

IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
NEWNAN DIVISION

In re:

AFH AIR PROS, LLC, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 25-10356 (PMB)

(Jointly Administered)

Re: Docket Nos. 193, 313, 344, 367

**NOTICE OF FILING FINAL PROPOSED  
SALE ORDER WITH RESPECT TO THE  
CM/AIR FORCE STALKING HORSE PURCHASE AGREEMENT**

**PLEASE TAKE NOTICE** that, on April 14, 2025, the U.S. Bankruptcy Court for the Northern District of Georgia (the “Bankruptcy Court”) entered the *Order (A) Establishing Bidding Procedures Relating to the Sale of the Debtors’ Assets, (B) Approving the Debtors’ Entry into the Stalking Horse Purchase Agreements and Related Bid Protections, (C) Establishing Procedures Relating to the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (D) Approving Form and Manner of Notices Relating Thereto, (E) Scheduling a Hearing to Consider the Proposed Sale, and (F) Granting Related Relief* [D.I. 193] (the “Bidding Procedures Order”), which, among other things, approved Bidding Procedures for the Debtors’ Sale of their assets.<sup>2</sup>

**PLEASE TAKE FURTHER NOTICE** that, on May 6, 2025, the Debtors filed the *Notice of (I) Cancellation of Auction with Respect to the CM Heating & Cooling and Air Force Heating & Air Business Units, and (II) Designation of the CM/Air Force Stalking Horse Bidder as the Successful Bidder for the Assets Covered by the CM/Air Force Stalking Horse Purchase Agreement* [D.I. 313], pursuant to which the Debtors cancelled the Auction and designated Reliance US Holdings II Inc. (the “CM/Air Force Stalking Horse Bidder”) as the Successful Bidder for the assets covered in the CM/Air Force Stalking Horse Purchase Agreement (annexed to such notice as Exhibit A).

**PLEASE TAKE FURTHER NOTICE** that, on May 12, 2025, the Debtors filed the *Notice of Filing Proposed Sale Order with Respect to the CM/Air Force Stalking Horse Purchase Agreement* [D.I. 344] (the “Notice”). A form of proposed Sale Order was attached to the Notice as Exhibit A (the “Initial Proposed Sale Order”);

<sup>1</sup> The last four digits of AFH Air Pros, LLC’s tax identification number are 1228. Due to the large number of debtor entities in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the claims and noticing agent at <https://www.veritaglobal.net/AirPros>. The mailing address for the debtor entities for purposes of these chapter 11 cases is: 150 S. Pine Island Road, Suite 200, Plantation, Florida 33324.

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Bid Procedures Order.



**PLEASE TAKE FURTHER NOTICE** that, on May 16, 2025, the Debtors filed the *Notice of Filing Modified Proposed Sale Order with Respect to the CM/Air Force Stalking Horse Purchase Agreement* [D.I. 367] (the “Second Notice”). A form of modified proposed Sale Order was attached to the Second Notice as Exhibit A (the “Modified Proposed Sale Order”);

**PLEASE TAKE FURTHER NOTICE** that, at a hearing on May 19, 2025 (the “Sale Hearing”), the Bankruptcy Court approved the sale to the CM/Air Force Stalking Horse Bidder pursuant to the terms of the CM/Air Force Stalking Horse Purchase Agreement;

**PLEASE TAKE FURTHER NOTICE** that attached hereto as Exhibit 1 is the final proposed Sale Order (the “Final Proposed Sale Order”) for the sale to the CM/Air Force Stalking Horse Bidder that the Debtors are submitting to the Bankruptcy Court for entry, which Final Proposed Sale Order incorporates certain modifications to the Modified Proposed Sale Order that were announced on the record at the Sale Hearing and approved by the Bankruptcy Court; and

**PLEASE TAKE FURTHER NOTICE** that attached hereto as Exhibit 2 is a blackline reflecting the modifications between the Modified Proposed Sale Order and the Final Proposed Sale Order.

Dated: May 19, 2025

Respectfully submitted,

**GREENBERG TRAURIG, LLP**

/s/ David B. Kurzweil

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**EXHIBIT 1**

**Final Proposed Sale Order**

**IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
NEWNAN DIVISION**

In re:

AFH AIR PROS, LLC, *et al.*,<sup>1</sup>  
Debtors.

Chapter 11

Case No. 25-10356 (PMB)

(Jointly Administered)

**Re: Docket No. 34, 55, 193**

**ORDER (A) APPROVING THE SALE OF  
THE DEBTORS' ASSETS FREE AND CLEAR OF ALL LIENS,  
CLAIMS, ENCUMBRANCES, AND INTERESTS, (B) AUTHORIZING  
THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY  
CONTRACTS AND UNEXPIRED LEASES, AND (C) GRANTING RELATED RELIEF**

*(CM Heating & Cooling and Air Force Heating & Air Business Units)*

Upon the *Motion of the Debtors for Entry of Orders (I)(A) Establishing Bidding  
Procedures Relating to the Sale of the Debtors' Assets, (B) Approving the Debtors' Entry into the*

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<sup>1</sup> The last four digits of AFH Air Pros, LLC's tax identification number are 1228. Due to the large number of debtor entities in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the claims and noticing agent at <https://www.veritaglobal.net/airpros>. The mailing address for the debtor entities for purposes of these chapter 11 cases is: 150 S. Pine Island Road, Suite 200, Plantation, Florida 33324.

*Stalking Horse Purchase Agreements and Related Bid Protections, (C) Establishing Procedures Relating to the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (D) Approving Form and Manner of Notices Relating Thereto, (E) Scheduling a Hearing to Consider the Proposed Sale, and (F) Granting Related Relief; and (II)(A) Approving the Sale of the Debtors' Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests, (B) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (C) Granting Related Relief* [D.I. 34, as amended, D.I. 55] (the "Motion")<sup>2</sup> of the above-captioned debtors and debtors in possession (the "Debtors") for the entry of an order pursuant to sections 105(a), 363, and 365 of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002, 6004, 6006, 9007, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), Rules 9013-1 and 9013-2 of the Local Rules of the United States Bankruptcy Court for the Northern District of Georgia (the "Local Rules") and Sections D and H of the *Second Amended and Restated General Order 26-2019, Procedures for Complex Chapter 11 Cases*, dated February 6, 2023 (the "Complex Case Procedures"), among other things, (i) authorizing the sale of the Acquired Assets (the "Sale") free and clear of liens, claims, encumbrances, and other interests, except as provided by that Asset Purchase Agreement, dated as of March 18, 2025, by and between Air Pros Atlanta, LLC, CM Air Pros, LLC, Air Pros Washington, LLP, AFH Air Pros, LLC (collectively, the "Sellers" and each a "Seller"), Air Pros Solutions, LLC ("Solutions"), and Reliance US Holdings II Inc., as the Stalking Horse Bidder (the "Buyer") (a copy of which is attached hereto as **Exhibit A**, as the same may be further amended, supplemented or otherwise modified in accordance with its terms, together with all exhibits and

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<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in either the Motion or the Stalking Horse Purchase Agreement (as defined herein), as applicable.

schedules thereto, the “Stalking Horse Purchase Agreement”), (ii) authorizing the Sellers’ and Solutions’ performance under the Stalking Horse Purchase Agreement, (iii) approving the assumption and assignment of certain of the Sellers’ executory contracts and unexpired leases related thereto (any such executory contract or unexpired lease assumed and assigned pursuant to the Sale, including any such executory contract or unexpired lease added timely to the Closing Assumed Contract List, an “Assumed Contract”), and (iv) granting related relief; the Court having entered an order approving the Bidding Procedures and granting certain related relief on April 14, 2025 [D.I. 193] (the “Bidding Procedures Order”) after a hearing on the same date (the “Bidding Procedures Hearing”); and the Debtors having submitted the *Declaration of Andrew D.J. Hede in Support of Chapter 11 Petitions and First Day Pleadings* [D.I. 8], the *Amended Declaration of Jeffrey Finger in Support of Bidding Procedures Motion* [D.I. 56], the *Declaration of Andrew D.J. Hede in Support of Bidding Procedures Motion* [D.I. 158], the *Declaration of Jeffrey Finger in Support of the Debtors’ Sale Motion* [D.I. 370], and the *Declaration of Andrew D.J. Hede in Support of the Debtors’ Sale Motion* [D.I. 369]; and the Buyer having submitted the *Declaration of Paul Gyarmati in Support of Sale Motion* [D.I. 362]; and no auction (the “Auction”) having been held because no additional Qualified Bids on the Acquired Assets were received by the Debtors other than the Stalking Horse Bid and the Stalking Horse Purchase Agreement; and the Buyer having been deemed the Successful Bidder by the Debtors pursuant to the Bidding Procedures Order; and the Debtors having filed and served a *Notice of Proposed Sale, Bidding Procedures, Auction, and Sale Hearing* [D.I. 201] (the “Auction and Sale Notice”), a *Notice of Proposed Assumption and Assignment of Certain Executory Contracts* [D.I. 220] (the “Initial Cure Notice”), a *Supplement to Notice of Proposed Assumption and Assignment of Certain Executory Contracts* [D.I. 225] (the “First Supplemental Cure Notice”), an *Amendment and Second*

*Supplement to Notice of Proposed Assumption and Assignment of Certain Executory Contracts* [D.I. 286] (the “Second Supplemental Cure Notice”, and together with the Initial Cure Notice and the First Supplemental Cure Notice, collectively, the “Cure Notice”), served a *Notice of Assumption and Assignment of Customer Memberships and Warranties* (the “Customer Notice”), and filed and served the *Notice of (I) Cancellation of Auction with Respect to the CM Heating & Cooling and Air Force Heating & Air Business Units, and (II) Designation of the CM/Air Force Stalking Horse Bidder as the Successful Bidder for the Assets Covered by the CM/Air Force Stalking Horse Purchase Agreement* [D.I. 313] (the “Auction Cancellation Notice”); and the Court having conducted a hearing on the Motion on May 19, 2025 (the “Sale Hearing”) at which time all interested parties were offered an opportunity to be heard with respect to the Motion; and the Court having reviewed and considered the Motion and other evidence submitted in support of the Motion, the objections thereto (if any), the Stalking Horse Purchase Agreement, and the Bidding Procedures Order; and upon the record of the hearing on the Bidding Procedures Hearing and the Sale Hearing; the Court having heard statements and arguments of counsel and the evidence presented with respect to the relief requested in the Motion at the Sale Hearing; and due notice of the Motion, the Stalking Horse Purchase Agreement, the Bidding Procedures Hearing, Bidding Procedures Order and the cancellation of the Auction having been provided; and the Court having determined that a sound business purpose exists for the Sale, the relief requested in the Motion is in the best interests of the Debtors, their estates, their stakeholders, and all other parties in interest, the Sale was negotiated and proposed in good faith and the Purchase Price is fair and reasonable and in the best interest of the Debtors’ estates; and the Court having jurisdiction over this matter; and the legal and factual bases set forth in the Motion and at the Sale Hearing establishing just cause for the relief granted herein; and after due deliberation thereon,

**THE COURT HEREBY FURTHER FINDS AND DETERMINES THAT:<sup>3</sup>**

**I. Petition Date**

A. On March 16, 2025 (the “Petition Date”), the Debtors commenced these Chapter 11 Cases by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code. Since the Petition Date, the Debtors have continued to operate and manage their business as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

**II. Jurisdiction, Final Order and Statutory Predicates**

B. The Court has jurisdiction to hear and determine the Motion pursuant to 28 U.S.C. §§ 157(b)(1) and 1334(a). This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (N) and (O). Venue is proper in this District and in the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

C. This order (this “Sale Order”) constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a). Notwithstanding the provisions of Bankruptcy Rules 6004(h) and 6006(d), and to any extent necessary under Bankruptcy Rule 9014 and Federal Rule of Civil Procedure 54(b), as made applicable by Bankruptcy Rule 7054, the Court expressly finds that there is no just reason for delay in the implementation of this Sale Order, expressly waives any stay, and expressly directs entry of judgment as set forth herein.

D. The statutory predicates for the relief requested in the Motion are sections 105(a), 363, 365, 503, and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, 9007, and 9014 of the Federal Rules of Bankruptcy Procedure, Local Rules 9013-1 and 9013-2, and Section H of the Complex Case Procedures.

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<sup>3</sup> All findings of fact and conclusions of law announced by the Court at the Sale Hearing in relation to the Motion are hereby incorporated herein to the extent not inconsistent herewith.



E. The findings of fact and conclusions of law set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014.

### **III. Notice of the Sale, Auction, and the Cure Amounts**

F. Actual written notice of the Bidding Procedures Hearing, the Sale Hearing, the Auction Cancellation Notice, the Motion, the identity of the Buyer, the Sale, the assumption, assignment, cure and sale of the Assumed Contracts to be assigned to the Buyer pursuant to the Stalking Horse Purchase Agreement (which are identified on **Exhibit B** hereto, subject to Buyer's right to designate additional Assumed Contracts up to the Designation Deadline), and assumption by the Buyer of the customer and membership obligations (as set forth in the Stalking Horse Purchase Agreement) has been timely and properly provided to, and a reasonably calculated, fair and reasonable opportunity to object or be heard with respect to the Motion and the relief requested therein has been afforded to, all known interested persons and entities, including, but not limited to the following parties: (i) all entities known to have asserted any Interest in or upon any of the Debtors' Assets; (ii) all federal, state, and local regulatory or taxing authorities or recording offices which have a reasonably known interest in the relief requested by this Motion; (iii) known counterparties to any unexpired leases or executory contracts that could potentially be assumed and assigned to the Buyer; (iv) the Office of the United States Trustee for the Northern District of Georgia; (v) holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis; (vi) the Office of the United States Attorney General for the Northern District of Georgia; (vii) the Internal Revenue Service; (viii) the U.S. Department of Justice; (ix) the offices of the attorneys general for the states in which the Debtors operate; (x) counsel to each Stalking Horse Bidder; and (xi) all parties requesting notice pursuant to Bankruptcy Rule 2002.

The requirements of Bankruptcy Rule 6004(a) and all applicable Local Rules are satisfied by such notice.

G. In accordance with the provisions of the Bidding Procedures Order, the Debtors caused the Cure Notice to be served, in compliance with the requirements of due process and the Bankruptcy Code, upon the Buyer and the non-Debtor counterparties to the executory Contracts or unexpired Leases (each, a “Contract Counterparty,” and, collectively, the “Contract Counterparties”), noticing such parties: (i) of the Sale, (ii) that the Sellers may seek to assume and assign the Assumed Contracts on the Closing Date, (iii) of the relevant Cure Amounts, and (iv) of the relevant objection deadlines. The Court finds that: (1) the Buyer and the Contract Counterparties have had an opportunity to object to the Sale and to Cure Amounts set forth in the Cure Notice; (2) the Cure Notice provided the Buyer and the Contract Counterparties with proper notice of the potential assumption and assignment of the Assumed Contracts and any Cure Amount relating thereto; (3) the service of such Cure Notice was good, sufficient, and appropriate under the circumstances; (4) no further notice need be given in respect of establishing Cure Amounts for the Assumed Contracts; and (5) the procedures set forth in the Bidding Procedures Order with regard to objecting to any such Cure Amount satisfy the provisions of section 365 of the Bankruptcy Code and Bankruptcy Rule 6006.

H. In accordance with the provisions of the Bidding Procedures Order, the Debtors caused the Customer Notice to be served, in compliance with the requirements of due process and the Bankruptcy Code, upon the Buyer and the customers of the Sellers with warranty claims and/or memberships with the Sellers (including those that may be counterparties to an executory Contract), noticing such parties: (i) of the Sale, (ii) that the Sellers may seek to assume and assign the Assumed Contracts on the Closing Date (to the extent applicable), and (iii) of the relevant

objection deadlines. The Court finds that: (1) the Buyer and these customers have had an opportunity to object to the Sale; (2) the Customer Notice provided the Buyer and customers with proper notice of the potential assumption and assignment of the Assumed Contracts and of the Buyer's assumption of the warranty and membership obligations; (3) the service of such Customer Notice was good, sufficient, and appropriate under the circumstances; and (4) the procedures set forth in the Bidding Procedures Order satisfy the provisions of section 365 of the Bankruptcy Code and Bankruptcy Rules 2002 and 6006.

I. The Debtors' Auction and Sale Notice, the Cure Notice, and Customer Notice, as applicable, provided all interested persons and entities with timely and proper notice of, and a reasonable opportunity to object and be heard with respect to, the assumption and assignment of the Assumed Contracts, the Sale, the Sale Hearing, and the Auction (prior to being cancelled).

J. As evidenced by the affidavits of service previously filed with the Court (including [D.I. 46, 73, 179, 208, 209, 247, 248, 261, 304, 320, 321, 322, and 340]), proper, timely, adequate, and sufficient notice of the Motion, the Bidding Procedures, the assumption and assignment of the Assumed Contracts, the Auction, the Auction Cancellation Notice, the Sale Order, the Sale Hearing, and the Sale has been provided in accordance with sections 102(1), 363, and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, and 9014, the Local Rules, and Sections D and H of the Complex Case Procedures. The Debtors also have complied with all obligations to provide notice of the assumption and assignment of the Assumed Contracts, the Auction, the cancellation of the Auction, the Sale Hearing, and the Sale required by the Bidding Procedures Order. The notices described in Section III were good, sufficient, and appropriate under the circumstances, and no other or further notice of the Motion, the assumption and assignment of the

Assumed Contracts, the Auction, the cancellation of the Auction, the Sale Hearing, Sale, or the assumption, assignment, and sale of the customer warranties and memberships is required.

K. The disclosures made by the Debtors concerning the Motion, the Bidding Procedures, the Stalking Horse Purchase Agreement, the assumption and assignment of the Assumed Contracts, the assumption of the liabilities of the customer and membership claims, the cancellation of the Auction, the Sale, and the Sale Hearing, were good, complete, and adequate.

L. A reasonable opportunity to object and/or be heard regarding the relief provided in this Sale Order was afforded to all parties in interest.

#### **IV. Good Faith of the Buyer, Sellers and Solutions**

M. The Stalking Horse Purchase Agreement was negotiated, proposed, and entered into by and among the Sellers, Solutions, and the Buyer, including their respective boards of directors or equivalent governing bodies, officers, directors, employees, agents, professionals, and representatives, without collusion, in good faith, and from arm's-length bargaining positions. The Buyer is making such purchase in good faith and is a good-faith purchaser within the meaning of section 363(m) of the Bankruptcy Code, in that among other things: (i) the Buyer's Qualified Bid was subject to a marketing process in a time frame approved by the Court through the Bidding Procedures Order; (ii) the Debtors conducted the marketing process, including in consultation with the Official Committee of Unsecured Creditors (the "Committee"); (iii) the Buyer did not attempt to limit the Debtors' freedom to deal with any other party interested in acquiring the Acquired Assets; and (iv) all payments to be made by the Buyer and other agreements or arrangements entered into by the Buyer in connection with the Sale have been disclosed. There was no evidence of insider influence or improper conduct by the Buyer in connection with the negotiation of the Stalking Horse Purchase Agreement with the Debtors, no evidence of fraud, collusion, or bad faith on the part of the Buyer, no evidence of the Buyer doing anything to control or otherwise influence

the marketing or sale process, including anything to control or otherwise influence the purchase price paid for the Acquired Assets, and no evidence that the Buyer violated section 363(n) of the Bankruptcy Code. The Buyer is not an “insider” of any Debtor (as defined under section 101(31) of the Bankruptcy Code). Accordingly, the Buyer is entitled to the full protections of section 363(m) of the Bankruptcy Code.

N. As demonstrated by (i) any testimony and other evidence proffered or adduced at the Sale Hearing, and (ii) the representations of counsel made on the record at the Sale Hearing, substantial marketing efforts and a competitive sale process were conducted in accordance with the Bidding Procedures Order and, among other things: (a) the Debtors and the Buyer complied with the provisions in the Bidding Procedures Order; (b) the Buyer agreed to subject its bid to the competitive Bidding Procedures set forth in the Bidding Procedures Order; and (c) the Buyer in no way improperly induced or caused the chapter 11 filing by the Debtors.

**V. Highest and Best Offer**

O. The Debtors’ marketing and sale process, including the Debtors’ prepetition marketing process, with respect to the Acquired Assets in accordance with the Bidding Procedures, which were followed by the Debtors, afforded a full, fair, and reasonable opportunity for any person or entity to make a higher or otherwise better offer to purchase the Acquired Assets.

P. The Debtors implemented the Bidding Procedures and cancelled the Auction in accordance with the provisions of the Bidding Procedures Order, and the Debtors have otherwise complied with the Bidding Procedures Order in all respects. Such process was duly noticed and conducted in a non-collusive, fair, and good faith manner, in consultation with the Committee, and

a reasonable opportunity has been given to any interested party to make a higher and better offer for the Acquired Assets.

Q. The Debtors received no Qualified Bids by the Bid Deadline for the Acquired Assets other than the Qualified Bid submitted by the Buyer. The Bidding Procedures provide that if no Qualified Bids (other than the Qualified Bid submitted by the Buyer) were received by the Bid Deadline, the Auction would not be conducted and the Buyer's Qualified Bid would be the Successful Bid for the Acquired Assets.

R. The Stalking Horse Purchase Agreement represents a fair and reasonable offer to purchase the Acquired Assets under the circumstances of the Chapter 11 Cases, including in light of the fact that no other Qualified Bids were received. The consideration provided by the Buyer under the Stalking Horse Purchase Agreement, including the assumption of the Assumed Liabilities, is fair and adequate, represents the highest or otherwise best available offer, including by providing the highest economic value available to the Debtors' estates, and will provide a greater recovery for the Debtors' estates than would be provided by any other available alternative. Accordingly, the Stalking Horse Purchase Agreement constitutes the highest and best offer for the Acquired Assets and a valid, reasonable, and sound exercise of the Debtors' business judgment consistent with their fiduciary duties, and complies in all respects with the Bidding Procedures Order.

S. Approval of the Motion and the Stalking Horse Purchase Agreement and the consummation of the Sale contemplated thereby is in the best interests of the Debtors, their creditors, their estates, and other parties in interest.

**VI. No Sub Rosa or De Facto Plan**

T. Good and sufficient reasons for approval of the Stalking Horse Purchase Agreement and the transactions to be consummated in connection therewith have been articulated, and the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest. The Debtors have demonstrated compelling circumstances and good, sufficient, and sound business purposes and justifications for the Sale outside the ordinary course of business, pursuant to section 363(b) of the Bankruptcy Code, before, and outside of, a plan of reorganization, in that, among other things, the immediate consummation of the Sale with the Buyer is necessary and appropriate to maximize the value of the Debtors' estates, and the Sale will provide the means for the Debtors to maximize distributions to creditors.

U. The Sale does not constitute a *sub rosa* or *de facto* plan of reorganization or liquidation as it does not propose to (i) impair or restructure existing debt of, or equity interests in, the Debtors, (ii) impair or circumvent voting rights with respect to any plan that may be proposed by the Debtors, (iii) circumvent chapter 11 safeguards, such as those set forth in sections 1125 and 1129 of the Bankruptcy Code, or (iv) classify claims or equity interests or extend debt maturities. Accordingly, the Sale neither impermissibly restructures the rights of the Debtors' creditors nor impermissibly dictates the terms of a liquidating chapter 11 plan for the Debtors.

**VII. Successor Liability Matters**

V. By virtue of the consummation of the Sale, (i) the Buyer is not a continuation of the Debtors or their respective estates, there is no continuity between the Buyer and the Debtors, there is no common identity between the Buyer and the Debtors, and there is no continuity of enterprise between the Buyer and the Debtors, (ii) the Buyer is not holding itself out to the public as a continuation of the Debtors or their respective estates, and (iii) the Sale does not amount to a

consolidation, merger, or *de facto* consolidation or merger of the Buyer and any of the Debtors and the Debtors' respective estates.

W. The Buyer is not, and shall not be considered, a successor to the Debtors or their respective estates by reason of any theory of law or equity, including, but not limited to, under any federal, state or local statute or common law, or revenue, pension, ERISA, tax, labor, employment, environmental, escheat or unclaimed property laws, or other law, rule or regulation (including, without limitation, filing requirements under any such laws, rules, or regulations), or under any products liability law or doctrine with respect to the Debtors' liability under such law, rule or regulation or doctrine or common law, or under any product warranty liability law or doctrine with respect to the Debtors' liability under such law, rule or regulation or doctrine, and the Buyer and its affiliates shall have no liability or obligation under the Worker Adjustment and Retraining Act (the "WARN Act"), 929 U.S.C. §§ 210 et seq. and shall not be deemed to be a "successor employer" for purposes of the Internal Revenue Code of 1986, Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act, the Americans with Disability Act, the Family Medical Leave Act, the National Labor Relations Act, the Labor Management Relations Act, the Older Workers Benefit Protection Act, the Equal Pay Act, the Civil Rights Act of 1866 (42 U.S.C. § 1981), the Employee Retirement Income Security Act, the Multiemployer Pension Protection Act, the Pension Protection Act, and/or the Fair Labor Standards Act; the Buyer is not a continuation or substantial continuation of any of the Debtors or their respective estates, business or operations or any enterprise of the Debtors; the Buyer does not have a common identity of incorporators, directors or equity holders with the Debtors; and the Sale does not amount to a consolidation, merger, or *de facto* merger of the Buyer and the Debtors or their respective estates. Accordingly, the Buyer is not and shall not be deemed a successor to any of the Debtors or their



respective estates as a result of the consummation of the Sale pursuant to the Stalking Horse Purchase Agreement and this Sale Order.

**VIII. No Fraudulent Transfer; Validity of Transfer**

X. The Stalking Horse Purchase Agreement was not entered into by the Buyer and the Debtors for the purpose of hindering, delaying, or defrauding creditors under either the Bankruptcy Code or the other laws of the United States, or the laws of any state, territory, possession, or the District of Columbia (including, without limitation, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act, and the Uniform Voidable Transactions Act). Neither the Debtors nor the Buyer entered into the Stalking Horse Purchase Agreement fraudulently, nor are they entering into or consummating the transactions contemplated by the Stalking Horse Purchase Agreement fraudulently, including under applicable federal and state fraudulent conveyance and fraudulent transfer laws.

Y. The consideration provided by the Buyer pursuant to the Stalking Horse Purchase Agreement, (i) was negotiated at arm's-length, (ii) is fair, adequate, and reasonable, (iii) is the highest or otherwise best offer for the Acquired Assets, and (iv) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and under the other laws of the United States, and the laws of any state, territory, possession, or the District of Columbia (including, without limitation, the Uniform Fraudulent Conveyance Act, Uniform Fraudulent Transfer Act and the Uniform Voidable Transactions Act). No other person or entity or group of entities has offered to purchase the Acquired Assets for greater economic value to the Debtors' estates than the Buyer. For the purposes of statutory and common law fraudulent conveyance and fraudulent transfer claims, neither the Sellers, Solutions, nor the Buyer are entering into or consummating the transactions contemplated by the Stalking Horse Purchase Agreement fraudulently. Approval of

the Motion, the Stalking Horse Purchase Agreement, the Sale, and the consummation of the transactions contemplated thereby is in the best interests of the Debtors, their estates, their creditors, and all other parties in interest.

Z. The Sellers are the sole and lawful owners of the Acquired Assets. The Acquired Assets constitute property of the Sellers' estates and title to the Acquired Assets is vested in the Sellers' estates within the meaning of section 541(a) of the Bankruptcy Code. The Sellers, Solutions, and the Buyer have full corporate power and authority to execute, deliver, and perform the Stalking Horse Purchase Agreement and all other documents contemplated thereby, and no further consents or approvals are required for the Sellers, Solutions, or the Buyer to consummate the transactions contemplated by the Stalking Horse Purchase Agreement or the other documents contemplated thereby, except as otherwise set forth in the Stalking Horse Purchase Agreement or such other documents.

AA. The Stalking Horse Purchase Agreement does not provide for the sale of the Debtors' and their estates' claims—including, without limitation, commercial tort claims and Avoidance Actions—against any of the Debtors' insiders (as that term is defined in section 101(31) of the Bankruptcy Code). For purposes of this Sale Order, "Avoidance Actions" means all avoidance and recovery actions or remedies that may be brought on behalf of the Debtors or their estates under the Bankruptcy Code or applicable non-bankruptcy law, including actions or remedies under sections 544, 547, 548, 550, 551, 552, or 553 of the Bankruptcy Code.

BB. Subject to section 363(f) of the Bankruptcy Code, the transfer of each of the Acquired Assets to the Buyer will be, as of the Closing Date, a legal, valid, and effective transfer of the Acquired Assets, which transfer vests or will vest the Buyer with all right, title, and interest of the Debtors in, to, and under the Acquired Assets free and clear of (i) all Liens (as defined in

the Stalking Horse Purchase Agreement) and other liens (including any liens as that term is defined in section 101(37) of the Bankruptcy Code) and encumbrances relating to, accruing, or arising at any time prior to the Closing Date (collectively, as defined in this clause (i), the “Liens”), other than Permitted Liens, and (ii) all debts arising under, relating to, or in connection with any act of the Debtors, claims (as that term is defined in section 101(5) of the Bankruptcy Code) or causes of action, liabilities, obligations, demands, guaranties, options in favor of third parties, rights, easements, servitudes, restrictive covenants, encroachments, contractual commitments, restrictions, interests, mortgages, hypothecations, charges, indentures, loan agreements, instruments, collective bargaining agreements, leases, subleases, licenses, deeds of trust, security interests, conditional sale or other title retention agreements, pledges, judgments, claims for reimbursement, contribution, indemnity, exoneration, infringement, products liability, alter-ego, and matters of any kind and nature, whether arising prior to or subsequent to the commencement of the Chapter 11 Cases, and whether imposed by agreement, understanding, law, equity, or otherwise, known or unknown, contingent or matured, liquidated or unliquidated, and all rights and remedies with respect thereto (a) that purport to give to any party a right of setoff against, or a right or option to effect any forfeiture, modification, profit sharing interest, right of first refusal, purchase or repurchase right or option, or termination of, any of the Debtors’ or the Buyer’s interests in the Acquired Assets, or any similar rights, or (b) in respect of taxes, restrictions, rights of first refusal, charges of interests of any kind or nature, if any, including without limitation, any restriction of use, voting, transfer, receipt of income or other exercise of any attributes of ownership (collectively, as defined in this clause (ii), the “Claims”), relating to, accruing or arising at any time prior to entry of this Sale Order, other than Assumed Liabilities, including amounts necessary under sections 365(b)(1)(A) and (B) and 365(f)(2)(A) of the Bankruptcy Code to cure

all defaults and pay all actual pecuniary losses under the Assumed Contracts (the “Cure Amounts”) or any other obligations arising under the Assumed Contracts to the extent set forth in the Stalking Horse Purchase Agreement or this Sale Order.

**IX. Section 363(f) Is Satisfied**

CC. The conditions of section 363(f) of the Bankruptcy Code have been satisfied in full. Therefore, the Sellers may sell the Acquired Assets free and clear of any interests in the Acquired Assets. The Buyer would not have entered into the Stalking Horse Purchase Agreement and would not consummate the transactions contemplated thereby if the sale of the Acquired Assets to the Buyer and the assumption, assignment, and sale of the Assumed Contracts to the Buyer were not, except as otherwise provided in the Stalking Horse Purchase Agreement with respect to the Assumed Liabilities and Permitted Liens, free and clear of all Claims and Liens of any kind or nature whatsoever of the Debtors, or if the Buyer would, or in the future could (except and only to the extent expressly provided in the Stalking Horse Purchase Agreement and with respect to the Assumed Liabilities and Permitted Liens), be liable for any of such Claims and Liens, including, but not limited to, Claims and Liens in respect of the following: (i) all mortgages, deeds of trust, and security interests; (ii) any pension, welfare, compensation, or other employee benefit plans, agreements, practices, and programs, including, without limitation, any pension plan of the Debtors; (iii) any other employee, worker’s compensation, occupational disease, unemployment, or temporary disability related claim, including, without limitation, claims that might otherwise arise under or pursuant to (a) the Employee Retirement Income Security Act of 1974, as amended, (b) the Fair Labor Standards Act, (c) Title VII of the Civil Rights Act of 1964, (d) the Federal Rehabilitation Act of 1973, (e) the National Labor Relations Act, (f) the WARN Act, (g) the Age Discrimination and Employee Act of 1967 and Age Discrimination in Employment Act, as amended, (h) the Americans with Disabilities Act of 1990, (i) the Consolidated Omnibus Budget

Reconciliation Act of 1985, (j) state discrimination laws, (k) state unemployment compensation laws or any other similar state laws, or (l) any other state or federal benefits or claims relating to any employment with the Debtors or any of their predecessors; (iv) any bulk sales or similar law to the maximum extent permitted by Law; (v) any tax statutes or ordinances, including, without limitation, the Internal Revenue Code of 1986, as amended; (vi) any environmental laws, including any Environmental, Health and Safety Requirement(s); and (vii) any theories of successor or transferee liability.

DD. The Sellers may sell the Acquired Assets free and clear of all Claims and Liens against the Sellers, their respective estates, or any of the Acquired Assets (except for any Assumed Liabilities and Permitted Liens under the Stalking Horse Purchase Agreement) because, in each case, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. Holders of such Claims or Liens fall within one or more of the other subsections of section 363(f) of the Bankruptcy Code and are adequately protected by having their Claims or Liens attach to the net cash proceeds of the Sale, if any, ultimately attributable to the Acquired Assets in which such creditor or interest holder alleges an interest, in the same order of priority, with the same validity, force and effect that such creditor or interest holder had prior to the Sale, subject to any claims and defenses the Sellers and their estates may possess with respect thereto. Those holders of Claims or Liens against or in the Sellers, their estates or any of the Acquired Assets who did not object, who withdrew their objection, or whose objection was overruled, to the Sale or the Motion are deemed to have consented pursuant to section 363(f)(2) of the Bankruptcy Code.

EE. The sale, conveyance, assignment and transfer of any personally identifiable information pursuant to the terms of the Stalking Horse Purchase Agreement and this Sale Order

complies with the terms of the Debtors' policy regarding the transfer of such personally identifiable information as of the Petition Date and, as a result, consummation of the Sale is permitted pursuant to section 363(b)(1)(A) of the Bankruptcy Code. Accordingly, appointment of a consumer privacy ombudsman in accordance with sections 363(b)(1) or 332 of the Bankruptcy Code is not required with respect to the Sale.

**X. Assumption and Assignment of the Assumed Contracts**

FF. The assumption and assignment of the Assumed Contracts pursuant to the terms of this Sale Order is integral to the Stalking Horse Purchase Agreement and is in the best interests of the Debtors and their estates, creditors, interest holders, and other parties in interest and represents the reasonable exercise of sound and prudent business judgment by the Debtors.

GG. The Cure Amounts set forth on **Exhibit B** annexed hereto are the sole amounts necessary under sections 365(b)(1)(A) and (B) and 365(f)(2)(A) of the Bankruptcy Code to cure all monetary defaults and pay all actual pecuniary losses under the Assumed Contracts.

HH. Pursuant to section 365 of the Bankruptcy Code, the Debtors have demonstrated that assuming all Assumed Contracts and assigning such Assumed Contracts to the Buyer is appropriate.

II. Pursuant to the terms of the Stalking Horse Purchase Agreement and this Sale Order, the Buyer shall have: (i) either or both cured and provided adequate assurance of cure of any defaults existing before the Closing Date under any of the Assumed Contracts, within the meaning of section 365(b)(1)(A) of the Bankruptcy Code; and (ii) provided compensation or adequate assurance of compensation to any party for actual pecuniary loss to such party resulting from a default prior to the Closing Date under any of the Assumed Contracts, within the meaning of section 365(b)(1)(B) of the Bankruptcy Code. After payment of the relevant Cure Amounts by the Buyer and as required by the Stalking Horse Purchase Agreement and this Sale Order, the

Debtors shall not have any further liabilities to the Contract Counterparties on or after the Closing Date. The Buyer provided adequate assurance of its future performance under the relevant Assumed Contracts within the meaning of sections 365(b)(1)(C), 365(b)(3) (to the extent applicable) and 365(f)(2)(B) of the Bankruptcy Code. Any non-Debtor counterparty to an Assumed Contract who did not timely file an objection to the assumption of its Assumed Contract shall be deemed to have consented to its assumption and assignment to the Buyer pursuant to section 365 of the Bankruptcy Code in accordance with the Stalking Horse Purchase Agreement.

JJ. No default exists in the Sellers' estates performance under the Assumed Contracts as of the Closing Date other than the failure to pay Cure Amounts or defaults that are not required to be cured as contemplated in section 365(b)(1)(A) of the Bankruptcy Code

KK. Designation Rights. In accordance with the Stalking Horse Purchase Agreement, the Buyer shall maintain certain rights to modify the list of Assumed Contracts after the date of this Sale Order and up to the applicable designation deadline (the "Designation Deadline"), which shall be ten (10) days following entry of this Sale Order. Such modification rights include, but are not limited to, the right of the Buyer, prior to the Designation Deadline, to designate certain Contracts for assumption by the Debtors and assignment and to the Buyer. The notice and opportunity to object provided to the Contract Counterparties to such Assumed Contracts and to other parties in interest, as set forth in the Bidding Procedures Order and the Stalking Horse Purchase Agreement, fairly and reasonably protects any rights that such Contract Counterparties and other parties in interest may have with respect to such Assumed Contracts.

**XI. Compelling Circumstances for an Immediate Sale**

LL. Good and sufficient reasons for approval of the Stalking Horse Purchase Agreement and the Sale have been articulated. The relief requested in the Motion is in the best interests of the

Debtors, their estates, their creditors, and other parties in interest. To maximize the value of the Debtors' assets and preserve the viability of the business to which the Acquired Assets relate, it is essential that the Sale be approved and occur promptly within the time constraints set forth in the Stalking Horse Purchase Agreement. Time is of the essence in effectuating the Stalking Horse Purchase Agreement and consummating the Sale, both to preserve and maximize the value of the Debtors' assets for the benefit of the Debtors, their estates, their creditors, interest holders, and all other parties in interest in the Chapter 11 Cases and to provide the means for the Debtors to maximize creditor and interest holder recoveries. As such, the Debtors and the Buyer intend to close the Sale of the Acquired Assets as soon as reasonably practicable. The Debtors have demonstrated both compelling circumstances and a good, sufficient, and sound business purpose and justification for immediate approval and consummation of the Stalking Horse Purchase Agreement.

MM. The consummation of the transactions set forth in the Stalking Horse Purchase Agreement and the assumption and assignment of the Assumed Contracts are legal, valid, and properly authorized under all applicable provisions of the Bankruptcy Code, including, without limitation, sections 105(a), 363(b), 363(f), 363(m), 365(b) and 365(f), and all of the applicable requirements of such sections have been complied with in respect of such transactions.

**NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

**General Provisions**

1. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to the Chapter 11 Cases pursuant to Bankruptcy Rule 9014. To the extent that any findings of fact constitute conclusions of law, they are adopted as such. To the extent any conclusions of law constitute



findings of fact, they are adopted as such. Any findings of fact or conclusions of law stated by the Court on the record at the Sale Hearing are hereby incorporated.

2. The relief requested in the Motion is GRANTED and the transactions contemplated thereby and by the Stalking Horse Purchase Agreement are APPROVED for the reasons set forth in this Sale Order and on the record of the Sale Hearing, which is incorporated fully herein as if fully set forth in this Sale Order, and the Sale contemplated by the Stalking Horse Purchase Agreement is APPROVED.

3. All objections, statements, and reservations of rights (if any) to the Motion and the relief requested therein and to the entry of this Sale Order or the relief granted herein, that have not been withdrawn, waived, adjourned, settled as announced to the Court at any prior hearing, at the Sale Hearing, or by stipulation filed with the Court, or previously overruled, including, without limitation, all reservations of rights included therein or otherwise, are hereby overruled and denied on the merits with prejudice, except as expressly set forth herein. Those parties who did not object, or withdrew their objections to the Motion, are deemed to have consented to the Sale pursuant to section 363(f)(2) of the Bankruptcy Code.

4. This Court's findings of fact and conclusions of law set forth in the Bidding Procedures Order are incorporated herein by reference.

**Approval of the Stalking Horse Purchase Agreement**

5. The Stalking Horse Purchase Agreement and all other ancillary documents, and all of the respective terms and conditions thereof, the Sale contemplated thereby, and the Purchase Price are hereby approved. The Sellers and Solutions are authorized to enter into the Stalking Horse Purchase Agreement and all other ancillary documents to be executed in connection with the Stalking Horse Purchase Agreement as may be necessary.

6. Pursuant to sections 363 and 365 of the Bankruptcy Code, entry by the Sellers and Solutions into the Stalking Horse Purchase Agreement is hereby authorized and approved. The Sellers, Solutions, and the Buyer, acting by and through their respective existing agents, representatives, and officers, are authorized, empowered and directed, without further order of this Court, to use their reasonable best efforts to take any and all actions necessary or appropriate to (a) consummate and close the Sale in accordance with the terms and conditions of the Stalking Horse Purchase Agreement and this Sale Order, (b) transfer and assign all right, title, and interest to all assets, property, licenses, and rights of the Sellers to be conveyed in accordance with the terms and conditions of the Stalking Horse Purchase Agreement, and (c) execute and deliver, perform under, consummate, implement, and close fully the Stalking Horse Purchase Agreement, including the assumption and assignment to the Buyer of the Assumed Contracts, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Stalking Horse Purchase Agreement and the Sale, including any other ancillary documents, or as may be reasonably necessary or appropriate to the performance of the obligations as contemplated by the Stalking Horse Purchase Agreement, this Sale Order, and such other ancillary documents, including any actions that otherwise would require further approval by shareholders, members, or their boards of directors, as the case may be, without the need to obtain such approvals. The Sellers and Solutions are hereby authorized to perform their covenants and undertakings as provided in the Stalking Horse Purchase Agreement and any ancillary documents before or after the Closing Date without further order of the Court. Neither the Buyer, the Sellers nor Solutions shall have any obligation to proceed with the Closing under the Stalking Horse Purchase Agreement until all conditions precedent to their obligations to do so have been met,

satisfied, or waived, except as otherwise contemplated and provided for in the Stalking Horse Purchase Agreement and this Sale Order.

7. This Sale Order and the Stalking Horse Purchase Agreement shall be binding in all respects upon the Debtors, including the Debtors' estates, all holders of equity interests in any Debtor, all holders of Claims or Liens (whether known or unknown) against any Debtor, including the Committee, any holders of Claims or Liens against or on all or any portion of the Acquired Assets, all Contract Counterparties, the Buyer and all successors and assigns of the Buyer, the Acquired Assets, all successors and assigns of the Debtors, and any subsequent trustees appointed in any of the Chapter 11 Cases or upon a conversion to chapter 7 under the Bankruptcy Code of any of the Chapter 11 Cases, and shall not be subject to rejection or unwinding. This Sale Order and the Stalking Horse Purchase Agreement shall inure to the benefit of the Debtors, their estates, their creditors, the Buyer and their respective successors and assigns. Nothing in any chapter 11 plan confirmed in the Chapter 11 Cases, the confirmation order confirming any such chapter 11 plan, any order approving the wind down or dismissal of the Chapter 11 Cases, or any order entered upon the conversion of the Chapter 11 Cases to one or more cases under chapter 7 of the Bankruptcy Code or otherwise shall alter, conflict with, or derogate from, the provisions of this Sale Order.

**Transfer of the Acquired Assets**

8. Pursuant to sections 105(a), 363(b), 363(f), 365(b) and 365(f) of the Bankruptcy Code, the Sellers are authorized and directed to transfer the Acquired Assets to the Buyer on the Closing Date. The transfer of the Acquired Assets to the Buyer under the Stalking Horse Purchase Agreement does not require any consents other than as specifically provided for in the Stalking Horse Purchase Agreement. The transfer of the Sellers' right, title, and interest in the Acquired Assets to the Buyer pursuant to the Stalking Horse Purchase Agreement and this Sale Order shall

be deemed transferred to the Buyer upon and as of the Closing Date, and such transfer of the Acquired Assets and the consummation of the Sale and any related actions contemplated thereby constitute a legal, valid, binding, and effective transfer of the Sellers' right, title, and interest in the Acquired Assets and shall vest the Buyer with all the right, title and interest of the Sellers in and to the Acquired Assets as set forth in the Stalking Horse Purchase Agreement, free and clear of all Claims and Liens (except Assumed Liabilities and Permitted Liens). Upon the Closing, the Buyer shall take title to and possession of the Acquired Assets subject only to the Assumed Liabilities and Permitted Liens. Pursuant to section 363(f) of the Bankruptcy Code, the transfer of title to the Acquired Assets and the Assumed Contracts shall be free and clear of all Claims and Liens including, without limitation, all Claims pursuant to any successor or successor-in-interest liability theory, except for Assumed Liabilities and Permitted Liens.

9. On the Closing Date, this Sale Order shall be construed and shall constitute for any and all purposes a full and complete general assignment, conveyance, and transfer of all of the Sellers' right, title, and interest in the Acquired Assets or a bill of sale transferring good and marketable title in such Acquired Assets to the Buyer on the Closing Date pursuant to the terms of the Stalking Horse Purchase Agreement and this Sale Order, free and clear of all Claims and Liens (other than Assumed Liabilities and Permitted Liens). For the avoidance of doubt, the Excluded Assets set forth in the Stalking Horse Purchase Agreement and herein are not included in the Acquired Assets, and the Excluded Liabilities set forth in the Stalking Horse Purchase Agreement and herein are not Assumed Liabilities.

10. The Buyer shall be authorized, as of the Closing Date, to operate under any license, permit, registration, and governmental authorization or approval of the Sellers constituting Acquired Assets, and all such licenses, permits, registrations, and governmental authorizations and

approvals are deemed to have been, and hereby are, directed to be transferred to the Buyer as of the Closing Date as provided by the Stalking Horse Purchase Agreement. To the extent provided by section 525 of the Bankruptcy Code, no governmental unit may revoke or suspend any grant, permit, or license relating to the operation of the Acquired Assets sold, transferred, assigned, or conveyed to the Buyer on account of the filing or pendency of the Chapter 11 Cases or the consummation of the Sale.

11. Except with respect to Assumed Liabilities and Permitted Liens, all persons and entities holding Claims against the Debtors or Claims or Liens in all or any portion of the Acquired Assets arising under or out of, in connection with or in any way relating to the Debtors, the Acquired Assets, the operation of the Debtors' business prior to the Closing Date, the transfer of the Acquired Assets to the Buyer, or otherwise, are hereby forever barred, estopped, and permanently enjoined from asserting against the Buyer or its successors or assigns, their property, or the Acquired Assets such persons' or entities' Claims against the Debtors or Claims or Liens in and to the Acquired Assets. On and after the Closing Date, each creditor is authorized and directed to execute such documents and take all other actions as may be deemed by the Buyer to be necessary or desirable to evidence the release of Claims or Liens, if any, as provided for herein, as such Claim or Lien may have been recorded or may otherwise exist.

12. All persons and entities that are presently, or on the Closing Date may be, in possession of some or all of the Acquired Assets to be sold, transferred, or conveyed (wherever located) to the Buyer pursuant to the Stalking Horse Purchase Agreement are hereby directed to surrender possession of such Acquired Assets to the Buyer on the Closing Date. To the extent that any such person or entity fails or refuses to surrender possession of such Acquired Assets on or after the Closing Date, the Buyer has the right to commence a turnover action and have it

considered on an expedited basis. All persons are hereby forever prohibited and enjoined from taking any action that would adversely affect or interfere with, or which would be inconsistent with, the ability of the Sellers to sell and transfer any or all of the Acquired Assets to the Buyer, or the ability of the Buyer to take title and possession of any or all of the Acquired Assets, in accordance with the terms of the Stalking Horse Purchase Agreement and this Sale Order.

13. This Sale Order is and shall be effective as a determination that, as of the Closing Date, all Claims and Liens of any kind or nature whatsoever existing as to the Acquired Assets before the Closing, other than Assumed Liabilities and Permitted Liens, or as otherwise provided in this Sale Order, shall have been unconditionally released, discharged, and terminated. Moreover, this Sale Order is and shall be effective as a determination that, as of the Closing Date, the conveyances described herein have been affected, with all such Claims and Liens to attach to any net proceeds received by the Sellers ultimately attributable to the Acquired Assets against, or in, which such Claims or Liens are asserted, subject to the terms thereof, with the same validity, force, and effect, and in the same order of priority, which such Claims or Liens now have against the Acquired Assets, subject to any rights, claims, and defenses that the Sellers or their estates, as applicable, may possess with respect thereto.

14. This Sale Order is and shall be binding upon and govern the acts of all persons and entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal and local officials and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any lease, and each of the foregoing persons and

entities is hereby authorized and directed to accept for filing any and all of the documents and instruments necessary and appropriate to consummate the transactions contemplated by the Stalking Horse Purchase Agreement.

15. Each and every federal, state, and local governmental agency or department is hereby authorized to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Stalking Horse Purchase Agreement. A certified copy of this Sale Order may be: (a) filed with the appropriate clerk; (b) recorded with the recorder; or (c) filed or recorded with any other governmental agency to act to cancel any of the Claims, Liens, and other encumbrances of record.

16. If any person or entity that has filed statements or other documents or agreements evidencing Claims or Liens in all or any portion of the Acquired Assets has not delivered to the Sellers prior to the Closing Date, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of Liens and Claims and any other documents necessary or desirable to the Buyer for the purpose of documenting the release of all Claims and Liens (other than Assumed Liabilities or Permitted Liens), which the person or entity has or may assert with respect to all or any portion of the Acquired Assets, then the Buyer and the Debtors are hereby authorized to execute and file such statements, instruments, releases and other documents in the name and on behalf of such person or entity with respect to the Acquired Assets; provided that, notwithstanding anything in this Sale Order or the Stalking Horse Purchase Agreement to the contrary, the provisions of this Sale Order shall be self-executing, and neither the Debtors nor the Buyer shall be required to execute or file releases termination statements, assignments, consents, or other instruments in order to effectuate, consummate, and implement the provisions of this Sale Order.

**DIP Facility Obligations; Continuing Lien**<sup>4</sup>

17. On the Closing Date, the Debtors shall use and disburse the net cash proceeds from this Sale, and on any other closing date of any other sale of the Debtors' assets approved pursuant to orders of the Court (collectively, the "Sale Transactions"), and such aggregate proceeds the "Sale Proceeds"), each as set forth below:

- a. First, subject to the last sentence of this paragraph 17(a), at least \$13 million (the "Holdback Amount") of the Sale Proceeds shall be funded into the DIP Proceeds Account, which shall constitute Cash Collateral subject to the Final DIP Order (including, but not limited to, the Carve-Out). The Holdback Amount shall be used by the Debtors in accordance with the Final DIP Order (including, but not limited to, the Carve-Out) and the Approved Budget until (i) further order of this Court, which further order, for the avoidance of doubt, may include a stipulation and agreed order or the order confirming a chapter 11 plan for any Debtor, or (ii) the Debtors, the DIP Secured Parties, Prepetition Secured Parties, and the Committee otherwise agree in writing. The Debtors, the DIP Secured Parties, and the Prepetition Secured Parties may mutually agree to adjust the Holdback Amount, either upward or downward, after the Closing Date and on any other closing date of the Sale Transactions, including to reflect adjustments to the Approved Budget after entry of this Sale Order.
- b. Second, all Sale Proceeds in excess of the Holdback Amount shall, in such amounts as may be directed in writing by the DIP Agent and the Prepetition Agent (collectively, the "Agent"), be paid directly to the Agent for application to the DIP Obligations and/or the Prepetition Obligations, as elected by the Agent; provided, nothing in this clause (b) shall prejudice any rights under the Final DIP Order that may be available to the DIP Secured Parties, the Prepetition Secured Parties, the Debtors, or the Committee.

For the avoidance of doubt, all Liens and Claims will attach to the Sale Proceeds to the same extent and with the same priority as existed prior to consummation of the Sale Transactions, subject to any claims, defenses and objections, if any, that the Debtors, their estates, or any other party in interest may possess with respect thereto.

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<sup>4</sup> Capitalized terms used in paragraphs 17-18 and not otherwise defined in this Sale Order shall have the meanings ascribed to them in the *Final Order (A) Authorizing the Debtors to Obtain Postpetition Financing and to Use Cash Collateral, (B) Granting Liens and Superpriority Claims, (C) Granting Adequate Protection, (D) Modifying the Automatic Stay, and (E) Granting Related Relief* [D.I. 255] (the "Final DIP Order").



18. Without limitation to the other provisions of this Sale Order, at the Closing, the DIP Secured Parties and the Prepetition Secured Parties shall execute such documents and take such other actions as may be reasonably necessary to release their Claims and Liens in and to the Acquired Assets as of the Closing that are transferred to the Buyer; provided, however, any failure to do so shall not in any way affect the validity of such transfer pursuant to this Sale Order.

**Assumed Contracts; Assumed Warranty and Membership Obligations**

19. The Sellers are hereby authorized and directed in accordance with sections 105(a), 363, and 365 of the Bankruptcy Code to (a) assume and assign the Assumed Contracts to the Buyer free and clear of all Claims, Liens, and other interests of any kind or nature whatsoever (other than the Assumed Liabilities), subject to the terms of the Stalking Horse Purchase Agreement and this Sale Order, as of the Closing Date and (b) execute and deliver to the Buyer such documents or other instruments as the Buyer deems necessary to assign and transfer the Assumed Contracts to the Buyer in accordance with the Stalking Horse Purchase Agreement. The payment of the applicable Cure Amounts (if any) by the Buyer as required by the Stalking Horse Purchase Agreement and this Sale Order shall (i) effect a cure of all defaults existing thereunder as of the Closing Date, (ii) compensate for any actual pecuniary loss to the applicable Contract Counterparty resulting from such default, and (iii) together with the assignment by the Sellers to and the assumption of the Assumed Contracts by the Buyer, constitute adequate assurance of future performance thereof.

20. The Buyer's right to modify the list of Assumed Contracts after the date of this Sale Order and up to the Designation Deadline is hereby approved.

21. On the Closing Date, the Sellers shall assume and assign to the Buyer each Assumed Contract designated by Buyer for assumption and assignment on the Closing Date in accordance with the Stalking Horse Purchase Agreement and this Sale Order, and which Assumed

Contracts are set forth on **Exhibit B** attached hereto (as may be modified up to the Designation Deadline); provided, however, to the extent any contract with a customer for a warranty claim and/or a membership constitute an executory Contract, such contract shall be deemed an Assumed Contract without their inclusion on **Exhibit B**.

22. Pursuant to section 365(f) of the Bankruptcy Code, the assignment by the Sellers of the Assumed Contracts shall not be a default thereunder. Any provisions in any Assumed Contract that prohibit or condition the assignment of such Assumed Contract to the Buyer or allows the party to such Assumed Contract to terminate, recapture, impose any penalty, condition on renewal or extension, or modify any term or condition upon the assignment of such Assumed Contract to the Buyer, constitute anti-assignment provisions that are unenforceable and will have no force and effect solely with respect to assumption and assignment pursuant to this Sale Order or any subsequent assumption and assignment order. All other requirements and conditions under sections 363 and 365 of the Bankruptcy Code for the assumption by the Sellers and assignment to the Buyer of the Assumed Contracts have been satisfied.

23. On the Closing Date, upon payment of the relevant Cure Amount, if any, in accordance with sections 363 and 365 of the Bankruptcy Code, the Buyer shall be fully and irrevocably vested with all right, title and interest of the Sellers under such Assumed Contract. To the extent provided in the Stalking Horse Purchase Agreement, the Debtors shall cooperate with and take all actions reasonably requested by the Buyer to effectuate the foregoing.

24. On the Closing Date, and the payment of the relevant Cure Amount, if any, the Assumed Contracts will remain in full force and effect (subject to any amendments agreed to between the counterparty to such Assumed Contract and the Buyer), and no default shall exist under the Assumed Contracts and no counterparty to any Assumed Contract shall be permitted

(a) to declare a default by the Buyer under such Assumed Contract, or (b) to otherwise take action against the Buyer as a result of any Debtors' financial condition, bankruptcy, or failure to perform any of its obligations under the relevant Assumed Contract.

25. Pursuant to sections 105(a), 363, and 365 of the Bankruptcy Code, other than the right to payment of any Cure Amount, all Contract Counterparties are forever barred and permanently enjoined from raising or asserting against either the Debtors or the Buyer any assignment fee, default, breach, Claim, pecuniary loss, or condition to assignment arising under or related to the Assumed Contracts existing as of the Closing Date or arising by reason of the Closing; provided, however, that the foregoing shall not apply to any customer of any Seller holding a Cure Amount on account of a valid warranty from any Seller or a membership agreement with any Seller, as such liabilities are being assumed by Buyer.

26. On the Closing Date, the Debtors shall be relieved, pursuant to sections 363 and 365(k) of the Bankruptcy Code, from any further liability under any Assumed Contract, and the counterparties shall be estopped from asserting any and all Claims or Liens, whether known or unknown, against the Debtors on account of the Assumed Contract. Without limiting the foregoing, on the Closing Date, the Sellers shall be relieved of any further liability under any warranty or membership obligation with any of their customers, as such liabilities are being assumed by the Buyer.

27. Any Contract Counterparty—including, to the extent applicable, any customer holding a valid warranty from, and/or membership with, any Seller—who did not timely file an objection to the assumption of its Assumed Contract shall be deemed to have consented to the Assumed Contract's assumption and assignment to the Buyer pursuant to section 365 of the Bankruptcy Code. All objections to the assumption and assignment of the Assumed Contracts that

have not been withdrawn, waived, settled, or adjourned, as announced to the Court at the Sale Hearing or by stipulation filed with the Court, and all reservations of rights included in such objections or otherwise, are hereby denied and overruled on the merits with prejudice.

28. All non-Debtor counterparties to the Assumed Contracts shall cooperate and expeditiously execute and deliver, upon the reasonable request of the Buyer, any instruments, applications, consents, or other documents that may be required or requested by any public authority or other party or entity to effectuate the applicable transfers in connection with the sale of the Acquired Assets.

**Other Provisions**

29. The Stalking Horse Purchase Agreement does not provide for the sale of the Debtors' and their estates' claims—including, without limitation, commercial tort claims and Avoidance Actions—against any of the Debtors' insiders (as that term is defined in section 101(31) of the Bankruptcy Code).

30. The consideration provided by the Buyer for the Sellers' right, title, and interest in the Acquired Assets under the Stalking Horse Purchase Agreement constitutes reasonably equivalent value and fair consideration for the Acquired Assets under the Bankruptcy Code, Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, Uniform Voidable Transactions Act, and other applicable law within the meaning of section 544(b) of the Bankruptcy Code, under the laws of the United States, any state, territory, possession, or the District of Columbia.

31. Effective upon the Closing Date, except as set forth in the Stalking Horse Purchase Agreement with respect to Assumed Liabilities and Permitted Liens and Sale Order, all persons and entities are forever prohibited and permanently enjoined from commencing or continuing in any manner any action or other proceeding, whether in law or equity, in any judicial,

administrative, arbitral, or other proceeding against the Buyer, its successors and assigns, or the Acquired Assets, with respect to any (a) Claims and Liens arising under, out of, in connection with or in any way relating to the Debtors, the Buyer, the Acquired Assets, or the operation of the Acquired Assets prior to the Closing or (b) successor liability based, in whole or in part, directly or indirectly, on any theory of successor or vicarious liability of any kind of character, or based upon any theory of antitrust, environmental, successor or transferee liability, *de facto* merger or substantial continuity, labor and employment, or products liability, whether known or unknown as of the Closing, now existing or hereafter arising, asserted or unasserted, fixed or contingent, or liquidated or unliquidated, including, without limitation, the following actions: (i) commencing or continuing in any manner any action or other proceeding against the Buyer, its successors or assigns, assets, or properties; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree, or order against the Buyer, its successors or assigns, assets, or properties; (iii) creating, perfecting, or enforcing any Claims or Liens against the Buyer, its successors or assigns, assets, or properties; (iv) asserting any setoff or right of subrogation of any kind against any obligation due to the Buyer or its successors or assigns; (v) commencing or continuing any action, in any manner or place, that does not comply or is inconsistent with the provisions of this Sale Order or other orders of the Court, or the agreements or actions contemplated or taken in respect thereof; or (vi) revoking, terminating, or failing or refusing to renew any license, permit or authorization to operate any of the Acquired Assets or conduct any of the businesses operated with the Acquired Assets.

32. The transactions contemplated by the Stalking Horse Purchase Agreement are undertaken by the Buyer without collusion and in good faith, as that term is defined in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal

of the authorization provided herein to consummate the Sale shall not affect the validity of the Sale (including the assumption and assignment of the Assumed Contracts), unless such authorization and such Sale are duly stayed pending such appeal. The Buyer is a good faith purchaser within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to the full protections of section 363(m) of the Bankruptcy Code. The Sale is not subject to avoidance pursuant to section 363(n) of the Bankruptcy Code.

33. No bulk sales law or any similar law of any state or other jurisdiction applies in any way to the transactions with the Debtors that are approved by this Sale Order, including, without limitation, the Stalking Horse Purchase Agreement and the Sale.

34. The failure specifically to include any particular provision of the Stalking Horse Purchase Agreement in this Sale Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Stalking Horse Purchase Agreement be authorized and approved in its entirety.

35. The Stalking Horse Purchase Agreement and any related or ancillary agreements, documents or other instruments may be further modified, amended, or supplemented by the parties thereto and in accordance with the terms thereof, without further order of the Court; provided that any such modification, amendment or supplement does not have a material adverse effect on the Debtors' estates.

36. To the extent that this Sale Order is inconsistent with any prior order or pleading with respect to the Motion in the Chapter 11 Cases, the terms of this Sale Order shall govern. To the extent there are any inconsistencies between the terms of this Sale Order and the Stalking Horse Purchase Agreement (including any ancillary documents executed in connection therewith), the terms of this Sale Order shall govern.

37. The provisions of this Sale Order are non-severable and mutually dependent.

38. All time periods set forth in this Sale Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

39. The automatic stay pursuant to section 362 of the Bankruptcy Code is hereby modified, lifted, and annulled with respect to the Debtors and the Buyer to the extent necessary, without further order of this Court, to allow the Buyer to take any and all actions permitted under the Stalking Horse Purchase Agreement or any other Sale-related document in accordance with the terms and conditions thereof. The Buyer shall not be required to seek or obtain relief from the automatic stay under section 362 of the Bankruptcy Code to enforce any of its remedies under the Stalking Horse Purchase Agreement or any other Sale-related document.

40. The Debtors are authorized to take all actions necessary to effect the relief granted pursuant to this Sale Order in accordance with the Motion. The Stalking Horse Purchase Agreement and any related agreements, documents or other instruments may be modified, amended or supplemented through a written document signed by the parties thereto in accordance with the terms thereof without further order of this Court; *provided, however*, that any such modification, amendment, or supplement that is either material or materially changes the economic substance of the transactions shall be (i) filed on the docket served on the Limited Service List, and (ii) parties-in-interest shall have five (5) days to object to any such amendment. Absent any such objection, such modification, amendment, or supplement shall be binding and any timely objection shall be heard by the Court on an expedited basis.

41. Notwithstanding the provisions of Bankruptcy Rule 6004(h) and Bankruptcy Rule 6006(d), and pursuant to Bankruptcy Rules 7062(g) and 9014, this Sale Order shall not be stayed, shall be effective immediately upon entry, and the Debtors and the Buyer are authorized to

close the Sale immediately upon entry of this Sale Order. **Time is of the essence** in closing the transactions referenced herein, and the Debtors and the Buyer intend to close the Sale as soon as practicable.

42. This Court shall retain jurisdiction to, among other things, interpret, implement, and enforce the terms and provisions of this Sale Order and the Stalking Horse Purchase Agreement, all amendments thereto as well as any waivers and consents thereunder and each of the agreements executed in connection therewith to which the Debtors are a party and adjudicate, if necessary, any and all disputes concerning or relating in any way to the Sale.

43. Counsel for the Debtors, through Kurtzman Carson Consultants, LLC d/b/a Verita Global (“Verita”) shall, within three (3) days of the entry of this Sale Order, cause a copy of this Sale Order to be served by electronic mail or first-class mail, as applicable, on all parties served with the Motion, and Verita shall file promptly thereafter a certificate of service confirming such service.

END OF DOCUMENT



*Prepared and presented by:*

**GREENBERG TRAURIG, LLP**

/s/ David B. Kurzweil

David B. Kurzweil (Ga. Bar No. 430492)

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*Counsel for the Debtors and  
Debtors in Possession*

**Exhibit A**

**Stalking Horse Purchase Agreement**

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**ASSET PURCHASE AGREEMENT<sup>1</sup>**

**by and between**

**AIR PROS SOLUTIONS, LLC,**

**AND CERTAIN OF ITS DIRECT AND INDIRECT SUBSIDIARIES NAMED HEREIN,  
COLLECTIVELY, as Sellers**

**and**

**RELIANCE US HOLDINGS II INC., as Buyer.**

**March 18, 2025**

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<sup>1</sup> Certain personally identifiable information and commercially sensitive information has been redacted from this document.

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## ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (this “Agreement”) is entered into as of March 18, 2025, by and among (a) Air Pros Solutions, LLC, a Delaware limited liability company (“Solutions”), (b) (i) Air Pros Atlanta, LLC, a Georgia limited liability company (“APA Sub”), (ii) CM Air Pros, LLC, a Delaware limited liability company (“CMA Sub”), (iii) Air Pros Washington, LLP, a Washington limited liability partnership (“APW”), and (iv) AFH Air Pros, LLC, a Delaware limited liability company (“AFH Sub” and collectively with APA Sub, CMA Sub and APW, the “Sellers” and each a “Seller”) and (c) Reliance US Holdings II Inc., a Delaware corporation (the “Buyer”). The Sellers and the Buyer are sometimes referred to collectively herein as the “Parties.” Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in Article I.

WHEREAS, the Sellers are debtors-in-possession having commenced cases (the “Sellers’ Chapter 11 Cases”) under title 11 of the United States Code, 11 U.S.C. § 101 *et seq.* (the “Bankruptcy Code”), through the filing of their voluntary petitions for relief under Chapter 11 of the Bankruptcy Code in March 2025 (the actual date of filing, the “Petition Date”) in the United States Bankruptcy Court for the Northern District of Georgia (the “Bankruptcy Court”);

WHEREAS, the Sellers conduct, among other things, the business of providing HVAC services, including installation, maintenance, service, repair and replacement, to homeowners, commercial enterprises and other parties in the states of Georgia, Alabama and Washington, irrespective of where the Sellers’ business operations or employees are located (the “Business”);

WHEREAS, (i) the Sellers wish to sell, transfer and assign to the Buyer, and the Buyer wishes to purchase, acquire and assume from the Sellers, the Acquired Assets (as defined below), free and clear of all Liens, Claims, and Indebtedness, and (ii) the Buyer wishes to assume from the Sellers the Assumed Liabilities (as defined below), on the terms and subject to the conditions set forth herein and in accordance with sections 105, 363, and 365 and other applicable provisions of the Bankruptcy Code; and

WHEREAS, the Sellers have agreed to file the Sale Motion (as defined below) with the Bankruptcy Court and take the other steps set forth herein and in the Bidding Procedures Order, the Bidding Procedures and the Sale Order (as each such term is defined below) to implement the transactions contemplated hereby upon the terms and subject to the conditions set forth herein and in the Sale Order.

NOW, THEREFORE, in consideration of the mutual promises herein made, and in consideration of the representations, warranties and covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the Parties agree as follows.

### ARTICLE I DEFINITIONS

For purposes of this Agreement, capitalized terms set forth in this Agreement shall have the meaning ascribed to such terms in this Article I.



“Acquired Assets” has the meaning set forth in Section 2.1.

“Affiliate” when used with reference to another Person means any Person, directly or indirectly, through one or more intermediaries, Controlling, Controlled by, or under common Control with, such other Person.

“Agreement” has the meaning set forth in the preamble.

“Allocation” has the meaning set forth in Section 2.11.

“Allocation Objection Notice” has the meaning set forth in Section 2.11.

“Alternative Transaction” means any transaction or series of related transactions (other than pursuant to this Agreement), whether effectuated pursuant to a merger, consolidation, tender offer, exchange offer, share exchange, amalgamation, stock acquisition, asset acquisition, business combination, restructuring, recapitalization, liquidation, dissolution, joint venture or similar transaction, whether or not proposed by the Sellers, pursuant to which one or more Sellers: (i) accept a Qualified Bid, other than that of the Buyer or its Affiliates, as the highest or otherwise best offer; or (ii) sell, transfer, lease or otherwise dispose of, directly or indirectly, including through an acquisition, asset sale, stock sale, purchase, merger, reorganization, recapitalization or other similar transaction with or involving any equity securities in any Seller or other interests in the Acquired Assets, including a stand-alone plan of reorganization, plan of liquidation, or refinancing, all or substantially all of the Acquired Assets (or agrees to any of the foregoing) in a transaction or series of transactions to a party or parties other than the Buyer or its Affiliates.

“Arbitrating Accountant” has the meaning set forth in Section 2.11.

“Assignment and Assumption Agreement” has the meaning set forth in Section 2.10(a)(iii).

“Assumable Permits” means all Permits relating to the Business that are transferable in accordance with their terms.

“Assumed Contracts” means those Leases and Contracts that have been, or will be, assigned to and assumed by the Buyer pursuant to Section 2.7 and section 365 of the Bankruptcy Code.

“Assumed Employee Benefit Plan” has the meaning set forth in Section 2.7(c)(ii)(A).

“Assumed Employee Benefit Plan Schedule” has the meaning set forth in Section 2.7(c)(ii)(A).

“Assumed Liabilities” has the meaning set forth in Section 2.3.

“Assumed Permit” means those Assumable Permits that have been, or will be, assigned to and assumed by the Buyer pursuant to Section 2.7 and section 365 of the Bankruptcy Code

“Assumed Permit Schedule” has the meaning set forth in Section 2.7(c).

“Assumption Approval” has the meaning set forth in Section 2.7(g).

“Assumption Effective Date” has the meaning set forth in Section 2.7(d).

“Auction” means the auction for the sale and assumption of the Sellers’ assets and certain liabilities, conducted by the Sellers pursuant to, and in accordance with, the Bidding Procedures and Bidding Procedures Order.

“Back-Up Bidder” means the qualified bidder chosen by the Sellers at the Auction, if any, who submitted the second-highest or otherwise best bid at the conclusion of such Auction.

“Bankruptcy Code” has the meaning set forth in the recitals.

“Bankruptcy Court” has the meaning set forth in the recitals.

“Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure, each a “Bankruptcy Rule.”

“Bidding Procedures” means the bidding procedures to be approved by the Bankruptcy Court pursuant to the Bidding Procedures Order, which order shall be reasonably satisfactory to the Buyer.

“Bidding Procedures Order” means the order to be entered by the Bankruptcy Court approving, among other things, the Buyer as the “stalking horse Buyer,” the Bidding Procedures, the approval of the Expense Reimbursement and the Break Up Fee, and which order shall be reasonably satisfactory to the Buyer.

“Bill of Sale” has the meaning set forth in Section 2.10(a)(ii).

“Break Up Fee” means a break-up fee in favor of the Buyer to be paid to the Buyer at the closing of an Alternative Transaction as set forth herein, in the amount of three percent (3%) of the cash consideration of the Purchase Price.

“Business” has the meaning set forth in the recitals.

“Business Day” means any day other than a Saturday, a Sunday, or a day on which banks located in Wilmington, Delaware shall be authorized or required by Law to close.

“Buyer” has the meaning set forth in the preamble.

“Capital Leases” means all leases required to be capitalized in accordance with GAAP.

“CARES Act” means the Coronavirus Aid, Relief, and Economic Security Act.

“Cash” means cash (including all cash located in Sellers’ bank accounts, lock-boxes, and cash in transit), cash equivalents, cash collateralized letters of credit, investment accounts, certificates of deposit, and liquid investments.

“Claim” has the meaning set forth in section 101(5) of the Bankruptcy Code.

“Closing” has the meaning set forth in Section 2.9.

“Closing Assumed Employee Benefit Plan List” has the meaning set forth in Section 2.7(c).

“Closing Assumed Contract List” has the meaning set forth in Section 2.7(c).

“Closing Assumed Permit List” has the meaning set forth in Section 2.7(c).

“Closing Date” has the meaning set forth in Section 2.9.

“Company IT Systems” means the computer software, computer firmware, computer hardware (whether general purpose or special purpose), telecommunications, information technology, equipment, controlled networks, peripherals and computer systems, middleware, servers, workstations, routers, hubs, internet websites, mobile applications, data, databases, software, programs, source code and object code, and user manuals related to any of the foregoing, that are controlled, owned, licensed, leased, relied on, or used by the Sellers in the conduct of the Business.

“Consent” means any approval, consent, ratification, permission, clearance, designation, qualification, waiver or authorization, or an order of the Bankruptcy Court that deems or renders unnecessary the same.

“Consent Deadline” has the meaning set forth in Section 2.7(g).

“Contract” means any written or oral agreement, contract, indenture, mortgage, instrument, guaranty, loan or credit agreement, note, bond, customer order, membership agreement, purchase order, sales order, sales agent agreement, supply agreement, development agreement, joint venture agreement, license agreement, contribution agreement, partnership agreement or other arrangement, understanding, permission or commitment that, in each case, is legally binding.

“Contract and Cure Schedule” has the meaning set forth in Section 2.7(c).

“Control” means, when used with reference to any Person, the power to direct the management or policies of such Person, directly or indirectly, by or through stock or other equity ownership, agency or otherwise, or pursuant to or in connection with any Contract; and the terms “Controlling” and “Controlled” shall have meanings correlative to the foregoing.

“Cure Amounts” has the meaning set forth in Section 2.7(f).

“Cure Notice” has the meaning set forth in Section 5.3(c).

“Customer Membership Liabilities Reduction” an amount equal to (i) \$120.67 multiplied by (ii) the difference obtained when subtracting the Membership Amount from 6,464.

“Data Protection Requirements” means: (i) each Law relating to the collection, disposal, transfer, import, export, storage, disclosure, processing and use of Personal Information; (ii) industry self-regulatory principles and each Law relating to direct marketing, online behavioral advertising, e-mails, text messages, and telemarketing that are applicable to the Sellers;

(iii) privacy policies, programs, or related notices, and any contractual obligations, concerning the collection, dissemination, storage, protection or use of Personal Information; and (iv) obligations imposed by, and any contractual obligation relating to, the Payment Card Industry Data Security Standards.

“D&O Causes of Action” means any claims, causes of action, demand, actions, suits, obligations, liabilities, cross-claims, counterclaims, offsets, or setoffs of any kind or character whatsoever against any Person who on the Petition Date was a director, manager, officer, employee, or other representative of one or more of the Sellers.

“Decree” means any judgment, decree, ruling, decision, opinion, injunction, assessment, attachment, undertaking, award, charge, writ, executive order, judicial order, administrative order or any other order of any Governmental Entity.

“Deposit” has the meaning set forth in Section 2.5.

“Designated Contracts” means the Contracts to which the Sellers are not party but which are used in the Business as forth on Exhibit H

“Disclosure Schedule” has the meaning set forth in Article III.

“Employee Benefit Plan” means any “employee benefit plan” (as such term is defined in Section 3(3) of ERISA) and any other benefit or compensation plan, program, agreement or arrangement of any kind, in each case, maintained or contributed to by a Seller, in which a Seller participates or participated, in which a Seller has any Liability (contingent or otherwise), or through which current or former Service Providers of the Business are eligible to receive benefits or compensation.

“End Date” means the close of business no later than one-hundred twenty (120) days following the Petition Date.

“Enforcing Parties” has the meaning set forth in Section 9.9(a).

“Environmental, Health and Safety Requirements” means, as enacted and in effect on or prior to the Closing Date, all applicable Laws concerning worker health and safety, the treatment, disposal, emission, discharge, Release or threatened Release of, or exposure to, Hazardous Material, pollution or the protection of the environment.

“ERISA” means the United States Employee Retirement Income Security Act of 1974, as amended.

“Escrow Agent” has the meaning set forth in Section 2.5.

“Escrow Agreement” has the meaning set forth in Section 2.5.

“Excess Cure Amounts” means the aggregate Cure Amounts for Assumed Contracts actually paid by Buyer to counterparties to Assumed Contracts in excess of \$75,000.

“Excluded Assets” means, collectively, the following assets of the Sellers: (a) all certificates of incorporation or certificates of formation and other organizational documents, qualifications to conduct business as a foreign entity, arrangements with registered agents relating to foreign qualifications, taxpayer and other identification numbers, seals, minute books, stock or other equity transfer books, stock or membership certificates relating to the Sellers and other documents relating to the organization, maintenance and existence of any Seller as a corporation or limited liability company; (b) all Records related to Taxes paid or payable by any Seller; provided that the Buyer shall have the right to make copies of any portions of such excluded Records to the extent that such portions relate to the Business, any Acquired Asset or any Assumed Liability; (c) (i) Owned Equity Interests (unless the Buyer expressly elects to acquire Owned Equity Interests of a particular Seller pursuant to Section 2.1) and (ii) if the Buyer has elected pursuant to Section 2.1 to acquire the Owned Equity Interests of a particular Seller as Acquired Assets, all other assets of such Seller that are being acquired via such Owned Equity Interests shall be Excluded Assets hereunder notwithstanding anything else in Section 2.1 to the contrary; (d) all Contracts and Leases that are not Assumed Contracts; (e) any (i) confidential personnel and medical Records pertaining to any Service Provider to the extent the disclosure of such information is prohibited by applicable Law and (ii) other Records that any Seller is required by Law to retain; provided that the Buyer shall have the right to make copies of any portions of such excluded Records to the extent that such portions relate to the Business, any Acquired Asset, any Assumed Liability or any Service Provider hired by the Buyer on the Closing Date (to the extent not prohibited by applicable Law); (f) any documents and agreements of any Seller relating to the Sellers’ Chapter 11 Cases or to the sale or other disposition of the Business or the Acquired Assets or the sale or other disposition of any Excluded Assets; provided that the Buyer shall have the right to make copies of any portions of such excluded Records to the extent that such portions relate to the Business, any Acquired Asset or any Assumed Liability; (g) all Permits that are not Assumed Permits; (h) trade accounts receivable and other rights to payment from customers of the Sellers (whether current or non-current) and (i) any Cash.

“Excluded Liabilities” has the meaning set forth in Section 2.4.

“Expense Reimbursement” shall mean reimbursement of the Buyer’s actual, direct and documented and reasonable out of pocket expenses incurred in respect of considering, negotiating and consummating this Agreement, in an amount of up to \$559,000.

“Families First Act” means the Families First Coronavirus Response Act.

“Final Order” means an order of the Bankruptcy Court or other court of competent jurisdiction: (i) as to which no appeal, notice of appeal, motion to amend or make additional findings of fact, motion to alter or amend judgment, motion for rehearing or motion for new trial has been timely filed or, if any of the foregoing has been timely filed, it has been disposed of in a manner that upholds and affirms the subject order in all respects without the possibility for further appeal or rehearing thereon; (ii) as to which the time for instituting or filing an appeal, motion for rehearing or motion for new trial shall have expired; and (iii) as to which no stay is in effect; provided, however, that the filing or pendency of a motion under Federal Rule of Bankruptcy Procedure 9024(b) shall not cause an order not to be deemed a “Final Order” unless such motion shall be filed within fourteen (14) calendar days of the entry of the order at issue. In the case of (i) the Sale Order, a Final Order shall also consist of an order as to which an appeal, notice of

appeal, motion to amend or make additional findings of fact, motion to alter or amend judgment, motion for rehearing or motion for new trial has been filed, but as to which the Buyer, in its sole and absolute discretion, elects to proceed with Closing, and (ii) any other order that is required hereunder to be a Final Order, a Final Order shall also consist of an order as to which an appeal, notice of appeal, motion to amend or make additional findings of fact, motion to alter or amend judgment, motion for rehearing or motion for new trial has been filed, but as to which the Buyer, in its sole and absolute discretion, elects to proceed.

“Furnishings and Equipment” means tangible personal property (other than Inventory) and that is used or held for use in the operation of the Business, regardless of where located, including, for the avoidance of doubt, all machinery and equipment, spare parts, furniture, office equipment, computer equipment and hardware, fittings, tools, apparatus, signage, maintenance equipment, vehicles and rolling stock and other personal property of any kind or type that is used or held for use in connection with Business.

“GAAP” means United States generally accepted accounting principles.

“Governmental Approvals” shall mean those approvals, authorizations, confirmations, consents, exemptions and orders from a Governmental Entity and the making of all necessary registrations and filings (including filings with a Governmental Entity) and the taking of all reasonable steps as may be necessary to obtain an approval or waiver from, or to avoid an action or proceeding to prevent the Closing by, any Governmental Entity, which are required to be obtained or taken to consummate the transactions contemplated herein under applicable Laws.

“Governmental Entity” means any national, federal, state, provincial, local or foreign government, or any subdivision, agency, instrumentality, authority, department, commission, board or bureau thereof, or any federal, state, provincial, local or foreign court, tribunal, or arbitrator, including the Bankruptcy Court.

“Hazardous Material” means any waste or other substance that is listed, defined, designated or classified as hazardous, radioactive or toxic or a pollutant or a contaminant under any Environmental, Health and Safety Requirements, including any admixture or solution thereof, and including petroleum and all derivatives thereof or synthetic substitutes therefor, asbestos or asbestos-containing materials in any form or condition and polychlorinated biphenyls.

“HVAC Licenses” means all material Permits required to be set forth on Section 3.12 of the Disclosure Schedule.

“Indebtedness” of any Person means, without duplication: (a) the principal of and premium (if any) in respect of (i) indebtedness of such Person for money borrowed and (ii) indebtedness evidenced by notes, debentures, bonds or other similar instruments for the payment of which such Person is responsible or liable, (b) all obligations of such Person issued or assumed as the deferred purchase price of property or other assets or for the cost of property or other assets constructed or of improvements thereto, all conditional sale obligations of such Person, and all obligations of such Person under any title retention agreement (but excluding trade accounts payable for goods and services and other accrued current liabilities arising in the Ordinary Course of Business), (c) all obligations of such Person under Capital Leases, (d) all obligations of such Person for the



reimbursement of any obligor on any letter of credit, banker's acceptance, or similar credit transaction, (e) the liquidation value of all redeemable preferred stock of such Person, (f) all obligations of the type referred to in clauses (a) through (e) of any Persons for the payment of which such Person is responsible or liable, directly or indirectly, as obligor, guarantor, surety or otherwise, including guarantees of such obligations, and (g) all obligations of the type referred to in clauses (a) through (f) of other Persons secured by any lien on any property or asset of such Person (whether or not such obligation is assumed by such Person).

"Initial Allocation" has the meaning set forth in Section 2.11.

"Insurance Policies" has the meaning set forth in Section 3.13.

"Intellectual Property" means any and all rights, title and interest in or relating to intellectual property of any type, which may exist or be created under the Laws of any jurisdiction throughout the world, including: (a) patents and patent applications, together with all reissues, provisionals, continuations, continuations-in-part, divisionals, renewals, extensions and reexaminations in connection therewith; (b) trademarks, service marks, trade dress, logos, slogans, trade names, service names, brand names, internet domain names, social media accounts and all other source or business identifiers and general intangibles of a like nature, along with all applications, registrations and renewals, extensions and account credentials in connection therewith, and all goodwill associated with any of the foregoing; (c) rights associated with works of authorship, including software, databases, websites, exclusive exploitation rights, mask work rights, copyrights, database and design rights, whether or not Registered or published, all registrations and recordations thereof and applications in connection therewith, along with all extensions and renewals thereof and all moral rights associated with any of the foregoing; and (d) trade secrets, know-how and other proprietary and confidential information, including inventions (whether or not patentable), invention disclosures, improvements, algorithms, source code, data analytics, methods, processes, designs, drawings, customer lists, supplier lists, together with all embodiments and fixations of any of the foregoing and all related documentation.

"Intellectual Property Assets" has the meaning set forth in Section 3.15.

"Intellectual Property Assignment" has the meaning set forth in Section 2.10(a)(iv).

"Inventory" means all inventory (including merchandise, raw materials, component parts, supplies, packing and shipping materials, products in-process and finished products) used in the Business, whether temporarily out of such Seller's custody or possession, in transit to or from any Seller and whether in any Seller's vehicles, warehouses, held by any third parties or otherwise, and all other Inventory (as defined in the UCC), including any returned goods and any documents of title representing any of the foregoing.

"IRC" means the United States Internal Revenue Code of 1986, as amended.

"Knowledge" of a Person (and other words of similar import) (a) in reference to the Sellers means the actual knowledge of [REDACTED] and any director or executive officer of the Sellers (each, a "Knowledge Party"), after having conducted a reasonable inquiry of relevant internal department heads as well as any information relevant and readily available without external inquiry to a Knowledge Party, and (b) in reference to the Buyer means the actual

knowledge of any director or executive officer of Buyer after having conducted a reasonable inquiry and investigation. For the avoidance of doubt, no Person named in this definition shall have any personal liability or obligations solely rising out of such Knowledge.

“Law” means any federal, state, provincial, local, municipal, foreign or other law, statute, legislation, constitution, principle of common law, resolution, ordinance (including with respect to zoning or other land use matters), code, treaty, order, convention, rule, regulation, requirement, edict, directive, pronouncement, determination, proclamation or Decree of any Governmental Entity.

“Leased Real Property” means all leasehold or subleasehold estates and other rights to use or occupy any land, buildings, structures, improvements, fixtures or other interest in real property of any Seller which is used in the Business.

“Leases” means all leases, subleases, licenses, concessions, and other agreements (whether written or oral), including all amendments, extensions, renewals, guaranties, and other agreements with respect thereto, in each case pursuant to which a Seller holds or has any interest in Leased Real Property, but excluding Contracts.

“Liability” means any liability, Indebtedness, lien, fine, penalty, judgment, duty, responsibility, expense, guaranty, claim, loss, damage, deficiency, assessment, responsibility or obligation of whatever kind or nature (whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, direct or indirect, disputed or undisputed, ascertained or ascertainable, joint or severable, vested or unvested, whether due or to become due, whether determined or determinable, whether choate or inchoate, whether secured or unsecured and whether matured or not yet matured).

“Lien” means any mortgage, deed of trust, hypothecation, contractual restriction, pledge, lien (statutory or other), encumbrance, interest, charge, security interest, put, call, other option, right of first refusal, right of first offer, servitude, right of way, easement, conditional sale or installment contract, finance lease involving substantially the same effect, security agreement or other encumbrance or restriction on the use, transfer or ownership of any property of any type (including real property, tangible property, intangible property and Intellectual Property). For the avoidance of doubt, the definition of Lien shall not be deemed to include the grant of any non-exclusive license or sublicense of Intellectual Property by a Seller.

“Litigation” means any action, cause of action, suit, litigation, arbitration, claim, investigation, mediation, audit, grievance, demand, hearing or proceeding, whether civil, criminal, administrative, appellate or arbitral, of any kind whatsoever whether sounding in contract or tort, or whether at law or in equity, or otherwise under any legal or equitable theory, commence, brought, conducted or heard by or before any Governmental Entity, arbitrator, mediator or similar body.

“Material Adverse Effect” means any state of facts, change, event, effect, development, condition, circumstance or occurrence (when taken together with all other states of fact, changes, events, effects, developments, conditions, circumstances or occurrences), that (a) is materially adverse to the financial condition or results of operations of the Business (taken as a whole),



including (for the avoidance of doubt and notwithstanding any carve out in the following provisions) the re-escalation or existence of the COVID-19 or a similar pandemic or (b) would reasonably be expected to prevent, materially delay or materially impair the ability of the Sellers to consummate the transactions contemplated by this Agreement or the Related Agreements on the terms set forth herein and therein; provided, however, that with respect to clause (a) only, no change event, development or occurrence related to any of the following shall be deemed to constitute, and none of the following shall be taken into account in determining whether there has been a Material Adverse Effect: (i) the engagement by the United States of America in international hostilities (not domestic), affecting (directly or indirectly) the industry in which the Business operates, whether or not pursuant to the declaration of war, or the occurrence of any military or terrorist attack upon the United States of America or any of its territories, possessions or diplomatic or consular offices or upon any military installation, equipment or personnel of the United States of America, except to the extent that such change has a materially disproportionate adverse effect on the Business relative to the adverse effect that such changes have on other companies in the industry in which the Business operates; (ii) financial, banking or securities markets (including any disruption thereof or any decline in the price of securities generally or any market or index), except to the extent that such change has a materially disproportionate adverse effect on the Business relative to the adverse effect that such changes have on other companies in the industry in which the Business operates; (iii) any change in GAAP or Law except to the extent that such change has a materially disproportionate adverse effect on the Business relative to the adverse effect that such changes have on other companies in the industry in which the Business operates; (iv) any changes directly attributable to the announcement of this Agreement or any Related Agreement, including by reason of the identity of the Buyer or any of its Affiliates; (v) resulting from any act of God except to the extent that such change has a materially disproportionate adverse effect on the Business relative to the adverse effect that such changes have on other companies in the industry in which the Business operates; (vi) any action taken (or omitted to be taken) pursuant to or in accordance with this Agreement or at the written request of, or with the written consent of, Buyer; or (vii) in the case of the Sellers or the Business, (A) the failure to meet or exceed any projection or forecast (it being understood that, with respect to this clause (vii) (A), the underlying facts or circumstances giving rise or contributing to the failure to meet such projection(s) or forecast(s) may be deemed to constitute, or be taken into account in determining whether there has been, a Material Adverse Effect), or (B) changes in the business or operations of any Seller (including changes in credit terms offered by suppliers or financing sources) resulting from the announcement or the filing of the Sellers' Chapter 11 Cases and the Sellers' financial condition or the Sellers' status as debtors under Chapter 11 of the Bankruptcy Code.

"Material Contract" has the meaning set forth in Section 3.5(a).

"Membership Amounts" means the number of customer memberships of CMAP Sub for which there remains a maintenance obligation outstanding, as reasonably agreed to by Solutions and Buyer.

"Necessary Consents" has the meaning set forth in Section 2.7(g).

"Opt Out Deadline" has the meaning set forth in Section 2.7(c).

“Ordinary Course of Business” means the ordinary course of business consistent with past custom and practice.

“Owned Equity Interests” means any equity interests or securities of any Seller held by any other Seller.

“Party” has the meaning set forth in the preamble.

“Permit” means any franchise, approval, permit, license, order, registration, certificate, variance, Consent, exemption, ratification, waiver or similar right or authorization issued, granted, given or otherwise obtained from or by any Governmental Entity, under the authority thereof, or pursuant to any applicable Law which are necessary or useful for the conduct of the Business and the use of the Acquired Assets, as presently conducted and used.

“Permitted Liens” means Liens (a) for Taxes not yet delinquent or which are being contested in good faith by appropriate proceedings and, in either case, to the extent reserved on the books and records of the applicable Seller, (b) with respect to leased or licensed personal property, the terms and conditions of the lease or license applicable thereto to the extent constituting an Assumed Contract, and (c) with respect to Capital Leases for an aggregate amount of Indebtedness not to exceed Ten Thousand Dollars (\$10,000).

“Person” means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization or any other entity, including any Governmental Entity or any group or syndicate of any of the foregoing.

“Personal Information” means information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular individual or member of that individual's household, including a natural Person's social security number, tax identification number, driver's license number, credit card number, bank information, financial account number, persistent device identifier, and biometric information.

“Personal Property Taxes” means personal property Taxes of the Sellers to the extent they become allowed claims in the Sellers' Chapter 11 Cases under sections 503(b)(1)(B) or 507(a)(8)(B) of the Bankruptcy Code.

“Petition Date” has the meaning set forth in the recitals.

“Previously Omitted Contract” has the meaning set forth in Section 2.7(j).

“Purchase Price” has the meaning set forth in Section 2.6.

“Qualified Bid” means competing bids that are submitted by a qualified bidder in accordance with the Bidding Procedures and Bidding Procedures Order.

“Records” means the books, records, information, ledgers, files, invoices, documents, work papers, correspondence, lists (including client and customer lists, supplier lists and mailing lists), plans (whether written, electronic or in any other medium), drawings, designs, specifications,

creative materials, advertising and promotional materials, marketing plans, studies, reports, data, supplier and vendor lists, purchase orders, sales and purchase invoices, production reports, personnel and employment records, financial and accounting records and similar materials related to the Business, and specifically excluding Sellers' corporate minutes book and related corporate records and books, files and papers entirely not related to the Business; provided however, Sellers shall be permitted to retain copies of Records to the extent they relate to a business owned or operated by Affiliates.

"Registered" means issued by, registered with, renewed by or the subject of a pending application before any Governmental Entity or domain name registrar.

"Related Agreements" means the Bill of Sale, the Assignment and Assumption Agreement, the Intellectual Property Assignment and each other agreement, document or instrument executed or delivered by a Party in connection with the foregoing, this Agreement, the Sale Order or the transactions contemplated hereby or thereby.

"Related Party" means any officer, director, manager or equity holder of any Seller, or any member of the immediate family of the foregoing.

"Release" means the release, spill, emission, leaking, pumping, pouring, emptying, escaping, dumping, injection, deposit, disposal, discharge, dispersal, leaching or migrating of any Hazardous Material into the environment.

"Representative" of a Person means such Person's officers, directors, managers, employees, advisors, representatives (including its legal counsel, investment bankers and its accountants) and agents of such Person.

"Sale Motion" means that motion to be filed in the Sellers' Chapter 11 Cases requesting that the Bankruptcy Court (a) enter the Bidding Procedures Order and (b) enter the Sale Order at the final hearing on the Sale Motion, and approve all related transactions.

"Sale Order" means an order of the Bankruptcy Court entered in the Sellers' Chapter 11 Cases pursuant to sections 105, 363, and 365 of the Bankruptcy Code, approving this Agreement and the transactions contemplated hereby, in all respects as shall be reasonably satisfactory to the Sellers and the Buyer, (i) approving the sale and transfer of the Acquired Assets to the Buyer free and clear of all liens, claims and interests other than Permitted Liens, if any, pursuant to section 363(f) of the Bankruptcy Code; (ii) approving the assumption and assignment to the Buyer of the Assumed Contracts; (iii) authorizing consummation of the transactions contemplated hereby; (iv) containing a finding that the transactions contemplated by this Agreement are undertaken by the Sellers and the Buyer (solely in its capacity as such) at arm's length, without collusion, and finding that the Buyer is a good-faith Buyer entitled to the protections of section 363(m) of the Bankruptcy Code; (v) finding that due and adequate notice of the approval of the sale hearing and proposed Sale Order and an opportunity to be heard were provided to all Persons entitled thereto, including but not limited to, federal, state and local taxing and regulatory authorities; (vi) confirming that the Buyer is acquiring the Acquired Assets free and clear of all Liabilities, other than the Assumed Liabilities; (vii) assuring that the Buyer will not be subject to successor liability for any claims or causes of action of any kind or character against any Seller, whether

known or unknown, unless expressly assumed as an Assumed Liability pursuant to this Agreement; (vii) authorizing the Buyer to freely own and operate the Acquired Assets; (ix) providing that the Bankruptcy Court shall retain jurisdiction to hear any disputes arising in connection with the transactions contemplated by this Agreement; (x) providing that the provisions of Federal Rules of Bankruptcy Procedure 6004(h) and 6006(d) are waived and there will be no stay of execution of the Sale Order under Rule 62(a) of the Federal Rules of Civil Procedure; (xi) permitting the Buyer to waive, in its sole discretion, the 14-day stay period under Rule 6004(h) of the Federal Rules of Bankruptcy Procedure; and (xii) granting related relief, which order shall be in all respects reasonably satisfactory to the Buyer.

“Seller” has the meaning set forth in the preamble.

“Sellers’ Chapter 11 Cases” has the meaning set forth in the recitals.

“Service Provider” means any director, officer, full-time or part-time employee, independent contractors, independent consultants or temporary employees, of any Seller.

“Solutions” has the meaning set forth in the preamble.

“Subsidiary” means, with respect to any Person, any corporation, limited liability company, partnership, association or other business entity of which (a) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof (or other persons performing similar functions with respect to such corporation) is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (b) if a limited liability company, partnership, association or other business entity (other than a corporation), a majority of partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of that Person or a combination thereof and for this purpose, a Person or Persons owns a majority ownership interest in such a business entity (other than a corporation) if such Person or Persons shall be allocated a majority of such business entity’s gains or losses or shall be or control any managing director, managing member or general partner of such business entity (other than a corporation). The term “Subsidiary” shall include all Subsidiaries of such Subsidiary.

“Successful Bidder” means the bidder who shall have submitted the highest or otherwise best bid at the conclusion of the Auction in accordance with the Bidding Procedures and Bidding Procedures Order.

“Tax” or “Taxes” means any net or gross income, net or gross receipts, net or gross proceeds, capital gains, capital stock, sales, use, user, leasing, lease, transfer, natural resources, premium, ad valorem, value added, franchise, profits, gaming, license, capital, withholding, payroll or other employment, estimated, goods and services, severance, excise, stamp, fuel, interest equalization, registration, recording, occupation, turnover, personal property (tangible and intangible), real property, unclaimed or abandoned property (whether or not treated as a tax under local Law), alternative or add-on, windfall or excess profits, environmental, social security, disability, unemployment or other tax or customs duties or amount imposed by (or otherwise payable to) any Governmental Entity, whether computed on a separate or consolidated, unitary or

combined basis or in any other manner, or any interest, any penalties, additions to tax or additional amounts assessed, imposed or otherwise due or payable under applicable Laws with respect to taxes or for the failure to timely file a correct Tax Return, in each case, whether disputed or not and including any obligation to indemnify or otherwise assume or succeed to the Tax liability of any other Person.

“Tax Return” means any return, declaration, report, claim for refund or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof, and FinCEN Form 114.

“Transfer Tax” has the meaning set forth in Section 6.5.

“Transferred Employee” has the meaning set forth in Section 6.4(a).

“Transition Services Agreement” has the meaning set forth in Section 2.10(a)(iv).

“UCC” means the Uniform Commercial Code as the same may from time to time be in effect in the State of Delaware, or in any other state to the extent the law of such other state shall govern or apply to a specific asset or property of a Seller.

“WARN Act” means the United States Worker Adjustment and Retraining Notification Act, or any similar federal, state or local Law.

## **ARTICLE II PURCHASE AND SALE**

**Section 2.1** Purchase and Sale of Acquired Assets. On the terms and subject to the conditions of this Agreement and the Sale Order, at the Closing, the Buyer shall purchase, acquire, and accept from each Seller, and each Seller shall sell, transfer, assign, convey, and deliver to the Buyer (or its assignee pursuant to Section 9.4), all of such Seller’s right, title and interest in and to all of the properties, rights, interests and other tangible and intangible assets of such Seller set forth on Exhibit A attached hereto, together with the Intellectual Property Assets, (collectively, the “Acquired Assets”), free and clear of all Liens (other than Permitted Liens set forth on Section 2.1 of the Disclosure Schedule), for the consideration specified in Section 2.6; provided, however, that the Acquired Assets shall not include any Excluded Assets.

**Section 2.2** Excluded Assets. Nothing contained herein shall be deemed to sell, transfer, assign or convey the Excluded Assets to the Buyer, and the applicable Seller shall retain all of its right, title and interest to, in and under the Excluded Assets.

**Section 2.3** Assumed Liabilities. On the terms and subject to the conditions of this Agreement and the Sale Order, at the Closing (or, with respect to assumed liabilities under Assumed Contracts or Assumed Permits that are assumed by the Buyer after the Closing, such later date of assumption as provided in Sections 2.6 or 2.7, as applicable), the Buyer shall assume and become responsible for the following Liabilities (collectively, the “Assumed Liabilities”) and no other Liabilities, including the Excluded Liabilities, of any Seller, and from and after the Closing (or such later date of assumption as provided in Sections 2.6 or 2.7, as applicable), agrees to timely pay, honor and discharge, or cause to be timely paid, honored and discharged, all

Assumed Liabilities when due and in a timely manner in accordance with the terms thereof, and except for the Assumed Liabilities, the Buyer shall not be deemed to have assumed any other Liabilities of the Sellers, any of their Affiliates or any predecessors of the foregoing:

- (a) all Liabilities arising after the Closing Date under the Assumed Contracts and the Assumed Permits included in the Acquired Assets that are incurred from the use of the Acquired Assets and conduct of the Business by the Buyer following the Closing Date;
- (b) all Cure Amounts, pursuant to Section 2.7(f);
- (c) all Liabilities for Taxes borne by the Buyer pursuant to Section 6.5;
- (d) the Liabilities of the Sellers with respect to customer warranty claims of the Business for services provided or jobs completed prior to Closing;
- (e) the Liabilities of the Sellers with respect to customer membership programs of the Business; and
- (f) all accrued vacation and sick time of the Transferred Employees that remains unused or unpaid as of the Closing.

**Section 2.4** Excluded Liabilities. Notwithstanding anything herein to the contrary, the Parties expressly acknowledge and agree that the Buyer shall not assume, be obligated to pay, perform or otherwise discharge or in any other manner be liable or responsible for any Liabilities of any Seller, whether existing at any time before or after the Closing Date or arising thereafter, other than the Assumed Liabilities (all such Liabilities that the Buyer is not assuming being referred to collectively as the “Excluded Liabilities”). Without limiting the foregoing, the Buyer shall not be obligated to assume, does not assume and hereby disclaims all the Excluded Liabilities, including the following Liabilities of any Seller whether incurred or accrued at any time before or after the Closing Date:

- (a) (i) all Taxes of any Seller or any of its Affiliates, including Taxes imposed on any Seller under Treasury Regulations Section 1.1502-6 and similar provisions of state, local or foreign Tax Law or otherwise and (ii) all Liabilities for Taxes relating to the Business, Acquired Assets or Transferred Employees for all Taxable periods (or portions thereof) ending on or prior to the Closing Date (including, for the avoidance of doubt, any payroll or other employment Taxes deferred by any Seller pursuant to Section 2302 of the CARES Act which shall be treated as a Tax for the pre-Closing Date period), regardless of when assessed;
- (b) all Liabilities of the Sellers for fees, costs and expenses incurred in connection with Sellers’ Chapter 11 Cases or negotiating, preparing, closing and carrying out this Agreement and the transactions contemplated hereby, including (i) any fees and expenses of attorneys, investment bankers, finders, brokers, accountants and consultants and (ii) any fees, costs and expenses or payments related to any transaction bonus, discretionary bonus, change-of-control payment, retention or other compensatory payments made to any Service Provider (including the employer portion of any payroll, social security, unemployment or similar Taxes related thereto);



- (c) all Personal Property Taxes;
- (d) all Liabilities of any Seller in respect of Indebtedness (except to the extent of any Cure Amounts under any Assumed Contracts);
- (e) all Liabilities arising in connection with any violation of any applicable Law relating to the period prior to the Closing Date by any Seller, including any Environmental, Health and Safety Requirements and the items set forth on Section 3.8 of the Disclosure Schedule;
- (f) all litigation claims and any other Liabilities, including any tort claims, breach of contract claims, employment claims and discrimination claims, which are not Assumed Liabilities, to the extent relating to Claims (including Claims instituted after the Closing Date), events or conditions arising out of or relating in any way to the conduct or operation of the Business or the ownership of the Acquired Assets prior to the Closing Date even if instituted after the Closing Date;
- (g) All Liabilities arising out of, relating to or in connection with incidents or events occurring prior to the Closing Date by any Person employed by, or acting as an independent contractor on the property of or on behalf of, any Seller for payment, claims or benefits under workers' compensation Laws or any other Law;
- (h) all Liabilities of Sellers with respect to, or relating to or arising out of the employment, service or termination of employment or service of Service Providers of any Seller (except to the extent assumed pursuant to Section 2.3(f));
- (i) all Liabilities arising in connection with or in any way relating to any Seller (or any predecessor or any prior owner of all or part of their business and assets), any property now or previously owned, leased or operated by any Seller or the Acquired Assets or any activities or operations occurring or conducted at any real property used or held for use by any Seller (including offsite disposal), which (i) arise under or relate to any Environmental, Health and Safety Requirements and (ii) relate to actions occurring or conditions existing on or prior to the Closing Date;
- (j) all Liabilities arising out of or related to any Excluded Asset;
- (k) all Liabilities to any (i) owner or former owner of capital stock or other equity interests of any Seller, (ii) current or former officer or director of any Seller, or (iii) any Subsidiary of the Sellers, in each case in their capacity as such;
- (l) all other Liabilities that are not Assumed Liabilities, including all Liabilities arising under or in connection with written or oral Contracts;
- (m) all Liabilities of the Sellers constituting accounts payable incurred prior to the Closing Date, to the extent not included as a Cure Amount or otherwise expressly included as an Assumed Liability pursuant to Section 2.3;

(n) all Employee Benefit Plans, all Liabilities with respect to or in connection with any Employee Benefit Plan and all assets maintained pursuant to or in connection with any Employee Benefit Plan that is not an Assumed Employee Benefit Plan; and

(o) all other Liabilities of any Seller under this Agreement and the Related Agreements and the transactions contemplated hereby or thereby (excluding all the Assumed Liabilities).

**Section 2.5** Deposit. Upon Buyer's execution of this Agreement, the Buyer shall remit to Citibank, N.A., acting as escrow agent (the "Escrow Agent"), an earnest money deposit in the amount of \$5,590,000 to a non-interest-bearing account maintained by Seller (the "Deposit"), in respect of this Agreement, pursuant to an escrow agreement in substantially the form of Exhibit G attached hereto (the "Escrow Agreement"). The Escrow Agent shall hold the Deposit subject to the jurisdiction of the Bankruptcy Court. The Deposit shall be (i) applied to the Purchase Price as provided in Section 2.6 if the Closing occurs. The Deposit shall be returned to the Buyer by wire transfer in the form of immediately available funds if this Agreement is terminated for any reason other than by the Sellers pursuant to Section 8.1(c)(1) and Sellers do not at the time of such termination have a right to terminate this Agreement pursuant to Section 8.1(c)(1); provided, that notwithstanding anything to the contrary contained herein, in order for the Deposit not to be returned to the Buyer, the Sellers shall be required to provide the Buyer with a full ten (10) days after the receipt of written notice of such breach to cure any such breach; provided, further, that during such cure period, the Buyer shall not be permitted to terminate this Agreement pursuant to Section 8.1(b) and any termination under Section 8.1(d) shall not be effective until expiry of such cure period. If the Sellers terminate this Agreement pursuant to Section 8.1(c)(1) or this Agreement is terminated for any reason other than pursuant to Section 8.1(c)(1) and at such time the Sellers have the right to terminate pursuant to Section 8.1(c)(1), the Deposit shall be returned to Sellers in accordance with Section 8.6.

**Section 2.6** Consideration. The aggregate consideration for the sale and transfer of the Acquired Assets to the Buyer (the "Purchase Price") shall be (i) \$55,900,000 in cash minus (ii) the Deposit plus (iii) the assumption of Assumed Liabilities (including Cure Amounts) minus (iv) the Excess Cure Amounts plus (v) the Customer Membership Liabilities Reduction. Not later than two (2) Business Days following the entry of the Bidding Procedures Order, the Buyer will confirm the then current dollar amount of the Purchase Price in writing to the Sellers, which amount shall be subject to an upward adjustment by the Buyer prior to Closing or such other upward or downward adjustment as provided herein.

**Section 2.7** Assumption and Assignment of Contracts, Leases, Employee Benefit Plans and Permits.

(a) The Sale Order shall provide for the assumption by the applicable Seller, and the assignment to the extent legally capable of being assigned by such Seller to the Buyer, of the Assumed Contracts on the terms and conditions set forth in the remainder of this Section 2.7.

(b) At the Buyer's request, the applicable Seller shall reasonably cooperate from the date hereof forward with the Buyer as reasonably requested by the Buyer (i) to



allow the Buyer to enter into an amendment of any Contract or Lease upon assignment to the Buyer of such Contract or Lease (and such Seller shall reasonably cooperate with the Buyer to the extent reasonably requested with the Buyer in negotiations with the applicable non-debtor counterparties and/or landlords), or (ii) provided that either (A) the Buyer has been designated as the Successful Bidder at the Auction or that (B) the Buyer has been designated as the Back-Up Bidder at the Auction and the Successful Bidder has terminated its offer, to otherwise amend any Contract or Lease to the extent such amendments would not adversely affect such Seller in a material manner unless the Buyer indemnifies such Seller; provided that such Seller shall not be required to enter into any such amendment if such amendment would result in an assumption by such Seller of such Contract or Lease, unless such Contract or Lease will be assigned to (and Liabilities associated therewith assumed by) the Buyer at the time of such assumption or contemporaneously therewith. The Buyer shall compensate the Sellers for any reasonable, out-of-pocket, non-fixed costs with respect to the foregoing.

(c) Section 2.7(c)(i) of the Disclosure Schedule sets forth a true, correct, and complete list of all Contracts and Leases to which any Seller is a party with respect to the Business. Section 2.7(c)(ii) of the Disclosure Schedule sets forth a true, correct, and complete list of all of the Sellers' Employee Benefit Plans. Section 2.7(c)(iii) of the Disclosure schedule sets forth a true, correct, and complete list of all of the Assumable Permits with respect to the Business. The proposed Cure Amounts in respect of each Contract are also set forth in Section 2.7(c)(i) of the Disclosure Schedule. The Buyer has advised the Sellers that it may want the Sellers to assume and assign certain of the Contracts and Leases set forth in Section 2.7(c)(i) of the Disclosure Schedule, Employee Benefit Plans set forth in Section 2.7(c)(ii)(A) of the Disclosure Schedule ("Assumed Employee Benefit Plan") and Assumable Permits set forth in Section 2.7(c)(iii) of the Disclosure Schedule, in each case, under section 365 of the Bankruptcy Code. The inclusion of any Contract or Lease on Section 2.7(c)(i) of the Disclosure Schedule, Assumed Employee Benefit Plan on Section 2.7(c)(ii)(A) of the Disclosure Schedule ("Assumed Employee Benefit Schedule") or Assumable Permit on Section 2.7(c)(iii) of the Disclosure Schedule does not constitute an admission that a particular contract is an executory contract or unexpired lease within the meaning of the Bankruptcy Code or require or guarantee that such Contract, Lease, Employee Benefit Plan or Assumable Permit will ultimately be assumed. All rights of the Buyer with respect thereto are reserved. The Buyer shall, no later than seven (7) days prior to the earlier of (i) a scheduled Auction or, (ii) in the event no Auction is held, prior to the hearing scheduled to consider entry of the Sale Order, identify in writing to the Sellers the Contracts, Leases, Employee Benefit Plans and Assumable Permits that the Buyer has decided will be (x) Assumed Contracts by putting such agreements onto a contract and cure schedule (the "Contract and Cure Schedule"), will be Assumed Employee Benefit Plans by putting such Assumed Employee Benefit Plans on the "Assumed Employee Benefit Plan Schedule" or will be Assumed Permits by putting such Assumable Permits on the "Assumed Permit Schedule," which may be modified from time to time as set forth herein or (y) included as Designated Contracts. Notwithstanding the foregoing, subject to its other rights in this Section 2.7, if either (A) the Buyer has been designated as the Successful Bidder at the Auction or (B) if the Buyer has been designated as the Back-Up Bidder at the Auction and the Successful Bidder has terminated its offer, then in the case of clause (A), no later than ten (10) days from entry

of the Sale Order and in the case of Clause (B), no later than ten (10) days from notice thereof (the “Opt Out Deadline”), the Buyer may add or remove any Contract, Lease, Employee Benefit Plan or Assumable Permit to or from the Contract and Cure Schedule, Assumed Employee Benefit Plan Schedule or Assumed Permit Schedule, as applicable, in each case as may have been amended prior thereto by the Buyer in accordance with this clause (c), and, in the case of any Contract or Lease that is removed from the Contract and Cure Schedule, Employee Benefit Plan that is removed from the Assumed Employee Benefit Plan Schedule or Assumable Permit that is removed from the Assumed Permit Schedule, as applicable, either advise the applicable Seller it has no objection to the Seller rejecting such Contract, Lease, Employee Benefit Plan or Assumable Permit or with respect to any Contract, Lease, Employee Benefit Plan Assumable Permit put such Contract, Lease, Employee Benefit Plan or Assumable Permit on Exhibit H as a Designated Contract, in each case by providing notice thereof to the Sellers along with a further modified Contract and Cure Schedule, Assumed Employee Benefit Plan Schedule or Assumed Permit Schedule, as applicable. The final Contract and Cure Schedule, as modified by any such designations, removals, or as otherwise provided in Section 2.8, is referred to as the “Closing Assumed Contract List.” The final Assumed Employee Benefit Plan Schedule, as modified by any such designations, removals, or as otherwise provided in Section 2.8, is referred to as the “Closing Assumed Employee Benefit Plan List.” The final Assumed Permit Schedule, as modified by any such designations, removals, or as otherwise provided in Section 2.8, is referred to as the “Closing Assumed Permit List.” For the avoidance of doubt, if the Buyer is designated as the Successful Bidder at the Auction or if the Buyer is designated as the Back-Up Bidder at the Auction and the Successful Bidder has terminated its offer, at any time and from time to time prior to the Opt Out Deadline, the Buyer shall have the right, in its sole and absolute discretion, to designate a Contract, Lease, Employee Benefit Plan or Assumable Permit for exclusion and rejection by delivering written notice to the Sellers along with (x) a modified Contract and Cure Schedule (and all such Contracts and Leases shall be Excluded Assets and all Liabilities arising under or in connection with such Contracts shall be Excluded Liabilities), (y) a modified Assumed Employee Benefit Plan Schedule (and all such Employee Benefit Plans shall be Excluded Assets and all Liabilities arising under or in connection such Employee Benefit Plans shall be Excluded Liabilities) or (z) a modified Assumed Permit Schedule (and all such Assumable Permits shall be Excluded Assets and all Liabilities arising under or in connection with such Assumable Permits shall be Excluded Liabilities), without the necessity of providing prior notice to any non-debtor counterparty to any such Contract, Lease, Employee Benefit Plan or Assumable Permit.

(d) Unless the Bankruptcy Court orders otherwise, each Contract and Lease included on the Closing Assumed Contract List, Assumed Employee Benefit Plan included on the Closing Assumed Employee Benefit Plan List and Assumable Permit included on the Closing Assumed Permit List will be deemed to have been assigned to the Buyer and become an Assumed Contract, Assumed Employee Benefit Plan or Assumed Permit, as applicable, on the date (the “Assumption Effective Date”) that is the later of: (i) the Closing Date, or (ii) contemporaneously with the resolution of any objections to the assumption and assignment of such Contract or Lease (or to a proposed Cure Amount), Assumed Employee Benefit Plan or Assumable Permit.

(e) As part of the Sale Motion (or as necessary in one or more separate motions), the Sellers shall request that, by virtue of the Sellers prior notice of their intent to assume and assign any Contract, Lease, Employee Benefit Plan or Assumable Permit, which notice shall be provided pursuant to the terms set forth in the Bidding Procedures Order, the Bankruptcy Court shall deem (by way of the Bidding Procedures Order or such other order of the Bankruptcy Court) any non-debtor party to such Contract, Lease, Employee Benefit Plan or Assumable Permit that does not file an objection with the Bankruptcy Court during such notice period to have given any required Consent to the assumption of the Contract, Lease, Employee Benefit Plan or Assumable Permit by the relevant Seller and assignment to the Buyer. For the avoidance of doubt, the Sellers may reject any Contract and Lease that is not an Assumed Contract, Assumed Employee Benefit Plan or Assumed Permit.

(f) In connection with the assumption and assignment to the Buyer of any Assumed Contract, the cure amounts, as agreed among the applicable non-debtor counterparty, the Sellers and the Buyer, or as determined by the Bankruptcy Court, if any necessary to cure all defaults, if any, and to pay all actual or pecuniary losses that have resulted from such defaults under the Assumed Contracts, including any amounts payable to any landlord under any Lease that is an Assumed Contract, in each that relates to the period prior to the Assumption Effective Date (such amounts, the “Cure Amounts”), shall be paid by the Buyer, on or prior to the Assumption Effective Date and not by any Seller and no Seller shall have liability therefor, and the Cure Amounts paid by the Buyer shall not reduce, directly or indirectly, any consideration received by the Sellers hereunder (other than the Excess Cure Amounts as provided in Section 2.6).

(g) The Sellers shall use their commercially reasonable best efforts to obtain an order of the Bankruptcy Court (including the Sale Order) to assign the Assumed Contracts to the Buyer (the “Assumption Approval”) on the terms set forth in this Section 2.7. In the event the Sellers are unable to assign any such Assumed Contract, Assumed Employee Benefit Plan or Assumed Permit to the Buyer pursuant to an order of the Bankruptcy Court for any reason, including that the Consent of Governmental Entity or third party is necessary to assume and assign such Assumed Contracts to the Buyer to the extent disclosed on Section 3.3(a) of the Disclosure Schedule (the “Necessary Consents”) and such Necessary Consent has not yet been obtained, then the Parties shall use their commercially reasonable best efforts until the earlier of the effective date of any Chapter 11 plan confirmed in the Sellers’ Chapter 11 Cases or the ninetieth (90<sup>th</sup>) day after the Closing Date (the “Consent Deadline”) to obtain, and to cooperate in obtaining, all Consents from Governmental Entities and third parties necessary to assume and assign such Contract, Lease, Assumed Employee Benefit Plan or Assumable Permit to the Buyer, including, in the case of the Sellers, paying any applicable Cure Amounts.

(h) To the extent that any Consent that is required to assign to the Buyer any Contract or Lease is not obtained by the Closing Date, the applicable Seller shall, with respect to each such Contract or Lease, from and after the Closing and until the earliest to occur of (x) the effective date of any Chapter 11 plan confirmed in the Sellers’ Chapter 11 Cases, (y) the date on which such applicable Consent is obtained (which Consents the Parties shall use their commercially reasonable best efforts, and cooperate with each other,

to obtain promptly), and (z) the Consent Deadline, use commercially reasonable best efforts to (i) provide to the Buyer the benefits under such Contract or Lease Contract, (ii) cooperate in any reasonable and lawful arrangement (including holding such Contract or Lease in trust for the Buyer pending receipt of the required Consent) designed to provide such benefits to the Buyer, and (iii) use its commercially reasonable best efforts to enforce for the account of the Buyer any rights of the applicable Seller under such Contract or Lease (including the right to elect to terminate such Contract or Lease Contract in accordance with the terms thereof upon the written direction of the Buyer). The Buyer shall reasonably cooperate with the applicable Seller in order to enable the applicable Seller to provide to the Buyer the benefits contemplated by this Section 2.7(h). The Buyer shall compensate the Sellers for any reasonable, out-of-pocket, non-fixed costs with respect to any Assumed Contract for which a Necessary Consent has not been obtained until such time as such Assumed Contract is either (a) assumed by the applicable Seller and assigned to the Buyer or (b) rejected by the applicable Seller.

(i) Notwithstanding the foregoing, a Contract or Lease shall not be an Assumed Contract hereunder and shall not be assigned to, or assumed by, the Buyer to the extent that such Contract or Lease (i) is rejected by the applicable Seller or validly terminated by the applicable Seller in accordance with the terms hereof or by the other party thereto, or terminates or expires by its terms, on or prior to the Closing Date and is not continued or otherwise extended upon assumption, or (ii) requires a Consent of any Governmental Entity or other third party (other than, and in addition to, that of the Bankruptcy Court) in order to permit the sale or transfer to the Buyer of such Seller's rights under such Contract, and no such Consent has been obtained prior to the effective date of any Chapter 11 plan confirmed in the Sellers' Chapter 11 Cases. In addition, a Permit shall not be assigned to, or assumed by, the Buyer to the extent that such Permit requires a Consent of any Governmental Entity or other third party (other than, and in addition to, that of the Bankruptcy Court) in order to permit the sale or transfer to the Buyer of the applicable Seller's rights under such Permit, and no such Consent has been obtained prior to the Closing or such later date as may be agreed among the applicable Seller and the Buyer (and all costs and expenses associated with such extension shall be borne by the Buyer).

(j) If prior to the Closing, it is discovered that a Contract should have been listed on Section 2.7(c) of the Disclosure Schedule but was not so listed (any such Contract, a "Previously Omitted Contract"), the Sellers shall, promptly following the discovery thereof (but in no event later than five (5) Business Days following the discovery thereof), notify the Buyer in writing of such Previously Omitted Contract and provide the Buyer with a copy of such Previously Omitted Contract and the Cure Amount (if any) in respect thereof. The Buyer shall thereafter deliver written notice to the Sellers, no later than five (5) Business Days following such notice of such Previously Omitted Contract from the Sellers, if the Buyer elects to so include such Previously Omitted Contract on the Contract & Cure Schedule.

(k) If the Buyer includes a Previously Omitted Contract on the Contract & Cure Schedule in accordance with Section 2.7(j), the applicable Seller shall file and serve a notice on the contract counterparties to such Previously Omitted Contract notifying such counterparties of such Seller's intention to assume and assign to the Buyer such Previously

Omitted Contract, including the proposed Cure Amount (if any). Such notice shall provide such contract counterparties pursuant to the procedures set forth in the Bidding Procedures Order, with an opportunity to object, in writing, to the Sellers and the Buyer to the assumption of its Contract or Lease. If such counterparties, the Sellers and the Buyer are unable to reach a consensual resolution with respect to the objection, the Sellers shall seek an expedited hearing before the Bankruptcy Court to seek approval of the assumption and assignment of such Previously Omitted Contract. If no objection is timely served on the Sellers and the Buyer, then such Previously Omitted Contract shall be deemed assumed by such Seller and assigned to the Buyer pursuant to the Sale Order. The Sellers and the Buyer shall execute, acknowledge and deliver such other instruments and use commercially reasonable best efforts as are reasonably practicable for the Buyer to assume the rights and obligations under such Previously Omitted Contract.

**Section 2.8** The Designated Contracts shall not be deemed to be Assumed Contracts, Assumed Leases or Assumed Employee Benefit Plans hereunder, but Solutions shall not assume or reject such Designated Contracts at the Closing, and with respect to certain Designated Contracts specified on Exhibit H, up to a period of twenty (20) days thereafter. In accordance with the terms of the Transition Services Agreement, Solutions shall provide to the Buyer the benefits under certain Designated Contracts as set forth in the Transition Services Agreement and cooperate in any reasonable and lawful arrangement designed to provide such benefits to the Buyer for a period of twenty (20) days following the Closing, including using commercially reasonable efforts to assist with introductions and facilitating negotiations with the counterparties to the Designated Contracts. If during such twenty (20) day period, Buyer is not able to successfully enter into an agreement with Enterprise FM Trust for the vehicles utilized in the Business, then for a period of ten (10) days thereafter, Sellers shall use commercially reasonable best efforts to assist Buyer in the transition of equipment from vehicles used in the Business to, at the Buyer's discretion, either storage, or new vehicles acquired by Buyer.

**Section 2.9** Closing. The Parties agree that the closing of the purchase and sale of the Acquired Assets pursuant to this Agreement (the "Closing") shall take place at 10:00 a.m. (prevailing Eastern time) as promptly as practicable, and in any event on the date that is the second (2<sup>nd</sup>) Business Day after the date on which all conditions to the obligations of the Sellers and the Buyer to consummate the transactions contemplated hereby set forth in Article VII have been satisfied or waived (other than conditions with respect to actions that either or both the Sellers and the Buyer will take at the Closing itself, but subject to the satisfaction or waiver (by the Party entitled to waive such condition) of those conditions), or at such other time or on such other date as shall be mutually agreed upon by the Sellers and the Buyer prior thereto (the "Closing Date"); provided, however, the Closing shall occur prior to the End Date. The Closing shall take place by exchanging documents via facsimile, DocuSign, e-mail, portable document format or other electronic means, or overnight courier or at such other location as agreed to by the Parties. The date and time on and at which the Closing actually occurs is referred to in this Agreement as the "Closing Date."

**Section 2.10** Deliveries at Closing.

(a) At the Closing, the Sellers shall deliver to the Buyer the following documents and other items, duly executed by the Sellers, as applicable:



- (i) the Acquired Assets;
  - (ii) a Bill of Sale substantially in the form of Exhibit B attached hereto (the “Bill of Sale”);
  - (iii) an Assignment and Assumption Agreement substantially in the form of Exhibit C attached hereto (the “Assignment and Assumption Agreement”);
  - (iv) an Intellectual Property Assignment substantially in the form of Exhibit D attached hereto together with any short-form assignments requested by the Buyer for recordation with the U.S. Patent and Trademark Office, the U.S. Copyright Office or any other Governmental Entity or domain name registrar (collectively, the “Intellectual Property Assignment”);
  - (v) one or more Transition Services Agreements, in the form attached hereto as Exhibit F, in all respects reasonably satisfactory to the Buyer and the applicable Sellers (each a “Transition Services Agreement”);
  - (vi) a certificate signed by an authorized officer of each Seller to the effect that each of the conditions specified in Section 7.1(a) and Section 7.1(b) is satisfied in accordance with the terms thereof;
  - (vii) from each Seller, a duly completed and executed Internal Revenue Service Form W-9 certifying that such Seller is a “U.S. person” and is not subject to United States backup withholding;
  - (viii) a certified copy of the Sale Order, which order has not been reversed or modified on appeal or, if any such appeal is pending, such order shall not have been stayed; and
  - (ix) all other documents, certificates, instruments or writings reasonably requested by the Buyer in connection herewith necessary to transfer the Acquired Assets to the Buyer.
- (b) At the Closing, the Buyer shall deliver to the Sellers, the following documents, consideration and other items, duly executed by the Buyer, as applicable:
- (i) the Purchase Price;
  - (ii) the Assignment and Assumption Agreement;
  - (iii) the Intellectual Property Assignment;
  - (iv) any Transition Services Agreement(s);
  - (v) a certificate to the effect that each of the conditions specified in Section 7.2(a) and Section 7.2(b) is satisfied in accordance with the terms thereof; and

(vi) a copy of the Buyer's certificate of incorporation, certificate of formation or other formation document certified as of a date on or soon before the Closing Date by the Secretary of State (or comparable governmental officer) of the respective jurisdictions of the Buyer's incorporation or organization.

**Section 2.11 Allocation.** As soon as reasonably practicable and in no event later than sixty (60) days after the Closing Date, the Buyer shall provide the Sellers with a draft allocation of the Purchase Price for federal income tax purposes, including any liabilities properly included therein among the Acquired Assets and the agreements provided for herein, for federal, state and local income tax purposes (the "Initial Allocation"). Within forty-five (45) days of the receipt of the Initial Allocation, the Sellers may deliver a written notice (the "Allocation Objection Notice") to the Buyer, setting forth in reasonable detail those items in the Initial Allocation that the Sellers dispute, if any. The Sellers may make reasonable inquiries of the Buyer and its accountants and Service Providers relating to the Initial Allocation, and the Buyer shall use reasonable efforts to cause any such accountants and Service Providers to cooperate with, and provide such requested information to, the Sellers in a timely manner. If prior to the conclusion of such forty-five (45)-day period, the Sellers notify the Buyer in writing that they will not provide any Allocation Objection Notice or if the Sellers do not deliver an Allocation Objection Notice within such forty-five (45)-day period, then the Buyer's proposed Initial Allocation shall be deemed final, conclusive and binding upon each of the Parties. Within thirty (30) days of the Sellers' delivery of the Allocation Objection Notice, the Sellers and the Buyer shall attempt to resolve in good faith any disputed items, and failing such resolution, the unresolved disputed items shall be referred for final binding resolution to a mutually agreeable accounting firm (the "Arbitrating Accountant"). The fees and expenses of the Arbitrating Accountant shall be paid fifty percent (50%) by the Buyer and fifty percent (50%) by the Sellers. Such determination by the Arbitrating Accountant shall be (i) in writing, (ii) furnished to the Buyer and the Sellers as soon as practicable (and in no event later than thirty (30) days after the items in dispute have been referred to the Arbitrating Accountant), (iii) made in accordance with the principles set forth in this Section 2.11, (iv) shall not assign a value to any disputed matter greater than the greatest value for such matter proposed by either party or less than the smallest value proposed for such matter by either party and (v) non-appealable and incontestable by the Buyer and the Sellers. As used herein, the "Allocation" means the allocation of the Purchase Price, the Assumed Liabilities and other related items among the Acquired Assets and the agreements provided for herein as finally agreed between the Buyer and the Sellers or ultimately determined by the Arbitrating Accountant, as applicable, in accordance with this Section 2.11. The Allocation shall be prepared in accordance with IRC Section 1060 and the treasury regulations promulgated thereunder (and any similar provision of state, local or foreign Law, as appropriate). The Buyer and the Sellers shall each report the federal, state and local income and other Tax consequences of the transactions contemplated hereby in a manner consistent with the Allocation, including, if applicable, the preparation and filing of Forms 8594 under IRC Section 1060 (or any successor form or successor provision of any future Tax Law) with their respective federal income Tax Returns for the taxable year which includes the Closing Date, and neither will take any position inconsistent with the Allocation unless otherwise required under applicable Law. The Sellers shall provide the Buyer

and the Buyer shall provide the Sellers with a copy of any information required to be furnished to the Secretary of the Treasury under IRC Section 1060.

**Section 2.12** Proration of Taxes and Other Items. Except as otherwise provided in this Agreement with respect to Tax items allocable to a particular Party, to the extent that any of the items listed below in this Section 2.12 are paid by the Sellers prior to the Closing or are payable by the Buyer or the Sellers after the Closing Date, such items shall be apportioned as of the Closing Date such that (i) the Sellers shall be liable for (and shall reimburse the Buyer to the extent that the Buyer shall pay) that portion of such of the foregoing relating or attributable to periods prior to the Closing Date; and (ii) the Buyer shall be liable (and shall reimburse the Sellers, to the extent the Sellers shall have paid) that portion of the foregoing relating or attributable to periods on or after the Closing Date. Should any amounts to be prorated not have been finally determined on the Closing Date, a mutually satisfactory estimate of such amounts made on the basis of the Sellers' records shall be used as a basis for settlement at the Closing, and the amount finally determined will be prorated as of the Closing Date and appropriate settlement made as soon as practicable after such final determination, with final settlement to be made no later than sixty (60) days after the Closing Date. The items to be prorated in accordance with this Section 2.12 shall include, only the following: (a) personal property, real estate, retail sales, occupancy and use Taxes, if any, on or with respect to the Business, the Acquired Assets and/or the Assumed Liabilities, except to the extent the date of the assessment of such Taxes falls before the Closing Date, in which case such Taxes shall be Excluded Liabilities; (b) payroll amounts and related Taxes during the payroll period that includes the Closing Date with respect to the Transferred Employees that remains unpaid as of the Closing (the "Unpaid Employee Amounts"); (c) lease payments under any Assumed Contract that is a Lease for the month in which the Closing occurs; and (d) insurance premiums of any policies acquired by the Buyer at the Closing. The Sellers and the Buyer agree to furnish each other with such documents and other records as each Party reasonably requests in order to confirm all adjustment and proration calculations made pursuant to this Section 2.12; provided that subject to the Sellers' compliance with this Section 2.12, the Buyer shall be responsible for and pay all Unpaid Employee Amounts.

### **ARTICLE III REPRESENTATIONS AND WARRANTIES OF THE SELLERS.**

The Sellers represent and warrant to the Buyer that except as set forth in the disclosure schedule accompanying this Agreement as of the date hereof and as of Closing (the "Disclosure Schedule"):

**Section 3.1** Organization of Each Seller; Good Standing.

(a) Each Seller is a limited liability company or corporation duly organized, validly existing and in good standing under the Laws of its jurisdiction of formation or incorporation.

(b) Each Seller has all requisite limited liability company or corporate power and authority to own, lease and operate its assets and to carry on the Business as currently conducted.



(c) Each Seller is duly authorized to do business and is in good standing as a foreign limited liability company or corporation in each jurisdiction where the ownership or operation of the Acquired Assets or the conduct of the Business requires such qualification, except for failures to be so authorized or be in such good standing, as would not, individually or in the aggregate, have a Material Adverse Effect.

(d) Except as set forth on Section 3.1(d) of the Disclosure Schedule, such Seller has no Subsidiaries. Except as set forth on Section 3.1(d) of the Disclosure Schedule, all outstanding equity interests of each Subsidiary of such Seller are held of record by such Seller and beneficially owned by such Seller, all outstanding equity interests of each Subsidiary, if any, of such Seller have been duly authorized and are fully paid and non-assessable. There are no outstanding or authorized, and there is no obligation of any Subsidiary of such Seller to issue or grant, any options, warrants, purchase rights, subscription rights, conversion rights, exchange rights, preemptive rights, redemption rights, repurchase rights, rights of first refusal or other rights, or Contracts that could require any Subsidiary of such Seller to issue, sell or otherwise cause to become outstanding or that otherwise relate to the equity interests of any Subsidiary of such Seller or to redeem or otherwise acquire any of its outstanding equity interests, or obligate any Subsidiary of such Seller to grant, extend or enter into any such agreements.

**Section 3.2** Authorization of Transaction. Subject to the Sale Order having been entered and still being in effect and not subject to any stay pending appeal at the time of Closing:

(a) Such Seller has all requisite limited liability company or corporate power and authority to execute and deliver this Agreement and all Related Agreements to which it is a party and to perform its obligations hereunder and thereunder; the execution, delivery and performance of this Agreement and all Related Agreements to which such Seller is a party have been duly authorized by such Seller, and no other limited liability company or corporate action on the part of such Seller is necessary to authorize this Agreement or the Related Agreements to which it is party or to consummate the transactions contemplated hereby or thereby; and

(b) This Agreement has been duly and validly executed and delivered by such Seller, and, upon execution and delivery in accordance with the terms of this Agreement, each of the Related Agreements to which such Seller is a party will have been duly and validly executed and delivered by such Seller. Subject to the approval of the Bankruptcy Court, this Agreement constitutes the valid and legally binding obligations of such Seller, enforceable against such Seller in accordance with its terms and conditions, subject to applicable bankruptcy, insolvency, moratorium or other similar Laws relating to creditors' rights and general principles of equity. Subject to the approval of the Bankruptcy Court, each Related Agreement to which such Seller is a party, when executed and delivered, constitutes or will constitute the valid and legally binding obligations of such Seller, as applicable, enforceable against such Seller in accordance with their respective terms and conditions, subject to applicable bankruptcy, insolvency, moratorium or other similar Laws relating to creditors' rights and general principles of equity.

**Section 3.3** Noncontravention; Consents and Approvals.

(a) Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby (including the assignments and assumptions referred to in Article II), will, subject to the Sale Order having been entered and still being in effect and not subject to any stay pending appeal at the time of Closing, (i) conflict with or result in a breach of the certificate of incorporation, certificate of formation, limited liability company agreement, by-laws or other organizational documents of such Seller, (ii) materially violate any Law to which such Seller is, or its respective assets or properties are, subject, or (iii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify or cancel or require any notice under any Contract to which such Seller is a party or by which it is bound or to which any of the Acquired Assets is subject, except as set forth on Section 3.3(a) of the Disclosure Schedule and in the case of clause (iii), for such violations, conflicts, breaches, defaults, accelerations, rights or failures to give notice that are not material to the Business, taken as a whole.

(b) Each Seller has complied in all material respects with all applicable Laws and Governmental Approvals in connection with the execution, delivery and performance of this Agreement, the Related Agreements and the transactions contemplated hereby and thereby. Subject to the Sale Order having been entered and still being in effect and not subject to any stay pending appeal at the time of Closing and except as set forth on Section 3.3(b) of the Disclosure Schedule, no Consent, notice or filing is required to be obtained by such Seller from, or to be given by such Seller to, or made by such Seller with, any Governmental Entity in connection with the execution, delivery and performance by such Seller of this Agreement or any Related Agreement. Subject to the Sale Order having been entered and still being in effect (and not subject to any stay pending appeal at the time of Closing) and except as set forth on Section 3.3(b) of the Disclosure Schedule, failure to obtain a Consent, notice or filing required to be obtained by such Seller from, or to be given by such Seller to, or made by such Seller with, any Person that is not a Governmental Entity in connection with the execution, delivery and performance by such Seller of this Agreement or any Related Agreement would not, individually, or in the aggregate, be material to the Business, taken as a whole.

**Section 3.4** Title to Acquired Assets. Such Seller has good and valid title to, or, in the case of leased assets, has good and valid leasehold interests in, the Acquired Assets, and at the Closing will convey the Acquired Assets free and clear of all Liens (except for Permitted Liens).

**Section 3.5** Contracts.

(a) Section 3.5(a) of the Disclosure Schedule sets forth a true, correct and complete list of all Material Contracts to which any Seller is a party and copies of all such Contracts and all other Contracts or instruments entered into or delivered in connection therewith, as amended through the date hereof, have been delivered to or made available to the Buyer. Section 3.5(a) of the Disclosure Schedule specifically identifies the following Contracts related to the Business to which such Seller is a party with respect to the Business

or by which the Business is bound (each item disclosed or required to be disclosed on Section 3.5(a) of the Disclosure Schedule, a “Material Contract”):

(i) any Contract for the lease of personal property to or from any Person providing for lease payments in excess of \$35,000 per annum;

(ii) any Contract for the purchase or sale of equipment, supplies, products, goods on order, Inventory (as defined in the UCC) or other personal property, the performance of which will extend over a period of more than six months after the Closing Date or involves consideration in excess of \$35,000 per annum;

(iii) any Contract, excluding any employment Contract, for services, including services performed by any Service Provider involving consideration in excess of \$35,000 per annum;

(iv) any employment Contract providing for services performed by any Service Provider involving consideration in excess of \$50,000 per annum;

(v) any Contract that is a collective bargaining agreement;

(vi) any licenses, sublicenses and security interests or Liens of Intellectual Property to or from any Person (other than licenses for commercially available, off-the-shelf, or click-wrap software);

(vii) any Contract prohibiting such Seller from freely engaging in any material business (other than pursuant to any radius restriction contained in any lease, reciprocal easement or development, construction, operating or similar agreement);

(viii) any Contract relating to Indebtedness;

(ix) any Contract (including the Leases) that involves the lease of real property or that obligates such Seller to purchase real property;

(x) any Contract granting to any Person an option or a first refusal, first-offer, or similar preferential right to purchase or acquire any of the Acquired Assets;

(xi) any Contract that creates or governs a partnership, joint venture, strategic alliance or similar arrangement; and

(xii) any Contract with any Related Party.

(b) Each Material Contract is valid and binding on the Seller party thereto in accordance with its terms and is in full force and effect. Except as set forth on Section 3.5 of the Disclosure Schedule, none of the Sellers or, to the Sellers’ Knowledge, any other party thereto is in breach of or default under (or is alleged to be in breach of or default under), or has provided or received any notice of any intention to terminate, any Material

Contract. The Sellers have not made an assignment or transfer of any of their rights under any of the Material Contracts, except collateral assignments to secured lenders that are to be released at or prior to Closing. Sellers have provided Buyer with true, correct and complete copies (including all modifications thereof) of the Assumed Contracts.

**Section 3.6** Legal Compliance. Such Seller is in compliance in all material respects with all Laws applicable to the Business or the Acquired Assets. In the past twelve (12) months, and to the Knowledge of the Sellers, in the past thirty six (36) months, no Seller has received any written notice of, the material violation of any applicable Laws. In the past thirty six (36) months, to the Knowledge of the Sellers, no event has occurred or circumstances exist that (with or without notice, passage of time or both) would constitute or result in a failure by Sellers to comply, in any material respect, with any applicable Law. No investigation in relation to any actual or alleged material violation of applicable Law by Sellers is pending, or to the Knowledge of the Sellers, threatened, nor in the past twelve (12) months have Sellers received any written notice from any Governmental Entity indicating an intention to conduct the same.

**Section 3.7** Litigation. Except as set forth on Section 3.7 of the Disclosure Schedule, there currently is no, in the past twelve (12) months there has been no, and to the Knowledge of the Sellers in the past thirty six (36) months there has been no, Litigation pending or, to the Knowledge of the Sellers, threatened, before any Governmental Entity brought by or against such Seller, whether on an individual or a class-action basis, and including any investigations by any attorney general or similar office on behalf of any Governmental Entity, that, if adversely determined, would be material to the Business or materially impair such Seller's ability to consummate the transactions contemplated hereby or by the Related Agreements.

**Section 3.8** Environmental, Health and Safety Matters.

(a) The Sellers are, for the past twelve (12) months have been, and to the Knowledge of the Sellers for the past thirty six (36) months have been, except as set forth on Section 3.8 of the Disclosure Schedule, in compliance with all applicable Environmental, Health and Safety Requirements with respect to the Leased Real Property, except in any such case where the failure to be in compliance would not have a Material Adverse Effect, and there are no material Liabilities under any Environmental, Health and Safety Requirements with respect to the Business.

(b) Except as set forth on Section 3.8 of the Disclosure Schedule, since January 1, 2020, such Seller has not received any written notice or report regarding any violation of Environmental, Health and Safety Requirements or any Liabilities relating to the Business or any Leased Real Property arising under Environmental, Health and Safety Requirements. There are no Decrees outstanding, or any Litigations pending or, to the Knowledge of the Sellers, threatened, relating to compliance with or Liability under any Environmental, Health and Safety Requirements affecting the Business or any Leased Real Property.

(c) Such Seller has made available to the Buyer such environmental reports, documents, studies, analyses, investigations, audits and reviews in such Seller's possession

as necessary to reasonably disclose to the Buyer any material environmental, health or safety liability known to such Seller with respect to the Leased Real Property.

**Section 3.9** Employees and Employment Matters.

(a) Such Seller is not a party to or bound by any collective bargaining agreement covering the Transferred Employees, nor, for the past twelve (12) months or to the Knowledge of the Sellers, for the past thirty six (36) months, has any of them experienced any strike, walkout, work stoppage or other collective bargaining dispute with respect to the Business. There are no unfair labor practice proceedings, discrimination or civil rights complaints pending or, to the Knowledge of the Sellers, threatened in writing between the Sellers and any of the current or former Employees or any labor or other collective bargaining unit representing any current or former Employees that would reasonably be expected to result in any material Liability. Within the twelve (12) months prior to the date hereof, such Seller has not implemented any plant closings or layoffs (as such terms are defined under the WARN Act) of its current or former Employees. Except as set forth on Section 3.9(a) of the Disclosure Schedule, Seller is not a party to any pending, or, to the Knowledge of the Sellers, threatened employment-related matters, and is in material compliance with all employment Laws.

(b) Except as set forth on Section 3.9(b) of the Disclosure Schedule, there are no written employment contracts or severance agreements with any Transferred Employees.

(c) Section 3.9(c) of the Disclosure Schedule sets forth, as of the date hereof, an accurate census of the existing workforce including name, title, compensation, classification as exempt, non-exempt, remote status, direct employee, hire date, and leave status.

**Section 3.10** Employee Benefit Plans.

(a) Section 3.10 of the Disclosure Schedule lists each material Employee Benefit Plan. With respect to each such Employee Benefit Plan:

(i) such plan, if intended to meet the requirements of a “qualified plan” under Section 401(a) of the IRC, has received a favorable determination letter from the United States Internal Revenue Service or may rely on a favorable opinion letter issued by the United States Internal Revenue Service; and

(ii) Such Seller has made available to the Buyer summaries of all such Employee Benefit Plans.

(b) Each Employee Benefit Plan has been established, funded, maintained and administered, in each case, in all material respects, in accordance with its terms and all applicable Laws. There is no material pending or, to the Knowledge of the Sellers, threatened, Litigation relating to the Employee Benefit Plans. Such Seller does not maintain, sponsor or contribute to, and has not maintained, sponsored or contributed to and does not have any Liability (contingent or otherwise) with respect to any of the following:

(i) any plan subject to Title IV of ERISA, Section 302 of ERISA or Section 412 of the IRC, (ii) any “multiemployer plan” (as defined in Section 3(37) of ERISA), (iii) any “multiple employer plan” (as defined in Section 413(c) of the IRC), or (iv) any “multiple employer welfare arrangement” (as defined in Section 3(40) of ERISA).

**Section 3.11** Leased Real Property. Section 3.11 of the Disclosure Schedule sets forth the address of each Leased Real Property, the lease commencement date, current expiration date, and a true and complete list of all Leases for such Leased Real Property. Such Seller has made available to the Buyer true and complete copies of such Leases. With respect to each of the Leases and the Leased Real Property:

(a) such Lease is legal, valid, binding, enforceable and in full force and effect against such Seller subject to proper authorization and execution of such Lease by the other party thereto and the application of any bankruptcy or other creditor’s rights Laws;

(b) other than as set forth on Section 3.11 of the Disclosure Schedule, except as to the pendency of Sellers’ Chapter 11 Cases, such Seller is not in breach or default under such Lease; and

(c) each portion of the buildings, structures and appurtenances, fixtures and building systems constituting any of the Leased Real Property (A) is in good operating condition (ordinary wear and tear excepted), (B) to the Knowledge of the Sellers, has received all certificates of occupancy, permits, licenses, authorizations and other approvals as required by applicable Laws and (C) has been maintained by the member of the Sellers’ party thereto in all material respects in accordance with the applicable Leases, in each case, except as would not be material to the Sellers taken as a whole. There does not exist any pending or, to the Knowledge of the Sellers, threatened condemnation or eminent domain proceeding with respect to any of the Leased Real Property.

**Section 3.12** Permits. Section 3.12 of the Disclosure Schedule contains a list of all material Permits (other than building/construction permits pulled by the Sellers with respect to individual jobs) that such Seller holds in connection with the operations of the Business and whether such Permits are Assumable Permits. All material Permits required for Sellers to conduct the Business as currently conducted by Sellers are valid and in full force and effect. For the past thirty six (36) months, to the Knowledge of the Sellers, they have not received notice that any event has occurred that, would reasonably be expected to result in the revocation, cancellation, adverse modification, suspension, lapse, limitation, or non-renewal of any Permit or Permits that, individually or in the aggregate, are material to the operation of the Business as currently conducted by the Sellers. Sellers are currently in compliance in all material respects, with all Permits that, individually or in the aggregate, are material to the operation of the Acquired Assets and the Business as currently conducted by the Sellers and have made all appropriate filings for issuance or renewal of all HVAC Licenses. No Litigation is pending or, to the Knowledge of the Sellers, threatened to terminate, revoke, limit, cancel, suspend or modify any Permit or Permits that, individually or in the aggregate, are material to the operation of the Acquired Assets and the Business as currently conducted by the Sellers, and Sellers have not received written notice from any Governmental Entity that (i) any such Permit will be revoked or not reissued on the same or similar terms, (ii) any application for any new Permit by Sellers or renewal of any Permit or



Permits that, individually or in the aggregate, are material to the operation of the Acquired Assets and the Business as currently conducted by the Sellers will be denied, or (iii) the Permit holder is in material violation of any Permit or Permits that, individually or in the aggregate, are material to the operation of the Acquired Assets and the Business as currently conducted by the Sellers.

**Section 3.13 Insurance.** Section 3.13 of the Disclosure Schedule contains a list of all material, primary, excess and umbrella insurance policies, bond and other forms of material insurance owned or held by or on behalf, or providing insurance coverage to the Business, such Seller and its operations, properties and assets (collectively, the “Insurance Policies”), excluding director and officer, fiduciary or executive liability policies. The term “Insurance Policies” does not include policies of insurance that fund or relate to any Employee Benefit Plan. To the Knowledge of the Sellers, all of the Insurance Policies are in full force and effect and no written notice of cancellation or termination has been received by the Sellers with respect to any of the Insurance Policies.

**Section 3.14 Absence of Changes.** Except as set forth on Section 3.14 of the Disclosure Schedule, except with respect to the Sellers’ Chapter 11 Cases, since January 1, 2024, the Business has been conducted only in the Ordinary Course of Business, and there is no state of facts, change, event, effect, development, condition, circumstance or occurrence that has occurred or, to the Knowledge of the Sellers, been threatened that (when taken together with all other states of fact, changes, events, effects, developments, conditions, circumstances or occurrences) has had or is reasonably likely to have, a Material Adverse Effect.

**Section 3.15 Intellectual Property.** Section 3.15(a) of the Disclosure Schedule sets forth a true and complete list of all Intellectual Property owned by such Seller, or primarily used in the Business, that is an issued patent, registration or an application for a patent or registration; registered trademark; material unregistered trademark; domain name; and software owned by such Seller (collectively, Sellers’ Intellectual Property is referred to herein as the “Intellectual Property Assets”). In addition, Section 3.15(b) of the Disclosure Schedule sets forth a true and complete list of all material Intellectual Property used by each such Seller (other than licenses for commercially available, off-the-shelf or click-wrap software). All Intellectual Property and all rights therein or associated therewith are valid and enforceable, and not subject to any security interest or Lien by any Person, except for any security interest or Lien disclosed in Section 3.5(a) of the Disclosure Schedule. The use and commercial exploitation of the Intellectual Property Assets has not infringed or otherwise violated, and does not infringe or otherwise violate, any Intellectual Property of any other Person and, to the Sellers’ Knowledge, no Person is infringing or otherwise violating the Intellectual Property Assets of the Sellers.

**Section 3.16 Data Privacy and Security.**

(a) The Sellers own or have valid rights to access and use the Company IT Systems. The Company IT Systems (i) are adequate for, and operate and perform in all material respects as required in connection with, the operation of the business of the Sellers as currently conducted, and (ii) to the Knowledge of the Sellers, do not contain any viruses, worms, trojan horses, bugs, faults or other devices, errors, contaminants or effects that (A) could materially disrupt or adversely affect the functionality of any Company IT Systems,

except as disclosed in their documentation, or (B) permit any Person to access without authorization any Company IT Systems.

(b) The Sellers are in compliance in all material respects with all Data Protection Requirements applicable to the Business. To the Knowledge of Sellers, the transactions contemplated by this Agreement will not violate any privacy statements, contractual obligations of the Sellers, Data Protection Requirements, or other applicable Law. In the past three (3) years, the Sellers have not (i) experienced any actual, alleged, or suspected data breach, unauthorized access, or other security incident involving Personal Information in its possession or control or (ii) received any written notice of any audit, investigation, complaint, or other action by any Governmental Entity or other Person concerning the Seller's collection, use, processing, storage, transfer, or protection of Personal Information or actual, alleged, or suspected violation of any applicable Data Protection Requirement.

(c) None of the Seller's privacy statements or disclosures have been or are misleading or deceptive in any material respects. The Sellers are not subject to any Contract that would prevent the Sellers, Buyer, or any of their Affiliates from using any data or Personal Information in a manner consistent with any Data Protection Requirement, other Law, or industry standards regarding the collection, retention, use, or disclosure of such information. To the Knowledge of the Sellers, to the extent that data of any individual is held or controlled by the Sellers based on such individual's consent, the consent obtained and maintained by the Sellers meets all legal and contractual obligations such that, after the consummation of the transactions contemplated by this Agreement, the individuals' consent is legally valid with regard to Buyer and any of its Affiliates.

**Section 3.17 Taxes.** Each Seller has complied with all laws relating to Taxes in all material respects. Each Seller has timely filed all income and other material Tax Returns required to be filed by it and all such Tax Returns were true, correct and complete in all respects. All Taxes due and owing by the Sellers have been timely paid in full. Each Seller has properly withheld and timely remitted to proper taxing authority all Taxes (including sales Taxes) it is required to withhold from amounts owing to employees, equity owners, creditors, agents independent contractors, purchasers, non-residents, or otherwise. There are no Liens for Taxes (other than Liens for taxes not yet due and payable) on any of the Acquired Assets. There are no Tax audits, assessments or other actions in process or pending with respect to any Seller. No Seller has (i) received from any Governmental Entity any Tax ruling, administrative relief, technical advice or change of method of accounting relating to or affecting the Business, Acquired Assets or Transferred Employees or made any request therefor that is still pending or (ii) executed or entered into a closing agreement relating to or affecting the Business, Acquired Assets or Transferred Employees including pursuant to Section 7121 of the IRC or any predecessor provision thereof or any similar provision of any Law. No Seller has engaged in a reportable transaction as defined in Treasury Regulations Section 1.6011-4 or any "listed transaction" within the meaning of Section 6707A(c)(2) of the Code and Treasury Regulations Section 1.6011-4(b)(2). No Seller has received a written claim from a Governmental Entity in a jurisdiction in which it does not file a Tax Return that it may be subject to taxation by (or required to file a Tax Return in) that jurisdiction that has not yet been settled or otherwise resolved. No Seller has waived any statute of limitations in respect of Taxes or agreed to any extension of time with respect to a Tax assessment or deficiency,



which waiver or extension is currently effective, nor has any Seller made any request in writing for any such extension or waiver that is currently outstanding.

**Section 3.18** Broker. Except for Jefferies, LLC, all of whose fees and expenses will be borne solely by Sellers, there is, other than as set forth on Schedule 3.18 of the Disclosure Schedule hereto, no investment banker, broker, finder, financial advisor or other intermediary which has been retained by or is authorized to act on behalf of Sellers that might be entitled to any fee, commission or similar compensation in connection with the transactions contemplated by this Agreement.

**Section 3.19** No Other Representations or Warranties. Except for the representations and warranties contained herein (as qualified, amended, supplemented and modified by the Disclosure Schedule), neither such Seller nor any other Person on behalf of such Seller makes (and the Buyer is not relying upon) any other express or implied representation or warranty with respect to such Seller, the Business, the Acquired Assets, the Assumed Liabilities or the transactions contemplated by this Agreement, and such Seller disclaims any other representations or warranties, whether made by such Seller, any other Seller, any Affiliate of any Seller or any of their respective officers, directors, employees, agents or Representatives. Except for the representations and warranties contained herein (as qualified, amended, supplemented and modified by the Disclosure Schedule), such Seller (i) expressly disclaims and negates any representation or warranty, express or implied, at common law, by statute or otherwise, relating to the condition of the Acquired Assets (including any implied or expressed warranty of title, merchantability or fitness for a particular purpose) and (ii) disclaims all liability and responsibility for any representation, warranty, projection, forecast, statement or information made, communicated or furnished (orally or in writing) to the Buyer or its Affiliates or Representatives (including any opinion, information, projection or advice that may have been or may be provided to the Buyer by any director, officer, employee, agent, consultant or Representative of such Seller). The disclosure of any matter or item in the Disclosure Schedule shall not be deemed to constitute an acknowledgment that any such matter is required to be disclosed or is material or that such matter would result in a Material Adverse Effect.

#### **ARTICLE IV REPRESENTATIONS AND WARRANTIES OF THE BUYER**

The Buyer represents and warrants to the Sellers as of the date hereof and as of the Closing as follows:

**Section 4.1** Organization of the Buyer. The Buyer is a corporation duly incorporated, validly existing and in good standing under the Laws of the State of Delaware and has all requisite corporate power and authority to own, lease and operate its assets and to carry on its business as now being conducted.

**Section 4.2** Authorization of Transaction.

(a) The Buyer has full power and authority to execute and deliver this Agreement and all Related Agreements to which it is a party and to perform its obligations hereunder and thereunder.

(b) The execution, delivery and performance of this Agreement and all other Related Agreements to which the Buyer is a party have been duly authorized by the Buyer, and no other corporate action on the part of the Buyer is necessary to authorize this Agreement or the Related Agreements to which it is a party or consummate the transactions contemplated hereby or thereby.

(c) This Agreement has been duly and validly executed and delivered by the Buyer, and, upon execution and delivery of the Related Agreements in accordance with the terms of this Agreement, each of the Related Agreements to which the Buyer is a party will have been duly and validly executed and delivered by the Buyer. Subject to the approval of the Bankruptcy Court, this Agreement constitutes a valid and legally binding obligation of the Buyer, enforceable against the Buyer in accordance with its terms and conditions, subject to applicable bankruptcy, insolvency, moratorium or other similar Laws relating to creditors' rights and general principles of equity. Subject to the approval of the Bankruptcy Court, each Related Agreement to which the Buyer is a party, when executed and delivered, constitutes or will constitute the valid and legally binding obligations of the Buyer, enforceable against the Buyer in accordance with the respective terms and conditions or the Related Agreements, subject to applicable bankruptcy, insolvency, moratorium or other similar Laws relating to creditors' rights and general principles of equity.

**Section 4.3** Noncontravention. Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby (including the assignments and assumptions referred to in Article II), will (i) conflict with or result in a breach of the certificate of incorporation, bylaws company agreement, or other organizational documents of the Buyer, (ii) subject to any consents required to be obtained from any Governmental Entity, violate any Law to which the Buyer is, or its assets or properties are subject, or (iii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify or cancel, or require any notice under any Contract to which the Buyer is a party or by which it is bound, except, in the case of either clause (ii) or (iii), for such conflicts, breaches, defaults, accelerations, rights or failures to give notice as would not, individually or in the aggregate, reasonably be expected to prevent, materially delay or materially impair the ability of the Buyer to consummate the transactions contemplated by this Agreement or by the Related Agreements.

**Section 4.4** Litigation. As of the date hereof, (i) the Buyer is not subject to any outstanding Decree and (ii) the Buyer is not a party or, to the Knowledge of the Buyer, received any credible, written threat that it will be made a party to any Litigation, in either case, which would be reasonably likely to materially prevent, restrict or delay the consummation of the transactions contemplated hereby or by any Related Agreement.

**Section 4.5** Brokers' Fees. Neither the Buyer nor any of its Affiliates has entered into any Contract to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement for which Seller could become liable or obligated to pay.

**Section 4.6** Financial Capacity. The Buyer (a) will have at the Closing the resources (including sufficient funds available to pay the Purchase Price and any other expenses and

payments incurred by the Buyer in connection with the transactions contemplated by this Agreement) and capabilities (financial or otherwise) to perform its obligations hereunder, and (b) has not incurred any obligation, commitment, restriction or Liability of any kind, that would reasonably be expected to impair or adversely affect such resources and capabilities.

**Section 4.7** Condition of the Business. Notwithstanding anything contained in this Agreement to the contrary, the Buyer acknowledges and agrees that the Sellers are not making any representations or warranties whatsoever, express or implied, beyond those expressly set forth in this Agreement (as amended, supplemented and modified by the Disclosure Schedule), and the Buyer acknowledges and agrees that, except for the representations and warranties contained therein, the Acquired Assets and the Business are being transferred on a “where is” and, as to condition, “as is” basis. In entering into this Agreement, the Buyer is solely relying upon the Buyer's own due diligence investigation and examination of the Acquired Assets and the Assumed Liabilities and the express representations and warranties set forth in this Agreement. Any claims the Buyer or any of its Affiliates may have for breach of representation or warranty shall be based solely on the representations and warranties set forth in this Agreement (as amended, supplemented and modified by the Disclosure Schedule). The Buyer further represents that no Seller has made, and the Buyer is not relying upon, any representation or warranty, express or implied, as to the accuracy or completeness of any information regarding any Seller, the Business or the transactions contemplated by this Agreement not expressly set forth in this Agreement, and no Seller will have or be subject to any liability to the Buyer resulting from the distribution to the Buyer or any of its Representatives or the Buyer's use of any such information. Notwithstanding anything to the contrary, nothing in this Section 4.7 shall be deemed to constitute a waiver by the Buyer of gross negligence, bad faith or willful misconduct on the part of any Seller or any Seller's Affiliates, Related Parties or Representatives.

**Section 4.8** Adequate Assurances Regarding Executory Contracts. The Buyer as of the Closing will be capable of satisfying the conditions contained in sections 365(b)(1)(C) and 365(f) of the Bankruptcy Code with respect to the Assumed Contracts.

**Section 4.9** Good Faith Purchaser. The Buyer is a “good faith” purchaser, as such term is used in the Bankruptcy Code and court decisions thereunder. The Buyer is entitled to the protections of section 363(m) of the Bankruptcy Code with respect to all of the Acquired Assets. The Buyer has negotiated and entered into this Agreement in good faith and without collusion or fraud of any kind.

## **ARTICLE V PRE-CLOSING COVENANTS**

The Parties agree as follows with respect to the period between the execution of this Agreement and the Closing (except as otherwise expressly stated to apply to a different period):

**Section 5.1** Certain Efforts; Cooperation. Subject to the Sellers' rights in connection with pursuing an Alternative Transaction pursuant to, and in accordance with, the Bidding Procedures Order, each of the Parties shall use commercially reasonable best efforts to obtain entry of the Bidding Procedures Order and Sale Order and to make effective the transactions contemplated by this Agreement on or prior to the End Date, except as otherwise provided in

Section 5.2 or as otherwise expressly provided in this Agreement. Without limiting the generality of the foregoing, each of the Parties shall use commercially reasonable best efforts not to take any action, or permit any of its Subsidiaries to take any action, to materially diminish the ability of any other Party to consummate, or materially delay any other Party's ability to consummate, the transactions contemplated hereby, including taking any action that is intended or would reasonably be expected to result in any of the conditions to any other Party's obligations to consummate the transactions contemplated hereby set forth in Article VII to not be satisfied.

**Section 5.2** Notices and Consents. To the extent required by the Bankruptcy Code or the Bankruptcy Court, the Sellers shall give any notices to third parties, and the Sellers shall use commercially reasonable best efforts to obtain any third-party consents or sublicenses, in connection with the matters referred to in Section 5.2 of the Disclosure Schedule.

**Section 5.3** Bankruptcy Actions.

(a) The Sellers shall use commercially reasonable best efforts to cause each of Bidding Procedures Order and Sale Order to be issued, entered and become a Final Order, including furnishing affidavits, declarations or other documents or information for filing with the Bankruptcy Court.

(b) The Sellers shall provide appropriate notice of the hearings on the Bidding Procedures and Sale Motion, as is required by the Bankruptcy Code and the Bankruptcy Rules to all Persons entitled to notice, including all Persons that have asserted Liens in the Acquired Assets, all parties to Contracts and Leases and all Taxing and environmental authorities in jurisdictions applicable to any Seller. The Sellers shall be responsible for making all appropriate filings relating thereto with the Bankruptcy Court.

(c) Following entry of the Bidding Procedures Order, the Sellers shall serve a cure notice (the "Cure Notice") on all non-debtor counterparties to all Contracts and Leases and provide a copy of the same to the Buyer pursuant to the procedures approved in the Bidding Procedures Order. The Cure Notice shall inform each recipient that its respective Contract or Lease may be designated by the Buyer as either assumed or rejected, and the timing and procedures relating to such designation, and, to the extent applicable (i) the title of the Contract or Lease, (ii) the name of the counterparty to the Contract or Lease, (iii) the applicable Seller's good-faith estimates of the Cure Amounts required in connection with such Contract or Lease, (iv) the identity of the Buyer, and (v) the deadline by which any such Contract or Lease counterparty may file an objection to the proposed assumption and assignment and/or cure, and the procedures relating thereto.

(d) The Bidding Procedures Order shall be approved by the Bankruptcy Court on or before fifty (50) days following the Petition Date.

(e) Without limiting its other obligations under this Agreement, the Sellers shall promptly take such actions as are reasonably requested by the Buyer to assist in obtaining entry of the Sale Order, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court.

(f) Without limiting its other obligations under this Agreement, the Buyer shall promptly take such actions as are reasonably requested by the Sellers to assist in obtaining entry of the Sale Order, including a finding of adequate assurance of future performance by the Buyer, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court.

(g) If an appeal is taken, or petition for certiorari or motion for rehearing or re-argument filed, or a stay pending appeal is requested from either the Bidding Procedures Order or the Sale Order, the Sellers will notify the Buyer of such appeal, petition, motion or stay request and the Sellers, with input from the Buyer, will take all reasonable steps to defend against such appeal, petition, motion or stay request.

**Section 5.4** Conduct of Business. Except as may be (i) required by the Bankruptcy Court, the Bankruptcy Code, or applicable Law, or (ii) agreed to in writing by the Buyer, from the date hereof until the Closing, the Sellers shall:

(a) use commercially reasonable best efforts to (i) preserve their goodwill and relationships with employees, customers, and suppliers and (ii) purchase and maintain their inventory, supplies, insurance and spare parts in the Ordinary Course of Business;

(b) use commercially reasonable best efforts to operate the Business in the Ordinary Course of Business, including maintaining levels of insurance and performing maintenance and repairs, in each case, are required to comply with applicable Law;

(c) not implement any plant closings or layoffs (as such terms are defined under the WARN Act) of its Employees;

(d) not, without the prior written consent of the Buyer, which shall not be unreasonably withheld, conditioned or delayed, other than in connection with Sellers' Chapter 11 Cases, (1) enter into, modify or terminate any Assumed Contracts outside of the Ordinary Course of Business; (2) dispose of any material assets outside of the Ordinary Course of Business; or (3) other than as required by applicable Law or in the Ordinary Course of Business, (x) materially modify the compensation of any employees (other than retention bonuses, transaction expenses or other expenses paid to Sellers as part of the Purchase Price or as contemplated by any Employee Benefit Plan); (y) adopt any new benefit plans; (z) enter into, materially modify or terminate (other than for cause) written employment Contract; or (aa) engage in any affiliated transactions;

(e) pay all administrative claims in the Ordinary Course of Business;

(f) maintain in effect all material Permits;

(g) not amend their articles of incorporation, bylaws or other similar organizational documents (whether by merger, consolidation or otherwise) in a manner materially adverse to the Buyer;

(h) not split, combine or reclassify their shares of capital stock or membership interests or declare, set aside or pay any dividend or other distribution (whether in cash, stock or property or any combination thereof) in respect thereof;

(i) not change their methods of accounting (including for Tax purposes), except as required by concurrent changes in GAAP;

(j) not file any amended Tax Returns, not make or change any material Tax elections;

(k) timely file all Tax Returns and pay all Taxes which are both incurred and due after the filing of the Sellers' Chapter 11 Cases as and when they become due (for the avoidance of doubt, Sellers shall have no obligation to pay any pre-petition claims unless payable pursuant to a Chapter 11 plan confirmed in the Sellers' Chapter 11 Cases);

(l) not waive or release any material right or claim of the Business (other than any right or claim to the extent relating to any Excluded Assets or Excluded Liabilities), other than in the Ordinary Course of Business or as otherwise secured through a court order;

(m) not incur or suffer to exist any indebtedness for borrowed money except any such indebtedness that is an Excluded Liability or as otherwise secured through a court order;

(n) not acquire, by merger or consolidation with, or by purchase of all or a substantial portion of the assets or stock of, or by any other manner, any business or entity, make any investment in any Person or enter into any joint venture, partnership or other similar arrangement for the conduct of the Business;

(o) not mortgage or pledge any of the Acquired Assets or subject any Acquired Assets to any Lien, other than Permitted Liens as otherwise secured through a court order; or

(p) not agree to take any of the foregoing actions or support any other Person to take any of the foregoing actions.

**Section 5.5** Notice of Developments. From the date hereof until the Closing Date, the Sellers shall promptly disclose to the Buyer, on the one hand, and the Buyer shall promptly disclose to the Sellers, on the other hand, in writing after attaining Knowledge of (i) the occurrence or non-occurrence of any event or the existence of any fact or condition that would cause or constitute a breach of any of its representations or warranties had any such representation or warranty been made as of the time of such Party's discovery of such event, fact or condition and (ii) any material failure on its part to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it hereunder; provided, however, that the delivery of any notice pursuant to this Section 5.5 shall not limit or otherwise affect the remedies available to the Party receiving such notice under this Agreement.



**Section 5.6** Access. Upon reasonable advance written request by the Buyer, the Sellers shall permit the Buyer and its Representatives to have reasonable access during normal business hours, and in a manner so as not to interfere unreasonably with the normal business operations of the Sellers, to all premises, properties, personnel, Records, Contracts and Leases related to the Sellers, in each case, for the sole purpose of evaluating the Business; provided, however, that, for avoidance of doubt, the foregoing shall not require any Party to waive, or take any action with the effect of waiving, its attorney-client privilege or any confidentiality obligation to which it is bound with respect thereto or take any action in violation of applicable Law.

**Section 5.7** Bulk Transfer Laws. Each Seller shall ensure that the Sale Order shall provide either that (a) such Seller has complied with any applicable bulk sale or bulk transfer Laws of any jurisdiction in connection with the transactions contemplated by this Agreement or (b) compliance with such Laws described in clause (a) is not necessary under the circumstances. The Parties intend that pursuant to section 363(f) of the Bankruptcy Code, the transfer of the Acquired Assets shall be free and clear of any Liens other than Permitted Liens in the Acquired Assets to the maximum extent permitted by Law, including any Liens arising out of the bulk transfer Laws, and the Parties shall take such steps as may be necessary or appropriate to so provide in the Sale Order.

**Section 5.8** Post-Closing Operation of the Sellers. The Sellers hereby acknowledge and agree that upon the consummation of the transactions contemplated hereby, the Buyer shall have the sole right to the use of the names set forth on Exhibit E or similar or other relevant names or any service marks, trademarks, trade names, identifying symbols, logos, emblems or signs containing or comprising the foregoing, including any name or mark confusingly similar thereto (collectively, the “Assumed Trade Names”). After the Closing Date, none of the Sellers nor any of their respective Affiliates shall use the name or mark set forth on Exhibit E or any derivatives thereof or other relevant names or service marks (collectively, the “Assumed Marks”). Within ninety (90) days after the Closing, the Sellers and their respective controlled Affiliates shall promptly file with the applicable Governmental Entities all documents reasonably necessary to delete from their names the Assumed Trade Names and/or Assumed Marks shall do or cause to be done all other acts, including the payment of any fees required in connection therewith, to cause such documents to become effective as promptly as reasonably practicable. Notwithstanding the foregoing, Sellers shall retain the right to use such Assumed Trade Names/Assume Marks through the date of the Final Decree in the Sellers’ Chapter 11 Cases.

**Section 5.9** Transfer of Permits. From and after the date hereof, and for up to 30 days after the Closing Date (subject to the prior entry by the Bankruptcy Court of an order confirming a Chapter 11 plan or dismissing all of the Sellers’ Chapter 11 Cases) the Sellers, shall reasonably cooperate to transfer to the Buyer as of the Closing Date (or as soon as reasonably practicable thereafter) all Permits included in the Acquired Assets; provided, that the Buyer shall compensate the Sellers for any reasonable, out-of-pocket, non-fixed costs with respect to the foregoing.

**Section 5.10** Bankruptcy Court Approval. The Buyer and the Sellers acknowledge that, under the Bankruptcy Code, the sale of Acquired Assets is subject to approval of the Bankruptcy Court. The Buyer and the Sellers acknowledge that to obtain such approval, the Sellers must demonstrate that they have taken reasonable steps to obtain the highest or best value possible for the Acquired Assets, including giving notice of the transactions contemplated by this Agreement

to creditors and other interested parties as ordered by the Bankruptcy Court, providing information about the Acquired Assets to prospective bidders, entertaining higher or better offers from qualified bidders and, if necessary, conducting an Auction and selling the Acquired Assets to another qualified bidder.

## **ARTICLE VI OTHER COVENANTS**

The Parties agree as follows with respect to the period from and after the Closing:

**Section 6.1** Cooperation. Each of the Parties shall cooperate with each other, and shall use their commercially reasonable best efforts to cause their respective Representatives to cooperate with each other to provide an orderly transition of the Acquired Assets, and Assumed Liabilities from the Sellers to the Buyer and to minimize the disruption to the Business resulting from the transactions contemplated hereby. Subject to the terms and conditions herein provided, each of the Buyer, the Sellers and Solutions shall use commercially reasonable best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things reasonably necessary, proper or advisable under applicable Law to consummate and make effective as promptly as practicable the transactions contemplated by this Agreement (including the satisfaction, but not waiver, of the closing conditions set forth in Article VII). The Sellers shall (i) provide any information necessary or reasonably requested to allow the Buyer to comply with any information reporting or withholding requirements contained in the IRC or other applicable Laws or to compute the amount of payroll or other employment Taxes due with respect to any payment made in connection with this Agreement; and (ii) provide certificates or forms, and timely execute any Tax Return, that are necessary or appropriate to establish an exemption for (or reduction in) any Transfer Tax.

**Section 6.2** Further Assurances. In case at any time from and after the Closing Date any further action is necessary or reasonably required to carry out the purposes of this Agreement, subject to the terms and conditions of this Agreement and the terms and conditions of the Sale Order, at any Party's request and at the requesting Party's sole cost and expense, each Party shall take such further action (including the execution and delivery to any other Party of such other reasonable instruments of sale, transfer, conveyance, assignment, assumption or confirmation and providing materials and information) as another Party may reasonably request as shall be necessary to transfer, convey and assign to the Buyer all of the Acquired Assets, to confirm the Buyer's assumption of the Assumed Liabilities and to confirm Sellers' retention of the Excluded Assets and Excluded Liabilities. Without limiting the generality of this Section 6.2, to the extent that either the Buyer, the Sellers or Solutions discover any additional assets or properties which were not previously disclosed and should have been transferred or assigned to the Buyer as Acquired Assets but were not so transferred or assigned, the Buyer, the Sellers and Solutions shall cooperate and execute and deliver any instruments of transfer or assignment necessary to transfer and assign such asset or property to the Buyer, and no additional consideration shall be due from the Buyer in connection therewith; provided, that the Buyer shall compensate the Sellers for any reasonable, out-of-pocket, non-fixed costs with respect to the foregoing to the extent that Buyer would have



been liable for such out-of-pocket non-fixed costs had such items been identified and transferred at or immediately prior to Closing.

**Section 6.3** Availability of Business Records. From and after the Closing Date, the Buyer shall promptly provide to the Sellers and their respective Representatives (after reasonable notice and during normal business hours and without charge to Seller), at the Sellers' sole cost and expense, access to all Records included in the Acquired Assets for periods prior to the Closing (as long as such access does not unreasonably interfere with the Buyer's business operations) to the extent such access is necessary in order for any Seller to comply with its obligations to administer Sellers' Chapter 11 Cases or applicable Law or any contract to which it is a party, and so long as such access is subject to an obligation of confidentiality, and shall preserve such Records until the latest of (i) four (4) years after the Closing Date, (ii) the required retention period for all government contact information, records or documents, (iii) the conclusion of all bankruptcy proceedings relating to the Sellers' Chapter 11 Cases, and (iv) in the case of Records related to Taxes, the expiration of the statute of limitations applicable to such Taxes. Such access shall include access to any information in electronic form to the extent reasonably available. The Buyer acknowledges that the Sellers have the right to retain copies of all of Records included in the Acquired Assets for periods prior to the Closing subject to all confidentiality agreements applicable thereto. Prior to destroying any material Records included in the Acquired Assets for periods prior to the Closing, the Buyer shall notify the Sellers thirty (30) days in advance of any such proposed destruction of its intent to destroy such Records, and the Buyer shall permit the Sellers to retain such Records. With respect to any litigation and claims that are Excluded Liabilities, the Buyer shall render, at the Sellers' expense, all reasonable assistance that the Sellers may request in defending such litigation or claim and shall make reasonable efforts to make personnel most knowledgeable about the matter in question available to the Sellers.

**Section 6.4** Employee Matters.

(a) The Buyer shall, or shall cause one or more of its Affiliates to, offer employment as of the Closing Date to active employees of the Business on such terms and conditions that are sufficient (based on information provided by Sellers to Buyer herein) to not give rise to any "employment loss" (as such term is defined under the WARN Act) under the WARN Act (such employees who accept such employment, the "Transferred Employees"); provided, that notwithstanding anything to the contrary contained herein, the Buyer shall have no obligation to hire or retain any employee of the Business that does not provide services exclusively for the benefit of operation of the Business in the state of the Georgia, Alabama, or Washington (irrespective of whether the failure to hire or retain such employee gives rises to any liability under the WARN Act or any similar state or local legal requirement). Nothing in this Agreement shall restrict the rights of the Buyer under applicable Law or any employment contract with respect to any employee hired by the Buyer.

(b) Notwithstanding anything in this Agreement to the contrary:

(i) Each Seller shall be liable for the base wages or base salary and commissions that accrued on or prior to the Closing Date with respect to all Service Providers of such Seller; and

(ii) Nothing in this Agreement is intended to (x) prevent the Buyer from terminating the employment of any Person who becomes an employee of the Buyer or one of its Affiliates on or following the Closing, or (y) create any third-party beneficiary rights in any Service Provider of any Seller or any of its Subsidiaries, any beneficiary or dependent thereof, or any collective bargaining agreement representative.

**Section 6.5** Transfer Taxes. The Buyer shall pay all stamp, documentary, registration, transfer, added-value or similar Tax (each, a “Transfer Tax”) imposed under any applicable Law in connection with the transactions contemplated by Article II of this Agreement. The Sellers shall cooperate in a timely manner with the Buyer in the Buyer's preparation and filing of any Tax Returns required to be filed in connection with Transfer Taxes described in the immediately preceding sentence.

**Section 6.6** Wage Reporting. The Buyer and the Sellers agree to utilize, or cause their respective Affiliates to utilize, the standard procedure set forth in Internal Revenue Service Revenue Procedure 2004-53 with respect to wage reporting.

**Section 6.7** Reasonable, Out-of-Pocket, Non-Fixed Costs. With respect to any provision in this Agreement that requires a Party to compensate another Party for their reasonable, out-of-pocket, non-fixed costs, the Buyer and the Sellers shall each use their commercially reasonable best efforts to agree in advance in writing as to such costs pursuant to, among other things, a Transition Services Agreement or an approved budget.

**Section 6.8** Tax Records. Sellers shall retain copies of all Records that are in electronic form as of the date hereof related to any potential investigation by taxing authorities for a period of five (5) years following the Closing. Sellers shall also accept and retain copies of any such Records identified by Buyer and provided to Sellers, at the Buyer’ sole cost and expense, after the Closing provided that any such records are provided in electronic form.

**Section 6.9** Transition Services. Without limiting Solutions' or its Affiliate's obligations to provide services under the Transition Services Agreement, Buyer agrees to use commercially reasonable efforts to be able to operate the Business independently as of the Closing.

## **ARTICLE VII CONDITIONS TO OBLIGATION TO CLOSING**

**Section 7.1** Conditions to the Buyer’s Obligations. The Buyer’s obligation to consummate the transactions contemplated hereby in connection with the Closing are subject to the Buyer becoming the Successful Bidder (whether following the conclusion of the Auction or thereafter as a result of the Successful Bidder failing to close) and to the satisfaction or waiver of the following conditions (any of which may be waived by the Buyer, in whole or in part, in its sole and absolute discretion):

(a) all representations or warranties of the Sellers in Article III shall be true and correct in all material respects (with respect to representations and warranties not so qualified or limited) or in all respects (with respect to representations and warranties qualified or limited by materiality), in each case, as of the date hereof and on and as of the

Closing Date as if made on and as of the Closing Date, other than any such representations or warranties that expressly speak only as of an earlier date, which shall be true and complete in all respects or all material respects, as applicable, as of such earlier date;

(b) each Seller shall have materially performed and complied with such Seller's covenants and agreements hereunder to the extent required to be performed prior to the Closing in all material respects;

(c) the Buyer shall have received the items required to be executed and delivered by Sellers listed in Section 2.10(a);

(d) no Governmental Entity of competent jurisdiction shall have threatened, enacted, issued, promulgated, enforced or entered any Decree that is in effect and that has the effect of making the Closing illegal or otherwise prohibiting the consummation of the Closing;

(e) the Sale Order shall have been entered by the Bankruptcy Court and shall be a Final Order; provided, however, that nothing in this Agreement precludes the Parties from consummating the transactions contemplated by this Agreement if the Sale Order has been entered and has not been stayed and the Buyer, in its sole discretion, waives in writing the condition that the Sale Order be a Final Order;

(f) there must not be in effect any Law or Decree that would prohibit or make illegal the consummation of the transactions contemplated by this Agreement;

(g) from the date of this Agreement until the Closing Date, there shall not have occurred and be continuing any Material Adverse Effect;

(h) at least eighty-seven and one half percent (87.5%) of the employees of the Sellers on a net basis measured among all the Sellers (and not on the basis of any individual Seller or location and taking into account any hired employees, including full-time equivalent employees) shall: (i) continue to be actively employed by the Sellers and (ii) not have given written notice to Sellers of their intention to terminate their employment with the Sellers, [REDACTED]

[REDACTED] and

(i) the Sellers shall have delivered a certificate from an authorized officer of the Sellers to the effect that each of the conditions specified in Section 7.1(a) and Section 7.1(b) has been satisfied.

**Section 7.2** Conditions to the Sellers' Obligations. Sellers' obligation to consummate the transactions contemplated hereby in connection with the Closing are subject to the Buyer becoming the Successful Bidder (whether following the conclusion of the Auction, if any, or thereafter as a result of the Successful Bidder failing to close) and to the satisfaction or waiver of the following conditions (any of which may be waived by the Sellers, in whole or in part, in their sole and absolute discretion):

(a) all representations or warranties of the Buyer in Article IV shall be true and correct in all material respects (with respect to representations and warranties not so qualified or limited) or in all respects (with respect to representations and warranties qualified or limited by materiality), in each case, as of the date hereof and on and as of the Closing Date as if made on and as of the Closing Date, other than any such representations or warranties that expressly speak only as of an earlier date, which shall be true and complete in all respects or all material respects, as applicable, as of such earlier date;

(b) the Buyer shall have materially performed and complied with its covenants and agreements hereunder to the extent required to be performed prior to the Closing in all material respects;

(c) the Seller shall have received the items required to be executed and delivered by the Buyer listed in Section 2.10(b);

(d) no Governmental Entity of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any Decree that is in effect and that has the effect of making the Closing illegal or otherwise prohibiting the consummation of the Closing;

(e) the Sale Order shall have been entered by the Bankruptcy Court and shall be a Final Order; and

(f) the Buyer shall have delivered a certificate from an authorized officer of the Buyer to the effect that each of the conditions specified in Section 7.2(a) and Section 7.2(b) has been satisfied.

## **ARTICLE VIII TERMINATION**

**Section 8.1** Termination of Agreement. This Agreement may be terminated and the transactions contemplated hereby may be abandoned at any time prior to the Closing:

(a) by mutual consent of the Buyer and the Sellers;

(b) by the Buyer:

(1) upon the conversion of the Sellers' Chapter 11 Cases to a case under Chapter 7 of the Bankruptcy Code, the dismissal of the Sellers' Chapter 11 Cases, or any similar commencement of liquidation proceedings relating to the Sellers, other than as contemplated herein;

(2) if the Closing does not occur on or before the End Date, unless the failure to consummate the Closing is due to the failure of the Buyer to perform any of its obligations under this Agreement to the extent required to be performed by the Buyer on or prior to the Closing Date;

(3) upon the entry of an order of the Bankruptcy Court for the appointment of a trustee or examiner with managerial powers, other than at the request of the Buyer or any of its Affiliates, under Bankruptcy Code Section 1104 and such trustee or examiner takes any action to materially interfere with or materially impair the transactions contemplated by this Agreement;

(4) so long as the Buyer is not then in material breach of any of its representations, warranties or covenants contained in this Agreement, if there has been a breach of any of the Sellers' representations, warranties or covenants contained in this Agreement, which would result, in or would reasonably be expected to result in, the failure of a condition set forth in Section 7.1 to be satisfied, and which breach has not been cured within ten (10) days after written notice of such breach has been delivered to the Sellers from the Buyer or cannot be cured by the End Date;

(5) if the Bankruptcy Court denies the motion for entry of the Bidding Procedures Order or fails to approve the Break Up Fee or the Expense Reimbursement, or fails to enter the Bidding Procedures Order (in form reasonably satisfactory to both parties hereto) by fifty (50) days after the Petition Date; or

(6) upon the issuance of a Decree by a court of competent jurisdiction restraining, enjoining or otherwise invalidating or materially and adversely affecting the transactions contemplated by this Agreement, and such Decree becomes final, binding and non-appealable; provided that, the Buyer may not terminate under this clause if the issuance of such Decree was caused by the Buyer's failure to perform any of its obligations under this Agreement.

(c) by the Sellers:

(1) so long as the Sellers are not then in material breach of any of their representations, warranties or covenants contained in this Agreement, if there has been a breach of any of the Buyer's representations, warranties or covenants contained in this Agreement which would result, in or would reasonably be expected to result in, the failure of a condition set forth in Section 7.2 to be satisfied, and which breach has not been cured within ten (10) days after written notice of such breach has been delivered to the Buyer from the Sellers or cannot be cured by the End Date;

(2) [reserved];

(3) if the Closing does not occur on or before the End Date, unless the failure to consummate the Closing is due to the failure of the Sellers to perform any of their obligations under this Agreement to the extent required to be performed by the Sellers on or prior to the Closing Date;

(4) if any event, circumstance, condition, fact, effect or other matter has occurred or exists which would, or would be reasonably likely to, give rise to the failure of any of the conditions to the obligations of the Seller set forth in Section 7.2 and cannot be cured within thirty (30) Business Days after the giving of written notice to the Buyer; provided, that the right to terminate this Agreement pursuant to this clause shall not be available to Sellers at any time that the Sellers are in material breach of any covenant, representation or warranty hereunder; or

(5) upon the issuance of a Decree by a court of competent jurisdiction restraining, enjoining or otherwise invalidating or materially and adversely affecting the transactions contemplated by this Agreement, and such Decree becomes final, binding and non-appealable; provided that, Sellers may not terminate under this clause if the issuance of such Decree was caused by Sellers' failure to perform any of its obligations under this Agreement.

(d) This Agreement shall terminate automatically in the event that (i) the Buyer is not chosen at the Auction to be the Successful Bidder or the Back-Up Bidder, (ii) an Alternative Transaction has been consummated following approval by the Bankruptcy Court, or (iii) if the Buyer is chosen at the Auction to be the Back-Up Bidder, upon the expiration of the period during which the Buyer is required to keep its back-up bid open and irrevocable under the Bidding Procedures and Bidding Procedures Order.

**Section 8.2** Effect of Termination. In the event of termination of the transactions contemplated hereby pursuant to Section 8.1, written notice thereof shall be given to the other party to this Agreement, and this Agreement shall terminate (subject to the provisions of this Section 8.2, Section 8.3 and Section 8.4) and the transactions contemplated hereby shall be abandoned, without further action by either of the parties hereto. If this Agreement is terminated as provided herein:

(a) upon request therefor, each party shall redeliver all documents, work papers and other material of any other party relating to the transactions contemplated hereby, whether obtained before or after the execution hereof, to the party furnishing the same; and

(b) no party hereto shall have any Liability or further obligation under this Agreement, except that the provisions of Sections 2.5, 8.2, 8.3, 8.4 and Article IX shall survive any termination and remain in full force and effect.

**Section 8.3** Buyer's Exclusive Remedy.

(a) In consideration for the Buyer having expended considerable time and expense in connection with this Agreement and the negotiation thereof, if this Agreement is terminated pursuant to Section 8.1(d)(ii) and the Sellers do not at the time of such termination have a right to terminate this Agreement pursuant to Section 8.1(c)(1), without further order of the Bankruptcy Court (other than the Bidding Procedures Order): (i) the Sellers shall pay or caused to be paid, and the Buyer shall be entitled to, the Break Up Fee and the Expense Reimbursement by wire transfer of immediately available funds, and (ii) the Deposit shall be returned to the Buyer in accordance with the Escrow Agreement. If owed pursuant to the immediately preceding sentence,



such Break Up Fee and the Expense Reimbursement shall be treated as allowed administrative expense claims in the Sellers' Chapter 11 Cases pursuant to Section 503(b)(1)(A) of the Bankruptcy Code and shall be payable, in the case of an Alternative Transaction, solely from the proceeds of the Alternative Transaction. For the avoidance of doubt, the provision of the administrative expense for the Break-Up Fee and Expense Reimbursement shall only be an obligation of the Sellers' estates if an Alternative Transaction closes.

(b) Each of the Parties acknowledges and agrees that the agreements contained in this Section 8.3 are an integral part of this Agreement and that the Break Up Fee is not a penalty, but rather represents liquidated damages in a reasonable amount that will reasonably compensate the Buyer in the circumstances in which such Break Up Fee is payable for the efforts and resources expended and opportunities foregone by the Buyer while negotiating and pursuing this Agreement and in reasonable reliance on this Agreement and on the reasonable expectation of the consummation of the transactions contemplated hereby, which amount would otherwise be impossible to calculate with precision. The Parties agree that if this Agreement is terminated, then (i) the Buyer's receipt of the Deposit in accordance with this Agreement (when payable) and (ii) the Buyer's receipt of the Break Up Fee and the Expense Reimbursement (when payable) pursuant to this Section 8.3, shall be Buyer's sole and exclusive remedy hereunder.

**Section 8.4** Acknowledgement. Each of the Parties acknowledges that the agreements contained in this Article VIII are an integral part of the transactions contemplated by this Agreement and without such agreements, the Parties would not have entered into this Agreement. In no event shall the Sellers have any liability to the Buyer or any other Person for any special, incidental, exemplary, indirect, consequential or punitive damages, and any such claim, right or cause of action for any damages that are special, incidental, exemplary, indirect, consequential or punitive is hereby fully waived, released and forever discharged. In no event shall the Buyer have any liability to the Sellers or any other Person for any special, incidental, exemplary, indirect, consequential or punitive damages, and any such claim, right or cause of action for any damages that are special, incidental, exemplary, indirect, consequential or punitive is hereby fully waived, released and forever discharged.

**Section 8.5** Expenses. The Sellers shall pay their own direct and indirect expenses incurred in connection with the preparation and negotiation of this Agreement, all Related Agreements, and the consummation of the transactions contemplated by this Agreement, including all fees and expenses of its advisors and representatives. The Buyer shall pay its own direct and indirect expenses incurred in connection with the preparation and negotiation of this Agreement and the consummation of the transactions contemplated by this Agreement, including all fees and expenses of its advisors and representatives.

**Section 8.6** The Sellers' Remedy. If (a) the Sellers validly terminate this Agreement pursuant to Section 8.1(c)(1) or (b) this Agreement is terminated for any reason other than pursuant to Section 8.1(c)(1) and at such time the Sellers had the right to terminate pursuant to Section 8.1(c)(1), then the Sellers shall be entitled to the Deposit as liquidated damages and not a penalty, and as its sole and exclusive remedy, which shall be paid to the Sellers in accordance with the Escrow Agreement; provided, that notwithstanding anything to the contrary contained herein, in order for the Sellers to be entitled to the Deposit pursuant to Section 8.6(b) above, the Sellers shall be required to provide the Buyer with a full ten (10) days after the receipt of written notice of such

breach to cure any such breach; provided, further, that during such cure period, the Buyer shall not be permitted to terminate this Agreement pursuant to Section 8.1(b) and any termination under Section 8.1(d) shall not be effective until expiry of such cure period.

## **ARTICLE IX MISCELLANEOUS**

**Section 9.1** Entire Agreement. This Agreement, the Related Agreements the Bidding Procedures Order (once entered) and the Sale Order (once entered), including all schedules and exhibits attached to any of the foregoing, and the documents and instruments referred to in this Agreement that are to be delivered at or in connection with the Closing, constitute the entire agreement among the Parties and supersede any prior understandings, agreements or representations (whether written or oral) by or among the Parties, written or oral, with respect to the subject matter hereof and the subject matter of the Related Agreements.

**Section 9.2** Incorporation of Annexes, Exhibits and Disclosure Schedule. The annexes and exhibits to this Agreement and the documents and other information made available in the Disclosure Schedule are incorporated herein by reference and made a part hereof.

**Section 9.3** Amendments and Waivers. No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by each Party. No waiver of any breach of this Agreement shall be construed as an implied amendment or agreement to amend or modify any provision of this Agreement. No waiver by any Party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, shall be valid unless the same shall be in writing and signed by the Party making such waiver, nor shall such waiver be deemed to extend to any prior or subsequent default, misrepresentation or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent default, misrepresentation or breach of warranty or covenant. No conditions, course of dealing or performance, understanding or agreement purporting to modify, vary, explain or supplement the terms or conditions of this Agreement shall be binding unless this Agreement is amended or modified in writing pursuant to the first sentence of this Section 9.4 except as expressly provided herein. Except where a specific period for action or inaction is provided herein, no delay on the part of any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof.

**Section 9.4** Succession and Assignment. This Agreement binds and benefits the Parties and their respective successors (including any trustee, receiver, receiver-manager, interim receiver or monitor or similar officer appointed in any respect of the Sellers under Chapter 11 or Chapter 7 of the Bankruptcy Code and any entity appointed as a successor to any Seller pursuant to a confirmed chapter 11 plan). No party may delegate any performance of its obligations under this Agreement, except that the Buyer may at any time assign or delegate the performance of its obligations to any Affiliate of the Buyer so long as the Buyer remains responsible for the performance of the delegated obligation. Without limiting the foregoing, the Buyer shall have the right to designate one or more Affiliates, including any special purpose entities that may be organized by or at the direction of the Buyer for such purpose, to bid at the Auction or take title to the Acquired Assets at the Closing (or thereafter) or any portion thereof and operate the business going forward, and upon written notice to the Sellers of any such designation by the Buyer, the



Sellers agree to execute and deliver all instruments of transfer with respect to the Acquired Assets directly to, and in the name of, the Buyer's assignees. In addition, notwithstanding the foregoing, the Buyer may assign any Indebtedness owed to it by the Sellers to any Affiliate of the Buyer, any other buyer or any other assignee or designee at any time.

**Section 9.5** Notices. All notices, requests, demands, claims and other communications hereunder shall be in writing except as expressly provided herein. Any notice, request, demand, claim or other communication hereunder shall be deemed duly given (i) when delivered personally or by electronic mail to the recipient (without receipt of an automated notice of failure of transmission); (ii) the day delivered by a reputable overnight courier service, with a record of receipt; or (iii) four (4) Business Days after being mailed to the recipient by certified or registered mail, return receipt requested and postage prepaid, and addressed to the intended recipient as set forth below:

If to the Sellers or any Seller:

c/o  
Air Pros Solutions, LLC  
Attention: Lawrence Hirsh  
Email: [REDACTED]

-and-

Attention: Andrew Hede  
Email: [REDACTED]

with a copy (which shall not constitute notice) to:

Greenberg Traurig, LLP  
3333 Piedmont Road, NE  
Suite 2500  
Atlanta, Georgia 30305  
Attn: David Kurzweil  
Email: [kurzweild@gtlaw.com](mailto:kurzweild@gtlaw.com)

and

Greenberg Traurig, P.A.  
401 East Las Olas Boulevard  
Suite 2000  
Fort Lauderdale, FL 33301  
Attn: Zachary Schlichter  
Email: [schlichterz@gtlaw.com](mailto:schlichterz@gtlaw.com)

If to the Buyer:

Reliance Comfort Limited Partnership

Attention: Jack Cook  
2 Lansing Square, 11<sup>th</sup> Floor  
Toronto, Ontario, M2J 4P8  
Email: [REDACTED]

with copies (which shall not constitute notice) to:

Akerman LLP  
Attention: Martin G. Burkett  
201 East Las Olas Boulevard, Suite 1800  
Ft. Lauderdale, FL 33301  
Email: [martin.burkett@akerman.com](mailto:martin.burkett@akerman.com)

Any Party may change the physical address or e-mail address to which notices, requests, demands, claims and other communications hereunder are to be delivered by giving the other Party notice in the manner set forth in this Section 9.5.

**Section 9.6** Governing Law: Jurisdiction. This Agreement shall in all aspects be governed by and construed in accordance with the internal Laws of the State of Delaware without giving effect to any choice or conflict of laws provisions or rules (whether of the State of Delaware or any other jurisdiction) that would cause the application of the Laws of any jurisdiction other than the State of Delaware, and the obligations, rights and remedies of the Parties shall be determined in accordance with such Laws. The Parties agree that any Litigation one Party commences against any other Party pursuant to this Agreement shall be brought exclusively in the Bankruptcy Court; provided that if the Bankruptcy Court is unwilling or unable to hear any such Litigation, then the courts of the State of Delaware, sitting in New Castle County, and the federal courts of the United States of America sitting in the State of Delaware shall have exclusive jurisdiction over such Litigation.

**Section 9.7** Consent to Service of Process. In addition to any other method allowed by applicable Law, each of the Parties hereby consents to process being served by any Party in any suit, action or proceeding by delivery of a copy thereof in accordance with the provisions of Section 9.5.

**Section 9.8** WAIVERS OF JURY TRIAL. **EACH OF THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT, THE RELATED AGREEMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.**

**Section 9.9** Specific Performance.

(a) Each of the Parties acknowledges and agrees that the other Parties (collectively, the "Enforcing Parties") would be damaged irreparably in the event any provision of this Agreement is not performed in accordance with its specific terms or

otherwise breached, so that, prior to the termination of this Agreement pursuant to Section 8.2, in addition to any other remedy that each of the Parties may have under Law or equity, each of the Parties shall be entitled to injunctive relief to prevent breaches of the provisions of this Agreement and to enforce specifically this Agreement and the terms and provisions hereof.

(b) Each of the Parties agrees that it shall not oppose the granting of specific performance or an injunction sought in accordance with this Section 9.9 on the basis that the Enforcing Parties have an adequate remedy at law or that any award of specific performance is, for any reason, not an appropriate remedy. The Enforcing Parties shall not be required to provide any bond or other security in connection with any such injunction or other equitable remedy. The End Date shall be tolled from the date any of the Enforcing Parties files a petition seeking specific performance or an injunction under this Section 9.9 until a final, non-appealable decision regarding this matter is obtained from a court of competent jurisdiction.

**Section 9.10 Severability.** The provisions of this Agreement shall be deemed severable, and the invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provisions of this Agreement. If any provision of this Agreement, or the application thereof to any Person or any circumstance, is invalid or unenforceable, (a) a suitable and equitable provision shall be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision and (b) the remainder of this Agreement and the application of such provision to other Persons or circumstances shall not be affected by such invalidity or unenforceability, nor shall such invalidity or unenforceability in any one jurisdiction affect the validity or enforceability of such provision, or the application thereof, in any other jurisdiction.

**Section 9.11 No Third-Party Beneficiaries.** This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns except such rights as may inure to a successor or permitted assignee or designee under Section 9.4.

**Section 9.12 No Survival of Representations, Warranties and Agreements.** None of the Parties' representations, warranties, covenants, and other agreements in this Agreement, including any rights of the other Party or any third party arising out of any breach of such representations, warranties, covenants and other agreements, shall survive the Closing, except for (i) those covenants and agreements contained herein that by their terms apply or are to be performed in whole or in part after the Closing, (ii) the Parties' representations and warranties relating to such Party's authority with regard to the execution of this Agreement to which it is a party and the consummation of the transactions contemplated hereby and thereby, (iii) the Buyer's representations and warranties in connection with the Sellers' Chapter 11 Cases or the Bankruptcy Code, (iv) this Article IX, and (v) all defined terms set forth in Article I that are referenced in the foregoing provisions referred to in clauses (i) through (iv) above.

**Section 9.13 Construction.** The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the

singular form of names and pronouns shall include the plural and vice versa. The word “including” and “include” and other words of similar import shall be deemed to be followed by the phrase “without limitation.” The words “herein,” “hereto,” “hereby,” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision of this Agreement. The words “includes” and “including” are not limiting. Unless expressly stated in connection therewith or the context otherwise requires, the phrase “relating to the Business” and other words of similar import shall be deemed to mean “relating to the operation of the Business as conducted as of the date hereof.” Except as otherwise provided herein, references to Articles, Sections, clauses, subclauses, subparagraphs, Annexes, Exhibits and the Disclosure Schedule herein are references to Articles, Sections, clauses, subclauses, subparagraphs, Annexes, Exhibits and the Disclosure Schedule of this Agreement. Any reference herein to any Law (or any provision thereof) shall include such Law (or any provision thereof) and any rule or regulation promulgated thereunder, in each case, including any successor thereto, and as it may be amended, modified or supplemented from time to time. Any reference herein to “dollars” or “\$” means United States dollars. To the extent not contrary to the foregoing, the rules of construction contained in section 102 of the Bankruptcy Code shall apply. Any option, consent, approval, discretion or similar right of the Buyer set forth in this Agreement or any other Related Agreement may be exercised by the Buyer in its sole, absolute and unreviewable discretion (regardless of whether any or all such words are used in connection therewith), unless the provisions of this Agreement or Related Agreement specifically require another standard for such option, consent, approval, discretion or similar right.

**Section 9.14** Computation of Time. In computing any period of time prescribed by or allowed with respect to any provision of this Agreement that relates to a Seller’s or the Sellers’ Chapter 11 Cases, the provisions of Bankruptcy Rule 9006(a) shall apply.

**Section 9.15** Mutual Drafting. Each of the Parties has participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.

**Section 9.16** Disclosure Schedule. All capitalized terms not defined in the Disclosure Schedule shall have the meaning ascribed to them in this Agreement. The representations and warranties of the Sellers in this Agreement are made and given, and the covenants are agreed to, subject to the disclosures and exceptions set forth in the Disclosure Schedule. The Seller Disclosure Schedule is arranged in sections and paragraphs corresponding to the numbered and lettered sections and paragraphs of this Agreement to which it relates. The disclosure in any section or paragraph of the Disclosure Schedule, and those in any amendment or supplement thereto, shall be deemed to relate to and to qualify only the particular representation or warranty set forth in the corresponding numbered or lettered section of this Agreement, except to the extent that: (a) such information is cross-referenced in another part of the Disclosure Schedule; or (b) it is reasonably apparent on the face of the disclosure (without reference to any document referred to therein or any independent knowledge on the part of the reader regarding the matter disclosed) that such information qualifies another representation or warranty of the Sellers. The listing of any matter shall expressly not be deemed to constitute an admission by any Seller, or to otherwise imply, that any such matter is material, is required to be disclosed under this Agreement or falls within relevant minimum thresholds or materiality standards set forth in this Agreement. No

disclosure in the Disclosure Schedule relating to any possible breach or violation of any Contract or law shall be construed with respect to any Person not a party hereto as an admission or indication that any such breach or violation exists or has actually occurred.

**Section 9.17** Headings; Table of Contents. The section headings and the table of contents contained in this Agreement and the Disclosure Schedule are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

**Section 9.18** Counterparts: Facsimile and Email Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. This Agreement or any counterpart may be executed and delivered by facsimile or email with scan attachment copies, each of which shall be deemed an original.

**Section 9.19** Time of Essence. Time is of the essence of this Agreement.

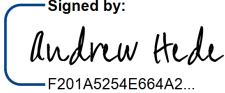
[END OF PAGE]  
[SIGNATURE PAGES FOLLOW]

**SIGNATURE PAGES TO  
ASSET PURCHASE AGREEMENT**

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

**SOLUTIONS:**

**Air Pros Solutions, LLC**

By:  Signed by:  
F201A5254E664A2...  
Name Andrew Hede  
Title: Chief Restructuring Officer

**SELLERS:**

**Air Pros Atlanta, LLC**

By:  Signed by:  
F201A5254E664A2...  
Name: Andrew Hede  
Title: Chief Restructuring Officer

**Air Pros Washington, LLP**

By:  Signed by:  
F201A5254E664A2...  
Name: Andrew Hede  
Title: Chief Restructuring Officer

**CM Air Pros, LLC**

By:  Signed by:  
F201A5254E664A2...  
Name: Andrew Hede  
Title: Chief Restructuring Officer

[SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT]

**AFH Air Pros, LLC**

Signed by:

*Andrew Hede*

F201A5254E664A2...

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

Name: Andrew Hede

Title: Chief Restructuring Officer

[SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT]



**BUYER:**

Reliance US Holdings II Inc., a Delaware  
corporation

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

Name: Sean O'Brien

Title: President & CEO

**Reviewed & Approved by Legal**

JBC

[SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT]

## **Exhibit A**

### **Acquired Assets**

Any and all properties, interests, assets (whether tangible or intangible) and rights of every nature of the Sellers, other than the Excluded Assets, in, to and under the following:

- all Inventory, Furnishings and Equipment (to the extent transferable, including the Company IT Systems), supplies, machinery, fixtures, tools, vehicles and other tangible personal property;
- Real Property;
- The Assumed Contracts, including any backup data maintained by Sellers in connection therewith and all rights and benefits thereunder;
- The Intellectual Property Assets required to be set forth on Schedule 3.15, including any customer lists;
- All goodwill relating to the Business;
- All lease deposits or customer deposits relating to any Assumed Contracts or Business;
- all claims, causes of action, choses in action, rights or recovery or setoff of any kind against any Person who holds any Assumed Liability;
- to the extent transferable, all of the rights and benefits accruing under all Permits, and all pending applications or filings therefore and renewals thereof, which are related to the Business;
- the names CM Heating and Air Force Heating & Air or any derivation thereof or other tradenames primarily used in the Business; and
- all Records.

**Exhibit B**

**Assumed Contracts**

**Assumed Contracts<sup>1</sup>**

	Counterparty	Contract Description	Cure Amount
1	LEAF Capital Funding, LLC	Lease Agreement, dated July 8, 2022.	\$300
2	Trunk – Seaway Business Park LLC	Lease Agreement, dated February 18, 2022, for the premises located at 1500 Industry St 200 Everett, Washington 98203.	\$0
3	HLD Properties LLC	Commercial Lease, effective April 1, 2022, for the premises located at 6202 Associated Blvd., Everett, WA 98203.	\$0
4	HLD Properties LLC	First Amendment to Lease, dated March 13, 2025, for the premises located at 6202 Associated Blvd., Everett, WA 98203.	\$0
5	Farland Holding, LLC	Lease Agreement, effective as of November 19, 2021, for premises located at 5017 196th St. SW., Lynwood, WA 98036.	\$0.
6	LaGrange Airforce Heating	Lease, dated July 11, 2022, for the premises located at 103 Corporate Park E Drive, LaGrange, Georgia 30241.	\$0.
7	Robert Daniel Blalock and Anne Blalock	Lease, dated July 11, 2022, for the premises located at 100 Corporate Park E Court, LaGrange, Georgia 30241.	\$0.
8	Sandman Investment Group LLC	Lease dated December 13, 2021, for the premises located at 5731 Miller Court, Suite D Columbus, Georgia 31909, as renewed by that renewal dated February 13, 2024.	\$0.
9	Black Horse, LLC and Porter Properties, L.L.C.	Commercial Lease, dated August 4, 2023, as amended by Lease Amendment #1 dated July 24, 2024 for the premises located at 2985 Wyndham Industrial Drive, Opelika, Alabama 36804, ending July 31, 2025.	\$0.

<sup>1</sup> This Exhibit B remains subject to modification through the Designation Deadline, consistent with Section 2.7 of the Stalking Horse Purchase Agreement.

<b>10</b>	Atlanta Industrial TT, LLC	Multi-Tenant Industrial Triple Net Lease, dated April 15, 2020, for the premises located at 2129 Northwest Parkway Suite 113 Marietta, Georgia 30067.	\$0.
<b>11</b>	Succurri, LLC	Master Service Agreement, dated as of February 23, 2025.	\$10,000.
<b>12</b>	Columbus River Dragons, LLC and Ignite Sports, LLC	Columbus River Dragons Partnership Agreement, dated as of September 25, 2024.	\$2,842.
<b>13</b>	Cintas Corporation	Standard Uniform Rental Service Agreement, dated June 8, 2020	\$0

**EXHIBIT 2**

**Blackline**

**IN THE UNITED STATES  
BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
NEWNAN DIVISION**





Debtors.

Re: Docket No. 34, 55, 193

**ORDER (A) APPROVING THE SALE OF  
THE DEBTORS' ASSETS FREE AND CLEAR OF ALL LIENS,  
CLAIMS, ENCUMBRANCES, AND INTERESTS, (B) AUTHORIZING  
THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY  
CONTRACTS AND UNEXPIRED LEASES, AND (C) GRANTING RELATED RELIEF**

*(CM Heating & Cooling and Air Force Heating & Air Business Units)*

<sup>1</sup> The last four digits of AFH Air Pros, LLC's tax identification number are 1228. Due to the large number of debtor entities in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the claims and noticing agent at <https://www.veritaglobal.net/airpros>. The mailing address for the debtor entities for purposes of these chapter 11 cases is: 150 S. Pine Island Road, Suite 200, Plantation, Florida 33324.

Upon the *Motion of the Debtors for Entry of Orders (I)(A) Establishing Bidding Procedures Relating to the Sale of the Debtors' Assets, (B) Approving the Debtors' Entry into the Stalking Horse Purchase Agreements and Related Bid Protections, (C) Establishing Procedures Relating to the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (D) Approving Form and Manner of Notices Relating Thereto, (E) Scheduling a Hearing to Consider the Proposed Sale, and (F) Granting Related Relief; and (II)(A) Approving the Sale of the Debtors' Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests, (B) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (C) Granting Related Relief* [D.I. 34, as amended, D.I. 55] (the "Motion")<sup>2</sup> of the above-captioned debtors and debtors in possession (the "Debtors") for the entry of an order pursuant to sections 105(a), 363, and 365 of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002, 6004, 6006, 9007, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), Rules 9013-1 and 9013-2 of the Local Rules of the United States Bankruptcy Court for the Northern District of Georgia (the "Local Rules") and Sections D and H of the *Second Amended and Restated General Order 26-2019, Procedures for Complex Chapter 11 Cases*, dated February 6, 2023 (the "Complex Case Procedures"), among other things, (i) authorizing the sale of the Acquired Assets (the "Sale") free and clear of liens, claims, encumbrances, and other interests, except as provided by that Asset Purchase Agreement, dated as of March 18, 2025, by and between Air Pros Atlanta, LLC, CM Air Pros, LLC, Air Pros Washington, LLP, AFH Air Pros, LLC (collectively, the "Sellers" and each a "Seller"), Air Pros Solutions, LLC ("Solutions"), and Reliance US Holdings

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in either the Motion or the Stalking Horse Purchase Agreement (as defined herein), as applicable.

II Inc., as the Stalking Horse Bidder (the “Buyer”) (a copy of which is attached hereto as Exhibit A, as the same may be further amended, supplemented or otherwise modified in accordance with its terms, together with all exhibits and schedules thereto, the “Stalking Horse Purchase Agreement”), (ii) authorizing the Sellers’ and Solutions’ performance under the Stalking Horse Purchase Agreement, (iii) approving the assumption and assignment of certain of the Sellers’ executory contracts and unexpired leases related thereto (any such executory contract or unexpired lease assumed and assigned pursuant to the Sale, including any such executory contract or unexpired lease added timely to the Closing Assumed Contract List, an “Assumed Contract”), and (iv) granting related relief; the Court having entered an order approving the Bidding Procedures and granting certain related relief on April 14, 2025 [D.I. 193] (the “Bidding Procedures Order”) after a hearing on the same date (the “Bidding Procedures Hearing”); and the Debtors having submitted the *Declaration of Andrew D.J. Hede in Support of Chapter 11 Petitions and First Day Pleadings* [D.I. 8], the *Amended Declaration of Jeffrey Finger in Support of Bidding Procedures Motion* [D.I. 56], the *Declaration of Andrew D.J. Hede in Support of Bidding Procedures Motion* [D.I. 158], the *Declaration of Jeffrey Finger in Support of the Debtors’ Sale Motion* [D.I. [●370](#)], and the *Declaration of Andrew D.J. Hede in Support of the Debtors’ Sale Motion* [D.I. [●369](#)]; and the Buyer having submitted the *Declaration of Paul Gyarmati in Support of Sale Motion* [D.I. 362]; and no auction (the “Auction”) having been held because no additional Qualified Bids on the Acquired Assets were received by the Debtors other than the Stalking Horse Bid and the Stalking Horse Purchase Agreement; and the Buyer having been deemed the Successful Bidder by the Debtors pursuant to the Bidding Procedures Order; and the Debtors having filed and served a *Notice of Proposed Sale, Bidding Procedures, Auction, and Sale Hearing* [D.I. 201] (the “Auction and Sale Notice”), a *Notice of Proposed*

*Assumption and Assignment of Certain Executory Contracts* [D.I. 220] (the “Initial Cure Notice”), a *Supplement to Notice of Proposed Assumption and Assignment of Certain Executory Contracts* [D.I. 225] (the “First Supplemental Cure Notice”), an *Amendment and Second Supplement to Notice of Proposed Assumption and Assignment of Certain Executory Contracts* [D.I. 286] (the “Second Supplemental Cure Notice”, and together with the Initial Cure Notice and the First Supplemental Cure Notice, collectively, the “Cure Notice”), served a *Notice of Assumption and Assignment of Customer Memberships and Warranties* (the “Customer Notice”), and filed and served the *Notice of (I) Cancellation of Auction with Respect to the CM Heating & Cooling and Air Force Heating & Air Business Units, and (II) Designation of the CM/Air Force Stalking Horse Bidder as the Successful Bidder for the Assets Covered by the CM/Air Force Stalking Horse Purchase Agreement* [D.I. 313] (the “Auction Cancellation Notice”); and the Court having conducted a hearing on the Motion on May 19, 2025 (the “Sale Hearing”) at which time all interested parties were offered an opportunity to be heard with respect to the Motion; and the Court having reviewed and considered the Motion and other evidence submitted in support of the Motion, the objections thereto (if any), the Stalking Horse Purchase Agreement, and the Bidding Procedures Order; and upon the record of the hearing on the Bidding Procedures Hearing and the Sale Hearing; the Court having heard statements and arguments of counsel and the evidence presented with respect to the relief requested in the Motion at the Sale Hearing; and due notice of the Motion, the Stalking Horse Purchase Agreement, the Bidding Procedures Hearing, Bidding Procedures Order and the cancellation of the Auction having been provided; and the Court having determined that a sound business purpose exists for the Sale, the relief requested in the Motion is in the best interests of the Debtors, their estates, their stakeholders, and all other parties in interest, the Sale was negotiated and proposed in good faith and the

Purchase Price is fair and reasonable and in the best interest of the Debtors' estates; and the Court having jurisdiction over this matter; and the legal and factual bases set forth in the Motion and at the Sale Hearing establishing just cause for the relief granted herein; and after due deliberation thereon,

**THE COURT HEREBY FURTHER FINDS AND DETERMINES THAT:<sup>3</sup>**

**I. Petition Date**

A. On March 16, 2025 (the "Petition Date"), the Debtors commenced these Chapter 11 Cases by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code. Since the Petition Date, the Debtors have continued to operate and manage their business as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

**II. Jurisdiction, Final Order and Statutory Predicates**

B. The Court has jurisdiction to hear and determine the Motion pursuant to 28 U.S.C. §§ 157(b)(1) and 1334(a). This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (N) and (O). Venue is proper in this District and in the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

C. This order (this "Sale Order") constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a). Notwithstanding the provisions of Bankruptcy Rules 6004(h) and 6006(d), and to any extent necessary under Bankruptcy Rule 9014 and Federal Rule of Civil Procedure 54(b), as made applicable by Bankruptcy Rule 7054, the Court expressly finds that there is no just reason for delay in the implementation of this Sale Order, expressly waives any stay, and expressly directs entry of judgment as set forth herein.

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<sup>3</sup> All findings of fact and conclusions of law announced by the Court at the Sale Hearing in relation to the Motion are hereby incorporated herein to the extent not inconsistent herewith.

D. The statutory predicates for the relief requested in the Motion are sections 105(a), 363, 365, 503, and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, 9007, and 9014 of the Federal Rules of Bankruptcy Procedure, Local Rules 9013-1 and 9013-2, and Section H of the Complex Case Procedures.

E. The findings of fact and conclusions of law set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014.

### **III. Notice of the Sale, Auction, and the Cure Amounts**

F. Actual written notice of the Bidding Procedures Hearing, the Sale Hearing, the Auction Cancellation Notice, the Motion, the identity of the Buyer, the Sale, the assumption, assignment, cure and sale of the Assumed Contracts to be assigned to the Buyer pursuant to the Stalking Horse Purchase Agreement (which are identified on **Exhibit B** hereto, subject to Buyer's right to designate additional Assumed Contracts up to the Designation Deadline), and assumption by the Buyer of the customer and membership obligations (as set forth in the Stalking Horse Purchase Agreement) has been timely and properly provided to, and a reasonably calculated, fair and reasonable opportunity to object or be heard with respect to the Motion and the relief requested therein has been afforded to, all known interested persons and entities, including, but not limited to the following parties: (i) all entities known to have asserted any Interest in or upon any of the Debtors' Assets; (ii) all federal, state, and local regulatory or taxing authorities or recording offices which have a reasonably known interest in the relief requested by this Motion; (iii) known counterparties to any unexpired leases or executory contracts that could potentially be assumed and assigned to the Buyer; (iv) the Office of the United States Trustee for the Northern District of Georgia; (v) holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis; (vi) the Office of the United States Attorney General for the Northern District of Georgia; (vii) the Internal Revenue Service; (viii) the U.S. Department of Justice; (ix) the offices of the attorneys general for the states in which the Debtors operate; (x) counsel to each Stalking Horse Bidder; and (xi) all parties requesting notice pursuant to Bankruptcy Rule 2002. The requirements of Bankruptcy Rule 6004(a) and all applicable Local Rules are satisfied by such notice.



G. In accordance with the provisions of the Bidding Procedures Order, the Debtors caused the Cure Notice to be served, in compliance with the requirements of due process and the Bankruptcy Code, upon the Buyer and the non-Debtor counterparties to the executory Contracts or unexpired Leases (each, a “Contract Counterparty,” and, collectively, the “Contract Counterparties”), noticing such parties: (i) of the Sale, (ii) that the Sellers may seek to assume and assign the Assumed Contracts on the Closing Date, (iii) of the relevant Cure Amounts, and (iv) of the relevant objection deadlines. The Court finds that: (1) the Buyer and the Contract Counterparties have had an opportunity to object to the Sale and to Cure Amounts set forth in the Cure Notice; (2) the Cure Notice provided the Buyer and the Contract Counterparties with proper notice of the potential assumption and assignment of the Assumed Contracts and any Cure Amount relating thereto; (3) the service of such Cure Notice was good, sufficient, and appropriate under the circumstances; (4) no further notice need be given in respect of establishing Cure Amounts for the Assumed Contracts; and (5) the procedures set forth in the Bidding Procedures Order with regard to objecting to any such Cure Amount satisfy the provisions of section 365 of the Bankruptcy Code and Bankruptcy Rule 6006.

H. In accordance with the provisions of the Bidding Procedures Order, the Debtors caused the Customer Notice to be served, in compliance with the requirements of due process and the Bankruptcy Code, upon the Buyer and the customers of the Sellers with warranty claims and/or memberships with the Sellers (including those that may be counterparties to an executory Contract), noticing such parties: (i) of the Sale, (ii) that the Sellers may seek to assume and assign the Assumed Contracts on the Closing Date (to the extent applicable), and (iii) of the relevant objection deadlines. The Court finds that: (1) the Buyer and these customers have had an opportunity to object to the Sale; (2) the Customer Notice provided the Buyer and customers

with proper notice of the potential assumption and assignment of the Assumed Contracts and of the Buyer's assumption of the warranty and membership obligations; (3) the service of such Customer Notice was good, sufficient, and appropriate under the circumstances; and (4) the procedures set forth in the Bidding Procedures Order satisfy the provisions of section 365 of the Bankruptcy Code and Bankruptcy Rules 2002 and 6006.

I. The Debtors' Auction and Sale Notice, the Cure Notice, and Customer Notice, as applicable, provided all interested persons and entities with timely and proper notice of, and a reasonable opportunity to object and be heard with respect to, the assumption and assignment of the Assumed Contracts, the Sale, the Sale Hearing, and the Auction (prior to being cancelled).

J. As evidenced by the affidavits of service previously filed with the Court (including [D.I. 46, 73, 179, 208, 209, 247, 248, 261, 304, 320, 321, 322, and 340]), proper, timely, adequate, and sufficient notice of the Motion, the Bidding Procedures, the assumption and assignment of the Assumed Contracts, the Auction, the Auction Cancellation Notice, the Sale Order, the Sale Hearing, and the Sale has been provided in accordance with sections 102(1), 363, and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, and 9014, the Local Rules, and Sections D and H of the Complex Case Procedures. The Debtors also have complied with all obligations to provide notice of the assumption and assignment of the Assumed Contracts, the Auction, the cancellation of the Auction, the Sale Hearing, and the Sale required by the Bidding Procedures Order. The notices described in Section III were good, sufficient, and appropriate under the circumstances, and no other or further notice of the Motion, the assumption and assignment of the Assumed Contracts, the Auction, the cancellation of the Auction, the Sale Hearing, Sale, or the assumption, assignment, and sale of the customer warranties and memberships is required.

K. The disclosures made by the Debtors concerning the Motion, the Bidding Procedures, the Stalking Horse Purchase Agreement, the assumption and assignment of the Assumed Contracts, the assumption of the liabilities of the customer and membership claims, the cancellation of the Auction, the Sale, and the Sale Hearing, were good, complete, and adequate.

L. A reasonable opportunity to object and/or be heard regarding the relief provided in this Sale Order was afforded to all parties in interest.

#### **IV. Good Faith of the Buyer, Sellers and Solutions**

M. The Stalking Horse Purchase Agreement was negotiated, proposed, and entered into by and among the Sellers, Solutions, and the Buyer, including their respective boards of directors or equivalent governing bodies, officers, directors, employees, agents, professionals, and representatives, without collusion, in good faith, and from arm's-length bargaining positions. The Buyer is making such purchase in good faith and is a good-faith purchaser within the meaning of section 363(m) of the Bankruptcy Code, in that among other things: (i) the Buyer's Qualified Bid was subject to a marketing process in a time frame approved by the Court through the Bidding Procedures Order; (ii) the Debtors conducted the marketing process, including in consultation with the Official Committee of Unsecured Creditors (the "Committee"); (iii) the Buyer did not attempt to limit the Debtors' freedom to deal with any other party interested in acquiring the Acquired Assets; and (iv) all payments to be made by the Buyer and other agreements or arrangements entered into by the Buyer in connection with the Sale have been disclosed. There was no evidence of insider influence or improper conduct by the Buyer in connection with the negotiation of the Stalking Horse Purchase Agreement with the Debtors, no evidence of fraud, collusion, or bad faith on the part of the Buyer, no evidence of the Buyer doing anything to control or otherwise influence the marketing or sale process, including

anything to control or otherwise influence the purchase price paid for the Acquired Assets, and no evidence that the Buyer violated section 363(n) of the Bankruptcy Code. The Buyer is not an “insider” of any Debtor (as defined under section 101(31) of the Bankruptcy Code). Accordingly, the Buyer is entitled to the full protections of section 363(m) of the Bankruptcy Code.

N. As demonstrated by (i) any testimony and other evidence proffered or adduced at the Sale Hearing, and (ii) the representations of counsel made on the record at the Sale Hearing, substantial marketing efforts and a competitive sale process were conducted in accordance with the Bidding Procedures Order and, among other things: (a) the Debtors and the Buyer complied with the provisions in the Bidding Procedures Order; (b) the Buyer agreed to subject its bid to the competitive Bidding Procedures set forth in the Bidding Procedures Order; and (c) the Buyer in no way improperly induced or caused the chapter 11 filing by the Debtors.

**V. Highest and Best Offer**

O. The Debtors' marketing and sale process, including the Debtors' prepetition marketing process, with respect to the Acquired Assets in accordance with the Bidding Procedures, which were followed by the Debtors, afforded a full, fair, and reasonable opportunity for any person or entity to make a higher or otherwise better offer to purchase the Acquired Assets.

P. The Debtors implemented the Bidding Procedures and cancelled the Auction in accordance with the provisions of the Bidding Procedures Order, and the Debtors have otherwise complied with the Bidding Procedures Order in all respects. Such process was duly noticed and conducted in a non-collusive, fair, and good faith manner, in consultation with the Committee, and a reasonable opportunity has been given to any interested party to make a higher and better offer for the Acquired Assets.

Q. The Debtors received no Qualified Bids by the Bid Deadline for the Acquired Assets other than the Qualified Bid submitted by the Buyer. The Bidding Procedures provide that if no Qualified Bids (other than the Qualified Bid submitted by the Buyer) were received by the Bid Deadline, the Auction would not be conducted and the Buyer's Qualified Bid would be the Successful Bid for the Acquired Assets.

R. The Stalking Horse Purchase Agreement represents a fair and reasonable offer to purchase the Acquired Assets under the circumstances of the Chapter 11 Cases, including in light of the fact that no other Qualified Bids were received. The consideration provided by the Buyer under the Stalking Horse Purchase Agreement, including the assumption of the Assumed Liabilities, is fair and adequate, represents the highest or otherwise best available offer, including by providing the highest economic value available to the Debtors' estates, and will provide a

greater recovery for the Debtors' estates than would be provided by any other available alternative. Accordingly, the Stalking Horse Purchase Agreement constitutes the highest and best offer for the Acquired Assets and a valid, reasonable, and sound exercise of the Debtors' business judgment consistent with their fiduciary duties, and complies in all respects with the Bidding Procedures Order.

S. Approval of the Motion and the Stalking Horse Purchase Agreement and the consummation of the Sale contemplated thereby is in the best interests of the Debtors, their creditors, their estates, and other parties in interest.

**VI. No Sub Rosa or De Facto Plan**

T. Good and sufficient reasons for approval of the Stalking Horse Purchase Agreement and the transactions to be consummated in connection therewith have been articulated, and the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest. The Debtors have demonstrated compelling circumstances and good, sufficient, and sound business purposes and justifications for the Sale outside the ordinary course of business, pursuant to section 363(b) of the Bankruptcy Code, before, and outside of, a plan of reorganization, in that, among other things, the immediate consummation of the Sale with the Buyer is necessary and appropriate to maximize the value of the Debtors' estates, and the Sale will provide the means for the Debtors to maximize distributions to creditors.

U. The Sale does not constitute a *sub rosa* or *de facto* plan of reorganization or liquidation as it does not propose to (i) impair or restructure existing debt of, or equity interests in, the Debtors, (ii) impair or circumvent voting rights with respect to any plan that may be proposed by the Debtors, (iii) circumvent chapter 11 safeguards, such as those set forth in

sections 1125 and 1129 of the Bankruptcy Code, or (iv) classify claims or equity interests or extend debt maturities. Accordingly, the Sale neither impermissibly restructures the rights of the Debtors' creditors nor impermissibly dictates the terms of a liquidating chapter 11 plan for the Debtors.

## **VII. Successor Liability Matters**

V. By virtue of the consummation of the Sale, (i) the Buyer is not a continuation of the Debtors or their respective estates, there is no continuity between the Buyer and the Debtors, there is no common identity between the Buyer and the Debtors, and there is no continuity of enterprise between the Buyer and the Debtors, (ii) the Buyer is not holding itself out to the public as a continuation of the Debtors or their respective estates, and (iii) the Sale does not amount to a consolidation, merger, or *de facto* consolidation or merger of the Buyer and any of the Debtors and the Debtors' respective estates.

W. The Buyer is not, and shall not be considered, a successor to the Debtors or their respective estates by reason of any theory of law or equity, including, but not limited to, under any federal, state or local statute or common law, or revenue, pension, ERISA, tax, labor, employment, environmental, escheat or unclaimed property laws, or other law, rule or regulation (including, without limitation, filing requirements under any such laws, rules, or regulations), or under any products liability law or doctrine with respect to the Debtors' liability under such law, rule or regulation or doctrine or common law, or under any product warranty liability law or doctrine with respect to the Debtors' liability under such law, rule or regulation or doctrine, and the Buyer and its affiliates shall have no liability or obligation under the Worker Adjustment and Retraining Act (the "WARN Act"), 929 U.S.C. §§ 210 et seq. and shall not be deemed to be a "successor employer" for purposes of the Internal Revenue Code of 1986, Title VII of the Civil



Rights Act of 1964, as amended, the Age Discrimination in Employment Act, the Americans with Disability Act, the Family Medical Leave Act, the National Labor Relations Act, the Labor Management Relations Act, the Older Workers Benefit Protection Act, the Equal Pay Act, the Civil Rights Act of 1866 (42 U.S.C. § 1981), the Employee Retirement Income Security Act, the Multiemployer Pension Protection Act, the Pension Protection Act, and/or the Fair Labor Standards Act; the Buyer is not a continuation or substantial continuation of any of the Debtors or their respective estates, business or operations or any enterprise of the Debtors; the Buyer does not have a common identity of incorporators, directors or equity holders with the Debtors; and the Sale does not amount to a consolidation, merger, or *de facto* merger of the Buyer and the Debtors or their respective estates. Accordingly, the Buyer is not and shall not be deemed a successor to any of the Debtors or their respective estates as a result of the consummation of the Sale pursuant to the Stalking Horse Purchase Agreement and this Sale Order.

**VIII. No Fraudulent Transfer; Validity of Transfer**

X. The Stalking Horse Purchase Agreement was not entered into by the Buyer and the Debtors for the purpose of hindering, delaying, or defrauding creditors under either the Bankruptcy Code or the other laws of the United States, or the laws of any state, territory, possession, or the District of Columbia (including, without limitation, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act, and the Uniform Voidable Transactions Act). Neither the Debtors nor the Buyer entered into the Stalking Horse Purchase Agreement fraudulently, nor are they entering into or consummating the transactions contemplated by the Stalking Horse Purchase Agreement fraudulently, including under applicable federal and state fraudulent conveyance and fraudulent transfer laws.

Y. The consideration provided by the Buyer pursuant to the Stalking Horse Purchase Agreement, (i) was negotiated at arm's-length, (ii) is fair, adequate, and reasonable, (iii) is the highest or otherwise best offer for the Acquired Assets, and (iv) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and under the other laws of the United States, and the laws of any state, territory, possession, or the District of Columbia (including, without limitation, the Uniform Fraudulent Conveyance Act, Uniform Fraudulent Transfer Act and the Uniform Voidable Transactions Act). No other person or entity or group of entities has offered to purchase the Acquired Assets for greater economic value to the Debtors' estates than the Buyer. For the purposes of statutory and common law fraudulent conveyance and fraudulent transfer claims, neither the Sellers, Solutions, nor the Buyer are entering into or consummating the transactions contemplated by the Stalking Horse Purchase Agreement fraudulently. Approval of the Motion, the Stalking Horse Purchase Agreement, the Sale, and the consummation of the transactions contemplated thereby is in the best interests of the Debtors, their estates, their creditors, and all other parties in interest.

Z. The Sellers are the sole and lawful owners of the Acquired Assets. The Acquired Assets constitute property of the Sellers' estates and title to the Acquired Assets is vested in the Sellers' estates within the meaning of section 541(a) of the Bankruptcy Code. The Sellers, Solutions, and the Buyer have full corporate power and authority to execute, deliver, and perform the Stalking Horse Purchase Agreement and all other documents contemplated thereby, and no further consents or approvals are required for the Sellers, Solutions, or the Buyer to consummate the transactions contemplated by the Stalking Horse Purchase Agreement or the other documents contemplated thereby, except as otherwise set forth in the Stalking Horse Purchase Agreement or such other documents.

AA. The Stalking Horse Purchase Agreement does not provide for the sale of the Debtors' and their estates' claims—including, without limitation, commercial tort claims and Avoidance Actions—against any of the Debtors' insiders (as that term is defined in section 101(31) of the Bankruptcy Code). For purposes of this Sale Order, "Avoidance Actions" means all avoidance and recovery actions or remedies that may be brought on behalf of the Debtors or their estates under the Bankruptcy Code or applicable non-bankruptcy law, including actions or remedies under sections 544, 547, 548, 550, 551, 552, or 553 of the Bankruptcy Code.

BB. Subject to section 363(f) of the Bankruptcy Code, the transfer of each of the Acquired Assets to the Buyer will be, as of the Closing Date, a legal, valid, and effective transfer of the Acquired Assets, which transfer vests or will vest the Buyer with all right, title, and interest of the Debtors in, to, and under the Acquired Assets free and clear of (i) all Liens (as defined in the Stalking Horse Purchase Agreement) and other liens (including any liens as that term is defined in section 101(37) of the Bankruptcy Code) and encumbrances relating to, accruing, or arising at any time prior to the Closing Date (collectively, as defined in this clause (i), the "Liens"), other than Permitted Liens, and (ii) all debts arising under, relating to, or in connection with any act of the Debtors, claims (as that term is defined in section 101(5) of the Bankruptcy Code) or causes of action, liabilities, obligations, demands, guaranties, options in favor of third parties, rights, easements, servitudes, restrictive covenants, encroachments, contractual commitments, restrictions, interests, mortgages, hypothecations, charges, indentures, loan agreements, instruments, collective bargaining agreements, leases, subleases, licenses, deeds of trust, security interests, conditional sale or other title retention agreements, pledges, judgments, claims for reimbursement, contribution, indemnity, exoneration, infringement, products liability, alter-ego, and matters of any kind and nature, whether arising prior to or

subsequent to the commencement of the Chapter 11 Cases, and whether imposed by agreement, understanding, law, equity, or otherwise, known or unknown, contingent or matured, liquidated or unliquidated, and all rights and remedies with respect thereto (a) that purport to give to any party a right of setoff against, or a right or option to effect any forfeiture, modification, profit sharing interest, right of first refusal, purchase or repurchase right or option, or termination of, any of the Debtors' or the Buyer's interests in the Acquired Assets, or any similar rights, or (b) in respect of taxes, restrictions, rights of first refusal, charges of interests of any kind or nature, if any, including without limitation, any restriction of use, voting, transfer, receipt of income or other exercise of any attributes of ownership (collectively, as defined in this clause (ii), the "Claims"), relating to, accruing or arising at any time prior to entry of this Sale Order, other than Assumed Liabilities, including amounts necessary under sections 365(b)(1)(A) and (B) and 365(f)(2)(A) of the Bankruptcy Code to cure all defaults and pay all actual pecuniary losses under the Assumed Contracts (the "Cure Amounts") or any other obligations arising under the Assumed Contracts to the extent set forth in the Stalking Horse Purchase Agreement or this Sale Order.

**IX. Section 363(f) Is Satisfied**

CC. The conditions of section 363(f) of the Bankruptcy Code have been satisfied in full. Therefore, the Sellers may sell the Acquired Assets free and clear of any interests in the Acquired Assets. The Buyer would not have entered into the Stalking Horse Purchase Agreement and would not consummate the transactions contemplated thereby if the sale of the Acquired Assets to the Buyer and the assumption, assignment, and sale of the Assumed Contracts to the Buyer were not, except as otherwise provided in the Stalking Horse Purchase Agreement with respect to the Assumed Liabilities and Permitted Liens, free and clear of all

Claims and Liens of any kind or nature whatsoever of the Debtors, or if the Buyer would, or in the future could (except and only to the extent expressly provided in the Stalking Horse Purchase Agreement and with respect to the Assumed Liabilities and Permitted Liens), be liable for any of such Claims and Liens, including, but not limited to, Claims and Liens in respect of the following: (i) all mortgages, deeds of trust, and security interests; (ii) any pension, welfare, compensation, or other employee benefit plans, agreements, practices, and programs, including, without limitation, any pension plan of the Debtors; (iii) any other employee, worker's compensation, occupational disease, unemployment, or temporary disability related claim, including, without limitation, claims that might otherwise arise under or pursuant to (a) the Employee Retirement Income Security Act of 1974, as amended, (b) the Fair Labor Standards Act, (c) Title VII of the Civil Rights Act of 1964, (d) the Federal Rehabilitation Act of 1973, (e) the National Labor Relations Act, (f) the WARN Act, (g) the Age Discrimination and Employee Act of 1967 and Age Discrimination in Employment Act, as amended, (h) the Americans with Disabilities Act of 1990, (i) the Consolidated Omnibus Budget Reconciliation Act of 1985, (j) state discrimination laws, (k) state unemployment compensation laws or any other similar state laws, or (l) any other state or federal benefits or claims relating to any employment with the Debtors or any of their predecessors; (iv) any bulk sales or similar law to the maximum extent permitted by Law; (v) any tax statutes or ordinances, including, without limitation, the Internal Revenue Code of 1986, as amended; (vi) any environmental laws, including any Environmental, Health and Safety Requirement(s); and (vii) any theories of successor or transferee liability.

DD. The Sellers may sell the Acquired Assets free and clear of all Claims and Liens against the Sellers, their respective estates, or any of the Acquired Assets (except for any

Assumed Liabilities and Permitted Liens under the Stalking Horse Purchase Agreement) because, in each case, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. Holders of such Claims or Liens fall within one or more of the other subsections of section 363(f) of the Bankruptcy Code and are adequately protected by having their Claims or Liens attach to the net cash proceeds of the Sale, if any, ultimately attributable to the Acquired Assets in which such creditor or interest holder alleges an interest, in the same order of priority, with the same validity, force and effect that such creditor or interest holder had prior to the Sale, subject to any claims and defenses the Sellers and their estates may possess with respect thereto. Those holders of Claims or Liens against or in the Sellers, their estates or any of the Acquired Assets who did not object, who withdrew their objection, or whose objection was overruled, to the Sale or the Motion are deemed to have consented pursuant to section 363(f)(2) of the Bankruptcy Code.

EE. The sale, conveyance, assignment and transfer of any personally identifiable information pursuant to the terms of the Stalking Horse Purchase Agreement and this Sale Order complies with the terms of the Debtors' policy regarding the transfer of such personally identifiable information as of the Petition Date and, as a result, consummation of the Sale is permitted pursuant to section 363(b)(1)(A) of the Bankruptcy Code. Accordingly, appointment of a consumer privacy ombudsman in accordance with sections 363(b)(1) or 332 of the Bankruptcy Code is not required with respect to the Sale.

**X. Assumption and Assignment of the Assumed Contracts**

FF. The assumption and assignment of the Assumed Contracts pursuant to the terms of this Sale Order is integral to the Stalking Horse Purchase Agreement and is in the best

interests of the Debtors and their estates, creditors, interest holders, and other parties in interest and represents the reasonable exercise of sound and prudent business judgment by the Debtors.

GG. The Cure Amounts set forth on Exhibit B annexed hereto are the sole amounts necessary under sections 365(b)(1)(A) and (B) and 365(f)(2)(A) of the Bankruptcy Code to cure all monetary defaults and pay all actual pecuniary losses under the Assumed Contracts.

HH. Pursuant to section 365 of the Bankruptcy Code, the Debtors have demonstrated that assuming all Assumed Contracts and assigning such Assumed Contracts to the Buyer is appropriate.

II. Pursuant to the terms of the Stalking Horse Purchase Agreement and this Sale Order, the Buyer shall have: (i) either or both cured and provided adequate assurance of cure of any defaults existing before the Closing Date under any of the Assumed Contracts, within the meaning of section 365(b)(1)(A) of the Bankruptcy Code; and (ii) provided compensation or adequate assurance of compensation to any party for actual pecuniary loss to such party resulting from a default prior to the Closing Date under any of the Assumed Contracts, within the meaning of section 365(b)(1)(B) of the Bankruptcy Code. After payment of the relevant Cure Amounts by the Buyer and as required by the Stalking Horse Purchase Agreement and this Sale Order, the Debtors shall not have any further liabilities to the Contract Counterparties on or after the Closing Date. The Buyer provided adequate assurance of its future performance under the relevant Assumed Contracts within the meaning of sections 365(b)(1)(C), 365(b)(3) (to the extent applicable) and 365(f)(2)(B) of the Bankruptcy Code. Any non-Debtor counterparty to an Assumed Contract who did not timely file an objection to the assumption of its Assumed Contract shall be deemed to have consented to its assumption and assignment to the Buyer



pursuant to section 365 of the Bankruptcy Code in accordance with the Stalking Horse Purchase Agreement.

JJ. No default exists in the Sellers' estates performance under the Assumed Contracts as of the Closing Date other than the failure to pay Cure Amounts or defaults that are not required to be cured as contemplated in section 365(b)(1)(A) of the Bankruptcy Code

KK. Designation Rights. In accordance with the Stalking Horse Purchase Agreement, the Buyer shall maintain certain rights to modify the list of Assumed Contracts after the date of this Sale Order and up to the applicable designation deadline (the "Designation Deadline"), which shall be ten (10) days following entry of this Sale Order. Such modification rights include, but are not limited to, the right of the Buyer, prior to the Designation Deadline, to designate certain Contracts for assumption by the Debtors and assignment and to the Buyer. The notice and opportunity to object provided to the Contract Counterparties to such Assumed Contracts and to other parties in interest, as set forth in the Bidding Procedures Order and the Stalking Horse Purchase Agreement, fairly and reasonably protects any rights that such Contract Counterparties and other parties in interest may have with respect to such Assumed Contracts.

**XI. Compelling Circumstances for an Immediate Sale**

LL. Good and sufficient reasons for approval of the Stalking Horse Purchase Agreement and the Sale have been articulated. The relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest. To maximize the value of the Debtors' assets and preserve the viability of the business to which the Acquired Assets relate, it is essential that the Sale be approved and occur promptly within the time constraints set forth in the Stalking Horse Purchase Agreement. Time is of the essence in effectuating the Stalking Horse Purchase Agreement and consummating the Sale, both to

preserve and maximize the value of the Debtors' assets for the benefit of the Debtors, their estates, their creditors, interest holders, and all other parties in interest in the Chapter 11 Cases and to provide the means for the Debtors to maximize creditor and interest holder recoveries. As such, the Debtors and the Buyer intend to close the Sale of the Acquired Assets as soon as reasonably practicable. The Debtors have demonstrated both compelling circumstances and a good, sufficient, and sound business purpose and justification for immediate approval and consummation of the Stalking Horse Purchase Agreement.

MM. The consummation of the transactions set forth in the Stalking Horse Purchase Agreement and the assumption and assignment of the Assumed Contracts are legal, valid, and properly authorized under all applicable provisions of the Bankruptcy Code, including, without limitation, sections 105(a), 363(b), 363(f), 363(m), 365(b) and 365(f), and all of the applicable requirements of such sections have been complied with in respect of such transactions.

**NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

**General Provisions**

1. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to the Chapter 11 Cases pursuant to Bankruptcy Rule 9014. To the extent that any findings of fact constitute conclusions of law, they are adopted as such. To the extent any conclusions of law constitute findings of fact, they are adopted as such. Any findings of fact or conclusions of law stated by the Court on the record at the Sale Hearing are hereby incorporated.

2. The relief requested in the Motion is GRANTED and the transactions contemplated thereby and by the Stalking Horse Purchase Agreement are APPROVED for the reasons set forth in this Sale Order and on the record of the Sale Hearing, which is incorporated

fully herein as if fully set forth in this Sale Order, and the Sale contemplated by the Stalking Horse Purchase Agreement is APPROVED.

3. All objections, statements, and reservations of rights (if any) to the Motion and the relief requested therein and to the entry of this Sale Order or the relief granted herein, that have not been withdrawn, waived, adjourned, settled as announced to the Court at any prior hearing, at the Sale Hearing, or by stipulation filed with the Court, or previously overruled, including, without limitation, all reservations of rights included therein or otherwise, are hereby overruled and denied on the merits with prejudice, except as expressly set forth herein. Those parties who did not object, or withdrew their objections to the Motion, are deemed to have consented to the Sale pursuant to section 363(f)(2) of the Bankruptcy Code.

4. This Court's findings of fact and conclusions of law set forth in the Bidding Procedures Order are incorporated herein by reference.

**Approval of the Stalking Horse Purchase Agreement**

5. The Stalking Horse Purchase Agreement and all other ancillary documents, and all of the respective terms and conditions thereof, the Sale contemplated thereby, and the Purchase Price are hereby approved. The Sellers and Solutions are authorized to enter into the Stalking Horse Purchase Agreement and all other ancillary documents to be executed in connection with the Stalking Horse Purchase Agreement as may be necessary.

6. Pursuant to sections 363 and 365 of the Bankruptcy Code, entry by the Sellers and Solutions into the Stalking Horse Purchase Agreement is hereby authorized and approved. The Sellers, Solutions, and the Buyer, acting by and through their respective existing agents, representatives, and officers, are authorized, empowered and directed, without further order of this Court, to use their reasonable best efforts to take any and all actions necessary or appropriate

to (a) consummate and close the Sale in accordance with the terms and conditions of the Stalking Horse Purchase Agreement and this Sale Order, (b) transfer and assign all right, title, and interest to all assets, property, licenses, and rights of the Sellers to be conveyed in accordance with the terms and conditions of the Stalking Horse Purchase Agreement, and (c) execute and deliver, perform under, consummate, implement, and close fully the Stalking Horse Purchase Agreement, including the assumption and assignment to the Buyer of the Assumed Contracts, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Stalking Horse Purchase Agreement and the Sale, including any other ancillary documents, or as may be reasonably necessary or appropriate to the performance of the obligations as contemplated by the Stalking Horse Purchase Agreement, this Sale Order, and such other ancillary documents, including any actions that otherwise would require further approval by shareholders, members, or their boards of directors, as the case may be, without the need to obtain such approvals. The Sellers and Solutions are hereby authorized to perform their covenants and undertakings as provided in the Stalking Horse Purchase Agreement and any ancillary documents before or after the Closing Date without further order of the Court. Neither the Buyer, the Sellers nor Solutions shall have any obligation to proceed with the Closing under the Stalking Horse Purchase Agreement until all conditions precedent to their obligations to do so have been met, satisfied, or waived, except as otherwise contemplated and provided for in the Stalking Horse Purchase Agreement and this Sale Order.

7. This Sale Order and the Stalking Horse Purchase Agreement shall be binding in all respects upon the Debtors, including the Debtors' estates, all holders of equity interests in any Debtor, all holders of Claims or Liens (whether known or unknown) against any Debtor, including the Committee, any holders of Claims or Liens against or on all or any portion of the

Acquired Assets, all Contract Counterparties, the Buyer and all successors and assigns of the Buyer, the Acquired Assets, all successors and assigns of the Debtors, and any subsequent trustees appointed in any of the Chapter 11 Cases or upon a conversion to chapter 7 under the Bankruptcy Code of any of the Chapter 11 Cases, and shall not be subject to rejection or unwinding. This Sale Order and the Stalking Horse Purchase Agreement shall inure to the benefit of the Debtors, their estates, their creditors, the Buyer and their respective successors and assigns. Nothing in any chapter 11 plan confirmed in the Chapter 11 Cases, the confirmation order confirming any such chapter 11 plan, any order approving the wind down or dismissal of the Chapter 11 Cases, or any order entered upon the conversion of the Chapter 11 Cases to one or more cases under chapter 7 of the Bankruptcy Code or otherwise shall alter, conflict with, or derogate from, the provisions of this Sale Order.

**Transfer of the Acquired Assets**

8. Pursuant to sections 105(a), 363(b), 363(f), 365(b) and 365(f) of the Bankruptcy Code, the Sellers are authorized and directed to transfer the Acquired Assets to the Buyer on the Closing Date. The transfer of the Acquired Assets to the Buyer under the Stalking Horse Purchase Agreement does not require any consents other than as specifically provided for in the Stalking Horse Purchase Agreement. The transfer of the Sellers' right, title, and interest in the Acquired Assets to the Buyer pursuant to the Stalking Horse Purchase Agreement and this Sale Order shall be deemed transferred to the Buyer upon and as of the Closing Date, and such transfer of the Acquired Assets and the consummation of the Sale and any related actions contemplated thereby constitute a legal, valid, binding, and effective transfer of the Sellers' right, title, and interest in the Acquired Assets and shall vest the Buyer with all the right, title and interest of the Sellers in and to the Acquired Assets as set forth in the Stalking Horse Purchase

Agreement, free and clear of all Claims and Liens (except Assumed Liabilities and Permitted Liens). Upon the Closing, the Buyer shall take title to and possession of the Acquired Assets subject only to the Assumed Liabilities and Permitted Liens. Pursuant to section 363(f) of the Bankruptcy Code, the transfer of title to the Acquired Assets and the Assumed Contracts shall be free and clear of all Claims and Liens including, without limitation, all Claims pursuant to any successor or successor-in-interest liability theory, except for Assumed Liabilities and Permitted Liens.

9. On the Closing Date, this Sale Order shall be construed and shall constitute for any and all purposes a full and complete general assignment, conveyance, and transfer of all of the Sellers' right, title, and interest in the Acquired Assets or a bill of sale transferring good and marketable title in such Acquired Assets to the Buyer on the Closing Date pursuant to the terms of the Stalking Horse Purchase Agreement and this Sale Order, free and clear of all Claims and Liens (other than Assumed Liabilities and Permitted Liens). For the avoidance of doubt, the Excluded Assets set forth in the Stalking Horse Purchase Agreement and herein are not included in the Acquired Assets, and the Excluded Liabilities set forth in the Stalking Horse Purchase Agreement and herein are not Assumed Liabilities.

10. The Buyer shall be authorized, as of the Closing Date, to operate under any license, permit, registration, and governmental authorization or approval of the Sellers constituting Acquired Assets, and all such licenses, permits, registrations, and governmental authorizations and approvals are deemed to have been, and hereby are, directed to be transferred to the Buyer as of the Closing Date as provided by the Stalking Horse Purchase Agreement. To the extent provided by section 525 of the Bankruptcy Code, no governmental unit may revoke or suspend any grant, permit, or license relating to the operation of the Acquired Assets sold,

transferred, assigned, or conveyed to the Buyer on account of the filing or pendency of the Chapter 11 Cases or the consummation of the Sale.

11. Except with respect to Assumed Liabilities and Permitted Liens, all persons and entities holding Claims against the Debtors or Claims or Liens in all or any portion of the Acquired Assets arising under or out of, in connection with or in any way relating to the Debtors, the Acquired Assets, the operation of the Debtors' business prior to the Closing Date, the transfer of the Acquired Assets to the Buyer, or otherwise, are hereby forever barred, estopped, and permanently enjoined from asserting against the Buyer or its successors or assigns, their property, or the Acquired Assets such persons' or entities' Claims against the Debtors or Claims or Liens in and to the Acquired Assets. On and after the Closing Date, each creditor is authorized and directed to execute such documents and take all other actions as may be deemed by the Buyer to be necessary or desirable to evidence the release of Claims or Liens, if any, as provided for herein, as such Claim or Lien may have been recorded or may otherwise exist.

12. All persons and entities that are presently, or on the Closing Date may be, in possession of some or all of the Acquired Assets to be sold, transferred, or conveyed (wherever located) to the Buyer pursuant to the Stalking Horse Purchase Agreement are hereby directed to surrender possession of such Acquired Assets to the Buyer on the Closing Date. To the extent that any such person or entity fails or refuses to surrender possession of such Acquired Assets on or after the Closing Date, the Buyer has the right to commence a turnover action and have it considered on an expedited basis. All persons are hereby forever prohibited and enjoined from taking any action that would adversely affect or interfere with, or which would be inconsistent with, the ability of the Sellers to sell and transfer any or all of the Acquired Assets to the Buyer,

or the ability of the Buyer to take title and possession of any or all of the Acquired Assets, in accordance with the terms of the Stalking Horse Purchase Agreement and this Sale Order.

13. This Sale Order is and shall be effective as a determination that, as of the Closing Date, all Claims and Liens of any kind or nature whatsoever existing as to the Acquired Assets before the Closing, other than Assumed Liabilities and Permitted Liens, or as otherwise provided in this Sale Order, shall have been unconditionally released, discharged, and terminated. Moreover, this Sale Order is and shall be effective as a determination that, as of the Closing Date, the conveyances described herein have been affected, with all such Claims and Liens to attach to any net proceeds received by the Sellers ultimately attributable to the Acquired Assets against, or in, which such Claims or Liens are asserted, subject to the terms thereof, with the same validity, force, and effect, and in the same order of priority, which such Claims or Liens now have against the Acquired Assets, subject to any rights, claims, and defenses that the Sellers or their estates, as applicable, may possess with respect thereto.

14. This Sale Order is and shall be binding upon and govern the acts of all persons and entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal and local officials and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any lease, and each of the foregoing persons and entities is hereby authorized and directed to accept for filing any and all of the documents and instruments necessary and appropriate to consummate the transactions contemplated by the Stalking Horse Purchase Agreement.



15. Each and every federal, state, and local governmental agency or department is hereby authorized to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Stalking Horse Purchase Agreement. A certified copy of this Sale Order may be: (a) filed with the appropriate clerk; (b) recorded with the recorder; or (c) filed or recorded with any other governmental agency to act to cancel any of the Claims, Liens, and other encumbrances of record.

16. If any person or entity that has filed statements or other documents or agreements evidencing Claims or Liens in all or any portion of the Acquired Assets has not delivered to the Sellers prior to the Closing Date, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of Liens and Claims and any other documents necessary or desirable to the Buyer for the purpose of documenting the release of all Claims and Liens (other than Assumed Liabilities or Permitted Liens), which the person or entity has or may assert with respect to all or any portion of the Acquired Assets, then the Buyer and the Debtors are hereby authorized to execute and file such statements, instruments, releases and other documents in the name and on behalf of such person or entity with respect to the Acquired Assets; provided that, notwithstanding anything in this Sale Order or the Stalking Horse Purchase Agreement to the contrary, the provisions of this Sale Order shall be self-executing, and neither the Debtors nor the Buyer shall be required to execute or file releases termination statements, assignments, consents, or other instruments in order to effectuate, consummate, and implement the provisions of this Sale Order.

**DIP Facility Obligations; Continuing Lien**<sup>4</sup>

17. On the Closing Date, the Debtors shall use and disburse the net cash proceeds from this Sale, and on any other closing date of any other sale of the Debtors' assets approved pursuant to orders of the Court (collectively, the "Sale Transactions"), and such aggregate proceeds the "Sale Proceeds"), each as set forth below:

- a. First, subject to the last sentence of this paragraph 17(a), at least \$~~1~~<sup>5</sup>13 million (the "Holdback Amount") of the Sale Proceeds shall be funded into the DIP Proceeds Account, which shall constitute Cash Collateral subject to the Final DIP Order (including, but not limited to, the Carve-Out). The Holdback Amount shall be used by the Debtors in accordance with the Final DIP Order (including, but not limited to, the Carve-Out) and the Approved Budget until (i) further order of this Court, which further order, for the avoidance of doubt, may include a stipulation and agreed order or the order confirming a chapter 11 plan for any Debtor, or (ii) the Debtors, the DIP Secured Parties, Prepetition Secured Parties, and the Committee otherwise agree in writing. The Debtors, the DIP Secured Parties, and the Prepetition Secured Parties may mutually agree to adjust the Holdback Amount, either upward or downward, after the Closing Date and on any other closing date of the Sale Transactions, including to reflect adjustments to the Approved Budget after entry of this Sale Order.
- b. Second, all Sale Proceeds in excess of the Holdback Amount shall, in such amounts as may be directed in writing by the DIP Agent and the Prepetition Agent (collectively, the "Agent"), be paid directly to the Agent for application to the DIP Obligations and/or the Prepetition Obligations, as elected by the Agent; provided, nothing in this clause (b) shall prejudice any rights under the Final DIP Order that may be available to the DIP Secured Parties, the Prepetition Secured Parties, the Debtors, or the Committee.

For the avoidance of doubt, all Liens and  
Claims will attach to the Sale Proceeds to  
the same extent and with the same priority

<sup>4</sup> Capitalized terms used in paragraphs 17-18 and not otherwise defined in this Sale Order shall have the meanings ascribed to them in the *Final Order (A) Authorizing the Debtors to Obtain Postpetition Financing and to Use Cash Collateral, (B) Granting Liens and Superpriority Claims, (C) Granting Adequate Protection, (D) Modifying the Automatic Stay, and (E) Granting Related Relief* [D.I. 255] (the "Final DIP Order").

<sup>5</sup> ~~[NTD: The amount to be inserted remains under discussion between the Debtors, the DIP Secured Parties, and the Prepetition Secured Parties.]~~

as existed prior to consummation of the Sale Transactions, subject to any claims, defenses and objections, if any, that the Debtors, their estates, or any other party in interest may possess with respect thereto.

18. Without limitation to the other provisions of this Sale Order, at the Closing, the DIP Secured Parties and the Prepetition Secured Parties shall execute such documents and take such other actions as may be reasonably necessary to release their Claims and Liens in and to the Acquired Assets as of the Closing that are transferred to the Buyer; provided, however, any failure to do so shall not in any way affect the validity of such transfer pursuant to this Sale Order.

**Assumed Contracts; Assumed Warranty and Membership Obligations**

19. The Sellers are hereby authorized and directed in accordance with sections 105(a), 363, and 365 of the Bankruptcy Code to (a) assume and assign the Assumed Contracts to the Buyer free and clear of all Claims, Liens, and other interests of any kind or nature whatsoever (other than the Assumed Liabilities), subject to the terms of the Stalking Horse Purchase Agreement and this Sale Order, as of the Closing Date and (b) execute and deliver to the Buyer such documents or other instruments as the Buyer deems necessary to assign and transfer the Assumed Contracts to the Buyer in accordance with the Stalking Horse Purchase Agreement. The payment of the applicable Cure Amounts (if any) by the Buyer as required by the Stalking Horse Purchase Agreement and this Sale Order shall (i) effect a cure of all defaults existing thereunder as of the Closing Date, (ii) compensate for any actual pecuniary loss to the applicable Contract Counterparty resulting from such default, and (iii) together with the assignment by the

Sellers to and the assumption of the Assumed Contracts by the Buyer, constitute adequate assurance of future performance thereof.

20. The Buyer's right to modify the list of Assumed Contracts after the date of this Sale Order and up to the Designation Deadline is hereby approved.

21. On the Closing Date, the Sellers shall assume and assign to the Buyer each Assumed Contract designated by Buyer for assumption and assignment on the Closing Date in accordance with the Stalking Horse Purchase Agreement and this Sale Order, and which Assumed Contracts are set forth on **Exhibit B** attached hereto (as may be modified up to the Designation Deadline); provided, however, to the extent any contract with a customer for a warranty claim and/or a membership constitute an executory Contract, such contract shall be deemed an Assumed Contract without their inclusion on **Exhibit B**.

22. Pursuant to section 365(f) of the Bankruptcy Code, the assignment by the Sellers of the Assumed Contracts shall not be a default thereunder. Any provisions in any Assumed Contract that prohibit or condition the assignment of such Assumed Contract to the Buyer or allows the party to such Assumed Contract to terminate, recapture, impose any penalty, condition on renewal or extension, or modify any term or condition upon the assignment of such Assumed Contract to the Buyer, constitute anti-assignment provisions that are unenforceable and will have no force and effect solely with respect to assumption and assignment pursuant to this Sale Order or any subsequent assumption and assignment order. All other requirements and conditions under sections 363 and 365 of the Bankruptcy Code for the assumption by the Sellers and assignment to the Buyer of the Assumed Contracts have been satisfied.

23. On the Closing Date, upon payment of the relevant Cure Amount, if any, in accordance with sections 363 and 365 of the Bankruptcy Code, the Buyer shall be fully and

irrevocably vested with all right, title and interest of the Sellers under such Assumed Contract.

To the extent provided in the Stalking Horse Purchase Agreement, the Debtors shall cooperate with and take all actions reasonably requested by the Buyer to effectuate the foregoing.

24. On the Closing Date, and the payment of the relevant Cure Amount, if any, the Assumed Contracts will remain in full force and effect (subject to any amendments agreed to between the counterparty to such Assumed Contract and the Buyer), and no default shall exist under the Assumed Contracts and no counterparty to any Assumed Contract shall be permitted (a) to declare a default by the Buyer under such Assumed Contract, or (b) to otherwise take action against the Buyer as a result of any Debtors' financial condition, bankruptcy, or failure to perform any of its obligations under the relevant Assumed Contract.

25. Pursuant to sections 105(a), 363, and 365 of the Bankruptcy Code, other than the right to payment of any Cure Amount, all Contract Counterparties are forever barred and permanently enjoined from raising or asserting against either the Debtors or the Buyer any assignment fee, default, breach, Claim, pecuniary loss, or condition to assignment arising under or related to the Assumed Contracts existing as of the Closing Date or arising by reason of the Closing; provided, however, that the foregoing shall not apply to any customer of any Seller holding a Cure Amount on account of a valid warranty from any Seller or a membership agreement with any Seller, as such liabilities are being assumed by Buyer.

26. On the Closing Date, the Debtors shall be relieved, pursuant to sections 363 and 365(k) of the Bankruptcy Code, from any further liability under any Assumed Contract, and the counterparties shall be estopped from asserting any and all Claims or Liens, whether known or unknown, against the Debtors on account of the Assumed Contract. Without limiting the foregoing, on the Closing Date, the Sellers shall be relieved of any further liability under any

warranty or membership obligation with any of their customers, as such liabilities are being assumed by the Buyer.

27. Any Contract Counterparty—including, to the extent applicable, any customer holding a valid warranty from, and/or membership with, any Seller—who did not timely file an objection to the assumption of its Assumed Contract shall be deemed to have consented to the Assumed Contract's assumption and assignment to the Buyer pursuant to section 365 of the Bankruptcy Code. All objections to the assumption and assignment of the Assumed Contracts that have not been withdrawn, waived, settled, or adjourned, as announced to the Court at the Sale Hearing or by stipulation filed with the Court, and all reservations of rights included in such objections or otherwise, are hereby denied and overruled on the merits with prejudice.

28. All non-Debtor counterparties to the Assumed Contracts shall cooperate and expeditiously execute and deliver, upon the reasonable request of the Buyer, any instruments, applications, consents, or other documents that may be required or requested by any public authority or other party or entity to effectuate the applicable transfers in connection with the sale of the Acquired Assets.

#### **Other Provisions**

**29. The Stalking Horse Purchase Agreement does not provide for the sale of the Debtors' and their estates' claims—including, without limitation, commercial tort claims and Avoidance Actions—against any of the Debtors' insiders (as that term is defined in section 101(31) of the Bankruptcy Code).**

**30.** ~~29.~~ The consideration provided by the Buyer for the Sellers' right, title, and interest in the Acquired Assets under the Stalking Horse Purchase Agreement constitutes reasonably equivalent value and fair consideration for the Acquired Assets under the Bankruptcy

Code, Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, Uniform Voidable Transactions Act, and other applicable law within the meaning of section 544(b) of the Bankruptcy Code, under the laws of the United States, any state, territory, possession, or the District of Columbia.

31. ~~30.~~ Effective upon the Closing Date, except as set forth in the Stalking Horse Purchase Agreement with respect to Assumed Liabilities and Permitted Liens and Sale Order, all persons and entities are forever prohibited and permanently enjoined from commencing or continuing in any manner any action or other proceeding, whether in law or equity, in any judicial, administrative, arbitral, or other proceeding against the Buyer, its successors and assigns, or the Acquired Assets, with respect to any (a) Claims and Liens arising under, out of, in connection with or in any way relating to the Debtors, the Buyer, the Acquired Assets, or the operation of the Acquired Assets prior to the Closing or (b) successor liability based, in whole or in part, directly or indirectly, on any theory of successor or vicarious liability of any kind of character, or based upon any theory of antitrust, environmental, successor or transferee liability, *de facto* merger or substantial continuity, labor and employment, or products liability, whether known or unknown as of the Closing, now existing or hereafter arising, asserted or unasserted, fixed or contingent, or liquidated or unliquidated, including, without limitation, the following actions: (i) commencing or continuing in any manner any action or other proceeding against the Buyer, its successors or assigns, assets, or properties; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree, or order against the Buyer, its successors or assigns, assets, or properties; (iii) creating, perfecting, or enforcing any Claims or Liens against the Buyer, its successors or assigns, assets, or properties; (iv) asserting any setoff or right of subrogation of any kind against any obligation due to the Buyer or its successors or assigns;

(v) commencing or continuing any action, in any manner or place, that does not comply or is inconsistent with the provisions of this Sale Order or other orders of the Court, or the agreements or actions contemplated or taken in respect thereof; or (vi) revoking, terminating, or failing or refusing to renew any license, permit or authorization to operate any of the Acquired Assets or conduct any of the businesses operated with the Acquired Assets.

32. ~~31.~~ The transactions contemplated by the Stalking Horse Purchase Agreement are undertaken by the Buyer without collusion and in good faith, as that term is defined in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale shall not affect the validity of the Sale (including the assumption and assignment of the Assumed Contracts), unless such authorization and such Sale are duly stayed pending such appeal. The Buyer is a good faith purchaser within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to the full protections of section 363(m) of the Bankruptcy Code. The Sale is not subject to avoidance pursuant to section 363(n) of the Bankruptcy Code.

33. ~~32.~~ No bulk sales law or any similar law of any state or other jurisdiction applies in any way to the transactions with the Debtors that are approved by this Sale Order, including, without limitation, the Stalking Horse Purchase Agreement and the Sale.

34. ~~33.~~ The failure specifically to include any particular provision of the Stalking Horse Purchase Agreement in this Sale Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Stalking Horse Purchase Agreement be authorized and approved in its entirety.

35. ~~34.~~ The Stalking Horse Purchase Agreement and any related or ancillary agreements, documents or other instruments may be further modified, amended, or supplemented



by the parties thereto and in accordance with the terms thereof, without further order of the Court; provided that any such modification, amendment or supplement does not have a material adverse effect on the Debtors' estates.

36. ~~35.~~ To the extent that this Sale Order is inconsistent with any prior order or pleading with respect to the Motion in the Chapter 11 Cases, the terms of this Sale Order shall govern. To the extent there are any inconsistencies between the terms of this Sale Order and the Stalking Horse Purchase Agreement (including any ancillary documents executed in connection therewith), the terms of this Sale Order shall govern.

37. ~~36.~~ The provisions of this Sale Order are non-severable and mutually dependent.

38. ~~37.~~ All time periods set forth in this Sale Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

39. ~~38.~~ The automatic stay pursuant to section 362 of the Bankruptcy Code is hereby modified, lifted, and annulled with respect to the Debtors and the Buyer to the extent necessary, without further order of this Court, to allow the Buyer to take any and all actions permitted under the Stalking Horse Purchase Agreement or any other Sale-related document in accordance with the terms and conditions thereof. The Buyer shall not be required to seek or obtain relief from the automatic stay under section 362 of the Bankruptcy Code to enforce any of its remedies under the Stalking Horse Purchase Agreement or any other Sale-related document.

40. ~~39.~~ The Debtors are authorized to take all actions necessary to effect the relief granted pursuant to this Sale Order in accordance with the Motion. The Stalking Horse Purchase Agreement and any related agreements, documents or other instruments may be modified, amended or supplemented through a written document signed by the parties thereto in accordance with the terms thereof without further order of this Court; *provided, however*, that

any such modification, amendment, or supplement that is either material or materially changes the economic substance of the transactions shall be (i) filed on the docket served on the Limited Service List, and (ii) parties-in-interest shall have five (5) days to object to any such amendment. Absent any such objection, such modification, amendment, or supplement shall be binding and any timely objection shall be heard by the Court on an expedited basis.

41. ~~40.~~ Notwithstanding the provisions of Bankruptcy Rule 6004(h) and Bankruptcy Rule 6006(d), and pursuant to Bankruptcy Rules 7062(g) and 9014, this Sale Order shall not be stayed, shall be effective immediately upon entry, and the Debtors and the Buyer are authorized to close the Sale immediately upon entry of this Sale Order. **Time is of the essence** in closing the transactions referenced herein, and the Debtors and the Buyer intend to close the Sale as soon as practicable.

42. ~~41.~~ This Court shall retain jurisdiction to, among other things, interpret, implement, and enforce the terms and provisions of this Sale Order and the Stalking Horse Purchase Agreement, all amendments thereto as well as any waivers and consents thereunder and each of the agreements executed in connection therewith to which the Debtors are a party and adjudicate, if necessary, any and all disputes concerning or relating in any way to the Sale.

43. ~~42.~~ Counsel for the Debtors, through Kurtzman Carson Consultants, LLC d/b/a Verita Global (“Verita”) shall, within three (3) days of the entry of this Sale Order, cause a copy of this Sale Order to be served by electronic mail or first-class mail, as applicable, on all parties served with the Motion, and Verita shall file promptly thereafter a certificate of service confirming such service.

END OF DOCUMENT

*Prepared and presented by:*

**GREENBERG TRAURIG, LLP**

*/s/ David B. Kurzweil*

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*Counsel for the Debtors and  
Debtors in Possession*

**Exhibit A**

**~~Stalking Horse Purchase Agreement~~**

| **Exhibit B**

| **~~Assumed Contracts~~**

| **~~ACTIVE 710690175v4~~**

<b>Summary report:</b>	
<b>Litera Compare for Word 11.11.0.158 Document comparison done on 5/19/2025 3:43:00 PM</b>	
<b>Style name:</b> GT-1 - No headers and footers, no moves, no comments	
<b>Intelligent Table Comparison:</b> Active	
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<b>Modified DMS:</b> iw://dmsamericas.gtlaw.com/active/710690175/5 - Air Pros - Form Sale Order (Reliance).docx	
<b>Changes:</b>	
<u>Add</u>	21
<del>Delete</del>	28
<del>Move From</del>	0
<u>Move To</u>	0
<u>Table Insert</u>	0
<del>Table Delete</del>	0
<u>Table moves to</u>	0
<del>Table moves from</del>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	49