

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT
NEW HAVEN DIVISION**

In re:	:	
BAILEY'S EXPRESS, INC.,	:	CHAPTER 11
Debtor.	:	CASE NO. 17-31042(AMN)
BAILEY'S EXPRESS, INC.	:	RE: ECF NO. 141
Movant,	:	
v.	:	
BANKWELL and SAIA, INC.,	:	
Respondents.	:	

**ORDER UNDER 11 U.S.C. §§ 105(A), 363 AND 365 AND FED. R. BANKR. P. 6004
AND 6006 AUTHORIZING AND APPROVING THE SALE OF TRUCKS
FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS AND
ENCUMBRANCES, AND OTHER RELATED RELIEF**

Upon the motion (the "Motion")¹ of Bailey's Express, Inc. (the "Debtor" or "Bailey's"), the debtors and debtors-in-possession, seeking an order, under §§ 105(a), 363 and 365, of the United States Bankruptcy Code ("Bankruptcy Code") and Fed. R. Bankr. P. 2002, 6004, 6006, 9007 and 9014, authorizing and approving the sale of 23 trucks owned by the Debtor (the "Trucks") to Toria Truck Rental & Leasing, Inc. (the "Purchaser"), pursuant to that certain Purchase Agreement, dated as of November 15, 2017, a copy of which is attached hereto as **Exhibit A**, and together with related documents, agreements and instruments (the "Purchase Agreement") free and clear of all liens, claims, interests and encumbrances, and other related relief; the Court having considered the Motion, the objections thereto, if any, the testimony

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion or the Purchase Agreement.

elicited or offers of proof made and the statements of counsel on the record at the hearing on November 15, 2017 (the “Sale Hearing”), at which time all interested parties were offered an opportunity to be heard with respect to the Motion and the proposed sale of the Trucks (the “Sale”); and it appearing that the relief requested in the Motion is in the best interests of the Debtor, its bankruptcy estate, its creditors and other parties-in-interest; and after due deliberation and good cause appearing therefor; it is hereby **FOUND, CONCLUDED, AND DETERMINED THAT:**

A. Findings of Fact and Conclusions of Law. The findings and conclusions set forth herein constitute this Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this chapter 11 case pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. Jurisdiction. This Court has jurisdiction over the Motion and over the property of Debtor, including the Trucks to be sold, pursuant to the Purchase Agreement, pursuant to 28 U.S.C. §§ 157 and 1334, and all liabilities and other obligations of the Debtor. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of this chapter 11 case and the Motion in this district and Court is proper under 28 U.S.C. §§ 1408 and 1409.

C. Final Order. This Sale Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), and to any extent necessary under Bankruptcy Rule 9014 and rule 54(b) of the Federal Rules of Civil Procedure, as made applicable by Bankruptcy Rule 7054, this Court finds that there is no just

reason for delay in the implementation of this Sale Order, and directs entry of this Order as set forth herein.

D. Property of the Estate. The Trucks being sold by the Debtor to the Purchaser under the Purchase Agreement constitute property of Debtor's estate and title thereto is vested in Debtor's estate within the meaning of section 541(a) of the Bankruptcy Code.

E. Statutory Bases For Relief. The statutory bases for the relief requested in the Motion are sections 363, and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, and 9014, and Local Rule 6004-1.

F. Bidding Procedures. This Court entered an order (the "Bidding Procedures Order") on October 27, 2017, (1) establishing bidding and auction procedures ("Bidding Procedures"); (2) approving proposed bid protections to the Purchaser; (3) scheduling the Auction (if necessary) and the Sale Hearing to consider the sale of the Trucks, to the extent set forth in the Bidding Procedures Order; (4) approving the form and manner of notice of all procedures, protections, schedules, and agreements; and (5) granting certain related relief.

G. Notice. As evidenced by the certificates of service filed with the Court [ECF Nos. 170 and 188], and based on the representations of counsel at the Sale Hearing, due, proper, timely, adequate, and sufficient notice of the Motion, the Sale Hearing, the Bidding Procedures, the Auction and the Sale has been provided in accordance with sections 102(1), 363, and 365 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 6006, 9007, and 9014 to each party entitled to such notice, including, as applicable: (1) the Office of the United States Trustee; (2) Bankwell; (3) SAIA, INC.; (4) the Office of the United States Attorney for the District of Connecticut; (5) all taxing authorities having jurisdiction over the Trucks, including the Internal Revenue Service and the Connecticut Department of Revenue Services; (6) counsel

to the Purchaser; (7) the entities known to the Debtor to have expressed an interest in purchasing the Trucks; (8) all of the Debtor's creditors, including all creditors or alleged creditors who are listed on the Debtor's matrix of creditors, who are scheduled by the Debtor in its schedules of liabilities or who have filed proofs of claim; (9) all parties that have filed a Notice of Appearance and Demand for Service of Papers in this bankruptcy case under Rule 9010(b) as of the date of entry of the Bidding Procedures Order. Notice was also given through advertisements placed in *Truck Paper* and *Truck 'N Trailer*. The notices described above were good, sufficient, and appropriate under the circumstances and no other or further notice of the Motion, the Bidding Procedures, the Auction, the Sale, or the Sale Hearing is, or shall be, required.

H. Disclosures. The disclosures made by the Debtor in the Motion and related documents filed with the Court concerning the Purchase Agreement, the Sale, the Bidding Procedures, the Auction and the Sale Hearing were good, complete and adequate.

I. Sale Process. The Sale was non-collusive, proposed and executed in good faith as a result of arms'-length negotiations, and was substantively and procedurally fair to all parties. The Bidding Procedures set forth in the Bidding Procedures Order were non-collusive, proposed and executed in good faith as a result of arms' length negotiations, and were substantively and procedurally fair to all parties. The Debtor conducted the sale process in accordance with, and have otherwise complied in all respects with, the Bidding Procedures Order. The sale process set forth in the Bidding Procedures Order, under the circumstances presently presented in this chapter 11 case, afforded a full, fair, and reasonable opportunity for any entity to make a higher or otherwise better offer to purchase the Trucks.

J. Highest and Best Offer. Under the circumstances presently presented in this chapter 11 case, the terms contained in the Purchase Agreement constitute the highest and

best offer for the Trucks, and will provide a greater recovery for Debtor's estate than would be provided by any other available alternative. Debtor's determination at the conclusion of the Auction process that the Purchase Agreement constitutes the highest and best offer for the Trucks, and that the Purchase Agreement constitutes the highest and best bid, is a valid and sound exercise of Debtor's business judgment. The Purchase Agreement and the Sale contemplated thereby represent a fair and reasonable offer to purchase the Trucks under the circumstances of the chapter 11 cases. No other entity or group of entities has presented a higher or otherwise better offer to Debtor to purchase the Trucks for greater economic value to Debtor's estate than Purchaser.

K. Best Interest of Estates, Creditors and Parties-In-Interest. Given all of the circumstances of the chapter 11 case and the adequacy and fair value of the consideration provided by Purchaser under the Purchase Agreement, the Sale constitutes a reasonable and sound exercise of the Debtor's business judgment, is in the best interests of the Debtor, its estate, its creditors, and other parties in interest, and should be approved.

L. Sound Business Purpose. The Debtor has demonstrated compelling circumstances and a good, sufficient, and sound business purpose and justification for the Sale of the Trucks outside the ordinary course of business under section 363(b) of the Bankruptcy Code, and before, and outside of, a plan of reorganization, and such action is an appropriate exercise of the Debtor's business judgment and in the best interests of the Debtor, its estate and its creditors. Such business reasons include, but are not limited to, the fact that, under the circumstances presently presented in this chapter 11 case: (1) the Purchase Agreement constitutes the highest and best offered terms for the Trucks; (2) the Purchase Agreement, and the closing of thereof,

will present the best opportunity to realize the value of the Trucks; and (3) any other transaction would not have yielded as favorable an economic result.

M. Good Faith. Purchaser is purchasing the Trucks in good faith and is a good-faith buyer within the meaning of section 363(m) of the Bankruptcy Code. Neither Purchaser nor any of its Affiliates, officers, directors, members, partners, principals, or shareholders (or equivalent) or any of their respective representatives, successors, or assigns is an "insider" (as defined under section 101(31) of the Bankruptcy Code) of the Debtor, and, therefore, is entitled to the full protections of that provision, and otherwise has proceeded in good faith in all respects in connection with this chapter 11 case in that: (1) Purchaser recognized that the Debtor was free to deal with any other party interested in acquiring the Trucks; (2) Purchaser complied with the provisions in the Bidding Procedures Order; (3) Purchaser agreed to subject its bid to the competitive bidding procedures set forth in the Bidding Procedures Order; (4) all payments to be made by Purchaser and other agreements or arrangements entered into by Purchaser in connection with the Sale have been disclosed; (5) Purchaser has not violated section 363(n) of the Bankruptcy Code by any action or inaction; and (6) the negotiation and execution of the Purchase Agreement, including the Sale contemplated thereby, were at arms' length and in good faith. There was no evidence of insider influence or improper conduct by Purchaser or any of its Affiliates in connection with the negotiation of the Purchase Agreement with the Debtor.

N. No Collusion. The Purchase Agreement and the transactions contemplated thereby cannot be avoided under section 363(n) of the Bankruptcy Code. As a good-faith purchaser of the Trucks, Purchaser has not colluded with any of the other bidders, potential bidders, or any other parties interested in the Trucks. Neither the Debtor and Purchaser,

nor any of their Affiliates, officers, directors, members, partners, principals, or shareholders (or equivalent) or any of their respective representatives, successors, or assigns have engaged in any conduct that would cause or permit the Purchase Agreement or the consummation of the transactions contemplated thereby to be avoided, or costs or damages to be imposed, under section 363(n) of the Bankruptcy Code.

O. Fair Consideration. The consideration provided by Purchaser pursuant to the Purchase Agreement: (1) is fair and adequate under the circumstances presently presented in this chapter 11 case; (2) constitutes reasonably equivalent value, fair consideration, and fair value under the circumstances presently presented in this chapter 11 case, under the Bankruptcy Code, and under the laws of the United States, any state, territory, possession, or the District of Columbia (including the Uniform Fraudulent Transfer Act, the Uniform Fraudulent Conveyance Act and similar laws); and (3) will provide a greater recovery for the Debtor's creditors than would be provided by any other reasonably practicable available alternative.

P. Valid Transfer. The transfer of each of the Trucks to Purchaser will be as of the Closing Date a legal, valid, and effective transfer of the Trucks, and vests or will vest Purchaser with all right, title, and interest of Debtor to the Trucks free and clear of all Interests or Claims (as defined below) accruing, arising or relating thereto any time prior to the Closing Date, unless otherwise expressly assumed under, or expressly permitted by, the Purchase Agreement or this Sale Order.

Q. Free and Clear Sale. The Debtor may sell the Trucks free and clear of all Interests or Claims against the Debtor, its estate, or any of the Trucks because, in each case, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied.

R. Consummation is Legal, Valid and Authorized. The consummation of the Sale is legal, valid, and properly authorized under all applicable provisions of the Bankruptcy Code, including sections 363(b), 363(f), 363(m), 365(b), and 365(f) of the Bankruptcy Code and all of the applicable requirements of such sections have been complied with in respect of the Sale.

S. Compliance with Local Rule 6004-1. The Debtor has complied with all provisions of Local Rule 6004-1, and has reasonably determined that an appraisal of the Trucks is not warranted under the facts of the Debtor's bankruptcy case.

T. Payment of the Break-Up Fee and Expense Reimbursement. The Bidding Procedures Order authorized the Debtor to pay the Break-Up Fee (as defined in the Bidding Procedures Order) of \$4,350 and Expense Reimbursement (as defined in the Bidding Procedures Order) of \$3,750 to Bayshore Ford Truck Sales, LLC in the event Bayshore Ford Truck Sales, LLC is not the winning bidder for the Trucks, (ii) Seller enters into an alternative transaction, (iii) an order is entered for a sale that approves all or substantially all of the Trucks to any person other than the Bayshore Ford Truck Sales, LLC, (iv) Seller materially breaches this Agreement, or (v) the Sale Order is not entered by the Bankruptcy Court on or before November 30, 2017. As set forth herein, Bayshore Ford Truck Sales, LLC is not the winning bidder for the Trucks, Seller proposes entering into an alternative transaction, and this Order authorizes a sale of substantially all of the Trucks to a person other than Bayshore Ford Truck Sales, LLC. As a result, at least three of the conditions warranting payment of the Break-Up Fee and Expense Reimbursement have been satisfied.

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

1. The relief requested in the Motion is granted as set forth herein.
2. Notice of the Motion, the Sale Hearing, the Bidding Procedures, the Auction, and the Sale was fair and equitable under the circumstances and complied in all respects with section 102(1) of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, and 6006, and Local Rule 6004-1.

Approval of the Sale of the Trucks

3. The Purchase Agreement, and all of the terms and conditions thereof and the Sale contemplated thereby, are hereby approved in all respects.
4. Pursuant to Sections 363 and 365 of the Bankruptcy Code, entry by the Debtor into the Purchase Agreement is hereby authorized and approved as a valid exercise of the Debtor's business judgment. Pursuant to Section 363(b) of the Bankruptcy Code, the Debtor is authorized and empowered, without further order of this Court, to take any and all actions necessary or appropriate to: (a) consummate and close the Sale pursuant to and in accordance with the terms and conditions of the Purchase Agreement; (b) transfer and assign all right, title, and interest to the Trucks in accordance with the terms and conditions of the Purchase Agreement; and (c) execute and deliver, perform under, consummate, and implement the Purchase Agreement and all additional instruments and documents that may be reasonably necessary or desirable to implement the Purchase Agreement and the Sale.
5. This Sale Order shall be binding in all respects upon the Debtor, its estate, all creditors, all holders of equity interests in the Debtor, all holders of any Interests or Claims (whether known or unknown) against the Debtor, any holders of Interests or Claims against or on all or any portion of the Trucks, Purchaser and all successors and assigns of Purchaser, and any

trustees, examiners, or other fiduciary under any section of the Bankruptcy Code, if any, subsequently appointed in the Debtor's chapter 11 case or upon a conversion to chapter 7 under the Bankruptcy Code of the Debtor's case. The terms and provisions of the Purchase Agreement and this Sale Order shall inure to the benefit of the Debtor, its estate, and its creditors, Purchaser, and its respective Affiliates, successors and assigns, and any other affected third parties, including all persons asserting any Interests or Claims in the Trucks pursuant to the Purchase Agreement, notwithstanding any subsequent appointment of any trustee(s), party, entity, or other fiduciary under any section of any chapter of the Bankruptcy Code, as to which trustee(s), party, entity, or other fiduciary such terms and provisions likewise shall be binding.

Sale and Transfer of Trucks

6. Pursuant to Sections 363(b), 363(f), 365(b) and 365(f) of the Bankruptcy Code, upon the Closing Date and pursuant to and except as otherwise set forth in the Purchase Agreement, the Trucks shall be transferred to Purchaser free and clear of all encumbrances, claims, interests, and liens.

7. Subject to the terms and conditions of this Sale Order, the transfer of Trucks to Purchaser pursuant to the Purchase Agreement, and the consummation of the Sale and any related actions contemplated thereby do not require any consents other than as specifically provided for in the Purchase Agreement, constitute a legal, valid, and effective transfer of the Trucks, and shall vest Purchaser with right, title, and interest of Debtor in and to the Trucks, free and clear of all Interests or Claims of any kind or nature whatsoever.

Additional Provisions

8. No Requirement to Comply With 11 U.S.C. § 363(B)(1) or Fed. R. Bankr. P. 6004(g). Purchaser is a Covered Entity or will become a Covered Entity and all personally

identifiable information will be transferred in compliance with The Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 300(gg), 29 U.S.C. § 1181 *et seq.*, 42 U.S.C. 1320(d) *et seq.*, resulting in no need for the appointment of the Consumer Privacy Ombudsman and no requirement that Debtor comply with Fed. R. Bankr. P. 6004(g).

9. Non-Interference. Following the Closing, no holder of an Interest or Claim in or against the Debtor or the Trucks shall interfere with Purchaser's title to or use and enjoyment of the Trucks based on or related to such Interest or Claim or any actions that the Debtor may take in this chapter 11 case or any successor case.

10. Authorization. The Debtor, including its respective officers, employees and agents, are hereby authorized to execute such documents and do such acts as are necessary or desirable to carry out the transaction contemplated by the terms and conditions of the Purchase Agreement and this Sale Order. The Debtor shall be, and it hereby is, authorized to take all such actions as may be necessary to effectuate the terms of this Sale Order and the relief granted pursuant to this Sale Order.

11. Good Faith. The Sale contemplated by the Purchase Agreement is undertaken by Purchaser without collusion and in good faith, as that term is defined in Section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale shall not affect the validity of the Sale (including the Sale free and clear of all Interests or Claims (unless otherwise assumed under, or permitted by, the Purchase Agreement or this Sale Order)), unless such authorization and consummation of such Sale are duly stayed pending such appeal. Purchaser is a good-faith buyer within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to the full protections of section 363(m) of the Bankruptcy Code. As a good-faith purchaser of the Trucks,

Purchaser has not colluded with any of the other bidders, potential bidders, or any other parties interested in the Trucks, and therefore neither the Debtor nor any successor in interest to the Debtor' estates nor any other party in interest shall be entitled to bring an action against Purchaser or any if its Affiliates, and the Sale of the Trucks may not be avoided pursuant to section 363(n) of the Bankruptcy Code.

12. Computations of Time-Periods. All time periods set forth in this Sale Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

13. Sale Order Governs In Event of Inconsistencies. To the extent that this Sale Order is inconsistent with any prior order or pleading with respect to the Motion in this chapter 11 case, the terms of this Sale Order shall govern. To the extent there are any inconsistencies between the terms of this Sale Order and the Purchase Agreement (including all ancillary documents executed in connection therewith), the terms of this Sale Order shall govern.

14. No Stay. Notwithstanding the provisions of Bankruptcy Rules 6004(h), 6006(d) or 7062 or any applicable provisions of the Local Bankruptcy Rules, this Sale Order shall not be stayed after the entry hereof, but shall be effective and enforceable immediately upon entry, and the fourteen (14) day stay provided in Bankruptcy Rules 6004(h) and 6006(d) is hereby expressly waived and shall not apply.

15. Payment of Break Up Fee and Expense Reimbursement. The Debtor is hereby authorized and directed to pay Bayshore Ford Truck Sales, LLC the amount of \$8,100.00, representing the total of the Break-Up Fee (\$4,350) and Expense Reimbursement (\$3,750).

16. Return of Deposit. The Debtor is hereby authorized and directed to return the deposit of Bayshore Ford Truck Sales, LLC in the amount of \$14,500, delivered in accordance with the Bidding Procedures Order.

17. Modifications. The Purchase Agreement may be modified, amended or supplemented by the parties thereto in accordance with the terms thereof without further order of this Court.

18. Retention of Jurisdiction. This Court shall retain jurisdiction to, among other things, interpret, implement, and enforce the terms and provisions of this Sale Order, the Purchase Agreement, all amendments thereto, any waivers and consents thereunder and of each of the agreements executed in connection therewith to which the Debtor is a party or which have been assigned by the Debtor to Purchaser, and to adjudicate, if necessary, any and all disputes concerning or relating in any way to the Sale.

Dated this 16th day of November, 2017, at New Haven, Connecticut.

Ann M. Nevins
United States Bankruptcy Judge
District of Connecticut

EXHIBIT A

ASSET PURCHASE AGREEMENT

THIS AGREEMENT (this "**Agreement**") is made and entered into as of the 15th day of November, 2017, by and between **Bailey's Express, Inc.** ("**Seller**" or "**Debtor**"), and **Toria Truck Rental & Leasing, Inc.**, (together with its successors and assigns as permitted by this Agreement, "**Purchaser**"). Each of the foregoing parties is individually herein called a "**Party**" and collectively called the "**Parties**".

RECITALS

A. Seller is the owner of 23 trucks located at 61 Industrial Park Road Middletown, CT 06457 (the "**Premises**").

B. On July 13, 2017 (the "**Petition Date**"), the Debtor filed a voluntary petition (the "**Petition**") for relief commencing a case under 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**").

C. Purchaser desires to purchase from Seller, and Seller desires to sell to Purchaser, the "**Acquired Assets**" (as hereinafter defined), upon the terms and conditions hereinafter set forth.

D. The Parties intend to effectuate the transactions contemplated by this Agreement through a sale of the Acquired Assets pursuant to Section 363 of the Bankruptcy Code.

E. The execution and delivery of this Agreement by Seller and Seller's ability to consummate the transactions set forth in this Agreement are subject, among other things, to the entry of the "**Sale Order**" (as hereinafter defined) by the Bankruptcy Court under, inter alia, Sections 105, 363 of the Bankruptcy Code or as otherwise agreed to by Purchaser.

NOW, THEREFORE, in consideration of the mutual undertakings of the parties hereto, it is hereby agreed as follows:

1. Certain Defined Terms. As used herein, the following terms shall have the meanings specified for the same below:

1.1 "**Alternative Transaction**" means Seller entering, or otherwise agreeing to enter, into a transaction or series of transactions involving a sale, transfer or other disposition of all or any portion of the Acquired Assets to another purchaser or purchasers other than Purchaser.

1.2 "**Bankruptcy Case**" means the case resulting from the Petition.

1.3 "**Bidding Procedures**" means the bid procedures set forth in the "Bidding Procedures Order" (as hereinafter defined).

1.4 "**Bidding Procedures Motion**" means the Motion of Seller for an order (A) Approving Procedures for the Sale of the Debtor's Assets, (B) Scheduling Auction and Hearing to Consider Approval of Sale, (C) Approving Notice of Respective Dates, Times and Places for Auction and Hearing on Approval of Sale and (D) Approving the Form and Manner of Notice of

Sale Process and of Approval Hearing, (E) Approving Purchaser as Stalking Horse Bidder with Break-up Fee and Allowance of Expense Reimbursement, and (F) Granting Related Relief filed by Seller on the Petition Date.

1.5 **"Bidding Procedures Order"** means the "Order" (as hereinafter defined) of the Bankruptcy Court approving the Bidding Procedures substantially in the form and substance acceptable to Purchaser in its sole discretion.

1.6 **"Business Day"** means any day other than a Saturday, Sunday or federal or California, Connecticut, Colorado or Delaware state holiday.

1.7 **"Contract"** means any agreement, contract, obligation, promise, instrument, undertaking, or other arrangements (whether oral or written) that is legally binding. However, in no event shall any "Permitted Encumbrance" (as hereinafter defined) constitute a Contract for purposes of this Agreement.

1.8 **"Debtor"** means, together, Seller and Bailey's Express, Inc.

1.9 **"Final Order"** means an action taken or Order issued by the applicable "Governmental Entity" (as hereinafter defined) as to which: (i) no request for stay of the action or Order is pending, no such stay is in effect, and, if any deadline for filing any such request is designated by statute or regulation, it is passed, including any extensions thereof, (ii) no petition for rehearing or reconsideration of the action or Order, or protest of any kind, is pending before the Governmental Entity and the time for filing any such petition or protest is passed, (iii) the Governmental Entity does not have the action or Order under reconsideration or review on its own motion and the time for such reconsideration or review has passed, and (iv) the action or Order is not then under judicial review, there is no notice of appeal or other application for judicial review pending, and the deadline for filing such notice of appeal or other application for judicial review has passed, including any extensions thereof; provided, however, that a request for a stay, appeal, motion to rehear or reconsider or petition for certiorari referred to above shall be disregarded for purposes of such clause if such request for a stay, appeal, motion to rehear or reconsider or petition for certiorari would not, individually or in the aggregate, reasonably be expected to result in more than \$5,000 of losses to Purchaser.

1.10 **"Governmental Entity"** means any federal, state, provincial, local, county or municipal government, governmental, regulatory or administrative agency, commission, board, bureau or other authority or instrumentality, domestic or foreign or any court, tribunal, arbitration panel or judicial body.

1.11 **"Legal Requirements"** means all federal, state and local laws, moratoria, initiatives, referenda, ordinances, rules, regulations, standards, orders, zoning conditions and other governmental requirements (including those relating to the environment, health and safety, or handicapped persons) applicable to the Acquired Assets and/or the Project.

1.12 **"Liability"** means any debt, loss, claim, damage, demand, fine, judgment, penalty, liability or obligation (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due), and including all costs and expenses relating thereto.

1.13 **"Order"** means any order, injunction, decree, ruling, writ, assessment or arbitration award of a Governmental Entity.

1.14 **"Person"** means any individual, corporation, partnership, joint venture, limited liability company, association, joint-stock company, trust, unincorporated organization or Governmental Entity.

1.15 **"Proceeding"** means any claim, charge, action, arbitration, audit, hearing, investigation, mediation, inquiry, proceeding, litigation, or suit (whether civil, criminal, administrative or investigative) commenced, brought, conducted, or heard by or before, or otherwise involving any Governmental Entity or arbitrator or mediator.

1.16 **"Sale Motion"** means a Motion of Seller for an Order, in form and substance acceptable to Purchaser in its sole discretion, (i) approving the sale of the Debtor's Assets Free and Clear of All Liens, Claims, Encumbrances, and other Interests, and (ii) Granting Related Relief.

1.17 **"Sale Order"** means an Order of the Bankruptcy Court, in form and substance acceptable to Purchaser in its sole discretion, authorizing and approving the sale of the Acquired Assets to Purchaser pursuant to this Agreement.

1.18 **"Seller Related Party"** means, with respect to Seller, its present and former shareholders, members, investors, managers, partners, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, legal representatives, employees, agents and other representatives, past and present. In no event shall Purchaser be deemed a Seller Related Party under this Agreement.

1.19 **"Tax" or "Taxes"** (and with correlative meaning, **"Taxing"**) means (i) any federal, state, provincial, local, foreign or other income, alternative, minimum, add-on minimum, accumulated earnings, personal holding company, franchise, capital stock, net worth, capital, profits, intangibles, windfall profits, gross receipts, value added, sales, use, goods and services, excise, customs duties, transfer, conveyance, mortgage, registration, stamp, documentary, recording, premium, severance, environmental (including taxes under Section 59A of the Internal Revenue Code), natural real sources, real property, personal property, ad valorem, intangibles, rent, occupancy, vault, license, occupational, employment, unemployment insurance, social security, disability, workers' compensation, payroll, health care, withholding, estimated or other similar taxes, duty, levies or other governmental charges or assessments or deficiencies thereof (including all interest, penalties and additions to tax whether disputed or not) and, (ii) any transferee liability in respect of any items described in clause (i) above.

1.20 **"Third Party Consents"** means the consents, approvals and waivers set forth on Exhibit "E".

1.21 **"Vehicles"** shall mean the vehicles more particularly described on Exhibit A to this Agreement (subject to removal of any Vehicles from Exhibit A by Purchaser), including, but not limited to all keys, accessories and parts associated with the Vehicles.


2. Purchase and Sale of Acquired Assets; Assumption of Assumed Liabilities.

2.1 Acquired Assets.

2.1.1 On the terms and subject to the conditions set forth in this Agreement, including approval of the Bankruptcy Court pursuant to Sections 105 and 363 of the Bankruptcy Code or pursuant to such other Sections of the Bankruptcy Code or as otherwise agreed to by Purchaser, at the "Closing" (as hereinafter defined), Seller shall sell, assign, transfer, convey, and deliver to Purchaser, and Purchaser shall purchase, **free and clear of all claims, interests, rights, liens or encumbrances of any kind whatsoever**, and accept from Seller, all right, title and interest of Seller in the assets of Seller in the Vehicles listed and described on Exhibit A hereto (collectively, the "**Acquired Assets**").

2.1.2 Notwithstanding anything in this Agreement to the contrary, at any time prior to Closing, Purchaser shall be entitled in its sole discretion to remove any Vehicles from the list of Acquired Assets by providing written notice thereof to Seller, and any Vehicles so removed shall not constitute Acquired Assets at Closing (and the same shall be Excluded Assets).

2.1.3 Upon acceptance by the Seller of this Agreement, the Seller shall refrain from using or operating the Vehicles, and shall secure the Vehicles safely at the Premises.

3. Purchase Price. The purchase price (the "**Purchase Price**") for the Acquired Assets shall be a total of \$165,000. The provisions of the foregoing clause of this Section 3 shall survive the Closing. *\$210,000* 

3.1 Deposit. Purchaser shall deliver ten percent (10%) of the Purchase Price \$16,500 (the "**Initial Deposit**") to the Seller, in its capacity as escrow holder hereunder, is called "**Escrow Agent**" on the date of the 363 Auction Sale which is immediately refundable if Purchaser's bid is not accepted

3.2 Payment of Purchase Price. On the Closing Date, the Buyer shall pay to Seller the Purchase Price, less the Escrow Deposit, as the case may be ("**Closing Payment**").

4. Conditions Precedent. The obligation of Purchaser to purchase, and Seller to sell, the Acquired Assets as contemplated by this Agreement is subject to satisfaction of each of the following respective conditions precedent (any of which, other than with respect to the Bankruptcy Court's entry of the Bidding Procedures Order and the Sale Order. If any of such conditions is not fulfilled (or waived by Purchaser in writing) pursuant to the terms of this Agreement, then the Party in whose favor such condition exists may terminate this Agreement and, in connection with any such termination made in accordance with this Section 4, Seller and Purchaser shall be released from further obligation or liability hereunder (except for those obligations and liabilities which, pursuant to the terms of this Agreement, survive such termination [and without releasing any Party for a breach or default occurring prior to such termination]).

4.1 Conditions Precedent to Obligation of Seller and Purchaser.

4.1.1 Final Sale Order/Closing. A condition precedent to the obligation of Purchaser to purchase, and Seller to sell, the Acquired Assets as contemplated by this Agreement,

including the allowance and the Debtor's payment of the Administrative Expense and Break-up Fee hereunder, shall be that the Sale Order shall have been entered and shall have become a Final Order on or before November 30, 2017.

4.1.2 No Adverse Governmental Entity Action. A condition precedent to the obligation of Purchaser to purchase, and Seller to sell, the Acquired Assets as contemplated by this Agreement, shall be that no Governmental Entity shall have enacted, issued, promulgated or entered any Order that is in effect and has the effect of making illegal or otherwise prohibiting the consummation of the transactions contemplated by this Agreement that has not been withdrawn or terminated.

4.1.3 Outside Closing Date. A condition precedent to the obligation of Purchaser to purchase, and Seller to sell, the Acquired Assets as contemplated by this Agreement, shall be that the Closing as contemplated herein shall have occurred on or before December 1, 2017.

4.2 Conditions Precedent to Obligation of Purchaser

4.2.1 Title Contingency. A condition precedent to Purchaser's obligation to purchase the Acquired Assets as contemplated by this Agreement shall be the irrevocable and unconditional written proof provided by Seller of the Debtor's clear title in the Vehicles.

4.2.2 Seller as Debtor. It shall be a condition to Purchaser's obligation to purchase the Acquired Assets as contemplated by this Agreement that Seller is the Debtor in the Bankruptcy Case, the Bankruptcy Case will be pending, and no trustee shall have been appointed in the Bankruptcy Case.

5. Closing Procedure. The sale and purchase herein provided shall be consummated (the "**Closing**") at a closing conference ("**Closing Conference**"), which shall be held on the Closing Date by mail or at a mutually satisfactory location. As used herein, "**Closing Date**" means five (5) Business Days after the date upon which all of the all of the conditions precedent set forth in this Agreement are satisfied or waived by both Parties (to the extent such conditions may be waived) or such earlier or later date as may be agreed upon in writing by the Parties.

6. Seller Deliveries. At Closing, Seller shall deliver to Purchaser the following:

- (a) The Vehicles at the Premises;
- (b) A duly executed bill of sale from Seller with respect to each Vehicle in the form of Exhibit "B"; and
- (c) A duly executed title for each Vehicle evidencing transfer to Purchaser.
- (d) Such additional documents as may be reasonably required by Purchaser in order to consummate the transactions hereunder (provided the same do not increase in any material respect the costs to, or liability or obligations of, Seller in a manner not otherwise provided for herein).

6.1.2 Purchaser Deliveries. Purchaser shall deliver to Seller the following:

(a) The Purchase Price, less any Escrow Deposit, less the amount of any Administrative Expenses.

7. Representations and Warranties.

7.1 Representations and Warranties of Seller.

7.1.1 Representations and Warranties of Seller. Seller hereby represents and warrants to Purchaser as follows:

(a) Title. Seller has good and marketable title to the Vehicles, free and clear of any claims, liens, interests or encumbrances.

(b) Registration. The Vehicles are registered by a Governmental Entity to legally operate on the road.

(c) Working Order. All Vehicles run and are drivable.

(d) Leases. The Vehicles are not subject of any leases.

(e) Litigation. There is no pending (and Seller has not received any written notice of any threatened) Proceeding involving any of the Vehicles.

(f) Compliance. Seller has received no written notice to the effect that the Vehicles are not in compliance with applicable laws and ordinances or that there has been or may be an investigation of the Vehicles by any Governmental Entity having jurisdiction over the Vehicles.

(g) Due Authority. This Agreement and all agreements, instruments and documents herein provided to be executed or to be caused to be executed by Seller is and on the Closing Date will be duly authorized, executed and delivered by and, subject to the entry of the Sale Order, are binding upon Seller. Seller has the capacity and authority to enter into this Agreement and, subject to the entry of the Sale Order, consummate the transactions herein provided without the consent or joinder of any other party.

(h) Consents; No Conflict. Except for consents and permissions of the Bankruptcy Court, Seller has obtained all consents and permissions related to the transactions herein contemplated and required under any covenant, agreement, encumbrance, or applicable laws. After giving effect to the Sale Order, neither this Agreement nor any agreement, document or instrument executed or to be executed in connection with the same, nor anything provided in or contemplated by this Agreement or any such other agreement, document or instrument, does now or shall hereafter breach, violate, invalidate, cancel, make inoperative or interfere with, or result in the acceleration or maturity of, any agreement, document, instrument, right or interest, or applicable law affecting or relating to Seller or the Acquired Assets.

8. Interim Covenants of Seller. Until the Closing Date or the sooner termination of this Agreement:

8.1 Maintenance and Operation. Seller shall maintain the Vehicles in the same manner as prior hereto pursuant to its normal course of business (such maintenance obligations not including extraordinary capital expenditures or expenditures not incurred in such normal course of business).

8.2 Service Agreements. Seller shall not enter into, materially modify or terminate any additional service contracts or other similar agreements relating to the Vehicles.

9. Certain Acknowledgments.

9.1 Bankruptcy Court Approval and Filings.

9.1.1 Seller and Purchaser acknowledge that this Agreement and the sale of the Acquired Assets are subject to Bankruptcy Court approval. Seller and Purchaser acknowledge that to obtain such approval, Seller must demonstrate that it has taken reasonable steps to obtain the highest or otherwise best offer possible for the Acquired Assets, including giving notice of the transactions contemplated by this Agreement to creditors and certain other interested parties as ordered by the Bankruptcy Court and, if necessary, conducting an auction in respect of the Acquired Assets (the "**Auction**"). Purchaser shall take such actions as are reasonably requested by Seller to assist in obtaining the Sale Order, including furnishing affidavits or other non-confidential documents or information for filing with the Bankruptcy Court.

9.1.2 Intentionally Omitted

9.1.3 In the event an appeal is taken or a stay pending appeal is requested, from the Sale Order, Seller shall promptly notify Purchaser of such appeal or stay request and shall promptly provide to Purchaser a copy of the related notice of appeal or order of stay. Seller shall also provide Purchaser with written notice of any motion or application filed in connection with any appeal from any of such orders. If an appeal or a stay of pending appeal is taken with respect to the Sale Order, Seller shall use its best efforts to cause the timely opposing and dismissing of such appeal or stay pending appeal and to cause such order to become a Final Order.

9.1.4 From and after the date of this Agreement, Seller shall not take any action that is intended to result in, or fail to take any action the intent of which failure to act would result in, the reversal, voiding, modification or staying of the Sale Order.

9.1.5 From and after the date of this Agreement, Seller shall provide Purchaser at least two (2) Business Days in advance of filing with the Bankruptcy Court, a draft of any motions, orders, notices, or other pleadings that Seller proposes to file with the Bankruptcy Court seeking approval of this Agreement. Seller shall cooperate with Purchaser and consider in good faith the views and any changes or revisions requested by Purchaser with respect to all such filings. Nothing contained herein shall be deemed to affect or alter the requirement that the form and substance of the Sale Order, **shall be in form and substance acceptable to Purchaser in its sole discretion.**

9.2 Intentionally Omitted


10. Failure of Closing; Certain Remedies.

10.1 If the transaction herein provided shall not close by reason of Seller's default under this Agreement or the termination of this Agreement, then the Escrow Deposit shall be returned to Purchaser, and neither Party shall have any further obligation or liability to the other (except under those provisions of this Agreement that expressly survive a termination of this Agreement)

10.2 **IN THE EVENT THE TRANSACTION HEREIN PROVIDED SHALL NOT CLOSE BY REASON OF PURCHASER'S DEFAULT UNDER THIS AGREEMENT (PROVIDED THAT ALL CONDITIONS TO PURCHASER'S OBLIGATION TO CLOSE HAVE BEEN SATISFIED OR WAIVED IN WRITING), THEN THE ESCROW DEPOSIT SHALL BE DELIVERED TO SELLER AS FULL COMPENSATION AND LIQUIDATED DAMAGES UNDER AND IN CONNECTION WITH THIS AGREEMENT, AND IN SUCH EVENT, PURCHASER SHALL NOT BE LIABLE TO SELLER FOR ANY MONETARY DAMAGES EXCEPT FOR PAYMENT OF THE ESCROW DEPOSIT TO SELLER AS AFORESAID, IF APPLICABLE. IN CONNECTION WITH THE FOREGOING, THE PARTIES RECOGNIZE THAT SELLER WILL INCUR EXPENSES IN CONNECTION WITH THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT; FURTHER, THAT IT IS EXTREMELY DIFFICULT AND IMPRACTICABLE TO ASCERTAIN THE EXTENT OF DETRIMENT TO SELLER CAUSED BY THE BREACH BY PURCHASER UNDER THIS AGREEMENT AND THE FAILURE OF THE CONSUMMATION OF THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT OR THE AMOUNT OF COMPENSATION SELLER SHOULD RECEIVE AS A RESULT OF PURCHASER'S BREACH OR DEFAULT. IN THE EVENT THE TRANSACTION HEREIN PROVIDED SHALL NOT BE CONSUMMATED ON ACCOUNT OF PURCHASER'S DEFAULT (ALL OF THE CONDITIONS TO PURCHASER'S OBLIGATION TO CLOSE HAVING BEEN SATISFIED OR WAIVED IN WRITING), THEN RECEIPT BY SELLER OF THE ESCROW DEPOSIT SHALL BE THE SOLE AND EXCLUSIVE REMEDY OF SELLER UNDER THIS AGREEMENT BY REASON OF SUCH DEFAULT, SUBJECT TO THE PROVISIONS OF THIS AGREEMENT THAT EXPRESSLY SURVIVE A TERMINATION OF THIS AGREEMENT.**



Seller's Initials



Purchaser's Initials

10.3 Upon the occurrence of an Alternative Transaction, Purchaser shall have the right to terminate this Agreement upon delivery of written notice to Seller. In the event of such a termination by Purchaser, then the Escrow Deposit shall be returned to Purchaser, and neither Party shall have any further obligation or liability hereunder to the other except with respect to the provisions of this Agreement that expressly survive a termination of this Agreement.

11. Miscellaneous.

11.1 Brokers.

11.1.1 Except as provided in Section 11.1.2 below, Seller represents and warrants to Purchaser, and Purchaser represents and warrants to Seller, that no broker or finder has been engaged by it, in connection with the sale contemplated by this Agreement. In the event of a claim for broker's or finder's fee or commissions in connection with the sale contemplated by this Agreement, then Seller shall indemnify, defend and hold harmless Purchaser from the same if it shall be based upon any statement or agreement alleged to have been made by Seller, and Purchaser shall indemnify, defend and hold harmless Seller from the same if it shall be based upon any statement or agreement alleged to have been made by Purchaser.

11.2 Taxes. In the event Seller is liable for any Taxes as a result of this transaction, Seller shall be solely responsible to pay all Taxes, including but not limited to transfer taxes or document title fees resulting to Seller as a result of the transaction hereunder.

11.3 Post-Closing Storage of Vehicles. After the Closing, the Vehicles shall be permitted to remain at the Premises for a period of not more than twenty-one (21) days, at no expense to Purchaser. Seller shall make Vehicles available for removal by Purchaser at any time after Closing upon notice not less than twenty-four (24) hours before such removal. Purchaser intends to remove the Vehicles immediately or on a mutually acceptable date.

11.4 Further Assurances. Each Party shall, from time to time, execute, acknowledge where appropriate and deliver, such further instruments and documents, and take such other action, as any other Party may reasonably request in order to carry out the intent and purpose of this Agreement or of any of the documents executed in connection herewith, at the expense of the Party making such request. This Section shall survive the Closing.

11.5 No Waiver. No waiver by a Party of any breach of this Agreement or of any warranty or representation hereunder by the other Party shall be deemed to be a waiver of any other breach by such other Party (whether preceding or succeeding and whether or not of the same or similar nature), and no acceptance of payment or performance by a Party after any breach by the other Party shall be deemed to be a waiver of any breach of this Agreement or of any representation or warranty hereunder by such other Party, whether or not the first Party knows of such breach at the time it accepts such payment or performance. No failure or delay by a Party to exercise any right it may have by reason of the default of the other Party shall operate as a waiver of default or modification of this Agreement or shall prevent the exercise of any right by the first Party while the other Party continues to be so in default. Closing shall constitute a waiver of any condition to Closing, but shall not constitute a waiver of liability for a breach occurring prior to Closing.

11.6 Consents and Approvals. Except as otherwise expressly provided herein, any approval or consent provided to be given by a Party hereunder must be in writing to be effective and may be given or withheld in the sole and absolute discretion of such Party.

11.7 Press Releases. Any press release issued with respect to the transactions contemplated by this Agreement shall be subject to the prior approval of Purchaser and Seller. This Section shall survive the Closing or termination of this Agreement.

11.8 Confidentiality. Each Party agrees that it will treat in confidence all documents, materials and other information that it shall have obtained regarding the other Party during the course of the negotiations leading to the consummation of the transactions contemplated hereby (whether obtained before or after the date of this Agreement), the investigation provided for herein and the preparation of this Agreement and other related documents. Such documents, materials and information shall not be disclosed or communicated to any third Person (other than, in the case of Purchaser, to its counsel, accountants, financial advisors and potential lenders, and in the case of Seller, to its counsel, accountants and financial advisors). No Party shall use any confidential information referred to in the immediately preceding sentence in any manner whatsoever except solely for the purpose of evaluating the proposed purchase and sale of the Acquired Assets and the enforcement of its rights hereunder and under the documents executed in connection with this Agreement; provided, however, that after the Closing, Purchaser may use or disclose any confidential information that is otherwise reasonably related to the ownership and operation of the Vehicles. The obligation of each Party to treat such documents, materials and other information in confidence shall not apply to any information that (i) is or becomes available to such Party from a source other than such Party, (ii) is or becomes available to the public other than as a result of disclosure by such Party or its agents, (iii) is required to be disclosed under applicable law or judicial process, including the Bankruptcy Case, but only to the extent it must be disclosed, or (iv) such Party reasonably deems necessary to disclose to obtain any of the consents or approvals contemplated hereby. This Section shall survive the Closing or termination of this Agreement.

11.9 Modification. This Agreement may not be modified or amended except by written agreement signed by Seller and Purchaser and to the extent required with the approval of the Bankruptcy Court.

11.10 Matters of Construction.

11.10.1 Incorporation of Exhibits. All exhibits attached and referred to in this Agreement are hereby incorporated herein as fully set forth in (and shall be deemed to be a part of) this Agreement.

11.10.2 Entire Agreement. This Agreement contains the entire agreement between the Parties respecting the matters herein set forth and supersedes all prior agreements between the Parties hereto respecting such matters.

11.10.3 Non-Business Days. Whenever action must be taken (including the giving of notice or the delivery of documents) under this Agreement during a certain period of time (or by a particular date) that ends (or occurs) on a non-Business Day, then such period (or date) shall be extended until the immediately following Business Day.

11.10.4 Severability. If any portion of this Agreement shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portion of this Agreement shall not be affected thereby and shall remain in full force and effect to the fullest extent permissible by law.

11.10.5 Interpretation. Words used in the singular shall include the plural, and vice-versa, and any gender shall be deemed to include the other. Whenever the words "including", "include" or "includes" are used in this Agreement, they shall be interpreted in a non-exclusive manner. The captions and headings of the Sections of this Agreement are for convenience of reference only, and shall not be deemed to define or limit the provisions hereof. Except as otherwise indicated, all Exhibit and Section references in this Agreement shall be deemed to refer to the Exhibits and Sections in this Agreement. Each Party acknowledges and agrees that this Agreement (a) has been reviewed by it and its counsel, (b) is the product of negotiations between the parties, and (c) shall not be deemed prepared or drafted by either Party. In the event of any dispute between the parties concerning this Agreement, the parties agree that any ambiguity in the language of this Agreement is to not to be resolved against Seller or Purchaser, but shall be given a reasonable interpretation in accordance with the plain meaning of the terms of this Agreement and the intent of the Parties as manifested hereby.

11.10.6 Governing Law. THIS AGREEMENT SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF DELAWARE (WITHOUT REGARD TO CONFLICTS OF LAW). EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY CONSENTS TO SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE BANKRUPTCY COURT FOR ANY LITIGATION ARISING OUT OF OR RELATING TO THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY (AND AGREES NOT TO COMMENCE ANY LITIGATION RELATING THERETO EXCEPT IN THE BANKRUPTCY COURT), AND WAIVES ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUCH LITIGATION IN THE BANKRUPTCY COURT. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

11.10.7 Third Party Beneficiaries. Except as otherwise expressly provided in this Agreement, Seller and Purchaser do not intend by any provision of this Agreement to confer any right, remedy or benefit upon any third party, and no third party shall be entitled to enforce or otherwise shall acquire any right, remedy or benefit by reason of any provision of this Agreement.

11.11 No Joint Venture. This Agreement does not and shall not be construed to create a partnership, joint venture or any other relationship between the parties hereto except the relationship of the seller and purchaser specifically established hereby.

11.12 Successors and Assigns. Neither Party may assign or transfer its rights or obligations under this Agreement without the prior written consent of the other Party (in which event such transferee shall assume in writing all of the transferor's obligations hereunder, but such transferor shall not be released from its obligations hereunder). Seller hereby consents to the assignment by Purchaser of its interest in this Agreement to an entity controlled by or under common control with Purchaser, provided Purchaser gives Seller prior written notice of the same and causes to be fully executed and delivered to Seller an assignment and assumption agreement in form reasonably satisfactory to Seller. No consent given by Seller to any transfer or assignment of Purchaser's rights or obligations hereunder shall be construed as a consent to any other transfer or assignment of Purchaser's rights or obligations hereunder. No transfer or assignment in violation of

the provisions hereof shall be valid or enforceable. Subject to the foregoing, this Agreement and the terms and provisions hereof shall inure to the benefit of and be binding upon the successors and assigns of the parties.

11.13 Notices. Any notice which a Party is required or may desire to give another Party shall be in writing and may be delivered (a) personally, (b) by United States registered or certified mail, postage prepaid, (c) by Federal Express or other reputable courier service regularly providing evidence of delivery (with charges paid by the Party sending the notice), or (d) by facsimile or a PDF or similar attachment to an email, provided that such telecopy or email attachment shall be followed within one (1) Business Day by delivery of such notice pursuant to clause (a), (b) or (c) above. Any such notice to a Party shall be addressed at the address set forth below (subject to the right of a Party to designate a different address for itself by notice similarly given). Service of any such notice or other communications so made shall be deemed effective on the day of actual delivery (whether accepted or refused) as evidenced by printed confirmation if by facsimile or email attachment (provided that if any notice or other communication to be delivered by facsimile or email attachment as provided above cannot be transmitted because of a problem affecting the receiving Party's facsimile machine or computer, the deadline for receiving such notice or other communication shall be extended through the next Business Day), as shown by the addressee's return receipt if by certified mail, and as confirmed by the courier service if by courier; provided, however, that if such actual delivery occurs after 5:00 p.m. (local time where received) or on a non-Business Day, then such notice or communication so made shall be deemed effective on the first Business Day after the day of actual delivery. Except as expressly provided above and in Section 11.15 with respect to certain email attachments, no communications via electronic mail shall be effective to give any notice, request, direction, demand, consent, waiver, approval or other communications hereunder.

TO SELLER:

Elizabeth J. Austin
Pullman and Comley
850 Main Street
P.O. Box 7006
Bridgeport, CT 06601-7006

TO PURCHASER:

Edward Michaels
Toria Truck Rental & Leasing, Inc.
1005 New Britain Avenue
West Hartford, CT 06110 (860) 241-0400

11.14 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same document. The delivery of an executed counterpart to this Agreement by facsimile or as a PDF or similar attachment to an email shall constitute effective delivery of such counterpart for all purposes with the same force and effect as the delivery of an original, executed counterpart.

[Signatures on following page]

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

SELLER:

BAILEY'S EXPRESS INC.

By: 

Name: 

Title: Chief Restructuring Officer

PURCHASER:

Toria Truck Rental & Leasing, Inc.

By: 

Name: EDWARD MICHAELS

Title: President

EXHIBIT "A"

LIST OF VEHICLES

Sheet1

Truck number	Make	Model	Year	Vin	Price
55	Ford	LNT9000	1995	1FDYW90U3SVA29552	\$2,000.00
57	Ford	LNT9000	1998	1FTYW96Y7WVA40431	\$1,250.00
58	Sterling	LT95010	2000	2FWPEDYB8YAF59389	\$1,250.00
59	Sterling	LT95010	2000	2FWPEDYB7YAG67924	\$2,750.00
60	Sterling	LT95010	2000	2FWPEDYB1YAH30242	\$3,000.00
61	Sterling	LT95010	2000	2FWPEDYB81AH30583	\$3,000.00
62	Sterling	LT95010	2001	2FWJAZBD11AH30479	\$3,500.00
63	Sterling	LT95010	2001	2FWJAZBD71AJ20440	\$4,000.00
64	Sterling	LT95010	2002	2FWJAZBD32AJ69474	\$4,000.00
66	Kenworth	T800	2003	1XKDD69X53J708269	\$6,500.00
67	Kenworth	T800	2003	1XKDD69X13J708270	\$6,000.00
69	Kenworth	T800	2003	1XKDD69X33J394914	\$6,000.00
70	Kenworth	T800	2003	1XKDD69X53J394915	\$6,500.00
71	Kenworth	T800	2006	1XKDD49X46J104382	\$9,000.00
72	Kenworth	T800	2006	1XKDD49X36J137812	\$7,000.00
73	Kenworth	T800	2006	1XKDD49X07J144315	\$8,500.00
74	Kenworth	T800	2007	1XKDD49X275144316	\$10,500.00
75	Kenworth	T440	2013	1XKBA58X2DJ358743	\$19,750.00
76	Kenworth	T440	2013	1XKBAJ8X3EJ408771	\$21,500.00
Ol1	Ottawa	Com-430	1992	67047	\$4,000.00
Ol2	Ottawa	Com-430	2001	303143	\$4,000.00
Ford1	Ford	F350 Dump w/plow	1994	1FDKF38KXREA12022	\$4,500.00
Ford2	Ford	F350 duel rear w/plow	2000	1FTWX33F5YEB36792	\$6,500.00
					\$145,000.00

EXHIBIT B

Bill of Sale

IN CONSIDERATION OF the sum of \$210,000 USD, Bailey's Express, Inc. of 61 Industrial Park Road in Middletown, CT 06457 (the "Seller"), sells to Toria Truck Rental & Leasing, Inc., 1005 New Britain Avenue, West Hartford, CT 06110 (the "Purchaser"), the following motor vehicles:

Truck number	Make	Model	Year	Vin	Price
55	Ford	LNT9000	1995	1FDYW90U3SVA29552	\$2,000.00
57	Ford	LNT9000	1998	1FTYW96Y7WVA40431	\$1,250.00
58	Sterling	LT95010	2000	2FWPEDYB8YAF59389	\$1,250.00
59	Sterling	LT95010	2000	2FWPEDYB7YAG67924	\$2,750.00
60	Sterling	LT95010	2000	2FWPEDYB1YAH30242	\$3,000.00
61	Sterling	LT95010	2000	2FWPEDYB81AH30583	\$3,000.00
62	Sterling	LT95010	2001	2FWJAZBD11AH30479	\$3,500.00
63	Sterling	LT95010	2001	2FWJAZBD71AJ20440	\$4,000.00
64	Sterling	LT95010	2002	2FWJAZBD32AJ69474	\$4,000.00
66	Kenworth	T800	2003	1XKDD69X53J708269	\$6,500.00
67	Kenworth	T800	2003	1XKDD69X13J708270	\$6,000.00
69	Kenworth	T800	2003	1XKDD69X33J394914	\$6,000.00
70	Kenworth	T800	2003	1XKDD69X53J394915	\$6,500.00
71	Kenworth	T800	2006	1XKDD49X46J104382	\$9,000.00
72	Kenworth	T800	2006	1XKDD49X36J137812	\$7,000.00
73	Kenworth	T800	2006	1XKDD49X07J144315	\$8,500.00
74	Kenworth	T800	2007	1XKDD49X275144316	\$10,500.00
75	Kenworth	T440	2013	1XKBA58X2DJ358743	\$19,750.00
76	Kenworth	T440	2013	1XKBAJ8X3EJ408771	\$21,500.00
Ot1	Ottawa	Com-430	1992	67047	\$4,000.00
Ot2	Ottawa	Com-430	2001	303143	\$4,000.00
Ford1	Ford	F350 Dump w/plow	1994	1FDKF38KXREA12022	\$4,500.00
Ford2	Ford	F350 duel rear w/plow	2000	1FTWX33F5YEB36792	\$6,500.00

Upon receipt of final fund payment, Bailey's Express, Inc. will release and forward titles to Toria Truck Rental & Leasing, Inc., 1005 New Britain Avenue, West Hartford, CT 06110

Seller
David Allen
Bailey's Express, Inc

Purchaser
Edward Michaels
President
Toria Truck Rental & Leasing, Inc.