

PATENT ASSIGNMENT COVER SHEET

Electronic Version v1.1
 Stylesheet Version v1.2

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SUBMISSION TYPE:	NEW ASSIGNMENT	
NATURE OF CONVEYANCE:	EXCLUSIVE LICENSE	
CONVEYING PARTY DATA		
	Name	Execution Date
	LEVELER LLC	10/23/2020
RECEIVING PARTY DATA		
Name:	LODESTONE LLC	
Street Address:	4769 E. WESLEY DRIVE	
City:	ANAHEIM	
State/Country:	CALIFORNIA	
Postal Code:	92807	
PROPERTY NUMBERS Total: 1		
	Property Type	Number
	Patent Number:	6288917
CORRESPONDENCE DATA		
Fax Number:		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>		
Phone:	3122910860	
Email:	jpadalino@lsk-iplaw.com	
Correspondent Name:	LEMPIA SUMMERFIELD KATZ LLC	
Address Line 1:	20 SOUTH CLARK STREET	
Address Line 2:	SUITE 600	
Address Line 4:	CHICAGO, ILLINOIS 60603	
ATTORNEY DOCKET NUMBER:	010373-20001A-US	
NAME OF SUBMITTER:	JAMES L. KATZ	
SIGNATURE:	/James L. Katz/	
DATE SIGNED:	09/22/2021	
Total Attachments: 13		
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EXCLUSIVE LICENSE AGREEMENT

This Agreement is made by and between Lodestone LLC, dba Digilant.net and Bantam Clean Power ("LICENSEE"), a limited liability company organized and existing under the laws of California and having a principal place of business at 4769 E. Wesley Drive, Anaheim, California 92807, and Leveler LLC ("LICENSOR"), a limited liability company organized and existing under the laws of Illinois and having a principal place of business at 111 East Wacker Drive, Suite 2800 Chicago Illinois 60601. Each of LICENSOR and LICENSEE is hereinafter referred to as a "Party" and collectively as the "Parties".

1. Background

- 1.1 LICENSOR is the assignee of the entire right, title and interest in the Licensed Patents (defined below).
- 1.2 LICENSEE desires to obtain from LICENSOR the exclusive worldwide exploitation rights to practice and utilize the invention claimed by the Licensed Patents, including to manufacture, have manufactured, import, use and sell Products which may be covered by one or more claims of the Licensed Patents, as well as enforce and sub-license the Licensed Patents.

2. Definitions

- 2.1 "Affiliate(s)" means any individual, corporation, partnership, proprietorship or other entity which at the time of the permitted sublicensing or assignment of rights hereunder is controlled by, controlling, or under common control with LICENSEE through equity ownership, ability to elect directors, or by virtue of a majority of overlapping directors, and includes any individual, corporation, partnership, proprietorship or other entity directly or indirectly owning, owned by or under common ownership with LICENSEE to the extent of 40% or more of the voting shares, including shares owned beneficially by such Party.
- 2.2 "Effective Date" means the first day on which both Parties have executed the Agreement.
- 2.3 "Have Made" or "Having Made" means having any product created with the assistance of third parties to a Party's specification and at a Party's direction and control. In no event shall a Have Made right granted to a Party be interpreted to include a right for that Party or any other Person to grant a sublicense to any third parties to utilize any licensed patents for any purpose other than creating or modifying the licensed products on that Party's behalf as set forth herein.

- 2.4 "Licensed Patents" means U.S. Patent Nos. 6,166,458 (the "458 Patent"), 6,288,917 (the "917 Patent"), and 8,223,468 (the "468 Patent"), and any reissues thereof.
- 2.5 "Net Sales" means the sum of all consideration received by LICENSEE and its Affiliates based on the import, sale, distribution, practice, or use of Products or Technology by LICENSEE or its Affiliates, but does not include any excise, value-added, or sales taxes, or any shipping and handling charges.
- 2.6 "Parties," in singular or plural usage as required by the context, means LICENSOR and/or LICENSEE.
- 2.7 "Process(es)" means any process or method whose practice would, but for this Agreement, constitute an infringement, including contributory infringement, of one or more Valid Claims. As used herein, the term "use" with respect to a Process includes the performance or practice of the Process(es).
- 2.8 "Product(s)" means any product(s) whose manufacture, use, importation, offer for sale or sale would, but for this Agreement, constitute an infringement, including contributory infringement, of one or more Valid Claims.
- 2.9 "Technology" means all know-how, technical data, or other information of any kind regarding the design, manufacture, operation, use, or sale of any Product or other device for use in any field and incorporating or based on the Licensed Patents.
- 2.10 "Valid Claim(s)" means any claim(s) in an unexpired patent or pending in a patent application included within the Licensed Patents excepting only claims that:
- (1) a court or other governmental agency of competent jurisdiction has decided are unenforceable, unpatentable, invalid, unappealable, or unappealed within the time allowed for appeal; or
 - (2) a reissue or disclaimer has rendered invalid or unenforceable.

3. License Grant

- 3.1 LICENSOR hereby grants, without reservation of any rights, to LICENSEE an exclusive worldwide right and license to enforce the Licensed Patents, use, sell, manufacture, and commercialize the Technology, and to make, have made, import, use, market, offer for sale, and sell Products, as well as grant sublicenses to Affiliates and sublicensees to use, sell,

manufacture, and commercialize the Technology, and to make, have made, import, use, market, offer for sale, and sell Products, in all fields of use.

4. Consideration

- 4.1 LICENSEE shall pay to LICENSOR a royalty equal to [REDACTED] subsequent to the Effective Date of LICENSEE, its Affiliates and any sublicensee.
- 4.2 LICENSEE must pay LICENSOR a royalty under this Article 4 only once with respect to the same Product. LICENSEE must pay a royalty only once if it or an Affiliate practices a Process to produce a Product. For purposes of determining payments due under section 4.2, whenever the term "Product" or "Process" may apply during various stages of manufacture, use, practice, or sale, then the Net Sales amount equals the amount derived from the sale, distribution or use of such Product by LICENSEE or Affiliates at the stage of its highest invoiced value by LICENSEE or Affiliates to unrelated third parties.
- 4.3 Royalties shall be due and payable within 30 days of the end of each calendar year quarter, beginning with the full quarter ending subsequent to the Effective Date.
- 4.4 On all amounts outstanding and payable to LICENSOR, interest accrues from 30 business days after the date the amount is due at the prime lending rate as established by the Chase Manhattan Bank, N.A., in New York City, New York, or at a lower rate if required by law.

5. Patent Marking

- 5.1 Promptly following the Effective Date and throughout the Term until expiration of the last to expire of the Licensed Patents, LICENSEE shall mark the Products in a conspicuous location with the following notation for each of the unexpired Licensed Patents: "Leveler U.S. Patent No. <pat. no.>" Marking for a particular Licensed Patent shall be removed upon expiration of that patent.

6. Reports

- 6.1 Within 30 days of the end of each calendar year quarter, LICENSEE shall report to LICENSOR the total amount of all payments due under Article 4, and the calculations used to arrive at those amounts, including a statement of the total Net Sales.
- 6.2 LICENSEE shall keep, and shall require Affiliates and sublicensees to

keep, true and accurate records and books of account containing data reasonably required for the computation and verification of payments due hereunder.

- 6.3 LICENSEE shall retain such books and records for six years from date of origination.
- 6.4 LICENSEE shall open such books and records for inspection upon reasonable notice during business hours by an independent certified accountant retained by LICENSOR at its sole expense for the purpose of verifying the amount of payments due hereunder.
- 6.5 To the extent that LICENSEE desires to sublicense any of the Patents or Technology to any sublicensee, LICENSEE shall be required to have the sublicensee agree on behalf of itself and any sublicensee from it that the terms of each such sublicense agreement provide that: (a) the sublicensee provide to each of LICENSOR and LICENSEE comparable information that is required to be provided by LICENSEE to LICENSOR hereunder; (b) each of the LICENSOR and LICENSEE shall have the ability to audit the sublicensee's books and records in the same manner as provided herein by LICENSEE to LICENSOR hereunder.

7. Sublicensing

- 7.1 LICENSEE has the exclusive right to grant sublicenses to its rights granted under Article 3 above to Affiliates and sublicensees, including, but not limited to, the right to sublicense provided herein.

8. Patent Applications and Maintenance

- 8.1 LICENSOR has the right to control all aspects of filing, prosecuting, and maintaining the Licensed Patents existing as of or after the Effective Date. LICENSOR shall pay all future fees and costs associated with the maintenance of the Licensed Patents existing as of the Effective Date, including any reexamination and reissue proceedings.
- 8.2 LICENSOR shall perform all actions and execute or cause to be executed all documents necessary to support such filing, prosecution, and maintenance of the Licensed Patents.

8.2.1 LICENSOR shall pay any maintenance fee due no later than 6 months from the earliest date on which such maintenance fee payment may be made.

8.2.2 If LICENSOR fails to pay a maintenance fee within 6 months of the earliest date on which such maintenance fee payment may be made,

LICENSEE, at their discretion, may pay the maintenance fee owed, including any surcharge fees owed for paying the maintenance fee later than 6 months from the earliest date on which such a maintenance fee may be paid, and deduct such payments from the royalties owed to LICENSOR.

- 8.3 LICENSOR shall notify LICENSEE of all information received by LICENSOR relating to the filing, prosecution and maintenance of the Licensed Patents, including any lapse, revocation, surrender, invalidation or abandonment of any of the Licensed Patents, in sufficient time to allow, where possible, LICENSEE to act upon such information.

9. Infringement

- 9.1 Should LICENSOR or LICENSEE become aware of any infringement or alleged infringement of any Licensed Patent, that Party shall promptly notify the other Party in writing of the name and address of the alleged infringer, the alleged acts of infringement, and any available evidence of infringement. LICENSOR and LICENSEE agree to work jointly on a best efforts basis to prevent any infringement and defend the Licensed Patents.
- 9.2 LICENSEE has the exclusive right to enforce the Licensed Patents against infringement by other parties, including the right to settle any action with the written consent of the LICENSOR. The total expense of all such actions shall be borne by LICENSEE, and all net proceeds shall be subject to the royalty payments due to Licensor under Article 4.
- 9.3 LICENSOR shall provide reasonable assistance to LICENSEE with respect to such actions. LICENSEE shall reimburse LICENSOR for out-of-pocket expenses incurred in connection with any such assistance rendered at LICENSEE's request.
- 9.4 If LICENSEE elects to institute an infringement action, LICENSOR agrees to be named as a nominal party therein if required, e.g., for standing. LICENSOR retains the right to participate, with counsel of its own choosing and at its own expense, in any such action.

10. Warranties and Representations of LICENSOR

- 10.1 The undersigned representative of LICENSOR warrants they are empowered to execute this Agreement on behalf of LICENSOR.
- 10.2 LICENSOR warrants and represents that LICENSEE to the best of the LICENSOR'S knowledge does not need any license or right owned by LICENSOR not already provided hereunder, which is necessary for LICENSEE to use or practice the Technology or the Licensed Patents.

- 10.3 LICENSOR represents, warrants, and covenants that it has not, and during the term of this Agreement will not, grant any other license for sale, use, import or manufacture of the Products.
- 10.4 LICENSOR warrants and represents that LICENSOR has the right to license the rights granted to LICENSEE hereunder without violating the terms of any agreement or arrangement to which LICENSOR is a party or, to LICENSOR's best knowledge, the right or rights of any third party. LICENSOR further warrants and represents that it has no knowledge of any suit, action, or claim instituted or threatened by a third party against the Licensed Patent or the Technology.
- 10.5 LICENSOR warrants and represents that, to the best of its knowledge, the Licensed Patents which have not expired are valid and enforceable. LICENSOR further warrants and represents that, to the best of its knowledge, the Licensed Patents were not obtained through fraud on, or violation of any duty owed to, the U.S. Patent and Trademark Office.
- 10.6 LICENSOR warrants and represents that, to the best of its knowledge, the manufacture, importation, use, offer for sale, sale or other distribution of any Products or Processes will not infringe upon any patent or other rights not included in the Licensed Patents.
- 10.7 LICENSOR warrants and represents that all technical information delivered prior to the date of execution of this Agreement has been, and all technical information delivered hereafter will be, materially accurate and complete.
- 10.8 Neither Party makes any representations or warranties as to the technical performance of the Products or Processes.

11. Indemnification

- 11.1 LICENSOR agrees to hold LICENSEE harmless from, and indemnifies and agrees to defend LICENSEE against, any losses, liability, damages, and expenses, arising from any breach by LICENSOR of any representation or covenant herein. LICENSEE agrees to hold LICENSOR harmless from, and indemnifies and agrees to defend LICENSOR against, any losses, liability, damages, and expenses, arising from any breach by LICENSEE of any representation or covenant herein.
- 11.2 The obligations of LICENSOR and LICENSEE under this Article shall survive the term and termination of this Agreement.

12. Term and Termination

12.1 This Agreement will become effective on its Effective Date and remain in effect for 10 years. This agreement cannot be terminated for any reason for 2 years from Effective Date ("Minimum Term") unless terminated under another, specific provision of this Agreement.

12.2 During the Minimum Term provided in 12.1, LICENSEE shall have the right to terminate this Agreement without cause by providing written notice of termination, which shall specify a termination date not sooner than 90 days after the date of the notice. Upon receipt of such notice, LICENSOR may enter into agreements with others for the license of the rights granted by LICENSOR hereunder.

12.3 If, subsequent to the Minimum Term provided in 12.1, LICENSOR elects to terminate this agreement for any reason, other than described in 12.3.1, LICENSOR agrees to pay a termination fee equal to [REDACTED]

[REDACTED] until the last-to-expire of the Licensed Patents would expire if all maintenance fees were paid.

12.3.1 After the first two years, or if the following Net Sales milestones are not met,

[REDACTED]

LICENSOR will have the right to terminate this agreement and pay a termination fee equal to [REDACTED]

12.3.2 In recognition that the LICENSEE'S unique component knowledge contributes to the value of the patent, the LICENSEE agrees to provide critical components to any new LICENSEE at a price consistent with pricing during the term of this License.

12.4 Patent Sale: The Parties agree that, per 13.3, unless terminated prior to a sale or assignment of any of the Licensed Patents to a third party, this agreement shall be binding on the assignee or purchaser thereof. LICENSOR, upon execution of this Agreement, shall record a copy of this Agreement with the US Patent and Trademark Office in association with each of the Licensed Patents.

12.4.1 If LICENSOR intends to sell any or all of the Licensed Patents

while this Agreement is in effect, LICENSEE shall have a right of first offer to buy the particular Licensed Patent(s) for a reasonable price to be negotiated in good faith. If LICENSEE declines to exercise their right of first offer or the Parties, after negotiating in good faith, are unable to reach an agreement, and LICENSOR sells the particular Licensed Patent(s) to a third party, LICENSOR agrees to pay [REDACTED] of the proceeds of the sale to LICENSEE. If upon the sale of the Licensed Patents LICENSEE is also eligible for the contract buyout compensation found in 12.3.1, LICENSEE may choose the compensation due per 12.3.1 or due per 12.4.1, but not both.

12.4.2 In recognition that the LICENSEE'S unique component knowledge contributes to the value of the patent, the LICENSEE agrees to provide critical components to the new Patent owner at a price consistent with pricing during Leveler's patent ownership.

- 12.5 If, subsequent to the minimum term provided in 12.1, any payment to LICENSOR is in arrears for 30 days after the due date, or if LICENSEE materially defaults in performing any of the other terms of this Agreement, and continues in default for a period of 30 days, or if LICENSEE becomes insolvent or enters into an agreement with creditors, or if a receiver is appointed for it, LICENSOR shall have the right to terminate this Agreement by giving notice to LICENSEE of such default, the notice providing LICENSEE with 30 days to cure such default.
- 12.6 If, subsequent to the minimum term provided in 12.1, LICENSEE makes an assignment for the benefit of creditors, or if proceedings in voluntary or involuntary bankruptcy are instituted on behalf of or against LICENSEE, or if a receiver or trustee is appointed for the property of LICENSEE, LICENSOR, subject to the provisions of 12.3, may, at its option, terminate this Agreement by written notice to LICENSEE.
- 12.7 Upon termination of this Agreement, for any reason, nothing herein shall be construed to release either Party of any obligation which matured prior to the effective date of such termination or which may continue beyond such termination.

13. Assignment; Transfer

- 13.1 LICENSEE shall not have the right to assign or otherwise transfer this Agreement and the rights acquired by LICENSEE hereunder without the prior, written consent of LICENSOR, which consent shall not be unreasonably withheld, except as provided in section 13.3. If such written consent is given, such assignment or transfer shall not be deemed effective unless such assignee or transferee has agreed in writing to be bound by the terms and provisions of this Agreement.

13.2 LICENSOR shall not have the right to assign or otherwise transfer any of the Licensed Patents, this Agreement or the rights herein, including rights acquired by LICENSOR herein to receive payments, to any third party, without the prior written consent of LICENSEE, which consent shall not be unreasonably withheld, except as provided in section 13.3. Such assignment or transfer shall not be deemed effective unless such assignee or transferee has agreed in writing to be bound by the terms and provisions of this Agreement.

13.3 The rights and obligations granted hereunder shall be binding on any successor of LICENSEE or LICENSOR, or any purchaser of substantially all of the assets of LICENSEE or of any of the Licensed Patents from LICENSOR. Notwithstanding anything to the contrary contained herein, should LICENSEE assign this Agreement to any third party, LICENSEE shall remain liable to LICENSOR for any defaulted obligations of such assignee or any subsequent assignee to LICENSOR.

14. Notices

14.1 Any notice, request, report or payment required or permitted to be given or made under this Agreement by either Party must be given by sending such notice by certified or registered mail, return receipt requested, to the address set forth below or such other address as such Party specifies by written notice given in conformity herewith. Any notice not so given is not valid until actually received, and any notice given in accordance with the provisions of this Article is effective when mailed.

14.2 Notices to LICENSOR shall be sent to:

Leveler LLC
c/o Taft Stettinius & Hollister LLP
111 East Wacker Drive
Suite 2800
Chicago, Illinois 60601
Attn: Mitchell D. Goldsmith

14.3 Notices to LICENSEE shall be sent to:

Lodestone LLC
4769 E. Wesley Drive
Anaheim, California 92807
Attn: Richard H. Barden, President

15. General

- 15.1 Entire Agreement. This Agreement contains the entire understanding of the Parties with respect to the matter contained herein. The Parties may, from time to time during the continuance of this Agreement, modify, vary or alter any of the provisions of this Agreement, but only by an instrument duly executed by authorized officials of both Parties hereto.
- 15.2. Waiver. No waiver by either Party of any breach of this Agreement, no matter how long continuing or how often repeated, is a waiver of any subsequent breach thereof, nor is any delay or omission on the part of either Party to exercise any right, power, or privilege hereunder a waiver of such right, power or privilege.
- 15.3. No Agency Relationship. The relationship between the Parties is that of independent contractor and contractee. Neither Party is an agent of the other in connection with the exercise of any rights hereunder, and neither has any right or authority to assume or create any obligation or responsibility on behalf of the other.
- 15.4. Force Majeure. Neither Party hereto is in default of any provision of this Agreement for any failure in performance resulting from acts or events beyond the reasonable control of such Party, such as Acts of God, acts of civil or military authority, civil disturbance, war, strikes, fires, power failures, pandemic, natural catastrophes or other "force majeure" events.
- 15.5. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the invalid or unenforceable term or provision in any other situation or in any other jurisdiction. If a final judgment of a court of competent jurisdiction declares that any term or provision hereof is invalid or unenforceable, the Parties agree that the court making the determination of invalidity or unenforceability shall have the power, which power the Parties hereby request such court to exercise, to reduce the scope, duration or geographic limitation of the term or provision, to delete specific words or phrases, or to replace any invalid or unenforceable term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement shall be enforceable as so modified after the expiration of the time within which the judgment may be appealed.
- 15.6. Captions. The section numbers and captions used in this Agreement are for convenience only and shall not be used in interpreting in this Agreement.

- 15.7. The Parties acknowledge that they have entered into this Agreement of their own free will, and have not relied on any inducement by the other Party to enter into this Agreement (even if such inducement occurred), nor have they relied on any warranty or representation by the other Party not explicitly set forth in this Agreement (even if such warranties or representations were made).
- 15.8. Each Party agrees that, now and in the future, the Party will not make any disparaging or derogatory statements in relation to this Agreement or about the other Party to the public or the Party's employees or engage in any conduct that would impugn, malign, denigrate, or otherwise harm the good will or public image of the other Party with respect to this Agreement. The Parties agree that any comments made to the public or to a Party's employees regarding this Agreement that accurately describe terms and/or conditions of this Agreement shall not violate this Section.
- 15.9. Construction. The Parties have jointly participated in the negotiation and drafting of this Agreement. In the event that an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumptions or burdens of proof shall arise favoring any Party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. Each defined term used in this Agreement has a comparable meaning when used in its plural or singular form. Each gender-specific term used herein has a comparable meaning whether used in a masculine, feminine or gender-neutral form. The term "include" and its derivatives shall have the same construction as the phrase "include, without limitation," and its derivatives. The exhibits identified in this Agreement are incorporated by reference and made a part hereof.
- 15.10. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- 15.11. Directly or Indirectly. Where any provision of this Agreement refers to action to be taken by any Person, or which such Person is prohibited from taking, such provision shall be applicable whether the action in question is taken directly or indirectly by such Person.
- 15.12. Governmental Compliance. LICENSEE and LICENSOR shall abide by all applicable export laws and regulations relating to the use and distribution of the Products as applicable and shall not market or distribute any Products to customers outside of the United States in violation of any laws and regulations of the United States or any other country or sovereign

nation applicable to sales outside of the United States.

- 15.13. Compliance with Laws. The Parties agree to comply and do all things necessary to enable the other Party to comply with all applicable federal, state and local laws, regulation, ordinances, self-regulatory agency and accredited exchange rules including the regulations of the United States Government as they relate to this Agreement.
- 15.14. Notice of Events Affecting Performance. Each Party shall promptly provide written notification to the other Party of, including a description of, the impending and/or actual occurrence of any of the following events:
- 15.14.1 insolvency proceedings that may adversely affect a Party's performance under this Agreement; and
- 15.14.2. any other factor or event which may detrimentally affect a Party's ability to meet the requirements of this Agreement.
- 15.15. Enforcement Expenses. In the event of any dispute arising out of the subject matter of this Agreement that is resolved by litigation, the prevailing Party shall recover, in addition to any other damages assessed, its reasonable expenses, including reasonable attorneys' fees and costs, incurred in litigating such dispute.
- 16. Arbitration; Governing Law**
- 16.1 All disputes that may arise in connection with this Agreement shall be submitted to arbitration under the rules and regulations of the American Arbitration Association. All costs of arbitration shall be divided equally between the Parties, and the Parties agree to abide by the award.
- 16.2 This agreement shall be governed by, and construed in accordance with, the laws of the State of California, except that the Federal Laws of the United States of America shall apply to questions regarding the validity or infringement or enforceability of United States Federal Patent and Trademark rights relating in any way to this Agreement or the subject matter of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed in duplicate originals by their duly authorized officers or representatives.

FOR LICENSOR

By John Ward

Typed Name John Ward

Title Manager

Date 10/23/2020

FOR LICENSEE

By Richard H. Barden

Typed Name Richard H. Barden

Title Manager

Date 10/22/2020