

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

Axion International, Inc.¹

Debtors.

Chapter 11

Case No.: 15-12415 (CSS)
(Jointly Administered)

Bidding Procedures Objection Deadline: TBD
Bidding Procedures Hearing Date: TBD
Cure Objection Deadline: TBD
Sale Objection Deadline: TBD
Sale Hearing Date: TBD

**DEBTORS' MOTION FOR ORDERS (I)(A) AUTHORIZING AND APPROVING
THE BIDDING PROCEDURES, (B) APPROVING CERTAIN NOTICE
PROCEDURES, (C) APPROVING THE ASSUMPTION AND ASSIGNMENT
PROCEDURES, AND (D) SETTING A DATE FOR THE SALE HEARING AND
(II) AUTHORIZING AND APPROVING (A) THE SALE OF THE DEBTORS'
ASSETS, AND (B) THE ASSUMPTION AND ASSIGNMENT OF CERTAIN
CONTRACTS AND LEASES**

The above-captioned debtors and debtors-in-possession (collectively, the "Debtors"), hereby move (the "Motion") this court (the "Court") for the entry of orders pursuant to sections 105, 363, 365 and 503 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (as amended, the "Bankruptcy Code"), Rules 2002, 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 6004-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules") (i)(a) authorizing and approving the proposed bidding procedures (the "Bidding Procedures") (attached as Exhibit I to the proposed form of Bidding Procedures Order attached hereto as Exhibit A) for the sale of substantially all of the Debtors' assets (the "Purchased Assets"), as

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Axion International, Inc. [1880], Axion International Holdings, Inc. [6389], Axion Recycled Plastics Incorporated [5048]. The address of the Debtors' corporate headquarters is 4005 All American Way, Zanesville, OH 43701.

described more fully herein (the “Sale”), (b) authorizing and approving the terms and conditions of the proposed break up fee (the “Break Up Fee”) and reimbursement of expenses (the “Expense Reimbursement” and together with the Break Up Fee, the “Bid Protections”), (c) approving the form and manner of the notice regarding the Sale and related Sale Hearing (the “Sale Notice”) and the Cure Notice (as defined below), (d) approving the procedures for assumption and assignment (the “Assumption and Assignment Procedures”) of certain of the Debtors’ prepetition executory contracts and leases of nonresidential real property (collectively, the “Assumed Contracts and Leases”), and (e) setting the time, date and place of a later hearing (the “Sale Hearing”) to consider the Sale; (ii) authorizing and approving (a) the Sale of the Purchased Assets free and clear of any charge, claim, condition, equitable interest, lien (including without limitation any lien held or asserted by any governmental authority), option, pledge, security interest, mortgage, right of way, easement, encroachment, servitudes, right of first option, right of first refusal, or similar restriction, including restrictions of use, voting (in the case of any security or equity interest), transfer, receipt of income or exercise of any attribute of ownership, or other encumbrance, option or defect in title of every type and description, whether imposed by law, agreement, understanding or otherwise, including, without limitation, all liens, encumbrances, and interests in property as set forth in Section 363 of the Bankruptcy Code (except for Assumed Liabilities as that term is defined in the Term Sheet attached hereto as Exhibit B) (collectively, the “Encumbrances and Interests”), (b) the assumption and assignment of the Assumed Contracts and Leases pursuant to section 365 of the Bankruptcy Code, and (c) waiving the fourteen-day stay imposed by Bankruptcy Rules 6004(h) and 6006(d); and (iii) granting such other and further relief as

the Court deems just and proper. In support of this Motion, the Debtors rely on the Declaration of Donald W. Fallon in Support of Chapter 11 Petitions and Related Motions (the “Fallon Declaration”). In further support of the Motion, the Debtors respectfully represent as follows:

Jurisdiction, Venue and Predicates for Relief

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334(b) and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. § 157 (b)(2).

2. The statutory bases for the relief requested herein are sections 105, 363, 365, and 503 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006 and 9014, and Local Rule 6004-1.

Background

A. Introduction

3. On the date hereof (the “Petition Date”), the Debtors filed voluntary petitions under chapter 11 of the Bankruptcy Code, commencing the above-captioned chapter 11 cases. The Debtors continue to operate their businesses and manage their properties as a debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

4. No creditors’ committee has been appointed in this case. No trustee or examiner has been appointed.

5. A full description of the Debtors’ business operations, corporate structures, capital structures, and reasons for commencing these cases is set forth in the

Fallon Declaration, which was filed contemporaneously with this Motion and which is incorporated herein by reference.

B. The Debtors' Business Operations

6. Axion International Holdings, Inc. ("Holdings") is a publicly-traded company (AXIH), organized under Colorado law, with executive offices located in Zanesville, Ohio. As of the Petition Date, Holdings had 54,121,611 shares of common stock, par value \$0.016 per share, traded on the OTCC Bulletin Board. Axion International, Inc. ("Axion International"), a Delaware corporation, is a wholly-owned subsidiary of Holdings, and Axion Recycled Plastics Incorporated ("Axion Recycling"), an Ohio corporation, is a wholly-owned subsidiary of Axion International. The Debtors employ approximately 70 individuals as of the Petition Date.

7. The Debtors manufacture, market and sell structural products and building materials, with an emphasis on railroad ties and construction mats. Using patented technology and proprietary know-how, the Debtors transform post-consumer and post-industrial recycled plastics, such as high-density polyethylene and glass-filled polypropylene, into products that are ideal replacements for similar products made from traditional materials such as wood, steel or concrete. Compared to traditional materials, the Debtors' products are cost competitive, and feature longer life cycles and lower maintenance costs. The Debtors' manufacturing facilities (both of which are leased) are located in Zanesville, Ohio and Waco, Texas.

8. The Debtors' strategic focus has been to (i) expand manufacturing capacity to meet current demand for their railroad ties and construction and temporary road mats; (ii) further penetrate chosen end-use markets in the railroad, transportation, and oil and gas industries; (iii) identify new applications for the Debtors' proprietary

technologies based on market research and geographic segmentation; and (iv) spread exposure to risk and liability through product stratification.

9. The Debtors have been plagued by a lack of liquidity requiring a reduction in production capacity. The Debtors' principal costs and expenses include raw materials and expenses associated with production and manufacturing. To compensate for the liquidity challenges, the Debtors were forced to reprocess slow-moving and obsolete products into new products and to liquidate inventory at lower sales prices in order to induce customers to purchase and/or accept shorter payment terms.

10. Due to the liquidity issues, recurring losses from operations, and negative operating cash flows, the Debtors' recently questioned in notes to their financial statements their ability to continue as a going concern. The actions taken by the Debtors to decrease production activity, liquidate available inventory and to seek additional capital investment from both public and private sources have proved largely unsuccessful. Through funds made available prior to the Petition Date and the proposed DIP Facility (defined below), the Debtors are purchasing raw materials and rebuilding relationships with vendors who are necessary to the production side of the Debtors' business.

C. The Debtors' Prepetition Capital Structure

Mr. Kronstadt's Holdings

11. Commencing in August, 2012, Allen Kronstadt, along with two other individuals and/or their affiliates, began to actively invest in the Debtors through the purchase of 8% secured convertible notes for which they were also issued warrants. Upon his initial investment of approximately \$2.4 million, Mr. Kronstadt was elected to the Debtors' board of directors. Through December 31, 2014, Mr. Kronstadt purchased

\$5.2 million of the 8% notes (the notes are collectively referred to as the “Kronstadt Secured Notes” and the debt owed pursuant thereto, is referred to as the “Kronstadt Secured Indebtedness”). In addition to these notes, Mr. Kronstadt thereafter purchased \$666,667 of a different series of 8% convertible notes, \$333,333 of 12% convertible notes and approximately \$2.4 million of a series of 12% notes, which were secured by a pledge of Holdings’ equity interest in Axion Recycling and Axion International (collectively, the “Additional Kronstadt Indebtedness”). Mr. Kronstadt never converted any of the Kronstadt Secured Notes. On June 9, 2015, Mr. Kronstadt resigned from the Debtors’ board of directors.

12. When the Debtors, in anticipation of an up-listing to a national exchange in April 2015, initiated a tender offer to acquire their outstanding warrants in exchange for the issuance of shares, Mr. Kronstadt tendered his warrants and obtained 10.9 million shares of the Debtors’ common stock. Mr. Kronstadt was also issued approximately 1.6 million shares of common stock as interest on his convertible notes. Until the two other investors with whom Mr. Kronstadt invested forgave their debt and relinquished part of their shares in October, 2015, Mr. Kronstadt held a 17.8% interest in the Debtors’ common stock. As a result of the relinquishment, Mr. Kronstadt became a 20.1% stockholder.

13. On November 24, 2015, Mr. Kronstadt tendered to the Debtors in exchange for \$2.00 the Additional Kronstadt Indebtedness. He also tendered back to the Debtors in exchange for \$2.00 all shares of common stock, stock options and warrants registered in his individual name. As of the date hereof, 224,803 shares of common stock are held by a tax-exempt foundation established by Mr. Kronstadt and trusts established

for the benefit of Mr. Kronstadt's direct descendants. Mr. Kronstadt no longer holds shares of the Debtors in his individual name.

14. As a result, as of the Petition Date, the total principal sum owed to Mr. Kronstadt by the Debtors pursuant to the Kronstadt Secured Notes (excluding legal fees, accrued interest and other charges) is approximately \$5.2 million. The Kronstadt Secured Notes are secured by (i) second-priority perfected security interests in the Ohio State Collateral (as defined below) and the Community Bank Collateral (as defined below), and (ii) a first-priority perfected security interest in all of the other assets of the Debtors.

The Debtors' Other Debt

15. On November 15, 2013, Axion Recycling entered into an asset purchase agreement to acquire certain assets of a recycled plastics facility located in Zanesville, Ohio. As a component of the consideration paid for these assets, the Debtors assumed a 3% promissory note payable to the State of Ohio with a remaining principal balance of \$236,201 as of June 30, 2015 (the "Ohio State Note"). The Ohio State Note is secured by first-priority liens encumbering certain equipment owned by Axion Recycling (the "Ohio State Collateral").

16. In 2013, the Debtors entered into two term loans with The Community Bank (together with Mr. Kronstadt and the State of Ohio, the "Prepetition Lien Holders") in the aggregate principal amounts of \$1,000,000 and \$3,500,000 (the "Community Bank Debt"). The Community Bank Debt bears interest at 4.25% per annum, is secured by first-priority liens encumbering certain identifiable equipment owned by the Debtors (the "Community Bank Collateral") and matures on November 15, 2018.

17. During 2014, the Debtors borrowed \$4,000,000 from EagleBank pursuant to the terms of a promissory note and loan agreement (the “EagleBank Debt”). Interest accrues on the outstanding principal at a fixed interest rate of 5% per annum and is payable monthly. All outstanding principal and accrued but unpaid interest is due on September 18, 2017. The EagleBank Debt is one-third guaranteed by Mr. Kronstadt, but is not secured by any of the Debtors’ assets.

D. Events Leading to the Chapter 11 Filings

18. As noted above, the Debtors are facing a liquidity crisis requiring a curtailment of production, and are therefore unable to meet customer demands. In addition to their cash flow crisis, as of September 30, 2015, the Debtors had a working capital deficit of \$10,100,000, a stockholders’ deficit of \$31,500,000 and accumulated losses of \$86,200,000 million. Further details of the Debtors’ financial performance can be found in the Debtors’ most recently filed Form 10Q (Quarterly Report pursuant to Section 14 or 15(d) of the Securities Exchange Act of 1934) for the quarterly period ending September 30, 2015, filed on or about November 16, 2015.

19. In order to address the issues facing the Debtors’ businesses, the Debtors undertook a series of activities designed to enable the Debtors to remain in business while they considered their alternatives. These activities primarily consisted of ceasing the reengineering and build out of the Zanesville facility to support additional manufacturing, liquidating inventory at favorable prices and securing orders with favorable pricing terms from customers who had an interest in the Debtors’ survival.

20. On April 25, 2015, the Debtors retained, on a nonexclusive basis, Gordian Group, LLC (“Gordian”) to provide financial advisory and investment banking services. In connection with its nonexclusive engagement, Gordian advised the Debtors with

respect to the potential restructuring of their outstanding indebtedness. The Debtors and Gordian, either together or independently, considered over 300 potential strategic and financial investors, creditors, equity holders and other parties in interest with respect to potential investments, financings, mergers or sales of the Debtors. The Debtors or Gordian contacted 177 of these potential investors and partners. Of those interested parties, 134 received additional information and 106 signed confidentiality agreements and were granted access to the Debtors' electronic data room, financial models and customer information. Of those parties, 74 had discussions with management respecting a potential investment, financing, merger or sale of the Debtors, with over 70% of these parties stemming from the Debtors' independent marketing efforts or from prospects given to Gordian by the Debtors to manage. Several strategic purchasers surfaced and the Debtors pursued preliminary merger/investment discussions with another strategic party it identified. In addition, two private equity funds expressed interest, but after extensive due diligence, determined not to present a term sheet. At one point, the Debtors were able to secure a non-binding letter of intent ("LOI") from an asset-based lender which conducted extensive due diligence, but after approximately five weeks withdrew its LOI.

21. In all cases, the Debtors tried to accommodate all reasonable requests upon expressions of interest, including arranging calls with key customers, engaging in face to face meetings, arranging calls with the Debtors' outside counsel, developing financial models based upon potential investee assumptions and always making the Debtors' management available to answer questions. In addition, to aid potential investment, the Debtors attempted to negotiate a reduction and restructuring of The

Community Bank's loan, to have its preferred stockholders forego their put right and to convert to common stock, and to secure investors to potentially co-invest alongside Mr. Kronstadt who had indicated his desire to invest in the Debtors if additional investors could be obtained.

22. Despite the Debtors' efforts, the search for strategic alternatives proved unsuccessful, and while the Debtors have been able to negotiate certain modifications to the terms of certain equity and debt securities issued by the Debtors, the Debtors' financial position remains dire. Based on the current financing environment coupled with the Debtors' weak financial condition, the Debtors determined that no outside sources of capital would be willing to fund the Debtors under their current capital structure.

23. After all possibilities were exhausted and the Debtors' ability to remain in business was threatened because of liquidity concerns, Mr. Kronstadt, through Plastic Ties LLC (the "DIP Lender"), facilitated negotiations for a DIP loan (the "DIP Facility) and effectively a bridge loan to enable the Debtors to reach chapter 11 with sufficient funding. Mr. Kronstadt is the Manager of the DIP Lender.

24. After extensive negotiations with their lenders, a review of various liquidation and sale recovery scenarios and discussions with the Debtors' professionals, the Board ultimately determined in the exercise of their reasonable business judgment that the most effective way to maximize the value of the Debtors' estates for the benefit of their constituents is to seek bankruptcy protection. The Debtors believe that proceeding under chapter 11 will enable them to achieve a new capital structure to operate as a going concern, fund their operations and obligations in the ordinary course,

and maximize the value of such assets with reduced potential risks, contingencies and uncertainties.

E. The Term Sheet and Asset Purchase Agreement

25. As indicated above, notwithstanding substantial prepetition marketing efforts, the Debtors were unable to find investors or buyers willing to (i) provide sufficient financing to fund ongoing operations and pay amounts owing to the Prepetition Lien Holders or (ii) purchase the Debtors' assets for an amount that would pay off the Prepetition Lien Holders in full. As a result, the Debtors have concluded that the sale of their assets pursuant to section 363 with an open and competitive auction process will maximize the value of their assets for the benefit of creditors.

26. The Debtors are currently negotiating the terms of an asset purchase agreement (the "APA", which will be consistent with the Term Sheet attached hereto as Exhibit B) for the sale of all or substantially all of their assets to Mr. Kronstadt (or his designee) (the "Purchaser"), subject to higher and better bids and court approval. As consideration, the Purchaser would credit bid at least \$3.2 million of the Kronstadt Secured Indebtedness, and: (i) through the entity designated to take title to the Purchased Assets, assume the balance of of the Kronstadt Secured Indebtedness that is not credit-bid; (ii) assume the full remaining balance of the DIP Facility that is not credit-bid; (iii) pay the cure costs ("Cure Costs") for Assumed Contracts and Leases (as negotiated by Purchaser and the counterparties), and (iv) make a cash payment of \$500,000 to acquire the Ohio State Collateral and the Community Bank Collateral. The Debtors and Purchaser have agreed to file an asset purchase agreement memorializing the terms and conditions of the Term Sheet no later than five (5) business days before the hearing to consider approval of the Bidding Procedures.

27. The Debtors believe it is in the best interests of their estates, creditors, customers and employees to commence a bidding process immediately, as the Debtors have limited funding and resources to try to maximize the value of their assets. Indeed, the DIP Facility is available only for a short period of time. Although the Debtors are operating on reduced expenses, it is unlikely they will be able to continue operating beyond the period of this proposed bidding process without additional funding, the source of which would be uncertain.

28. The Debtors evaluated the terms of the Purchaser's offer with the assistance of their professionals and, in their reasoned business judgment, concluded that the Term Sheet represents the best opportunity to initiate a sale process that will maximize creditor recoveries (both in terms of purchase price and in terms of maintaining production operations). The Debtors have marketed and will continue marketing their assets and business in an effort to solicit further interest from both strategic acquirers and financial buyers and investors. The proposed Sale is subject to higher or better offers and is contingent in part on the Purchaser receiving the Bid Protections.

29. The counterparties to the Assumed Contracts and Leases can be assured of future performance by the Purchaser. The Purchaser (backed by Mr. Kronstadt and potentially other investors) has financial credibility, business expertise and a proven record of success, sufficient working capital to operate and manage the Purchased Assets, and both the intent and proven access to resources to satisfy all obligations required under the Assumed Contracts and Leases following the closing of the Sale. The Purchaser and the Debtors believe that the Purchaser has demonstrated adequate assurance of future performance of, and under, the Assumed Contracts and Leases within the requirements of

sections 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code, to the extent applicable to the Assumed Contracts and Leases.

F. Proposed Timeline

30. The Debtors desire to receive the greatest value for the Purchased Assets. Although the Debtors believe the proposed Term Sheet and impending APA are fair and reasonable and reflect the highest and best value under the circumstances for the Purchased Assets, and although they marketed their assets prepetition, the Debtors nevertheless intend to offer the assets for sale in the hope that higher and better bids are generated for all or a portion of the Purchased Assets.

31. The DIP Facility contemplates a forty-eight (48) day sale process in these cases. The Debtors believe that this timeframe is appropriate given its prepetition marketing efforts and its ongoing liquidity problems.

32. The Debtors propose the following timeline in connection with the relief sought in this Motion:

EVENT	DATE
Bidding Procedures Hearing	December 23, 2015
Objection Deadline for Sale Hearing	January 12, 2016 at 4:00 p.m.
Bid Deadline	January 15, 2016 at 5:00 p.m.
Auction Date (if necessary)	January 18, 2016 at 10:00 a.m.
Sale Hearing	January 19, 2016

33. The Debtors believe that after months of exploring both potential financial and strategic alternatives prepetition, every party that reasonably could be expected to consummate a transaction with the Debtors was contacted by the Debtors or their advisors. The Bidding Procedures were developed consistent with the Debtors' competing needs to expedite the sale process and promote participation and active

bidding. Moreover, the Bidding Procedures reflect the Debtors' objective of conducting the Auction in a controlled, but fair and open, fashion.

34. Absent a prompt sale pursuant to the proposed procedures and timeline, the Debtors believe that the going concern value of the Purchased Assets may be significantly compromised, rendering the possibility of a sale unlikely. The Debtors therefore submit that the proposed timeline is more than sufficient to complete a fair and open process that will maximize value for the Debtors' assets while at the same time preserve the going concern value.

Relief Requested

35. By this Motion, the Debtors seek orders: (i)(a) authorizing and approving the Bidding Procedures, (b) authorizing and approving the terms and conditions of the Bid Protections, (c) approving the form and manner of Sale Notice attached to the Bidding Procedures Order as Exhibit II, (d) approving the Assumption and Assignment Procedures and the form and manner of the Cure Notice (as defined below), and (e) setting the time, date, and place of the Sale Hearing (such order, substantially in the form attached hereto as Exhibit A the "Bidding Procedures Order"); and (ii) authorizing and approving (a) the Sale of the Debtors' rights, title and interests in the Purchased Assets free and clear of all Encumbrances and Interests, (b) the assumption and assignment of the Assumed Contracts and Leases (such order, substantially in the form attached hereto as Exhibit C, the "Sale Order"); and (iii) granting it such other relief as the Court deems just and proper.

A. Compliance with Local Rule 6004-1

36. Local Rule 6004-1 states that a sale motion:

must highlight material terms, including but not limited to (a) whether the proposed form of sale order and/or the underlying purchase agreement constitutes a sale or contains . . . [certain enumerated provisions], (b) the location of any such provision in the proposed form of order or purchase agreement, and (c) the justification for the inclusion of such provision.”

Del. Bankr. L.R. 6004-1(b)(iv). In addition, “[a] debtor may file a Sale Procedures Motion seeking approval of an order . . . approving bidding and auction procedures either as part of the Sale Motion or by a separate motion in anticipation of an auction and a proposed sale.” Del. Bankr. L.R. 6004-1(c). As with a sale motion, the Local Rules provide that a debtor must highlight certain bid procedures order provisions in the motion seeking approval of the same. Del. Bankr. L.R. 6004-1(c)(i).

37. By this Motion, the Debtors seek approval of, *inter alia*, bid and auction procedures and a sale of the Debtors’ assets. The Debtors have therefore highlighted the relevant provisions of both the Bidding Procedures and the Term Sheet below in accordance with Local Rule 6004-1.

i. Bidding Procedures

38. The Debtors request authority to solicit bids for the Purchased Assets utilizing the Bidding Procedures, substantially in the form attached as Exhibit I to the Bidding Procedures Order and summarized below. The Bidding Procedures describe, among other things, the assets to be sold, the manner in which bids become “qualified,” the coordination of diligence efforts among potential bidders, the Debtors, and their advisors and management, the receipt and negotiation of bids received, the conduct of any auction, and the selection and approval of the Successful Bidder (as defined in the Bidding Procedures).

39. While the Debtors believe that the terms of the Term Sheet and impending APA are fair and reasonable and reflect the highest and best value for the Purchased Assets, the Debtors nevertheless desire to allow any parties that may have an interest in purchasing the Purchased Assets a further opportunity to make a bid. The Bidding Procedures were developed consistent with the Debtors' competing needs to conduct an expedited sale process and to promote participation and active bidding and to comply with the terms and conditions of the DIP Facility. Moreover, the Bidding Procedures reflect the Debtors' objective of conducting an auction in a controlled, but fair and open, fashion, while ensuring that the highest and best bid is generated for the Purchased Assets.

40. The material terms of the Bidding Procedures are as follows:²

<p>Provisions Governing Qualification of Bidders</p>	<p><i>Obligation to Deliver Financial Information to Debtors.</i> To participate in the bidding process and to receive access to the Diligence Materials, a party must submit to the Debtors</p> <p>(a) An executed confidentiality agreement substantially in form and substance satisfactory to the Debtors; and</p> <p>(b) Current audited financial statements or, if the Potential Bidder is an entity formed for the purpose of acquiring the Purchased Assets, current audited financial statements of the equity holder(s) of the Potential Bidder or such other form of financial disclosure acceptable to the Debtors.</p>
<p>Provisions Governing Qualified Bids</p>	<p><i>Bid Deadline.</i> The Debtors propose that the Bid Deadline be set for January 15, 2016 at 5:00 p.m. (prevailing Eastern Time).</p> <p><i>Form of Bid.</i> In order to be eligible to participate in the Auction, a Bidder must deliver to the Debtors, counsel to the Debtors, and any legal and financial advisors to any statutory committee</p>

² The following description of the Bidding Procedures is a summary of the terms set forth in the Bidding Procedures attached to the Bidding Procedures Order as Exhibit I. To the extent of any conflict between this summary and the Bidding Procedures, the terms of the Bidding Procedures shall govern. Capitalized terms used but not defined in this section shall have the meanings ascribed to them in the Bidding Procedures or the Term Sheet, as applicable.

appointed in these cases a written offer, which must provide or otherwise comply with, at minimum, the items noted below to be deemed a “Qualified Bid”:

- (a) Good Faith Deposit: ten percent (10%) of the purchase price;
- (b) Same or Better Terms: each Bid must be on terms that the Debtors determine are the same or better than the terms of the APA;
- (c) Executed Agreement: include a marked copy against the APA to show all changes requested by the Bidder and must provide a commitment to close within three (3) business days after all closing conditions are met;
- (d) Minimum Bid: propose a purchase price greater than the sum of (i) the purchase price of the APA, (ii) the Bid Protections, and (iii) \$150,000;
- (e) Designation of Assigned Contracts and Leases: identify any and all executory contracts and unexpired leases of the Debtors that the Bidder wishes to be assumed and assigned to the Bidder, provided however that a Bidder shall have the right to modify this list at any time prior to closing;
- (f) Designation of Assumed Liabilities: identify any liabilities which the Bidder proposes to assume;
- (g) Corporate Authority: include written evidence demonstrating appropriate corporate authorization to consummate the transaction;
- (h) Disclosure of Identity of Bidder: disclose the identity and contact information of the Bidder;
- (i) Proof of Financial Ability to Perform: include written evidence demonstrating that the Bidder has the necessary financial ability to close the transaction, which information must include: (i) contact information for verification of financing resources; (ii) evidence of the Bidder’s internal resources and proof of any debt and equity commitments in an aggregate amount equal to the cash portion of the Bid or the posting of an irrevocable letter of credit in that amount; (iii) a description of the Bidder’s pro forma capital structure; (iv) the Bidder’s current financial statements; and

	<p>(v) any other form of financial disclosure reasonably acceptable to the Debtors;</p> <p>(j) <u>Regulatory and Third-Party Approvals</u>: set forth each regulatory and third-party approval required for the Bidder to consummate the transaction and the time period within which the Bidder expects to receive such approvals;</p> <p>(k) <u>Contingencies</u>: each Bid must not be conditioned on obtaining financing or on the outcome or review of due diligence;</p> <p>(l) <u>Irrevocable</u>: each Bid must be irrevocable until conclusion of the Sale Hearing, <i>provided</i> that if the Bid is accepted as the Successful Bid or the Backup Bid, such bid shall continue to remain irrevocable;</p> <p>(m) <u>Compliance with Information Requests</u>: each Bidder must comply with reasonable requests for additional information from the Debtors;</p> <p>(n) <u>Confidentiality Agreement</u>: to the extent not already executed, the Bid must include an executed confidentiality agreement;</p> <p>(o) <u>Termination Fees</u>: contain no entitlements to any break-up fee, termination fee or similar type of fee or reimbursement; and</p> <p>(p) <u>DIP Facility</u>: provide for, as a condition to closing, the repayment of all amounts outstanding under the DIP Facility;</p> <p>(q) <u>Credit Bid</u>: With respect to the Purchaser, it shall be entitled to credit bid under section 363(k) of the Bankruptcy Code for any or all of the Purchased Assets; and</p> <p>(r) <u>Bid Deadline</u>: A Bid must be received on or before the Bid Deadline.</p>
<p>The Purchaser's Bid Protections</p>	<p><i>Break Up Fee and Expense Reimbursement.</i> The Bidding Procedures require the Debtors to pay, in certain circumstances, a (i) \$550,000 Break Up Fee, and (ii) the Purchaser's reasonable costs and expenses, including reasonable attorneys' fees, up to \$250,000.</p>

	<i>Bidding Increments.</i> Bidding at the Auction will start at the Auction Baseline Bid and will continue with minimum bid increments of \$150,000.
Modification of Bidding Procedures	The Bidding Procedures may be modified by the Debtors as they may determine to be in the best interests of the estate; <i>provided</i> that any such modifications are not inconsistent with any Bankruptcy Court order.
Closing With Alternative Back-Up Bidder(s)	If an Auction is conducted, the Qualified Bidder with the next highest or otherwise best Bid at the Auction will be designated as the Backup Bidder. The Backup Bidder shall be required to keep its Backup Bid open and irrevocable until the earlier of (i) thirty (30) days after the Sale Hearing, or (ii) the closing of the transaction with the Successful Bidder.
Provisions Governing the Auction	<p><i>Date/Time/Place of Auction.</i> In the event the Debtors receive one or more Qualified Bids (other than the APA), the Debtors propose to hold an auction on January 18, 2016, commencing at 10:00 a.m. (eastern), at the offices of Bayard, P.A., 222 Delaware Avenue, Suite 900, Wilmington, Delaware 19801.</p> <p><i>No Collusion.</i> Each Qualified Bidder will be required to confirm that it has not engaged in any collusion with respect to the Auction or the proposed sale.</p> <p><i>Participation and Attendance.</i> The Debtors and their representatives, the Purchaser, proper representatives of any statutorily appointed committees, and any other Qualified Bidder shall participate at the Auction in person, and only the Purchaser and such other Qualified Bidders will be entitled to make any subsequent bids at the Auction. Any creditor of the Debtors may attend the Auction in person.</p> <p><i>Transcription.</i> The Debtors shall arrange for the Auction to be transcribed.</p>

41. The Debtors submit that implementation of the Bidding Procedures will not chill bidding for the Purchased Assets. Rather, approval of the Bidding Procedures is in the best interests of the Debtors, their estate, and their creditors in that it provides a structure and format for other potentially interested parties to formulate a bid for the Purchased Assets. Failure to approve the Bidding Procedures may jeopardize the Sale to

the Purchaser to the detriment of the Debtors’ creditors, employees, customers and vendors.

ii. Proposed Sale to the Purchaser

42. After arm’s-length, good faith negotiations among the Debtors and the Purchaser and their respective advisors, the parties have agreed, among other things, to convey the Purchased Assets and assign the Assumed Contracts and Leases to the Purchaser in accordance with the terms and conditions of the Term Sheet and impending APA, subject to higher and better offers and this Court’s approval. The Debtors have determined that the Term Sheet and impending APA represent the best opportunity for the Debtors to maximize the value of their assets and to serve as a basis for conducting an auction to seek higher and/or better offers. The Term Sheet contemplates the sale of the Purchased Assets, subject to higher and/or better bids, on the following material terms:³

Sale to Insider	The Purchaser is a former director of the Debtors and has been involved in the Debtors’ capital structure since 2012, as further described in this Motion.
Purchase Price	The total consideration to be paid to the Debtors for the Purchased Assets at the Closing shall consist of (i) a credit bid of at least \$3.2 million of the Kronstadt Secured Indebtedness, (ii) the assumption by the Purchaser of certain liabilities set forth in the Term Sheet (including so much of the DIP Facility and the Kronstadt Secured Indebtedness as has not been used by the Purchaser as a credit bid); (iii) the payment of any Cure Costs relating to the Assumed Contracts and Leases and (iv) cash totaling \$500,000 (to be allocated between the State of Ohio and The Community Bank) to acquire all assets as to which the liens and security interests of the Kronstadt Secured

³ The highlighted terms and summary of the Term Sheet is provided for the benefit of the Court and other parties in interest. The Term Sheet is incorporated herein by reference. To the extent of any conflict between this summary and the Term Sheet, the terms of the Term Sheet shall govern. Capitalized terms used but not otherwise defined in this summary shall have the meanings ascribed to them in the Term Sheet.

	<p>Indebtedness and the DIP Facility are not in a first-priority perfected position (which cash shall be used by the Debtors to satisfy the senior liens secured by such assets).</p> <p>Term Sheet, pp. 1-2.</p>
Agreements with Management	<p>Pursuant to the Term Sheet, the Purchaser may initiate, in its discretion, the process of hiring personnel appropriate for the continued operation of the business. The Debtors and Purchaser will reasonably cooperate with one another to initiate the hiring process prior to closing on the Sale and after there is clarity as to whether the Purchaser will be the prevailing purchaser. The Debtors' current management will not enter into employment contracts with the Purchaser before closing.</p> <p>Term Sheet, p. 4.</p>
Release	<p>In connection with the closing, the Debtors shall execute a release in favor of the Purchaser and Mr. Kronstadt (and their affiliates, agents, attorneys, and employees), releasing the Purchaser and Mr. Kronstadt from all causes of action and claims that the Debtors have or may have against the Purchaser, in each case as of the closing.</p> <p>Term Sheet, p. 7.</p>
Auction to be Conducted	<p>As described more thoroughly in the Bidding Procedures, the Debtors intend to conduct an open auction process if one or more Qualified Bids are received (other than the APA).</p>
Closing and Other Deadlines	<p>The Debtors and Purchaser are negotiating the closing date in connection with finalizing the APA.</p>
Good Faith Deposit	<p>The Purchaser is not required to make a good-faith deposit under the Term Sheet, but did arrange for the DIP Lender to provide the DIP Facility.</p>
Interim Arrangements with Proposed Buyer	<p>The Term Sheet does not contain any provision pursuant to which the Debtors are entering into any interim agreements or arrangements with the Purchaser.</p>
Use of Proceeds	<p>The Term Sheet does not contain any provisions relating to the Debtors' use of the proceeds.</p>
Record Retention	<p>Prior to closing, the Debtors are free to make duplicate copies of their books and records. Any post-closing</p>

	<p>maintenance of such records shall be at the cost of the estates. An index of all documents duplicated by the Debtors shall be provided to the Purchaser. Post-closing the purchaser will provide reasonable access to the Debtors to the pre-closing books and records.</p> <p>Term Sheet, p. 3.</p>
Sale of Avoidance Actions	<p>The Sale does not include the sale of avoidance actions to the Purchaser.</p> <p>Term Sheet, p. 3.</p>
Requested Findings as to Successor Liability	<p>The APA is conditioned on the Sale Order finding that the Purchaser will not have any successor or transferee liability whatsoever for liabilities of the Debtors (whether under federal or state law or otherwise) as a result of the Sale.</p> <p>Term Sheet, pp. 5-6.</p>
Credit Bid	<p>The consideration to be paid by the Purchaser includes, among other things, a credit bid of at least \$3.2 million of the Kronstadt Secured Indebtedness against all assets as to which the Kronstadt Secured Indebtedness is secured by liens and security interests senior to all creditors other than the DIP Lender.</p> <p>Term Sheet, pp. 1-2.</p>
Relief from Bankruptcy Rule 6004(h)	<p>The Debtors are seeking relief from the fourteen-day stay provided by Bankruptcy Rule 6004(h).</p> <p>Sale Order, ¶ 29.</p>

43. The Debtors have limited production operations and urgent cash needs. The Purchaser has agreed to provide for enough funding through the DIP Facility to allow the Debtors to maintain production operations as they pursue a sale of their assets, but the funding is limited and will expire on January 19, 2016. The purchasing of raw materials and maintaining production operations, combined with a sale of the Debtors' assets, will help restore confidence with those parties the Debtors have done business.

Thus, the Debtors submit that the value of their assets will be maximized if their assets are immediately marketed and sold.

44. In short, an asset sale is the proper response to the challenges the Debtors face in attempting to maximize the value of their estates. The Purchased Assets are likely to generate the highest returns if the Debtors' businesses are sold to an entity (like the Purchaser) with access to capital and a clear motivation to continue, and improve, the Debtors' operations. The Debtors believe and submit that the terms of the Term Sheet are fair and reasonable under the circumstances and reflect the best value currently available for the Purchased Assets.

B. The Notice Procedures

45. The Debtors propose to give notice within three (3) business days after the entry of the Bidding Procedures Order, of the time and place of the Auction, the time and place of the Sale Hearing, and the objection deadline for the Sale Hearing by sending the Sale Notice, substantially in the form attached as Exhibit II to the Bidding Procedures Order, to (i) all entities known to have expressed an interest in a transaction with respect to some or all of the Purchased Assets at any time; (ii) all entities known to have asserted any lien, claim, interest or encumbrance in or upon any of the Purchased Assets; (iii) 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; (iv) the United States Attorney's office; (v) the Securities and Exchange Commission; (vi) the Internal Revenue Service; (vii) legal and financial advisors to any statutory committee appointed; (viii) the parties included on the Debtors' list of thirty (30) largest unsecured creditors; and (ix) those parties who have filed the appropriate notice requesting notice of all pleadings filed in these cases.

C. The Assumption and Assignment Procedures

46. The Debtors propose a set of procedures to facilitate the Sale which would involve the assumption and assignment of the Assumed Contracts and Leases. The proposed Assumption and Assignment Procedures are contained in the Notice of Cure Amount With Respect to Executory Contracts or Unexpired Leases to be Assumed and Assigned (the “Cure Notice”), attached to the Bidding Procedures Order as Exhibit III. The Debtors will serve the Cure Notice on all non-debtor counterparties to the Assumed Contracts and Leases within three (3) days after entry of the Bidding Procedures Order.

47. The Debtors will attach to the Cure Notice its calculations of the undisputed cure amounts that the Debtors believe must be paid to cure all prepetition defaults under all Assumed Contracts and Leases (the “Cure Amount”). The Debtors request that unless the counterparty files and serves upon the appropriate notice parties an objection by the applicable deadline set forth in the Cure Notice (the “Cure Objection Deadline”), such non-debtor party should (a) be forever barred from objecting to the Cure Amount and from asserting any additional cure or other amounts with respect to such Assumed Contract or Lease, and the Debtors shall be entitled to rely solely upon the Cure Amount, and (b) be forever barred and estopped from asserting or claiming against the Debtors, the Purchaser or the Successful Bidder, as the case may be, or any other assignee of the Assumed Contract or Lease that any additional amounts are due or defaults exist, or conditions to assumption and assignment must be satisfied with respect to such Assumed Contract or Lease.

48. In the event that an objection is timely filed and served, the objection must set forth (i) the basis for the objection and (ii) the amount the party asserts as the Cure Amount. After receipt of the objection, the Debtors will attempt to reconcile any

differences in the Cure Amount believed by the counterparty to exist. In the event, however, the Debtors and the counterparty cannot consensually resolve the Cure Amount and such dispute must be resolved, the Debtors will segregate any disputed portion of the Cure Amount pending the resolution of any such disputes by this Court or mutual agreement of the parties.

49. In the event that the Successful Bidder is not the Purchaser, immediately after the conclusion of the Auction, the Debtors will serve notice identifying the Successful Bidder upon each counterparty to an executory contract or unexpired lease to be assumed and assigned to the Successful Bidder. In this circumstance, each counterparty may object to the assumption and assignment of such executory contract or unexpired lease at any time before the Sale Hearing.

50. Notwithstanding anything to the contrary herein, through the date of closing, the Debtors, the Purchaser or the Successful Bidder, as the case may be, shall have the right to exclude from the Purchased Assets any of the Assumed Contracts and Leases, and in such case any such excluded Assumed Contract or Lease shall constitute an Excluded Asset and shall not constitute, for any purpose whatsoever, an Acquired Asset to be purchased and shall have the right to include any executory contract and/or unexpired lease and, in such case any such included executory contract and/or unexpired lease shall constitute an Asset to be purchased. Neither the Purchaser nor the Successful Bidder shall incur any liability, obligation, or debt in connection with or related to such Excluded Assets.

51. To the extent that a non-debtor counterparty to an Assumed Contract or Lease was not provided with a Cure Notice (any such contract or lease a "Previously

Omitted Contract”), the Debtors will notify the Successful Bidder within three (3) business days of the omission. The Debtors shall serve a notice (the “Previously Omitted Contract Notice”) to the counterparties to the Previously Omitted Contract indicating the Debtors’ intent to assume and assign the Previously Omitted Contract. The counterparties will have fourteen (14) days to object to the Cure Amount or the assumption. If the parties cannot agree on a resolution, the Debtors will seek an expedited hearing before the Court to determine the Cure Amount and approve the assumption. If there is no objection, then the counterparties will be deemed to have consented to the assumption and assignment and the Cure Amount, and such assumption and assignment and the Cure Amount shall be deemed approved by the Sale Order without further order of this Court.

D. Request to Set a Date for the Sale Hearing

52. The Debtors intend to present the APA or the Successful Bid and the Back-up Bid, as the case may be, for approval by the Court pursuant to the provisions of sections 105, 363 and 365 of the Bankruptcy Code at the Sale Hearing to be scheduled by the Court. The Debtors respectfully request that any such Sale Hearing be scheduled on or about January 19, 2016. Upon the failure to consummate a sale of the Purchased Assets after the Sale Hearing because of the occurrence of a breach or default under the terms of the APA or Successful Bid, as the case may be, or the non-approval of this Court, the next highest or otherwise best Back-Up Bid, if any, as disclosed at the Sale Hearing, shall be deemed the Successful Bid without further order of the Court, and the parties shall be authorized to consummate the transaction contemplated by the Back-Up Bid.

53. The Debtors further request, pursuant to Bankruptcy Rule 9014, that any and all objections to the relief to be considered at the Sale Hearing be filed seven days prior to the Sale Hearing.

E. Sale Free and Clear of Liens and Claims

54. The Debtors have agreed, and therefore request that the Court hold, that upon Closing the conveyance of the Debtors' interest in the Purchased Assets in accordance with the APA will be a legal, valid, and effective transfer of such Assets, and, to the fullest extent permitted by sections 105, 363(f) and 365 of the Bankruptcy Code, or other applicable law, vests or will vest the Purchaser with all right, title, and interest of the Debtors in and to the Purchased Assets free and clear of Encumbrances and Interests (except the Assumed Liabilities identified in the Term Sheet).

55. All Encumbrances and Interests of any kind or nature whatsoever will attach to the proceeds of the Sale (the "Proceeds") with the same force, validity, priority and effect, if any, as the Encumbrances and Interests formerly had against the Purchased Assets, if any, subject to the Debtors' ability to challenge the extent, validity, priority and effect of the Encumbrances and Interests.

Basis for Relief

A. The Sale of the Purchased Assets Is a Product of the Debtors' Reasonable Business Judgment

56. Section 363(b)(1) of the Bankruptcy Code provides: "[t]he Trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 365(b). Section 105(a) of the Bankruptcy Code provides in relevant part: "[t]he Court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a).

57. Virtually all courts have held that approval of a proposed sale of assets of a debtor under section 363 of the Bankruptcy Code outside the ordinary course of business and prior to the confirmation of a plan of reorganization is appropriate if a court finds that the transaction represents a reasonable business judgment on the part of the debtor. See In re Abbotts Dairies of Pennsylvania, Inc., 788 F.2d 143 (3d Cir. 1986); see also In re Delaware & Hudson Ry. Co., 124 B.R. 169, 176 (D. Del. 1991) (holding that the following non-exclusive list of factors may be considered by a court in determining whether there is a sound business purpose for an asset sale: “the proportionate value of the asset to the estate as a whole; the amount of elapsed time since the filing; the likelihood that a plan of reorganization will be proposed and confirmed in the near future; the effect of the proposed disposition of the future plan of reorganization; the amount of proceeds to be obtained from the sale versus appraised values of the property; and whether the asset is decreasing or increasing in value”); Vecchio v. Stroud Ford, Inc. (In re Stroud Ford, Inc.), 205 B.R. 722 (Bankr. M.D. Pa. 1996); Titusville Country Club v. Pennbank (In re Titusville Country Club), 128 B.R. 396, 399 (Bankr. W.D. Pa. 1991); In re Indus. Valley Refrigeration & Air Conditioning Supplies, Inc., 77 B.R. 15, 21 (Bankr. E.D. Pa. 1987); Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.), 722 F.2d 1063 (2d Cir. 1983); Stephens Indus., Inc. v. McClung, 789 F.2d 386, 391 (6th Cir. 1986); In re Ionosphere Clubs, Inc., 100 B.R. 670, 675 (Bankr. S.D.N.Y. 1989); In re Phoenix Steel Corp., 82 B.R. 334, 335-36 (Bankr. D. Del. 1987) (stating that the elements necessary for approval of a section 363 sale in a chapter 11 case are “that the proposed sale is fair and equitable, that there is a good business reason for completing the sale and the transaction is in good faith”).

58. The “sound business reason” test requires a debtor to establish four elements in order to justify the sale or lease of property outside the ordinary course of business, namely: (1) that a sound business purpose justifies the sale of assets outside the ordinary course of business; (2) that accurate and reasonable notice has been provided to interested persons; (3) that the debtor has obtained a fair and reasonable price; and (4) good faith. See generally Abbotts Dairies, 788 F.2d 143; see also Titusville Country Club, 128 B.R. at 399; In re Sovereign Estates, Ltd., 104 B.R. 702, 704 (Bankr. E.D. Pa. 1989); Phoenix Steel Corp., 82 B.R. at 335-36; see also Stephens Indus., 789 F.2d at 390; Lionel, 722 F.2d at 1071. A debtor’s showing of a sound business purpose need not be unduly exhaustive, but rather a debtor is “simply required to justify the proposed disposition with sound business reasons.” In re Baldwin United Corp., 43 B.R. 888, 906 (Bankr. S.D. Ohio 1984). Whether or not there are sufficient business reasons to justify a transaction depends upon the facts and circumstances of each case. Lionel, 722 F.2d at 1071.

59. Additionally, section 105(a) of the Bankruptcy Code provides a bankruptcy court with broad powers in the administration of a case under the Bankruptcy Code. Provided that a bankruptcy court does not employ its equitable powers to achieve a result not contemplated by the Bankruptcy Code, the exercise of its section 105(a) power is proper. In re Fesco Plastics Corp., 996 F.2d 152, 154 (7th Cir. 1993); Pincus v. Graduate Loan Ctr. (In re Pincus), 280 B.R. 303, 312 (Bankr. S.D.N.Y. 2002). Pursuant to section 105(a), a court may fashion an order or decree that helps preserve or protect the value of the debtor’s assets. See, e.g., Chinichian v. Campolongo (In re Chinichian), 784 F.2d 1440, 1443 (9th Cir. 1986) (“Section 105 sets out the power of the bankruptcy court

to fashion orders as necessary pursuant to the purposes of the Bankruptcy Code.”); In re Cooper Props. Liquidating Trust, Inc., 61 B.R. 531, 537 (Bankr. W.D. Tenn. 1986) (noting that the bankruptcy court is “one of equity and as such it has a duty to protect whatever equities a debtor may have in property for the benefit of its creditors as long as that protection is implemented in a manner consistent with the bankruptcy laws”).

60. The proposed procedures for, and the sale of the Debtors’ interests in the Purchased Assets, meet the “sound business reason” test. First, sound business purposes justify the sale. The Debtors believes that a prompt sale of the Purchased Assets conducted pursuant to the Bidding Procedures presents the best opportunity to realize the maximum value of the Purchased Assets for distribution to the Debtors’ estates and the Debtors’ creditors. For instance, if the APA is approved by this Court, most of the Debtors’ first tier secured debt will either be paid in full from the sale proceeds or credit bid towards the purchase price for the Debtors’ assets. The Debtors further believe that the benefit to its creditors will be adversely affected absent an immediate sale, as the Term Sheet and impending APA represent greater consideration than the Debtors believe they could attain if they were required to liquidate their assets. See Lionel, 722 F.2d at 1071 (noting that of the factors a court must evaluate on motion under section 363(b), “most important perhaps, [is] whether the asset is increasing or decreasing in value”).

61. The Bidding Procedures are also justified by sound business purposes. The Bidding Procedures are designed to maximize the value received for the Purchased Assets. The procedures proposed herein allows for a timely and efficient auction process, while satisfying the various notice requirements of the Bankruptcy Rules and providing sufficient time for parties-in-interest to submit objections to the proposed sale and for

bidders to formulate and submit competing proposals. Finally, the Bidding Procedures satisfy the good faith requirement of Abbotts Dairies.

62. The Debtors believe it is in the best interests of their estates, creditors, customers and employees to commence a bidding process immediately, as the Debtors have limited funding and resources to maximize the value of their assets. It is unlikely that the Debtors will be able to continue operating beyond the period of this proposed bidding process without additional funding, the source of which would be uncertain. The Debtors have limited production operations and urgent cash needs. The DIP Facility provides for enough funding to allow the Debtors to continue their production operations, but the funding is limited and will expire by January 19, 2016. The purchase of raw materials and ongoing production operations, combined with a sale of the Debtors' assets, will help restore confidence with those parties the Debtors have done business with in the past. For these reasons, the Debtors have determined, based on their business judgment, that the best way to maximize the value of their estates for the benefit of their creditors, customers, employees and other parties in interest is through the immediate marketing and sale of the Purchased Assets pursuant to the Bidding Procedures.

63. The implementation of competitive bidding procedures to facilitate the sale of a debtor's assets outside of the ordinary course of a debtor's business is routinely approved by bankruptcy courts as a means of ensuring that such sale will generate the highest and best return for a debtor's estate. The Debtors submit that the opportunity for competitive bidding embodied in the Bidding Procedures will generate the highest or otherwise best offer for the Purchased Assets.

64. The Debtors believe that a prompt sale process is the best way to maximize the value of the Debtors' assets for the benefit of their estates, creditors and other stakeholders. The proposed Bidding Procedures described herein are fair, reasonable, and appropriate and are designed to maximize recovery with respect to the sale of the Purchased Assets.

65. As set forth above, the Debtors have demonstrated compelling and sound business justifications for the sale of the Purchased Assets pursuant to the Bidding Procedures. The Debtors therefore request that the Court approve the proposed procedures for sale of the Purchased Assets to the highest or otherwise best bidder at the Auction and approve the Sale presented to the Court at the Sale Hearing and authorize the Debtors to take such other steps as are necessary to consummate the Sale.

B. The Bid Protections Requested Herein Are Reasonable and Should be Approved

66. Local Rule 6004-1 provides that a bidding procedures motion must highlight "[a]ny provision providing an initial or 'stalking horse' bidder a form of bid protection." Del. Bankr. L.R. 6004-1(c)(i)(C). As indicated above, the Purchaser requested and the Debtors agreed to reimburse the Purchaser for its reasonable costs and expenses, including reasonable attorneys' fees, up to \$250,000, and a Break-Up Fee of \$550,000, in the event that the Purchaser is not the successful bidder at the auction.

67. The Debtors have formulated a bidding process that the Debtors believe will induce prospective competing bidders to expend the time, energy and resources necessary to submit a bid, and which the Debtors believe is fair and reasonable and provides a benefit to the Debtors' estates and creditors. The Bidding Procedures and, in

particular, the proposed Bid Protections are reasonable and supported by applicable case law.

68. The use of bid protections such as the Break-Up Fee and Expense Reimbursement have become an established practice in chapter 11 asset sales because such bid protections enable a debtor to ensure a sale to a contractually committed bidder at a price the debtor believes is fair, while providing the debtor with the potential of obtaining an enhanced recovery through an auction process. Historically, bankruptcy courts have approved bidding incentives solely by reference to the “business judgment rule,” which proscribes judicial second-guessing of the actions of a corporation’s board of directors taken in good faith and in the exercise of honest judgment. See, e.g., In re 995 Fifth Ave. Assocs., L.P., 96 B.R. 24, 28 (Bankr. S.D.N.Y. 1992) (holding that bidding incentives may “be legitimately necessary to convince a ‘white knight’ to enter the bidding by providing some form of compensation for the risks it is undertaking”) (citation omitted); see also Official Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.), 147 B.R. 650, 657-58 (S.D.N.Y. 1992).

69. The Third Circuit has clarified the standard for determining the appropriateness of bidding incentives in the bankruptcy context. In Calpine Corp. v. O’Brien Envtl. Energy, Inc. (In re O’Brien Envtl. Energy, Inc.), 181 F.3d 527 (3d Cir. 1999), the Third Circuit held that even though bidding incentives are measured against a business judgment standard in non-bankruptcy transactions, the administrative expense provisions in section 503(b) of the Bankruptcy Code govern in the bankruptcy context. Thus, to be approved, bidding incentives must provide benefit to a debtor’s estate. Id. at 533.

70. O'Brien identified at least two instances in which bidding incentives may provide a benefit to the estate. First, a benefit may be found if “assurance of a break-up fee promoted more competitive bidding, such as by inducing a bid that otherwise would not have been made and without which bidding would have been limited.” Id. at 537. Second, where the availability of bidding incentives induced a bidder to research the value of the debtor and submit a bid that serves as a minimum or floor bid on which other bidders can rely, “the bidder may have provided a benefit to the estate by increasing the likelihood that the price at which the debtor is sold will reflect its true worth.” Id.

71. Moreover, in O'Brien, the Third Circuit referred to nine factors that the bankruptcy court viewed as relevant in deciding whether to award a break-up fee and expense reimbursement: (1) the presence of self-dealing or manipulation in negotiating the break-up fee and expense reimbursement; (2) whether the fee harms, rather than encourages, bidding; (3) the reasonableness of the break-up fee and expense reimbursement relative to the purchase price; (4) whether the “unsuccessful bidder place[d] the estate property in a sales configuration mode to attract other bidders to the auction”; (5) the ability of the request for a break-up fee and expense reimbursement “to attract or retain a potentially successful bid, establish a bid standard or minimum for other bidders, or attract additional bidders”; (6) the correlation of the fee to a maximization of value of the debtor’s estate; (7) the support of the principal secured creditors and other official committees; (8) the benefits of the safeguards to the debtor’s estate; and (9) the “substantial adverse impact on unsecured creditors, where such creditors are in opposition to the break-up fee.” See O'Brien, 181 F.3d at 536.

72. The Debtors submit that the foregoing factors are met under the facts and circumstances of these cases, as the proposed Bid Protections are necessary to the success of the auction and sale process and therefore provide an actual benefit to the Debtors' estate. The Term Sheet and Bid Protections are the result of arms'-length, good faith negotiation between the parties and their advisors. The Purchaser was unwilling to enter into the Term Sheet without the protections afforded by the Bid Protections, and the auction contemplated by the Bidding Procedures is designed to initiate an overbid process at a floor price that is desirable for the Debtors, thereby increasing the likelihood that the purchase price will represent the true worth of the Purchased Assets. The Debtors believe that the amount of such fees will be a fair and reasonable percentage of the proposed purchase price and not chill competitive bidding.

73. By ensuring a "floor" purchase price under the Term Sheet, the Bid Protections induced the Purchaser to submit a bid that the Debtors believe will induce bids that potentially may have never been made and without which bidding may be limited. Further, the Expense Reimbursement was and is a material inducement for and condition of the Purchaser's offer to acquire the Purchased Assets. The Debtors understand that the Purchaser is unwilling to commit to hold open its offer absent such protection.

74. Moreover, payment of the Bid Protections will not diminish the assets of the estates available for distribution to creditors, employees and customers. The Debtors do not intend to walk away from the Term Sheet and impending APA, unless to accept an alternative and better bid, which bid must exceed the consideration offered by the Purchaser by an amount sufficient to pay the Bid Protections.

75. In sum, the Bid Protections provided for in the Term Sheet are the product of arms'-length negotiations between the Debtors on one side and the Purchaser on the other. The Bid Protections proposed by the Debtors are consistent with the "business judgment rule" and satisfy the "administrative expense" standard espoused in O'Brien. The Bid Protections should therefore be approved.

C. The Purchaser Should be Granted the Protection of Bankruptcy Code Section 363(m)

76. The Debtors request the Court to find that the Purchaser is entitled to the benefits and protections provided by section 363(m) of the Bankruptcy Code in connection with the Sale.

77. Specifically, Bankruptcy Code section 363(m) provides that:

[t]he reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal.

11 U.S.C. § 363(m). Section 363(m) of the Bankruptcy Code thus protects the purchaser of assets sold pursuant to section 363 from the risk that it will lose its interest in the purchased assets if the order allowing the sale is reversed on appeal.

78. While the Bankruptcy Code does not define "good faith," the Third Circuit in Abbotts Dairies held that:

[t]he requirement that a purchaser act in good faith . . . speaks to the integrity of his conduct in the course of the sale proceedings. Typically, the misconduct that would destroy a purchaser's good faith status at a judicial sale involves fraud, collusion between the purchaser and other bidders

or the trustee, or an attempt to take grossly unfair advantage of other bidders.

788 F.2d at 147 (citations omitted); see generally Marin v. Coated Sales, Inc., (In re Coated Sales, Inc.), 1990 WL 212899 (S.D.N.Y. Dec. 13, 1990) (holding that party must demonstrate “fraud, collusion, or an attempt to take grossly unfair advantage of other bidders” to show lack of good faith); see also In re Pisces Leasing Corp., 66 B.R. 671, 673 (E.D.N.Y. 1986) (examining facts of each case, concentrating on “integrity of [an actor’s] conduct during the sale proceedings”) (quoting In re Rock Indus. Mach. Corp., 572 F.2d 1195, 1198 (7th Cir. 1978)).

79. As the Debtors will demonstrate at the Sale Hearing, the Debtors have spent a considerable amount of time and resources negotiating the Term Sheet and impending APA in good faith and at arm’s length, with give and take on both sides. Under the circumstances, the Purchaser is entitled to all of the protections of Bankruptcy Code section 363(m).

E. The Sale of the Debtors’ Assets Should Be Free and Clear of Liens and Claims Pursuant to Section 363(f) of the Bankruptcy Code

80. Pursuant to, and to the fullest extent permitted by, section 363(f) of the Bankruptcy Code, the Debtors seek authority to sell and transfer the Debtors’ right, interest and title in the Purchased Assets to the Purchaser or Successful Bidder free and clear of all liens, claims, encumbrances and other interests, except as set forth in the Term Sheet and APA, with such liens, claims, encumbrances and other interests to attach to the Proceeds of the Sale, subject to any rights and defenses of the Debtors and other parties-in-interest with respect thereto. Under section 363(f) of the Bankruptcy Code, a debtor may sell all or part of its property free and clear of any and all liens, claims, encumbrances, or interests in such property if: (i) such a sale is permitted under

applicable non-bankruptcy law; (ii) the party asserting such a lien, claim, or interest consents to such sale; (iii) the interest is a lien and the purchase price for the property is greater than the aggregate amount of all liens on the property; (iv) the interest is the subject of a bona fide dispute; or (v) the party asserting the lien, claim, or interest could be compelled, in a legal or equitable proceeding, to accept monetary satisfaction for such interest. 11 U.S.C. § 363(f); see also Citicorp Homeowners Serv., Inc. v. Elliot (In re Elliot), 94 B.R. 343, 345 (E.D. Pa. 1988) (holding that section 363(f) is written in the disjunctive and that a court may approve a sale “free and clear” provided at least one of the requirements is met).

81. With respect to each creditor asserting an Encumbrance and Interest, the Debtors believe that one or more of the standards set forth in Bankruptcy Code section 363(f)(1)-(5) has been satisfied. In particular, the Debtors are advised by the Purchaser that each of the Prepetition Lien Holders has consented to the sale and transfer of the Purchased Assets pursuant to the APA.

82. A sale free and clear of Encumbrances and Interests is necessary to maximize the value of the Purchased Assets. The Purchaser would not have entered into the Term Sheet and would not consummate the Sale absent the ability to purchase the Purchased Assets free and clear of all Encumbrances and Interests. A sale of the Purchased Assets other than one free and clear of all Encumbrances and Interests would yield substantially less value for the Debtors’ estates, with less certainty than the transaction proposed by the Term SHEet. Thus, the Sale contemplated by the Term Sheet and impending APA is in the best interests of the Debtors, their estates and creditors, and all other parties-in-interest.

83. Moreover, Courts have held that they have the equitable power to authorize sales free and clear of interests that are not specifically covered by section 363(f). See, e.g., In re Trans World Airlines, Inc., 2001 WL 1820325 at *3, 6 (Bankr. D. Del. March 27, 2001); Volvo White Truck Corp. v. Chambersburg Beverage, Inc. (In re White Motor Credit Corp.), 75 B.R. 944, 948 (Bankr. N.D. Ohio 1987). Approving the Sale free and clear of all adverse interests is warranted.

F. The Assumption and Assignment of the Assumed Contracts and Leases Should Be Authorized

84. Under Bankruptcy Code section 365(a), a debtor, “subject to the court’s approval, may assume or reject any executory contract or unexpired lease of the debtor.” 11 U.S.C. § 365(a). The standard governing court approval of a debtor’s decision to assume or reject an executory contract or unexpired lease is whether the debtor’s reasonable business judgment supports such assumption or rejection. See, e.g., In re Stable Mews Assoc., 41 B.R. 594, 596 (Bankr. S.D.N.Y. 1984). If the debtor’s business judgment has been reasonably exercised, a court should approve the assumption or rejection of an unexpired lease or executory contract. See Group of Institutional Investors v. Chicago M. St., P. & P.R.R. Co., 318 U.S. 523 (1943); Sharon Steel, 872 F.2d at 39-40.

85. The business judgment test “requires only that the trustee demonstrate that [assumption or] rejection of the contract will benefit the estate.” Wheeling-Pittsburgh Steel Corp. v. West Penn Power Co. (In re Wheeling-Pittsburgh Steel Corp.), 72 B.R. 845, 846 (Bankr. W.D. Pa. 1987) (quoting Stable Mews, 41 B.R. at 596). Moreover, pursuant to section 365(b)(1) of the Bankruptcy Code, for a debtor to assume an executory

contract or lease, it must “cure, or provide adequate assurance that the debtor will promptly cure,” any default. 11 U.S.C. § 365(b)(1).

86. The debtor may elect to assign a properly assumed executory contract or lease if adequate assurance of future performance is provided. 11 U.S.C. 365(f)(2); see L.R.S.C. v. Rickel Home Centers, Inc. (In re Rickel Home Centers, Inc.), 209 F.3d 291, 299 (3d Cir. 2000) (“[t]he Code generally favors free assignability as a means to maximize the value of the debtor’s estate”); Leonard v. General Motors Corp. (In re Headquarters Dodge, Inc.), 13 F.3d 674, 682 (3d Cir. 1994) (noting that the purpose of section 365(f) is to assist a trustee in realizing the full value of the debtor’s assets).

87. The meaning of “adequate assurance of future performance” depends on the facts and circumstances of each case, but should be given “practical, pragmatic construction.” EBG Midtown S. Corp. v. McLaren/Hart Env’tl. Eng’g Corp. (In re Sanshoe Worldwide Corp.), 139 B.R. 585, 593 (S.D.N.Y. 1992); see also In re Prime Motor Inns Inc., 166 B.R. 993, 997 (Bankr. S.D. Fla. 1994); Carlisle Homes, Inc. v. Azzari (In re Carlisle Homes, Inc.), 103 B.R. 524, 538 (Bankr. D.N.J. 1988). Among other things, adequate assurance may be provided by demonstrating the assignee’s financial health and experience in managing the type of enterprise or property assigned. See, e.g., In re Bygaph, Inc., 56 B.R. 596, 605-06 (Bankr. S.D.N.Y. 1986) (finding adequate assurance of future performance present when prospective assignee of lease from debtor has financial resources and has expressed willingness to devote sufficient funding to business in order to give it strong likelihood of succeeding).

88. To the extent any defaults exist under any Assumed Contract or Lease, any such default will be promptly cured or adequate assurance that such default will be cured

will be provided prior to the assumption and assignment. If necessary, the Debtors will submit facts prior to or at the Sale Hearing to show the financial credibility of the Purchaser or Successful Bidder, as the case may be, and willingness and ability to perform under the Assumed Contracts and Leases. The Sale Hearing will therefore provide the Court and other interested parties the opportunity to evaluate and, if necessary, challenge the ability of the Purchaser or Successful Bidder, as the case may be, to provide adequate assurance of future performance under the Assumed Contracts and Leases, as required under section 365(b)(1)(C) of the Bankruptcy Code.

89. In addition, the Debtors submit that it is an exercise of its sound business judgment to assume and assign, as the case may be, the Assumed Contracts and Leases to the Purchaser or Successful Bidder, as the case may be, in connection with the consummation of the Sale, and that the assumption and assignment of the Assumed Contracts and Leases is in the best interests of the Debtors, their estate, their creditors, and all parties-in-interest. The Assumed Contracts and Leases being assigned to the Purchaser (or Successful Bidder) are an integral part of the Purchased Assets being acquired by the Purchaser (or Successful Bidder), and such assumption and assignment is reasonable and will enhance the value of the Debtors' estates. The Court should therefore authorize the Debtors to assume and assign the Assumed Contracts and Leases.

90. The Debtors further submit that the Assumption and Assignment Procedures, including the form of Cure Notice attached as Exhibit III to the Bidding Procedures Order, are appropriate and reasonably tailored to provide counterparties to the Assumed Contracts and Leases with adequate notice of the proposed assumption and assignment as well as proposed Cure Costs, if any. The Debtors believe that

implementation of the Assumption and Assignment Procedures is appropriate under the circumstances and should be approved.

G. Waiver of Automatic Fourteen-Day Stay Under Bankruptcy Rules 6004(h) and 6006(d)

91. Pursuant to Bankruptcy Rule 6004(h), unless the Court orders otherwise, all orders authorizing the sale of property pursuant to section 363 of the Bankruptcy Code are automatically stayed for fourteen days after entry of the order. Similarly, under Bankruptcy Rule 6006(d), unless the Court orders otherwise, all orders authorizing the assignment of contracts or unexpired leases are automatically stayed for fourteen days after entry of the order. The purpose of Bankruptcy Rules 6004(h) and 6006(d) is to provide sufficient time for an objecting party to request a stay pending appeal before the order can be implemented. See Advisory Committee Notes to Fed. R. Bankr. P. 6004(h); Advisory Committee Notes to Fed. R. Bankr. P. 6006(d).

92. Although Bankruptcy Rules 6004(h) and 6006(d) and the Advisory Committee Notes are silent as to when a court should “order otherwise” and eliminate or reduce the fourteen-day stay period, commentators agree that the fourteen-day stay period should be eliminated to allow a sale or other transaction to close immediately where there has been no objection to the procedure. See generally 10 Collier on Bankruptcy ¶ 6004.09 (15th ed. 1999). Furthermore, if an objection is filed and overruled, and the objecting party informs the court of its intent to appeal, the stay may be reduced to the amount of time necessary to file such appeal. Id.

93. Because of the potentially diminishing value of the Purchased Assets, the Debtors need the flexibility to close this sale promptly after all closing conditions have

been met or waived. The Debtors hereby request that the Court waive the fourteen-day stay period under Bankruptcy Rules 6004(h) and 6006(d).

Notice

94. Notice of this Motion shall be provided to: (i) the Office of the United States Trustee; (ii) counsel for the Purchaser; (iii) counsel for any official committee appointed in this case; (iv) all individuals or entities that have asserted a lien or interest in the Debtors' assets; (v) the top thirty (30) creditors of the Debtors and entities known to have asserted any Encumbrances and Interests in or upon any of the Purchased Assets; (vi) all federal, state, county and local and foreign regulatory or taxing authorities or recording offices which have a reasonably known interest in the relief requested by the Motion; (vii) all federal, state, county and local and foreign regulatory or taxing authorities or recording offices which have a reasonably known interest in the relief requested by the Motion; (viii) all counterparties to the Assumed Contracts and Leases; (ix) the United States Attorney's office; (x) the Internal Revenue Service; (xi) all parties to any litigation involving the Debtor; and (xii) all entities filing notices of appearance or requests for notice under Bankruptcy Rule 2002 in this Bankruptcy Case. The Debtors respectfully submit that no other or further notice need be provided.

No Prior Request

95. No prior request for the relief sought herein has been made to this or any other court.

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Conclusion

WHEREFORE, the Debtors respectfully request that this Court (i) grant this Motion and the relief requested herein; (ii) enter the proposed orders attached hereto; and (iii) grant such other relief as it deems just and proper.

Dated: December 2, 2015
Wilmington, Delaware

BAYARD, P.A.

/s/ Justin R. Alberto
Scott D. Cousins (No. 3079)
Justin R. Alberto (No. 5126)
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*Proposed Attorneys for Debtors
and Debtors-in-Possession*

EXHIBIT A

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

Axion International, Inc.¹

Debtors.

Chapter 11

Case No.: 15-12415 (CSS)
(Jointly Administered)

Re: Docket No. ____

**ORDER (I) APPROVING BIDDING PROCEDURES IN CONNECTION WITH
THE PROPOSED SALE OF SUBSTANTIALLY ALL OF THE DEBTORS'
ASSETS, (II) ESTABLISHING CERTAIN NOTICE PROCEDURES RELATING
TO THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY
CONTRACTS AND UNEXPIRED LEASES; (III) APPROVING FORM AND
MANNER OF THE SALE AND CURE NOTICES; (IV) SCHEDULING A
HEARING TO CONSIDER THE PROPOSED SALE;
AND (V) GRANTING RELATED RELIEF**

Upon the motion (the "Motion")² of Axion International, Inc. and certain of its affiliates, as debtors and debtors-in-possession (collectively, the "Debtors"), for an order pursuant to sections 105, 363, 365, and 503 of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002, 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 6004-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (i) approving the proposed auction and bidding procedures attached hereto as Exhibit I (the "Bidding Procedures") for the potential sale of substantially all of the Debtors' assets (the "Purchased Assets"); (ii) approving the bid protections, including the break up fee (the "Break Up Fee") and reimbursement of expenses (the "Expense Reimbursement Amount" and together with the Break Up Fee, the "Bid Protections");

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Axion International, Inc. [1880], Axion International Holdings, Inc. [6389], Axion Recycled Plastics Incorporated [5048]. The address of the Debtors' corporate headquarters is 4005 All American Way, Zanesville, OH 43701.

(iii) establishing procedures for the assumption and assignment of executory contracts and unexpired leases, including notice of proposed cure amounts (the “Assumption and Assignment Procedures”); (iv) approving the form and manner of the Sale Notice and the Cure Notice (each as defined below); and (v) scheduling a hearing (the “Sale Hearing”) to approve such sale (the “Sale”); and this Court having considered that portion of the Motion relating to the Bidding Procedures, and the arguments of counsel made, and the evidenced adduced, at the hearing on the Motion to approve the Bidding Procedures held on December ___, 2015 (the “Bidding Procedures Hearing”); and due and sufficient notice of the Motion having been given under the particular circumstances and it appearing that no other or further notice need be provided; and after considering objections, if any, to the Motion (the “Objections”); and the Court having determined that the relief requested in the Motion relating to the Bidding Procedures is in the best interest of the Debtors, their estates, creditors, and other parties in interest; and after due deliberation and good and sufficient cause appearing therefor,

IT IS HEREBY FOUND AND DETERMINED THAT:³

A. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a) and 1334 and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of these cases and the Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

B. Good and sufficient notice of the Motion has been given and no further notice is required. A reasonable opportunity to object or be heard regarding the relief

² Capitalized terms used but not defined in this Order shall have the meanings given such terms in the Motion or the Bidding Procedures, as applicable.

³ Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when appropriate. See Bankruptcy Rule 7052.

requested in the Motion (including the proposed Bidding Procedures, the Bid Protections and the Assumption and Assignment Procedures) has been afforded to all interested persons and entities.

C. The Debtors have articulated good and sufficient business reasons for the Court to (i) approve the Bidding Procedures, (ii) approve the Bid Protections, (iii) approve the Assumption and Assignment Procedures, (iv) approve the form and manner of the Sale Notice and the Cure Notice (each as defined below), and (v) set the date of the Auction (as defined below) and the Sale Hearing.

D. Due, sufficient, and adequate notice of the Bidding Procedures Hearing and the relief to be granted herein has been given in light of the circumstances and the nature of the relief requested, and no other or further notice thereof is required. The Debtors' notice of the Motion, the proposed entry of this Order, the Bidding Procedures, the Bid Protections, the Assumption and Assignment Procedures, the Auction (as defined below) and the Bidding Procedures Hearing is appropriate and reasonably calculated to provide all interested parties with timely and proper notice under Bankruptcy Rules 2002, 4001, 6004 and 6006, and no other or further notice of, or hearing on, the Motion or this Order is required.

E. The proposed Sale Notice and Cure Notice (each as defined below) are appropriate and reasonably calculated to provide all interested parties with timely and proper notice of each, and no further notice of the Sale, Auction (as defined below), Assumption and Assignment Procedures (including any Cure Amount), the Bidding Procedures or hearing on any of the foregoing is required.

F. The Bidding Procedures, in substantially the form attached hereto and incorporated herein by reference, are fair, reasonable, and appropriate, were negotiated in good faith by the Debtors and Allen Kronstadt (Mr. Kronstadt or his designee, the "Purchaser"), and represent the best method for maximizing the value of the Debtors' estates.

G. The Bid Protections, to the extent payable under the APA, (i) shall be deemed an actual and necessary cost of preserving the Debtors' estates within the meaning of section 503(b) of the Bankruptcy Code, (ii) are of substantial benefit to the Debtors' estates, (iii) are reasonable and appropriate, including in light of the size and nature of the Sale and the efforts that have been and will be expended by the Purchaser, (iv) have been negotiated by the parties and their respective advisors at arm's-length and in good faith, and (v) are necessary to ensure that the Purchaser will continue to pursue the proposed Sale. The Bid Protections were material inducements for, and a condition of, the Purchaser's entry into the APA. The Purchaser is unwilling to commit to purchase the Purchased Assets under the terms of the APA unless the Purchaser is assured the Bid Protections if the Purchaser is not the purchaser of the Debtor's assets pursuant to the APA.

H. The Assumption and Assignment Procedures are reasonable and appropriate.

I. The entry of this Order is in the best interests of the Debtors, their estates, creditors, and interest holders and all other parties-in-interest herein.

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

1. The Motion is GRANTED, to the extent set forth herein.
2. All Objections to the Motion and the relief granted herein that have not been withdrawn, waived, resolved or settled are hereby denied and overruled in their entirety.
3. The Bidding Procedures, as attached hereto, are approved. The Debtors are authorized to take any and all actions reasonably necessary or appropriate to implement the Bidding Procedures.

The Bid Deadline

4. The Purchaser shall be the Successful Bidder (as defined in the Bidding Procedures), without the need for an auction unless the following parties receive one or more Qualified Bids in writing, on or before **January 15, 2016 at 5:00 p.m. (prevailing Eastern time)** (the "Bid Deadline"): (1) the Debtors, 4005 All American Way, Zanesville, Ohio 43701 (Attn: Donald W. Fallon); (2) counsel for the Debtors, Bayard, P.A., 222 Delaware Avenue, Suite 900, Wilmington, DE 19899, Attn: Scott D. Cousins (scousins@bayardlaw.com) and Justin R. Alberto (jalberto@bayardlaw.com); and (3) counsel for any official committee appointed in these cases.
5. For the avoidance of doubt, the Purchaser shall constitute a Qualified Bidder and the APA shall constitute a Qualified Bid for all purposes and in all respects with regard to the Auction (as defined below), the Bidding Procedures and the overall Sale process.

Notice of the Sale and the Sale Hearing

6. Within three (3) Business Days after the entry of this Order, or as soon thereafter as practicable (the “Mailing Date”), the Debtors (or their agents) shall serve notice of the Motion, the APA (as defined in the Motion), this Order and the Bidding Procedures by first-class mail, postage prepaid, upon (a) all entities known to have asserted any lien, claim, interest or encumbrance in or upon any of the Purchased Assets; (b) 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; (c) the United States Attorney’s office; (d) the Securities and Exchange Commission; (e) the Internal Revenue Service; (f) legal and financial advisors to any statutory committee appointed; (g) the parties included on the Debtors’ list of thirty (30) largest unsecured creditors; (h) those parties who have filed the appropriate notice requesting notice of all pleadings filed in these cases; (i) the Attorney Generals in each state where the Debtors operate; (j) the Association for Attorney Generals; and (k) the Office of the United States Trustee.

7. On the Mailing Date or as soon thereafter as practicable, the Debtors (or their agents) shall serve by first-class mail, postage prepaid, the sale notice (the “Sale Notice”), substantially in the form attached hereto as Exhibit II, upon all other known creditors of the Debtors.

8. The Sale Hearing to approve the sale of the Purchased Assets shall be held on **January 19, 2016 at ____:____ (a.m./p.m.) (prevailing Eastern time)**

9. Objections, if any, to the sale of the Purchased Assets to the Purchaser must be filed and served on: (i) counsel for the Debtors, Bayard, P.A, 222 Delaware Avenue, Suite 900, Wilmington, Delaware 19801, Attn: Scott D. Cousins

(scousins@bayardlaw.com) and Justin R. Alberto (jalberto@bayardlaw.com); (ii) counsel for any statutory committee appointed in these cases; (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Lockbox 34, Wilmington, Delaware 19801, Attn: Natalie M. Cox, Trial Attorney for the U.S. Trustee (natalie.cox@usdoj.gov), and (iv) counsel to the Purchaser, (a) Pillsbury Winthrop Shaw Pittman LLP, 1200 Seventeenth Street NW, Washington, DC 20036 (Attn: Patrick Potter; patrick.potter@pillsburylaw.com) and 324 Royal Palm Way, Suite 220, Palm Beach, FL 33480 (Attn: Dania Slim; dania.slim@pillsburylaw.com); (collectively, the “Notice Parties”) by **January 12, 2016 at 4:00 p.m. (prevailing Eastern time)**.

10. Objections, if any, to the sale of the Purchased Assets to a Successful Bidder other than the Purchaser, or to the conduct of the Auction (as defined below), must be either filed and served on the Notice Parties any time prior to the Sale Hearing or presented during the Sale Hearing.

The Auction

11. The Debtors are authorized to conduct an auction (the “Auction”) with respect to the Purchased Assets. The Auction shall take place on **January 18, 2016 at 10:00 a.m. (prevailing Eastern time)** at the offices of counsel for the Debtors, Bayard, P.A., 222 Delaware Avenue, Suite 900, Wilmington, Delaware 19801, or such other place and time as the Debtors shall notify all Qualified Bidders, the Purchaser and its counsel, and any official committee appointed in these cases and its counsel. If the location of the auction changes, the Debtors shall file a notice with the Court and post the same on the website maintained by the Debtors’ claims and noticing agent. The Debtors

are authorized, subject to the terms of this Order, to take actions reasonably necessary, in the discretion of the Debtors, to conduct and implement the Auction.

12. The Debtors, the Purchaser and any other Qualified Bidder, in each case, along with their representatives and counsel, or such other parties as the Debtors shall determine in their reasonable discretion, shall attend the Auction (such attendance to be in person) and only the Purchaser and such other Qualified Bidders will be entitled to make any Bids at the Auction. The Debtors and their professionals shall direct and preside over the Auction and the Auction shall be transcribed. The Purchaser (in its capacity as a Bidder), and each Qualified Bidder participating in the Auction must confirm that it (a) has not engaged in any collusion with respect to the bidding or sale of any of the assets described herein, (b) has reviewed, understands and accepts the Bidding Procedures and (c) has consented to the core jurisdiction of this Court and to the entry of a final order by this Court on any matter related to this Order, the Sale or the Auction if it is determined that this Court would lack Article III jurisdiction to enter such a final order or judgment absent the consent of the parties. Subject to the foregoing participation limitations, the Auction will be conducted openly and all creditors of the Debtors will be permitted to attend.

13. Subject to the rights of parties in interest to (i) challenge the sale or the sale process, (ii) challenge the Debtors' decisions with respect to the sale process, (iii) argue that such decisions are not governed by the "business judgment" standard, or (iv) such other rights as such parties may have hereunder or under applicable law, the Debtors may (I) select, in their business judgment and after consultation with any committee appointed in these cases, pursuant to the Bidding Procedures, the highest or

otherwise best offer(s) and the Successful Bidder or Bidders, and (II) reject any bid that, in the Debtors' business judgment after consultation with any committee appointed in these cases, is (a) inadequate or insufficient, (b) not in conformity with the requirements of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules or the Bidding Procedures or (c) contrary to the best interests of the Debtors and their estates, creditors, interest holders or parties-in-interest.

14. The Debtors may modify the bidding and conduct of the Auction in consultation with any committee appointed in these cases without further order of the Court, provided the modifications are reasonable and intended to maximize the value of the Debtors' estates.

15. The Debtors shall file notice of the identity of the Successful Bidder within five (5) hours of the conclusion of the Auction.

16. The failure to specifically include or reference any particular provision, section or article of the Bidding Procedures in this Order shall not diminish or impair the effectiveness of such procedures, it being the intent of this Court that the Bidding Procedures be authorized and approved in their entirety.

The Bid Protections

17. Pursuant to Bankruptcy Code sections 105, 363 and 503, the Debtors are hereby authorized to pay the Bid Protections pursuant to and subject to the terms and conditions set forth in the APA. Upon entry of this Order, the Bid Protections shall constitute a super priority administrative expense of the Debtors in these chapter 11 cases under Bankruptcy Code section 503(b)(1), subject only to the Carve-Out and the DIP Facility.

18. The Bid Protections are hereby approved and shall be paid to the Purchaser as set forth in the APA.

19. In the event the Debtors consummate a sale of the Purchased Assets to a Successful Bidder other than the Purchaser (an “Alternative Closing”) and the Bid Protections become payable pursuant to the APA, the Break-Up Fee and Expense Reimbursement Amount shall be payable from the first cash proceeds of any Alternative Closing. The Debtors confirm that it is critical to the process of maximizing the value of and arranging an orderly sale of the Purchased Assets to proceed by selecting the Purchaser to enter into the APA; without the Purchaser having committed considerable time and expense in connection with the sale of the Purchases Assets, the Debtors would potentially realize a lower price for their assets; and, therefore, the contributions of the Purchaser to the process have indisputably provided a substantial benefit to the Debtors and their estates.

20. The Bid Protections shall be the sole remedy of the Purchaser if the APA is terminated under circumstances where the Bid Protections are payable.

Assumption and Assignment Procedures

21. The Assumption and Assignment Procedures are APPROVED as set forth herein.

22. Within three (3) Business Days after entry of this Order, or as soon as practicable thereafter, the Debtors (or their agents) shall file with this Court and serve on each party to a proposed Assumed Contract and Lease a Cure Notice, substantially in the form attached hereto as Exhibit III (the “Cure Notice”) that shall (i) state the cure amounts that the Debtors believe are necessary to assume such Assumed Contracts and

Leases pursuant to section 365 of the Bankruptcy Code (the “Cure Amount”); (ii) notify the non-debtor party that such party’s contract or lease may be assumed and assigned to a purchaser of the Purchased Assets at the conclusion of the Auction; (iii) state the date of the Sale Hearing and that objections to any Cure Amount or to assumption and assignment will be heard at the Sale Hearing or at a later hearing, as determined by the Debtors; (iv) state a deadline by which the non-debtor party shall file an objection to the Cure Amount or to the assumption and assignment of the Assumed Contracts and Leases and (v) contain instructions regarding how a non-debtor counterparty may obtain from the Purchaser information relating to adequate assurance; provided, however, that the inclusion of a contract, lease or agreement on the Cure Notice shall not constitute an admission that such contract, lease or agreement is an executory contract or lease. The Debtors reserve all of their rights, claims and causes of action with respect to the contracts, leases and agreements listed on the Cure Notice.

23. Any objection to the Cure Amount or to assumption and assignment must be filed with the Court and served on the Notice Parties **so as to be received on or before January 12, 2016 at 4:00 p.m. (prevailing Eastern time)** (the “Cure Objection Deadline”). Any such objection must also (i) state the basis for such objection and (ii) state with specificity what cure amount the party to the Assumed Contract or Lease believes is required (in all cases with appropriate documentation in support thereof). If a Successful Bidder that is not the Purchaser prevails at the Auction, then the deadline to object to assumption and assignment shall be extended to the date of the Sale Hearing, but any such objection must be received before the start of the Sale Hearing; provided, however, that the deadline to object to the Cure Amount shall not be extended. If a

Successful Bidder that is not the Purchaser prevails at the Auction, the Debtors shall serve the notice provided by paragraph 14 herein on all non-debtor counterparties to the Assumed Contracts and Leases by fax or email where available and overnight mail where fax and email are unavailable.

24. Unless a non-debtor party to any executory contract or unexpired lease, including an unexpired real property lease, files an objection to the Cure Amount by the Cure Objection Deadline, such counterparty shall be (is) forever barred from objecting to the Cure Amount and (ii) forever barred and estopped from asserting or claiming any Cure Amount, other than the Cure Amount listed on the Cure Notice against the Debtors, any Successful Bidder or any other assignee of the relevant contract.

25. If a party objects to the Cure Amount and is party to an Assumed Contract or Lease to be assumed, then such cure objection shall not prevent or delay the Sale, nor shall it prevent the Court from entering a final Sale Order. Instead, the Cure Amount alleged by the objecting party will be placed in escrow by the Successful Bidder, pending a ruling by the Court on the cure objection or an agreement by the parties.

26. To the extent that a non-debtor counterparty to an Assumed Contract or Lease was not provided with a Cure Notice (any such contract or lease a “Previously Omitted Contract”), the Debtors will notify the Successful Bidder within three Business Days (as defined in the APA) of the omission. The Debtors shall serve a notice (the “Previously Omitted Contract Notice”) to the counterparties to the Previously Omitted Contract indicating the Debtors’ intent to assume and assign the Previously Omitted Contract. The counterparties will have fourteen (14) days to object to the Cure Amount or the assumption. If the parties cannot agree on a resolution, the Debtors will seek an

expedited hearing before the Court to determine the Cure Amount and approve the assumption. If there is no objection, then the counterparties will be deemed to have consented to the assumption and assignment and the Cure Amount, and such assumption and assignment and the Cure Amount shall be deemed approved by the Sale Order without further order of this Court.

Related Relief

27. Any obligations of the Debtors set forth in the APA that are intended to be performed prior to the Sale Hearing and/or entry of the Sale Order are authorized as set forth herein.

28. The Debtors are hereby authorized and empowered to take such actions as may be reasonably necessary to implement and effect the terms and requirements established this Order.

29. This Order shall constitute findings of fact and conclusions of law and shall take effect immediately upon execution hereof.

30. This Order shall be binding on the Debtors, including any chapter 7 or chapter 11 trustee or other fiduciary appointed for the estates of the Debtors.

31. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 6006(d), 7052, 9014 or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

32. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Order, including, but not limited to, any matter, claim or dispute arising from or relating to the Bid Protections, the APA, the Bidding Procedures and the implementation of this Order

Dated: _____, 2015
Wilmington, Delaware

The Honorable Christopher S. Sontchi
United States Bankruptcy Judge

EXHIBIT I

(BIDDING PROCEDURES)

Bidding Procedures

Below are the bidding procedures (the “Bidding Procedures”)¹ that will be used in connection with an auction (the “Auction”) and the sale (the “Sale”) of substantially all of the assets (collectively, the “Purchased Assets”) of Axion International, Inc. and certain of its affiliates (collectively, the “Debtors”), as debtors and debtors in possession in the chapter 11 cases currently pending in the U.S. Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”). The Purchased Assets and the terms and conditions upon which the Debtors contemplate consummating a sale of the Purchased Assets are further described in that certain Term Sheet and Asset Purchase Agreement (the “APA”), by and between the Debtors and Allen Kronstadt (Mr. Kronstadt or his designee, the “Purchaser”). A copy of the Term Sheet is attached as Exhibit B to the motion filed with the Bankruptcy Court seeking approval of these Bidding Procedures. A copy of the APA was filed on December 16, 2013 [D.I. ____].

On _____, 2015 the Bankruptcy Court entered an order (the “Bidding Procedures Order”), which, among other things, authorized the Debtors to determine the highest or otherwise best offer for the Purchased Assets through the process and procedures set forth below (the “Bidding Procedures”).

Purchased Assets to Be Sold

The Debtors are offering for sale all of the Purchased Assets. Except as otherwise provided in the APA or a Modified APA (as defined below) submitted by a Successful Bidder (as defined below) (including any exhibits or schedules thereto) all of the Debtors’ right, title and interest in and to the Purchased Assets subject thereto shall be sold free and clear of any pledges, liens, security interests, encumbrances, claims, charges, options and interests thereon (collectively, the “Interests”) to the maximum extent permitted by section 363 of the Bankruptcy Code, with such Interests to attach to the net proceeds of the sale of the Purchased Assets with the same validity and priority as such Interests applied against the Purchased Assets, subject in each case to the terms of the Sale Order.

The APA provides that the Purchaser will acquire the Purchased Assets for the following consideration (collectively, the “Purchase Price”):

1. Pursuant to section 363(k) of the Bankruptcy Code, a credit bid of at least \$3.2 million for the Kronstadt Collateral;² provided, however, that the Purchaser may credit bid at the Auction up to the full amount of Kronstadt’s Secured Indebtedness.

¹ All capitalized terms not defined herein shall have the meaning given such terms in the Motion.

² The Kronstadt Secured Indebtedness is secured by the Kronstadt Collateral, which consists of (a) second-priority perfected security interests in the Ohio State Collateral (defined below) and the Community Bank Collateral (defined below), and (b) a first-priority perfected security interest in all of the other assets of the Debtors.

2. The Purchaser will assume so much of the \$5.2 million Kronstadt secured debt that is not credit bid to acquire the Kronstadt Collateral.

3. The Purchaser will assume the Debtors' postpetition financing under that certain DIP Facility.

4. The Purchaser will pay the cure costs of any executory contracts or unexpired leases assumed and assigned to it in connection with the Sale.

5. The Purchaser will make a cash payment for the Ohio State Collateral and a cash payment for the Community Bank Collateral.

After the Auction, the Debtors will seek entry of an order from the Bankruptcy Court authorizing and approving the Sale Transaction to the Qualified Bidder (defined below) that the Debtors determine has made the highest or best offer (the "Successful Bidder").

The Bidding Process

The Debtors and their advisors shall (i) determine whether any person is a Qualified Bidder, (ii) coordinate the efforts of Potential Bidders (as defined below) in conducting their due diligence investigations, (iii) receive offers from Bidders (as defined below), and (iv) negotiate any offers made to acquire the Purchased Assets (collectively, the "Bidding Process").

Key Dates for Potential Competing Bidders

The Bidding Procedures provide interested parties with the opportunity to qualify for and participate in an Auction to be conducted by the Debtors and to submit competing bids for the Purchased Assets. The Debtors shall assist Potential Bidders (as defined below) in conducting their respective due diligence investigations and shall accept Bids (as defined below) until **January 15, 2016 at 5:00 p.m. (prevailing Eastern time)** (the "Bid Deadline").

The key dates for the sale process are as follows:

January 15, 2016 at 5:00 p.m. EDT	Bid Deadline - Due Date for Bids and Deposits
January 18, 2016 at 10:00 a.m. EDT	Auction
January 12, 2016 at 4:00 p.m. EDT	Objection Deadline in Connection with Sale of Purchased Assets and Cure Amounts
January 19, 2016 at __:__ a.m./p.m. EDT	Sale Hearing

Participation Requirements

In order to participate in the Bidding Process, each Potential Bidder, other than the Purchaser, must deliver (unless previously delivered) to the Debtors:

- (i) An executed confidentiality agreement in form and substance satisfactory to the Debtors; and
- (ii) Current audited financial statements of the Potential Bidder, or, if the Potential Bidder is an entity formed for the purpose of acquiring the Purchased Assets, current audited financial statements of the equity holder(s) of the Potential Bidder, or such other form of financial disclosure acceptable to the Debtors and their advisors in their sole discretion.

A “Qualified Bidder” is a Potential Bidder that timely delivers the documents described in subparagraphs (i) and (ii), whose financial information demonstrates the Potential Bidder’s financial capability to consummate the Sale, and that the Debtors determine is reasonably likely (based on availability of financing, experience and other considerations) to submit a bona fide offer and to be able to consummate the Sale if selected as the Successful Bidder.

As soon as reasonably practicable after a Potential Bidder delivers all of the materials required by subparagraphs (i) and (ii) above, the Debtors shall determine, and shall notify the Potential Bidder, if such Potential Bidder is a Qualified Bidder. For avoidance of doubt, the Debtors have determined that (i) the Purchaser is a Qualified Bidder, (ii) the State of Ohio is a Qualified Bidder for the purpose of credit bidding its debt against the Ohio State Collateral, and (iii) The Community Bank is a Qualified Bidder for the purpose of credit bidding its debt against the Community Bank Collateral. Notwithstanding anything to the contrary, neither the State of Ohio nor The Community Bank need to take any action to appear at the Auction to exercise their credit bid rights against their respective collateral, which rights are fully preserved.

Due Diligence

The Debtors shall afford any Qualified Bidder the opportunity to conduct a reasonable due diligence review, including reasonable access to management, access to the electronic data room, other information that a Qualified Bidder may reasonably request, and such other information as to which the Debtors agree. The Debtors shall not be obligated to furnish any due diligence information after the Bid Deadline (defined below). The Debtors reserve the right to withhold any diligence materials that the Debtors reasonably determine are business-sensitive or otherwise not appropriate for disclosure to a Potential Bidder who is a competitor of the Debtors or is affiliated with any competitor of the Debtors. Neither the Debtors nor their representatives shall be obligated to furnish information of any kind whatsoever to any person that is not determined to be a Qualified Bidder.

Each Potential Bidder and Qualified Bidder (as defined below) shall comply with all reasonable requests for additional information by the Debtors or their advisors

regarding the ability of such Potential Bidder or Qualified Bidder, as applicable, to consummate its contemplated transaction

All due diligence requests must be directed to Axion International Inc., Donald W. Fallon, Chief Financial Officer, 4005 All American Way, Zanesville, Ohio 43701 (740-452-2500; dfallon@axih.com) and Bayard, P.A. (Attn: Justin R. Alberto) 222 Delaware Avenue, Suite 900, Wilmington, Delaware 19801 (302-429-4226; jalberto@bayardlaw.com).

Bid Deadline

A Qualified Bidder who desires to make a bid shall deliver its original bid, one copy thereof, and email a copy of its bid to the Debtors' attorneys not later than **January 15, 2016, at 12:00 noon** (prevailing Eastern time) (the "Bid Deadline").

Bid Requirements

To be eligible to participate in the Auction, each bid must include the following documents (the "Required Bid Documents"):

- A. Same or Better Terms: Each Bid must be on terms that the Debtors, in their business judgment, determine are the same or better than the terms of the APA.
- B. Executed Agreement: Each Bid must be based on the APA and must include executed transaction documents (a "Modified APA"). A Bid must also include a copy of the Modified APA marked to show those amendments and modifications from the APA. Each Modified APA must provide a commitment to close within three business days after all closing conditions are met. The Debtors will consider proposals for less than the Purchased Assets, provided that the Debtors may evaluate all bids in their sole discretion to determine whether such bid maximizes the value of the Debtors' estate.
- C. Designation of Assigned Contracts and Leases: A Bid must identify any and all executory contracts and unexpired leases of the Debtors that the Bidder wishes to be assumed and assigned to the Qualified Bidder at closing, pursuant to the Modified APA; provided, however, that the Qualified Bidder shall have a right to modify the list of such executory contracts and unexpired leases at any time prior to closing.
- D. Designation of Assumed Liabilities: A Bid must identify all liabilities which the Qualified Bidder proposes to assume, including cure costs, if any.

- E. Corporate Authority: A Bid must include written evidence reasonably acceptable to the Debtors demonstrating appropriate corporate authorization to consummate the Modified APA; *provided* that, if the Qualified Bidder is an entity specially formed for the purpose of effectuating the Modified APA, then the Qualified Bidder must furnish written evidence reasonably acceptable to the Debtors of the approval of the Modified APA by the equity holder(s) of such Qualified Bidder.
- F. Disclosure of Identity of Bidder: A Bid must fully disclose the identity and contact information of each entity that will be bidding for or purchasing the Purchased Assets or otherwise participating in connection with such Bid.
- G. Regulatory and Third Party Approvals: A Bid must set forth each regulatory and third-party approval required for the Qualified Bidder to consummate the Modified APA, and the time period within which the Qualified Bidder expects to receive such regulatory and third-party approvals (and in the case that receipt of any such regulatory or third-party approval is expected to take more than fifteen (15) days following execution and delivery of the Modified APA, those actions the Qualified Bidder will take to ensure receipt of such approval(s) as promptly as possible).
- H. Contingencies: Each Bid may not be conditioned on obtaining financing or any internal approval, or on the outcome or review of due diligence.
- I. Irrevocable: Each Bid must be irrevocable until the Sale Hearing (defined below); provided, however, that the Successful Bid(s) and the Back-Up Bid(s) (defined below) shall remain open and shall be irrevocable until the earlier of (i) 30 days after the Sale Hearing or (ii) consummation of the Sale contemplated by the asset purchase agreement with the Successful Bidder or the Back-Up Bidder, as the case may be.
- J. Compliance with Information Requests. The Qualified Bidder submitting the Bid must have complied with reasonable requests for additional information from the Debtors (as described above) to the reasonable satisfaction of the Debtors.
- K. Confidentiality Agreement. To the extent not already executed, the Bid must include an executed confidentiality agreement in the form and substance reasonably satisfactory to the Debtors.

- L. Termination Fees. The Bid must not entitle the Qualified Bidder to any break-up fee, termination fee or similar type of payment or reimbursement
- M. Good Faith Deposit: Each Bid must be accompanied by a deposit in the amount of ten percent (10%) of the purchase price contained in the Modified APA(as defined below), before any reductions for assumed indebtedness, to an interest-bearing escrow account to be identified and established by the Debtors (the “Good Faith Deposit”).
- N. Proof of Financial Ability to Perform: Written evidence of a commitment for financing or other evidence of the Potential Bidder’s ability to consummate the Sale Transaction satisfactory to the Debtors and their advisors.

A bid from a Potential Bidder other than the Purchaser will be considered to be a qualified competing bid (a “Qualified Competing Bid”) only if the bid is received before the Bid Deadline, includes all of the Required Bid Documents, and acknowledges and represents that the Potential Bidder (i) has had an opportunity to conduct any and all due diligence regarding the Purchased Assets prior to making its bid, (ii) has relied solely on its own independent review, investigation, and inspection of any documents and the Purchased Assets in making its bid, and (ii) did not rely on any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Purchased Assets, or the completeness of any information provided in connection therewith or the Auction.

The Debtors shall inform counsel to the Purchaser and any other Qualified Bidder whether the Debtors will consider any bid to be a Qualified Bid no later than two (2) days (to the extent practicable) before the Auction. The Debtors shall further provide at that time a copy of all Qualified Bids (if any) to counsel to the Purchaser and all Qualified Bidders (if any).

Sale Free and Clear

All of the Debtors’ right, title and interest in and to the Purchased Assets shall be sold free and clear of all agreements, obligations, disabilities, claims, security interests, liens, pledges, restrictions, tenancies, mortgages and encumbrances of any nature whatsoever (other than obligations with respect to the Assumed Contracts and Assumed Liabilities, if any) in accordance with section 363 of the Bankruptcy Code.

Auction

If no Qualified Bid (other than the APA) is received by the Bid Deadline, the Debtors shall not conduct the Auction and shall accept the APA, in which case the APA shall be the Successful Bid and the Purchaser shall be the Successful Bidder.

If one or more Qualified Competing Bids (other than the APA submitted by the Purchaser) are received, the Debtors shall conduct the Auction to determine the highest or otherwise best bid for the Purchased Assets. This determination shall take into account any factors the Debtors reasonably deem relevant to the value of the Qualified Bid to the estates and may include, but are not limited to, the following: (a) the amount and nature of the consideration, including any assumed liabilities; (b) the number, type and nature of any changes to the APA requested by each Qualified Bidder; (c) the extent to which such modifications are likely to delay closing of the sale of the Debtors' assets and the cost to the Debtors of such modifications or delay; (d) the total consideration to be received by the Debtors; (e) the likelihood of the Qualified Bidder's ability to close a transaction and the timing thereof; (f) the net benefit to the Debtors' estates; and (g) any other qualitative or quantitative factor the Debtors deem reasonably appropriate under the circumstances (collectively, the "Bid Assessment Criteria").

The Auction shall commence at **10:00 a.m.** (prevailing Eastern time) on **January 18, 2016** at the offices of Bayard, P.A., 222 Delaware Avenue, Suite 900, Wilmington, Delaware 19801, or such other time or other place as agreed to by the Purchaser and the Debtors. If the location of the auction changes, the Debtors shall file a notice with the Court and post the same on the website maintained by the Debtors' claims and noticing agent.

Other than the State of Ohio and The Community Bank (each as to its respective collateral), only the Debtors, the Purchaser, and all Qualified Bidders who have submitted a Qualified Competing Bid are eligible to participate at the Auction (such attendance to be in person). Subject to the foregoing participation limitations, the Auction will be conducted openly and all creditors of the Debtors will be permitted to attend.

The Debtors and their professionals shall direct and preside over the Auction and the Auction shall be transcribed. Other than as expressly set forth herein, the Debtors may conduct the Auction in the manner they reasonably determine will result in the highest or otherwise best offer for any of the Debtors' assets. The Debtors shall use their best efforts to provide each Qualified Bidder participating in the Auction with a copy of the Modified APA associated with the highest or otherwise best Competing Qualified Bid received before the Bid Deadline (such highest or otherwise best Qualified Bid the "Auction Baseline Bid"). In addition, at the start of the Auction, the Debtors shall describe the terms of the Auction Baseline Bid. Each Qualified Bidder participating in the Auction must confirm that it (a) has not engaged in any collusion with respect to the bidding or sale of any of the assets described herein, (b) has reviewed, understands and accepts the Bidding Procedures and (c) has consented to the core jurisdiction of the Bankruptcy Court (as described more fully below).

During the Auction, bidding shall begin initially with the Auction Baseline Bid. Any overbid (an "Overbid") must provide consideration of at least **\$150,000** higher than the previous bid. The Debtors reserve the right to announce reductions in the minimum incremental bids at anytime during the Auction. Also, any overbid must include, in addition to the amount and the form of consideration of the Overbid, a description of all

changes requested by the Qualified Bidder to the APA or Modified APA, as the case may be, in connection therewith. Any Overbid must remain open and binding on the Qualified Bidder until the conclusion of the Auction (or later if it constitutes the Successful Bid or the Backup Bid).

The Debtors shall announce at the Auction the material terms of each Overbid, the total amount of consideration offered in each such Overbid, and the basis for calculating such total consideration and such other terms as the Debtors reasonably determine will facilitate the Auction.

The Auction shall continue until there is only one offer that the Debtors determine, in their business judgment and subject to court approval, is the highest and otherwise best offer from among the bids submitted at the Auction (the “**Successful Bid**”). In making this decision, the Debtors may consider, among other things, the amount of the purchase price, the net benefit to the Debtors’ estates, the form of consideration being offered, the likelihood of the Qualified Bidder’s ability to close a transaction and the timing thereof and the number, and the type and nature of any changes to the APA. The Qualified Bidder submitting the Successful Bid (who may be the Purchaser) shall become the “Successful Bidder.”

Promptly following the Debtors’ selection of the Successful Bid and the conclusion of the Auction, the Debtors shall announce the Successful Bid and Successful Bidder and shall file with the Bankruptcy Court notice of the Successful Bid and Successful Bidder within five (5) hours of the conclusion of the Auction

Break-Up Fee and Expense Reimbursement Amount

To provide the Purchaser with an incentive to participate in a competitive process and to compensate the Purchaser for (i) performing substantial due diligence and incurring the expenses related thereto and (ii) entering into the Term Sheet and APA with the knowledge and risk that arises from participating in the sale and subsequent bidding process, the Debtors have agreed to pay the Purchaser the Break-Up Fee (in the amount of \$550,000) plus the aggregate amount of all reasonable and documented out of pocket expenses and fees incurred by the Purchaser in connection with the transactions contemplated by the Term Sheet and APA, including reasonable legal and other professional expenses of not more than \$250,000 in the event that the Acquisition Agreement is terminated pursuant to certain provisions of the Term Sheet and APA.

The Bid Protections were material inducements for, and a condition of, the Purchaser’s entry into the Term Sheet and APA. The Bid Protections shall be payable as set forth herein, in the Bid Procedures Order and the Term Sheet and APA.

Backup Bidder

Notwithstanding anything in the Bidding Procedures to the contrary, if an Auction is conducted, the Qualified Bidder with the next highest or otherwise best Bid at the Auction, as determined by the Debtors, in the exercise of their business judgment, will be designated as the backup bidder (the “Backup Bidder”). The Backup Bidder shall be

required to keep its initial Bid (or if the Backup Bidder submitted one or more Overbids at the Auction, the Backup Bidder's final Overbid) (the "Backup Bid") open and irrevocable until the earlier of (i) 5:00 p.m. (prevailing Eastern time) on the date that is thirty (30) days after the date of the Sale Hearing (the "Outside Backup Date"), or (ii) the closing of the transaction with the Successful Bidder.

Following the Sale Hearing, if the Successful Bidder (as defined below) fails to consummate an approved transaction, the Backup Bidder will be deemed to have the new prevailing bid, and the Debtors will be authorized, without further order of the Bankruptcy Court, to consummate the transaction with the Backup Bidder.

Sale Hearing

The Sale Hearing will be held on *January 19, 2016, at _____ a.m.* (prevailing Eastern time) (the "Sale Hearing") at the Bankruptcy Court, but may be adjourned or rescheduled without further notice by an announcement of the adjourned date at the Sale Hearing or as directed by the Bankruptcy Court. At the Sale Hearing, the Debtors shall seek entry of an order, authorizing and approving the Sale (i) if no other Qualified Competing Bid is received, to the Purchaser pursuant to the terms and conditions set forth in the APA or (ii) if a Qualified Bidder other than the Purchaser submits the Successful Bid, to the Successful Bidder.

Following the Sale Hearing, in the event that the approved sale is not consummated, the Debtors may seek to consummate a sale with respect to the Backup Bid, as disclosed at the Sale Hearing, and, in such event, the Backup Bid shall be deemed to be the Successful Bidder. The Debtors shall be authorized, but not required, to consummate the sale with the Backup Bid without further notice or order of the Bankruptcy Court.

Return of Good Faith Deposit

The Debtors shall refund to those Qualified Bidders who are neither the Successful Bidder nor the Backup Bidder the Good Faith Deposit received from such bidders within five (5) business days after the Sale Hearing. The Good Faith Deposits of the bidders who have submitted the Successful Bid and the Backup Bid shall be held until the later of (i) 30 days after the Sale Hearing or (ii) consummation of a sale with the Successful Bidder or the Second Place Bidder, as the case may be. The Debtors are under no obligation to earn interest on any Good Faith Deposit.

Forfeiture of Good Faith Deposit

If a Successful Bidder fails to consummate an approved sale because of a breach or failure to perform on the part of such Successful Bidder, the Debtors shall have no obligation to return the Good Faith Deposit to such Successful Bidder, and such Good Faith Deposit shall irrevocably become property of the Debtors (subject to existing applicable liens), notwithstanding the consummation of any sale transaction with another Qualified Bidder.

Reservation of Rights of the Debtor

Except as otherwise provided in the APA, the Bidding Procedures or the Bidding Procedures Order, the Debtors further reserves the right to: (a) determine which bidders are Qualified Bidders; (b) determine which Bids are Qualified Bids; (c) determine which Qualified Bid is the highest or best proposal and which is the next highest or best proposal; (d) reject any Bid that is (1) inadequate or insufficient, (2) not in conformity with the requirements of the Bidding Procedures or the requirements of the Bankruptcy Code or (3) contrary to the best interests of the Debtors and their estates; (e) waive terms and conditions set forth herein with respect to all potential bidders; (f) impose additional terms and conditions with respect to all potential bidders; (g) with the consent of the Purchaser, extend the deadlines set forth herein; (h) with the consent of the Purchaser, continue or cancel the Auction and/or Sale Hearing in open court without further notice; (i) with the consent of the Purchaser and in the Debtors' business judgment, withdraw any asset from the process outlined herein at any time prior to the Sale Hearing; and (j) with the consent of the Purchaser, modify the Bidding Procedures and implement additional procedural rules that the Debtors determine, in their reasonable business judgment, will better promote the goals of the bidding process and discharge the Debtors' fiduciary duties and are not inconsistent with any Bankruptcy Court order or these Bidding Procedures.

EXHIBIT II

(SALE NOTICE)

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

Axion International, Inc.¹

Debtors.

Chapter 11

Case No.: 15-12415 (CSS)
(Jointly Administered)

Re: Docket No. ____

NOTICE OF AUCTION AND SALE HEARING

PLEASE TAKE NOTICE OF THE FOLLOWING:

1. On December 2, 2015, the above-captioned debtors and debtors in possession (collectively, the “Debtors”), filed voluntary petitions for relief pursuant to chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”).

2. On that same day the Debtors filed a motion (the “Bidding Procedures and Sale Motion”), pursuant to sections 105, 363, 365 and 503 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 6006 and 9014 seeking entry of an order (the “Bidding Procedures Order”),² attached to the Bidding Procedures and Sale Motion as Exhibit A, (i) approving the proposed auction and bidding procedures (the “Bidding Procedures”) for the potential sale of substantially all of the Debtors’ assets (the “Purchased Assets”) pursuant to that certain Asset Purchase Agreement (the “APA”) between the Debtors and Allen Kronstadt (Mr. Kronstadt or his designee, the “Purchaser”); (ii) establishing procedures for the assumption and assignment of executory contracts and unexpired leases, including notice of proposed cure amounts (the “Assumption and Assignment Procedures”); (iii) approving the form and manner of the Sale Notice and the Cure Notice; and (iv) scheduling a hearing (the “Sale Hearing”) to approve such sale (the “Sale”) [D.I. ____].

3. On _____, 2015, the Bankruptcy Court entered the Bidding Procedures Order [D.I. ____]. Pursuant to the Bidding Procedures Order, if the Debtors receive one or more Qualified Bids (other than from the Purchaser), the Debtors will conduct an auction for the sale of the Debtors’ assets (the “Auction”), beginning on **January 18, 2016 at 10:00 a.m. (prevailing Eastern time)** at the offices of Bayard,

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Axion International, Inc. [1880], Axion International Holdings, Inc. [6389], Axion Recycled Plastics Incorporated [5048]. The address of the Debtors’ corporate headquarters is 4005 All American Way, Zanesville, OH 43701.

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Bidding Procedures and Sale Motion, the Bidding Procedures Order or the Bidding Procedures, as applicable.

P.A., 222 Delaware Avenue, Suite 900, Wilmington, Delaware 19801. The parties that have submitted a Qualified Bid, as set forth in the Bidding Procedures Order, by no later than **January 15, 2016 at 5:00 p.m. (prevailing Eastern time)** (the "Bid Deadline") may participate at the Auction. Any party that wishes to take part in this process and submit a bid for the Debtors' assets must submit their competing bid prior to the Bid Deadline and in accordance with the Bidding Procedures. The Auction will be conducted openly and all creditors of the Debtors are permitted to attend.

4. The Sale Hearing will be held **January 19, 2016 at ___:___ (a.m./p.m.) (prevailing Eastern time)**, unless otherwise continued by the Debtors pursuant to terms of the Bidding Procedures. The Sale Hearing will be held before the Honorable _____, in the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, ___ Floor, Courtroom ___, Wilmington, Delaware 19801. The Sale Hearing may be adjourned from time to time without further notice to creditors or parties in interest other than by announcement of the adjournment in open court on the date scheduled for the Sale Hearing.

5. Objections, if any, to the sale, must: (a) be in writing; (b) comply with the Bankruptcy Rules and Local Bankruptcy Rules; and (c) be filed with the clerk of the Bankruptcy Court for the District of Delaware, Third Floor, 824 North Market Street, Wilmington, Delaware 19801, (i) to the sale to the Purchaser, on or before **January 12, 2016 at 4:00 p.m. (prevailing Eastern time)** and (ii) to the sale to a Successful Bidder other than to the Purchaser, any time prior to or during the Sale Hearing; and be served upon: (1) the Debtor, 4005 All American Way, Zanesville, Ohio 43701, Attn: Donald W. Fallon; (2) counsel for the Debtors, Bayard, P.A., 222 Delaware Avenue, Suite 900, Wilmington, DE 19899, Attn: Scott D. Cousins (scousins@bayardlaw.com) and Justin R. Alberto (jalberto@bayardlaw.com), Fax: (302) 658-6395; (3) legal and financial advisors to any statutory committee appointed in these cases; (4) the Office of the United States Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Natalie M. Cox (natalie.cox@usdoj.gov), Fax: (302) 573-6497; and (5) counsel to the Purchaser, (a) Pillsbury Winthrop Shaw Pittman LLP, 1200 Seventeenth Street NW, Washington, DC 20036 (Attn: Patrick Potter; patrick.potter@pillsburylaw.com) and 324 Royal Palm Way, Suite 220, Palm Beach, FL 33480 (Attn: Dania Slim; dania.slim@pillsburylaw.com); Fax: (202) 663-8007; provided, however, that to the extent the winning bidder at the Auction is an entity other than the Purchaser, any supplemental or further objections to the sale to the winning bidder, or to the conduct of the Auction shall be filed and served so as to be received no later than prior to the start of the Sale Hearing. **UNLESS AN OBJECTION IS TIMELY SERVED AND FILED IN ACCORDANCE WITH THIS NOTICE, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT AND THE BANKRUPTCY COURT MAY GRANT THE RELIEF REQUESTED WITHOUT FURTHER HEARING AND NOTICE.**

6. The relevant dates are summarized as follows:

December 29, 2015	Debtors to Serve Cure Notice
January 15, 2016 at 5:00 p.m. EDT	Bid Deadline - Due Date for Bids and Deposits
January 18, 2016 at 10:00 a.m. EDT	Auction
January 12, 2016 at 4:00 p.m. EDT	Objection Deadline in Connection with Sale of Purchased Assets and Cure Amounts
January 19, 2016 at ____:____ a.m./p.m. EDT	Sale Hearing. Objections to Successful Bidder that is not Purchaser may be presented during the Sale Hearing.

7. Any non-debtor counterparty to an Assumed Contract or Lease that wishes to receive fax or email notice of the identity of the Successful Bidder must provide a fax number and/or email address to counsel for the Debtors, Bayard, P.A., Justin R. Alberto, Esquire, 222 Delaware Avenue, Suite 900, Wilmington, Delaware 19801, email: (jalberto@bayardlaw.com), Tel: (302) 655-5000, Fax: (302) 658-6395.

8. This Notice and the Sale Hearing is subject to the fuller terms and conditions of the Bidding Procedures and Sale Motion and the Bidding Procedures Order, which shall control in the event of any conflict, and the Debtors encourage parties-in-interest to review such documents in their entirety. Parties interested in receiving more information regarding the sale of substantially all of the Debtors' assets and/or copies of any related document, including the APA, the Bidding Procedures and Sale Motion, or the Bidding Procedures Order, may make a written request to counsel for the Debtor, Bayard, P.A., 222 Delaware Avenue, Suite 900, Wilmington, DE 19899, Attn: Justin R. Alberto (jalberto@bayardlaw.com). In addition, copies of the Bidding Procedures and Sale Motion, the Bidding Procedures Order and this Notice can be found on (i) the Court's website, www.deb.uscourts.gov; and (ii) <http://dm.epiq11.com/axion>, and are on file with the Clerk of the Bankruptcy Court, Third Floor, 824 Market Street, Wilmington, Delaware 19801.

Dated: _____, 2015
Wilmington, Delaware

BAYARD, P.A.

Scott D. Cousins (No. 3079)
Justin R. Alberto (No. 5126)
222 Delaware Avenue, Suite 900
Wilmington, Delaware 19801
Phone: (302) 655-5000
Facsimile: (302) 658-6395
Email: scousins@bayardlaw.com
jalberto@bayardlaw.com

Proposed Attorneys for the Debtors

EXHIBIT III

(CURE NOTICE)

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

Axion International, Inc.¹

Debtors.

Chapter 11

Case No.: 15-12415 (CSS)
(Jointly Administered)

Re: Docket No. ____

**NOTICE OF CURE AMOUNT WITH RESPECT TO EXECUTORY
CONTRACTS OR UNEXPIRED LEASES TO BE ASSUMED AND ASSIGNED**

PLEASE TAKE NOTICE THAT:

1. Pursuant to the **Order (I) Establishing Bidding Procedures in Connection With the Proposed Sale of Substantially All of the Debtors' Assets; (II) Establishing Certain Notice Procedures Relating to the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; (III) Approving Form and Manner of the Sale and Cure Notices, (IV) Scheduling a Hearing to Consider the Proposed Sale, and (V) Granting Certain Related Relief** entered by the United States Bankruptcy Court for the District of Delaware on _____, 2015 [D.I. ____] (the "Bidding Procedures Order"),² the above captioned debtors and debtors in possession (the "Debtor") hereby provide notice that they is potentially seeking to assume and assign the executory contracts or unexpired leases (each, an "Assumed Contract or Lease") listed on Exhibit A attached hereto to the Successful Bidder.

2. When the Debtors assume and assign an Assumed Contract or Lease to which you are a party, on the Closing (as defined in the APA), or as soon thereafter as practicable, the Successful Bidder will pay you the amount the Debtors' records reflect is owing for prepetition arrearages as set forth on Exhibit A (the "Cure Amount"). The Debtors' records reflect that all postpetition amounts owing under your Assumed Contract or Lease have been paid and will continue to be paid until the assumption and assignment of the Assumed Contract or Lease, and that other than the Cure Amount, there are no other defaults under the Assumed Contract or Lease.

3. Inclusion of a contract or unexpired lease as an Assumed Contract or Lease on Exhibit A is not a guarantee that such contract or unexpired lease will ultimately be assumed and assigned to the Successful Bidder or an admission that such Assumed Contract or Lease is executory in nature. Should it be determined that the

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Axion International, Inc. [1880], Axion International Holdings, Inc. [6389], Axion Recycled Plastics Incorporated [5048]. The address of the Debtors' corporate headquarters is 4005 All American Way, Zanesville, OH 43701.

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Bidding Procedures and Sale Motion or the Bidding Procedures Order, as applicable.

Assumed Contract or Lease to which you are a party will not be assumed and assigned, you will be notified in writing of such decision.

4. Objections, if any, to the proposed Cure Amount or assumption and assignment must be made in writing and (i) state the basis for such objection and (ii) state with specificity what cure amount you believe is required (in all cases with appropriate documentation in support thereof) and be filed with the Bankruptcy Court, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801, on or before **January 12, 2016 at 4:00 p.m. (prevailing Eastern time)** and served on: (1) the Debtor, 4005 All American Way, Zanesville, Ohio 43701, Attn: Donald W. Fallon; (2) counsel for the Debtors, Bayard, P.A., 222 Delaware Avenue, Suite 900, Wilmington, DE 19899, Attn: Scott D. Cousins (scousins@bayardlaw.com) and Justin R. Alberto (jalberto@bayardlaw.com), Fax: (302) 658-6395; (3) legal and financial advisors to any statutory committee appointed in these cases; (4) the Office of the United States Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Natalie M. Cox (natalie.cox@usdoj.gov), Fax: (302) 573-6497; and (5) counsel to the Purchaser, (a) Pillsbury Winthrop Shaw Pittman LLP, 1200 Seventeenth Street NW, Washington, DC 20036 (Attn: Patrick Potter; patrick.potter@pillsburylaw.com) and 324 Royal Palm Way, Suite 220, Palm Beach, FL 33480 (Attn: Dania Slim; dania.slim@pillsburylaw.com); Fax: (202) 663-8007.

5. If an objection to the Cure Amount or assumption and assignment is timely filed and not resolved by the parties, a hearing with respect to the objection will take place before the Honorable _____, United States Bankruptcy Judge, 824 North Market Street, ___ Floor, Courtroom ___, Wilmington, Delaware 19801 at the Sale Hearing to be held **January 19, 2016 at ___:___ (a.m./p.m.) (prevailing Eastern time)**, or at a later hearing, as determined by the Debtors. A hearing regarding the Cure Amount, if any, may be continued at the sole discretion of the Debtors until after the Closing.

6. After the Auction, the Debtors will file, but not serve, a notice that identifies the Successful Bidder, provided however, if the Successful Bidder is not the Purchaser, the Debtors shall serve the notice on all non-debtor counterparties to the Assumed Contracts and Leases by fax or email where available and overnight mail where fax and email are unavailable.

7. Any non-debtor counterparty to an Assumed Contract or Lease that wishes to receive fax or email notice of the identity of the Successful Bidder must provide a fax number and/or email address to counsel for the Debtors, Bayard, P.A., Justin R. Alberto, Esquire, 222 Delaware Avenue, Suite 900, Wilmington, Delaware 19801, email: (jalberto@bayardlaw.com), Tel: (302) 655-5000, Fax: (302) 658-6395

8. You will have the opportunity to evaluate and, if necessary, challenge the ability of any Successful Bidder to provide adequate assurance of future performance under the Assumed Contracts and Leases. At the Sale Hearing, the Debtors shall present evidence necessary to demonstrate adequate assurance of future performance by the Successful Bidder. If the Successful Bidder that prevails at the Auction is not the

Purchaser, then the deadline to object to assumption and assignment shall be extended to the date of the Sale Hearing, but any such objection must be received before the start of the Sale Hearing; provided, however, that the deadline to object to the Cure Amount shall not be extended. Information requests relating to adequate assurance from the Purchaser should be directed to counsel to the Purchaser, ((a) Pillsbury Winthrop Shaw Pittman LLP, 1200 Seventeenth Street NW, Washington, DC 20036 (Attn: Patrick Potter; patrick.potter@pillsburylaw.com) and 324 Royal Palm Way, Suite 220, Palm Beach, FL 33480 (Attn: Dania Slim; dania.slim@pillsburylaw.com); Fax: (202) 663-8007.

9. The Debtor, the Purchaser and/or the Successful Bidder reserve all of their rights, claims and causes of action with respect to the contracts and agreements listed on Exhibit A hereto. Notwithstanding anything to the contrary herein or in the APA, the proposed assumption and assignment of each of the Assumed Contract or Lease listed on Exhibit A hereto (a) shall not be an admission as to whether any such Assumed Contract or Lease was executory or unexpired as of the Petition Date or remains executory or unexpired postpetition within the meaning of Bankruptcy Code section 365; and (b) shall be subject to the Debtors', the Purchaser's and/or the Successful Bidder's right to conduct further confirmatory diligence with respect to the Cure Amount of each Assumed Contract or Lease and to modify such Cure Amount accordingly. In the event that the Debtors, the Purchaser and/or the Successful Bidder determine that your Cure Amount should be modified, you will receive a notice, which will provide for additional time to object to such modification.

Dated: _____, 2015
Wilmington, Delaware

BAYARD, P.A.

Scott D. Cousins (No. 3079)
Justin R. Alberto (No. 5126)
222 Delaware Avenue, Suite 900
Wilmington, Delaware 19801
Phone: (302) 655-5000
Facsimile: (302) 658-6395
Email: scousins@bayardlaw.com
jalberto@bayardlaw.com

*Proposed Attorneys for Debtors
and Debtors-in-Possession*

EXHIBIT B

Execution Version: November 25, 2015

Allen Kronstadt
Asset Purchase Agreement Stalking Horse Term Sheet

This Asset Purchase Agreement Stalking Horse Term Sheet (the “**Term Sheet**”), is being entered into as of the 25th day of November, 2015, by and among the Debtors (defined below), and Allen Kronstadt (Allen Kronstadt or his designee/assignee is referred to herein as the “**Stalking Horse Purchaser**” or “**SHP**”). This Term Sheet contains a description of certain principal terms of a Stalking Horse Agreement to be entered into among the parties for the Section 363 sale by Debtors, and purchase by SHP, of certain of the assets of the Debtors free and clear of all interests, claims, liens and encumbrances pursuant to section 363(f) of the Bankruptcy Code (collectively, the “**Transaction**”). To the extent that there are inconsistent terms between the Stalking Horse Agreement and this Term Sheet, the terms of the Stalking Horse Agreement shall prevail.

<p><i>Certain Defined Terms</i></p>	<p>“Kronstadt Pre-petition Debt” means the secured loans and advances made by SHP to, or guaranteed by, the Debtors in the original principal sum of approximately \$5.2 million, together with all interest, costs of collection (including attorney’s fees), and all other sums chargeable to the Debtors under the promissory notes and other instruments evidencing such indebtedness.</p> <p>“Debtors” means, collectively, Axion International Holdings, Inc., and its affiliates, including but not limited to Axion International, Inc. and Axion Recycled Plastics Incorporated.</p> <p>“Designated Contracts” means those executory contracts and unexpired leases to be assumed by and assigned to the Stalking Horse Purchaser, as determined by SHP in connection with the closing of the Transaction (including post-closing to the extent permitted by law and/or court order).</p> <p>“DIP Facility” means that Debtor-in-Possession term loan funded by SHP to the Debtors in contemplation of the Transaction as part of the Debtors’ bankruptcy cases filed in the District of Delaware, on substantially the terms and conditions set forth in <u>Exhibit A</u> hereto.</p> <p>“Real Property Leases” means all of the unexpired leases of real property of the Debtors.</p>
<p><i>Amount and Form of Consideration</i></p>	<p>The purchase price (the “Purchase Price”) for the purchase, sale, assignment and conveyance of the Debtors’ right, title and interest in, to and under the Acquired Assets (as defined below), free and clear of all interests, claims, liens and encumbrances pursuant to section 363(f) of the Bankruptcy Code, shall consist of:</p> <p>(a) Credit Bid: At least \$3.5 million of the Kronstadt Pre-Petition Debt (as a credit bid against all assets as to which the</p>

Execution Version: November 25, 2015

	<p>Kronstadt Pre-Petition Debt is secured by liens and security interests senior to all creditors other than the DIP Lender);</p> <p>(b) Debt Assumption: the assumption by the Stalking Horse Purchaser of certain liabilities set forth in the Stalking Horse Agreement (including so much of the DIP Facility and the Kronstadt Prepetition Debt (as determined by SHP in its discretion) as has not been used by SHP as a credit bid to purchase the Acquired Assets;</p> <p>(c) Cure Costs: the payment of the Cure Costs (as defined below) relating to the Designated Contracts on terms ordered by the Court or negotiated by SHP and the contract counterparties; and</p> <p>(d) Cash for Certain Assets: cash totaling \$500,000 (to be allocated between the two secured lenders, the State of Ohio and The Community Bank) to acquire all assets as to which the liens and security interests of Kronstadt Pre-Petition Debt and the DIP Loan are not in a first-priority perfected position (which cash shall be used by the Debtors to satisfy the senior liens secured by such assets).</p> <p>The parties will agree on a tax allocation of the Purchase Price which addresses the Debtors' obligations to the Internal Revenue Service ("IRS").</p>
<p><i>Acquired Assets</i></p>	<p>The Stalking Horse Purchaser shall purchase substantially all of the assets of the Debtors (collectively, the "Acquired Assets"), other than the Excluded Assets, free and clear of all interests, claims, liens and encumbrances pursuant to section 363(f) of the Bankruptcy Code. The Acquired Assets include all tangible property, accounts, machinery, equipment, inventories, tenant improvements, goodwill, software and computer programs, hardware, intellectual property, company names, product names, trade names, prepaid expenses (other than prepaid insurance) and deposits, the Designated Contracts, books and records, any policies and procedures relating to the Debtors' business, telephone and facsimile numbers, all licenses and permits to the extent transferable, all benefits, proceeds and other amounts payable under any policy of insurance relating to the Debtors' business, any rights, claims or causes of action of any Debtor against third parties relating to assets, properties, losses, business or operations of any Debtor (other than those that constitute Excluded Assets), and proceeds of all the foregoing assets. Until final execution of the Stalking Horse Agreement, the SHP reserves the right to add or delete assets from this definition.</p>

Execution Version: November 25, 2015

	<p>Prior to closing the Debtors are free to make duplicate copies of their books and records. Any post-closing maintenance of such records shall be at the cost of the estate. And index of all documents duplicated by the Debtors pursuant to this provision shall be provided to the purchaser. Post-closing the purchaser will provide reasonable access to the Debtors to pre-closing books and records.</p>
<i>Excluded Assets</i>	<p>Except to the extent specifically identified above as an Acquired Asset, the following are not included in the Acquired Assets and are not being sold to the Stalking Horse Purchaser (collectively, the "Excluded Assets"): (i) cash, (ii) cash equivalents (excluding receivables and the proceeds thereof), (iii) income tax receivables, (iv) deferred tax assets, (v) employee advances, (vi) prepaid insurance including prepaid professional liability insurance, (vii) contracts and leases that are not Designated Contracts, (viii) the Purchase Price and all rights of the Debtors under the Stalking Horse Agreement, (ix) any rights, claims or causes of action under Chapter 5 of the Bankruptcy Code, (x) all personnel records and other books, records, and files that the Debtors are required by law, if any, to retain in their possession, (xi) any claim, right or interest of any Debtor in or to any refund, rebate, abatement or other recovery for taxes, together with any interest due thereon or penalty rebate arising therefrom, (xii) any other prepaid assets or properties expressly set forth on a Schedule to be attached to the Stalking Horse Agreement, (xiii) applicable federal, state, and local taxes, and (xiv) any books and records relating to any of the foregoing.</p>
<i>Assumed Liabilities</i>	<p>The Stalking Horse Purchaser shall, effective as of the closing date, assume those liabilities and obligations arising from events occurring on or after the closing date under any Designated Contracts, subject to applicable caps on assumed liabilities, as mutually acceptable to SHP and any third-parties.</p> <p>The Stalking Horse Purchaser also shall be responsible for payment of Cure Costs (as defined below).</p> <p>The Stalking Horse Purchaser shall be responsible for so much of the DIP Facility and Kronstadt Pre-petition Debt as it agrees to assume (as determined in its sole and absolute discretion) pursuant to written instruments executed by the Stalking Horse Purchaser.</p>
<i>Excluded Liabilities</i>	<p>The Stalking Horse Purchaser shall not assume or be deemed to have assumed any liabilities of the Debtors other than the Assumed Liabilities, including, without limitation, any liabilities associated with the Excluded Assets and specifically including, without limitation, any other existing indebtedness or encumbrances, any federal, state, or local tax liabilities, and any obligations pursuant to</p>

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	Collective Bargaining Agreements and other employee-related liabilities, in each case to be assumed, if at all, only in SHP's sole discretion by a signed writing and court order.
<i>Assumption and Assignment of Contracts and Leases; Hiring of Personnel</i>	At the closing, the Debtors shall assign to the Stalking Horse Purchaser each of the Designated Contracts. In connection with the assumption and assignment of the Designated Contracts, the Stalking Horse Purchaser shall pay cure costs which the Bankruptcy Court, pursuant to a Final Order, orders to be paid in connection with the Debtors' assignment to Stalking Horse Purchaser of such Designated Contracts in accordance with section 365 of the Bankruptcy Code, up to a maximum aggregate amount to be agreed on by SHP in its sole discretion (the "Cure Costs"). SHP shall also initiate, in SHP's discretion, the process of hiring personnel appropriate for the continued operation of the business. The Debtors and SHP will reasonably cooperate with one another to initiate the hiring process prior to closing, and after there is clarity as to whether SHP will be the prevailing purchaser.
<i>Representations, Warranties, and Covenants</i>	The Stalking Horse Agreement will contain usual and customary representations, warranties, and covenants for similar bankruptcy section 363(f) sale transactions, including representations and warranties by the Stalking Horse Purchaser that it has the requisite authority and has obtained the necessary consents to consummate the Transaction.
<i>Regulatory Approvals</i>	Stalking Horse Purchaser and the Debtors will have obtained all necessary regulatory approvals for the Transaction, including but not limited to, any required approvals by any federal, state, local or other agency or entity whose regulatory approval is required in order to consummate the Transaction. If any governmental approval is determined to be necessary and cannot be timely obtained, the parties agree to work in good faith to modify the terms of the Transaction as necessary to ensure compliance with all federal, state, or other governmental laws, rules, and regulations while providing the same economic result to the Stalking Horse Purchaser.
<i>Conditions to Closing</i>	The material conditions and contingencies for the Stalking Horse Purchaser's obligations to close include: <ul style="list-style-type: none"> (a) The Debtors shall have performed, satisfied and complied in all material respects with all obligations and covenants required by the Stalking Horse Agreement to be performed or complied with by them on or prior to the closing date. (b) The Debtors shall have executed and delivered to the Stalking Horse Purchaser the Assignment and Assumption and Bill of

Execution Version: November 25, 2015

	<p>Sale, dated and effective as of the closing date.</p> <p>(c) The Debtors shall have delivered to the Stalking Horse Purchaser all other documents required to be delivered by them under the Stalking Horse Agreement and all such documents shall have been properly executed by each of them.</p> <p>(d) The Stalking Horse Purchaser shall have received any third party consents, the requirements of which have not been negated by an order of the Bankruptcy Court, and governmental approvals, in form and substance satisfactory to SHP in its sole and absolute discretion, effective as of the closing date.</p> <p>(e) The Stalking Horse Purchaser shall have entered into new or modified contracts, acceptable to SHP in its sole discretion, effective as of closing, with all persons identified by SHP prior to the closing, including critical vendors and suppliers and applicable labor unions.</p> <p>(f) There shall not have occurred any Event of Default (as described in <u>Exhibit A</u> hereto) which has not been waived by the DIP lender.</p> <p>(g) The Debtors shall have delivered all schedules and exhibits attached to or otherwise required by the Stalking Horse Agreement.</p> <p>(h) The Bankruptcy Court shall have entered the Sale Order and the Sale Order shall have become final and non-appealable.</p> <p>(i) All of the Designated Contracts shall have been validly assumed and assigned to the Stalking Horse Purchaser under section 365 of the Bankruptcy Code pursuant to the Sale Order.</p> <p>(j) The Sale Order shall be in a customary form for Section 363 sales, and shall provide that the sale of the Acquired Assets is (w) pursuant to section 363(f) of the Bankruptcy Code free and clear of all liens, claims, encumbrances, interests, and rights of set-off, whether known or unknown, disputed, contingent, actual, or otherwise, arising prior to closing, (x) to a good faith purchaser, and (y) to SHP with no successor liability. The Sale Order and Bidding Procedures Order shall provide that SHP may credit bid under Section 363(k) of the</p>
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Execution Version: November 25, 2015

	<p>Bankruptcy Code, at face value, so much of the DIP Facility and Kronstadt Pre-Petition Debt as the SHP determines in its sole discretion; and that the SHP may assume so much of such indebtedness that has not been credit bid as SHP may determine in its sole discretion.</p> <p>(k) SHP shall not have received any notice pursuant to the applicable section of the Stalking Horse Agreement that, individually or in the aggregate, could be reasonably expected to be materially adverse to the condition (financial or otherwise), properties, assets, liabilities, businesses, operations, results of operations or prospects of the business or the Acquired Assets.</p> <p>(l) No event shall have occurred that, individually or in the aggregate, could be reasonably expected to result in a material adverse change in the condition (financial or otherwise), properties, assets, liabilities, businesses, operations, results of operations or prospects of the business or the Acquired Assets.</p> <p>(m) As of the closing, acceptable written and executed agreements (including but not limited to new or amended and restated leases acceptable to SHP in its sole discretion and/or assumption and assignment agreements and orders acceptable, to SHP in its sole discretion) will be in effect with respect to all Real Property Leases.</p> <p>(n) SHP shall have received all consents and contract modifications which SHP may require, with all Bankruptcy Court approvals required for the same, including, without limitation, leases of key equipment, other agreements, and utility contracts.</p>
<i>As Is, Where Is</i>	<p>The Stalking Horse Purchaser is acquiring the Acquired Assets at the closing "as is, where is" and, except as otherwise expressly provided in the Stalking Horse Agreement, the Debtors are making no representations or warranties whatsoever, express or implied, with respect to any matter relating to the Acquired Assets. Notwithstanding the foregoing, for the avoidance of doubt, SHP is buying the Acquired Assets free and clear of all liabilities, whatsoever, and also free and clear of set-off rights.</p>
<i>Debtors' Fiduciary Duties</i>	<p>Debtors' obligations hereunder shall be subject, in all respects, to (x) the Debtors' fiduciary duties, (y) the limited cash resources of the Debtors and (z) Debtors taking necessary steps to allow for an expeditious wind down of the Business in the event the Stalking</p>

Execution Version: November 25, 2015

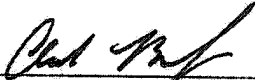
	Horse Agreement is terminated.
<i>Break-Up Fee; Expense Reimbursement</i>	<p>In consideration of the significant costs and efforts to be expended and risks assumed by SHP in negotiating the Transaction described in this Term Sheet, the Stalking Horse Agreement will provide for a break-up fee payable by SHA to SHP in the amount of \$550,000 (the “Breakup Fee”), <u>plus</u> reimbursement of all reasonable expenses incurred in connection with SHP’s efforts to negotiate and consummate the Transaction capped at \$250,000 (“Expense Reimbursement”) in the event the Stalking Horse Agreement is terminated as a result of either (i) an Event of Default by a Debtor under the DIP Loan, or (ii) a breach by a Debtor of a material term of, or failure to timely satisfy a condition to closing that is a Debtor’s obligation under, the Stalking Horse Agreement; provided that, if SHP, in its sole discretion, elects to seek specific performance of the Stalking Horse Agreement, then SHP shall not be entitled to the Breakup Fee or Expense Reimbursement. The Breakup Fee and Expense Reimbursement shall constitute administrative expense claims pursuant to section 503(b) of the Bankruptcy Code and shall have priority over all other administrative expense claims.</p> <p>If the Stalking Horse Agreement is terminated because of a superior bid, then the Breakup Fee and Expense Reimbursement shall be payable from the proceeds of a replacement DIP financing or from the proceeds of an alternative transaction whereby the assets contemplated to be sold to SHP are, instead, sold to a third party.</p>
<i>Specific Performance</i>	Because the exact nature and extent of damages resulting from a breach of the Stalking Horse Agreement are uncertain at the time of entering into the Stalking Horse Agreement, and because such a breach would result in damages that would be difficult to determine with certainty, it is understood that money damages would not be a sufficient remedy and the parties shall each be entitled to specific performance and injunctive or other equitable relief as a remedy of any such breach.
<i>Release</i>	In connection with the closing, Debtors shall execute a release in favor of SHP and Allen Kronstadt (and its affiliates, agents, attorneys, and employees), releasing SHP and Allen Kronstadt from all causes of action and claims that the Debtors have or may have against SHP, in each case as of the closing.

Execution Version: November 25, 2015

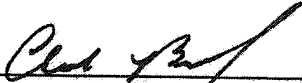
IN WITNESS WHEREOF, this Term Sheet is executed and delivered as of the date first above-written.

Debtors:

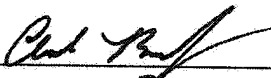
Axiom International, Inc., a Delaware corporation

By: 
Name: CLAUDE BROWN, JR.
Title: CEO

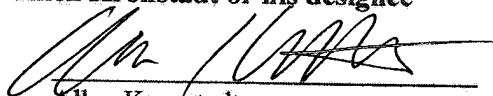
Axiom International Holdings, Inc., a Colorado corporation

By: 
Name: CLAUDE BROWN, JR.
Title: CEO

Axiom Recycling Plastics Incorporated, an Ohio corporation

By: 
Name: CLAUDE BROWN, JR.
Title: CEO

SHP: Allen Kronstadt or his designee


Allen Kronstadt

Execution Version; November 25, 2015

Allen Kronstadt
Asset Purchase Agreement Stalking Horse Term Sheet

This Asset Purchase Agreement Stalking Horse Term Sheet (the "Term Sheet"), is being entered into as of the 25th day of November, 2015, by and among the Debtors (defined below), and Allen Kronstadt (Allen Kronstadt or his designee/assignee is referred to herein as the "Stalking Horse Purchaser" or "SHP"). This Term Sheet contains a description of certain principal terms of a Stalking Horse Agreement to be entered into among the parties for the Section 363 sale by Debtors, and purchase by SHP, of certain of the assets of the Debtors free and clear of all interests, claims, liens and encumbrances pursuant to section 363(f) of the Bankruptcy Code (collectively, the "Transaction"). To the extent that there are inconsistent terms between the Stalking Horse Agreement and this Term Sheet, the terms of the Stalking Horse Agreement shall prevail.

<i>Certain Defined Terms</i>	<p>"Kronstadt Pre-petition Debt" means the secured loans and advances made by SHP to, or guaranteed by, the Debtors in the original principal sum of approximately \$5.2 million, together with all interest, costs of collection (including attorney's fees), and all other sums chargeable to the Debtors under the promissory notes and other instruments evidencing such indebtedness.</p> <p>"Debtors" means, collectively, Axion International Holdings, Inc., and its affiliates, including but not limited to Axion International, Inc. and Axion Recycled Plastics Incorporated.</p> <p>"Designated Contracts" means those executory contracts and unexpired leases to be assumed by and assigned to the Stalking Horse Purchaser, as determined by SHP in connection with the closing of the Transaction (including post-closing to the extent permitted by law and/or court order).</p> <p>"DIP Facility" means that Debtor-in-Possession term loan funded by SHP to the Debtors in contemplation of the Transaction as part of the Debtors' bankruptcy cases filed in the District of Delaware, on substantially the terms and conditions set forth in Exhibit A hereto.</p> <p>"Real Property Leases" means all of the unexpired leases of real property of the Debtors.</p>
<i>Amount and Form of Consideration</i>	<p>The purchase price (the "Purchase Price") for the purchase, sale, assignment and conveyance of the Debtors' right, title and interest in, to and under the Acquired Assets (as defined below), free and clear of all interests, claims, liens and encumbrances pursuant to section 363(f) of the Bankruptcy Code, shall consist of:</p> <p style="text-align: center;">* 3.2</p> <p>(a) Credit Bid: At least \$3.2 million of the Kronstadt Pre-Petition Debt (as a credit bid against all assets as to which the</p>

CBK
AK

EXHIBIT C

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

<p>In re</p> <p style="text-align: center;">Axion International, Inc.¹</p> <p style="text-align: center;">Debtors.</p>	<p>Chapter 11</p> <p>Case No.: 15-12415 (CSS) (Jointly Administered)</p> <p>Re: Docket No. ____</p>
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**ORDER (I) APPROVING ASSET PURCHASE AGREEMENT AND
AUTHORIZING THE SALE OF ASSETS OF THE DEBTORS OUTSIDE THE
ORDINARY COURSE OF BUSINESS; (II) APPROVING THE SALE OF ASSETS
FREE AND CLEAR OF LIENS, CLAIMS AND ENCUMBRANCES; (III)
AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN
EXECUTORY CONTRACTS AND UNEXPIRED LEASES;
AND (IV) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors-in-possession (collectively, the “Debtors”), for, among other things, the entry of an order (the “Sale Order”) pursuant to sections 105, 363 and 365 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”) and Rules 2002, 6004 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) (1) authorizing and approving that certain Asset Purchase Agreement (the “APA,” attached hereto as Exhibit A), dated as of December __, 2015, among the Debtors and Allen Kronstadt (“Kronstadt”) or his designee (together with Kronstadt, the “Purchaser”); (2) approving the sale of all or substantially all of the Debtors’ assets free and clear of liens, claims and encumbrances; (3) authorizing the assumption and assignment of certain executory contracts and unexpired leases; and (4) granting related relief; and the Court having

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Axion International, Inc. [1880], Axion International Holdings, Inc. [6389], Axion Recycled Plastics Incorporated [5048]. The address of the Debtors’ corporate headquarters is 4005 All American Way, Zanesville, OH 43701.

² Capitalized terms used but not defined in this Order shall have the meanings given such terms in the Motion, the Bidding Procedures Order or the APA, as applicable.

reviewed the Motion and the APA; and the Purchaser having submitted the highest or best bid for the Purchased Assets; and a hearing having been held on _____, 2016 (the "Sale Hearing"), to consider the relief requested in the Motion; and upon the proceedings at the Sale Hearing and the record herein; and adequate and sufficient notice of the Bidding Procedures, the Auction and all sale transactions contemplated in the Motion and this Sale Order; and after considering objections, if any, to the Motion; and the Court having determined that the relief requested in the Motion and approval and consummation of the Sale with the Purchaser are in the best interests of the Debtors, their estates, creditors and other parties in interest; and after due deliberation and good and sufficient cause appearing therefor,

IT IS HEREBY FOUND AND DETERMINED THAT:

A. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, and this matter is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2). Venue of these cases and the Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

B. The statutory predicates for the relief sought in the Motion are sections 105(a) and 363(b), (f), (m)–(n), and 365 of the Bankruptcy Code and Rules 2002, 6004 and 9014 of the Bankruptcy Rules.

C. Notice of the Motion, the Bidding Procedures, the Auction, the Sale Hearing and the Sale was (i) due, proper, timely, adequate and sufficient under the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, (ii) in compliance with the Bidding Procedures and the Bidding Procedures Order, (iii) good, sufficient, and

appropriate under the particular circumstances of these cases, accordingly no further or other notice is required.

D. Cure notices of assignment (the “Cure Notices”) and cure amounts (the “Cure Amounts”) have been provided to all of the non-debtor counterparties to executory contracts and unexpired leases of personal property (the “Contracts”), as well as to all of the non-debtor counterparties to unexpired leases of non-residential real property (the “Real Property Leases” and together with the Contracts, the “Assumed Contracts and Leases”). The Cure Notices were adequate and sufficient for the assumption and assignment of the Assumed Contracts and Leases to the Purchaser and were all in accordance with and as provided in the Bidding Procedures Order.

E. A reasonable opportunity to object or be heard with respect to the Motion and the Sale has been afforded to all required parties and creditors.

F. Through marketing efforts and the sale process, the Debtors and their professionals afforded interested potential purchasers a full, fair, and reasonable opportunity to make a higher or better offer in accordance with the Bidding Procedures Order.

G. The Purchased Assets are property of the Debtors’ estates and title thereto is vested in the Debtors’ estates.

H. As demonstrated by (i) the testimony or other evidence proffered or adduced at the Sale Hearing, (ii) the representations of counsel made on the record at the Sale Hearing, and (iii) the record in these cases, the Debtors and their professionals have actively marketed the Purchased Assets and conducted the sale process in compliance with the Bidding Procedures Order and the Bidding Procedures.

I. The Purchaser submitted the highest or best offer for the Purchased Assets. The Bidding Procedures obtained the highest value for the Purchased Assets for the Debtors and their estates.

J. The Debtors have demonstrated a sufficient basis and the existence of exigent circumstances requiring them to enter into the APA and sell the Purchased Assets under section 363 of the Bankruptcy Code, and such actions are appropriate exercises of the Debtors' business judgment and in the best interests of the Debtors, their estates and their creditors.

K. The Debtors (i) have full power and authority to execute any and all documents contemplated in connection with the APA and (ii) have full power and authority necessary to consummate the Sale. Other than the consent of this Court, no consents or approvals are required for the Debtors or the Purchaser to consummate the Sale.

L. Approval of the APA and consummation of the Sale are in the best interest of the Debtors, their creditors, their estates, and other parties-in-interest.

M. The Debtors have demonstrated and proven good, sufficient and sound business purpose and justification for the Sale contemplated by the APA and this Sale Order, pursuant to sections 363 and 365 of the Bankruptcy Code. The relief requested in the Motion (including approval of the APA) at this time prior to and outside of a plan of reorganization is justified. The sale process was conducted in a manner consistent with the Bidding Procedures Order and the Bidding Procedures. Accordingly, the entry of this Sale Order is necessary and appropriate to maximize the value of the assets of the Debtors' estates.

N. The APA was negotiated, proposed and entered into by and among the Debtors and the Purchaser without collusion, in good faith, and from arms'-length bargaining positions. Neither the Debtors nor the Purchaser has engaged in any conduct that would cause or permit the avoidance of the APA or the consummation of the Sale or the imposition of costs or damages under section 363(n) of the Bankruptcy Code.

O. The Purchaser has acted in good faith in connection with the Sale Transaction and therefore constitutes a good faith purchaser under section 363(m) of the Bankruptcy Code and, as such, is entitled to all of the protections afforded thereunder.

P. The consideration provided by the Purchaser for the Purchased Assets pursuant to the APA (i) is fair and reasonable, (ii) is the highest or best offer for the Purchased Assets, (iii) is in the best interest of the Debtors' creditors and estates, (iv) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession, or the District of Columbia, and (v) will provide a greater recovery for the Debtors' creditors and estates than would be provide by any other practically available alternative.

Q. The transfer of the Purchased Assets to the Purchaser in accordance with the APA and the other agreements executed and delivered in connection with the APA (collectively, the "Sale Documents") and this Sale Order, will be a legal, valid, enforceable, and effective transfer of the Purchased Assets, and will vest the Purchaser with all of the Debtors' rights, title, and interests in and to the Purchased Assets free and clear of all liens, claims, encumbrances and other interests. The Purchaser shall have no liability for any claims against the Debtors or their estates or any liabilities or obligations of the Debtors or their estates including, without limitation, any liabilities arising under

or in connection with any product liability suit or other action that might otherwise be brought against the Purchaser under the doctrine of successor or transferee liability or similar doctrines or theories.

R. Subject to the terms of the APA, the Sale Documents and this Sale Order, the Debtors may sell the Purchased Assets free and clear of all liens, claims, encumbrances and other interests of any kind or nature whatsoever because, in each case, one or more of the standards set forth in section 363(f) of the Bankruptcy Code has been satisfied. Each entity with a security interest in the Purchased Assets has consented to the Sale, is deemed to have consented to the Sale, or could be compelled in a legal or equitable proceeding to accept a monetary satisfaction of such interest, or the Sale otherwise satisfies the requirements of section 363(f) of the Bankruptcy Code.

S. The process for assuming and assigning the Assumed Contracts and Leases is integral to the APA, does not constitute unfair discrimination, and is in the best interest of the Debtors and their estates, creditors and all other parties in interest, and represents the reasonable exercise of sound and prudent business judgment by the Debtors. The Debtors have or will have as of the assumption and assignment of any Assumed Contract or Lease: (i) to the extent necessary, cured or provided adequate assurance of cure of any default existing prior to the assumption and assignment of an Assumed Contract or Lease, within the meaning of sections 365(b)(1)(A) and 365(f)(2)(A) of the Bankruptcy Code; and (ii) to the extent necessary, provided compensation or adequate assurance of compensation to any party for any actual pecuniary loss to such party resulting from a default prior to the assumption and assignment of an Assumed Contract or Lease. The Purchaser's promise to perform the

obligations under the Assumed Contracts Leases after their assumption and assignment shall constitute adequate assurance of future performance within the meaning of sections 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code to the extent that any such assurance is required and not waived by the counterparties to such Assumed Contracts and Leases. Any objections to any Cure Amounts or defaults under any Assumed Contract or Lease have either been resolved, or shall be heard on such date as this Court may designate upon request by the Debtors with the Purchaser's prior consent.

T. The Debtors have demonstrated that assuming and assigning the Assumed Contracts and Leases in connection with the Sale is an exercise of their sound business judgment, and that such assumption and assignment is in the best interest of the Debtors' estates, for the reasons set forth in the Motion and on the record at the Sale Hearing, including, without limitation, because the assumption and assignment of the Assumed Contracts and Leases in connection with the Sale will maintain the ongoing business of the Debtors, limit the losses of counterparties to the Assumed Contracts Leases, and maximize the distribution to the Debtors' creditors.

U. The Sale must be approved and consummated promptly in order to preserve the value of the Purchased Assets. Therefore, time is of the essence in consummating the APA and the Sale, and the Debtors and the Purchaser intend to close the Sale as soon as possible. Accordingly, there is cause to lift the stay of execution of this Sale Order imposed by Bankruptcy Rule 6004(h).

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

1. The Motion is granted, as set forth herein.

2. The findings of fact set forth above and conclusions of law stated herein shall 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. To the extent any finding of fact later shall be determined to be a conclusion of law, it shall be so deemed, and to the extent any conclusion of law later shall be determined to be a finding of fact, it shall be so deemed.

3. All objections to the Motion or the relief requested therein (other than objections to any Cure Amount or defaults under any Assumed Contracts or Leases), if any, that have not been withdrawn, waived, or settled, are hereby overruled on the merits with prejudice.

4. The APA, and all of the terms and conditions thereof, and the Sale, including the assumption by the Debtors of Assumed Contracts and Leases and the assignment of Assumed Contracts and Leases to the Purchaser, are hereby approved.

5. Pursuant to sections 363(b) and (f) of the Bankruptcy Code, the Debtors are authorized and directed to consummate the Sale, including the assumption by the Debtors of the Assumed Contracts and Leases and assignment of the Assumed Contracts and Leases to the Purchaser, pursuant to and in accordance with the terms and conditions of the APA and this Sale Order, effective immediately upon the entry of this Sale Order.

6. The Debtors are authorized and directed to consummate and implement the transactions contemplated by the APA, together with all additional instruments and documents that may be reasonably necessary to consummate and implement the transactions contemplated by the APA, and to take all further actions as may be reasonably requested by the Purchaser for the purpose of assigning, transferring, granting,

conveying and conferring ownership of the Purchased Assets to the Purchaser, or as may be necessary or appropriate to perform the obligations contemplated by the APA.

7. Pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, upon consummation of the Sale (the "Closing"), the Purchased Assets (and good and marketable title to such Purchased Assets) shall be transferred to the Purchaser free and clear of all liens, claims, encumbrances and any other interests of any kind or nature whatsoever, with all such liens, claims, encumbrances or any other interests of any kind or nature whatsoever to attach to the net proceeds of the Sale in the order of their priority, with the same validity, force and effect which they now have against the respective Purchased Assets.

8. Except as expressly provided in the APA and the Sale Documents or this Sale Order, all persons and entities (and their respective successors and assigns), including, but not limited to, all debt security holders, equity security holders, governmental, tax, and regulatory authorities, lenders, trade and other creditors, licensors and lessors, holding liens, claims or encumbrances of any kind or nature whatsoever (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, senior or subordinated) against, in or with respect to the Debtors or the Purchased Assets arising under, out of, in connection with, or in any way relating to, the Debtors, the Purchased Assets, the operation of the Debtors' business prior to the Closing, or the transfer of the Purchased Assets to the Purchaser, shall be forever barred, estopped and permanently enjoined from asserting such persons' or entities' liens, claims or encumbrances against the Purchaser or the Purchased Assets, effective upon the

Closing, to the extent that such liens, claims or encumbrances relate to the Purchased Assets.

9. As of the Closing, this Sale Order shall be construed and shall constitute for any and all purposes a full and complete general assignment, conveyance, and transfer of the Purchased Assets or a bill of sale or assignment transferring indefeasible title and interest in the Purchased Assets, including the Assumed Contracts and Leases, to the Purchaser.

10. Pursuant to sections 105(a), 363 and 365 of the Bankruptcy Code, and subject to and conditioned on the Closing, the Debtors' assumption and assignment to the Purchaser of the Assumed Contracts and Leases designated by the Purchaser on or prior to Closing and the Purchaser's acceptance of such assignment on the terms set forth in the APA, the Motion and the Bidding Procedures Order, are hereby approved subject to the terms set forth herein. The Assumed Contracts and Leases shall remain in full force and effect for the benefit of the Purchaser in accordance with their respective terms, notwithstanding any provision in any such Assumed Contracts and Leases of the type described in sections 365(b)(2) and (f) of the Bankruptcy Code that prohibits, restricts, or conditions such assignment, transfer or sublease. Pursuant to section 365(k) of the Bankruptcy Code, the Debtors shall be relieved from any further liability with respect to the Assumed Contracts and Leases arising after assignment to the Purchaser. The Debtors are hereby authorized to execute and deliver to the Purchaser such documents or other instruments as may be necessary to assign or transfer the Assumed Contracts and Leases to the Purchaser. On or prior to the Closing, the Purchaser may designate, by written notice to the Debtors, which of the Debtors' Contracts or Real Property Leases

are to be treated as Assumed Contracts and Leases (such notice, the “Assumption Notice”).

11. Following entry of the Bidding Procedures Order, the Debtors served the Cure Notice by first class mail on all non-debtor counterparties to Contracts and Real Property Leases. The Cure Notice informed each recipient that its respective Contract or Real Property Lease may be designated by the Purchaser as assumed, and the timing and procedures related to such designation, and, to the extent applicable (i) the title of the Contract or Real Property Lease, (ii) the name of the counterparty to the Contract or Real Property Lease, (iii) the Cure Amounts, (iv) the identity of the Purchaser, and (v) the deadline by which any such Contract or Real Property Lease counterparty needed to file an objection to the proposed assumption and assignment or cure, and the procedures relating thereto.

12. With respect to the Assumed Contracts and Leases, to the extent there are any Cure Amounts unpaid as of the Closing, the Purchaser will pay or cause to be paid such Cure Amounts in accordance with the APA. The Purchaser’s obligation to pay the Cure Amounts and the Purchaser’s performance of its obligations under the Assumed Contracts and Leases after the Closing shall constitute adequate assurance of future performance within the meaning of sections 365(b)(1) and 365(f)(2)(B) of the Bankruptcy Code.

13. Upon the Debtors’ assignment of the Assumed Contracts and Leases to the Purchaser under the provisions of this Sale Order and Purchaser’s payment of the Cure Amounts in accordance with this Sale Order and the APA, no default shall exist under any Assumed Contract or Lease and no counterparty to any such Assumed Contract or

Lease shall be permitted to declare or enforce a default by the Debtors or the Purchaser thereunder or otherwise take action against the Purchaser as a result of the Debtors' financial condition, change in control, bankruptcy, or failure to perform any of its obligations under the relevant Contract or Real Property Lease. Any provision in an Assumed Contract or Lease that prohibits or conditions the assignment or sublease of such Assumed Contract or Lease (including the grant of a lien therein) or allows the counterparty thereto to terminate, recapture, impose any penalty, condition on renewal or extension, or modify any term or condition upon such assignment or sublease, constitutes an unenforceable anti-assignment provision that is void and of no force and effect. The failure of the Debtors or the Purchaser to enforce at any time one or more terms or conditions of any Assumed Contract or Lease shall not be a waiver of such terms or conditions, or of the Debtors' and the Purchaser's rights to enforce every term and condition of the Assumed Contract or Lease.

14. The aggregate consideration provided by the Purchaser for the Purchased Assets pursuant to the APA (including the assumption of the Assumed Contracts and Leases thereunder) (a) is fair and reasonable and (b) shall be deemed to constitute reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory, possession, or the District of Columbia. The terms and conditions of the APA are fair and reasonable, and may not be avoided under section 363(n) of the Bankruptcy Code.

15. Prior to or upon the Closing of the Sale, the Debtors' creditors are authorized and directed to execute such documents and take all other actions as may be necessary to release their interests, including, without limitation, all liens, claims and

encumbrances, if any, in the Purchased Assets as such interests may have been recorded or may otherwise exist.

16. This Sale Order (a) shall be effective as a determination that, upon the Closing, all liens, claims or encumbrances of any kind or nature whatsoever existing with respect to the Debtors or the Purchased Assets prior to the Closing have been unconditionally released, discharged and terminated, and that the conveyances described herein have been effected, and (b) shall be binding upon 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, state, 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 of the Purchased Assets.

17. Each and every federal, state, and local governmental agency or department or office is hereby directed to accept this Sale Order and any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the APA.

18. If any person or entity that has filed financing statements, mortgages, mechanic's liens or other documents or agreements evidencing interests with respect to the Debtors or the Purchased Assets shall not have delivered to the Debtors prior to the Closing, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of all interests which the person or entity has with respect to the Debtors, the Purchased Assets or otherwise, then (a) the Debtors

and the Purchaser are hereby authorized to execute and file such statements, instruments, releases and other documents on behalf of the person or entity with respect to the Purchased Assets and (b) the Purchaser and the Debtors are hereby authorized to file, register, or otherwise record a certified copy of this Sale Order, which, once filed, registered, or otherwise recorded, shall constitute conclusive evidence of the release of all liens, claims or encumbrances in, against or with respect to the Debtors and/or the Purchased Assets. This Sale Order is deemed to be in recordable form sufficient to be placed in the filing or recording system of each and every federal, state, and local governmental agency, department, or office.

19. The Purchaser shall have no liability for any claims against the Debtors or their estates or any liabilities or obligations of the Debtors or their estates including, without limitation, any liabilities arising under or in connection with any product liability suit or other action that might otherwise be brought against the Purchaser under the doctrine of successor or transferee liability or similar doctrines or theories.

20. The Debtors and the Purchaser are hereby authorized and directed to execute and deliver such closing and other confirmatory documents and to take all actions necessary, desirable or appropriate to implement and effectuate the provisions of this Sale Order and the transactions approved hereby, without further order of the Court.

21. This Court hereby retains jurisdiction to enforce and implement the terms and provisions of the APA, all amendments thereto, any and all waivers and consents thereunder, and each of the agreements executed in connection therewith in all respects including, but not limited to, retaining jurisdiction to (a) compel the transfer and delivery of the Purchased Assets to the Purchaser, (b) resolve any controversy, dispute or claim

arising under or relating to the APA or any breach thereof, except as otherwise provided therein, and (c) interpret, implement, and enforce the provisions of this Sale Order and resolve any disputes related hereto. To the extent there are inconsistencies between the terms of this Sale Order and the APA, the terms of this Sale Order shall control.

22. Neither the Debtors nor the Purchaser has engaged in any conduct that would cause or permit the APA or any part of the Sale to be avoided under section 363(n) of the Bankruptcy Code. The Purchaser is a purchaser in good faith of the Purchased Assets and is entitled to all of the protections afforded by section 363(m) of the Bankruptcy Code.

23. The terms and provisions of the APA and this Sale Order shall be binding in all respects upon, and shall inure to the benefit of, the Debtors, their estates, its creditors, its shareholders, the Purchaser, and any of such parties' respective affiliates, designees, successors, and assigns, and shall be binding in all respects upon any affected third parties including, but not limited to, all persons asserting any liens, claims or encumbrances in, on or with respect to the Purchased Assets to be sold (including the Assumed Contracts and Leases) to the Purchaser pursuant to the APA, notwithstanding any subsequent appointment of any trustee(s), examiner(s), or receiver(s) under any chapter of the Bankruptcy Code or any other law, and all such provisions and terms shall likewise be binding on such trustee(s), examiner(s), or receiver(s), and shall not be subject to rejection. Nothing contained in any chapter 11 plan confirmed in these cases, or an order confirming such a plan, shall conflict with or derogate from the provisions of the APA or this Sale Order.

24. The failure specifically to include any particular provision of the APA in this Sale Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the APA is authorized and approved in its entirety.

25. The APA and the Sale Documents may be modified, amended, or supplemented by the parties thereto, in a writing signed by both parties, 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.

26. No bulk sales law or any similar law of any state or other jurisdiction shall apply in any way to the Sale.

27. Neither the Debtors nor the Purchaser shall be required to pay any commissions to any brokers in connection with the Sale.

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

29. Time is of the essence in the occurrence of the Closing of the Sale and the Debtors and the Purchaser intend to close the Sale as soon as possible. Accordingly, as provided by Bankruptcy Rule 7062, and notwithstanding Bankruptcy Rule 6004(h), this Sale Order shall not be automatically stayed, but shall be effective and enforceable immediately upon the signing of this Sale Order.

Dated: January __, 2016
Wilmington, Delaware

The Honorable Christopher S. Sontchi
United States Bankruptcy Judge