



**IT IS ORDERED as set forth below:**

**Date: June 28, 2017**

*Paul Baisier*

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**Paul Baisier**  
**U.S. Bankruptcy Court Judge**

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

<b>IN RE:</b>	)	<b>CHAPTER 11</b>
	)	
<b>NEXXLINX CORPORATION, INC., et al.,</b>	)	<b>Jointly Administered Under</b>
	)	<b>CASE NO. 16- 61225-pmb</b>
<b>Debtors.</b>	)	
	)	

**ORDER GRANTING MOTION TO (1) APPROVE SALE TO FOCUS SERVICES, LLC OF CERTAIN OF THE DEBTORS' ASSETS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS; (2) AUTHORIZE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES; (3) ESTABLISH CURE AMOUNTS THEREFOR; AND (4) APPROVE OTHER RELATED RELIEF**

On May 5, 2017, NexxLinx Corporation, Inc. ("**NexxLinx**"); NexxLinx Global, Inc. ("**NGI**"); NexxLinx of New York, Inc. ("**NNY**"); NexxLinx of Texas, Inc. ("**NTX**"); CustomerLinx of North Carolina, Inc. ("**CNC**"); Microdyne Outsourcing Inc. ("**MOI**"); and NexxPhase, Inc. ("**NexxPhase**"), debtors and debtors-in-possession (collectively, the "**Debtors**"), filed with the Court the Debtors' First Motion (A) For Authority To Sell Assets Free And Clear Of Liens, Claims, And Encumbrances (B) To Assume And Assign Certain Executory Contracts, Leases And Licenses And

Establish Cure Costs In Connection Therewith; (C) To Establish Procedures With Respect To Such Sale And The Assumption And Assignment Of Executory Contracts and Leases; (D) To Consider Approval Of Breakup Fee, And (E) To Shorten And Limit Notice (Doc. No. 313) (the “**Sale Motion**”). A hearing was held at 1:30 p.m. on May 8, 2017 (the “**Procedures Hearing**”), to consider the Debtors’ request in the Sale Motion for entry of an order approving proposed bid procedures and bidder protections and scheduling a deadline for filing objections to the Sale Motion and a hearing to consider the Sale Motion and any timely filed objections.

Following the Procedures Hearing, on May 8, 2017, the Court entered an Order (A) Establishing Bidding and Other Procedures in Connection with the Sale of Assets of the Debtors, (B) Granting Protections to Proposed Buyers and (C) Providing Notice of Hearing on Motion to (1) Approve Sale of Certain Assets of the Debtors Free and Clear of Liens, Claims, Encumbrances, and Other Interests; (2) Authorize Assumption and Assignment of Executory Contracts and Unexpired Leases; (3) Establish Cure Amounts Therefor; and (4) Approve Other Related Relief Subject to Objection Filed on or Before May 12, 2017 (Doc. No. 315). On May 12, 2017, Branch Banking and Trust Company (“**BB&T**”) filed a Limited Objection of Branch Banking and Trust Company to Sales Procedures Order (Doc. No. 318) (the “**Limited Objection**”). On May 15, 2017, the Court entered a Final Order (A) Establishing Bidding and Other Procedures in Connection with the Sale of Assets of the Debtors, (B) Granting Protections to Proposed Buyers and (C) Providing Notice of Hearing on Motion to (1) Approve Sale of Certain Assets of the Debtors Free and Clear of Liens, Claims, Encumbrances, and Other Interests; (2) Authorize Assumption and Assignment of Executory Contracts and Unexpired Leases; (3) Establish Cure Amounts Therefor; and (4) Approve Other Related Relief (Doc. No. 323) (the “**Procedures Order**”) which, among other things, resolved the

Limited Objection filed by BB&T.

In accordance with the requirements of the Procedures Order, creditors and parties in interest were given notice of the relief sought in the Sale Motion and the procedures and deadline for submitting offers for the purchase of any or all of the Debtors' assets (the "**Bid Deadline**"), and an auction sale was scheduled at which eligible bidders would be permitted to participate (the "**Auction Sale**"). The Procedures Order also approved certain bid protections for any Initial Bidder (as defined in the Procedures Order). As required by the Procedures Order, the Debtors filed a Notice of Filing Schedule of Cure Costs on May 15, 2017 (Doc. No. 324) (the "**Cure Notice**"), with respect to the Debtors' executory contracts, leases, licenses and other agreements (collectively, "**Executory Contracts**"). The Procedures Order also provided creditors and parties in interest with notice of (a) the hearing scheduled for June 2, 2017, at 9:00 a.m., (the "**Sale Hearing**") to consider approval of any offers for the sale of some or all of the Debtors' assets and assumption and assignments of Executory Contracts received at or before the auction sale which the Debtors proposed to accept as the highest and best offers, and (b) the deadline of June 1, 2017 to file objections to the Sale Motion, including the proposed Cure Costs. On June 1, 2017, the Court entered an Order Continuing the Hearing to Consider the Sale of Certain Assets of the Debtors and Extending Related Deadlines (Doc. No. 336) ("**Order Continuing Sale Hearing**"). Pursuant to the Order Continuing Sale Hearing, the Bid Deadline was extended through 12:00 pm (noon) on June 9, 2017, the Objection Deadline was extended through June 15, 2017 and the Sale Hearing was rescheduled for June 16, 2017 at 9:00 a.m.

Following the Bid Deadline, the Debtors, in consultation with the Official Committee of Unsecured Creditors (the "**Committee**"), Action Capital Corporation ("**Action**") and BB&T,

evaluated any bids received and determined that there were no Eligible Bidders competing for the same assets; therefore, the scheduled Auction Sale was cancelled. At or prior to the Sale Hearing, Focus Services, LLC (the “**Purchaser**”) confirmed a bid submitted previously for certain assets related to the operation of the Debtors Maine and European facilities (the “**Assets**”) pursuant to a proposed asset purchase agreement. In accordance with representations made to the Court at the Sale Hearing, said asset purchase agreement was modified following the Sale Hearing to delete the Debtors’ hosting contract(s) with Quality Technology Services from Exhibit A to the asset purchase agreement. Said asset purchase agreement, as modified, is attached hereto as Exhibit 1 (the “**Purchase Agreement**”). The Debtors, in consultation with the Committee, Action and BB&T, and their legal and financial advisors, determined that the offer made by Purchaser was the highest and best offer for the Assets, that acceptance of said offer was in the best interest of the Debtors’ estates, and agreed to recommend approval of the Purchaser’s offer at the Sale Hearing. Capitalized terms used in this Order and not otherwise defined herein shall have the same meanings ascribed thereto in the Sale Motion and the Purchase Agreement.

Present at the Sale Hearing were counsel for the Debtors, the U.S. Trustee, the Committee, and Action. In support of the Sale Motion, the Debtors proffered at the Sale Hearing the testimony of (i) Angelia Austin, the Debtors’ Controller, and (ii) Katie Goodman, a financial advisor retained by the Debtors. Both proffers were accepted without objection. The Court having reviewed the Sale Motion, the record in this case, and having considered argument of counsel at the Sale Hearing, the proffers by counsel for the Debtors regarding the Sale Motion and any evidence presented at the Sale Hearing, and it appearing that the proposed sale of the Assets to the Purchaser pursuant to the Purchase Agreement is in the best interest of the Debtors and their respective estates,

for good cause shown, and for the reasons stated by the Court on the record at the Sale Hearing, which are incorporated herein by reference, the Court finds as follows:

A. On June 28, 2016, (the “**Petition Date**”), NexxLinx, NGI, NNY, NTX, CNC, and MOI each filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the “**Bankruptcy Code**”). On July 14, 2016, (the “**NexxPhase Petition Date**”) NexxPhase filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The Debtors are authorized to operate their businesses as debtors-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

B. No trustee or examiner has been appointed in this bankruptcy case. No request has been made for the appointment of a trustee or examiner. The Committee was appointed on July 11, 2016.

C. This Court has jurisdiction over this matter and the parties and property affected thereby, pursuant to 28 U.S.C. §§ 157 and 1334 and 11 U.S.C. § 363. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A), (M), (N) and (O). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

D. Due and adequate notice of the filing of the Sale Motion and the Sale Hearing was given by service of the Sale Motion and the Procedures Order in accordance with Federal Rules of Bankruptcy Procedure 2002, 6004, and 6006, as evidenced by the filing of various certificates of service with the Court.

E. Based upon a review of their books and records, the Debtors set forth in the Cure Notice the amounts of Cure Costs believed and determined by the Debtors to be necessary to cure defaults under the Assigned Contracts pursuant to Section 365(b) of the Bankruptcy Code. The

Debtors requested in the Sale Motion, and the Procedures Order so required, that, unless an objection to the proposed Cure Costs was properly and timely filed and served by a non-debtor party to an Assigned Contract, the Court enter an order determining that the Cure Costs shall be fixed at the amounts shown in the Cure Notice and shall constitute the entire amount necessary to cure any defaults under Section 365(b) of the Bankruptcy Code and that payment of these amounts will cure any and all such defaults. The Procedures Order entered by this Court specifically provided that the parties to the Assigned Contracts would be bound by the Cure Costs listed by the Debtors in the Cure Notice unless the non-debtor parties to the Assigned Contracts timely filed an objection to the proposed Cure Costs.

F. The Debtors have established that there are sufficient business justifications to authorize the sale of the Property and the assumption and assignment of the Assigned Contracts prior to confirmation of a Chapter 11 plan and have satisfied all the requirements of 11 U.S.C. § 363(f) in order to convey the Assets to Purchaser free and clear in accordance with the terms of this Order. Pursuant to Bankruptcy Code section 363(f)(2), the Debtors are authorized to sell the Assets free and clear of liens, claims and encumbrances because Action and BB&T have consented to the sale. Moreover, the holders of liens or claims against the Debtors, their estates or any of the Assets who did not object, or who withdrew their objections, to the sale or the Sale Motion are deemed to have consented pursuant to section 363(f)(2) of the Bankruptcy Code.

G. The terms of the Purchase Agreement are fair and reasonable, and the transactions contemplated thereunder reflect the Debtors' prudent business judgment under all of the relevant circumstances and will result in the highest possible sales price for the Debtors' estate and creditors thereof. The total consideration provided by the Purchaser for the Assets was the highest and best

offer received by the Debtors, and the purchase price for the Assets constitutes (a) reasonably equivalent value under the Bankruptcy Code and the Uniform Fraudulent Transfer Act, (b) fair consideration under the Uniform Fraudulent Conveyance Act, and (c) reasonably equivalent value, fair consideration, and fair value under any other applicable laws of the United States, any state, territory or possession, or the District of Columbia, for the Assets. The proposed transactions contemplated in the Purchase Agreement are in the best interests of the Debtors, creditors and interested parties.

H. Based on the testimony proffered at the Sale Hearing by the Debtors, and the record in these cases, including the proposed Purchase Agreement, the Court finds that the transfer of the Assets to Purchaser on terms and conditions in accordance with the Purchase Agreement represents an arm's length transaction that was negotiated without collusion and in good faith between the Debtors and the Purchaser for a fair and reasonable price. The Debtors and the Purchaser are not affiliates of one another within the meaning of Section 101(2) of the Bankruptcy Code. Purchaser, as transferee of the Assets, constitutes a good faith purchaser under the Uniform Commercial Code and Section 363 of the Bankruptcy Code, and Purchaser is entitled to all of the protections of Section 363(m) of the Bankruptcy Code afforded to a good faith purchaser.

I. Neither the Debtors nor the Purchaser has engaged in any conduct that would cause or permit the sale of the Assets to Purchaser to be invalidated or avoided under Section 363(n) of the Bankruptcy Code.

J. Counsel for the Debtors and counsel for the Purchaser have represented that the Purchaser satisfies the requirements of demonstrating adequate assurance of future performance under Section 365 of the Bankruptcy Code with respect to the Assigned Contracts, and no creditor or

party interest has objected thereto.

K. Except as provided in the Purchase Agreement or this Order, the Purchaser is not assuming and shall not be liable for any liabilities or obligations of Seller.

Accordingly, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, AS FOLLOWS:

1. The Sale Motion is granted as set forth herein. Except as otherwise provided or resolved in this Order, all Objections to the Sale Motion which were not withdrawn at or before the Sale Hearing are overruled on the merits.

2. The Purchase Agreement is approved in all respects other than as set forth below, and the Debtors are authorized pursuant to Sections 363(b), 363(f) and 365 of the Bankruptcy Code to sell the Property and assume and assign the Assigned Contracts to Purchaser, on the terms and conditions set forth in the Purchase Agreement. The terms and provisions of the Purchase Agreement are hereby approved as if fully set forth and incorporated herein; provided, however, that the terms and conditions of this Order shall control in the event of any conflict with or ambiguity regarding the terms and conditions of the Purchase Agreement.

3. Except as expressly provided in the Purchase Agreement, the sale of the Assets by the Debtors to the Purchaser in accordance with this Order and the Purchase Agreement, pursuant to Sections 105(a) and 363(f) of the Bankruptcy Code, shall be free and clear of any and all liens, claims, encumbrances, and other interests, with any and all such liens, claims, encumbrances, and other interests attaching to the net proceeds of the sale in the same validity and in the same order of priority as in the underlying Assets. The claims, liens, encumbrances, and other interests, if any, asserted by any person or entity in or to any of the purchase price proceeds shall be in the same priority and subject to the same infirmities and defenses as existed with respect to the claims, liens,



encumbrances, and other interests in the property prior to the sales.

4. Notwithstanding anything to the contrary in this Order, the Debtors shall be authorized to pay at the closing of the sale of the Assets by the Debtors to the Purchaser in accordance with this Order and the Purchase Agreement (the “**Closing**”) normal and customary closing costs and prorations in accordance with the Purchase Agreement from the proceeds of sale. Any remaining portion of the sales proceeds (the “**Remaining Proceeds**”) shall be held in escrow by counsel for the Debtors, subject to the provisions of this Order and any other order entered by this Court, and shall only be disbursed pursuant to an order of the Court following notice to the Debtors, counsel for the Committee, Action and BB&T.

5. Except for the disbursements in Paragraph 4 of this Order, no other sale proceeds shall be paid to any party except as authorized by further or other order of this Court, and all parties in interest reserve their respective rights regarding the allocation, source, order and value of all such other sale proceeds together with any and all liens and claims asserted to such other sale proceeds and objections thereto, which shall attach to such other sale proceeds in the same order of priority as existed as of the closing.

6. The Debtors are authorized to perform and consummate the transactions contemplated by the Purchase Agreement, and to execute and deliver all documents and instruments thereby required, and to transfer to the Purchaser all right, title and interest in and to the Assets.

7. Pursuant to Sections 105(a) and 363 of the Bankruptcy Code, Bankruptcy Rule 7070 and Fed. R. Civ. Pro. 70, this Order shall and does, as of the Closing Date and the payment of the consideration described in the Purchase Agreement, divest the Debtors and their estates of all right, title and interest in the Property, and, except as expressly provided in the Purchase Agreement, the

Property shall be transferred to the Purchaser, free and clear of any and all liens, mortgages, security interests, pledges, hypothecations, encumbrances, restrictions, reservations, encroachments, infringements, easements, conditional sale agreements, title retention or other security arrangements, defects of title, adverse rights or interests, charges or claims of any nature whatsoever. The sale free and clear of all liens and liabilities includes, but is not limited to, a sale free and clear of any claims of successor liability.

8. This Order and the Purchase Agreement shall be binding upon all persons and entities and, upon satisfaction of all closing conditions and after the Closing Date, the following parties are forever barred and enjoined from bringing, or pursuing collection of, any claims against the Purchaser related to any claims they have or may have against the Property, the Assigned Contracts, or the Debtors: all alleged lienholders and creditors of the Debtors and, as applicable, each of their respective directors, officers employees, agents, successors, and permitted assigns, including, without limitation, any Chapter 11 trustee hereinafter appointed for the Debtors' estates, any trustee appointed in a Chapter 7 case if the Debtors' jointly administered bankruptcy cases are converted from Chapter 11, any Chapter 11 plan agent or trustee, liquidating agent or trustee, or any other agent or trustee charged with administering any assets of the Debtors or their estates. The Court retains exclusive jurisdiction to enforce the terms of this Order and the Purchase Agreement.

9. If any person or entity that has filed or recorded financing statements or other documents or agreements evidencing liens on or interests in the Assets shall not have delivered to the Debtors prior to the Closing, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of all liens or other interests which the person or entity has with respect to the Assets, such statements, instruments, releases and other

documents shall be deemed released, terminated and satisfied, and this Order is and shall be binding upon and govern the acts of all entities, including without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, registrars of patents, trademarks or other intellectual property, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or inure any title or state of title in or to any of the Assets. To the extent any such termination statements, instruments or releases have not been delivered at or prior to the Closing, each of the Debtors and the Purchaser shall have the right to file and record termination statements, instruments and releases as necessary to evidence the applicable releases, terminations and satisfactions.

10. The Debtors are authorized, but not obligated, to assume any or all of the Assigned Contracts and assign said Assigned Contracts to the Purchaser, in accordance with Section 365 of the Bankruptcy Code, effective only upon the Closing. There are no Cure Costs payable with respect to any of the Assigned Contracts.

11. In the event the Closing does not occur on or before the Closing Date (as defined in the Purchase Agreement), the Debtors shall not have any obligation to assume any Assigned Contract or pay any Cure Costs and the Assigned Contracts shall not be considered to have been assumed by the Debtors pursuant to Section 365 of the Bankruptcy Code. Notwithstanding anything to the contrary in this Order, no Assigned Contract will be assumed and assigned to the Purchaser until the Closing.

12. Upon assignment of each of the Assigned Contracts to the Purchaser, the Debtors

and their estates shall be relieved, pursuant to 11 U.S.C. § 365(k), from any liability for any breach of the Assigned Contracts occurring after the Closing, including the payment of any rent, taxes, maintenance charges, or any other amounts attributable to circumstances, events, facts or periods occurring after the Closing.

13. Because the Purchaser has acted in good faith, pursuant to Section 363(m) of the Bankruptcy Code, the reversal or modification of this Order on appeal will not affect the validity of the transfer of the Assets (including, without limitation, the assumption and assignment of the Assigned Contracts) to the Purchaser or any other transactions contemplated by the Purchase Agreement and/or authorized by this Order, unless the same is stayed pending appeal prior to closing under the Purchase Agreement.

14. Nothing in this Order shall be deemed to modify the provisions of any orders entered previously in this case authorizing the Debtors to obtain post-petition financing from Action, the Cash Collateral Order, or the rights of any party thereunder.

15. The Court has jurisdiction under 28 U.S.C. § 157 and 1334 and 11 U.S.C. §§ 105, 363, and 506 to determine the matters addressed herein as core proceedings under 28 U.S.C. § 157(b). This Court shall retain jurisdiction over any issues relating to the Purchase Agreement and to enforce its Order pursuant to 11 U.S.C. § 105 and Bankruptcy Rule 7070.

16. This is a final order and is enforceable upon entry by the Clerk of the Court. To the extent necessary under the Federal Rules of Bankruptcy Procedure 5003, 9014, 9021 and 9002, this Court expressly finds that there is no just reason for delay in the implementation of this Order and expressly directs entry of judgment as set forth herein and the stay of Federal Rules of Bankruptcy Procedure Rules 6004(h) and 6006(d) is hereby waived, modified and shall not apply to the sale of

the Property and the assumption and assignment of the Assigned Contracts in accordance with the Agreement, and the Debtors are authorized to take all actions and enter into all transactions authorized by this Order immediately.

17. This Court retains jurisdiction to enforce and implement the terms and provisions of this Order and the Purchase Agreement, all amendments thereto, any waivers and consents thereunder, including, but not limited to, retaining jurisdiction to: (a) resolve any disputes arising under or related to the Purchase Agreement, except as otherwise provided therein; and (b) interpret, implement and enforce the provisions of this Order.

**[END OF DOCUMENT]**

Prepared and presented by:

SCROGGINS & WILLIAMSON, P.C.

/s/ Ashley R. Ray  
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**EXHIBIT "1"**

**ASSET PURCHASE AGREEMENT**

THIS ASSET PURCHASE AGREEMENT (the "Agreement") is made and entered into as of June 15, 2017, by and between Focus Services, LLC, a Utah limited liability company ("Buyer"), on the one hand, and NexxLinx Corporation, Inc. ("NexxLinx"); NexxLinx Global, Inc. ("NGI"); NexxLinx of New York, Inc. ("NNY"); NexxLinx of Texas, Inc. ("NTX"); CustomerLinx of North Carolina, Inc. ("CNC"); Microdyne Outsourcing Inc. ("MOI"); and NexxPhase, Inc. ("NexxPhase"), as debtors and debtors-in-possession (collectively, "Sellers"), on the other hand. Buyer and Sellers may be referenced collectively as the "Parties" or individually, a "Party."

A. Sellers each filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101, et seq. (the "Bankruptcy Code"), on June 28, 2016 (or in the case of NexxPhase, on July 14, 2016) in the United States Bankruptcy Court for the Northern District of Georgia (the "Bankruptcy Court"). The cases are being jointly administered under Case Nos. 16-61225 (the "Case").

B. Subject to the approval and order of the Bankruptcy Court (the "Approval Order"), Buyer desires to purchase from Sellers and Sellers desire to sell to Buyer the assets (as defined below) upon and subject to the terms and conditions set forth herein and pursuant to, inter alia, Section 363 of the Bankruptcy Code.

NOW, THEREFORE, in consideration of the promises, and the representations, warranties, covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows.

**ARTICLE 1**

**PURCHASE AND SALE OF ASSETS; NO ASSUMED LIABILITIES**

On the terms and subject to the conditions contained herein and subject to the approval of the Bankruptcy Court pursuant to Sections 105 and 363 of the Bankruptcy Code, Sellers agree to sell to Buyer, and Buyer agrees to purchase from Sellers, free and clear of all liens, claims, interests, pledges, option, charge, hypothecation, easement, security interest, defect of title, restriction on transferability, restriction on use or other encumbrance ("Liens"), all of Sellers' right, title and interest in and to the assets, that are listed on Exhibit A hereto ("Assets"). Buyer does not and will not assume any liability or obligation of Sellers whatsoever, whether fixed or contingent, known or unknown, disclosed or undisclosed under this Agreement, except for the identified liabilities listed on Exhibit B.

**ARTICLE 2**

**PURCHASE PRICE AND CLOSING**

The aggregate purchase price for the identified Assets is Seventy-Five Thousand Dollars (\$75,000.00) (the "Purchase Price").

Prior to the execution and delivery of this Agreement by Buyer, Buyer has deposited with counsel for Sellers (the "Escrow Agent") cash in an amount equal to \$3,750 by wire transfer of immediately available federal funds to an account designated by counsel for Sellers (the "Good

Faith Deposit”). Sellers acknowledge that the Escrow Agent has received the Good Faith Deposit. The Good Faith Deposit shall be held in escrow and shall be fully refundable (subject to the following paragraph) in the event that the Closing does not occur by the Closing Date (as defined below) due to the fault of Sellers. The Escrow Agent shall return to Buyer the Good Faith Deposit upon the earlier of (i) Buyer’s termination of this Agreement under Section 5.1 as a result of the failure of a condition to Buyer’s obligations under Section 4.4 (a “Sellers Default Termination”), (ii) Buyer’s or Sellers’ termination of this Agreement at its election under Sections 5.1(B), 5.1(C), or 5.1(F), (iii) on August 2, 2017, if no Closing or Buyer Default Termination (defined below) has occurred as of August 1, 2017, (iv) upon closing of a sale of the Assets to a third-party overbidder at the auction, or (v) mutual termination of this Agreement under Section 5.1(A). The Escrow Agent shall deliver the Good Faith Deposit to Sellers upon the earlier of (a) Sellers’ termination of this Agreement under Section 5.1(G) as a result of the failure of a condition to Sellers’ obligations (a “Buyer Default Termination”), (b) Buyer’s termination of this Agreement under Section 5.1(D), (c) Buyer receiving satisfactory verification from Sellers that the Bankruptcy Court has entered the Approval Order as set forth in the following paragraph, or (d) at the Closing of the sale to Buyer, to be credited against the Purchase Price. The Escrow Agent’s escrow fees and charges shall be paid by Sellers.

Within two (2) business days of Buyer receiving satisfactory verification from Sellers that the Bankruptcy Court has entered the Approval Order, Buyer shall deposit with Escrow Agent cash in an amount equal to \$11,250 by wire transfer of immediately available federal funds to an account designated by counsel for Sellers (the “Approval Order Deposit”). The Approval Order Deposit shall be credited against the Purchase Price at the Closing. The Approval Order Deposit shall not be refundable and Escrow Agent shall deliver the Approval Order Deposit to Sellers promptly following Sellers’ written request. Further, notwithstanding anything to the contrary herein, upon Buyer receiving satisfactory verification from Sellers that the Bankruptcy Court has entered the Approval Order, the Good Faith Deposit shall not be refundable and Escrow Agent shall deliver the Good Faith Deposit to Sellers promptly following Sellers’ written request.

At the closing of the transactions contemplated by this Agreement (the “Closing”), Buyer shall (i) pay and deliver to Sellers, by wire transfer of immediately available federal funds, the Purchase Price less the Good Faith Deposit and the Approval Order Deposit and (ii) to the extent not previously delivered, instruct the Escrow Agent to deliver the Good Faith Deposit and the Approval Order Deposit to Sellers, by wire transfer of immediately available federal funds. The Closing shall occur no later than August 1, 2017 (the “Closing Date”). The Parties shall cooperate and shall enter into all other necessary documents that are necessary to evidence transfer of title to the Assets to Buyer or its designee.

Notwithstanding anything to the contrary herein, the assignment of the Charter Contracts (as defined on Exhibit A) shall not occur or be deemed to occur prior to the earlier of (i) August 1, 2017, or (ii) Sellers’ written confirmation to Buyer that Sellers have received the amounts owed to Sellers under the Charter Contracts. Immediately following such date or confirmation, as applicable, (a) if the Closing has occurred by such date, then Sellers shall cause the Charter Contracts to be assigned to Buyer, and (b) if the Closing has not occurred by such date, then the Charter Contracts shall be assigned to Buyer at the Closing.

**ARTICLE 3**  
**REPRESENTATIONS AND WARRANTIES**

Section 3.1 Sellers represent and warrant to Buyer as follows.

A. Authority. To the extent necessary, the Approval Order shall grant to Sellers all requisite power and authority to execute and deliver this Agreement and to perform the transactions contemplated hereby and thereby.

B. Title. The Approval Order shall convey to Buyer good and valid legal and beneficial title in and to the Assets, free and clear of all Liens.

C. Personal Property Taxes. Sellers shall satisfy all personal property taxes required to have been paid, or which has been claimed, assessed or demanded by any municipality to be payable by Sellers with respect to the Assets. The entry of the Approval Order authorizing the transfer of beneficial title in and to the Assets to Buyer, free and clear of all Liens, shall be deemed to satisfy this representation.

Section 3.2. Buyer represents and warrants to Sellers as follows.

A. Authority. All action on the part of Buyer necessary for the authorization, execution, delivery and performance of this Agreement by Buyer, including, but not limited to, the performance of Buyer's obligations hereunder, has been duly taken. This Agreement, when executed and delivered by Buyer, shall constitute the valid and binding obligation of Buyer enforceable in accordance with its terms.

B. Organization, Standing and Power. Buyer is a limited liability company duly organized, validly existing and in good standing under its jurisdiction of organization. Buyer has all requisite corporate power and authority to own, lease and operate its properties, to carry on its business as now being conducted and to execute, deliver and perform this Agreement and all writings relating hereto.

C. No Conflicts or Violations. The execution and delivery of this Agreement, the consummation of the transactions herein contemplated, and the performance of, fulfillment of and compliance with the terms and conditions hereof by Buyer do not and will not: (i) conflict with or result in a breach of the governing documents of Buyer; (ii) violate any statute, law, rule or regulation, or any order, writ, injunction or decree of any court or governmental authority; or (iii) violate or conflict with or constitute a default under any agreement, instrument or writing of any nature to which Buyer is a party or by which Buyer or its assets or properties may be bound.

D. Financing. Buyer has sufficient funds available to consummate the transactions contemplated hereby.

**ARTICLE 4**  
**CONDITIONS AND COVENANTS**

Buyer and Sellers agree as follows with respect to the period between the execution of this Agreement and the Closing Date:



Section 4.1 General. Subject to the terms of this Agreement, and, in the case of Sellers, approval of the Bankruptcy Court, Buyer and Sellers will each use commercially reasonable efforts to take all actions and to do all things necessary, proper, or advisable in order to consummate and make effective the transactions contemplated by this Agreement.

Section 4.2 Transfer Taxes. To the extent the transaction contemplated by the Agreement is not tax exempt pursuant to Section 1146 of the Bankruptcy Code, Sellers shall make all required payment of taxes, transfer taxes, fees, stamp taxes or other similar taxes or fees that are to be made in connection with the transfer of beneficial title (the "Transfer Taxes"), in the Assets. Sellers shall pay such Transfer Taxes and shall file all necessary documentation and returns with respect to such Transfer Taxes when due, and shall promptly, following the filing thereof, furnish a copy of such return or other filing and a copy of a receipt showing payment of any such Transfer Tax to Buyer.

Section 4.3 Access to Properties and Records.

A. Subject to compliance with applicable law, during the period commencing on the date hereof and ending on the Closing Date, Sellers shall afford to Buyer and its representatives, upon advance notice from Buyer, reasonable access, during normal business hours, to all of the assets, properties, books, records (including tax records), contracts, documents, officers, representatives and customers of Sellers. Sellers shall furnish or cause to be furnished to Buyer such reasonable financial and operating data and other information about Sellers, their respective businesses as presently conducted, as conducted in the past and as presently proposed to be conducted in the future, and properties and assets that Buyer and its representatives may reasonably request; provided, however, that the foregoing shall not require Sellers to provide any such access or disclose any information to the extent the provision of such access or such disclosure would contravene applicable law. Subject to compliance with applicable law, during the period commencing on the date hereof and ending on the Closing Date, Sellers shall confer from time to time as reasonably requested by Buyer with one or more representatives of Buyer to discuss any changes or developments in the operational matters of Sellers and the general status of the ongoing operations of Sellers.

B. After the Closing Date, each of the Parties shall provide the other Parties and each of the their respective representatives with access, subject to applicable law, at reasonable times, on reasonable notice and during ordinary business hours, to such information related to Sellers, the Assets, or the Continuing Employees (as defined in Section 4.5) as is reasonably necessary for financial reporting, human resources, contract administration, audit, regulatory compliance and accounting matters, administration of the Sellers' Case, the preparation and filing of any tax returns, reports or forms, or the defense of any tax claim or assessment, and each of the Parties and their respective representatives shall be permitted to make extracts from, or take copies of, any books, records or other documentation related to Sellers, the Assets, or the Continuing Employees as may be reasonably necessary for any such purposes.

Section 4.4 Closing Conditions. The obligations of Buyer to consummate the transactions contemplated under this Agreement are subject to the fulfillment and satisfaction, at the time of the Closing, of each of the following conditions precedent, any one or more of which may be waived, in part or in full, by Buyer in writing.

A. Representations and Warranties True at Signing and on the Closing Date. The representations and warranties of Sellers contained in this Agreement (and in any certificate delivered by any of the Sellers pursuant hereto) shall be true, correct and complete in all respects on the Closing Date.

B. Notices. Sellers shall have provided all necessary notices to third parties required to consummate the transactions contemplated by this Agreement, including all notices required in order to obtain the Approval Order.

C. Approval Order. The Bankruptcy Court shall have entered the Approval Order.

D. Assets. The contracts to be assigned to Buyer, as set forth in Exhibit A, shall be specifically identified and agreed to by Buyer and Sellers.

E. Certification of Closing Conditions. Buyer shall have received a certificate signed by an executive officer of each of the Sellers duly authorized to execute such instrument in form reasonably satisfactory to Buyer, dated as of the Closing Date, to the effect that each of the conditions specified in this Section 4.4 has been satisfied.

Section 4.5 Employee Matters. Sellers agree to allow Buyer to make a recruiting presentation to any or all of the employees that work for Sellers. Buyer may offer to employ each such employee, which employment, if accepted by an employee, shall begin on the Closing Date. Any such offer shall (i) be subject to and in compliance with Buyer's applicable policies and procedures, including requirements for proof evidencing a legal right to work in the offeree's country of current employment and employment background checks, (ii) have terms, including the position and salary, which will be determined by Buyer, and (iii) supersede any express or implied employment agreement, arrangement or offer letter in effect with such employees prior to the Closing Date. Any offers of employment will be for "at will" employment and nothing expressed or implied herein will obligate Buyer to provide continued employment to any such employee for any specified period of time following the Closing Date. Nothing herein shall require Buyer to make an offer of employment to any of such employees. All such employees who accept offers of employment with Buyer (or an affiliate of the Buyer) and commence employment with Buyer (or an affiliate of the Buyer) effective as of the Closing Date shall be referred to herein as the "Continuing Employees." Buyer will provide Sellers with a list of Continuing Employees prior to the Closing. Sellers shall pay to each such Continuing Employee at the Closing, or if not practicable, promptly thereafter (and in any event within the time period required by applicable law), all compensation or other payments or benefits due and owing for services rendered through the Closing Date, including, without limitation, base salary, bonus or incentive compensation, unreimbursed business expenses, and any other employee benefits due upon termination of employment under any applicable employee benefit plans or as required by law. Notwithstanding the foregoing sentence, Buyer shall be responsible to pay for any accrued but unused vacation owed to any Continuing Employee. Except with respect to the assumed liabilities set forth on Exhibit B and Buyer's obligation to pay for any accrued but unused vacation owed to any Continuing Employee, Buyer shall not be responsible for or assume any liabilities for any notices, benefits, payments, fines, and/or assessments due to any employee of any of Sellers or due to any governmental authority. Sellers hereby agree to forever release (and to cause any affiliate to release) any employee who becomes a Continuing Employee or any employee who becomes a consultant to Buyer or its affiliates from the provisions of any non-

competition, non-disclosure or other similar restrictions to the extent necessary to allow (x) such employee to accept such offer of employment with Buyer or (y) such employee to accept a consulting engagement with Buyer. Buyer and Sellers hereby covenant to cooperate with each other and use commercially reasonable efforts to materially fulfil all statutory requirements related to the Continuing Employees ceasing to work for Sellers and transition to working for Buyer.

## **ARTICLE 5**

### **TERMINATION**

Section 5.1 Termination of Agreement. This Agreement may be terminated at any time prior to the Closing Date:

- A. By the mutual written consent of Sellers and Buyer;
- B. By either Buyer or Sellers if a court of competent jurisdiction or governmental, regulatory or administrative agency or commission shall have issued an order, decree or ruling or taken any other action, in each case permanently restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement and such order, decree, ruling or other action shall have become final and nonappealable; or
- C. By Buyer if the Bankruptcy Court has not entered the Approval Order within thirty (30) days after the date of this Agreement;
- D. By Buyer on or prior to July 15, 2017, if Buyer has not completed or is not satisfied with its due diligence with respect to the Assets and assumed liabilities by such date.
- E. By Buyer or Sellers if the Closing has not occurred on or before August 1, 2017; or
- F. By Buyer if any of the Sellers fail to perform its obligations under this Agreement.
- G. By Sellers if Buyer shall fail to perform its obligations under this Agreement.

## **ARTICLE 6**

### **MISCELLANEOUS PROVISIONS**

Section 6.1 Expenses. Except as specifically provided in this Agreement, all costs and expenses incurred by Sellers (including any broker fees) shall be paid by Sellers and all costs and expenses incurred by Buyer shall be paid by Buyer (including any broker fees).

Section 6.2 Effect of Headings. The subject headings of the Articles and Sections of this Agreement are included for purposes of convenience only, and shall not affect the construction or interpretation of any of the provisions hereof.

Section 6.3 Entire Agreement; Modification. This Agreement, together with all of the schedules and exhibits furnished hereunder, constitute the sole and entire agreement among the Parties pertaining to the subject matter contained herein, and supersedes all prior and

contemporaneous agreements, representations and understandings of the Parties. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by all the Parties.

Section 6.4 Waiver. No waiver of any provision of this Agreement shall be effective unless it is in the form of a writing signed by the Party granting the waiver. No act, failure to act, practice or custom shall constitute an implied waiver of full compliance with any of the provisions hereof. The granting of a written waiver pursuant to this Section shall apply, unless expressly set forth therein to the contrary, only to the specific incident of noncompliance with the specific provisions of this Agreement set forth therein.

Section 6.5 Counterparts. This Agreement may be executed concurrently in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A Party may execute this Agreement and transmit its signature electronically, which shall be fully binding, and the Party taking such actions shall deliver a manually signed original as soon as is practicable.

Section 6.6 Parties in Interest. Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than Buyer and Sellers and their respective successors and assigns, or is intended to relieve or discharge the obligation or liability of any third persons to any Party. None of the provisions hereof shall be deemed to give any third persons any right of subrogation or action over or against any Party.

Section 6.7 Binding Effect. This Agreement shall be binding on, and shall inure to the benefit of, the Parties and their respective successors and permitted assigns.

Section 6.8 Successors and Assigns. No Party may assign its rights or obligations under this Agreement without the prior written consent of the other Parties. Any assignment in violation of the foregoing shall be null and void.

Section 6.9 Notices. Any notices, consent, approval or other communications given pursuant to the provisions of this Agreement shall be in writing and shall be: (A) mailed by certified mail or registered mail, return receipt requested, postage prepaid, or (B) delivered by a nationally recognized overnight courier, U.S. Post Office Express Mail, or similar overnight courier which delivers only upon signed receipt of the addressee, or (C) delivered by facsimile or hand delivered and addressed as follows:

If to Sellers:

Nexxlinx Corporation, Inc.  
c/o D. Alan Quarterman  
3565 Piedmont Road NE  
Building Two, Suite 100  
Atlanta, Georgia 30305

With a copy (which shall not constitute notice) to:

Ashley R. Ray, Esq.  
Scroggins & Williamson, P.C.  
4401 Northside Parkway, Suite 450  
Atlanta, GA 30327

If to Buyer:

Focus Services, LLC  
4102 South 1900 West  
Roy, Utah 84067

With a copy (which  
shall not constitute  
notice) to:

Steven W. Bennett  
Bennett Tueller Johnson & Deere, LLC  
3165 East Millrock Drive, Suite 500  
Salt Lake City, Utah 84121

The time of giving of any notice shall be the time of receipt thereof by the addressee or any agent of the addressee, except that in the event the addressee or such agent of the addressee shall refuse to receive any notice given by registered mail or certified mail as above provided or there shall be no person available at the time of the delivery thereof to receive such notice, the time of the giving of such notice shall be the time of such refusal or the time of such delivery, as the case may be. Any Party may, by giving five (5) days written notice to the other Parties, designate any other address in substitution of the foregoing address to which notice shall be given.

Section 6.10 Definitions. All terms defined in this Agreement shall have such defined meanings when used in any exhibit, schedule, or any certificate or other document made or delivered pursuant thereto or thereto, unless otherwise defined therein.

Section 6.11 Choice of Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia, without giving effect to any choice of law or conflict provision or rule, whether of the State of Georgia (or any other jurisdiction) that would cause the laws of any jurisdiction other than the State of Georgia to be applied. In furtherance of the foregoing, the internal law of the State of Georgia will control the interpretation and construction of this Agreement, even if under such jurisdiction's choice of law or conflict of law or analysis, the substantive law of some other jurisdiction would ordinarily apply.


Section 6.12 Bankruptcy Court Jurisdiction. BUYER AND SELLERS AGREE THAT THE BANKRUPTCY COURT SHALL HAVE EXCLUSIVE JURISDICTION OVER ALL DISPUTES AND OTHER MATTERS RELATING TO (i) THE INTERPRETATION AND ENFORCEMENT OF THIS AGREEMENT OR ANY ANCILLARY DOCUMENT EXECUTED PURSUANT HERETO, AND/OR (ii) THE ASSETS AND/OR ASSUMED LIABILITIES, AND BUYER EXPRESSLY CONSENTS TO AND AGREES NOT TO CONTEST SUCH EXCLUSIVE JURISDICTION.

[Remainder of page intentionally left blank; signature page to follow]

IN WITNESS WHEREOF, each of the Parties has signed this Agreement or has caused the same to be signed by its duly authorized officer as of the date first above written.

**BUYER:**

FOCUS SERVICES, LLC

By:   
Name: Bryan Tersch  
Title: VP

**SELLERS:**

NEXXLINX CORPORATION, INC.

MICRODYNE OUTSOURCING INC.

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

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

NEXXLINX GLOBAL, INC.

NEXXPHASE, INC.

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

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

NEXXLINX OF NEW YORK, INC.

NEXXLINX OF TEXAS, INC.

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

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

CUSTOMERLINX OF NORTH CAROLINA,  
INC.

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



## **EXHIBIT A**

### **ASSETS**

All of Sellers' right, title, and interest in and to the following assets:

1. All of the equipment and other assets at Sellers' call center in Middlesbrough, United Kingdom.
2. All of the equipment and other assets at Sellers' office in Milton Keynes, United Kingdom.
3. All of the equipment and other assets (owned by Sellers, if any) at the home offices of Sellers' employees in Germany.
4. All of the equipment and other assets at Sellers' call center located in Orono, Maine, USA.
5. Sellers' lease agreement for the call center located in Orono, Maine, USA.
6. Sellers' books and records pertaining to the Assets and the Continuing Employees; provided that Sellers may retain copies of all such books and records.
7. Sellers' service contracts with Unify Inc. and its affiliates, as applicable, which contracts will be specifically identified prior to the Closing.
8. Sellers' service contract(s) with Charter Communications, Inc. or its affiliate(s), as applicable (i.e., the Time Warner Cable contract(s)), which contracts will be specifically identified prior to the Closing (the "Charter Contracts").
9. Sellers' hosting contract(s) with Telx Inc. or its affiliates, as applicable, including but not limited to Telx – Dallas, LLC, which contracts will be specifically identified prior to the Closing.
10. All of the equipment and other assets owned by Sellers at the facilities of Telx Inc. or its affiliates in Dallas, Texas and Atlanta, Georgia.

**EXHIBIT B**

**ASSUMED LIABILITIES**

Buyer shall assume no liabilities except:

1. The obligations arising after the Closing under the acquired contracts listed in Exhibit A.
2. Liabilities for any redundancy or severance liabilities imposed by the laws of any European nation with respect to any Continuing Employees.



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