

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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 31, 2023

Pineapple Energy Inc.

(Exact name of Registrant as Specified in its Charter)

Minnesota

(State Or Other Jurisdiction Of Incorporation)

001-31588

(Commission File Number)

41-0957999

(I.R.S. Employer Identification No.)

10900 Red Circle Drive

Minnetonka, MN

(Address of Principal Executive Offices)

55343

(Zip Code)

(952) 996-1674

Registrant's Telephone Number, Including Area Code

Securities registered pursuant to Section 12(b) of the Act

Title of Each Class	Trading Symbol	Name of each exchange on which registered
Common Stock, par value, \$.05 per share	PEGY	The Nasdaq Stock Market, LLC

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 *see* General Instruction A.2. below):

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

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

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.

Item 1.01. Entry into a Material Definitive Agreement.

Decathlon Loan Agreement

On June 1, 2023 (the “Effective Date”), Pineapple Energy Inc. (the “Company”) entered into a Revenue Loan and Security Agreement (the “Loan Agreement”) by and among the Company, each of the Company’s subsidiary guarantors who from time to time become guarantors thereunder (collectively, the “Guarantors”), and Decathlon Specialty Finance, LLC (“Decathlon”). The Loan Agreement provides for a loan facility for the Company in the maximum amount of \$7.5 million (the “Decathlon Fixed Loan”), with the full amount being advanced to the Company upon execution of the Loan Agreement.

A portion of the proceeds of the Decathlon Fixed Loan was used to repay the \$5.0 million Short-Term Limited Recourse Secured Promissory Note (the “Short-Term Note”), plus accrued interest, that the Company entered into in connection with its acquisition of the SUNation entities on November 9, 2022. As a result, the Short-Term Note has been repaid in full, and the related pledge by the Company of the equity of SUNation to secure the payment of the Short-Term Note has been terminated.

The Loan Agreement requires fixed monthly payments as set forth on Schedule 2.3(b)(1) to the Loan Agreement by the Company to Decathlon, which generally aggregate to \$960,000 payable in the remainder of 2023, \$2,220,000 payable in 2024, \$2,580,000 payable in 2025, \$2,760,000 payable in 2026 and \$3,480,000 payable in 2027 to the maturity date. All outstanding advances and interest under the Loan Agreement are due at maturity on June 1, 2027 (unless accelerated upon a change of control or the occurrence of other events of default). Interest accrues on the amounts advanced pursuant to the Loan Agreement at such rate as is necessary to generate an amount equal to the Minimum Interest, which is defined in the Loan Agreement as the following multiple of the advanced amount depending on the period during which all amounts due under the Loan Agreement are paid: (i) 0.25 times if on or before 12 months after the Effective Date; (ii) 0.35 times if after 12 months and on or before 24 months after the Effective Date; (iii) 0.50 times if after 24 months and on or before 36 months after the Effective Date; and (iv) 0.60 times if after 36 months after the Effective Date. The Company may at its option prepay the advance(s) and accrued but unpaid interest from time to time without penalty or premium (other than payment of the Minimum Interest).

The Loan Agreement further provides for the payment of fees by the Company and includes customary representations and warranties, indemnification provisions, covenants and events of default. Subject in some cases to cure periods, amounts outstanding and otherwise due under the Loan Agreement may be accelerated for typical defaults including, but not limited to, the failure to make when due payments, the failure to perform any covenant, the inaccuracy of representations and warranties, and the occurrence of debtor-relief proceedings. The advances are secured by all present and hereafter acquired property of the Company and the Guarantors and is guaranteed by the Guarantors.

The foregoing summary of the Loan Agreement does not purport to be complete and is qualified by reference to the text of the Loan Agreement, a copy of which is filed as Exhibit 10.1 hereto and incorporated herein by reference.

Amendment to Hercules Loan Agreement

On May 31, 2023, the Company and its wholly owned subsidiary, Pineapple Energy LLC (“PE LLC”) entered into that certain Consent and Amendment No. 2 to Loan and Security Agreement (the “Amendment”) to the Loan and Security Agreement, dated December 11, 2020 (as amended, the “Hercules Loan Agreement”) with Hercules Capital, Inc. (“Hercules”).

The Hercules Loan Agreement originally made available to PE LLC a term loan in a principal amount of \$7.5 million (the “Hercules Term Loan”) to finance the acquisition of certain assets of the Hercules business. PE LLC and the Company entered into the Amendment in order to obtain Hercules’ consent to the Company entering into the Loan Agreement with Decathlon, a portion of the proceeds of which will be applied to prepay \$1.5 million of the principal amount of the Hercules Term Loan. At the time of the Amendment and prior to the prepayment, the aggregate remaining balance of the Term Loan, including principal and interest, was \$3.4 million.

The Amendment, among other things, modifies the original Hercules Loan Agreement by:

- joining the Company as a borrower under the Hercules Loan Agreement and granting to Hercules a security interest in all present and hereafter acquired property of the Company;
- obtaining the consent of Hercules for the Decathlon Fixed Loan and related security interest;
- extending the maturity date of the Hercules Term Loan to June 2, 2027;
- setting an interest rate of ten percent (10.0%) for the Hercules Term Loan;
- providing for amortization payments in equal monthly installments of principal and interest (mortgage style) beginning on July 3, 2023 and on the first business day of each month thereafter until the earlier of payment in full or the maturity date;
- subordinating the Hercules Term Loan to the senior Decathlon Fixed Loan; and
- adding customary representations, warranties and covenants.

The foregoing summary of the Amendment does not purport to be complete and is qualified by reference to the text of the Amendment, a copy of which is filed as Exhibit 10.2 hereto and incorporated herein by reference.

Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The information included in Item 1.01 is incorporated by reference into this Item 2.03.

Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

As previously disclosed, effective February 13, 2023, Kyle Udseth, the Company’s Chief Executive Officer, voluntarily agreed, and the Company’s Compensation Committee approved, a reduction in Mr. Udseth’s annual base salary from \$300,000 (as provided in his employment agreement) to \$255,000, in order to assist with the reduction of corporate overhead. In connection with the financings and the repayment of the Short-Term Note as described in Item 1.01 above, the Compensation Committee approved the reinstatement of Mr. Udseth’s annual base salary amount of \$300,000, effective June 5, 2023.

Item 9.01. Financial Statements and Exhibits.

Exhibit No.	Description
<u>10.1*</u>	<u>Revenue Loan and Security Agreement dated as of June 1, 2023 by and among Pineapple Energy Inc., the Guarantors party thereto, and Decathlon Specialty Finance, LLC.</u>
<u>10.2**</u>	<u>Consent and Amendment No. 2 to Loan and Security Agreement dated as of May 31, 2023 by and between Pineapple Energy LLC as Borrower and Hercules Capital, Inc. as Lender and Agent.</u>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

* Certain schedules and similar attachments have been omitted from this exhibit pursuant to Item 601(a)(5) of Regulation S-K. In addition, certain confidential information contained in this exhibit has been redacted pursuant to Item 601(b)(10)(iv) because it is not material and the Company customarily and actually treats that information as private or confidential.

** Certain schedules and similar attachments have been omitted from this exhibit pursuant to Item 601(a)(5) of Regulation S-K.

SIGNATURES

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, thereunto duly authorized.

PINEAPPLE ENERGY INC.

By: /s/ Kyle J. Udseth

Kyle J. Udseth, Chief Executive Officer

Date: June 6, 2023

CERTAIN CONFIDENTIAL PORTIONS OF THIS EXHIBIT HAVE BEEN OMITTED AND REPLACED WITH “[*]”. SUCH INFORMATION HAS BEEN REDACTED FROM THIS EXHIBIT BECAUSE IT IS (I) NOT MATERIAL AND (II) THE REGISTRANT CUSTOMARILY AND ACTUALLY TREATS THAT INFORMATION AS PRIVATE OR CONFIDENTIAL.**

Execution Copy

REVENUE LOAN AND SECURITY AGREEMENT

THIS REVENUE LOAN AND SECURITY AGREEMENT (as amended from time to time, this “Agreement”) is made as of June 1, 2023 (the “Effective Date”), by and among Pineapple Energy Inc. (/k/a Pineapple Holdings, Inc.), a Minnesota corporation (“Company”), the parties listed under the heading “Guarantors” on the signature pages attached hereto and each Person who from time to time becomes a Guarantor hereunder (each, a “Guarantor,” collectively, the “Guarantors,” each of Company and each Guarantor are referred to herein as a “Company Entity,” and together as the “Company Entities”), and Decathlon Specialty Finance, LLC, a Delaware limited liability company (“Lender”).

BACKGROUND

Company wishes to borrow from Lender and Lender wishes to lend to Company an amount up to the Revenue Loan Amount (as defined below) on the terms and conditions of this Agreement. In connection with and as a material inducement to Lender to lend the Revenue Loan Amount to Company, Company desires to make certain representations and warranties to Lender.

AGREEMENT

The parties hereby agree as follows:

ARTICLE 1 DEFINITIONS AND ACCOUNTING PRINCIPLES

1.1 Definitions. Capitalized words and phrases used in this Agreement but not otherwise defined herein have the definitions given in Section 10.1.

1.2 Accounting Principles. The character or amount of any asset, liability, capital account or reserve and of any item of income or expense required to be determined pursuant to this Agreement, and any consolidation or other accounting computation required to be made pursuant to this Agreement, and the construction of any definition in this Agreement containing a financial term, will be determined or made, as the case may be, in accordance with United States generally accepted accounting principles (“GAAP”), to the extent applicable, unless such principles are inconsistent with the express requirements of this Agreement.

ARTICLE 2
ADVANCE, INTEREST AND PAYMENTS

2.1 Revenue Loan Advance. Upon the terms and subject to the conditions of this Agreement:

(a) Advance. Lender will make the Advance to Company on the date of Closing.

(b) Not a Revolving Facility. Company acknowledges and agrees that the credit facility granted hereunder is an advance facility, but is not a revolving facility, and Company may not borrow, repay and re-borrow the Advance.

2.2 Interest. Interest on the Advance shall accrue from and after the date of Closing at such rate as is necessary to generate an amount equal to the Minimum Interest (the "Interest"); *provided, however*, in no case shall such rate exceed the maximum rate allowable under applicable law.

2.3 Promise to Pay. Company promises to pay to the order of Lender, or its assigns in lawful money of the United States of America, for application against the Advance, together with the Interest as follows (with all payments to be applied, unless otherwise specified below, first to fees and expenses incurred by Lender, then to accrued interest, and finally to principal, which Lender shall enter in its records of payments made by Company, and such records will be deemed conclusive evidence of the subject matter thereof unless proven otherwise):

(a) Maturity. The Advance and accrued but unpaid Interest will be immediately due on the Maturity Date and will be payable on demand any time thereafter.

(b) Monthly Payments. Commencing on the Payment Commencement Date and continuing monthly thereafter until maturity or earlier prepayment in full, Company shall pay to Lender, on the 15th day of each month (or the next business day if such date is not a business day) (each a "Payment Date"), by wire transfer or Automated Clearing House (ACH) transfer to the Lender Account described on Schedule 2.3(b)(1) an amount equal to the fixed payment set forth on Schedule 2.3(b)(2). Notwithstanding anything to the contrary in the preceding sentence, payments made by ACH transfer must be initiated no later than four business days prior to the applicable Payment Date. Lender, in its sole discretion, may apply any monthly payment first to offset any outstanding invoices for legal or other fees that are 60 or more days overdue and then toward satisfaction of the Obligations. If any payment due pursuant to this Agreement is not paid when due, then Company will be assessed on the following day, automatically and without notice from Lender, a service fee of \$500 payable to Lender (or other loan servicing agent). All service fees for missed payments are due on the day they arise. Successive service fees for each missed monthly payment will be assessed and due on the 15th day of each month until Company has paid such past due amounts. All service fees will bear interest at the rate set forth in Section 11.7 from the date they arise. A fixed payment schedule that is based on Company's financial projections is attached as Schedule 2.3(b)(2).

(c) Prepayment. Company may at its option prepay the Advance and accrued but unpaid Interest from time to time without penalty or premium (other than payment of the Minimum Interest).

(d) Termination of Payment Obligation. The payment obligation shall terminate upon Lender receiving payments from Company equal to the Advance plus the Interest and all other amounts due pursuant to this Agreement (the "Payoff Date").

2.4 Security Interest. Company hereby assigns and grants to Lender, a continuing security interest in all of its right, title and interest in and to the Collateral. Upon indefeasible payment in full of the Obligations and termination of Lender's obligation to make the Advance hereunder, the security interests granted under the Transaction Documents shall terminate and Lender shall promptly deliver all such releases as may be necessary or appropriate in connection therewith. Upon any sale, transfer, or other disposition in conformity with Sections 6.3(a)(i), (ii), and (iii), of this Agreement, the security interest granted under the Transaction Documents in the Collateral so disposed of shall terminate and Lender shall deliver such releases as may be necessary or appropriate, provided, however, the security interest granted under the Transaction Documents in all remaining Collateral shall remain in full force and effect. Company hereby authorizes Lender to take all such actions as are reasonably necessary to, in Lender's sole discretion, perfect its security interest in the Collateral, including the filing of such financing statements and amendments and continuations thereof as may be useful in order to perfect such security interest and, if any Collateral is covered by a certificate of title, Company will from time to time upon request of Lender execute such documents as may be required to have such security interest properly noted on a certificate of title. In addition, Company authorizes Lender to file, from time to time, (and reaffirms its authorization of the filing of any financing statements filed prior to the date of this Agreement) such financing statements against the Collateral described as "all assets" or the like as Lender reasonably deems necessary or useful to perfect such security interest. For the avoidance of doubt, the Company Entities shall not be required note the security interest granted herein in vehicles the Company Entities use in the ordinary course of business.

2.5 Guaranty and Security Interest. Each Guarantor, jointly and severally with each other Guarantor, hereby irrevocably, unconditionally and absolutely guarantees the punctual payment in full when due and the performance of the Obligations, in accordance with the terms of this Agreement (with respect to each individual Guarantor, the "Guaranty"). Subject to the foregoing, each Guarantor hereby further agrees that if Company fails to pay in full when due (whether at stated maturity, by acceleration or otherwise) all or any part of the Obligations, each Guarantor will promptly pay the same, without any demand or notice whatsoever, and that in the case of any extension of time of payment or renewal of any Obligations, it will promptly pay the same in full when due (whether at extended maturity, by acceleration or otherwise) in accordance with the terms of that extension or renewal. Each Guaranty is a continuing guaranty and shall apply to each Guarantor and all Obligations whenever arising and regardless of any intermediate payment or discharge in part thereof. As security for the performance of each Guarantor's Guaranty obligations, each

Guarantor hereby assigns and grants to Lender a continuing security interest in all of its right, title and interest in and to the Collateral of such Guarantor (in each case, substituting the name of the applicable Guarantor for the "Company" on Schedule 10.2) subject to the same rights and obligations as set forth in Section 2.4.

2.6 Revival and Reinstatement of Indebtedness. If the payment of all or any part of the Obligations by Company or the transfer to Lender of any Collateral or other property should for any reason subsequently be declared to be void or voidable under any state or federal law relating to creditors' rights (a "Voidable Transfer"), and if Lender is required to repay or restore, in whole or in part, any such Voidable Transfer, or elects to do so upon the advice of its counsel, then the amount of such Voidable Transfer or the amount of such Voidable Transfer that Lender is required or elects to repay or restore, including all reasonable costs, expenses and attorneys' fees incurred by Lender in connection therewith, and the Obligations shall automatically be revived, reinstated and restored by such amount and shall exist as though such Voidable Transfer had never been made.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES OF THE COMPANY ENTITIES

As a material inducement to Lender to enter into this Agreement and to make the Advance to Company, each Company Entity, jointly and severally, represents and warrants to Lender as follows:

3.1 Organization, Good Standing and Qualification. Each Company Entity is duly organized, validly existing and in good standing under the laws of the state of its organization. Each Company Entity is duly qualified to transact business and is in good standing in each jurisdiction in which the failure to so qualify would have a Material Adverse Effect. Each Company Entity has all required power and authority necessary to own and operate its properties, to carry on its business as now conducted and presently proposed to be conducted and to carry out the transactions contemplated by this Agreement.

3.2 Subsidiaries. Except as set forth on Schedule 3.2 (including any Company Entity that is a subsidiary of another Company Entity), no Company Entity presently owns or controls, directly or indirectly, or holds any rights to acquire, any interest in any other entity. No Company Entity is a participant in any joint venture, partnership or similar arrangement.

3.3 Authorization. All action necessary on the part of each Company Entity, its officers, directors, managers and members, for the authorization, execution and delivery of the Transaction Documents and the performance of all Obligations of such Company Entity hereunder and thereunder has been taken or will be taken prior to the Closing. The Transaction Documents and all other agreements contemplated thereby to which a Company Entity is a party constitute valid and legally binding obligations of such Company Entity, enforceable in accordance with their respective terms, except (a) as limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally,

(b) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies, and (c) to the extent the indemnification provisions may be limited by applicable laws.

3.4 Litigation. Except as set forth on Schedule 3.4, There is no action, suit, proceeding or investigation pending or, to Company's knowledge, threatened against any Company Entity. The foregoing includes, without limitation, actions, suits, proceedings or investigations pending or, to Company's knowledge, threatened involving the prior employment of any Company Entity's employees or their obligations under any agreements with prior employers. No Company Entity is subject to the provisions of any order, writ, injunction, judgment or decree of any court or government agency or instrumentality. There is no action, suit, proceeding or investigation by a Company Entity currently pending or that a Company Entity intends to initiate.

3.5 Compliance with Other Instruments. No Company Entity is (a) in violation of or default under any provision of its organizational documents, as amended, (b) to its knowledge in violation of or default under, in any Material respect, any instrument, judgment, order, writ, decree or contract to which it is a party or by which it is bound, or (c) to its knowledge in violation of or default under, in any Material respect, any provision of any federal or state statute, rule or regulation applicable to such Company Entity. The execution, delivery and performance of the Transaction Documents and the consummation of the transactions contemplated thereby will not result in any such violation, or be in Material conflict with or constitute, with or without the passage of time and giving of notice, either a Material default under any such provision, instrument, judgment, order, writ, decree or contract or an event that results in the creation of any lien, charge or encumbrance upon any assets of a Company Entity or the suspension, revocation, impairment, forfeiture or non-renewal of any permit, license, authorization or approval applicable to a Company Entity, its business or operations or any of its assets or properties, other than the security interests arising under the Transaction Documents.

3.6 Related-Party Transactions. Except as disclosed on Schedule 4.2(a)(vi), no employee, member, manager, officer or director of a Company Entity or member of his or her immediate family is indebted to a Company Entity, nor is a Company Entity indebted (or committed to make loans or extend or guarantee credit) to any of them. To each Company Entity's knowledge, none of such persons has any direct or indirect ownership interest in any firm or corporation with which a Company Entity is affiliated or with which a Company Entity has a Material business relationship, or any firm or corporation that competes with any Company Entity.

3.7 Financial Statements. The consolidated financial statements for Company's most recently completed fiscal year and year-to-date for the current year are attached hereto as Schedule 3.7, are correct in all Material respects, and fairly present Company's operating results and financial conditions as of dates and for the periods indicated therein. As of the dates of such financial statements, no Company Entity had any Material obligation, contingent liability, liability for taxes or long-term lease obligation that is not reflected in such financial statements or the notes thereto. Since the date of such financial statements: (a) each Company Entity has operated its

businesses only in the ordinary course; (b) there has not been individually or in the aggregate any change that may result in a Material Adverse Effect; (c) no Company Entity has guaranteed any Indebtedness of any other Person other than pursuant to or as permitted by this Agreement; and (d) no Company Entity has any Indebtedness for borrowed money other than pursuant to or as permitted by this Agreement. Each Company Entity is solvent.

3.8 Tax Returns; Taxes. (a) Each Company Entity has timely filed all returns, declarations, reports, estimates, information returns, and statements, including any schedules and amendments to such documents ("Returns"), required to be filed or sent by it in respect of any Taxes or required to be filed or sent by it by any taxing authority having jurisdiction; (b) all such Returns are complete and accurate in all Material respects; (c) each Company Entity has timely and properly paid all Taxes required to be paid by it other than any Taxes that are being contested in good faith; (d) each Company Entity has Materially complied with all applicable laws, rules, and regulations relating to the collection or withholding of Taxes from third parties and the payment thereof; (e) there are no liens for Taxes upon any assets of any Company Entity other than Permitted Liens; (f) no deficiency for any Taxes has been asserted, assessed or proposed in writing against any Company Entity that has not been resolved and paid in full or is not being contested in good faith; (g) no waiver, extension or comparable consent given by any Company Entity regarding the application of the statute of limitations with respect to any Taxes or Returns is outstanding, nor is any request for any such waiver or consent pending; and (h) there has been no Tax audit or other administrative proceeding or court proceeding with regard to any Taxes or Returns, nor is any such Tax audit or other proceeding pending, nor has there been any notice to any Company Entity by any taxing authority regarding any such Tax audit or other proceeding.

3.9 Permits. Each Company Entity has all franchises, permits, licenses and any similar authority necessary for the conduct of its business the lack of which would have a Material Adverse Effect, and each Company Entity believes it can obtain, without undue burden or expense, any similar authority for the conduct of its business as planned to be conducted. No Company Entity is in default in any Material respect under any of such franchises, permits, licenses or other similar authority.

3.10 Compliance with Laws. Each Company Entity, the operation of its business, and all premises controlled by such Company Entity are in Material compliance with all applicable laws and orders or directives of any governmental authorities having jurisdiction over such Company Entity, its properties or operations, except where the failure to comply could not reasonably be expected to have a Material Adverse Effect. No Company Entity has received any citation, directive, letter or other communication (whether oral or written) or any notice of any proceeding, claim, lawsuit or investigation, from any Person arising out of such Company Entity's ownership or occupation of its premises or the conduct of its operations.

3.11 Disclosure. Each Company Entity has provided Lender with all the information available to it that Lender has requested for deciding whether to make the Advance. To the best of each Company Entity's knowledge, neither this Agreement

(including all the exhibits attached hereto) nor any certificates delivered in connection herewith contains any untrue statement of a Material fact or omits to state a Material fact necessary to make the statements herein or therein not misleading in light of the circumstances under which they were made.

3.12 Title to Property and Assets. The property and assets owned by a Company Entity are owned solely by such Company Entity free and clear of all mortgages, liens, loans and encumbrances other than Permitted Liens. With respect to a Company Entity's leased property and assets, such Company Entity is in compliance with the applicable leases in all Material respects and, to such Company Entity's knowledge, it holds valid leasehold rights in and to such leased property and assets. There are no financing statements reflecting the perfection of any security interest in favor of any creditor other than Lender covering all or any part of any Company Entity's assets in existence or on file in any public office other than those representing the Permitted Liens.

3.13 Name and Location of the Company Entities. Each Company Entity has provided to Lender in writing its legal name, state of organization, entity type, and chief executive office address. Company maintains all of its books and records regarding its assets at its chief executive office. Each Company Entity has such business and financial experience as is necessary to enable it to protect its interests in connection with the transactions contemplated by this Agreement.

3.14 Collateral. Each Company Entity has full power and authority to create a first-priority lien on the Collateral pursuant to this Agreement and no disability or contractual obligation exists that would prohibit any Company Entity from pledging the Collateral pursuant to this Agreement. There are no subscriptions, warrants, rights of first refusal, or other restrictions on transfer relative to, or options exercisable with respect to, the Collateral. The Collateral is not the subject of any present or threatened suit, action, arbitration, administrative or other proceeding, and no Company Entity knows of any reasonable grounds for the institution of any such proceedings. The Collateral consisting of equipment and inventory is in good operating condition and repair, subject to ordinary wear and tear, and the Company Entity owning such Collateral has made all economically reasonable and necessary repairs thereto. The Collateral consisting of inventory is of good and marketable quality, free from defects, except for inventory for which adequate reserves have been made in accordance with GAAP.

3.15 Intellectual Property. Each Company Entity owns or is a licensee of all intellectual property rights necessary for the conduct of its business and operations, as currently conducted and as proposed to be conducted, or that are Material to the condition (financial or otherwise), business, or operations of such Company Entity.

3.16 Customers and Suppliers. None of the Material customers or suppliers of a Company Entity have indicated to any Company Entity that they intend to terminate, discontinue, or Materially reduce their business relationship with such Company Entity. There have been no developments with any Material customers or suppliers of any Company Entity that may serve as the basis for such customer or supplier to Materially change its relationship with a Company Entity. No Company Entity has any overdue

payables to any Material supplier for services, materials, equipment or other products previously provided to any Company Entity.

3.17 Ordinary Course of Business. Each Company Entity intends to run its business in the ordinary course of business and will continue to use commercially reasonable efforts to preserve substantially intact the business organization and assets of the Company Entities and preserve the current Material relationships of the Company Entities with customers, suppliers and other persons with which any Company Entity has significant business relations. No Company Entity has any current intention to make, nor is any such Company Entity evaluating or contemplating making, any Material changes to such Company Entity's business, including its business model, pricing model, or product offering.

3.18 Recent Developments. As of the Effective Date, (a) all actions by each Company Entity necessary to authorize the execution, delivery and performance of the Transaction Documents have been taken (including the adoption of appropriate resolutions of the Governing Body), (b) no Event of Default has occurred, and (c) no Company Entity has incurred any additional Indebtedness since the Term Sheet Date.

3.19 Legacy Businesses. Each of JDL Technologies, Inc., Ecessa Corporation and Austin Taylor Communications, Ltd. (collectively, the "Legacy Businesses") do not hold assets that are material to the operations of the Company. The Company is actively pursuing the sale of JDL Technologies, Inc. and Ecessa Corporation.

3.20 Key Person Agreement. The Employment Agreement between the Company and Key Person dated as of December 5, 2022 (the "Employment Agreement") as provided to the Lender is true and correct in all material respects.

ARTICLE 4 CLOSING

4.1 Closings. The closing of the Advance pursuant to this Agreement (the "Closing") shall take place at the offices of Fredrikson & Byron, P.A., 200 South Sixth Street, Suite 4000, Minneapolis, MN 55402-1425, by an electronic exchange of executed counterpart copies of this Agreement and the other Transaction Documents between counsel for Company and Lender. At the Closing, the Company Entities and Lender shall exchange signature pages to this Agreement by facsimile, portable document format (.pdf), DocuSign or other electronic transmission, and Lender will thereafter make the Advance. Distributions of proceeds of the Advance pursuant to this Section 4.1 shall be made in accordance with Schedule 4.1 to the parties set forth thereon by wire transfer (other than payment and reimbursement of Lender's transaction costs, which will be withheld by Lender from the Advance at the Closing).

4.2 Lender's Conditions to Closing. Lender's Advance pursuant to this Agreement is subject to the following conditions:

(a) on or before the Closing, Lender has received evidence of the following actions and or executed original copies of the following documents, in form and substance satisfactory to Lender:

(i) a Letter Agreement from each Key Person related to their employment agreement;

(ii) a copy of resolutions duly adopted by the governing body (e.g., board of directors, board of governors, managing members, general partner or the like) (the "Governing Body") of each Company Entity authorizing this Agreement and the transactions contemplated hereby;

(iii) a Certificate of Perfection from Company with respect to each Company Entity in the form provided by Lender to Company;

(iv) a copy of Company's current operating budget including, without limitation, projected revenues, expenses, wages, and uses of loan proceeds, and if applicable, approved by Company's Governing Body;

(v) a payoff letter from Scott Maskin and James Brennan related to that certain Short-Term Limited Recourse Secured Promissory Note dated November 22, 2022, in favor of Scott Maskin and James Brennan including confirmation of the termination of the Limited Pledge and Security Agreement dated as of November 9, 2022 and all rights of the Lenders thereto; and

(vi) a subordination agreement or letter in favor of Lender from each subordinating creditor identified on Schedule 4.2(a)(vi);

(b) Company will pay to Lender an amount equal to \$85,000, less the Expense Deposit (to the extent already paid to Lender), which amount will be withheld from the proceeds of the Advance in accordance with Section 4.1.

ARTICLE 5 AFFIRMATIVE COVENANTS

Unless otherwise agreed in writing by Lender, each Company Entity shall, so long as any of the Obligations remain unsatisfied, comply with the covenants in this Article 5.

5.1 Financial Information: Reporting.

(a) Standard Reporting. Company must deliver the following reports (the "Standard Reports") to Lender within the time periods specified below:

(i) As directed by Lender, Company must either (A) complete and submit Lender's online financial data questionnaire (each, a "Monthly Questionnaire") within 15 days after the end of each month, which fully and accurately reports the information requested by Lender

about the most recently completed month or if requested by Lender, (B) provide automated online access (read only) to a third-party online accounting software system designated by Lender enabling Lender to view Company's accounts receivable, accounts payable, profit and loss, balance sheet, and other financial information;

(ii) Company's annual consolidated financial statements (balance sheet, cash flow statement and income statement), detailed on a monthly basis, which will be audited by a third party accounting firm reasonably acceptable to Lender (the "Financial Statements") and prepared in all Material respects, in accordance with GAAP, within 120 days after the end of each fiscal year of Company;

(iii) Copies of Company's monthly consolidated Financial Statements as of the end of such month, prepared by Company, in all Material respects, in accordance with GAAP, except for the omission of footnotes and subject to normal year-end adjustments, within 30 days after the end of such month;

(iv) Company's tax returns within 10 days of filing with the applicable taxing authority;

(v) Aged accounts receivable and accounts payable reports and inventory reports, in each case, on a quarterly basis within 30 days after the end of the applicable quarter;

(vi) Company's operating budget (including balance sheet, cash flow statement and income statement), detailed on a monthly basis, and which shall include a separate capital expenditure budget and forecast;

(vii) Copies of any Material notices to or from any other lender to Company; and

(viii) Lender's annual compliance survey within 30 days after Company receives the survey from Lender.

(b) Nonstandard Reporting (upon request only). From time to time, and only if requested by Lender, Company will promptly (or as otherwise specified) deliver the following reports to Lender:

(i) Copies of Company's consolidated quarterly Financial Statements for the periods requested, reviewed by Company's accounting firm, in all Material respects, in accordance with GAAP, except for the omission of footnotes and subject to normal year-end adjustments within 45 days after the end of the applicable quarter;

(ii) Copies of any reports that Company sends to any of its equity holders (as an equity holder); and

(iii) Such other information and financial reports with respect to the Collateral and/or the financial condition and operations of Company as Lender may reasonably request, including Company's books and records.

(c) Service Charges for Late Periodic Reports. Each time Company fails to submit a Standard Report on or before its due date, Company will, automatically and without notice, be assessed a \$500 service charge. Successive service charges will be assessed and due on the 30th day of for each month that the Company fails to submit a Standard Report (or, in the case of February, the 28th) until Company has submitted all past due Standard Reports. All service charges will bear interest at the rate set forth in Section 11.7 from the date they arise.

5.2 Maintenance of Corporate Existence and Properties.

(a) Each Company Entity will at all times do or cause to be done all things necessary to maintain, preserve and renew its charter and its Material leases, privileges, franchises, qualifications and rights that are necessary or useful in the ordinary conduct of its business, and conduct its business as presently conducted or proposed to be conducted in accordance with good business practices;

(b) Each Company Entity will provide or cause to be provided for itself insurance against loss or damage of the kinds customarily insured against by businesses similarly situated and located, with reputable insurers, in such amounts, with such deductibles and by such methods as are adequate in the judgment of such Company Entity's Governing Body, and in any event in amounts not less than amounts generally maintained by other companies of similar size engaged in similar businesses;

(c) Each Company Entity will keep true books of records and accounts in which full and correct entries will be made of all its business transactions, and will reflect in its financial statements adequate accruals and appropriations to reserves, all in accordance with GAAP; and

(d) Each Company Entity will comply in all Material respects with all applicable laws, statutes, rules, regulations, orders and restrictions in respect of the conduct of its business and the ownership of its properties, except such as are being contested in good faith.

5.3 Payment of Indebtedness, Taxes, and Claims. Each Company Entity will pay (i) its Indebtedness, the Obligations, and all other obligations promptly and in accordance with their terms; (ii) file all tax returns and reports which are required by law to be filed by it; (iii) pay before they become delinquent, all taxes (including payroll taxes), assessments and governmental charges and levies imposed upon it or its property, other than such as are being contested in good faith; and (iv) pay all claims or demands of any kind (including but not limited to those of suppliers, mechanics,

carriers, warehousemen, landlords and other like persons) which, if unpaid, might result in the creation of a lien upon its property other than a Permitted Lien.

5.4 Litigation and Other Notices. Company shall furnish to Lender written notice of the following promptly after any officer of any Company Entity becomes aware of the same:

- (a) any Event of Default or the occurrence of any event or condition that would likely result in an Event of Default, specifying the nature and extent thereof and the corrective action (if any) proposed to be taken with respect thereto; *provided, however*, that Company shall provide written notice to Lender within 48 hours of the occurrence of an Event of Default described in Section 7.3 of this Agreement;
- (b) the filing or commencement of, or receipt of notice of intention of any Person to file or commence, any action, suit or proceeding, whether at law or in equity or by or before any governmental authority, against any Company Entity which has had or would likely have a Material Adverse Effect;
- (c) any development, event or condition affecting or relating to any Company Entity that has had, or would likely have, a Material Adverse Effect; *provided, however*, notice for events which occur on a frequent basis may be aggregated into one monthly or quarterly notice as agreed upon in writing by Lender; and
- (d) the issuance by any governmental authority of any injunction, order or decision, or the entry by any Company Entity into an agreement with any governmental agency, Materially restricting the business of any Company Entity or concerning any Material business practice of any Company Entity; *provided, however*, notices regarding regulatory changes will be provided only quarterly.

5.5 Inspection. Upon reasonable advance notice from Lender and up to two times per calendar year (or at any time with or without notice if an Event of Default has occurred and is continuing), each Company Entity shall permit Lender, at Company's expense, to visit and inspect such Company Entity's properties; examine its books of account and records; and discuss such Company Entity's affairs, finances, and accounts with its officers during normal business hours of such Company Entity as may be reasonably requested by Lender; *provided, however*, that such Company Entity shall not be obligated pursuant to this Section 5.5 to provide access to any information that it reasonably and in good faith considers to be a trade secret or confidential information (unless covered by an enforceable confidentiality agreement, in form acceptable to Company) or the disclosure of which would or could reasonably be expected to adversely affect the attorney-client privilege between Company and its counsel.

5.6 [Reserved].

5.7 Subsidiaries. Company shall cause all of the Company Entities to comply with the provisions of Article 5 and Article 6. Company shall deliver prior written notice to Lender of the formation or acquisition of any subsidiary and/or purchase of equity investment or lending or advancing of funds to any other entity. All such subsidiaries of Company shall execute and deliver to Lender such joinders, pledge agreements and other documents as Lender requests.

5.8 Further Assurances.

(a) Each Company Entity will at any time or times promptly execute such instruments and perform such acts as Lender may reasonably request to establish and maintain an attached and perfected security interest in the Collateral and will pay all costs of filing and recording.

(b) Company will reimburse Lender for all reasonable costs, fees and expenses (including attorneys' fees) for the perfection and the continuation of the perfection of Lender's security interest in the Collateral and the cost of any terminations, extensions, renewals, amendments and releases thereof, and shall promptly pay all reasonable costs, fees and expenses of any record searches for financing statements Lender may reasonably require.

5.9 Records Regarding Collateral. Each Company Entity shall maintain all records, instruments or other documentation evidencing or otherwise relating to the Collateral at Company's chief executive office and will not (a) remove any part thereof, or (b) change such Company Entity's name, state of organization, or location of its chief executive office, without the prior written consent of Lender (which consent shall not be unreasonably withheld or delayed).

5.10 Company Bank Account. Company shall use its best efforts to: (a) maintain a banking relationship with Company Bank or other qualified commercial bank; (b) [reserved]; and (c) ensure that the Company's Deposit Account described in Schedule 5.10 has a balance in excess of the amount due to Lender on each date that a payment pursuant to this Agreement is due. Following any change in Company's banking relationship (whether such change is within Company's current bank or another bank), Company shall (i) within five business days notify Lender in writing of any such change in its banking relationship and shall provide Lender with new contact information and account details for all new Deposit Accounts, and (ii) promptly, and in any event within 30 days following such change in its banking relationship (or such later date as Lender may approve in its sole discretion), establish, within 30 days of making such banking relationship change, a springing Deposit Account Control Agreement in a form acceptable to Lender with respect to each new Deposit Account, other than zero balance accounts.

5.11 Compliance. Each Company Entity shall comply in all material respects with the requirements of all applicable state and federal laws, and of all rules, regulations, orders, writs, judgments, injunctions, decrees or awards to which it may be subject.

5.12 Government Regulation. No Company Entity will be or become subject at any time to any law, regulation, or list of any government agency (including, without limitation, the U.S. Office of Foreign Asset Control list) that prohibits or limits Lender from making any advance or extension of credit to Company or from otherwise conducting business with any Company Entity, or fail to provide documentary and other evidence of any Company Entity's identity as may be requested by Lender at any time to enable Lender to verify any Company Entity's identity or to comply with any applicable law or regulation, including, without limitation, Section 326 of the USA Patriot Act of 2001, 31 U.S.C. Section 5318.

5.13 Expenses Related to Non-Compliance with Covenants. If after five business days' notice from Lender, any Company Entity fails to comply with any one or more of the covenants provided for in this Agreement, Lender may, but has no obligation to, take such reasonable actions as Lender, in its sole discretion, deems appropriate to ensure such Company Entity remains in or returns to compliance with this Agreement and to protect Lender's interest under this Agreement, including without limitation, paying premiums, taxes, unpermitted Indebtedness and/or judgments. Company shall thereafter promptly reimburse Lender for all reasonable out-of-pocket costs, fees and expenses incurred by Lender in connection therewith together with interest at the rate set forth in Section 11.7 from the date of the disbursement.

5.14 Registration of Intellectual Property Rights. Each Company Entity will register with the United States Patent and Trademark Office or the United States Copyright Office its intellectual property rights including revisions or additions thereto with any product before the sale or licensing of the product to any third party, in each case to the extent registrable and the Governing Body of such Company Entity in good faith deems appropriate for the development of such Company Entity's business and in the best interest of the Company Entity and its equity holders. To the extent that the Governing Body of a Company Entity in good faith determines appropriate for the development of such Company Entity's business and in the best interests of Company and its equity holders, each such Company Entity will: (i) protect, defend, and maintain the validity and enforceability of the intellectual property rights and promptly advise Lender in writing of any known or claimed infringements thereof, and (ii) not allow any intellectual property rights to be abandoned, forfeited or dedicated to the public without Lender's prior written consent.

5.15 Deposit Account Control Agreement. Within 60 days following the Effective Date (or such later date as Lender may approve in its sole discretion), a Deposit Account Control Agreement in a form acceptable to Lender shall be in place with respect to each Deposit Account maintained by Company, other than (a) new Deposit Accounts established in compliance with Section 5.10 and (b) zero balance accounts.

5.16 Legacy Businesses. The Company shall not transfer any assets to the Legacy Businesses.

5.17 Key Person Agreement. The Company shall not amend the Employment Agreement without the prior written consent of Lender.

**ARTICLE 6
NEGATIVE COVENANTS**

Unless otherwise agreed in writing by Lender, each Company Entity shall, so long as any of the Obligations remain unsatisfied, comply with the covenants in this Article 6.

6.1 Indebtedness.

(a) No Company Entity will (i) create, incur, assume, guarantee, or otherwise become liable for any Indebtedness after the date of this Agreement, (ii) create any lien, security interest, mortgage or pledge of its assets, or (iii) waive, forgive, release, amend, terminate or fail to enforce any Material amount owed to a Company Entity or other right held by a Company Entity. Notwithstanding the preceding sentence, during any period of time in which no Company Entity is in default hereunder and no Event of Default exists, a Company Entity may create Permitted Indebtedness and Permitted Liens.

(b) Without the prior written approval of Lender, Company will not (i) increase the advance rate or interest rate in respect of the Long-Term Note or the Hercules Note, (ii) increase the maximum principal amount of the Long-Term Note or the Hercules Note, or (iii) shorten the dates upon which payments of principal or interest of the Long-Term Note or the Hercules Note are due.

6.2 Restricted Payments.

(a) No Company Entity will, at any time, make or become obligated to make, directly or indirectly, any: (i) payment or distribution in respect of any capital stock, units or other equity interests in any Company Entity; (ii) payment or distribution on account of the purchase, repurchase, redemption or other retirement of any capital stock, units or other interests in any Company Entity; (iii) loans, advances or payments to any affiliate, stockholder, member, or partner, including, without limitation, any officer or member of the Governing Body of any Company Entity; (iv) payment on the Long-Term Note, without Lender's prior written consent; and/or (v) investment in third parties other than in (A) money market funds for purposes of cash management, (B) marketable direct obligations issued or unconditionally guaranteed by the United States of America or any agency or any state thereof maturing within one year from the date of acquisition thereof, (C) commercial paper maturing no more than one year from the date of creation thereof and currently having a rating of at least A-2 or P-2 from either Standard & Poor's Corporation or Moody's Investors Service, (D) certificates of deposit issued by any bank with assets of at least \$500,000,000 maturing no more than one year from the date of investment therein, (E) investments accepted in connection with any transfer or disposition permitted under Section 6.3, (F) investments (including debt obligations) received in connection with the bankruptcy or reorganization of customers or suppliers and in settlement of delinquent obligations of, and other disputes with, customers or suppliers arising in the ordinary course of any Company Entity's business, and (G)

investments consisting of notes receivable of, or prepaid royalties and other credit extensions, to customers and suppliers who are not affiliates, in the ordinary course of business. Notwithstanding the foregoing, Company may make additional payments in excess of required payments on the Hercules Note (the "Permitted Payments") in the amount of (x) fifty percent (50%) of the amount outstanding with respect to the Hercules Note if the Company completes an equity financing yielding between \$5,000,000 and \$10,000,000 to the Company or (y) the remaining balance of the Hercules Note if the Company completes an equity financing yielding greater than \$10,000,000 to the Company. Permitted Payments may only be made upon the completion of an equity financing. Up to the maturity of the Hercules Note, the Company may issue equity shares to Hercules Capital, Inc. to paydown amounts outstanding with respect to the Hercules Note. Additionally, Company may make payments on (x) Contingent Value Rights to the extent and in the amount of any reserves set aside for such payments and (y) with respect to the SUNation Earnout with the prior written consent of Lender, such consent not to be unreasonably withheld.

(b) Notwithstanding Section 6.2(a), each Company Entity may (i) pay reasonable compensation (including reasonable salary, bonus and equity compensation for a company of similar size, financial condition, location and industry), (ii) reimburse expenses incurred on behalf of a Company Entity, (iii) if any Company Entity is, for tax purposes, a partnership (including a limited liability company taxed as a partnership) or Subchapter S corporation, distributions in such amounts as reasonably determined to be necessary to allow equity holders to pay federal, state and local income taxes with respect to the income allocated to such equity holder from such Company Entity with respect to the applicable tax year, and (iv) repurchase or redeem any class of stock or other equity interest pursuant to employee, director, or consultant repurchase plans or other similar agreements in amounts up to \$100,000 per year.

6.3 Ownership; Maintenance of Collateral. No Company Entity shall (a) transfer or otherwise dispose of all or any portion of the Collateral, other than transfers or dispositions (i) in the ordinary course of business, (ii) of worn-out, obsolete or surplus equipment, or equipment no longer used or useful in the business of the Company Entities, or (iii) of assets having a fair market value of not more than \$50,000 in the aggregate in any fiscal year, (b) enter into any lease or license for the use of the Collateral without fair and reasonable consideration, or (c) waive, forgive, release, amend, terminate or fail to enforce any Material amount owed to Company or other right held by Company. Each Company Entity shall keep the Collateral free and clear of all levies, attachments, liens, charges, encumbrances and security interests of every kind or character (except for the security interest granted to Lender hereunder and except for Permitted Liens). Each Company Entity shall promptly pay and discharge when due all license fees, registration fees, taxes, assessments and other charges which may be levied upon or assessed against the ownership, possession or uses of the Collateral or any portion thereof, except as otherwise permitted in this Agreement. Each Company Entity shall keep accurate and complete records of the Collateral and shall, upon Lender's reasonable request, promptly affix on any Collateral constituting chattel paper, a notice, in form satisfactory to Lender, of Lender's security interest

created hereunder. Each Company Entity shall use commercially reasonable efforts to maintain all Collateral in good working order, subject to ordinary wear and tear, and, with respect to intellectual property, make such filings, prosecute such applications, pay necessary fees (including maintenance fees), and take such other actions as necessary to properly maintain and protect such Company Entity's Material intellectual property rights. For the avoidance of doubt, no Company Entity shall, without Lender's prior written consent, sell or otherwise transfer or cease operations of any business unit, operating division, or other Material portion of such Company Entity's business operations.

6.4 New Subsidiaries. No Company Entity will create or permit to exist any new subsidiary or joint venture. If Lender consents to the formation or acquisition of any subsidiary or joint venture after the date of this Agreement (each, an "Approved Subsidiary"), then such Approved Subsidiary (a) shall execute and deliver the joinder contemplated by Section 5.7 hereof and (b) will be considered a Guarantor and Company Entity for all purposes under this Agreement. By executing and delivering the joinder required under clause (a) above, such Approved Subsidiary will be deemed to have granted a security interest as contemplated under Section 2.4 of this Agreement in all of such Approved Subsidiary's assets and Lender will be permitted to take such actions and make such filings as are contemplated in Section 2.4 of this Agreement with respect to such Approved Subsidiary. For the avoidance of doubt, none of the capital stock, units, other equity interests, assets, or property of the Legacy Businesses, nor any proceeds therefrom, is Collateral, and the Company Entities are permitted to sell, transfer, or otherwise dispose of such equity interests, assets, and property.

6.5 Related Party Transactions. No Company Entity will enter into any agreement with any affiliates stockholder, member, partner, officer, director, or employee of any Company Entity, or any member of the immediate family of any such officer, director or employee, or any entity in which any of such persons owns any beneficial interest, in each case on terms that are less favorable to such Company Entity than those that might be obtained in an arm's length transaction from a Person who is not an affiliate of such Company Entity.

ARTICLE 7 EVENTS OF DEFAULT

The term "Event of Default" means the occurrence of any one or more of the following events:

7.1 Payment of Obligations. The failure or refusal of Company to pay any portion of the Obligations on the due date in accordance with the terms of the Transaction Documents (each, a "Payment Event of Default"); *provided* that, subject to Section 8.2 and Section 11.7 hereof, Company will have 15 days following the due date thereof to cure any such Payment Event of Default.

7.2 Other Covenants. The failure or refusal of any Company Entity to punctually and properly perform, observe and comply with any Material covenant, agreement or condition contained in any of the Transaction Documents and such

failure continues for a period of 30 days after the earliest of: (a) the date Company gives notice of such failure to Lender; (b) the date Company should have given notice of such failure to Lender pursuant to this Agreement; and (c) the date Lender gives notice of such failure to Company; *provided* there will be no cure period for (i) any breach of any negative covenant contained in Article 6 or any of the Transaction Documents, or (ii) the Events of Default provided in Section 7.3.

7.3 Bankruptcy; Insolvency.

- (a) any Company Entity commences a voluntary case under Title 11 of the United States Code as now or hereafter in effect, or any successor thereto;
- (b) an involuntary case under Title 11 of the United States Code is commenced, or any other voluntary reorganization, receivership, or insolvency proceeding is commenced against any Company Entity and such petition or proceeding, as applicable, is not dismissed within 30 days after commencement of the case or proceeding;
- (c) a custodian is appointed for, or takes charge of, all or any substantial part of the property of any Company Entity;
- (d) any Company Entity commences any other proceeding under any reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law of any jurisdiction whether now or hereafter in effect relating to any Company Entity;
- (e) any Company Entity shall fail to pay, or shall state that it is unable to pay, or is unable to pay, its debts generally as they become due; or
- (f) the Company Entities (taken as a whole) shall cease or substantially change or reduce their operations and such cessation, change, or reduction would have a Material Adverse Effect.

7.4 Judgments. A final, non-appealable judgment for the payment of money in excess of \$350,000 and not covered by independent third-party insurance as to which liability has not been rejected by such insurance carrier is rendered against a Company Entity, and such judgment remains unpaid or undischarged for more than 30 days from the date of entry thereof.

7.5 False Statement. Any representation or warranty made by or on behalf of a Company Entity in this Agreement or any other Transaction Documents or in any certificate, statement, report or document herewith or hereafter furnished to Lender pursuant to this Agreement or any other Transaction Documents shall prove to have been false or misleading in any Material respect on the date as of which the facts set forth are stated or certified, if the facts are not remedied to reflect the representation or warranty made within 30 days of any officer of a Company Entity becoming aware of such false or misleading representation or warranty.

7.6 Key Person Events. Without written consent of Lender, a Key Person:

- (a) ceases full-time employment with the Company Entities other than for reason of death or disability and the Company does not hire a replacement Key Person, reasonably acceptable to Lender, within 90 days;
- (b) provides services to a business that is competitive with any Company Entity;
- (c) improperly uses intellectual property or confidential information of any Company Entity for the benefit of any Person other than the Company Entities; or
- (d) violates any material provision of his or her Employment Agreement.

**ARTICLE 8
RIGHTS AND REMEDIES**

8.1 General Remedies. If any Event of Default specified in Section 7.3 shall occur, Lender may, at its option and without notice:

- (a) declare the entire Advance, Interest and all other Obligations, or any part thereof, immediately due and payable (provided that the Minimum Interest used to determine the Interest in such event will be the maximum Minimum Interest determined in accordance with Schedule 10.3, which will include all actual adjustments to the Minimum Interest in accordance with the terms of this Agreement, but will exclude speculative adjustments);
- (b) exercise any and all other legal or equitable rights afforded by the Transaction Documents and the laws of the Applicable Jurisdiction or any other jurisdiction as Lender shall deem appropriate; and
- (c) take any action permitted by this Agreement or by applicable law, including the Uniform Commercial Code then in effect in the Applicable Jurisdiction, to satisfy the Obligations of the Company Entities owed to Lender, including, but not limited to:
 - (i) Without limiting the generality of the foregoing Lender, may, to the fullest extent permitted by applicable law, without notice, hearing or process except as specified below, take possession and maintain control over the Collateral. Within two days following demand by Lender for possession and control of the Collateral following an Event of Default, each Company Entity shall, at its sole cost and expense, assemble and turn over to Lender all Collateral of such Company Entity then held by such Company Entity.
 - (ii) Lender may in its sole discretion sell the Collateral or any part thereof in one or more parcels at public or private sale, for cash, on credit or for future delivery, and upon such other terms as Lender may deem commercially reasonable, and Lender may purchase all or any part of the

Collateral at public or, if permitted by law, private sale, and in lieu of actual payment of such purchase price, may set off the amount of such purchase price against the Obligations. Lender may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, with notice, be made at the time and place to which it was so adjourned. Lender may abandon any such proposed sale. Each Company Entity acknowledges that any private sales of Collateral effected by Lender may result in terms less favorable to a seller than public sales but each Company Entity agrees that such private sales shall nevertheless be deemed commercially reasonable. The Company Entities shall pay all reasonable costs, fees and expenses incurred by Lender, including reasonable attorney's fees and court costs, in connection with any such sale.

(iii) Lender may enter upon and into and take possession of all or such part or parts of the properties owned or occupied by any Company Entity, including lands, buildings, equipment and other property as may be necessary or appropriate in the judgment of Lender to permit or enable Lender to complete the processing or collection of all or any part of the Collateral as Lender may elect, and use and operate such properties for such purposes and for such length of time as Lender may deem reasonably necessary or appropriate for such purposes without the payment of any compensation to any Company Entity therefor.

8.2 Minimum Interest Multiple Remedies.

(a) Payment Event of Default. Following the occurrence of any Payment Event of Default and in addition to all other rights and remedies provided by this Agreement or applicable law, for each payment not timely made under this Agreement, the applicable Minimum Interest multiple will be increased by 0.015 on the Payoff Date; *provided* that for the first two Payment Events of Default and for purposes of this Section 8.2 only, Company will have 15 days to cure such instances of a Payment Event of Default without a corresponding increase to the Minimum Interest multiple. The applicable Minimum Interest multiple will be increased regardless of whether Lender notifies Company of any Payment Event of Default, provided that Lender will endeavor to notify Company of any Payment Event of Default. If Company has not fully cured such Payment Event of Default at the end of such 15-day period, the applicable Minimum Interest multiple will increase as described above. Beginning with the third Payment Event of Default and continuing with each Payment Event of Default thereafter, the applicable Minimum Interest multiple will increase by 0.015 on the Payoff Date upon the occurrence of each such Payment Event of Default regardless of whether or not such Payment Event of Default is subsequently cured.

8.3 Notice of Sale. If any notification of intended disposition of any of the Collateral is required by law, such notification will be deemed reasonably and properly given if provided in accordance with Section 11.6 at least 10 days before such

disposition, postage prepaid, addressed to Company at the address set forth in the introduction to this Agreement. Such disposition shall be established by affidavit of a representative of Lender, receipts or other reasonable method.

8.4 Remedies Cumulative; No Waiver. The rights and remedies of Lender hereunder are cumulative and nonexclusive and the exercise of any one or more of the remedies provided for herein or under applicable law shall not be construed as a waiver of any of the other remedies of Lender so long as any part of the Obligations remain unsatisfied. No failure on the part of Lender to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy by Lender preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

8.5 Application of Proceeds. Any payments or proceeds received by Lender from the Collateral shall be applied to the payment of costs, fees and expenses incurred by Lender in connection with performing, managing, maintaining or selling the Collateral, including reasonable attorneys' fees and expenses, and the balance, if any, shall be applied by Lender to payment of the Obligations, in order of application as Lender shall reasonably determine.

8.6 Notice to Account Debtors. Upon the occurrence and during the continuance of (a) any Event of Default under Section 7.3, or (b) upon any other Event of Default, provided Lender has declared all Obligations immediately due and payable, Lender may notify any or all account debtors of the existence of Lender's security interest in the Collateral and require such account debtors to pay or remit all sums due or to become due directly to Lender or its nominee.

8.7 Deposit Account Control Agreement. Upon the occurrence and during the continuance of an Event of Default, Lender may exercise any and all rights as a secured creditor in respect of the Deposit Accounts of Company, including without limitation providing instructions to the bank regarding the withdrawal or disposition of any funds credited to the Deposit Accounts and as to any other matters relating to the Deposit Accounts in accordance with the terms of the Deposit Account Control Agreement.

8.8 Performance by Lender. If any Company Entity does not perform any covenant, duty or agreement in accordance with the terms of the Transaction Documents, Lender may, at its option, perform or attempt to perform, such covenant, duty or agreement on behalf of such Company Entity. In such event, any amount expended by Lender in such performance or attempted performance will be payable by Company to Lender on demand, will become part of the Obligations. Notwithstanding the foregoing, it is expressly understood that Lender does not assume and will never have, except by express written consent of Lender, any liability or responsibility for the performance of any covenant, duty or agreement of any Company Entity. Lender will have (and is hereby granted in such event) a royalty-free license to use intellectual property rights of each Company Entity to complete production of, advertisement for, and disposition of any Collateral and Lender will have

a license to enter into, occupy, and use each Company Entity's premises and the Collateral without charge by the Company Entities to exercise any of Lender's rights or remedies under this Agreement or under any other Transaction Document.

8.9 Delegation of Duties and Rights. Lender may perform any of its duties or exercise any of its rights under the Transaction Documents by or through its officers, members of its Governing Body, employees, attorneys, agents or other representatives.

8.10 Expenditures by Lender. Each Company Entity shall indemnify Lender for all court costs, attorneys' fees, other costs of collection and other sums spent by Lender pursuant to the exercise of any right (including, without limitation, any effort to collect amounts due or otherwise enforce this Agreement) provided herein. All such amounts will be payable to Lender on demand.

8.11 Lender's Authority. Upon the occurrence and during the continuance of an Event of Default, Lender has the authority, but is not obligated to:

- (a) place on any chattel paper received as proceeds a notation or legend showing Lender's security interest;
- (b) demand, collect, receive and receipt for, compound, compromise, settle and give acquittance for, and prosecute and discontinue any suits or proceedings in respect of any or all of the Collateral in the name of the Company Entities;
- (c) upon prior written notice to Company, take any action which Lender may deem necessary or desirable in order to realize on the Collateral, including, without limitation, performance of any contract and endorsement in the name of any Company Entity of any checks, drafts, notes or other instruments or documents received in payment of or on account of the Collateral; and
- (d) place upon each Company Entity's books and records relating to the Collateral covered by the security interest granted hereby a notation or legend stating that such are subject to a security interest held by Lender.

8.12 Power of Attorney.

(a) Each Company Entity hereby irrevocably appoints Lender as its lawful attorney-in-fact, exercisable upon the occurrence and during the continuance of an Event of Default, to: (i) endorse such Company Entity's name on any checks or other forms of payment or security; (ii) sign such Company Entity's name on any invoice or bill of lading for any account or drafts against account debtors; (iii) settle and adjust disputes and claims about the accounts directly with account debtors, for amounts and on terms Lender determines reasonable; (iv) make, settle, and adjust all claims under such Company Entity's insurance policies; (v) pay, contest or settle any lien, charge, encumbrance, security interest, and adverse claim in or to the Collateral, or any judgment based thereon, or otherwise take any action to terminate or discharge the same;

and (vi) transfer the Collateral into the name of Lender or a third party as the Uniform Commercial Code permits.

(b) Each Company Entity hereby appoints Lender as its lawful attorney-in-fact to sign such Company Entity's name on any documents necessary to perfect or continue the perfection of Lender's security interest in the Collateral regardless of whether an Event of Default has occurred until all Obligations have been satisfied in full.

(c) Lender's foregoing appointment as attorney in fact of each Company Entity, and all of Lender's rights and powers, coupled with an interest, are irrevocable until all Obligations have been fully repaid and performed.

8.13 Notification to Company. Lender shall endeavor, but is under no obligation, to use reasonable efforts to notify Company of any of the foregoing actions by Lender in this Article 8; *provided, however*, the parties hereto expressly agree that the failure of Lender to provide notice shall not in any way affect or impair any action taken by Lender, it being understood that any absolute obligation of notice is hereby waived by Company and each other Company Entity.

ARTICLE 9 INDEMNIFICATION

9.1 Indemnification. Company agrees to indemnify and hold harmless Lender and its successors and assigns, together with any of its officers, members of its Governing Body, shareholders, partners, members, and/or managers (such persons, the "Indemnified Parties"), from and against all losses, damages, liabilities, obligations, costs or expenses (any one such item being herein called a "Loss" and all such items being herein collectively called "Losses") which are caused by or arise out of, or (in the case of claims asserted against any Indemnified Parties by a third party) alleged to result from, arise out of or have been incurred with respect to, (a) any breach or default in the performance by any Company Entity of any covenant or agreement of any Company Entity contained in this Agreement, (b) any breach of warranty or inaccurate or erroneous representation made by any Company Entity herein or in any certificate or other instrument delivered by or on behalf of any Company Entity pursuant hereto, and (c) any and all actions, suits, proceedings, claims, demands, judgments, costs and expenses (including costs and attorneys' fees) arising out of the foregoing except when such actions, suits, proceedings, claims, demands, judgments, costs and expenses arise as a result of the grossly negligent or intentional actions or omissions of Lender.

9.2 Survival. The indemnification provided in this Article 9 shall only apply, without limitation, to any act, omission, event or circumstance existing or occurring on or prior to the date of payment in full of the Obligations.

**ARTICLE 10
DEFINITIONS**

10.1 Definitions. For purposes hereof, the following terms when used herein shall have the respective meanings set forth below:

“Advance” means an amount equal to \$7,500,000.

“Applicable Jurisdiction” means the State of Utah.

“Certificate of Perfection” means a Certificate of Perfection in the form provided by Lender to Company.

“Change of Control” means either (a) a merger or consolidation of Company with or into another entity, or other transaction, following which the stockholders of Company immediately prior to such transaction hold securities representing less than a majority of the voting power of the surviving entity or parent of the surviving entity immediately following such transaction, or (b) the sale, lease, license or other disposition of all or substantially all of Company’s assets. Notwithstanding the prior sentence, the sale of Company’s equity securities in a bona fide equity financing transaction shall not be deemed a “Change of Control”.

“Collateral” means those assets identified as “Collateral” on Schedule 10.2 of each Company Entity.

“Company Bank” means Wells Fargo Bank N.A.

“Contingent Value Rights” means those amounts set forth on Schedule 6.2(a).

“Deposit Account” means a deposit, demand, savings, passbook, or similar account with a bank or other financial institution.

“Deposit Account Control Agreement” means a deposit account control agreement among Company, Lender, and the bank at which Company maintains one or more Deposit Accounts.

“Expense Deposit” means an amount equal to \$40,000, which was paid by Company to Lender in connection with the execution of the Term Sheet.

“Indebtedness” means (a) indebtedness for borrowed money or the deferred price of property or services, and other obligations to pay, (b) obligations evidenced by notes, bonds, debentures or similar instruments and (c) capital lease obligations. FOR THE AVOIDANCE OF DOUBT, “INDEBTEDNESS” INCLUDES, WITHOUT LIMITING THE FOREGOING, MERCHANT CASH ADVANCES, FACTORING OBLIGATIONS, PRE-SALE OF FUTURE ACCOUNTS RECEIVABLE AND/OR PURCHASE ORDERS, CREDIT CARD ADVANCES, AND ANY OFF-BALANCE SHEET ARRANGEMENTS.

“Key Person” means Kyle Udseth.

“Lender Account” means the account with UMB Bank, National Association held in the name of Decathlon Growth Credit, LLC (an affiliate of Lender) with the account details as set forth in Schedule 2.3(b)(1).

“Lien” means a claim, mortgage, deed of trust, levy, charge, pledge, security interest, or other encumbrance of any kind, whether voluntarily incurred or arising by operation of law or otherwise against any property.

“Long-Term Note” means that certain note dated as of November 9, 2022, by and among the Company, Solar Merger Sub, Scott Maskin, James Brennan, Scott Sousa, and Brian Karp, as the Sellers and Scott Maskin, as representative of each seller.

“Material” means material in relation to the properties, business, operations, earnings, assets, liabilities and/or condition (financial or otherwise) of the Company Entities taken as a whole, whether or not in the ordinary course of business.

“Material Adverse Effect” means a Material adverse effect on the properties, business, operations, earnings, assets, liabilities and/or the condition (financial or otherwise) of the Company Entities taken as a whole, whether or not in the ordinary course of business.

“Maturity Date” means the earliest of: (i) June 1, 2027, (ii) immediately prior to a Change of Control, and (iii) acceleration of the Obligations as provided in Article 8.

“Minimum Interest” means those amounts set forth in Schedule 10.3.

“Obligations” means the payment when due of the principal amount of the Advance and Interest and all other amounts due under this Agreement when due, whether at maturity, by acceleration, prepayment or otherwise, together with all other costs, fees, expenses, indemnities and reimbursements, as well as all other obligations of any Company Entity now or hereafter existing under this Agreement or any other Transaction Document.

“Payment Commencement Date” means July 15, 2023.

“Permitted Indebtedness” means those liabilities and Indebtedness listed on Schedule 10.4 attached hereto.

“Permitted Liens” means liens listed on Schedule 10.5 attached hereto.

“Person” means any individual, entity or association.

“promptly” means within 10 calendar days following the applicable event.

“Reported Revenue” means the amount of Revenue reported as being generated by the Company Entities during the applicable period as reported and/or made available to Lender pursuant to Section 5.1(a)(i).

“Revenue” means all non-financing related cash and cash equivalents (without duplication) received by any Company Entity during the applicable period determined in accordance with GAAP; *provided* that intercompany amounts shall not be considered “Revenue.”

“Revenue Loan Amount” means \$7,500,000.

“SUNation Earnout” means any earnout payment made pursuant to that certain Transaction Agreement dated as of November 9, 2022 by and among the Company, Solar Merger Sub, Scott Maskin, James Brennan, Scott Sousa, and Brian Karp, as the sellers, and Scott Maskin, as representative of each seller.

“Tax” or “Taxes” means any federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, property or windfall profits taxes, environmental taxes, customs duties, capital stock, franchise, employees’ income withholding, foreign or domestic withholding, social security, unemployment, disability, workers’ compensation, employment-related insurance, real property, personal property, sales, use, transfer, value added, alternative or add-on minimum or other governmental tax, fee, assessment or charge of any kind whatsoever including any interest, penalties or additions to any Tax or additional amounts in respect of the foregoing.

“Term Sheet” means that certain Confidential Summary of Proposed Terms dated the Term Sheet Date, between Company and Lender.

“Term Sheet Date” means May 10, 2023.

“Transaction Documents” means this Agreement and all exhibits and schedules to this Agreement, as well as all other agreements executed or delivered by any Company Entity, any guarantor or party granting security interests or providing credit enhancements in connection with this Agreement, the Advance or any Collateral for the Obligations.

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**ARTICLE 11
MISCELLANEOUS**

11.1 Survival and Confirmation of Representations and Warranties. The warranties, representations and covenants of each Company Entity and Lender and the indemnification obligations of each party contained in or made pursuant to this Agreement shall survive the execution and delivery of this Agreement and the Closing and shall in no way be affected by any investigation of the subject matter thereof made by or on behalf of Lender or any Company Entity.

11.2 Successors and Assigns. No Company Entity may assign its rights or delegate its Obligations under this Agreement without Lender's prior written consent, except in connection with a Change of Control. Except as otherwise provided herein, the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the parties' respective successors and assigns. Nothing in this Agreement, express or implied, is intended to confer upon any party, other than the parties hereto or their respective successors and assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement. Lender may assign this Agreement without any prior approval.

11.3 Governing Law. This Agreement is governed by and construed under the substantive laws of the Applicable Jurisdiction without regard to the conflicts of law provisions thereof. The state and federal courts in the Applicable Jurisdiction have exclusive jurisdiction of any and all actions or suits commenced by Lender or any Company Entity arising under or with respect to this Agreement.

11.4 Jurisdiction and Venue. Each of Lender and each Company Entity irrevocably consents to the exclusive jurisdiction and venue of any court within the Applicable Jurisdiction, in connection with any matter based upon or arising out of this Agreement, the Transaction Documents or the matters contemplated herein or therein, and agrees that process may be served upon them in any manner authorized by the laws of the Applicable Jurisdiction for such persons.

11.5 Titles and Subtitles. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

11.6 Notices. All notices required or permitted hereunder shall be in writing and will be deemed effectively given: (i) upon personal delivery to the party to be notified; (ii) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient, if not, then on the next business day; (iii) five days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (iv) one day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be sent to the applicable address set forth below, unless another address has been previously specified in writing:

To the Company Entities:

Kyle Udseth
10900 Red Circle Drive
Minnetonka, MN 55343
Attention: Kyle Udseth
Email: kyle.udseth@pineappleenergy.com

with a copy (which shall not constitute notice or service of process) to:

Faegre Drinker Biddle & Reath LLP
2200 Wells Fargo Center, 90 South Seventh Street
Minneapolis, Minnesota 55402
Attention: Jonathan R. Zimmerman and Kaili K. Janus
Email: jon.zimmerman@faegredrinker.com and
kaili.janus@faegredrinker.com

To Lender:

Decathlon Specialty Finance, LLC
1441 West Ute Boulevard, Suite 240
Park City, UT 84098
Attention: Wayne Cantwell
Email: wcantwell@decathloncapital.com

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

Fredrikson & Byron, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, MN 55402
Attention: Kevin Spreng; Zach Olson
Email: kspreng@fredlaw.com; zolson@fredlaw.com

11.7 Fees and Expenses. Company shall pay all costs and expenses that it incurs with respect to the negotiation, execution, delivery and performance of this

Agreement. Company shall, at the Closing, pay the fees and expenses of Lender (including reasonable fees and expenses of counsel for Lender). Lender will submit an invoice to Company no less frequently than annually for out-of-pocket costs, fees and expenses incurred by Lender in the administration of the transactions contemplated by this Agreement. Following Closing, Company shall promptly reimburse Lender for all reasonable, documented out-of-pocket costs, fees and expenses (including accounting, appraisal, consulting, and attorneys' fees) incurred by Lender in connection with (i) the administration of the transactions contemplated by this Agreement, (ii) any breach or default by Company under the Transaction Documents, and (iii) any request by Company to modify or waive the Transaction Documents and otherwise change or affect the rights of Lender or Obligations of Company pursuant to the Transaction Documents. Service fees and service charges assessed by Lender pursuant to Section 2.3(b) and Section 5.1(c) will accrue interest at a rate of 10% per annum from the date they arise until paid. Service fees and service charges will be billed in writing to Company on the date such service fees and service charges are assessed.

11.8 Amendments and Waivers. No failure on the part of Lender to exercise and no delay in exercising any power or right hereunder or under any other Transaction Document shall operate as a waiver thereof; nor shall any single or partial exercise of any power or right preclude any other or further exercise thereof or the exercise of any other power or right. The remedies herein and in any other instrument, document or agreement delivered or to be delivered to Lender hereunder or in connection herewith are cumulative and not exclusive of any remedies provided by law. No notice to or demand on any Company Entity not required hereunder shall in any event entitle any Company Entity to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of Lender to any other or further action in any circumstances without notice or demand. No amendment, modification or waiver of any provision of this Agreement or any other Transaction Document or consent to any departure by a Company Entity therefrom will be effective unless the same is in writing and signed by Lender and each Company Entity.

11.9 Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision will be excluded from this Agreement and the balance of the Agreement will be interpreted as if such provision were so excluded and will be enforceable in accordance with its terms.

11.10 Entire Agreement. This Agreement and the documents referred to herein constitute the entire agreement among the parties and supersede any prior agreements or understandings (whether written or oral) regarding the subject matter hereof.

11.11 Representation of Lender. Lender is an accredited investor as defined in Rule 501(a) of Regulation D and has such business and financial experience as necessary to enable it to protect its interests in connection with the transactions contemplated by this Agreement. Lender has had the opportunity to ask questions and to receive answers and to obtain the information concerning the Company Entities and the transactions contemplated by this Agreement that it has deemed material and

necessary to evaluate the merits and risks of the transactions contemplated by this Agreement.

11.12 Termination. This Agreement shall terminate upon indefeasible satisfaction of the Obligations (other than Obligations in respect of contingent indemnification and expense reimbursement claims not then due).

11.13 Counterparts. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by facsimile, portable document format (.pdf), DocuSign or other electronic transmission is equally as effective as delivery of a manually executed counterpart of this Agreement.

11.14 Costs of Enforcement. Company agrees to pay all reasonable costs, fees and expenses of enforcement, collection, or preservation of collateral (including reasonable attorneys' fees) that Lender incurs in connection with any default or Event of Default hereunder (whether before or after any cure). Additionally, Company agrees to pay all reasonable costs, fees and expenses (including reasonable attorneys' fees) that Lender incurs, before or after any default or Event of Default as a result of any litigation or other action in which Lender becomes involved as a party, witness or otherwise as a result of making the Advance evidenced by this Agreement.

11.15 Waiver of Jury Trial. Each Company Entity hereby knowingly, voluntarily and intentionally WAIVES THE RIGHT TO TRIAL BY JURY in respect of any litigation based herein, arising out of, under or in connection with this Agreement or any other Transaction Document or any course of conduct, course of dealings, statements (whether verbal or written) or acts of either party, or any exercise by any party of their respective rights under this Agreement or any other Transaction Document. Each Company Entity hereby acknowledges that this waiver of jury trial is a material inducement to Lender in extending credit to Company, that Lender would not have extended credit without this waiver of jury trial, and that each Company Entity has had an opportunity to consult with an attorney in connection with this waiver of jury trial and understands the legal effect of this waiver.

11.16 Waiver of Notices and Hearing. Each Company Entity by entering into this Agreement and negotiating the terms hereof, voluntarily, intelligently and knowingly waives any rights it may have to demand any notices other than those provided for herein and any right to a hearing as a condition precedent to Lender's exercise of its rights to foreclose on any Collateral. All makers, endorsers, sureties, guarantors and other accommodation parties hereby waive presentment for payment, protest and notice of nonpayment and consent, without affecting their liability hereunder, to any and all extensions, renewals, substitutions and alterations of any of the terms of this Agreement and to the release of or failure by Lender to exercise any rights against any party liable for or any property securing payment thereof.

11.17 Confidentiality. Except to the extent required by the U.S. Securities and Exchange Commission, no Company or any of their respective officers, members of its

Governing Body, employees, agents, or equity holders shall disclose this Agreement, the terms hereof or any related transactions or agreements to any third party other than Company's accountants and attorneys or as required by applicable law, without the prior written approval of Lender. Nothing will prevent Lender from disclosing this Agreement or the terms hereof for marketing purposes, press releases or other transactional announcements or updates provided to investor or trade publications, including the placement of "tombstone" advertisements in financial and other newspapers and journals.

11.18 Credit Reporting. Each Company Entity hereby authorizes Lender (but Lender has no obligation) (a) to provide to credit reporting agencies a report of the amount of the Obligations owed to Lender, the Revenue Loan Amount, Company's payment history with respect to the Obligations, and any other information regarding the Company Entities or the Obligations or otherwise related to this Agreement that is customarily reported to credit reporting agencies, and (b) to respond to usual and customary credit inquiries from third parties concerning any Company Entity.

11.19 Time. Time is of the essence for the performance of each and every covenant of each Company Entity under this Agreement.

The signature page follows.

The parties have executed this Agreement as of the Effective Date.

COMPANY:

PINEAPPLE ENERGY, INC. (f/k/a PINEAPPLE HOLDINGS, INC.)

By: /s/ Kyle Udseth
Kyle Udseth, CEO

LENDER:

DECATHLON SPECIALTY FINANCE, LLC

By: /s/ Wayne Cantwell
Wayne Cantwell, Managing Director

GUARANTORS:

PINEAPPLE ENERGY LLC

By: /s/ Kyle Udseth
Kyle Udseth, CEO

SUNATION SOLAR SYSTEMS, INC.

By: /s/ Kyle Udseth
Kyle Udseth, CEO

SUNATION COMMERCIAL, INC.

By: /s/ Kyle Udseth
Kyle Udseth, CEO

[Signature Page to Revenue Loan and Security Agreement]

SUNATION SERVICE, LLC

By: /s/ Kyle Udseth
Kyle Udseth, CEO

SUNATION ROOFING, LLC

By: /s/ Kyle Udseth
Kyle Udseth, CEO

SUNATION ENERGY, LLC

By: /s/ Kyle Udseth
Kyle Udseth, CEO

**SCHEDULE 2.3(b)(1)
LENDER'S ACCOUNT DETAILS**

Beneficiary: Decathlon Growth Credit, LLC
1441 West Ute Boulevard, Suite 240
Park City, UT 84098

Account No: [***]
Routing No: [***]
Bank: [***]

**SCHEDULE 2.3(b)(2)
FIXED PAYMENT SCHEDULE**

Summary

Minimum Cash-on-Cash Multiple

Revenue Assumptions

Date	Projected	Fixed*	Loan	Fixed Annual Debt
	Revenue	Payment	Advancement	Service
6/1/2023			\$ 7,500,000	
7/15/2023	\$ [***]	\$ 160,000	\$ -	
8/15/2023	\$ [***]	\$ 160,000	\$ -	
9/15/2023	\$ [***]	\$ 160,000	\$ -	
10/15/2023	\$ [***]	\$ 160,000	\$ -	
11/15/2023	\$ [***]	\$ 160,000	\$ -	
12/15/2023	\$ [***]	\$ 160,000	\$ -	2023
1/15/2024	\$ [***]	\$ 180,000	\$ -	\$960,000
2/15/2024	\$ [***]	\$ 180,000	\$ -	
3/15/2024	\$ [***]	\$ 180,000	\$ -	
4/15/2024	\$ [***]	\$ 180,000	\$ -	
5/15/2024	\$ [***]	\$ 180,000	\$ -	
6/15/2024	\$ [***]	\$ 180,000	\$ -	
7/15/2024	\$ [***]	\$ 190,000	\$ -	
8/15/2024	\$ [***]	\$ 190,000	\$ -	
9/15/2024	\$ [***]	\$ 190,000	\$ -	
10/15/2024	\$ [***]	\$ 190,000	\$ -	
11/15/2024	\$ [***]	\$ 190,000	\$ -	2024
12/15/2024	\$ [***]	\$ 190,000	\$ -	\$2,220,000
1/15/2025	\$ [***]	\$ 210,000	\$ -	
2/15/2025	\$ [***]	\$ 210,000	\$ -	
3/15/2025	\$ [***]	\$ 210,000	\$ -	
4/15/2025	\$ [***]	\$ 210,000	\$ -	
5/15/2025	\$ [***]	\$ 210,000	\$ -	
6/15/2025	\$ [***]	\$ 210,000	\$ -	
7/15/2025	\$ [***]	\$ 220,000	\$ -	
8/15/2025	\$ [***]	\$ 220,000	\$ -	
9/15/2025	\$ [***]	\$ 220,000	\$ -	
10/15/2025	\$ [***]	\$ 220,000	\$ -	
11/15/2025	\$ [***]	\$ 220,000	\$ -	2025
12/15/2025	\$ [***]	\$ 220,000	\$ -	\$2,580,000
1/15/2026	\$ [***]	\$ 230,000	\$ -	
2/15/2026	\$ [***]	\$ 230,000	\$ -	
3/15/2026	\$ [***]	\$ 230,000	\$ -	
4/15/2026	\$ [***]	\$ 230,000	\$ -	
5/15/2026	\$ [***]	\$ 230,000	\$ -	
6/15/2026	\$ [***]	\$ 230,000	\$ -	
7/15/2026	\$ [***]	\$ 230,000	\$ -	
8/15/2026	\$ [***]	\$ 230,000	\$ -	
9/15/2026	\$ [***]	\$ 230,000	\$ -	
10/15/2026	\$ [***]	\$ 230,000	\$ -	
11/15/2026	\$ [***]	\$ 230,000	\$ -	2026
12/15/2026	\$ [***]	\$ 230,000	\$ -	\$2,760,000
1/15/2027	\$ [***]	\$ 250,000	\$ -	
2/15/2027	\$ [***]	\$ 250,000	\$ -	
3/15/2027	\$ [***]	\$ 250,000	\$ -	
4/15/2027	\$ [***]	\$ 250,000	\$ -	
5/15/2027	\$ [***]	\$ 250,000	\$ -	2027
6/1/2027	\$ [***]	\$ 2,230,000	\$ -	\$3,480,000

**SCHEDULE 3.2
SUBSIDIARIES**

Pineapple Energy LLC

SUNation Solar Systems, Inc.

SUNation Commercial, Inc.

SUNation Service, LLC

Hawaii Energy Connection, LLC

E-Gear, LLC

JDL Technologies, Inc.

Ecessa Corporation

Austin Taylor Communications, Ltd.

**SCHEDULE 3.4
LITIGATION**

[[**]]

**SCHEDULE 3.7
FINANCIAL STATEMENTS**

See attached.

[**]

**SCHEDULE 4.1
CLOSING USE OF PROCEEDS**

Payee	Amount	Wire Instructions
Hercules Capital, Inc.	\$1,500,000	***
Short-Term Limited Recourse Secured Promissory Note dated November 22, 2022 in favor of Scott Maskin	\$4,091,000	***
Short-Term Limited Recourse Secured Promissory Note dated November 22, 2022 in favor of and James Brennan	\$884,000	***
Short-Term Limited Recourse Secured Promissory Note dated November 22, 2022 in favor of and Barbara Tateo (James Brennan's sister)	\$25,000	***
Lender	\$45,000	Withheld by Lender to be applied to Lender's transaction costs.
Company	\$955,000	See <u>Schedule 5.10</u>
TOTAL	\$7,500,000	

**SCHEDULE 4.2(a)(vi)
SUBORDINATING CREDITORS**

1. The Long-Term Note
 2. The Hercules Note
-

**SCHEDULE 5.10
COMPANY BANK ACCOUNT**

Banking Information as follows:

[***]

SCHEDULE 6.2(a)
CONTINGENT VALUE RIGHTS

Payments made pursuant to that certain Contingent Value Rights Agreement, dated as of March 25, 2022, by and among the Company (f/k/a Communication Systems, Inc.), Equiniti Trust Company, as Rights Agent, and Richard A. Primuth, in his capacity as the initial CVR Holders' Representative.

**SCHEDULE 10.2
COLLATERAL**

All present and hereafter acquired property of Company wherever located and however described and whether or not constituting a fixture (including, without limitation, any and all present and future property), together, in each case, with all proceeds thereof, including without limitation all goods (including inventory, equipment and any accessions thereto), instruments (including promissory notes), documents, accounts (including health-care-insurance receivables and credit card receivables), chattel paper (whether tangible or electronic), deposit accounts, letter-of-credit rights (whether or not the letter of credit is evidenced by a writing), commercial tort claims, securities and all other investment property, supporting obligations, any other contract rights or rights to the payment of money, insurance claims and proceeds, money, patents, patent applications, trademarks, trademark applications, copyrights, copyright applications, trade names, other names, software, and all general intangibles (including all payment intangibles); together with all goodwill related to the foregoing property and all rights, liens, security interests and other interests which Company may at any time have by law or agreement against any account debtor, issuer or obligor obligated to make any such payment or against any of the property of such account debtor, issuer, or obligor, and all other supporting obligations relating to the foregoing, whether now existing or hereafter arising, whether now owned or hereafter acquired; and all products and proceeds of the foregoing property, including without limitation all accounts, instruments, chattel paper, investment property, letter-of-credit rights, letters-of-credit, other rights to payment, documents, deposit accounts, money, insurance proceeds and general intangibles related to the foregoing property, and all refunds of insurance premiums due or to become due under all insurance policies covering the foregoing property, all whether now owned or hereafter acquired, and wherever located, together with proceeds of all of the foregoing.

ALL REGISTERED INTELLECTUAL PROPERTY SHOULD BE SPECIFICALLY IDENTIFIED BELOW. FAILURE TO SO LIST REGISTERED INTELLECTUAL PROPERTY DOES NOT EXCLUDE IT FROM COLLATERAL.

[***]

**SCHEDULE 10.3
MINIMUM INTEREST**

The "Minimum Interest" means, subject to the application of Section 8.2, the amount shown below in the column headed Minimum Interest opposite the applicable period during which the Payoff Date occurs:

Period During Which the Payoff Date Occurs	Minimum Interest
On or before 12 months after the Effective Date	0.25 times the Advance
After 12 months and on or before 24 months after the Effective Date	0.35 times the Advance
After 24 months and on or before 36 months after the Effective Date	0.50 times the Advance
After 36 months after the Effective Date	0.60 times the Advance

SCHEDULE 10.4
PERMITTED INDEBTEDNESS

- (a) Company's and the Company Entities' Indebtedness to Lender under this Agreement and the other Transaction Documents;
 - (b) unsecured Indebtedness to trade creditors incurred in the ordinary course of business;
 - (c) Indebtedness incurred as a result of endorsing negotiable instruments received in the ordinary course of any Company Entity's business; and
 - (d) Indebtedness of up to \$200,000 in the aggregate incurred in the ordinary course of business for the purchase of equipment that is secured solely by a purchase money security interest;
 - (e) the conversion of Indebtedness into equity securities and the payment of cash in lieu of fractional shares in connection with such conversion,
 - (f) intercompany Indebtedness owed by a Company Entity to another Company Entity;
 - (g) Indebtedness in respect of performance bonds, bid bonds, appeal bonds, surety bonds and completion guaranties and similar obligations not in connection with money borrowed, in each case provided in the ordinary course of business, including those incurred to secure health, safety and environmental obligations in the ordinary course of business;
 - (h) the Long-Term Note; and
 - (i) Indebtedness under that certain Loan and Security Agreement between Pineapple Energy, LLC and Hercules Capital, Inc. dated as of December 11, 2020, as amended from time to time (the "Hercules Note").
-

**SCHEDULE 10.5
PERMITTED LIENS**

- (a) Liens existing on the Effective Date and shown on the Perfection Certificates or arising under this Agreement and the other Transaction Documents;
 - (b) Liens for taxes, fees, assessments or other government charges or levies, either not delinquent or being contested in good faith and for which the applicable Company Entity maintains adequate reserves on its books, provided that no notice of any such Lien has been filed or recorded under the Internal Revenue Code of 1986, as amended, and the Treasury Regulations adopted thereunder;
 - (c) statutory Liens securing claims or demands of materialmen, mechanics, carriers, warehousemen, landlords and other Persons imposed without action of such parties and incurred in the ordinary course of business;
 - (d) leases, subleases, licenses, and sublicenses granted in the ordinary course of business;
 - (e) banker's liens, rights of setoff and Liens in favor of financial institutions incurred in the ordinary course of business arising in connection with a Company Entity's deposit accounts or securities accounts held at such institutions to secure solely payment of fees and similar costs and expenses;
 - (f) Liens to secure payment of public utility services, workers' compensation, employment insurance, old-age pensions, social security and other like obligations incurred in the ordinary course of business (other than Liens imposed by ERISA);
 - (g) Liens arising from judgments, decrees or attachments in circumstances not constituting an Event of Default under Section 7.4;
 - (h) easements, reservations, rights-of-way, restrictions, minor defects or irregularities in title and similar charges or encumbrances affecting real property not constituting a Material Adverse Effect;
 - (i) Liens arising from the Hercules Note;
 - (j) non-exclusive licenses of intellectual property granted to third parties in the ordinary course of business; and
 - (k) deposits to secure the performance of bids, trade contracts and leases (other than Indebtedness), statutory obligations, surety bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business.
-

CONSENT AND AMENDMENT NO. 2 TO LOAN AND SECURITY AGREEMENT

THIS CONSENT AND AMENDMENT NO. 2 TO LOAN AND SECURITY AGREEMENT (this "Amendment") is made and dated as of May 31, 2023 and is entered into by and among PINEAPPLE ENERGY LLC ("PE LLC"), a Delaware limited liability company, for itself and on behalf of any Subsidiary, and each other Person that has delivered a Joinder Agreement pursuant to Section 7.12 or otherwise from time to time party hereto (together with PE LLC, individually or collectively, as the context may require "Borrower"), and HERCULES CAPITAL, INC., a Maryland corporation, in its capacity as Lender ("Lender") and as administrative agent and collateral agent for itself and the Lender (in such capacity, "Agent").

RECITALS

A. PE LLC and Lender are parties to that certain Loan and Security Agreement, dated as of December 11, 2020 (as amended, modified, supplemented or restated and in effect from time to time, collectively, the "Loan Agreement");

B. The Loan Agreement made available to PE LLC a term loan in a principal amount of Seven Million Five Hundred Thousand Dollars (\$7,500,000) (the "Term Loan") to finance the acquisition of certain assets.

C. Pineapple Energy Inc., a Minnesota corporation, has become an affiliate of PE LLC and has agreed to join the Loan Agreement as a Borrower;

D. The current principal balance of the Term Loan (including, for the avoidance of doubt, payment-in-kind interest incurred prior to the date of this Amendment in the amount of \$375,742.55 added to principal) is \$3,375,742.55.

E. Pineapple Energy Inc. wishes to obtain senior financing from Decathlon Specialty Finance, LLC (the "Decathlon Financing") which will be partially applied to prepay \$1,500,000 of the principal amount of the Term Loan (the "Decathlon Pay-Down Amount");

F. Borrower has requested that the Lender and Agent consent to the Decathlon Financing and modify and amend certain terms and conditions of the Loan Agreement in connection with such senior financing; and

G. Lender and Agent are willing to consent to the Decathlon Financing and to modify and amend certain terms and conditions of the Loan Agreement, subject to the terms and conditions contained herein.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Borrower, Agent and the Lender agree as follows:

1. Capitalized Terms. All capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Loan Agreement.

2. Joinder of Pineapple Energy Inc. As a condition to the effectiveness of this Amendment,

Pineapple Energy Inc. shall execute and deliver to Agent a Joinder Agreement substantially in the form of Exhibit "A" attached hereto.

3. Consent to Decathlon Financing. Pursuant to Section 7.3 of the Loan Agreement, the Borrower may not create, incur, assume, guarantee or be or remain liable with respect to any Indebtedness except as set forth therein. In addition, Section 7.4 of the Loan Agreement prohibits the Borrower from granting liens in the Collateral except as set forth therein. Notwithstanding anything to the contrary set forth in the Loan Agreement and subject to the terms and conditions set forth herein, Agent and Lender hereby (i) consent, effective as of the date hereof, to the Decathlon Financing and the security interest created in connection therewith, provided that the principal amount thereof does not at any time exceed Seven Million Five Hundred Thousand Dollars (\$7,500,000), and (ii) agree to execute and deliver to Decathlon the Decathlon Subordination Agreement.

4. Amendments to Loan Agreement. The Loan Agreement is hereby amended as follows:

a. The following definitions set forth in Section 1.1 of the Loan Agreement are hereby deleted in their entirety and are replaced with the following:

"Term Loan Maturity Date" means June 2, 2027.

"Compliance Certificate" means a certificate in the form attached hereto as Exhibit "B."

b. The following definitions are hereby inserted alphabetically in Section 1.1 of the Loan Agreement:

"ACH Authorization" means the ACH Debit Authorization Agreement in substantially the form of Exhibit "C", which account numbers shall be redacted for security purposes if and when filed publicly by Borrower.

"Amortization Date" means July 3, 2023.

"Decathlon Financing" means senior financing not to exceed Seven Million Five Hundred Thousand Dollars (\$7,500,000) in principal obtained by Borrower from Decathlon Specialty Finance, LLC on or around the Second Amendment Date.

"Decathlon Pay-Down Amount" means One Million Five Hundred Thousand Dollars (\$1,500,000) to be applied to the Term Loan from the proceeds of the Decathlon Financing concurrently with the closing thereof on the Second Amendment Date.

"Decathlon Subordination Agreement" means that certain subordination agreement substantially in the form of Exhibit "D" attached hereto

"Second Amendment Date" means May 30, 2023.

"Term Loan Interest Rate" means for any day a per annum rate of interest equal to ten percent (10.0%).

c. The definition of "Term Loan PIK Interest Rate" set forth in Section 1.1 of the

Loan Agreement is hereby deleted in its entirety.

d. Section 2.1(b) shall be amended and restated as follows:

2.1(b) Term Loan Interest Rate. The principal balance (for the avoidance of doubt, immediately following application of the Decathlon Pay-Down Amount, but including, for the avoidance of doubt, payment-in-kind interest incurred prior to the Amortization Date in the amount of \$375,742.55 added to principal) of \$1,875,742.55 shall bear interest thereon from the Second Amendment Date at the Term Loan Interest Rate based on a year consisting of three hundred sixty (360) days, with interest computed daily based on the actual number of days elapsed.

e. Section 2.1(c) shall be amended and restated as follows:

2.1(c) Payment. Borrower shall repay the aggregate principal balance of the Term Loan Advances that is outstanding on the day immediately preceding the Amortization Date, in equal monthly installments of principal and interest (mortgage style) beginning on the Amortization Date and continuing on the first Business Day of each month thereafter (each such date, a "Payment Date") until the Secured Obligations (other than inchoate indemnity obligations which, by their terms, survive termination of this Agreement) are repaid. The entire principal balance of the Term Loan Advances and all accrued but unpaid interest hereunder, shall be due and payable on the Term Loan Maturity Date. Borrower shall make all payments under this Agreement without setoff, recoupment or deduction and regardless of any counterclaim or defense. If a payment hereunder becomes due and payable on a day that is not a Business Day, the due date thereof shall be the immediately preceding Business Day. Agent or Lenders will initiate debit entries to Borrower's account as authorized on the ACH Authorization (i) on each Payment Date of all periodic obligations payable to Lenders under each Term Loan Advance and (ii) out-of-pocket legal fees and costs incurred by Agent or Lenders in connection with Section 11.12; provided that, with respect to clause (ii) above, Agent and Lenders will endeavor to notify Borrower of each such debit entry; provided, further, that, with respect to clause (i) above, in the event that Lenders or Agent informs Borrower that Lenders will not initiate a debit entry to Borrower's account for a certain amount of the periodic obligations due on a specific Payment Date, Borrower shall pay to Lenders, such amount of periodic obligations in full in immediately available funds on such Payment Date; provided, further, that, with respect to clause (i) above, if Lenders or Agent informs Borrower that Lenders will not initiate a debit entry as described above later than the date that is three (3) Business Days prior to such Payment Date, Borrower shall pay to Lenders such amount of periodic obligations in full in immediately available funds on the date that is three (3) Business Days after the date on which Lenders or Agent notifies Borrower of such; provided, further, that, with respect to clause (ii) above, in the event that Lenders or Agent informs Borrower that Lenders will not initiate a debit entry to Borrower's account for specified out-of-pocket legal fees and costs incurred by Agent or Lenders, Borrower shall pay to Lenders such amount in full in immediately available funds within three (3) Business Days.

f. Section 2.1(g) shall be amended and restated as follows:

2.1(g) Notwithstanding anything contained herein to the contrary, Borrower shall prepay all of the outstanding Term Loan by paying the entire principal balance (or such portion thereof), plus all accrued and unpaid interest thereon, if CSI, Borrower or any of their respective Subsidiaries closes on one or more sales of equity (or another form of equity financing), other than any transaction pursuant to the PIPE Agreement or any sales governed by the CVR Agreement (an "Equity Transaction"), that cumulatively generates gross proceeds of at least \$15,000,000, in the aggregate. Such prepayment shall occur simultaneously with the closing of the sale of such Equity Transaction.

g. Section 7.11 shall be amended and restated as follows:

7.11 Deposit Accounts. No Deposit Accounts shall be maintained, opened or established in the name of Borrower or any Subsidiary unless Agent shall have entered into an Account Control Agreement as to such Deposit Accounts.

h. Section 7.19 shall be amended and restated as follows:

7.19 Financial Reports. Borrower shall furnish to Agent the financial statements and reports listed hereinafter (the "Financial Statements"):

(a) As soon as practicable (and in any event within thirty (30) days) after the end of each month, unaudited interim and year-to-date financial statements as of the end of such month (prepared on a consolidated and consolidating basis, if applicable), including balance sheet and related statements of income and cash flows accompanied by a report detailing any material contingencies (including the commencement of any material litigation by or against Borrower) or any other occurrence that could reasonably be expected to have a Material Adverse Effect, all certified by Borrower's Chief Executive Officer or Chief Financial Officer to the effect that they have been prepared in accordance with GAAP, except (i) for the absence of footnotes, (ii) that they are subject to normal year-end adjustments, and (iii) they do not contain certain non-cash items that are customarily included in quarterly and annual financial statements;

(b) Within forty-five (45) days after the end of each fiscal quarter, unaudited profit and loss statements and a balance sheet of Borrower and its Subsidiaries;

(c) As soon as practicable (and in any event within one hundred twenty (120) days after the end of each fiscal year), a financial statement of Borrower for the prior fiscal year, audited financial statements as of the end of such year (prepared on a consolidated and consolidating basis, if applicable), including balance sheet and related statements of income and cash flows, and setting forth in comparative form the corresponding figures for the preceding fiscal year, certified without qualification by a firm of independent certified public accountants selected by Borrower and reasonably acceptable to Agent, accompanied by any management report from such accountants;

(d) As soon as practicable (and in any event within thirty (30) days) after the end of each month, a Compliance Certificate; and

(e) Such reasonable additional financial information requested by Agent within a reasonable period of time, but not to exceed ten (10) Business Days.

5. Effective Date of Amendment. This Amendment shall be effective as of the Second Amendment Date.

6. Delivery of Account Control Agreement. Within thirty (30) days of the Second Amendment Date, Borrower shall deliver to Agent fully executed Account Control Agreement(s) in form and substance satisfactory to Agent and Lenders with respect to each Deposit Account maintained by any Borrower in accordance with Section 7.11.

7. Borrower's Representations and Warranties. Borrower represents and warrants that:

(a) Immediately upon giving effect to this Amendment (i) the representations and warranties contained in the Loan Documents are true, accurate and complete in all material respects as of the date hereof (except to the extent such representations and warranties relate to an earlier date, in which case they are true and correct as of such date), and (ii) no Event of Default has occurred and is continuing with respect to which Borrower has not been notified in writing by Lender.

(b) Borrower has the corporate power and authority to execute and deliver this Amendment and to perform its obligations under the Loan Agreement, as amended by this Amendment.

(c) The articles of organization, limited liability company agreement or certificate of incorporation (applicable), bylaws or operating agreement (as applicable) and other organizational documents of Borrower delivered to Lender on the Closing Date or any other date prior to the Second Amendment Date remain true, accurate and complete and have not been amended, supplemented or restated and are and continue to be in full force and effect.

(d) The execution and delivery by Borrower of this Amendment and the performance by Borrower of its obligations under the Loan Agreement, as amended by this Amendment, have been duly authorized by all necessary corporate action on the part of Borrower.

(e) This Amendment has been duly executed and delivered by Borrower and is the binding obligation of Borrower, enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, liquidation, moratorium or other similar laws of general application and equitable principles relating to or affecting creditors' rights; and

(f) As of the date hereof, it has no defenses against the obligations to pay any amounts under the Obligations. Borrower acknowledges that Lender has acted in good faith and has conducted in a commercially reasonable manner its relationships with Borrower in connection with this Amendment and in connection with the Loan Documents.

8. Integration. This Amendment and the Loan Agreement represent the entire agreement about this subject matter and supersede prior negotiations or agreements. All prior agreements, understandings, representations, warranties, and negotiations between the parties about the subject matter of the Loan Agreement merge into this Amendment and the Loan Agreement.

9. Prior Agreement. The Loan Agreement is hereby ratified and reaffirmed and shall remain in full force and effect. This Amendment is not a novation and the terms and conditions of this Amendment shall be in addition to and supplemental to all terms and conditions set forth in the Loan Agreement. In the event of any conflict or inconsistency between this Amendment and the Loan

Agreement, the terms of this Amendment shall be controlling, but the Loan Agreement shall not otherwise be affected or the rights therein impaired. The amendments in Section 3 above, are effective for the purposes set forth herein and shall be limited precisely as written and shall not be deemed to (a) be a consent to any amendment, waiver or modification of any other term of the Loan Agreement, or (b) otherwise prejudice any right or remedy which Lender or Agent may now have, or may have in the future under or in connection with the Loan Agreement or any instrument or agreement referred to therein.

10. Governing Law. This Amendment shall be governed by, and construed and enforced in accordance with, the laws of the State of California, excluding conflict of laws principles that would cause the application of laws of any other jurisdiction.

11. Effectiveness. This Amendment shall become effective upon the satisfaction of all the following conditions precedent:

(a) Amendments. Immediately upon giving effect to this Amendment (i) the representations and warranties contained in the Loan Documents are true, accurate and complete in all material respects as of the date hereof (except to the extent such representations and warranties relate to an earlier date, in which case they are true and correct as of such date), and (ii) no Event of Default has occurred and is continuing with respect to which Borrower has not been notified in writing by Lender.

(b) Receipt of Decathlon Pay-Down Amount. Agent on behalf of Lender shall have received the Decathlon Pay-Down Amount.

(c) Payment of Lender Expenses. Borrower shall have paid all of Agent's and Lender's professional fees pursuant to Section 11.12 (including all reasonable attorneys' fees and reasonable expenses) incurred through the date of this Amendment.

(d) Pineapple Energy Inc. Joinder Agreement. Agent shall have received the duly executed Joinder Agreement of Pineapple Energy Inc. substantially in the form of Exhibit "A."

(e) Decathlon Subordination Agreement. Agent shall have received the duly executed Subordination Agreement.

(f) ACH Debit Authorization. Agent shall have received a duly executed ACH Debit Authorization.

(g) Perfection Certificate. Agent shall have received the duly executed Perfection Certificate in the form of Exhibit "E" from each Borrower.

12. Counterparts. This Amendment may be executed in any number of counterparts, and by different parties hereto in separate counterparts, each of which when so delivered shall be deemed an original, but all of which counterparts shall constitute but one and the same instrument.

13. Binding Effect. This Amendment shall inure to the benefit of the and be binding on the Borrower and its permitted assigns (if any).

(SIGNATURES TO FOLLOW)

IN WITNESS WHEREOF, Borrower, Lender and Agent have duly executed and delivered this Consent and Amendment to Loan and Security Agreement as of the day and year first above written.

BORROWER:

PINEAPPLE ENERGY LLC,
a Delaware limited liability company

Signature: /s/ Kyle Udseth
Print Name: Kyle Udseth
Title: Chief Executive Officer

PINEAPPLE ENERGY INC.,
a Minnesota corporation

Signature: /s/ Kyle Udseth
Print Name: Kyle Udseth
Title: Chief Executive Officer

Accepted in Palo Alto, California:

AGENT:

HERCULES CAPITAL, INC.

Signature: /s/ Zhuo Huang
Print Name: Zhuo Huang
Title: Associate General Counsel

LENDER:

HERCULES CAPITAL, INC.

Signature: /s/ Zhuo Huang
Print Name: Zhuo Huang
Title: Associate General Counsel

EXHIBIT "A"

FORM OF JOINDER AGREEMENT

This Joinder Agreement (the "Joinder Agreement") is made and dated as of May [], 2023, and is entered into by and between PINEAPPLE ENERGY INC., a Minnesota corporation ("Company"), and HERCULES CAPITAL, INC., a Maryland corporation (as "Agent").

RECITALS

A. Company's affiliate, Pineapple Energy LLC a Delaware limited liability company ("Existing Borrower") has entered into that certain Loan and Security Agreement dated as of December 11, 2020, with the several banks and other financial institutions or entities from time to time party thereto as lender (collectively, "Lenders"), each other Borrower that is party thereto, and Agent, (as may be amended, supplemented or otherwise modified from time to time, the "Loan Agreement"), together with the other agreements executed and delivered in connection therewith; and

B. Company acknowledges and agrees that it will benefit both directly and indirectly from Existing Borrower's execution of the Loan Agreement and the other agreements executed and delivered in connection therewith.

AGREEMENT

NOW THEREFORE, Company and Agent agree as follows:

1. The recitals set forth above are incorporated into and made part of this Joinder Agreement. Capitalized terms not defined herein shall have the meaning provided in the Loan Agreement.
 2. By signing this Joinder Agreement, Company shall be bound by the terms and conditions of the Loan Agreement the same as if it were Borrower (as defined in the Loan Agreement) under the Loan Agreement, mutatis mutandis, provided however, that (a) with respect to (i) Section 5.1 of the Loan Agreement, Company represents that it is an entity duly organized, legally existing and in good standing under the laws of Minnesota, (b) neither Agent nor Lenders shall have any duties, responsibilities or obligations to Company arising under or related to the Loan Agreement or the other Loan Documents, (c) that if Company is covered by Existing Borrower's insurance, Company shall not be required to maintain separate insurance or comply with the provisions of Sections 6.1 and 6.2 of the Loan Agreement, and (d) that as long as Existing Borrower satisfies the requirements of Section 7.19 of the Loan Agreement, Company shall not have to provide Agent separate Financial Statements. To the extent that Agent or Lenders has any duties, responsibilities or obligations arising under or related to the Loan Agreement or the other Loan Documents, those duties, responsibilities or obligations shall flow only to Existing Borrower and not to Company or any other Person or entity. By way of example (and not an exclusive list): (i) Agent's providing notice to Existing Borrower in accordance with the Loan Agreement or as otherwise agreed among Existing Borrower, Agent and Lenders shall be deemed provided to Company; (ii) Lenders' providing an Advance to Existing Borrower shall be deemed an Advance to Company; and (iii) Company shall have no right to request an Advance or make any other demand on Lenders.
 3. Company acknowledges that it benefits, both directly and indirectly, from the Loan Agreement, and hereby waives, for itself and on behalf on any and all successors in interest (including without limitation any assignee for the benefit of creditors, receiver, bankruptcy trustee or itself as debtor-in-possession under any bankruptcy proceeding) to the fullest extent provided by law, any and all claims, rights or defenses to the enforcement of this Joinder Agreement on the basis that (a) it failed to receive
-

adequate consideration for the execution and delivery of this Joinder Agreement or (b) its obligations under this Joinder Agreement are avoidable as a fraudulent conveyance.

4. As security for the prompt, complete and indefeasible payment when due (whether on the payment dates or otherwise) of all the Secured Obligations, Company grants to Agent a security interest in all of Company's right, title, and interest in and to the Collateral.
5. This Joinder Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California, excluding conflict of laws principles that would cause the application of laws of any other jurisdiction.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

COMPANY:

PINEAPPLE ENERGY INC.

By: _____

Name: Kyle Udseth

Title: Chief Executive Officer

Address:

Pineapple Energy Inc.

100900 Red Circle Drive

Minnetonka, MN 55343

email: _____

Telephone: _____

AGENT:

HERCULES CAPITAL, INC.

By: _____

Name: _____

Title: _____

Address:

400 Hamilton Ave., Suite 310

Palo Alto, CA 94301

email: legal@htgc.com

Telephone: 650-289-3060

EXHIBIT "B"

COMPLIANCE CERTIFICATE

Hercules Capital, Inc. (as "Agent")
400 Hamilton Avenue, Suite 310
Palo Alto, CA 94301

Reference is made to that certain Loan and Security Agreement dated December 11, 2020 and the Loan Documents (as defined therein) entered into in connection with such Loan and Security Agreement all as may be amended from time to time (hereinafter referred to collectively as the "Loan Agreement") by and among Hercules Capital, Inc. ("Agent"), the several banks and other financial institutions or entities from time to time party thereto (collectively, "Lender") and Pineapple Energy LLC and each other Person that has delivered a Joinder Agreement pursuant to Section 7.13 from time to time party to the Loan Agreement (together with Pineapple Energy Inc., individually or collectively, as the context may require, "Borrower"). All capitalized terms not defined herein shall have the same meaning as defined in the Loan Agreement.

The undersigned is an Officer of Borrower, knowledgeable of all Borrower financial matters, and is authorized, on behalf of Borrower, to provide certification of information regarding Borrower; hereby certifies, on behalf of Borrower, that in accordance with the terms and conditions of the Loan Agreement, Borrower is in compliance for the period ending _____ of all covenants, conditions and terms and hereby reaffirms that all representations and warranties contained therein are true and correct on and as of the date of this Compliance Certificate with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date, after giving effect in all cases to any standard(s) of materiality contained in the Loan Agreement as to such representations and warranties. Attached are the required documents supporting the above certification. The undersigned further certifies that no Default exists as of the date hereof. The undersigned further certifies that any financial materials delivered with this Compliance Certificate are prepared in accordance with GAAP (except for the absence of footnotes with respect to unaudited financial statement and subject to normal year-end adjustments) and are consistent from one period to the next except as explained below.

REPORTING REQUIREMENT

Interim Financial Statements
Interim Financial Statements
Annual Financial Statements

REQUIRED

Monthly within 30 days
Quarterly within 45 days
FYE within 120 days

CHECK IF ATTACHED

ACCOUNTS OF BORROWER AND ITS SUBSIDIARIES AND AFFILIATES

The undersigned hereby also confirms, on behalf of Borrower, that the below disclosed accounts represent all depository accounts and securities accounts presently open in the name of each Borrower or Borrower's Subsidiary/Affiliate, as applicable.

Each new account that has been opened since delivery of the previous Compliance Certificate is designated below with a "*".

BORROWER Name/Address:		Depository AC #	Financial Institution	Account	Last	Purpose of Account
				Type (Depository / Securities)	Month Ending Account Balance	
	1					
	2					
	3					
	4					
	5					
	6					
	7					
SUBSIDIARY Name/Address						
	1					
	2					
	3					
	4					
	5					
	6					
	7					

ADDITIONAL DISCLOSURES

1. **MATERIAL CONTINGENCIES:** The undersigned hereby also confirms that a report detailing any material contingencies (including the commencement of any material litigation by or against Borrower) or any other occurrence that could reasonably be expected to have a Material Adverse Effect, as certified by Borrower's chief executive officer or chief financial officer, is attached hereto as Annex I.¹

2. **INSURANCE POLICIES OF BORROWER AND ITS SUBSIDIARIES**
 - [The undersigned hereby also confirms that since delivery of the previous Compliance Certificate, neither Borrower nor any of its Subsidiaries has entered into or amended any insurance policy required pursuant to Section 6.1 of the Loan Agreement.]²
 - [Since delivery of the previous Compliance Certificate, Borrower and/or one or more of its Subsidiaries have entered into new, or amended existing, insurance policies required pursuant to Section 6.1 of the Loan Agreement. Attached hereto are copies of such new or amended insurance policies and updated insurance certificates with respect to such policies, as required to be delivered pursuant to Section 6.2 of the Loan Agreement.]³

¹ Include in Compliance Certificates.

² Include if neither Borrower nor any of its Subsidiaries has entered into or amended any insurance policies since delivery of the previous Compliance Certificate.

³ Include if Borrower or any of its Subsidiaries has entered into or amended any insurance policies since delivery of the previous Compliance Certificate.



3. [INTELLECTUAL PROPERTY]

- [The following claim(s) have been made to a Loan Party that material part(s) of the Intellectual Property violates the rights of a third party: []]

4. ORGANIZATIONAL STATUS

- [Each Loan Party's present name, former names (if any), locations, place of formation, tax identification number, organizational identification number and other information are attached hereto.]⁵

Very Truly Yours,

PINEAPPLE ENERGY LLC

By: _____
Name: _____
Its: _____

PINEAPPLE ENERGY INC.

By: _____
Name: _____
Its: _____

⁴ Include if any claim(s) have been made to any Loan Party that any material part of the Intellectual Property violates the rights of any third party.

⁵ Attach updated Exhibit B if updates to organizational status are needed pursuant to Section 5.1 of the Loan Agreement.

EXHIBIT "C"

ACH DEBIT AUTHORIZATION AGREEMENT

Hercules Capital, Inc.
400 Hamilton Avenue, Suite 310
Palo Alto, CA 94301

Re: Loan and Security Agreement dated December 11, 202 (the "Agreement") by and among Pineapple Energy LLC, a Delaware limited liability company ("Company"), its affiliate, Pineapple Energy Inc., a Minnesota corporation ("Affiliate") and each other Person that has delivered a Joinder Agreement from time to time party to the Agreement (together with Company and Affiliate, individually or collectively, as the context may require, "Borrower"), Hercules Capital, Inc., as administrative agent and collateral agent ("Agent") and the lenders party thereto (collectively, the "Lenders")

In connection with the above referenced Agreement, Borrower hereby authorizes Agent or Lenders to initiate debit entries for (i) the periodic payments due under the Agreement and (ii) out-of-pocket legal fees and costs incurred by Agent or Lenders pursuant to Section 11.12 of the Agreement to Borrower's account indicated below. Borrower authorizes the depository institution named below to debit to such account.

[IF FILED PUBLICLY, ACCOUNT INFO REDACTED FOR SECURITY PURPOSES]

DEPOSITORY NAME	BRANCH
CITY	STATE AND ZIP CODE
TRANSIT/ABA NUMBER	ACCOUNT NUMBER

This authority will remain in full force and effect so long as any amounts are due under the Agreement.

PINEAPPLE ENERGY LLC

(Company, on behalf of each Borrower)

By: _____

Name: _____

Date: _____



EXHIBIT "D"

DECATHLON SUBORDINATION AGREEMENT

EXHIBIT "E"

FORM OF PERFECTION CERTIFICATE
