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February 8, 2023

Via E-Filing and Overnight Courier

Adam Teitzman, Commission Clerk
Florida Public Service Commission
Gerald Gunter Building
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399

**Re: Application of CNS Networks LLC for Authority to Provide
Telecommunications Services Within the State of Florida**

Dear Ms. Teitzman:

On behalf of CNS Networks LLC ("Applicant"), attached for filing is the public version of the above-referenced original Application for Authority to Provide Telecommunications Services. Pursuant to Sections 364.183(1) and 364.183(3), Florida Statutes, Applicant respectfully requests confidential treatment of the financial statements provided as **Confidential Exhibit C** to the Application. Applicant, therefore, submits two (2) paper copies of **Confidential Exhibit C** under seal. Pursuant to FL Admin Code Section 25-22.006, one copy of **Confidential Exhibit C** has been highlighted to show the specific information that Applicant considers to be Privileged and Confidential. A check in the amount of \$500 is enclosed for the filing fee.

Please acknowledge receipt of the electronic copy and date-stamp the enclosed extra copy of this letter transmitting the filing fee and Confidential Exhibit and return it in the envelope provided. Should you have any questions concerning this filing, please do not hesitate to contact the undersigned.

Respectfully submitted,

/s/ Danielle Burt

Andrew D. Lipman
Danielle Burt
Leetal Weiss

Counsel for CNS Networks LLC

Morgan, Lewis & Bockius LLP

1111 Pennsylvania Avenue, NW
Washington, DC 20004
United States

T +1.202.739.3000
F +1.202.739.3001

FLORIDA PUBLIC SERVICE COMMISSION

OFFICE OF INDUSTRY DEVELOPMENT AND MARKET ANALYSIS

APPLICATION FOR ORIGINAL AUTHORITY OR TRANSFER OF AUTHORITY TO PROVIDE TELECOMMUNICATIONS SERVICE IN THE STATE OF FLORIDA

INSTRUCTIONS

This form should be used as the application for an original certificate and transfer of an existing certificate (from a Florida certificated company to a non-certificated company). In the case of a transfer, the information shall be provided by the transferee. If you have other questions about completing the form, call **(850) 413-6600**.

Print or type all responses to each item requested in the application. If an item is not applicable, please explain. All questions must be answered. If unable to answer the question in the allotted space, please continue on a separate sheet.

Once completed, submit the **original and one copy** of this form along with a **non-refundable** fee of **\$500.00** to:

**Florida Public Service Commission
Office of Commission Clerk
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850
(850) 413-6770**

APPLICATION

This is an application for (check one):

Original certificate (new company)

Approval of transfer of existing certificate: Example, a non-certificated company purchases an existing company and desires to retain the original certificate rather than apply for a new certificate.

Please provide the following:

1. Full name of company, including fictitious name(s), that must match identically with name(s) on file with the Florida Department of State, Division of Corporations registration:

CNS Networks LLC

2. The Florida Secretary of State corporate registration number:

See Exhibit A for Applicant's Certificate of Authority to Transact Business in Florida. The Division of Corporations assigned Applicant the following Account Number: M22000019067

3. F.E.I. Number: **84-2890275**

4. Structure of organization:

The company will be operating as a:
(Check all that apply):

- | | | | |
|-------------------------------------|---------------------------|--------------------------|------------------------------|
| <input type="checkbox"/> | Corporation | <input type="checkbox"/> | General Partnership |
| <input type="checkbox"/> | Foreign Corporation | <input type="checkbox"/> | Foreign Partnership |
| <input checked="" type="checkbox"/> | Limited Liability Company | <input type="checkbox"/> | Limited Partnership |
| <input type="checkbox"/> | Sole Proprietorship | <input type="checkbox"/> | Other, please specify below: |
-

If a partnership, provide a copy of the partnership agreement.

If a foreign limited partnership, proof of compliance with the foreign limited partnership statute (Chapter 620.169, FS). The Florida registration number is: **See Exhibit A for CNS Networks, LLC's ("Applicant") Certificate of Authority to Transact Business in Florida. The division of Corporations assigned Applicant the following Account Number: M22000019067**

5. Who will serve as point of contact to the Commission in regard to the following?

(a) This application:

Name: **Andrew D. Lipman; Danielle Burt; and Leetal Weiss**
Title: **Outside Counsel at Morgan, Lewis & Bockius LLP**
Street Address: **1111 Pennsylvania Avenue, N.W.**
Post Office Box:
City: **Washington**
State: **DC**
Zip: **20004**
Telephone No.: **202-739-3000**
Fax No.: **202-739-3001**
E-Mail Address: andrew.lipman@morganlewis.com
danielle.burt@morganlewis.com
leetal.weiss@morganlewis.com

(b) Ongoing operations of the company:

(This company liaison will be the point of contact for FPSC correspondence. This point of contact can be updated if a change is necessary but this must be completed at the time the application is filed).

Name: **Bill Beans, Jr.**
Title: **Co-Founder and CEO**
Street Address: **2595 Canyon Blvd., Suite 400**
Post Office Box:
City: **Boulder**
State: **CO**
Zip: **80302**
Telephone No.: **720-510-8326**
Fax No.:
E-Mail Address: legalrequests@congruex.com
Company Homepage: <https://www.congruex.com/>

(c) Optional secondary point of contact or liaison:

(This point of contact will not receive FPSC correspondence but will be on file with the FPSC).

Name: **David Howson**
Title: **COO**
Street Address: **2595 Canyon Blvd, Suite 400**
Post Office Box:
City: **Boulder**
State: **CO**
Zip: **80302**
Telephone No.: **720-510-8326**
Fax No.:
E-Mail Address: legalrequests@congruex.com

6. Physical address for the applicant that will do business in Florida:

Street address: 2595 Canyon Blvd., Suite 400
City: Boulder
State: CO
Zip: 80302
Telephone No.: 720-510-8326
Fax No.: _____
E-Mail Address: legalrequests@congruex.com

7. List the state(s), and accompanying docket number(s), in which the applicant has:

(a) **operated** as a telecommunications company.

Applicant has not yet started operating as a telecommunications company in any state.

(b) **applications pending** to be certificated as a telecommunications company.

Applicant has pending applications in Arizona and California.

(c) **been certificated** to operate as a telecommunications company.

Applicant has been certificated in Colorado, Nevada, New Mexico, Minnesota, Oregon, and Wisconsin. In addition, Applicant's parent, Congruex Group LLC, has been certificated in Ohio.

(d) **been denied authority** to operate as a telecommunications company and the circumstances involved.

Applicant has not been denied requested certification in any jurisdiction, nor has any authority been permanently revoked by any authority.

(e) **had regulatory penalties imposed** for violations of telecommunications statutes and the circumstances involved.

Applicant has not incurred any regulatory penalties for violations of telecommunications statutes.

(f) **been involved in civil court proceedings** with another telecommunications entity, and the circumstances involved.

Applicant has not been involved in civil court proceedings with another telecommunications entity.

8. The following questions pertain to the officers and directors. Have any been:

(a) adjudged bankrupt, mentally incompetent (and not had his or her competency restored), or found guilty of any felony or of any crime, or whether such actions may result from pending proceedings? Yes No

If yes, provide explanation.

(b) granted or denied a certificate in the State of Florida (this includes active and canceled certificates)? Granted Denied Neither

If granted provide explanation and list the certificate holder and certificate number.

If denied provide explanation.

(c) an officer, director, and partner in any other Florida certificated telecommunications company? Yes No

If yes, give name of company and relationship. If no longer associated with company, give reason why not.

9. Florida Statute 364.335(1)(a) requires a company seeking a certificate of authority to demonstrate its managerial, technical, and financial ability to provide telecommunications service.

Note: *It is the applicant's burden to demonstrate that it possesses adequate managerial ability, technical ability, and financial ability. Additional supporting information may be supplied at the discretion of the applicant. For the purposes of this application, financial statements MUST contain the balance sheet, income statement, and statement of retained earnings.*

(a) **Managerial ability:** An applicant must provide resumes of employees/officers of the company that would indicate sufficient managerial experiences of each. Please explain if a resume represents an individual that is not employed with the company and provide proof that the individual authorizes the use of the resume.

See Exhibit B for the resumes of employees/officers of Applicant's ultimate parent, Congruex LLC.

- (b) **Technical ability:** An applicant must provide resumes of employees/officers of the company that would indicate sufficient technical experiences or indicate what company has been contracted to conduct technical maintenance. Please explain if a resume represents an individual that is not employed with the company and provide proof that the individual authorizes the use of the resume.

See Exhibit B for the resumes of employees/officers of Applicant's ultimate parent, Congruex LLC.

- (c) **Financial ability:** An applicant must provide financial statements demonstrating financial ability by submitting a balance sheet, income statement, and retained earnings statement. An applicant that has audited financial statements for the most recent three years must provide those financial statements. If a full three years' historical data is not available, the application must include both historical financial data and pro forma data to supplement. An applicant of a newly established company must provide three years' pro forma data. If the applicant does not have audited financial statements, it must be so stated and signed by either the applicant's chief executive officer or chief financial officer affirming that the financial statements are true and correct.

For purposes of this Application, Applicant will rely on the financial statements of its ultimate parent, Congruex LLC ("Congruex"), to demonstrate Applicant's financial qualifications to operate within Florida. Applicant provides as Confidential Exhibit C the consolidated financial statements of Congruex. Because Applicant and Congruex are privately held companies, Applicant requests that the financial statements provided as Confidential Exhibit C be treated as confidential and proprietary, pursuant to Sections 364.183(1) and 364.183(3), Florida Statutes, and FL Admin Code Section 25-22.006(5), and not be made part of the public record. As shown in the financial statements, Applicant is financially qualified to operate within the State of Florida.

10. Where will you officially designate as your place of publicly publishing your schedule a/k/a tariffs or price lists)? (Tariffs or price lists MUST be publicly published to comply with Florida Statute 364.04).

Florida Public Service Commission

Website – Please provide Website address: <https://www.congruex.com/clec/>
Applicant is also attaching a copy of its price list as **Exhibit D**.

Other – Please provide address: _____

THIS PAGE MUST BE COMPLETED AND SIGNED

REGULATORY ASSESSMENT FEE: I understand that all telecommunications companies must pay a regulatory assessment fee. A minimum annual assessment fee, as defined by the Commission, is required.

RECEIPT AND UNDERSTANDING OF RULES: I understand the Florida Public Service Commission's rules, orders, and laws relating to the provisioning of telecommunications company service in Florida.

APPLICANT ACKNOWLEDGEMENT: By my signature below, I, the undersigned owner or officer, attest to the accuracy of the information contained in this application and attached documents and that the applicant has the technical ability, managerial ability, and financial ability to provide telecommunications company service in the State of Florida. I have read the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I have the authority to sign on behalf of my company and agree to comply, now and in the future, with all applicable Commission rules, orders and laws.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, ***"Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."***

I understand that any false statements can result in being denied a certificate of authority in Florida.

COMPANY OWNER OR OFFICER

Print Name: Bill Beans, Jr.
Title: Co-Founder and CEO
Telephone No.: 720-510-8326
E-Mail Address: legalrequests@congruex.com

Signature:  Date: February 6, 2023

Exhibit A

Certificate of Authority to Transact Business in Florida



December 27, 2022

FLORIDA DEPARTMENT OF STATE
Division of Corporations

CNS NETWORKS LLC
2595 CANYON BLVD, SUITE 400
BOULDER, CO 80302US

Qualification documents for CNS NETWORKS LLC were filed on December 22, 2022, and assigned document number M22000019067. Please refer to this number whenever corresponding with this office.

Your limited liability company is authorized to transact business in Florida as of the file date.

The certification you requested is enclosed. To be official, the certification for a certified copy must be attached to the original document that was electronically submitted and filed under FAX audit number H22000430120.

To maintain "active" status with the Division of Corporations, an annual report must be filed yearly between January 1st and May 1st beginning in the year following the file date or effective date indicated above. If the annual report is not filed by May 1st, a \$400 late fee will be added.

A Federal Employer Identification Number (FEI/EIN) will be required when this report is filed. Apply today with the IRS online at:

<https://sa.www4.irs.gov/modiein/individual/index.jsp>

Please notify this office if the limited liability company address changes, it is the responsibility of the corporation to notify this office.


Should you have any questions regarding this matter, please contact this office at the address given below.

STANTON H ROBERTS
Regulatory Specialist II
Registration Section
Division of Corporations

Letter Number: 622A00028792

P.O BOX 6327 - Tallahassee, Florida 32314

State of Florida



Department of State

I certify the attached is a true and correct copy of the application by CNS NETWORKS LLC, a Delaware limited liability company, authorized to transact business within the state of Florida on December 22, 2022, as shown by the records of this office.

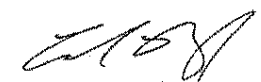
I further certify the document was electronically received under FAX audit number H22000430120. This certificate is issued in accordance with section 15.16, Florida Statutes, and authenticated by the code noted below.

The document number of this limited liability company is M22000019067.

Authentication Code: 622A00028792-122722-M22000019067-1/1

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
Twenty-seventh day of December, 2022




Secretary of State

APPLICATION BY FOREIGN LIMITED LIABILITY COMPANY FOR AUTHORIZATION TO TRANSACT BUSINESS IN FLORIDA

IN COMPLIANCE WITH SECTION 605.0902, FLORIDA STATUTES, THE FOLLOWING IS SUBMITTED TO REGISTER A FOREIGN LIMITED LIABILITY COMPANY TO TRANSACT BUSINESS IN THE STATE OF FLORIDA:

1. CNS Networks LLC
(Name of Foreign Limited Liability Company; must include "Limited Liability Company," "L.L.C.," or "LLC.")

(If name unavailable, enter alternate name adopted for the purpose of transacting business in Florida. The alternate name must include "Limited Liability Company," "L.L.C.," or "LLC.")

2. Delaware
(Jurisdiction under the law of which foreign limited liability company is organized)

3. _____
(FEI number, if applicable)

4. _____
(Date first transacted business in Florida, if prior to registration.)
(See sections 605.0904 & 605.0905, F.S. to determine penalty liability)

5. 2595 Canyon Blvd, Suite 400
(Street Address of Principal Office)

6. Same
(Mailing Address)

Boulder, Colorado

80302

7. Name and street address of Florida registered agent: (P.O. Box NOT acceptable)

Name: C T Corporation System

Office Address: 1200 South Pine Island Road

Plantation, Florida 33324
(City) (Zip code)

Registered agent's acceptance:

Having been named as registered agent and to accept service of process for the above stated limited liability company at the place designated in this application, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

By: C T Corporation System

Christine Kohn
Assistant Secretary
(Registered agent's signature)

8. For initial indexing purposes, list names, title or capacity and addresses of the primary members/managers or persons authorized to manage [up to six (6) total]:

<u>Title or Capacity:</u>	<u>Name and Address:</u>	<u>Title or Capacity:</u>	<u>Name and Address:</u>
<input type="checkbox"/> Manager	Name: <u>William Beans, Jr</u>	<input type="checkbox"/> Manager	Name: _____
<input checked="" type="checkbox"/> Member	Address: <u>2595 Canyon Blvd, Suite 400</u>	<input type="checkbox"/> Member	Address: _____
<input type="checkbox"/> Authorized	<u>Boulder, Colorado</u>	<input type="checkbox"/> Authorized	_____
Person	<u>80302</u>	Person	_____
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____
<input type="checkbox"/> Manager	Name: _____	<input type="checkbox"/> Manager	Name: _____
<input type="checkbox"/> Member	Address: _____	<input type="checkbox"/> Member	Address: _____
<input type="checkbox"/> Authorized	_____	<input type="checkbox"/> Authorized	_____
Person	_____	Person	_____
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____
<input type="checkbox"/> Manager	Name: _____	<input type="checkbox"/> Manager	Name: _____
<input type="checkbox"/> Member	Address: _____	<input type="checkbox"/> Member	Address: _____
<input type="checkbox"/> Authorized	_____	<input type="checkbox"/> Authorized	_____
Person	_____	Person	_____
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____

Important Notice: Use an attachment to report more than six (6). The attachment will be imaged for reporting purposes only. Non-indexed individuals may be added to the index when filing your Florida Department of State Annual Report form.

9. Attached is a certificate of existence, no more than 90 days old, duly authenticated by the official having custody of records in the jurisdiction under the law of which it is organized. (If the certificate is in a foreign language, a translation of the certificate under oath of the translator must be submitted)

10. This document is executed in accordance with section 605.0203 (1) (b), Florida Statutes. I am aware that any false information submitted in a document to the Department of State constitutes a third degree felony as provided for in s.817.155, F.S.

Signature of an authorized person

William Beans, Jr

Typed or printed name of signee

Delaware

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "CNS NETWORKS LLC" IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE SECOND DAY OF DECEMBER, A.D. 2022.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL TAXES HAVE BEEN PAID TO DATE.



A handwritten signature in black ink, appearing to read "JBULLOCK", is written over a horizontal line. Below the line, the text "Jeffrey W. Bullock, Secretary of State" is printed.

7574650 8300

SR# 20224162145

You may verify this certificate online at corp.delaware.gov/authver.shtml

Authentication: 204993792

Date: 12-02-22

Exhibit B

Managerial and Technical Qualifications of Applicant's Parent Congruex LLC

Bill Beans, Jr. – President, CEO, and Co-Founder

(720) 749-2313

bill@congruex.com

Mr. Bill Beans, Jr., is the President, CEO, and co-founder of Congruex LLC. Previously, he was the founder, Chairman, and CEO of Open Range Communications, and has served as President of TeleTech Holdings and Director, President, and COO of ICG Communications. Mr. Beans was also Senior Vice President with AT&T Local Services, and he began his career in the construction business working for Peter Kiewit Sons. Mr. Beans holds his Bachelor of Science degree in Construction Engineering from the University of Nebraska – Lincoln.

Kevin O'Hara – Co-Founder and Executive Chairman

(720) 749-2316

kevin@congruex.com

Mr. Kevin O'Hara is Co-Founder and Executive Chairman of Congruex LLC. Previously, he served as President and CEO of Integra Telecom, and he was a co-founder of Level 3 Communications, where he served as its President and Chief Operating Officer. Mr. O'Hara was also President and CEO of MFS Global Network Services, and he started his career in the construction business working for Peter Kiewit Sons. Mr. O'Hara holds his Bachelor of Science degree in Electrical Engineering from Drexel, and holds his MBA from the University of Chicago Booth School of Business.

David Howson – Chief Operating Officer

(720) 749-2316

dhowson@congruex.com

Mr. David Howson is the Chief Operating Officer of Congruex LLC. David brings more than 25 years of leadership and operations to Congruex LLC, including network deployment, customer operations, sales, and transactions, and carries a deep understanding and focus on the telecom industry. Prior to joining Congruex LLC, David spent four years as CEO at Six Degrees Group in London, where he transformed the business from a traditional IT Managed Service Provider to a Cloud & Security Service Provider. Previously, he held various leadership roles at Zayo Group including the International President and Chief Network Officer, President of Sales and Customer Operations, and President of Zayo Bandwidth and Colocation. Prior to Zayo, Mr. Howson had a twelve-year career at Level 3 Communications where he was Group Vice President of Customer Operations and Senior Vice President of Access Management and Operations, M&A Integration, and Network Planning and Deployment. He started his career in the field at Peter Kiewit Sons in Europe.

Neel Dev – Chief Financial Officer

(720) 510-8326

ndev@congruex.com

Mr. Neel Dev is Chief Financial Officer for Congruex. Neel has 25 years of industry experience with a track record of successfully scaling and transforming finance functions at leading infrastructure companies, all the while driving strategic business outcomes and financial results. Prior to Congruex, Neel served as Executive Vice President and Chief Financial Officer at Lumen Technologies (NYSE: LUMN), formerly CenturyLink, and has held various leadership roles within the industry at Level 3 Communications, MCI (now Verizon Business), and MFS Communications. Neel is responsible for financial planning, accounting, tax, treasury, investor relations, procurement, and supply chain management. He holds a bachelor's degree in mathematics from the University of Delhi (India) and an MBA from the University of Arizona. He is a CFA® charterholder.

Andy Carlson – EVP Corporate Development and M&A

(720) 749-2314

andy@congruex.com

Mr. Andy Carlson is EVP of Corporate Development and M&A of Congruex LLC. He has also served as CFO at zColo for the Zayo Group, where he led FP&A, accounting, mergers & acquisition, and real estate. Mr. Carlson also worked on Corporate Development at Zayo, focusing on mergers & acquisitions and capital markets transactions. Previously, Mr. Carlson held roles in the private equity and hedge fund industries. He holds his Bachelor of Arts degree in Business Administration from the University of Puget Sound.

Rob Reynolds – Chief Information Officer

(720) 539-7512

rob@congruex.com

Mr. Rob Reynolds is the Chief Information Officer supporting all Congruex LLC's Business Units. He is accountable for all global technology platforms, business architecture, and related processes. Prior to Congruex LLC, Mr. Reynolds was the Vice President of Next Generation Systems, Technology Strategy & New Business/Partners Acceleration for Comcast. Additionally, Mr. Reynolds brings deep industry experience from AT&T Broadband and TCI Communications. Mr. Reynolds holds his Bachelor of Business Administration degree in Computer Information Systems and Quantitative Methods from Fort Hays State University, and holds his Masters in Computer Information Systems from the University of Denver.

Exhibit C

Financial Statements

CONFIDENTIAL – Filed with Claim of Confidentiality



Consolidated Financial Statements
December 31, 2021 and 2020
Congruex LLC

CONFIDENTIAL

Independent Auditor’s Report.....	1
Financial Statements	
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CONFIDENTIAL



CPAs & BUSINESS ADVISORS

Independent Auditor's Report

To the Audit Committee
Congruex LLC
Boulder, Colorado

Report on the Audit of the Consolidated Financial Statements

Opinion

We have audited the consolidated financial statements of Congruex LLC, which comprise the consolidated balance sheets as of December 31, 2021 and 2020, and the related consolidated statements of operations, members' equity, and cash flows for the years then ended, and the related notes to the consolidated financial statements.

In our opinion, the accompanying consolidated financial statements referred to above present fairly, in all material respects, the financial position of Congruex LLC as of December 31, 2021 and 2020, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Consolidated Financial Statements section of our report. We are required to be independent of Congruex LLC and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of Management for the Consolidated Financial Statements

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with accounting principles generally accepted in the United States of America; and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the consolidated financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about Congruex LLC's ability to continue as a going concern for one year after the date that the consolidated financial statements are available to be issued.

Auditor's Responsibilities for the Audit of the Consolidated Financial Statements

Our objectives are to obtain reasonable assurance about whether the consolidated financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the consolidated financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the consolidated financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of Congruex LLC's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the consolidated financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about Congruex LLC's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

Report on Supplementary Information

Our audit was conducted for the purpose of forming an opinion on the consolidated financial statements as a whole. The supplementary information on pages 35 through 38 is presented for the purposes of additional analysis and is not a required part of the consolidated financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the consolidated financial statements. The information has been subjected to the auditing procedures applied in the audits of the consolidated financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the consolidated financial statements or to the consolidated financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the consolidated financial statements as a whole.



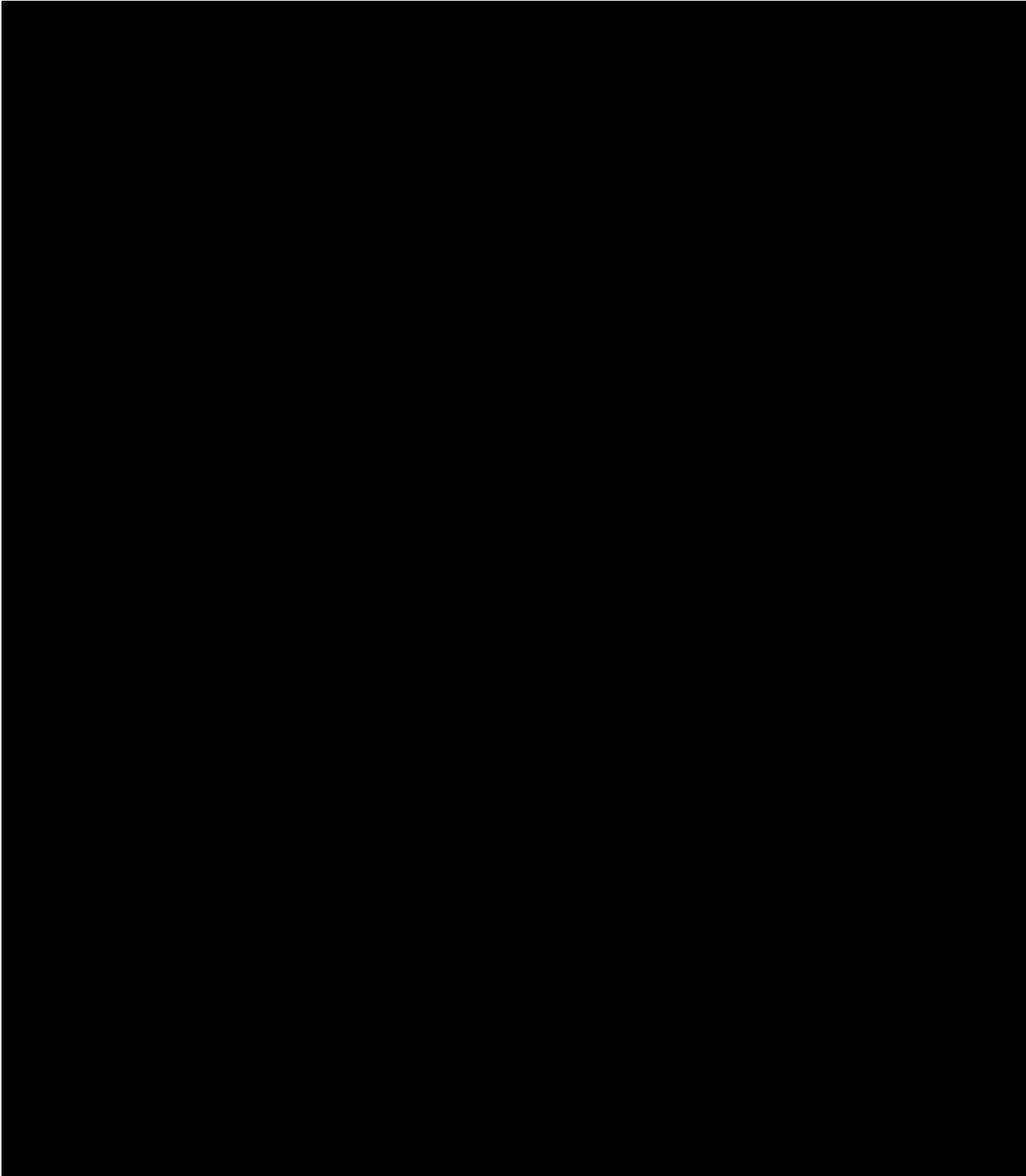
Denver Colorado
April 26, 2022

CONFIDENTIAL

Congruex LLC
Consolidated Balance Sheets
December 31, 2021 and 2020

2021

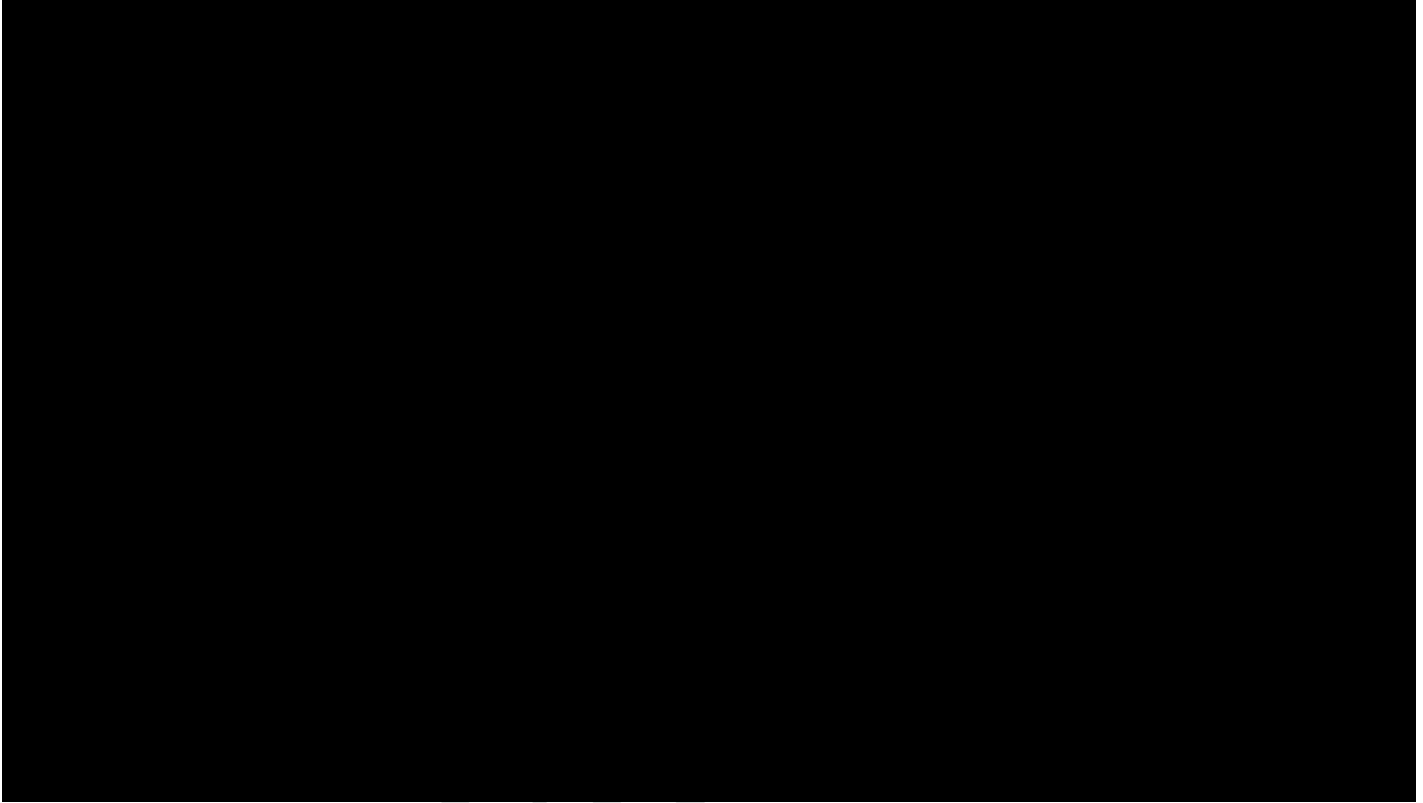
2020



Congruex LLC
Consolidated Statements of Operations
Years Ended December 31, 2021 and 2020

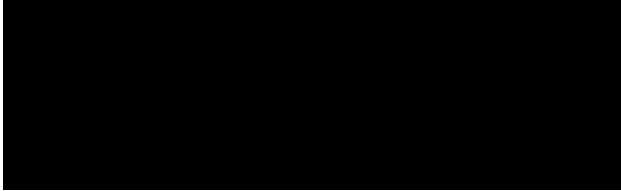
2021

2020

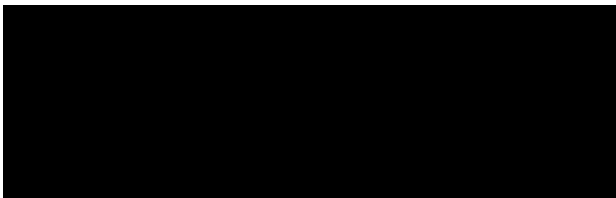


Congruex LLC
Consolidated Statements of Members' Equity
Years Ended December 31, 2021 and 2020

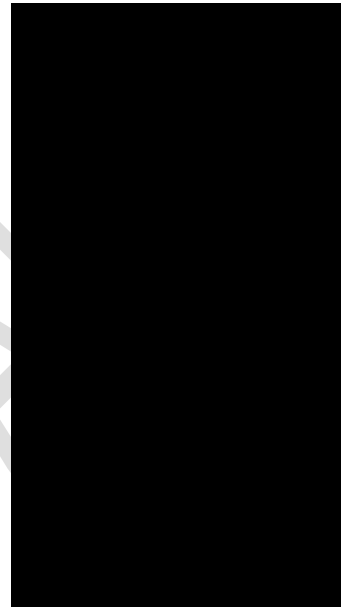
Balance, January 1, 2020



Balance, December 31, 2020



Balance, December 31, 2021

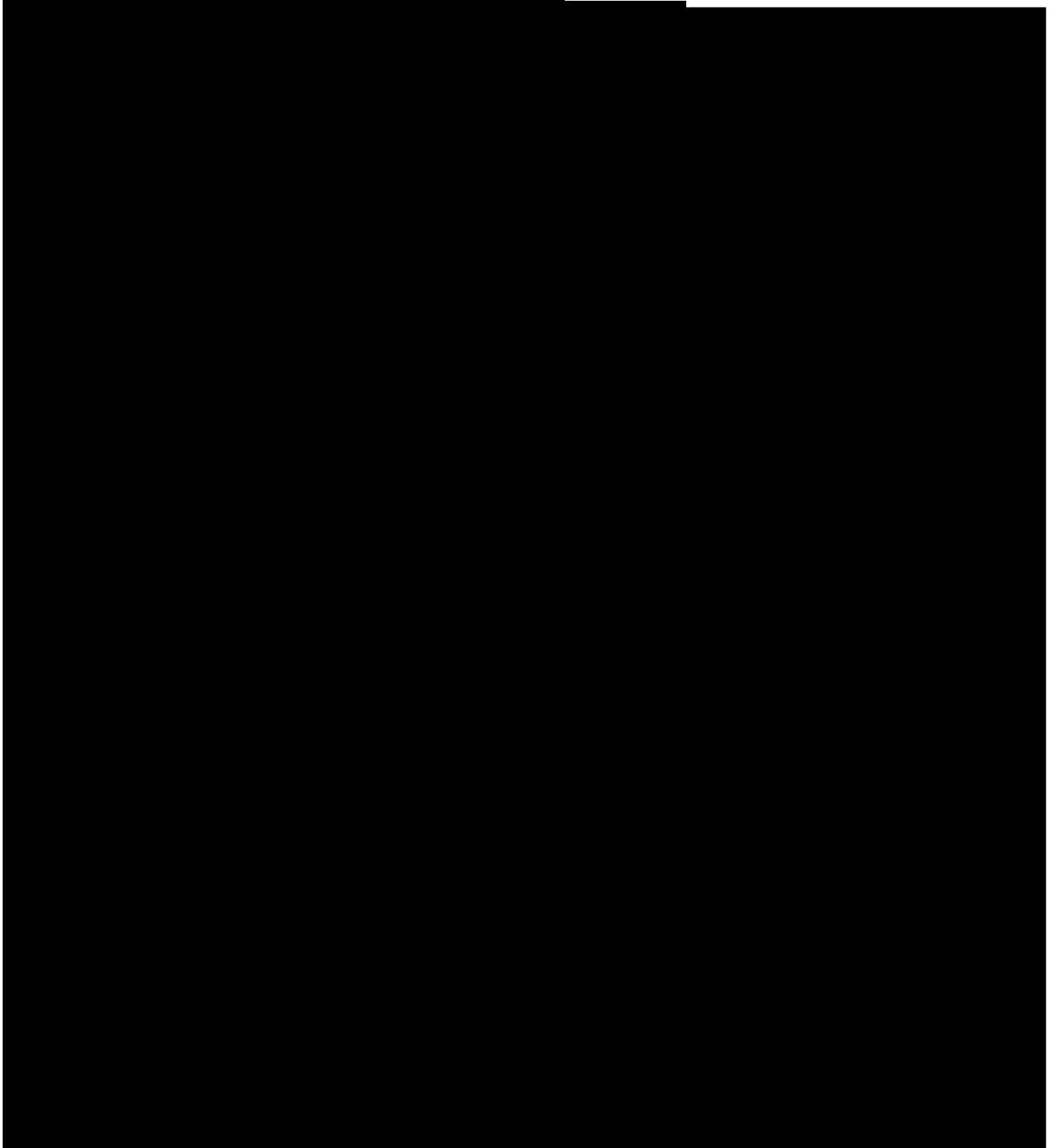


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Congruex LLC
Consolidated Statements of Cash Flows
Years Ended December 31, 2021 and 2020

2021

2020



Congruex LLC
Consolidated Statements of Cash Flows
Years Ended December 31, 2021 and 2020

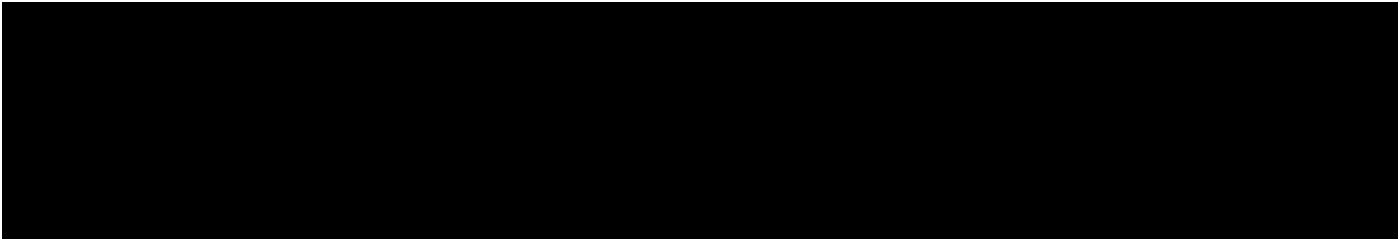
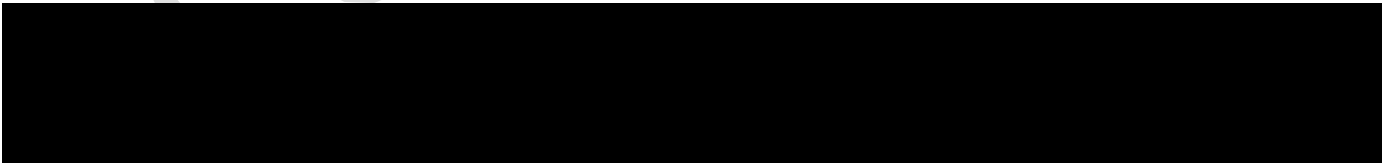
	<u>2021</u>	<u>2020</u>

Note 1 - Nature of Business and Significant Accounting Policies**Nature of Business**

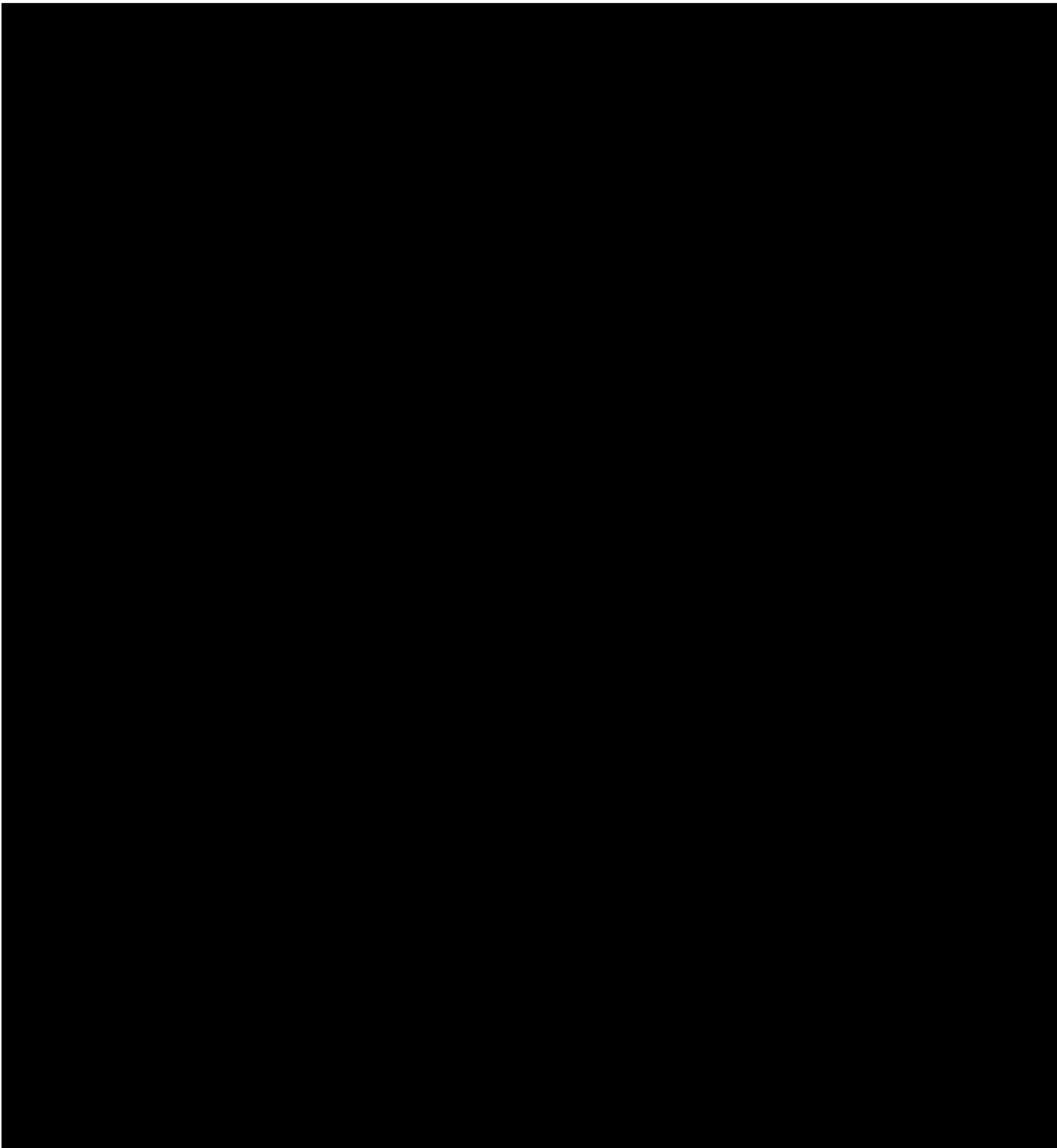
Congruex LLC (“the Company” or “Congruex”) is a consolidation of the following wholly owned subsidiaries:

- Congruex Intermediate Parent LLC (an entity owned 99.5% by Congruex LLC and with a 0.5% noncontrolling interest, which has not been reported due to the interest being immaterial to the consolidated financial statements)
- Congruex Group LLC which consists of the following wholly owned subsidiaries:
 - C.C.L.D. Technologies, LLC
 - CHC Consulting, LLC, which consists of Congruex Asia-Pacific LLP
 - WhiteCo LLC
 - Terra Technologies LLC
 - HHS Construction, LLC, HHS Communications, LLC, GRD Company, LLC and RSJ Construction LLC (collectively referred as HHS Construction, LLC)
 - Southeast Utilities of Georgia, LLC
 - True North Management Services, LLC, True North Equipment, LLC, Viking Management Services LLC, and Mabeck LLC (collectively referred as True North LLC)
 - Gudenkauf LLC
 - A&M Communications Company LLC
 - Matrix Engineering LLC
 - Congruex SpliceCo LLC
 - Holborn Telecom Inc. – reported under Congruex SpliceCo LLC
 - CNS Networks LLC
 - Ohio Valley Excavating LLC

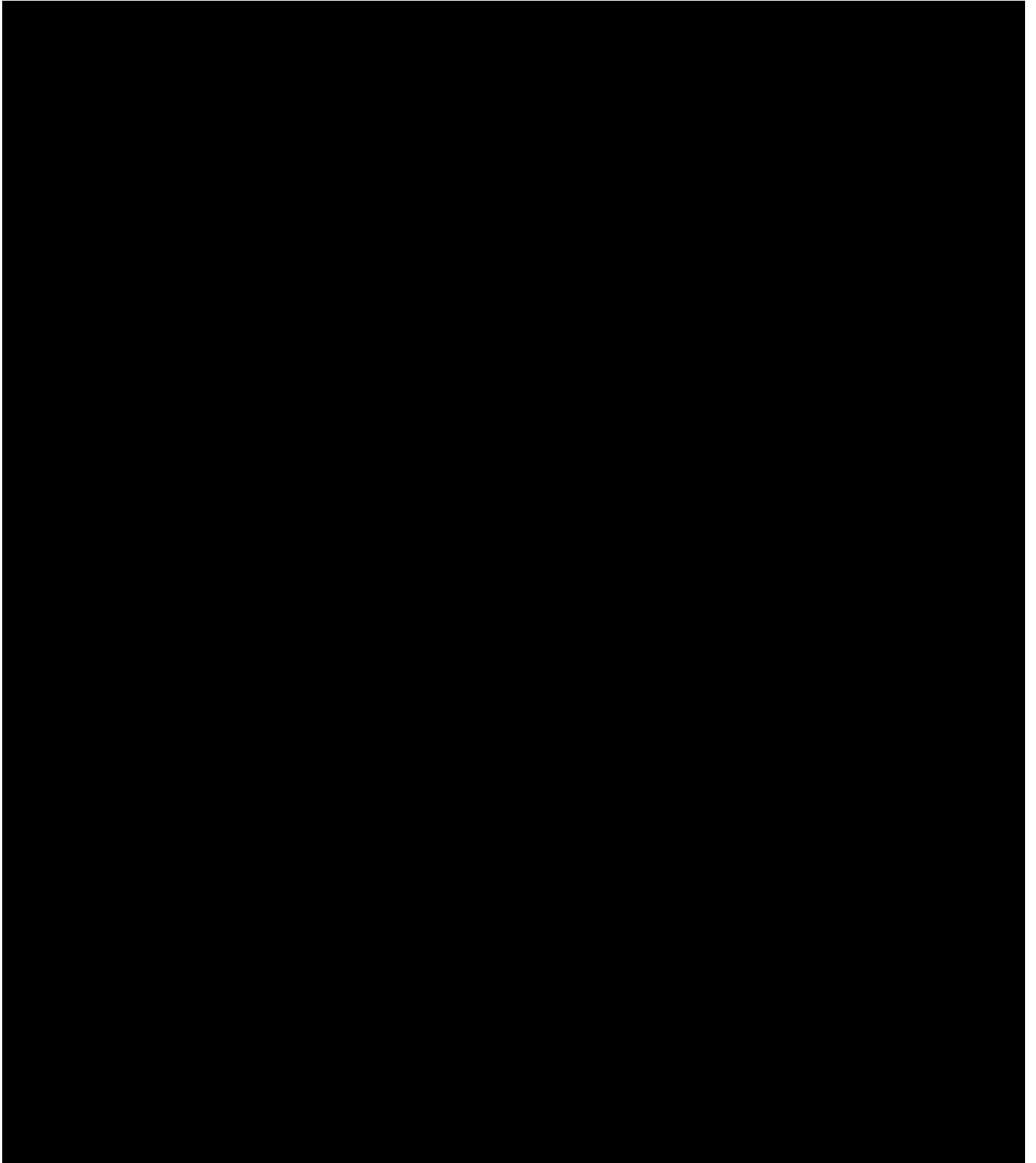
Congruex is a group of seasoned industry executives bringing together leading engineering and construction companies across the United States. The Company’s experience ranges from network development, engineering, construction and operations. Congruex is backed by a value-oriented private equity firm focused on the middle market.



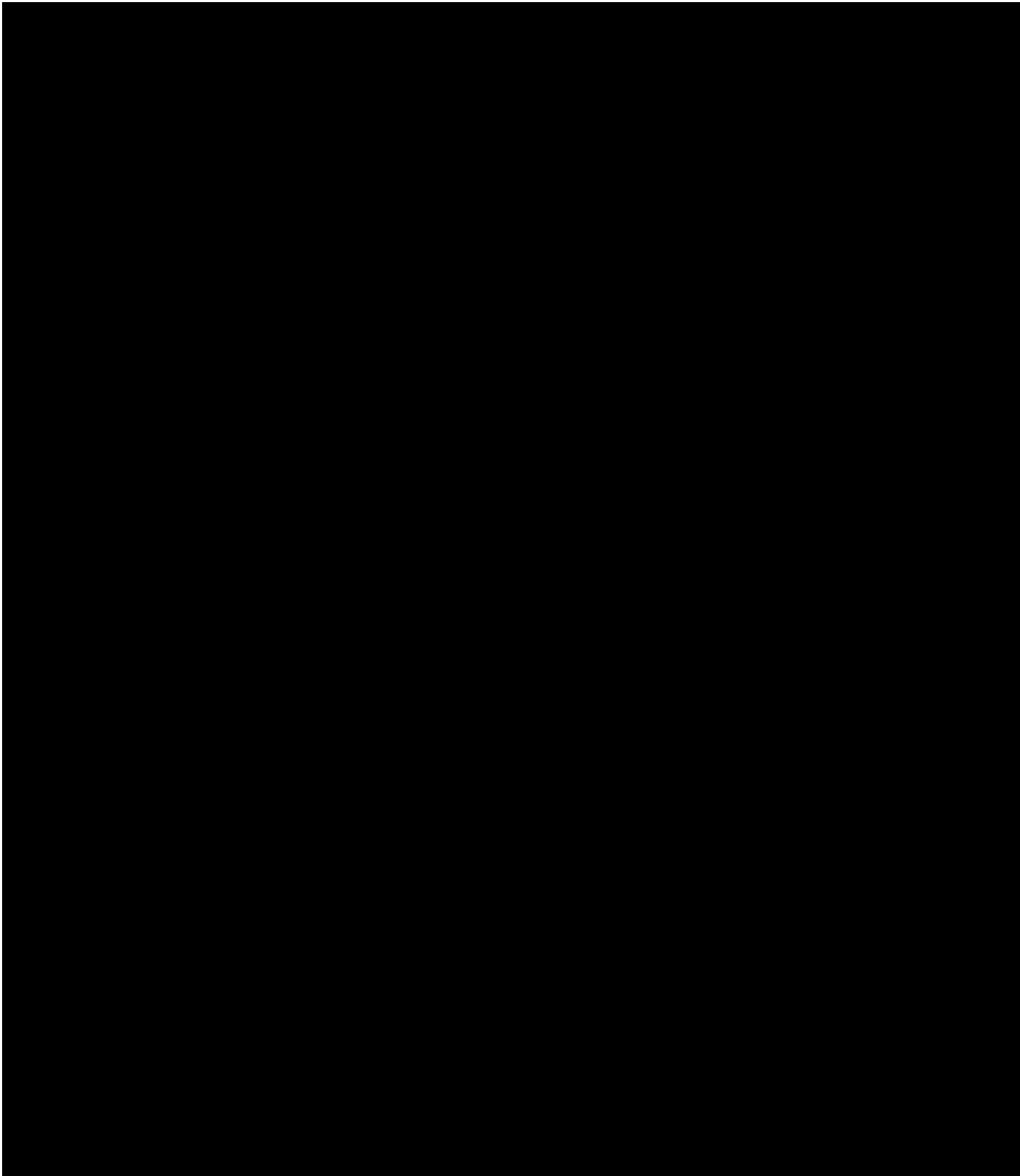
Congruex LLC
Notes to Consolidated Financial Statements
December 31, 2021 and 2020



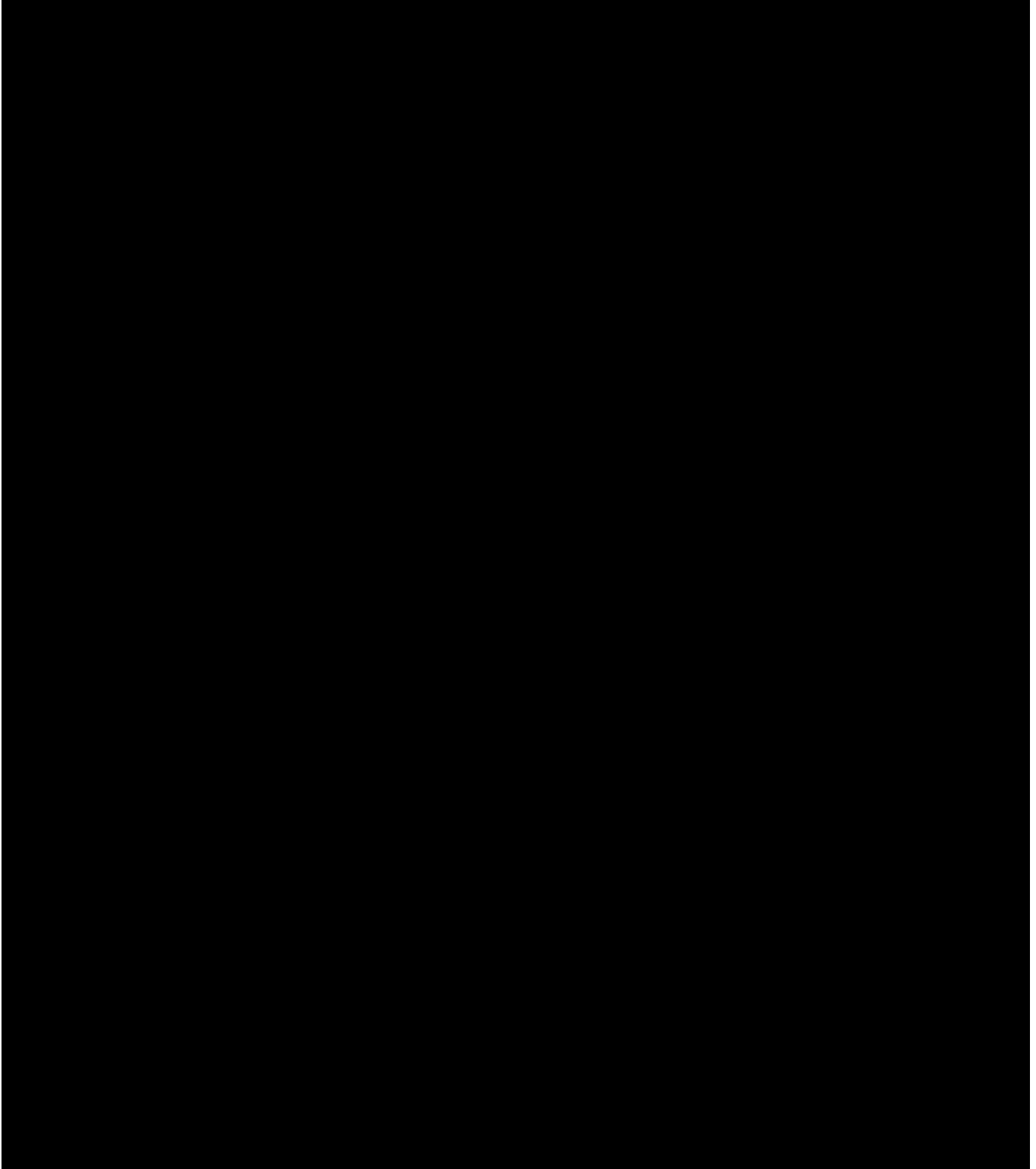
Congruex LLC
Notes to Consolidated Financial Statements
December 31, 2021 and 2020



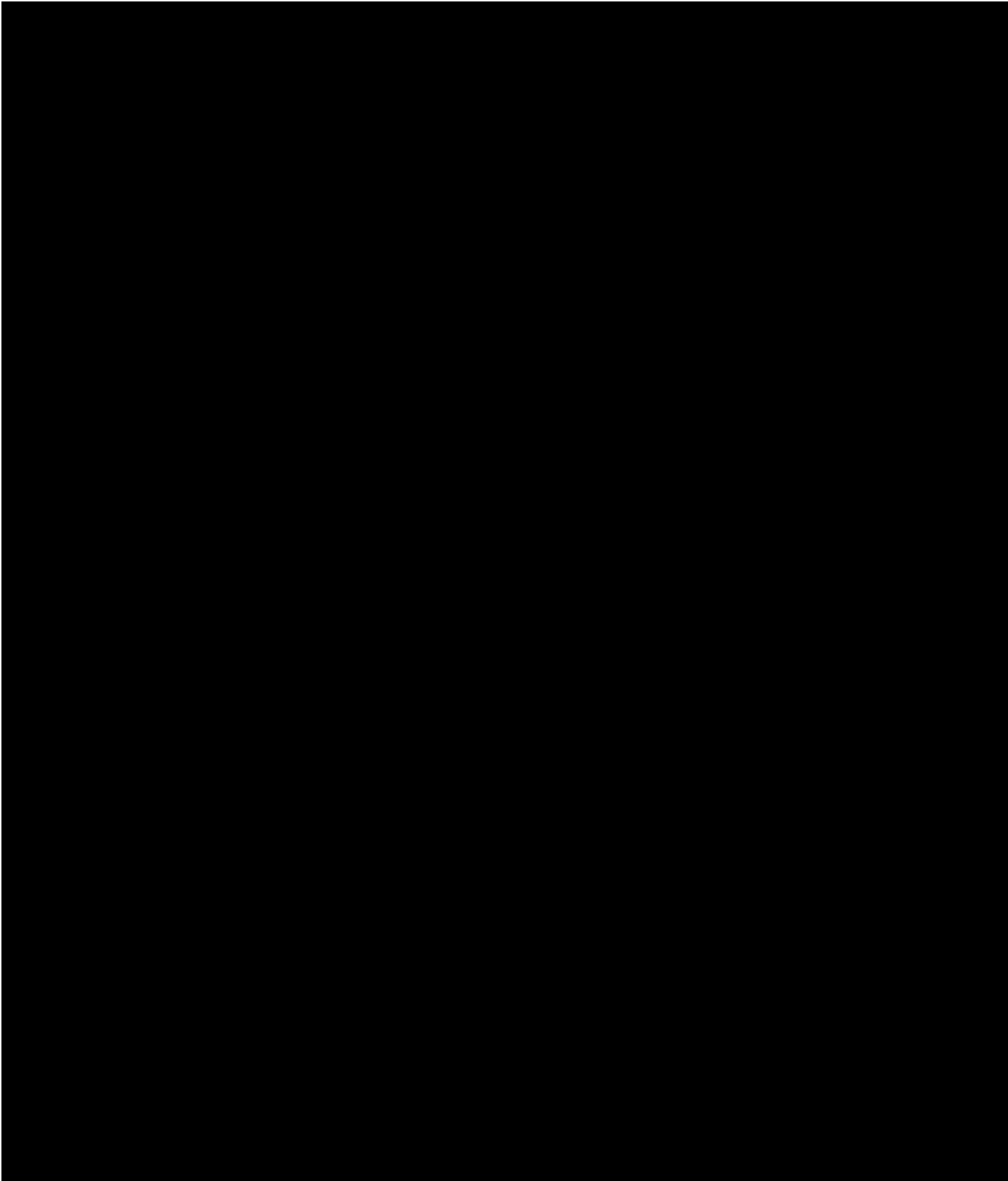
Congruex LLC
Notes to Consolidated Financial Statements
December 31, 2021 and 2020

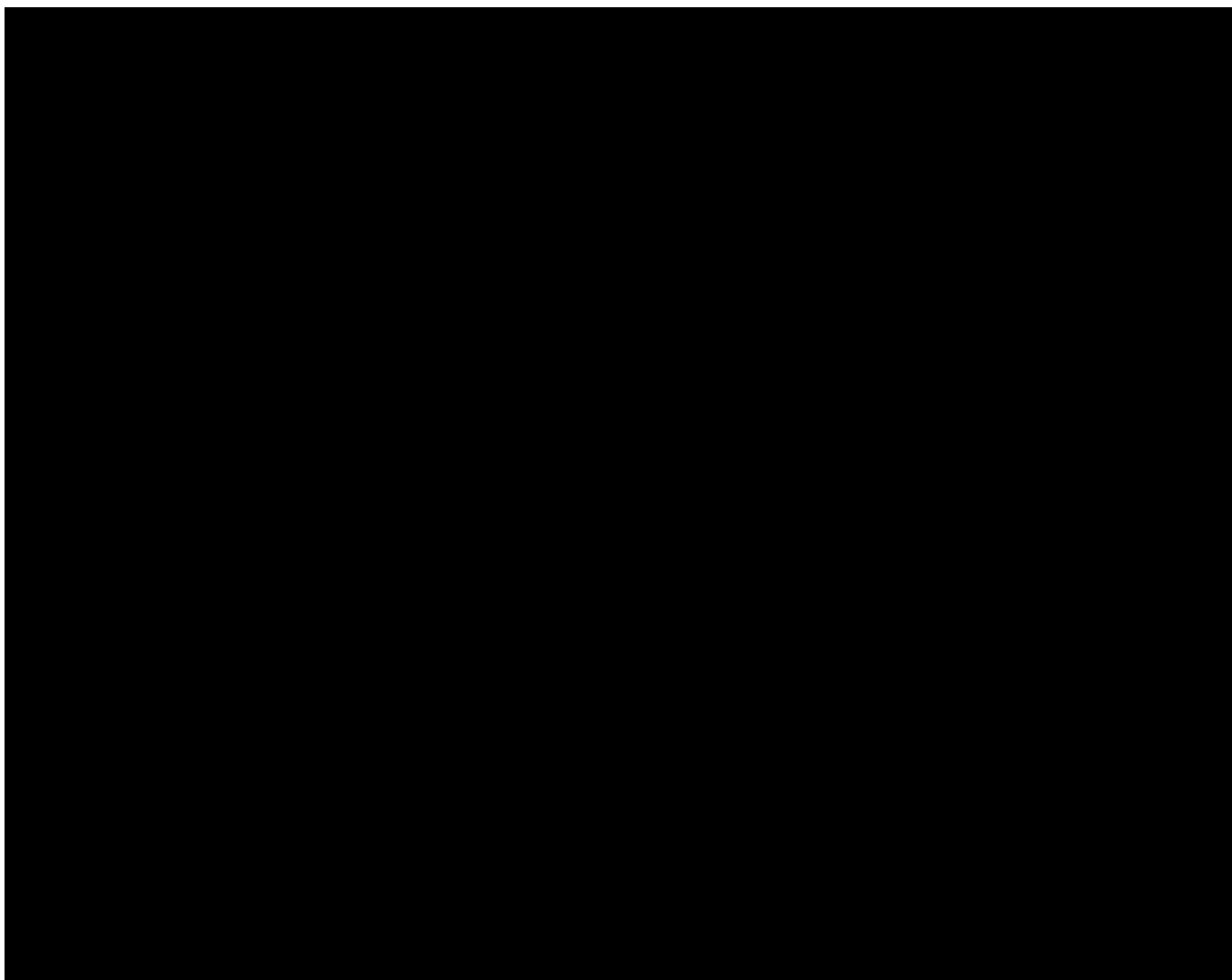


Congruex LLC
Notes to Consolidated Financial Statements
December 31, 2021 and 2020



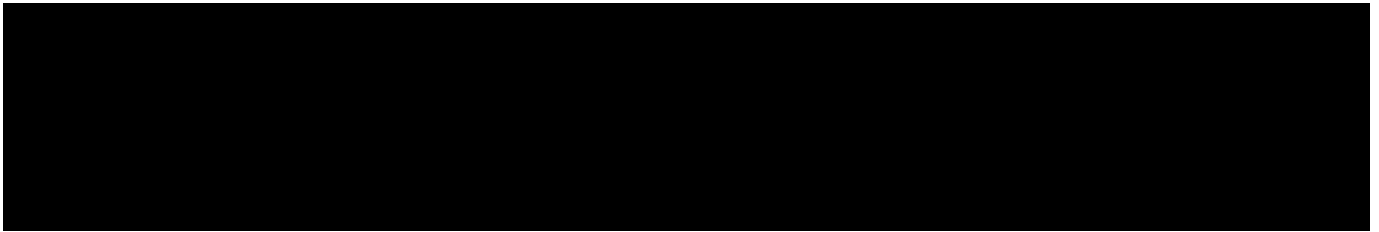
Congruex LLC
Notes to Consolidated Financial Statements
December 31, 2021 and 2020





Recent Accounting Pronouncements

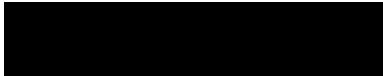
In February 2016, the FASB issued ASU No. 2016-02, *Leases (Topic 842)* (“ASU 2016-02”), which supersedes FASB ASC 840, *Leases (Topic 840)* and provides principles for the recognition, measurement, presentation and disclosure of leases for both lessees and lessors. The new standard requires lessees to apply a dual approach, classifying leases as either finance or operating leases based on the principle of whether or not the lease is effectively a financed purchase by the lessee. This classification will determine whether lease expense is recognized based on an effective interest method or on a straight-line basis over the term of the lease, respectively. A lessee is also required to record a right-of-use asset and a lease liability for all leases with a term of greater than twelve months regardless of classification. Leases with a term of twelve months or less will be accounted for similar to existing guidance for operating leases. The effective date for the Company will be January 1, 2022. The Company is evaluating the potential effects of adopting the provisions of ASU 2016-02.




Subsequent Events

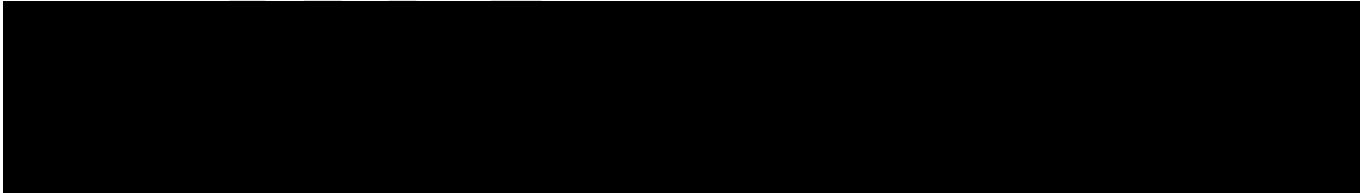
The Company has evaluated subsequent events through April 26, 2022, the date which the consolidated financial statements were available to be issued.

Note 2 -



 at December 31, 2021 and 2020 consists of the following:

	<u>2021</u>	<u>2020</u>
		



Congruex LLC
Notes to Consolidated Financial Statements
December 31, 2021 and 2020

Note 3 - [REDACTED]

[REDACTED]

[REDACTED] as of December 31, 2021 consist of the following:

	<u>Cost</u>	<u>Accumulated Amortization</u>	<u>Net</u>
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED] as of December 31, 2020 consist of the following:

	<u>Cost</u>	<u>Accumulated Amortization</u>	<u>Net</u>
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

Congruex LLC
Notes to Consolidated Financial Statements
December 31, 2021 and 2020

[REDACTED]

is as follows:

Years ending December 31,
2022
2023
2024
2025
2026
Thereafter

[REDACTED]

[REDACTED]

[REDACTED] as of December 31, 2021 and 2020, consists of the following:

	<u>Cost</u>	<u>Accumulated Amortization</u>	<u>Accumulated Impairment Loss</u>	<u>Net</u>
December 31, 2021	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
December 31, 2020	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

Note 4 - [REDACTED]

[REDACTED]

[REDACTED]

Note 5 - [REDACTED]

On September 20, 2019, [REDACTED]

[REDACTED]

On June 30, 2020,

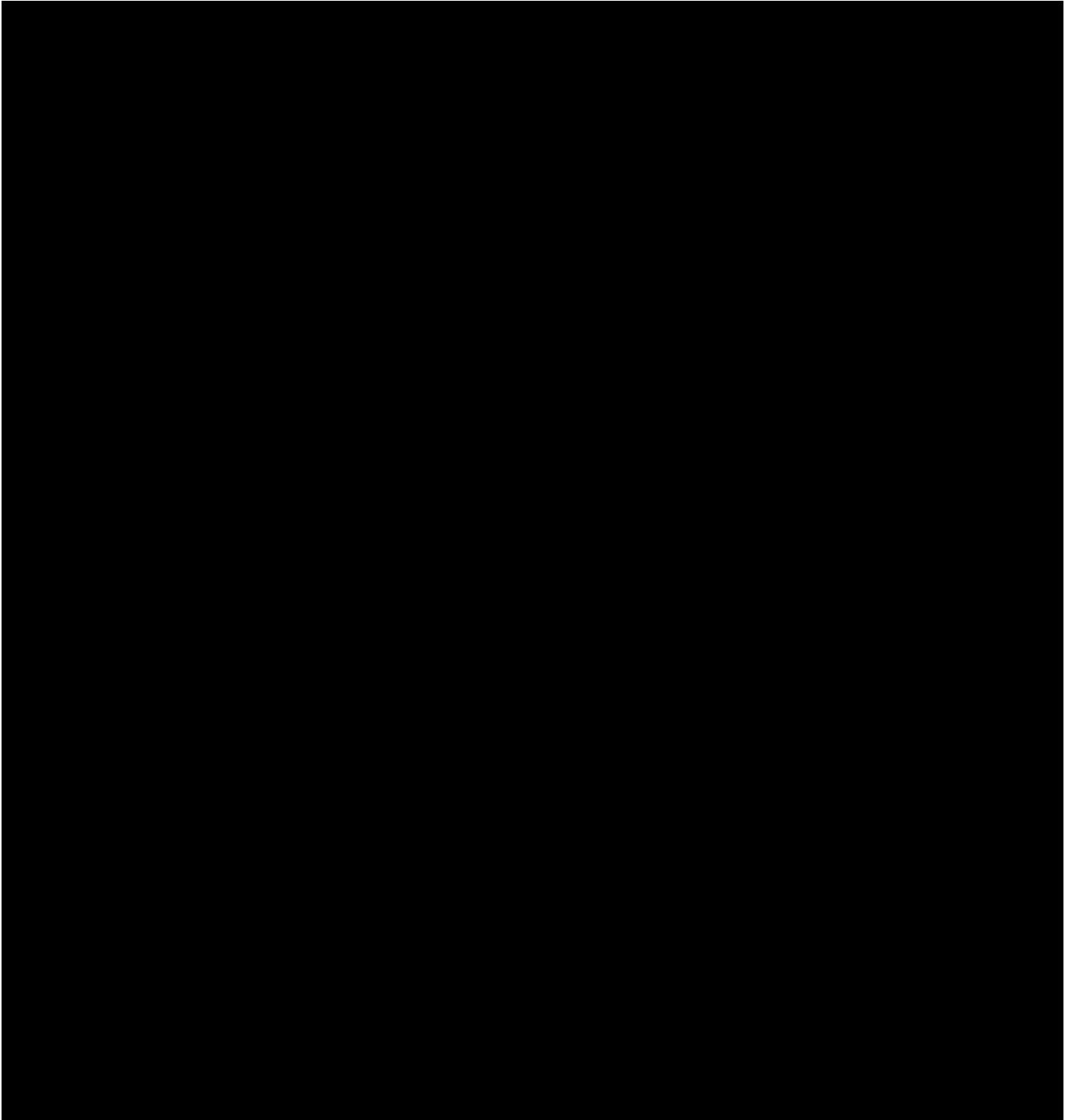
[REDACTED]

Note 6 - [REDACTED]

[REDACTED] consists of:

2021

2020



[REDACTED] are as follows:

<u>Years Ending December 31,</u>	<u>Amount</u>
2022	[REDACTED]
2023	
2024	
2025	
2026	
Thereafter	
[REDACTED]	

Note 7 - [REDACTED]

The Company [REDACTED]
[REDACTED].

[REDACTED] are as follows:

<u>Years Ending December 31,</u>	
2022	[REDACTED]
2023	
2024	
2025	
2026	
Thereafter	
Total minimum [REDACTED]	

Total operating [REDACTED] for the years ended December 31, 2021 and 2020 was [REDACTED] and [REDACTED] respectively. Included in this amount is [REDACTED]

[REDACTED] for the years ended December 31, 2021 and 2020, respectively.

Note 8 - Business Combinations

[REDACTED]

On April 30, 2021, [REDACTED]

[REDACTED]

The following table summarizes the [REDACTED] of the [REDACTED] at the acquisition date:

[REDACTED]

[REDACTED]

On May 12, 2021, [REDACTED]

[REDACTED]

The following table summarizes the [REDACTED] of the [REDACTED] at the acquisition date:

[REDACTED]

Congruex LLC
Notes to Consolidated Financial Statements
December 31, 2021 and 2020

[REDACTED]

On June 30, 2021,

[REDACTED]

[REDACTED]

The following table summarizes the [REDACTED] of the [REDACTED] and [REDACTED] at the acquisition date:

[REDACTED]

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[REDACTED]

On June 30, 2021,

[REDACTED]

[REDACTED]

The following table summarizes the [REDACTED] of the [REDACTED] and [REDACTED] at the acquisition date:

[REDACTED]

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Congruex LLC
Notes to Consolidated Financial Statements
December 31, 2021 and 2020

[REDACTED]

On August 10, 2021,

[REDACTED]

The following table summarizes the [REDACTED] of the [REDACTED] and [REDACTED] at the acquisition date:

[REDACTED]

In accordance with the purchase agreement,

[REDACTED]

Congruex LLC
Notes to Consolidated Financial Statements
December 31, 2021 and 2020

[REDACTED]

On October 15, 2021,

[REDACTED]

The following table summarizes the [REDACTED] of the [REDACTED] and [REDACTED] at the acquisition date:

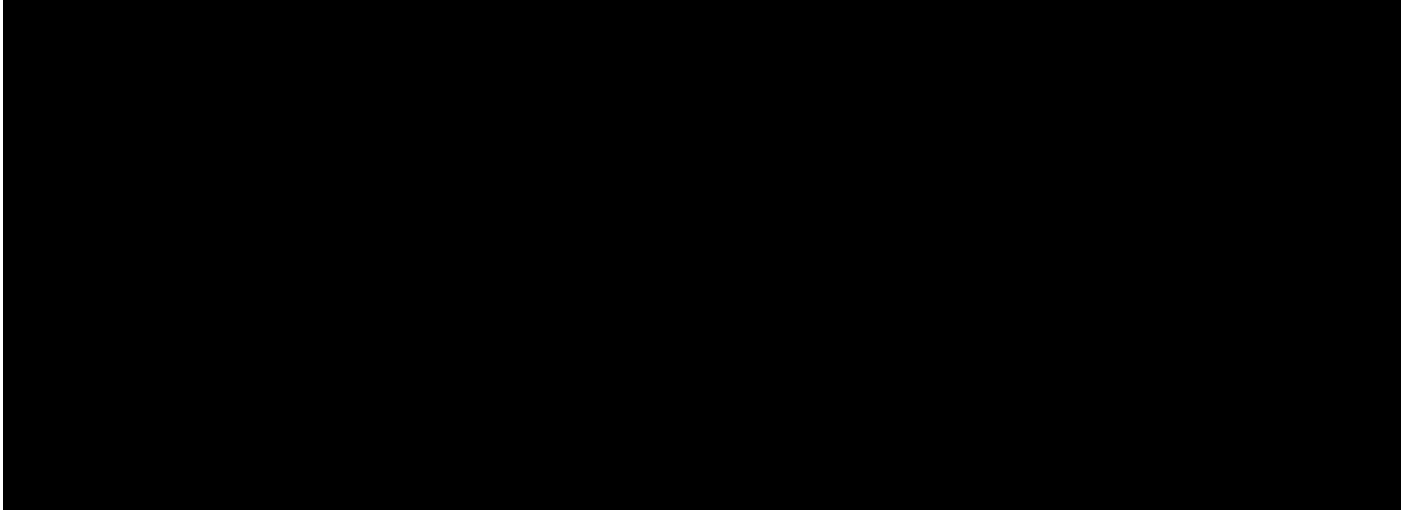
[REDACTED]

[REDACTED]

On December 15, 2021,

[REDACTED]

The following table summarizes the [REDACTED] of the [REDACTED] and [REDACTED] at the acquisition date:



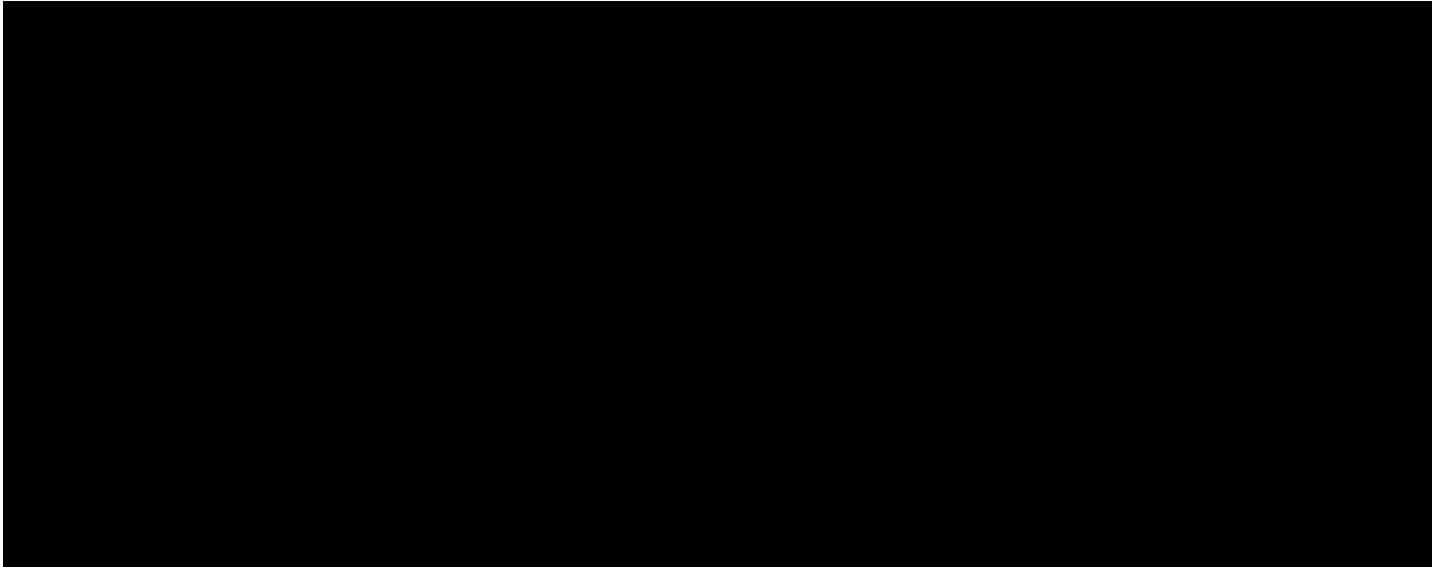
[REDACTED]

On June 30, 2020, [REDACTED]



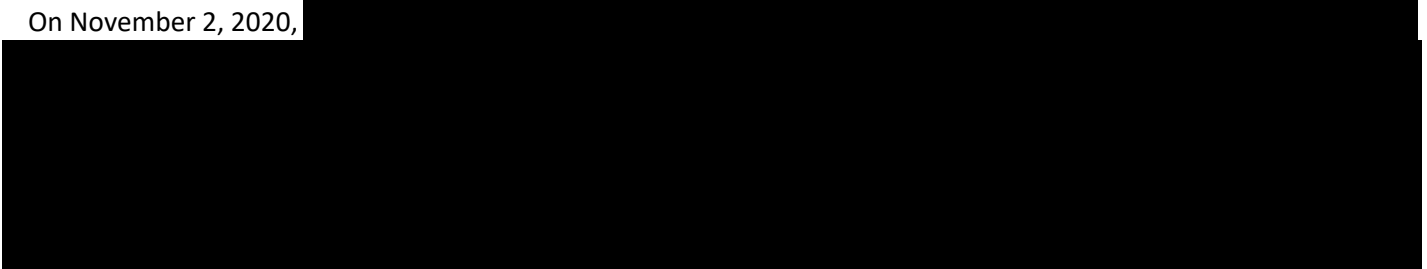
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The following table summarizes the [REDACTED] of the [REDACTED] and [REDACTED] at the acquisition date:

A large rectangular area of the document is completely redacted with a solid black box, obscuring the table mentioned in the text above.

[REDACTED]

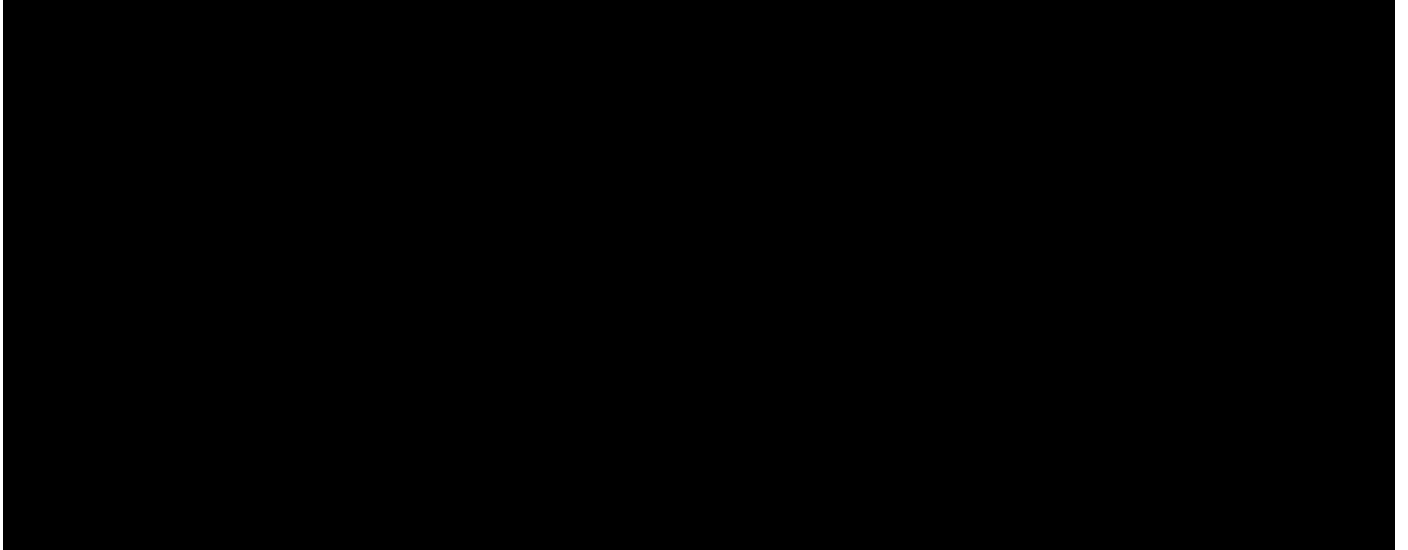
On November 2, 2020,

A large rectangular area of the document is completely redacted with a solid black box, obscuring the text following the date.

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Congruex LLC
Notes to Consolidated Financial Statements
December 31, 2021 and 2020

The following table summarizes the [REDACTED] of the [REDACTED] and [REDACTED] at the acquisition date:

A large rectangular area of the document is completely redacted with a solid black fill, obscuring the table mentioned in the text above.

In accordance with the purchase agreement, [REDACTED]
[REDACTED]

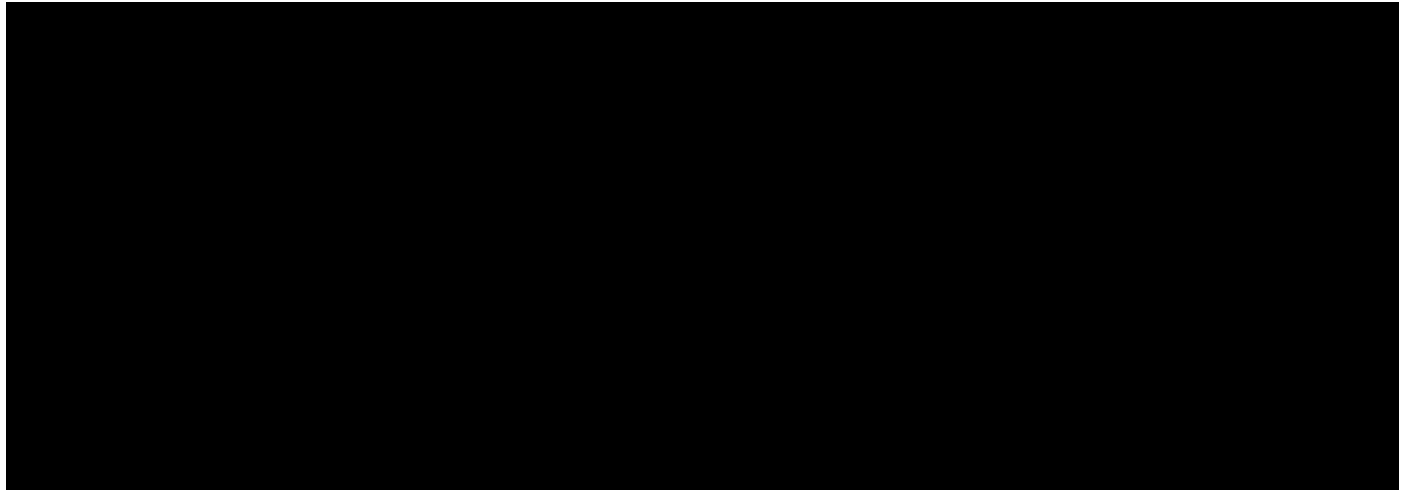
[REDACTED]

On December 22, 2020, [REDACTED]
[REDACTED]

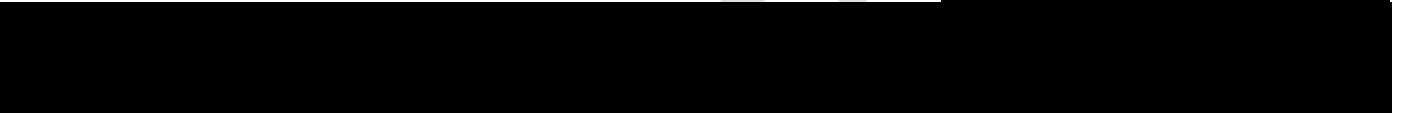
CONFIDENTIAL

Congruex LLC
Notes to Consolidated Financial Statements
December 31, 2021 and 2020

The following table summarizes the [REDACTED] of the [REDACTED] and [REDACTED] at the acquisition date:

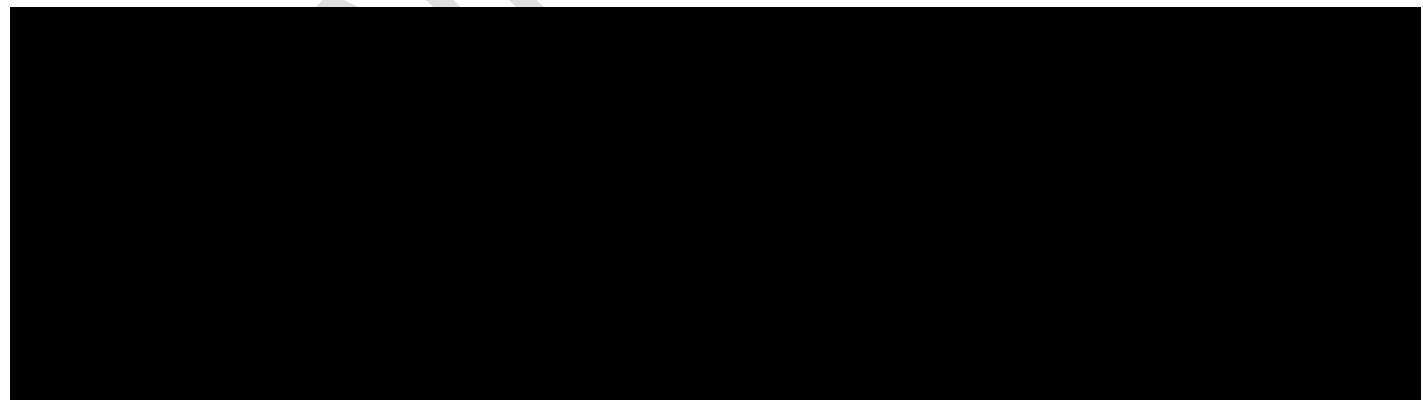


After the December 31, 2020 consolidated financial statements were issued, [REDACTED]



Note 9 - [REDACTED]

The following table summarizes the Company's customer [REDACTED] of [REDACTED] as of and for the years ended December 31, 2021 and 2020:

	<u>2021</u>	<u>2020</u>
		

Note 10 - [REDACTED]

[REDACTED]

As of December 31, 2021, [REDACTED]

[REDACTED]

[REDACTED]

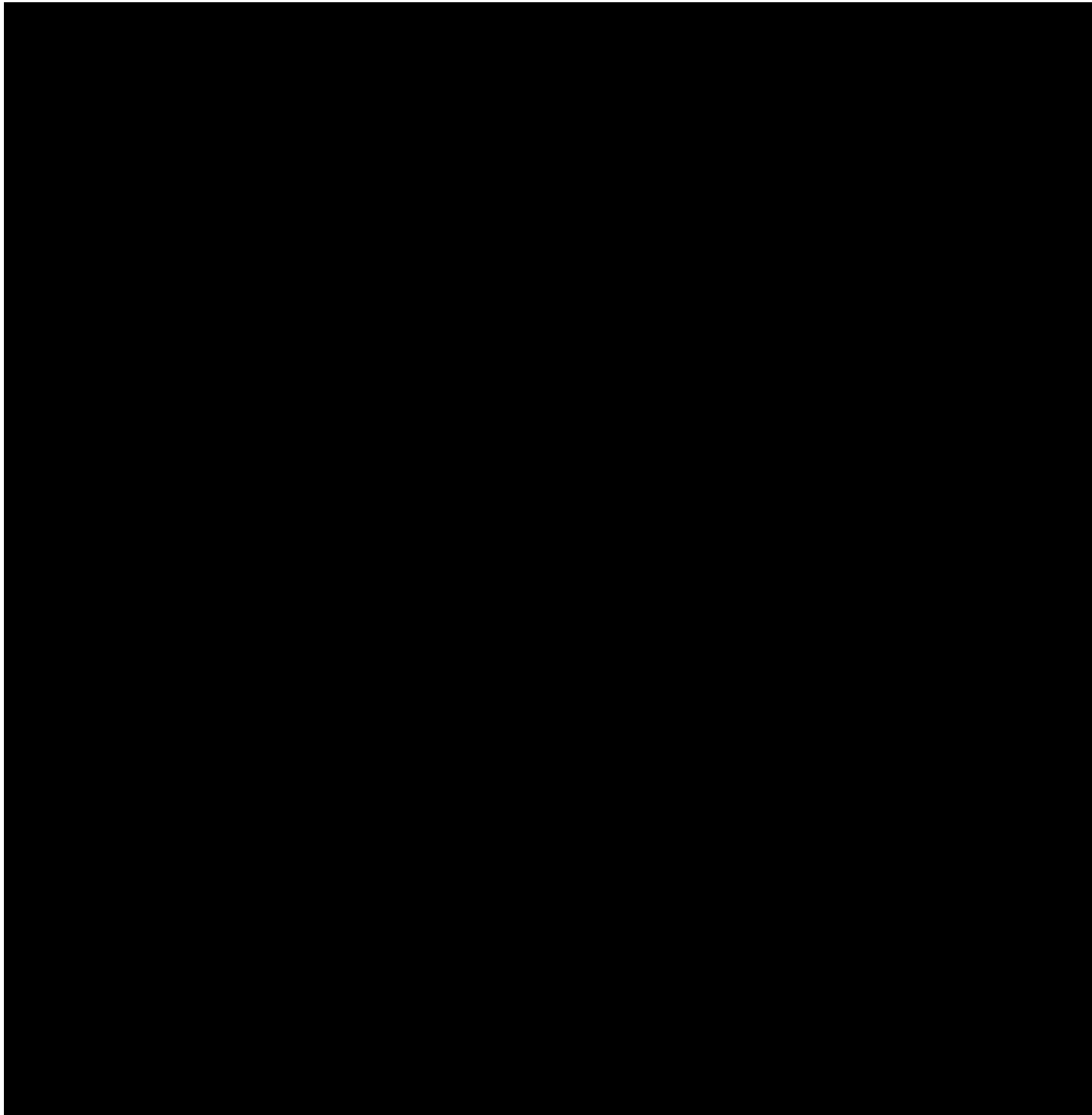
Note 11 - Commitments and Contingencies

Contingent Consideration

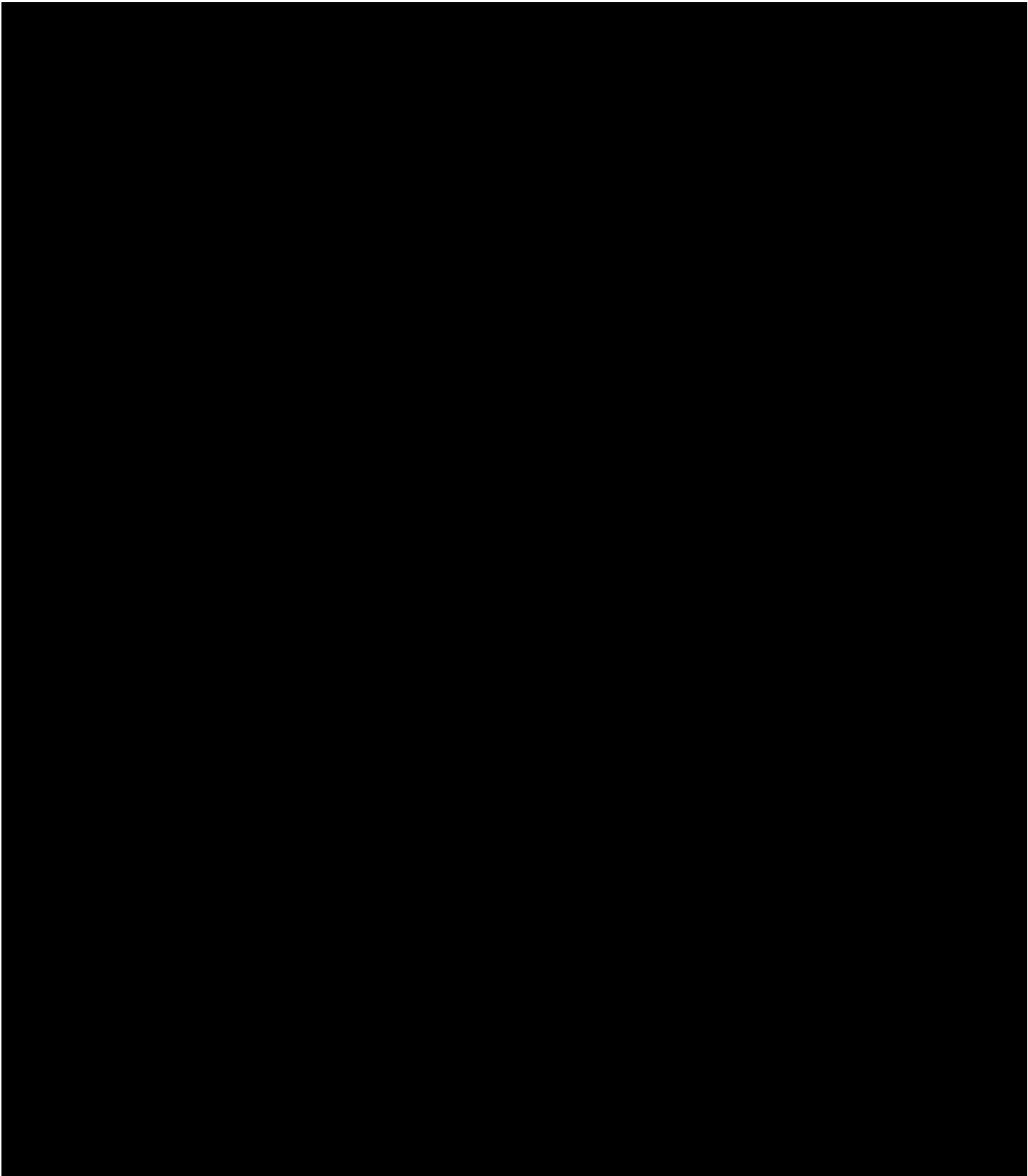
[REDACTED]

[REDACTED]

Congruex LLC
Notes to Consolidated Financial Statements
December 31, 2021 and 2020



Congruex LLC
Notes to Consolidated Financial Statements
December 31, 2021 and 2020



Summary

In 2021 and 2020, the Company

[REDACTED]

Legal Contingency

[REDACTED]

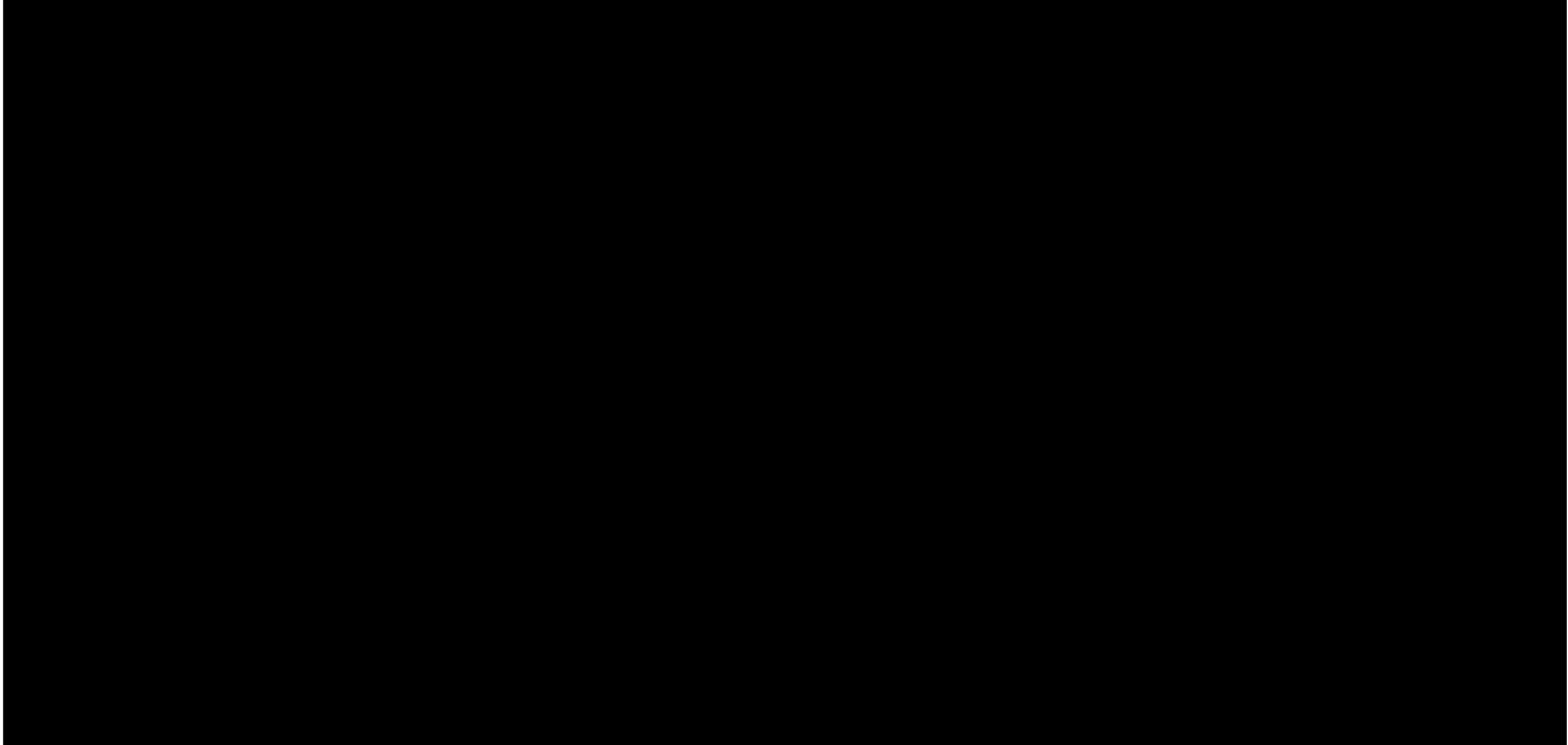
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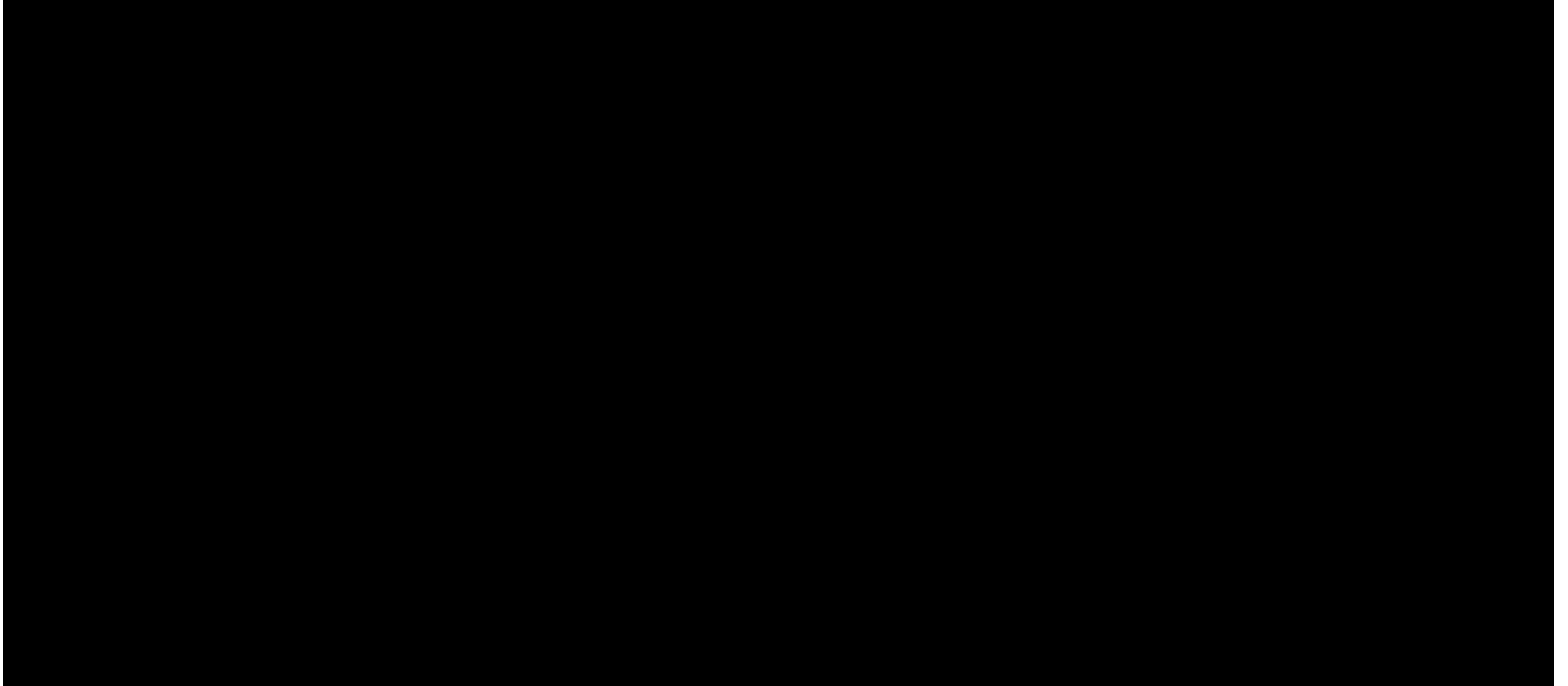
Supplementary Information
December 31, 2021
Congruex LLC

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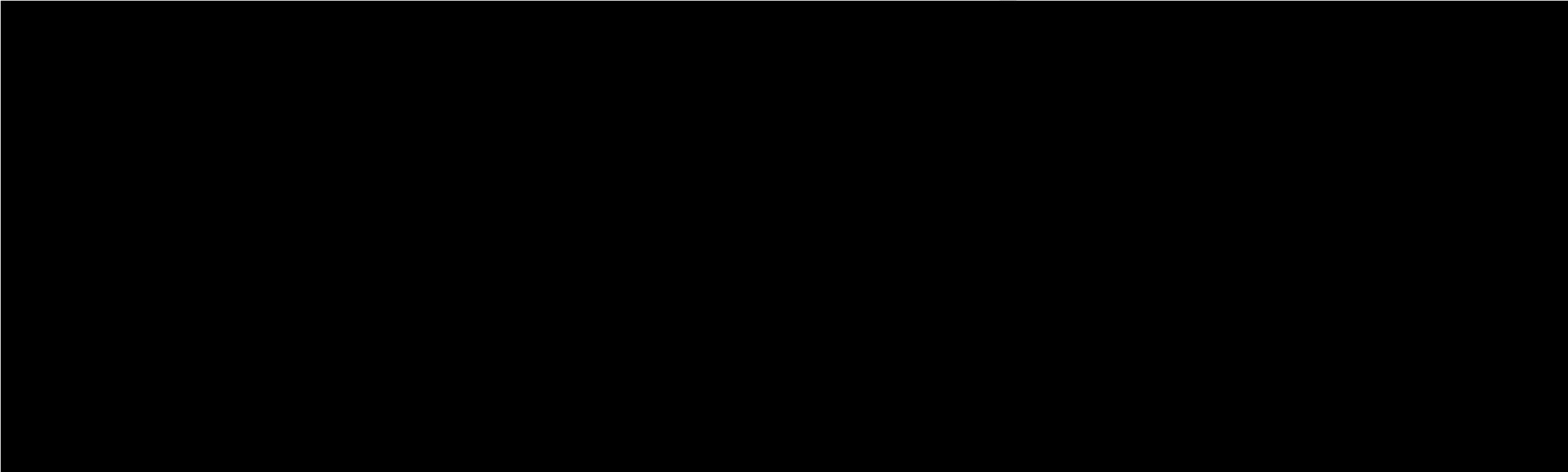
Congruex LLC
Consolidating Balance Sheet
December 31, 2021



Congruex LLC
Consolidating Balance Sheet
December 31, 2021



Congruex LLC
Consolidating Statement of Operations
Year Ended December 31, 2021



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Congruex LLC
Consolidating Statement of Operations
Year Ended December 31, 2021

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Exhibit D

Price List

TITLE SHEET

CNS NETWORKS LLC

This Price List contains the description, regulations, and rates applicable to the furnishing of dedicated interexchange and local exchange services and facilities for telecommunications services provided by CNS Networks LLC with principal offices at 2595 Canyon Boulevard, Suite 400, Boulder, CO 80302. This Price List is available on the Company's website at <https://www.congruex.com/clec/>. Copies may be inspected during normal business hours at the Company's principal place of business. The Company's telephone number is: (720) 510-8326.

Issued: February 8, 2023

Effective: _____, 2023

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2595 Canyon Boulevard, Suite 400
Boulder, CO 80302

CHECK SHEET

The sheets of this Price List are effective as of the date shown. The original and revised sheets named below contain all changes from the original Price List and are in effect on the date shown.

<u>Sheet</u>	<u>Revision</u>	<u>Sheet</u>	<u>Revision</u>
1	Original	26	Original
2	Original	27	Original
3	Original	28	Original
4	Original	29	Original
5	Original	30	Original
6	Original	31	Original
7	Original	32	Original
8	Original	33	Original
9	Original	34	Original
10	Original	35	Original
11	Original		
12	Original		
13	Original		
14	Original		
15	Original		
16	Original		
17	Original		
18	Original		
19	Original		
20	Original		
21	Original		
22	Original		
23	Original		
24	Original		
25	Original		

* New or Revised Page

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Section 2 - Rules and Regulations 8

Section 3 – Description of Service..... 26

Section 4 – Rates and Charges 33

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PRICE LIST FORMAT

- A. Page Numbering** - Page numbers appear in the upper right corner of the page. Pages are numbered sequentially. However, new pages are occasionally added to the Price List. When a new page is added between pages already in effect, a decimal is added.
- B. Page Revision Numbers** - Revision numbers also appear in the upper right corner of each page. These numbers are used to determine the most current page version on file with the Commission. For example, the 4th revised Page 14 cancels the 3rd revised Page 14. Because of the various suspension periods and deferrals, the Commission follows in its Price List approval process, the most current page number on file with the Commission is not always the Price List page in effect. Consult the check sheet for the page currently in effect.
- C. Paragraph Numbering Sequence** - There are nine levels of paragraph coding. Each level of coding is subservient to its next higher level:
- 2
 - 2.1
 - 2.1.1
 - 2.1.1.A
 - 2.1.1.A.1
 - 2.1.1.A.1.(a)
 - 2.1.1.A.1.(a).I
 - 2.1.1.A.1.(a).I.(i)
 - 2.1.1.A.1.(a).I.(i).(1)
- D. Check Sheets** - When a Price List filing is made with the Commission an updated check sheet accompanies the filing. The check sheet lists the pages contained in the Price List, with a cross reference to the current revision number. When new pages are added, the check sheet is changed to reflect the revision. All revisions made in a given filing are designated by an asterisk (*). There shall be no other symbols used on this page if these are the only changes made to it. The Price List user should refer to the latest check sheet to find out if a particular page is the most current on file with the Commission.

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EXPLANATION OF SYMBOLS

Changes to this Price List shall be identified on the revised page(s) through the use of symbols. The following are the only symbols used for the purposes indicated below:

- (D) To signify discontinued rate or regulation.
- (I) To signify a rate increase.
- (M) To signify matter relocated without change.
- (N) To signify new rate or regulation.
- (R) To signify reduction.
- (T) To signify change in text but no change in rate or regulation.

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SECTION 1 - TERMS AND ABBREVIATIONS

Central Office

The switching equipment and operating arrangements which provide exchange and long distance service to the public and interconnection of customer telecommunication services.

Commission

Florida Public Service Commission.

Company

CNS Networks LLC, the issuer of this Price List.

Individual Case Basis (ICB)

A service arrangement in which the regulation of rates, terms, conditions and charges are developed based on the specific circumstances of the case.

Interexchange Private Line Service

Provides circuits that are specifically dedicated to Customer's use between two (2) points within two (2) different local exchanges specified by the Company and Customer in a Service Order.

LATA

A Local Access and Transport Area established pursuant to the Modification of Final Judgment entered by the United States District Court for the District of Columbia in Civil Action No. 82-0192; or any other geographic area designated as a LATA in the NATIONAL EXCHANGE CARRIER ASSOCIATIONS, Inc. Price List F.C.C. No. 4.

Local Private Line Service

Provides circuits that are specifically dedicated to Customer's use between two (2) points within the same local exchange specified by the Company and Customer in a Service Order.

Multiplexing

The act of combining a number of individual message circuits for transmission over a common transmission path.

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Boulder, CO 80302

SECTION 1 - TERMS AND ABBREVIATIONS (Cont'd)

Multiplexing Hub

A Company designated central office at which the multiplexing functions are to channelize analog or digital facilities to individual services requiring a lower capacity or bandwidth.

Network

Refers to the Company's facilities, equipment, and services provided under this Price List.

Service Commencement Date

The first date on which the Company notifies the Customer that the requested service or facility is available for use, unless extended by the Customer's refusal to accept service that does not conform to standards set forth in the Service Order or this Price List, in which case the Service Commencement Date is the date of the Customer's acceptance. The Company and the Customer may mutually agree on a substitute Service Commencement Date. If the Company does not have an executed Service Order from a Customer, the Service Commencement Date will be the first date on which the service or facility was used by a Customer.

Service Order

The written request for dedicated services executed by the Customer and the Company in the format devised by the Company. The signing of a Service Order by the Customer and acceptance by the Company initiates the respective obligation of the parties as set forth therein and pursuant to this Price List, but the duration of the service is calculated from the Service Commencement Date. Should a Customer use the Company's dedicated service without an executed Service Order, the Company will then request the Customer to submit a Service Order.

User

A Customer, joint user, or any other person authorized by a Customer to use service provided under this Price List.

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Boulder, CO 80302

SECTION 2 - RULES AND REGULATIONS

2.1 Application of Price List

- 2.1.1 This Price List contains the regulations and rates applicable to dedicated telecommunications services provided by the Company to business customers only. The services described in this Price List are not offered to residential customers.

This Price List applies only to the extent that services provided hereunder are used by a Customer for the purpose of originating, terminating, or completing intrastate communications between points within the State of Florida and the Customer has not entered into an agreement with the Company regulating the ICB rates, terms, conditions and charges. A communication is “intrastate” only if all points of origination and termination are located within the State.

2.2 Scope

The Company undertakes to furnish dedicated services in accordance with the terms and conditions set forth in this Price List except where the Company has entered into an agreement with a Customer regulating the ICB rates, terms, conditions and charges. The provision of service under this Price List shall not create a partnership or joint venture between the Company and Customer.

2.3 Shortage of Equipment and Facilities

All service is subject to the availability of suitable facilities and where the Company can secure acceptable arrangements with underlying suppliers (for resold or other leased services). The Company may deny service, limit the length of service, or discontinue furnishing services when necessary because of the lack of acceptable transmission medium capacity, the unavailability of equipment and facilities, or because of any causes beyond its control.

2.4 Terms and Conditions

- 2.4.1 Service is provided on the basis of a minimum period of at least one month, 24-hours per day. For the purpose of computing charges in this Price List, a month is considered to have 30 days.

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Boulder, CO 80302

SECTION 2 - RULES AND REGULATIONS (Cont'd)

- 2.4.2 Services requested by a Customer under this Price List shall be requested on service order forms (“Service Orders”) in effect from time to time that shall contain or reference this Price List, the name of the Customer, a specific description of the service ordered and applicable bandwidth, the requested start date (“Requested Start Date”), the rates to be charged, the duration of the services, and the terms and conditions in this Price List. Customers will also be required to execute any other documents as may be reasonably requested by the Company to supplement the terms and conditions contained in this Price List.
- 2.4.3 The Company will make reasonable efforts to meet a Customer’s Requested Start Date. In the event that a Requested Start Date is altered, Customer’s Requested Start Date will be changed to reflect the number of days of delay or advance, as appropriate (the “Service Commencement Date”).
- 2.4.4 The Company’s standard service implementation interval for services provided on the Company’s owned and operated facilities is forty-five (45) days from acceptance of a Service Order by the Company’s Customer Care department. Such acceptance shall be indicated by the signature of a representative of such department on the Service Order. The standard service implementation interval for services provided by a third party and either partially or wholly off of the Company’s owned and operated network shall be determined on an ICB. The Company shall make reasonable efforts to provide services within its standard service implementation interval or on Customer’s Requested Start Date and shall not be liable to pay to the Customer any penalties or damages for Company’s failure to meet such standard service implementation intervals.
- 2.4.5 Services shall be deemed to begin on the date the Company issues notice that service is available (the “Service Commencement Date”), unless the Company receives written notice from the Customer within two (2) business days after the Company’s issuance of notice that service is available, stating that the service is in material non-compliance with applicable technical specifications.

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SECTION 2 - RULES AND REGULATIONS (Cont'd)**2.5 Limitations on Liability**

- 2.5.1 Except as otherwise stated in this section, the liability of the Company for damages arising out of either: (1) the furnishing of its services, including, but not limited to mistakes, omissions, interruptions, delays, or errors, or other defects, representatives, or use of these services or (2) the failure to furnish its service, whether caused by acts or omission, shall be limited to the extension of Outage Credits to the Customer for interruptions in service as set forth in section 2.15 of this Price List.
- 2.5.2 Except for the extension of Outage Credits to the Customer for interruptions in service, the Company shall not be liable to a Customer or third party for any direct, indirect, special, incidental, reliance, consequential, exemplary or punitive damages, including, but not limited to, loss of revenue or profits, for any reason whatsoever, including but not limited to any act or omission, failure to perform, delay, interruption, failure to provide any service, or any failure or breakdown of facilities associated with the service.
- 2.5.3 The Company shall not be liable for any claims for loss or damages involving:
- A. Any act or omission of: (a) the Customer; (b) any other entity furnishing service, equipment, or facilities for use in conjunction with services or facilities for use in conjunction with services or facilities provided by the Company; or (c) common carriers or warehousemen;
 - B. Any delay or failure of performance or equipment due to causes beyond the Company's control, including but not limited to, acts of God, fires, floods, earthquakes, hurricanes, or other catastrophes; national emergencies, insurrections, riots, wars, or other civil disturbances; strikes, lockouts, work stoppages, or other labor difficulties; criminal actions taken against the Company; unavailability, failure, or malfunction of equipment or facilities provided by the Customer or third parties; and any law, order, regulation, or other action of any governing authority or agency thereof;
 - C. Any unlawful or unauthorized use of the Company's facilities and services;
 - D. Libel, slander, invasion of privacy, or infringement of patents, trade secrets, or copyrights arising from or in connection with the transmission of communications by means of Company-provided facilities or services; or by means of the combination of Company-provided facilities or services with Customer-provided facilities or services;

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- E. Breach in the privacy or security of communications transmitted over the Company's facilities;
 - F. Changes in any of the facilities, operations or procedures of the Company that render any equipment, facilities or services provided by the Customer obsolete, or require modification or alteration of such equipment, facilities or services, or otherwise affect their use or performance, except where reasonable notice is required by the Company and is not provided to the Customer, in which event the Company's liability is limited as set forth in this Price List.
 - G. Defacement of or damage to Customer premises resulting from the furnishing of services or equipment on such premises or the installation or removal thereof;
 - H. Injury to property or injury or death to persons, including claims for payments made under Workers' Compensation law or under any plan for employee disability or death benefits, arising out of, or caused by, any act or omission of the Customer, or the construction, installation, maintenance, presence, use or removal of the Customer's facilities or equipment connected, or to be connected to the Company's facilities;
- 2.5.4 The Company and the Customer shall defend, indemnify and hold harmless the other against and from any and all claims for property damage, physical personal injury or wrongful death to the extent that such arises out of the gross negligence or willful misconduct of the respective indemnifying party, its employees, agents, or contractors in connection with the provision or use of service or other performance.
- 2.5.5 THE COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED EITHER IN FACT OR BY OPERATION OF LAW, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, EXCEPT THOSE EXPRESSLY SET FORTH HEREIN. THE OUTAGE CREDITS REMEDY SET FORTH IN SECTION 2.15 IS THE SOLE AND EXCLUSIVE REMEDY PROVIDED TO CUSTOMER AND IS IN LIEU OF ALL OTHER REMEDIES.

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2.5.6 Customers shall make all arrangements with copyright holders, music licensing organizations, performers' representatives or other parties for necessary authorizations, clearances or consents with respect to transmission contents ("Consents"). Customers shall indemnify and hold harmless the Company and Providers (as defined below) against and from any court, administrative or agency action, suit or similar proceeding, whether civil or criminal, private or public, brought against Providers arising out of or related to the contents transmitted hereunder (over Company's network or otherwise) including, but not limited to, claims, actual or alleged, relating to any violation of copyright law, export control laws, failure to procure Consents, failure to meet governmental or other technical broadcast standards, or that such transmission contents are libelous, slanderous, an invasion of privacy, pornographic, or otherwise unauthorized or illegal. Providers shall be defined to include the Company, any third party or affiliated provider, operator or maintenance/repair contractor of facilities employed in connection with the provision of services under this Price List. The Company may terminate or restrict any transmissions over the network if, in its judgment, (a) such actions are reasonably appropriate to avoid violation of applicable law; or (b) there is a reasonable risk that criminal, civil or administrative proceedings or investigations based upon the transmission contents shall be instituted against Providers. Customer agrees not to use services for any unlawful purpose, including without limitation any use that constitutes or may constitute a violation of any local, state or federal obscenity law.

2.6 Testing and Adjusting

Upon reasonable notice, the Company may make such tests, adjustments, and inspections as may be necessary to maintain the Company's facilities in satisfactory operating condition. No interruption allowance will be credited to the Customer for the period during which the Company makes such test, adjustments, or inspections.

2.7 Provision of Equipment and Facilities

2.7.1 The Customer has sole responsibility for installation, testing and operation of facilities, services and equipment ("Customer Facilities") other than those specifically provided by the Company as part of the services described in a Service Order. In no event will the untimely installation or non-operation of Customer Facilities relieve Customer of its obligation to pay charges for service after the Service Commencement Date.

2.7.2 Any equipment provided by the Customer must be itemized on a schedule listing all such Customer-provided equipment and appended to the Service Order to which use of that equipment relates ("Customer Equipment Inventory"). The Company shall not be obligated to provide service if the Customer will be providing any of its own equipment unless and until such equipment is itemized on the applicable Customer Equipment Inventory.

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2.7.3 Title to all facilities provided by the Company, its agents, contractors, or suppliers in accordance with this Price List remains in the Company, its agents, contractors, or suppliers.

2.8 Special Construction

Subject to the arrangement of the Company and to all of the regulations contained in this Price List, special construction of facilities may be undertaken on a reasonable effort basis at the request of the Customer. Special construction charges will be determined as described herein on an ICB. Special construction is that construction undertaken:

1. where facilities are not presently available, and there is no other requirement for the facilities so constructed;
2. of a type other than that which the Company would normally utilize in the furnishing of its services;
3. over a route other than that which the Company would normally utilize in the furnishing of its services;
4. in a quantity greater than that which the Company would normally construct;
5. on an expedited basis;
6. where a change in service is made after the service has been installed;
7. on a temporary basis until permanent facilities are available;
8. involving abnormal costs; or
9. in advance of its normal construction.

2.9 Prohibited Uses

2.9.1 The services the Company offers shall not be used for any unlawful purpose or for any use that the Customer has not obtained all required governmental approvals, authorization, licenses, consents, and permits.

2.9.2 The Company may require applicants for service who intend to use the Company's offering for resale and/or for shared use to file a letter with the Company confirming that their use of the Company's offering complies with relevant laws and regulations, policies, orders, and decisions.

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- 2.9.3 The Company may require a Customer to immediately shut down its transmission if such transmission is causing interference to others.
- 2.9.4 A Customer, joint user, or authorized user may not assign, or transfer in any manner, the service or any rights or obligations associated with the service without the written consent of the Company. Any such assignment or transfer of Customer's rights or obligations without such consent shall entitle the Company to terminate service, at its option, upon ten (10) days' prior written notice to Customer.
- 2.10 Customer Premises Provisions
- 2.10.1 The Customer shall provide the personnel, power, and space required to operate all facilities and associated equipment installed on the premises of the Customer.
- 2.10.2 The Customer shall be responsible for providing Company personnel access to premises of the Customer at any reasonable hour for the purpose of testing the facilities or equipment of the Company.
- 2.11 Liability of the Customer
- 2.11.1 The Customer will be liable for damages to the facilities of the Company and for all incidental and consequential damages caused by the negligent or intentional acts or omissions of the Customer, its officers, employees, agents, invitees, or contractors where such acts or omissions are not the direct result of the Company's negligence or intentional misconduct.
- 2.11.2 To the extent caused by any negligent or intentional act of the Customer as described in 2.11.1, preceding, the Customer shall indemnify, defend, and hold harmless the Company from and against all claims, actions, damages, liabilities, costs, and expenses, including reasonable attorneys' fees, for (1) any loss, destruction or damage to property of any third party, and (2) the death of or injury to persons, including, but not limited to, employees or invitees of either party, and (3) any liability incurred by the Company to any third party pursuant to this or any other Price List of the Company, or otherwise, for any interruption of, interference to, or other defect in any service provided by the Company to such third party.

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2.12 Customer Equipment and Channels

2.12.1 Interconnection of Facilities

- A. Customer provided terminating equipment such as CSUs, multiplexers, and other terminating equipment may, at the Customer's request, be provided by the Customer, at the Customer's expense. Company makes no guarantees or warranties as to the performance of Customer provided equipment.
- B. In the event the Customer should desire to collocate Customer owned equipment in a facility owned (or leased) and operated by the Company for the purpose of interconnecting the Customer owned equipment with the Company's network, the Customer and Company shall enter into an ICB agreement specifying the terms and conditions relating to such collocation.

2.12.2 Inspections

The Company may, upon notification to the Customer, at a reasonable time, make such tests and inspections as may be necessary to determine that the requirements regarding the equipment and interconnections are being complied with in respect to the installation, operation and maintenance of Customer-provided equipment and in the wiring of the connection of Customer channels to Company-owned facilities.

2.13 Customer Deposits

2.13.1 General

- A. To safeguard its interests, the Company may, at any time prior to or after the Service Commencement Date, require a Customer to post a deposit or irrevocable letter of credit, at the Company's option, to secure the Customer's payment for the term of the service requested. Nonresidential customer deposits shall not exceed 2 1/2 times that customer's estimated maximum monthly bill.
- B. When a service is discontinued, the amount of a deposit, if any, will be applied to the Customer's account and any credit balance will be refunded. Before the service is discontinued, the Company may, at its option, return the deposit or credit it to the Customer's account. If the amount of the deposit is insufficient to cover the balance due to the Customer's account, the Company retains the right to collect any amounts owing after the deposit has been applied plus any costs related to the collection of any remaining balance.

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SECTION 2 - RULES AND REGULATIONS (Cont'd)

- C. Interest will be added to the deposit at the rate the Company charges for late payment of bills. Interest on deposits shall be payable from the date of deposit to the date of refund or disconnection. The utility may, at its option, pay the interest at intervals it chooses but at least annually, by direct payment, or as a credit on bills. Upon termination of service, the deposit with accrued interest shall be credited to the final bill and the balance shall be returned within thirty (30) days to the customer.

2.13.2 Failure to Post a Deposit

Should a Customer fail to post a deposit or letter of credit as may be required by the Company within fifteen (15) days of the Company's notice of such a requirement, or should the Customer fail to abide by the terms of any letter of credit or deposit agreement, the Company may deny service prior to the Requested Service Date or terminate service after the Service Commencement Date upon thirty (30) days' notice to the Customer.

2.14 Payment Arrangements**2.14.1 Payment for Service**

The Customer is responsible for the payment of all charges for facilities and services furnished by the Company to the Customer.

A. Taxes

The Customer is responsible for payment of any sales, use, gross receipts, excise, access or other local, state and federal taxes, charges, fees, or surcharges (however designated) (excluding taxes on the Company's net income) imposed on or based upon the provision, sale or use of the Company's services by Customer.

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SECTION 2 - RULES AND REGULATIONS (Cont'd)**2.14.2 Billing and Collection of Charges**

The Customer is responsible for payment of all charges incurred by the Customer or other users for services and facilities furnished to the Customer by the Company.

- A. Except as otherwise stated in a Service Order, non-recurring charges are billed following receipt of the service by the Customer and are due and payable within thirty (30) days after the date of the invoice (“Due Date”).
- B. The Company shall present invoices for Recurring Charges monthly to the Customer, in advance of the month in which service is provided, and Recurring Charges shall be due and payable with thirty (30) days after the date of the invoice (“Due Date”). When billing is based upon Customer usage, usage charges will be billed monthly for the preceding billing period.
- C. When service does not begin on the first day of the month, or end on the last day of the month, the charge for the fraction of the month in which service was furnished will be calculated on a pro rata basis. For this purpose, every month is considered to have thirty (30) days. Prorated charges are billed following receipt of service and are due and payable within thirty (30) days after the date of the invoice (“Due Date”).
- D. Billing of the Customer by the Company will begin on the Service Commencement Date, which is the day on which the Company notifies the Customer that the service or facility is available for use.
- E. The Company may make billing adjustments for a period of two (2) years after the Due Date of an invoice, or two (2) years after the date a service is rendered, whichever is later.
- F. If any portion of the payment is received by the Company after the Due Date, or if any portion of the payment is received by the Company in funds that are not immediately available upon presentment, then a late payment penalty shall be due to the Company. The late payment penalty shall be the portion of the payment not received by the date due, multiplied by a late factor. The late factor shall be the lesser of:
 - 1) a rate of 1.5 percent per month; or
 - 2) the highest interest rate that may be applied under State law for commercial transactions, which shall accrue from the Due Date.
 - 3) Payment of services via a check to the Company, which is subsequently returned by the issuing institution shall be charged a maximum return check fee of \$25.00 per check.

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SECTION 2 - RULES AND REGULATIONS (Cont'd)**2.14.3 Billing Disputes****A. General**

All bills are presumed accurate and shall be binding on the Customer unless notice of the disputed charge(s) is received by the Company within 30 days of the Due Date. For the purposes of this section, "notice" is defined as written notice to the Company, containing sufficient documentation to investigate the dispute, including the account number under which the bill has been rendered, the date of the bill, and the specific items on the bill being disputed. Such notice may be sent to the Company by writing to the Company at 2595 Canyon Boulevard, Suite 400, Boulder, CO 80302 or by telephone at (720) 510-8326. Customers with complaints or inquiries may also contact the Company toll free at (866) 886-4757. The Company's bills will also include the toll-free number of the Consumer Relations Division of the Commission together with a statement advising customers that they may contact the Commission if they are unable to resolve a billing inquiry with the carrier.

B. Late Payment Charge

- 1) The undisputed portions of the bill must be paid by the Due Date to avoid assessment of a late payment charge.
- 2) In the event that a billing dispute is resolved by the Company in favor of the Customer, any disputed amount withheld pending resolution of the billing dispute shall not be subject to the late payment charge, and the Customer shall receive an adjustment on its next bill.
- 3) In the event that a billing dispute is resolved in favor of the Company, the Customer shall pay the late payment charge.

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SECTION 2 - RULES AND REGULATIONS (Cont'd)**C. Unresolved Billing Disputes**

If notice of the disputed charge(s) is received by the Company within thirty (30) days of the Due Date, the Customer may take the following course of action.

- 1) First, the Customer may request and the Company will provide an in-depth review of the disputed amount.
- 2) Second, if after investigation and review by the Company, a disagreement remains as to the disputed amount, the Customer may file an appropriate complaint with:

Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee FL 32399-0850 Online Complaint Form: http://www.psc.state.fl.us/ConsumerAssistance/AjaxConsumerComplaintForm By Phone: 1-800-342-3552 By Email: contact@psc.state.fl.us	Florida Department of Agriculture and Consumer Services 2005 Apalachee Parkway Tallahassee, FL 32399-6500 Toll-free Consumer Hotline (within Florida): 1-800-435-7352 Toll-free Spanish Hotline: 1-800-352-9832 www.fdacs.gov/ConsumerServices
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2.14.4 Suspension of Service for Cause

- A. In the event payment in full is not received from Customer on or before thirty (30) days following the date of the invoice, the Company may suspend all or any portion of service to the Customer. The Company shall exercise this suspension by providing Customer with a minimum of ten (10) days' written notice specifying the past due amount and the services to be suspended. If Company receives the entire past due amount within the ten (10) day notice period, then Customer's service will not be suspended.
- B. If only a portion of the service is initially suspended pursuant to the Company's written notice, and Customer fails to pay the specified past due amount within an additional ten (10) days after the partial suspension of service, then after the additional ten (10) day period, Company may suspend all or any additional portion of the service, with no additional written notice. Further, after the additional ten (10) day period, Company may continue suspension until such time as Customer has paid in full all charges then due, including any late fees as specified herein. Following such payment, Company shall reinstate Customer's services, subject to the Company's right to require the Customer to post a deposit or irrevocable letter of credit as specified in section 2.13 of this Price List.

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- C. Upon violation of any of the other material terms or conditions for furnishing service the Company may, by giving thirty (30) days prior notice in writing to the Customer, discontinue or suspend service without incurring any liability if such violation continues during that period.
- D. In the event of fraudulent use of the Company's network, the Company may without notice suspend or discontinue service. The Customer will be liable for all related costs. The Customer will also be responsible for payment of any reconnection charges.
- E. Upon any governmental prohibition or required alteration of the services to be provided or any violation of an applicable law or regulation, the Company may immediately discontinue service without incurring any liability.
- F. Upon the Company's discontinuance of service to the Customer under this section, the Company, in addition to all other remedies that may be available to the Company at law or in equity or under any other provision of this Price List, may declare all future monthly and other charges that would have been payable by the Customer during the remainder of the term for which such services would have otherwise been provided to the Customer to be immediately due and payable (discounted to present value at six (6) percent).
- G. Except for suspension of service pursuant to section 2.14.4(E), preceding, suspension of service shall not affect the Customer's obligation to pay for the service.
- H. Without notice in the event of tampering with the equipment furnished and owned by Company.
- I. For failure of the customer to fulfill his contractual obligations for service and/or facilities subject to regulations by the Commission.
- J. Without notice, in the event of a condition that is immediately dangerous or hazardous to the safety and health of the Customer, general public, or employees or facilities.
- K. An Order of any Court, the Commission, or any other duly authorized public authority.
- L. If the Customer fails to permit the Company reasonable access to the Company's facilities or equipment.
- M. Without notice in the event of Unauthorized resale of equipment or services; or use of equipment in such manner as to adversely affect the Company's service to others.

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SECTION 2 - RULES AND REGULATIONS (Cont'd)**2.14.5 Ancillary Services and Charges**

Any ancillary services and charges not described in this section will be considered special requests and will be handled on an ICB.

A. Order Change Charge – Change of Service Date

If a Customer desires to change the date on which Customer has requested that service be available, other than a request to expedite service pursuant to Section 2.8, such change shall be subject to Company's acceptance at Company sole discretion. Such acceptance by Company may be conditioned upon Customer's payment of an Order Change Charge. Customer will also be charged for any charges incurred by the Company from third party providers as a result of Customer's request for change of service date.

B. Order Change Charge – Change of Information in a Service Order

If a Customer requests a change to the information contained in a Service Order (other than a change of service date) prior to completion of installation of the Service, Customer may incur an Order Change Charge. No Order Change Charge will be incurred, however, if such requested change is administrative in nature (i.e., billing address, contact information, etc.).

C. Cancellation of Service Order

Customer may cancel a Service Order if Company receives the request in writing at least five days prior to the planned installation date. In such case, Company shall have the right to assess a Cancellation Charge equal to fifty percent (50%) of the monthly recurring charges for the cancelled Service plus the greater of any non-recurring costs and waived installation costs or costs reasonably incurred by Company in preparing to provide the Services. If the request to cancel is received less than five days prior to the planned installation date, Customer must pay the early charges set forth in Section 2.16.

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SECTION 2 - RULES AND REGULATIONS (Cont'd)**2.15 Outage Credits for Interruptions in Service****2.15.1 General**

- A. An Outage Credit will be given when service is interrupted in a duration equal to or greater than six (6) hours.
- B. An interruption period begins upon the earlier of the Company's actual knowledge of the interruption or the Company's receipt of notice from the Customer of the interruption. An interruption period ends when the service, facility or circuit is operative. In the event that the Company plans an interruption of service to perform necessary repairs or maintenance that will last more than 4 hours, the Company will attempt to notify Customers of the planned outage at least 24 hours in advance.
- C. A Customer shall be entitled to an Outage Credit upon the Company's receipt of the Customer's written request for such Outage Credit.
- D. The Outage Credit shall be in the amount of 1/720 of the monthly recurring charge for the service for each hour in excess of the first six (6) hours that the service is interrupted.
- E. All Outage Credits shall be credited on the Customer's next monthly invoice for the affected service.
- F. The Outage Credit as set forth in this section shall be the sole and exclusive remedy of a Customer in the event of any interruption.
- G. The Company shall notify the Commission of any major interruptions in service that affect the Company's entire system or any major division. The Company shall report outages affecting more 1500 Customers and lasting longer than thirty (30) minutes to the Consumer Relations Division of the Commission by telephone, facsimile, or e-mail.
- H. The Company may temporarily and without notice interrupt service for an operational emergency, necessary and unavoidable network maintenance, or reasons related to the public safety and welfare.

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SECTION 2 - RULES AND REGULATIONS (Cont'd)**2.15.2 Limitations of Outage Credits**

No Outage Credit will be made for any interruption in service that is:

- A. Of a duration of less than six (6) hours;
- B. Caused by the Customer or others authorized by the Customer to use the service;
- C. Due to scheduled maintenance where the Customer has been notified of the scheduled maintenance in advance;
- D. Caused by an interruption or failure on another carrier's network connected to the service of the Company;
- E. Due to the failure of power, facilities, equipment, systems, connections, or services not provided by the Company;
- F. Due to circumstances or causes beyond the control of the Company; or
- G. During any period in which the Company is not given full and free access to its facilities and equipment for the purposes of investigating and correcting interruptions.

2.16 Cancellation of Service

Once the Service Commencement Date has passed and the Customer has accepted the service, the Customer must pay for the service as indicated on the Service Order through the term indicated on such Service Order, regardless of whether the Customer is actually using the service, provided that upon thirty (30) day's prior written notice, either the Customer or the Company may, without any cancellation of service liability, cancel the affected portion of any service if the Company is prohibited by governmental authority from furnishing, or the Customer is prohibited from using such portion, or if any material rate or term contained in this Price List and relevant to the affected portion of any service is substantially changed by order of the Commission, the Federal Communications Commission, the highest court of competent jurisdiction to adjudicate the matter, or other local, state or federal government authority.

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SECTION 2 - RULES AND REGULATIONS (Cont'd)**2.17 Customer Liability for Unauthorized Use of the Network and/or Services****2.17.1 Unauthorized Use of the Network and/or Services**

- A. Unauthorized use of the Network and/or Services occurs when: (1) a person or entity that does not have actual, apparent, or implied authority to use the Network or services, obtains the Company's services provided under this Price List; or (2) a person or entity that otherwise has actual, apparent, or implied authority to use the Network or services, makes fraudulent use of the Network to obtain the Company's services provided under this Price List, or uses specific services that are not authorized.
- B. The following activities constitute fraudulent use:
- 1) Using the Network or services to transmit a message, locate a person, or otherwise give or obtain information, without payment for the service;
 - 2) Using or attempting to use the Network or services with the intent to avoid payment, either in whole or in part, of any of the Company's Price Listed charges by either rearranging, tampering with, or making connections not authorized by this Price List to any service components used to furnish the Company's services or using fraudulent means or devices, tricks, schemes, false or invalid number, false credit devices or electronic devices;
 - 3) Using fraudulent means or devices, tricks, schemes, false or invalid numbers, false credit devices, or electronic devices to defraud or mislead callers.
- C. Customers are advised that use of telecommunications equipment and services, including that provided under this Price List, carries a risk of various forms of telecommunications fraud (including, but not limited to, toll and PBX fraud perpetrated by Users who gain access to a Customer's facilities, account numbers, security or authorization codes, etc.). Customers should take all necessary steps to restrict access to their facilities, including the equipment and services provided hereunder, and to detect and prevent unauthorized use of the equipment and services provided by the Company under this Price List.

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SECTION 2 - RULES AND REGULATIONS (Cont'd)

2.17.2 Liability for Unauthorized Use

- A. Except as provided for elsewhere in this Price List, the Customer is responsible for payment of all charges for services provided under this Price List furnished to the Customer or User. This responsibility is not changed due to any use, misuse, or abuse of the Customer's service or Customer-provided equipment by Users or other third parties, the Customer's employees, or the public.
- B. The Customer is liable for all costs incurred as a result of unauthorized use of the Network and/or services, including service charges and any direct, indirect, special, incidental, reliance, consequential, exemplary, or punitive charges.
- C. The Customer is responsible for payment of any charges related to the suspension and/or termination of service, and any charges for reconnection of service, incurred as a result of unauthorized use of the Network and/or services.

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SECTION 3 – DESCRIPTION OF SERVICE (Cont'd)

3.1 General

The various types of service offered by the Company are described below. The Company's services are billed at predetermined monthly rates, unless there is a contract for a longer billing period. Recurring charges are billed in advance of the month in which the service is provided. Any optional features and extraordinary installation costs other than recurring and nonrecurring charges may apply as described herein. Customers requesting these services may subscribe to services on a month-to-month basis, or on an individual case basis as described in Section 3.6.

3.2 Service Configurations

There are two types of service configuration over which Company's services are provided: point-to-point and multipoint service.

3.2.1 Point-to-Point Service

Point-to-Point Service connects two premises designated by the Customer, either on a directly connected basis or through a hub where multiplexing functions are performed.

3.2.2 Multipoint Service

Multipoint Services connect three or more premises designated by the Customer through a Company hub. While there is no limitation on the number of locations that may be connected through multipoint service, the quality of service may be degraded when more than three points are connected. Multipoint services may be provided where it is technically possible to provide those services. However, if the Company determines that the requested multipoint service is not feasible, the Customer will be notified and provided an opportunity to change the order within forty-five (45) days.

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SECTION 3 – DESCRIPTION OF SERVICE (Cont'd)

3.3 Service Descriptions and Technical Specifications

The Company plans to offer the following services:

3.3.1 10 Gbps Wavelengths

The Company provides point-to-point Wavelength services provided between locations designated by the Customer and/or between such locations and a Company hub, through fiber optic cable owned or controlled by Company.

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SECTION 3 – DESCRIPTION OF SERVICE (Cont'd)

3.4 Rate Categories

There are six rate categories that may apply to the Company's Services.

3.4.1 Channel Terminations

The Channel Termination Rate category provides for the communications path between two premises designated by a Customer. Included as part of the Channel Termination is a standard channel interface arrangement that defines the technical characteristics associated with the type of facilities to which the Company's service is to be connected, and the type of signaling capability (if any). One Channel Termination charge applies per Customer designated premises at which the service is terminated.

3.4.2 Channel Mileage

The Channel Mileage Rate category provides for the transmission facilities between two or more premises designated by a Customer.

3.4.3 Extraordinary Charges

From time to time, Customers may request special services not addressed specifically by rate elements in this Price List, or services to locations that may cause Company to incur extraordinary expenses not contemplated in the provision of standard service offerings. These costs include, but are not limited to:

- Additional construction costs
- Building space rental or rights-of-way costs
- Additional equipment
- Special facilities routing

In these cases, the Customer will be billed additional charges on an ICB.

3.4.4 Volume Discounts

Where the Customer subscribes to substantial volumes of the Company's services, discounts for specified dollar volumes of traffic to a specific location or aggregate dollar volumes may apply on an individual customer basis.

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SECTION 3 – DESCRIPTION OF SERVICE (Cont'd)

3.4.5 Term Discounts

Customers will be eligible for discounts for executing agreements for services for one to ten years.

3.4.6 Optional Features and Functions

Optional Features and Functions may be added to Services to improve its quality or its utility to meet specific communication requirements. Available Optional Features and Functions include: Central Office Multiplexing.

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3.5 Application of Rate Elements

The rates described in Section 4.4 of this Price List apply to the following services:

3.5.1 Point-to-Point Services

Channel Terminations
Channel Mileage
Optional Features and Functions
Extraordinary Charges
Volume Discounts
Term Discounts

3.5.2 Multipoint Services

Channel Terminations Channel
Mileage
Optional Features and Functions
Extraordinary Charges
Volume Discounts Term
Discounts

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SECTION 3 – DESCRIPTION OF SERVICE (Cont'd)**3.6 Contract Rates – Special Pricing Arrangements – ICB**

- 3.6.1 In lieu of the rates, terms and conditions set forth in this Price List, rates and charges may be established at negotiated rates on an ICB, taking into account the nature of the facilities and services, the costs of construction and operation, the volume of traffic, the length of service commitment by the Customer, and use of facilities by other Customers. Such arrangements shall be considered Special Pricing Arrangements, the term of which will be set forth in individual Customer contracts. Unless otherwise specified in the individual Customer contract, the terms, conditions, obligations and regulations set forth in this Price List shall not be incorporated into, and not become a part of, said contract, and shall not be binding on the Company and the Customer. In the event of a conflict between the terms and conditions of this Price List and an individual Customer contract, the terms and conditions from the individual Customer contract shall apply.
- 3.6.2 In addition to any rate or charge established by the Company, the Customer will also be responsible for any recurring or non-recurring charges imposed by telephone companies incurred by or on behalf of the Customer in establishing and maintaining service. Such charges may be billed by the Company or directly by the telephone company, at the Company's option.
- 3.6.3 Private Line and other High-Capacity data services are offered on an ICB basis and are dependent on the capital investment requirement associated with the service. All requesting Customers shall have nondiscriminatory access to ICB Services and facilities at non-discriminatory rates, terms and conditions. Prices for most data services with Customers are set by contract and vary based on the capital investment required.

3.7 Taxes**3.7.1 Sales, Use and Excise Taxes**

In addition to all recurring, non-recurring, usage or special charges, Customer shall also be responsible for and shall pay all applicable federal, state and local sales, use and excise taxes.

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SECTION 3 – DESCRIPTION OF SERVICE (Cont'd)

3.8 Temporary Promotional Programs

The Company may establish temporary promotional programs wherein it may waive or reduce recurring or non-recurring charges, to introduce a present or potential Customer to a service not previously subscribed to by the Customer. The Company will revise its Price Lists to include promotional offerings before implementation.

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SECTION 4 – RATES AND CHARGES

4.1 General Regulations

4.1.1 Except as specifically indicated, the rates set forth in this section are for transport services where the originating and terminating points are on Company's existing network. In all other situations, special construction charges may apply in order to connect locations to Company's network.

4.1.2 Services may be provided using one, or a combination of rate elements as outlined in this Price List.

4.2 Charges for Changes to Pending Orders, Service Rearrangements and Expedite Charges

From time to time, Customers may request changes to pending orders, rearrangements to existing service, and order completion to standard intervals. In these cases, the Customer will be required to reimburse the Company for the increased expenses incurred on an ICB.

4.3 Special Construction

4.3.1 Bases for Rates and Charges

Rates and charges for special construction will be based on the costs incurred by the Company and may include (1) nonrecurring type charges; (2) recurring type charges; (3) termination liabilities; or (4) combinations thereof.

4.3.2 The costs referred to in Section 4.4.1 may include one or more of the following items to the extent that they are applicable:

A. Installed cost of the facilities, including estimated costs for the rearrangement of existing facilities. Cost installed includes the cost of:

1. equipment and materials provided or used,
2. engineering, labor and supervision,
3. transportation, and
4. rights-of-way;

B. cost of maintenance;

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- C. depreciation on the estimated installed cost of any facilities provided, based on the anticipated useful service life of the facilities with an appropriate allowance for the estimated net salvage;
- D. administration, taxes, and uncollectible revenue on the basis of reasonable average costs for these items;
- E. license preparation, processing, and related fees;
- F. Price List preparation, processing, and related fees;
- G. any other identifiable costs related to the facilities provided; or
- H. an amount for return and contingencies.

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SECTION 4 – RATES AND CHARGES (Cont'd)

4.4 Wavelength Services

4.4.1 Current Rates

	<u>Month to Month Basis</u>		<u>Individual Case Basis</u>	
<u>Bandwidth</u>	<u>MRC</u>	<u>NRC</u>	<u>MRC</u>	<u>NRC</u>
10 Gbps	\$12,500	\$12,500	ICB	ICB

4.4.2 Service Elements

4.4.2.1 Non-Recurring Charges

	<u>Month to Month Basis</u>	<u>Individual Case Basis</u>
Administrative Charge:	\$500.00	ICB
Design and Central Office Connection Charge:	\$750.00	ICB
Customer Connection Charge:	\$250.00	ICB
Optional Features: Add/Drop Multiplexing:	\$1,000.00	ICB
Add/Drop Function:	\$1,000.00	ICB

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