

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

Halt Medical, Inc.¹

Debtor.

Chapter 11

Case No. 17-10810 (LSS)

DEBTOR’S MOTION FOR ORDERS (A)(I) AUTHORIZING AND APPROVING BIDDING PROCEDURES, BREAK-UP FEE AND EXPENSE REIMBURSEMENT; (II) AUTHORIZING AND APPROVING THE DEBTOR’S ENTRY INTO THE STALKING HORSE APA; (III) APPROVING NOTICE PROCEDURES; (IV) SCHEDULING AN AUCTION AND SALE HEARING; AND (V) APPROVING PROCEDURES FOR ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES AND DETERMINING CURE AMOUNTS AND (B)(I) AUTHORIZING THE SALE OF SUBSTANTIALLY ALL OF THE DEBTOR’S ASSETS FREE AND CLEAR OF ALL CLAIMS, LIENS, RIGHTS, INTERESTS, AND ENCUMBRANCES; (II) APPROVING THE STALKING HORSE APA; AND (III) AUTHORIZING THE DEBTOR TO ASSUME AND ASSIGN CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES

Halt Medical, Inc., the above-captioned debtor and debtor in possession (the “Debtor”), hereby moves this Court (the “Motion”) for the entry of an order (the “Bidding Procedures Order”), substantially in the form attached hereto as **Exhibit B**, pursuant to sections 105(a), 363, 365, 503, and 507 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002, 6003, 6004, 6006, 9007, 9008 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rules 2002-1, 6004-1 and 9006-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), (a)(i) authorizing and approving certain bidding procedures substantially in the form of Exhibit 1 to the Bidding Procedures Order (the “Bidding Procedures”), and the break-up fee (the “Break-up Fee”) and expense reimbursement (the

¹ The last four digits of the Debtor’s federal tax identification number are 8422. The Debtor’s address is 131 Sand Creek Road, Suite B, Brentwood, CA 94513.

“Expense Reimbursement”) provisions in connection with the Debtor’s sale (the “Sale”) of substantially all of its assets (the “Purchased Assets”) pursuant to that certain Asset Purchase Agreement, dated as of April 12, 2017, which is attached hereto as **Exhibit A** (as amended or modified, the “Stalking Horse APA”), by and between the Debtor and Acessa AssetCo LLC (the “Stalking Horse Bidder”); (ii) authorizing and approving the Debtor’s entry into (but not consummation of) the Stalking Horse APA; (iii) approving the form and manner of notice of the Sale of the Purchased Assets; (iv) scheduling an auction (the “Auction”) and hearing (the “Sale Hearing”) to consider approval of the Sale; and (v) approving certain procedures for assumption and assignment of executory contracts and unexpired leases (the “Executory Contracts and Leases”) and for determining cure amounts with respect to such Executory Contracts and Leases, and (b)(i) authorizing the Sale of the Purchased Assets free and clear of any and all claims, liens, rights, interests, and encumbrances (other than Permitted Encumbrances) to the Stalking Horse Bidder or the party otherwise submitting the highest or otherwise best offer pursuant to the Bidding Procedures (in either case, the “Successful Bidder”); (ii) approving the Stalking Horse APA or such other asset purchase agreement entered into with the Successful Bidder in accordance with the Bidding Procedures (the “Successful Bidder APA”); and (iii) authorizing the Debtor to assume and assign certain Executory Contracts and Leases. In support of this Motion, the Debtor relies on the *Declaration of Kimberly Bridges-Rodriguez in Support of Halt Medical, Inc.’s First-Day Motions* filed earlier today [D.I. 2] (the “First-Day Declaration”). In further support of this Motion, the Debtor respectfully represents as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this Motion under 28 U.S.C. §§ 1334 and 157, and the *Amended Standing Order of Reference* dated February 29, 2012, from the United States District Court for the District of Delaware. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and the Court may enter a final order consistent with Article III of the United States Constitution.² Venue of these proceedings and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory bases for the relief requested herein are sections 105(a), 363, 365, 503, and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 6003, 6004, 6006, 9007, 9008 and 9014, and Local Rules 2002-1, 6004-1 and 9006-1.

BACKGROUND

A. General Background

3. On the date hereof (the “Petition Date”), the Debtor commenced a voluntary case under chapter 11 of the Bankruptcy Code (the “Chapter 11 Case”). Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, the Debtor is continuing to manage its financial affairs as a debtor in possession.

4. No trustee, examiner, or official committee of unsecured creditors has been appointed in the Chapter 11 Case.

5. Information regarding the Debtor’s history and business operations, capital structure and primary secured indebtedness, and the events leading up to the commencement of this Chapter 11 Case can be found in the First-Day Declaration.

² Pursuant to Local Rule 9013-1(f), the Debtor consents to the entry of a final judgment or order with respect to the Motion if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

B. Background Related to the Debtor's Business and the Sale Process

6. Founded in 2004 and headquartered in Brentwood, California, Halt Medical is a medical device company focused on establishing a superior standard of care for women with symptomatic uterine fibroids.

7. Halt Medical's proprietary and patented product, Acessa, uses radiofrequency ablation to destroy uterine fibroids. Halt Medical also manufactures the Acessa System which consists of the Acessa Generator, Guidance System and hand held disposable Handpiece, used (i) in percutaneous, laparoscopic coagulation and ablation of soft tissue, including the treatment of symptomatic uterine fibroids under laparoscopic ultrasound guidance while (ii) enhancing the ultrasonic image of the Acessa Handpiece to predict its path to deliver radiofrequency ablation to the center of the identified fibroid.

8. American Capital, the Debtor's senior secured lender and majority stockholder, has acted as the Debtor's primary capital provider since American Capital's initial investment in 2007. The debt financing provided pursuant the Notes issued between 2014 and 2016 has largely been exhausted in funding the Debtor's operations. In January 2017, American Capital was acquired by Ares Capital Corporation. Shortly thereafter, American Capital informed Halt Medical that it would not provide the Debtor with any additional financing.

9. To preserve going-concern value and enable the Debtor to execute its business plan, starting in August 2016, extensive efforts to identify potential investors were made. The Debtor contacted approximately 40 venture capital and other investors with investments in the medical device industry and related fields, who might have an interest in investing in the Debtor.

10. In addition, on November 3, 2016, the Debtor engaged Canaccord Genuity Inc. ("CGI") to solicit interest from third parties with respect to either (a) a recapitalization that

would provide the requisite financing for the Debtor to execute its business plan or (b) an acquisition of all or substantially all of the Debtor's assets.

11. To that end, CGI drafted marketing materials and contacted potentially interested parties as detailed below (the "Prepetition Marketing Process"). CGI drafted a one-page "teaser" summarizing the investment opportunity to be distributed to potential investors and buyers, and worked closely with management to draft a confidential information memorandum ("CIM") detailing the Debtor's history, product offering, technology, and business plan, to be distributed to potential investors and buyers who executed non-disclosure agreements. Based on prior industry relationships and additional research, CGI compiled a list of potential strategic and healthcare-focused financial buyers who might be interested in investing in or acquiring the Debtor. Finally, CGI built a comprehensive online data room to facilitate due diligence requests from potential investors or buyers.

12. CGI distributed the "teaser" to 87 potential investors or purchasers, and 13 parties that executed non-disclosure agreements were given the CIM. Of those 13 parties, 9 were provided access to a confidential data room established by CGI, and 5 were given access to and conducted interviews with management (collectively, "Diligence Information"). The Diligence Information provided prospective investors or buyers with detailed information on, among other topics, the Debtor's business, strategy, growth opportunities, technology, legal and regulatory matters, and historical and projected financial performance.

13. As the Prepetition Marketing Process continued, a bid deadline was established and two parties timely submitted preliminary indications of interest to infuse capital into the Debtor. Following the bid deadline, two additional parties expressed interest in the Debtor,

though neither provided sufficiently detailed terms or a proposed structure, and both failed to respond to requests for diligence information regarding their interest.

14. Of the two parties that submitted timely proposals, one of them, the Stalking Horse Bidder, executed an indication of interest and term sheet with the Debtor on February 9, 2017, and commenced good-faith and arm's-length negotiations over formal documentation. The initial indication of interest from the Stalking Horse Bidder contemplated an out-of-court transaction. However, as discussions continued, the parties later determined that an asset sale in a chapter 11 bankruptcy case was required. In connection with the negotiations, the parties executed the Stalking Horse APA on April 12, 2017.

RELIEF REQUESTED

15. By this Motion, the Debtor seeks entry of an order, pursuant to sections 105(a), 363, 365, 503, and 507 of the Bankruptcy Code, Bankruptcy Rules 6004 and 6006, and Local Rule 6004-1: (a) authorizing and approving (i) the Bidding Procedures attached to the Bidding Procedures Order as Exhibit 1, and (ii) the Break-Up Fee and Expense Reimbursement to the extent payable pursuant to the Stalking Horse APA; (b) authorizing and approving the Debtor's entry into (but not consummation of) the Stalking Horse APA; (c) approving the bidding and sale process timeline set forth in Exhibit 2 to the Bidding Procedures Order (and set forth in the table below); (d) approving the form and manner of notice of the Sale of the Purchased Assets (the "Sale Notice"), substantially in the form attached as Exhibit 3 to the Bidding Procedures Order; and (e) approving certain procedures (the "Assumption Procedures") for the assumption and assignment of the Debtor's Executory Contracts and Leases and the form and manner of notice of assumption and assignment and related cure amounts (the "Cure Notice"), substantially in the form attached as Exhibit 4 to the Bidding Procedures Order.

16. The proposed dates for the bidding and sale process are set forth in the following table:

Hearing re: Bidding Procedures	May 2 or 3, 2017
Service of Bidding Procedures Order	+3 days from entry of Bidding Procedures Order
Service of Cure Notice	+3 days from entry of Bidding Procedures Order
Bid Deadline	June 2, 2017
Assumption/Assignment and Cure Objection Deadline	June 2, 2017
Sale Objection Deadline	June 2, 2017
Auction	June 5, 2017
Sale Hearing	June 6, 2017
Adequate Assurance Objection (in the event the Stalking Horse Bidder is not the Successful Bidder)	At or before the Sale Hearing
Deadline to Close Sale	+20 days from entry of Sale Order

17. The Debtor further requests the Court enter an order at the Sale Hearing, in a form to be filed with the Court and in form and substance acceptable to the Successful Bidder, a form of which is attached hereto as **Exhibit C** (the "Sale Order"): (a) authorizing the Sale of the Purchased Assets, free and clear of any and all claims, liens, rights, interests, and encumbrances (other than Permitted Encumbrances) to the Stalking Horse Bidder or the Successful Bidder, as applicable; (b) approving the Stalking Horse APA or the Successful Bidder APA, as applicable, and (c) authorizing the Debtor to assume and assign the Executory Contracts and Leases that are designated to be assumed by the Debtor pursuant to section 365(b) of the Bankruptcy Code and assigned to the Stalking Horse Bidder or other Successful Bidder, if any, pursuant to section

365(f) of the Bankruptcy Code (collectively, the “Assigned Contracts”) in connection with the Sale of the Purchased Assets.

A. The Proposed Sale to the Stalking Horse Bidder

18. The following is a summary of the material provisions of the Stalking Horse APA:³

<u>Term</u>	<u>Description</u>
Seller	Halt Medical, Inc. (see introductory paragraph of Stalking Horse APA)
Buyer - Stalking Horse Bidder	Acessa AssetCo LLC (together with its permitted successors, designees and assigns) (see introductory paragraph of Stalking Horse APA)
Purchase Price	The Purchase Price is composed of the following: <ul style="list-style-type: none"> a) a credit bid of (i) the outstanding DIP Facility Obligations, and (ii) in the Stalking Horse Bidder’s sole discretion, an amount not to exceed the outstanding obligations under certain Senior Secured Promissory Notes (the “Senior Secured Promissory Notes”) owed by the Debtor, plus b) \$150,000 in cash, plus c) assumption of the Assumed Liabilities. (see § 3.1 of Stalking Horse APA)
Purchased Assets	All of the Debtor’s properties and assets of every kind and description, wherever located, whether real, personal or mixed, tangible or intangible, owned, leased, licensed, used or held for use in or relating to the Business, other than the Excluded Assets. (see defined terms and § 2.1 of Stalking Horse APA)

³ The brief description of the Stalking Horse APA is for the convenience of the Court and parties in interest. In the event of any inconsistency or ambiguity between the terms of the Stalking Horse APA and the Motion, the Stalking Horse APA shall control.

<u>Term</u>	<u>Description</u>
Excluded Assets	<i>See § 2.2 of Stalking Horse APA</i>
Assumption and Assignment of Contracts and Leases	<p>Attached to the Stalking Horse APA as Schedule 2.3(a) is the list of executory contracts and unexpired leases the Stalking Horse Bidder has designated as Assigned Contracts to be assumed and assigned to the Stalking Horse Bidder.</p> <p>At any time prior to three (3) Business Days prior to the scheduled date of the Auction, and at no time thereafter, the Stalking Horse Bidder may, in its sole and absolute discretion, by written notice to the Debtor, designate any of the Assigned Contracts as additional Excluded Assets, which notice shall set forth in reasonable detail the Assigned Contracts so designated.</p> <p><i>(see §§ 2.1, 2.3 of Stalking Horse APA)</i></p>
Assumed Liabilities	<p>Those liabilities and obligations enumerated on Schedule 2.3 of the Stalking Horse APA, in each case, to the extent not an Excluded Liability.</p> <p><i>(see defined terms and Schedule 2.3 of Stalking Horse APA)</i></p>
Expense Reimbursement/Break-Up Fee	<p>If the Stalking Horse APA is terminated for the Debtor's breach or the Stalking Horse Bidder is over-bid at the Auction, the Stalking Horse Bidder is entitled to a break-up fee of \$200,000 plus reimbursement of its transaction Expenses up to a cap of \$300,000.</p> <p><i>(see §§ 4.3, 9.3 of Stalking Horse APA)</i></p>

19. The following chart represents the Debtor's compliance with Local Rule 6004-

1(b):

Term	Description
Sale to Insider <i>Local Rule 6004-1(b)(iv)(A)</i>	The sale is not to an insider.
Agreements with Management <i>Local Rule 6004-1(b)(iv)(B)</i>	No agreements with management have been entered into in connection with the Stalking Horse APA although offers of employment to the Debtor's employees, including management, may be extended if the Stalking Horse Bidder is the Successful Bidder.
Releases <i>Local Rule 6004-1(b)(iv)(C)</i>	The Stalking Horse APA does not contain releases.
Private Sale/No Competitive Bidding <i>Local Rule 6004-1(b)(iv)(D)</i>	The Debtor agreed to a no-shop provision that expires upon the filing of this motion. (see § 6.11 of Stalking Horse APA)
Closing and Other Deadlines <i>Local Rule 6004-1(b)(iv)(E)</i>	The closing of the transactions contemplated by the Stalking Horse APA shall take place on the third (3 rd) Business Day following satisfaction or waiver of all the conditions set forth Article VII of the Stalking Horse APA, or such other date as the Seller and the Stalking Horse Bidder mutually agree upon in writing. (see defined terms of Stalking Horse APA)
Good Faith Deposit <i>Local Rule 6004-1(b)(iv)(F)</i>	None.
Interim Arrangements with Stalking Horse Bidder <i>Local Rule 6004-1(b)(iv)(G)</i>	None.
Use of Proceeds <i>Local Rule 6004-1(b)(iv)(H)</i>	None.
Tax Exemption <i>Local Rule 6004-1(b)(iv)(I)</i>	None.

Term	Description
<p>Record Retention <i>Local Rule 6004-1(b)(iv)(J)</i></p>	<p>For a period of three (3) years after the Closing, or so long as the Chapter 11 Case remains open and pending, which is shorter, the Purchaser will give Seller and its Representatives reasonable access during the Purchaser's regular hours upon reasonable advance notice and under reasonable circumstances, subject to restrictions under Legal Requirements, to the books and records of the Business to the extent necessary for the administration of the Chapter 11 Case, or the preparation of financial statements or regulatory filings of the Seller and its Affiliates in respect of periods ending on or prior to the Closing, or in connection with any legal proceedings. Seller and its Representatives shall be solely responsible for any costs or expenses incurred by them pursuant to the preceding sentence.</p> <p>(see § 6.3 of Stalking Horse APA)</p>
<p>Sale of Avoidance Actions <i>Local Rule 6004-1(b)(iv)(K)</i></p>	<p>The Debtor is selling to the Stalking Horse Bidder, except for the Excluded Claims, all Avoidance Actions and all rights, claims or Causes of Action, including all Causes of Action arising under chapter 5 of the Bankruptcy Code, against any Person.</p> <p>The Stalking Horse Bidder agrees that, following the Closing, it will not sue or otherwise pursue, including by demand or commencement of an adversary proceeding or civil action, any Cause of Action arising under chapter 5 of the Bankruptcy Code acquired pursuant to the Stalking Horse APA; <u>provided, however,</u> that the Stalking Horse Bidder may choose to pursue any Cause of Action if the defendant files a Claim or pursues any Cause of Action against the Stalking Horse Bidder.</p> <p>(see §§ 2.1, 6.12 of Stalking Horse APA)</p>
<p>Successor Liability <i>Local Rule 6004-1(b)(iv)(L)</i></p>	<p>Pursuant to the Stalking Horse APA, other than the explicitly Assumed Liabilities, the Stalking Horse Bidder is not assuming any liabilities or obligations which the Stalking Horse Bidder may or could become liable for as a result of or in connection with any “<u>de facto merger</u>” or “<u>successor-in-interest</u>” theories of liability.</p> <p>(see § 10.4 of Stalking Horse APA)</p>

Term	Description
Sale Free and Clear of Unexpired Leases <i>Local Rule 6004-1(b)(iv)(M)</i>	The Debtor shall sell all of the Purchased Assets free and clear of all Liens (other than Permitted Encumbrances expressly identified in the Sale Order). <i>(see § 2.1 of Stalking Horse APA)</i>
Credit Bid <i>Local Rule 6004-1(b)(iv)(N)</i>	A portion of the Purchase Price is composed of a credit bid of (i) the outstanding DIP Facility Obligations, and (ii) in the Stalking Horse Bidder's sole discretion, an amount not to exceed the outstanding obligations under the Senior Secured Promissory Notes. <i>(see § 3.1 of Stalking Horse APA)</i>
Relief from Bankruptcy Rule 6004(h) <i>Local Rule 6004-1(b)(iv)(O)</i>	The Debtor seeks a waiver of the 14-day stay under Bankruptcy Rules 6004(d) and 6004(h).

20. As part of the Bidding Procedures Order, the Debtor requests approval of a Break-up Fee in the amount of \$200,000 and an Expense Reimbursement of up to \$300,000, to the extent payable to the Stalking Horse Bidder pursuant to the terms and conditions set forth in the Stalking Horse APA. The Break-up Fee and Expense Reimbursement are: (a) actual and necessary costs of preserving the Debtor's estate within the meaning of section 503(b) of the Bankruptcy Code; (b) of substantial benefit to the Debtor's estate, its creditors, and all other parties in interest, because, among other things, they induced the Stalking Horse Bidder to submit a bid that will serve as a minimum or floor bid for the Debtor's sales process on which the Debtor, its creditors, and other bidders can rely; (c) reasonable and appropriate in light of the size and nature of the proposed sale and the efforts that have been and will be expended by the Stalking Horse Bidder; and (d) necessary to induce the Stalking Horse Bidder to enter into the Stalking Horse APA and to continue to pursue the purchase of the Purchased Assets. If approved by this Court, the Debtor would be authorized to pay the Break-up Fee and the

Expense Reimbursement to the extent due and payable under the Stalking Horse APA. The Debtor further requests that any obligations of the Debtor arising under or in connection with the Stalking Horse APA, including with respect to the Break-up Fee and Expense Reimbursement: (a) survive termination of the Stalking Horse APA; (b) constitute administrative expense claims under sections 503(b) and 507(a)(2) of the Bankruptcy Code; and (c) be payable under the terms and conditions of the Stalking Horse APA and the Bidding Procedures Order without further order of the Court.

B. Bidding Procedures

21. The Bidding Procedures are designed to maximize value for the Debtor's estate and will enable the Debtor to review, analyze, and compare all bids received to determine which bid is in the best interests of the Debtor's estate and creditors. The Bidding Procedures describe, among other things, the procedures for parties to access due diligence, the manner in which bidders and bids become "qualified," the receipt of bids received, the conduct of any auction, the selection and approval of any ultimately successful bidders, and the deadlines with respect to the foregoing Bidding Procedures and sale process which are set forth in the chart attached as Exhibit 2 to the proposed Bidding Procedures Order. The Debtor submits that the Bidding Procedures will enable it to conduct a sale process that will maximize the value of its estate. Importantly, the Bidding Procedures recognize the Debtor's fiduciary obligations to maximize sale value, and, as such, do not impair the Debtor's ability to consider all qualified bid proposals and preserve the Debtor's right to modify the Bidding Procedures as necessary or appropriate to maximize value for its estate.

22. The Bidding Procedures contain the following provisions that are to be highlighted pursuant to Local Rule 6004-1(c), which are more fully described in the Bidding Procedures and the proposed Bidding Procedures Order:⁴

Access to Diligence Materials. To participate in the bidding process and to receive access to due diligence (the “Diligence Materials”), a party must submit to the Debtor an executed confidentiality agreement in the form and substance satisfactory to the Debtor and evidence demonstrating the party’s financial capability to close a transaction involving some or all of the Purchased Assets (a “Competing Transaction”) as determined by the Debtor. A party who qualifies for access to Diligence Materials shall be a “Preliminary Interested Investor.” All due diligence requests must be directed to the Debtor. For any Preliminary Interested Investor who is a competitor of the Debtor or is affiliated with any competitor of the Debtor, the Debtor reserves the right to withhold any Diligence Materials that the Debtor, in its sole discretion, determines are business-sensitive or otherwise not appropriate for disclosure to such Preliminary Interested Investor.

Bid Qualification Process. To be eligible to participate in the Auction, each offer, solicitation or proposal (each, a “Bid”), and each party submitting such a Bid (each, a “Bidder”), must be determined by the Debtor to satisfy each of the following conditions:

- **Good Faith Deposit:** Each Bid must be accompanied by a deposit by wire transfer in the amount equal to ten percent (10%) of the Bid to an interest-bearing account to be identified and established by the Debtor (the “Good Faith Deposit”).
- **Same or Better Terms:** The Bid must be on terms that are substantially the same or better than the terms of the Stalking Horse APA, as determined by the Debtor. A Bid must identify which assets the Bidder intends to purchase and include executed transaction documents. A Bid shall include a copy of the Stalking Horse APA marked to show all changes requested by the Bidder. A Bid will not be considered as qualified for the Auction if (i) such Bid contains additional material representations and warranties, covenants, closing conditions, termination rights other than as may be included in the Stalking Horse APA (it being agreed and understood that such Bid shall modify the Stalking Horse APA as needed to comply in all respects with the Bidding Procedures Order and will remove provisions that apply only to the Proposed Purchaser as the Stalking Horse Bidder such as break-up fees); (ii) such Bid is not received by the Debtor in writing on or prior to the Bid Deadline, and (iii) such Bid does not contain evidence that the Bidder has received unconditional debt and/or equity funding commitments (or has unrestricted and fully available cash) sufficient in the aggregate to finance the

⁴ The brief description of the Bidding Procedures contained herein is for the convenience of the Court and parties in interest. In the event of any inconsistency or ambiguity between the terms of the Bidding Procedures and the Motion, the Bidding Procedures shall control.

purchase contemplated thereby, including proof that the Good Faith Deposit has been made.

- Corporate Authority: The Bid must include written evidence reasonably acceptable to the Debtor demonstrating appropriate corporate authorization to consummate the proposed Competing Transaction.
- Proof of Financial Ability to Perform: The Bid must include written evidence that the Debtor reasonably concludes demonstrates that the Bidder has the necessary financial ability to close the Competing Transaction and provide adequate assurance of future performance under all Executory Contract and Leases to be assumed and assigned in such Competing Transaction.
- Contingencies: A Bid may not (i) contain representations and warranties, covenants, termination rights, financing, due diligence contingencies other than as may be included in the Stalking Horse APA (it being agreed and understood that such Bid shall modify the Stalking Horse APA as needed to comply in all respects with the Bidding Procedures Order (including removing any termination rights in conflict with the Bidding Procedures Order) and will remove provisions that apply only to the Stalking Horse Bidder, such as break-up fees and the expense reimbursement or (ii) be conditioned on obtaining financing or any internal approval, or on the outcome or review of due diligence, but may be subject to the accuracy in all material respects of specified representations and warranties at the Closing.
- Irrevocable: A Bid must be irrevocable through the Auction, provided, however, that if such Bid is accepted as the Successful Bid or a Backup Bid (each as defined herein), such Bid shall continue to remain irrevocable, subject to the terms and conditions of the Bidding Procedures.
- Bid Deadline. Regardless of when a party qualifies as a Preliminarily Interested Investor, the Notice Parties (as defined in the Bidding Procedures) must receive a Bid in writing, on or before June 2, 2017, at 5:00 p.m. (Prevailing Eastern Time) or such earlier date as may be agreed to by the Debtor (the "Bid Deadline").
- Amount of Bid. Each Bid shall specify the assets to be purchased and shall clearly show the amount of the purchase price for each lot of assets. In addition, a Bid for all of the Purchased Assets (a) must propose a purchase price equal to or greater than the aggregate of the sum of (i) the value of the Bid set forth in the Stalking Horse APA executed by the Stalking Horse Bidder, as determined by the Debtor; (ii) the dollar value of the Break-up Fee and Expense Reimbursement in cash, and (iii) \$100,000 (the initial overbid amount), in cash and (b) must obligate the Bidder to pay, to the extent provided in the Stalking Horse APA, all amounts which the Stalking Horse Bidder has agreed to pay under the Stalking Horse APA, including all Assumed Liabilities.

- Adequate Assurance of Future Performance. Each Bid shall be accompanied by adequate assurance of future performance information (the “Adequate Assurance Information”), which may include (i) information about the Bidder’s financial condition, such as federal tax returns for two years, a current financial statement, or bank account statements, (ii) information demonstrating (in the Debtor’s reasonable business judgment) that the Bidder has the financial capacity to consummate the proposed Competing Transaction, (iii) evidence that the Bidder has obtained authorization or approval from its board of directors (or comparable governing body) with respect to the submission of its Bid, (iv) the identity and exact name of the Bidder (including any equity holder or other financial backer if the Bidder is an entity formed for the purpose of consummating the proposed Competing Transaction), and (v) such additional information regarding the Bidder as the Bidder may elect to include. By submitting a Bid, Bidders agree that the Debtor may disseminate their Adequate Assurance Information to affected landlords and contract counterparties in the event that the Debtor determines such bid to be a Qualified Bid.

Auction. If one or more Qualified Bids (other than the Stalking Horse APA from the Stalking Horse Bidder) are received by the Bid Deadline, the Debtor will conduct an Auction to determine the highest and best Qualified Bid. If no Qualified Bid (other than the Stalking Horse APA) is received by the Bid Deadline, the Debtor may determine not to conduct the Auction. Only Qualified Bidders may participate in the Auction. Prior to the Auction, the Debtor shall provide copies of all Qualified Bids to all Qualified Bidders, including the Stalking Horse Purchaser. The Auction shall take place on June 5, 2017, at 10:00 a.m. (Prevailing Eastern Time) at the offices of Drinker Biddle & Reath LLP, Wilmington Trust Corporation, 222 Delaware Ave #1410, Wilmington, DE 19801, or such other place and time as the Debtor shall notify all Qualified Bidders, including the Stalking Horse Bidder, their respective counsel and representatives, and other parties invited to attend by the Debtor.

- Terms of Overbids. An “Overbid” is any bid made at the Auction subsequent to the Debtor’s announcement of an Auction Baseline Bid. To submit an Overbid for purposes of this Auction, a Bidder must comply with the following conditions: Any Overbid after the Auction Baseline Bid shall be made in increments valued at not less than \$100,000 as determined by the Debtor. The Break-up Fee and Expense Reimbursement shall be taken into account in connection with each round of bidding and in each phase of the Auction. Additional consideration in excess of the amount set forth in an Auction Baseline Bid may include cash and/or noncash consideration, and, solely in the case of a Bid by the Stalking Horse Bidder, a credit bid as set forth in section 3.1 of the Stalking Horse APA, plus a credit bid of the Break-up Fee and Expense Reimbursement.
- Backup Bidder. Notwithstanding anything in the Bidding Procedures to the contrary, if an Auction is conducted, the party with the next highest or otherwise best Qualified Bid at the Auction, as determined by the Debtor, in the exercise of its business judgment will be designated as the backup bidder (the “Backup

Bidder”). The Backup Bidder shall be required to keep its initial Bid (or if the Backup Bidder submitted one or more Overbids at the Auction, its final Overbid) (the “Backup Bid”) open and irrevocable until the earlier of 12:00 p.m. (Eastern Daylight Time) on the date that is seventeen (17) days after the date of the Sale Hearing (the “Outside Backup Date”) or the closing of the transaction with the Successful Bidder (defined herein). Following the Sale Hearing, if the Successful Bidder (defined herein) fails to consummate an approved transaction, because of a breach or failure to perform on the part of such Successful Bidder (defined herein), the Debtor may designate the Backup Bidder to be the new Successful Bidder (defined herein), and the Debtor will be authorized, but not required, to consummate the transaction, with the Backup Bidder without further order of the Bankruptcy Court. In such case, the defaulting Successful Bidder’s deposit shall be forfeited to the Debtor, and the Debtor specifically reserves the right to seek all available damages from the defaulting Successful Bidder (defined herein). The deposit of the Backup Bidder shall be held by the Debtor until the earlier of 24 hours after (i) the closing of the transaction with the Successful Bidder (defined herein) and (ii) the Outside Backup Date.

- Additional Procedures. The Debtor may announce at the Auction additional procedural rules (*e.g.*, the amount of time to make subsequent Overbids) for conducting the Auction so long as such rules are not inconsistent with these Bidding Procedures or the Stalking Horse APA.
- Closing the Auction. The Auction shall continue until the Debtor determines in its reasonable business judgment that there is a highest and best Qualified Bid at the Auction for all of the Purchased Assets. Within 24 hours following conclusion of the Auction, the Debtor shall file a notice on the Court’s docket identifying (with specificity) the Successful Bidder(s) for the Purchased Assets (or subset thereof) and any applicable Backup Bidders.

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C. Assumption Procedures

23. In connection with the Sale of the Purchased Assets, the Debtor intends to assume, pursuant to section 365(b) of the Bankruptcy Code, and assign to the Stalking Horse Bidder or other Successful Bidder, as applicable, pursuant to section 365(f) of the Bankruptcy Code, certain Executory Contracts Leases as of the Closing Date and to execute and deliver to the Stalking Horse Bidder or other Successful Bidder, as applicable, such documents or other instruments as may be necessary to assign and transfer such Scheduled Contracts. Accordingly, the Debtor proposes the following assumption procedures (the “Assumption Procedures”) with respect to the Executory Contracts and Leases that may be designated by the Stalking Horse Bidder or other Successful Bidder, as applicable, for assumption and assignment.

Cure Notice. Attached to the Bidding Procedures Order as Exhibit 4 is a notice of potential assumption and assignment (the “Cure Notice”) of certain of the Debtor’s Executory Contracts and Leases (the “Scheduled Contracts”). On or before three (3) business days after the entry of the Bidding Procedures Order, the Debtor shall serve by first class mail or hand delivery the Cure Notice on all non-Debtor parties to the Scheduled Contracts. The Cure Notice shall identify the Scheduled Contracts and provide the cure amounts that the Debtor believes must be paid to cure all prepetition defaults under the Scheduled Contracts (each a “Cure Amount” and, collectively, the “Cure Amounts”).

Objections. Unless, on or before the Sale Objection Deadline, the non-Debtor counterparty to a Scheduled Contract files an objection to its scheduled Cure Amount, the assumption and assignment to the Stalking Horse Bidder of the Scheduled Contracts or the ability of the Stalking Horse Bidder to provide adequate assurance of future performance and serves a copy of the applicable objection upon the Objection Notice Parties (as defined in the Bidding Procedures), so as to be received the same day as the objection is filed.

Promptly following the Debtor’s selection of the Successful Bidder and the Backup Bidder, if any, at the conclusion of the Auction, the Debtor shall announce the Successful Bidder and the Backup Bidder, if any, and shall file with the Court a notice of the Successful Bidder and the Backup Bidder, if any. If and only if the Stalking Horse Bidder is not the Successful Bidder for the Debtor’s assets, counterparties to the Debtor’s Executory Contracts and Leases shall have until the Sale Hearing to object to the assumption and assignment of a Executory Contract or Lease solely on the issue of whether the Successful Bidder can provide adequate assurance of future performance as

required by section 365 of the Bankruptcy Code. For the avoidance of doubt, if the Stalking Horse Bidder is the Successful Bidder, all adequate assurance objections must be filed by the Sale Objection Deadline.

D. Notice Procedures

24. On or before three (3) business days after entry of the Bidding Procedures Order, the Debtor will cause the Sale Notice to be sent by first-class mail postage prepaid, to the following: (a) all creditors or their counsel known to the Debtor to assert a lien (including any security interest), claim, right, interest or encumbrance of record against all or any portion of the Purchased Assets, including the Noteholders; (b) the Office of the United States Trustee for the District of Delaware; (c) counsel to the Stalking Horse Bidder; (d) counsel to the Collateral Agent for the Noteholders; (e) all parties in interest who have requested notice pursuant to Bankruptcy Rule 2002; (f) all applicable federal, state and local taxing and regulatory authorities of the Debtor or recording offices or any other governmental authorities that, as a result of the sale of the Purchased Assets, may have claims, contingent or otherwise, in connection with the Debtor's ownership of the Purchased Assets or have any known interest in the relief requested by the Motion; (g) all counterparties to any Executory Contract or Lease of the Debtor; (h) all other known creditors and interest holders of Debtor; and (i) all potential bidders previously identified or otherwise known to the Debtor.

25. Within 24 hours after the conclusion of the Auction, the Debtor will file a notice identifying the Successful Bidder(s) and any Backup Bidder (the "Notice of Successful Bidder") with the Court.

26. The Debtor submits that the proposed Sale Notice and Notice of Successful Bidder, and providing notice of this Motion, the Auction and the Sale Hearing as described herein, complies fully with Bankruptcy Rule 2002 and the Local Rules and constitutes good and

adequate notice of the Sale and the proceedings with respect thereto. Therefore, the Debtor respectfully requests that this Court approve the form of the Sale Notice and the notice procedures proposed above.

BASIS FOR RELIEF REQUESTED

A. The Sale is Within the Debtor’s Sound Business Judgment and Should be Approved

27. Section 363(b) of the Bankruptcy Code provides, in relevant part, that a debtor, “after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1).

28. Although section 363 of the Bankruptcy Code does not set forth a standard for determining when a sale or disposition of property of the estate should be authorized, courts in the Third Circuit generally authorize sales of a debtor’s assets if such sale is based upon the sound business judgment of the debtor. *See, e.g., Meyers v. Martin (In re Martin)*, 91 F.3d 389, 395 (3d Cir. 1996); *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999); *In re Del. & Hudson Ry. Co.*, 124 B.R. 169, 176 (D. Del. 1991).

29. The sale of estate assets outside the ordinary course of business is appropriate if: (a) there is a sound business purpose for the sale; (b) the debtor has provided interested parties with adequate and reasonable notice; (c) the proposed sale prices is fair and reasonable; and (d) the purchaser has acted in good faith. *See, e.g., In re Abbotts Dairies*, 788 F.2d 143, 147 (3d Cir. 1986); *In re Exaeris, Inc.*, 380 B.R. 741, 744 (Bankr. D. Del. 2008); *Titusville Country Club v. Pennbank (In re Titusville Country Club)*, 128 B.R. 396, 399 (Bankr. W.D. Pa. 1991).

30. A debtor’s showing of a sound business purpose need not be unduly exhaustive but, rather, a debtor is “simply required to justify the proposed disposition with sound business reasons.” *In re Baldwin United Corp.*, 43 B.R. 888, 906 (Bankr. S.D. Ohio 1984). A sound business purpose for the sale of a debtor’s assets outside the ordinary course of business may be

found where such a sale is necessary to preserve and enhance the value of the assets for the debtor's estate, its creditors, or interest holders. *See, e.g., Committee of Equity Security Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1071 (2d Cir. 1983); *Four B. Corp. v. Food Barn Stores, Inc. (In re Food Barn Stores, Inc.)*, 107 F.3d 558, 564-65 (8th Cir. 1997) (stating that, in bankruptcy sales, "a primary objective of the Code [is] to enhance the value of the estate at hand").

31. Additionally, section 105(a) of the Bankruptcy Code provides a bankruptcy court with broad powers in the administration of a case under the Bankruptcy Code. Section 105(a) provides that "[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code]." 11 U.S.C. § 105(a). Provided that a bankruptcy court does not employ its equitable powers to achieve a result not contemplated by the Bankruptcy Code, the exercise of its section 105(a) power is proper. *In re Fesco Plastics Corp.*, 996 F.2d 152, 154 (7th Cir. 1993); *Pincus v. Graduate Loan Ctr. (In re Pincus)*, 280 B.R. 303, 312 (Bankr. S.D.N.Y. 2002). Pursuant to section 105(a), a court may fashion an order or decree that helps preserve or protect the value of a debtor's assets. *See, e.g., Chinichian v. Campolongo (In re Chinichian)*, 784 F.2d 1440, 1443 (9th Cir. 1986) ("Section 105 sets out the power of the bankruptcy court to fashion orders as necessary pursuant to the purposes of the Bankruptcy Code."); *In re Cooper Props. Liquidating Trust, Inc.*, 61 B.R. 531, 537 (Bankr. W.D. Tenn. 1986) (noting that bankruptcy court is "one of equity and as such it has a duty to protect whatever equities a debtor may have in property for the benefit of its creditors as long as that protection is implemented in a manner consistent with the bankruptcy laws").

32. The Debtor submits that sufficient business justifications exist to sell the Purchased Assets to the Stalking Horse Bidder (or other Successful Bidder). The Stalking

Horse APA has been extensively negotiated between the parties at arm's length and in good faith and confers several substantial benefits on the Debtor's estate that would likely not be available in the event of a liquidation of the Debtor's assets.

33. The Sale Notice is designed to provide adequate notice to all potentially interested parties, including those who have previously expressed an interest in purchasing the Debtor's assets. Accordingly, the Sale satisfies the second prong of the *Abbotts Dairies* standard.

34. Moreover, the Bidding Procedures are designed to maximize the value received for the Assets. Under the facts and circumstances of this Chapter 11 Case, the process proposed herein by the Debtor allows for a timely and efficient auction process, while providing bidders and consultants with adequate time and information to submit a timely bid. The Bidding Procedures are designed to ensure that the Purchased Assets will be sold for the highest or otherwise best possible purchase price under the circumstances. The Debtor is subjecting the value of the Purchased Assets to market testing through an auction process as set forth in the Bidding Procedures. Therefore, the Debtor and all parties in interest can be assured that the consideration received for the Assets will be fair and reasonable, and therefore, the third prong of the *Abbotts Dairies* standard is satisfied. As discussed below, the "good faith" prong of the *Abbotts Dairies* standard is also satisfied here.

B. The Expense Reimbursement and Break-up Fee Are Reasonable and Should be Approved

35. Local Rule 6004-1(c)(i)(C) provides that a bidding procedures motion must highlight "[a]ny provisions providing an initial or 'stalking horse' bidder a form of bid protection." Local Rule 6004-1(c)(i)(C). The Debtor has complied with this requirement by including herein the amounts sought as a Break-up Fee and an Expense Reimbursement by the Stalking Horse Bidder.

36. The Third Circuit Court of Appeals has stated that an expense reimbursement may be approved when it provides some postpetition benefit to the debtor's estate. *See In re O'Brien Envtl. Energy, Inc.*, 181 F.3d 527, 536 (3d Cir. 1999). The *O'Brien* court determined that a break-up fee provides an actual benefit to a debtor's estate in two circumstances. The first such circumstance is where "assurance of a break-up fee promote[s] more competitive bidding, such as by inducing a bid that otherwise would not have been made and without which bidding would have been limited." *Id.* at 537. Second, when bidding incentives induce a bidder to research the value of the debtor and submit a bid that serves as a minimum on which other bidders can rely, "the bidder may have provided a benefit to the estate by increasing the likelihood that the price at which the debtor is sold will reflect its true worth." *Id.*

37. The paramount goal in any proposed sale of property of a debtor's estate is to maximize the proceeds received by the estate. *See, e.g., Food Barn Stores*, 107 F.3d at 564-65 (in bankruptcy sales, "a primary objective of the Code [is] to enhance the value of the estate at hand"); *In re Integrated Resources, Inc.*, 147 B.R. 650, 659 (S.D.N.Y. 1992). Courts recognize that procedures intended to enhance competitive bidding are consistent with this goal. *See id.* (such procedures "encourage bidding and maximize the value of the debtor's assets"); *In re 995 Fifth Ave. Assocs., L.P.*, 96 B.R. 24, 28 (Bankr. S.D.N.Y. 1989) ("break-up fees and other strategies may be legitimately necessary to convince a 'white knight' to enter the bidding by providing some form of compensation for the risks it is undertaking").

38. In *O'Brien*, the Third Circuit referred to nine factors that the bankruptcy court viewed as relevant in deciding whether to award a break-up fee and expense reimbursement: (1) the presence of self-dealing or manipulation in negotiating the break-up fee and expense reimbursement; (2) whether the fee harms, rather than encourages, bidding; (3) the

reasonableness of the break-up fee and expense reimbursement relative to the purchase price; (4) whether the “unsuccessful bidder place[d] the estate property in a sales configuration mode to attract other bidders to the auction”; (5) the ability of the request for a break-up fee and expense reimbursement “to attract or retain a potentially Prevailing Bid, establish a bid standard or minimum for other bidders, or attract additional bidders”; (6) the correlation of the fee to a maximization of value of the debtor’s estate; (7) the support of the principal secured creditors and creditors’ committees of the break-up fee and expense reimbursement; (8) the benefits of the safeguards to the debtor’s estate; and (9) the “substantial adverse impact [of the break-up fee and expense reimbursement] on unsecured creditors, where such creditors are in opposition to the break-up fee.” *See O’Brien*, 181 F.3d at 536.

39. The Debtor submits that the foregoing factors are met under the facts and circumstances of this Chapter 11 Case, as the proposed Break-up Fee and Expense Reimbursement are necessary to the success of the Auction and Sale process and therefore provide an actual benefit to the Debtor’s estate. The Break-up Fee and Expense Reimbursement are reasonable in light of the efforts and expenses that the Stalking Horse Bidder has undertaken. The Break-up Fee and Expense Reimbursement were negotiated at arm’s length and in good faith and are commensurate with the real and substantial benefit provided to the Debtor’s estate and are fair and reasonable in light of the size and nature of the proposed sale transaction. Importantly, the protections provided by the Break-up Fee and Expense Reimbursement were a necessary inducement for the Stalking Horse Bidder to enter into the Stalking Horse APA. Without the Stalking Horse APA, it would be challenging to maximize the value of the Assets because the Stalking Horse APA provides a “floor” purchase price. By agreeing to the Break-up Fee and Expense Reimbursement, and thereby securing the Stalking

Horse Bidder's bid, the Debtor hopes to induce the submission of additional bids that otherwise may have never been made and without which bidding may have been limited. The Break-up Fee and Expense Reimbursement not only were, and are, a material inducement for, and condition of, the Stalking Horse Bidder's offer to purchase the Purchased Assets, but also a precondition to the Stalking Horse Bidder's commitment to hold open its offer.

40. The Debtor submits that the proposed Break-up Fee and Expense Reimbursement will not chill bidding, are reasonable, and will enable the Debtor to maximize the value of its estate. *See, e.g., In re Tweeter Home Entm't Group, Inc.*, Case No. 07-10787 (PJW) (Bankr. D. Del. June 26, 2007) (authorizing debtors pay break-up fee if the stalking horse asset purchase agreement is executed by specified deadline); *In re New Century TRS Holdings, Inc.*, Case No. 07-10416 (KJC) (Bankr. D. Del. Apr. 12, 2007) (awarding break-up fee); *In re Radnor Holdings Corp.*, 06-10894 (PJW) (Bankr. D. Del. Aug. 21, 2006) (approving a break-up fee and expense reimbursement); *In re Women First Health Care*, Case No. 04-11278 (MFW) (Bankr. D. Del. Sept. 8, 2004) (approving break-up fee); *In re Decora Indus., Inc.*, 2002 WL32332749 (D. Del. 2002) (Farnan, J.) (approving break-up fee); *In re Exodus Commc'ns, Inc.*, Case No. 01- 10539 (SLR) (Bankr. D. Del. Sept. 21, 2001) (approving a break-up fee and expense reimbursement). The amount of the Expense Reimbursement constitutes "a fair and reasonable percentage of the proposed purchase price." *In re S.N.A. Nut Co.*, 186 B.R. 98, 103 (Bankr. N.D. Ill. 1995). The Expense Reimbursement is customary for similar transactions of this type in the bankruptcy context and not "so substantial that it provides a 'chilling effect' on other potential bidders." *Id.*; *see also In re Wintz Companies*, 230 B.R. 840, 847 (B.A.P. 8th Cir. 1999).

41. In sum, the Break-Up Fee and Expense Reimbursement provided for in the Stalking Horse APA were the product of arm's-length negotiations between the Debtor and the

Stalking Horse Bidder, and were in fact required by the Stalking Horse Bidder as a condition to entry into the Stalking Horse APA. The Debtor respectfully submits that such protections are warranted in light of Stalking Horse Bidder's agreement to serve as the "stalking horse" in the Sale.

C. The Bidding Procedures Are Reasonable and Appropriate

42. Bankruptcy Code section 363(b)(1) provides that "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). The Debtor submits that the Bidding Procedures are appropriate, consistent with procedures routinely approved by courts in this district, ensure that the bidding process is fair and reasonable and will yield the maximum value for their estates and creditors. The Bidding Procedures proposed herein are designed to maximize the value received for the Purchased Assets by facilitating a competitive bidding process in which all potential bidders are encouraged to participate and submit competing bids. The Bidding Procedures provide potential bidders with sufficient notice and an opportunity to acquire information necessary to submit a timely and informed bid. Thus, the Debtor and all parties in interest can be assured that the consideration for the Purchased Assets will be fair and reasonable. At the same time, the Bidding Procedures provide the Debtor with an adequate opportunity to consider all competing offers and to select, in their reasonable business judgment, the highest and best offer(s) for the Purchased Assets. Accordingly, the Debtor submits that the Court should approve the Bidding Procedures.

D. The Form of Sale Notice Is Appropriate

43. The Debtor believes that their service of the Sale Notice, as previously described herein, is reasonable and appropriate and satisfies any and all requirements for such notice under the Bankruptcy Code, Bankruptcy Rules and Local Rules.

44. Under Bankruptcy Rules 2002(a) and (c), the Debtor is required to notify creditors of the proposed sale of the Debtor's assets, including a disclosure of the time and place of an auction, the terms and conditions of a sale, and the deadline for filing any objections. The Debtor respectfully submits that the notice procedures described herein, including, without limitation, the service of the Sale Notice, satisfy Bankruptcy Rule 2002, and are reasonably calculated to provide timely and adequate notice of the Sale to all parties in interest in this Chapter 11 Case, as well as to those parties which have expressed an interest, or may express an interest, in bidding on the Assets.

E. The Sale of the Debtor's Assets Free and Clear of Claims, Liens, and Other Interests Is Authorized by Section 363(f) of the Bankruptcy Code

45. Under section 363(f) of the Bankruptcy Code, a debtor may sell property "under subsection (b) and (c) free and clear of any interest in such property of an entity other than the estate." In particular, section 363(f) authorizes a debtor to sell property free and clear if

- (1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;
- (2) such entity consents;
- (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
- (4) such interest is in bona fide dispute; or
- (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

11 U.S.C. § 363(f). Because section 363(f) is stated in the disjunctive, satisfaction of any one of its five requirements will suffice to warrant approval of the proposed Sale of the Purchased Assets free and clear of all claims, liens, and other interests. *See, e.g., In re Kellstrom Indus., Inc.*, 282 B.R. 787, 793 (Bankr. D. Del. 2002); *see also Folger Adam Sec., Inc. v. DeMatteis/MacGregor, JV*, 209 F.3d 252, 257 (3d Cir. 2000) (discussing how section 363(f)

authorizes the sale of a debtor's assets free and clear of all liens, claims and interests if "any one of [the] five prescribed conditions" is met).

46. Because the Debtor expects that it will satisfy, at minimum, the second and fifth of these requirements, if not others as well, approving the Sale free and clear of all claims, liens, and other interests (other than Permitted Encumbrances) is warranted. Furthermore, courts have held that they have the equitable power to authorize sales free and clear of adverse interests that are not specifically covered by section 363(f). *See, e.g., In re Trans World Airlines, Inc.*, 2001 WL 1820325 at *3, 6 (Bankr. D. Del. Mar. 27, 2001); *Volvo White Truck Corp. v. Chambersburg Beverage, Inc. (In re White Motor Credit Corp.)*, 75 B.R. 944, 948 (Bankr. N.D. Ohio 1987).

47. Accordingly, the Debtor requests that the Sale be approved free and clear of all claims, liens, and other interests (other than Permitted Encumbrances), with any such claims, liens, and other interests to attach to the net proceeds of the Sale in the order of their priority, with the same validity, force and effect that they now have against the Purchased Assets, subject, with respect to such net proceeds, to any rights, claims and defenses the Debtor or any parties in interest may possess with respect thereto.

F. The Successful Bidder Should Be Afforded All Protections Under Section 363(m) of the Bankruptcy Code as a Good Faith Purchaser

48. The Debtor requests the Court to find that the Stalking Horse Bidder or other Successful Bidder is entitled to the benefits and protections provided by section 363(m) of the Bankruptcy Code in connection with all aspects of the Sale.

49. Section 363(m) of the Bankruptcy Code provides, in pertinent part

The reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the

appeal, unless such authorization and such sale or lease were stayed pending appeal.

11 U.S.C. § 363(m). Section 363(m) of the Bankruptcy Code thus protects the purchaser of assets sold pursuant to section 363 of the Bankruptcy Code from the risk that it will lose its interest in the purchased assets, including any assumed and assigned unexpired leases and executory contracts, if the order allowing the sale is reversed on appeal. By its terms, section 363(m) of the Bankruptcy Code applies to sales of interests in tangible assets.

50. Although the Bankruptcy Code does not define “good faith purchaser,” the Third Circuit has stated that a good faith purchaser is “one who purchases in ‘good faith’ and for ‘value.’” *Abbotts Dairies*, 788 F.2d at 147. To constitute a lack of good faith, a party’s conduct in connection with the sale usually must amount to “fraud, collusion between the purchaser and other bidders or the trustee or an attempt to take grossly unfair advantage of other bidders.” *Id.* (citing *In re Rock Indus. Mach. Corp.*, 572 F.2d 1195, 1198 (7th Cir. 1978)); *see also In re Bedford Springs Hotel, Inc.*, 99 B.R. 302, 305 (Bankr. W.D. Pa. 1989); *In re Perona Bros., Inc.*, 186 B.R. 833, 839 (D.N.J. 1995).

51. The Stalking Horse APA was an arm’s length negotiated transaction in which the Stalking Horse Bidder acted in good faith and without collusion or fraud of any kind. Furthermore, the Debtor and the Stalking Horse Bidder are not entering into the Stalking Horse APA for the purpose of hindering, delaying or defrauding any creditor. The Debtor will make a similar offer, if appropriate, for the Successful Bidder. Accordingly, the Debtor requests the Court to find that the Stalking Horse Bidder or Successful Bidder, as applicable, has purchased the Debtor’s assets in good faith within the meaning of section 363(m) of the Bankruptcy Code. The Court should likewise find that, as the Stalking Horse APA was entered into without

collusion or fraud of any kind, and that the Stalking Horse APA does not constitute an avoidable transaction pursuant to section 363(n) of the Bankruptcy Code.

G. The Proposed Assumption and Assignment of Certain Executory Contracts and Leases Should be Approved

52. Section 365(a) of the Bankruptcy Code provides, in pertinent part, that a debtor in possession, “subject to the court’s approval, may assume or reject any executory contract or [unexpired] lease of the debtor.” 11 U.S.C. § 365(a). The standard governing bankruptcy court approval of a debtor’s decision to assume or reject an executory contract or unexpired lease is whether the debtor’s reasonable business judgment supports assumption or rejection. *See, e.g., In re Trans World Airlines, Inc.*, 261 B.R. 103, 120 (Bankr. D. Del. 2001). If the debtor’s business judgment has been reasonably exercised, a court should approve the assumption or rejection of an unexpired lease or executory contract. *See Grp. of Institutional Investors v. Chicago M. St. P. & P.R.R. Co.*, 318 U.S. 523 (1943); *Sharon Steel Corp. v. Nat’l Fuel Gas Distrib. Corp.*, 872 F.2d 36, 39-40 (3d Cir. 1989). The business judgment test “requires only that the trustee [or debtor in possession] demonstrate that [assumption or] rejection of the contract will benefit the estate.” *Wheeling-Pittsburgh Steel Corp. v. West Penn Power Co. (In re Wheeling-Pittsburgh Steel Corp.)*, 72 B.R. 845, 846 (Bankr. W.D. Pa. 1987) (quoting *Stable Mews*). Any more exacting scrutiny would slow the administration of a debtor’s estate and increase costs, interfere with the Bankruptcy Code’s provision for private control of administration of the estate, and threaten the court’s ability to control a case impartially. *See Richmond Leasing Co. v. Capital Bank, N.A.*, 762 F.2d 1303, 1311 (5th Cir. 1985).

53. Pursuant to section 365(b)(1) of the Bankruptcy Code, for a debtor to assume an executory contract, it must “cure, or provide adequate assurance that the debtor will promptly cure,” any default which is required to be cured, including compensating or providing adequate

assurance of prompt compensation for any “actual pecuniary loss” relating to such default. 11 U.S.C. § 365(b)(1). The Debtor respectfully submits that the Assumption Procedures are appropriate and reasonably tailored to provide counterparties to Executory Contracts and Leases with adequate notice of the proposed assumption and assignment of their contracts and leases, as well as proposed cure amounts, if any. Such counterparties will then be given an opportunity to object to such cure amounts and assumption and assignment of their contracts and leases. The Assumption Procedures further provide that, in the event an objection is not resolved, the Court will determine the disputed issues. Accordingly, the Debtor submits that implementation of the Assumption Procedures is appropriate under the facts and circumstances of the Chapter 11 Case and the proposed Sale.

54. Once an executory contract is assumed, a debtor in possession may elect to assign such contract. *See In re Rickel Home Centers, Inc.*, 209 F.3d 291, 299 (3d Cir. 2000) (“[t]he Code generally favors free assignability as a means to maximize the value of the debtor’s estate”); *see also In re Headquarters Dodge, Inc.*, 13 F.3d 674, 682 (3d Cir. 1994) (noting that the purpose of section 365(f) is to assist a trustee in realizing the full value of the debtor’s assets). Section 365(f) of the Bankruptcy Code provides that the “trustee may assign an executory contract . . . only if the trustee assumes such contract . . . and adequate assurance of future performance is provided.” 11 U.S.C. § 365(f)(2). The meaning of “adequate assurance of future performance” depends on the facts and circumstances of each case, but should be given “practical, pragmatic construction.” *See Carlisle Homes, Inc. v. Arrari (In re Carlisle Homes, Inc.)*, 103 B.R. 524, 538 (Bankr. D.N.J. 1989); *see also In re Natco Indus., Inc.*, 54 B.R. 436, 440 (Bankr. S.D.N.Y. 1985) (adequate assurance of future performance does not mean absolute assurance that debtor will thrive and pay rent). Among other things, adequate assurance may be

given by demonstrating the assignee's financial health and experience in managing the type of enterprise or property assigned. *Accord In re Bygaph, Inc.*, 56 B.R. 596, 605-06 (Bankr. S.D.N.Y. 1986) (adequate assurance of future performance is present when prospective assignee of lease from debtors has financial resources and has expressed willingness to devote sufficient funding to business in order to give it strong likelihood of succeeding).

55. Additionally, section 105(a) of the Bankruptcy Code provides a bankruptcy court with broad powers in the administration of a case under title 11. Section 105(a) provides that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [title 11].” 11 U.S.C. § 105(a). Provided that a bankruptcy court does not employ its equitable powers to achieve a result not contemplated by the Bankruptcy Code, the exercise of its section 105(a) power is proper. *See Fesco Plastics*, 996 F.2d at 154; *Pincus*, 280 B.R. at 312. Pursuant to section 105(a) of the Bankruptcy Code, a court may fashion an order or decree that helps preserve or protect the value of a debtor's assets. *See, e.g., Chinichian*, 784 F.2d at 1443 (“Section 105 sets out the power of the bankruptcy court to fashion orders as necessary pursuant to the purposes of the Bankruptcy Code”); *Cooper Props.*, 61 B.R. at 537 (noting that bankruptcy court is “one of equity and as such it has a duty to protect whatever equities a debtor may have in property for the benefit of their creditors as long as that protection is implemented in a manner consistent with the bankruptcy laws”).

56. The Debtor submits that the assumption and assignment of such Executory Contracts and Leases to the Stalking Horse Bidder or other Successful Bidder, as applicable, as of the Closing Date is necessary to the consummation of the Sale and is well within the Debtor's sound business judgment. Those contracts and leases are necessary to run the Debtor's business, and as such, they are essential to inducing the highest or otherwise best offer

for the Purchased Assets. It is unlikely that any purchaser would want to acquire any company on a going-concern basis unless a significant number of the contracts and leases needed to conduct the business and manage the day-to-day operations are included in the transaction. Counterparties to the Debtor's Executory Contracts and Leases will be provided with a Cure Notice and will have an opportunity to object to the potential assumption and assignment of their contracts and leases prior to the entry of the Sale Order. The Debtor proposes that any counterparty that fails to object to the proposed assumption and assignment of its Executory Contract or Lease will be deemed to consent to that assumption and assignment pursuant to section 365 of the Bankruptcy Code on the terms set forth in the proposed Bidding Procedures and Sale Order, and to the cure amounts identified in the Cure Notice. *See, e.g., In re Tabone, Inc.*, 175 B.R. 855, 858 (Bankr. D.N.J. 1994) (holding that creditor was deemed to have consented to sale by not objecting to sale motion).

57. Accordingly, the Debtor submits that the assumption and assignment to the Stalking Horse Bidder or other Successful Bidder of certain the of Debtor's Executory Contracts and Leases should be approved as an exercise of the Debtor's sound business judgment.

REQUEST FOR WAIVER OF BANKRUPTCY RULES 6004(H) AND 6006(D)

58. Bankruptcy Rule 6004(h) provides that "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." Fed. R. Bankr. P. 6004(h). Similarly, Bankruptcy Rule 6006(d) provides that "[a]n order authorizing the [debtor] to assign an executory contract or unexpired . . . is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." Fed. R. Bankr. P. 6006(d).

59. The Debtor submits that cause exists to justify a waiver of the fourteen (14) day stays under Bankruptcy Rules 6004(h) and 6006(d), as promptly closing the Sale is of critical importance. The Debtor therefore requests that the Sale Order be effective immediately by providing that the fourteen (14) day stays under Bankruptcy Rules 6004(h) and 6006(d) be waived.

RESERVATION OF RIGHTS

60. Nothing contained herein is intended, or should be construed, as an admission of the validity of any claim against the Debtor or a waiver of the Debtor's rights to dispute any claim. Nothing contained herein is intended, or should be construed, as an approval, assumption, or rejection of any agreement, contract, or lease under section 365 of the Bankruptcy Code.

NOTICE

61. The Debtor will provide notice of this Motion to: (a) counsel for the Pre-petition Agent; (b) counsel for the Stalking Horse Bidder and DIP Lender; (c) the Office of the United States Trustee; (d) holders of the 20 largest unsecured claims against the Debtor; (e) all persons known or reasonably believed to have asserted an interest in any of the Debtor's assets; (f) the non-Debtor counterparties to the Executory Contracts and Leases; (g) the Attorneys General in the state(s) where the Purchased Assets are located; (h) the Environmental Protection Agency; (i) all state and local environmental agencies in any jurisdiction where the Debtor owns or has owned or used real property; and (j) all parties that have filed a notice of appearance and request for service of papers pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested herein, the Debtor submits that no other or further notice is necessary.

WHEREFORE, the Debtor respectfully requests that the Court enter the Bidding Procedures Order and the Sale Order granting the relief requested herein, and grant such other and further relief as the Court may deem just and proper.

Dated: April 12, 2017
Wilmington, Delaware

Respectfully submitted,

DRINKER BIDDLE & REATH LLP

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EXHIBIT A

Stalking Horse APA

ASSET PURCHASE AGREEMENT

BY AND AMONG

HALT MEDICAL, INC.

AS SELLER

- and -

ACESSA ASSETCO LLC,

AS PURCHASER

Dated as of April 12, 2017

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ASSET PURCHASE AGREEMENT

This **ASSET PURCHASE AGREEMENT** (this "**Agreement**"), is made and entered into as of April 12, 2017 (the "**Signing Date**"), by and among HALT MEDICAL, INC., a Delaware corporation ("**Halt**" or "**Seller**") and ACESSA ASSETCO LLC, a Delaware limited liability company (the "**Purchaser**").

RECITALS:

A. The Seller is a medical technology company that develops, manufactures and sells the Acessa Global Fibroid Ablation ("**GFA**") System, a medical device that treats symptomatic uterine fibroids and provides related equipment to service the GFA (collectively, the "**Business**").

B. On April 12, 2017 (the "**Petition Date**"), Halt (the "**Debtor**") commenced a case (the "**Chapter 11 Case**") under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the "**Bankruptcy Code**") by filing a voluntary petition for relief with the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**").

C. The Seller is currently operating the Business and managing its property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

D. The Seller desires to sell, and Purchaser or one or more of its designees desire to purchase, the assets, rights, and properties of the Seller used in or related to the Business, on the terms and conditions, and subject to the exclusions, set forth in this Agreement.

E. The board of directors of Seller has determined that it is advisable and in the best interests of its respective estate and the beneficiaries of such estate to consummate the transactions provided for herein pursuant to the Bidding Procedures Order and the Bankruptcy Sale Order and has approved this Agreement.

F. The transactions contemplated by this Agreement are subject to the approval of the Bankruptcy Court and will be consummated only pursuant to the Bankruptcy Sale Order to be entered in the Bankruptcy Case.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, the Seller covenants and agrees with Purchaser as follows:

ARTICLE I DEFINITIONS

Section 1.1. Recitals. The Recitals set forth above are incorporated by reference and are expressly made part of this Agreement.

Section 1.2. Definitions. Capitalized terms used herein have the meanings specified or referred to in Annex A.

**ARTICLE II
AGREEMENT OF PURCHASE AND SALE**

Section 2.1. Purchase and Sale. Upon the terms and subject to the conditions of this Agreement and the Sale Order, on the Closing Date, the Seller shall sell, transfer, assign, convey and deliver, or cause to be sold, transferred, assigned, conveyed and delivered, to the Purchaser (or its designees), and the Purchaser (or its designees) shall purchase, free and clear of all Encumbrances (other than Permitted Encumbrances), pursuant to sections 105, 363, and 365 of the Bankruptcy Code, all right, title and interest in, to or under all of the properties and assets of the Seller (other than the Excluded Assets) of every kind and description, wherever located, whether real, personal or mixed, tangible or intangible, owned, leased, licensed, used or held for use in or relating to the Business (herein collectively called the “**Purchased Assets**”), including, but not limited to:

- (a) all Cash and Equivalents that is not part of Excluded Assets;
- (b) all Accounts Receivable;
- (c) all Inventories;
- (d) to the extent that such lease (and any such agreement related thereto, if any) is an Assigned Contract, all rights under a lease (and any agreement related thereto) for a Leased Property, in each case together with all interests in and to all Improvements and fixtures located thereon or attached thereto, and other appurtenances thereto, and rights in respect thereof;
- (e) all Equipment;
- (f) all Purchased Deposits;
- (g) any and all warranties in favor of Seller in respect of the Purchased Assets or assets Leased to Seller;
- (h) all Permits, including the Permits listed or described in Schedule 2.1(h);
- (i) to the extent transferable, all Intellectual Property held, licensed, used or held for use in the Business as currently conducted, including the Intellectual Property listed or described on Schedule 2.1(i);
- (j) all documentation and media embodying, describing or relating to Intellectual Property, including memoranda, research, manuals, technical specifications and other records, wherever created throughout the world, including the IP Assignment Agreements;
- (k) all telephone numbers, fax numbers, e-mail addresses, websites, URLs and internet domain names;
- (l) all sales and promotional materials, catalogues and advertising literature;

(m) copies of all bank accounts statements, checkbooks and cancelled checks of Seller;

(n) all Data and Documents;

(o) all rights, claims, causes of action, refunds, rebates, credits, prepaid expenses, security deposits, escrows and similar items of Seller to the extent related or pertaining directly to any Purchased Assets or any Contract or Lease that is an Assigned Contract, existing or arising prior to or on the Closing Date;

(p) all goodwill associated with the Business or the Purchased Assets;

(q) all Documents that relate to any Purchased Assets or the Business and copies of those that are Excluded Assets under Section 2.2;

(r) all personal property listed on Schedule 2.1(r) which is currently leased from third parties but which shall be conveyed to Purchaser free and clear of such leases and all other Encumbrances, subject to the Seller's ability to provide substitute assets of an equal or superior quality in the event free and clear title of any asset on Schedule 2.1(r) is not reasonably practicable;

(s) [Reserved];

(t) all rights under non-disclosure or confidentiality, non-compete, or nonsolicitation agreements with employees and agents of Seller or with third parties (including, without limitation, any non-disclosure or confidentiality, non-compete, or non-solicitation agreements entered into in connection with the Auction);

(u) any rights, claims or Causes of Action, including all Causes of Action arising under chapter 5 of the Bankruptcy Code, against any Person;

(v) the Assigned Contracts;

(w) other assets related to, associated with or used in the conduct of the Business and/or the Purchased Assets, excepting therefrom only the Excluded Assets; and

(x) except as excluded in Section 2.2 hereof, all other or additional privileges, rights and interests associated with the Purchased Assets of every kind and description and wherever located that are used or intended for use in connection with, or that are necessary or helpful to the continued operation of, the Business as presently being operated.

At any time prior to three (3) Business Days prior to the scheduled date of the Auction, and at no time thereafter, the Purchaser may, in its sole and absolute discretion, by written notice to the Seller, designate any of the Assigned Contracts as additional Excluded Assets, which notice shall set forth in reasonable detail the Assigned Contracts so designated. Except as otherwise provided herein, the Liabilities of the Seller under or related to any Assigned Contract excluded under this paragraph will constitute Excluded Liabilities. The exclusion of any assets by Purchaser pursuant to the foregoing shall not have any impact on the Purchase Price.

Section 2.2. Excluded Assets. The Purchased Assets shall not include any of the following (collectively, the “**Excluded Assets**”):

- (a) all minute books, stock ledgers, corporate seals and stock certificates of the Seller;
- (b) the cash portion of the Purchase Price as set forth in Section 3.1(b) and all Cash and Equivalents of Seller funded under the DIP Credit Agreement for the payment of professional fees and disbursement or held as retainers or deposits by such professionals;
- (c) any Contract and any Lease that is not an Assigned Contract;
- (d) all Employee Plans and any assets of such plans;
- (e) all insurance policies and any claims under such insurance policies;
- (f) all prepaid expenses, security deposits, credits, and benefits, and any indemnification rights, escrows, or other assets, relating to any Contract or Lease that is not an Assigned Contract, to any Excluded Asset, or to any of the Excluded Liabilities;
- (g) all Tax assets (including Tax refunds and repayments) of Seller;
- (h) any rights, claims or causes of action of the Seller under this Agreement and other agreements entered into in connection herewith;
- (i) any privileges, protections or immunities of Seller for communications, documents, materials or matters arising at any time, whether before or after the Petition Date, including but not limited to any attorney-client privilege, work product doctrine, common interest or joint defense privilege, relating to any matter whatsoever, including without limitation any matter relating to the negotiation and implementation of this Agreement and any of the transactions contemplated hereby or entered into in connection herewith, the March 2014 transaction, the litigation currently pending in Delaware Chancery Court styled as *Calesa Associates, L.P. v. American Capital, Ltd.*, C.A. No. 10557-VCG, and any related matters (collectively, “**Privilege**”), and such Privilege are owned and will continue to be owned by Seller, and notwithstanding anything to the contrary herein Purchaser shall have no interest in or rights with respect to the Privilege, whether pursuant to this Agreement or otherwise. The Privilege shall remain within the sole control of Seller and may not be waived by any other person or entity.
- (j) Permits that are not transferable; and
- (k) all personnel records or other records of the Seller that are required by law to remain in its possession, provided that complete and correct copies thereof are provided to Purchaser at Closing.

Section 2.3. Assumed Liabilities. Upon the terms and subject to the conditions of this Agreement and the Sale Order, on the Closing Date, the Purchaser shall assume and agree to

discharge, when due (in accordance with their respective terms and subject to the respective conditions thereof), only

(a) all Cure Costs existing as of the Closing associated with those Assigned Contracts listed or described in Schedule 2.3(a) that Purchaser, in its sole discretion, has agreed to assume at Closing, a schedule of such Cure Costs to be provided to Purchaser within five (5) days of the Petition Date;

(b) (i) current liabilities consisting solely of accounts payable to vendors set forth on Schedule 2.3(b): (x) in respect of goods received by Seller within twenty (20) days prior to the Petition Date (as defined herein) that were sold to Seller in the ordinary course of business during such twenty (20) days, but only to the extent that such payables are allowed administrative claims in the Bankruptcy Case pursuant to Bankruptcy Code section 503(b)(9), (y) that were incurred in the Ordinary Course of Business from and after the Petition Date through the Closing solely in connection with goods purchased by, and services provided to, Seller during such period described in Schedule 2.3(b), and (ii) solely those liabilities expressly listed or described in Schedule 2.3(b) (it being understood and agreed that no liabilities that expressly constitute Excluded Liabilities or are included within the Cure Amounts shall be assumed by Purchaser pursuant to clauses (i) and (ii) of this Section 2.3(b));

(c) any post-petition ordinary course payables to the extent not paid prior to Closing, but excluding any post-petition obligations incurred outside of the ordinary course, including but not limited to any fees or expenses incurred in connection the Seller's chapter 11 case; and

(d) the Liabilities arising after the Closing Date exclusively with respect to the Purchased Assets or the operation of the Business following the Closing (all of (a), (b), (c), and (d) of this Section 2.3, collectively, the "**Assumed Liabilities**").

Subject to this Section 2.3, Seller acknowledges and agrees that Purchaser will not assume, or in any way be liable or responsible for, any Liability of Seller other than the Assumed Liabilities. In furtherance of and in no way in limitation of the foregoing or Section 2.4, neither Purchaser nor any of its Affiliates or assignees shall assume, or be deemed to have assumed, any indebtedness, Claim, Liability, employee benefit plan, collective bargaining agreement, Environmental Liability, Tax liabilities or other obligations of Seller of any predecessor or Affiliate of Seller whatsoever, other than the Assumed Liabilities. The Parties acknowledge and agree that the disclosure of any obligation or Liability of any schedule to this Agreement shall not create an Assumed Liability or other Liability of Purchaser, except where such disclosed obligation has been expressly assumed by Purchaser as an Assumed Liability in accordance with the provisions of this Section 2.3.

Section 2.4. Excluded Liabilities. Notwithstanding any provision in this Agreement to the contrary, the Purchaser shall not assume and shall not be obligated to assume or be obliged to pay, perform or otherwise discharge any Liability of Seller or any Affiliate thereof, and the Seller and its Affiliates shall be solely and exclusively liable with respect to all Liabilities of the Seller or any Affiliate thereof, other than solely the Assumed Liabilities (collectively, the

“**Excluded Liabilities**”). For the avoidance of doubt, the Excluded Liabilities include, but are not limited to, the following:

(a) Any and all fees and expenses of Seller, its Affiliates or any statutory committee appointed in the cases, including professional fees for advisers retained pursuant to an order of the Bankruptcy Court;

(b) obligations, liabilities or amounts payable to any security holder of Seller or any of its Affiliates;

(c) trade payables or general unsecured claims or any other liability not expressly assumed by Purchaser under this Agreement;

(d) any and all Cure Costs other than solely those assumed by Purchaser pursuant to Section 2.3(a);

(e) any and all claims relating to assignment of any Contract where the Purchaser is not the Assignee, in which case the Assignee shall be responsible for such claims which the Seller are required to pay under this Agreement;

(f) any Liability of Seller, any of its Affiliates or any of its or their respective directors, officers, stockholders or agents (acting in such capacities), arising out of, or relating to, this Agreement or the Transactions, whether incurred prior to, at or subsequent to the Closing Date, including all finder’s or broker’s fees and expenses and any and all fees and expenses of any Representatives of any of them;

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

(h) any Liability to any Person at any time employed or retained by Seller or any of its Affiliates at any time or to any such Person’s spouse, children, other dependents or beneficiaries, with respect to incidents, events, exposures or circumstances occurring at any time during the period or periods of any such Person’s employment by or retention with Seller or any of its Affiliates, whenever such claims mature or are asserted, including all Liabilities arising (i) under or with respect to the Employee Plans, (ii) under any employment, wage and hour restriction, equal opportunity, discrimination, plant closing (including the WARN Act), immigration or naturalization laws, (iii) under any collective bargaining laws, agreements or arrangements, (iv) in connection with any workers’ compensation or any other employee health, accident, disability or safety claims, (v) for salary, wages, benefits, vacation, expenses or other compensation or remuneration, (vi) out of acts or omissions with respect to such individuals, including employee claims of wrongful discharge or discrimination, (vii) as severance or similar liabilities, (viii) under employment contracts or similar agreements or arrangements or (ix) in connection with termination or attempted termination of employment;

(i) any Liability relating to the Purchased Assets based on events or conditions occurring or existing on or prior to the Closing Date and connected with, arising out of or relating to (and including, in each case, those listed in the Disclosure Schedules): (i) Hazardous Substances or Environmental Laws, (ii) claims relating to employee health and safety, including claims for injury, sickness, disease or death of any Person, (iii) compliance with any Legal Requirement relating to any of the foregoing or (iv) any other actions, suits, proceedings, claims, investigations, applications or complaints;

(j) any Liability of Seller or any of its Affiliates under Title IV of ERISA;

(k) any Liability of Seller or any of its Affiliates under COBRA;

(l) any pension or retirement Liability of Seller to its current or former employees which are accrued as of the Closing Date, whether or not under any Employee Plan;

(m) any and all liabilities and obligations (i) that are the subject of any dispute, litigation, arbitration, judgment, order, decree or other proceeding as of the Closing Date, (ii) with respect to periods prior to the Closing Date and are or could be asserted as a claim in litigation or arbitration after the Closing Date, (iii) relating to any bodily injury, or damage to property, incurred by any Person or (iv) arising as a result of actions or omissions with respect to services provided to customers prior to the Closing;

(n) those specific liabilities and obligations of Seller identified on Schedule 2.4(n) attached hereto;

(o) any liability or obligation of Seller to its respective equity holders, the Noteholders or affiliates;

(p) any liabilities or obligations which Purchaser may or could become liable for as a result of or in connection with any “de facto merger” or “successor-in-interest” theories of liability;

(q) any Liability for Taxes of Seller or any of its Affiliates or any member or equity owner of Seller or Affiliate or for which Seller or Affiliate may be liable;

(r) any Liability relating to the violation of any Legal Requirement or Permit;

(s) any Liability incurred by Seller or any of its Affiliates or its directors, officers, stockholders, agents or employees (acting in such capacities) on or after the Closing Date; and

(t) any Liability relating to or arising out of the ownership or operation of any Excluded Asset.

ARTICLE III PURCHASE PRICE

Section 3.1. Purchase Price. In consideration of the sale of the Business and the Purchased Assets to Purchaser, and in reliance upon the representations, warranties, covenants and agreements of Seller set forth herein, and upon the terms and subject to the conditions set forth herein, the purchase price (the “**Purchase Price**”) for the Business and the Purchased Assets shall be:

(a) At the Closing, (i) by offset of one hundred percent (100%) on a dollar-for-dollar basis of the amount of the DIP Facility Obligations, evidenced by Purchaser delivering to Seller releases and waivers, fully executed, from the applicable lenders (in each of their respective sole and absolute discretion) under the DIP Credit Agreement with respect to all or a part of Seller’s obligations thereunder and/or (y) with the written consent of the applicable lenders under the DIP Credit Agreement (in each of their respective sole and absolute discretion), by Purchaser assuming all or a part of Seller’s obligations thereunder on terms reasonably acceptable to Purchaser in its sole and absolute discretion, evidenced by Purchaser delivering to Seller releases and waivers, fully executed, from the applicable lenders of one hundred percent (100%) on a dollar-for-dollar basis of the amount of the DIP Facility Obligations; and (ii) in Purchaser’s sole and absolute discretion, on a dollar-for-dollar basis, an offset to the obligations outstanding under the Notes in an amount up to the outstanding amount of such Notes, evidenced by Purchaser delivering to Seller releases and waivers, fully executed, from the Agent (in its sole and absolute discretion) under the Notes with respect to all of a part of Seller’s obligations thereunder, plus

(b) \$150,000 in cash, plus

(c) Assumption of the Assumed Liabilities.

Section 3.2. Allocation of Purchase Price. The Purchaser shall prepare and deliver to the Seller for its consent (which consent shall not be unreasonably withheld, delayed, or conditioned) with a schedule (the “**Allocation Schedule**”) setting forth the Purchaser’s allocation of the Purchase Price, including by the assumption of the Assumed Liabilities, among the Purchased Assets. The Allocation Schedule shall be reasonable and shall be prepared in accordance with Section 1060 of the IRC and the Treasury Regulations promulgated thereunder and any applicable Legal Requirement. Such allocation shall be deemed final unless the Seller has notified the Purchaser in writing of any reasonable disagreement with the Allocation Schedule within ten (10) calendar days after submission thereof by the Purchaser, and which written notice shall set forth in reasonable detail the basis for the Seller’s disagreement therewith. If the allocation is deemed final or the Purchaser and the Seller reach such agreement, the Purchaser and the Seller shall execute and file all Tax Returns in a manner consistent with the allocation determined pursuant to this Section 3.2. In the event that the parties hereto do not agree to a purchase price allocation in accordance with this Section 3.2 within twenty (20) calendar days of receipt by the Purchaser of the Seller’s written notice, then the Seller and the Purchaser shall refer the disagreement to a mutually agreeable national accounting firm (the “**Accounting Firm**”). The Accounting Firm shall be instructed to resolve any disagreement within thirty (30) calendar days and the Seller and the Purchaser agree the decision of the

Accounting Firm shall be conclusive and binding on the Seller and the Purchaser. The Purchaser and the Seller shall execute and file all Tax Returns and other related documents in a manner consistent with the parties' agreement or the Accounting Firm's determination, and each party agrees to provide the other party promptly with any information required to complete the Tax Returns and other related documents.

Section 3.3. Casualty; Pre-Closing Purchase Price Adjustment. The risk of loss or damage to any of the Purchased Assets on or before the Closing Date shall remain with Seller. If, on or before the Closing Date, any part or portion of the Purchased Assets is damaged, condemned, lost or destroyed, (i) to an extent that such event does not result in a Material Adverse Effect, or (ii) to an extent that such event does result in a Material Adverse Effect and Purchaser does not terminate this Agreement as a result of the occurrence of such Material Adverse Effect in accordance with Section 9.1(d), the parties shall consummate the transactions contemplated in this Agreement, subject to the other terms and conditions of this Agreement, and, at the Closing, Seller shall deliver possession of the Purchased Assets to Purchaser in such physical condition as the same may then exist; provided that, in such event, Purchaser may elect in its sole discretion, either (A) to reduce the Purchase Price by an amount equal to the cost to repair, replace or restore (as applicable) such damage, condemnation, loss or destruction, or (B) to receive an assignment from Seller of all of its right, title and interest in and to any and all net insurance or condemnation proceeds otherwise due and payable to Seller for business interruption and the damage, condemnation, loss or destruction to such Purchased Assets.

ARTICLE IV BANKRUPTCY COURT APPROVAL

Section 4.1. Bankruptcy Court Action. In addition to the other conditions set forth in Article VII and Article VIII, the Purchaser and the Seller acknowledge and agree that the consummation of the Transactions is subject to, among other things, approval by the Bankruptcy Court of the assumption and assignment pursuant to Section 365 of the Bankruptcy Code of the Assigned Contracts as further described in Section 6.2 hereof, the entry of the Bidding Procedures Order and the entry of the Sale Order by the Bankruptcy Court.

Section 4.2. Purchased Assets Subject to Further Bidding. The Purchaser understands and agrees that Seller is a debtor in possession in bankruptcy and will conduct the sale process and Auction, and that the Seller shall use this Agreement as the base bid for the Purchased Assets (i.e., "stalking horse bid"). The Purchaser shall be entitled to participate in the Auction and bid beyond its base bid pursuant to this Agreement and the Bidding Procedures Order.

Section 4.3. Break-Up Fee and Expense Reimbursement. Notwithstanding anything in this Agreement to the contrary, subject to entry of the Bidding Procedures Order, the Seller agrees to pay the Purchaser the Break-Up Fee and Expense Reimbursement in accordance with Section 9.3(b).

**ARTICLE V
REPRESENTATIONS AND WARRANTIES**

Section 5.1. Representations and Warranties of the Seller. Except as set forth in the Disclosure Schedules attached hereto, Seller hereby represents and warrants to and in favor of the Purchaser, as of the date hereof and the Closing Date (except for such representations and warranties made only as of a specific date, in which case, as of such date), as set forth below, with Seller and Purchaser acknowledging and agreeing that all such representations and warranties shall expire upon the Closing:

(a) Organization/Subsidiaries. Seller is duly formed, subsisting and in good standing under the laws of the state of its incorporation, and is properly qualified to do business in such state. Seller is in good standing in each of the jurisdictions in which the ownership or leasing of its properties or the conduct of its business requires such qualification. Seller has all requisite corporate or limited liability company power, authority, right and capacity to own or lease and operate its properties and assets now owned or leased and operated by it, including the Purchased Assets, and to carry on its business in all respects as currently conducted by it. Seller has all requisite corporate power, authority, right and capacity to enter into, execute and deliver this Agreement and, subject to the entry of the Sale Order, to carry out the Transactions in the manner contemplated by this Agreement. Seller has no Subsidiaries and does not own, directly or indirectly, any interest in any other corporation, partnership, limited liability company, limited partnership, joint venture or other business association or entity.

(b) Authorization. The execution, delivery and performance of this Agreement, all ancillary agreements referred to herein and the Transactions have been duly and validly authorized by all requisite corporate, limited liability company or other proceedings of Seller and, subject to the entry of the Sale Order, upon execution and delivery by the Seller and the Purchaser, this Agreement and all ancillary agreements referred to herein shall constitute legal, valid and binding obligations of Seller enforceable in accordance with their respective terms.

(c) No Conflicts. Subject to the entry of the Sale Order, neither the execution of this Agreement nor the performance by the Seller will result in (A) a breach of any term or provision of, or constitute a default under, or conflict with or permit the acceleration of any obligation of Seller under (i) its articles of incorporation, bylaws or other organizational documents, (ii) any Permit (other than any breach, default or conflict which, individually or in the aggregate, would not be material to the Business), or (iii) any Legal Requirement affecting Seller or any of the Purchased Assets, or (B) the creation or imposition of any Encumbrance (other than Permitted Encumbrances) upon any of the Purchased Assets or the Business. Other than the Sale Order, no filing, consent, approval or other documentation is necessary from any Person to enable the Seller to complete the Transactions pursuant to this Agreement in compliance with all existing obligations, Permits and Legal Requirements, and any other obligations or agreements which affect the Purchased Assets.

(d) No Proceedings. Except as set forth in Schedule 5.1(d), there are no pending or, to the Knowledge of the Seller, threatened actions, suits, proceedings, claims, investigations, applications or complaints (whether or not purportedly on behalf of the Seller)

against or affecting the Seller, which in any way relate to or involve or could adversely affect the Purchased Assets, in law or in equity, which could affect the validity of this Agreement, the title to the Purchased Assets, the value of the Purchased Assets or the conveyance of any of the Purchased Assets to the Purchaser.

(e) No Options. Other than the Purchaser, no Person has any written or oral agreement or option for the purchase or acquisition of all or any of the Purchased Assets.

(f) Consents. Other than the Sale Order, Seller has obtained all consents necessary to the Transactions including the sale of the Purchased Assets to the Purchaser.

(g) Legal Requirements; Permits. Seller is not in violation of any Legal Requirement applicable to the operation of the Business, except as set forth in Schedule 5.1(g). Seller has not received any written notification from any Governmental Authority asserting that it is not in compliance with any Legal Requirement applicable to the operation of the Business. Seller holds all Permits necessary to carry on the Business as currently conducted by it or to own or lease any of its property or assets utilized by it as such property or assets are currently owned, leased or utilized. Each Permit is valid, subsisting and in full force and effect and Seller is not in material default or breach of such Permit and no material proceeding is pending or, to the Knowledge of the Seller, threatened to revoke or limit any Permit.

(h) Title to Purchased Assets. Except as set forth on Schedule 5.1(h), no person other than the Seller owns, holds title to or has any other direct, indirect or beneficial interest in any of the Purchased Assets. As of the Closing Date, the Sellers will have good and valid title to, or in the case of Leased or licensed assets, good and valid leasehold interests or licenses to, the Purchased Assets, and, subject to the entry of the Sale Order, at Closing shall convey the Purchased Assets (other than the Real Property) to Purchaser free and clear of all Encumbrances except for Permitted Encumbrances. The Purchased Assets constitute all of the assets, rights and properties, tangible or intangible, real or personal, which are used in connection with the operation of the Business, as currently operated, other than the Excluded Assets.

(i) Leases. The Existing Leases and the Existing Real Property Leases (including any amendments, modifications or supplements thereto) disclosed to the Purchaser pursuant to Schedule 5.1(i) are the only Leases by Seller with respect to real property. The applicable Seller has title to each Existing Lease and Existing Real Property Lease and a good and valid leasehold interest in the real or personal property licensed thereunder (subject to the terms of the applicable Lease governing its interests therein). Each Existing Lease and Existing Real Property Lease (i) is the legal, valid, binding and enforceable obligation of the Seller, (ii) to the Knowledge of the Seller, is in full force and effect and the binding obligation of the other parties thereto and (iii) will, if designated as an Assigned Contract, continue to be the legal, valid, binding, and enforceable obligation of the Purchaser following the consummation of the Transactions. At the time of Closing, there will not exist any default or event which, with the passage of time or the giving of notice or both, would constitute a default in the performance and/or observance of the obligations on the part of Seller under any of the Existing Lease and Existing Real Property Lease, other than that which is required to be cured through payment of

the applicable Cure Costs. Seller has not assigned, subleased, transferred, or conveyed any interest in the leasehold or subleasehold created by such Lease.

(j) Contracts. Schedule 5.1(j) lists all Material Contracts (including any amendments, modifications or supplements thereto), and (i) at Closing there will not be any Contracts material to the Seller or the Business other than the Material Contracts and any additional Material Contracts entered into in the Ordinary Course of Business after filing of the Chapter 11 Case; (ii) Seller is not a party to, and is not or on Closing will not be bound or affected by, any Contracts material to the Seller's Business except the Material Contracts and any additional Material Contracts entered into in the Ordinary Course of Business after filing of the Chapter 11 Case; (iii) Seller has not given or received notice of any default with respect to the Material Contracts, and Seller is not in default under any of the Material Contracts that, in each case, is required to be cured other than through payment of the applicable Cure Costs; (iv) at the time of Closing, there will not exist any default or event which, with the passage of time or the giving of notice or both, would constitute a default in the performance and/or observance of the obligations on the part of Seller under any of the Material Contracts other than, in each case, that which will be required to be cured through payment of the applicable Cure Costs; and (v) each of the Material Contracts is in full force and effect and is a valid and binding obligation as to the Seller, and, to the Knowledge of the Seller, the other parties thereto, unamended by oral or written agreement, and the Seller is entitled to the full benefit and advantage of each of the Material Contracts to which it is a party in accordance with the terms thereof.

(k) Financial Statements. The Seller has provided Purchaser (A) the audited balance sheet of Seller as of December 31, 2014 and December 31, 2015, and the audited related income statement, statements of operations, changes in stockholders' equity and cash flows for the years ended December 31, 2014 and December 31, 2015, and (B) the unaudited balance sheets of Seller as of December 31, 2015 and December 31, 2016, and the unaudited balance sheet of Seller as of February 28, 2017 and the unaudited related income statements, statements of operations, changes in stockholders' equity and cash flows for those respective periods (the financial statements referenced in (A) and (B), together, the "**Financial Statements**") and those Financial Statements fairly present the Seller's financial condition on the date thereof, and the results of its operations and cash flows for the periods then ended and were prepared in accordance with GAAP.

(l) Absence of Changes. Except as required by Legal Requirements or GAAP, and except as set forth in Schedule 5.1(l), since December 31, 2016 through and including the date hereof: (i) the Seller has conducted the Business in the Ordinary Course of Business; (ii) there have not occurred any facts, conditions, changes, violations, inaccuracies, circumstances, effects or events that have constituted, or which would be reasonably likely to result in a Material Adverse Effect; and (iii) Seller has not taken any action described in Section 6.1(c).

(m) No Undisclosed Liabilities. Seller has no material Liabilities, except Liabilities (i) in the aggregate adequately provided for in the Financial Statements; (ii) incurred in the Ordinary Course of Business and not required under GAAP to be reflected on the Financial Statements; (iii) incurred since December 31, 2016 in the Ordinary Course of

Business or as required by applicable Legal Requirement; or (iv) incurred in connection with this Agreement or the Transactions.

(n) Brokers. Any fee or commission due to any broker or agent retained by the Seller in respect of this Agreement or the Transactions will be paid by the Seller, and the Purchaser will not be liable for or suffer any losses in respect of any claims with respect to any such fee or commission.

(o) Environmental Matters.

(i) Seller is currently and has been in compliance in all material respects with all Environmental Laws and have not received from any Person any: (i) Environmental Notice or Environmental Claim; or (ii) written request for information pursuant to Environmental Law, which, in each case, either remains pending or unresolved, or is the source of ongoing obligations or requirements as of the Closing Date.

(ii) Seller has obtained and is in compliance in all material respects with all environmental permits necessary for the ownership, lease, operation or use of the business or assets of Seller and all such Environmental Permits are in full force and effect and shall be maintained in full force and effect by Seller through the Closing Date.

(iii) Seller has provided or otherwise Made Available to Purchaser all environmental reports and studies and other similar documents with respect to the Purchased Assets.

(p) Intellectual Property Matters.

(i) The Seller owns or has valid rights to use all of the Intellectual Property necessary to conduct, or used by it in the operation of, the Business as currently conducted. Schedule 2.1(i) lists all (i) registrations for such Intellectual Property owned by the Seller, (ii) pending applications to register any such Intellectual Property owned by the Seller, (iii) material unregistered Intellectual Property owned by the Seller, (iv) Domain Names owned by the Seller, (v) software owned by the Seller, (vi) Material Contracts, licenses and agreements (including settlements and covenants not to sue) with respect to such Intellectual Property owned by the Seller pursuant to which Seller has granted any Person the right to reproduce, distribute, market or otherwise exploit such Intellectual Property (other than Seller's customer end user agreements entered into with any of its customers in the Ordinary Course of Business) and (vii) Material Contracts, licenses and agreements (including settlements and covenants not to sue) pursuant to which the Seller has been granted the right to use Intellectual Property by any Person. The Seller is the sole and exclusive beneficial and, with respect to applications and registrations, record owner of all of the Intellectual Property items set forth in Schedule 2.1(i), all such Intellectual Property is subsisting, valid, and enforceable and all fees necessary to maintain Intellectual Property registrations and applications in good standing have been paid.

(ii) There is no action, suit, proceeding, claim, investigation or complaint pending, or, to the Knowledge of the Seller, threatened against Seller that (A) challenges (y) the validity or ownership of any Intellectual Property owned by the Seller or (z) Seller's use of any Intellectual Property or (B) alleges infringement, dilution, misappropriation or other violation of the Intellectual Property of any Person by Seller. To the Knowledge of the Seller, no third Person's operations or products infringe any Intellectual Property owned by or exclusively licensed to the Seller in any material respect. To the Knowledge of the Seller, Seller's operations and products do not infringe, dilute, misappropriate or otherwise violate the Intellectual Property of any third Person and there is no valid basis for such a claim. Seller has not received during the two (2) year period preceding the date hereof any written claim of infringement, dilution, misappropriation or other violation with respect to any Intellectual Property owned by any third Person.

(iii) The Intellectual Property, including rights to use the Intellectual Property of any Person under a license, included in the Purchased Assets constitutes all material Intellectual Property owned, used or held for use in the conduct of the Business. No current or former Affiliate, partner, director, stockholder, officer or employee of Seller will, after giving effect to the Transactions, own or retain any rights to use any of the Intellectual Property owned, used or held for use by the Seller in the conduct of the Business. Seller has entered into binding, written agreements whereby certain of Seller's employees and independent contractors (x) assigned to Seller any ownership interest and right they may have in the Intellectual Property included in the Purchased Assets; and (y) acknowledged Seller's exclusive ownership of all Intellectual Property included in the Purchased Assets. Seller has provided Purchaser with true and complete copies of all such agreements (the "**IP Assignment Agreements**"). Prior to Closing, Seller shall enter into additional IP Assignment Agreements satisfactory to Seller with all current employees and independent contractors.

(q) Insurance. Seller maintains the insurance policies set forth in Schedule 5.1(q), which schedule sets forth a complete list of all insurance policies covering the property, assets, employees and operations of the Business (including policies providing property, casualty, liability and workers' compensation coverage), including the type and amount of coverage, policy number and expiration date of policies. Except as set forth in Schedule 5.1(q), (i) there is no material claim by Seller pending under any such policies to which coverage has been questioned, denied or disputed by the insurer, (ii) such insurance policies and arrangements are in full force and effect, all premiums with respect thereto are currently paid, and Seller is in compliance with the terms thereof, and (iii) no notice of cancelation or termination has been received by Seller with respect to any insurance policy.

(r) Tax Matters.

(i) All sales or use tax returns of Seller have been timely filed in accordance with Legal Requirements, and all such Tax Returns are true, complete and accurate in all material respects. Seller has timely paid, or caused to be paid, all Taxes for which it is liable.

(ii) No federal, state, local or foreign audits or other proceedings are pending or being conducted, nor has Seller received in the last three (3) years any (A) notice in writing from any Governmental Authority that any such audit or other proceeding is pending, threatened or contemplated or (B) notice of deficiency or proposed adjustment for any Tax proposed, asserted or assessed by any Governmental Authority against Seller with respect to any material Taxes or any material Tax Return filed by or with respect to Seller. In the last three (3) years, Seller has not engaged in any administrative audit, administrative appeal or judicial contest of any Tax matter.

(iii) There are no liens for Taxes upon any of the Purchased Assets, other than liens for Taxes not yet due and payable.

(iv) Seller has withheld and paid all Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, stockholder or other third party, and all Tax Returns required with respect thereto have been properly complete and timely filed.

(v) Seller has not received written notice of any claim by any Governmental Authority in a jurisdiction where Seller has not filed Tax Returns that the Business or Seller may be subject to taxation by that jurisdiction.

(vi) Seller is not a "foreign corporation", "foreign partnership", "foreign trust", "foreign estate", "foreign person", "Affiliate" of a "foreign person" or a "United States intermediary" of a "foreign person" within the meaning of the IRC Sections 897 and 1445.

(s) Key Customers and Suppliers. Except as disclosed on Schedule 5.1(s), since December 31, 2016, no Key Customer has cancelled or otherwise terminated or, whether or not an automatic renewal provision exists in a contract with such Key Customer, refused or purported to refuse to renew the term of its relationship with the Seller or materially reduced or changed the pricing or other terms of the business it conducts with the Seller and no such Key Customer has notified the Seller in writing that it intends to cancel, terminate or, whether or not an automatic renewal provision exists in a contract with such Key Customer, refuse to renew the term or materially reduce or change the pricing or other terms of its business or contract with the Seller. Except as disclosed on Schedule 5.1(s), since December 31, 2015, no Key Supplier has cancelled or otherwise terminated or, whether or not an automatic renewal provision exists in any contract with such Key Supplier, refused or purported to refuse to renew the term of such contract or materially reduced or changed the pricing or other terms of such contract and no such Key Supplier has notified the Seller in writing that it intends to cancel, terminate or, whether or not an automatic renewal provision exists in such contract, refuse to renew the term or materially reduce or change the pricing or other terms of such contract.

(t) Sale Order. Immediately prior to Closing, the Seller will have the instruments of transfer contemplated by Section 8.2, and, upon delivery to the Purchaser on the Closing Date of such instruments of transfer, and subject to the terms of the Sale Order, the Seller will thereby transfer to the Purchaser, good title to all of the Purchased Assets, free and clear of all Encumbrances pursuant to section 363 of the Bankruptcy Code, except for the

Assumed Liabilities and for Permitted Encumbrances. The Purchased Assets are sufficient to permit the Purchaser or its permitted designees to operate the Business from and after the Closing Date in substantially the same manner as the Business is currently being operated by the Seller.

(u) Financing. Other than debtor-in-possession financing which shall be approved by the Bankruptcy Court, the Seller has incurred no debt following the commencement of the Chapter 11 Case other than as set forth in Schedule 5.1(u) that could constitute an Encumbrance on the Purchased Assets.

(v) Disclosure. No representation or warranty by the Seller contained in this Agreement (including the Disclosure Schedules) or any writing to be furnished by the Seller to the Purchaser or any of its Representatives pursuant to the provisions hereof contains or will contain any untrue statement of a material fact or omits or will omit to state any material fact necessary, in light of the circumstances under which it was made, in order to make the statements herein or therein not misleading; provided, however, that nothing in this Section 5.1(v) shall apply to the Seller's Financial Statement.

Section 5.2. Representations and Warranties of the Purchaser. The Purchaser hereby represents and warrants to and in favor of the Seller as follows:

(a) Organization. The Purchaser is duly formed, subsisting and in good standing under the laws of the State of Delaware and is properly qualified to do business in such state. The Purchaser has all requisite corporate power, authority, right and capacity to own or lease and operate its properties and assets now owned or leased and operated by it and to carry on its business in all respects as currently conducted by it. The Purchaser has all requisite corporate power, authority, right and capacity to enter into, execute and deliver this Agreement and, subject to the entry of the Sale Order, to carry out the Transactions in the manner contemplated by this Agreement.

(b) Authorization. The execution, delivery and performance of this Agreement, all ancillary agreements referred to herein and the Transactions have been duly and validly authorized by all requisite corporate or other proceedings of the Purchaser and, subject to the entry of the Sale Order, upon execution and delivery by the Seller and the Purchaser, this Agreement and all ancillary agreements referred to herein shall constitute legal, valid and binding obligations of the Purchaser enforceable in accordance with their respective terms.

(c) No Conflicts. Neither the execution of this Agreement nor the performance by the Purchaser will result in a breach of any term or provision, or constitute a default under, or conflict with or cause the acceleration of any material obligation of the Purchaser under (i) the constituent documents or bylaws of the Purchaser, (ii) any Permit applicable to the Purchaser, (iii) any order to which the Purchaser is bound or (iv) any Legal Requirement affecting the Purchaser. Other than the Sale Order, no consent, approval or other documentation is necessary to enable the Purchaser to complete the Transactions pursuant to this Agreement.

(d) Brokers. The Purchaser has not engaged or become liable to any broker in respect of this Agreement or the Transactions.

(e) Financing. The Purchaser or its designees will have at the Closing sufficient internal funds (after giving effect to any committed financing) available to pay the Purchase Price as adjusted pursuant to Article III in connection with the Transactions.

Section 5.3. No Waiver. The Seller agrees that the Purchaser's right to do searches, reviews, examinations, investigations, inspections, assessments, audits and analyses, and the exercise of such right, shall not affect, reduce or mitigate any of the representations, warranties or covenants of the Seller contained in this Agreement or any of the damages and costs owing by the Seller to the Purchaser as a result of any breach of such representations, warranties or covenants.

Section 5.4. Notification of Breach; Disclosure. The Seller shall promptly notify the Purchaser of (a) any event, condition or circumstance of which Seller becomes aware after the date hereof and prior to the Closing Date that would constitute a violation or breach of this Agreement (or a breach of any representation or warranty contained in this Agreement) or, if the same were to continue to exist as of the Closing Date, would constitute the non-satisfaction of any of the conditions set forth in Article VII, as the case may be or (b) any event, occurrence, transaction or other item of which Seller becomes aware which would have been required to have been disclosed on any Disclosure Schedule attached hereto had such event, occurrence, transaction or item existed as of the date hereof. During the period prior to the Closing Date, the Seller will promptly advise the Purchaser in writing of any written notice or, to the Knowledge of the Seller, other communication from any Person alleging that the consent of such Person is or may be required in connection with the Transactions contemplated by this Agreement. It is acknowledged and understood that no notice given pursuant to this Section 5.4 shall have any effect on the representations, warranties or covenants contained in this Agreement for purposes of determining satisfaction of the conditions contained herein.

ARTICLE VI COVENANTS

Section 6.1. Covenants of the Seller. From and after the date hereof, Seller covenants and agrees as follows:

(a) The Seller shall afford the Purchaser's Representatives access during normal business hours to the offices, properties, Key Employees, outside counsel and accountants, agreements and other documentation and financial records (including computer files, retrieval programs and similar documentation) with respect to the Business, the Purchased Assets and the Assumed Liabilities to the extent the Purchaser reasonably deems necessary and shall permit the Purchaser and its Representatives to make copies of such materials. The Seller shall furnish to the Purchaser or its Representatives such additional information concerning the Purchased Assets, the Business and the Assumed Liabilities as shall be reasonably requested by the Purchaser or its Representatives, including all such information as shall be reasonably necessary to enable the Purchaser or its Representatives to (i) verify the accuracy of the Seller's representations and warranties contained in this Agreement, (ii) verify that Seller has complied

with the covenants contained in this Agreement and (iii) determine whether the conditions set forth in Article VII have been satisfied. Seller shall use its commercially reasonable efforts to cause its outside accountants and outside counsel to cooperate with the Purchaser in its investigation. It is acknowledged and understood that no investigation by the Purchaser or other information received by the Purchaser shall operate as a waiver or otherwise affect any representation, warranty or other agreement given or made by the Seller in this Agreement. Seller shall cooperate with Purchaser and provide reasonable assistance to Purchaser in the renegotiation of any contracts.

(b) Between the date hereof and the Closing Date, the Seller shall (i) maintain the Purchased Assets in the Ordinary Course of Business (including, if unable to be fixed, replacing the Purchased Assets which are out of order or use with reasonably equivalent equipment from Seller's inventory or, if no such inventory remains, by purchasing reasonably equivalent equipment) and (ii) operate the Business in the Ordinary Course of Business and shall not, except as required or expressly permitted pursuant to the terms hereof or as the Purchaser shall consent in writing or as may be approved by order of the Bankruptcy Court, enter into any material transaction, other than in the Ordinary Course of Business. Consistent with the foregoing and to the extent permitted or required by the Chapter 11 Case, the Seller shall use reasonable best efforts to continue operating the Business as a going concern, to maintain the business organization of the Business intact and to preserve the goodwill of the manufacturers, suppliers, contractors, licensors, employees, customers and others having business relations with the Business. In connection therewith, the Seller shall not (i) transfer or cause to be transferred from the Business any employee or agent thereof, (ii) offer employment for any period on or after the Closing Date to any such employee or agent regarding whom the Purchaser makes offers of employment (if any) or (iii) otherwise attempt to persuade any such Person to terminate his or her relationship with the Business.

(c) Except as otherwise expressly provided in this Agreement (and without limiting the covenants in Section 6.1(b)), or with the prior express written approval of the Purchaser, the Seller shall not:

(i) other than the sale of Inventory for fair value in the Ordinary Course of Business, sell, lease (as lessor), license out any Intellectual Property, transfer or otherwise dispose of (including any transfer from the Business to any Affiliates), or mortgage or pledge, or impose or suffer to be imposed, any Encumbrance on (other than Assumed Liabilities) any of the Purchased Assets;

(ii) other than in the Ordinary Course of Business, purchase or acquire a license or lease to any assets;

(iii) delay payment of any undisputed or not-allowed account payable or other Liability of the Business, in each case, which accrued after the Petition Date, beyond its due date, specifically excluding payables that are routinely delayed in cases like the Chapter 11 Case, including, without limitation, payables allegedly due pursuant to 11 U.S.C. § 503(b)(9), payables subject to motions for allowance of administrative expenses, payables to retained professionals, and/or payables that the Seller, acting reasonably and in good faith, disputes;

(iv) fail to maintain the Purchased Assets in good condition, reasonable wear and tear excepted;

(v) forgive, cancel or waive any right of material value that is included in the Purchased Assets;

(vi) institute any new, or any increase (including any increase in coverage) in any existing, profit-sharing, bonus, incentive, deferred compensation, severance insurance, pension, retirement, medical, hospital, disability, welfare or other Employee Plan with respect to directors, officers or employees;

(vii) change the compensation (including salary, bonus or incentive compensation) of, or otherwise enter into new arrangements or contracts with or provide any loans or advances to the directors, officers, employees of, or independent contractors or consultants to, Seller, or any Affiliate of any of the foregoing;

(viii) enter into any collective bargaining, employment, deferred compensation, severance, consulting, independent contractor, nondisclosure, non-competition or similar agreement (or negotiate, renew or amend any such agreement) to which Seller is a party or involving any of its directors, officers or employees in his or her capacity as a director, officer or employee;

(ix) make, change or rescind any material election in relation to Taxes, adopt or change any method of accounting relating to Taxes, enter into any closing agreement or settle any claim or assessment relating to Taxes or make any material amendment to any Tax Return;

(x) declare, set aside, make or pay any dividend or other distribution in respect of the capital stock, membership interests or other equity interests of Seller, or repurchase, redeem or otherwise acquire any outstanding shares of the capital stock, membership interests or other securities of, or other ownership interests in, Seller;

(xi) transfer, issue, sell or dispose of any shares of capital stock or other securities of Seller;

(xii) grant or exercise options, warrants, calls or other rights to purchase or otherwise acquire shares of the capital stock or other securities of Seller;

(xiii) create any Encumbrance for the benefit of a third party (including its Affiliates and Representatives) over any of the Purchased Assets except any Encumbrance that (i) secures any debtor-in-possession financing approved by the Bankruptcy Court, (ii) is inconsequential and immaterial or does not affect the Purchased Assets or (iii) is inchoate and arises in the Ordinary Course of Business;

(xiv) make any payment, or otherwise remit any monies, to Seller or its Affiliates for any purpose whatsoever, other than allocation and payment of general overhead expenses in the Ordinary Course of Business;

(xv) change any accounting policy or practice except in the Ordinary Course of Business;

(xvi) amend its articles of incorporation or bylaws, operating agreement or comparable organization documents in any material respect; or

(xvii) discuss or enter into any agreement or commitment to take any action prohibited by this Section 6.1(c).

Section 6.2. Bankruptcy Covenants. From and after the date hereof, the Seller and/or the Purchaser, in each case as indicated below, covenant and agree as follows:

(a) As promptly as practicable after the execution of this Agreement, but in any event no later than two (2) Business Days after the Petition Date, the Seller shall file, or cause to be filed, with the Bankruptcy Court, the Sale Motion.

(b) The Seller and the Purchaser each shall act promptly, diligently and in good faith, and use their respective best efforts, in pursuing entry of the Bidding Procedures Order and the Sale Order, and otherwise effectuating and consummating the Transactions, including the sale of the Purchased Assets to the Purchaser, under the terms and conditions of this Agreement, in each case as soon as practicable, but in any case within the applicable timeframes contemplated by this Agreement, including, without limitation, promptly, diligently and in good faith, and using their respective best efforts in:

- (i) preparing and filing appropriate supporting papers;
- (ii) furnishing available supporting testimony or other evidence;
- (iii) contesting any applicable objections;
- (iv) responding to any applicable discovery requests; and
- (v) contesting any applicable appeals or related relief.

(c) The Purchaser's counsel shall file appearances in the Chapter 11 Case and request notice of all pleadings filed in the Chapter 11 Case.

(d) In the event an appeal is taken or a stay pending appeal is granted from either the Bidding Procedures Order or the Sale Order, the Seller shall immediately notify the Purchaser of such appeal or stay order and shall promptly provide to the Purchaser a copy of the related notice of appeal or order of stay. The Seller shall also provide the Purchaser with written notice of any motion or application filed in connection with any appeal from either of such orders.

(e) From and after the date hereof, and to the extent the Purchaser is the successful bidder at the Auction, Seller shall not take any action that is intended to or does result in, or fail to take any action the intent of which failure to act would or does result in, the reversal, voiding, modification or staying of the Bidding Procedures Order or the Sale Order.

(f) In the Sale Motion, the Seller shall, among other things, request that the Bankruptcy Court grant the following relief:

(i) authorizing and approving the assumption and assignment of any Assigned Contracts to the Assignee, pursuant to section 365 of the Bankruptcy Code, and requiring the Purchaser to pay any and all Cure Costs associated with the Assigned Contracts assumed by Purchaser pursuant to Section 2.3(a);

(ii) finding that adequate assurance of future performance has been provided under section 365 of the Bankruptcy Code with respect to Assigned Contracts;

(iii) within the timeframe set forth in Section 6.13, require Seller to effect a change in the caption of the Seller's bankruptcy case so that "Halt Medical" and similar names and phrases do not appear in such caption.

(g) The Seller shall take such action as is reasonably necessary or appropriate to effect the assignment of Assigned Contracts to the Purchaser as contemplated by this Agreement, including, without limitation, executing lease assignment agreements and other assignment or other documents, and providing required or appropriate notices, in each case in forms reasonably satisfactory to the Purchaser.

(h) In the case of licenses, Permits, approvals, authorizations, Leases, Material Contracts, agreements and other commitments included in the Purchased Assets (i) that cannot be transferred or assigned effectively without the consent of third parties, which consent has not been obtained prior to the Closing (after giving effect to the Sale Order and the Bankruptcy Code), the Seller shall, subject to any approval of the Bankruptcy Court that may be required, reasonably cooperate with the Purchaser in endeavoring to obtain such consent and, if any such consent is not obtained, the Seller shall, following the Closing, and subject to any approval of the Bankruptcy Court that may be required, cooperate with the Purchaser in all reasonable respects, at reasonable cost to the Seller, to provide to the Purchaser the benefits thereof in some other manner, including sub-licensing to the Purchaser or any other way allowing the Purchaser to use the relevant licenses, certificates, approvals, authorizations, Leases, Material Contracts, agreements and other commitments for the period necessary to conduct the Business pertaining to the Purchased Assets in the Ordinary Course of Business, or (ii) that are otherwise not transferable or assignable (after giving effect to the Sale Order and the Bankruptcy Code), the Seller shall, following the Closing, and subject to any approval of the Bankruptcy Court that may be required, reasonably cooperate with the Purchaser to provide to the Purchaser the benefits thereof in some other manner, including the exercise of the rights of the Seller thereunder or sub-licensing to the Purchaser or any other way allowing the Purchaser to use the relevant licenses, certificates, approvals, authorizations, Leases, Material Contracts, agreements and other commitments for the period necessary to conduct the Business pertaining to the Purchased Assets in the Ordinary Course of Business.

(i) For a period of one (1) year after the Closing, or so long as performance is possible, whichever is shorter, Seller shall use its reasonable efforts to take, or cause to be taken, all appropriate action, do or cause to be done all things necessary, proper or advisable to provide the Purchaser and its Representatives reasonable access during the Seller's regular

hours upon reasonable advance notice and under reasonable circumstances, subject to restrictions under Legal Requirements, to the books and records of the Seller to the extent necessary for the preparation of financial statements or regulatory filings of the Purchaser and its Affiliates in respect of periods ending on or prior to the Closing, or in connection with any legal proceedings. Purchaser and its Representatives shall be solely responsible for any costs or expenses incurred by them pursuant to the preceding sentence. Notwithstanding the foregoing, the Seller may notify the Purchaser in writing that the Seller intends to destroy all such books and records and offering the Purchaser the right to take possession of the same. If the Purchaser does not notify the Seller of its intention to take possession of all such books and records, and actually take possession thereof within sixty (60) days after receipt of the Seller's notice, and if the Seller did make such books and records available in good faith so as to enable the Purchaser to take possession thereof within such time frame, the Seller may destroy such books and records without any further obligations under this Section 6.2(i).

Section 6.3. Covenants of the Purchaser. For a period of three (3) years after the Closing, or so long as the Chapter 11 Case remains open and pending, whichever is shorter, the Purchaser will give Seller and its Representatives reasonable access during the Purchaser's regular hours upon reasonable advance notice and under reasonable circumstances, subject to restrictions under Legal Requirements, to the books and records of the Business to the extent necessary for the administration of the Chapter 11 Case, or the preparation of financial statements or regulatory filings of the Seller and its Affiliates in respect of periods ending on or prior to the Closing, or in connection with any legal proceedings. Seller and its Representatives shall be solely responsible for any costs or expenses incurred by them pursuant to the preceding sentence.

Section 6.4. Joint Obligations. Each party hereto shall use its commercially reasonable efforts to obtain all Permits and consents of any Persons that may be or become necessary for its execution and delivery of, and the performance of its obligations pursuant to, this Agreement. The parties hereto will not take any action that would have the effect of delaying, impairing or impeding the receipt of any required Permits or consents. Each party hereto agrees to cooperate in obtaining any other Permits or consents which may be required in connection with the Transactions. Notwithstanding the foregoing or any other covenant herein contained, nothing in this Agreement shall be deemed to require the Purchaser to commence any litigation against any entity in order to facilitate the consummation of any of the Transactions or to defend against any litigation brought by any Governmental Authority seeking to prevent the consummation of, or impose limitations on, any of the Transactions. Should a party hereto receive a payment due to the other party by the terms of this Agreement or otherwise, the first party shall promptly notify the other party of such payment and shall remit such payment to the other party promptly following discovery and confirmation that the payment rightfully belongs to the other party.

Section 6.5. Confidentiality. Subject to the requirements of the Bankruptcy Code or as may be imposed by the Bankruptcy Court or as otherwise required by Legal Requirements, from and after the Closing: (a) the Seller shall, and shall cause its Affiliates and Representatives to, hold in confidence all confidential information (including trade secrets, customer lists, marketing plans and pricing information) of each of the Seller relating to the Business or the Purchased Assets; (b) in the event Seller or an Affiliate or Representative thereof shall be legally

compelled to disclose any such information, Seller shall provide the Purchaser with prompt written notice of such requirement to the extent legally permitted so that the Purchaser may seek a protective order or other remedy; and (c) in the event that such protective order or other remedy is not obtained, Seller or its Affiliates or Representatives shall furnish only such information as is legally required to be provided.

Section 6.6. Insurance. Through the Closing, the Seller shall maintain (including necessary renewals thereof) insurance policies against risk and liabilities to the extent and in the manner and at the levels heretofore maintained by the Seller with respect to the Business and the Purchased Assets.

Section 6.7. Notice of Default. Seller shall, within three (3) Business Days of receipt thereof, provide to the Purchaser: (i) a copy of any notices of any default received in respect of the Material Contracts or Existing Real Property Leases after the date of this Agreement and (ii) state or federal environmental orders that would reasonably be expected to result in a material liability issued by any Governmental Authorities having jurisdiction relating to the Business or the Purchased Assets.

Section 6.8. Approvals. Whenever in this Agreement it is stated that the approval or consent of a party is required, it is understood that, except where otherwise specifically so stated, such approval or consent shall be in writing, and shall not be unreasonably withheld or delayed.

Section 6.9. Employee Benefits.

(a) Prior to the Closing Date, subject to an interview to determine that an employee is reasonably qualified to perform in the Purchaser's sole discretion, which interview may be conducted by the Purchaser during business hours in a manner not to unreasonably disturb the Seller's business, the Purchaser intends to offer to employ, effective as of the Closing Date, substantially all who are actively employed in the Business on the Closing Date. Such offers of employment shall be on terms and conditions which are consistent with the Purchaser's policies and procedures. Any employee of Seller who accepts such an offer and commences employment with the Purchaser as of the Closing Date is referred to herein as an "Affected Employee."

(b) Each Affected Employee shall receive credit for purposes of eligibility to participate and vesting under any Employee Plan, policy and arrangement established or maintained by the Purchaser after the Closing (the "**Purchaser Benefit Plans**") in which an Affected Employee participates on or after the Closing for service with Seller to the same extent recognized by Seller under a comparable Employee Plan immediately prior to the Closing; *provided, that*, such crediting of service shall not operate to duplicate any benefit. With respect to any Purchaser Benefit Plan that is a welfare benefit plan, program or arrangement, the Purchaser or its Affiliate shall use commercially practicable efforts to (i) waive, or cause its insurance carrier to waive, all limitations as to pre-existing, waiting period or actively-at-work conditions, if any, with respect to participation and coverage requirements applicable to each Affected Employee under such Purchaser Benefit Plan and (ii) provide credit to each Affected Employee (and such Affected Employee's beneficiaries) for any co-payments, deductibles and out-of-pocket expenses paid by such Affected Employee (and such Affected Employee's

beneficiaries) under the comparable Employee Plan during the relevant plan year; *provided, however*, that such credit shall not operate to duplicate any benefit.

(c) Nothing in this Agreement shall affect the Purchaser's right to terminate the employment of its employees or confer upon any employee of the Seller the right to employment with the Purchaser after the date hereof. On and after the Closing Date, subject to applicable laws, the Purchaser shall have the sole and exclusive right to dismiss any or all Affected Employees at any time, with or without cause, and to set or change the terms and conditions of their employment (including, without limitation, compensation and employee benefits provided to them).

(d) The Seller shall terminate, or shall cause to be terminated, the employment of all Affected Employees with the Seller effective as of the Closing Date, upon their commencement of employment with the Purchaser. The Seller shall give the Purchaser appropriate notice of such termination.

(e) Subject to applicable privacy laws, to the extent permitted by applicable law, from time to time following the Closing, the Seller shall make available to the Purchaser such data in the personnel records of Affected Employees as is necessary for the Purchaser to transition such Affected Employees into the Purchaser's records.

(f) All provisions contained in this Agreement with respect to the Seller's Employee Plans or compensation of Affected Employees are included for the sole benefit of the respective parties hereto. Nothing contained herein (i) shall confer upon any former, current or future employee of the Seller or the Purchaser or any legal representative or beneficiary thereof any rights or remedies, including, without limitation, any right to employment or continued employment, of any nature, for any specified period, (ii) shall cause the employment status of any former, present or future employee of the Purchaser to be other than terminable at will or in accordance with applicable Legal Requirements or (iii) shall confer any third party beneficiary rights upon any Affected Employee or any dependent or beneficiary thereof or any heirs or assigns thereof. This Section 6.9 shall not constitute an amendment to any Purchaser Benefit Plan, create any third party beneficiary rights or inure to the benefit of or be enforceable by any employee.

Section 6.10. Publicity. Except as required by any Legal Requirement or for any filings by with the Bankruptcy Court or in conjunction with the sale process and Auction, each party hereto shall not issue any press release or public announcement concerning this Agreement or the Transactions without obtaining the prior written approval of the other party, which approval will not be unreasonably withheld or delayed, provided that a party hereto intending to make any such release it deems required by any Legal Requirement shall use its commercially reasonable efforts consistent with such Legal Requirement to consult with the other party with respect to the text thereof.

Section 6.11. No Shop. From the date hereof through the filing of the motion seeking entry of the Bidding Procedures Order, except with the Purchaser's prior express written consent, the Seller shall not, and shall cause their Affiliates or respective Representatives not to initiate, solicit or negotiate with respect to other offers to purchase any of the Purchased Assets. Nothing

in this Section 6.11 prohibits the Seller from responding to diligence requests from any party at any time.

Section 6.12. Avoidance Actions. Purchaser agrees that, following the Closing, it will not sue or otherwise pursue, including by demand or commencement of an adversary proceeding or civil action, any Cause of Action arising under chapter 5 of the Bankruptcy Code acquired pursuant to this Agreement, provided, Purchaser may choose to pursue any Cause of Action if the defendant files a Claim or pursues any Cause of Action against the Purchaser.

Section 6.13. Name Change. As soon as practicable after the Closing, but no later than ten (10) Business Days thereafter, Seller shall change its corporate name. In addition, as soon as practicable after the Closing, but no later than sixty (60) Business Days after the Closing, Seller shall effect a change in the caption of the Seller's bankruptcy case so that "Halt Medical" and similar names and phrases do not appear in such caption.

(b) Seller acknowledges and agrees that, after the Closing, as between Purchaser and the Seller, Purchaser and its Affiliates shall own all worldwide right, title and interest in and to the trademarks, trade names, names, service marks, logos, insignia, slogans, emblems, symbols, designs, Domain Names and other sources used by the Seller (the "**Acquired Marks**"). Neither the Seller or any of its respective Affiliates or Representatives shall, anywhere in the world: (i) contest the validity of the Purchaser's or its Affiliates' respective rights in, to and under the Acquired Marks; (ii) maintain or apply for the registration of the Acquired Marks; or (iii) take any action to protect or enforce the Acquired Marks or settle, commence or defend any claim relating to any Acquired Marks without the Purchaser's prior written approval (which may be granted or withheld for any reason or no reason).

(c) As soon as practicable after the execution of this Agreement, the Seller shall cause any and all Domain Names currently used in connection with the Business that are not now owned by Seller to be owned and registered in the name of Seller, if prior to the Closing, or in the name of the Purchaser, if on or after the Closing.

Section 6.14. Tail Insurance. Seller shall obtain, at Purchaser's expense, insurance for extended reporting periods or "tail" insurance, in form and substance reasonably acceptable to Purchaser (the "**Tail Insurance**"), to insure against liabilities in connection with the Business and the Purchased Assets. The Tail Insurance coverage shall be retroactive such that it covers all periods prior to the Closing Date and shall remain in effect until May 2021.

ARTICLE VII CONDITIONS TO CLOSING

Section 7.1. Conditions for the Purchaser. Notwithstanding any other provision of this Agreement to the contrary, the obligation of the Purchaser to complete the Transactions shall be subject to the satisfaction or waiver of the following conditions, as determined by the Purchaser in its sole and absolute discretion:

(a) All the covenants and agreements of this Agreement to be complied with or performed or satisfied by the Seller at or prior to Closing shall have been complied with or

performed or satisfied in all material respects, including all deliveries required to be made pursuant to Article VIII hereof;

(b) The representations and warranties of the Seller set forth in Section 5.1 hereof shall be true and correct in all material respects as of the date of this Agreement and as of the Closing, as if made at and as of such dates, except to the extent such representations and warranties relate to an earlier date (in which case such representations and warranties shall be true and correct on and as of such earlier date);

(c) There shall have been no Material Adverse Effect (or any development that, insofar as reasonably can be foreseen, is reasonably likely to result in a Material Adverse Effect);

(d) No order, at law or in equity, shall have been entered by any court of competent jurisdiction enjoining, restricting, or prohibiting the Closing which has not, by the Closing Date, been dismissed, quashed or permanently stayed without any further right of appeal;

(e) The Bankruptcy Court shall have entered an order unconditionally allowing, authorizing and approving the credit bid by Purchaser and Agent, on behalf of Purchaser, as contemplated by this Agreement;

(f) The Bidding Procedures Order shall have been entered by the Bankruptcy Court, substantially in the form attached as Exhibit A hereto, no later than twenty one (21) calendar days following the Petition Date and shall have become a Final Order;

(g) A Final Order approving the DIP Facility, in the Purchaser's sole discretion, shall have been entered by the Bankruptcy Court within twenty (21) days from the Petition Date;

(h) The Sale Order shall have been entered by the Bankruptcy Court, substantially in the form attached as Exhibit B hereto, but in any event in form and substance reasonably satisfactory to the Purchaser, no later than sixty five (65) calendar days following the Petition Date, and the Sale Order shall have become a Final Order and, at a minimum, do the following, without limitation:

(i) authorize and approve the sale of the Purchased Assets to the Purchaser free and clear of all Encumbrances pursuant to sections 363(b) and 363(f) of the Bankruptcy Code, on the terms and conditions contained in this Agreement;

(ii) authorize and approve the consummation of the Transactions;

(iii) authorize the assumption and assignment of the Assumed Contracts to the Purchaser;

(iv) contain findings of fact and conclusions of law that (a) the Purchaser and any designee thereof is a good faith purchaser entitled to the protections of section 363(m) of the Bankruptcy Code and (b) the consideration to be paid by the

Purchaser or any designee thereof for the Purchased Assets is fair, reasonable and adequate;

(v) provide for the relief that the Seller is required to seek in the Sale Motion, as set forth in Section 6.2(f); and

(vi) otherwise approve each of the terms and conditions of this Agreement.

(i) Any and all Permits required in order to consummate the Closing shall be in full force and effect;

(j) Seller shall have delivered to Purchaser a true and correct copy of the Tail Insurance binder or other evidence satisfactory to Purchaser that Seller has obtained the Tail Insurance required pursuant to Section 6.14

(k) Purchaser shall have renegotiated the License and Product Development Agreement, dated August 5, 2016, between [REDACTED] and Seller, which renegotiated agreement with [REDACTED]. shall be reasonably satisfactory to Purchaser and become effective upon Closing (or such other date as the Purchaser chooses in Purchaser's sole discretion); and

(l) Seller shall have entered into agreements reasonably satisfactory to Purchaser with [REDACTED] and [REDACTED] and such agreements shall be included as Assigned Contracts hereunder.

The conditions set forth in this Section 7.1 are for the sole benefit of the Purchaser, and may be waived in whole or in part by the Purchaser by notice to the Seller in writing without prejudice to the Purchaser's rights under this Agreement or at law, if any, in the event of the non-fulfillment of any other condition or conditions.

Section 7.2. Conditions for the Seller. Notwithstanding any other provision of this Agreement to the contrary, the obligation of the Seller to complete the Transactions shall be subject to the satisfaction or waiver of the following conditions, as determined by the Seller in its sole and absolute discretion:

(a) All the covenants and agreements of this Agreement to be complied with or performed or satisfied by the Purchaser shall have been complied with or performed or satisfied in all material respects, including all deliveries required to be made pursuant to Article VIII hereof;

(b) The representations and warranties of the Purchaser set out in Section 5.2 hereof shall be true and correct in all material respects as of the date of this Agreement and as of the Closing, as if made at and as of such dates, except to the extent such representations and warranties relate to an earlier date (in which case such representations and warranties shall be true and correct on and as of such earlier date);

(c) No action or proceeding, at law or in equity, shall have been commenced by any Person to enjoin, restrict or prohibit the Closing, which has not, by the Closing Date, been dismissed, quashed or permanently stayed without any further right of appeal or right to such leave to appeal;

(d) Any and all Permits required in order to consummate the Closing shall be in full force and effect;

(e) The Bidding Procedures Order and the Sale Order shall have been entered by the Bankruptcy Court and both the Bidding Procedures Order and the Sale Order shall have become Final Orders; and

(f) The Sale Order shall have been entered by the Bankruptcy Court, substantially in the form attached as Exhibit B hereto, but in any event in form and substance reasonably satisfactory to the Seller.

The conditions set forth in this Section 7.2 are for the sole benefit of the Seller, and may be waived in whole or in part by the Seller by notice to the Purchaser in writing without prejudice to the Seller's rights under this Agreement or at law, if any, in the event of non-fulfillment of any other condition or conditions.

ARTICLE VIII CLOSING

Section 8.1. Closing Arrangements. Upon all conditions precedent to the Purchaser's and the Seller's obligation to close the Transactions having been satisfied and fulfilled, or waived, as the case may be, the Closing shall be deemed to take place on the Closing Date, at 11:59 p.m., local time, and the Closing shall occur at such place as may be mutually agreed to by the parties.

Section 8.2. Seller's Deliveries. On or before the Closing Date, the Seller shall deliver or cause to be delivered the following items and documents to the Purchaser, with each such document to be effective as of the time of Closing:

(a) a certificate executed on behalf of Seller representing and certifying that the conditions set forth in Section 7.1(a) and Section 7.1(b) have been fulfilled;

(b) duly executed Bills of Sale, substantially in the form of Exhibit C hereto, from Seller transferring the Purchased Assets to the Purchaser or its permitted designees;

(c) duly executed assignments of the Intellectual Property included in the Purchased Assets, substantially in the form of Exhibit D hereto and modified as appropriate for recordation with the applicable Governmental Authorities, transferring such Intellectual Property to the Purchaser or its permitted designee, and any other assignments or instruments with respect to any Intellectual Property included in the Purchased Assets for which an assignment or instrument is required to assign, transfer and convey such assets to, or perfect title to such assets in, the Purchaser or its permitted designee;

(d) a certificate executed by Seller in form and substance reasonably satisfactory to the Purchaser certifying the non-foreign status of Seller pursuant to Section 1445 of the IRC and Section 1.1445-2(b) of the Treasury Regulations promulgated thereunder;

(e) a direction of the Seller as to the payment of the amount required to be remitted to the Seller in accordance with Section 3.1, including wire transfer instructions, and the name of the payee (if other than the Seller);

(f) a certificate executed by Seller certifying that each of the representations and warranties of Seller contained in the Agreement is true and correct on and as of the Closing Date in all material respects, and that each and all of the terms, covenants and agreements to be complied with or performed by Seller on or before the Closing Date have been complied with and performed in all material respects;

(g) a certificate executed by Seller as to a list of all additional Material Contracts and Leases entered into in the Ordinary Course of Business after filing of the Chapter 11 Case;

(h) copies of resolutions duly adopted by the board of directors of Seller authorizing and approving the performance of the transactions contemplated hereby and the execution, delivery and performance of this Agreement and the documents described herein;

(i) such other bills of sale, deeds, endorsements, assignments, Transfer Tax returns and other good and sufficient instruments (including any relevant Documents) of conveyance and transfer, in forms reasonably satisfactory to the Purchaser, as the Purchaser may reasonably request to vest in the Purchaser or its permitted designees all the right, title and interest of the Seller in, to or under any or all of the Purchased Assets.

Section 8.3. Purchaser's Deliveries. On or before the Closing Date, the Purchaser shall deliver or cause to be delivered the following items and documents to the Seller, with each such document to be effective as of the time of Closing:

(a) a certificate executed on behalf of the Purchaser representing and certifying that the conditions set forth in Section 7.2(a) and Section 7.2(b) have been fulfilled;

(b) the amount required to be remitted to the Seller on the Closing Date in accordance with Section 3.1 together with delivery of evidence in a form reasonably acceptable to Seller of the credit bid and releases described therein; and

(c) such other assignments and other good and sufficient instruments of assumption and transfer, in forms reasonably satisfactory to the Seller, as the Seller may reasonably request to transfer and assign the Assumed Liabilities to the Purchaser or its permitted designees.

Section 8.4. Tax Matters. Except as specifically set forth herein, the Seller shall be liable for and shall pay all Taxes (whether assessed or unassessed) applicable to (i) the Excluded Liabilities and Excluded Assets attributable to any period and (ii) the Business, the Purchased Assets and the Assumed Liabilities attributable to periods (or portions thereof)

ending on or prior to the Closing Date. Without limiting the obligations of the Purchaser contained elsewhere in this Agreement, the Purchaser shall be liable for and shall pay, and pursuant to Section 8.4(c) shall reimburse the Seller for, all Taxes (whether assessed or unassessed) applicable to the Business, the Purchased Assets and the Assumed Liabilities, in each case attributable to periods (or portions thereof) beginning after the Closing Date. For purposes of this paragraph (a), any period beginning before and ending after the Closing Date shall be treated as two (2) partial periods, one ending on the Closing Date and the other beginning on the day after the Closing Date except that Taxes (such as property Taxes) imposed on a periodic basis shall be allocated on a daily basis.

(b) Without limiting the other terms set forth in this Agreement, any sales Tax, use Tax, real property transfer or gains Tax, documentary stamp Tax or similar Tax, and all recording fees and expenses, attributable to the sale or transfer of the Purchased Assets and not exempted under the Sale Order or the Bankruptcy Code ("**Transfer Taxes**") shall be borne by the Seller. The Seller and the Purchaser shall use reasonable efforts and cooperate in good faith to exempt the sale and transfer of the Purchased Assets from any such Transfer Taxes. The Purchaser shall prepare and file all necessary Tax Returns or other documents with respect to all such Transfer Taxes; *provided, however*, that in the event any such Tax Return requires execution by Seller, the Purchaser shall prepare and deliver to the Seller a copy of such Tax Return at least ten (10) calendar days before the due date thereof, and the Seller shall promptly execute such Tax Return and deliver it to the Purchaser, which shall cause it to be filed.

(c) The Seller or the Purchaser, as the case may be, shall provide reimbursement for any Tax paid by one party all or a portion of which is the responsibility of the other party in accordance with the terms of this Section 8.4. Within a reasonable time prior to the payment of any such Tax, the party paying such Tax shall give notice to the other of the Tax payable and each party's respective liability therefor, although failure to do so will not relieve the other party from its liability hereunder.

ARTICLE IX TERMINATION OF AGREEMENT

Section 9.1. Termination of Agreement By Either Party. This Agreement may be terminated prior to Closing as follows:

- (a) by mutual written consent of the Seller and the Purchaser;
- (b) by the Purchaser or the Seller, if the Purchaser is not the successful bidder at the Auction and not declared to be the Back-Up Bidder; *provided, however*, if the Purchaser is declared to be the Back-up Bidder, the Purchaser may not terminate this Agreement until a date that is no fewer than ten (10) calendar days after the Auction;
- (c) by either the Purchaser or the Seller, if a Governmental Authority of competent jurisdiction shall have issued a Final Order or taken any other nonappealable final action, in each case, having the effect of permanently restraining, enjoining or otherwise prohibiting the Transactions;

(d) by the Purchaser, if Seller has breached in any material respect any representation, warranty, covenant or agreement contained in this Agreement or in the Bidding Procedures Order or the Sale Order which breach (i) would result in a failure of a condition set forth in Section 7.1(a), Section 7.1(b) or Section 7.1(c), as the case may be, if occurring or continuing on the Closing Date, and (ii) is either incapable of being cured or, if capable of being cured, is not cured in all respects within seven (7) calendar days after written notice thereof;

(e) by the Seller, if the Purchaser has breached in any material respect any representation, warranty, covenant or agreement contained in this Agreement or in the Bidding Procedures Order or the Sale Order which breach (i) would result in a failure of a condition set forth in Section 7.2(a) or Section 7.2(b) if occurring or continuing on the Closing Date and (ii) is either incapable of being cured or, if capable of being cured, is not cured in all respects within seven (7) calendar days after written notice thereof; *provided*, that the Seller's right to terminate this Agreement under this Section 9.1(e) shall not be available if, at the time of such intended termination, the Purchaser has (or would have after the passage of time) the right to terminate this Agreement under Section 9.1(d), *provided*, that the Purchaser actually terminates this Agreement within five (5) Business Days after such right to terminate vests;

(f) by the Purchaser if (i) the Bankruptcy Court has not entered the Bidding Procedures Order by the date that is twenty one (21) calendar days after the Petition Date, (ii) the Auction is not held on or before the date that is sixty (60) calendar days after the Petition Date, (iii) the Bankruptcy Court has not entered the Sale Order by the date that is sixty-five (65) calendar days after the Petition Date, (iv) the Bankruptcy Court grants leave to any Person to appeal the Bidding Procedures Order or the Sale Order, (v) the Bidding Procedures Order or the Sale Order are stayed, vacated, modified or supplemented without the Purchaser's prior express written consent or (vi) the Closing Date has not occurred within ten (10) calendar days after the Sale Order becomes a Final Order unless the failure of Closing to occur is as a result of a breach by the Purchaser, *provided*, that in the case of subsections (i), (ii) and (iii) above, the requirement to satisfy such time-frames is subject to the Bankruptcy Court's availability, except that regardless of the Bankruptcy Court's availability Purchaser may terminate if the Closing shall have not occurred by the date that is ninety (90) calendar days after the Petition Date unless the failure of Closing to occur is as a result of a breach by the Purchaser;

(g) by the Purchaser if any of the Chapter 11 Case is dismissed or converted to a case under Chapter 7 of the Bankruptcy Code and neither such dismissal nor conversion expressly contemplates that the Transactions provided for in this Agreement be completed within five (5) calendar days from the dismissal or the conversion, or a trustee is appointed for the Seller;

(h) by the Purchaser if Seller accepts an offer for a transaction or series of transactions in which any material portion of the Purchased Assets are to be sold, transferred or otherwise disposed of;

(i) by the Purchaser if Seller withdraws, seeks authority to withdraw, or seeks to modify, in any material respect adversely affecting Purchaser, (a) any request for relief sought in the Sale Motion, or any relief granted in the Bidding Procedures Order or the Sale Order, (b) if Seller proposes or supports any plan of reorganization or liquidation that does not

have the express written support of the Purchaser, or (c) any request for relief sought in connection with DIP Financing; or

(j) by Purchaser if a Final Order, in form and substance acceptable to DIP Lender in its sole discretion, approving DIP Financing is not entered within twenty one (21) days from the Petition Date.

The party hereto desiring to terminate this Agreement pursuant to any of clauses (a) through (i) of this Section 9.1 shall give written notice of such termination to the other party in accordance with Section 10.6.

Section 9.2. [Reserved].

Section 9.3. Effect of Termination.

(a) Except as otherwise provided herein, in the event of termination of this Agreement, this Agreement (other than the terms and provisions set forth in Section 6.5, this Section 9.3 and Article X hereof, which shall survive such termination) shall become null and void and be deemed of no force and effect, with no liability on the part of any party hereto (or of any of its directors, officers, employees, consultants, contractors, agents, legal and financial advisors or other representatives), and no party hereto shall have any obligations to any other party hereto arising out of this Agreement; *provided, however*, that no termination of this Agreement shall relieve or release any party from any Liabilities or damages resulting from any willful breach of this Agreement.

(b) Notwithstanding Section 9.1(a) or Section 9.1(b), in the event the Seller closes on a Qualified Bid submitted at the Auction from a party other than the Purchaser or closes a sale or sales of a material portion of the Purchased Assets which otherwise resulted from the process contemplated by the Sale Motion, then the Seller shall promptly pay to the Purchaser the Break-Up Fee and Expense Reimbursement from the proceeds of the closed transaction. In all cases, the payment of the Break-Up Fee and Expense Reimbursement shall be made free and clear of the interests of any liens, claims and encumbrances of any person or entity which might have or assert an interest in the proceeds of the sale. Notwithstanding the foregoing, the Break-Up Fee and Expense Reimbursement shall not be payable in the event that the Closing has failed to occur primarily as a result of Purchaser's having breached in any material representation, warranty, covenant or agreement contained in this Agreement or in the Bidding Procedures Order or the Sale Order, which breach did not primarily result from a breach by Seller. The Seller shall cause any acquirer or transferee contemplated above to pay the Break-up Fee and Expense Reimbursement in cash at closing of any such transaction and such payment shall be a condition to entering into any such transaction and shall not enter into any such transaction without such acquirer's or transferee's written agreement to do so.

**ARTICLE X
MISCELLANEOUS**

Section 10.1. As-Is/Where-Is Transaction. The Purchaser acknowledges and agrees that, except as expressly provided in this Agreement or in any closing documents provided by the Seller to the Purchaser at Closing, the sale of the Purchased Assets is as-is, where-is, and with all

faults, and the Seller makes no representation, warranty or covenant, express, implied or statutory, of any kind whatsoever with respect to the Purchased Assets, including representation, warranty or covenant as to title, survey conditions, use of the Purchased Assets for the Purchaser's intended use, the condition of the Purchased Assets, past or present use, development, investment potential, tax ramifications or consequences, compliance with any Legal Requirements, present or future zoning, the availability of utilities, habitability, merchantability, fitness or suitability for any purpose, or any other matter with respect to the Purchased Assets, all of which are (without derogating from any indemnities provided by the Seller herein or in any closing documents), except as otherwise expressly provided in this Agreement or in any closing documents provided by the Seller to the Purchaser at Closing, hereby expressly disclaimed by the Seller. The provisions of this Section 10.1 shall survive Closing or any expiration or termination of this Agreement without limitation as to time.

Section 10.2. Obligations as Covenants. Each agreement and obligation of each party hereto in this Agreement, even though not expressed as a covenant, shall be considered for all purposes to be a covenant.

Section 10.3. Relationship of the Parties. Nothing in this Agreement shall be construed so as to make the Purchaser a partner of the Seller.

Section 10.4. No Successor Liability. Except where expressly prohibited under Legal Requirements or otherwise expressly ordered by the Bankruptcy Court, upon the Closing, the Purchaser shall not be deemed to (a) be the successor of Seller, (b) have, de facto, or otherwise, merged with or into Seller; (c) be a mere continuation or substantial continuation of Seller or the enterprise(s) of Seller, or (d) be liable for any acts or omissions of Seller in the conduct of the Business or arising under or related to the Purchased Assets other than as set forth in this Agreement. Without limiting the generality of the foregoing, and except as otherwise provided in this Agreement, the Purchaser shall not be liable for any claims against Seller or any of its predecessors or affiliates, and except as provided in the Agreement, the Purchaser shall have no successor or vicarious liability of any kind or character whether known or unknown as of the Closing Date, whether now existing or hereafter arising, or whether fixed or contingent, with respect to the Business or any obligations of Seller arising on or prior to the Closing Date, including, but not limited to, Liabilities on account of any Taxes arising, accruing or payable under, out of, in connection with or in any way relating to the operation of the Business on or prior to the Closing Date. The Purchaser acknowledges and agrees that this Section 10.4 shall not in any way be deemed to create, expand, or modify any indemnification obligation of Seller under this Agreement or any ancillary agreement thereto.

Section 10.5. Amendment of Agreement. This Agreement may not be supplemented, modified or amended except by a written agreement executed by each party hereto.

Section 10.6. Notices. Any notice shall be in writing or in an electronic form and shall be deemed to have been duly given or made (i) when personally delivered by hand, (ii) upon confirmed delivery by a standard overnight carrier (iii) upon confirmation of receipt of an electronic form delivery by an email or (iv) the expiration of five (5) Business Days after the day when mailed by registered or certified mail, postage prepaid, return receipt requested, addressed

as follows, or to such other addresses as may be furnished hereafter by notice, in writing, to the other party, to the following parties:

(a) If to the Purchaser, to:

Acessa AssetCo LLC
427 Park Street
Charlottesville, VA 22902
Attention: Joe Andrasko
Telecopier: _____
Email:

with a copy given in like manner to (which shall not constitute notice):

Smith, Gambrell & Russell, LLP
Suite 3100, Promenade
1230 Peachtree Street, N.E.
Atlanta, Georgia 30309-3592
Brian P. Hall, Esq.
Email: bhall@sgrlaw.com

If to Seller:

Halt Medical, Inc.
131 Sand Creek Rd.
Brentwood, CA 94513
Attention: Kim Bridges
Telecopier: _____
Email: kbridges@haltmedical.com

with a copy given in like manner to (which shall not constitute notice):

Cooley LLP
101 California Street, Fifth Floor
San Francisco, CA 94111
Attention: Robert L. Eisenbach III
Telecopier: (415) 693-2222
Email: reisenbach@cooley.com

Any notice which is delivered or is sent by facsimile or email shall be deemed to have been validly and effectively given and received on the date it is delivered or sent, unless it is delivered or sent after 5:00 p.m. on any given day or on a day which is not a Business Day, in which case it shall be deemed to have been validly and effectively given and received on the Business Day

next following the day it was delivered or sent, provided that, in the case of a notice sent by facsimile or email, it shall not be deemed to have been sent unless there has been confirmation of transmission.

Section 10.7. Fees and Expenses. Other than as expressly provided herein, the parties agree that all costs and expenses of the parties relating to the negotiation, preparation, execution and delivery of this Agreement and the performance of the Transactions shall be paid by the party incurring such expenses.

Section 10.8. Governing Law; Jurisdiction; Service of Process. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to any principles of conflicts of law that would apply the laws of another jurisdiction. By its execution and delivery of this Agreement, each of the parties hereto irrevocably and unconditionally agrees for itself that any legal action, suit or proceeding between the Seller, on the one hand, and the Purchaser, on the other hand, with respect to any matter under or arising out of or in connection with this Agreement or for recognition or enforcement of any judgment rendered in any such action, suit or proceeding, shall be brought in the Bankruptcy Court for that purpose only, and, by execution and delivery of this Agreement, each hereby irrevocably accepts and submits itself to the jurisdiction of such court, generally and unconditionally, with respect to any such action, suit or proceeding. In the event any such action, suit or proceeding is commenced, the parties hereby agree and consent that service of process may be made, and personal jurisdiction over any party hereto in any such action, suit or proceeding may be obtained, by service of a copy of the summons, complaint and other pleadings required to commence such action, suit or proceeding upon the party at the address of such party set forth in Section 10.6 hereof, unless another address has been designated by such party in a notice given to the other parties in accordance with the provisions of Section 10.6 hereof. THE PARTIES HEREBY IRREVOCABLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED IN CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS OF SELLER, THE PURCHASER OR THEIR RESPECTIVE REPRESENTATIVES IN THE NEGOTIATION OR PERFORMANCE HEREOF.

Section 10.9. Further Assurances. At the Closing, and at all times thereafter, and where performance is possible, as may be necessary, Seller shall execute and deliver to the Purchaser such other instruments of transfer as shall be reasonably necessary or appropriate to vest in the Purchaser good and indefeasible title to the Purchased Assets free and clear of all Encumbrances (other than Permitted Encumbrances) and to comply with the purposes and intent of this Agreement and such other instruments as shall be reasonably necessary or appropriate to evidence the assignment by the Seller and assumption by the Purchaser of the Assigned Contracts, or otherwise necessary for the Purchaser to conduct the Business, and each of the parties hereto shall use its reasonable efforts to take, or cause to be taken, all appropriate action, do or cause to be done all things necessary, proper or advisable under applicable Legal Requirements, and execute and deliver such documents and other papers, as may be required to consummate the Transactions.

Section 10.10. Disclosure Generally. Any matter or item listed or described on the Disclosure Schedules shall be listed or described under a caption that specifically identifies the Section and subsection (if applicable) of this Agreement to which the matter or item relates. Nothing in the Disclosure Schedules shall be deemed adequate to disclose an exception to a representation or warranty made herein unless the disclosure identifies the exception in reasonable detail. Without limiting the generality of the foregoing, the mere listing (or inclusion of a copy) of a document or other matter or item shall not be deemed adequate to disclose an exception to a representation or warranty made herein (unless the representation or warranty has to do with the existence of the document or other item itself).

Section 10.11. Entire Agreement. This Agreement (including the Exhibits, Disclosure Schedules and other documents referred to herein) constitutes the full and entire agreement between the parties hereto pertaining to the Transactions and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, with respect thereto made by any party.

Section 10.12. Waiver. Neither the failure nor any delay by any party in exercising any right, power, or privilege under this Agreement or the documents referred to in this Agreement shall operate as a waiver of such right, power or privilege, and no waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision (whether or not similar) nor shall any waiver constitute a continuing waiver unless otherwise expressed or provided. All waivers hereunder must be in writing to be effective.

Section 10.13. Assignment. Neither the Seller or the Purchaser shall assign their respective rights and/or obligations hereunder (or agree to do so) without the prior written consent of the other party, which consent may be withheld by such party in its sole and absolute discretion; *provided, however*, that the Purchaser shall be permitted, upon prior notice to the Seller, to assign all or part of its rights or obligations hereunder to any of its Affiliates, but no such assignment shall relieve the Purchaser of its obligations under this Agreement.

Section 10.14. Successors and Assigns. All of the covenants and agreements set forth in this Agreement are intended to bind and inure to the benefit of the parties hereto and their respective successors and permitted assigns and be enforceable by the parties hereto and their respective successors and their permitted assigns pursuant to the terms and conditions of this Agreement, and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable benefit, claim, cause of action, remedy or right of any kind.

Section 10.15. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original hereof, and all of which shall constitute a single agreement effective as of the date hereof. Any delivery of an executed copy of this Agreement by way of facsimile or email attachment shall constitute delivery hereof.

Section 10.16. Other Terms. Other terms may be defined elsewhere in this Agreement and, unless otherwise indicated, shall have such meaning throughout this Agreement. As used in this Agreement, any reference to any Legal Requirements, will be deemed also to refer to such Legal Requirements as amended and all rules and regulations promulgated thereunder, unless the context requires otherwise. The words “include”, “includes” and “including” will be deemed to

be followed by “without limitation”. Pronouns in masculine, feminine or neuter genders will be construed to include any other gender, and words in the singular form will be construed to include the plural and vice versa, unless the context otherwise requires. The words “this Agreement”, “herein”, “hereof”, “hereby”, “hereunder” and words of similar import refer to this Agreement as a whole and not to any particular subdivision unless expressly so limited. References in this agreement to Articles, Sections, Exhibits or Schedules are to Articles or Sections of, or Exhibits or Schedules to, this Agreement, except to the extent otherwise specified herein.

Section 10.17. Headings. The headings of the sections, paragraphs and subsections of this Agreement are inserted for convenience only and are not part of this Agreement and do not in any way limit or modify the terms or provisions of this Agreement and shall not affect the interpretation hereof.


Section 10.18. Interpretation. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. If an ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the parties hereto and no presumption or burden of proof will arise favoring or disfavoring any party hereto because of the authorship of any provision of this Agreement.

Section 10.19. Time. Time shall be of the essence of this Agreement. Except as expressly set out in this Agreement, the computation of any period of time referred to in this Agreement shall exclude the first day and include the last day of such period. If the time limited for the performance or completion of any matter under this Agreement expires or falls on a day that is not a Business Day, the time so limited shall extend to the next following Business Day. Whenever action must be taken (including the giving of notice, the delivery of documents or the funding of money) under this Agreement, prior to the expiration of, by no later than or on a particular date, unless otherwise expressly provided in this Agreement, such action must be completed by 5:00 p.m. on such date. The time limited for performing or completing any matter under this Agreement may be extended or abridged by an agreement in writing by the parties or by their respective counsel or solicitors. All references herein to time are references to Eastern Daylight Savings Time.

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

SELLER:

HALT MEDICAL, INC.

By: 

Name: Kim Bridges Rodriguez
Title: President & CEO

PURCHASER:

ACESSA ASSETCO LLC

By:


Name: JOSEPH ANDRIANO
Title: MANAGER

ANNEX A

DEFINITIONS

The following definitions shall apply to and constitute part of this Agreement and all schedules attached hereto:

“**Accounting Firm**” shall have the meaning set forth in Section 3.2.

“**Accounts Receivable**” means, with respect to Seller, all trade accounts receivable in respect of products sold or services rendered to customers by Seller, together with any other miscellaneous accounts receivable of Seller.

“**Acquired Marks**” shall have the meaning set forth in Section 6.13(b).

“**Action**” means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity.

“**Agent**” shall mean American Capital Ltd.

“**Agreement**” shall have the meaning set forth in the Preamble.

“**Affected Employee**” shall have the meaning set forth in Section 6.9(a).

“**Affiliate**” means, with respect to any Person, any other Person which directly or indirectly Controls, is Controlled by or is under common Control with such Person.

“**Allocation Schedule**” shall have the meaning set forth in Section 3.2.

“**Assigned Contracts**” means all executory contracts and unexpired leases of the Seller that are assumed and assigned to Purchaser under this Agreement.

“**Assignee**” means the Purchaser or any designee of the Purchaser with respect to an Assigned Contract.

“**Assumed Liabilities**” shall have the meaning set forth in Section 2.3.

“**Auction**” means the auction sale of the Purchased Assets to be conducted by the Seller under the terms and conditions of the Bidding Procedures Order, at which, as well as in advance of which, the Seller shall use this Agreement as the base bid (i.e., the “stalking horse bid”) to solicit higher or better offers for the Purchased Assets.

“**Back-Up Bidder**” means the Qualified Bid at the Auction with the next highest or otherwise best bid, as determined in the Seller’s sole discretion.

“**Bankruptcy Code**” shall have the meaning set forth in the Recitals.

“**Bankruptcy Court**” shall have the meaning set forth in the Recitals.

“**Bidding Procedures Order**” means that certain Bankruptcy Court order (i) authorizing and approving an Auction schedule and bidding, auction and sale procedures, including, without limitation, as set forth on Exhibit A hereto, (ii) approving the form and manner of the notice of the auction and sale of the Purchased Assets, (iii) approving the Purchaser’s entitlement to the Break-Up Fee and the Expense Reimbursement as set forth in Section 4.3 and Section 9.3, (iv) approving such other buyer protections as are requested by the Purchaser and agreed to by the Seller, and (v) granting other related relief.

“**Bill of Sale**” means the Bill of Sale substantially in the form attached hereto as Exhibit C hereto.

“**Break-up Fee**” means Two Hundred Thousand Dollars (\$200,000).

“**Business**” shall have the meaning set forth in the Recitals.

“**Business Day**” means any day other than a Saturday, Sunday or other day on which commercial banks in Wilmington, Delaware or New York, New York are authorized or obligated to close under applicable Legal Requirements.

“**Cash and Equivalents**” means cash, negotiable instruments, checks, money orders, marketable securities, short-term instruments and other cash equivalents, funds in time and demand deposits or similar accounts and any evidence of indebtedness issued or guaranteed by the Government.

“**Causes of Action**” means all Claims and causes of action held by Seller immediately prior to the Closing Date, including, but not limited to, any and all Claims, obligations, rights, suits, damages, causes of action, remedies and liabilities, whatsoever, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity or otherwise, whether arising under any contract or under the Bankruptcy Code or other federal, state or other non-bankruptcy law.

“**Chapter 11 Case**” shall have the meaning set forth in the Recitals.

“**Claim**” has the meaning ascribed by Bankruptcy Code §101(5), including all rights, claims, causes of action, defenses, debts, demands, damages, offset rights, setoff rights, recoupment rights, obligations, and liabilities of any kind or nature under contract, at law or in equity, known or unknown, contingent or matured, liquidated or unliquidated, and all rights and remedies with respect thereto.

“**Closing**” means the consummation of the Transactions in accordance with the terms set forth in Article VIII.

“**Closing Date**” means the third (3rd) Business Day following satisfaction or waiver of all the conditions set forth in Article VII, or such other date as the Seller and the Purchaser shall mutually agree upon in writing.

“**COBRA**” means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, and the Public Health Service Act, as amended, collectively.

“**Contracts**” means any executory contracts, agreements or other arrangements, whether written or unwritten, other than Leases, entered into by Seller or by which Seller is bound, in each case, only to the extent such contracts or agreements are related to the Business.

“**Control**” means, as to any Person, the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise (the terms “Controlled by” and “under common Control with” shall have correlative meanings).

“**Cure Costs**” means any and all compensation or other payments for actual pecuniary loss or otherwise that are due to a non-Seller party under an Assigned Contract, as determined by the Bankruptcy Court or otherwise agreed to by the parties, that must be made in order to effect the assumption and assignment of an Assigned Contract under section 365 of the Bankruptcy Code.

“**Data**” means all Documents and data related to the Business, including, but not limited to all clinical, analytical, bench and manufacturing data.

“**Debtor**” shall have the meaning set forth in the Recitals.

“**DIP Credit Agreement**” means that certain Senior Secured, Super-Priority Debtor-In-Possession Loan and Security Agreement, of even date herewith, by and among Seller, the lenders from time to time party thereto and Purchaser, as may be amended, restated, supplemented or otherwise modified and in effect from time to time.

“**DIP Facility Obligations**” means the “Obligations” as defined in the DIP Orders.

“**DIP Orders**” means the interim and final orders of the Bankruptcy Court approving Seller’s entry into the DIP Credit Agreement.

“**Disclosure Schedules**” means the disclosure schedules delivered by the Seller to the Purchaser concurrently with the execution and delivery of this Agreement and dated as of the date of this Agreement.

“**Documents**” means all books, records, files, registration certificates, invoices, inventory records, product specifications, advertising materials, previous, current and prospective customers, broker and customer lists, cost and pricing information, previous, current and prospective supplier and vendor lists, business plans, catalogs, customer literature, training materials, quality control records and manuals, research and development files, records and laboratory books and credit records of previous, current and prospective broker, customers, suppliers and vendors and any other documents (including all data and other information stored on discs, tapes or other media) to the extent used in or to the extent relating to the assets, properties, including the Intellectual Property, business or operations of the Business.

“Domain Names” means any alphanumeric designation registered with or assigned by a domain name registrar, registry or domain name registration authority as part of an electronic address on the Internet.

“Employee Plan” means any “employee benefit plan” within the meaning of Section 3(3) of ERISA and any bonus, incentive compensation, deferred compensation, stock ownership, stock option, phantom stock, equity, premium conversion, medical, hospitalization, vision, dental, health, life, disability, employment, severance, vacation, death benefit or other employee benefit plan, program, contract or arrangement, whether or not subject to ERISA, which the Seller or any ERISA Affiliate sponsors, maintains or contributes to for the benefit of its current or former employees, directors, managers, officers, consultants, contingent workers, leased employees or independent contractors (or their dependents, spouses or beneficiaries).

“Encumbrance” means any lien, claim, interest, or encumbrance, in each case of any kind or nature, including, without limitation, any charge, mortgage, lease, hypothecation, deed of trust, pledge, security interest, option, right of use, first offer or first refusal, easement, servitude, restrictive covenant, encroachment, setoff, recoupment, liability, debt, or indebtedness.

“Environmental Claim” means any Action, order of any Governmental Authority, lien, fine, penalty, or, as to each, any settlement or judgment arising therefrom, by or from any Person alleging liability of whatever kind or nature (including liability or responsibility for the costs of enforcement proceedings, investigations, cleanup, governmental response, removal or remediation, natural resources damages, property damages, personal injuries, medical monitoring, penalties, contribution, indemnification and injunctive relief) arising out of, based on or resulting from: (a) the presence, Release of, or exposure to, any Hazardous Substances; or (b) any actual or alleged non-compliance with any Environmental Law or term or condition of any Environmental Permit.

“Environmental Laws” means all applicable foreign, federal, state, municipal and local laws, statutes, regulations and other legal requirements relating to the protection of the environment or natural resources.

“Environmental Notice” means any written directive, notice of violation or infraction, or notice respecting any Environmental Claim relating to actual or alleged non-compliance with any Environmental Law or any term or condition of any Environmental Permit.

“Equipment” means all equipment, forklifts, trucks, automobiles, furniture, computers, servers, machinery, apparatus, appliances, implements, spare parts, supplies and all other tangible personal property of every kind and description, in each case, that are owned by the Seller and used in or relate to the Business.

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

“Excluded Assets” shall have the meaning set forth in Section 2.2.

“Excluded Liabilities” shall have the meaning set forth in Section 2.4.

“Existing Leases” means the Leases for property, plant and equipment listed on Section 5.1(i) under “Existing Leases.”

“Existing Real Property Leases” means the Leases for real property listed on Section 5.1(i).

“Expense Reimbursement” means the Seller’s reimbursement of the documented, out-of-pocket charges, costs, fees, payments and expenses (including, without limitation, all fees, expenses and disbursements of the Purchaser’s legal and other advisors) paid or incurred by or on behalf of the Purchaser relating to or in connection with (i) the purchase of the Purchased Assets including the Transactions and any documents or agreements related hereto, (ii) the negotiation, preparation, execution or performance of agreements relating to the purchase of the Purchased Assets, including this Agreement, and certain documents or agreements related thereto, (iii) business, financial, legal, accounting, tax and other due diligence relating to the Purchased Assets, (iv) the interests of Purchaser as Purchaser or designee under this Agreement in the Chapter 11 Case, and (v) the due diligence, analysis, negotiation, preparation or execution of any contracts or arrangements with any current or prospective brokers customers, licensees, licensors, lessors, lessees, vendors, suppliers, agents or payees of the Seller; provided, that notwithstanding anything herein to the contrary, the Expense Reimbursement shall not exceed Three Hundred Thousand Dollars (\$300,000).

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

“Financial Statements” shall have the meaning set forth in Section 5.1(k).

“GAAP” means the United States’ generally accepted accounting principles in effect from time to time.

“Governmental Authority” means any domestic, foreign, federal, state, provincial or local government, quasi-governmental authority, regulatory authority, stock exchange, government department, agency, commission, board, arbitral or other tribunal, court or arbitrator having jurisdiction or power of any nature over the Business or any of the Purchased Assets.

“Hazardous Substances” means any “pollutant”, “contaminant”, “solid waste”, “hazardous waste”, “hazardous material” or “hazardous substance” defined or characterized under any Environmental Laws.

“Intellectual Property” means all intellectual property rights of any kind or nature of Seller, including with respect to the following: trade or brand names, business names, trademarks

and service marks (including the trade name Halt Medical and Acesa trade names, and all logos), trademark and service mark registrations and applications, the goodwill of the business connected with the use of and symbolized by any of the foregoing, software, Domain Names, copyrights, copyright registrations and applications, issued patents and patent applications, trade secrets, proprietary or confidential information and know-how, parts lists and descriptions, instruction manuals, inventions, data, blue prints, drawings and designs, formulae, processes, ideas, concepts, specifications, methods, models, methodologies, reports, customer and other contact lists, business plans, surveys, market research studies and technology, only to the extent that such intellectual property relates to the Business.

“Inventory” means all raw materials, supplies, work-in-process, finished goods and packaging materials of Seller held for use and resale in the Business and finished goods purchased in the Ordinary Course of Business of Seller and held for resale.

“IP Assignment Agreements” shall have the meaning set forth in Section 5.1(p)(iii).

“IRC” means the Internal Revenue Code of 1986, as amended.

“Key Customers” means the top thirty (30) Customers in terms of gross sales for the twelve (12) month period ending on December 31, 2016.

“Key Employees” means Kim Bridges, Jeremy McFadden, and Robert Skidmore.

“Key Suppliers” means the top ten (10) suppliers in terms of gross costs for the twelve (12) months ending December 31, 2016.

“Knowledge of the Seller” means the actual knowledge of Kim Bridges, Jeremy McFadden, and Robert Skidmore, each in their capacities as current officers, employees and/or service providers of the Seller, after due inquiry, which inquiry includes consultation with the officers, employees, consultants and agents who have primary responsibility over the relevant matter.

“Lease” means any unexpired agreements to lease, leases, renewals of leases, sub-tenancy agreements and other rights (including licenses) granted to Seller, or its respective predecessor in interest which entitles Seller to possess Equipment or other non-real property assets or occupy space within certain premises.

“Leased Real Property” means all Real Property leased by Seller under the Existing Real Property Leases.

“Legal Requirement” means (i) any federal, state, provincial, local, municipal, foreign, international, multinational, or other administrative order, constitution, law, ordinance, principle of common law, regulation, statute or treaty and (ii) the rules, regulations, guidelines, requirements and contractual obligations set, imposed or observed by any international, multinational, federal, state, provincial, local, municipal, foreign or other settlement network.

“**Liability**” means all liabilities and obligations (whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated and whether due or to become due).

“**Made Available to Purchaser**”, whether or not such term is capitalized herein, means (i) having been delivered in writing to Purchaser’s Representative or Purchaser’s counsel, or (ii) transmitted to Purchaser’s Representative by e-mail, with confirmation of receipt from Purchaser’s Representative, with any such delivery or deposit to occur no later than three (3) Business Days prior to the date of this Agreement.

“**Material Adverse Effect**” means any event or condition in respect of the operation of the Business, the Purchased Assets and the Assumed Liabilities that individually or in the aggregate results in a material adverse effect on (x) the assets, properties, operations or condition (financial or otherwise) of the Business or (y) the ability of the Seller to consummate the Transactions, other than an effect resulting from an Excluded Matter. “**Excluded Matter**” means any one or more of the following: (i) the effect of any change arising in connection with earthquakes, hostilities, acts of war, sabotage or terrorism or military actions or any escalation or material worsening of any such hostilities, acts of war, sabotage or terrorism or military actions existing or underway as of the date hereof; (ii) the effect of any changes in Legal Requirements or accounting rules; (iii) any effect resulting from compliance with terms of this Agreement or the consummation of the Transactions; (iv) any effect resulting from the filing of the Chapter 11 Case and reasonably anticipated effects thereof; or (v) the effect of general political, economic or financial market conditions; *provided, that*, the effects of any change described in clause (i), (ii) and (v) do not disproportionately affect the Business adversely in any material respect.

“**Material Contract**” means each Contract of the Seller (i) involving aggregate consideration in excess of \$25,000 or payments by or to the Seller in excess of \$25,000 per annum and which, in each case, cannot be cancelled by the Seller without penalty or without more than 90 days’ notice; (ii) that requires the Seller to purchase its total requirements of any product or service from a third party or that contain “take or pay” provisions; (iii) that limits or purports to limit the ability of the Seller to compete in any line of business or with any Person or in any geographic area or during any period of time; (iv) that licenses to the Seller any intellectual property necessary for production by the Seller of its products or (v) that provides for any joint venture, partnership or similar arrangement by the Seller.

“**Noteholders**” means the holders of the Notes.

“**Notes**” means the Senior Secured Promissory Notes issued by Seller to the Noteholders in the aggregate principal amount of \$84,346,363 pursuant to that certain Note Purchase and Exchange Agreement dated March 17, 2014, secured by the collateral described in that certain Security Agreement by and among Seller, Agent and the Noteholders party thereto, dated March 17, 2014.

“**Ordinary Course of Business**” means the operation and conduct of the Business in the ordinary course, consistent with past practice through and including February 2017, except has such practice is restricted, modified, effected, or altered by the filing of the Chapter 11 Case.

“**Permits**” means all filings, notices, franchises, grants, authorizations, licenses, permits, easements, variances, exceptions, consents, certificates, approvals, clearances and orders of any Governmental Authority.

“**Permitted Encumbrances**” means (i) statutory liens for current property Taxes and assessments not yet due and payable, including liens for ad valorem Taxes and statutory liens not yet due and payable arising other than by reason of any default by Seller, (ii) Encumbrances that constitute Assumed Liabilities (including Encumbrances existing under the Assigned Contracts), and (iii) landlords’, carriers’, warehousemen’s, mechanics’, suppliers’, materialmen’s, repairmen’s liens or other like Encumbrances arising in the Ordinary Course of Business with respect to amounts not yet due.

“**Person**” means an individual, partnership, limited liability company, corporation, trust, unincorporated organization, government or any department or agency thereof, and the successors and assigns thereof or the heirs, executors, administrators or other legal representatives of an individual.

“**Petition Date**” shall have the meaning set forth in the Recitals.

“**Purchase Price**” shall have the meaning set forth in Section 3.1.

“**Purchased Assets**” shall have the meaning set forth in Section 2.1.

“**Purchased Deposits**” means all deposits of Seller (including deposits and security deposits for rent and electricity) and prepaid charges and expenses of the Seller, such as for security, as surety money, as a retainer or other similar amounts, other than any deposits or prepaid charges and expenses paid in connection with or relating primarily to any Excluded Assets or Excluded Liabilities.

“**Purchaser**” shall have the meaning set forth in the Preamble.

“**Purchaser Benefit Plans**” shall have the meaning set forth in Section 6.9(b).

“**Purchaser’s Representative(s)**” means Joe Andrasko and Brian Smith and such other person or persons as may be designated to Seller in writing by Purchaser.

“**Qualified Bid**” shall have the meaning set forth in Exhibit A hereto.

“**Qualified Bidder**” shall have the meaning set forth in Exhibit A hereto.

“**Real Property**” means all real property owned, leased or used by Seller in the conduct of the Business, including land, buildings, improvements, fixtures and all rights and interests pertaining thereto.

“**Release**” means any actual or threatened release, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, abandonment, disposing or allowing to escape or migrate into or through the environment (including, without limitation,

ambient air (indoor or outdoor), surface water, groundwater, land surface or subsurface strata or within any building, structure, facility or fixture).

“Representatives” means, with respect to a particular Person, any director, officer, manager, partner, member, employee, agent, consultant, advisor or other representative of such Person, including legal counsel, accountants and financial advisors.

“Sale Motion” means, collectively, the Seller’s motion(s), together with appropriate supporting papers and notices, for entry of the Bidding Procedures Order and the Sale Order, and the granting of related relief, by the Bankruptcy Court. The Sale Motion shall be in a form reasonably satisfactory to the Purchaser.

“Sale Order” means an order or orders of the Bankruptcy Court (i) authorizing and approving the sale of the Purchased Assets to the Purchaser free and clear of all Encumbrances pursuant to sections 363(b) and 363(f) of the Bankruptcy Code, on the terms and conditions contained in this Agreement, (ii) authorizing and approving the consummation of the Transactions, (iii) approving the assumption and assignment pursuant to section 365 of the Bankruptcy Code of the Assigned Contracts on the terms and conditions contained in this Agreement, (iv) containing findings of fact and conclusions of law that (a) the Purchaser and any assignee thereof is a good faith purchaser entitled to the protections of section 363(m) of the Bankruptcy Code, and (b) the consideration to be paid by the Purchaser or any assignee thereof for the Purchased Assets is fair, reasonable and adequate, (v) authorizing and approving the treatment of the Assigned Contracts on the terms and conditions set forth in this Agreement, and (vi) granting other related relief.

“Seller” shall have the meaning set forth in the Preamble.

“Signing Date” shall have the meaning set forth in the Preamble.

“Subsidiary” means a corporation or other entity of which more than 50% of the voting power or value of the equity securities or equity interests is owned, directly or indirectly, by the Seller or the Purchaser, as the context requires.

“Tax” or **“Taxes”** means (i) any federal, state, local, foreign or other taxes, assessments or governmental charges, including any net income, gross income, gross receipts, windfall profit, severance, property, production, sales, use, license, excise, franchise, employment, payroll, withholding, alternative or add on minimum, ad valorem, value added, transfer, stamp, or environmental tax, escheat payments or payments in respect of any law regarding unclaimed property or any other tax, custom, duty, governmental fee or other like assessment or charge (together with any and all interest, penalties and additions to tax imposed with respect thereto), and (ii) any liability in respect of items described in clause (i) arising by reason of contract, assumption, transferee liability, operation of law or Treasury Regulation Section 1.1502-6 (or similar provision of law).

“Tax Return” or **“Tax Returns”** means all returns, declarations of estimated tax payments, reports, estimates, information returns and statements, and other documents including any related or supporting information and any amendments with respect to any of the foregoing,

filed or required to be filed with any taxing authority in connection with the determination, assessment, collection or administration of any Taxes.

“Transactions” means the transactions contemplated by this Agreement, including, without limitation, the purchase and sale of the Purchased Assets, assumption of the Assumed Liabilities provided for in this Agreement, and assignment of the Assigned Contracts.

“Transfer Taxes” shall have the meaning set forth in Section 8.4(b).

“WARN Act” means the Worker Adjustment and Retraining Notification Act of 1988, or any similar state or local law.

Asset Purchase Agreement

Halt Medical, Inc. as Seller

Schedule of Disclosures

Schedule 2.1(h)

Permits

1. 510(k) Indication for Use # K094009 for Halt 2000GI Electrosurgical Radiofrequency Ablation System, submitted by Halt Medical, Inc.
2. 510(k) Indication for Use # K121858 for The Acesa System, submitted by Halt Medical, Inc., approved November 5, 2012
3. 510(k) Indication for Use # K132184 for The Acesa System (Fibroid w/Guidance Handpiece), submitted by Halt Medical, Inc., approved April 28, 2014
4. 510(k) Indication for Use # K132744 for Acesa Guidance System, submitted by Halt Medical, Inc., approved May 27, 2017
5. 93/42/EEC - Certificate for Generators and Sterile and Neutral Electrodes, issued to Halt Medical, Inc. by TUV NORD CERT GmbH, expiring May 22, 2017
6. CAN CSA ISO 13485 Certificate for Generators and Sterile Electrodes, issued to Halt Medical, Inc. by TUV NORD CERT GmbH, expiring May 16, 2017
7. EN ISO 13485 Certificate for RF-Generators and Sterile and Neutral Electrodes,
8. MDSS Certificate of CE Registration, issued to Halt Medical, Inc. by Medical Device Safety Service GmbH, dated April 8, 2016
9. Safety Compliance Certificate TUV CU72122218 for Ablation System, issued to Halt Medical, Inc. by TUV Rheinland of North America, Inc., dated October 12, 2012
10. Safety Compliance Cert TUV CU72131072-01 for Acesa Guidance, issued to Halt Medical, Inc. by TUV Rheinland of North America, Inc., dated May 14, 2012
11. Canadian Medical Device License for Acesa Handpiece, issued to Halt Medical, Inc. on October 5, 2010 by the Canadian Medical Devices Bureau, as amended on January 7, 2013.
12. Canadian Medical Device License for Acesa Pads, issued to Halt Medical, Inc. on November 30, 2010 by the Canadian Medical Devices Bureau, as amended on January 7, 2013.
13. Canadian Medical Device License for Acesa System, issued to Halt Medical, Inc. on September 22, 2011 by the Canadian Medical Devices Bureau, as amended on March 15, 2013.
14. State of California Device Manufacturing License, expiration date May 6, 2017, issued to Halt Medical, Inc. by the California Department of Public Health

15. Food and Drug Administration MedWatch Form 3500A, filed June 6, 2016 by Halt Medical, Inc., report # 3006443171-2016-00001 (reporting a possible event or problem with an Acesa Handpiece)
16. Food and Drug Administration MedWatch Form 3500A, filed June 6, 2016 by Halt Medical, Inc., report # 3006443171-2016-00002 (reporting a possible event or problem with an Acesa Handpiece)
17. Food and Drug Administration MedWatch Form 3500A, filed June 6, 2016 by Halt Medical, Inc., report # 3006443171-2016-00004 (reporting a possible event or problem with a Guidance Handpiece)

Schedule 2.1(i)

Intellectual Property

Halt Patents, Application for Patents, Abandoned Patents, Trademarks, and Abandoned Trademarks are included below:

ISSUED PATENTS

U.S. App . No.	Filing Date	Title	U.S. Patent No.	PCT No.	PCT Countries
US 09/920,425	07/31/2001	Gynecological Ablation Procedure and System Using an Ablation Needle	USPN 6,840,935	PCT/US01/24916	Canada Europe Japan Korea
US 11/033,351	10/01/2005	Gynecological Ablation Procedure and System	USPN 7,678,106	PCT/US06/00060	Canada India China Australia Israel Japan Mexico
US 11/940,289	11/14/2007	RF Abalation Device with Jam Preventing Electrical Coupling Member	USPN 8,241,276	PCT/US08/83634	Australia Canada China Europe Israel India Japan Korea
US 11/173,928	05/08/2006	Radio Frequency Ablation Device for the Destruction of Tissue Masses	USPN 8,080,009	PCT/US06/25975	Australia Canada Europe Japan
US 11/429,921	07/01/2005	Anchored RF Ablation Device for the Destruction of Tissue Masses	USPN 8,512,333	PCT/US06/25975	Australia Canada Europe Japan
US 11/940,294	11/14/2007	Anchored RF Ablation Device for the Destruction of Tissue Masses	USPN 8,251,991	PCT/US08/83617	Israel Mexico Australia Canada China

					India Japan New Zealand Russia
US 13/069,466	03/23/2011	Ablation Method	USPN 8,512,330	PCT/US12/30203	Europe
US13/969,605	08/18/2013	Ablation Method	USPN 9,510,898	N/A	N/A
	03/13/2008	Apparatus for Moderating Return Electrode Temperature		PCT/US08/56907	Europe Australia Canada China
TR 2010/10157		Gynecological Ablation Procedure and System Using an Ablation Needle		2010-G-281995	
TW 95100746		Gynecological Ablation Procedure and System		TWI377931	

PENDING APPLICATIONS

U.S. App . No.	Filing Date	Title	PCT No.	PCT Countries
US13/323,722	12/12/2011	Radio Frequency Ablation Device for the Destruction of Tissue Masses	N/A	
US13/969,600	8/18/2013	Anchored RF Ablation Device for the Destruction of Tissue Masses	N/A	
US14/872,507	10/01/2015	Surgical Guidance System with Low Interference metal Support Structure	N/A	

US14/537,899	11/10/2014	System for visualization and control of surgical devices utilizing a graphical user interface	N/A	
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ABANDONED APPLICATIONS

U.S. App . No.	Filing Date	Title	PCT No.	PCT Countries
US 13/069,497	03/23/2011	Merged Image User Interface and Navigational Tool for Remote Control of Surgical Devices	PCT/US12/30456	Europe
US 11/877,397 ***USPTO MISTAKE - SENT OFFICE ACTION TO WRONG ADDRESS	10/23/2007	Gynecological Ablation System With Laparoscopic and Ultrasound Imaging	N/A	
US 13/069,472 ***USPTO MISTAKE - SENT OFFICE ACTION TO WRONG ADDRESS	03/23/2011	User Interface and Navigational Tool for Remote Control of Anchored RF Ablation Device for Destruction of Tissue Masses	PCT/US12/30456	Europe
US11/717,920	03/13/2007	Ablation system and heat preventing electrodes therefor	PCT/US08/56907	Europe

US11/877,349	10/23/2007	Gynecological Ablation system with insufflation assisted imaging		
US13/310,792	12/04/2011	Radio Frequency Ablation Device For The Destruction Of Tissue Masses		
US13/537,015	06/28/2012	Impedance Responsive Ablation RF Driving For Moderating Return Electrode Temperature		
10/853,599	5/24/2004	Gynecological Ablation Procedure and system using an ablation needle		
US12/017,272	01/21/2008	Temperature responsive ablation RF driving for moderating return electrode temperature	PCT/US09/31586 PCT/US08/56907	
US12/017,278	01/21/2008	Impedance Responsive Ablation Rf Driving For Moderating Return Electrode Temperature	PCT/US09/31586 PCT/US08/56907	
US12/017,282	01/21/2008	Intermittent Ablation Rf Driving For Moderating	PCT/US09/31586 PCT/US08/56907	

		Return Electrode Temperature		
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TRADEMARK REGISTRATIONS

TM App . No.	Title	Reg. No.
77/449,042	THE HALT PROCEDURE	4,029,099
77/449,052	HALT FIBROIDS	4,029,100
77/339,214	THE FUTURE OF WOMEN'S HEALTHCARE...TODAY	3,944,619
85/433,212	ACESSA	4,720,638
77/442,747	HALT MEDICAL and design	4,042,388
77/333,394	TULIP	3,861,260
12,004,925	ACESSA (EU)	12,004,925
900,921,846	TULIP (Brazil)	900,921,846
966,980	TULIP (Multiple Countries)	966,980
966,063	HALT (Multiple Countries)	966,063

DOMAIN NAME REGISTRATIONS

Domain Name	Registrar	Registrant	Expiration Date
Acessahealth.com	GoDaddy	Halt Medical	3/14/2018
Acessatechnologies.com	GoDaddy	Halt Medical	3/14/2018
Acessainc.com	GoDaddy	Halt Medical	3/14/2018

MATERIAL CONTRACTS GRANTING A LICENSE IN COMPANY INTELLECTUAL PROPERTY

Business Agreement, dated July 28, 2016, between [REDACTED] and the Halt Medical, Inc.

MATERIAL CONTRACTS GRANTING A LICENSE IN INTELLECTUAL PROPERTY TO THE COMPANY

License and Product Development Agreement, dated August 5, 2016, between Halt Medical, Inc. and [REDACTED]

Schedule 2.1(r)

Personal Property

None

Schedule 2.3(a) Leases and Contracts to be Assigned Contracts

TBD from contracts listed on Schedule 5.1(i) Leases and Schedule 5.1(j) Material Contracts.

Schedule 2.3(b) Assumed Liabilities

Goods Received in the ordinary course of business in the 20 days leading up to filing:

1. Service OR Cart-small received on 3-23-2017 from National Biz Furniture in the amount of \$265.85 paid for on the American Express Company Credit Card

Goods/Services expected to be incurred in the ordinary course of business after the filing through to closing

The prepetition liabilities listed below may also be assumed by Purchaser at the Closing

- | | |
|---|------|
| 1. Fedex (shipping) | \$xx |
| 2. UPS (shipping) | \$xx |
| 3. Orkin (pest control) | \$xx |
| 4. Town & Country (cleaning) | \$xx |
| 5. Verizon (hot spots) | \$xx |
| 6. Comcast (internet) | \$xx |
| 7. Bay Alarm (security) | \$xx |
| 8. Carlisle Asia Pacific Ltd. (pad parts) | \$xx |

Schedule 2.4(n) Specifically Excluded Liabilities

TBD determined by the parties.

Schedule 5.1(d) No Proceedings

On January 16, 2015, a lawsuit was filed in the Delaware Chancery Court by Calesa Associates, L.P. and other plaintiffs against American Capital, Ltd. and certain affiliates, together with certain former directors of the Company, listed below. The Company is not named in the lawsuit, which remains pending.

On August 23, 2016, Judy Wong, the former spouse of Dr. Bruce B. Lee who is the inventor of Company's Acesa Procedure, filed a lawsuit against Dr. Lee and his former company Bekl Corp., in the Superior Court of the State of California, Monterey County, with respect to an agreement between Ms. Wong and Dr. Lee. The lawsuit also named the Company as an alleged a successor in interest. The lawsuit remains pending.

The initial complaint filed for each listed item below is included as an attachment:

1. Calesa Associates, L.P., et al. v. American Capital, Ltd., et al., Delaware Chancery Court, Case No. 10557
2. Judy Wong v. Dr. Bruce B. Lee, et al., Monterey County Superior Court, Case No. 16CV002572

Schedule 5.1(g) Legal Requirements

None.

Schedule 5.1(h) Interests in the Purchased Assets

None.

Schedule 5.1(i) Leases

Real Property Leases

1. Lease Agreement, dated September 27, 2010, between the Halt Medical, Inc. and Sand Creek Business Associates I, LLC, as amended by the First Amendment and Extension of Lease dated September 12, 2011, Second Amendment and Extension of Lease dated March 1, 2013, Third Amendment and Extension of Lease dated May 23, 2014, and Fourth Amendment and Extension of Lease, dated September 3, 2015 (Brentwood, CA).
2. Office Lease Renewal Agreement, dated September 1, 2016, between Halt Medical and Regus Management Group, LLC (Austin, TX)

Equipment Leases

1. Ultrasound Equipment Rental Agreement, dated February 22, 2016, between Halt Medical, Inc. and Navitas Lease Corp., for rental number 40235687
2. Ultrasound Equipment Rental Agreement, dated February 22, 2016, between Halt Medical, Inc. and Navitas Lease Corp., for rental number 40235704
3. Ultrasound Equipment Rental Agreement, dated February 23, 2016, between Halt Medical, Inc. and Navitas Lease Corp., for rental number 40236738
4. Ultrasound Equipment Rental Agreement, dated February 23, 2016, between Halt Medical, Inc. and Navitas Lease Corp., for rental number 40236743
5. Ultrasound Equipment Rental Agreement, dated May 23, 2016, between Halt Medical, Inc. and Navitas Lease Corp., for rental number 40258134
6. Ultrasound Equipment Rental Agreement, dated May 23, 2016, between Halt Medical, Inc. and Navitas Lease Corp., for rental number 40258176
7. Ultrasound Equipment Rental Agreement, dated July 19, 2016, between Halt Medical, Inc. and Navitas Lease Corp., for rental number 40269620
8. Ultrasound Equipment Rental Agreement, dated October 3, 2016, between Halt Medical, Inc. and Navitas Credit Corp., for rental number 40286180
9. Ultrasound Equipment Rental Agreement, dated October 3, 2016, between Halt Medical, Inc. and Navitas Credit Corp., for rental number 40286182

10. Ultrasound Equipment Rental Agreement, dated October 3, 2016, between Halt Medical, Inc. and Navitas Credit Corp., for rental number 40286184
11. Canon Copier Equipment Faxable Lease Agreement, dated October 15, 2015, between Halt Medical, Inc. and Canon Financial Services, Inc.

Schedule 5.1(i) Material Contracts

Seller to provide schedule of Cure Amounts.

License & Product Development Agreements

1. License & Product Development Agreement, dated August 5, 2016, between Halt Medical, Inc. and [REDACTED]
2. Business Agreement, dated July 28, 2016, between Halt Medical, Inc. and [REDACTED], as amended and supplemented by the Statement of Work for the [REDACTED], dated August 19, 2016

Purchasing Agreements

1. Purchasing Agreement, dated June 1, 2015, between Halt Medical, Inc. and HealthTrust Purchasing Group, LP, as amended by that certain Amendment to Purchasing Agreement, dated April 1, 2016.
2. Agreement, dated February 17, 2015 by and between the Halt Medical, Inc. and Tenet HealthSystem Medical, Inc.

Attorney Engagement Letters

1. Engagement Letter, dated May 26, 2016, from Alto Litigation, PC as agreed to by Halt Medical, Inc.
2. Attorney-Client Fee Agreement, dated September 1, 2016, between Halt Medical, Inc. and L+G, LLP

Consulting Agreements/Proctoring Agreements

1. Consulting Agreement, dated October 5, 2016, between Halt Medical, Inc. and [REDACTED]
2. Consulting Agreement, dated November 24, 2014, between Halt Medical, Inc. and [REDACTED]
3. Master Consulting Agreement, dated May 9, 2016, between Halt Medical, Inc. and [REDACTED]
4. Master Consulting Agreement, dated June 6, 2016, between Halt Medical, Inc. and [REDACTED]
5. Master Consulting Agreement, dated April 15, 2015, between Halt Medical, Inc. and [REDACTED]
6. Master Consulting Agreement, dated June 10, 2016, between Halt Medical, Inc. and [REDACTED]
7. Master Consulting Agreement, dated July 1, 2014, between Halt Medical, Inc. and [REDACTED]
8. Master Consulting Agreement, dated November 25, 2015, between Halt Medical, Inc. and [REDACTED]
9. Master Consulting Agreement, dated June 6, 2016, between Halt Medical, Inc. and [REDACTED]
10. Master Consulting Agreement, dated June 1, 2016, between Halt Medical, Inc. and [REDACTED]
11. Master Consulting Agreement, dated June 1, 2016, between Halt Medical, Inc. and [REDACTED]
12. Master Consulting Agreement, dated March 3, 2014, between Halt Medical, Inc. and [REDACTED]
13. Consulting Agreement, dated September 11, 2015, between Halt Medical, Inc. and Kemp Clinical Consulting, as amended by the Amendment 2 to Consulting Agreement, dated December 16, 2016

14. Master Consulting Agreement, dated August 6, 2015, between Halt Medical, Inc. and [REDACTED]
15. Consulting Agreement, dated February 24, 2014, between Halt Medical, Inc. and [REDACTED]
16. Master Consulting Agreement, dated December 29, 2015, between Halt Medical, Inc. and [REDACTED]
17. Master Consulting Agreement, dated December 8, 2016, between Halt Medical, Inc. and [REDACTED]
18. Master Consulting Agreement, dated March 5, 2013, between Halt Medical, Inc. and [REDACTED]
19. Master Consulting Agreement, dated June 12, 2014, between Halt Medical, Inc. and [REDACTED]

Service Agreements

1. Proposal of Services for Acessa Reimbursement Support Services, dated June 1, 2016, between Halt Medical, Inc. and [REDACTED] (Reimbursement support)
2. Service Agreement, dated June 13, 2007, between Halt Medical, Inc. and Po Ho (IT support)
3. TriNet Services Requisition Form & Terms and Conditions, dated May 1, 2013, between Halt Medical, Inc. and TriNet HR Corporation (HR support)

TRUST Clinical Trial Agreements

1. Clinical Trial Agreement, dated January 31, 2015, among [REDACTED], and [REDACTED], as amended by Amendment #1 to Clinical Trial Agreement, dated October 26, 2016, and Amendment #2 to Clinical Trial Agreement, dated August 15, 2016
2. Clinical Trial Agreement, dated February 22, 2017, between Halt Medical, Inc., and [REDACTED]
3. Clinical Trial Agreement, dated December 10, 2015, among Halt Medical, Inc., [REDACTED], [REDACTED], and [REDACTED]
4. Clinical Trial Agreement, dated June 28, 2016, between Halt Medical, Inc. and [REDACTED]
5. Clinical Trial Agreement, dated May 11, 2016, between Halt Medical, Inc. and [REDACTED], as amended by Amendment 1 to Clinical Trial Agreement, dated October 1, 2016
6. Clinical Trial Agreement, dated March 11, 2016, between Halt Medical, Inc. and [REDACTED]
7. Clinical Trial Agreement, dated April 4, 2016, between Halt Medical, Inc. and [REDACTED]
8. Clinical Trial Agreement, dated May 16, 2014, between Halt Medical, Inc. and [REDACTED] and amended by Amendment 1 to Clinical Trial Agreement, dated March 31, 2016
9. Clinical Trial Agreement, dated October 5, 2016, between Halt Medical, Inc. and [REDACTED]

ULTRA Clinical Trial Agreement

1. Investigator Initiated Clinical Trial Agreement, dated April 25, 2013, between Halt Medical, Inc. and The Regents of the University of California (UCSF), as amended by Amendment No. 1, dated October 8, 2014, Amendment No. 2, dated November 20, 2015, and Amendment No. 3, dated August 15, 2016

LUSTOR Clinical Trial Agreement

1. Clinical Trial Agreement: Principal Investigator and Site Agreement for the Investigator-Initiated Clinical Protocol, the GFA-001 Study, dated January 27, 2016, between Halt Medical, Inc. and the University Clinical Center Tubingen

Halt Non-Disclosure Agreements

1. Mutual Non-Disclosure Agreement, dated August 22, 2016, between Halt Medical, Inc. and Canepa Healthcare, LLC
2. Non-Disclosure Agreement, dated June 17, 2016, between Halt Medical, Inc. and Strada Consulting Corporation
3. Non-Disclosure Agreement, dated August 23, 2016, between Halt Medical, Inc. and [REDACTED]
4. Non-Disclosure Agreement, dated August 31, 2016, between Halt Medical, Inc. and Novo Ventures (US), Inc.
5. Non-Disclosure Agreement, dated June 8, 2016, between Halt Medical, Inc. and [REDACTED]
6. Non-Disclosure Agreement, dated June 8, 2016, between Halt Medical, Inc. and [REDACTED]
7. Mutual Non-Disclosure Agreement for Lending Transactions, dated August 10, 2016, between Halt Medical, Inc. and Silicon Valley Bank
8. Non-Disclosure Letter, dated September 9, 2016, between Halt Medical, Inc. and MVM Life Science Partners, LLP
9. Mutual Non-Disclosure Agreement, dated June 15, 2016, between Halt Medical, Inc. and [REDACTED]

Halt Employee Confidential Information and Invention Assignment Agreements (EPIIA)

1. Employee Confidential Information and Inventions Assignment Agreement, dated October 12, 2012, between Halt Medical, Inc. and [REDACTED]
2. Employee Confidential Information and Inventions Assignment Agreement, dated March 17, 2016, between Halt Medical, Inc. and [REDACTED]
3. Employee Confidential Information and Inventions Assignment Agreement, dated December 17, 2007, between Halt Medical, Inc. and [REDACTED]
4. Employee Proprietary Information and Inventions Agreement, dated May 23, 2007, between Halt Medical, Inc. and [REDACTED]
5. Employee Proprietary Information and Inventions Agreement, dated August 1, 2007, between Halt Medical, Inc. and [REDACTED]
6. Employee Confidential Information and Inventions Assignment Agreement, dated November 26, 2007, between Halt Medical, Inc. and [REDACTED]
7. Employee Confidential Information and Inventions Assignment Agreement, dated August 6, 2012, between Halt Medical, Inc. and [REDACTED]
8. Employee Confidential Information and Inventions Assignment Agreement, dated September 21, 2010, between Halt Medical, Inc. and [REDACTED]
9. Employee Confidential Information and Inventions Assignment Agreement, dated February 29, 2016, between Halt Medical, Inc. and [REDACTED]
10. Employee Confidential Information and Inventions Assignment Agreement, dated March 13, 2012, between Halt Medical, Inc. and [REDACTED]

11. Employee Confidential Information and Inventions Assignment Agreement, dated August 18, 2014, between Halt Medical, Inc. and [REDACTED]
12. Employee Confidential Information and Inventions Assignment Agreement, dated September 24, 2007, between Halt Medical, Inc. and [REDACTED]
13. Employee Confidential Information and Inventions Assignment Agreement, dated July 15, 2016, between Halt Medical, Inc. and [REDACTED]
14. Employee Confidential Information and Inventions Assignment Agreement, dated December 16, 2015, between Halt Medical, Inc. and [REDACTED]
15. Employee Confidential Information and Inventions Assignment Agreement, dated January 7, 2012, between Halt Medical, Inc. and [REDACTED]
16. Employee Proprietary Information and Inventions Agreement, dated January 20, 2006, between Halt Medical, Inc. and [REDACTED]
17. Employee Proprietary Information and Inventions Agreement, dated September 28, 2005, between Halt Medical, Inc. and [REDACTED]
18. Employee Confidential Information and Inventions Assignment Agreement, dated July 8, 2016, between Halt Medical, Inc. and [REDACTED]
19. Employee Confidential Information and Inventions Assignment Agreement, dated July 25, 2006, between Halt Medical, Inc. and [REDACTED]
20. Employee Confidential Information and Inventions Assignment Agreement, dated October 26, 2015, between Halt Medical, Inc. and [REDACTED]
21. Employee Proprietary Information and Inventions Agreement, dated January 8, 2015, between Halt Medical, Inc. and [REDACTED]

Halt Employee Severance Agreements

1. Confidential Separation Agreement and General Release, dated June 14, 2016, between the Halt Medical, Inc. and [REDACTED]
2. Employee Severance Letter Agreement, dated January 20, 2017, between Halt Medical, Inc. and [REDACTED]
3. Employee Severance Letter Agreement, dated January 20, 2017, between Halt Medical, Inc. and [REDACTED]
4. Employee Severance Letter Agreement, dated January 20, 2017, between Halt Medical, Inc. and [REDACTED]
5. Employee Severance Letter Agreement, dated January 20, 2017, between Halt Medical, Inc. and [REDACTED]
6. Employee Severance Letter Agreement, dated January 20, 2017, between Halt Medical, Inc. and [REDACTED]
7. Employee Severance Letter Agreement, dated January 20, 2017, between Halt Medical, Inc. and [REDACTED]
8. Employee Severance Letter Agreement, dated January 20, 2017, between Halt Medical, Inc. and [REDACTED]
9. Employment agreement with Kim Bridges

Real Property Leases

1. Lease Agreement, dated September 27, 2010, between the Halt Medical, Inc. and Sand Creek Business Associates I, LLC, as amended by the First Amendment and Extension of Lease dated September 12, 2011, Second Amendment and Extension of Lease dated March 1, 2013, Third Amendment and Extension of Lease dated May 23, 2014, and Fourth Amendment and Extension of Lease, dated September 3, 2015 (Brentwood, CA).
2. Office Lease Renewal Agreement, dated September 1, 2016, between Halt Medical and Regus Management Group, LLC (Austin, TX)

Equipment Leases

1. Ultrasound Equipment Rental Agreement, dated February 22, 2016, between Halt Medical, Inc. and Navitas Lease Corp., for rental number 40235687
2. Ultrasound Equipment Rental Agreement, dated February 22, 2016, between Halt Medical, Inc. and Navitas Lease Corp., for rental number 40235704
3. Ultrasound Equipment Rental Agreement, dated February 23, 2016, between Halt Medical, Inc. and Navitas Lease Corp., for rental number 40236738
4. Ultrasound Equipment Rental Agreement, dated February 23, 2016, between Halt Medical, Inc. and Navitas Lease Corp., for rental number 40236743
5. Ultrasound Equipment Rental Agreement, dated May 23, 2016, between Halt Medical, Inc. and Navitas Lease Corp., for rental number 40258134
6. Ultrasound Equipment Rental Agreement, dated May 23, 2016, between Halt Medical, Inc. and Navitas Lease Corp., for rental number 40258176
7. Ultrasound Equipment Rental Agreement, dated July 19, 2016, between Halt Medical, Inc. and Navitas Lease Corp., for rental number 40269620
8. Ultrasound Equipment Rental Agreement, dated October 3, 2016, between Halt Medical, Inc. and Navitas Credit Corp., for rental number 40286180
9. Ultrasound Equipment Rental Agreement, dated October 3, 2016, between Halt Medical, Inc. and Navitas Credit Corp., for rental number 40286182
10. Ultrasound Equipment Rental Agreement, dated October 3, 2016, between Halt Medical, Inc. and Navitas Credit Corp., for rental number 40286184
11. Canon Copier Equipment Faxable Lease Agreement, dated October 15, 2015, between Halt Medical, Inc. and Canon Financial Services, Inc.

Schedule 5.1(l)

Absence of Change

None.

Schedule 5.1(q)

IP Assignment Agreements

None.

Schedule 5.1(q) Insurance Policies**COMPANY POLICIES**

<u>Coverage</u>	<u>Insurers</u>	<u>Policy Number</u>	<u>Effective Dates</u>
1. Commercial General Liability	Valley Forge Insurance Company	B4030498388	01/01/2017 to 01/01/2018
2. Automobile Liability	Valley Forge Insurance Company	B4030498388	01/01/2017 to 01/01/2018
3. Umbrella Liability	National Fire Insurance Co.	B4032991341	01/01/2017 to 01/01/2018
4. Products Liability	Columbia Casualty	ADT4031930816	01/01/2017 to 01/01/2018
5. Foreign Package	Continental Casualty Co.	PST614640039	01/01/2017 to 01/01/2018
6. Directors and Officers Coverage	Torus National Insurance Company	27509E160ASP	05/01/2016 to 05/01/2017
7. Directors and Officers Tail Coverage	Continental Casualty Co.	425594652	05/01/2016 to 05/01/2019

Schedule 5.1(s)

Key Customers and Key Suppliers

None

Schedule 5.1(u) Financing

None

EXHIBIT B

Proposed Bidding Procedures Order

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:

HALT MEDICAL, INC.

Debtor.

Chapter 11

Case No. 17-10810 (LSS)

Ref. Docket No. __

**ORDER (A) APPROVING BIDDING PROCEDURES AND SALE PROCEDURES;
(B) APPROVING FORM AND MANNER OF NOTICES; (C) APPROVING FORM
OF ASSET PURCHASE AGREEMENT, INCLUDING BREAK-UP FEE AND
EXPENSE REIMBURSEMENT; (D) SCHEDULING DATES TO CONDUCT
AUCTION AND HEARING TO CONSIDER FINAL APPROVAL OF SALE
AND RELATED MATTERS; (E) APPROVING PROCEDURES FOR THE
ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND
UNEXPIRED LEASES, AND (F) GRANTING RELATED RELIEF**

Upon the *Debtor's Motion for Orders (A)(I) Authorizing and Approving Bidding Procedures, Break-Up Fee and Expense Reimbursement; (II) Authorizing and Approving the Debtor's Entry into the Stalking Horse APA; (III) Approving Notice Procedures; (IV) Scheduling an Auction and Sale Hearing; and (V) Approving Procedures for Assumption and Assignment of Executory Contracts and Unexpired Leases and Determining Cure Amounts and (B)(I) Authorizing the Sale of Substantially All of the Debtor's Assets Free and Clear of All Claims, Liens, Rights, Interests, and Encumbrances; (II) Approving the Stalking Horse APA; and (III) Authorizing the Debtor to Assume and Assign Certain Executory Contracts and Unexpired Leases* [D.I. __] (the "Motion")¹ filed by the above captioned debtor and debtor-in-possession (the "Debtor"); and having reviewed the Motion, and the record in this case, and having considered the statements of counsel for the Debtor and the Stalking Horse Bidder the Court

¹ Reference herein is made to the bidding procedures attached hereto as Exhibit 1 (the "Bidding Procedures") and that certain Asset Purchase Agreement dated as of April 12, 2017 among Accessa AssetCo LLC as purchaser (the "Stalking Horse Bidder"), and the Debtor, as seller (the "Stalking Horse APA"), as applicable.

finds that establishing bidding procedures and sale procedures in connection with a sale of the Purchased Assets (defined below), in accordance with the provisions contained in this Order, is in the best interests of the Debtor's estate; accordingly,

IT IS HEREBY FOUND AND DETERMINED THAT:

A. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any findings of fact herein constitute conclusions of law, they are adopted as such. To the extent any conclusions of law herein constitute findings of fact, they are adopted as such.

B. The Court has jurisdiction over the Motion and the transactions contemplated by the Stalking Horse APA pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012, and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (M) and (O). Venue in this district is proper under 28 U.S.C. §§ 1408 and 1409.

C. The statutory bases for the relief requested in the Motion are (i) sections 105, 363, 365, 503, and 507 of the Bankruptcy Code, 11 U.S.C. §§ 101–1532 (the "Bankruptcy Code") and (ii) Bankruptcy Rules 2002, 6003, 6004, 6006, 9007, 9008 and 9014, and (iii) Local Rules 2002-1, 6004-1 and 9006-1.

D. Good and sufficient notice of the Motion and the relief sought therein has been given under the circumstances, and no other or further notice is required except as set forth herein with respect to the hearing to be conducted to approve the transactions contemplated by the Stalking Horse APA (the "Sale Hearing"). A reasonable opportunity to object or be heard regarding the relief provided herein has been afforded to parties in interest.

E. The Debtor's proposed notice of the Bidding Procedures is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the sale of substantially all of the Debtor's assets (the "Purchased Assets"), the auction (the "Auction") for the Purchased Assets, and the Bidding Procedures to be employed in connection therewith.

F. The Debtor has articulated good and sufficient reasons for the Court to: (i) approve (a) the Bidding Procedures and (b) the Break-Up Fee and Expense Reimbursement as provided in the Stalking Horse APA and this Order; (ii) authorize the Debtor's entry into (but not consummation of) the Stalking Horse APA; (iii) schedule the Auction and Sale Hearing; (iv) approve the form and manner of notice of the Motion and the sale of the Purchased Assets (the "Sale Notice") (iv) approve the procedures for the assumption and assignment of such executory contracts and unexpired leases (collectively, the "Assigned Contracts"), including notice of proposed cure amounts; and (iv) grant related relief.

G. The entry of this Order is in the best interests of the Debtor, its estate, creditors and other parties in interest.

H. The Bidding Procedures are fair, reasonable, and appropriate, and are designed to maximize the value to be achieved for the Purchased Assets. The Bidding Procedures were negotiated in good faith by the Debtor and the Stalking Horse Bidder.

I. The Debtor has demonstrated a compelling business justification of the payment of the Break-up Fee and Expense Reimbursement under the circumstances set forth in the Stalking Horse APA. The Break-up Fee and Expense Reimbursement (i) are payable as provided in Sections 4.3 and 9.3 of Stalking Horse APA, (ii) are of substantial benefit to the Debtor's estate, (iii) are reasonable and appropriate, including in light of the size and nature of the sale and the efforts that have been or will be expended by the Stalking Horse Bidder

notwithstanding that the proposed sale is subject to higher and better offers for the Purchased Assets, (iv) were negotiated by the parties at arm's length and in good faith, and (v) are necessary to ensure that the Stalking Horse Bidder will continue to pursue its proposed acquisition of the Purchased Assets contemplated by the Stalking Horse APA. The Stalking Horse Bidder is unwilling to commit to purchase the Purchased Assets under the terms of the Stalking Horse APA absent approval of the Break-up Fee and Expense Reimbursement.

J. The Bidding Procedures comply with the requirements of Local Rule 6004-1(c).

K. The procedures for the assumption and assignment of executory contracts and unexpired leases are fair, reasonable, and appropriate, and comply with the provisions of section 365 of the Bankruptcy Code.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion is GRANTED to the extent set forth herein.
2. Except as provided to the contrary herein, all objections to the Motion or the relief provided herein that have not been withdrawn, waived or settled, and all reservations of rights included therein, hereby are overruled and denied on the merits with prejudice.
3. The Bidding Procedures, attached hereto as Exhibit 1, are hereby approved in their entirety, are incorporated by reference, and shall govern the bids and proceedings related to the sale and the Auction, and the Bidding Procedures Key Dates, attached hereto as Exhibit 2, are hereby approved in their entirety. The Debtor is authorized to take any and all actions necessary to implement the Bidding Procedures.
4. The Debtor may sell the Purchased Assets and enter into the transactions contemplated by the Stalking Horse APA by conducting an Auction in accordance with the Bidding Procedures.

5. The Auction shall take place on _____, 2017 at 10:00 a.m. (prevailing Eastern Time) at the Delaware offices of Drinker Biddle & Reath LLP, 222 Delaware Avenue, Suite 1410, Wilmington, DE 19801-1621. The Auction shall be conducted in accordance with the Bidding Procedures.

6. The Sale Hearing shall be held before the Court on _____, 2017 at __:00 a.m./p.m. (prevailing Eastern Time).

7. Objections, if any, to the sale of the Purchased Assets and the transaction contemplated by the Stalking Horse APA, or the relief requested in the Motion must: (a) be in writing; (b) comply with the Bankruptcy Rules and the local rules of the Court; (c) be filed with the Bankruptcy Court on or before __:00 a.m./__:00 p.m. (prevailing Eastern Time) on _____, 2017 (the “Sale Objection Deadline”); and (d) be served upon: (i) Halt Medical, Inc., 131 Sand Creek Road, Suite B, Brentwood, CA 94513 (Attn: Kimberly Bridges-Rodriguez), kbridges@haltmedical.com, (ii) special corporate counsel to the Debtor, Cooley LLP, 101 California Street, 5th Floor, San Francisco, CA 94111-5800 (Attn: Robert L. Eisenbach III, Esq.) reisenbach@cooley.com, and lead counsel for the Debtor, Drinker Biddle & Reath LLP, 222 Delaware Avenue, Suite 1410, Wilmington, DE 19801 (Attn: Steven K. Kortanek, Esq.) steven.kortanek@dbr.com; (iii) counsel for the Pre-petition Agent, Arnold & Porter Kaye Scholer LLP, 601 Massachusetts Avenue, N.W., Washington, D.C. 20001 (Attn: Michael L. Bernstein); (iv) counsel for the Stalking Horse Purchaser, Smith, Gambrell & Russell, LLP, Suite 3100, Promenade, 1230 Peachtree Street, N.E., Atlanta, Georgia 30309 (Attn: Brian P. Hall, Esq.); bhall@sgrlaw.com, Waller Lansden Dortch & Davis, LLP, 100 Congress Avenue, Suite 1800, Austin, TX 78701 (Attn: Morris D. Weiss, Esq.); morris.weiss@wallerlaw.com, and Landis Rath & Cobb LLP, 919 Market Street, Suite 1800,

Wilmington, DE 19801 (Attn: Adam G. Landis, Esq.) landis@lrclaw.com, and (v) the Office of the United States Trustee, United States Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, DE 19801 (Attn: Richard Schepacarter, Esq. and Brya Keilson, Esq.) richard.schepacarter@usdoj.gov and brya.keilson@usdoj.gov (collectively, the “Objection Notice Parties”), in each case, so as to be received no later than 5:00 p.m. (prevailing Eastern Time) on the Sale Objection Deadline.

8. The notice, substantially in the form attached hereto as Exhibit 3 (the “Sale Notice”), is hereby approved.

9. On or before three (3) business days after entry of this Order, the Debtor will cause the Sale Notice to be sent by first-class mail postage prepaid, to the following: (a) all creditors or their counsel known to the Debtor to assert a lien (including any security interest), claim, right, interest or encumbrance of record against all or any portion of the Purchased Assets, including the Noteholders; (b) the Office of the United States Trustee for the District of Delaware; (c) counsel to the Stalking Horse Bidder; (d) counsel to the Pre-petition Agent; (e) all parties in interest who have requested notice pursuant to Bankruptcy Rule 2002; (f) all applicable federal, state and local taxing and regulatory authorities of the Debtor or recording offices or any other governmental authorities that, as a result of the sale of the Purchased Assets, may have claims, contingent or otherwise, in connection with the Debtor’s ownership of the Purchased Assets or have any known interest in the relief requested by the Motion; (g) all counterparties to any Executory Contract or Lease of the Debtor; (h) all other known creditors and interest holders of Debtor; and (i) all potential bidders previously identified or otherwise known to the Debtor.

10. The notice, substantially in the form attached hereto as Exhibit 4 (the “Cure Notice”), of potential assumption and assignment of certain of the Debtor’s executory

contracts and unexpired leases to be listed in the Cure Notice (collectively, the “Scheduled Contracts”), is hereby approved.²

11. On or before three (3) business days after the entry of this Order, the Debtor shall serve by first-class mail or hand delivery the Cure Notice on all non-Debtor parties to the Scheduled Contracts. The Cure Notice shall identify the Scheduled Contracts and provide the cure amounts that the Debtor believes must be paid to cure all prepetition defaults under the Scheduled Contracts (each a “Cure Amount” and, collectively, the “Cure Amounts”).

12. Any objection to the Cure Amount or to the assumption and assignment to the Stalking Horse Bidder, including with respect to adequate assurance of future performance of the Stalking Horse Bidder (collectively, a “Contract Objection”), must be filed with the Court on or before the Sale Objection Deadline, and served so as to be received the same day as the objection is filed, upon the Objection Notice Parties.

13. Any Contract Objection must state the basis for such objection and state with specificity what Cure Amount the party to the Assigned Contract believes is accurate (in all cases with appropriate documentation in support thereof). If no Contract Objection is timely received, the Cure Amount set forth in the Cure Notice shall be controlling, notwithstanding anything to the contrary in the Assigned Contract or other documents as of the date of the Cure Notice. The Cure Notice shall also provide that the Contract Objection to any Cure Amount or assumption and assignment will be heard at the Sale Hearing or at a later hearing, as determined by the Stalking Horse Bidder. If a Successful Bidder that is not the Stalking Horse Bidder

² The Stalking Horse APA provides that the Stalking Horse Bidder has the right to elect to have the Debtor assume and assign executory contracts and unexpired leases and that the Stalking Horse Bidder shall be responsible for payment of the Cure Costs after a Scheduled Contract is designated for assumption and assignment, and the assumption becomes effective.

prevails at the Auction, then the deadline to object to assumption and assignment (solely on the grounds of adequate assurance of future performance) shall be extended to the Sale Hearing, provided, however, that the deadline to object to the Cure amount shall not be extended.

14. Unless a non-Debtor party to any Assigned Contract files an objection to the Cure Amount by the applicable objection deadline, then such counterparty shall be (a) forever barred from objection to the Cure Amount and (b) forever barred and estopped from asserting or claiming any Cure Amount, other than the Cure Amount on the schedule of the Cure Notice, against the Debtor, the Stalking Horse Bidder, or any Successful Bidder or any other assignee of the relevant contract or lease.

15. Unless a non-Debtor party to any Assigned Contract files a timely objection to the assumption and assignment of the contract to the Stalking Horse Bidder or the other Successful Bidder, then such counterparty shall be deemed to have consented to the assumption and assignment to the Stalking Horse Bidder or Successful Bidder, as applicable.

16. The Stalking Horse Bidder is entitled to make any bids at the Auction in compliance with the Bidding Procedures. Pursuant to Bankruptcy Code Section 363(k), the Stalking Horse Bidder shall be entitled to credit bid the claims against the Debtor in their entirety or any portion thereof, as set forth in Section 3.1 of the Stalking Horse APA.

17. The Sale Hearing may be continued, from time to time, without further notice to creditors or other parties in interest other than by announcement of said continuance before the Court on the date scheduled for such hearing or in the hearing agenda for such hearing.

18. Sections 6.2 and 9.3 of the Stalking Horse APA are hereby approved and are binding upon the Debtor and its estate. In connection therewith, the Debtor's obligation to pay the Break-up Fee and Expense Reimbursement, as provided by the Stalking Horse APA, shall

survive termination of the Stalking Horse APA and shall be payable solely as provided in Sections 4.3 and 9.3 of the Stalking Horse APA. To the extent the Stalking Horse Bidder is entitled to the Break-up Fee and Expense Reimbursement in accordance with Sections 4.3 and 9.3 of the Asset Purchase Agreement, the Debtor shall pay the Break-up Fee and Expense Reimbursement directly to the Stalking Horse Bidder.

19. Upon entry of this Order, the Break-up Fee shall, until paid in full as set forth in the Stalking Horse APA, be entitled to administrative expense status pursuant to §§ 503(b)(1) and 507(a)(2) of the Bankruptcy Code.

20. Except for the Stalking Horse Bidder, no other party submitting an offer or Bid for the Purchased Assets or a Qualifying Bid shall be entitled to any expense reimbursement, break-up, termination or similar fee or payment.

21. Except as otherwise provided in this Order, the Debtor further reserves the right as it may reasonably determine to be in the best interests of its estate: (a) to determine which bidders are Qualified Bidders; (b) to determine which bids are Qualified Bids; (c) to determine which Qualified Bid is the highest and best proposal and which is the next highest and best proposal; (d) to reject any bid that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bidding Procedures or the requirements of the Bankruptcy Code or (iii) contrary to the best interests of the Debtor and its estate; (h) to extend the deadlines set forth herein; (i) to continue or cancel the Auction and/or the Sale Hearing, upon the written consent of the Stalking Horse Bidder, in open court without further notice.

22. All persons and entities that participate in the bidding process or the Auction shall be deemed to have knowingly and voluntarily submitted to the exclusive jurisdiction of this

Court with respect to all matters related to the terms and conditions of the transfer of Purchased Assets, the Auction, and any transaction contemplated herein.

23. To the extent that any chapter 11 plan confirmed in this case or any order confirming any such plan or any other order in this case (including any order entered after any conversion of this case to a case under chapter 7 of the Bankruptcy Code) alters, conflicts with or derogates from the provisions of this Order, the provisions of this Order shall control. The Debtor's obligations under this Order, the provision of this Order and the portions of the Stalking Horse APA pertaining to the Bidding Procedures shall survive conversion of this case to a case under chapter 7 of the Bankruptcy Code, confirmation of any plan of reorganization or discharge of claims thereunder and shall be binding upon the Debtor, a Chapter 7 trustee, the reorganized or reconstituted debtor, as the case may, after the effective date of a confirmed plan or plans in the Debtor's case (including any order entered after any conversion of this case to a case under chapter 7 of the Bankruptcy Code).

24. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 6006(d), 7062, 9014 or any other provisions of the Bankruptcy Rules or the Local Rules stating the contrary, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

25. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

26. The Debtor is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

27. The Court shall retain jurisdiction over any matters related to or arising from the implementation of this Order.

Dated: _____, 2017

Hon. Laurie Selber Silverstein
United States Bankruptcy Judge

EXHIBIT 1

BIDDING PROCEDURES¹

By the Motion dated April 12, 2017, Halt Medical, Inc. (the “Debtor”) sought approval of, among other things, the procedures through which they will determine the highest or otherwise best price for the sale of substantially all of its assets (the “Purchased Assets”) described in the Stalking Horse APA dated as of April 12, 2017 (the “Stalking Horse APA”) by and among Accessa AssetCo LLC, as purchaser (the “Stalking Horse Bidder”) and the Debtor, as seller, a copy of which is attached as Exhibit A to the Motion.

On [Date], 2017, the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) entered an order (the “Bidding Procedures Order”), which, among other things, authorized the Debtor to determine the highest or otherwise best price for the Purchased Assets through the process and procedures set forth below (the “Bidding Procedures”).

Unless expressly indicated, the following Bidding Procedures apply to all bidders regardless of the phase of the Auction which the bidder intends to participate.

Access to Diligence Materials

To participate in the bidding process and to receive access to due diligence (the “Diligence Materials”), a party must submit to the Debtor an executed confidentiality agreement in the form and substance satisfactory to the Debtor and evidence demonstrating the party’s financial capability to close a transaction involving some or all of the Purchased Assets (a “Competing Transaction”) as determined by the Debtor.

A party who qualifies for access to Diligence Materials shall be a “Preliminary Interested Investor.” All due diligence requests must be directed to the Debtor.

For any Preliminary Interested Investor who is a competitor of the Debtor or is affiliated with any competitor of the Debtor, the Debtor reserves the right to withhold any Diligence Materials that the Debtor, in its sole discretion, determines are business-sensitive or otherwise not appropriate for disclosure to such Preliminary Interested Investor.

Bid Qualification Process

To be eligible to participate in the Auction (defined below), each offer, solicitation or proposal (each, a “Bid”), and each party submitting such a Bid (each, a “Bidder”), must be determined by the Debtor to satisfy each of the following conditions:

¹ Capitalized terms used but not defined herein shall have the meanings set forth in the motion to approve these Bidding Procedures (the “Motion”) or the Stalking Horse APA, as applicable.

(a) Good Faith Deposit: Each Bid must be accompanied by a deposit by wire transfer in the amount equal to ten percent (10%) of the Bid to an interest-bearing account to be identified and established by the Debtor (the “Good Faith Deposit”).

(b) Same or Better Terms: The Bid must be on terms that are substantially the same or better than the terms of the Stalking Horse APA, as determined by the Debtor. A Bid must identify which assets the Bidder intends to purchase and include executed transaction documents (a “Competing Transaction”). A Bid shall include a copy of the Stalking Horse APA marked to show all changes requested by the Bidder. A Bid will not be considered as qualified for the Auction if (i) such Bid contains additional material representations and warranties, covenants, closing conditions, termination rights other than as may be included in the Stalking Horse APA (it being agreed and understood that such Bid shall modify the Stalking Horse APA as needed to comply in all respects with the Bidding Procedures Order and will remove provisions that apply only to the Stalking Horse Bidder as the stalking horse bidder such as break-up fees); (ii) such Bid is not received by the Debtor in writing on or prior to the Bid Deadline, and (iii) such Bid does not contain evidence that the Bidder has received unconditional debt and/or equity funding commitments (or has unrestricted and fully available cash) sufficient in the aggregate to finance the purchase contemplated thereby, including proof that the Good Faith Deposit has been made.

(c) Corporate Authority: The Bid must include written evidence reasonably acceptable to the Debtor demonstrating appropriate corporate authorization to consummate the proposed Competing Transaction.

(d) Proof of Financial Ability to Perform: The Bid must include written evidence that the Debtor reasonably concludes demonstrates that the Bidder has the necessary financial ability to close the Competing Transaction and provide adequate assurance of future performance under all contracts to be assumed and assigned in such Competing Transaction.

(e) Contingencies: A Bid may not (i) contain representations and warranties, covenants, termination rights, financing, due diligence contingencies other than as may be included in the Stalking Horse APA (it being agreed and understood that such Bid shall modify the Stalking Horse APA as needed to comply in all respects with the Bidding Procedures Order (including removing any termination rights in conflict with the Bidding Procedures Order) and will remove provisions that apply only to the Stalking Horse Bidder as the stalking horse bidder, such as break-up fees and the expense reimbursement) or (ii) be conditioned on obtaining financing or any internal approval, or on the outcome or review of due diligence, but may be subject to the accuracy in all material respects of specified representations and warranties at the Closing.

(f) Irrevocable: A Bid must be irrevocable through the Auction, provided, however, that if such Bid is accepted as the Successful Bid or a Backup Bid (each

as defined herein), such Bid shall continue to remain irrevocable, subject to the terms and conditions of the Bidding Procedures.

(g) Bid Deadline. Regardless of when a party qualifies as a Preliminarily Interested Investor, the following parties must receive a Bid in writing, on or before _____ at __:00 a.m./p.m. (Eastern Daylight Time) or such earlier date as may be agreed to by the Debtor (the “Bid Deadline”): (i) Halt Medical, Inc., 131 Sand Creek Road, Suite B, Brentwood, CA 94513 (Attn: Kimberly Bridges-Rodriguez), kbridges@haltmedical.com, (ii) special corporate counsel to the Debtor, Cooley LLP, 101 California Street, 5th Floor, San Francisco, CA 94111-5800 (Attn: Robert L. Eisenbach III, Esq.) reisenbach@cooley.com, and lead counsel for the Debtor, Drinker Biddle & Reath LLP, 222 Delaware Avenue, Suite 1410, Wilmington, DE 19801 (Attn: Steven K. Kortanek, Esq.) steven.kortanek@dbr.com; (iii) counsel for the Pre-petition Agent, Arnold & Porter Kaye Scholer LLP, 601 Massachusetts Avenue, N.W., Washington, D.C. 20001 (Attn: Michael L. Bernstein); (iv) counsel for the Stalking Horse Purchaser, Smith, Gambrell & Russell, LLP, Suite 3100, Promenade, 1230 Peachtree Street, N.E., Atlanta, Georgia 30309 (Attn: Brian P. Hall, Esq.); bhall@sgrlaw.com, Waller Lansden Dortch & Davis, LLP, 100 Congress Avenue, Suite 1800, Austin, TX 78701 (Attn: Morris D. Weiss, Esq.); morris.weiss@wallerlaw.com, and Landis Rath & Cobb LLP, 919 Market Street, Suite 1800, Wilmington, DE 19801 (Attn: Adam G. Landis, Esq.) landis@lrclaw.com, and (v) the Office of the United States Trustee, United States Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, DE 19801 (Attn: Richard Schepacarter, Esq. and Brya Keilson, Esq.) richard.schepacarter@usdoj.gov and brya.keilson@usdoj.gov (collectively, the “Notice Parties”).

(h) Amount of Bid. Each Bid must be for all of the Purchased Assets and shall clearly show the amount of the purchase price. In addition, a Bid (a) must propose a purchase price equal to or greater than the aggregate of the sum of (i) the value of the Bid set forth in the Stalking Horse APA executed by the Stalking Horse Bidder, as determined by the Debtor; (ii) the dollar value of the Break-up Fee and Expense Reimbursement in cash, and (iii) \$100,000 (the initial overbid amount), in cash and (b) must obligate the Bidder to pay, to the extent provided in the Stalking Horse APA, all amounts which the Stalking Horse Bidder under the Stalking Horse APA has agreed to pay, including all Assumed Liabilities.

(i) Adequate Assurance of Future Performance. Each Bid shall be accompanied by adequate assurance of future performance information (the “Adequate Assurance Information”), including (i) information about the Bidder’s financial condition, such as federal tax returns for two years, a current financial statement, or bank account statements, (ii) information demonstrating (in the Debtor’s reasonable business judgment) that the Bidder has the financial capacity to consummate the proposed Competing Transaction, (iii) evidence that the Bidder has obtained authorization or approval from its board of directors (or

comparable governing body) with respect to the submission of its Bid, (iv) the identity and exact name of the Bidder (including any equity holder or other financial backer if the Bidder is an entity formed for the purpose of consummating the proposed Competing Transaction), and (v) such additional information regarding the Bidder as the Bidder may elect to include. By submitting a Bid, Bidders agree that the Debtor may disseminate their Adequate Assurance Information to affected landlords, and contract counterparties in the event that the Debtor determines such bid to be a Qualified Bid (as defined below).

The Debtor will review each Bid received from a Bidder to determine, in its sole discretion, whether it meets the requirements set forth above. A Bid received from a Bidder before the Bid Deadline that meets the above requirements, as determined by the Debtor, shall constitute a "Qualified Bid," and such Bidder shall constitute a "Qualified Bidder." The Debtor shall inform Bidders whether or not their Bids have been designated as Qualified Bids no later than 24 hours after such Bids are received and shall contemporaneously inform the Stalking Horse Bidder of all Bids that the Debtor considers to be a Qualified Bid. Notwithstanding anything herein to the contrary, the Stalking Horse APA submitted by the Stalking Horse Bidder shall be deemed a Qualified Bid, and the Stalking Horse Bidder is a Qualified Bidder for each phase of the Auction.

Credit Bid

The Stalking Horse Bidder is entitled to make any bids at the Auction in compliance with the Bid Procedures. Pursuant to Bankruptcy Code Section 363(k), the Stalking Horse Bidder shall be entitled to credit bid the claims against the Debtor in their entirety or any portion thereof, as set forth in Section 3.1 of the Stalking Horse APA.

Auction

If one or more Qualified Bids (other than the Stalking Horse APA submitted by the Stalking Horse Bidder) are received by the Bid Deadline, the Debtor will conduct an auction (the "Auction") to determine the highest and best Qualified Bid. If no Qualified Bid (other than the Stalking Horse APA) is received by the Bid Deadline, no Auction shall be conducted and the Stalking Horse APA shall be deemed the Successful Bid. Only Qualified Bidders may participate in the Auction. Prior to the Auction, the Debtor shall provide copies of all Qualified Bids to all Qualified Bidders, including the Stalking Horse Bidder.

The Auction shall take place on _____ at __:00 a.m./p.m. (Eastern Daylight Time) at the Delaware offices of Drinker Biddle & Reath LLP, 222 Delaware Avenue, Suite 1410, Wilmington, DE 19801-1621, or such other place and time as the Debtor shall notify all Qualified Bidders, including the Stalking Horse Bidder, counsel for the Stalking Horse Bidder, any official committee, and other parties invited to attend by the Debtor.

- (a) The Debtor Shall Conduct the Auction. The Debtor and its professionals shall direct and preside over the Auction. At the start of the Auction, the Debtor shall announce which Qualified Bid(s) is/are deemed to be the highest and best

(each Qualified Bid an “Auction Baseline Bid”). Each Qualified Bidder participating in the Auction must confirm that it has not engaged in any collusion with respect to the bidding or sale of the Debtor’s assets.

The Break-up Fee and Expense Reimbursement shall be taken into account in connection with each round of bidding and in each phase of the Auction. Any credit bids submitted by a party other than the Stalking Horse Bidder shall include a cash component that is sufficient to pay the amount of the Break-up Fee and Expense Reimbursement.

Only the Debtor, the Stalking Horse Bidder, and any other Qualified Bidder, in each case, along with their representatives, and any official committee shall attend the Auction in person, and only the Stalking Horse Bidder and such other Qualified Bidders will be entitled to make any Bids at the Auction.

The Debtor reserves the right, in its reasonable business judgment to make one or more continuances of the Auction to, among other things: facilitate discussions between the Debtor and individual Bidders; allow individual Bidders to consider how they wish to proceed; and give Bidders the opportunity to provide the Debtor with such additional evidence as the Debtor in its reasonable business judgment may require, that the Bidder has sufficient internal resources, or has received sufficient non-contingent debt and/or equity funding commitments, to consummate the proposed Competing Transaction at the prevailing Overbid amount.

The Stalking Horse Bidder shall have the last opportunity to bid after the receipt of any Overbid and before the next round of bidding commences.

(b) Terms of Overbids. An “Overbid” is any bid made at the Auction subsequent to the Debtor’s announcement of an Auction Baseline Bid. To submit an Overbid for purposes of this Auction, a Bidder must comply with the following conditions:

- (i) Minimum Overbid Increment.

Any Overbid after the Auction Baseline Bid shall be made in increments valued at not less than \$100,000 as determined by the Debtor. Additional consideration in excess of the amount set forth in an Auction Baseline Bid may include cash and/or noncash consideration, and, solely in the case of a Bid by the Stalking Horse Bidder, a credit bid as set forth in Section 3.1 of the Stalking Horse APA, plus a credit bid of the Break-up Fee and Expense Reimbursement.

- (ii) Remaining Terms Are the Same as for Qualified Bids.

Except as modified herein, an Overbid must comply with the conditions for a Qualified Bid set forth above, provided, however, that the Bid

Deadline shall not apply. Any Overbid must remain open and binding on the Bidder until and unless the Debtor accepts a higher Overbid.

(c) Backup Bidder. Notwithstanding anything in the Bidding Procedures to the contrary, if an Auction is conducted, the party with the next highest or otherwise best Qualified Bid at the Auction, as determined by the Debtor, in the exercise of its business judgment will be designated as the backup bidder (the "Backup Bidder"). The Backup Bidder shall be required to keep its initial Bid (or if the Backup Bidder submitted one or more Overbids at the Auction, its final Overbid) (the "Backup Bid") open and irrevocable until the earlier of 12:00 p.m. (Eastern Daylight Time) on the date that is seventeen (17) days after the date of the Sale Hearing (the "Outside Backup Date") or the closing of the transaction with the Successful Bidder (defined herein). Following the Sale Hearing, if the Successful Bidder (defined herein) fails to consummate an approved transaction, because of a breach or failure to perform on the part of such Successful Bidder (defined herein), the Debtor may designate the Backup Bidder to be the new Successful Bidder (defined herein), and the Debtor will be authorized, but not required, to consummate the transaction, with the Backup Bidder without further order of the Bankruptcy Court. In such case, the defaulting Successful Bidder's deposit shall be forfeited to the Debtor, and the Debtor specifically reserves the right to seek all available damages from the defaulting Successful Bidder (defined herein). The deposit of the Backup Bidder shall be held by the Debtor until the earlier of 24 hours after (i) the closing of the transaction with the Successful Bidder (defined herein) and (ii) the Outside Backup Date.

(d) Additional Procedures. The Debtor may announce at the Auction additional procedural rules that are reasonable under the circumstances (*e.g.*, the amount of time to make subsequent Overbids) for conducting the Auction so long as such rules are not inconsistent with these Bidding Procedures or the Stalking Horse APA.

(e) Consent to Jurisdiction as Condition to Bidding. The Stalking Horse Bidder, all Qualified Bidders at the Auction shall be deemed to have consented to the core jurisdiction of the Bankruptcy Court and waived any right to a jury trial in connection with any disputes relating to these Bidding Procedures, the Stalking Horse APA, the Auction or the construction and enforcement of any documents relating to a Competing Transaction.

(f) Closing the Auction. The Auction shall continue until the Debtor determines in its reasonable business judgment that there is a highest and best Qualified Bid at the Auction for all of the Purchased Assets (each a "Successful Bid" and each Bidder submitting such Successful Bid, a "Successful Bidder"). The Auction shall not close unless and until all Bidders who have submitted Qualified Bids have been given a reasonable opportunity to submit an Overbid at the Auction to the then-existing Overbids and the Successful Bidder has submitted fully executed sale and transaction documents memorializing the terms of the Successful Bid. Within 24 hours following conclusion of the Auction, the

Debtor shall file a notice on the Bankruptcy Court's docket identifying (with specificity) the Successful Bidder(s) for the Purchased Assets and any applicable Backup Bidders. The Debtor shall not consider any Bids submitted after the conclusion of the Auction and any and all such Bids shall be deemed untimely and shall under no circumstances constitute a Qualified Bid.

Bid Protections

Subject to approval by the Bankruptcy Court, the Stalking Horse Bidder is entitled to the Break-up Fee and Expense Reimbursement pursuant to the terms of the Stalking Horse APA.

Except for the Stalking Horse Bidder, no other party submitting an offer or Bid for the Purchased Assets or a Qualifying Bid shall be entitled to any expense reimbursement, breakup fee, termination or similar fee or payment.

Sale Hearing

The Debtor will seek a hearing (the "Sale Hearing") on or before _____, at which the Debtor will seek approval of the transactions contemplated by the Stalking Horse APA with the Successful Bidder. Objections, if any, to the sale of the Purchased Assets to the Successful Bidder and the transaction contemplated by the Stalking Horse APA must be in writing and filed with the Court no later than 5:00 p.m. (Eastern Daylight Time) on _____ (the "Sale Objection Deadline") and be served such that they are actually received by: (i) Halt Medical, Inc., 131 Sand Creek Road, Suite B, Brentwood, CA 94513 (Attn: Kimberly Bridges-Rodriguez), kbridges@haltmedical.com, (ii) special corporate counsel to the Debtor, Cooley LLP, 101 California Street, 5th Floor, San Francisco, CA 94111-5800 (Attn: Robert L. Eisenbach III, Esq.) reisenbach@cooley.com, and lead counsel for the Debtor, Drinker Biddle & Reath LLP, 222 Delaware Avenue, Suite 1410, Wilmington, DE 19801 (Attn: Steven K. Kortanek, Esq.) steven.kortanek@dbr.com; (iii) counsel for the Pre-petition Agent, Arnold & Porter Kaye Scholer LLP, 601 Massachusetts Avenue, N.W., Washington, D.C. 20001 (Attn: Michael L. Bernstein); (iv) counsel for the Stalking Horse Purchaser, Smith, Gambrell & Russell, LLP, Suite 3100, Promenade, 1230 Peachtree Street, N.E., Atlanta, Georgia 30309 (Attn: Brian P. Hall, Esq.); bhall@sgrlaw.com, Waller Lansden Dortch & Davis, LLP, 100 Congress Avenue, Suite 1800, Austin, TX 78701 (Attn: Morris D. Weiss, Esq.); morris.weiss@wallerlaw.com, and Landis Rath & Cobb LLP, 919 Market Street, Suite 1800, Wilmington, DE 19801 (Attn: Adam G. Landis, Esq.) landis@lrclaw.com, and (v) the Office of the United States Trustee, United States Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, DE 19801 (Attn: Richard Schepacarter, Esq. and Brya Keilson, Esq.) richard.schepacarter@usdoj.gov and brya.keilson@usdoj.gov (collectively, the "Objection Notice Parties"), in each case, so as to be received the same day the objection is filed.

Return of Good Faith Deposit

The Good Faith Deposits of all Qualified Bidders shall be held in one or more interest-bearing segregated accounts by the Debtor, but shall not become property of the Debtor's estate absent further order of the Court. The Good Faith Deposit of any Qualified Bidder that is neither the Successful Bidder nor the Backup Bidder shall be returned to such Qualified Bidder not later

than two (2) business days after the Sale Hearing. The Good Faith Deposit of the Backup Bidder shall be returned to the Backup Bidder on the date that is the earlier of 24 hours after (a) the closing of the transaction with the Successful Bidder (defined herein) and (b) the Outside Backup Date. Upon the return of the Good Faith Deposits, their respective owners shall receive any and all interest that will have accrued thereon. If the Successful Bidder timely closes the winning transaction, its Good Faith Deposit shall be credited towards its purchase price.

Reservation of Rights

Except as otherwise provided in the Stalking Horse APA, Bidding Procedures or the Sale Order, the Debtor further reserves the right as it may reasonably determine to be in the best interest of its estate, to: (a) determine which bidders are Qualified Bidders; (b) determine which Bids are Qualified Bids; (c) determine which Qualified Bid is the highest and best proposal and which is the next highest and best proposal; (d) reject any Bid that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bidding Procedures or the requirements of the Bankruptcy Code or (iii) contrary to the best interests of the Debtor and its estate; (e) impose additional terms and conditions with respect to all potential bidders other than the Stalking Horse Bidder; (f) upon the written approval of the Stalking Horse Bidder, extend the deadlines set forth herein; (g) upon the written approval of the Stalking Horse Bidder, continue or cancel the Auction and/or Sale Hearing in open court without further notice;

EXHIBIT 2**BIDDING PROCEDURES KEY DATES**

Hearing re: Bidding Procedures	May [2 / 3], 2017
Service of Bidding Procedures Order	+3 days from entry of Bidding Procedures Order
Service of Cure Notice	+3 days from entry of Bidding Procedures Order
Bid Deadline	June [2], 2017
Assumption/Assignment and Cure Objection Deadline	June [2], 2017
Sale Objection Deadline	June [2], 2017
Auction	June [5], 2017
Sale Hearing	June [6], 2017
Adequate Assurance Objection (in the event the Stalking Horse Bidder is not the Successful Bidder)	At or before the Sale Hearing
Deadline to Close Sale	+20 days from entry of Sale Order

EXHIBIT 3
SALE NOTICE

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re:

HALT MEDICAL, INC.

Debtor.

Chapter 11

Case No. 17-10810 (LSS)

NOTICE OF SALE OF CERTAIN ASSETS AT AUCTION

PLEASE TAKE NOTICE THAT:

1. Pursuant to the *Order (A) Authorizing And Approving Bidding Procedures, Break-up Fee And Expense Reimbursement; (B) Authorizing And Approving The Debtor's Entry Into The Stalking Horse APA; (C) Approving Notice Procedures; (D) Scheduling An Auction And Sale Hearing; (E) Approving Procedures For The Assumption And Assignment Of Executory Contracts And Unexpired Leases And Determining Cure Amounts, and (F) Granting Related Relief* (the "Bidding Procedures Order") entered by the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") on _____, 2017 the above captioned debtor (the "Debtor"), has entered into an Asset Purchase Agreement (the "Stalking Horse APA") with Acessa AssetCo, LLC (the "Stalking Horse Bidder") for the sale of substantially all of the Debtor's assets subject to a competitive bidding process as set forth in the Bidding Procedures Order. Capitalized terms used but not otherwise defined in this notice have the meanings ascribed to them in the Bidding Procedures Order or the Stalking Horse APA, as applicable.

2. Copies of (i) the Motion, (ii) the Stalking Horse APA, (iii) the proposed Sale Order, (iv) the Bidding Procedures, and (v) the Bidding Procedures Order can be obtained by contacting the Debtor's investment banker at Canaccord Genuity Inc, 535 Madison Avenue, New York, NY 10022, Tel: (212) 849-3919 (Attn: Geoffrey Richards), griehards@canaccordgenuity.com.

3. All interested parties are invited to make an offer to purchase the Purchased Assets in accordance with the terms and conditions approved by the Bankruptcy Court (the "Bidding Procedures") by **5:00 p.m.** (Eastern Daylight Time) on **[3 days before the Auction]**. Pursuant to the Bidding Procedures, the Debtor may conduct an auction for the Purchased Assets (the "Auction") beginning at **10:00 a.m.** (Eastern Daylight Time) on [DATE], 2017 at the Delaware offices of Drinker Biddle & Reath LLP, 222 Delaware Avenue, Suite 1410, Wilmington, DE 19801-1621 or such later time or other place as the Debtor shall notify all Qualified Bidders who have submitted Qualified Bids. Contact the Debtor's investment banker, Canaccord Genuity Inc, 535 Madison Avenue, New York, NY 10022 (Attn: Geoffrey Richards), griehards@canaccordgenuity.com, Tel: (212) 849-3919, for further information regarding the Debtor's assets and/or making a bid.

4. Participation at the Auction is subject to the Bidding Procedures and the Bidding Procedures Order.

5. A hearing to approve the Sale of the Purchased Assets to the highest and best bidder will be held on [_____] at __:00 a.m./p.m. (Eastern Daylight Time) at the Bankruptcy Court. The hearing on the Sale may be adjourned without notice other than an adjournment in open court.

6. Objections, if any, to the proposed Sale must be filed and served in accordance with the Bidding Procedures Order, and **actually received** no later than **5:00 p.m.** (Eastern Daylight Time) on **[DATE], 2017.**

7. This notice is qualified in its entirety by the Bidding Procedures Order.

Dated: _____, 2017
Wilmington, Delaware

DRINKER BIDDLE & REATH LLP
Steven K. Kortanek (Del. Bar No. 4082)
Patrick A. Jackson (Del. Bar No. 4976)
Joseph N. Argentina, Jr. (Del. Bar No. 5453)
222 Delaware Ave., Suite 1410
Wilmington, DE 19801-1621
Telephone: (302) 467-4200
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Steven.Kortanek@dbr.com
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Joseph.Argentina@dbr.com

*[Proposed] Lead Counsel for the
Debtor and Debtor in Possession*

-and-

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Facsimile: 415-693-2222
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Facsimile: 212-479-6275
mklein@cooley.com

*[Proposed] Special Corporate Counsel for
the Debtor and Debtor in Possession*

EXHIBIT 4

CURE NOTICE

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:

HALT MEDICAL, INC.

Debtor.

Chapter 11

Case No. 17-10810 (LSS)

**NOTICE OF POSSIBLE ASSUMPTION AND CURE AMOUNT WITH RESPECT TO
EXECUTORY CONTRACTS OR UNEXPIRED LEASES POTENTIALLY TO BE
ASSUMED AND ASSIGNED IN CONNECTION WITH SALE OF DEBTOR'S ASSETS**

PLEASE TAKE NOTICE THAT:

1. Pursuant to the *Order (A) Authorizing And Approving Bidding Procedures, Break-up Fee And Expense Reimbursement; (B) Authorizing And Approving The Debtor's Entry Into The Stalking Horse APA; (C) Approving Notice Procedures; (D) Scheduling An Auction And Sale Hearing; (E) Approving Procedures For The Assumption And Assignment Of Executory Contracts And Unexpired Leases And Determining Cure Amounts, and (F) Granting Related Relief* (the "Bidding Procedures Order") entered by the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") on [DATE], 2017, the above captioned debtor (the "Debtor"), have entered into an Asset Purchase Agreement (the "Stalking Horse APA") with Acessa AssetCo, LLC (the "Stalking Horse Bidder") for the sale of substantially all of the Debtor's assets subject to a competitive bidding process as set forth in the Bidding Procedures Order. The Debtor hereby provides notice that it may seek to assume and assign the prepetition executory contracts or unexpired leases (the "Scheduled Contracts") listed on Exhibit A hereto to the Stalking Horse Bidder or the Successful Bidder, as the case may be. The inclusion of any executory contract or unexpired lease on Exhibit A does not require or guarantee that such lease or contract will be assumed and assigned, or that such contract or lease is executory, and all rights of the Debtor with respect thereto are reserved. Capitalized terms used but not otherwise defined in this notice have the meanings ascribed to them in the Bidding Procedures Order or the Stalking Horse APA, as applicable.

2. Pursuant to the terms of the Stalking Horse APA (or any asset sale and purchase agreement that the Debtor may enter into with the Successful Bidder), the Debtor may seek to assume and assign one or more of the Scheduled Contracts to the Stalking Horse Bidder or the Successful Bidder, as the case may be, subject to approval at the hearing to be held at __:00 a.m./p.m. (Eastern Daylight Time) on _____ (the "Sale Hearing") before the Bankruptcy Court. On the date of the closing of the transactions contemplated by the Stalking Horse APA (the "Closing Date"), or as soon thereafter as is reasonably practicable, the Stalking Horse Bidder or the Successful Bidder, as the case may be, will pay the amount the Debtor's records reflect is owing for prepetition arrearages, if any, as set forth on Exhibit A hereto (the "Cure Amount"). The Debtor's records reflect that all post-petition amounts owing under the Scheduled Contracts have been paid and will continue to be paid until the assumption and assignment of the Scheduled Contracts and that, other than the Cure Amount, there are no other defaults under the Scheduled Contracts.

3. Objections, if any, to (i) the assumption and assignment of a Scheduled Contract, (ii) the proposed Cure Amount, and/or (iii) the Stalking Horse Bidder's ability to provide adequate assurance of future performance must (a) be in writing, (b) state with specificity the cure amount asserted to be required, (c) include appropriate documentation thereof, (d) be filed with the Bankruptcy Court no later than [DATE] at 5:00 p.m. (Eastern Daylight Time) (the "Sale Objection Deadline") and served on the following parties: (i) Halt Medical, Inc., 131 Sand Creek Road, Suite B, Brentwood, CA 94513 (Attn: Kimberly Bridges-Rodriguez), kbridges@haltmedical.com, (ii) special corporate counsel to the Debtor, Cooley LLP, 101 California Street, 5th Floor, San Francisco, CA 94111-5800 (Attn: Robert L. Eisenbach III, Esq.) reisenbach@cooley.com, and lead counsel for the Debtor, Drinker Biddle & Reath LLP, 222 Delaware Avenue, Suite 1410, Wilmington, DE 19801 (Attn: Steven K. Kortanek, Esq.) steven.kortanek@db.com; (iii) counsel for the Pre-petition Agent, Arnold & Porter Kaye Scholer LLP, 601 Massachusetts Avenue, N.W., Washington, D.C. 20001 (Attn: Michael L. Bernstein); (iv) counsel for the Stalking Horse Purchaser, Smith, Gambrell & Russell, LLP, Suite 3100, Promenade, 1230 Peachtree Street, N.E., Atlanta, Georgia 30309 (Attn: Brian P. Hall, Esq.); bhall@sgrlaw.com, Waller Lansden Dortch & Davis, LLP, 100 Congress Avenue, Suite 1800, Austin, TX 78701 (Attn: Morris D. Weiss, Esq.); morris.weiss@wallerlaw.com, and Landis Rath & Cobb LLP, 919 Market Street, Suite 1800, Wilmington, DE 19801 (Attn: Adam G. Landis, Esq.) landis@lrclaw.com, and (v) the Office of the United States Trustee, United States Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, DE 19801 (Attn: Richard Schepacarter, Esq. and Brya Keilson, Esq.) richard.schepacarter@usdoj.gov and brya.keilson@usdoj.gov, so as to be received no later than 5:00 p.m. on the Sale Objection Deadline.

If the bid of the Stalking Horse Bidder is not the Qualified Bid that the Debtor determines in its reasonable business judgment, to be the highest and best Qualified Bid at the Auction, the non-Debtor parties to the Scheduled Contracts shall have until the Sale Hearing to object to the assumption and assignment of such Scheduled Contract solely on the issue of whether the Successful Bidder can provide adequate assurance of future performance as required by section 365 of the Bankruptcy Code.

4. If an objection to the assumption and assignment of a Scheduled Contract is timely filed and received, a hearing with respect to the objection will be held before the Bankruptcy Court at the Sale Hearing or such date and time as the Bankruptcy Court may schedule. If no objection is timely received, the non-Debtor party to the Scheduled Contract will be deemed to have consented to the assumption and assignment of the Scheduled Contract and will be forever barred from asserting any other claims, including but not limited to the propriety or effectiveness of the assumption and assignment of the Scheduled Contract, against the Debtor, the Stalking Horse Bidder, the Successful Bidder or the property of any of them in respect of the Scheduled Contract.

5. Pursuant to 11 U.S.C. § 365, there is adequate assurance of future performance that the Cure Amount set forth in the Cure Notice will be paid in accordance with the terms of the Sale Order. There is adequate assurance of the Stalking Horse Bidder's future performance under the executory contract or unexpired lease to be assumed and assigned because of the significant resources of the Stalking Horse Bidder. If necessary, the Debtor will adduce facts at

the hearing on any objection demonstrating the financial wherewithal of the Successful Bidder, and its willingness and ability to perform under the contracts to be assumed and assigned to it.

6. If an objection to the Cure Amount is timely filed and received and the parties are unable to consensually resolve the dispute, the amount to be paid under section 365 of the Bankruptcy Code, if any, with respect to such objection will be determined at a hearing to be requested by the Debtor or by the objecting counterparty. At the Stalking Horse Bidder's or the Successful Bidder's discretion, and provided the Stalking Horse Bidder or the Successful Bidder escrow the disputed portion of the Cure Amount, the hearing regarding the Cure Amount may be continued until after the Closing Date and the Scheduled Contract(s) subjected to such Cure Amount shall be assumed and assigned to the Stalking Horse Bidder or the Successful Bidder at the closing of the Sale.

7. If no objection is timely received, the Cure Amount set forth in Exhibit A hereto will be controlling, notwithstanding anything to the contrary in any Scheduled Contract or any other document, and the non-Debtor party to the Scheduled Contract will be deemed to have consented to the Cure Amount and will be forever barred from asserting any other claims in respect of such Scheduled Contract against the Debtor, the Stalking Horse Bidder, or the Successful Bidder (as appropriate), or the property of any of them. The failure of any objecting person or entity to timely file its objection will be a bar to the assertion, at the Sale Hearing or thereafter, of any objection to the Sale Motion, the Sale, or the Debtor's consummation of and performance under the Sale Agreement (including the transfer of the Purchased Assets and the Scheduled Contracts free and clear of all claims, liens and interests), if authorized by the Court.

8. Prior to the date of the closing of the Sale, the Debtor may amend its decision with respect to the assumption and assignment of any Scheduled Contract, including amending the Cure Amount, and provide a new notice amending the information provided in this notice, including, without limitation, a determination not to assume certain contracts.

Dated: _____, 2017
Wilmington, Delaware

DRINKER BIDDLE & REATH LLP
Steven K. Kortanek (Del. Bar No. 4082)
Patrick A. Jackson (Del. Bar No. 4976)
Joseph N. Argentina, Jr. (Del. Bar No. 5453)
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*[Proposed] Lead Counsel for the
Debtor and Debtor in Possession*

-and-

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*[Proposed] Special Corporate Counsel for
the Debtor and Debtor in Possession*

EXHIBIT A

<u>Contract/Lease Counterparty</u>	<u>Contract or Lease</u>	<u>Cure Amount</u>