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Systems Technologies Worldwide, Inc.,
dba Quantum Technologies

UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

SANTA ANA DIVISION

IN RE

QUANTUM FUEL SYSTEMS TECHNOLOGIES
WORLDWIDE, INC., DBA QUANTUM
TECHNOLOGIES,

DEBTOR.

CASE No: 8:16-BK-11202-MW

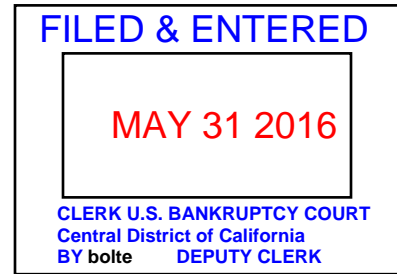
CHAPTER 11

**SUPPLEMENTAL ORDER ON MOTION TO
ESTABLISH BIDDING PROCEDURES AND
FOR OTHER RELIEF**

JUDGE: HON. MARK S. WALLACE

This matter came before the Court on the motion of the above-captioned debtor and debtor-in-possession (the “**Debtor**”), filed on April 8, 2016, under ECF No. 117, to establish bidding procedures and seeking other relief (the “**Motion**”), including authority from the Court for the Debtor to enter into the Asset Purchase Agreement dated April 8, 2016, as amended from time to time (the “**Agreement**”), between the Debtor, Douglas Acquisitions LLC (“**Douglas**”), the K&M Douglas Trust, and the Douglas Irrevocable Descendant’s Trust (collectively, the “**Trusts**,” and together with Douglas, the “**Stalking Horse Bidder**”).

A. The statutory committee of unsecured creditors appointed in connection with this case (the “**Committee**”) and the Office of the United States Trustee (the “**U.S. Trustee**”) informally raised



1 objections to the Motion with respect to (i) the inclusion in Section 1.02(t) of the Agreement of a waiver
2 by the Debtor of claims under chapter 5 of the Bankruptcy Code against vendors and customers of the
3 Debtor, (ii) the releases contained in Section 8.02 of the Agreement, and (iii) the amount of the Purchase
4 Price required to be paid by the Prevailing Bidder (or Back-Up Bidder) before the Break-Up Fee
5 becomes payable (as those terms are defined in the Bidding Procedures). The Debtor, the Committee,
6 Douglas, and the Trusts requested additional time to seek to resolve these issues. No other parties-in-
7 interest filed objections to the Motion.

8 B. On April 25, 2016, the Court entered an order (the “**Bidding Procedures Order**”)
9 granting certain relief sought in the Motion. *See* ECF No. 179. In the Bidding Procedures Order, the
10 Court stated that certain informal objections of the Committee and the U.S. Trustee were reserved and
11 could be resolved by the parties by submission of a supplemental order amending the Bidding
12 Procedures Order. In the event the issues were not resolved, the Bidding Procedures Order provided that
13 they would be resolved by the Court. Capitalized terms not otherwise defined in this order shall have the
14 meanings ascribed to them in the Bidding Procedures Order.

15 C. The Debtor, the Committee, Douglas, and the Trusts have resolved all remaining
16 objections of the Committee and the U.S. Trustee to the relief sought in the Motion, as reflected in this
17 order and in the Second Amendment to Asset Purchase Agreement (the “**Second Amendment**”)
18 attached to this order as Exhibit A. Subject to entry of this order, the Committee and U.S. Trustee have
19 withdrawn all further objections to the Motion and have consented to entry of this order. The parties
20 therefore sought entry of this order amending the Bidding Procedures Order as set forth herein. After
21 due deliberation and sufficient cause appearing therefore,

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THE COURT HEREBY FINDS, CONCLUDES, AND ORDERS THAT:¹

1. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. § 1334. This proceeding is a core proceeding pursuant to 28 U.S.C. § 157. Venue is proper in this district and in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief requested herein are sections 105, 363, 365, 503 and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, 9007 and 9014, and Local Bankruptcy Rule 6004-1. The relief requested is in the best interests of the Debtor's estate, its creditors, and other parties in interest

3. Due and adequate notice of the relief requested and granted in this order has been provided in light of the circumstances and the nature of the relief requested herein, and no other notice need be provided.

4. The form of the Second Amendment is approved, including without limitation, as follows:

(a) The Debtor is authorized to pay the Break-Up Fee to the Stalking Horse Bidder in accordance with the Agreement, as amended by the Second Amendment.

(b) The waivers and releases of claims contained in Section 8.02 of the Agreement are approved. The Committee has determined that to the extent there are colorable claims against the beneficiaries of the releases and waivers in Section 8.02 of the Agreement, the consideration being provided by Douglas and the Stalking Horse Bidder is adequate consideration for the releases and waivers granted in Section 8.02 of the Agreement. The waivers and releases in Section 8.02 include but are not limited to any claims sounding in fraud, negligent misrepresentation, intentional misrepresentation, breach of fiduciary duty, or willful misconduct. The waivers and releases in Section 8.02 of the Agreement will be binding on the Committee, the Debtor, the Debtor's estate, and all successors-in-interest, including any trustee appointed under chapter 7 of the Bankruptcy Code and any

¹ The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

liquidating trustee appointed as part of a plan of reorganization or plan of liquidation. The Committee and Debtor waive any rights that they might have by virtue of Section 1542 of the California Civil Code, which reads: “A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

(c) The amendment of Section 1.02(f) of the Agreement is approved. Chapter 5 claims against vendors and customers of the Debtor shall remain property of the Debtor’s estate.

(d) The amendment of Section 7.01 of the Agreement is approved.

5. The Debtor is authorized to execute and deliver the Second Amendment to the Stalking Horse Bidder.

6. If the Stalking Horse Bidder is the buyer through its current stalking horse bid, then at closing the Stalking Horse Bidder has agreed to pay an additional \$300,000 into a separate account, with the funds in the account only being used for distributions to holders of allowed unsecured claims against the Debtor (the “**Creditor Fund**”). The Creditor Fund will not be available to pay administrative or other claims. The Stalking Horse Bidder will not be obligated to fund the Creditor Fund if the Agreement is terminated for any reason. If (i) the Debtor receives one or more Qualified Bids under the Bidding Procedures, (ii) the Stalking Horse Bidder participates in the Auction by submitting one or more Qualified Bids other than the Stalking Horse Bid, and (iii) the Stalking Horse Bidder becomes the Prevailing Bidder, then the Stalking Horse Bidder will not be required to fund the Creditor Fund. The Stalking Horse Bidder, the Debtor and the Committee will submit to the U.S. Trustee and the Court a proposed order regarding mechanics for establishing and maintaining the Creditor Fund, and the criteria for distribution of the funds from the Creditor Fund. If the parties cannot agree, this Court will resolve the issues upon a motion filed by one or more of the parties.

7. The Agreement provides for the payment of the Senior Secured Notes at closing. The Committee has determined that there are no defenses to the payment of the amounts due pursuant to the Senior Secured Notes, and therefore consents to their payment at Closing. As provided in the Agreement, if no Qualified Bids are submitted to the Debtor in connection with the Auction, the

Debtor's obligations to Douglas and/or the Trusts under the Senior Secured Notes will be paid by way of credit bid by the Stalking Horse Bidder. The amounts due to holders of other Senior Secured Notes will be paid in cash. If the Prevailing Bidder or Back Up Bidder is a party other than the Stalking Horse Bidder (i.e., one or more Qualified Bids are submitted by Qualified Bidder(s) other than the Stalking Horse Bidder), and the Prevailing Bidder or Back Up Bidder is a party other than the Stalking Horse Bidder), all obligations under the Senior Secured Notes, including to Douglas and/or the Trusts shall be paid in cash at Closing without the requirement of further order of this Court. The Committee will not object to payment of the amounts due to any of the holders of the Senior Secured Notes, provided however, that the Committee reserves the right to object to other claims filed by any holders of Senior Secured Notes (e.g., claims for payment of wages and severance arising out of their employment by the Debtor).

8. The consideration provided by Douglas and the Trusts through post-petition financing, the Agreement (including the agreement to serve as stalking horse bidder), and the other provisions of the Bidding Procedures Order (as supplemented by this order) constitutes fair and reasonable consideration for all purposes, including the granting of the releases and waivers in Section 8.02 of the Agreement. Nothing in this order shall be construed to imply that Douglas, the Trusts, Mr. Douglas or Mr. McGaw engaged in conduct that would give rise to liability to the Debtor, its estate or any third party. Douglas and the Trusts, in their capacity as Stalking Horse Bidder, are making the additional payment to the Creditor Fund for the purposes of facilitating the sale process in this case, providing further value to unsecured creditors, and assisting in an orderly transition of the business to the Stalking Horse Bidder, or if there is an auction, the Prevailing Bidder at the auction.

9. Before the earlier of closing of the sale pursuant to the Bid Procedures (whether to the Stalking Horse Bidder or another bidder) and July 29, 2016, the Committee shall not conduct any further investigations into the conduct of any person or entity involved with the case, and shall not commence any litigation against person or entity arising out related to the business and affairs of the Debtor, including without limitation, any such investigations or litigation related to compensation of the Debtor's employees, officers or directors; provided, however, that nothing in this Paragraph 9 shall

1 prevent the Committee from conducting limited investigations, as necessary, to review and respond to
2 pleadings filed in the Case or otherwise conduct ongoing monitoring of the Case and the Debtor in the
3 exercise of its fiduciary duties.

4 10. All objections to the Motion and to entry of the Bidding Procedures Order, as modified
5 by this order, whether formal or informal, to the extent not withdrawn are hereby overruled.

6 11. This Order does not affect the validity, enforceability, or effectiveness of the Bidding
7 Procedures Order. This Order does not give rise to a right to appeal or seek reconsideration with respect
8 to any matter in the Bidding Procedures Order not specifically addressed in this order.

9 12. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 6006(d), 7062,
10 9014 or otherwise, the terms and conditions of this order shall be immediately effective and enforceable
11 upon its entry, and no stay of execution shall apply to this order. Any stay of orders under Bankruptcy
12 Rules 6004(h) or 6006(d) is expressly waived. The Debtor is not subject to any stay in the
13 implementation, enforcement, or realization of the relief granted in this order and may without further
14 delay take any action and perform any act authorized or approved under this order.

15 13. This Court shall retain jurisdiction over any matters related to or arising from the
16 implementation of this order.

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APPROVED AS TO FORM

Dated: May 27, 2016

COUNSEL FOR THE OFFICIAL COMMITTEE
OF UNSECURED CREDITORS

By: /s/ Robbin Itkin (w/consent)
Robbin Itkin
LINER LLP

Dated: May 27, 2016

COUNSEL FOR DOUGLAS ACQUISITIONS
LLC

By: /s/ Ragan Powers (w/consent)
Ragan Powers
DAVIS WRIGHT TREMAINE LLP

Dated: May 27, 2016

COUNSEL FOR THE U.S. TRUSTEE

By: /s/ Michael Hauser (w/consent)
Michael Hauser

The attorney submitting this order certifies he has obtained the consent of the individual(s) whose
electronic signature(s) appear above to use such signature(s) herein.

IT IS SO ORDERED.

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Date: May 31, 2016

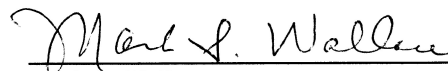

Mark S. Wallace
United States Bankruptcy Judge

EXHIBIT A

**SECOND AMENDMENT
TO ASSET PURCHASE AGREEMENT**

This SECOND AMENDMENT TO ASSET PURCHASE AGREEMENT (this “**Amendment**”), is entered into as of May __, 2016, by and among Quantum Fuel Systems Technologies Worldwide, Inc., a Delaware corporation (“**Seller**”), and Douglas Acquisitions LLC, a California limited liability company (“**Douglas**”), the K&M Douglas Trust, and the Douglas Irrevocable Descendant’s Trust (collectively referred to as the “**Trusts**”). Douglas and the Trusts are collectively referred to as “**Buyer**”. The foregoing parties are collectively referred to herein as the “**Parties**”.

RECITALS

WHEREAS, the Parties entered into an Asset Purchase Agreement dated April 8, 2016, as previously amended (the “**Purchase Agreement**”). The Parties desire to amend the Purchase Agreement pursuant to this Amendment. Capitalized terms used and not defined herein shall have the respective meanings ascribed to such terms in the Purchase Agreement;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto do hereby agree as follows:

AMENDMENT

1. Amendment to Section 1.02(f) (Excluded Assets). Section 1.02(f) is hereby deleted and replaced with the following:

“any avoidance claims arising under the Bankruptcy Code or applicable state law, including without limitation all rights and avoidance claims of Sellers arising under Chapter 5 of the Bankruptcy Code;”

2. Amendment to Section 5.04 (Employees). The following sentence is added to Section 5.04(a):

“Notwithstanding the first sentence of this section:

(i) The Code Section 401(k) plan offered by Buyer to hired Seller employees will contain, or shall be amended to contain, provisions permitting hired Seller employees to roll over any existing plan loans received from Seller’s Code Section 401(k) plan(s) to such Buyer-sponsored plan. Buyer shall administer any such rolled-over plan loans in accordance with applicable law. Seller agrees to use commercially reasonable efforts to cooperate with Buyer to effect the roll over of plan loans to Buyer’s Code Section 401(k) plan.

(ii) The Code Section 401(k) plan offered by Buyer to hired Seller employees will contain, or shall be amended to contain, provisions

permitting hired Seller employees to roll over any other Code Section 401(k) plan accounts from Seller's Code Section 401(k) plan(s).

(iii) Buyer shall offer benefit plans including provisions for flexible spending accounts and shall permit hired Seller employees to immediately participate in such flexible spending accounts. In addition, pursuant to IRS Revenue Ruling 2002-32, Buyer shall permit any amounts remaining in the hired Seller employees' flexible spending accounts under Seller's benefit plans as of the Closing Date to be transferred to flexible spending accounts maintained by Buyer. Buyer shall honor the salary reduction elections for flexible spending accounts made for the plan year in which this transaction is consummated by transferred Seller employees for the remainder of such plan year;

(iv) To the extent it impacts any benefit plan, program, or policy offered by Buyer at Closing, including, but not limited to the amount of vacation, paid-time off, or other similar benefits provided to employees, Buyer shall recognize each hired Seller employee's tenure based on their length of prior service with the Seller."

3. Amendment to Section 5.12(c) (Bankruptcy Matters). The first sentence of Section 5.12(c) is hereby deleted and replaced with the following:

"Seller shall (i) upon consummation of such Alternative Transaction, pay Buyer a break-up fee equal to two percent (2%) of the Purchase Price (the "**Break-Up Fee**"), provided that the aggregate purchase price paid in the Alternative Transaction is equal to or greater than the sum of (x) Twenty Three Million Dollars (\$23,000,000), (y) the amount by which the amount required to satisfy the DIP Loan exceeds Six Million Dollars (\$6,000,000), and (z) Two Million Five Hundred Thousand Dollars (\$2,500,000) (the "**Price Threshold**"); and (ii) reimburse the Buyer up to a maximum of \$300,000 for all its reasonable documented out-of-pocket costs and expenses (not otherwise reimbursable pursuant to the DIP Facility) incurred in connection with (a) the development, preparation and execution of, and any amendment, supplement or modification to, this Agreement and any other documents prepared in connection herewith or therewith, (b) conducting due diligence on Buyer's assets and business, (c) participating in the Bankruptcy Case, and enforcing or preserving any rights under this and any such other documents, including the fees and disbursements of counsel to the Buyer (the "**Expense Reimbursement**")."

4. Amendment to Section 7.01(b)(iv) (Termination). Section 7.01(b)(iv) is hereby deleted and replaced with the following:

"[INTENTIONALLY DELETED]"

5. Amendment to Section 7.01(b)(v) (Termination). Section 7.01(b)(v) is hereby deleted and replaced with the following:

“at any time on or prior to June 1, 2016 (the “**Diligence Deadline**”), if Buyer determines, in its sole and absolute discretion, that it is not satisfied with the results of its due diligence, including the Cure Amounts payable in connection with Business Contracts;”

6. Entire Agreement. This Amendment and the Purchase Agreement constitute the entire agreement of the Parties with respect to the subject matter hereof. Except as amended by this Amendment, the Purchase Agreement remains in full force and effect.

7. Governing Law. This Amendment shall be governed by and construed in accordance with the domestic Laws of, and enforced in, the State of California without giving effect to any choice or conflict of law provision or rule that would cause the application of the Laws of any jurisdiction other than the State of California.

8. Binding Effect. Except to the extent set forth and amended expressly herein, each of the Parties hereto acknowledges and agrees that all terms and provisions, covenants and conditions of the Purchase Agreement and all documents executed in conjunction therewith shall be and remain in full force and effect. Further, each of the Parties hereto acknowledges and agrees that the Purchase Agreement as amended hereby, shall constitute its legal, valid, and binding obligation, in each case, enforceable in accordance with its terms.

9. Section References. Section titles and references used in this Amendment shall be without substantive meaning or content of any kind whatsoever and are not part of the agreements among the parties hereto evidenced hereby.

10. Counterparts. This Amendment may be signed in any number of counterparts, each of which shall be an original, but all of which taken together constitute one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment as of the date first above written.

Quantum Fuel Systems
Technologies Worldwide, Inc.

By _____
Name: _____
Title: _____

Douglas Acquisitions LLC

By _____
Name: _____
Title: _____

The K&M Douglas Trust

By _____
Name: _____
Title: _____

The Douglas Irrevocable
Descendant's Trust

By _____
Name: _____
Title: _____

(Signature Page to Second Amendment to Purchase Agreement)