

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

FORM 10-Q

(Mark One)

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

For the quarterly period ended June 30, 2023

or

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

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

Commission File Number: 000-55789

**BANTEC, INC.**

(Exact Name of Registrant as Specified in Its Charter)

<b>Delaware</b>	<b>30-0967943</b>
(State or Other Jurisdiction of Incorporation or Organization)	(I.R.S. Employer Identification No.)
<b>37 Main Street, Sparta NJ 07871</b>	<b>07424</b>
(Address of Principal Executive Offices)	(Zip Code)

Registrant's Telephone Number, Including Area Code: **(203) 220-2296**

**195 Paterson Ave, Little Falls NJ 07424**

(Former Name, Former Address and Former Fiscal Year, if Changed Since Last Report)

Securities registered pursuant to Section 12(b) of the Act: None

<b>Title of each class</b>	<b>Trading Symbol(s)</b>	<b>Name of each exchange on which registered</b>
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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   
Non-accelerated filer

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

As of August 30, 2023, there were 6,994,378 shares of the registrant's common stock issued and outstanding.

**BANTEC, INC.**  
**Form 10-Q**  
**June 30, 2023**

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## PART I - FINANCIAL INFORMATION

## ITEM 1. FINANCIAL STATEMENTS

**BANTEC, INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**

	<u>June 30,</u> <u>2023</u>	<u>September 30,</u> <u>2022</u>
	(Unaudited)	
<b><u>ASSETS</u></b>		
<b>CURRENT ASSETS:</b>		
Cash	\$ 43,772	\$ 186,386
Accounts receivable	268,180	419,951
Inventory	55,123	92,917
Prepaid expenses and other current assets	34,527	4,663
<b>TOTAL CURRENT ASSETS</b>	<b>401,602</b>	<b>703,917</b>
Property and equipment, net	1,461	1,461
Right of use asset	140,561	33,568
<b>TOTAL ASSETS</b>	<b>\$ 543,624</b>	<b>\$ 738,946</b>
<b><u>LIABILITIES AND STOCKHOLDERS' DEFICIT</u></b>		
<b>CURRENT LIABILITIES:</b>		
Accounts payable	\$ 2,667,897	\$ 2,730,309
Accrued expenses and interest	6,257,978	5,094,394
Convertible notes, net of debt discount and premiums	585,467	7,422,326
Line of credit	20,000	-
Note payable – seller	834,000	837,000
Current portion notes and loans payable – net of discounts	523,876	217,897
Notes payable – related party	7,151,790	13,537
Mandatorily redeemable Preferred Stock Series C - \$1.50 stated value, 1,000,000 shares designated and authorized, 224,000 issued and outstanding at June 30, 2023	336,000	-
Settlement payable	57,448	154,562
Lease liability - current portion	40,311	34,475
<b>TOTAL CURRENT LIABILITIES</b>	<b>18,474,767</b>	<b>16,504,500</b>
<b>LONG-TERM LIABILITIES:</b>		
Lease liability - long-term portion	100,250	-
Notes and loans payable – net of current portion	150,000	127,539
<b>TOTAL LONG-TERM LIABILITIES</b>	<b>250,250</b>	<b>127,539</b>
<b>TOTAL LIABILITIES</b>	<b>\$ 18,725,017</b>	<b>\$ 16,632,039</b>
Temporary Equity – Convertible Preferred Stock Series B - \$1.50 stated value, 1,000,000 shares designated and authorized, 224,000 and 448,000 issued and outstanding at June 30, 2023 and September 30, 2022, respectively	\$ 461,064	\$ 685,440
<b>Commitments and Contingencies (See Note 15)</b>		
<b>STOCKHOLDERS' DEFICIT:</b>		
Preferred stock - \$0.0001 par value, 5,000,000 shares authorized, Series A preferred stock – no par value, 250 shares designated, issued and outstanding at June 30, 2023 and September 30, 2022, respectively	\$ -	\$ -
Common stock - \$0.0001 par value, 12,000,000,000 shares authorized, 6,994,378 and 4,407,321 shares issued and outstanding at June 30, 2023 and September 30, 2022, respectively	699	441
Additional paid-in capital	19,242,756	19,051,212
Accumulated deficit	(37,885,912)	(35,630,186)
<b>TOTAL STOCKHOLDERS' DEFICIT</b>	<b>(18,642,457)</b>	<b>(16,578,533)</b>
<b>TOTAL LIABILITIES AND STOCKHOLDERS' DEFICIT</b>	<b>\$ 543,624</b>	<b>\$ 738,946</b>

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

**BANTEC, INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE INCOME (LOSS)**  
(Unaudited)

	Three months ended June 30,		Nine months ended June 30,	
	2023	2022	2023	2022
Sales	\$ 590,333	\$ 750,756	\$ 1,819,622	\$ 1,522,781
Cost of Goods Sold	489,822	629,023	1,515,984	1,258,376
Gross Profit	100,511	121,733	303,638	264,405
<b>OPERATING EXPENSES</b>				
Selling, general, and administrative expenses	397,360	477,310	1,393,133	1,679,135
<b>TOTAL OPERATING EXPENSES</b>	397,360	477,310	1,393,133	1,679,135
<b>LOSS FROM OPERATIONS</b>	(296,849)	(355,577)	(1,089,495)	(1,414,730)
<b>OTHER INCOME (EXPENSE)</b>				
Interest and financing costs	(346,534)	(240,715)	(1,166,231)	(844,426)
Gain (loss) on change in fair market value of derivative	-	(20,811)	-	(8,710)
Gains on debt extinguishment, net of prepayment penalty	-	159,846	-	234,933
<b>TOTAL OTHER EXPENSE, NET</b>	(346,534)	(101,680)	(1,166,231)	(618,203)
<b>LOSS BEFORE TAXES</b>	(643,383)	(457,257)	(2,255,726)	(2,032,933)
Provision for Income tax	-	-	-	-
<b>NET LOSS</b>	\$ (643,383)	\$ (457,257)	\$ (2,255,726)	\$ (2,032,933)
Dividends Attributable to Series B Preferred Stock	(34,931)	-	(111,623)	-
<b>NET LOSS AVAILABLE TO COMMON STOCKHOLDERS</b>	\$ (678,314)	\$ (457,257)	\$ (2,367,349)	\$ (2,032,933)
<b>BASIC AND DILUTED NET LOSS PER SHARE AVAILABLE TO COMMON STOCKHOLDERS</b>	\$ (0.10)	\$ (0.12)	\$ (0.38)	\$ (0.68)
<b>BASIC AND DILUTED WEIGHTED AVERAGE SHARES OUTSTANDING</b>	6,993,995	3,761,575	6,281,211	3,003,634

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

**BANTEC, INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' DEFICIT**  
**FOR THE THREE AND NINE MONTHS ENDED JUNE 30, 2023 AND 2022**  
(Unaudited)

	Series A Preferred Stock		Common Stock		Additional Paid-in Capital	Accumulated Deficit	Total Stockholders' Deficit
	No. of Shares	Value	No. of Shares	Value			
<b>Balance at September 30, 2021</b>	250	\$ -	2,470,511	\$ 247	\$ 18,160,515	\$ (32,956,840)	\$ (14,796,078)
Shares issued for cash	-	-	100,000	10	249,990	-	250,000
Shares issued for conversion of notes and reclassification of debt premiums	-	-	122,850	12	185,838	-	185,850
Share-based compensation	-	-	-	-	34,934	-	34,934
Net loss for the three months ended December 31, 2021	-	-	-	-	-	(852,972)	(852,972)
<b>Balance at December 31, 2021</b>	250	-	2,693,361	269	18,631,277	(33,809,812)	(15,178,266)
Shares issued for cash	-	-	540,980	54	324,535	-	324,589
Shares issued for conversion of notes and reclassification of debt premiums	-	-	237,476	23	164,779	-	164,802
Share-based compensation	-	-	-	-	34,174	-	34,174
Net loss for the three months ended March 31, 2022	-	-	-	-	-	(722,704)	(722,704)
<b>Balance at March 31, 2022</b>	250	-	3,471,817	346	19,154,765	(34,532,516)	(15,377,405)
Shares issued for cash	-	-	208,333	21	124,979	-	125,000

Shares issued for conversion of notes and reclassification of debt premiums	-	-	292,855	30	121,379	-	121,409
Net loss for the three months ended June 30, 2022	-	-	-	-	-	(457,257)	(457,257)
<b>Balance at June 30, 2022</b>	<b>250</b>	<b>\$ -</b>	<b>3,973,005</b>	<b>\$ 397</b>	<b>\$ 19,401,123</b>	<b>\$ (34,989,773)</b>	<b>\$ (15,588,253)</b>

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	Series A Preferred Stock		Common Stock		Additional Paid-in Capital	Accumulated Deficit	Total Stockholders' Deficit
	No. of Shares	Value	No. of Shares	Value			
<b>Balance at September 30, 2022</b>	<b>250</b>	<b>\$ -</b>	<b>4,407,321</b>	<b>\$ 441</b>	<b>\$ 19,051,212</b>	<b>\$ (35,630,186)</b>	<b>\$ (16,578,533)</b>
Shares issued for cash	-	-	496,667	49	99,284	-	99,333
Shares issued for conversion of notes and reclassification of debt premiums	-	-	960,120	96	102,501	-	102,597
Preferred Stock Series B dividend	-	-	-	-	(36,960)	-	(36,960)
Net loss for the three months ended December 31, 2022	-	-	-	-	-	(781,675)	(781,675)
<b>Balance at December 31, 2022</b>	<b>250</b>	<b>-</b>	<b>5,864,108</b>	<b>586</b>	<b>19,216,037</b>	<b>(36,411,861)</b>	<b>(17,195,238)</b>
Shares issued for conversion of notes and reclassification of debt premiums	-	-	1,129,887	113	101,382	-	101,495
Preferred Stock Series B dividend	-	-	-	-	(39,732)	-	(39,732)
Net loss for the three months ended March 31, 2023	-	-	-	-	-	(830,668)	(830,668)
<b>Balance at March 31, 2023</b>	<b>250</b>	<b>-</b>	<b>6,993,995</b>	<b>699</b>	<b>19,277,687</b>	<b>(37,242,529)</b>	<b>(17,964,143)</b>
Preferred Stock Series B dividend	-	-	-	-	(34,931)	-	(34,931)
Fractional shares issued from reverse split	-	-	383	-	-	-	-
Net loss for the three months ended June 30, 2023	-	-	-	-	-	(643,383)	(643,383)
<b>Balance at June 30, 2023</b>	<b>250</b>	<b>\$ -</b>	<b>6,994,378</b>	<b>\$ 699</b>	<b>\$ 19,242,756</b>	<b>\$ (37,885,912)</b>	<b>\$ (18,642,457)</b>

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

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**BANTEC, INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(Unaudited)

	For the nine months ended June 30,	
	2023	2022
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>		
Net loss	\$ (2,255,726)	\$ (2,032,933)
<u>Adjustments to Reconcile Net Loss to Net Cash Used in Operating Activities:</u>		
Amortization of debt discounts	276,972	65,753
Accretion of premium on convertible notes	156,000	193,557
Depreciation and intangibles amortization	-	6,698
Share-based compensation expense	-	69,108
Share issued for conversion fees	18,704	3,295
Fee notes issued	156,000	135,000
(Gain) on debt extinguishment	-	(259,215)
(Gain) Loss on derivative, change in fair market value	-	8,710
Non-cash rent expense	-	4
<u>Changes in Assets and Liabilities:</u>		
Accounts receivable	151,771	(153,380)
Inventory	37,794	(41,216)
Prepaid expenses and other assets	(29,864)	24,219
Right of use lease asset	(907)	-
Accounts payable and accrued expenses	1,106,561	739,894
Settlement payable	(97,114)	-
<b>NET CASH USED IN OPERATING ACTIVITIES</b>	<b>(479,809)</b>	<b>(1,240,506)</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>		
Proceeds from issuance of shares	99,333	699,589
Proceeds from line of credit	20,000	-
Net proceeds from notes payable	118,250	-
Repayments of notes payable	(26,042)	-

Net proceeds from convertible notes payable	-	101,250
Repayments of convertible notes	-	(122,766)
Repayments of promissory notes, MFA	(40,741)	-
Net proceeds from notes payable, related party	245,062	125,000
Repayments on notes payable, related party	(75,667)	(76,745)
Repayments on note payable - seller	(3,000)	(27,000)
Repayments of line of credit	-	(4,885)
Repayments of factoring notes	-	(196,764)
<b>NET CASH PROVIDED BY FINANCING ACTIVITIES</b>	<b>337,195</b>	<b>497,679</b>
<b>NET DECREASE IN CASH</b>	<b>(142,614)</b>	<b>(742,827)</b>
<b>CASH AT BEGINNING OF PERIOD</b>	<b>186,386</b>	<b>985,953</b>
<b>CASH AT END OF PERIOD</b>	<b>\$ 43,772</b>	<b>\$ 243,126</b>

#### **Supplemental Disclosure of Cash Flow Information**

##### **Cash paid during the period:**

Interest	\$ 26,067	\$ 26,767
Income Tax	\$ -	\$ -

#### **Supplemental Disclosure of Non-Cash Investing and Financing Activities**

Issuance of common stock for conversion of convertible notes and accrued interest	\$ 95,388	\$ 305,286
Reclassification of debt premium upon conversion of convertible debt	\$ 90,000	\$ 163,480
Debt discount	\$ 38,000	\$ 7,500
Right-of-use asset and lease liability pursuant to ASC 842	\$ 140,561	\$ -
Value of Series C preferred stock in connection with an Exchange Agreement	\$ 336,000	\$ -
Purchase of convertible note by related party	\$ 5,747,872	\$ -
Transfer of debt premium upon purchase by related party	\$ 1,220,986	\$ -

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

**BANTEC, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**June 30, 2023**  
**(Unaudited)**

#### **NOTE 1 - NATURE OF OPERATIONS**

Bantec, Inc. is a company providing products and services (“Bantec” or the “Company”), targeting the U.S. Government, state governments, municipalities, hospitals, universities, manufacturers and other building owners. Bantec provides product procurement, distribution, and logistics services through its wholly-owned subsidiary, Howco Distributing Co. (“Howco”) to the U.S. Department of Defense and Defense Logistics Agency. The Company established Bantec Sanitizing, LLC in fiscal 2021, which offers sanitizing products and equipment through its online store - bantec.store. The Company has operations based in Sparta, New Jersey and Vancouver, Washington. Howco operates in Vancouver, Washington and all other operations are in Sparta, New Jersey. The Company continues to seek strategic acquisitions and partnerships that would offer it an opportunity to grow sales and profit.

On July 11, 2023, the Company filed a certificate of amendment to its certificate of incorporation, as amended, to effect a one-for-one thousand (1:1,000) Reverse Stock Split (the “Reverse Stock Split”). Proportional adjustments for the Reverse Stock Split were made to the Company’s outstanding stock options, warrants and equity incentive plans. All share and per-share data and amounts have been retroactively adjusted as of the earliest period presented in the consolidated financial statements to reflect the Reverse Stock Split.

#### **NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND GOING CONCERN**

##### *Basis of Presentation and Principles of Consolidation*

The Company prepares its consolidated financial statements in accordance with U.S. generally accepted accounting principles (“GAAP”). The accompanying consolidated financial statements include the accounts of Bantec Inc. and its wholly-owned subsidiaries, Drone USA, LLC, Bantec Construction, LLC, Bantec Sanitizing, LLC, Bantec Logistics LLC and Howco. Bantec Construction, LLC, Bantec Logistics LLC and Bantec Sanitizing, LLC are in start-up stages with minor revenues and cash expenditures. All significant intercompany accounts and transactions have been eliminated in consolidation.

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (“GAAP”) and the rules and regulations of the Securities and Exchange Commission (“SEC”) for interim financial information. Accordingly, certain information and footnote disclosures normally included in financial statements in accordance with GAAP have been omitted. In the opinion of management, all adjustments (consisting of normal recurring adjustments) considered necessary for a fair presentation have been included. Operating results for the nine months ended June 30, 2023 are not necessarily indicative of the results that may be expected for the year ending September 30, 2023. The unaudited condensed consolidated financial statements should be read in conjunction with the audited consolidated financial statements as of and for the year ended September 30, 2022 and footnotes thereto included in the Company’s Annual Report on Form 10-K filed with the SEC on January 12, 2023. The consolidated balance sheet as of September 30, 2022 contained herein has been derived from the audited consolidated financial statements as of September 30, 2022 but does not include all disclosures required by GAAP.

##### *Going Concern*

The accompanying consolidated financial statements have been prepared assuming the Company will continue as a going concern, which contemplates the recoverability of assets and the satisfaction of liabilities in the normal course of business. For the nine months ended June 30, 2023, the Company has incurred a net loss of \$2,255,726 and used cash in operations of \$479,809. The working capital deficit, stockholders’ deficit and accumulated deficit was \$18,073,165, \$18,642,457 and \$37,885,912, respectively, at June 30, 2023. On September 6, 2019, the Company received a default notice on its payment obligations under the senior secured credit facility agreement which was previously in default (see Note 9). The Company also defaulted on its Note Payable – Seller in September 2017 and has since defaulted on other promissory notes. As of June 30, 2023, the Company has received demands for payment of past due amounts from several consultants and service providers. It is the management’s opinion that these matters raise substantial doubt about the Company’s ability to continue as a going concern for a period of twelve months from the issuance date of this report. The ability of the Company to continue as a going concern is dependent upon the management’s ability to

further implement its business plan and raise additional capital as needed from the sales of stock or debt. The Company has continued to implement cost-cutting measures and restructuring or setting up payment plans with vendors and service providers and plans to raise equity through a private placement, and restructure or repay its obligations. The accompanying consolidated financial statements do not include any adjustments that might be required should the Company be unable to continue as a going concern. However, additional funding may not be available to the Company on acceptable terms, or at all. Any failure to raise capital as and when needed could have a negative impact on the Company's ability to pursue its business plans and strategies, and the Company would likely be forced to delay, reduce, or terminate some or all of its activities, all of which could have a material adverse effect on the Company's business, results of operations and financial condition.

**BANTEC, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**June 30, 2023**  
**(Unaudited)**

*Use of Estimates*

The preparation of consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Significant estimates include the allowance for bad debt on accounts receivable, reserves on inventory, valuation of intangible assets for impairment analysis, valuation of the lease liability and related right-of-use asset, valuation of stock-based compensation, valuation of redeemable preferred stock, valuation of derivative liabilities, and the valuation allowance on deferred tax assets.

*Fair Value Measurements*

The Company follows the FASB *Fair Value Measurements* standard, as it applies to its financial instruments. This standard defines fair value, outlines a framework for measuring fair value, and details the required disclosures about fair value measurements.

Fair value is defined as the price that would be received to sell an asset, or paid to transfer a liability, in an orderly transaction between market participants at the measurement date. The standard establishes a hierarchy in determining the fair value of an asset or liability. The fair value hierarchy has three levels of inputs, both observable and unobservable. Level 1 inputs include quoted market prices for identical assets or liabilities in an active market that the Company has the ability to access at the measurement date. Level 2 inputs are market data, other than Level 1, that are observable either directly or indirectly. Level 2 inputs include quoted market prices for similar assets or liabilities, quoted market prices in an inactive market, and other observable information that can be corroborated by market data. Level 3 inputs are unobservable and corroborated by little or no market data. The standard requires the utilization of the lowest possible level of input to determine fair value and carrying amounts of current liabilities approximate fair value due to their short-term nature.

The estimated fair value of certain financial instruments, including cash and cash equivalents, accounts receivable, accounts payable and accrued expenses are carried at historical cost basis, which approximates their fair values because of the short-term nature of these instruments.

The Company's non-financial assets, such as ROU assets, and property and equipment, are adjusted to fair value only when an impairment is recognized. Such fair value measurements are based predominantly on Level 3 inputs.

*Cash and Cash Equivalents*

Cash equivalents consist of liquid investments with maturities of three months or less at the time of purchase. There are no cash equivalents at the balance sheet dates.

*Accounts Receivable*

Trade receivables are recorded at net realizable value consisting of the carrying amount less the allowance for doubtful accounts, as needed. Factors used to establish an allowance include the credit quality of the customer and whether the balance is significant. The Company may also use the direct write-off method to account for uncollectible accounts that are not received. Using the direct write-off method, trade receivable balances are written off to bad debt expense when an account balance is deemed to be uncollectible.

**BANTEC, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**June 30, 2023**  
**(Unaudited)**

*Inventory*

Inventory consists of finished goods, which are purchased directly from manufacturers. The Company utilizes a just-in-time type of inventory system where products are ordered from the vendor only when the Company has received sales order from its customers. Inventory is stated at the lower of cost and net realizable value on a first-in, first-out basis.

*Property & Equipment*

Property and equipment are stated at cost and depreciated over their estimated useful lives. Maintenance and repairs are charged to expense as incurred. When assets are retired or disposed of, the cost and accumulated depreciation are removed from the accounts, and any resulting gains or losses are included in income in the year of disposition. The Company examines the possibility of decreases in the value of these assets when events or changes in circumstances reflect the fact that their recorded value may not be recoverable. The assets are fully operational drones used as demonstration units and each unit exceeds management's threshold for capitalization of \$2,000. The Company depreciates these demonstration units over a period of 3 years. No depreciation was recognized during the nine months ended June 30, 2023, as the related equipment was depreciated to salvageable value as of September 30, 2021. Management believes that the salvageable value of \$1,461 is an adequate representation of the value of the demonstration drones at June 30, 2023.

*Long-Lived Assets*

Long-lived assets are reviewed for impairment whenever events or changes in circumstances indicate that the carrying value may not be recoverable. Impairment is determined by comparing the carrying value of the long-lived assets to the estimated undiscounted future cash flows expected to result from use of the assets and their ultimate disposition. In instances where impairment is determined to exist, the Company writes down the asset to its fair value based on the present value of estimated future cash flows.

*Deferred Financing Costs*

All unamortized deferred financing costs related to the Company's borrowings are presented in the consolidated balance sheets as a direct deduction from the related debt. Amortization of these costs is reported as *interest and financing costs* included in the consolidated statement of operations.

#### *Revenue Recognition*

The Company follows Accounting Standards Codification ("ASC") 606, Revenue From Contracts With Customers, which has a five-step process: a) Determine whether a contract exists; b) Identify the performance obligations; c) Determine the transaction price; d) Allocate the transaction price; and e) Recognize revenue when (or as) performance obligations are satisfied.

The Company sells a variety of products to government entities. The purchase order received specifies each item and its manufacturer; the Company only needs to fulfill the performance obligation by shipping the specified items. No other performance obligations exist under the terms of the contracts. The Company recognizes revenue for the agreed upon sales price when the product is shipped to the customer, which satisfies the performance obligation.

The Company through its subsidiary Howco enters into contracts to package products for a third-party company servicing the same government customer base. The contracts are based on the job lot as shipped to Howco for packaging. The customer is billed upon completion each job lot at which time revenue is recognized.

The Company sells drones and related products manufactured by third parties to various parties, primarily local government entities. Contracts for drone related products and services sales will be evaluated using the five-step process outline above. There have been no material sales for drone products or other services for which full compliance with performance obligations has not been met. Upon significant sales for drone products, the Company will disaggregate sales by these lines of business and within the lines of business to the extent that the product or service has different revenue recognition characteristics.

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The Company began sales of sanitizing products and services during the year ended September 30, 2022. Revenue for this line of business is recognized upon shipment and delivery of training services (as applicable).

#### *Stock-based compensation*

Stock-based compensation is accounted for based on the requirements of ASC 718 – "*Compensation – Stock Compensation*", which requires recognition in the financial statements of the cost of employee and director services received in exchange for an award of equity instruments over the period the employee or director is required to perform the services in exchange for the award (presumptively, the vesting period). The ASC also requires measurement of the cost of employee and director services received in exchange for an award based on the grant-date fair value of the award. The Company utilizes the Black-Sholes option pricing model and uses the simplified method to determine expected term because of lack of sufficient exercise history. Additionally, effective October 1, 2016, the Company adopted the Accounting Standards Update No. 2016-09 ("ASU 2016-09"), *Improvements to Employee Share-Based Payment Accounting*. Among other changes, ASU 2016-09 permits the election of an accounting policy for forfeitures of share-based payment awards, either to recognize forfeitures as they occur or estimate forfeitures over the vesting period of the award. The Company has elected to recognize forfeitures as they occur and the cumulative impact of this change did not have any effect on the Company's consolidated financial statements and related disclosures.

As of October 1, 2018, the Company has early adopted ASU 2018-7 Compensation-Stock Compensation which conforms the accounting for non-employees to the accounting treatment for employees. The new standard replaces using a fair value as of each reporting date with use of the calculated fair value as of the grant date. The implementation of the standard provides for the use of the fair market value as of the adoption date, rather than using the value as of the original grant date. Therefore, the values calculated and reported at September 30, 2018 become a proxy for the grant date value. The Company utilizes the Black-Sholes option pricing model and uses the simplified method to determine expected term because of lack of sufficient exercise history. There was no cumulative effect on the adoption date.

#### *Shipping and Handling Costs*

The Company has included freight-out as a component of cost of sales, which amounted to \$39,382 and \$45,316 for the nine months ended June 30, 2023 and 2022, respectively.

#### *Convertible Notes with Fixed Rate Conversion Options*

The Company may enter into convertible notes, some of which contain, predominantly, fixed rate conversion features, whereby the outstanding principal and accrued interest may be converted by the holder, into common shares at a fixed discount to the market price of the common stock at the time of conversion. This results in a fair value of the convertible note being equal to a fixed monetary amount. The Company records the convertible note liability at its fixed monetary amount by measuring and recording a premium, as applicable, on the Note date with a charge to interest expense in accordance with ASC 480 - "Distinguishing Liabilities from Equity".

#### *Derivative Liabilities*

The Company has certain financial instruments that are derivatives or contain embedded derivatives. The Company evaluates all its financial instruments to determine if those contracts or any potential embedded components of those contracts qualify as derivatives to be separately accounted for in accordance with ASC 810-10-05-4 and 815-40. This accounting treatment requires that the carrying amount of any derivatives be recorded at fair value at issuance and marked-to-market at each balance sheet date. In the event that the fair value is recorded as a liability, as is the case with the Company, the change in the fair value during the period is recorded as either other income or expense. Upon conversion, exercise or repayment, the respective derivative liability is marked to fair value at the conversion, repayment or exercise date and then the related fair value amount is reclassified to other income or expense as part of gain or loss on extinguishment.

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#### *Lease Accounting*

In February 2016, the FASB issued ASU No. 2016-02, *Leases*, which requires lessees to report on their balance sheets a right-of-use asset and a lease liability in connection with most lease agreements classified as operating leases under the prior guidance (ASC Topic 840). Under the new guidance, codified as ASC Topic 842, the lease liability must be measured initially based on the present value of future lease payments, subject to certain conditions. The right-of-use asset must be measured initially based on the amount of the liability, plus certain initial direct costs. The new guidance further requires that leases be classified at inception as

either (a) operating leases or (b) finance leases. For operating leases, generally is flat (straight-line) throughout the life of the lease. For finance leases, periodic expense declines over the life of the lease. The new standard, as amended, provides an option for entities to use the cumulative-effect transition method. As permitted, the Company adopted ASC Topic 842 effective June 1, 2020. The adoption of ASC Topic 842 did not have a material impact on the Company's consolidated financial statements.

In 2020, the Company's subsidiary renewed the lease for the warehouse and office facility in Vancouver, Washington through May 30, 2023, and accounted for it under ASC 842. The Company signed the seventh amendment to the lease on May 2, 2023 extending the lease end date to May 31, 2026 with two additional option years. The corporate office is an annual arrangement which provides for a single office in a shared office environment and is exempt from ASC 842 treatment. The Company recognized a lease liability of \$140,561 and the related right-of-use asset for the same amount and will amortize both over the life of the lease.

#### *Income Taxes*

The Company's current provision for income taxes is based upon its estimated taxable income in each of the jurisdictions in which it operates, after considering the impact on taxable income of temporary differences resulting from different treatment of items for tax and financial reporting purposes. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases and any operating loss or tax credit carryforwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the year in which those temporary differences are expected to be recovered or settled. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income in those periods in which temporary differences become deductible. Should management determine that it is more likely than not that some portion of the deferred tax assets will not be realized, a valuation allowance against the deferred tax assets would be established in the period such determination was made. The Company follows the accounting for uncertainty in income taxes guidance, which clarifies the accounting and disclosures for uncertainty in income taxes recognized in the Company's financial statements and prescribes a recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. It also provides guidance on derecognition and measurement of a tax position taken or expected to be taken in a tax return.

The Company currently has no federal or state tax examinations in progress. As of June 30, 2023, the Company's tax returns for the tax years 2022, 2021 and 2020 remain subject to audit, primarily by the Internal Revenue Service.

The Company did not have material unrecognized tax benefits as of June 30, 2023 and does not expect this to change significantly over the next 12 months. The Company will recognize interest and penalties accrued on any unrecognized tax benefits as a component of the provision for income taxes.

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#### *Net Loss Per Share*

Basic loss per share is calculated by dividing the loss attributable to stockholders by the weighted-average number of shares outstanding for the period. Diluted loss per share reflects the potential dilution that could occur if securities or other contracts to issue common stock were exercised or converted into common stock or resulted in the issuance of common stock that shared in the earnings (loss) of the Company. Diluted loss per share is computed by dividing the loss available to stockholders by the weighted average number of shares outstanding for the period and dilutive potential shares outstanding unless such dilutive potential shares would result in anti-dilution. It should be noted that contractually the limitations on the third-party notes (and the related warrants) limit the number of shares converted to either 4.99% or 9.99% of the then outstanding shares. The Company's CEO and Chairman of the Board of Directors holds all issued and outstanding shares of Series A Preferred Stock, which confers upon him a majority vote in all Company matters including authorization of additional shares of common stock or reverse stock split. As of June 30, 2023 and 2022, potentially dilutive securities consisted of the following:

	<b>June 30, 2023</b>	<b>June 30, 2022</b>
Stock options	16	16
Warrants	2,240,000	399,257
Series B Preferred Stock	922,128,000	-
Third party convertible debt	1,108,244,329	18,643,854
<b>Total</b>	<b>2,032,612,345</b>	<b>19,043,127</b>

#### *Segment Reporting*

The Company uses "the management approach" in determining reportable operating segments. The management approach considers the internal organization and reporting used by the Company's chief operating decision maker for making operating decisions and assessing performance as the source for determining the Company's reportable segments. The Company's chief operating decision maker is the chief executive officer of the Company, who reviews operating results to make decisions about allocating resources and assessing performance for the entire Company. For the nine months ended June 30, 2023, the Company had three operating segments. Howco generated 99.78% of the consolidated sales which are primarily from department of defense. Drone LLC generated less than 0.22% of sales primarily due to state and municipal government purchases of drones and accessories. Bantec Sanitizing Inc. had no contribution to consolidated sales of its sanitizing products for the nine months ended June 30, 2023. Howco had 87% of the consolidated tangible assets, Drone had no allocated assets and Bantec Sanitizing Inc. had 4% of consolidated assets and the parent company had 9% of the consolidated tangible assets as of June 30, 2023 and additionally, there are no formal cost allocations to Howco or the other subsidiaries.

Management decisions about allocation of working capital and other assets are based on sales, inventory and operating costs, with no formal processes in place.

#### *Recent Accounting Pronouncements*

The Company has reviewed the Financial Accounting Standards Board (the "FASB") issued Accounting Standards Update ("ASU") accounting pronouncements and interpretations thereof that have effectiveness dates during the periods reported and in future periods. We have carefully considered the new pronouncements that alter previous generally accepted accounting principles and do not believe that any new or modified principles will have a material impact on the Company's reported financial position or operations in the near term. The applicability of any standard is subject to the formal review of the Company's financial management.

In August 2020, the FASB issued Accounting Standards Update ("ASU") 2020-06, Debt – Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging Contracts in Entity's Own Equity (Subtopic 815-40), which eliminates the beneficial conversion and cash conversion accounting models for convertible instruments, amends the accounting for certain contracts in an entity's own equity that are currently accounted for as derivatives because of specific settlement provisions, and modifies how particular convertible instruments and certain contracts that may be settled in cash or shares impact the diluted EPS calculation. The standard is effective for annual periods beginning after December 15, 2023 for smaller reporting companies, and interim periods within those reporting periods. Early adoption is permitted, but no earlier than fiscal years beginning after December 15, 2020, including interim periods within those reporting periods. The Company is currently assessing the impact the new guidance will have on its condensed consolidated financial statements.

In March 2022, the FASB issued ASU 2022-02, "Financial Instruments - Credit Losses (Topic 326)", which is intended to address issues identified during the post-



implementation review of ASU 2016-13, “Financial Instruments - Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments”. The amendment, among other things, eliminates the accounting guidance for troubled debt restructurings by creditors in Subtopic 310-40, “Receivables - Troubled Debt Restructurings by Creditors”, while enhancing disclosure requirements for certain loan refinancings and restructurings by creditors when a borrower is experiencing financial difficulty. The new guidance is effective for interim and annual periods beginning after December 15, 2022. This adoption did not have a material effect to the Company.

The Company does not believe that any other recently issued but not yet effective accounting pronouncements, if adopted, would have a material effect on the accompanying consolidated financial statements.

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**NOTE 3 - ACCOUNTS RECEIVABLE**

The Company’s accounts receivable at June 30, 2023 and September 30, 2022 was as follow:

	<b>June 30, 2023</b>	<b>September 30, 2022</b>
Accounts receivable	\$ 268,180	\$ 419,951
Reserve for doubtful accounts	-	-
	<u>\$ 268,180</u>	<u>\$ 419,951</u>

Bad debt expense was \$0 for the nine months ended June 30, 2023 and 2022.

**NOTE 4 - INVENTORY**

At June 30, 2023 and September 30, 2022, inventory consisted of finished goods and was valued at \$55,123 and \$92,917, respectively. No inventory reserve was deemed necessary at June 30, 2023 or September 30, 2022.

**NOTE 5 - LINE OF CREDIT - BANK**

The Company has a revolving line of credit with a financial institution, which balance is due on demand and principal payments are due monthly at 1/60<sup>th</sup> of the outstanding principal balance. This revolving line of credit is in the amount of \$50,000 and is personally guaranteed by the Company’s Chief Executive Officer (“CEO”). The line bears interest at a fluctuating rate equal to the prime rate plus 4.25%, which at June 30, 2023 and September 30, 2022 was 12.5% and 10.5%, respectively. As of June 30, 2023 and September 30, 2022, respectively, the balance of the line of credit was \$20,000 and \$0, with \$30,000, available at June 30, 2023.

**NOTE 6 - SETTLEMENTS**

On July 20, 2018, the Company entered into a settlement agreement with a collection agent for American Express relating to \$127,056 of past due charges. The agreement provided for initial payment of \$12,706, monthly payments of \$6,500 and final payment on January 27, 2020 of \$3,850. Under the terms of the agreement, this debt was in default. On June 27, 2022, the Company entered into an agreement for the balance and the other losses were \$7,042 for collection fees. Under the agreement established \$5,000 per month is being paid by the Company. The amount due at June 30, 2023 and September 30, 2022, was \$0 and \$34,892, respectively.

During the year ended September 30, 2022, \$119,670 was accrued in recognition of an appeals court ruling that certain obligations be settled in cash (see Note 15). On February 14, 2023, the former CFO received a judgement of \$130,400 relating to compensation. The Company paid \$2,222 as of March 31, 2023. On May 3, 2023, the Company and the former CFO executed an agreement to settle the judgement amount plus potential obligations for legal fees incurred by the former CFO for a total amount of \$90,000 to be paid in three equal installments beginning May 4, 2023, June 3, 2023 and July 3, 2023. The May 2023 and June 2023 payments of \$60,000 were made. As of the date of filing this Form 10-Q, all payments have been made and the matter has been concluded.

The total amounts due at June 30, 2023 and September 30, 2022, was \$57,448, and \$154,562, respectively.

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**NOTE 7 - NOTE PAYABLE – SELLER**

In connection with the acquisition of Howco in September 2016, the Company issued a note payable in the amount of \$900,000 to the sellers of Howco. The note matured on September 9, 2017 and bears interest at 5.50% per annum. The note requires payment of unpaid principal and interest upon maturity. The note is secured by all assets of Howco and subordinated to the Senior Secured Credit Facility discussed below. The note is currently in default and the default interest rate is 8% per annum. At June 30, 2023 and September 30, 2022, the principal and accrued interest on this note amounted to \$834,000, \$458,946 and \$837,000, and \$409,063, respectively (see Note 15).

**NOTE 8 - PROMISSORY NOTES PAYABLE – RELATED PARTY OFFICER AND HIS AFFILIATES**

The outstanding balance of convertible and other notes issued to the Company’s chief executive officer and his affiliates consisted of the following at June 30, 2023 and September 30, 2022:

	<b>June 30, 2023</b>	<b>September 30, 2022</b>
Principal	\$ 5,930,804	\$ 13,537
Premiums	1,220,986	-
Short term	<u>\$ 7,151,790</u>	<u>\$ 13,527</u>

*Promissory Notes Payable*

On January 1, 2023, Bantec, Inc., Bantec Sanitizing LLC and Howco each executed line of credit agreements with the Company's CEO. Each agreement has the same terms: advances up to \$100,000, maturity is one year, a ten percent advance fee and daily interest at 0.07% (approximately 26% annually) on the net balance due. The Company will charge the advance fees to interest expense.

As of June 30, 2023:

- (i) Bantec, Inc. borrowed \$155,500 and repaid \$26,450, leaving an outstanding balance of \$129,050, fees and interest charged totaled \$4,576.
- (ii) Bantec Sanitizing LLC borrowed \$14,562 and repaid \$1,000, leaving an outstanding balance of \$13,562, fees and interest charged totaled \$1,664.
- (iii) Howco borrowed \$75,000 and repaid \$42,250, including \$7,570 of fees and interest, leaving an outstanding balance of \$40,320. Howco was making weekly payments of \$3,250.

On April 25, 2022, a promissory note was issued to the CEO by Howco for \$50,000 having weekly payments of \$1,570 for fifty weeks, which includes a total of \$28,500 of interest. The principal at June 30, 2023 and September 30, 2022 was \$0 and \$13,527. Interest of \$4,713 was charged to interest expense during the nine months ended June 30, 2022 prior to repayment. The note was repaid faster than the original payment terms, and therefore the interest was lower than the original agreement terms.

On April 12, 2023, Ekimmel Strategies LLC, 100% owned by Michael Bannon, Bantec's Chairman, CEO and CFO, purchased and assumed, all of TCA's rights and obligations as a lender under the Senior Secured Credit Facility Agreement dated May 31, 2016 and effective September 13, 2016 and all subsequent documents from the Receiver for TCA Global Credit Master Fund, LP. The value of the note at the time of agreement was valued at \$8,546,334 including principal and accrued interest (also see Note 9 and 17).

**NOTE 9 - CONVERTIBLE NOTES PAYABLE AND ADVISORY FEE LIABILITIES**

The senior secured credit facility note balance and convertible debt balances consisted of the following at June 30, 2023 and September 30, 2022:

	June 30, 2023	September 30, 2022
Principal	\$ 297,019	\$ 5,978,891
Premiums	288,448	1,443,435
	<u>\$ 585,467</u>	<u>\$ 7,442,326</u>

For the nine months ended June 30, 2023 and 2022, amortization of debt discount on the above convertible notes amounted to \$0 and \$19,937 respectively.

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*Senior Secured Credit Facility Note - Default*

On September 13, 2016, the Company entered into a senior secured credit facility note with an investment fund for the acquisition of Howco. The Company can borrow up to \$6,500,000, subject to lender approval, with an initial convertible promissory note at closing of \$3,500,000 (the "Note"). The Note bears interest at a rate of 18% per annum, required monthly payments of \$52,500, which is interest only, starting on October 13, 2016 through February 13, 2017, and monthly payments, including interest and principal, of \$298,341 starting on March 13, 2017 through maturity on March 13, 2018. In the event of default, the Note balance will bear interest at 25% per annum. In connection with this Agreement, the Company was obligated to pay additional advisory fees of \$850,000 payable in the form of cash or common stock in accordance with the terms of the Agreement. The Company was also required to reserve 7 shares of common stock related to this transaction. The reserved shares will be released upon the satisfaction of the loan.

As of June 30, 2023, and September 30, 2022, the Company issued 1 share of common stock in satisfaction of the \$850,000 advisory fee in accordance with the terms of the agreement, such shares being issued in September 2016. The proceeds from the sale of the 1 share were to be applied to the \$850,000 advisory fee due. Based upon the value of the shares, at the time the lender sells the shares, the Company may be required to redeem unsold shares for the difference between the \$850,000 and the lender's sales proceeds. Accordingly, the \$850,000 was reflected as a current liability through December 31, 2017. In January 2018, in connection with a settlement agreement (see below), the accrued advisory fee was reclassified to the principal balance of the replacement Convertible Note. Through the date of the settlement agreement and through June 30, 2023 and September 30, 2022, the lender had not reported any proceeds from the sale of these shares (see below). Prior to the settlement agreement in January 2018, notwithstanding anything contained in the Agreement to the contrary, in the event the Lender has not realized net proceeds from the sale of Advisory Fee Shares equal to at least the Advisory Fee by the earlier to occur of: (A) September 13, 2017; (B) the occurrence of an Event of Default; or (C) the Maturity Date, then at any time thereafter, the Lender shall have the right, upon written notice to the Borrower, to require that the Borrower redeem all Advisory Fee Shares then in Lender's possession for cash equal to the Advisory Fee, less any cash proceeds received by the Lender from any previous sales of Advisory Fee Shares, if any within five (5) Business Days from the date the Lender delivers such redemption notice to the Borrower.

The Note is only convertible upon default or mutual agreement by both parties at a conversion rate of 85% of the lowest of the daily volume weighted average price of the Company's common stock during the 5 business days immediately prior to the conversion date. At any time and from time to time while this Note is outstanding, but only upon: (i) the occurrence of an Event of Default under any of the Loan Documents; or (ii) mutual agreement between the Company and the Holder, this Note may be, at the sole option of the Holder, convertible into shares of the Company's common stock, in accordance with the terms and conditions of the Note. Upon liquidation by the Holder of Conversion Shares issued pursuant to a conversion notice, provided that the Holder realizes a net amount from such liquidation equal to less than the conversion amount specified in the relevant conversion notice, the Company shall issue to the Holder additional shares of the Company's common stock equal to: (i) the Conversion Amount specified in the relevant conversion notice; *minus* (ii) the realized amount, as evidenced by a reconciliation statement from the Holder (a "Sale Reconciliation") showing the realized amount from the sale of the Conversion Shares; *divided by* (iii) the average volume weighted average price of the Company's common stock during the five business days immediately prior to the date upon which the Holder delivers notice (the "Make-Whole Notice") to the Company that such additional shares are requested by the Holder.

Once a default occurs, the Note and the \$850,000 advisory fee payable will be accounted for as stock settled debt at its fixed monetary value. On March 13, 2017, the Company defaulted on the monthly principal and interest payment of \$298,341. Due to this default, as of June 30, 2017, the Company has accounted for the embedded conversion option as stock settled debt and recorded a debt premium of \$617,647 with a charge to interest expense, and the interest rate increased to 25% (default rate).

On March 28, 2017, the Company entered into an additional agreement with the above senior secured credit facility lender to receive a range of advisory services for a total of \$1,200,000 with no definitive terms or length of service which was expensed in fiscal 2017 and had been recorded as an accrued liability – advisory fees through December 31, 2017. In connection with the settlement agreement discussed below, in January 2018, the advisory services fees payable were reclassified to the principal balance of the replacement Convertible Note.

On January 3, 2018, the Company entered into a settlement agreement (the “Settlement Agreement”) and replacement note agreements with the investment fund related to a senior secured credit facility note dated September 13, 2016. On the effective date of the Settlement Agreement, all amounts owed to the investment fund aggregated \$5,788,642 and consisted of a convertible promissory note of \$3,500,000, accrued interest payable of \$238,642, and accrued advisory fees payable of \$2,050,000. On the effective date of the Settlement Agreement, the amount due of \$5,788,642 was split and apportioned into two separate replacement notes (“Replacement Note A” and Note B”). Replacement Note A had a principal amount of \$1,000,000 and Replacement Note B had a principal balance of \$4,788,642, both of which remained secured by the original security, pledge and guarantee agreements; and other applicable loan documents, and bear interest at 18% per annum. The default was not waived by this settlement agreement. The Company originally recorded a premium on stock settled debt of \$617,647 on the \$3,500,000, and subsequent to the settlement agreement recorded an additional premium on stock settled debt of \$403,878 on the additional \$2,288,642 for accrued interest and advisory fees payable that were capitalized as note principal. The interest rate was amended to 12% effective June 12, 2018.

The Credit Agreement was amended such that the maturity date was extended to January 13, 2019 (the “Extended Maturity Date”) for replacement Note B, while the Note A maturity date remained at March 13, 2018 but was due as of March 2017 due to the principal and interest payment default discussed above. Notwithstanding anything contained in this Agreement to the contrary, all obligations owing by the Company and all other Credit Parties under the Credit Agreement, First Replacement Note B, and all other Loan Documents shall be paid in full by the Extended Maturity Date as follows: \$52,500 per month from January 13, 2018 to December 13, 2018 and the remaining principal and accrued interest on January 13, 2019. Interest payments made since the amendment have totaled \$323,440 and are therefore not in accord with that amendment. However, TCA has received payments under the 3(a) (10) settlement (below) totaling \$308,100 during the year ended September 30, 2018, and another \$270,320, during the year ended September 30, 2019. The principal balance was \$4,788,642 at September 30, 2018.

On October 30, 2018, TCA, the Company’s senior lender, amended its credit facility which had been restructured in January 2018 when fees for advisory and other matters along with accrued but unpaid interest were capitalized and separated into two notes, Note A having \$1,000,000 principal and Note B having \$4,788,642 both having the same maturity terms, interest rates and conversion rights. Under the current amendment total amounts outstanding under the notes along with accrued interest of \$537,643 has been capitalized with the principal amount due of \$6,018,192, \$5,326,285 for Note B and \$691,907 for Note A. The restated note has the same conversion price discount and therefore continues to be stock settled debt under ASC 480, an additional \$94,878 was charged to interest with a credit to debt premium. The restated note accrues interest on the principal balance at 12% per annum, includes amortization to the new maturity date of December 15, 2020. The amortization payments credited toward the principal amount and accrued interest vary and include payments made under the 3(a)(10) settlement agreement with a third party related to Note A. Economically the total principal and accrued interest outstanding remain unchanged as reported in the consolidated balance sheet. All other terms including conversion rights and a make-whole provision in the case of a conversion shortfall remain the same as stated in the footnotes above.

On September 6, 2019, the Company received a default notice on its payment obligations under the senior secured credit facility agreement from TCA. The Company has proposed a number of solutions including refinancing the debt with other parties. The default was declared due to non-payment of monthly scheduled amortization (principal and interest). TCA holds security interests in all assets of the Company including its subsidiary Howco (see below).

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On January 30, 2018, pursuant to the Liability Purchase Term Sheet, the TCA Replacement Note A in the principal amount of \$1,000,000 was acquired by Livingston Asset Management LLC (“Livingston”) from the original lender. Principal of Replacement Note A is due to Livingston with all then accrued but unpaid interest due to the original lender. In accordance with the terms of the Settlement Agreement, the Court was advised of the Company’s intention to rely upon the exception to registration set forth in Section 3(a)(10) of the Securities Act to support the issuance of its common shares and the Court held a fairness hearing regarding the issuance on March 12, 2018. Following entry of an Order by the Court which occurred on March 12, 2018, in settlement of the claims, the Company shall issue and deliver to Livingston shares of its common stock (the “Settlement Shares”) in one or more tranches as necessary, and subject to adjustment and ownership limitations as set forth in the Settlement Agreement, sufficient to generate proceeds such that the aggregate Remittance Amount equals the Claim Amount. The Company will issue free trading shares of its common stock under section 3(a) (10) of the Securities Act to Livingston in the amount of such judgment in a series of tranches so that Livingston will not own more than 9.99% of the Company’s outstanding shares per tranche. The parties reasonably estimate that the fair market value of the Settlement Shares to be received by Livingston is equal to approximately \$1,666,667 which is based on a discount of 40%.

In the nine months ended June 30, 2023, there were no 3(a)(10) issuances. As of June 30, 2023, there have been seventeen issuances under Section 3(a) (10) of the Securities Act totaling 1,375 shares; 1,273, in 2019, and 102, in 2018, which have been recorded at par value with an equal charge to additional paid-in capital. On November 17, 2019, 195 of the shares issued under Section 3(a)(10) were cancelled at the request of Livingston. The value originally recorded as a liability remains in the convertible note balance, until these shares have been sold and reported to the Company by the lender as part of the Make-Whole provision at which time the proceeds value of such shares are reclassified to additional paid-in capital. During the years ended September 30, 2018 and September 30, 2019, proceeds of \$308,100 and \$270,320, respectively were remitted to TCA by Livingston and applied to reduce the liability with corresponding credits to additional paid in capital. \$180,618 of debt premium was credited to additional paid in capital in conjunction with the payments to TCA. At June 30, 2023 and September 30, 2022, the balance, of \$421,587 along with related debt premium of \$281,054 are included in convertible notes payable on the balance sheet.

At June 30, 2023 and September 30, 2022, the principal of the Note B portion was \$5,326,285 and accrued interest was \$2,958,251 and \$2,377,557 respectively and the Note A principal subject to the 3(a) (10) court order was \$421,587 as noted above. During the nine months ended June 30, 2023, the Company has not paid interest or principal and Livingston Asset Management (under the 3(a)(10) settlement) has not made any payments to TCA. (see Note 17)

On April 12, 2023, Ekimmel Strategies LLC, 100% owned by Michael Bannon, Bantec’s Chairman, CEO and CFO, purchased and assumed, all of TCA’s rights and obligations as a lender under the Senior Secured Credit Facility Agreement dated May 31, 2016 and effective September 13, 2016 and all subsequent documents from the Receiver for TCA Global Credit Master Fund, LP. The value of the note at the time of agreement was valued at \$8,546,334 including principal and accrued interest (also see Note 8 and 17).

*Other Convertible Notes*

On March 7, 2018, the Company entered into a placement agent and advisory agreement with Scottsdale Capital Advisors in connection with the Livingston liability purchase term sheet executed on November 15, 2017. The placement agent services fee amounted to \$15,000 payable to Scottsdale Capital Advisors in the form of a convertible note. The note matures six months from the date of issuance and accrues interest at the rate of 10% per annum. The \$15,000 note is convertible into shares of the Company’s common stock at a discount of 30% of the low closing bid price for the twenty trading days prior to the conversion and is not subject to any registration rights. The Company has accounted for the convertible promissory note as stock settled debt under ASC 480 and recorded a debt premium of \$6,429 with a charge to interest expense. The note has not been converted and the principal balance is \$15,000, at June 30, 2023 and September 30, 2022 with \$8,899, and \$7,777, of accrued interest, respectively. As the note has matured it is in default. Under the terms of the note no default interest or penalties accrue.

On December 1, 2021, the Company terminated its agreement with Livingston Asset Management and entered into a consulting and services arrangement with Frondeur Partners LLC which has no stipulated term. The arrangement provides for financial management services including accounting and related periodic

reporting among other advisory services. Under the agreement, the Company is obligated to Frondeur Partners LLC conversion principal of \$15,000, interest of 10% per annum, maturity of seven months. The notes are convertible into shares of common stock at a discount of 50% to the lowest bid price in the twenty trading days immediately preceding the notice of conversion.

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Between March 1, 2022 and August 1, 2022, the Company issued convertible promissory notes to Frondeur Partners LLC for an aggregate principal amount of \$90,000 for services (service agreement replacing agreement with Livingston Asset Management LLC). The convertible notes bear interest of 10% per annum and matures in nine months. The notes issued were convertible into shares of common stock at a discount of 50% of the lowest closing bid price during the thirty trading days prior to conversion. The notes have conversion feature and are treated as stock settled debt under ASC 480 and a total debt premium of \$90,000 were recognized as interest expense on note issuance dates. At September 30, 2022 the accrued interest was \$3,203. Between October 3, 2022 and March 2023, the Company issued an aggregate of 2,090,007 shares of common stock in conversion of Frondeur Partners LLC, convertible note payables dated from March 1, 2022 to August 1, 2022, all principal of \$90,000 and accrued interest of \$5,388 were converted. Premium of \$90,000 was reclassified to additional paid in capital.

Between September 1, 2022 to May 1, 2023, the Company issued convertible promissory notes to Frondeur Partners LLC for an aggregate amount of \$135,000 in principal for services (service agreement replacing agreement with Livingston Asset Management LLC). The convertible notes bear interest ranging from 10% to 12% per annum and matures in nine months. The notes issued are convertible into shares of common stock at a discount of 50% of the lowest closing bid price during the thirty trading days prior to conversion. The notes have conversion features and are treated as stock settled debt under ASC 480 and a total debt premium of \$135,000 is recognized as interest expense on the note issuance dates.

The principal balance for the Frondeur notes was \$135,000 and \$105,000 at June 30, 2023 and September 30, 2022, respectively, as detailed above. Accrued interest for these notes totaled \$6,725 and \$3,631 at June 30, 2023 and September 30, 2022, respectively also detailed above.

From May 1, 2022 until June 1, 2023, the Company issued a \$4,000 convertible notes every month to the law firm for fees incurred, each note having six-month term to maturity and 10% annual interest. The notes are convertible into shares of common stock at a fixed discount of 50% of the lowest bid price in the 30 trading days immediately preceding the notice of conversion from the lender. The notes have cross default provisions. The Company has accounted for the convertible promissory notes as stock settled debt under ASC 480 and recorded debt premiums equal to the face value of the notes with a charge to interest expense. The note principal amount was charged to professional fees during the month the note was issued.

The principal balances owed to the law firm under the agreement as of June 30, 2023 and September 30, 2022 were \$56,000, and \$20,000 respectively and accrued interest was \$3,455 and \$563 as of June 30, 2023, and September 30, 2022, respectively.

On November 13, 2018, the Company issued a convertible promissory note for \$90,000 to a vendor in settlement of approximately \$161,700 of past due amounts due for services. The note bears interest at 5%, matures on June 30, 2019 and is convertible into the Company's common stock at 50% of the lowest closing bid price during the 20 trading days immediately preceding the notice of conversion. The note matured on June 30, 2019, there is no default penalty or interest rate increase associated with the note, nor are there any cross-default provisions in the note. The Company has accounted for the convertible promissory note as stock settled debt under ASC 480 and recorded debt premium \$90,000 with a charge to interest expense for the notes. At June 30, 2023 and September 30, 2022 the principal, and premium were both \$90,000. At June 30, 2023 and September 30, 2022 accrued interest was \$44,692 and \$36,614, respectively (see Note 15).

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**NOTE 10 – NOTES AND LOANS PAYABLE**

The notes balance consisted of the following at June 30, 2023 and September 30, 2022

	June 30, 2023	September 30, 2022
Principal loans and notes	\$ 704,967	\$ 615,500
Discounts	(31,091)	(270,064)
Total	673,876	345,436
Less Current portion	(523,876)	(217,897)
Non-current	\$ 150,000	\$ 127,539

For the nine months ended June 30, 2023 and 2022, amortization of debt discount on the above notes amounted to \$276,972 and \$45,816, respectively.

On June 17, 2020, the Company through Howco, entered into a loan directly with the Small Business Administration for \$150,000. The loan term is thirty years and begins amortization one year from the date of promissory note to be issued upon funding. Amortization payments are \$731 per month and include interest and principal of 3.75% from the date of funding. The loan is secured by the assets of Howco. As of June 30, 2023 and September 30, 2022, the principal balance is \$150,000. As of June 30, 2023 and September 30, 2022, \$0, and \$22,461 respectively, is classified as current.

During the year ended September 30, 2021, the Company issued seven notes payable totaling \$17,500. The notes were issued for monthly fees (\$2,500) for a service vendor and are issued the first day of the month and each has one year maturity and does not bear interest. The service arrangement was terminated in April 2021, with \$17,500 owed as of June 30, 2023, and September 30, 2022.

On July 1, 2022, the Company entered into a Securities Purchase Agreement with Trillium Partners, LP ("Trillium"). Under the terms of the SPA, Trillium agreed to advance funds under a merchant financing arrangement, treated as a loan. The loan principal is \$224,000, including legal fees of \$5,000 and OID of \$24,000, the Company received cash of \$195,000. Loan bears interest of 12% per annum and matures on June 30, 2023. The Company agreed to issue 224,000 shares of the Company's Series B Preferred Stock, and a Warrant to purchase 1,120,000 shares of common stock as consideration for the advance agreement. The Series B Preferred Stock met the criteria for treatment as temporary equity and debt discount of \$50,684 was recognized. The Warrant caused a recognition of \$100,194 in debt discount. Total debt discount recognized was \$179,878, to be amortized over the term of the loan, \$44,846 was recognized as interest expense as of September 30, 2022 from amortization of discounts. The Company defaulted on the weekly payment terms of the note; however, the note holder granted a limited waiver of the default. Under the waiver amendment (see Note 11), the default interest rate still applies and now the note accrues interest of 22% and the payments are due upon the notes maturity. Total accrued interest at June 30, 2023 and September 30, 2022 was \$33,832 and \$10,923, respectively. On October 25, 2022, the Company repaid \$50,000 of the July merchant financing arrangement. The payment was applied to the Trillium LP notes' accrued interest and principal bringing its principal balance

On July 1, 2022, the Company entered into a Securities Purchase Agreement with JP Carey Limited Partners, LP (“JPC”). Under the terms of the SPA, JPC agreed to advance funds under a merchant financing arrangement, treated as a loan. The loan principal is \$224,000, including legal fees of \$5,000 and OID of \$24,000, the Company received cash of \$195,000. Loan bears interest of 12% per annum and matures on June 30, 2023. The Company agreed to issue 224,000 shares of the Company’s Series B Preferred Stock, and a Warrant to purchase 1,120,000 shares of common stock as consideration for the advance agreement. The Series B Preferred Stock met the criteria for treatment as temporary equity and debt discount of \$50,684 was recognized. The Warrant caused a recognition of \$100,194 in debt discount. Total debt discount recognized was \$179,878, to be amortized over the term of the loan, \$44,845 was recognized as interest expense as of September 30, 2022 from amortization of discounts. The Company defaulted on the weekly payment terms of the note; however, the note holder granted a limited waiver of the default. Under the waiver amendment (see Note 11), the default interest rate still applies and now the note accrues interest of 22%, and the payments are due upon the notes maturity. Total accrued interest at June 30, 2023 and September 30, 2022 was \$47,781 and \$10,923, respectively.

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On April 28, 2023, Howco executed a sale of receivables agreement with Itria Ventures LLC (“Itria Ventures”), Itria funded \$125,000, which included fees of \$6,750 withheld for a net payment to Howco of \$118,250. Itria will withdraw weekly repayments of \$3,255.21 for 48 weeks. The total repayments is \$156,250, including interest totaling \$31,250. The Company recognized a total of \$38,000 of debt discount related to this agreement to be amortized over the term of the receivable agreement. During the nine months ended June 30, 2023, the Company repaid \$26,042. As of June 30, 2023, loan balance to Itria amounted to \$99,117, net of unamortized debt discount of \$31,091.

**NOTE 11 - SERIES B AND SERIES C PREFERRED STOCK**

*Temporary Equity – Convertible Series B Preferred Stock*

On July 1, 2022, the Company’s Board of Directors designated as Series B Preferred Stock and authorized 1,000,000 shares which will not be subject to increase without the consent of the holders (each a “Holder” and collectively, the “Holders”) of a majority of the outstanding shares of Series B Preferred Stock. The designations, powers, preferences, rights and restrictions granted or imposed upon the Series B Preferred Stock are as set forth in the Certificate of Designation filed in the State of Delaware. Each share of Series B Preferred Stock shall have an initial stated value of \$1.00 (the “Stated Value”). The Series B Preferred Stock will, with respect to dividend rights and rights upon liquidation, winding-up or dissolution, rank: (a) senior with respect to dividends and right of liquidation with the Company’s common stock and (b) junior with respect to dividends and right of liquidation to all existing and future indebtedness of the Company and existing and outstanding preferred stock of the Company.

Series B Preferred Stock shall have no right to vote on any matters requiring shareholder approval or any matters on which the shareholders are permitted to vote, with the exception to matters that would change the number or features of the Series B Preferred Stock.

Each share of Series B Preferred Stock will carry an annual dividend in the amount of twelve percent (12%) of the Stated Value (the “Dividend Rate”), which shall be cumulative, payable solely upon redemption, liquidation or conversion. Upon the occurrence of an Event of Default, the Dividend Rate shall automatically increase to twenty two percent (22%).

Upon any liquidation, dissolution or winding up of the Company, whether voluntary or involuntary, or upon any Deemed Liquidation Event, after payment or provision for payment of debts and other liabilities of the Company, and after payment or provision for any liquidation preference payable to the holders of any Preferred Stock ranking senior upon liquidation to the Series B Preferred Stock, if any, but prior to any distribution or payment made to the holders of Common Stock or the holders of any Preferred Stock ranking junior upon liquidation to the Series B Preferred Stock by reason of their ownership thereof, the Holders will be entitled to be paid out of the assets of the Company available for distribution to its stockholders an amount with respect to each share of Series B Preferred Stock equal to (i) the Stated Value plus (ii) any accrued but unpaid dividends, the Default Adjustment, if applicable, Failure to Deliver Fees, if any, (the amounts in this clause (ii) collectively, the “Adjustment Amount”).

Conversion Right. At any time following the date which is one hundred eighty (180) days after the Issuance Date, the Holder shall have the right at any time, to convert all or any part of the outstanding Series B Preferred Stock into fully paid and non-assessable shares of Common Stock. The Holders of the Series B Preferred Stock are limited to holding no more than 9.99% of the Common Stock.

Conversion Price. The conversion price (the “Conversion Price”) shall equal the Fixed Conversion Price (subject to equitable adjustments by the Company relating to the Company’s securities or the securities of any subsidiary of the Company, combinations, recapitalization, reclassifications, extraordinary distributions and similar events). The “Fixed Conversion Price” shall mean \$0.20. Notwithstanding anything contained herein to the contrary in the Event of Default, the Conversion Price shall be the lower of the Fixed Conversion Price and the Variable Conversion Price. The “Variable Conversion Price” shall mean 50% multiplied by the Market Price (as defined herein) (representing a discount rate of 50%). “Market Price” means the lowest bid price for the Common Stock during the twenty (20) Trading Day period ending on the latest complete Trading Day prior to the Conversion Date.

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Company will reserve from its authorized and unissued Common Stock a sufficient number of shares, free from preemptive rights, to provide for the issuance of Common Stock upon the full conversion of this Series B Preferred Stock issued. The Company is required at all times to have authorized and reserved four times the number of shares that would be issuable upon full conversion of the Series B Preferred, at any time the Company does not maintain the required Reserved Amount, the Company shall be put on notice by the Holder, and shall have five (5) days to cure its deficiency, after which time, such failure will be deemed an Event of Default hereunder.

During July 2022, the Company issued 448,000 shares of the Series B Preferred Stock in conjunction with a debt financing with two investors (See Note 10). The Company determined that under ASC 480, the Series B Preferred Stock should be treated as Temporary Equity and that it needed to apply the SAB topic 3c (SEC guidance) as well. Upon issuance of the shares, the Company allocated a relative value of \$101,368 to the Preferred Stock. Upon issuance, the Company recorded an aggregate value of \$461,440, with \$360,072 charged to additional paid in capital including the dividends due of \$13,440 at September 30, 2022.

The Company breached its covenants in the Convertible Series B Preferred Stock in July 2022. The breached covenant defines as an event of default as any breach of a material covenant or material terms or conditions contained in the Certificate of Designations or in any purchase agreement, subscription agreement or other agreement with any Holder (of the Convertible Series B Preferred Stock). As a result of this event of default, the Stated Value of the preferred stock increased to \$1.50 per share and the conversion price became the “the lower of the Fixed Conversion Price (\$0.2) or 50% of the lowest closing bid price of the Company’s stock in

the twenty days prior to a conversion". The Preferred Stock's redemption value increased by another \$224,000 as a result of the default and dividends are now accruing at 22%.

On April 18, 2023, the Company and the Holder of 224,000 Series B Preferred Stock (the "Holder") entered into an Exchange Agreement whereby the Holder exchanged (the "Exchange") 224,000 Series B Preferred Stock of the Company for 224,000 Series C Preferred Stock of the Company which shall have the rights and preferences in the Certificate of Designation of the Series C Preferred Stock as discussed below and for no other consideration.

At June 30, 2023, there remains 224,000 outstanding Convertible Series B Preferred Stock with stated value of \$1.50 and would convert into 922,128,000 common shares. During the nine months ended June 30, 2023, the Company charged an additional \$111,623 to additional paid in capital for the dividend of the preferred shares. At June 30, 2023, the Series B Preferred Stock redemption value amounted to \$461,064 (including dividends of \$125,063).

#### Mandatory Redeemable Series C Preferred Stock

##### *Certificate of Designation of Series C 3% Preferred Stock*

On April 25, 2023, the Company filed a Certificate of Designation for Series C Preferred Stock with the Delaware Secretary of State, designating 1,000,000 shares of preferred stock as Series C Preferred Stock. Each share of Series C Preferred Stock has a par value of \$0.0001 per share and a stated value of \$1.00 (the "Stated Value"). The Series C Preferred Stock shall have no right to vote on any matters requiring shareholder approval or any matters on which the shareholders are permitted to vote.

Each share of Series C Preferred Stock is entitled to an annual dividend equal to 3% of the stated value which shall be cumulative, payable solely upon redemption, liquidation or conversion. Upon the occurrence of an event of default, the dividend rate shall automatically increase to 18%.

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Upon any liquidation, dissolution or winding-up of the Company, whether voluntary or involuntary or upon any deemed liquidation event, after payment or provision for payment of debts and other liabilities of the Company and after payment or provision for any liquidation preference payable to the holders of any preferred stock ranking senior upon liquidation to the Series C Preferred Stock, if any, but prior to any distribution or payment made to the holders of common stock or the holders of the preferred stock ranking junior upon liquidation to the Series C Preferred Stock, the holders will be entitled to be paid out of the assets of the Company available for distribution an amount equal to the stated value plus any accrued but unpaid dividends, default adjustment, if applicable, and any other fees (collectively the "Adjustment Amount").

The Holder shall have no right at any time to convert all or any part of the outstanding Series C Preferred Stock into shares of common stock.

Mandatory Redemption by the Company. On the date which is the earlier of: (i) December 31, 2023; and (ii) upon the occurrence of an Event of Default (i) or (ii), the Mandatory Redemption Date the Company shall redeem all of the shares of Series C Preferred Stock of the Holders. Within five (5) days of the Mandatory Redemption Date, the Company shall make payment to each Holder of an amount in cash, or kind, equal to (i) the total number of Series C Preferred Stock held by the applicable Holder, multiplied by (ii) the then current Stated Value (including but not limited to the addition of any accrued, unpaid dividends and the Default Adjustment, if applicable) (the "Mandatory Redemption Amount"). The value of any payment in kind shall be as agreed between the Company and respective the Holder.

Upon the occurrence and during the continuation of any Event of Default (other than as set forth in Section 8ai of the amendment which is the failure to redeem), the Stated Value shall immediately be increased to \$1.50 per share of Series C Preferred Stock; and upon the occurrence and during the continuation of any Event of Default specified in Section 8ai which is the failure to redeem, the Stated Value shall immediately be increased to \$2.00 per share of Series C Preferred Stock (the amounts referred to herein shall be referred to collectively as the "Default Adjustment"). In the event of a Default Adjustment, the Company shall immediately, upon the demand of the Majority Holders, redeem the issued and outstanding Series C Preferred Stock and pay to the Holders the amount which is equal to (i) the number of shares of Series C Preferred Stock held by such Holders multiplied by (ii) the Stated Value plus any Adjustment Amount. Upon any Event of Default set forth in Section 8(A)(ix), provided that there is no other default, no Default Adjustment shall occur; however, the Company shall immediately, upon the demand of the Majority Holders, redeem the issued and outstanding Series C Preferred Stock and pay to the Holders the amount which is equal to (i) the number of shares of Series C Preferred Stock held by such Holders multiplied by (ii) the Stated Value plus any Adjustment Amount.

ASC 480, *Distinguishing Liabilities from Equity*, defines mandatorily redeemable financial instruments as any financial instruments issued in the form of shares that have an unconditional obligation requiring the issuer to redeem the instrument by transferring its assets at a specified or determinable date (or dates) or upon an event that is certain to occur. A mandatorily redeemable financial instrument shall be classified as a liability unless the redemption is required to occur only upon the liquidation or termination of the reporting entity. Under ASC 480, mandatorily redeemable financial instruments shall be measured initially at fair value. Due to the mandatory redemption feature, ASC 480 requires that these Series C Preferred Stock be classified as a liability rather than as a component of equity, with preferred annual returns being accrued and recorded as interest expense.

As a result of the Exchange of 224,000 shares of Convertible Series B Preferred Stock for Series C Preferred Stock on April 18, 2023 (see above), there were 224,000 shares of Series C Preferred Stock issued and outstanding as of June 30, 2023. The Series C preferred shares are mandatorily redeemable by the Company and are therefore classified as a liability for \$336,000 (based on the \$1.50 stated value) as reflected in the unaudited condensed consolidated balance sheet as of June 30, 2023. There was no gain or loss recognized in connection with the Exchange Agreement.

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#### **NOTE 12 - STOCKHOLDERS' DEFICIT**

##### Preferred Stock

As of June 30, 2023, the Company is authorized to issue 5,000,000 shares of \$0.0001 par value preferred stock, with designations, voting, and other rights and preferences to be determined by the Board of Directors of which 2,999,750 remain available for designation and issuance.

As of June 30, 2023 and September 30, 2022, the Company has designated 250 shares of \$0.0001 par value Series A preferred stock, of which 250 shares are issued and outstanding. These preferred shares have voting rights per shareholder equal to the total number of issued and outstanding shares of common stock divided by 0.99.

See Note 11, regarding the issuance of Series B and Series C Preferred Stock and the related designations.

### Common Stock

As of June 30, 2023 and September 30, 2022, there were 6,994,378 and 4,407,321, shares outstanding, respectively.

### *Reverse Stock Split*

On July 11, 2023, the Company filed a certificate of amendment to its certificate of incorporation, as amended, to effect a one-for-one thousand (1:1,000) Reverse Stock Split, effective as of July 17, 2023. Proportional adjustments for the Reverse Stock Split were made to the Company's outstanding stock options, warrants and equity incentive plans. All share and per-share data and amounts have been retroactively adjusted as of the earliest period presented in the consolidated financial statements to reflect the Reverse Stock Split.

### *Stock Incentive Plan*

The Company established its 2016 Stock Incentive Plan (the "Plan") that permits the granting of incentive stock options and other common stock awards. The maximum number of shares available under the Plan is 100 shares. The Plan is open to all employees, officers, directors, and non-employees of the Company. Options granted under the Plan will terminate and may no longer be exercised (i) immediately upon termination of an employee or consultant for cause or (ii) one year after termination of employment, but not later than the remaining term of the option. As of June 30, 2023, 84 awards remain available for grant under the Plan.

### *S-1 Offerings*

On September 16, 2022, the Company filed a registration statement on Form S-1. The registration statement became effective on September 29, 2022. The offering provided for the issuance of up to 5,000,000 shares of common stock at a price of \$0.20, under subscriptions. The Company used the proceeds for working capital.

During the nine months ending June 30, 2023, the Company issued 496,667 shares of common stock under the September 16, 2022 S-1 offering and received \$99,333.

### *Shares Issued for Conversion of Convertible Notes*

In total 2,090,007 shares of common stock were issued upon conversion of convertible notes and accrued interest during the nine months ended June 30, 2023 as follows:

On October 3, 2022, the Company issued 191,827 shares of common stock in conversion of Frondeur Partners LLC, convertible note payable dated March 1, 2022, all principal of \$15,000 and accrued interest of \$888 were converted.

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On November 17, 2022, the Company issued 384,804 shares of common stock in conversion of Frondeur Partners LLC, convertible note payable dated April 1, 2022, all principal of \$15,000 and accrued interest of \$945 were converted.

On December 1, 2022, the Company issued 383,489 shares of common stock in conversion of Frondeur Partners LLC, convertible note payable dated May 1, 2022, all principal of \$15,000 and accrued interest of \$879 were converted.

On January 11, 2023, the Company issued 384,311 shares of common stock in conversion of Frondeur Partners LLC, convertible note payable dated June 1, 2022, all principal of \$15,000 and accrued interest of \$921 were converted.

On February 1, 2023, the Company issued 372,911 shares of common stock in conversion of Frondeur Partners LLC, convertible note payable dated July 1, 2022, all principal of \$15,000 and accrued interest of \$884 were converted.

On March 1, 2023, the Company issued 372,665 shares of common stock in conversion of Frondeur Partners LLC, convertible note payable dated August 1, 2022, all principal of \$15,000 and accrued interest of \$871 were converted.

\$90,000 of put premiums (related to the Stock Settled Debt treatment of the conversions listed above) was reclassified to additional paid in during the nine months ended June 30, 2023.

### Stock Options

The Company recognizes compensation cost for unvested stock-based incentive awards on a straight-line basis over the requisite service period.

There were no options granted under the 2016 Stock Incentive Plan for the nine months ended June 30, 2023 and 2022.

For the nine months ended June 30, 2023 and 2022, the Company recorded \$0 and \$69,108 of compensation and consulting expense related to stock options, respectively. Total unrecognized compensation was \$0, at June 30, 2023 and September 30, 2022.

For the nine months ended June 30, 2023, a summary of the Company's stock options activity is as follows:

	Number of Options	Weighted- Average Exercise Price	Weighted- Average Remaining Contractual Term (Years)	Weighted- Average Grant-Date Fair Value	Aggregate Intrinsic Value
Outstanding at September 30, 2022	16	\$ 220,000	1.97	\$ -	\$ -
Outstanding and Exercisable at June 30, 2023	16	\$ 220,000	1.22	\$ -	\$ -

All options were issued at an options price equal to the market price of the shares on the date of the grant.

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Warrants

For the nine months ended June 30, 2023, a summary of the Company's warrant activity is as follows:

	Number of Warrants	Weighted- Average Exercise Price	Weighted- Average Remaining Contractual Term (Years)	Weighted- Average Grant-Date Fair Value	Aggregate Intrinsic Value
Outstanding and exercisable at September 30, 2022	2,240,000	\$ 0.20	6.75	\$ 0.20	\$ 448,000
Outstanding and exercisable at June 30, 2023	2,240,000	\$ 0.20	6.00	\$ 0.20	\$ -

There were no new warrants issued during the nine months ended June 30, 2023.

**NOTE 13 - DEFINED CONTRIBUTION PLANS**

The Company's subsidiary, Howco, is the sponsor of a qualified 401(k) plan with a safe harbor provision. All employees are eligible to enter the plan within one year of the commencement of employment. Employer contributions charged to expense for the nine months ended June 30, 2023 and 2022 were \$3,126 and \$4,502, respectively.

**NOTE 14 - RELATED PARTY TRANSACTIONS**

On October 1, 2016, the Company entered into employment agreements with the Company's President and CEO which provides for annual base compensation of \$370,000 for a period of three years, which can, at the Company's election, be paid in cash or Common Stock or deferred if insufficient cash is available, and provides for other benefits, including a discretionary bonus and equity provision for the equivalent of 12 months' base salary, and an additional one-time severance payment of \$2,500,000 upon termination under certain circumstances, as defined in the agreement. On September 16, 2019, this employment agreement was modified for a period of five years to provide an annual salary of \$624,000 along with the aforementioned benefits including education reimbursement. The Company recognized expenses of \$468,000 for the nine months ended June 30, 2023 and 2022 for the CEO's base compensation.

The Company had certain promissory notes payable to related parties (see Note 8).

**NOTE 15 - COMMITMENTS AND CONTINGENCIES**

Contingencies

*Legal Matters*

On February 6, 2018, the Company sent a letter to the previous owners of Howco Distributing Co. ("Howco") alleging that they made certain financial misrepresentations under the terms of the Stock Purchase Agreement by which the Company acquired control of Howco during 2016. The Company claimed that the previous owners took excessive amounts of cash from the business prior to the close of the merger. On March 13, 2018, the Company filed a lawsuit against the previous owners by issuing a summons. On April 12, 2018, the Company received the Defendants' answer. On July 22, 2019, the Company sought and was granted a dismissal without prejudice of the lawsuit filed against the previous owners of Howco. A company representative and the previous owners have been in contact. An informal oral agreement with the Seller was made whereby the Company had been paying the previous owners \$3,000 per month. The Company is no longer paying the previous owner \$3,000 a month. A company representative informed the previous owner that the Company will resume the \$3,000 payment as soon as it is able to do so (see Note 7).

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In connection with the merger in fiscal 2016, with Texas Wyoming Drilling, Inc., a vendor has a claim for unpaid bills of approximately \$75,000 against the Company. The Company and its legal counsel believe the Company is not liable for the claim pursuant to its indemnification clause in the merger agreement.

In the suit Drone USA, Inc and Michael Bannon (plaintiffs) vs the former Chief Financial Officer or CFO, currently pending in New York State court, the plaintiffs sought to compel the former CFO to meet his obligations under an agreement guaranteeing payments to another former executive. The former CFO filed a cross-claim against the plaintiffs for past due salary. The employment agreement with the former CFO allowed salary payments to be paid in cash or stock. During the year ended September 30, 2021, the Company issued 36,821 shares of its common stock for the past due salary and claims that this payment moots the former CFO's claim for past due salary. During the year ended September 30, 2022, the Company began the process to cancel the shares issued and reclassified the amount to equity and a previously recorded liability for \$119,670 remains which is included in the settlement payable balance at June 30, 2023. The former CFO filed a motion for summary judgement which was denied, then filed an appeal to that order. The appellate court reversed the lower court's decision. The Company settled the lawsuit for \$90,000. Three equal payments of \$30,000 were required to be made. As of the date of filing this Form 10-Q, all payments have been made and the matter has been concluded (see Note 6).

On April 10, 2019, a former service provider filed a complaint with three charges with the Superior Court Judicial District of New Haven, CT seeking payment for professional services. The Company has previously recognized expenses of \$218,637, which remain unpaid in accounts payable. On May 2, 2023, the Company reached a settlement agreement with a former vendor which had a pending legal action against the Company concerning services rendered having outstanding amounts owed of \$219,613. The Company agreed to pay a total of \$110,000 in total, consisting of a cash payment of \$25,000 and a note payable of \$85,000 (having a 3% annual interest). The Company will pay \$2,472 for 36 months.

During the year ended September 30, 2019, two vendors (The Equity Group and Toppan Vintage) have asserted claims for past due amounts of approximately \$59,000, arising from services provided. The Company has fully recognized in accounts payable the amounts associated with these claims.

On December 30, 2020, a Howco vendor filed a lawsuit seeking payment of past due invoices totaling \$276,430 and finance charges of \$40,212. The Company has recorded the liability for the invoices in the normal course of business. Management at Howco as well as an intermediary consultant structured a repayment plan with this vendor and other vendors as well.

Settlements

On January 29, 2018, the Company entered into a settlement agreement and mutual release with a vendor who had provided public relations and other consulting



services whereby the Company shall pay to this vendor an aggregate amount of \$60,000 of which \$30,000 was paid on February 2, 2018. The vendor is to return 1 common share of the Company's common stock which will be cancelled upon satisfaction of the liability. The liability is recorded at \$21,000 as of June 30, 2023, and September 30, 2022.

On November 13, 2018, the Company and a vendor agreed to settle \$161,700 in past due professional fees for a convertible note in the amount of \$90,000. The note bears interest at 5% and matures in July 2019, and has a fixed discount conversion feature. The note is now past due and remains unconverted at June 30, 2023 and September 30, 2022; however there is no default interest or penalty associated with the default. The difference between the settlement amount and the recorded amount in accounts payable of \$71,700 was recognized as a gain on debt extinguishment upon receipt of the waiver and release from the vendor in 2018.

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On June 23, 2023, Howco entered into a settlement agreement with Crane Machinery Inc. (CMI). Howco agreed to pay \$16,500 with an initial settlement of \$2,000, to be followed by five monthly installments of \$2,900, until paid in full.

As of June 30, 2023, the Company has received demand for payment of past due amounts for services by several consultants and service providers.

Commitments

*Lease Obligations*

The Company entered into an agreement with a manufacturer in Pismo Beach, California. The agreement provides for certain services to be provided by the manufacturer as needed by the Company. The agreement has an initial term of three years with one year renewals. In connection with this agreement, the Company has agreed to sublease space based in San Luis Obispo, California from the manufacturer for the purposes of the development and manufacturing of unmanned aerial vehicles. The lease provides for base monthly rent of approximately \$15,000 for the initial term to be increased to \$16,500 per month upon extension. The lease term begins February 1, 2017 and expires January 31, 2019 with the option to extend the term an additional 24 months. However, the Company never took possession of the premises and in July 2017, the Company made a decision to not take possession of the premises. The Company is in default of the rent payments and had received oral demand for payments. As of June 30, 2023 and September 30, 2022, the Company has not made any of the required monthly rent payments in connection with this agreement. During fiscal 2017, the Company had expensed and accrued into accounts payable the remaining amounts due under the term of the lease for a total accrual of \$360,000 pursuant to ASC 420-10-30. This balance remains accrued as of June 30, 2023 and September 30, 2022.

On April 16, 2020 the Company's subsidiary Howco renewed its office and warehouse lease in Vancouver, WA for a term commencing on June 1, 2020 extending through June 1, 2023 at an initial monthly rent of approximately \$5,154. The lease requires monthly payments including base rent plus CAM with annual increases.

On April 16, 2023, Howco renewed its office and warehouse lease for an additional three years. The initial year (commencing on June 1, 2023) monthly lease payment is \$4,542, in years two and three the monthly lease payments are \$4,679 and \$4,819 respectively. Monthly common charges at \$1,481 for the first year, subject to change in years two and three.

The Company recognized a right-of-use asset and a lease liability of \$140,561, which represents the fair value of the lease payments calculated as present value of the minimum lease payments using a discount rate of 12% on date of the lease renewal in accordance with ASC 842. The asset and liability will be amortized as monthly payments are made and lease expense will be recognized on a straight-line basis over the term of the lease.

Right of use asset (ROU) is summarized below:

	June 30, 2023	September 30, 2022
Operating lease at inception	\$ 140,561	\$ 156,554
Less accumulated reduction	(—)	(122,986)
Balance ROU asset	<u>\$ 140,561</u>	<u>\$ 33,568</u>

Operating lease liability related to the ROU asset is summarized below:

Operating lease liabilities at inception	\$ 140,561	\$ 156,554
Reduction of lease liabilities	(—)	(122,079)
Total lease liabilities	<u>\$ 140,561</u>	<u>\$ 34,475</u>
Less: current portion	(40,311)	-
Lease liabilities, non-current	<u>\$ 100,250</u>	<u>\$ -</u>

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Non-cancellable operating lease total future payments are summarized below:

Total minimum operating lease payments	\$ 167,061	\$ 42,929
Less discount to fair value	(26,500)	(8,454)
Total lease liability	<u>\$ 140,561</u>	<u>\$ 34,475</u>

Future minimum lease payments under non-cancellable operating leases at June 30, 2023 are as follows:

<b>Years ending September 30,</b>	<b>Amount</b>
2024	\$ 31,277
2025	56,279
2026	53,005
Total minimum non-cancelable operating lease payments	<u>\$ 140,561</u>

The weighted average remaining lease term for the operating lease is 2.92 years as of June 30, 2023.

In December 2019, the Company relocated its primary office to 195 Paterson Avenue, Little Falls, New Jersey, under a one-year lease with a renewal option having monthly payments of \$500. Following subsequent renewals the current rent is \$700, per month as of June 30, 2023.

For the nine months ended June 30, 2023 and 2022, rent expense for all leases amounted to \$57,356 and \$53,855, respectively.

#### *Notice of Default*

On September 6, 2019, the Company received a notice of default under its senior secured credit facility with TCA, for non-payment of amounts due among other matters. Left uncured the default remedies include seizure of operating assets such as the Company's subsidiary. Additionally, the default may trigger cross default provisions under other agreements with other creditors (see Note 9).

#### *Directors' & Officers' Insurance Policy Expiration*

On October 11, 2019, the Company's insurance policy covering directors and officers expired and the carrier declined to renew the policy. The Company is working with its broker and other carriers to obtain coverage. This lapse of insurance coverage exposes the Company to the risk associated with its indemnification of its officers against legal actions by third parties as outlined in the officers' employment agreements as amended on September 16, 2019.

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#### **NOTE 16 - CONCENTRATIONS**

##### *Concentration of Credit Risk*

The Company maintains its cash in bank and financial institution deposits that at times may exceed federally insured limits of \$250,000. At June 30, 2023, cash in a bank did not exceed the federally insured limits. The Company has not experienced any losses in such accounts through June 30, 2023.

##### *Economic Concentrations*

With respect to customer concentration, one customer accounted for approximately 85% of total sales for the nine months ended June 30, 2023. One customer accounted for approximately 80% of total sales for the nine months ended June 30, 2022.

With respect to accounts receivable concentration, three customers accounted for 73%, 13% and 11% of total accounts receivable at June 30, 2023. Three customers accounted for approximately 50%, 23% and 15% of total accounts receivable at September 30, 2022.

With respect to supplier concentrations, one supplier accounted for approximately 14% of total purchases for the nine months ended June 30, 2023. Three suppliers accounted for approximately 21%, 11% and 10% of total purchases for the nine months ended June 30, 2022.

With respect to Howco accounts payable concentration, two suppliers accounted for approximately 15% and 13% of total accounts payable at June 30, 2023. Three suppliers accounted for approximately 27%, 24% and 13% of total accounts payable at September 30, 2022.

Foreign sales were \$4,509 and \$0 for the nine months ended June 30, 2023 and 2022, respectively.

#### **NOTE 17 - SUBSEQUENT EVENTS**

##### *Convertible Notes – Frondeur Partners, LLC*

On July 10, 2023, the Company and Frondeur Partners LLC., signed an Omnibus Amendment to Promissory Notes dated between October 2022 and May 2023 eliminating conversion rights in each note. All other terms remain the same.

##### *Senior Debt – TCA Global Credit Master Fund, LP*

The Company previously reported that, on April 12, 2023, the receiver for TCA Global Credit Master Fund, LP ("TCA") sold and assigned to Ekimnel Strategies, LLC, a Delaware limited liability company ("Ekimnel"), and Ekimnel purchased and assumed, all of TCA's rights and obligations as a lender under that certain Senior Secured Credit Facility Agreement (the "Agreement"). Ekimnel is a company controlled by Michael Bannon, the Company's Chief Executive Officer.

On August 12, 2023, the Company, as the Borrower, and the Company's subsidiaries: Drone USA, LLC and Howco Distributing Co., as Corporate Guarantors, and Michael Bannon, as a Validity Guarantor (collectively, "Credit Parties"), entered into an Amendment (the "Amendment") to the Agreement with Ekimnel, as the Lender, pursuant to which the Company issued the Second Replacement Promissory Note (the "Note") to Ekimnel in the principal amount of \$8,676,957. The Note was issued in substitution for and to supersede the First Replacement Promissory Convertible Note A and the First Replacement Promissory Convertible Note B, previously issued by the Company, as amended from time to time (collectively "Replacement Notes"). Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Amendment or the Agreement.

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Pursuant to the Amendment, the Lender and the Credit Parties:

- (i) combined and consolidated both the Replacement Notes into the Note;
- (ii) extended the Maturity Date of the Note to August 12, 2047;
- (iii) lowered the interest rate on the Note to 2.0% per year, with (a) the principal and interest payments starting on August 12, 2026, and (ii) for the period commencing on August 12, 2023 and ending on August 11, 2026, interest due on the Note being added to the outstanding principal amount of the Note;

- (iv) removed the Lender's right to convert the Company's obligations under the Note into shares of common stock of the Company; and
- (v) made certain conforming changes to the terms of the Agreement.

#### *Convertible Notes Issued*

On July 17, 2023, the Company entered into the Securities Purchase Agreement (the "Agreement") with 1800 Diagonal Lending LLC ("Lender"), pursuant to which the Company issued a promissory note (the "Note") to the Lender in the principal amount of \$90,400, including an original issue discount of \$10,400. The Agreement contains certain customary representations, warranties, and covenants made by the Company.

Under the Note, the Company is required to make ten payments of \$10,305.60, which includes a one-time interest charge of 14% (\$12,565). The first payment is due on August 30, 2023, with nine subsequent payments due each month thereafter. The Note is not secured by any collateral. The Note matures on May 15, 2024 and contains customary events of default. Upon the occurrence and during the continuation of any such event of default, the Note will become immediately due and payable, and the Company is obligated to pay to the Lender an amount equal to 150% times the sum of (w) the then outstanding principal amount of the Note plus (x) accrued and unpaid interest on the unpaid principal amount of the Note to the date of payment plus (y) default interest at 22% per annum on the amounts referred to in clauses (w) and/or (x) plus (z) any amounts owed to the Lender pursuant to Article IV of the Note (amounts set forth in clauses (w), (x), (y) and (z) are collectively referred to as the "Default Amount"). If the Company fails to pay the Default Amount within five (5) business days of the Lender's written notice that such amount is due and payable, then the Lender has the right to convert the balance owed pursuant to the Note, including the Default Amount, into shares of common stock of the Company ("Common Stock") at a variable conversion price equal to 39% of the lowest closing price per share of Common Stock during the ten trading day period ending on the latest complete trading day prior to the conversion date, provided that the Lender and its affiliates may not own greater than 4.99% of the Company's outstanding shares of Common Stock, as set forth in the Note. The Company received funding under the Note on July 24, 2023. The Company intends to use the proceeds from the Note for general working capital purposes.

#### *Bantec Environmental Corp.*

On August 26, 2023, the Company filed incorporation documents to set up a subsidiary called Bantec Environmental Corp.

#### *Demand and Default Letter*

On July 26, 2023, the Company received a demand and default letter from Trillium Partners L.P. The letter references a document titled "Securities Purchase Agreement" dated July 2022. In the demand letter, Trillium is looking for immediate payment of \$275,710.25. On August 4, 2023, the Company received a demand notification revising the demand amount to \$214,563.33 with \$183,259 in principal and \$31,304.33 in interest and for JP Carey, a total of \$270,947.95 with \$224,000 in principal and \$46,947.95 in accrued interest. In addition, the demand notification included outstanding fee notes for Frondeur Partners LLC, a total of \$135,000 in principal and \$7,903 of accrued interest. According to the demand notification, as of this day, only one note, dated October 1<sup>st</sup>, 2022, matured. A company representative is in talks with Trillium and the Company is looking to resolve the matter amicably.

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

### **Cautionary Note Regarding Forward-Looking Information and Factors That May Affect Future Results**

This quarterly report on Form 10-Q contains forward-looking statements regarding our business, financial condition, results of operations and prospects that set out anticipated results based on management's plans, estimates and assumptions regarding future events or performance. We have tried, wherever possible, to identify such statements by using words such as "anticipate," "estimate," "expect," "project," "intend," "plan," "believe," "will" and similar expressions in connection with any discussion of future operating or financial performance. In particular, these include statements relating to future actions, future performance or results of current and anticipated sales efforts, expenses, the outcome of contingencies, such as legal proceedings, and financial results. Factors that could cause our actual results of operations and financial condition to differ materially are set forth in the "Risk Factors" section of our annual report on Form 10-K for the fiscal year ended September 30, 2022, as filed with the SEC on January 12, 2023.

We caution that these factors could cause our actual results of operations and financial condition to differ materially from those expressed in any forward-looking statements we make and that investors should not place undue reliance on any such forward-looking statements. Further, any forward-looking statement speaks only as of the date on which such statement is made, and we undertake no obligation to update any forward-looking statement to reflect events or circumstances after the date on which such statement is made or to reflect the occurrence of anticipated or unanticipated events or circumstances. New factors emerge from time to time, and it is not possible for us to predict all such factors. Further, we cannot assess the impact of each such factor on our results of operations or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements.

The following discussion should be read in conjunction with our condensed consolidated financial statements and the related notes that appear elsewhere in this quarterly report on Form 10-Q.

### **Overview**

Bantec, Inc. is a product and service company targeting the U.S. Government, state governments, municipalities, hospitals, universities, manufacturers and other building owners. Bantec also provides product procurement, distribution, and logistics services through its wholly-owned subsidiary, Howco Distributing Co., ("Howco") (collectively, the "Company") to the United States Department of Defense and Defense Logistics Agency. The Company established Bantec Sanitizing in fiscal 2021, which offers sanitizing products and equipment through its new store bantec.store. The Company has operations based in Sparta, New Jersey and Vancouver, Washington. The Company continues to seek strategic acquisitions and partnerships that offer us an opportunity to grow sales and profit.

### **Going Concern**

The accompanying consolidated financial statements have been prepared assuming the Company will continue as a going concern, which contemplates the recoverability of assets and the satisfaction of liabilities in the normal course of business. For the nine months ended June 30, 2023, the Company has incurred a net loss of \$2,255,726 and used cash in operations of \$479,809. The working capital deficit, stockholders' deficit and accumulated deficit was \$18,073,165, \$18,642,457 and \$37,885,912, respectively, at June 30, 2023. The Company defaulted on its Note Payable – Seller in September 2017 and has since defaulted on other promissory notes. As of June 30, 2023, the Company has received demands for payment of past due amounts from several consultants and service providers. It is the management's opinion that these matters raise substantial doubt about the Company's ability to continue as a going concern for a period of twelve months from the issuance date of this report. The ability of the Company to continue as a going concern is dependent upon the management's ability to further implement its business plan and raise additional capital as needed from the sales of stock or debt. The Company has continued to implement cost-cutting measures and restructuring or setting up payment plans with vendors and service providers and plans to raise equity through a private placement, and restructure or repay its obligations. The accompanying consolidated financial statements do not include any adjustments that might be required should the Company be unable to continue as a going concern. However, additional funding may not be available to the Company on acceptable terms, or at all. Any failure to raise capital as and when needed could have a negative impact on the Company's ability to pursue its business plans and strategies, and the Company would likely be forced to delay, reduce, or terminate some or all of its activities, all of which could have a material adverse effect on the Company's business, results of operations and financial condition.

## Liquidity and Capital Resources

As of June 30, 2023 we had \$401,602 in current assets, including \$43,772 in cash, compared to \$703,917 in current assets, including \$186,386 in cash, at September 30, 2022. Current liabilities at June 30, 2023, totaled \$18,474,767 compared to \$16,504,500, at September 30, 2022. The decrease in current assets from September 30, 2022 to June 30, 2023 is primarily due to decreases in: cash of \$142,614, and accounts receivable of \$151,771. The increase in current liabilities from September 30, 2022 to June 30, 2023, of approximately \$1,970,267, is primarily due to the increases in: convertible notes of approximately \$132,000, notes and loans payable of \$306,000, accrued expenses and interest of approximately \$1,164,000, and related party notes of approximately \$169,000. While we have revenues from UAV sales as of this date, no significant UAV revenues are anticipated until we have implemented our full plan of operations, specifically, initiating sales campaigns for our UAV internet and social media platforms. We must raise cash to implement our strategy to grow and expand per our business plan.

The following is a summary of the Company's cash flows provided by (used in) operating, investing and financing activities:

	Nine Months Ended June 30, 2023	Nine Months Ended June 30, 2022
Net Cash Provided by (Used in) Operating Activities	\$ (479,809)	\$ (1,240,506)
Net Cash Provided by (Used in) Financing Activities	\$ 337,195	\$ 497,679
Net Increase (Decrease) in Cash	\$ (142,614)	\$ (742,827)

For the nine months ended June 30, 2023, Net cash used in operating activities of \$479,809, is largely the result of net losses of \$2,255,726, partially offset by non-cash charges for premiums on stock settled debt of approximately \$156,000, debt discount amortization of \$277,000, fees notes issued of \$156,000 and increase from changes in assets and liabilities of \$1,168,000 primarily due to increase in accounts payable and accrued expenses of \$1,107,000.

For the nine months ended June 30, 2023, Cash provided by financing activities of \$337,195 is largely the result of common stock sales for cash of approximately \$99,000, loan advances from related parties of \$245,000, net proceeds from notes payable of \$118,000 partially offset by repayments of various debts including loans and other financing arrangements at Howco for a total of approximately \$145,000.

Refer also to the Consolidated Statements of Changes in Cash Flows included in the financial statement section of this report.

## Results of Operations

### Three months Ended June 30, 2023 and 2022

We generated sales of \$590,333 and \$750,756 for the three months ended June 30, 2023 and 2022, respectively, a decrease of approximately \$160,000, or 21%. For the three months ended June 30, 2023 and 2022, we reported cost of goods sold of \$489,822 and \$629,023, respectively, a decrease of approximately \$139,000, or 22%. The decrease in sales and cost of goods sold for the 2023 period as compared to the 2022 period is due to cost cutting measures we implemented during that period. Gross margins were 17% and 16% for the three months ended June 30, 2023 and 2022, respectively.

For the three months ended June 30, 2023 and 2022, we reported selling, general, and administrative expenses of \$397,360 as compared to \$477,310, a decrease of approximately \$80,000, or 17%. For the three months ended June 30, 2023, and 2022, selling, general, and administrative expenses consisted of the following:

	For the Three Months ended June 30, 2023	For the Three Months ended June 30, 2022
Compensation and related benefits	\$ 133,959	\$ 259,605
Professional fees	177,283	159,336
Other selling, general and administrative expenses	86,118	58,369
Total selling, general and administrative expenses	\$ 397,360	\$ 477,310

The decrease in selling, general, and administrative costs for the 2023 period as compared to the 2022 period was primarily attributable to the decrease in compensation and professional fees due to cost cutting measures we implemented during that period, slightly offset by an increase in other selling, general and administrative costs stemming from lower levels of management and staff at Howco and general decreased operations (also at Howco).

For the three months ended June 30, 2023, and 2022, other expense amounted to \$346,534 and \$101,680, respectively, an increase of approximately \$245,000. The increase was attributable to increased interest expense of approximately \$106,000 during the 2023 quarter. Additionally during the 2022 period gains on debt extinguishment and fair market value changes of derivative offset other expenses by a total of approximately \$139,000.

As a result, we reported net loss of \$643,383 and \$457,257 for the three months ended June 30, 2023 and 2022, respectively.

The Company has incurred dividend charges from Series B preferred stock of \$34,931, for the three months ended June 30, 2023. The dividends to be paid are included in temporary equity as presented on the balance sheet. There was no temporary equity with a related dividend in the 2022 comparative period.

As a result, we reported net loss available to common stockholders of \$678,314, or \$0.10 per common share, and \$457,257, or \$0.12 per common share, for the three months ended June 30, 2023 and 2022, respectively.

### Nine months Ended June 30, 2023 and 2022

We generated sales of \$1,819,622 and \$1,522,781 for the nine months ended June 30, 2023 and 2022, respectively, an increase of approximately \$297,000, or 16%. For the nine months ended June 30, 2023 and 2022, we reported cost of goods sold of \$1,515,984 and \$1,258,376, respectively, an increase of approximately \$258,000, or 17%. The increase in sales is primarily attributable to the increase in sales to one of our major customers, Defense Logistics Agency. The cost of goods sold increased for the 2023 period as compared to the 2022 period is due to higher sales over the last nine months. Gross margins were 17% and 17% for the nine months ended June 30, 2023 and 2022, respectively.

decrease of approximately \$286,000, or 21%. For the nine months ended June 30, 2023 and 2022, selling, general, and administrative expenses consisted of the following:

	For the Nine Months ended June 30, 2023	For the Nine Months ended June 30, 2022
Compensation and related benefits	\$ 655,910	\$ 900,026
Professional fees	552,571	618,879
Other selling, general and administrative expenses	184,652	160,230
Total selling, general and administrative expenses	<u>\$ 1,393,133</u>	<u>\$ 1,679,135</u>

The decrease in selling, general, and administrative costs for the 2023 period as compared to the 2022 period was primarily attributable to decreases: in compensation of approximately \$244,000 or 27% and professional services expenses of approximately \$66,000 or 11% due to cost cutting measures we implemented during that period.

For the nine months ended June 30, 2023 and 2022, other expense amounted to \$1,166,231 and \$618,203, respectively, an increase of approximately \$548,000. The increase was attributable to higher interest costs of approximately \$322,000. Additionally during the 2022 period gains on debt extinguishment and fair market value changes of derivative offset other expenses by a total of approximately \$226,000.

As a result, we reported net loss of \$2,255,726 and \$2,032,933 for the nine months ended June 30, 2023 and 2022, respectively.

The Company has incurred dividend charges from Series B preferred stock of \$111,623, for the nine months ended June 30, 2023. The dividends to be paid are included in temporary equity as presented on the balance sheet. There was no temporary equity with a related dividend in the 2022 comparative period.

As a result, we reported a net loss available to common stockholders of \$2,367,349 or \$0.38 per common share, and \$2,032,933 or \$0.68 per common share, for the nine months ended June 30, 2023 and 2022, respectively.

### Off-Balance Sheet Arrangements

We do not have any off-balance sheet arrangements that have or are reasonably likely to have a current or future effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources that are material to investors.

### Critical Accounting Policies and Significant Accounting Estimates

Our consolidated financial statements and accompanying notes have been prepared in accordance with United States generally accepted accounting principles applied on a consistent basis. The preparation of financial statements in conformity with U.S. generally accepted accounting principles 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 financial statements and the reported amounts of revenues and expenses during the reporting periods.

We regularly evaluate the accounting policies and estimates that we use to prepare our consolidated financial statements. In general, management's estimates are based on historical experience, and on various other assumptions that are believed to be reasonable under the facts and circumstances. Actual results could differ from those estimates made by management.

The preparation of consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Significant estimates include the allowance for bad debt on accounts receivable, reserves on inventory, valuation of intangible assets for impairment analysis, valuation of the lease liability and related right-of-use asset, valuation of stock-based compensation, valuation of redeemable preferred stock, valuation of derivative liabilities, and the valuation allowance on deferred tax assets.

We have identified the accounting policies below as critical to our business operations.

#### Accounts Receivable

Trade receivables are recorded at net realizable value consisting of the carrying amount less the allowance for doubtful accounts, as needed. Factors used to establish an allowance include the credit quality of the customer and whether the balance is significant. The Company may also use the direct write-off method to account for uncollectible accounts that are not received. Using the direct write-off method, trade receivable balances are written off to bad debt expense when an account balance is deemed to be uncollectible.

#### Long-Lived Assets

Long-lived assets are reviewed for impairment whenever events or changes in circumstances indicate that the carrying value may not be recoverable. Impairment is determined by comparing the carrying value of the long-lived assets to the estimated undiscounted future cash flows expected to result from use of the assets and their ultimate disposition. In instances where impairment is determined to exist, the Company writes down the asset to its fair value based on the present value of estimated future cash flows.

#### Revenue Recognition

The Company follows Accounting Standards Codification ("ASC") 606, Revenue From Contracts With Customers, which has a five-step process: a) Determine whether a contract exists; b) Identify the performance obligations; c) Determine the transaction price; d) Allocate the transaction price; and e) Recognize revenue when (or as) performance obligations are satisfied.

The Company sells a variety of products to government entities. The purchase order received specifies each item and its manufacturer; the Company only needs to fulfill the performance obligation by shipping the specified items. No other performance obligations exist under the terms of the contracts. The Company recognizes revenue for the agreed upon sales price when the product is shipped to the customer, which satisfies the performance obligation.

The Company through its subsidiary Howco enters into contracts to package products for a third-party company servicing the same government customer base. The contracts are based on the job lot as shipped to Howco for packaging. The customer is billed upon completion each job lot at which time revenue is

recognized.

The Company sells drones and related products manufactured by third parties to various parties, primarily local government entities. The Company also offers technical services related to drone utilization and performs other services. Contracts for drone related products and services sales will be evaluated using the five-step process outline above. There have been no material sales for drone products or other services for which full compliance with performance obligations has not been met. Upon significant sales for drone products and services and insulation jackets, the Company will disaggregate sales by these lines of business and within the lines of business to the extent that the product or service has different revenue recognition characteristics.

The Company began sales of sanitizing products and services during the year ended September 30, 2022. Revenue for this line of business is recognized upon shipment and delivery of training services (as applicable).

### **Stock-Based Compensation**

Stock-based compensation is accounted for based on the requirements of ASC 718 – “*Compensation – Stock Compensation*”, which requires recognition in the financial statements of the cost of employee and director services received in exchange for an award of equity instruments over the period the employee or director is required to perform the services in exchange for the award (presumptively, the vesting period). The ASC also requires measurement of the cost of employee and director services received in exchange for an award based on the grant-date fair value of the award. The Company utilizes the Black-Sholes option pricing model and uses the simplified method to determine expected term because of lack of sufficient exercise history. Additionally, effective October 1, 2016, the Company adopted the Accounting Standards Update No. 2016-09 (“ASU 2016-09”), *Improvements to Employee Share-Based Payment Accounting*. Among other changes, ASU 2016-09 permits the election of an accounting policy for forfeitures of share-based payment awards, either to recognize forfeitures as they occur or estimate forfeitures over the vesting period of the award. The Company has elected to recognize forfeitures as they occur and the cumulative impact of this change did not have any effect on the Company’s consolidated financial statements and related disclosures.

As of October 1, 2018, the Company has adopted ASU 2018-7 Compensation-Stock Compensation which conforms the accounting for non-employees to the accounting treatment for employees. The new standard replaces using a fair value as of each reporting date with use of the calculated fair value as of the grant date. The implementation of the standard provides for the use of the fair market value as of the adoption date, rather than using the value as of the original grant date. Therefore, the values calculated and reported at September 30, 2018 become a proxy for the grant date value. The Company utilizes the Black-Sholes option pricing model and uses the simplified method to determine expected term because of lack of sufficient exercise history. There was no cumulative effect on the adoption date.

### **Convertible Notes with Fixed Rate Conversion Options**

The Company may enter into convertible notes, some of which contain, predominantly, fixed rate conversion features, whereby the outstanding principal and accrued interest may be converted by the holder, into common shares at a fixed discount to the market price of the common stock at the time of conversion. This results in a fair value of the convertible note being equal to a fixed monetary amount. The Company records the convertible note liability at its fixed monetary amount by measuring and recording a premium, as applicable, on the Note date with a charge to interest expense in accordance with ASC 480 – “Distinguishing Liabilities from Equity”.

### **Net Loss Per Share**

Basic loss per share is calculated by dividing the loss attributable to stockholders by the weighted-average number of shares outstanding for the period. Diluted loss per share reflects the potential dilution that could occur if securities or other contracts to issue common stock were exercised or converted into common stock or resulted in the issuance of common stock that shared in the earnings (loss) of the Company. Diluted loss per share is computed by dividing the loss available to stockholders by the weighted average number of shares outstanding for the period and dilutive potential shares outstanding unless such dilutive potential shares would result in anti-dilution.

### **Lease Accounting**

In February 2016, the FASB issued ASU No. 2016-02, *Leases*, which requires lessees to report on their balance sheets a right-of-use asset and a lease liability in connection with most lease agreements classified as operating leases under the prior guidance (ASC Topic 840). Under the new guidance, codified as ASC Topic 842, the lease liability must be measured initially based on the present value of future lease payments, subject to certain conditions. The right-of-use asset must be measured initially based on the amount of the liability, plus certain initial direct costs. The new guidance further requires that leases be classified at inception as either (a) operating leases or (b) finance leases. For operating leases, periodic expense generally is flat (straight-line) throughout the life of the lease. For finance leases, periodic expense declines over the life of the lease. The new standard, as amended, provides an option for entities to use the cumulative-effect transition method. As permitted, the Company adopted ASC Topic 842 effective June 1, 2020. The adoption of ASC Topic 842 did not have a material impact on the Company’s consolidated financial statements.

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

Not applicable.

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

#### ***Disclosure controls and procedures***

We maintain “disclosure controls and procedures,” as that term is defined in Rule 13a-15(e), promulgated by the SEC pursuant to the Securities Exchange Act of 1934, as amended (the “Exchange Act”). Disclosure controls and procedures include controls and procedures designed to ensure that information required to be disclosed in our reports filed under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in the SEC’s rules and forms, and that such information is accumulated and communicated to our management, including the principal executive officer and principal financial officer, to allow timely decisions regarding required disclosure. Our management, with the participation of the principal executive officer and principal financial officer, evaluated our disclosure controls and procedures as of the end of the period covered by this quarterly report on Form 10-Q. Based on this evaluation, our principal executive officer and principal financial officer concluded that as of June 30, 2023, our disclosure controls and procedures were not effective.

The ineffectiveness of our disclosure controls and procedures was due to the following material weaknesses in our internal control over financial reporting. Currently there is no staff with knowledge of Generally Accepted Accounting Procedures on site at Howco and segregation of duties is lacking. To remediate, we have engaged outsourced accountants.

#### ***Changes in internal control over financial reporting***

There were no changes in our internal control over financial reporting during the quarter ended June 30, 2023 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

**ITEM 1. LEGAL PROCEEDINGS**

In connection with the 2016 fiscal year merger with Texas Wyoming Drilling, Inc., a vendor has a claim for unpaid bills of approximately \$75,000 against the Company. The Company and its legal counsel believe the Company is not liable for the claim pursuant to its indemnification clause in the merger agreement.

On February 6, 2018, the Company sent a letter to the previous owners of Howco Distributing Co. (“Howco”) alleging that they made certain financial misrepresentations under the terms of the Stock Purchase Agreement by which the Company acquired control of Howco during 2016. The Company claimed that the previous owners took excessive amounts of cash from the business prior to the close of the merger. On March 13, 2018 the Company filed a lawsuit against the previous owners by issuing a summons. On April 12, 2018, the Company received the Defendants’ answer. On July 22, 2019, the Company sought and was granted a dismissal without prejudice of the lawsuit filed against the previous owners of Howco. The Company had previously made \$3,000 monthly payments to the former owner, however for the time being, we have decided to suspend those payments until we feel Bantec is in a better position to resume. A company representative has been in contact with previous owners.

In the suit Drone USA, Inc and Michael Bannon (plaintiffs) vs the former Chief Financial Officer or CFO, currently pending in New York State court, the plaintiffs seek to compel the former CFO to meet his obligations under an agreement guaranteeing payments to another former executive. The former CFO filed a cross-claim against the plaintiffs for past due salary. The employment agreement with the former CFO allowed salary payments to be paid in cash or stock. During the year ended September 30, 2021, the Company issued 36,821 shares of its common stock for the past due salary and claims that this payment moots the former CFO’s claim for past due salary. During the year ended September 30, 2022 the Company began the process to cancel the shares issued which were reclassified to equity. The former CFO filed a motion for summary judgement which was denied, then filed an appeal to that order. The appellate court reversed the lower court’s decision. On February 14, 2023, the former CFO received a judgement of \$130,400 relating to compensation. On May 2, 2023, the Company and the former CFO executed an agreement to settle the judgement amount plus potential obligations for legal fees incurred by the former CFO for a total amount of \$90,000 to be paid in three equal installments beginning May 4, 2023, June 3, 2023 and July 3, 2023. Bantec made all three payments, and the matter is now closed.

On April 10, 2019, a former service provider filed a complaint with three charges with the Superior Court Judicial District of New Haven, CT seeking payment for professional services. The Company has previously recognized expenses of \$218,637, which remain unpaid in accounts payable. The Company has retained an attorney who is currently working to address the complaint. On August 9, 2019 the Company filed a motion to dismiss the charge of unjust enrichment. The judge granted the Company’s motion to dismiss. On May 2, 2023, the Company reached a settlement agreement and agreed to pay a total of \$110,000 in total, consisting of a cash payment of \$25,000 and a note payable of \$85,000 (having a 3% annual interest). The Company will pay \$2,472 for 36 months. The Company is one payment behind and intends to catch up with the payment schedule.

During the year ended September 30, 2019, two vendors (The Equity Group and Toppan Vintage) have asserted claims for past due amounts of approximately \$59,000, arising from services provided. The Company has fully recognized, in accounts payable the amounts associated with these claims. The Company has not been in contact with these entities.

On December 30, 2020, a Howco vendor filed a lawsuit seeking payment of past due invoices totaling \$276,430 and finance charges of \$40,212. The Company has recorded the liability for the invoices in the normal course of business. Management at Howco as well as an intermediary consultant structured a repayment plan with this vendor and other vendors as well.

On June 23, 2023, Howco entered into a settlement agreement with Crane Machinery Inc. (CMI). Howco agrees to pay \$16,500 with an initial settlement of \$2,000, to be followed by monthly installments of \$2,900, until paid in full.

On July 26, 2023, Bantec received a demand and default letter from Trillium Partners L.P. The letter references a document titled “Securities Purchase Agreement” dated July 2022. In the demand letter Trillium is looking for immediate payment of \$275,710.25. On August 4, 2023, we received a demand letter revising the demand amount to \$214,563.33 with \$183,259 in principal and \$31,304.33 in interest. A company representative is in talks with Trillium and we are looking to resolve the matter amicably. In addition, the demand letter included outstanding fee notes for Frondeur Partners LLC., a total of \$135,000 in principal and \$7,903 of accrued interest. According to the demand letter, as of this day, only one note, dated October 1<sup>st</sup>, 2022, matured.

**ITEM 1A. RISK FACTORS**

Not applicable to smaller reporting companies.

**ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS****Issuance of Unregistered Securities**

Since April 1, 2023, the Company issued the following unregistered securities:

On April 18, 2023, we entered into an exchange agreement with Trillium, pursuant to which Trillium exchanged 224,000 shares of our Series B Preferred Stock for 224,000 shares of our Series C Preferred Stock. The Series Preferred C does not have voting or conversion rights. Section 6 outlines the mandatory redemption by the Company on a date which is earlier of: (i) December 31, 2023; and (ii) upon the occurrence of an Event of Default (i) or (ii), the Mandatory Redemption Date”).

On June 1, 2023, we issued 224,000 shares of Series C Preferred Stock to Trillium.

On June 6, 2023, we received a notice of conversion from Frondeur Partners LLC. Frondeur was looking to convert \$19,017.47 into 380,349 shares of our common stock. To date the stock has not been electronically sent to Frondeur’s bank. Our transfer agent is still waiting on DWAC instructions.

*Convertible Notes Issued*

Between April 1, 2023 and May 1, 2023, the Company issued convertible promissory notes to Frondeur Partners LLC for a total of \$30,000 in principal for services (service agreement replacing agreement with Livingston Asset Management LLC). The convertible note bears interest of 12% per annum and matures in nine months. The note issued is convertible into shares of common stock at a discount of 50% of the lowest closing bid price during the twenty trading days prior to conversion. The note has a conversion feature and is treated as stock settled debt under ASC 480 and total debt premium of \$30,000 is recognized as interest expense on note issuance date.

Between April 1, 2023 and June 1, 2023, the Company issued convertible notes to a law firm, having a total principal of \$12,000, six-month term to maturity and 10% annual interest and conversion terms with a fixed discount of 50% of the lowest bid price in the 30 trading days immediately preceding the notice of conversion. The notes have cross default provisions. The Company has accounts for the convertible promissory notes as stock settled debt under ASC 480 and will record debt premiums equal to the face value of the notes with a charge to interest expense. The note principal amount was charged to professional fees during the month the note was issued.

The securities were issued by the Company in reliance on the exemption from the registration requirements under section 4(a)(2) of the Securities Act of 1933 as amended, and the provisions of Regulation D thereunder.

See Notes 9 and 19 to the Condensed Consolidated Financial Statements included in Part 1 of this Form 10-Q.

## ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

## ITEM 5. OTHER INFORMATION

None.

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## ITEM 6. EXHIBITS

(d) Exhibits.

The following exhibits are filed with this Current Report on Form 10-Q

Exhibit No.	Description of Exhibit
3.1	<a href="#">Certificate of Designation Series C Preferred filed with the Delaware Secretary of State on April 25, 2023</a>
10.1	<a href="#">Exchange Agreement between the Company and Trillium Partners LP, dated April 28, 2023</a>
10.2	<a href="#">Receivable Sale Agreement between the Company and Itria Partners dated April, 28, 2023</a>
10.3	<a href="#">Howco Renewal Lease Agreement dated May 2, 2023</a>
31.1*	<a href="#">Certification of Chief Executive Officer pursuant to Exchange Act Rule 13a-14(a), 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 Exchange Act Rule 13a-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</a>
32.1*	<a href="#">Certification of Chief Executive Officer and Chief Accounting 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 (formatted as Inline XBRL and contained in Exhibit 101).

\* Filed herewith.

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## SIGNATURES

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

## BANTEC, INC.

Dated: September 1, 2023

By: /s/ Michael Bannon  
 Michael Bannon  
 Chief Executive Officer  
 (Principal Executive Officer)

/s/ Michael Bannon  
 Michael Bannon  
 Chief Financial Officer  
 (Principal Financial Officer)

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EX-3.1 2 f10q0623ex3-1\_bantec.htm CERTIFICATE OF DESIGNATION SERIES C PREFERRED FILED WITH THE DELAWARE SECRETARY OF STATE ON APRIL 25, 2023

Exhibit 3.1

**CERTIFICATE OF DESIGNATION, PREFERENCE AND RIGHTS  
 OF  
 SERIES C PREFERRED STOCK  
 OF  
 BANTEC, INC.**

The undersigned, Michael Bannon, hereby certifies that:

- I am the Chief Executive Officer of BANTEC, INC., a Delaware corporation (the "Company").
- The Company is authorized to issue 5,000,000 shares of preferred stock, par value \$0.0001 per share (the "Preferred Stock") of which 250 shares are designated as Series A Preferred Stock; 1,000,000 shares are designated as Series B Preferred Stock, and 1,000,000 are hereby designated as Series C Preferred Stock.
- The Board of Directors of the Company desire to create a new series of preferred stock designated as Series C Preferred Stock.
- The following resolutions were duly adopted by the Board of Directors:

WHEREAS, the Board of Directors of the Company is authorized to fix the dividend rights, dividend rate, voting rights, conversion rights, rights and terms



of redemption and liquidation preferences of any wholly unissued Preferred Stock and the number of shares constituting any series and the designation thereof, of any of them;

WHEREAS, it is the desire of the Board of Directors of the Company, pursuant to its authority as aforesaid in accordance with the corporation law of the State of Delaware, and as set forth in this Certificate of Designations, Preferences, Rights and Limitations of Series E Preferred Stock, to set forth the rights, preferences, restrictions and other matters relating to the Series E Preferred Stock, which consists of 1,000,000 shares of Series C Preferred Stock, par value \$0.0001 per share ("Series E Preferred Stock"), which the Company has the authority to issue, as follows:

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors does hereby provide for the issuance of a series of Preferred Stock for cash or exchange of other securities, rights or property and does hereby fix and determine the rights, preferences, restrictions and other matters relating to such series of Preferred Stock as follows:

RESOLVED, FURTHER, that the chairman, chief executive officer, chief financial officer, president or any vice-president, and the secretary or any assistant secretary, of the Company be and they hereby are authorized and directed to prepare and file a Certificate of Designations, Preferences, Rights and Limitations of Series C Preferred Stock in accordance with the foregoing resolution and the provisions of Delaware law.

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ARTICLE I  
Series C Preferred Stock

**Section 1. Designation and Amount.** The number of shares so designated as Series C Preferred Stock is 2,500,000 which will not be subject to increase without the consent of the holders (each a "Holder" and collectively, the "Holders") of a majority of the outstanding shares of Series C Preferred Stock. The designations, powers, preferences, rights and restrictions granted or imposed upon the Series C Preferred Stock are as set forth in this Certificate of Designation (this "Certificate of Designations"). Each share of Series C Preferred Stock shall have, subject to Section 8(b), a stated value of \$1.00 (the "Stated Value").

**Section 2. Ranking and Voting.**

**Ranking.** The Series C Preferred Stock will, with respect to dividend rights and rights upon liquidation, winding-up or dissolution, rank: (a) senior with respect to dividends and right of liquidation with the Company's common stock, par value 0.0001 per share ("Common Stock"), and (b) junior with respect to dividends and right of liquidation to all existing and future indebtedness of the Company and existing and outstanding preferred stock of the Company.

**No Voting Right.** Series C Preferred Stock shall have no right to vote on any matters requiring shareholder approval or any matters on which the shareholders are permitted to vote.

**Section 3. Dividends.** Each share of Series C Preferred Stock will carry an annual dividend in the amount of three percent (3%) of the Stated Value (the "Dividend Rate"), which shall be cumulative, payable solely upon redemption, or liquidation. Upon the occurrence of an Event of Default (as defined herein), the Dividend Rate shall automatically increase to eighteen percent (18%).

**Section 4. Protective Provision.**

A. So long as any shares of Series C Preferred Stock are outstanding, the Company will not, without the affirmative approval of the Majority Holders (i) alter or change adversely the powers, preferences or rights given to the Series C Preferred Stock or alter or amend this Certificate of Designations, (ii) authorize or create any class of stock ranking as to distribution of dividends or a liquidation preference senior to the Series C Preferred Stock, (iii) amend its Articles of Incorporation, as amended, or other charter documents in breach of any of the provisions hereof, (iv) increase the authorized number of shares of Series C Preferred Stock, (v) liquidate, dissolve or wind-up the business and affairs of the Company, or effect any Deemed Liquidation Event (as defined below), (vi) breach any of the provisions set forth herein; or (vii) enter into any binding agreement with respect to any of the foregoing.

B. A "Deemed Liquidation Event" means: (a) a merger or consolidation in which the Company is a constituent party or a subsidiary of the Company is a constituent party and the Company issues shares of its capital stock pursuant to such merger or consolidation, except any such merger or consolidation involving the Company or a subsidiary in which the shares of capital stock of the Company outstanding immediately prior to such merger or consolidation continue to represent, or are converted into or exchanged for shares of capital stock that represent, immediately following such merger or consolidation, at least a majority, by voting power, of the capital stock of the surviving or resulting corporation or, if the surviving or resulting corporation is a wholly owned subsidiary of another corporation immediately following such merger or consolidation, the parent corporation of such surviving or resulting corporation; or (b) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Company or any subsidiary of the Company of all or substantially all the assets of the Company and its subsidiaries taken as a whole, or the sale or disposition (whether by merger or otherwise) of one or more subsidiaries of the Company if substantially all of the assets of the Company and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except where such sale, lease, transfer, exclusive license or other disposition is to a wholly owned subsidiary of the Company.

C. The Company shall not have the power to effect a Deemed Liquidation Event unless the agreement or plan of merger or consolidation for such transaction provides that the consideration payable to the stockholders of the Company will be allocated among the holders of capital stock of the Company in accordance hereof.

**Section 5. Liquidation.**

A. Upon any liquidation, dissolution or winding up of the Company, whether voluntary or involuntary, or upon any Deemed Liquidation Event, after payment or provision for payment of debts and other liabilities of the Company, and after payment or provision for any liquidation preference payable to the holders of any Preferred Stock ranking senior upon liquidation to the Series C Preferred Stock, if any, but prior to any distribution or payment made to the holders of Common Stock or the holders of any Preferred Stock ranking junior upon liquidation to the Series C Preferred Stock by reason of their ownership thereof, the Holders will be entitled to be paid out of the assets of the Company available for distribution to its stockholders an amount with respect to each share of Series C Preferred Stock equal to (i) the Stated Value plus (ii) any accrued but unpaid dividends, the Default Adjustment (as defined herein), and any other fees as set forth herein (the amounts in this clause (ii) collectively, the "Adjustment Amount").

B. If, upon any liquidation, dissolution or winding up of the Company or any Deemed Liquidation Event, the assets of the Company will be insufficient to make payment in full to all Holders of the liquidation preferences hereunder, then such assets will be distributed among the Holders at the time outstanding, ratably in proportion to the full amounts to which they would otherwise be respectively entitled.

**Section 6. Mandatory Redemption by the Company.** On the date which is the earlier of: (i) December 31, 2023; and (ii) upon the occurrence of an Event of Default ((i) or (ii), the "Mandatory Redemption Date"), the Company shall redeem all of the shares of Series C Preferred Stock of the Holders. Within five (5) days of the Mandatory Redemption Date, the Company shall make payment to each Holder of an amount in cash, or kind, equal to (i) the total number of Series C Preferred Stock held by the applicable Holder, multiplied by (ii) the then current Stated Value (including but not limited to the addition of any accrued, unpaid dividends and the

Default Adjustment (as defined herein), if applicable) (the “Mandatory Redemption Amount”). The value of any payment in kind shall be as agreed between the Company and respective the Holder.

## Section 7. No Conversion Right.

A. The Holder shall have no right at any time, to convert all or any part of the outstanding Series C Preferred Stock into fully paid and non-assessable shares of Common Stock,

### B. Effect of Certain Events.

i. *Effect of Merger, Consolidation, Etc.* At the option of the Majority Holders, the sale, conveyance or disposition of all or substantially all of the assets of the Company, the effectuation by the Company of a transaction or series of related transactions in which more than 50% of the voting power of the Company is disposed of, or the consolidation, merger or other business combination of the Company with or into any other Person (as defined herein) or Persons when the Company is not the survivor shall be deemed to be an Event of Default hereunder. “Person” shall mean any individual, corporation, limited liability company, partnership, association, trust or other entity or organization.

C. Stock Register. The Company will keep at the offices of the transfer agent, a register of the Series C Preferred Stock in book entry form, which shall be prima facie indicia of ownership of all outstanding shares of Series C Preferred Stock.

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## Section 8. Events of Default.

A. If any of the following events of default (each, an “Event of Default”) shall occur:

i. *Failure to Redeem.* The Company fails to pay the Mandatory Redemption Amount when due as set forth herein and such breach continues for a period of five (5) days after written notice from the Majority Holders.

ii. *Breach of Covenants.* The Company breaches any material covenant or other material terms or conditions contained in this Certificate of Designation or in any purchase agreement, subscription agreement or other agreement pursuant to which any Holder has acquired any shares of Series C Preferred Stock, and such breach continues for a period of five (5) days after written notice thereof to the Company from the Majority Holders.

iii. *Breach of Representations and Warranties.* Any representation or warranty of the Company made herein or in any agreement, statement or certificate given in writing pursuant hereto or in connection herewith, or in any purchase agreement, subscription agreement or other agreement pursuant to which any Holder has acquired any shares of Series C Preferred Stock, shall be false or misleading in any material respect when made and the breach of which has (or with the passage of time will have) a material adverse effect on the rights of the Holders with respect to the Series C Preferred Stock.

iv. *Receiver or Trustee.* The Company or any subsidiary of the Company shall make an assignment for the benefit of creditors, or apply for or consent to the appointment of a receiver or trustee for it or for a substantial part of its property or business, or such a receiver or trustee shall otherwise be appointed.

v. *Bankruptcy.* Bankruptcy, insolvency, reorganization or liquidation proceedings or other proceedings, voluntary or involuntary, for relief under any bankruptcy law or any law for the relief of debtors shall be instituted by or against the Company or any subsidiary of the Company.

vi. *Delisting of Common Stock.* The Company shall fail to maintain the listing of the Common Stock on at least one of the OTC electronic quotations systems (which specifically includes the quotation platforms maintained by the OTC Markets Group) or an equivalent replacement exchange.

vii. *Failure to Comply with the Exchange Act.* The Company shall fail to comply with the reporting requirements of the Exchange Act; and/or the Company shall cease to be subject to the reporting requirements of the Exchange Act (the filing of a Form 15 shall be an immediate Event of Default).

viii. *Liquidation.* Any dissolution, liquidation, or winding up of Company or any substantial portion of its business occurs.

ix. *Cessation of Operations.* Any cessation of operations by Company or Company admits it is otherwise generally unable to pay its debts as such debts become due; provided, however, that any disclosure of the Company’s ability to continue as a “going concern” shall not be an admission that the Company cannot pay its debts as they become due.

x. *Financial Statement Restatement.* The restatement of any financial statements filed by the Company with the Securities and Exchange Commission (“SEC”) at any time after 180 days after the Issuance Date for any date or period until the Series C Preferred Stock is no longer outstanding, if the result of such restatement would, by comparison to the un-restated financial statement, have constituted a material adverse effect on the rights of the Holders with respect to the terms hereof (including the conversion rights hereof).

xi. *Replacement of Transfer Agent.* In the event that the Company replaces its transfer agent without the prior written consent of the Majority Holders.

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xix. Suspension of Trading of the Company’s common stock by the SEC pursuant to Section 12(k) of the Exchange Act.

B. Default Adjustment. Upon the occurrence and during the continuation of any Event of Default (other than as set forth in Section 8(A)(i), the Stated Value shall immediately be increased to \$1.50 per share of Series C Preferred Stock; and upon the occurrence and during the continuation of any Event of Default specified in Section 8(A)(i), the Stated Value shall immediately be increased to \$2.00 per share of Series C Preferred Stock (the amounts referred to herein shall be referred to collectively as the “Default Adjustment”). In the event of a Default Adjustment, the Company shall immediately, upon the demand of the Majority Holders, redeem the issued and outstanding Series C Preferred Stock and pay to the Holders the amount which is equal to (i) the number of shares of Series C Preferred Stock held by such Holders multiplied by (ii) the Stated Value plus any Adjustment Amount. Upon any Event of Default set forth in Section 8(A)(ix), provided that there is no other default, no Default Adjustment shall occur; however, the Company shall immediately, upon the demand of the Majority Holders, redeem the issued and outstanding Series C Preferred Stock and pay to the Holders the amount which is equal to (i) the number of shares of Series C Preferred Stock held by such Holders multiplied by (ii) the Stated Value plus any Adjustment Amount.

## Section 9. Miscellaneous.

A. Most Favored Nation. During the period where any shares of Series C Preferred Stock are issued and outstanding, if the Company engages in any future financing transactions with a third party investor, the Company will provide the Holder with written notice (the “MFN Notice”) thereof promptly but in no event less than ten (10) days prior to closing any financing transactions. Included with the MFN Notice shall be a copy of all documentation relating to such

financing transaction and shall include, upon written request of the Holder, any subsequent investment as of the date of the Holder's request for the subsequent investment are preferable to the terms of the securities of the Company requested by the Holder. In the event the Holder determines that the terms of the subsequent investment are preferable to the terms of the securities of the Company issued to the Holder pursuant to the terms of this Designation, the Holder will notify the Company in writing. Promptly after receipt of such written notice from the Holder, the Company agrees to amend and restate the terms of this Designation, to be identical to the instruments evidencing the subsequent investment.

**B. Lost or Mutilated Preferred Stock Certificate.** If any holder of Series C Preferred Stock is issued a certificate, then upon receipt of evidence reasonably satisfactory to the Company (an affidavit of the registered Holder will be satisfactory) of the ownership and the loss, theft, destruction or mutilation of any certificate evidencing shares of Series C Preferred Stock, and in the case of any such loss, theft or destruction upon receipt of indemnity reasonably satisfactory to the Company (provided that if the Holder is a financial institution or other institutional investor its own agreement will be satisfactory) or in the case of any such mutilation upon surrender of such certificate, the Company will, at its expense, execute and deliver in lieu of such certificate a new certificate of like kind representing the number of shares of such class represented by such lost, stolen, destroyed or mutilated certificate and dated the date of such lost, stolen, destroyed or mutilated certificate.

**C. Failure or Indulgence Not Waiver.** No failure or delay on the part of a Holder in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privileges. All rights and remedies existing hereunder are cumulative to, and not exclusive of, any rights or remedies otherwise available.

**D. Notices.** All notices, demands, requests, consents, approvals, and other communications required or permitted hereunder shall be in writing and, unless otherwise specified herein, shall be (i) personally served, (ii) deposited in the mail, registered or certified, return receipt requested, postage prepaid, (iii) delivered by reputable air courier service with charges prepaid, or (iv) transmitted by hand delivery, telegram, email, or facsimile, and, if sent to the Company, addressed to the Company at its principal office address or, if sent to a Holder, to the address of the Holder as set forth in the books and records of the Company. Any notice or other communication required or permitted to be given hereunder shall be deemed effective: (a) upon hand delivery or delivery by facsimile or email, with accurate confirmation (if delivered on a business day during normal business hours where such notice is to be received), or the first (1<sup>st</sup>) business day following such delivery (if delivered other than on a business day during normal business hours where such notice is to be received) or (b) on the second (2<sup>nd</sup>) business day following the date of mailing by express courier service, fully prepaid, addressed to such address, or upon actual receipt of such mailing, whichever shall first occur.

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**E. Jurisdiction.** Any action brought by any party against any other concerning this Certificate of Designations shall be brought only in the state courts of Delaware or in the federal courts located in the State of Delaware. The Company and each Holder hereby irrevocably waives any objection to jurisdiction and venue of any action instituted hereunder and shall not assert any defense based on lack of jurisdiction or venue or based upon *forum non conveniens*. The Company and each Holder waives trial by jury. The prevailing party shall be entitled to recover from the other party its reasonable attorney's fees and costs. In the event that any provision of this Certificate of Designation is invalid or unenforceable under any applicable statute or rule of law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform with such statute or rule of law. Any such provision which may prove invalid or unenforceable under any law shall not affect the validity or enforceability of any other provision of this Certificate of Designation. Each party hereby irrevocably waives personal service of process and consents to process being served in any suit, action or proceeding in connection with the Series C Preferred Stock by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by law.

**F. Remedies.** The Company and each Holder acknowledge that a breach by it of its obligations hereunder will cause irreparable harm to the Company or the Holder, as applicable, by vitiating the intent and purpose of the transaction contemplated hereby. Accordingly, the Company and each Holder acknowledges that the remedy at law for a breach of its obligations under this Certificate of Designation will be inadequate and agrees, in the event of a breach or threatened breach of the provisions of this Certificate of Designation, that the Company or the Holders, as applicable, shall be entitled, in addition to all other available remedies at law or in equity, (the parties will not be entitled of any punitive damages or penalties, but, only real and actual damages), to an injunction or injunctions restraining, preventing or curing any breach of this Certificate of Designation and to enforce specifically the terms and provisions thereof, without the necessity of showing economic loss and without any bond or other security being required.

**G. Further Assurances.** The Company shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as any Holder may reasonably request in order to carry out the intent and accomplish the purposes of this Designation and any of the rights and preferences set forth herein.

**H. Headings.** The headings contained herein are for convenience only and will not be deemed to limit or affect any of the provisions hereof.

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IN WITNESS WHEREOF, the undersigned [have](#) executed this Certificate this April 20, 2023.

**BANTEC, INC.**

By: /s/ Michael Bannon  
Name: **Michael Bannon**  
Title: Chief Executive Officer

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EX-10.1 3 f10q0623ex10-1\_bantec.htm EXCHANGE AGREEMENT BETWEEN THE COMPANY AND TRILLIUM PARTNERS LP, DATED APRIL 28, 2023

**Exhibit 10.1**

### EXCHANGE AGREEMENT

This Exchange Agreement (the "**Agreement**") dated as of April 18, 2023, by and between, **TRILLIUM PARTNERS L.P.** a Delaware limited partnership, with its address at Executive Pavilion, 90 Grove Street, Ridgefield CT 06877 ("**Holder**"), and, **BANTEC INC.**, a Delaware corporation, with its address at 195 Paterson Avenue, Little Falls, NJ 07424 (the "**Company**") whereby the Holder will exchange (the "**Exchange**") 224,000 Series B Preferred Stock of the Company for 224,000 Series C Preferred Stock of the Company for shares of the Company's Series C Preferred stock (the "**Preferred Stock**") on the terms and conditions as set forth herein.

On and subject to the terms hereof, the parties hereto agree as follows:

### ARTICLE I

## Exchange

**Section 1.1. Series B Preferred Stock.** As of the date hereof, the Holder owns the following Series B Preferred Stock of the Company (the “*Series B Shares*”):

**Section 1.2. Exchange.** The Holder hereby agrees to exchange (the “*Exchange*”) 224,000 Series B Shares for 224,000 Series C Preferred Stock of the Company which shall have the rights and preferences as set forth in the Certificate of Designation of the Series C Preferred Stock as attached hereto as Exhibit A (the “*Designation*”) and for no other consideration which is acknowledged and agreed to by and between the Holder and the Company.

## Article II

### Covenants, Representations and Warranties of the Holder

The Holder hereby covenants as follows, and makes the following representations and warranties, each of which is and shall be true and correct on the date hereof, to the Company, and all such covenants, representations and warranties shall survive the Closing.

**Section 2.1 Power and Authorization.** The Holder is duly incorporated, validly existing and in good standing under the laws of its state of incorporation, has the power, authority and capacity to execute and deliver this Agreement, to perform its obligations hereunder, and to consummate the Exchange contemplated hereby.

**Section 2.2 Valid and Enforceable Agreement; No Violations.** This Agreement being duly executed and delivered by the Holder constitutes a legal, valid and binding obligation of the Holder, enforceable against the Holder in accordance with its terms, except that such enforcement may be subject to (a) bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium or other similar laws affecting or relating to enforcement of creditors’ rights generally, and (b) general principles of equity, whether such enforceability is considered in a proceeding at law or in equity (such qualifications in clauses (a) and (b) being the “*Enforceability Exceptions*”). This Agreement and consummation of the Exchange will not violate, conflict with, or result in a breach of or default under (i) any agreement or instrument to which the Holder is a party or by which the Holder or any of their respective assets are bound, or (ii) any laws, regulations or governmental or judicial decrees, injunctions or orders applicable to the Holder.

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**Section 2.3 Title to the Series B Shares.** The Holder is the sole legal and beneficial owner of the Series B Shares. The Holder has good, valid, and marketable title to the Series B Shares, free and clear of any Liens. The Holder has not, in whole or in part, except as described in the preceding sentence, (a) assigned, transferred, hypothecated, pledged, exchanged or otherwise disposed of any of the Series B Shares, or (b) given any person or entity any transfer order, power of attorney or other authority of any nature whatsoever with respect to the Series B Shares.

**Section 2.4 Adequate Information; No Reliance.** The Holder acknowledges and agrees that (a) the Holder has been furnished with all materials it considers relevant to making an investment decision to enter into the Exchange and has had the opportunity to review the Company’s filings and submissions with OTC Markets and the SEC, (b) the Holder has had a full opportunity to ask questions of the Company concerning the Company, its business, operations, financial performance, financial condition and prospects, and the terms and conditions of the Exchange, (c) the Holder has had the opportunity to consult with its accounting, tax, financial and legal advisors to be able to evaluate the risks involved in the Exchange and to make an informed investment decision with respect to such Exchange and (d) the Holder is not relying, and has not relied, upon any statement, advice (whether accounting, tax, financial, legal or other), representation or warranty made by the Company or any of its affiliates or representatives including, without limitation, its attorneys, except for (A) the publicly available filings and submissions made by the Company, and (B) the representations and warranties made by the Company in this Agreement.

## Article III

### Covenants, Representations and Warranties of the Company

The Company hereby covenants as follows, and makes the following representations and warranties, each of which is and shall be true and correct on the date hereof, to the Holder and all such covenants, representations and warranties shall survive the Closing.

**Section 3.1 Power and Authorization.** The Company is duly incorporated, validly existing and in good standing under the laws of its state of incorporation, and has the power, authority and capacity to execute and deliver this Agreement and to perform its obligations hereunder and thereunder, and to consummate the Exchange contemplated hereby.

**Section 3.2 Valid and Enforceable Agreements; No Violations.** This Agreement has been duly executed and delivered by the Company and constitutes a legal, valid, and binding obligation of the Company, enforceable against the Company in accordance with its terms, except that such enforcement may be subject to the Enforceability Exceptions. This Agreement and consummation of the Exchange will not violate, conflict with or result in a breach of or default under (i) the charter, bylaws or other organizational documents of the Company, (ii) any agreement or instrument to which the Company is a party or by which the Company or any of its assets are bound, or (iii) any laws, regulations or governmental or judicial decrees, injunctions or orders applicable to the Company.

**Section 3.3 Validity of the Preferred Stock.** The Preferred Stock has been duly authorized and will upon issuance be validly issued, fully paid and non-assessable, and the issuance of the Preferred Stock will not be subject to any preemptive, participation, rights of first refusal or other similar rights.

**Section 3.4 Certain Terms of the Preferred Stock.** The Holder confirms and acknowledges that the pursuant to the Designation, the Company may redeem the Preferred Stock by payment in cash or “in kind” upon mandatory redemption of the Preferred Stock. It is hereby agreed that the term “in kind” shall mean assets of the Company.

## Article IV

### Miscellaneous

**Section 4.1 Entire Agreement.** This Agreement and any documents and agreements executed in connection with the Exchange embody the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersede all prior and contemporaneous oral or written agreements, representations, warranties, contracts, correspondence, conversations, memoranda and understandings between or among the parties or any of their agents, representatives or affiliates relative to such subject matter, including, without limitation, any term sheets, emails or draft documents.

**Section 4.2 Construction.** References in the singular shall include the plural, and vice versa, unless the context otherwise requires. References in the masculine shall include the feminine and neuter, and vice versa, unless the context otherwise requires. Headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meanings of the provisions hereof. Neither party, nor its respective counsel, shall be deemed the drafter of this Agreement for purposes of construing the provisions of this Agreement, and all language in all parts of this Agreement shall be construed in accordance with its fair

meaning, and not strictly for or against either party.

**Section 4.3 Governing Law.** This Agreement shall in all respects be construed in accordance with and governed by the substantive laws of the State of Delaware, without reference to its choice of law rules. Venue for any action arising pursuant hereto shall be brought in the state or federal courts located in Delaware.

**Section 4.4 Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Any counterpart or other signature hereon delivered by facsimile shall be deemed for all purposes as constituting good and valid execution and delivery of this Agreement by such party.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed as of the date first above written.

**“COMPANY”  
BANTEC INC.**

By: /s/ Michael Bannon  
Name: Michael Bannon  
Title: Chief Executive Officer and Chief Financial Officer

**“HOLDER”  
TRILLIUM PARTNERS L.P.**

By: /s/ Steve Hicks  
Name: Steve Hicks  
Title: Manager of the Limited Partner

EX-10.2 4 f10q0623ex10-2\_bantec.htm RECEIVABLE SALE AGREEMENT BETWEEN THE COMPANY AND ITRIA PARTNERS DATED APRIL, 28, 2023

**Exhibit 10.2**

**RECEIVABLES SALE AGREEMENT**

**Note: These Purchase and Sale Terms (“Purchase and Sale Terms”) form a part of and are incorporated into this Receivables Sale Agreement (“Agreement”) which follows, and are subject to modification as provided in Section 5. Case ID: \_\_\_\_\_ 1356668**

**Purchaser:** Itria Ventures LLC, a Delaware limited liability company (“Purchaser”).  
HOWCO DISTRIBUTING CO., A Washington Corporation  
BANTEC LLC, A Connecticut Limited Liability Company

**Merchant(s):** BANTEC, INC., A Delaware Corporation

**Contract Date:** \_\_\_\_\_, \_\_\_\_\_, April 28 2023

**Purchase Price:** \_\_\_\_\_ One Hundred Twenty Five Thousand Dollars \_\_\_\_\_ (\$ \_\_\_\_\_).  
125,000.00

The purchase price (“Purchase Price”) is a gross amount before application of fees (“Fees”). The amount funded to you under this Agreement (“Funded Amount”) will be net of the Fees specified below.

**Amount Sold:** \_\_\_\_\_ One Hundred Fifty Six Thousand Two Hundred Fifty Dollars \_\_\_\_\_  
(\$ \_\_\_\_\_). 156,250.00

This is the amount of your Receivables purchased by Purchaser under this Agreement (“Amount Sold”). Please refer to Sections 2(a) and 2(b).

**Purchased Percentage:** \_\_\_\_\_ Ten Point Two Four \_\_\_\_\_ percent ( \_\_\_\_\_ %). This is the 10.24 percentage of your Receivables that Purchaser will receive until the Merchant has delivered the Amount Sold (“Purchased Percentage”), on the periodic basis specified below.

**Periodic Amount:** \_\_\_\_\_ Three Thousand Two Hundred Fifty Five Dollars And Twenty One Cents \_\_\_\_  
(\$ \_\_\_\_\_). This is the 3,255.21 periodic amount (“Periodic Amount”) to be remitted to Purchaser every \_\_\_\_\_ every week, subject to reconciliation against your actual Purchase Percentage of Receivables, as provided in Section 5.

**Fees:** Your Fees under this Agreement total \_\_\_\_\_ Six Thousand Seven Hundred Fifty Dollars \_\_\_\_\_ Dollars (\$ \_\_\_\_\_). 6,750.00

This amount will be deducted from your Purchase Price specified above, per Section 3(a). Additional fees may be payable after the Contract Date. Please refer to Section 3(b). \_\_\_\_\_

*MLB*

**Funded Amount:** \_\_\_\_\_ (\$ \_\_\_\_\_). This One Hundred Eighteen Thousand Two Hundred Fifty Dollars 118,250.00 amount is the Purchase Price less Fees, and is the net amount funded to you under this Agreement.

**Guaranty of Performance**

Guarantor(s): \_\_\_\_\_ MICHAEL J BANNON (“Guarantor”).

ALL PARTIES AND GUARANTOR AGREE TO CONDUCT THIS TRANSACTION BY ELECTRONIC MEANS AS FURTHER SPECIFIED IN THE AGREEMENT

Merchant/Guarantor Initials: X

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This RECEIVABLES SALE AGREEMENT (“Agreement”), dated as of the date specified on the prior page, is made by and between Itria Ventures LLC, a Delaware limited liability company (“Purchaser” or “we”), and the merchant(s) identified as “Merchant” in the Purchase and Sale Terms and on the signature page hereof (collectively, “Merchant” or “you”).

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties now intend to be legally bound and agree as follows:

**1. Fundamental Terms, Conditions and Waivers.** This is a contract for the purchase and sale of Receivables (as defined). Purchaser is buying a stated amount of the Merchant’s Receivables (the Amount Sold) for the Purchase Price set forth on the front page of this Agreement. Purchaser’s right to receive remittances under this Agreement is contingent on your receipt of Receivables. To this end, you have the right to request a reconciliation of remittances of the Periodic Amount made in any prior periods against your actual Receivables for that period using the Purchased Percentage method, or a forward adjustment reconciliation of the Periodic Amount made in any prior periods against your actual Receivables, provided you comply with the requirements set out in Section 5. The term “Receivables” is defined in Section 2(c). **By signing this Agreement, you confirm to Purchaser that: (1) the representations, warranties and covenants set forth in Section 6 are reasonable and necessary to effect the purposes of this Agreement and to afford Purchaser the benefit of its bargain pursuant to this Agreement; and (2) you will use the funded amount solely for working capital purposes in the operation of your business; and that you will continue to operate the Merchant business in good faith.**

By signing this Agreement, you confirm that the purchase and sale of Receivables contemplated by this Agreement does not constitute a loan transaction. Because the transactions under this Agreement are a purchase and sale and not a loan, there is no term, interest rate or any annual percentage rate (APR). In addition, because this transaction is not a loan, Purchaser has assumed the risk that Receivables may not be available for remittance to Merchant. Because of this, you understand and acknowledge that Merchant’s representations, warranties and covenants in this Agreement are designed to give Purchaser a reasonable and fair opportunity to receive the benefit of its bargain.

You acknowledge that you have been advised by Purchaser to consult with legal counsel, and that you have been afforded a full opportunity to consult with legal counsel. You hereby affirm to Purchaser that you have either consulted with such counsel or voluntarily elected not to do so, including with respect to the waivers set below and in Section 14.

**CERTAIN WAIVERS. BY SIGNING THIS AGREEMENT, YOU ALSO ACKNOWLEDGE AND UNDERSTAND THAT YOU HAVE EXPRESSLY AND PERMANENTLY WAIVED AND RELEASED THE RIGHTS: (1) TO START OR JOIN A CLASS ACTION IN ANY CAPACITY; (2) TO TRIAL BY JURY; (3) TO CLAIM THAT THE TRANSACTION IMPLEMENTED BY THIS AGREEMENT IS A LOAN AND NOT A “TRUE SALE” OF RECEIVABLES; AND (4) TO RAISE DEFENSES AND COUNTERCLAIMS, TO THE MAXIMUM EXTENT PERMITTED BY LAW.**

Purchaser will conduct a recorded call prior to funding (the “Funding Call”). On this call, Purchaser will go over the Agreement and certain key requirements, including that this Agreement must be duly executed by Merchant before a Notary Public (the “Notary”). In addition, each individual listed as a “Guarantor” on the front page of this Agreement (collectively, “Guarantor”) must duly execute the Guaranty of Performance (the “Guaranty”) where noted on the Guaranty signature page hereof. You hereby affirm that all information provided to Purchaser and the Notary is truthful and accurate. This Agreement will not become effective unless and until the Agreement is funded by Purchaser (such date, the “Effective Date”). Purchaser’s obligation to fund this Agreement is subject to due diligence review of Merchant or its business, at Purchaser’s sole discretion.

By signing this Agreement, you further acknowledge that the execution and performance of this Agreement by Merchant will not conflict with or breach any other agreement or obligation of Merchant including without limitation the breach of any loan or other financing agreement previously entered into by Merchant.

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**2. Purchase and Sale of Receivables.** (a) *Title to Receivables.* In exchange for the Purchase Price, you hereby irrevocably, unconditionally and absolutely sell, assign and transfer to Purchaser all (100%) of Merchant’s right, title and interest (whether legal, equitable or beneficial) in and to the Amount Sold of Merchant’s Receivables, on the terms and conditions specified herein. The purchase and sale of Receivables under this Agreement shall take place in New York. As of the Effective Date, the purchased Receivables shall be absolutely and unconditionally transferred to, owned by, controlled by, and vested solely in Purchaser, subject to the terms and conditions hereof. This Agreement is a binding legal contract and shall become effective as of the Effective Date. You agree to remit (directly or indirectly) your Receivables, up to the Amount Sold, to Purchaser as described in this Agreement. **Until Purchaser has received the Amount Sold, you agree to abide by the requirements specified in Section 6, including without limitation that:**

- You will remit Receivables to Purchaser as specified in this Agreement.
- You will not sell or transfer your Receivables, nor take any action that would interfere with Purchaser’s right to receive Receivables.
- You will not enter into any loan, factoring, merchant cash advance or other financing agreement without Purchaser’s prior written consent.
- You will ensure that all information and documents provided to Purchaser are correct and accurate.
- You will immediately update Purchaser on any material change in this information or your business’ condition.

(b) *Purchase and Sale Terms.* The Purchase and Sale Terms, set out on the front page of the Agreement and initialed by Merchant and Guarantor, form a part of this Agreement and are further described below. The “Purchase Price” is the gross dollar amount Purchaser is paying for Merchant’s Receivables (defined in subparagraph (c) below). The “Amount Sold” is the dollar value of the Receivables sold to Purchaser and the dollar amount to be remitted to Purchaser out of your Receivables, as provided herein. The “Purchased Percentage” is the percentage of Receivables that Purchaser will receive on the periodic basis specified on the front page of the Agreement, until the Amount Sold (plus any additional fees and charges incurred under this Agreement) has been delivered to Purchaser. The “Periodic Amount” is the amount the parties have (i) estimated as the average periodic Purchased Percentage amount and (ii) agreed that, for administrative convenience, other than for credit card split deals (as evidenced by a separate writing (including email) between Merchant and Purchaser), you will remit to Purchaser on the periodic basis specified on the front page of the Agreement, subject to your right to request a reconciliation against your actual Receivables, as set forth in Section 5. The “Funded Amount” is the amount you will receive upon funding of this Agreement, and is equal to the Purchase Price, less total Fees (which fees are set forth on the front page of this Agreement and specified in Section 3(a)).

(c) **Receivables.** “Receivables” means and all: (i) funds that Merchant receives using credit cards, charge cards, debit cards, prepaid cards, benefit cards, or similar cards to purchase Merchant’s products and/or services (including without limitation any such funds that are processed by Merchant’s card processor(s)); (ii) funds that Merchant receives from its customers in any manner of payment to purchase Merchant’s products and/or services; (iii) accounts, future accounts, contract rights, choses in action and any other rights to payment; and (iv) insurance proceeds received by Merchant (up to the Amount Sold, less total remittances under this Agreement). “Receivables” also includes the Receivables of Merchant’s subsidiaries and affiliated companies and, upon a Material Breach, of any (x) new or existing company owned or controlled by Merchant or any Guarantor (collectively, an “Other Business”), (y) any new or existing company, whether owned or controlled by Merchant or Guarantor or any third party, to which all or a material portion of the business or assets of Merchant are sold or otherwise transferred (collectively, a “Successor Company”) or (z) any affiliate of any of the foregoing, in each case without the express prior written consent of Purchaser.

(d) **Approved Accounts.** Please specify all of Merchant’s business bank accounts below, and also designate the account Purchaser should use to fund the Agreement. If no account is so designated, Purchaser will fund into the first account listed below.

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You hereby authorize Purchaser to debit or ACH your Approved Accounts (as defined) on the periodic basis and in the amounts specified herein, without further notice to or approval by you. As used herein, “Approved Accounts” means all (i) the Merchant accounts listed above; (ii) other Merchant business accounts; (iii) Merchant’s authorized credit card processors; and (iv) upon the occurrence of a Material Breach, all other business accounts or credit card processing accounts of Merchant or any Other Business, Successor Company or Guarantor. **You understand and agree that Purchaser shall have full read-only access to all Approved Accounts while this Agreement is in effect.**

(e) **Benefit to Merchant.** The designation of Approved Account(s) for funding of the Purchase Price and for remittances of the Periodic Amount as provided in subparagraph (d) above is for administrative convenience only and does not change the distribution of benefits to all Merchants equally under this Agreement. Where more than one Merchant is identified in this Agreement, the funding of the Purchase Price shall serve to benefit all such Merchants equally irrespective of whether funding of the Purchase price is made to an Approved Account in the name of only one identified Merchant. In addition, remittances made under this Agreement shall be deemed to have been made by all Merchants equally irrespective of whether remittances are actually made through the Approved Account of only one identified Merchant.

**3. Fees Deducted at Funding; Additional Fees.** (a) **Fees Deducted from Purchase Price.** The Fees specified in this Section 3(a) will be deducted from Purchase Price in order to calculate the Funded Amount paid to you at closing. The Fees so deducted from the Purchaser Price are: (1) a **platform fee of \_\_\_\_\_% of the Purchase Price**<sup>5</sup>, which represents Purchaser’s administrative and online platform costs; (2) an **underwriting fee of \$\_\_\_\_\_,500** which represents Purchaser’s underwriting and UCC filing costs; (3) if a lock box is required by Purchaser, a fee of \$12.50 which represents Purchaser’s cost to set up the lock box; and (4) any remaining undelivered Amount Sold by Merchant or any of Merchant’s affiliates to Purchaser or any of Purchaser’s affiliates under any Receivables Sale Agreement, and/or any other amount owed in connection with any other financing between Purchaser (or affiliate) and Merchant (or affiliate). **The aggregate Fees deducted from the Purchase Price are specified on the front page of this Agreement as the Funded Amount, namely the net amount paid to Merchant upon funding of this Agreement. Please note that these Fees are not Receivables payments and hence will not reduce the Amount Sold.**

(b) **Additional Fees.** Merchant authorizes Purchaser to charge Merchant the following fees, without notice: (1) **Returned Item Fee:** a returned item fee of **twenty-five dollars (\$25.00)** (or lower amount if expressly required by law) **per return** will be assessed if a check, draft, wire transfer, ACH or similar instrument issued by Merchant or any Guarantor is not honored or cannot be processed, or an electronic debit is returned or cannot be processed (each, a “Returned Item”). Purchaser may assess this fee each time remittance of Receivables is returned or cannot be processed, even if it is later honored following resubmission. Any check, draft or similar instrument may be collected electronically if returned for insufficient or uncollected funds; (2) **Costs of Collection,** as specified in Section 8. (3) **Lock Box Monthly Fee (if required by Purchaser):** a monthly fee of \$30.00 to administer the lock box. **Please note that these fees are not Receivables payments and hence will not reduce the Amount Sold.**

**4. Remittance Methods.** Merchant shall remit Receivables to Purchaser as described in Section 2(b) in one of the following methods specified below. Merchant agrees to provide any and all authorizations, approvals, documents and assistance required to establish or change a remittance method if requested by Purchaser. You agree that Merchant will not change remittance methods or permit any event to occur that could cause a diversion of any of Merchant’s Receivables from the specified remittance account to any other account or entity. **You will provide Purchaser and/or its authorized agents with all information, authorizations and passwords that are necessary for and/or Service Provider (as defined) to verify Merchant’s receivables, receipts, and deposits.** All such Receivables shall be remitted on the first business day of the applicable periodic period specified in the Purchase and Sale Terms, subject to the reconciliation provisions in Section 5 for transactions using the ACH remittance method, as per clause (1) below.

(1) **ACH/Direct Debit.** Unless otherwise agreed with Merchant, Purchaser will withdraw the Periodic Amount by initiating a debit via the Automatic Clearing House (“ACH”) system to your Approved Account. You hereby authorize Purchaser to debit the designated amount from your Approved Account(s) on the periodic basis specified above, until the Amount Sold and any other fees and charges incurred under this Agreement have been received in full by Purchaser. You understand and acknowledge that, due to the timing of the receipt of data by Purchaser and the operations and rules of the ACH system as determined by the National Automated Clearing House Association (“NACHA”), Purchaser will not be able to confirm receipt of Receivables until after the actual debit. **You agree to promptly provide any assistance requested by Purchaser and/or your financial institution to confirm to that you have authorized Purchaser to initiate debit via ACH to your Approved Account.**

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(2) **Direct Split.** For direct split deals, in which Receivables are remitted to Purchaser by your approved credit card processor in whole or in part, as separately agreed between you and Purchaser, the Purchased Percentage method shall be Purchaser’s exclusive method of remittance so long as a Material Breach has not occurred. You agree to use a credit card processor approved by Purchaser and to promptly enter into an agreement with the approved credit card processor, pursuant to which your credit card processor will remit the Purchased Percentage directly to Purchaser, rather than to you, until the Amount Sold (and any other fees and charges incurred under this Agreement) have been received by Purchaser in full. You understand and agree that Purchaser may require you to use a different credit card processor or change credit card processors, at the Purchaser’s sole discretion. You agree to promptly enter into a new agreement with such credit card processor to effectuate this Agreement upon Purchaser’s request. **You acknowledge and agree that each processor may provide Purchaser with Merchant’s credit card, debit card and other payment card and instrument processing history, including without limitation Merchant’s chargeback history and any communications about Merchant received by processor from a card processing system, as well as any other information Purchaser deems relevant.** You understand that Purchaser does not have any power or authority to control processor’s actions with respect to the authorization, clearing, settlement and other processing of transactions, and that Purchaser is not responsible for any processor’s actions. If applicable, you also agree to forward to Purchaser, on a daily, weekly, bi-weekly or monthly (as applicable) basis to by Purchaser (or any third party designated by Purchaser), all electronic payment transaction records from Merchant’s point of sale system relevant to Receivables transactions (including, but not limited to, activity on Visa, MasterCard, American Express, Discover, Diners Club, JCB, or ATM Debit Cards and check truncation records).

(3) **Lockbox.** You hereby authorize Purchaser, upon written notice to you, to debit the Applicable Amount from a deposit account to be established by Merchant at Purchaser’s written request that is approved by Purchaser using the Lockbox method (a “Lockbox Account”). Merchant acknowledges and agrees that any funds deposited into the Lockbox Account by Merchant’s Processor will remain in the Lockbox Account until the Applicable Amount is periodically withdrawn by Purchaser.

(4) **Contacting Customers.** You understand and agree that Purchaser may, having taken title to the Receivables pursuant to the terms of this Agreement, and as the

party at risk for the collection of the Receivables, contact your customers directly in order to: (a) assess the credit of such customers; and (b) collect such Receivables directly from customers.

**5. Merchant's Right of Reconciliation.** You have the right to request from the Company, as needed:

- a reconciliation of payments made in any period not to exceed a calendar quarter (90 days) prior to your request, in excess of (or below) your actual collected Receivables for that period (a "**Prior Adjustment**"); and
- a reconciliation of payments due under this Agreement going forward (a "**Forward Adjustment**"), if your actual collected Receivables have declined below the amount estimated by you and the Company as set out on page 1 of the Agreement (Purchase and Sale Terms).

Once you make a reconciliation request, you also need to produce, for the relevant period: (i) bank statements, (ii) accounts receivable (A/R) aging statements and/or (iii) if applicable, merchant processing (credit card) statements. You agree to use your reasonable best efforts to produce the requested documents as quickly as possible, so that we can timely assess your request.

We also agree that,

- upon receipt of a reconciliation request and supporting documentation, we will promptly calculate the excess and provide a credit or refund to your Merchant account, as you may specify; and
- if the reconciliation request is a Forward Adjustment, we will immediately implement any such request made in good faith for a reasonable period, subject to our receipt of requested documentation within ten (10) business days from the request.

You agree that, during each month a Forward Adjustment reconciliation is in effect, you are still required to provide additional documentation covering such period as we may reasonably request. We will then review such documentation in good faith in order to determine whether it is appropriate to continue the Forward Adjustment or return to the original Purchase and Sale Terms.

You further agree to promptly notify us in the event any Forward Adjustment reconciliation covering future periods is no longer required or if your Receivables increase to levels estimated in the Purchase and Sale Terms, whereupon the original Purchase and Sale Terms shall be reinstated, which we will then confirm by written notice to you.

**This Section 5 supplements the Purchase and Sale Terms set out on the front page of this Agreement and in Section 2(b), and provides important rights to Merchant. Merchant understands and agrees that all reconciliation requests must be made in good faith and must be supported by reasonable documentation, as provided above.** For example, Company may decline a reconciliation request where a documented Material Breach by Merchant, as specified in [Section 7](#), is in effect.

**6. Representations, Warranties and Covenants.** Merchant, jointly and severally on behalf of itself and any entity whose accounts are included in Receivables (as defined in [Section 2\(c\)](#)), hereby represents, warrants and covenants that, as of the date of the Agreement and at all times thereafter until the Amount Sold, together with any fees, charges and Costs of Collection (as defined), as applicable, have been remitted to Purchaser in full:

**A. Validity of this Agreement**

- (i) **Use of Proceeds for Business Purposes.** Merchant agrees that it will use all proceeds funded by Purchaser solely for business purposes, namely for working capital or other bona fide use in the operation of its business, and not for any personal, consumer or household purposes.
- (ii) **Not a Loan.** Merchant hereby reaffirms that this Agreement constitutes a purchase and sale of Receivables at a discount, and is not a loan or any other form of transaction.
- (iii) **Due Execution and Delivery.** This Agreement was duly executed, initialed, notarized and delivered to Purchaser, and all such signatures by or obtained by Merchant are genuine.
- (iv) **Authority to Enter Into This Agreement.** Merchant and the person(s) signing this Agreement on behalf of Merchant, have full power and authority to sign this Agreement and legally bind Merchant to perform the obligations specified herein.
- (v) **No Violation of Prior Agreements.** Merchant's execution and performance of this Agreement will not conflict with any other agreement, obligation, promise, court order, administrative order or decree, law or regulation to which Merchant is subject, including any agreement that prohibits the sale or pledge of Merchant's income or receipts.
- (vi) **Merchant's Knowledge and Representation.** Merchant represents and warrants that it is a sophisticated business entity familiar with the kind of transaction covered by the Agreement; and that it was represented by counsel or had full opportunity to consult with counsel.
- (vii) **No Pending or Contemplated Bankruptcy as of the Date of this Agreement.** As of the date of this Agreement, Merchant does not contemplate and has not filed any petition for bankruptcy protection under Title 11 of the United States Code, and confirms that, to its knowledge, there has been no involuntary petition brought or pending against Merchant. Merchant further represents and warrants to Purchaser that as of the date of this Agreement it does not anticipate filing a bankruptcy petition, and that it does not anticipate that an involuntary petition will be filed against it.
- (viii) **Reconciliation of Payments.** Merchant acknowledges that Purchaser has provided Merchant with a reconciliation right under [Section 5](#), which represent the exclusive manner of restructuring payments, without retaining any debt restructuring company, under this Agreement.
- (ix) **Notice of Breach, Etc.** Merchant agrees to promptly notify Purchaser in the event of (x) any actual or likely Material Breach of this Agreement by Merchant, (y) the filing of any material judgment against Merchant or its assets or (z) the filing of bankruptcy proceedings by or against Merchant.
- (x) **Benefits of Agreement.** Each Merchant and each Guarantor acknowledge that they have received substantial benefit from the funding of proceeds by Purchaser under this Agreement.

**B. Conduct of Merchant's Business**

- (i) **Good Faith.** Merchant will at all times conduct its business in good faith and consistent with past practice as disclosed to Purchaser, and agrees that it will not take any action designed to impair or frustrate Purchaser's ability to collect Receivables.
- (ii) **Remittance of Receivables.** Merchant will remit Receivables to Purchaser in good faith as provided herein, subject to the provisions of this Agreement, including without limitation [Section 2\(b\)](#), [Section 5](#) and [Section 7\(B\)](#).
- (iii) **Diversion of Receipts.** Merchant will not permit any event to occur that could cause a diversion of any of Merchant's Receivables to any unauthorized account, processor or third party.



- (iv) **Change of Credit Card Processors.** Merchant agrees that (x) it will not change any credit card processor approved by Purchaser without Purchaser's express prior written approval and (y) if it does so, Merchant shall be entitled as a secured party under the UCC to place a "hold" on Merchant's processor account(s) as provided herein.
- (v) **Closing of Accounts.** Merchant shall not close any Approved Account provided to Purchaser without Purchaser's express prior written approval.

- (vi) **Change of Name or Location or Sale or Closing of Business.** Merchant will not conduct Merchant's businesses under any name other than as disclosed to Purchaser or change any of its places of business without prior written consent of Purchaser. Merchant will not sell, dispose, transfer or otherwise convey all or substantially all of its business or any inventory or Collateral (as defined) without (i) the express prior written consent of Purchaser (which shall include the written agreement of any purchaser or transferee assuming all of Merchant's obligations under this Agreement in form and substance satisfactory to Purchaser. Except as disclosed to Purchaser in writing, Merchant has no current plans to close its business, either temporarily, whether for renovations, repairs or any other purpose, or permanently. Merchant will not voluntarily close its business on a temporary basis for renovations, repairs, or any other purposes, other than to conduct renovations or repairs that are required by local ordinance or other legal order, or due to force majeure outside of the control of Merchant. Prior to any such closure, Merchant will provide Purchaser ten (10) business days' prior written notice to the extent practicable.
- (vii) **Stacking Prohibited.** Merchant shall not enter into any merchant cash advance or loan agreement or incur any indebtedness (outside trade payables in the ordinary course of business) that pledges or encumbers its Receivables or requires daily payments with any party other than Purchaser for the duration of this Agreement. Merchant hereby authorizes Purchaser to share information regarding this Agreement with any third party in order enable Purchaser to determine whether Merchant is in compliance with this provision.
- (viii) **No Change of Control Transactions.** Merchant agrees that it will not transfer, pledge or encumber Merchant's ownership interest (e.g., stock or membership interest), assets or business to any person or entity, (b) enter into any transaction that results in any change in voting control, ownership control or effective control of the business or assets of Merchant, or (c) sell, assign, transfer or cancel Merchant's commercial lease or any material license to any person or entity.

#### **C. Providing Information to Purchaser**

- (i) **Financial Condition and Financial Information.** Any bank statements and financial statements of Merchant that have been furnished to Purchaser, and future statements that will be furnished to Purchaser, fairly represent the financial condition of Merchant at such dates, as well as the ownership (or any change in ownership) of Merchant. Purchaser may request bank and financial statements at any time this Agreement is in effect, and Merchant shall provide them to Purchaser within five (5) business days. Further, Merchant represents that all documents, forms and recorded interviews provided to or with Purchaser are true, accurate and complete in all respects, and accurately reflect Merchant's financial condition and results of operations when provided. Merchant further agrees to authorize the release of any past or future tax returns to Purchaser.
- (ii) **Accurate and Complete Information.** Merchant represents and warrants that all information provided to Purchaser relating to Merchant's business, and all statements made to Purchaser relating thereto have been truthful, accurate and complete. Merchant further agrees that Merchant will be truthful in all future statements to Purchaser, and will provide Purchaser with accurate and complete information regarding Merchant's business as requested by Purchaser.
- (iii) **Other Information.** Merchant will make reasonable efforts to inform Purchaser if a debit by Purchaser is likely to result in a bounced or rejected debit, solely in order to improve efficient administration of the Agreement and reduce return fees.

#### **D. Other Matters**

- (i) **Cooperation.** Merchant agrees that it will at all times cooperate with Purchaser in order to fulfill the purposes of this Agreement and the collection of Receivables by Purchaser as provided herein.
- (ii) **Inspections.** Merchant will permit Purchaser or its agent to conduct a site inspection of Merchant's business, including an inspection of Merchant's credit card terminals, without prior notice to you.
- (iii) **Governmental Approvals.** Merchant is in compliance and shall comply with all laws and has valid permits, authorizations and licenses to own, operate and lease its properties and to conduct the business in which it is presently engaged and/or will engage in hereafter.
- (iv) **Merchant to Pay Taxes Promptly.** Merchant will promptly pay all necessary taxes, including but not limited to employment and sales and use taxes.
- (v) **Merchant to Maintain Insurance.** Merchant will use commercially reasonable efforts to possess and maintain insurance in such amounts and against such risks as are necessary to protect its business and will provide proof of such insurance to Purchaser upon request.

### **7. Material Breach.**

**A. Material Breach.** Any of the following actions taken directly or indirectly by or on behalf of Merchant will constitute a "Material Breach," without any prior notice from Purchaser:

- (i) The breach of any representation, warranty, covenant or agreement of Merchant set forth in this Agreement;
- (ii) Merchant interferes with Purchaser's right to collect the Amount Sold, including without limitation by any act prohibited under this Agreement;
- (iii) Except as expressly otherwise provided herein, Merchant becomes subject to any material judgment or garnishment after the Effective Date that is not disclosed to Purchaser;
- (iv) Merchant takes any affirmative steps (including, without limitation, executing a term sheet or definitive documentation) or threatens to take any action prohibited by this Agreement that, if effected, would constitute a Material Breach.

**B. Limitations on Material Breach.** Notwithstanding any other provision of this Agreement,

- (i) If the aggregate Receivables remitted to Purchaser pursuant to this Agreement are less than the stated Amount Sold, despite Merchant's best efforts to operate its business in compliance with this Agreement in good faith, and Merchant has not violated any other provision of this Agreement, such diminution of Receivables shall not in itself be deemed a Material Breach.

- (ii) The filing for bankruptcy or insolvency of Merchant is not in itself a Material Breach of this Agreement.

**8. Purchaser Remedies upon Material Breach.** Merchant agrees that, upon the occurrence of a Material Breach, Purchaser may, and Merchant hereby authorizes Purchaser to, pursue any and all of the following remedies, to the extent permitted by law, without prior notice to Merchant:

- (a) Purchaser shall be entitled to receive all Contract Damages (as defined) from Merchant.
- (b) Purchaser will be entitled to recover from Merchant all Costs of Collection.
- (c) Purchaser may withdraw funds from any of Merchant's bank accounts, including any Approved Account, by ACH, up to an amount equal any Amount Sold, *plus* unpaid fees and charges under this Agreement, if any, and Purchaser's costs and expenses relating to this Agreement (including without limitation, all Costs of Collection).
- (d) Purchaser may exercise any and all remedies available, including but not limited to remedies under the Uniform Commercial Code (the "UCC") of the applicable jurisdiction including without limitation: (1) notifying customers and other third parties (including without limitation credit card processors) of Purchaser's rights to Receivables in Approved Accounts, (2) levying or foreclosing on Approved Accounts, and (3) seizing Collateral in any Approved Account or at the business location of Merchant or any Other Business, Successor Company or Guarantor, as applicable, including seizure by local sheriff and/or marshal.
- (e) Purchaser shall also be entitled to all remedies available to it at law or in equity, including without limitation to initiate any legal or equitable action, administrative proceeding, arbitration or mediation or other collection activities, as further specified below.
- (f) Notwithstanding the foregoing, Purchaser agrees that it will not enforce any remedy under this Agreement while a reconciliation under Section 5 is in process.

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**You acknowledge that Purchaser has purchased from you any and all interests in the Amount Sold of Receivables, that Purchaser is the party at risk regarding the collection of those Receivables, and that Merchant has no legal or equitable interest in the Amount Sold of Receivables. The Amount Sold of Receivables, or any other fees and charges under this Agreement, shall not be subject to the application of or deduction for any claim, set-off, disability, defense (whether substantive or procedural) or counterclaim of Merchant. You agree that the funding transaction described in and implemented by this Agreement is a true purchase and sale of the Receivables (i.e., a "true sale"), and not a loan, and acknowledge that Purchaser has entered into this Agreement in reliance upon this representation by you. In addition, you expressly waive and release your right to claim that the transaction carried out by this Agreement is a loan and not a true sale of Receivables. This Agreement and each of your obligations under this Agreement shall remain in effect until Purchaser's receipt in full of the Amount Sold of Receivables, together with any fees or charges as provided herein, including any Costs of Collection, as applicable.** Upon the occurrence of a Material Breach, Merchant hereby (1) acknowledges and agrees that Purchaser shall be entitled to receive the Contract Damages from Merchant; and (2) until the Amount Sold and any other fees and charges incurred under this Agreement have been received in full by Purchaser, irrevocably and unconditionally appoint Purchaser as Merchant's agent coupled with an interest and attorney-in-fact with full authority to (i) take any action or initiate any legal or equitable action (including an action to appoint a receiver for Merchant's business), administrative proceeding, arbitration or mediation or other collection activities or execute any instrument or document in the name of Merchant, solely for the purpose of securing the Contract Damages, or otherwise to enforce its rights with respect to any Collateral and (ii) pursue any remedy available at law (including those available under the provisions of the UCC) or in equity to enforce any agreements or satisfy any obligations to Purchaser, including without limitation placing a "hold" on Merchant's credit card processing accounts. As used herein, "**Contract Damages**" means an amount equal to the Amount Sold, less all prior receipts of Receivables by Purchaser plus any applicable fees and charges under this Agreement; and "**Costs of Collection**" means, as permitted by law, any and all costs, fees and expenses, including reasonable attorneys' fees and other professional fees, marshal fees, sheriff fees and disbursements incurred by Purchaser after any Material Breach, in connection with the defense, protection or enforcement of Purchaser's rights under this Agreement and/or the Guaranty, including without limitation those arising from: (1) any legal or equitable action (including an action to appoint a receiver for Merchant's business), administrative proceeding, arbitration or mediation or other collection activities, taken against Merchant or any Other Business, Successor Company or Guarantor; (2) any levy or foreclosure upon Collateral; (3) any bankruptcy proceeding involving Merchant or any Guarantor, Other Business or Successor Company; and (4) all post-judgment enforcement proceedings. Without limiting the foregoing, Merchant acknowledges that Costs of Collection will include Purchaser's reasonable in-house collection costs of not less than \$2,500 for any Material Breach. The parties hereby agree that, following arms' length negotiations and opportunity to consult with counsel, the Contract Damages amount is fair and reasonable and does not constitute a penalty. In the event of any collection efforts or action for the collection of the Amount Sold and other amounts to be received by Purchaser under this Agreement, Purchaser shall be entitled to recoup its reasonable legal fees, court costs and related expenses from Merchant and any Other Business, Successor Company and/or Guarantor.

**9. Sale of Receivables.** (a) *Security Interest.* To evidence the purchase and sale of Receivables hereunder and to secure Merchant's obligations to remit the Periodic Amount until the Amount Sold is received by Purchaser out of Receivables, Merchant and Guarantor hereby grant to Purchaser, in the name of Purchaser or its duly authorized representative, a first priority, continuing security interest (unless a third-party lien has been consented to by Purchaser in writing prior to the Effective Date) in and to: (i) the Receivables of Merchant (or any person or entity whose accounts are included in Receivables) up to the Amount Sold; (ii) all equipment and inventory as those terms are defined in Article 9 of the UCC, as amended, whether now or hereafter owned or acquired by Merchant (and/or any subsidiary or other person or entity whose accounts are included in Receivables) and wherever located; (iii) all "proceeds" of such property described in clause (i) and/or clause (ii), as that term is defined in Article 9 of the UCC; (iv) upon a Material Breach, the assets, business property and collateral of any Other Business, Successor Company or Guarantor; and (v) any additional collateral as may be mutually agreed between Merchant and/or any Guarantor, on the one hand, and Purchaser, on the other hand in writing (collectively, the "**Collateral**").

Merchant and Guarantor agree that any electronic signature provided for this Agreement shall be deemed fully "authenticated" under Article 9 of the UCC for purposes of creating and perfecting the foregoing security interest. Merchant hereby authorizes Purchaser to make any UCC filing and/or recording relating to this Agreement (including filing a UCC-1 financing statement) at any time with any governmental agency and/or office (including the office of the Secretary of State), including without limitation to perfect Purchaser's rights and interests in the Collateral as provided in this Agreement. In addition, upon a Material Breach, Purchaser may exercise any rights and remedies available under the UCC and applicable law against Merchant and/or Guarantor, including without limitation, placing a "hold" on Merchant's credit card processing accounts, the costs of which shall be borne by Merchant, as provided above. **Merchant and Guarantor hereby agree that Merchant will not pledge, grant, transfer or otherwise encumber any security interest in its Receivables to any other person or entity until Purchaser has received the Amount Sold, plus any assessed fees and Costs of Collection, other than in connection with a financing approved by Purchaser in writing beforehand.**

(b) *Further Assurances.* Merchant agrees to execute any documents or take any action on behalf of Merchant in connection with this Agreement as Purchaser deems necessary to perfect or maintain Purchaser's security interest in the Collateral as provided in this Agreement.

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**10. Merchant Authorizations.**

(a) *Right to Contact Third Parties.* You authorize Purchaser, from time to time, to contact any credit reporting or database service, Merchant's current and prior credit card processors, and Merchant's current and prior banks (including without limitation the bank where any Approved Account will be maintained), in order to

available to you, including without limitation Merchant's credit history, credit card, debit card and other payment card, processing and chargeback history.

(b) *Credit Reports and Information.* You authorize Purchaser to, from time to time, obtain credit and/or background reports on Merchant, its principals, and its customers. Any such report(s) that Purchaser obtains may include, without limitation, a hard or soft credit pull, the business' or individuals' credit history or similar characteristics, employment and education verifications, social security verification, criminal and civil history, Department of Motor Vehicle records, any other public records, and any other information bearing on credit standing, credit capacity or character. Such reports will be used by Purchaser to determine (i) if it will proceed with the purchase of the Receivables from Merchant and (ii) after funding, if needed to assist Purchaser in the collection of Receivables. Merchant shall also provide and/or execute such further and additional documents, instruments, and writings as Purchaser may require in order to access and review any tax information (including tax returns) related to Merchant's business (including without limitation by executing a 4506T form with the Internal Revenue Service).

(c) *Recorded Calls; Contact.* You authorize Purchaser to monitor and/or record its telephone calls with Merchant and its principals, owners, employees or agents to confirm the contents of conversations, for evaluation by supervisors, training, monitoring for compliance, and for collections. You further agree that: (i) you have established a business relationship with Purchaser, Purchaser's employees and agents; (ii) you may be contacted from time-to-time regarding this Agreement or other business transactions; (iii) such communications and contacts are not unsolicited or inconvenient; and (iv) contact may be made during normal business hours by phone, email or otherwise, using contact information provided by you, your agents or employees.

(d) *Rights of Purchaser.* Without any prior notice to you, Purchaser may: (1) compromise or settle any claim, liability or obligation of Merchant under this Agreement or of any customer owing a Receivable purchased hereunder; (2) contact any credit card processor of Merchant in order to place a "hold" on all account funds upon the occurrence of a Material Breach; and (3) release, surrender, dispose of (including through foreclosure, and whether or not by judicial proceedings or arbitration, as applicable), exchange, modify, impair, fail to perfect, or extend the period of duration or time for the performance or discharge of any or all Receivables or Collateral, including without limitation the Receivables or Collateral of any Other Business or any Successor Company. **In addition, upon a Material Breach, Purchaser has the right to enforce any remedy set forth in this Agreement, separately or together at Purchaser's discretion.** The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

(e) *Acknowledgments and Waiver.* Your signature on the signature page hereof on behalf of Merchant, will confirm that you have read and understand all terms and conditions of this Agreement. Merchant hereby irrevocably and unconditionally waives and releases: (i) promptness, diligence, notice of acceptance, notice of presentment, demand, protest dishonor or default, and any other notice with respect to any obligations of Merchant with respect to the Collateral; (ii) any requirement that Purchaser exhaust any right, by statute or otherwise, or take any action against Merchant or any other person or entity or any Collateral; (iii) any defense relating to the marshalling of assets or similar doctrine; (iv) all defenses of any kind, both substantive and procedural, to enforcement it may have (now or in the future); (v) the right to assert any set-offs or counterclaims, whether legal, equitable or otherwise, and (vi) the right to claim that the transaction described in and implemented by this Agreement is a loan and not a true sale of the Receivables. **Further, Merchant hereby acknowledges Purchaser's right as a secured party under the UCC to implement a hold on funds in Merchant's card processor account as provided above.**

**11. Access to and Retrieval of Information.** (a) *Authorization.* From and after the Effective Date, until the Amount Sold has been remitted to Purchaser, you authorize Purchaser to: (i) access and collect any information relating to Merchant's business (including information relating to Merchant's principals) maintained online by third-party financial institutions with which Merchant has relationships, maintains accounts or engages in financial transactions (including credit card processors), (ii) access third party sites designated by Merchant, on Merchant's behalf, to retrieve information requested by Merchant, and to register for accounts requested by Merchant and (iii) access third party internet sites, servers or documents, retrieve information, and use Merchant's information for the purposes described herein. Purchaser may work with one or more online financial service providers under contract to access this account information and review bank statements, as determined by Purchaser at its sole discretion without notice to you (collectively, "**Service Provider**"). **You will immediately provide Purchaser and/or Service Provider with relevant account information, passwords and/or codes in order to ensure that Purchaser has full read-only access to your Approved Accounts.** Purchaser's current Service Provider is Yodlee ([www.Yodlee.com](http://www.Yodlee.com)), but Purchaser has the right in its sole discretion to change the Service Provider at any time without prior notice. Merchant acknowledges that Service Provider is an independent contractor not affiliated with Purchaser, that Purchaser is not responsible for any actions of a Service Provider, and that you agree not to seek damages or other compensation from Purchaser based on any action or inaction by a Service Provider.

(b) *Disclaimer of Warranty.* YOU EXPRESSLY UNDERSTAND AND AGREE THAT MERCHANT'S USE OF THE SERVICE PROVIDER'S SERVICE (THE "**SERVICE**") AND ALL INFORMATION, PRODUCTS AND OTHER CONTENT (INCLUDING THAT OF THIRD PARTIES) INCLUDED IN OR ACCESSIBLE OR DOWNLOADED FROM THE SERVICE IS AT MERCHANT'S SOLE RISK. THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. PURCHASER AND SERVICE PROVIDER EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND AS TO THE SERVICE AND ALL INFORMATION, PRODUCTS AND OTHER CONTENT (INCLUDING THAT OF THIRD PARTIES) INCLUDED IN OR ACCESSIBLE FROM THE SERVICE, WHETHER EXPRESS OR IMPLIED. MERCHANT AGREES THAT NEITHER PURCHASER OR SERVICE PROVIDER NOR ANY OF THEIR AFFILIATES WILL BE LIABLE FOR ANY HARM DAMAGES OF ANY KIND.

(c) *Service Content.* Merchant is permitted to use content delivered to Merchant through the Service only on the Service. Merchant may not copy, reproduce, distribute, or create derivative works from this content. Further, you agree not to reverse engineer or reverse compile any of the Service technology, including but not limited to, any Java applets associated with the Service. Merchant is licensing to Purchaser and its service providers, including Service Provider, any information, data, passwords, materials or other content (collectively, "**Content**") Merchant provides through or to the Service. Purchaser and Service Provider may use, modify, display, distribute and create new material using such Content to provide the Service to Merchant.

**12. Limitation of Liability.** YOU HEREBY AGREE THAT, REGARDLESS OF THE CLAIMS YOU MAY HAVE AGAINST PURCHASER TO THE EXTENT PERMITTED BY LAW, YOUR SOLE REMEDY WILL BE MONEY DAMAGES NOT TO EXCEED THE GREATER OF (i) THE AMOUNT OF FUNDS OVERPAID TO PURCHASER, IF ANY, AND (ii) **TEN THOUSAND DOLLARS (\$10,000)**, AND THAT YOU WILL NOT BE ENTITLED TO, YOU HEREBY WAIVE, ANY AND ALL CLAIMS FOR, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, LOST PROFITS, STATUTORY, OR SPECIAL DAMAGES OF ANY KIND, EVEN IF MERCHANT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IF MERCHANT FILES ANY CLAIM OR ACTION AGAINST PURCHASER (X) IN DEROGATION OF THIS **SECTION 12** OR (Y) THE MATTER IS DISMISSED OR (Z) PURCHASER PREVAILS IN THE MATTER, YOU AGREE TO PAY ALL OF PURCHASER'S COSTS OF COLLECTION INCURRED IN THE MATTER.

**13. Indemnity.** Merchant hereby agrees, jointly and severally if more than one Merchant, to indemnify, defend and hold Purchaser harmless from and against any and all direct and third party suits, costs, causes of action, judgments, complaints, orders, and claims (each a "**Claim**"), together with any and all liabilities, losses, obligations, damages and penalties of any kind incurred by Purchaser or its affiliates, including without limitation Contract Damages, reasonable attorneys' fees and disbursements and all Costs of Collection, arising from or relating to any Claim brought against Purchaser by a customer or other third party that Merchant has committed an act or omission which constitutes a breach of this Agreement or that any representation, warranty, covenant, disclosure or statement Merchant has made is not accurate in any respect or for any intentional or willful misconduct of Merchant, including in connection with the preservation, protection, or enforcement of any rights of Purchaser under this Agreement, and in any case commenced by or against Merchant or any Guarantor under the United States Bankruptcy Code (Title 11, United States Code) or any similar or successor statute. Purchaser will notify Merchant of any claim for indemnity hereunder, select counsel of Purchaser's choice and Merchant will promptly pay all legal fees, defense costs and other expenses incurred by Purchaser and promptly pay to Purchaser any judgment or other Claim amounts due and payable, including without limitation all Contract Damages and Costs of Collection.

**14. Merchant Waivers.** (a) *Commercial Waivers.* Merchant hereby unconditionally waives: (i) promptness, diligence, notice of acceptance, notice of presentment, demand, protest dishonor or default, and any other notice with respect to the Collateral; (ii) any claim that Purchaser exhaust any right, by statute or otherwise, or take any action against the Merchant or any other person or entity or the Collateral; (iii) any defense relating to the marshalling of assets or similar doctrine; (iv) all defenses of any kind, both substantive and procedural, to enforcement it may have, including any defenses relating to the proper service of any pleadings or other court documents; and (v) the right to assert any set-offs or counterclaims, whether legal, equitable or otherwise, against Purchaser or its affiliates. **BY SIGNING THIS AGREEMENT, MERCHANT EXPRESSLY AGREES THAT IT HAS PERMANENTLY WAIVED AND RELEASED THE RIGHTS (1) TO START OR JOIN A CLASS ACTION; (2) TO TRIAL BY JURY; (3) TO CLAIM, THAT THE TRANSACTION IMPLEMENTED BY THIS AGREEMENT IS A LOAN AND NOT A TRUE SALE OF RECEIVABLES; AND (4) TO RAISE DEFENSES AND COUNTERCLAIMS, TO THE MAXIMUM EXTENT PERMITTED BY LAW. UPON A MATERIAL BREACH OF THIS AGREEMENT BY MERCHANT, AN ACTION MAY BE FILED AGAINST EACH MERCHANT WITHOUT PRIOR NOTICE FOR PURCHASER'S CONTRACT DAMAGES AND COSTS OF COLLECTION.**

(b) *Waiver of Jury Trial and Class Action.* EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT THAT THEY MAY HAVE TO (1) TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION, OR IN ANY LEGAL PROCEEDING, DIRECTLY OR INDIRECTLY BASED UPON OR ARISING OUT OF THIS AGREEMENT OR THE TRANSACTION (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY); AND (2) ASSERT ANY CLAIMS AGAINST ANY OTHER PARTY AS A REPRESENTATIVE OR MEMBER IN ANY CLASS OR REPRESENTATIVE ACTION (INCLUDING CLASS ARBITRATION), EXCEPT WHERE SUCH WAIVER IS PROHIBITED BY PUBLIC POLICY. TO THE EXTENT ANY PARTY IS PERMITTED BY LAW OR COURT OF LAW TO PROCEED WITH A CLASS OR REPRESENTATIVE ACTION AGAINST ANY OTHER PARTY, THE PARTIES HEREBY AGREE THAT: (1) THE PREVAILING PARTY WILL NOT BE ENTITLED TO RECOVER ATTORNEYS' FEES OR COSTS ASSOCIATED WITH PURSUING THE CLASS OR REPRESENTATIVE ACTION (NOTWITHSTANDING ANY OTHER PROVISION IN THIS AGREEMENT); (2) THE PARTY WHO INITIATES OR PARTICIPATES AS A MEMBER OF THE CLASS WILL NOT SUBMIT A CLAIM OR OTHERWISE PARTICIPATE IN ANY RECOVERY SECURED THROUGH THE CLASS OR REPRESENTATIVE ACTION; AND (3) THE FOREGOING WAIVERS ARE ESSENTIAL TERMS OF THIS AGREEMENT. YOU UNDERSTAND AND AGREE THAT, BY SIGNING THIS AGREEMENT, (1) YOU ARE PERMANENTLY WAIVING YOUR RIGHT TO A JURY TRIAL AND (2) YOU MUST BRING CLAIMS, INCLUDING IN COURT, ARBITRATION OR ANY OTHER LEGAL PROCEEDING, AGAINST PURCHASER ONLY IN YOUR INDIVIDUAL OR CORPORATE CAPACITY, AS APPLICABLE, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.

(c) *Waiver of Consumer Defenses.* Merchant and each Guarantor hereby waive any defense, regardless of the actual use of the Funded Amount by Merchant or Guarantor, claiming that the Funded Amount was made to Merchant or Guarantor for personal, consumer, family or household purposes. Merchant and each Guarantor understand and agree that, as set forth in Section 1 above, the amount funded is solely for business purposes and for the operation of your business as set forth in this Agreement.

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**15. Governing Law; Venue; Personal Jurisdiction; Consent to Service; Statute of Limitations; Arbitration.** (a) *Governing Law.* This Agreement and all transactions hereunder, including without limitation the purchase and sale of Receivables as specified herein, and all claims of whatsoever nature arising hereunder (including without limitation tort and statutory claims), will be governed by and enforced exclusively in accordance with the internal laws of the **State of New York**, without regard to conflict of laws principles. You expressly acknowledge that: (i) Purchaser maintains its principal office in the State of New York; (ii) the Funding Call and customer service will take place with Purchaser's representatives in the State of New York; (iii) all funding to and payments from Merchant under this Agreement will be processed through Purchaser's bank branches in New York; and (iv) the purchase and sale of Receivables pursuant to this Agreement shall take place in New York. **Accordingly, the parties agree that this Agreement and its subject matter bears a "significant, material and reasonable relationship" with the State of New York.**

(b) *Venue and Personal Jurisdiction.* Subject to Section 15(d), the parties unconditionally and irrevocably consent to the exclusive jurisdiction and venue of state courts located in: (x) the State of New York; (y) the State of Merchant's incorporation or formation or where its operations, offices, assets or domicile are located, or (z) the State where any Guarantor resides. **In the event of a judicial action brought by Purchaser under this Agreement, Merchant and each Guarantor hereby unconditionally and irrevocably waive any and all claims and objections to jurisdiction and/or venue as per this provision.**

(c) *Consent to Service.* Merchant and each Guarantor waive personal service of any and all process upon Merchant and Guarantor and consent that service of process may be made by certified or registered mail. **Merchant and each Guarantor hereby irrevocably and unconditionally waive any and all claims and objections to service of process as per this provision.**

(d) *Reduced Statute of Limitations.* Each party hereto agrees, after having been afforded the right to fully consult with counsel, that: (i) it will not bring any claim, action or legal or administrative proceeding of any kind or under any legal or equitable theory or request for relief of any kind to enforce or arising out of or relating to in any material respect this Agreement (collectively, "**Action or Proceeding**") after the date **one (1) year** from the sooner to occur of (x) the receipt of the Amount Sold in full by Merchant to Purchaser and (y) the effective date of termination for any reason of this Agreement (such period, the "**Limitations Period**"); (ii) all statutes of limitations under applicable law shall in all cases be limited to the Limitations Period; and (iii) the Limitations Period is a reasonable period of time in which to bring an Action or Proceeding under or relating to this Agreement

(e) *Arbitration.* Except as expressly otherwise provided herein, each party agrees to confidential arbitration of all disputes and claims arising out of or relating to this Agreement, including issues relating to the arbitrability of any dispute or claim (collectively, "**claims**"). If a party seeks to have a dispute settled by arbitration, that party must first send to the other party, by certified mail, a written Notice of Intent to Arbitrate (the "**Notice**"). If the parties do not reach an agreement to resolve the claim within thirty (30) days after the Notice is received, Purchaser and Merchant agree that the claim will be resolved by a final and binding arbitration proceeding with JAMS, Inc. ("**JAMS**") in New York County, State of New York, under the Optional Expedited Arbitration Procedures then in effect. The parties agree that, except as otherwise expressly required by JAMS rules, (i) the party filing arbitration shall pay all JAMS filing fees and reasonable administrative fees; (ii) thereafter, each party shall bear its own arbitration costs and fees, including witness fees and attorneys' fees; and (iii) each party shall bear an equal share of the arbitrator's fees; provided, if the arbitrator finds that either the substance of the claims of any party or the relief sought by any party is frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), then the arbitrator shall award the other party all of its costs and fees of the arbitration, including witness and reasonable attorneys' fees. Purchaser and Merchant agree that, except as expressly otherwise provided herein, (i) arbitration is the required and exclusive forum for the resolution of all claims and (ii) to the fullest extent permitted by law, Purchaser and Merchant are each permanently giving up their right to a jury trial in any forum and the right to a judicial forum for the resolution of any and all claims. Further, the parties agree that the arbitrator may not consolidate proceedings for more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding, and that if this specific provision is found unenforceable, then the entirety of this arbitration clause shall be null and void. Notwithstanding any provision hereof, upon a Material Breach by Merchant, Purchaser may commence a judicial action to collect Contract Damages, or to enforce any collection remedy under this Agreement or at law. And in any such judicial proceeding Purchaser shall have the right to respond to any defenses or claims asserted by any Merchant or Guarantor by contending, among other things, that Merchant's or Guarantor's claims or defenses must be arbitrated under this arbitration clause. Merchant agrees that the commencement of any such judicial action shall not constitute a waiver by Purchaser of its right to arbitrate any such claims arising under this Agreement.

**MERCHANT MAY OPT OUT OF ARBITRATION.** In order to opt out of this Arbitration Clause, Merchant shall send Purchaser a written notice executed by Merchant, stating that Merchant does not want the arbitration clause set forth in this Section 15(e) to apply to the Agreement. For any opt out to be effective, an opt out notice, duly executed by Merchant, must be sent to the following address by registered mail, within ten (10) business days after the Effective Date (*i.e.*, the date this Agreement is funded), time being of the essence, to: Itria Ventures LLC, One Penn Plaza, Suite 4530, New York, NY 10119, Attention: President and General Counsel.

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**16. Guaranty of Performance.** (a) *Guaranty of Performance.* Each Guarantor hereby guarantees (this “**Guaranty**”) Merchant’s complete and timely performance of the obligations specified in Section 6 hereof upon the occurrence of a Material Breach. Upon such occurrence of a Material Breach, the obligations of Guarantors shall remain in effect and enforceable by Purchaser until the entire Amount Sold has been received by Purchaser, including (i) any assessed fees and Costs of Collection, whether or not litigation is commenced and (ii) the return of any amount of remittances set aside or returned by Purchaser for any reason. If there is more than one Guarantor, the liability of all Guarantors shall be joint and several. **Each Guarantor acknowledges that such guarantor has read and fully understands the provisions of this Agreement, including without limitation the obligations of Merchant set out in Section 6 and the arbitration provisions directly above.**

(b) *Waivers.* Each Guarantor hereby unconditionally waives: (i) promptness, diligence, notice of acceptance, notice of presentment, demand, protest dishonor or default, and any other notice with respect to the Collateral; (ii) any claim that Purchaser exhaust any right, by statute or otherwise, or take any action against the Merchant or any other person or entity or the Collateral; (iii) any defense relating to the marshalling of assets or similar doctrine; (iv) any defense founded upon or relating to the impairment of the Receivables or Collateral; (v) all defenses of any kind, both substantive and procedural, to enforcement it may have, including any defenses relating to the proper service of any pleadings or other court documents; and (vi) the right to assert any set-offs or counterclaims, whether legal, equitable or otherwise, against Purchaser or its affiliates. **EACH GUARANTOR ACKNOWLEDGES AND HEREBY REAFFIRMS THE WAIVERS SPECIFIED IN SECTION 1 AND SECTION 14, INCLUDING WITHOUT LIMITATION THE JURY WAIVER AND CLASS ACTION WAIVER.**

(c) *Rights of Purchaser.* Each Guarantor acknowledges that, upon a Material Breach of the Agreement by Merchant, Purchaser may, without prior notice to Guarantor: (i) enforce its rights to collect the Receivables or against the Collateral as provided herein; (ii) bring an action against each Guarantor and, in the event Purchaser recovers a judgment against Guarantor, thereafter domesticate such judgment in another jurisdiction at Purchaser’s discretion, whether prior to, contemporaneously with or after any enforcement against Merchant or any customer; and/or (iii) initiate any legal or equitable action (including an action to appoint a receiver for Merchant’s business), administrative proceeding, arbitration or mediation or other collection activities. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

(d) *Enforcement Expenses.* Upon a Material Breach by Merchant, each Guarantor agrees to pay or reimburse Purchaser for all costs, expenses and attorneys’ fees and disbursements paid or incurred by Purchaser in endeavoring to collect and enforce the Agreement, the Receivables, and/or this Guaranty, including in connection with the preservation, protection, or enforcement of any rights of Purchaser in any case commenced by or against Guarantor under the United States Bankruptcy Code (Title 11, United States Code) or any similar or successor statute.

**17. Miscellaneous.** (a) *Entire Agreement.* This Agreement (including the above Guaranty) constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes all previous agreements and understandings, whether written or oral. This Agreement may only be modified by written amendment signed by the parties, and shall inure to the benefit of the parties and their respective successors and permitted assigns. Upon the termination of this Agreement for any reason, Sections 6, 7, 8, 9, 10, 11(d), 12, 13, 14(b), 15 and this Section 16 shall remain in full force and effect.

(b) *Assignment and Delegation.* **You may not assign this Agreement or any rights herein or delegate any duties, in whole or in part, without the prior written consent of Purchaser, and any purported assignment or delegation by Merchant without such consent shall be void ab initio. Purchaser may assign, sell and transfer this Agreement or any rights herein, to any party, without the consent of or notice to Merchant.**

(c) *Notices.* All communications between the parties with respect of, or notices, requests, directions, consents or other information sent under, this Agreement shall be in writing and delivered by email (with proof of transmission) to an email address of the other party at which such party normally and customarily receives email communications as of the time the notice is sent or, at the request of any party, by Federal Express or other internationally recognized courier (with signature). All such communications and notices shall be effective upon receipt or sending with proof of transmission.

(d) *Service of Process.* Merchant agrees and hereby consents that service of process for any lawsuit or arbitration involving Merchant or any of its principals may be made by Purchaser at Merchant’s primary business address.

(e) *No Waiver.* There will be effected no waiver by failure on the part of Purchaser to exercise, or delay in exercising, any right under this Agreement, nor will any single or partial exercise by Purchaser of any right under this Agreement preclude any other future exercise of any right. The remedies provided hereunder are cumulative and not exclusive of any remedies provided by law or equity.

(f) *Severability.* The illegality, invalidity or unenforceability of any provision of this Agreement under the law of any jurisdiction shall not affect its legality, validity or enforceability under the law of any other jurisdiction nor the legality, validity or enforceability of any other provision.

(g) *Further Assurances.* The parties agree to execute such further and additional documents, instruments, and writings as may be necessary, proper, required, desirable, or convenient for the purpose of fully effectuating the terms and provisions of this Agreement.

(h) *Counterparts; Telecopies.* This Agreement may be executed in multiple counterparts, all of which taken together shall be deemed to constitute one and the same original instrument. Transmission by email, telecopier, facsimile or other form of electronic transmission of an executed counterpart of this Agreement shall be deemed an executed original.

(i) *Consent to Electronic Transactions.* **You expressly consent to conducting this transaction by electronic means, including without limitation email communications, electronic signatures, the creation of a duly authenticated security interest by electronic signature, and the retention and storage of electronic records, to the maximum extent permitted by law.** Merchant agrees that Purchaser does not need to provide Merchant with a paper copy of any notice or document relating to this Agreement unless specifically requested by Merchant in writing.

*[signature page follows]*

IN WITNESS WHEREOF, (i) Merchant and Purchaser by their duly authorized officers have signed this **Receivables Sale Agreement** and (ii) each Guarantor has subscribed to the **Guaranty of Performance (Section 16)**, in each case in accordance with the terms t hereof. By signing below, Merchant and each Guarantor hereby affirm to Purchaser that they have read and understand this Agreement, including without limitation the provisions referenced in Section 1 (Fundamental Terms, Conditions and Waivers), Section 14 (Merchant Waivers) and Section 15(e) (Arbitration). By signing the Guaranty, each Guarantor further affirms to Purchaser that such Guarantor has read and fully understands the Guaranty of Performance (Section 16) and that, by signing below, such guarantor will be personally liable for the timely and complete performance of Merchant’s obligations as set forth therein.

**MERCHANT: HOWCO DISTRIBUTING CO., BANTEC LLC, 3 TREFOIL COURT, LLC, BANTEC, INC.**

**TAX ID #:** 931033165

By: /s/ Michael J Bannon  
Name: MICHAEL J BANNON  
Title: Managing Member

By: X

X  
Name: \_\_\_\_\_  
SS#: \_\_\_\_\_  
Virginia

**MERCHANT**

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
By: X  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: X  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**GUARANTOR**

Name: /s/ Michael J Bannon  
MICHAEL J BANNON  
SS#: XXX-XX-5592

**GUARANTOR**

Name: X  
SS#: \_\_\_\_\_

Name: X  
SS#: \_\_\_\_\_

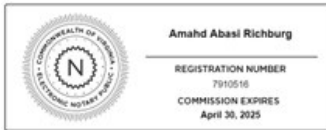
Notarized online using audio-video communication

STATE OF )  
COUNTY OF )  
Prince William

05/03/2023

I, \_\_\_\_\_ a Notary Public, do hereby certify that on this \_\_\_ day of \_\_\_\_\_, 20 Amahd Abasi Richburg \_\_\_, appeared before me \_\_\_\_\_, MICHAEL J BANNON the \_\_\_\_\_ of Merchant, and Managing Member a Guarantor under the within Receivables Sale Agreement, each personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the foregoing agreement, and swore and acknowledged to me that he or she executed the same by and in the name of Merchant and/or as Guarantor, respectively, for the purpose and in the capacity therein expressed, and that the statements contained therein are true and correct.

Notary Signature: /s/ Amahd Abasi Richburg  
Name of Notary: Amahd Abasi Richburg  
Notary Commission Expires: 04/30/2025



**Notification of Assignment**

**Attention: Accounting/Accounts Payable Dept.**

This letter is to inform you that the carrier named below uses Itria Ventures LLC ("Itria") as its financing company.

Merchant: HOWCO DISTRIBUTING CO., A Washington Corporation BANTEC LLC, A Connecticut Limited Liability Company BANTEC, INC., A Delaware Corporation

(Case ID – 1356668)

Date: 04/28/2023

UNDER NO CIRCUMSTANCES SHOULD PAYMENT BE PROVIDED DIRECTLY TO THE MERCHANT.

Pursuant to a Receivable Sale Agreement with Itria, the above-referenced Merchant has assigned all of its current and future accounts receivable to Itria, including the accounts receivable for all current and future receivables for your company by the Merchant. Accordingly, you must remit payment for work produced directly to Itria. This Assignment may only be rescinded through formal written notice if provided and signed by an authorized officer of Itria.

Release of this Assignment cannot be provided by any party other than Itria. Payment to the Merchant or any other party after your receipt of this notice will not discharge your legal obligation, pursuant to section 9-406 of the Uniform Commercial Code to pay Itria. The Merchant will not be participating in any Quick Pay programs (even if they have previously) and all payments should be made to Itria in a normal and timely matter.

All payments for work produced by this Merchant should be sent via ACH or mailed to Itria at the following address:

**Payments by Mail:**

Itria Ventures LLC  
One Penn Plaza  
Suite 3101

Please make appropriate changes in your accounts payable systems to reflect this change and facilitate payments as directed herein.

ITRIA VENTURES LLC

By: \_\_\_\_\_

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

[MERCHANT]

/s/ Michael Bannon

Signature

Name: MICHAEL J BANNON Title: Managing Member

EX-10.3 5 f10q0623ex10-3\_bantec.htm HOWCO RENEWAL LEASE AGREEMENT DATED MAY 2, 2023

Exhibit 10.3

SEVENTH AMENDMENT TO LEASE

I. PARTIES AND DATE.

This Seventh Amendment to Lease (this "Amendment") dated April 16, 2020, is by-and between Steven M. Strong dba Creekside Business Park ("landlord"), and Howco Distributing Company ("Tenant").

II. RECITALS.

Landlord and Tenant entered that certain Creekside Business Park Standard Industrial lease-MultiTenant dated April 28, 2009, (the "Lease"), for the premises located at Creekside Business Park, 6025 East 18th Street, Vancouver, Washington 98661, consisting of 5,624 total square feet, including approximate 2,500 square feet of office space, as more particularly described in said Lease (the "Premises").

Landlord and Tenant each desire to extend the term of the Lease and otherwise modify the Lease as set forth below.

III. MODIFICATIONS.

NOW, THEREFORE, in consideration of the mutual covenants and Agreements herein contained and for other good and valuable consideration, the receipt, and sufficiency of which is at this moment

O acknowledged, Landlord and Tenant at this moment amend the lease as follows:

A. Basic Lease Provisions.

1 Incorporation; Define Terms. The Lease is at this moment incorporated into this Amendment by this reference. All capitalized terms used and not otherwise defined in this Amendment, but defined in the Lease, shall have the same meaning in this Amendment to Lease.

2. Lease Term: Landlord and Tenant acknowledge that the term of the Lease is presently scheduled to expire on May 31, 2023. The term of the Lease is at this moment extended for 36 months ("Extension Term"), commencing on June 1, 2023, and, unless sooner terminated under the terms of the lease expiring on May 31, 2026. Such extension shall be on and subject to all the terms and conditions of the lease, as amended by this Amendment.

3. Base Rent. Effective upon the commencement of the Extension Term, the Base Rent payable by Tenant on the Premises shall be as follows:

Months	Monthly Base Rent
June 1, 2023 - May 31, 2024	\$4,542.00/month
June 1, 2024 - May 31, 2025	\$4,679.00/month
June 1, 2025 - Ma 31, 2026	\$4,819.00/month
June 1, 2026 - May 31, 2027	\$4,964.00/month
June 1, 2027 - May 31, 2028	\$5,112.00/month

4. Effect on Additional Rent and Charges. Nothing contained in this Amendment shall affect Tenants Liability for Tenants Share of Operating Expenses or any and all additional rent and charges payable by Tenant under the Lease. Such amounts shall be payable by the Lease, and Tenant's monthly payment of Base Rent. Tenant's failure to pay any amounts due promptly shall constitute a default under the Lease.

5. Tenant's Share. Tenant's share is defined, for purposes of this Amendment, as \$3.16/SF Near or \$11480.99 per month for the 2023 lease year, which may be revised or reconciled as provided for in the Lease Agreement.

6. Security Deposit. Upon execution of this Amendment, Tenant shall deliver to Landlord the sum of \$6,299.99 which shall be added to the Deposit held by Landlord under paragraph five of the Lease. Upon payment and application of such sum, the entire deposit held by Landlord as such security shall be \$8,819.99 (the "Security Deposit") increased by paragraph 5 of the Lease. The Security Deposit shall be held by Landlord as a security deposit and may be applied by Landlord as provided in Paragraph five of the Lease.

7. Current Premises. Tenant accepts premises in its current condition. At the termination of the Lease Agreement Landlord has the option of returning the premises back to pre-Leased condition at the expense of the Tenant.

8. Tenant shall perform routine maintenance of the HVAC unit every six months for the term of the Lease. Tenant shall not be responsible for the replacement cost of the HVAC unit, provided the replacement was necessary due to Tenant's lack of biannual maintenance on the HVAC unit. Landlord also reserves the right to perform the annual maintenance and be reimbursed by Tenant as Additional

9. Option to Renew. Provided the Tenant is not in default of any part of the Lease or any of its addendums or amendments, the Tenant shall have One (1), 2-Year option to renew. To exercise the option to renew, the Tenant shall have to provide written notice at least One Hundred Twenty (120) days prior to the lease expiration date of May 31, 2026. The lease rate for the renewal period shall be according to the table stated in Section 3 herein.

#### IV. MISCELLANEOUS.

Effect of Amendment. Except to the extent, the Lease is modified by this Amendment the remaining terms and provisions of the Lease shall remain unmodified and in full force and effect. In the

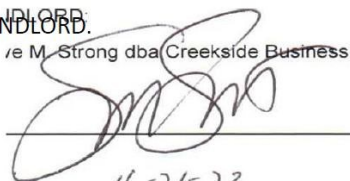
O event of a conflict between the terms of the Lease and the terms of this Amendment, the terms of this Amendment shall prevail.

B. Entire Agreement. This Amendment embodies the entire understanding between Landlord and Tenant on its subject matter and may be changed only by an instrument in writing signed by Landlord and Tenant.

C. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one in the same Amendment.

#### V. EXECUTION.

Landlord and Tenant executed this Seventh Amendment to lease as of the date First above written.

LANDLORD:  
/s/ M. Strong dba Creekside Business  
  
11-21-22

Tenant: Howco Distributing

By: /s/ Michael Bannon  
CEO

EX-31.1 6 f10q0623ex31-1\_bantec.htm CERTIFICATION

**Exhibit 31.1**

#### CERTIFICATIONS

I, Michael Bannon, certify that:

1. I have reviewed this quarterly report on Form 10-Q for the fiscal quarter ended June 30, 2023 of Bantec, Inc. (the "registrant");
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: September 1, 2023

/s/ Michael Bannon



**CERTIFICATIONS**

I, Michael Bannon, certify that:

1. I have reviewed this quarterly report on Form 10-Q for the fiscal quarter ended June 30, 2023 of Bantec, Inc. (the “registrant”);
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant’s other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant’s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant’s internal control over financial reporting that occurred during the registrant’s most recent fiscal quarter (the registrant’s fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant’s internal control over financial reporting; and
5. The registrant’s other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant’s auditors and the audit committee of the registrant’s board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant’s ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant’s internal control over financial reporting.

Date: September 1, 2023

/s/ Michael Bannon  
Michael Bannon  
Chief Financial Officer  
(Principal Financial Officer)

**CERTIFICATION PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report on Form 10-Q of Bantec, Inc. (the “Company”) for the quarter ended June 30, 2023, as filed with the Securities and Exchange Commission on the date hereof (the “Report”), I, Michael Bannon, Chief Executive Officer and 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 the best of my knowledge:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

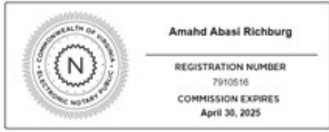
Date: September 1, 2023

/s/ Michael Bannon  
Michael Bannon  
Chief Executive Officer  
(Principal Executive Officer)

/s/ Michael Bannon  
Michael Bannon  
Chief Financial Officer  
(Principal Financial Officer)

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement 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.

*MB*



LANDLORD:  
/e M. Strong dba Creekside Business

A handwritten signature in black ink, appearing to be 'M. Strong', written over a solid horizontal line. Below the signature, the date '11-21-22' is handwritten.