

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 10-Q**

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

**For the quarterly period ended September 30, 2022  
OR**

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

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

**STEM, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or Other Jurisdiction  
of Incorporation)

**333-251397**

(Commission File Number)

**85-1972187**

(IRS Employer  
Identification No.)

**100 California St., 14th Fl, San Francisco, California 94111**

(Address of principal executive offices including zip code)

**1-877-374-7836**

Registrant's telephone number, including area code

**Not Applicable**

(Former name, former address and former fiscal year, if changed since last report)

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

Title of each class

Trading Symbol(s)

Name of each exchange on which registered

**Common Stock, par value \$0.0001**

**STEM**

**New York Stock Exchange**

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 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

☒ Accelerated filer

☐

Non-accelerated filer

☐ Smaller reporting company

☐

Emerging growth company

☐

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

☐

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

**Class**

**Outstanding as of October 25, 2022**

Common Stock, \$0.0001 par value per share

154,488,799

**STEM, INC.**  
**Quarterly Report on Form 10-Q**  
**For the Quarterly Period Ended September 30, 2022**

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**Part I. Financial Information**

**Item 1. Financial Statements (Unaudited)**

**STEM, INC.**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**  
**(UNAUDITED)**  
(in thousands, except share and per share amounts)

	<b>September 30, 2022</b>	<b>December 31, 2021</b>
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 100,098	\$ 747,780
Short-term investments	193,403	173,008
Accounts receivable, net of allowances of \$2,811 and \$91 as of September 30, 2022 and December 31, 2021, respectively	144,259	61,701
Inventory, net	29,217	22,720
Deferred costs with suppliers	61,580	13,745
Other current assets (includes \$68 and \$213 due from related parties as of September 30, 2022 and December 31, 2021, respectively)	8,668	4,896
Total current assets	537,225	1,023,850
Energy storage systems, net	94,828	106,114
Contract origination costs, net	9,757	8,630
Goodwill	546,634	1,741
Intangible assets, net	163,553	13,966
Operating lease right-of-use assets	12,609	12,998
Other noncurrent assets	52,618	24,531
Total assets	\$ 1,417,224	\$ 1,191,830
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current liabilities:		
Accounts payable	\$ 94,923	\$ 28,273
Accrued liabilities	61,601	25,993
Accrued payroll	13,268	7,453
Financing obligation, current portion	17,024	15,277
Deferred revenue, current portion	49,436	9,158
Other current liabilities (includes \$292 and \$306 due to related parties as of September 30, 2022 and December 31, 2021, respectively)	4,225	1,813
Total current liabilities	240,477	87,967
Deferred revenue, noncurrent	69,254	28,285
Asset retirement obligation	4,261	4,135
Notes payable, noncurrent	1,583	1,687
Convertible notes, noncurrent	447,411	316,542
Financing obligation, noncurrent	65,314	73,204
Lease liabilities, noncurrent	11,308	12,183
Other liabilities	391	—
Total liabilities	839,999	524,003
Commitments and contingencies (Note 15)		
Stockholders' equity:		
Preferred stock, \$0.0001 par value; 1,000,000 shares authorized as of September 30, 2022 and December 31, 2021; 0 shares issued and outstanding as of September 30, 2022 and December 31, 2021	—	—
Common stock, \$0.0001 par value; 500,000,000 shares authorized as of September 30, 2022 and December 31, 2021; 154,487,778 and 144,671,624 issued and outstanding as of September 30, 2022 and December 31, 2021, respectively	15	14
Additional paid-in capital	1,175,733	1,176,845
Accumulated other comprehensive (loss) income	(2,122)	20
Accumulated deficit	(596,808)	(509,052)
Total Stem's stockholders' equity	576,818	667,827
Non-controlling interests	407	—
Total stockholders' equity	577,225	667,827
Total liabilities and stockholders' equity	\$ 1,417,224	\$ 1,191,830

*The accompanying notes are an integral part of these condensed consolidated financial statements.*

**STEM, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS**  
**(UNAUDITED)**  
(in thousands, except share and per share amounts)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
Revenue				
Services and other revenue	\$ 13,692	\$ 4,947	\$ 36,178	\$ 14,982
Hardware revenue	85,809	34,886	171,358	59,609
Total revenue	99,501	39,833	207,536	74,591
Cost of revenue				
Cost of services and other revenue	11,445	6,639	30,219	19,354
Cost of hardware revenue	78,929	30,057	156,758	52,343
Total cost of revenue	90,374	36,696	186,977	71,697
Gross margin	9,127	3,137	20,559	2,894
Operating expenses:				
Sales and marketing	13,187	4,975	35,284	11,555
Research and development	10,526	6,268	28,432	15,502
General and administrative	18,013	11,024	54,218	28,730
Total operating expenses	41,726	22,267	117,934	55,787
Loss from operations	(32,599)	(19,130)	(97,375)	(52,893)
Other (expense) income, net:				
Interest expense	(2,520)	(2,674)	(8,429)	(12,835)
Loss on extinguishment of debt	—	—	—	(5,064)
Change in fair value of warrants and embedded derivatives	—	137,001	—	3,424
Other income, net	863	415	1,822	211
Total other (expense) income, net	(1,657)	134,742	(6,607)	(14,264)
(Loss) income before (provision for) benefit from income taxes	(34,256)	115,612	(103,982)	(67,157)
(Provision for) benefit from income taxes	(19)	—	15,201	—
Net (loss) income	(34,275)	115,612	(88,781)	(67,157)
Net income attributed to non-controlling interests	4	—	—	—
Net (loss) income attributable to Stem	\$ (34,279)	\$ 115,612	\$ (88,781)	\$ (67,157)
Net (loss) income per share attributable to Stem common stockholders, basic	\$ (0.22)	\$ 0.85	\$ (0.58)	\$ (0.73)
Net loss per share attributable to Stem common shareholders, diluted	\$ (0.22)	\$ (0.15)	\$ (0.58)	\$ (0.73)
Weighted-average shares used in computing net loss per share to Stem common stockholders, basic	154,392,573	135,231,146	153,043,010	92,436,649
Weighted-average shares used in computing net loss per share to Stem common stockholders, diluted	154,392,573	140,285,165	153,043,010	92,436,649

*The accompanying notes are an integral part of these condensed consolidated financial statements.*

**STEM, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE (LOSS) INCOME**  
**(UNAUDITED)**  
(in thousands)

	<b>Three Months Ended September 30,</b>		<b>Nine Months Ended September 30,</b>	
	<b>2022</b>	<b>2021</b>	<b>2022</b>	<b>2021</b>
Net (loss) income	\$ (34,275)	\$ 115,612	\$ (88,781)	\$ (67,157)
Other comprehensive (loss) income:				
Unrealized loss on available-for-sale securities	(845)	(19)	(1,855)	(19)
Foreign currency translation adjustment	(141)	245	(287)	(106)
Other comprehensive (loss) income	<u>(35,261)</u>	<u>115,838</u>	<u>(90,923)</u>	<u>(67,282)</u>
Less: Comprehensive income attributable to non-controlling interests	4	—	—	—
Total comprehensive (loss) income attributable to Stem	<u>\$ (35,265)</u>	<u>\$ 115,838</u>	<u>\$ (90,923)</u>	<u>\$ (67,282)</u>

*The accompanying notes are an integral part of these condensed consolidated financial statements.*

**STEM, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY (DEFICIT)**  
**(UNAUDITED)**  
(in thousands, except share amounts)

	<b>Common Stock</b>		<b>Additional Paid-In Capital</b>	<b>Accumulated Other Comprehensive Income (Loss)</b>	<b>Accumulated Deficit</b>	<b>Non-controlling Interests</b>	<b>Total Stockholders' Equity</b>
	<b>Shares</b>	<b>Amount</b>					
Balance as of January 1, 2022	144,671,624	\$ 14	\$ 1,176,845	\$ 20	\$ (509,052)	\$ —	\$ 667,827
Cumulative-effect adjustment upon adoption of ASU 2020-06 (Note 10)	—	—	(130,979)	—	1,598	—	(129,381)
Cumulative-effect adjustment upon adoption of ASU 2016-13	—	—	—	—	(573)	—	(573)
Common stock issued upon business combination (Note 6)	8,621,006	1	108,882	—	—	—	108,883
Stock option exercises, net of statutory tax withholdings	425,167	—	(426)	—	—	—	(426)
Stock-based compensation	—	—	6,787	—	—	—	6,787
Unrealized loss on available-for-sale securities	—	—	—	(611)	—	—	(611)
Foreign currency translation adjustments	—	—	—	(28)	—	—	(28)
Contributions from non-controlling interests	—	—	—	—	—	141	141
Net loss	—	—	—	—	(22,483)	—	(22,483)
Balance as of March 31, 2022	153,717,797	15	1,161,109	(619)	(530,510)	141	630,136
Stock option exercises, net of statutory tax withholdings	355,712	—	(1,415)	—	—	—	(1,415)
Issuance of common stock upon release of restricted stock units	131,665	—	—	—	—	—	—
Shares issued for exercise of warrants	21,101	—	150	—	—	—	150
Stock-based compensation	—	—	7,021	—	—	—	7,021
Unrealized loss on available-for-sale securities	—	—	—	(399)	—	—	(399)
Foreign currency translation adjustments	—	—	—	(118)	—	—	(118)
Contributions from non-controlling interests	—	—	—	—	—	75	75
Net loss	—	—	—	—	(32,019)	(4)	(32,023)
Balance as of June 30, 2022	154,226,275	15	1,166,865	(1,136)	(562,529)	212	603,427
Stock option exercises, net of statutory tax withholdings	201,496	—	584	—	—	—	584
Issuance of common stock upon release of restricted stock units	60,007	—	—	—	—	—	—
Stock-based compensation	—	—	8,284	—	—	—	8,284
Unrealized loss on available-for-sale securities	—	—	—	(845)	—	—	(845)
Foreign currency translation adjustments	—	—	—	(141)	—	—	(141)
Contributions from non-controlling interests	—	—	—	—	—	191	191
Net (loss) income	—	—	—	—	(34,279)	4	(34,275)
Balance as of September 30, 2022	154,487,778	15	1,175,733	(2,122)	(596,808)	407	577,225

*The accompanying notes are an integral part of these condensed consolidated financial statements.*

	Common Stock		Additional Paid-In Capital	Accumulated Other Comprehensive Income (Loss)	Accumulated Deficit	Non-controlling Interests	Total Stockholders' Equity (Deficit)
	Shares	Amount					
Balance as of January 1, 2021	40,202,785	\$ 4	\$ 230,620	\$ (192)	\$ (407,841)	\$ —	\$ (177,409)
Recognition of beneficial conversion feature related to convertible notes	—	—	1,126	—	—	—	1,126
Stock option exercises	1,392,494	—	2,750	—	—	—	2,750
Legacy warrant exercises	19,531	—	397	—	—	—	397
Stock-based compensation	—	—	784	—	—	—	784
Foreign currency translation adjustments	—	—	—	251	—	—	251
Net loss	—	—	—	—	(82,553)	—	(82,553)
Balance as of March 31, 2021	41,614,810	4	235,677	59	(490,394)	—	(254,654)
Merger and PIPE financing (Note 1)	70,428,326	7	247,011	—	—	—	247,018
Conversion of warrants into common stock upon Merger (Note 11)	2,759,970	—	60,568	—	—	—	60,568
Conversion of convertible notes into common stock upon Merger (Note 10)	10,921,548	1	77,747	—	—	—	77,748
Exchange of warrants into common stock (Note 11)	4,683,349	1	168,646	—	—	—	168,647
Issuance of common stock warrants for services (Note 11)	—	—	9,183	—	—	—	9,183
Stock option and stock warrant exercises	360,052	—	39	—	—	—	39
Stock-based compensation	—	—	1,047	—	—	—	1,047
Foreign currency translation adjustments	—	—	—	(602)	—	—	(602)
Net loss	—	—	—	—	(100,216)	—	(100,216)
Balance as of June 30, 2021	130,768,055	\$ 13	\$ 799,918	\$ (543)	\$ (590,610)	\$ —	\$ 208,778
Public Warrant exercises (Note 11)	12,638,723	1	312,115	—	—	—	312,116
Stock option exercises	879,181	—	(12,552)	—	—	—	(12,552)
Stock-based compensation	—	—	6,739	—	—	—	6,739
Unrealized loss on available-for-sale securities	—	—	—	(19)	—	—	(19)
Foreign currency translation adjustments	—	—	—	245	—	—	245
Net income	—	—	—	—	115,612	—	115,612
Balance as of September 30, 2021	144,285,959	\$ 14	\$ 1,106,220	\$ (317)	\$ (474,998)	\$ —	\$ 630,919

*The accompanying notes are an integral part of these condensed consolidated financial statements.*

**STEM, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
**(UNAUDITED)**  
(in thousands)

	<b>Nine Months Ended September 30,</b>	
	<b>2022</b>	<b>2021</b>
<b>OPERATING ACTIVITIES</b>		
Net loss	\$ (88,781)	\$ (67,157)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization expense	32,060	15,620
Non-cash interest expense, including interest expenses associated with debt issuance costs	1,479	8,098
Stock-based compensation	20,410	7,983
Change in fair value of warrant liability and embedded derivative	—	(3,424)
Noncash lease expense	1,722	280
Impairment of energy storage systems	1,293	2,200
Issuance of warrants for services	—	9,183
Net (accretion of discount) amortization of premium on investments	301	295
Income tax benefit from release of valuation allowance	(15,100)	—
Provision for accounts receivable allowance	1,874	—
Gain on sale of project assets	(592)	—
Other	144	174
Changes in operating assets and liabilities:		
Accounts receivable	(75,390)	(21,383)
Inventory	(2,237)	(3,357)
Deferred costs with suppliers	(47,836)	(4,159)
Other assets	(25,242)	(13,901)
Contract origination costs	(4,842)	(1,853)
Accounts payable	63,207	2,916
Accrued expense and other liabilities	38,329	3,334
Deferred revenue	31,620	(3,538)
Lease liabilities	(1,053)	(331)
Net cash used in operating activities	(68,634)	(69,020)
<b>INVESTING ACTIVITIES</b>		
Acquisition of AlsoEnergy, net of cash acquired	(533,009)	—
Purchase of available-for-sale investments	(181,541)	(171,109)
Proceeds from maturities of available-for-sale investments	148,064	—
Proceeds from sales of available-for-sale investments	10,930	—
Purchase of energy storage systems	(469)	(6,173)
Capital expenditures on internally-developed software	(12,652)	(4,250)
Net proceeds from sale of project assets	1,251	—
Capital expenditures on project assets	(3,009)	—
Purchase of property and equipment	(1,490)	(525)
Net cash used in investing activities	(571,925)	(182,057)
<b>FINANCING ACTIVITIES</b>		
Proceeds from exercise of stock options and warrants	1,194	148,322
Payments for taxes related to net share settlement of stock options	(2,302)	(12,622)
Net contributions from Merger and PIPE financing, net of transaction costs of \$58,061	—	550,322
Proceeds from financing obligations	1,519	4,929
Repayment of financing obligations	(7,637)	(5,721)
Proceeds from issuance of convertible notes, net of issuance costs of \$0 and \$8 for the nine months ended September 30, 2022 and 2021, respectively	—	1,118
Proceeds from issuance of notes payable, net of issuance costs of \$0 and \$101 for the nine months ended September 30, 2022 and 2021, respectively	—	3,917
Investment from non-controlling interests	407	—
Repayment of notes payable	—	(41,446)
Net cash (used in) provided by financing activities	(6,819)	648,819
Effect of exchange rate changes on cash and cash equivalents	(304)	505
Net (decrease) increase in cash and cash equivalents	(647,682)	398,247

*The accompanying notes are an integral part of these condensed consolidated financial statements.*



Cash and cash equivalents, beginning of year	747,780	6,942
Cash and cash equivalents, end of period	\$ 100,098	\$ 405,189
<b>SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION</b>		
Cash paid for interest	\$ 4,910	\$ 8,992
<b>NON-CASH INVESTING AND FINANCING ACTIVITIES</b>		
Change in asset retirement costs and asset retirement obligation	\$ 56	\$ 162
Exchange of warrants for common stock	\$ —	\$ 168,647
Conversion of warrants upon Merger	\$ —	\$ 60,568
Conversion of convertible notes upon Merger	\$ —	\$ 77,748
Conversion of accrued interest into outstanding note payable	\$ —	\$ 337
Right-of-use asset obtained in exchange for lease liability	\$ —	\$ 13,816
Settlement of warrant liability into common stock due to exercise	\$ —	\$ 167,050
Settlement of warrant liability into common stock due to redemption	\$ —	\$ 2,121
Stock-based compensation capitalized to internal-use software	\$ 1,680	\$ 587

*The accompanying notes are an integral part of these condensed consolidated financial statements.*

**STEM, INC.**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**(UNAUDITED)**

**1. BUSINESS**

**Description of the Business**

Stem, Inc., together with its consolidated subsidiaries (“Stem,” the “Company,” “we,” “us,” or “our”), maintains one of the world’s largest digitally connected, intelligent renewable energy networks, providing customers (i) with an energy storage system, sourced from leading, global battery original equipment manufacturers (“OEMs”), that the Company delivers through its partners, including developers, distributors, and engineering, procurement, and construction firms, (ii) ongoing software platform and professional services to operate integrated energy storage, and solar systems, through its Athena® artificial intelligence (“AI”) platform (“Athena”), and (iii) solar asset performance monitoring and control, through its PowerTrack application. In addition, in all the markets where the Company helps manage its customers’ clean energy assets, the Company has agreements to use the Athena platform to participate in such markets and to share the revenue from such market participation.

The Company delivers its battery hardware and software-enabled services through its Athena platform to its customers. The Company’s hardware and recurring software-enabled services mitigate customer energy costs through services such as time-of-use and demand charge management optimization and by aggregating the dispatch of energy through a network of virtual power plants. The resulting network created by the Company’s growing customer base increases grid resilience and reliability through the real-time processing of market-based demand signals, energy prices and other factors in connection with the deployment of renewable energy resources to such customers. Additionally, the Company’s energy storage solutions support renewable energy generation by alleviating grid intermittency issues, thereby reducing customer dependence on traditional, fossil fuel resources.

The Company’s Athena PowerTrack application provides a vertically integrated solution that incorporates on-site power monitoring equipment that aggregates and communicates data to enable remote control of solar generation assets. PowerTrack provides direct access to individual site performance to measure and benchmark expected energy production, maximizing asset value for our customers.

From time to time, the Company, through an indirect wholly-owned development subsidiary (“DevCo”) formed in January 2022, will enter into strategic joint ventures (each a “DevCo JV”) with qualified third parties for the development of select renewable energy projects (“DevCo Projects”). In this structure, DevCo forms a new DevCo JV entity as the majority owner, with the developer as the minority owner. The purpose of the DevCo JV is to develop and sell DevCo Projects and secure Company hardware and software services for those projects. In DevCo Projects, the Company makes development capital contributions to fund project development, and recovers those capital contributions plus a fee when the developer takes ownership of the project. The Company will in some cases also elect to make cash advances to hardware suppliers to accelerate project construction timelines given long lead times to secure hardware. This business model is intended to allow the Company to advance development capital to key partners in strategic markets and securing hardware upfront, in order to generate higher-margin software and services and other revenue via exclusive long-term services contracts under the DevCo Projects.

On February 1, 2022, the Company acquired all of the issued and outstanding capital stock of Also Energy Holdings, Inc. (“AlsoEnergy”), which has been consolidated since the date of acquisition. Through AlsoEnergy, the Company provides end-to-end turnkey solutions that monitor and manage renewable energy systems through its PowerTrack software. PowerTrack includes data acquisitions and monitoring, performance modeling, agency reporting, internal reports, work order tickets, and supervisory control and data acquisition (“SCADA”) controls. AlsoEnergy has deployed systems at various international locations, but its largest customer bases are in the United States, Germany and Canada. See Note 6 — *Business Combinations*.

The Company operated as Rollins Road Acquisition Company (f/k/a Stem, Inc.) (“Legacy Stem”) prior to the Merger (as defined below). Stem, Inc. was incorporated on March 16, 2009 in the State of Delaware and is headquartered in San Francisco, California.

**Star Peak Acquisition Corp. Merger**

On December 3, 2020, the Company entered into an Agreement and Plan of Merger (the “Merger Agreement”) with Star Peak Transition Corp. (“STPK”), an entity that was then listed on the New York Stock Exchange under the trade symbol “STPK,” and STPK Merger Sub Corp., a Delaware corporation and wholly-owned subsidiary of STPK (“Merger Sub”), providing for, among other things, and subject to the conditions therein, the combination of the Company and STPK pursuant to the merger of Merger Sub with and into the Company, with the Company continuing as the surviving entity (the “Merger”).

**STEM, INC.**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**(UNAUDITED)**

On April 28, 2021, shareholders of STPK approved the Merger, under which Stem received approximately \$550.3 million, net of fees and expenses as follows (in thousands):

	<b>Recapitalization</b>
Cash — STPK trust and working capital cash	\$ 383,383
Cash — PIPE (as described below)	225,000
Less: transaction costs and advisory fees paid	(58,061)
Merger and PIPE financing	<u>\$ 550,322</u>

Immediately prior to the closing of the Merger, (i) all issued and outstanding shares of Legacy Stem preferred stock, par value \$0.00001 per share (the “Legacy Stem Preferred Stock”), were converted into shares of Legacy Stem common stock, par value \$0.000001 per share (the “Legacy Stem Common Stock”) in accordance with Legacy Stem’s amended and restated certificate of incorporation, (ii) all outstanding convertible promissory notes of Legacy Stem (the “Legacy Stem Convertible Notes”) were converted into Legacy Stem Preferred Stock in accordance with the terms of the Legacy Stem Convertible Notes and (iii) certain warrants issued by Legacy Stem to purchase Legacy Stem Common Stock and Legacy Stem Preferred Stock (the “Legacy Stem Warrants”) were exercised by holders into Legacy Stem Common Stock in accordance with the terms thereof. Upon the consummation of the Merger, each share of Legacy Stem common stock then issued and outstanding was canceled and converted into the right to receive shares of common stock of Stem using an exchange ratio of 4.6432.

In connection with the execution of the Merger Agreement, STPK entered into separate subscription agreements (each, a “Subscription Agreement”) with a number of investors (each a “Subscriber”), pursuant to which the Subscribers agreed to purchase, and STPK agreed to sell to the Subscribers, an aggregate of 22,500,000 shares of common stock (the “PIPE Shares”), for a purchase price of \$10 per share and an aggregate purchase price of \$225.0 million, in a private placement pursuant to the subscription agreements (the “PIPE”). The PIPE investment closed simultaneously with the consummation of the Merger. The Merger was accounted for as a reverse recapitalization in accordance with U.S. generally accepted accounting principles (“GAAP”). Under this method of accounting, STPK was treated as the “acquired” company for financial reporting purposes. Accordingly, for accounting purposes, the Merger was treated as the equivalent of Stem issuing stock for the net assets of STPK, accompanied by a recapitalization. The net liabilities of STPK of \$302.2 million, comprised primarily of the warrant liabilities associated with the Public and Private Placement Warrants discussed in Note 11 — *Warrants*, are stated at historical cost, with no goodwill or other intangible assets recorded.

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**Liquidity**

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles (“GAAP”) and with the instructions to Form 10-Q and Article 10 of the Regulation S-X, assuming the Company will continue as a going concern. As of September 30, 2022, the Company had cash and cash equivalents of \$100.1 million, short-term investments of \$193.4 million, an accumulated deficit of \$596.8 million and net working capital of \$296.7 million, with \$17.0 million of financing obligations coming due within the next 12 months. During the nine months ended September 30, 2022, the Company incurred a net loss of \$88.8 million and had negative cash flows from operating activities of \$68.6 million. However, the net proceeds from the Merger of \$550.3 million, the proceeds of \$145.3 million from the exercise of Public Warrants (as described in Note 11 — *Warrants*), and the net proceeds of \$445.7 million from the issuance of the Company’s 0.50% Green Convertible Senior Notes due 2028 (the “2028 Convertible Notes”) (as described in Note 10 — *Convertible Promissory Notes*) provided the Company with a significant amount of cash proceeds. As discussed in Note 6 — *Business Combinations*, the Company acquired 100% of the issued and outstanding capital stock of AlsoEnergy for an aggregate purchase price of \$652.0 million, including \$543.1 million in cash net of a working capital adjustment for an escrow recovery and \$108.9 million in common stock. The Company believes that its cash position is sufficient to meet capital and liquidity requirements for at least the next 12 months after the date that the financial statements are available to be issued.

The Company’s business prospects are subject to risks, expenses, and uncertainties frequently encountered by companies in the early stages of commercial operations. Prior to the Merger, the Company had been funded primarily by equity financings, convertible promissory notes and borrowings from affiliates. The attainment of profitable operations is dependent upon future events, including securing new customers and maintaining current ones, securing and maintaining adequate supplier relationships, building its customer base, successfully executing its business and marketing strategy, obtaining adequate financing to complete the Company’s development activities, and hiring and retaining appropriate personnel. Failure to generate sufficient revenues, achieve planned gross margins and operating profitability, control operating costs, or secure additional funding may require the Company to modify, delay or abandon some of its planned future expansion or development, or to otherwise enact operating cost reductions available to management, which could have a material adverse effect on the Company’s business, operating results and financial condition.

**Supply Chain Constraints and Risk; COVID-19**

There has been a trend in many parts of the world of increasing availability and administration of vaccines against COVID-19, as well as an easing of restrictions on social, business, travel and government activities and functions. On the other hand, infection rates and regulations continue to fluctuate in various regions of the world, and there are ongoing global effects resulting from the pandemic, including challenges and increases in costs for logistics and supply chains, such as increased port congestion, intermittent supplier delays and labor shortages. Ongoing government and business responses to COVID-19, along with COVID-19 variants and the resurgence of related disruptions, could have a continued material adverse effect on economic and market conditions and trigger a period of continued global and U.S. economic slowdown.

The Company’s industry continues to face shortages and shipping delays affecting the supply of inverters, enclosures, battery modules and associated component parts for inverters and battery energy storage systems available for purchase. These shortages and delays can be attributed in part to the pandemic and resulting government action, as well as broader macroeconomic conditions that may persist once the immediate effects of the pandemic have subsided, and have been exacerbated by the ongoing conflict between Russia and Ukraine. While management believes that a majority of the Company’s suppliers have secured sufficient supply to permit them to continue delivery and installations through the end of 2022, if these shortages and delays persist into 2023, they could adversely affect the timing of when battery energy storage systems can be delivered and installed, and when (or if) the Company can begin to generate revenue from those systems. The Company cannot predict the full effects the pandemic will have on our business, cash flows, liquidity, financial condition and results of operations at this time due to numerous uncertainties. The Company will continue to monitor developments affecting its workforce, its suppliers, its customers and its business operations generally, and will take actions the Company determines are necessary in order to mitigate these.

**2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**Basis of Presentation**

The accompanying unaudited condensed consolidated financial statements of the Company have been prepared in accordance with GAAP for interim reporting and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, the condensed balance sheet at December 31, 2021 has been derived from the audited financial statements at that

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date, but certain notes or other information that are normally required by GAAP have been omitted if they substantially duplicate the disclosures contained in the Company's annual audited consolidated financial statements. In the opinion of Stem management, all normal and recurring adjustments considered necessary for a fair statement of the results for the interim period presented have been included in the accompanying unaudited financial statements. The unaudited condensed consolidated financial statements include the accounts of the Company, its wholly-owned subsidiaries, and consolidated variable interest entities ("VIEs"). The Company presents non-controlling interests within the equity section of its condensed consolidated balance sheets, and the amount of consolidated net (loss) income that is attributable to Stem and the non-controlling interest in its condensed consolidated statements of operations. All intercompany balances and transactions have been eliminated in consolidation. These unaudited condensed financial statements should be read in conjunction with the Company's audited financial statements for the year ended December 31, 2021. Operating results for the three and nine months ended September 30, 2022 are not necessarily indicative of the results that may be expected for the full year ending December 31, 2022 or for any other future interim period or year.

*Variable Interest Entities*

Beginning in January 2022, the Company formed DevCo JVs with the purpose of originating potential battery storage facility projects in the specific locations and conducting early-stage planning and development activities. The Company determined that the DevCo JVs are variable interest entities ("VIEs") as they lack sufficient equity to finance their activities without additional financial support. The Company determined that it has both (1) the power to direct the activities of the VIE that most significantly impact the VIE's economic performance, and (2) the obligation to absorb losses or receive benefits from the VIE that could potentially be significant. Accordingly, the Company has determined that it is the primary beneficiary of the DevCo JVs, and as a result, the DevCo JVs' operating results, assets and liabilities are consolidated by the Company, with third party minority owners' share presented as noncontrolling interest. The Company applied the hypothetical liquidation at book value method in allocating recorded net income (loss) to each owner based on the change in the reporting period, of the amount of net assets of the entity to which each owner would be entitled to under the governing contracts in a liquidation scenario.

The following table summarizes the carrying values of the assets and liabilities of the DevCo JVs that are consolidated by the Company as of September 30, 2022 (in thousands):

	<b>September 30, 2022</b>
<b>Assets</b>	
Cash and cash equivalents	\$ 5,732
Other current assets	42
Other noncurrent assets	2,350
<b>Total assets</b>	<b>8,124</b>
<b>Liabilities</b>	
Accounts payable	447
Other current liabilities	\$ 74
<b>Total liabilities</b>	<b>\$ 521</b>

For the nine months ended September 30, 2022, the Company contributed approximately \$6.6 million in capital investments for hardware purchases. The net income from the DevCo JVs during the nine months ended September 30, 2022 was immaterial.

**Reclassifications**

Certain prior year amounts have been reclassified for consistency with the current year presentation. Such reclassifications have no impact on previously reported net (loss) income, stockholders' equity (deficit), or cash flows. For the nine months ended September 30, 2021, a \$4.2 million net cash outflow was reclassified from Other assets to Deferred costs with suppliers in the consolidated statements of cash flows. This change had no impact to net cash used in operating activities.

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**Use of Estimates**

The preparation of unaudited condensed consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the unaudited condensed consolidated financial statements, and the reported amounts of revenues and expenses during the reporting period. The Company bases its estimates on historical experience and on various other assumptions believed to be reasonable. Actual results could differ from those estimates and such differences could be material to the financial position and results of operations.

Significant estimates and assumptions reflected in these unaudited condensed consolidated financial statements include, but are not limited to, depreciable life of energy systems; the amortization of acquired intangibles; the amortization of financing obligations; deferred commissions and contract fulfillment costs; the valuation of energy storage systems, internally developed software, and asset retirement obligations; and the fair value of equity instruments, equity-based instruments, warrant liabilities, embedded derivatives and net assets acquired in a business combination.

**Segment Information**

Operating segments are defined as components of an entity for which discrete financial information is available that is regularly reviewed by the Chief Operating Decision Maker (“CODM”) in deciding how to allocate resources to an individual segment and in assessing performance. The Company’s Chief Executive Officer is the CODM. The CODM reviews financial information presented on a consolidated basis for purposes of making operating decisions, allocating resources, and evaluating financial performance. As such, management has determined that the Company operates as one operating segment that is focused exclusively on innovative technology services that transform the way energy is distributed and consumed. The operations acquired as part of the acquisition of AlsoEnergy have been included in the Company’s operating segment. Net assets outside of the U.S. were less than 10% of total net assets as of September 30, 2022 and December 31, 2021.

**Concentration of Credit Risk and Other Uncertainties**

At times, the Company may be subject to a concentration of credit risk in relation to certain customers due to the purchase of large energy storage systems made by such customers. The Company routinely assesses the creditworthiness of its customers. The Company has not experienced any material losses related to receivables from individual customers, or groups of customers, during the nine months ended September 30, 2022 and 2021. The Company does not require collateral. Due to these factors, no additional credit risk beyond amounts provided for credit losses is believed by management to be probable in the Company’s accounts receivable.

**Significant Customers**

A significant customer represents 10% or more of the Company’s total revenue or accounts receivable, net balance at each reporting date. For each significant customer, revenue as a percentage of total revenue and accounts receivable as a percentage of total accounts receivable are as follows:

	Accounts Receivable		Revenue		Revenue	
	September 30,	December 31,	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021	2022	2021
<b>Customers:</b>						
Customer A	*	23 %	*	*	*	*
Customer B	*	15 %	*	15 %	*	11 %
Customer C	*	13 %	*	22 %	*	12 %
Customer D	60 %	*	58 %	*	52 %	*
Customer E	*	*	*	*	*	11 %
Customer F	*	*	*	*	*	13 %
Customer G	*	*	12 %	*	*	*

\*Total less than 10% for the respective period.

There are inherent risks whenever a large percentage of total revenue is concentrated in a limited number of customers. Should a significant customer terminate or fail to renew its contracts with us, in whole or in part, for any reason, or experience significant financial or operating difficulties, it could have a material adverse effect on our financial condition and results of operations. In general, a customer that makes up a significant portion of revenues in one period, may not make up a significant portion in subsequent periods. See “We depend on significant customers for a substantial portion of our revenue. If we fail to

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retain or expand our customer relationships or significant customers reduce their purchases, our revenue could decline significantly” in Part II, Item 1A. “Risk Factors” of this report for additional information about certain risks related to the concentration of our customers.

**Fair Value of Financial Instruments**

Assets and liabilities recorded at fair value in the unaudited condensed consolidated financial statements are categorized based upon the level of judgment associated with the inputs used to measure their fair value. The fair value of the Company’s financial assets and liabilities reflects management’s estimate of amounts that the Company would have received in connection with the sale of the assets or paid in connection with the transfer of the liabilities in an orderly transaction between market participants at the measurement date. In connection with measuring the fair value of its assets and liabilities, the Company seeks to maximize the use of observable inputs (market data obtained from independent sources) and to minimize the use of unobservable inputs (internal assumptions about how market participants would price assets and liabilities).

Hierarchical levels which are directly related to the amount of subjectivity associated with the inputs to the valuation of these assets or liabilities are as follows:

**Level 1** — Unadjusted quoted prices in active markets for identical assets or liabilities that the Company has the ability to access as of the measurement date.

**Level 2** — Inputs other than quoted prices included within Level 1 that are directly observable for the asset or liability or indirectly observable through corroboration with observable market data.

**Level 3** — Unobservable inputs for the asset or liability only used when there is little, if any, market activity for the asset or liability at the measurement date.

This hierarchy requires the Company to use observable market data, when available, and to minimize the use of unobservable inputs when determining fair value. Assets and liabilities measured at fair value are classified in their entirety based on the lowest level of input that is significant to their fair value measurement. The Company’s assessment of the significance of a specific input to the fair value measurement in its entirety requires management to make judgments and consider factors specific to the asset or liability.

Financial assets and liabilities held by the Company measured at fair value on a recurring basis as of September 30, 2022 and December 31, 2021 include cash and cash equivalents, short-term investments, and convertible promissory notes.

**Recently Adopted Accounting Standards**

The Company has adopted ASU 2020-06, *Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging—Contracts in Entity’s Own Equity (Subtopic 815-40)*, effective January 1, 2022 using the modified retrospective approach. ASU 2020-06 simplifies the accounting for convertible instruments. The guidance removes certain accounting models which separate conversion features from the host contract for convertible instruments. As a result of the adoption of ASU 2020-06, the 2028 Convertible Notes are no longer bifurcated into separate liability and equity components in the September 30, 2022 condensed consolidated balance sheet. Rather, the \$460.0 million principal amount of the Company’s 2028 Convertible Notes was classified as a liability in the September 30, 2022 condensed consolidated balance sheet. Upon adoption of ASU 2020-06, an adjustment was recorded to the 2028 Convertible Notes liability component, equity component (additional paid-in-capital) and accumulated deficit. The cumulative effect of the change was recognized as an adjustment to the opening balance of accumulated deficit at the date of adoption. The comparative information has not been restated and continues to be presented according to accounting standards in effect for those periods. This adjustment was calculated based on the carrying amount of the 2028 Convertible Notes as if it had always been treated only as a liability. Further, an adjustment was recorded to the debt discount and issuance costs as if these had always been treated as a contra liability only. Interest expense related to the accretion of the 2028 Convertible Notes is no longer recognized. Interest expense for the 2028 Convertible Notes for the three and nine months ended September 30, 2022 would have been \$3.9 million and \$11.4 million higher without the adoption of ASU 2020-06, respectively. As such, net loss attributable to the Company per common share for the three and nine months ended September 30, 2022 is \$0.03 and \$0.07 lower due to the effect of adoption of ASU 2020-06, respectively.

In June 2016, the FASB issued ASU 2016-13, *Financial instruments — Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*, and subsequent related ASUs, which amends the guidance on the impairment of financial instruments by requiring measurement and recognition of expected credit losses for financial assets held. This ASU is effective for public and private companies’ fiscal years, and for interim periods within those fiscal years, beginning after December 15,



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2019, and December 15, 2022, respectively. As the Company is no longer an emerging growth company as of January 1, 2022, the Company adopted ASU 2016-13 effective on such date, utilizing the modified retrospective transition method. Upon adoption, the Company updated its impairment model to utilize a forward-looking current expected credit losses (“CECL”) model in place of the incurred loss methodology for financial instruments measured at amortized cost, primarily including its accounts receivable. The adoption did not have a material effect on the Company’s unaudited condensed consolidated financial statements.

In October 2021, the FASB issued ASU 2021-08, *Business Combinations (Topic 805): Accounting for Contract Assets and Contract Liabilities from Contracts with Customers*. Under ASU 2021-08, an acquirer must recognize and measure contract assets and contract liabilities acquired in a business combination in accordance with Topic 606. The Company early adopted ASU 2021-08 on a prospective basis effective January 1, 2022. As indicated in Note 6 — *Business Combinations*, the Company completed the acquisition of AlsoEnergy on February 1, 2022. The adoption of ASU 2021-08 resulted in the recognition of deferred revenue at amounts consistent with those recorded by the acquiree immediately before the acquisition date rather than at fair value.

In December 2019, the FASB issued ASU 2019-12, *Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes* (“ASU 2019-12”). ASU 2019-12 removes certain exceptions to the general principles in Topic 740 and also clarifies and amends existing guidance to improve consistent application. ASU 2019-12 was effective for public entities for interim and annual periods beginning after December 15, 2020, with early adoption permitted. The Company adopted ASU 2019-12 effective May 1, 2021. The adoption of this standard did not have a material impact on the Company’s unaudited condensed consolidated financial statements.

### 3. REVENUE

#### Disaggregation of Revenue

The following table provides information on the disaggregation of revenue as recorded in the consolidated statements of operations (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
Hardware revenue	\$ 85,809	\$ 34,886	\$ 171,358	\$ 59,609
Services and other revenue	13,692	4,947	36,178	14,982
Total revenue	<u>\$ 99,501</u>	<u>\$ 39,833</u>	<u>\$ 207,536</u>	<u>\$ 74,591</u>

The table above includes AlsoEnergy’s hardware and services and other revenue of \$9.5 million and \$7.1 million, respectively, for the three months ended September 30, 2022 and \$21.2 million and \$19.1 million, respectively, for the nine months ended September 30, 2022.

The following table summarizes reportable revenue by geographic regions determined based on the location of the customers (in thousands):

	Three Months Ended September 30,	Nine Months Ended September 30,
	2022	2022
United States	\$ 97,815	\$ 201,475
Rest of the world	1,686	6,061
Total revenue	<u>\$ 99,501</u>	<u>\$ 207,536</u>

#### Remaining Performance Obligations

Remaining performance obligations represent contracted revenue that has not been recognized, which include contract liabilities (deferred revenue) and amounts that will be billed and recognized as revenue in future periods. As of September 30, 2022, the Company had \$365.8 million of remaining performance obligations, and the approximate percentages expected to be recognized as revenue in the future are as follows (in thousands, except percentages):



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	Total Remaining Performance Obligations	Percent Expected to be Recognized as Revenue		
		Less Than One Year	Two to Five Years	Greater Than Five Years
Services and other revenue	\$ 264,195	17 %	51 %	32 %
Hardware revenue	101,603	98 %	2 %	— %
Total revenue	<u>\$ 365,798</u>			

**Contract Balances**

Deferred revenue primarily includes cash received in advance of revenue recognition related to energy optimization services and incentives. The following table presents the changes in the deferred revenue balance during the nine months ended September 30, 2022 (in thousands):

Beginning balance as of January 1, 2022	\$ 37,443
Deferred revenue acquired upon business combination	49,626
Upfront payments received from customers	113,101
Upfront or annual incentive payments received	4,592
Revenue recognized related to amounts that were included in beginning balance of deferred revenue	(16,122)
Revenue recognized related to amounts that were included in acquired balance of deferred revenue	(3,338)
Revenue recognized related to deferred revenue generated during the period	(66,612)
Ending balance as of September 30, 2022	<u>\$ 118,690</u>

**4. SHORT-TERM INVESTMENTS**

The following tables summarize the estimated fair value of the Company's short-term investments and the gross unrealized holding losses and gains as of September 30, 2022 and December 31, 2021 (in thousands):

	As of September 30, 2022			
	Amortized Cost	Unrealized Gain	Unrealized Loss	Estimated Fair Value
Corporate debt securities	\$ 25,323	\$ —	\$ (292)	\$ 25,031
Commercial paper	25,911	—	—	25,911
U.S. government bonds	118,810	—	(1,711)	117,099
Certificate of deposits	18,180	—	—	18,180
Treasury bills	4,708	—	(7)	4,701
Agency bonds	2,501	—	(20)	2,481
Total short-term investments	<u>\$ 195,433</u>	<u>\$ —</u>	<u>\$ (2,030)</u>	<u>\$ 193,403</u>

	As of December 31, 2021			
	Amortized Cost	Unrealized Gain	Unrealized Loss	Estimated Fair Value
Corporate debt securities	\$ 42,174	\$ 11	\$ (52)	\$ 42,133
Commercial paper	20,743	—	—	20,743
U.S. government bonds	86,265	—	(135)	86,130
Certificate of deposits	21,501	6	—	21,507
Agency bonds	2,500	—	(5)	2,495
Total short-term investments	<u>\$ 173,183</u>	<u>\$ 17</u>	<u>\$ (192)</u>	<u>\$ 173,008</u>

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The following table presents the contractual maturities of the Company's short-term investments as of September 30, 2022 (in thousands):

	As of September 30, 2022	
	Amortized cost	Estimated Fair Value
Due within one year	\$ 144,466	\$ 143,613
Due between one to two years	50,967	49,790
Total	<u>\$ 195,433</u>	<u>\$ 193,403</u>

The Company periodically reviews the individual securities that have unrealized losses on a regular basis to evaluate whether or not any security has experienced, or is expected to experience, credit losses resulting in the decline in fair value. The Company evaluates, among other factors, whether the Company intends to sell any of these marketable securities and whether it is more likely than not that the Company will be required to sell any of them before recovery of the amortized cost basis. During the nine months ended September 30, 2022, the Company did not record an allowance for credit losses, as management believes any such losses would be immaterial based on the investment-grade credit rating for each of the short-term investments as of the end of each period.

## 5. FAIR VALUE MEASUREMENTS

Fair value accounting is applied for all financial assets and liabilities that are recognized or disclosed at fair value in the financial statements on a recurring basis. At September 30, 2022 and December 31, 2021, the carrying amount of accounts receivable, other current assets, accounts payable, and accrued and other current liabilities approximated their estimated fair value due to their relatively short maturities.

### Assets and Liabilities Measured at Fair Value on a Recurring Basis

The following table provides the financial instruments measured at fair value (in thousands):

	September 30, 2022			
	Level 1	Level 2	Level 3	Fair Value
<b>Assets</b>				
Cash equivalents:				
Money market fund	\$ 540	\$ —	\$ —	\$ 540
Commercial paper	—	5,372	—	5,372
Total cash equivalents	<u>540</u>	<u>5,372</u>	<u>—</u>	<u>5,912</u>
Debt securities:				
Corporate debt securities	—	25,031	—	25,031
Commercial paper	—	25,911	—	25,911
U.S. government bonds	—	117,099	—	117,099
Certificate of deposits	—	18,180	—	18,180
Treasury bills	—	4,701	—	4,701
Agency bonds	—	2,481	—	2,481
Total financial assets	<u>\$ 540</u>	<u>\$ 198,775</u>	<u>\$ —</u>	<u>\$ 199,315</u>

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	December 31, 2021			
	Level 1	Level 2	Level 3	Fair Value
Assets				
Cash equivalents:				
Money market fund	\$ 127,261	\$ —	\$ —	\$ 127,261
Debt securities:				
Corporate debt securities	—	42,133	—	42,133
Commercial paper	—	20,743	—	20,743
U.S. government bonds	—	86,130	—	86,130
Certificate of deposits	—	21,507	—	21,507
Other	—	2,495	—	2,495
Total financial assets	<u>\$ 127,261</u>	<u>\$ 173,008</u>	<u>\$ —</u>	<u>\$ 300,269</u>

The Company's money market funds are classified as Level 1 because they are valued using quoted market prices. The Company's short-term investments consist of available-for-sale securities and are classified as Level 2 because their value is based on valuations using significant inputs derived from or corroborated by observable market data.

**Fair Value of Convertible Promissory Notes**

The convertible notes are recorded at face value less unamortized debt issuance costs (see Note 10 — *Convertible Promissory Notes* for additional details) on the condensed consolidated balance sheet as of September 30, 2022. As of September 30, 2022, the estimated fair value of the convertible notes was \$341.7 million based on Level 2 quoted bid prices of the convertible notes in an over-the-counter market on the last trading date of the reporting period.

**6. BUSINESS COMBINATIONS**

On February 1, 2022, Stem, Inc. acquired 100% of the outstanding shares of AlsoEnergy. AlsoEnergy provides end-to-end turnkey solutions that monitor and manage renewable energy systems. AlsoEnergy has deployed systems at various international locations, but its largest customer bases are in the United States, Germany and Canada. The combined company delivers a one-stop-shop solution for front-of-meter and commercial and industrial ("C&I") customers with solar and storage needs.

The total consideration to acquire AlsoEnergy was \$652.0 million, comprised of \$543.1 million in cash, net of a working capital adjustment for an escrow recovery, and \$108.9 million in the form of 8,621,006 shares of the Company's common stock. The Company incurred \$6.1 million of transaction costs related to the acquisition of AlsoEnergy, which were recorded in general and administrative expense during the nine months ended September 30, 2022.

The following table summarizes the purchase price as a part of the acquisition of AlsoEnergy (in thousands):

	Purchase Price
Cash consideration	\$ 544,059
Equity consideration	108,883
Working capital adjustment	(915)
Total consideration	<u>\$ 652,027</u>

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The following table summarizes the fair values of assets acquired and liabilities assumed in the acquisition of AlsoEnergy at the date of acquisition (in thousands):

**Assets Acquired**

Cash	\$ 10,135
Accounts receivable	9,614
Other current assets	1,795
Inventory	3,701
Operating lease right-of-use assets	1,333
Separately identifiable intangible assets acquired other than goodwill	152,100
Other noncurrent assets	1,032
Total identifiable assets acquired	179,710

**Liabilities Assumed**

Accounts payable	1,985
Other current liabilities	1,596
Accrued payroll	2,533
Deferred revenue, current portion	17,486
Lease liabilities, current portion	431
Deferred revenue, noncurrent	32,140
Lease liabilities, noncurrent	902
Deferred tax liability	15,476
Other noncurrent liabilities	150
Total liabilities assumed	72,699
Total net identifiable assets acquired	107,011
Goodwill	545,016
Total consideration	\$ 652,027

Based on the accounting guidance provided in ASC 805, the Company accounted for the acquisition of AlsoEnergy as a business combination in which the Company determined that AlsoEnergy was a business.

In the second quarter of 2022, a working capital adjustment was made that resulted in the decrease of goodwill of \$0.9 million. The fair values assigned to tangible and intangible assets acquired, and liabilities assumed, are based on management's estimates and assumptions and may be subject to change as additional information is received. Additional information that existed as of the closing date but not known at the time of this filing may become known to the Company during the remainder of the 12-month measurement period. The Company will continue to collect information and reevaluate these estimates and assumptions quarterly.

The following table and accompanying paragraphs below summarize the intangible assets acquired, their fair value as of the acquisition date, and their estimated useful lives for amortizable intangible (in thousands, except estimated useful life, which is in years):

	Fair Value	Useful Life
Trade name	\$ 11,300	7
Customer relationships	106,800	12
Backlog	3,900	1.1
Developed technology	30,100	7
Separately identifiable intangible assets acquired other than goodwill	\$ 152,100	

Trade names include the AlsoEnergy and PowerTrack trade names, which were measured at fair value using the relief-from-royalty method. Customer relationships represent the estimated fair values of the underlying relationship with AlsoEnergy customers measured using the multiple-period excess earnings method under the income approach. Backlog relates to

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subscriptions contracts that were measured at fair value using the multiple-period excess earnings method under the income approach. Developed technology represents the preliminary fair value of AlsoEnergy's renewable energy platform that was measured using the relief-from-royalty method of the income approach. The amortization expense for all acquired intangible assets will be recognized on a straight-line basis over their respective estimated useful lives.

Goodwill represents the excess of the purchase price over the fair value of the net identifiable assets acquired. The acquisition of AlsoEnergy resulted in the recognition of \$545.0 million of goodwill. The Company believes that goodwill acquired primarily consists of expanded market and product opportunities, including acceleration of growth of renewable energy onto the power grid, expanded value for the Company's customers to manage and optimize combined solar and energy storage systems through the vertical integration of software solutions, as well as access of the Company's product offerings to international markets.

Goodwill created as a result of the acquisition of AlsoEnergy is not expected to be deductible for tax purposes. A net deferred tax liability of \$15.5 million was established for the intangible assets acquired net of deferred tax assets, which primarily consists of net operating loss carryforwards and deferred revenue. Goodwill has been allocated to the Company's single reporting unit.

The Company included the financial results of AlsoEnergy in its unaudited condensed consolidated financial statements from the acquisition date, which contributed revenue of \$16.6 million and \$40.3 million of revenue during the three and nine months ended September 30, 2022, respectively, and net loss of \$5.6 million and \$14.9 million during the three and nine months ended September 30, 2022, respectively.

**Unaudited Pro Forma Financial Information**

The following unaudited pro forma financial information summarizes the combined results of operations for the Company and AlsoEnergy, as if the acquisition had occurred on January 1, 2021. The pro forma financial information is as follows (in thousands):

	(Unaudited) Three Months Ended September 30,		(Unaudited) Nine Months Ended September 30,	
	2022	2021	2022	2021
Total revenue	\$ 99,501	\$ 56,730	\$ 211,372	\$ 116,732
Net loss	\$ (34,275)	\$ 111,245	\$ (96,686)	\$ (88,228)

The pro forma financial information for the periods presented above has been calculated after adjusting the results of AlsoEnergy to reflect the business combination accounting effects resulting from this acquisition, including the elimination of transaction costs incurred by the Company, amortization expense from acquired intangible assets, and settlement of stock option awards. The historical consolidated financial statements have been adjusted in the pro forma combined financial statements to give effect to pro forma events that are directly attributable to the business combination. The pro forma financial information is for informational purposes only, and is not indicative of either future results of operations, or results that may have been achieved had the acquisition been consummated as of the beginning of 2022 or 2021.

**7. GOODWILL AND INTANGIBLE ASSETS, NET**

**Goodwill**

Goodwill consists of the following (in thousands):

	September 30,	December 31,
	2022	2021
Goodwill	\$ 547,556	\$ 1,625
Recovery of escrow from AlsoEnergy acquisition	(915)	—
Effect of foreign currency translation	(7)	116
Total goodwill	\$ 546,634	\$ 1,741

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**Intangible Assets, Net**

Intangible assets, net, consists of the following (in thousands):

	September 30, 2022	December 31, 2021
Developed technology	\$ 30,600	\$ 500
Trade name	11,300	—
Customer relationships	106,800	—
Backlog	3,900	—
Internally developed software	44,078	29,706
Intangible assets	196,678	30,206
Less: Accumulated amortization	(33,123)	(16,276)
Add: Currency translation adjustment	(2)	36
Total intangible assets, net	<u>\$ 163,553</u>	<u>\$ 13,966</u>

Amortization expense for intangible assets was \$6.5 million and \$1.4 million for the three months ended September 30, 2022 and 2021, respectively, and \$16.9 million and \$3.8 million for the nine months ended September 30, 2022 and 2021, respectively.

**8. ENERGY STORAGE SYSTEMS, NET**

**Energy Storage Systems, Net**

Energy storage systems, net, consists of the following (in thousands):

	September 30, 2022	December 31, 2021
Energy storage systems placed into service	\$ 144,227	\$ 143,592
Less: accumulated depreciation	(55,511)	(45,250)
Energy storage systems not yet placed into service	6,112	7,772
Total energy storage systems, net	<u>\$ 94,828</u>	<u>\$ 106,114</u>

Depreciation expense for energy storage systems was approximately \$3.8 million and \$3.6 million for the three months ended September 30, 2022 and 2021, respectively, and approximately \$11.2 million and \$10.8 million for the nine months ended September 30, 2022 and 2021, respectively. Depreciation expense is recognized in cost of services and other revenue.

**9. NOTES PAYABLE**

**Revolving Loan Due to SPE Member**

In April 2017, the Company entered into a revolving loan agreement with an affiliate of a member of certain of the Company's special purpose entities ("SPE"). This agreement was, from time to time, subsequently amended. The purpose of this revolving loan agreement was to finance the Company's purchase of hardware for its various energy storage system projects. The agreement had a total revolving loan capacity of \$45.0 million that bore fixed interest at 10% with a maturity date of June 2020.

In May 2020, concurrent with the 2020 Credit Agreement discussed below, the Company entered into an amendment to the revolving loan agreement, which reduced the loan capacity to \$35.0 million and extended the maturity date to May 2021. The amendment increased the fixed interest rate for any borrowings outstanding more than nine months to 14% thereafter. Additionally, under the original terms of the revolving loan agreement, the Company was able to finance 100% of the value of the hardware purchased up to the total loan capacity. The amendment reduced the advance rate to 85%, with an additional reduction to 70% in August 2020. The amendment was accounted for as a modification of the debt, which did not have a material impact on the unaudited condensed consolidated financial statements. In April 2021, the Company repaid the remaining outstanding balance of this facility with the proceeds received from the Merger. The facility was terminated after the repayment in April 2021.

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**Term Loan Due to Former Non-Controlling Interest Holder**

In June 2018, the Company acquired the outstanding member interests of an entity controlled by the Company for \$8.1 million. The Company financed this acquisition by entering into a term loan agreement with the noncontrolling member bearing fixed interest of 4.5% per quarter (18.0% per annum) on the outstanding principal balance. The loan required fixed quarterly payments throughout the term of the loan, which was scheduled to be paid in full by April 1, 2026.

In May 2020, the Company amended the term loan and, using the proceeds from the 2020 Credit Agreement discussed below, prepaid \$1.5 million of principal and interest on the note, of which \$1.0 million was towards the outstanding principal balance, thereby reducing the fixed quarterly payment due to the lender. In relation to this amendment, the Company was required to issue warrants for 400,000 shares of common stock resulting in a discount to the term loan of \$0.2 million. In April 2021, the Company repaid the remaining outstanding balance of this facility with the proceeds received from the Merger. Upon prepayment of this facility, the Company incurred \$2.6 million in prepayment penalties that were recorded to loss on extinguishment of debt in the Company's statement of operations. The facility was terminated after the repayment in April 2021.

**2020 Credit Agreement**

In May 2020, the Company entered into a credit agreement ("2020 Credit Agreement") with a new lender that provided the Company with proceeds of \$25.0 million to provide the Company with access to working capital towards the purchase of energy storage system equipment. The 2020 Credit Agreement has a maturity date of the earlier of (1) May 2021, (2) the maturity date of the revolving loan agreement, or (3) the maturity date of the convertible promissory notes discussed below. The loan bore interest of 12% per annum, of which 8% was paid in cash and 4% added back to principal of the loan balance every quarter. The Company used a portion of the proceeds towards payments associated with existing debt as previously discussed. In April 2021, the Company repaid the remaining outstanding balance of this facility with the proceeds received from the Merger. Upon prepayment of this facility, the Company incurred \$1.4 million in prepayment penalties that were recorded to loss on extinguishment of debt in the Company's statement of operations. The facility was terminated after the repayment in April 2021.

**2021 Credit Agreement**

In January 2021, a wholly owned Canadian subsidiary of the Company entered into a credit agreement to provide a total of \$2.7 million towards the financing of certain energy storage systems. The credit agreement is structured on a non-recourse basis and the system will be operated by the Company. The credit agreement has a stated interest of 5.45% and a maturity date of June 2031. The Company received an advance under the credit agreement of \$1.8 million in January 2021. The repayment of advances received under this credit agreement is determined by the lender based on the proceeds generated by the Company through the operation of the underlying energy storage systems. As of September 30, 2022, and December 31, 2021, the outstanding balance was \$1.8 million and \$1.9 million, respectively. The Company was in compliance with all covenants contained in the 2021 Credit Agreement as of September 30, 2022.

The Company's outstanding debt consisted of the following as of September 30, 2022 (in thousands):

	<b>September 30, 2022</b>
Outstanding principal	\$ 1,768
Unamortized discount	(185)
Carrying value of debt	<u>\$ 1,583</u>

**10. CONVERTIBLE PROMISSORY NOTES**

As of December 31, 2020, the Company had various convertible notes outstanding to investors. The Company refers to the collective group of all such note instruments as the "Pre-Merger Convertible Promissory Notes." As of December 31, 2020, these Pre-Merger Convertible Promissory Notes had a balance of \$67.6 million. During the year ended December 31, 2021, the Company issued additional convertible notes, including convertible promissory notes issued and sold in January 2021 (the "Q1 2021 Convertible Notes") and the 2028 Convertible Notes. Upon effectiveness of the Merger on April 28, 2021, all outstanding Pre-Merger Convertible Promissory Notes and the Q1 2021 Convertible Notes were converted to common stock and cancelled (see "—Conversion and Cancellation of Convertible Promissory Notes Upon Merger" below). As of December 31, 2021, the Pre-Merger Convertible Promissory Notes and the Q1 2021 Convertible Notes were no longer outstanding.

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**Q1 2021 Convertible Notes**

In January 2021, the Company issued and sold the Q1 2021 Convertible Notes under the same terms as the then existing Pre-Merger Convertible Promissory Notes to various investors with aggregate gross proceeds of \$1.1 million. The Company evaluated the conversion option within the Q1 2021 Convertible Notes and determined the effective conversion price was beneficial to the note holders.

**Conversion and Cancellation of Convertible Promissory Notes Upon Merger**

Immediately prior to the effectiveness of the Merger, the entire balance of the Company's outstanding Pre-Merger Convertible Promissory Notes and the Q1 2021 Convertible Notes issued by Legacy Stem automatically converted into shares of Legacy Stem Common Stock. Upon the effectiveness of the Merger, these shares of Legacy Stem Common Stock automatically converted into 10,921,548 shares of common stock of Stem. The balance associated with the outstanding Pre-Merger Convertible Promissory Notes and the Q1 2021 Convertible Notes totaling \$77.7 million, including \$7.7 million of interest accrued on the notes through the date of Merger, was reclassified to additional paid-in-capital. The unamortized portion of the debt discount associated with the outstanding Q1 2021 Convertible Notes totaling \$1.1 million was fully expensed to loss on extinguishment of debt on the Company's statement of operations.

**2028 Convertible Notes and Capped Call Options**

**2028 Convertible Notes**

On November 22, 2021, the Company issued \$460.0 million aggregate principal amount of its 2028 Convertible Notes in a private placement offering to qualified institutional buyers (the "Initial Purchasers") pursuant to Rule 144A under the Securities Act of 1933, as amended.

The 2028 Convertible Notes are senior, unsecured obligations of the Company and bear interest at a rate of 0.5% per year, payable in cash semi-annually in arrears in June and December of each year, beginning in June 2022. The notes will mature on December 1, 2028, unless earlier repurchased, redeemed or converted in accordance with their terms prior to such date. Upon conversion, the Company may choose to pay or deliver, as the case may be, cash, shares of common stock or a combination of cash and shares of common stock. The Notes are redeemable for cash at the Company's option at any time given certain conditions (as discussed below), at an initial conversion rate of 34.1965 shares of common stock per \$1,000 principal amount of 2028 Convertible Notes, which is equivalent to an initial conversion price of approximately \$29.24 (the "2028 Conversion Price") per share of the Company's common stock. The conversion rate is subject to customary adjustments for certain events as described in the Indenture.

The Company may redeem for cash all or any portion of the 2028 Convertible Notes, at the Company's option, on or after December 5, 2025 if the last reported sale price of the Company's common stock has been at least 130% of the 2028 Conversion Price then in effect for at least 20 trading days at a redemption price equal to 100% of the principal amount of the 2028 Convertible Notes to be redeemed, plus accrued and unpaid interest.

The Company's net proceeds from this offering were approximately \$445.7 million, after deducting the Initial Purchasers' discounts and debt issuance costs. To minimize the impact of potential dilution to the Company's common stockholders upon conversion of the 2028 Convertible Notes, the Company entered into separate capped calls transactions (the "Capped Calls") as described below.

Upon adoption of ASU 2020-06, the Company allocated all of the debt discount to long-term debt. The debt discount is amortized to interest expense using the effective interest method, computed to be 0.9%, over the life of the 2028 Convertible Notes or approximately its seven-year term. The outstanding 2028 Convertible Notes balances as of September 30, 2022 are summarized in the following table (in thousands):

	September 30, 2022
Long Term Debt	
Outstanding principal	\$ 460,000
Unamortized initial purchaser's debt discount and debt issuance cost	(12,589)
Net carrying amount	<u>\$ 447,411</u>



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The following table presents total interest expense recognized related to the 2028 Convertible Notes during the three and nine months ended September 30, 2022 (in thousands):

	Three Months Ended September 30, 2022	Nine Months Ended September 30, 2022
Cash interest expense		
Contractual interest expense	\$ 575	\$ 1,725
Non-cash interest expense		
Amortization of debt discount and debt issuance cost	497	1,488
Total interest expense	<u>\$ 1,072</u>	<u>\$ 3,213</u>

***Capped Call Options***

On November 17, 2021, in connection with the pricing of the 2028 Convertible Notes, and on November 19, 2021, in connection with the exercise in full by the Initial Purchasers of their option to purchase additional Notes, the Company entered into Capped Calls with certain counterparties. The Company used \$66.7 million of the net proceeds to pay the cost of the Capped Calls.

The Capped Calls have an initial strike price of \$29.2428 per share, which corresponds to the initial conversion price of the 2028 Convertible Notes and is subject to anti-dilution adjustments. The Capped Calls have a cap price of \$49.6575 per share, subject to certain adjustments.

The Capped Calls are considered separate transactions entered into by and between the Company and the Capped Calls counterparties, and are not part of the terms of the 2028 Convertible Notes. The Company recorded a reduction to additional paid-in capital of \$66.7 million during the year ended December 31, 2021 related to the premium payments for the Capped Calls. These instruments meet the conditions outlined in ASC 815 to be classified in stockholders' equity and are not subsequently remeasured as long as the conditions for equity classification continue to be met.

**11. WARRANTS**

**Legacy Stem Warrants**

Prior to the Merger, the Company had issued warrants to purchase shares of Legacy Stem's preferred stock in conjunction with various debt financings. The Company has also issued warrants to purchase shares of Legacy Stem's common stock. Upon effectiveness of the Merger, the Company had 50,207,439 warrants outstanding, of which substantially all were converted into 2,759,970 shares of common stock of Stem. Upon conversion of the warrants, the existing warrant liabilities were remeasured to fair value resulting in a gain on remeasurement of \$100.9 million and a total warrant liability of \$60.6 million, which was then reclassified to additional paid-in-capital. At September 30, 2022, there were 2,533 Legacy Stem Warrants outstanding. These instruments are exercisable into the Company's common stock and are equity classified.

**Public Warrants and Private Placement Warrants**

As part of STPK's initial public offering, under a Warrant Agreement dated as of August 20, 2020 (the "Warrant Agreement") and, prior to the effectiveness of the Merger, STPK issued 12,786,168 warrants, each of which entitled the holder to purchase one share of common stock at an exercise price of \$11.50 per share of common stock (the "Public Warrants"). Simultaneously with the closing of the initial public offering, STPK completed the private sale of 7,181,134 warrants to STPK's sponsor (the "Private Warrants"). Upon issuance, these warrants met the criteria for liability classification. Upon the effectiveness of the Merger, Stem assumed the outstanding Public Warrants and Private Warrants, which continued to meet the criteria for liability classification, resulting in assumed warrant liabilities of \$185.9 million and \$116.7 million, respectively, or a total warrant liability of \$302.6 million. Such warrants were initially recorded at fair value and remeasured to fair value at each reporting period. The fair value of the Private Warrants was determined using the Black-Scholes method. Black-Scholes inputs used to value the warrants are based on information from purchase agreements and within valuation reports prepared by an independent third party for the Company. Inputs include exercise price, selection of guideline public companies, volatility, fair value of common stock, expected dividend rate and risk-free interest rate.

On June 25, 2021, the Company entered into an exchange agreement (the "Exchange Agreement") with the holders of the 7,181,134 outstanding Private Placement Warrants, pursuant to which such holders received 4,683,349 shares of the Company's

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common stock on June 30, 2021, in exchange for the cancellation of all outstanding Private Placement Warrants. The Exchange Shares were issued in reliance upon the exemption provided by Section 3(a)(9) of the Securities Act of 1933, as amended. Immediately prior to the exchange, the Private Warrants were marked to fair value, resulting in a loss of \$52.0 million. As a result of the Exchange Agreement, there are no Private Warrants outstanding.

On August 20, 2021, the Company issued an irrevocable notice for redemption of all 12,786,129 of the Company's outstanding public warrants at 5:00 p.m. Eastern time on September 20, 2021 ("Redemption Date"). Pursuant to the notice of redemption, holders exercised 12,638,723 Public Warrants for a purchase price of \$11.50 per share, for proceeds to the Company of approximately \$145.3 million. The Company redeemed all remaining outstanding Public Warrants that had not been exercised as of 5:00 p.m. Eastern time on the Redemption Date. As a result of the settlement of the Public Warrants, the Company recorded a gain of \$134.9 million on the revaluation of the warrant liability. The Company also recorded a gain of \$2.1 million on the redemption of unexercised Public Warrants. These gains are recorded in "change in fair value of warrants and embedded derivative" in the condensed consolidated statements of operation for the year ended December 31, 2021. The Public Warrants have been delisted from the NYSE, and there are no Public Warrants outstanding.

#### **Warrants Issued for Services**

On April 7, 2021, the Company entered into a strategic relationship with an existing shareholder not deemed to be a related party to jointly explore, on a non-exclusive basis possible business opportunities to advance projects in the United States, the United Kingdom, Europe and Asia. As consideration for the strategic relationship, upon closing of the Merger, the Company issued warrants to purchase 350,000 shares of the Company's common stock at an exercise price of \$0.01 per share. These warrants were deemed to have been fully earned as of the grant date. The warrants were valued at fair market value as of the grant date totaling \$9.2 million and recorded to general and administrative expense in the Company's statement of operations. In May 2021, all of these warrants were exercised for shares of the Company's common stock.

## **12. STOCK-BASED COMPENSATION**

### **Equity Incentive Plans**

Under both the Stem, Inc. 2009 Equity Incentive Plan (the "2009 Plan") and the Stem, Inc. 2021 Equity Incentive Plan (the "2021 Plan," and together with the 2009 Plan, the "Plans"), the Company may grant stock options, stock appreciation rights, restricted stock, restricted stock units ("RSUs") and other awards that are settled in shares of the Company's common stock. The Company does not intend to grant new awards under the 2009 Plan. All shares that remain available for future grants are under the 2021 Plan.

### **Stock Options**

The following table summarizes the stock option activity for the period ended September 30, 2022:

	<b>Number of Options Outstanding</b>	<b>Weighted- Average Exercise Price Per Share</b>	<b>Weighted- Average Remaining Contractual Life (years)</b>	<b>Aggregate Intrinsic Value (in thousands)</b>
Balances as of December 31, 2021	8,766,466	\$ 6.01	7.1	\$ 123,562
Options granted	1,255,490	9.27		
Options exercised	(1,475,542)	2.32		
Options forfeited and expired	(249,863)	14.83		
Balances as of September 30, 2022	<u>8,296,551</u>	\$ 6.89	6.8	\$ 67,741
Options vested and exercisable — September 30, 2022	<u>5,389,460</u>	\$ 3.80	5.8	\$ 55,096

As of September 30, 2022, the Company had approximately \$20.4 million of remaining unrecognized stock-based compensation expense for stock options, which is expected to be recognized over a weighted average period of 1.9 years.

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**Restricted Stock Units**

The following table summarizes the RSU activity for the period ended September 30, 2022:

	Number of RSUs Outstanding	Weighted-Average Grant Date Fair Value Per Share
Balances as of December 31, 2021	1,799,677	\$ 36.01
RSUs granted	5,434,757	9.09
RSUs vested	(191,672)	27.60
RSUs forfeited	(485,478)	15.85
Balances as of September 30, 2022	<u>6,557,284</u>	<u>\$ 15.44</u>

As of September 30, 2022, the Company had approximately \$78.3 million of remaining unrecognized stock-based compensation expense for RSUs, which is expected to be recognized over a weighted average period of 2.5 years.

**Stock-Based Compensation**

The following table summarizes stock-based compensation expense recorded in each component of operating expenses in the Company's consolidated statements of operations and comprehensive (loss) income (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
Sales and marketing	\$ 1,172	\$ 723	\$ 3,102	\$ 975
Research and development	1,589	965	3,458	1,384
General and administrative	4,917	4,511	13,850	5,624
Total stock-based compensation expense	<u>\$ 7,678</u>	<u>\$ 6,199</u>	<u>\$ 20,410</u>	<u>\$ 7,983</u>

Research and development expenses of \$0.6 million and \$1.7 million corresponding to internal-use software, were capitalized during the three and nine months ended September 30, 2022, respectively.

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**13. NET (LOSS) INCOME PER SHARE**

The following table sets forth the computation of basic and diluted net (loss) income per share attributable to common stockholders (in thousands, except share and per share amounts):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
<b>Numerator - Basic:</b>				
Net (loss) income per share attributable to Stem common stockholders, basic	\$ (34,279)	\$ 115,612	\$ (88,781)	\$ (67,157)
<b>Numerator - Diluted:</b>				
Net (loss) income per share attributable to Stem common stockholders, basic	(34,279)	115,612	(88,781)	(67,157)
Less: Gain from decrease in fair value and redemption of warrants	—	(137,001)	—	—
Net loss attributable to Stem common stockholders, diluted	(34,279)	(21,389)	(88,781)	(67,157)
<b>Denominator:</b>				
Weighted-average number of shares outstanding used to compute net (loss) income per share attributable to Stem common stockholders, basic	154,392,573	135,231,146	153,043,010	92,436,649
Dilutive potential common shares	—	5,054,019	—	—
Weighted-average number of shares outstanding used to compute net (loss) income per share attributable to Stem common stockholders, diluted	154,392,573	140,285,165	153,043,010	92,436,649
Net (loss) income per share attributable to common stockholders, basic	\$ (0.22)	\$ 0.85	\$ (0.58)	\$ (0.73)
Net loss per share attributable to common stockholders, diluted	\$ (0.22)	\$ (0.15)	\$ (0.58)	\$ (0.73)

The following table shows total outstanding potentially dilutive shares excluded from the computation of diluted (loss) income per share as their effect would have been anti-dilutive, as of September 30, 2022 and 2021:

	September 30, 2022	September 30, 2021
Outstanding 2028 Convertible Notes	15,730,390	—
Outstanding stock options	8,296,551	9,165,901
Outstanding warrants	2,533	23,673
Outstanding RSUs	6,557,284	1,759,077
Total	30,586,758	10,948,651

**14. INCOME TAXES**

The following table reflects the Company's (provision for) benefit from income taxes and the effective tax rates for the periods presented below (in thousands, except effective tax rate):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
Loss before (provision for) benefit from income taxes	\$ (34,256)	\$ 115,612	\$ (103,982)	\$ (67,157)
(Provision for) benefit from income taxes	\$ (19)	\$ —	\$ 15,201	\$ —
Effective tax rate	0.1 %	— %	14.6 %	— %

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For the nine months ended September 30, 2022, the Company recognized a benefit from income taxes of \$15.2 million, representing an effective tax rate of 14.6%, which was lower than the statutory federal tax rate due to a \$15.3 million tax benefit from the acquisition of AlsoEnergy Holdings, Inc. for a partial valuation allowance release on U.S. Deferred tax assets due to the deferred tax liability established in purchase accounting on the acquired intangibles during the three months ended March 31, 2022. For the three months ended September 30, 2022, the Company recognized an income tax expense of \$19 thousand, representing an effective tax rate of 0.05%, which was lower than the statutory federal tax rate due to the valuation allowance against the Company's U.S. deferred tax assets.

**15. COMMITMENTS AND CONTINGENCIES**

**Contingencies**

The Company is party to various legal proceedings from time to time. A liability is accrued when a loss is both probable and can be reasonably estimated. Management believes that the probability of a material loss with respect to any currently pending legal proceeding is remote. However, litigation is inherently uncertain and it is not possible to definitively predict the ultimate disposition of any of these proceedings. The Company does not believe that there are any pending legal proceedings or other loss contingencies that will, either individually or in the aggregate, have a material adverse impact on the Company's unaudited condensed consolidated financial statements.

**Commitments**

On February 1, 2022, as part of the acquisition of AlsoEnergy, the Company recognized a \$1.3 million operating lease liability and corresponding operating lease right-of-use ("ROU") asset, which are included in the condensed consolidated balance sheet as of September 30, 2022. The operating lease liability and operating lease ROU asset correspond to 15,847 and 13,947 square feet of leased office, manufacturing, laboratory and warehouse space in Boulder, Colorado and Longmont, Colorado, respectively. As of the acquisition date, the remaining lease terms for Boulder and Longmont are for 34 and 35 months, respectively. These lease agreements contemplate options to extend the non-cancelable lease term, which have been determined not reasonably certain to be exercised. Combined base rent for these two locations is \$39,725 per month with escalating payments.

## ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

### Special Note Regarding Forward-Looking Statements

This third quarter 2022 Form 10-Q, as well as other statements we make, contains "forward-looking statements" within the meaning of the federal securities laws, which include any statements that are not historical facts. Such statements often contain words such as "expect," "may," "can," "believe," "predict," "plan," "potential," "projected," "projections," "forecast," "estimate," "intend," "anticipate," "ambition," "goal," "target," "think," "should," "could," "would," "will," "hope," "see," "likely," and other similar words.

Forward-looking statements address matters that are, to varying degrees, uncertain, such as statements about our financial and performance targets and other forecasts or expectations regarding, or dependent on, our business outlook; the expected synergies of the combined Stem and AlsoEnergy company; our ability to continue to successfully integrate the combined companies; our ability to security sufficient inventory from suppliers to meet customer demand; our ability to manage supply chain issues and manufacturing or delivery delays; our joint ventures, partnerships and other alliances; reduction of greenhouse gas ("GHG") emissions; the integration and optimization of energy resources; our business strategies and those of our customers; the global commitment to decarbonization; our ability to retain or upgrade current customers, further penetrate existing markets or expand into new markets; our ability to manage our supply chains and distribution channels and the effects of natural disasters and other events beyond our control, such as the COVID-19 pandemic and variants thereof, and government and business responses thereto; the impact of the ongoing conflict in Ukraine; our ability to meet contracted customer demand; the expected impact of the Inflation Reduction Act on our business; and future results of operations, including revenue and Adjusted EBITDA.

Such forward-looking statements are subject to risks, uncertainties, and other factors that could cause actual results to differ materially from those expressed or implied by such forward-looking statements, including but not limited to our inability to secure sufficient inventory from our suppliers to meet customer demand, and provide us with contracted quantities of equipment; supply chain interruptions and manufacturing or delivery delays; disruptions in sales, production, service or other business activities; general economic, geopolitical and business conditions in key regions of the world, including inflationary pressures, general economic slowdown or a recession, increasing interest rates, and changes in monetary policy; the ongoing effects of the COVID-19 pandemic on our workforce, operations, financial results and cash flows; the effects of the ongoing conflict in Ukraine; the results of operations and financial condition of our customers and suppliers; pricing pressure; inflation; weather and seasonal factors; challenges, disruptions and costs of integrating AlsoEnergy and achieving anticipated synergies, or such synergies taking longer to realize than expected; risks that the integration disrupts current plans and operations that may harm our business; uncertainty as to the effects of the transaction on the long-term value of our common stock; our ability to continue to grow and to manage our growth effectively; our ability to attract and retain qualified employees and key personnel; our ability to comply with, and the effect on their businesses of, evolving legal standards and regulations, particularly concerning data protection and consumer privacy and evolving labor standards; risks relating to the development and performance of our energy storage systems and software-enabled services; our inability to retain or upgrade current customers, further penetrate existing markets or expand into new markets; the risk that our business, financial condition and results of operations may be adversely affected by other political, economic, business and competitive factors; and other risks and uncertainties set forth in our most recent Forms 10-K, 10-Q and 8-K filed with or furnished to the SEC. If one or more of these or other risks or uncertainties materialize (or the consequences of any such development changes), or should our underlying assumptions prove incorrect, actual outcomes may vary materially from those reflected in our forward-looking statements. Forward-looking and other statements in this Form 10-Q regarding our environmental, social and other sustainability plans and goals are not an indication that these statements are necessarily material to investors or required to be disclosed in our filings with the SEC. In addition, historical, current, and forward-looking environmental, social and sustainability-related statements may be based on standards for measuring progress that are still developing, internal controls and processes that continue to evolve, and assumptions that are subject to change in the future. Statements in this Form 10-Q are made as of November 3, 2022, and Stem disclaims any intention or obligation to update publicly or revise such statements, whether as a result of new information, future events or otherwise.

*You should read the following management's discussion and analysis of our financial condition and results of operations together with our unaudited condensed consolidated financial statements and related notes included under Part I, Item 1 of this Quarterly Report on Form 10-Q. This discussion and analysis should also be read together with our audited consolidated financial statements and related notes, as well as the section entitled "Stem's Management's Discussion and Analysis of Financial Condition and Results of Operations" contained in our Annual Report on Form 10-K for the fiscal year ended December 31, 2021. You should carefully read the sections entitled "Special Note Regarding Forward-Looking Statements" contained herein and the section entitled "Risk Factors" contained in our Annual Report on Form 10-K for the fiscal year ended December 31, 2021 and our Quarterly Report for the quarter ended March 31, 2022 and June 30, 2022, to gain an understanding of the important factors that could cause actual results to differ materially from our forward-looking statements.*

*Throughout this section, unless otherwise noted “we,” “us,” “our” and the “Company” refer to Stem and its consolidated subsidiaries.*

## Overview

Our mission is to build and operate the largest, digitally connected, intelligent renewable energy network for our customers. In order to fulfill our mission, we provide our customers, which include commercial and industrial (“C&I”) enterprises as well as independent power producers, renewable project developers, utilities and grid operators, with (i) an energy storage system, sourced from leading, global battery original equipment manufacturers (“OEMs”), that we deliver through our partners, including developers, distributors, and engineering, procurement and construction firms and (ii) solar, energy storage and EV charging infrastructure monitoring, control, optimization, and reporting through our Athena® artificial intelligence (“AI”) platform (“Athena”) and supporting applications, including Athena PowerTrack.

We operate in two key areas within the energy storage landscape: Behind-the-Meter (“BTM”) and Front-of-the-Meter (“FTM”). An energy system’s position in relation to a customer’s electric meter determines whether it is designated a BTM or FTM system. BTM systems provide power that can be used on-site without interacting with the electric grid and passing through an electric meter. Our software reduces C&I customer energy bills, increases their energy yield, and helps our customers facilitate the achievement of their corporate environmental, social, and corporate governance (“ESG”) objectives.

FTM, grid-connected systems provide power to off-site locations and must pass through an electric meter prior to reaching an end-user. Through Athena, our FTM storage systems decrease risk for project developers, lead asset professionals, independent power producers and investors by adapting to dynamic energy market conditions in connection with the deployment of electricity and improving the value of energy storage over the course of their FTM system’s lifetime. Through PowerTrack, our software maximizes FTM energy output and minimizes asset downtime.

Since our inception in 2009, we have engaged in developing and marketing software-enabled services, raising capital, and recruiting personnel. We have incurred net operating losses and negative cash flows from operations each year since our inception. We have financed our operations primarily through proceeds received from the Merger, the issuance of convertible preferred stock, convertible senior notes, debt financing, and cash flows from customers. Our total revenue grew from \$39.8 million for the three months ended September 30, 2021 to \$99.5 million for the three months ended September 30, 2022. We incurred net losses of \$34.3 million for the three months ended September 30, 2022 and net income of \$115.6 million for the three months ended September 30, 2021. Our total revenue grew from \$74.6 million for the nine months ended September 30, 2021 to \$207.5 million for the nine months ended September 30, 2022. For the nine months ended September 30, 2022 and 2021, we incurred net losses of \$88.8 million and \$67.2 million, respectively. As of September 30, 2022, we had an accumulated deficit of \$596.8 million.

We expect that our sales and marketing, research and development, regulatory and other expenses will continue to increase as we expand our marketing efforts to increase sales of our solutions, expand existing relationships with our customers, and obtain regulatory clearances or approvals for future product enhancements. In addition, we expect our general and administrative costs and expenses to increase due to the additional costs associated with scaling our business operations as well as being a public company, including legal, accounting, insurance, exchange listing and SEC compliance, investor relations and other costs and expenses.

## Acquisition of AlsoEnergy

On February 1, 2022, we acquired 100% of the issued and outstanding capital stock of AlsoEnergy. The transaction combines our storage optimization capabilities with AlsoEnergy’s solar asset performance monitoring and control software. Through AlsoEnergy, we provide end-to-end turnkey solutions that monitor and manage renewable energy systems through AlsoEnergy’s PowerTrack software. PowerTrack includes data acquisitions and monitoring, performance modelling, agency reporting, internal reports, work order tickets, and supervisory control and data acquisition (“SCADA”) controls. AlsoEnergy has deployed systems at various international locations, but its primary customer base is in the United States, Germany and Canada. The total consideration for the AlsoEnergy acquisition was \$652.0 million, comprised of \$543.1 million paid in cash net of a working capital adjustment for an escrow recovery, and \$108.9 million in the form of 8,621,006 shares of our common stock. We incurred \$6.1 million of transaction costs related to the acquisition of AlsoEnergy, which were recorded in general and administrative expense during the nine months ended September 30, 2022. See Note 6 — *Business Combinations*, of the Notes to the unaudited condensed consolidated financial statements in this report, for additional details regarding this transaction.



## **Key Factors, Trends and Risks Affecting our Business**

We believe that our performance and future success depend on several factors that present significant opportunities for us but also pose risks and challenges, including but not limited to:

### ***Decline in Lithium-Ion Battery Costs***

Our revenue growth is directly tied to the continued adoption of energy storage systems by our customers. The cost of lithium-ion energy storage hardware has declined significantly in the last decade and has resulted in a large addressable market today. The market for energy storage is rapidly evolving, and while we believe costs will continue to decline, there is no guarantee. If costs do not continue to decline, or do not decline as quickly as we anticipate, this could adversely affect our ability to increase our revenue and grow our business. The United States Inflation Reduction Act of 2022 (the “IRA”) was signed into law on August 16, 2022 and includes incentives and tax credits aimed at reducing the effects of climate change, such as a tax credit for stand-alone battery storage projects. The implementation of the IRA is expected to further reduce the cost of battery storage systems for certain customers; however, there are numerous restrictions and requirements associated with qualifying for the tax credits and other incentives available under the IRA, and the Company continues to assess how the IRA may affect its business.

### ***Increase in Deployment of Renewables***

Deployment of intermittent resources has accelerated over the last decade, and today, wind and solar have become a low cost fuel source. We expect the cost of generating renewable energy to continue to decline and deployments of energy storage systems to increase. As renewable energy sources of energy production are expected to represent a larger proportion of energy generation, grid instability rises due to their intermittency, which can be addressed by energy storage solutions. The IRA is expected to further increase the deployment of renewable energy assets. We are continuing to evaluate the IRA and its requirements, as well as the application to our business and our customers.

### ***Competition***

We are a market leader in terms of capacity of energy storage under management. We intend to strengthen our competitive position over time by leveraging the network effect of Athena’s AI infrastructure. Existing competitors may expand their product offerings and sales strategies, and new competitors may enter the market. Furthermore, our competitors include other types of software providers and some hardware manufacturers that offer software solutions. If our market share declines due to increased competition, our revenue and ability to generate profits in the future may be adversely affected.

### ***Government Regulation and Compliance***

Although we are not regulated as a utility, the market for our product and services is heavily influenced by federal, state, and local government statutes and regulations concerning electricity. These statutes and regulations, like the IRA, affect electricity pricing, net metering, incentives, taxation, competition with utilities, and the interconnection of customer-owned electricity generation. In the United States and internationally, governments continuously modify these statutes and regulations and acting through state utility or public service commissions, regularly change and adopt different rates for commercial customers. These changes can positively or negatively affect our ability to deliver cost savings to customers.

### ***Supply Chain Constraints and Risk; COVID-19***

We rely on a very small number of suppliers of energy storage systems and other equipment. If any of our suppliers was unable or unwilling to provide us with contracted quantities in a timely manner at prices, quality levels and volumes acceptable to us, we would have very limited alternatives for supply, and we may not be able find suitable replacements for our customers, or at all. Such an event could materially adversely affect our business, prospects, financial condition and results of operations.

The ongoing COVID-19 pandemic has resulted and may continue to result in widespread adverse effects on the global and U.S. economies. Ongoing government and business responses to COVID-19, along with COVID-19 variants and the resurgence of related disruptions, could have a continued material adverse impact on economic and market conditions and trigger a period of continued global and U.S. economic slowdown.

In addition, the global supply chain and our industry have experienced significant disruptions in recent periods. We have seen supply chain challenges and logistics constraints increase, including shortages of inverters, enclosures, battery modules and associated component parts for inverters and battery energy storage systems available for purchase. In certain cases, this has caused delays in critical equipment and inventory, longer lead times, and has resulted in cost volatility. These shortages and delays can be attributed in part to the COVID-19 pandemic and resulting government action, as well as broader macroeconomic conditions that may persist once the immediate effects of the COVID-19 pandemic have subsided, and have been exacerbated by the ongoing conflict between Russia and Ukraine. While we believe that a majority of our suppliers have secured sufficient



supply to permit them to continue delivery and installations through the end of 2022, if these shortages and delays persist into 2023, they could adversely affect the timing of when battery energy storage systems can be delivered and installed, and when (or if) we can begin to generate revenue from those systems. In addition, we have experienced and are experiencing varying levels of volatility in costs of equipment and labor resulting in part from disruptions caused by general global economic conditions, including inflationary pressures and the COVID-19 pandemic.

We cannot predict the full effects the COVID-19 pandemic will have on our business, cash flows, liquidity, financial condition and results of operations at this time due to numerous uncertainties. Given the dynamic nature of these circumstances on our ongoing business, results of operations and overall financial performance, the full impact of COVID-19 and other macroeconomic factors, including the conflict in Ukraine, cannot be reasonably estimated at this time. In the event we are unable to mitigate the impact of delays or price volatility in energy storage systems, raw materials, and freight, it could materially adversely affect our business, prospects, financial condition and results of operations.

#### ***DevCo Cash Advances***

From time to time, the Company, through an indirect wholly-owned development subsidiary, has entered into strategic joint ventures with qualified third parties to develop select energy storage power generation projects (“DevCo Projects”), as more fully described above under Note 1 — *Business*, of the Notes to the unaudited condensed consolidated financial statements in this report. These projects require significant upfront investment by us and involve a high degree of risk. If a DevCo Project fails to reach completion or is significantly delayed, we could lose all or a portion of our development capital investment and our cash advances to purchase hardware. See “*We Face Risks Related to our DevCo Business Model*” in Part II, Item 1A. “Risk Factors” of our Quarterly Report on Form 10-Q for the quarter ended June 30, 2022 for additional information about certain risks related to these DevCo Projects.

#### **Non-GAAP Financial Measures**

In addition to financial results determined in accordance with U.S. generally accepted accounting principles, or GAAP, we use Adjusted EBITDA and non-GAAP gross margin, which are non-GAAP financial measures, for financial and operational decision making and as a means to evaluate our operating performance and prospects, develop internal budgets and financial goals, and to facilitate period-to-period comparisons. Our management believes that these non-GAAP financial measures provide meaningful supplemental information regarding our performance and liquidity by excluding certain expenses and expenditures that may not be indicative of our operating performance, such as stock-based compensation and other non-cash charges, as well as discrete cash charges that are infrequent in nature. We believe that both management and investors benefit from referring to these non-GAAP financial measures in assessing our performance and when planning, forecasting, and analyzing future periods. These non-GAAP financial measures also facilitate management’s internal comparisons to our historical performance and liquidity as well as comparisons to our competitors’ operating results. We believe these non-GAAP financial measures are useful to investors both because they (1) allow for greater transparency with respect to key metrics used by management in their financial and operational decision making and (2) are used by our institutional investors and the analyst community to help them analyze the health of our business. Adjusted EBITDA and non-GAAP gross margin should be considered in addition to, not as a substitute for, or superior to, other measures of financial performance prepared in accordance with GAAP.

#### ***Non-GAAP Gross Margin***

We define non-GAAP gross margin as gross margin excluding amortization of capitalized software and impairments related to decommissioning of end-of-life systems.

The following table provides a reconciliation of gross margin (GAAP) to non-GAAP gross margin (\$ in millions, except for percentages):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
Revenue	\$ 99.5	\$ 39.8	\$ 207.5	\$ 74.6
Cost of revenue	(90.4)	(36.7)	(187.0)	(71.7)
GAAP gross margin	9.1	3.1	20.5	2.9
GAAP gross margin (%)	9 %	8 %	10 %	4 %
Adjustments to Gross Margin (1):				
Amortization of capitalized software & developed technology	2.9	1.4	7.6	3.8
Impairments	0.4	0.7	2.2	2.0
Non-GAAP gross margin	\$ 12.4	\$ 5.2	\$ 30.3	\$ 8.7
Non-GAAP gross margin (%)	13 %	13 %	15 %	12 %

(1) Historically, management included a separate “Other Adjustments” caption in the table above as part of the adjustments to gross margin. Other Adjustments consisted of certain operating expenses including communication and cloud service expenditures reclassified to cost of revenue. Other Adjustments are no longer in the calculation of Non-GAAP Gross Margin and Non-GAAP Gross Margin %. The Company believes that this change reflects a more accurate representation of our business for stakeholders to assess its performance.

### Adjusted EBITDA

We calculate Adjusted EBITDA as net loss attributable to Stem before depreciation and amortization, including amortization of internally developed software, net interest expense, further adjusted to exclude stock-based compensation and other income and expense items, including transaction and acquisition related charges, the change in fair value of warrants and embedded derivatives, vesting of warrants, loss on extinguishment of debt, litigation settlement and income tax provision or benefit. The expenses and other items that we exclude in our calculation of Adjusted EBITDA may differ from the expenses and other items, if any, that other companies may exclude when calculating Adjusted EBITDA.

The following table provides a reconciliation of Adjusted EBITDA to net loss:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
	(in thousands)		(in thousands)	
Net (loss) income attributable to Stem	\$ (34,279)	\$ 115,612	\$ (88,781)	\$ (67,157)
Adjusted to exclude the following:				
Depreciation and amortization (1)	11,547	6,003	33,353	17,558
Interest expense	2,520	2,674	8,429	12,835
Loss on extinguishment of debt	—	—	—	5,064
Stock-based compensation	7,678	6,199	20,410	7,983
Vesting of warrants	—	—	—	9,183
Change in fair value of warrants and embedded derivative	—	(137,001)	—	(3,424)
Transaction costs in connection with business combination	—	—	6,068	—
Litigation settlement	—	—	(727)	—
Income tax provision (benefit)	19	—	(15,201)	—
Adjusted EBITDA	\$ (12,515)	\$ (6,513)	\$ (36,449)	\$ (17,958)

(1) Adjusted EBITDA for the three and nine months ended September 30, 2021 reflects adjustments to depreciation and amortization of approximately \$0.7 million and \$1.9 million, respectively, for expenses related to impairments, decommissioning and forfeited incentives that were not previously reflected in reported Adjusted EBITDA amounts.

## Financial Results and Key Metrics

The following table presents our financial results and our key metrics (in millions unless otherwise noted):

	Three Months Ended September 30,			Nine Months Ended September 30,				
	2022		2021	2022		2021		
	(in millions)			(in millions)				
Key Financial Metrics								
Revenue	\$	99.5	\$	39.8	\$	207.5	\$	74.6
GAAP gross margin	\$	9.1	\$	3.1	\$	20.5	\$	2.9
GAAP gross margin (%)		9 %		8 %		10 %		4 %
Non-GAAP gross margin	\$	12.4	\$	5.2	\$	30.3	\$	8.7
Non-GAAP gross margin (%)		13 %		13 %		15 %		12 %
Net (loss) income attributable to Stem	\$	(34.3)	\$	115.6	\$	(88.8)	\$	(67.2)
Adjusted EBITDA	\$	(12.5)	\$	(6.5)	\$	(36.4)	\$	(18.0)
Key Operating Metrics								
12-Month pipeline (in billions)* (1)	\$	7.2	\$	2.4	\$	7.2	\$	2.4
Bookings (2)	\$	222.9	\$	103.7	\$	599.4	\$	148.8
Contracted backlog* (3)	\$	817.2	\$	312.0	\$	817.2	\$	312.0
Contracted storage AUM (in GWh)* (4)		2.4		1.4		2.4		1.4
Solar monitoring AUM (in GW)* (5)		25.0		**		25.0		**
CARR* (6)	\$	61.4		**	\$	61.4		**
* at period end								
** not available								

(1) As described below.

(2) As described below.

(3) Total value of bookings in dollars, as reflected on a specific date. Backlog increases as new contracts are executed (bookings) and decreases as integrated storage systems are delivered and recognized as revenue.

(4) Total GWh of systems in operation or under contract.

(5) Total GW of systems in operation or under contract. During the three months ended September 30, 2022, Solar monitoring AUM declined approximately 7.1 GW as the result of actions taken by AlsoEnergy to migrate or terminate a legacy-acquired software application, primarily used in Europe, that was unprofitable.

(6) Contracted Annual Recurring Revenue (CARR): Annual run rate for all executed software services contracts including contracts signed in the period for systems that are not yet commissioned or operating.

## Pipeline

Pipeline represents the total value (excluding market participation revenue) of uncontracted, potential hardware and software contracts that are currently being pursued by Stem direct salesforce and channel partners with developers and independent power producers seeking energy optimization services and transfer of energy storage systems that have a reasonable likelihood of execution within 12 months of the end of the relevant period based on project timelines published by such developers and independent power producers. We cannot guarantee that our pipeline will result in meaningful revenue or profitability.

## Bookings

Due to the long-term nature of our contracts, bookings are a key metric that allows us to understand and evaluate the growth of our Company and our estimated future revenue related to customer contracts for our energy optimization services and transfer of energy storage systems. Bookings represents the accumulated value at a point in time of contracts that have been executed under both our host customer and partnership sales models.

For host customer sales, bookings represent the expected consideration from energy optimization services contracts, including estimated incentive payments that are earned by the host customer from utility companies in relation to the services provided by us and assigned by the host customer to us. For host customer sales, there are no differences between bookings and remaining performance obligations at any point in time.

For partnership sales, bookings are the sum of the expected consideration to be received from the transfer of hardware and energy optimization services (excluding any potential revenues from market participation). For partnership sales, even though we have secured an executed contract with estimated timing of project delivery and installation from the customer, we do not consider it a contract in accordance with FASB ASU 2014-09 Topic 606, *Revenue from Contracts with Customers* (“ASC 606”), or a remaining performance obligation, until the customer has placed a binding purchase order. A signed customer contract is considered a booking as this indicates the customer has agreed to place a purchase order in the foreseeable future, which typically occurs within three (3) months of contract execution. However, executed customer contracts, without binding purchase orders, are cancellable without penalty by either party.

For partnership sales, once a purchase order has been executed, the booking is considered to be a contract in accordance with ASC 606, and therefore, gives rise to a remaining performance obligation as we have an obligation to transfer hardware and energy optimization services in our partnership agreements. We also have the contractual right to receive consideration for our performance obligations.

The accounting policy and timing of revenue recognition for host customer contracts and partnership arrangements that qualify as contracts with customers under ASC 606, are described within Note 2 — *Summary of Significant Accounting Policies*, in our Annual Report on Form 10-K for the fiscal year ended December 31, 2021.

The following discussion and analysis of our results of operations and our liquidity and capital resources includes the results of operations for AlsoEnergy for the period from February 1, 2022 through September 30, 2022. For additional information, including pro forma results of operations for the three and nine months ended September 30, 2022 and 2021 calculated as if AlsoEnergy had been acquired as of January 1, 2021, see Note 6 — *Business Combinations*, of the Notes to the unaudited condensed consolidated financial statements in this report.

## **Components of Our Results of Operations**

### ***Revenue***

We generate services and other revenue and hardware revenue. Services and other revenue is mainly generated through arrangements with host customers to provide energy optimization services using our proprietary cloud-based software platform coupled with a dedicated energy storage system owned and controlled by us throughout the term of the contract. Fees charged to customers for energy optimization services generally consist of recurring fixed monthly payments throughout the term of the contract and in some arrangements, an installation and/or upfront fee component. We may also receive incentives from utility companies in relation to the sale of our services.

We generate hardware revenue through partnership arrangements consisting of promises to sell an energy storage system to solar plus storage project developers. Performance obligations are satisfied when the energy storage system along with all ancillary hardware components are delivered. The milestone payments received before the delivery of hardware are treated as deferred revenue. We separately generate services and other revenue through partnership arrangements by providing energy optimization services after the developer completes the installation of the project.

### ***Cost of Revenue***

Cost of hardware revenue includes the cost of the hardware, which generally includes the cost of the hardware purchased from a manufacturer, shipping, delivery, and other costs required to fulfill our obligation to deliver the energy storage system to the customer location. Cost of revenue may also include any impairment of energy storage systems held in our inventory for sale to our customer. Cost of hardware revenue related to the sale of energy storage systems is recognized when the delivery of the product is completed.

Cost of services and other revenue includes depreciation of the cost of energy storage systems we own under long-term customer contracts, which includes capitalized fulfillment costs, such as installation services, permitting and other related costs. Cost of revenue may also include any impairment of inventory and energy storage systems, along with system maintenance costs associated with the ongoing services provided to customers. Costs of revenue are recognized as energy optimization and other supporting services are provided to our customers throughout the term of the contract.

### ***Gross Margin***

Our gross margin fluctuates significantly from quarter to quarter. Gross margin, calculated as revenue less costs of revenue, has been, and will continue to be, affected by various factors, including fluctuations in the amount and mix of revenue and the amount and timing of investments to expand our customer base. We hope to increase both our gross margin in absolute dollars and as a percentage of revenue through enhanced operational efficiency and economies of scale.

## ***Operating Expenses***

### ***Sales and Marketing***

Sales and marketing expense consists of payroll and other related personnel costs, including salaries, stock-based compensation, employee benefits, and travel for our sales and marketing personnel. In addition, sales and marketing expense includes trade show costs, amortization of intangibles and other expenses. We expect our selling and marketing expense to increase in future periods to support the overall growth in our business.

### ***Research and Development***

Research and development expense consists primarily of payroll and other related personnel costs for engineers and third parties engaged in the design and development of products, third-party software and technologies, including salaries, bonus and stock-based compensation expense, project material costs, services and depreciation. We expect research and development expense to increase in future periods to support our growth, including continuing to invest in optimization, accuracy and reliability of our platform and other technology improvements to support and drive efficiency in our operations. These expenses may vary from period to period as a percentage of revenue, depending primarily upon when we choose to make more significant investments.

### ***General and Administrative Expense***

General and administrative expense consists of payroll and other related personnel costs, including salaries, stock-based compensation, employee benefits and expenses for executive management, legal, finance and other costs. In addition, general and administrative expense includes fees for professional services and occupancy costs. We expect our general and administrative expense to increase in future periods as we scale up headcount with the growth of our business, and as a result of operating as a public company, including compliance with the rules and regulations of the SEC, legal, audit, additional insurance expenses, investor relations activities, and other administrative and professional services.

### ***Other (Income) Expense, Net***

#### ***Interest Expense***

Interest expense consists primarily of interest on our outstanding borrowings under our outstanding notes payable, convertible promissory notes, and financing obligations and accretion on our asset retirement obligations.

#### ***Loss on Extinguishment of Debt***

Loss on extinguishment of debt consists of penalties incurred in relation to the prepayment of our outstanding borrowings under our outstanding notes payable and the write-off of any unamortized debt issuance costs associated with such notes.

#### ***Change in Fair Value of Warrants and Embedded Derivatives***

Change in fair value of warrants and embedded derivatives is related to the revaluation of our outstanding convertible preferred stock warrant liabilities and embedded derivatives related to the redemption features associated with our convertible notes at each reporting date.

#### ***Other Income (Expenses), Net***

Other income (expenses), net consists primarily of income from equity investments and foreign exchange gains or losses.

## Results of Operations for the Three Months Ended September 30, 2022 and 2021

	Three Months Ended September 30,			
	2022	2021	\$ Change	% Change
	(In thousands, except percentages)			
Revenue				
Services and other revenue	\$ 13,692	\$ 4,947	\$ 8,745	177%
Hardware revenue	85,809	34,886	50,923	146%
Total revenue	99,501	39,833	59,668	150%
Cost of revenue				
Cost of services and other revenue	11,445	6,639	4,806	72%
Cost of hardware revenue	78,929	30,057	48,872	163%
Total cost of revenue	90,374	36,696	53,678	146%
Gross margin	9,127	3,137	5,990	191%
Operating expenses:				
Sales and marketing	13,187	4,975	8,212	165%
Research and development	10,526	6,268	4,258	68%
General and administrative	18,013	11,024	6,989	63%
Total operating expenses	41,726	22,267	19,459	87%
Loss from operations	(32,599)	(19,130)	(13,469)	70%
Other (expense) income, net:				
Interest expense	(2,520)	(2,674)	154	(6)%
Change in fair value of warrants and embedded derivatives	—	137,001	(137,001)	(100)%
Other income, net	863	415	448	108%
Total other (expense) income, net	(1,657)	134,742	(136,399)	(101)%
(Loss) income before (provision for) benefit from income taxes	(34,256)	115,612	(149,868)	(130)%
Provision for income taxes	(19)	—	(19)	100%
Net (loss) income	\$ (34,275)	\$ 115,612	\$ (149,887)	(130)%
Net income attributed to non-controlling interests	4	—	4	100%
Net (loss) income attributable to Stem	\$ (34,279)	\$ 115,612	\$ (149,891)	(130)%

### Revenue

Revenue increased by \$59.7 million, or 150%, for the three months ended September 30, 2022, as compared to the three months ended September 30, 2021. The increase was primarily driven by a \$50.9 million increase in hardware revenue primarily due to increase in demand for systems related to both FTM and BTM partnership agreements. Services and other revenue increased by \$8.7 million primarily due to the inclusion of AlsoEnergy's revenue in the current period.

### Cost of Revenue

Cost of revenue increased by \$53.7 million, or 146%, for the three months ended September 30, 2022, as compared to the three months ended September 30, 2021. The increase was primarily driven by an increase in cost of hardware revenue of \$48.9 million, which is in line with the increase in demand for systems, as well as an increase of \$4.8 million in cost of services and other revenue, primarily related to AlsoEnergy.

## ***Operating Expenses***

### ***Sales and Marketing***

Sales and marketing expense increased by \$8.2 million, or 165%, for the three months ended September 30, 2022, as compared to the three months ended September 30, 2021. The increase was primarily due to an increase of \$3.7 million in personnel related expenses primarily as a result of higher headcount, an increase of \$3.5 million in amortization expense related to intangible assets from the acquisition of AlsoEnergy, an increase of \$0.5 million in office related expenses, and an increase of \$0.5 million in amortization of contract origination costs.

### ***Research and Development***

Research and development expense increased by \$4.3 million, or 68%, for the three months ended September 30, 2022, as compared to the three months ended September 30, 2021. The increase was primarily due to an increase of \$3.2 million in personnel related expenses as a result of higher headcount, including AlsoEnergy employees, and an increase of \$1.1 million in professional services and other costs.

### ***General and Administrative***

General and administrative expense increased by \$7.0 million, or 63%, for the three months ended September 30, 2022, as compared to the three months ended September 30, 2021. The increase was primarily driven by an increase of \$3.2 million in personnel costs driven by additional headcount, an increase of \$2.4 million in insurance and office related costs, and a \$1.4 million increase related to bad debt reserves.

## ***Other Income (Expense), Net***

### ***Interest Expense***

Interest expense decreased by \$0.2 million, or 6%, for the three months ended September 30, 2022, as compared to the three months ended September 30, 2021 due to a reduction in financing obligations.

### ***Change in Fair Value of Warrants and Embedded Derivative***

The change in fair value of warrants and embedded derivative reflected no activity in the three months ended September 30, 2022 (as no warrants and embedded derivatives were outstanding), as compared to income of \$137.0 million in the three months ended September 30, 2021. The \$137.0 million income in the three months ended September 30, 2021 resulted from a revaluation gain of warrants and embedded derivatives.

### ***Other Income, Net***

Other income, net increased by \$0.4 million, or 108%, for the three months ended September 30, 2022 compared to the three months ended September 30, 2021, primarily due to an increase in interest income from investments.

## ***Income Tax Expense***

During the three months ended September 30, 2022, we recorded a tax expense of \$19 thousand compared to no income tax provision during the three months ended September 30, 2021.

## Results of Operations for the Nine Months Ended September 30, 2022 and 2021

	Nine Months Ended September 30,			
	2022	2021	\$ Change	% Change
	(In thousands, except percentages)			
Revenue				
Services and other revenue	\$ 36,178	\$ 14,982	\$ 21,196	141%
Hardware revenue	171,358	59,609	111,749	187%
Total revenue	207,536	74,591	132,945	178%
Cost of revenue				
Cost of services and other revenue	30,219	19,354	10,865	56%
Cost of hardware revenue	156,758	52,343	104,415	199%
Total cost of revenue	186,977	71,697	115,280	161%
Gross margin	20,559	2,894	17,665	610%
Operating expenses:				
Sales and marketing	35,284	11,555	23,729	205%
Research and development	28,432	15,502	12,930	83%
General and administrative	54,218	28,730	25,488	89%
Total operating expenses	117,934	55,787	62,147	111%
Loss from operations	(97,375)	(52,893)	(44,482)	84%
Other expense, net:				
Interest expense	(8,429)	(12,835)	4,406	(34)%
Loss on extinguishment of debt	—	(5,064)	5,064	(100)%
Change in fair value of warrants and embedded derivatives	—	3,424	(3,424)	(100)%
Other income, net	1,822	211	1,611	764%
Total other expense, net	(6,607)	(14,264)	7,657	(54)%
(Loss) income before (provision for) benefit from income taxes	(103,982)	(67,157)	(36,825)	55%
Benefit from income taxes	15,201	—	15,201	100%
Net loss	\$ (88,781)	\$ (67,157)	\$ (21,624)	32%
Net loss attributed to non-controlling interests	—	—	—	—%
Net loss attributable to Stem	\$ (88,781)	\$ (67,157)	\$ (21,624)	32%

### Revenue

Revenue increased by \$132.9 million, or 178%, for the nine months ended September 30, 2022, as compared to the nine months ended September 30, 2021. The increase was primarily driven by a \$111.7 million increase in hardware revenue primarily due to increase in demand for systems related to both FTM and BTM partnership agreements. Services and other revenue increased by \$21.2 million primarily due to the inclusion of AlsoEnergy's revenue in the current period.

### Cost of Revenue

Cost of revenue increased by \$115.3 million, or 161%, for the nine months ended September 30, 2022, as compared to the nine months ended September 30, 2021. The increase was primarily driven by an increase in cost of hardware revenue of \$104.4 million, which is due to the increase in demand for systems, as well as an increase of \$10.9 million in cost of services and other revenue, primarily related to AlsoEnergy.

### Operating Expenses

#### Sales and Marketing

Sales and marketing expense increased by \$23.7 million, or 205%, for the nine months ended September 30, 2022, as compared to the nine months ended September 30, 2021. The increase was primarily due to an increase of \$9.4 million in



personnel related expenses as a result of higher headcount, inclusive of \$2.1 million in stock-based compensation expense primarily due to new employee grants, an increase of \$9.3 million in amortization expense related to intangible assets from the acquisition of AlsoEnergy, an increase of \$2.9 million amortization of contract origination costs, and \$2.1 million of additional office-related expenses.

#### *Research and Development*

Research and development expense increased by \$12.9 million, or 83%, for the nine months ended September 30, 2022, as compared to the nine months ended September 30, 2021. The increase was primarily due to an increase of \$10.1 million in personnel related expenses as a result of higher headcount and an increase of \$2.8 million in professional services and other expenses.

#### *General and Administrative*

General and administrative expense increased by \$25.5 million, or 89%, for the nine months ended September 30, 2022 compared to the nine months ended September 30, 2021. The increase was primarily driven by an increase of \$16.6 million in personnel related expenses as a result of higher headcount, inclusive of an \$8.2 million increase in stock-based compensation expense due to new employee grants, as well as an increase of \$8.9 million in insurance, legal, office, and other expenses.

#### ***Other Income (Expense), Net***

##### *Interest Expense*

Interest expense decreased by \$4.4 million, or 34%, for the nine months ended September 30, 2022 compared to the nine months ended September 30, 2021. The decrease was primarily driven by the repayment of loans and the conversion of convertible notes in relation to the Merger for \$7.3 million, partially offset by the recognition of \$3.2 million of interest expense corresponding to the 0.50% Green Convertible Notes issued in November 2021.

##### *Loss on Extinguishment of Debt*

Loss on extinguishment of debt decreased by \$5.1 million, or 100% for the nine months ended September 30, 2022, as compared to the nine months ended September 30, 2021. The decrease was driven by a prior year payment of a \$4.0 million penalty on debt extinguishment and the write-off of \$1.1 million of unamortized debt issuance costs upon the conversion of our Series D convertible notes in relation to the Merger.

##### *Change in Fair Value of Warrants and Embedded Derivative*

The change in fair value of warrants and embedded derivatives reflected no activity in the nine months ended September 30, 2022 (as no warrants and embedded derivatives were outstanding), as compared to income of \$3.4 million in the nine months ended September 30, 2021, which resulted from a revaluation gain of warrants and embedded derivatives.

##### *Other Income, Net*

Other income (expenses), net increased by \$1.6 million, or 764%, for the nine months ended September 30, 2022, as compared to the nine months ended September 30, 2021 primarily as a result of an increase in interest income from short-term investments.

#### ***Income Tax Benefit***

During the nine months ended September 30, 2022, we recorded \$15.2 million of income tax benefit, as a result of the partial release of our deferred tax asset valuation due to the acquisition of AlsoEnergy. The Company did not record a provision or benefit for income taxes during the nine months ended September 30, 2021.

#### **Liquidity and Capital Resources**

##### ***Sources of Liquidity***

Liquidity describes the ability of a company to generate sufficient cash flows to meet the cash requirements of its business operations, including working capital needs, debt service, acquisitions, contractual obligations and other commitments. We assess liquidity in terms of our cash flows from operations and their sufficiency to fund our operating and investing activities. To meet our payment service obligations we must have sufficient liquid assets and be able to move funds on a timely basis.

As of September 30, 2022, our principal source of liquidity were cash, cash equivalents, and short-term investments of \$293.5 million, which were held for working capital purposes and for investment growth opportunities. Our marketable securities generally consist of high-grade commercial paper, agency bonds, corporate debt securities, U.S. government agency securities, and treasury bills. We believe that our cash position is sufficient to meet our capital and liquidity requirements for at least the next 12 months from the date of issuance of this Form 10-Q.

Our business prospects are subject to risks, expenses and uncertainties frequently encountered by companies in the early stages of commercial operations. The attainment of profitable operations is dependent upon future events, including obtaining adequate financing to complete our development activities, obtaining adequate supplier relationships, building our customer base, successfully executing our business and marketing strategy and hiring appropriate personnel. Failure to generate sufficient revenues, achieve planned gross margins and operating profitability, control operating costs, or secure additional funding may require us to modify, delay, or abandon some of our planned future expansion or development, or to otherwise enact operating cost reductions available to management, which could have a material adverse effect on our business, operating results, financial condition.

In the future, we may be required to obtain additional equity or debt financing in order to support our continued capital expenditures and operations. In the event that additional financing is required from outside sources, we may not be able to raise it on terms acceptable to us or at all. If we are unable to raise additional capital or generate cash flows necessary to expand our operations and invest in new technologies, this could reduce our ability to compete successfully and harm our business, growth and results of operations.

Our long-term liquidity requirements are linked primarily to the continued extension of the Athena platform and supporting applications, including Athena PowerTrack and the use of our balance sheet to improve the terms and conditions associated with the purchase of energy storage systems from our hardware vendors. While we have plans to potentially expand our geographical footprint beyond our current partnerships and enter into joint ventures, those are not required initiatives to achieve our plan.

### ***Financing Obligations***

We have entered into arrangements wherein we finance the cost of energy storage systems via special purpose entities (“SPE”) we establish with outside investors. These SPEs are not consolidated into our financial statements, but are accounted for as equity method investments. Through the SPEs, the investors provide us upfront payments. Under these arrangements, the payment by the SPE to us is accounted for as a borrowing by recording the proceeds received as a financing obligation. The financing obligation is repaid with the future customer payments and incentives received. A portion of the amounts paid to the SPE is allocated to interest expense using the effective interest rate method.

Furthermore, we continue to account for the revenues from customer arrangements and incentives and all associated costs despite such systems being legally sold to the SPEs due to our significant continuing involvement in the operations of the energy storage systems.

The total financing obligation as of September 30, 2022 was \$82.3 million, of which \$17.0 million was classified as a current liability.

### ***Notes Payable***

#### ***2021 Credit Agreement***

In January 2021, we entered into a non-recourse credit agreement to provide a total of \$2.7 million towards the financing of certain energy storage systems that we own and operate. The credit agreement has a stated interest of 5.45% and a maturity date of June 2031. We received an advance under the credit agreement of \$1.8 million in January 2021. The repayment of advances received under this credit agreement is determined by the lender based on the proceeds generated by us through the operation of the underlying energy storage systems. As of September 30, 2022, there were \$1.8 million of outstanding borrowings under this credit facility.

## 2028 Green Convertible Senior Notes

On November 22, 2021, we sold to Morgan Stanley & Co. LLC, Goldman Sachs & Co. LLC and Barclays Capital Inc, as initial purchasers (the “Initial Purchasers”), and the Initial Purchasers purchased from us, \$460 million aggregate principal amount of our 2028 Convertible Notes, pursuant to a purchase agreement dated as of November 17, 2021, by and between us and the Initial Purchasers. The 2028 Convertible Notes will accrue interest payable semi-annually in arrears and will mature on December 1, 2028, unless earlier repurchased, redeemed or converted in accordance with their terms prior to such date. Upon conversion, we may choose to pay or deliver, as the case may be, cash, shares of common stock or a combination of cash and shares of common stock. The 2028 Convertible Notes are redeemable for cash at our option at any time given certain conditions. Refer to Note 10 — *Convertible Promissory Notes*, of the Notes to the unaudited condensed consolidated financial statements in this report, for additional details regarding this transaction.

On November 17, 2021, in connection with the pricing of the 2028 Convertible Notes, and on November 19, 2021, in connection with the exercise in full by the Initial Purchasers of their option to purchase additional Notes, we entered into capped call transactions with certain of the Initial Purchasers of the 2028 Convertible Notes to minimize the potential dilution to our common stockholders upon conversion of the 2028 Convertible Notes. Our net proceeds from this offering were approximately \$445.7 million, after deducting the Initial Purchasers’ discounts and commissions and the estimated offering expenses payable by us. We used approximately \$66.7 million of the net proceeds to pay the cost of the capped call transactions described above. We intend to allocate an amount equivalent to the net proceeds from this offering to finance or refinance, in whole or in part, existing or new eligible green expenditures of Stem, including investments related to creating a more resilient clean energy system, optimized software capabilities for energy systems, and reducing waste through operations.

## Cash Flows

The following table summarizes our cash flows for the periods indicated (in thousands):

	Nine Months Ended September 30,	
	2022	2021
Net cash used in operating activities	\$ (68,634)	\$ (69,020)
Net cash used in investing activities	(571,925)	(182,057)
Net cash (used in) provided by financing activities	(6,819)	648,819
Effect of exchange rate changes on cash and cash equivalents	(304)	505
Net (decrease) increase in cash and cash equivalents	<u>\$ (647,682)</u>	<u>\$ 398,247</u>

## Operating Activities

During the nine months ended September 30, 2022, net cash used in operating activities was \$68.6 million, primarily resulting from our net loss of \$88.8 million, adjusted for non-cash charges of \$43.6 million and net cash outflow of \$23.5 million from changes in operating assets and liabilities. Non-cash charges primarily consisted of depreciation and amortization of \$32.1 million, non-cash interest expense of \$1.5 million related to debt issuance costs, stock-based compensation expense of \$20.4 million, noncash lease expense of \$1.7 million, impairment of energy storage systems of \$1.3 million, provision for accounts receivable allowance of \$1.9 million, and net amortization of premium on investments of \$0.3 million, partially offset by an income tax benefit of \$15.1 million and gain on sale of project assets of \$0.6 million. The net cash outflow from changes in operating assets and liabilities was primarily driven by an increase in accounts receivable of \$75.4 million, an increase in inventory of \$2.2 million, an increase in deferred costs with suppliers of \$47.8 million, an increase in other assets of \$25.2 million, an increase in contract origination costs of \$4.8 million, and a decrease in lease liabilities of \$1.1 million, offset by an increase in accounts payable of \$63.2 million, an increase in accrued expenses and other liabilities of \$38.3 million, and an increase in deferred revenue of \$31.6 million.

During the nine months ended September 30, 2021, net cash used in operating activities was \$69.0 million, primarily resulting from our net loss of \$67.2 million, adjusted by non-cash charges of \$40.4 million and net cash outflow of \$42.2 million from changes in operating assets and liabilities. Non-cash charges primarily consisted of depreciation and amortization of \$15.6 million, non-cash interest expense of \$8.1 million, which includes interest expenses associated with debt issuance costs, stock-based compensation expense of \$8.0 million, impairment of energy storage systems of \$2.2 million, issuance of warrants for services of \$9.2 million, noncash lease expense of \$0.3 million, and net amortization of premium on investments of \$0.3 million, offset by a change in the fair value of warrant liability and embedded derivative of \$3.4 million. The net cash outflow from changes in operating assets and liabilities was primarily driven by an increase in accounts receivable of \$21.4 million, an increase in other assets of \$13.9 million, an increase in deferred costs with suppliers of \$4.2 million, a decrease in deferred revenue of \$3.5 million, an increase in inventory of \$3.4 million, an increase in contract origination costs of

\$1.9 million, and a decrease in lease liabilities of \$0.3 million, partially offset by an increase in accounts payable of \$2.9 million and accrued expenses and other liabilities of \$3.3 million.

### ***Investing Activities***

During the nine months ended September 30, 2022, net cash used for investing activities was \$571.9 million, primarily consisting of \$533.0 million used for our acquisition of AlsoEnergy, net of cash acquired, \$22.5 million in net purchases of available-for-sale investments, \$0.5 million in purchases of energy systems, \$12.7 million in capital expenditures on internally-developed software, \$3.0 million in capital expenditures on project assets, and \$1.5 million in purchases of property plant and equipment, offset by proceeds from sale of project assets of \$1.3 million.

During the nine months ended September 30, 2021, net cash used for investing activities was \$182.1 million, consisting of \$171.1 million in purchases of available-for-sale investments, \$6.2 million in purchases of energy systems, \$4.3 million in capital expenditures on internally-developed software, and \$0.5 million in purchases of property and equipment.

### ***Financing Activities***

During the nine months ended September 30, 2022, net cash used in financing activities was \$6.8 million, primarily consisting of the repayment of financing obligations of \$7.6 million and payments for taxes related to net share settlement of stock options of \$2.3 million, partially offset by proceeds from exercise of stock options of \$1.2 million, proceeds from other financing transactions of \$1.5 million, and an investment from non-controlling interests of \$0.4 million.

During the nine months ended September 30, 2021, net cash provided by financing activities was \$648.8 million, primarily consisting of net proceeds from the Merger and PIPE financing of \$550.3 million, proceeds from the exercise of stock options of \$148.3 million, proceeds from financing obligations of \$4.9 million, net proceeds from issuance of notes payable of \$3.9 million, and net proceeds from issuance of convertible notes of \$1.1 million, partially offset by repayment of notes payable of \$41.4 million, payments for taxes related to net share settlement of stock options of \$12.6 million, and repayment of financing obligations of \$5.7 million.

### **Contractual Obligations and Commitments**

As of September 30, 2022, there have been no material changes to our contractual obligations described in our Annual Report on Form 10-K for the fiscal year ended December 31, 2021.

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

We are not a party to any off-balance sheet arrangements, including guarantee contracts, retained or contingent interests, or unconsolidated variable interest entities that either have, or are reasonably likely to have, a current or future material adverse effect on our unaudited condensed consolidated financial statements.

### **Critical Accounting Policies and Estimates**

A summary of our critical accounting policies and estimates is presented in our Annual Report on Form 10-K for the fiscal year ended December 31, 2021.

### **Recent Accounting Pronouncements**

Information with respect to recent accounting pronouncements may be found in Note 2 — *Summary of Significant Accounting Policies*, of the Notes to the unaudited condensed consolidated financial statements in this report, which information is incorporated herein by reference.

## **ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

For quantitative and qualitative disclosures about market risk affecting Stem, see Item 7A, “Quantitative and Qualitative Disclosures about Market Risk,” contained in our Annual Report on Form 10-K for the fiscal year ended December 31, 2021. Our exposure to market risk has not changed materially since December 31, 2021.

## **ITEM 4. CONTROLS AND PROCEDURES**

### **Evaluation of Disclosure Controls and Procedures**

We maintain disclosure controls and procedures (“Disclosure Controls”) within the meaning of Rules 13a-15I and 15d-15(e) of the Exchange Act. Our Disclosure Controls are designed to provide reasonable assurance that information required to be disclosed by us in the reports we file or submit under the Exchange Act, such as this Quarterly Report on Form 10-Q, is

recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms. Our Disclosure Controls are also designed to provide reasonable assurance that such information is accumulated and communicated to our management, including our Chief Executive Officer ("CEO") and Chief Financial Officer ("CFO"), as appropriate, to allow timely decisions regarding required disclosure.

Based on management's evaluation (under the supervision and with the participation of our CEO and our CFO) as of September 30, 2022, of the effectiveness of the design and operation of our Disclosure Controls, our CEO and CFO have concluded that, as of the end of the period covered by this report, our Disclosure Controls were not effective due to material weaknesses identified in our internal control over financial reporting as disclosed below.

### **Material Weakness in Internal Control over Financial Reporting**

During the course of preparing our financial statements as of and for the year ended December 31, 2021, management identified certain deficiencies in our internal controls over financial reporting that management believes to be material weaknesses. A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that a reasonable possibility exists that a material misstatement of our annual or interim financial statements would not be prevented or detected on a timely basis.

Specifically, the material weaknesses identified related to (i) accounting for energy storage systems, deferred cost of goods sold and inventory, (ii) ineffective internal controls over review of the Company's unaudited condensed consolidated financial statements and related disclosures, (iii) a lack of formality in our internal control activities, especially related to management review-type controls, and (iv) ineffective internal controls over the review of certain revenue recognition calculations. With respect to energy storage systems, inventory and deferred cost of goods sold, we did not properly track inflows and outflows, including the valuation of energy storage systems, due in part to the systems that the Company used to track and value energy storage systems and inventory. With respect to a lack of formality in our control activities, we did not sufficiently establish formal policies and procedures to design effective controls, establish responsibilities to execute these policies and procedures and hold individuals accountable for performance of these responsibilities, including over review of revenue recognition calculations. We had multiple control deficiencies aggregating to a material weakness in internal control over financial reporting.

### **Remediation Activities**

Our management, with oversight of the Audit Committee of our Board of Directors, continues to devote significant time, attention and resources to remediating the aforementioned material weaknesses in its internal control over financial reporting, and believes that we have made significant progress to that end. The material weaknesses will be considered remediated when management designs and implements effective controls that operate for a sufficient period of time and management has concluded, through testing, that these controls are effective. As of September 30, 2022, the Company had taken, or initiated, as the case may be, the following steps intended to remediate the material weaknesses described above and strengthen its internal control over financial reporting that, as of September 30, 2022, had not yet been fully implemented or had not been in place for a sufficient period of time to demonstrate that they were having their desired effect:

- Develop and deliver internal control training to management and finance/accounting personnel, focusing on a review of management's and individual roles and responsibilities related to internal control over financial reporting.
- Hire, train and develop experienced accounting executives and personnel with a level of public accounting knowledge and experience in the application of US GAAP commensurate with our financial reporting requirements and the complexity of our operations and transactions.
- Establish and implement policies and practices to attract, develop and retain competent public accounting personnel.
- Engage a qualified third party Sarbanes-Oxley ("SOX") compliance firm to assist us in bolstering and implementing our SOX compliance program, with a focus on documenting processes and controls, identifying and addressing control gaps, formalizing the internal control activities and strengthening the overall quality of documentation that evidences control activities.
- Perform a financial statement risk assessment and scoping exercise to identify and assess the risks of material misstatements in our financial statements to better ensure that the appropriate effort and resources are dedicated to addressing risks of material misstatements.
- Establish a disclosure committee comprised of our CEO, CFO, Chief Legal Officer, Chief Accounting Officer and other senior finance/accounting/legal personnel to, among other things, review and, as necessary, help revise the Company's controls and other procedures to ensure that information required by us to be disclosed is recorded, processed, summarized and reported accurately and on a timely basis.

- Implement a Section 302 sub-certification program to reinforce the Company's culture of compliance.
- Implement processes to improve monitoring activities involving the review and supervision of our accounting operations, including increased and enhanced balance sheet reviews to allow more focus on quality account reconciliations and enhanced monitoring of our internal control over financial reporting.
- Implement new accounting applications to enhance and streamline the order-to-cash and commissions processes.

#### **Changes in Internal Control over Financial Reporting**

Other than the remediation actions to address the existing material weaknesses as described above, there were no changes in our internal controls over financial reporting during the third quarter of 2022, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

#### **Inherent Limitations on Effectiveness of Internal Controls**

Our management, including our 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. 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. Furthermore, 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, have been detected. 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 to future periods are subject to risks. Over time, controls may become inadequate because of changes in business conditions or deterioration in the degree of compliance with policies or procedures.

## Part II - Other Information

### ITEM 1. LEGAL PROCEEDINGS

The information with respect to this Item 1 is set forth under Note 15 — *Commitments and Contingencies*, of the Notes to the unaudited condensed consolidated financial statements in this report.

### ITEM 1A. RISK FACTORS

There have been no material changes to the risk factors disclosed in Part I, Item 1A, of our Annual Report on Form 10-K for the fiscal year ended December 31, 2021 and in Part II, Item 1A. “Risk Factors” of our Quarterly Report on Form 10-Q for the quarters ended March 31, 2022 and June 30, 2022.

### ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

None.

### ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

### ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

### ITEM 5. OTHER INFORMATION

None.

### ITEM 6. EXHIBIT INDEX

#### EXHIBIT INDEX

Exhibit No.	Description
3.1	<a href="#">Second Amended and Restated Certificate of Incorporation, dated April 28, 2021</a> (incorporated by reference to Exhibit 3.1 to the Current Report on Form 8-K filed on May 4, 2021).
3.2	<a href="#">Amended and Restated Bylaws, dated October 27, 2022</a> (incorporated by reference to Exhibit 3 to the Current Report on Form 8-K filed on October 31, 2022).
10.1*	<a href="#">Form of Global Restricted Stock Unit Award Agreement</a>
10.2*	<a href="#">First Amended and Restated Master Supply Agreement for Purchase and Sale of Energy Storage Equipment, dated as of September 14, 2022, by and between Powin Energy Corporation and Stem, Inc.††</a>
31.1*	<a href="#">Certification of Chief Executive Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</a>
31.2*	<a href="#">Certification of Chief Financial Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</a>
32.1**	<a href="#">Certification of Chief Executive Officer Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</a>
32.2**	<a href="#">Certification of Chief Financial Officer Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</a>
101.INS	Inline XBRL Instance Document
101.SCH	Inline XBRL Taxonomy Extension Schema Document
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

\*Filed herewith

\*\*Furnished herewith

†† Information in this exhibit (indicated by brackets) has been redacted pursuant to Item 601(b)(10)(iv) of Regulation S-K.

**SIGNATURE**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized on November 3, 2022.

**STEM, INC.**

By: /s/ William Bush  
William Bush  
Chief Financial Officer  
(Principal Financial Officer)



**STEM, INC.**  
**GLOBAL RESTRICTED STOCK UNIT**  
**AWARD AGREEMENT**

***Note:** If you do not want to accept this Restricted Stock Unit Award Agreement, you must notify the Stock Department in writing no later than 15 days after receipt of the applicable Award Notice.*

**RECITALS**

A. The Board of Directors of the Company (the “**Board**”) has adopted the Stem, Inc. 2021 Equity Incentive Plan (as amended from time to time, the “**Plan**”) to provide incentives to attract, retain and motivate eligible Employees, Directors and Consultants.

B. This Agreement is executed pursuant to, and is intended to carry out the purposes of, the Plan in connection with the Company’s issuance of shares of its common stock, \$0.0001 par value per share (“**Shares**” or “**Common Stock**”) to Participant thereunder.

C. All capitalized terms in this Agreement are defined herein or in the Appendix hereto.

**NOW, THEREFORE**, the Company hereby awards restricted stock units (“**Restricted Stock Units**” or “**RSUs**”) to Participant named in the Award Notice (as defined in Section 1 below) on the following terms and conditions:

**1. GRANT OF RESTRICTED STOCK UNITS.** The Company hereby awards to Participant, as of the Grant Date indicated below, RSUs under the Plan. Each RSU represents the right, upon the terms and subject to the conditions set forth in the award notice previously delivered to Participant (the “**Award Notice**”), this Agreement and the Plan, to receive one share of Common Stock. Each RSU that vests hereunder will entitle Participant to receive one share of Common Stock on the specified issuance date for that unit. The number of, the applicable vesting schedule for, and the grant date with respect to, RSUs subject to this Award are set forth in the Award Notice. The remaining terms and conditions governing the Award are set forth in this Agreement.

**AWARD SUMMARY**

<u>Participant Name:</u>	<i>as set forth in the Award Notice</i>
<u>Grant Date:</u>	<i>as set forth in the Award Notice</i>
<u>Number of RSUs:</u>	<i>as set forth in the Award Notice</i>

Vesting Schedule:

RSUs will vest in four equal annual installments, with 25% vesting on each of the first four anniversaries of the grant date specified in the Award Notice (the “**Grant Date**,” and such anniversary of the Grant Date, a “**Vesting Date**”); *provided, however*, that RSUs may be subject to accelerated vesting in accordance with the provisions of Section 5. The period of time between the Grant Date and the vesting of RSUs (and the termination of restrictions thereon) is the “**Restricted Period**.”

Issuance Schedule

Upon vesting of RSUs in accordance with the Normal Vesting Schedule, and subject to Section 7 of this Agreement, Shares will be issuable pursuant to the Plan on the applicable Vesting Date, subject to the Company’s collection of applicable Withholding Taxes. Issuance of Shares upon vesting of RSUs will be made as soon as administratively practicable, but in no event later than 2 <sup>1/2</sup> months following the applicable Vesting Date. The procedures pursuant to which the applicable Withholding Taxes are to be collected are set forth in Section 7 of this Agreement.

**2. ACCELERATION ON DEATH OR DISABILITY; RESTRICTIONS ON TRANSFER.**

(a) Upon Participant’s Separation from Service by reason of Participant’s death or Disability or upon Employee’s Disability prior to Separation from Service (as determined by the Committee and within the meaning of Section 409A of the U.S. Internal Revenue Code (the “**Code**”)), all Restricted Stock Units that are not vested at that time immediately and automatically will become vested in full.

(b) RSUs granted hereunder to Participant may not be sold, assigned, transferred, pledged or otherwise encumbered, whether voluntarily or involuntarily, by operation of law or otherwise (any of the foregoing, a “**Transfer**”), other than (a) to the Company as a result of the forfeiture of RSUs, or (b) by will or the laws of descent and distribution. Payment of vested RSUs after Participant’s death will be made to Participant’s estate or, in the sole and absolute discretion of the Administrator, to the person or persons entitled to receive such payment under Applicable Laws of descent and distribution. Consistent with the foregoing, no right or benefit under this Agreement will be subject to Transfer, and any such attempt to Transfer will have no effect and be void. No right or benefit hereunder will in any manner be liable for or subject to any debts, contracts, liabilities or torts of the person entitled to such benefits. If Participant attempts to Transfer any right or benefit hereunder, or if any creditor attempts to subject the same to a writ of garnishment, attachment, execution, sequestration or any other form of process or involuntary lien or seizure, then such attempt will have no effect and be void, and immediately upon any such attempt, the RSUs will terminate and become of no further effect.

**3. FORFEITURES OF RSUS.**

(a) Except as otherwise provided in this Section 3 or in Section 5 below, upon Participant's termination of Continuous Service for any reason and at any time during the Restricted Period, any then-unvested RSUs held by Participant shall be forfeited and canceled as of the date of Participant's termination of Continuous Service. Upon forfeiture, neither Participant nor any successors, heirs, assigns or legal representatives of Participant will thereafter have any further rights or interest in the unvested RSUs.

(b) Notwithstanding any other provision hereof, if at any time during the Restricted Period, Participant's Continuous Service is terminated for Cause (or for a reason that is comparable to termination for Cause under either the employment laws in the jurisdiction where Participant is employed or the terms of Participant's employment agreement, if any), or should Participant engage in any other conduct, while in Continuous Service or following cessation of Continuous Service, that is detrimental to the business or affairs of the Company (or any Related Entity), as determined in the sole discretion of the Administrator, then this Award will be immediately cancelled with respect to all RSUs (whether vested or unvested). Neither Participant nor any successors, heirs, assigns or legal representatives of Participant, shall have any right or entitlement to receive any Shares under such cancelled RSUs.

#### **4. NO STOCKHOLDER RIGHTS UNTIL VESTING; DIVIDEND EQUIVALENTS.**

(a) Participant shall not be, nor shall Participant have any of the rights or privileges of, a stockholder of the Company with respect to any RSUs unless and until the Company issues shares of Common Stock to Participant in settlement of such RSUs (as evidenced by the appropriate entry on the books and records of the Company or of a duly authorized transfer agent or stock plan administration service provider of the Company).

(b) Notwithstanding the foregoing, from and after the Grant Date and until the earlier of (i) Participant's receipt of Common Stock upon settlement of the RSUs and (ii) the time when Participant's right to receive Common Stock upon settlement of the RSUs is forfeited, Participant shall be entitled, as a Dividend equivalent, to a number of additional whole RSUs on the date that the Company pays a cash dividend (if any) to holders of Common Stock generally. Such Dividend equivalent shall be determined by dividing (i) the product of (A) the dollar amount of the cash dividend paid per share of Common Stock on such date and (B) the total number of RSUs (including dividend equivalents paid thereon) previously credited to Participant as of such date, by (ii) the Fair Market Value per share of Common Stock on such date. Such Dividend equivalents (if any) shall be subject to the same terms and conditions and shall be settled or forfeited in the same manner and at the same time as the RSUs to which the Dividend equivalents were credited.

#### **5. CHANGE IN CONTROL.**

(a) Any RSUs subject to this Award at the time of a Change in Control may be (i) assumed or otherwise continued in full force and effect by the surviving corporation, (ii) replaced with an economically-equivalent substitute award or (iii) replaced with a cash retention program of the successor corporation that is in a dollar amount equal to the Fair Market Value of the Shares underlying those RSUs (as measured immediately prior to the Change in Control) and

provides for the subsequent vesting and payout of that dollar amount in accordance with the same vesting and issuance provisions that would otherwise be in effect for those Shares in the absence of the Change in Control, *provided*, that such vesting schedule shall be modified to provide for accelerated vesting in accordance with Section 5(c) below. In the event of such assumption or continuation of the Award or such replacement of the Award with an economically-equivalent award or cash retention program, no accelerated vesting of the RSUs shall occur at the time of the Change in Control. Notwithstanding the foregoing, no such cash retention program shall be established for the RSUs subject to this Award to the extent such program would be deemed to constitute a deferred compensation arrangement subject to the requirements of Code Section 409A and the Treasury Regulations thereunder.

(b) In the event the Award is assumed or otherwise continued in effect, the RSUs subject to the Award shall be adjusted immediately after the consummation of the Change in Control so as to apply to the number and class of securities into which the Shares underlying those units immediately prior to the Change in Control would have been converted in consummation of that Change in Control had those Shares actually been issued and outstanding at that time. To the extent the actual holders of the outstanding Common Stock receive cash consideration for their Common Stock in consummation of the Change in Control, the successor corporation (or parent entity) may, in connection with the assumption or continuation of the RSUs subject to the Award at that time and with the approval of the Administrator, substitute one or more shares of its own common stock with a fair market value equivalent to the cash consideration paid per Share in the Change in Control transaction, provided the substituted common stock is readily tradable on an established U.S. securities exchange.

(c) Any RSUs that are to be assumed or otherwise continued in effect in connection with the Change in Control or are to be replaced with an economically equivalent award or cash retention program in accordance with Section 5(a) shall be subject to accelerated vesting in accordance with the following provision:

If Participant's Employee status is unilaterally terminated as a result of an involuntary termination (other than for death or Disability) without Cause, or if Participant resigns from such Employee status due to a Constructive Termination, at any time during the period beginning with the execution date of the definitive agreement for that Change in Control transaction and ending with the earlier of (i) the termination of that definitive agreement without the consummation of such Change in Control or (ii) the expiration of the Applicable Acceleration Period following the consummation of such Change in Control, then Participant shall immediately vest in all the unvested RSUs (or any replacement securities or cash proceeds) at the time subject to this Award. The Shares (or any replacement securities or cash proceeds) that are issuable upon vesting of RSUs pursuant to this Section 5(c) shall be issued or distributed on the date of Participant's Separation from Service in connection with such termination of Employee status or as soon as administratively practicable thereafter, but in no event later than the *later* of (i) the close of the calendar year in which such Separation from Service occurs or (ii) the 15<sup>th</sup> day of the third calendar month following the date of such Separation from Service. The applicable Withholding Taxes with respect to such issuance shall be collected in accordance with Section 7 below.

(d) If the RSUs subject to this Award at the time of the Change in Control are not assumed or otherwise continued in effect in connection with the Change in Control or are not

replaced with an economically equivalent award or cash incentive program in accordance with Section 5(a), then those units will vest immediately prior to the closing of the Change in Control. The Shares subject to those vested units shall be converted into the right to receive, for each such Share, the same consideration per Share payable to the other stockholders of the Company in consummation of that Change in Control, and such consideration per Share shall be distributed to Participant as soon as administratively practicable thereafter, but in no event later than the *later* of (i) the close of the calendar year in which such Change in Control occurs or (ii) the 15<sup>th</sup> day of the third calendar month following the date of such Change in Control.

(e) This Agreement does not in any way affect the right of the Company to adjust, reclassify, reorganize or otherwise change its capital or business structure or to merge, consolidate, dissolve, liquidate or sell or transfer all or any part of its business or assets.

**6. ADJUSTMENT IN SHARES.** In the event of a Capitalization Adjustment, then equitable adjustments shall be made by the Administrator to the total number and/or class of securities issuable pursuant to this Award in order to reflect such change. In making such adjustments, the Administrator shall take into account any amounts to be credited to Participant's book account under Section 4(a) in connection with the transaction, and the determination of the Administrator shall be final, binding and conclusive. In the event of a Change in Control, the provisions of Section 5 shall be controlling.

**7. ISSUANCE OF SHARES OR OTHER AMOUNTS.**

(a) On or after each date on which one or more Shares are to be issued in accordance with the express provisions of this Agreement, the Company shall issue, to or on behalf of Participant, a certificate (which may be in electronic form) for those Shares, subject in each instance to the Company's collection of applicable Withholding Taxes.

(b) Participant acknowledges that the Awards are issued through a third-party stock plan administration service provider. Participant understands and acknowledges that the Company's service provider will open an account on their behalf to receive and trade Shares acquired under the Plan and that Participant will be asked to agree on separate terms and data processing practices with the service provider, which is a condition precedent to Participant's ability to receive Shares.

(c) Participant acknowledges that, regardless of any action the Company or the Employer take with respect to any or all Withholding Taxes related to Participant's participation in the Plan and legally applicable to Participant, the ultimate liability for all Withholding Taxes is and shall remain Participant's responsibility, which liability may exceed the amount actually withheld by the Company or the Employer. Participant further acknowledges that neither the Company nor the Employer (i) make any representations or undertakings regarding the treatment of any Withholding Taxes in connection with any aspect of the Award, including the grant, vesting or settlement of the Award, the issuance of Shares (or other property) upon settlement of the Award, the subsequent sale of Shares acquired pursuant to such issuance and the receipt of any dividends or phantom dividend equivalents; or (ii) commit to, and are under no obligation to, structure the terms of the grant or any aspect of the Award to reduce or eliminate Participant's liability for Withholding Taxes or achieve any particular tax result. Furthermore, if Participant has become subject to Withholding Taxes in more than one jurisdiction, Participant acknowledges that the Company or the Employer, or both (or former

employer, as applicable), may be required to withhold or account for Withholding Taxes in more than one jurisdiction.

(d) The Company may (but is not obligated to) collect, and Participant hereby authorizes the Company to collect, any and all Withholding Taxes with respect to the Shares issued under this Agreement through an automatic Share withholding procedure (such as “**net settlement**”) pursuant to which the Company may withhold, immediately as the Shares are issued under the Award, a portion of those Shares with a Fair Market Value (measured as of the issuance date) equal to the amount of such Withholding Taxes, unless such Share Withholding Method is not permissible or advisable under local law.

(e) If the Share Withholding Method is to be used for the collection of Withholding Taxes, then the Company shall withhold the number of otherwise issuable Shares reasonably expected to be necessary to satisfy the applicable Withholding Taxes based on the applicable minimum statutory rate or other applicable withholding rate, including maximum applicable rates, as determined by the Company in its sole discretion. Any over-withheld amount will be refunded to Participant in cash by the Company or Employer (with no entitlement to the Common Stock equivalent) or if not refunded, Participant may seek a refund from the local tax authorities. If the obligation for Withholding Taxes is satisfied by using the Share Withholding Method, then Participant will, for tax purposes, be deemed to have been issued the full number of Shares subject to the vested Award, notwithstanding that a number of the Shares are withheld solely for the purpose of paying the applicable Withholding Taxes.

(f) The Company has sole discretion to determine whether or not the Share Withholding Method will be used for the collection of the applicable Withholding Taxes. Participant acknowledges that the Company does not currently use, and may never use, the Share Withholding Method. Participant shall be notified (in writing or through the Company’s electronic mail system) in the event the Company intends to use the Share Withholding Method. Should any Shares become issuable under the Award at any time that the Share Withholding Method is not being used by the Company, then the Withholding Taxes shall be collected from Participant through a sale-to-cover transaction authorized by Participant, pursuant to which an immediate open-market sale of a portion of the Shares issued to Participant will be effected, for and on behalf of Participant, by the Company’s designated broker to cover the Withholding Tax liability estimated by the Company in its sole discretion to be applicable to such issuance. Participant shall, promptly upon request from the Company, execute (whether manually or through electronic acceptance) an appropriate sales authorization (in form and substance reasonably satisfactory to the Company) that authorizes and directs the broker to effect such open-market, sale-to-cover transactions and remit the sale proceeds, net of brokerage fees and other applicable charges, to the Company in satisfaction of the applicable Withholding Taxes. However, no sale-to-cover transaction shall be effected unless (i) such a sale is at the time permissible under the Company’s insider trading policies governing the sale of Common Stock (i.e., no sales-to-cover until the applicable blackout period, if any, is no longer in effect) and (ii) the transaction is not otherwise deemed to constitute a prohibited loan under Section 402 of the Sarbanes-Oxley Act of 2002.

(g) If the Company determines that such sale-to-cover transaction is not permissible or advisable at the time, or if Participant otherwise fails to effect a timely sales authorization as required by this Agreement, then the Company may, in its sole discretion, elect either to defer the issuance of the Shares until such sale-to-cover transaction can be effected in

accordance with Participant's executed sale directive (but, in no event shall the issuance be deferred beyond the date that is 2 <sup>1</sup>/<sub>2</sub> months following the applicable Vesting Date) or to collect the applicable Withholding Taxes through Participant's delivery of his or her separate check payable to the Company in the amount of such Withholding Taxes or by withholding such amount from other wages payable to Participant. In no event shall any Shares be issued in the absence of an arrangement reasonably satisfactory to the Company for the satisfaction of applicable Withholding Taxes and in compliance with any applicable requirements of Code Section 409A.

(h) There is no assurance that the price at which Shares sold pursuant to this Section 7 will equal the value of the Shares on the original Vesting Date. Except as otherwise provided in Section 5, the settlement of all RSUs that vest under the Award shall be made solely in Shares. In no event, however, shall any fractional Shares be issued. Accordingly, the total number of Shares to be issued at the time the Award vests shall, to the extent necessary, be rounded down to the next whole Share in order to avoid the issuance of a fractional Share.

## **8. COMPLIANCE WITH LAWS AND REGULATIONS.**

(a) The issuance of Shares pursuant to the Award shall be subject to compliance by the Company and Participant with all Applicable Laws relating thereto, as determined by counsel for the Company.

(b) The inability of the Company to obtain approval from any regulatory body having authority deemed by the Company to be necessary to the lawful issuance and sale of any Common Stock pursuant to this Award shall relieve the Company of any liability with respect to the non-issuance or sale of the Common Stock as to which such approval shall not have been obtained. The Company, however, shall use its reasonable best efforts to obtain all such approvals.

**9. INSIDER TRADING RESTRICTIONS/MARKET ABUSE LAWS.** Participant may be subject to insider trading restrictions and/or market abuse laws based on the exchange on which the Shares are listed and in applicable jurisdictions including the United States and Participant's country or his or her broker's country, if different, which may affect Participant's ability to accept, acquire, sell or otherwise dispose of Shares, rights to Shares (e.g., Restricted Stock Units) or rights linked to the value of Shares (e.g., dividend equivalents) during such times as Participant is considered to have "**inside information**" regarding the Company (as defined by the laws in applicable jurisdictions). Local insider trading laws and regulations may prohibit the cancellation or amendment of orders Participant placed before he or she possessed inside information. Furthermore, Participant could be prohibited from (a) disclosing the inside information to any third party, which may include fellow employees and service providers and (b) "**tipping**" third parties or causing them otherwise to buy or sell securities. Any restrictions under these laws or regulations are separate from and in addition to any restrictions that may be imposed under any applicable insider trading policy of the Company. Participant acknowledges that it is Participant's responsibility to comply with any applicable restrictions and Participant should speak with his or her personal legal advisor on this matter.



**10. DEFERRED ISSUANCE DATE.** Notwithstanding any provision to the contrary in this Agreement, to the extent Participant is subject to taxation in the United States and this Award may be deemed to create a deferred compensation arrangement under Code Section 409A, then the following limitation shall apply:

No Shares or other amounts that become issuable or distributable under this Agreement upon Participant's Separation from Service shall actually be issued or distributed to Participant before the *earlier* of (i) the first day of the seventh month following the date of such Separation from Service or (ii) the date of Participant's death, if Participant is deemed at the time of such Separation from Service to be a specified employee under Section 1.409A-1(i) of the Treasury Regulations issued under Code Section 409A, as determined by the Administrator in accordance with consistent and uniform standards applied to all other Code Section 409A arrangements of the Company, and such delayed commencement is otherwise required in order to avoid a prohibited distribution under Code Section 409A(a)(2). The deferred Shares or other distributable amount shall be issued or distributed in a lump sum on the first day of the seventh month following the date of Participant's Separation from Service or, if earlier, the first day of the month immediately following the date the Company receives proof of Participant's death.

To the extent there is any ambiguity as to whether any provision of this Agreement would otherwise contravene one or more requirements or limitations of Code Section 409A, such provisions shall be interpreted and applied in a manner that does not result in a violation of the applicable requirements or limitations of Code Section 409A and the Treasury Regulations thereunder.

Each installment of Shares issuable pursuant to this Agreement shall be treated as a separate payment for purposes of Code Section 409A.

**11. NOTICES.** Any notice required to be given or delivered to the Company under the terms of this Agreement shall be in writing and addressed to the Company at its principal corporate offices. Any notice required to be given or delivered to Participant shall be in writing and addressed to Participant at the most current address then indicated for Participant on the Company's employee records or shall be delivered electronically to Participant through the Company's electronic mail system or through the on-line brokerage firm authorized by the Company to effect the sale of the Shares issued hereunder. All notices shall be deemed effective upon personal delivery or delivery through the Company's electronic mail system or upon deposit in the U.S. or local country mail, postage prepaid and properly addressed to the party to be notified.

**12. SUCCESSORS AND ASSIGNS.** Except to the extent otherwise provided in this Agreement, the provisions of this Agreement shall inure to the benefit of, and be binding upon, the Company and its successors and assigns and Participant, Participant's assigns, the legal representatives, heirs and legatees of Participant's estate.

**13. CONSTRUCTION.** This Agreement and the Award evidenced hereby are made and granted pursuant to the Plan and are in all respects limited by and subject to the terms of the Plan. In the event of any conflict between the provisions of this Agreement, the Award Notice and the terms of the Plan, the Award Notice and this Agreement shall control. In the event of any conflict between the Award Notice and this Agreement, the Award Notice shall control. The words "hereof," "herein," "hereby," "hereunder" and "herewith" and words of similar import



shall refer to this Agreement as a whole and not to any particular provision of this Agreement. References to articles, sections, paragraphs, exhibits, annexes and schedules are to the articles, sections and paragraphs of, and exhibits, annexes and schedules to, this Agreement, unless otherwise specified, and the table of contents and headings in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All decisions of the Administrator with respect to any question or issue arising under the Plan, the Award Notice or this Agreement shall be conclusive and binding on all persons having an interest in the Award.

**14. GOVERNING LAW AND VENUE.**

(a) The interpretation, performance and enforcement of this Agreement shall be governed by the laws of the State of Delaware without resort to that State's conflict-of-laws rules.

(b) For purposes of litigating any dispute that arises directly or indirectly from the relationship of the parties evidenced by this Award and this Agreement, the parties hereby submit to and consent to the exclusive jurisdiction of the State of California and agree that such litigation shall be conducted only in the courts of San Francisco County, California, or the federal courts for the Northern District of California, and no other courts where the grant of the Restricted Stock Units is made or to be performed.

**15. SEVERABILITY.** The provisions of this Agreement are severable and if any one or more provisions are determined to be illegal or otherwise unenforceable, in whole or in part, the remaining provisions shall nevertheless be binding and enforceable.

**16. ACKNOWLEDGMENT OF NATURE OF PLAN AND AWARD.** In accepting the Award, Participant acknowledges, understands and agrees that:

(a) the Plan is established voluntarily by the Company, it is discretionary in nature, and it may be modified, amended, suspended or terminated by the Company at any time, to the extent permitted by the Plan;

(b) the Award is exceptional, voluntary and occasional and does not create any contractual or other right to receive future grants of Restricted Stock Units, or benefits in lieu of Restricted Stock Units, even if Restricted Stock Units have been granted in the past;

(c) all decisions with respect to future Awards or other grants, if any, will be at the sole discretion of the Company;

(d) the Award and Participant's participation in the Plan shall not create a right to employment or be interpreted as forming or amending an employment or service contract with the Company, the Employer or any Related Entity and shall not interfere with the ability of the Company, the Employer or any Related Entity, as applicable, to terminate Participant's employment or service relationship (if any);

(e) Participant's participation in the Plan is voluntary;

(f) the Award and the Shares subject to the Award, and the income and value of same, are not intended to replace any pension rights or compensation;

(g) the Award and the Shares subject to the Award, and the income and value of same, are not part of normal or expected compensation for purposes of calculating any severance, resignation, termination, redundancy, dismissal, end of service payments, holiday pay, bonuses, long-service awards, leave-related payments, pension or retirement or welfare benefits or similar payments;

(h) the future value of the underlying Shares is unknown, indeterminable and cannot be predicted with any certainty;

(i) no claim or entitlement to compensation or damages shall arise from forfeiture of the Award resulting from termination of Participant's Continuous Service by the Employer or the Company (or any Related Entity) (for any reason whatsoever, whether or not later found to be invalid or in breach of employment laws in the jurisdiction where Participant is employed or the terms of Participant's employment agreement, if any), and in consideration of the Award, Participant irrevocably agrees not to institute any claim against the Company, the Employer or any Related Entity, waives his or her ability, if any, to bring any such claim and releases the Company, the Employer and any Related Entity from any such claim; if, notwithstanding the foregoing, any such claim is allowed by a court of competent jurisdiction, then, by participating in the Plan, Participant shall be deemed irrevocably to have agreed not to pursue such claim and agrees to execute any and all documents necessary to request dismissal or withdrawal of such claim;

(j) unless otherwise agreed with the Company in writing, the Award and the Shares subject to the Award, and the income and value of same, are not granted as consideration for, or in connection with, any service Participant may provide as a director of the Company or a Related Entity; and

(k) unless otherwise provided in the Plan or by the Company in its discretion, the Restricted Stock Units and the benefits evidenced by this Agreement do not create any entitlement to have the Restricted Stock Units or any such benefits transferred to, or assumed by, another company nor to be exchanged, cashed-out or substituted for, in connection with any corporate transaction affecting the Shares.

**17. NO ADVICE REGARDING GRANT.** The Company is not providing any tax, legal or financial advice, nor is the Company making any recommendations regarding Participant's participation in the Plan or Participant's acquisition or sale of the underlying Shares. Participant should consult with his or her personal tax, legal and financial advisors regarding his or her participation in the Plan before taking any action related to the Plan or the Restricted Stock Units.

**18. WAIVER.** Participant acknowledges that a waiver by the Company of breach of any provision of this Agreement shall not operate or be construed as a waiver of any other provision of this Agreement, or of any subsequent breach by Participant or other Participants.

**19. DATA PRIVACY.**

(a) Data Privacy Information. By electing to participate in the Plan via the Company's online acceptance procedure, Participant is declaring that he or she understands the data processing practices described herein and including the collection, processing and use of Personal Data (as defined below) by the Company and the transfer of Personal Data to the recipients mentioned herein, including recipients located in countries which do not adduce an adequate level of protection from a European (or other) data protection law perspective, for the purposes described herein. Participant understands that he or she needs to review the following information about the processing of his or her personal data by or on behalf of the Company, the Employer and/or any Related Entity and its service providers such as Carta Securities, LLC as described in this Agreement and any other Plan materials and declare his or her consent to the international transfer of his personal data as attached hereto.

(b) Data Processing and Personal Data. The Company, directly or indirectly through Participant's Employer, collects, uses and otherwise processes Personal Data (as defined below) about Participant for the purposes of allocating Shares and implementing, administering and managing the Plan. Participant understands that this Personal Data may include, without limitation, his or her name, home address and telephone number, email address, date of birth, social insurance number, passport number or other identification number (e.g., resident registration number), salary, nationality, job title, any shares of stock or directorships held in the Company, details of all Restricted Stock Units or any other entitlement to shares of stock or equivalent benefits awarded, cancelled, exercised, vested, unvested or outstanding in Participant's favor (the "**Personal Data**").

(c) Legal Basis and Controller. The processing of Participant's Personal Data is necessary in order for Participant to participate in the Plan and for Company for the purpose of implementing, administering and managing the Plan and Participant's participation therein (on the basis of the performance of a contract (Art. 6(1)(b) GDPR)), to comply with legal obligations in the EU (on the basis of (Art. 6(1)(c) GDPR) and on the basis of legitimate interests, in particular to comply with non-EU legal obligations (Art. 6(1)(f) GDPR). As regards the processing of Participant's Personal Data in connection with the Plan and this Agreement, Participant understands that the Company (Stem, Inc.) is the controller of his or her Personal Data.

(d) Stock Plan Administration Service Providers. Participant understands that the Company transfers his or her Personal Data, or parts thereof, to Carta Securities, LLC (and its affiliated companies), an independent service provider based in the United States that assists the Company (as data processor) with the implementation, administration and management of the Plan. In the future, the Company may select a different service provider and share Participant's Personal Data with such different service provider that serves the Company in a similar manner. Participant understands and acknowledges that the Company's service provider will open an account on their behalf to receive and trade Shares acquired under the Plan and that he or she will be asked to agree on separate terms and data processing practices with the service provider, which is a condition precedent to Participant's ability to receive Shares upon vesting or settlement of Awards under the Plan.

(e) International Data Transfers. Participant understands that the Company and, as of the date hereof, any third parties assisting in the implementation, administration and management of the Plan as data processors, such as Carta Securities, LLC, are based in the United States. Participant understands and acknowledges that his or her country may have

enacted data privacy laws that are different from the laws of the United States. The Company's legal basis for the transfer of Participant's Personal Data outside the European Economic Area is his or her consent and will be provided by Participant in the form as attached hereto.

(f) Data Retention. Participant understands that the Company will use his or her Personal Data only as long as is necessary to implement, administer and manage the Plan and his or her participation in the Plan and for the duration of any relevant statutes of limitations which may exceed the duration of Participant's participation in the Plan, or to comply with legal or regulatory obligations, including under tax and securities laws. In the latter case, Participant understands and acknowledges that the Company's legal basis for the processing of his or her Personal Data would be compliance with the relevant laws or regulations and legitimate interests of the Company (for non-EU legal obligations). When the Company no longer needs Participant's Personal Data for any of the above purposes, Participant understands the Company will remove it from its systems.

(g) Voluntariness and Consequences of Denial/Withdrawal of Consent. Participant understands that his or her participation in the Plan and his or her consent is purely voluntary. Participant may deny or later withdraw his or her consent at any time, with future effect and for any or no reason. If Participant denies or later withdraws his or her consent, the Company can no longer offer Participant participation in the Plan or offer other equity awards to Participant or administer or maintain such awards and Participant would no longer be able to participate in the Plan. Participant further understands that denial or withdrawal of his or her consent would not affect his or her status or salary as an employee or his or her career and that Participant would merely forfeit the opportunities associated with the Plan. The withdrawal of his or her consent will not affect the lawfulness of any data transfers based on consent before its withdrawal.

(h) Data Subject Rights. Participant understands that data subject rights regarding the processing of Personal Data vary depending on the Applicable Laws and that, depending on where Participant is based and subject to the conditions set out in the Applicable Laws, Participant may have, without limitation, the rights to (i) inquire whether and what kind of Personal Data the Company holds about him or her and how it is processed, and to access or request copies of such Personal Data, (ii) request the correction or supplementation of Personal Data about him or her that is inaccurate, incomplete or out-of-date in light of the purposes underlying the processing, (iii) obtain the erasure of Personal Data no longer necessary for the purposes underlying the processing, processed based on withdrawn consent, processed for legitimate interests that, in the context of his or her objection, do not prove to be compelling, or processed in non-compliance with applicable legal requirements, (iv) request the Company to restrict the processing of his or her Personal Data in certain situations where Participant feels its processing is inappropriate, (v) object, in certain circumstances, to the processing of Personal Data for legitimate interests, and to (vi) request portability of Participant's Personal Data that he or she has actively or passively provided to the Company (which does not include data derived or inferred from the collected data), where the processing of such Personal Data is based on consent or his or her employment and is carried out by automated means. In case of concerns, Participant understands that he or she may also have the right to lodge a complaint with the competent local data protection authority or contact the Company's data protection officer with any questions or concerns regarding the processing of Participant's Personal Data (contact details: saul.laureles@stem.com). Further, to receive clarification of, or to exercise any of, Participant's

rights, Participant understands that he or she should contact his or her local human resources representative.

**20. LANGUAGE.** By electing to accept this Agreement, Participant acknowledges that he or she is sufficiently proficient in English, or has consulted with an \advisor who is sufficiently proficient in English so as to allow Participant, to understand the terms and conditions of this Agreement. Further, if Participant has received this Agreement or any other document related to the Plan translated into a language other than English and if the meaning of the translated version is different than the English version, the English version will control.

**21. ELECTRONIC DELIVERY AND ACCEPTANCE.** The Company may, in its sole discretion, decide to deliver any documents related to current or future participation in the Plan by electronic means. Participant hereby consents to receive such documents by electronic delivery and agrees to participate in the Plan through an on-line or electronic system established and maintained by the Company or a third party designated by the Company.

**22. AMENDMENT AND RESTATEMENT OF PRIOR RSU AGREEMENT.** Pursuant to Section 2(b)(vii) of the Plan, this Agreement constitutes an amendment and restatement of the terms and conditions of all prior RSU award agreements accepted by Participant under the Plan (other than with respect to the terms of the Award Notice applicable to each such prior award, which are not being amended or modified hereby).

**23. ADDENDUM.** Notwithstanding any provisions in this Agreement, the Award shall be subject to any special terms and conditions set forth in any Addendum to this Agreement for Participant's country. Moreover, if Participant relocates to one of the countries included in the Addendum, the special terms and conditions for such country will apply to Participant, to the extent the Company determines that the application of such terms and conditions is necessary for legal or administrative reasons. The Addendum constitutes part of this Agreement.

**24. IMPOSITION OF OTHER REQUIREMENTS.** The Company reserves the right to impose other requirements on Participant's participation in the Plan, on the Award and on any Shares acquired under the Plan, to the extent the Company determines it is necessary or advisable for legal or administrative reasons, and to require Participant to sign any additional agreements or undertakings that may be necessary to accomplish the foregoing.

PARTICIPANT IS DEEMED TO HAVE ACCEPTED THE AWARD OF RESTRICTED STOCK UNITS UNDER THIS AGREEMENT AND TO HAVE AGREED THAT SUCH AWARD IS SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT AND THE PLAN, UNLESS PARTICIPANT NOTIFIES THE COMPANY IN WRITING NO LATER THAN 15 DAYS AFTER RECEIPT OF THE AWARD NOTICE THAT PARTICIPANT REJECTS THE AWARD (IN WHICH CASE SUCH AWARD WILL BE FORFEITED AND PARTICIPANT WILL HAVE NO FURTHER RIGHT OR RIGHTS THEREIN AS OF SUCH DATE).

By accepting this Agreement, Participant acknowledges that Participant has received and read, and agrees that this Award shall be subject to, the terms of this Agreement, the Award Notice and the Plan, as they may be amended from time to time in accordance with the terms of the Plan.

**STEM, INC.**

By: \_\_\_\_\_  
Title: Chief People Officer

**By Participant's electronic acceptance and the signature of the Company's representative above, Participant and the Company agree that this Award is granted under and governed by the terms and conditions of the Plan and this Agreement, as they may be amended from time to time in accordance with the terms of the Plan, including the terms and conditions set forth in any Addendum to this Agreement for Participant's country.**

Participant has reviewed the Plan and this Agreement in their entirety, has had an opportunity to obtain the advice of counsel prior to accepting this Agreement and fully understands all provisions of the Plan and Agreement.

**STEM, INC.**  
**GLOBAL RESTRICTED STOCK UNIT**  
**AWARD AGREEMENT**

**ADDENDUM**

***Terms and Conditions***

This Addendum includes additional terms and conditions that govern the Restricted Stock Units granted pursuant to the terms and conditions of the Plan and this Agreement to which this Addendum is attached to the extent Participant resides outside the United States and additional terms and conditions applicable to Participant's providing Services to the Company, the Employer or any Related Entity in one of the countries listed below.

Capitalized terms not defined in this Addendum will have the same definition as provided in this Agreement or in the Appendix, as appropriate.

***Notifications***

This Addendum also includes information relating to exchange control, securities laws, foreign asset/account reporting and other issues of which Participant should be aware with respect to Participant's participation in the Plan. The information is based on the securities, exchange control, foreign asset/account reporting and other laws in effect in the respective countries as of **June 2022**. Such laws are complex and change frequently. As a result, Participant should not rely on the information herein as the only source of information relating to the consequences of Participant's participation in the Plan because the information may be out of date at the time that Participant vests in the Restricted Stock Units, sells Shares acquired under the Plan or takes any other action in connection with the Plan.

In addition, the information is general in nature and may not apply to Participant's particular situation, and the Company is not in a position to assure Participant of any particular result. Accordingly, Participant should seek appropriate professional advice as to how the relevant laws in Participant's country may apply to Participant's situation.

Finally, if Participant is a citizen or resident of a country, or is considered resident of a country, other than the one in which Participant is currently working and/or residing, or Participant transfers employment and/or residency after the Award Grant Date, the information contained herein may not apply to Participant in the same manner.

**Participant acknowledges that he or she has been advised to seek appropriate professional advice as to how the relevant laws in Participant's country may apply to his or her individual situation.**

## **I. GLOBAL PROVISIONS APPLICABLE TO PARTICIPANTS IN COUNTRIES OTHER THAN THE UNITED STATES**

### ***Terms and Conditions***

1. Foreign Asset/Account, Exchange Control and Tax Reporting. Participant understands and agrees that Participant may be subject to foreign asset/account, exchange control and/or tax reporting requirements as a result of the acquisition, holding and/or transfer of Shares or cash (including dividends and the proceeds arising from the sale of Shares) derived from his or her participation in the Plan in, to and/or from a brokerage/bank account or legal entity located outside Participant's country. The Applicable Laws of Participant's country may require that Participant report such accounts, assets, the balances therein, the value thereof and/or the transactions related thereto to the applicable authorities in such country. Participant acknowledges that he or she is responsible for ensuring compliance with any applicable foreign asset/account, exchange control and tax reporting requirements and should consult his or her personal legal advisor on this matter.

2. Foreign Exchange Considerations. Participant understands and agrees that neither the Company, the Employer and any Related Entity shall be liable for any foreign exchange rate fluctuation between Participant's local currency and the U.S. dollar that may affect the value of the Restricted Stock Units, or of any amounts due to Participant under the Plan or as a result of vesting in the Restricted Stock Units and/or the subsequent sale of any Shares acquired under the Plan. Participant agrees and acknowledges that he or she will bear any and all risk associated with the exchange or fluctuation of currency associated with his or her participation in the Plan. Participant acknowledges and agrees that he or she may be responsible for reporting inbound transactions or fund transfers that exceed a certain amount. Participant is advised to seek appropriate professional advice as to how the exchange control regulations apply to the Restricted Stock Units and Participant's specific situation and understands that the relevant laws and regulations can change frequently and occasionally on a retroactive basis.

3. Acknowledgement of Nature of Plan and Award. The following provision supplements Section 16 of this Agreement:

For purposes of the Restricted Stock Units, Participant's status as a service provider will be considered terminated as of the date Participant is no longer in Continuous Service (regardless of the reason for such termination and whether or not later found to be invalid or in breach of employment laws in the jurisdiction where Participant is a service provider or the terms of Participant's employment or service agreement, if any), and unless otherwise expressly provided in this Agreement (including by reference in the Award Notice to other arrangements or contracts) or determined by the Company, (i) Participant's right to vest in the Restricted Stock Units under the Plan, if any, will terminate as of such date and will not be extended by any notice period (*e.g.*, Participant's period of service would not include any contractual notice period or any period of "garden leave" or similar period mandated under employment laws in the jurisdiction where Participant is a service provider or the terms of Participant's employment or service agreement, if any, unless Participant is providing bona fide services during such time), and (ii) the period (if any) during which Participant may vest in the Restricted Stock Units after such termination of Participant's engagement as a service provider will commence on the date Participant ceases to actively provide services and will not be extended by any notice period mandated under employment laws in the jurisdiction where Participant is employed or terms of



Participant's employment or service agreement, if any; the Company will have the exclusive discretion to determine when Participant is no longer actively providing services for purposes of the Restricted Stock Unit grant (including whether Participant may still be considered to be providing services while on a leave of absence).

## **II. COUNTRY-SPECIFIC PROVISIONS APPLICABLE TO PARTICIPANTS IN THE COUNTRIES INCLUDED BELOW**

### **Canada**

#### ***Terms and Conditions***

Award Payable Only in Shares. The grant of the Restricted Stock Units does not give Participant any right to receive a cash payment, and the Restricted Stock Units are payable in Shares only.

French Language Provisions. The following provisions will apply if Participant is a resident of Quebec:

The parties acknowledge that it is their express wish that this Agreement, as well as all documents, notices and legal proceedings entered into, given or instituted pursuant hereto or relating directly or indirectly hereto, be drawn up in English.

*Les parties reconnaissent avoir exigé la rédaction en anglais de cette convention (“Agreement”), ainsi que de tous documents exécutés, avis donnés et procédures judiciaires intentées, directement ou indirectement, relativement à la présente convention.*

#### ***Notifications***

Tax Reporting. Foreign property (including the Restricted Stock Units granted under the Plan and the underlying Shares) held by Canadian residents must be reported annually on Form T1135 (Foreign Income Verification Statement) if the total value of such foreign property exceeds C\$100,000 at any time during the year. The form must be filed by April 30 of the following year.

### **France**

#### ***Terms and Conditions***

Nature of Award. The Restricted Stock Units are not intended to qualify for special tax and social security treatment applicable to Restricted Stock Units granted under Section L.225-197-1 to L.225-197-6 of the French Commercial Code, as amended.

#### ***Notifications***

Foreign Asset/Account Reporting Information. French residents must declare all foreign bank and brokerage accounts in which they hold cash or securities, including accounts that were opened and/or closed during the tax year, on an annual basis on a special form N° 3916, together with their income tax return. Participant should consult with a personal tax advisor to ensure compliance with applicable reporting obligations.

### **Germany**

#### ***Notifications***

Exchange Control Information. Cross-border payments in excess of €12,500 must be reported monthly to the German Federal Bank. In case of payments in connection with securities

(including proceeds realized upon the sale of Shares or the receipt of dividends), the report must be made electronically by the 5th day of the month following the month in which the payment was received. The form of report (“*Allgemeine Meldeportal Statistik*”) can be accessed via the Bundesbank’s website ([www.bundesbank.de](http://www.bundesbank.de)) and is available in both German and English.

## **India**

### ***Terms and Conditions***

**Repatriation Requirements.** As a condition of the grant of Restricted Stock Units, Participant agrees to repatriate any proceeds from the sale of Shares acquired under the Plan or the receipt of any Dividend Equivalents or dividends to India within 90 days of receipt and convert such amounts to local currency within 180 days of receipt. Participant also must obtain a foreign inward remittance certificate (“**FIRC**”) from the bank where he or she deposits the foreign currency and maintains the FIRC as evidence of the repatriation of funds in the event the Reserve Bank of India or his or her employer requests proof of repatriation.

### ***Notifications***

**Foreign Assets Reporting Information.** Participant must declare foreign bank accounts and any foreign financial assets (including Shares subject to the Restricted Stock Units held outside India) in his or her annual tax return. It is Participant’s responsibility to comply with this reporting obligation and he or she should consult with his or her personal tax advisor to determine such personal reporting obligations.

## **Japan**

### ***Notifications***

**Foreign Asset/Account Reporting Information.** If Participant acquires Shares valued at more than ¥100,000,000 in a single transaction, Participant must file a Report on Acquisition or Disposal of Securities (*shoken no shutoku mataha joto ni kansuru hokokusho*) with the Ministry of Finance through the Bank of Japan within 20 days of the acquisition of the Shares. In addition, Japanese residents are required to file a Report on Overseas Assets (*kokugai zaisan chosho*) in respect of any assets (including Shares) held outside Japan as of December 31, to the extent such assets have a total net fair market value exceeding ¥50,000,000. Such Report must be filed with the competent tax office on or before March 15 each year. Japanese residents are responsible for complying with this reporting obligation and should confer with their personal tax advisor in this regard.

## **United Kingdom**

### ***Terms and Conditions***

**Tax Obligations.** The following provision supplements Section 7 of this Agreement:

Withholding Taxes include Primary and to the extent legally possible secondary class 1 National Insurance Contributions. Participant agrees that the Company or the Employer and any Related Entity may calculate the Withholding Taxes to be withheld and accounted for by reference to the maximum applicable rates, without prejudice to any right Participant may have to recover any

overpayment from relevant U.K. tax authorities. Participant understands and agrees that if payment or withholding of any income tax liability arising in connection with Participant's participation in the Plan is not made by Participant to Participant's employer within 90 days of the event giving rise to such income tax liability or such other period specified in Section 222(1)I of the U.K. Income Tax (Earnings and Pensions) Act 2003 (the "**Due Date**"), that the amount of any uncollected income tax will constitute a loan owed by Participant to Participant's employer, effective on the Due Date. Participant understands and agrees that the loan will bear interest at the then-current official rate of Her Majesty's Revenue and Customs, it will be immediately due and repayable by Participant, and the Company and/or the employer may recover it at any time thereafter by any of the means referred to in the Plan and/or this Agreement.

Notwithstanding the foregoing, Participant understands and agrees that if Participant is a director or an executive officer of the Company (within the meaning of such terms for purposes of Section 13(k) of the U.S. Securities and Exchange Act of 1934, as amended), Participant will not be eligible for such a loan to cover the income tax liability. Participant further understands that, in the event that he or she is such a director or executive officer and the income tax is not collected from or paid by Participant by the Due Date, the amount of any uncollected income tax will constitute an additional benefit to Participant on which additional income tax and National Insurance Contributions will be payable. Participant understands and agrees that he or she is responsible for reporting and paying any income tax due on this additional benefit directly to Her Majesty's Revenue and Customs under the self-assessment regime and for reimbursing the Company or the employer (as appropriate) for the value of any primary and (to the extent legally possible) secondary class 1 National Insurance Contributions due on this additional benefit which the Company or the employer may recover from Participant by any of the means referred to in the Plan and/or this Agreement.

National Insurance Contributions Indemnity. Participant acknowledges and agrees, as a condition of his or her participation in the Plan and vesting in the Restricted Stock Units or receipt of any benefit in connection with the Restricted Stock Units, to indemnify the Company against any liability of any person to account for any tax liability associated with the Restricted Stock Units, which includes any tax liability to account to Her Majesty's Revenue and Customs or other tax authority for any amount of, or representing, income tax or employees' or any employer's National Insurance Contributions or any other tax charge levy or other sum, whether under the laws of the U.K. or otherwise, which may arise on the Restricted Stock Unit gain realized that is treated as remuneration derived from Participant's employment by virtue of Section 4(4)(a) of the Social Security Contributions and Benefits Act 1992 ("**Restricted Stock Unit Tax Liability**"), on the grant, vesting, assignment or release of the Restricted Stock Units or the acquisition, holding and/or disposal of Shares pursuant to this Agreement. The Company shall not be obliged to allot and issue or procure the transfer of any Shares pursuant to this Agreement and this Addendum unless and until Participant has paid to the Company such sum as is, in the opinion of the Company, sufficient to indemnify it in full against any Restricted Stock Unit Tax Liability. Participant undertakes that he or she shall, if requested to do so, join with the employer in making an election for the transfer to you, Participant, of the whole, or such part as the Company may determine, of any liability to employer's National Insurance Contributions ("**NIC Joint Election**"). Further, by entering into an NIC Joint Election Participant authorizes the

employer or the Company to recover an amount sufficient to cover this liability by such methods including, but not limited to, deductions from Participant's salary or other payments due or the sale of sufficient Shares acquired pursuant to the Restricted Stock Units.

**APPENDIX**  
**DEFINITIONS**

The following definitions shall be in effect under this Agreement:

“**Addendum**” means the addendum to this Agreement setting forth special terms and conditions for Participant’s country.

“**Administrator**” means the Compensation Committee of the Board (or a subcommittee thereof), acting in its capacity as administrator of the Plan and pursuant to a delegation by the Board in accordance with Section 2(c) of the Plan.

“**Agreement**” means this Global Restricted Stock Unit Agreement.

“**Applicable Acceleration Period**” means: (i) 24 months, in the case of the Company’s Chief Executive Officer, (ii) 18 months, in the case of any other executive officer of the Company, and (iii) 12 months, in the case of all other grantees of RSUs hereunder, or (in the cases of (i), (ii), and (iii)) such other period(s) as may be determined by the Administrator on the basis of Participant’s status on the Change in Control date.

“**Applicable Laws**” means the legal requirements related to the Plan and the Award under applicable provisions of the federal securities laws, state corporate and securities laws, the Code, the rules of New York Stock Exchange, and the rules of any non-U.S. jurisdiction applicable to Awards granted to residents therein.

“**Award**” means the award of Restricted Stock Units made to Participant pursuant to the terms of this Agreement.

“**Board**” is defined in the Preamble.

“**Capitalization Adjustment**” is defined in the Plan.

“**Cause**” is defined in the Plan.

“**Change in Control**” is defined in the Plan.

“**Code**” is defined in Section 2(a).

“**Common Stock**”, or “**Shares**” is defined in Section 1.

“**Company**” means Stem, Inc., a Delaware corporation, and any successor corporation to all or substantially all of the assets or voting stock of Stem, Inc., which shall by appropriate action adopt the Plan.

“**Constructive Termination**” means the occurrence of any of the following events or conditions: (i) (A) a change in Participant’s status, title, position or responsibilities (including reporting responsibilities) which represents an adverse change from Participant’s status, title, position or responsibilities as in effect immediately prior to the execution of the definitive agreement for the Change in Control transaction or at any time within the Applicable

Acceleration Period after the date of a Change in Control; (B) the assignment to Participant of any duties or responsibilities which are inconsistent with Participant's status, title, position or responsibilities as in effect immediately prior to the execution of the definitive agreement for the Change in Control transaction or at any time within the Applicable Acceleration Period after the Change in Control; or (C) any removal of Participant from or failure to reappoint or reelect Participant to any of the offices or positions held by Participant immediately prior to the execution of the definitive agreement for the Change in Control transaction or at any time within the Applicable Acceleration Period after the date of a Change in Control, except in connection with the termination of Participant's Continuous Service for Cause, as a result of Participant's Disability or death or by Participant other than as a result of Constructive Termination; (ii) a reduction in Participant's annual base compensation or any failure to pay Participant any compensation or benefits to which Participant is entitled within five days of the date due; (iii) the Company's requiring Participant to relocate to any place outside a 50 mile radius of the location serving as Participant's principal work site immediately prior to the execution of the definitive agreement for the Change in Control transaction or during the Applicable Acceleration Period after the date of a Change in Control, except for reasonably required travel on the business of the Company or a Related Entity which is not materially greater than such travel requirements in effect during the applicable measurement period determined above; (iv) the failure by the Company to (A) continue in effect (without reduction in benefit level and/or reward opportunities) any material compensation or employee benefit plan in which Participant was participating at any time within the 90-day period immediately prior to the execution of the definitive agreement for the Change in Control transaction or at any time within the Applicable Acceleration Period after the Change in Control, unless such plan is replaced with a plan that provides substantially equivalent compensation or benefits to Participant, or (B) provide Participant with compensation and benefits, in the aggregate, at least equal (in terms of benefit levels and/or reward opportunities) to those provided Participant under each other employee benefit plan, program and practice in which he or she was participating at any time within the 90-day period immediately prior to the execution of the definitive agreement for the Change in Control transaction or at any within the Applicable Acceleration Period after the Change in Control; (v) any material breach by the Company of any provision of an agreement between the Company and Participant, whether pursuant to this Plan or otherwise, other than a breach which is cured by the Company within 15 days following notice by Participant of such breach; or (vi) the failure of the Company to obtain an agreement, satisfactory to Participant, from any successors and assigns to assume and agree to perform the obligations created under this Plan.

**"Consultant"** is defined in the Plan.

**"Continuous Service"** is defined in the Plan.

**"Director"** means a member of the Board.

**"Disability"** is defined in the Plan.

**"Employee"** means any person who is in the employ of the Company (or any Related Entity), subject to the control and direction of the Company or Related Entity as to both the work to be performed and the manner and method of performance.

**“Employer”** means the Company or the Related Entity employing or retaining Participant.

**“Fair Market Value”** is defined in the Plan.

**“Grant Date”** means the date that RSUs are awarded to Participant pursuant to this Agreement, and shall be the date indicated the applicable Award Notice.

**“Normal Vesting Schedule”** means the schedule set forth in Section 1 hereto, pursuant to which the Restricted Stock Units are to vest in a series of installments over Participant’s period of Continuous Service.

**“Parent”** means a “parent corporation,” whether now existing or hereafter established, as defined in Section 424(e) of the Code.

**“Participant”** means the person to whom the Award is made pursuant to this Agreement.

**“Related Entity”** means (i) any Parent or Subsidiary of the Company and (ii) any corporation in an unbroken chain of corporations beginning with the Company and ending with the corporation in the chain for which Participant provides services as an Employee, Director or Consultant, provided each corporation in such chain owns securities representing at least twenty percent (20%) of the total outstanding voting power of the outstanding securities of another corporation or entity in such chain and there is a legitimate non-tax business purpose for making this Award to Participant.

**“Restricted Period”** is defined in the Award Summary contained in Section 1 hereto.

**“RSU, or Restricted Stock Unit”** means the Award in the form of a contractual right to receive Shares under this Agreement which will entitle Participant to receive one actual share of Common Stock per Restricted Stock Unit upon the satisfaction of the Continuous Service vesting requirements applicable to such Award.

**“Separation from Service”** means, with respect to a Participant, that such Participant dies, retires or otherwise has a termination of employment with the Employer that constitutes a “separation from service” within the meaning of Treasury Regulation Section 1.409A-1(h)(1), without regard to the optional alternative definitions available under such regulation.

**“Share Withholding Method”** means an automatic Share withholding procedure (such as net settlement) pursuant to which the Company will withhold, immediately as the Shares are issued under the Award, a portion of those Shares with a Fair Market Value (measured as of the issuance date) equal to the amount of the applicable Withholding Taxes.

**“Subsidiary”** is defined in the Plan.

**“Transfer”** is defined in Section 2 hereto.

**“Withholding Taxes”** means any and all income taxes (including U.S. federal, state, and local tax and/or foreign income taxes) and the employee portion of the federal, state, local and/or foreign employment taxes (including social insurance, payroll tax, payment on account or other tax-related items) required or permitted to be withheld by the Company in connection with any



taxable or tax withholding event, as applicable, attributable to the Award or Participant's participation in the Plan.

**Consent to International Data Transfers  
(EU Participants)**

I have read and understood the Stem, Inc. Global Restricted Stock Unit award agreement and in particular the information provided in Section 19 (Data Privacy).

I herewith consent and agree that my Personal Data may be transferred to Stem, Inc. (acting as data controller) and any third party service providers (acting as data processors - such as brokers, accounting firms, payroll processing firms or tax firms and their sub-processors) assisting in the implementation, administration and management of the Plan and my Participation therein, such as, as of the date hereof, Carta Securities, LLC., as well as any tax or other public authorities, registries, security exchange commissions, or other public institutions as may be required by applicable laws or regulations.

I understand that these recipients of my Personal Data are located in the United States or elsewhere outside the European Economic Area and that the recipients' countries may have different data privacy laws and a lower level of data protection standards than my country and the European Economic Area and that these standards may be considered inadequate under the GDPR.

I understand that my consent is voluntary and that I may withdraw it at any time with effect for the future. However, while refusing or withdrawing my consent will not have a negative effect on my employment, it may affect my ability to participate in the Plan.

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Name, Date, Place, Signature

**FIRST AMENDED AND RESTATED MASTER SUPPLY AGREEMENT  
FOR PURCHASE AND SALE OF ENERGY STORAGE EQUIPMENT**

**By and Between**

**Powin, LLC**

**(“Supplier”)**

**And**

**Stem, Inc.**

**(“Customer”)**

## RESTATEMENT OF MASTER SUPPLY AGREEMENT

This amendment and restatement of that certain Master Supply Agreement executed between the Powin Energy Corporation (predecessor to Powin, LLC) and Stem, Inc. on September 14, 2020 (together with all exhibits, schedules, purchase orders, and annexes hereto, this “First Restated Agreement”) is made and entered into as of September 14, 2022 (“Agreement Effective Date”) by and among Powin, LLC, a Delaware limited liability company, with its principal place of business located at 20550 SW 115th Ave, Tualatin, OR 97062 (“Supplier”), and Stem, Inc., a company duly organized and existing under the laws of Delaware, located at 100 Rollins Road, Millbrae, CA 94030 (“Customer” or “Stem”). Supplier and Customer may, hereinafter, be referred to individually as a “Party” or collectively as the “Parties”. This First Restated Agreement sets forth the terms and conditions for the purchase and sale of the Products (as defined below). Capitalized terms used but not defined herein shall have the meanings assigned to them in the Exhibits hereto.

### AGREEMENT

#### 1. Scope of Agreement.

1.1 Products Covered. Customer may purchase one or more of the products listed on **Exhibit A** attached hereto or as otherwise mutually agreed in writing by the Parties (the “Products”), subject to the terms and conditions contained herein. This First Restated Agreement shall govern the terms of all Purchase Orders (defined below) for Products regardless of whether such Purchase Order expressly references this First Restated Agreement. “Products” shall refer to the entire energy storage system unless context requires otherwise. Certain defined terms as used herein may be defined in the Exhibits, such as in the Warranty (defined below).

1.2 Non-exclusivity. This First Restated Agreement is not exclusive, meaning that Customer may purchase similar products from manufacturers or suppliers other than Supplier or its affiliates.

1.3 Document Priority. In the event of a conflict between this First Restated Agreement and a Purchase Order document, the Purchase Order shall control.

#### 2. Products and Order Placement.

14.1 Purchase Orders. From time to time, Customer may place orders to buy Products from Supplier, subject to the terms and specifications of such order (each, a “Purchase Order” or “PO”), the form of which is attached hereto as **Exhibit D**. Supplier shall accept or reject in writing a Purchase Order received from Customer as soon as possible, but in no event later than ten (10) business days after receipt of such Purchase Order, deeming such document an “Accepted Purchase Order” by countersigning such Purchase Order or providing a Purchase Order confirmation document, in either case without modification of the Purchase Order terms. Supplier’s failure to respond to a Purchase Order within the preceding time period shall be considered a rejection of such Purchase Order. If the Purchase Order cannot be accepted or rejected within ten (10) business days, then Supplier shall notify Customer as soon as possible, but in no event later than ten (10) business days after receipt of such Purchase Order, and shall provide the amount of additional time that Supplier will require to adequately assess the request; *provided*, at any time after the ten (10) business day period, Customer may withdraw a pending Purchase Order prior to Customer’s receipt of acceptance in writing by Supplier. Except as expressly set forth in this First Restated Agreement, once Supplier accepts a Purchase Order, the Purchase Order shall not be modified without the written consent of both Parties. For purposes of this First Restated Agreement, all references to “business day” shall mean any day except a Saturday, Sunday, or an observed federal holiday in the United States.

14.2 Lead-Times. With respect to Purchase Orders for Products listed in **Exhibit A**, Supplier shall deliver such Products within forty-two (42) weeks to U.S. West Coast port of entry, U.S. East Coast port of entry, and Toronto, Canada from the date of Supplier's receipt of the initial payment milestone set forth in the Purchase Order (the "Standard Lead Times"). Customer may submit a Purchase Order specifying a shorter or longer lead time, and Supplier may accept or reject such Purchase Order at its sole discretion, provided that if Supplier accepts such Purchase Order, Supplier agrees to be bound by the agreed Guaranteed Delivery Date(s) (as defined below) in such Purchase Order. Customer and Supplier shall review the Standard Lead Times on a quarterly basis. With respect to Purchase Orders for any Products not listed in **Exhibit A**, such Products shall have lead-times as agreed to by the Parties as set forth in the respective Purchase Order.

14.3 Forecasts. Every three (3) months, on a predetermined schedule mutually agreed by the Parties, Customer shall provide to Supplier a non-binding forecast of the Products that Customer anticipates ordering from Supplier during the following six (6)-month period ("Order Volume Forecast"). Customer shall make commercially reasonable efforts to ensure the accuracy of the Order Volume Forecast.

### 3. **Pricing and Taxes.**

14.1 Pricing. The pricing set forth in **Exhibit C** shall remain valid during the Pricing Period as defined in **Exhibit C**. As set forth in **Exhibit C**, the prices for the Products sold under Purchase Orders issued by Customer shall vary based on their kilowatt hour ("kWh") alternating current ("AC") capacity and the cumulative volume of Products purchased by Customer. All kWh-based volume pricing shall be based on the "kWh AC Nameplate Capacity" of such Product sold under this First Restated Agreement unless it is explicitly specified as kWh direct current ("DC"). For an Accepted Purchase Order, the "Purchase Order Price" shall mean the total amount owed under a Purchase Order for all Products under such Purchase Order, including the upfront cost of the Products plus transportation in accordance with applicable Incoterms and subject to the Delivery Terms of Exhibit C, plus any Warranty associated with such Products if such Warranty costs are paid upfront (as opposed to annually during operation of the Product via the LTSA, as defined in Section 11.3) and are listed in the Purchase Order. Subject to Section 3.4, the "Product Price" is the equipment price for a particular Product purchased, excluding any warranty payments and/or maintenance fees. The Purchase Order Price, Product Price, and all prices herein are denominated in United States Dollars unless otherwise noted.

14.2 Changes in Prices. The Purchase Order Price shall be based on the terms of **Exhibit C** and shall be fixed once the Purchase Order is accepted, subject to the Annual Pricing Adjustment set forth in **Exhibit C**. The limitation set forth in the immediately preceding sentence shall not preclude the application or collection of liquidated damages or other adjustments as expressly allowed under this First Restated Agreement.

14.3 [ ].

14.4 Taxes. Unless otherwise agreed in an Accepted Purchase Order; (i) the applicable Product Price(s) and the Purchase Order Price shall include all non-U.S. taxes applicable to the Products, and taxes on Supplier's income and payroll; and (ii) the applicable Product Price(s) and the Purchase Order Price excludes all sales and/or use taxes of any jurisdiction of the United States with respect to the purchase and sale of the applicable Products (such U.S. sales/use taxes, the "Customer Taxes"). Customer Taxes shall be the sole responsibility of Customer. If applicable, Customer shall provide Supplier a reseller's certificate or other tax exemption documentation prior to Delivery of the applicable Products. If Supplier does not timely receive such tax exemption documentation from Customer, Supplier may invoice Customer for any applicable Customer Taxes which Supplier is required to collect and remit such Customer Taxes to the applicable taxing authority.

#### 4. Shipment and Delivery.

4.1 Incoterms. Unless otherwise agreed in an Accepted Purchase Order, Supplier will ship Products according to the delivery terms set forth in **Exhibit C** and prices for Product shall reflect all costs of such delivery terms in accordance with **Exhibit C**.

4.2 Title and Risk of Loss. Title to the Products shall transfer to Customer at the earlier to occur of (i) delivery of the Products to the Delivery Location or (ii) Supplier's receipt of payment in full of the applicable Product Price. Supplier shall transfer title free and clear of all liens, claims, and encumbrances, except for those liens or security interests which Supplier maintains in the Products pending the receipt of payment in full from Customer. Risk of loss to the Products shall pass to Customer upon delivery of the Products to the Delivery Location. In the case that Products are delivered in multiple pieces, parts, or components, risk of loss with respect to each piece, part, or component shall transfer as described in this Section 4.2. Title and risk of loss with respect to Products or components thereof that are rejected by Customer pursuant to Section 4.6 shall transfer back to Supplier at the Supplier's pick-up of the rejected Products or components thereof, which shall take place within ten (10) business days of such rejection. Customer is solely responsible for providing adequate insurance for the Products when Supplier makes the Products available for unloading at the Delivery Location.

4.3 Liens. If any third-party liens or encumbrances arise in violation of Section 4.4 in connection with the Products, Supplier shall, within ten (10) business days of learning of such unpermitted liens or encumbrances, remove any such unpermitted liens or encumbrances. Upon the failure of Supplier to discharge or cause to be released any improper lien or encumbrance as required under this Section 4.3, Customer may, but shall not be obligated to, pay, discharge or obtain a surety bond for such lien or encumbrance and, upon such payment, discharge or posting of surety bond, shall be entitled to reimbursement from Supplier of the amount thereof together with all documented out-of-pocket expenses reasonably incurred by Customer in connection with such payment, discharge or posting upon the submission of an invoice thereof to Supplier setting forth all such amounts. Supplier shall pay any such invoice from Customer within thirty (30) days from the date of the invoice.

#### 4.4 Delivery.

"Deliver", "Delivered" or "Delivery" means that Supplier has transported the Products to the Delivery Location and made such Products available to Customer (or its representatives or contractors) for unloading. Delivery Location means the location specified on an Accepted Purchase Order, which location may be the location where the Product will be installed and Commissioned ("Project Site") or any other location identified on an Accepted Purchase Order or Change Order (collectively, the "Delivery Location"). Unless Delivery is rescheduled in accordance with Section 5.3, Delivery shall take place no later than the applicable delivery date(s) listed on the Accepted Purchase Order for the applicable Products (each such date, a "Guaranteed Delivery Date"), except in the case of Customer-Caused Delay. Unless otherwise set forth on an Accepted Purchase Order, Customer shall have the Delivery Location ready for Delivery no later than the applicable Scheduled Delivery Date. In the case that the Delivery Location is not ready for Delivery on the Scheduled Delivery Date, it will be considered a Customer-Caused Delay. "Scheduled Delivery Date" means each date beginning on which Supplier is entitled to make Delivery of the applicable Product or Product Component, as set forth in an Accepted Purchase Order. Customer, at its own expense, shall be responsible for unloading the Products at the Delivery Location. Supplier shall be entitled to begin Delivery as of the applicable Scheduled Delivery Date. Upon receipt of the Product at the Delivery Location, Customer shall cause the Product to be unloaded within two (2) hours per truck after arrival, provided that Supplier has included the Delivery Documentation required under Section 4.8, and Customer shall be liable to Supplier for any demurrage or standby charges arising out of Customer's failure to timely unload the Product.

#### 4.5 Delivery Delay Damages.

(a) [ ].

(b) Each Guaranteed Delivery Date shall be adjusted on a day-for-day basis upon the occurrence and during the continuation of any Force Majeure event or any Customer-Caused Delay. "Customer-Caused Delay" shall mean: (i) any delays by Customer in making any payment, non-compliance by Customer with the Accepted Purchase Order (including the Division of Responsibility and any failure of Customer to achieve Customer's Responsible Dates in the Project Schedule attached thereto) that are directly related to the milestones guaranteed by Supplier; (ii) failure by Customer to have the Delivery Location prepared for Delivery per the DOR and Project Schedule in the Accepted Purchase Order by the applicable Site Readiness Date and Scheduled Delivery Date; (iii) breach by Customer of the applicable Accepted Purchase Order(s) causing Supplier delay in meeting Supplier's Guaranteed Delivery Dates for such Accepted Purchase Order(s); and/or (iv) Customer's action or inaction causing Supplier's inability or delay in completing the Work.

(c) Undisputed Delivery Delay Damages shall be payable to Customer no later than thirty (30) days from invoice for the same by Customer. The Delivery Delay Damages shall not exceed [ ] percent ([ ]%) of the applicable Purchase Order Price.

(d) Reserved.

(e) In addition to the relief described above, if Customer does not have the Delivery Location(s) prepared for Delivery by the applicable Guaranteed Delivery Date, Customer shall be liable for any demurrage, storage, or standby charges incurred by Supplier until the date the Delivery Location(s) are prepared for Delivery. Such charges shall be subject to a cost-plus Change Order as set forth in Section 5.3. Customer shall provide Supplier with twenty (20) days prior written notice if Customer anticipates it will not have the Delivery Location(s) prepared for Delivery upon Supplier's Scheduled Delivery Date. Customer shall then provide to Supplier, within five (5) business days of such notice, an alternative delivery location reasonably proximate to the original Delivery Location to which Supplier shall Deliver the Product, and such location must comply with any Supplier storage requirements. Upon such Customer notice, the alternative delivery location shall be deemed the "Delivery Location" for purposes of Section 4.4 and the other provisions of this First Restated Agreement. In addition to the demurrage, storage, or standby charges set forth above, Customer shall reimburse Supplier for the incremental costs associated with changing the Delivery Location.

#### 4.6 Inspection; Damage.

(a) Upon arrival and unloading of each shipment of Products or Product Components at the Delivery Location, Customer shall have [ ] ("Product Acceptance Period") to: (i) conduct a representative visual inspection of the Products or Product Components Delivered in such shipment, and (ii) conduct a count of the quantity of Products or Product Components Delivered in such shipment. Customer shall record any discrepancies in quantity, type, damage or nonconformity in writing on the packing slip for such shipment and request that the carrier's agent countersign such record of discrepancies. Customer shall also photograph any damaged exterior packaging before opening the Damaged Products discovered during the course of such inspection and provide copies of such photographs to Supplier as supporting documentation included in the Rejection Notice (as defined below).

(b) Any shortage in quantity of Products delivered shall be hereinafter referred to as a "Shortage." Any Product not in conformity with the requirements set forth under an Accepted Purchase Order at Delivery shall be hereinafter referred to as "Damage" or "Damaged". If Customer alleges the existence of any Shortage or Damage, Customer shall provide written notice to Supplier prior to expiration of the Product Acceptance Period setting forth reasonable evidence establishing the existence of Shortage or Damage, including without limitation the quantity and type of related Products, the date the related Products are Delivered or are supposed to be Delivered and supporting documentation of such allegations ("Rejection Notice"), and Supplier shall have the right to inspect and confirm such Shortage or Damage as claimed in the Rejection Notice within five (5) business days. Customer shall make all Damaged Products that are the subject to a Rejection Notice available at all reasonable times for inspection at the Delivery Location by Supplier's authorized representatives and shall provide all assistance to such authorized representatives as may reasonably be requested in conducting such inspection.

(c) For any Products subject to a Rejection Notice, Supplier shall at its sole discretion: (i) repair such Damage free of charge to like new condition; (ii) replace the Damaged Products; or (iii) for any Shortage, deliver additional Products to cure same.

(d) Supplier shall pay all costs associated with loading, unloading, and transporting the Damaged Products confirmed by Supplier under the applicable Rejection Notice from the Delivery Location. During any period where the Damaged Products remain in the possession of Customer, Customer shall make commercially reasonable efforts to protect such Damaged Products from further damage, theft, or other loss, subject to Supplier's responsibility for the direct costs therefor; provided, however, Supplier shall be responsible for all costs, including the costs of storage, transportation to and from the Delivery Location, labor, equipment, and removal, directly caused by the rejection of any Products by Customer. Title to any replaced Damaged Products shall revert to Supplier upon Supplier's pick up of such replaced Damaged Products.

(e) If Customer fails to provide Supplier a Rejection Notice within the Product Acceptance Period for all or any portion of the Products or Product Components Delivered, such Products shall be deemed accepted by Customer as of the date of its Delivery to the Delivery Location; provided, however, for the avoidance of doubt, the inspection, acceptance and/or rejection of any portion of the Products by Customer pursuant to this Section 4.6(e) shall not reduce or diminish Supplier's Warranty obligations set forth under Article 11 with respect to such Products.

(f) If Customer discovers Damage to any Product after the Product Acceptance Period, which could not have reasonably been discovered during the Product Acceptance Period, and prior to installation of such Product or Commissioning, then Customer shall provide written notice to Supplier setting forth reasonable evidence establishing (1) the existence of such Damage, including without limitation the quantity and type of Damaged Products, and (2) that such Damage was caused by Supplier. If such Damage prevents Customer from completing its scope of work in the Division of Responsibility, Supplier agrees to commence repair or replacement of such Damaged Products within five (5) business days of receipt of Customer's applicable notice of Damage. If such Damage does not prevent Customer from completing its scope of work in the Division of Responsibility, Customer may file a Claim under the Warranty regardless of commencement of the Warranty term, and Supplier shall repair or replace the Damaged Products prior to or during Commissioning of the Product.

(g) To the extent Damage to the Products occurs as a result of Supplier's Product installation, Commissioning, or any other Project Site activities of Supplier or its employees, agents, or subcontractors, Supplier shall be responsible for all such Damage. If Customer discovers such Damage prior to completion of Commissioning and provided that the Customer can provide solid evidence to prove it was Supplier's employees, agents or subcontractors that caused such Damage, Supplier shall fix or replace such Damaged Product prior to or during Commissioning of the Product. Except such Supplier-caused Damage, Customer shall be responsible for any Damage after Delivery or caused during



inspection and installation in each case that is not covered under the Warranty. If such Supplier-caused Damage is discovered after Commissioning and covered under the Warranty, then Customer may file a claim under the Warranty.

4.7 Insurance. Throughout the term of this First Restated Agreement and while any Product sold under this First Restated Agreement is still covered under the Warranty, Supplier shall comply with the insurance requirements stated in **Exhibit F-1**, and Customer shall comply with the insurance requirements stated in **Exhibit F-2**.

4.8 Delivery Documentation. Supplier shall provide a separate bill of lading or similar shipping documentation for each Delivery (the "Delivery Documentation"). The Delivery Documentation shall be physically affixed to the packaging of the Products and a copy emailed to Customer prior to Supplier's invoice for such Delivery. The Delivery Documentation shall include part numbers and quantities of each item or Products delivered, in addition to the Purchase Order number and Customer System ID (when applicable).

4.9 Customer Installation. Customer (itself or through a subcontractor) shall be solely responsible for the installation of the Products and Product Components (other than as specified in Attachment 2 of an Accepted Purchase Order) in accordance with the Installation Manuals, Technical Specifications, Applicable Law, and Standards of Practice (the "Installation Requirements"). Customer is responsible for all other work including civil, engineering, interconnect, and permitting relating to the Project other than the Work ("Work" means all activities, services, and obligations to be performed and all Product to be Delivered by or on behalf of Supplier under an Accepted Purchase Order, including but not limited to those set forth in Attachment 1 and Attachment 2 of an Accepted Purchase Order).

(a) Upon Customer's completion of installation in accordance with the Installation Requirements, Customer shall provide Supplier with a written notice of such completion (such notice, the "Notice of Installation Completion") in the form provided in Exhibit J.

(b) Supplier, within five (5) Business Days of its receipt of a Notice of Installation Completion, shall review (either virtually or at the Project Site) Customer's installation work and either accept or reject the Notice of Installation Completion. Supplier's approval of Customer's Notice of Installation Completion shall not be unreasonably delayed, conditioned, or withheld. Supplier's rejection of the Notice of Installation Completion, if applicable, shall be accompanied by a written description of the basis for such rejection in sufficient detail and scope to permit Customer (itself or through a subcontractor) to correct any errors or deficiencies.

(c) Supplier shall accept the Notice of Installation Completion if the following requirements are met to Supplier's satisfaction:

- i. all civil work relating to the installation of the Product has been completed, and safe access provided to the Project Site has been provided to Supplier for its performance of the Commissioning work;
- ii. backfeed power is available to provide power to the Product, auxiliary circuit, and balance of system, and the connection, including all permissions received, is ready for pushing or pulling power when needed;

- iii. all Customer-furnished equipment (e.g., switchgear) has been commissioned (in conformance with Exhibit H Attachment 1), tested, and is ready to be energized;
- iv. internet service<sup>1</sup> is available with sufficient bandwidth for remote access by Supplier and to support Supplier's API and StackOS;
- v. the Product is installed per the Installation Requirements; and
- vi. the applicable AC power, communication, and DC power cables are installed

((“i”) through “vi”), collectively, “Installation Acceptance”).

(d) In the event Supplier rejects the Notice of Installation Completion, Customer shall correct any errors or deficiencies and provide Supplier with a revised Notice of Installation Completion, and the process shall repeat until Customer's installation is in conformance with the Installation Requirements and Supplier has accepted the Notice of Installation Completion (such date the “Installation Acceptance Date”).

**Product Component Installation and Commissioning.** Supplier agrees to perform its on-site Product Component installation scope as described in Attachment 2 to an Accepted Purchase Order. Supplier agrees to complete a successful Capacity Test as set forth in the Performance Guarantee attached to an Accepted Purchase Order (“Commissioning”) of the Product at the Project Site. Supplier shall begin the Commissioning process on the date directed by Customer (the “Scheduled Commissioning Commencement Date”), provided that Customer provides Supplier at least twenty (20) days’ prior written notice of the Scheduled Commissioning Commencement Date for remote battery-only Commissioning, and thirty-five (35) days’ prior written notice if the scope of Commissioning described in Attachment 1 - Statement of Work of an Accepted Purchase Order extends beyond the battery. Commissioning shall not include any project specific, customer requested, or utility requested testing, or UL field testing, any of which shall be completed as specified in the project-specific Purchase Order and requirements of Final Acceptance. As part of such Product Component installation (if applicable) and Commissioning, Supplier shall, no later than one (1) day following completion of such services, have removed any and all debris related to such activities from the Project Site if the garbage collection service is elected by the Customer. The Scheduled Commencement Commissioning Date shall be adjusted on a day-for-day basis upon the occurrence and during the continuation of any Force Majeure event or any Customer-Caused Delay. If Supplier fails to complete the Product Commissioning by the Commissioning Completion Date as set forth in Attachment 3 – Project Schedule of an Accepted Purchase Order, then Supplier shall pay to Customer the amounts as set forth in Exhibit B for each day of such delay that the Products are not timely Commissioned (“Commissioning Delay Damages”). Such damage rate will also be outlined in Attachment 7 of an Accepted Purchase Order, and if modified from the standard as presented in Exhibit B adjusted in such attachment as well. Undisputed Commissioning Delay Damages shall be payable to Customer no later than thirty (30) days from invoice for the same from Customer, or Customer may at its option offset such undisputed amounts from any other payment obligations to Supplier under the Accepted Purchase Order. The Commissioning Delay Damages shall not exceed [ ] percent ([ ]%) of the applicable Purchase Order Price. The Parties agree that the Commissioning Delay Damages set forth herein are Liquidated Damages per Section 25.12.

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<sup>1</sup> Internet Requirements:  
Downstream bandwidth: 10Mbps (regardless of system size)  
Upstream bandwidth: System Size < 500 MWh: 3Mbps System Size > 500 MWh: 10 Mbps  
Monitoring data usage: ~0.25 GB/MWh/Day

4.10 Equipment Commissioning Certificate. Upon completion of Commissioning, Supplier shall complete and provide to Customer a Commissioning Certificate in the form attached as **Exhibit H** hereto.

4.11 Final Acceptance. Upon Supplier's achievement of (a) Commissioning, along with the receipt of Commissioning Certificate from Customer; (b) delivery to Customer of final waivers and releases of liens, from Supplier, as necessary under the Agreement; (c) payment of all Liquidated Damages, if any; (d) completion of all punchlist items (except those delayed by seasonal constraints that have no impact on the operation of the Product in accordance with the Performance Guarantee in Attachment 5 Schedule 2 of an Accepted Purchase Order); and (e) any other post-Commissioning requirements of Supplier under an Accepted Purchase Order, Supplier shall be deemed to have achieved Final Acceptance.

5. **Rescheduling; Changes; Cancellations.**

5.1 Rescheduling. Customer may reschedule Delivery under a Purchase Order, provided that a fee ("Rescheduling Fee") may apply based on the timing of the rescheduling request and the applicable Guaranteed Delivery Date, as defined in the following table:

Rescheduling Fee Schedule	
Timing of Customer's Rescheduling Request	Rescheduling Fee (% of Product Price of rescheduled Product)
More than [ ] prior to the Scheduled Delivery date	[ ]%
[ ] prior to the Scheduled Delivery Date	Requires written permission of Supplier, with Rescheduling Fee to be determined pursuant to a Change Order

For minor scheduling changes, Supplier may in its discretion approve a rescheduling fee lower than as set forth in the above table. The Scheduled Delivery date for any Products rescheduled at the request of Customer under this Section 5.1 (the "Rescheduled Delivery Date") shall not be rescheduled by Customer more than once per Purchase Order, and shall not be delayed by more than [ ] after the original Scheduled Delivery Date, without the written permission of Supplier. If the Rescheduled Delivery Date is more than [ ] after the original Scheduled Delivery Date, both Parties must mutually agree in writing that the rescheduling request is accepted. If the rescheduling request is denied by Supplier, it will then be Customer's decision if it would like to proceed with a rescheduling request within the time frames noted above, keep the Purchase Order unchanged, or cancel the Purchase Order for convenience under the procedures noted in Section 5.2 of this First Restated Agreement. Once a Rescheduled Delivery Date has been established following a rescheduling request, such new date shall be considered the Scheduled Delivery Date with respect to such Products and associated Purchase Order.

5.2 Cancellation for Convenience.

(a) After Supplier accepts a Purchase Order per Section 2.1, Customer may cancel such Accepted Purchase Order (in whole or in part) for convenience, for any reason, as set forth in this Section 5.2, and the Product in such cancelled Accepted Purchase Order shall be hereinafter referred to as a “Canceled Product”. In the event of such cancellation for convenience, unless otherwise set forth on the applicable Purchase Order or Section 5.2(b), Customer shall pay to Supplier, as Supplier’s sole and exclusive remedy, a fee (“Convenience Cancellation Fee”) according to the following table and terms:

<b>Convenience Cancellation Fee Schedule for Products with Standard Lead Times</b>	
<b>Timing of Cancellation</b>	<b>Convenience Cancellation Fee (% of Product Price of Canceled Product)</b>
[ ]	[ ]%
[ ]	[ ]%
[ ]	[ ]%
[ ]	[ ]%

<b>Convenience Cancellation Fee Schedule for Products <u>not</u> subject to Standard Lead Times</b>	
<b>Timing of Cancellation</b>	<b>Convenience Cancellation Fee (% of Product Price of Canceled Product)</b>
More than [ ] prior to the Scheduled Delivery Date	[ ]%
Fewer than [ ] prior to, but more than [ ] prior to, the Scheduled Delivery Date	[ ]%
Fewer than [ ] prior to the Scheduled Delivery Date	[ ]%

All payments previously paid to Supplier for any Canceled Product shall be applied toward the applicable Convenience Cancellation Fee.

(b) Upon receipt of a cancellation notice, Supplier shall use best efforts for [ ] to reallocate the Canceled Products to a different Purchase Order or different customer. If Supplier is able to reallocate such Canceled Products at a cost less than the applicable Convenience Cancellation Fee, then except for Supplier’s reasonable costs incurred reallocating the Canceled Products (along with any vendor fees associated therewith, the “Re-allocation Costs”) Customer shall not owe the Convenience Cancellation Fee applicable to the re-allocated Canceled Products. In such case, Supplier shall invoice Customer for the Re-allocation Costs, if any. Customer’s payment of the Re-allocation Costs shall be due to Supplier

within thirty (30) days of receipt of such invoice; or if such Re-allocation Costs are less than the amounts already paid by Customer for the Canceled Products, Supplier shall refund any excess payment amounts within thirty (30) days of the successful re-allocation of the Canceled Products.

(c) If, within [ ] of Customer's cancellation notice, Supplier is unable to reallocate such Canceled Products, then the Convenience Cancellation Fee amounts set forth in the above table shall apply to the Canceled Products, subject to a potential credit as set forth in Section 5.2(d). If payments already made by Customer for any Canceled Product exceed the applicable Convenience Cancellation Fees due for such Canceled Product, Supplier shall refund Customer the difference between the two amounts within thirty (30) days of such receipt of notice of cancellation. If payments already made by Customer for any Canceled Product are less than the applicable Convenience Cancellation Fees due for such Canceled Product, Supplier shall invoice Customer for the remaining amount due for the Convenience Cancellation Fee, which Customer shall pay within thirty (30) days of receipt of such invoice.

(d) [ ].

(e) The Parties agree that the Convenience Cancellation Fee is in the nature of Liquidated Damages set forth in Section 25.12.

5.3 Purchase Order Changes. Supplier shall not make any changes to the Technical Specifications or any information associated with an Accepted Purchase Order without prior written consent of Customer, such consent not to be unreasonably withheld. However, Customer may at any time direct, in writing by Customer's designated representative, changes in the Work, including, but not limited to changes in the Technical Specifications, quantities, methods of shipment, Project Schedule, or Delivery Location of the Products understanding that such changes may result in a change in Purchase Order Price or Guaranteed Delivery Date, in accordance with the procedure set forth in this Section 5.3.

The Purchase Order Price and the Project Schedule are subject to adjustment if any of the following events occur (each, an "Excusable Event"):

(a) any written instructions from Customer as referred to above;

(b) Force Majeure Events (provided that; (i) Supplier shall be entitled to a Purchase Order Price adjustment and Project Schedule adjustment if a Force Majeure is claimed by Customer at the Project Site; and (ii) in all other cases the Party claiming Force Majeure Event shall be entitled to only a Project Schedule adjustment but not reimbursement of additional costs as a result due to a Force Majeure Events);

(c) Customer-Caused Delay;

(d) suspension for convenience by Customer as notified to Supplier in writing; or

(e) a Change in Law ("Change in Law" shall mean a change in Applicable Law promulgated after the Effective Date that could not have been anticipated or foreseen by a prudent contractor experienced in the types of work to be carried out under this Agreement and acting in accordance with the Standards of Practice; provided, however, the following shall not be "Change in Law": changes in Applicable Laws with respect to income, profits, assumed profits, capital gains, corporation tax, or turnover taxes). "Applicable Law" shall mean as amended from time to time, any act, statute, law, regulation, permit, license, ordinance, rule, judgment, order, decree, directive, guideline or policy (to the extent mandatory) or any similar form of decision or determination by, or any written interpretation or

administration of, any of the foregoing by any governmental authority with jurisdiction over Supplier, the Project, the Project Site, or the performance of the Work.

The adjustment (if any) of the Purchase Order Price as a result of the occurrence of any Excusable Event is limited to the cost increase or decrease of performing the Work as a direct result of the occurrence of the Excusable Event. The adjustment (if any) of the Project Schedule as a direct result of the occurrence of any Excusable Event shall be determined by taking into account the following:

- (f) the adjustment of the Project Schedule shall be equitable but limited to the impact of the increased or decreased Work on the Project Schedule as a result of the occurrence of the Excusable Event; and
- (g) all other relevant factors including any failure of Supplier to mitigate any effects on the Project Schedule.

In the event that the Parties are unable to agree upon a lump sum price for a Customer directed change, Customer may in its sole discretion, direct Supplier to proceed with the changed Work on the following basis: direct documented costs actually incurred by Supplier in executing the change plus [ ]. Customer or its designated representative shall have reasonably sufficient audit rights with respect to the documentation and information pertaining to such change and Supplier shall furnish to Customer, and/or its designated representatives, such records as may be required to enable Customer to verify and evaluate direct and indirect costs, expenses, invoices, payments, or claims based on Supplier's or its Subcontractors' actual costs incurred, or number of manhours, or man-days claimed in the performance of the change.

If at any time prior to proceeding with an change in the Work, Supplier believes it is entitled to seek a Change Order, including due to an Excusable Event as set forth above, Supplier shall notify Customer of the general circumstances entitling Supplier to a Change Order within five (5) days of discovery, and shall subsequently provide Customer written request of such Change Order in substantially the form of Exhibit G promptly but in any event within thirty (30) days after Supplier becomes aware of the event(s) giving rise to the request for a Change Order, which request shall include an appropriate statement setting forth the reasons for the request, the scope of work of the request, the probable length of delay resulting from such requested Change Order, if any, and the adjustments to the Contract Price, if any.

If Supplier fails to notify Customer of an Excusable Event within this thirty-day period, such event or condition shall be deemed not to be an Excusable Event, as the case may be, and Supplier shall not be entitled to a Change Order as a result thereof, until such time as Supplier notifies Customer of the impact of such event and then only for the period of time and to the extent Supplier would otherwise have been entitled to a Change Order less the number of days by which Customer's receipt of such notice exceeded thirty days. By way of example, if Supplier would otherwise have been entitled to five days of time extension for an Excusable Event, but did not give notice until the thirty-first day, then Supplier's extension of the Project Schedule would be reduced to four (4) days.

If Customer, within five (5) Business Days, accepts such Supplier-requested Change Order, a Change Order shall be executed by the Parties and the Work, Project Schedule or Purchase Order Price, as applicable, shall be adjusted in accordance with the terms of such Change Order. If Customer fails to so respond within the five Business Day period, Supplier's requested Change Order shall be deemed accepted. If Customer agrees that a Change Order is warranted pursuant to this Section 5.3, but the Parties are unable to agree on the applicable adjustment to the Purchase Order Price with respect to such Change Order, then Change Orders (defined below) related to Third-Party Equipment (defined below) or components that result in increased costs will be invoiced to Customer at the actual Third-Party costs billed to Supplier plus an additional [ ]%, and Change Orders requiring additional provision of Supplier's

service or equipment, will be invoiced to Customer at Supplier's then current standard rates. For the avoidance of doubt, "Third-Party" means suppliers of Product Components not branded as "Powin" equipment and those Product Components denoted as "Third-Party Equipment" in the Statement of Work (e.g., MVT or PCS) of an Accepted Purchase Order. Except as expressly set forth in this First Restated Agreement or the applicable Accepted Purchase Order, no changes may be made to an Accepted Purchase Order without the written consent of both Parties, as evidenced by a signed change order ("Change Order") by both Parties substantially in the form of Exhibit G.

6. **Product Changes.** Supplier shall use commercially reasonable efforts to provide Customer with one hundred and eighty (180) days advance written notice of any major change in the form, fit, function, or design of the Product as used by the Customer. Notwithstanding the foregoing, Supplier may not change the specifications or design of any Product that is subject to an Accepted Purchase Order without Customer's prior written consent.

7. **Firmware Updates.**

5.4 **Remote Access.** Customer shall provide to Supplier at no cost to Supplier, secure remote internet access capability to the Project Sites. Such remote access shall supply reliability and data rates sufficient to enable Supplier to download firmware and software updates to the Products. Upon reasonable notice to Customer, Customer agrees to use commercially reasonable efforts to provide timely access to the Project Sites and Products for purposes of such updates. The use of "data diodes" shall not qualify as remote access.

14.5 **Firmware and Software Updates.** Supplier shall provide to Customer (or its successors, assigns and the System Owners of any such Products) any updates to the software or firmware incorporated into the Products sold to Customer under this First Restated Agreement for no charge, and Supplier further agrees to install any such updates to the Products onsite at the then location of such Products (e.g., whether at the Project Site for deployed Products, onsite at a Customer-specified location for those yet to be deployed, etc.), provided that the Products are still covered by the LCW, in each case at Supplier's cost and subject to Supplier's policies attached hereto as Exhibit [X]. If remote access is not provided or allowed by Customer, and Supplier is prevented from installing any updates in a timely manner (prior to which Supplier notified Customer of such limitations to access and provided reasonable time for Customer correction), the LCW may be deemed void at Supplier's discretion.

8. **Invoicing and Payment.** Supplier shall provide a separate invoice for each milestone payment. Each invoice shall include the following: Customer Purchase Order number, date of arrival of the Product at the Delivery Location if applicable, associated milestone, along with net terms for the payment being requested. Payment terms shall be in accordance with **Exhibit C**. If an invoice is not submitted in accordance with the payment terms outlined in **Exhibit C**, then the date of distribution of the invoice to the Customer must also be noted on the invoice.

9. **Late Payment.** All payments that are not received by Supplier by the date such payment is due may be charged interest until paid in full at the rate of [ ] percent ([ ]%) per month of the overdue balance, or the maximum rate allowable by law, whichever is less. In the event that Customer's account is past due more than thirty (30) days, without limitation to Supplier's termination rights in Section 17, Supplier shall have the right to suspend deliveries under any Purchase Orders until all overdue monies are paid to Supplier.

10. **All Sales Final.** Subject to inspection per Section 4.6 or valid Warranty Claims, all sales are final. Supplier is under no obligation under any circumstance to accept returns of Products, other than pursuant to a rejection per Section 4.6, Section 11.5, a Product Recall under Section 11.6, and/or an applicable Warranty Claim.

## 11. **Warranty and Product Failures.**

11.1 Product Warranty; Performance Guarantee. All Products covered by this First Restated Agreement will be warranted per the terms set forth in the Limited Commercial Warranty ("LCW") attached hereto as **Exhibit E-1**, and the Performance Guarantee attached hereto as **Exhibit E-2**, and if elected and purchased by Customer, the Long Term Services Agreement ("LTSA") attached hereto as **Exhibit E-3**, (the LCW and the Performance Guarantee, along with the LTSA if selected by Customer, collectively, to be defined as the "Warranty").

11.2 Warranty Assignment. Customer, upon the transfer of title to Product, may assign the Warranty in accordance with the assignment terms and conditions set forth in the Warranty.

11.3 [ ].

11.4 No Additional Warranties. Customer acknowledges and agrees that, except for a valid assignment of the Warranty by Customer to a third party, any other warranty that might be granted by Customer to a third party, with the exception of the OEM Warranties, does not bind Supplier in any manner and is not applicable between Supplier and such third party. Likewise, all limitations of the Warranty stated in this First Restated Agreement apply to an assignee of the Warranty to the extent such limitations would apply to the original Customer.

11.5 Specification Compliance. The description and specifications for the Products are set forth in Attachment 5- Schedule C of an Accepted Purchase Order (the "Technical Specifications"). Supplier shall ensure that (i) at the time of Commissioning, the Product provided by Supplier hereunder shall comply in all respects with the Specifications (except with respect to UL9540 field certification, if applicable) and all applicable U.S. laws, and (ii) at the time of Final Acceptance, such Product provided by Supplier hereunder has obtained UL9540 certification, if applicable.

11.6 Product Recalls. If, prior to the end of the LCW Warranty Period (as defined in the LCW) Supplier and/or any Governmental Authority issues a recall notice that is generally applicable to the Product or Product Component, or Supplier otherwise recognizes the need for a recall even in the absence of external notice (any of the foregoing events, a "Recall"), then Supplier shall (a) promptly provide, within five (5) days of Supplier's learning of such Recall, written notice to Customer and to the current owner of the Product, if such owner is different from Customer according to Supplier's records (such owner, whether Customer or a subsequent third-party owner, the "System Owner"); (b) to the extent Supplier issues a Recall on a Product Component, cause such Recall to apply to the Products; (c) at its sole cost and expense, redesign, repair or replace as necessary the affected Products and/or Product Components on all affected Products; and (d) certify in writing to Customer (and each System Owner, as applicable) after any redesign, repair or replacement has been completed that such affected Product complies with the Specifications, any applicable safety standards and requirements, and any directives of the applicable Recall.

11.7 [ ].

11.8 Augmentation Services Option. Customer may optionally choose to engage Supplier under the applicable LTSA to augment the Products to increase the Product capacity ("Augmentation Services"). The Augmentation Services shall include the necessary equipment additions or replacement, including, without limitation, the cost of any Stacks (as defined in **Exhibit A**) in addition to installation services if selected and purchased by Customer in an Accepted Purchase Order. If Customer desires Augmentation Services for a Product, Customer shall select Augmentation Services at the time of such Product purchase, and the Accepted Purchase Order shall expressly set forth a line item for Augmentation Services. If Augmentation Services are selected, the applicable LTSA shall include an annex detailing the Augmentation Services.



12. **Particular Uses.** Customer acknowledges that the Products are not designed for, and Supplier has no desire to make Products available for, life support, critical care, medical, safety equipment, or similar applications where Product failure could result in loss of life or personal or physical harm. Accordingly, Supplier disclaims all liability, and Customer assumes all risks arising from any such or similar application of the Products.

13. **Maintenance and Support.**

13.1 Generally. Pursuant to the Warranty and LTSA, Supplier will provide ongoing maintenance and support for the Products during the term that Supplier has any obligations under the Warranty for such Products, including use and operation of the Products (including, without limitation, the batteries), maintenance of a parts depot sufficient for maintenance and support and as required to support the service levels and other obligations described in this First Restated Agreement, and the identification of and communication to Customer of information about potential defects in or maintenance needed for the Products. Such ongoing maintenance and support shall include all required physical inspections at the Product installation locations, stocking of spare parts, data monitoring and preventative and regular maintenance of the Products at the installation locations, including at least annual onsite inspection (or more frequently as needed or recommended by the Product Specifications or Warranty), as described in the LTSA.

13.2 Data Monitoring. If purchased by Customer, all data monitoring protocols and procedures shall follow the standards as set forth in the LTSA between both Parties.

14. **Intellectual Property; Branding.**

14.1 IP Ownership. Supplier retains ownership of all rights to designs, technical data, and any other intellectual property relating to the Products, and to any models, drawings, patterns, composites, molds, masks, fixtures, and tools used in making them; provided that Supplier grants to Customer in a Purchase Order, a worldwide, perpetual, non-exclusive, royalty-free, transferable right and license to use the intellectual property necessary for operation of the Product. Such license is limited to the extent that the intellectual property is required to operate, maintain and repair the Product, and may be terminable at the discretion of Supplier if Supplier terminates the applicable Purchase Order due to non-payment default by Customer for such Products.

14.2 Customer IP. As between Supplier and Customer, Customer and its affiliates shall retain any and all right, title and interest in and to any intellectual property rights held, owned or conceived by Customer and its affiliates that are used in connection with Customer's performance hereunder and use of the Products. Supplier agrees that all Customer software and other Customer proprietary technology provided to Supplier and that becomes part of the Products or is connected to the Products is the sole property of Customer and constitutes valuable trade secrets and intellectual property of Customer.

14.4 Branding. Customer agrees that it will not alter or remove any Supplier trademarks on the Products sold under this First Restated Agreement under any circumstances provided that Customer is given a sample of Supplier's anticipated branding prior to Delivery. If not already provided for in an applicable Accepted Purchase Order, Customer will provide Supplier a set of branding requirements within thirty (30) days after the date of an applicable Purchase Order, and Supplier shall consider the branding requirements and take reasonable efforts to incorporate it into the final Products, provided custom branding requirements will be subject to a cost-plus Change Order.

## 15. Indemnity.

15.1 **Indemnity.** Each Party (the “Indemnifying Party”) shall indemnify, defend and hold harmless, the other Party, its affiliates, and its and their officers, employees, agents, successors, and assigns, (each an “Indemnified Party”) against any and all losses, damages, liabilities, deficiencies, actions, judgements, interest, awards, penalties, fines, costs or including reasonable attorneys’ fees and expenses (“Losses”) to the extent resulting from a claim, action, suit, proceeding, demand, investigation, or assessment made or brought by any person or entity (“Claim”) for: (a) any injury or death to any person, and/or destruction of real or tangible personal property of third parties arising out of, or in connection with, an act or omission or negligence of the Indemnifying Party or its officers, employees, agents or subcontractors; and (b) violation of applicable law by the Indemnifying Party or its officers, employees, agents or subcontractors; *provided*, that the Indemnifying Party shall not be required to defend, indemnify or hold harmless any Indemnified Parties from and against, and no Indemnified Parties shall be exculpated from, any claims to the extent caused by any Indemnified Party or arising from the breach of this First Restated Agreement by Indemnified Party or the negligence, gross negligence, bad faith or willful misconduct of Indemnified Party or any Indemnified Party affiliates or otherwise not attributable to Indemnifying Party. The Indemnified Party will give the Indemnifying Party prompt written notice of any Claim for which indemnification is sought. Failure to give prompt notice will not diminish the Indemnifying Party’s obligations under this First Restated Agreement to the extent such failure does not materially prejudice the Indemnifying Party’s ability to defend the Claim. The Indemnifying Party shall control the defense of the Claim, and the Indemnified Party may participate in the defense at its own expense with counsel of its choice. If the Claim is one that cannot by its nature be defended solely by the Indemnifying Party, then the Indemnified Party will make available information and assistance as the Indemnifying Party may request, at the Indemnifying Party’s expense. The Indemnifying Party may not, without the prior written consent of the Indemnified Party, (a) consent to the entry of any judgement or enter into any settlement that provides for injunctive or other non-monetary relief affecting the Indemnified Party, or (b) consent to entry of any judgement or enter into any settlement unless such judgement or settlement that provides for an unconditional and full release of the Indemnified Party and does not diminish any rights of the Indemnified Party under this First Restated Agreement or result in additional fees or charges to the Indemnified Party. If the Indemnifying Party, within a reasonable time after receipt of a request for indemnification fails to take reasonable steps to defend the Indemnified Party against a Claim, the Indemnified Party may undertake the defense of such Claim without waiving its rights and remedies under this First Restated Agreement.

15.2 **Intellectual Property Indemnity.** Supplier will at its expense, indemnify, defend and hold harmless Customer and its assigns from any third-party Claim of infringement of any patent, copyright, mask work right, trademark, trade secret, or other intellectual property right by Product in the United States, and will pay any final judgment entered against Customer in such claim, provided that Customer notifies Supplier in writing of such claim promptly after knowing of it and allows Supplier to control the defense and all related settlement negotiations and cooperates in its defense as requested by Supplier. Without limiting Supplier’s obligations under this Section 15.2, if any court or administrative agency issues an injunction prohibiting the use of any Products sold under this First Restated Agreement, then Supplier shall modify or replace the affected Products so as to avoid further infringement, or obtain a license to cure an infringement, in its sole discretion, provided that any such replacement or modification does not impede Customer’s use of the Products. Supplier’s duty to defend and indemnify will not apply if the alleged infringement arises from the combination of the Products with any other goods or products not provided by or directed to be used by Supplier, or the modification of any Products (unless performed or directed by Supplier or its authorized representatives), or any unauthorized use of the Products by the Customer if the infringement would not have occurred but for such unauthorized use. Supplier shall not be responsible for any settlement made by Customer of an indemnifiable claim hereunder, unless such claim was settled with Supplier’s prior written consent.

16. **Confidentiality.** “Confidential Information” shall mean: (i) trade secrets or other proprietary or confidential information; (ii) other materials designated in writing as confidential by the disclosing Party at the time of disclosure; and (iii) information in any form (oral, written, electronic, etc.) reasonably discernable to be confidential information of the disclosing Party. Confidential Information will not include any information that is either known to the general public or to the industry, or known to, or in the possession of, a receiving Party prior to disclosure by the other Party, that is disclosed as required by law, or that is independently developed by such Party. If disclosure of such Confidential Information is required by law, the Party receiving such Confidential Information shall notify the other Party prior to such disclosure and cooperate with the other Party with any efforts to prevent or oppose such disclosure. Each Party agrees that it will not disclose to any third party any Confidential Information it obtains with respect to the other Party during or after the term of this First Restated Agreement except as expressly permitted hereunder, and that it will treat all such information as confidential and will use such information only for carrying out the purposes of this First Restated Agreement; provided that either Party shall be permitted to disclose Confidential Information to their respective counsel, advisers, investors, financing parties, and affiliates, provided that the aforementioned are subject to similar confidentiality obligations. The confidentiality obligations of the Parties hereunder shall continue during the term of this First Restated Agreement for a period of three (3) years from the date of disclosure of Confidential Information. For clarity, this First Restated Agreement and related documents shall be confidential.

17. **Term and Termination.**

18.1 **Term.** This First Restated Agreement shall supersede the original Agreement and remain effective for one (1) year (the “Initial Term”) and shall automatically renew for successive one (1) year terms (any such term, a “Renewal Term” and collectively with the Initial Term, the “Term”) unless terminated by either Party as set forth herein. Either Party can terminate this First Restated Agreement effective at the end of the then-current Term by providing three (3) months’ prior written notice provided that such termination does not terminate or modify the Parties’ obligations with respect to already Accepted Purchase Orders as of the date of such termination. For further clarity without limiting the foregoing, six (6) months prior to each subsequent calendar year under this First Restated Agreement, the Parties will begin negotiating a new pricing exhibit for such subsequent calendar year.

17.2 **Supplier Defaults.** The occurrence of any one or more of the following events shall constitute an event of default by Supplier hereunder (a “Supplier Event of Default”):

- (a) Supplier fails to pay Customer any payment required under this First Restated Agreement which is not in dispute, and such failure continues for [ ] after receipt of written notice of such failure;
- (b) Any representation or warranty of Supplier contained in this First Restated Agreement shall prove to be false or misleading at the time such representation or warranty is made and has an adverse effect on either Party’s ability to perform its obligations hereunder, and such false or misleading representation or warranty and adverse effect continues uncured for [ ] after receipt of written notice from Customer;
- (c) Any assignment by Supplier not in conformity with Section 25.5;
- (d) Supplier fails to deliver any Products within [ ] of the Guaranteed Delivery Date (as such date may be extended by any valid Force Majeure and/or Customer-Caused Delay);
- (e) The maximum Delivery Delay Damages cap set forth in Section 4.5(b) is reached with respect to a Purchase Order;

(f) The maximum cumulative liquidated damages cap set forth in Section 25.12 is reached with respect to a Purchase Order; or

(h) any proceeding or petition is brought or filed by or against Supplier seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief with respect to any present or future bankruptcy laws, and, in the event of a proceeding filed on an involuntary basis, such proceeding is not dismissed within [ ].

17.3 Customer Defaults. The occurrence of any one or more of the following events shall constitute an event of default by Customer hereunder (a “Customer Event of Default”):

(a) Customer fails to pay to Supplier any payment required under this First Restated Agreement which is not in dispute, and such failure continues for [ ] after receipt of written notice of such failure;

(b) Any representation or warranty of Customer contained in this First Restated Agreement shall prove to be false or misleading at the time such representation or warranty is made and has an adverse effect on either Party’s ability to perform its obligations hereunder, and such false or misleading representation or warranty and adverse effect continues uncured for [ ] after receipt of written notice from Supplier;

(c) Any assignment by Customer not in conformity with Section 25.5, that is not cured within thirty (30) days after receipt of written notice of such failure; or

(d) any proceeding or petition is brought or filed by or against Customer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief with respect to any present or future bankruptcy laws, and, in the event of a proceeding filed on an involuntary basis, such proceeding is not dismissed within [ ].

17.4 Default for Other Breach. If either Party materially breaches in the performance of its obligations hereunder (other than those breaches set forth in Sections 17.2 and 17.3, respectively), the breaching Party agrees to use commercially reasonable efforts to correct the breach within [ ] after written notice of such breach from the non-breaching Party. If such breach is not reasonably capable of cure within [ ] but such breach is reasonably capable of cure within [ ] after delivery of notice of such breach, then the breaching Party shall be afforded [ ] to cure said breach, if the breaching Party commences to remedy the breach within such [ ] period and thereafter diligently pursues such remedy until such breach is fully cured, but in no event later than such [ ] period. If any such breach is not corrected within the applicable cure period, then such breach shall be a default under the applicable Purchase Order and this First Restated Agreement.

17.5 Rights upon Termination. Upon a default by a Party as set forth in this Section 17, the non-defaulting Party at its option may, in addition to any other remedies it may have under this First Restated Agreement, or at law or in equity, terminate any Purchase Order(s) and/or this First Restated Agreement immediately upon written notice to the defaulting Party, provided that without limiting the preceding rights in this sentence; (i) in the event of a termination by Supplier of an Accepted Purchase Order for a Customer Event of Default under this Section 17, Supplier shall be entitled to at least the Convenience Cancellation Fee set forth in Section 5.2 with respect to undelivered Products under such terminated Accepted Purchase Orders, less any amounts paid to Supplier for such terminated undelivered Products; or (ii) in the event of a termination by Customer of an Accepted Purchase Order for a Supplier Event of Default under this Section 17, Customer shall be entitled to at least a refund of amounts paid for terminated undelivered Products, and any accrued Delivery Delay Damages. Termination or expiration of this First Restated Agreement for any reason other than a default shall not affect or impair the rights and

obligations of either Party, nor relieve any Party of any obligation or liability accrued hereunder prior to such termination or expiration or affect or impair the rights of either Party arising under this First Restated Agreement prior to such termination or expiration.

17.6 **Termination for Bankruptcy.** If the other Party files a petition in bankruptcy, files a petition seeking reorganization, arrangement, composition or similar relief, or makes an assignment for the benefit of creditors, or if any involuntary petition or proceeding under bankruptcy or insolvency laws is instituted against such other Party and not stayed, enjoined or discharged within thirty (30) days, this First Restated Agreement may be terminated by either Party immediately, by giving written notice to the other Party to that effect.

## 18. **Compliance with Laws.**

18.1 **Generally.** Unless otherwise specified in this First Restated Agreement, included in the Purchase Order Price, Supplier shall comply with all applicable federal, state, and local laws, order, and regulations with respect to all goods and services provided by Supplier hereunder, including Delivery and onsite services provided under the Warranty. Supplier shall ensure that its employees, agents, and subcontractors adhere to the same. This First Restated Agreement incorporates by reference all the clauses required by the provisions of said laws, orders, and regulations. Supplier further agrees that it and its employees, agents, and subcontractors comply with all reasonable Project Site compliance requirements of which Supplier receives actual notice, including but not limited to registration of personnel and vehicles, background checks, fingerprints, and other security measures.

18.2 **Hazardous Substances.** In the event Supplier is at the Project Site in connection with the performance of its obligations hereunder, Supplier shall, at its sole cost and expense, arrange and contract for the disposal, transportation and reporting of Hazardous Substances (defined below): (i) brought onto the Project Site by Supplier or its representatives or subcontractors, with the exception of any Hazardous Substances that constitute a part of any Product or Product Components; and (ii) not otherwise installed at the Project Site as part of any Product or Product Components. Such disposal, transportation and reporting shall be by licensed, insured, competent and professional contractors in a safe manner and in accordance with and to the extent required by applicable laws. In the event that Supplier encounters any such Hazardous Substance or other hazardous conditions at the Project Site that could reasonably be expected to impact Customer's or Supplier's obligations hereunder, Supplier shall promptly report the condition to Customer. Supplier shall not be responsible for any pre-existing hazardous conditions or Hazardous Substances at the Project Site, except to the extent that Supplier, with actual knowledge of such pre-existing Hazardous Substances, negligently or intentionally causes the release of, or negligently or intentionally exacerbates the condition with respect to, such pre-existing Hazardous Substances. "Hazardous Substances" means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances, pollutants or wastes of any nature regulated by applicable environmental laws.

19. **Arbitration.** The Parties agree that any dispute not resolved amicably by the Parties through mutual negotiation within thirty (30) days from the date a Party raises such dispute in writing shall be resolved by arbitration under the arbitration rules of the American Arbitration Association then in effect, by a panel of three (3) arbitrators appointed in accordance with such rules. The arbitration shall take place in the New York, New York metropolitan area and the language of the arbitration shall be English. Either Party may apply to any court having jurisdiction for injunctive relief necessary to protect its rights pending resolution of the arbitration. The award of arbitration shall be final and binding upon the Parties, and judgment thereon may be entered by any court of competent jurisdiction. The arbitrators may order equitable or injunctive relief consistent with the remedies and limitations in this First Restated Agreement. All information disclosed in connection with the arbitration, including the existence of the

arbitration, will be Confidential Information governed by Section 16. The Parties may, however, disclose such information to an appropriate court, under confidentiality restrictions, as necessary to seek enforcement of any arbitration award or judgment or to seek any relief permitted under the terms hereof. The arbitrators shall award the prevailing Party in any dispute reimbursement of its arbitration costs and fees, including without limitation reasonable attorneys' fees, paid by the non-prevailing Party.

20. **Quarterly Meetings.** During the Term the Parties shall have quarterly meetings prior to the end of each calendar quarter to review sales and marketing policies and the outcome of such meetings shall be reported to each Party's management. The meeting held prior to the end of the fourth (4th) quarter of each year shall include discussions regarding annual sales and marketing policies, as well as new product introduction efforts and any major changes to the company structure coming in the next calendar year. All such meetings shall take place on dates agreed upon by the Parties.

21. **Restrictions on Data and System Access.** Supplier will only collect and use data and information (i) related to the operations of the Products that will be made available to Supplier by Customer, (ii) for Supplier's internal product research and development purposes, or (iii) that Customer allows to be collected directly by Supplier in the normal course of monitoring the Products' performance and reliability which is required by Supplier for the performance of its obligations under this First Restated Agreement. Customer shall make the data required by Supplier for the performance of Supplier's obligations hereunder available on an as-needed basis. The costs of remote data transmission from the Project Sites shall be borne by Customer. Supplier shall not collect or have access to Customer data or information or meter data related to the installed Products except as provided in this Section 21. Supplier may only use such data in the performance of the services under this First Restated Agreement and will not disclose any data or information to any third party (except as provided in this First Restated Agreement regarding maintenance and support) or otherwise use data or information for its internal operations. Customer may audit the collection and use of such data and information by Supplier. All data and information will be subject to physical, access and other security controls, and will be secured and encrypted when stored and accessed or transferred across any private or public network. Supplier's security systems and protocols related to data provided by Customer and/or collected by Supplier from the Products will be consistent with those guidelines established by ISO 27001:2013. All logins by Supplier personnel shall be identifiable to specific individuals. Within thirty (30) days of the First Restated Agreement Effective Date, and to the extent not already completed by such date: (a) Supplier shall provide Customer with documentation describing Supplier's internal controls related to data security and Supplier's obligations under this First Restated Agreement; and (b) Supplier and Customer shall work collaboratively to ensure that all requirements of this Section 21 are fulfilled. Supplier acknowledges and agrees that all Customer software and other Customer proprietary technology provided to Supplier and that is or becomes part of the Products is the sole property of Customer and constitutes valuable trade secrets and intellectual property of Customer. Customer acknowledges and agrees that all Supplier software and proprietary technology that is part of the Products is the sole property of Supplier and constitutes valuable trade secrets and intellectual property of Supplier. Supplier agrees that it will not attempt to gain access to any software or other proprietary technology or any data or information generated by the Products, and will not attempt to copy, reverse engineer or otherwise exploit Customer's software and other proprietary technology.

22. **Environmental Attributes.** Supplier hereby waives and disclaims any rights to any Environmental Attributes as part of the transaction relating to this First Restated Agreement and/or the Products sold hereunder. All Environmental Attributes shall belong to Customer or Customer's affiliates, and Supplier hereby assigns the same to Customer to extent of Supplier's rights, if any. "Environmental Attributes" means any and all credits, tradeable credits or certificates, benefits, incentives, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from or installation of the Products or services purchased under this First Restated Agreement. Environmental Attributes include but are not limited to: (a) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants identified now or in the future; (b) any avoided emissions of carbon dioxide (CO2), methane (CH4) and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere or that are subject to reporting pursuant to 40 CFR Part 98; (c) investment and/or production tax credits associated with the construction or operation of the energy projects and other financial incentives in the form of credits, reductions, or allowances associated with the project that are applicable to a state or federal income or other taxation obligation; (d) reporting rights to these avoided emissions in compliance with federal or state law, if applicable, and to a federal or state agency or any other party including without limitation those reporting rights accruing under Section 1605(b) of The Energy Policy Act of 1992, 42 U.S.C. 13385(b), and the rules promulgated thereunder, and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program; and (e) state incentives, such as the Self Generation Incentive Plan (SGIP) in California or other similar or like programs in other states, cities, municipalities, utilities, school districts or other similar entities.

23. **Recycling of Product.** At the end of the functional life or end of the LCW Warranty Period associated with the Product, whichever occurs first, upon written notice from Customer, Supplier agrees to make all reasonable efforts to recycle the Product or Product Components in an environmentally responsible way; provided, that Customer pays the cost of packing the Products for shipment and shipping the Products to Supplier's then-designated global location (including any duties, tariffs, and other costs).

24. **Bankability Report.** Upon request by Customer, Supplier shall provide to Customer a report developed by a U.S. nationally recognized independent engineer ("I.E."), reasonably approved by Customer. For clarity, Supplier's acquisition or lack thereof of this report shall not be deemed cause for breach or termination of this First Restated Agreement.

25. **General Terms.**

25.1 **Governing Law and Trade Terms.** This First Restated Agreement shall be governed by the laws of New York without regard to conflicts of laws provisions thereof. English shall be the governing language of this First Restated Agreement.

25.2 **Communications and Notices.** All approvals, consents, notices, and other communications required or permitted hereunder shall be in writing, even if not specifically designated herein. All notices, claims, requests, demands and other communications that the Parties may give to each other pursuant to this First Restated Agreement shall be in writing and shall be hand delivered or sent by registered or certified mail postage prepaid, return receipt requested, or by facsimile or by overnight courier service, postage prepaid, or by email, to the Parties at the applicable address set forth on the signature page hereto or to such other address or as either Party shall designate by written notice given in accordance with this Section 25.2. Notices given by facsimile or overnight mail shall be deemed given one (1) business day after being sent, and notices given by registered or certified mail shall be deemed given three (3) business days after being sent. Notice given by email shall be deemed given upon a receipt confirmation email sent by the receiving Party.



25.3 Trademark Use. Except as set forth herein, neither Party shall issue any news release or permit any publicity or advertisement, or otherwise use the other Party's trade name, logo, trademark, trade device, service mark or symbol owned by such Party (the foregoing, "Trademarks").

25.4 Press Release. Within approximately thirty days of the Effective Date of a Purchase Order, the Parties will issue a press release related to the Project (the "Release") Supplier will draft the Release and provide to Customer for review and comment. The Release shall not be issued without the prior consent of Customer, which consent shall not be unreasonably withheld or delayed. In the Release, Supplier may use Customer's Trademark. During performance of the Work, Supplier may, through any media, use Customer's Trademarks in promotional materials, case studies or lists (the "Publicity"); provided, that Supplier shall include protective legends necessary to protect Customer's rights in and to its Trademarks. Supplier will draft the Publicity and provide it to Customer for its approval, provided that if Customer does not disapprove of such Publicity in writing within ten (10) days of its delivery by Supplier, Customer will be deemed to have approved of Publicity.

25.5 Assignment; Binding Effect.

(a) Neither Party shall, in any way, assign, transfer, or sub-contract its rights and obligations under this First Restated Agreement to any third party without the prior written consent of the other Party (such consent not to be unreasonably withheld) except as provided in this First Restated Agreement (including, but not limited to, transfers of title). Any assignment in contravention of this Section 25.5 is void and unenforceable.

(b) Notwithstanding Section 25.5(a), the Warranty set forth in **Exhibit E-1, Exhibit E-2, and Exhibit E-3** (if elected by Customer) is assignable according to the terms of the Warranty. Assignees of the Warranty will have all rights of Customer under **Exhibit E-1, Exhibit E-2, and Exhibit E-3** (if elected by Customer) as against Supplier under the Warranty as set forth in Section 11.2 herein.

(c) After issuing to Supplier a Purchase Order in the name of Customer, Customer may assign rights under one or more Purchase Orders: (i) to an affiliate of Customer as long as such affiliate meets Supplier's creditworthiness standards (and any successors and assigns), as determined by Supplier; or (ii) so long as the Purchase Order Price is paid in full, and there are no past due amounts under the LTSA (if any), prior to the assignment.

25.6 Entire Agreement; Amendment. This First Restated Agreement embodies and sets forth the entire agreement and understanding of the Parties and supersedes all prior oral or written agreements understandings or arrangements relating to the subject matter of this First Restated Agreement. No modification, deletion, addition or waiver of the terms of this First Restated Agreement shall be binding on either Party unless made in writing and signed by a duly authorized representative of each Party.

25.7 Severability. In the event that any provision or provisions of this First Restated Agreement is held invalid or unenforceable for any reason under any jurisdiction, the invalidity or unenforceability of such provision or provisions shall not operate to invalidate the other provisions of this First Restated Agreement, and shall not operate to invalidate such provision or provisions in any other jurisdiction. Each provision of this First Restated Agreement shall be considered as a separate and divisible agreement.



25.8 Non-Waiver. No failure or delay on the part of either Party hereto to exercise any right or remedy under this First Restated Agreement shall be construed or operated as a waiver thereof. The rights and remedies provided in this First Restated Agreement are cumulative and are not exclusive of any rights or remedies provided by law.

25.9 Independent Contractors. The Parties are independent contractors, and nothing in this First Restated Agreement shall be construed to create a partnership, agency, or other similar relationship. Neither Party shall, under any circumstances, represent itself as having the power and authority to bind the other Party into an agreement or legally binding obligation.

25.10 Force Majeure. Neither Party shall be held responsible for any delays nor non-performance of its obligations hereunder that are attributable to Force Majeure. With regard to the occurrence of a Force Majeure event, the Parties' obligations (except those relating to confidentiality and payment for Product already delivered) shall be suspended during the pendency of the Force Majeure event, and adjustments shall be made to the Guaranteed Delivery Date(s) and general delivery schedule for the period of the Force Majeure event and subsequent recovery therefrom. "Force Majeure" means the occurrence of any event which is outside of the reasonable control of the affected Party and not due to the fault or negligence of a Party, which are reasonably unforeseeable, unavoidable or insurmountable, and which prevent total or partial material performance by either Party. A Force Majeure event shall include, without limitation: war, blockade, revolution, insurrection, riot, or civil disturbance; serious fire, drought, flood, typhoon, earthquake, volcanic eruption, tornado, hurricane, tsunamis or other perils of the sea, extreme high winds, dust or sand storms or other extreme weather of sufficient intensity to prevent safe performance of work; vandalism, sabotage, and acts or threats of terrorism; any labor disturbance, strike or dispute (except as noted below), embargoes, closing or accidents to harbors, docks or canals; epidemic, pandemic, quarantine, acts of God, or other events as reasonably mutually agreed upon by the Parties in writing. The Party claiming Force Majeure shall promptly inform the other Party in writing and shall furnish within [ ] after learning of the impact of the event or circumstances sufficient proof of the occurrence and duration of such Force Majeure. The Party claiming Force Majeure shall also use commercially reasonable efforts to mitigate the Force Majeure and shall promptly consult with the other in order to find an equitable solution and minimize the consequences of such Force Majeure. As soon as the non-performing Party can safely resume performance of its obligations hereunder, that Party shall give the other Party written notice to that effect and shall promptly resume performance. The burden for proving the existence of a Force Majeure event shall be on the Party claiming relief from such Force Majeure. In the event that a Force Majeure event exceeds [ ] in duration, either Party shall be able to terminate the affected Purchase Order(s) without any liability, and any and all amounts paid by Customer with respect to Accepted Purchase Order(s) shall be held by Supplier to be applied to one or more future Purchase Order(s). The following, without limitation, shall not be considered a Force Majeure (in each case, except to the extent such events or conditions themselves are caused solely by a Force Majeure event):

- (a) the inability of a Party to make payments as and when due;
- (b) the inability of a Party to obtain raw materials or components from suppliers;
- (c) general changes in market conditions for raw materials, components, shipping costs;
- (d) changes in import duties or tariffs; and
- (e) labor disturbances, strikes or disputes that are specific only to a Party and/or its suppliers.

25.11 **Survival.** Neither the expiration nor termination of this First Restated Agreement shall relieve either Party of any obligation previously accrued, nor any obligation persisting, accruing or arising thereafter. Termination or expiration of this First Restated Agreement shall not release either Party from the obligation to make payment to the other Party of all amounts then and thereafter due and payable under this First Restated Agreement. The provisions of Section 11 (Warranty and Product Failures), Section 15 (Indemnity), Section 16 (Confidentiality), Section 19 (Arbitration), Section 25 (General Terms), Section 26 (Consequential Damages), and Section 27 (Limitations) shall survive the expiration or termination of this First Restated Agreement.

25.12 **Liquidated Damages.** The Parties agree that it would be impracticable or extremely difficult to determine the actual damages resulting from certain acts or omissions of Supplier; therefore the Parties further agree that those damages identified as “Liquidated Damages”, excluding any remedied as described in the LTSA, represent a reasonable estimate of fair compensation for the foreseeable losses resulting from Supplier’s acts or omissions, and such damages are not intended to be a penalty upon Supplier. The cumulative liquidated damages due with respect to Products purchased under an Accepted Purchase Order shall not exceed [ ] percent ([ ]%) of the total value of such Purchase Order Price.

26. **Consequential Damages.** EXCEPT FOR INDEMNIFICATION OBLIGATIONS HEREIN, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, OR PUNITIVE DAMAGES (INCLUDING WITHOUT LIMITATION LOSS OF ACTUAL OR ANTICIPATED PROFITS, REVENUES OR PRODUCT; LOSS BY REASON OF SHUTDOWN OR NON-OPERATION; INCREASED EXPENSE OF OPERATION, BORROWING OR FINANCING; LOSS OF USE OR PRODUCTIVITY; AND INCREASED COST OF CAPITAL), WHETHER THE CLAIM IS BASED ON CONTRACT, TORT, STRICT LIABILITY, OR ANY OTHER THEORY OF LAW OR EQUITY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FOR AVOIDANCE OF DOUBT, LIQUIDATED DAMAGES AMOUNTS AGREED HEREIN SHALL NOT BE CONSIDERED CONSEQUENTIAL DAMAGES.

27. **Limitations.** Each Party’s liability hereunder shall in no event exceed the total Purchase Order Price under the applicable Purchase Order(s); provided, however, that notwithstanding the foregoing, no such limitation shall apply to: (a) any indemnification obligations set forth herein; (b) any liability pursuant to Section 16 (Confidentiality); and/or (c) the gross negligence or willful misconduct of a Party.

28. **Security Interest.** Subject to Section 4.2, Customer acknowledges and agrees that Supplier will have the right to make any security filings, including protective filings under the Uniform Commercial Code, to defend and protect Supplier’s right, title and interest in and to the Products. Supplier agrees to release any security interests on any Products once title has passed to Customer in accordance with Section 4.4.

29. **Trade Credit Insurance.** To secure the payment obligations of Customer to Supplier, Supplier shall have the right to obtain trade credit insurance (“Trade Credit Insurance”), and the cost of such Trade Credit Insurance shall be included in the Purchase Order Price, with payment terms and credit limits more particularly set forth in **Exhibit C**.

30. **Ethics.** Supplier agrees to comply with the Stem Vendor Ethics and Code of Conduct set forth in **Exhibit I**. Supplier’s acceptance of each Purchase Order shall be deemed a representation and warranty that Supplier shall comply with, and cause all of its subcontractors and sub-suppliers to comply with, all applicable law in effect at the time of such Purchase Order acceptance that prohibits the importation into the United States of any Products or Product Components that were manufactured with forced or involuntary labor. Supplier shall be responsible for ensuring adequate supply chain traceability for Products or Product Components for successful importation of such Products or Product Components into the United States.

31. **Discontinued Products.**

1.1 Definitions. “Product Discontinuation” means a process by which the electrical or mechanical components of a Product become no longer compatible with Product specification or the Product itself will no longer be in mass production, and there is replacement product then-available that is a compatible replacement. “Last Buy” means the Products that Customer or System Owner purchases from Supplier prior to Product Discontinuation to account for the anticipated rate of defect for such Products.

1.1 Product Discontinuation Notice. Supplier shall notify Customer of its plan for Product Discontinuation six (6) months prior to the date on which such Product Discontinuation takes effect. Customer shall determine the Last Buy amount and notify Supplier within sixty (60) days of receiving Supplier’s notification of Product Discontinuation (“Customer’s Last Buy Notice”). Supplier shall confirm the Last Buy amount and supply schedule within thirty (30) days of receiving Customer’s Last Buy Notice.

1.2 Product Availability. Product(s) defined in **Exhibit A** and with an Accepted Purchase Order will be maintained in production for a minimum of eighteen (18) months from the time of Purchase Order acceptance.

32. Effect of First Restated Agreement. The terms of this First Restated Agreement shall apply to all Purchase Orders accepted on or after March 1, 2022. Purchase Orders accepted prior to March 1, 2022 shall remain unmodified by this First Restated Agreement.

*[Signatures on following page.]*

IN WITNESS WHEREOF, the Parties have executed this First Restated Agreement as of the date first above written.

**“SUPPLIER”**

**Powin Energy Corporation**

By: /s/ Geoff Brown  
Printed Name: Geoff Brown  
Title: President

Notice Information:

Powin Energy Corporation  
[ ]

**“CUSTOMER”**

**Stem, Inc.**

By: /s/ Bill Bush  
Printed Name: Bill Bush  
Title: CFO

Notice Information:

Stem, Inc.  
100 California Street, Floor 14  
San Francisco, CA 94111  
[ ]

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**Exhibits:**

Exhibit A – List of Products Subject to Agreement

Exhibit B – Liquidated Damages

Exhibit C – Pricing and Order Volumes

Exhibit D – Form of Purchase Order

- Attachment 1 – Statement of Work
- Attachment 2 – Division of Responsibility
- Attachment 3 – Project Schedule
- Attachment 4 – Payment Schedule
- Attachment 5 – Limited Commercial Warranty
  - Schedule A – Project Information; Warranty Eligible Equipment
  - Schedule B – Performance Guarantee
  - Schedule C – Technical Specifications
  - Schedule D – Warranty Claim Process; Warranty Acknowledgment Times
  - Schedule E – Covered Equipment User Manuals
  - Schedule F – Form of Notice of Assignment
- Attachment 6 – Invoice and Account Setup Form
- Attachment 7 – Liquidated Damages Summary
- Attachment 8 – Long-Term Services Agreement (if applicable)

Exhibit E-1 – Form of Limited Commercial Warranty

Exhibit E-2 – Form of Performance Guarantee

Exhibit E-3 – Form of Long-Term Services Agreement

Exhibit F-1 – Supplier Insurance Requirements

Exhibit F-2 – Customer Insurance Requirements

Exhibit G – Form of Change Order

Exhibit H – Form of Commissioning Certificate

- Attachment 1 – Form of Commissioning Checklist

Exhibit I – Stem Vendor Ethics and Code of Conduct

Exhibit J – Notice of Installation Completion Form

**CERTIFICATION OF CHIEF EXECUTIVE OFFICER**

I, John Carrington, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the three months ended September 30, 2022 of Stem, 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 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 and I have disclosed, based on my 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 controls over financial reporting.

**STEM, INC.**

Date: November 3, 2022

By: /s/ John Carrington

Name: John Carrington

Title: Chief Executive Officer

**CERTIFICATION OF CHIEF FINANCIAL OFFICER**

I, William Bush, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the three months ended September 30, 2022 of Stem, 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 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 and I have disclosed, based on my 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 controls over financial reporting.

**STEM, INC.**

Date: November 3, 2022

By: /s/ William Bush

Name: William Bush

Title: Chief Financial Officer

**CERTIFICATION OF CHIEF EXECUTIVE OFFICER  
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 Quarterly Report on Form 10-Q of Stem, Inc. (the "Company") for the three months ended September 30, 2022 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, John Carrington, 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, to my knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"); and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operation of the registrant.

**STEM, INC.**

Date: November 3, 2022

By: /s/ John Carrington

Name: John Carrington

Title: Chief Executive Officer

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

This certification accompanies the Report pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not be deemed filed by the Company for purposes of Section 18 of the Exchange Act.



**CERTIFICATION OF CHIEF FINANCIAL OFFICER  
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 Quarterly Report on Form 10-Q of Stem, Inc. (the “Company”) for the three months ended September 30, 2022 as filed with the Securities and Exchange Commission on the date hereof (the “Report”), I, William Bush, 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, to my knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”); and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operation of the registrant.

**STEM, INC.**

Date: November 3, 2022

By: /s/ William Bush

Name: William Bush  
Title: Chief Financial Officer  
(Principal Financial Officer)

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

This certification accompanies the Report pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not be deemed filed by the Company for purposes of Section 18 of the Exchange Act.