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County of San Diego

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Clerk of the Superior Court  
By V. Navarro ,Deputy Clerk

8 Attorneys for Plaintiff  
IHI Power Services Corp.

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **COUNTY OF SAN DIEGO – NORTH COUNTY DIVISION**

13 **IHI POWER SERVICES CORP.,**

14 Plaintiff,

15 v.

16 **CAMSTON CARLSBAD ASSET 1, LLC,**

17 Defendant.

Case No. 25CU007391N

Case No.

**COMPLAINT FOR:**

1. **Breach of Contract; and**  
2. **Breach of Implied Covenant of Good Faith and Fair Dealing**

**DEMAND FOR JURY TRIAL**

[Unlimited Jurisdiction]

22  
23 Plaintiff IHI POWER SERVICES CORP. (referred to herein as "Plaintiff"), hereby  
24 complains and alleges against Defendant CAMSTON CARLSBAD ASSET 1, LLC (referred to  
25 herein as "Defendant") as follows:

26 **THE PARTIES**



1           9. Termination for Convenience was permissible under Section 8.3 of the O&M  
2 Agreement. However, in the event Defendant elected Termination for Convenience, “Defendant  
3 shall pay to [Plaintiff] (i) any unpaid Reimbursable Costs (including all demobilization costs and  
4 other costs approved in writing by Owner), plus (ii) all unpaid IPSC Fees” (hereinafter  
5 (“Termination Fees”).

6           10. Shortly after receipt of the Termination Notice, Plaintiff provided Defendant with a  
7 calculation of the Termination Fees due and owing to Plaintiff under the O&M Contract (the  
8 “Invoice”).

9           11. Despite Defendant's Termination for Convenience, and despite Plaintiff providing  
10 Defendant with the Invoice which calculated the Termination Fees due and owing, Defendant failed  
11 to tender payment to Plaintiff for the Termination Fees.

12           12. Section 7.10 of the O&M Agreement provides Defendant with twenty (20) days to  
13 dispute any amounts asserted to be due and owing under an invoice submitted by Plaintiff, including  
14 but not limited to amounts asserted to be due and owing in the Invoice.

15           13. As of the filing of this Complaint, and more than twenty (20) days after Plaintiff  
16 provided to Defendant the Invoice, Defendant did not dispute and has never disputed any amount  
17 Plaintiff asserted was due and owing under the Invoice. Notwithstanding Defendant's lack of  
18 dispute regarding the Invoice, Defendant has failed to tender payment to Plaintiff associated with  
19 the Invoice.

20           14. The O&M Agreement contains a dispute resolution provision requiring that Plaintiff  
21 and Defendant attempt to resolve a dispute as follows: “All disputes arising in connection with this  
22 Agreement shall be settled, if possible, by negotiation of the Parties. If the matter is not resolved by  
23 negotiations, either Party may, by the giving of written notice [(a “Notice of Dispute”)], cause the  
24 matter to be referred to a meeting of appropriate higher management of the Parties. Such meeting  
25 [(the “Meeting”)] shall be held within ten (10) Business Days following the giving of such written  
26 notice.”

27           15. Negotiations between Plaintiff and Defendant were not successful. On December  
28 31, 2024, Plaintiff submitted a Notice of Dispute to Defendant regarding Defendant's failure to pay

1 the Termination Fees and the Invoice. The Notice of Dispute demanded Defendant's payment  
2 Termination Fees.

3 16. Despite Plaintiff's good faith attempts to procure Defendant's cooperation with the  
4 dispute resolution process under the O&M Agreement, Defendant and its representatives canceled  
5 the Meeting set up between the parties to resolve the dispute.

6 17. More than twenty (20) days have passed since Plaintiff sent the Notice of Dispute to  
7 Defendant, yet Defendant has failed to pay the Termination Fees, which total \$475,811.75 without  
8 inclusion of accrued interest (the "Damage Amount").

9 18. Pursuant to the O&M Agreement, "[a]ny amount owed to either Party hereunder by  
10 the other Party shall accrue interest each day from the date that such amount is due until the date  
11 paid at the Reference Rate per annum, computed and compounded daily." The O&M Agreement  
12 defines the Reference Rate as "the rate published in the Wall Street Journal from time to time as the  
13 "prime rate" plus 1%.." As such, the Damage Amount has been accruing interest since the Invoice  
14 was submitted to Defendant.

15 19. Defendant has breached the O&M Agreement in the manner set forth herein, and  
16 Plaintiff has been compelled to commence litigation to enforce its rights thereunder.

17 **FIRST CAUSE OF ACTION**

18 **Breach of Contract**

19 **(Against Defendant)**

20 20. Plaintiff hereby repeats, repleads, and incorporates herein by reference as though  
21 fully set forth herein each and every allegation contained in paragraphs 1 through 19, above.

22 21. Plaintiff and Defendant for valuable consideration each entered into a contract, the  
23 O&M Agreement as identified hereinabove, which is a binding written agreement.

24 22. At all times herein mentioned, Plaintiff fully performed its obligations and duties  
25 under the O&M Agreement, except for those obligations and duties that may have been excused as  
26 a result of Defendant's conduct.

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**DEMAND FOR JURY TRIAL**

Plaintiff herein hereby demands a trial by jury in this action.

**SHULMAN BASTIAN FRIEDMAN & BUI LLP**

Dated: February 6, 2025

By: *Bryan Cabrera*  
Bryan Whitmer-Cabrera  
Attorneys for Plaintiff