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IT IS SO ORDERED.

Dated: December 1, 2017



ALAN M. KOSCHIK
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

In re:)
) Chapter 11
DATA COOLING TECHNOLOGIES LLC,)
<i>et al.</i> , ¹) Case Nos. 17-52170 and 17-52177
) (Jointly Administered)
Debtors.)
) Judge Koschik
)

ORDER (A) AUTHORIZING THE SALE OF THE THERMOTECH ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES AND INTERESTS; (B) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES; (C) APPROVING EXPENSE REIMBURSEMENT; AND (D) GRANTING RELATED RELIEF

This matter comes before the Court upon the motion (the “Sale Motion”),² Docket No. 156, of Data Cooling Technologies LLC (“DCT”), one of the above-captioned debtors, for, among other things, entry of an order (this “Sale Order”) (a) authorizing and approving DCT’s

¹ The Debtors and the last four digits of each of the Debtors’ tax identification numbers following in parentheses are: Data Cooling Technologies LLC (3425); and Data Cooling Technologies Canada LLC (3172).

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the J&J APA (as defined below) or, if not defined in the J&J APA, the Sale Motion.

sale of the assets of its division located in Tampa, Florida and known as “Thermotech” (the “Thermotech Business”) free and clear of all liens, claims, encumbrances and interests of any kind; (b) authorizing the assumption and assignment of certain executory contracts and unexpired leases (the “Assigned Contracts”)³ of DCT that are to be assumed and assigned in connection with the Sale, subject to and at the time of the Closing of the Sale; (c) approving the Expense Reimbursement; and (d) granting related relief, Docket No. 156. The Sale Motion originally requested Court approval to sell the Thermotech Business to Thermotech Enterprises, LLC (“Thermotech Enterprises”), which had submitted an initial bid for certain assets associated with the Thermotech Business, subject to DCT’s fiduciary duty to consider higher and better offers.

The Court having reviewed:

- the response of J&J Mission Critical, LLC, Docket No. 177 (the “J&J Response”), filed by J&J Mission Critical (“J&J”), submitting a competing offer to purchase certain assets of the Thermotech Business (the “J&J Bid”);
- the Amended Response of J&J to the Sale Motion, Docket No. 187 (the “J&J Amended Response”) filed by J&J; revising the terms of the J&J Bid;
- the Supplement to the Amended Response of J&J, Docket No. 190 (the “J&J Supplement”), filed by J&J;
- the Reservation of Rights of TSS Technologies, Inc. in Response to the Sale Motion, Docket No. 178 (the “TSS Response”), filed by TSS Technologies, Inc.;
- the Notice to Counterparties That Will Be Assumed and Assigned, Docket No. 160, filed by DCT;
- the Notice of Position Statement Regarding the Sale of Debtors’ Thermotech Assets, Docket No. 206, filed by KeyBank, N.A.;
- the Brief of Proposed Purchaser, J&J Mission Critical, in Support of Bid for Thermotech Assets, Docket No. 207, filed by J&J; and

³ The term “Assigned Contracts” as used herein shall refer only to those agreements listed on Schedule 1.3 of the J&J APA, as such schedule may be amended through Closing.

- DCT’s Statement Relating to the Auction for the Thermotech Assets, Docket No. 208, filed by DCT.

The Court heard the arguments of counsel at hearings on this matter on the following dates: (i) November 21, 2017 (the “Initial Sale Hearing”); (ii) November 28, 2017 (the “Further Sale Hearing”); and (iii) November 29, 2017 (the “Final Sale Hearing” and together with the Initial Sale Hearing and the Further Sale Hearing, the “Sale Hearing”).

The Court considered the terms of the Thermotech Enterprises Bid and the J&J Bid, as revised at the Initial Sale Hearing and read into the record at the Further Sale Hearing, to purchase the Thermotech Assets.⁴

The Court held an auction (the “Auction”) to consider the Thermotech Enterprises Bid and the J&J Bid on the record during the Further Sale Hearing, as conducted by DCT’s counsel and pursuant to bidding procedures agreed to by DCT, Thermotech Enterprises, J&J, KeyBank, the Committee, and the United States Trustee at the Initial Sale Hearing (the “Bidding Procedures”), resulting in final bids by Thermotech Enterprises and J&J as stated on the record at the Further Sale Hearing. J&J provided an enhanced bid in the J&J Brief in Support and at the Final Sale Hearing, and DCT selected J&J as the winning bidder at the Final Sale Hearing pursuant to the J&J offer presented at the Final Sale Hearing.

DCT having determined that the highest and otherwise best offer for the Thermotech Assets was made by J&J; and it appearing that adequate and proper notice of the Sale Motion has been given and that no other or further notice need be given; and the Sale Hearing having been held to consider the relief requested in the Sale Motion; and upon the record of the Sale Hearing and all of the proceedings had before the Court; and the Court having found and determined that the relief sought in the Sale Motion is in the best interests of DCT, its estate, its creditors and all

⁴ The Thermotech Assets are the assets defined as the “Purchased Assets” described in Section 1.2 of the J&J APA.

other parties in interest; and that the legal and factual bases set forth in the Sale Motion, and any testimony adduced at the Sale Hearing establishing just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY FOUND AND DETERMINED THAT:⁵

A. Jurisdiction. The Court has jurisdiction to hear and determine the Sale Motion and to grant the relief requested in the Sale Motion pursuant to 28 U.S.C. § 157(b)(1).

B. Venue. Venue of this case and the Sale Motion in this district is proper under 28 U.S.C. § 1408. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

C. Statutory Predicates. The statutory and legal predicates for the relief requested in the Sale Motion are sections 105, 363 and 365 of title 11 of the United States Code, 11 U.S.C. §§ 101 – 1532 (the “Bankruptcy Code”), Rules 2002, 6004, 6006, 9006 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Bankruptcy Local Rule 6004-1.

D. Notice. Notice of the proposed Sale of the Thermotech Assets and the Sale Hearing has been provided to the following parties or, in lieu thereof, to their counsel, if known: (i) the Office of the United States Trustee for the Northern District of Ohio; (ii) counsel for the Committee; (iii) counsel to KeyBank, N.A.; (iv) the District Director of Internal Revenue; (v) all entities known, as of the date of this Motion, to have a lien, or to have asserted a lien, on the Thermotech Assets; (vi) all DCT’s creditors; (vii) counterparties to the Assigned Contracts; and (viii) all other parties requesting notice in the Debtors’ chapter 11 cases (collectively, the “Notice Parties”).

⁵ Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact to the fullest extent of the law. *See* Fed. R. Bankr. P. 7052.

E. Notice Sufficient. Based upon the affidavits of service previously filed with the Court and the evidence presented at the Sale Hearing, adequate and sufficient notice of the Sale Motion, Sale Hearing, the Sale, and the transactions contemplated thereby, including without limitation, the assumption and assignment of the Assigned Contracts to J&J, has been provided in accordance with sections 105(a), 363 and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006 and 9006 and Bankruptcy Rule 6004-1. A reasonable opportunity to object and be heard with respect to the Sale, the Sale Motion and the relief requested therein, the assumption and assignment of the Assigned Contracts to J&J and the amounts necessary under section 365(b) of the Bankruptcy Code to cure defaults thereunder, as such amounts have been transmitted pursuant to a written notice delivered to the applicable counterparty, has been afforded to all interested persons and entities, including the Notice Parties.

F. Thermotech Assets Property of the Estate. The Thermotech Assets sought to be transferred and/or assigned by DCT to J&J pursuant to the J&J APA are property of DCT's estate and title thereto is vested in DCT's estate.

G. Sufficiency of Marketing. Based upon the record of the Debtors' chapter 11 cases, all creditors and other parties in interest and all prospective buyers have been afforded a reasonable and fair opportunity to bid for the Thermotech Assets. Under the circumstances, DCT and its professionals have adequately and appropriately marketed the Thermotech Assets.

H. The Auction: (i) was held on November 28, 2017 at the Further Sale Hearing; (ii) was conducted on the record pursuant to the Bidding Procedures established in good faith; and (iii) afforded a full, fair, and reasonable opportunity for any party that submitted a timely bid prior to November 17, 2017 to make a higher or otherwise better offer for the Thermotech Assets than that of Thermotech Enterprises. The Auction was continued until the

Final Sale Hearing. At the conclusion of the Final Sale Hearing, DCT determined that J&J's bid for the Thermotech Assets, as described in the J&J APA and revised in the J&J Bid at the Auction, was the highest and otherwise best bid. DCT designated Thermotech Enterprises as the back-up bidder pursuant to the terms of the Thermotech APA. J&J and its professionals have complied in good faith in all respects with the Bidding Procedures established at the Initial Sale Hearing. The Bidding Procedures obtained the highest value for the Thermotech Assets. No other entity or group of entities has offered to purchase the Thermotech Assets for greater value to DCT's estate than J&J. DCT's determination that the J&J Bid constitutes the highest and best offer for the Thermotech Assets constitutes a valid and sound exercise of DCT's business judgment.

I. Corporate Authority. Subject to the entry of this Sale Order, DCT: (i) has full power and authority to execute the J&J APA and all other documents contemplated thereby; (ii) has all of the power and authority necessary to consummate the transactions contemplated by the J&J APA, and (iii) has taken all company action necessary to authorize and approve the J&J APA and the sale of the Thermotech Assets, and any actions required to be performed by DCT in order to consummate the transactions contemplated in the J&J APA. No consents or approvals, other than those expressly provided for in the J&J APA or this Sale Order, are required for DCT to consummate the Sale.

J. Arm's Length Sale and J&J's Good Faith. The J&J APA was negotiated and is undertaken by DCT and J&J at arm's length without collusion or fraud, and in good faith within the meaning of section 363(m) of the Bankruptcy Code. Neither J&J nor any of its affiliates, members, officers, directors, or shareholders is an "insider" of either of the Debtors as that term is defined by section 101(31) of the Bankruptcy Code. J&J (i) recognized that DCT

was free to deal with any other party interested in acquiring the Thermotech Assets and (ii) willingly subjected the Thermotech Assets to higher and better offers in accordance with its fiduciary duties. All payments to be made by J&J and other agreements or arrangements entered into by J&J in connection with the Sale have been disclosed, J&J has not violated section 363(n) of the Bankruptcy Code by any action or inaction, and no common identity of directors or controlling stockholders exists between J&J and the Debtors. As a result of the foregoing, J&J is a “good faith buyer” within the meaning of section 363(m) of the Bankruptcy Code, and as such, is entitled to all of the protections afforded thereby, including in the event this Sale Order or any portion thereof is reversed or modified on appeal, and otherwise has proceeded in good faith in all respects in connection with the Sale specifically and this chapter 11 case generally.

K. Sale Highest or Best Offer. The offer submitted by J&J for the Thermotech Assets as reflected in the J&J APA and as was revised at the Final Sale Hearing, including the form and total consideration to be realized thereunder, is the highest and best offer for the Thermotech Assets. No other person or entity or group of persons or entities has offered to purchase the Thermotech Assets for an amount that would provide greater value to DCT than J&J, including through the reduction of claims against DCT’s estate. The Court’s approval of the Sale Motion with respect to the Thermotech Assets, the J&J APA, and the transactions contemplated herein, maximizes DCT’s recovery for the Thermotech Assets, and, thus, is in the best interests of DCT and its estate, creditors and all other parties in interest.

L. No Fraudulent Transfer. The purchase price set forth in the J&J APA and as was revised at the Final Sale Hearing constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code, the Uniform Fraudulent Transfer Act, the Uniform Fraudulent Conveyance Act and any other applicable law, and may not be avoided under section

363(n) or any other section of the Bankruptcy Code. The J&J APA was not entered into, and the Sale is not being consummated, for the purpose of hindering, delaying or defrauding creditors of DCT under the Bankruptcy Code or under the laws of the United States, any state, territory, possession thereof, or the District of Columbia, or any other applicable law. Neither DCT nor J&J has entered into the J&J APA or is consummating the Sale with any fraudulent or otherwise improper purpose.

M. No Liability under Section 363(n). Neither DCT nor J&J engaged in any conduct that would cause or permit the J&J APA or the consummation of the Sale to be avoided, or costs or damages to be imposed, under section 363(n) of the Bankruptcy Code.

N. Transfer of Thermotech Assets Free and Clear. DCT is the sole and lawful owner of the Thermotech Assets. Subject to section 363(f) of the Bankruptcy Code, and except as otherwise provided in the J&J APA and this Sale Order, and except for Assumed Liabilities, the transfer of each of the Thermotech Assets to J&J will be, as of the Closing, a legal, valid, and effective transfer of the Thermotech Assets, which transfer vests or will vest J&J with all right, title, and interest of DCT to the Thermotech Assets free and clear of, among other things, (i) all liens, claims, mortgages, deeds of trust, pledges, charges, security interests, rights of first refusal, hypothecations, encumbrances, royalties, easements, servitudes, leases or subleases, rights-of-way, encroachments, restrictive covenants, restrictions on transferability or other similar restrictions, rights of offset or recoupment, right of use or permission, subleases, leases, conditional sale arrangements, (ii) all claims as defined in section 101(5) of the Bankruptcy Code) including all rights or causes of action (whether in law or equity), proceedings, warranties, guarantees, indemnities, rights of recovery, setoff, recoupment, indemnity or contribution, obligations, demands, restrictions, indemnification claims, or

liabilities relating to any act or omission of DCT or any other person prior to Closing, consent rights, options, contract rights, covenants, and interests of any kind or nature whatsoever (known or unknown, matured or unmatured, accrued, or contingent and regardless of whether currently exercisable), whether arising prior to or subsequent to the commencement of DCT's chapter 11 case, and whether imposed by agreement, understanding, law, equity or otherwise, and (iii) all debts, liabilities, obligations, contractual rights and claims and labor, employment and pension claims, in each case, whether known or unknown, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, perfected or unperfected, allowed or disallowed, contingent or non-contingent, liquidated or unliquidated, matured or unmatured, material on non-material, disputed or undisputed, whether arising prior to or subsequent to the commencement of DCT's chapter 11 case, and whether imposed by agreement, understanding, law, equity or otherwise (clauses (i), (ii), and (iii), together, the "Interests").

O. Free and Clear Findings Required by J&J. J&J would not have entered into the J&J APA and would not consummate the transactions contemplated thereby if the Sale was not free and clear of any and all Interests (other than Assumed Liabilities) pursuant to section 363(f) of the Bankruptcy Code, or if J&J would, or in the future could, be liable for any of such Interests. Effective upon the Closing, J&J shall not be responsible for any Interests (other than Liens or Assumed Liabilities), including in respect of the following: (i) labor or employment agreements; (ii) all mortgages, deeds of trust, and security interests; (iii) any intercompany loans and receivables between the Debtors and any non-Debtor affiliate; (iv) any welfare, compensation or other employee benefit plans, agreements, practices and programs, including, without limitation, any pension plan of DCT, or any affiliate of DCT; (v) any other employee, worker's compensation, occupational disease or unemployment or temporary

disability related claim, including, without limitation, claims that might otherwise arise under or pursuant to (a) the Employee Retirement Income Security Act of 1974, as amended, (b) the Fair Labor Standards Act, (c) Title VII of the Civil Rights Act of 1964, (d) the Federal Rehabilitation Act of 1973, (e) the National Labor Relations Act, (f) the Age Discrimination and Employee Act of 1967 and Age Discrimination in Employment Act, as amended, (g) the Americans with Disabilities Act of 1990, (h) the Consolidated Omnibus Budget Reconciliation Act of 1985, (i) state discrimination laws, (j) state unemployment compensation laws or any other similar state laws, (k) the Worker Adjustment and Retraining Notification Act, 29 U.S.C §§ 2101 *et. seq.*, or (l) any other state or federal benefits or claims relating to any employment with DCT or any of its predecessors; (vi) Interests arising under any environmental, health and safety laws with respect to any assets owned or operated by DCT or any corporate predecessor at any time prior to the Closing and any liabilities of DCT other than the Assumed Liabilities; (vii) any bulk sales or similar law; (viii) any tax statutes or ordinances, including, without limitation, the Internal Revenue Code of 1986, as amended; (ix) any and all Interests arising out of violations, or other non-compliance with any law(s), regulation(s), standard(s), guideline(s), enforcement order(s), or any other authority or requirement enforced by, or under the supervision of the Occupational Safety and Health Administration; and (x) any theories of successor liability or causes of action related thereto. A sale of the Thermotech Assets other than one free and clear of all Interests would yield substantially less value for DCT's estate, with less certainty, than the Sale as contemplated. Therefore, the Sale contemplated by the J&J APA maximizes DCT's recovery on the Thermotech Assets, and, thus, is in the best interests of DCT and its estate, creditors and all other parties in interest.

P. Satisfaction of Section 363(f) Standards. DCT may sell the Thermotech Assets free and clear of all Interests because, with respect to each creditor or other person or entity asserting an Interest, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. Those holders of Interests who did not object (or who ultimately withdrew their objections, if any) to the Sale or the Sale Motion with respect to the Thermotech Assets are deemed to have consented to the Sale Motion with respect to the Thermotech Assets and to the Sale pursuant to section 363(f)(2) of the Bankruptcy Code.

Q. No Successor Liability. J&J is not holding itself out to the public as a continuation of DCT and is not an “insider” or “affiliate” of DCT, as those terms are defined in the Bankruptcy Code, and no common identity of incorporators, directors or stockholders exists now or has ever existed between J&J and DCT. The conveyance of the Thermotech Assets does not amount to a consolidation, merger or *de facto* merger of J&J and DCT and/or DCT’s estate, there is not substantial continuity between J&J and DCT, there is no continuity of enterprise between DCT and J&J, J&J is not a joint employer or co-employer with DCT or a mere continuation of DCT or its estate, and J&J does not constitute a successor to DCT or its estate. To the fullest extent of the law, J&J’s acquisition of the Thermotech Assets shall be free and clear of any “successor liability” claims of any nature whatsoever, whether known or unknown and whether asserted or unasserted as of the Closing. J&J’s operations shall not be deemed a continuation of DCT’s business as a result of the acquisition of the Thermotech Assets. J&J would not have acquired the Thermotech Assets but for the foregoing protections against potential claims based upon “successor liability” theories.

R. Assigned Contracts. Each and every provision of the Assigned Contracts or applicable non-bankruptcy law that purports to prohibit, restrict, or condition, or could be

construed as prohibiting, restricting, or conditioning assignment of any Assigned Contract has been satisfied or is otherwise unenforceable under section 365 of the Bankruptcy Code. There shall be no rent accelerations, assignment fees, increases or any other fees charged to DCT or J&J as a result of the assumption and/or assignment of the Assigned Contracts. All counterparties of the Assigned Contracts who did not or do not timely file an objection to the assumption and assignment of the Assigned Contract(s) to which they are counterparty are deemed to consent to the assumption by DCT of their respective Assigned Contract(s) and the assignment thereof to J&J, and J&J shall enjoy all of the rights and benefits under each such Assigned Contract as of the applicable date of assumption and assignment without the necessity of obtaining such non-debtor party's written consent to the assumption or assignment thereof. Upon the assignment and sale to J&J, the Assigned Contracts shall be deemed valid and binding, in full force and effect in accordance with their terms, subject to the provisions of this Sale Order, and shall be assigned and transferred to J&J, notwithstanding any provision in the Assigned Contracts prohibiting or otherwise restricting assignment or transfer. DCT has demonstrated that it is an exercise of its sound business judgment to assume and assign the Assigned Contracts to J&J in connection with the consummation of the Sale, and the assumption and assignment of the Assigned Contracts is in the best interests of DCT, its estate and creditors, and other parties in interest. The Assigned Contracts being assigned to J&J are an integral part of the Sale and, accordingly, their assumption and assignment are reasonable and an enhancement to the value of DCT's estate.

S. Cure/Adequate Assurance. The Cure Costs will be paid in accordance with the terms of the J&J APA. J&J has demonstrated adequate assurance of future performance of all Assigned Contracts within the meaning of section 365 of the Bankruptcy Code, including

its promise to perform DCT's obligations under the Assigned Contracts for periods on and after the Closing. The Cure Costs are deemed the amounts necessary to "cure" all "defaults" (each, within the meaning of section 365(b) of the Bankruptcy Code) under such Assigned Contracts. Any objections to the Cure Costs, to the extent not otherwise resolved, are hereby overruled. To the extent that any counterparty failed to timely object to its Cure Costs or the assignment of its Assigned Contract or to raise any other alleged default or breach of contract, such counterparty is deemed to have consented to such Cure Cost and to the assignment of its respective Assigned Contract to J&J and to have waived any other defaults or breaches. The payment of the Cure Costs as provided in the J&J APA is appropriate and is deemed to fully satisfy DCT obligations under sections 365(b) and 365(f) of the Bankruptcy Code. Accordingly, all of the requirements of sections 365(b) and 365(f) of the Bankruptcy Code have been satisfied for the assumption by DCT, and the assignment by DCT to J&J, of each of the Assigned Contracts.

T. Thermotech Assets Assignable. Any contractual provision or applicable non-bankruptcy law that purports to prohibit, restrict, or condition assignment of any of the Thermotech Assets has been satisfied or is otherwise unenforceable under section 365 of the Bankruptcy Code.

U. Sale as Exercise of Business Judgment. Entry into and consummation of the J&J APA constitute the exercise by DCT of sound business judgment, and such acts are in the best interests of DCT, its estate and creditors, and all parties in interest. The Court finds that DCT has articulated good and sufficient business reasons justifying the Sale. Additionally: (i) the J&J APA constitutes the highest and best offer for the Thermotech Assets; (ii) the J&J APA and the closing thereon presents the best opportunity to realize the maximum value of the Thermotech Assets and avoid a decline and devaluation of the Thermotech Assets; (iii) there is

risk of deterioration of the value of the Thermotech Assets if the Sale is not consummated promptly; and (iv) the J&J APA and the closing thereon will provide a greater recovery for DCT's creditors than would be provided by any other presently available alternative. DCT has demonstrated compelling circumstances and a good, sufficient and sound business purpose and justification for the Sale prior to, and outside of, a plan of reorganization.

V. Compelling Reasons for an Immediate Sale. Good and sufficient reasons for approval of the J&J APA have been articulated by DCT. DCT has demonstrated compelling circumstances for the Sale outside: (a) the ordinary course of business, pursuant to section 363(b) of the Bankruptcy Code; and (b) a plan of reorganization, in that, among other things, the immediate consummation of the Sale is necessary and appropriate to preserve and to maximize the value of DCT's estate. To maximize the value of the Thermotech Assets and to preserve the viability of the business to which the Thermotech Assets relate, it is essential that the Sale occur promptly. Time is of the essence in consummating the Sale.

W. No Sub Rosa Plan. The Sale does not constitute a *sub rosa* chapter 11 plan. The Sale neither impermissibly restructures the rights of DCT's creditors nor impermissibly dictates the terms of a plan of reorganization for DCT.

X. Final Order. This Sale Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), the Court expressly finds that there is no just reason for delay in the implementation of this Sale Order and expressly directs entry of judgment as set forth herein.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. Sale Motion Granted. The relief requested in the Sale Motion with respect to the Thermotech Assets is GRANTED and the Sale is approved, all as set forth in this Sale Order.

2. TSS Response. The TSS Response was resolved by further clarification of the assets of DCT that were offered for sale pursuant to the Thermotech APA, and was moot as stated on the record at the Initial Sale Hearing.

3. Purchase Price. Notwithstanding any other purchase price detailed in the Thermotech APA, the J&J APA, or any other document entered on the record in the above-captioned cases, the Purchase Price for the purchase of the Thermotech Assets by J&J is \$1,737,387, specifically including the following components:

\$448,905.00 – Cash

\$130,000.00 – Additional Cash, up to the amount funded by DCT through the Closing

\$1,158,482.00 – All Accounts Receivable Purchase at 100%

\$1,737,387.00

To the extent any of the accounts receivable are collected prior to the Closing by DCT, or any amount of the Additional Cash deposited by J&J to fund DCT through the Closing is not utilized, such amount collected, and such amount not utilized, shall be applied as a credit in favor of J&J against the Purchase Price.

4. Modification of J&J APA. As detailed on the record at the Sale Hearing, the terms of the Revised J&J APA are hereby modified as described in the Exhibit A attached hereto.

5. Any Other Objections Overruled. Any other objections with regard to the relief sought in the Sale Motion with respect to the Thermotech Assets that have not been withdrawn, waived, settled or otherwise dealt with as expressly provided herein or on the record at the Sale Hearing are hereby overruled on the merits, with prejudice.

6. Approval. Pursuant to sections 105, 363 and 365 of the Bankruptcy Code, the J&J APA, the assumption and assignment of the Assigned Contracts to J&J as of the Closing Date, and the sale of the Thermotech Assets and the other transactions contemplated thereby are

hereby approved in all respects. Pursuant to sections 105, 363 and 365 of the Bankruptcy Code, DCT and its officers, agents, professionals and other representatives are authorized and directed to perform their obligations under, and comply with the terms of, the J&J APA, and to consummate the Sale, including the sale, transfer and assignment of all of DCT's right, title and interest in the Thermotech Assets to J&J free and clear of any and all Interests (other than the Assumed Liabilities) in accordance with the terms of the J&J APA and this Sale Order. Pursuant to sections 105, 363 and 365 of the Bankruptcy Code, DCT, J&J and each of their respective officers, directors, employees, professionals, agents and other representatives are each hereby authorized and directed to take any and all actions necessary or appropriate to: (a) consummate the sale of the Thermotech Assets to J&J and the Closing of the Sale, pursuant to the J&J APA and this Sale Order, (b) assume and assign the Assigned Contracts to be assumed and assigned to J&J as of the Closing Date, and (c) perform, consummate, implement and close fully the J&J APA together with any and all additional instruments and documents that may be reasonably necessary or desirable to implement the J&J APA. DCT and J&J are hereby authorized and directed to perform their respective covenants and undertakings as provided in the J&J APA prior to or after the Closing of the Sale without further order of the Court. J&J and DCT shall have no obligation to close the Sale except as is contemplated and provided for in the J&J APA.

7. Transfer Free and Clear. Pursuant to sections 105, 363 and 365 of the Bankruptcy Code, upon the Closing, neither J&J nor its respective successors and assigns shall have any liability for any Interest, except for the Assumed Liabilities, whether known or unknown as of the Closing, now existing or hereafter arising, whether fixed or contingent, whether as a successor, vicariously or otherwise, of any kind, nature or character whatsoever, including for any Interests arising under, without limitation: (i) any labor or employment agreements; (ii) all

mortgages, deeds of trust and security interests; (iii) any intercompany loans and receivables between the Debtors and any non-Debtor affiliate; (iv) any welfare, compensation or other employee benefit plans, agreements, practices and programs, including, without limitation, any pension plan, or any affiliate of DCT; (v) any other employee, worker's compensation, occupational disease or unemployment or temporary disability related claim, including, without limitation, claims that might otherwise arise under or pursuant to (a) the Employee Retirement Income Security Act of 1974, as amended, (b) the Fair Labor Standards Act, (c) Title VII of the Civil Rights Act of 1964, (d) the Federal Rehabilitation Act of 1973, (e) the National Labor Relations Act, (f) the Age Discrimination and Employee Act of 1967 and Age Discrimination in Employment Act, as amended, (g) the Americans with Disabilities Act of 1990, (h) the Consolidated Omnibus Budget Reconciliation Act of 1985, (i) state discrimination laws, (j) state unemployment compensation laws or any other similar state laws, (k) the Worker Adjustment and Retraining Notification Act, 29 U.S.C §§ 2101 et. seq., or (l) any other state or federal benefits or claims relating to any employment with DCT or any of its predecessors; (vi) Interests arising under any environmental, health and safety laws with respect to any assets owned or operated by DCT or any corporate predecessor at any time prior to the Closing Date and any liabilities of DCT other than the Assumed Liabilities; (vii) any bulk sales or similar law; (viii) any tax statutes or ordinances, including, without limitation, the Internal Revenue Code of 1986, as amended; (ix) any and all Interests arising out of violations, or other non-compliance with any law(s), regulation(s), standard(s), guideline(s), enforcement order(s), or any other authority or requirement enforced by, or under the supervision of the Occupational Safety and Health Administration; and (x) any theories of successor liability or causes of action related thereto. All Interests, to the extent not paid in full at Closing, shall attach to the proceeds of the

sale of the Thermotech Assets, in the order of priority, with the same validity, force and effect which they now have as against the Thermotech Assets, subject to any rights, claims and defenses that DCT and other parties in interest may possess with respect thereto.

8. Surrender of Possession. Any and all Thermotech Assets in the possession or control of any person or entity, including any vendor, supplier or employee of DCT, shall be transferred to J&J free and clear of all Interests, except for the Assumed Liabilities, and shall be delivered to J&J and deemed delivered at the time of Closing (or such other time as provided in the J&J APA).

9. Valid Transfer. Effective upon the Closing, the transfer to J&J of DCT's right, title and interest in the Thermotech Assets pursuant to the J&J APA shall be, and hereby is deemed to be, a legal, valid and effective transfer of DCT's right, title and interest in the Thermotech Assets, and vests with or will vest in J&J all right, title and interest of DCT in the Thermotech Assets, free and clear of all Interests (other than the Assumed Liabilities).

10. Injunction. Except as expressly provided in the J&J APA or this Sale Order, effective upon the Closing all persons and entities, including, but not limited to, all debt security holders, equity security holders, holders of any preferential purchase rights or similar rights, including, but not limited to tag along rights, drag along rights and co-sale rights, governmental, tax and regulatory authorities, lenders, vendors, suppliers, employees, trade creditors, litigation claimants and other persons holding Interests (other than the Assumed Liabilities) against or in DCT or DCT's interests in the Thermotech Assets (whether known or unknown, legal or equitable, matured or unmatured, contingent or noncontingent, liquidated or unliquidated, asserted or unasserted, whether arising prior to or subsequent to the commencement of DCT's chapter 11 case, whether imposed by agreement, understanding, law, equity or otherwise), shall

be and hereby are forever barred, estopped and permanently enjoined from asserting, prosecuting or otherwise pursuing such Interests against J&J, or its affiliates, agents, advisors, representatives, officers, successors and assigns, the Thermotech Assets, or the interests of DCT or J&J in such Thermotech Assets, including, without limitation, taking any of the following actions with respect to an Interest (other than, with respect to J&J, only Assumed Liabilities): (a) commencing or continuing in any manner any action or other proceeding against such parties or the Thermotech Assets; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order against such parties or the Thermotech Assets; (c) creating, perfecting or enforcing any liens, claims, encumbrances or other interests against such parties or the Thermotech Assets; (d) asserting a Claim as a setoff, right of subrogation or recoupment of any kind against any obligation due J&J or its affiliates, agents, advisors, representatives, officers, successors or assigns; or (e) commencing or continuing any action in any manner or place that does not comply, or is inconsistent, with the provisions of this Sale Order or the agreements or actions contemplated or taken in respect thereof. All persons are hereby enjoined from taking any action that would interfere with or adversely affect DCT's ability to transfer the Thermotech Assets in accordance with the terms of the J&J APA and this Sale Order. Following the Closing, no holder of an Interest (including as such term is used in section 363(f)) against DCT shall interfere with J&J's title to or use and enjoyment of the Thermotech Assets.

11. Good Faith Buyer. The J&J APA has been entered into by J&J in good faith and J&J is a good faith buyer of the Thermotech Assets as that term is used in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization of the Sale provided herein shall neither affect the validity of the Sale nor the transfer of the Thermotech Assets to J&J, free and clear of Interests, unless such authorization is duly stayed

before the Closing pending such appeal. J&J is entitled to all of the protections afforded by section 363(m) of the Bankruptcy Code.

12. No Bulk Sales. No bulk sales law or any similar law of any state or other jurisdiction shall apply in any way to the transactions contemplated by the J&J APA, the Sale Motion and this Sale Order.

13. Fair and Equivalent Value. The consideration provided by J&J for the Thermotech Assets under the J&J APA shall be deemed for all purposes to constitute reasonably equivalent value and fair consideration under the Bankruptcy Code and any other applicable law, and the Sale may not be avoided, or costs or damages imposed or awarded under section 363(n) or any other provision of the Bankruptcy Code, the Uniform Fraudulent Transfer Act, the Uniform Fraudulent Conveyance Act or any other similar state laws.

14. Transfer of Marketable Title. Upon the Closing, this Sale Order shall be construed and shall constitute for any and all purposes a full and complete general assignment, conveyance and transfer of all of DCT's right, title and interest in the Thermotech Assets and/or a bill of sale transferring good and marketable title in such Thermotech Assets to J&J at the Closing pursuant to the terms of the J&J APA, free and clear of all Interests (other than Assumed Liabilities).

15. No Successor Liability. The consummation of the Sale does not amount to a consolidation, merger or *de facto* merger of J&J and DCT and/or its estate, there is not substantial continuity between J&J and DCT, there is no continuity of enterprise between DCT and J&J, J&J is not a mere continuation of DCT or its estate, and J&J does not constitute a successor to DCT or its estate. Upon the Closing, to the fullest extent of the law, J&J's acquisition of the Thermotech Assets shall be free and clear of any "successor liability" claims of

any nature whatsoever, whether known or unknown and whether asserted or unasserted as of the time of the Closing. J&J's operations shall not be deemed a continuation of DCT's business as a result of the acquisition of the Thermotech Assets. The transfer of the Thermotech Assets to J&J, except as otherwise set forth in the J&J APA, does not, and will not, subject J&J to any liability whatsoever, with respect to operation of the DCT's business prior to the Closing.

16. Authorization to Assign. Pursuant to section 365(f) of the Bankruptcy Code, and notwithstanding any provision of any contract governing the Thermotech Assets or any Assigned Contract to be assumed and assigned to J&J or applicable non-bankruptcy law that prohibits, restricts, or conditions the assignment of the Thermotech Assets or the Assigned Contracts, DCT is authorized to (a) assign, sell and transfer the Thermotech Assets to J&J and (b) assume and assign the Assigned Contracts to J&J, which assignments shall take place on and be effective as of the Closing or as otherwise provided by a separate order of this Court.

a. There shall be no accelerations, assignment fees, increases, or any other fees charged to J&J or DCT as a result of the assumption and assignment of the Assigned Contracts.

b. DCT has met all of the requirements of section 365(b) of the Bankruptcy Code for each of the Assigned Contracts to be assumed and assigned to J&J as of Closing. Notwithstanding the foregoing, unless required by J&J under the J&J APA, DCT shall not be required by the Court to assume and assign any Assigned Contracts, and, if no such assumption and assignment occurs, no Cure Costs shall be due and no adequate assurance of future performance shall be required.

c. DCT is authorized to execute and deliver to J&J such agreements, documents and other instruments as may facilitate or document the sale, assignment, transfer,

conveyance and delivery of the Assigned Contracts to J&J. DCT shall file a final notice listing all Assigned Contracts as soon as practicable following the closing of the Sale.

17. Assigned Contracts. As of the Closing, subject to the provisions of this Sale Order, J&J shall succeed to the entirety of DCT's rights and obligations in the Assigned Contracts to be assumed and assigned to J&J first arising and attributable to the time period occurring on or after the Closing Date and shall have all rights thereunder. Each counterparty to an Assigned Contract hereby is forever barred, estopped, and permanently enjoined from raising or asserting against DCT or J&J, or the property of either of them, any assignment fee, default, breach or claim of pecuniary loss, or condition to assignment, arising under or related to the Assigned Contracts, existing as of the date of the Sale Hearing, or arising by reason of the consummation of transactions contemplated by the J&J APA, including the Sale and the assumption and assignment of the Assigned Contracts. Any party that may have had the right to consent to the assignment of an Assigned Contract is deemed to have consented to such assignment for purposes of section 365(e)(2)(A)(ii) of the Bankruptcy Code if such party failed to object to the assumption and assignment of such Assigned Contract.

a. Upon Closing, (i) all defaults (monetary and non-monetary) under the Assigned Contracts shall be deemed cured and satisfied in full through the payment of the Cure Costs, (ii) no other amounts will be owed by DCT, its estate or J&J with respect to amounts first arising or accruing during, or attributable or related to, the period before Closing with respect to the Assigned Contracts and (iii) any and all persons or entities shall be forever barred and estopped from asserting a claim against DCT, its estate, J&J, or the Thermotech Assets, that any additional amounts are due or that any defaults exist under the Assigned Contracts that arose or accrued, or relate to or are attributable to the period before the Closing, whether declared or

undeclared, or known or unknown. J&J's promise pursuant to the terms of the J&J APA to pay the Cure Costs and to perform DCT's obligations under the Assigned Contracts for the period on or after the Closing shall constitute adequate assurance of its future performance under the Assigned Contracts being assigned to it as of the Closing within the meaning of sections 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code.

b. Upon assumption of the Assigned Contracts, such Assigned Contracts shall be deemed valid and binding, in full force and effect in accordance with their terms, subject to the provisions of this Sale Order, and shall be assigned and transferred to J&J notwithstanding any provision in such Assigned Contracts or other restrictions prohibiting assignment or transfer. The assumption and assignment of the Assigned Contracts as authorized under this Sale Order will take effect as of the Closing. Furthermore, other than Assigned Contracts, no other executory contract or unexpired lease shall be deemed assumed by DCT and assigned to J&J pursuant to section 365 of the Bankruptcy Code. The failure of DCT or J&J to enforce at any time one or more terms or conditions of any Assigned Contract shall not be a waiver of such terms or conditions, or of DCT's or J&J's rights to enforce every term and condition of such Assigned Contract.

c. All counterparties to the Assigned Contracts to be assumed and assigned to J&J as of the Closing shall cooperate and expeditiously execute and deliver, upon the reasonable request of J&J, and shall not charge DCT or J&J for, any instruments, applications, consents, or other documents which may be required or requested by any public or quasi-public authority or other party or entity to effectuate the applicable transfers in connection with the transactions contemplated herein.

18. Release of Interests. Effective upon the Closing, this Sale Order: (a) is and shall be effective as a determination that all Interests (other than Assumed Liabilities) of any kind or nature whatsoever existing as to the Thermotech Assets prior to the Closing have been unconditionally released, discharged and terminated, and that the conveyances described herein have been effected; (b) is and shall be binding upon and shall govern the acts of all entities, including all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies or units, governmental departments or units, secretaries of state, federal, state and local officials and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to the Thermotech Assets conveyed to J&J, and all recorded Interests (other than Assumed Liabilities) against the Thermotech Assets shall be deemed stricken from such entities' records, official and otherwise.

19. Approval to Release Interests. If any person or entity that has filed financing statements, mortgages, mechanic's liens or other documents or agreements evidencing Interests in, Liens on, or claims against the Thermotech Assets shall not have delivered to DCT before the Closing, in proper form for filing and executed by the appropriate parties, the appropriate documentation with respect to the release of such Interests, DCT and J&J are hereby authorized to execute and file such statements, instruments, releases and other documents on behalf of such person or entity with respect to the Thermotech Assets. J&J is hereby authorized to file, register or otherwise record a certified copy of this Sale Order, which, once filed, registered or otherwise recorded, shall constitute conclusive evidence of the release of all Interests against the Thermotech Assets other than the Assumed Liabilities. This Sale Order is deemed to be in

recordable form sufficient to be placed in the filing or recording system of each and every federal, state or local government agency, department or office.

20. Allocation of Thermotech Assets. J&J is hereby authorized in connection with the consummation of the Sale to allocate the Thermotech Assets, including the Assigned Contracts, among its affiliates, designees, assigns, and/or successors, in a manner as it in its sole discretion deems appropriate, and to assign, lease, sublease, license, sublicense, transfer, or otherwise dispose of any of the Thermotech Assets, including the Assigned Contracts, to its affiliates, designees, assignees and/or successors with all of the rights and protections accorded to J&J under this Sale Order and the J&J APA with respect thereto. DCT shall cooperate with and take all actions reasonably requested by J&J to effectuate any of the foregoing.

21. Expense Reimbursement. The Expense Reimbursement is hereby approved, which shall not exceed \$45,000, and shall be payable by DCT to Thermotech Enterprises in the event DCT consummates the Sale of the Thermotech Assets to J&J as contemplated herein.

22. Governmental Authorization to Effectuate Sale and Assignments. Each and every federal, state and governmental agency or department, and any other person or entity, is hereby authorized to accept any and all documents and instruments in connection with or necessary to consummate the transactions contemplated by the J&J APA. No governmental unit may revoke or suspend any lawful right, license, trademark or other permission relating to the use of the Thermotech Assets sold, transferred or conveyed to J&J on account of the filing or pendency of this chapter 11 case or the consummation of the transactions. For the avoidance of doubt, the sale of the Thermotech Assets authorized herein shall be of full force and effect, regardless of whether DCT or any of its affiliates lack good standing in any jurisdiction in which such entity is formed or is authorized to transact business.

23. Authorization of J&J to Operate. To the greatest extent available under applicable law and to the extent provided for under the J&J APA, J&J shall be authorized, as of the Closing, to operate under any license, permit, registration, and governmental authorization or approval of DCT with respect to the Thermotech Assets, and, to the greatest extent available under applicable law and to the extent provided for under the J&J APA, all such licenses, permits, registrations, and governmental authorizations and approvals are deemed to have been transferred to J&J as of the Closing.

24. Inconsistencies with Prior Orders, Pleadings or Agreements. To the extent this Sale Order is inconsistent with any prior order or pleading with respect to the Motion in the Debtors' chapter 11 cases, the terms of this Sale Order shall govern. To the extent there is any inconsistency between the terms of this Sale Order and the terms of the J&J APA (including all ancillary documents executed in connection therewith), the terms of the J&J APA shall govern.

25. Binding Effect of Sale Order; Subsequent Orders. This Sale Order and the J&J APA shall be binding in all respects upon DCT, its estate, all creditors of, and holders of equity interests in, DCT, any holders of Liens, claims or other Interests in, against or on all or any portion of the Thermotech Assets (whether known or unknown), J&J and all successors and assigns of J&J, all successors and assigns to the Thermotech Assets and any trustee, examiner, "responsible person" or other fiduciary appointed in this chapter 11 case or upon a conversion to chapter 7 under the Bankruptcy Code. The J&J APA shall not be subject to rejection or avoidance under any circumstances. If any order under section 1112 of the Bankruptcy Code is entered, such order shall provide (in accordance with sections 105 and 349 of the Bankruptcy Code) that this Sale Order, including the rights granted to J&J hereunder, shall remain effective and, notwithstanding such conversion or dismissal, shall remain binding on parties in interest.

This Sale Order shall not be modified by any chapter 11 plan confirmed in this chapter 11 case or any subsequent order(s) of this Court.

26. Failure to Specify Provisions. The failure specifically to include or make reference to any particular provisions of the J&J APA or any related ancillary document in this Sale Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the J&J APA and all related ancillary documents are authorized and approved in their entirety.

27. Retention of Jurisdiction. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Sale Order, including, without limitation, the authority to: (i) interpret, implement and enforce the terms and provisions of this Sale Order (including the exculpation, release and injunctive provisions in this Sale Order) and the terms of the J&J APA, all amendments thereto and any waivers and consents thereunder; (ii) protect J&J, or the Thermotech Assets, from and against any Interests (other than Assumed Liabilities); (iii) compel delivery of all Thermotech Assets to J&J; (iv) compel DCT and J&J to perform all of their respective obligations under the J&J APA; and (v) resolve any disputes arising under or related to the J&J APA or the Sale.

28. Automatic Stay. J&J shall not be required to seek or obtain relief from the automatic stay under section 362 of the Bankruptcy Code to enforce any of its remedies under the J&J APA or any other Sale-related document. The automatic stay imposed by section 362 of the Bankruptcy Code is modified solely to the extent necessary to implement the provisions of this Sale Order.

29. No Material Modifications. The J&J APA and any related agreements, documents or other instruments may be modified, amended, or supplemented through a written

document signed by the parties thereto in accordance with the terms thereof without further order of the Court; provided, however, that any such modification, amendment or supplement is neither material nor materially changes the economic substance of the transactions contemplated hereby.

30. Immediate Effect. This Sale Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). Notwithstanding any provision in the Bankruptcy Rules to the contrary, the Court expressly finds there is no reason for delay in the implementation of this Sale Order and, accordingly: (i) the terms of this Sale Order shall be immediately effective and enforceable upon its entry and the fourteen (14) day stay provided in Bankruptcy Rule 6004(h) and Bankruptcy Rule 6006(d) is hereby expressly waived and shall not apply; (ii) DCT is not subject to any stay in the implementation, enforcement or realization of the relief granted in this Sale Order; and (iii) DCT may, in its discretion and without further delay, take any action and perform any act authorized under this Sale Order.

31. Back-Up Bidder. Should J&J fail to close on the Sale pursuant to the J&J APA, and without further order from the Court, DCT is hereby authorized and empowered to sell the Thermotech Assets to Thermotech Enterprises, and execute and deliver the agreements contemplated herein and to implement and consummate all of the transactions and perform all obligations contemplated by the Thermotech APA, the Thermotech Enterprises Bid at the Auction, the Further Sale Hearing, the Final Sale Hearing, and this Order, as if Thermotech Enterprises were the successful bidder, and Thermotech Enterprises shall be entitled to all of the findings and protections of this Order provided to J&J. If more than 15 days have expired after the Auction, Thermotech Enterprises is no longer designated as the back-up bidder and this provision shall have no effect. The terms of the back-up bid are as follows:

\$393,905.00 – Cash

\$130,000.00 – Additional Cash, up to the amount funded by DCT through the Closing

\$251,095.00 – Specific Accounts Receivable Purchase at 100%

\$775,000.00 – Total Cash at Closing

\$907,387.00 – Receivables Retained by DCT

The Specific Accounts Receivable proposed to be purchased by Thermotech Enterprises are as follows:

Job#/Cust.	Detail	Date Due
2797	Johnson Controls Inc. East York: 2046 JCI P574778-00 GT Crosland Renewal	12/24/17
2798	Johnson Controls Inc. East York: 2047 JCI P574779-00 GT Crosland Renewal	12/24/17
2801	Johnson Controls – York Int’l Hattiesburg: 2044 JCI P114912-00 LGA Termina	12/29/17
2803	Johnson Controls – York Int’l Hattiesburg: 2049 JCI P115093-01 Univ ov CA Merced	12/30/17
2805	Johnson Controls, Albany: 2041 JCI P144311-00 Wynn Podium No Avon M	12/31/17
2813	Johnson Controls – York Int’l Hattiesburg: 2038 JCI P114815-00 CHOA Pediatrics	1/07/17
2815	Air Solutions Canada Inc. *: 1941 SUNY Cancer Center	1/14/18
2817	Johnson Controls, Albany 2042 JCI P144318-00 Wynn Podium No Avon M	1/14/18
2820	Johnson Controls, East York 2052 JCI P575166 Crosland Renewal	1/15/18
2821	Johnson Controls, East York 2054 JCI P575295-00 GT Crosland Renewal	1/15/18
2822	Johnson Controls, East York 2051 JCI P575113-00 Ph 3 Condo Cal	1/15/18

32. Provisions Non-Severable. The provisions of this Sale Order are nonseverable and mutually dependent.

33. Satisfaction of Conditions Precedent. Neither J&J nor DCT shall have an obligation to close the transactions contemplated herein until all conditions precedent in the J&J J&J APA to each of their respective obligations to close the transactions have been met, satisfied, or waived in accordance with the terms of the J&J APA.

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Prepared by:

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COUNSEL FOR DEBTORS
AND DEBTORS IN POSSESSION

EXHIBIT A

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT is made and entered into on the 20th day of November, 2017, as amended in the Bankruptcy Court (defined below) on November 29, 2017, by and between **DATA COOLING TECHNOLOGIES LLC** ("Seller") and **J&J MISSION CRITICAL, LLC** (or its assignee or designee, "Buyer").

RECITALS

A. On September 8, 2017 (the "Petition Date"), Data Cooling Technologies LLC filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Ohio (the "Bankruptcy Court"), Case No. 17-52170-amk (the "Bankruptcy Case").

B. From time to time following the Petition Date, Buyer expressed interest to purchase selected assets of Seller with respect to (i) Seller's business operations in Tampa, Florida (the "Tampa Assets") and (ii) Seller's business operations in Ohio (the "DCT Assets", and together with the Tampa Assets, the "Assets").

C. Following further discussions with, among other parties, Seller, Buyer has refined its present intentions to seek immediate purchase of only the Tampa Assets, which shall include accounts receivable (collectively and as defined further herein the "Purchased Assets"). This Agreement has been prepared based on the same understandings.

D. Subject to the Bankruptcy Court's approval of the sale pursuant to section 363 of the Bankruptcy Code, Seller desires to sell and otherwise transfer to Buyer, and Buyer wishes to buy, the Purchased Assets (as defined below), and Seller shall assume and assign to Buyer the Assigned Contracts (as defined below) pursuant to section 365 of the Bankruptcy Code.

NOW THEREFORE, in consideration of the covenants and conditions herein set forth, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. Assets Being Purchased.

1.1 Sale of Purchased Assets. Subject to the Bankruptcy Court's approval of the sale pursuant to section 363(f) of the Bankruptcy Code, Seller agrees to sell, assign, and transfer to Buyer the Purchased Assets, as defined below, with good and marketable title, free and clear of all liens, encumbrances, security interests or claims of whatever nature. Upon and subject to the terms and conditions of this Agreement and in reliance upon the representations and warranties contained herein, Buyer agrees to purchase and take possession from Seller all of the Purchased Assets.

1.2 Purchased Assets. The Purchased Assets are the non-cash assets owned by Seller that are used or part of Seller's business operations located at 5110 W. Clifton St., Tampa, Florida (the "Tampa Location"), including accounts receivable generated from the Tampa Location, as more specifically listed on Schedule 1.2.

1.3 Assumption and Assignment of Executory Contracts. Attendant to the Sale Motion (as defined in Section 2.4), Seller shall assume and assign to Buyer certain contracts pursuant to section 365 of the Bankruptcy Code (collectively, the "Assigned Contracts"), as follows: (a) Debtor's lease with respect to the Tampa Location, (b) the contracts with respect to the jobs listed on the "Master Production November Schedule as of 10/30/2017" (as revised by mutual consent of the parties from time to time, the "Production Schedule") attached hereto as Schedule 1.3, and (c) all current and future customer purchase agreements and purchase orders scheduled for post-November 30, 2017 production not included on the

Production Schedule. In addition, Buyer shall assume all outstanding warranties with respect to Seller's sales of products to Tampa Location only.

1.4 Excluded Assets; No Assumption of Liabilities. Other than the Purchased Assets, no other assets of Seller are being acquired by Buyer, specifically including any license granted to Seller from KyotoCooling North America, LLC ("KCNA"). Other than the Assigned Contracts and assumed warranty obligations as described in Section 1.3, no other liabilities of Seller are being assumed by Buyer, and none of the Purchased Assets are subject to any other liability. For clarity, Buyer is assuming no liabilities of Seller other than the Assigned Contracts.

2. Purchase Price.

2.1 Amount of Purchase Price; Payment. In consideration for the sale and assignment of the Purchased Assets and the assignment of the Assigned Contracts to Buyer, Buyer agrees to pay to Seller (subject to a credit in the amount of the Sale Deposit, as defined below) \$1,607,387 plus the value of the inventory purchases made as per Section 2.2, (which was \$35,386) for a total amount of \$1,642,773 (the "Purchase Price") in cash at the closing (the "Closing") of the transactions contemplated by this Agreement (collectively, the "Transaction"). Pursuant to the Sale procedures proposed by the Seller, Buyer has deposited a sum of SIXTY-FIVE THOUSAND DOLLARS (\$65,000.00) with Seller's counsel in escrow in a lawyer trust account pending the Closing (the "Purchase Deposit") for which Buyer is also entitled to a credit.

2.2 Sale Deposit. Concurrent with the execution and delivery of the Letter of Intent, Buyer previously delivered to Seller an additional deposit (the "Sale Deposit") in the amount of ONE HUNDRED THIRTY THOUSAND DOLLARS (\$130,000) payable to the order of Seller, and the Sale Deposit shall be held by Seller's counsel in escrow in a lawyer trust account pending the Closing. \$35,386 of Debtor funds was spent by the Debtor to make inventory purchases and is included in the \$1,642,773 Purchase Price.

2.3 Bankruptcy Court Approval. Prior to Closing, Seller will obtain from the Bankruptcy Court an order authorizing the motion for the sale of the Purchased Assets and the assignment of the Assigned Contracts to Buyer pursuant to 11 U.S.C. §363(f) and 365 ("Sale Motion"). Seller's notice of the Sale Motion shall include a specific statement that the sale is free and clear of all claims for successor liability against Buyer. In the event Seller is unable to obtain such an order prior to November 30, 2017 other than due to material breach by Buyer (subject to extension by mutual agreement), the Sale Deposit and Purchase Deposit will be refunded to Buyer. Seller has proposed the sale to take place without a formal auction timetable, but subject to the fiduciary duty to accept a higher offer. To any extent Buyer is not determined to have the highest and best offer for the Purchased Assets, the Sale Deposit and Purchase Deposit shall be returned to Buyer within five (5) business days of such determination.

2.4 Assigned Contracts. As part of the sale of the Purchased Assets, Seller shall assume and assign to Buyer the Assigned Contracts under section 365 of the Bankruptcy Code. Seller shall obtain approval of the bankruptcy Court of the assumption and assignment of the Assigned Contracts on or prior to November 30, 2017. In the event that Seller is unable to obtain an order approving the assumption and assignment of the Assigned Contracts (the "Assumption and Assignment Order") on or before November 30, 2017, other than due to material breach by Buyer, then the Sale Deposit will be refunded to Buyer. Seller shall pay any cure amount associated with the Tampa Location Lease; Buyer shall pay all other cure amounts, if any, but may choose not to assume an Assigned Contract if the Bankruptcy Court determines that a cure amount is due.

2.5 Allocation of the Purchase Price. The parties agree that the Purchase Price shall be allocated as determined following the Closing.

3. Representations and Warranties of Seller. Seller hereby represents and warrants to, and covenants and agrees with Buyer, as follows with such representations, warranties and covenants terminating at Closing:

3.1 No Breach or Default. The execution and delivery of this Agreement and the consummation of the Transaction will not result in any breach of any of the terms or conditions or constitute a default under any organizational documents, agreements, loans, contracts, licenses, Bankruptcy Court orders, or other instrument or obligation to which Seller is now a party or by which Seller or any of the Purchased Assets or Assigned Contracts may be bound or affected.

3.2 Power and Authority. Seller has the full power and authority to execute, deliver, and perform its obligations under this Agreement, subject to the approval of the Bankruptcy Court as described herein. Upon entry by the Bankruptcy Court of an order authorizing and approving this Agreement and the Transaction, this Agreement and all agreements, instruments, and documents herein provided to be executed by Seller are and as of the Closing will be duly authorized, executed, and delivered by, and are and will be binding upon Seller.

3.3 Title to Purchased Assets; No Transfer of Purchased Assets. Seller has and will transfer or cause to be transferred to Buyer good and marketable title to all of the Purchased Assets, free and clear of any mortgage, lien, pledge, claim, right, security interest, encumbrance or other adverse interest of any kind or nature. The execution of this Agreement and the performance of the covenants herein contemplated do not and will not result in the creation of any lien, charge or encumbrance upon any of the Purchased Assets pursuant to any indenture, agreement or other instrument to which Seller is bound or by which the Purchased Assets may be affected. Apart from this Agreement, Seller has not disposed of, transferred or agreed to transfer any of the Purchased Assets or assigned or terminated any of the Assigned Contracts.

3.4 No Other Warranties by Seller. Seller is selling the Purchased Assets on an "AS IS, WHERE IS" basis, with all defects, apparent and not apparent, with no representations or warranties of any kind, express or implied, either oral or written, with respect to the physical condition or value of the Purchased Assets. Upon the Closing, Buyer shall assume all risk, responsibility, liability and obligation for the physical condition, quality, performance and status of the Purchased Assets. Buyer assumes the entire cost of all necessary servicing or repair should defects appear. Seller has made no warranty or representation whatsoever regarding the fitness for a particular purpose, quality, or merchantability of the Purchased Assets.

4. Representations and Warranties of Buyer. Buyer hereby represents and warrants to and covenants and agrees with Seller as follows with such representations, warranties and covenants terminating at Closing.

4.1 Organization. Buyer is a limited liability company duly formed under the laws of the State of Texas.

4.2 Power and Authority. Buyer has all requisite power and authority to enter into this Agreement and carry out all of its obligations under this Agreement. The officer or officers of Buyer who shall execute and deliver this Agreement have been duly authorized to do so by all requisite action on the part of Buyer.

4.3 No Litigation. To the best of Buyer's knowledge, there are no actions, suits or proceedings pending or threatened in any court or before any administrative agency which would prevent Buyer from completing the Transaction.

4.4 Capability. Buyer is willing, authorized, capable, and qualified financially, legally, and otherwise to unconditionally perform all its obligations under this Agreement.

5. Conditions Precedent to Closing.

5.1 Buyer's Conditions. Buyer's obligation to complete the Transaction is subject to the satisfaction at or prior to the Closing of each of the following conditions (any of which contained in subsections (b) and (c) may be waived in writing by Buyer):

(a) Bankruptcy Court Approval. The Bankruptcy Court shall have entered an order which has not been stayed on appeal (the "Sale Approval Order"), approving (A) the Sale Motion and (i) authorizing Seller to transfer the Purchased Assets to Buyer free and clear of all liens, claims (specifically including, but not limited to, all claims for successor liability against Buyer), encumbrances, and other interests except as otherwise provided herein, (ii) authorizing Seller to assume and assign the Assigned Contracts, (iii) determining that Buyer is a good-faith purchaser; and (iv) authorizing Seller to assume and assign the Assigned Contracts to Buyer.

(b) Performance of Obligations. All terms, covenants, agreements and conditions set forth in this Agreement to be complied with and performed by Seller on or prior to the Closing shall have been fully complied with and performed in all material respects, and all representations and warranties of Seller shall be true at the Closing as if made on and as of such date.

(c) Delivery of Documents. Seller's transfer and sale of Purchased Assets shall be effected by the delivery by Seller to Buyer at the Closing of a bill of sale (attached hereto as Exhibit A) for all items of the Purchased Assets, and an assignment agreement (attached hereto as Exhibit B) for the Assigned Contracts, and other good and sufficient instruments of sale, transfer, assignment, and conveyance and all consents of third parties necessary thereto as shall be required, or as may be reasonably necessary in order to effectively vest in Buyer good and marketable title to the Purchased Assets and Assigned Contracts and effectuate the Transaction.

5.2 Seller's Conditions. Seller's obligation to complete the Transaction is subject to the satisfaction at or prior to the Closing of each of the following conditions (any of which contained in subsections (b) and (c) may be waived in writing by Seller):

(a) Bankruptcy Court Approval. The Bankruptcy Court shall have entered the Sale Approval Order.

(b) Performance of Obligations. All terms, covenants, agreements, and conditions set forth in this Agreement to be complied with and performed by Buyer on or prior to the Closing shall have been fully complied with and performed in all material respects, and all representations and warranties of Buyer shall be true at the Closing as if made on and as of such date.

(c) Delivery of Documents. Buyer shall have executed and delivered to Seller all documents and evidence requested by Seller in its reasonable discretion to determine whether Buyer is willing, authorized, capable and qualified financially, legally and otherwise, to unconditionally perform all obligations under this Agreement in the event that the Bankruptcy Court approves this Agreement and, if applicable, accepts Buyer's Bid as the winning bid at the Auction.

6. Closing. The closing of the Transaction (the "Closing") shall occur at the offices of the Buyer's attorney or as otherwise mutually agreed, after all conditions to Closing shall be satisfied, but in any event, no later than November 30, 2017. Due to financial logistics, Seller agrees to accept \$1,195,000 of the Purchase Price (including the Purchase Deposit and the Sale Deposit) on November 30, 2017, with the

balance to be paid on December 1, 2017. Subject to the foregoing sentence, at or before the Closing, (i) Buyer shall pay in cash to Seller the Purchase Price by wire transfer of immediately available funds and shall deliver all documents reasonably requested by Seller, and (ii) Seller shall deliver to Buyer possession of the Purchased Assets, assignment of the Assigned Contracts, and all documents reasonably requested by Buyer.

7. Covenants Pending Closing.

7.1 Conduct of Business. Seller covenants that, pending the Closing, without Buyer's prior written consent:

(a) Assigned Contracts. Seller shall not modify any Assigned Contract or enter into any contract relating to the Purchased Assets;

(b) Preserving the Purchased Assets. Seller shall use its reasonable best efforts to preserve the Purchased Assets and maintain them in the same condition as of the date of this Agreement, reasonable wear and tear excepted;

(c) No Sale of the Purchased Assets. Seller shall not sell or otherwise dispose of any material asset which constitutes a portion of the Purchased Assets; and

(d) Insurance. Seller shall continue to carry the existing insurance on the Purchased Assets and the Tampa Location.

7.2 Representations True. The representations and warranties of the parties contained herein shall continue to be true and correct on and as of the Closing as if made on and as of the Closing; and each party shall advise the other promptly in writing of any condition or circumstance occurring from the date hereof up to and including the Closing which would cause such party's representations and warranties to become untrue in any respect.

7.3 Access and Cooperation.

(a) Seller shall give Buyer access during normal business hours throughout the period prior to the Closing to the Tampa Location any location housing the Purchased Assets, and the Assigned Contracts and to Seller's books, contracts, commitments, and other records with respect thereto, and shall furnish Buyer during such period with such information in Seller's possession concerning the Tampa Location, the Purchased Assets, and the Assigned Contracts as Buyer may reasonably request.

(b) Each party covenants and agrees to promptly furnish the other with all information and data in the furnishing party's possession requested in writing by the requesting party that is reasonable and necessary in order to assist the requesting party to secure the permits, licenses, approvals, financing, or consents required to complete the Transaction, if any.

(c) Each party covenants and agrees to promptly notify the other of any claim, action, suit, proceeding or investigation which is commenced or threatened and becomes known to any of them between the date of this Agreement and the Closing and relating to or affecting the Purchased Assets or Assigned Contracts.

7.4 Employees. At or around Closing, Seller shall terminate the Tampa Location employees and Buyer will offer employment to such employees on reasonably equivalent terms.

8. Risk of Loss. Risk of loss to the Purchased Assets shall not pass to Buyer until the Closing. In the event of the material destruction or damage of any material Purchased Assets prior to Closing, Seller

shall promptly notify Buyer in writing. Buyer shall have ten (10) days from receipt of such notice to notify Seller of its election to terminate this Agreement. Upon Buyer's providing such notice to Seller, this Agreement shall cease and terminate and be of no further force or effect, and neither party shall have any rights against the other by reason of this Agreement or of such termination. In the alternative, Buyer may elect to accept insurance proceeds payable to Seller to cover the loss, may propose a reduction in the Purchase Price to reflect the loss, or may propose other modified terms and, in such event, Seller and Buyer shall negotiate in good faith to reach an agreement to a revised Transaction. Seller agrees to support a modification that has been bargained and agreed to in writing and signed on behalf of both Seller and Buyer and, as needed, to immediately seek Bankruptcy Court approval of the modifications on shortened notice, if so requested by Buyer.

9. [Intentionally Omitted]

10. Termination.

10.1 In Absence of a Default. This Agreement may be terminated at any time prior to the approval of the Bankruptcy Court of the Sale Motion and the motion for the Sale and Assignment Order by the written agreement of Seller and Buyer. The Agreement will terminate automatically and without notice upon the closing of the sale of the Purchased Assets or any part of the Purchased Assets to a party other than Buyer. If the Bankruptcy Court or Seller conducts an auction (the "Auction") and Buyer is not the winning bidder at the Auction, this Agreement, as enhanced or supplemented at the Auction, will remain binding as a back-up offer for a period of fifteen (15) days following the Auction, following which the Sale Deposit and Purchase Deposit must be returned and refunded to Buyer. Any party may terminate the Agreement by written notice upon the failure of the other party to satisfy, as of the Closing date, one or more of the conditions precedent set forth in Article 4 above. In the absence of any existing default by Buyer, Seller shall return the Sale Deposit and Purchase Deposit to Buyer within two (2) business days after this Agreement is terminated. However, if Seller closes a transaction with another bidder, Seller's obligations hereunder other than the return of the Sale Deposit and Purchase Deposit and the last sentence of Section 2.3 hereof shall terminate.

10.2 As a Result of a Default. If any party materially breaches any covenant or representation or is otherwise in material default under the terms of this Agreement, the other party may terminate this Agreement after providing written notice to the breaching party of such breach or default if the breaching party does not cure such breach or default within ten (10) business days following receipt of the notice. In the event of a material breach by Buyer that is not cured, Seller shall be entitled to retain the Purchase Deposit.

11. Post-Closing Access and Cooperation. On the Closing Date, Seller shall irrevocably instruct all attorneys and servants and agents of Seller to provide to Buyer full access to all books, records, communications and information of Seller in the possession or control of such attorneys and servants and agents of Seller to the same extent as such access was available to Seller before the Closing to the extent the books, records, communications and information reasonably relate to the Tampa Location, the Purchased Assets, and the Assigned Contracts, including copies of all Debtor's financial statements commencing from 2012 through the present. Such instructions shall be confirmed by Seller after completion if reasonably requested by Buyer. After the Closing Date, Buyer shall provide Seller access to the pre-Closing books and records during reasonable business hours to the extent necessary to manage its bankruptcy estate.

12. Further Assurances. Each party shall, at the request of the other, at any time and from time to time following the Closing, execute and deliver to the requesting party all such further instruments as may be reasonably necessary or appropriate in order to more effectively assign, transfer, and convey to Buyer the Purchased Assets and Assigned Contracts, or to perfect or record Buyer's title to or interest in the Purchased Assets and Assigned Contracts, or otherwise carry out the provisions of this Agreement.

In addition to the foregoing, Buyer will reasonably cooperate with Seller, and Seller's secured lender in the collection of the accounts receivables that are part of the Excluded Assets, and further agrees that it will not intentionally take any action, directly or indirectly, that might impair, prejudice, or otherwise adversely affect the collection of the receivables.

13. Miscellaneous.

13.1 Bankruptcy Court Jurisdiction; Governing Law. The resolution of any and all disputes between the parties herein concerning the Purchased Assets, the Assigned Contracts, or this Agreement, shall be subject to the exclusive jurisdiction of the Bankruptcy Court. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Ohio, without reference to conflict of law principles, and except as superseded by applicable federal laws.

13.2 Entire Agreement. This Agreement (including any exhibits and schedules) contains the entire understanding of the parties in respect of its subject matter and supersedes all prior agreements and understandings (oral or written), including the Letter of Intent, between the parties with respect to such subject matter. The exhibits and schedules constitute a part of this Agreement as though set forth in full above.

13.3 Notices. Any and all notices, designations, consents, offers, acceptances, or any other communication provided for herein will be given in writing by registered or certified mail, return receipt requested, or recognized courier service, or by hand delivery with written receipting therefor, or by electronic mail or facsimile transmission with confirmation of receipt, to the parties at their addresses on file with the Bankruptcy Court in the Bankruptcy Case. The effective date of any notice hereunder will be the third day following mailing, or, if by hand delivery or other means, the date of delivery.

13.4 Modification and Termination; Waiver. No change of any term or provision of this Agreement will be valid or binding unless the same will be in writing and signed by all of the parties hereto and approved by the Bankruptcy Court. No waiver of any of the terms of this Agreement will be valid unless signed by the party against whom the waiver is asserted. A waiver on any one occasion will not be construed as a bar to or a waiver of any right on any future occasion.

13.5 Interpretation. For purposes of this Agreement, (a) the words "include," "includes" and "including" will be deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references to Articles, Sections, and paragraphs mean the Articles, Sections, and paragraphs of this Agreement. All provisions of this Agreement, which by their terms, impose obligations that are intended to apply after the Closing shall survive the Closing.

13.6 Fees and Expenses. Except as otherwise provided in this Agreement, the parties shall each bear their own expenses, including but not limited to legal fees, incident to the negotiation and preparation of this Agreement and the consummation of the Transaction.

13.7 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors, personal representatives, and permitted assigns.

13.8 Arm's Length Transaction. The Transaction, and the relationship between Seller and Buyer, and their respective agents, is wholly "arm's length."


13.9 Time of Essence. Time is of the essence of this Agreement and all of the terms, provisions, covenants and conditions hereof.

13.10 Counterparts. This Agreement may be executed in any number of counterparts, each of which will be an original but all of which together will constitute one and the same instrument. Signatures received via facsimile, email, or other electronic means shall be treated the same as original signatures.


[Signatures are on the following page.]

IN WITNESS WHEREOF, the parties hereto have executed or caused this Agreement to be executed in their respective names, on the day and year first above written.

DATA COOLING TECHNOLOGIES LLC

By: 
Signature
Print Name: Richard Szekelyi
Title: Chief Restructuring Officer

J&J MISSION CONTROL, LLC
CRITICAL

By: 
Signature
Print Name: Jason R. DiAc
Title: Chairman

"BUYER"

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[Signature Page to Asset Purchase Agreement]

SCHEDULE 1.2

Purchased Assets and Allocation of Purchase Price

- (a) The non-cash and fixed assets used in operation of the Tampa operations, all of which are located at the Tampa Location
- (b) The raw material inventory located at the Tampa Location.
- (c) Intellectual/intangible property consisting of the following:
 - (i) Two U.S. Patents -- No. 8,584,733 and No. 6,422,299.
 - (ii) U.S. Registered Trademark -- "TEI" with design (Registration No. 3665669).
 - (iii) Seller's telephone number(s) for the Tampa Location.
 - (iv) Seller's website: <http://www.thermotech-usa.com>
 - (v) All rights, if any owned, to the names Thermotech Enterprises, Thermotech Group, Thermodry, and Thermowheel
- (d) All accounts receivable generated by the Tampa Location (in the amount of \$1,158,482).
- (e) All payments received under the Assigned Contracts after the Closing or included in the Purchased Assets (accounts receivable).
- (f) Additional inventory purchases made by Debtor after execution of the Definitive Agreement for post-November production, not to exceed \$130,000.

SCHEDULE 1.3

Redacted.