UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

IN RE:	)	
	)	
EPW, LLC	)	CASE NO. 18-31460-hcd
Debtor.	)	Chapter 11

SALE ORDER (I) APPROVING PROCEDURES FOR THE SALE OF PROPERTY OF DEBTOR IN POSSESSION FREE AND CLEAR OF ALL LIENS, ENCUMBRANCES, CLAIMS AND INTERESTS, (II) APPROVING THE SALE OF SUCH ASSETS, (III) APPROVING THE FORM AND MANNER OF SALE AND (IV) SCHEDULING AN AUCTION

This matter is before the Court on *Motion Pursuant to 11 U.S.C. § 363 to Sell Property of Debtor-in-Possession* (the "Sale Motion") [Doc 16], filed by EPW, LLC, the Debtor-in-possession, ("DIP"), who requests entry of an order (the "Sale Order") pursuant to sections 105 and 363 of the Bankruptcy Code and Rule 6004 of the Federal Rules of Bankruptcy Procedure and Local Rule 6004-1: (i) authorizing and approving the Debtor-in-Possession to sell the Property as the Auction pursuant to Bid Procedures; (ii) directing the sale of the Property free and clear of all liens, encumbrances, claims and interests attaching to the Sale proceeds in the same Order, priority and validity that presently exists, subject to all claims of the Debtor-in-possession; (iii) directing the sale of the Property be "AS IS, WHERE IS, WITH ALL FAULTS;" (iv) authorizing the DIP to execute any documentation necessary to effectuate the sale of the Property and the related purchase agreements; (v) finding that §363 of the Bankruptcy Code has been satisfied; (vi) authorizing the DIP to disburse the sale proceeds to satisfy the allowed secured claims of Chemical Bank; and (vii) Directing the DIP to deposit any remaining sums into its Operating account pending further order of the Court. The Court, having considered the Sale Motion, and no objections having been filed, hereby Grants the Sale Motion.

In entering this Sale Order and grating the Sale Motion, the Court finds as follows:

A. The Court has jurisdiction over the Sale Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

B. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

C. The applicable statutes and rules governing this Motion are 11 U.S.C. §§ 105 and 363 and Bankruptcy Rule 6004.

D. Due and proper notice of the Sale Motion are adequate and appropriate under the particular circumstances.

E. The Sale Motion requests the authority to sell property of DIP as follows:

1. The Debtor-in-possession is to sell all of its machinery, equipment, materials, inventory, work-in-process, accounts receivable, customer deposits and all other property, tangible and intangible to the successful bidder at auction.

2. There is an itemized list of equipment attached to Debtor-in-possession's Schedule B filed with the Court of August 10, 2018. The Sale is to include all of the DIP's business assets and pending orders, work-in-process, materials and inventory. The intended sale is substantially all of the DIP's assets.

3. The property does not include any personally identifiable information, and as such, there are no measures that need to be taken to comply with § 363(b)(1) of the Bankruptcy Code.

4. The personal property of the Debtor-in-possession is subject to liens held by Chemical Bank. The Debtor-in-possession has concluded that the liens of

Chemical are legally enforceable, fully secured first priority liens. The claim of Chemical Bank is fully secured and will be satisfied from the sale proceeds.

5. Complete Capital Services is the lessor of certain computer software utilized by the DIP. The rights to the software are among the assets DIP seeks to sell in the APA and proposed auction. The claim of Complete Capital Services is fully secured and will be satisfied from the sale proceeds.

F. The DIP has demonstrated, and the Court find that the Sale of the Property free and clear of any interests held pursuant to liens of Chemical Bank and Complete Capital Services is permitted pursuant to section 363(f)(3) of the Bankruptcy Code. Such liens represent priority interests in the Property and the price at which the Property is to be sold is greater than the aggregate value of such liens on the Property and therefore, pursuant to section 363(f)(3) the DIP is permitted to sell the Property free and clear of these liens.

G. It is reasonable exercise of the DIP's business judgment to sell the Property to the Prevailing Bidder, pursuant to the terms and conditions of the Bid Procedures and the Prevailing Bidder PA.

H. The Court having found and determined that the relief sought in the Sale Motion is in the best interests of the Debtor's estate, its creditors and other parties in interest; and that the legal and factual bases set forth in the Sale Motion and the DIP proffered testimony establish just cause for the relief granted herein; and no objection having been filed thereto or if filed having been withdrawn or overruled on the merits; and after due deliberation and sufficient cause appearing therefore,

IT IS HEREBY ORDERED THAT:

GENERAL PROVISIONS

1. The findings above are incorporated herein.
2. The Sale Motion is GRANTED to the extent provided herein.
3. The Bid Procedures and form Purchase Agreement attached to Appendix 1 are approved as to form and content.

APPROVAL OF SALE

4. The sale of the Property (the "Sale") constitutes a sale of property of the DIP's bankruptcy estate outside the ordinary course of business within the meaning of section 363(b) of the Bankruptcy Code.
5. The Sale is in the best interest of the DIP's creditors and the DIP has demonstrated good, sufficient, and sound business purposes and justification for the Sale.
6. The DIP is authorized to sell the Property AS IS, WHERE IS AND WITH ALL FAULTS, free and clear of all liens, encumbrances, claims and interest, with any valid liens, encumbrances, claims and interests attaching to the sale proceeds in the same order priority and validity that presently exists, subject to all claims of the DIP.
7. The DIP is authorized to sell and transfer the Property at the Auction pursuant to the Bid Procedures. The Bid Procedures attached hereto as Appendix 1, are hereby approved in all respects and shall govern all bids and bid proceedings relating to the Property under the terms thereof. The DIP and its professionals and agents are authorized to take any and all actions necessary or appropriate to implement the Bid Procedures, effectuate the sale of the Property.

Approval of Bidding and Auction Sale Procedures

8. **Bid Procedures Approved.** The Bid Procedures attached to the Sale Motion and this Sale Order in Appendix 1 are approved and incorporated in this Sale Order as if they were set forth in full. To the extent of a conflict between this Sale Order and the Bid Procedures, this Sale Order shall prevail.

9. Further, the following dates and deadlines regarding competitive bidding are hereby established and subject to modification only in accordance with the Bid Procedures:

   (a) **Bid Deadline.** Bids are required to be submitted by **5:00 p.m.** (Prevailing Eastern Time) on **October 1, 2018** (the "Bid Deadline"). All bids must be submitted in accordance with the Bid Procedures.

   (b) **Auction Date.** In the event the DIP receives a bid from a Qualifier Bidder in addition to a bid from VMW Tooling Group, LLC, an auction will be conducted at the office of DIP's Counsel, Hammerschmidt, Amaral & Jonas, 137 N. Michigan St., South Bend, IN, 46601, on **October 5, 2018,** at **11:30 a.m.** (Prevailing Eastern Time).

ADDITIONAL PROVISIONS

10. The Sale of the Property pursuant to the Auction and Prevailing Bidder PA constitutes a transfer for a reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, any state, territory possession, or the District of Columbia.

11. This sale order (i) shall be effective as a determination that any and all liens, encumbrances, claims or interests existing on the Property prior to closing have been unconditionally released, discharged, and terminated from the Property but with any valid

liens, encumbrances, claims and interests attaching to the sale proceeds and that they conveyances described have been affected, and (ii) shall be binding upon and shall govern the acts of all entities including, without limitations, all filing agents, filing officers, administrative agencies, governmental departments, 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 accepts, file, register or otherwise record or release any documents or instruments, and all such filings and the transfers contemplated by the Sale Order shall be effected without claims or interest on the Property.

12. The terms and provisions of this Sale Order and the Prevailing Bidder PA shall be binding in all respects upon, and shall inure to the benefit of the DIP, the Debtor's bankruptcy estates, their creditors, the Prevailing Bidder, and their respective affiliates, successors and assigns, and any affected third parties including, but not limited to all persons holding an encumbrance in or upon the Property, notwithstanding any subsequent dismissal of any of the Debtor's bankruptcy cases or subsequent appointment of any trustee(s) under any chapter of the Bankruptcy Code, as to which any trustee(s) such terms and provisions likewise shall be binding. The transactions contemplated by this Sale Order shall be specifically performable, enforceable against, binding upon and not subject to rejection by the Trustee or any trustee subsequently appointed under any chapter of the Bankruptcy Code.

13. The Prevailing Bidder PA and any related agreements may be waived, modified, amended or supplemented by agreement of the DIP and the Prevailing Bidder in

consultation with the U.S. Trustee without further action of the Court; provided however, that any such waiver, modification, amendment or supplement is not material and substantially conforms to and effectuates the Prevailing Bidder PA.

14. The failure to specifically include any particular provisions of the Prevailing Bidder PA or any related agreements in this Sale Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court, the DIP and the Prevailing Bidder that the Prevailing Bidder PA and any related agreements are authorized in their entirety with such amendments thereto as may be made by the parties in accordance with this Sale Order prior to closing.

15. The Backup Bidder PA is irrevocable for a period of sixty (60) days from the conclusion of the Auction. The DIP is authorized to return, via wire transfer or check, the Backup Bidder Earnest Deposit on the earlier of the closing of the Sale or sixty (60) days from the conclusion of the Auction. In the event the Prevailing Bidder fails to timely consummate the Sale, as determined by the DIP in its sole discretion, pursuant to the terms of the Prevailing Bidder PA, the Backup Bidder is hereby deemed the successful bidder, pursuant to the terms of the Backup Bidder PA, and the DIP is authorized to retain the Prevailing Bidder's Qualifying Bidder Deposit and the additional earnest deposit required by the Bid Procedures in an amount equal to 10% of the total purchase price as liquidated damages and not a penalty. In such an event, the findings and provisions contained in this Sale Order related to the Prevailing Bidder shall apply to the Backup Bidder and have the same effect as if the Backup Bidder was originally designated as the prevailing bidder at the Auction, and the Backup Bidder shall be

deemed the Prevailing Bidder with respect to all provisions in this Sale Order (including but not limited to the provisions relating to the additional deposit and the forfeiture of deposits).

16. The provisions of this Sale Order are non-severable and mutually dependent.

17. This Sale Order shall constitute a final judgment and order pursuant to 28 U.S.C. § 158(a).

18. No other or further notice of the Sale Motion, this Sale Order, the Bid Procedures, and sale of the Debtor's Property, the Auction or the Prevailing Bidders shall be issued nor required unless otherwise further ordered by the Court.

19. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 6006(d), 7062, 9014 or otherwise, this Sale Order shall be immediately effective and enforceable upon its entry.

20. This Court shall retain jurisdiction to enforce and implement the terms and provisions of this Sale Order, the Bid Procedures and the Prevailing Bidder PA including, but not limited to, retaining jurisdiction to: (i) compel delivery of the Property to the Prevailing Bidder; (ii) interpret, implement and enforce the provisions of this Sale Order, the Bid Procedures and the Prevailing Bidder PA; (iii) protect the Prevailing Bidder against encumbrances in or upon the Property or any claim by any party against the Prevailing Bidder arising out of or related to the operation of Property; and (iv) compel delivery of the proceeds to Chemical Bank and Complete Capital Services in order of priority. Moreover, the Court will retain jurisdiction to amend this Sale Order or enter

supplemental orders which may be required to close the transactions contemplated by the Prevailing Bidder PA.

DATED: September 24, 2018

Judge, United States Bankruptcy Court

APPENDIX 1

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

IN RE:	)	
	)	
EPW, LLC	)	CASE NO. 18-31460-hcd
Debtor.	)	Chapter 11

BID PROCEDURES FOR SALE OF PERSONAL PROPERTY

Set forth below are the bid procedures (the "**Bid Procedures**") to be utilized in connection with the sale of personal property, (the "**Personal Property**") of EPW, LLC, (the "**Debtor-in-Possession**" or "**DIP**"), in the bankruptcy case of *In re EPW, LLC*, Case No. 18-31460-hcd (the "**Bankruptcy Case**"), pending in the United States Bankruptcy Court, Northern District of Indiana, South Bend Division (the "**Bankruptcy Court**").

A. Solicitation Process; Distribution of Bid Procedures and the Purchase Agreement.

For the sale of the Property, the DIP and its Professionals shall solicit bids for the sale of the property. The DIP and its Professionals shall distribute the Bid Procedures and the form purchase agreement (the "**Purchase Agreement**") to any potential interested bidders.

B. Bankruptcy Court Approval.

On ________, 2018, the Bankruptcy Court entered an *Order Approving DIP's Counsel's Motion to Sell Property Free and Clear of All Liens, Encumbrances, Claims and Interests* (the "**Sale Order**") [Doc_____] authorizing the DIP's Counsel to sell the Property at auction, pursuant to the Bid Procedures, free and clear of all liens, encumbrances, claims and interests, with a previously identified prospective purchase.

C. Due Diligence.

Subsequent to submitting a bid and until the Bid Deadline (defined bellow), interested parties may obtain information and conduct due diligence with respect to the Property by contacting directly Counsel for the DIP at:

R. William Jonas, Jr.
Attorney for Debtor
Hammerschmidt, Amaral & Jonas
137 N. Michigan St.
South Bend, IN 46601
Tel: 574-282-1231
Fax: 574-282-1234
Email: rwj@hajlaw.com

D. Qualification of Bidders.

In order to be eligible to bid for the sale of the Property, each bidder must be determined in the sole discretion of the DIP, to be a Qualifying Bidder (defined below). VMW Tooling Group, LLC, shall be considered a Qualifying Bidder, entitled to participate in the Auction (defined below) pursuant to its stalking horse bid. In order to be considered for status as a Qualifying Bidder, a bidder must:

i. Deliver to the DIP, c/o R. William Jonas, Jr., Hammerschmidt, Amaral & Jonas, 137 N. Michigan St., South Bend, IN, 46601; email: rwj@hajlaw.com; so as to be received before **5:00 p.m.** (prevailing Eastern time) **on October 1, 2018**, (the **"Bid Deadline"**), a written offer to purchase the Property that:

(a) Consists of an executed form of the Purchase Agreement for sale of the Property that may not deviate substantially from the terms of the Purchase Agreement, marked to show any proposed revisions (such bidder's executed purchase agreement, the **"Bidder PA"**).

(b) Contains specific dollar amount for the purchase of the Property.

(c) Contains no contingencies to the validity, effectiveness, and/or binding nature of the bid, including limitation, contingencies for due diligence and inspection or financing of any kind.

(d) Demonstrates to the DIP's satisfaction that the bidder has the legal capacity to consummate the transaction it is proposing.

(e) Includes a statement form the bidder that: (1) it is prepared to enter into the transactions contemplated in the Bidder PA immediately upon entry of by the Bankruptcy Court of an order approving the sale of the Property to such bidder; and (2) the Qualifying Bid shall be irrevocable upon submission.

ii. Contemporaneous with the submission of a Qualifying Bid, a Qualifying Bidder shall tender an earnest money deposit of $57,500.00 (the **"Qualifying Bidder Deposit"**) by cashier's or certified check (made payable to DIP) or wire transfer of immediately available funds, which deposit shall be held by the Trustee in accordance with these Bids Procedures. A Qualifying Bidder Deposit will be refunded only if the bid corresponding to the Qualifying Bidder Deposit is rejected. The provisions of this subparagraph shall apply to Qualifying Bidders.

E. Rejection of "Qualifying Bid" Status for Non-Conforming Bids.

The determination as to which bids qualify shall solely be determined by the DIP, its professionals and the US Trustee and/or Creditors Committee. The DIP shall have the sole right to reject bids as non-conforming bids; provided however, the DIP shall have the right to negotiate with any bidder with respect to clarification of any bid. All bidders determined by the DIP, in its business judgment, to have submitted qualifying bids shall hereinafter be referred to as the **"Qualifying Bidders."**

F. Terms of Auction.

In the event the DIP receives more than one bid from Qualifying Bidders, the DIP will conduct an auction for the sale of the Property (the **"Action"**). The Auction will be on the following terms:

i. **Time, Date and Location of Auction; Adjournment of Auction.** The Auction will take place at the offices of DIP's Counsel, Hammerschmidt, Amaral & Jonas, 137 N. Michigan St., South Bend, IN, 46601, on **October 5, 2018,** at **11:30 a.m**. (prevailing Eastern time).

ii. **Permitted Attendees at Auction.** Unless otherwise ordered or directed by the Bankruptcy Court, only representatives of the DIP, and other parties invited specifically by the DIP, and any Qualifying Bidders (and the professionals for each of the foregoing) shall be entitled to attend the Auction; *provided that*, only Qualifying Bidders shall be entitled to bid at the Auction.

iii. **Auction Bid Submission Procedures.** The bidding at the Auction shall be subject to the following procedures:

(a) For a Qualifying Bid to be considered an in order for such Qualifying Bidder to further bid at the Auction, Qualifying Bidders **must appear in person at the Auction**, or through a duly authorized representative,

(b) Unless alternative arrangements are agreed upon in advance by the DIP.

(c) Bidding will commence with the announcement of the highest and best Qualifying Bid received prior to the commencement of the Auction, which shall be determined solely by the DIP in its business judgment. Any Qualifying Bidder may then submit successive bids in minimum increments, which will be determined by the DIP at the Auction (the "**Minimum Overbid Amount**"). The DIP reverses the right to change the Minimum Overbid Amount during the course of the Auction.

(d) If one or more Qualifying Bids are received by the DIP, each such Qualifying Bidder shall have the right to improve its respective bid at the Auction.

(e) Each successive bid submitted by any Qualifying Bidder at the Auction must contain a cash purchase price (U.S. Dollars only) that exceeds the then existing highest bid by at least the Minimum Overbid Amount.

(f) At the commencement of the Auction, the DIP and/or DIP's Counsel may announce procedural and relate rules governing the Auction, including time periods available to all Qualifying Bidders to submit successive bid(s) in an amount equivalent to at least the Minimum Overbid Amount.

iv. **Selection of Prevailing Bid.** The Auction shall continue until no Qualifying Bidder is prepared to submit a further bid, at which time the DIP shall determine in its sole discretion, subject to Bankruptcy Court approval, which bid is the highest and/or best Qualifying Bid (such bid is hereinafter referred to as the **"Prevailing Bid"** and such bidder is hereinafter referred to as the **"Prevailing Bidder"**). In making this decision, the DIP shall consider the amount of the purchase price, the form of consideration being offered, the contents of the bid submitted by the Qualifying Bidder, the Qualifying Bidder's ability to close the transaction, the timing thereof, and the net benefit to the bankruptcy estate. The DIP reserves the right to select a bid as the Prevailing Bid, even if it is not the highest bid. The Prevailing Bidder shall have such right and responsibilities of the purchaser, as set forth in the Bidder PA. Unless the Prevailing Bidder is VMW Tooling Group, LLC, following the Auction, the Prevailing Bidder shall complete and execute a final and revised Bidder PA, as necessary to conform to the terms of the Auction, and all other agreements, contracts, instruments and other documents evidencing and containing the terms and conditions upon which the Prevailing Bid was made (such documents being, collectively, the **"Prevailing Bidder Sale Documents"**). The prevailing Bid and the Prevailing Bidder sale Documents shall be irrevocable. In addition, unless the Prevailing Bidder is VMW Tooling Group, LLC, the Prevailing Bidder shall be required to submit an additional earnest deposit within three (3) business days after the Auction, in an amount equal to 10% of the total purchase price.

v. **Selection of Backup Bidder.** The Qualifying Bidder that submits the second highest and/or best bid for the sale of the Property, as determined by the DIP in its sole discretion, may be deemed a backup bidder (such bidder shall be referred to as the **"Backup Bidder,"** with such being referred to as the **"Backup Bid"**). If the DIP so designates a bidder as Backup Bidder, such Backup Bidder shall be required to complete and execute a purchase agreement in form and substance reasonably acceptable to the DIP memorializing, among other things, the amount and other terms of the Auction, and all other agreements, contracts, instruments and other documents evidencing and containing the terms and conditions upon which the Prevailing Bid was made (such documents being, collectively, the **"Backup Bidder Sale Documents"**). Upon failure of the Prevailing Bidder to timely consummate its purchase of the Property, pursuant to the terms of the Prevailing Bidder Sale Documents, the DIP shall be empowered to consummate the sale of such assets pursuant to the Backup Bidder PA and the other Backup Bidder Sale Documents, without further order from the Bankruptcy Court. Within five (5) business days of notice from the DIP of the Prevailing Bidder's failure to timely consummate its purchase of the

Property, the Backup Bidder shall be required to submit an additional earnest deposition in an amount equal to 10% of the total purchase price of the Property under the Backup Bidder PA. the Backup Bid and the Backup Bidder PA shall be irrevocable for a period of forty-five (45) days after the conclusion of the Auction. The Backup Bidder's Qualifying Bidder Deposit shall be refunded on the earlier of the closing of the sale Property to the Prevailing Bidder or forty-five (45) days after the conclusion of the Auction unless within such time, the Prevailing Bidder fails to consummate the sale assets pursuant to the Prevailing Bidder Documents.

vi. **Irrevocability of Qualifying Bids; Rejection of Qualifying Bids and Other Successive Bids at the Auction.** All Qualifying Bids shall be irrevocable upon submission. Unless determined by the DIP to be the Prevailing Bid or Backup Bid, Qualifying Bids and all other successive bids at the Auction shall be deemed rejected at the conclusion of the Auction and the Qualifying Bidder Deposits for such rejected bids shall be returned to the respective bidder.

G. **Closing.**

Unless otherwise agreed to in writing by the parties, the closing will occur no later than fifteen (15) days after entry of the order approving the sale of the Property to the Prevailing Bidder, in accordance with the terms of the Prevailing Bidder Sale Documents. In the event the Prevailing Bidder fails to timely consummate the purchase, then the sale of the Property to the respective Backup Bidder pursuant to the Backup Bidder Sale Documents will occur no later than fifteen (15) days after the DIP provides written notice to the Backup Bidder of the Prevailing Bidder's failure to timely consummate the purchase.

H. <u>Failure of Prevailing Bidder to Consummate Purchase.</u>

If the failure by the Prevailing Bidder to consummate the purchase, pursuant to the terms of the Prevailing Bidder Sale Documents, is the result of the Prevailing Bidder's breach of, or default or failure to perform under any Prevailing Bidder Sale Documents or the terms of these Bid Procedures (hereinafter the "**Defaulting Prevailing Bidder**"), such Defaulting Bidder's Qualifying Bidder Deposit shall be forfeited to the DIP and the DIP shall have all rights and remedies available under applicable law.

I. <u>Failure of Backup Bidder to Consummate Purchase.</u>

If (a) the Prevailing Bidder does not consummate the purchase and (b) the failure by the Backup Bidder to consummate the purchase, pursuant to the terms of the Backup Bidder Sale Documents, is the result of the Prevailing Bidder's breach of, or default or failure to perform under any Prevailing Bidder Sale of Documents or the terms of these Bids Procedures (hereinafter the "**Defaulting Backup Bidder**"), such Defaulting Backup Bidder's Qualifying Bidder Deposit shall be forfeited to the DIP and the DIP shall have all rights and remedies available under applicable law.

J. <u>Disclosures.</u>

Qualifying Bidders shall refrain from any communications with other Qualifying Bidders following the submission of a Qualifying Bid until the Sale Hearing is concluded.

K. Commissions.

The DIP shall be under no obligation to pay commission to any agent or broker and all commissions, fees or expenses for agents are payable by the bidders and shall not be deducted from the proceeds of the sale of the Property.

L. No Representation; Qualifying Bidder's Duty to Review.

The DIP is not making and has not at any time made any warranties or representation of any kind or character, express or implied, with respect to the Property, including, but not limited to, any warranties or representation as to habitability, merchantability, fitness for a particular purpose, title, zoning, tax consequences, latent or patent physical or environmental condition, utilities, operating history or projections, valuation, governmental approval, the compliance of the Property with governmental laws (including, without limitation, accessibility for handicapped persons), the truth, accuracy, or completeness of any documents related to the Property or any other information provided by or on behalf of the DOP to a bidder, or any other matter or thing regarding the Property. All bidders must acknowledge and agree that, upon closing, the DIP shall sell and transfer to the Prevailing Bidder and the Prevailing Bidder shall accept the Property "AS IS, WHERE IS, WITH ALL FAULTS," except only to the extent expressly provided otherwise in the Bankruptcy Court's order approving the sale. All bidders must agree that they have not relied on and will not rely on, and the DIP is not liable for or bound by, any express or implied warranties, guaranties, statements, representations or information pertaining to the Property or relating thereto (including specifically, without limitation, information distributed with respect to the Property made or furnished by the DIP or nay real estate broker or agent representing or purporting to represent the DIP, to whomever made or given, directly or indirectly, orally or in writing), unless specifically set forth in the Bankruptcy Court's order approving the sale.

ASSET PURCHASE AGREEMENT

by and among

______________________________,

and

EPW, LLC

Date: ______________________________

ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (the "**Agreement**") is made as of __________, 2018, by and among ________________ , LLC, or its nominee, ("**Buyer**") and EPW, LLC, ("**Seller**"). Buyer and Seller are sometimes individually referred to in this Agreement as a "**Party**" and collectively as the "**Parties.**" Capitalized terms used in this Agreement and not otherwise defined are defined in Article 7 (*Definitions*). The Parties agree as follows:

BACKGROUND

A. Seller operates a manufacturing concern in Elkhart, Indiana (the "**Business**").

B. Buyer is a [describe].

C. On August 10, 2018, Seller filed for reorganization under Chapter 11 of the United States Bankruptcy Code under Cause No. 18-31460 ("**Bankruptcy Case**") in the United States Bankruptcy Court for the Northern District of Indiana ("**Bankruptcy Court**").

D. Buyer desires to purchase from Sellers as debtor and debtor-in-possession in the Bankruptcy Case, and Seller desires to sell to Buyer, certain assets of Seller for the consideration and in accordance with the terms and conditions set forth in this Agreement.

ARTICLE 1
PRINCIPAL TRANSACTIONS

On the terms and subject to the conditions of this Agreement:

1.1 **Purchase of Assets**. At the Closing (as defined below): (a) Seller will sell and transfer to Buyer, and Buyer will purchase from Seller, all of the assets used to conduct the business, at the time of Closing, specifically including, without limitation, the assets described in **Exhibit A** (collectively, the "**Business Assets**") "**Assets**" or the "**Purchased Assets.**" The Purchased Assets will be transferred to Buyer free and clear of all Encumbrances pursuant to order of the Bankruptcy Court under Section 363 of the Bankruptcy Code.

1.2 **Purchase Price**. As consideration for the sale and transfer of the Purchased Assets to Buyer and Sellers' other covenants in this Agreement (the "**Purchase Price**"), Buyer will pay the following to Sellers at the times and subject to the conditions set forth below.

Cash Payments. Upon approval of Buyer as the Initial Bidder for purposes of this sale under Section 363 of the Bankruptcy Code, Buyer shall place with counsel for Seller an earnest money deposit in the amount of Fifty-Seven Thousand Five Hundred Dollars ($57,500.00). At the Closing, Buyer will pay to Sellers an aggregate amount of Five Hundred Seventy Five Thousand ($575,000.00) in immediately available funds by wire transfer (the "**Cash Payments**").

1.3 **Assumed Liabilities**. At the Closing, and pursuant to Section 365 of the Bankruptcy Code, Seller shall assume and assign to Buyer, and Buyer will assume and agree to pay, perform, and discharge, when due, Sellers' executory obligations that relate to the Business arising after the Closing Date (collectively, the "**Assumed Liabilities**") with respect to those contracts and leases listed (if any) or otherwise described on **Exhibit D** (the "**Assumed Contracts**"). Buyer shall have the right, until Closing and in the Buyer's sole discretion, to amend Exhibit D by adding or removing contracts and leases.

1.4 **Excluded Liabilities**. Except for the Assumed Liabilities, Buyer will not assume or be obligated to pay, perform, or discharge any liability, obligation, debt, charge, or expense of the Seller of any kind, description, or character, whether accrued, absolute, contingent, or otherwise, or whether or not disclosed to Buyer in this Agreement, the schedules, or otherwise (collectively, the "**Excluded Liabilities**"). Without limiting the generality of the foregoing, except as otherwise provided in this Agreement and except for the Assumed Liabilities, Buyer will not assume or be obligated to pay, perform, or discharge any liability, obligation, debt, charge, or expense of any Seller even if imposed upon Buyer as a successor to Seller, with respect to any action, suit, Proceeding, or claim arising out of or relating to any event occurring, or with respect to any cause of action arising, before or after the Closing Date, whether or not asserted before or after the Closing Date, including, but not limited to, any liability, obligation, debt, charge, or expense related to taxes, environmental matters, employee benefits, obligations or policies, judgments, product or service warranty claims, product liability claims, and contractual claims.

1.5 **Transfer Free and Clear**. The Assets shall be transferred to Buyer pursuant to Section 363(f) of the Bankruptcy Code free and clear of all liabilities, liens, mortgages, encumbrances, debts, obligations, and security interests or other claims or interests of whatever nature, except for (i) Assumed Liabilities and Assumed Contracts, (ii) Permitted Real Estate Encumbrances (as defined below) and (iii) liens created by Buyer.

1.6 **Excluded Assets**. Except as specifically set forth in this Agreement, Buyer shall not purchase any assets of Sellers other than the Assets. Buyer and Seller by this Agreement acknowledge and agree that the Assets do not include the assets set forth in Exhibit C attached to this Agreement: Buyer and Seller acknowledge and agree that "Books and Records" shall not include Seller's minute and stock record books, Bylaws and corporate charters. Seller agrees, however, to provide reasonable access to such documents to Buyer, and to allow Buyer to copy the same, at Buyer's expense. Buyer agrees to maintain the Books and Records for a period of three (3) years and to provide access to Seller during normal business hours.

1.7 **Post-Closing Collections**. From and after Closing, in the event payments are received by Buyer with respect to accounts receivable existing as of the Closing Date payable to Sellers, to promptly forward any such payments to Sellers, without set off or reduction of any kind.

1.8 **Closing**. The consummation of the transactions contemplated by this Agreement (the "**Closing**") will take place at the offices of Hammerschmidt, Amaral & Jonas, 137 N. Michigan, South Bend, Indiana, 46601, at 10:00 a.m. local time, on the later of (a) October 1, 2018, or (b) subject to Section 6.1(d), the date that is five business days following the satisfaction or waiver of the conditions set forth in Article 5 (*Conditions to Obligations to Close*) (the "**Closing Date**"). Subject to the provisions of such Article, failure to consummate the purchase and sale provided for in this Agreement on the date and time and at the place determined pursuant to this Section will not result in the termination of this Agreement and will not relieve any Party of any obligation under this Agreement. In such a situation, the Closing will occur as soon as practicable, subject to Article 5 (*Conditions to Obligations to Close*).

1.9 **Bankruptcy Court Approval.**

(a) **Provision of Documents.** Seller shall promptly provide to Buyer copies of all pleadings and other documents filed in Seller's Bankruptcy Cases. Prior to filing any pleadings pertaining to the transactions contemplated in this Agreement, Seller shall provide the same to Buyer for its review and give serious consideration to any comments Buyer may have with respect to them.

(b) **Motion for Sale.** Seller shall file within two (2) business days after the date of this Agreement a motion ("**Motion**") requesting the Bankruptcy Court, pursuant to Sections 363 and 365 of the Bankruptcy Code, to authorize and approve the sale by Seller of the Assets and Seller's assumption and assignment of the Assumed Contracts pursuant to this Agreement and seeking entry of an appropriate order in form reasonably acceptable to Buyer approving this Agreement and authorizing and directing Seller to close such transactions ("**Sale Order**"), after notice and hearing to Seller's creditors and other parties in interest in the Bankruptcy Cases.

(c) **Auction.** Seller shall also request in the Motion that the Bankruptcy Court schedule: (1) on reduced notice and an expedited basis, a hearing to consider and approve the sale procedures described below to occur no later than fourteen (14) days after the filing of the Motion; (2) a public auction with competitive bidding for the Assets to occur on an expedited basis but no later than twenty-eight (28) days after the filing of the Motion; and (3) a final hearing immediately following the auction to authorize and approve the sale by Seller of the Assets and Seller's assumption and assignment of the Assumed Contracts and entry of the Sale Order. Those proposed sale procedures will include a provision for the payment by Seller to Buyer, in consideration for its expenditures of time and money in preparing this Agreement and performing due diligence pursuant to this Agreement, of a liquidated damage fee of Thirty Thousand Dollars ($30,000) ("**Break-Up Fee**") in the event Buyer is outbid at the auction, or the sale otherwise does not close due to the fault of Seller. The Break-Up Fee shall be deemed to be an expense of administration for all purposes under the Bankruptcy Code and shall further be deemed to constitute a cost and administrative expense of the bankruptcy estates allowable under Section 503(b) of the Bankruptcy Code and shall be paid in full directly to Buyer in immediately available funds, in the event Buyer is outbid at the auction, out of the purchase price paid by the successful competing bidder, at the time of and as a condition to the closing of any competing transaction and without need for further order of the Bankruptcy Court. The transaction proposed in this Agreement shall constitute the initial bid in such auction, Buyer shall have the opportunity to overbid any higher competing bid at the auction and Seller agrees that Seller shall not reject Buyer's bid, unless a competing bidder makes a higher qualified bulk bid exceeding Buyer's last bid plus the Break-up Fee. All such auction sale procedures and any order of the Bankruptcy Court approving such procedures must be reasonably acceptable to Buyer, and shall include a requirement that all competitive bidders must indicate by written notice to Seller delivered at least three (3) business days prior to the auction sale their intention to bid, supported by a cashier's check or bank money order in the sum equal to One Hundred Thousand Dollars ($100,000) made payable to the Seller. Copies of these notices shall be immediately delivered by Seller to Buyer upon receipt by any Seller. If the Bankruptcy Court does not authorize an auction on all of the terms noted in this subparagraph, then Buyer may terminate this Agreement by written notice to Seller given at any time prior to the time scheduled for Buyer's initial bulk bid at the auction, and neither party shall have any further liability under this Agreement. If Buyer is outbid at the auction, this Agreement shall automatically terminate, and neither party shall have any further liability to the other, other than for payment to Buyer of the Break-Up Fee.

(d) **Bankruptcy Court Sale Order.** Any provision to the contrary in this Agreement notwithstanding, neither Seller nor Buyer shall have any obligation to close the transactions contemplated by this Agreement prior to the entry by the Bankruptcy Court of the Sale Order. Specifically, the Sale Order shall be in form and substance reasonably acceptable to Buyer and shall contain, without limitation, the following provisions: (i) a provision authorizing the sale of the Assets, free and clear of all liens, claims and interests under Section 363 of the Bankruptcy Code with such liens to attach to the proceeds of sale; (ii) a finding that Buyer is a not a successor to Seller or Seller's estate by reason of any theory of law or equity, whether with respect to any Encumbrance or claim against Seller, the Purchased Assets or otherwise (iii) finding that Seller and Buyer entered into this Agreement in good faith, that the Purchase Price and Assumed Liabilities constitute fair value in consideration for the Purchased Assets and Assumed Contracts, and determining that Buyer is a "good faith" purchaser entitled to the protections afforded by Section 363(m) of the Bankruptcy Code; (iv) finding that neither the Agreement, the auction, nor any other transaction contemplated hereunder was controlled by an agreement in violation of Section 363(n); (v) a provision establishing that Cure Amounts (as defined in Section 4.9 below) set forth in any applicable Cure Notice (as defined in Section 4.9 below) shall constitute findings of the Bankruptcy Court and shall be final and binding on parties to the Lease, if applicable, and to such Assumed Contracts; (vi) a provision authorizing the assumption and assignment of the Lease, if applicable, and Assumed Contracts under Section 365 of the Bankruptcy Code and Seller's cure of any default in the Lease, if applicable, and Assumed Contracts existing at Closing out of the sale proceeds; and (vii) waiving any stay applicable pursuant to Federal Rules of Bankruptcy Procedure 6004(h) and 6006(d). In the event that the Motion is denied, this Agreement shall terminate upon written notice given by Buyer to Seller. In the event the Sale Order is not obtained within 60 days of the date of this Agreement, or such later date as the Parties shall mutually agree in writing, Buyer shall have the option to terminate this Agreement upon written notice to Seller. In the event the Sale Order is not obtained within 90 days after the date of this Agreement, then either Party shall have the option to terminate this Agreement upon written notice to the other. Sellers shall seek to obtain the Sale Order as soon as practicable after the execution of this Agreement by Buyer.

1.10 **Closing Deliveries - Buyer**. At the Closing, Buyer will execute and/or deliver, or cause to be executed and/or delivered, to Seller:

(a) Cash Payments. The Cash Payments by wire transfer to Sellers, as applicable;

(b) Assignment and Assumption Agreement. An assignment and assumption agreement between Buyer and Sellers with respect to the Assumed Contracts in substantially the form of attached **Exhibit E** (the "**Assignment and Assumption Agreement**");

(c) Other. Any and all other agreements, certificates, instruments, and documents as may be required of Buyer under this Agreement.

1.11 **Closing Deliveries - Seller**. At the Closing, Seller will execute and/or deliver, or cause to be executed and/or delivered, to Buyer:

(a) Bill of Sale and Deeds. Bill of sale, a closing statement setting forth the Purchase Price and closing adjustments, a certificate of non-foreign status, assignments and other instruments of conveyance, reasonably acceptable to Buyer, that are sufficient to transfer to Buyer good and marketable title to the Business Assets free and clear of all Encumbrances;

(b) Assignment and Assumption Agreement. The Assignment and Assumption Agreement;

(c) Consents. Written consents of third parties, if required, with respect to the transfer of the Purchased Assets (including rights under the Assumed Contracts);

(d) Releases. Full releases of or customary payoff letters with respect to all Encumbrances on the Purchased Assets;

(e) Other. Any and all other agreements, certificates, instruments and documents as may be required of Sellers under this Agreement.

1.12 **Adjustment of Purchase Price**. At Closing, the Purchase Price shall be adjusted by the fair market value of any property included in the description of Business Assets which is not owned by Seller because it is leased or otherwise not owned by Seller.

ARTICLE 2
REPRESENTATIONS AND WARRANTIES OF SELLERS

Seller represents and warrants to Buyer, which representations and warranties shall be true to the date of but shall not survive the Closing:

2.1 **Organization and Good Standing**. Seller is a limited liability company duly organized, validly existing and in good standing under the laws of the state of Indiana. Seller has full power and authority to operate the Business as it is now being operated, to own and use the properties and assets associated with the Business it purports to own and use, and to perform its obligations under the Assumed Contracts.

2.2 **Valid and Binding**. Subject only to the entry of the Sale Order, each Seller has full power and authority to enter into and perform this Agreement and each other agreement entered into by it in connection with this Agreement (collectively, the "**Seller's Transaction Agreement**"), and to carry out the transactions contemplated by Seller's Transaction Agreement. This Agreement is, binding upon and enforceable against Seller in accordance with its terms, except as such enforcement may be limited by the application of bankruptcy, moratorium and other laws affecting creditors' rights generally. The execution, performance, and delivery of Seller's Transaction Agreements have been duly authorized, approved, and adopted by Seller and its members.

2.3 **No Conflict**. The execution, delivery and performance of this Agreement and Seller's Transaction Agreements and the consummation of the transactions contemplated by such agreements will not (a) contravene the Articles of Incorporation or Bylaws of Seller or result in a breach of any provision of, or constitute a default under, any Material Contract (as hereinafter defined); (b) violate any Legal Requirement or Order or give any Governmental Body the right to revoke, withdraw, suspend, cancel, terminate or modify any Governmental Authorization applicable to any Seller or the Purchased Assets; (c) result in the imposition of any Tax on Buyer or the Purchased Assets; or (d) result in any Encumbrance being created or imposed upon or with respect to any of the Purchased Assets. All consents, approvals or authorizations of or declarations, filings or registrations with any Person required in connection with the execution, delivery or performance of this Agreement or the consummation of the transactions contemplated by this Agreement (including the assignment of rights under the Assumed Contracts to Buyer) are set forth in Schedule 2.3 and will be obtained or made, as applicable, by Seller prior to the Closing.

2.4 **Compliance with Laws and Other Regulations**. Seller is not subject to, nor has Seller been threatened with, any fine, penalty, liability, or disability as the result of a failure to comply with any requirement of federal, state, local, or foreign law, rule, or regulation (including those relating to the environment, employment of labor, or occupational health and safety) or any requirement of any Governmental Body having jurisdiction over Seller, the conduct of Seller's Business, the use of any Seller's assets or properties or any premises occupied by Seller. Seller is in compliance with all of those laws, rules, regulations, and other requirements.

2.5 **Financial Statements**. Seller has provided Buyer with (i) financial statements and other information relating to the financial performance of Seller for the year ended December 31, 2017 and accompanying profit and loss statements and statements of cash flows for such period, and (ii) and monthly cash flow reports and accompanying profit and loss statements and statements of cash flows filed pursuant to the duties of the Sellers as Debtors-in-Possession (collectively, the "**Seller Financial Statements**"). The Seller Financial Statements are, and will be as of the Closing Date, true, correct, and complete, in accordance with Seller's books and records, accurately and fairly reflects such Seller's transactions, assets, and liabilities, and presents fairly Seller's financial position as of the dates indicated, in conformity with usual and customary accounting principles consistently applied.

2.6 **No Undisclosed Liabilities**. Except as set forth on Schedule 2.6 and except for the Assumed Liabilities with respect to the Business, Seller has no debts, liabilities, or obligations of any nature, whether accrued, absolute, contingent, or otherwise, and whether due or to become due, including, but not limited to, guarantees, liabilities, or obligations on account of Taxes, other governmental charges, duties, penalties, interest, or fines, and there is no basis for the assertion against any Seller of any debt, liability, or obligation related to such Seller.

2.7 **Taxes**. Except as set forth on Schedule 2.7 and the Schedules of Liabilities filed with the Bankruptcy Court, Seller has timely: (a) filed all Tax Returns pursuant to applicable Legal Requirements and such Tax Returns are complete, accurate, and correct in all respects; (b) paid or made proper provision for payment of all Taxes due and payable; and (c) withheld or collected all Taxes required by applicable Legal Requirements and, to the extent required, paid such Taxes to the proper Governmental Body or other Person. Seller has not received notice of the existence of any fact that would constitute grounds for the assessment of any further Tax liability with respect to any periods that have not been audited by any tax authority, and Seller has no knowledge of the existence of any such fact.

2.8 **No Material Adverse Change; Absence of Restricted Events**. Since the date of the filing of Seller's Chapter 11 bankruptcy case, except as set forth in Schedule 2.8: (a) Seller has conducted the operations and affairs of the Business only in the ordinary course of business; (b) there has not been any material adverse change in the business, operations, properties, prospects, assets or condition of the Business; and (c) no event has occurred or circumstance exists that may result in such a material adverse change. Since the filing of Seller's Chapter 11 bankruptcy case, no Restricted Event has occurred with respect to the Business.

2.9 **Employee Information**. All employees who perform work in connection with the Business are employed by Seller. Schedule 2.9 contains the following information for each employee of any Seller in connection with the Business (including each employee on leave of absence or layoff status): name; job title; citizenship; current compensation paid or payable, and any bonus, commission or other remuneration other than salary paid during the Company's fiscal year ended December 31, 2017. To the best of Sellere's knowledge, no employee of the Business intends to terminate his or her employment. Each employee of the Business is employed on an "at will" basis.

2.10 **Title to Assets**. Seller has good and marketable title to the Purchased Assets, free and clear of all Encumbrances. None of the Purchased Assets are subject to any restrictions with respect to the transferability thereof and Seller has complete and non-restricted power and right to sell, assign, convey and deliver the Purchased Assets to Buyer as contemplated hereby once the Bankruptcy Sale Order has become final and non-appealable.

2.11 **Condition and Sufficiency of Business Assets**. The Purchased Assets (a) except as set forth on Schedule 2.14, are in good operating condition and repair and are adequate for the uses to which they are being put; (b) do not need maintenance or repairs except for ordinary, routine maintenance and repairs that are not material in nature or cost; and (c) are sufficient for the continued operation by Buyer without interruption after the Closing in substantially the same manner as conducted before the Closing. No Business Assets have been removed since July 31, 2018, except for the sale of inventory in the ordinary course of business.

2.12 **Inventory**. All inventory of raw materials, work-in-process, supplies and finished goods included in the Purchased Assets consist of a quality and quantity useable, and with respect to finished goods, saleable, in the ordinary course of of Seller's business, except for obsolete items and items of below-standard quality, all of which have been written off or written down to net realizable value. No Seller is in possession of any inventory not owned by Seller, including goods already sold. The quantities of each item of inventory (whether raw materials, work-in-process or finished goods) are not excessive but are reasonable in the present circumstances of the Business.

2.13 **Intellectual Property**. Schedule 2.13 specifically describes all Intellectual Property owned or used by any Seller in connection with the Business. The Seller owns the entire right, title, and interest in and to the Intellectual Property, free and clear of all Encumbrances. The Intellectual Property constitutes all of the Intellectual Property used by Seller (in the Business) and all of the Intellectual Property necessary for the operation of the Business, except to the extent specifically listed as an Excluded Asset. There is no infringement or unlawful use by any Person of any Intellectual Property. No Seller has infringed or unlawfully used the patents, service marks, trade names, trademarks, logos, copyrights, or the proprietary rights of any other Person. No Seller requires any license or other proprietary right to operate the Business or to sell its products or services. No Intellectual Property owned by or licensed by any Seller (in connection with the Business) is subject to any outstanding Order, stipulation or agreement restricting the use of the Intellectual Property.

2.14 **Foreign Corrupt Practices Act Compliance**. Since January 1, 2017, no Seller nor any Person on any Seller's behalf has, directly or indirectly, with respect specifically to the Purchased Assets or the Business, made any offer, gift, promise, loan, payment or other transfer of value to any officer or employee of a foreign government or any department, agency or instrumentality thereof, or of a public international organization, or any person in an official capacity or on behalf of any such government, department, agency or instrumentality or for or on behalf of any such public international organization, including but not limited to executive branch employees, elected legislators or parliamentarians, managers of state-owned enterprises and officials of quasi-governmental agencies, and the spouses, dependents or other relatives of such officials anywhere in the world (each, a "**Foreign Agency or Official**"), nor has any Seller or any Person on any Seller's behalf, directly or indirectly, received any offer, gift, promise, loan, payment or other transfer of value from any Foreign Agency or Official with respect specifically to the Purchased Assets or the Business, nor has any such offer, gift, promise, loan, payment or other transfer of value been authorized by any Person; provided that no offer or sale of products and services by any Seller at the same prices and on the same terms and conditions as transactions with private parties, and no payment therefor, in the ordinary course of business shall be deemed to be an offer, gift, promise, loan, payment or other transfer of value for purposes of this Section.

2.15 **Accuracy of Statements**. No representation or warranty made by any Seller or Schlipp in this Agreement or any statement, certificate or schedule furnished to Buyer pursuant to this Agreement or in connection with the transactions contemplated by this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained therein not misleading.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller, which representations and warranties shall be true to the date of but shall not survive the Closing, as follows:

3.1 **Organization and Good Standing.** Buyer is or will be a corporation or other business organization, duly formed, validly existing and in good standing under the laws of Indiana, with full power and authority to conduct its business as it is now being conducted and to own or use its properties and assets.

3.2 **Authorization and Enforceability; No Conflict.** Buyer has full power and authority to enter into and perform this Agreement and each other agreement entered into by it in connection with this Agreement (collectively, the "**Buyer's Transaction Agreements**"), and to carry out the transactions contemplated by the Buyer's Transaction Agreements. This Agreement is, and each of the other Buyer's Transaction Agreements when executed and delivered will be, binding upon Buyer and enforceable against Buyer in accordance with their respective terms, except as such enforcement may be limited by the application of bankruptcy, moratorium and other laws affecting creditors' rights generally. The execution, performance, and delivery of each of Buyer's Transaction Agreements have been duly authorized, approved and adopted by Buyer. The execution, delivery and performance of Buyer's Transaction Agreements and the consummation of the transactions contemplated by such agreements by Buyer will not: (a) contravene the Articles of Incorporation or Bylaws of Buyer or result in a breach of any provision of, or constitute a default under, any contract, or (b) violate any Legal Requirement or Order.

3.3 **No Broker's Fees.** Buyer has not retained or employed any broker, finder, investment banker, or other Person, or taken any action, or entered into any agreement or understanding that would give any broker, finder, investment banker, or other Person any valid claim against Buyer, or Seller for a commission, brokerage fee, or other compensation arising out of the transactions contemplated by this Agreement.

3.4 **Accuracy of Statements.** No representation or warranty made by Buyer in this Agreement or any statement, certificate or schedule furnished to Sellers pursuant to this Agreement or in connection with the transactions contemplated by this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained therein not misleading.

3.5 **Access to Real Property and Business Assets.** Buyer acknowledges that through its employees, agents and contractors it has had access to and the opportunity to investigate and inspect the Business Assets.

ARTICLE 4
COVENANTS AND AGREEMENTS

The Parties (as applicable) covenant and agree as follows:

4.1 **Conduct Pending the Closing.** Seller agrees to consult with Buyer and to keep Buyer advised with respect to material matters relating to the management of the Business and the Assets pending Closing. Except as provided in this Agreement, from the date of this Agreement to the Closing Date, Seller must, unless (i) the prior written consent of Buyer is obtained, or (ii) an order of the Bankruptcy Court is obtained after notice to Buyer, and (iii) except in connection with debtor-in-possession financing, conduct its Business operations and affairs only in the ordinary course of business, including the timely payment or satisfaction of all of its liabilities and obligations, and will retain and maintain all of the Purchased Assets in accordance with past practice, including without limitation equipment, in the same condition (ordinary wear and tear excepted) as they were on the date of this Agreement. Seller will exercise its reasonable best efforts to preserve intact the present business organization and personnel and the goodwill of its Business with Persons having business dealings with it, and will comply with all Legal Requirements. Except as provided in this Agreement, from the date of this Agreement to the Closing Date, nor will Seller, directly or indirectly: (a) enter into or continue any negotiations, discussions or agreements contemplating or respecting the acquisition of their assets or equity interests, or any part thereof except for the sales of inventory in the ordinary course of business, by any Person other than Buyer; (b) take any action that would interfere with or prevent the timely consummation or performance of this Agreement; or (c) mortgage, pledge or encumber any Assets or take any action that would constitute a Restricted Event, or that would be inconsistent in any respect with any of the representations, warranties, covenants or agreements set forth in this Agreement, as if such representations, warranties, covenants or agreements were made at a time subsequent to such action.

4.2 **Cooperation.** The parties shall cooperate in good faith in making any required applications for transfer or issuance to Buyer of any required licenses or permits and in obtaining any required governmental or other third party consents to the transactions provided for in this Agreement.

4.3 **Access and Investigation by Buyer.** From the date of this Agreement to the Closing Date, each Seller will and will cause its representatives to:

(a) Access. Give Buyer and its representatives full and free access to the advisors, personnel, contracts, books and records and other documents and data of Seller (relating to the Business) and to the Real Property and improvements and the Purchased Assets; provided that Buyer and its representatives will conduct their investigation at reasonable times, provide reasonable notice to Seller, and conduct themselves in a manner that does not unreasonably interfere with the normal operations and relationships of the Business. Seller will provide copies of any materials relating to the Business as Buyer may reasonably request.

(b) Safety Audit. Between the date of this Agreement and the Closing Date, Seller will afford Buyer's representatives access to its facilities to ensure compliance with all applicable Legal Requirements, including, without limitation Legal Requirements promulgated by the Occupational Safety and Health Administration (OSHA) and any other applicable safety standards (the "**Safety Audit**"). Buyer shall pay all costs associated with the Safety Audit.

4.4 **Condemnation; Fire; Other Casualty.** Seller will promptly notify Buyer of any impending or actual condemnation proceedings against the whole or any part of the Purchased Assets of which such Seller has actual notice or any fire or other casualty to such assets. If any portion of the Purchased Assets are threatened to be taken or are taken as a result of condemnation proceedings or is damaged as a result of fire or other casualty prior to the Closing, Buyer will have the right: (a) to terminate this Agreement by a written notice to the Sellers within ten business days after receipt of notice of such proceedings or damage; or (b) to proceed to Closing as provided in this Agreement, agreeing to take the Purchased Assets in their then-current condition, in which case Buyer will be entitled to receive all of the condemnation or insurance proceeds payable as a result of such condemnation or such damage, which Seller will assign to Buyer at Closing pursuant to an assignment that is reasonably acceptable to Buyer.

4.5 **Further Assurances.** Each Party will use its reasonable best efforts to fulfill the conditions required to be fulfilled by it to bring about the timely consummation of the transactions contemplated by this Agreement. Each Party will give prompt notice to the other of the occurrence of any event or the failure of any event to occur that might preclude or interfere with the satisfaction of any condition precedent to the obligations of any Party under this Agreement or the timely consummation of the transactions contemplated by this Agreement. After the Closing, each Party will take all such further actions, execute and deliver all such further documents and do all other acts and things as another Party may reasonably request for the purpose of carrying out the intent of this Agreement and the other documents referred to in this Agreement.

4.6 **Assumption of Contracts.**

(a) The Sale Order shall authorize Seller's assumption and assignment of the Assumed Contracts pursuant to Section 365 of the Bankruptcy Code. Within two (2) business days after the date of this Agreement, Seller shall provide notice ("**Cure Notice**") to each counterparty to any contract or lease that Buyer designates as a contract that Buyer may assume (a "**Potentially Assumed Contract**"): (i) that such Potentially Assumed Contract may be assumed and assigned or rejected in the Bankruptcy Cases; (ii) the Cure Amount applicable in the event of assumption; and (iii) that the counterparty must file any objection to such assumption and assignment, or Cure Amount, by the date approved by the Bankruptcy Court or else waive and be estopped from asserting any objection to such assumption and assignment.

(b) At Closing, Seller shall assume and assign to Buyer, and Buyer shall assume from Seller, the Assumed Contracts, with such modifications, amendments and changes as are acceptable to Buyer in its sole discretion. All Cure Amounts shall be determined by the Bankruptcy Court and shall be paid by Seller, on or before Closing, and not by Buyer.

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(c) From and after execution of this Agreement, Seller authorizes Buyer to engage in discussions and negotiations with each counterparty to any Material Contract for the purpose of permitting Buyer to attempt to reach agreement with such counterparty on terms and conditions for (i) any modification of the terms of any such Material Contract (ii) the rejection of any such Material Contract by Buyer, or (iii) any new post Closing contractual relationship between Buyer and such counterparty.

(d) At or before Closing, if requested in writing by Buyer, Seller shall reject pursuant to section 365 of the Bankruptcy Code any Material Contract identified by Purchaser for rejection.

(e) To the extent that assumption and assignment by any Seller to Buyer of any Assumed Contract is not authorized by the Bankruptcy Court, or is not legally permissible, this Agreement will not be deemed to constitute an undertaking to assign any such contract, provided that each Seller will use its best efforts to obtain any and all consents to assignment of such contracts at its own expense.

4.6 **Limitation on Liability**. BUYER ACKNOWLEDGES AND AGREES THAT BUYER AND ITS REPRESENTATIVES HAVE THE EXPERIENCE AND KNOWLEDGE TO EVALUATE THE BUSINESS, FINANCIAL CONDITION, ASSETS, AND LIABILITIES OF THE FACILITIES AND THE ASSETS; THAT BUYER AND ITS REPRESENTATIVES, BEFORE THE CLOSING, SHALL HAVE HAD ACCESS TO SUCH OF THE INFORMATION AND DOCUMENTS AND TO SUCH OF THE ASSETS AS BUYER AND ITS REPRESENTATIVES SHALL HAVE REQUESTED TO SEE AND/OR REVIEW; THAT BUYER AND ITS REPRESENTATIVES SHALL HAVE HAD A FULL OPPORTUNITY TO MEET WITH APPROPRIATE MANAGEMENT AND EMPLOYEES OF SELLER TO DISCUSS THE ASSETS; AND THAT, IN DETERMINING TO ACQUIRE THE ASSETS, BUYER HAS MADE ITS OWN INVESTIGATION INTO, AND BASED ON THAT INVESTIGATION BUYER HAS MADE ITS OWN INDEPENDENT JUDGMENT CONCERNING, THE ASSETS. EFFECTIVE AS OF THE CLOSING, BUYER ACCEPTS THE CONDITION OF THE ASSETS "AS IS, WHERE IS" WITHOUT ANY REPRESENTATION, WARRANTY OR GUARANTEE, EXPRESS OR IMPLIED, AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE AS TO THE CONDITION, SIZE, EXTENT, QUANTITY, TYPE OR VALUE OF SUCH PROPERTY, EXCEPT ONLY AS MAY BE OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT AND SELLER EXPRESSLY DISCLAIMS ANY AND ALL SUCH REPRESENTATIONS, WARRANTIES OR GUARANTEES.

ARTICLE 5
CONDITIONS TO OBLIGATION TO CLOSE

5.1 **Conditions to Obligation of Buyer**. Buyer's obligation to consummate the transactions contemplated by this Agreement and to take the other actions required to be taken by Buyer at the Closing is subject to the satisfaction, at or before the Closing, of each of the following conditions (any of which may be waived by Buyer, in whole or in part):

(a) Representations and Warranties. The representations and warranties set forth in Article 2 (*Representations and Warranties of Seller*), individually and collectively, must have been accurate as of the date of this Agreement and must be accurate as of the Closing Date as if made on the Closing Date;

(b) Covenants. Seller must have performed and complied with all of its covenants and obligations under this Agreement;

(c) No Legal Impediment. There shall be no law, order, regulation, rule, or other authority which prohibits Buyer from closing the transactions contemplated by this Agreement or conducting the Business with the Assets, and no litigation, proceeding, complaint, or investigation pending or threatened which challenges Buyer's ability to close the transactions contemplated by this Agreement or legally conduct the Business with the Assets;

(d) Operation of Business. Seller shall not have taken any action described in Section 4.1 or 4.5 without Buyer's consent (whether or not by order of the Bankruptcy Court) which results in a material adverse effect on the Business or Assets;

(e) Sale Order. The Sale Order shall have been obtained in accordance with Section 1.9 of this Agreement, and shall be final and non-appealable.

(f) Bring-Down Certificate. Seller must have delivered to Buyer in a form reasonably acceptable: (a) a certificate dated as of the Closing Date certifying that the conditions set forth in Sections 5.1(a) (*Representations and Warranties*) and 5.1(b) (*Covenants*) have been satisfied; and (b) such other certificates, instruments or documents as Buyer may reasonably request;

(g) No Proceeding. There must not be any Proceeding or Order pending or threatened or any Legal Requirement in effect that would prevent the consummation of any of the transactions contemplated by this Agreement or that could result in any Adverse Consequence against Buyer or the Business of Sellers if the transactions contemplated by this Agreement were consummated;

(h) Consents and Approvals. All authorizations, consents and approvals by any third parties, including any Governmental Authorization that are necessary for the consummation of the transactions contemplated by this Agreement must have been received and must be in full force and effect; and all necessary filings, declarations and notices of, with or to third parties must also have been made or given; and

5.2 **Conditions to Obligation of Seller.** The obligation of Seller to consummate the transactions contemplated by this Agreement and to take the other actions required to be taken by such Party at the Closing is subject to the satisfaction, at or before the Closing, of each of the following conditions (any of which may be waived by Seller, in whole or in part):

(a) Representations and Warranties. The representations and warranties set forth in Article 3 (*Representations and Warranties of Buyer*), individually and collectively, must have been accurate as of the date of this Agreement and must be accurate as of the Closing Date as if made on the Closing Date;

(b) Covenants. Buyer must have performed and complied with all of its covenants and obligations under this Agreement;

(c) Sale Order. The Sale Order shall have been obtained in accordance with Section 1.9 of this Agreement and shall be final and non-appealable.

(d) Bring-Down Certificate. Buyer must have delivered to Sellers in form reasonably acceptable: (a) a certificate dated as of the Closing Date certifying that the conditions set forth in Sections 5.2(a) (*Representations and Warranties*) and 5.2(b) (*Covenants*) have been satisfied; and (b) such other certificates, instruments or documents as Sellers may reasonably request; and

(e) No Proceeding. There must not be any Proceeding or Order pending or threatened or any Legal Requirement enacted since the date of this Agreement that would prevent the consummation of any of the transactions contemplated by this Agreement.

ARTICLE 6
TERMINATION

6.1 **Termination Events.** This Agreement may be terminated by the mutual consent of Buyer and Seller, or as follows:

(a) Breach. By Seller or Buyer if a material breach of any provision of this Agreement has been committed by the other Party and the breach has not been waived or cured within five business days following notice of the breach;

(b) Buyer's Conditions. By Buyer if satisfaction of any of the conditions set forth in Section 5.1 (*Conditions to Obligation of Buyer*) are or become impossible (other than through the failure of Buyer to comply with its obligations under this Agreement) and Buyer has not waived the condition on or before the Closing Date;

(c) Seller's Conditions. By Seller if satisfaction of any of the conditions set forth in Section 5.2 (*Conditions to Obligation of Sellers*) are or become impossible (other than through the failure of any Seller to comply with its obligations under this Agreement) and Sellers have not waived the condition on or before the Closing Date; or

(d) Upset Date. By any Party if the Closing has not occurred (other than through the failure of the Party seeking to terminate this Agreement to comply fully with its obligations under this Agreement) on or before December 1, 2018, (subject to extensions expressly provided in this Agreement), or such later date as Seller and Buyer may agree.

6.2 **Effect of Termination.** Each Party's right of termination under Section 6.1 (*Termination Events*) is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies. If this Agreement is terminated pursuant to Section 6.1 (*Termination Events*), all further obligations of the Parties under this Agreement will terminate. If this Agreement is terminated by a Party because of a breach of the Agreement by another Party or because one or more of the conditions to the terminating Party's obligations under this Agreement is not satisfied as a result of another Party's failure to comply with its obligations under this Agreement, the terminating Party's right to pursue all legal remedies will survive termination unimpaired.

ARTICLE 7
DEFINITIONS

For purposes of this Agreement, the following terms will have the meanings specified or referred to in this Article:

"**Adverse Consequence**" means any loss, cost, liability, penalty, Tax, claim, damage, expense (including cost of investigation, defense, settlement and reasonable attorneys' and other professional fees), responsibility, disability, remedial action or diminution of value.

"**Governmental Authorization**" means any approval, consent, license, permit, waiver or other authorization issued, granted, given or otherwise made available by or under the authority of any Governmental Body or pursuant to any Legal Requirement.

"**Governmental Body**" means any: (a) nation, state, county, city, town, village, district or other jurisdiction of any nature; (b) federal, state, local, municipal, foreign or other government; (c) governmental or quasi-governmental authority of any nature (including any governmental agency, branch, department, official or entity and any court or other tribunal); (d) multi-national organization or body; or (e) body exercising, or entitled or purporting to exercise, any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power of any nature.

"**Hazardous Substance or Material**" means any substance that is controlled or regulated by any Environmental Law in any way, including oil, petroleum or derivatives thereof.

"**Hazardous Waste**" means any substance that is classified as a hazardous waste under the Federal Resource, Conservation Recovery Act or any analogous state statute applicable to any portion of the Business.

"**Intellectual Property**" means all registered and unregistered domestic and foreign patents, patent applications, inventions upon which patent applications have not yet been filed, service marks, trade names, trademarks, trademark registrations and applications, logos, copyrighted works, copyright registrations and applications, trade secrets, formulae, technology, designs, processes, inventions, know-how, computer software programs and applications in both source and object code form, and other intellectual property rights, presently owned, possessed, or used.

"**Legal Requirement**" means any federal, state, local, municipal, foreign, international, multinational or other constitution, law (including any Environmental Law or Occupational Safety and Health Law), ordinance, principle of common law, statute, code, regulation, rule or treaty.

"**Occupational Safety and Health Law**" means any Legal Requirement designed to provide safe and healthful working conditions and to reduce occupational safety and health hazards, and any program, whether governmental or private, designed to provide safe and healthful working conditions.

"**Order**" means any award, decision, injunction, judgment, order, ruling, subpoena or verdict entered, issued, made or rendered by any court, administrative agency or other Governmental Body or by any arbitrator.

"**Person**" means any individual, corporation (including any non-profit corporation), general or limited partnership, limited liability company, joint venture, estate, trust, association, organization or other entity or Governmental Body.

"**Proceeding**" means any action, arbitration, charge, complaint, audit, hearing, investigation, litigation or suit (whether civil, criminal, administrative, investigative or informal) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Body or arbitrator.

"**Related Person**" with respect to a particular individual, will mean: (a) any Person that directly or indirectly controls, is directly or indirectly controlled by, or is directly or indirectly under common control of any Seller; (b) any Person that holds a material interest in any Seller; (c) each Person that serves as a director or officer of any Seller; (d) any Person in which any Seller holds a material interest; and (e) any person related (within the second degree) to any individual described in clause (b) or (c) above.

"**Release**" means any release, spill, emission, leaking, pumping, pouring, dumping, emptying, injection, deposit, disposal, discharge, dispersal, leaching or migration on or into the Environment or into or out of any property.

"**Restricted Event**" means: (a) any payment of any bonus to any officer or employee, or any increase (except in the ordinary course of business) in the salary or other compensation of any officer or employee, or entry into any employment, severance or similar contract with any officer or employee; (b) the adoption of, or increase in the payments to or benefits under, any Employee Benefit Plan; (c) any damage to or destruction or loss of any material property or assets of the Business, whether or not covered by insurance; (d) the entry into, termination of or receipt of notice of termination of any license, distributorship, dealer, sales representative, non-competition, joint

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venture, credit or other contract or transaction that is material or that involves a total remaining commitment by any Seller of more than $10,000; (e) any sale (other than sales of inventory in the ordinary course of business), lease or other disposition of any property or asset or the imposition of any Encumbrance on any property or asset; (f) the cancellation or waiver of any claims or rights with a value to any Seller in the aggregate in excess of $10,000; (g) any material change in the accounting methods used by any Seller; (h) any failure to cause any liability or obligation relating to any Seller or a Purchased Asset to be paid or satisfied when the same becomes due; (i) any capital expenditure in excess of $5,000 individually or $50,000 in the aggregate; or (j) the entry into a contract to do any of the foregoing.

"**Tax**" means any U.S. or foreign tax (including any income tax, capital gains tax, single business tax, transfer tax, value-added tax, sales tax, property tax, business tax, payroll tax, gift tax, estate tax, franchise tax, net worth tax, excise tax and business occupancy tax), stamp tax, levy, assessment, tariff, duty (including any customs duty), deficiency or other fee, and any related charge or amount (including any fine, penalty or interest), imposed, assessed or collected by or under the authority of any Governmental Body or payable pursuant to any taxsharing agreement or any other contract relating to the sharing of payment of any such tax, levy, assessment, tariff, duty, deficiency or fee.

"**Tax Return**" means any return (including any information return), report, statement, schedule, notice, form or other document or information filed with or submitted to, or reported to be filed with or submitted to, any Governmental Body in connection with the determination, assessment, collection or payment of any Tax or in connection with the administration, implementation or enforcement of or compliance with any Legal Requirement relating to any Tax.

"**Worker's Compensation Law**" means any Legal Requirement designed to establish a system for financially compensating employees who sustain injuries or disabilities or disfigurements or contract illnesses that arise out of or in the course of their employment.

ARTICLE 8
GENERAL

8.1 **Binding Effect; Benefits; Assignment**. All of the terms of this Agreement will be binding upon, inure to the benefit of and be enforceable by and against the successors and authorized assigns of the Parties, including any trustee appointed pursuant to Title 11 of the United States Code. Except as otherwise expressly provided in this Agreement, nothing in this Agreement, express or implied, is intended to confer upon any other Person any rights or remedies under or by reason of this Agreement, this Agreement being for the exclusive benefit of the Parties and their respective successors and assigns. Seller may not assign any of its respective rights or obligations under this Agreement to any other Person without the prior written consent of Buyer. Buyer may not assign any of its respective rights or obligations under this Agreement to any other Person without the prior written consent of any Seller, except that Buyer may assign its respective rights or obligations under this Agreement to any of its affiliates without the prior written consent of Seller, provided that no such assignment shall relieve Buyer of its obligations under this Agreement or any other agreements contemplated by this Agreement.

8.2 **Entire Agreement**. This Agreement, the exhibits and schedules to this Agreement, and the agreements referred to in this Agreement, set forth the entire agreement and understanding of the Parties in respect of the transactions contemplated by this Agreement and supersede all prior agreements, arrangements and understandings relating to the subject matter hereof.

8.3 **Amendment and Waiver**. This Agreement may be amended, modified, superseded or canceled and any of the terms, covenants, representations, warranties or conditions hereof may be waived only by a written instrument executed by the Parties or, in the case of a waiver, by or on behalf of the Party waiving compliance. The failure of any Party at any time to require performance of any provision of this Agreement will in no manner affect the right of that Party at a later time to enforce such provision. No waiver by any Party of any condition or of any breach of any term, covenant, representation or warranty contained in this Agreement, in any one or more instances, will be deemed to be or construed as a further or continuing waiver of any such condition or of any breach of the term, covenant, representation or warranty or any other term, covenant, representation or warranty set forth in this Agreement.

8.4 **Buyer as Good Faith Purchaser**. Seller agrees that (i) the Buyer is a "good faith purchaser" within the meaning of Section 363(m) of the U.S. Bankruptcy Code and is by this Agreement entitled to the protection afforded good faith, arm's-length purchasers, (ii) the purchase price is fair and reasonable, (iii) this Agreement was negotiated at arm's-length, and (iv) the Seller does not have any interest in the Buyer or any party affiliated with the Buyer. The Order shall contain a finding that the Buyer is a "good faith purchaser" within the meaning of Section 363(m) of the U.S. Bankruptcy Code.

8.5 **Governing Law**. This Agreement will be governed by and construed in accordance with the laws of the State of Indiana, without regard to conflicts of laws principles. In the event either party shall institute a legal action as a result of the default in the other party's performance under this Agreement, or for any breach of this Agreement, any such action shall be brought exclusively in the Bankruptcy Court.

8.6 **Public Disclosure**. Any public announcement, press release, or similar publicity with respect to this Agreement or the transactions contemplated by this Agreement will be issued, if at all, at such time and in such manner as Buyer and Sellers mutually determine. Sellers and Buyer will consult with each other concerning the means by which each Seller's employees, customers, suppliers, and others having dealings with such Party will be informed of the transactions contemplated by this Agreement, and Buyer will have the right to be present for any such communication.

8.7 **Notices**. All notices, requests, demands and other communications to be given pursuant to the terms of this Agreement will be in writing and will be deemed to have been duly given if delivered by hand, sent by facsimile with confirmation, sent by a nationally recognized overnight mail service, or mailed first class, postage prepaid:

If to Buyer:	**with a copy to:**
If to any Seller:	**with a copy to:**
EPW, LLC	Hammerschmidt Amaral Jonas
1500 W Hively Avenue	137 N. Michigan Street
Elkhart, IN 46517	South Bend, IN 46601
Telephone: 574-293-5090	Telephone: (574) 282-1231, ext. 13
Attention: Douglas Lammon	Facsimile: (574) 282-1234
	Attention: R. William Jonas, Jr.

Any Party may change its address, telephone number, or facsimile number by prior written notice to the other Parties.

8.8 **Counterparts**. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile or e-mail transmission will constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile or e-mail will be deemed to be their original signatures for all purposes.

8.9 **Expenses**. Each Party will pay its own respective expenses, costs and fees (including attorneys' and accountants' fees) incurred in connection with the negotiation, preparation, execution and delivery of this Agreement. Except as otherwise set forth in this Agreement, Seller will be responsible for any transfer, sales, or other Taxes or fees incurred in connection with the transactions contemplated by this Agreement, including the transfer of the Purchased Assets to Buyer.

8.10 **Severability**. Any provision, or clause of any provision, of this Agreement that may be found to be contrary to law or otherwise unenforceable will not affect the remaining terms of this Agreement, which will be construed as if the unenforceable provision or clause were absent from this Agreement.

8.11 **Enforcement**. The Parties acknowledge and agree that each Party would be irreparably damaged if any of the provisions of this Agreement are not performed in accordance with their specific terms and that any breach of this Agreement by either Party could not be adequately compensated in all cases by monetary damages alone. Accordingly, in addition to any other right or remedy to which either Party may be entitled, at law or in equity, it will be entitled to enforce any provision of this Agreement by a decree of specific performance and to temporary, preliminary and permanent injunctive relief to prevent breaches or threatened breaches of any of the provisions of this Agreement, without posting any bond or other undertaking. The remedies in this Agreement are cumulative and will not prevent the assertion by a Party of any other rights or the seeking of other remedies against any other Party.

8.12 **Condemnation; Fire; Other Casualty**. Seller shall promptly notify Buyer of any impending or actual condemnation proceedings against the Assets or any portion of the Assets of which Seller has actual notice or any fire or other casualty to the Assets. If any material portion of the Assets shall be threatened to be taken as a result of condemnation proceedings or be damaged as a result of fire or other casualty prior to the Closing, Buyer shall have the right:

(a) To terminate this Agreement by written notice to Seller within ten (10) days after receipt of notice of such proceedings or damage, and in such event neither party shall have any further liability under this Agreement; or

(b) To proceed to Closing as provided in this Agreement, agreeing to take the Assets in their then-current condition, and in such event Buyer shall be entitled to receive all of the condemnation or insurance proceeds payable as a result of such condemnation or such damage.

If an immaterial portion of the Assets shall be threatened to be taken as a result of condemnation proceedings or be damaged as a result of fire or other casualty prior to the Closing, Buyer shall proceed to closing as provided in this Agreement, agreeing to take the Assets in their then current condition, and in such event Buyer shall be entitled to receive all of the condemnation or insurance proceeds payable as a result of such condemnation or such damage.

8.13 **Interpretation.** This Agreement is being entered among competent and experienced businessmen, represented by counsel, and has been reviewed by the parties and their counsel. Therefore, any ambiguous language in this Agreement (or the exhibits attached to it or documents delivered pursuant to it) shall not necessarily be construed against any particular party as the drafter of such language.

* * *

Executed this ______ day of __________ 2018.

____
Buyer:
By:
Its:

11969463

EXHIBIT B-1
EXHIBIT A
BUSINESS ASSETS

The Business Assets include all of the assets used to conduct the business, as well as all assets located at the Real Property at the time of Closing, specifically including, without limitation, the following:

1. **Inventory**. All inventory of raw materials, work-in-process and supplies.

2. **Contracts**. Subject to obtaining any necessary third-party consents, all of Sellers' right, title, benefit and interest (but not obligations, except to the extent specifically included in the Assumed Liabilities) in and to all contracts, agreements, customer or supplier purchase orders, personal property leases, backlog orders, and other commitments related to the Business, if any, and listed on Exhibit D.

3. **Intellectual Property**. All of Sellers' right, title, benefit, and interest in and to all Intellectual Property presently owned, possessed, or used by any Seller in connection with the operation of the Business.

4. **Records**. All records, customer and supplier lists, product information, product drawings, production documentation, material specifications, equipment lists, formulae, specifications, drawings, plans, reports, data, notes, correspondence, labels, catalogues, brochures, art work, photographs, advertising materials, marketing and production literature, files, copies of all personnel records and other records which any Seller is required by law to retain, and other records and documents concerning the Business in such Seller's possession.

5. **Manufacturer Warranties**. To the extent transferable, each Seller's product and service warranties of manufacturers with respect to products purchased, sold, distributed, or serviced with respect to the Business on or before the Closing Date (the "**Manufacturer Warranties**").

6. **Intangible Property Rights**. All of Sellers' Internet domain names and addresses, Sellers' website(s), active telephone numbers of each Seller, choses in action, claims, causes, or rights of action and intangible property rights arising from or concerning the Business, including rights arising under the Manufacturer Warranties and, to the extent transferable, restrictive covenants, confidentiality obligations, and similar obligations of Sellers' present and former directors, officers, employees, and shareholders.

EXHIBIT B-2

7. **Permits.** All permits, license, approvals, registrations and governmental authorizations relating to or maintained as part of the Business, to the extent transferable to Buyer.

8. **Vehicles, Machinery and Equipment and Other Personal Property**. The vehicles, trailers, semi-tractors, computers and printers, machinery and equipment, furniture, spare parts and other personal property owned by Sellers and used in connection with the Business and listed below in this Exhibit A, together with all express or implied warranties by manufacturers or sellers of those items, and all maintenance records, brochures, catalogues, and other documents relating to those items or to the installation or functioning of those items. Specific personal property items include the following (listed by current location):

EXHIBIT C
EXCLUDED ASSETS

1. Cash and cash equivalents;

2. Corporate records and minute books;

3. Avoidance actions arising under Chapter 5 of the Bankruptcy Code;

4. Deposit accounts, certificates of deposit and marketable securities;

5. Sellers' rights under this Agreement;

6. Tax refunds and other Tax benefits arising prior to the Closing Date;

7. Rights under leases and contracts not assumed by Buyer;

8. Prepaid expenses and deposits other than those under the Lease, if assumed by Buyer, and Assumed Contracts;

9. Insurance policies and rights thereunder; and

10. Personal memorabilia and other personal property of Mr. Lammon consisting of:

    ____

    _

    ____

    _

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EXHIBIT D

ASSUMED CONTRACTS

1.

2.

EXHIBIT E
ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the "**Agreement**") is made on ________________, 2018 by and between [________________], an Indiana corporation ("**Assignee**"), and EPW, LLC, ("**Assignor**"). The assignment and assumption accomplished by this Agreement is made pursuant to and in partial consideration of the transfer of all of the assets of Seller's Business to **Buyer** and Assignee pursuant to a certain Asset Purchase Agreement between Assignee, Buyer, Assignor, and Seller dated July 31, 2018 (the "**Purchase Agreement**"). Capitalized terms not otherwise defined in this Agreement have the meanings ascribed to them in the Purchase Agreement.

The parties agree as follows:

1. **Assignment**. Assignor does hereby grant, transfer, and assign to Assignee and Assignee's successors and assigns all of Assignor's right, title and interest in and to the Assumed Contracts. Such assignment will be effective as of the close of business on the Closing Date (the "**Effective Time**").

2. **Assumption**. Assignee accepts this assignment and also hereby assumes the Assumed Liabilities from and after the Effective Time by and subject to the terms and conditions of the Purchase Agreement. Except as expressly assumed in this Agreement, or as otherwise provided in the Purchase Agreement, Assignee does not assume and will not in any manner be responsible for any liability, obligation, lien or encumbrance of Assignor.

3. **Further Actions**. Assignee and Assignor covenant that each will take all such further actions, execute and deliver all such further documents and do all other acts and things as either Assignee or Assignor may reasonably request for the purpose of carrying out the intent of this Agreement. Notwithstanding any other provision of this Agreement, nothing contained in this instrument will in any way supersede, modify, replace, amend, change, rescind, waive or otherwise affect any of the provisions, including the representations, warranties, covenants and agreements of Assignee or Assignor set forth in the Purchase Agreement, this instrument being intended only to effect (a) the assignment of the Assumed Contracts sold by Assignor to Assignee pursuant to the Purchase Agreement and (b) the assumption of the Assumed Liabilities by Assignee pursuant to the Purchase Agreement. **Agreement Binding**. This Agreement will be binding upon the successors and assigns of the parties.

4. **Counterparts**. This Agreement may be executed in counterparts, by facsimile or otherwise, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

5. **Governing Law**. This Agreement will be governed by, and interpreted and

enforced in accordance with, the laws of the State of Indiana, without regard to conflicts of law principles.

This Assignment and Assumption Agreement is signed as of the date first written above.

[______________________] SELLER ENTITY NAME

By____________________________ By ____________________________

Its____________________________ Its ____________________________

EXHIBIT F
ALLOCATION OF PURCHASE PRICE