

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION

IN RE:

CRS REPROCESSING, LLC

CHAPTER 11

DEBTOR-IN-POSSESSION

CASE NO. 17-32565

MOTION FOR ENTRY OF ORDERS (A) APPROVING BIDDING PROCEDURES AND BIDDER PROTECTIONS FOR STALKING-HORSE BIDDER; (B) APPROVING FORM AND MANNER OF NOTICE OF AUCTION AND SALE; (C) APPROVING CREDIT BID RIGHTS OF SECURED CREDITORS; (D) APPROVING FORM AND MANNER OF NOTICE OF ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES; (E) APPROVING SALE OF SUBSTANTIALLY ALL OF DEBTORS' ASSETS; AND (F) GRANTING RELATED RELIEF

CRS Reprocessing, LLC (“CRS” or the “Debtor”)¹ debtor and debtor-in-possession in the above-captioned chapter 11 case (the “Case”), by and through its proposed undersigned counsel, and as set forth more fully below, respectfully moves this Court for the entry of two (2) orders. *First*, the entry of a proposed Sale Procedures Order, thereby (a) approving proposed Bidding Procedures and a Break-Up Fee for Debtor’s proposed Stalking-Horse Bidder for the sale of all Purchased Assets (consisting of substantially all of Debtor’s assets); (b) approving the proposed form and manner of notice of the Auction and Sale; (c) approving the credit bid rights of secured creditors; (d) approving the proposed form and manner of notice of proposed assumption and assignment of certain executory contracts and unexpired leases; and (e) granting related relief. *Second*, the entry of a proposed Sale Order, thereby (x) approving the sale of substantially all of the Purchased Assets to the Successful Bidder at the Auction; (y) approving the assumption and assignment of executory contracts and unexpired leases; and (z) granting related relief. In support of this motion, the Debtor respectfully states as follows:

¹ Unless otherwise stated herein, capitalized terms not defined in this introductory paragraph are subsequently defined herein.

I. BACKGROUND FACTS

1. On August 9, 2017 (the “CRS Petition Date”), CRS commenced its Case by filing its voluntary petition for relief under chapter 11 of the Bankruptcy Code.

2. Debtor is continuing in possession of its properties and assets and is operating and managing its businesses as debtor-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code. No trustee, examiner, or official committee of unsecured creditors has been appointed in the Case.

Debtor and Debtor’s Business

3. The Debtor is a global partner in fluid reprocessing management, offering people, technology and services to efficiently handle industrial fluids for a variety of industries.

4. As of the Petition Date, the Debtor had assets including accounts receivable in the estimated face amount of One Million Five Hundred Sixty One Thousand Dollars (\$1,561,000), approximately Three Hundred Nineteen Thousand Dollars (\$319,000) in inventory, and approximately Three Million Three Hundred Twenty-Five Thousand Dollars (\$3,325,000) in fixed assets and other personal property.² The Debtor’s liabilities include secured claims in the principal amount of approximately Forty-Three Million Dollars (\$43,000,000) and approximately Seventeen Million Dollars (\$17,000,000) in unsecured claims, excluding the unsecured deficiency claims held by the Debtor’s lenders. Of this Seventeen Million Dollars (\$17,000,000), approximately Seven Hundred Thousand Dollars (\$700,000) is unsecured non-insider accounts payable.

5. As of the Petition Date, Debtor’s financing was obtained through four (4) credit facilities. A detailed description of each of these facilities may be found in the Declaration of

² The Debtor does not own any real property and leases the location from which it operates its corporate headquarters in Louisville, Kentucky. The values stated here are estimated liquidation values only. The Debtor’s management believes that the sale of the company as a going concern could generate materially more value than the sum of the liquidation values.

Scott T. Massie in Support of the First Day Motions and the Amended Declaration of Scott T. Massie in Support of First Day Motions (together, the “Massie Declaration”), which is incorporated herein by reference.³

6. Pursuant to the Triangle Credit Facility, Debtor received funds from a revolving line of credit in the face principal amount of Five Million Dollars (\$5,000,000).

7. The Triangle Credit Facility is secured by a first priority security interest in the Debtor’s accounts receivable, cash, cash equivalents and deposit accounts (the “Cash Collateral”), among other security, all as set forth in that Security Agreement dated as of June 16, 2011, as amended (the “Triangle Credit Facility Collateral”).⁴

8. Pursuant to the Interim Credit Facility, Debtor received funds from a financing in which Triangle Capital Corporation (“Triangle”) was a Subordinated Note Holder, among others, and served as agent for the Subordinated Note Holders in the original maximum principal amount of Three Million Five Hundred Thousand Dollars (\$3,500,000).

9. The Interim Credit Facility (together with the Triangle Credit Facility, the “Triangle Facility”) is secured by a second priority security interest in the Cash Collateral, among other security, all as set forth in that certain Security Agreement dated October 15, 2014 by and between (among others) Debtor, Triangle as Collateral Agent for the Secured Parties defined therein, and the Secured Parties defined therein, including Triangle (the “Interim Credit Facility Collateral”, and, together with the Triangle Credit Facility Collateral, the “Triangle Facility Collateral”).

³ All capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Massie Declaration.

⁴ JPM filed a UCC financing statement with the Delaware Secretary of State’s office on June 16, 2011 to perfect its security interest in the same, which was assigned to Triangle with the filing of a UCC financing statement amendment with the Delaware Secretary of State’s office on May 27, 2015. A continuation statement was filed on March 28, 2016.

10. Pursuant to the THL Credit Facility, the Debtor received approximately Thirty One Million Dollars (\$31,000,000) from a financing provided by THL and Triangle. The THL Credit Facility is secured by a first priority security interest in Debtor's equipment, fixtures, inventory, goods, instruments, intellectual property, all proceeds and all other assets of Debtor except that THL holds a third priority lien on the Triangle Credit Facility Collateral.⁵ On September 11, 2017, Triangle purchased and was assigned all of THL's right, title and interests in the THL Credit Facility, succeeding to all of THL's rights and interests in the THL Credit Facility Collateral.

11. On June 30, 2017, both the Triangle Credit Facility and the THL Credit Facility matured. The Debtor made the interest payments on both facilities that were due on June 30, 2017 but did not make the interest payments due on July 31, 2017.

12. Debtor's secured lender, Triangle, has agreed to provide financing to Debtor through Debtor-in-Possession financing ("DIP Financing") to allow the Debtor to fund ongoing operations, continue paying wages, and provide for the expenses generally attendant to the bankruptcy process, including the payment of professionals and advisors as approved by this Court and to pay quarterly U.S. Trustee fees. As a condition to providing the DIP Financing, Debtor is required to pursue a sale of substantially all of its assets pursuant to Section 363 of the Bankruptcy Code.

Sale and Marketing Efforts

13. Until immediately before the Petition Date, Debtor made every effort to rehabilitate its finances independently, without assistance or need to pursue a sale of its assets. However, due to the critical needs for capital and as a condition of the DIP Financing, Triangle

⁵ The Interim Credit Facility, pursuant to which Triangle and certain other credit parties are lenders or participants, is secured by a second priority security interest on the Triangle Credit Facility Collateral.

has required that substantially all of the Debtor's assets be marketed for sale pursuant to Section 363 of the Bankruptcy Code.

14. Accordingly, on July 17, 2017, Debtor engaged the investment banking firm of Lincoln Partners Advisors, LLC ("Lincoln") to assist Debtor in marketing its assets and securing and closing a sale resulting from that marketing effort. The marketing process has been underway for four weeks and, based on (i) the robust customer base enjoyed by Debtor, (ii) the numerous prospects and potential buyers identified by Lincoln, both domestically and internationally, (iii) the initial interest shown by potential buyers, and (iv) the strong Stalking-Horse Bid submitted by Triangle, Lincoln and Debtor hope for robust bidding.

Debtor's Stalking-Horse Bidder

15. On July 28, 2017, Triangle (together with any successors, designees, or assigns, the "Stalking-Horse Bidder")⁶ proposed a term sheet (the "Asset Purchase Term Sheet"), pursuant to which the Stalking-Horse Bidder agreed to serve as the stalking-horse bidder for the purchase of substantially all of Debtor's assets. As a result of this Asset Purchase Term Sheet and intense negotiation, Debtor and the Stalking-Horse Bidder agreed as to the form of an Asset Purchase Agreement (the "Original 363 APA"), pursuant to which the Stalking-Horse Bidder would purchase, and Debtor would sell, substantially all of Debtor's assets. As a result of delays attendant to the finalization and court approval of the DIP Financing, the Stalking-Horse Bidder terminated the Original 363 APA. As a result of further intense negotiations, Stalking-Horse Bidder and Debtor entered into another Asset Purchase Agreement (the "Stalking-Horse APA"), pursuant to which Stalking-Horse Bidder agreed to purchase, and Debtor agreed to sell,

⁶ For avoidance of doubt, and in an effort to provide full disclosure, in addition to being a lender, Triangle has agreed to provide the DIP Financing, and is using, in part, its credit bid rights to serve as the Stalking-Horse Bidder.

Purchased Assets⁷ consisting of substantially all of Debtor's assets. The Stalking-Horse APA provides that Triangle shall pay a purchase price (the "Purchase Price") consisting of (i) the assumption at closing of the Assumed Liabilities and payment of all amounts thereof, (ii) payment of Cure Costs in connection with the assumption of the Assumed Contracts, (iii) an amount not less than Twenty Five Million Dollars (\$25,000,000) payable in the form of the exercise of credit bid rights under 363(k) of the Bankruptcy Code with respect to all of the aggregate obligations then outstanding under the Triangle Facility, the THL Facility and the DIP Financing, and (iv) a cash payment in the amount of Six Hundred Thousand Dollars (\$600,000). The Stalking-Horse Bidder has agreed to notify all interested parties of the anticipated dollar amount of the credit bid component of the Purchase Price (including any additional amounts anticipated to be provided pursuant to the DIP Financing after October 22, 2017 but prior to the Auction) as of November 1, 2017 no later than five (5) days prior to the date set to submit bids (the "Bid Deadline") (proposed to be October 27, 2017), or October 22, 2017 and Debtor agrees to direct Lincoln to provide email notice of such set amount for the Purchase Price to all parties that have expressed an interest in purchasing the Assets and the United States Trustee for Region 8. For avoidance of doubt, and except as set forth herein, the Purchase Price is not intended and shall not limit Triangle's ability to make a credit bid with any and all remainder of its debt owed from the Debtor (pre- and post-petition). In exchange for the Stalking-Horse Bidder's willingness to serve in such capacity, the Stalking-Horse APA also calls for (i) a break-up fee in the amount of Three Hundred Fifty Thousand Dollars (\$350,000) (the "Break-Up Fee"); and (ii) an expense reimbursement of up to One Hundred Fifty Thousand Dollars (\$150,000) to reimburse the Stalking-Horse Bidder's actual sale-related expenses (the "Expense Reimbursement") and together with the Break-Up Fee, the "Bidder Protections") to be paid to the

⁷ As defined in the Stalking-Horse APA.

Stalking-Horse Bidder in the event that it is outbid at the Auction. The transactions contemplated by the Stalking-Horse APA are subject, among other things, to this Court's approval.

16. Notwithstanding Debtor's selection of the Stalking-Horse Bidder and execution of the Stalking-Horse APA, Debtor, with the assistance of Lincoln, is marketing the Purchased Assets aggressively in order to ensure the Purchase Price is tested through market forces and auction. A true and correct copy of the Stalking-Horse APA is attached to the proposed Bidding Procedures (as defined below) as Exhibit A.

Justification of the Sale Process

17. It is necessary to pursue a sale in order to guard against the erosion of Debtor's collateral base, demonstrate to Debtor's customers that Debtor will continue to timely service those customers, and preserve the going-concern value of Debtor's business for all interested parties. Selling substantially all of Debtor's assets is a condition to Triangle's agreement to continue to provide funding. Without this funding, Debtor's business will continue to decline without realistic opportunity to regain profitability. Unless Debtor sells its business as a going concern, it is likely that Debtor's business may have to shut down altogether. A sale to the Stalking-Horse Bidder (or the ultimate Successful Bidder at the Auction), which is able to invest working capital, can preserve the value of the assets, restore certainty to customers, potentially preserve the jobs of many, if not all, employees, and will maintain the continuity of operations for the benefit of many parties, including customers and creditors.

18. Due to the Debtor's critical financial needs, time is of the essence to complete restructuring and commence and complete a sale process. Speed is important so that the Stalking-Horse Bidder (or another bidder submitting a higher and better bid) can do what is necessary to preserve and maintain customer relationships with the aid of a restructured balance

sheet and investments in new equipment. Moreover, Debtor believes that the offer made by the Stalking-Horse Bidder represents a premium and the process should reflect the premium being paid to maximize the opportunity for the Stalking-Horse Bidder (or any other bidder submitting a higher and better bid). Each day that passes adds to the risks and decreases the value that can be generated from the Sale.

II. RELIEF REQUESTED

Request for Entry of Sale Procedures Order

19. Debtor respectfully requests the entry of an order, substantially in the form of the proposed order attached hereto as Exhibit A (the “Sale Procedures Order”) (a) approving the Stalking-Horse APA; (b) approving the Bidder Protections; (c) approving the credit bid rights of secured creditors; (d) scheduling an auction of the Purchased Assets to be held on November 1, 2017, at 2:00 p.m. E.T. (as the same may be rescheduled or adjourned from time to time, the “Auction”); (e) approving the proposed bid procedures attached to the Sale Procedures Order as Exhibit 1 (the “Bidding Procedures”) for use at the auction sale of the Purchased Assets (the “Auction”); (f) scheduling a final hearing on the sale of the Purchased Assets (the “Sale”) to the successful bidder at the Auction (the “Successful Bidder”) to be held not later than November 8, 2017, or as soon thereafter as Debtor may be heard (the “Sale Hearing”); (g) approving the proposed form of notice of the Sale Hearing, attached to the Sale Procedures Order as Exhibit 2 (the “Sale Notice”); (h) approving the form and manner of service of notice of the potential assumption and assignment of certain contracts and leases (collectively, the “Contracts”), attached to the Sale Procedures Order as Exhibit 3 (the “Cure Claim Notice”); and (i) granting such other and further relief to which the Debtor is justly entitled.

Request for Entry of Sale Order

20. Subsequent to the entry of the Sale Procedures Order, Debtor respectfully requests the entry of an order (the “Sale Order”) (a) approving the sale of the Purchased Assets free and clear of any and all liens, claims, interests, and encumbrances to the Successful Bidder at the Auction; (b) approving the assumption and assignment of certain identified executory contracts and unexpired leases; (c) waiving the fourteen (14) day stays of Bankruptcy Rules 6004(h) and 6006(d); (d) approving payments from the Debtor’s Estate to key employees to retain and incentivize them through the sale process as described in more detail below; and (e) granting such other and further relief to which Debtor is justly entitled. A copy of the Sale Order is attached at Exhibit B.

21. Debtor believes that the transactions contemplated pursuant to this motion are in the best interests of Debtor’s bankruptcy estate and are in the best interests of all creditors and other interested parties in the Case. As set forth more fully below, an orderly, going-concern sale of the Purchased Assets is essential, time is of the essence, and will result in greater value to Debtor’s estate than any piecemeal liquidation ever could.

III. SALE PROCEDURES AND RELATED RELIEF

Stalking-Horse Bidder, Stalking-Horse APA, Bidding Procedures, Credit Bid Rights, Auction, and Sale Hearing

22. Bankruptcy Code Section 363 governs a debtor’s ability to sell property of the estate outside the ordinary course of business. 11 U.S.C. §363. In determining whether to authorize such use, sale or lease of property under Section 363, a debtor must show that a sound business purpose justifies such actions. The United States Court of Appeals for the Sixth Circuit concluded that “a bankruptcy court can authorize a sale of all a Chapter 11 debtor’s assets under §363(b)(1) when a sound business purpose dictates such action” and prior to confirmation of a

plan of reorganization. *Stephens Indus., Inc. v. McClung*, 789 F.2d 386, 389-90 (6th Cir. 1986). *See also Committee of Equity Security Holders v. Lionel Corp, (In re Lionel Corp.)*, 722 F.2d. 1063, 1070 (2d Cir. 1983).

23. Applying Section 363, the courts have generally given a debtor substantial deference in formulating procedures for selling assets. *See, e.g., Official Committee of Subordinated Bondholders v. Integrated Res. Inc. (In re Integrated Res. Inc.)*, 147 B.R. 650, 656-57 (S.D.N.Y. 1992), *appeal dismissed*, 3 F.3d 49, 54 (2d Cir. 1993) (noting that overbid procedures and break-up fee arrangements that have been negotiated by a debtor-in-possession are to be reviewed according to the deferential “business judgment” standard, under which such procedures and arrangements are “presumptively valid”). Indeed, courts recognize that procedures intended to enhance competitive bidding are consistent with the goal of maximizing the value received by the estate and are appropriate in the context of bankruptcy sales. *See, e.g., Integrated Res.*, 147 B.R. at 659-60 (such procedures should “encourage bidding and . . . maximize the value of the debtor’s assets”); *In re Fin. News Network, Inc.*, 126 B.R. 152, 156 (S.D.N.Y. 1991) (“court-imposed rules for the disposition of assets . . . [should] provide an adequate basis for comparison of offers, and . . . provide for a fair and efficient resolution of bankrupt estates”).

24. Subject to Court approval, Debtor selected the Stalking-Horse Bidder pursuant to the terms in the Stalking-Horse APA. Debtor selected the Stalking-Horse Bidder, among other reasons, because (i) the Purchase Price was the greatest offered and significantly more than the expected value of the combination of its hard and working capital assets; (ii) the Stalking-Horse Bidder’s strength demonstrated by the premium they are proposing to pay for the Purchased Assets; and (iii) the Stalking-Horse Bidder’s ability to close a transaction without any financing

contingencies; and (iv) no other party would make a stalking-horse bid, including THL when it was a lender. Moreover, the Stalking-Horse Bidder provides stability to Debtor's operations and customers (through the DIP Facility and knowledge that the Debtor's material operations will continue to exist post-sale). Further, given the Purchase Price, the Break-Up Fee and Expense Reimbursement are reasonable and customary under the circumstances. Accordingly, Debtor submits that the Stalking-Horse APA should be approved for use by other potential purchasers pursuant to the Bidding Procedures, and the Bidder Protections should be approved for payment in the event that the Stalking-Horse Bidder does not acquire the Purchased Assets.

25. In the instant case, the Bidding Procedures also are supported by ample business justification and are reasonable and appropriate under the circumstances. The proposed Bidding Procedures are designed to foster an open, competitive, and fair sale process, thereby maximizing the value to Debtor's estate while preserving opportunity for Debtor, Debtor's customers, creditors, vendors and employees. Debtor respectfully requests the Bidding Procedures be approved as fair and reasonable under the circumstances, and that Debtor be authorized to conduct the Auction as provided therein.

26. Debtor contemplates requiring all bids be submitted to Debtor's professionals no later than 5:00 pm. E.T. on October 27, 2017 (in each event, a "Bid").

27. In order for a party submitting a Bid to be a "Qualified Bidder", Debtor expects, in addition to the terms and conditions in the Bidding Procedures, that such bidders shall:

- (a) Submit a Bid of no less than Five Hundred Fifty Thousand Dollars (\$550,000) more than the Purchase Price (as set five (5) days prior to the Bid Deadline (as defined herein);
- (b) Submit a Bid that contains no financing or due diligence contingencies;
- (c) Submit a Bid that provides for the deposit of at least five percent (5%) of the value of their Bid (the "Deposit");

- (d) Actually make a deposit in cash (or by providing an irrevocable letter of credit) in the amount of the Deposit in escrow with Debtor's counsel, to be held to secure such party's Bid in the event such bidder presents the highest and best bid (the "Successful Bidder") or the second highest and best bid (the "Second Bidder");
- (e) Submit with the Bid documentation, in the form of financial statements, or other documentation acceptable to Debtor, in its sole discretion, demonstrating that such bidder is able to complete the transaction contemplated therein; and
- (f) Submit a Bid using the Stalking-Horse APA as its baseline, submitting its proposed Asset Purchase Agreement in clean and compared forms to the Stalking-Horse APA.

28. Debtor contemplates holding the Auction at Stoll Keenon Ogden PLLC, 500 West Jefferson Street, Suite 2000, Louisville, Kentucky 40202. Debtor proposes to have the Auction commence at 2:00 p.m. E.T. on November 1, 2017. The Debtor reserves the right to postpone or reschedule the Auction.⁸

29. Debtor respectfully requests that the Court schedule the Sale Hearing, to consider approval of the Sale to any Successful Bidder, and the assumption and assignment of certain unexpired leases and executory contracts and related relief, on November 8, 2017 or as soon after that as the Debtor can be heard. Debtor reserves the right to request adjournment of the Sale Hearing to a later date if Debtor believes it is in the best interest of the estate.

Secured Creditor Rights to Credit Bid Should be Approved, Defined and Limited

30. Section 363(k) of the Bankruptcy Code states that when property is sold other than in the ordinary course of business of the debtor, any party who claims a valid lien may offset such claim against the purchase price of the property, "unless the court for cause orders otherwise." 11 U.S.C. § 363(k).

⁸ Further details regarding the Auction and the Bidding Procedures in general are included in the Bidding Procedures. Nothing contained herein modifies or shall be deemed to modify the proposed Bidding Procedures.

31. In this case, prior to the DIP Financing all of the Debtor's secured lenders likely are underwater, perhaps with the sole exception of the Triangle Credit Facility, which may have been fully secured prior to the DIP Financing. The Interim Facility and the THL Credit Facility appear to be dramatically undersecured. The Debtor estimates that the liquidation value of the THL Credit Facility Collateral is approximately Three Million Six Hundred Thousand Dollars (\$3,600,000), securing a debt claimed to be approximately Thirty One Million Dollars (\$31,000,000). The THL Credit Facility Collateral contains substantially all of the tangible hard and operating assets of Debtor. The Debtor likewise estimates that the value of the Triangle Facility Collateral is less than the debt claimed to be owed Triangle of approximately Three Million One Hundred Thousand Dollars (\$3,100,000⁹), the debt of One Million Nine Hundred Thousand Dollars (\$1,900,000) claimed to be owed to the remaining Interim Credit Facility creditors, and the DIP Financing.

32. The Debtor and Lincoln have begun and intend to continue to run a robust and aggressive marketing process to strategic and financial buyers, both located domestically and internationally. Lincoln has already identified over one hundred seventy-five (175) potential buyers which may be interested in acquiring the Debtor as a going concern; 22 have executed confidentiality agreements and 10 have accessed a digital data site or otherwise started due diligence.¹⁰ Given the Debtor's diversified business model providing critical services to a variety of markets and end users, Lincoln believes that a robust process can be effectuated that will yield recoverable proceeds much greater than the implied value under the Debtor's orderly liquidation analysis.

⁹ This amount represents the approximate entire amount owed Triangle pursuant to the Triangle Facility.

¹⁰ These numbers exclude management, THL and Triangle.

33. Triangle should be allowed to exercise its right to credit bid pursuant to Bankruptcy Code § 363(k), and the ability to credit bid should be authorized and communicated to all interested parties. Triangle should be able to credit bid for the purchase of property subject to its pre-petition first and second priority liens and security interests in the Triangle Facility Collateral and its first priority liens and security interests in the THL Credit Facility. Additionally, Triangle, as the secured lender under the Debtor's DIP financing, should be allowed to credit bid the amount of the DIP loan as to any assets subject to the first priority priming lien granted as part of the DIP financing approved by this Court.

KERP and KEIP Payments

34. The Sale Procedures Order tendered herewith includes an authorization for the Debtor to pay certain key employees amounts necessary to retain and incentivize them through the contemplated sale process. A Key Employee Retention Plan ("KERP") and a Key Employee Incentive Plan ("KEIP"). The KERP provides for approximately \$200,000 in retention bonuses to be paid to Debtor's employees not in senior management if they stay through the sale and are employed by the buyer. Debtor estimates that there will be approximately 40 eligible employees, each of whom would be paid between \$1,000 and \$15,000, as determined by the Debtor's management. The KEIP applies to the Debtor's senior management, providing for approximately \$150,000 to be paid to that group. None of the Debtor's current employees have been offered post-sale employment by any bidder on the Debtor's assets, yet their continued services and full commitment to the sale process are vital to the Debtor and their availability is valuable to a buyer. Absent the potential for additional compensation they may have insufficient incentive not to accept other positions during the sale process. Further, to the extent a purchaser does want the services of a key employee after sale, the plans increase the likelihood they can get

those services. The funds are payable at the closing of a sale and the amounts necessary to pay the amounts are already included in the Site/Eng., SG&A and Payroll categories in the DIP Loan Facility Budget, evidencing support of the DIP lender/Stalking-Horse bidder for such expenditure. Approval of such plans is common in chapter 11 cases. *See In re Jillian's Entertainment Holdings, Inc.*, Case No. 04-33192 (Bankr. W.D. Ky., July 13, 2004). These payments are appropriate here.

Form and Manner of Service of Notice of the Sale

35. Debtor proposes to give notice of the Sale, the Sale Procedures Order, the Auction and the Sale Hearing in the form and manner as set forth in the proposed Sale Notice, which is attached to the Sale Procedures Order as Exhibit 2. As set forth in the proposed Sale Notice, persons desiring to object to the Sale must file with the Court and serve upon Debtor's counsel an objection no later than **two (2) business days prior to the date set by the Court for the Sale Hearing**. If timely objections are received, Debtor proposes that the Court hear the objections at the Sale Hearing.

Form and Manner of Service of Notice of Assumption and Assignment of Unexpired Leases and Executory contracts

36. Debtor proposes to file and serve upon all parties to the Contracts that are or may be assumed and assigned in connection with the Sale a Cure Claim Notice, the proposed form of which is attached to the Sale Procedures Order as Exhibit 3, within two (2) business days after the day on which the Sale Procedures Order is entered. Debtor reserves the right to modify the Cure Claim Notice as necessary and applicable. The schedule attached to the Cure Claim Notice shall include Debtor's calculation of the amount it believes must be paid to cure any default under each such Contract (the "Cure Amounts"). Debtor reserves the right to amend and modify the Cure Amounts as necessary and applicable. Unless the non-debtor party to such Contract

files with the Court and serves upon Debtor an objection to its scheduled Cure Amount or the assumption and assignment of their Contract(s) on or before **two (2) days prior to the date set by the Court for the Sale Hearing**, such party shall be forever barred from objecting to the Cure Amount or the assumption and assignment of a Contract, and from asserting any additional cure or other amounts with respect to such Contract. If an objection to a scheduled Cure Amount or the assumption and assignment of a Contract is filed in accordance with the Cure Claim Notice, then Debtor proposes that the Court hear that objection at the Sale Hearing.

37. Debtor submits that the notices proposed with respect to the Sale and assumption and assignment of executory contracts and unexpired leases are reasonably calculated to provide timely and adequate notice to Debtor's creditors and parties-in-interest, and those parties interested in bidding on the Purchased Assets. Accordingly, Debtor submits that such notices constitute good and sufficient notice under the circumstances and that no further notice need be given.

IV. SALE APPROVAL AND RELATED RELIEF

Approval of Sale of Purchased Assets

38. "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). In determining whether to authorize such use, sale, or lease of property outside the ordinary course of business and outside of any chapter 11 plan pursuant to Section 363(b), Debtor must show that a sound business purpose justifies such actions. *Stephens Indus., Inc. v. McClung*, 789 F.2d at 389-90; *see also In re Lionel Corp.*, 722 F.2d at 1070. The issue directly before the *Lionel* court was "to what extent chapter 11 permits a bankruptcy judge to authorize the sale of an important asset of

the bankrupt's estate, out of the ordinary course of business and prior to acceptance and outside of any plan of reorganization." *In re Lionel Corp.*, 722 F.2d at 1066.

39. The *Lionel* test requires a debtor to establish, as a threshold matter, a "sound business reason" justifying the pre-confirmation sale of assets. The *Lionel* court held that, when addressing a motion pursuant to Section 363(b), a bankruptcy judge should consider all salient factors and the business justifications for a debtor to sell assets pursuant to Section 363(b). *Id.* at 1071.

40. In order to demonstrate a sound business purpose warranting a sale, courts within the Sixth Circuit and in other jurisdictions have developed a four-part test requiring a debtor to demonstrate: "1) sound business reason; 2) accurate and reasonable notice; 3) adequate price; and 4) good faith." *In re Country Manor of Kenton, Inc.*, 172 B.R. 217, 220-21 (Banks. N.D. Ohio 1994) (citations omitted). All factors weigh in favor of approving the sale of the Purchased Assets.

41. There is a sound business justification for approving the Sale. Debtor does not presently have requisite funding, nor are any lenders willing to provide the requisite funding, to provide the necessary working capital and funding critical equipment purchases absent completion of the Sale process described in this motion. Debtor's ability to use funding and cash collateral to conduct on-going operations also is contingent upon, among other things, pursuing an expedited sale of its assets pursuant to Section 363. Accordingly, Debtor has determined that a Sale pursuant to Section 363 to a purchaser with adequate resources to provide the necessary working capital will maximize the value of Debtor's estates for the benefit of their creditors, customers, and employees. Conversely, a liquidation would have a materially adverse impact upon Debtor, their estates, employees, customers, and creditors. Beyond the foregoing, and

perhaps most importantly, a Sale may be the only alternative to protect the jobs of its many employees and the customers that contracted with Debtor. As a result, a Sale is justified. *See In re Trans World Airlines, Inc.*, 322 F.3d 283, 293 (3d Cir. 2003) (affirming the bankruptcy court's sale of substantially all of the debtor's assets, considering the strong likelihood of piecemeal liquidation should the sale not occur).

42. There has been adequate and reasonable notice of the Sale. This Motion was filed on October 2, 2017, with a proposed Sale Procedures Hearing to be held during the week of October 15, 2017. Lincoln has and will continue to market the Purchased Assets during the period preceding a hearing on this motion. Moreover, the proposed Sale Procedures Order ensures that creditors and interested parties are afforded ample notice and opportunity to object to the Sale and related transactions.

43. The Purchased Assets are being sold for an adequate price. The Stalking-Horse Bidder's Bid (as compared to the Debtor's own records) shows that the Stalking-Horse Bidder is agreeing to pay a premium compared to the likely liquidation value of the Purchased Assets — thus more than adequate. As demonstrated above, Debtor, with the assistance of Lincoln, is aggressively marketing the Purchased Assets. Lincoln is already identifying and talking to potential bidders who are interested in acquiring a business with such a strong customer base, attracting the interest of as many potential purchasers as possible. Further, the Auction and Bidding Procedures will ensure that the proposed purchase price is tested competitively, and will result in the highest and best possible sale price for the estate, creditors, and all interested parties.

44. Finally, Debtor negotiated the contemplated Sale transaction at arm's length, without collusion, and in good faith within the meaning of Section 363(m). Debtor required many changes to the original Stalking-Horse APA (upon which the current version is based) and

negotiated the Bidding Procedures with Triangle to ensure a fair sale and transaction process. Debtor requests that the Court determine that the entire Sale process was conducted at arm's length, without collusion, and in good faith within the meaning of Section 363(m) and that Debtor and any Successful Bidder are entitled to the protections of Section 363(m). *See, e.g., In re Apex Oil Co.*, 92 B.R. 847, 873-74 (Bankr. E.D. Mo. 1988).

45. Based upon the foregoing, Debtor submits that a sale of the Purchased Assets represents a sound exercise of Debtor's business judgment, is in the best interest of Debtor's estates, and should be approved in all respects.

The Sale of Purchased Assets Should be Free and Clear of Any and All Liens, Claims, Interests, and Encumbrances

46. A debtor-in-possession may sell all or any part of its property free and clear of any and all liens, claims, interests and encumbrances in such property if –

- (a) applicable nonbankruptcy law permits 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 legal or equitable proceeding, to accept a money satisfaction of such interest.

11 U.S.C. § 363(f).

47. The contemplated Sale satisfies the requirements of Section 363(f). First, the Purchase Price is greater than the aggregate liquidation value of all collateral securing liens on the property. 11 U.S.C. § 363(f)(3). Furthermore, all parties may be compelled to accept money in satisfaction of their interests in the Purchased Assets, 11 U.S.C. § 363(f)(5).

Assumption and Assignment of Executory Contracts and Unexpired Leases

48. Pursuant to Sections 365(a), (b) and (f), but conditioned on the closing of the Sale, Debtor requests entry of an order approving the assumption by Debtor and the assignment by Debtor to any Successful Bidder of the Contracts.

49. Section 365(a) provides:

[e]xcept as provided in sections 765 and 766 of this title and in subsections (b), (c), and (d) of this section, the trustee, subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor.

11 U.S.C. § 365(a). This authority extends to debtors-in-possession, like the Debtor. 11 U.S.C. § 1107(a).

50. A debtor's decision to assume or reject an unexpired lease or executory contract must only satisfy the business judgment rule and will not be disturbed unless such decision is clearly an unreasonable exercise of such judgment. *See Four B. Corp. v. Food Barn Stores, Inc. (In re Food Barn Stores, Inc.)*, 107 F.3d 558, 567 n. 16 (8th Cir. 1996). *See also Phar-Mor, Inc. v. Strouss Bldg. Assocs.*, 204 B.R. 948, 952 (N.D. Ohio 1997); *In re Structurelite Plastics Corp.*, 86 B.R. 922, 925 n.4 (Bankr. S.D. Ohio 1988).

51. Section 365(b)(1) requires a debtor-in-possession to satisfy certain requirements at the time of assumption if a default exists under the contract to be assumed. Section 365(b)(1) provides:

(b) (1) [i]f there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee —

(A) cures, or provides adequate assurance that the trustee will promptly cure, such default;

(B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and

(C) provides adequate assurance of future performance under such contract or lease.

11 U.S.C. § 365(b)(1).

52. Prior to assignment of an executory contract, a debtor-in-possession must comply with Section 365(f)(2), which provides:

(2) [t]he trustee may assign an executory contract or unexpired lease of the debtor only if—

(A) the trustee assumes such contract or lease in accordance with the provisions of this section; and

(B) adequate assurance of future performance by the assignee of such contract or lease is provided, whether or not there has been a default in such contract or lease.

11 .S.C. § 365(f)(2).

53. Debtor will seek the cure of any defaults under the Contracts at or before Closing, thereby satisfying Sections 365(b)(1)(A) and (B). In fact, the Stalking-Horse Bidder has already agreed to this action in the Stalking-Horse APA with respect to the Contracts. Adequate assurance of future performance depends upon the facts and circumstances of each case but should be given practical, pragmatic construction. *In re Tama Beef Packing, Inc.*, 277 B.R. 407, 411 (Bankr. N.D Iowa 2002) (citations omitted) (holding that “[i]n making the determination of ‘adequate assurance,’ the Court must give a practical pragmatic construction based on the circumstances of each case”). Evidence of adequate assurance of future performance can be established based upon the financial health and experience of the assignee in the type of enterprise and property involved. *In re Bygaph, Inc.*, 56 B.R. 596, 605-06 (Bankr.

S.D.N.Y. 1986); *In re Alipat, Inc.*, 36 B.R. 274, 278 (Bankr. E.D. Mo. 1984) (holding that a business assigned to an experienced operator that will operate the business in substantially the same way will provide adequate assurance). Here, the Stalking-Horse Bidder is a financially sound, well known, entity which has already invested millions in the Debtor's operations. Accordingly, Debtor submits that adequate assurance of future performance exists. Debtor anticipates that the Qualified Bidders participating in the Auction will similarly be able to perform under any Contracts assumed and assigned pursuant to the Sale.

54. As set forth in the proposed Sale Procedures Order, Debtor proposes serving all parties to Contracts with the Cure Claim Notice. The Cure Claim Notice sets forth the proposed Cure Amounts and procedures for objecting to the assumption and assignment of Contracts. At the Sale Hearing, Debtor will establish, as previously addressed, adequate assurance of future performance under the Contracts. The Court's findings at the Sale Hearing as to the Cure Amounts, if any, arising from the Contracts pursuant to Section 365(b)(1) should be final and binding on the parties to all Contracts, and should not be subject to further dispute based on performance prior to the time of assumption and assignment, except as otherwise provided by the Sale Order.

55. Section 365(k) further provides:

[a]ssignment by the trustee to an entity of a contract or lease assumed under this section relieves the trustee and the estate from any liability for any breach of such contract or lease occurring after such assignment.

11 U.S.C. § 365(k).

56. Based upon the foregoing, Debtor's assumption and assignment of the Contracts subject to the Sale complies with Section 365(k) and, thus, upon the approval of such assumption

and assignment, and pursuant to Section 365(k), after payment of the Cure Amount, Debtor should be relieved of all liability on the assumed and assigned Contracts.

Waiver of Fourteen (14)-Day Stays of Rules 6004(h) and 6006(d)

57. Unless the Court orders otherwise, all orders authorizing the sale of property pursuant to Section 363 and the assumption and assignment of executory contracts pursuant to Section 365 are automatically stayed for fourteen (14) days after entry. Fed. R. Bankr. P. 6004(h) and 6006(d). The purpose of Rules 6004(h) and 6006(d) is to provide sufficient time for an objecting party to request a stay pending appeal before the order can be implemented. *See* Advisory Committee Notes to Fed R. Bankr. P. 6004(h) and 6006(d).

58. Although Rules 6004(h) and 6006(d) and the Advisory Committee Notes are silent as to when a court should “order otherwise” and eliminate or reduce the fourteen (14)-day stay period, Collier on Bankruptcy suggests that the fourteen (14)-day period should be eliminated in order to allow the sale or other transaction to close immediately “where there has been no objection to the procedure.” 10 Collier on Bankruptcy 6004.11. Furthermore, *Collier on Bankruptcy* provides that if an objection is filed and overruled, and the objecting party informs the Court of its intent to appeal, the stay may be reduced to the amount of time necessary to file such appeal. *Id.*

59. As previously set forth herein, time is of the essence with respect to the contemplated transaction, given the fact that the Debtor is anticipated to have borrowed or incurred obligations for all funds to which it is entitled under the DIP budget by November 3, 2017, and its right to borrow money under the DIP Financing will expire on January 31, 2018. As such, Debtor has every expectation that it will choose to close this Sale as soon as possible after all closing conditions have been met or waived. Accordingly, Debtor respectfully requests

that the Court waive the fourteen (14)-day stay period under Rules 6004(h) and 6006(d) in this instance.

WHEREFORE, Debtor respectfully requests the entry of two (2) orders: first, the Sale Procedures Order (a) approving the Stalking-Horse APA; (b) approving the Bidder Protections; (c) approving the credit bid rights of secured creditors; (d) scheduling an Auction; (e) approving the Bidding Procedures for use at the Auction; (f) scheduling the Sale Hearing in order to consider the Sale of the Purchased Assets to the Successful Bidder at the Auction; (g) approving the proposed Sale Notice; (h) approving the Cure Notice; and (i) granting such other and further relief as the Court may order; and second, the Sale Order (a) approving the sale of the Purchased Assets free and clear of any and all liens, claims, interests, and encumbrances to the Successful Bidder at the Auction; (b) approving the assumption and assignment of certain executory contracts and unexpired leases; (c) waiving the fourteen (14)-day stays of Bankruptcy Rules 6004(h) and 6006(d); and (d) granting such other and further relief as the Court may order.

Dated: October 3, 2017

Respectfully submitted:

/s/ Lea Pauley Goff

Lea Pauley Goff

Emily L. Pagorski

STOLL KEENON OGDEN PLLC

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Louisville, Kentucky 40202

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*Counsel for the Debtor,
CRS Reprocessing, LLC*

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF KENTUCKY

In re:) Chapter 11
)
CRS REPROCESSING, LLC,) Case No. 17-32565
)
Debtor-In-Possession.)
)

**ORDER (A) APPROVING BIDDING PROCEDURES AND BIDDER PROTECTIONS
FOR STALKING-HORSE BIDDER; (B) APPROVING FORM AND MANNER OF
NOTICE OF AUCTION AND SALE; (C) APPROVING CREDIT BID RIGHTS OF
SECURED CREDITORS; (D) APPROVING FORM AND MANNER OF NOTICE OF
ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND
UNEXPIRED LEASES; AND (E) GRANTING RELATED RELIEF**

This matter having come before the Court pursuant to the _____, 2017, *Motion for Entry of Orders (a) Approving Bidding Procedures and Bidder Protections for Stalking-Horse Bidder; (b) Approving Form and Manner of Notice of Auction and Sale; (c) Approving Credit Bid Rights of Secured Creditors; (d) Approving Form and Manner of Notice of Assumption and Assignment of Executory Contracts and Unexpired Leases; (e) Approving Sale of Substantially All of Debtor's Assets; and (f) Granting Related Relief* [Dkt. No. ____] (the "Motion").¹ The Court, having considered the Motion and the relief requested therein hereby FINDS that (a) notice of the Motion and the relief requested therein was just and proper and in accordance with all applicable laws and rules including, without limitation, the Bankruptcy Code, Bankruptcy Rules, and Local Bankruptcy Rules of this Court; (b) the Stalking-Horse APA and all terms and conditions thereof are fair and reasonable, and were entered into in good faith and at arm's length by Debtor and the Stalking-Horse Bidder; (c) Triangle Capital Corporation ("Triangle") holds first priority liens and security interests in substantially all of Debtor's assets; (d) Triangle is entitled to credit bid its entire debt as the Stalking-Horse Bidder at any Auction; (e) Debtor's

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

determination to enter into the Stalking-Horse APA is a sound exercise of Debtor's business judgment; (f) the Bidder Protections are fair and reasonable; (g) the relief set forth in the Motion, to the extent granted herein, is in the best interests of Debtor, their estates, all creditors, and all other interested parties; and (h) jurisdiction and venue of this Case and the matters set forth in the Motion is proper before this Court.

Now, THEREFORE, based on the foregoing FINDINGS, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

1. Capitalized Terms. Unless otherwise defined or stated herein, all capitalized terms used herein shall have the meanings ascribed to them in the Motion.

2. Motion Granted in Part. The Motion is hereby GRANTED insofar as it pertains to Debtor's request for entry of this Sale Procedures Order. The Motion is hereby CONTINUED to the Sale Hearing (as defined below) insofar as it pertains to Debtor's request for approval of the Sale and entry of the Sale Order, pending completion of the Auction and the Sale Hearing.

3. Objections Overruled/Continued. Any and all objections or responses to the Motion or the relief requested therein, insofar as they pertain to Debtor's request for entry of this Sale Procedures Order, are hereby OVERRULED. Any and all objections or responses to the Motion or the relief requested therein, insofar as they pertain to Debtor's request for approval of the Sale or entry of the Sale Order are hereby CONTINUED to the Sale Hearing.

4. Approval of Bidding Procedures. The Bidding Procedures attached hereto as Exhibit 1 are approved in all respects. Debtor is hereby authorized to conduct the Auction pursuant to the terms, and subject to the conditions, of the Bidding Procedures. The Bidding Procedures are solely for the benefit of Debtor and its professionals and nothing contained therein shall create any rights in any other person or bidder. In the event of any inconsistency

between this Sale Procedures Order and the Bidding Procedures, this Sale Procedures Order shall govern in all respects.

5. Approval of Stalking-Horse Bidder. Triangle (together with any successors, designees, or assigns, the “Stalking-Horse Bidder”) is hereby approved as the stalking-horse bidder for the Purchased Assets. The Stalking-Horse Bidder is a Qualified Bidder (as defined in the Bidding Procedures) for purposes of the Auction without the need to submit a deposit.

6. Approval of Credit Bid Rights of Stalking-Horse Bidder. The credit bid rights of Stalking-Horse Bidder, pursuant to Section 363(k) of the Bankruptcy Code, are hereby affirmed, and Stalking-Horse Bidder may credit bid the amount owed pursuant to the Triangle Facility, the amount owed pursuant to the THL Credit Facility and the amount owed pursuant to the DIP financing.

7. Approval of Stalking-Horse APA. The Stalking-Horse APA attached to the Bidding Procedures as Exhibit A is hereby approved in all respects. The parties to the Stalking-Horse APA are authorized and approved to undertake and perform such actions prior to the Auction as may be required by the Stalking-Horse APA.

8. Approval of Bidder Protections. The Bidder Protections, as defined in the Motion, are hereby approved as reasonable, and may be paid to the Stalking-Horse Bidder pursuant to the terms, and subject to the conditions, of the Bidding Procedures. If the Stalking-Horse Bidder participates in the Auction and makes a Qualified Bid in excess of the Stalking-Horse Bid, the Bidder Protection (as defined in the Motion) may be credited to and included in the Stalking-Horse Bidder’s increased bid or bids.

9. Notice Procedures for Sale. Within two (2) business days after the entry of this Sale Procedures Order Debtor shall serve (except with respect to those parties receiving

electronic notice in Debtor's bankruptcy cases) the Sale Notice, substantially in the form attached hereto as Exhibit 2 on the entire matrix, which the Stalking-Horse Bidder agrees is sufficient. Service pursuant to Bankruptcy Rules 6004(a), 6004(c), 6006(c) and 9014 on those parties not receiving electronic notice in the Case shall be by first-class mail addressed to the last known business address of such persons appearing in Debtor's records notwithstanding Bankruptcy Rule 9014. Pursuant to Bankruptcy Rule 2002, service of the Sale Notice described herein shall constitute good and sufficient notice of the Bidding Procedures (including the Stalking-Horse APA), the Auction, this Sale Procedures Order, the Sale Motion, and the Sale Hearing (and any proceedings to be held thereon or related thereto) to all known and unknown creditors and parties-in-interest, including persons entitled to service pursuant to Bankruptcy Rules 2002, 6004(a), 6004(c), 6006(c) and 9014. The Form of Sale Notice is hereby approved.

10. Deadline for Objections to Sale. Objections, if any, to the Sale (other than objections to the assumption and assignment of a Contract) shall be in writing, shall conform to the Bankruptcy Rules and the Local Rules and orders of this Court, shall set forth (i) the nature of the objector's claims against or interests in Debtor's estate; (ii) the basis for the objection; (iii) the specific grounds therefor; and (iv) all evidence in support of said objection, and shall be filed and served so as to be received on or before _____, 2017 at _____ p.m. E.T. **[48 hours prior to Sale Hearing]**, by (a) Debtor; (b) the Office of the United States Trustee, Region 8; (c) counsel for the Stalking-Horse Bidder; and (d) all parties requesting service of notice and other motions and pleadings in the Case. Any person that does not comply with this paragraph shall not be heard at the Sale Hearing.

11. Notice Procedures for Executory Contracts and Unexpired Leases. Debtor shall serve via first-class mail upon all parties (the "Counterparties") to contracts and leases (the

“Contracts”) that are or may be assumed and assigned in connection with the Sale a notice (the “Cure Claim Notice”), substantially in the form attached hereto as Exhibit 3, within two (2) business days after entry of this Sale Procedures Order. The Cure Claim Notice shall set forth (a) Debtor’s intent to assume and assign all or certain of the Contracts to any Successful Bidder so requesting; (b) a schedule of the Contracts and the monetary defaults, if any, associated with each Contract that is required to be cured under Section 365 of the Bankruptcy Code (the “Cure Amounts”); and (c) the procedures for filing objections to the assumption and assignment of the Contracts, including any objections to proposed Cure Amounts. Service pursuant to Bankruptcy Rules 6004(a), 6004(c), 6006(c) and 9014 on those Counterparties not receiving electronic notice in this Case shall be by first-class mail addressed to the last known business address of such Counterparties appearing in Debtor’s records notwithstanding Bankruptcy Rule 9014. The form of Cure Claim Notice is hereby approved.

12. Deadline for Objections to Assumption and Assignment of Executory Contracts and Unexpired Leases. Objections, if any, to the assumption and assignment of a Contract shall be in writing, shall conform to the Bankruptcy Rules and the Local Rules and orders of this Court, shall set forth (i) the nature of the objector’s claims against or interests in Debtor’s estate; (ii) the basis for the objection; (iii) the specific grounds therefor; and (iv) all evidence in support of said objection, and shall be filed and served so as to be received on or before **October 27, 2017 at 5:00 p.m. E.T.**, by (a) Debtor; (b) the Office of the United States Trustee, Region 8; (c) counsel for the Stalking-Horse Bidder; and (d) all parties requesting service of notice and other motions and pleadings in the Case. Any person that does not comply with this paragraph shall not be heard at the Sale Hearing.

13. Bids Under Protest. If any Qualified Bidder objects to Debtor's determination of a Qualified Bid as a higher and better bid for the Purchased Assets, the sole and exclusive remedy of such Qualified Bidder shall be to bid under protest at the Auction and, upon compliance with this paragraph, have standing at the Sale Hearing to contest Debtor's determination.

14. Reservation of Rights to Object to Sale. Except as set forth above, nothing otherwise contained in this Sale Procedures Order shall be deemed to deprive any party of the right to object timely to the Sale, all of which rights are expressly reserved by this Sale Procedures Order.

15. Scheduling of Sale Hearing. The Sale Hearing to consider the relief requested in the Sale Motion and to consider whether to approve a Sale of the Purchased Assets to the Successful Bidder shall be held on _____, 2017 at _____ a.m. E.T.

16. The KERP and KEIP, defined and described in the Motion, and payments pursuant to them, are authorized on the terms set forth therein.

17. Retention of Jurisdiction. The Court shall retain jurisdiction to hear and determine all matters arising from or related to this implementation of this Sale Procedures Order.

18. Sale Procedures Order Effective Immediately. This Sale Procedures Order is effective immediately.

IT IS SO ORDERED.

###

Tendered by:

/s/ Lea Pauley Goff

Lea Pauley Goff

Emily L. Pagorski

STOLL KEENON OGDEN PLLC

500 West Jefferson Street

Suite 2000

Louisville, Kentucky 40202

Tel. No. (502) 333-6000

Fax No. (502) 333-6099

Counsel for the Debtor,

CRS Reprocessing, LLC

Copies to:

EXHIBIT 1

**PROCEDURES FOR SOLICITATION AND SELECTION OF HIGHEST OR BEST
QUALIFIED BIDDER IN CONNECTION WITH SALE OF SUBSTANTIALLY ALL
THE ASSETS OF CRS REPROCESSING, LLC**

These procedures (the “Bidding Procedures”) shall govern the sale of the Purchased Assets (as defined below) of CRS Reprocessing, LLC (“CRS” or the “Debtor”).

A. Assets to be Sold.

The assets to be sold consist of the Purchased Assets, as defined in the Asset Purchase Agreement by and between Debtor and Triangle Capital Corporation (together with any successors, designees, or assigns, the “Stalking-Horse Bidder”) attached hereto as Exhibit A (the “Stalking-Horse APA”). The Stalking-Horse APA sets forth the terms and conditions under which Debtor contemplates selling the Purchased Assets. Unless otherwise defined or stated herein, capitalized terms used herein shall have the meanings ascribed to them in the Stalking-Horse APA.

A detailed description of each of the Purchased Assets can be obtained by any Potential Bidder (as defined below) through the process described below in Section B, entitled “Due Diligence.”

Pursuant to these Bidding Procedures and Section 363 of the Bankruptcy Code, the Purchased Assets shall be sold free and clear of any and all liens, claims, rights, interests, and encumbrances, other than liabilities expressly assumed.

The “Purchase Price” for the Assets, pursuant to the Stalking-Horse APA, consists of (i) the assumption at closing of the Assumed Liabilities and payment of all amounts thereof, (ii) payment of Cure Costs in connection with the assumption of the Assumed Contracts, (iii) an amount not less than Twenty-Five Million Dollars (\$25,000,000) payable in the form of the exercise of credit bid rights under section 363(k) of the Bankruptcy Code with respect to all of the aggregate obligations then outstanding under the Triangle Facility, the THL Credit Facility and the DIP Financing, and (iv) a cash payment in the amount of Six Hundred Thousand Dollars (\$600,000) (together, the “Purchase Price”). The Stalking-Horse Bidder has agreed to notify all interested parties (via the Debtor or Lincoln) of the anticipated dollar amount of the Purchase Price (including any additional amounts anticipated to be provided pursuant to the DIP Financing and the sources of the credit to be bid) no later than five (5) days prior to the date set to submit bids (the “Bid Deadline”) (proposed to be October 27, 2017), and Lincoln agrees to provide email notice of such set amount for the Purchase Price to all parties that have expressed an interest in purchasing the Assets and the United States Trustee for Region 8.

Except as may be otherwise provided in the Stalking-Horse APA, the Purchased Assets shall be sold without warranty or representation of any kind or nature, and are being purchased by the Successful Bidder (as defined below) “as is — where is” and “with all faults.”

B. Due Diligence

Debtor shall provide potential bidders for the Purchased Assets that have delivered to Debtor an executed confidentiality agreement in form and substance acceptable to Debtor (each a “Potential Bidder”) (i) reasonable access to the data maintained by Debtor’s investment banker, Lincoln Partners Advisers, LLC (“Lincoln”); (ii) reasonable access to Debtor’s books, records, facilities, key personnel, officers, and legal counsel for the purpose of conducting due diligence; and (iii) reasonable access to Debtor’s facilities and locations. Subject to any order as may be entered by the United States Bankruptcy Court for the Western District of Kentucky (the “Court”), Debtor is not required to provide confidential or proprietary information to any party if Debtor reasonably believes that such disclosure would be detrimental to the interests and operations of Debtor. Debtor shall, in good faith, attempt to resolve any dispute arising from such a decision of Debtor to exclude any requested due diligence information, but any unresolved disputes shall be presented to the Court for resolution.

Debtor shall consider reasonable requests for additional information through its investment bankers, Lincoln.

C. Qualified Bid Requirements

Debtor, in consultation with its professionals, shall determine whether a Potential Bidder has submitted a Qualified Bid (as defined below). The Stalking-Horse Bidder shall be deemed to have made a Qualified Bid.

In order to be a “Qualified Bid,” such bid must:

- (i) be in writing;
- (ii) be accompanied by (A) an executed copy of an agreement, substantially in the form of the Stalking-Horse APA (in each case, a “Modified APA”), which agreement shall not be subject to any due diligence or financing contingency; and (B) a redline comparison of such Modified APA to the Stalking-Horse APA;
- (iii) include a cash purchase price for the Purchased Assets (in each case, a “Qualified Bid Purchase Price”) that is not less than Five Hundred Fifty Thousand Dollars (\$550,000) more than the Purchase Price, inclusive of the Bidder Protections (as defined below), to be paid at closing;
- (iv) provide that such Potential Bidder’s offer is irrevocable until the closing of the sale of the Purchased Assets if such Potential Bidder is the Successful Bidder or Second Bidder (each as defined below);
- (v) be accompanied by a good-faith deposit in an amount equal to no less than five percent (5%) of such party’s Bid (the “Qualified Bid Deposit”), in the form of cash or by providing an irrevocable letter of credit, a bank draft or wire transfer (wire instructions can be obtained from Lincoln);

- (vi) be accompanied by satisfactory evidence (including the most recent financial statements (annual and interim, as applicable)), in the opinion of Debtor, in consultation with its professionals, and documentation demonstrating that such bidder has the wherewithal to consummate the transactions set forth in the Modified APA;
- (vii) be accompanied by an affirmative statement from such Potential Bidder that it will fully and completely comply with these Bidding Procedures;
- (viii) be actually received by Lincoln on or before **October 27, 2017, at 5:00 p.m. E.T.** (the "Bid Deadline"); and
- (ix) meet all other requirements of these Bidding Procedures.

Debtor reserves all rights to waive compliance with any identified requirement for a bid to qualify as a Qualified Bid on any commercially reasonable basis; provided, however, Debtor may not waive the requirement that the Qualified Bid Purchase Price be not less than Five Hundred Fifty Thousand Dollars (\$550,000) more than the Purchase Price, inclusive of the Bidder Protections.

Lincoln shall distribute any Qualified Bids to the following parties:

Debtor

CRS Reprocessing, LLC
c/o Scott T. Massie
9780 Ormsby Station Road, Suite 2500
Louisville, KY 40223

With copies to:

Lea Pauley Goff
Emily L. Pagorski
Stoll Keenon Ogden PLLC
500 West Jefferson Street
Suite 2000
Louisville, KY 40202

Office of the United States Trustee

Tyler Yeager
601 W. Broadway
Room 512
Louisville, KY 40202

Upon request, all Qualified Bids may be shared by Lincoln or the Debtor with any Qualified Bidder including but not limited to the Stalking-Horse Bidder.

D. Qualified Bidder Requirements

Debtor shall determine whether a Potential Bidder is a Qualified Bidder. The Stalking-Horse Bidder is deemed to be a Qualified Bidder without the need for deposit.

In order to be a "Qualified Bidder," such Potential Bidder must be a person or entity that:

- (i) has delivered to Debtor, or Lincoln, an executed confidentiality agreement in form and substance acceptable to Debtor;
- (ii) has delivered to Lincoln a Qualified Bid (including transmittal of the entire Qualified Bid Deposit) on or before the Bid Deadline; and
- (iii) meets all other requirements of these Bidding Procedures.

Debtor shall notify any Potential Bidder whether they are a Qualified Bidder within twenty-four (24) hours after the Bid Deadline. **Notwithstanding anything contained above in this paragraph, should any Potential Bidder fail to meet the qualifications to be considered a Qualified Bidder, Debtor may allow a Potential Bidder who has failed to meet the requirements to be a Qualified Bidder twenty-four (24) hours in which to cure any deficiencies to its bid.**

E. Auction

If Debtor receives more than one Qualified Bid, then an auction (the "Auction") shall be held on **November 1, 2017, at 2:00 p.m. E.T. at Stoll Keenon Ogden PLLC, 500 West Jefferson Street, Suite 2000, Louisville, Kentucky 40202.**

Debtor reserves all rights to cancel or reschedule the Auction for any reason at any time, following consultation with its professionals.

If no Qualified Bids are received, this Auction will be cancelled, and the Stalking-Horse Bidder will be deemed the Successful Bidder.

F. Auction Process

In order to participate in the Auction, all Qualified Bidders must appear in person at the Auction, or through a duly authorized representative. Debtor will arrange for a stenographic record of the Auction to be made. Each Qualified Bidder shall be required to confirm that it has not engaged in any actions that would be considered inconsistent with these Bidding Procedures or fundamentals of fairness with respect to the bidding or Debtor's Purchased Assets.

Debtor will separately evaluate all Qualified Bids. The Auction shall be conducted in rounds and in any order Debtor determines (including in group and individual sessions). At the end of every round, Debtor shall declare the highest and best Qualified Bid for the Purchased Assets. Upon a determination by Debtor that no further higher and otherwise better Qualified Bid has been received, Debtor may conclude the Auction.

Each Qualified Bidder may continue to improve their Qualified Bid in any manner that they see fit; provided, however, that each successive bid must, at a minimum, provide for an increase in consideration of not less than Two Hundred Fifty Thousand Dollars (\$250,000 in cash and/or assumed liabilities (as designated by such Qualified Bidder, but evaluated solely by Debtor) of Debtor; provided, further, however, that any improved Qualified Bid that includes assumed liabilities as part of its increased bid must contain cash consideration sufficient to pay the Purchase Price and Bidder Protections in full at closing. If the Stalking-Horse Bidder participates in the Auction and makes a Qualified Bid in excess of the Purchase Price, the Bidder Protections (as defined hereafter) may be credited to and included in the Stalking-Horse Bidder's increased bid or bids.

Debtor reserves the right to approach any Qualified Bidder and seek clarification to bids at any time, including without limitation, by inviting Qualified Bidders to communicate with other Qualified Bidders if such communication would be beneficial to the Auction.

At the conclusion of the Auction, Debtor, shall determine which Qualified Bid is the highest and best qualified bid (a "Primary Bid") and the second highest and best qualified bid (a "Reserve Bid" or "Second Bid"). The Qualified Bidder submitting the Primary Bid shall become the "Primary Bidder," and the Qualified Bidder submitting the Reserve Bid shall become the "Reserve Bidder" or "Second Bidder"). If CRS closes the Sale to the Primary Bidder, then the Primary Bidder shall be the "Successful Bidder" and the Primary Bid shall be the "Successful Bid." If Debtor closes the Sale to the Reserve Bidder, then the Reserve Bidder shall be the "Successful Bidder" and the Reserve Bid shall be the "Successful Bid."

The value of Qualified Bids, for purposes of these proceedings, shall be determined by comparing, among other things; (i) the type, number and nature of any changes to the Stalking-Horse APA requested by each such Qualified Bidder; (ii) the extent to which such modifications are likely to delay the closing of the sale of the Purchased Assets to such Qualified Bidder, and the cost to Debtor and its estate of such modifications or delay; (iii) the extent to which such Qualified Bids include the purchase of more or less of the Purchased Assets; (iv) the type and amount of consideration to be received by Debtor's estate; (v) the amount of any assumed liabilities (including cure payments), which, if paid, would reduce the proceeds available for distribution to creditors; (vi) the likelihood of a Qualified Bidder's ability to close the transaction (including without limitation consideration of such Qualified Bidder's financial wherewithal); and (vii) the net anticipated benefit to Debtor's estate.

Nothing herein shall preclude Debtor, from modifying any procedures at the Auction.

G. Payment of Break-Up Fee/Expense Reimbursement

(1) Debtor shall pay to the Stalking-Horse Bidder a break-up fee equal to Three Hundred Fifty Thousand Dollars (\$350,000) (the “Break-Up Fee”) and an expense reimbursement of up to One Hundred Fifty Thousand Dollars (\$150,000) (the “Expense Reimbursement”) (collectively, with the Break-Up Fee, the “Bidder Protections”) to reimburse the Stalking-Horse Bidder’s actual sale-related expenses in the event a person other than the Stalking-Horse Bidder, through a sale pursuant to Section 363 of the Bankruptcy Code or in any other manner (an “Alternate Transaction”), is the Successful Bidder. Debtor shall have no obligation to pay the Bidder Protections if Stalking-Horse Bidder terminates the Stalking-Horse APA for any reason.

(2) The Bidder Protections shall be accorded administrative expense priority status and paid at closing from the proceeds of sale paid by any successful Qualified Bidder other than the Stalking-Horse Bidder.

H. Return of Deposits

The Qualified Bid Deposit of the Primary Bidder shall be applied to the Primary Bidder’s obligations upon closing of the transactions contemplated by the Primary Bid. If the Primary Bidder fails to close the transactions contemplated by the Primary Bid, then the Primary Bidder shall indefeasibly forfeit its Qualified Bid Deposit.

The Qualified Bid Deposit of the Reserve Bidder shall be returned to the Reserve Bidder upon closing of the transactions contemplated by the Primary Bid; provided, however, that if the Primary Bidder fails to close the transactions when and as provided in the Primary Bid, then the Qualified Bid Deposit of the Reserve Bidder shall be applied to the Reserve Bidder’s obligations under the Reserve Bid upon closing of the transactions contemplated by the Reserve Bid. If the Reserve Bidder fails to close the transactions contemplated by the Reserve Bid, then the Reserve Bidder shall forfeit its Qualified Bid Deposit.

All other Qualified Bid Deposits of Qualified Bidders who are not the Primary Bidder or Reserve Bidder shall be returned within five (5) business days after conclusion of the Sale Hearing.

The Stalking-Horse Bidder shall not make a Deposit.

Debtor reserves all of its rights regarding the return of Qualified Bid Deposits, and failure by Debtor to return any Qualified Bid Deposit timely shall not serve as a claim for breach of any bids or create any default or cause of action in favor of any bidders.

I. Sale Hearing

The Sale Hearing will be held on _____, 2017, at _____ a.m. E.T. (the “Sale Hearing”). At the Sale Hearing, Debtor will seek the entry of an order (the “Sale Order”) approving and authorizing the proposed Sale to the Successful Bidder. The Sale Hearing may be

adjourned or rescheduled without notice other than by announcement of the adjourned date at the Sale Hearing.

J. Closing

The closing of any sale of any of the Purchased Assets will occur in accordance with the terms of the Successful Bidder's APA, and shall occur no later than five (5) business days after entry of the Sale Order unless extended by agreement of Purchaser and Debtor.

Please direct any questions regarding the foregoing Bidding Procedures either to Lincoln or counsel for Debtor.

Debtor Counsel

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EXHIBIT A

ASSET PURCHASE AGREEMENT
BY AND BETWEEN
TRIANGLE CAPITAL CORPORATION
AND
CRS REPROCESSING, LLC

DATED _____, 2017

TABLE OF CONTENTS

	Page
ARTICLE I Definitions.....	1
1.1 Definitions.....	1
1.2 Other Defined Terms.....	7
1.3 Interpretation.....	8
ARTICLE II Sale and Transfer of Assets.....	8
2.1 Purchased Assets.....	8
2.2 Excluded Assets.....	10
2.3 Assumption of Liabilities.....	10
2.4 Assumption and Assignment of Contracts.....	11
ARTICLE III Purchase Price.....	13
3.1 Purchase Price.....	13
3.2 Allocation of Purchase Price.....	13
3.3 Sale Free and Clear.....	14
ARTICLE IV Closing.....	14
4.1 Closing.....	14
4.2 Closing Actions and Deliveries.....	14
4.3 Seller’s Closing Deliveries.....	14
4.4 Purchaser’s Closing Deliveries.....	15
ARTICLE V Representations and Warranties of Seller.....	15
5.1 Organization; Subsidiaries; Ownership; Predecessors.....	15
5.2 Due Authorization; No Conflict.....	15
5.3 Financial Records.....	16
5.4 Title to Assets; Adequacy.....	16
5.5 Compliance with Laws.....	16
5.6 Real Property.....	17
5.7 Contracts.....	18
5.8 Litigation.....	18
5.9 Employee Benefits; Employees.....	18
5.10 No Brokers.....	18
5.11 AS-IS, WHERE-IS.....	18
ARTICLE VI Representations and Warranties of Purchaser.....	18
6.1 Organization and Good Standing.....	18
6.2 Due Authorization; No Conflict.....	19
6.3 No Brokers.....	19
6.4 Litigation.....	19
ARTICLE VII Covenants and Agreements.....	19

7.1	Purchaser's Investigation.....	19
7.2	Consents of Third Parties.	20
7.3	Bankruptcy Matters; Bidding Process.	20
7.4	Operations of the Business Prior to the Closing.....	22
7.5	Notification of Certain Matters.	22
7.6	Alternate Transactions; Takeover Proposals.	22
7.7	Satisfaction of Closing Conditions.....	23
7.8	Employee Matters.....	23
7.9	Adequate Assurances Regarding Assumed Contracts.....	24
7.10	Cure Amounts.....	25
7.11	Further Assurances.	25
7.12	Prorations.....	25
ARTICLE VIII Conditions to Performance by Purchaser.....		25
8.1	Representations and Warranties.	25
8.2	Covenants and Agreements.	25
8.3	Compliance Certificate.....	26
8.4	Absence of Litigation.	26
8.5	Governmental Approvals.....	26
8.6	Bankruptcy Court Orders.	26
8.7	Deliveries.....	26
ARTICLE IX Conditions to Performance by Seller.....		26
9.1	Representations and Warranties.	26
9.2	Covenants and Agreements.	26
9.3	Compliance Certificate.....	26
9.4	Absence of Litigation.	26
9.5	Governmental Approvals.....	27
9.6	Bankruptcy Court Order.....	27
9.7	Deliveries.....	27
ARTICLE X Termination.		27
10.1	Termination.	27
10.2	Notice of Termination; Effect of Termination.	28
10.3	Return of Documentation.	29
ARTICLE XI General Provisions.		29
11.1	Expenses; Transfer Taxes.....	29
11.2	Entire Agreement; No Third Party Beneficiaries; Amendment.	29
11.3	Severability.....	29
11.4	Waiver.	29
11.5	Public Announcements.....	30

11.6	Successors and Assigns.	30
11.7	Notice.	30
11.8	Section Headings: Counterparts; Facsimile Signatures.	31
11.9	Specific Performance.	31
11.10	Governing Law.	31
11.11	Jurisdiction.	31
11.12	Survival of Representations and Warranties.	32

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT is made and entered into this [] day of [], 2017, by and among TRIANGLE CAPITAL CORPORATION, a Maryland corporation (“Purchaser”), and CRS REPROCESSING, LLC, a Delaware limited liability company (“Seller”).

WHEREAS, Seller is engaged in the business of developing advanced reprocessing solutions, innovative distillation, proprietary filtration offerings and waste byproduct offerings (the “Business”);

WHEREAS, On August 9, 2017, Seller filed a voluntary petition for relief under Title 11, United States Code (the “Bankruptcy Code”), in the U.S. Bankruptcy Court for the Western District of Kentucky (the “Bankruptcy Court”) commencing a case under Chapter 11 of the Bankruptcy Code Case No. 17-32565 (the “Bankruptcy Case”) shortly after the execution hereof; and

WHEREAS, Seller desires to sell, and Purchaser desires to purchase, substantially all of the assets of the Business free and clear of claims, liens and encumbrances and to assume only certain specified liabilities pursuant to Sections 105, 363 and 365 of the Bankruptcy Code, upon the terms and subject to the conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants hereinafter set forth, the parties, intending to be legally bound, hereby agree as follows:

ARTICLE I Definitions

1.1 Definitions. All capitalized terms not otherwise defined elsewhere in this Agreement shall have the meanings ascribed to such terms in this Section 1.1.

“Agreement” means this Asset Purchase Agreement, including all Exhibits and Schedules hereto, as it may be amended, modified or supplemented from time to time in accordance with its terms.

“Affiliate” means, with respect to any specified Person at any time, each Person directly or indirectly controlling, controlled by or under direct or indirect common control with such specified Person at such time. For purposes of this definition, “control” (including the terms “controlling,” “controlled by” and “under common control with”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“Alternative Transaction” means any of the following transactions with or by a third Person resulting in the sale of the Business: (a) the direct or indirect acquisition (whether in a single transaction or a series of related transactions) of assets of Seller equal to ten percent (10%) or more of Seller’s consolidated assets or to which twenty percent (20%) or more of Seller’s revenues or earnings on a consolidated basis are attributable or (b) the merger, consolidation, share exchange, business combination, recapitalization, liquidation, dissolution or similar transaction involving Seller, in each case, other than the Transactions.

“Approval” means any authorization, approval, consent, ratification or any extension, modification, amendment or waiver of any of the foregoing.

“Assumption Date” means the date as of which an Assumed Contract is assumed by Seller in the Bankruptcy Case and assigned to Purchaser pursuant to a Governmental Order of the Bankruptcy Court (which may be the Sale Order), in accordance with the terms of this Agreement.

“Business Day” means a day other than a Saturday, a Sunday or a day on which commercial banks are authorized or required to be closed in the State of North Carolina.

“Closing” means the consummation of the Transactions contemplated herein in accordance with Article IV.

“Closing Date” means the date on which the Closing occurs.

“Code” means the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder.

“Company Plans” means all Employee Plans as to which Seller sponsors, maintains, contributes or is obligated to contribute, or under which Seller has or may have any Liability.

“Contract” means any legally binding contract, agreement, deed, mortgage, lease, license, commitment, understanding, franchise, warranty, note, bond, option, warrant, right or other instrument or consensual obligation.

“Copyrights” means works of authorship in which copyright protection subsists, whether registered or unregistered, and pending applications to register the same.

“Debt” means, with respect to any Person at any date, without duplication: (a) all obligations for borrowed money or in respect of loans or advances, (b) all obligations evidenced by bonds, debentures, notes, interest rate swap agreements or other similar instruments or debt securities, (c) all obligations in respect of letters of credit and bankers’ acceptances issued for the account of such Person, (d) all obligations arising from cash/book overdrafts or negative cash balances, (e) all obligations arising from deferred compensation arrangements, employee bonuses (whether accrued or not), (f) all obligations of such Person secured by an Encumbrance, (g) all accrued but unpaid franchise, income and excise Taxes, (h) all capital lease obligations determined in accordance with GAAP, (i) notes and accounts payable to any Affiliates of such Person (and in the case of Seller, to any holder of the equity interests of Seller) or any officers or employees of such Person, (j) all guarantees of such Person in connection with any of the foregoing, and (k) all accrued interest, prepayment premiums or penalties related to any of the foregoing.

“DIP Loan” means the loan evidenced by (a) the Debtor-In-Possession Loan and Security Agreement dated as of September 13, 2017 among Seller and Purchaser and (b) the other DIP Revolving Loan Documents (as defined in the Debtor-In-Possession Loan and Security Agreement referred to in clause (a) above).

“Employee Plan” means any plan, program, agreement, policy or arrangement, whether or not reduced to writing, and whether covering a single individual or a group of individuals, that is (a) a welfare plan within the meaning of Section 3(1) of ERISA, (b) a pension benefit plan within the meaning of Section 3(2) of ERISA, (c) a stock bonus, stock purchase, stock option, restricted stock, stock appreciation right, profit sharing or similar equity-based plan or agreement, or (d) any other deferred-compensation, retirement, severance, retention, change-in-control, leave, vacation, welfare-benefit, bonus, incentive or fringe-benefit plan, program, agreement or arrangement maintained for the benefit of any officers, directors, employees or consultants of the Business.

“Employment Contracts” means each employment agreement between Seller and Scott T. Massie, W. Scott Radeker and William L. Lawrence.

“Encumbrance” means any lien, license to a third party, option, pledge, security interest, mortgage, right of way, easement, encroachment, right of first offer or first refusal, buy/sell agreement and any other material restriction or covenant with respect to, or material condition governing the use, voting (in the case of any security or equity interest), transfer, receipt of income or exercise of any other material attribute of ownership.

“Enforceable” means, with respect to any Contract, that such Contract is a legal, valid and binding obligation of such Person enforceable by or against such Person in accordance with its terms, except to the extent that enforcement of the rights and remedies created thereby is subject to bankruptcy, insolvency and other similar laws of general application affecting the rights and remedies of creditors and general principles of equity.

“Environmental Audit” means an evaluation by the Environmental Auditor regarding the condition of the Leased Real Property and the compliance of the Business, the Leased Real Property and Purchased Assets with Environmental Laws, including Phase I and Phase II environmental site assessments, the sampling and analysis of soil, groundwater, surface water, building materials and other media and an examination of Seller’s reports and records related to environmental matters.

“Environmental Auditor” means an environmental consulting firm selected by Purchaser.

“Environmental Claim” means any claim, cause of action, investigation or written notice, Governmental Order, direction or requirement by any Person alleging actual or potential Liability or demanding damages, actions or other remedies, whether based in contract, tort, implied or express warranty, strict liability, any other common law theory or any criminal or civil Legal Requirement, arising from or with respect to (a) the presence, Release or threatened Release of any Hazardous Material or any other environmental condition, (b) any other condition or circumstances forming the basis of any actual or alleged violation of any Environmental Law or that would otherwise give rise to costs or Liabilities under any Environmental Law, (c) any Response Action required to be taken under any Environmental Law, or (d) any actual or alleged harm, injury or damage to real or personal property, natural resources, the environment or any Person alleged to have resulted from any of the foregoing.

“Environmental Laws” means any Legal Requirement relating to the environment, natural resources, pollutants, contaminants, wastes, chemicals or public health and safety, including any Legal Requirement pertaining to (a) air, water and noise pollution, (b) groundwater and soil contamination, (c) the Release or threatened Release into the environment of Hazardous Materials, (d) manufacture, processing, use, distribution, generation, treatment, storage, disposal, transportation or handling of Hazardous Materials, (e) underground and other storage tanks or vessels, abandoned, disposed or discarded barrels, containers and other closed receptacles, (f) occupational and workplace health and safety and (g) the protection of wildlife, marine sanctuaries and wetlands, including all endangered and threatened species, and including the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“CERCLA”), 42 U.S.C. §9601 et. seq.; the Toxic Substance Control Act, 15 U.S.C. §2601 et. seq.; the Hazardous Materials Transaction Act, 49 U.S.C. §1802 et. seq.; the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et. seq.; the Clean Water Act, 33 U.S.C. §1251 et. seq.; the Safe Drinking Water Act, 42 U.S.C. §300(f) et. seq.; the Clean Air Act, 42 U.S.C. §7401 et. seq.; and the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §1.36 et. seq., and any analogous state and local Legal Requirements promulgated by any Governmental Authority thereunder, all of the foregoing, as amended.

“ERISA” means the federal Employee Retirement Income Security Act of 1974, as amended.

“Final DIP Financing Order” means entry by the Bankruptcy Court of a Final Order approving the DIP Loan, which order is in effect and not stayed and is in form and substance satisfactory to Purchaser.

“Final Order” means an action taken or Governmental Order issued by the applicable Governmental Authority as to which: (a) no request for stay of the action or Governmental Order is pending, no such stay is in effect and, if any deadline for filing any such request is designated by statute or regulation, it is passed, including any extensions thereof; (b) no petition for rehearing or reconsideration of the action or Governmental Order, or protest of any kind, is pending before the Governmental Authority and the time for filing any such petition or protest is passed; (c) the Governmental Authority does not have the action or Governmental Order under reconsideration or review on its own motion and the time for such reconsideration or review has passed; and (d) the action or Governmental Order is not then under judicial review, there is no notice of appeal or other application for judicial review pending, and the deadline for filing such notice of appeal or other application for judicial review has passed, including any extensions thereof.

“GAAP” means generally accepted accounting principles in the United States, applied consistently, as in effect from time to time.

“Governmental Authority” means any United States federal, foreign, state or local government, or political subdivision thereof, or any authority, agency or commission entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power, any court or tribunal (or any department, bureau or division thereof), or any arbitrator or arbitral body, and includes any contractor, acting on behalf of a Governmental Authority.

“Governmental Order” means any order, writ, judgment, injunction, decree, stipulation, ruling, determination or award entered, issued, made or rendered by or with any Governmental Authority.

“Hazardous Materials” means all materials and wastes in any form (including solid, semi-solid, liquid or vapor form) that are defined or listed as hazardous or toxic, or as pollutants or contaminants, in or pursuant to any Environmental Law, or that otherwise give rise to any Liability under any Environmental Law, including all flammable materials, explosives, radioactive materials, asbestos and asbestos-containing materials, lead and lead-based materials, molds, polychlorinated biphenyls, petroleum products and by-products, urea formaldehyde, radon gas, pesticides, herbicides, silica, acids, metals, solvents, pollutants and materials that are otherwise dangerous to human, plant or animal health.

“Intellectual Property Rights” means Copyrights, Patent Rights, Trademarks and Trade Secrets.

“Interim DIP Financing Orders” means entry by the Bankruptcy Court of an order approving, on an interim basis, the DIP Loan, which order is in effect and not stayed and is in form and substance satisfactory to Purchaser.

“Knowledge” means (a) with respect to Seller, the actual knowledge of Scott T. Massie and (b) with respect to Purchaser, the actual knowledge, information and belief of Cary Nordan.

“Legal Requirement” means any federal, state or local law, statute, ordinance; common law ruling or regulation, or any Governmental Order, or any license, franchise, permit or similar right granted under any of the foregoing, or any similar provision having the force or effect of law, or the regulations or requirements promulgated pursuant to any of such statutes.

“Liability” means, with respect to any Person, any liability or obligation of such Person whether known or unknown, whether asserted or unasserted, whether determined, determinable or otherwise, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated and whether due or to become due.

“Ordinary Course of Business” means an action taken by any Person in the ordinary course of such Person’s business which is consistent with the past customs and practices of such Person.

“Organizational Documents” means, with respect to any Person (other than an individual), the certificate or articles of incorporation or organization, certificate of limited partnership and any joint venture, limited liability company, operating, voting or partnership agreement, by-laws or similar documents, instruments or agreements relating to the organization or governance of such Person, in each case, as amended or supplemented.

“Patent Rights” means United States and foreign patents, patent applications, continuations, continuations-in-part, divisions, reissues, patent disclosures, inventions (whether patentable or not patentable) or improvements thereto.

“Permit” means, with respect to any Person, any Approval, bond, certificate of authority, certificate of need, accreditation, qualification, provider number, license, franchise, permit, order, registration, variance, right, privilege, certificate or other similar authorization issued by, or otherwise granted by, any Governmental Authority or any other Person to which or by which such Person is subject or bound or to which or by which any property, business, operation or right of such Person is subject or bound.

“Permitted Liens” means Encumbrances for ad valorem personal property Taxes not yet due and payable and Encumbrances which secure only the Assumed Liabilities.

“Person” means any individual or corporation, association, partnership, limited liability company, joint venture, joint stock or other company, business trust, trust, organization, Governmental Authority or other entity of any kind.

“Petition Date” means the date of filing of the Seller’s voluntary bankruptcy petition in the Bankruptcy Court for the Western District of Kentucky as set forth in the Recitals to this Agreement.

“Pre-Petition Loan A” means the loans evidenced by (a) that certain Loan Agreement dated as of June 16, 2011 by and among Seller, the guarantors party thereto and Purchaser (as successor in interest to JP Morgan Chase Bank, N.A.), as amended, restated, supplemented or otherwise modified from time to time and (b) the other Borrower Documents (as defined in the Loan Agreement referred to in clause (a) above).

“Pre-Petition Loan B” means a loan in the original principal amount of \$1,140,000 made by Purchaser to Seller, which loan is evidenced by that certain Second Amended and Restated Senior Secured Subordinated Note dated as of February 10, 2015 in the face amount of \$3,500,000, made by Seller in favor of Purchaser, Salem Halifax Capital Partners, Limited Partnership, and the other lenders from time to time party thereto as amended, restated, supplemented or otherwise modified from time to time.

“Pre-Petition Loan C” means that certain Amended and Restated Credit Agreement, dated as of May 27, 2015, by and among the Borrower, the guarantors from time to time party thereto, the lenders

from time to time party thereto, and the Pre-Petition Loan C Agent, as amended, restated, supplemented or otherwise modified from time to time

“Pre-Petition Loan D” means the loan evidenced by (a) that certain that certain Third Amended and Restated Loan Agreement, dated as of May 27, 2015, by and among the Borrower, the lenders from time to time party thereto, and Harvest Capital Credit Corporation in its capacity as Agent, as amended, restated, supplemented or otherwise modified from time to time and (b) the other Loan Documents (as defined in the Third Amended and Restated Loan Agreement referred to in clause (a) above).

“Proceeding” means any litigation, action, suit, arbitration, assessment, investigation, hearing, grievance or similar proceeding against, by or before any Governmental Authority.

“Release” means any release, spill, emission, discharge, leaking, pumping, injection, deposit, disposal, dispersal, leaching, intrusion or migration into the indoor or outdoor environment (including ambient air, indoor air, surface water, groundwater and surface or subsurface strata including the abandonment or discarding of barrels, containers and other receptacles containing Hazardous Materials) or into or out of any property (including any structure or equipment), including the movement of Hazardous Materials through or into the air, surface water, groundwater or property.

“Response Action” means any “removal” or “remedial” action or activity as those terms are defined in CERCLA, without any limitation of such terms to the hazardous substances defined pursuant to CERCLA.

“Subsidiary” means, with respect to any Person, any corporation, partnership, joint venture, limited liability company, trust or other legal entity of which such Person (either alone or through or together with any other Subsidiary) owns, directly or indirectly, at least a majority of the stock or other equity interests in such entity, or of which such Person is a general partner, manager or managing member.

“Takeover Proposal” means any inquiry, proposal or offer from any third Person, whether in writing or otherwise, relating to any Alternative Transaction.

“Tax” or “Taxes” means (a) any and all federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, customs duties, capital stock, franchise, profits, withholding, social security (or similar, including FICA), unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated, or other tax of any kind, whether direct or indirect and whether imposed by way of a withholding or a deduction for or on an account of tax, or any charge of any kind in the nature of (or similar to) taxes whatsoever, including any interest, penalty or addition thereto, whether disputed or not and (b) any Liability for the payment of any amounts of the type described in clause (a) of this definition as a result of being a member of an affiliated, consolidated, combined or unitary group for any period, as a result of any tax sharing or tax allocation agreement, arrangement or understanding, or as a result of being liable for another Person’s taxes as a transferee or successor, by contract or otherwise.

“Tax Return” means any return, declaration, report, claim for refund or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

“Title Company” means a nationally recognized title insurance company selected by Purchaser.

“Trademarks” means United States, state and foreign trademarks, service marks, logos, trade dress and trade names, whether registered or unregistered, and pending applications to register the foregoing.

“Trade Secrets” means confidential and proprietary ideas, trade secrets, know-how, concepts, methods, processes, formulae, reports, data, customer lists, mailing lists, business plans or other proprietary information which derives independent commercial value from not being generally known or readily available.

“Transactions” means, collectively, the transactions contemplated by this Agreement.

“WARN Act” means the Worker Adjustment and Retraining Notification Act of 1988, as amended.

1.2 Other Defined Terms. The following terms have the meanings assigned to such terms in the Sections of this Agreement set forth below:

<u>Defined Term</u>	<u>Section</u>
401(k) Plan	7.8(h)
Acquired Subsidiaries	2.1(b)
Allocation Schedule	3.2
Assumed Contracts	2.1(f)
Assumed Liabilities	2.3(a)
Assumption Agreement	2.3(a)
Bankruptcy Case	Recitals
Bankruptcy Code	Recitals
Bankruptcy Court	Recitals
Break-Up Fee	7.3(c)(i)(B)
Business	Recitals
CERCLA	Definition of Environmental Laws
Charges	7.12
COBRA	2.3(b)(viii)
Contract Designation Date	2.4(a)
Cure Costs	7.10
Designated Contracts	2.4(a)
Disclosure Schedule	Article V
Eligible Employees	7.8(b)
Employee Claims	7.8(a)
Entry Period	10.1(g)
Excluded Assets	2.2
Excluded Contracts	2.2(b)
Excluded Liabilities	2.3(b)
Expense Reimbursement Amount	7.3(c)(i)(A)
Financial Records	5.3
Hired Employees	7.8(c)
Material Consents	7.2
Leased Real Property	5.6(a)
Leases	5.6(a)
Notification	2.4(b)
Overage Amount	2.2
Post-Petition Contract	2.4(c)

<u>Defined Term</u>	<u>Section</u>
Purchase Price	3.1
Purchased Assets	2.1
Purchaser	Preamble
RDC	Preamble
Required Cash	2.2
Sale Motion	7.3(b)
Sale Order	7.3 (b)(ii)
Sale Procedures Order	7.3(b)(i)
Seller	Preamble
Seller's Broker	5.10
Seller Wind-Up Fee	2.2
Transaction Fees	5.10
Undisclosed Contract	2.4(b)
Undisclosed Contract Assignment Order	2.4(b)

1.3 **Interpretation.** The use of the masculine, feminine or neuter gender or the singular or plural form of words used herein (including defined terms) shall not limit any provision of this Agreement. The terms “include,” “includes” and “including” are not intended to be limiting and shall be deemed to be followed by the words “without limitation” (whether or not they are in fact followed by such words) or words of like import. The term “of” has the inclusive meaning represented by the phrase “and/or”. Reference to a particular Person includes such Person’s successors and assigns to the extent such successors and assigns are permitted by the terms of any applicable agreement. Reference to a particular agreement (including this Agreement), document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof. The terms “dollars” and “1” mean United States Dollars. The Exhibits and Schedules identified in this Agreement are incorporated into this Agreement by reference and made a part hereof. The Article, Section, paragraph, Exhibit and Schedule headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. References to Articles, Sections, paragraphs, clauses, Exhibits or Schedules shall refer to those portions of this Agreement. The use of the terms “hereunder,” “hereof,” “hereto” and words of similar import shall refer to this Agreement as a whole and not to any particular Article, Section, paragraph or clause of, or Exhibit or Schedule to, this Agreement.

ARTICLE II

Sale and Transfer of Assets.

2.1 **Purchased Assets.** Upon the terms and subject to the conditions of this Agreement, at the Closing (and on the applicable Assumption Date with respect to the Purchased Assets consisting of rights under any Assumed Contract assumed by Seller and assigned to Purchaser after the Closing Date as provided herein), Seller shall transfer, assign, convey and deliver to Purchaser, and Purchaser shall purchase, free and clear of all Encumbrances other than Permitted Liens or the Assumed Liabilities under any Assumed Contract, all of the assets and properties of Seller which relate to the Business, other than the Excluded Assets, as the same shall exist on the Closing Date (collectively referred to herein as the “Purchased Assets”), including without limitation, all right, title and interest of Seller in, to and under:

(a) all of the personal property owned by Seller and used in the Business, wherever located, including equipment, accessories, machinery, apparatus, furniture, fixtures, motor vehicles, computer hardware and software, and phone system and office equipment, including, without limitation, those items identified on Schedule 2.1 attached hereto;

(b) all of the outstanding capital stock or equity interests of the Subsidiaries of Seller listed on Schedule 2.1(b) (the “Acquired Subsidiaries”);

(c) all inventory and supplies maintained by Seller in connection with the Business as of the Closing Date, wherever located;

(d) all accounts receivable of Seller relating to the Business arising on or prior to the Closing Date;

(e) to the extent assignable under applicable Legal Requirements, all Permits necessary for or incident to the operation of the Business;

(f) all of Seller’s rights under all “executory contracts” and “unexpired leases” to which Seller is a party and to which Purchaser elects to take assignment of at or before the Closing in accordance with the process described in Section 2.4(a) (collectively, the “Assumed Contracts”);

(g) all of the intangible rights and property of Seller associated with the Business, including Seller’s Intellectual Property Rights, telephone and telecopy listings, websites and domain names;

(h) with respect to the Business, any and all past and pending documents of sales and service information, customer lists, supplier lists, inventory cost records, machinery and equipment records, mailing lists, sales and purchasing materials, employee policy manuals, quality control records and procedures, books of account, customer records, supply records, employment and personnel records, quotations, purchase orders, correspondence, sales, brochures, advertising materials, samples and display materials;

(i) all rights of Seller relating to deposits and prepaid expenses;

(j) any and all Claims (as defined below) of Seller and any of Seller’s affiliates against (x) Buyer, or any of its affiliates, agents, successors and assigns, and each of their respective affiliates and their or their affiliates past, present or future direct or indirect officers, directors, employees, agents, advisors, investors, shareholders, partners, members, other equity holders, administrators, affiliates, trusts, beneficiaries, divisions, subsidiaries, predecessor and successor corporations or other entities, successors and assigns or any of the above in its or his capacity as a past, present or future direct or indirect officer, director, investor or equity holder of Seller or any affiliate, (y) THL Credit, Inc., THL Credit Greenway Fund, LLC, or any of their affiliates, agents, successors and assigns, and each of their respective affiliates and their or their affiliates past, present or future direct or indirect officers, directors, employees, agents, advisors, investors, shareholders, partners, members, other equity holders, administrators, affiliates, trusts, beneficiaries, divisions, subsidiaries, predecessor and successor corporations or other entities, successors and assigns or any of the above in its or his capacity as a past, present or future direct or indirect officer, director, investor or equity holder of Seller or any affiliate; and (z) Harvest Capital Credit Corporation, or any of its affiliates, agents, successors and assigns, and each of their respective affiliates and their or their affiliates past, present or future direct or indirect officers, directors, employees, agents, advisors, investors, shareholders, partners, members, other equity holders, administrators, affiliates, trusts, beneficiaries, divisions, subsidiaries, predecessor and successor corporations or other entities, successors and assigns or any of the above in its or his capacity as a past, present or future direct or indirect officer, director, investor or equity holder of Seller or any affiliate. As used herein, “Claims” means any and all claims, of every name and nature (including, without limitation, crossclaims, counterclaims, rights of set-off and recoupment, actions, causes of action, suits, debts, accounts, interests, liens, promises, warranties, damages and consequential damages, demands,

agreements, bonds, bills, specialties, covenants, controversies, variances, trespasses, judgments, executions, costs or expenses), both at law and in equity, known or unknown, suspected or unsuspected, accrued or unaccrued, which have been or could have been asserted against any releasee, which any other releasee has or ever had through September 11, 2017.

(k) except as set forth in Section 2.2(d), all cash, bank deposits and cash equivalents of Seller.

2.2 Excluded Assets. Notwithstanding the provisions of Section 2.1, the Purchased Assets shall not include any of the right, title or interest of Seller in, to and under the following (herein referred to as the “Excluded Assets”): (a) Seller’s minute books, stock books and other corporate records having to do with the corporate organization and capitalization of Seller that Seller is required to keep pursuant to the Bankruptcy Code (provided that Seller will provide Purchaser with access or copies to such books and records as reasonably requested by Purchaser); (b) any Contracts listed or described in Schedule 2.2, which shall be provided at or prior to hearing to consider the Sale Motion as described in Section 2.4(a) (the “Excluded Contracts”); (c) any causes of action that are pending or may be brought by or on behalf of Seller, including those that may be brought by Seller pursuant to §§ 542, 543, 544, 545, 546, 547, 548, 549, 550 or 553 of the Bankruptcy Code in connection with the Bankruptcy Case; (d) cash in an amount sufficient for Seller to pay (collectively, the “Required Cash”): (i) outstanding and allowed, but unpaid, administrative claims provided for in the Budget (as defined in the DIP Loan), (ii) estimated, subject to allowance, but unpaid fees and expenses of Seller’s investment banker; (iii) U.S. Trustee fees in an amount not to exceed \$30,000; and (iv) a wind-down budget in an amount equal to the lesser of actual wind-down costs or \$175,000 (the “Seller Wind Up Fee”), if and as needed (whether such wind-down results in the conversion of the Bankruptcy Case to Chapter 7, liquidating plan of reorganization or otherwise) and (e) Seller’s equity interests in all Subsidiaries of Seller other than the Acquired Subsidiaries. Notwithstanding the foregoing, the Purchaser will not seek a conversion of the Bankruptcy Case to Chapter 7 without the consent of Seller. Purchaser agrees that if the Seller does not have sufficient Required Cash to meet its obligations as described in Section 2.2(d), the Purchaser shall increase the cash portion of the Purchase Price as set forth in Section 3.1(c) to cover the difference between the amount of cash Seller anticipates holding on the Closing Date and the Required Cash (“Overage Amount”).

2.3 Assumption of Liabilities.

(a) Upon the terms and subject to the conditions of this Agreement, at the Closing (and on the applicable Assumption Date with respect to Assumed Liabilities under any Assumed Contract assumed by Seller and assigned to Purchaser after the Closing Date as provided herein), (i) Purchaser shall assume and agree to perform pursuant to an assignment and assumption agreement in the form of Exhibit 2.3 attached hereto (the “Assumption Agreement”) the Liabilities of Seller under the Assumed Contracts and Purchaser will pay all Cure Costs related to the Assumed Contracts on Seller’s behalf; and (ii) Purchaser shall assume those obligations of the Seller to certain vendors in the amounts indicated on Schedule 2.3(a)(ii) which shall be provided at or prior to Closing and agreed to by Purchaser (collectively, the “Assumed Liabilities”).

(b) Except as contemplated by Section 2.3(a) and as expressly set forth in the Assumption Agreement, Purchaser shall not assume, nor shall it agree or be required to pay, perform or discharge, any Liability of Seller, any Affiliate of Seller or the Business, nor any Liability related to the Purchased Assets, whether or not arising from or relating to the conduct of the Business and whether absolute, contingent, accrued, known or unknown (the “Excluded Liabilities”). Without limiting the generality of the prior sentence, Excluded Liabilities shall include, without limitation:

(i) any Liability to pay any Taxes of Seller or any of its Affiliates, regardless of whether arising in connection with the consummation of the Transactions contemplated hereby or otherwise;

(ii) any Liability of Seller or its Affiliates for performance under this Agreement or any of the agreements contemplated hereby;

(iii) any Liability relating to (A) events or conditions occurring or existing in connection with, or arising out of, the Business as operated on or prior to the Closing Date, or (B) the ownership, possession, use, operation or sale or other disposition on or prior to the Closing Date of any Purchased Assets (or any other assets, properties, rights or interests associated, at any time on or prior to the Closing Date, with the Business);

(iv) any Liability relating to any Debt of Seller or its Affiliates;

(v) other than as provided herein or in any Governmental Order, any Liability of Seller with respect to any Proceeding;

(vi) any Liability for any accounts payable or other accruals related to the Business arising on or prior to the Closing Date;

(vii) any Liability relating to the Excluded Assets;

(viii) any Liability relating to or arising out of any Company Plan, including, without limitation, all Liabilities for or arising from any “COBRA” health care continuation coverage required to be provided under Section 4980B of the Code, and Sections 601-608 of ERISA to employees, former employees and any other COBRA qualified beneficiaries of Seller, including those who incur a COBRA qualifying event in connection with the Transactions contemplated by this Agreement;

(ix) any Liability relating to Employee Claims;

(x) any Liability relating to severance, termination, change of control or other similar payment obligations of Seller (arising prior to the Closing);

(xi) any Liability, whether known or unknown, arising under or related to Environmental Laws and attributable to or incurred as a result of any events, acts, omissions or conditions first occurring or in existence as of or prior to the Closing Date, including, any Liability related to (A) the Release, handling, storage, generation, treatment, disposal (or arrangement for the treatment or disposal, including to an off-site location) or presence of Hazardous Materials to, at or from any location, (B) injury, sickness, disease or death of any Person, including claims relating to employee health and safety, (C) the performance of Response Actions, or (D) compliance of the Leased Real Property, Business or Purchased Assets with any Environmental Law or Legal Requirement;

(xii) any Liability arising for contract rejection damages for Contracts not assumed by Purchaser; and

(xiii) any other Liability of Seller or its Affiliates that is not an Assumed Liability.

2.4 Assumption and Assignment of Contracts.

(a) Seller and Purchaser agree to work together to create Schedule 2.4 which shall identify all of the Assumed Contracts on or three (3) Business Days prior to the hearing to consider the Sale Motion of the Assumed Contracts of Seller that Purchaser elects to assume (in its sole discretion) and have Seller assign to Purchaser at Closing (the “Contract Designation Date”). Simultaneously with the creation of Schedule 2.4, Seller and Purchaser agree to work together to create Schedule 2.2. In all cases, appropriate additions to Schedule 2.4 (and corresponding deletions to Schedule 2.2) shall be made to reflect such elections made by Purchaser. To the extent possible, the Designated Contracts shall be identified by (i) the name and date of the Designated Contract, (ii) the other party to the Designated Contract and (iii) the address of such party for notice purposes, all included on Schedule 2.4 and an exhibit attached to either the motion filed in connection with the Sale Order, a motion for authority to assume and assign such Designated Contract or a notice filed pursuant to the Sale Procedures Order. Schedule 2.4 and such exhibit shall also (A) set forth the amounts necessary to cure any defaults under each of the Designated Contracts as determined by Seller based on Seller’s books and records or as otherwise determined by the Bankruptcy Court, and (B) delineate a procedure for transferring to Purchaser the rights to any security deposits with the other party to any Designated Contract. Upon the Closing, all Designated Contracts remaining on Schedule 2.4 shall become Assumed Contracts, as the case may be, for purposes of this Agreement.

(b) If, at any time after the earlier of (i) the date hereof through the ninetieth (90th) day after the Closing Date, or (ii) the date (A) the Bankruptcy Case is converted to a Chapter 7 case or (b) a Governmental Order is entered approving or confirming a plan of liquidation in the Bankruptcy Case, any party to this Agreement becomes aware that Seller is a party to any Contract related to the Business that is not an Excluded Asset and is not disclosed on Schedule 2.4 (each, an “Undisclosed Contract”), the discovering party shall promptly notify the other parties in writing (the “Notification”) of such Undisclosed Contract. For a period of thirty (30) days after the date of Purchaser’s receipt or delivery, as the case may be, of the Notification, Purchaser shall have the right, in its sole discretion, to require Seller to file one or more motions with the Bankruptcy Court (which motion(s) shall be in form and substance reasonably satisfactory to Purchaser) seeking the entry of an order (the “Undisclosed Contract Assignment Order”), pursuant to Sections 363 and 365 of the Bankruptcy Code, to assign, transfer, convey and deliver to Purchaser or one or more of its designated Affiliates such Undisclosed Contract as if it had been disclosed on Schedule 2.4, or to otherwise transfer the benefits of such Undisclosed Contract to Purchaser or one or more of its designated Affiliates without any additional consideration (other than the payment by Purchaser of the Cure Costs, if any associated with such Undisclosed Contract). In the event that Purchaser notifies Seller of Purchaser’s desire to assume any Undisclosed Contract, Seller shall, as soon as practicable after receiving such notification, file with the Bankruptcy Court the motion(s) seeking the entry of the Undisclosed Contract Assignment Order. In addition, Seller shall (i) use its reasonable best efforts to cause the Undisclosed Contract Assignment Order to become a Final Order and (ii) not take any action that would reasonably be expected to delay, prevent or impede the entry of, or result in the revocation, modification or amendment of, the Undisclosed Contract Assignment Order. Any Undisclosed Contract that Purchaser elects to assume pursuant to Schedule 2.4 and for which an Undisclosed Contract Assignment Order is entered and becomes a Final Order shall constitute a Purchased Asset.

(c) Seller shall promptly notify Purchaser in writing of any new Contract entered into after the commencement of the Bankruptcy Case (each a “Post-Petition Contract”). No later than the date that is the later of (1) the Contract Designation Date and (ii) ten (10) Business Day subsequent to the date that a copy of such Post-Petition Contract is delivered or made available to Purchaser, Purchaser shall notify Seller in writing whether it will assume such Post-Petition Contract.

(d) The Sale Order shall provide that, as of the Closing, Seller shall (i) assume the Assumed Contracts in the Bankruptcy Case and (ii) assign the Assumed Contracts to Purchaser.

(e) Notwithstanding anything to the contrary herein, this Agreement shall not constitute an agreement to assign or transfer any interest in any Assumed Contract or any claim or right arising thereunder if such assignment or transfer without the Approval of a third party would constitute a breach thereof or affect adversely the rights of Purchaser thereunder (after giving effect to the Sale Order and the Bankruptcy Code), and any such transfer or assignment shall be made subject to such Approval being obtained. In the event any such Approval is not obtained prior to Closing, Seller shall continue its reasonable best efforts to obtain any such Approval after Closing, and Seller will cooperate with Purchaser in any lawful and economically feasible arrangement to provide that Purchaser shall receive the interest of Seller in the benefits under any such Assumed Contract, including performance by Seller as agent, provided, that Purchaser shall undertake to pay or satisfy the corresponding Liabilities for the enjoyment of such benefit to the extent Purchaser would have been responsible therefor if such Approval had been obtained.

ARTICLE III Purchase Price.

3.1 Purchase Price. The purchase price (the “Purchase Price”) payable in consideration for the sale, transfer, assignment and delivery by Seller to Purchaser of the Purchased Assets shall consist of the following:

(a) the assumption at the Closing by Purchaser of the Assumed Liabilities and payment of all amounts thereof, as and when such payments become due, to the extent required by this Agreement; plus

(b) payment by Purchaser of the Cure Costs to the extent required by this Agreement; plus

(c) payment by Purchaser of (i) a cash payment in the amount of Six Hundred Thousand Dollars (\$600,000) and (ii) subject to any requirements of law and any requirements of the Bankruptcy Court, an amount not less than Twenty Five Million Dollars (\$25,000,000), payable in the form of the exercise of credit bid rights under Section 363(k) of the Bankruptcy Code with respect to some or all of the aggregate obligations then outstanding under (A) Pre-Petition Loan A, (B) Pre-Petition Loan B, (C) Pre-Petition Loan C, (D) Pre-Petition Loan D, and (E) the DIP Loan. The Purchase Price shall also include additional accrued interest and such other fees and costs as may be applicable after the Petition Date but prior to the Closing Date and additional amounts anticipated to be provided pursuant to the DIP Financing after such date but prior to the auction as provided in the Sales Procedures Order (as defined in the Sale Motion) and the Overage Amount. Not later than five (5) Business Days prior to the date set by the Bankruptcy Court for other interested parties to submit their bids to purchase the Purchased Assets, Purchaser shall notify Seller of the Purchase Price as of such date and Seller shall notify any Committee that has been formed in the Bankruptcy Case, interested potential purchasers and other interested parties of the updated Purchase Price; plus

(d) payment of an additional cash payment, if required, in an amount equal to the Overage Amount.

3.2 Allocation of Purchase Price. The parties hereto agree to the allocation of the Purchase Price among the Purchased Assets as indicated on Schedule 3.2 (to be attached at Closing) attached hereto for Tax reporting purposes (the “Allocation Schedule”). Seller and Purchaser and their respective Affiliates shall report, act and file all Tax Returns (including, but not limited to, IRS Form 8594) in all respects and for all purposes consistent with the Allocation Schedule (as such Allocation Schedule may be adjusted pursuant to this Section 3.2). Neither Purchaser nor Seller shall take any position in any Tax

matter (whether in audit, Tax Returns or otherwise with any Governmental Authority) that is inconsistent with such allocation unless required to do so by applicable Legal Requirements.

3.3 Sale Free and Clear. Seller acknowledges and agrees, and the Sale Order shall provide that, on the Closing Date and concurrently with the Closing, all then existing Encumbrances of, against or created by Seller or its bankruptcy estate, to the fullest extent permitted by Section 363 of the Bankruptcy Code, other than the Permitted Encumbrances, if any, and the Assumed Liabilities, shall be fully released from and with respect to the Purchased Assets. On the Closing Date, the Purchased Assets shall be transferred to Purchaser, free and clear of all Encumbrances, other than the Permitted Encumbrances, if any, and the Assumed Liabilities to the fullest extent permitted by Section 363 of the Bankruptcy Code.

ARTICLE IV Closing.

4.1 Closing. The Closing shall be consummated at 10:00 a.m., local, time, at the offices of Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, L.L.P., 150 Fayetteville Street, 23rd Floor, Raleigh, North Carolina 27601 on the first Business Day that is at least ten (10) days after entry of the Sale Order; provided, that all conditions set forth in Article VIII and Article IX have been satisfied or waived (other than conditions that by their terms are to be satisfied at Closing, but subject to the satisfaction or waiver of such conditions), or on such other date or at such other place or time as is mutually agreed upon by the parties hereto. The Closing shall be effective for economic and accounting purposes as of the opening of business on the date on which the Closing is actually held.

4.2 Closing Actions and Deliveries. All actions to be taken and all documents to be executed and delivered in connection with the consummation of the Transactions provided for herein shall be reasonably satisfactory in form and substance to the parties and their respective counsel. All actions to be taken and all documents to be executed and delivered by the parties at the Closing shall be deemed to have been taken and executed simultaneously, and no action shall be deemed taken nor any document executed and delivered until all have been taken, executed and delivered.

4.3 Seller's Closing Deliveries. Subject to the fulfillment or waiver of the conditions set forth in Article IX, at Closing, Seller shall deliver to Purchaser the following:

- (a) the Assumption Agreement, duly executed by Seller;
- (b) the General Assignment and Bill of Sale, substantially in the form of Exhibit 4.3 attached hereto, duly executed by Seller;
- (c) a good standing certificate of Seller issued by the Secretary of State of the State of Delaware;
- (d) a certificate of Seller, dated the Closing Date, in form and substance satisfactory to Purchaser, certifying as to (i) the Organizational Documents of Seller attached to such certificate as being true and correct; (ii) the incumbency and signatures of the officers of Seller executing this Agreement and any other agreements, instruments or documents to be executed by Seller in connection herewith; and (iii) the resolutions attached to such certificate duly adopted by the directors and shareholders of Seller authorizing the execution and delivery of this Agreement and the consummation of the Transactions contemplated hereby;
- (e) the certificate referred to in Section 8.3;

(f) affidavits, duly executed by Seller, (i) to satisfy federal and state Tax reporting requirements, including a 1099-S, and (ii) to confirm that Seller is not a “foreign person” within the meaning of the Foreign Investment in Real Property Tax Act;

(g) all instruments and documents necessary to release (or evidence the release of) any and all Encumbrances (other than Permitted Liens) on the Purchased Assets, including, without limitation, appropriate UCC financing statement amendments (termination statements), mortgage release instruments and certificates of title, or by the transfer of such Encumbrances to the proceeds of the sale of the Purchased Assets, which may be obtained by Governmental Order of the Bankruptcy Court; and

(h) such other bills of sale, assignments and other instruments of transfer or conveyance, including without limitation, vehicle titles and instruments of assignment of the Intellectual Property Rights, trade names and domain names included in the Purchased Assets, duly executed by Seller, as may be reasonably requested by Purchaser to effect the sale, conveyance and delivery of the Purchased Assets to Purchaser.

4.4 Purchaser’s Closing Deliveries. Subject to the fulfillment or waiver of the conditions set forth in Article VIII, at Closing, Purchaser shall (a) execute and deliver to Seller (i) the certificate contemplated by Section 9.3 and (ii) the Assumption Agreement and (b) pay the Purchase Price, including any amounts in cash required by Section 3.1(c).

ARTICLE V

Representations and Warranties of Seller.

In order to induce Purchaser to enter into and perform this Agreement and to consummate the Transactions contemplated hereunder, Seller hereby makes the following representations and warranties to Purchaser as of the date hereof and as of the Closing Date, subject to the disclosures contained in Schedule A attached hereto (the “Disclosure Schedule”), which Disclosure Schedule shall contain references to the representations and warranties to which the disclosures contained therein relate.

5.1 Organization; Subsidiaries; Ownership; Predecessors.

(a) Seller is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware and has the full right, power and authority to own, lease and operate all of its properties and assets and carry out its business as it is presently conducted. Seller is qualified and licensed to do business in each jurisdiction in which the conduct of its business or its ownership of property requires that it so be qualified, except to the extent that failure to so qualify could not have a material adverse effect.

(b) Seller owns the Subsidiaries set forth in Section 5.1(b)(i) of the Disclosure Schedule. The ownership interests in Seller are as set forth in Section 5.1(b)(ii) of the Disclosure Schedule.

(c) Section 5.1(c) of the Disclosure Schedule lists (i) each of Seller’s prior legal names and any other trade name, fictitious name or other name under which Seller currently conducts business, or has ever conducted any business or activity, and (ii) to the Knowledge of Seller, each legal name, trade name, fictitious name or other name under which any predecessor to any part of the Business acquired by Seller conducted any business related to such acquired part of the Business.

5.2 Due Authorization; No Conflict.

(a) Seller has the full limited liability company power and authority to execute, deliver and, subject to the Sale Order, perform this Agreement and all other agreements, certificates and documents executed or to be executed in connection herewith, to consummate the Transactions contemplated hereby and thereby and to perform its obligations hereunder and thereunder. The execution, delivery and performance by Seller of this Agreement and all other agreements, certificates and documents executed or to be executed in connection herewith have been duly authorized by all necessary limited liability company action. Subject to the entry of the Sale Order and as disclosed in Section 5.2 of the Disclosure Schedule, this Agreement, and all other agreements, certificates and documents executed or to be executed in connection herewith, constitute or, when executed and delivered, will constitute a legal, valid and binding Contract of Seller, enforceable against Seller in accordance with its terms.

(b) Except for the entry of the Sale Order and any required Approvals in connection with the assignment of the Assumed Contracts and except as set forth in Section 5.2 of the Disclosure Schedule, the execution and delivery by Seller of this Agreement and the agreements contemplated hereby, the consummation of the Transactions contemplated hereby and thereby, and the performance by Seller of its obligations hereunder and thereunder, will not: (i) result in a breach of the terms or conditions of, or constitute a default, an event of default or an event creating rights of acceleration, termination or cancellation or a loss of rights under, or result in the creation or imposition of any Encumbrance upon any of the Purchased Assets under, (A) any Assumed Contract, (B) any other Contract to which Seller is a party or any of the Purchased Assets is subject or by which Seller is bound, or (C) any Legal Requirement or Governmental Order applicable to Seller, the Purchased Assets, the Business or the Assumed Liabilities; (ii) contravene the Organizational Documents of Seller; or (iii) require the Approval of, or notice to, or filing or registration with, any Governmental Authority or any other Person.

5.3 Financial Records. Seller has provided and made available to Purchaser all, books and records of Seller relating to financial matters of the Business (the "Financial Records"). The Financial Records are complete in all material respects. Except as disclosed in the Financial Records, to its Knowledge, Seller is not subject to any Liability, whether absolute, contingent, accrued or otherwise other than Liabilities that have arisen in the Ordinary Course of Business since the most recent balance sheet included in Financial Records.

5.4 Title to Assets; Adequacy. Seller has good and marketable title to all of the Purchased Assets. Section 5.4 of the Disclosure Schedule sets forth all Encumbrances, including Permitted Liens. Except for Permitted Liens, all Encumbrances set forth or required to be set forth in Section 5.4 of the Disclosure Schedule will be terminated, released or transferred to the proceeds of the sale of the Purchased Assets by Governmental Order of the Bankruptcy Court at or prior to Closing at the expense of Seller. Subject to the terms of the Sale Order, upon delivery to Purchaser on the Closing Date of the instruments of transfer contemplated by Section 4.3 hereof, Seller will thereby transfer to Purchaser good and marketable title to the Purchased Assets, free and clear of all Encumbrances except for Permitted Liens.

5.5 Compliance with Laws.

(a) Except as set forth in Section 5.5(a) of the Disclosure Schedule, Seller has, at all times, operated the Business in material compliance with all Legal Requirements and is not in breach or violation of, or default under, and has not been in breach or violation of, or default under any Legal Requirement in any material respect and Seller has not received any notice of any violation of any Legal Requirement which has not been remedied.

(b) Reserved.

(c) Neither Seller, nor any director, manager, officer, agent or employee of Seller or, to the Knowledge of Seller, any other person or entity associated with or acting for or on behalf of Seller, has, directly or indirectly, made any contribution, gift, bribe, rebate, payoff, influence payment, kickback or other payment to any person or entity, regardless of form, whether in money, property or services: (i) to obtain favorable treatment in securing business, (ii) to pay for favorable treatment for business secured, or (iii) to obtain special concessions or for special concessions already obtained from Seller.

5.6 Real Property.

(a) Seller does not own any real property. Section 5.6(a) of the Disclosure Schedule sets forth each parcel of real property leased by Seller and used in or necessary for the conduct of the Business as currently conducted (together with all rights, title and interest of Seller in and to leasehold improvements relating thereto, including, but not limited to, security deposits, reserves or prepaid rents paid in connection therewith, collectively, the “Leased Real Property”), and a true and complete list of all leases, subleases, licenses, concessions and other agreements (whether written or oral), including all amendments, extensions renewals, guaranties and other agreements with respect thereto, pursuant to which Seller holds any Leased Real Property (collectively, the “Leases”). Seller has delivered to Purchaser a true and complete copy of each Lease. With respect to each Lease and other than defaults and issues arising with respect to each Lease as a result of the Bankruptcy of Seller:

(i) such Lease is valid, binding, enforceable and in full force and effect, and Seller enjoys peaceful and undisturbed possession of the Leased Real Property;

(ii) Seller is not in breach or default under such Lease, and no event has occurred or circumstance exists which, with the delivery of notice, passage of time or both, would constitute such a breach or default, and Seller has paid all rent due and payable under such Lease;

(iii) Seller has not received nor given any notice of any default or event that with notice or lapse of time, or both, would constitute a default by Seller under any of the Leases and, to the Knowledge of Seller, no other party is in default thereof, and no party to any Lease has exercised any termination rights with respect thereto;

(iv) Seller has not subleased, assigned or otherwise granted to any Person the right to use or occupy such Leased Real Property or any portion thereof; and

(v) Seller has not pledged, mortgaged or otherwise granted an Encumbrance on its leasehold interest in any Leased Real Property.

(b) Seller has not received any written notice of (i) violations of building codes and/or zoning ordinances or other governmental or regulatory Legal Requirements affecting the Leased Real Property, (ii) existing, pending or threatened condemnation proceedings affecting the Leased Real Property, or (iii) existing, pending or threatened zoning, building code or other moratorium proceedings, or similar matters which could reasonably be expected to adversely affect the ability to operate the Leased Real Property as currently operated. Neither the whole nor any material portion of any Leased Real Property has been damaged or destroyed by fire or other casualty.

(c) The Leased Real Property is sufficient for the continued conduct of the Business after the Closing in substantially the same manner as conducted prior to the Closing and constitutes all of the real property necessary to conduct the Business as currently conducted.

5.7 Contracts. Each of the Assumed Contracts is in full force and effect and is in compliance with all applicable Legal Requirements. Except for defaults that arise because of Seller filing a voluntary petition for relief under the Bankruptcy Code, Seller is not in breach or default under, and, to the Knowledge of the Seller Parties, no other party to any of the Assumed Contracts has breached or defaulted thereunder.

5.8 Litigation. Except for the Bankruptcy Case, there is no Proceeding pending or, to the Knowledge of Seller, threatened (a) against Seller or affecting the Purchased Assets or the Business or (b) which seeks to prohibit, restrict or delay consummation of the Transactions contemplated by this Agreement or any of the conditions to consummation of such Transactions. There is no Governmental Order outstanding or, to the Knowledge of Seller, threatened (i) against Seller or affecting the Purchased Assets or the Business, or (ii) which seeks to prohibit, restrict or delay consummation of the Transactions contemplated by this Agreement or any of the conditions to consummation of such Transactions.

5.9 Employee Benefits; Employees. Seller has complied with all applicable Legal Requirements which relate to prices, wages, hours, discrimination in employment and collective bargaining and is not liable for any arrears of wages, Taxes or penalties for failure to comply with any of the foregoing. Seller has complied with all applicable Legal Requirements in the operation of its Company Plans. Within the past year, Seller has not incurred any Liability under the WARN Act or any similar state or local Legal Requirement that remains unsatisfied, and no terminations prior to the Closing Date shall result in unsatisfied Liability under the WARN Act or any similar state or local Legal Requirement. No employee of Seller has experienced an employment loss, as defined by the WARN Act or any similar applicable state or local Legal Requirement, requiring notice to employees in the event of a closing or layoff, within ninety (90) days prior to the date of this Agreement.

5.10 No Brokers. Seller is obligated to pay Lincoln Partners Advisors LLC (“Seller’s Broker”) certain fees in connection with the Transactions contemplated by this Agreement as specifically described on Exhibit 5.10 (such fees are referred to as the “Transaction Fees”). Except as set forth in the preceding sentence, neither Seller nor any Person acting on behalf of Seller has paid or become obligated to pay any fee or commission to any other broker, finder or intermediary for or on account of the Transactions contemplated by this Agreement.

5.11 AS-IS, WHERE-IS. EXCEPT AS NOTED ABOVE AND AS OTHERWISE EXPRESSLY NOTED IN THIS AGREEMENT, THE PURCHASE AND SALE OF THE ACQUIRED ASSETS IS “AS-IS” AND “WHERE-IS” WITH ALL FAULTS IN ALL RESPECTS. EXCEPT AS EXPRESSLY SET FORTH HEREIN, SELLER DISCLAIMS ANY AND ALL OTHER WARRANTIES WITH RESPECT TO THE PURCHASED ASSETS, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

ARTICLE VI Representations and Warranties of Purchaser.

In order to induce Seller to enter into and perform this Agreement and to consummate the Transactions contemplated hereunder, Purchaser hereby makes the following representations and warranties to Seller as of the date hereof and as of the Closing Date.

6.1 Organization and Good Standing. Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the State of Maryland, with full corporate power and authority to own, lease and operate its properties and to carry on its business as it is now being conducted.

6.2 Due Authorization; No Conflict.

(a) Purchaser has full corporate power and authority to execute, deliver and perform this Agreement and all other agreements, certificates and documents executed or to be executed in connection herewith, to consummate the Transactions contemplated hereby and thereby and to perform its obligations hereunder and thereunder. The execution, delivery and performance by Purchaser of this Agreement and all other agreements, certificates and documents executed or to be executed in connection herewith have been duly authorized by all necessary corporate action. This Agreement, and all other agreements, certificates and documents executed or to be executed in connection herewith, constitute or, when executed and delivered, will constitute, a legal, valid and binding Contract of Purchaser Enforceable against Purchaser in accordance with its terms.

(b) Except for the filings with the Bankruptcy Court, the execution and delivery by Purchaser of this Agreement and the agreements contemplated hereby, the consummation of the Transactions contemplated hereby and thereby and the performance by Purchaser of its obligations hereunder and thereunder, will not (i) contravene the Organizational Documents of Purchaser or (ii) require the consent, authorization or Approval of, or notice to, or filing or registration with, any Governmental Authority or any other Person.

6.3 No Brokers. Neither Purchaser nor any Person acting on behalf of Purchaser has paid or become obligated to pay any fee or commission to any broker, finder or intermediary for or on account of the Transactions contemplated by this Agreement.

6.4 Litigation. Except for the Bankruptcy Case, there is no Proceeding pending or, to the Knowledge of Purchaser, threatened against Purchaser which seeks to prohibit, restrict or delay consummation of the Transactions contemplated by this Agreement or any of the conditions to consummation of such Transactions, and there is no Governmental Order outstanding or, to the Knowledge of Purchaser, threatened against Purchaser which seeks to prohibit, restrict or delay consummation of the Transactions contemplated by this Agreement or any of the conditions to consummation of such Transactions.

ARTICLE VII
Covenants and Agreements.

7.1 Purchaser's Investigation.

(a) Prior to the Closing Date, Purchaser has conducted, and shall be entitled, upon reasonable request and at its own expense, through its employees and representatives, including without limitation, its attorneys, to continue to perform a due diligence investigation of the assets, properties, business, Leased Real Property and operations of Seller. Purchaser shall be permitted reasonable access to the Leased Real Property, books, records and computer systems of Seller, including, without limitation, the opportunity to observe and verify the Purchased Assets and information and passwords necessary to access computer systems. Any such investigation and review shall be conducted at reasonable times and under reasonable circumstances. Purchaser agrees that any such investigation or review shall not unreasonably interfere with the ongoing operations of Seller. Seller will cooperate with all reasonable requests and shall use reasonable efforts to cause its officers, employees, consultants, agents, accountants and attorneys to cooperate with such review and investigation.

(b) Reserved.

(c) Reserved.

(d) To the extent within Seller's custody or control, on or before the date five (5) days after the date of this Agreement, Seller shall use commercially reasonable diligence to make available to Purchaser at Seller's chief executive office, if not previously delivered, or make available to Purchaser for examination or copying by Purchaser, at the address for Seller set forth herein, the following documents and information with respect to the Purchased Assets and the Business: (i) all surveys, plans, specifications, environmental, engineering and mechanical data relating to the Leased Real Property, including such items relating to improvements, and reports such as soil reports and environmental audits; (ii) all real property and other ad valorem Tax bills and utility bills regarding the Leased Real Property for the two (2)-year period preceding the date of this Agreement; and (iii) a copy of any policy of title insurance issued in favor of Seller, together with legible copies of all instruments referenced therein.

(e) Seller shall cooperate in good faith with Purchaser and Purchaser's employees, agents, contractors and subcontractors in completing all inspections of the Seller's books and records and other material available at Seller's chief executive office and Purchaser shall be entitled to obtain copies of Permits relating to the Leased Real Property as Purchaser deems necessary or desirable with respect to the Leased Real Property.

(f) Reserved.

7.2 Consents of Third Parties. Seller will use commercially reasonable efforts to secure, before the Closing Date, all Approvals, notices, filings and/or registrations set forth in Section 5.2 of the Disclosure Schedule, in form and substance reasonably satisfactory to Purchaser and as necessary to the extent such Approvals, notices, filings and/or registrations are not provided for or satisfied by the Sale Order (collectively, the "Material Consents").

7.3 Bankruptcy Matters; Bidding Process.

(a) Seller and Purchaser acknowledge that this Agreement and the Transactions are subject to Bankruptcy Court approval.

(b) On or before October 2, 2017, Seller shall file with the Bankruptcy Court a motion (the "Sale Motion"), notices and proposed orders, each in form and substance reasonably satisfactory to Purchaser, seeking the Bankruptcy Court's issuance of:

(i) an order approving the process respecting the sale of the Purchased Assets in substantially the form attached as Exhibit 7.3(b)(i) (the "Sale Procedures Order"), and

(ii) an order approving this Agreement and the Transactions in substantially the form attached as Exhibit 7.3(b)(ii) (to be provided no later than sixty (60) days following the filing of the Sale Motion (the "Sale Order").

(c) Without in any way limiting the foregoing, the Sale Procedures Order shall:

(i) approve (A) expense reimbursement of Purchaser's actual expenses, up to One Hundred Fifty Thousand Dollars (\$150,000), including expenses of counsel and other consultants (the "Expense Reimbursement Amount"), payable if a higher or better offer is accepted and such Alternative Transaction closes, and (B) a break-up fee payable to Purchaser upon and pursuant to the events set forth in the Sale Procedures Order in an amount equal to Three Hundred Fifty Thousand Dollars (\$350,000) (the "Break-Up Fee");

(ii) require a minimum initial overbid of Three Hundred Thousand Dollars (\$300,000);

(iii) require minimum subsequent overbids of Two Hundred Fifty Thousand Dollars (\$250,000);

(iv) require a “good faith deposit” from any Qualified Bidder (as defined in the Sale Procedures Order) other than Purchaser in an amount equal to five percent (5%) of their respective offers and require irrevocable offers;

(v) require demonstration by any Qualified Bidder as to such Qualified Bidder’s financial and other ability to complete the transaction, including submission of the most recent financial statements (annual and interim, as applicable); and

(vi) establish procedures (1) by which any Qualified Bidder can conduct reasonable and appropriate due diligence (after signing a confidentiality agreement acceptable to Seller), (2) requiring any overbids to not be conditioned on any further due diligence or financing, (3) requiring cash overbids to be secured to a letter of credit or cash deposit, (4) requiring that terms and conditions of competing bids must be substantially the same as, and not materially more burdensome than, this Agreement and the terms and conditions of Purchaser’s offer set forth herein, determined in Seller’s sole discretion exercised in good faith, and (5) requiring that the procedures set forth in the Sale Procedures Order may not be modified without further order of the Bankruptcy Court;

(vii) establish a date for commencement of the hearing, not later than November 8, 2017, before the Bankruptcy Court to approve this Agreement and the Transactions contemplated hereby, pursuant to a motion filed by Seller requesting entry of the Sale Order;

(d) Without in any way limiting the foregoing, the Sale Order shall:

(i) contain findings and conclusions of fact to the effect that Purchaser is a good faith purchaser and entitled to the protections of Section 363(m) of the Bankruptcy Code;

(ii) authorize the sale of the Purchased Assets free and clear of all Encumbrances other than Permitted Encumbrances under and pursuant to Section 363(f) of the Bankruptcy Code; it being understood that such order (or an abstract thereof) shall be in form suitable for filing in applicable lien records and shall enjoin any holder of a claim against or interest in Seller from asserting any such claim or interest against Purchaser or the Purchased Assets;

(iii) authorize the assumption by Seller and assignment to Purchaser of the Assumed Contracts as of the Closing Date, and otherwise in accordance with the terms of this Agreement;

(iv) authorize Purchaser to assume all Assumed Liabilities;

(v) authorize Purchaser to pay \$600,000 to Seller’s Broker from the Purchase Price in the Event the Purchaser is the successful bidder.

(e) Seller shall serve a copy of the Sale Motion on: (i) all Persons that claim any interest in or Encumbrance upon the Purchased Assets, (ii) all parties to Designated Contracts, (iii) all Governmental Authorities with Taxing power that have, or as a result of the sale of the Purchased Assets may have, claims, contingent or otherwise, against Seller, (iv) all Persons that file requests for notices under Bankruptcy Rule 9010(b) or are entitled to notice under Bankruptcy Rule 2002, (v) the twenty (20)

largest unsecured creditors (whether liquidated, contingent or unmatured) of Seller, (vi) all interested. Governmental Authorities, (vii) the Office of the United States Trustee, and (viii) all Persons that expressed to Seller an interest in purchasing the Purchased Assets in the twelve (12) months prior to the date of this Agreement.

(f) Seller shall use its reasonable best efforts to provide Purchaser with copies of all motions, applications and supporting papers prepared by or on behalf of Seller (including forms of orders and notices to interested Persons) directly relating to the Purchased Assets or this Agreement at least two (2) Business Days (unless the exigencies of time prevent the period from being that long) prior to the filing thereof in the Bankruptcy Case so as to allow Purchaser to provide reasonable comments for incorporation into same.

7.4 Operations of the Business Prior to the Closing. During the period from the date of this Agreement until the Closing Date, except as contemplated by this Agreement, Seller shall operate and carry on the Business in accordance with the orders of the Bankruptcy Court in all material respects and in compliance with the Budget incorporated in the DIP Loan in all material respects and otherwise only in the Ordinary Course of Business. Consistent with the foregoing, except as consented to by Purchaser and approved by the Bankruptcy Court as appropriate, Seller shall (a) keep and maintain the Purchased Assets in good operating condition and repair subject to normal wear and tear; (b) use its best efforts consistent with good business practice to maintain the Business intact and to preserve the goodwill of the suppliers, licensors, employees, customers, distributors and others having business relations with Seller; (c) maintain (except for expiration due to lapse of time) all Designated Contracts in effect without change, except those Designated Contracts which expire or terminate by their terms or in which the customer ceases making payments or as otherwise expressly provided herein; (d) comply in all material respects with the provisions of all Legal Requirements applicable to Seller, the Purchased Assets and the conduct of the Business; (e) not alter the rate or basis of compensation of any of its officers, directors or employees other than in accordance with the orders of the Bankruptcy Court and otherwise in the Ordinary Course of Business; (f) not sell, lease or otherwise dispose of any properties or assets, except in accordance with the orders of the Bankruptcy Court and otherwise in the Ordinary Course of Business; (g) not enter into any Contract with any shareholder of Seller or any Affiliate of any shareholder of Seller; and (h) not take any action to change accounting policies, estimates or procedures (including, without limitation, procedures with respect to revenue recognition, payments of accounts payable and collection of accounts receivable).

7.5 Notification of Certain Matters. From the date of this Agreement until the Closing Date, Seller will give Purchaser prompt written notice upon becoming aware of any material development affecting the Purchased Assets, the Assumed Liabilities, the Business, financial condition, operations or prospects of Seller, or any event or circumstance that could reasonably be expected to result in a breach of, or inaccuracy in, any representation or warranty contained in Article V; provided, however, that no such disclosure will be deemed to prevent or cure any such breach of, or inaccuracy in, amend or supplement any Schedule to, or otherwise disclose any exception to, any of the representations and warranties of Seller set forth in this Agreement. Seller will prepare and furnish to Purchaser, promptly after becoming available and in any event within thirty (30) days of the end of each calendar month, monthly financial records for Seller for each month ending after the date of this Agreement through the Closing Date.

7.6 Alternate Transactions; Takeover Proposals. From the date hereof until the date of entry of the Sale Procedures Order, the Seller shall not (a) execute an agreement with respect to an Alternative Transaction, or (b) seek or support Bankruptcy Court approval of a motion or order inconsistent in any material respect with the Transactions contemplated hereby. Following entry of the Sale Procedures

Order, Seller shall promptly (and in any event within one (1) Business Day) notify Purchaser in writing at such time as any Person making a Takeover Proposal has been determined to be a Qualified Bidder.

7.7 Satisfaction of Closing Conditions. Seller and Purchaser will, and will cause their respective representatives to, use commercially reasonable efforts to take all of the actions necessary (including as necessary and appropriate, in obtaining all governmental and third party Approvals, licenses, change of ownership applications, billing numbers, and other Permits) to consummate the Transactions hereunder including delivering all of the various certificates, documents and instruments described in Article VIII and Article IX hereto, as the case may be. Without limiting the foregoing, Seller shall not voluntarily dismiss the Bankruptcy Case once filed and shall use its reasonable best efforts to:

- (a) file the Sale Motion on or before October 2, 2017;
- (b) obtain the Sale Procedures Order by October 20, 2017;
- (c) obtain the Sale Order on or prior to November 8, 2017; and
- (d) subject to the fiduciary duties of the members of the board of directors of Seller, prevent the dismissal of the Bankruptcy Case or the conversion of the Bankruptcy Case to a case under Chapter 7 of the Bankruptcy Code prior to the consummation of the transition contemplated in this Agreement.

7.8 Employee Matters.

(a) Under no circumstances shall Purchaser assume or be obligated to pay, and the Purchased Assets shall not be or become liable for or subject to, any claims of Seller's employees, including but not limited to, any claims or Liabilities related to employment practices, COBRA, equal employment opportunity, nondiscrimination, harassment, wrongful termination, breach of contract, immigration, wage and hour Legal Requirements, any other state, federal or local labor and employment Legal Requirements, Liability under the WARN Act, salaries, vacations, sick pay, incentives, severance pay, bonus, overtime, meal period, pension, profit sharing, retirement and/or deferred compensation and any other compensation or benefits for any period prior to the Closing Date (the "Employee Claims"), which Employee Claims shall be and remain the Liability, responsibility and obligations of Seller.

(b) Purchaser agrees to make a good faith effort to offer employment on an at-will basis, effective on the Closing Date, to all employees of Seller (other than any employees of Seller that are party to Employment Contracts with Seller) ("Eligible Employees"). To the extent Purchaser elects not to assume one or more Employment Contracts, then Purchaser agrees to make a good faith effort to offer employment on an at-will basis, effective on the Closing Date, to each such employee who is a party to an Employment Contract not being assumed and such employee shall be included in the definition of "Eligible Employees"). In furtherance of the foregoing, on or before three (3) Business Days prior to the Closing Date, Purchaser shall have the right to enter into employment agreements with key Eligible Employees (or former Eligible Employees) of Seller identified by Purchaser in its discretion, which employment agreements shall be in form and substance satisfactory to Purchaser and contingent upon the Closing of the Transactions contemplated by this Agreement.

(c) Purchaser agrees that its offers of employment to Eligible Employees shall provide for such employment to begin, if accepted, on the Closing Date, which employment offer to each Eligible Employee shall be for the same monetary compensation, substantially similar hours of work and substantially similar benefits as that provided to each such Eligible Employee immediately prior to the Closing Date. Such Eligible Employees who accept such offer are referred to as "Hired Employees".

Under no circumstances shall any individual employed or formerly employed by Seller become an employee of Purchaser unless such individual becomes a Hired Employee.

(d) Except with respect to any Assumed Contract which is an employment agreement, with respect to each Hired Employee, Seller hereby waives and releases each such individual from any and all contractual, common law or other restrictions enforceable by Seller on the employment activities or other conduct of such individuals after their termination of employment with Seller; provided, however, that Seller shall assign to Purchaser the rights of Seller to all obligations of each Hired Employee not to disclose confidential information relating to the Business and all obligations not to compete with the Business owed to Seller by such Hired Employee.

(e) Except as expressly provided in this Agreement, nothing herein shall be construed as transferring to Purchaser (i) any Contract with any current or former employee of Seller or for the employment of any Person or engagement of any independent contractor by Seller or (ii) any rights or obligations Seller may owe to or be owed by any current or former employee, officer, consultant, independent contractor or agent of Seller.

(f) Nothing herein, express or implied, shall confer upon any employee or former employee of Seller any rights or remedies (including any right to employment or continued employment for any specific period) of any nature or kind whatsoever, under or by reason of this Agreement except for any rights granted to the employees party to the Employment Contracts. Purchaser and Seller agree that the provisions contained herein are not intended to be for the benefit of or otherwise enforceable by, any third party, including any employee or former employee of Seller.

(g) At least ten (10) days prior to the Closing Date, Seller shall deliver to Purchaser a list of all of Seller's employees, together with particulars of the date of commencement of employment or service, periods of continuous employment or service, job description or grade, holiday entitlements, annual salary or hourly rate of pay and commissions.

(h) Effective immediately prior to the Closing Date, Seller shall terminate any Company Plan that includes a cash or deferred arrangement under Section 401(k) of the Code (the "401(k) Plan") and in connection therewith shall amend the 401(k) Plan to (i) fully vest all accounts of all participants in the 401(k) Plan and to provide for the distribution of all such accounts, and (ii) bring the 401(k) Plan into compliance with current applicable Legal Requirements. Seller shall deliver to Purchaser at Closing a duly executed plan amendment and resolutions of the board of directors of Seller reflecting the termination of the 401(k) Plan and related amendments to the 401(k) Plan. Subject to the provisions of Section 7.9 below, Seller also shall terminate all other Employee Plans as of the Closing Date and shall provide Purchaser with formal documentation evidencing such terminations. Seller shall retain all Liability and responsibility for its Company Plans and shall promptly take any and all actions necessitated by or related to the amendment and/or termination of any Company Plan, including but not limited to liquidation of plan assets and processing distributions to participants; filing of determination letter applications, final Forms 5500, and/or other notices with governmental authorities; and cancellation of insurance policies.

7.9 Adequate Assurances Regarding Assumed Contracts. With respect to each Assumed Contract, Purchaser will cure all defaults (including paying Cure Costs on Seller's behalf) and provide adequate assurance as required under the Bankruptcy Code of the future performance by Purchaser of each such Assumed Contract. Purchaser and Seller agree that they will promptly take all actions reasonably required to assist in obtaining a Bankruptcy Court finding that all defaults have been cured and there has been a demonstration of adequate assurance of future performance under the Assumed Contracts, such as furnishing affidavits, non-confidential financial information or other documents or

information for filing with the Bankruptcy Court and making the respective employees and representatives of Purchaser and Seller available to testify before the Bankruptcy Court.

7.10 Cure Amounts. Set forth on Schedule 2.4 to be provided on the Contract Designation Date will be a list of the costs that pursuant to Bankruptcy Code Section 365(b) will be required to cure any default on the part of Seller under the Designated Contracts, which costs must be delivered to the nondebtor under the Designated Contracts, or with respect to which adequate assurance of prompt delivery by Seller must be provided as a prerequisite to the assumption of such Designated Contracts under Bankruptcy Code 365(a) (the "Cure Costs"). Appropriate additions and deletions shall be made to Schedule 2.4, and the Cure Costs shall be correspondingly amended, to reflect additions and deletions to Schedule 2.4 made from time to time in accordance with Section 2.4. Prior to the Closing, Seller shall cooperate with Purchaser to resolve any disputes with the nondebtor party to any of the Designated Contracts regarding the amount of the Cure Costs.

7.11 Further Assurances. From and after the Closing Date, upon the request of either Seller or Purchaser, each of the parties hereto will do, execute, acknowledge and deliver all such further acts, assurances, deeds, assignments, transfers, conveyances and other instruments and papers as may be commercially reasonable to carry out the Transactions contemplated hereunder. Seller will not take any action that is designed or intended to have the effect of discouraging any lessor, licensor, supplier, distributor or customer of Seller or other Person with whom Seller has a relationship from maintaining the same relationship with Purchaser after the Closing as it maintained with Seller prior to the Closing. Seller will refer all customer inquiries relating to the Business to Purchaser from and after the Closing.

7.12 Prorations. Personal property, ad valorem, use and intangible Taxes and assessments, common area maintenance charges, utility charges and rental payments with respect to the Purchased Assets, and Taxes with respect to the Leased Real Property (collectively, "Charges") shall be prorated on a per diem basis and apportioned on a calendar year basis between Seller, on the one hand, and Purchaser, on the other hand, as of the date of the Closing. Seller shall be liable for that portion of such Charges relating to, or arising in respect of, periods on or prior to the Closing Date, and Purchaser shall be liable for that portion of such Charges relating to, or arising in respect of, any period after the Closing Date.

ARTICLE VIII

Conditions to Performance by Purchaser.

The obligations of Purchaser to consummate the Closing are subject to the fulfillment of each of the following conditions (unless waived by Purchaser in accordance with Section 11.4):

8.1 Representations and Warranties. Each of the representations and warranties of Seller contained in this Agreement and in any document, instrument or certificate delivered pursuant to this Agreement shall be true and correct in all respects (in the case of any representation or warranty qualified by materiality) or true and correct in all material respects (in the case of any representation or warranty not qualified by materiality), in either case, as of the date hereof and as of the Closing Date, other than representations and warranties that expressly speak only as of a specific date or time, which will be true and correct as of such specified date or time.

8.2 Covenants and Agreements. Seller shall have performed and complied in all material respects with all of its obligations under this Agreement which are to be performed or complied with by them prior to or at the Closing. Without limiting the generality of the foregoing, Seller shall be operating the Business in accordance with Section 7.4 as of the Closing.

8.3 Compliance Certificate. Seller shall have delivered to Purchaser a certificate dated as of the Closing Date, duly executed by an officer of Seller, certifying as to the satisfaction of the conditions set forth in Sections 8.1 and 8.2.

8.4 Absence of Litigation. No Proceeding will be pending or threatened in writing which may result in a Governmental Order (nor will there be any Governmental Order in effect) which would (a) prevent consummation of any of the Transactions contemplated hereunder, (b) result in any of the Transactions contemplated hereunder being rescinded following consummation, (c) limit or otherwise adversely affect the right of Purchaser to operate all or any material portion of either the Business or the Purchased Assets or of the business or assets of Purchaser or any of its Affiliates, or (d) compel Purchaser or any of its Affiliates to dispose of all or any material portion of either the Business or the Purchased Assets or the business or assets of Purchaser or any of its Affiliates.

8.5 Governmental Approvals. All actions by (including any Approval) or in respect of (including notice to), or filings with, any Governmental Authority that are required to consummate the Transactions contemplated hereunder will have been obtained or made in a manner reasonably satisfactory in form and substance to Purchaser, and no such Approval filing or notice will have been revoked.

8.6 Bankruptcy Court Orders. The Bankruptcy Court shall have entered each of the Sale Order and the Final DIP Financing Order in a form reasonably acceptable to Purchaser and each of the Sale Order and the Final DIP Financing Order shall not (a) have been vacated or reversed, (b) be subject to any injunction or stay of effectiveness, including without limitation, any stay pending appeal or (c) except with the express written consent of Purchaser, amended, supplemented or otherwise modified.

8.7 Deliveries. Seller shall have made all of the deliveries required by Section 4.3.

ARTICLE IX Conditions to Performance by Seller.

The obligations of Seller to consummate the Closing is subject to the fulfillment of each of the following conditions (unless waived by Seller in accordance with Section 11.4):

9.1 Representations and Warranties. Each of the representations and warranties of Purchaser contained in this Agreement and in any document, instrument or certificate delivered pursuant to this Agreement shall be true and correct in all respects (in the case of any representation or qualified by materiality) or true and correct in all material respects (in the case of any representation or warranty not qualified by materiality), in either case, as of the date hereof and as of the Closing Date, other than representations and warranties that expressly speak only as of a specific date or time, which will be true and correct as of such specified date or time.

9.2 Covenants and Agreements. Purchaser shall have performed and complied in all material respects with all of its obligations under this Agreement which are to be performed or complied with by it prior to or at the Closing.

9.3 Compliance Certificate. Purchaser shall have delivered to Seller a certificate dated as of the Closing Date, duly executed by an officer of Purchaser, certifying as to the satisfaction or the conditions set forth in Sections 9.1 and 9.2.

9.4 Absence of Litigation. No Proceeding will be pending or threatened in writing which may result in a Governmental Order (nor will there be any Governmental Order in effect) which would

(a) prevent consummation of any of the Transactions contemplated hereunder, or (b) result in any of the Transactions contemplated hereunder being rescinded following consummation.

9.5 Governmental Approvals. All actions by (including any Approval) or in respect of (including notice to), or filings with, any Governmental Authority that are required to consummate the Transactions contemplated hereunder will have been obtained or made in a manner reasonably satisfactory in form and substance to Seller, and no such Approval filing or notice will have been revoked.

9.6 Bankruptcy Court Order. The Bankruptcy Court shall have entered the Sale Order.

9.7 Deliveries. Purchaser shall have made all of the deliveries required by Section 4.4.

ARTICLE X Termination.

10.1 Termination. Notwithstanding anything contained in this Agreement to the contrary, this Agreement may be terminated at any time prior to the Closing:

(a) by the mutual written consent of Purchaser and Seller;

(b) by either Purchaser or Seller, if (i) any Governmental Authority having competent jurisdiction over any party hereto shall have issued a final Governmental Order restraining, enjoining or otherwise prohibiting the Transactions contemplated by this Agreement and such Governmental Order is or shall have become nonappealable or (ii) there shall be adopted any Legal Requirement that makes the Transactions contemplated by this Agreement illegal or otherwise prohibited; provided, however, that the party seeking to terminate this Agreement pursuant to clause (i) above shall not have initiated such Proceeding or taken any action in support of such Proceeding and shall have used its reasonable best efforts to challenge such order or other action;

(c) by Purchaser, in the event of a breach of any representation, warranty, covenant or agreement on the part of Seller set forth in this Agreement which (i) would reasonably be expected to cause any of the conditions set forth in Article VIII not to be satisfied if such breach or failure to perform was continuing as of the Closing Date and (ii) cannot be or has not been cured within twenty (20) days after the receipt of written notice thereof; provided, however, Purchaser may not terminate this Agreement pursuant to this Section 10.1(c) if Purchaser is in breach of any of its representations, warranties, covenants or agreements under this Agreement;

(d) by Seller, in the event of a breach of any representation, warranty, covenant or agreement on the part of Purchaser set forth in this Agreement which (i) would reasonably be expected. to cause any of the conditions set forth in Article IX not to be satisfied if such. breach or failure to perform was continuing as of the Closing Date and (ii) cannot be or has not been cured within. twenty (20) days after the receipt of written notice thereof; provided, however, Seller may not terminate this Agreement pursuant to this Section 10.1(d) if Seller is in breach of any of its representations, warranties, covenants or agreements under this Agreement;

(e) by Purchaser, in the event of the dismissal of the Bankruptcy Case or conversion of the Bankruptcy Case to a proceeding under Chapter 7 of the Bankruptcy Code;

(f) by Purchaser, in the event the Bankruptcy Court approves an Alternative Transaction or an Alternative Transaction is consummated;

(g) by Purchaser, if the Sale Procedures Order has not been entered by the Bankruptcy Court within forty-five (45) days (the “Entry Period”) after the execution and delivery of this Agreement by both Purchaser and Seller (or such later date as Purchaser may agree to in writing); provided, that Purchaser provides notice of its election to terminate this Agreement pursuant to this Section 10.1(e) no later than 5:00 p.m. Eastern time on the second (2nd) Business Day following the expiration of the Entry Period;

(h) by Purchaser if for any reason Purchaser is unable, pursuant to Section 363(k) of the Bankruptcy Code, to credit bid in payment of all or any portion of the Purchase Price as set forth in Section 3.1;

(i) by Purchaser if (i) Interim DIP Financing Orders are not entered within five (5) Business Days (or such later date as Purchaser may agree to in writing) following the hearing on Interim DIP Financing Order, or (ii) the Final DIP Financing Orders are not entered within thirty (30) days (or such later date as Purchaser may agree to in writing) following the entry of such applicable Interim DIP Financing Order;

(j) by either Purchaser or Seller, if the Closing has not been consummated on or before December 31, 2017 (the “Closing Date Deadline”); provided, that no party may terminate this Agreement pursuant to this Section 10.1(j) if such party’s breach of this Agreement or failure to fulfill any obligation under this Agreement shall have been a principal cause of or resulted in the failure of the Closing to be consummated on or before the Closing Date Deadline.

Each condition set forth in this Section 10.1 pursuant to which this Agreement may be terminated shall be considered separate and distinct from each other such condition. If more than one of the termination conditions set forth in this Section 10.1 are applicable, the applicable party shall have the right to choose the termination condition pursuant to which this Agreement is to be terminated.

10.2 Notice of Termination; Effect of Termination.

(a) The party desiring to terminate this Agreement pursuant to Section 10.1 shall give written notice of such termination to the other party in accordance with Section 11.7, specifying the provision or provisions hereof pursuant to which such termination is effected.

(b) In the event of termination of this Agreement pursuant to Section 10.1, this Agreement shall be of no further force or effect; provided, however, (i) the provisions of Article X and Article XI shall survive termination and (ii) any termination pursuant to Section 10.1 shall not relieve any party of any Liability for breach of any representation, warranty, covenant or agreement hereunder occurring prior to such termination.

(c) If this Agreement is terminated by Purchaser pursuant to Section 10.1(f) Seller shall pay to Purchaser in cash an amount equal to the Expense Reimbursement Amount plus the Break-Up Fee as an administrative claim in the Bankruptcy Case.

(d) Any payment of the Break-Up Fee pursuant to Section 10.2(c) shall be made by Seller concurrently with the consummation of the applicable Alternative Transaction.

(e) Purchaser and Seller hereby agree that the Expense Reimbursement Amount and Break-Up Fee (i) are a reasonable estimate of the damages which Purchaser would be likely to incur in the event the Transactions are not contemplated under the circumstances set forth herein, (ii) are a necessary inducement for Purchaser to enter into this Agreement and (iii) shall be the sole remedy of

Purchaser for breach of this Agreement by Seller (other than for non-payment of the Expense Reimbursement Amount and/or Break-Up Fee) if this Agreement is terminated under circumstances where the Expense Reimbursement Amount and Break-Up Fee are payable.

10.3 Return of Documentation. Following termination of this Agreement, (a) all filings, applications and other submissions made pursuant to this Agreement or prior to the execution of this Agreement in contemplation hereof shall, to the extent practicable, be withdrawn from the Governmental Authority to which made and (b) Purchaser shall, at Seller's election, return or destroy (and provide proof of such destruction of) all agreements, documents, contracts, instruments, books, records, materials and other information (in any format) regarding Seller provided to Purchaser or its representatives in connection with the Transactions contemplated hereunder other than as reasonably necessary to enforce its rights under this Agreement.

ARTICLE XI General Provisions.

11.1 Expenses; Transfer Taxes. Whether or not the Transactions contemplated herein shall be consummated, except as otherwise expressly provided herein or in the Sale Procedures Order, the parties hereto shall pay their own respective expenses incident to the preparation of this Agreement and to the consummation of the Transactions provided for herein, including their own attorney's fees. The parties acknowledge and agree that all amounts allocated for Seller's professional fees in the Budget, including attorneys' fees, shall be paid from Advances (as defined in the DIP Loan) and escrowed with said professional each month, and payment to the professionals shall be made upon application to and allowance by the Bankruptcy Court through the regular procedures or those adopted by the Bankruptcy Court, can, on court approval, be paid from Advances (as defined in the DIP Loan) regardless of the timing of their incurrence post-petition even if the Transactions contemplated herein shall not be consummated. All transfer, realty transfer, documentary, sales, use, stamp, registrations, recording costs related to title clearance matters, and other such Taxes applicable to, imposed upon or arising out of the Transactions contemplated hereby shall be borne by Purchaser.

11.2 Entire Agreement; No Third Party Beneficiaries; Amendment. This Agreement, together with the Exhibits and Schedules hereto, embodies all of the representations, warranties and agreements of the parties hereto with respect to the subject matter hereof, and all prior understandings, representations and warranties (whether oral or written) with respect to such matters are superseded. Nothing in this Agreement, express or implied, is intended to or shall confer upon any Person other than the parties hereto any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement. This Agreement may not be amended, modified, waived, discharged or orally terminated except by an instrument in writing signed by the party or a duly authorized officer of a corporate party against whom enforcement of the amendment, modification, waiver, discharge or termination is sought.

11.3 Severability. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted. Furthermore, in lieu of such illegal, invalid or unenforceable provisions, there shall be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

11.4 Waiver. Any party to this Agreement may, by written notice to the other parties hereto, waive any provision of this Agreement from which such party is entitled to receive a benefit. The waiver by any party hereto of a breach by another party of any provision of this Agreement shall not operate or

be construed as a waiver of any subsequent breach by such other party of such provision or any other provision of this Agreement.

11.5 Public Announcements. Prior to the Closing, except as required in connection with the Bankruptcy Case, the marketing of the sale of Seller by Seller's Broker or applicable Legal Requirement, no public announcement or other publicity regarding the existence of this Agreement or any agreements contemplated hereby or their contents or the Transactions contemplated hereby or thereby shall be made by any party or any of their respective Affiliates, officers, directors, managers, employees, representatives or agents, without the prior written agreement of the other parties as to form, content, timing and manner of distribution or publication. Notwithstanding the foregoing, nothing in this Section 11.5 shall prevent any party or its Affiliates or any other Person from (a) making any public announcement or disclosure required by applicable Legal Requirement or the rules of any stock exchange, (b) disclosing this Agreement or any of the agreements contemplated hereby or their contents or the Transactions contemplated hereby or thereby to (i) current and future officers, directors, managers, employees, representatives and agents of such party and its Affiliates, and (ii) current and potential lenders to, investors in and purchasers of such party and its Affiliates, (c) disclosing the Tax treatment and Tax structure of the Transactions contemplated hereby and all materials of any kind (including opinions or other Tax analyses) that are provided to such party relating to such Tax treatment and Tax structure except to the extent maintaining confidentiality of such information is necessary to comply with any applicable securities Legal Requirements or (d) enforcing its rights hereunder.

11.6 Successors and Assigns. This Agreement shall not be assignable by any party hereto without the prior written consent of the other parties; provided, however, Purchaser may, upon written notice to Seller, assign this Agreement in whole or in part to any Affiliate of Purchaser, provided, further, that such assignment shall not relieve Purchaser of its obligations hereunder. This Agreement shall be binding upon, and shall inure to the benefit of, and be enforceable by, the parties and their respective legal representatives, heirs, legatees, successors and assigns.

11.7 Notice. All notices or other communications required or permitted hereunder shall be in writing and shall be delivered personally or sent by registered or certified mail, by reputable overnight delivery or courier, addressed as follows:

To Seller: Triangle Capital Corporation
3700 Glenwood Avenue, Suite 530
Raleigh, North Carolina 27612
Attn: Cary Nordan

With a copy to: Smith Anderson Blount Dorsett
Mitchell & Jernigan, L.L.P.
150 Fayetteville Street, 23rd Floor
Raleigh, North Carolina 27601
Telecopy No.: (919) 821-6800
Attn: Amos U. Priester, IV

To Purchaser: CRS Reprocessing, LLC
9780 Ormsby Station Road
Suite 2500
Louisville, KY 40223
Attention: Chief Executive Officer
Telephone: 502.778.3600
Telecopy: 502.778.3606

With a copy to: Stoll Keenon Ogden PLLC
300 West Vine Street, Suite 2100
Lexington, KY 40507-1801
Attention: R. David Lester, Esq.
Telephone: 859.231.3082
E-mail: David.Lester@skofirm.com

and in any case at such other address as the advisee shall have specified by written notice. Notice of change of address shall be effective only upon receipt thereof. All such other notices and communications shall be deemed effective (a) if by personal delivery, upon receipt, (b) if by registered or certified mail, on the seventh (7th) Business Day after the date of mailing thereof or (c) if by reputable overnight delivery or courier, on the first (1st) Business Day after the date of mailing; provided, however, that notice is sent on a Business Day between the hours of 9:00 a.m. and 5:00 p.m., recipient's time, but if not then upon the following Business Day.

11.8 Section Headings: Counterparts; Facsimile Signatures. The section and paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original, but all such counterparts shall constitute one and the same instrument. The exchange of executed copies of this Agreement by facsimile transmission or in .pdf format shall constitute effective execution and delivery of this Agreement.

11.9 Specific Performance. The parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in the Bankruptcy Court, state courts of North Carolina or any federal court sitting in the State of North Carolina, without bond or other security being required, this being in addition to any other remedy to which they are entitled at law or in equity.

11.10 Governing Law. The laws of the Commonwealth of Kentucky (without giving effect to its conflicts of law principles) and, to the extent applicable, the Bankruptcy Code, govern this Agreement and all matters arising out of or relating to this Agreement and any of the Transactions contemplated hereby, including its negotiation, execution, validity, interpretation, construction, performance and enforcement.

11.11 Jurisdiction. During the pendency of the Bankruptcy Case, any Proceeding seeking to enforce any provision of, or based on any right arising out of, this Agreement may only be brought against any of the parties in the Bankruptcy Court, and each of the parties consents to the jurisdiction of the Bankruptcy Court (and the appropriate appellate courts) in any such action or proceeding and waives any objection to venue laid therein. At any time following the pendency of the Bankruptcy Case, the parties hereto hereby irrevocably submit to the exclusive jurisdiction of the state courts of Kentucky (or any federal court sitting in the Western District of Kentucky) over any action or proceeding arising out of or relating to this Agreement or any of the Transactions contemplated hereby, and each party hereto hereby irrevocably agrees that all claims in respect of such action or proceeding may be heard and determined in such courts. The parties hereto hereby irrevocably waive any objection which they may now or hereafter have to the laying of venue of any action or proceeding brought in such court or any claim that such action or proceeding brought in such court has been brought in an inconvenient forum. Each of the parties hereto agrees that a judgment in such action or proceeding may be enforced in other

jurisdictions by suit on the judgment or in any other manner provided by Legal Requirement. Each of the parties hereto hereby irrevocably consents to process being served by any party to this Agreement in any action or proceeding by delivery of a copy thereof in accordance with the provisions of Section 11.7.

11.12 Survival of Representations and Warranties. The representations and warranties of the Seller and Purchaser contained in this Agreement or in any certificate or other writing delivered in connection herewith shall not survive the Closing.

(Signatures appear on the following page.)

IN WITNESS WHEREOF, the parties hereto have executed this Asset Purchase Agreement as of the day and year first above written.

PURCHASER:

TRIANGLE CAPITAL CORPORATION

By: _____
Name:
Its:

SELLER:

CRS REPROCESSING, LLC

By: _____
Name:
Its:

EXHIBIT 2.3 – FORM OF ASSUMPTION AGREEMENT

[To be provided prior to Closing.]

EXHIBIT 4.3 – FORM OF GENERAL ASSIGNMENT AND BILL OF SALE

[To be provided prior to Closing.]

EXHIBIT 5.10 –TRANSACTION FEES

The Transaction Fee owed to Seller's Broker shall be calculated as set forth in the attached engagement letter between Seller and Seller's Broker. See attached letter.

EXHIBIT 7.3(b)(i) – FORM OF SALES PROCEDURE ORDER

[To be provided prior to Closing.]

SCHEDULES

To

Asset Purchase Agreement dated _____, 2017 by and between CRS Reprocessing, LLC
and Triangle Capital Corporation (the "Agreement")

Unless otherwise defined in these Schedules, all capitalized terms used herein shall have the meanings ascribed to them in the Agreement. These Schedules are incorporated by reference into and made a part of the Agreement.

Schedule 2.1
Purchased Assets

All of Seller's equipment, accessories, machinery, apparatus, furniture, fixtures, computer hardware and software, and other tangible personal property located at the following addresses:

Seller Headquarters – 9780 Ormsby Station Road, Louisville, KY 40223

Seller R&D – 569 Industrial Drive, Lewisberry, PA 17339

Seller Offsite Reprocessing & Equipment Yard – 5734 American Legion Road, Tyler, TX 75708

Seller Third Party Storage – 2200 East CR 120, Midland, TX 79706

Seller Third Party Storage - 7646 Canton Center Dr, Baltimore, MD 21224

Tangible Property at Customer Locations

CRS - 1100 E Hunt Road, NP Central Receiving, Store Stop 142, Alcoa, TN 37701

CRS - 4879 State Street, Bldg 516T, Bettendorf, IA 52722

CRS - 1372 State Highway 1957, Lewisport, KY 42351

CRS - 816B.1 CRS Reprocessing, Hwy 66, Newburgh, IN 47630

CRS - 859 Century Rd, Ravenswood, WV 26164

CRS - 1709 Jake Alexander Blvd, Salisbury, NC 28146

CRS - 15000 E Euclid Ave, Spokane, WA 99215

CRS - 7200 NW Front Avenue, Portland, OR 97210

CRS - 7646-56 Canton Center Dr. Baltimore, MD 21224

Customer, State	Major Assets at Location
Alcoa, IN	Distillation System & Equipment
Arconic, TN	Distillation System & Equipment
Aleris, KY	Distillation System & Equipment
Arconic, IA	Distillation System & Equipment
Arconic, TN	Centrifuge & TUF Filtration Systems Equipment
Constellium, WV	Distillation System & Equipment
General Electric, KY	Distillation & Filtration Systems Equipment
Granges, NC	Distillation System & Equipment
Kaiser, WA	Distillation System & Equipment
Siltronic, OR	Centrifuge & TUF Filtration Systems Equipment

Schedule 2.1(b)
Acquired Subsidiaries

CRS Reprocessing Hungary LLC
CRS (Dongying) Reprocessing, Ltd.
CRS (Hohhot) Reprocessing Ltd.
CRS Reprocessing (Philippines), Inc.
RDC Consulting, LLC
CRS Solids Solutions, LLC
Undisclosed LLC
Full Charter Industries, LTD

Schedule 2.2
Excluded Contracts

To be completed on or before hearing to consider Sale Motion

Schedule 2.3(a)(ii)
Assumed Vendor Obligations

Obligations of the Seller to certain vendors to be assumed and part of Assumed Liabilities.

To be completed at or prior to Closing.

Schedule 2.4
Assumed Contracts

To be completed on or before hearing to consider Sale Motion.

Schedule 3.2
Purchase Price Allocation

To be completed on or before Closing.

Schedule A – Disclosure Schedule

The representations and warranties of Seller in Article V of the Agreement are made and given subject to the disclosures in this Schedule A - Disclosure Schedule to the extent so stated in the Agreement.

Section 5.1(b)(i) – List of Subsidiaries Owned Directly or Indirectly by CRS

Coöperatief CRS Reprocessing U.A.(CRS owns 99.0%)
 CRS Reprocessing Holding B.V.
 CRS (Dongying) Reprocessing, Ltd.
 CRS (Hohhot) Reprocessing Limited
 CRS Reprocessing (Philippines), Inc. (CRS owns 99.95% and Filipino residents own the remaining 0.05%)
 CRS Reprocessing France SAS
 CRS Reprocessing Germany GmbH & Co. KG
 CRS Reprocessing Germany Verwaltungs GmbH
 CRS Reprocessing Hungary LLC
 CRS Reprocessing Korea Limited YH
 CRS Solids Solutions, LLC
 Full Charter Industries Limited
 Undisclosed LLC
 RDC Consulting, LLC

Section 5.1(b)(i) – List of Subsidiaries Owned Directly or Indirectly by RDC

Coöperatief CRS Reprocessing U.A. (RDC owns 1.0%)

Section 5.1(b)(ii) – Ownership of CRS

	Preferred Units	Common Units
	% of Total	% of Total
Energy Hardware Holdings, Inc.	70.54%	51.96%
Salem Halifax Capital Partners, LP	22.39%	16.50%
CRS Investors, L.P.	1.87%	11.98%
Argosy Investment Partners III, L.P.	2.74%	9.38%
Argosy Capital Group III, L.P.	0.84%	3.65%
William L. Lawrence	0.01%	3.45%
Steven R. Ragan	0.03%	2.57%
W. Scott Radeker	0.01%	0.52%
CRS Investors III, L.P.	1.14%	0.00%
CRS Investors II, L.P.	0.33%	0.00%
Frank Seidman	0.07%	0.00%
Todd L. Phillips	0.02%	0.00%
Scott T. Massie	0.01%	0.00%
	100.00%	100.00%

Section 5.1(b)(ii) – Ownership of RDC

CRS owns 100% of the membership and economic interests of RDC.

Section 5.1(c) – Prior Legal Names, Fictitious Names and Trade Names of CRS

CRS Reprocessing Services

Solids Solutions, LLC

Castrol Industrial North America, Inc.

BP Global

OPCon, Inc.

Section 5.1(c) – Prior Legal Names, Fictitious Names and Trade Names of RDC

None.

Schedule 5.2 – Due Authorization; No Conflict

Seller will violate one or more of the terms of the Pre-Petition Loan A documents, the Pre-Petition Loan B documents, the Pre-Petition Loan C documents and the Pre-Petition Loan D documents by entering into the Agreement.

Seller may need to obtain approval from a Governmental Authority in order to sell the equity ownership interests in CRS Reprocessing Hungary LLC, CRS (Dongying) Reprocessing, Ltd., CRS (Hohhot) Reprocessing Limited, and CRS Reprocessing (Philippines), Inc. CRS Reprocessing (Philippines), Inc. may need to obtain approval from the remaining 0.05% owner in order for CRS to sell its 99.95% equity ownership interest.

RDC Consulting, LLC, CRS Solids Solutions, LLC and Undisclosed LLC will have liens against their respective assets.

Schedule 5.4 – Title to Assets; Adequacy

The Purchased Assets are subject to:

1. Liens securing Pre-Petition Loan A.
2. Liens securing Pre-Petition Loan B.
3. Liens securing Pre-Petition Loan C.
4. Liens securing Pre-Petition Loan D.
5. Liens securing indebtedness owed to Navitas Credit Corp. relating to equipment held under capital lease

The following Encumbrances need to be terminated, released or transferred in connection with the sale of the Purchased Assets by Governmental Order of the Bankruptcy Court at or prior to Closing:

1. Liens securing Pre-Petition Loan A.
2. Liens securing Pre-Petition Loan B.
3. Liens securing Pre-Petition Loan C.
4. Liens securing Pre-Petition Loan D.

Schedule 5.5(a) – Compliance with Laws

None.

Section 5.6(a) – Leased Real Property

Seller Headquarters – 9780 Ormsby Station Road, Louisville, KY 40223

Seller R&D – 569 Industrial Drive, Lewisberry, PA 17339

Right to use Real Property at Customer Locations

CRS - 1100 E Hunt Road, NP Central Receiving, Store Stop 142, Alcoa, TN 37701

CRS - 4879 State Street, Bldg 516T, Bettendorf, IA 52722

CRS - 1372 State Highway 1957, Lewisport, KY 42351

CRS - 816B.1 CRS Reprocessing, Hwy 66, Newburgh, IN 47630

CRS - 859 Century Rd, Ravenswood, WV 26164

CRS - 1709 Jake Alexander Blvd, Salisbury, NC 28146

CRS - 15000 E Euclid Ave, Spokane, WA 99215

CRS - 7200 NW Front Avenue, Portland, OR 97210

CRS - 7646-56 Canton Center Dr. Baltimore, MD 21224

EXHIBIT 2

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF KENTUCKY**

In re:) Chapter 11
)
CRS REPROCESSING, LLC,) Case No. 17-32565
)
Debtor-In-Possession.)
)

**NOTICE OF HEARING, AUCTION, AND BIDDING PROCEDURES
FOR SALE OF SUBSTANTIALLY ALL OF THE ASSETS OF
CRS REPROCESSING, LLC**

CRS Reprocessing, LLC (“CRS” or the “Debtor”) filed a *Motion for Entry of Orders (a) Approving Bidding Procedures and Bidder Protections for Stalking-Horse Bidder; (b) Approving Form and Manner of Notice of Auction and Sale; (c) Approving Credit Bid Rights of Secured Creditors; (d) Approving Form and Manner of Notice of Assumption and Assignment of Executory Contracts and Unexpired Leases; (e) Approving Sale of Substantially All of Debtor’s Assets; and (f) Granting Related Relief* dated October 3, 2017 (the “Motion”).

In response to the Motion, on _____, 2017, the United States Bankruptcy Court for the Western District of Kentucky (the “Court”) entered an *Order (a) Approving Bidding Procedures and Bidder Protections for Stalking-Horse Bidder; (b) Approving Form and Manner of Notice of Auction and Sale; (c) Approving Credit Bid Rights of Secured Creditors; (d) Approving Form and Manner of Notice of Assumption and Assignment of Executory Contracts and Unexpired Leases; and (e) Granting Related Relief* (the “Sale Procedures Order”). The Sale Procedures Order approves certain bidding and auction procedures (the “Bidding Procedures”) pursuant to which Debtor will solicit bids and seek authority to sell (the “Sale”) substantially all of the assets of Debtor (the “Purchased Assets”) that are the subject of the Motion free and clear of all claims, liens, encumbrances or interests pursuant to Bankruptcy Code Section 363. Capitalized terms that are not defined in this notice shall have the meanings ascribed to them in the Motion.

NOTICE IS HEREBY GIVEN that copies of the Motion, the Sale Procedures Order, and the Bidding Procedures are on file with the Clerk of the Court and may be obtained through Debtor’s counsel.

NOTICE IS FURTHER HEREBY GIVEN that the Auction contemplated by the Bidding Procedures is scheduled for **November 1, 2017, at 2:00 p.m. E.T. at Stoll Keenon Ogden PLLC, 500 West Jefferson Street, Suite 2000, Louisville, Kentucky 40202.**

NOTICE IS FURTHER HEREBY GIVEN that the Bidding Procedures govern participation in the Auction, including the requirements for submitting Qualified Bids.

Information relating to the Purchased Assets and/or the Auction may be obtained by contacting Debtor's investment banker, Lincoln International, at 444 Madison Avenue, Suite 300, New York, New York 10022.

NOTICE IS FURTHER HEREBY GIVEN that the hearing to consider approval of the Sale of the Purchased Assets to the bidder submitting the highest and best offer therefor at the Auction shall be held on _____, **2017, at _____ a.m. E.T.** (the "**Sale Hearing**"). Objections, if any, to the Sale must be in writing, must conform to the Bankruptcy Rules and the Local Rules and orders of this Court, must set forth (i) the nature of the objector's claims against or interests in Debtor's estate; (ii) the basis for the objection, (iii) the specific grounds therefor, and (iv) all evidence in support of said objection, and shall be filed and served so as to be received on or before _____, **2017, at _____ p.m. E.T. [48 hours before Sale Hearing]**, by the undersigned counsel for Debtor. Any person that does not comply with this paragraph shall not be heard at the Sale Hearing.

Dated: _____, 2017

Respectfully submitted,

/s/ _____
Lea Pauley Goff
Emily L. Pagorski
STOLL KEENON OGDEN PLLC
500 West Jefferson Street
Suite 2000
Louisville, Kentucky 40202
Tel. No. (502) 333-6000
Fax No. (502) 333-6099

*Counsel for the Debtor,
CRS Reprocessing, LLC*

EXHIBIT 3

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF KENTUCKY

In re:) Chapter 11
)
CRS REPROCESSING, LLC,) Case No. 17-32565
)
Debtor-In-Possession.)
)

**NOTICE OF (I) POTENTIAL ASSUMPTION AND ASSIGNMENT OF EXECUTORY
CONTRACTS (II) REQUIREMENT TO PROVIDE INFORMATION AS TO CURE
AMOUNTS, AND (III) PROCESS FOR DETERMINING CURE AMOUNTS WITH
RESPECT TO EXECUTORY CONTRACTS TO BE ASSUMED AND ASSIGNED**

PLEASE TAKE NOTICE OF THE FOLLOWING:

1. Pursuant to the *Order (a) Approving Bidding Procedures and Bidder Protections for Stalking-Horse Bidder; (b) Approving Form and Manner of Notice of Auction and Sale; (c) Approving Credit Bid Rights of Secured Creditors; (d) Approving Form and Manner of Notice of Assumption and Assignment of Executory Contracts and Unexpired Leases; and (e) Granting Related Relief* (the “Sale Procedures Order”) dated _____, 2017, CRS Reprocessing, LLC (“CRS” or the “Debtor”) hereby provides notice that the contracts and/or leases listed on Exhibit A attached hereto may be assumed by Debtor and/or assigned pursuant to Section 365 of the Bankruptcy Code, to the persons(s) submitting the highest and best offer for the Purchased Assets¹ pursuant to the Bidding Procedures approved under the Sale Procedures Order (such person is referred to below as an “Assignee”). **You should review Exhibit A carefully for your name/contract and/or lease, along with the corresponding cure amount(s), if any.** Inclusion of a contract or lease on Exhibit A is not an admission that such contract or lease is an executory contract or lease pursuant to Section 365 of the Bankruptcy Code, nor is it a guarantee that such contract or lease will be assumed or assumed and assigned to an Assignee.

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Sale Procedures Order.

2. Opposite the name of each non-Debtor party to a contract or lease listed on Exhibit A attached hereto is the dollar amount that Debtor believes is necessary, as of August 9, 2017 (the “Petition Date”), to cure any defaults under any such contract or lease to which such non-Debtor entity is a party (as to each such respective contract and lease, the “Cure Amount”).

3. If you object (a) to the Cure Amount listed for a given contract or lease on Exhibit A or (b) to the assumption and/or assignment of a given contract or lease to any such Assignee pursuant to the Sales Procedures Order, then, on or before **October 27, 2017 at 5:00 p.m. E.T.** (the “Objection Deadline”), you or your attorney must file with the Bankruptcy Court a written objection (the “Objection”) explaining your position.

If you mail your Objection to the Court for filing, you must mail it early enough so the Court will receive it on or before the Objection Deadline.

You must also mail a copy of the Objection to the following persons so that the Objection is actually received by each of them on or before the Objection Deadline: Counsel for the Debtor, Lea Pauley Goff and Emily L. Pagorski, Stoll Keenon Ogden PLLC, 500 West Jefferson Street, Suite 2000, Louisville, Kentucky 40202; Lincoln International LLC, c/o Brent C. Williams and Brendan J. Murphy, 444 Madison Avenue, Suite 300, New York, New York 10022; and _____.

4. The Objection must state with specificity (a) why you object to such Cure Amount, what cure amount you believe is required, and provide sufficient documentation to support the cure amount you assert, and (b) the reasons why you object, if you object to assumption and/or assignment of a given contract or lease. If no Objection is timely filed and served, then the Court may determine that you do not object to the Cure Amount and/or the assumption and/or assignment of your contract or lease and may enter an order approving the

assumption and assignment of your contract or lease to the Assignee. All non-Debtor parties that file and serve a timely Objection are required to appear at the Sale Hearing, which is scheduled to take place on _____, 2017 at _____ a.m. E.T. at the United States Bankruptcy Court,

_____.

Dated: _____, 2017

Respectfully submitted,

/s/ _____
Lea Pauley Goff
Emily L. Pagorski
STOLL KEENON OGDEN PLLC
500 West Jefferson Street
Suite 2000
Louisville, Kentucky 40202
Tel. No. (502) 333-6000
Fax No. (502) 333-6099

*Counsel for the Debtor,
CRS Reprocessing, LLC*

EXHIBIT A

Executory Contracts and Unexpired Leases

Counter Party	Amounts Due on August 9, 2017

119033.157314/1515971.1