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Hearing Date: November 2, 2017
Hearing Time: 10:00 a.m.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 11

RLE INDUSTRIES, LLC and
NEI INDUSTRIES, INC.,

Lead Case No. 17- 11748 (MEW)
(Jointly Administered)

Debtors.

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**DEBTOR’S AMENDED MOTION (I) APPROVING THE ASSET
PURCHASE AGREEMENT BY AND BETWEEN DEBTOR RLE
INDUSTRIES, LLC AND VCOM INTERNATIONAL MULTI-MEDIA
CORPORATION TO SELL INTANGIBLE ASSETS, SUBJECT TO
HIGHER AND BETTER OFFERS (II) SEEKING ENTRY OF A SALE
PROCEDURES ORDER: (A) APPROVING BIDDING PROCEDURES,
(B) APPROVING THE FORM AND MANNER OF NOTICE, (C)
SCHEDULING AN AUCTION, AND (D) SCHEDULING A SALE
HEARING, AND; (III) A SALE APPROVAL ORDER: (A)
AUTHORIZING THE SALE OF THE INTANGIBLE ASSETS FREE
AND CLEAR OF ALL LIENS, CLAIMS, INTERESTS AND
ENCUMBRANCES, AND (B) GRANTING THE
SUCCESSFUL BIDDER GOOD FAITH STATUS**

**TO: THE HONORABLE MICHAEL E. WILES,
UNITED STATES BANKRUPTCY JUDGE:**

RLE Industries, LLC, the above-captioned debtor and debtor-in-possession (the “Debtor”), by its attorneys, DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, files this amended motion (the “Amended Motion”) seeking (I) approval of the Asset Purchase Agreement (the “APA”) by and between debtor RLE Industries, LLC and Vcom International Multi-media Corporation (“VCom” or “Purchaser”) to purchase RLE’s intangible assets (the “Intangible

Assets”), subject to higher and better offers, (II) entry of a sale procedures order: (A) approving bidding procedures, (B) approving the form and manner of notice, (C) scheduling an auction, and (D) scheduling a sale hearing, and (III) entry of a sale approval order: (A) authorizing the sale of the intangible assets free and clear of all liens, claims, interests and encumbrances, and (B) granting the successful bidder good faith status. In support of the Amended Motion, the Debtor respectfully represents as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Consideration of the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A).
2. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.
3. This proceeding has been initiated pursuant to Bankruptcy Code §§ 105(a), 363(b), (f) and (m), Bankruptcy Rules 2002(a)(2), 6004(a), (b), (c), (e), (f) and (g), and Local Rules 2014-1, and 6004-1.

BACKGROUND

4. On June 23, 2017 (the “Filing Date”), the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code.
5. By Order dated June 23, 2017, the above captioned Chapter 11 cases were procedurally consolidated.
6. The Debtor has continued in possession of its property and the management of its business affairs as a debtor-in-possession pursuant to §§1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner or statutory committee has been appointed.
7. RLE Industries, LLC (“RLE” or the “Debtor”) is a New York corporation formed in June of 2000. RLE is a manufacturer and fabricator of lighting fixtures. NEI installs lighting

fixtures.

8. On September 13, 2017, the Debtor filed an omnibus motion seeking, *inter alia*, approval to sell the Intangible Assets¹ pursuant to the terms of the APA with Vcom, subject to higher and better offers, and establishing sale procedures related thereto (the “Sale Motion”, ECF Doc. No. 63). The Debtor incorporates into this Amended Motion all of the pleadings related to the Sale Motion.

9. A hearing was held on the Sale Motion on October 4, 2017, during which hearing the Court noted that the Motion technically failed to seek approval of the APA. By this Amended Motion, the Debtor is seeking to amend and supplement the Sale Motion, specifically seeking approval of the APA with Vcom, subject to higher and better offers at an auction, and approving related sale procedures.

The Vcom Purchase Agreement

10. The Debtor’s efforts to sell its business and assets, which have been disclosed in detail in the Sale Motion, has resulted in procuring one (1) offer from Vcom Ito purchase RLE’s intangible assets (the “Intangible Assets”), subject to higher and better offers, specifically:

- (a) RLE’s customer list;
- (b) RLE’s phone number;
- (c) RLE’s website and domains;
- (d) RLE’s name (RLE), tradestyles, and tradenames;
- (e) RLE’s trademarks and patents, if any;
- (f) RLE’s *Luminera* product line including, (i) designs and specifications; (ii) prints and/or CAD file, if any, BOM’s, supplier list, etc.; (iii) brochures and brochure copy; (iv) residual *Luminera* inventory of parts and finished items selected by Purchaser (defined below), after inspection; (v) list of key reps and customers; (vi) tooling (including fabrication machinery, assembly tools, and tooling at vendor locations); (vii) packaging materials; (viii) assembly and production instructions (if any); and
- (g) UL Registrations (6 categories).

11. On August 31, 2017, RLE and Purchaser entered into an Asset Purchase Agreement (the “APA”) with respect to the Intangible Assets for a purchase price in the amount of \$100,000.00, a copy of which is annexed hereto as **Exhibit A**.

12. The material terms of the APA with VCom are as follows:

Purchaser	Vcom International Multi-media Corporation
Seller	RLE Industries, LLC
Purchased Assets	(a) RLE’s customer list; (b) RLE’s phone number; (c) RLE’s website and domains; (d) RLE’s name (RLE), tradestyles, and tradenames; (e) RLE’s trademarks and patents, if any; (f) RLE’s <i>Luminera</i> product line including, (i) designs and specifications; (ii) prints and/or CAD file, if any, BOM’s, supplier list, etc.; (iii) brochures and brochure copy; (iv) residual <i>Luminera</i> inventory of parts and finished items selected by Purchaser (defined below), after inspection; (v) list of key reps and customers; (vi) tooling (including fabrication machinery, assembly tools, and tooling at vendor locations); (vii) packaging materials; (viii) assembly and production instructions (if any); and (g) UL Registrations (6 categories).
Excluded Assets	(a) The Purchase Price (b) All cash on hand (c) All non-Luminera inventory (d) All accounts receivable (e) All causes of action relating to the Assets and Excluded Assets (f) All claims, rights, interests and causes of action belonging to Seller’s bankruptcy estate under, inter alia, Chapter 5 of the Bankruptcy Code; (g) All insurance policies; (h) All insurance and tax refunds and benefits of any kind; (i) All other assets not specifically included
Purchase Price	\$100,000.00, with \$10,000 down payment paid upon execution of the APA and \$90,000 paid at Closing
Closing	Closing of the Intangible Assets to take place within ten (10) days of the entry of the order of the Bankruptcy Court that provides VCom with the free and clear and bona fide purchaser protections of Bankruptcy Code Sections 363(f) and (m).
Contingencies	Bankruptcy Court approval (NO FINANCING OR DUE DILIGENCE CONTINGENCIES)
Stalking Horse	In consideration of Vcom’s willingness to submit its offer subject to

¹ Capitalized terms not otherwise defined herein shall have the meanings as set forth in the Sale Motion.

Protections/ Break-Up Fee	other bids at an auction, VCom requests (1) termination fee of \$2,500, plus (2) reimbursement of actual expenses up to \$5,000, for a total of \$7,500.
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RELIEF REQUESTED AND BASIS FOR RELIEF

13. By this Motion, the Debtor is seeking (I) approval of the APA with VCom, (II) entry of a Sale Procedures Order and, (III) entry of a Sale Approval Order, to be entered after the Auction and Sale Approval Hearing.

I. Approval of the APA

14. As set forth in detail in the Sale Motion, the Debtor engaged in significant marketing efforts of its assets, both pre- and post-petition. The result of the Debtor's efforts was the procurement of the offer by VCom, which culminated in the APA. The Debtor negotiated as a material term of the APA that the sale be subject to higher and better bids, as is customary in many bankruptcy sale transactions. Notwithstanding test the market, vis-à-vis an auction process, the Debtor believes that the APA represents a fair market value of the Intangible Property.

15. Section 363(b) of the Bankruptcy Code provides, in pertinent part, that the 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).

16. Further, in order to compensate VCom for the risk of being outbid at the Auction, while it has expended resources completing due diligence and negotiating the APA, VCom has requested modest bidder protections. In consideration of Vcom's willingness to submit its offer subject to other bids at an auction, VCom requests (1) termination fee of \$2,500, plus (2) reimbursement of actual expenses up to \$5,000, for a total of \$7,500 (the "Break-Up Fee"), which represents 7.5% of the Purchase Price under the APA. The Break-Up Fee is payable only upon the closing of a transaction involving a sale of the Intangible Assets by the Debtor to a

successful bidder, other than the Purchaser, that is higher and/or better than the terms and conditions of the APA, following an Auction in which the Purchaser is the stalking horse bidder (an “Alternative Transaction”). Pursuant to the APA, the payment of the Break-Up Fee will constitute an allowed super-priority expense of the Debtor’s estate, and will be paid from the sale proceeds of such Alternative Transaction.

17. It has become an established practice in chapter 11 cases to approve break-up fees and other forms of bidding procedures in connection with the sale of significant assets pursuant to section 363 of the Bankruptcy Code. See, e.g., Integrated Resources, 147 B.R. at 662; In re 995 Fifth Ave. Assoc., L.P., 96 B.R. 24 (Bankr. S.D.N.Y. 1989). Break-up fees enhance the bidding process by inducing a “white knight” to submit a bid by providing compensation for the risks it is undertaking and to cover the costs of due diligence. 995 Fifth Ave. Assoc., 96 B.R. at 28.

18. Generally, Courts approve break-up fees unless they are unreasonable or appear more likely to chill the bidding process than to enhance it. Integrated Resources, 147 B.R. at 662. When examining whether break-up fees are reasonable and appropriate, the Courts examine (1) the relationship between the parties negotiating the break-up fee for any self-dealing or taint; (2) whether the fee hampers, as oppose to enhances, bidding; and (3) whether the amount of the break-up fee is unreasonable as compared to the purchase price. Id.

19. The Break-Up Fee in this instance is appropriate since (1) the Debtor and VCom negotiated at arms’ length, (2) the Break-Up Fee provided an incentive for VCom to enter into the APA and invest significant monies and efforts in conducting its due diligence, all the while not knowing whether it will be the Successful Bidder, and (3) the maximum amount of the Break-Up Fee in the event the Purchaser is outbid is \$7,500.00, or 7.5% of the Purchase Price. This amount

is in the same order of magnitude as break-up fees approved in other cases. See, e.g., Financial News, 98 F.2d at 167 (\$8.2 million, or 5.5% break-up fee approved on a \$149.3 million sale); LTV Aerospace and Defense Co. v. Thomson-CSF, S.A. (in re Chateaugay Corp.), 198 B.R. 848, 861 (Bankr. S.D.N.Y. 1996)(\$20 million, or 4.4% break-up fee allowed on \$450 million offer); Integrated Resources, 147 B.R. at 662 (break-up fee representing 3.2% of bidder's expenses, or 1.6% of the purchaser price). Compare, In re Twenver, Inc., 149 B.R. 954, 956 (Bankr. D.Colo. 1992)(break-up fee of 10% of bid denied).

20. In addition to the factors stated above, the Break-Up Fee will provide a minimum floor bid on which other bidders may rely upon. Therefore, under the circumstances, the Break-Up Fee is appropriate.

21. Given the significant offer received by the Debtor, the Debtor submits that approval of the APA is in the best interests of its estate, and respectfully requests that the APA be approved subject to the sale procedures proposed hereinbelow.

II. The Sale Procedures Order

A. The Proposed Bidding Procedures

22. The Debtor is seeking to sell the Intangible Assets to VCom pursuant to the APA, subject to higher and/or better offers. In order to ensure that the highest and best offer is received for the Intangible Assets, the Debtor has established proposed Bidding Procedures annexed hereto as Exhibit "B", to govern the submission of competing bids at the Auction.

23. Annexed as Exhibit "C" is the proposed Sale Procedures Order.

24. Vcom shall constitute a Qualified Bidder for all purposes.

25. In order to participate in the Auction, each additional prospective bidder must previously have delivered to the Debtor proof of financial wherewithal to consummate the

transaction. Upon such demonstration and compliance with all other terms and conditions set forth in the APA and the Sale Procedures Order for a prospective bidder, the Debtor, in its reasonable business judgment, shall determine whether such persons qualify as a bidder (a "Qualified Bidder").

26. In the event there is a Qualified Bidder in addition to Vcom, the following procedures apply:

- (i) The Qualified Bidder is required to deposit in escrow with the Debtor's counsel on or prior to the date of the Auction, an amount equal to ten percent (10%) of its initial bid).
- (ii) Such offer shall not be conditioned on obtaining financing or the outcome of unperformed due diligence by the Qualified Bidder.
- (iii) Such offer is not conditioned upon the Bankruptcy Court's approval of any bid protections, such as break-up fees, termination fees, expense reimbursement, or similar type of payment.
- (iv) Such offer shall be accompanied by a copy of this Agreement marked to show any amendments and modifications thereto.
- (v) The initial higher and better offer for the Property be \$115,000, which is at least \$15,000 higher than the Purchase Price set forth in the APA (\$100,000) and which amount consists of (1) a termination fee in the amount of (x) \$2,500, plus (y) reimbursement of actual and verifiable expenses incurred by Purchaser up to \$5,000 (the sum of (x) and (y), the "Termination Fee"), (2) an additional \$7,500 overbid, and that subsequent higher and better offers be in increments of not less than \$10,000 (such initial and subsequent higher and better offers, each a "Qualified Competing Bid"). For the avoidance of doubt, Purchaser shall not be subject to the minimum bidding increment insofar as it does not need to submit a competing bid that is a greater amount than a Qualified Competing Bid. Instead, Purchaser shall be permitted to match any Qualified Competing Bid with Purchaser's bid still being deemed higher than the Qualified Competing Bid by virtue of the higher net benefit to the estate than in the event of an Alternative Transaction (i.e. due to the estate's incurrence of the cost of the Termination Fee).

- (vi) At Auction, the Debtor shall designate both the highest and best bidder as well as a second highest and best bidder (“Back-Up Bidder”).
- (vii) The auction will be an ascending, “live/open outcry” auction with Bidders placing bids live at the Auction, or by proxy.
- (viii) The Auction will be conducted at Debtor’s undersigned counsel’s office.
- (ix) The Debtor shall have the discretion to adjust bidding increments at the Auction, based up on the bidding activity. The Debtor shall set a minimum acceptable process, i.e., the Reserve Price, for each lot to be sold, which will be confidential and shall not be disclosed.

27. At the conclusion of the Auction, the Debtor shall submit the Successful Bid to the Court at the Sale Hearing (as defined below), for entry of a Sale Approval Order. Any Bid that fails to comply with the Bidding Procedures or any other procedures established at the Auction will be refused

28. In determining whether bidding procedures governing the sale of a debtor’s assets are adequate, Court have consistently deferred to the debtor’s business judgment for their specific industry. *See, In re Integrated Resources, Inc.*, 147 B.R. 650, 656-57 (Bankr. S.D.N.Y. 1992)(holding that where overbid procedures are negotiated by the chapter 11 debtor, the business judgment rule applies and said procedures are “presumptively valid”).

29. Furthermore, the purpose of bidding procedures is to solicit the highest and best bid, which would in turn best benefit the creditors. *In re Financial News Network Inc.*, 980 F.2d 165 (2nd. Cir., 1992)(stating that the bankruptcy court's principal responsibility relating to bidding procedures that govern sale is to secure best possible bid for benefit of creditors).

30. Thus, courts deem appropriate those bidding procedures intended to maximize the value of the debtor’s estate. *See, e.g., Financial News*, 980 F.2d at 170-71 (allowing bidder to supplement one of two bids for Chapter 11 debtor's assets after bidding was closed since the

revision was consistent with both rules by which particular auction was being conducted and reasonable expectations of bidders); *Integrated Resources*, 147 B.R. at 656-57.

31. The Debtor believes that the Bidding Procedures proposed will additionally procure serious parties interested in acquiring the Assets and will result in realizing the full value of the Assets.

32. The Bidding Procedures are designed to facilitate a competitive bidding process in an expeditious manner.

33. The Bidding Procedures will allow the Debtor to conduct the Auction in an open fashion that will encourage participation from those bidders that demonstrate they are financially capable to consummate the transaction.

34. The Debtor believes, in its business judgment, that the Bidding Procedures are adequate and will result in maximizing the value of the Assets and are therefore appropriate under the relevant standards governing auction proceedings.

B. The Form and Manner of Notice of the Action is Proper

35. Bankruptcy Rule 2002(a) and (c) requires the Debtor to notify creditors of the proposed sale of the Assets, including the date, time and place of the Auction, terms of the Sale, and the deadline for filing any objections.

36. To notice the Sale and Auction of the Intangible Assets, the Debtor will personally notify all of its regional competitors, all parties previously expressing an interest in acquiring any of the Debtor's assets, as well as publish notice of the Sale and Auction in a trade publication at least ten (10) days prior to the Auction.

37. Additionally, the Debtor will serve via first class mail within three (3) days of entry of the Sale Procedures Order copies of: (a) Sale Procedures Order; (c) Bidding Procedures;

and (c) this Motion upon: (i) the Office of the U.S. Trustee; (ii) all taxing authorities; (iii) all known creditors, whether disputed, unliquidated or contingent, of the Debtor; (iv) all entities known or reasonably believed to have asserted a lien, claim, interest, or encumbrance in any of the Assets, (v) all parties that have requested notice pursuant to Bankruptcy Rule 2002, and (vi) all parties previously expressing an interest in the Debtors' Assets.

38. The Debtor submit that the foregoing notice fully complies with the requirements set forth in Bankruptcy Rule 2002 and 6004. Based upon the foregoing, the Debtor respectfully request that this Court approve the form and manner of the notice proposed above.

C. The Auction

39. If the Debtor receive one or more Qualified Competing Bids, the Debtor will conduct the Auction to select the highest or best bids for the Intangible Assets (the "Successful Bid").

40. The Debtor will conduct the Auction in any manner in its business judgment it believes will achieve the maximum value for the Intangible Assets. Such terms and conditions may include, by way of example, one or more rounds of sealed or open bids from bidders.

41. At the conclusion of the Auction, the Debtor shall submit the Successful Bids to the Court at the Sale Hearing, for entry of a Sale Approval Order. Any Bid that fails to comply with the Bidding Procedures or any other procedures established at the Auction will be refused.

42. Prior to the conclusion of the Auction, the Debtor will (a) review and evaluate all bids, (b) identify the highest or otherwise best offer for the Assets received at the Auction (such bid, the "Successful Bid" and the bidder making such bid, the "Successful Bidder") and (c) communicate the identity of the Successful Bidder and the details of the Successful Bid. The determination of the Successful Bid by the Debtor shall be final, subject to approval by the

Court.

43. The Debtor will sell the Intangible Assets to the Successful Bidder pursuant to the terms of the Successful Bid upon the approval of such Successful Bid by the Court at the Sale Hearing.

44. If, following the entry of the Sale Approval Order, the Successful Bidder fails to consummate the Sale because of a breach or failure to perform on the part of the Successful Bidder, the highest or otherwise best bids ("Back-Up Bid") will be deemed the new Successful Bid, and the Debtor will be authorized, but not required, to consummate the Sale with the bidder who submitted the Back-Up Bid without further order of the Court. In such case, the good faith deposit of the Successful Bidder shall be forfeited to the Debtor and the Debtor shall have the right to seek any and all other remedies and damages from the defaulting Successful Bidder to the extent permissible under the applicable purchase agreement and applicable law. Notwithstanding the foregoing, VCom shall not be obligated to consummate the Sale if it is not the Successful Bidder.

III. The Sale Approval Order

A. This Court Should Approve the Sale of the Debtor's Intangible Assets to the Successful Bidder

45. Following the Auction, the Debtor will seek this Court's approval of the sale of the Debtor's Intangible Assets free and clear of all liens, claims, interests and encumbrances to the Successful Bidder.

46. All of the sale proceeds will be held in escrow by Debtor's counsel, with all liens, claims, interests and encumbrances, if any, to attach to the proceeds in accordance with Section 363(f) of the Bankruptcy Code, pending further Order of the Court and/or confirmation of a liquidating plan.

47. Pursuant to Section 363 (b) and (f) of the Bankruptcy Code, the Debtor seeks entry of an order authorizing the sale, assignment and transfer the Intangible Assets. Section 363(b)(1) of the Bankruptcy Code provides, in pertinent part, "The trustee, after notice and a hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate." §363(f) of the Code states as follows:

(f) The trustee may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only 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.

48. The conditions set forth in 11 U.S.C. §363(f) are in the disjunctive, which means that only one of the tests must be met. The Debtor believes that the sale of the Intangible Assets in this manner is in the best interests of the estate and its creditors, for a variety of reasons, including the following: (i) the Debtor believes that an immediate sale of the Intangible Assets is in the best interests of creditors and the estate at large; (ii) the auction process will hopefully incentivize other bidders to come forward; and (iii) the sale proceeds will be used to fund a liquidating plan and distribution to creditors.

49. It is therefore submitted that Section 363(f) is satisfied and an immediate sale of the Intangible Assets is in the best interests of creditors and the estate and will prevent unnecessary, irreparable harm to the creditors and the estate.

50. In connection with this motion, the Debtor proposes to invite interested parties to make higher or better offers by way of conducting the Auction of the Intangible Assets in contemplation of sales free and clear of all liens, claims, interests and encumbrances, with all such liens, claims, interests and encumbrances to attach to the sale proceeds.

51. The Debtor seeks authority to conduct the Auction free and clear of all liens with the liens to attach to the proceeds of sale (i.e., gross proceeds, less expenses) pursuant to 11 U.S.C. §363(f). Since the Auction contemplated hereby is not in the ordinary course, its authorization requires notice and a hearing pursuant to Section 363(b) of the Bankruptcy Code. Auction sales are specifically authorized under the Bankruptcy Code and F.R.B.P. Rule 6004(f) provides that, "All sales not in ordinary course of business may be by private sale or public auction."

52. It is within the discretion of the Court to determine whether to approve or disapprove of a method for the disposition of property. *In re Alves*, 52 B.R. 353 (Bankr. D.R.I. 1985); *See, generally, In re Stogsdill*, 102 B.R. 587 (Bankr. W.D. Tex. 1989). The Debtor respectfully submits that the Auction process will provide the greatest recovery for the Debtor's estate than would be provided by any other available alternative. In addition, the value of the Intangible Assets will be tested in the market through an auction process, which will support the fairness and reasonableness of the consideration being received. Therefore, the Debtor requests that the Court authorize and approve the Sale of the Intangible Assets.

53. The Debtor believes that both of its secured creditors, JP Morgan Chase Bank (“Chase”) and Merchant Cash and Capital, LLC (“Biz Fi”) will not object to the Sales being conducted under Section 363(f), with their respective liens to attach to the proceeds of the Sales subject to further order of the Court.

B. Protections as a Good Faith Purchaser

54. Section 363(m) of the Bankruptcy Code protects a good-faith purchaser’s interest in property purchased from a debtor notwithstanding that the sale conducted under Section 363(b) is later reversed or modified on appeal. *See Allstate Ins. Co. v. Hughes*, 174 B.R. 884, 888 (S.D.N.Y. 1994) (“Section 363(m) . . . provides that good faith transfers of property will not be affected by the reversal or modification of an unstayed order, whether or not the transferee knew of the pendency of the appeal”).

55. The selection of the Successful Bidder will be the product of an arm’s-length, good-faith negotiation in a competitive purchasing process. Based on the record to be made at the Sale Hearing, the Debtor will request a finding that the Successful Bidder is a good-faith purchaser entitled to the protections of Section 363(m) of the Bankruptcy Code.

NOTICE

56. Notice of this Amended Motion has been provided to (i) the Office of the U.S. Trustee; (ii) the Debtor’s secured creditors and their respective counsel; (iii) all taxing authorities; (iv) counsel to the Official Committee of Unsecured Creditors, (v) all creditors, including Chase and Biz Fi; and (vi) all parties having filed a notice of appearance. The Debtor submits that said notice is adequate and proper.

CONCLUSION

57. For all of the foregoing reasons, the Debtor respectfully requests entry of (i) the Sale Procedures Order approving the APA, approving the break-up fee, establishing bidding procedures, and scheduling the Auction, and (ii) after the Auction and a Sale Hearing, entry of the Sale Approval Order.

WHEREFORE, the Debtor respectfully requests that the Court grant all of the relief requested herein, together with such other and further relief as is just and proper under the circumstances.

Dated: White Plains, New York
October 13, 2017

DELBELLO DONNELLAN WEINGARTEN
WISE & WIEDERKEHR, LLP
Attorneys for the Debtors
One North Lexington Avenue
White Plains, New York 10601
(914) 681-0200

By: /s/ Jonathan S. Pasternak
Jonathan S. Pasternak

ASSET PURCHASE AGREEMENT

AGREEMENT dated as of August 31, 2017 by and among Vcom International Multi-media Corporation, a New Jersey corporation having an address at 80 Little Falls Road, Fairfield, NJ 07004 ("Purchaser") and, RLE Industries, LLC, Chapter 11 Debtor ("Seller"), having an address at 35 Kulick Rad, Fairfield, NJ 07004.

WITNESSETH

WHEREAS, on June 27, 2017 (the "Petition Date"), Seller filed a voluntary petition for relief under Chapter 11 of the U.S. Bankruptcy Code (the "Bankruptcy Code"), administered as Case No. 17-11748 (MEW) in the U.S. Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"); and

WHEREAS, Seller wishes to sell, transfer, convey, assign, and deliver to the Purchaser, and the Purchaser wishes to purchase, assume and acquire, in accordance with Sections 363 and 365 and the other applicable provisions of the Bankruptcy Code, all of the intellectual property and general intangibles of Seller as more fully described below (the "Assets") upon the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. SALE AND PURCHASE OF ASSETS

1.1 Purchased Assets. Subject to the terms and conditions set forth in this Agreement, the Seller shall sell, transfer, convey and assign to Purchaser, after entry of an order of the Bankruptcy Court, free and clear of all liens and encumbrances whatsoever, and the Purchaser shall purchase, assume, and acquire from the Seller, all right, title and interest of the Seller in, to, and under all of the following assets (the "Assets"):

- (a) Seller's customer list;
- (b) Seller's phone numbers;
- (c) Seller's website and domains;
- (d) Seller's name (RLE), tradestyles, and tradenames;
- (e) Seller's trademarks and patents, if any;
- (f) Seller's Luminera product line including (i) designs and specifications; (ii) prints and/or CAD files, if any, BOM's, supplier list, etc.; (iii) brochures and brochure copy; (iv) residual Luminera inventory of parts and finished items selected by Purchaser, after inspection; (v) list of key reps and customers; (vi) tooling (including fabrication machinery, assembly tools, and tooling at vendor locations); (vii) packaging materials; (viii) assembly and production instructions (if any); and
- (g) UL Registrations (6 categories).

1.2 Opportunity to Inspect. Between the date that a fully executed copy of this Agreement is delivered to Purchaser and the date that the Bankruptcy Court has approved this Agreement, Purchaser shall be given the opportunity to visit Seller's premises to inspect the inventory to be purchased hereunder and the lists of assets hereunder at vendor locations for the purpose of determining which of said assets Purchaser wishes to have shipped to Purchaser's facility.

1.3 Excluded Assets. The following assets of Seller shall not be included in the sale hereunder:

- (a) The Purchase Price (as defined below)
- (b) All cash on hand;
- (c) All non-Luminera inventory;
- (d) All accounts receivable;
- (e) All causes of action relating to the Assets and Excluded Assets;
- (f) All claims, rights, interest and causes of action belonging to Seller's bankrupt estate under, inter alia, Article V of the Bankruptcy Code;
- (g) All insurance policies;
- (h) All insurance and tax refunds and benefits of any kind;
- (i) All other assets of Seller not specifically included in the Assets defined in Section 1.1 above.

2. CLOSING

2.1 Closing. The purchase and sale (the "Closing") of the Assets shall take place within ten (10) business days of the entry of an order of the Bankruptcy Court that provides the Purchaser with the free and clear and bona fide purchaser protections of Bankruptcy Code sections 363(f) and (m) (the "Closing Date").

3. PURCHASE PRICE

3.1 Purchase Price. The consideration to be paid by the Purchaser shall be One Hundred Thousand Dollars and 0/100 (\$100,000.00) (the "Purchase Price"). Purchaser will deliver to Seller's Counsel's office a deposit of \$10,000.00, made payable to "DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, as Attorneys" towards the Purchase Price along with a fully executed copy of this Agreement.

3.2 Payment of Purchase Price. On the Closing Date, Purchaser shall deliver a cashier's check for the balance of the Purchase Price, made payable to "DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, as Attorneys" to the Seller's Counsel's office at: One North Lexington Avenue, 11th Floor, White Plains, New York 10601.

4. **AUTHORIZATION OF SELLER**

4.1 Existence and Good Standing. Seller has continued in possession of its property and the management of its business affairs as a debtor-in-possession pursuant to §§1107 and 1108 of the Bankruptcy Code.

4.2 Authorization. The Bankruptcy Court will enter an order approving the terms of this Agreement. Accordingly, the Seller has the full legal right, power and authority to enter into this Agreement, and the Bankruptcy Court will have authorized it to perform its obligations under this Agreement and to consummate the transactions contemplated herein.

4.3 Delivery of Assets. On the Closing Date, the Seller will make arrangements to have the Assets shipped by overnight delivery to Purchaser at Purchaser's expense.

5. **REPRESENTATIONS AND WARRANTIES OF PURCHASER**

5.1 Existence and Good Standing. Purchaser is a corporation, duly organized, validly existing and in good standing under the laws of the State of New York.

5.2 Authorization; Execution; Enforceability. The Purchaser has the full legal right, power and authority to enter into this Agreement, to perform its obligations under this Agreement and to consummate the transactions contemplated herein. The consummation of the transactions contemplated herein have been duly authorized by all necessary action on the part of the Purchaser, including all approvals required by Purchaser's organizational documents. This Agreement has been duly executed and delivered by the Purchaser and constitutes a legal, valid and binding obligation of the Purchaser, enforceable against the Purchaser in accordance with its terms.

6. **FURTHER ASSURANCES**

On or after the Closing date and without further consideration, each of the parties shall, from time to time at any other party's reasonable request, execute and deliver such further instruments of conveyance, assignment and transfer and shall take, or cause to be taken, such other action as such other party may reasonably request for the more effective conveyance, assignment and transfer by Seller to the Purchaser of any of the Assets, and each party shall lend all reasonable assistance to any other party necessary to effect the collection and reduction to possession by Purchaser of the Assets, and the exercise of rights with respect thereto and otherwise in the carrying out of the intentions and purposes of this Agreement.

7. **BANKRUPTCY COURT PROCEDURE**

7.1 *Sale Motion.* On or before three (3) business days after the date of execution and delivery of this Agreement, Seller shall file with the Bankruptcy Court a motion ("Sale Motion") (including all supporting papers, proposed bidding procedures (the "Bid Procedures"), and notices), in a form and substance reasonably satisfactory to the Purchaser, seeking an order (the "Sale Procedures Order") approving this Agreement and the notice and procedure for a public auction ("Auction") and sale of the Assets.

7.2 *Sale Approval Order.* The Seller shall use its best efforts to schedule the Auction thirty (30) days, but in no event more than forty-five (45) days, after entry of the Sale Procedures Order and shall seek entry of an Order approving the results of the Auction ("Sale Approval Order") no more than five (5) business days after the Auction, or as soon thereafter as the Court's calendar will reasonably allow.

7.3 *Bid Procedures.* The Bid Procedures shall provide, among other things, that, in order to participate in the Auction, each prospective bidder must previously have delivered to Seller proof of financial wherewithal to consummate the transaction. Upon such demonstration and compliance with all other terms and conditions set forth in this Agreement and the Sale Procedures Order for a prospective bidder, Seller, in its reasonable business judgment, shall determine whether such persons qualify as a bidder (a "Qualified Bidder"). Purchaser shall constitute a Qualified Bidder for all purposes. Seller further agrees that the terms and conditions of the Auction, as proposed in the Sale Motion, shall require, inter alia, (i) that the Qualified Bidder offers to purchase the Property upon the terms and conditions substantially similar to or better than those set forth in this Agreement (including, without limitation, by requiring the Qualified Bidder to deposit in escrow with the Seller's counsel on or prior to the date of the Auction, an amount equal to ten percent (10%) of its initial bid), (ii) that such offer not be conditioned on obtaining financing or the outcome of unperformed due diligence by the Qualified Bidder, (iii) that such offer is not conditioned upon the Bankruptcy Court's approval of any bid protections, such as break-up fees, termination fees, expense reimbursement, or similar type of payment, (iv) is accompanied by a copy of this Agreement marked to show any amendments and modifications thereto, (v) that the initial higher and better offer for the Property be at least \$15,000 higher than the Purchase Price set forth in this Agreement which amount consists of (1) a termination fee in the amount of (x) \$2,500, plus (y) reimbursement of actual and verifiable expenses incurred by Purchaser up to \$5,000 (the sum of (x) and (y), the "Termination Fee"), (2) an additional \$7,500 overbid, and that subsequent higher and better offers be in increments of not less than \$10,000 (such initial and subsequent higher and better offers, each a "Qualified Competing Bid"). For the avoidance of doubt, Purchaser shall not be subject to the minimum bidding increment insofar as it does not need to submit a competing bid that is a greater amount than a Qualified Competing Bid. Instead, Purchaser shall be permitted to match any Qualified Competing Bid with Purchaser's bid still being deemed higher than the Qualified Competing Bid by virtue of the higher net benefit to the estate than in the event of an Alternative Transaction (i.e. due to the estate's incurrence of the cost of the Termination Fee). At Auction, the Seller shall designate both the highest and best bidder as well as a second highest and best bidder ("Back-Up Bidder"). In the event a Qualified Competing Bid is approved by the Bankruptcy Court (an "Alternative Transaction"), upon closing of such Alternative Transaction,

Seller shall pay from closing proceeds to Purchaser, (a) return of the full amount of Purchaser's initial Deposit and (b) the Termination Fee, upon which Purchaser shall have no other claims against the Seller or the Assets.

8. Termination.

8.1 *Termination of Agreement.* This Agreement may be terminated as provided below:

(a) Purchaser and Seller may terminate this Agreement by mutual written consent at any time prior to the Closing;

(b) Purchaser may terminate this Agreement by giving written notice to Seller at any time prior to the Closing (i) in the event Seller has breached any representation, warranty or covenant contained in this Agreement in any material respect, or (ii) in the event the Bankruptcy Court rejects the Sale Motion or the motion requesting entry of the Sale Approval Order;

(c) Seller may terminate this Agreement by giving written notice to Purchaser at any time prior to the Closing in the event Purchaser has breached any representation, warranty or covenant contained in this Agreement in any material respect;

(d) Either party may terminate this Agreement if the Closing shall not have occurred on or before November 15, 2017 (or such later date to which the Closing Date is mutually extended to in writing by the parties); provided, that if the Closing shall not have occurred by such date due to a material breach of this Agreement by a party, then such party may not terminate this Agreement under this Section 8.1(d); and

(e) In the event that a Sale Approval Order is entered which authorizes an Alternative Transaction, unless such Order approves the Purchaser as the Back-Up Bidder, in which case the termination of this Agreement would be effective upon the closing of the Alternative Transaction.

8.2 *Effect of Termination.* Except as otherwise set forth herein, if any party terminates this Agreement pursuant to Section 8.1, all rights and obligations of the parties hereunder shall terminate and neither party shall have any liability to the other (except that nothing herein shall affect or impair any liability for damages that may result from the party then in breach). In the event that this Agreement is terminated for any reason, the full amount of the initial Deposit shall be promptly returned to the Purchaser.

9. CONDITIONS PRECEDENT TO OBLIGATIONS OF PURCHASER

9.1 Seller is taking the following actions at the Closing which are a condition to the obligation of Purchaser to purchase the Assets and to pay the Purchase Price and to perform its other obligations hereunder:

- a. Bankruptcy Order. An order of the Bankruptcy Court approving the terms of this Agreement in form and substance acceptable to Purchaser.
- b. Delivery. The Assets will have been assembled by the Seller and made available for peaceful delivery to Purchaser.
- c. Bill of Sale. Seller shall have executed and delivered to Purchaser a bill of sale to effectuate the transfer of title to the Assets.
- d. True and Correct Representation. The representations and warranties of Seller herein contained are true and correct on the Closing Date.

10. CONDITIONS PRECEDENT TO OBLIGATIONS OF SELLER

10.1 Purchaser is taking the following actions at the Closing which are a condition to the obligation of Seller to sell the Assets and to perform its other obligations hereunder

- a. Purchase Price. Purchaser shall have delivered to Seller by cashier's check, the Purchase Price, pursuant to the terms of Paragraph 3.2 of the Agreement.
- b. True and Correct Representation. The representations and warranties of Purchaser herein contained are true and correct on the Closing Date.

11. MISCELLANEOUS

- a. Survival of Representations and Warranties of Seller. Seller's representations, warranties and agreements shall survive the execution and delivery of this Agreement and the Closing hereunder.
- b. Survival of Representations and Warranties of Purchaser. Purchaser's representations, warranties and agreements shall survive the execution and delivery of this Agreement and the Closing hereunder.
- c. Moving of Hardware and Expenses. The parties hereto shall pay all of their own expenses relating to the transactions contemplated by this Agreement, including, without limitation, the fees and expenses of their respective counsel and financial advisers.

d. No Brokers. Each of the parties represents and warrants to the other that no broker, finder or agent has acted on its or his behalf in connection with this Agreement or the transactions contemplated thereby.

e. Governing Law. This Agreement and the transactions contemplated hereby shall be construed in accordance with and governed by the laws of the State of New York. Each of the parties hereto agrees that any proceeding brought to enforce the rights and obligations of any party to this Agreement shall be commenced and maintained exclusively in the Bankruptcy Court and the Bankruptcy Court shall have exclusive jurisdiction over any such proceeding.

f. Captions. The captions used herein are for reference purposes only, and shall not in any way affect the meaning or interpretation of this Agreement.

g. Notices. All notices required or permitted hereunder shall be in writing and addressed as follows:

If to Purchaser:

Vcom International Multi-media Corporation
80 Little Falls Road
Fairfield, NJ 07004
Attn: Sheldon Goldstein
Email: sgoldstein@vcom-mm.net

With a copy to:
Jeffrey H. Zegen, Esq.
Zegen & Fellenbaum
505 Park Avenue, 20th Floor
New York, N.Y. 10022

If to Seller:

RLE INDUSTRIES, LLC
c/o DeBello Donnellan Weingarten Wise & Wiederkehr,
LLP
One North Lexington Avenue, 11th Floor
White Plains, New York 10601
Attn: Jonathan S. Pasternak, Esq.
Email: JPasternak@ddw-law.com

Notices shall be served personally, by email, overnight express mail service, or first-class, Certified mail, return receipt requested, postage pre-paid. If served personally, notice shall be deemed delivered upon receipt. If served by email, notice shall be deemed delivered upon receipt if the sender thereof receives a receipt indicating a successful transmission and the sender sends a copy to the intended recipient via U.S. regular mail. If mailed by overnight express mail service, notice shall be deemed delivered 24 hours after mailing. If mailed by first-class, certified mail, return receipt requested, notice shall be deemed delivered the earlier of seventy-two (72)

hours after mailing or the date on the return receipt, a refusal being deemed a delivery on the date of refusal. Any party may give notification to the other party in any manner described above for change of address for the sending of notices.

h. Parties in Interest. This Agreement may not be transferred, assigned, pledged or hypothecated, other than by operation of law.

i. Severability. In the event any provision of this Agreement is found to be void and unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall nevertheless be binding upon the parties with the same effect as though the void or unenforceable part had been severed and deleted.

j. Entire Agreement. This Agreement, including the other documents referenced to herein which form a part hereof, contains the entire understanding of the parties hereto with respect to the subject matter contained herein and therein. This Agreement supersedes all prior agreements and understandings between the parties with respect to such subject matter.

k. Amendments. This Agreement may not be changed orally, but only by an Agreement in writing signed by each of the parties hereto.

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

"Seller"
RLE INDUSTRIES, LLC

By:  9/1/2017
Scott Koenig, Managing Member

"Purchaser"
VCOM INTERNATIONAL MULTI-MEDIA
CORPORATION

By:  8/31/17
Sheldon Goldstein, President

Bidding Procedures – Certain Intangible Assets

Set forth below are the bidding procedures (the “Bidding Procedures”) to be employed with respect to the sale of certain intangible assets of RLE Industries, LLC (the “Seller” or “Debtor”) as described below (“Assets”):

RLE’s customer list
RLE’s phone number
RLE’s website and domains
RLE’s name (RLE), tradestyles, and tradenames
RLE’s trademarks and patents, if any
RLE’s *Luminera* product line including, (a) designs and specifications; (b) prints and/or CAD file, if any, BOM’s, supplier list, etc.; (c) brochures and brochure copy; (d) residual *Luminera* inventory of parts and finished items selected by Purchaser (defined below), after inspection; (e) list of key reps and customers; (f) tooling (including fabrication machinery, assembly tools, and tooling at vendor locations); (g) packaging materials; (h) assembly and production instructions (if any);
UL Registrations (6 categories).

Any person or entity interested in the specific terms of the Sale (defined below) should contact Attorneys to the Seller:

Jonathan S. Pasternak, Esq. *Partner*
DelBello Donnellan Weingarten Wise & Wiederkehr, LLP
One North Lexington Avenue, 11th Floor
White Plains, New York 10601
Phone: (914) 607-3153
Fax: (914) 684-0288
E-mail: JPasternak@ddw-law.com

The Seller has determined that: (A) the transactions contemplated (the “Sale”) shall be subject to competitive bidding as set forth in these Bidding Procedures; and (B) the transfer of the Seller’s rights, title and interests in and to the Assets shall be subject to approval by the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) pursuant to Sections 363 and 365 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended (the “Bankruptcy Code”).

Bidding Process

These Bidding Procedures describe, among other things, the Assets available for sale, the manner in which prospective bidders may gain access to or continue to have access to due diligence materials concerning the Assets, the manner in which bids become Qualified Competing Bids (as defined below), the receipt and negotiation of bids received, the conduct of any Auction (as defined below), the ultimate selection of the Successful Bidder (as defined below), and the Bankruptcy Court’s approval thereof (collectively, the “Bidding Process”).

Assets To Be Sold

RLE's customer list
RLE's phone number
RLE's website and domains
RLE's name (RLE), tradestyles, and tradenames
RLE's trademarks and patents, if any
RLE's *Luminera* product line including, (a) designs and specifications; (b) prints and/or CAD file, if any, BOM's, supplier list, etc.; (c) brochures and brochure copy; (d) residual *Luminera* inventory of parts and finished items selected by Purchaser (defined below), after inspection; (e) list of key reps and customers; (f) tooling (including fabrication machinery, assembly tools, and tooling at vendor locations); (g) packaging materials; (h) assembly and production instructions (if any);
UL Registrations (6 categories).

Notice And Solicitation Of Bids

Within one (1) Business Days following the entry of the Bidding Procedures Order, the Seller shall provide notice, in form and substance satisfactory to the Buyer, of the Sale, the Bidding Procedures, the time and place of the Auction (as defined below), the time and place of the Sale Hearing (as defined below), and the objection deadline for the Sale Hearing to all parties who have expressed any interest in the Assets as well as other potential bidders who may wish to participate in the Bidding Process by submitting higher and better offers ("Competing Bids") to purchase the Assets.

Bid Deadline

Any person or entity that desires to submit a Competing Bid (a "Bidder") must do so in writing, provided that such Competing Bid satisfies all of the requirements for Qualified Competing Bids (as set forth below) and is received by the Seller and its counsel at the following address by **November 20, 2017 not later than 5:00 p.m. (EST)** (the "Bid Deadline") (unless the Seller expressly agrees in writing to an extension): Seller's counsel: DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, Attention: Jonathan S. Pasternak, Esq., One North Lexington, 11th Floor, White Plains, NY 10601.

Qualified Competing Bids

The Debtor and Vcom International Multimedia Corporation ("Vcom") have entered into an Asset Purchase Agreement ("APA") for a purchase price of \$100,000 ("Purchase Price") subject to higher and better bids at the Auction. Vcom shall constitute a Qualified Bidder for all purposes.

In order to participate in the Auction, each additional prospective bidder must previously have delivered to Seller proof of financial wherewithal to consummate the transaction. Upon such demonstration and compliance with all other terms and conditions set forth in this

Agreement and the Sale Procedures Order for a prospective bidder, Seller, in its reasonable business judgment, shall determine whether such persons qualify as a bidder (a "Qualified Bidder").

In the event there is a Qualified Bidder in addition to Vcom, the following procedures apply:

- (i) The Qualified Bidder is required to deposit in escrow with the Seller's counsel on or prior to the date of the Auction, an amount equal to ten percent (10%) of its initial bid).
- (ii) Such offer shall not be conditioned on obtaining financing or the outcome of unperformed due diligence by the Qualified Bidder.
- (iii) Such offer is not conditioned upon the Bankruptcy Court's approval of any bid protections, such as break-up fees, termination fees, expense reimbursement, or similar type of payment.
- (iv) Such offer shall be accompanied by a copy of this Agreement marked to show any amendments and modifications thereto.
- (v) The initial higher and better offer for the Property be at least **\$115,000**, which is \$15,000 higher than the Purchase Price set forth in the APA (\$100,000) which amount consists of (1) a termination fee in the amount of (x) \$2,500, plus (y) reimbursement of actual and verifiable expenses incurred by Purchaser up to \$5,000 (the sum of (x) and (y), the "Termination Fee"), (2) an additional \$7,500 overbid, and that subsequent higher and better offers be in increments of not less than \$10,000 (such initial and subsequent higher and better offers, each a "Qualified Competing Bid"). For the avoidance of doubt, Purchaser shall not be subject to the minimum bidding increment insofar as it does not need to submit a competing bid that is a greater amount than a Qualified Competing Bid. Instead, Purchaser shall be permitted to match any Qualified Competing Bid with Purchaser's bid still being deemed higher than the Qualified Competing Bid by virtue of the higher net benefit to the estate than in the event of an Alternative Transaction (i.e. due to the estate's incurrence of the cost of the Termination Fee).
- (vi) At Auction, the Seller shall designate both the highest and best bidder as well as a second highest and best bidder ("Back-Up Bidder").
- (vii) The Auction will be an ascending, "live/open outcry" auction with Bidders placing bids live at the Auction, or by proxy.
- (viii) The Auction will be conducted at RLE's counsel's offices at DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, One N. Lexington Avenue, 11th Floor, White Plains, NY 10601 **on November 21, 2017 at 12:00 p.m.**

- (ix) The Debtor shall have the discretion to adjust bidding increments at the Auction, based up on the bidding activity.

For the avoidance of doubt, and notwithstanding the foregoing, any overbid submitted by the Buyer at any Auction on substantially the same terms as its initial offer (apart from any increase in price) shall be a Qualified Competing Bid.

Auction

If the Seller receives one or more Qualified Competing Bids in addition to the APA, the Seller will conduct an auction (the "Auction") of the Assets to select the highest or best bid (the "Successful Bid"). The Auction, which shall be transcribed or recorded to the extent required under New York local practice, shall be held at RLE's counsel's offices at DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, One N. Lexington Avenue, 11th Floor, White Plains, NY 10601 **on November 21, 2017 at 12:00 p.m. (prevailing Eastern time)**, or such other location as shall be agreed by the Debtor and timely communicated to all entities entitled to attend the Auction.

The Seller may conduct the Auction in any manner and upon any terms and conditions satisfactory to the Court, permitted by the APA, and consistent with these Bidding Procedures, that will achieve the maximum value for the Assets. Such terms and conditions may include, by way of example, one or more rounds of open bids from the Buyer and any Bidder who submitted a Qualified Competing Bid. The initial bid at the Auction shall be the highest or otherwise best bid, as determined by the Seller in its reasonable discretion, as among the Buyer's bid and any Qualified Competing Bids, and such initial bid shall be announced to the Buyer and any other Bidder submitting a Qualifying Competing Bid at the commencement of the Auction.

At the Auction, Bids will be made orally and in open air in front of all attendees.

At the conclusion of the Auction, the Seller shall submit the Successful Bid to the Court at the Sale Hearing (as defined below), for entry of a Sale Approval Order. Any Bid that fails to comply with the Bidding Procedures or any other procedures established at the Auction will be refused.

If no Qualified Competing Bids are received, the Seller and the Buyer intend to seek immediate Court approval of the APA without conducting an Auction.

At the conclusion of the Auction, the Seller shall submit the Successful Bid to the Court at the Sale Hearing (as defined below), for entry of a Sale Approval Order. Any Bid that fails to comply with the Bidding Procedures or any other procedures established at the Auction will be refused.

Selection Of Successful Bid

Prior to the conclusion of the Auction, the Seller will (a) review and evaluate the Buyer's bid and each Qualified Competing Bid, (b) identify the highest or otherwise best offer for the Assets received at the Auction (such bid, the "Successful Bid" and the bidder making such bid, the "Successful Bidder") and (c) communicate to the Buyer and the Qualified Competing Bidders the identity of the Successful Bidder and the details of the Successful Bid. The determination of the Successful Bid by the Seller shall be final, subject to approval by the Bankruptcy Court.

The Seller will sell the Assets to the Successful Bidder pursuant to the terms of the Successful Bid upon the approval of such Successful Bid by the Bankruptcy Court at the Sale Hearing. For the avoidance of doubt, the Seller shall not solicit, consider, support or facilitate any bid (whether or not such bid is a Qualified Competing Bid) for any of its Assets received after the close of the Auction.

If, following the entry of the Sale Approval Order, the Successful Bidder fails to consummate the Sale because of a breach or failure to perform on the part of the Successful Bidder, the highest or otherwise best bid ("Back-Up Bid") will be deemed the new Successful Bidder and legally obligated and bound to consummate the transaction, and the Seller will be authorized, but not required, to consummate the Sale with the bidder who submitted the Back-Up Bid without further order of the Court. In such case, the good faith deposit of the Successful Bidder shall be forfeited to the Seller and the Seller shall have the right to seek any and all other remedies and damages from the defaulting Successful Bidder to the extent permissible under the applicable APA and applicable law.

Bid deposits for any unsuccessful bidder (including the Buyer) will be returned within three (3) business days of conclusion of the Auction, except in the case of the Back-Up Bidder, if any, whose deposit shall be released 3 days after closing in the event it is not deemed the new Successful Bidder.

Sale Hearing

A hearing to approve the sale of the Assets to the Successful Bidder will be held on **November __, 2017 at 10:00 a.m. (EST)** before the Honorable Michael E. Wiles at the United States Bankruptcy Court for the Southern District of New York (White Plains Division), One Bowling Green, New York, New York 10004 (the "Sale Hearing").

Free Of Any And All Liens, Claims, Interests, and Encumbrances

All of the rights, title, and interests of the Seller in and to the Assets, or any portion thereof, to be acquired will be sold, conveyed, transferred, and assigned free and clear of all Liens, Claims, Interests, and Encumbrances pursuant to Sections 363 and 365 of the Bankruptcy Code, such Liens, Claims, Interests, and Encumbrances to attach to the net proceeds of the sale of such Asset.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

In re:

RLE INDUSTRIES, LLC and
NEI INDUSTRIES, INC.,

Debtors.

-----X

Chapter 11

Case No. 17-11748 (MEW)
Jointly Administered

**ORDER (I) APPROVING ASSET PURCHASE AGREEMENT, (II)
AUTHORIZING AUCTION SALE OF CERTAIN OF THE DEBTOR
RLE INDUSTRIES, LLC'S' ASSETS, (III) APPROVING BIDDING
PROCEDURES, (IV) APPROVING THE FORM AND MANNER OF
NOTICE, AND (V) SCHEDULING AUCTION AND
SALE APPROVAL HEARING**

Upon the omnibus motion (ECF Doc. No. 63; the "Motion") of RLE Industries, LLC, Inc., the above captioned debtor and debtor-in-possession in the above-captioned Chapter 11 case (the "Debtor"), by its attorneys, DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, seeking entry of, inter alia, (I) a Sale Procedures Order: (A) Approving Bidding Procedures to govern, inter alia the auction sale of the Debtors' Intangible Assets (as defined in the Motion) (the "Sale"), (B) Approving the Form and Manner of Notice thereof, (C) Scheduling Auction of, inter alia, the Debtor's Intangible Assets (the "Auction"), and (D) Scheduling a Sale Hearing to approve, inter alia, the Sale in accordance with the Auction (the "Sale Hearing"), and (II) a Sale Approval Order: (A) Authorizing the Sale Free and Clear of All Liens, Claims, Interests and Encumbrances, and (B) Granting the Successful Bidder Good Faith Status; and the Debtor having filed an Amended Motion (ECF Doc. No. __; the "Amended Motion") seeking, in addition to all of the relief previously requested in the Motion, approval of the APA (as defined in the Amended Motion) annexed to the Amended Motion as Exhibit "A"; and it appearing that due and sufficient notice of the Motion and the Amended Motion was provided; and there being

no opposition to the requested relief; and hearings having been held to consider the Motion on October 4, 2017 and on the Amended Motion on November 2, 2017, and after due deliberation, it appearing that it is in the best interests of the Debtor's estate to liquidate and sell the Intangible Assets through a competitive sales process, approve the APA and the proposed bidding procedures which are fair and provide adequate notice, and good and sufficient cause appearing, it is hereby

ORDERED, that the Amended Motion is granted to the extent set forth herein; and it is further

ORDERED, that the APA is hereby approved in all respects; and it is further

ORDERED, that the Debtor is hereby authorized to conduct an auction for the sale of the Intangible Assets in accordance with the Bidding Procedures annexed to the Amended Motion as Exhibit "B" (the "Bidding Procedures"), and such Bidding Procedures are hereby approved; and it is further

ORDERED, that within three (3) business days of entry of this Order, the Debtors shall personally notify all of its regional competitors and any parties previously expressing interest in acquiring any of the Debtor's assets of the Intangible Assets Sale and Intangible Assets Auction, as well as publish notice of the Sale and Auction in a trade publication prior to the Auction; and it is further

ORDERED, that if qualified Bids (as defined in the Bidding Procedures) are received by November 20, 2017 at 5:00 p.m. (the "Bid Deadline"), the Debtor shall conduct an Auction of the Intangible Assets at Debtor's counsel's office, DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, One. N. Lexington Avenue, 11th Floor, White Plains, NY 10601 at November 21, 2017 at 12:00 p.m. (EST); and it is further

ORDERED, that the Debtors shall designate the Successful Bidder and Back-up Bidder at the conclusion of the Auction; and it is further

ORDERED, that a hearing shall be held before an Honorable Michael E. Wiles, United States Bankruptcy Judge, at the United States Bankruptcy Courthouse, One Bowling Green, New York, New York 10004 on **November __, 2017 at 10:00 a.m. (EST)**, or as soon thereafter as counsel may be heard, (the "Sale Hearing"), to confirm the results of the Auction, authorize the sale of the Intangible Assets based upon the results of the Auction, and grant such other related relief as may be deemed necessary or proper by the Court; and it is further

ORDERED, that counsel to the Debtors shall file with the Bankruptcy Court a Report of the Auction no later than **November 22, 2017 at 5:00 p.m. (EST)**, which report shall indicate, *inter alia*, the bidders in attendance at the Auction, the identity of the Successful Bidder and amount of bid, and the identity of the Back-up Bidder and amount of bid, if any; and it is further

ORDERED, that objections to the relief to be considered at the Sale Hearing shall be filed no later than **November __, 2017 at 5:00 p.m. (EST)** with the Bankruptcy Court at the Court's website <https://ecf.nysb.uscourts.gov/cgi-bin/login.pl> (password and log in required), with a copy delivered directly to Chambers and served upon counsel to the Debtors, DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, One North Lexington Avenue, White Plains, New York 10601, Attn: Jonathan S. Pasternak, Esq., and it is further

ORDERED, that, notwithstanding the possible applicability of Bankruptcy Rules 6004(h) or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED, that to the extent that this Order is inconsistent with any prior order or pleading with respect to the proposed sale transactions, the terms of this Order shall govern; and it is further

ORDERED, that the Court shall retain jurisdiction over any matter or dispute arising from or relating to the implementation of this Order; and it is further

ORDERED, that (a) the Debtor shall serve this Order along with the Bidding Procedures upon: (i) the Office of the U.S. Trustee; (ii) the Debtor's secured creditors and their respective counsel; (iii) all taxing authorities; (iv) all creditors; (v) all parties who have previously expressed an interest in acquiring any of the Debtor's assets; and (vi) all parties having filed a notice of appearance within one (1) business day of entry of this Order.

Dated: New York, New York
November __, 2017

HONORABLE MICHAEL E. WILES
UNITED STATES BANKRUPTCY JUDGE