

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

FORM 10-K

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended **December 31, 2025**

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from \_\_\_\_ to \_\_\_\_.

Commission file number: 001-36475

**Aemetis, Inc.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of  
incorporation or organization)

**26-1407544**

(I.R.S. Employer  
Identification Number)

**20400 Stevens Creek Blvd., Suite 700  
Cupertino, CA 95014  
(408) 213-0940**

(Address and telephone number of principal executive offices)

Securities registered under Section 12(b) of the Exchange Act:

Title of each class of registered securities	Trading Symbol	Name of each exchange on which registered
Common Stock, \$0.001 par value	AMTX	NASDAQ

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or Section 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input checked="" type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
Emerging growth company	<input type="checkbox"/>		

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.

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report.

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements.

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to §240.10D-1(b).

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

The aggregate market value of the voting and non-voting common equity held by non-affiliates of the registrant was approximately \$142.1 million as of June 30, 2025, based on the closing price on the NASDAQ Global Market reported for such date.

The number of shares outstanding of the registrant's Common Stock on February 28, 2026, was 66,631,852 shares.

**DOCUMENTS INCORPORATED BY REFERENCE**

Portions of the Proxy Statement for the Registrant's 2026 Annual Meeting of Stockholders, which will be filed with the Securities and Exchange Commission within 120 days after the end of the Registrant's fiscal year ended December 31, 2025, are incorporated by reference in Part III of this Form



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## SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

We make forward-looking statements in this Annual Report on Form 10-K, including statements regarding our assumptions, projections, expectations, targets, intentions or beliefs about future events or other statements that are not historical facts. Forward-looking statements in this Annual Report on Form 10-K include, without limitation, statements regarding management's plans; trends in market conditions with respect to prices for inputs for our products and prices for our products; our ability to leverage approved feedstock pathways; our ability to leverage our location and infrastructure; our ability to incorporate lower cost, non-food advanced biofuels feedstock at the Keyes plant; our ability to expand into alternative markets for biodiesel and its byproducts, including continuing to expand our sales into international markets; our ability to maintain and expand strategic relationships with suppliers; our ability to access governmental carbon reduction incentives; our ability to construct and fund dairy digesters; our ability to supply gas into the transportation markets; our ability to continue to develop, maintain, and protect new and existing intellectual property rights; our ability to adopt, develop and commercialize new technologies; our ability to refinance our senior debt on more commercial terms or at all; our ability to continue to fund operations and our future sources of liquidity and capital resources; our ability to sell additional notes under our EB-5 note program; our ability to improve margins; and our ability to raise additional debt and equity funding at the parent, subsidiary or project levels. Words or phrases such as "anticipates," "may," "will," "should," "believes," "estimates," "expects," "intends," "plans," "predicts," "projects," "targets," "will likely result," "will continue" or similar expressions are intended to identify forward looking statements. These forward-looking statements are based on current assumptions and predictions and are subject to numerous risks and uncertainties. Actual results or events could differ materially from those set forth or implied by such forward-looking statements and related assumptions due to certain factors, including, without limitation, the risks set forth under the caption "Risk Factors" below, which are incorporated herein by reference as well as those business risks and factors described elsewhere in this report and in our other filings with the Securities and Exchange Commission (the "SEC").

We undertake no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

We obtained the market data used in this report from internal company reports and industry publications. Industry publications generally state that the information contained in those publications has been obtained from sources believed to be reliable, but their accuracy and completeness are not guaranteed, and their reliability cannot be assured. Although we believe market data used in this Form 10-K is reliable, it has not been independently verified.

Unless the context requires otherwise, references to "we," "us," "our," and "the Company" refer specifically to Aemetis, Inc. and its subsidiaries.

## PART I

### Item 1. Business

#### Current Operations

Founded in 2006 and headquartered in Cupertino, California, Aemetis, Inc. (collectively with its subsidiaries on a consolidated basis referred to herein as "Aemetis," the "Company," "we," "our" or "us") is an international renewable natural gas and renewable fuels company focused on the operation, acquisition, development, and commercialization of innovative technologies to produce low and negative carbon intensity renewable fuels that lower fuel costs and reduce emissions. We do this by building a local circular bioeconomy using agricultural products and wastes to produce low carbon, advanced renewable fuels that reduce greenhouse gas ("GHG") emissions and improve air quality. Our current operations include:

- ▶ **California Ethanol** - We own and operate a 65 million gallon per year capacity ethanol production facility in Keyes, California (the "Keyes Plant"). In addition to low carbon renewable fuel ethanol, the Keyes Plant produces Wet Distillers Grains ("WDG"), Distillers Corn Oil ("DCO"), and Condensed Distillers Solubles ("CDS"), all of which are sold as animal feed to local dairies and feedlots. The Keyes Plant also sells CO<sub>2</sub> captured from the ethanol fermentation process to produce commercial grade CO<sub>2</sub> for the food, beverage, and other industries. We are implementing several energy efficiency initiatives at the Keyes Plant focused on reducing operating costs and lowering the carbon intensity ("CI") of our ethanol to increase revenues.
- ▶ **California Dairy Renewable Natural Gas** - We produce Renewable Natural Gas ("RNG") in central California. We currently have twelve anaerobic digesters that produce biogas from dairy waste, a 36-mile biogas collection pipeline leading to a central RNG production facility, and an interconnection to inject the RNG into the utility natural gas pipeline for delivery for use as transportation fuel. We are actively expanding our RNG production, with several additional dairy digesters under construction, agreements with over fifty dairies, and a completed environmental review for an additional 24 miles of biogas pipeline. We are also building our own RNG fuel dispensing station, which is planned to begin operating in 2026.
- ▶ **India Biodiesel** - We own and operate a plant in Kakinada, India ("Kakinada Plant") with a capacity to produce about 80 million gallons per year of high-quality distilled biodiesel from a variety of vegetable oil and animal waste feedstocks. Our plant is one of the largest biodiesel production facilities in India. The Kakinada Plant also distills the crude glycerin byproduct from the biodiesel refining process into refined glycerin that is sold to the pharmaceutical, personal care, paint, adhesive, and other industries.

## Strategy

Key elements of our business and growth strategy include:

### *California Ethanol*

*Improve operating margins and cash flow by improving the energy efficiency of the Keyes Plant.* During the last several years, we have implemented projects to improve the plant's energy efficiency, which lowers the carbon intensity and increases the value of the ethanol we produce and sell. To continue this strategy, we are in the process of procuring and installing a mechanical vapor recompression ("MVR") system that is expected to reduce natural gas consumption at the Keyes Plant by more than 80%.

*Continue to seek alternative feedstocks and improve product yields to minimize cost and carbon emissions.* Over the past 12 years, we have made several improvements to the Keyes Plant that allow us to sell substantially all of our byproducts from the ethanol production process as commercial products into the local agricultural economy. We are continuing to seek out and evaluate potential feedstocks that will reduce cost and carbon intensity, with an emphasis on processes that use cellulosic feedstocks to augment or replace current feedstocks.

### *California Dairy Renewable Natural Gas*

*Leverage our position as an established dairy digester owner and operator to continue to build dairy digesters and connected pipeline to increase RNG production.* In 2018, we benefited from our established relationship with more than 80 California Central Valley dairies to begin signing leases and raising funds to construct dairy digesters. We now have twelve operating dairy digesters that produce biomethane, additional digesters under construction, and agreements with over 50 dairies for the supply of feedstock to current and future digesters. We expect to produce 550,000 MMBtu per year of RNG from our current digester projects, and we plan to build additional digesters and expand our upgrading hub over the next several years to be able to produce about 1.6 million MMBtu of RNG annually. We are also building our own RNG dispensing station, which we plan to begin operating in 2026.

### *India Biodiesel*

*Capitalize on policy changes by the Government of India.* We plan to continue to pursue sales of biodiesel to Oil Marketing Companies ("OMCs") that are owned by the India government, as well as pursuing sales to traditional bulk, fleet, industrial, retail, and transportation biodiesel markets in India. These sales are driven in part by the India government's 2022 update to its National Biofuels Policy that targets a blend of 5% biodiesel into fossil diesel.

*Diversify our feedstocks.* We have designed and upgraded our Kakinada Plant to be able to produce biodiesel from multiple feedstocks and plan to continue efforts to procure and process these diversified feedstocks where and when economically feasible. We have developed proprietary technology that allows us to use lower-cost waste products as feedstock.

*Develop and commercially deploy technologies to produce high-margin products.* We plan to continue exploring new business opportunities to convert agricultural and waste products into higher value biofuels in addition to biodiesel, including ethanol, renewable diesel, and sustainable aviation fuels.

*Expand Operations and Plan for IPO.* We have hired a new executive team in India to help develop plans for additional growth of our India business and to execute on a potential public stock offering of our India subsidiary.

### *Other Initiatives*

*Sustainable Aviation Fuel and Renewable Diesel.* We are developing a sustainable aviation fuel ("SAF") and renewable diesel ("RD") production plant to be located at the Riverbank Industrial Complex in Riverbank, CA. The plant is currently designed to produce 90 million gallons per year of RD or 78 million gallons per year of SAF from renewable vegetable and animal oils obtained from our other biofuels plants and other North American sources. The plant is designed to use low-carbon hydroelectric electricity and renewable hydrogen that will be generated from byproducts of SAF/RD production. We received the Use Permit and California Environmental Quality Act ("CEQA") approvals for the development of the plant in September 2023 and the Authority to Construct air permits in March 2024. We are continuing with engineering and other development activities for the facility.

*Carbon Capture and Underground Sequestration.* We are developing a Carbon Capture and Underground Sequestration ("CCUS") facility, to be located at the Riverbank Industrial Complex, that is designed to inject carbon dioxide more than one mile underground for geologic storage to reduce greenhouse gas emissions to the atmosphere that contribute to global warming. We have completed the initial phase of drilling for the characterization well, and we are continuing permitting and other development activities for the characterization well and the permanent sequestration injection and monitoring wells.

*Use carbon and tax credits to bolster our operations and fund growth.* Our current and planned businesses produce renewable fuels, reduce emissions, and generate revenues from federal Renewable Fuel Standard ("RFS") credits, federal Section 45Z production tax credits ("45Z PTC"), California Low Carbon Fuel Standard ("LCFS") credits, and other investment and production tax credits. We plan to continue our efforts to maximize credit generation.

*Utilize technology for the development and production of additional advanced biofuels and renewable chemicals.* We continue to conduct research and evaluate new technologies to produce low and negative carbon intensity advanced biofuels from renewable feedstocks. Our objective is to continue to commercialize our portfolio of technologies and expand the adoption of these advanced biofuels and biochemical technologies. We also intend to evaluate and pursue opportunities to acquire technologies and facilities that are accretive as financial resources and business prospects which make the acquisition of these technologies, facilities, and processes advisable. In addition, we may also seek to acquire companies, enter into licensing agreements, or form joint ventures with companies that offer prospects for the adoption of technologies that would be accretive to earnings.

## 2025 Highlights

### California Ethanol

We produce six products at our California Ethanol plant: denatured fuel ethanol, wet distillers grains ("WDG"), distillers corn oil ("DCO"), condensed distillers solubles ("CDS"), undenatured alcohol for beverage producers, and carbon dioxide ("CO<sub>2</sub>"). The products reflect our primary production and also the result of our strategy over the last decade to convert substantially all of the outputs of the plant into marketable products. The following table shows our production and sales of ethanol and WDG in 2025 and 2024:

	Years ended December 31,		2025 vs 2024 % Change
	2025	2024	
<b>Ethanol</b>			
Gallons Sold (in millions)	57	61	-6.6%
Average Sales Price/Gallon	\$ 2.03	\$ 1.96	3.6%
<b>WDG</b>			
Tons Sold (in thousands)	374	411	-9.0%
Average Sales Price/Ton	\$ 80.1	\$ 88.2	-9.2%

### California Dairy Renewable Natural Gas

We deliver Renewable Natural Gas ("RNG") to the market through our interconnection with the utility gas pipeline. We use contractual relationships with third-party RNG fueling stations to dispense gas for transportation use. In connection with dispensing for transportation use, we generate sellable credits under the federal Renewable Fuel Standard (referred to as "D3 RINs") and the California Low Carbon Fuel Standard ("LCFS"). In 2025, we increased RNG production by operating our previously built digesters for the entire year and by commissioning one new digester. The increase in production also increased the number of D3 RINs and LCFS credits generated and sold. In 2025, we also received our first provisional LCFS pathway approvals from the California Air Resources Board ("CARB"), which allowed us to generate 160% more LCFS credits from RNG sales based on an average carbon intensity ("CI") of negative 385 for the seven dairies with approved pathways, while continuing to use the default pathway of negative 150 for the remaining dairies while their pathways are pending approval. D3 RINs are typically available for sale about one month after gas dispensing, and LCFS credits are generated and available for sale one calendar quarter after the calendar quarter in which RNG is dispensed. We recognize revenue for D3 RINs and LCFS credits when the credits are sold, rather than when RNG is produced or dispensed. We are continuing to actively increase RNG production by constructing additional dairy digesters and pipelines and by engaging in pre-construction development efforts for the contracting, permitting and financing of additional digesters. The following table shows our production and sales from RNG in 2025 and 2024:

	Years ended December 31,		2025 vs 2024 % Change
	2025	2024	
<b>Dairy Renewable Natural Gas</b>			
<b>Gas</b>			
Gas sold (in thousand MMBtu)	399	302	32.1%
Average price per MMBtu	\$ 3.34	\$ 3.01	11.0%
<b>RINs</b>			
RINs sold (in thousands)	3,459	3,030	14.2%
Average price per RIN	\$ 2.50	\$ 3.04	-17.8%
<b>LCFS</b>			
LCFS credits sold (in thousands)	83	52	59.6%
Average price per LCFS credit	\$ 57.1	\$ 56.7	0.7%

### India Biodiesel

We produce two primary products at the Kakinada Plant: biodiesel and refined glycerin manufactured by further processing of the crude glycerin that is a byproduct of biodiesel production. During 2025 and 2024, we sold biodiesel to the government Oil Marketing Companies ("OMCs") Hindustan Petroleum, Bharat Petroleum, and Indian Oil Corporation. The following table shows our production and sales of biodiesel and refined glycerin in 2025 and 2024:

	Years ended December 31,		2025 vs 2024 % Change
	2025	2024	
<b>Biodiesel</b>			
Metric tons sold (in thousands) (1)	21	74	-71.6%
Average Sales Price/Ton	\$ 1,117	\$ 1,168	-4.4%
<b>Refined Glycerin</b>			
Metric tons sold (in thousands) (1)	1.0	6.5	-84.6%
Average Sales Price/Ton	\$ 1,093	\$ 645	69.5%

(1) 1 metric ton is equal to 1,000 kilograms (approximately 2,204 pounds).

## Competition

*California Ethanol* – According to the U.S. Energy Information Agency (the “EIA”), on January 1, 2025, there were approximately 191 commercial ethanol production facilities in the U.S. with a combined production of approximately 18.5 billion gallons per year. The production of ethanol is a commodity-based business where producers compete on the basis of price and carbon intensity. We produce and sell ethanol in the California market. However, since there is insufficient production capacity in California to supply the state’s total fuel ethanol consumption (approximately 1.4 billion gallons annually), we compete with ethanol transported into California principally from Midwestern producers or imported from other countries, primarily Brazil. Similarly, our co-products, principally WDG and DCO, are sold into local California markets and compete with dried distillers grains (DDG) and DCO imported into California as well as with alternative feed products.

*California Dairy Renewable Natural Gas* – Dairy renewable natural gas sold for transportation use currently competes with other renewable gas, fossil natural gas, and fossil-based products. The pricing for our sales of D3 RINs and LCFS credits fluctuates based on the supply and demand for those credits at any given time, and we compete with other credit producers inside and outside of California that are participating in those markets.

*India Biodiesel* – Biodiesel sold as fuel competes primarily with petroleum diesel produced by the three OMCs and two private oil companies in India, all of whom have significantly larger market shares for petroleum diesel than we do for biodiesel, and they control a significant share of the distribution network. These companies also purchase our product for blending with fossil diesel before further sales of blended product to their customers, and we compete with other biodiesel producers to supply blendstocks to the OMCs. We compete primarily on the basis of location, price, and quality. In addition, the Kakinada Plant has demonstrated that it is a reliable and high-quality supplier in the India fuel market. With respect to crude and refined glycerin, we compete with other glycerin producers and refiners selling products into the personal care, paints and adhesive markets primarily on the basis of price and product quality.

## Customers

*California Ethanol* – We sell substantially all the ethanol, WDG, DCO, and CDS we produce to J.D. Heiskell under the J.D. Heiskell Purchasing Agreement, and J.D. Heiskell resells the products to marketers designated by us. We have designated a single fuel marketing company, Murex LLC (“Murex”), to purchase our ethanol and resell it to fuel blenders. We have designated A.L. Gilbert, Co., an animal feed company located adjacent to the Keyes Plant to sell and distribute our WDG. We sell the CO<sub>2</sub> gas from our fermenters to an industrial gas company that operates a commercial grade CO<sub>2</sub> production plant connected to our Keyes Plant by a dedicated pipeline.

*California Dairy Renewable Natural Gas* – We deliver Renewable Natural Gas into the utility gas pipeline via interconnection and sell it to transportation customers through a contractual relationship with fuel dispensing companies. We sell the environmental attributes (i.e. D3 RINs and LCFS credits) through industry brokers.

*India Biodiesel* – We sell biodiesel to the three Government OMCs.

## Pricing

*California Ethanol* – The market prices of ethanol, alcohol, WDG, and DCO vary throughout the year. Ethanol pricing is influenced by local and national inventory and production levels, imported ethanol, corn prices, carbon intensity, regulatory factors, gasoline demand, and government regulations related to renewable fuel volumes and allowed fuel mixes. Our ethanol price is based on an index of daily spot prices for ethanol less an adjustment for local market conditions that is set in quarterly sales contracts entered by Murex with local fuel blenders. The price for WDG is influenced by the price of corn, the supply and price of dried distillers grains, and demand from the local dairy and feed markets, and is determined monthly pursuant to a marketing agreement with A.L. Gilbert generally in reference to the local price of dried distillers grains and other comparable feed products.

*California Dairy Renewable Natural Gas* – The price for sales of RNG gas molecules is based on the market price of fossil based natural gas. The price we receive for sales of D3 RINs and LCFS credits are typically based on spot markets for those credits. Each of those credit markets is driven by regulatory factors that affect the quantity of credits needed by fossil fuel producers to achieve compliance, and also by the abundance of credits generated by renewable fuel producers.

*India Biodiesel* – During 2025, pricing for sales to OMCs was based on a fixed price formula to increase competitiveness, whereas in 2024 the price for sales to OMCs was based on a cost-plus formula that used a trailing average of several production input factors to determine the price paid for biodiesel.

## Raw Materials and Suppliers

*California Ethanol* – We procure corn as feedstock for the Keyes Ethanol Plant from J.D. Heiskell. The purchase price is based on spot market prices at the time we process the corn, plus transportation costs and fees.

*California Dairy Renewable Natural Gas* – We produce Renewable Natural Gas from biogas generated by anaerobic digesters located on properties that we lease from dairy operators. We construct and own the dairy digesters and the biogas pipeline that connects the digesters to our upgrading hub located at our California Ethanol plant. Our agreements with each dairy include a land lease and an agreement by the dairy to supply their manure into our digesters, with payments from us to the dairy based primarily on herd size and the value of environmental attributes that we generate. Generally, these leases and manure supply agreements have a 25-year term with two five-year renewal options.

*India Biodiesel* – The Kakinada Plant is currently capable of using a broad variety of feedstocks to produce biodiesel, which provides us with flexibility to purchase lower cost feedstocks when available in the market. In 2024, we upgraded the plant to enable biodiesel production using multiple lower-cost waste products and feedstock. We also use refined animal tallow for production of biodiesel. In addition to feedstock, the Kakinada Plant requires methanol and chemical catalysts for use in the biodiesel production process. These chemicals are also readily available and sourced from a number of suppliers surrounding the Kakinada Plant. We are not dependent on sole source or limited source suppliers for any of our raw materials or chemicals.

### **Commodity Risk Management Strategies**

*California Ethanol* – The costs of corn and natural gas and the price of ethanol are volatile and the prices of these commodities relative to each other determines the margins at the Keyes Plant. We are, therefore, exposed to commodity price risk. We monitor prices daily to assess the overall impact of the pricing on profitability. We periodically explore and utilize methods to mitigate the volatility of our commodity prices through term contract purchasing at fixed prices or fixed differentials from market prices. We sold our WDG during 2025 and 2024 on a month-to-month basis; however, we monitor and periodically sell on a quarterly basis when we believe longer term contracts allow us to better manage commodity and pricing risk. In 2025 and 2024, we periodically entered longer term contracts for purchases of natural gas to obtain the benefits of favorable prices.

*California Dairy Renewable Natural Gas* – The prices for RNG, D3 RINs, and LCFS credits are volatile. We therefore are exposed to market price risk for our sales of RNG and associated environmental attributes. We mitigate risk by scaling our payments to dairy operators based in part on the market price for credits in order to correlate our costs to market prices.

*India Biodiesel* – The cost of crude or refined palm stearin and the price of biodiesel are volatile and are generally uncorrelated. We therefore are exposed to ongoing and substantial commodity price risk at our Kakinada plant. Our risk management strategies are to (i) configure the Kakinada Plant to be able to produce biodiesel from a wide variety of feedstocks and (ii) to produce biodiesel only when we believe we can generate positive gross margins and to idle the Kakinada Plant during periods of low or negative gross margins.

### **Research and Development**

Our research and development efforts focus on evaluating and commercializing technologies for the production of biodiesel, SAF, renewable diesel, cellulosic ethanol, and other renewable biofuels from a variety of feedstocks. The objective of this research and development activity is to identify and develop efficient conversion technologies that will use waste feedstocks to produce renewable biofuels and biochemicals that have low carbon intensity on a large-scale, commercial basis.

### **Environmental and Regulatory Matters**

#### *California Ethanol and California Dairy Renewable Natural Gas*

Our California operations are subject to federal, state and local environmental, safety, and other laws, regulations and permit conditions, including those relating to the discharge of materials into the air, water and ground, the generation, storage, handling, use, transportation and disposal of hazardous materials, and the health and safety of our employees. These laws, regulations and permits may, from time to time, require us to incur significant capital costs. These include, but are not limited to, testing and monitoring plant emissions, and where necessary, obtaining and maintaining mitigation processes to comply with regulations. They may also require us to make operational changes to limit actual or potential impacts to the environment. A significant violation of these laws, regulations, permits or license conditions could result in substantial fines, criminal sanctions, permit revocations and/or facility shutdowns. In addition, laws and regulations change over time, and any such changes, more vigorous enforcement policies, or the discovery of currently unknown conditions may require substantial additional expenditures.

We are also subject to potential liability for the investigation and cleanup of environmental contamination at each of the properties that we own or operate and at off-site locations where we arrange for the disposal of hazardous wastes. If significant contamination is identified at our properties in the future, costs to investigate and remediate this contamination as well as costs to investigate or remediate associated damage could be significant. If any of these sites are subject to investigation and/or remediation requirements, we may be responsible under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“CERCLA”) or other environmental laws for all or part of the costs of such investigation and/or remediation, and for damage to natural resources. We may also be subject to related claims by private parties alleging property damage or personal injury due to exposure to hazardous or other materials at or from such properties. While costs to address contamination or related third-party claims could be significant, based upon currently available information, we are not aware of any such material contamination or third-party claims. Based on our current assessment of the environmental and regulatory risks, we have not accrued any amounts for environmental matters as of December 31, 2025 and 2024. The ultimate costs of any liabilities that may be identified or the discovery of additional contaminants could materially adversely impact our results of operation or financial condition.

In addition, the production and transportation of our products may result in spills or releases of hazardous substances, which could result in claims from governmental authorities or third parties relating to actual or alleged personal injury, property damage, or damage to natural resources. We maintain insurance coverage against some, but not all, potential losses caused by our operations. Our general and umbrella liability policy coverage includes, but is not limited to, physical damage to assets, employer’s liability, comprehensive general liability, automobile liability, and workers’ compensation. We believe that our insurance is adequate for our industry, but losses could occur for uninsurable or uninsured risks or in amounts in excess of existing insurance coverage. The occurrence of events which result in significant personal injury or damage to our property, natural resources or third parties that is not covered by insurance could have a material adverse impact on our results of operations and financial condition.

Our air emissions are subject to the federal Clean Air Act, and similar state laws, which generally require us to obtain and maintain air emission permits for our ongoing operations as well as for any expansion of existing facilities or any new facilities. Obtaining and maintaining those permits requires us to incur costs, and any future more stringent standards may result in increased costs and may limit or interfere with our operating flexibility. These costs could have a material adverse effect on our financial condition and results of operations. Because other ethanol manufacturers in the U.S. are and will continue to be subject to similar laws and restrictions, we do not currently believe that our costs to comply with current or future environmental laws and regulations will adversely affect our competitive position with other U.S. ethanol producers. However, because ethanol is produced and traded internationally, these costs could adversely affect us in our efforts to compete with foreign producers who are not subject to such stringent requirements.

New laws or regulations relating to the production, disposal or emission of carbon dioxide and other greenhouse gases may require us to incur significant additional costs with respect to plants that we build or acquire. We currently conduct our North American commercial activities exclusively in California.

Climate change and reduction legislation is a topic of consideration by the U.S. Congress and California State Legislature, which may significantly impact the biofuels industry's emissions regulations, as will the RFS, California's LCFS, and other potentially significant changes in existing transportation fuels regulations.

*India Biodiesel* - The Kakinada Plant is subject to national, state and local environmental laws, regulations and permits, including with respect to the generation, storage, handling, use, transportation and disposal of hazardous materials, and the health and safety of our employees. These laws may require us to make operational changes to limit actual or potential impacts to the environment. A violation of these laws, regulations or permits can result in substantial fines, natural resource damages, criminal sanctions, permit revocations and/or facility shutdowns. In addition, environmental laws and regulations (and interpretations thereof) change over time, and any such changes, more vigorous enforcement policies or the discovery of currently unknown conditions may require substantial additional environmental expenditures.

## Employees

As of December 31, 2025, we had a total of 220 full-time equivalent employees, including 18 at our corporate offices, 46 at the Keyes Ethanol Plant, 22 in our California Dairy RNG operations, 4 at the Riverbank Industrial Complex, and 130 in India. We believe that our employees are highly skilled, and our success will depend in part upon our ability to retain our employees and attract new qualified employees, many of whom are in great demand. We have never had a work stoppage or strike, and no employees are presently represented by a labor union or covered by a collective bargaining agreement. We believe our relationship with our employees is positive.

## Available Information

We file reports with the Securities and Exchange Commission (“SEC”). We make available on our website under the “Investors” tab, free of charge, our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and amendments to those reports as soon as reasonably practicable after we electronically file such materials with or furnish them to the SEC. Our website address is [www.aemetis.com](http://www.aemetis.com). Note that our website address is provided here as an inactive textual reference only, and the contents of the website are not incorporated in or otherwise to be regarded as part of this report for securities filings purposes. In addition, the SEC maintains an internet site ([www.sec.gov](http://www.sec.gov)) that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC, including us.

## Item 1A. Risk Factors

We operate in an evolving industry that presents numerous risks, including risks beyond our control that are driven by factors that cannot be predicted. Should any of the risks described in this section or in the documents incorporated by reference in this report actually occur, our business, results of operations, financial condition, or stock price could be materially and adversely affected. Investors should carefully consider the risk factors discussed below, in addition to the other information in this report, before making any investment in our securities.

### Risks Related to our Overall Business

***We are currently not profitable and historically we have incurred significant losses. If we incur continued losses, we may have to curtail our operations, which may prevent us from successfully operating and expanding our business.***

We do not currently, and historically have not typically, generated profits or positive cash flow. As of December 31, 2025, we had an accumulated deficit of approximately \$639.9 million. For our fiscal years ended December 31, 2025 and 2024, we reported a net loss of \$77.0 million and \$87.5 million respectively. We may continue to incur losses for an indeterminate period of time and may not achieve consistent profitability. We have historically relied upon cash from debt and equity financing activities to fund the cash we need that exceeds cash from operations. Going forward, we expect to rely on cash on hand, cash generated from our operations, borrowings, if available, and proceeds from other future financing activities, if any, to fund the cash requirements of our business. In some market environments, we may have limited access to incremental financing, which could defer or cancel growth projects, reduce business activity or cause us to default on our existing debt agreements if we are unable to meet our payment schedules. An extended period of losses or negative cash flow may prevent us from successfully operating and expanding our business.

***Our indebtedness, preference payments, and interest expense could limit cash flow and adversely affect operations and our ability to make full payment on outstanding debt.***

For the year ended December 31, 2025, we recognized \$46.2 million in interest rate expense and \$8.2 million in accretion of Series A preferred units (excludes debt related fees and amortization expense). The terms of our indebtedness and the Series A preferred units impose certain restrictions on us that limit our cash flow and affect our ability to further invest in our business, including as follows:

- Any cash flows after funding our operations, any equity raises, and any EB-5 funding must be used to pay principal and interest on debt, thereby reducing the funds available for working capital, capital expenditures, acquisitions, research and development and other general corporate purposes;
- Cash flows from our California Dairy RNG business may be used to pay mandatory redemptions under the Series A Preferred Unit Purchase Agreement, which could reduce the funds available to use by us for operations.
- Insufficient cash flows from operations may force us to sell assets or seek additional capital, which we may not be able to accomplish on favorable terms, if at all; and
- The level of indebtedness may make us more vulnerable to economic or industry downturns.

***Our business is dependent on external financing and cash from operations to service debt and fund future growth.***

The adoption of new technologies at our ethanol and biodiesel plants, the development of bio-methane digesters at local dairies near our Keyes Plant, the construction of a SAF/RD production plant, the construction of our CCUS projects, and our working capital requirements are financed in part through debt or debt-like facilities. We may need to seek significant additional financing to continue or grow our operations and to develop our business. However, generally unfavorable credit market conditions may make it difficult to obtain necessary capital or additional debt financing on commercially viable terms or at all. If we are unable to pay our debt, we may be forced to delay or cancel capital expenditures, sell assets, restructure our indebtedness, seek additional financing, or file for bankruptcy protection. Debt levels or debt service requirements may limit our ability to borrow additional capital, make us vulnerable to increases in prevailing interest rates, subject our assets to liens, limit our ability to adjust to changing market conditions, or place us at a competitive disadvantage to our competitors. Should we be unable to generate enough cash from our operations or secure additional financing to fund our operations and debt service requirements, we may be required to postpone or cancel growth projects, reduce our operations, or be unable to meet our debt repayment schedules. Any one of these events would likely have a material adverse effect on our operations and financial position.

There can be no assurance that our existing cash flow from operations will be sufficient to sustain operations and to the extent that we are dependent on credit facilities to fund operations or service debt, there can be no assurances that we will be successful at securing funding from our senior lender or significant shareholders. Should we require additional financing, there can be no assurances that the additional financing will be available on terms satisfactory to us. Our ability to identify and enter into commercial arrangements with feedstock suppliers in India depends on maintaining our operations agreement with key vendors in India. If we are unable to maintain these strategic relationships, our business may be negatively affected. In addition, the ability of our key vendors to continue to provide us with working capital depends in part on the financial strength of such vendors and their banking relationships. If our key vendors are unable or unwilling to continue to provide us with working capital, our business may be negatively affected. Our ability to enter into commercial arrangements with feedstock suppliers in California depends on maintaining our operations agreement with J.D. Heiskell, who is currently providing us with working capital for our Keyes Plant. If we are unable to maintain this strategic relationship, our business may be negatively affected. In addition, the ability of J.D. Heiskell to continue to provide us with working capital depends in part on the financial strength of J.D. Heiskell and its banking relationships. If J.D. Heiskell is unable or unwilling to continue to provide us with working capital, our business may be negatively affected. Our consolidated financial statements do not include any adjustments to the classification or carrying values of our assets or liabilities that might be necessary as a result of the outcome of this uncertainty.

***We may be unable to repay or refinance our Third Eye Capital Debt upon maturity.***

Under our note facilities with Third Eye Capital, we owe approximately \$247.9 million, excluding debt discounts, as of December 31, 2025. Our indebtedness and interest payments under these note facilities are currently substantial and may adversely affect our cash flow, cash position and stock price. The debt is currently due on demand. We have been able to extend our indebtedness in the past, but we may not be able to continue to extend the maturity of these notes in the future. We may not have sufficient cash available at the time of maturity to repay this indebtedness. We have default covenants that may accelerate the demand for payment of these notes. We may not have sufficient assets or cash flow available to support refinancing these notes at market rates or on terms that are satisfactory to us. If we are unable to extend the maturity of the notes or refinance on terms satisfactory to us, we may be forced to refinance on terms that are materially less favorable, seek funds through other means such as a sale of some of our assets, or otherwise significantly alter our operating plan, any of which could have a material adverse effect on our business, financial condition and results of operations.

***We are dependent upon our working capital agreements with J.D. Heiskell and other key vendors.***

Our ability to operate our Keyes Plant depends on maintaining our working capital agreement with J.D. Heiskell, and our ability to operate the Kakinada Plant depends on maintaining our working capital agreements with key vendors. The Heiskell Agreement provides for an initial term of one year with automatic one-year renewals; provided, however, that J.D. Heiskell may terminate the agreement by notice 30 days prior to the end of the initial term or any renewal term. In addition, the agreement may be terminated at any time upon an event of default, such as payment default, bankruptcy, acts of fraud or material breach under one of our related agreements with J.D. Heiskell. The agreements with key vendors in India may be terminated at any time by either party upon written notice. If we are unable to maintain these strategic relationships, we will be required to locate alternative sources of working capital and corn supply, which we may be unable to do in a timely manner or at all. If we are unable to maintain our current working capital arrangements or locate alternative sources of working capital, our ability to operate our plants will be negatively affected.

***Our results from operations are primarily dependent on the spread between the feedstock and energy we purchase and the fuel, animal feed, and other products we sell.***

The results of our ethanol production business in the U.S. are significantly affected by the spread between the cost of corn and natural gas that we purchase and the price of the ethanol, WDG, and DCO that we sell. Similarly, in India, our biodiesel business is primarily dependent on the price difference between the costs of the feedstock we purchase (principally stearin, tallow, and crude glycerin) and the products we sell (principally biodiesel and refined glycerin). The markets for ethanol, biodiesel, WDG, DCO and refined glycerin are highly volatile and subject to significant fluctuations. Any decrease in the spread between prices of the commodities we buy and sell, whether as a result of an increase in feedstock prices or a reduction in ethanol or biodiesel prices, would adversely affect our financial performance and cash flow and may cause us to suspend production at either of our plants.

***The price of ethanol is volatile and subject to large fluctuations, and increased ethanol production may cause a decline in ethanol prices or prevent ethanol prices from rising, either of which could adversely impact our results of operations, cash flows and financial condition.***

The market price of ethanol is volatile and subject to large fluctuations. The market price of ethanol is dependent upon many factors, including the supply of ethanol and the demand for gasoline, which are in turn dependent upon the price of petroleum, which is also highly volatile and difficult to forecast. Fluctuations in the market price of ethanol may cause our profitability or losses to fluctuate significantly. In addition, domestic ethanol production capacity increased significantly in the last decade. Demand for ethanol may not increase commensurately with increases in supply, which could lead to lower ethanol prices. Demand for ethanol could be impaired due to a number of factors, including regulatory developments and reduced gasoline consumption. Reduced gasoline consumption has occurred in the past and could occur in the future as a result of increased gasoline or oil prices.

***We may be unable to execute our business plan.***

The value of our long-lived assets is based on our ability to execute our business plan and generate sufficient cash flow to justify the carrying value of our assets. Should we fall short of our cash flow projections in the future, we may be required to write down the value of these assets under accounting rules and further reduce the value of our assets. We can make no assurances that future cash flows will develop and provide us with sufficient cash to maintain

the value of these assets and avoid any future impairment to our asset carrying values. As a result, we may need to write down the carrying value of our long-lived assets.

In addition, we intend to modify or adapt third party technologies at the Keyes Ethanol Plant and at the Kakinada Plant to accommodate alternative feedstocks and improve operations. After we design and engineer a specific integrated upgrade to either or both plants allowing us to produce products other than their existing products, we may not receive permission from regulatory agencies to install the process at either or both plants. Additionally, even if we are able to install and begin operations of an integrated advanced fuels and/or bio-chemical plant, we cannot provide assurance that the technology will work and produce cost-effective products. Similarly, our plans to develop the SAF/RD production plant, CCUS, MVR system, or any other system at the Keyes Plant may not be successful as a result of financing or issues in design, construction, or operations. Any inability to execute our business plan may have a material adverse effect on our operations, financial position, ability to pay dividends, and ability to continue as a going concern.

***We may not be able to recover the costs of our substantial investments in capital improvements and additions, and the actual cost of such improvements and additions may be significantly higher than we anticipate.***

Our strategy calls for continued investment in capital improvements and additions. For example, we are currently developing plants designed to produce biofuels, including renewable aviation fuel and renewable diesel fuel, utilizing renewable hydrogen and non-edible renewable oils. We are also developing carbon sequestration wells to generate California low carbon fuel standard credits by injecting CO<sub>2</sub> into sequestration wells that are monitored for emissions to ensure the long-term sequestration of CO<sub>2</sub> underground. The construction of these capital improvements and additions involves numerous regulatory, environmental, political, and legal uncertainties, many of which are beyond our control and may require the expenditure of significant amounts of capital, which may exceed our estimates, and we may require significant debt or equity financing. These projects may not be completed at the planned cost, on schedule or at all due to unavailability of needed financing. The construction of new ethanol and other biofuel facilities is subject to construction cost overruns due to labor costs, costs of equipment, materials such as steel, labor shortages, weather or other delays, inflation, or other factors, which could be material. In addition, the construction of these facilities is typically subject to the receipt of approvals and permits from various regulatory agencies. Those agencies may not approve the projects in a timely manner, if at all, or may impose restrictions or conditions on the projects that could potentially prevent a project from proceeding, lengthen its expected completion schedule and/or increase its anticipated cost. Moreover, our revenues and cash flows may not increase immediately upon the expenditure of funds on a particular project. For instance, if we expand an existing facility or construct a new facility, the construction may occur over an extended period of time, and we may not receive any material increases in revenues or cash flows until the project is completed. As a result, the new facilities may not be able to achieve our expected investment return, which could adversely affect our results of operations.

***We are in the process of developing biogas digesters, CCUS, SAF/RD, expanded biodiesel production and other projects, and the success of such projects depends on many factors including but not limited to, cash flows and revenue projections being achieved.***

We are developing projects designed to reduce emissions of greenhouse gases. These include (i) a biofuels production plant in Riverbank, California designed to produce SAF/RD using renewable fats and oils obtained from existing Aemetis biofuels plants and other sources, (ii) Carbon Capture and Underground Sequestration (“CCUS”) projects designed to compress and inject CO<sub>2</sub> into deep wells for long-term sequestration of carbon underground, (iii) additional dairy digesters at new locations, along with associated infrastructure for transporting and producing biogas and Renewable Natural Gas, and (iv) expansion of biodiesel production in India. We also plan to develop additional projects beyond those listed here.

Each of these development projects depends on completing all necessary development activities, including, but not limited to, obtaining necessary regulatory approvals and permits, acquisition of property rights, contracting, engineering and cost estimating, determination of feasibility, funding of project development costs, construction financing, construction, and startup. There is no certainty that we will successfully complete all the necessary development activities for any particular project, that a project will ultimately be built, that a project will be built or operational according to our planned schedule, or that a project will ultimately generate revenue or contribute to our cash flows, any of which could have a material adverse effect on our business, financial condition, results of operations and cash flow.

***We rely on the availability of tax credits, carbon credits, grants, and other regulatory and financial incentives. The expiration, elimination, modification, or reduction of these regulations, credits, and incentives could adversely impact our business.***

U.S. and India federal, state, and local governments provide regulations and incentives for operations and projects that are designed to promote renewable fuels and reduce carbon emissions. Each of our currently operating businesses and development projects are expected to generate revenue, cash, and credits from these government programs. In particular, we have used and plan to continue to use the provisions of the Internal Revenue Code (“IRC”) and the Inflation Reduction Act (“IRA”) amendments to the IRC in 2022 that provide Investment Tax Credits, Production Tax Credits, and other credits, and that allow us to either use the credits or to monetize the credits by selling them to third parties. These include certain transferable IRA tax credits generated from our qualified biogas facilities. We also currently generate and plan to continue to generate credits under the federal Renewable Fuel Standard (“RFS”) and the California Low Carbon Fuel Standard (“LCFS”). Our Kakinada Biodiesel plant produces biofuel to help India meet the goals of its National Policy on Biofuels. The IRA, RFS, LCFS and other regulations, as well as our ability to qualify for and monetize the tax credits, carbon credits, grants and other financial incentives available thereunder, are subject to modifications, additional regulatory requirements or limits, varying interpretations, reduction, expiration, and other changes. Moreover, changes in federal or state administrations may lead to actions to revise, repeal or otherwise modify existing funding and tax credit arrangements currently in place. For example, on January 20, 2025, President Trump issued an Executive Order (the “January Executive Order”) pausing certain funding disbursements under the IRA; the impact of this Executive Order on the use of and our ability to monetize certain federal credits and grants is uncertain at this time. Additionally, in its June 2024 decision in *Loper Bright Enterprises v. Raimondo* (the “Loper decision”), the U.S. Supreme Court overturned a longstanding Chevron doctrine, under which courts were required to give deference to regulatory agencies’ reasonable interpretations of ambiguous federal statutes. The Loper decision could result in additional legal challenges to regulations and guidance issued by federal agencies applicable to our operations. Further, the Loper decision may result in increased regulatory uncertainty, inconsistent judicial interpretations, and other impacts to agency rulemaking process. The regulatory and/or financial changes can occur with or without advance notice, may affect our past business activities or future plans, and may occur for a variety of reasons resulting from legislation, new or changing regulations, regulatory interpretation, court cases, and other sources. These regulatory programs, credits, and incentives have been and will continue to be material to our business and to our projects under development. Changes to regulations and reductions in or expirations of governmental credits and incentives could adversely impact our revenue, increase cost of materials, and reduce the size of our addressable market, any of which could have a material adverse effect on our business, financial condition, results of operations, and cash flows.

***We are dependent on, and vulnerable to any difficulties of, our principal suppliers and customers.***

We buy all of the feedstock for the Keyes Plant from one supplier, J.D. Heiskell. Under the Heiskell Agreement, we are only permitted to purchase feedstock from other suppliers upon the satisfaction of certain conditions. In addition, we have contracted to sell all of the WDG, CDS, and corn oil we produce at the Keyes Plant to J.D. Heiskell. J.D. Heiskell, in turn, sells all WDG and syrup produced to A.L. Gilbert. We sell all of our fuel ethanol production to J.D. Heiskell, which sells it to one customer, Murex. If J.D. Heiskell were to fail to deliver adequate feedstock to the Keyes Plant or fail to purchase all the contracted product we produce, if Murex were to fail to purchase the ethanol we produce, if A.L. Gilbert were to fail to purchase all of the WDG and syrup we produce, or if any of them were to otherwise default on our agreements with them or fail to perform as expected, we may be unable to find replacement suppliers or purchasers, or both, in a reasonable time or on favorable terms, any of which could materially adversely affect our results of operations and financial condition.

***We may not receive the funds we expect under our EB-5 program.***

On October 16, 2016, we launched our EB-5 Phase II program, allowing for the issuance of up to 100 subordinated convertible promissory notes, on substantially similar terms and conditions as those issued under our EB-5 Phase I program, for a total aggregate principal amount of up to \$50.8 million. On November 21, 2019, the minimum investment was raised from \$500,000 per investor to \$900,000 per investor. As of December 31, 2025, \$4.0 million has been raised through the EB-5 Phase II program and has been released from escrow and \$4.5 million of principal and unpaid interest was outstanding on the EB-5 Notes under the EB-5 Phase II funding. There can be no assurance that we will be able to successfully raise additional funds under our EB-5 Phase II program or that such funds, if raised, will be approved by USCIS.

***We face competition for our transportation fuels products from providers of petroleum-based products and from other companies seeking to provide alternatives to these products, many of whom have greater resources and experience than we do, and if we cannot compete effectively against these companies, we may not be successful.***

Our renewable products compete with both the traditional, largely petroleum-based fuels products that are currently being used in our target markets and with the alternatives to these existing products that both established enterprises and new companies are seeking to produce. The oil companies, large chemical companies, and well-established agricultural products companies with whom we compete are much larger than we are, and have, in many cases, well developed distribution systems and networks for their products.

In the transportation fuels market, we compete with independent and integrated oil refiners, advanced biofuels companies, traditional biofuel companies and biodiesel companies. Refiners compete with us by selling traditional fuel products and some are also pursuing hydrocarbon fuel production using non-renewable feedstocks, such as natural gas and coal, as well as processes using renewable feedstocks, such as vegetable oil and biomass. We also expect to compete with companies that are developing the capacity to produce diesel and other transportation fuels from renewable resources in other ways.

With the emergence of many new companies seeking to produce chemicals and fuels from alternative sources, we may face increasing competition from alternative fuels and chemicals companies. As they emerge, some of these companies may be able to establish production capacity and commercial partnerships to compete with us. If we are unable to establish production and sales channels that allow us to offer comparable products at attractive prices, we may not be able to compete effectively with these companies.

We also face competition from international suppliers. Ethanol can be imported into the United States duty-free from some countries, which may undermine the domestic ethanol industry. Currently, international suppliers produce ethanol primarily from sugar cane and as such, production costs for ethanol in these countries can be significantly less than those in the United States and the import of lower price or lower carbon value ethanol from these countries may reduce the demand for domestic ethanol and depress the price at which we sell our ethanol.

***Our operations are subject to environmental, health, and safety laws, regulations, and liabilities.***

Our operations are subject to various federal, state and local environmental, health, safety, and product regulation laws and regulations, including those relating to the discharge of materials into the air, water and ground, the generation, storage, handling, use, transportation and disposal of hazardous materials, access to and impacts on water supply, and the health and safety of our employees. In addition, our operations and sales in India subject us to risks associated with foreign laws, policies and regulations. Some of these laws and regulations require our facilities to operate under permits or licenses that are subject to renewal or modification. These laws, regulations, and permits can require expensive emissions testing and pollution control equipment or operational changes to limit actual or potential impacts to the environment. Violations of these laws, regulations, permits, or license conditions can result in substantial fines, natural resource damages, criminal sanctions, permit revocations, and facility shutdowns. We may not be at all times in compliance with these laws, regulations, permits or licenses or we may not have all permits or licenses required to operate our business. We may be subject to legal actions brought by environmental advocacy groups and other parties for actual or alleged violations of environmental laws, permits, or licenses. Failure to comply with applicable laws could result in enforcement actions leading to penalties or revocation of permits or licenses. In addition, we may be required to make significant capital expenditures on an ongoing basis to comply with increasingly stringent laws, regulations, and permit and license requirements.

We may be liable for the investigation and cleanup of environmental contamination at our facilities and at off-site locations where we arrange for the disposal of hazardous substances. If hazardous substances have been or are disposed of or released at sites that undergo investigation or remediation by regulatory agencies, we may be responsible under CERCLA or other environmental laws for all or part of the costs of investigation and remediation, and for damage to natural resources. We also may be subject to related claims by private parties alleging property damage and personal injury due to exposure to hazardous or other materials at or from those properties. Some of these matters may require us to expend significant amounts for investigation, cleanup, or other costs.

New laws, new interpretations of existing laws, increased governmental enforcement of environmental laws, or other developments could require us to make additional significant expenditures. Continued government and public emphasis on environmental issues can be expected to result in increased future investments for environmental controls at our production facilities. Environmental laws and regulations applicable to our operations now or in the future, more vigorous enforcement policies and discovery of currently unknown conditions may require substantial expenditures that could have a negative impact on our results of operations and financial condition.

***Our business is affected by greenhouse gas and climate change regulation.***

Climate change continues to attract considerable attention globally. The Keyes Plant is subject to California's "cap and trade" program that aims to reduce CO<sub>2</sub> emissions from fuel combustion activities. In addition, numerous proposals have been made and could continue to be made at the international, federal, state and local levels to monitor and limit existing emissions of GHG, including carbon dioxide, as well as to restrict or eliminate future emissions. At this stage, it is not possible to accurately estimate either a timetable for implementation of any future regulations or our future compliance costs relating to implementation. In the U.S., the Environmental Protection Agency ("EPA") promulgated federal GHG regulations under the Clean Air Act affecting certain sources. The EPA issued mandatory GHG reporting requirements, requirements to obtain GHG permits for certain industrial plants and GHG performance standards for some facilities. President Trump's Day One 2025 executive orders reversed EPA's priorities of environmental justice, regulatory enforcement, and addressing global climate change. Moreover, the U.S. Supreme Court has ruled in several cases that limit the EPA's power to regulate the carbon emissions from existing power plants (*West Virginia v. EPA*) and discharges into wetlands (*Sackett v. EPA*). Therefore, it is uncertain whether the EPA will continue to prioritize climate change. The recent changes to the EPA may result in additional regulations and legislation at the U.S. federal or state level, which could result in increased operating costs for compliance, or required acquisition or trading of emission allowances. Additionally, demand for the products we produce may be reduced for various reasons, including, but not limited to, lack of federal support. If new laws or regulations are passed relating to the production, disposal or emissions of carbon dioxide, we may be required to incur significant costs to comply with such new laws or regulations. Compliance with future legislation may require us to take action unknown to us at this time that could be costly, and require the use of working capital, which may or may not be available, preventing us from operating as planned, which may have a material adverse effect on our operations and cash flow.

***A change in government policies may cause a decline in the demand for our products.***

The domestic ethanol industry is highly dependent upon a myriad of federal and state regulations and legislation, and any changes in legislation or regulation could adversely affect our results of operations and financial position. Other federal and state programs benefiting ethanol generally are subject to U.S. government obligations under international trade agreements, including those under the World Trade Organization Agreement on Subsidies and Countervailing Measures, and may be the subject of challenges, in whole or in part. Growth and demand for ethanol and biodiesel is largely driven by federal and state government mandates or blending requirements, such as the RFS, which was implemented pursuant to the Energy Policy Act of 2005 and the Energy Independence and Security Act of 2007 (the "EISA"). The RFS program sets annual quotas for the quantity of renewable fuels (such as ethanol) that must be blended into motor fuels consumed in the United States. However, legislation aimed at reducing or eliminating the renewable fuel use required by the RFS has been introduced in the United States Congress. Any change in government policies could have a material adverse effect on our business and the results of our operations.

Waivers of the RFS minimum levels of renewable fuels included in gasoline or of the requirements obligated by parties to comply with the regulations could have a material adverse effect on our results of operations. Under the Energy Policy Act, the U.S. Department of Energy, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the renewable fuels mandate with respect to one or more states if the Administrator of the EPA determines that implementing the requirements would severely harm the economy or the environment of a state, a region or the nation, or that there is inadequate supply to meet the requirement. Additionally, the EPA has exercised the authority to waive the requirements of the RFS for certain small refiners. Any waiver of the RFS with respect to one or more states would reduce demand for ethanol and could cause our results of operations to decline and our financial condition to suffer. Further activity by the EPA to waive the requirements for small refiners could cause softening of pricing in the industry and cause our results of operations to similarly decline.

A critical state program is California's LCFS, which is designed to reduce greenhouse gas emissions associated with transportation fuels used in California by ensuring that the fuel sold meets declining targets for such emissions. The regulation quantifies lifecycle greenhouse gas emissions by calculating the carbon intensity ("CI") of each transportation fuel based on that fuel's lifecycle assessment. Each petroleum fuel provider, generally the fuel's producer or importer (the "Regulated Party"), is required to purchase LCFS credits if the CI for its fuel pool exceeds the annual carbon intensity target for a given year. Fuels such as ethanol or RNG that have CI score lower than the annual standard earn a credit that can be sold to Regulated Parties. Annual declines in the CI benchmark reduce the number of credits generated, and could cause the Keyes Plant to require credits rather than generate them. In addition, changes to California's LCFS rule could reduce the credits generated by ethanol or RNG or constrain the value of the credits, which could adversely affect our financial condition.

***Concerns regarding the environmental impact of biofuel production could affect public policy which could impair our ability to operate at a profit and substantially harm our revenues and operating margins.***

Under the EISA, the EPA is required to produce a study every three years of the environmental impacts associated with current and future biofuel production and use, including effects on air and water quality, soil quality and conservation, water availability, energy recovery from secondary materials, ecosystem health and biodiversity, invasive species, and international impacts. Should such EPA triennial studies, or other analyses find that biofuel production and use has resulted in, or could in the future result in, adverse environmental impacts, such findings could also negatively impact public perception and acceptance of biofuel as an alternative fuel, which also could result in the loss of political support. To the extent that state or federal laws are modified or public perception turns against biofuels, use requirements such as the RFS and LCFS may not continue, which could materially harm our ability to operate profitably.

***We may encounter unanticipated difficulties in converting the Keyes Plant to accommodate alternative feedstocks, new chemicals used in the fermentation and distillation process, or new mechanical production equipment.***

In order to improve the operations of the Keyes Plant and execute on our business plan, we intend to modify the Keyes Plant to accommodate alternative feedstocks and new chemical and/or mechanical production processes, including a Mechanical Vapor Recompression ("MVR") system and other technologies. We may not be able to successfully implement these modifications, and they may not function as we expect them to. These modifications may cost significantly more to complete than our estimates. The Keyes Plant may not operate at nameplate capacity once the changes are complete. If any of these risks materialize, they could have a material adverse effect on our results of operations and financial position.

***We could be adversely affected by violations of the U.S. Foreign Corrupt Practices Act.***

Our operations in countries outside the United States, including our operations in India, are subject to anti-corruption laws and regulations, including restrictions imposed by the U.S. Foreign Corrupt Practices Act (the "FCPA"). The FCPA and similar anti-corruption laws in other jurisdictions generally prohibit companies and their intermediaries from making improper payments to government officials for the purpose of obtaining or retaining business. We operate in parts of the world that have experienced governmental corruption to some degree and, in certain circumstances, strict compliance with anti-corruption laws may conflict with local customs and practices. Our employees and agents interact with government officials on our behalf, including interactions necessary to obtain licenses and other regulatory approvals necessary to operate our business. These interactions create a risk that actions may occur that could violate the FCPA or other similar laws.

Although we have policies and procedures designed to promote compliance with local laws and regulations as well as U.S. laws and regulations, including the FCPA, there can be no assurance that all of our employees, consultants, contractors and agents will abide by our policies. If we are found to be liable for violations of the FCPA or similar anti-corruption laws in other jurisdictions, either due to our own acts or out of inadvertence, or due to the acts or inadvertence of others, we could suffer from criminal or civil penalties which could have a material and adverse effect on our results of operations, financial condition and cash flows. Due to the changing nature of the regulatory environment and uncertainty about the priorities and direction of changing presidential administrations, we cannot be certain if or how the U.S. governments enforcement of the FCPA will change or impact our business.

***A substantial portion of our assets and operations are located in India, and we are subject to regulatory, economic and political uncertainties in India.***

One of our principal operating subsidiaries is based in India, and substantial portions of our assets are located in India. We intend to continue to develop and expand our facilities in India. The India government has exercised and continues to exercise significant influence over many aspects of India's economy. India's government has traditionally maintained an artificially low price for certain commodities, including diesel fuel, through subsidies, but has recently begun to reduce such subsidies, which benefits us. We cannot be sure that liberalization policies will continue. Various factors, such as changes in the current federal government, could trigger significant changes in India's economic liberalization and deregulation policies and disrupt business and economic conditions in India generally and our business in particular. In particular, the India government's 2019 National Ethanol Blended Petrol Program Policy states a plan to increase ethanol blending to 20% by 2030. We cannot be sure that this policy will continue, nor can we be sure that we will continue to be able to procure biodiesel supply contracts with Indian state-owned oil marketing companies through the public tender process. Our financial performance may be adversely affected by any such changes or other changes to the general economic conditions and economic and fiscal policy in India, including changes in exchange rates and controls, interest rates and taxation policies, as well as social stability and political, economic, or diplomatic developments affecting India in the future.

***Currency fluctuations between the Indian rupee and the U.S. dollar could have a material adverse effect on our results of operations.***

A substantial portion of our revenues is received in Indian rupees. We report our financial results in U.S. dollars. The exchange rates between the Indian rupee and the U.S. dollar have changed substantially in recent years and may fluctuate substantially in the future. We do not currently engage in any formal currency hedging of our foreign currency exposure, and our results of operations may be adversely affected if the Indian rupee fluctuates significantly against the U.S. dollar.

***We could be subject to restrictions on the movement of cash and the exchange of foreign currencies that could limit our access to cash held in our India subsidiary to fund our U.S. operations or otherwise make investments where needed.***

Our India operations are subject to restrictions on the movement of cash and the exchange of foreign currencies, which could limit our ability to use this cash across our global operations. For instance, cash and cash equivalents were \$4.9 million at December 31, 2025, of which \$4.1 million was held in our North American entities and \$0.8 million was held in our India subsidiary; at times this balance is much higher. Cash held in our India subsidiary may not be available for servicing debt obligations, potential investment, or use for operations in the United States. Moreover, even if we were to repatriate this cash back to the United States, it would be subject to additional withholding taxes. Due to the various methods by which such earnings could be repatriated in the future, it is not practicable to determine the amount of applicable taxes that would result from such repatriation.

***Aemetis, Inc. is a holding and management company and there are significant limitations on our ability to receive distributions from our subsidiaries.***

We conduct substantially all of our operations through subsidiaries. Our subsidiaries have not made significant distributions to us and may not have funds available for dividends or distributions in the future. The ability of our subsidiaries to transfer funds to us will be dependent upon their respective abilities to achieve sufficient cash flows after satisfying their respective cash requirements, including subsidiary-level debt service on their respective credit agreements. Our credit agreements also contain certain restrictions and/or approval requirements that could limit cash distributions and intercompany transfers.

***Our ability to utilize our NOL carryforwards may be limited.***

Under the Internal Revenue Code of 1986, as amended (the “Code”), a corporation is generally allowed a deduction in any taxable year for net operating losses (“NOLs”) arising in taxable years ending on or prior to December 31, 2017, that may be carried forward for a period of 20 taxable years, and NOLs arising in taxable years ending after December 31, 2017 may be carried forward indefinitely, but the deductibility of such post-2017 NOLs in taxable years beginning after December 31, 2020 is limited to 80% of the taxable income in the taxable year to which such NOLs are carried forward. Furthermore, state NOLs may also be subject to separate limitations at the state level. As of December 31, 2025, the Company had federal NOL carryforwards of \$413.0 million and state NOL carryforwards of \$538.0 million. Due to the 2017 U.S. Tax Reform, U.S. federal NOLs after 2017 in the amount of \$225.0 million have no expiration date, but such NOLs are subject to the 80% taxable limitation described above.

Under Section 163(j) of the IRC, a taxpayer’s deduction for business interest expense is generally limited to the sum of (i) the taxpayer’s business interest income, (ii) 30% of the taxpayer’s “adjusted taxable income” and (iii) the taxpayer’s floor plan financing interest. The amount of any excess business interest expense that is disallowed for a particular taxable year under Section 163(j) of the IRC may be carried forward indefinitely. Due to the ongoing interest expense every year, our ability to utilize any excess business interest expense carryforwards may be limited.

Our ability to deduct these NOL carryforwards, excess business interest expense carryforwards, and other tax attributes against future taxable income could be limited if we experience or have experienced an “ownership change,” as defined in Section 382 of the IRC. In general, an ownership change may result from one or more transactions increasing the aggregate ownership of certain persons (or groups of persons) in our stock by more than 50 percent over a testing period (generally three years). Past or future direct or indirect changes in the ownership of our stock, some of which are not in our control and/or may occur or have already occurred in the public markets, could result in an ownership change that would limit NOL carryforwards. Any resulting limitation on the use of our NOL carryforwards, excess business interest expense carryforwards, and certain other tax attributes could result in the payment of taxes above the amounts currently estimated.

***Non-U.S. stockholders of our common stock, in certain situations, could be subject to U.S. federal income tax on the gain from the sale, exchange or other disposition of our common stock.***

Our Keyes Plant (which constitutes a U.S. real property interest for purposes of determining whether we are a U.S. real property holding corporation (a “USRPHC”) under the Foreign Investment in Real Property Tax Act (“FIRPTA”)), currently accounts for a significant portion of our assets. The value of our Keyes Plant relative to our real property located outside of the United States and other assets used in our trade or business may be uncertain and may fluctuate over time. Therefore, we may be, now or at any time while a non-U.S. stockholder owns our common stock, a USRPHC. If we are a USRPHC, certain non-U.S. stockholders may be subject to U.S. federal income tax on gain from the disposition of our stock under FIRPTA, in which case such non-U.S. stockholders would also be required to file U.S. federal income tax returns with respect to such gain. Whether the FIRPTA provisions apply depends on the stock that a non-U.S. stockholder owns and whether, at the time such non-U.S. stockholder disposes of our common stock, such common stock is regularly traded on an established securities market within the meaning of the applicable U.S. Treasury regulations. Non-U.S. stockholders should consult with their own tax advisors concerning the U.S. federal income tax consequences of the sale, exchange or other disposition of our common stock.

***We are subject to covenants and other operating restrictions under the terms of our debt, which may restrict our ability to engage in some business transactions.***

Our debt facilities contain covenants restricting our ability, among others, to:

- incur additional debt;
- make certain capital expenditures;
- incur or permit liens to exist;
- enter into transactions with affiliates;
- guarantee the debt of other entities, including joint ventures;
- pay dividends;
- merge or consolidate or otherwise combine with another company; and
- transfer, sell, or lease our assets.

These restrictions may limit our ability to engage in business transactions that may be beneficial to us or may restrict our ability to execute our business plan.

***We may be subject to liabilities and losses that may not be covered by insurance.***

Our employees and facilities are subject to the hazards associated with producing ethanol, renewable natural gas, and biodiesel. Operating hazards can cause personal injury and loss of life, damage to or destruction of property, plant and equipment, and environmental damage. We maintain insurance coverage in amounts and against the risks that we believe are consistent with industry practice. However, we could sustain losses for uninsurable or uninsured risks, or in amounts in excess of existing insurance coverage. Events that result in significant personal injury or damage to our property or to property owned by third parties or other losses that are not fully covered by insurance could have a material adverse effect on our results of operations and financial position.

Insurance liabilities are difficult to assess and quantify due to unknown factors, including the severity of an injury, the determination of our liability in proportion to other parties, the number of incidents not reported, and the effectiveness of our safety programs. If we were to experience insurance claims or costs above our coverage limits or that are not covered by our insurance, we might be required to use working capital to satisfy these claims rather than to maintain or expand our operations. To the extent that we experience a material increase in the frequency or severity of accidents or workers' compensation claims, or unfavorable developments on existing claims, our operating results and financial condition could be materially and adversely affected.

***Our mergers, acquisitions, partnerships, and joint ventures may not be as beneficial as we anticipate.***

We have increased our operations through mergers, acquisitions, partnerships, and joint ventures and intend to continue to explore these opportunities in the future. The anticipated benefits of these transactions might take longer to realize than expected and these may never be fully realized, or even realized at all. Furthermore, partnerships and joint ventures generally involve restrictive covenants on the parties involved, which may limit our ability to manage these agreements in a manner that is in our best interest. Future mergers, acquisitions, partnerships, and joint ventures may involve the issuance of debt or equity, or a combination of the two, as payment for or financing of the business or assets involved, which may dilute ownership interest in our business. Any failure to adequately evaluate and address the risks of and execute on our mergers, acquisitions, partnerships, and joint ventures could have an adverse material effect on our business, results of operations, and financial condition. In connection with such acquisitions and strategic transactions, we may incur unanticipated expenses, fail to realize anticipated benefits, have difficulty incorporating the acquired businesses, our management may become distracted from our core business, and we may disrupt relationships with current and new employees, customers and vendors, incur significant debt, or have to delay or not proceed with announced transactions. The occurrence of any of these events could have an adverse effect on our business.

***Our business systems may be significantly disrupted upon the occurrence of a catastrophic event or cyberattack.***

The Keyes and Kakinada Plants are highly automated, and they rely extensively on the availability of our network infrastructure and internal technology systems. The failure of systems due to a catastrophic event, such as an earthquake, fire, flood, tsunami, weather event, telecommunications failure, power failure, cyberattack or war, could adversely impact our business, results of operations, and financial condition. We have developed disaster recovery plans and maintain backup systems in order to reduce the potential impact of a catastrophic event. However, there can be no assurance that these plans and systems would enable us to return to normal business operations.

Our network infrastructure and internal technology systems may also be subject to other risks such as computer viruses, physical or electronic vandalism, or other similar disruptions that could cause system interruptions and loss of critical data. Cybersecurity threats and incidents can range from uncoordinated individual attempts to gain unauthorized access to our networks and systems to more sophisticated and targeted measures directed at us or our third-party service providers. Despite the implementation of cybersecurity measures including access controls, data encryption, vulnerability assessments, employee training, continuous monitoring, and maintenance of backup and protective systems, our network infrastructure and internal technology systems may still be vulnerable to cybersecurity threats and other electronic security breaches. While we believe we have taken reasonable efforts to protect ourselves, we cannot be certain that any of our security measures would be sufficient in the future.

***Adverse weather conditions, including as a result of climate change, may adversely affect the availability, quality, and price of agricultural commodities and agricultural commodity products, as well as our operations and operating results.***

Adverse weather conditions have historically caused volatility in the agricultural commodity industry and consequently in our operating results by causing crop failures or significantly reduced harvests, which may affect the supply and pricing of the agricultural commodities that we sell and use in our business and negatively affect the creditworthiness of agricultural producers who do business with us, including corn, feed, and dairy producers. Severe adverse weather conditions, such as hurricanes or severe storms, may also result in extensive property damage, extended business interruption, personal injuries and other loss and damage to us. Our operations also rely on dependable and efficient transportation services. A disruption in transportation services, as a result of weather conditions or otherwise, may also significantly adversely impact our operations. Additionally, the potential physical impacts of climate change are uncertain and may vary by region. These potential effects could include changes in rainfall patterns, water shortages, changing sea levels, changing storm patterns and intensities, and changing temperature levels that could adversely impact our costs and business operations, the location, costs, and competitiveness of global agricultural commodity production and related storage and processing facilities and the supply and demand for agricultural commodities. These effects could be material to our results of operations, liquidity, or capital resources.

***We may be unable to protect our intellectual property.***

We rely on a combination of patents, trademarks, trade name, confidentiality agreements, and other contractual restrictions on disclosure to protect our intellectual property rights. We also enter into confidentiality agreements with our employees, consultants, and corporate partners, and control access to and distribution of our confidential information. These measures may not preclude the disclosure of our confidential or proprietary information. Despite efforts to protect our proprietary rights, unauthorized parties may attempt to copy or otherwise obtain and use our proprietary information. Monitoring unauthorized use of our confidential information is difficult, and we cannot be certain that the steps we have taken to prevent unauthorized use of our confidential information, particularly in foreign countries where the laws may not protect proprietary rights as fully as in the U.S., will be effective. It is possible that competitors or other unauthorized third parties may obtain, copy, use, or disclose our technologies and processes, or confidential employee, customer or supplier data, or that our existing or future patents may be challenged, invalidated, or circumvented.

***We may not be able to successfully develop and commercialize our technologies, which may require us to curtail or cease our research and development activities.***

Since 2007, we have been developing enzyme technology to enable the production of ethanol from a combination of starch and cellulose, or from cellulose alone. In 2011, we acquired Zymetis, Inc., a biochemical research and development firm, with several patents pending and in-process R&D utilizing the Z-microbe™ to produce renewable chemicals and advanced fuels from renewable feedstocks. In 2018, in cooperation with a federally funded agency, we secured a grant from the California Energy Commission to optimize and demonstrate the effectiveness of ionic liquids technologies for breaking down biomass to produce ethanol. To date, we have not completed a large-scale commercial prototype of our technologies and are uncertain at this time when completion of a commercial scale prototype or commercial scale production will occur. Commercialization risks include economic financial feasibility at commercial scale, availability of funding to complete large-scale commercial plant, ability of ionic liquids to function at commercial scale, and market acceptance of product. In addition, Companies in our industry aggressively protect and pursue their intellectual property rights. From time to time, we receive notices from competitors and other operating companies, as well as notices from “non-practicing entities,” or NPEs, that claim we have infringed upon, misappropriated, or misused other parties’ proprietary rights.

***Technological advances and changes in production methods in the biomass-based biofuel industry and renewable chemical industry could render our plants obsolete and adversely affect our ability to compete.***

It is expected that technological advances in biomass-based biofuel production methods will continue to occur and new technologies for biomass-based diesel production may develop. Advances in the process of converting oils and fats into biodiesel and renewable diesel, including co-processing, could allow our competitors to produce advanced biofuels more efficiently and at a substantially lower cost. New standards or production technologies may require us to make additional capital investments in, or modify, plant operations to meet these standards. If we are unable to adapt or incorporate technological advances into our operations, our production facilities could become less competitive or obsolete. Further, it may be necessary for us to make significant expenditures to acquire any new technology and retrofit our plants in order to incorporate new technologies and remain competitive. In order to execute our strategy to expand into the production of renewable chemicals, additional advanced biofuels, next generation feedstocks and related renewable products, we may need to acquire licenses or other rights to technology from third parties. We can provide no assurance that we will be able to obtain such licenses or rights on favorable terms. If we are unable to obtain, implement, or finance new technologies, our production facilities could be less efficient than our competitors, and our ability to sell biomass-based diesel may be harmed, negatively impacting our revenues and profitability.

***Disruption in the supply chain could materially adversely affect our business.***

We rely on our suppliers for our business, including feedstocks and materials for our development and efficiency projects. Future delays or interruptions in the supply chain due may be cause by world events such as tariffs, the Russian-Ukraine conflict, and Red Sea vessel attacks. These expose us to various risks that could increase our costs and/or impact our operations or business plans including:

- we or our suppliers may have excess or inadequate inventory of feedstocks for operation of our plants;
- we may face delays in construction or development of our infrastructure projects;
- we may not be able to timely procure parts or equipment to upgrade, replace, or repair our plants and technology system; and
- our suppliers may encounter financial hardships unrelated to our demand, which could inhibit their ability to fulfill our orders and meet our requirements.

***Failure to remediate a material weakness in, or inherent limitations associated with, internal accounting controls could result in material misstatements in our financial statements.***

A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis. In the past, our management identified a material weakness in our internal control over financial reporting. As described in *Item 9A. Controls and Procedures*, we have implemented remediation measures to address the identified weakness, and management has concluded that the previously identified material weakness has been remediated and that our internal controls over financial reporting were effective as of December 31, 2025.

Notwithstanding the remediation of the previously identified material weakness, our internal control over financial reporting is subject to inherent limitations, and no system of internal control can provide absolute assurance that all deficiencies will be prevented or detected. If we are unable to maintain effective internal control over financial reporting, or fail to maintain the effectiveness of our internal control over financial reporting or our disclosure controls and procedures, we could lose investor confidence in the accuracy and completeness of our financial reports, the market price of our common stock could decline, and we could be subject to regulatory scrutiny, civil or criminal penalties, or litigation. Failure to maintain effective internal control over financial reporting could also result in financial statements that do not accurately reflect our financial condition or results of operations and may also restrict our future access to the capital markets.

## Risks related to ownership of our stock

***Our stock price is highly volatile, which could result in substantial losses for investors purchasing shares of our common stock and in litigation against us.***

The market price of our common stock has fluctuated significantly in the past and may continue to fluctuate significantly in the future. The market price of our common stock may continue to fluctuate in response to one or more of the following factors, many of which are beyond our control:

- fluctuations in the market prices of ethanol and its co-products including WDG and corn oil;
- ongoing operating losses and negative cash flows;
- the cost of key inputs to the production of ethanol, including corn and natural gas;
- the volume and timing of the receipt of orders for ethanol from major customers;
- competitive pricing pressures;
- our ability to produce, sell, and deliver ethanol on a cost-effective and timely basis;
- the announcement, introduction, and market acceptance of one or more alternatives to ethanol;
- losses resulting from adjustments to the fair values of our outstanding warrants to purchase our common stock;
- changes in market valuations of companies similar to us;
- stock market price and volume fluctuations generally;
- regulatory developments or increased enforcement;
- fluctuations in our quarterly or annual operating results;
- additions or departures of key personnel;
- our inability to obtain financing;
- our financing activities and future sales of our common stock or other securities; and
- availability and pricing of governmental programs, such as D3 RINs and LCFS credits.

The price paid to purchase our common stock may exceed the price at which it can be sold in the trading market, which could result in substantial losses including a complete loss of the investment in purchasing our stock. In the past, securities class action litigation has often been brought against companies after periods of high stock price volatility. We may be the target of similar litigation in the future. Securities litigation could result in substantial costs and divert management's attention and our resources away from our business. Any of the risks described above could have a material adverse effect on our results of operations or the price of our common stock, or both.

***We do not currently plan to pay dividends in the next few years.***

We have not paid any cash dividends on any of our securities since inception and do not anticipate paying cash dividends on our common stock in the foreseeable future.

***Our principal shareholders hold a substantial amount of our common stock.***

Eric A. McAfee, our Chief Executive Officer and Chairman of the Board, along with our other officers and directors beneficially own, in the aggregate, a portion of our outstanding stock as further described in our proxy that is incorporated by reference into this Form 10-K. As a result, these shareholders, acting together, may be able to influence matters requiring shareholder approval, including the election of directors and approval of mergers and acquisitions and other significant corporate transactions. See "Security Ownership of Certain Beneficial Owners and Management." The interests of these shareholders may differ from yours and this concentration of ownership enables these shareholders to exercise influence over many matters requiring shareholder approval, may have the effect of delaying, preventing, or deterring a change in control, depriving you of an opportunity to receive a premium for your securities as part of a sale of the company, and may affect the market price of our securities.

***The exercise of outstanding options and warrants to purchase our common stock could substantially dilute your investment and reduce the voting power of your shares, impeding our ability to obtain additional financing and cause us to incur additional expenses.***

There are outstanding options and warrants to acquire our common stock issued to employees and directors. Additionally, certain of our financing arrangements, such as the EB-5 notes, are convertible into shares of our common stock at fixed prices. Such securities allow their holders an opportunity to profit from a rise in the market price of our common stock such that conversion of the securities will result in dilution of the equity interests of our common stockholders. The terms on which we may obtain additional financing may be adversely affected by the existence and potentially dilutive impact of our outstanding convertible securities.

***Our certificate of incorporation designates the Court of Chancery of the State of Delaware as the sole and exclusive forum for certain types of actions and proceedings that may be initiated by our stockholders, which could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us or our directors, officers, or other employees.***

Our certificate of incorporation provides that, with certain limited exceptions, unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware will be the sole and exclusive forum for any stockholder to bring (i) any derivative action or proceeding brought on our behalf, (ii) any action asserting a claim of breach of fiduciary duty owed by any director or officer of the Company owed to us or our stockholders, creditors, or other constituents, (iii) any action asserting a claim against us or any director or officer of the Company arising pursuant to any provision of the Delaware General Corporation Law or our certificate of incorporation or our bylaws, or (iv) any action asserting a claim against the Company or any director or officer of the Company governed by the internal affairs doctrine. Any person or entity purchasing or otherwise acquiring any interest in shares of our capital stock is deemed to have received notice of and consented to the foregoing provisions. This choice of forum provision may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or our directors, officers, or other employees, which may discourage such lawsuits against us and our directors, officers, and employees. Alternatively, if a court were to find this choice of forum provision inapplicable to, or unenforceable in respect of, one or more of the specified types of actions or proceedings, we may incur additional costs associated with resolving such matters in other jurisdictions, which could adversely affect our business, financial condition, or results of operations.

***Provisions in our certificate of incorporation and bylaws may inhibit a takeover of us, which could limit the price investors might be willing to pay in the future for our common stock and could entrench management.***

Our certificate of incorporation and bylaws contain provisions that may discourage unsolicited takeover proposals that stockholders may consider to be in their best interests. Our board of directors is divided into three classes, each of which will generally serve for a term of three years with only one class of directors being elected in each year. As a result, at a given annual meeting only a minority of the board of directors may be considered for election. Since our "staggered board" may prevent our stockholders from replacing a majority of our board of directors at any given annual meeting, it may entrench management and discourage unsolicited stockholder proposals that may be in the best interests of stockholders. Moreover, our board of directors has the ability to designate the terms of and issue new series of preferred stock, which could be used to dilute the stock ownership of a potential hostile acquirer. Although we have opted out of the anti-takeover provisions under Section 203 of the Delaware General Corporation Law, we have adopted anti-takeover provisions that are substantially similar to such provisions, which could delay or prevent a change of control. Together these provisions may make more difficult the removal of management and may discourage transactions that otherwise could involve payment of a premium over prevailing market prices for our securities.

## **General Risk Factors**

***Our success depends in part on recruiting and retaining key personnel and, if we fail to do so, it may be more difficult for us to execute our business strategy.***

Our success depends on our continued ability to attract, retain, and motivate highly qualified management, manufacturing, and scientific personnel, in particular our Chairman and Chief Executive Officer, Eric McAfee. In addition, as previously disclosed, our Chief Financial Officer, Todd Waltz, has informed the Company of his desire to retire with an effective date expected in 2026. We maintain key person insurance on our Mr. McAfee as our Chief Executive Officer for purposes of loan compliance, but do not maintain any key person insurance on our other executives. Competition for qualified personnel in the renewable fuel and bio-chemicals manufacturing fields is intense. Our future success will depend on, among other factors, our ability to retain our current key personnel, and attract and retain qualified future key personnel, particularly executive management. Failure to attract or retain key personnel could have a material adverse effect on our business and results of operations.

***Our operations subject us to risks associated with foreign laws, policies, regulations, and markets.***

Our sales and manufacturing operations in foreign countries are subject to the laws, policies, regulations, and markets of the countries in which we operate. As a result, our foreign manufacturing operations and sales are subject to inherent risks associated with the countries in which we operate. Risks involving our foreign operations include differences or unexpected changes in regulatory requirements, political and economic instability, terrorism and civil unrest, work stoppages or strikes, natural disasters, interruptions in transportation, restrictions on the export or import of technology, difficulties in staffing and managing international operations, variations in tariffs, quotas, taxes, and other market barriers, longer payment cycles, changes in economic conditions in the international markets in which our products are sold, and greater fluctuations in sales to customers in developing countries. Any inability to effectively manage the risks associated with our foreign operations may have a material adverse effect on our results of operations or financial condition.

***Operational difficulties at our facilities may negatively impact our business.***

Our operations may experience unscheduled downtimes due to technical or structural failure, political and economic instability, terrorism and civil unrest, natural disasters, and other operational hazards inherent to our operations. These hazards may cause personal injury or loss of life, severe damage to or destruction of property, equipment, or the environment, and may result in the suspension of operations or the imposition of civil or criminal penalties. Our insurance may not be adequate to cover such potential hazards, and we may not be able to renew our insurance on commercially reasonable terms or at all. In addition, any reduction in the yield or quality of the products we produce could negatively impact our ability to market our products. Any decrease in the quality, reduction in volume, or cessation of our operations due to these hazards would have a material adverse effect on the results of our business and financial condition.

***Our success depends on our ability to manage the growth of our operations.***

Our strategy envisions growth that may impose a significant burden on our administrative and operational resources and personnel, which, if not effectively managed, could impair our growth. The growth of our business will require significant investments of capital and management's close attention. If we are unable to successfully manage our growth, our sales may not increase commensurately with capital expenditures and investments. Our ability to effectively manage our growth will require us to substantially expand the capabilities of our administrative and operational resources and to attract, train, manage, and retain qualified management, technicians, and other personnel. In addition to our plans to adopt technologies that expand our operations and product offerings at our biodiesel and ethanol plants, we may seek to enter into strategic business relationships with companies to expand our operations. If we are unable to successfully manage our growth, we may be unable to achieve our business goals, which may have a material adverse effect on the results of our operations and financial condition.

***Our business may be subject to natural forces beyond our control.***

Earthquakes, floods, droughts, tsunamis, and other unfavorable weather conditions may affect our operations. Natural catastrophes may have a detrimental effect on our supply and distribution channels, causing a delay or preventing our receipt of raw materials from our suppliers or delivery of finished goods to our customers. In addition, weather conditions may adversely impact the planting, growth, harvest, storage, and general availability of any number of the products we may process at our facilities or sell to our customers. The severity of these occurrences, should they ever occur, will determine the extent to which and if our business is materially and adversely affected.

***U.S. tax law changes could materially affect the tax aspects of our business and the industries in which we compete.***

Continued developments in U.S. tax reform could adversely affect our results of operations and cash flows. It is also possible that provisions of U.S. tax reform could be subsequently amended in a way that is adverse to the Company. Although we believe that our income tax provisions and accruals are reasonable and in accordance with generally accepted accounting principles in the United States, and that we prepare our tax filings in accordance with all applicable tax laws, the final determination with respect to any tax audits and any related litigation, could be materially different from our historical income tax provisions and accruals. The results of a tax audit or litigation could materially affect our operating results and cash flows in the periods for which that determination is made. In addition, future period net income may be adversely impacted by litigation costs, settlements, penalties, and interest assessments.

***Future sales and issuances of rights to purchase common stock by us could result in additional dilution of the percentage ownership of our stockholders and could cause our stock price to fall.***

We may issue equity or convertible securities in the future. To the extent that we do so, our stockholders may experience substantial dilution. We may sell common stock, convertible securities, or other equity securities in one or more transactions at prices and in a manner, we determine from time to time. If we sell common stock, convertible securities, or other equity securities in more than one transaction, investors may be materially diluted by subsequent sales and new investors could gain rights superior to our existing stockholders.

***Interest rates could change substantially, materially impacting our profitability.***

Our borrowings include variable interest rates that expose us to increased costs if interest rates rise, which would adversely affect our profitability. We are also continuing to seek new debt for both growth projects and refinancing of existing obligations, and increases in interest rates could make the new debt more expensive or cost prohibitive and unavailable.

***Inflation, including as a result of commodity price inflation or supply chain constraints due to wars, may adversely impact our results of operations.***

We have experienced inflationary impacts on key production inputs, feedstock, wages and other costs of labor, equipment, services, and other business expenses. Commodity prices in particular have risen significantly over the past year, though some commodity prices have decreased. Inflation and its negative impacts could escalate in future periods. In addition, inflation is often accompanied by higher interest rates.

Ukraine is the third largest exporter of grain in the world. Russia is one of the largest producers of natural gas and oil. The commodity price impact of the war in Ukraine has been a sharp rise in grain and energy prices, including corn and natural gas, two of our primary production input commodities. In addition, the war in Ukraine has and may continue to adversely affect global supply chains resulting in further commodity price inflation for our production inputs. Also, given high global grain prices, U.S. farmers may prefer to lock in prices and export additional volumes, reducing domestic grain supplies and resulting in further inflationary pressures.

In an inflationary environment, such as the current economic environment, depending on other economic conditions, we may be unable to raise prices of our fuels or products to keep up with the rate of inflation, which would reduce our profit margins. As a result, inflation may have a material adverse effect on our results of operations and financial condition.

***The impact of potential tariffs under the current presidential administration is uncertain.***

Changes in U.S. foreign trade policy, including as a result of the current presidential administration, could lead to the imposition of additional economic or trade sanctions, tariffs, or other trade barriers against countries, individuals or entities with whom we transact. Increased and/or new tariffs on equipment supply and raw materials, and shortages of skilled labor could significantly delay a project or otherwise increase our costs. For example, the new administration has imposed and announced plans to impose broad-based tariffs on imports from many countries, including India and the European Union, as well as China, Mexico, and Canada. Such tariffs could cause the cost of procuring material and equipment used in the construction and development of our projects to significantly increase. Such changes in U.S. trade policy or in laws and policies governing foreign trade could materially and adversely affect our business, financial condition, operating results, and liquidity.

**Item 1B. Unresolved Staff Comments.**

None.

**Item 1C. Cybersecurity.**

***Risk Management and Strategy***

Our cybersecurity and information security framework includes physical, administrative, and technical safeguards, as well as plans and procedures we believe are reasonable to help our Company prevent and timely and effectively respond to cybersecurity threats and incidents, including threats or incidents that may impact our operations, facilities, and employees. These plans are based upon our assessment of risk considering our industry, specific operations, cyber perimeter, social exposure, information confidentiality, and tertiary stakeholders.

Our efforts focus on protecting and enhancing the security of our information systems, software, networks, and other assets. These efforts are designed to protect against, and mitigate the effects of, among other things, cybersecurity incidents where unauthorized parties attempt to access confidential, sensitive, or personal information; potentially hold such information for ransom; destroy data; disrupt or degrade service or our operations; sabotage systems; or otherwise cause harm to the Company, our customers, suppliers, or other key stakeholders. We employ capabilities, processes, and other security measures we believe are designed to reduce and mitigate these risks.

We contract with a primary Managed Security Provider ("MSP") to provide services that assist us with assessing, enhancing, implementing, and monitoring our cybersecurity risk management programs and responding to incidents. We maintain cyber recovery plans as well as a cybersecurity insurance policy. We use third-party cybersecurity and information security awareness training programs. Training is administered and tracked through online learning modules and ongoing phishing simulations. Training topics include processes to escalate suspicious activities including phishing, viruses, spams, insider threats, suspect human behaviors, or safety issues.

In 2025, we did not identify any cybersecurity threats that materially affected or are reasonably likely to materially affect our business strategy, results of operations, or financial condition. However, despite the capabilities, processes, and other security measures we employ that are designed to detect, reduce, and mitigate the risk of cybersecurity incidents, we may not be aware of all vulnerabilities or might not accurately assess the risks of incidents, and such preventative measures cannot provide absolute security and may not be sufficient in all circumstances or mitigate all potential risks.

***Governance***

***Role of Management***

Our cybersecurity initiative has been led by our Chief Financial Officer, who is in the unique position of being able to integrate cybersecurity with the financial internal control framework. He is responsible for administration of the cybersecurity and information security program and risk management, using his experience working with information technology and financial control system during the majority of his career, including over ten years of overseeing our information technology and security program.

We utilize a Managed Security Provider (MSP) as the central point for identifying all cybersecurity incidents and reporting, including incidents that directly target company network, or internal information systems and incidents originating from third parties. The MSP provides end-to-end operations for the purpose of monitoring, detecting, alerting, and responding to cyber incidents. The MSP is also responsible for activating the containment and resolution efforts where appropriate to support us through the resolution of an incident. The MSP escalates incidents with significant impact and pervasiveness to our Chief Financial Officer, who evaluates each incident in terms of its impact on operations, ability to conduct business with customers and suppliers, brand reputation and health, safety and the environment, and the speed and degree to which the incident has been contained. Our Chief Financial Officer, working with the executive management team, also manages communication with our Board and outside parties. After initial identification, evaluation and escalation for material events, the MSP monitors all cybersecurity incidents for changes in degree of impact or pervasiveness.

***Role of the Board***

Our Board of Directors ("Board") recognizes the importance of cybersecurity in safeguarding sensitive data and protecting the perimeter of the computer network. The Board is responsible for overseeing overall risk management for the Company, including review of the cybersecurity program. As part of its oversight responsibilities, the Board receives and evaluates an annual cybersecurity update from management. The annual review includes oversight of cyber exposure, risk assessment, incident response, integration with other control activities, internal monitoring, and risk management processes, updates to our cybersecurity programs and mitigation strategies, and other cybersecurity developments.

## **Item 2. Properties.**

### **California Ethanol**

*Ethanol Plant in Keyes, CA.* The Keyes Plant is situated on approximately 11 acres of land that we in central California. It contains 25,284 square feet of plant building and structures and is located adjacent to the Union Pacific Railroad system to facilitate the inbound transportation of feedstock. In addition, the Aemetis Biogas LLC RNG production facility hub is also located at the Keyes Plant site, which is adjacent to regional natural gas pipeline interconnect that allows for distribution of RNG.

*Real Property in Keyes, CA.* We own 5.32 acres of real property located next to our Keyes Plant. We lease the property to an industrial gas company that receives CO<sub>2</sub> from the Keyes Plant and produces commercial grade CO<sub>2</sub> for sale into local markets.

### **California Dairy Renewable Natural Gas**

*Dairy Biogas Digesters and Pipeline, Central Valley, CA.* We have entered into agreements with over 50 dairies in the Central Valley of California that include current leases or terms for future leases for land to build anaerobic digesters and/or manure supply systems. The lease and manure supply agreements typically have a term of 25 years with two optional 5-year extensions. We also own about 36 miles of biogas pipeline that transports biogas from the digesters to our RNG production facility at the Keyes Plant; the pipeline is located mostly within public rights of way pursuant to licenses, with small portions located within easements on private property.

*Faith Home Road, Ceres, CA.* We own 8.5 acres of real property on Faith Home Road near the Keyes Plant. Currently, Aemetis Biogas uses the location for its office headquarters and warehouse. This corner property is also a strategic location for future operations supporting our development projects, including CCUS.

*Jessup Road, Ceres, CA.* We own approximately 1.9 acres of real property near the Keyes Plant that is a strategic location for future RNG operations.

### **India Biodiesel**

*Biodiesel Plant in Kakinada, India.* The Kakinada Plant is situated on approximately 32,000 square meters of land that we own in Kakinada, India. The property is located 7.5 kilometers from the local seaport with connectivity through a third-party pipeline to the port jetty.

*Kakinada Property.* We own 3,683 square meters of land in Remannapalem Village, Kakinada.

*India Administrative Office.* In October 2024, we entered into a nine-year lease of 4,645 square feet of office space to accommodate our principal administrative, sales, and marketing facilities in Hyderabad, India.

### **Other Properties**

*Corporate Office, Cupertino, CA.* Our corporate headquarters are located in leased office space at 20400 Stevens Creek Blvd., Suite 700, Cupertino, CA. This includes 9,238 square feet of rented space with a lease termination date in May 2028.

*Riverbank Industrial Complex, Riverbank, CA.* On December 14, 2021, we entered into real estate purchase agreements and a lease disposition and development agreement for the Riverbank Industrial Complex in Riverbank, CA. The lease commenced on April 1, 2022, with a term of fifteen years and an option to purchase the property before the end of the lease, subject to certain restrictions on the timing of the purchase. Pursuant to the lease disposition and development agreement, we serve as the master developer for the property to develop, construct, finance, operate, and maintain the leased property, and we currently have over thirty subtenants in the built up portion of the property. In the future, we plan to use the property for the construction of a sustainable aviation fuel and renewable diesel production plant and are developing a portion of the property to be used for a CCUS facility.

*Goodland Energy Center, Goodland, KS.* We own a large portion of the Goodland Energy Center in Goodland, Kansas, comprising approximately 93 acres of land and approximately 34,992 square feet of buildings and equipment as part of a partially completed 40 million gallon per year dry-mill ethanol plant. The ethanol plant is not operational, and we do not currently use the property for our operations.

### **Encumbrances**

All of our real and personal property in the United States is subject to perfected first liens and security interests associated with our debt obligations as further described in Note 5. Debt, of the Notes to Consolidated Financial Statements in Part II, Item 8 of this Form 10-K.

## **Item 3. Legal Proceedings.**

None.

## **Item 4. Mine Safety Disclosures.**

Not Applicable.

## PART II

### Item 5. Market for Registrant's Common Equity, Related Stockholder Matters, and Issuer Purchases of Equity Securities.

#### Market Information

Our common stock is traded under the symbol "AMTX" on the NASDAQ Global Stock Market.

#### Number of Stockholders

As of March 1, 2026, our common stock was held by 163 holders of record and by approximately 22 thousand stockholders who hold shares in street name.

#### Securities authorized for issuance under equity compensation plans

See *Note 10. Stock-Based Compensation* of the Notes to Consolidated Financial Statements in Part II, Item 8 of this Form 10-K.

#### Sales of Unregistered Equity Securities

In November 2025, we issued 28,902 shares of Aemetis, Inc. common stock to a vendor as compensation under a services agreement at an effective value of \$1.73 per share, which was the closing price on the Nasdaq market on the date prior to such issuance. The issuance of the shares was exempt from registration under Section 4(2) of the Securities Act of 1933, as amended, as issuances of securities not involving any public offering.

In December 2025 we issued warrants to two lenders in connection with extensions of their debt. The warrants provided the right for the lenders to purchase 113 thousand shares of Aemetis, Inc. common stock for a period of two years at an exercise price of \$0.01 per share. We then issued 113 thousand shares of common stock to the lenders in connection with their exercise of the warrants during the first quarter of 2026. The issuance of the warrants and the issuance of the common stock upon exercise of the warrants were exempt from registration under Section 4(2) of the Securities Act of 1933, as amended, as issuances of securities not involving any public offering.

#### Stock Repurchases

None.

### Item 6. [Reserved].

Not applicable.

### Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations.

*Our Management's Discussion and Analysis of Financial Condition and Results of Operations (MD&A) is provided in addition to the accompanying consolidated financial statements and notes to assist readers in understanding our results of operations, financial condition, and cash flows. MD&A is organized as follows:*

- *Overview. Discussion of our business and overall analysis of financial and other highlights affecting us to provide context for the remainder of MD&A.*
- *Key Performance Indicators. Discussion of our key performance indicators to provide context for company operations.*
- *Results of Operations. An analysis of our financial results comparing the twelve months ended December 31, 2025 and 2024.*
- *Liquidity and Capital Resources. An analysis of changes in our balance sheets and cash flows and discussion of our financial condition.*
- *Critical Accounting Estimates. Accounting estimates that we believe are important to understanding the assumptions and judgments incorporated in our reported financial results and forecasts.*

*The following discussion should be read in conjunction with our consolidated financial statements and accompanying notes included elsewhere in this report. The following discussion contains forward-looking statements that reflect our plans, estimates, and beliefs. Our actual results could differ materially from those discussed in the forward-looking statements. Factors that could cause or contribute to these differences include those discussed below and elsewhere in this Form 10-K, particularly under "Part I, Item 1A. Risk Factors," and in other reports we file with the SEC. All references to years relate to the calendar year ended December 31 of the particular year.*

## Overview

Founded in 2006 and headquartered in Cupertino, California, we are an international renewable natural gas ("RNG"), and renewable fuels company focused on the operation, acquisition, development and commercialization of innovative low and negative carbon intensity ("CI") products and technologies that replace traditional fossil fuel products. We operate in three reportable segments consisting of "California Ethanol," "California Dairy Renewable Natural Gas," and "India Biodiesel." We have other operating segments determined *not* to be separately reportable that are collectively represented by the "All Other" category. Our mission is to generate sustainable and innovative renewable fuel solutions that benefit communities and restore our environment. We do this by building a local circular bioeconomy using agricultural products and wastes as feedstocks to produce renewable fuels.

Our California Ethanol segment consists of a 65 million gallon per year capacity ethanol production facility located in Keyes, California (the "Keyes Plant"). In addition to low carbon renewable fuel ethanol, the Keyes Plant produces Wet Distillers Grains ("WDG"), Distillers Corn Oil ("DCO"), and Condensed Distillers Solubles ("CDS"), and alcohol for beverage producers. WDG, DCO, and CSS are sold as animal feed to more than 80 local dairies and feedlots. We also capture the carbon dioxide ("CO<sub>2</sub>") that would be emitted from our fermenters and sell it to an industrial gas company to produce liquid CO<sub>2</sub> that it sells to food, beverage, and industrial customers. We have implemented several energy efficiency projects in recent years and are currently in the process of procuring and construction a Mechanical Vapor Recompression ("MVR") system to produce steam using low carbon electricity instead of natural gas. These changes will lower the carbon intensity (CI) of the ethanol we produce and improve the Keyes Plant cash flow from operations.

Our California Dairy Renewable Natural Gas segment, Aemetis Biogas LLC ("ABGL"), owns and operates anaerobic digesters at local dairies near the Keyes Plant to produce biogas from dairy waste. The biogas is transported by pipeline to an RNG production facility located at the Keyes Plant and converted to Renewable Natural Gas ("RNG") that is delivered to customers through the regional natural gas pipeline. We currently have twelve operating digesters that receive dairy waste from fifteen dairies in Stanislaus and Merced Counties, California, and we are actively growing with additional digesters under construction. We have constructed 36 miles of biogas collection pipeline and have received environmental approval to construct an additional 24 miles of pipeline. We currently have agreements with over 50 dairies and are seeking to sign additional agreements with dairies.

Our India Biodiesel segment, Universal Biofuels Private Limited ("UBPL"), includes a biodiesel production plant in Kakinada, India ("Kakinada Plant") with a production capacity of about 80 million gallons per year. The plant produces high quality biodiesel and refined glycerin for customers in India. We believe the Kakinada Plant is one of the highest capacity biodiesel production facilities in India. The Kakinada Plant is capable of processing a variety of vegetable and animal oil waste feedstocks into biodiesel that meets applicable product standards. Our Kakinada Plant also distills crude glycerin byproduct from the biodiesel refining process into refined glycerin, which is sold to the pharmaceutical, personal care, paint, adhesive, and other industries.

Our "All Other" segment consists of our projects that are under development, including our planned Carbon Capture and Underground Sequestration ("CCUS") and sustainable aviation fuel and renewable diesel projects in Riverbank, California, our operations of the current Riverbank Industrial Complex, and the Goodland Energy Center that is held for future development.

**Key Performance Indicators (KPI):**

We measure performance based on the utilization of our plants, production of products, and associated pricing and margins. For the California Ethanol segment, the key products are ethanol and WDG, measured in gallons sold and tons sold, respectively. Since our Keyes Ethanol Plant currently uses corn as the sole feedstock, the delivered quantity and cost of corn is also a key performance indicator as it indicates high-level operating margin of the plant. Utilization is measured as the production of transportation fuel produced as a percentage of the nameplate capacity based on the engineering specification of the plant. For the California RNG segment, the product is Renewable Natural Gas ("RNG" or "Gas") and revenues include the associated D3 RINs, LCFS credits. The RNG quantity is measured by the heat content expressed in MMBtu (HHV), and the quantity of D3 RINs and LCFS credits are based on the quantity of each that is sold during the reporting period. Management uses these metrics to assess cash generated or used by each facility on a regular basis. For both the Keyes Ethanol and California RNG segments, earnings also include Section 45Z Production Tax Credits ("PTCs"). For India Biodiesel, the products are biodiesel and refined glycerin, both measured in metric tons sold.

The following table summarizes our KPIs:

**Production and Price Performance**  
(Unaudited)

	Years ended December 31,		2025 vs 2024 % Change
	2025	2024	
<b>California Ethanol</b>			
<b>Ethanol</b>			
Gallons Sold (in millions)	57	61	-6.6%
Average Sales Price/Gallon	\$ 2.03	\$ 1.96	3.6%
Percent of nameplate capacity	104%	110%	-5.9%
<b>WDG</b>			
Tons Sold (in thousands)	374	411	-9.0%
Average Sales Price/Ton	\$ 80.1	\$ 88.2	-9.2%
<b>Delivered Cost of Corn</b>			
Bushels ground (in millions)	19	21	-9.5%
Average delivered cost / bushel	\$ 6.22	\$ 6.21	0.2%
<b>California Dairy Renewable Natural Gas</b>			
<b>Gas</b>			
Gas sold (in thousand MMBtu)	399	302	32.1%
Average price per MMBtu	\$ 3.34	\$ 3.01	11.0%
<b>RINs</b>			
RINs sold (in thousands)	3,459	3,030	14.2%
Average price per RIN	\$ 2.50	\$ 3.04	-17.8%
<b>LCFS</b>			
LCFS credits sold (in thousands)	83	52	59.6%
Average price per LCFS credit	\$ 57.1	\$ 56.7	0.7%
<b>India Biodiesel</b>			
<b>Biodiesel</b>			
Metric tons sold (in thousands)	21	74	-71.6%
Average Sales Price/Metric ton	\$ 1,117	\$ 1,168	-4.4%
Percent of Nameplate Capacity	14%	50%	-72.0%
<b>Refined Glycerin</b>			
Metric tons sold (in thousands)	1.0	6.5	-84.6%
Average Sales Price/Metric ton	\$ 1,093	\$ 645	69.5%

## Results of Operations

Year Ended December 31, 2025, Compared to Year Ended December 31, 2024

### Revenue

In our California Ethanol segment, we sell all ethanol, WDG, DCO, and CDS produced to J.D. Heiskell, which resells it to customers designated by us. Our finished ethanol tank is leased by J.D. Heiskell and legal title to the product is transferred when we put our ethanol into the tank. We have designated Murex LLC to purchase all of the ethanol and A.L. Gilbert to purchase the WDG. Each company resells to third-party customers. We sell the CO<sub>2</sub> that we capture from our fermenters to an industrial gas company that produces commercial grade CO<sub>2</sub> for distribution.

Most of the California Dairy Renewable Natural Gas segment revenues during the year ended December 31, 2025, were from sales of D3 RINs, LCFS credits generated from sales of RNG for transportation use.

Substantially all of our India segment revenues during the years ended December 31, 2025 and 2024, were from sales of biodiesel to OMCs and refined glycerin to other external customers.

#### Fiscal Year Ended December 31 (in thousands)

	2025	2024	2025 vs 2024	
			Inc/(dec)	% change
California Ethanol	\$ 153,234	\$ 161,756	\$ (8,522)	-5%
California Dairy Renewable Natural Gas	14,730	13,037	1,693	13%
India Biodiesel	29,662	92,847	(63,185)	-68%
Total	\$ 197,626	\$ 267,640	\$ (70,014)	-26%

*California Ethanol.* For the year ended December 31, 2025, the segment generated 75% of revenue from sales of ethanol, 20% from sales of WDG, and 5% from sales of corn oil, CDS, CO<sub>2</sub>, and other sales. During the year ended December 31, 2025, plant production averaged 104% of the 55 million gallon per year nameplate capacity. During the year ended December 31, 2024, the segment generated 74% of revenue from sales of ethanol, 22% from sales of WDG, and 4% from sales of corn oil, CDS, CO<sub>2</sub>, and other sales, with average of 110% nameplate capacity. Overall revenue decreased by 5% primarily because of a decrease in WDG sales volume at lower prices.

*California Dairy Renewable Natural Gas.* We continued to commission new digesters during 2025 and 2024 to increase RNG production and associated revenue. During the years ended December 31, 2025 and 2024, we produced and sold 399 thousand and 302 thousand MMBtu ("million British thermal units") of Renewable Natural Gas ("RNG") at an average price of \$ 3.34 and \$ 3.01 per MMBtu, respectively. During the years ended December 31, 2025 and 2024, we sold 3 million and 3 million D3 RINs at an average price of \$2.50 and \$3.04 per D3 RIN respectively. During the years ended December 31, 2025 and 2024, we sold 83 thousand and 52 thousand LCFS credits at an average price of \$57.10 and \$56.74 per credit, respectively.

*India Biodiesel.* For the year ended December 31, 2025, the India Biodiesel segment generated 79% of revenue from sales of biodiesel and 21% from other sales, compared to 93% of sales from biodiesel and 7% from other sales during the year ended December 31, 2024. The decrease in revenues for the year ended December 31, 2025, compared to the year ended December 31, 2024, was due to a decrease in the sales volume of biodiesel by 53 thousand metric tons from 74 thousand metric tons in 2024, to 21 thousand metric tons in 2025. The decrease in revenues was primarily attributable to the delays in the India-government OMCs issuing new tenders and executing new purchase contracts. Indian OMCs slowed or paused new biodiesel contract execution in mid-to-late 2025 primarily due to administrative tender cancellations, very low supplier participation in early 2025 tenders, and broader structural challenges in India's biodiesel program. Additionally, supplier participation decreased because of the change in pricing structure from cost-plus to fixed price.

### Production Tax Credits

In 2025, the Company became eligible for earning and transferring Production Tax Credits ("PTCs") generated by the production and sale of RNG and fuel ethanol. We account for transferable PTCs by analogy to the grant model within International Accounting Standards 20, Accounting for Government Grants and Disclosure of Government Assistance. 45Z PTC operating income is based on production and dispensing of RNG and production and sale of ethanol. The following table represents each segment's PTC earnings during the year ended December 31, 2025, having demonstrated the eligibility and transferability metrics required, including prevailing wage considerations:

#### Fiscal Year Ended December 31 (in thousands)

	2025	2024	2025 vs 2024	
			Inc/(dec)	% change
California Ethanol	\$ 5,112	\$ -	\$ 5,112	100%
California Dairy Renewable Natural Gas	5,243	-	5,243	100%
Total	\$ 10,355	\$ -	\$ 10,355	100%

### Cost of Goods Sold

Cost of goods sold consists primarily of feedstock, energy, chemicals, direct costs (principally labor and labor-related costs) and overhead. Depending on the costs of these inputs in comparison to the sales price of our end products, our gross margins at any given time can vary from positive to negative. Overhead includes direct and indirect costs associated with plant operations, including the cost of repairs and maintenance, consumables, maintenance, on-site security, insurance, and depreciation.

Our corn feedstock for California Ethanol is provided by J.D. Heiskell. Title to the corn passes to us when the corn is deposited into our weigh bin and enters the production process. Our cost of feedstock is established by J.D. Heiskell based on Iowa Group 3 pricing and includes rail transportation, local basis costs, and a handling fee paid to J.D. Heiskell. The credit term for the corn purchased from J.D. Heiskell is one day, netted from our product sales. Cost of goods sold also includes the cost of electricity and natural gas, chemicals, maintenance, direct labor, depreciation, and freight.

The feedstock for producing Renewable Natural Gas is supplied by dairy operators who lease us land and supply our digesters with their cow manure in liquid form. Our cost of feedstock is established by manure supply agreements based on the value of the environmental attributes and the number of cows at each dairy.

We procure several different feedstocks for the Kakinada Plant, including stearin, a non-edible feedstock, from neighboring natural oil processing plants. Raw material is received by truck and title passes when the goods are loaded at our vendors' facilities. Credit terms vary by vendor. However, we generally receive 15 days of credit on the purchases. We purchased crude glycerin in the international market on letters of credit or advance payment terms.

The following table shows Cost of Goods Sold:

#### Fiscal Year Ended December 31 (in thousands)

	2025	2024	2025 vs 2024	
			Inc/(dec)	% change
California Ethanol	\$ 168,004	\$ 175,548	\$ (7,544)	-4%
California Dairy Renewable Natural Gas	10,347	7,642	2,705	35%
India Biodiesel	30,398	85,030	(54,632)	-64%
Total	<u>\$ 208,749</u>	<u>\$ 268,220</u>	<u>\$ (59,471)</u>	<u>-22%</u>

*California Ethanol.* We ground 19 million bushels of corn at an average price of \$ 6.22 per bushel during the year ended December 31, 2025, compared to 21 million bushels of corn at an average price of \$ 6.21 per bushel during the year ended December 31, 2024. The slight decrease in cost of goods sold for the year ended December 31, 2025, is mainly due to the decrease in quantity of corn ground.

*California Dairy Renewable Natural Gas.* Cost of Goods Sold expenses relate to dairy manure payments, maintenance, and depreciation, which are increasing each year as more dairies are placed into production.

*India Biodiesel.* The decrease in cost of goods sold during the year ended December 31, 2025, compared to December 31, 2024, was attributable to a decrease in the quantity of biodiesel feedstock used by 69%, from 75 thousand metric tons to 23 thousand metric tons, offset by a 35% increase in average feedstock cost.

### Gross Profit (loss)

#### Fiscal Year Ended December 31 (in thousands)

	2025	2024	2025 vs 2024	
			Inc/(dec)	% change
California Ethanol	\$ (9,658)	\$ (13,792)	\$ 4,134	30%
California Dairy Renewable Natural Gas	9,626	5,395	4,231	78%
India Biodiesel	(736)	7,817	(8,553)	-109%
Total	<u>\$ (768)</u>	<u>\$ (580)</u>	<u>\$ (188)</u>	<u>32%</u>

*California Ethanol.* Gross loss decreased during the year ended December 31, 2025, primarily due to recognition of Production Tax Credit operating income, offset by lower WDG sales quantity and prices compared to the same period ending December 31, 2024.

*California Dairy Renewable Natural Gas.* Gross profit increased as we continued to ramp up RNG production by operating more dairies and earning 13% more revenues, while cost of goods sold increased by only 35%.

*India Biodiesel.* The gross loss in 2025 compared to gross profit in 2024 primarily reflects the decrease in biodiesel and glycerin sales during the year ended December 31, 2025.

### Operating (income)/expense and non-operating (income)/expense

SG&A expenses consist primarily of salaries and related expenses for employees, marketing expenses related to sales of ethanol and WDG in California Ethanol and biodiesel and other products in India Biodiesel, as well as professional fees, insurance, other corporate expenses, and related facilities expenses, offset by sublease income. SG&A expenses as a percentage of revenue were 18% in the year ended December 31, 2025, compared to 15% in the year ended December 31, 2024. The increase in SG&A percentage was due to lower revenues during the year ended December 31, 2025. The decrease in SG&A expenses in the year ended December 31, 2025, was primarily due to a \$5.6 million decrease in asset disposal loss, compensation, consulting, and administrative costs; \$0.5 million increase in sublease income; offset by \$2.8 million increase in insurance, penalties, supplies, and services.

	2025	2024	2025 vs 2024	
			Inc/(dec)	% change
Selling, general and administrative expenses	\$ 36,450	\$ 39,836	\$ (3,386)	-8%
Other expense (income):				
Interest expense				
Interest rate expense	46,205	40,158	\$ 6,047	15%
Debt related fees and amortization expense	6,707	6,463	244	4%
Accretion and other expenses of Series A preferred units	8,226	12,698	(4,472)	-35%
Other income	(2,608)	(1,366)	(1,242)	91%

Other income and expense consists primarily of interest and amortization expense attributable to our debt, accretion of biogas Series A preferred units, and \$1.0 million extinguishment of expired liabilities that were originally recorded as estimates outside of our reportable segments.

The cost of debt includes fees and issuance of warrants as renewal fees. The fair value of stock and warrants issued as debt issuance costs are amortized as expenses, except when the extinguishment accounting method is applied, in which case refinanced debt costs are recorded as extinguishment expense. Interest expense and debt related fees and amortization increased in the year ended December 31, 2025, due to higher debt balances. The decrease in accretion and other expenses of the Series A Preferred Units was due to amendments obtained at a lower effective interest rate, and payments applied to the Series A preferred units in 2025.

### Liquidity and Capital Resources

#### Cash and Cash Equivalents

Cash and cash equivalents were \$4.9 million at December 31, 2025, of which \$4.1 million was held in our North American entities and \$0.8 million was held in our India entity. Our current ratio was 0.07 and 0.31, respectively, at December 31, 2025 and 2024.

#### Liquidity

Cash and cash equivalents, current assets, current liabilities, and debt at the end of each period were as follows (in thousands):

	As of	
	December 31, 2025	December 31, 2024
Cash and cash equivalents	\$ 4,894	\$ 898
Current assets (including cash, cash equivalents, and deposits)	26,872	44,696
Current and long term liabilities (excluding all debt)	184,908	185,169
Current & long term debt	381,764	338,061

Our principal sources of liquidity have been cash provided by the sale of equity, operations, sale of tax credits, and borrowings under various debt arrangements, and we expect future available cash to come from similar sources.

We operate in a volatile market in which we have limited control over major components of input costs and product revenues. We are making investments in future facilities and facility upgrades that improve overall margins while lessening the impact of volatile markets. As such, we expect cash provided by operating activities to fluctuate in future periods primarily because of changes in the prices for corn, ethanol, WDG, DCO, CDS, biodiesel, waste fats and oils, glycerin, non-refined palm oil, natural gas, LCFS credits, and D3 RINs. To the extent that we experience periods in which the spread between ethanol prices and corn and energy costs narrow or the value of environmental attributes is reduced, we require additional working capital to fund operations.

The India Biodiesel segment utilized its receivables financing facility during the quarter to support short-term liquidity needs. The facility was fully repaid by year-end and remains available for future use. We believe this arrangement provides flexibility in managing cash flows while maintaining prudent risk oversight.

We are implementing several strategies to improve our cash flow from operations, as described in more detail in *Note 18. Liquidity* of the Notes to Consolidated Financial Statements in Part II, Item 8 of this Form 10-K.

As of December 31, 2025, the outstanding balance of principal, interest and fees, net of discounts, on all Third Eye Capital Notes equaled \$247.2 million, currently all due on demand.

Third Eye Capital has provided a series of accommodating amendments to our debt facilities as described in further detail in *Note 5. Debt*, of the Notes to Consolidated Financial Statements in Part II, Item 8 of this Form 10-K. However, future amendments or accommodations will continue to be at the discretion of the lender. In the event our senior lender demands the debt within the next twelve months, we would likely not have sufficient cash to pay the debt unless we are able to obtain alternative financing.

### ***Change in Working Capital and Cash Flows***

The following table describes changes in current and long-term debt (in thousands) during the year ended December 31, 2025:

Increases to debt:		
Accrued interest	\$	46,389
Maturity date extension fee and other fees		2,439
Subordinated debt extension fees		1,020
Change in debt issuance costs, net of amortization		1,313
Construction loan draw		1,228
Secured loans and working capital loan draw		24,308
TEC short term promissory notes		5,300
Construction loan short term borrowings		17,248
Equipment financing		51
	Total Increases to debt	\$ 99,296
Decreases to debt:		
Principal, fees, and interest payments to senior lender	\$	(17,501)
Principal and interest payments to EB-5 promissory note		(90)
Payment and reclassification of EB-5 Promissory Note		(270)
Term loan payments		(15)
Construction and term loan payments		(5,256)
Secured loans and working capital loans payments		(29,768)
Payments on term loans for capital expenditures		(362)
Reclass to accounts payable for future payment		(2,331)
	Total Decreases to debt	\$ (55,593)
	<b>Change in total debt</b>	<b>\$ 43,703</b>

Working capital changes reflect (i) a \$13.8 million decrease in inventories primarily in raw materials and finished goods in India, (ii) a \$1.3 million decrease in accounts receivable, primarily in India, (iii) a \$0.3 million decrease in prepaid expenses, primarily in the ethanol segment, (iv) \$12.3 million decrease in receivable from tax credit sales based on receipt of the amount due, (v) a \$5.9 million increase in other current assets (vi) a \$4.1 million increase in cash resulted from our North America and India segments operational and capital expenditure activities.

Cash provided by operating activities was \$3.3 million, derived from a net loss of \$77.0 million, non-cash changes of \$29.9 million, and changes in operating assets and liabilities of \$50.3 million. The non-cash changes primarily consisted of: (i) \$6.7 million in amortization of debt issuance costs and other intangible assets plus an impairment on an intangible asset, (ii) \$9.6 million in depreciation expenses, (iii) \$6.0 million in stock-based compensation expense and stock issued for services, (iv) \$8.2 million in preferred unit accretion and other expenses of Series A preferred units, and (v) \$1.0 million on extinguishment of liabilities. Cash from operating assets and liabilities consisted primarily of a decrease in (i) accounts receivable of \$1.3 million, (ii) inventories of \$13.1 million, (iii) tax credit receivable of \$12.3 million, (iv) an increase in other assets of \$4.5 million, (v) an increase in accrued interest and fees of \$30.8 million, and (vi) an increase in other liabilities of \$4.6 million. This was partially offset by a decrease in accounts payable of \$7.5 million.

Cash used by investing activities was \$25.6 million, of which \$15.0 million was used for capital projects in the Keyes Plant, \$8.9 million was used for capital projects associated with production of Renewable Natural Gas, \$0.7 million for capital projects at the Kakinada Plant, and \$1.4 million related to all other capital projects. This was partially offset by grant proceeds of \$0.4 million.

Cash provided by financing activities was \$26.4 million, consisting primarily of \$44.9 million proceeds from borrowings, \$0.3 million from stock option exercises, and \$28.1 million from issuance of common stock, offset by repayments of borrowings of \$37.1 million, debt renewal and waiver fee payments of \$1.3 million, and payments on finance leases of \$0.2 million.

During 2025, we continued our at-the-market stock sales program, which allows us to sell newly issued shares of our common stock into the publicly traded markets. During the year ended December 31, 2025, we issued 14.0 million shares of common stock under the at-the-market stock sales program for net proceeds of \$28.1 million net of commissions and offering related expenses.

### ***Off-Balance Sheet Arrangements***

We had no outstanding off-balance sheet arrangements as of December 31, 2025.

### ***Critical Accounting Estimates***

Our discussion and analysis of financial condition and results of operations are based on our consolidated financial statements, which have been prepared in accordance with U.S. GAAP. The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amount of net sales and expenses for each period. We believe that our most significant accounting estimate, defined as the estimate that we believe is the most important to the portrayal of our financial condition and results of operations and that requires management's most difficult, subjective or complex judgments, often as a result of the need to make estimates about the effects of matters that are inherently uncertain is liquidity, which considers our ability to secure financing to complete our projects in progress such as Biogas digesters and increase in pipeline, sustainable aviation fuel, and carbon sequestration.

#### *Liquidity*

Our assessment of liquidity requires management to use significant judgment in developing estimates and gather assumptions about cash needed to pay for all current liabilities over the next twelve months. Management estimates may include projected operational revenues and expenses, credit availability, credit sales, and grant income. Projected revenue and expenses are estimated based on knowledge of our businesses, including various industry indexes, industry trends, political shifts, and past performance.

#### *Debt covenant forecast*

Each period we assess our compliance with our senior lender's debt covenants for the given period by projecting debt and accrued interest balances for the following twelve months. For compliance with senior lender debt covenants, we rely on market value appraisals for which fair value is determined through various valuation techniques including discounted cash flow models, comparable market sales, and estimated replacement costs, often with a final value that reconciles one or more of these techniques. We also use significant judgment to determine whether future operation profits and transactions will be available to use towards debt payments; whether we will have the ability to generate and sell credits to third parties; and whether we will receive anticipated grant income in a timing which will support debt payments.

#### *Recoverability of Our Long-Lived Assets*

Our long-lived assets consist of property, plant, and equipment. We review long-lived asset groups for impairment triggers annually and whenever events or changes in circumstances indicate that the carrying amount of long-lived asset groups may not be recoverable. If we identify any event or circumstance that triggers an impairment assessment, we measure recoverability of assets to be held and used by comparing the carrying amount of an asset group to the estimated undiscounted future cash flows generated by the asset group. If the carrying amount of an asset group exceeds its estimated future cash flows, we assess if the situation is more than temporary, and in the event the future cash flows are more than temporary we would record an impairment charge in the amount by which the carrying amount of the asset group exceeds the fair value of the asset group.

Assessing each long-lived asset group for impairment triggers requires us to make estimates regarding amount and timing of projected cash flows to be generated by each segment over an extended period of time. Management judgment used to identify impairment triggers is based on numerous potential factors including, but not limited to, a decrease in the market price, an adverse change in the extent or manner in which the asset is used or in its physical condition, an adverse change in legal or business climate, excess of accumulated costs over initial expectations, significant decline in actual or expected operating results, or the expectation that the asset group will be sold or otherwise disposed prior to its previously expected life. Significant management judgment is required in determining the fair value appraisals of each segment, including projections of operational future cash flows, discounted cash flow models, comparable market sales and estimated replacement costs, often with a final value that reconciles one or more of these techniques. Significant declines in estimates of fair value trigger an undiscounted future cash flow calculation to determine the extent to which a write-down of an asset may be required.

Long-term assets are analyzed at the lowest level where the asset groups are expected to generate cash flow. We consider the lowest level asset group as one where the value of the asset becomes independent from the other assets and has the ability to operate on an independent basis, and results in a functional unit. We therefore group entities into the following functional reporting units: California ethanol segment, India biodiesel segment, California Renewable Natural Gas segment, California Sustainable Aviation Fuel plant under development, Goodland Energy Center LLC which consists of a partially completed dry-mill held for future use, and the Carbon Capture and Underground Sequestration asset group under development. For the years ended December 31, 2025 and 2024, no asset groups showed indicators of impairment, therefore no impairment test was performed for our Company's long-lived assets.

### ***Recently Issued Accounting Pronouncements***

Refer to Note 1 of the Financial Statements for a description of new accounting pronouncements.

### **Item 7A. Quantitative and Qualitative Disclosures About Market Risk.**

Not applicable.

**Item 8. Financial Statements and Supplementary Data.**

**AEMETIS, INC.  
Index to Consolidated Financial Statements**

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## Report of Independent Registered Public Accounting Firm

To the Stockholders and the Board of Directors of Aemetis, Inc.

### Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Aemetis, Inc. and its subsidiaries (the Company) as of December 31, 2025 and 2024, the related consolidated statements of operations and comprehensive loss, stockholders' deficit and cash flows for each of the two years in the period ended December 31, 2025, and the related notes to the consolidated financial statements (collectively, the financial statements). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2025 and 2024, and the results of its operations and its cash flows for each of the two years in the period ended December 31, 2025, in conformity with accounting principles generally accepted in the United States of America.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2025, based on criteria established in *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission in 2013. Our report dated March 13, 2026, expressed an unqualified opinion on the effectiveness of the Company's internal control over financial reporting.

### Substantial Doubt about the Company's Ability to Continue as a Going Concern

The accompanying financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 18 to the financial statements, the Company has suffered recurring losses from operations and has a net capital deficiency. This raises substantial doubt about the Company's ability to continue as a going concern. Management's plans in regard to these matters also are described in Note 18. The financial statements do not include any adjustments that might result from the outcome of this uncertainty.

### Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

### Critical Audit Matters

The critical audit matter communicated below is a matter arising from the current period audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing separate opinions on the critical audit matter or on the accounts or disclosures to which they relate.

#### **45Z Transferable Production Tax Credits**

As described in Note 1 to the financial statements, the Company generates and recognizes tax credits associated with Section 45Z of the Internal Revenue Code for domestic clean fuel production. In accordance with IAS 20, the tax incentives are recognized when there is reasonable assurance the Company will comply with the provisions of the incentive and that the incentive will be received. The Company recognized production tax credit income of \$5.2 million in the RNG segment, and \$5.1 million in the Ethanol segment, net of estimated selling costs, within the statement of operations for the year ended December 31, 2025. The Company has \$5.5 million of production tax credits included in other current assets on the balance sheet at December 31, 2025.

We identified the accounting for the transferable production tax credits as a critical audit matter because of the significant judgments management makes when determining how to account for the transferable production tax credits given the significant unusual nature of the credits, as well as when determining eligibility for and estimating the fair value of the tax credits. This required a high degree of auditor judgment when performing audit procedures to evaluate whether management appropriately accounted for the tax credits, determined eligibility, and estimated fair value.

Our audit procedures related to the accounting for the transferable production tax credits included the following, among others:

- We obtained an understanding of management's process and internal controls over management's determination of eligibility, valuation of, and accounting for tax credits and tested the operating effectiveness of the controls.
- We obtained evidence of the facilities' approved registrations as clean transportation fuel producers.
- We compared production and sales volumes to internal production records and sales invoices.
- We agreed the emissions rates to certifications provided by a qualified third-party certifier or, when certifications were not available, agreed inputs into the 45ZCF-GREET model to internal records and third-party invoices and validated mathematical accuracy.
- We compared inputs used in the calculation to third party agreements related to the fair value of tax credits.

/s/ RSM US LLP

We have served as the Company's auditor since 2012.

Des Moines, Iowa  
March 13, 2026

## Report of Independent Registered Public Accounting Firm

To the Stockholders and the Board of Directors of Aemetis, Inc.

### Opinion on the Internal Control Over Financial Reporting

We have audited Aemetis, Inc. and its subsidiaries' (the Company) internal control over financial reporting as of December 31, 2025, based on criteria established in *Internal Control - Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission in 2013. In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2025, based on criteria established in *Internal Control - Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission in 2013.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated balance sheets as of December 31, 2025 and 2024, the related consolidated statements of operations and comprehensive loss, stockholders' deficit and cash flows for the years then ended, and the related notes to the consolidated financial statements of the Company and our report dated March 13, 2026 expressed an unqualified opinion.

### Basis for Opinion

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting in the accompanying Management's Annual Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audit also included performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

### Definition and Limitations of Internal Control Over Financial Reporting

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ RSM US LLP

Des Moines, Iowa  
March 13, 2026

**AEMETIS, INC.**  
**CONSOLIDATED BALANCE SHEETS**  
**AS OF December 31, 2025 and 2024**  
(In thousands except for par value)

	December 31, 2025	December 31, 2024
<b>Assets</b>		
Current assets:		
Cash and cash equivalents (\$3,154 and \$0 respectively from VIE)	\$ 4,894	\$ 898
Accounts receivable (\$81 and \$57 respectively from VIE)	484	1,805
Inventories (\$307 and \$157 respectively from VIE)	11,627	25,442
Prepaid expenses (\$38 and \$85 respectively from VIE)	1,531	1,842
Tax credit sale receivable (\$0 and \$8,125 respectively from VIE)	-	12,300
Other current assets (\$560 and \$2 respectively from VIE)	8,336	2,409
Total current assets	<u>26,872</u>	<u>44,696</u>
Property, plant and equipment, net (\$102,120 and \$97,363 respectively from VIE)	219,717	199,392
Operating lease right-of-use (\$1,058 and \$648 respectively from VIE)	2,256	2,237
Other assets (\$6,325 and \$6,057 respectively from VIE)	10,996	12,977
Total assets	<u>\$ 259,841</u>	<u>\$ 259,302</u>
<b>Liabilities and stockholders' deficit</b>		
Current liabilities:		
Accounts payable (\$4,959 and \$5,917 respectively from VIE)	\$ 23,418	\$ 33,139
Current portion of long-term debt (\$1,077 and \$1,004 respectively from VIE)	279,143	63,745
Short term borrowings (\$300 and \$290 respectively from VIE)	38,726	26,789
Other current liabilities (\$387 and \$1,920 respectively from VIE)	29,971	20,295
Total current liabilities	<u>371,258</u>	<u>143,968</u>
Long term liabilities:		
Senior secured notes and revolving notes	-	169,826
EB-5 notes	16,000	21,500
Other long-term debt (\$47,875 and \$47,803 respectively from VIE)	47,895	56,201
Series A preferred units (\$126,910 and \$126,593 respectively from VIE)	126,910	126,593
Other long-term liabilities (\$940 and \$475 respectively from VIE)	4,609	5,142
Total long term liabilities	<u>195,414</u>	<u>379,262</u>
Stockholders' deficit:		
Common stock, \$0.001 par value; 80,000 authorized; 66,189 and 51,139 shares issued and outstanding each period, respectively	66	51
Additional paid-in capital	340,402	305,329
Accumulated deficit	(639,943)	(562,942)
Accumulated other comprehensive loss	(7,356)	(6,366)
Total stockholders' deficit	<u>(306,831)</u>	<u>(263,928)</u>
Total liabilities and stockholders' deficit	<u>\$ 259,841</u>	<u>\$ 259,302</u>

*The accompanying notes are an integral part of the financial statements.*

**AEMETIS, INC.**  
**CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE LOSS**  
**FOR THE YEARS ENDED December 31, 2025 and 2024**  
(In thousands, except for earnings per share)

	<b>Years ended December 31,</b>	
	<b>2025</b>	<b>2024</b>
Revenues	\$ 197,626	\$ 267,640
Production tax credits	10,355	-
Cost of goods sold	208,749	268,220
Gross loss	(768)	(580)
Selling, general and administrative expenses	36,450	39,836
Operating loss	(37,218)	(40,416)
Other expense (income):		
Interest expense		
Interest rate expense	46,205	40,158
Debt related fees and amortization expense	6,707	6,463
Accretion and other expenses of Series A preferred units	8,226	12,698
Other income	(2,608)	(1,366)
Loss before income taxes	(95,748)	(98,369)
Income tax benefit	(18,747)	(10,832)
Net loss	\$ (77,001)	\$ (87,537)
Other comprehensive loss		
Foreign currency translation loss	(990)	(695)
Comprehensive loss	\$ (77,991)	\$ (88,232)
Net loss per common share		
Basic	\$ (1.28)	\$ (1.91)
Diluted	\$ (1.28)	\$ (1.91)
Weighted average shares outstanding		
Basic	59,982	45,902
Diluted	59,982	45,902

*The accompanying notes are an integral part of the financial statements.*

**AEMETIS, INC.**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
**FOR THE YEARS ENDED December 31, 2025 and 2024**  
**(In thousands)**

	Years ended December 31,	
	2025	2024
<b>Operating activities:</b>		
Net loss	\$ (77,001)	\$ (87,537)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:		
Share-based compensation	5,771	8,314
Stock issued for services	200	-
Depreciation	9,579	8,341
Bad debt expense	385	-
Intangibles and other amortization expense	46	46
Debt related fees and amortization expense	6,707	6,463
Accretion and other expenses of Series A preferred units	8,226	12,698
Gain (Loss) on asset disposals	(4)	3,702
Gain on debt/liability extinguishment	(1,007)	(162)
Loss on impairment of intangibles	43	-
Changes in operating assets and liabilities:		
Accounts receivable	1,302	6,754
Inventories	13,115	(7,766)
Prepaid expenses	276	1,533
Tax credit sale receivable	12,300	(12,300)
Other assets	(4,537)	(2,839)
Accounts payable	(7,533)	(1,294)
Accrued interest expense and fees, net of interest paid	30,790	27,910
Other liabilities	4,605	3,208
Net cash provided by (used in) operating activities	<u>3,263</u>	<u>(32,929)</u>
<b>Investing activities:</b>		
Capital expenditures	(26,002)	(20,254)
Grant proceeds received for capital expenditures	411	6,105
Net cash used in investing activities	<u>(25,591)</u>	<u>(14,149)</u>
<b>Financing activities:</b>		
Proceeds from borrowings	44,926	19,461
Repayments of borrowings	(37,104)	(5,010)
Lender debt renewal and waiver fee payments	(1,307)	(1,441)
Payments on Series A preferred financing	(8,270)	-
Payments on finance leases	(168)	(179)
Proceeds from sales of common stock	28,075	31,750
Proceeds from the exercise of stock options	257	36
Net cash provided by financing activities	<u>26,409</u>	<u>44,617</u>
Effect of exchange rate changes on cash and cash equivalents and restricted cash	(26)	12
Net change in cash and cash equivalents and restricted cash for period	4,055	(2,449)
Cash, cash equivalents, and restricted cash at beginning of period	3,831	6,280
Cash, cash equivalents, and restricted cash at end of period	<u>7,886</u>	<u>3,831</u>
<b>Supplemental disclosures of cash flow information, cash paid:</b>		
Cash paid for interest	\$ 13,853	\$ 9,223
Income taxes paid	626	1,814
<b>Supplemental disclosures of cash flow information, non-cash transactions:</b>		
Settlement of Accounts Payable via issuance of common stock	45	265
Subordinated debt extension fees added to debt	1,020	680
Fair value of warrants issued to subordinated debt holders	740	916
Lender debt extension, waiver, and other fees added to debt	1,883	695
Cumulative capital expenditures in accounts payable and accruals	8,345	11,152
Unpaid capital expenditures in construction financing	3,470	-

*The accompanying notes are an integral part of the financial statements.*

**AEMETIS, INC.**  
**CONSOLIDATED STATEMENTS OF STOCKHOLDERS' DEFICIT**  
**FOR THE YEARS ENDED December 31, 2025 and 2024**  
(In thousands)

	Common Stock		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Loss	Total
	Shares	Dollars				
<b>Balance at December 31, 2023</b>	<b>40,966</b>	<b>\$ 41</b>	<b>\$ 264,058</b>	<b>\$ (475,405)</b>	<b>\$ (5,671)</b>	<b>\$ (216,977)</b>
Issuance of common stock	9,569	10	32,005	-	-	32,015
Stock options exercised	14	-	36	-	-	36
Stock-based compensation	364	-	8,314	-	-	8,314
Issuance and exercise of warrants	226	-	916	-	-	916
Foreign currency translation loss	-	-	-	-	(695)	(695)
Net loss	-	-	-	(87,537)	-	(87,537)
<b>Balance at December 31, 2024</b>	<b>51,139</b>	<b>51</b>	<b>305,329</b>	<b>(562,942)</b>	<b>(6,366)</b>	<b>(263,928)</b>
Issuance of common stock	13,989	15	28,060	-	-	28,075
Stock options exercised	340	-	257	-	-	257
Stock-based compensation	369	-	5,771	-	-	5,771
Issuance of common stock for services	126	-	245	-	-	245
Issuance and exercise of warrants	226	-	740	-	-	740
Foreign currency translation loss	-	-	-	-	(990)	(990)
Net loss	-	-	-	(77,001)	-	(77,001)
<b>Balance at December 31, 2025</b>	<b>66,189</b>	<b>\$ 66</b>	<b>340,402</b>	<b>\$ (639,943)</b>	<b>\$ (7,356)</b>	<b>\$ (306,831)</b>

*The accompanying notes are an integral part of the financial statements.*

**AEMETIS, INC.**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

**(Tabular data in thousands, except par value and per share data)**

## **1. Nature of Activities and Summary of Significant Accounting Policies**

**Nature of Activities.** These consolidated financial statements include the accounts of Aemetis, Inc., a Delaware corporation, and its subsidiaries (collectively, “Aemetis” or the “Company”).

- Aemetis Americas, Inc., a Nevada corporation, and its subsidiary AE Biofuels, Inc., a Delaware corporation;
- Aemetis International, Inc., a Nevada corporation, and its subsidiary International Biofuels Ltd, a Mauritius corporation, and its subsidiary Universal Biofuels Private Limited, an India company;
- Aemetis Technologies, Inc., a Delaware corporation;
- Aemetis Biofuels, Inc., a Delaware corporation, and its subsidiary Energy Enzymes, Inc., a Delaware corporation;
- AE Advanced Fuels, Inc., a Delaware corporation, and its subsidiaries Aemetis Advanced Fuels Keyes, Inc., a Delaware corporation, Aemetis Facility Keyes, Inc., a Delaware corporation, and Aemetis Property Keyes, Inc., a Delaware corporation;
- Aemetis Advanced Fuels, Inc., a Nevada corporation;
- Aemetis Advanced Products Keyes, Inc., a Delaware corporation, and its subsidiaries Aemetis Properties Riverbank, Inc., a Delaware corporation, Aemetis Health Products, Inc., a Delaware corporation; and Aemetis Riverbank, Inc., a Delaware corporation, and its direct and indirect subsidiaries Aemetis Advanced Products Riverbank, Inc., a Delaware corporation, Energy Efficiency Holdings LLC, a Delaware limited liability company, and MVR Services LLC, a California limited liability company;
- Aemetis Advanced Biorefinery Keyes, Inc., a Delaware corporation;
- Aemetis Carbon Capture, Inc. a Nevada corporation; its subsidiary Caprock Project Holdings, Inc., a Delaware corporation, and its subsidiary Riverbank Well 1, Inc., a California corporation;
- Aemetis Biogas LLC, a Delaware limited liability company and its subsidiaries Aemetis Biogas Services LLC, a Delaware limited liability company, Aemetis RNG Fuels 1 LLC, a California limited liability company, and Aemetis Biogas Holdings LLC, a Delaware limited liability company, and its subsidiaries Aemetis Biogas 1 LLC, a Delaware limited liability company, Aemetis Biogas 2 LLC, a Delaware limited liability company, Aemetis Biogas 3 LLC, a Delaware limited liability company, Aemetis Biogas 4 LLC, a Delaware limited liability company, Aemetis Biogas 5 LLC, a Delaware limited liability company, Aemetis Biogas 6 LLC, a Delaware limited liability company, Aemetis Biogas 7 LLC, a Delaware limited liability company, and Aemetis Biogas 8 LLC, a Delaware limited liability company;
- Goodland Advanced Fuels, Inc., a Delaware corporation.

Founded in 2006 and headquartered in Cupertino, California, Aemetis, Inc. (collectively with its subsidiaries on a consolidated basis referred to herein as “Aemetis,” the “Company,” “we,” “our” or “us”) is an international renewable natural gas and renewable fuels company focused on the operation, acquisition, development, and commercialization of innovative technologies to produce low and negative carbon intensity renewable fuels that lower fuel costs and reduce emissions. We do this by building a local circular bioeconomy using agricultural products and wastes to produce low carbon, advanced renewable fuels that reduce greenhouse gas (“GHG”) emissions and improve air quality. Our current operations include:

► **California Ethanol** - We own and operate a 65 million gallon per year capacity ethanol production facility in Keyes, California (the “Keyes Plant”). In addition to low carbon renewable fuel ethanol, the Keyes Plant produces Wet Distillers Grains (“WDG”), Distillers Corn Oil (“DCO”), and Condensed Distillers Solubles (“CDS”), all of which are sold as animal feed to local dairies and feedlots. The Keyes Plant also produces and sells CO<sub>2</sub> captured from the fermentation process for the food, beverage, and other industries. We are implementing several energy efficiency initiatives at the Keyes Plant focused on reducing operating costs and lowering the carbon intensity of our ethanol to increase revenues and improve cash flow from operations.

► **California Dairy Renewable Natural Gas** - We produce Renewable Natural Gas (“RNG”) in central California. Our facilities include twelve anaerobic digesters that produce biogas from dairy waste, a 36-mile biogas collection pipeline leading to a central RNG production facility, and a utility interconnection to inject the RNG into the natural gas pipeline for delivery to customers for use as transportation fuel. We are actively expanding our RNG production, with two additional digesters under construction, agreements with over fifty dairies, and environmental review completed for an additional 24 miles of biogas pipeline. We are also building our own RNG fuel dispensing station, which is planned to begin operating in 2026.

► **India Biodiesel** - We own and operate a plant in Kakinada, India (“Kakinada Plant”) with a capacity to produce about 80 million gallons per year of high-quality distilled biodiesel from a variety of vegetable oil and animal waste feedstocks. The Kakinada plant is one of the largest biodiesel production facilities in India. The Kakinada Plant also distills the crude glycerin byproduct from the biodiesel refining process into refined glycerin, which is sold to the pharmaceutical, personal care, paint, adhesive, and other industries.

Our current and planned businesses produce renewable fuels and reduce emissions, generating revenues from biofuel sales, federal Renewable Fuel Standard (“RFS”) credits, federal Section 45Z production tax credits (“45Z PTC”), California Low Carbon Fuel Standard (“LCFS”) credits, and other investment and production tax credits.

**AEMETIS, INC.**  
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**(Tabular data in thousands, except par value and per share data)**

**Basis of Presentation and Consolidation.** These consolidated financial statements include the accounts of Aemetis, Inc. and its subsidiaries. We consolidate all entities in which we have a controlling financial interest. A controlling financial interest is usually obtained through ownership of a majority of the voting interests. However, an enterprise must consolidate a variable interest entity ("VIE") if the enterprise is the primary beneficiary of the VIE. The primary beneficiary is the party that has both the power to direct the activities of the VIE that most significantly impact the VIE's economic performance, and the obligation to absorb losses or the right to receive benefits from the VIE that could potentially be significant to the VIE. We consider Aemetis Biogas LLC ("ABGL") to be a VIE and, through the Company's ownership interest in all of the outstanding common units of ABGL, Aemetis, Inc. has been determined to be the primary beneficiary and accordingly, the assets, liabilities, and operations of ABGL are consolidated in these financial statements. All intercompany balances and transactions have been eliminated in consolidation.

**Use of Estimates.** The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and revenues and expenses during the reporting period. To the extent there are material differences between these estimates and actual results, our consolidated financial statements will be affected.

**Revenue Recognition.** We derive revenue primarily from sales of ethanol and related coproducts in California Ethanol segment; renewable natural gas, D3 RINs, LCFS credits for the California Dairy Renewable Natural Gas segment; and biodiesel in the India Biodiesel segment. We assess the following criteria for each customer contract under ASC 606 guidance: (i) identify the contracts with customer, (ii) identify the performance obligations in the contract, (iii) determine the transaction price, (iv) allocate the transaction price to the performance obligations, and (v) recognize revenue when the entity satisfies the performance obligations.

**Production Tax Credits.** In 2025, the Company became eligible for earning and transferring Production Tax Credits ("PTCs") generated by the production and sale of RNG and fuel ethanol. We account for transferable PTCs by analogy to the grant model within International Accounting Standards 20, *Accounting for Government Grants and Disclosure of Government Assistance*. 45Z PTC credits are earned through production and dispensing of RNG and production and sale of ethanol and are recognized when earned as operating income in the Statement of Operations, and on the balance sheet as Other Current Assets. We recognized \$5.2 million of 45Z PTCs in the RNG segment, and \$5.1 million in the Ethanol segment, during the year ended December 31, 2025, having demonstrated the eligibility and transferability metrics required, including prevailing wage considerations. Treasury regulations may further define the scope of legislation, including guidance which may have a material impact on our estimates and would be reflected as a change in estimate in the period in which such guidance is received.

**Cost of Goods Sold.** Cost of goods sold includes those costs directly associated with the production of revenues, such as raw material consumed, factory overhead, and other direct production costs.

**Shipping and Handling Costs.** When incurred, shipping and handling costs are classified as a component of cost of goods sold in the accompanying consolidated statements of operations.

**Accounts Receivable.** The California Ethanol segment sells all of its products to J.D. Heiskell under the J.D. Heiskell Purchasing Agreement. The Renewable Natural Gas segment sells its products to various customers. The India Biodiesel segment sells biodiesel, glycerin, and processed natural oils to a variety of customers and may require advanced payment based on the size and creditworthiness of the customer. Accounts receivable mostly consist of product sales made to large creditworthy customers, most with various payment terms from 0-30 days. Trade accounts receivable are presented at original invoice amount, net of any allowance for credit losses.

We maintain an allowance for credit losses for balances that appear to have specific collection issues and estimates an allowance for expected credit losses. The collection process is based on the age of the invoice or agreement and requires attempted contacts with the third party at specified intervals. If, after a specified number of days, the Company has been unsuccessful in its collection efforts, a credit loss is recorded for the balance in question. Delinquent accounts receivables are charged against the allowance for credit losses once un-collectability has been determined. The factors considered in reaching this determination are the apparent financial condition of the third party and the Company's success in contacting and negotiating with the third party. If the financial condition of the Company's customers were to deteriorate, additional allowances may be required. As of December 31, 2025, the allowance for credit losses was \$385 thousand.

**Inventories.** Finished goods, raw materials, and work-in-process inventories are valued using methods that approximate the lower of cost (first-in, first-out) or net realizable value ("NRV"). Distillers' grains and related products are stated at NRV. In the valuation of inventories, NRV is determined as estimated selling price in the ordinary course of business, less reasonably predictable costs of completion, disposal, and transportation. We periodically review the value of items in inventory and provides write-downs or write-offs of inventory based on its assessment of market conditions. Write-downs and write-offs are charged to cost of goods sold.

**Other current assets.** Other current assets contain restricted tax inputs and advances of \$2.5 million by our India biodiesel segment, and PTC credit assets of \$5.5 million, calculated as the credit earnings net of customer discount.

**Property, Plant and Equipment.** Property, plant, and equipment are carried at cost less accumulated depreciation after assets are placed in service and are comprised primarily of buildings, furniture, machinery, equipment, land, biogas dairy digesters, and the Keyes Plant, Goodland Plant, and Kakinada Plant. We depreciate capital assets over their estimated useful lives using the straight-line method.

We evaluate the recoverability of long-lived assets with finite lives in accordance with ASC Subtopic 360-10-35 *Property Plant and Equipment – Subsequent Measurement*, which requires recognition of impairment of long-lived assets whenever events or changes in circumstances indicate that the carrying amount of asset groups may not be recoverable. When events or changes in circumstances indicate that the carrying amount of an asset group may not be recoverable, based on estimated undiscounted cash flows, the impairment loss would be measured as the difference between the carrying amount of the asset group and its estimated fair value. We have not recorded any impairment as of December 31, 2025 and 2024.

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**Investment Tax Credits.** In the fourth quarter of 2024 and in the first and fourth quarters of 2025, we sold certain transferable Investment Tax Credits ("ITCs") to third-party purchasers that had been generated by the Company from its investments in the California Dairy Renewable Natural Gas ("RNG") segment and the Keyes Plant solar microgrid. We accounted for the ITC sales in accordance with ASC 740 by electing the flow-through method. For the years ended December 31, 2025 and 2024, the contractual net proceeds of the tax credits sales of \$18.0 million and \$12.3 million, respectively, are recorded as an income tax benefit.

**Income Taxes.** We recognize income taxes in accordance with ASC 740 *Income Taxes* using an asset and liability approach. This approach requires the recognition of taxes payable or refundable for the current year and deferred tax assets and liabilities for the expected future tax consequences of events that have been recognized in our consolidated financial statements or tax returns. The measurement of current and deferred taxes is based on provisions of enacted tax law. ASC 740 provides for recognition of deferred tax assets if the realization of such assets is more likely than not to occur. Otherwise, a valuation allowance is established for the deferred tax assets, which may not be realized. As of December 31, 2025 and 2024, we recorded a full valuation allowance against its U.S. federal and state net deferred tax assets due to operating losses incurred since inception. Realization of deferred tax assets is dependent upon future earnings, if any, the timing and amount of which are uncertain. Accordingly, the net deferred tax assets were fully offset by a valuation allowance.

The Company is subject to income tax audits by the respective tax authorities in all of the jurisdictions in which it operates. The determination of tax liabilities in each of these jurisdictions requires the interpretation and application of complex and sometimes uncertain tax laws and regulations. The recognition and measurement of current taxes payable or refundable and deferred tax assets and liabilities requires that we make certain estimates and judgments. Changes to these estimates or a change in judgment may have a material impact on our tax provision in a future period.

In 2018, we adopted certain tax accounting policies related to the new global intangible low-taxed income ("GILTI") provisions under the Tax Cuts and Jobs Act such that we: (1) account for all GILTI related book-tax differences as period costs and (2) use the Incremental Cash Tax Savings approach in evaluating its valuation allowance assessment related to the GILTI inclusion.

**Basic and Diluted Net Income (Loss) per Share.** Basic net loss per share is computed by dividing net income or loss attributable to common shareholders by the weighted average number of common shares outstanding for the period. Diluted net loss per share reflects the dilution of common stock equivalents such as options, convertible debt, and warrants to the extent the impact is dilutive. We incurred a net loss for the years ended December 31, 2025 and 2024, so potentially dilutive securities have been excluded from the diluted net loss per share computations as their effect would be anti-dilutive.

The following table shows the number of potentially dilutive shares excluded from the diluted net loss per share calculation as of December 31, 2025 and 2024:

	<b>As of</b>	
	<b>December 31, 2025</b>	<b>December 31, 2024</b>
Common stock options and warrants	9,208	7,731
Debt with conversion feature at \$30 per share of common stock	1,164	1,153
Total number of potentially dilutive shares excluded from the diluted net (loss) per share calculation	<u>10,372</u>	<u>8,884</u>

**Comprehensive Loss.** ASC 220 *Comprehensive Income* requires that an enterprise report, by major components and as a single total, the change in its net assets from non-owner sources. Our other comprehensive loss and accumulated other comprehensive loss consists solely of cumulative currency translation adjustments resulting from the translation of the financial statements of our India subsidiary. The investment in this subsidiary is considered indefinitely invested overseas, and as a result, deferred income taxes are not recorded related to the currency translation adjustments.

**Foreign Currency Translation/Transactions.** Our India subsidiary operates in a local currency environment where the local currency is the functional currency used for transactions and accounting. Assets and liabilities of that subsidiary are translated into U.S. dollars at exchange rates in effect at the balance sheet date and the resulting translation adjustments directly recorded to a separate component of accumulated other comprehensive loss. Income and expense accounts are translated at average exchange rates during the year. Transactional gains and losses from foreign currency transactions are recorded in other (income) loss, net.

**Fair Value of Financial Instruments.** Our significant financial instruments with fair value considerations include current and non-current portion of subordinated debt, notes payable, Series A preferred units, and long-term debt. Due to the unique terms of our notes payable and long-term debt and the financial condition of the Company, the fair value of the debt is not readily determinable. The fair value determined using level 3 inputs of all other current financial instruments is estimated to carrying value due to the short-term nature of these instruments.

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**Share Based Compensation.** We recognize share-based compensation expense in accordance with ASC 718 *Stock Compensation*, which requires us to recognize expenses related to the estimated fair value of the Company's share-based compensation awards over the vesting period, adjusted to reflect only those shares that are expected to vest.

**Commitments and Contingencies.** We record and/or disclose commitments and contingencies as they relate to existing conditions, situations, or sets of circumstances involving uncertainty as to possible loss that will ultimately be resolved when one or more future events occur or fail to occur.

**Convertible Instruments.** We evaluate the impacts of convertible instruments based on the underlying conversion features. Convertible Instruments are evaluated for treatment as derivatives that could be bifurcated and recorded separately.

**Debt Issuance Costs.** We record debt issuance costs related to specific incremental costs directly attributable to issuing, modifying, or extending a debt instrument. The debt issuance costs are reported as an adjustment to the carrying amount of the debt. The debt issuance costs are amortized using the interest rate method over the life of the debt instrument.

**Troubled Debt Restructuring Accounting.** The evaluation for troubled debt restructuring includes assessing whether financial difficulties are present and then whether the creditor granted a concession. To determine this, we calculate the post-restructuring effective interest rate by projecting cash flows on the new terms and calculating a discount rate equal to the carrying amount of pre-restructuring debt and comparing this calculation to the terms of prior amendments. If the post restructuring effective interest rate is less than the prior terms effective interest rate, we assess this as having been granted a concession. We then apply troubled debt restructuring accounting to any debt in which the creditor granted a concession.

**Debt Modification Accounting.** We evaluate amendments to its debt not accounted for as troubled debt restructuring in accordance with ASC 470-50 *Debt – Modification and Extinguishments* for modification and extinguishment accounting. This evaluation includes comparing the net present value of cash flows of the new debt to the old debt to determine if changes greater than 10 percent occurred. In instances where the net present value of future cash flows changes more than 10 percent, we apply extinguishment accounting and determines the fair value of its debt based on factors available to the Company, and if less than 10 percent, we apply modification accounting by amending the carrying value of debt and costs and amortizing over the remaining life of the loan.

**Recent Accounting Pronouncements.**

In December 2023, the FASB issued ASU 2023-09, *Income Taxes (Topic 740): Improvements to Income Tax Disclosures*, which includes amendments that further enhance income tax disclosures, primarily through standardization and disaggregation of rate reconciliation categories and income taxes paid by jurisdiction. We adopted ASU 2023-09 for the year ended December 31, 2025 on a prospective basis. See *Note 16: Income Taxes* for additional information.

In November 2024, the FASB issued ASU 2024-03, *Income Statement - Reporting Comprehensive Income - Expense Disaggregation Disclosures (Subtopic 220-40): Disaggregation of Income Statement Expenses*, which is intended to improve disclosures about a public business entity's expenses, primarily through additional disaggregation of income statement expenses. ASU 2024-03 is effective for annual periods beginning after December 15, 2026, and interim periods beginning after December 15, 2027, with early adoption permitted. We are currently evaluating ASU 2024-03 to determine the impact on our disclosures.

In December 2025, the FASB issued ASU 2025-10, *Government Grants (Topic 832): Accounting for Government Grants Received by Business entities*, which provides additional guidance on transferable tax credits accounted by analogy as government grants. ASU 2025-10 is effective for annual periods beginning after December 15, 2028, with early adoption permitted. We have evaluated the impact alongside our recognition of PTC earnings, and we will continue to monitor the future impact on the related disclosures.

There were no other recently issued and effective authoritative guidance that are expected to have a material impact on our Consolidated Financial Statements through the reporting date.

**2. Cash, Cash Equivalents, and Restricted Cash**

We consider all highly liquid investments with an original maturity of three months or less to be cash equivalents. We maintain cash balances at various financial institutions domestically and abroad. The Federal Deposit Insurance Corporation insures domestic cash accounts. Our accounts at these institutions may at times exceed federally insured limits. We have not experienced any such losses in cash accounts. Amounts included in restricted cash represent those required to be set aside by the AB1 and AB2 loan agreements, and will be released at times specified in each agreement.

The following table reconciles cash, cash equivalents, and restricted cash reported in the Consolidated Balance Sheet to the total of the same amounts shown in the statement of cash flows.

	As of	
	December 31, 2025	December 31, 2024
Cash and cash equivalents	\$ 4,894	\$ 898
Restricted cash included in other current assets	2	31
Restricted cash included in other assets	2,990	2,902
Total cash, cash equivalents, and restricted cash shown in the statement of cash flows	<u>\$ 7,886</u>	<u>\$ 3,831</u>

**AEMETIS, INC.**  
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(Tabular data in thousands, except par value and per share data)

### 3. Inventories

Inventories consist of the following:

	As of	
	December 31, 2025	December 31, 2024
Raw materials	\$ 9,593	\$ 12,529
Work-in-progress	1,402	1,683
Finished goods	632	11,230
Total inventories	<u>\$ 11,627</u>	<u>\$ 25,442</u>

As of December 31, 2025 and December 31, 2024, we recognized a lower of cost or net realizable value adjustment of \$158 thousand and \$112 thousand respectively, related to inventory.

### 4. Property, Plant, and Equipment

Property, plant, and equipment consist of the following:

	As of	
	December 31, 2025	December 31, 2024
Land	\$ 8,616	\$ 8,642
Plant and buildings	200,008	182,724
Furniture and fixtures	3,036	2,686
Machinery and equipment	5,894	5,721
Construction in progress	57,043	46,201
Property held for development	15,431	15,431
Finance lease right of use assets	2,889	2,889
Total gross property, plant & equipment	292,917	264,294
Less accumulated depreciation	(73,200)	(64,902)
Total net property, plant & equipment	<u>\$ 219,717</u>	<u>\$ 199,392</u>

Interest capitalized in property, plant, and equipment was \$ 4.1 million and \$ 5.0 million for the years ended December 31, 2025 and 2024, respectively.

Construction in progress includes costs for biogas construction projects (dairy digesters, pipeline, and RNG fueling station), Riverbank projects (sustainable aviation fuel and renewable diesel plant and carbon sequestration well), and energy efficiency projects at the Keyes Plant. Property held for development is the partially completed Goodland Plant. Depreciation will begin for each project when the project is finalized and placed into service. Depreciation on the components of property, plant and equipment is calculated using the straight-line method to allocate their depreciable amounts over their estimated useful lives as follows:

	Years
Plant and buildings	20 - 30
Machinery and equipment	5 - 15
Furniture and fixtures	3 - 5

We recorded depreciation expense of approximately \$9.6 million and \$8.3 million respectively, for the years ended December 31, 2025 and 2024.

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## 5. Debt

Debt consists of the following:

	December 31, 2025	December 31, 2024
Third Eye Capital term notes	\$ 7,258	\$ 7,212
Third Eye Capital revenue participation term notes	12,185	12,110
Third Eye Capital revolving credit facility	36,368	31,434
Third Eye Capital revolving notes Series B	85,430	68,476
Third Eye Capital acquisition term notes	26,934	26,788
Third Eye Capital Fuels revolving line	49,230	41,286
Third Eye Capital Carbon revolving line	29,763	26,302
Third Eye Capital Short term promissory note	-	2,006
Construction term loans	48,690	48,235
Cilion shareholder purchase obligation	7,463	7,242
Subordinated notes	21,065	19,391
EB-5 promissory notes	39,409	41,615
Working capital loans	-	5,102
Term loans on capital expenditures	563	862
Equipment financing	45	-
Short term construction funding	17,361	-
<b>Total debt</b>	<b>381,764</b>	<b>338,061</b>
Less current portion of debt	317,869	90,534
<b>Total long term debt</b>	<b>\$ 63,895</b>	<b>\$ 247,527</b>

**Third Eye Capital Keyes Notes.** On July 6, 2012, Aemetis, Inc., Aemetis Advanced Fuels Keyes, Inc. ("AAFK"), and Aemetis Facility Keyes, Inc. ("AFK") entered into an Amended and Restated Note Purchase Agreement (the "Note Purchase Agreement") with Third Eye Capital Corporation ("Third Eye Capital"). Pursuant to the Note Purchase Agreement, Third Eye Capital, as administrative agent on behalf of several noteholders, extended credit in the form of (i) senior secured term loans in an aggregate principal amount of approximately \$7.2 million to replace existing notes held by Third Eye Capital (the "Term Notes"); (ii) senior secured revolving loans in an aggregate principal amount of \$18.0 million (the "Revolving Credit Facility"); (iii) senior secured term loans in the principal amount of \$10.0 million to convert the prior revenue participation agreement to notes (the "Revenue Participation Term Notes"); and (iv) senior secured term loans in an aggregate principal amount of \$15.0 million (the "Acquisition Term Notes") used to fund the cash portion of the acquisition of Cilion, Inc. On May 16, 2023, we entered into a new Revolving Notes Series B agreement with Third Eye Capital related to certain existing principal under the Revolving Credit Facility and for subsequent principal increases. The Term Notes, Revolving Credit Facility, Revolving Notes Series B, Revenue Participation Term Notes, and Acquisition Term Notes are referred to herein collectively as the "Third Eye Capital Keyes Notes." The Third Eye Capital Keyes Notes have been amended several times, and the current key terms are as follows:

- A. **Term Notes.** The Term Notes accrue interest at 14% per annum and are due on demand. As of December 31, 2025, we had \$7.3 million in principal and interest outstanding under the Term Notes and \$19 thousand unamortized debt issuance costs.
- B. **Revolving Credit Facility.** The Revolving Credit Facility accrues interest at the prime rate plus 13.75% (20.50% as of December 31, 2025), payable monthly in arrears, and are due on demand. As of December 31, 2025, there was \$36.5 million in principal, interest, and waiver fees outstanding under the Revolving Credit Facility and \$0.1 million unamortized discount issuance costs.
- C. **Revolving Notes Series B.** The Revolving Notes Series B accrue interest at the prime rate plus 13.75% (20.50% as of December 31, 2025) payable monthly in arrears, and are due on demand. As of December 31, 2025, there was \$85.7 million in principal, interest, and fees outstanding and \$0.2 million unamortized debt issuance costs under the Revolving Notes Series B.
- D. **Revenue Participation Term Notes.** The Revenue Participation Term Notes accrue interest at 5% per annum and are due on demand. As of December 31, 2025, there was \$12.2 million in principal and interest outstanding under the Revenue Participation Term Notes and \$29 thousand unamortized discount issuance costs.
- E. **Acquisition Term Notes.** The Acquisition Term Notes accrue interest at the prime rate plus 10.75% (17.50% per annum as of December 31, 2025), and are due on demand. As of December 31, 2025, there was \$19.5 million in principal and interest due, \$7.5 million in outstanding redemption fees, and \$75 thousand in unamortized discount issuances costs. Interest is not charged on the \$7.5 million redemption fee.
- F. **Short Term Promissory Notes.** In December 31, 2025 and 2024 the Company borrowed an additional \$5.3 million and \$2 million, respectively, from Third Eye Capital and issued promissory notes with 20.5% interest payable. The company paid these notes in full using receipts from tax credit sales, and holds \$0 debt outstanding on these notes as of December 31, 2025.

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The Third Eye Capital Keyes Notes contain various covenants, including but not limited to, debt to plant value ratio, minimum production requirements, and restrictions on capital expenditures. The terms of the Notes allow the lender to accelerate the maturity in the event of a default that could reasonably be expected to have a material adverse effect on the Company, such as any change in the business, operations, or financial condition. We have evaluated the likelihood of such an acceleration event and determined such an event to not be probable in the next twelve months. The notes allow interest to be added to the outstanding principal balance. The notes are secured by first priority liens on all real and personal property of, assignment of proceeds from all government grants, and guarantees from our North American subsidiaries except for Aemetis Biogas LLC and its subsidiaries, and contain cross-collateral and cross-default provisions. McAfee Capital, LLC ("McAfee Capital"), owned by Eric McAfee, the Chairman and CEO, provided a guaranty of payment and performance secured by all Company shares owned by McAfee Capital and additional assets, and Mr. McAfee has also provided a personal guaranty of up to \$10 million plus a pledge of his ownership interest in several personal assets.

**Third Eye Capital Fuels and Carbon Credit Facilities.** On March 2, 2022, Goodland Advanced Fuels, Inc. ("GAFI") and Aemetis Carbon Capture, Inc. ("ACCI") entered into an Amended and Restated Credit Agreement ("Credit Agreement") with Third Eye Capital, as administrative agent and collateral agent, and the lender parties thereto that provides two credit lines with GAFI (the "Fuels Revolving Line") and a second with ACCI (the "Carbon Revolving Line"). Loans received under the Fuels Revolving Line had an original maturity date of March 1, 2025, and accrued interest per annum at a rate equal to the greater of (i) the prime rate plus 6.00% and (ii) ten percent (10.0%). In March 2025, the Fuels Revolving Line was amended to remove the maturity date and make the note payable upon demand and to change the interest rate to the greater of (i) the prime rate plus 11.00% and (ii) fifteen percent (15.00%) (17.75% as of December 31, 2025). Loans received under the Carbon Revolving Line are also due on demand, effective December 2025, and accrue interest per annum at a rate equal to the greater of (i) the prime rate plus 4.00% and (ii) eight percent (8.0%) (10.75% per annum as of December 31, 2025). The Credit Agreement contains several affirmative and negative covenants and loans under the Credit Agreement are secured by first priority liens on all real and personal property of and guarantees from the Company's U.S. subsidiaries except for Aemetis Biogas LLC (and its subsidiaries). As of December 31, 2025, GAFI had principal and interest outstanding of \$49.2 million classified as current debt. As of December 31, 2025, ACCI had principal and interest outstanding of \$30.0 million classified as current debt, and \$0.2 million in unamortized debt issuance costs.

**Cilion Purchase Obligation.** In connection with the merger between Aemetis Facility Keyes, Inc and Cilion, Inc. ("Cilion") on July 6, 2012, we incurred a \$5.0 million payment obligation to Cilion shareholders ("Cilion Obligation") as merger compensation. The liability accrues interest at 3% per annum. As of December 31, 2025, there was \$7.5 million in principal and interest outstanding under the Cilion Obligation.

**Subordinated Notes.** On January 6 and January 9, 2012, AAFK entered into Note and Warrant Purchase Agreements with two accredited investors pursuant to which it issued \$3.4 million in notes to the investors ("Subordinated Notes"). The Subordinated Notes mature every six months and the current maturity date is June 30, 2026. Upon maturity, the Subordinated Notes are renewable at our election for six-month periods with a fee of 10% of the original note amount added to the outstanding balance plus issuance of warrants exercisable for the purchase of 113 thousand shares of Aemetis, Inc. common stock at \$0.01 per share with a two-year term. Interest accrues at 10% per annum and is due at maturity. Neither AAFK nor Aemetis may make any principal payments under the Subordinated Notes until AAFK debts to Third Eye Capital are paid in full. As of December 31, 2025, and 2024, AAFK had, in aggregate, \$21.6 million and \$19.4 million in principal and interest outstanding, with \$0.5 and \$0.0 in unamortized discount costs, respectively, under the Subordinated Notes.

**EB-5 promissory notes.** EB-5 is a U.S. government program authorized by the Immigration and Nationality Act that is designed to foster employment-based visa preference for immigrant investors to encourage the flow of capital into the U.S. economy and to promote employment of U.S. workers. The Company's subsidiary AE Advanced Fuels, Inc. ("AEAF") entered into a Note Purchase Agreement dated March 4, 2011 (as further amended on January 19, 2012 and July 24, 2012) with Advanced BioEnergy, LP, a California limited partnership authorized by U.S. Citizenship and Immigration Services as a Regional Center to receive EB-5 investments, for the issuance of up to 72 subordinated convertible promissory notes (the "EB-5 Notes") bearing interest at 2 to 3%. The EB-5 Notes are convertible into Aemetis, Inc. common stock at a conversion price of \$30 per share. Advanced BioEnergy, LP received equity investments from foreign investors, and then Advanced BioEnergy, LP used the invested equity to make loans to AEAF. The EB-5 Notes are subordinated to the Company's senior secured debt to Third Eye Capital. On February 27, 2019, Advanced BioEnergy, LP, and AEAF entered into an Amendment to the EB-5 Notes that modified the stated maturity dates of the EB-5 Notes to provide automatic six-month extensions as long as the Advanced BioEnergy, LP investors' immigration processes are in progress. Accordingly, notes derived from Advanced BioEnergy, LP equity provided by investors pending green card approval have been recognized as long-term debt while notes derived from Advanced BioEnergy, LP equity provided by investors who have obtained green card approval have been classified as current debt. As of December 31, 2025 and 2024, \$21.9 million and \$17.1 million was classified as current debt, respectively, and \$13.0 million and \$17.5 million was classified as long-term debt, respectively.

In 2016, the Company launched its EB-5 Phase II funding (the "EB-5 Phase II Funding") and entered into certain Note Purchase Agreements with Advanced BioEnergy II, LP, a California limited partnership authorized to receive EB-5 equity funding investments. The Company's subsidiary Aemetis Advanced Products Keyes, Inc. received \$4 million in loan funds from Advanced BioEnergy II, LP from 2018 to 2019. As of December 31, 2025 and 2024, \$1.5 million and \$0.4 million in principal and fees was outstanding and classified as current debt on the notes under the EB-5 Phase II funding, respectively, and \$3.0 million and \$4.0 million was classified as long-term debt, respectively.

In July 2024, in connection with the settlement of litigation initiated by a broker previously engaged by Advanced BioEnergy, LP, we entered into an agreement to pay the broker certain of its claimed fees. In April 2025, that broker initiated litigation against Aemetis, Inc. to collect \$2.3 million (plus interest and fees) under the agreement. The liability previously accrued for the amount at issue in the litigation has been reclassified from debt as of December 31, 2024, to other current liabilities as of December 31, 2025.

**India Biodiesel Secured and Unsecured Loans.** On November 13, 2023, our subsidiary Universal Biofuels Private Limited ("UBPL") entered into a secured loan agreement with a trade partner in an amount not to exceed \$3.3 million that is secured by the fixed and current assets of the Kakinada Plant excluding accounts receivable from OMCs. On November 6, 2023, UBPL entered into a short-term loan agreement with a different trade partner in an amount not to exceed \$1.27 million. Each loan bears interest at 18% that is payable monthly, and each loan draw is due to repay within 12 months of the drawdown date. As of December 31, 2025 and 2024, UBPL had outstanding balances of \$0.0 million and \$5.1 million, respectively, under these agreements.

UBPL maintains a factoring arrangement under which it leverages certain trade receivables to receive short-term funding from a third-party financial institution. UBPL retains the risk of nonpayment on the transferred receivables, so the arrangement does not meet the criteria for sale accounting under

ASC 860, and we account for the funding as secured borrowing. Under this arrangement, UBPL receives cash advances that are recorded as debt, and the funds received are net of 8.1% interest which is recorded as interest expense. UBPL retains its accounts receivable balances in its balance sheet. During the year ended December 31, 2025, UBPL received a total of \$23 million in draws in this agreement, net of 8.1% interest. As of both December 31, 2025 and 2024, there was no outstanding debt under this agreement.

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**Aemetis Biogas 1 LLC Term Loan.** On October 4, 2022, Aemetis Biogas 1 LLC ("AB1") entered into a Construction Loan Agreement ("AB1 Construction Loan"), pursuant to which the lender made available an aggregate principal amount of \$25 million. Effective December 22, 2023, the AB1 Construction Loan was refinanced and replaced with a term loan ("AB1 Term Loan") that is secured by all personal and real property of AB1. It bears interest at a rate of 9.25% per annum, to be adjusted every five years to a rate equal to the five-year Treasury Constant Maturity Rate, as published by the Board of Governors of the Federal Reserve System as of the adjustment date, plus 5.00% or the index floor. Other material terms of the loan include: (i) monthly payments of interest only beginning January 22, 2024, (ii) equal monthly payments of principal and interest beginning January 22, 2025, and (iii) a maturity date of December 22, 2042, at which time the entire unpaid principal and accrued interest is due. The AB1 Term Loan contains certain financial covenants to be measured as of the last day of each fiscal year beginning fiscal year end 2025, and annually for the term of the loan. The AB1 Term Loan also contains other affirmative and negative covenants, representations and warranties and events of default customary for loan agreements of this nature. As of December 31, 2025 and December 31, 2024, AB1 had \$23.9 million and \$24.5 million in outstanding borrowings under this loan classified as long-term, respectively. As of both December 31, 2025 and 2024, AB1 had \$0.6 million balance classified as current portion of long-term debt.

**Aemetis Biogas 2 Construction and Term Loan.** On July 28, 2023, Aemetis Biogas 2 LLC ("AB2") entered into a Construction and Term Loan Agreement ("AB2 Loan"), pursuant to which, the lender made available an aggregate principal amount not to exceed \$25 million. The loan is secured by all personal and real property of AB2, and bears interest at 8.75% per annum, to be adjusted every five years equal to the five-year Treasury Constant Maturity Rate, as published by the Board of Governors of the Federal Reserve System as of the adjustment date, plus 5.00%. Other material terms of the AB2 Loan include: (i) monthly payments of interest only beginning August 15, 2023, (ii) equal monthly payments of principal and interest beginning August 15, 2025, and (iii) a maturity date of July 28, 2043, at which time the entire unpaid principal and accrued interest is due. The AB2 Loan contains certain financial covenants to be measured as of the last day of each fiscal year beginning fiscal year end 2025, and annually for the term of the loan. The AB2 Loan also contains other affirmative and negative covenants, representations and warranties and events of default customary for loan agreements of this nature. As of December 31, 2025 and 2024, AB2 had \$24.5 million and \$23.5 million in outstanding borrowings under this loan classified as long-term, and \$0.5 million and \$0.4 million classified as current portion of long-term debt, respectively. As of both December 31, 2025 and 2024, AB2 had \$0.8 million balance of unamortized debt issuance costs under the AB2 Loan.

**Jessup land acquisition notes.** In connection with its acquisition of land in November 2024, Aemetis RNG Fuels 1 LLC ("RNG1") entered into two installment note agreements with private lenders totaling \$840 thousand with interest payable monthly at 11.99% and maturity dates of December 1, 2026, and December 1, 2027. As of December 31, 2025 and 2024, RNG1 owed \$550 thousand and \$840 thousand on these notes, respectively.

**MVR construction financing.** In connection with the construction of the MVR system, AAFK entered into a construction agreement whereby it will pay the contractor the contract price 60 days following completion of the project. The unpaid costs accrue interest at 7.75% until payment. As of December 31, 2025, the balance owed was \$17.4 million, classified as short-term borrowings.

### **Maturity Date Schedule**

The following table shows scheduled debt maturities for the Company's loan obligations by year:

Twelve months ended December 31,	<b>Debt Repayments</b>
2026	\$ 317,869
2027	17,444
2028	1,270
2029	1,404
2030	1,538
Thereafter	42,990
<b>Total debt</b>	<b>382,515</b>
Debt issuance costs	(751)
<b>Total debt, net of debt issuance costs</b>	<b>\$381,764</b>

## **6. Leases**

The Company is a party to operating leases for our corporate office in Cupertino, modular offices, and laboratory facilities. We have also entered into several finance leases for mobile equipment and for the Riverbank Industrial Complex. These finance leases have a purchase option at the end of the term that we are reasonably certain we will exercise, so the leases are classified as finance leases. All of our leases have remaining term of one year to 13 years. We made an accounting policy election to keep leases with an initial term of 12 months or less off the balance sheet. We will recognize those lease payments in the Consolidated Statements of Operations as we incur the expenses.

We evaluate leases in accordance with ASC 842 – *Lease Accounting*. When discount rates implicit in leases cannot be readily determined, we use the applicable incremental borrowing rate at lease commencement to perform lease classification tests on lease components and to measure lease liabilities and right of use ("ROU") assets. The incremental borrowing rate we use is based on weighted average baseline rates commensurate with our secured borrowing rate, over a similar term. At each reporting period when there is a new lease initiated, the rates established for that quarter are used.

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The components of lease expense and sublease income is as follows:

	Twelve Months Ended December 31,	
	2025	2024
<b>Operating lease cost</b>		
Operating lease expense	\$ 780	\$ 764
Short term lease expense	274	95
Variable lease expense	92	90
Total operating lease cost	<u>\$ 1,146</u>	<u>\$ 949</u>
<b>Finance lease cost</b>		
Amortization of right-of-use assets	\$ 111	\$ 120
Interest on lease liabilities	368	345
Total finance lease cost	<u>\$ 479</u>	<u>\$ 465</u>

Cash paid for amounts included in the measurement of lease liabilities:

	Twelve Months Ended December 31,	
	2025	2024
Operating cash flows used in operating leases	\$ 860	\$ 791
Operating cash flows used in finance leases	368	345
Financing cash flows used in finance leases	168	179

Supplemental non-cash flow information related to the operating ROU asset and lease liabilities for the year ended December 31, 2025 and 2024:

	Twelve Months Ended December 31,	
	2025	2024
<b>Operating leases</b>		
Accretion of the lease liability	\$ 314	\$ 327
Amortization of right-of-use assets	466	437
<b>Weighted Average Remaining Lease Term</b>		
Operating leases (in years)	11.5	8.0
Finance leases (in years)	11.3	12.2
<b>Weighted Average Discount Rate</b>		
Operating leases	12.6%	13.7%
Finance leases	13.3%	13.3%

Supplemental balance sheet information related to leases was as follows:

	As of	
	December 31, 2025	December 31, 2024
<b>Operating leases</b>		
Operating lease right-of-use assets	\$ 2,256	\$ 2,237
Current portion of operating lease liability	554	534
Long term operating lease liability	1,778	1,809
Total operating lease liabilities	<u>2,332</u>	<u>2,343</u>
<b>Finance leases</b>		
Property and equipment, at cost	\$ 2,889	\$ 2,889
Accumulated depreciation	(460)	(349)
Property and equipment, net	<u>2,429</u>	<u>2,540</u>
Other current liability	251	244
Other long term liabilities	2,832	2,639
Total finance lease liabilities	<u>3,083</u>	<u>2,883</u>

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Maturities of lease liabilities are as follows:

Year Ended December 31,	<u>Operating leases</u>	<u>Finance leases</u>
2026	\$ 803	\$ 145
2027	753	145
2028	380	145
2029	107	145
2030	110	145
Thereafter	2,115	9,815
<b>Total lease payments</b>	<b>4,268</b>	<b>10,540</b>
Less imputed interest	(1,936)	(7,457)
<b>Total lease liability</b>	<b>\$ 2,332</b>	<b>\$ 3,083</b>

We act as sublessor in certain leasing arrangements, primarily related to land and buildings. Fixed sublease payments received are recognized on a straight-line basis over the sublease term. Sublease income and head lease expense for these transactions are recognized on net basis on the consolidated financial statements. Sublease income is recorded within the Selling, general, and administrative expenses section of the Consolidated Statements of Operations and Comprehensive Loss.

The components of lease income for the years ended December 31, 2025 and 2024, were as follows:

	<u>December 31, 2025</u>	<u>December 31, 2024</u>
Lease income	\$ 2,705	\$ 2,196

Future lease commitments to be received by the Company as of December 31, 2025, are as follows:

<u>Year ended December 31,</u>	
2026	\$ 1,676
2027	1,685
2028	1,609
2029	1,598
2030	220
Thereafter	-
<b>Total future lease commitments</b>	<b>\$ 6,788</b>

#### 7. Aemetis Biogas LLC - Series A Preferred Financing and Variable Interest Entity

On December 20, 2018, Aemetis Biogas LLC ("ABGL") entered into a Series A Preferred Unit Purchase Agreement for the sale of Series A Preferred Units to Protair-X Americas, Inc., with Third Eye Capital acting as an agent. ABGL is authorized to issue 11,000,000 common units and 6,000,000 convertible, redeemable, secured, preferred membership units (the "Series A Preferred Units"). ABGL issued 6,000,000 common units to Aemetis, Inc. at a stated value of \$5.00 per common unit, and 5,000,000 common units of ABGL are held in reserve as potential conversion units issuable to the Preferred Unit holder upon certain triggering events. From inception of the agreement through 2022, ABGL issued 6,000,000 Series A Preferred Units in exchange for \$30.0 million in funding, reduced by a redemption of 20,000 Series A Preferred Units for \$0.3 million. The original Preferred Unit Purchase Agreement included requirements for preference payments and mandatory redemption, grant of a security interest to the Preferred Unit holder in all assets of ABGL and its subsidiaries in connection with the preference payments due under the agreement, and several operating covenants.

The Preferred Unit Purchase Agreement has been amended multiple times. In October 2025, ABGL entered into an agreement entitled Tenth Waiver and Amendment to Series A Preferred Unit Purchase Agreement ("PUPA Tenth Amendment") with an effective date of August 31, 2025, that, among other provisions, extended the date by which ABGL is required to redeem all of the outstanding Series A Preferred Units to December 31, 2025, and changed the aggregate redemption price to \$118.8 million, which included a \$2 million incremental fee for the PUPA Tenth Amendment. The PUPA Tenth Amendment further provided that if ABGL did not redeem the Series A Preferred Units by the redemption date, ABGL would enter into a credit agreement with Protair-X and Third Eye Capital effective as of January 1, 2026, and maturing January 1, 2027, and specifies that entry into such credit agreement will satisfy the obligation to redeem the Series A Preferred Units. The credit agreement would bear an interest rate equal to the greater of (i) prime rate plus 10.0% and (ii) 16.0%. We evaluated this amendment in accordance with ASC 470 and applied troubled debt restructuring accounting, resulting in no gain or loss. In addition, consistent with ASC 470-60, we accreted the amount of principal and interest due using the effective interest method from the starting liability of the amendment to the amount that would be due as of the maturity date of the credit agreement. In December 2025 \$6.1 million payment was applied to the PUPA redemption price using proceeds from the December tax credit sales. As of December 31, 2025 and 2024, the balance of Series A Preferred Unit liabilities was \$126.9 million and \$126.6 million, respectively.

In February 2026, ABGL entered into an agreement entitled Eleventh Waiver and Amendment to Series A Preferred Unit Purchase Agreement ("PUPA Eleventh Amendment") with an effective date of December 31, 2025, that, among other provisions, extends the date by which ABGL is required to redeem all of the outstanding Series A Preferred Units to April 30, 2026, and changes the aggregate redemption price to \$114.7 million, which reflects the payment in December 2025 and includes a \$2 million incremental fee for the PUPA Eleventh Amendment. The PUPA Eleventh Amendment further provides that if ABGL does not redeem the Series A Preferred Units by the redemption date, ABGL will enter into a credit agreement with Protair-X and Third Eye Capital effective as of May 1, 2026, and maturing May 1, 2027, in the form attached to the PUPA Eleventh Amendment, and specifies that entry into such credit agreement will satisfy the obligation to redeem the Series A Preferred Units. The credit agreement would bear an interest rate equal to the greater of (i) prime rate plus 10.0% and (ii) 16.0%.



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*Variable interest entity assessment*

After consideration of ABGL's operations and the above agreement, we concluded that ABGL did not have enough equity to finance its activities without additional financial support. ABGL is capitalized with Series A Preferred Units that are recorded as liabilities under U.S. GAAP. Hence, we concluded that ABGL is a VIE. Through our ownership interest in all of the outstanding common stock, its current ability to control the board of directors, the management fee paid to Aemetis and control of subordinated financing decisions, Aemetis has been determined to be the primary beneficiary and accordingly, the assets, liabilities, and operations of ABGL are consolidated into those of the Company. ABGL's total assets before intercompany eliminations as of December 31, 2025, were \$136.2 million which serve as collateral for the Series A Preferred Units.

## 8. Equity

### *Common Stock*

As of December 31, 2025 and 2024, Aemetis, Inc. is authorized to issue 80 million shares of common stock, \$0.001 par value per share. Effective February 18, 2026, we amended the Aemetis, Inc. Certificate of Incorporation to increase the number of authorized shares of common stock to 140 million.

### *Dividends*

We have not declared or paid cash dividends on common stock. We currently expect to use future earnings to operate or expand our business and to reduce outstanding debt and therefore do not anticipate paying cash dividends in the foreseeable future. In addition, we currently have covenants in certain of our debt agreements that prohibit paying dividends without the consent of the applicable lender.

### *Preferred Stock*

Aemetis, Inc. is authorized to issue up to 65 million shares of preferred stock, \$0.001 par value per share. As of December 31, 2025 and 2024, Aemetis, Inc. has no outstanding shares of preferred stock.

### *Convertible Securities*

The following table shows the number of shares of common stock that could be issued pursuant to outstanding convertible securities:

	As of	
	<u>December 31, 2025</u>	<u>December 31, 2024</u>
Common stock options and warrants	9,208	7,731
Debt with conversion feature at \$30 per share of common stock	1,164	1,153
Total number of potentially dilutive shares excluded from the diluted net (loss) per share calculation	<u>10,372</u>	<u>8,884</u>

## 9. Warrants to Purchase Common Stock

During 2025, Aemetis, Inc. issued warrants to two lenders exercisable for the purchase of 339,999 shares of common stock at an exercise price of \$0.01 per share with a term of two years in connection with extensions of the lenders' notes. Some of these warrants were exercised within 2025 with a combination of cashless exercise and cash payments.

The following table summarizes warrant activity for the years ended December 31, 2025 and 2024:

	Warrants Outstanding & Exercisable	Weighted - Average Exercise Price	Average Remaining Term in Years
Outstanding December 31, 2023	530	\$ 11.70	5.77
Granted	226	0.01	
Exercised	(226)	0.01	
Outstanding December 31, 2024	530	\$ 11.70	4.78
Granted	339	0.01	
Exercised	(226)	0.01	
Expired	(45)	2.59	
Outstanding December 31, 2025	<u>598</u>	<u>\$ 10.17</u>	<u>3.73</u>

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The following table shows the weighted average fair value calculations for warrants granted based on the listed weighted average assumptions:

Description	For the year ended December 31,	
	2025	2024
Dividend-yield	0%	0%
Risk-free interest rate	3.81%	4.50%
Expected volatility	89.31%	99.86%
Expected life (years)	2	2
Exercise price per share	\$ 0.01	\$ 0.01
Market value per share on grant date	\$ 2.19	\$ 4.05
Fair value per share on grant date	\$ 2.18	\$ 4.04

All of the above outstanding warrants are vested and exercisable as of December 31, 2025.

## 10. Stock-Based Compensation

### 2019 Stock Plan

The Aemetis, Inc. Amended and Restated 2019 Stock Plan (the "2019 Stock Plan") allows our Board or delegated Board committee to grant Incentive Stock Options, Non-Statutory Stock Options, Stock Appreciation Rights, Restricted Stock, Restricted Stock Units, Performance Units, Performance Shares, and other stock or cash awards to employees, Directors, and consultants. The 2019 Stock Plan has a term of 10 years from the original approval date of April 25, 2019, and supersedes all prior stockholder approved plans with respect to new grants. Options issued under prior plans remain outstanding and exercisable according to their terms. The 2019 Stock Plan authorized a total pool of 4,558,621 shares as of July 1, 2021, including all outstanding option grants under all plans and all shares then available for issuance under the 2019 Stock Plan as of that date. Shares within this pool that expire or terminate unused become available for a subsequent grant. In addition, the number of shares available for issuance automatically increases on January 1 of each year by an amount equal to 4% of the sum of total common stock outstanding on January 1 and 2,541,823 shares.

Pursuant to the 2019 Stock Plan, we issued options to employees exercisable for 1.8 million shares of common stock during both years ended December 31, 2025 and 2024, each with a 10-year term and 3-year vesting schedule. We issued 396 thousand shares and 428 thousand shares of restricted stock awards to Board members and officers during the years ended December 31, 2025 and 2024, respectively, with a weighted average fair value on date of grant of \$ 2.73 and \$ 3.10 per share, respectively for those same time periods. In 2025 and 2024, the common stock issuances included 28 thousand and 65 thousand shares issued to an executive and board members, respectively, to satisfy accrued payables due and board fees due, and the cost for those shares is not included in stock-based compensation expense.

The following table summarizes activity under the 2019 Stock Plan during 2024 and 2025:

	Shares Available for Grant	Number of Shares Outstanding	Weighted-Average Exercise Price
Balance as of December 31, 2023	456	5,526	\$ 4.42
Authorized	1,740	-	-
Options granted	(1,776)	1,776	3.10
Common stock issued	(428)	-	-
Exercised	-	(15)	2.56
Forfeited/expired	86	(86)	6.89
Balance as of December 31, 2024	78	7,201	\$ 4.06
Authorized	2,148	-	-
Options granted	(1,835)	1,835	2.73
Common stock issued	(396)	-	-
Exercised	-	(340)	0.76
Forfeited/expired	86	(86)	4.34
Balance as of December 31, 2025	81	8,610	\$ 3.91

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The following table summarizes vested and unvested option awards outstanding as of December 31, 2025 and 2024:

	Number of Shares	Weighted Average Exercise Price	Remaining Contractual Term (In Years)	Aggregate Intrinsic Value <sup>1</sup>
<b>2025</b>				
Vested and Exercisable	6,418	\$ 4.26	5.89	\$ 1,033
Unvested	2,192	2.88	8.63	-
<b>Total</b>	<b>8,610</b>	<b>\$ 3.91</b>	<b>6.59</b>	<b>\$ 1,033</b>
<b>2024</b>				
Vested and Exercisable	5,245	\$ 4.17	6.08	\$ 4,021
Unvested	1,955	3.80	8.68	47
<b>Total</b>	<b>7,201</b>	<b>\$ 4.06</b>	<b>7.55</b>	<b>\$ 4,068</b>

Note 1: Intrinsic value based on the \$1.39 and \$2.69 closing price of Aemetis, Inc. common stock on December 31, 2025 and 2024, respectively, as reported on the NASDAQ Exchange.

### *Stock-based Compensation Expense*

Stock-based compensation is accounted for in accordance with ASC 718, *Compensation - Stock Compensation*, which requires the measurement and recognition of compensation expense for all stock-based awards made to employees, directors, and consultants based on an estimated fair value on the grant date. We estimate the fair value using the Black-Scholes option pricing model and recognize that fair value as an expense over the vesting period of each grant using the straight-line method. We only record compensation cost for vested options. The Black-Scholes valuation model for stock based compensation expense requires us to make assumptions and judgments about the variables used in the calculation, including the expected term (the period of time that the options granted are expected to be outstanding), the volatility of our common stock, a risk-free interest rate, expected dividends, and expected forfeitures. We use the simplified calculation of expected term described in SEC Staff Accounting Bulletin Topic 14, *Share-Based Payment*. Volatility is based on an average of the historical volatility of Aemetis, Inc. common stock during the period of time preceding the date of option issuance that matches the term of the option grant. The risk-free interest rate is based on the U.S. Treasury yield curve in effect at the time of grant for the treasury maturity term corresponding with the expected life of the option. We use an expected dividend yield of zero, as we do not anticipate paying any dividends in the foreseeable future. Expected forfeitures are assumed to be zero due to the small number of plan participants. To the extent actual forfeitures occur, the difference is recorded as an adjustment in the scheduled expense during the period of the forfeiture.

The weighted average fair value calculations for options granted during the years ended 2025 and 2024 are based on the following assumptions:

Description	For the year ended December 31,	
	2025	2024
Dividend-yield	0%	0%
Risk-free interest rate	4.29%	3.93%
Expected volatility	113.50%	115.41%
Expected life (years)	5.81	5.81
Market value per share on grant date	\$ 2.73	\$ 3.10
Fair value per share on grant date	\$ 2.31	\$ 2.65

For the years ended December 31, 2025 and 2024, we recorded stock-based compensation expense in the amount of \$5.8 million, and \$8.3 million, respectively. As of December 31, 2025, we had \$ 3.9 million of total unrecognized compensation expense for option issuance that we will amortize over the remaining vesting period of each individual option grant. The outstanding unvested options have a remaining weighted average vesting term of 1.7 years.

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## 11. Revenue and Accounts Receivable

*California Ethanol:* We sell most of our fuel ethanol segment products to J.D. Heiskell which sells them to third parties designated by us. We invoice J.D. Heiskell each business day with payment due upon invoicing, with no variable consideration, and no financing options. We record revenue as invoiced, which is when performance obligations have been met, and do not collect any advance payments for products at the ethanol segment, so there is no unearned revenue as of December 31, 2025. We also buy our corn feedstock from J.D. Heiskell. Transaction prices for ethanol sales and corn purchases are based on daily market prices, and J.D. Heiskell pays us the net balance between ethanol and other product sales and our corn purchases. We record the full purchase cost as costs of goods sold. There are no significant obligations for returns, refunds, or warranties in the ethanol segment.

Given the similarity of the individual sales transactions with J.D. Heiskell, we have assessed them as a portfolio of similar contracts. The performance obligation for ethanol is satisfied at the point in time of delivery of the physical product to our finished goods tank leased by J.D. Heiskell, at which point the customer has the ability to direct the use of the product and receive substantially all of the benefits, and the risk of loss passes to the customer, and thus we are the principal in the ethanol segment sales to J.D. Heiskell. The transaction price is determined based on daily market prices and quarterly contract pricing negotiated by Murex for its customers for ethanol and based on dry distillers' market and local demand by our marketing partner A.L. Gilbert Company ("A.L. Gilbert") for WDG. The transaction price is allocated to one performance obligation. For the other ethanol segment products, our performance obligations are satisfied at the point in time when the product leaves the Keyes Plant premises on the transportation truck, at which point the customer has the ability to direct the use of the product and receive substantially all of the benefits, and the risk of loss passes to the customer.

The following table shows our sales in California Ethanol by product category:

<b>California Ethanol</b>	<b>For the Year Ended December 31,</b>	
	<b>2025</b>	<b>2024</b>
Ethanol sales	\$ 115,830	\$ 118,878
Wet distiller's grains sales	29,981	36,214
Other sales	7,423	6,664
	<u>\$ 153,234</u>	<u>\$ 161,756</u>

*California Dairy Renewable Natural Gas:* Our facilities as of December 31, 2025 consist of twelve anaerobic digesters that process feedstock from dairies into biogas, a 36-mile collection pipeline leading to a central upgrading hub, and an interconnect to inject the gas into the utility natural gas pipeline for delivery to customers for use as transportation fuel. We recognize revenue from gas sales concurrent with injection of gas into the pipeline, at which point our performance obligation has been met. In connection with dispensing the RNG, we also generate sellable credits under the federal Renewable Fuel Standard (referred to as "D3 RINs"), and the California Low Carbon Fuel Standard credits ("LCFS"). We recognize revenue from sales of D3 RINs and LCFS credits at the time we sell the credits under ASC 606 guidance. We record a liability for unearned revenue on the limited occasions in which the renewable natural gas segment receives payment from customers prior to the performance obligations being fulfilled. As of December 31, 2025 and 2024, we had \$0 and \$1.6 million as liabilities for unearned revenue, respectively, with the revenue for the 2024 balance recognized in January 2025 after the performance obligations were fulfilled.

<b>Dairy Renewable Natural Gas</b>	<b>For the Year Ended December 31,</b>	
	<b>2025</b>	<b>2024</b>
Gas sales	\$ 1,331	\$ 907
LCFS credit sales	4,736	2,922
RIN sales	8,663	9,208
Total	<u>\$ 14,730</u>	<u>\$ 13,037</u>

*India Biodiesel:* We sell products pursuant to purchase orders (written or verbal) or by contract with governmental or international parties, in which performance is satisfied at the point in time when the physical product is delivered and accepted. Given that the contracts are sufficiently similar in nature, we have assessed these contracts as a portfolio of similar contracts as allowed under the practical expedient. Doing so does not result in a materially different outcome compared to individually accounting for each contract. All domestic and international deliveries are subject to certain specifications as identified in contracts. The transaction price is determined based on reference market prices for biodiesel, refined glycerin, and PFAD net of taxes. Transaction price is allocated to one performance obligation. The India segment records a liability for advance payments received from customers, and revenue is generally recognized shortly after each reporting period once performance obligations are fulfilled; the balance for unearned income at the India segment is not material to our company.

The following table shows our sales in India by product category:

<b>India Biodiesel</b>	<b>For the Year Ended December 31,</b>	
	<b>2025</b>	<b>2024</b>
Biodiesel sales	\$ 23,511	\$ 86,653
Other sales	6,151	6,194
	<u>\$ 29,662</u>	<u>\$ 92,847</u>

Accounts receivable for all segments represent invoicing for products with varying payment terms, but with no variable consideration or financing. The opening balance of accounts receivable for all segments as of January 1, 2024, was \$8.6 million, and the closing balances as of December 31, 2025 and 2024, were \$0.5 million and \$1.8 million, respectively.

AEMETIS, INC.  
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## 12. Agreements

**Working Capital Arrangement.** Pursuant to a Corn Procurement and Working Capital Agreement with J.D. Heiskell, AAFK procures whole yellow corn from J.D. Heiskell. AAFK has the ability to obtain grain from other sources subject to certain conditions; however, in the past all AAFK grain purchases have been from J.D. Heiskell. Title to and risk of loss of the corn pass to AAFK when the corn is deposited into the Keyes Plant weigh bin. Pursuant to a separate agreement entered in May 2023, J.D. Heiskell also purchases all of our ethanol, WDG, corn oil, and CDS and sells them to purchasers designated by us. We have designated Murex to purchase and market ethanol and A.L. Gilbert to purchase and market WDG and corn oil. Our relationships with J.D. Heiskell, Murex, and A.L. Gilbert are well established, and we believe that the relationships are beneficial to all parties involved in utilizing the distribution logistics, reaching a widespread customer base, managing inventory, and providing working capital relationships.

The following table summarizes the J.D. Heiskell purchase and sales activity during the years ended December 31, 2025 and 2024:

	As of and for the twelve months ended December 31,	
	2025	2024
Ethanol sales	\$ 115,830	\$ 116,236
Wet distiller's grains sales	29,981	36,214
Corn oil sales	6,531	5,671
CDS sales	57	103
Corn purchases	120,148	130,439
Accounts receivable	-	25
Accounts payable	46	-

### **Ethanol and Wet Distillers Grains Marketing Arrangement.**

The agreements with J.D. Heiskell, Murex, and A.L. Gilbert include marketing and transportation services. For the years ended December 31, 2025 and 2024, we expensed marketing costs of \$2.4 million and \$2.6 million, respectively, in connection with the marketing arrangements and these costs included in Selling, General, and Administrative expense.

For the year ended December 31, 2025, we expensed \$4.6 million in transportation costs related to sales of ethanol and \$5.4 million related to sales of WDG. For the year ended December 31, 2024, we expensed \$3.8 million in transportation costs related to sales of ethanol, and \$6.0 million related to sales of WDG. Transportation costs are included in costs of goods sold.

**Supply Trade Agreement.** On July 1, 2022, we entered into an operating agreement with Gemini Edibles and Fats India Private Limited ("Gemini") pursuant to which Gemini supplies the Company with feedstock up to a credit limit of \$11.1 million with collateral interest in inventories, current assets, and fixed assets. If the Company fails to pay an invoice within the ten-day credit period, the outstanding balance bears interest at 18%. The agreement matures in July 2026, and either party can terminate the agreement by giving one month's notice in writing. As of December 31, 2025 and 2024, we had accounts payable of \$0.0 million and \$6.2 million, respectively, under this agreement.

**Natural Gas Purchase Agreement.** As of December 31, 2025, we have forward purchase agreement in place to buy approximately 3,700 thousand MMBtu of natural gas per day at a NYMEX index plus \$1.08 through March 31, 2026. We elected to apply the *normal purchases and normal sales scope exception under ASC 815*, hence the natural gas purchased under this agreement is accounted for and included as cost of goods sold in our financial statements.

**AEMETIS, INC.**  
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### 13. Segment Information

Aemetis recognizes three reportable segments “California Ethanol,” “California Dairy Renewable Natural Gas,” and “India Biodiesel.”

The “California Ethanol” reportable segment includes our 65 million gallon per year ethanol plant in Keyes, California, and the adjacent land leased for the production of CO<sub>2</sub>.

The “California Dairy Renewable Natural Gas” reportable segment includes the production and sale of Renewable Natural Gas and associated environmental attributes. It consists of anaerobic digesters located at dairies, a 36 mile biogas collection pipeline, a biogas upgrading hub that produces Renewable Natural Gas from biogas, a pipeline interconnect, and ongoing construction of additional digesters.

The “India Biodiesel” reportable segment includes our 80 million gallon per year biodiesel manufacturing plant in Kakinada India, and administrative offices in Hyderabad, India.

We have additional operating segments that we have determined to not be separately reportable segments, including our key projects under development which consists of sustainable aviation fuel and renewable diesel production in Riverbank and Carbon Capture and Underground Sequestration wells in California. Additionally, our corporate offices, Goodland Plant in Kansas, Riverbank Industrial Complex management, and our research and development facility in Minnesota are included in the “All Other” category.

For all segments, our Chief Executive Officer is the Chief Operating Decision Maker (“CODM”). The CODM uses EBITDA to assess segment performance, as calculated in the tables below. The CODM manages and allocates resources to the operations of each segment. This enables the CEO to assess our overall level of available resources and determine how best to deploy these resources for capital expenditures and other strategic opportunities that are in line with our long-term strategic goals. The CODM is regularly provided with consolidated revenues and expense information or forecasted expense information for the applicable reportable segments. The CODM does not review total assets by segment for purposes of assessing segment performance and these are not included in the tables below. The CODM assesses segment operation levels and allocates operating expenses accordingly to each segment, as indicated in the totals below.

The following tables summarize financial information by reportable segment for the years ended December 31, 2025 and 2024:

	For the year ended December 31, 2025				
	California Ethanol	California Dairy Renewable Natural Gas	India Biodiesel	All other	Total
Revenues from external customers	\$ 153,234	\$ 14,730	\$ 29,662	\$ -	\$ 197,626
Production Tax Credits	5,112	5,243	-	-	10,355
Gross profit (loss)	(9,658)	9,626	(736)	-	(768)
Net Income (Loss)	(48,894)	6,864	(2,758)	(32,213)	(77,001)
Interest expense including amortization of debt fees	33,744	3,988	771	14,409	52,912
Depreciation and amortization	4,292	4,250	782	301	9,625
Bad debt expense	-	385	-	-	385
Impairment of intangible asset	43	-	-	-	43
Accretion and other expenses of Series A preferred units	-	8,226	-	-	8,226
Stock-based compensation expense	-	-	-	5,771	5,771
Stock issued for services	-	-	-	200	200
Gain on extinguishment of liability	-	-	(1,007)	-	(1,007)
Gain on asset disposals	-	-	(4)	-	(4)
ITC credits monetized (reported within Income tax expense (benefit))	-	(18,034)	-	-	(18,034)
Income tax expense (benefit)	-	10	(734)	11	(713)
EBITDA	(10,815)	5,689	(2,950)	(11,521)	(19,597)
Capital expenditures	14,964	8,906	741	1,391	26,002
Total assets	71,861	113,643	21,486	52,851	259,841
Allocation of corporate overhead expenses to segments	(10,619)	(14,454)	(2,292)	27,365	-

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	For the year ended December 31, 2024				
	California				
	California Ethanol	Dairy Renewable Natural Gas	India Biodiesel	All other	Total
Revenues from external customers	\$ 161,756	\$ 13,037	\$ 92,847	\$ -	\$ 267,640
Gross profit (loss)	(13,792)	5,395	7,817	-	(580)
Net Income (Loss)	(50,874)	(9,101)	4,348	(31,910)	(87,537)
Interest expense including amortization of debt fees	31,159	3,045	1,108	11,309	46,621
Depreciation and amortization	4,257	3,079	818	233	8,387
Accretion and other expenses of Series A preferred units	-	12,698	-	-	12,698
Stock-based compensation expense	-	-	-	8,314	8,314
Gain on extinguishment of debt	(162)	-	-	-	(162)
Loss on asset disposals	3,702	-	-	-	3,702
ITC credits monetized (reported within Income tax expense (benefit))	(4,150)	(8,124)	-	-	(12,274)
Income tax expense (benefit)	-	9	1,426	7	1,442
<b>EBITDA</b>	<b>(16,068)</b>	<b>1,606</b>	<b>7,700</b>	<b>(12,047)</b>	<b>(18,809)</b>
Capital expenditures	1,399	15,376	1,506	1,973	20,254
Total assets	56,628	112,441	37,587	52,646	259,302
Allocation of overhead expenses	(4,397)	(17,650)	(2,889)	24,936	-

*California Ethanol:* Sales of ethanol, WDG, and corn oil to one customer (J.D. Heiskell) accounted for 99% and 98% of our California Ethanol segment revenues for the years ended December 31, 2025 and 2024, respectively.

*California Dairy Renewable Natural Gas:* Sales of renewable natural gas during the years ended December 31, 2025 and 2024, were from sales to a single customer. We sold D3 RINs, LCFS credits, and PTCs to three other customers.

*India Biodiesel:* During the year ended December 31, 2025, three biodiesel customers accounted for 34%, 23%, and 23% of our India Biodiesel segment revenues. During the year ended December 31, 2024, three biodiesel customers accounted for 40%, 32% and 21% of our India Biodiesel segment revenues.

#### 14. Grants Received

*California Energy Commission Low-Carbon Fuel Production Program.* We have been awarded \$4.2 million in matching grants from the California Energy Commission Low-Carbon Fuel Production Program (“LCFPP”). The LCFPP grant reimburses us for costs to design, procure, and install processing facility to clean-up, measure and verify negative-carbon intensity dairy renewable natural gas fuel at the production facility in Keyes, California. We have received \$4.2 million from the LCFPP as of December 31, 2025, as reimbursement for actual costs incurred. Due to the uncertainty associated with the approval process under the grant program, we recognized the grant as a reduction of costs in the period when payment is received.

*California Department of Food and Agriculture Dairy Digester Research and Development Grant.* In 2019, we were awarded \$3.2 million in matching grants from the California Department of Food and Agriculture (“CDFA”) Dairy Digester Research and Development program. The CDFa grant reimburses us for costs required to permit and construct two of the Company’s biogas capture systems under contract with central California dairies. The Company received all the awarded grant proceeds as of the second quarter of 2021.

In October 2020, we were awarded \$7.8 million in matching grants from the CDFa Dairy Digester Research and Development program. The CDFa grant reimburses the Company for costs required to permit and construct six of the Company’s biogas capture systems under contract with central California dairies. The Company has received \$6.8 million from the CDFa 2020 grant program as of December 31, 2025, as reimbursement for actual costs incurred. Due to the uncertainty associated with the approval process under the grant program, the Company recognized the grant as a reduction of costs in the period when payment is received.

*California Energy Commission Low Carbon Advanced Ethanol Grant Program.* In May 2019, we were awarded the right to receive reimbursements from the California Energy Commission Community-Scale and Commercial-Scale Advanced Biofuels Production Facilities grant under the Alternative and Renewable Fuel and Vehicle Technology Program in an amount up to \$5.0 million (the “CEC Reimbursement Program”) in connection with our expenditures toward the development of the Riverbank Cellulosic Ethanol Facility. To comply with the guidelines of the CEC Reimbursement Program, we must make a minimum of \$7.9 million in matching contributions to the Riverbank project. We receive funds under the CEC Reimbursement Program for actual expenses incurred up to \$5.0 million as long as we make the minimum matching contribution. Given that we did not make the minimum matching contribution, the California Energy Commission did not extend the due date and would not move forward with this grant program. We are repaying the funded grant, and as of December 31, 2025, we hold a current liability of \$0.7 million representing the remaining payments to be made in 2026.

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*California Energy Commission Grant for Solar Microgrid, DSC and Battery Backup System.* Aemetis Advanced Fuels Keyes (“AAFK”) has been awarded an \$8.0 million grant to design, construct and commission a grid-connected 1.56 MW photovoltaic microgrid and 1.25MW/2.5MWh Battery Energy Storage System integrated with an artificial intelligence-driven distributed control system (“DCS”). We have made the required \$1.6 million in grant matching contributions. AAFK received \$5.9 million in grant funds from this program as reimbursement for actual expenditures incurred through December 31, 2025. Due to the uncertainty associated with the approval process under the grant program, we recognize the grant as a reduction of costs in the period when payment is received.

*California Department of Forestry and Fire Protection Grant.* Our SAF segment entity has been awarded \$2 million in matching grants from the CAL FIRE Business and Workforce Development Grant Program (“CAL Fire”) in May 2022, and the program expires on March 31, 2026. This CAL Fire grant program reimburses the entity for costs to design, construct, and commission a 2 million gallon per year cellulosic ethanol facility that will convert conifer biomass from forested regions of the Sierra Nevada into an ultra-low carbon biofuel derived from 100% forest biomass (“CAL Fire Conversion Program”). We must contribute \$5.8 million in cost share contributions to the project to receive grant proceeds. We have received no grant funds from the CAL Fire Conversion Program as reimbursement for actual costs through December 31, 2025.

*California Department of Forestry and Fire Protection Grant.* Our SAF segment entity has been awarded \$500 thousand in grants from CAL Fire in May 2022 and the program expired on March 31, 2025. This CAL Fire grant program reimburses the entity for costs to advance a new-to-the world technology that circumvents current limitations surrounding the extraction of cellulosic sugars by pioneering a novel route for deconstructing woody biomass using ionic liquids (“CAL Fire Extraction Program”). We received no grant funds from the CAL Fire Extraction Program as reimbursement for actual costs through December 31, 2025.

*U.S. Forest Service Community Wood Grant.* Our SAF segment entity has been awarded \$642 thousand in matching grants from the U.S Forest Service Wood Innovations Program (“USFS”) in May 2022 and the program expires August 23, 2027. The USFS grant program reimburses the entity for costs to design, construct, and commission a plant to produce cellulosic ethanol using preliminary research and development in partnership with the Joint Bioenergy Institute (“JBEI”). USFS grant funds will be used to complete the FEL-3 design phase of the entire process, construct a biomass pretreatment unit to extract sugars at the Aemetis Riverbank site and ferment sugars into ethanol at the Keyes Plant. We must contribute \$2.4 million in cost share contributions to the project to receive grant proceeds. AAFK has received no grant funds from the USFS grant program as reimbursement for actual costs through December 31, 2025.

*California Energy Commission Grant for Mechanical Vapor Recompression System.* Our Ethanol segment entity has been awarded a \$6.0 million grant to design, construct and commission a mechanical vapor recompression (“MVR”) system. The additional evaporation stages will eliminate natural gas consumption and related greenhouse gas emissions in the evaporation portion of the process by installing metering equipment and software to monitor and optimize the plant’s energy consumption. The MVR system will compress vapor to a higher pressure and temperature so that it can be recycled multiple times as steam heat in the evaporation process, which will dramatically reduce natural gas use. The grant requires \$5.3 million in matching contributions. We have received \$4 million from this program as reimbursement for actual expenditures incurred through December 31, 2025. Due to the uncertainty associated with the approval process under the grant program, we will recognize future grant proceeds received as a reduction of costs in the period when payment is received.

*Pacific Gas and Electric SEM Manufacturer’s Incentive Program.* Since entering the SEM program in 2019, AAFK has been awarded \$1.1 million in potential benefits through incentive payments and reduced utility costs. Aemetis has installed energy efficient equipment throughout the Keyes facility as a requirement, and Third-Party consultants verify natural gas reductions for PG&E. To date, we have received \$599 thousand in direct incentive payments, and the remaining amount is expected to be realized in utility cost savings.

## 15. Related Party Transactions

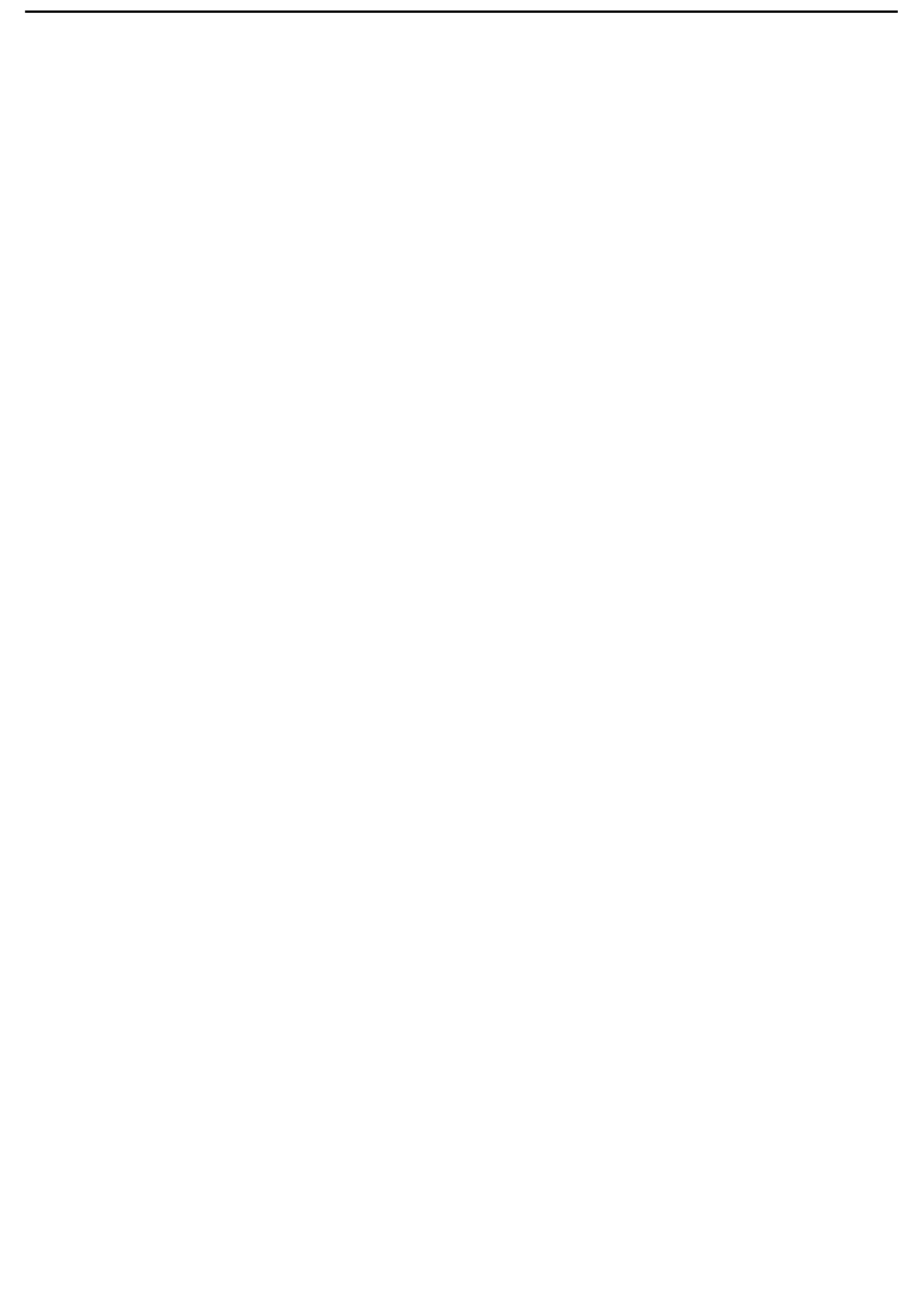
We owe Eric McAfee, our Chairman and CEO, and McAfee Capital, owned by Eric McAfee, \$1.6 million in connection with employment agreements, bonus awards, expense reimbursements, and guarantee fees in connection with Mr. McAfee's and McAfee Capital's guarantees of the Company's indebtedness with Third Eye Capital as of December 31, 2025.

## 16. Income Tax

We file a consolidated federal income tax return including all its domestic subsidiaries except for Aemetis Biogas LLC (and its subsidiaries), which files its own returns. State tax returns are filed on a consolidated, combined or separate basis depending on the applicable laws relating to the Company and its subsidiaries.

Components of tax expense consist of the following:

	2025	2024
<b>Current:</b>		
Federal	\$ (18,034)	\$ (12,276)
State and Local	21	18
Foreign	235	1,467
	<u>(17,778)</u>	<u>(10,791)</u>
<b>Deferred:</b>		
Foreign	(969)	(41)
<b>Income tax benefit</b>	<u>\$ (18,747)</u>	<u>\$ (10,832)</u>



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U.S. loss and foreign income (loss) before income taxes are as follows:

	<b>Year Ended December 31,</b>	
	<b>2025</b>	<b>2024</b>
United States	\$ (93,262)	\$ (104,143)
Foreign	(2,486)	5,774
Pretax loss	<u>\$ (95,748)</u>	<u>\$ (98,369)</u>

The table below provides the updated requirements of ASU 2023-09 for our effective tax rate for the year ended December 31, 2025.

	<b>Year Ended December 31, 2025</b>	
	<b>Amount</b>	<b>Percent</b>
Tax at Federal Statutory Rate	\$ (20,107)	21.00%
State and local income tax, net of federal (national) income tax effect *	16	-0.02%
Foreign tax effects	(213)	0.22%
Effect of cross-border tax laws	-	0.00%
<b>Tax credits</b>		
Sale of Section 48 Energy Tax Credits	(18,034)	18.83%
R&D Tax Credit	(18)	0.02%
Changes in valuation allowances	18,890	-19.73%
<b>Nontaxable or nondeductible items</b>		
Tax free income - Sale of tax credits	(2,175)	2.27%
Federal Fixed Asset Tax Basis Reduction - Tax Credits	1,293	-1.35%
Stock Compensation	338	-0.35%
Other non-deductible expenses	351	-0.37%
Changes in unrecognized tax benefits	-	0.00%
Other adjustments	912	-0.94%
Provision (Benefit) for Income Taxes	<u>(18,747)</u>	<u>19.58%</u>

\*California makes up the majority of state tax expense in this category

As previously disclosed, our income tax benefit for the year ended December 31, 2024, prior to the adoption of ASU 2023-09, differs from the amounts computed by applying the statutory U.S. federal income tax rate (21%) to loss before income taxes as a result of the following:

	<b>December 31, 2024</b>
Income tax benefit at the federal statutory rate	\$ (20,658)
State tax benefit	(16,360)
Sale of tax credits	(12,276)
Foreign tax differential	214
Stock-based compensation	629
Interest Expense	92
Prior year true-ups	5,143
Other	38
Credits	(2,597)
Valuation Allowance	34,943
Income Tax Benefit	<u>(10,832)</u>
Effective Tax Rate	11.01%

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The components of the net deferred tax asset or (liability) are as follows:

	<b>Year Ended December 31,</b>	
	<b>2025</b>	<b>2024</b>
<b>Deferred Tax Assets</b>		
Organizational Costs, Start-up and Intangible Assets	\$ 6,028	\$ 13,998
Stock Based Compensation	2,373	2,003
NOLs, Unabsorbed Depreciation and R&D Credits C/F's	126,110	96,990
Interest expense carryover	45,324	36,867
Ethanol Credits	1,500	1,500
Investment Credits	3,393	3,393
Carbon Oxide Sequestration Credit	9,277	9,277
Accrued Expenses	5,431	3,581
Operating Lease Liability	1,521	1,342
Fixed Asset Grants	5,099	5,226
Other, net	896	512
<b>Total Deferred Tax Assets</b>	<b>206,952</b>	<b>174,689</b>
Valuation Allowance	(195,212)	(170,298)
<b>Net Deferred Tax Assets</b>	<b>11,740</b>	<b>4,391</b>
<b>Deferred Tax Liabilities</b>		
Right of Use Asset	(1,316)	(1,211)
Property, Plant & Equipment	(10,149)	(3,874)
<b>Total Deferred Tax Liabilities</b>	<b>(11,465)</b>	<b>(5,085)</b>
<b>Net Deferred Tax Assets (Liabilities)</b>	<b>\$ 275</b>	<b>\$ (694)</b>

Based on our evaluation of current and anticipated future taxable income, we believe it is more likely than not that insufficient taxable income will be generated to realize the net deferred tax assets, and accordingly, a valuation allowance has been set against these net deferred tax assets. The \$0.3 million deferred tax asset is recorded in other assets on the balance sheet.

We do not provide for U.S. income taxes for any undistributed earnings of our foreign subsidiaries, as we consider these to be permanently reinvested in the operations of such subsidiaries and have a cumulative foreign loss. At December 31, 2025 and 2024, these undistributed earnings totaled \$3.6 million and \$6.5 million, respectively. If any earnings were distributed, some countries may impose withholding taxes. However, due to our overall deficit in foreign cumulative earnings and its U.S. loss position, we do not believe a material net unrecognized U.S. deferred tax liability exists.

ASC 740 Income Taxes provides that the tax effects from an uncertain tax position can be recognized in our financial statements only if the position is more-likely-than-not of being sustained on audit, based on the technical merits of the position. Tax positions that meet the recognition threshold are reported at the largest amount that is more-likely-than-not to be realized. This determination requires a high degree of judgment and estimation. We periodically analyze and adjust amounts recorded for the Company's uncertain tax positions, as events occur to warrant adjustment, such as when the statutory period for assessing tax on a given tax return or period expires or if tax authorities provide administrative guidance or a decision is rendered in the courts. The Company does not reasonably expect the total amount of uncertain tax positions to significantly increase or decrease within the next 12 months. As of December 31, 2025, our uncertain tax positions were not significant for income tax purposes.

The following table describes the open tax years, by major tax jurisdiction, as of December 31, 2025:

United States — Federal	2007 – present
United States — State	2008 – present
India	2013 – present
Mauritius	2006 – present

As of December 31, 2025, the Company had U.S. federal NOL carryforwards of approximately \$413.0 million and state NOL carryforwards of approximately \$538.0 million. As of December 31, 2025, the federal NOLs of \$188.0 million and the state NOLs of \$538.0 million expire on various dates between 2027 and 2042. Due to the 2017 U.S. Tax Reform, U.S. federal NOLs post 2017 in the amount of \$225.0 million have no expiration date.

We have approximately \$1.5 million of alcohol and cellulosic biofuel credit carryforwards and investment credits of \$3.4 million. We have \$9.3 million of carbon oxide sequestration credit carryforwards and \$0.3 million of R&D tax credit carryforwards. The federal net operating loss and other tax credit carryforwards expire on various dates between 2027 and 2043. The state net operating loss carryforwards expire on various dates between 2027 through 2042. Under current tax law, net operating loss and credit carryforwards available to offset future income in any given year may be limited by US statute regarding net operating loss carryovers and timing of expirations or upon the occurrence of certain events, including significant changes in ownership interests. As of December 31, 2025, our India subsidiary had no loss carryforwards.

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The amount of cash we received/(paid) for tax during the year ended December 31, 2025, is as follows:

U.S. Federal (see Note A)	\$	22,911
State and local - CA		(19)
Foreign		(607)
Received/(Paid)	\$	<u>22,285</u>

Note A - Includes cash receipts of \$22,911 related to the sale of transferable tax credits.

## 17. Subsequent Events

### *PUPA Extension*

On February 2, 2026, ABGL entered into an agreement entitled Eleventh Waiver and Amendment to Series A Preferred Unit Purchase Agreement ("PUPA Eleventh Amendment") with an Effective Date of December 31, 2025, that provides, among other provisions, the requirement for ABGL to redeem all of the outstanding Series A Preferred Units by April 30, 2026, for an aggregate redemption price of \$114.7 million. The PUPA Eleventh Amendment further provides that if ABGL does not redeem the Series A Preferred Units by the redemption date, ABGL will enter into a credit agreement with Protair-X Technologies Inc. and Third Eye Capital effective as of May 1, 2026, and maturing May 1, 2027, in substantially the form attached to the PUPA Eleventh Amendment and specifies that entry of the credit agreement will satisfy the obligation to redeem the units. The credit agreement would bear an interest rate equal to the greater of (i) the prime rate plus 10.0% and (ii) 16.0%.

### *TEC Debt Amendments*

On March 10, 2026, Goodland Advanced Fuels, Inc. and Aemetis Carbon Capture, Inc. entered into an agreement entitled "Amendment and Waiver No. 8 to Credit Agreement" with Third Eye Capital Corporation to amend the existing Amended and Restated Credit Agreement to (i) replace the Carbon Revolving Line maturity date of April 1, 2026 with a new provision that makes the Carbon Revolving Line due on demand of the lender, and (ii) changes the interest rate for the Carbon Revolving Line to the greater of prime plus 9% or 13%. The Amendment is attached as Exhibit 10.62, and this summary description is qualified by the text of the attached Exhibit 10.62.

On March 10, 2026, Aemetis Advanced Fuels Keyes, Inc. and Aemetis Facility Keyes, Inc. entered into an agreement entitled "Amendment and Waiver No. 31 to Amended and Restated Note Purchase Agreement" with Third Eye Capital Corporation to amend the existing Amended and Restated Note Purchase Agreement to replace the maturity dates of the California Ethanol segment debt agreements with a new provision that makes each loan due on demand of the lender. The Amendment is attached as Exhibit 10.63, and this summary description is qualified by the text of the attached Exhibit 10.63.

## 18. Liquidity

The accompanying financial statements have been prepared contemplating the realization of assets and satisfaction of liabilities in the normal course of business. This approach to presentation is qualified by the following additional descriptions of our financial position.

### *Debt*

We have a substantial amount of accumulated debt, and our senior lender has a security interest in substantially all of our assets. We have been reliant on our senior secured lender to provide extensions to the maturity dates of its debt facilities and have been required to remit substantially all excess cash from tax credit sales as payments of that debt, in addition to other periodic payments. In order to meet our obligations during the next twelve months, we will need to refinance debt with our senior lender for amounts which are due on demand in the next twelve months or receive its continued cooperation.

### *Operational Cash Flows*

We do not currently generate positive cash flow from our consolidated operations. We are pursuing the following strategies to improve liquidity:

#### California Ethanol

*Optimize Operations.* We plan to continue to operate the Keyes Plant and to optimize operating parameters and purchase contracts based on market conditions.

*Reduce Natural Gas Use and Reduce Ethanol Carbon Intensity.* We are constructing a Mechanical Vapor Recompression ("MVR") system that will significantly reduce the Keyes Plant's natural gas consumption and lower the carbon intensity of the ethanol produced at the Keyes Plant. This will reduce overall fuel costs and volatility and will increase income from LCFS credits and Section 45Z production tax credits. The MVR system is expected to become operational in 2026.

*Monetize New Section 45Z Tax Credits.* The Keyes Plant started earning Section 45Z production tax credits ("PTCs") effective January 1, 2025, and we have started the process to monetize the credits earned during 2025. The recent federal tax and budget legislation referred to as the "One Big Beautiful Bill" that was enacted in July 2025 contains provisions that are expected to increase our future income from PTCs for ethanol production, including an increase in the credit amount earned for each gallon of ethanol we produce and an extension of the term of the credits to a total of five years.

*Evaluate New Technologies.* We continue to evaluate other opportunities to improve the Keyes Plant's financial performance by adopting new technologies or process changes that further improve energy efficiency, decrease feedstock costs, increase coproduct yields, and create other margin enhancements.

## California Renewable Natural Gas

*Operate Existing Digesters.* By the end of 2025 the RNG segment operated twelve operating digesters that receive feedstock from dairies, and we received the correspondingly higher cash flows from the increased number of operating facilities, creating positive EBITDA for this segment during 2025.

*Construct New Digesters.* We plan to continue to build new dairy digesters that increase cash flow as allowed by capital availability. We have agreements with over fifty dairies and expect the next set of digesters to begin producing biogas in the second quarter of 2026. We are seeking new loans and other forms of financing from a variety of sources to facilitate additional digester construction.

*Increase LCFS Credit Revenue.* In the second quarter of 2025, the California Air Resource Board ("CARB") approved provisional pathways for the RNG produced from seven of our dairy digesters. Dairies with approved provisional LCFS pathways generate significantly more LCFS credits than dairies with temporary pathways. We still generate LCFS credits under the lower temporary pathways at five operating digesters that have applications for provisional pathways pending with CARB. In addition, CARB's recently approved amendments to the LCFS regulation became effective July 1, 2025, which are expected to reduce the oversupply of LCFS credits and lead to higher credit prices in the future.

*Monetize New Section 45Z Tax Credits.* Our RNG production started earning Section 45Z production tax credits effective January 1, 2025. We monetized the 2025 credits in December 2025 and January 2026, and are planning to continue to monetize 2026 and later credits on a regular basis. The recent federal tax and budget legislation referred to as the "One Big Beautiful Bill" that was enacted in July 2025 contains provisions that are expected to increase our future income from Section 45Z tax credits for RNG production, including an increase in the credit amount earned for each MMBtu of RNG we produce and an extension of the term of the credits to a total of five years.

## India Biodiesel

*Continue Sales to OMCs.* We plan to continue to operate the Kakinada Plant to produce biodiesel and glycerin and to sell the biodiesel to government-owned Oil Marketing Companies ("OMCs") to help them achieve government mandates to increase the percentage of biodiesel used in India as a percentage of total diesel uses.

*Expand Operations and Plan for IPO.* We have hired a new executive team in India to help develop plans for additional growth of our India business and to execute on a potential initial public offering ("IPO") of stock in our India subsidiary.

*Maintain Self-Sustaining Cash Flow.* Our India business has been self-sustaining in recent years from a cash and liquidity perspective for several years, and we expect this to continue.

## **Financing**

While we are implementing our plans to improve liquidity, we have been raising cash for operations by selling equity through our at-the-market stock registration, and we expect to continue to do so. We also plan to seek additional funding for existing and new business opportunities through a combination of working with our senior lender, restructuring or refinancing existing loan agreements, entering into additional debt agreements for specific projects, obtaining project specific equity and debt for development projects, and obtaining additional debt from the current EB-5 Phase II offering.

## **Summary**

Notwithstanding our plans to improve liquidity and the favorable recent events described above, based on the extent of our debt and reliance on our senior secured lender, along with expected near-term shortfalls in cash flow from operations and need to continue to raise debt and equity capital which is outside our control, there is substantial doubt about our ability to continue as a going concern over the next twelve months.

**Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure.**

None.

**Item 9A. Controls and Procedures.**

The information contained in this section covers management's evaluation of our disclosure controls and procedures and our assessment of our internal control over financial reporting for the year ended December 31, 2025.

*Evaluation of Disclosure Controls and Procedures*

Management, with the participation of our Chief Executive Officer ("CEO") and Chief Financial Officer ("CFO"), carried out an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the Exchange Act). Based on this evaluation, our CEO and CFO concluded that, the material weaknesses over financial reporting as identified in our Annual Report on Form 10-K for the fiscal year ended December 31, 2024 have been remediated. The IT general controls along with internal controls over financial reporting were strengthened and concluded to be effective to provide reasonable assurance that the information required to be disclosed by us in reports that we file or submit under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in Securities and Exchange Commission rules and forms, and is accumulated and communicated to our management, including our CEO and CFO, as appropriate, to allow timely decisions regarding required disclosure.

*Inherent Limitations on Effectiveness of Controls*

Our management, including the CEO and CFO, does not expect that our disclosure controls or our internal control over financial reporting will prevent or detect all errors and all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system's objectives will be met. Our controls and procedures are designed to provide reasonable assurance that our control system's objective will be met, and our CEO and CFO have concluded that our disclosure controls and procedures are effective at the reasonable assurance level. The design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Further, because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud, if any, within the company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns can occur because of simple errors or mistakes. Controls can also be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the controls. The design of any system of controls is based in part on certain assumptions about the likelihood of future events and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Projections of any evaluation of the effectiveness of controls in future periods are subject to risks. Over time, controls may become inadequate because of changes in conditions or deterioration in the degree of compliance with policies or procedures.

*Management's Annual Report on Internal Control over Financial Reporting*

Our management is responsible for establishing and maintaining adequate internal control over financial reporting (as defined in Rule 13a-15(f) and 15d-15(f) under the Exchange Act) designed to ensure that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms. Our internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of our financial statements for external purposes in accordance with GAAP. Our internal control over financial reporting includes those policies and procedures that: (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of our assets; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that receipts and expenditures by us are being made only in accordance with authorizations of our management and directors; and (iii) provide reasonable assurance regarding the prevention or timely detection of unauthorized acquisition, use, or disposition of our assets that could have a material effect on the consolidated financial statements.

Under the supervision and with the participation of our management, including our CEO and CFO, we conducted an evaluation of the effectiveness of our internal control over financial reporting as of the period covered by this report based on the criteria for effective internal control described in *Internal Control – Integrated Framework* issued by the Committee of Sponsoring Organizations of the Tread way Commission - 2013. Based on the results of management's assessment and evaluation we have determined that our internal control over financial reporting was effective. We have concluded that our consolidated financial statements fairly present, in all material respects, our financial condition, results of operations, and cash flows at and for the periods presented.

*Changes in Internal Control over Financial Reporting*

Discussed below are changes made to our internal control over financial reporting during the year ended December 31, 2025.

In the year ending December 31, 2024, we had the following material weaknesses:

1. Not maintaining sufficient information and documentation related to the performance of our technology general controls (ITGCs). During 2024 we identified four instances of controls with reportable issues. As a result of the pervasive impact of these controls, automated and manual business process controls that are dependent on ITGCs were also deemed ineffective. The testing in the fourth quarter of 2024 indicated that the controls were adequately remediated, and with a successful evaluation of control operating effectiveness of these controls during 2025, we fully remediated this material weakness.
2. As a result of recent growth, our India Biodiesel segment, was included in the scope of our internal control evaluation. Through testing, we determined the business unit did not consistently maintain sufficient documentation to evidence the performance, review and authorization of controls. As a result of these deficiencies, we concluded that controls at the business unit were ineffective. We implemented process and system improvements to the India accounting program during 2025, and as of December 31, 2025 we concluded that the controls over financial reporting were effective.

In 2025, we enhanced the accounting and finance function through the training of team members, improving oversight and documentation of ITGC control procedures, and leveraging additional review and documentation tools across all subsidiaries.

There are, however, inherent limitations in all control systems and no evaluation of controls can provide absolute assurance that all deficiencies have been detected. While these actions and planned actions are subject to ongoing management evaluation and will require validation and testing of the design and operating effectiveness of internal controls over a sustained period of financial reporting cycles, we are committed to the continuous improvement and diligent review of our internal controls over financial reporting.

Our independent registered public accounting firm, RSM US LLP, has issued an audit report on the effectiveness of our internal control over financial reporting and their report is included herein.

**Item 9B. Other Information.**

*(a) Current Reports*

**Item 1.01 Entry into a Material Definitive Agreement.**

On March 10, 2026, Goodland Advanced Fuels, Inc. and Aemetis Carbon Capture, Inc. entered into an agreement entitled "Amendment and Waiver No. 8 to Credit Agreement" with Third Eye Capital Corporation to amend the existing Amended and Restated Credit Agreement to (i) replace the Carbon Revolving Line maturity date of April 1, 2026 with a new provision that makes the Carbon Revolving Line due on demand of the lender, and (ii) changes the interest rate for the Carbon Revolving Line to the greater of prime plus 9% or 13%. The Amendment is attached as Exhibit 10.62 to this Form 10-K and is also described in the notes to the Financial Statements in Item 8 of this Form 10-K under *Note 5. Debt* and *Note 15 Subsequent Events*. This description is a summary only and is qualified by the text of the attached Exhibit 10.62.

On March 10, 2026, Aemetis Advanced Fuels Keyes, Inc. and Aemetis Facility Keyes, Inc. entered into an agreement entitled "Amendment and Waiver No. 31 to Amended and Restated Note Purchase Agreement" with Third Eye Capital Corporation to amend the existing Amended and Restated Note Purchase Agreement to replace the maturity dates of the California Ethanol segment debt agreements with a new provision that makes each loan due on demand of the lender. The Amendment is attached as Exhibit 10.63 to this Form 10-K and is also described in the notes to the Financial Statements in Item 8 of this Form 10-K under *Note 5. Debt* and *Note 15 Subsequent Events*. This description is a summary only and is qualified by the text of the attached Exhibit 10.63.

*(b) Adoption and Termination of Rule 10b5-1 Stock Trading Plans by Officers and Directors*

None

**Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections.**

Not applicable.

## PART III

### **Item 10. Directors, Executive Officers and Governance.**

The information required by this Item 10 will be included in our Proxy Statement for our 2026 Annual Meeting of Stockholders to be filed no later than 120 days after December 31, 2025, and is incorporated herein by reference.

### **Item 11. Executive Compensation.**

The information required by this Item 11 will be included in our Proxy Statement for our 2026 Annual Meeting of Stockholders to be filed no later than 120 days after December 31, 2025, and is incorporated herein by reference.

### **Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.**

The information required by this Item 12 will be included in our Proxy Statement for our 2026 Annual Meeting of Stockholders to be filed no later than 120 days after December 31, 2025, and is incorporated herein by reference.

### **Item 13. Certain Relationships and Related Transactions, and Director Independence.**

The information required by this Item 13 will be included in our Proxy Statement for our 2026 Annual Meeting of Stockholders to be filed no later than 120 days after December 31, 2025, and is incorporated herein by reference.

### **Item 14. Principal Accounting Fees and Services.**

The information required by this Item 14 will be included in our Proxy Statement for our 2026 Annual Meeting of Stockholders to be filed no later than 120 days after December 31, 2025, and is incorporated herein by reference.

## PART IV

### **Item 15. Exhibit and Financial Statement Schedules.**

#### ***(a) Financial Statements***

The following consolidated financial statements are included in this Annual Report:

- [Report of Independent Registered Public Accounting Firm \(PCAOB ID 49\)](#)
- [Consolidated Balance Sheets](#)
- [Consolidated Statements of Operations and Comprehensive Loss](#)
- [Consolidated Statements of Cash Flows](#)
- [Consolidated Statements of Stockholders' Deficit](#)
- [Notes to Consolidated Financial Statements](#)

#### ***(b) Financial Statement Schedules***

All financial statement schedules have been omitted because they are not applicable or are not required, or because the information is included in the Consolidated Financial Statements or notes thereto under Item 8 in Part II of this Form 10-K.

(c) Exhibits

Exhibit No.	Description	Incorporated by Reference			Filing Date	Filed Herewith
		Form	File No.	Exhibit		
3(i)	<a href="#">Certificate of Incorporation</a>	8-K	001-36475	3.1	Nov. 2, 2021	
3(ii)	<a href="#">Amendment to Certificate of Incorporation</a>	8-K	001-36475	3.1	Feb. 19, 2026	
3(iii)	<a href="#">Amended and Restated Bylaws</a>	8-K	001-36475	3.1	Aug. 30, 2023	
4	<a href="#">Description of Registered Securities</a>	8-A/A	001-36475		Nov. 10, 2021	
10.1	<a href="#">Amended and Restated 2019 Stock Plan</a>	DEF14A	001-36475	Appendix A	July 23, 2021	
10.2	<a href="#">Executive Employment Agreement, dated April 25, 2020, with Eric A. McAfee</a>	8-K	001-36475	10.1	Apr. 28, 2020	
10.3	<a href="#">Executive Employment Agreement, dated April 25, 2020, with Todd Waltz</a>	8-K	001-36475	10.2	Apr. 28, 2020	
10.4	<a href="#">Executive Employment Agreement, dated April 25, 2020, with Andrew Foster</a>	8-K	001-36475	10.3	Apr. 28, 2020	
10.5	<a href="#">Executive Employment Agreement, dated April 25, 2020, with Sanjeev Gupta</a>	8-K	001-36475	10.4	Apr. 28, 2020	
10.6	<a href="#">Employment Agreement, dated August 28, 2023, with J. Michael Rockett.</a>	8-K	001-36475	10.1	Aug. 28, 2023	
10.7	<a href="#">Amended and Restated Note Purchase Agreement, dated July 6, 2012, among Aemetis Advanced Fuels Keyes, Inc., Keyes Facility Acquisition Corp., Aemetis, Inc., Third Eye Capital Corporation, as Administrative Agent, and the Note holders</a>	8-K	000-51354	10.2	July 10, 2012	
10.8	<a href="#">Amended and Restated Guaranty, dated July 6, 2012, among Aemetis, Inc., certain subsidiaries of Aemetis and Third Eye Capital Corporation, as Agent.</a>	8-K	000-51354	10.3	July 10, 2012	
10.9	<a href="#">Amended and Restated Security Agreement, dated July 6, 2012, among Aemetis, Inc., certain subsidiaries of Aemetis and Third Eye Capital Corporation, as Agent.</a>	8-K	000-51354	10.4	July 10, 2012	
10.10	<a href="#">Limited Waiver and Amendment No. 1 to Amended and Restated Note Purchase Agreement dated as of October 18, 2012, by and among Aemetis Advanced Fuels Keyes, Inc., a Delaware corporation, Aemetis Facility Keyes, Inc., a Delaware corporation, Third Eye Capital Corporation, an Ontario corporation as agent, Third Eye Capital Credit Opportunities Fund – Insight Fund, and Sprott PC Trust.</a>	8-K	000-51354	10.1	Oct. 23, 2012	
10.11	<a href="#">Limited Waiver and Amendment No. 2 to Amended and Restated Note Purchase Agreement dated as of February 27, 2013, by and among Aemetis Advanced Fuels Keyes, Inc., a Delaware corporation, Aemetis Facility Keyes, Inc., a Delaware corporation, Third Eye Capital Corporation, an Ontario corporation as agent, Third Eye Capital Credit Opportunities Fund – Insight Fund, and Sprott PC Trust.</a>	8-K	000-51354	10.1	Mar. 11, 2013	
10.12	<a href="#">Limited Waiver and Amendment No.3 to Amended and Restated Note Purchase Agreement dated as of April 15, 2013, by and among Aemetis Advanced Fuels Keyes, Inc., a Delaware corporation, Aemetis Facility Keyes, Inc., a Delaware corporation, Third Eye Capital Corporation, an Ontario corporation as agent, Third Eye Capital Credit Opportunities Fund – Insight Fund, and Sprott PC Trust.</a>	8-K	000-51354	10.1	Apr. 16, 2013	
10.13	<a href="#">Amendment No. 4 to Amended and Restated Note Purchase Agreement dated as of April 19, 2013, by and among Aemetis Advanced Fuels Keyes, Inc., a Delaware corporation, Aemetis Facility Keyes, Inc., a Delaware corporation, Aemetis, Inc., a Nevada corporation, and Third Eye Capital Corporation, an Ontario corporation, as agent for Third Eye Capital Insight Fund</a>	8-K/A	000-51354	10.2	May 14, 2013	
10.14	<a href="#">Limited Waiver and Amendment No.5 to Amended and Restated Note Purchase Agreement, dated as of July 26, 2013, by and among Aemetis, Inc., Aemetis Advanced Fuels Keyes, Inc. Aemetis Facility Keyes, Inc., Third Eye Capital Corporation, an Ontario corporation, as agent, Third Eye Capital Credit Opportunities Fund - Insight Fund, and Sprott PC Trust</a>	8-K	000-51354	10.1	July 31, 2013	
10.15	<a href="#">Limited Waiver and Amendment No.6 to Amended and Restated Note Purchase Agreement, dated as of October 28, 2013, by and among Aemetis, Inc.; Aemetis Advanced Fuels Keyes, Inc.; Aemetis Facility Keyes, Inc.; Third Eye Capital Corporation, an Ontario corporation, as agent for Third Eye Capital Credit Opportunities Fund - Insight Fund, and Sprott PC Trust.</a>	8-K	000-51354	10.1	Nov. 1, 2013	



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10.16	<a href="#">Limited Waiver and Amendment No.7 to Amended and Restated Note Purchase Agreement, dated as of May 14, 2014, by and among Aemetis, Inc.; Aemetis Advanced Fuels Keyes, Inc.; Aemetis Facility Keyes, Inc.; Third Eye Capital Corporation, an Ontario corporation, as agent for Third Eye Capital Credit Opportunities Fund - Insight Fund, and Sprott PC Trust.</a>	10-Q	001-36475	10.1	Mar. 31, 2014
10.17	<a href="#">Limited Waiver and Amendment No. 8 to Amended and Restated Note Purchase Agreement, dated as of November 7, 2014, by and among Aemetis, Inc.; Aemetis Advanced Fuels Keyes, Inc.; Aemetis Facility Keyes, Inc.; Third Eye Capital Corporation, an Ontario corporation, as agent for Third Eye Capital Credit Opportunities Fund - Insight Fund, and Sprott PC Trust.</a>	10-Q/A	001-36475	10.1	Nov. 13, 2014
10.18	<a href="#">Limited Waiver and Amendment No. 9 to Amended and Restated Note Purchase Agreement, dated as of March 12, 2015, by and among Aemetis, Inc.; Aemetis Advanced Fuels Keyes, Inc.; Aemetis Facility Keyes, Inc.; Third Eye Capital Corporation, an Ontario corporation, as agent for Third Eye Capital Credit Opportunities Fund - Insight Fund, and Sprott PC Trust.</a>	10K	001-36475	10.1	Mar. 12,2015
10.19	<a href="#">Limited Waiver and Amendment No. 10 to Amended and Restated Note Purchase Agreement, dated as of April 30, 2015, by and among Aemetis, Inc.; Aemetis Advanced Fuels Keyes, Inc.; Aemetis Facility Keyes, Inc.; Third Eye Capital Corporation, an Ontario corporation, as agent for Third Eye Capital Credit Opportunities Fund - Insight Fund, and Sprott PC Trust.</a>	10-Q	001-36475	10.1	May 7, 2015
10.20	<a href="#">Limited Waiver and Amendment No. 11 to Amended and Restated Note Purchase Agreement, dated as of August 6, 2015, by and among Aemetis, Inc.; Aemetis Advanced Fuels Keyes, Inc.; Aemetis Facility Keyes, Inc.; Third Eye Capital Corporation, an Ontario corporation, as agent for Third Eye Capital Credit Opportunities Fund - Insight Fund, and Sprott PC Trust (incorporated by reference to Exhibit 10.2 of the Quarterly Report on Form 10-Q filed on August 7, 2015).</a>	10-Q	001-36475	10.1	Nov. 5, 2015
10.21	<a href="#">Limited Waiver and Amendment No. 12 to Amended and Restated Note Purchase Agreement, dated as of March 21, 2016, by and among Aemetis, Inc.; Aemetis Advanced Fuels Keyes, Inc.; Aemetis Facility Keyes, Inc.; Third Eye Capital Corporation, an Ontario corporation, as agent for Third Eye Capital Credit Opportunities Fund - Insight Fund, and Sprott PC Trust.</a>	10-K	001-36475	10.68	Mar. 28, 2016
10.22	<a href="#">Limited Waiver and Amendment No. 13 to Amended and Restated Note Purchase Agreement, dated as of March 1, 2017, by and among Aemetis, Inc.; Aemetis Advanced Fuels Keyes, Inc.; Aemetis Facility Keyes, Inc.; Third Eye Capital Corporation, an Ontario corporation, as agent for Third Eye Capital Credit Opportunities Fund - Insight Fund, and Sprott PC Trust.</a>	10-K	001-36475	10.7	Mar. 16, 2017
10.23	<a href="#">Limited Waiver and Amendment No. 14 to Amended and Restated Note Purchase Agreement, dated as of March 27, 2018, by and among Aemetis, Inc.; Aemetis Advanced Fuels Keyes, Inc.; Aemetis Facility Keyes, Inc.; Third Eye Capital Corporation, an Ontario corporation, as agent for Third Eye Capital Credit Opportunities Fund – Insight Fund, and Sprott PC Trust.</a>	10-K	001-36475	10.71	Mar. 27, 2018
10.24	<a href="#">Limited Waiver and Amendment No. 15 to Amended and Restated Note Purchase Agreement, dated as of March 11, 2019, by and among Aemetis, Inc.; Aemetis Advanced Fuels Keyes, Inc.; Aemetis Facility Keyes, Inc.; Third Eye Capital Corporation, an Ontario corporation, as agent for Third Eye Capital Credit Opportunities Fund – Insight Fund, and Sprott PC Trust.</a>	10-K	001-36475	10.74	Mar. 14, 2019
10.25	<a href="#">Limited Waiver and Amendment No. 17 to Amended and Restated Note Purchase Agreement, dated as of August 11, 2020, by and among Aemetis, Inc.; Aemetis Advanced Fuels Keyes, Inc.; Aemetis Facility Keyes, Inc.; Third Eye Capital Corporation, an Ontario corporation, as agent for Third Eye Capital Credit Opportunities Fund – Insight Fund, and Sprott PC Trust.</a>	10-Q	001-36475	10.1	Aug. 13, 2020
10.26	<a href="#">Limited Waiver and Amendment No. 18 to Amended and Restated Note Purchase Agreement, dated as of November 5, 2020, by and among Aemetis, Inc.; Aemetis Advanced</a>	10-Q	001-36475	99.1	Nov. 12, 2020



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10.27	<a href="#">Limited Waiver and Amendment No. 19 to Amended and Restated Note Purchase Agreement, dated as of March 14, 2021, by and among Aemetis, Inc.; Aemetis Advanced Fuels Keyes, Inc.; Aemetis Facility Keyes, Inc.; Third Eye Capital Corporation, an Ontario corporation, as agent for Third Eye Capital Credit Opportunities Fund – Insight Fund and Ninepoint.</a>	10-K	001-36475	10.8	Mar. 14, 2021
10.28	<a href="#">Limited Waiver and Amendment No. 20 to Amended and Restated Note Purchase Agreement, dated as of August 9, 2021, by and among Aemetis, Inc.; Aemetis Advanced Fuels Keyes, Inc.; Aemetis Facility Keyes, Inc.; Third Eye Capital Corporation, an Ontario corporation, as agent for Third Eye Capital Credit Opportunities Fund - Insight Fund, and Ninepoint Third Eye Capital Private Credit Fund.</a>	10-Q	001-36475	10.1	Aug. 12, 2021
10.29	<a href="#">Limited Waiver and Amendment No. 22 to Amended and Restated Note Purchase Agreement dated as of March 8, 2022, by and Among Aemetis Inc.; Aemetis Advanced Fuels Keyes, Inc.; Aemetis Facility Keyes, Inc.; Third Eye Capital Corporation, an Ontario corporation, as agent for Third Eye Capital Credit Opportunities Fund- Insight Fund, and Ninepoint Third Eye Capital Private Credit Fund.</a>	10-K	001-36475	10.94	Dec. 31, 2021
10.30	<a href="#">Limited Waiver and Amendment No. 23 to Amended and Restated Note Purchase Agreement, dated as of May 11, 2022, by and among Aemetis, Inc.; Aemetis Advanced Fuels Keyes, Inc.; Aemetis Facility Keyes, Inc.; and Third Eye Capital Corporation, an Ontario corporation, as agent for Ninepoint - TEC Private Credit Fund and Third Eye Capital Credit Opportunities Fund - Insight Fund.</a>	10-Q	001-36475	10.1	May 16, 2022
10.31	<a href="#">Limited Waiver and Amendment No. 24 to Amended and Restated Note Purchase Agreement, dated as of August 8, 2022, by and among Aemetis, Inc.; Aemetis Advanced Fuels Keyes, Inc.; Aemetis Facility Keyes, Inc.; and Third Eye Capital Corporation, an Ontario corporation, as agent for Ninepoint - TEC Private Credit Fund and Third Eye Capital Credit Opportunities Fund - Insight Fund.</a>	10-Q	001-36475	10.1	Aug. 8, 2022
10.32	<a href="#">Limited Waiver and Amendment No. 25 to Amended and Restated Note Purchase Agreement, dated as of March 6, 2023, by and among Aemetis, Inc.; Aemetis Advanced Fuels Keyes, Inc.; Aemetis Facility Keyes, Inc.; and Third Eye Capital Corporation, an Ontario corporation, as agent for Ninepoint - TEC Private Credit Fund and Third Eye Capital Credit Opportunities Fund - Insight Fund.</a>	10-K	001-36475	10.101	Mar. 9, 2023
10.33	<a href="#">Limited Waiver and Amendment No. 26 to Amended and Restated Note Purchase Agreement, dated as of May 4, 2023, by and among Aemetis, Inc.; Aemetis Advanced Fuels Keyes, Inc.; Aemetis Facility Keyes, Inc.; and Third Eye Capital Corporation, an Ontario corporation, as agent for Ninepoint - TEC Private Credit Fund and Third Eye Capital Credit Opportunities Fund - Insight Fund.</a>	10-Q	001-36475	10.1	May 5, 2023
10.34	<a href="#">Limited Waiver and Amendment No. 27 to Amended and Restated Note Purchase Agreement, dated as of May 16, 2023, by and among Aemetis, Inc.; Aemetis Advanced Fuels Keyes, Inc.; Aemetis Facility Keyes, Inc.; Third Eye Capital Corporation, an Ontario corporation, as agent for Third Eye Capital Credit Opportunities Fund – Insight Fund, Ninepoint – TEC Private Credit Fund, Ninepoint – TEC Private Credit Fund II, and MBI/TEC Private Debt Open-End Trust Fund.</a>	10-Q	001-36475	10.1	Aug. 4, 2023
10.35	<a href="#">Limited Waiver and Amendment No. 28 to Amended and Restated Note Purchase Agreement, dated as of March 25, 2024, by and among Aemetis, Inc.; Aemetis Advanced Fuels Keyes, Inc.; Aemetis Facility Keyes, Inc.; and Third Eye Capital Corporation</a>	10-K	001-36475	10.36	Mar. 29, 2024
10.36	<a href="#">Note Purchase Agreement effective as of March 4, 2011, amended January 19, 2012, and July 24, 2012 by and among AE Advanced Fuels, Inc., a Delaware corporation, and Advanced BioEnergy, LP a California limited partnership and Advanced BioEnergy GP, LLC, a California limited liability company.</a>	8-K	001-36475	10.3	Oct. 23, 2012

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10.37	<a href="#">Form of Convertible Subordinated Promissory Note by and among AE Advanced Fuels, Inc., a Delaware corporation and Advanced BioEnergy, LP, a California limited partnership.</a>	8-K	001-36475	10.4	Oct. 23, 2012
10.38	<a href="#">Amended and Restated Aemetis Keyes Corn Procurement and Working Capital Agreement, dated May 2, 2013, by and between Aemetis Advanced Fuels Keyes, Inc., and J.D. Heiskell Holdings, LLC</a>	8-K	001-36475	10.2	May 23, 2013
10.39	<a href="#">Second Amendment to the Amended and Restated Aemetis Keyes Grain Procurement and Working Capital Agreement, dated as of May 25, 2023, by and between J.D. Heiskell Holdings, LLC and Aemetis Advanced Fuels Keyes, Inc.</a>	8-K	001-36475	10.1	May 26, 2023
10.40	<a href="#">Amended and Restated Heiskell Purchasing Agreement dated May 16, 2013, by and between Aemetis Advanced Fuels Keyes, Inc., a Delaware corporation and a wholly-owned subsidiary of Aemetis, Inc. and J.D. Heiskell Holdings, LLC, a California limited liability company doing business as J.D. Heiskell &amp; Co.*</a>	8-K	001-36475	10.1	May 23, 2023
10.41	<a href="#">Second Amendment to the Amended and Restated Heiskell Purchase Agreement, dated as of May 25, 2023, by and between J.D. Heiskell Holdings, LLC and Aemetis Advanced Fuels Keyes, Inc.</a>	8-K	001-36475	10.2	May 26, 2023
10.42	<a href="#">Second Amendment to the Keyes Ethanol and Corn Tank Lease, dated as of May 25, 2023, by and between J.D. Heiskell Holdings, LLC and Aemetis Advanced Fuels Keyes, Inc.</a>	8-K	001-36475	10.3	May 26, 2023
10.43	<a href="#">WDG Purchase and Sale Agreement dated March 23, 2011 between A.L. Gilbert Company and Aemetis Advanced Fuels Keyes, Inc.</a>	10-K	001-36475	10.66	Oct. 31, 2012
10.44	<a href="#">Keyes Corn Handling Agreement dated March 23, 2011 among A. L. Gilbert Company, AE Advanced Fuels Keyes, Inc., and J.D. Heiskell Holdings, LLC</a>	10-K	001-36475	10.67	Oct. 31, 2012
10.45	<a href="#">Series A Preferred Unit Purchase Agreement, dated as of December 20, 2018, by and among Aemetis Biogas LLC, Protair-X Americas, Inc. and Third Eye Capital Corporation</a>	8-K	001-36475	10.1	Dec. 20, 2018
10.46	<a href="#">Security Agreement, dated as of December 20, 2018, by and between Aemetis Biogas LLC and Third Eye Capital</a>	8-K	001-36475	10.3	Dec. 27, 2018
10.47	<a href="#">Third Waiver and Amendment to Series A Preferred Unit Purchase Agreement, dated as of May 31, 2023, by and among Aemetis Biogas LLC, Protair-X Americas, Inc. and Third Eye Capital Corporation.</a>	8-K	001-36475	10.1	July 5, 2023
10.48	<a href="#">Eleventh Waiver and Amendment to Series A Preferred Unit Purchase Agreement, effective as of December 31, 2025, by and among Aemetis Biogas LLC, Protair-X Technologies Inc. and Third Eye Capital Corporation.</a>	8-K	001-36475	10.1	Feb. 6, 2026
10.49	<a href="#">Lease Disposition and Development Agreement, dated as of December 14, 2021, by and between Aemetis Properties Riverbank, Inc. and City of Riverbank, California</a>	8-K	001-36475	10.2	Dec. 21, 2021
10.50	<a href="#">Guaranty Agreement, dated as of December 14, 2021, by and between Aemetis, Inc. and City of Riverbank, California</a>	8-K	001-36475	10.3	Dec. 21, 2021
10.51	<a href="#">Real Estate Purchase and Sale Agreement, dated as of December 14, 2021, by and between Aemetis Properties Riverbank, Inc. and City of Riverbank, California</a>	8-K	001-36475	10.4	Dec. 21, 2021
10.52	<a href="#">Amended and Restated Credit Agreement, dated as of March 2, 2022, between Goodland Advanced Fuels, Inc., Aemetis Carbon Capture, Inc., Third Eye Capital Corporation, Aemetis, Inc. and other guarantors, and various lenders</a>	8-K	001-36475	10.1	Mar. 4, 2022

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10.53	<a href="#">Amended and Restated General Security Agreement, dated as of March 2, 2022.</a>	8-K	001-36475	10.2	Mar. 4, 2022	
10.54	<a href="#">Intellectual Property Security Agreement Supplement, dated as of March 2, 2022</a>	8-K	001-36475	10.3	Mar. 4, 2022	
10.55	<a href="#">Third Amended and Restated Guaranty, dated as of March 2, 2022</a>	8-K	001-36475	10.4	Mar. 4, 2022	
10.56	<a href="#">Amended and Restated Pledge Agreement, dated as of March 2, 2022</a>	8-K	001-36475	10.5	Mar. 4, 2022	
10.57	<a href="#">Amendment and Waiver No. 2 to Credit Agreement, effective as of August 1, 2023, by and among Goodland Advanced Fuels, Inc., Aemetis Carbon Capture, Inc., and Third Eye Capital Corporation, as agent for MBI/TEC Private Debt Opportunities Fund II, LP, and acknowledged and agreed by the guarantors listed on the signature page thereto.</a>	10-Q	001-36475	10.3	Aug. 4, 2023	
10.58	<a href="#">Amendment and Waiver No. 6 to Credit Agreement, effective as of March 11, 2025, by and among Goodland Advanced Fuels, Inc., Aemetis Carbon Capture, Inc., and Third Eye Capital Corporation, as agent for MBI/TEC Private Debt Opportunities Fund II, LP, and acknowledged and agreed by the guarantors listed on the signature page thereto.</a>	10-K	001-36475	10.66	March 14, 2025	
10.59	<a href="#">Promissory Note, dated March 11, 2025, issued by Goodland Advanced Fuels, Inc. and Aemetis Carbon Capture, Inc. to Third Eye Capital Corporation.</a>	10-K	001-36475	10.67	March 14, 2025	
10.60	<a href="#">Construction and Term Loan Agreement, dated as of July 28, 2023, by and among Magnolia Bank Incorporated, Aemetis Biogas 2 LLC, and Aemetis Biogas Holdings LLC.</a>	8-K	001-36475	10.1	July 31, 2023	
10.61	<a href="#">Term Loan Agreement dated as of December 22, 2023, by and among Aemetis Biogas 1 LLC, Aemetis Biogas Holdings LLC, and Greater Nevada Credit Union.</a>	8-K	001-36475	10.1	Dec. 29, 2023	
10.62	<a href="#">Amendment and Waiver No. 8 to Credit Agreement, effective as of March 10, 2025, by and among Goodland Advanced Fuels, Inc., Aemetis Carbon Capture, Inc., and Third Eye Capital Corporation, as agent for MBI/TEC Private Debt Opportunities Fund II, LP, and acknowledged and agreed by the guarantors listed on the signature page thereto.</a>					X
10.63	<a href="#">Limited Waiver and Amendment No. 31 to Amended and Restated Note Purchase Agreement dated March 10, 2026, by and among Aemetis Advanced Fuels Keyes, Inc., Aemetis Facility Keyes, Inc., Aemetis, Inc. and Third Eye Capital Corporation, as agent for Ninepoint - TEC Private Credit Fund, Ninepoint - TEC Private Credit Fund II, MBI/TEC Private Debt Open-end Trust Fund and TEC Credit Income Master Fund, and acknowledged and agreed by the guarantors listed on the signature page thereto.</a>					X
10.64	<a href="#">Agreement Between Owner and Design-Builder effective as of September 4, 2025, between Aemetis Advanced Fuels Keyes, Inc. and NPL Construction Co. †</a>					X
14	<a href="#">Code of Ethics</a>	10-K	000-51354	14	May 20, 2009	
19	<a href="#">Insider Trading Policy</a>	10-K	001-36475	19	Mar 14, 2025	
21	<a href="#">Subsidiaries of the Registrant</a>					X
23	<a href="#">Consent of Independent Registered Public Accounting Firm</a>					X
24	<a href="#">Power of Attorney (included on the signature page)</a>					X
31.1	<a href="#">Certification of Chief Executive Officer pursuant to Rule 13a-14(a) and Section 302 of the Sarbanes-Oxley Act of 2002</a>					X
31.2	<a href="#">Certification of Chief Financial Officer pursuant to Rule 13a-14(a) and Section 302 of the Sarbanes-Oxley Act of 2002</a>					X
32.1	<a href="#">Certification of Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</a>					X
32.2	<a href="#">Certification of Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</a>					X
97	<a href="#">Policy Relating to Recovery of Erroneously Awarded Compensation</a>	10-K	001-36475	97	Mar. 29, 2024	
101.INS *	Inline XBRL Instance Document					
101.SCH *	Inline XBRL Taxonomy Extension Schema					
101.CAL *	Inline XBRL Taxonomy Extension Calculation Linkbase					
101.DEF *	Inline XBRL Taxonomy Extension Definition Linkbase					
101.LAB *	Inline XBRL Taxonomy Extension Label Linkbase					
101.PRE*	Inline XBRL Taxonomy Extension Presentation Linkbase					

\*Confidential treatment has been requested for portions of this exhibit. Omitted portions have been filed separately with the Securities and Exchange Commission pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended.

† Certain portions of this exhibit, that are not material and would likely cause competitive harm to the registrant if publicly disclosed, have been *redacted* pursuant to Item 601(b)(10) of Regulation S-K.

## SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) 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.

### Aemetis, Inc.

Date: March 13, 2026

By: /s/ Eric A. McAfee  
Eric A. McAfee  
Chair of the Board and Chief Executive Officer  
(Principal Executive Officer)

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each undersigned person whose signature appears below constitutes and appoints Eric A. McAfee and Todd A. Waltz, and each of them, as their true and lawful attorneys-in-fact, each with full power of substitution, for the undersigned in any and all capacities, to sign any amendments to this report on Form 10-K and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact or their substitute or substitutes may do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated:

<u>Name</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Eric A. McAfee</u> Eric A. McAfee	Chair of the Board and Chief Executive Officer (Principal Executive Officer and Director)	March 13, 2026
<u>/s/ Todd Waltz</u> Todd Waltz	Chief Financial Officer (Principal Financial Officer)	March 13, 2026
<u>/s/ Francis P. Barton</u> Francis P. Barton	Director	March 13, 2026
<u>/s/ Lydia I. Beebe</u> Lydia I. Beebe	Director	March 13, 2026
<u>/s/ John R. Block</u> John R. Block	Director	March 13, 2026
<u>/s/ Naomi L. Boness</u> Naomi L. Boness	Director	March 13, 2026
<u>/s/ Timothy A. Simon</u> Timothy A. Simon	Director	March 13, 2026

**AMENDMENT AND WAIVER NO. 8 TO  
CREDIT AGREEMENT**

This Amendment and Waiver No. 8 to Credit Agreement (this “**Amendment**”), dated effective as of March 10, 2026 (the “**Effective Date**”), by and among (i) **GOODLAND ADVANCED FUELS, INC.**, a Delaware corporation and **AEMETIS CARBON CAPTURE, INC.** (each, a “**Borrower**”) and (ii) **THIRD EYE CAPITAL CORPORATION**, an Ontario corporation (the “**Agent**”), as agent for **MBI/TEC PRIVATE DEBT OPPORTUNITIES FUND II, L.P.** (the “**Lender**”), and is acknowledged and agreed by the Guarantors listed on the signature page hereto (“**Guarantors**” and together with the Borrowers, the “**Obligors**”).

**RECITALS**

- A. The Borrowers, Guarantors, Agent and Lender entered into the Amended and Restated Credit Agreement dated March 2, 2022 (as the same may be amended, restated, supplemented, revised or replaced from time to time, the “**Agreement**”). Capitalized terms used but not defined in this Amendment shall have the meaning given to them in the Agreement.
- B. The Borrowers have failed to abide by certain of the financial covenants required pursuant to Section 5.2(n)(i)(A) of the Agreement, and the Borrowers have failed to make payments of interest and principal due on the applicable Interest Payment Dates indicated below and upon the Carbon Revolving Line Maturity Date. The Borrowers have therefore requested, and the Agent, on behalf of the Lender, has agreed to a waiver on the terms and conditions contained herein, including an extension of the existing Carbon Revolving Line Maturity Date.

**AGREEMENT**

SECTION 1. **Reaffirmation of Indebtedness.** The Borrower hereby confirms that as of February 28, 2026, the outstanding Indebtedness owing under the Fuels Revolving Line was \$51,402,346 and the outstanding Indebtedness owing under the Carbon Revolving Line was \$30,510,569.

SECTION 2. **Carbon Revolving Line.**

Section 1.1 is amended by deleting the definitions of “Carbon Revolving Line Maturity Date” and “Interest Rate” and replacing each with the following:

“**Carbon Revolving Line Maturity Date**” means the date upon which the Agent makes DEMAND for the repayment of all Loan Indebtedness and other obligations owing under the Carbon Revolving Line, in its sole and absolute discretion.

“**Interest Rate**” means (a) with respect to the Revolving Advances made under the Fuels Revolving Line, a rate of interest per annum equal to the greater of (i) Prime Rate plus 11.00% and (ii) fifteen percent (15.00%), and (b) with respect to the Revolving Advances made under the Carbon Revolving Line, a rate of interest per annum equal to the greater of (i) Prime Rate plus 9.00% and (ii) thirteen percent (13.00%).

SECTION 3. **Interest and Fees Waiver.**

A. The Borrowers failed to, or will fail to, pay Annual Fees, the GAFI Standby Fee, the ACCI Standby Fee and interest under both Revolving Lines at the applicable Interest Rate as required by Section 2.4 of the Agreement with respect to the Interest Payment Dates of April 1, 2025 to and including April 1, 2026, which non-compliance would, but for this waiver, constitute an Event of Default (the “**Payment Violations**”).

B. Subject to the terms of this Amendment, the Agent waives each of the Payment Violations, provided that the Borrowers acknowledge that all such arrears shall accrue and be payable on the earlier of: (i) the date of any sale of any Inflation Reduction Tax (IRA) tax credits (Investment or Production Tax Credits), and (ii) the Fuels Revolving Line Maturity Date or the Carbon Revolving Line Maturity Date, as applicable, and that the Borrowers will otherwise adhere to the strict terms of the Agreement going forward.

SECTION 4. **Standby Promissory Note Waiver.**

A. The Borrowers failed to, or will fail to, pay the Standby Fee required by Section 5 of the special Promissory Note dated March 12, 2025 (“**Special Prom Note**”) with Third Eye Capital Corporation, as Lender, with respect to the months of March, 2025 to and including March, 2026, which non-compliance would, but for this waiver, constitute an Event of Default (the “**Prom Note Violations**”).

B. Subject to the terms of this Amendment, the Agent waives each of the Prom Note Violations, provided that the Borrowers acknowledge that, notwithstanding the maturity of the Special Prom Note on April 1, 2026, all such arrears shall accrue and be payable on the date of any sale of any Inflation Reduction Tax (IRA) tax credits (Investment or Production Tax Credits).

SECTION 5. **Conditions to Effectiveness.** This Amendment shall be effective on the Effective Date subject to satisfaction of the following conditions:

- (A) Agent shall have received this Amendment duly executed by the parties hereto.
- (B) Each Obligor shall have performed and complied with all of the covenants and conditions required by this Amendment and the Credit Documents, to be performed and complied with by it.
- (C) The Agent shall have received all other approvals, opinions, documents, agreements, instruments, certificates, schedules and materials as the Agent may reasonably request.

Each Obligor acknowledges and agrees that the failure to perform, or to cause the performance of, the covenants and agreements in this Amendment will constitute an Event of Default under the Agreement and Agent and Lender shall have the right to demand the immediate repayment in full in cash of all outstanding Loan Indebtedness owing under the Agreement and the other Credit Documents. In consideration of the foregoing and the transactions contemplated by this Amendment, the Obligors hereby: (i) ratify and confirm all of the obligations and liabilities of the Borrowers owing pursuant to the Agreement and the other Credit Documents, and (ii) agree to pay all costs, fees and expenses of Agent and the Lender in connection with this Amendment.

**SECTION 6. Agreement in Full Force and Effect as Amended.** Except as specifically amended or waived hereby, the Agreement and other Credit Documents shall remain in full force and effect and are hereby ratified and confirmed as so amended. Except as expressly set forth herein, this Amendment shall not be deemed to be a waiver, amendment or modification of, or consent to or departure from, any provisions of the Agreement or any other Credit Document or any right, power or remedy of Agent or Lender thereunder, nor constitute a waiver of any provision of the Agreement or any other Credit Document, or any other document, instrument or agreement executed or delivered in connection therewith or of any Default or Event of Default under any of the foregoing, in each case whether arising before or after the execution date of this Amendment or as a result of performance hereunder or thereunder. This Amendment shall not preclude the future exercise of any right, remedy, power, or privilege available to Agent or Lender whether under the Agreement, the other Credit Documents, at law or otherwise. All references to the Agreement shall be deemed to mean the Agreement as modified hereby. This Amendment shall not constitute a novation or satisfaction and accord of the Agreement or any other Credit Documents, but rather shall constitute an amendment thereof. The parties hereto agree to be bound by the terms and conditions of the Agreement and Credit Documents as amended by this Amendment, as though such terms and conditions were set forth herein. Each reference in the Agreement to “this Agreement,” “hereunder,” “hereof,” “herein” or words of similar import shall mean and be a reference to the Agreement as amended by this Amendment, and each reference herein or in any other Credit Documents to “the Agreement” shall mean and be a reference to the Agreement as amended and modified by this Amendment.

**SECTION 7. Representations of Obligors.** Each Obligor hereby represents and warrants to Agent and Lender as of the execution date of this Amendment as follows: (A) it is duly incorporated, validly existing and in good standing under the laws of its jurisdiction of incorporation; (B) the execution, delivery and performance by it of this Amendment and all other Credit Documents executed and delivered in connection herewith are within its powers, have been duly authorized, and do not contravene (i) its articles of incorporation, bylaws or other organizational documents, or (ii) any applicable law; (C) no consent, license, permit, approval or authorization of, or registration, filing or declaration with any Governmental Authority or other Person, is required in connection with the execution, delivery, performance, validity or enforceability of this Amendment or any other Credit Documents executed and delivered in connection herewith by or against it; (D) this Amendment and all other Credit Documents executed and delivered in connection herewith have been duly executed and delivered by it; (E) this Amendment and all other Credit Documents executed and delivered in connection herewith constitute its legal, valid and binding obligation enforceable against it in accordance with their terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors’ rights generally or by general principles of equity; (F) it is not in default under the Agreement or any other Credit Documents and no Event of Default exists, has occurred and is continuing or would result by the execution, delivery or performance of this Amendment; and (G) the representations and warranties contained in the Agreement and the other Credit Documents are true and correct in all material respects as of the execution date of this Amendment as if then made, except for such representations and warranties limited by their terms to a specific date.

**SECTION 8. Miscellaneous.**

(A) This Amendment may be executed in any number of counterparts (including by facsimile or email), and by the different parties hereto on the same or separate counterparts, each of which shall be deemed to be an original instrument but all of which together shall constitute one and the same agreement. Whenever the context and construction so require, all words herein in the singular number herein shall be deemed to have been used in the plural, and vice versa. The use of the word “including” in this Amendment shall be by way of example rather than by limitation. The use of the words “and” or “or” shall not be inclusive or exclusive.

(B) This Amendment may not be changed, amended, restated, waived, supplemented, discharged, canceled, terminated or otherwise modified without the written consent of the Obligors and Agent. This Amendment shall be considered part of the Agreement and shall be a Credit Document for all purposes under the Agreement and other Credit Documents.

(C) This Amendment, the Agreement and the Credit Documents constitute the final, entire agreement and understanding between the parties with respect to the subject matter hereof and thereof and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements between the parties, and shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto and thereto. There are no unwritten oral agreements between the parties with respect to the subject matter hereof and thereof.

(D) THIS AMENDMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AMENDMENT SHALL BE GOVERNED BY AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE CHOICE OF LAW PROVISIONS SET FORTH IN THE AGREEMENT AND SHALL BE SUBJECT TO ANY WAIVER OF JURY TRIAL AND NOTICE PROVISIONS OF THE AGREEMENT.

(E) No Obligor may assign, delegate or transfer this Amendment or any of their rights or obligations hereunder. No rights are intended to be created under this Amendment for the benefit of any third party donee, creditor or incidental beneficiary of the Obligors. Nothing contained in this Amendment shall be construed as a delegation to Agent or Lender of the Obligors’ duty of performance, including any duties under any account or contract in which Agent or Lender have a security interest or lien. This Amendment shall be binding upon the parties hereto and their respective successors and assigns.

(F) All representations and warranties made in this Amendment shall survive the execution and delivery of this Amendment and no investigation by Agent or Lender shall affect such representations or warranties or the right of Agent or Lender to rely upon them.

(G) THE OBLIGORS ACKNOWLEDGE THAT SUCH PERSON’S PAYMENT OBLIGATIONS ARE ABSOLUTE AND UNCONDITIONAL WITHOUT ANY RIGHT OF RECISSION, SETOFF, COUNTERCLAIM, DEFENSE, OFFSET, CROSS-COMPLAINT, CLAIM OR DEMAND OF ANY KIND OR NATURE WHATSOEVER THAT CAN BE ASSERTED TO REDUCE OR ELIMINATE ALL OR ANY PART OF ITS LIABILITY TO REPAY THE LOAN INDEBTEDNESS OR TO SEEK AFFIRMATIVE RELIEF OR DAMAGES OF ANY KIND OR NATURE FROM AGENT OR ANY NOTEHOLDER. THE OBLIGORS HEREBY VOLUNTARILY AND KNOWINGLY RELEASE AND FOREVER DISCHARGE AGENT AND EACH NOTEHOLDER AND THEIR RESPECTIVE PREDECESSORS, AGENTS, EMPLOYEES, SUCCESSORS AND ASSIGNS (COLLECTIVELY, THE “RELEASED PARTIES”), FROM ALL POSSIBLE CLAIMS, DEMANDS, ACTIONS, CAUSES OF ACTION, DAMAGES, COSTS, EXPENSES, AND LIABILITIES WHATSOEVER, KNOWN OR UNKNOWN, ANTICIPATED OR UNANTICIPATED, SUSPECTED OR UNSUSPECTED, FIXED, CONTINGENT, OR CONDITIONAL, AT LAW OR IN EQUITY, ORIGINATING IN WHOLE OR IN PART ON OR BEFORE THE DATE THIS AMENDMENT IS EXECUTED, WHICH SUCH PERSON MAY NOW OR HEREAFTER HAVE AGAINST THE RELEASED PARTIES, IF ANY, AND IRRESPECTIVE OF WHETHER ANY SUCH CLAIMS ARISE OUT OF CONTRACT, TORT, VIOLATION OF LAW OR REGULATIONS, OR OTHERWISE, AND ARISING FROM ANY “LOANS”, INCLUDING ANY CONTRACTING FOR, CHARGING, TAKING, RESERVING, COLLECTING OR RECEIVING INTEREST IN EXCESS OF THE HIGHEST LAWFUL RATE APPLICABLE, THE EXERCISE OF ANY RIGHTS AND

REMEDIES UNDER THE AGREEMENT OR OTHER CREDIT DOCUMENTS, AND NEGOTIATION FOR AND EXECUTION OF THIS AMENDMENT.

*{Signatures appear on following pages}*

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IN WITNESS WHEREOF, the parties hereto have executed this Amendment effective as of the date first noted above.

**BORROWERS:**

**GOODLAND ADVANCED FUELS, INC.**

**AEMETIS CARBON CAPTURE, INC.**

By: /s/\_\_\_\_\_

Name: Eric A. McAfee

Title: Chief Executive Officer

Acknowledged and agreed by the Guarantors:

**AEMETIS, INC.**

**AEMETIS ADVANCED PRODUCTS KEYES, INC.**

**AEMETIS ADVANCED FUELS KEYES, INC.**

**AEMETIS PROPERTY KEYES, INC.**

**AEMETIS RIVERBANK, INC.**

**AEMETIS PROPERTIES RIVERBANK, INC.**

**AEMETIS ADVANCED PRODUCTS RIVERBANK, INC.**

**AEMETIS HEALTH PRODUCTS, INC.**

**AEMETIS INTERNATIONAL, INC.**

**AEMETIS TECHNOLOGIES, INC.**

**AE ADVANCED FUELS, INC.**

**AEMETIS BIOFUELS, INC.**

**AEMETIS AMERICAS, INC.**

**AEMETIS ADVANCED FUELS, INC.**

**AEMETIS FACILITY KEYES, INC.**

**ENERGY ENZYMES, INC.**

**AE BIOFUELS, INC.**

**AEMETIS ADVANCED BIOREFINERY KEYES, INC.**

By: /s/\_\_\_\_\_

Name: Eric A. McAfee

Title: Chief Executive Officer

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**AGENT:**

**THIRD EYE CAPITAL CORPORATION**

By: /s/ \_\_\_\_\_  
Name: Arif N. Bhalwani  
Title: Managing Director

**LIMITED WAIVER AND AMENDMENT NO. 31 TO  
AMENDED AND RESTATED NOTE PURCHASE AGREEMENT**

This Limited Waiver and Amendment No. 31 to Amended and Restated Note Purchase Agreement (this “**Amendment**”) dated March 10, 2026, is made by and among (i) **AEMETIS ADVANCED FUELS KEYES, INC.**, a Delaware corporation (“**AEFK**”), **AEMETIS FACILITY KEYES, INC.**, a Delaware corporation (“**Keyes Facility**”, together with AEFK, the “**Borrowers**”), **AEMETIS, INC.**, a Delaware corporation (“**Parent**”), (ii) **THIRD EYE CAPITAL CORPORATION**, an Ontario corporation, as agent for the Noteholders (“**Administrative Agent**”) and (iii) **NINEPOINT – TEC PRIVATE CREDIT FUND, NINEPOINT – TEC PRIVATE CREDIT FUND II, MBI/TEC PRIVATE DEBT OPEN-END TRUST FUND and TEC CREDIT INCOME MASTER FUND** (collectively, the “**Noteholders**”).

**RECITALS**

- A. The Borrowers, Administrative Agent and Noteholders (or their assignors or predecessors) entered into the Amended and Restated Note Purchase Agreement dated as of July 6, 2012, as amended from time to time including most recently by an Amendment No. 30 dated as of March 12, 2025 (as the same may be amended, restated, supplemented, revised or replaced from time to time, the “**Agreement**”). Capitalized terms used but not defined in this Amendment shall have the meaning given to them in the Agreement.
- B. The Parent continues to progress its refinancing efforts under the Commercial Property Assessed Clean Energy (C-PACE) program with CleanFund LLC, a registered C-PACE administrator, including the preparation of marketing materials and communications with potential investors, which financing is expected to close in the first half of 2026.
- C. The Borrowers have requested, and the Noteholders and Administrative Agent have agreed to make the Notes payable on demand and provide certain waivers, on the terms and conditions contained herein.

**AGREEMENT**

SECTION 1. **Reaffirmation of Indebtedness.** The Borrowers hereby confirm that as of February 28, 2026, the outstanding principal balance of the Notes (including accrued interest) was approximately \$166,109,971.

SECTION 2. **Recitals Part of Agreement.** The foregoing recitals are hereby incorporated into and made a part of the Agreement, including all defined terms referenced therein.

SECTION 3. **Maturity Date Amendment.**

Section 1.1 of the Agreement is amended by substituting the following definitions in lieu of the versions of such terms and related definitions contained in the Agreement:

- a. “**Acquisition Notes Stated Maturity Date**” means the date upon which the Administrative Agent makes DEMAND for repayment of the Notes, in its sole and absolute discretion.”
- b. “**Existing Notes Stated Maturity Date**” means the date upon which the Administrative Agent makes DEMAND for repayment of the Notes, in its sole and absolute discretion.”
- c. “**Revenue Participation Notes Stated Maturity Date**” means the date upon which the Administrative Agent makes DEMAND for repayment of the Notes, in its sole and absolute discretion.”
- d. “**Revolving Notes Stated Maturity Date**” means the date upon which the Administrative Agent makes DEMAND for repayment of the Notes, in its sole and absolute discretion.”
- e. “**Revolving Notes (Series B) Stated Maturity Date**” means the date upon which the Administrative Agent makes DEMAND for repayment of the Notes, in its sole and absolute discretion.

Provided that the Borrowers are hereby required to pay to the Administrative Agent an extension fee equal to \$138,000 per month in cash on the first Business Day of each month, commencing September 1, 2026 until the date of DEMAND.

SECTION 4. **Annual Reporting Waiver.**

1. Based on the information provided to the Administrative Agent by the Borrowers, the Borrowers reported that the consolidated balance sheet of the Parent as of the end of Fiscal Year 2025 and the related consolidated statements of income, shareholders or stockholders' equity, and statements of cash flow, will include a “going concern” qualification, in violation of Section 6.1(a) of the Agreement, which non-compliance would, but for this waiver, constitute an Event of Default under the Agreement (the “**Annual Reporting Violation**”).
2. Subject to the terms of this Amendment, the Administrative Agent waives the Annual Reporting Violation; provided that the Borrowers shall be and remain obligated to comply with their obligations as stated in Section 6.1(a) of the Agreement, on a going forward basis thereafter.

SECTION 5. **Note Indebtedness to Keyes Plant Values Waiver.**

1. Based on the information provided to the Administrative Agent by the Borrowers, the Borrowers reported that they did not comply with the “Ratios of Note Indebtedness to Keyes Plant Values” requirement pursuant to Section 6.2(b) of the Agreement for the Fiscal Quarter ending December 31, 2025, which non-compliance, but for this waiver, constitutes an Event of Default under the Agreement (the “**Note Indebtedness Violation**”).
2. Subject to the terms of this Amendment, the Administrative Agent waives the Note Indebtedness Violation provided that the Borrowers shall be and remain obligated to comply with their obligations as stated in Section 6.2(b) of the Agreement, on a going forward basis thereafter.

SECTION 6. **Conditions to Effectiveness.**

This Amendment shall be effective on the date first written above but subject to satisfaction of the following conditions precedent:

- (A) Borrowers shall, and will cause the other Company Parties to, have performed and complied with all of the covenants and conditions required by this Amendment and the Note Purchase Documents to be performed and complied with.

(B) Administrative Agent shall have received all other approvals, opinions, documents, agreements, instruments, certificates, schedules and materials as Administrative Agent may reasonably request.

Each Borrower acknowledges and agrees that the failure to perform, or to cause the performance of, the covenants and agreements in this Amendment will constitute an Event of Default under the Agreement and Administrative Agent and Noteholders shall have the right to demand the immediate repayment in full in cash of all outstanding Indebtedness owing to Administrative Agent and Noteholders under the Agreement, the Notes and the other Note Purchase Documents. In consideration of the foregoing and the transactions contemplated by this Amendment, each Borrower hereby: (i) ratifies and confirms all of the obligations and liabilities of such Borrower owing pursuant to the Agreement and the other Note Purchase Documents, and (ii) agrees to pay all costs, fees and expenses of Administrative Agent and Noteholders in connection with this Amendment.

#### **SECTION 7. Agreement in Full Force and Effect as Amended.**

Except as specifically amended or waived hereby, the Agreement and other Note Purchase Documents shall remain in full force and effect and are hereby ratified and confirmed as so amended. Except as expressly set forth herein, this Amendment shall not be deemed to be a waiver, amendment or modification of, or consent to or departure from, any provisions of the Agreement or any other Note Purchase Document or any right, power or remedy of Administrative Agent or Noteholders thereunder, nor constitute a course of dealing or other basis for altering any obligation of the Borrowers, or a waiver of any provision of the Agreement or any other Note Purchase Document, or any other document, instrument or agreement executed or delivered in connection therewith or of any Default or Event of Default under any of the foregoing, in each case whether arising before or after the execution date of this Amendment or as a result of performance hereunder or thereunder. This Amendment shall not preclude the future exercise of any right, remedy, power, or privilege available to Administrative Agent or Noteholders whether under the Agreement, the other Note Purchase Documents, at law or otherwise. All references to the Agreement shall be deemed to mean the Agreement as modified hereby. This Amendment shall not constitute a novation or satisfaction and accord of the Agreement or any other Note Purchase Documents, but rather shall constitute an amendment thereof. The parties hereto agree to be bound by the terms and conditions of the Agreement and Note Purchase Documents as amended by this Amendment, as though such terms and conditions were set forth herein. Each reference in the Agreement to “this Agreement,” “hereunder,” “hereof,” “herein” or words of similar import shall mean and be a reference to the Agreement as amended by this Amendment, and each reference herein or in any other Note Purchase Documents to “the Agreement” shall mean and be a reference to the Agreement as amended and modified by this Amendment.

#### **SECTION 8. Representations by Parent and Borrowers.**

Each of the Parent and the Borrowers hereby represents and warrants to Administrative Agent and Noteholders as of the execution date of this Amendment as follows: (A) it is duly incorporated, validly existing and in good standing under the laws of its jurisdiction of incorporation; (B) the execution, delivery and performance by it of this Amendment and all other Note Purchase Documents executed and delivered in connection herewith are within its powers, have been duly authorized, and do not contravene (i) its articles of incorporation, bylaws or other organizational documents, or (ii) any applicable law; (C) no consent, license, permit, approval or authorization of, or registration, filing or declaration with any Governmental Entity or other Person, is required in connection with the execution, delivery, performance, validity or enforceability of this Amendment or any other Note Purchase Documents executed and delivered in connection herewith by or against it; (D) this Amendment and all other Note Purchase Documents executed and delivered in connection herewith have been duly executed and delivered by it; (E) this Amendment and all other Note Purchase Documents executed and delivered in connection herewith constitute its legal, valid and binding obligation enforceable against it in accordance with their terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors’ rights generally or by general principles of equity; (F) it is not in default under the Agreement or any other Note Purchase Documents and no Event of Default exists, has occurred and is continuing or would result by the execution, delivery or performance of this Amendment; and (G) the representations and warranties contained in the Agreement and the other Note Purchase Documents are true and correct in all material respects as of the execution date of this Amendment as if then made, except for such representations and warranties limited by their terms to a specific date.

#### **SECTION 9. Miscellaneous.**

(A) This Amendment may be executed in any number of counterparts (including by facsimile or email), and by the different parties hereto on the same or separate counterparts, each of which shall be deemed to be an original instrument but all of which together shall constitute one and the same agreement. Whenever the context and construction so require, all words herein in the singular number herein shall be deemed to have been used in the plural, and vice versa. The use of the word “including” in this Amendment shall be by way of example rather than by limitation. The use of the words “and” or “or” shall not be inclusive or exclusive.

(B) This Amendment may not be changed, amended, restated, waived, supplemented, discharged, canceled, terminated or otherwise modified without the written consent of the Borrowers and Administrative Agent. This Amendment shall be considered part of the Agreement and shall be a Note Purchase Document for all purposes under the Agreement and other Note Purchase Documents.

(C) This Amendment, the Agreement and the Note Purchase Documents constitute the final, entire agreement and understanding between the parties with respect to the subject matter hereof and thereof and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements between the parties, and shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto and thereto. There are no unwritten oral agreements between the parties with respect to the subject matter hereof and thereof.

(D) This Amendment and the rights and obligations of the parties under this Amendment shall be governed by and construed and interpreted in accordance with the choice of law provisions set forth in the Agreement and shall be subject to the waiver of jury trial and notice provisions of the Agreement.

(E) Neither the Parent nor any Borrower may assign, delegate or transfer this Amendment or any of their rights or obligations hereunder. No rights are intended to be created under this Amendment for the benefit of any third party donee, creditor or incidental beneficiary of the Borrowers or any Company Party. Nothing contained in this Amendment shall be construed as a delegation to Administrative Agent or Noteholders of the Borrowers or any Company Party’s duty of performance, including any duties under any account or contract in which Administrative Agent or Noteholders have a security interest or lien. This Amendment shall be binding upon the Borrowers, the Parent and their respective successors and assigns.

(F) All representations and warranties made in this Amendment shall survive the execution and delivery of this Amendment and no investigation by Administrative Agent or Noteholders shall affect such representations or warranties or the right of Administrative Agent or Noteholders to rely upon them.

(G) THE BORROWERS AND THE PARENT ACKNOWLEDGE THAT SUCH PERSON'S PAYMENT OBLIGATIONS ARE ABSOLUTE AND UNCONDITIONAL WITHOUT ANY RIGHT OF RECISSION, SETOFF, COUNTERCLAIM, DEFENSE, OFFSET, CROSS-COMPLAINT, CLAIM OR DEMAND OF ANY KIND OR NATURE WHATSOEVER THAT CAN BE ASSERTED TO REDUCE OR ELIMINATE ALL OR ANY PART OF ITS LIABILITY TO REPAY THE "OBLIGATIONS" OR TO SEEK AFFIRMATIVE RELIEF OR DAMAGES OF ANY KIND OR NATURE FROM ADMINISTRATIVE AGENT OR ANY NOTEHOLDER. THE BORROWERS AND THE PARENT HEREBY VOLUNTARILY AND KNOWINGLY RELEASE AND FOREVER DISCHARGE ADMINISTRATIVE AGENT AND EACH NOTEHOLDER AND THEIR RESPECTIVE PREDECESSORS, ADMINISTRATIVE AGENTS, EMPLOYEES, SUCCESSORS AND ASSIGNS (COLLECTIVELY, THE "RELEASED PARTIES"), FROM ALL POSSIBLE CLAIMS, DEMANDS, ACTIONS, CAUSES OF ACTION, DAMAGES, COSTS, EXPENSES, AND LIABILITIES WHATSOEVER, KNOWN OR UNKNOWN, ANTICIPATED OR UNANTICIPATED, SUSPECTED OR UNSUSPECTED, FIXED, CONTINGENT, OR CONDITIONAL, AT LAW OR IN EQUITY, ORIGINATING IN WHOLE OR IN PART ON OR BEFORE THE DATE THIS AMENDMENT IS EXECUTED, WHICH SUCH PERSON MAY NOW OR HEREAFTER HAVE AGAINST THE RELEASED PARTIES, IF ANY, AND IRRESPECTIVE OF WHETHER ANY SUCH CLAIMS ARISE OUT OF CONTRACT, TORT, VIOLATION OF LAW OR REGULATIONS, OR OTHERWISE, AND ARISING FROM ANY "LOANS", INCLUDING ANY CONTRACTING FOR, CHARGING, TAKING, RESERVING, COLLECTING OR RECEIVING INTEREST IN EXCESS OF THE HIGHEST LAWFUL RATE APPLICABLE, THE EXERCISE OF ANY RIGHTS AND REMEDIES UNDER THE AGREEMENT OR OTHER NOTE PURCHASE DOCUMENTS, AND NEGOTIATION FOR AND EXECUTION OF THIS AMENDMENT.

*{Signatures appear on following pages.}*

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IN WITNESS WHEREOF, the parties hereto have executed this Amendment effective as of the date first noted above.

**BORROWERS:**

**AEMETIS ADVANCED FUELS KEYES, INC.**

By:  /s/ \_\_\_\_\_  
Name: Eric A. McAfee  
Title: Chief Executive Officer

**AEMETIS FACILITY KEYES, INC.**

By:  /s/ \_\_\_\_\_  
Name: Eric A. McAfee  
Title: Chief Executive Officer

**PARENT:**

**AEMETIS, INC.**

By:  /s/ \_\_\_\_\_  
Name: Eric A. McAfee  
Title: Chief Executive Officer

**ADMINISTRATIVE AGENT:**

**THIRD EYE CAPITAL CORPORATION**

By:  /s/ \_\_\_\_\_  
Name: Arif N. Bhalwani  
Title: Managing Director

**NOTEHOLDERS:**

**TEC CREDIT INCOME MASTER FUND**, by its General Partner, **TEC CREDIT INCOME FUND**, by its General Partner, **TEC CREDIT INCOME FUND (CANADA)**

By:  /s/ \_\_\_\_\_  
Name: Arif N. Bhalwani  
Title: President / CEO

**MBI/TEC PRIVATE DEBT OPEN-END TRUST FUND** by its investment manager **THIRD EYE ASSET MANAGEMENT INC.**

By:  /s/ \_\_\_\_\_  
Name: Arif N. Bhalwani  
Title: President / CEO

**NINEPOINT – TEC PRIVATE CREDIT FUND**, by its Manager, **NINEPOINT PARTNERS LP**, by its general partner, **NINEPOINT PARTNERS GP INC.**

By:  /s/ \_\_\_\_\_  
Name: John Wilson  
Title: Co-CEO, Managing Partner

**NINEPOINT – TEC PRIVATE CREDIT FUND II**, by its Manager, **NINEPOINT PARTNERS LP**, by its general partner, **NINEPOINT PARTNERS GP INC.**

By:  /s/ \_\_\_\_\_  
Name: John Wilson  
Title: Co-CEO, Managing Partner

*Certain identified information has been excluded from this Exhibit because it would be competitively harmful if public disclosed or contains personal information and is not material within the meaning of Item 601. Excluded information is marked with the symbol [\*\*\*]*

***Agreement Between Owner and Design-Builder***

**AGREEMENT** made as of September 4, 2025.

**BETWEEN** the Owner:

Aemetis Advanced Fuels Keyes, Inc.  
a Delaware corporation  
20400 Stevens Creek Blvd, Suite 700  
Cupertino, CA 95014

and the Design-Builder:

NPL Construction Co.  
a Nevada corporation  
19820 N 7th Ave, Suite 120,  
Phoenix AZ 85027

for the following Project:

Aemetis Keyes Plant  
Mechanical Vapor Recompression  
4209 Jessup Rd.  
Ceres, CA 95307

The Project consists of Design-Builder's engineering, procurement, and installation of a complete turnkey Mechanical Vapor Recompression System as further described herein.

The Owner and Design-Builder agree as follows.

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A	CONTRACT SUM AND PAYMENTS
B	INSURANCE
C	FORM OF DESIGN BUILD AMENDMENT
D	DESCRIPTION OF SCOPE
E	PRAJ CONTRACT

## ARTICLE 1 GENERAL PROVISIONS

### §1.1 Owner's Criteria

This Agreement is based on the Owner's Criteria set forth in this Section 1.1.

#### §1.1.1 The Owner's program for the Project:

Owner executed that certain MVR Purchase and Sale Agreement, dated July 11, 2024 (the "Praj Contract"), with Praj Industries Limited ("Praj") for the design of, and procurement of key equipment for, a Mechanical Vapor Recompression system ("MVR System") at Owner's ethanol plant in Keyes, California. See Praj Contract, attached hereto as Exhibit E. Subject to the limitations concerning the Praj Contract set forth in Section 1.2.3, Design-Builder shall engineer, procure, and install on a turnkey basis the MVR System at Owner's ethanol plant in Keyes, California (the "Project"), in accordance with the terms of this Agreement and the specifications set forth in the Praj Contract. Exhibit D provides additional details on the scope of Design-Builder's Work.

#### §1.1.2 The Owner's design requirements for the Project and related documentation:

The Project shall be designed and installed in accordance with the Praj Contract, attached hereto as Exhibit E, the Owner's Criteria, and with all provisions of this Agreement.

#### §1.1.3 The Project's physical characteristics:

The Project's general description is in the Praj Contract, attached as Exhibit E. Additional details will be developed through the implementation of this Agreement.

#### §1.1.4 [Omitted]

§1.1.5 Incentive programs the Owner intends to pursue for the Project, including those related to the Sustainable Objective, and any deadlines for receiving the incentives that are dependent on, or related to, the Design-Builder's services, are as follows:

Owner intends to obtain tax credits under the Internal Revenue Code, including the Inflation Reduction Act and similar statutes. In support of those credits, Design-Builder shall comply with any applicable prevailing wage and apprenticeship requirements of 26 USC §§ 45Z and 48C. Design-Builder shall obtain and maintain contemporaneous records demonstrating its compliance with all provisions of this paragraph sufficient for Owner to document compliance and entitlement to increased tax credit amounts associated with domestic content, prevailing wage, and apprenticeship statutes and regulations, as applicable, and provide such documents to Owner as required.

Owner also may obtain public or private grants, and Design-Builder will cooperate with Owner to facilitate Owner's access to such programs.

#### §1.1.6 The Owner's budget for the Work to be provided by the Design-Builder is set forth below:

The Contract Sum is described in Exhibit A. The budget for the Work will be developed and approved upon the execution of each Design-Build Amendment attached at Exhibit C, pursuant to the process described in Article 4 below. For purposes of clarity, Owner and Design-Builder agree there is no predetermined maximum budget, provided that the Contract Sum is subject to all provisions of this Agreement.

#### §1.1.7 Time is of the essence with respect to this Agreement.

#### §1.1.8 [Omitted]

#### §1.1.9 Additional Owner's Criteria upon which the Agreement is based:

1.1.9.1 The Keyes Plant is subject to that certain labor agreement entitled Maintenance Agreement for the Cilion Keyes Ethanol Project dated December 18, 2006 (the "Labor Agreement"). Design-Builder shall comply with the Labor Agreement and any other applicable project labor agreements.

1.1.9.2 Design-Builder shall comply with prevailing wage and apprenticeship requirements of 26 USC §§ 45Z and 48C, and maintain contemporaneous records sufficient for Owner to document compliance and entitlement to increased tax credit amounts.

1.1.9.3 The Project shall be designed so that after the installation of the MVR System, the Keyes Plant will be fully capable of producing ethanol when the MVR System is not operating, in the same manner as before MVR System installation. Design-Builder shall not interfere with ongoing plant operations, and any activities requiring alteration of normal Keyes Plant operations shall be coordinated with Owner and require Owner's preapproval.

1.1.9.4 The MVR System shall be designed to operate as set forth in the Praj Contract. The MVR System shall be designed to withstand local conditions including weather, environmental, earthquake, wind, and similar. The System shall be designed to operate twenty-four (24) hours per day, seven (7) days per week, 365 days per year.

**§1.1.10** The Design-Builder shall confirm that the information included in the Owner's Criteria complies with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

**§1.1.10.1** If the Owner's Criteria conflicts with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner of the conflict.

**§1.1.11** If there is a change in the Owner's Criteria, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

**§1.1.12** If the Design-Builder or a Contractor intend to transmit Instruments of Service or any other information or documentation in digital form, or utilize building information modeling, they shall endeavor to establish written protocols governing the development, use, transmission, reliance, and exchange of digital data, including building information modeling.

## **§1.2 Project Team**

**§1.2.1** The Owner identifies the following representative in accordance with Section 7.1.1:

Andy Foster  
President  
Aemetis Advanced Fuels Keyes, Inc.  
20400 Stevens Creek Blvd, Suite 700 Cupertino, CA 95014

[\*\*\*]

**§1.2.2** The initial persons or entities, in addition to the Owner's representative, who are required to review the Design-Builder's Submittals are as follows:

Mike Rosa

[\*\*\*]

**§1.2.3** The Owner will retain the following consultants and separate contractors:

*(List discipline, scope of work, and, if known, identify by name and address.)*

Praj Industries Limited

Praj Tower, Bhumkar Chowk- Hinjawadi Road, Hinjawadi Village, 274 & 275/2, Praj Industries Rd, Hinjawadi, Pimpri-Chinchwad, Maharashtra 411057, India

Owner has retained Praj for the Project pursuant to the Praj Contract. Notwithstanding anything to the contrary set forth herein, Design-Builder shall be required to manage and oversee execution of the Praj Contract on Owner's behalf. This shall include oversight and management of, and payment for, all scopes of work performed by Praj, along with execution of all scopes of work to be performed by Owner (Aemetis) under the Praj Contract. Design-Builder shall not be deemed to have assumed the Praj Contract nor shall Design-Builder be required to accept an assignment of the Praj Contract.

Mike Rosa, Independent Contractor

Owner has retained Mike Rosa to act on the Owner's behalf to review Design-Builder's submittals following the processes described in this Agreement.

[\*\*\*]

**§1.2.4** The Design-Builder identifies the following initial representative in accordance with Section 3.1.2:

Michael Reynolds

[\*\*\*]

**§1.2.5** Neither the Owner's nor the Design-Builder's representative shall be changed without ten days' written notice to the other party.

## **§1.3 Binding Dispute Resolution**

For any Claim subject to, but not resolved by, mediation pursuant to Section 14.3, the method of binding dispute resolution shall be the following:

[  ] Arbitration pursuant to Section 14.4

[  ] Litigation in a court of competent jurisdiction

[  ] Other: *(Specify)*

## **§1.4 Definitions**

**§1.4.1 Design-Build Documents.** The Design-Build Documents consist of this Agreement between Owner and Design-Builder and its attached Exhibits (hereinafter, the "Agreement"); other documents listed in this Agreement; and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, including the Design-Build Amendment, (2) a Change Order, or (3) a Change Directive.

**§1.4.2 The Contract.** The Design-Build Documents form the Contract. The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Design-Build Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Design-Builder.

**§1.4.3 The Work.** The term “Work” means the design, construction and related services required to fulfill the Design-Builder’s obligations under the Design-Build Documents, whether completed or partially completed, and includes all labor, materials, equipment and services provided or to be provided by the Design-Builder. The Work may constitute the whole or a part of the Project.

**§1.4.4 The Project.** The Project is the total design and construction of which the Work performed under the Design-Build Documents may be the whole or a part, and may include design and construction by the Owner and by separate contractors.

**§1.4.5 Instruments of Service.** Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Design-Builder, Contractor(s), Architect, and Consultant(s) under their respective agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, digital models and other similar materials.

**§1.4.6 Submittal.** A Submittal is any submission to the Owner for review and approval demonstrating how the Design-Builder proposes to conform to the Design-Build Documents for those portions of the Work for which the Design-Build Documents require Submittals. Submittals include, but are not limited to, shop drawings, product data, and samples. Submittals are not Design-Build Documents unless incorporated into a Modification.

**§1.4.7 Owner.** The Owner is the entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number.

**§1.4.8 Design-Builder.** The Design-Builder is the entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number.

**§1.4.9 Consultant.** A Consultant is a person or entity providing professional services for the Design-Builder for all or a portion of the Work, and is referred to throughout the Design-Build Documents as if singular in number. To the extent required by the relevant jurisdiction, the Consultant shall be lawfully licensed to provide the required professional services.

**§1.4.10 Architect.** The Architect is a person or entity providing design services for the Design-Builder for all or a portion of the Work, and is lawfully licensed to practice architecture in the applicable jurisdiction. The Architect is referred to throughout the Design-Build Documents as if singular in number.

**§1.4.11 Contractor.** A Contractor is a person or entity performing all or a portion of the construction, required in connection with the Work, for the Design-Builder. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor is referred to throughout the Design-Build Documents as if singular in number and means a Contractor or an authorized representative of the Contractor.

**§1.4.12 Confidential Information.** Confidential Information is information containing confidential or business proprietary information that is clearly marked as “confidential.”

**§1.4.13 Contract Time.** Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, as set forth in Exhibit A for Substantial Completion of the Work.

**§1.4.14 Day.** The term “day” as used in the Design-Build Documents shall mean calendar day unless otherwise specifically defined.

**§1.4.15 Contract Sum.** The Contract Sum is the amount to be paid to the Design-Builder for performance of the Work, as described in Exhibit A.

## ARTICLE 2 COMPENSATION AND PROGRESS PAYMENTS

### §2.1 Compensation for Work Performed Prior To Execution of Design-Build Amendment

Design-Builder’s reasonably incurred “Cost of Work” (as defined in Exhibit A) that Design-Builder incurs between the execution of this Agreement and the initial Design-Build Amendment are included in the Contract Sum.

### §2.2 Contract Sum and Payment for Work Performed After Execution of Design-Build Amendment

For the Design-Builder’s performance of the Work after execution of the initial Design-Build Amendment, the Owner shall pay to the Design-Builder the Contract Sum in current funds as agreed in

Exhibit A.

## ARTICLE 3 GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT

### §3.1 General

**§3.1.1** The Design-Builder shall comply with any applicable licensing requirements in the jurisdiction where the Project is located.

**§3.1.2** The Design-Builder shall designate in writing a representative who is authorized to act on the Design-Builder’s behalf with respect to the Project.

**§3.1.3** The Design-Builder shall perform the Work in accordance with the Design-Build Documents. The Design-Builder shall not be relieved of the obligation to perform the Work in accordance with the Design-Build Documents by the activities, tests, inspections or approvals of the Owner.

**§3.1.3.1** The Design-Builder shall perform the Work in compliance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder performs Work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, the Design-Builder shall assume responsibility for such Work and shall bear the costs attributable to correction.

**§3.1.3.2** Neither the Design-Builder nor any Contractor, Consultant, or Architect shall be obligated to perform any act which they believe will violate any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder determines that implementation of any instruction received from the Owner, including those in the Owner's Criteria, would cause a violation of any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner in writing. Upon verification by the Owner that a change to the Owner's Criteria is required to remedy the violation, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

**§3.1.4** The Design-Builder shall be responsible to the Owner for acts and omissions of the Design-Builder's employees, Architect, Consultants, Contractors, and their agents and employees, and other persons or entities performing portions of the Work.

**§3.1.5 General Consultation.** The Design-Builder shall schedule and conduct periodic meetings with the Owner to review matters such as procedures, progress, coordination, and scheduling of the Work.

**§3.1.6** When applicable law requires that services be performed by licensed professionals, the Design-Builder shall provide those services through qualified, licensed professionals. The Owner understands and agrees that the services of the Design-Builder's Architect and the Design-Builder's other Consultants are performed in the sole interest of, and for the exclusive benefit of, the Design-Builder.

**§3.1.7** The Design-Builder, with the assistance of the Owner, shall prepare and file documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project.

### **§3.1.8 Progress Reports**

**§3.1.8.1** The Design-Builder shall keep the Owner informed of the progress and quality of the Work. On a monthly basis, or otherwise as agreed to by the Owner and Design-Builder, the Design-Builder shall submit written progress reports to the Owner, showing estimated percentages of completion and other information identified below:

- .1 Work completed for the period;
- .2 Project schedule status;
- .3 Submittal schedule and status report, including a summary of outstanding Submittals;
- .4 Responses to requests for information to be provided by the Owner;
- .5 Approved Change Orders and Change Directives;
- .6 Pending Change Order and Change Directive status reports;
- .7 Tests and inspection reports;
- .8 Status report of Work rejected by the Owner;
- .9 Status of Claims previously submitted in accordance with Article 14;
- .10 Cumulative total of the Cost of the Work to date including the Design-Builder's compensation and Reimbursable Expenses, if any;
- .11 Current Project cash-flow and forecast reports; and
- .12 Additional information as agreed to by the Owner and Design-Builder.

**§3.1.8.2** In addition, where the Contract Sum is the Cost of the Work with or without a Guaranteed Maximum Price, the Design-Builder shall include the following additional information in its progress reports:

- .1 Design-Builder's work force report;
- .2 Equipment utilization report; and
- .3 Cost summary, comparing actual costs to updated cost estimates.

### **§3.1.9 Design-Builder's Schedules**

**§3.1.9.1** The Design-Builder, promptly after execution of this Agreement, shall prepare and submit for the Owner's information a schedule for the Work. The schedule, including the time required for design and construction, shall not exceed time limits current under the Design-Build Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Design-Build Documents, shall provide for expeditious and practicable execution of the Work, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project.

**§3.1.9.2** The Design-Builder shall perform the Work in general accordance with the most recent schedules submitted to the Owner.

**§3.1.10 Certifications.** Upon the Owner's written request, the Design-Builder shall obtain from the Architect, Consultants, and Contractors, and furnish to the Owner, certifications with respect to the documents and services provided by the Architect, Consultants, and Contractors (a) that, to the best of their knowledge, information and belief, the documents or services to which the certifications relate (i) are consistent with the Design-Build Documents, except to the extent specifically identified in the certificate, and (ii) comply with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities governing the design of the Project; and (b) that the Owner and its consultants shall be entitled to rely upon the accuracy of the representations and statements contained in the certifications. The Design-Builder's Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

### **§3.1.11 Design-Builder's Submittals**

**§3.1.11.1** Prior to submission of any Submittals, the Design-Builder shall prepare a Submittal schedule, and shall submit the schedule for the Owner's approval. The Owner's approval shall not unreasonably be delayed or withheld. The Submittal schedule shall (1) be coordinated with the Design-Builder's schedule provided in Section 3.1.9.1, (2) allow the Owner reasonable time to review Submittals, and (3) be periodically updated to reflect the progress of the Work. If the Design-Builder fails to submit a Submittal schedule, the Design-Builder shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of Submittals.

**§3.1.11.2** By providing Submittals the Design-Builder represents to the Owner that it has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Design-Build Documents.

**§3.1.11.3** The Design-Builder shall perform no portion of the Work for which the Design-Build Documents require Submittals until the Owner has approved the respective Submittal.

**§3.1.11.4** The Work shall be in accordance with approved Submittals except that the Design-Builder shall not be relieved of its responsibility to perform the Work consistent with the requirements of the Design-Build Documents. The Work may deviate from the Design-Build Documents only if the Design-Builder has notified the Owner in writing of a deviation from the Design-Build Documents at the time of the Submittal and a Modification is executed authorizing the identified deviation. The Design-Builder shall not be relieved of responsibility for errors or omissions in Submittals by the Owner's approval of the Submittals.

**§3.1.11.5** All professional design services or certifications to be provided by the Design-Builder, including all drawings, calculations, specifications, certifications, shop drawings and other Submittals, shall contain the signature and seal of the licensed design professional preparing them. Submittals related to the Work designed or certified by the licensed design professionals, if prepared by others, shall bear the licensed design professional's written approval. The Owner and its consultants shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

**§3.1.12 Warranty.** The Design-Builder warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless the Design-Build Documents require or permit otherwise. The Design-Builder further warrants that the Work will conform to the requirements of the Design-Build Documents and will be free from defects, except for those inherent in the quality of the Work or otherwise expressly permitted by the Design-Build Documents; provided, however, that Design-Builder's warranty shall not apply to the extent any defect arises out of or results from Praj's design, Praj's engineering and/or Praj's execution of its scope of work as set forth in the Praj Contract. Work, materials, or equipment not conforming to these requirements may be considered defective. The Design-Builder's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Design-Builder, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner, the Design-Builder shall furnish satisfactory evidence as to the kind and quality of materials and equipment. Design-Builder shall pass all warranties provided by Design-Builder's vendor, contractors, and suppliers to Owner, and Owner and Design-Builder shall reasonably cooperate to make claims under such warranties, provided that such supplier warranties supplement and do not replace or modify Design-Builder's warranty obligations hereunder.

### **§3.1.13 Royalties, Patents and Copyrights**

**§3.1.13.1** The Design-Builder shall pay all royalties and license fees.

**§3.1.13.2** The Design-Builder shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and its separate contractors and consultants harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Owner, or where the copyright violations are required in the Owner's Criteria. However, if the Design-Builder has reason to believe that the design, process or product required in the Owner's Criteria is an infringement of a copyright or a patent, the Design-Builder shall be responsible for such loss unless such information is promptly furnished to the Owner. If the Owner receives notice from a patent or copyright owner of an alleged violation of a patent or copyright, attributable to the Design-Builder, the Owner shall give prompt written notice to the Design-Builder.

### **§3.1.14 Indemnification**

**§3.1.14.1** To the fullest extent permitted by law, the Design-Builder shall indemnify and hold harmless the Owner, including the Owner's agents and employees, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, but only to the extent caused by the negligent acts or omissions of the Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.1.14.

**§3.1.14.2** The indemnification obligation under this Section 3.1.14 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them, under workers' compensation acts, disability benefit acts or other employee benefit acts.

### **§3.1.15 Contingent Assignment of Agreements**

**§3.1.15.1** Each agreement for a portion of the Work is assigned by the Design-Builder to the Owner, provided that

**.1** assignment is effective only after termination of the Contract by the Owner for cause, pursuant to Sections 13.1.4 or 13.2.2, and only for those agreements that the Owner accepts by written notification to the Design-Builder and the Architect, Consultants, and Contractors whose agreements are accepted for assignment; and

**.2** assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of an agreement, the Owner assumes the Design-Builder's rights and obligations under the agreement.

**§3.1.15.2** Upon such assignment, if the Work has been suspended for more than 30 days, the compensation under the assigned agreement shall be equitably adjusted for increases in cost resulting from the suspension.

**§3.1.15.3** Upon such assignment to the Owner under this Section 3.1.15, the Owner may further assign the agreement to a successor design-builder or other entity. If the Owner assigns the agreement to a successor design-builder or other entity, the Owner shall nevertheless remain legally responsible for all of the successor design-builder's or other entity's obligations under the agreement.

**§3.1.16 Design-Builder's Insurance.** The Design-Builder shall purchase and maintain insurance as set forth in Exhibit B.

## **ARTICLE 4 WORK PRIOR TO EXECUTION OF THE INITIAL DESIGN-BUILD AMENDMENT**

### **§4.1 General**

**§4.1.1** Any information submitted by the Design-Builder, and any interim decisions made by the Owner, shall be for the purpose of facilitating the design process and shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

**§4.1.2** The Design-Builder shall advise the Owner on proposed site use and improvements, selection of materials, and building systems and equipment. The Design-Builder shall also provide the Owner with recommendations, consistent with the Owner's Criteria, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

**§4.1.2** Design-Builder may begin planning and mobilization for the Work upon execution of this Agreement; provided, however, that the authorization provided by this sentence shall not apply to procurement of equipment or hiring of subcontractors, which shall require a Design-Build Amendment as set forth herein. The Design-Builder shall provide Owner with an initial proposed Design Build Amendment within twenty-one (21) calendar days of execution of this Agreement to cover budget approval for continuing activities.

#### **§4.2 Evaluation of the Owner's Criteria**

**§4.2.1** The Design-Builder shall schedule and conduct meetings with the Owner and any other necessary individuals or entities to discuss and review the Owner's Criteria as set forth in Section 1.1. The Design-Builder shall thereafter again meet with the Owner to discuss a preliminary evaluation of the Owner's Criteria. The preliminary evaluation shall address possible alternative approaches to design and construction of the Project and include the Design-Builder's recommendations, if any, with regard to accelerated or fast-track scheduling, procurement, or phased construction. The preliminary evaluation shall consider cost information, constructability, and procurement and construction scheduling issues.

**§4.2.2** After the Design-Builder meets with the Owner and presents the preliminary evaluation, the Design-Builder shall provide a written report to the Owner, summarizing the Design-Builder's evaluation of the Owner's Criteria. The report shall also include

- .1 allocations of program functions, detailing each function and their square foot areas;
- .2 a preliminary estimate of the Cost of the Work, and, if necessary, recommendations to adjust the Owner's Criteria to conform to the Owner's budget;
- .3 a preliminary schedule, which shall include proposed design milestones; dates for receiving additional information from, or for work to be completed by, the Owner; anticipated date for the Design-Builder's Proposal; and dates of periodic design review sessions with the Owner; and
- .4 the Design-Builder's preliminary plan for completing the Work, including description of all key components of the Work, Design-Builder's potential contractors (or description of self-performance if applicable), Design-Builder's procurement plans, and other relevant information not otherwise provided.

**§4.2.3** The Owner shall review the Design-Builder's written report and, if acceptable, provide the Design-Builder with written consent to proceed to the development of the Preliminary Design as described in Section 4.3. The consent to proceed shall not be understood to modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

#### **§4.3 Preliminary Design**

**§4.3.1** Upon the Owner's issuance of a written consent to proceed under Section 4.2.3, the Design-Builder shall prepare and submit a Preliminary Design to the Owner. The Preliminary Design shall include a report identifying any deviations from the Owner's Criteria, and shall include the following:

- .1 Confirmation of the allocations of program functions;
- .2 Site plan;
- .3 Building plans, sections and elevations;
- .4 Structural system;
- .5 Selections of major building systems, including but not limited to mechanical, electrical and plumbing systems; and
- .6 Outline specifications or sufficient drawing notes describing construction materials.

The Preliminary Design may include some combination of physical study models, perspective sketches, or digital modeling.

**§4.3.2** The Owner shall review the Preliminary Design and, if acceptable, provide the Design-Builder with written consent to proceed to development of the Design-Builder's Proposal. The Preliminary Design shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

#### **§4.4 Design-Builder's Proposal**

**§4.4.1** Upon the Owner's issuance of a written consent to proceed under Section 4.3.2, the Design-Builder shall prepare and submit the Design-Builder's Proposal to the Owner. The Design-Builder's Proposal shall include the following:

- .1 A list of the Preliminary Design documents and other information, including the Design-Builder's clarifications, assumptions and deviations from the Owner's Criteria, upon which the Design-Builder's Proposal is based;
- .2 The proposed budget for Design-Builder's Cost of the Work, including a written statement providing details on the estimated cost organized by Contractors, procurement activities, trade categories, allowances, contingencies, and other applicable categories;
- .3 The schedule for the proposed activities;
- .4 An enumeration of any qualifications and exclusions, if applicable; and
- .5 A list of the Design-Builder's key personnel, Contractors and suppliers.

**§4.4.2** Submission of the Design-Builder's Proposal shall constitute a representation by the Design-Builder that it has visited the site and become familiar with local conditions under which the Work is to be completed.

**§4.4.3** If the Owner and Design-Builder agree on a proposal, the Owner and Design-Builder shall execute the initial Design-Build Amendment setting forth the terms of their agreement. If, due to scheduling and sequencing constraints, the initial Design Build Amendment does not include all Work required by the Design-Builder hereunder, subsequent Design-Build Amendments may be executed. If Owner and Design-Builder execute a Design-Build amendment for a limited portion of the Work, Design-Builder shall be authorized to proceed with only that portion Except when qualified as the "initial Design-Build Amendment", references to the Design-Build Amendment shall include any and all Design-Build Amendments executed hereunder. The process described in Section 4.2 to Section 4.4, as applicable to the Work under consideration, shall be repeated for each Design Build Amendment.

Only the Owner's representative listed in Section 1.2.1 shall have authority to execute the Design-Build Amendment, Modification, or Change Directive. Design-Builder shall not rely on such documents executed by Owner's technical representative listed in Section 1.2.2 or persons other than designated representative in Section 1.2.1 (or a duly authorized successor for such purpose).

## ARTICLE 5 WORK FOLLOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT

### §5.1 Construction Documents

**§5.1.1** Upon the execution of the Design-Build Amendment, the Design-Builder shall prepare Construction Documents. The Construction Documents shall establish the quality levels of materials and systems required. The Construction Documents shall be consistent with the Design-Build Documents.

**§5.1.2** The Design-Builder shall provide the Construction Documents to the Owner for the Owner's information. If the Owner discovers any deviations between the Construction Documents and the Design-Build Documents, the Owner shall promptly notify the Design-Builder of such deviations in writing. The Construction Documents shall not modify the Design-Build Documents unless the Owner and Design-Builder execute a Modification. The failure of the Owner to discover any such deviations shall not relieve the Design-Builder of the obligation to perform the Work in accordance with the Design-Build Documents.

### §5.2 Construction

**§5.2.1 Commencement.** Except as permitted in Section 5.2.2, the Work set forth in each Design-Build Amendment shall not commence prior to execution of such Design-Build Amendment.

**§5.2.2** If the Owner and Design-Builder agree in writing, construction may proceed prior to the execution of the Design-Build Amendment. However, such authorization shall not waive the Owner's right to reject the Design-Builder's Proposal.

**§5.2.3** The Design-Builder shall supervise and direct the Work, using the Design-Builder's best skill and attention. The Design-Builder shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Design-Build Documents give other specific instructions concerning these matters.

**§5.2.4** The Design-Builder shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

### §5.3 Labor and Materials

**§5.3.1** Unless otherwise provided in the Design-Build Documents, the Design-Builder shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services, necessary for proper execution and completion of the Work, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work.

**§5.3.2** When a material or system is specified in the Design-Build Documents, the Design-Builder may make substitutions only in accordance with Article 6.

**§5.3.3** The Design-Builder shall enforce strict discipline and good order among the Design-Builder's employees and other persons carrying out the Work. The Design-Builder shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

### §5.4 Taxes

The Design-Builder shall pay sales, consumer, use and similar taxes, for the Work provided by the Design-Builder, that are legally enacted when the Design-Build Amendment is executed, whether or not yet effective or merely scheduled to go into effect.

### §5.5 Permits, Fees, Notices and Compliance with Laws

**§5.5.1** Unless otherwise provided in the Design-Build Documents, the Design-Builder shall secure and pay for the building permit as well as any other permits, fees, licenses, and inspections by government agencies, necessary for proper execution of the Work and Substantial Completion of the Project. The following permits, to the extent required by applicable law, shall be obtained by Owner and are expressly excluded from the Work: (a) Stanislaus County Land Use Permit; and (b) San Joaquin Valley Air Pollution Control District Authorities to Construct for the modifications to the Keyes Plant (but not including permits required by mobile sources, if any, which shall be Design-Builder's responsibility).

**§5.5.2** The Design-Builder shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, applicable to performance of the Work.

**§5.5.3 Concealed or Unknown Conditions.** If the Design-Builder encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Design-Build Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Design-Build Documents, the Design-Builder shall promptly provide notice to the Owner before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Owner shall promptly investigate such conditions and, if the Owner determines that they differ materially and cause an increase or decrease in the Design-Builder's cost of, or time required for, performance of any part of the Work, shall recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Owner determines that the conditions at the site are not materially different from those indicated in the Design-Build Documents and that no change in the terms of the Contract is justified, the Owner shall promptly notify the Design-Builder in writing, stating the reasons. If the Design-Builder disputes the Owner's determination or recommendation, the Design-Builder may proceed as provided in Article 14.

**§5.5.4** If, in the course of the Work, the Design-Builder encounters human remains, or recognizes the existence of burial markers, archaeological sites, or wetlands, not indicated in the Design-Build Documents, the Design-Builder shall immediately suspend any operations that would affect them and shall notify the Owner. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Design-Builder shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 14.

## **§5.6 Allowances**

**§5.6.1** The Design-Builder shall include in the Contract Sum all allowances stated in the Design-Build Documents. Items covered by allowances shall be supplied for such amounts, and by such persons or entities as the Owner may direct, but the Design-Builder shall not be required to employ persons or entities to whom the Design-Builder has reasonable objection.

**§5.6.2** Unless otherwise provided in the Design-Build Documents,

- .1 allowances shall cover the cost to the Design-Builder of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 the Design-Builder's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts, shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 5.6.2.1 and (2) changes in Design-Builder's costs under Section 5.6.2.2.

**§5.6.3** The Owner shall make selections of materials and equipment with reasonable promptness for allowances requiring Owner selection.

## **§5.7 Key Personnel, Contractors and Suppliers**

**§5.7.1** The Design-Builder shall not employ personnel, or contract with Contractors or suppliers to whom the Owner has made reasonable and timely objection. The Design-Builder shall not be required to contract with anyone to whom the Design-Builder has made reasonable and timely objection.

**§5.7.2** If the Design-Builder changes any of the personnel, Contractors or suppliers identified in the Design-Build Amendment, the Design-Builder shall notify the Owner and provide the name and qualifications of the new personnel, Contractor or supplier. The Owner may reply within 14 days to the Design-Builder in writing, stating (1) whether the Owner has reasonable objection to the proposed personnel, Contractor or supplier or (2) that the Owner requires additional time to review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

**§5.7.3** Except for those persons or entities already identified or required in the Design-Build Amendment, the Design-Builder, as soon as practicable after execution of the Design-Build Amendment, shall furnish in writing to the Owner the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Owner may reply within 14 days to the Design-Builder in writing stating (1) whether the Owner has reasonable objection to any such proposed person or entity or (2) that the Owner requires additional time for review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

**§5.7.3.1** If the Owner has reasonable objection to a person or entity proposed by the Design-Builder, the Design-Builder shall propose another to whom the Owner has no reasonable objection. If the rejected person or entity was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute person or entity's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Design-Builder has acted promptly and responsively in submitting names as required.

## **§5.8 Documents and Submittals at the Site**

The Design-Builder shall maintain at the site for the Owner one copy of the Design-Build Documents and a current set of the Construction Documents, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Submittals. The Design-Builder shall deliver these items to the Owner in accordance with Section 9.10.2 as a record of the Work as constructed.

## **§5.9 Use of Site**

The Design-Builder shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Design-Build Documents, and shall not unreasonably encumber the site with materials or equipment.

## **§5.10 Cutting and Patching**

The Design-Builder shall not cut, patch or otherwise alter fully or partially completed construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Design-Builder shall not unreasonably withhold from the Owner or a separate contractor the Design-Builder's consent to cutting or otherwise altering the Work.

## **§5.11 Cleaning Up**

**§5.11.1** The Design-Builder shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Design-Builder shall remove waste materials, rubbish, the Design-Builder's tools, construction equipment, machinery and surplus materials from and about the Project.

**§5.11.2** If the Design-Builder fails to clean up as provided in the Design-Build Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Design-Builder.

## **§5.12 Access to Work**

The Design-Builder shall provide the Owner and its separate contractors and consultants access to the Work in preparation and progress wherever located. The Design-Builder shall notify the Owner regarding Project safety criteria and programs, which the Owner, and its contractors and consultants, shall comply with while at the site.

## **§5.13 Construction by Owner or by Separate Contractors**

### **§5.13.1 Owner's Right to Perform Construction and to Award Separate Contracts**

**§5.13.1.1** The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces; and to award separate contracts in connection with other portions of the Project, or other construction or operations on the site, under terms and conditions identical or

substantially similar to this Contract, including those terms and conditions related to insurance and waiver of subrogation. The Owner shall notify the Design-Builder promptly after execution of any separate contract. If the Design-Builder claims that delay or additional cost is involved because of such action by the Owner, the Design-Builder shall make a Claim as provided in Article 14.

**§5.13.1.2** When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term “Design-Builder” in the Design-Build Documents in each case shall mean the individual or entity that executes each separate agreement with the Owner.

**§5.13.1.3** The Owner shall provide for coordination of the activities of the Owner’s own forces, and of each separate contractor, with the Work of the Design-Builder, who shall cooperate with them. The Design-Builder shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Design-Builder shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Design-Builder, separate contractors and the Owner until subsequently revised.

**§5.13.1.4** Unless otherwise provided in the Design-Build Documents, when the Owner performs construction or operations related to the Project with the Owner’s own forces or separate contractors, the Owner shall be deemed to be subject to the same obligations, and to have the same rights, that apply to the Design-Builder under the Contract.

#### **§5.14 Mutual Responsibility**

**§5.14.1** The Design-Builder shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Design-Builder’s construction and operations with theirs as required by the Design-Build Documents.

**§5.14.2** If part of the Design-Builder’s Work depends upon construction or operations by the Owner or a separate contractor, the Design-Builder shall, prior to proceeding with that portion of the Work, prepare a written report to the Owner, identifying apparent discrepancies or defects in the construction or operations by the Owner or separate contractor that would render it unsuitable for proper execution and results of the Design-Builder’s Work. Failure of the Design-Builder to report shall constitute an acknowledgment that the Owner’s or separate contractor’s completed or partially completed construction is fit and proper to receive the Design-Builder’s Work, except as to defects not then reasonably discoverable.

**§5.14.3** The Design-Builder shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Design-Builder’s delays, improperly timed activities or defective construction. The Owner shall be responsible to the Design-Builder for costs the Design-Builder incurs because of a separate contractor’s delays, improperly timed activities, damage to the Work or defective construction.

**§5.14.4** The Design-Builder shall promptly remedy damage the Design-Builder wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

**§5.14.5** The Owner and each separate contractor shall have the same responsibilities for cutting and patching the Work as the Design-Builder has with respect to the construction of the Owner or separate contractors in Section 5.10.

#### **§5.15 Owner’s Right to Clean Up**

If a dispute arises among the Design-Builder, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and will allocate the cost among those responsible.

### **ARTICLE 6 CHANGES IN THE WORK**

#### **§6.1 General**

**§6.1.1** Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order or Change Directive, subject to the limitations stated in this Article 6 and elsewhere in the Design-Build Documents.

**§6.1.2** A Change Order shall be based upon agreement between the Owner and Design-Builder. The Owner may issue a Change Directive without agreement by the Design-Builder.

**§6.1.3** Changes in the Work shall be performed under applicable provisions of the Design-Build Documents, and the Design-Builder shall proceed promptly, unless otherwise provided in the Change Order or Change Directive.

#### **§6.2 Change Orders**

A Change Order is a written instrument signed by the Owner and Design-Builder stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder’s compensation; and
- .3 The extent of the adjustment, if any, in the Contract Time.

#### **§6.3 Change Directives**

**§6.3.1** A Change Directive is a written order signed by the Owner directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder’s compensation, or Contract Time. The Owner may by Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder’s compensation, and Contract Time being adjusted accordingly.

**§6.3.2** A Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

**§6.3.3** If the Change Directive provides for an adjustment to the Contract Sum or, if prior to execution of the Design-Build Amendment, an adjustment in the Design-Builder’s compensation, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Design-Build Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 6.3.7.

**§6.3.4** If unit prices are stated in the Design-Build Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Design-Builder, the applicable unit prices shall be equitably adjusted.

**§6.3.5** Upon receipt of a Change Directive, the Design-Builder shall promptly proceed with the change in the Work involved and advise the Owner of the Design-Builder's agreement or disagreement with the method, if any, provided in the Change Directive for determining the proposed adjustment in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, or Contract Time.

**§6.3.6** A Change Directive signed by the Design-Builder indicates the Design-Builder's agreement therewith, including adjustment in Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

**§6.3.7** If the Design-Builder does not respond promptly or disagrees with the method for adjustment in the Contract Sum or, if prior to execution of the Design-Build Amendment, the method for adjustment in the Design-Builder's compensation, the Owner shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 6.3.3.3, the Design-Builder shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Design-Build Documents, costs for the purposes of this Section 6.3.7 shall be limited to the following:

- .1 Additional costs of professional services;
- .2 Costs of labor, including social security, unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- .3 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- .4 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Design-Builder or others;
- .5 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
- .6 Additional costs of supervision and field office personnel directly attributable to the change.

**§6.3.8** The amount of credit to be allowed by the Design-Builder to the Owner for a deletion or change that results in a net decrease in the Contract Sum or, if prior to execution of the Design-Build Amendment, in the Design-Builder's compensation, shall be actual net cost. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

**§6.3.9** The Owner's interim determination of cost shall adjust the Contract Sum or, if prior to execution of the Design-Build Amendment, the Design-Builder's compensation, on the same basis as a Change Order, subject to the right of Design-Builder to disagree and assert a Claim in accordance with Article 14.

**§6.3.10** When the Owner and Design-Builder agree with a determination concerning the adjustments in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Owner and Design-Builder shall execute a Change Order. Change Orders may be issued for all or any part of a Change Directive.

## ARTICLE 7 OWNER'S RESPONSIBILITIES

### §7.1 General

**§7.1.1** The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all Project matters requiring the Owner's approval or authorization.

**§7.1.2** The Owner shall render decisions in a timely manner and in accordance with the Design-Builder's schedule agreed to by the Owner. The Owner shall furnish to the Design-Builder, within 15 days after receipt of a written request, information necessary and relevant for the Design-Builder to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

### §7.2 Information and Services Required of the Owner

**§7.2.1** The Owner shall furnish information or services required of the Owner by the Design-Build Documents with reasonable promptness.

**§7.2.2** The Owner shall provide, to the extent under the Owner's control and if not required by the Design-Build Documents to be provided by the Design-Builder, the results and reports of prior tests, inspections or investigations conducted for the Project involving structural or mechanical systems; chemical, air and water pollution; hazardous materials; or environmental and subsurface conditions and information regarding the presence of pollutants at the Project site. Upon receipt of a written request from the Design-Builder, the Owner shall also provide any existing surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site under the Owner's control. The Design-Builder shall, as part of the Work, conduct any additional studies or investigations beyond those provided by owner as needed to conduct the Work.

**§7.2.3** The Owner shall promptly obtain easements, zoning variances, and legal authorizations or entitlements regarding site utilization where essential to the execution of the Project.

**§7.2.4** The Owner shall cooperate with the Design-Builder in securing building and other permits, licenses and inspections.

§ 7.2.5 The services, information, surveys and reports required to be provided by the Owner under this Agreement, shall be furnished at the Owner's expense, and except as otherwise specifically provided in this Agreement or elsewhere in the Design-Build Documents or to the extent the Owner advises the Design-Builder to the contrary in writing, the Design-Builder shall be entitled to rely upon the accuracy and completeness thereof. In no event shall the Design-Builder be relieved of its responsibility to exercise proper precautions relating to the safe performance of the Work.

§7.2.6 If the Owner observes or otherwise becomes aware of a fault or defect in the Work or non-conformity with the Design-Build Documents, the Owner shall give prompt written notice thereof to the Design-Builder.

§7.2.7 [Omitted]

§7.2.8 Except as otherwise provided in the Design-Build Documents or when direct communications have been specially authorized, the Owner shall communicate through the Design-Builder with persons or entities employed or retained by the Design-Builder.

§7.2.9 The Design-Builder shall engage the services of geotechnical engineers or other consultants for investigation of subsurface, air and water conditions when such services are reasonably necessary to properly carry out the design services furnished by the Design-Builder, provided that all testing shall be subject to the Owner's advance written approval. Such services may include, but are not limited to, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, and necessary operations for anticipating subsoil conditions. The services of geotechnical engineer(s) or other consultants shall include preparation and submission of all appropriate reports and professional recommendations.

§7.2.10 The Owner shall purchase and maintain insurance as set forth in Exhibit B

### §7.3 Submittals

§7.3.1 The Owner shall review and approve or take other appropriate action on Submittals. Review of Submittals is not conducted for the purpose of determining the accuracy and completeness of other details, such as dimensions and quantities; or for substantiating instructions for installation or performance of equipment or systems; or for determining that the Submittals are in conformance with the Design-Build Documents, all of which remain the responsibility of the Design-Builder as required by the Design-Build Documents. The Owner's action will be taken in accordance with the submittal schedule approved by the Owner or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Owner's judgment to permit adequate review. The Owner's review of Submittals shall not relieve the Design-Builder of the obligations under Sections 3.1.11, 3.1.12, and 5.2.3. The Owner's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Owner, of any construction means, methods, techniques, sequences or procedures. The Owner's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§7.3.2 Upon review of the Submittals required by the Design-Build Documents, the Owner shall notify the Design-Builder of any non-conformance with the Design-Build Documents the Owner discovers.

§7.4 Visits to the site by the Owner shall not be construed to create an obligation on the part of the Owner to make on-site inspections to check the quality or quantity of the Work. The Owner shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, because these are solely the Design-Builder's rights and responsibilities under the Design-Build Documents.

§7.5 The Owner shall not be responsible for the Design-Builder's failure to perform the Work in accordance with the requirements of the Design-Build Documents. The Owner shall not have control over or charge of, and will not be responsible for acts or omissions of the Design-Builder, Architect, Consultants, Contractors, or their agents or employees, or any other persons or entities performing portions of the Work for the Design-Builder.

§7.6 The Owner has the authority to reject Work that does not conform to the Design-Build Documents. The Owner shall have authority to require inspection or testing of the Work in accordance with Section 15.5.2, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Owner nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Owner to the Design-Builder, the Architect, Consultants, Contractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§7.7 The Owner shall determine the date or dates of Substantial Completion in accordance with Section 9.8 and the date of final completion in accordance with Section 9.10.

### §7.8 Owner's Right to Stop Work

If the Design-Builder fails to correct Work which is not in accordance with the requirements of the Design-Build Documents as required by Section 11.2 or persistently fails to carry out Work in accordance with the Design-Build Documents, the Owner may issue a written order to the Design-Builder to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Design-Builder or any other person or entity, except to the extent required by Section 5.13.1.3.

### §7.9 Owner's Right to Carry Out the Work

If the Design-Builder defaults or neglects to carry out the Work in accordance with the Design-Build Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case, an appropriate Change Order shall be issued deducting from payments then or thereafter due the Design-Builder the reasonable cost of correcting such deficiencies. If payments then or thereafter due the Design-Builder are not sufficient to cover such amounts, the Design-Builder shall pay the difference to the Owner.

## ARTICLE 8 TIME

### §8.1 Progress and Completion

**§8.1.1** Time limits stated in the Design-Build Documents are of the essence of the Contract. By executing the Design-Build Amendment the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

**§8.1.2** The Design-Builder shall not, except by agreement of the Owner in writing, commence the Work prior to the effective date of insurance, other than property insurance, required by this Contract. The Contract Time shall not be adjusted as a result of the Design-Builder's failure to obtain insurance required under this Contract.

**§8.1.3** The Design-Builder shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

## **§8.2 Delays and Extensions of Time**

**§8.2.1** If the Design-Builder is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or of a consultant or separate contractor employed by the Owner; or by changes ordered in the Work by the Owner; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Design-Builder's control; or by delay authorized by the Owner pending mediation and binding dispute resolution or by other causes that the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Owner may determine.

**§8.2.2** Claims relating to time shall be made in accordance with applicable provisions of Article 14.

**§8.2.3** This Section 8.2 does not preclude recovery of damages for delay by either party under other provisions of the Design-Build Documents.

## **ARTICLE 9 PAYMENT APPLICATIONS AND PROJECT COMPLETION**

### **§9.1 Contract Sum**

The Contract Sum is stated in Exhibit A.

### **§9.2 Schedule of Values**

In connection with each Application for Payment, Design-Builder shall provide Owner a schedule of values allocating the entire Contract Sum to the various portions of the Work and budgets approved in the Design-Build Amendment and prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. The schedule of values shall separately show each line of the approved budget, along with amounts paid and amounts incurred for such line. This schedule, unless objected to by the Owner, shall be used as a basis for reviewing the Design-

Builder's Applications for Payment.

### **§9.3 Applications for Payment**

**§9.3.1** Within ten business days after the end of each calendar month, the Design-Builder shall submit to the Owner an itemized Application for Payment for costs incurred by the Design-Builder to complete the Work. The application shall be notarized, if required, and supported by data substantiating the Design-Builder's costs as the Owner may require, such as copies of requisitions from the Architect, Consultants, Contractors, and material suppliers.

**§9.3.1.1** As provided in Section 6.3.9, Applications for Payment may include costs incurred for changes in the Work that have been properly authorized by Change Directives, or by interim determinations of the Owner, but not yet included in Change Orders.

**§9.3.1.2** Applications for Payment shall not include requests for payment for portions of the Work for which the Design-Builder does not intend to pay the Architect, Consultant, Contractor, material supplier, or other persons or entities providing services or work for the Design-Builder, unless such Work has been performed by others whom the Design-Builder intends to pay.

**§9.3.2** [Omitted]

**§9.3.3** The Design-Builder warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Design-Builder further warrants that, upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Design-Builder's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Design-Builder, Architect, Consultants, Contractors, material suppliers, or other persons or entities entitled to make a claim by reason of having provided labor, materials and equipment relating to the Work.

### **§9.4 Certificates for Payment**

The Owner shall, within ten business days after receipt of the Design-Builder's Application for Payment, issue to the Design-Builder a Certificate for Payment indicating the amount the Owner determines is properly due, and notify the Design-Builder in writing of the Owner's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

### **§9.5 Decisions to Withhold Certification**

**§9.5.1** The Owner may withhold a Certificate for Payment in whole or in part to the extent reasonably necessary to protect the Owner due to the Owner's determination that the Work has not progressed to the point indicated in the Design-Builder's Application for Payment, or the quality of the Work is not in accordance with the Design-Build Documents. If the Owner is unable to certify payment in the amount of the Application, the Owner will notify the Design-Builder as provided in Section 9.4. If the Design-Builder and Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount that the Owner deems to be due and owing. The Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary to protect the Owner from loss for which the Design-Builder is responsible because of

- .1 defective Work, including design and construction, not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Design-Builder;

- .3 failure of the Design-Builder to make payments properly to the Architect, Consultants, Contractors or others, for services, labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Design-Build Documents.

§9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§9.5.3 If the Owner withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Design-Builder and to the Architect or any Consultants, Contractor, material or equipment suppliers, or other persons or entities providing services or work for the Design-Builder to whom the Design-Builder failed to make payment for Work properly performed or material or equipment suitably delivered.

## §9.6 Progress Payments

§9.6.1 No monthly progress payments shall be due. The process of submitting Applications for Payment and issuing Certificates for Payment is to provide current and ongoing documentation of the Cost of the Work. The Owner shall make payment in the manner and within the time provided in Exhibit A.

§9.6.2 The Design-Builder shall pay each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder no later than the time period required by applicable law, but in no event more than seven days after receipt of payment from the Owner the amount to which the Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder is entitled, reflecting percentages actually retained from payments to the Design-Builder on account of the portion of the Work performed by the Architect, Consultant, Contractor, or other person or entity. The Design-Builder shall, by appropriate agreement with each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder, require each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder to make payments to subconsultants and subcontractors in a similar manner.

§9.6.3 The Owner will, on request and if practicable, furnish to the Architect, a Consultant, Contractor, or other person or entity providing services or work for the Design-Builder, information regarding percentages of completion or amounts applied for by the Design-Builder and action taken thereon by the Owner on account of portions of the Work done by such Architect, Consultant, Contractor or other person or entity providing services or work for the Design-Builder.

§9.6.4 The Owner has the right to request written evidence from the Design-Builder that the Design-Builder has properly paid the Architect, Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, amounts paid by the Owner to the Design-Builder for the Work. If the Design-Builder fails to furnish such evidence within seven days, the Owner shall have the right to contact the Architect, Consultants, and Contractors to ascertain whether they have been properly paid. The Owner shall have no obligation to pay or to see to the payment of money to a Consultant or Contractor, except as may otherwise be required by law.

§9.6.5 Design-Builder payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Design-Build Documents.

§ 9.6.7 Unless the Design-Builder provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Design-Builder for Work properly performed by the Architect, Consultants, Contractors and other person or entity providing services or work for the Design-Builder, shall be held by the Design-Builder for the Architect and those Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Design-Builder, shall create any fiduciary liability or tort liability on the part of the Design-Builder for breach of trust or shall entitle any person or entity to an award of punitive damages against the Design-Builder for breach of the requirements of this provision.

## §9.7 [Omitted]

## §9.8 Substantial Completion

§9.8.1 Substantial Completion shall be achieved when (i) the Project has successfully completed the Guarantee Runs as defined in Section 11.13 of the Praj Contract; (ii) Owner has executed the Taking Over Certificate pursuant to Section 11.16 of the Praj Contract; and (iii) the Project is sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work for its intended use. The date of Substantial Completion is the date certified by the Owner in accordance with this Section 9.8.

§9.8.2 When the Design-Builder considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Design-Builder shall prepare and submit to the Owner a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Design-Builder to complete all Work in accordance with the Design-Build Documents.

§9.8.3 Upon receipt of the Design-Builder's list, the Owner shall make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Owner's inspection discloses any item, whether or not included on the Design-Builder's list, which is not sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Design-Builder shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Owner. In such case, the Design-Builder shall then submit a request for another inspection by the Owner to determine Substantial Completion.

§9.8.4 Prior to issuance of the Certificate of Substantial Completion under Section 9.8.5, the Owner and Design-Builder shall discuss and then determine the parties' obligations to obtain and maintain property insurance following issuance of the Certificate of Substantial Completion.

§9.8.5 When the Work or designated portion thereof is substantially complete, the Design-Builder will prepare for the Owner's signature a Certificate of Substantial Completion that shall, upon the Owner's signature, establish the date of Substantial Completion; establish responsibilities of the Owner and

Design-Builder for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Design-Builder shall finish all items on the list accompanying the Certificate. Warranties required by the Design-Build Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

**§9.8.6** The Certificate of Substantial Completion shall be submitted by the Design-Builder to the Owner for written acceptance of responsibilities assigned to it in the Certificate. Upon the Owner's acceptance, and consent of surety, if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Design-Build Documents.

### **§9.9 Partial Occupancy or Use**

**§9.9.1** The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Design-Builder, provided such occupancy or use is consented to, by endorsement or otherwise, by the insurer providing property insurance and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Design-Builder have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Design-Build Documents. When the Design-Builder considers a portion substantially complete, the Design-Builder shall prepare and submit a list to the Owner as provided under Section 9.8.2. Consent of the Design-Builder to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Design-Builder.

**§9.9.2** Immediately prior to such partial occupancy or use, the Owner and Design-Builder shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

**§9.9.3** Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Design-Build Documents.

### **§9.10 Final Completion and Final Payment**

**§9.10.1** Upon receipt of the Design-Builder's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner will promptly make such inspection. When the Owner finds the Work acceptable under the Design-Build Documents and the Contract fully performed, the Owner will, subject to Section 9.10.2, promptly issue a final Certificate for Payment.

**§9.10.2** Neither final payment nor any remaining retained percentage shall become due until the Design-Builder submits to the Owner (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work, for which the Owner or the Owner's property might be responsible or encumbered, (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Design-Build Documents to remain in force after final payment is currently in effect, (3) a written statement that the Design-Builder knows of no substantial reason that the insurance will not be renewable to cover the period required by the Design-Build Documents, (4) consent of surety, if any, to final payment, (5) as-constructed record copy of the Construction Documents marked to indicate field changes and selections made during construction, (6) manufacturer's warranties, product data, and maintenance and operations manuals, and (7) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, or releases and waivers of liens, claims, security interests, or encumbrances, arising out of the Contract, to the extent and in such form as may be designated by the Owner. If an Architect, a Consultant, or a Contractor, or other person or entity providing services or work for the Design-Builder, refuses to furnish a release or waiver required by the Owner, the Design-Builder may furnish a bond satisfactory to the Owner to indemnify the Owner against such liens, claims, security interests, or encumbrances. If such liens, claims, security interests, or encumbrances remains unsatisfied after payments are made, the Design-Builder shall refund to the Owner all money that the Owner may be compelled to pay in discharging such liens, claims, security interests, or encumbrances, including all costs and reasonable attorneys' fees.

**§9.10.3** If, after Substantial Completion of the Work and after the Payment Date (defined in Exhibit A), final completion thereof is materially delayed through no fault of the Design-Builder or by issuance of Change Orders affecting final completion, the Owner shall, upon application by the Design-Builder, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Design-Build Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Design-Builder to the Owner prior to issuance of payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

**§9.10.4** The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Design-Build Documents; or
- .3 terms of special warranties required by the Design-Build Documents.

**§9.10.5** Acceptance of final payment by the Design-Builder shall constitute a waiver of claims by the Design-Builder except those previously made in writing and identified by the Design-Builder as unsettled at the time of final Application for Payment.

## **ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY**

### **§10.1 Safety Precautions and Programs**

The Design-Builder shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

### **§10.2 Safety of Persons and Property**

**§10.2.1** The Design-Builder shall be responsible for precautions for the safety of, and reasonable protection to prevent damage, injury or loss to

- .1 employees on the Work and other persons who may be affected thereby;

- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Design-Builder or the Architect, Consultants, or Contractors, or other person or entity providing services or work for the Design-Builder; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, or structures and utilities not designated for removal, relocation or replacement in the course of construction.

**§10.2.2** The Design-Builder shall comply with, and give notices required by, applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property, or their protection from damage, injury or loss.

**§10.2.3** The Design-Builder shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notify owners and users of adjacent sites and utilities of the safeguards and protections.

**§10.2.4** When use or storage of explosives or other hazardous materials or equipment, or unusual methods, are necessary for execution of the Work, the Design-Builder shall exercise utmost care, and carry on such activities under supervision of properly qualified personnel.

**§10.2.5** The Design-Builder shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Design-Build Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3, caused in whole or in part by the Design-Builder, the Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Design-Builder is responsible under Sections 10.2.1.2 and 10.2.1.3; except damage or loss attributable to acts or omissions of the Owner, or anyone directly or indirectly employed by the Owner, or by anyone for whose acts the Owner may be liable, and not attributable to the fault or negligence of the Design-Builder. The foregoing obligations of the Design-Builder are in addition to the Design-Builder's obligations under Section 3.1.14.

**§10.2.6** The Design-Builder shall designate a responsible member of the Design-Builder's organization, at the site, whose duty shall be the prevention of accidents. This person shall be the Design-Builder's superintendent unless otherwise designated by the Design-Builder in writing to the Owner.

**§10.2.7** The Design-Builder shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

**§10.2.8 Injury or Damage to Person or Property.** If the Owner or Design-Builder suffers injury or damage to person or property because of an act or omission of the other, or of others for whose acts such party is legally responsible, written notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

### **§10.3 Hazardous Materials**

**§10.3.1** The Design-Builder is responsible for compliance with any requirements included in the Design-Build Documents regarding hazardous materials. If the Design-Builder encounters a hazardous material or substance not addressed in the Design-Build Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Design-Builder, the Design-Builder shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing.

**§10.3.2** Upon receipt of the Design-Builder's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Design-Builder and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Design-Build Documents, the Owner shall furnish in writing to the Design-Builder the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Design-Builder will promptly reply to the Owner in writing stating whether or not the Design-Builder has reasonable objection to the persons or entities proposed by the Owner. If the Design-Builder has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Design-Builder has no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Design-Builder. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Design-Builder's reasonable additional costs of shut-down, delay and start-up.

**§10.3.3** To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Design-Builder, the Architect, Consultants, and Contractors, and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area, if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to, or destruction of, tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

**§ 10.3.4** The Owner shall not be responsible under this Section 10.3 for materials or substances the Design-Builder brings to the site unless such materials or substances are required by the Owner's Criteria. The Owner shall be responsible for materials or substances required by the Owner's Criteria, except to the extent of the Design-Builder's fault or negligence in the use and handling of such materials or substances.

**§10.3.5** The Design-Builder shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Design-Builder brings to the site and negligently handles, or (2) where the Design-Builder fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

**§10.3.6** If, without negligence on the part of the Design-Builder, the Design-Builder is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Design-Build Documents, the Owner shall indemnify the Design-Builder for all cost and expense thereby incurred.

### **§10.4 Emergencies**

In an emergency affecting safety of persons or property, the Design-Builder shall act, at the Design-Builder's discretion, to prevent threatened damage, injury or loss.

### **§11.1 Uncovering of Work**

The Owner may request to examine a portion of the Work that the Design-Builder has covered to determine if the Work has been performed in accordance with the Design-Build Documents. If such Work is in accordance with the Design-Build Documents, the Owner and Design-Builder shall execute a Change Order to adjust the Contract Time and Contract Sum, as appropriate. If such Work is not in accordance with the Design-Build Documents, the costs of uncovering and correcting the Work shall be at the Design-Builder's expense and the Design-Builder shall not be entitled to a change in the Contract Time unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs and the Contract Time will be adjusted as appropriate.

### **§11.2 Correction of Work**

**§11.2.1 Before or After Substantial Completion.** The Design-Builder shall promptly correct Work rejected by the Owner or failing to conform to the requirements of the Design-Build Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for any design consultant employed by the Owner whose expenses and compensation were made necessary thereby, shall be at the Design-Builder's expense.

#### **§11.2.2 After Substantial Completion**

**§11.2.2.1** In addition to the Design-Builder's obligations under Section 3.1.12, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Design-Build Documents, any of the Work is found not to be in accordance with the requirements of the Design-Build Documents, the Design-Builder shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Design-Builder a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of the Work, if the Owner fails to notify the Design-Builder and give the Design-Builder an opportunity to make the correction, the Owner waives the rights to require correction by the Design-Builder and to make a claim for breach of warranty. If the Design-Builder fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, the Owner may correct it in accordance with Section 7.9.

**§11.2.2.2** The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

**§11.2.2.3** The one-year period for correction of Work shall not be extended by corrective Work performed by the Design-Builder pursuant to this Section 11.2.

**§11.2.3** The Design-Builder shall remove from the site portions of the Work that are not in accordance with the requirements of the Design-Build Documents and are neither corrected by the Design-Builder nor accepted by the Owner.

**§11.2.4** The Design-Builder shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether completed or partially completed, caused by the Design-Builder's correction or removal of Work that is not in accordance with the requirements of the Design-Build Documents.

**§11.2.5** Nothing contained in this Section 11.2 shall be construed to establish a period of limitation with respect to other obligations the Design-Builder has under the Design-Build Documents. Establishment of the one-year period for correction of Work as described in Section 11.2.2 relates only to the specific obligation of the Design-Builder to correct the Work, and has no relationship to the time within which the obligation to comply with the Design-Build Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Design-Builder's liability with respect to the Design-Builder's obligations other than specifically to correct the Work.

### **§11.3 Acceptance of Nonconforming Work**

If the Owner prefers to accept Work that is not in accordance with the requirements of the Design-Build Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

### **§11.4 Limitation of Liability: Praj Contract**

Provided that Design-Builder has performed the Work in accordance with the Contract, including, without limitation, submittal review requirements, Design-Builder's obligations under this Article 11 shall not apply to the extent that any defect or non-compliance, including, without limitation, failure to achieve performance requirements, results from Praj's design, Praj's engineering, or Praj's execution of its scope of work as set forth in the Praj Contract. If a defect or non-compliance arises from Praj's design or execution of its scope of work as set forth in the Praj Contract, Design-Builder agrees to provide reasonable cooperation and assistance to Owner in asserting any claim against Praj to obtain correction of the defect or other remedies related to such defect or non-compliance.

## **ARTICLE 12 COPYRIGHTS AND LICENSES**

**§12.1** Drawings, specifications, and other documents prepared or furnished by the Design-Builder under this Agreement are works for hire, including materials provided in electronic form, materials prepared by Design-Builder's contractors, and Instruments of Services. All such material shall be the property of the Owner.

**§12.2** The Design-Builder and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

**§12.3** To the extent required, and without limiting the rights granted in Section 12.1, upon execution of the Agreement, the Design-Builder grants to the Owner a limited, irrevocable and non-exclusive license to use the Instruments of Service for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under the Design-Build Documents.

**§12.3.1** To the extent required, the Design-Builder shall obtain assignments and/or non-exclusive licenses from the Architect, Consultants, and Contractors, that will allow the Design-Builder to satisfy its obligations to the Owner under this Article 12.

**§12.3.2** In the event the Owner alters the Instruments of Service without the author's written authorization or uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all claims and causes of action arising from or caused by such alteration. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's alteration or use of the Instruments of Service under this Section 12.3.2. The terms of this Section 12.3.2 shall not apply if the Owner rightfully terminates this Agreement for cause under Sections 13.1.4 or 13.2.2.

## ARTICLE 13 TERMINATION OR SUSPENSION

### **§13.1 Termination or Suspension Prior to Execution of the Design-Build Amendment**

**§13.1.1** If the Owner fails to make payments to the Design-Builder for Work prior to execution of the Design-Build Amendment in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Design-Builder's option, cause for suspension of performance of services under this Agreement. If the Design-Builder elects to suspend the Work, the Design-Builder shall give seven days' written notice to the Owner before suspending the Work. In the event of a suspension of the Work, the Design-Builder shall have no liability to the Owner for delay or damage caused by the suspension of the Work. Before resuming the Work, the Design-Builder shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

**§13.1.2** If the Owner suspends the Project, the Design-Builder shall be compensated for the Work performed prior to notice of such suspension. When the Project is resumed, the Design-Builder shall be compensated for expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

**§13.1.3** If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Design-Builder, the Design-Builder may terminate this Agreement by giving not less than seven days' written notice.

**§13.1.4** Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

**§13.1.5** The Owner may terminate this Agreement upon not less than seven days' written notice to the Design-Builder for the Owner's convenience and without cause.

**§13.1.6** In the event of termination not the fault of the Design-Builder, the Design-Builder shall be compensated for Work performed prior to termination, together with Reimbursable Expenses then due and any other expenses directly attributable to termination for which the Design-Builder is not otherwise compensated. In no event shall the Design-Builder's compensation under this Section 13.1.6 be greater than the compensation set forth in Section 2.1.

### **§13.2 Termination or Suspension Following Execution of the Design-Build Amendment**

#### **§13.2.1 Termination by the Design-Builder**

**§13.2.1.1** The Design-Builder may terminate the Contract if the Work is stopped for a period of 90 consecutive days through no act or fault of the Design-Builder, the Architect, a Consultant, or a Contractor, or their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, for any of the following reasons:

- .1** Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2** An act of government, such as a declaration of national emergency that requires all Work to be stopped;
- .3** Because the Owner has not issued a Certificate for Payment and has not notified the Design-Builder of the reason for withholding certification as provided in Section 9.5.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Design-Build Documents; or
- .4** The Owner has failed to furnish to the Design-Builder promptly, upon the Design-Builder's request, reasonable evidence as required by Section 7.2.7.

**§13.2.1.2** The Design-Builder may terminate the Contract if, through no act or fault of the Design-Builder, the Architect, a Consultant, a Contractor, or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 13.2.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

**§13.2.1.3** If one of the reasons described in Section 13.2.1.1 or 13.2.1.2 exists, the Design-Builder may, upon seven days' written notice to the Owner, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

**§13.2.1.4** If the Work is stopped for a period of 60 consecutive days through no act or fault of the Design-Builder or any other persons or entities performing portions of the Work under contract with the Design-Builder because the Owner has repeatedly failed to fulfill the Owner's obligations under the Design-Build Documents with respect to matters important to the progress of the Work, the Design-Builder may, upon seven additional days' written notice to the Owner, terminate the Contract and recover from the Owner as provided in Section 13.2.1.3.

#### **§13.2.2 Termination by the Owner For Cause**

**§13.2.2.1** The Owner may terminate the Contract if the Design-Builder

- .1** fails to submit the Proposal by the date required by this Agreement, or if no date is indicated, within a reasonable time consistent with the date of Substantial Completion;

- .2 repeatedly refuses or fails to supply an Architect, or enough properly skilled Consultants, Contractors, or workers or proper materials;
- .3 fails to make payment to the Architect, Consultants, or Contractors for services, materials or labor in accordance with their respective agreements with the Design-Builder;
- .4 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .5 is otherwise guilty of substantial breach of a provision of the Design-Build Documents.

§13.2.2.2 When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Design-Builder and the Design-Builder's surety, if any, seven days' written notice, terminate employment of the Design-Builder and may, subject to any prior rights of the surety:

- .1 Exclude the Design-Builder from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Design-Builder;
- .2 Accept assignment of the Architect, Consultant and Contractor agreements pursuant to Section 3.1.15; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Design-Builder, the Owner shall furnish to the Design-Builder a detailed accounting of the costs incurred by the Owner in finishing the Work.

§13.2.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 13.2.2.1, the Design-Builder shall not be entitled to receive further payment until the Work is finished.

§13.2.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Design-Builder. If such costs and damages exceed the unpaid balance, the Design-Builder shall pay the difference to the Owner. The obligation for such payments shall survive termination of the Contract.

### §13.2.3 Suspension by the Owner for Convenience

§13.2.3.1 The Owner may, without cause, order the Design-Builder in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§13.2.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 13.2.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Design-Builder is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

### §13.2.4 Termination by the Owner for Convenience

§13.2.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§13.2.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Design-Builder shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and,
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing Project agreements, including agreements with the Architect, Consultants, Contractors, and purchase orders, and enter into no further Project agreements and purchase orders.

§13.2.4.3 In case of such termination for the Owner's convenience, the Design-Builder shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

## ARTICLE 14 CLAIMS AND DISPUTE RESOLUTION

### §14.1 Claims

§14.1.1 **Definition.** A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Design-Builder arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§14.1.2 **Time Limits on Claims.** The Owner and Design-Builder shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other, arising out of or related to the Contract in accordance with the requirements of the binding dispute resolution method selected in Section 1.3, within the time period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Design-Builder waive all claims and causes of action not commenced in accordance with this

Section 14.1.2.

### §14.1.3 Notice of Claims

§14.1.3.1 **Prior To Final Payment.** Prior to Final Payment, Claims by either the Owner or Design-Builder must be initiated by written notice to the other party within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§14.1.3.2 **Claims Arising After Final Payment.** After Final Payment, Claims by either the Owner or Design-Builder that have not otherwise been waived pursuant to Sections 9.10.4 or 9.10.5, must be initiated by prompt written notice to the other party. The notice requirement in Section 14.1.3.1 and the Initial Decision requirement as a condition precedent to mediation in Section 14.2.1 shall not apply.

§14.1.4 **Continuing Contract Performance.** Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 13, the Design-Builder shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Design-Build Documents.

**§14.1.5 Claims for Additional Cost.** If the Design-Builder intends to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the portion of the Work that relates to the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

#### **§14.1.6 Claims for Additional Time**

**§14.1.6.1** If the Design-Builder intends to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Design-Builder's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

**§14.1.6.2** If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

#### **§14.1.7 Claims for Consequential Damages**

The Design-Builder and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Design-Builder for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 13. Nothing contained in this Section 14.1.7 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Design-Build Documents.

#### **§14.2 Initial Decision**

**§14.2.1** An initial decision shall be required as a condition precedent to mediation of all Claims between the Owner and Design-Builder initiated prior to the date final payment is due, excluding those arising under Sections 10.3 and 10.4 of the Agreement and Sections B.3.2.9 and B.3.2.10 of Exhibit B to this Agreement, unless 30 days have passed after the Claim has been initiated with no decision having been rendered. Unless otherwise mutually agreed in writing, the Owner shall render the initial decision on Claims.

##### **§14.2.2 Procedure**

**§14.2.2.1 Claims Initiated by the Owner.** If the Owner initiates a Claim, the Design-Builder shall provide a written response to Owner within ten days after receipt of the notice required under Section 14.1.3.1. Thereafter, the Owner shall render an initial decision within ten days of receiving the Design-Builder's response: (1) withdrawing the Claim in whole or in part, (2) approving the Claim in whole or in part, or (3) suggesting a compromise.

**§14.2.2.2 Claims Initiated by the Design-Builder.** If the Design-Builder initiates a Claim, the Owner will take one or more of the following actions within ten days after receipt of the notice required under Section 14.1.3.1: (1) request additional supporting data, (2) render an initial decision rejecting the Claim in whole or in part, (3) render an initial decision approving the Claim, (4) suggest a compromise or (5) indicate that it is unable to render an initial decision because the Owner lacks sufficient information to evaluate the merits of the Claim.

**§14.2.3** In evaluating Claims, the Owner may, but shall not be obligated to, consult with or seek information from persons with special knowledge or expertise who may assist the Owner in rendering a decision. The retention of such persons shall be at the Owner's expense.

**§14.2.4** If the Owner requests the Design-Builder to provide a response to a Claim or to furnish additional supporting data, the Design-Builder shall respond, within ten days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Owner when the response or supporting data will be furnished or (3) advise the Owner that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Owner will either reject or approve the Claim in whole or in part.

**§14.2.5** The Owner's initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) identify any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

**§14.2.6** Either party may file for mediation of an initial decision at any time, subject to the terms of Section 14.2.6.1.

**§14.2.6.1** Either party may, within 30 days from the date of an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

**§14.2.7** In the event of a Claim against the Design-Builder, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Design-Builder's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

**§14.2.8** If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

#### **§14.3 Mediation**

**§14.3.1** Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 14.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

**§14.3.2** The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The

request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this Section 14.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

**§14.3.3** The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction.

#### **§14.4 Arbitration**

**§14.4.1** If the parties have selected arbitration as the method for binding dispute resolution in Section 1.3, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

**§14.4.1.1** A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations or statute of repose. For statute of limitations or statute of repose purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

**§14.4.2** The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

**§14.4.3** The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

#### **§14.4.4 Consolidation or Joinder**

**§14.4.4.1** Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

**§14.4.4.2** Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

**§14.4.4.3** The Owner and Design-Builder grant to any person or entity made a party to an arbitration conducted under this Section 14.4, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Design-Builder under this Agreement.

### **ARTICLE 15 MISCELLANEOUS PROVISIONS**

#### **§15.1 Governing Law**

The Contract shall be governed by the law of the place where the Project is located except that, if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 14.4.

#### **§15.2 Successors and Assigns**

**§15.2.1** The Owner and Design-Builder, respectively, bind themselves, their partners, successors, assigns and legal representatives to the covenants, agreements and obligations contained in the Design-Build Documents. Except as provided in Section 15.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

**§15.2.2** The Owner may, without consent of the Design-Builder, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Design-Build Documents. The Design-Builder shall execute all consents reasonably required to facilitate such assignment.

**§15.2.2** The Owner may, in its discretion, assign the Contract to an affiliate entity. If requested by Owner, Design-Builder will cooperate with Owner to execute a replacement contract with such modifications as may be necessary to treat the new entity as the counterparty to the Contract.

**§15.2.4** If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute certificates, other than those required by Section 3.1.10, the Owner shall submit the proposed language of such certificates for review at least 14 days prior to the requested dates of execution. If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute consents reasonably required to facilitate assignment to a lender, the Design-Builder, Architect, Consultants, or Contractors shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to them for review at least 14 days prior to execution. The Design-Builder, Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

#### **§15.3 Written Notice**

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

#### **§15.4 Rights and Remedies**

**§15.4.1** Duties and obligations imposed by the Design-Build Documents, and rights and remedies available thereunder, shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

**§15.4.2** No action or failure to act by the Owner or Design-Builder shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

### **§15.5 Tests and Inspections**

**§15.5.1** Tests, inspections and approvals of portions of the Work shall be made as required by the Design-Build Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Design-Builder shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Design-Builder shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Design-Builder.

**§15.5.2** If the Owner determines that portions of the Work require additional testing, inspection or approval not included under Section 15.5.1, the Owner will instruct the Design-Builder to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Design-Builder shall give timely notice to the Owner of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Such costs, except as provided in Section 15.5.3, shall be at the Owner's expense.

**§15.5.3** If such procedures for testing, inspection or approval under Sections 15.5.1 and 15.5.2 reveal failure of the portions of the Work to comply with requirements established by the Design-Build Documents, all costs made necessary by such failure shall be at the Design-Builder's expense.

**§15.5.4** Required certificates of testing, inspection or approval shall, unless otherwise required by the Design-Build Documents, be secured by the Design-Builder and promptly delivered to the Owner.

**§15.5.5** If the Owner is to observe tests, inspections or approvals required by the Design-Build Documents, the Owner will do so promptly and, where practicable, at the normal place of testing.

**§15.5.6** Tests or inspections conducted pursuant to the Design-Build Documents shall be made promptly to avoid unreasonable delay in the Work.

### **§15.6 Confidential Information**

If the Owner or Design-Builder transmits Confidential Information, the transmission of such Confidential Information constitutes a warranty to the party receiving such Confidential Information that the transmitting party is authorized to transmit the Confidential Information. If a party receives Confidential Information, the receiving party shall keep the Confidential Information strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 15.6.1.

**§15.6.1** A party receiving Confidential Information may disclose the Confidential Information as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. A party receiving Confidential Information may also disclose the Confidential Information to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of Confidential Information as set forth in this Contract.

### **§15.7 Capitalization**

Terms capitalized in the Contract include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

### **§15.8 Interpretation**

**§15.8.1** In the interest of brevity the Design-Build Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

**§15.8.2** Unless otherwise stated in the Design-Build Documents, words which have well-known technical or construction industry meanings are used in the Design-Build Documents in accordance with such recognized meanings.

## **ARTICLE 16 SCOPE OF THE AGREEMENT**

**§16.1** This Agreement is comprised of the following documents listed below:

- .1 AIA Document A141™–2014, Agreement Between Owner and Design-Builder
- .2 Exhibit A, Contract Sum
- .4 Exhibit C, Insurance
- .3 Exhibit B, Design-Build Amendment, if executed
- .5 Exhibit D, Preliminary Description of Scope
- .6 Exhibit E, MVR Purchase and Sale Agreement, dated July 11, 2024, by and between Praj Industries Limited and Aemetis Advanced Fuels Keys, Inc.

This Agreement is entered into as of the day and year first written above.

/s/ Eric McAfee

**OWNER**

Eric A. McAfee, Chief Executive Officer  
(Printed name and title)

/s/ NPL

**DESIGN-BUILDER**

(Printed name and title)

**Exhibit A**  
**Contract Sum and Payments**

This Exhibit A is incorporated into the accompanying Agreement Between Owner and Design-Builder dated September 4, 2025 (the "Agreement")  
**for the following PROJECT:**

Aemetis Keyes Plant  
Mechanical Vapor Recompression  
4209 Jessup Rd.  
Ceres, CA 95307

**THE OWNER:**

Aemetis Advanced Fuels Keyes, Inc.  
a Delaware corporation  
20400 Stevens Creek Blvd, Suite 700  
Cupertino, CA 95014

**THE DESIGN-BUILDER:**

NPL Construction Co.  
a Nevada corporation  
19820 N 7th Ave, Suite 120,  
Phoenix AZ 85027

The Owner and Design-Builder hereby agree as follows.

**TABLE OF ARTICLES**

<b>A.1</b>	<b>CONTRACT SUM</b>
<b>A.2</b>	<b>CONTRACT TIME</b>
<b>A.3</b>	<b>[OMITTED]</b>
<b>A.4</b>	<b>[OMITTED]</b>
<b>A.5</b>	<b>COST OF THE WORK</b>

**ARTICLE A.1 CONTRACT SUM**

§A.1.1 The Owner shall pay the Design-Builder the Contract Sum in current funds for the Design-Builder's performance of the Contract as described in this Exhibit A. The Contract Sum is described in Section A.1.3 below

§A.1.2 [omitted]

**§A.1.3 Cost of the Work Plus Design-Builder's Fee**

§A.1.3.1 The Cost of the Work is as defined in Article A.5, Cost of the Work.

§A.1.3.2 The Contract Sum shall be calculated as follows:

The price to be paid by Owner to Design-Builder (the "Contract Sum") for performance of the Work shall be the sum of (i) Design-Builder's Cost of the Work, plus (ii) Design-Builder's Fee, plus (iii) Interest, each as defined below.

The Cost of the Work shall be calculated pursuant to this Exhibit A.

Design-Builder's Fee shall be [\*\*\*].

Interest shall be calculated follows: (i) annual rate of seven and three-quarters percent (7.75%) simple interest; (ii) [\*\*\*] (iv) Interest shall cease to accrue upon payment of all amounts due under such Application for Payment.

§A.1.4 [omitted]

**§A.1.5 Payments**

**§A.1.5.1 Applications for Payments**

§A.1.5.1.1 [Omitted]

§A.1.5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§A.1.5.1.3 [Omitted]

§A.1.5.1.4 With each Application for Payment, the Design-Builder shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner to demonstrate the accuracy of the cash disbursements made by the Design-Builder.

§A.1.5.1.5 In connection with each Application for Payment, Design-Builder shall provide Owner a schedule of values allocating the entire Contract Sum to the various portions of the Work and budgets approved in the Design-Build Amendment and prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. The schedule of values shall separately show each line of the approved budget, along with amounts paid and amounts incurred for such line. This schedule, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§A.1.5.1.6 In taking action on the Design-Builder's Applications for Payment, the Owner shall be entitled to rely on the accuracy and completeness of the information furnished by the Design-Builder and shall not be deemed to have made a detailed examination, audit or arithmetic verification of the

documentation submitted in accordance with Sections A.1.5.1.4 or A.1.5.1.5, or other supporting data; to have made exhaustive or continuous on-site inspections; or to have made examinations to ascertain how or for what purposes the Design-Builder has used amounts previously paid. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

**§A.1.5.1.7** Except with the Owner's prior approval, the Design-Builder shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

**§A.1.5.2** [Omitted]

### **§A.1.5.3 Payments**

**§A.1.5.3.1** Applications for Payment shall show the Cost of the Work actually paid by the Design-Builder through the end of the period covered by the Application for Payment.

**§A.1.5.3.2** Owner shall pay Design-Builder the Contract Sum, less a retention of [\*\*\*] of the Contract Sum and all credits from prior payments or otherwise allowed by this Contract, within sixty (60) days after Substantial Completion of the Work ("Payment Date").

.1 Notwithstanding anything else in this Contract, Owner shall not be required to make progress payments.

.2 Even though no interim or progress payments are due prior to the Payment Date, the Parties shall nonetheless follow the monthly Application for Payment process described in this Agreement for the purpose of documenting the Cost of the Work and providing a process for Owner's review of costs.

**§A.1.5.3.3** The Owner and Design-Builder shall agree upon (1) a mutually acceptable procedure for review and approval of payments to the Architect, Consultants, and Contractors and (2) the percentage of retainage held on agreements with the Architect, Consultants, and Contractors, and the Design-Builder shall execute agreements in accordance with those terms.

**§A.1.5.3.3** If Owner obtains financing for the Work or otherwise desires to make interim payments to Design-Builder, Owner and Design-Builder will mutually cooperate to establish appropriate procedures for documentation related to such payments, which may include, but not be limited to, schedule of payments, amount of each payment (including amounts based on percentage completion), retentions, timing of funds disbursement, Contractor execution of preliminary and final lien waivers, appropriate invoicing and documentation, and other prerequisites or requirements that may apply related to the applicable financing. Owner and Design-Builder will likely mutually cooperate to meet all reasonable requirements and provide all documentation that may be required to access grants, tax credits, and other similar incentive programs.

**§A.1.5.4** [Omitted]

### **§A.1.5.5 Final Payment**

**§A.1.5.5.1** Final payment, constituting the entire unpaid balance of the Contract Sum, including any retention, shall be made by the Owner to the Design-Builder not later than sixty (60) days after the Design-Builder has achieved final completion in accordance with the requirements of Section 9.10 of the Contract.

**§A.1.5.5.2** The Owner's auditors will review and report in writing on the Design-Builder's final accounting within 60 days after the Design-Builder delivers the final accounting to the Owner. Based upon the Cost of the Work the Owner's auditors report to be substantiated by the Design-Builder's final accounting, and provided the other conditions of Section 9.10 of the Agreement have been met, the Owner will, within 10 business days after receipt of the written report of the Owner's auditors, either issue a final Certificate for Payment, or notify the Design-Builder in writing of the reasons for withholding a certificate as provided in Section 9.5.1 of the Agreement. Owner shall make the final payment for all undisputed amounts within 30 days of issuing the final Certificate for Payment.

**§A.1.5.6** Contractor will provide all lien waivers requested by or on behalf of Owner as a precondition to receiving payment or in conjunction with receiving a payment. Contractor's failure to timely provide a requested lien waiver shall entitle Owner to suspend associated payments to Contractor.

## ARTICLE A.2 CONTRACT TIME

**§A.2.1** Contract Time, as defined in the Agreement at Section 1.4.13, is the period of time, including authorized adjustments, for Substantial Completion of the Work.

**§A.2.2** The Design-Builder shall achieve Substantial Completion of the Work as follows: Design-Builder shall achieve Substantial Completion no later than April 30, 2026, subject to adjustments of the Contract Time as provided in the Design-Build Documents.

ARTICLE A.3 [OMITTED]

ARTICLE A.4 [OMITTED]

ARTICLE A.5 COST OF THE WORK

### **§A.5.1 Cost To Be Reimbursed as Part of the Contract**

#### **§A.5.1.1 Labor Costs**

**§A.5.1.1.1** Wages of construction workers directly employed by the Design-Builder to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

**§A.5.1.1.2** With the Owner's prior approval, wages or salaries of the Design-Builder's supervisory and administrative personnel when stationed at the site.

**§A.5.1.1.3** Wages and salaries of the Design-Builder's supervisory or administrative personnel engaged at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

**§A.5.1.1.4** Costs paid or incurred by the Design-Builder for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Section A.5.1.1.

**§A.5.1.1.5** Bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Design-Builder or paid to the Architect or any Consultant, Contractor or supplier, with the Owner's prior approval.

**§A.5.1.2 Contract Costs.** Payments made by the Design-Builder to the Architect, Consultants, Contractors and suppliers in accordance with the requirements of their subcontracts.

### **§A.5.1.3 Costs of Materials and Equipment Incorporated in the Completed Construction**

**§A.5.1.3.1** Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.

**§A.5.1.3.2** Costs of materials described in the preceding Section A.5.1.3.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Design-Builder. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

### **§A.5.1.4 Costs of Other Materials and Equipment, Temporary Facilities and Related Items**

**§A.5.1.4.1** Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Design-Builder shall mean fair market value.

**§A.5.1.4.2** Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Design-Builder-owned item may not exceed the purchase price of any comparable item. Rates of Design-Builder-owned equipment and quantities of equipment shall be subject to the Owner's prior approval.

**§A.5.1.4.3** Costs of removal of debris from the site of the Work and its proper and legal disposal.

**§A.5.1.4.4** Costs of document reproductions, electronic communications, postage and parcel delivery charges, dedicated data and communications services, teleconferences, Project websites, extranets and reasonable petty cash expenses of the site office.

**§A.5.1.4.5** Costs of materials and equipment suitably stored off the site at a mutually acceptable location, with the Owner's prior approval.

### **§A.5.1.5 Miscellaneous Costs**

**§A.5.1.5.1** Premiums for that portion of insurance and bonds required by the Design-Build Documents that can be directly attributed to the Contract. With the Owner's prior approval self-insurance for either full or partial amounts of the coverages required by the Design-Build Documents.

**§A.5.1.5.2** Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Design-Builder is liable. Contractor acknowledges that all or portions of the System and/or Work may be exempt from sales tax, and Owner may, in its discretion, avail itself of applicable exemptions. Contractor agrees to provide Owner with all reasonably requested documentation and assistance in order to use and comply with any such exemptions.

**§A.5.1.5.3** Fees and assessments for the building permit and for other permits, licenses and inspections for which the Design-Builder is required by the Design-Build Documents to pay.

**§A.5.1.5.4** Fees of laboratories for tests required by the Design-Build Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 15.5.3 of the Agreement or by other provisions of the Design-Build Documents.

**§A.5.1.5.5** Royalties and license fees paid for the use of a particular design, process or product required by the Design-Build Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Design-Build Documents; and payments made in accordance with legal judgments against the Design-Builder resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Design-Builder's Fee. If such royalties, fees and costs are excluded by the second to last sentence of Section 3.1.13.2 of the Agreement or other provisions of the Design-Build Documents, then they shall not be included in the Cost of the Work.

**§A.5.1.5.6** With the Owner's prior approval, costs for electronic equipment and software directly related to the Work.

**§A.5.1.5.7** Deposits lost for causes other than the Design-Builder's negligence or failure to fulfill a specific responsibility in the Design-Build Documents.

**§A.5.1.5.8** With the Owner's prior approval, which shall not be unreasonably withheld, legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Design-Builder, reasonably incurred by the Design-Builder after the execution of the Agreement and in the performance of the Work.

**§A.5.1.5.9** With the Owner's prior approval, expenses incurred in accordance with the Design-Builder's standard written personnel policy for relocation, and temporary living allowances of, the Design-Builder's personnel required for the Work.

**§A.5.1.5.10** That portion of the reasonable expenses of the Design-Builder's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

### **§A.5.1.6 Other Costs and Emergencies**

**§A.5.1.6.1** Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

**§A.5.1.6.2** Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property.

### **§A.5.1.7 Related Party Transactions**

**§A.5.1.7.1** For purposes of Section A.5.1.7, the term “related party” shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Design-Builder; any entity in which any stockholder in, or management employee of, the Design-Builder owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Design-Builder. The term “related party” includes any member of the immediate family of any person identified above.

**§A.5.1.7.2** If any of the costs to be reimbursed arise from a transaction between the Design-Builder and a related party, the Design-Builder shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Design-Builder shall procure the Work, equipment, goods or service from the related party, as a Contractor, according to the terms of Section A.5.4. If the Owner fails to authorize the transaction, the Design-Builder shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Section A.5.4.

### **§A.5.2 Costs Not to Be Reimbursed as Part of this Contract**

The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Design-Builder's personnel stationed at the Design-Builder's principal office or offices other than the site office, except as specifically provided in Section A.5.1.1;
- .2 Expenses of the Design-Builder's principal office and offices other than the site office;
- .3 Overhead and general expenses, except as may be expressly included in Section A.5.1;
- .4 The Design-Builder's capital expenses, including interest on the Design-Builder's capital employed for the Work;
- .5 Costs due to the negligence or failure of the Design-Builder, Contractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;
- .6 Any cost not specifically and expressly described in Section A.5.1;
- .7 Costs that exceed the budget approved in the Design-Build Amendment;
- .8 Costs designated with this Agreement as a cost to be paid by Design-Builder; and
- .9 Costs of repairing or correcting damaged or nonconforming Work executed by the Design-Builder, or its Contractors or suppliers, not including Praj.

### **§A.5.3 Discounts, Rebates, and Refunds**

**§A.5.3.1** Cash discounts obtained on payments made by the Design-Builder shall accrue to the Owner if (1) before making the payment, the Design-Builder included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Design-Builder with which to make payments; otherwise, cash discounts shall accrue to the Design-Builder. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Design-Builder shall make provisions so that they can be obtained.

**§A.5.3.2** Amounts that accrue to the Owner in accordance with Section A.5.3.1 shall be credited to the Owner as a deduction from the Cost of the Work.

### **§A.5.4 Other Agreements**

**§A.5.4.1** [Omitted]

**§A.5.4.2** Agreements between the Design-Builder and Contractors shall conform to the applicable payment provisions of the Design-Build Documents, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If an agreement between the Design-Builder and a Contractor is awarded on a cost plus a fee basis, the Design-Builder shall provide in the agreement for the Owner to receive the same audit rights with regard to the Cost of the Work performed by the Contractor as the Owner receives with regard to the Design-Builder in Section A.5.5, below.

**§A.5.4.3** The agreements between the Design-Builder and Architect and other Consultants identified in the Agreement shall be in writing. These agreements shall be promptly provided to the Owner upon the Owner's written request.

### **§A.5.5 Accounting Records**

The Design-Builder shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under the Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Design-Builder's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Contractor's proposals, purchase orders, vouchers, memoranda and other data relating to the Contract. The Design-Builder shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

### **§A.5.6 Relationship of the Parties**

The Design-Builder accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to exercise the Design-Builder's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests.

**List of Subsidiaries (Name and State of Formation)**

Aemetis Advanced Biorefinery Keyes, Inc. (Delaware)  
Aemetis Advanced Fuels, Inc. (Nevada)  
Aemetis Advanced Products Keyes, Inc. (Delaware)  
    Aemetis Health Products, Inc. (Delaware)  
    Aemetis Properties Riverbank, Inc. (Delaware)  
    Aemetis Riverbank, Inc. (Delaware)  
        Aemetis Advanced Products Riverbank, Inc. (Delaware)  
        Energy Efficiency Holdings LLC (Delaware)  
        MVR Services LLC (California)  
Aemetis Americas, Inc. (Nevada)  
    AE Biofuels, Inc. (Delaware)  
Aemetis Biofuels, Inc. (Delaware)  
    Energy Enzymes, Inc. (Delaware)  
Aemetis Biogas LLC (Delaware)  
    Aemetis Biogas Holdings LLC (Delaware)  
        Aemetis Biogas 1 LLC (Delaware)  
        Aemetis Biogas 2 LLC (Delaware)  
        Aemetis Biogas 3 LLC (Delaware)  
        Aemetis Biogas 4 LLC (Delaware)  
        Aemetis Biogas 5 LLC (Delaware)  
        Aemetis Biogas 6 LLC (Delaware)  
        Aemetis Biogas 7 LLC (Delaware)  
        Aemetis Biogas 8 LLC (Delaware)  
    Aemetis Biogas Services LLC (Delaware)  
    Aemetis RNG Fuels 1 LLC (California)  
Aemetis Carbon Capture, Inc. (Nevada)  
    Caprock Project Holding, Inc. (Delaware)  
        Riverbank Well 1, Inc. (California)  
Aemetis International, Inc. (Nevada)  
    International Biofuels Ltd (Mauritius)  
        Universal Biofuels Private Limited (India)  
Aemetis Technologies, Inc. (Delaware)  
AE Advanced Fuels, Inc. (Delaware)  
    Aemetis Advanced Fuels Keyes, Inc. (Delaware)  
    Aemetis Facility Keyes, Inc. (Delaware)  
    Aemetis Property Keyes, Inc. (Delaware)  
EdenIQ Acquisition Corp (Delaware)  
Goodland Advanced Fuels, Inc. (Delaware)

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in the Registration Statements (No. 333-275888) on Form S-1, (No. 333-281457) on Form S-3, and (Nos. 333-159556, 333-194429, 333-202327, 333-209620, 333-216762, 333-224002, 333-230293, 333-237101, 333-248489, 333-254267, 333-263452, 333-270388, 333-278384, and 333-285837) on Form S-8 of Aemetis, Inc. (the Company) of our reports dated March 13, 2026, relating to the consolidated financial statements of the Company and the effectiveness of the Company's internal control over financial reporting, appearing in this Annual Report on Form 10-K of Aemetis, Inc. for the year ended December 31, 2025.

/s/ RSM US LLP

Des Moines, Iowa  
March 13, 2026

## CERTIFICATIONS

I, Eric A. McAfee, certify that:

1. I have reviewed this Annual Report on Form 10-K of Aemetis, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 13, 2026

/s/ Eric A. McAfee

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Eric A. McAfee  
Chief Executive Officer

## CERTIFICATIONS

I, Todd Waltz, certify that:

1. I have reviewed this Annual Report on Form 10-K of Aemetis, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 13, 2026

/s/ Todd Waltz

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Todd Waltz

Chief Financial Officer

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO SECTION 906 OF THE  
SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report of Aemetis, Inc. (the "Company") on Form 10-K for the year ending December 31, 2025, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Eric A. McAfee, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities and Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

By: /s/ Eric A. McAfee

Eric A. McAfee  
Chief Executive Officer

Date: March 13, 2026

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO SECTION 906 OF THE  
SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report of Aemetis, Inc. (the "Company") on Form 10-K for the year ending December 31, 2025, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Todd Waltz, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities and Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

By: /s/ Todd Waltz

Todd Waltz

Chief Financial Officer

Date: March 13, 2026