoing, if an event or failure giving rise to the Registration Delay Payments is cured prior to any thirty (30) day anniversary of such event or failure, then such Registration Delay Payment shall be made on the third (3<sup>rd</sup>) Business Day after such cure. Notwithstanding the foregoing, no Registration Delay Payments shall be owed to an Holder (other than with respect to a Maintenance Failure resulting from a suspension of listing or quotation or delisting of (or a failure to timely list or quote) the Common Stock on the Principal Market) with respect to any period during which all of such Holder's Registrable Securities may be sold by such Holder without restriction under Rule 144 (including, without limitation, volume restrictions) and without the need for current public information required by Rule 144(c)(1) (or Rule 144(i)(2), if applicable). Notwithstanding the foregoing, the Company shall not be obligated to pay any such liquidated damages pursuant to this Section 2(d) if the Company is unable to fulfill its registration obligations as a result of rules, regulations, positions or releases issued or actions taken by the Commission pursuant to its authority with respect to Rule 415, and the Company registers at such time the maximum number of shares of Common Stock permissible upon consultation with the staff of the SEC (the "Staff") or as contemplated pursuant to Section 2(e) below. Penalties shall cease to accrue at such time as the Registrable Securities may be sold under Rule 144 and the Company uses commercially reasonable efforts to provide appropriate legal opinions.

( e ) Offering. Notwithstanding anything to the contrary contained in this Agreement, in the event the Staff or the SEC seeks to characterize any offering pursuant to a Registration Statement filed pursuant to this Agreement as constituting an offering of securities by, or on behalf of, the Company, or in any other manner, such that the Staff or the SEC do not permit such Registration Statement to become effective and used for resales in a manner that does not constitute such an offering and that permits the continuous resale at the market by the Holders participating therein (or as otherwise may be acceptable to each Holder) without being named therein as an "underwriter," then the Company shall reduce the number of shares to be included in such Registration Statement by all Holders until such time as the Staff and the SEC shall so permit such Registration Statement to become effective as aforesaid. In making such reduction, the Company shall reduce the number of shares to be included by all Holders on a pro rata basis (based upon the number of Registrable Securities otherwise required to be included for each Holder) unless the inclusion of shares by a particular Holder or a particular set of Holders are resulting in the Staff or the SEC's "by or on behalf of the Company" offering position, in which event the shares held by such Holder or set of Holders shall be the only shares subject to reduction (and if by a set of Holders on a pro rata basis by such Holder or on such other basis as would result in the exclusion of the least number of shares by all such Holders). In addition, in the event that the Staff or the SEC requires any Holder seeking to sell securities under a Registration Statement filed pursuant to this Agreement to be specifically identified as an "underwriter" in order to permit such Registration Statement to become effective, and such Holder does not consent to being so named as an underwriter in such Registration Statement, then, in each such case, the Company shall reduce the total number of Registrable Securities to be registered on behalf of such Holder, until such time as the Staff or the SEC does not require such identification or until such Holder accepts such identification and the manner thereof. Any reduction pursuant to this paragraph will first reduce all securities that are not Registrable Securities (including securities included in such Registration Statement pursuant to a Permitted Registration (as defined in the SPA)), if any such securities are permitted by the Required Holder to be included in accordance with the terms of this Agreement. In the event of any reduction in Registrable Securities pursuant to this paragraph, an affected Holder shall have the right to require, upon delivery of a written request to the Company signed by such Holder, the Company to file a registration statement within thirty (30) calendar days of such request (subject to any restrictions imposed by Rule 415 or required by the Staff or the SEC) for resale by such Holder in a manner acceptable to such Holder, and the Company shall following such request cause to be and keep effective such registration statement in the same manner as otherwise contemplated in this Agreement for registration statements hereunder, in each case, until such time as: (i) all Registrable Securities held by such Holder have been registered and sold pursuant to an effective Registration Statement in a manner acceptable to such Holder or (ii) all Registrable Securities may be resold by such Holder without restriction (including, without limitation, volume limitations) pursuant to Rule 144 (taking account of any Staff position with respect to "affiliate" status) and without the need for current public information required by Rule 144(c)(1) (or Rule 144(i)(2), if applicable) or (iii) such Holder agrees to be named as an underwriter in any such Registration Statement in a manner acceptable to such Holder as to all Registrable Securities held by such Holder and that have not theretofore been included in a Registration Statement under this Agreement (it being understood that the special demand right under this sentence may be exercised by an Holder multiple times and with respect to limited amounts of Registrable Securities in order to permit the resale thereof by such Holder as contemplated above). Any reduction made to securities included in a Registration Statement in accordance with this Section 2(e) shall not constitute an Effectiveness Failure or a Maintenance Failure and shall not be subject to the payment requirements under Section 2(d).

( f ) Allocation of Registrable Securities. The initial number of Registrable Securities included in any Registration Statement and any increase in the number of Registrable Securities included therein shall be allocated pro rata among the Holders based on the number of Registrable Securities held by each Holder at the time such Registration Statement covering such initial number of Registrable Securities or increase thereof is declared effective by the SEC. In the event that any Holder sells or otherwise transfers any of such Holder's Registrable Securities, each transferee or assignee (as the case may be) that becomes an Holder shall be allocated a pro rata portion of the then-remaining number of Registrable Securities included in such Registration Statement for such transferor or assignee (as the case may be). Any shares of Common Stock included in a Registration Statement and which remain allocated to any Person which ceases to hold any Registrable Securities covered by such Registration Statement shall be allocated to the remaining Holders, pro rata based on the number of Registrable Securities then held by such Holder which are covered by such Registration Statement.

( g ) Inclusion of Other Securities. Other than as set forth in this Agreement or in the SPA, in no event shall the Company include any securities other than Registrable Securities on any Registration Statement without the prior written consent of the Required Holder. Until the Expiration Date (as defined in the SPA), the Company shall not enter into any agreement providing any registration rights to any of its security holders that have any priority to any of Holder's rights contained in this Agreement or adversely affect any Holder's rights under this Agreement.

3. Related Obligations.

The Company shall use its best efforts to effect the registration of the Registrable Securities in accordance with the intended method of disposition thereof, and, pursuant thereto, the Company shall have the following obligations:

(a) The Company shall prepare and file with the SEC a Registration Statement with respect to all the Registrable Securities (but in no event later than the applicable Filing Deadline) and use its best efforts to cause such Registration Statement to become effective as soon as practicable after such filing (but in no event later than the Effectiveness Deadline). Subject to Allowable Grace Periods, the Company shall keep each Registration Statement effective (and the prospectus contained therein available for use) pursuant to Rule 415 for resales by the Holder on a delayed or continuous basis at then-prevailing market prices (and not fixed prices) at all times until the earlier of (i) the date as of which all of the Holders may sell all of the Registrable Securities required to be covered by such Registration Statement (disregarding any reduction pursuant to Section 2(e)) without restriction pursuant to Rule 144 (including, without limitation, volume restrictions) and without the need for current public information required by Rule 144(c)(1) (or Rule 144(i)(2), if applicable) or (ii) the date on which the Holders shall have sold all of the Registrable Securities covered by such Registration Statement (the "Registration Period"). Notwithstanding anything to the contrary contained in this Agreement, the Company shall ensure that, when filed and at all times while effective, each Registration Statement (including, without limitation, all amendments and supplements thereto) and the prospectus (including, without limitation, all amendments and supplements thereto) used in connection with such Registration Statement (1) shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein, or necessary to make the statements therein (in the case of prospectuses, in the light of the circumstances in which they were made) not misleading and (2) will disclose (whether directly or through incorporation by reference to other SEC filings to the extent permitted) all material information regarding the Company and its securities.

(b) Subject to Section 3(o) of this Agreement, the Company shall prepare and file with the SEC such amendments (including, without limitation, post-effective amendments) and supplements to each Registration Statement and the prospectus used in connection with each such Registration Statement, which prospectus is to be filed pursuant to Rule 424 promulgated under the Securities Act, as may be necessary to keep each such Registration Statement effective at all times during the Registration Period for such Registration Statement, and, during such period, comply with the provisions of the Securities Act with respect to the disposition of all Registrable Securities of the Company required to be covered by such Registration Statement until such time as all of such Registrable Securities shall have been disposed of in accordance with the intended methods of disposition by the seller or sellers thereof as set forth in such Registration Statement; provided, however, by 9:30 a.m. (New York time) no later than the second Business Day immediately following each Effective Date, the Company shall file with the SEC in accordance with Rule 424(b) under the Securities Act the final prospectus to be used in connection with sales pursuant to the applicable Registration Statement (whether or not such a prospectus is technically required by such rule). In the case of amendments and supplements to any Registration Statement which are required to be filed pursuant to this Agreement (including, without limitation, pursuant to this Section 3(b)) by reason of the Company filing a report on Form 10-K, Form 10-Q, Form 8-K or any analogous report under the Securities Exchange Act of 1934, as amended (the "1934 Act"), the Company shall have incorporated such report by reference into such Registration Statement, if applicable, or shall file such amendments or supplements with the SEC on the same day on which the 1934 Act report is filed which created the requirement for the Company to amend or supplement such Registration Statement.

(c) The Company shall (A) permit the Required Holder to review and provide comments to the Company and Company Counsel, with respect to (i) each Registration Statement at least two (2) Business Days prior to its filing with the SEC and (ii) all amendments and supplements to each Registration Statement (including, without limitation, the prospectus contained therein) (except for Reports on Form 10-K, Form 10-Q, Form 8-K, and any similar or successor reports) within a reasonable number of days prior to their filing with the SEC, and (B) not file any Registration Statement or amendment or supplement thereto in a form to which the Required Holder reasonably objects.

(d) The Company shall promptly furnish to each Holder whose Registrable Securities are included in any Registration Statement, without charge, (i) after the same is prepared and filed with the SEC, at least one (1) copy of each Registration Statement and any amendment(s) and supplement(s) thereto, including, without limitation, financial statements and schedules, all documents incorporated therein by reference, if requested by an Holder, all exhibits and each preliminary prospectus (unless such Registration Statement is available on EDGAR), (ii) upon the effectiveness of each Registration Statement, ten (10) copies of the prospectus included in such Registration Statement and all amendments and supplements thereto (unless such Registration Statement is available on EDGAR) and (iii) such other documents, including, without limitation, copies of any preliminary or final prospectus, as such Holder may reasonably request from time to time (unless such document is available on EDGAR) in order to facilitate the disposition of the Registrable Securities owned by such Holder.

(e) The Company shall use its reasonable best efforts to (i) register and qualify, unless an exemption from registration and qualification applies, the resale by Holder of the Registrable Securities covered by a Registration Statement under such other securities or "blue sky" laws of all applicable jurisdictions in the United States, (ii) prepare and file in those jurisdictions, such amendments (including, without limitation, post-effective amendments) and supplements to such registrations and qualifications as may be necessary to maintain the effectiveness thereof during the Registration Period, (iii) take such other actions as may be necessary to maintain such registrations and qualifications in effect at all times during the Registration Period, and (iv) take all other actions reasonably necessary or advisable to qualify the Registrable Securities for sale in such jurisdictions; provided, however, the Company shall not be required in connection therewith or as a condition thereto to (x) qualify to do business in any jurisdiction where it would not otherwise be required to qualify but for this Section 3(e), (y) subject itself to general taxation in any such jurisdiction, or (z) file a general consent to service of process in any such jurisdiction. The Company shall promptly notify each Holder who holds Registrable Securities of the receipt by the Company of any notification with respect to the suspension of the registration or qualification of any of the Registrable Securities for sale under the securities or "blue sky" laws of any jurisdiction in the United States or its receipt of actual notice of the initiation or threatening of any proceeding for such purpose.

(f) The Company shall either notify each Holder in writing or file a current Report on Form 8-K with the SEC providing disclosure of the happening of any event, as promptly as practicable after becoming aware of such event, as a result of which the prospectus included in a Registration Statement, as then in effect, includes an untrue statement of a material fact or omission to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading (provided that in no event shall such notice contain any material, non-public information regarding the Company or any of its Subsidiaries), and, subject to Section 3(o), promptly prepare a supplement or amendment to such Registration Statement and such prospectus contained therein to correct such untrue statement or omission and deliver ten (10) copies of such supplement or amendment to each Holder (or such other number of copies as such Holder may reasonably request) (unless such supplements or amendments are available on EDGAR). The Company shall also promptly notify each Holder in writing (i) when a prospectus or any prospectus supplement or post-effective amendment has been filed, when a Registration Statement or any post-effective amendment has become effective (notification of such effectiveness shall be delivered to each Holder by facsimile or e-mail on the same day of such effectiveness and by overnight mail), and when the Company receives written notice from the SEC that a Registration Statement or any post-effective amendment will be reviewed by the SEC, (ii) of any request by the SEC for amendments or supplements to a Registration Statement or related prospectus or related information, (iii) of the Company's reasonable determination that a post-effective amendment to a Registration Statement would be appropriate; and (iv) of the receipt of any request by the SEC or any other federal or state governmental authority for any additional information relating to the Registration Statement or any amendment or supplement thereto or any related prospectus. The Company shall respond as promptly as practicable to any comments received from the SEC with respect to each Registration Statement or any amendment thereto (it being understood and agreed that the Company's response to any such comments shall be delivered to the SEC no later than ten (10) Business Days after the receipt thereof).

(g) The Company shall (i) use its reasonable best efforts to prevent the issuance of any stop order or other suspension of effectiveness of each Registration Statement or the use of any prospectus contained therein, or the suspension of the qualification, or the loss of an exemption from qualification, of any of the Registrable Securities for sale in any jurisdiction and, if such an order or suspension is issued, to obtain the withdrawal of such order or suspension at the earliest possible moment and (ii) notify each Holder who holds Registrable Securities of the issuance of such order and the resolution thereof or its receipt of actual notice of the initiation or threat of any proceeding for such purpose.

(h) [RESERVED]

(i) If any Holder may be required under applicable securities law to be described in any Registration Statement as an underwriter and such Holder consents to so being named an underwriter, upon the written request of such Holder, the Company shall make available for inspection by (i) such Holder, (ii) legal counsel for such Holder and (iii) one (1) firm of accountants or other agents retained by such Holder (collectively, the "Inspectors"), all pertinent financial and other records, and pertinent corporate documents and properties of the Company (collectively, the "Records"), as shall be reasonably deemed necessary by each Inspector, and cause the Company's officers, directors and employees to supply all information which any Inspector may reasonably request; provided, however, each Inspector shall agree in writing to hold in strict confidence and not to make any disclosure (except to such Holder) or use of any Record or other information which the Company's board of directors determines in good faith to be confidential, and of which determination the Inspectors are so notified, unless (1) the disclosure of such Records is necessary to avoid or correct a misstatement or omission in any Registration Statement or is otherwise required under the Securities Act, (2) the release of such Records is ordered pursuant to a final, non-appealable subpoena or order from a court or government body of competent jurisdiction, or (3) the information in such Records has been made generally available to the public other than by disclosure in violation of this Agreement or any other Transaction Document (as defined in the SPA). Such Holder agrees that it shall, upon learning that disclosure of such Records is sought in or by a court or governmental body of competent jurisdiction or through other means, give prompt notice to the Company and allow the Company, at its expense, to undertake appropriate action to prevent disclosure of, or to obtain a protective order for, the Records deemed confidential. Nothing herein (or in any other confidentiality agreement between the Company and such Holder, if any) shall be deemed to limit any Holder's ability to sell Registrable Securities in a manner which is otherwise consistent with applicable laws and regulations.

(j) The Company shall hold in confidence and not make any disclosure of information concerning an Holder provided to the Company unless (i) disclosure of such information is necessary to comply with federal or state securities laws, (ii) the disclosure of such information is necessary to avoid or correct a misstatement or omission in any Registration Statement or is otherwise required to be disclosed in such Registration Statement pursuant to the Securities Act, (iii) the release of such information is ordered pursuant to a subpoena or other final, non-appealable order from a court or governmental body of competent jurisdiction, or (iv) such information has been made generally available to the public other than by disclosure in violation of this Agreement or any other Transaction Document. The Company agrees that it shall, upon learning that disclosure of such information concerning an Holder is sought in or by a court or governmental body of competent jurisdiction or through other means, give prompt written notice to such Holder and allow such Holder, at such Holder's expense, to undertake appropriate action to prevent disclosure of, or to obtain a protective order for, such information.

(k) Without limiting any obligation of the Company under the SPA, on and after the Closing Date, the Company shall use its best efforts either to (i) cause all of the Registrable Securities covered by each Registration Statement to be listed on each securities exchange on which securities of the same class or series issued by the Company are then listed, if any, if the listing of such Registrable Securities is then permitted under the rules of such exchange, (ii) secure designation and quotation of all of the Registrable Securities covered by each Registration Statement on the OTC Bulletin Board, or (iii) if, despite the Company's best efforts to satisfy the preceding clauses (i) or (ii) the Company is unsuccessful in satisfying the preceding clauses (i) or (ii), without limiting the generality of the foregoing, to use its best efforts to arrange for at least two market makers to register with the Financial Industry Regulatory Authority, Inc. ("FINRA") as such with respect to such Registrable Securities. In addition, the Company shall cooperate with each Holder and any broker or dealer through which any such Holder proposes to sell its Registrable Securities in effecting a filing with FINRA pursuant to FINRA Rule 5110 as requested by such Holder. The Company shall pay all fees and expenses in connection with satisfying its obligations under this Section 3(k).

(l) To the extent that any registration statement filed pursuant to this Agreement has been declared effective by the SEC or restricted legends have been removed pursuant to Section 5 of the SPA, then the Company shall cooperate with the Holder who hold Registrable Securities being offered and, to the extent applicable, facilitate the timely preparation and delivery of certificates (not bearing any restrictive legend) representing the Registrable Securities to be offered pursuant to a Registration Statement and enable such certificates to be in such denominations or amounts (as the case may be) as the Holder may reasonably request from time to time and registered in such names as the Holder may request, or, if requested by an Holder and the Common Stock is traded through the facilities of the DTC (as defined below), credit such aggregate number of Registrable Securities to be offered by such Holder to such Holder's or its designee's balance account with The Depository Trust Company ("DTC") through its Deposit/Withdrawal at Custodian system.

(m) If reasonably requested by an Holder, the Company shall as soon as practicable after receipt of notice from such Holder and subject to Section 3(o) hereof, (i) incorporate in a prospectus supplement or post-effective amendment such information as an Holder reasonably requests to be included therein, but only as to which information the Company Counsel agrees (which agreement shall not be unreasonably withheld), relating to the sale and distribution of Registrable Securities, including, without limitation, information with respect to the number of Registrable Securities being offered or sold, the purchase price being paid therefor and any other terms of the offering of the Registrable Securities to be sold in such offering; (ii) make all required filings of such prospectus supplement or post-effective amendment after being notified of the matters to be incorporated in such prospectus supplement or post-effective amendment; and (iii) supplement or make amendments to any Registration Statement or prospectus contained therein if reasonably requested by an Holder holding any Registrable Securities.

(n) The Company shall otherwise use its best efforts to comply with all applicable rules and regulations of the SEC in connection with any registration hereunder.

(o) Notwithstanding anything to the contrary herein (but subject to the last sentence of this Section 3(o)), at any time after the Effective Date of a particular Registration Statement, the Company may delay the disclosure of material, non-public information concerning the Company or any of its Subsidiaries the disclosure of which at the time is not, in the good faith opinion of the board of directors of the Company, in the best interest of the Company and, in the opinion of Company Counsel, otherwise required (a "Grace Period"), provided that the Company shall promptly notify the Holder in writing of the (i) existence of material, non-public information giving rise to a Grace Period (provided that in each such notice the Company shall not disclose the content of such material, non-public information to any of the Holder) and the date on which such Grace Period will begin and (ii) date on which such Grace Period ends, provided further that (I) no Grace Period shall exceed twenty (20) consecutive days and during any three hundred sixty five (365) day period all such Grace Periods shall not exceed an aggregate of forty-five (45) days, (II) the first day of any Grace Period must be at least five (5) Trading Days after the last day of any prior Grace Period and (III) no Grace Period may exist during the thirty (30) Trading Day period immediately following the Effective Date of such Registration Statement (provided that such thirty (30) Trading Day period shall be extended by the number of Trading Days during such period and any extension thereof contemplated by this proviso during which such Registration Statement is not effective or the prospectus contained therein is not available for use) (each, an "Allowable Grace Period"). For purposes of determining the length of a Grace Period above, such Grace Period shall begin on and include the date the Holder receive the notice referred to in clause (i) above and shall end on and include the later of the date the Holder receive the notice referred to in clause (ii) above and the date referred to in such notice. The provisions of the first sentence of Section 3(f) and the provisions of Section 3(g) hereof shall not be applicable during the period of any Allowable Grace Period. Upon expiration of each Grace Period, the Company shall again be bound by the first sentence of Section 3(f) and the provisions of Section 3(g) with respect to the information giving rise thereto unless such material, non-public information is no longer applicable. Notwithstanding anything to the contrary contained in this Section 3(o), the Company shall cause its transfer agent to deliver unlegended shares of Common Stock to a transferee of an Holder in accordance with the terms of the SPA in connection with any sale of Registrable Securities with respect to which such Holder has entered into a contract for sale, and delivered a copy of the prospectus included as part of the particular Registration Statement (unless an exemption from such prospectus delivery requirement exists), prior to such Holder's receipt of the notice of a Grace Period and for which Holder has not yet settled.

#### 4. Obligations of the Holder.

(a) At least five (5) Business Days prior to the first anticipated filing date of each Registration Statement, the Company shall notify each Holder in writing of the information the Company requires from each such Holder with respect to such Registration Statement. It shall be a condition precedent to the obligations of the Company to complete the registration pursuant to this Agreement with respect to the Registrable Securities of a particular Holder that such Holder shall furnish to the Company such information regarding itself, the Registrable Securities held by it and the intended method of disposition of the Registrable Securities held by it, as shall be reasonably required to effect and maintain the effectiveness of the registration of such Registrable Securities and shall execute such documents in connection with such registration as the Company may reasonably request.

(b) Each Holder, by such Holder's acceptance of the Registrable Securities, agrees to cooperate with the Company as reasonably requested by the Company in connection with the preparation and filing of each Registration Statement hereunder, unless such Holder has notified the Company in writing of such Holder's election to exclude all of such Holder's Registrable Securities from such Registration Statement.

(c) Each Holder agrees that, upon receipt of any notice from the Company of the happening of any event of the kind described in Section 3(g) or the first sentence of 3(f), such Holder will immediately discontinue disposition of Registrable Securities pursuant to any Registration Statement(s) covering such Registrable Securities until such Holder's receipt of the copies of the supplemented or amended prospectus contemplated by Section 3(g) or the first sentence of Section 3(f) or receipt of notice that no supplement or amendment is required. Notwithstanding anything to the contrary in this Section 4(c), the Company shall cause its transfer agent to deliver unlegended shares of Common Stock to a transferee of an Holder in accordance with the terms of the SPA in connection with any sale of Registrable Securities with respect to which such Holder has entered into a contract for sale prior to Holder's receipt of a notice from the Company of the happening of any event of the kind described in Section 3(g) or the first sentence of Section 3(f) and for which such Holder has not yet settled.

(d) Each Holder covenants and agrees that it will comply with the prospectus delivery requirements of the Securities Act as applicable to it in connection with sales of Registrable Securities pursuant to a Registration Statement.

5. Expenses of Registration.

All reasonable expenses, other than underwriting discounts and commissions, incurred in connection with registrations, filings or qualifications pursuant to Sections 2 and 3, including, without limitation, all registration, listing and qualifications fees, printers and accounting fees, FINRA filing fees (if any), blue sky fees and fees and disbursements of counsel for the Company shall be paid by the Company. The Company shall have no obligation to pay the expenses of any Holder incurred in connection with any registration, filing or qualification pursuant to Sections 2 and 3 of this Agreement.

6. Indemnification.

(a) To the fullest extent permitted by law, the Company will, and hereby does, indemnify, hold harmless and defend each Holder and each of its directors, officers, shareholders, members, partners, employees, agents, advisors, representatives (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding the lack of such title or any other title) and each Person, if any, who controls such Holder within the meaning of the Securities Act or the 1934 Act and each of the directors, officers, shareholders, members, partners, employees, agents, advisors, representatives (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding the lack of such title or any other title) of such controlling Persons (each, an "Indemnified Person"), against any losses, obligations, claims, damages, liabilities, contingencies, judgments, fines, penalties, charges, costs (including, without limitation, court costs, reasonable attorneys' fees and costs of defense and investigation), amounts paid in settlement or expenses, joint or several, (collectively, "Claims") incurred in investigating, preparing or defending any action, claim, suit, inquiry, proceeding, investigation or appeal taken from the foregoing by or before any court or governmental, administrative or other regulatory agency, body or the SEC, whether pending or threatened, whether or not an indemnified party is or may be a party thereto ("Indemnified Damages"), to which any of them may become subject insofar as such Claims (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon: (i) any untrue statement of a material fact in a Registration Statement or any post-effective amendment thereto or in any filing made in connection with the qualification of the offering under the securities or other "blue sky" laws of any jurisdiction in which Registrable Securities are offered ("Blue Sky Filing"), or the omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, (ii) any untrue statement of a material fact contained in any preliminary prospectus if used prior to the effective date of such Registration Statement, or contained in the final prospectus (as amended or supplemented, if the Company files any amendment thereof or supplement thereto with the SEC) or the omission to state therein any material fact necessary to make the statements made therein, in light of the circumstances under which the statements therein were made, not misleading or (iii) any violation by the Company of the Securities Act, the 1934 Act, any other law, including, without limitation, any state securities law, or any rule or regulation thereunder relating to the offer or sale of the Registrable Securities pursuant to a Registration Statement (the matters in the foregoing clauses (i) through (iii) being, collectively, "Violations"). Subject to Section 6(c), the Company shall reimburse the Indemnified Persons, promptly as such expenses are incurred and are due and payable, for any legal fees or other reasonable expenses incurred by them in connection with investigating or defending any such Claim. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6(a): (i) shall not apply to a Claim by an Indemnified Person arising out of or based upon a Violation which occurs in reliance upon and in conformity with information furnished in writing to the Company by such Indemnified Person for such Indemnified Person expressly for use in connection with the preparation of such Registration Statement or any such amendment thereof or supplement thereto and (ii) shall not be available to a particular Holder to the extent such Claim is based on a failure of such Holder to deliver or to cause to be delivered the prospectus made available by the Company (to the extent applicable), including, without limitation, a corrected prospectus, if such prospectus or corrected prospectus was timely made available by the Company pursuant to Section 3(d) and then only if, and to the extent that, following the receipt of the corrected prospectus no grounds for such Claim would have existed; and (iii) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Company, which consent shall not be unreasonably withheld or delayed. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of the Indemnified Person and shall survive the transfer of any of the Registrable Securities by any of the Holder pursuant to Section 9.



(b) In connection with any Registration Statement in which an Holder is participating, such Holder agrees to severally and not jointly indemnify, hold harmless and defend, to the same extent and in the same manner as is set forth in Section 6(a), the Company, each of its directors, each of its officers who signs the Registration Statement and each Person, if any, who controls the Company within the meaning of the Securities Act or the 1934 Act (each, an "Indemnified Party"), against any Claim or Indemnified Damages to which any of them may become subject, under the Securities Act, the 1934 Act or otherwise, insofar as such Claim or Indemnified Damages arise out of or are based upon any Violation, in each case, to the extent, and only to the extent, that such Violation occurs in reliance upon and in conformity with written information furnished to the Company by such Holder expressly for use in connection with such Registration Statement; and, subject to Section 6(c) and the below provisos in this Section 6(b), such Holder will reimburse an Indemnified Party any legal or other expenses reasonably incurred by such Indemnified Party in connection with investigating or defending any such Claim; provided, however, the indemnity agreement contained in this Section 6(b) and the agreement with respect to contribution contained in Section 7 shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of such Holder, which consent shall not be unreasonably withheld or delayed, provided further that such Holder shall be liable under this Section 6(b) for only that amount of a Claim or Indemnified Damages as does not exceed the net proceeds to such Holder as a result of the applicable sale of Registrable Securities pursuant to such Registration Statement. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Indemnified Party and shall survive the transfer of any of the Registrable Securities by any of the Holder pursuant to Section 9.

(c) Promptly after receipt by an Indemnified Person or Indemnified Party (as the case may be) under this Section 6 of notice of the commencement of any action or proceeding (including, without limitation, any governmental action or proceeding) involving a Claim, such Indemnified Person or Indemnified Party (as the case may be) shall, if a Claim in respect thereof is to be made against any indemnifying party under this Section 6, deliver to the indemnifying party a written notice of the commencement thereof, and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume control of the defense thereof with counsel mutually satisfactory to the indemnifying party and the Indemnified Person or the Indemnified Party (as the case may be); provided, however, an Indemnified Person or Indemnified Party (as the case may be) shall have the right to retain its own counsel with the fees and expenses of such counsel to be paid by the indemnifying party if: (i) the indemnifying party has agreed in writing to pay such fees and expenses; (ii) the indemnifying party shall have failed promptly to assume the defense of such Claim and to employ counsel reasonably satisfactory to such Indemnified Person or Indemnified Party (as the case may be) in any such Claim; or (iii) the named parties to any such Claim (including, without limitation, any impleaded parties) include both such Indemnified Person or Indemnified Party (as the case may be) and the indemnifying party, and such Indemnified Person or such Indemnified Party (as the case may be) shall have been advised by counsel that a conflict of interest is likely to exist if the same counsel were to represent such Indemnified Person or such Indemnified Party and the indemnifying party (in which case, if such Indemnified Person or such Indemnified Party (as the case may be) notifies the indemnifying party in writing that it elects to employ separate counsel at the expense of the indemnifying party, then the indemnifying party shall not have the right to assume the defense thereof and such counsel shall be at the expense of the Indemnifying Party, provided further that in the case of clause (iii) above the indemnifying party shall not be responsible for the reasonable fees and expenses of more than one (1) separate legal counsel for such Indemnified Person or Indemnified Party (as the case may be). The Indemnified Party or Indemnified Person (as the case may be) shall reasonably cooperate with the indemnifying party in connection with any negotiation or defense of any such action or Claim by the indemnifying party and shall furnish to the indemnifying party all information reasonably available to the Indemnified Party or Indemnified Person (as the case may be) which relates to such action or Claim. The indemnifying party shall keep the Indemnified Party or Indemnified Person (as the case may be) reasonably apprised at all times as to the status of the defense or any settlement negotiations with respect thereto. No indemnifying party shall be liable for any settlement of any action, claim or proceeding effected without its prior written consent; provided, however, the indemnifying party shall not unreasonably withhold, delay or condition its consent. No indemnifying party shall, without the prior written consent of the Indemnified Party or Indemnified Person (as the case may be), consent to entry of any judgment or enter into any settlement or other compromise which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnified Party or Indemnified Person (as the case may be) of a release from all liability in respect to such Claim or litigation, and such settlement shall not include any admission as to fault on the part of the Indemnified Party. Following indemnification as provided for hereunder, the indemnifying party shall be subrogated to all rights of the Indemnified Party or Indemnified Person (as the case may be) with respect to all third parties, firms or corporations relating to the matter for which indemnification has been made. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action shall not relieve such indemnifying party of any liability to the Indemnified Person or Indemnified Party (as the case may be) under this Section 6, except to the extent that the indemnifying party is materially and adversely prejudiced in its ability to defend such action.

(d) No Person involved in the sale of Registrable Securities who is guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) in connection with such sale shall be entitled to indemnification from any Person involved in such sale of Registrable Securities who is not guilty of fraudulent misrepresentation.

(e) The indemnification required by this Section 6 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as and when bills are received or Indemnified Damages are incurred.

(f) The indemnity and contribution agreements contained herein shall be in addition to (i) any cause of action or similar right of the Indemnified Party or Indemnified Person against the indemnifying party or others, and (ii) any liabilities the indemnifying party may be subject to pursuant to the law.

7. Contribution.

To the extent any indemnification by an indemnifying party is prohibited or limited by law, the indemnifying party agrees to make the maximum contribution with respect to any amounts for which it would otherwise be liable under Section 6 to the fullest extent permitted by law; provided, however: (i) no contribution shall be made under circumstances where the maker would not have been liable for indemnification under the fault standards set forth in Section 6 of this Agreement, (ii) no Person involved in the sale of Registrable Securities which Person is guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) in connection with such sale shall be entitled to contribution from any Person involved in such sale of Registrable Securities who was not guilty of fraudulent misrepresentation; and (iii) contribution by any seller of Registrable Securities shall be limited in amount to the amount of net proceeds received by such seller from the applicable sale of such Registrable Securities pursuant to such Registration Statement. Notwithstanding the provisions of this Section 7, no Holder shall be required to contribute, in the aggregate, any amount in excess of the amount by which the net proceeds actually received by such Holder from the applicable sale of the Registrable Securities subject to the Claim exceeds the amount of any damages that such Holder has otherwise been required to pay, or would otherwise be required to pay under Section 6(b), by reason of such untrue statement or omission. Notwithstanding the foregoing, the contribution agreement contained in this Section 7 shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Company, which consent shall not be unreasonably withheld or delayed

8. Reports Under the 1934 Act.

With a view to making available to the Holder the benefits of Rule 144, on and after the Closing Date, the Company agrees to:

(a) make and keep public information available, as those terms are understood and defined in Rule 144;

(b) file with the SEC in a timely manner all reports and other documents required of the Company under the Securities Act and the 1934 Act so long as the Company remains subject to such requirements (it being understood and agreed that nothing herein shall limit any obligations of the Company under the SPA) and the filing of such reports and other documents is required for the applicable provisions of Rule 144; and

(c) furnish to each Holder so long as such Holder owns Registrable Securities, promptly upon request, (i) a written statement by the Company, if true, that it has complied with the reporting, submission and posting requirements of Rule 144 and the 1934 Act, (ii) a copy of the most recent Form 20-F of the Company and such other reports and documents so filed by the Company with the SEC if such reports are not publicly available via EDGAR, and (iii) such other information as may be reasonably requested to permit the Holder to sell such securities pursuant to Rule 144 without registration.

9. Assignment of Registration Rights.

The rights to cause the Company to register Registrable Securities pursuant to this Section 1 may be transferred or assigned, but only with all related obligations, by an Holder to a transferee or assignee.

10. Amendment of Registration Rights.

Provisions of this Agreement may be amended only with the written consent of the Company and the Required Holder. Any amendment effected in accordance with this Section 10 shall be binding upon each Holder and the Company, provided that no such amendment shall be effective to the extent that it (1) applies to less than all of the holders of the holders of Registrable Securities, (2) imposes any obligation or liability on any Holder without such Holder's prior written consent (which may be granted or withheld in such Holder's sole discretion) or (3) applies retroactively. No waiver shall be effective unless it is in writing and signed by an authorized representative of the waiving party, provided that the Required Holder (in a writing signed by all of the Required Holder) may waive any provision of this Agreement, and any waiver of any provision of this Agreement made in conformity with the provisions of this Section 10 shall be binding on each Holder, provided that no such waiver shall be effective to the extent that it (1) applies to less than all the Holders (unless a party gives a waiver as to itself only) or (2) imposes any obligation or liability on any Holder without such Holder's prior written consent (which may be granted or withheld in such Holder's sole discretion). No consideration shall be offered or paid to any Person to amend or consent to a waiver or modification of any provision of this Agreement unless the same consideration also is offered to all of the parties to this Agreement.

11. Miscellaneous.

(a) Solely for purposes of this Agreement, a Person is deemed to be a holder of Registrable Securities whenever such Person owns, or is deemed to own, of record such Registrable Securities. If the Company receives conflicting instructions, notices or elections from two or more Persons with respect to the same Registrable Securities, the Company shall act upon the basis of instructions, notice or election received from such record owner of such Registrable Securities.

(b) Any notices, consents, waivers or other communications required or permitted to be given under the terms of this Agreement must be in writing and will be deemed to have been delivered: (i) upon receipt, when delivered personally; (ii) upon receipt, when sent by facsimile (provided confirmation of transmission is mechanically or electronically generated and kept on file by the sending party); (iii) with respect to Section 3(c), by e-mail (provided confirmation of transmission is electronically generated and kept on file by the sending party); or (iv) one (1) Business Day after deposit with a nationally recognized overnight delivery service with next day delivery specified, in each case, properly addressed to the party to receive the same. The addresses and facsimile numbers for such communications shall be:

If to the Company:

Attis Industries, Inc.  
12540 Broadwell Avenue  
Milton, GA 30004  
Attn: Jeffrey Cosman, CEO

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

Lucosky Brookman LLP  
101 Wood Avenue South  
Woodbridge, NJ 08830  
Attn: Joseph Lucosky, Esq.

If to a Holder, to its address, facsimile number or e-mail address (as the case may be) set forth on the Schedule of Holders attached to the SPA, with copies to such Holder's representatives as set forth on the Schedule of Holder, or to such other address, facsimile number and/or e-mail address and/or to the attention of such other Person as the recipient party has specified by written notice given to each other party five (5) days prior to the effectiveness of such change. Written confirmation of receipt (A) given by the recipient of such notice, consent, waiver or other communication, (B) mechanically or electronically generated by the sender's facsimile machine or e-mail transmission containing the time, date and recipient facsimile number or e-mail address or (C) provided by a courier or overnight courier service shall be rebuttable evidence of personal service, receipt by facsimile or receipt from a nationally recognized overnight delivery service in accordance with clause (i), (ii) or (iii) above, respectively.

(c) Failure of any party to exercise any right or remedy under this Agreement or otherwise, or delay by a party in exercising such right or remedy, shall not operate as a waiver thereof.

(d) All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by the internal laws of the State of New Jersey, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New Jersey or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New Jersey. Each party hereby irrevocably submits to the exclusive jurisdiction and venue of the Superior Court of New Jersey, Bergen County, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to such party at the address for such notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. If any provision of this Agreement shall be invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Agreement in that jurisdiction or the validity or enforceability of any provision of this Agreement in any other jurisdiction. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION HEREWITH OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.

(e) This Agreement, the other Transaction Documents, the schedules and exhibits attached hereto and thereto and the instruments referenced herein and therein constitute the entire agreement among the parties hereto and thereto solely with respect to the subject matter hereof and thereof. There are no restrictions, promises, warranties or undertakings, other than those set forth or referred to herein and therein. This Agreement, the other Transaction Documents, the schedules and exhibits attached hereto and thereto and the instruments referenced herein and therein supersede all prior agreements and understandings among the parties hereto solely with respect to the subject matter hereof and thereof; provided, however, nothing contained in this Agreement or any other Transaction Document shall (or shall be deemed to) (i) have any effect on any agreements any Holder has entered into with, or any instrument that any Holder received from, the Company or any of its Subsidiaries prior to the date hereof with respect to any prior investment made by such Holder in the Company, (ii) waive, alter, modify or amend in any respect any obligations of the Company or any of its Subsidiaries or any rights of or benefits to any Holder or any other Person in any agreement entered into prior to the date hereof between or among the Company and/or any of its Subsidiaries and any Holder or any instrument that any Holder received prior to the date hereof from the Company and/or any of its Subsidiaries and all such agreements and instruments shall continue in full force and effect or (iii) limit any obligations of the Company under any of the other Transaction Documents.

(f) Subject to compliance with Section 9 (if applicable), this Agreement shall inure to the benefit of and be binding upon the permitted successors and assigns of each of the parties hereto. This Agreement is not for the benefit of, nor may any provision hereof be enforced by, any Person, other than the parties hereto, their respective permitted successors and assigns and the Persons referred to in Sections 6 and 7 hereof.

(g) The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof. Unless the context clearly indicates otherwise, each pronoun herein shall be deemed to include the masculine, feminine, neuter, singular and plural forms thereof. The terms "including," "includes," "include" and words of like import shall be construed broadly as if followed by the words "without limitation." The terms "herein," "hereunder," "hereof" and words of like import refer to this entire Agreement instead of just the provision in which they are found.

(h) This Agreement may be executed in two or more identical counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party. In the event that any signature is delivered by facsimile transmission or by an e-mail which contains a portable document format (.pdf) file of an executed signature page, such signature page shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such signature page were an original thereof.

(i) Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents as any other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

(j) The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent and no rules of strict construction will be applied against any party. Notwithstanding anything to the contrary set forth in Section 11, terms used in this Agreement but defined in the other Transaction Documents shall have the meanings ascribed to such terms on the Closing Date in such other Transaction Documents unless otherwise consented to in writing by each Holder.

(k) All consents and other determinations required to be made by the Holder pursuant to this Agreement shall be made, unless otherwise specified in this Agreement, by the Required Holder.

(l) The obligations of each Holder under this Agreement and the other Transaction Documents are several and not joint with the obligations of any other Holder, and no Holder shall be responsible in any way for the performance of the obligations of any other Holder under this Agreement or any other Transaction Document. Nothing contained herein or in any other Transaction Document, and no action taken by any Holder pursuant hereto or thereto, shall be deemed to constitute the Holder as, and the Company acknowledges that the Holder do not so constitute, a partnership, an association, a joint venture or any other kind of group or entity, or create a presumption that the Holder are in any way acting in concert or as a group or entity with respect to such obligations or the transactions contemplated by the Transaction Documents or any matters, and the Company acknowledges that the Holder are not acting in concert or as a group, and the Company shall not assert any such claim, with respect to such obligations or the transactions contemplated by this Agreement or any of the other the Transaction Documents. Each Holder shall be entitled to independently protect and enforce its rights, including, without limitation, the rights arising out of this Agreement or out of any other Transaction Documents, and it shall not be necessary for any other Holder to be joined as an additional party in any proceeding for such purpose. The use of a single agreement with respect to the obligations of the Company contained herein was solely in the control of the Company, not the action or decision of any Holder, and was done solely for the convenience of the Company and not because it was required or requested to do so by any Holder. It is expressly understood and agreed that each provision contained in this Agreement and in each other Transaction Document is between the Company and an Holder, solely, and not between the Company and the Holders collectively and not between and among Holders.

[Signature Pages Follow]

**IN WITNESS WHEREOF**, Holder and the Company have caused their respective signature page to this Registration Rights Agreement to be duly executed as of the date first written above.

COMPANY:

ATTIS INDUSTRIES, INC.

By: /s/ Jeffrey Cosman

Name: Jeffrey Cosman

Title: Chief Executive Officer

IN WITNESS WHEREOF, Holder and the Company have caused their respective signature page to this Registration Rights Agreement to be duly executed as of the date first written above.

BUYER:

Name of Holder: \_\_\_\_\_

Signature of Authorized Signatory of Holder: \_\_\_\_\_

Name of Authorized Signatory: \_\_\_\_\_

Title of Authorized Signatory: \_\_\_\_\_

Signature Page to Attis RRA

[SIGNATURE PAGES CONTINUE]

SELLING STOCKHOLDERS

The shares of Common Stock being offered by the selling stockholders are those shares issued to the selling stockholders and issuable to the selling stockholders upon the conversion of shares of Series G Stock. For additional information regarding the issuance of the shares of Series G Stock, the shares of Common Stock, see "Private Placement of Series G Stock and Shares" above. We are registering the shares of Common Stock in order to permit the selling stockholders to offer the shares for resale from time to time. Except for the ownership of the shares issued pursuant to the SPA, the selling stockholders have not had any material relationship with us within the past three years.

The table below lists the selling stockholders and other information regarding the beneficial ownership (as determined under Section 13(d) of the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder) of the shares of Common Stock held by each of the selling stockholders. The second column lists the number of shares of Common Stock beneficially owned by the selling stockholders, based on their respective ownership of shares of Series G Stock and Common Stock, as of \_\_\_\_\_, 2018, assuming the conversion of the Series G Stock held by each such selling stockholder on that date, but taking account of any limitations on exercise set forth therein.

The third column lists the shares of Common Stock being offered by this prospectus by the selling stockholders and does not take into account any limitations on the conversion of the Series G Stock set forth therein.

In accordance with the terms of a registration rights agreement with the holders of the shares of Series G Stock, this prospectus generally covers the resale of (i) the shares and (ii) the maximum number of shares of Common Stock issuable upon the conversion of the Series G Stock determined as if the Series G Stock were fully converted (without regard to any limitations on exercise contained therein) as of the trading day immediately preceding the date this registration statement was initially filed with the SEC. Because the conversion price of the Series G Stock may be adjusted, the number of shares that will actually be issued may be more or less than the number of shares being offered by this prospectus. The fourth column assumes the sale of all of the shares offered by the selling stockholders pursuant to this prospectus.

Under the terms of the Series G Stock, a selling stockholder may not convert the Series G Stock into shares of Common Stock to the extent (but only to the extent) such selling stockholder or any of its affiliates would beneficially own a number of shares of our shares of Common Stock which would exceed 9.99%. The number of shares in the second column reflects these limitations. The third column reflects the number of shares, under the terms of the Series G Stock, that until Shareholder Approval (as defined in the Series G Stock certificate of designation) is obtained. The selling stockholders may sell all, some or none of their shares in this offering. See "Plan of Distribution."

Name of Selling Stockholder	Number of shares of Common Stock Beneficially Owned Prior to Offering	Number of shares of Common Stock Beneficially Owned Prior to Shareholder Approval	Maximum Number of shares of Common Stock to be Sold Pursuant to this Prospectus	Number of shares of Common Stock Beneficially Owned After Offering

\* Table to be completed based on information provided by the Holder and their assignees.



## PLAN OF DISTRIBUTION

We are registering the shares of Common Stock issued to the holders and issuable upon the conversion of Series G Stock to permit the resale of these shares of Common Stock by the holders of the shares of the Series G Stock from time to time after the date of this prospectus. We will not receive any of the proceeds from the sale by the selling stockholders of the shares of Common Stock. We will bear all fees and expenses incident to our obligation to register the shares of Common Stock.

The selling stockholders may sell all or a portion of the shares of Common Stock held by them and offered hereby from time to time directly or through one or more underwriters, broker-dealers or agents. If the shares of Common Stock are sold through underwriters or broker-dealers, the selling stockholders will be responsible for underwriting discounts or commissions or agent's commissions. The shares of Common Stock may be sold in one or more transactions at fixed prices, at prevailing market prices at the time of the sale, at varying prices determined at the time of sale or at negotiated prices. These sales may be effected in transactions, which may involve crosses or block transactions, pursuant to one or more of the following methods:

- on any national securities exchange or quotation service on which the securities may be listed or quoted at the time of sale;
- in the over-the-counter market;
- in transactions otherwise than on these exchanges or systems or in the over-the-counter market;
- through the writing or settlement of options, whether such options are listed on an options exchange or otherwise;
- ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;
- block trades in which the broker-dealer will attempt to sell the shares as agent but may position and resell a portion of the block as principal to facilitate the transaction;
- purchases by a broker-dealer as principal and resale by the broker-dealer for its account;
- an exchange distribution in accordance with the rules of the applicable exchange;
- privately negotiated transactions;
- short sales made after the date the Registration Statement is declared effective by the SEC;
- broker-dealers may agree with a selling securityholder to sell a specified number of such shares at a stipulated price per share;
- a combination of any such methods of sale; and
- any other method permitted pursuant to applicable law.

The selling stockholders may also sell shares of Common Stock under Rule 144 promulgated under the Securities Act of 1933, as amended, if available, rather than under this prospectus. In addition, the selling stockholders may transfer the shares of Common Stock by other means not described in this prospectus. If the selling stockholders effect such transactions by selling shares of Common Stock to or through underwriters, broker-dealers or agents, such underwriters, broker-dealers or agents may receive commissions in the form of discounts, concessions or commissions from the selling stockholders or commissions from purchasers of the shares of Common Stock for whom they may act as agent or to whom they may sell as principal (which discounts, concessions or commissions as to particular underwriters, broker-dealers or agents may be in excess of those customary in the types of transactions involved). In connection with sales of the shares of Common Stock or otherwise, the selling stockholders may enter into hedging transactions with broker-dealers, which may in turn engage in short sales of the shares of Common Stock in the course of hedging in positions they assume. The selling stockholders may also sell shares of Common Stock short and deliver shares of Common Stock covered by this prospectus to close out short positions and to return borrowed shares in connection with such short sales. The selling stockholders may also loan or pledge shares of Common Stock to broker-dealers that in turn may sell such shares.

The selling stockholders may pledge or grant a security interest in some or all of the shares of Common Stock owned by them and, if they default in the performance of their secured obligations, the pledgees or secured parties may offer and sell the shares of Common Stock from time to time pursuant to this prospectus or any amendment to this prospectus under Rule 424(b)(3) or other applicable provision of the Securities Act amending, if necessary, the list of selling stockholders to include the pledgee, transferee or other successors in interest as selling stockholders under this prospectus. The selling stockholders also may transfer and donate the shares of Common Stock in other circumstances in which case the transferees, donees, pledgees or other successors in interest will be the selling beneficial owners for purposes of this prospectus.

To the extent required by the Securities Act and the rules and regulations thereunder, the selling stockholders and any broker-dealer participating in the distribution of the shares of Common Stock may be deemed to be "underwriters" within the meaning of the Securities Act, and any commission paid, or any discounts or concessions allowed to, any such broker-dealer may be deemed to be underwriting commissions or discounts under the Securities Act. At the time a particular offering of the shares of Common Stock is made, a prospectus supplement, if required, will be distributed, which will set forth the aggregate amount of shares of Common Stock being offered and the terms of the offering, including the name or names of any broker-dealers or agents, any discounts, commissions and other terms constituting compensation from the selling stockholders and any discounts, commissions or concessions allowed or re-allowed or paid to broker-dealers.

Under the securities laws of some states, the shares of Common Stock may be sold in such states only through registered or licensed brokers or dealers. In addition, in some states the shares of Common Stock may not be sold unless such shares have been registered or qualified for sale in such state or an exemption from registration or qualification is available and is complied with.

There can be no assurance that any selling stockholder will sell any or all of the shares of Common Stock registered pursuant to the registration statement, of which this prospectus forms a part.

The selling stockholders and any other person participating in such distribution will be subject to applicable provisions of the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder, including, without limitation, to the extent applicable, Regulation M of the Exchange Act, which may limit the timing of purchases and sales of any of the shares of Common Stock by the selling stockholders and any other participating person. To the extent applicable, Regulation M may also restrict the ability of any person engaged in the distribution of the shares of Common Stock to engage in market-making activities with respect to the shares of Common Stock. All of the foregoing may affect the marketability of the shares of Common Stock and the ability of any person or entity to engage in market-making activities with respect to the shares of Common Stock.

We will pay all expenses of the registration of the shares of Common Stock pursuant to the registration rights agreement, estimated to be \$[ ] in total, including, without limitation, Securities and Exchange Commission filing fees and expenses of compliance with state securities or "blue sky" laws; provided, however, a selling stockholder will pay all underwriting discounts and selling commissions, if any. We will indemnify the selling stockholders against liabilities, including some liabilities under the Securities Act in accordance with the registration rights agreements or the selling stockholders will be entitled to contribution. We may be indemnified by the selling stockholders against civil liabilities, including liabilities under the Securities Act that may arise from any written information furnished to us by the selling stockholder specifically for use in this prospectus, in accordance with the related registration rights agreements, or we may be entitled to contribution.

Once sold under the registration statement, of which this prospectus forms a part, the shares of Common Stock will be freely tradable in the hands of persons other than our affiliates.

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**MEMBERSHIP INTEREST PURCHASE AGREEMENT**

**AMONG**

**GAULA VENTURES LLC,  
AS SELLER,**

**GENAREX FD LLC,**

**AND**

**ATTIS INDUSTRIES INC.,  
AS BUYER**

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**MAY 25, 2018**

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## MEMBERSHIP INTEREST PURCHASE AGREEMENT

This **MEMBERSHIP INTEREST PURCHASE AGREEMENT** (this "Agreement"), dated as of **MAY 27, 2018** and effective as of **MAY 25, 2018** ("Effective Date"), is entered into by and among **ATTIS INDUSTRIES INC.**, a New York corporation ("Buyer"), **ATTIS INNOVATIONS, LLC**, a Georgia limited liability company ("Attis"), **FLUX CARBON LLC**, a Delaware limited liability company ("JVCo"), and **GAULA VENTURES LLC**, a Delaware limited liability company ("Seller").

**WHEREAS**, the Parties hereto are executing and delivering this Agreement in reliance upon an exemption from securities registration pursuant to Section 4(2), Rule 506 of Regulation D ("Regulation D"), as promulgated by the U.S. Securities and Exchange Commission (the "SEC") under the Securities Act of 1933, as amended (the "Securities Act");

**WHEREAS**, Seller is the beneficial owner of 1,225 units (the "GFD Units") of **GENAREX FD LLC**, a Delaware limited liability company ("GFD"), representing 12.25% of the issued and outstanding equity of GFD, with a deemed value of \$544.2177 per unit, or \$666,667.00 in total ("GFD Purchase Price");

**WHEREAS**, effective November 29, 2017, Seller's beneficial owner (the "Principal") and certain other Related Persons of GFD entered into that certain Membership Interest Purchase Agreement ("ALB MIPA") and related transaction documents (together with the ALB MIPA, the "ALB Documents") pertaining to the purchase of 100% of the issued and outstanding equity of **ADVANCED LIGNIN BIOCOSMOS LLC** ("ALB") by Buyer for the benefit of Attis;

**WHEREAS**, the ALB Documents, *inter alia*, stated Buyer's agreement to issue to Principal 400,000 shares of Buyer's Common Stock ("Buyer Common Stock") at a deemed value of \$4.00 per share, or \$1,600,000.00 ("ALB Purchase Price"), in exchange for the assignment by Principal of 100% of any direct or indirect right, title and interest he had or may have had in, to and under the issued and outstanding equity of ALB (the "ALB Units" and, together with the GFD Units, the "Seller Units");

**WHEREAS**, Attis and Principal separately entered into an employment agreement as part of the ALB Documents ("First Employment Agreement"), which, *inter alia*, requires Attis to pay Principal an amount equal to 8.00% of Attis' Consolidated EBITDA ("Earn-Out Payment");

**WHEREAS**, Buyer owns 100% of the issued and outstanding equity of Attis, the beneficial owner of 80% of the issued and outstanding equity of JVCo, which entity owns 36.75% of the issued and outstanding equity of GFD; and,

**WHEREAS**, Buyer, Attis, JVCo, Principal, and Seller desire, as applicable, to state or amend their agreements upon the terms and subject to the conditions contained herein: to cause their respective now and hereinafter-existing direct and indirect equity interests in ALB to be held by GFD; to cause their respective now and hereinafter-existing direct and indirect equity interests in GFD to be held by JVCo; to consolidate the GFD Purchase Price and ALB Purchase Price (collectively, the "Purchase Price"), and replace the Buyer Common Stock with the Buyer Securities issuable hereunder; and,

**WHEREAS**, as the beneficial owner of Seller, Principal will be materially benefitted from Buyer's performance of its obligations under this Agreement and the Transaction Documents and as such has agreed to be bound by certain provisions of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree to amend and restate the ALB MIPA as between themselves as follows:

### 1. Certain Matters

**1.1 Certain Definitions**. Except as otherwise expressly provided herein or unless the context otherwise requires, initially capitalized terms used in this Agreement have the meanings set forth in Schedule 1.0.

**1.2 Effectiveness**. **THE PARTIES EACH HEREBY AGREE THAT, EXCEPT AS OTHERWISE STATED HEREIN, THIS AGREEMENT AND APPLICABLE TRANSACTION DOCUMENTS SHALL AMEND, RESTATE, REPLACE, SUPPLANT AND IN ALL RESPECTS SUPERSEDE THE ALB MIPA AND ALL TRANSACTION DOCUMENTS EXECUTED IN CONNECTION THEREWITH.**

## 2. Purchase and Sale

**2.1 Acquisition.** On and subject to the terms and conditions of this Agreement and applicable Transaction Documents, at the Closing, Principal and Seller shall sell, assign, transfer and deliver 100% of their respective right, title and interest in, to and under the Seller Units to Buyer in accordance with the terms set forth in **Schedule 2.0**, free and clear of all Liens other than Permitted Encumbrances. As used herein, the term "**Acquisition**" shall mean and refer to the purchase of the Seller Units by Buyer.

**2.2 The Closing.** Upon the terms and subject to the conditions hereinbefore and hereinafter set forth, the consummation of this Agreement and the Seller Acquisition contemplated herein (the "**Closing**") shall take place on **MAY 25, 2018**, or, if all of the conditions to the Closing are not satisfied on that date, on the first date thereafter on which all of such conditions are satisfied. As used herein, the term "**Closing Date**" shall mean and refer to the purchase of the Seller Units by Buyer. The Closing may take place by delivery and exchange of documents by facsimile or electronic mail with originals to follow by overnight courier.

**2.3 Deliveries and Actions of Seller at Closing.** At or prior to Closing, Seller shall deliver (or cause to be delivered) to Buyer documents, instruments, agreements and other materials itemized in **Schedule 2.3**.

**2.4 Deliveries and Actions of Buyer at Closing.** At or prior to Closing, Buyer shall deliver (or cause to be delivered) to Seller documents, instruments, agreements and other materials itemized in **Schedule 2.4**.

**2.5 Taking of Necessary Action; Further Action.** The Buyer, Seller and GFD will take all reasonable and lawful action as may be necessary or appropriate in order to effectuate the Seller Acquisition in accordance with this Agreement on the Closing Date.

## 3. Warranties and Representations Relating to Seller, ALB and GFD

Seller represents and warrants to Buyer that the statements contained in this Section 3 are true, correct and complete as of the Effective Date and as of the Closing Date, subject to and except as set forth in the Seller Disclosure Schedule delivered by Seller to Buyer on the date hereof. Nothing in the Seller Disclosure Schedule shall be deemed adequate to disclose an exception to a representation or warranty made herein unless the Seller Disclosure Schedule identifies the exception with reasonable particularity and describes the relevant facts in reasonable detail. Without limiting the generality of the foregoing, the mere listing (or inclusion of a copy) of a document or other item shall not be deemed adequate to disclose an exception to a representation or warranty made herein (unless the representation or warranty has to do with the existence of the document or other item itself). The Seller Disclosure Schedule will be arranged in paragraphs corresponding to the lettered and numbered paragraphs contained in this Section 3.

### 3.1 Due Organization, Authorization and Good Standing.

**3.1.1 Seller.** Seller is duly organized, validly existing and in good standing under the laws of Georgia. Seller is qualified to do business and is in good standing as a foreign Person, as the case may be, in each jurisdiction in which the ownership of its properties and the nature and extent of the activities transacted by it makes such qualification necessary. Seller has full corporate power and corporate authority to carry on its business, to own and use the properties owned and used by it and to perform its obligations under this Agreement.

**3.1.2 GFD.** GFD is duly organized, validly existing and in good standing under the laws of Delaware. GFD is qualified to do business and is in good standing as a foreign Person, as the case may be, in each jurisdiction in which the ownership of its properties and the nature and extent of the activities transacted by it makes such qualification necessary. GFD has full corporate power and corporate authority to carry on its business, to own and use the properties owned and used by it and to perform its obligations under this Agreement.

**3.1.3 ALB.** Seller's representations and warranties included in Section 3 of the ALB MIPA, a copy of which is attached hereto in **Exhibit 3.1.3**, in connection with ALB and the transfer of Seller's interests in ALB to and for the benefit of Buyer shall be incorporated herein by reference and deemed to be in full force and effect notwithstanding the intention and agreement of the Parties for this Agreement to amend and restate the ALB MIPA in its entirety; provided, however, that in the event that any such terms conflict with the terms of this Agreement and the Transaction Documents executed in connection herewith, the applicable terms of this Agreement and the Transaction Documents shall govern.

**3.2 Capitalization.** Principal and Seller are the sole holders of the Seller Units. There are no warrants, rights, options, conversion privileges, stock purchase plans or other contractual obligations which obligate Seller to offer, issue, purchase or redeem any equity or other interest of GFD or other ownership interest or debt or other securities convertible into or exchangeable for membership interests or units or such other ownership interest (now, in the future or upon the occurrence of any contingency) or which provides for any equity appreciation or similar right.

**3.3 Authorization.** Seller has the requisite power and authority to enter into, execute, deliver and perform this Agreement, and/or to consummate all transactions contemplated thereby. The execution and delivery of this Agreement by Seller and the consummation by Seller of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action, and no other corporate or partnership proceedings on the part of Seller are necessary to authorize this Agreement or to consummate the transactions so contemplated. This Agreement is the valid and legally binding obligation of Seller, enforceable against each of them in accordance with the terms, subject to bankruptcy, insolvency, moratorium, reorganization and similar laws of general applicability affecting the rights and remedies of creditors and to general principles of equity, regardless of whether enforcement is sought in proceedings in equity or at law.

**3.4 No Violation or Approval.**

**3.4.1** Subject to and except as set forth on **Section 3.4** of the Seller Disclosure Schedule, neither the execution and delivery of this Agreement by Seller, nor the consummation or performance of any of the Contemplated Transactions will, directly or indirectly (with or without notice or lapse of time): (i) Breach or otherwise conflict with any provision of the Organizational Documents of Seller or GFD, or contravene any resolution adopted by the officers, managers, or members of either Seller or GFD; (ii) Breach or otherwise conflict with any Legal Requirement or Order to which Seller or GFD may be subject or give any Governmental Body or other Person the right to challenge the Contemplated Transactions or to exercise any remedy or obtain any relief under any Legal Requirement or any Order to which Seller or GFD may be subject; (iii) Breach or otherwise conflict with or result in a violation or Breach of any of the terms or requirements of, or give any Governmental Body the right to revoke, withdraw, suspend, cancel, terminate or modify, any Governmental Authorization that is held or being applied for by or on behalf of GFD, or that otherwise relates to GFD, or the GFD business; (iv) cause Buyer (or any Related Person thereof) to become subject to, or to become liable for the payment of, any Tax; (v) Breach or otherwise conflict with any provision of, or give any Person the right to declare a default or exercise any remedy under, or to accelerate the maturity or performance of, or payment under, or to cancel, terminate or modify, any contract or agreement to which GFD is a party or by which GFD is bound; or (vi), result in the imposition or creation of any Lien on GFD, or the GFD business.

**3.4.2** Subject to and except as set forth on **Section 3.4** of the Seller Disclosure Schedule, neither Seller nor GFD are required to give any notice to, or obtain any Consent from, any Person in connection with the execution and delivery of this Agreement or the consummation of any of the Contemplated Transactions, including any Consent required in order to preserve and maintain all Governmental Authorizations required for the ownership and continued operation of the GFD business, either before or after Closing, and the consummation of the Contemplated Transactions. Any registration, declaration, or filing with, or Consent, or Governmental Authorization or Order by, any Governmental Body with respect to GFD that is required in connection with the consummation of the Contemplated Transactions has been completed, made, or obtained on or before the Closing Date.

**3.5 Litigation.** Except as set forth in **Section 3.5** of the Seller Disclosure Schedule (which lists pending or threatened Proceedings, all of which are referred to as "**Current Litigation Matters**"), (i) there is no pending or, to Seller's Knowledge, threatened Proceeding by or against Seller or GFD that relates to or may affect GFD, or GFD's Business, that challenges, or that may have the effect of preventing, delaying, making illegal or otherwise interfering with, any of the Contemplated Transactions; (ii) no event has occurred or circumstance exists that is reasonably likely to give rise to or serve as a Basis for the commencement of any such Proceeding; (iii) there is no Order to which Seller or GFD, or GFD's Business are subject or that in any way relates to or could reasonably be expected to affect GFD, or GFD's Business; (iv) no officer, director, member, manager, agent or employee of the GFD is subject to any Order that prohibits such officer, director member, manager, agent or employee from engaging in or continuing any conduct, activity or practice relating to the GFD business; (v) each of Seller and GFD are, and at all times have been, in compliance with all of the terms and requirements of any Order; (vi) no event has occurred or circumstance exists that is reasonably likely to constitute or result in (with or without notice or lapse of time) a violation of or failure to comply with any term or requirement of any such Order; and (vi), neither Seller nor GFD has received any notice or other communication (whether written or oral) from any Governmental Body or any other Person regarding any actual, alleged, possible or potential violation of, or failure to comply with, any term or requirement of any such Order.

**3.6 GFD Financial Matters.** An internal draft of GFD's unaudited balance sheet and statement of income (collectively, the "GFD Financial Statements") as of and for the fiscal year ended December 31, 2017, shall be provided on or before June 30, 2018. The GFD Financial Statements (including the notes thereto) have been prepared in good faith by Seller's staff in accordance with GAAP applied on a consistent basis throughout the periods covered thereby, present fairly the financial condition of the GFD as of such dates and the results of operations of GFD for such periods, are correct and complete, and are consistent with the books and records of GFD (which books and records are correct and complete); provided, however, that the GFD Financial Statements are subject to normal adjustments (which will not be material individually or in the aggregate) and lack footnotes and other presentation items. Subject to and except as disclosed in **Section 3.6** of the Seller Disclosure Schedule, (i) GFD has not incurred any Liability, and there is no Basis for any present or future action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand against GFD giving rise to any Liability; (ii) all Accounts Receivable that are reflected in the GFD Financial Statements and/or in the business records of GFD represent valid obligations arising from sales actually made or services actually performed by GFD in the Ordinary Course of Business; (iii) there is no contest, defense or right of set-off currently being claimed or, to the Knowledge of Seller, expected to be claimed, by any account debtor with respect to any Account Receivable, or any part thereof; (iv) except to the extent paid prior to the Closing Date, such Accounts Receivable are or will be as of the Closing Date current and collectible net of the respective reserves shown on the GFD Financial Statements and/or in the business records of GFD (which reserves are adequate and calculated consistent with past practice); (v) subject to such reserves, each of such Accounts Receivable either has been or will be collected in full, without any setoff, within ninety (90) days after the day on which it first becomes due and payable; and (vi), Seller has provided Buyer with a complete and accurate list of GFD's current Accounts Receivable current to within five (5) days of the Closing Date, which list sets forth the aging of each such Account Receivable.

**3.7 Taxes.** Except as set forth in **Section 3.7** of the Seller Disclosure Schedule, GFD has duly filed, on a timely basis all Tax Returns which they are required to file, and all material liabilities for Tax (including interest and penalties) have been paid. GFD has paid all required withholding taxes with respect to employees and independent contractors. Except as set forth in the Seller Disclosure Schedule, there are in effect no waivers or extensions of the applicable statutes of limitations for tax liabilities for any period, and no taxing authority has asserted either orally or in writing any adjustment that could result in an additional Tax for which GFD is or may be liable and there is no pending audit, examination, investigation, dispute, proceeding or claim for which GFD has received notice relating to any Tax for which any one of them is or may be liable. Except as set forth in the Seller Disclosure Schedule, there are no agreements in writing with any taxing authority by GFD. Except as set forth in the Seller Disclosure Schedule, GFD has not been nor is it included in any consolidated, affiliated, combined, unitary or other similar Tax Returns and there are no tax sharing agreements to which GFD has now or ever has been a party. Except as set forth in the Seller Disclosure Schedule, GFD is not a party to any agreement, contract, arrangement or plan that would result in the payment of any "excess parachute payments" within the meaning of Code Section 280G (or any comparable provision of state, local or foreign law).

**3.8 Title to Seller Units.** Except for permitted encumbrances as defined and itemized in **Section 3.8** of the Seller Disclosure Schedule ("Permitted Encumbrances"), Seller has good and valid title to the Seller Units, in each case free and clear of all claim, charge, lease, covenant, easement, encumbrance, security interest, lien, option, pledge, rights of others, or restriction (whether on voting, sale, transfer, disposition or otherwise), whether imposed by agreement, understanding, law, equity or otherwise, of any kind or character (collectively, "Liens"). Seller shall transfer the Seller Units to Buyer free and clear of all Liens other than Permitted Encumbrances.

**3.9 Title to Assets.** GFD has good and marketable title to all of the assets reflected in the GFD Financial Statements as owned by them (other than assets disposed of since the date of the last GFD Financial Statements in the Ordinary Course of Business or as contemplated by this Agreement), or acquired since the date of the last GFD Financial Statements, or as set forth in **Section 3.9** of the Seller Disclosure Schedule ("GFD Assets"), free and clear of any and all Liens, except as set forth in the Seller Disclosure Schedule.

**3.9.1 Real Property; Tangible Personal Property.** GFD does not own, lease or sublease real property. Except as disclosed in the Seller Disclosure Schedule, (i) each item of Tangible Personal Property of GFD (including any and all Tangible Personal Property set forth on **Section 3.9.1** of the Seller Disclosure Schedule) is in good repair and good operating condition, ordinary wear and tear excepted, is suitable for immediate use in the Ordinary Course of Business, is free from latent and patent defects and is being operated and maintained in all material respects in accordance with industry standards and prescribed operating instructions (if any) necessary to ensure the effectiveness of equipment warranties and/or service plans; and (ii), no item of Tangible Personal Property is in need of repair or replacement other than as part of routine maintenance in the Ordinary Course of Business. If applicable, Tangible Personal Property owned or leased by GFD is and will be as of Closing in GFD's possession.

**3.9.2 Intangible Personal Property; Intellectual Property Assets.** Section 3.9.2 of the Seller Disclosure Schedule contains a complete and accurate list and summary of all Intellectual Property owned or possessed by GFD, or which GFD has the right to use pursuant to a valid and enforceable, written license, sublicense, agreement, or permission (collectively and together with the Intangible Personal Property, the "Intellectual Property Assets"). Such Intellectual Property Assets constitute all of the Intellectual Property necessary for the operation of the businesses of GFD as presently conducted. The Intellectual Property Assets do not infringe on the intellectual property rights of any Person. GFD is the owner or licensee of all right, title and interest in and to each of the Intellectual Property Assets, free and clear of all Liens except for Permitted Encumbrances. GFD has the right to use all of the Intellectual Property Assets without payment to any third party except as disclosed in the applicable agreements disclosed in then Seller Disclosure Schedule. GFD owns or has the right to use pursuant to ownership, license, sublicense, agreement, permission, or free and unrestricted availability to general public, all of the Intellectual Property Assets used by GFD, subject to the terms of applicable agreements itemized in the Seller Disclosure Schedule. GFD has not interfered with, infringed upon, misappropriated, or otherwise come into conflict with any Intellectual Property rights of third parties, and neither Seller nor GFD, or their respective members, managers, directors and officers and employees has ever received any charge, complaint, claim, demand, or notice alleging any such interference, infringement, misappropriation, or violation (including any claim that GFD must license or refrain from using any intellectual property rights of any third party). Except as disclosed in the Seller Disclosure Schedule, to the Knowledge of Seller, no third party has interfered with, infringed upon, misappropriated, or otherwise come into conflict with any proprietary intellectual property rights of GFD.

**3.10 Operations in Conformity with Law, Etc.** Except as set forth in Section 3.10 of the Seller Disclosure Schedule: (i) GFD is, and at all times has been, in full compliance with each Legal Requirement that is or was applicable to it or to the conduct or operation of GFD, GFD's assets, and the GFD business; (ii) no event has occurred or circumstance exists that (with or without notice or lapse of time) (a) may constitute or result in a violation by GFD of, or a failure on the part of GFD to comply with, any Legal Requirement, or (b) may give rise to any obligation on the part of GFD to undertake, or to bear all or any portion of the cost of, any Remedial Action of any nature; and (iii), neither the Seller nor GFD have received any notice or other communication (whether oral or written) from any Governmental Body or any other Person regarding (a) any actual, alleged, possible or potential violation of, or failure to comply with, any Legal Requirement, or (b) any actual, alleged, possible or potential obligation on the part of GFD to undertake, or to bear all or any portion of the cost of, any Remedial Action of any nature.

**3.11 Labor Relations.** GFD has complied in all respects at all times with all Legal Requirements, including all Occupational Safety and Health Laws, relating to employment practices, terms and conditions of employment, equal employment opportunity, nondiscrimination, immigration, wages, hours, benefits, payment of social security and similar Taxes, collective bargaining and other requirements under applicable Legal Requirements. To Seller's Knowledge, GFD is not liable for the payment of any Taxes, including any social security and similar Taxes, fines, penalties, interest, back wages, front pay, liquidated or compensatory damages, exemplary damages or other amounts, however designated, for failure to comply with any of the foregoing Legal Requirements. GFD has not been, and are not now, a party to any collective bargaining agreement or other labor Contract. There has not been, there is not presently pending or existing, and to Seller's Knowledge, there is not threatened, any strike, slowdown, picketing, work stoppage or employee grievance process involving GFD. No event has occurred or circumstance exists that could provide the Basis for any work stoppage or other labor dispute. There has not been, there is not presently pending or existing, and, to the Knowledge of Seller, there is not overtly threatened any Proceeding, charge, grievance proceeding or other claim against or affecting GFD (or any director, officer, manager, member or employee thereof) relating to the actual or alleged violation of any Legal Requirement pertaining to labor relations or employment matters, including any charge or complaint filed by an employee or union with the National Labor Relations Board, the Equal Employment Opportunity Commission or any comparable Governmental Body, and there is no organizational activity or other labor dispute against or affecting GFD or its business. There is no organizational activity or other labor dispute against or affecting GFD and no application or petition for an election of or for certification of a collective bargaining agent is pending. No grievance or arbitration Proceeding exists that might have a Material Adverse Effect upon GFD or the conduct of its business. Neither GFD nor Seller have been served notice of, and GFD and Seller do not otherwise have Knowledge of, any grievance or arbitration Proceeding by any employee of GFD that might have an adverse effect upon GFD, or the conduct of GFD's business. There has been no charge of discrimination filed against or, to Seller's Knowledge, threatened against GFD with the Equal Employment Opportunity Commission or similar Governmental Body. There is no lockout by GFD of any employees of GFD, and no such action is contemplated by Seller or GFD.



**3.12 No Adverse Change.** Since the formation of GFD, there has not been any Material Adverse Change in the GFD business, operations, prospects, GFD Assets, results of operations or condition (financial or other) of the GFD, and, to the Knowledge of Seller, no event has occurred or circumstance exists that may result in such a Material Adverse Change. Neither Seller nor GFD have received any notice or other communication (written or oral) from any Governmental Body or any other Person regarding the ability of GFD to own or operate or the intention of any Governmental Body to challenge or oppose the Buyer's ownership or operation of same. No action has been taken by the Seller or GFD, or any other officer, director, manager, or member of either Seller or GFD, that would have a Material Adverse Effect on GFD or the Contemplated Transactions. GFD has conducted its businesses only in the Ordinary Course of Business. Except as set forth in the Seller Disclosure Schedule, without limiting the generality of the foregoing, since the Closing Date: (i) GFD has not entered into any agreement, Contract, lease, or license (or series of related agreements, contracts, leases, and licenses) outside the Ordinary Course of Business; (ii) no party (including GFD) has accelerated, terminated, modified, given rise to a notice of default, or cancelled any agreement, Contract, lease, Permit, Governmental Authorization, or license (or series of related agreements, contracts, leases, and licenses) to which GFD is a party, or by which it is bound, or which affects GFD's assets; (iii) GFD has not granted any Liens upon any of GFD's assets, tangible or intangible; (iv) GFD has made no capital expenditure (or series of related capital expenditures) outside the Ordinary Course of Business; (v) GFD has made no capital investment in, any loan to, or any acquisition of the securities or assets of, any other Person (or series of related capital investments, loans, and acquisitions); (vi) GFD has not issued any note, bond, or other debt security, or created, incurred, assumed, or guaranteed any indebtedness for borrowed money or capitalized lease obligation; (vii) GFD has not transferred, assigned, or granted any license or sublicense of any rights under or with respect to any GFD Assets; (viii) GFD has not caused any change to be made or authorized in the Organizational Documents of GFD; (ix) GFD has not issued, sold, pledged or otherwise disposed of any of its equity interests, or granted any options, warrants, or other rights to purchase or obtain (including upon conversion, exchange, or exercise) any of equity interests or securities; (x) GFD has not declared, set aside, or paid any dividend or made any distribution with respect to its equity interests (whether in cash or in kind) or redeemed, purchased, or otherwise acquired any of its equity interests; (xi) GFD has not experienced any damage, destruction, or loss (whether or not covered by insurance) to its property and GFD Assets, including any Property or any Business; (xii) GFD has not made any loan to, or entered into any other transaction with, any of its members, managers, officers, directors, or employees; (xiii) GFD has not entered into any employment Contract, severance or other benefit agreement, consulting agreement or collective bargaining agreement, written or oral, or modified the terms of any existing such Contract or agreement; (xiv) GFD has not granted any increase in the base compensation of any of its officers, directors, members, managers or employees outside the Ordinary Course of Business; (xv) GFD has not adopted, amended, modified, or terminated any bonus, profit sharing, incentive, severance, or other plan, contract, or commitment for the benefit of any of its members, managers, officers, directors and employees (or taken any such action with respect to any other Employee Benefit Plan); (xvi) GFD has not made any other change in employment terms for any of its directors, officers, members, managers and employees outside the Ordinary Course of Business; (xvii) GFD has not made or pledged to make any charitable or other capital contribution; (xviii) GFD has not discharged, in whole or in part, a material Liability or Lien outside the Ordinary Course of Business; (xix) GFD has not disclosed any Confidential Information; (xx) there has not been any other material occurrence, event, incident, action, failure to act, or transaction outside the Ordinary Course of Business involving GFD; (xxi) there has been no indication by any customer or supplier of GFD of an intention to discontinue or change the terms of its relationship with the GFD; (xxii) there has been no change in the accounting methods, principles or practices for financial accounting with respect to GFD (except for those changes required by GFD's independent auditors to comply with GAAP) or for IRS reporting purposes; and (xxiii), neither the Seller nor GFD has committed to do any of the foregoing.

**3.13 Permits.** **Section 3.13** of the Seller Disclosure Schedule contains a complete and accurate list of all permits, licenses, Consents, Governmental Authorizations and Approvals (collectively, the "**Permits**"): (i) owned by GFD that are necessary or required to own, construct, operate and develop the businesses of GFD, GFD's assets, and the Properties; and (ii), for which GFD has made application with respect to the ownership, operation, construction, and development of its business and the Properties where such application is still pending as of the date hereof and at Closing. GFD has not received any notice (written or oral) from any Governmental Body of rejection of any such application or any notice (written or oral) that any such application is being considered for rejection. Each Permit is valid and in full force and effect, as applicable. The Permits listed or required to be listed in **Section 3.13** of the Seller Disclosure Schedule collectively constitute all of the Permits necessary or required to permit the GFD to lawfully conduct and operate its business in accordance with all Legal Requirements. GFD is, and at all times has been, in full compliance with all of the terms and requirements of each Permit listed or required to be listed in **Section 3.13** of the Seller Disclosure Schedule. Seller has delivered, or has caused to be delivered, to Buyer (or its Representatives) copies of all Permits and Approvals and applications therefor referred to above in this Section 3.15, and all other correspondence between Seller or GFD (or their respective Representatives) and the applicable Governmental Bodies in connection with such Permits and applications therefor. No event has occurred or circumstance exists that may (with or without notice or lapse of time) constitute or result directly or indirectly in a violation of or a failure to comply with any term or requirement of any Permit, or result directly or indirectly in the revocation, withdrawal, suspension, cancellation or termination of, or any modification to, any Permit or Approval. Neither Seller nor GFD have received any notice or other communication (whether oral or written) from any Governmental Body or any other Person regarding any actual, alleged, possible or potential violation of or failure to comply with any term or requirement of any Permit, or any actual, proposed, possible or potential revocation, withdrawal, suspension, cancellation, termination of or modification to any Permit. All applications required to have been filed for the renewal of the Governmental Authorizations listed or required to be listed in **Section 3.13** of the Seller Disclosure Schedule have been duly filed on a timely basis with the appropriate Governmental Bodies, and all other filings required to have been made with respect to such Permits have been duly made on a timely basis with the appropriate Governmental Bodies.

**3.14 Environmental Matters.** GFD has not treated, stored, disposed of, arranged for or permitted the disposal of, transported, handled, manufactured, distributed, or released any substance, including without limitation any Hazardous Material, or owned or operated any property or facility (and no such property or facility is contaminated by any such substance) so as to give rise to any current or future Liabilities, including any Liability for fines, penalties, response costs, corrective action costs, personal injury, property damage, natural resources damages or attorney's fees, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), the Solid Waste Disposal Act, as amended ("SWDA") or any other Environmental Laws. The Properties do not now contain nor have the Properties contained any underground storage tanks or Hazardous Material. Neither this Agreement nor the consummation of the Contemplated Transactions will result in any obligations for site investigation or cleanup, or notification to or consent of government agencies or third parties, pursuant to any of the so-called "*transaction-triggered*" or "*responsible property transfer*" Environmental Laws. GFD has not assumed, or has otherwise become subject to, any Liability, including without limitation any obligation for corrective or Remedial Action, of any other Person relating to Environmental Laws. GFD has complied in all respects, and is presently in compliance in all respects, with all applicable Environmental Laws pertaining to the ownership and operation of GFD's assets, the Properties and the GFD business. Neither Seller nor GFD have received any communication alleging that they are not in compliance with any Environmental Law. GFD has not taken any action that could reasonably result in any Liability (other than minor Liabilities of nominal or no financial or other consequence) relating to (i) the environmental conditions on, under, or about the Properties or any real property that is presently owned, leased or otherwise used by GFD, or upon which GFD locates any Tangible Personal Property; or (ii), the present use, management, handling, transport, treatment, generation, storage, disposal or release of any Hazardous Material. There are no pending or threatened Proceedings of any nature resulting from any Environmental, Health and Safety Liabilities or arising under or pursuant to any Environmental Law with respect to or affecting GFD, GFD's assets, the Properties, or the GFD business. No Property contains wetlands, vegetation, animal species or significant historic/archaeological sites which are subject to special regulations or limitations under any Legal Requirement. No unacceptable material has deposited or buried on or under the Properties in violation of any Permit, Governmental Authorization or Legal Requirement; no toxic wastes or Hazardous Materials have been deposited, disposed of, stored, generated or released on or from the Properties, and there are no cemeteries, grave sites or other burial sites located on the Properties.

**3.15 Contractual Obligations.** The only Contracts to which GFD is a party are described in **Section 3.15** of the Seller Disclosure Schedule ("Contracts"), and correct and complete copies of all such Contracts have been provided to Buyer. Except as set forth in applicable Contracts, Seller does not have and may not acquire any rights under any Contract. Subject to and except as set forth in **Section 3.15** of the Seller Disclosure Schedule: (i) the Contracts are legal, valid, binding, enforceable, and in full force and effect (except as enforcement thereof may be limited by applicable Insolvency Laws), and will continue to be legal, valid, binding, enforceable, and in full force and effect on identical terms following the consummation of the Contemplated Transactions; (ii) none of the Contracts will upon completion or performance thereof have a Material Adverse Effect on the GFD business, or the GFD business; (iii) GFD is, and at all times has been, in compliance with all applicable terms and requirements of the Contracts; (iv) no event has occurred or circumstance exists that (with or without notice or lapse of time) may contravene, conflict with or result in a Breach of, or give GFD or any other Person the right to declare a default or exercise any remedy under, or to accelerate the maturity or performance of, or payment under, or to cancel, terminate or modify, the Contracts; (v) no party to the Contracts has threatened to terminate its business relationship with GFD for any reason; (vi) neither Seller nor GFD has given to or received from any other Person any notice or other communication (whether oral or written) regarding the actual, alleged, possible or potential Breach of any Contract; and (vii), no event has occurred or circumstance exists under or by virtue of any Contract that (with or without notice or lapse of time) would cause the creation of any Lien affecting any of GFD's assets. There are no renegotiations of, attempts to renegotiate or outstanding rights to renegotiate any material amounts paid or payable under the Contracts with any Person having the contractual or statutory right to demand or require such renegotiation and no such Person has made written demand for such renegotiation. Each Contract relating to the sale or provision of services has been entered into in the Ordinary Course of Business and has been entered into without the commission of any act alone or in concert with any other Person, or any consideration having been paid or promised, that is or would be in violation of any Legal Requirement. Seller has provided to Buyer a complete list of the recurring customers of the GFD business, whether or not such recurring customers are bound by a written contract or agreement with GFD.

**3.16 Bank Accounts.** **Section 3.16** of the Seller Disclosure Schedule lists all bank, money market, savings and similar accounts and safe deposit boxes of GFD, specifying the account numbers and the authorized signatories or persons having access to them.

**3.17 Insurance.** The Seller Disclosure Schedule accurately sets forth a list of all current policies of insurance held by GFD. All such policies of insurance are in full force and effect, and no notice of cancellation has been received with respect thereto, and all premiums owed to date have been paid in full.

**3.18 Affiliated Transactions.** Except as set forth in **Section 3.18** of the Seller Disclosure Schedule, no member, employee, or any members of their immediate families owns, directly or indirectly (whether as undisclosed principal or otherwise), individually or collectively, any interest in any corporation, partnership, firm or other entity which has any agreement, arrangement or other contractual relationship with GFD.

**3.19 Charter, Bylaws, Minutes, Operating Agreement and Permits.** Seller has heretofore delivered or caused to be delivered (or will hereinafter deliver or cause to be delivered prior to the Closing Date) to Buyer or its counsel accurate and complete copies of the GFD Operating Agreement, written consents and membership books. Nothing contained in any of the foregoing prevents or adversely affects the consummation of the transactions contemplated by this Agreement. A true and correct copy of the GFD Operating Agreement, as amended, of GFD is attached hereto and made a part hereof as **Exhibit 7.1**, which agreement is in full force and effect and have not been amended or modified in any way.

**3.20 Restrictive Covenants.** GFD is not party to or bound or affected by any commitment, agreement or document which limits the freedom of GFD to compete in any line of business, transfer or move any of or GFD's operations, or which does or could materially and adversely affect the GFD business after the Closing.

**3.21 Worker's Compensation.** There are no notices of assessment or any other communications which GFD has received from any workplace safety and insurance board or similar authorities and there are no assessments which have not been paid or accrued on the date hereof, and there are no facts or circumstances which may result in a material increase in liability to any of GFD from any applicable workers' compensation legislation or applicable employee health and safety, training or similar legislation, regulations or rules after the Closing Date.

**3.22 Investment Purpose.** Seller is acquiring the Seller Preferred Stock for its own account for investment only and not with a view towards, or for resale in connection with, the public sale or distribution thereof.

**3.23 Accredited Seller Status.** Seller is an "*accredited investor*" as that term is defined in Rule 501 of Regulation D, as promulgated under the Seller Preferred Stock Act of 1933.

**3.24 Reliance on Exemptions.** Seller understands that the Seller Preferred Stock are being offered and sold to it in reliance on specific exemptions from the registration requirements of United States federal and state securities laws and that Buyer is relying in part upon the truth and accuracy of, and Seller's compliance with, the representations, warranties, agreements, acknowledgments and understandings of Seller set forth herein in order to determine the availability of such exemptions and the eligibility of Seller to acquire the Seller Preferred Stock.

**3.25 Information.** Seller and its advisors, if any, have been furnished with all materials they have requested relating to the business, finances and operations of Buyer and information Seller deemed material to making an informed investment decision regarding its purchase of the Seller Preferred Stock. Seller and its advisors, if any, have been afforded the opportunity to ask questions of Buyer and its management. Neither such inquiries, nor any materials provided to Seller, nor any other due diligence investigations conducted by Seller or its advisors, if any, or its representatives, shall modify, amend or affect Seller's right to fully rely on Buyer's representations and warranties contained in Article VI below. Seller understands that its investment in the Seller Preferred Stock involves a high degree of risk. Seller is in a position regarding Buyer, which, based upon economic bargaining power, enabled and enables Seller to obtain information from Buyer in order to evaluate the merits and risks of this investment. Seller has sought such accounting, legal and tax advice as it has considered necessary to make an informed investment decision with respect to its acquisition of the Seller Preferred Stock.

**3.26 No Governmental Review.** Seller understands that no United States federal or state Governmental Authority has passed on or made any recommendation or endorsement of the Seller Preferred Stock, or the fairness or suitability of the investment in the Seller Preferred Stock, nor have such Governmental Authorities passed upon or endorsed the merits of the offering of the Seller Preferred Stock.

**3.27 Authorization, Enforcement.** This Agreement has been duly and validly authorized, executed and delivered on behalf of Seller and is a valid and binding agreement of Seller, enforceable in accordance with its terms, except as such enforceability may be limited by general principles of equity or applicable bankruptcy, insolvency, reorganization, moratorium, liquidation and other similar laws relating to, or affecting generally, the enforcement of applicable creditors' rights and remedies.

**3.28 Corrupt Practices.** Except in compliance with all Legal Requirements, neither the Seller nor GFD, nor any of their Related Persons, or each of their respective officers, directors, employees or agents, have, directly or indirectly, ever made, offered or agreed to offer anything of value to (i) any employees, Representatives or agents of any customers of Seller or GFD for the purpose of attracting business to Seller or GFD, or (ii) any domestic governmental official, political party or candidate for government office or any of their employees, Representatives or agents.

**3.29 Brokers, Finders, Etc.** No broker, finder or investment banker or other party is entitled to any brokerage, finder's or similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of GFD or Seller.

**3.30 The GFD Pre-Closing Operating Agreement.** Attached hereto as **Exhibit 3.30** is a true and correct copy of the Operating Agreement of GFD (the "GFD Pre-Closing Operating Agreement"). The GFD Pre-Closing Operating Agreement is in full force and effect and has not been amended or modified in any way

**3.31 The Seller Operating Agreement.** Attached hereto as **Exhibit 3.31** is a true and correct copy of the Operating Agreement of Seller (the "Seller Operating Agreement"). The Seller Operating Agreement is in full force and effect and has not been amended or modified in any way.

**3.32 Jurisdictions.** Section 3.33 of the Seller Disclosure Schedule sets forth a complete list of each State in which Seller, GFD and ALB conduct their Businesses.

**3.33 No Omissions.** No other information provided by or on behalf of Seller or GFD to Buyer, including, without limitation, information referred to in this Agreement, contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

#### **4. Warranties and Representations Relating to the Buyer**

Buyer represents and warrants to Seller that the statements contained in this Section 4 are true and correct as of the Closing Date, except as set forth in the Buyer Disclosure Schedule.

**4.1 Due Organization, Authorization and Good Standing of Buyer.** Buyer is duly organized, validly existing and in good standing under the laws of New York. Buyer is qualified to do business and is in good standing as a foreign Person, as the case may be, in each jurisdiction in which the ownership of its properties and the nature and extent of the activities transacted by it makes such qualification necessary. Buyer has full corporate power and corporate authority to carry on its business, to own and use the properties owned and used by it and to perform its obligations under this Agreement.

**4.2 Authority Relative to this Agreement.** Buyer has the requisite corporate power and corporate authority to execute, deliver and perform this Agreement, and consummate all transactions contemplated hereby. The execution and delivery of this Agreement by Buyer and the consummation by the Buyer of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action, and no other corporate proceedings on the part of Buyer are necessary to authorize this Agreement or to consummate the transactions so contemplated, including the filing of registration statements and issuance of shares of Buyer's common stock upon conversion of the Seller Preferred Stock. This Agreement is the valid and legally binding obligation of Buyer, enforceable against them in accordance with its terms, subject to bankruptcy, insolvency, moratorium, reorganization and similar laws of general applicability affecting the rights and remedies of creditors and to general principles of equity, regardless of whether enforcement is sought in proceedings in equity or at law.

**4.3 No Violation or Approval.** Except as set forth in **Schedule 4.3**, the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby will not result in the breach or violation of, or a default under the Charter or Bylaws of Buyer, or any statute applicable to Buyer or any material agreement to which Buyer is a party or by which any of its properties are bound, any fiduciary duty or any order, judgment, decree, rule or regulation of any court or any Government Authority or body having jurisdiction over Buyer or its properties, except where such failure would result in any change in or effect on the business of Buyer, which has a material adverse effect on the ability of Buyer to consummate the transactions contemplated by this Agreement. No consent, approval, order or authorization of, or negotiation, declaration or filing with, any Governmental Authority or entity or other party is required of, and has not been obtained or made by Buyer in connection with the execution and delivery of this Agreement or the consummation of any of the transactions contemplated hereby.

**4.4 Capitalization; Voting Rights; Valid Issuance of the Shares.** Section 4.4 of the Buyer Disclosure Schedule contains an accurate itemization of Buyer's authorized and outstanding shares of common stock ("**Common Stock**"), and preferred stock ("**Preferred Stock**" and, together with the Common Stock, the "**Buyer Stock**"). All of such outstanding shares have been validly issued and are fully paid and nonassessable. Except as disclosed in the Buyer Disclosure Schedule, no shares of Buyer Stock are subject to preemptive rights or any other similar rights or any liens or encumbrances suffered or permitted by Buyer. **Section 4.4** of the Buyer Disclosure Schedule contains an accurate itemization of: (i) all issued, outstanding, and authorized shares of Buyer's capital stock, stating all holders in excess of 4.9% of Buyer's partially-diluted and fully-diluted capital stock; (ii) all outstanding options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating either to or rights convertible into any shares of capital stock of Buyer or any of its subsidiaries, or contracts, commitments, understandings or arrangements by which Buyer or any of its subsidiaries is or may become bound to issue additional shares of capital stock of Buyer or any of its subsidiaries or options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into, any shares of capital stock of Buyer or any of its subsidiaries; (iii) agreements or arrangements under which Buyer or any of its subsidiaries is obligated to register the sale of any of their securities under the Securities Act (except pursuant to an S-8 Registration Statement); (iv) outstanding registration statements (except for an S-8 Registration Statement) and comment letters from the SEC or any other regulatory agency; and (v), securities or instruments containing anti-dilution or similar provisions that will be triggered by the issuance of the Buyer Stock described in this Agreement. Buyer has furnished to Seller true and correct copies of Buyer's Articles of Incorporation, as amended and as in effect on the date hereof, and Buyer's By-laws, as in effect on the date hereof, and the terms of all securities convertible into or exercisable for Common Stock and the material rights of the holders thereof in respect thereto other than stock options issued to employees and consultants. The Seller Preferred Stock, Seller Conversion Shares, and Seller Preferred Stock are duly authorized and, upon issuance in accordance with the terms hereof, shall be duly issued, fully paid and nonassessable, free from all taxes, liens and charges with respect to the issue thereof. The shares of Common Stock issuable upon conversion of the Seller Preferred Stock ("**Seller Conversion Shares**") have been duly authorized and reserved for issuance. The Seller Conversion Shares and Seller Preferred Stock will be duly issued, fully paid and nonassessable upon conversion or exercise in accordance with this Agreement and any applicable Transaction Document.

**4.5 Buyer Financial Statements.** Buyer has delivered to Seller its unaudited financial statements (balance sheet, statement of operations, and statement of cash flows) for the fiscal year ended December 31, 2016, and its unaudited financial statements (balance sheet, statement of operations, and statement of cash flows) as at, and for the nine-month period ended September 30, 2017 (collectively, the "Buyer Financial Statements"). The Buyer Financial Statements: (i) are true, accurate and complete in all respects; (ii) are consistent with the books and records of Buyer; (iii) present fairly and accurately, in all material respects, the results of operations and financial condition of the business of Buyer for the respective periods covered or as of their respective dates; and (iv), have been prepared in accordance with U.S. GAAP, applied on a consistent basis throughout the periods covered. Buyer has delivered to Seller or their representatives, or made available through the SEC's website at <http://www.sec.gov>, true and complete copies of the SEC Documents. As of their respective dates, the Buyer Financial Statements disclosed in the SEC Documents complied as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto. As of the date of this Agreement, all indebtedness of the Buyer is set forth in **Section 4.5** of the Buyer Disclosure Schedule ("Buyer Indebtedness"), and shall mean and include the principal, accreted value, accrued and unpaid interest, prepayment and redemption premiums or penalties (including breakage costs, penalties and fees), if any, unpaid fees or expenses and other monetary obligations as of such time in respect of: (a) all indebtedness of the Buyer for borrowed money or for the deferred or unpaid purchase price of property or services; (b) any other indebtedness of the Buyer which is evidenced by a note, bond, debenture or similar instrument or commercial paper (including a purchase money obligation); (c) all deferred obligations of the Buyer to reimburse any bank or other person in respect of amounts paid or advanced under a letter of credit, surety bond, performance bond or other instrument; (d) all indebtedness of others guaranteed, directly or indirectly, by the Buyer or as to which the Buyer has an obligation (contingent or otherwise) that is substantially the economic equivalent of a guarantee; (e) all obligations of the Buyer under financing or capital leases; (f) all indebtedness of others secured by (or for which the holder of such obligation has an existing right, contingent or otherwise, to be secured by) any Lien other than Permitted Encumbrances on any property or assets of the Buyer (whether or not such obligation is assumed by the Buyer); (g) the aggregate net liability pursuant to any derivative instruments, including any interest rate or currency swaps, caps, collars, options, futures or purchase or repurchase obligations, or other similar derivative instruments. Buyer does not have any liabilities of any nature, including without limitation expenses, whether accrued, absolute, contingent or otherwise, and whether due or to become due or whether or not required to be included on the Buyer Financial Statements pursuant to the U.S. GAAP, probable of assertion or not, except liabilities that are reflected or disclosed in the notes of the most recent Buyer Financial Statements, or were incurred in the Ordinary Course of Business and in the aggregate do not exceed \$50,000. No other information provided by or on behalf of Buyer to Seller which is not included in the SEC Documents, including, without limitation, information referred to in this Agreement, contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

**4.6 Taxes.** Except as set forth in the Buyer Disclosure Schedule, Buyer has duly filed, on a timely basis all Tax Returns which it is required to file, and all material liabilities for Tax (including interest and penalties) have been paid. Buyer has paid all required withholding taxes with respect to employees and independent contractors. Except as set forth in the Buyer Disclosure Schedule, there are in effect no waivers or extensions of the applicable statutes of limitations for tax liabilities for any period, and no taxing authority has asserted either orally or in writing any adjustment that could result in an additional Tax for which Buyer is or may be liable and there is no pending audit, examination, investigation, dispute, proceeding or claim for which Buyer has received notice relating to any Tax for which any one of them is or may be liable. Except as set forth in the Buyer Disclosure Schedule, there are no agreements in writing with any taxing authority by Buyer. Except as set forth in the Buyer Disclosure Schedule, Buyer has not been nor is it included in any consolidated, affiliated, combined, unitary or other similar Tax Returns and there are no tax sharing agreements to which Buyer has now or ever has been a party. Except as set forth in the Buyer Disclosure Schedule, Buyer is not a party to any agreement, contract, arrangement or plan that would result in the payment of any "*excess parachute payments*" within the meaning of Code Section 280G (or any comparable provision of state, local or foreign law).

**4.7 No Material Adverse Breaches, etc.** Except as set forth in the SEC Documents, neither Buyer nor any of its subsidiaries is subject to any charter, corporate or other legal restriction, or any judgment, decree, order, rule or regulation which in the judgment of Buyer's officers has or is expected in the future to have a material adverse effect on the business, properties, operations, financial condition, results of operations or prospects of Buyer or its subsidiaries. Except as set forth in the SEC Documents, neither Buyer nor any of its subsidiaries is in breach of any contract or agreement which breach, in the judgment of Buyer's officers, has or is expected to have a material adverse effect on the business, properties, operations, financial condition, results of operations or prospects of Buyer or its subsidiaries.

**4.8 Litigation.** There is no action pending against, affecting or, to the knowledge of Buyer, threatened against it or any of its properties before any court or arbitrator or any governmental body, agent or official which in any manner challenges or seeks to prevent, enjoin, alter or materially delay any of the transactions contemplated by this Agreement or would materially adversely affect Buyer's ability to consummate the transactions contemplated hereby.

## **5. Covenants Relating to Seller and GFD**

**5.1 Best Efforts.** Seller shall use its best efforts timely to satisfy each of the conditions to be satisfied by it hereunder.

**5.2 Restrictions on Transfer, Proxies and Noninterference.** Seller and GFD shall not, directly or indirectly, except pursuant to the terms of this Agreement (i) offer for sale, sell, transfer, tender, pledge, encumber, assign or otherwise dispose of, or enter into any contract, option or other arrangement or understanding with respect to or consent to the offer for sale, transfer, tender, pledge, encumbrance, assignment or other disposition of, any or all Seller Units; (ii) grant any proxies or powers of attorney, deposit any such Seller Units into a voting trust or enter into a voting agreement with respect to any such Seller Units; or (iii), take any action that would make any representation or warranty contained in Section 3 (Warranties and Representations Relating to Seller and GFD) untrue or incorrect or have the effect of preventing or disabling any Entity from performing its obligations under this Agreement.

**5.3 Conduct of Business by GFD Pending the Closing.** From the date hereof and on and prior to the Closing, except as otherwise disclosed, permitted or required by this Agreement, GFD will conduct business only in the Ordinary Course of Business and substantially as presently operated and use reasonable efforts to maintain the value of the GFD business as a going concern. From the date hereof and prior to the Closing, GFD will not, without the prior written consent of the Seller: enter into any transactions otherwise than on an arms' length basis with any Affiliate of GFD (other than as contemplated by this Agreement and the transactions in the Ordinary Course of Business of GFD); pay any compensation other than in the Ordinary Course of Business or increase any compensation of any officer or employee; enter into any new contracts or agreements to incur any Liabilities (including without limitation, any capital lease); amend the operating agreement of GFD; sell, lease or otherwise dispose of any material assets (except for sales and other dispositions in the Ordinary Course of Business and as may otherwise be permitted by the terms of this Agreement); propose or adopt any changes to the accounting principles used by GFD material to its financial condition or business except as permitted by Generally Accepted Accounting Principles; make any capital expenditures in any month with respect to the GFD business or enter into any contract or commitment therefor other than in the Ordinary Course of Business; pay any dividends; or, commit to do any of the foregoing.

**5.4 Registration and Exemption.** Seller agrees and acknowledges that the Seller Preferred Stock may not be sold or transferred unless: (i) such shares are sold pursuant to an effective registration statement under the Securities Act; or (ii), the Buyer or its transfer agent shall have been furnished with an opinion of counsel (which opinion shall be in form, substance and scope customary for opinions of counsel in comparable transactions) to the effect that the shares to be sold or transferred may be sold or transferred pursuant to an exemption from such registration; or (iii), such shares are sold or transferred pursuant to Rule 144 under the Securities Act (or a successor rule) ("Rule 144"); or (iv), such shares are transferred to an "*affiliate*" (as defined in Rule 144) of the Sellers who is an Accredited Investor (as defined in the Securities Act), and who agrees to sell or otherwise transfer the shares only in accordance with this Section 5.4. Until such time as the Seller Preferred Stock have been registered under the Securities Act or otherwise may be sold pursuant to Rule 144 without any restriction as to the number of securities as of a particular date that can then be immediately sold, each certificate for shares of the Common Stock that has not been so included in an effective registration statement, or that has not been sold pursuant to an effective registration statement or an exemption that permits removal of the legend, shall bear a legend substantially in the following form, as appropriate:

**"NEITHER THE ISSUANCE AND SALE OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES INTO WHICH THESE SECURITIES ARE EXERCISABLE HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (a) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (b) AN OPINION OF COUNSEL (WHICH COUNSEL SHALL BE SELECTED BY THE HOLDER), IN A GENERALLY ACCEPTABLE FORM, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR (II) UNLESS SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES."**

**5.5 Further Assurances: Cooperation.** Seller shall use its best efforts to cooperate with Buyer and to diligently perform under the Transaction Documents. At and after the Closing, Seller shall execute and deliver such further instruments of conveyance and transfer as Buyer (and/or Buyer's designee) may reasonably request to convey and transfer effectively the Seller Units.

**5.6 Non-Competition and Non-Solicitation.** Through and including **MAY 30, 2023** (the "**Restrictive Period**"), upon and subject to the terms and conditions of the Transaction Documents, and for so long as no Event of Default has occurred under the Transaction Documents, Principal and Seller (collectively, the "**Transferors**"), each on their own behalf, hereby agree that they shall not, directly or indirectly, for itself or on behalf of, or in conjunction with, any other person, company, firm, partnership, association, corporation or business or organization, entity or enterprise,

**5.6.1** within the United States or Canada be engaged or employed in any capacity by, or own, operate, manage or control a business which is competitive with the business of Attis or JVCo (except for passive, minority equity investments in, or providing senior or mezzanine debt financing to, a business that is competitive with Buyer's Business, which shall be allowed);

**5.6.2** solicit or attempt to solicit business from any third party which was a customer or prospective customer of Attis or JVCo within two (2) years prior to the date of this Agreement with a view to sell or provide any products or services competitive with any products or services of Attis or JVCo; or

**5.6.3** for any reason whatsoever, employ or attempt to employ or assist anyone else in employing any employee of Buyer, JVCo or Attis (whether or not such employment is full-time or is pursuant to a written contract).

In the event the enforceability of this Section 5.6 shall be challenged in a court of competent jurisdiction and any applicable Transferor is not enjoined from breaching any term of this Agreement, then, if such court finds that the challenged term is enforceable, the applicable time periods set forth herein shall be deemed tolled upon the filing of the lawsuit challenging the enforceability of the applicable provision until the dispute is finally resolved and all periods of appeal have expired. In the event any Party is required to engage the services of an attorney at law to enforce any provision of this Agreement, said Party may recover from the breaching Party, in addition to any other damages to which it may be entitled, including, without limitation, its reasonable attorneys' fees and expenses of litigation. Transferors each hereby acknowledge that breach of any of the provisions contained in this Section 5.6 could result in irreparable damage and injury to Buyer, which injury could not be adequately compensated by money damages or other legal remedies. Accordingly, in the event of such a breach of any of the provisions of this Section 5.6, in addition to, and not in limitation of, any remedies which may be available to Buyer under the Transaction Documents, Buyer may seek equitable relief against the breaching Party for such breaches, including, without limitation, an injunction or an order for a specific performance. If Buyer seeks to enjoin any such breaching Party from breaching any such provision of this paragraph, the breaching Party hereby waives the defense that Buyer has or will then have an adequate remedy at law. Nothing in this paragraph shall be deemed to limit Buyer's remedies at law or equity for any breach by any Transferor of any provision of the Transaction Documents which may be pursued or availed by Buyer.

## **6. Covenants Relating to Buyer**

**6.1 Best Efforts.** Buyer shall use its best efforts timely to satisfy each of the conditions to be satisfied by it hereunder.

**6.2 Corporate Existence.** So long as any of the Seller Preferred Stock remain outstanding, Buyer shall not directly or indirectly consummate any merger, reorganization, restructuring, reverse stock split, consolidation, sale of all or substantially all of Buyer's assets or any similar transaction or related transactions (each such transaction, an "**Organizational Change**") unless, prior to the consummation an Organizational Change, Buyer obtains the written consent of Seller. In any such case, Buyer shall make appropriate provision with respect to Seller's rights and interests to insure that the provisions of the Transaction Documents will thereafter be applicable to Seller Preferred Stock after any such Organizational Change.

**6.3 Buyer's SEC Filings.** Buyer shall file all reports, schedules, forms, statements and other documents required to be filed by it with the SEC under of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**") (all of the foregoing filed prior to the date hereof or amended after the date hereof and all exhibits included therein and financial statements and schedules thereto and documents incorporated by reference therein, being hereinafter referred to as the "**SEC Documents**"). Until the earlier of (i) the date as of which the Seller may sell all of the Seller Conversion Shares without restriction pursuant to Rule 144(k) promulgated under the Securities Act (or successor thereto), or (ii) the date on which (a) the Seller shall have sold all the Seller Conversion Shares and (b) none of the Seller Preferred Stock are outstanding (the "**Registration Period**"), Buyer shall file in a timely manner all reports required to be filed with the SEC pursuant to the Exchange Act and the regulations of the SEC thereunder, Buyer shall not terminate its status as an issuer required to file reports under the Exchange Act even if the Exchange Act or the rules and regulations thereunder would otherwise permit such termination.



**6.4 Listings or Quotation.** Buyer shall maintain the Common Stock's authorization for quotation on the NASDAQ, NYSE, or OTCQX public trading markets or stock exchanges.

**6.5 Registration Rights.** Buyer and Seller shall enter into a registration rights agreement in substantially the same form as the form attached in **Exhibit 6.5** hereto ("Registration Rights Agreement"), pursuant to which Buyer shall use its best efforts to register the Seller Preferred Stock, Seller Conversion Shares, and Seller Preferred Stock on a TIME IS OF THE ESSENCE basis, but in no event later than **May 31, 2018**.

**6.6 Reservation of Shares.** Notwithstanding the foregoing, Buyer shall take all action reasonably necessary, commercially reasonable action to at all times have authorized, and reserved for the purpose of issuance, such number of shares of Common Stock issuable hereunder, and otherwise as shall be necessary to effect the issuance of all of the Seller Conversion Shares due upon conversion of the Seller Preferred Stock.

**6.7 Transfer Agent Instructions.** Buyer shall issue instructions to its transfer agent in the form(s) attached hereto as **Exhibit 6.7** for the purpose of having certificates issued, registered in the name of the Seller or its respective designee(s) or nominee(s), for the Seller Preferred Stock and Seller Conversion Shares representing such amounts of Seller Preferred Stock as specified from time to time to Buyer upon conversion of the Seller Preferred Stock ("Transfer Agent Instructions"). Buyer warrants that no instruction other than the Transfer Agent Instructions will be given by Buyer to its transfer agent and that the Seller Preferred Stock and Seller Conversion Shares shall otherwise be freely transferable on the books and records of Buyer as and to the extent provided in this Agreement. Nothing in this Section 6.7 shall effect in any way any obligations and agreements to comply with all applicable securities laws upon resale of any shares of Buyer Stock. If a holder of the Seller Preferred Stock provides Buyer with an opinion of counsel, in form, scope and substance customary for opinions of counsel in comparable transactions to the effect that registration of a resale of any of the Seller Conversion Shares is not required under applicable laws, Buyer shall within two (2) business days instruct its transfer agent to issue one or more certificates in such name and in such denominations as specified by Seller, subject only to the restrictions stated in the Series G Certificate of Designations, and otherwise herein. Buyer acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to Seller by vitiating the intent and purpose of the transactions contemplated hereby. Accordingly, Buyer acknowledges that the remedy at law for a breach of its obligations under this Section 6.7 will be inadequate, and hereby agrees, in the event of a breach or threatened breach by Buyer of the provisions of this Section 6.7, that the Seller shall be entitled, in addition to all other available remedies, to an injunction restraining any breach and requiring immediate issuance and transfer, without the necessity of showing economic loss and without any bond or other security being required.

**6.8 Further Assurances: Cooperation.** Buyer shall use its best efforts to cooperate with Seller and to diligently perform under the Transaction Documents. At and after the Closing, Buyer shall execute and deliver such further instruments of conveyance and transfer as Seller (and/or Seller's designee) may reasonably request to convey and transfer effectively the Seller Preferred Stock, Seller Conversion Shares, and any and all amounts and shares due and payable thereunder, or which may otherwise be due and payable under any other Transaction Document.

## **7. Corporate Matters**

**7.1 Allocation of Purchase Price.** Within one hundred twenty (120) days after the Closing (unless required sooner to meet the reasonable IRS filing requirements of one of the parties) the parties agree to complete duplicate IRS Form 8594 ("Seller Acquisition Statement") as required by the Internal Revenue Code. The parties further agree to make no change or alteration of the Form 8594 and to file no Supplement Statement Form 8594 without at least fifteen (15) days prior written notice to the other party of the nature and extent of the changes, which notice shall include the revised or Supplemental Statement Form 8594.

**7.2 Confidentiality.** The term “Confidential Information” shall mean that information of a Party (“Disclosing Party”) which is disclosed to another Party (“Receiving Party”) pursuant to this Agreement, and shall include, but not be limited to, trade secrets, know-how, inventions, techniques, processes, algorithms, software programs, schematics, designs, contracts, customer lists, financial information, sales and marketing plans and business information. The Parties agree that the term “*Confidential Information*” shall also be construed to include the existence and identity of specific third parties named in the Seller Disclosure Schedule that were, are, or which may become party to one or more agreements, transactions, disputes, or litigation involving GFD, and the existence and nature of any of the foregoing (collectively, “Proprietary Matters”). The Parties hereby agree and acknowledge that any disclosure of Confidential Information involving Proprietary Matters could materially adversely effect the relationship or rights of GFD in connection with such matters, and that, notwithstanding anything stated herein to the contrary, no disclosure of Confidential Information involving Proprietary Matters shall be made by any Party without the express written consent of the other Parties hereto unless as may be required by law, and, even then, on a need-to-disclose basis after exhausting all available confidential treatment and such other options to prevent general public disclosure. Each Party acknowledges that in the course of the performance of this Agreement, it may obtain the Confidential Information of the other Party. The Receiving Party shall, at all times, both during the term of this Agreement and thereafter, keep in confidence and trust all of the Disclosing Party’s Confidential Information received by it. The Receiving Party shall not use the Confidential Information of the Disclosing Party other than as expressly permitted under the terms of this Agreement or by a separate written agreement. The Receiving Party shall take all reasonable steps to prevent unauthorized disclosure or use of the Disclosing Party’s Confidential Information and to prevent it from falling into the public domain or into the possession of unauthorized persons. The Receiving Party shall not disclose Confidential Information of the Disclosing Party to any person or entity other than its officers, employees, consultants and permitted sublicensees who need access to such Confidential Information in order to effect the intent of this Agreement and who have entered into confidentiality agreements with such person’s employer which protects the Confidential Information of the Disclosing Party. The Receiving Party shall promptly give notice to the Disclosing Party of any unauthorized use or disclosure of Disclosing Party’s Confidential Information. The Receiving Party agrees to assist the Disclosing Party to remedy such unauthorized use or disclosure of its Confidential Information, which remedies shall include injunctive relief without the necessity of posting a bond or proving damages. These obligations shall not apply to the extent that Confidential Information includes information which: is already known to the Receiving Party at the time of disclosure, which knowledge the Receiving Party shall have the burden of proving; is, or, through no act or failure to act of the Receiving Party, becomes publicly known; is received by the Receiving Party from a third party without restriction on disclosure; is independently developed by the Receiving Party without reference to the Confidential Information of the Disclosing Party, which independent development the Receiving Party will have the burden of proving; is approved for release by written authorization of the Disclosing Party; is required to be disclosed by a government agency to further the objectives of this Agreement, by a proper order of a court of competent jurisdiction, or is required to be disclosed by law or pursuant to the requirements of a recognized stock exchange; provided, however that the Receiving Party will use its best efforts to minimize such disclosure and will consult with and assist the Disclosing Party in obtaining a protective order prior to such disclosure. For avoidance of doubt, no public disclosure shall be made by any Party hereto at any time in the absence of the prior written consent of each of the other Parties hereto, including pursuant to any applicable requirement to file a current report on Form 8K, or other regulatory disclosure in connection with the execution hereof.

### **7.3 Indemnification.**

**7.3.1 Survival.** Subject to the provisions of this Section 7, all representations, warranties, covenants and obligations of the Parties contained in this Agreement and in the agreements, instruments and other documents delivered pursuant to this Agreement will survive the Closing and the consummation of the Contemplated Transactions.

**7.3.2 Indemnification by Buyer.** Buyer hereby covenants and agrees that, to the fullest extent permitted by Legal Requirement, it will defend, indemnify and hold harmless Seller and its Related Persons and Representatives, and their respective officers, directors, members, managers, employees, agents, and Representatives, and all successors and assigns of the foregoing (collectively, the “Seller Indemnified Persons”), for, from and against any Adverse Consequences, arising from or in connection with: (i) any Breach of any representation, warranty, covenant, obligation or agreement made by Buyer in the Transaction Documents, the Schedules and Exhibits hereto, the certificates delivered hereunder, any transfer instrument, or any other certificate, document, writing or instrument delivered by Buyer pursuant to or otherwise in connection with the Transaction Documents; (ii) any Liability of Buyer, Attis, or either of their Related Persons; or (iii), any claim by any Person for any brokerage or finder’s fee, commission or similar payment based upon any agreement or understanding made, or alleged to have been made, by any Person with Buyer in connection with this Agreement or any of the Contemplated Transactions.

**7.3.3 Indemnification by Seller.** Seller hereby covenants and agree that, to the fullest extent permitted by Legal Requirement, they will defend, indemnify and hold harmless Buyer, and its Related Persons and Representatives, and their respective officers, directors, members, managers, employees, agents, and Representatives, and all successors and assigns of the foregoing (collectively, the “**Buyer Indemnified Persons**”), for, from and against any Adverse Consequences arising from or in connection with: (i) any Breach of any representation, warranty, covenant, obligation or agreement made by Seller in the Transaction Documents, the Schedules and Exhibits hereto, the certificates delivered hereunder, any transfer instrument, or any other certificate, document, writing or instrument delivered by Seller pursuant to or otherwise in connection with the Transaction Documents; (ii) any Liability of GFD based on facts, events or circumstances occurring before the Closing Date, or arising out of or in connection with the ownership and operation of GFD, GFD’s assets, and the GFD business prior to the Closing Date, or facts and circumstances relating specifically to GFD, GFD’s assets, and the GFD business existing at or prior to the Closing, respectively, whether or not such Liabilities or claims were known or unknown, absolute, accrued or contingent, on such date; (iii) any Liability of GFD to Seller or any Related Person of Seller (except in connection with Permitted Encumbrances prior to the date on which Buyer has fully performed under the Transaction Documents); (iv), the EXO Loan Documents; or (v) any claim by any Person for any brokerage or finder’s fee, commission or similar payment based upon any agreement or understanding alleged to have been made by such Person with any Seller in connection with this Agreement or any of the Contemplated Transactions.

**7.3.3.1** In addition to its indemnification obligations under Section 7.3.3, Seller hereby covenant and agree that, to the fullest extent permitted by Legal Requirement, they will defend, indemnify and hold harmless the Buyer Indemnified Persons for, from and against any Adverse Consequences (including costs of cleanup, containment or other Remedial Action) arising out of acts or neglect occurring or conditions existing at or before Closing from or in connection with: (i) any Environmental, Health and Safety Liabilities arising out of or relating to (a) the conduct of any activity by Seller, GFD, or their Related Persons, or any employee, contractor, agent or Representative thereof, relating to GFD’s assets or Business, (b) the ownership or operation by any Person at any time on or prior to the Closing Date of any of GFD’s assets or Business, or (c), any Hazardous Materials or other contaminants that were present on GFD’s assets at any time on or prior to the Closing Date; or (ii), any bodily injury (including illness, disability or death, regardless of when such bodily injury occurred, was incurred or manifested itself), personal injury, property damage (including trespass, nuisance, wrongful eviction and deprivation of the use of real property) or other damage of or to any Person or any of GFD’s assets, in any way arising from or allegedly arising from (a) any Hazardous Activity conducted by Seller, GFD, their Related Persons or any employee, contractor, agent or Representative thereof, with respect to GFD’s assets or Business, or (b), from any Hazardous Material that was present or suspected to be present on or before the Closing Date on or at the Properties (or present or suspected to be present on any other property, if such Hazardous Material emanated or allegedly emanated from any Property and was present or suspected to be present on any Property, on or prior to the Closing Date), or Released or allegedly Released by Seller, GFD, their Related Persons, or any Person, on or at any of the Properties or GFD Assets at any time on or prior to the Closing Date. Buyer, either directly or through GFD, will be entitled to control any Remedial Action, any Proceeding relating to a claim that any Environmental Law has been violated and any other Proceeding with respect to which indemnity may be sought under this Section 7.3.

**7.3.4 Time Limitations.**

**7.3.4.1** For purposes of this Agreement, a Buyer Indemnified Person may only assert a claim for indemnification under Section 7.3.3 during the applicable period of time (the “**Buyer Claims Period**”) commencing on the date of this Agreement and continuing until the date that is **TWO (2) YEARS** after the Closing Date; provided, however, that with respect to any such indemnification claim regarding the Breach by Seller of any obligation hereunder, the Transaction Documents or under any related agreement that is intended to survive and continue after the Closing, the Buyer Claims Period will continue for as long as such obligation is outstanding.

**7.3.4.2** For purposes of this Agreement, a Seller Indemnified Person may only assert a claim for indemnification under Section 7.3.2 during the applicable period of time (the “**Seller Claims Period**”) commencing on the date of this Agreement and continuing until the date that is **TWO (2) YEARS** after the Closing Date; provided, however, that with respect to any such indemnification claim regarding the Breach by Buyer of any obligation hereunder or under any related agreement that is intended to survive and continue after the Closing, the Seller Claims Period will continue for as long as such obligation is outstanding.

**7.3.4.3** Notwithstanding anything to the contrary in this Section 7, if before 5:00 p.m. (eastern time) on the last day of the applicable Buyer Claims Period or Seller Claims Period, any Party against which an indemnification claim has been made hereunder has been properly notified in writing of such claim for indemnity hereunder and the basis thereof, including with reasonable supporting details for such claim (to the extent then known), and such claim has not been finally resolved or disposed of as of such date, then such claim will continue to survive and will remain a basis for indemnity hereunder until such claim is finally resolved or disposed of in accordance with the terms of this Agreement.

**7.3.5 Payment of Claims.** A claim for indemnification may be asserted by written notice to the Party from whom indemnification is sought and will be paid promptly after such notice, together with satisfactory proof of Adverse Consequences or other documents evidencing the basis of the Adverse Consequences sought, are received.

**7.3.6 Third-Party Claims.** No later than ten (10) Business Days after receipt by a Person entitled to indemnity under Section 7 hereof (an "Indemnified Person") of notice of the assertion of a Third-Party Claim against it, such Indemnified Person shall give notice to the Person obligated to indemnify under such section (an "Indemnifying Person") of the assertion of such Third-Party Claim and a copy of any writing by which, such Third-Party assertion is made. The failure to notify the Indemnifying Person will relieve the Indemnifying Person of any liability that it may have to any Indemnified Person to the extent that the Indemnifying Person demonstrates that the defense of such Third-Party Claim is materially prejudiced by the Indemnified Person's failure to give such notice. If an Indemnified Person gives notice to the Indemnifying Person hereunder of the assertion of a Third-Party Claim, the Indemnifying Person shall be entitled to participate in the defense of such Third-Party Claim and, to the extent that it wishes (unless (i) the Indemnifying Person is also a Person against whom the Third-Party Claim is made and the Indemnified Person determines in good faith that joint representation would be inappropriate, or (ii), the Indemnifying Person fails to provide reasonable assurance to the Indemnified Person of its financial capacity to defend such Third-Party Claim and provide indemnification with respect to such Third-Party Claim), to assume the defense of such Third-Party Claim with counsel reasonably satisfactory to the Indemnified Person (provided, such counsel has appropriate experience in the subject matter relating to the claim). After notice from the Indemnifying Person to the Indemnified Person of its election to assume the defense of such Third-Party Claim, the Indemnifying Person shall not, so long as it diligently conducts such defense, be liable to the Indemnified Person hereunder for any fees of other counsel or any other expenses with respect to the defense of such Third-Party Claim, in each case subsequently incurred by the Indemnified Person in connection with the defense of such Third-Party Claim, other than reasonable costs of investigation. If the Indemnifying Person assumes the defense of a Third-Party Claim, such assumption will conclusively establish for purposes of this Agreement that the claims made in that Third-Party Claim are within the scope of and subject to indemnification, and no compromise or settlement of such Third-Party Claims may be effected by the Indemnifying Person without the Indemnified Person's Consent unless there is no finding or admission of any violation of Legal Requirement or any violation of the rights of any Person, the sole relief provided is monetary damages that are paid in full by the Indemnifying Person; and, the Indemnified Person shall have no liability with respect to any compromise or settlement of such Third-Party Claims effected without its Consent, which shall not be unreasonably withheld. If notice is given to an Indemnifying Person of the assertion of any Third-Party Claim and the Indemnifying Person does not, within ten (10) days after the Indemnified Person's notice is given, give notice to the Indemnified Person of its election to assume the defense of such Third-Party Claim, the Indemnifying Person will be bound by any determination made in such Third-Party Claim or any compromise or settlement effected by the Indemnified Person.

**7.3.6.1** Notwithstanding the foregoing, if an Indemnified Person determines in good faith that there is a reasonable probability that a Third-Party Claim may adversely affect it or its Related Persons other than as a result of monetary damages for which it would be entitled to indemnification under this Agreement, the Indemnified Person may, by notice to the Indemnifying Person, assume the exclusive right to defend, compromise or settle such Third-Party Claim, but the Indemnifying Person will not be bound by any determination of any Third-Party Claim so defended for the purposes of this Agreement or any compromise or settlement effected without its Consent (which may not be unreasonably withheld).

**7.3.6.2** Seller hereby consents to the nonexclusive jurisdiction of any court in which a Proceeding in respect of a Third-Party Claim is brought against any Buyer Indemnified Person for purposes of any claim that a Buyer Indemnified Person may have under this Agreement with respect to such Proceeding or the matters alleged therein and agree that process may be served on Seller with respect to such a claim anywhere in the world.

**7.3.6.3** With respect to any Third-Party Claim subject to indemnification under this Section 7, both the Indemnified Person and the Indemnifying Person, as the case may be, shall keep the other Person fully informed of the status of such Third-Party Claim and any related Proceedings at all stages thereof where such Person is not represented by its own counsel; and the parties agree (each at its own expense) to render to each other such assistance as they may reasonably require of each other and to cooperate in good faith with each other in order to ensure the proper and adequate defense of any Third-Party Claim.

**7.3.6.4** With respect to any Third-Party Claim subject to indemnification under this Section 7, the parties agree to cooperate in such a manner as to preserve in full (to the extent possible) the confidentiality of all Confidential Information and the attorney-client and work-product privileges. In connection therewith, each party agrees that: it will use its best efforts, in respect of any Third-Party Claim in which it has assumed or participated in the defense, to avoid production of Confidential Information (consistent with applicable law and rules of procedure); and all communications between any party hereto and counsel responsible for or participating in the defense of any Third-Party Claim shall, to the extent possible, be made so as to preserve any applicable attorney-client or work-product privilege.

**7.3.7 Other Remedies.** The foregoing right of any setoff provisions, holdback provisions and indemnification provisions are in addition to, and not in derogation of, any statutory, equitable, or common law remedy any Party may have in connection with this Agreement and the Contemplated Transactions.

## **8. Additional Actions and Transactions**

**8.1 Access to Information; Confidentiality.** Upon reasonable notice, Seller and GFD shall afford to the officers, employees, accountants, counsel and other representatives of Buyer, reasonable access, during the period prior to the Closing Date, to all properties, books, contracts, commitments and records; and, during such period, Seller and GFD shall furnish promptly to Buyer, as the case may be, all information concerning GFD's business, properties and personnel as such parties may reasonably request, and Seller and GFD shall make available to Buyer and its representatives the appropriate individuals, including attorneys, accountants and other professionals for discussion of its business, properties and personnel as such parties may reasonably request.

**8.2 Continued Disclosure.** From time to time, on and prior to the Closing Date, Buyer, Seller and GFD shall each promptly notify the other parties upon becoming aware of any fact, occurrence or event that would cause any of their respective representations and warranties contained to be inaccurate or incomplete in any material respect.

**8.3 Supplemental Schedules.** Buyer, Seller and GFD may (but will not be required to) from time to time prior to the Closing Date, by notice in accordance with the Agreement, supplement or amend their respective disclosure schedules hereto, including without limitation one or more supplements or amendments to correct any matter which would otherwise constitute a breach of any representation, warranty or covenant herein contained.

## **9. Conditions to the Seller Acquisition**

**9.1 Conditions to the Obligations of Buyer.** The obligations of Buyer, to consummate the Closing are subject to the satisfaction, or written waiver by Buyer ("Seller Exception Notice"), of the following conditions:

**9.1.1 Representations and Warranties.** The representations and warranties of Seller contained herein, and in any certificate or other writing delivered by Seller pursuant hereto, shall be true and correct in all material respects at and as of the Closing Date as if made at and as of such time, except for (i) changes contemplated by this Agreement, and (ii) those representations and warranties which address matters only as of a particular date (which shall have been true and correct as of such date), with the same force and effect as if made at and as of the Closing Date.

**9.1.2 Agreements and Covenants; Seller Closing Deliverables.** The Seller and GFD shall have performed or complied in all material respects with all agreements and covenants required by this Agreement to be performed or complied with by them at or prior to the Closing Date. Seller and GFD shall have delivered or caused to be delivered to Buyer all of the items specified in **Schedule 2.3**. All material written consents, assignments, waivers or authorizations that are required as a result of the transactions contemplated by this Agreement shall have been obtained.

**9.1.3 Material Adverse Effect.** No proceeding challenging this Agreement or the transactions contemplated hereby or seeking to prohibit, alter, prevent or materially delay the Closing shall have been instituted by any person before any court, arbitrator or governmental authority nor shall any such proceeding be pending. There shall have not occurred any events or developments, individually or in the aggregate, resulting in a Material Adverse Effect with respect to GFD.

**9.1.4 Consummation of Contemplated Transactions.** All Contemplated Transactions involving Buyer, Seller, GFD and their respective Related Persons shall have been consummated as of the Closing Date, as such term is defined in applicable Transaction Documents.

**9.2 Conditions to the Obligations of Seller.** The obligations of Seller, to consummate the Closing are subject to the satisfaction, or written waiver by Seller ("Buyer Exception Notice"), of the following conditions:

**9.2.1 Representations and Warranties.** The representations and warranties of Buyer contained in this Agreement, and in any certificate or other writing delivered by Buyer pursuant hereto, shall be true and correct in all material respects at and as of the Closing Date as if made at and as of such time, except for (i) changes contemplated by this Agreement, and (ii) those representations and warranties which address matters only as of a particular date (which shall have been true and correct as of such date), with the same force and effect as if made on and as of the Closing Date.

**9.2.2 Agreements and Covenants; Buyer Closing Deliverables.** Buyer shall have performed or complied in all material respects with all agreements and covenants required by this Agreement to be performed or complied with by them at or prior to the Closing Date. Buyer shall have delivered or caused to be delivered to Seller all of the items specified in **Schedule 2.4**. All material written consents, assignments, waivers or authorizations that are required as a result of the transactions contemplated by this Agreement shall have been obtained.

**9.2.3 Material Adverse Effect.** No proceeding challenging this Agreement or the transactions contemplated hereby or seeking to prohibit, alter, prevent or materially delay the Closing shall have been instituted by any person before any court, arbitrator or governmental authority nor shall any such proceeding be pending. There shall have not occurred any events or developments, individually or in the aggregate, resulting in a Material Adverse Effect with respect to Buyer.

**9.2.4 Consummation of Contemplated Transactions.** All Contemplated Transactions involving Buyer, Seller, GFD and their respective Related Persons shall have been consummated as of the Closing Date, as such term is defined in applicable Transaction Documents.

## **10. Termination**

**10.1 Termination.** This Agreement may be terminated at any time prior to the Closing Date by mutual written consent of the Buyer and the Seller. In the event of a termination of this Agreement pursuant to this Section, this Agreement shall forthwith become void and there shall be no liability on the part of any party hereto or any of its affiliates, directors, officers, stockholders or members except that nothing herein shall relieve any party from liability for any breach hereof occurring prior to termination. All fees and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such expenses, whether or not the Seller Acquisition is consummated.

**10.2 Events of Default.** For purposes of this Agreement, an "Event of Default" shall be additionally construed to mean the occurrence of one or more of the following events of Breach by any Party after the date hereof that remains uncured SIXTY (60) days following written notice of default (each, a "Default Notice") to the breaching Party(ies) ("Breaching Party" or "Breaching Parties") from any one or more non-breaching Party(ies) ("Non-Breaching Party" or "Non-Breaching Parties"):

**10.2.1 Payment Default.** If any Breaching Party shall, for any reason, fail to comply with any payment obligations as and when due;

**10.2.2 Representations.** If any representation or warranty made by or on behalf of any Breaching Party, whether contained in this Agreement, or in any other Transaction Document with one or more of the Non-Breaching Parties, and which the Non-Breaching Party(ies) asserting Breach has (or have) proven to have been false or incorrect in any material respect when made;

**10.2.3 Voluntary Insolvency Proceedings.** If Buyer shall (i) apply for or consent to or acquiesce in the appointment of or the taking of possession by a receiver, liquidator, custodian or trustee of itself or of all or any part of its property, (ii) admit in writing its inability, or be generally unable, to pay its debts as such debts become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under the bankruptcy laws of the United States of America (as now or hereafter in effect) or any similar foreign law, (v) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, or (vi) take any action for the purpose of effecting any of the foregoing;

**10.2.4 Involuntary Insolvency Proceedings.** A proceeding or case shall be commenced, without the application or consent of Buyer in any court of competent jurisdiction, seeking (i) liquidation, reorganization, dissolution, winding-up or composition or adjustment of debts of Buyer, (ii) the appointment of a trustee, receiver, liquidator, custodian or the like of Buyer, or of all or any part of any of their assets, (iii) similar relief under any law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts, and such proceeding or case shall continue undismissed, for a period of forty five (45) days; or (iv) any order for relief against Buyer or Seller, shall be entered in an involuntary case under bankruptcy laws of the United States of America, or any similar foreign law, and shall continue undismissed for a period of forty five (45) days;

**10.2.5 Judgments and Tax Liens.** If one or more judgments, attachments, or tax liens exceeding \$100,000 in the aggregate are entered against Buyer, or against Buyer's property, and remain unpaid, unstayed on appeal, undischarged, unbonded or undismissed for a period of thirty (30) days, or enforcement proceedings are commenced with respect to any judgment, attachment, or tax lien against Buyer;

**10.2.6 Divestiture of Assets.** If any order, judgment, or decree shall be entered in any proceeding requiring Buyer to divest itself of any material part of its assets, and if, within forty-five (45) days after entry thereof (unless or until enforcement is sooner commenced), such order, judgment or decree shall not have been discharged or execution thereof stayed pending appeal, or if, within ten (10) days after the expiration of any such stay (unless or until enforcement is sooner commenced), such judgment, order or decree shall not have been discharged; or,

**10.2.7 Cross Default.** The occurrence of any default or Event of Default by Buyer, Seller and/or Principal under any Transaction Document.

## **11. General**

**11.1 Modifications.** Any Transaction Documents involving Seller may be modified only in writing that specifically refers to the proposed modification and applicable Transaction Document(s), and which is signed by an authorized representative of each Party.

**11.2 Governing Law; Consent to Jurisdiction.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Georgia, without regard to the principles of conflict of laws. Any dispute arising under, relating to or in connection with this Agreement or related to any matter which is the subject of or incidental to this Agreement or Transaction Documents shall be subject to the exclusive jurisdiction and venue of the Superior Court of Fulton County, Georgia. The parties submit to the exclusive jurisdiction of these courts for the purpose of any such action or proceeding, and this submission cannot be revoked. The parties understand that they are surrendering the right to bring litigation against one another outside the state of Georgia.

**11.3 Assignment.** This Agreement shall not be assigned by operation of law or otherwise in the absence of the prior written consent of each the Parties hereto.

**11.4 Notices.** All notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally or by commercial overnight delivery service, or mailed by registered or certified mail (return receipt requested) or sent via facsimile (with confirmation of receipt) to the parties at the below address (or at such other address for a party as shall be specified by like notice). Notice shall be deemed effective upon the earlier of (a) actual receipt, (b) one business day following transmission by facsimile or commercial overnight delivery services, or (c) three business days following registered or certified mail.

if to Buyer, to: Attis Industries Inc.  
12540 Broadwell Road, Suite 2104  
Milton, Georgia 30004  
Attention: Jeff Cosman  
E-mail: [icosman@attisind.com](mailto:icosman@attisind.com)

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

Richard J. Dreger, Attorney at Law, P.C.  
11660 Alpharetta Highway, Building 700, Suite 730  
Roswell, Georgia 30076  
Attention: Richard J. Dreger, Esq.  
Email: [Rick@rdregerlaw.com](mailto:Rick@rdregerlaw.com)

if to Seller, to: Gaula Ventures LLC  
Address  
Address  
Attention: David Winsness  
E-mail:

**11.5 Severability.** In the event that any provision of this Agreement is held to be unenforceable by any rule of law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties so closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the fullest extent possible.

**11.6 Entire Agreement.** This Agreement, the Transaction Documents, and the documents and instruments and other agreements specifically referred to herein or delivered pursuant hereto, including the Exhibits, the Seller Disclosure Schedule, the Buyer Disclosure Schedule, and the other Schedules constitute the entire agreement among the parties with respect to the subject matter hereof and supersede all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof, and are not intended to confer upon any other person any rights or remedies hereunder.

**11.7 Amendment and Waiver.** This Agreement may be amended only by a written agreement executed by the parties hereto. No provision of this Agreement may be waived except by a written document executed by the party entitled to the benefits of the provision. No waiver of a provision will be deemed to be or will constitute a waiver of any other provision of this Agreement. A waiver will be effective only in the specific instance and for the purpose for which it was given, and will not constitute a continuing waiver.

**11.8 Parties in Interest.** This Agreement shall be binding upon and inure solely to the benefit of each party hereto, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any right, benefit or remedy of any nature whatsoever under or by reasons of this Agreement.

**11.9 Failure or Indulgence Not Waiver; Remedies Cumulative.** No failure or delay on the part of any party hereto in the exercise of any right hereunder shall impair such right to be construed to be a waiver of, or acquiescence in, any breach of any representation, warranty or agreement herein, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or of any other right. Except as otherwise set forth herein, any and all remedies herein expressly conferred upon a party will be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity upon such party, and the exercise by a party of any one remedy will not preclude the exercise of any other remedy. The Parties hereto shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof, this being in addition to any other remedy to which they are entitled at law or in equity, and the Parties hereto hereby waive the requirement of any posting of a bond in connection with the remedies described herein

**11.10 Counterparts.** This Agreement may be executed in any number of counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original, but all of which together shall constitute one and the same agreement.

**11.11 Waiver of Jury Trial.** AS A MATERIAL INDUCEMENT TO ENTER INTO THIS AGREEMENT, EACH PARTY HERETO IRREVOCABLY, VOLUNTARILY, AND KNOWINGLY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING RELATED IN ANY WAY TO THIS AGREEMENT AND/OR ANY AND ALL OTHER DOCUMENTS RELATED TO THIS TRANSACTION.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK  
- SIGNATURE PAGE FOLLOWS]



**IN WITNESS WHEREOF** the parties have duly executed, or caused their duly authorized representative, to execute this Membership Interest Purchase Agreement.

**ATTIS INDUSTRIES INC.**

By: /s/ Jeffrey S. Cosman  
Name: Jeffrey S. Cosman  
Title: Chief Executive Officer

**ATTIS INNOVATIONS, LLC**

By: /s/ Jeffrey S. Cosman  
Name: Jeffrey S. Cosman  
Title: Manager

**FLUX CARBON LLC**

By: /s/ Jeffrey S. Cosman  
Name: Jeffrey S. Cosman  
Title: Manager

**GAULA VENTURES LLC**

By: /s/ David Winsness  
Name: David Winsness  
Title: Manager

**PRINCIPAL**

By: /s/ David Winsness  
David Winsness  
Individually

[SIGNATURE PAGE TO MEMBERSHIP INTEREST PURCHASE AGREEMENT]

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## SCHEDULE 1.0

### Certain Definitions

**Accounts Receivable** means (i) all trade and other accounts receivable and other rights to payment from past or present customers of GFD, and the full benefit of all security for such accounts or rights to payment, including all trade and other accounts receivable representing amounts receivable in respect of services rendered to customers of the Business, and (ii) any claim, remedy or other right related to any of the foregoing

**Action** shall mean any claim, action, cause of action or suit (in contract, tort or otherwise), inquiry, proceeding or investigation by or before any governmental authority.

**Adverse Consequences** shall mean all actions, suits, Proceedings, hearings, investigations, charges, complaints, claims, demands, diminutions in value, injunctions, judgments, orders, decrees, rulings, damages, dues, penalties, fines, costs, amounts paid in settlement or claims, obligations, Taxes, Liens, losses, interest, expenses (including costs of investigation and defense), any other Liability and fees, including court costs and reasonable attorneys' fees and expenses, whether or not involving a Third-Party Claim.

**Affiliate** shall mean, any Person directly or indirectly controlling, controlled by or under common control with the specified Party or Person. For purposes of this definition, the term control including the terms controlling, controlled by and under common control with) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities or otherwise.

**Affiliated Group** means any affiliated group within the meaning of Code Section 1504(a) or any similar group defined under a similar provision of state, local or foreign law.

**Agreement** has the meaning set forth in the preface.

**Approval** means those certain Governmental Authorizations, if any, to be obtained by Seller on or before the Closing in the name of the applicable Company from any Governmental Body having jurisdiction over the Properties, or the Businesses, in order for the Permits to be issued to Buyer.

**Attis** has the meaning set forth in the preface.

**Basis** shall mean any past or present fact, situation, circumstance, status, condition, activity, practice, plan, occurrence, event, incident, action, failure to act, or transaction that forms or could form the basis for any specified consequence.

**Breach** shall mean any breach of, or any inaccuracy in, any representation or warranty or any breach of, or failure to perform or comply with, any covenant, obligation or agreement, in or of this Agreement or any other Contract, agreement or instrument (whether or not related to this Agreement), or in or of any corporate, Company or partnership organizational document or agreement, any Governmental Authorization, Order or Legal Requirement, or any other breach of any written instrument, or any event which with the passing of time or the giving of notice, or both, would constitute such a breach, inaccuracy or failure

**Business Day** means any day other than a Saturday or Sunday or any other day on which banks in Tennessee are permitted or required by Legal Requirement to be closed.

**Business** shall mean the operating and other activities currently conducted in the ordinary course of the applicable entity's business.

**Buyer Disclosure Schedule** shall the disclosure schedule set forth in Schedule 4.0.

**Buyer** has the meaning set forth in the preface.

**Buyer Indemnity** means the indemnity provided by Buyer in Section 7.4.2 hereof.

**Buyer Obligations** shall mean all obligations of Buyer under this Agreement and the Transaction Documents, including, without limitation, the payment of the Purchase Price and the performance of all actions and transactions in connection therewith on and after the Closing Date.

**Buyer Securities** shall have that meaning set forth in Schedule 2.0 hereto.

**Bylaws** shall mean, each the bylaws or operating agreement of the applicable entity.

**COBRA** means the requirements of Part 6 of Subtitle B of Title I of ERISA and Code Section 4980B and of any similar state law.

**Code** means the Internal Revenue Code of 1986, as amended.

**Confidential Information** has the meaning set forth in Section 7.3.

**Consent** shall mean any approval, consent, ratification, waiver or other authorization.

**Consolidated EBITDA** has the meaning set forth in Schedule 2.0.

**Contemplated Transactions** shall mean all of the transactions contemplated by this Agreement and Transaction Documents.

**Contract** means any agreement, contract, license, lease, consensual obligation, promise or undertaking (whether written or oral and whether express or implied), whether or not legally binding.

**EBITDA** has the meaning set forth in Schedule 2.0.

**Effective Date** has the meaning set forth in the preface.

**Employee Benefit Plan** means all employee benefit plans as defined by Section 3(3) of the Employee Retirement Income Security Act of 1974 (ERISA), all specified fringe benefit plans as defined in Section 6039D of the Code, and all other bonus, incentive-compensation, deferred-compensation, profit-sharing, stock-option, stock-appreciation-right, stock-bonus, stock-purchase, employee-stock-ownership, savings, severance, change-in-control, supplemental-unemployment, layoff, salary-continuation, retirement, pension, health, life-insurance, disability, accident, group-insurance, vacation, holiday, sick-leave, fringe-benefit or welfare plan, and any other employee compensation or benefit plan, agreement, policy, practice, commitment, contract or understanding (whether qualified or nonqualified, currently effective or terminated, written or unwritten) and any trust, escrow or other agreement related thereto that (i) is maintained or contributed to by GFD or any other corporation or trade or business controlled by, controlling or under common control with Sellers (within the meaning of Section 414 of the Code or Section 4001(a)(14) or 4001(b) of ERISA) (ERISA Affiliate) or has been maintained or contributed to in the last six (6) years by GFD or any ERISA Affiliate, or with respect to which any Company or any ERISA Affiliate has or may have any liability, and (ii) provides benefits, or describes policies or procedures applicable to any current or former director, officer, employee or service provider of any Company or any ERISA Affiliate, or the dependents of any thereof, regardless of how (or whether) liabilities for the provision of benefits are accrued or assets are acquired or dedicated with respect to the funding thereof.

**Employee Welfare Benefit Plan** has the meaning set forth in ERISA Section 3(1).

**Environment** means soil, land surface or subsurface strata, surface waters, groundwaters, drinking water supply, stream sediments, ambient air (including indoor air), plant and animal life and any other environmental medium or natural resource.

**Environmental Law** means any Legal Requirement that requires or relates to (i) advising appropriate Governmental Bodies, employees or the public of any intended Release, actual Release or Threat of Release of pollutants or Hazardous Materials, violations of discharge limits or other prohibitions and the commencement of activities, such as resource extraction or construction, that could have significant impact on the Environment; (ii) preventing or reducing to acceptable levels the Release of pollutants or Hazardous Materials into the Environment; (iii) reducing the quantities, preventing the Release or minimizing the hazardous characteristics of wastes that are generated; (iv) assuring that products are designed, formulated, packaged and used so that they do not present unreasonable risks to human health or the Environment when used or disposed of; (v) protecting resources, species or ecological amenities; (vi) reducing to acceptable levels the risks inherent in the transportation of pollutants, Hazardous Materials or other potentially harmful substances; (vii) cleaning up pollutants that have been Released, preventing the Threat of Release or paying the costs of such clean up or prevention; (viii) making responsible Persons pay private parties, or groups of them, for damages done to their health or the Environment or permitting self-appointed representatives of the public interest to recover for injuries done to public assets; or (ix), governing or regulating any Hazardous Activities.

**Environmental, Health and Safety Liabilities** means any and all costs, damages, Adverse Consequences, expenses, Liabilities and/or other responsibility arising from or under any Environmental Law or Occupational Safety and Health Law, including those consisting of or relating to: (i) any environmental, health or safety matter or condition (including on-site or off-site contamination, and/or occupational safety and health regulation of any chemical substance or product); (ii) any fine, penalty, judgment, award, settlement, Proceeding, damages, Adverse Consequence, loss, claim, demand or response, remedial or inspection cost or expense arising under any Environmental Law or Occupational Safety and Health Law; (iii) financial responsibility under any Environmental Law or Occupational Safety and Health Law for cleanup costs or corrective action, including any cleanup, removal, containment or other remediation or response actions (Cleanup) required by any Environmental Law or Occupational Safety and Health Law (whether or not such Cleanup has been required or requested by any Governmental Body or any other Person) and for any natural resource damages; and/or (iv), any other compliance, corrective or remedial measure required under any Environmental Law or Occupational Safety and Health Law. For purposes of this definition, the terms removal, remedial and response action include the types of activities covered by the United States Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

**Event of Default** means

**GAAP** or **Generally Accepted Accounting Principles** means generally accepted accounting principles as in effect in the United States of America, as determined by the Financial Accounting Standards Board from time to time, applied on a consistent basis as of the date of any application thereof.

**GFD** means **GENAREX FD LLC**, a Delaware limited liability company.

**Governmental Authorization** means any zoning approvals, permits (including the Permits), franchise rights, rights-of-way, Consent, license, permission, registration, permit or other right or approval issued, granted, given or otherwise made available by or under the authority of any Governmental Body or pursuant to any Legal Requirement and all pending applications therefor or renewals thereof.

**Governmental Body** means any (i) nation, state, county, city, town, borough, village, district or other jurisdiction; (ii) federal, state, county, local, municipal, foreign or other government; (iii) governmental or quasi-governmental authority of any nature (including any agency, branch, department, board, commission, court, tribunal or other entity exercising governmental or quasi-governmental powers); (iv) body exercising, or entitled or purporting to exercise, any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; (v) Indian tribal authority; (vi) multinational organization or body, or (vii) official of any of the foregoing.

**Hazardous Activity** means, with respect to any Person (including any Party or their Related Persons), the distribution, generation, handling, importing, management, manufacturing, processing, production, refinement, Release, storage, transfer, transportation, treatment or use (including any withdrawal or other use of groundwater) of Hazardous Material in, on, under, about or from any Property or other facility or real property owned, leased, operated or otherwise used by such Person or any of its contractors in connection with the conduct of the business of such Person, or from any other asset of such Person, into the Environment and any other act, business, operation or thing that increases the danger, or risk of danger, or poses an unreasonable risk of harm, to persons or property, whether on or off the aforementioned Properties, facilities or other real property, beyond what is authorized by any Environmental Law relating to the business of such Person.

**Hazardous Material** means any substance, material or waste which is or will foreseeably be regulated by any Governmental Body, including any material, substance or waste which is defined as a hazardous waste, hazardous material, hazardous substance, extremely hazardous waste, restricted hazardous waste, contaminant, pollutant, toxic waste or toxic substance under any provision of Environmental Law, and including petroleum, petroleum products, asbestos, presumed asbestos-containing material or asbestos-containing material, urea formaldehyde and polychlorinated biphenyls.

**Improvements** means all 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, all of which are included in the Properties.

**Indebtedness** or **Debt** means: (a) any indebtedness (including all accrued interest) for borrowed money or issued in substitution for or exchange of indebtedness for borrowed money; (b) any indebtedness evidenced by any note, bond, debenture or other debt security; (c) any indebtedness for the deferred purchase price of property or services with respect to Seller or GFD is liable, contingently or otherwise, as obligor or otherwise; (d) any commitment by which Seller or GFD assures a creditor against loss (including, without limitation, contingent reimbursement obligations with respect to letters of credit); (e) any indebtedness guaranteed in any manner by Seller or GFD (including, without limitation, guarantees in the form of an agreement to repurchase or reimburse); (f) any obligations under capitalized leases with respect to which Seller or GFD is liable, contingently or otherwise, as obligor, guarantor or otherwise, or with respect to which obligations Seller or GFD assures a creditor against loss; (g) any TRAC or synthetic leases; (h) any indebtedness secured by a Lien on the Seller Units; (i) any unsatisfied obligation for withdrawal liability to a Multiemployer Plan as such terms are defined under ERISA; (j) the deficit or negative balance, if any, in GFD's checking account; and (k), any credit card debt.

**Indemnified Person** has the meaning set forth in Section 7.4.

**Indemnifying Person** has the meaning set forth in Section 7.4.

**Insolvency Laws** means any bankruptcy, insolvency, reorganization, moratorium or other similar Legal Requirement affecting the enforcement of creditors rights generally, and general principles of equity (regardless of whether enforcement is considered in a proceeding in law or equity).

**Insolvent** means being unable to pay debts as they mature, or as obligations become due and payable.

**Intangible Personal Property** means all intangible property used or held for use by GFD, of whatever type or description, including (a) the business as a going concern; (b) goodwill of GFD; (c) all files, records and correspondence; (d) telephone numbers, telecopy numbers; (e) all rights in Internet web sites and Internet domain names presently used by GFD, and links; (f) all registered and unregistered copyrights in both published works and unpublished works; (g) all names or trade names of or used by GFD, assumed fictional business names, trade names, registered and unregistered trademarks, service marks and applications; (h) all know-how, trade secrets, confidential or proprietary information, customer lists, software, technical information, data, process technology, plans, drawings and blue prints; and (i), all right, title and interest in and to all Company Documents, Company Contracts, and all Permits, Governmental Authorizations, Approvals, Consents, licenses and other permits and approvals of GFD.

**Intellectual Property Assets** shall mean all Intellectual Property owned or possessed by GFD as itemized in Section 3.9 of **Schedule 3.0**, or which GFD has the right to use pursuant to a valid and enforceable, written license, sublicense, agreement, or permission, and the Intangible Personal Property itemized in Section 3.9 of **Schedule 3.0**.

**IRS** means the United States Internal Revenue Services and, to the extent relevant, the United States Department of the Treasury.

**JVCo** has the meaning set forth in the preface.

**JVCo Operating Agreement** shall mean the amended and restated JVCo management and operating agreement by and among Buyer or its designee and JVCo, executed and delivered on or before the Closing in substantially the same form as the form of operating agreement attached in **Exhibit 7.1** hereto.

**Knowledge** means, when used to qualify a representation, warranty or other statement of a Party to this Agreement, (i) the knowledge that management of the Party actually has with respect to the particular fact or matter that is the subject of such representation, warranty or other statement, and (ii) the knowledge that management of the Party could reasonably be expected to have as prudent and responsible owners and operators of the assets and the businesses of such Party, or in the case of Seller, the ownership and operation of GFD, after having conducted a reasonably comprehensive inquiry or investigation with respect to the fact or matter that is the subject of such representation, warranty or other statement. A Person (other than an individual) will be deemed to have Knowledge of a particular fact or other matter if any individual who is serving, or who has at any time served, as a director, officer, partner, member, manager, executor or trustee of that Person (or in any similar capacity) has, or at any time had, Knowledge of that fact or other matter (as set forth in (a) and (b) above), and any such individual (and any individual party to this Agreement) will be deemed to have conducted a reasonably comprehensive investigation regarding the accuracy of the representations and warranties made herein by that Person or individual.

**Legal Requirement** means any federal, state, local, municipal, foreign, international, multinational or other constitution, law, ordinance, principle of common law, code, regulation, statute or treaty.

**Liability** means with respect to any Person (including any Party), any Indebtedness, liability, penalty, damage, loss, cost or expense, obligation, claim, deficiency, or guaranty of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of such Person, including any liability for Taxes.

**Lien** means with respect to any Person, any mortgage, right of way, easement, encroachment, any restriction on use, servitude, pledge, lien, charge, hypothecation, security interest, encumbrance, adverse right, interest or claim, community or other marital property interest, condition, equitable interest, encumbrance, license, covenant, title defect, option, or right of first refusal or offer or similar restriction, voting right, transfer, receipt of income or exercise of any other attribute of ownership, except for any liens for taxes not yet due or delinquent or being contested in good faith by appropriate proceedings for which adequate reserves have been established and accrued on the financial statements of such Person in accordance with GAAP.

**Material Adverse Effect** or **Material Adverse Change** means any effect or change that would be materially adverse to the business, assets, condition (financial or otherwise), operating results, operations, or business prospects of the applicable Party, taken as a whole, including the ability for such Party to own, construct, operate and develop its business, the transfer or issuance, if applicable, of any Permit, Consent, Governmental Authorization, license or other permit or approval contemplated by this Agreement or reasonably necessary to the continued operation of the applicable Party's business, or on the ability of either Party to timely consummate the Contemplated Transactions, except for any adverse change or event arising from or relating to (a) general economic conditions or conditions which generally affect the business of the applicable Party and the industry in which it competes, and (b) public or industry knowledge of the Contemplated Transactions.

**MRPA Net Proceeds** shall mean the cash proceeds received by Buyer and/or Attis, after payment of any secured creditors holding any applicable lien rights, commissions and all other costs of the sale, including attorneys' fees, upon the (i) sale by Attis of any revenue generating asset having a fair market value greater than or equal to \$20,000 ("**Material Revenue Producing Asset**"), (ii) the sale by Attis of all or substantially all of its assets, or (iii) the sale by Buyer of any portion of its membership interests in Attis.

**Multiemployer Plan** has the meaning set forth in ERISA Section 3(37).

**Occupational Safety and Health Law** means any Legal Requirement designed to provide safe and healthful working conditions and to reduce occupational safety and health hazards, including the Occupational Safety and Health Act, and any program, whether governmental or private (such as those promulgated or sponsored by industry associations and insurance companies), designed to provide safe and healthful working conditions.

**Order** means any order, injunction, judgment, decree, ruling, assessment or arbitration award of any Governmental Body or arbitrator.

**Ordinary Course of Business** means an action taken by a Person will be deemed to have been taken in the ordinary course of business only if that action (i) is consistent in nature, scope and magnitude with the past practices of such Person and is taken in the ordinary course of the normal, day-to-day operations of such Person; (ii) does not require authorization by the board of directors, owners, shareholders, interest holders, members or managers of such Person (or by any Person or group of Persons exercising similar authority) and does not require any other separate or special authorization of any nature; and (iii), is similar in nature, scope and magnitude to actions customarily taken, without any separate or special authorization, in the ordinary course of the normal, day-to-day operations of other Persons that are in the same line of business as such Person).

**Organizational Documents** means: (i) with respect to a corporation, the certificate or articles of incorporation and bylaws; (ii) with respect to any other Person any charter or similar document adopted or filed in connection with the creation, formation or organization of a Person; (iii) any operating agreement, partnership agreement, shareholder agreement or similar agreement; and (iv), any amendment to any of the foregoing.

**Party** and **Parties** shall mean and refer to one or more of the undersigned, as applicable.

**Permits** has the meaning set forth in Section 3.13.

**Permitted Designee** shall mean, as applicable, the designee or assignee of a Party hereto.

**Permitted Encumbrances** has the meaning set forth in Section 3.8 of **Schedule 3.0**.

**Person** means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock holding company, a trust, a joint venture, an unincorporated organization, any other business entity, joint venture or other entity Governmental Body (or any department, agency, or political subdivision thereof).

**Principal** has the meaning set forth in the Preamble to this Agreement.

**Principal Indemnity** means the indemnity provided by Principal in the Principal Indemnity Agreement.

**Principal Market** has the meaning set forth in **Schedule 2.0**.

**Principal's Interest** means 100% of Principal's direct and indirect ownership interest in, to and under the equity of Seller and CleanTech.

**Proceeding** means any action, arbitration, audit, hearing, investigation, litigation or suit (whether civil, criminal, administrative, judicial or investigative, whether formal or informal, whether public or private) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Body, court, or arbitrator.

**Property or Properties** has the meaning set forth in the background facts described in the Seller Disclosure Schedule, including, without limitation, the Tangible Personal Property, Intellectual Property Assets, Intellectual Property, and Intangible Personal Property (including air, oil, gas, mineral, and water rights together with all Permits).

**Purchase Price** has that meaning set forth in Section 2.2 of **Schedule 2.0** hereto.

**Purchased Equity** has the meaning set forth in Section 2.1 of **Schedule 2.0** hereto.

**Real Property Lease** means (i) any long-term lease of land in which most of the rights and benefits comprising ownership of the land and the Improvements thereon or to be constructed thereon, if any, are transferred to the tenant for the term thereof or (ii) any lease or rental agreement pertaining to the occupancy of any improved space on any real property.

**Related Person** means: (i) with respect to a particular individual: (a) each other member of such individual's Family; (b) any Person that is directly or indirectly controlled by any one or more members of such individual's Family; (c) any Person in which members of such individual's Family hold (individually or in the aggregate) a Material Interest; and (d), any Person with respect to which one or more members of such individual's Family serves as a director, officer, partner, executor or trustee (or in a similar capacity); and, (ii) with respect to a specified Person other than an individual: (a) any Person that directly or indirectly controls, is directly or indirectly controlled by or is directly or indirectly under common control with such specified Person; (b) any Person that holds a Material Interest in such specified Person; (c) each Person that serves as a director, officer, partner, executor or trustee of such specified Person (or in a similar capacity); (d) any Person in which such specified Person holds a Material Interest; and (e), any Person with respect to which such specified Person serves as a general partner or a trustee (or in a similar capacity). For purposes of this definition, (a) control (including controlling, controlled by, and under common control with) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, and shall be construed as such term is used in the rules promulgated under the Securities Act; (b) the Family of an individual includes (i) the individual; (ii) the individual's spouse; (iii) any other natural person who is related to the individual or the individual's spouse within the second degree; and (iv), any other natural person who resides with such individual; and (c), Material Interest means direct or indirect beneficial ownership (as defined in Rule 13d-3 under the Exchange Act of 1934) of voting securities or other voting interests representing at least ten percent (10%) of the outstanding voting power of a Person or equity securities or other equity interests representing at least ten percent (10%) of the outstanding equity securities or equity interests in a Person.

**Release** means any release, spill, emission, leaking, pumping, pouring, dumping, emptying, injection, deposit, disposal, discharge, dispersal, leaching or migration on or into the Environment or into or out of any property.

**Remedial Action** means all actions, including any capital expenditures, required or voluntarily undertaken: (i) to clean up, remove, treat or in any other way address any Hazardous Material or other substance; (ii) to prevent the Release or Threat of Release or to minimize the further Release of any Hazardous Material or other substance so it does not migrate or endanger or threaten to endanger public health or welfare or the Environment; (iii) to perform pre-remedial studies and investigations or post-remedial monitoring and care; or (iv), to bring the Properties and the operations conducted (or to be conducted) thereon into compliance with Environmental Laws and environmental Governmental Authorizations.

**Representative** means with respect to a particular Person, any director, officer, manager, employee, agent, consultant, advisor, accountant, financial advisor, legal counsel or other representative of that Person.

**SEC Documents** has the meaning set forth in Section 6.3.



**SEC** has the meaning set forth in the preface.

**Securities Act** means the Securities Act of 1933, as amended.

**Seller** has the meaning set forth in the preface.

**Seller Disclosure Schedule** shall mean the disclosure schedule set forth in **Schedule 3.0**.

**Seller Indemnity** means the indemnity provided by Seller in Section 7.4.3 hereof.

**Series G Conversion Shares** shall mean all shares of Buyer Common Stock issuable upon conversion of the Series G Stock issuable hereunder.

**Series G Stock** shall mean Buyer's Series G Preferred Stock, issued in accordance with the terms, conditions, rights and privileges set forth in the Series G Certificate of Designations.

**Tangible Personal Property** means the tangible personal property itemized on in Section 3.9.1 of the Seller Disclosure Schedule, and all other tangible personal property used or useful in the Business, including all machinery, equipment, scales, compactors, containers, bailers, tools, spare parts, furniture, office equipment, computer hardware, supplies, materials, vehicles, trade fixtures and other items of tangible personal property of every kind owned or leased by GFD (wherever located and whether or not carried on the books of GFD or Seller), together with any express or implied warranty by the manufacturers or lessors of any item or component part thereof and all maintenance records and other documents relating thereto.

**Tax** or **Taxes** means any income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, property, environmental, windfall profit, customs, vehicle, airplane, boat, vessel or other title or registration, capital stock, franchise, employees' income withholding, foreign or domestic withholding, social security, unemployment, disability, real property, personal property, sales, use, transfer, value added, alternative, add-on minimum and other tax, fee, assessment, levy, tariff, charge or duty of any kind whatsoever and any interest, penalty, addition or additional amount thereon imposed, assessed or collected by or under the authority of any Governmental Body or payable under any tax-sharing agreement or any other Contract, whether disputed or not and including any obligations to indemnify or otherwise assume or succeed to the Tax liability of any other Person.

**Tax Return** means any return (including any information return), report, statement, schedule, notice, form, declaration, claim for refund or other document or information filed with or submitted to, or required to be filed with or submitted to, any Governmental Body in connection with the determination, assessment, collection or payment of any Tax or in connection with the administration, implementation or enforcement of or compliance with any Legal Requirement relating to any Tax.

**Third Party Claim** means any claim, issuance of any Order or the commencement of any Proceeding by any Person who is not a Party to this Agreement, including a Related Person of a Party, any domestic or foreign court, or Governmental Body.

**Threat of Release** means a reasonable likelihood of a Release that may require action in order to prevent or mitigate damage to the Environment that may result from such Release.

**Trading Day** means any day during which the Principal Market shall be open for business.

**Transaction Documents** shall mean this Agreement, and any and all documents, instruments and certificates executed, delivered and/or issued before, at and after Closing in connection herewith and therewith and all further actions and transactions included in the Contemplated Transactions, including all schedules and exhibits hereto and thereto, each of which are hereby incorporated by reference herein.

## SCHEDULE 2.0

### The Seller Acquisition

On and subject to the terms and conditions of this Agreement and the Transaction Documents, at the Closing and at all relevant times thereafter, Buyer shall pay the Purchase Price to Seller and/or Seller's Permitted Designee in exchange for the sale, assignment, transfer, and delivery of the Purchased Equity to Buyer and/or Buyer's Permitted Designee in accordance with the terms of this **Schedule 2.0**. As used herein, the term "Acquisition" shall mean and refer to the purchase of the Purchased Equity in exchange for payment of the Purchase Price.

**2.1 Purchased Equity.** As used herein, the term "Purchased Equity" shall mean the Seller Units issuable to Buyer and/or Buyer's Permitted Designee at the Closing and at all relevant times thereafter in exchange for the Purchase Price in accordance with the terms of this **Schedule 2.0** and, as applicable, the Agreement and Transaction Documents.

**2.1.1 Seller Units.** On and subject to the terms and conditions of this Agreement and the Transaction Documents, in consideration of Buyer's agreement to the terms of this Agreement and the Transaction Documents, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, effective immediately prior to the Closing hereunder, Seller shall execute and deliver (i) the form of assignment attached hereto in **Exhibit 2.1(a)** to give effect to the assignment by Seller of the GFD Units directly to JVCo as Buyer's Permitted Designee ("GFD Unit Assignment"), and (ii) the form of assignment attached hereto in **Exhibit 2.1(b)** to give effect to the assignment by Seller of the ALB Units directly to JVCo as Buyer's Permitted Designee ("ALB Unit Assignment") and, together with the GFD Unit Assignment, the "Seller Unit Assignment"), in each case free and clear of all Liens.

**2.1.2 Seller Interests.** Notwithstanding Seller's execution and delivery of the Seller Unit Assignment, free and clear of all Liens, in an abundance of caution, Principal shall execute and deliver to Buyer the form of assignment attached hereto in **Exhibit 2.1(c)** to give effect to the assignment by Principal to JVCo as Buyer's Permitted Designee, of any right, title and interest of any kind that Principal may have prior to or at the Closing in, to and under the Seller Units, or in respect of any other interest involving GFD and ALB ("Seller Interests").

**2.1.3 ALB MIPA.** Seller and Principal, as applicable, shall surrender and deliver to Buyer at the Closing 100% of any shares of Buyer Common Stock or other Buyer Stock previously issued and delivered to Seller and/or Principal in connection with the ALB MIPA.

**2.2 Purchase Price.** As used herein, the term "Purchase Price" shall mean the Earn-Out Payment, including, without limitation, the Floor Price and the sum of all Buyer Securities and other amounts payable to Seller and/or Seller's Permitted Designee(s) at the Closing and at all relevant times thereafter in exchange for the Purchased Equity in accordance with the terms of this **Schedule 2.0** and, as applicable, the Agreement and Transaction Documents.

**2.2.1 Earn-Out Payment.** On and subject to the terms and conditions of this Agreement and the Transaction Documents, and at all relevant times thereunder, Buyer and Attis shall, on a joint and several basis, pay the greater of the following to Seller and Seller's Permitted Designee (the "Earn-Out Payment"): (i) \$2,266,667 ("Floor Price"), plus (ii), if, and only if approved by Buyer's Board of Directors on an annual basis, 8% of Attis' annual Consolidated EBITDA, and (iii) 8% of Buyer's and/or Attis' MRPA Net Proceeds.

**2.2.1.1 Consolidated EBITDA.** The term "Consolidated EBITDA" shall mean the positive aggregate earnings before interest, taxes, depreciation and amortization ("EBITDA") deriving from the consolidated operations of Attis and Attis' now and hereinafter-existing subsidiaries ("Attis Entities"), the operations, assets, investments, licenses and other agreements of the Attis Entities. The Consolidated EBITDA and applicable Earn-Out Payment shall be measured as of each fiscal year end commencing on **December 31, 2018**, and paid on a rolling, quarterly basis commencing on **March 31, 2019**, with a rolling quarterly true-up to prior payments, as may be applicable (each, a "Measurement and Payment Date"). Any Earn-Out Payment payable hereunder as of any one or more Measurement and Payment Dates shall be due and payable in full as of each applicable date, and shall be paid in the form of (i) immediately available U.S. cash funds, or (ii), at Buyer's option for so long as Buyer and Attis are in compliance with the terms of this Agreement and the Transaction Documents, additional registered shares of Series G Stock at the rate of **ONE HUNDRED DOLLARS (\$100.00)** per share of Series G Stock ("Earn-Out Shares").

**2.2.2 Buyer Securities.** On and subject to the terms and conditions of this Agreement and the Transaction Documents, at the Closing, as an initial payment against the Purchase Price due hereunder, Buyer shall issue to Seller and/or Seller's Designee(s):

**2.2.2.1 ONE MILLION (1,000,000)** shares of Buyer's issued and outstanding Common Stock as of the Closing Date ("Closing Common Shares"), and

**2.2.2.2 TWENTY TWO THOUSAND SIX HUNDRED (22,600)** shares of Buyer's Series G Preferred Stock ("Closing Preferred Shares") and, together with all Earn-Out Shares, Series G Conversion Shares, and the Closing Common Shares, the "Buyer Securities").

**2.2.3 Series G Stock.** The Series G Stock shall be convertible into Buyer's Common Stock at the sole and exclusive option of the holder in one or more installments at the rate equal to **ONE HUNDRED DOLLARS (\$100.00)** per share of Series G Stock divided by the Fair Market Value Conversion Price on a per share basis, up to 9.9% of the Company's issued and outstanding Common Stock at the time of conversion (when taken with any other shares of Common Stock held by the holder at the time of conversion), subject to the terms, conditions, rights and privileges set forth in the certificate of designations for Buyer's Series G Preferred Stock attached hereto in **Exhibit 2.2.3** ("Series G Certificate of Designations"), and which shall in all relevant respects govern notwithstanding anything stated herein to the contrary. Voting and cumulative dividend rights shall be on an as converted basis. As used herein, the term "Fair Market Value Conversion Price" shall mean the greater of \$0.50 ("Conversion Floor") or 100% of the lowest closing market price per share for the Common Stock on the Principal Market for the thirty (30) Trading Days preceding conversion ("Market Price"); provided, however, that upon the occurrence of any Event of Default, and continuing for so long as any such Event of Default remains uncured, the Conversion Floor shall cease to apply, and the Fair Market Conversion Price shall equal the Market Price.

**2.2.4 Registration.** Buyer shall register the Buyer Securities on a best efforts, **TIME IS OF THE ESSENCE** basis after the Closing Date, such that the Closing Common Shares and Series G Conversion Shares shall be registered and freely-trading on or before **August 31, 2018** ("Registration Date").

**2.2.5 Leakage.** Seller agrees, in the event and to the extent it decides to sell Series G Conversion Shares or Closing Common Shares, that it shall not, in the absence of Buyer's prior written consent, sell Series G Conversion Shares or Closing Common Shares in public market transactions at a monthly rate that exceeds the greater of (i) \$50,000 worth of Common Stock, (ii) 50,000 shares of Common Stock, or (iii) 0.15% of the average monthly trading volume for Buyer's Common Stock for the three months prior to sale.

**2.2.6 Conversion.** Upon receipt of each Conversion Notice, Buyer shall, within three (3) Business Days following its receipt of each applicable Conversion Notice, cause its transfer agent to issue and deliver certificates representing such additional freely-tradable shares of Common Stock to Seller and/or Seller's Permitted Designee.

**2.2.7 Net Cash Proceeds.** If, in the event that Seller has not been able to sell the Buyer Securities, or for any other reason, the Net Cash Proceeds are less than the Floor Price due and payable as of **JUNE 1, 2022**, then Buyer and Attis shall, on a joint and several basis, pay the difference between the Floor Price and the Net Cash Proceeds in full in immediately available U.S. cash funds on or before **JULY 1, 2022**. Upon receipt of any such payment from Buyer, in the event and to the extent that Seller still holds any portion of the Closing Preferred Shares, then Seller shall assign and surrender to Buyer any such shares on or before **AUGUST 1, 2022**. As used herein, the term "Net Cash Proceeds" shall mean the sum of (i) Seller's (and/or Seller's Permitted Designee's) gross cash sales proceeds upon sale of the Series G Conversion Shares (less applicable legal, issuance, deposit and/or clearance costs incurred by Seller and/or Seller's Permitted Designee), (ii) all Earn-Out Payments paid in cash hereunder, and (iii), except for amounts payable under the Principal Employment Agreement, any and all other cash amounts paid by Buyer, Attis and/or JVCo to Seller and/or Seller's Permitted Designee(s) in connection with this Agreement and the Transaction Documents. No failure by Seller to submit any Conversion Notice or other document on or before any specific date, or any other action, shall be deemed to constitute a waiver of any rights hereunder. Seller hereby agrees that any sales of Buyer's Common Stock by or on behalf of Seller shall be completed in accordance with applicable securities laws and in good faith for the highest prices reasonably available at the time of each individual sale. Buyer hereby grants, for any shares of Common Stock issuable hereunder, including, without limitation, upon conversion of the Series G Stock, registration rights on Form S-3, S-1 or such other form as may be applicable pursuant to the Securities Act, which the Buyer shall file with the Securities Exchange Commission (the "SEC") as soon as shall be reasonably practicable. Buyer shall respond to all SEC comments and correspondence in connection with each registration statement filed hereunder as soon as shall be reasonably practicable. Except as provided herein, Buyer shall pay all expenses in connection with all registration, issuance, deposit and clearance of Common Stock issuable to Seller and/or Seller's Permitted Designee hereunder. Notwithstanding the foregoing, Seller and/or Seller's Permitted Designee shall be responsible for its own internal administrative and similar costs, which shall not constitute registration expenses.