

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA  
FORT LAUDERDALE DIVISION

In re:

BROWARD COLLISION, INC.,

Case No.: 18-17492-RBR

Debtor.

Chapter 11

**EMERGENCY MOTION FOR ENTRY OF AN ORDER (I) APPROVING  
PROPOSED SALE OF SUBSTANTIALLY ALL ASSETS OF THE ESTATE FREE AND  
CLEAR OF CERTAIN LIENS CLAIMS AND ENCUMBRANCES PURSUANT  
TO 11 U.S.C. 363 AND (II) GRANTING OTHER RELATED RELIEF**

**\*\* Emergency Motion Pursuant to Local Rule 9075-1 \*\***

**Basis for Emergency Relief**

The Debtor is barely keeping its business operating on a week to week basis. Administrative claims against the estate are accruing, and the Debtor's business is in danger of shutting down at any moment. For example, on September 7, 2018, a secured creditor, TCA Global Credit Master Fund, L.P., wired approximately \$22,000 to the estate to pay an unanticipated insurance bill. The estate would not have been able to pay the bill without the cash infusion.

It is imperative that the Trustee sell the assets of the Debtor while it is still a functioning business, in order to maximize value for creditors of the estate. Given this dynamic, the Trustee requests that this matter be set for hearing on or before Thursday September 13, 2018.

Soneet Kapila (the "Trustee"), as chapter 11 trustee for the bankruptcy estate of Broward Collision, Inc. (the "Debtor"), pursuant to 11 U.S.C. § 363, requests that the Court approve the sale of substantially all assets of the estate to TCA Broward Collision, LLC (the "Buyer"). In support of this request the Trustee states:

**FACTUAL BACKGROUND**

1. The Debtor is a Florida corporation that operates paint and body shops from two

existing locations and a third pending location in Broward County.

2. The Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code on June 22, 2018. ECF No. 1.

3. The Debtor's schedules indicate that there is no equity in the company. The schedules list some \$350,000 in assets as opposed to over \$3.5 million in secured debt. ECF No. 23.

4. The Trustee was appointed chapter 11 trustee of the estate on August 20, 2018 due to, *inter alia*, the Debtor impermissibly using cash collateral. ECF Nos. 44 and 49.

5. It has proven extremely difficult to operate the Debtor as a going concern. The Trustee has determined that the Debtor's books and records are incomplete and not reliable. The Debtor's management has been unable to provide better and complete information. The Debtor is only able to pay bills with cash infusions from outside sources—for example, on September 7, 2018, a secured creditor, TCA Global Credit Master Fund, L.P. ("TCA"), wired approximately \$22,000 to the estate to pay an unanticipated insurance bill. The estate would not have been able to pay the bill without the cash infusion. The Trustee fears that there could be further such unanticipated demands on the Debtor. Professional administrative claims are not being paid and the Debtor's business is in danger of going dark at literally any moment.

6. It is imperative that the Trustee sell the assets of the estate on an emergency basis while the Debtor is still a going concern. This will maximize the return to creditors as opposed to an outright liquidation.

7. The Buyer, a third party limited liability company affiliated with TCA, has offered to purchase substantially all assets of the estate (the "Assets") pursuant to the following material terms:

- The Buyer will purchase the Assets free and clear of all liens, claims and

encumbrances, other than the Assumed Liabilities, that are junior to TCA's lien, if any, on the Purchased Assets.

- The Buyer will purchase the assets for two hundred and twenty-six thousand dollars (\$220,000) (the "Purchase Price"). One hundred thousand dollars (\$100,000) of this figure consists of cash that will be applied towards payment of the Assets. A second one hundred thousand dollars (\$100,000) consists of cash that will be used solely to pay for the allowed administrative professional fees and expenses of the Trustee, his accountant(s) and attorney(s). The remaining portion of the Purchase Price will be paid through a credit bid made by TCA against its secured claim in the bankruptcy case.
- In the event that the Trustee is required to sell the Assets pursuant to an auction process, and Buyer is not the prevailing party at the auction, at a closing with the successful bidder, Buyer shall receive, at a minimum, the return of the Purchase Price. For this reason, any successful bid for the Assets at a hypothetical auction must exceed the Purchase Price with a cash component of at least \$220,000.

A proposed asset purchase agreement between the Trustee and Buyer is attached as **EXHIBIT "A"** (the "APA"). For the avoidance of any doubt, the terms of the APA as set forth in this Motion are summaries only, and in the event of any conflict between the Motion and APA, the APA shall control. Capitalized terms that are not defined in the Motion shall have the terms ascribed to them in the APA.

### **REQUESTED RELIEF AND BASIS FOR RELIEF**

#### **I. Approval of the Proposed Sale Free and Clear of All Liens, Claims and**

**Encumbrances Junior to Those of TCA and Related Relief.**

8. Through the Motion, the Trustee seeks an order approving and authorizing the sale of the Assets to the Buyer free and clear of all liens, claims and encumbrances junior to those of TCA, under the terms and conditions set forth in the APA.

9. Section 363(b) of the Bankruptcy Code provides in part, that "the trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate . . . ." 11 U.S.C. § 363(b)(1); Fed. R. Bankr. P. 6004(f)(1) ("All sales not in the ordinary course of business may be private sale or by public auction").

10. Courts have uniformly held that approval of a proposed sale of property pursuant to § 363(b) is appropriate if a court finds that the transaction represents the sound business judgment on the part of the trustee. *See, e.g., In re Chateaugay Corp.*, 973 F.2d 141, 143 (2<sup>nd</sup> Cir. 1992); *In re Lionel Corp.*, 722 F.2d 1063, 1070 (2d Cir. 1983). Moreover, pursuant to § 105(a), the "[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. §105(a).

11. Once a court is satisfied that there is a sound business justification for the proposed sale, it considers whether: (a) the sale price is fair and reasonable; (b) the trustee has provided the interested parties with adequate and reasonable notice; and (c) the purchaser is proceeding in good faith. *See In re Weatherly Frozen Food Group, Inc.*, 149 B.R. 480, 483 (Bankr. N.D. Ohio 1992); *In re Abbotts Dairies of Pennsylvania*, 788 F.2d 143, 147 (3d Cir. 1986) (noting that the phrase "good faith" encompasses one who purchases in good faith and for value).

12. Sound business reasons exist for selling the Assets. The Trustee believes that the proposed sale is the best offer and the best method to maximize the value of the Assets for the benefit of the Debtor's estate and its creditors. Again, this is especially the case given the

Debtor's struggles to maintain its business as a going concern.

13. The Purchase Price is fair and reasonable. The terms of the APA are the product of good faith negotiations between the Trustee and the Buyer. Consequently, the APA represents a fair agreement between the parties.

14. The Trustee will use his best efforts to provide interested parties with adequate and reasonable notice of the hearing to approve the sale. Since his appointment, the Trustee has learned that there are eighteen active UCC-1 financing statements filed since 2014 on file with the Secured Transaction Registry of the State of Florida. Several of the financing statements list the secured creditor as a corporate services company, without giving the name of the actual secured creditor, and the company would not provide the name of the actual secured party.

15. The Trustee and the Buyer are proceeding in good faith. The Buyer is an entity unrelated to the Debtor, including the Debtor's past and present principals. The sale is the product of arm's-length, good-faith negotiations. Section 363(m) protects a good-faith purchaser's interest in property purchased from the debtor notwithstanding that the sale conducted under section 363(b) is later reversed or modified on appeal. *See* 11 U.S.C. § 363(m). Section 363(m) "fosters the 'policy of not only affording finality to the judgment of the bankruptcy court, but particularly to give finality to those orders and judgments upon which third parties rely.'" *In re Chateaugay Corp.*, 1993 WL 159969, at \* 3 (S.D.N.Y. May 10, 1993)(quoting *In re Abbots Daires of Penn. Inc.*, 788 F.2d 143 at 147 (3d Cir. 1986)); *Atlantic Petroleum Corp. v. Charter Int'l Oil Co. (In re The Charter Co.)*, 829 F.2d 1054, 1056 ("under section 363(m), the validity of the sale cannot be altered on appeal."); *see also Allstate Ins. Co. v. Hughes*, 174 B.R. 884, 888 (S.D.N.Y. 1994) ("Section 363(m) . . . provides that good faith transfers of property will not be affected by the reversal or modification on appeal of an unstayed order, whether or not the transferee knew of the pendency of the appeal."). Thus, the Trustee

submits that the Buyer constitutes a good-faith purchaser entitled to the protections of § 363(m) such that the reversal or modification on appeal of the sale of the Assets to the Buyer shall not affect the validity of the sale to the Buyer whether or not the Buyer knew of the pendency of the appeal.

16. The proposed sale is the product of arm's-length, good-faith negotiations, and did not involve an agreement among potential bidders to control the sale price or other collusion. Section 363(n) permits a trustee to avoid a sale or recover certain amounts from a party if the sale price "was controlled by an agreement among potential bidders at such sale[.]" 11 U.S.C. § 363(n). "It permits the trustee to void a sale if the price of the sale was controlled by an agreement among potential bidders." *Ramsay v. Vogel*, 970 F.2d 471, 474 (8th Cir. 1992). Thus, the Trustee will request a finding that the Trustee and the Buyer entered into the proposed sale without collusion, in good faith, and from arm's length bargaining positions, and that neither party has engaged in any conduct that would cause or permit the APA to be avoided under § 363(n).

17. Under § 363(f) of the Code, a trustee may sell property under § 363(b) "free and clear of any interest in such property of an entity other than the estate" if any of the following conditions are satisfied: (a) applicable non-bankruptcy law permits the sale of such property free and clear of such interest; (b) such entity consents; (c) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property; (d) such interest is in bona fide dispute; or (e) such entity could be compelled in a legal or equitable proceeding to accept a money satisfaction of such interest. *See* 11 U.S.C. § 363; *see also In re Smart World Tech., LLC* 423 F.2d 166, 169 n3 (2d Cir. 2005) (noting that § 363 permits sales of assets free and clear of claims and interest and permits purchasers to acquire assets from a debtor without the accompanying liabilities); *In re Dundee Equity Corp.*, 1992 WL

53743 at \*4 (Bankr. S.D.N.Y. Mar. 6, 1992) ("Section 363(f) is in the disjunctive, such that the sale free of the interest concerned may occur if any one of the conditions of section 363(f) have been met").

18. In the instant case, the proposed sale of the Assets satisfies multiple conditions set forth in § 363(f) because *inter alia*, all lienholders junior to TCA could be compelled to accept a money satisfaction of their interest pursuant to a foreclosure proceeding.

19. Accordingly, the Trustee requests that the Assets be transferred, sold and delivered free and clear of all liens, claims and encumbrances junior to those of TCA, as authorized by § 363(f).

**WHEREFORE**, the Trustee requests entry of an order:

- i. Granting the Motion;
- ii. Approving and authorizing the proposed sale of the Assets free and clear of all liens, claims and encumbrances junior to those of TCA, to the Buyer, or its assigns, on the terms and conditions set forth in the APA;
- iii. Finding that, pursuant to § 363(m), the Buyer is a good faith purchaser who is afforded all protections thereunder;
- iv. Finding that the Trustee and the Buyer entered into the proposed sale without collusion, in good faith, and from arm's length bargaining positions, and that neither party engaged in any conduct that would cause or permit the APA to be avoided under §363(n);
- v. Waiving the stay requirement enumerated in Rule 6004(h) of the Federal Rule of Bankruptcy Procedure, such that entry of an order approving the Motion shall not be subject to an automatic fourteen (14) day stay; and
- vi. Granting the Trustee any and all such further relief as this Court deems appropriate under the circumstances.

I HEREBY CERTIFY that a true copy of the foregoing will be furnished to all creditors and interested parties with a copy of the Notice of Hearing hereon.

Dated this 7<sup>th</sup> day of September 2018.

FURR AND COHEN, P.A.  
Attorneys for Trustee  
2255 Glades Road, Suite 301E  
Boca Raton, FL 33431  
(561) 395-0500/(561)338-7532-fax

By /s/Robert C. Furr  
ROBERT C. FURR, ESQ.  
Florida Bar No. 210854  
E-Mail: rfurr@furrcohen.com



## **ASSET PURCHASE AGREEMENT**

This ASSET PURCHASE AGREEMENT (the “**Agreement**”) is dated the \_\_\_\_ day of \_\_\_\_\_, 2018 and made effective as of the “Effective Date” (as hereinafter defined), by and among **SONEET KAPILA, CHAPTER 11 TRUSTEE FOR BROWARD COLLISION, INC., A FLORIDA CORPORATION** (the “**Seller**”), and **TCA BROWARD COLLISION, LLC**, a Florida limited liability company (the “**Buyer**”).

### **RECITALS**

WHEREAS, the Seller is a company that is in the business of operating paint and body shops from two existing locations and a third pending location in Broward County, Florida (the “**Business**”); and

WHEREAS, subject to the terms and conditions set forth herein, the Seller desires to sell to the Buyer, and the Buyer desires to purchase from the Seller, substantially all of the assets of Seller and referred to herein as the “Purchased Assets” (as hereinafter defined), and to enter into other agreements as more specifically set forth herein;

NOW, THEREFORE, in consideration of the premises and the mutual covenants of the parties hereinafter expressed and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, each intending to be legally bound, agree as follows:

### **ARTICLE I** **RECITALS, EXHIBITS, SCHEDULES**

The foregoing recitals are true and correct and, together with the Schedules and Exhibits referred to hereafter, are hereby incorporated into this Agreement by this reference.

### **ARTICLE II** **DEFINITIONS**

For purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the terms defined in this Agreement shall have the meanings assigned to them in this Article as follows:

2.1 “**Affiliate**” means, with respect to a Person, any other Person directly or indirectly controlling, controlled by, or under common control with, such Person at any time during the period for which the determination of affiliation is being made. For purposes of this definition, the terms “**control**,” “**controlling**,” “**controlled by**,” or words of similar import, shall mean, with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of management policies of such Person, whether through the ownership of voting securities, by contract, or otherwise.

2.2 “**Agreement**” has the meaning ascribed to such term in the preamble hereof.

2.3 “**Asset**” means any real, personal, mixed, tangible, or intangible property of any nature or kind whatsoever, including the Equipment, Inventory, Business Records, Permits, Intangibles, and Contracts.

2.4 “**Assumed Contracts**” are the leases and contracts set forth on Schedules 6.3 and 6.5 hereof.

2.5 “**Assumed Liabilities**” means only those Obligations of the Seller expressly identified on **Schedule 2.5** hereof and shall include, without limitation, any and all amounts necessary to cure any defaults relating to the Purchased Assets.

2.6 “**Bankruptcy**” means that certain bankruptcy proceeding of Seller pending in the United states Bankruptcy Court for the Southern District of Florida under Case No. 18-17492-RBR.

2.7 “**Business**” has the meaning ascribed to such term in the preamble hereof.

2.8 “**Business Records**” means all originals and copies of all operating data and records of the Seller and its Business, including all financial, accounting, and bookkeeping books and records, purchase orders and invoices, sales and sales promotional data, advertising materials, marketing analyses, all customer lists, written operating methods and procedures, operations records, the Assumed Contracts, insurance files, personnel records and all other records, on whatever media, pertaining to the Business, to the Purchased Assets, or to suppliers or vendors of, or any other Persons having Contracts or other business relationships with, the Seller or relating to the Business.

2.9 “**Buyer**” has the meaning ascribed to such term in the preamble hereof.

2.10 “**Claims**” means any Proceedings, Judgments, Obligations, threats, losses, damages, deficiencies, settlements, assessments, charges, costs and expenses of any nature or kind.

2.11 “**Closing**” means the consummation of the transactions contemplated by this Agreement.

2.12 “**Closing Date**” means the date of the Closing.

2.13 “**Consent**” means any consent, approval, order or authorization of, or any declaration, filing, or registration with, or any application or report to, or any waiver by, or any other action (whether similar or dissimilar to any of the foregoing) of, by or with, any Person, which is necessary in order to take a specified action or actions, in a specified manner and/or to achieve a specific result.

2.14 “**Contract**” means any written or oral contract, agreement, order or commitment of any nature or kind whatsoever, including any sales order, purchase order, lease, sublease, license agreement, services agreement, loan agreement, mortgage, security agreement, guarantee, management contract, employment agreement, consulting agreement, partnership agreement, buy-sell agreement, option, warrant, subscription, call, or put.

2.15 “**Effective Date**” means the date upon which this Agreement becomes fully executed by Buyer and Seller.

2.16 “**Encumbrance**” means any lien, security interest, pledge, mortgage, easement, leasehold, assessment, covenant, restriction, reservation, conditional sale, prior assignment, or any other encumbrance, Claim, burden or charge of any nature whatsoever.

2.17 “**Equipment**” means any equipment, machinery, tools, fixtures, trade fixtures, furniture, leasehold improvements, vehicles, vessels, all telephone lines, communication lines and network information systems, office equipment, all computer hardware, software and other computer systems, together with all licenses, manuals and all other documents or items relating to such hardware, software or other computer systems, office supplies or other tangible personal property of any nature whatsoever, including all other documents or items relating to such Equipment and all warranties related thereto, but not any such item which constitutes Inventory.

2.18 “**Excluded Liabilities**” has the meaning ascribed to such term in Section 4.3 hereof.

2.19 “**Governmental Authority**” means any foreign, federal, state or local government, or any political subdivision thereof, or any court, agency or other body, organization or group exercising any executive, legislative, judicial, quasi-judicial, regulatory or administrative function of government.

2.20 “**Intangible**” means any name, corporate name, partnership name, trade secret, know-how, process, invention, blueprint, product right, software right, license, franchise, authorization, claim, chose in action, and all Intellectual Property Assets, and any other intangible property of any nature whatsoever.

2.21 “**Intellectual Property Assets**” means: (i) all fictional business names, trading names, registered and unregistered trademarks, service marks, and applications (whether registered or unregistered and whether owned or licensed, including the trade name “Aristotle Interactive” or any word or combination of words similar thereto or constituting an abbreviation or extension thereof (the “**Seller Marks**”), domain names, social media accounts, telephone numbers, telephone directory listings, and, in each case, any applications therefor (collectively, “**Marks**”); (ii) all patents, patent applications, and inventions and discoveries that may be patentable; (iii) all copyrights in both published works and unpublished works; (iv) all rights in mask works; and (v) all know-how, trade secrets, confidential information, customer lists, software, technical information, data, process technology, plans, drawings, and blue prints owned, used, or licensed by Seller as licensee or licensor.

2.22 “**Inventory**” means any raw materials, supplies, work in process, finished goods, and other similar goods or any other inventory of any nature whatsoever, and other items used by Seller in providing services in the Seller’s Ordinary Course of Business, or otherwise held for sale or lease in the Seller’s Ordinary Course of Business, or items used or incorporated in providing any such services or in items held for sale or lease in the Seller’s Ordinary Course of Business.

2.23 “**Judgment**” means any order, writ, injunction, fine, citation, award, decree, or any other judgment of any nature whatsoever of any Governmental Authority.

2.24 “**Law**” means any provision of any law, statute, ordinance, code, constitution, charter, treaty, rule or regulation of any Governmental Authority.

2.25 “**Leases**” means all leases or subleases for real or personal property, including the three leases which are Assumed Contracts.

2.26 “**Obligation**” means any debt, liability or obligation of any nature whatsoever, whether secured, unsecured, recourse, nonrecourse, liquidated, unliquidated, accrued, absolute, fixed, contingent, ascertained, unascertained, known, unknown or obligations under executory Contracts.

2.27 “**Ordinary Course of Business**” means the ordinary course of business of the Person in question, consistent with past custom and practice (including with respect to quantity, quality and frequency).

2.28 “**Permit**” means any license, permit, approval, waiver, order, authorization, right or privilege of any nature whatsoever, granted, issued, approved or allowed by any Governmental Authority.

2.29 “**Person**” means any individual, sole proprietorship, joint venture, partnership, company, corporation, association, cooperation, trust, estate, Governmental Authority, or any other entity of any nature whatsoever.

2.30 “**Proceeding**” means any demand, claim, suit, action, litigation, investigation, study, arbitration, administrative hearing, or any other proceeding of any nature whatsoever.

2.31 “**Purchased Assets**” means all of Seller’s right, title, and interest in and to all Assets owned by Seller, whether or not such Assets have any value for accounting purposes. Without limiting the generality of the foregoing, the Purchased Assets shall include the following Assets of Seller: (i) all Equipment; (ii) all Inventory; (iii) the Business as a going concern and all other goodwill and going concern value of the Seller; (iv) all Intangibles associated with the Business, including all Intellectual Property Assets; (v) all Leases; (vi) all prepaid and deferred items of the Seller including prepaid deposits, insurance, unbilled charges, and deposits relating to the operations of the Seller; (vii) all Assumed Contracts, including all Receivables under such Assumed Contracts unpaid as of Closing, whether or not invoiced by Seller as of the Closing Date; (viii) all Claims that Seller may have against any Person relating to or arising out of any Purchased Assets, including rights to recover damages, settlements, rights to refunds, Claims of infringement or past infringement of any Intangibles included within the Purchased Assets and royalty or similar rights related to any such Intangibles included within the Purchased Assets; and (ix) all Business Records.

2.32 “**Purchase Price**” means the sum of Two Hundred One Thousand and No/100 Dollars (\$201,000.00), but subject to the possible return of a portion thereof in accordance with Section 5.2 below.

2.33 “**Real Property**” means any real estate, land, building, structure, improvement, fixture or other real property of any nature whatsoever, including, but not limited to, fee and leasehold interests.

2.34 “**Receivables**” means any right to payment for goods sold, leased, or licensed, or for services rendered whether or not it has been earned by performance, any note receivable, and any other receivable or right to payment of any nature whatsoever.

2.35 “**Seller**” has the meaning ascribed to such term in the preamble hereof.

2.36 “**Seller Ancillary Documents**” means any documents or instruments to be executed by Seller in connection with this Agreement.

2.37 **“Seller Employer Liabilities”** shall mean any Obligations or other Claims, liabilities, costs, expenses, or compensation that exist, that arise by reason of, or that are in any way connected with or based on: (i) an employee’s employment relationship with Seller and/or the termination of such relationship, including any Contract of employment with any employee of Seller; (ii) violations of any Law as applied to employees of Seller, including Title VII of the Civil Rights Act of 1964 and/or the Civil Rights Act of 1991 and/or 42 U.S.C. §1981, the Age Discrimination in Employment Act of 1967, the Age Discrimination Claims Assistance Act of 1988 and/or the Older Workers’ Benefit Protection Act, any federal, state or local handicap or disability discrimination Laws, including the Rehabilitation Act of 1973 and the Americans with Disabilities Act, the Worker Adjustment and Retraining Notification Act, in each case as amended from time to time, and in each case to include any required notices to any Governmental Authorities as may be required under such Laws; (iii) interference with and/or breach of contract with employees of Seller; (iv) retaliatory or wrongful discharge of any employee of Seller; (v) intentional or negligent infliction of emotional distress or mental anguish upon employees of Seller; (vi) interference with business relationships, contractual relationships or employment relationships involving employees of Seller and any third party; (vii) breach of duty, fraud, fraudulent inducement to contract, breach of right of privacy, libel, slander, or tortuous conduct of any kind with respect to or involving employees of Seller; (viii) discriminatory or wrongful acts against employees of Seller; (ix) violations of the Employee Retirement Income Security Act of 1974, the Family and Medical Leave Act, or the Fair Labor Standards Act, in each case as amended, with respect to employees of Seller or any Obligations arising under any deferred compensation, incentive compensation, equity compensation plans, “welfare” plans, funds or programs (within the meaning of ERISA), “pension” plans, funds or programs (within the meaning of ERISA), other employee benefit plans, funds, programs, agreements or arrangements, in any case, that are sponsored, maintained or contributed to or required to be contributed to by Seller or with respect to which Seller could have any Obligation for the benefit of any employee or former employee, contractor or former contractor, director, shareholder, or any dependent of such; or (x) violations of the workers’ compensation or unemployment compensation Laws by Seller.

### ARTICLE III INTERPRETATION

3.1 **Interpretation Rules.** In this Agreement, unless the express context otherwise requires: (i) the words “herein,” “hereof,” “hereunder,” and words of similar import refer to this Agreement as a whole and not to any particular provision of this Agreement; (ii) references to the words “Article” or “Section” refer to the respective Articles and Sections of this Agreement, and references to “Exhibit” or “Schedule” refer to the respective Exhibits and Schedules annexed hereto; (iii) references to a “party” mean a party to this Agreement and include references to such party’s permitted successors and permitted assigns; (iv) references to a “third party” mean a Person not a party to this Agreement; (v) the terms “dollars” and “\$” means U.S. dollars; and (vi) wherever the word “include,” “includes,” “including,” or words of similar import are used in this Agreement, such words shall be deemed to be followed by the words “without limitation.”

### ARTICLE IV PURCHASE AND SALE OF ASSETS

4.1 **Purchase and Sale.** In exchange for the payment of the Purchase Price, and subject to the terms and conditions hereof, the Seller hereby agrees to sell, transfer, convey, and deliver to the Buyer, and the Buyer hereby agrees to purchase from the Seller, on the Closing Date, all of the Seller’s interest, if any,

in the Purchased Assets, free and clear of all Encumbrances, other than the Assumed Liabilities, junior to Buyer's lien, if any, on the Purchased Assets.

4.2 Assumption of Liabilities. Effective as of the Closing Date, the Buyer shall assume the Assumed Liabilities.

4.3 Excluded Liabilities. Notwithstanding anything to the contrary contained in this Agreement, except for the Assumed Liabilities, the Buyer does not and will not assume, nor shall the Buyer be responsible for or in any manner undertake to pay, perform, satisfy, or discharge, any Obligations of the Seller, including (collectively, the "Excluded Liabilities"):

(a) any Obligation of Seller of any nature or kind that is not specifically enumerated as an Assumed Liability;

(b) any Obligation for the payment of any Tax with respect to any period (whether complete or partial);

(c) any Obligation resulting from violations of any applicable Law, breach of any Contract, or environmental, health, and safety matters, or any other actual or alleged failure of Seller to perform, comply with, undertake, or abide by any Obligation, in each case to the extent arising out of, or relating to: (i) events that have occurred; (ii) services performed; or (iii) the operation of the Seller's Business, prior to the Closing Date;

(d) any Seller Employer Liabilities, whether or not such Seller Employer Liabilities arise prior to, on, or following the Closing Date.

4.4 Excluded Liabilities Further Defined. The Excluded Liabilities shall include all Proceedings relating to any or all of the matters in the foregoing Section 4.3 and all costs and expenses in connection therewith.

4.5 Payment of Excluded Liabilities. Seller hereby agrees to pay and satisfy when due, the Excluded Liabilities, to the extent that, if not paid or satisfied, could result in an Obligation to Buyer which is not being expressly assumed by Buyer hereunder, or any Claim made against Buyer with respect thereto. In addition, the Buyer shall not be responsible for any Assumed Liabilities as to which any representation or warranty made pursuant to this Agreement is untrue, inaccurate, or misleading in any respect. The Obligations of Seller in this Section 4.5 shall survive Closing.

4.6 Closing Date. The Closing shall occur simultaneously with the execution of this Agreement by Buyer and Seller and, in no event, later than three days following the entry of an order by the Bankruptcy Court approving this Agreement.

## ARTICLE V PURCHASE PRICE

5.1 Purchase Price. In exchange for the purchase of the Seller's interest, if any, in the Purchased Assets, Buyer agrees, subject to the terms, conditions, and limitations set forth in this Agreement, to pay to or for the account of Seller, the Purchase Price.

5.2 Payment of Purchase Price. The Purchase Price, subject to prorations, credits, and adjustments as hereinafter set forth, shall be paid by Buyer to Seller, at Closing, as follows:

(a) At Closing, Buyer shall pay to Seller, by wire transfer to an account designated by Seller, the amount of Two Hundred Thousand and No/100 Dollars (\$200,000.00), which sum represents One Hundred Thousand Dollars (\$100,000.00) towards payment of the Purchased Assets from Seller, and One Hundred Thousand Dollars (\$100,000.00)(the “**Expense Reimbursement Amount**”) which shall be used by Seller solely to pay for the allowed administrative professional fees and expenses of the trustee in the Bankruptcy, and his accountant and attorneys (such fees and expenses referred to collectively as the “**Admin Fees**”). Notwithstanding anything contained in this Agreement to the contrary, in the event the Admin Fees are ultimately determined to be less than the Expense Reimbursement Amount, then the Seller shall and does hereby agree to promptly return to Buyer any unused portion of the Expense Reimbursement Amount remaining after payment of the Admin Fees, which Seller agrees to return promptly after the Admin Fees are formally determined.

(b) At Closing, the remaining portion of the Purchase Price not paid under Section 5.2(a) shall be paid thru a credit bid made by Buyer against Buyer’s secured claim under the Bankruptcy.

(c) Notwithstanding anything contained in this Agreement to the contrary, in the event, prior to consummating the transactions contemplated hereby, Seller is required to place the Purchased Assets up for sale thru an auction process, and Buyer is not the prevailing party or winning bidder at such an auction, then at the closing with the successful or winning bidder of such auction, Seller shall immediately return, and Buyer shall receive, at a minimum, any portion of the Purchase Price paid by Buyer to Seller in advance (the parties hereby acknowledging that Buyer has deposited \$222,000.00 with Seller towards the Purchase Price as of the Effective Date, and such sums are to be returned to Buyer should Buyer not be the ultimate purchaser of the Purchased Assets). For this reason, any successful bid for the Assets at a hypothetical auction must exceed the Purchase Price with a cash component of at least \$222,000.

#### ARTICLE VI REPRESENTATIONS AND WARRANTIES OF THE SELLER

The Seller hereby makes the following representations and warranties to the Buyer, each of which the Seller hereby represents to be true and correct as of the Closing Date.

6.1 Authority and Approval of Agreement; Binding Effect. The execution and delivery by Seller of this Agreement and the Seller Ancillary Documents, and the performance by Seller of all of its Obligations hereunder and thereunder, have been duly and validly authorized and approved by the United States Bankruptcy Court for the Southern District of Florida pursuant to an order entered in case no. 18-17492-RBR.

6.2

#### ARTICLE VII REPRESENTATIONS AND WARRANTIES OF THE BUYER

The Buyer hereby makes the following representations and warranties to the Seller, each of which the Buyer represents to be true and correct on the date hereof.

7.1 Organization. Buyer is a limited liability company duly organized, validly existing and in good standing under the Laws of the State of Florida, and Buyer has the full right, power, and authority to execute, deliver, and perform its obligations under this Agreement.

7.2 Authority and Approval of Agreement; Binding Effect. The execution and delivery by Buyer of this Agreement and the performance by Buyer of all of its obligations hereunder, have been duly and validly authorized and approved by Buyer pursuant to all applicable Laws and no other company action or Consent on the part of Buyer, its managers, members, or any other Person is necessary or required by the Buyer to execute this Agreement and consummate the transactions contemplated herein. This Agreement has been duly and validly executed by Buyer (and the Person executing this Agreement is duly authorized to act and execute same on behalf of Buyer) and constitutes the valid and legally binding agreement of Buyer, enforceable against Buyer in accordance with its respective terms, except as such enforcement may be limited by applicable bankruptcy, insolvency, moratorium or similar laws affecting the enforcement of creditors rights generally and by general principles of equity.

7.3 No Violations. Neither the execution, delivery nor performance of this Agreement, nor the consummation of the transactions contemplated hereby by Buyer: (i) constitutes a violation of, or a default or breach under (either immediately, upon notice, upon lapse of time, or both), or conflicts with: (A) the articles of organization or operating agreement of Buyer; (B) any provision of any Contract to which Buyer is a party; (C) any Judgment; or (D) any Law.

7.4 Brokerage Fees. There is no Person acting on behalf of the Buyer who is entitled to or has any claim for any brokerage or finder's fee or commission in connection with the execution of this Agreement or the consummation of the transactions contemplated hereby.

ARTICLE VIII  
INTERPRETATION AND SURVIVAL OF  
REPRESENTATIONS AND WARRANTIES

8.1 Interpretation. Each warranty and representation made by a party in this Agreement or pursuant hereto is independent of all other warranties and representations made by the same party in this Agreement or pursuant hereto (whether or not covering identical, related or similar matters) and must be independently and separately satisfied. Exceptions or qualifications to any such warranty or representation shall not be construed as exceptions or qualifications to any other warranty or representation.

8.2

ARTICLE IX  
OBLIGATIONS AT CLOSING

9.1 Obligations of the Seller to the Buyer. On the Closing Date, the Seller hereby covenants and agrees to execute and deliver, or cause to be executed and delivered, as applicable, to the Buyer, the following:



(a) Physical delivery of the Purchased Assets to Buyer, including delivery by Seller to Buyer of all login, username, and password credentials with respect to any of the Purchased Assets, including the domain names, social media accounts, e-mail servers, and other similar Purchased Assets requiring such login credentials, as applicable, and keys to any storage units, lockers, or other locked facilities included within the Purchased Assets, free and clear of all Encumbrances, other than the Assumed Liabilities;

(b) A duly executed bill of sale and assignment in form and substance reasonably acceptable to Buyer, conveying all of the tangible and intangible personal property included in the Purchased Assets to Buyer, including an assignment to the Buyer of all subsisting and assignable guaranties and warranties issued or made in connection with any of the Purchased Assets, together with copies of each such guaranty and warranty, if any;

(c) A duly executed assignment in form and substance reasonably acceptable to Buyer, assigning all Assumed Contracts to Buyer;

(d) Such other bills of sale, endorsements, assignments, certificates of title, and other instruments of assignment, transfer, and conveyance as Buyer shall reasonably request in order to transfer the Purchased Assets as contemplated herein;

(e) The parties hereto agree that the Purchased Assets will be sold, transferred, conveyed, and assigned to Buyer pursuant to Section 363 of the United States Bankruptcy Code (the "**Bankruptcy Code**"), in accordance with an order to be entered by the Court and this Agreement, and pursuant to a Section 363(m) finding of good faith that is final and non-appealable. The sale order, which shall be in a form and content agreeable to the Buyer, which shall provide, among other things, that Buyer shall acquire the Purchased Assets free and clear of all Encumbrances junior to Seller's lien, if any, of any kind and nature, and findings of good faith and protections consistent with Section 363(m) of the Bankruptcy Code. Finally, Seller shall use its best efforts to obtain a provision in the approval order that the sale shall proceed immediately upon the issuance thereof as shortened under Bankruptcy Rule 6004(h). It shall be a condition precedent to Buyer's obligations under this Agreement that the sale/approval order contemplated by this paragraph is issued in the manner required hereby.

(f) Such other documents and instruments as are contemplated by this Agreement or as may reasonably be requested by Buyer to further evidence the transactions contemplated hereby.

9.2 Buyer's Obligations to the Seller at Closing. On the Closing Date, Buyer agrees to execute and deliver, or cause to be executed and delivered, as applicable, to Seller, the following:

(a) The cash payment required under Section 5.2;

(b) Appropriate evidence regarding Buyer's formation, existence, and authority to acquire the Purchased Assets and otherwise consummate the transactions contemplated by this Agreement; and

(c) Such other documents and instruments as are contemplated by this Agreement or as may reasonably be requested by Seller to further evidence the transactions contemplated hereby.

ARTICLE X  
OTHER COVENANTS AND CONDUCT OF THE PARTIES AFTER CLOSING

10.1 Pre-Closing and Post-Closing Liabilities.

(a) Buyer shall be responsible for and pay all Assumed Liabilities and all liabilities, accounts payable, and other Obligations which first arose in connection with the Purchased Assets after the Closing Date.

(b) In the event, subsequent to the Closing, Buyer shall receive a written demand to pay an Obligation from a third party arising from a transaction related to the Purchased Assets prior to the Closing Date which is not part of the Assumed Liabilities, then Buyer may immediately notify Seller in writing of such fact, indicating the nature and amount of such outstanding Obligation, and Seller shall pay or satisfy (by bonding or otherwise) such outstanding Obligation within ten (10) days of receipt of such written notice from Buyer. In the event Seller fails to pay or satisfy (by bonding or otherwise) such outstanding Obligation within the ten (10) day period referred to above, then Buyer shall have the right, but not the obligation, to pay or otherwise satisfy such Obligation and if so paid, to deliver written notice to Seller, together with evidence of the payment of said Obligation reasonably acceptable to Seller, requesting reimbursement for same and Seller hereby agrees to deliver to Buyer such reimbursement sums within five (5) days of such written demand.

ARTICLE XI  
AS IS TRANSACTION; RELEASE

11.1 As Is. Except for the express representations and warranties, if any, set forth in this Agreement, Buyer agrees to accept, and Buyer hereby acknowledges that it is acquiring, the Purchased Assets in an "as is," "where is," condition, without warranty of any kind, including, without limitation, warranties of merchantability or warranties that the Purchased Assets are fit for a particular purpose.

11.2 Release From Seller. As a material consideration to Buyer to pay the Purchase Price to Seller for the Purchased Assets, the Seller does hereby release, waive, discharge, covenant not to sue, acquit, satisfy, and forever discharges the Buyer and its Affiliates, including TCA Global Credit Master Fund, LP and its general partner, and their respective successors and assigns, from any and all charges, complaints, claims, counter-claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, cross-actions, threats, setoffs, equities, judgments, accounts, suits, liens, rights, demands, benefits, costs, losses, debts, expenses, and other distributions, of every kind and nature whatsoever, payable by Buyer or any of its Affiliates to any Person, including reasonable attorneys' and paralegals' fees and expenses, court costs, settlement amounts, costs of investigation and interest thereon from the time such amounts are due at the highest non-usurious rate of interest permitted by applicable law, in law or in equity, whether known or unknown, whether suspected or unsuspected, whether fixed or contingent, which the Seller ever had, now has, or which any successor or assign of the Seller hereafter can, shall, or may have against Buyer or any of its Affiliates or their successors and assigns, for, upon, or by reason of any matter, cause, or thing whatsoever, from the beginning of the world through and including the date hereof.

ARTICLE XII

MISCELLANEOUS

12.1 Notices. All notices of request, demand and other communications hereunder shall be addressed to the parties as follows:

If to the Seller: Soneet R, Kapila, chapter 11 trustee  
P.O. Box 14213  
Fort Lauderdale, FL 33302  
E-Mail: skapila@kapilamukamal.com

With a copy to: Robert. C. Furr, Esq.  
Furr Cohen  
2255 Glades Road, Suite 301E  
E-Mail: rfurr@furrcohen.com

If to the Buyer: TCA Broward Collision, LLC  
19950 W. Country Club Dr., First Floor  
Aventura, FL 33180  
Attention: Robert Press, Director  
E-Mail: bpress@tcacap.com

With a copy to: David Kahan, P.A.  
6420 Congress Ave., Suite 1800  
Boca Raton, FL 33487  
Attn: David Kahan, Esq.  
E-Mail: david@dkpalaw.com

unless the address or any other information listed above is changed by the party by like notice given to the other parties; provided, however, that notwithstanding the following sentence, no notice of any change in the address or other information listed above shall be deemed given unless and until actually received by the party charges with notice thereof. Notice shall be in writing and shall be deemed received: (i) if mailed by certified mail, return receipt requested, postage prepaid and properly addressed to the address above, then three (3) business days after deposit of same in a regularly maintained U.S. Mail receptacle; (ii) if mailed by Federal Express, UPS or other nationally recognized overnight courier service, next business morning delivery, then one (1) business day after timely deposit of same in a regularly maintained receptacle of such overnight courier for next business day delivery; or (iii) if hand delivered, then upon hand delivery thereof to the address indicated on or prior to 5:00 p.m., EST, on a business day. Any notice hand delivered after 5:00 p.m., EST, shall be deemed delivered on the following business day. Notwithstanding the foregoing, notice, requests or demands or other communications referred to in this Agreement may be sent by e-mail or other method of delivery, but shall be deemed to have been given only when the sending party has confirmed (by reply e-mail or some other form of written confirmation from the receiving party) that the notice has been received by the receiving party.

12.2 Entire Agreement. This Agreement, including the Exhibits and Schedules attached hereto and the documents delivered pursuant hereto, sets forth all the promises, covenants, agreements, conditions and understandings between the parties hereto with respect to the subject matter hereof, and supersedes all

prior and contemporaneous agreements, understandings, inducements or conditions, expressed or implied, oral or written, except as herein contained.

12.3 Assignment. No party may assign or transfer its interests in this Agreement, or delegate its duties hereunder, without the prior written consent of the other party.

12.4 Binding Effect. This Agreement shall be binding upon the parties hereto, their respective successors and permitted assigns.

12.5 Amendment. The parties hereby irrevocably agree that no attempted amendment, modification, or change of this Agreement shall be valid and effective, unless the parties shall unanimously agree in writing to such amendment, modification or change.

12.6 No Waiver. No waiver of any provision of this Agreement shall be effective, unless it is in writing and signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

12.7 Gender and Use of Singular and Plural. All pronouns shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identity of the party or parties or their personal representatives, successors and assigns may require.

12.8 Headings. The article and section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of the Agreement.

12.9 Governing Law. This Agreement shall be construed in accordance with the laws of the State of Florida and any proceeding arising between the parties in any manner pertaining or related to this Agreement shall, to the extent permitted by law, be held in Broward County, Florida.

12.10 Waiver of Jury Trial. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

12.11 Further Assurances. The parties hereto will execute and deliver such further instruments and do such further acts and things as may be reasonably required to carry out the intent and purposes of this Agreement. This Section 12.11 shall survive Closing.

12.12 Prevailing Party. If any party hereto is required to engage in litigation or any other Proceeding against any other party hereto, either as a plaintiff, as defendant or otherwise, in order to enforce

or defend any rights under this Agreement and such litigation or other Proceeding results in a final judgment or other adjudication in favor of such party ("**Prevailing Party**"), then the party or parties against whom said final judgment or other adjudication is obtained shall be liable to and reimburse the Prevailing Party for all direct, indirect or incidental expenses incurred in such litigation, including all reasonable attorneys' fees, paralegals' fees, court costs and other expenses incurred throughout all negotiations, trials or appeals undertaken in order to enforce the Prevailing Party's rights hereunder.

12.13 Arm's Length Negotiations. Each party herein expressly represents and warrants to all other parties hereto that: (a) before executing this Agreement, such party has fully informed itself of the terms, contents, conditions and effects of this Agreement; (b) such party has relied solely and completely upon its own judgment in executing this Agreement; (c) such party has had the opportunity to seek and has obtained the advice of counsel before executing this Agreement; (d) such party has acted voluntarily and of its own free will in executing this Agreement; (e) such party is not acting under duress, whether economic or physical, in executing this Agreement; and (f) this Agreement is the result of arm's length negotiations conducted by and among the parties and their respective counsel.

12.14 Time is of the Essence. The parties hereby agree that time is of the essence with respect to performance of each of the parties' Obligations under this Agreement. The parties agree that in the event that any date on which performance is to occur falls on a Saturday, Sunday or state or national holiday, then the time for such performance shall be extended until the next business day thereafter occurring.

12.15 Joint Preparation. The preparation of this Agreement has been a joint effort of the parties and the resulting documents shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

12.16 Severability. If any one of the provisions contained in this Agreement, for any reason, shall be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall remain in full force and effect and be construed as if the invalid, illegal or unenforceable provision had never been contained herein.

12.17 Execution. This Agreement may be executed in one or more counterparts, all of which taken together shall be deemed and considered one and the same Agreement, and same shall become effective when counterparts have been signed by each party and each party has delivered its signed counterpart to the other party. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format file or other similar format file, such signature shall be deemed an original for all purposes and shall create a valid and binding obligation of the party executing same with the same force and effect as if such facsimile or ".pdf" signature page was an original thereof.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date and year set forth above.

**SELLER:**

**SONEET R. KAPILA, as chapter 11 bankruptcy trustee for Broward Collision, Inc.**

By: \_\_\_\_\_  
Soneet R. Kapila, as chapter 11 bankruptcy trustee

Date: \_\_\_\_\_

**BUYER:**

**TCA BROWARD COLLISION, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## **ASSET PURCHASE AGREEMENT**

This ASSET PURCHASE AGREEMENT (the "**Agreement**") is dated the \_\_\_\_ day of \_\_\_\_\_, 2018 and made effective as of the "Effective Date" (as hereinafter defined), by and among SONEET KAPILA, CHAPTER 11 TRUSTEE FOR BROWARD COLLISION, INC., A FLORIDA CORPORATION (the "**Seller**"), and TCA BROWARD COLLISION, LLC, a Florida limited liability company (the "**Buyer**").

### **RECITALS**

WHEREAS, the Seller is a company that is in the business of operating paint and body shops from two existing locations and a third pending location in Broward County, Florida (the "**Business**"); and

WHEREAS, subject to the terms and conditions set forth herein, the Seller desires to sell to the Buyer, and the Buyer desires to purchase from the Seller, substantially all of the assets of Seller and referred to herein as the "Purchased Assets" (as hereinafter defined), and to enter into other agreements as more specifically set forth herein;

NOW, THEREFORE, in consideration of the premises and the mutual covenants of the parties hereinafter expressed and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, each intending to be legally bound, agree as follows:

### **ARTICLE I** **RECITALS, EXHIBITS, SCHEDULES**

The foregoing recitals are true and correct and, together with the Schedules and Exhibits referred to hereafter, are hereby incorporated into this Agreement by this reference.

### **ARTICLE II** **DEFINITIONS**

For purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the terms defined in this Agreement shall have the meanings assigned to them in this Article as follows:

2.1 "**Affiliate**" means, with respect to a Person, any other Person directly or indirectly controlling, controlled by, or under common control with, such Person at any time during the period for which the determination of affiliation is being made. For purposes of this definition, the terms "**control**," "**controlling**," "**controlled by**," or words of similar import, shall mean, with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of management policies of such Person, whether through the ownership of voting securities, by contract, or otherwise.

2.2 "**Agreement**" has the meaning ascribed to such term in the preamble hereof.

2.3 "**Asset**" means any real, personal, mixed, tangible, or intangible property of any nature or kind whatsoever, including the Equipment, Inventory, Business Records, Permits, Intangibles, and Contracts.

2.4 “**Assumed Contracts**” are the leases and contracts set forth on Schedules 6.3 and 6.5 hereof.

2.5 “**Assumed Liabilities**” means only those Obligations of the Seller expressly identified on **Schedule 2.5** hereof and shall include, without limitation, any and all amounts necessary to cure any defaults relating to the Purchased Assets.

2.6 “**Bankruptcy**” means that certain bankruptcy proceeding of Seller pending in the United states Bankruptcy Court for the Southern District of Florida under Case No. 18-17492-RBR.

2.7 “**Business**” has the meaning ascribed to such term in the preamble hereof.

2.8 “**Business Records**” means all originals and copies of all operating data and records of the Seller and its Business, including all financial, accounting, and bookkeeping books and records, purchase orders and invoices, sales and sales promotional data, advertising materials, marketing analyses, all customer lists, written operating methods and procedures, operations records, the Assumed Contracts, insurance files, personnel records and all other records, on whatever media, pertaining to the Business, to the Purchased Assets, or to suppliers or vendors of, or any other Persons having Contracts or other business relationships with, the Seller or relating to the Business.

2.9 “**Buyer**” has the meaning ascribed to such term in the preamble hereof.

2.10 “**Claims**” means any Proceedings, Judgments, Obligations, threats, losses, damages, deficiencies, settlements, assessments, charges, costs and expenses of any nature or kind.

2.11 “**Closing**” means the consummation of the transactions contemplated by this Agreement.

2.12 “**Closing Date**” means the date of the Closing.

2.13 “**Consent**” means any consent, approval, order or authorization of, or any declaration, filing, or registration with, or any application or report to, or any waiver by, or any other action (whether similar or dissimilar to any of the foregoing) of, by or with, any Person, which is necessary in order to take a specified action or actions, in a specified manner and/or to achieve a specific result.

2.14 “**Contract**” means any written or oral contract, agreement, order or commitment of any nature or kind whatsoever, including any sales order, purchase order, lease, sublease, license agreement, services agreement, loan agreement, mortgage, security agreement, guarantee, management contract, employment agreement, consulting agreement, partnership agreement, buy-sell agreement, option, warrant, subscription, call, or put.

2.15 “**Effective Date**” means the date upon which this Agreement becomes fully executed by Buyer and Seller.

2.16 “**Encumbrance**” means any lien, security interest, pledge, mortgage, easement, leasehold, assessment, covenant, restriction, reservation, conditional sale, prior assignment, or any other encumbrance, Claim, burden or charge of any nature whatsoever.



2.17 “**Equipment**” means any equipment, machinery, tools, fixtures, trade fixtures, furniture, leasehold improvements, vehicles, vessels, all telephone lines, communication lines and network information systems, office equipment, all computer hardware, software and other computer systems, together with all licenses, manuals and all other documents or items relating to such hardware, software or other computer systems, office supplies or other tangible personal property of any nature whatsoever, including all other documents or items relating to such Equipment and all warranties related thereto, but not any such item which constitutes Inventory.

2.18 “**Excluded Liabilities**” has the meaning ascribed to such term in Section 4.3 hereof.

2.19 “**Governmental Authority**” means any foreign, federal, state or local government, or any political subdivision thereof, or any court, agency or other body, organization or group exercising any executive, legislative, judicial, quasi-judicial, regulatory or administrative function of government.

2.20 “**Intangible**” means any name, corporate name, partnership name, trade secret, know-how, process, invention, blueprint, product right, software right, license, franchise, authorization, claim, chose in action, and all Intellectual Property Assets, and any other intangible property of any nature whatsoever.

2.21 “**Intellectual Property Assets**” means: (i) all fictional business names, trading names, registered and unregistered trademarks, service marks, and applications (whether registered or unregistered and whether owned or licensed, including the trade name “Aristotle Interactive” or any word or combination of words similar thereto or constituting an abbreviation or extension thereof (the “**Seller Marks**”), domain names, social media accounts, telephone numbers, telephone directory listings, and, in each case, any applications therefor (collectively, “**Marks**”); (ii) all patents, patent applications, and inventions and discoveries that may be patentable; (iii) all copyrights in both published works and unpublished works; (iv) all rights in mask works; and (v) all know-how, trade secrets, confidential information, customer lists, software, technical information, data, process technology, plans, drawings, and blue prints owned, used, or licensed by Seller as licensee or licensor.

2.22 “**Inventory**” means any raw materials, supplies, work in process, finished goods, and other similar goods or any other inventory of any nature whatsoever, and other items used by Seller in providing services in the Seller’s Ordinary Course of Business, or otherwise held for sale or lease in the Seller’s Ordinary Course of Business, or items used or incorporated in providing any such services or in items held for sale or lease in the Seller’s Ordinary Course of Business.

2.23 “**Judgment**” means any order, writ, injunction, fine, citation, award, decree, or any other judgment of any nature whatsoever of any Governmental Authority.

2.24 “**Law**” means any provision of any law, statute, ordinance, code, constitution, charter, treaty, rule or regulation of any Governmental Authority.

2.25 “**Leases**” means all leases or subleases for real or personal property, including the three leases which are Assumed Contracts.

2.26 “**Obligation**” means any debt, liability or obligation of any nature whatsoever, whether secured, unsecured, recourse, nonrecourse, liquidated, unliquidated, accrued, absolute, fixed, contingent, ascertained, unascertained, known, unknown or obligations under executory Contracts.

2.27 “**Ordinary Course of Business**” means the ordinary course of business of the Person in question, consistent with past custom and practice (including with respect to quantity, quality and frequency).

2.28 “**Permit**” means any license, permit, approval, waiver, order, authorization, right or privilege of any nature whatsoever, granted, issued, approved or allowed by any Governmental Authority.

2.29 “**Person**” means any individual, sole proprietorship, joint venture, partnership, company, corporation, association, cooperation, trust, estate, Governmental Authority, or any other entity of any nature whatsoever.

2.30 “**Proceeding**” means any demand, claim, suit, action, litigation, investigation, study, arbitration, administrative hearing, or any other proceeding of any nature whatsoever.

2.31 “**Purchased Assets**” means all of Seller’s right, title, and interest in and to all Assets owned by Seller, whether or not such Assets have any value for accounting purposes. Without limiting the generality of the foregoing, the Purchased Assets shall include the following Assets of Seller: (i) all Equipment; (ii) all Inventory; (iii) the Business as a going concern and all other goodwill and going concern value of the Seller; (iv) all Intangibles associated with the Business, including all Intellectual Property Assets; (v) all Leases; (vi) all prepaid and deferred items of the Seller including prepaid deposits, insurance, unbilled charges, and deposits relating to the operations of the Seller; (vii) all Assumed Contracts, including all Receivables under such Assumed Contracts unpaid as of Closing, whether or not invoiced by Seller as of the Closing Date; (viii) all Claims that Seller may have against any Person relating to or arising out of any Purchased Assets, including rights to recover damages, settlements, rights to refunds, Claims of infringement or past infringement of any Intangibles included within the Purchased Assets and royalty or similar rights related to any such Intangibles included within the Purchased Assets; and (ix) all Business Records.

2.32 “**Purchase Price**” means the sum of Two Hundred One Thousand and No/100 Dollars (\$201,000.00), but subject to the possible return of a portion thereof in accordance with Section 5.2 below.

2.33 “**Real Property**” means any real estate, land, building, structure, improvement, fixture or other real property of any nature whatsoever, including, but not limited to, fee and leasehold interests.

2.34 “**Receivables**” means any right to payment for goods sold, leased, or licensed, or for services rendered whether or not it has been earned by performance, any note receivable, and any other receivable or right to payment of any nature whatsoever.

2.35 “**Seller**” has the meaning ascribed to such term in the preamble hereof.

2.36 “**Seller Ancillary Documents**” means any documents or instruments to be executed by Seller in connection with this Agreement.

2.37 “**Seller Employer Liabilities**” shall mean any Obligations or other Claims, liabilities, costs, expenses, or compensation that exist, that arise by reason of, or that are in any way connected with or based on: (i) an employee’s employment relationship with Seller and/or the termination of such relationship, including any Contract of employment with any employee of Seller; (ii) violations of any Law as applied to employees of Seller, including Title VII of the Civil Rights Act of 1964 and/or the Civil Rights

Act of 1991 and/or 42 U.S.C. §1981, the Age Discrimination in Employment Act of 1967, the Age Discrimination Claims Assistance Act of 1988 and/or the Older Workers' Benefit Protection Act, any federal, state or local handicap or disability discrimination Laws, including the Rehabilitation Act of 1973 and the Americans with Disabilities Act, the Worker Adjustment and Retraining Notification Act, in each case as amended from time to time, and in each case to include any required notices to any Governmental Authorities as may be required under such Laws; (iii) interference with and/or breach of contract with employees of Seller; (iv) retaliatory or wrongful discharge of any employee of Seller; (v) intentional or negligent infliction of emotional distress or mental anguish upon employees of Seller; (vi) interference with business relationships, contractual relationships or employment relationships involving employees of Seller and any third party; (vii) breach of duty, fraud, fraudulent inducement to contract, breach of right of privacy, libel, slander, or tortious conduct of any kind with respect to or involving employees of Seller; (viii) discriminatory or wrongful acts against employees of Seller; (ix) violations of the Employee Retirement Income Security Act of 1974, the Family and Medical Leave Act, or the Fair Labor Standards Act, in each case as amended, with respect to employees of Seller or any Obligations arising under any deferred compensation, incentive compensation, equity compensation plans, "welfare" plans, funds or programs (within the meaning of ERISA), "pension" plans, funds or programs (within the meaning of ERISA), other employee benefit plans, funds, programs, agreements or arrangements, in any case, that are sponsored, maintained or contributed to or required to be contributed to by Seller or with respect to which Seller could have any Obligation for the benefit of any employee or former employee, contractor or former contractor, director, shareholder, or any dependent of such; or (x) violations of the workers' compensation or unemployment compensation Laws by Seller.

### ARTICLE III INTERPRETATION

3.1 Interpretation Rules. In this Agreement, unless the express context otherwise requires: (i) the words "herein," "hereof," "hereunder," and words of similar import refer to this Agreement as a whole and not to any particular provision of this Agreement; (ii) references to the words "Article" or "Section" refer to the respective Articles and Sections of this Agreement, and references to "Exhibit" or "Schedule" refer to the respective Exhibits and Schedules annexed hereto; (iii) references to a "party" mean a party to this Agreement and include references to such party's permitted successors and permitted assigns; (iv) references to a "third party" mean a Person not a party to this Agreement; (v) the terms "dollars" and "\$" means U.S. dollars; and (vi) wherever the word "include," "includes," "including," or words of similar import are used in this Agreement, such words shall be deemed to be followed by the words "without limitation."

### ARTICLE IV PURCHASE AND SALE OF ASSETS

4.1 Purchase and Sale. In exchange for the payment of the Purchase Price, and subject to the terms and conditions hereof, the Seller hereby agrees to sell, transfer, convey, and deliver to the Buyer, and the Buyer hereby agrees to purchase from the Seller, on the Closing Date, all of the Seller's interest, if any, in the Purchased Assets, free and clear of all Encumbrances, other than the Assumed Liabilities, junior to Buyer's lien, if any, on the Purchased Assets.

4.2 Assumption of Liabilities. Effective as of the Closing Date, the Buyer shall assume the Assumed Liabilities.

4.3 Excluded Liabilities. Notwithstanding anything to the contrary contained in this Agreement, except for the Assumed Liabilities, the Buyer does not and will not assume, nor shall the Buyer be responsible for or in any manner undertake to pay, perform, satisfy, or discharge, any Obligations of the Seller, including (collectively, the “Excluded Liabilities”):

(a) any Obligation of Seller of any nature or kind that is not specifically enumerated as an Assumed Liability;

(b) any Obligation for the payment of any Tax with respect to any period (whether complete or partial);

(c) any Obligation resulting from violations of any applicable Law, breach of any Contract, or environmental, health, and safety matters, or any other actual or alleged failure of Seller to perform, comply with, undertake, or abide by any Obligation, in each case to the extent arising out of, or relating to: (i) events that have occurred; (ii) services performed; or (iii) the operation of the Seller’s Business, prior to the Closing Date;

(d) any Seller Employer Liabilities, whether or not such Seller Employer Liabilities arise prior to, on, or following the Closing Date.

4.4 Excluded Liabilities Further Defined. The Excluded Liabilities shall include all Proceedings relating to any or all of the matters in the foregoing Section 4.3 and all costs and expenses in connection therewith.

4.5 Payment of Excluded Liabilities. Seller hereby agrees to pay and satisfy when due, the Excluded Liabilities, to the extent that, if not paid or satisfied, could result in an Obligation to Buyer which is not being expressly assumed by Buyer hereunder, or any Claim made against Buyer with respect thereto. In addition, the Buyer shall not be responsible for any Assumed Liabilities as to which any representation or warranty made pursuant to this Agreement is untrue, inaccurate, or misleading in any respect. The Obligations of Seller in this Section 4.5 shall survive Closing.

4.6 Closing Date. The Closing shall occur simultaneously with the execution of this Agreement by Buyer and Seller and, in no event, later than three days following the entry of an order by the Bankruptcy Court approving this Agreement.

ARTICLE V  
PURCHASE PRICE

5.1 Purchase Price. In exchange for the purchase of the Seller’s interest, if any, in the Purchased Assets, Buyer agrees, subject to the terms, conditions, and limitations set forth in this Agreement, to pay to or for the account of Seller, the Purchase Price.

5.2 Payment of Purchase Price. The Purchase Price, subject to prorations, credits, and adjustments as hereinafter set forth, shall be paid by Buyer to Seller, at Closing, as follows:

(a) At Closing, Buyer shall pay to Seller, by wire transfer to an account designated by Seller, the amount of Two Hundred Thousand and No/100 Dollars (\$200,000.00), which sum represents One Hundred Thousand Dollars (\$100,000.00) towards payment of the Purchased Assets from Seller, and One

Hundred Thousand Dollars (\$100,000.00)(the “**Expense Reimbursement Amount**”) which shall be used by Seller solely to pay for the allowed administrative professional fees and expenses of the trustee in the Bankruptcy, and his accountant and attorneys (such fees and expenses referred to collectively as the “**Admin Fees**”). Notwithstanding anything contained in this Agreement to the contrary, in the event the Admin Fees are ultimately determined to be less than the Expense Reimbursement Amount, then the Seller shall and does hereby agree to promptly return to Buyer any unused portion of the Expense Reimbursement Amount remaining after payment of the Admin Fees, which Seller agrees to return promptly after the Admin Fees are formally determined.

(b) At Closing, the remaining portion of the Purchase Price not paid under Section 5.2(a) shall be paid thru a credit bid made by Buyer against Buyer’s secured claim under the Bankruptcy.

(c) Notwithstanding anything contained in this Agreement to the contrary, in the event, prior to consummating the transactions contemplated hereby, Seller is required to place the Purchased Assets up for sale thru an auction process, and Buyer is not the prevailing party or winning bidder at such an auction, then at the closing with the successful or winning bidder of such auction, Seller shall immediately return, and Buyer shall receive, at a minimum, any portion of the Purchase Price paid by Buyer to Seller in advance (the parties hereby acknowledging that Buyer has deposited \$222,000.00 with Seller towards the Purchase Price as of the Effective Date, and such sums are to be returned to Buyer should Buyer not be the ultimate purchaser of the Purchased Assets). For this reason, any successful bid for the Assets at a hypothetical auction must exceed the Purchase Price, with a cash component of at least \$222,000.

**ARTICLE VI**  
**REPRESENTATIONS AND WARRANTIES OF THE SELLER**

The Seller hereby makes the following representations and warranties to the Buyer, each of which the Seller hereby represents to be true and correct as of the Closing Date.

6.1 Authority and Approval of Agreement; Binding Effect. The execution and delivery by Seller of this Agreement and the Seller Ancillary Documents, and the performance by Seller of all of its Obligations hereunder and thereunder, have been duly and validly authorized and approved by the United States Bankruptcy Court for the Southern District of Florida pursuant to an order entered in case no. 18-17492-RBR.

6.2

**ARTICLE VII**  
**REPRESENTATIONS AND WARRANTIES OF THE BUYER**

The Buyer hereby makes the following representations and warranties to the Seller, each of which the Buyer represents to be true and correct on the date hereof.

7.1 Organization. Buyer is a limited liability company duly organized, validly existing and in good standing under the Laws of the State of Florida, and Buyer has the full right, power, and authority to execute, deliver, and perform its obligations under this Agreement.

7.2 Authority and Approval of Agreement; Binding Effect. The execution and delivery by Buyer of this Agreement and the performance by Buyer of all of its obligations hereunder, have been duly

and validly authorized and approved by Buyer pursuant to all applicable Laws and no other company action or Consent on the part of Buyer, its managers, members, or any other Person is necessary or required by the Buyer to execute this Agreement and consummate the transactions contemplated herein. This Agreement has been duly and validly executed by Buyer (and the Person executing this Agreement is duly authorized to act and execute same on behalf of Buyer) and constitutes the valid and legally binding agreement of Buyer, enforceable against Buyer in accordance with its respective terms, except as such enforcement may be limited by applicable bankruptcy, insolvency, moratorium or similar laws affecting the enforcement of creditors rights generally and by general principles of equity.

7.3 No Violations. Neither the execution, delivery nor performance of this Agreement, nor the consummation of the transactions contemplated hereby by Buyer: (i) constitutes a violation of, or a default or breach under (either immediately, upon notice, upon lapse of time, or both), or conflicts with: (A) the articles of organization or operating agreement of Buyer; (B) any provision of any Contract to which Buyer is a party; (C) any Judgment; or (D) any Law.

7.4 Brokerage Fees. There is no Person acting on behalf of the Buyer who is entitled to or has any claim for any brokerage or finder's fee or commission in connection with the execution of this Agreement or the consummation of the transactions contemplated hereby.

#### ARTICLE VIII INTERPRETATION AND SURVIVAL OF REPRESENTATIONS AND WARRANTIES

8.1 Interpretation. Each warranty and representation made by a party in this Agreement or pursuant hereto is independent of all other warranties and representations made by the same party in this Agreement or pursuant hereto (whether or not covering identical, related or similar matters) and must be independently and separately satisfied. Exceptions or qualifications to any such warranty or representation shall not be construed as exceptions or qualifications to any other warranty or representation.

8.2

#### ARTICLE IX OBLIGATIONS AT CLOSING

9.1 Obligations of the Seller to the Buyer. On the Closing Date, the Seller hereby covenants and agrees to execute and deliver, or cause to be executed and delivered, as applicable, to the Buyer, the following:

(a) Physical delivery of the Purchased Assets to Buyer, including delivery by Seller to Buyer of all login, username, and password credentials with respect to any of the Purchased Assets, including the domain names, social media accounts, e-mail servers, and other similar Purchased Assets requiring such login credentials, as applicable, and keys to any storage units, lockers, or other locked facilities included within the Purchased Assets, free and clear of all Encumbrances, other than the Assumed Liabilities;

(b) A duly executed bill of sale and assignment in form and substance reasonably acceptable to Buyer, conveying all of the tangible and intangible personal property included in the Purchased Assets to Buyer, including an assignment to the Buyer of all subsisting and assignable guaranties

and warranties issued or made in connection with any of the Purchased Assets, together with copies of each such guaranty and warranty, if any;

(c) A duly executed assignment in form and substance reasonably acceptable to Buyer, assigning all Assumed Contracts to Buyer;

(d) Such other bills of sale, endorsements, assignments, certificates of title, and other instruments of assignment, transfer, and conveyance as Buyer shall reasonably request in order to transfer the Purchased Assets as contemplated herein;

(e) The parties hereto agree that the Purchased Assets will be sold, transferred, conveyed, and assigned to Buyer pursuant to Section 363 of the United States Bankruptcy Code (the "**Bankruptcy Code**"), in accordance with an order to be entered by the Court and this Agreement, and pursuant to a Section 363(m) finding of good faith that is final and non-appealable. The sale order, which shall be in a form and content agreeable to the Buyer, which shall provide, among other things, that Buyer shall acquire the Purchased Assets free and clear of all Encumbrances junior to Seller's lien, if any, of any kind and nature, and findings of good faith and protections consistent with Section 363(m) of the Bankruptcy Code. Finally, Seller shall use its best efforts to obtain a provision in the approval order that the sale shall proceed immediately upon the issuance thereof as shortened under Bankruptcy Rule 6004(h). It shall be a condition precedent to Buyer's obligations under this Agreement that the sale/approval order contemplated by this paragraph is issued in the manner required hereby.

(f) Such other documents and instruments as are contemplated by this Agreement or as may reasonably be requested by Buyer to further evidence the transactions contemplated hereby.

9.2 **Buyer's Obligations to the Seller at Closing.** On the Closing Date, Buyer agrees to execute and deliver, or cause to be executed and delivered, as applicable, to Seller, the following:

(a) The cash payment required under Section 5.2;

(b) Appropriate evidence regarding Buyer's formation, existence, and authority to acquire the Purchased Assets and otherwise consummate the transactions contemplated by this Agreement; and

(c) Such other documents and instruments as are contemplated by this Agreement or as may reasonably be requested by Seller to further evidence the transactions contemplated hereby.

## ARTICLE X

### OTHER COVENANTS AND CONDUCT OF THE PARTIES AFTER CLOSING

#### 10.1 Pre-Closing and Post-Closing Liabilities.

(a) Buyer shall be responsible for and pay all Assumed Liabilities and all liabilities, accounts payable, and other Obligations which first arose in connection with the Purchased Assets after the Closing Date.

(b) In the event, subsequent to the Closing, Buyer shall receive a written demand to pay an Obligation from a third party arising from a transaction related to the Purchased Assets prior to the Closing Date which is not part of the Assumed Liabilities, then Buyer may immediately notify Seller in writing of such fact, indicating the nature and amount of such outstanding Obligation, and Seller shall pay or satisfy (by bonding or otherwise) such outstanding Obligation within ten (10) days of receipt of such written notice from Buyer. In the event Seller fails to pay or satisfy (by bonding or otherwise) such outstanding Obligation within the ten (10) day period referred to above, then Buyer shall have the right, but not the obligation, to pay or otherwise satisfy such Obligation and if so paid, to deliver written notice to Seller, together with evidence of the payment of said Obligation reasonably acceptable to Seller, requesting reimbursement for same and Seller hereby agrees to deliver to Buyer such reimbursement sums within five (5) days of such written demand.

ARTICLE XI  
AS IS TRANSACTION; RELEASE

11.1 As Is. Except for the express representations and warranties, if any, set forth in this Agreement, Buyer agrees to accept, and Buyer hereby acknowledges that it is acquiring, the Purchased Assets in an "as is," "where is," condition, without warranty of any kind, including, without limitation, warranties of merchantability or warranties that the Purchased Assets are fit for a particular purpose.

11.2 Release From Seller. As a material consideration to Buyer to pay the Purchase Price to Seller for the Purchased Assets, the Seller does hereby release, waive, discharge, covenant not to sue, acquit, satisfy, and forever discharges the Buyer and its Affiliates, including TCA Global Credit Master Fund, LP and its general partner, and their respective successors and assigns, from any and all charges, complaints, claims, counter-claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, cross-actions, threats, setoffs, equities, judgments, accounts, suits, liens, rights, demands, benefits, costs, losses, debts, expenses, and other distributions, of every kind and nature whatsoever, payable by Buyer or any of its Affiliates to any Person, including reasonable attorneys' and paralegals' fees and expenses, court costs, settlement amounts, costs of investigation and interest thereon from the time such amounts are due at the highest non-usurious rate of interest permitted by applicable law, in law or in equity, whether known or unknown, whether suspected or unsuspected, whether fixed or contingent, which the Seller ever had, now has, or which any successor or assign of the Seller hereafter can, shall, or may have against Buyer or any of its Affiliates or their successors and assigns, for, upon, or by reason of any matter, cause, or thing whatsoever, from the beginning of the world through and including the date hereof.

ARTICLE XII  
MISCELLANEOUS

12.1 Notices. All notices of request, demand and other communications hereunder shall be addressed to the parties as follows:

If to the Seller:

Soneet R, Kapila, chapter 11 trustee  
P.O. Box 14213  
Fort Lauderdale, FL 33302  
E-Mail: skapila@kapilamukamal.com

With a copy to:

Robert. C. Furr, Esq.  
Furr Cohen



2255 Glades Road, Suite 301E  
E-Mail: rfurr@furrcohen.com

If to the Buyer:

TCA Broward Collision, LLC  
19950 W. Country Club Dr., First Floor  
Aventura, FL 33180  
Attention: Robert Press, Director  
E-Mail: bpress@tcacap.com

With a copy to:

David Kahan, P.A.  
6420 Congress Ave., Suite 1800  
Boca Raton, FL 33487  
Attn: David Kahan, Esq.  
E-Mail: david@dkpalaw.com

unless the address or any other information listed above is changed by the party by like notice given to the other parties; provided, however, that notwithstanding the following sentence, no notice of any change in the address or other information listed above shall be deemed given unless and until actually received by the party charges with notice thereof. Notice shall be in writing and shall be deemed received: (i) if mailed by certified mail, return receipt requested, postage prepaid and properly addressed to the address above, then three (3) business days after deposit of same in a regularly maintained U.S. Mail receptacle; (ii) if mailed by Federal Express, UPS or other nationally recognized overnight courier service, next business morning delivery, then one (1) business day after timely deposit of same in a regularly maintained receptacle of such overnight courier for next business day delivery; or (iii) if hand delivered, then upon hand delivery thereof to the address indicated on or prior to 5:00 p.m., EST, on a business day. Any notice hand delivered after 5:00 p.m., EST, shall be deemed delivered on the following business day. Notwithstanding the foregoing, notice, requests or demands or other communications referred to in this Agreement may be sent by e-mail or other method of delivery, but shall be deemed to have been given only when the sending party has confirmed (by reply e-mail or some other form of written confirmation from the receiving party) that the notice has been received by the receiving party.

12.2 Entire Agreement. This Agreement, including the Exhibits and Schedules attached hereto and the documents delivered pursuant hereto, sets forth all the promises, covenants, agreements, conditions and understandings between the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, inducements or conditions, expressed or implied, oral or written, except as herein contained.

12.3 Assignment. No party may assign or transfer its interests in this Agreement, or delegate its duties hereunder, without the prior written consent of the other party.

12.4 Binding Effect. This Agreement shall be binding upon the parties hereto, their respective successors and permitted assigns.

12.5 Amendment. The parties hereby irrevocably agree that no attempted amendment, modification, or change of this Agreement shall be valid and effective, unless the parties shall unanimously agree in writing to such amendment, modification or change.

12.6 No Waiver. No waiver of any provision of this Agreement shall be effective, unless it is in writing and signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

12.7 Gender and Use of Singular and Plural. All pronouns shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identity of the party or parties or their personal representatives, successors and assigns may require.

12.8 Headings. The article and section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of the Agreement.

12.9 Governing Law. This Agreement shall be construed in accordance with the laws of the State of Florida and any proceeding arising between the parties in any manner pertaining or related to this Agreement shall, to the extent permitted by law, be held in Broward County, Florida.

12.10 Waiver of Jury Trial. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

12.11 Further Assurances. The parties hereto will execute and deliver such further instruments and do such further acts and things as may be reasonably required to carry out the intent and purposes of this Agreement. This Section 12.11 shall survive Closing.

12.12 Prevailing Party. If any party hereto is required to engage in litigation or any other Proceeding against any other party hereto, either as a plaintiff, as defendant or otherwise, in order to enforce or defend any rights under this Agreement and such litigation or other Proceeding results in a final judgment or other adjudication in favor of such party ("Prevailing Party"), then the party or parties against whom said final judgment or other adjudication is obtained shall be liable to and reimburse the Prevailing Party for all direct, indirect or incidental expenses incurred in such litigation, including all reasonable attorneys' fees, paralegals' fees, court costs and other expenses incurred throughout all negotiations, trials or appeals undertaken in order to enforce the Prevailing Party's rights hereunder.

12.13 Arm's Length Negotiations. Each party herein expressly represents and warrants to all other parties hereto that: (a) before executing this Agreement, such party has fully informed itself of the terms, contents, conditions and effects of this Agreement; (b) such party has relied solely and completely upon its own judgment in executing this Agreement; (c) such party has had the opportunity to seek and has obtained the advice of counsel before executing this Agreement; (d) such party has acted voluntarily and of its own free will in executing this Agreement; (e) such party is not acting under duress, whether economic

or physical, in executing this Agreement; and (f) this Agreement is the result of arm's length negotiations conducted by and among the parties and their respective counsel.

12.14 Time is of the Essence. The parties hereby agree that time is of the essence with respect to performance of each of the parties' Obligations under this Agreement. The parties agree that in the event that any date on which performance is to occur falls on a Saturday, Sunday or state or national holiday, then the time for such performance shall be extended until the next business day thereafter occurring.

12.15 Joint Preparation. The preparation of this Agreement has been a joint effort of the parties and the resulting documents shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

12.16 Severability. If any one of the provisions contained in this Agreement, for any reason, shall be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall remain in full force and effect and be construed as if the invalid, illegal or unenforceable provision had never been contained herein.

12.17 Execution. This Agreement may be executed in one or more counterparts, all of which taken together shall be deemed and considered one and the same Agreement, and same shall become effective when counterparts have been signed by each party and each party has delivered its signed counterpart to the other party. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format file or other similar format file, such signature shall be deemed an original for all purposes and shall create a valid and binding obligation of the party executing same with the same force and effect as if such facsimile or ".pdf" signature page was an original thereof.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date and year set forth above.

**SELLER:**

**SONEET R. KAPILA, as chapter 11 bankruptcy trustee for Broward Collision, Inc.**

By:   
Soneet R. Kapila, as chapter 11 ~~bankruptcy~~ trustee

Date: 9/7/18

**BUYER:**

**TCA BROWARD COLLISION, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date and year set forth above.

**SELLER:**

\_\_\_\_\_, a \_\_\_\_\_  
corporation

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**BUYER:**

**TCA BROWARD COLLISION, LLC**

By: Gregory Felix

Name: Gregory Felix

Title: Manager

**SELLER'S DISCLOSURE SCHEDULES**

**Schedule 6.5 and 6.3**

**Assumed Contracts**

1. Lease for premises located at 10301 NW 50th St, Suite 108 & 111, Sunrise, FL 33351 with Sunrise Three Industrial, LTD.
2. Lease for premises located at 3685 W. Oakland Park Boulevard, Lauderdale Lakes, FL 33311 with RZNK, LLC.
3. Lease for premises located at 4675 NW 103rd Avenue, Sunrise FL 33351 with RZNK 2, LLC.
4. Lease Agreement for paint booth/machine with Lease Corporation of America.

**Schedule 2.5**

**Assumed Liabilities**

Those certain liabilities associated with the 4 Assumed Contracts set forth in Schedule 6.5.