

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In re:

Chapter 11

BLEACHER CREATURES, LLC,

Case No. 17-13162 (JKF)

Debtor.<sup>1</sup>

**ORDER (I) APPROVING AN ASSET PURCHASE AGREEMENT BETWEEN THE DEBTOR AND THE STALKING HORSE, OR SUCH OTHER PURCHASE AGREEMENT BETWEEN THE DEBTOR AND THE PREVAILING BIDDER; (II) AUTHORIZING THE SALE OF CERTAIN ASSETS OF THE DEBTOR FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS; (III) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES; AND (IV) GRANTING RELATED RELIEF**

AND NOW, this 14<sup>th</sup> day of June, 2017, upon consideration of the motion of the above-captioned debtor and debtor in possession (the "Debtor") for entry of an Order (i) approving an asset purchase agreement (the "APA") between the Debtor and Bleacher Acquisition, LLC, or such other purchase agreement between the Debtor and the Prevailing Bidder (the "Buyer"); (ii) authorizing the sale of certain of the Debtor's assets free and clear of all liens, claims, encumbrances, and other interests; (iii) authorizing the assumption of certain executory contracts and/or unexpired leases (the "Designated Contracts") and the assignment of the Designated Contracts to the Buyer; and (iv) granting related relief (the "Sale Motion");<sup>2</sup> and the Court having jurisdiction to consider the relief requested in the Sale Motion under 28 U.S.C. §§ 157(b)(2) and 1334; and the relief requested in the Sale Motion being a core proceeding in accordance with 28 U.S.C. § 157(b); and the appearance of all interested parties and all

<sup>1</sup> The last four digits of the Debtor's federal tax identification number are (4547). The principal place of business of the Debtor is 527 Plymouth Road, Suite 407, Plymouth Meeting, Pennsylvania 19462.

<sup>2</sup> Capitalized but undefined terms have the meaning ascribed to them in the Sale Motion or the APA, as applicable.

responses and objections to the Sale Motion, including all Assignment Objections, having been duly noted in the record of the hearing held on the Sale Motion; and upon the record established at the hearing on the Sale Motion, and all other pleadings and proceedings in this case, including the Sale Motion; and after due deliberation and sufficient cause otherwise appearing therefor,

**IT IS HEREBY FOUND AND DETERMINED THAT:**

A. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent 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. Good and sufficient notice of the Sale Motion and the hearing on the Sale Motion has been provided to known and unknown creditors of the Debtor in accordance with sections 102(1) and 363(b) of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 9006, 9007, 9008, and 9014, the Local Rules of this Court, and the due process requirements of the United States Constitution. No other or further notice of the Sale Motion or the hearing thereon or the entry of this Order is necessary or required.

C. A reasonable opportunity to object or be heard regarding the relief requested in the Sale Motion has been afforded to all interested persons and entities, including, without limitation, (i) all creditors who claim an interest in or lien upon the Assets; (ii) all governmental taxing authorities who have, or as a result of the sale of the Assets may have, claims, contingent or otherwise, against the Debtor; (iii) all counterparties to Contracts; (iv) all parties who filed requests for notices under Bankruptcy Rule 9010(b) or were entitled to notice under Bankruptcy Rule 2002; (v) all federal, state, and local regulatory or taxing authorities or recording offices

with a known interest in the relief requested; (vi) the Office of the United States Trustee; and (vii) all entities that have expressed to the Debtor an interest in purchasing the Assets.

D. The Bidding Process described in the Motion was fair and appropriate under the circumstances and designed in good faith to produce the highest and best offer for the Assets, and a reasonable opportunity has been afforded to all interested parties to make a higher and better offer to purchase the Assets.

E. The Assignment Procedures described in the Motion were fair and appropriate under the circumstances, adequately apprised contract counterparties of the intended assumption and assignment of their respective contracts and the terms thereof, including all Cure Amounts, and provided all such counterparties to appear and be heard with respect to the assumption and assignment of the Designated Contracts.

F. The Debtor has demonstrated a sufficient basis to sell the Assets under section 363 of the Bankruptcy Code, and to assume and assign the Designated Contracts under section 365 of the Bankruptcy Code, and such actions are appropriate exercises of the Debtor's business judgment and in the best interests of the Debtor, its creditors, and its bankruptcy estate. Without a sale of the Assets free and clear of all liens, there will be a substantial diminution in the value of the Debtor and its assets to the detriment of its creditors and other parties in interest. A valid business purpose exists for the approval of the transactions contemplated by the Sale Motion pursuant to sections 363 and 365 of the Bankruptcy Code.

G. The offer of the Buyer to purchase and/or accept an assignment of the Assets and Contracts is the best offer received by the Debtor and the purchase price is fair, is in the best interest of the Debtor's estate, and constitutes full and adequate consideration and reasonably equivalent value for the Assets.

H. The Buyer is a buyer in good faith and is entitled to the protection of sections 363(m) and (n) of the Bankruptcy Code with respect to all of the Assets. The APA was negotiated and entered into in good faith, based upon arm's length bargaining, and without collusion. To the extent that an Auction was conducted, it was conducted in good faith within the meaning of section 363(m) of the Bankruptcy Code. Neither the Debtor nor the Buyer has engaged in any conduct that would prevent the application of section 363(m) of the Bankruptcy Code or cause the application of section 363(n) to the APA or the Sale.

I. The Debtor has full corporate power and authority to execute the APA and all other documents contemplated thereby, and the sale of the Assets has been duly and validly authorized by all corporate authority necessary to consummate the transactions contemplated by the APA. No consents or approvals, other than as expressly provided for in the APA, are required by the Debtor to consummate such transactions. The transfer of the Assets from the Debtor to the Buyer is a legal, valid, and effective transfer of the Assets, notwithstanding any requirement for approval or consent by any person.

J. The terms and conditions of the APA, including the total consideration to be realized by the Debtor pursuant to the APA, are fair and reasonable, and the transactions contemplated by the APA are in the best interest of the Debtor's bankruptcy estate.

L. Cause has been shown as to why this Order should not be subject to the stay provided by Bankruptcy Rules 6004 and 6006.

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

1. The Sale Motion is granted in its entirety.

2. The APA attached hereto as Exhibit 1 and the transactions contemplated thereby are hereby approved. The Debtor is hereby authorized and empowered to enter into, and to perform its obligations under, the APA and to execute and perform such agreements or documents and take such other actions as are necessary or desirable to effectuate the terms of the APA. The failure to include or reference any particular provisions of the APA or any related agreements in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court, the Debtor, and the Buyer that the APA and any related agreements are authorized and approved in their entirety with such amendments thereto as may be made by the parties in accordance with this Order.

3. All objections and responses concerning the Sale Motion, including any Assignment Objections, are resolved in accordance with the terms of this Order and as set forth in the record of the Sale Hearing. To the extent any such objection or response was not otherwise withdrawn, waived, adjourned, or settled, it, and all reservations and rights contained therein, are overruled and denied.

4. The Sale of the Assets shall be free and clear of any and all liens, claims, encumbrances, and interests, whether secured or unsecured, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, contingent or non-contingent, liquidated or unliquidated, matured or unmatured, disputed or undisputed, or known or unknown, whether arising before or after the Petition Date, whether imposed by agreement, understanding, law, equity, or otherwise.

5. The Buyer is not a successor to the Debtor or its estate by reason of any theory of law or equity and the Buyer shall not assume or in any way be responsible for any liability or obligation of the Debtor and/or its estate, except as otherwise expressly provided in the APA and

related documents. Pursuant to sections 105 and 363 of the Bankruptcy Code, any and all creditors of the Debtor shall be barred, estopped, and enjoined from taking any action of any kind against the Buyer or the Assets on account of any claim against the Debtor or any Asset arising prior to the Closing.

6. Effective as of the Closing, the sale of the Assets by the Debtor to the Buyer shall constitute a legal, valid, and effective transfer of the Assets notwithstanding any requirement for approval or consent by any person and shall vest the Buyer with all right, title, and interest of the Debtor in and to the Assets, free and clear of all liens, pursuant to section 363(f) of the Bankruptcy Code and this Order. This Order shall constitute all approvals and consents, if any, required by applicable corporation laws and all other applicable business corporation, trust, and other laws of the applicable governmental units with respect to the implementation and consummation of the APA, any related agreements, and this Order, and the transactions contemplated therein.

7. The sale of the Assets to Buyer under the APA is a transfer for reasonably equivalent value and fair consideration under the Bankruptcy Code and all applicable law.

8. The Buyer is hereby granted and is entitled to the protections provided to a good faith Buyer under section 363(m) of the Bankruptcy Code. The Sale approved by this Order is not subject to avoidance pursuant to section 363(n) of the Bankruptcy Code.

9. The Debtor is hereby authorized and empowered, pursuant to sections 105 and 365 of the Bankruptcy Code, to assume and assign the Designated Contracts to the Buyer.

10. Upon Closing, the Designated Contracts shall be transferred to, and remain in full force and effect for the benefit of the Buyer, notwithstanding any provision in the Designated

Contracts, including those described in sections 365(b)(2), (f)(1), and (f)(3) of the Bankruptcy Code, that prohibit such assignment.

11. All counterparties to any Designated Contract are hereby (a) forever barred from objecting to the assumption and assignment of any Designated Contract including, without limitation, asserting any additional cure payments or requesting additional assurance of future performance as it relates to this Sale; (b) deemed to have consented to the applicable Cure Amount, if any, and to the assumption and assignment of the Designated Contract as part of the Sale; (c) bound to such corresponding Cure Amount, if any; (d) deemed to have agreed that the Buyer has provided adequate assurance of future performance within the meaning of section 365(b)(1)(C) of the Bankruptcy Code; (e) deemed to have agreed that all defaults under the applicable Designated Contract arising or continuing prior to the Assignment Objection Deadline have been cured as a result or precondition of the assignment, such that Buyer and the Debtor shall have no liability or obligation with respect to any default occurring or continuing prior to the Assignment Objection Deadline, and from and after the date of assignment, the applicable Designated Contract shall remain in full force and effect for the benefit of Buyer and such counterparty in accordance with the Designated Contract's terms; (f) deemed to have waived any right to terminate the applicable Designated Contract or designate an early termination date under the applicable Designated Contract as a result of any default that occurred and/or was continuing prior to the assignment date; and (g) deemed to have agreed that the terms of this Order shall apply to the assumption and assignment of the applicable Designated Contract.

12. This Order and the APA shall be binding upon, and shall inure to the benefit of, the Debtor and the Buyer, and their respective successors and assigns, including without

limitation, any chapter 11 trustee hereinafter appointed for the Debtor's estate or any trustee appointed in a chapter 7 case if this case is converted from chapter 11.

13. The Debtor and the Buyer shall be and hereby are authorized and empowered to take all actions and execute and deliver any and all documents and instruments take any action to carry out all of the provisions of the APA and any related agreements that either the Debtor or the Buyer deems necessary or appropriate to implement and effectuate the terms of the APA and this Order, all without further application to, or order of, the Court.

14. The APA and any related agreements may be waived, modified, amended, or supplemented by agreement of the Debtor and the Buyer without further action of the Court; provided, however, that any such waiver, modification, amendment, or supplement is not material to and effectuates the APA.

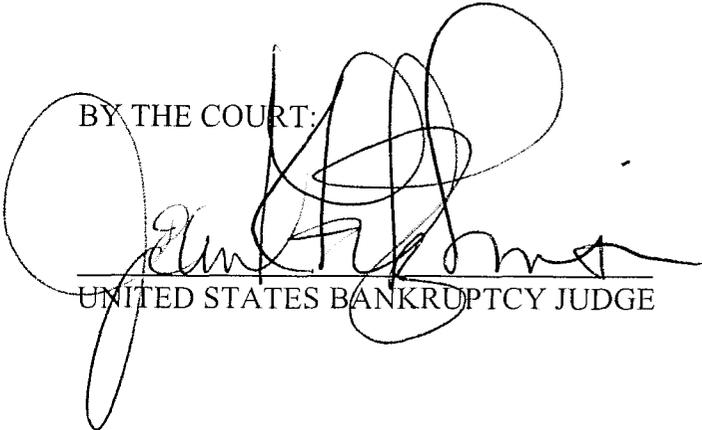
15. No bulk sale law or any similar law of any state or other jurisdiction shall apply in any way to the transaction contemplated by the APA.

16. To the extent any provisions of this Order conflict with the terms and conditions of the APA, this Order shall govern and control.

17. Notwithstanding Bankruptcy Rules 6004(g) and 6006(d), this Order shall be effective and enforceable immediately upon entry and its provisions shall be self-executing.

*[Remainder of Page Intentionally Blank]*

18. This Court shall retain exclusive jurisdiction to enforce the provisions of this Order and the APA and to resolve any dispute concerning this Order, the APA, or the rights and duties of the parties hereunder or thereunder or any issues relating to the APA and this Order, including, but not limited to, the interpretation of the terms, conditions and provisions hereof, the status, nature and extent of the Assets and all issues and disputes arising in connection with the relief authorized herein.

BY THE COURT:  
  
UNITED STATES BANKRUPTCY JUDGE

Copies to: attached service list

Bleacher Creatures, LLC  
527 Plymouth Road, Suite 407  
Plymouth Meeting, PA 19462

Beneficial Mutual Savings Bank  
1818 Beneficial Bank Place  
1818 Market Street  
Philadelphia PA 19103

Office of the United States Trustee  
833 Chestnut Street, Suite 500  
Philadelphia, PA 19107

Counsel to the Stalking Horse Bidder  
Thomas D. Bielli, Esquire  
Bielli & Klauder, LLC  
1500 Walnut Street, Suite 900  
Philadelphia, PA 19102

**Twenty Largest**

American Express  
Accounts Receivable  
P.O. Box 360001  
Fort Lauderdale, FL 33336

Anbest Toys and Gifts  
Attn.: Cherry  
No.66 Lianxin Road, Guangling District  
Yangzhou, Jiangsu, CHINA

Animal Magic Asia Ltd.  
Attn.: Willem  
BV Transvaalkade 13 1092 JK  
Amsterdam, NETHERLANDS

Ben Crudo Consulting Inc.  
Attn.: Ben Crudo  
4020 St-Ambroise Suite 198  
Montreal Quebec, CANADA H4C2C7

Chase Card Services  
Cardmember Service  
PO Box 15153  
Wilmington, DE 19886-5153

Distribution Alternatives dba DSS  
Attn.: Margaret Zaro  
435 Park Court  
Lino Lakes, MN 55014

Labyrinth Sales  
Attn.: Jackie Hughes  
29500 Aurora Road Suite 8  
Solon, OH 44139

Leo Guthart  
96 I U Willets Road  
Old Westbury, NY 11568

Major League Baseball Players' Assoc.  
Attn.: Tim Anziano  
12 East 49th Street  
New York, NY 10017

Major League Baseball Properties, Inc.  
Attn.: Karen Abdul  
12 East 49th Street  
New York, NY 10017

Marvel Characters B.V.  
c/o Marvel Entertainment, LLC  
Attn.: Yolanda Cruz  
135 West 50th Street, 7th Floor  
New York, NY 10019

NBA Properties, Inc.  
Attn.: Lindsay Milne  
P.O. Box 10602  
Newark, NJ 07193

NFL Players Incorporated  
Attn.: Iva Lamanna/Karen Austin  
1133 20th Street, N.W.  
Washington, DC 20036

NHL Enterprises, LP  
Attn.: Mary Beth Hunt  
185 Avenue of the Americas  
New York, NY 10036

National Hockey League Players Assoc.  
Attn.: Jennifer Coleman  
10 Bay Street, Suite 1200,  
Toronto, Ontario M5J 2R8, CANADA

STC Company Ltd  
Attn.: Linda Chen  
68 Fumin Nan Road, Dalang  
Dongguan, Guangdong CHINA

Soccer United Marketing  
Attn.: Alyssa Charger  
420 5th Avenue, 7th Floor  
New York, NY 10018

Warner Brothers  
c/o JP Morgan WBCP- LB#21477  
131 S. Dearborn - 6th Floor  
Chicago, IL 60603

Weiss-Rohlig USA LLC  
Attn.: Shan Lam-Firms  
Code I352  
1601 Estates Avenue  
Elk Grove Village, IL 60007

Wells Fargo Bank  
481 W Germantown Pike  
Plymouth Meeting, PA 19462

**Exhibit 1**

## ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (this "Agreement"), is made as of May 3, 2017, by and between **Bleacher Creatures, LLC** a Delaware limited liability company registered to do business in Pennsylvania, with a mailing address of 527 Plymouth Road, Suite 407, Plymouth Meeting, Pennsylvania, 19462 ("Seller"), and **Bleacher Acquisition, LLC** a Delaware limited liability company with a mailing address of 6 West 20th Street, 3rd Floor, New York, NY 10011 ("Buyer"). Buyer and Seller are each a "Party" and collectively the "Parties." Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in Article 1 below.

### RECITALS:

**WHEREAS**, Seller is engaged in the business of manufacturing, distributing, and selling plush toys that resemble popular athletes, sports mascots, public figures, and characters from movies, comics, and other popular media (the "Business");

**WHEREAS**, on or about May 2, 2017, Seller commenced a voluntary case (the "Bankruptcy Case") under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the "Bankruptcy Code"), in the United States Bankruptcy Court for the Eastern District of Pennsylvania (the "Bankruptcy Court") and docketed as *In re Bleacher Creatures, LLC*, Case No. 17-13162;

**WHEREAS**, Seller desires to sell substantially all of the Business (*i.e.*, the Acquired Assets (as defined below)) and Buyer desires to purchase from Seller the Acquired Assets, subject to the terms and conditions of this Agreement;

**WHEREAS**, the Parties intend that the Acquired Assets include (but are not limited to) all of Seller's intellectual property, inventory, equipment, leases, accounts receivable, related Documentation, and certain other assets and Contracts which Buyer requires to operate Seller's Business; and

**WHEREAS**, the Acquired Assets will be sold pursuant to the terms of this Agreement and an order of the Bankruptcy Court approving and authorizing such sale pursuant to, *inter alia*, sections 363 and 365 of the Bankruptcy Code.

### AGREEMENTS:

**NOW, THEREFORE**, in consideration of the foregoing and the mutual covenants and promises contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereto agree as follows:

### ARTICLE 1 DEFINITIONS

1.1. **Defined Terms**. In addition to terms that are used and otherwise defined in this Agreement, the terms below shall have the following meanings:

“**Acquired Assets**” has the meaning set forth in Section 2.1 of this Agreement.

“**Agreement**” has the meaning set forth in the introductory paragraph of this Agreement.

“**Alternative Bid**” shall mean a bid made by a Person other than Buyer.

“**Ancillary Agreements**” shall mean (i) the Bill of Sale; and (ii) the Intellectual Property Assignment Agreement.

“**Assumed Contract**” has the meaning set forth in Section 2.5(a) of this Agreement.

“**Assumed Liabilities**” has the meaning set forth in Section 2.3 of this Agreement.

“**Auction**” shall mean the auction that shall, subject to the terms of this Agreement, be scheduled to take place for the purpose of determining the Successful Bidder for the purchase of the Acquired Assets pursuant to the Sale Approval Order.

“**Back-Up Bidder**” shall have the meaning set forth in the Sale Approval Motion.

“**Bankruptcy Case**” has the meaning set forth in the Recitals of this Agreement.

“**Bankruptcy Code**” has the meaning set forth in the Recitals of this Agreement.

“**Bankruptcy Court**” has the meaning set forth in the Recitals of this Agreement.

“**Bidding Procedures**” means the bidding procedures described in the Sale Approval Motion.

“**Bill of Sale**” shall mean the Bill of Sale to be executed by Seller and Buyer on the Closing Date substantially in the form attached hereto as Exhibit B.

“**Business**” has the meaning set forth in the Recitals to this Agreement.

“**Business Day**” shall mean any day excluding Saturday, Sunday and any day that is a legal holiday within the meaning of Rule 9006(a) of the Federal Rules of Bankruptcy Procedure.

“**Buyer**” shall mean Bleacher Acquisition, LLC an entity formed and organized under the laws of the State of Delaware, as provided in Section 10.3.

“**Buyer Documents**” has the meaning set forth in Section 6.1 of this Agreement.

“**Closing**” has the meaning set forth in Section 4.1 of this Agreement.

“**Closing Date**” has the meaning set forth in Section 4.1 of this Agreement.

“**Contemplated Transactions**” shall mean the transactions contemplated by this Agreement and the Ancillary Agreements.

“**Contract**” shall mean any contract, lease, deed, mortgage, license, instrument, note, commitment, undertaking, indenture, joint venture and any other agreement, commitment and legally binding arrangement, whether written or oral.

“**Cure Amounts**” shall mean all amounts and other consideration that pursuant to section 365 of the Bankruptcy Code, as of the Closing Date, shall be required to cure any defaults on the part of Seller pursuant to the Assumed Contracts or that will be otherwise due to non-debtor parties pursuant to the Assumed Contracts, as a prerequisite to the assignment and assumption of the Assumed Contracts pursuant to section 365 of the Bankruptcy Code.

“**DIP Facility**” means the debtor in possession financing provided to the Seller by the DIP Lender and approved by an interim and/or final order of the Bankruptcy Court.

“**DIP Lender**” shall mean Bleacher Acquisition, LLC as lender under the DIP Facility.

“**Distribution Scheme**” shall mean 50% of accounts receivable of the Seller as of the Closing Date, which shall be collected by the Buyer from and after the Closing Date and distributed to the Seller’s bankruptcy estate for the benefit of the Seller’s unsecured creditors.

“**Documentation**” shall include any and all manuals, schematic drawings, plans, leases, designs, agreements, internal and external specifications and the like, instructions, and other documentation Seller uses to design, create, contract for, manufacture or use in manufacturing, , use, distribute, maintain, support, update, compile or otherwise exploit the Seller Intellectual Property, including, without limitation, the materials described by Schedule 1.1(a), which Schedule shall be acceptable to Buyer.

“**Encumbrance**” shall mean any interest (including ownership interest), pledge, lien (including any lien or liens granted in connection with, or as security for, debtor in possession financing), mortgage, security interest, judgment, demand, tax, successor liability claim, restriction, charge of any kind or nature, claim (as and to the full extent that term is defined in section 101(5) of the Bankruptcy Code), obligation, option, right, or restriction, whether imposed by agreement, understanding, Law, equity or otherwise (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, liquidated or unliquidated, senior or subordinated), in or with respect to any assets of (or used by) Seller and/or against Seller.

“**Excluded Assets**” has the meaning set forth in Section 2.2 of this Agreement.

“**Excluded Liabilities**” has the meaning set forth in Section 2.4 of this Agreement.

“**Executory Contracts**” shall mean all of the contracts, agreements, joint venture arrangements, leases and/or licenses under which the obligations of both Seller and the other party to the contract are unperformed such that the failure by either party to perform would excuse further performance by the other party.

“**Final Order**” shall mean an order of the Bankruptcy Court as to which time for appeal has expired and no appeal, notice of appeal, motion to amend or make additional findings of fact,

motion to alter or amend judgment, motion for rehearing or motion for new trial, request for stay, motion or petition for reconsideration, application for request of review, or other similar motion, application, notice or request (collectively, a "Challenge") has been timely filed or if a Challenge has been timely filed, such Challenge has been denied and no Challenge to such denial has been timely filed.

**"Intellectual Property"** shall mean all intellectual property rights or similar rights arising from or associated with the following, whether protected, created, or arising under the Laws of the United States or any other jurisdiction, including (i) Trademarks, domain names and other Internet addresses or identifiers, and renewals therefor; (ii) Patents; (iii) copyrights; (iv) Trade Secrets; and (v) any other intellectual property rights of any kind or nature.

**"Intellectual Property Assignment Agreement"** shall mean the Intellectual Property Assignment Agreement to be executed by Buyer and Seller on the Closing Date substantially in the form attached hereto as Exhibit C.

**"IRS"** has the meaning set forth in Section 3.5 of this Agreement.

**"Law"** shall mean any constitutional provision, statute or other law (including common law), rule, ordinance, code, requirement, regulation, administrative ruling or executive order in the United States of America, any foreign country or any domestic or foreign national state, provincial, municipal or other local political subdivision thereof issued or promulgated by any governmental authority.

**"Liabilities"** shall mean any and all debts, liabilities, commitments, and obligations of every kind and description whatsoever, whether such debts, liabilities, commitments or obligations are known or unknown, disclosed or undisclosed, matured or unmatured, accrued, fixed, absolute, contingent, determined or undeterminable, on- or off- balance sheet and otherwise.

**"Licensed Intellectual Property"** shall mean all Intellectual Property that is currently licensed to Seller.

**"Material Adverse Effect"** shall mean any change, occurrence or development that has a material adverse effect on the assets, Liabilities, operations, property or prospects of the Business, but excludes: (i) any change in general economic conditions in the industries or markets in which Seller operates (which changes, individually or in the aggregate, do not disproportionately affect Seller, taken as a whole); (ii) seasonal reductions in revenue and/or earnings of Seller in the ordinary course of business (which seasonal reductions, individually or in the aggregate, do not disproportionately affect Seller, taken as a whole); (iii) national or international political conditions, including any engagement in hostilities, whether or not pursuant to the declaration of a national emergency or war, or the occurrence of any military or terrorist attack (which conditions, individually or in the aggregate, do not disproportionately affect Seller, taken as a whole); and (iv) the entry into or announcement of this Agreement, actions contemplated by this Agreement, or the consummation of the Contemplated Transactions.

“**Newly-Hired Employees**” has the meaning set forth in Section 2.6(b) of this Agreement.

“**Patent**” shall mean a patent or application therefor, including any continuation, divisional, continuation-in-part or reissue of a patent application and patents issuing thereon, and renewals thereof, industrial design registrations and applications, design rights, and inventions.

“**Permitted Encumbrances**” shall mean (i) Encumbrances that will be removed prior to or in connection with the Closing; (ii) the Assumed Liabilities; and (iii) any other Encumbrance expressly assumed in writing by Buyer.

“**Person**” shall mean any individual, corporation, partnership, limited liability company, trust, association, joint venture or other entity of any kind whatsoever.

“**Personnel**” shall mean all former and current employees, agents, consultants and independent contractors of Seller.

“**Petition Date**” shall mean May 2, 2017, i.e., the date of the commencement of the Bankruptcy Case.

“**Purchase Price**” has the meaning set forth in Section 3.1 of this Agreement.

“**Sale Approval Motion**” shall mean Seller’s *Motion of the Debtor and Debtor in Possession for Entry of an Order (I) Approving an Asset Purchase Agreement Between the Debtor and the Stalking Horse, or such Other Purchase Agreement Between the Debtor and the Prevailing Bidder; (II) Authorizing the Sale of Certain Assets of the Debtor Free and Clear of All Liens, Claims, Encumbrances, and Other Interests; (III) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (IV) Granting Related Relief* filed in the Bankruptcy Case.

“**Sale Approval Order**” shall mean an order of the Bankruptcy Court substantially in the form and substance filed with the Sale Approval Motion and incorporated by reference herein, and in form and substance acceptable to Seller and Buyer, naming Buyer as the Successful Bidder at the Auction and approving, without limitation, this Agreement and all of the terms and conditions hereof and approving and authorizing Seller to consummate the transactions contemplated hereby pursuant to sections 363 and 365 of the Bankruptcy Code, and finding that Buyer is a good faith purchaser, entered after a hearing conducted on notice given in the Bankruptcy Case and in accordance with the terms specified in Section 9.8, Section 9.9 and Section 9.10.

“**Sale Hearing**” shall mean the Bankruptcy Court hearing to approve the sale of the Acquired Assets to, and the assumption of the Assumed Liabilities by, Buyer pursuant to this Agreement and the Sale Approval Motion.

“**Seller**” has the meaning set forth in the introductory paragraph of this Agreement.

“**Seller Data**” shall mean all data that is material to the Business and contained in any database used or maintained by Seller or by a contractor to Seller.

“**Seller Documents**” has the meaning set forth in Section 5.1 of this Agreement.

“**Seller Intellectual Property**” shall mean all Intellectual Property and Licensed Intellectual Property.

“**Subsidiary**” shall mean, with respect to Seller, any other Person, whether incorporated or unincorporated, of which (i) more than fifty percent (50%) of the securities or other ownership interests or (ii) securities or other interests having by their terms ordinary voting power to elect more than fifty percent (50%) of the board of directors or others performing similar functions with respect to such corporation or other organization, is directly owned or controlled by Seller.

“**Successful Bidder**” means the bidder that is determined by Seller, in accordance with the Bidding Procedures, to have submitted the best and highest bid for the purchase of the Acquired Assets.

“**Trade Secrets**” shall mean non-public know-how, inventions, discoveries, improvements, concepts, ideas, methods, processes, designs, plans, schematics, drawings, formulae, technical data, customer lists, specifications, research and development information, technology and product roadmaps, databases, and other proprietary or confidential information or trade secrets, in each case protectable under the laws of an applicable jurisdiction, excluding any Intellectual Property that may cover or protect any of the foregoing.

“**Trademarks**” shall mean trademarks, service marks, trade names, trade dress, logos, business and product names, slogans, whether or not registered, and registrations, applications for registration, and renewals thereof.

“**WARN**” shall mean the Workers Adjustment Retraining and Notification Act and similar state laws.

“**Work Product**” shall mean, with respect to a Person, all tangible and intangible original work product developed within the scope of their service or employment for Seller.

## **ARTICLE 2** **PURCHASE AND SALE OF ASSETS BY** **BUYER AND ASSUMPTION OF LIABILITIES**

2.1. **Purchase and Sale of Assets.** Upon the terms and subject to the conditions and provisions contained in this Agreement and the Sale Approval Order, at the Closing, Seller shall sell, convey, transfer, assign and deliver to Buyer, and Buyer shall acquire and accept from Seller, free and clear of any and all Encumbrances (except for Permitted Encumbrances), (x) all Assumed Contracts listed on Schedule 1, as such Schedule may be amended as provided in Section 2.5 of this Agreement, to which Seller is a party, and (y) all other assets of Seller required to operate and support the Business as conducted in all material respects by Seller on

the Petition Date, including, without limitation, the following assets (such Contracts and assets collectively, the "Acquired Assets"):

- (a) Tangible personal property of the Seller
- (b) All inventories of the Seller;
- (c) All accounts receivable of the Seller as of the Closing Date, subject to the Distribution Scheme;
- (d) All governmental authorizations and all pending applications therefor or renewals thereof;
- (e) All data and records related to the operations of Seller, including client and customer lists and records, referral sources, research and development reports and records, production reports and records, service and warranty records, equipment logs, operating guides and manuals, financial and accounting records, creative materials, advertising materials, promotional materials, studies, reports, correspondence and other similar documents and records (all in the state in which such records and information presently exists) and, subject to legal requirements, copies of all personnel records and any other records described in this Agreement;
- (f) All of the intangible rights and property of Seller, good-will, telephone and telecopy numbers, domain names, e-mail addresses, and websites, including with respect to the Seller's online store, to the extent any of the foregoing are transferable;
- (g) All leasehold improvements;
- (h) All Intellectual Property;
- (i) All software and supplies;
- (j) Warranties and guarantees received by Seller from vendors and suppliers, to the extent transferable;
- (k) All claims against third parties relating to the purchased assets, whether choate or inchoate, known or unknown, contingent or non-contingent;
- (l) All rights relating to deposits and retainers, claims for refunds and rights to offset;
- (m) All other assets, properties, rights and claims of the Seller of any kind or nature which relate to the purchased assets, which are used or are useful to the purchased assets not otherwise described above;
- (n) All current claims for refund of taxes and other governmental charges of whatever nature; and
- (o) Seller's corporate seals, stock record books, corporate record books containing minutes of meetings of directors and stockholders; tax returns and records, books of account and

ledgers and such other records having to do solely with the Buyer's organization or stock capitalization or excluded assets or excluded liabilities; provided, however, that the Acquired Assets shall not include any information or communications of the Seller that are protected by any applicable privilege (including the attorney-client privilege), the work product doctrine, or other immunity under applicable Law (the "Seller's Privileges") or the right to assert, waive, or claim any of the Seller's Privileges.

2.2. **Excluded Assets.** Except as expressly set forth in Section 2.1 of this Agreement, Buyer shall not acquire and accept from Seller any assets of Seller other than the Acquired Assets, including, without limitation, any Contracts that are not Assumed Contracts and the following specific assets (collectively, the "Excluded Assets"):

- (a) Seller's cash;
- (b) All rights of the Seller under this Agreement;
- (c) Claims against third parties related solely to any Excluded Assets or Excluded Liabilities;
- (d) All personnel records and other records that the Seller is required by law to retain in its possession with the exception of those personnel records for those employees who are to be retained and employed by the Buyer;
- (e) Seller's claims, causes of action, choses in action and rights of recovery pursuant to Sections 544 through 550 and Section 553 of the Bankruptcy Code and any other avoidance action under any other applicable provisions of the Bankruptcy Code; and
- (f) The Seller's Privileges.

2.3. **Assumption of Liabilities.** Upon the terms and subject to the conditions and provisions contained in this Agreement, at the Closing, Buyer shall, effective as of the Closing, assume, satisfy and perform when due only the following Liabilities of Seller (collectively, the "Assumed Liabilities"):

- (a) all Liabilities under the Assumed Contracts arising or to be performed from the period commencing on or after the Closing (other than to the extent such Liabilities relate to or arise from any tort or violation of Law occurring prior to the Closing);
- (b) all Liabilities in respect of the Acquired Assets arising from the period commencing on or after the Closing (other than to the extent such Liabilities relate to or arise from any breach of contract, tort or violation of Law occurring prior to the Closing); and
- (c) all Liabilities of the Seller for any allowed (at any time, before or after Closing) administrative expenses accrued from the Petition Date through Closing Date and unpaid as of the Closing Date to the extent that the proceeds of the DIP Facility are insufficient to pay such expenses.

2.4. **Liabilities Not Assumed.** Except as expressly set forth in Section 2.3 of this Agreement, Buyer shall not assume, satisfy, be liable for or perform any Liabilities of Seller or the Business, including, without limitation, Liabilities under WARN (collectively, the “Excluded Liabilities”). Except as otherwise provided herein, the Acquired Assets shall be sold and conveyed to Buyer free and clear of all Encumbrances except for Permitted Encumbrances.

2.5. **Assumed Contracts.**

(a) **Assumed Contracts List.** Seller shall assume and assign to Buyer all Contracts on Schedule 1 (the “Assumed Contracts”), as such Schedule may be amended (i) by mutual written agreement of Seller and Buyer, or (ii) as set forth in Section 2.5(c), by Buyer without the consent of Seller.

(b) **Payment of Cure Amounts.** To the extent required by the Bankruptcy Court under the Bankruptcy Code to permit the assumption and assignment of the Assumed Contracts to Buyer at Closing pursuant to this Agreement, Buyer shall pay all related Cure Amounts at Closing (which Cure Amount payment by Buyer shall be added to the Purchase Price payable by Buyer pursuant to Section 3.1 of this Agreement).

(c) **Additional Contracts.** From the date of execution of this Agreement through the Closing, Buyer may remove Contracts designated on Schedule 1 so that any such Contract is not an Assumed Contract, or Buyer may designate any Contracts in addition to the Contracts designated on Schedule 1 (and that Seller has not rejected pursuant to section 365 of the Bankruptcy Code) as an Assumed Contract, and Seller shall use commercially reasonable efforts to seek an order authorizing the assumption and assignment to Buyer of the Contract so designated, and Buyer shall be obligated to pay any Cure Amounts with respect to any such Assumed Contract (which Cure Amount payment by Buyer shall be added to the Purchase Price payable by Buyer pursuant to Section 3.1 of this Agreement). From the date of execution of this Agreement through the Closing, Seller shall not reject any Contract unless otherwise agreed to in writing by Buyer.

2.6. **Employees.**

(a) **Employees.** As of the Closing Date, unless otherwise agreed by the Parties, Seller shall terminate the employment of those employed in the Business who have accepted employment offers from Buyer. Buyer shall have sole discretion in determining those employees to whom it may extend employment offers.

(b) **Newly-Hired Employees.** With respect to all employees of Seller who become employees of Buyer as of the Closing Date (collectively, the “Newly-Hired Employees”), Buyer shall be responsible for all Liabilities arising for the period commencing on or after the Closing and in accordance with Buyer’s employment offers to and employment of the Newly-Hired Employees (and, if appropriate, consistent with applicable law).

**ARTICLE 3**  
**CONSIDERATION AND RELATED MATTERS**

3.1. **Consideration.** Subject to the provisions of Section 3.5, the aggregate consideration for the Acquired Assets (the "Purchase Price") shall be equal to (a) the sum of Three Hundred Thousand Dollars (\$300,000.00) in the form of a credit bid of the DIP Facility, plus (b) the assumption of the Assumed Liabilities.

3.2. **[Reserved.]**

3.3. **Payment of Purchase Price.** On the Closing Date, Buyer shall be deemed to have paid Seller in full, and the DIP Facility shall be deemed satisfied and paid in full.

3.4. **[Reserved.]**

3.5. **Allocation.** The Parties to allocate the Purchase Price among the Acquired Assets in accordance with Schedule 2, which shall be prepared by Buyer and provided to Seller within thirty (30) days after the Closing Date. Seller and Buyer agree to file all tax reports, returns and claims and other statements in a manner consistent with the allocation set forth on Schedule 2 and shall not make any inconsistent written statement or take any inconsistent position on any returns, in any refund claim, during the course of IRS or other tax audit, for any financial or regulatory purpose, in any litigation or investigation or otherwise, so long as there exists a reasonable basis in law to maintain such position. Each Party shall notify the other Party if it receives notice that the IRS proposes any allocation different from Schedule 2.

3.6. **Transaction Expenses.** Except as expressly provided herein, each Party shall bear its own costs and expenses, including attorneys, accountants and other consultants' fees, in connection with the execution and negotiation of this Agreement and the consummation of the Contemplated Transactions.

**ARTICLE 4**  
**CLOSING**

4.1. **Closing.** The consummation of the Contemplated Transactions (the "Closing") shall occur at the offices of Benesch, Friedlander, Coplan & Aronoff LLP, 222 Delaware Avenue, Suite 801, Wilmington, DE 19801 or such other location mutually agreed to by the Parties, not later than July 15, 2017 provided that all of the conditions to Closing set forth in Article 8 and Article 9 have been satisfied or waived in accordance with the terms of this Agreement, unless such date is extended by agreement of the Parties hereto (the "Closing Date").

4.2. **Conveyances at Closing.**

(a) At the Closing, and in connection with effecting and consummating the Contemplated Transactions, Seller shall deliver the following to Buyer:

- (1) the Bill of Sale;

- (2) physical custody of the Acquired Assets;
- (3) up-to-date electronic copies of all Seller Data in a format reasonably acceptable to Buyer;
- (4) all Ancillary Agreements to which Seller is a party, duly executed by Seller;
- (5) the Sale Approval Order; and
- (6) such other instruments as may be reasonably requested by Buyer to vest in Buyer title in and to the Acquired Assets in accordance with the provisions hereof and the Sale Approval Order.

(b) At the Closing, and in connection with effectuating and consummating the Contemplated Transactions, Buyer shall deliver, or cause to be delivered, the following to Seller:

- (1) all Ancillary Agreements to which Buyer is a party.

To the extent that a form of any document to be delivered under this Section 4.2 is not attached as an Exhibit hereto, such documents shall be in form and substance, and shall be executed and delivered in a manner, reasonably satisfactory to Buyer and Seller.

4.3. **Other Closing Matters.** Each of the Parties shall use its commercially reasonable efforts to take such other actions required hereby to be performed by it prior to or on the Closing Date.

## **ARTICLE 5** **REPRESENTATIONS AND WARRANTIES OF SELLER**

As an inducement to Buyer to enter into this Agreement, Seller hereby, as of the date hereof, makes the following representations and warranties to Buyer. None of these representations and warranties shall survive the Closing of the Contemplated Transactions:

5.1. **Existence and Authority.** Seller is a validly existing entity under the laws of the jurisdiction of its organization, and has all requisite authority and power to own and, subject to the Sale Approval Order, dispose of the Acquired Assets, to execute and deliver this Agreement and the Ancillary Agreements to which it is a party (collectively, the "Seller Documents"), to perform its obligations hereunder and thereunder, and to consummate the Contemplated Transactions.

5.2. **Authorization.** Except for obtaining the Sale Approval Order, Seller has taken all necessary action to authorize the execution and delivery of the Seller Documents and the performance of its obligations hereunder and thereunder and to consummate the Contemplated Transactions.

5.3. **Execution and Delivery.** This Agreement has been executed and delivered by duly authorized officers of each Seller, and, subject to entry of the Sale Approval Order, will

constitute the legal, valid and binding obligation of Seller, and will be enforceable against Seller in accordance with its terms, subject in all respects to the Sale Approval Order. As of the Closing Date, each of the Seller Documents will be executed and delivered by a duly authorized officer of Seller, will constitute the legal, valid and binding obligations of Seller, and will be enforceable against Seller in accordance with their respective terms, subject in all respects to the Sale Approval Order.

5.4. **Approval and Consents.** Except for entry of the Sale Approval Order and except as set forth in this Agreement, no material approval, authorization, consent, license, certification or other action by, or filing with, any governmental authority, administrative agency, court or other party is necessary for Seller's execution and delivery of any of the Seller Documents, the performance of its obligations thereunder or the consummation of the Contemplated Transactions.

5.5. **Non-Contravention.** Except as set forth in this Agreement, Seller is not in breach or violation of or default under, and the execution and delivery by Seller of any of the Seller Documents and the performance of its obligations and the consummation of the Contemplated Transactions, each in accordance with the terms and conditions thereunder and subject to entry of the Sale Approval Order and the terms and conditions of the Sale Approval Order, will not cause a breach or violation of or default or event of default under, any provision of (i) the charter or bylaws or other organizational documents of Seller, (ii) any Contract to which Seller is a party, is bound, or by which any of the Acquired Assets are bound or affected, (iii) any Law of any governmental authority applicable to Seller, the Acquired Assets, or the Business, or (iv) any decree, order, injunction or other decision of any court, arbitrator, governmental authority or administrative agency with jurisdiction over Seller, the Acquired Assets or the Business.

5.6. **No Encumbrances.** Seller will, upon the entry of the Sale Approval Order and the consummation of the Contemplated Transactions, transfer all right, title and interest in and to the Acquired Assets to Buyer, free and clear of any and all Encumbrances, except for Permitted Encumbrances, pursuant to the applicable provisions of the Bankruptcy Code and the authority granted under the Sale Approval Order.

5.7. **Litigation.** Except for matters pending before the Bankruptcy Court, there are no actions, suits, claims or legal, administrative or arbitration proceedings pending or, to Seller's knowledge, threatened against, relating to or involving Seller.

5.8. **Intellectual Property.**

(a) For each item of Intellectual Property consisting of Patents, registered Trademarks and registered Copyrights, Schedule 3 sets forth the record owner and (i) for each Patent, the patent number or application serial number for each jurisdiction in which filed, date issued and/or filed and present status thereof; (ii) for each registered Trademark, the application serial number or registration number, by country, province and state, and the class of goods or services covered, the nature of the goods or services, the date issued and/or filed and the present status thereof; (iii) for each domain name, the renewal date and name of registry; (iv) for each Copyright, if applicable, the number and date of each registration or Copyright application by

country, province and/or state; (v) for each registered design, the registration number or serial number for each jurisdiction in which filed, date issued and/or filed and present status thereof; (vi) all actual or threatened claims (including reexamination and reissue proceedings) before any court, tribunal or other governmental authority (including the United States Patent and Trademark Office or equivalent authority anywhere in the world) related to any transferred Intellectual Property; and (vii) any actions that must be taken within ninety (90) days after the date hereof for the purposes of obtaining, maintaining, perfecting, preserving or renewing any transferred Intellectual Property that is registered or subject to a pending application for registration before any authorized Intellectual Property office, including the payment of any registration, maintenance or renewal fees or the filing of documents, applications or certificates or any responses to office actions.

(b) All Intellectual Property has been duly registered in, filed in or issued by the appropriate governmental authority where such registration, filing or issuance is necessary to perfect Seller's rights therein or for the conduct of the Business as presently conducted. Seller is the sole and exclusive owner of, and Seller has the right to use, execute, reproduce, display, perform, modify, enhance, distribute, prepare derivative works of and sublicense, without payment to any other Person, all transferred Intellectual Property. Seller maintains the ownership of transferred Intellectual Property, and no ownership rights or rights to use transferred Intellectual Property have been assigned or licensed to any third party other than under nonexclusive licenses granted to contractors or service providers for use solely for the benefit of Seller. Except as set forth on Schedule 3, Seller has not received any communication from any Person asserting any ownership interest in any transferred Intellectual Property or suggesting that any other Person has any claim of legal or beneficial ownership with respect thereto, nor is there any basis for any claim that Seller does not so own such transferred Intellectual Property. Seller has a valid license to all Licensed Intellectual Property.

(c) **[Reserved.]**

(d) Except as set forth on Schedule 3, subject to entry of the Sale Approval Order, the execution and delivery of this Agreement and the consummation of the Contemplated Transactions do not and will not affect, contravene, conflict with, alter or impair the ownership of or rights in the Seller Intellectual Property, and Buyer will not be obligated to pay any royalties or other amounts after Closing to any Person in excess of those payable by Seller in the absence of this Agreement or the consummation of the Contemplated Transactions.

(e) To the Seller's knowledge, the conduct of the Business as presently conducted does not violate, misappropriate, dilute or infringe the Intellectual Property rights of any other Person. The Intellectual Property rights are enforceable (to the extent such concepts are applicable and, with respect to U.S. Copyrights, assuming registration when required for enforcement), subsisting, and have not been abandoned or cancelled. No claims are pending or threatened, against Seller by any Person with respect to the ownership, validity, enforceability, registration, effectiveness or use in the Business of any transferred Intellectual Property. No claims are pending or threatened, and Seller has not received any communication alleging that Seller violated any rights relating to Intellectual Property of any third party. No third party, to

the Seller's knowledge, is misappropriating, infringing, diluting, or violating any transferred Intellectual Property or any of Seller's rights in Licensed Intellectual Property.

(f) All transferred Intellectual Property comprising Trade Secrets that Seller has chosen to retain as a trade secret under the laws of the applicable jurisdiction has been maintained in confidence in accordance with commercially reasonable protection procedures. All Personnel are under obligations restricting such Person's right to disclose proprietary information of Seller. Except as set forth on Schedule 3, all Personnel who have contributed to or participated in the conception and development of transferred Intellectual Property either (i) have been party to a written "work-for-hire" or similar Contract with Seller that, in accordance with all Laws, has accorded Seller full, effective, exclusive and original ownership of all Work Product and all right, title and interest therein, including Intellectual Property rights or (ii) have executed appropriate instruments of assignment in favor of Seller as assignee that have conveyed to Seller full, effective and exclusive ownership of all Work Product. To the Seller's knowledge, no former or current Personnel have any claim against Seller in connection with such Person's involvement in the conception, maintenance and development of any transferred Intellectual Property and no such claim has been asserted or threatened. To the Seller's knowledge, none of the Personnel of Seller has any patents issued or applications pending for any device, process, design or invention of any kind now used or needed by Seller in the furtherance of the Business.

(g) [Reserved.]

(h) [Reserved.]

(i) [Reserved.]

(j) Except as set forth in Schedule 3, all right, title and interest in and to the Seller Data is owned by Seller, free and clear of all Encumbrances.

5.9. **Tax Returns.** Except as disclosed in this Agreement, to the extent that under applicable Law the failure of this representation to be true or correct could result in an Encumbrance upon or claim against the Acquired Assets or in a claim against Buyer as transferee or owner of the Acquired Assets: (i) Seller have caused to be filed (or will file) all tax returns that are or were required to be filed on or prior to the Closing Date with respect to the Acquired Assets and the operation of the Business; (ii) all such tax returns accurately reflect all tax liabilities required to be reflected thereon; and (iii) all taxes due and payable by Seller with respect to the Acquired Assets and the operation of the Business shown in such tax returns have been paid or will be paid pursuant to the terms of the Plan.

5.10. **Compliance With Laws.** Except as disclosed in this Agreement, Seller is in compliance with all material Laws applicable to the Business. Except as disclosed in this Agreement, Seller has not received any written notice within the past twelve (12) months relating to violations or alleged violations or defaults under any applicable Law or order.

5.11. **Privacy and Data Protection.**

(a) Seller has complied in all material respects with applicable Laws and its internal privacy policies relating to the use, collection, storage, disclosure and transfer of any personally identifiable information collected, accessed or obtained by Seller or by third parties having authorized access to the records of Seller. Seller is in material compliance with all of the terms of all Contracts to which Seller is a party relating to the use, collection, storage, disclosure and transfer of any personally identifiable information collected, accessed or obtained by Seller or by third parties having authorized access to the records of Seller. Each of the Internet websites owned or operated by Seller since the date on which Seller was formed has maintained a publicly posted privacy policy that describes Seller's practices with respect to the collection, use and disclosure of personally identifiable information and that complies in all material respects with all applicable Laws. The execution, delivery and performance of this Agreement will comply with all applicable Laws relating to privacy, security and data protection and with Seller's privacy policies. Since the date on which Seller was formed, Seller has not received a written complaint or been involved in any investigation or inquiry regarding its use, collection, storage, disclosure or transfer of personally identifiable information, other than as disclosed in this Agreement.

(b) Seller has implemented and maintains a security plan that is customary and reasonable for its industry that (i) identifies internal and external risks to the security of any personally identifiable information in Seller's possession, custody or control, (ii) implements, monitors and improves administrative, electronic and physical safeguards to control those risks, (iii) maintains notification procedures in material compliance with applicable Laws in the case of any breach of security compromising data containing personally identifiable information and (iv) complies in all material respects with the obligations of Seller in any Contracts to which Seller is a party regarding the security of personally identifiable information in Seller's possession, custody or control. To the Seller's knowledge, it has not, since the date on which Seller was formed, experienced any breach of security or otherwise unauthorized access by third parties to any personally identifiable information in Seller's possession, custody or control.

(c) To the Seller's knowledge, the execution, delivery and performance of this Agreement and the consummation of the Contemplated Transactions, including any transfer of personally identifiable information, will not violate any applicable Law, the privacy policy of Seller or any data security requirements imposed on Seller. Upon Closing, subject to the terms of the Sale Approval Order, Buyer will continue to have the right to use such personally identifiable information on identical terms and conditions as the Business enjoyed immediately prior to the Closing.

5.12. **Completeness and Condition of Assets.** Seller has good and marketable title to and is the lawful owner of, or has a valid license or right to use, all of the Acquired Assets, free and clear of any and all Encumbrances (except for Permitted Encumbrances). All items of tangible personal property included in the Acquired Assets are structurally sound, in good operating condition, in a state of good maintenance and repair and are adequate for the uses to which they are being put, and none of such items of tangible personal property is in need of maintenance or repairs except for ordinary, routine maintenance and repairs that are not material in nature or cost.

5.13. **Brokerage Fee.** No brokerage, finder's or similar fee, commission or other payment is or shall become payable by Buyer in connection with the Contemplated Transactions pursuant to any agreement, contract or other arrangement entered into by Seller.

**ARTICLE 6**  
**REPRESENTATIONS AND WARRANTIES OF BUYER**

As an inducement to Seller to enter into this Agreement, Buyer hereby makes the following representations and warranties as of the date hereof to Seller, but none of which shall survive the Closing of the Contemplated Transactions for any reason whatsoever:

6.1. **Existence and Authority.** Buyer is a validly existing entity under the laws of the jurisdiction of its organization and has all requisite authority and power to execute and deliver this Agreement and the Ancillary Agreements to which it is a party (collectively, the "**Buyer Documents**"), to perform its obligations hereunder and thereunder, and to consummate the Contemplated Transactions.

6.2. **Authority.** Buyer has taken all necessary or appropriate actions to authorize the execution and delivery of each of the Buyer Documents and the performance of its obligations hereunder and thereunder and to consummate the Contemplated Transactions.

6.3. **Execution and Delivery.** This Agreement has been executed and delivered by a duly authorized officer of Buyer, constitutes the legal, valid and binding obligation of Buyer, and is enforceable against Buyer in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity (whether applied in a proceeding at law or in equity). As of the Closing Date, each of the Buyer Documents will be executed and delivered by a duly authorized officer of Buyer, will constitute the legal, valid and binding obligations of Buyer, and will be enforceable against Buyer in accordance with their respective terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity (whether applied in a proceeding at law or in equity).

6.4. **Approval and Consents.** Except for entry of the Sale Approval Order, no approval, authorization, consent or other action by, or filing with, any governmental authority, administrative agency, court or other party is necessary for Buyer's execution and delivery of any of the Buyer Documents, the performance of its obligations thereunder or the consummation of the Contemplated Transactions.

6.5. **Financial Resources.** Buyer has the financial resources necessary to consummate the Contemplated Transactions upon the terms and conditions set forth in this Agreement and the Ancillary Agreements, and such financial resources are not subject to any constraints, conditions or contingencies that could in any way affect Buyer's ability to consummate the Contemplated Transactions or perform thereunder.

**ARTICLE 7**  
**COVENANTS**

Seller and Buyer covenant and agree as follows:

7.1. **Conduct Pending the Closing.** During the period from the date of this Agreement through the earlier to occur of (x) the Closing Date, and (y) the date on which this Agreement is terminated in accordance with the provisions of this Agreement or pursuant to an order of the Bankruptcy Court, except (i) as consented to in writing by Buyer, (ii) as contemplated by this Agreement, (iii) as set forth in a Schedule to this Agreement, or (iv) as required by, arising out of, relating to, or resulting from Seller's obligations and duties under the Bankruptcy Code or orders entered by the Bankruptcy Court, Seller will use commercially reasonable efforts to operate the Business only in the ordinary course consistent with reasonable business practices of a similarly situated debtor. For so long as the Parties are pursuing the Closing in accordance with the terms and conditions of this Agreement, without the prior written consent of Buyer, Seller shall not:

- (a) sell or dispose of any of the Acquired Assets; or
- (b) assume or reject any Contracts.

7.2. **Access to Information Before Closing.** Seller agrees that during the period from the date of this Agreement through the earlier to occur of (x) the Closing Date, and (y) the date on which this Agreement is terminated in accordance with the provisions of this Agreement or pursuant to an order of the Bankruptcy Court, Buyer shall be entitled, through its officers, employees, consultants and representatives, to make such investigation of the Business and such examination of the books and records and financial and operating data of Seller related to the Business, the Acquired Assets and the Assumed Liabilities, and to have access to the officers, key employees and accountants of Seller in connection with the Business, as it reasonably requests.

7.3. **Consents.** Seller shall use its commercially reasonable efforts, and Buyer shall cooperate with Seller, to obtain the consents set forth in this Agreement, if any; provided, however, that except for Cure Amounts, which are to be paid in accordance with Section 2.5(b), neither Seller nor Buyer shall be obligated to pay any consideration therefor to any third party from whom consent or approval is requested or to initiate any litigation or legal proceedings to obtain any such consent or approval.

7.4. **Submission for Bankruptcy Court Approval.**

(a) On or before the date hereof, Seller filed in the Bankruptcy Case the Sale Approval Motion. The Seller shall prosecute the Sale Approval Motion and seek entry of the Sale Approval Order. The Parties shall use their respective commercially reasonable efforts to have the Bankruptcy Court enter the Sale Approval Order on or before July 1, 2017. Seller shall give and have given notice under the Bankruptcy Code of the request for the relief specified in the Sale Approval Motion to all Persons entitled to such notice, including all Persons that have asserted Encumbrances in the Acquired Assets, and all non-debtor parties to the Assumed

Contracts and other appropriate notice, including such additional notice as the Bankruptcy Court shall direct or as Buyer may reasonably request, and provide appropriate opportunity for hearing, to all parties entitled thereto, of all motions, orders, hearings, or other proceedings in the Bankruptcy Court relating to this Agreement or the transactions contemplated hereby. Seller shall be responsible for making all appropriate filings relating thereto with the Bankruptcy Court, which filings shall be submitted, to the extent practicable, to Buyer prior to their filing with the Bankruptcy Court for Buyer's prior review.

(b) A list of the Assumed Contracts shall be filed as an exhibit to the Sale Approval Motion (or, alternatively, a motion to assume and assign the Assumed Contracts may be brought), and shall be described in sufficient detail to provide adequate notice to the non-debtor parties to such Contracts. Upon designation or removal by Buyer of the Assumed Contracts in accordance with Section 2.5, Seller shall add any Assumed Contracts, respectively, to such exhibit to the Sale Approval Motion or remove any Assumed Contracts. Such exhibit shall set forth the amounts necessary to cure defaults under each Assumed Contract shown thereon, as reasonably determined in good faith by Seller. Where Seller is unable to establish that a default exists, the relevant cure amount shall be set at \$0.00.

(c) Seller and Buyer shall consult with one another regarding pleadings which any of them intends to file with the Bankruptcy Court in connection with, or which might reasonably affect the Bankruptcy Court's approval of the Sale Approval Order. Seller shall promptly provide Buyer and its counsel with copies of all notices, filings and orders of the Bankruptcy Court that Seller has in its possession (or receives) pertaining to the Sale Approval Motion or the Sale Approval Order or any other order related to any of the transactions contemplated by this Agreement, but only to the extent such papers are not publicly available on the docket of the Bankruptcy Court or otherwise made available to Buyer and its counsel.

(d) If the the Sale Approval Order or any other orders of the Bankruptcy Court relating to this Agreement or the transactions contemplated hereby shall be appealed by any Person (or if any petition for certiorari or motion for reconsideration, amendment, clarification, modification, vacation, stay, rehearing or re-argument shall be filed with respect to the Sale Approval Order or other such order), subject to rights otherwise arising from this Agreement, Seller and Buyer shall use their commercially reasonable efforts to prosecute such appeal, petition or motion and obtain an expedited resolution of any such appeal, petition or motion.

7.5. [Reserved].

7.6. [Reserved].

7.7. Further Assurances. In addition to the provisions of this Agreement, from time to time after the Closing Date, Seller will use all commercially reasonable efforts to execute and deliver such other instruments of conveyance, transfer or assumption, as the case may be, and take such other actions as may be reasonably requested to implement more effectively the conveyance and transfer of the Acquired Assets and the assumption of the Assumed Liabilities.

7.8. Taxes. All past due taxes that constitute an Encumbrance on any Acquired Assets shall be paid and satisfied in full by Seller at or prior to the Closing, or otherwise paid pursuant

to the terms of a chapter 11 plan confirmed in the Bankruptcy Case. Any and all current *ad valorem* property taxes for 2017 shall be paid at Closing and pro-rated; provided that Seller shall be solely responsible for payment of any interest and penalties, and any such amounts shall not be pro-rated.

7.9. **Condition of the Acquired Assets.** BUYER AGREES AND ACKNOWLEDGES THAT AT CLOSING, BUYER WILL ACQUIRE THE ACQUIRED ASSETS "AS-IS, WHERE-IS," AND SELLER DOES NOT MAKE (AND EXPRESSLY DISCLAIMS) ANY REPRESENTATION OR WARRANTY OTHER THAN AS EXPRESSLY SET FORTH IN THIS AGREEMENT, EXPRESS OR IMPLIED, WITH RESPECT TO SUCH ACQUIRED ASSETS, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

7.10. **Access to Information After Closing; Maintenance of Records.**

(a) Following the Closing, for a period of the earlier of (i) two (2) years after the Closing Date and (ii) the date of entry of an order of the Bankruptcy Court closing the Bankruptcy Case, or if converted to a case under chapter 7 of the Bankruptcy Code, an order of the Bankruptcy Court closing such case, (a) Buyer shall accord the Seller and its representatives reasonable access to all of the books and records turned over to Buyer by Seller relating to the Acquired Assets and Assumed Liabilities for purposes related to taxes and (b) Seller shall accord Buyer and its representatives reasonable access to all of the books and records retained by Seller relating to the Acquired Assets and Assumed Liabilities for purposes related to taxes and the ongoing conduct of the Business.

(b) Such access shall be afforded by the Party in possession of such books and records upon receipt of reasonable advance written notice and during normal business hours; provided, however, that: (i) any such access shall be conducted in such a manner as not to interfere unreasonably with the operation of the business of any Party; (ii) no Party shall be required to take any action which would constitute a waiver of the attorney-client privilege; (iii) no Party shall be required to take any action which would reveal confidential or proprietary information without the execution of an appropriate confidentiality agreement by the other Party; and (iv) no Party shall be required to supply the other Party with any information which such Party is under a legal obligation not to supply. The applicable Party exercising this right of access shall be solely responsible for any costs or expenses incurred by it hereunder.

7.11. **Communications with Key Parties.** Prior to the Closing, Buyer and its affiliates may, as part of its due diligence and efforts to satisfy applicable conditions to its obligation to close, after consultation with Seller, have discussions with Seller's landlord(s), material suppliers, and others with whom Seller has material commercial dealings. Seller shall not have the right to participate in such discussions, but Buyer shall inform Seller of the scope and manner of such discussions.

7.12. **Schedules.** The Schedules attached to this Agreement as of the date hereof, if any, are not final. Seller and Buyer agree to use commercially reasonable efforts to finalize the Schedules by the conclusion of the Auction. Until such time, either Seller or Buyer may

terminate this Agreement if it in good faith does not accept the Schedules. After such time, Seller may not amend the Schedules unless Buyer consents in writing.

7.13. **Non-Competition; Non-Solicitation** For one (1) year after the Closing, without the consent of Buyer, Seller shall not, and shall not permit any of their current or future affiliates to, directly or indirectly, own any interest in, manage, control, participate in (whether as an owner, operator, manager, consultant, officer, director, employee, investor, agent, representative or otherwise), consult with, render services for or otherwise engage in any business or entity that competes with the Business within the United States; provided, notwithstanding anything herein to the contrary and for the avoidance of doubt, nothing herein is intended to nor shall it be deemed to impair or restrict Seller, from and after the Closing, from effectuating the wind-down of its estate in the Bankruptcy Case and performing its obligations under any plan of reorganization or plan of liquidation and order confirming same. Notwithstanding the foregoing, Seller and its affiliates may own, directly or indirectly, in the aggregate one percent (1%) or less of the combined voting power of a publicly-traded entity that competes with the Business so long as neither Seller nor any of its current or future affiliates has any active participation in the business of such entity.

(b) For one (1) year after the Closing, without the prior written consent of Buyer, Seller shall not, and Seller shall not permit any of its affiliates to, directly or indirectly, hire or solicit any Newly-Hired Employees or other employees of Buyer or any of its current or future affiliates, or encourage any such employee to leave such employment or hire any such employee who has left such employment, except pursuant to a general solicitation that is not directed specifically to any such employees.

(c) Seller acknowledges that a breach or threatened breach of this Section 7.13 would give rise to irreparable harm to Buyer, for which monetary damages would not be an adequate remedy, and hereby agrees that if it breaches or threatens to breach any such obligations, Buyer will, in addition to any and all other rights and remedies that may be available to it in respect of such breach, be entitled to equitable relief, including a temporary restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction (without any requirement to post bond or other security and without having to demonstrate irreparable harm).

(d) Seller acknowledges that the restrictions contained in this Section 7.13 are reasonable and necessary to protect the legitimate interests of Buyer and constitute a material inducement to Buyer to enter into this Agreement and complete the Contemplated Transactions. If any covenant contained in this Section 7.13 is adjudicated to exceed the time, geographic, product or service or other limitations permitted by applicable Law in any jurisdiction, then any court of competent jurisdiction is expressly empowered to reform such covenant, and such covenant will be deemed reformed, in that jurisdiction to the maximum time, geographic, product or service or other limitations permitted by applicable Law. Each covenant contained in this Section 7.13 and each provision of this Section 7.13 is a severable and distinct covenant or provision, as applicable. The invalidity or unenforceability of any covenant or provision in this Section 7.13 as written will not invalidate or render unenforceable the remaining covenants or

provisions of this Section 7.13, and any such invalidity or unenforceability in any jurisdiction will not invalidate or render unenforceable such covenant or provision in any other jurisdiction.

## **ARTICLE 8** **CONDITIONS TO SELLER'S OBLIGATIONS**

The obligation of Seller to consummate the Contemplated Transactions is subject to the satisfaction, on or prior to the Closing Date, of each of the following conditions; provided, the conditions set forth in Section 8.1, Section 8.2 and Section 8.5 may be waived (in whole or in part) by Seller in accordance with Section 10.6 hereof:

8.1. **Representation and Warranties of Buyer.** The representations and warranties of Buyer contained in Article 6 of this Agreement shall be true and correct at Closing, in all material respects.

8.2. **Covenants of Buyer.** The covenants of Buyer contained in Article 7 of this Agreement required to be performed or complied with prior to the Closing shall have been performed and complied with prior to the Closing, in all material respects.

8.3. **Entry of Orders.** The Sale Approval Order, in form and substance acceptable to Seller, shall have been entered by the Bankruptcy Court and no court of competent jurisdiction shall have entered an order staying such order pending appeal.

8.4. **Payment.** Buyer shall deliver the Purchase Price to Seller in accordance with Section 3.1.

8.5. **Ancillary Agreements.** Buyer shall execute and deliver, or cause to be executed and delivered, to Seller at the Closing all of the Ancillary Agreements to which Buyer is a party, and all such Ancillary Agreements shall be in form and substance acceptable to Seller.

## **ARTICLE 9** **CONDITIONS TO BUYER'S OBLIGATIONS**

The obligations of Buyer to purchase the Acquired Assets, to assume the Assumed Liabilities and to consummate the Contemplated Transactions are subject to the satisfaction, on or prior to the Closing Date, of each of the following conditions, any of which may be waived (in whole or in part) by Buyer in accordance with Section 10.6 hereof:

9.1. **Representation and Warranties.** The representations and warranties of Seller contained in Article 5 of this Agreement, individually and in the aggregate, shall be true and correct at Closing, in all material respects, except for those qualified by materiality, which shall be true and correct.

9.2. **Covenants of Seller.** The covenants of Seller contained in this Agreement required to be performed or complied with prior to the Closing shall have been performed and complied with prior to the Closing, in all material respects.

- 9.3. **Approvals.** All required approvals shall have been received.
- 9.4. **No Material Adverse Effect.** Since January 1, 2017, no event or events shall have occurred which has or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.
- 9.5. **Key Agreements.** Buyer shall have entered into agreements with such key parties (as determined during the due diligence process and as identified on Schedule 4 which Schedule shall be acceptable to Buyer) on terms and conditions acceptable to Buyer.
- 9.6. **[Reserved].**
- 9.7. **[Reserved].**
- 9.8. **Entry of Sale Approval Order.** No later than July 1, 2017, the Sale Approval Order, in form and substance reasonably acceptable to Buyer, shall have been entered by the Bankruptcy Court.
- 9.9. **Specific Requirements for Sale Approval Order.** Notwithstanding any provision of this Agreement, the Sale Approval Order shall have, without limitation, (i) approved the sale of the Acquired Assets to Buyer on the terms and conditions set forth in this Agreement and authorized Seller to proceed with the Contemplated Transactions; (ii) contained specific findings that Buyer is a “good faith purchaser” of the Acquired Assets for purposes of section 363(m) of the Bankruptcy Code and that there have been no agreements between Buyer and any other Person regarding the Acquired Assets within the ambit of section 363(n) of the Bankruptcy Code; (iii) provided that the sale of the Acquired Assets to Buyer shall be free and clear of all Encumbrances except for Permitted Encumbrances; (iv) provided that, except for the Assumed Liabilities provided in this Agreement, Buyer shall not assume any Liabilities of Seller or relating to the Business; and (v) provided for the assumption by Seller and assignment to Buyer of the Assumed Contracts, with the Cure Amounts to be paid in accordance with Section 2.5(b).
- 9.10. **Final Order/No Stay.** No court of competent jurisdiction shall have entered an order staying the Sale Approval Order pending appeal and there shall be no Challenge to the finding that Buyer is a “good faith purchaser” for purposes of section 363(m) of the Bankruptcy Code.
- 9.11. **[Reserved].**
- 9.12. **Instruments of Conveyance.** Seller shall have executed and delivered to Buyer at the Closing in recordable form (where applicable) the documents provided for in Section 4.2(a) hereof.
- 9.13. **Consent to Assumed Contracts.** Seller shall have delivered to Buyer all necessary consents with respect to the transfer of the Assumed Contracts and the Bankruptcy Court shall have entered an Order permitting the assumption and assignment of such Assumed Contracts.

9.14. **Title to Acquired Assets.** Pursuant to the Sale Approval Order, Seller shall have transferred good title to all of the Acquired Assets free and clear of any Encumbrances other than (i) Permitted Encumbrances; and (ii) interests pursuant to Assumed Contracts (including equipment lessor interests, if any).

9.15. **Employment Agreements.** Buyer shall have entered into employment agreements with certain of the Newly-Hired Employees on terms and conditions acceptable to Buyer.

9.16. **Board Approval.** The Board of Directors of Buyer shall have approved the purchase of the Acquired Assets by Buyer pursuant to this Agreement.

## **ARTICLE 10** **MISCELLANEOUS**

### **10.1. Termination.**

(a) **Right to Terminate.** In addition to any other rights of termination expressly provided in this Agreement, this Agreement may be terminated prior to the Closing:

- (1) by the mutual written consent of Buyer and Seller;
- (2) by Buyer, (i) upon written notice to Seller, of a material breach of any covenant or agreement to be performed or complied with by Seller if such breach would result in the failure of closing conditions to be satisfied, or (ii) upon dismissal of the Bankruptcy Case or conversion of the Bankruptcy Case to one under chapter 7 of the Bankruptcy Code;
- (3) by Seller, upon written notice to Buyer, of a material breach of any covenant or agreement to be performed or complied with by Buyer if such breach would result in the failure of closing conditions to be satisfied;
- (4) by either Buyer or Seller if any foreign, federal, state, local or other governmental, administrative or regulatory authority, body, agency, court, tribunal or similar entity (other than the Bankruptcy Court) having competent jurisdiction issues a final and non-appealable order, decree or ruling prohibiting the transaction;
- (5) by either Buyer or Seller upon a determination by Seller or its board of directors to accept an Alternative Bid and where Buyer is not designated as the Back-Up Bidder upon completion of the Auction;
- (6) **[Reserved.]**;
- (7) by either Buyer or Seller, if the Bankruptcy Court shall not have entered the Sale Approval Order on or before July 1, 2017; and

(8) by either Buyer or Seller, if the Closing Date has not occurred on or before July 15, 2017, provided, however, that the Party seeking to terminate shall not be the cause of the delay or be in default of this Agreement.

(b) **Effect of Termination.** In the event of termination of this Agreement pursuant to the terms hereof:

(1) If such termination is for any reason, the DIP Facility shall remain in full force and effect and the Seller and Buyer must comply in all respects with the loan agreement for the DIP Facility.

(2) The rights and obligations of the Parties hereto under this Agreement shall terminate (other than the provisions of this Article 10) and there shall be no liability of any Party hereto to any other Party hereunder and each Party hereto shall bear its own expenses incurred in connection with the negotiation, preparation, execution and performance of this Agreement except as provided herein.

10.2. **Specific Performance.** With respect to any breach prior to the Closing by Seller of any of Seller's covenants contained herein, Seller recognizes that if it breaches or refuses to perform any such covenant, monetary damages alone would not be adequate to compensate Buyer for its injuries, and Buyer shall therefore be entitled, subject to Bankruptcy Court approval, in lieu of termination under Section 10.1(a)(2)(i), if available, to seek specific performance of the terms of such covenants as its sole and exclusive remedy, and Buyer shall not have any further cause of action for damages or other legal relief against Seller with respect thereto.

10.3. **Assignment; Successors.** Except for an assignment by Buyer to one or more affiliates prior to Closing, which shall not be subject to the prior written consent of Seller and not operate to relieve Buyer from its obligations hereunder, neither this Agreement nor any of the rights or obligations hereunder may be assigned by any Party without the prior written consent of the other Parties to this Agreement. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective representatives, heirs, legatees, successors and permitted assigns, including, without limitation, any chapter 11 trustee, but not any chapter 7 trustee, appointed in Seller's Bankruptcy Case, and no other Person shall have any right, benefit or obligation hereunder.

10.4. **Notices.** All notices, requests, demands and other communications which are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given (a) when received if personally delivered; (b) on the date transmitted if transmitted by facsimile or email, if such transmission is completed at or prior to 5:00 p.m., local time of the recipient Party, and on the next Business Day if such transmission is completed after 5:00 p.m., local time of the recipient Party; (c) the next Business Day after it is sent, if sent for next day delivery to a domestic address by a nationally recognized overnight delivery service (including Federal Express); and (d) upon receipt, if sent by certified or registered mail, return receipt requested. In each case notice shall be sent to:

Seller: Bleacher Creatures, LLC  
Attn: Managing Member  
527 Plymouth Road, Suite 407  
Plymouth Meeting, PA 19462

With a copy to: Benesch, Friedlander, Coplan & Aronoff LLP  
(which shall not constitute notice) Attn: Michael J. Barrie, Esq.  
222 Delaware Avenue, Suite 801  
Wilmington, DE 19801  
mbarrie@beneschlaw.com

Buyer: Bleacher Acquisition, LLC  
Attn: Managing Member  
6 West 20th Street, 3rd Floor  
New York, NY 10011

With a copy to: Bielli & Klauder, LLC  
(which shall not constitute notice) Attn: David M. Klauder, Esq.  
1500 Walnut Street, Suite 900  
Philadelphia, PA 19102  
dklauder@bk-legal.com

or to such other place and with such other copies as a Party may designate as to itself by written notice to the others.

10.5. **Choice of Law; Jurisdiction.** This Agreement shall be construed and interpreted, and the rights of the Parties determined in accordance with, the laws of the Commonwealth of Pennsylvania (without regard to its conflicts of laws principles) and the Bankruptcy Code. Each Party irrevocably consents to the service of any and all process in any action or proceeding arising out of or relating to this Agreement by the transmitting of copies of such process to each Party at its address specified in Section 10.4 in a manner provided for in Section 10.4. The Parties hereto irrevocably submit to the exclusive jurisdiction of the Bankruptcy Court (or any court exercising appellate jurisdiction over the Bankruptcy Court) over any dispute arising out of or relating to this Agreement and any other agreement or instrument contemplated hereby or entered into in connection herewith, or any of the transactions contemplated hereby or thereby and any such dispute shall be deemed to have arisen in the Commonwealth of Pennsylvania. Each Party hereby irrevocably agrees that all claims in respect of such dispute or proceeding may be heard and determined in such courts. The Parties hereby irrevocably waive, to the fullest extent permitted by applicable law, any objection which they may now or hereafter have to the laying of venue of any such dispute brought in such court or any defense of inconvenient forum in connection therewith.

10.6. **Entire Agreement; Amendments and Waivers.** This Agreement, together with the Ancillary Agreements and all Exhibits and Schedules hereto and thereto, constitutes the entire agreement by and among the Parties pertaining to the subject matter hereof and supersedes

all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties. No amendment, supplement, modification or waiver of this Agreement shall be binding unless executed in writing by or on behalf of the Party to be bound thereby. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

10.7. **Construction.** The headings and captions of the various Articles and Sections of this Agreement have been inserted solely for purposes of convenience, are not part of this Agreement, and shall not be deemed in any manner to modify, explain, expand or restrict any of the provisions of this Agreement. All Exhibits and Schedules attached are made a part hereof. All terms defined herein shall have the same meaning in the Exhibits and Schedules, except as otherwise provided therein. All references in this Agreement to an Article, section or clause is deemed to refer to an Article, section or clause of this Agreement, unless the context clearly indicates otherwise. The terms “hereby”, “hereof”, “hereto”, “hereunder” and any similar terms as used in this Agreement, refer to this Agreement in its entirety and not only to the particular portion of this Agreement where the term is used. Whenever in this Agreement provision is made for the payment of attorneys’ fees, such provision shall be deemed to mean reasonable attorneys’ fees and paralegals’ fees. The term “including” when used herein shall mean “including, without limitation.” Wherever in this Agreement the singular number is used, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and vice versa, as the context shall require. All references in this Agreement to “\$”, “Dollars” or “US\$” refer to currency of the United States of America.

10.8. **No Third Party Beneficiaries.** No Person other than the Parties hereto shall have any rights or claims hereunder.

10.9. **No Waiver.** The failure of any Party hereto to seek redress for any breach, or to insist upon the strict performance, of any covenant or condition of this Agreement by the other Parties shall not be, or be deemed to be, a waiver of the breach or failure to perform nor prevent a subsequent act or omission in violation of, or not strictly complying with, the terms hereof from constituting a default hereunder.

10.10. **Multiple 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, and it may be executed by facsimile.

10.11. **Invalidity.** If any one or more of the provisions, or any portion thereof, contained in this Agreement or in any other instrument referred to herein, shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then such provision shall remain valid and enforceable to the maximum extent permitted by law. Such invalidity, illegality or unenforceability shall not affect any other provision, or any portion thereof, of this Agreement or any other such instrument.

10.12. **Publicity.** Each Party shall consult with the other Parties prior to issuing any press release or otherwise making any public statements with respect to the Contemplated Transactions, and no Party shall issue any such press release or make any such public statements

or comments relating to these transactions without the prior written consent of the other Parties (which consent shall not be unreasonably withheld), except as may be required by applicable Law.

10.13. **Remedies.** All rights and remedies of any Party hereto are cumulative of each other and of every other right or remedy such Party may otherwise have at law or in equity, and the exercise of one or more rights or remedies shall not prejudice or impair the concurrent or subsequent exercise of other rights or remedies, including the right to specific performance of the terms hereof. Seller and Buyer hereby acknowledge and agree that money damages may not be an adequate remedy for any breach or threatened breach of any of the provisions of this Agreement and that, in such event, Seller or its successors or assigns, or Buyer or its successors or assigns, as the case may be, shall, in addition to any other rights and remedies existing in their favor, be entitled to petition any court of competent jurisdiction for specific performance, injunctive and/or other relief in order to enforce or prevent any violations of this Agreement.

10.14. **Representation by Counsel; Mutual Negotiation.** Each Party has been represented by counsel of its choice in negotiating this Agreement and the Ancillary Agreements. This Agreement and the Ancillary Agreements shall therefore be deemed to have been negotiated and prepared at the joint request, direction and construction of the Parties, at arm's length with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any Party.

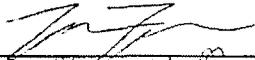
10.15. **No Survival of Representations and Warranties.** The Parties hereby acknowledge and agree that the representations and warranties contained in Article 5 and Article 6 shall not survive after the Closing.

10.16. **Time.** Time is of the essence of this Agreement.

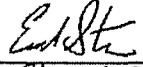
[Signature Pages Follow]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed under seal all as of the day and year first above written.

BLEACHER CREATURES, LLC

By:   
Name: Matthew Hoffman  
Title: President

BLEACHER ACQUISITION, LLC

By:   
Name: Edward Strauss  
Title: Managing member