

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF MISSISSIPPI

IN RE:

ALUMINUM EXTRUSIONS, INC.,

Debtor.

Case No. 17-12693-JDW

Chapter 11

**DEBTOR'S MOTION TO APPROVE SALE OUTSIDE ORDINARY
COURSE OF BUSINESS PURSUANT TO 11 U.S.C. § 363, AND TO APPROVE
ASSUMPTION AND ASSIGNMENT OF CERTAIN UNEXPIRED LEASES AND
EXECUTORY CONTRACTS PURSUANT TO 11 U.S.C. § 365;
EXPEDITED HEARING REQUESTED**

Pursuant to this Court's Order Granting Debtor's Motion for An Administrative Order Approving Sale and Bid Procedure Pursuant to Sections 105(a), 363 and 365 of the Bankruptcy Code [D.E. 135], (the "Order"), Aluminum Extrusions, Inc., debtor-in-possession, (hereafter the "Debtor"), moves the Court for an order approving a sale of all or substantially all of the Debtor's assets outside the ordinary course of business pursuant to 11 U.S.C. § 363 and approving the assumption and assignment of certain executory contracts and unexpired leases pursuant to 11 U.S.C. § 365, and in support of its motion would respectfully show the court as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction of the subject matter herein and the parties hereto pursuant to 28 U.S.C. §§157 and 1334; 11 U.S.C. §§105, 363, 365, 1106 and 1108, and related statutes and rules, as well as various orders of reference. This is a core proceeding.

II. BACKGROUND

2. On July 21, 2017 (the "Petition Date"), the Debtor filed a voluntary petition for relief

under Chapter 11, Title 11, United States Code (the “Bankruptcy Code”), in the United States Bankruptcy Court for the Northern District of Mississippi (the “Court”). Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, the Debtor is operating their businesses and managing its property as debtor in possession. No trustee or examiner has been appointed in these cases.

3. The Debtor is a Mississippi limited liability company. AEI is engaged in the manufacture and distribution of aluminum extruded products to customers throughout the United States. The Debtor's principal place of business is located at 140 Matthew Street, Senatobia, Mississippi.

4. The Debtor owns a manufacturing complex consisting of several buildings located on approximately 11.85 acres in Senatobia, Mississippi (the “Facility”). The Debtor also owns inventory, equipment, machinery, furniture, fixtures and office equipment, vehicles, located in the Facility (the “Personal Property”). Substantially all of the Debtor’s assets are encumbered by pre-petition liens of Triumph Bank and pre and post-petition liens of the Bank of Montgomery (collectively, the “Secured Creditors”).

5. During the past several years, the Debtor has incurred significant operating losses. For the two year period prior to the Petition Date, the Debtor has attempted to obtain a capital infusion for the business or, alternatively, a sale of the business in order to resolve its difficult financial situation. Unfortunately, those efforts were not successful.

6. On October 17, 2017, this Court approved the Debtor’s employment of Equity Partners HG, LLC (“EP”) as financial and sale advisor to the Debtor to assist the Debtor in the sale of the Debtor’s business.

7. Through the efforts of EP and the Debtor’s management, the Debtor has pursued

extensive marketing of the business and various expressions of interest have been received. Pursuant to the Order, EP and the Debtor set November 1, 2017 as the initial deadline for prospective purchasers to submit bids for the business (the “First Bid Deadline”) and to be considered as a Stalking Horse Bidder as defined in the Order. The Debtor received several bids prior to the First Bid Deadline for the Debtor’s entire business which complied with the terms of the Order. Additionally, the Debtor did receive other expressions of interest for all or part of the Debtor’s business but no formal offers were made by such other parties prior to the First Bid Deadline.

8. Based on the advice of Ken Mann and Matt LoCascio of EP, and after consultation with the Secured Lenders and the Official Unsecured Creditors’ Committee (the “Committee”), the Debtor has considered all of the various purchasers and alternative actions that could be taken. Based on the foregoing sale efforts, and its inability to secure alternative financing, the Debtor has entered into an Asset Purchase Agreement (the “Agreement”) with Larson Manufacturing of South Dakota, Inc. (“Larson”) to sell the assets of the Debtor’s business as a going concern. Larson proposes to purchase all of the Debtor’s right, title, and interest in the Debtor’s facilities, real estate, contracts, equipment, accounts receivable, intangible assets, inventory, and miscellaneous assets (as set forth in the Agreement) and excluding the Excluded Assets (as specified in the Agreement). The purchase price shall be \$6,300,000.00, which price shall be allocated among the assets as set forth in Schedule 3 to the Agreement. A true and correct copy of the Asset Purchase Agreement with exhibits (some in summary form) is attached hereto as Exhibit 1 and incorporated herein by reference.

9. Pursuant to the terms of the Order, the Debtor has designated Larson as a Stalking Horse Bidder.

10. The Debtor has determined that sale of the assets to Larson pursuant to the Agreement would be in the best interest of the Debtor and its estate and would maximize value of the assets of the Debtor by continuing the business and the employment of approximately 70 employees. Although Larson is not expressly required to retain all employees pursuant to the Agreement, it is anticipated that substantially all of the Debtor's employees will be offered continued employment with Larson.

11. At present, the Debtor projects that it will have fully drawn upon its post-petition financing in order to continue operations through the earlier of closing or December 31, 2017. In the absence of a sale, it is anticipated that additional post-petition financing may be needed to continue operating the business. Absent additional financing, it will be difficult for the Debtor to maintain or expand its current business, thus expediting the sale is of significant importance to the estate and its creditors.

12. The Debtor own one (1) parcel of real estate and various inventory, machinery, vehicles and equipment located in Senatobia, Mississippi, which will be sold pursuant to the Agreement.

13. The Debtor is a party to two equipment leases which will be assigned to Larson. As of the filing of this motion, the Debtor is current in all of its lease obligations under all of its leases. Larson intends to assume the Debtor's forklift lease with Crown Credit Company and its copier lease with Konica/ Minolta. In addition, the Debtor is a party to open and undelivered customer orders. Pursuant to the Agreement, Larson reserves the right to determine which customer

orders, it seeks to assume up until the later of the Second Bid Deadline or Auction to be held pursuant to the Order.

14. In order to realize any ongoing concern value with respect to the Debtor's business, it is necessary for a sale to be closed within fourteen (14) days after entry of a final order approving the sale as set forth in the Order. Pursuant to the Agreement, it is anticipated that Closing will occur on or prior to December 22, 2017, unless otherwise agreed to by the parties.

15. Because of the Debtor's current operating difficulties and projected liquidity shortfalls, it is not feasible to sell the business in the context of a plan of reorganization.

16. Subject to the provisions of the Order which contemplate competing bids at the Auction to take place if there are competing bidders after the Second Bid Deadline, the Debtor believe that the proposed Agreement is in the best interest of the Debtor, its estate, and its creditors.

17. The Debtor reserves the right to request that the Court approve a sale involving competing bids which are made at any Auction pursuant to the Order. Prior to the filing of this motion, the Debtor has received other expressions of interest from other parties in the purchase of the business. Due to the expedited nature of this motion and as contemplated by the Order, the Debtor believes it is in the best interest of the Debtor and its estate that other prospective purchasers be given an opportunity to submit higher and better offers on substantially the same terms and conditions provided in the proposed Agreement with Larson. The Order and the proposed Agreement contemplate the possibility of other bids for all the assets of the Debtor and requires that any initial overbid (for all of the Purchased Assets) be in a minimum amount of five percent (5%) over the bid of Larson and be accompanied by a deposit of 10% of proposed bid. The initial bid at the Auction, if held, shall be in an increment of at least five percent (5%) of the announced initial

highest and best Qualified Bid as defined in the Order, with subsequent bids being to be determined by EP and the Debtor in accordance with the Order. Competing bidders must comply with the provisions of the Order relating to bid procedures.

18. The Debtor has given notice of this motion to all parties on the Matrix, which includes all creditors, lessors, taxing authorities, and regulatory authorities. The Debtor will also serve all parties who have submitted qualified bids for some or all of the assets. In addition, the Debtor believes that this proposed sale is not subject to the provisions of Section 7 of the Clayton Act, commonly known as the Hart-Scott-Rodino Act. Accordingly, the Debtor has not given notice to the Federal Trade Commission as otherwise required by Section 7 of the Clayton Act and 11 U.S.C. § 363 (b)(2).

19. The Debtor prays that, after notice and hearing, the Court enter an order approving the sale of assets pursuant to the Agreement, and approve the Debtor's assumption and assignment of leases, and that the court order contain the following findings and provisions:

(i) That proper, adequate and sufficient notice of the motion and hearing thereon has been provided in accordance with the Bankruptcy Code and Bankruptcy Rules and that no further notice is necessary;

(ii) That the agreement represents the proper and prudent exercise of the Debtor's business judgment and that the Debtor has advanced sound business reasons for an immediate sale of the purchased assets;

(iii) That any and all objections to this motion have either been withdrawn or overruled;

(iv) That the purchase price represents a fair and reasonable consideration for the purchased assets;

(v) That the approval and consummation of the agreement is in the best interest of the Debtor, its estate, and its creditors;

(vi) That the Agreement was negotiated at arm's length and in good faith;

(vii) That Larson, or any substitute purchaser, has acted in good faith and is entitled to the protections of § 363(m) of the Bankruptcy Code;

(viii) That the Debtor has obtained all approvals and met all conditions under current applicable non-bankruptcy law to enter into and consummate the agreement;

(ix) The Debtor has satisfied the requirements of § 365(b) of the Bankruptcy Code;

(x) The Agreement is approved and the Debtor, as debtor-in-possession, is authorized to enter into the Agreement, perform all of its obligations under the Agreement;

(xi) The Debtor is authorized to execute such documents and take such actions as are necessary and appropriate to implement the Agreement and, specifically, John King is authorized to execute all such documents in his representative capacity on behalf of the Debtor;

(xii) The Debtor is authorized and empowered to sell, convey, transfer and deliver the purchased assets to Larson, or any substitute purchaser free and clear of all liens, claims and other encumbrances on the Debtor's interests therein and that Larson, or any substitute purchaser, shall acquire said leases and contracts free and clear of all default, covenants, duties, liabilities and obligations existing or accruing thereunder prior to the closing date;

(xiii) The proceeds of any sale shall be subject to and impressed with the duly

perfected first priority security interests and liens of the Secured Lenders, and the net proceeds, after payment of regular and customary closing costs, recording fees to the extent applicable, and any amounts required to be paid pursuant to the Agreement, shall be disbursed at closing as follows: (a) first to the payment of commission and expenses of Equity Partners, HG, LLC, (b) second to the fees and expenses of the professionals employed by the Debtor and the Committee; (c) third to the Secured Lenders based on the allocation of purchase price set forth in Schedule 3 to the Agreement, without prejudice to the rights of the Committee or an interested party to challenge the security interest of such Secured Lenders to the extent such rights have been preserved by prior order of the Court, and (d) any remaining net proceeds shall be paid to the Debtor;

(xiv) That Larson, or any substitute purchaser shall not be deemed the successor to the Debtor and, except as expressly provided in the agreement shall not be responsible for any of the Debtor's liabilities or obligations;

(xv) The approval order shall be a final and appealable order as to which there is no just reason for delay in its implementation, as to which a judgment should be entered immediately and that, for purposes of Fed. R. Bankr. P. 7062, is an order authorizing sale of property of the estate under 11 U.S.C. § 363 and authorizing the assumption and assignment of unexpired leases and executory contracts under 11 U.S.C. § 365;

(xvi) Reversal or modification of the approval order on appeal shall not affect the validity of the sale authorized by the approval order unless the approval order has been stayed pending such appeal by the posting of a bond in an amount equal to at least the amount of the purchase price for the assets;

(xvii) The Court shall retain jurisdiction over any and all disputes, claims or causes of action arising between the parties under the agreement;

(xviii) The Debtor's assumption and assignment of leases under this motion is contingent upon Closing of the Agreement and that, in the event no Closing takes place, the time within which the Debtor may assume or reject such unexpired leases and executory contracts shall be governed by the provision of the Bankruptcy Code.

WHEREFORE, the Debtor prays that, after an expedited hearing, the Court approve the Asset Purchase Agreement between the Debtor and Larson, or any substitute purchaser as the court may approve, and the assumption and assignment of leases in connection therewith, and that the court award the Debtor such other relief to which they may be entitled.

GLANKLER BROWN, PLLC

By: /s/ Michael P. Coury
Michael P. Coury (MS 103809)
6000 Poplar Avenue
Suite 400
Memphis, TN 38119
(901) 525-1322
(901) 525-2389 Facsimile
mcoury@glankler.com

Attorneys for the Debtor

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been forwarded to the United States Trustee, the secured lender(s), the Committee and all parties on the Court's mailing matrix by U.S. Mail, postage pre-paid, on the 9th day of November, 2017.

/s/ Michael P. Coury

4813-6405-2052, v. 1

ASSET PURCHASE AGREEMENT

This Agreement is made and entered into this 8th day of November, 2017, by and between ALUMINUM EXTRUSIONS, INC., a Mississippi corporation, hereinafter referred to as "Seller," and LARSON MANUFACTURING OF SOUTH DAKOTA, INC., a South Dakota corporation, hereinafter referred to as "Buyer."

WITNESSETH:

WHEREAS, Seller is engaged in the manufacture of aluminum extruded products for sale and distribution to customers throughout the United States from its facilities in Senatobia, Mississippi, hereinafter called the "Business";

WHEREAS, Buyer has been a customer of Seller;

WHEREAS, Buyer desires to purchase substantially all of the assets of Seller's Business, and Seller desires to sell such assets to Buyer;

WHEREAS, the parties hereto desire to enter into this Agreement for the purpose of setting forth the terms and conditions of the sale and purchase of the assets of Seller's Business;

NOW, THEREFORE, in consideration of the mutual premises and covenants contained herein, the parties hereto agree as follows:

1. Sale of Business. Subject to the terms and conditions of this Agreement, at the Closing (as hereinafter defined) Seller shall sell and transfer to Buyer, and Buyer shall purchase from Seller, all of Seller's assets relating to the Business, wherever situated, as the same now exist and as may be acquired by Seller from and after the date hereof and prior to the Closing, including, without limitation, Seller's right, title and interest in and to: all patents, copyrights, trademarks, trade names, proprietary information, trade secrets, computer software, know-how and other intellectual property; accounts receivables, designs, drawings, specifications, equipment documentation, manuals, customer lists, promotional and advertising materials and other technical and business information; inventory, including but not limited to raw materials, work in process, finished goods and supplies; open and undelivered customer orders accepted by Buyer at Closing; real estate (including fixtures); machinery, equipment and tools; furniture; licenses and permits and other authorizations; copies of all of Seller's books and records relating to the Business; prepaid expenses, deposits and similar assets; telephone numbers; rights and claims (existing and contingent) against third parties related to the operation of the Business or the Assets; goodwill and other intangible property rights of any kind whatsoever; excluding, however, Seller's cash on hand, billet inventory and paint owned by customers as set forth on Schedule 5 to be attached hereto prior to Closing, and any cause of action, including bankruptcy causes of action existing as of closing. Such assets being sold are hereinafter collectively referred to as the "Assets". The Assets shall be sold and transferred to Buyer free and clear of all liens, pledges, mortgages, charges, burdens, options (or other rights to acquire the same), security interests, adverse claims, or other encumbrances of any character whatsoever. With respect to the real estate included in the Assets, the address and/or legal description of each property is set forth on Schedule 1 hereto.

Future liabilities pursuant to any unexpired leases or executory contracts included in the Assumed Contracts (defined below) will be assumed by Buyer in accordance with Section 2 below, but otherwise Buyer is purchasing assets of Seller only and is assuming no liabilities or obligations of Seller.

Subject only to the terms and conditions of this Agreement, the Assets are being sold AS-IS and WHERE-IS.

2. Assumption of Certain Liabilities. Buyer shall not assume any liabilities of Seller except for the obligation to complete and fill those certain open and undelivered orders accepted by Buyer at Closing (to be listed on an updated **Schedule 2** hereto at the time of Closing) and except for liabilities attributable to periods after Closing under the contracts listed on **Schedule 2** hereto (such open order obligations and listed contracts are referred to in this Agreement as the "Assumed Contracts"). With respect to Assumed Contracts, Buyer assumes no liabilities for Seller's breaches or other acts or omissions of Seller (or its employees, agents, representatives, contractors or other third parties acting on its behalf) occurring under or in violation of the Assumed Contracts, whether such Seller acts or omissions occur prior to or after Closing.

3. Purchase Price. The purchase price of the Assets shall be Six Million Three Hundred Thousand Dollars (\$6,300,000.00), and shall be payable in cash at Closing (subject to Equity Partners HG broker fees being paid therefrom per Section 21(f) below, and to any other Seller fees being paid therefrom as appropriate). Upon execution of this agreement, Buyer will deposit with Equity Partners HG as the escrow agent, a Good Faith Deposit in the amount of 10% of its bid.

4. Allocation of Purchase Price. Buyer will allocate the purchase price among the Assets based on Buyer's good faith determination of the installed fair market value of the Assets, and such Buyer determination will be binding on all parties. Such allocation is indicated on **Schedule 3** attached hereto and may be modified only to reflect changes in inventory and accounts receivables, with a corresponding offsetting adjustment to equipment, at Closing. Buyer and Seller shall comply in all material respects with the reporting requirements of Section 1060 of the Internal Revenue Code and the Treasury Regulations issued thereunder, and all reports thereunder shall reflect the final allocations made pursuant to this Agreement. Buyer and Seller hereby agree that if the Internal Revenue Service contests the manner in which the purchase price has been allocated, Buyer shall have the right to control, at its own expense, all proceedings related thereto. Seller agrees to promptly give notice to Buyer if the Internal Revenue Service, in connection with any audit or examination of the federal income tax returns filed by Seller, challenges the allocation of the purchase price.

5. Representations of Seller. Seller warrants and represents as follows:

- (a) Seller is a corporation duly organized, existing and in good standing under the laws of the State of Mississippi.
- (b) Subject to receiving any necessary orders from the United States Bankruptcy Court of the Northern District of Mississippi approving this

Agreement (the "Sale Order"): (i) Seller has all requisite power, authority and capacity as Debtor In Possession to enter into this Agreement and perform the obligations hereunder; (ii) this Agreement is valid, binding and enforceable against Seller in accordance with its terms; and (iii) the execution and delivery of this Agreement and the other agreements referenced herein have been duly authorized by Seller's board of directors and shareholders to the extent necessary; and (iv) the execution and performance of this Agreement by Seller in compliance with the provisions hereof does not violate any provisions of law applicable to Seller.

- (c) Seller owns all of the Assets, and at the transfer of possession all such Assets shall be conveyed to Buyer free and clear of all claims, liens, security interests or encumbrances whatsoever, and at the transfer of possession, Seller shall have the full right to transfer the same free and clear of any claims, liens, security interests or encumbrances.
- (d) Seller has not in the last twelve months experienced, and is not aware of any potential, warranty claims, or similar claims regarding defects in its products or services.
- (e) Seller acknowledges that Buyer has the option to but has no obligation to hire any employees of Seller on terms and conditions acceptable to Buyer. Buyer has not assumed and shall not assume any pension, profit sharing, accrued vacation or other benefit obligations incurred by Seller to its employees.
- (f) Seller has paid or will pay in full when due all income, withholding, sales, social security and unemployment taxes due to the applicable governmental authorities up to the date of Closing and has filed any and all necessary tax returns.
- (g) Although the Assets are to be sold as-is (subject to Section 5(c) above), to Seller's knowledge the Assets used by Seller in the Business are in good operating condition and repair, normal wear and tear excepted, and to Seller's knowledge none of said Assets will be in need of material maintenance or repairs over the next twelve (12) months, except as specifically described in **Schedule 4** attached hereto.
- (h) The Business is not in violation of any applicable federal, state or local laws, rules or regulations, including environmental laws.
- (i) To the best of Seller's knowledge, all of the information, records, and documents which Seller has provided to Buyer in connection with the transaction provided herein are true, accurate and complete, do not omit any material information concerning the Business or the Assets, and do

not omit any material facts necessary in order to make the information, records, and documents provided to Buyer not misleading. Further, Seller is not aware of any other information or fact which is of an adverse nature with respect to ownership of the Business or which Buyer would reasonably be expected to consider in entering into this transaction.

6. Representations of Buyer. Buyer represents and warrants as follows:

- (a) Buyer is a corporation duly organized, existing and in good standing under the laws of the State of South Dakota.
- (b) Subject to receiving the Sale Order from the United States Bankruptcy Court of the Northern District of Mississippi: (i) Buyer has all requisite power, authority and capacity to enter into this Agreement and perform the obligations hereunder; (ii) this Agreement is valid, binding and enforceable against Buyer in accordance with its terms; (iii) the execution and delivery of this Agreement and the other agreements referenced herein have been duly authorized by Buyer's board of directors; and (iv) the execution and performance of this Agreement by Buyer in compliance with the provisions hereof does not violate any provisions of law applicable to Buyer and does not conflict with or constitute a default under the terms of any agreement of which Buyer is a party.

7. Survival of the Representations, Warranties and Covenants. All representations, warranties and covenants expressed herein shall survive the execution of this Agreement and the Closing.

8. Purchase of Assets Only. Except as set forth in Section 2 this Agreement is for the purchase of Assets only, and, except as set forth in Section 2, Buyer is not agreeing to assume and shall not be responsible for any liabilities of Seller or any liabilities arising out of the operation of Seller's Business prior to the date of Closing.

9. Conditions Precedent. The obligations of Buyer to consummate the transactions contemplated by this Agreement and to pay the purchase price are subject to the condition precedent that Buyer shall have received, on or prior to the date of Closing, all of the following (unless waived in writing by Buyer), each in form and substance satisfactory to Buyer:

- (a) Court and Regulatory Approvals. Any necessary orders or approvals from the United States Bankruptcy Court of the Northern District of Mississippi, and any other necessary regulatory approvals, if any;
- (b) Stalking Horse Bid. This Agreement shall be classified by Seller as the "Stalking Horse Bid" as contemplated under the "Order Granting Debtor's Motion for an Administrative Order Approving Sale and Bid Procedure" dated October 16, 2017 in the bankruptcy case filed in the State Bankruptcy Court for the Northern District of Mississippi (Case No 17-

12693-JDW) (the "Bid Procedure Order"), with Buyer being entitled to all of the protections provided therein to a "Stalking Horse."

- (c) Bill of Sale. The Bill of Sale, in form and substance satisfactory to Buyer, transferring the Asset to Buyer in accordance with this Agreement;
- (d) Lien Releases. Lien release documentation as appropriate to confirm the Assets will transfer to Buyer free and clear of any liens, security interests and other encumbrances;
- (e) Title Commitments; Deeds. An ALTA form commitment for title insurance covering the real property included in the Assets, which commitment will be provided by Seller and be in a form, and include only such exceptions, as acceptable to Buyer; as well as properly executed deeds sufficient to convey to Buyer fee simple title to the real property included in the Assets, free and clear of all liens and encumbrances (other than encumbrances deemed acceptable by Buyer).
- (f) Environmental Report. An environmental inspection report (such as but not limited to a Phase I and/or Phase II or other environmental tests, studies or reports), or other evidence satisfactory to the Buyer that there is no environmental contamination or other environmental condition on the real estate that is unacceptable to Buyer. Buyer agrees to order the inspection as soon as possible and will remove this condition no later than November 29, 2017.
- (g) Assignment of Assumed Contracts. An assignment, in form and substance satisfactory to Buyer, of Seller's rights under the Assumed Contracts and Seller's compliance with any requirements of 11 U.S.C. § 365 in connection therewith;
- (h) Seller Certification. A certificate, dated as of the Closing, certifying that there have been no material adverse changes to the Assets or the Seller's Business since the date of this Agreement, and that all representations and warranties of Seller set forth in this Agreement remain true and correct in all material respects as of the Closing to the same extent and with the same effect as if made at and as of the Closing, and that Seller has performed all agreements and covenants on its part to be performed or satisfied by it hereunder on or prior to the Closing;
- (i) Closing Documents. Such other agreements, documents and certificates as Buyer may reasonably request to carry out the terms of this Agreement and the transfer of the Assets.

10. Transfer of Telephone and Facsimile Numbers. Seller, contemporaneously with the Closing, shall take all necessary action to transfer to Buyer the telephone and facsimile numbers presently used by Seller in connection with the Business.

11. Warranty Liability. Seller shall be liable for any and all claims asserted under product warranties relating to products sold by Seller prior to the date of Closing.

12. Conduct of Business. Seller covenants, represents and warrants in favor of Buyer that pending completion of the Closing, unless otherwise agreed to in writing by Buyer:

- (a) Seller shall not engage in any sale, enter into any transaction, contract or commitment, incur any liability or obligation, or make any disbursement not in the ordinary course of business.
- (b) Seller shall carry and continue in force through Closing all fire and extended coverage insurance, and product liability, theft, general liability and other insurance currently in existence covering the Assets to be sold hereunder.
- (c) Seller and its officers shall use their best efforts to preserve the business organization and all of its equipment and records in good order, to keep available for Buyer all of Seller's present employees, and to preserve for Buyer the goodwill of suppliers, customers and others having business relationships with Seller.
- (d) Seller shall maintain the Assets and its other property in a good state of repair through the Closing, ordinary wear and tear excepted, and shall not dispose of any such items (except in the ordinary course of business) without Buyer's consent.
- (e) Seller shall give Buyer prompt notice of all events prior to Closing which materially relate to any term of this Section 12.

13. Access to Information. From the date hereof to the date of Closing, Seller will provide Buyer, its representatives, counsel and accountants with reasonable access to all of its facilities (including its home office), assets, books, properties, contracts, lease agreements, commitments, and records relating to the Assets during normal business hours to enable Buyer to further investigate the Business; provided, however, that Buyer shall not be entitled to retain copies or extracts of sales records until the time of Closing, though Buyer shall have access to such sales records from the date of this Agreement through the Closing. During such period, Seller agrees to furnish Buyer with all such additional information concerning the Business as Buyer may reasonably request. No such investigation, nor any prior investigation by Buyer, shall diminish or limit the representations, warranties, obligations or liabilities of the Seller under this Agreement.

14. Confidentiality. Any press release issued in connection with this transaction shall be approved by each of the parties prior to its distribution.

15. Assignment. This Agreement is made for the benefit of the parties hereto. Neither party may assign this Agreement, or any part thereof, or delegate any duty or obligation imposed by this Agreement without the express written consent of the other party hereto; except,

however, that Buyer may freely assign all of its rights and obligations hereunder to a subsidiary of Buyer.

16. Closing; Risk of Loss. The closing of the transactions contemplated hereunder (the "Closing") and the transfer of the Assets by Seller to Buyer shall take place on or before *December 22, 2017*, at a time and place mutually agreeable to the parties. If the Closing has not occurred by *December 22, 2017* this Agreement shall terminate unless the parties otherwise agree in writing. Buyer shall be entitled to possession of the Assets from and after Closing. All risk of loss with respect to the Assets shall remain with Seller until physical possession of the Assets has passed to Buyer.

17. Termination. Buyer's purchase and other obligations hereunder are not subject to board approval or any financing contingency. Provided that there is no material adverse change in the Assets prior to Closing, and that the Seller remains in full compliance with the terms and conditions of this Agreement until and through Closing and that all of Buyer's conditions to closing have been satisfied as of Closing, Buyer's obligations to purchase hereunder are irrevocable. Accordingly, this Agreement may only be terminated (a) by Buyer if a material breach of any provision of this Agreement has been committed by Seller and such breach has not been waived by Buyer; (b) by Seller if a material breach of any provision of this Agreement has been committed by Buyer and such breach has not been waived by Seller; (c) by Buyer if any Buyer condition precedent in this Agreement has not been satisfied as of the Closing Date; (d) by Buyer if any there has been any material adverse change in the Assets prior to Closing; or (e) by mutual consent of Buyer and Seller. Each party's right of termination is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of such right of termination will not be an election of remedies. If this Agreement is terminated all other obligations of the parties under this Agreement will terminate, provided, however, that, if this Agreement is terminated because of a breach of this Agreement by the non-terminating party, the terminating party's right to pursue all legal remedies will survive such termination unimpaired, and provided further that if this Agreement is terminated due to Buyer not being the successful bidder following conclusion of the sale process outlined in the Order, Buyer shall be entitled, in accordance with Section 5(G) of the Order, to a fee equal to the amount of its reasonable documented expenses incurred in connection with its Stalking Horse Bid not to exceed 2.5% of its bid of \$6,300,000.00 (the "Break Up Fee"), to be paid from the settlement proceeds of the sale to the subsequent bidder and provided further still that upon any termination other than per Section 17(b) above, the Good Faith Deposit will immediately be returned to Buyer. In the event of a termination per Section 17(b), the Good Faith Deposit funds may be held by the escrow agent to be applied towards any damages suffered by Seller as a result of the breach, with any excess to be returned to Buyer.

18. Invalid Provisions and Waiver. If any term, restriction, or covenant of this Agreement is deemed illegal or unenforceable, all other terms, restrictions and covenants hereof shall remain unaffected to the extent permitted by law. No waiver of any provision of this Agreement shall be deemed to be a waiver of subsequent performance of the same provision of this Agreement or a waiver of any other provision of this Agreement.

19. Notices. Any notices or other communications required or permitted hereunder to any party hereto shall be sufficiently given when delivered in person, or when sent by certified or

registered mail, postage prepaid, or one business day after dispatch of such notice with an overnight delivery service, or when sent by facsimile machine if an answer back is received by the sender, in each case addressed as follows:

Seller:	Aluminum Extrusions, Inc. _____ _____ Fax No.: _____ Attention: _____
Buyer:	Larson Manufacturing of South Dakota, Inc. 2333 Eastbrook Drive. Brookings, SD 57006 Fax No.: (605) 696-6222 Attention: William R. Retterath

provided that any party by like written notice may designate different addresses to which subsequent notices shall be sent.

20. Successors and Assigns. All of the covenants and agreements contained herein shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

21. Miscellaneous Provisions.

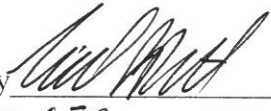
- (a) Governing Law; Venue. This Agreement and all obligations created hereunder or required to be created hereby shall be governed by and construed and enforced in accordance with the laws of the State of Mississippi.
- (b) Interpretation. Unless the context otherwise requires, all words in this Agreement in the singular number shall extend to and include the plural, all words in the plural number shall extend to and include the singular, and all words used in any gender shall extend to and include all genders.
- (c) Further Assurances. All parties hereto agree to execute any and all additional documents necessary, and to take all other actions reasonably necessary, to effectuate the terms and conditions of this Agreement.
- (d) Entire Agreement. This instrument contains the entire agreement between the parties hereto and supersedes any and all prior understandings, representations, warranties or agreements, whether written or oral.
- (e) Expenses. Each party hereto shall pay its own expenses, including without limitation accounting and attorneys' fees, in connection with this Agreement, whether or not consummated.

- (f) Brokers and Finders. Neither Seller nor Buyer nor any of their respective officers, directors or employees has employed any broker or finder or incurred any liability for any brokerage fees, commissions or finder's fees, and no broker or finder has acted directly or indirectly for Seller or Buyer in connection with this Agreement or the transactions contemplated hereby; except that Equity Partner HG is the court approved broker for the Seller, and any and all fees owed to Equity Partner HG will be paid by Seller from the purchase price proceeds at closing.
- (g) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed by a party by electronic transmission of the party's signature, and said electronic copy shall have the same force and effect as any originally-signed document delivered in person.
- (h) Taxes. Seller shall pay all taxes of any kind or fees for lien releases that result from the sale of the Assets to Buyer pursuant to this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first above written.

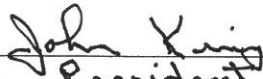
BUYER:

LARSON MANUFACTURING OF
SOUTH DAKOTA, INC.

By 
Its CFO

SELLER:

ALUMINUM EXTRUSIONS, INC.

By 
Its President

SCHEDULE & EXHIBIT LIST

Schedule 1	Description Real Estate
Schedule 2	Assumed Contracts
Schedule 3	Allocation of Purchase Price
Schedule 4	Known Exceptions to Good Operating Condition of Assets
Schedule 5	Inventory owned by customers

SCHEDULE 1

DESCRIPTION OF REAL ESTATE

Parcel 1

From the Southeast corner of Section 25, Township 5 South, Range 8 West, run North, a distance of 40.74 feet to a point on the North right-of-way line of Browns Ferry Road; thence run south $81^{\circ} 34' 32''$ West along said North right-of-way line a distance of 267.0 feet to the Southeast corner of the Senatobia Industrial Park and the Southwest corner of Garden View Subdivision; thence run North $0^{\circ} 26' 58''$ East along the West line of said Garden View Subdivision a distance of 245.1 feet to the POINT OF BEGINNING of the following described parcel of land; from said POINT OF BEGINNING run thence South $68^{\circ} 52' 22''$ West a distance of 232.11 feet to the Northeast corner of a 3 acre tract owned by the Pepsi Cola Bottling Company; thence run South $85^{\circ} 10' 46''$ West along the North line of said Pepsi Cola Bottling Company property a distance of 618.52 feet to a point on the East right-of-way line of Matthews Drive; thence run Northerly along said right-of-way line and along the circumference of a circle to the right having a radius of 2,488.62 feet, a distance of 245.39 feet; thence run South $89^{\circ} 21' 23''$ East a distance of 842.22 feet to a point on the West line of said Garden View Subdivision; thence run South $0^{\circ} 26' 58''$ West along said West line a distance of 100.05 feet to the POINT OF BEGINNING.

All of the above described parcel containing 3.8 acres, more or less, located in the (old) Senatobia Industrial Park, and all being in the Southeast $\frac{1}{4}$ of Section 25, Township 5 South, Range 8 West, Tate County, Mississippi.

Parcel 2

A part of the Southeast Quarter of the Southeast Quarter of Section 25, Township 5 South, Range 8 West, Tate County, Mississippi, containing 8.08 acres, more or less, and being more particularly described as follows, to-wit:

Beginning at iron stake on the East line of Matthews Drive that is 356.22 feet North and 1103.58 feet West of the Southeast corner of said Section 25; running thence South 89 degrees 21 minutes 23 seconds East for a distance of 824.22 feet; thence North 0 degrees 26 minutes 58 seconds East for a distance of 824.22 feet; thence North 0 degrees 26 minutes 58 seconds East for a distance of 300 feet; thence South 89 degrees 21 minutes 23 seconds East for a distance of 18.0 feet to the West line of Garden View Subdivision; thence North 0 degrees 26 minutes 58 seconds East along the West line of said Garden View Subdivision for a distance of 125.0 feet; thence North 89 degrees 21 minutes 23 seconds West for a distance of 838.73 feet to the East line of Matthews Drive; thence South 0 degrees 55 minutes 10 seconds West along the East line of said Matthews Drive for a distance of 425.0 feet to the POINT OF BEGINNING.

SCHEDULE 2

ASSUMED CONTRACTS

Three leased forklifts with Crown Credit Company which Seller represents to be current as of the date of this Agreement.

Two leased copiers with Wells Fargo which Seller represents to be current as of the date of this Agreement.

Subject to Buyer review, open and undelivered customer orders.

SCHEDULE 3

ALLOCATION OF PURCHASE PRICE

<u>Purchase Price Allocaton</u>		<u>Estimated amount as of the date of the Asset Purchase Agreement</u>
Accounts Receivable Pre Petition	80% of the balance as of the closing date	402,400
Accounts Receivable Post Petition	95% of the balance as of the closing date	195,501
Inventory, other than paint	75% of the cost basis of the inventory as of the closing date	37,500
Paint Inventory	90% of the cost basis of the paint inventory as of the closing date	234,000
Dies and racks	1,000,000	1,000,000
Land and building	1,342,855	1,342,855
Equipment	3,087,744	3,087,744
		6,300,000

SCHEDULE 4

EXCEPTIONS TO GOOD OPERATING CONDITION OF ASSETS

Buyer is aware of multiple cracks in the platens of the 6 inch presses. The cost to repair is estimated at \$350,000.

Buyer is aware of multiple leaks in the roof over the original building that houses the two 6 inch presses.

SCHEDULE 5

INVENTORY OWNED BY CUSTOMERS

Designated billet owned by customers