

1 MICHELSON LAW GROUP
Randy Michelson (SBN 114095)
2 220 Montgomery Street, Suite 2100
San Francisco, CA 94104
3 Telephone: 415.512.8600
Facsimile: 415.512.8601
4 Email: randy.michelson@michelsonlawgroup.com

5 Attorneys for Chapter 11 Trustee
Randy Sugarman
6
7

8 UNITED STATES BANKRUPTCY COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10

11 In re	Case No. 16-30063 DM
12 YELLOW CAB COOPERATIVES, INC., aka All Taxi Electronics,	Chapter 11
13 14 Debtor.	Date: April 7, 2017 Time: 10:00 a.m. Place: Courtroom 17 450 Golden Gate Avenue San Francisco, California

15

16 **MOTION FOR ORDER AUTHORIZING TRUSTEE TO SELL**
17 **SUBSTANTIALLY ALL OPERATING ASSETS OF DEBTOR FREE AND CLEAR**
18 **OF LIENS AND RELATED RELIEF; SUPPORTING MEMORANDUM OF POINTS**
AND AUTHORITIES

19 **Proposed Purchaser:** Big Dog City Corporation, or an overbidder

20 **Potentially Affected Lienholders:** Wells Fargo Financial Leasing, Inc.

21 **Parties to Executory Contracts and Leases:** See Exhibit A to separately submitted
22 Motion for Order Authorizing Trustee to Assume and Assign Executory Contracts and Leases in
Connection with Proposed Sale of Assets (the "Assignment Motion")

23 **I. INTRODUCTION AND SUMMARY OF REQUESTED RELIEF**

24 Randy Sugarman (the "Trustee"), the Chapter 11 Trustee of the Bankruptcy Estate of
25 Yellow Cab Cooperative, Inc., the debtor in the above-captioned Chapter 11 case (the "Debtor"),
26 submits this motion (the "Motion"), pursuant to Bankruptcy Code Sections 105 and 363(b) and (f)
27 (11 U.S.C. §§105, 363(b) & (f)), for an order authorizing the Trustee to sell substantially all of the
28 estate's operating assets to Big Dog City Corporation ("Buyer") or to an overbidder at the

1 conclusion of a hearing on this Motion (the “Sale Motion”), free and clear of the liens, claims and
2 interests identified. The Motion is supported by the declaration of Randy Sugarman filed
3 concurrently and such other evidence and argument as may be presented to the Court prior to its
4 ruling on the Motion.

5 **MEMORANDUM OF POINTS AND AUTHORITIES**

6 **II. FACTUAL AND PROCEDURAL BACKGROUND**

7 **A. Jurisdiction**

8 1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C.
9 §§ 157 and 1334.

10 2. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

11 3. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

12 4. The statutory bases for the relief requested herein are Sections 105(a) and
13 363(b) and (f) of Title 11 of the United States Code (the “Bankruptcy Code”).

14 **B. Factual Background**

15 5. On January 22, 2016 (the “Petition Date”), the Debtor filed a voluntary
16 petition for relief under Chapter 11 of the Bankruptcy Code commencing this case.

17 6. The Debtor then operated its businesses and managed its properties as a
18 debtor-in-possession.

19 7. On February 3, 2016, the Office of the United States Trustee appointed the
20 Official Committee of Unsecured Creditors (the “Committee”).

21 8. The Committee filed a motion for appointment of a Chapter 11 Trustee on
22 September 23, 2016 (the “Trustee Appointment Motion”).

23 9. The Debtor attempted to sell substantially all of its assets to Buyer pursuant
24 to that certain Asset Purchase Agreement dated October 18, 2016 and its motion to approve
25 such sale and agreement filed on October 20, 2016 (“Debtor’s Sale Motion”).

26 10. The Committee opposed Debtor’s Sale Motion.

27 11. On November 15, 2016, this Court denied Debtor’s Sale Motion and
28 approved the Trustee Appointment Motion.

1 12. This Court entered its order appointing the Trustee on November 22, 2016,
2 and since such date, the Trustee has operated the business of the Debtor and managed the
3 Debtor’s properties pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

4 13. The Trustee has been exploring the sale of the Debtor’s assets since his
5 appointment, and Buyer again proposed to purchase substantially all the Debtor’s operating
6 assets and to assume certain liabilities (the “Sale”).

7 14. Following initial discussions, Buyer and the Trustee negotiated the purchase
8 price and other key terms embodied in an Asset Purchase Agreement (the “APA”). A true
9 and correct copy of the APA is attached to Sugarman Decl. as Exhibit A.¹

10 15. The APA requires that Buyer pay \$400,000 in cash for the assets being
11 purchased (the “Assets”), as well as assume certain liabilities (the “Assumed Liabilities”)
12 with respect to specified executory contracts and unexpired leases to be assumed and assigned
13 by the Trustee to Buyer (the “Designated Executory Contracts and Unexpired Leases”).²

14 16. The Assets include substantially all of the Debtor’s operational assets, but the
15 sale specifically excludes, among other things: (a) the Debtor’s corporate and financial
16 books and records; (b) the Debtor’s utility and other deposits, prepaid amounts, cash on hand
17 and in bank or similar accounts; (c) avoidance claims and causes of action of the bankruptcy
18 estate arising under 11 U.S.C. §544 through §552; (d) the Debtor’s insurance policies and
19 related rights; (e) the Debtor’s accounts receivable and similar rights; and (f) the Debtor’s
20 employee benefits and related rights. Further, the APA provides that Buyer will not
21 purchase any vehicles subject to a security interest in favor of Ford Motor Credit Company.

22 17. The APA also specifically excludes the assignment of the Debtor’s lease for
23 its primary business premises located at 1200 Mississippi Street, San Francisco, California.
24 However, the APA provides that Buyer and the Trustee shall negotiate and enter into a

25 _____
26 ¹ Capitalized terms not defined herein have the meaning ascribed to them in the APA. The following is intended to
27 summarize key terms of the APA. In the event of any conflict between the APA and the description in this Motion,
the specific provisions of the APA shall govern.

28 ² The Trustee’s proposed assumption and assignment of the Designated Executory Contracts and Unexpired Leases
is the subject of his concurrently filed Assignment Motion.

1 mutually acceptable sublease with the following terms: a term of six (6) months from the
2 Closing Date; either party may terminate the sublease on 60 days' notice to the other party;
3 and the applicable rent and any other charges due under such sublease shall be paid by
4 Buyer in an amount equal to the sums due under the 1200 Mississippi Lease.

5 18. The sale of the Assets will be free and clear of applicable liens, claims,
6 encumbrances and other interests to the fullest extent allowed by law except as expressly
7 provided in the APA.

8 19. Pursuant to the APA, for the Buyer to consummate the Sale, the order(s)
9 approving the Sale and related transactions must:

- 10 (i) approve, pursuant to Sections 105, 363 and 365 of the Bankruptcy Code:
11 (A) the execution, delivery and performance by the Trustee of the APA;
12 (B) the sale of the Assets to Buyer on the specified terms, including that such
13 sale is free and clear of applicable Encumbrances and claims (except with
14 respect to the Assumed Liabilities), with such Encumbrances and claims to
15 attach only to the proceeds of the sale; and (C) the performance by the
16 Trustee of his obligations under the APA;
- 17 (ii) authorize and direct the Trustee to assume and assign to Buyer the
18 Designated Executory Contracts and Leases pursuant to Section 365 of the
19 Bankruptcy Code;
- 20 (iii) find that Buyer is a "good faith" purchaser within the meaning of Section
21 363(m) of the Bankruptcy Code and that the Buyer is entitled to have the
22 protections afforded by that section;
- 23 (iv) find that reasonable and adequate notice of the sale and transfer of the Assets
24 to Buyer, and assumption and assignment of the Designated Executory
25 Contracts and Leases to the Buyer, has been provided to all parties required to
26 be given notice under the Federal Rules of Bankruptcy Procedure ("FRBP")
27 and the Local Bankruptcy Rules for the Northern District of California;
- 28 (v) find that neither the Trustee nor Buyer has engaged in any conduct that would
cause or permit the sale of the Assets to be avoided under Section 363(n) of
the Bankruptcy Code;
- (vi) bar any third parties from asserting claims (including any claims for
successor liability, including claims arising from unassumed unexpired leases
or executory contracts), Liens or Encumbrances against Buyer or the Assets
that arose prior to closing of the Sale ("Closing") other than the Assumed
Liabilities;
- (vii) approve bidding procedures; and
- (viii) provide that the Sale Order is binding on any and all successors and assigns.

26 **III. DISCUSSION**

27 **A. The Trustee May Sell the Debtor's Assets With Court Approval**

28 Section 363(b) of the Bankruptcy Code permits a trustee to sell assets other than in the

1 ordinary course of business after notice and a hearing. *In re Qintex Entertainment, Inc.*, 950 F.2d
2 1492, 1495 (9th Cir. 1991). In accordance with FRBP 6004, sales outside the ordinary course of
3 business may be by private sale or public auction. One business justification in any sale is the
4 ultimate purpose of obtaining the highest price for the property sold. *In re Wilde Horse*
5 *Enterprises, Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991). “In approving any sale outside the
6 ordinary course of business, the court must not only articulate a sufficient business reason for the
7 sale, it must further find it is in the best interest of the estate, *i.e.*, it is fair and reasonable, it has
8 been given adequate marketing, that it has been negotiated and proposed in good faith, that the
9 purchaser is proceeding in good faith and that it is an arms-length transaction. *Id.*

10 In performing his duties, the Trustee has concluded that the ultimate cost to the estate to
11 modernize the aging taxi fleet, change the driver culture to a customer oriented one, reduce the
12 number of accidents per week and resolve the workers compensation costs would far exceed
13 \$1,000,000 and would take many months to achieve, with no assurance of success. Further,
14 while the Debtor’s operations could and should be reorganized, the Trustee believes that the
15 reorganization and the recapitalization of the company should be accomplished by a buyer.

16 The Trustee has spoken with various potential buyers, including one in Paris and another
17 in Singapore. He also has spoken with the Committee’s financial advisor, Development
18 Specialists, Inc., about the extent of its marketing efforts. The Trustee has concluded that the
19 proposed transaction with the Buyer is in the best interest of the estate and its creditors and a
20 valid exercise of the Trustee’s business judgment and authority over the Debtor’s bankruptcy
21 estate, subject to approval of the Bankruptcy Court.

22 Courts have established that a trustee may enter into transactions outside the ordinary
23 course of business in his reasonable business judgment. *See generally 3 Collier on Bankruptcy*
24 ¶362.02[4] (16th ed. 2013) at p. 363-18—363-19. And courts afford broad deference to the
25 trustee’s reasonable business judgment. *Bennett v. Williams*, 892 F.2d. 822, 824 (9th Cir. 1989)
26 (“ . . . we are deferential to the business management decisions of a bankruptcy trustee . . .”).

27 **B. Bid Procedures and Court Supervised Auction**

28 To maximize the value of the Assets for the benefit of the estate and its creditors, the

1 Trustee proposes to accept overbids at an auction (the “Auction”) conducted by the Court (as
2 provided in the APA) at the hearing on the Motion, subject to the bidding procedures set forth on
3 Exhibit A to this Motion (the “Bid Procedures”).

4 **C. Free And Clear Sale**

5 Bankruptcy Code Section 363(f) provides that a trustee may sell property pursuant to
6 Section 363(b) or (c) free and clear of any interest in such property of an entity other than the
7 estate, only if:

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

16 The Buyer seeks to purchase the estate’s VCX 3COMM Phone System, which is the
17 subject of a lien by Wells Fargo Financial Leasing, Inc. According to the Trustee’s
18 investigation, the Debtor has paid that lien in full. The lien is therefore the subject of a bona fide
19 dispute. Pursuant to 11 U.S.C. § 363(f)(4), the Trustee seeks an order authorizing him to transfer
20 such assets free and clear of such lien, which lien, if any, shall attach to the proceeds of sale to
21 the same extent and with the same force, effect, validity and priority, if any, as it attached to the
22 Assets.

23 To the extent any counterparty to any executory contract or unexpired lease to be
24 assigned to Buyer under the APA contends that its agreement with the Debtor is in fact a
25 perfected disguised security agreement and not an executory contract or lease, and if the Buyer
26 (or a successful overbidder) seeks for the Trustee to assume and assign that lease or contract,
27 then the Trustee shall either (a) obtain the consent of the counterparty to assume and assign the
28 subject lease or contract, or (b) pay the counterparty in full for the value of its security interest
out of the sale proceeds. Accordingly, the Trustee submits that the provisions of Bankruptcy
Code Section 363(f)(2) and/or (3) are satisfied to permit the Trustee to sell free and clear of such
potential lien or interest.

1 **D. Request For Good Faith Finding**

2 Bankruptcy Code Section 363(m) provides:

3 The reversal or modification on appeal of an authorization under
4 subsection (b) or (c) of this section of a sale or lease of property
5 does not affect the validity of a sale or lease under such
6 authorization to an entity that purchased or leased such property in
 good faith, whether or not such entity knew of the pendency of the
 appeal, unless such authorization and such sale or lease were
 stayed pending appeal.

7 Although the Bankruptcy Code does not define “good faith,” courts have found it to be
8 the absence of fraud or collusion between bidders. *In re Abbotts Dairies*, 788 F.2d 143, 147-148
9 (3rd Cir. 1986). It is typically only “fraud, collusion between the purchaser and other bidders or
10 the trustee, or an attempt to take grossly unfair advantage of other bidders” that leads to a
11 determination that sale proceeding lacks good faith. *In re M Capital Corporation*, 290 B.R. 743,
12 748 fn. 3, (B.A.P. 9th Cir. 2003) (quoting *In re Suchy*, 786 F.2d 900, 902 (9th Cir. 1985)).

13 As reflected in the Declaration of Randy Sugarman, the proposed sale to the Buyer or its
14 assignee has been negotiated at arm’s length. Neither the Buyer nor any of its principals are
15 insiders or affiliates of the Trustee or the Debtor. Buyer has not entered into any agreement to
16 employ existing employees of the Debtor, although it is contemplated under the APA that
17 employment offers will be extended to certain workers since it is the Buyer’s intention to
18 continue the operations of the Debtor as a taxicab company on a going concern basis following
19 the Closing. The Buyer has been represented by its own attorney who has assisted the Buyer in
20 negotiating the APA. There are no other agreements, arrangements, or understandings between
21 the Buyer and the Trustee except as disclosed herein. The Buyer has not engaged in any
22 fraudulent or collusive behavior in its efforts to acquire the assets of the Debtor. The Buyer has
23 the financial wherewithal to consummate the proposed transactions, including the ability to
24 perform under the Designated Executory Contracts and Unexpired Leases upon their assumption
25 and assignment to the Buyer. Accordingly, the Trustee requests that the Court find the sale to the
26 Buyer to be in good faith pursuant to Bankruptcy Code Section 363(m), and not controlled by
27 any agreement among any potential bidders pursuant to Bankruptcy Code Section 363(n).

28 **E. Waiver of FRBP 6004(h) Is Appropriate**

1 The Trustee requests that the stay imposed by FRBP 6004(h) be waived. It is in the
2 interest of the estate and its creditors that the sale be consummated as quickly as possible without
3 any stay pending a possible appeal. The Trustee is aware of no prejudice that will result from
4 waiver of the fourteen (14) day stay.

5 **IV. CONCLUSION**

6 The Trustee believes that the proposed sale and auction are fair, reasonable, and are
7 appropriately structured to ensure that the Trustee will obtain the best price for the Assets. The
8 Trustee submits that the Bid Procedures serve to maximize the value of the Assets while also
9 ensuring that (a) only legitimate overbids are received; and (b) any overbid is sufficient to cover
10 the Expense Reimbursement (defined in the Bid Procedures) required to be paid to Buyer if an
11 overbid is accepted and the sale consummated. The Trustee further believes, in his business
12 judgment, that the proposed sale, subject to overbid, is in the best interests of the estate and
13 creditors because it will maximize the value of the Debtor's assets.

14 WHEREFORE, the Trustee respectfully requests that the Court enter its order as follows:

15 A. Granting the Motion;

16 B. Approving the Trustee's sale of the Assets, subject to the Bid Procedures, at the
17 conclusion of the hearing on this Motion, to the Buyer or such higher and better bidder approved
18 by the Court, and that such sale shall be binding on any and all successors and assigns, including
19 any trustee appointed after entry of the Sale Order pursuant to Sections 701 or 702 of the
20 Bankruptcy Code;

21 C. Approving, pursuant to Sections 105, 363 and 365 of the Bankruptcy Code: (i) the
22 execution, delivery and performance by the Trustee of the APA (or similar agreement with a
23 successful overbidder); (ii) the sale of the Assets to Buyer (or successful overbidder) on the terms
24 specified in the APA and discussed above, including that such sale is free and clear of any
25 applicable Encumbrances and claims (except with respect to the Assumed Liabilities), with such
26 Encumbrances and claims to attach only to the proceeds of the sale; and (iii) the performance by
27 the Trustee of its obligations under the APA;

28 D. Finding that notice of the hearing on this Motion and the related Assignment

1 **EXHIBIT A**

2 **Bid Procedures**

3 (1) **Qualification as Bidder:** Any person or entity that wishes to participate in the
4 bidding process for the Assets (each, a “Potential Bidder”) must first become a
5 “Qualifying Bidder.” Parties may be qualified as a Qualifying Bidder up to the
6 Bid Deadline (i.e., April 3, 2017 at 5:00 p.m. (PT)), but parties interested in
7 submitting a bid for any of the Assets are encouraged to qualify as soon as
8 possible. To be deemed a Qualifying Bidder, such party must provide sufficient
9 information as determined by the Trustee, to allow the Trustee to determine that
10 the interested party has the financial wherewithal to close a sale transaction and
11 to provide adequate assurance of future performance as required under Section
12 365 of the Bankruptcy Code. Each Potential Bidder shall comply with all
reasonable requests for information and due diligence access by the Trustee
regarding the ability of such Potential Bidder to consummate its contemplated
transaction. Once qualified, Qualifying Bidders will be able to conduct limited
due diligence concerning the Assets. Notwithstanding anything to the contrary in
the Bid Procedures, and for the avoidance of doubt, for all purposes under the Bid
Procedures: (i) the Buyer shall be considered a Qualifying Bidder, and the APA
shall be considered a Qualifying Bid (as defined below); and (ii) in determining
whether the Potential Bidders constitute Qualifying Bidders, the Trustee may
consider a combination of bids for the Assets.

13 (2) **Due Diligence:** The Trustee will provide any Qualifying Bidder with reasonable
14 access to due diligence information that the Trustee believes to be reasonable and
15 appropriate under the circumstances. The due diligence period shall extend
16 through and including the Final Bid Deadline. The Trustee may, but shall not be
17 obligated to, in his sole discretion, furnish any due diligence information after the
18 Final Bid Deadline. The Trustee reserves the right, in his sole discretion, to
19 withhold or limit access to any due diligence information that the Trustee
20 determines is business-sensitive or otherwise not appropriate for disclosure to a
21 Qualifying Bidder. Notwithstanding any limitations provided for in such
22 information, including, without limitation, any non-disclosure, confidentiality or
23 similar provisions, the Trustee shall be authorized to provide due diligence
24 information to the Qualifying Bidders, provided that such Qualifying Bidders
25 have delivered an executed confidentiality agreement in form and substance
26 acceptable to the Trustee. The Trustee is not responsible for, and shall have no
27 liability with respect to, any information obtained by, or provided to, any
28 Qualifying Bidders in connection with the Bid Procedures and the Sale.

22 (3) **Bid Requirements:**

23 a. *Form of Agreement.* Potential Bidders intending to submit bids must include
24 with their bids:

25 i. a statement that such Potential Bidder offers to purchase the Assets upon
26 substantially the same terms as, or terms more favorable to the bankruptcy
27 estate than, the terms set forth in the APA.

28 ii. a clean and duly executed purchase agreement (each, a “Transaction
Agreement”) and a marked copy of such agreement that reflects any
variations from the APA;

iii. the purchase price to be paid by such Qualifying Bidder bid and identify

1 the liabilities proposed to be paid or assumed by such Qualifying Bidder;
2 and

3 iv. a statement that such Qualifying Bidder offers to purchase the Assets
4 included in the APA upon substantially the same terms as, or terms more
5 favorable to the bankruptcy estate than, the terms set forth in the APA.

6 b. *Qualifying Bid.* Other than in the case of the Buyer, to be deemed a
7 “Qualifying Bid,” a bid must be received from a Qualifying Bidder on or
8 before the Final Bid Deadline and satisfy each of the following requirements:

9 i. be in writing;

10 ii. fully disclose the identity of the Qualifying Bidder and whether such party
11 is an insider (as defined in section 101 of the Bankruptcy Code) of the
12 Debtor, and provide the contact information of the specific person(s)
13 whom the Trustee or his advisors should contact in the event that the
14 Trustee has any questions or wishes to discuss the bid submitted by the
15 Qualifying Bidder;

16 iii. set forth the purchase price to be paid by such Qualifying Bidder and
17 identify the liabilities proposed to be paid or assumed by such Qualifying
18 Bidder;

19 iv. state that such Qualifying Bidder offers to purchase those assets included
20 in the APA upon substantially the same terms as, or terms more favorable
21 to the bankruptcy estate than, the terms set forth in the APA;

22 v. be accompanied by a clean and marked modified Transaction Agreement
23 that reflects any variations from the APA for the Assets;

24 vi. state that such Qualifying Bidder’s offer is formal, binding and
25 unconditional and is irrevocable until the conclusion of the Sale Hearing
26 unless such party is the Successful Bidder or Back-Up Bidder in which
27 case such offer is formal, binding and unconditional and is irrevocable
28 until two (2) business days after the closing of the Sale of the Assets;

vii. state that such Qualifying Bidder is financially capable of consummating
the transactions contemplated by its Transaction Agreement and provide
written evidence in support thereof;

viii. contain such financial and other information to allow the Trustee to make
a reasonable determination as to the Qualifying Bidder’s financial and
other capabilities to close the transactions contemplated by its proposed
Transaction Agreement, including, without limitation, such financial and
other information supporting the Qualifying Bidder’s ability to comply
with the requirements of adequate assurance of future performance under
section 365(f)(2)(B) of the Bankruptcy Code, including the Qualifying
Bidder’s financial wherewithal and willingness to perform under any
contracts that are assumed and assigned to the Qualifying Bidder, in a
form that allows the Trustee to make available, within one (1) business
day after such receipt, such information to any counterparties to any
contracts or leases being assumed and assigned in connection with the Sale
that have requested, in writing, such information;

- 1 ix. a commitment to close the Sale within 5 days after the order approving the
2 Sale has become final;
- 3 x. not request or entitle such Qualifying Bidder (other than the Buyer) to any
4 break-up fee, termination fee, expense reimbursement or similar type of
5 fee or payment;
- 6 xi. the aggregate consideration proposed by the Qualifying Bidder (other than
7 the Buyer) must equal or exceed the sum of the amount of (A) \$400,0000
8 (the purchase price under the APA, plus (B) a break-up fee of \$25,000 (the
9 “Expense Reimbursement”³, plus (C) \$25,000 (collectively, the
10 “Minimum Bid”);
- 11 xii. not contain any contingencies of any kind, including, without limitation,
12 contingencies related to financing, due diligence, or third party regulatory
13 or internal approval;
- 14 xiii. contain written evidence satisfactory to the Trustee that the Qualifying
15 Bidder has the ability to close the transactions contemplated by its
16 Transaction Agreement with appropriate contact information to verify
17 funds;
- 18 xiv. contain a written acknowledgement and representation that the Qualifying
19 Bidder (i) has had an opportunity to conduct any and all due diligence
20 regarding the Assets, (ii) has relied solely upon its own independent
21 review, investigation and/or inspection of any documents and other
22 information in making its Qualifying Bid, and (iii) did not rely upon any
23 written or oral statements, representations, promises, warranties or
24 guaranties whatsoever, whether express, implied, by operation of law or
25 otherwise, regarding the Assets, or the completeness of any documents or
26 other information provided in connection with the Bid Procedures and the
27 Sale, and (iv) has not entered into any agreement with any other potential
28 bidder concerning the Auction or the Sale or discloses any agreement with
any other potential bidder concerning the Auction or Sale;
- xv. provides for the Qualifying Bidder to serve as a backup bidder (the “Back-
Up Bidder”) if the Qualifying Bidder’s bid is the next highest and best bid
(the “Back-Up Bid”) after the Successful Bid (as defined below), in
accordance with the terms of the Transaction Agreement; and
- xvi. provides a good faith cash deposit in the amount of \$100,000 (the amount
of the Good Faith Deposit made by the Buyer) by cashier’s check payable
to the Trustee on behalf of the bankruptcy estate.

A bid from a Qualifying Bidder satisfying all of the above requirements, as determined by the Trustee, shall constitute a Qualifying Bid. The Trustee reserves the right to work with any Qualifying Bidder in advance of the Auction to cure any deficiencies in a bid that is not initially deemed a Qualifying Bid.

Each Qualifying Bidder submitting a bid shall be deemed to: (a) acknowledge

³ The Expense Reimbursement reflects the value to the estate of Buyer acting as a “stalking horse” bidder, and recognizes that the Buyer has incurred substantial expenses and is expected to continue to incur additional costs through the hearing on this Motion.

1 and represent that it is bound by all of the terms and conditions of the Bid
2 Procedures; and (b) have waived the right to pursue a substantial contribution
3 claim under section 503 of the Bankruptcy Code related in any way to the
4 submission of its bid, the Bid Procedures, and the Sale.

5 c. *Final Bid Deadline.* A Qualifying Bidder, other than the Buyer, that desires
6 to make a bid shall deliver a written and electronic copy of its bid in both PDF
7 and MS-WORD format to the Trustee so as to be received on or before April
8 3, 2017 5:00 p.m. (PT) (the “Bid Deadline”); provided that the Trustee may
9 extend the Bid Deadline without further order of the Court. Any party that
10 does not submit a bid by the Bid Deadline will not be allowed to (a) submit
11 any offer after the Bid Deadline, or (b) participate in the Auction.

12 (4) **Auction:** In the event that the Trustee timely receives one or more Qualifying
13 Bids other than Buyer’s Qualifying Bid, the Trustee shall conduct an auction at
14 the Sale Hearing (the “Auction”). Following the Auction, the Trustee will
15 determine which Qualifying Bid is the highest and best bid for the Assets, which
16 will be determined by considering, among other things, the following non-binding
17 factors: (a) the financial wherewithal to meet all requirements of the Sale;
18 (b) variations between competing bids and any incremental execution risk that the
19 Trustee reasonably determines exists as a result of those variations; (c) the time
20 needed to close a Sale compared with other Qualifying Bids and the cost to the
21 Debtor’s bankruptcy estate of any incremental delay; (d) the total consideration
22 to be received by the Trustee on behalf of the bankruptcy estate; (e) the ability to
23 obtain a higher or better offer for Assets when sold individually or in combination
24 with one or more of the Debtor’s other assets; (f) the net benefit to the estate,
25 taking into account the Buyer’s rights to the Expense Reimbursement; (g) the
26 impact on creditors; and (h) any other factors the Trustee may reasonably deem
27 relevant.

28 The Auction shall be governed by the following procedures:

- a. the Auction shall be held at the Sale Hearing on April 7, 2017 at 10:00 a.m. (ET) (the “Auction Date”);
- b. only the Buyer and the other Qualifying Bidders with Qualifying Bids (together, the “Auction Bidders”) shall be entitled to make any subsequent bids at the Auction;
- c. the Auction Bidders shall appear in person at the Auction, or through a duly authorized representative;
- d. the Auction Bidders shall confirm that they have not engaged in any collusion with respect to the Bid Procedures, the Auction or the Sale;
- e. bidding on the Assets shall commence at the amount of the Minimum Bid, and the Auction Bidders may submit successive bids in increments of at least \$10,000, provided that: (i) each such successive bid must be a Qualifying Bid; (ii) if the then highest and best bid was made by the Buyer, such bid shall be deemed to include the sum of the amount of the Expense Reimbursement; (iii) any bid made by the Buyer, including in each and every round of bidding, shall be deemed to include the sum of the amount of the Expense Reimbursement in addition to the cash and other consideration provided for in its bid; and (iv) the Trustee shall retain the right to modify the bid increment requirements at the Auction;

- 1 f. the Auction may include individual negotiations with any of the Auction
2 Bidders, but all bids shall be made on the record and in the presence of all
3 of the Auction Bidders;
- 4 g. all material terms of the bid that is deemed to be the highest and best bid
5 for each round of bidding shall be fully disclosed to the Auction Bidders,
6 and the Trustee shall use reasonable efforts to clarify any and all questions
7 that the Auction Bidders may have regarding the announcement of the
8 then-current highest and best bid;
- 9 h. the Trustee and his professional advisors may employ and announce at the
10 Auction additional procedural rules that are reasonable under the
11 circumstances (*e.g.*, the amount of time allotted to make subsequent bids)
12 for conducting the Auction, provided that such rules are (i) not
13 inconsistent with the Bankruptcy Code and the Federal Rules of
14 Bankruptcy Procedure and (ii) disclosed to the Auction Bidders;
- 15 i. each Auction Bidder shall (i) be deemed to have waived any right to a jury
16 trial in connection with, and consented and submitted to the exclusive
17 jurisdiction of the Court over, any actions or proceedings arising from or
18 relating to the Bid Procedures, the Sale, the Auction and the construction
19 and enforcement of the contemplated transaction documents of the
20 Auction Bidders, (ii) bring any such action or proceeding in the Court, and
21 (iii) be deemed to have consented to the Court entering a final judgment
22 determining any such action or proceeding and that such final judgment
23 in any such action or proceeding, including all appeals, shall be conclusive
24 and may be enforced in other jurisdictions (including any foreign
25 jurisdictions) by suit on the judgment or in any other manner provided by
26 applicable law;
- 27 j. the Auction Bidders shall have the right to make additional modifications
28 to their Transaction Agreement, in conjunction with each Qualifying Bid
submitted in each round of bidding during the Auction, provided that
(i) any such modifications on an aggregate basis and viewed in whole,
shall not, in the Trustee's discretion, be less favorable to the bankruptcy
estate than the terms of the APA, and (ii) each Qualifying Bid shall
constitute an irrevocable offer and shall be binding on the Auction Bidder
submitting such bid until such party shall have submitted a subsequent
Qualifying Bid at the Auction or the conclusion of the Sale Hearing,
whichever occurs sooner, unless such bid is selected as the Successful Bid
or the Back-Up Bid, which shall remain binding as provided for in the Bid
Procedures;
- k. the Trustee shall have the right to request any additional financial
information that will allow the Trustee to make a reasonable determination
as to an Auction Bidder's financial and other capabilities to consummate
the transactions contemplated by the applicable Transaction Agreement,
as may be amended during the Auction, and any further information that
the Trustee may believe is reasonably necessary to clarify and evaluate
any bid made by an Auction Bidder during the Auction;
- l. upon the conclusion of the Auction, the Trustee shall determine, subject
to Court approval, the offer or offers for the Assets that is or are the highest
and best from among the Qualifying Bids submitted at the Auction (the
"Successful Bid"). The bidder submitting such Successful Bid shall

1 become the "Successful Bidder," and shall have such rights and
2 responsibilities of the purchaser as set forth in the applicable Transaction
3 Agreement. The Trustee may, in his sole discretion, designate a Back-Up
4 Bid or Bids (and the corresponding Back-Up Bidder or Bidders) to
5 purchase the Assets in the event that a Successful Bidder does not close a
6 Sale; and

7
8 m. at the Sale Hearing, the Successful Bidder shall complete and execute all
9 agreements, contracts, instruments and other documents evidencing and
10 containing the terms and conditions upon which the Successful Bid was
11 made.

12
13 **THE SUCCESSFUL BID AND ANY BACK-UP BID SHALL**
14 **CONSTITUTE AN IRREVOCABLE OFFER AND BE BINDING ON**
15 **THE SUCCESSFUL BIDDER AND THE BACK-UP BIDDER,**
16 **RESPECTIVELY, FROM THE TIME THE BID IS SUBMITTED**
17 **UNTIL THE TIME PERIOD SPECIFIED HEREIN. EACH**
18 **QUALIFYING BID THAT IS NOT THE SUCCESSFUL BID OR THE**
19 **BACK-UP BID SHALL BE DEEMED WITHDRAWN AND**
20 **TERMINATED AT THE CONCLUSION OF THE SALE HEARING**

21 (5) **Sale Hearing**: If an Auction is held, the Successful Bid and any Back-Up for the
22 Assets will be subject to approval by the Court at the Sale Hearing.

23 (6) **Backup Bidder**: Notwithstanding any of the foregoing, in the event that a
24 Successful Bidder fails to close the applicable Sale within five (5) days after the
25 an order approving of the Successful Bid has become final (or such date as may
26 be extended by the Trustee), the Back-Up Bid for the Sale will be deemed to be
27 the Successful Bid, the Back-Up Bidder will be deemed to be the Successful
28 Bidder, and the Trustee will be authorized, but not directed, to immediately close
that Sale to the Back-Up Bidder subject to the terms of the Back-Up Bid without
the need for further order of the Court and without the need for further notice to
any interested parties.

(7) **Return of Deposits**: All Deposits shall be returned to each bidder not selected by
the Trustee as the Successful Bidder or Back-Up Bidders for the Sale no later than
three (3) business days following the Sale Hearing. The deposit of a Back-Up
Bidder shall be returned within three (3) business days of the closing of the Sale
to the Successful Bidder; the deposit of the Successful Bidder or, if the Sale is
closed with the Back-Up Bidder, the deposit of the Back-Up Bidder, shall be
applied to the purchase price for the Sale. If the Successful Bidder (or, if the Sale
is to be closed with the Back-Up Bidder, then the Back-Up Bidder) fails to
consummate the Sale because of a breach or failure to perform on the part of such
bidder, then, subject to the terms of the applicable Transaction Agreement, the
Trustee on behalf of the bankruptcy estate shall be entitled to retain the Deposit
of the Successful Bidder (or, if the Sale is to be closed with the Back-Up Bidder,
then the Back-Up Bidder) as part of the damages resulting to the estate for such
breach or failure to perform.

(8) **Reservation of Rights**. Notwithstanding any of the foregoing, the Trustee reserves
the right to modify these Bid Procedures at or prior to the Auction, including, without
limitation, to extend the deadlines set forth herein, allow for bidding on only a portion
of the Assets and not all of them, modify bidding increments, waive terms and
conditions set forth herein with respect to any or all potential bidders (including,
without limitation, the Bid Requirements), impose additional terms and conditions

1 with respect to any or all Potential Bidders, adjourn or cancel the Auction at or prior
2 to the Auction, and adjourn or cancel the Sale Hearing. Additionally, the Trustee has
3 the right to terminate the sale and auction process with respect to any or all of the
4 Assets at any time.
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

Asset Purchase Agreement

dated as of March __, 2017

between

Big Dog City Corporation,
as Buyer

and

Randy Sugarman, solely in his capacity as Trustee of the
Bankruptcy Estate of YELLOW CAB COOPERATIVE, INC.,

as Seller

ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT is made and entered into as of March __, 2017, by and between Big Dog City Corporation dba CityWide Taxi, a California Corporation (“Buyer”), and Randy Sugarman, solely in his capacity as Chapter 11 trustee of the bankruptcy estate of Yellow Cab Cooperative, Inc., a California corporation (“Seller”).

RECITALS

WHEREAS, on January 22, 2016, Yellow Cab Cooperative, Inc. (“YCC”) filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”), administered as Case No. 16-30063 (the “Bankruptcy Case”), in the United States Bankruptcy Court for the Northern District of California (San Francisco Division) (the “Bankruptcy Court”);

WHEREAS, Seller is the duly appointed Chapter 11 trustee in the Bankruptcy Case;

WHEREAS, on the terms and subject to the conditions set forth herein, Seller desires to sell, transfer and assign to Buyer, and Buyer desires to purchase, acquire and assume from Seller, pursuant to Sections 105(a), 363 and 365 of the Bankruptcy Code, all of the Purchased Assets and Assumed Liabilities (as defined hereafter);

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as set forth herein.

ARTICLE I DEFINITIONS

Unless otherwise defined herein, terms used herein shall have the meanings set forth below:

“Affiliate” of any particular Person means any other Person controlling, controlled by or under common control with such particular Person, where “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person whether by contract, through the ownership of voting securities or otherwise.

“Affiliated Group” means an “affiliated group” as defined in Section 1504 of the Code (or any analogous combined, consolidated or unitary group defined under state, local or foreign income Tax law) of which YCC is or has been a member.

“Agreement” means this Asset Purchase Agreement, including all the Exhibits and the Schedules hereto, as the same may be amended from time to time in accordance with its terms.

“Allocation” has the meaning set forth in Section 9.3(a) hereof.

“Assumed Liabilities” means the liabilities set forth in Schedule 2.3 hereto.

“Bankruptcy Case” has the meaning set forth in the recitals hereto.

“Bankruptcy Code” has the meaning set forth in the recitals hereto.

“Bankruptcy Court” has the meaning set forth in the recitals hereto.

“Books and Records” means the originals of all books, records and data of YCC, including customer lists and records, referral sources, research and development reports and records, production reports and records, service and warranty records, equipment logs, operating guides and manuals, creative materials, advertising materials, promotional materials, studies, reports, correspondence and other similar documents and records, in whatever form or medium, including electronic.

“Business” means YCC’s business of providing passenger transportation services.

“Buyer” has the meaning set forth in the preamble hereto.

“Buyer Expenses” means, as of any date of determination, the reasonable fees and out-of-pocket expenses incurred by Buyer on or before such date to the extent not previously paid or reimbursed by Seller in connection with (i) its due diligence regarding YCC, and (ii) the negotiation, preparation and performance of this Agreement and the transactions contemplated hereby.

“Cash” means cash and cash equivalents of the Estate (including marketable securities and short-term investments).

“Cash Purchase Price” has the meaning set forth in Section 3.2(b) hereof.

“Claim” has the meaning set forth in section 101(5) of the Bankruptcy Code.

“Closing” has the meaning set forth in Section 3.1 hereof.

“Closing Date” has the meaning set forth in Section 3.1 hereof.

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

“Contract” means any agreement, license, contract, commitment or other binding arrangement or understanding, whether written or oral, to which Seller or YCC is a party and which Seller is permitted under Section 365 of the Bankruptcy Code to assume and assign other than an Employee Benefit Plan.

“Designated Leases and Executory Contracts” means the agreements listed in Schedule 2.1 (2).

“Employee Benefit Plan” means any “employee benefit plan” (as defined in ERISA § 3(3)) and any other benefit or compensation plan, program, agreement or arrangement maintained, sponsored, or contributed or required to be contributed to by the Estate or any ERISA Affiliate or with respect to which the Estate or any ERISA Affiliate has any Liability.

“Encumbrances” means any interest, claim, Lien, mortgage, pledge, security interest, obligation, encumbrance, lien (statutory or other), liability, charge, lease, covenant, easement, option, right of others,

hypothecation, conditional sale agreement or restriction (whether on voting, sale, transfer, defenses, set-off or recoupment rights, disposition, or otherwise), whether imposed by agreement, understanding, law, equity, or otherwise. .

“ERISA Affiliate” means any Person that, at any relevant time, is or was treated as a single employer with YCC for purposes of Code § 414.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and all Laws issued thereunder.

“Estate” means the Chapter 11 estate of YCC.

“Excluded Assets” has the meaning set forth in Section 2.2 hereof.

“Exhibits” means the exhibits hereto.

“Expense Reimbursement” has the meaning set forth in Section 8.2(a) hereof.

“Final Order” means an Order that (a) is not stayed, and (b) as to which the time to file an appeal, has expired and no such appeal is pending.

“GAAP” means the generally accepted accounting principles in the United States of America.

“Good Faith Deposit” has the meaning set forth in Section 3.2 hereof.

“Governmental Authority” means any federal, state, local, municipal, foreign, supranational or other governmental or quasi-governmental authority of any nature (including any governmental agency, political subdivision, branch, bureau, commission, department, official or entity and any court or other tribunal), or any administrative, executive, judicial, legislative, police, regulatory or taxing authority, or arbitral body.

“Insurance Policy” means any insurance policy carried by Seller (including any self-insurance programs).

“Law” means any law, statute, regulation, code, constitution, ordinance, treaty or Order of, administered or enforced by or on behalf of, any Governmental Authority.

“Liability” means any duty, obligation or liability of any nature whatsoever whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, and whether due or to become due and regardless of when asserted and whether involving the payment of money or otherwise.

“Liens” means any claim, lien (as defined in Section 101(37) of the Bankruptcy Code), condition, pledge, option, charge, hypothecation, easement, security interest, right-of-way, encroachment, mortgage, deed of trust, covenant, restriction, reservation, agreement of record, restriction on use or voting (in the case of any security interest) preference, tax (including foreign, federal, state or local income, gross receipts, sales, use, ad valorem, gains, profits, excise, franchise or other taxes, fees, levies, or other duties or assessments imposed by any Governmental Entity), or any other encumbrance of any nature whatsoever.

“Order” means any award, decision, decree, order, injunction, ruling, judgment, or consent of or entered, issued, made or rendered by any Governmental Authority.

“Ordinary Course of Business” means the operation of the Business by the Seller in the usual and ordinary course in a manner substantially similar to the manner in which Seller operated since being appointed as trustee in the Bankruptcy Case (including with respect to quantity and frequency).

“Permit” means any franchise, permit, license, agreement, waiver and authorization issued by any Governmental Authority held or used by YCC in connection with, or required for, the Business, to the extent transferable.

“Person” means any corporation, partnership (including any limited partnership and any limited liability partnership), association, joint venture, limited liability company, organization, trust, entity, authority or natural person or any Governmental Authority.

“Proceeding” means any claim, charge, complaint, dispute, demand, grievance, action, litigation, audit, investigation, review, inquiry, arbitration, liability, damage, suit in equity or at law, administrative, regulatory or quasi-judicial proceeding, account, cost, expense, setoff, contribution, attorney’s fee or causes of action of whatever kind or character.

“Purchase Price” has the meaning set forth in Section 3.2 hereof.

“Purchased Assets” means the property listed in Schedule 2.1 (1) hereto.

“Rehired Employees” means each employee of YCC who accepts an offer of employment by Buyer as described in Section 9.1 hereof.

“Sale Order” means an order of the Bankruptcy Court, in substantially a form to be agreed upon by the Seller and the Buyer, which will become Exhibit A attached hereto, to be entered by the Bankruptcy Court pursuant to sections 105, 363 and 365 of the Bankruptcy Code.

“Schedules” means the schedules attached hereto.

“Seller” has the meaning set forth in the preamble hereto.

“Subsidiary” means, with respect to any Person, any corporation, partnership, limited liability company or other business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled to vote in the election of directors thereof is at the time owned or controlled, directly or indirectly, by that Person or (ii) if a partnership, limited liability company or other business entity, a majority of the partnership, limited liability company or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by such Person.

“Tax” and, with correlative meaning, “Taxes” mean with respect to any Person (i) all federal, state, local, county, foreign and other taxes, assessments or other government charges, including any income, alternative or add-on minimum tax, estimated gross income, gross receipts, sales, use, *ad valorem*, value added, transfer, capital stock franchise, profits, license, registration, recording, documentary, intangibles,

conveyancing, gains, withholding, payroll, employment, social security (or similar), unemployment, disability, excise, severance, stamp, occupation, premium, property (real and personal), environmental or windfall profit tax, custom duty or other tax, governmental fee or other like assessment, charge, or tax of any kind whatsoever, together with any interest, penalty, addition to tax or additional amount imposed by any Governmental Authority responsible for the imposition of any such tax (domestic or foreign) whether such Tax is disputed or not, (ii) Liability for the payment of any amounts of the type described in clause (i) above relating to any other Person as a result of being party to any agreement to indemnify such other Person, being a successor or transferee of such other Person, or being a member of the same affiliated, consolidated, combined, unitary or other group with such other Person, or (iii) Liability for the payment of any amounts of the type described in clause (i) arising as a result of being (or ceasing to be) a member of any Affiliated Group (or being included (or required to be included) in any Tax Return relating thereto).

“Tax Return” means any report, return, declaration, claim for refund or other information or statement supplied or required to be supplied by any Person relating to Taxes, including any schedules or attachments thereto and any amendments thereof.

“Termination Date” has the meaning set forth in Section 8.1(a) hereof.

“Transaction Documents” means this Agreement, and all other agreements, instruments, certificates and other documents to be entered into or delivered by any party in connection with the transactions contemplated to be consummated pursuant to this Agreement.

“WARN Act” means the Worker Adjustment and Retraining Notification Act of 1988, and all other similar Laws of any state, locality or other Governmental Authority.

ARTICLE II PURCHASE AND SALE; ASSUMPTION OF CERTAIN LIABILITIES

2.1 Purchase and Sale of Assets. Pursuant to Sections 105, 363 and 365 of the Bankruptcy Code, and subject to the entry of the Sale Order and the terms and conditions set forth in this Agreement, at the Closing, on the Closing Date, Seller shall sell, assign, transfer, convey and deliver to Buyer, free and clear of all Encumbrances and claims (except with respect to Assumed Liabilities) and without cost to Seller, unless otherwise provided herein, and Buyer shall purchase, acquire and take assignment and delivery of, for the consideration specified in Article III, all right, title and interest of every kind and nature of the Estate in and to the Purchased Assets and the Designated Leases and Executory Contracts, other than the Excluded Assets, all as set forth on Schedule 2.1. Buyer shall only be entitled to the same right, title and interest of the Estate in the Purchased Assets to the extent such right, title, or interest is transferable by Seller to Buyer.

2.2 Excluded Assets. Notwithstanding anything to the contrary in this Agreement, the property of the Estate set forth on Schedule 2.2 (referred to collectively as the “Excluded Assets”) is not being sold, assigned, transferred, conveyed or delivered to Buyer hereunder. The Excluded Assets shall also include any assets not transferrable by Seller.

2.3 Assumed Liabilities. Subject to the terms and conditions set forth in this Agreement, including Section 2.4 hereto, Buyer shall assume from Seller, and thereafter be responsible for the payment, performance, or discharge of, the Assumed Liabilities. Except as expressly provided herein, Buyer shall neither assume from

Seller, nor thereafter be responsible for, the payment, performance, or discharge of, any liabilities other than the Assumed Liabilities.

2.4 Excluded Liabilities. To the extent permitted by applicable law, Buyer shall not assume, and shall be deemed not to have assumed, any Liabilities of Seller other than the Assumed Liabilities. Without limitation, Buyer shall not assume any WARN Act Liabilities of Seller or Liabilities arising from a Proceeding by an equity holder or former equity holder of YCC.

2.5 Assumption of Contracts; Cure Amounts.

(a) Assumption of Contracts. Seller shall assume and assign to Buyer all of the Designated Leases and Executory Contracts to which YCC is a party, pursuant to a motion to assume and assign the Designated Leases and Executory Contracts under Section 365 of the Bankruptcy Code filed by Seller with the Bankruptcy Court in conjunction with the motion to approve the sale of the Purchased Assets.

(b) Curing Defaults and Assignment. At Closing, the Seller shall assume each of the Designated Leases and Executory Contracts pursuant to Section 365(a) of the Bankruptcy Code, and sell and assign to Buyer each of the Designated Leases and Executory Contracts pursuant to Sections 363(b), (f) and (m) and 365(f) of the Bankruptcy Code. Buyer shall pay all amounts, as determined by the Bankruptcy Court, or as agreed between Seller and the non-debtor contract party, necessary to cure any defaults (“Cure Amounts”) under the Designated Leases and Executory Contracts. Buyer shall also provide each non-debtor contract party with adequate assurance of future performance. The Cure Amounts must be sufficient to relieve Seller from all obligations with respect to defaults arising or existing under the Designated Leases and Executory Contracts prior to the Closing Date.

2.6 Retained Lease and Agreement to Sublease. Seller has assumed that certain Lease dated March 14, 2007, as amended, between YCC and Taxi Property Company, LLC with respect to the real property commonly known as 1200 Mississippi Street, San Francisco, California (the “1200 Mississippi Lease”) as an asset of the Estate. Seller agrees to sublease all of the premises covered by the 1200 Mississippi Lease to Buyer except for the second floor of the main building (the “Premises”), which Seller will continue to occupy without charge. Seller and Buyer shall negotiate and enter into a mutually acceptable sublease with the following terms: a term of six (6) months from the Closing Date; either Party may terminate the sublease on 60 days’ notice to the other Party, and the applicable rent and any other charges due under the Sublease shall be paid by Buyer in an amount equal to the rent due under the 1200 Mississippi Lease.

2.7 Assets Sold As Is Where Is. Except as specifically provided in this Agreement, Seller makes no representations or warranties whatsoever respecting the Purchased Assets. Except as specifically provided in this Agreement, the Purchased Assets are sold “as is” and “where is”.

2.8 Rights as to All Taxi Dispatch, LLC. Pursuant to that certain Settlement Agreement and General Release among Seller, TPC and certain other parties as approved by the Bankruptcy Court on February 3, 2017 (the “Settlement Agreement”), All Taxi Dispatch, LLC (“ATD”) is obligated to provide dispatch services to the Estate at the request of Seller provided that Seller compensates ATD for its costs to provide such dispatch services. The Settlement Agreement also provides that Seller may demand the assignment or transfer of either all of ATD’s assets or all of the membership interests in ATD or both. Therefore, at Closing Seller shall make a formal written demand on ATD or TPC, as appropriate, to transfer ATD’s assets directly to Buyer. Additionally, Seller agrees to compensate ATD for up to Five Thousand Dollars (\$5,000) for transferring its

assets to Buyer. Buyer intends to obtain the assignment of ATD's lease for the premises located in Las Vegas, Nevada and coordinate with ATD to have it terminate its employees as of the Closing Date. Seller shall reasonably cooperate with Buyer in its efforts to do the foregoing.

ARTICLE III CLOSING

3.1 Closing. Upon the terms and subject to the satisfaction of the conditions contained in this Agreement, the closing of the transaction contemplated by this Agreement (the "Closing") will take place at the offices of Michelson Law Group, 220 Montgomery St., Suite 2100, San Francisco, CA 94104 or such other place agreed upon by Seller and Buyer, at 10:00 a.m. local time as soon as practicable after the date on which the conditions set forth in Article VII have been satisfied or waived, but no later than five business days after the Sale Order becomes a Final Order, or on such other date or at such other place and time as Buyer and Seller may mutually determine (the "Closing Date").

3.2 Purchase Price. The purchase price for the Purchased Assets (the "Purchase Price") shall be comprised of the following:

(a) \$400,000.00 in cash (the "Cash Purchase Price"), including \$100,000 (the "Good Faith Deposit") that the Buyer shall pay into an account designated by the Seller within five days of the execution of this Agreement; and

(b) Buyer's assumption of the Assumed Liabilities.

3.3 Prorations. Except for amounts that Buyer must pay with respect to the Assumed Liabilities, Seller shall be responsible for the expenses relating to the Purchased Assets and the Business up to and through the Closing Date, and Buyer shall be responsible for the expenses relating to the Purchased Assets and the Business after the Closing Date. To the extent that the time period for the assessment of any expenses falls both before and after the Closing Date, then those expenses shall be prorated as of the Closing Date, and, to the extent required, reconciled after the Closing Date.

3.4 Deliveries by Seller. At the Closing, Seller shall deliver or procure delivery to Buyer of the following items:

(a) a certificate signed by Seller, dated the date of the Closing Date, certifying that items (a) through (g) of Section 7.2 have been satisfied as of the Closing;

(b) one or more bills of sale, in a form reasonably acceptable to Buyer conveying in the aggregate all of the owned personal property of YCC included in the Purchased Assets, duly executed by Seller; and

(c) such other documents or instruments as are required to be delivered by Seller at the Closing pursuant to the terms hereof or that Buyer reasonably requests before the Closing Date to effect the transactions contemplated hereby.

3.5 Deliveries by Buyer. At the Closing, Buyer will deliver or procure delivery to Seller of the following items:

(a) a certificate signed by Buyer, dated the date of the Closing Date, certifying that items (a) through (c) of Section 7.3 have been satisfied as of the Closing;

(b) assumption agreements pertaining to the Designated Leases and Contracts;

(c) one or more bills of sale, in the form attached hereto as Exhibit B conveying in the aggregate all of the owned personal property of YCC included in the Purchased Assets, duly executed by Buyer;

(d) any required executed third party consents; and

(e) such other documents or instruments as are required to be delivered by Buyer at the Closing pursuant to the terms hereof or that Seller reasonably requests before the Closing Date to effect the transactions contemplated hereby.

3.6 Form of Instruments. To the extent that a form of any document to be delivered hereunder is not attached as an Exhibit hereto, such documents shall be in form and substance, and shall be executed and delivered in a manner, reasonably satisfactory to Buyer and Seller.

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrants to Buyer as follows.

4.1 Power and Authority; Enforceability. Subject to the Bankruptcy Court's entry of the Sale Order, and unless obviated by the Bankruptcy Code and other applicable law, Seller has full power and authority to execute and deliver the Transaction Documents to which it is a party and to consummate the transactions contemplated hereby and thereby. Buyer shall obtain whatever permissions are required from the San Francisco Municipal Transportation Agency ("MTA") for the transfer of assets contemplated by this Agreement and the use of the Purchased Assets post-Closing, and Seller shall reasonably cooperate with Buyer in such efforts.

4.2 Litigation. Other than the Bankruptcy Case (including any proceedings therein), there is no claim, action, lawsuit, or proceeding, or to the knowledge of Seller, any pending inquiry or investigation or any threatened claim, action, lawsuit, proceeding, inquiry or investigation, in each case, by or against or affecting Seller which has had or can be reasonably expected to have a material adverse effect on the ability of Seller to consummate the transactions contemplated hereby.

4.3 Broker Representation. Seller is not represented by any broker or financial advisor in connection with the contemplated transaction.

ARTICLE V REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller as follows:

5.1 Organization; Standing. Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of California, and has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as it is now being conducted. Buyer is duly qualified

to do business and is in good standing in California, and in all jurisdictions in which the failure to so qualify would reasonably be expected to have a material adverse effect on the ability of Buyer to consummate the transactions contemplated hereby.

5.2 Authority. Buyer has full power and authority to execute and deliver the Transaction Documents to which it is a party and to consummate the transactions contemplated hereby and thereby. All Transaction Documents to which Buyer is a party have been duly executed and delivered by Buyer, except such Transaction Documents that are required by the terms hereof to be executed and delivered by Buyer after the date hereof, in which case such Transaction Documents will be duly executed and delivered by Buyer at or before the Closing, and the execution and delivery of all Transaction Documents and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action on the part of Buyer, and constitute, or will constitute, as the case may be, the valid and binding agreements of Buyer, enforceable against Buyer in accordance with its terms, subject to applicable bankruptcy, reorganization, insolvency, moratorium and other laws affecting creditors' rights generally from time to time in effect, and to general equitable principles.

5.3 Noncontravention. Subject to the entry of the Sale Order, no filing with, and no permit, authorization, consent or approval of, any Governmental Authority is necessary for the consummation by Buyer of the transactions contemplated hereby. Subject to the entry of the Sale Order, neither the execution and the delivery of this Agreement, nor the consummation of the transactions contemplated hereby, will (i) violate any Law to which Buyer is subject or any provision of its articles of organization or other organizational document or (ii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify, or cancel, or require any notice under any agreement, contract, lease, license, instrument, or other arrangement to which Buyer is a party or by which it is bound or to which any of its assets is subject.

5.4 Ability To Perform. Buyer has the financial wherewithal and ability to perform all of its obligations under this Agreement, including sufficient unrestricted funds or committed lines of credit on hand to pay the Purchase Price in cash to Seller at the Closing.

5.5 Litigation. There is no claim, action, lawsuit, or proceeding, or to the knowledge of Buyer, any pending inquiry or investigation or any threatened claim, action, lawsuit, proceeding, inquiry or investigation, in each case, by or against or affecting Buyer which has had or can be reasonably expected to have a material adverse effect on the ability of Buyer to consummate the transactions contemplated hereby.

5.6 Foreign Ownership of Buyer. Buyer is not controlled by a foreign entity or other investor for the purposes of Section 721 of the Defense Production Act of 1950, as amended, and the regulations promulgated thereunder.

5.7 Broker Representation. Buyer is not represented by any broker or financial advisor in connection with the contemplated transaction.

5.8 Condition of Acquired Assets. Buyer acknowledges having either inspected, or having had a reasonable opportunity to inspect, all of the Purchased Assets or has waived its rights to inspect all or a portion of the Purchased Assets. EXCEPT AS EXPRESSLY PROVIDED HEREIN, BUYER ACCEPTS THE PURCHASED ASSETS ON AN "AS IS," "WHERE IS" BASIS WITHOUT ANY WARRANTY WHATSOEVER FROM SELLER, INCLUDING ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

ARTICLE VI PRE-CLOSING COVENANTS

6.1 Closing Efforts. Before Closing, Buyer and Seller shall use commercially reasonable efforts to work together (a) to obtain all material consents and approvals of all Governmental Authorities and all other Persons required to be obtained to effect the transactions contemplated by this Agreement and (b) to take, or cause to be taken, all action, and to do, or cause to be done, all things necessary or proper, consistent with applicable Law, to consummate and make effective in an expeditious manner the transactions contemplated hereby. Except as provided in this Agreement, Seller shall not sell, license or transfer any of the Purchased Assets or Designated Leases and Executory Contracts other than to Buyer.

6.2 Access to Information. Seller agrees that, before the Closing Date, Seller and his representatives shall, upon reasonable advance notice, reasonably cooperate with the Buyer in its efforts to obtain reasonable access during normal business hours to YCC's business premises. Subject to commercially reasonable protection of confidential and proprietary materials, Buyer shall be entitled to make such reasonable investigation of the properties, businesses and operations of YCC and such examination of the Books and Records, including personnel records, and financial condition of YCC as it reasonably requests and to make extracts and copies to the extent necessary of the Books and Records; provided, that no investigation pursuant to this Section 6.2 shall affect representations or warranties, if any, made herein or the conditions to the obligations of the respective parties to consummate the transactions contemplated by this Agreement. Buyer agrees to repair at its sole cost any damage to YCC's premises caused by Buyer's investigation upon Seller's demand.

6.3 Conduct of the Business Pending the Closing. Except (a) as required by or in accordance with Law, (b) as contemplated by this Agreement, or (c) with the prior written consent of Buyer (which consent shall not be unreasonably withheld, conditioned or delayed), from the date hereof until the Closing Date, Seller:

(i) shall exercise commercially reasonable efforts in the manner presently in place to preserve the Purchased Assets and operate the Business;

(ii) shall not intentionally cancel or remove existing insurance policies in place as of the date hereof, if any, covering YCC's respective properties, assets, and business in a form and amount consistent with past practice, excluding workers' compensation;

(iii) shall not enter into any transaction that is outside the ordinary course of business, which includes but is not limited to remodeling any of the owned or leased company property or incurring capital expenditures;

(iv) shall not retire (i.e. take out of service) or sell any of the existing auto inventory except in the ordinary course of business or cars subject to a security interest in favor of Ford Motor Credit Company. Pending the Closing, Seller shall notify Buyer in writing via email of its retiring or selling of any inventory.

(v) shall maintain on hand parts and inventory at a level consistent with normal operations and shall not sell any parts or inventory outside the ordinary course of business without Buyer's written consent;

(vi) shall not make or grant any wage or salary increase to any of its employees or enter into any employee benefit plans or amend in any material respect such plan now in place out of the ordinary course of business; and

(vii) shall not agree, in writing or otherwise, to take any action inconsistent with the foregoing.

Notwithstanding anything to the contrary herein, Seller is permitted to have discussions and consummate transactions related to the Excluded Assets.

6.4 Bankruptcy Actions.

(a) Seller's performance under this Agreement and the transactions contemplated hereby are subject to approval of the Bankruptcy Court, pursuant to the Sale Order. Seller shall use commercially reasonable efforts to: (i) obtain entry of the Sale Order by no later than May 1, 2017, and (ii) consummate the Closing within 5 days after the Sale Order becomes a Final Order, or such other date to which the parties may mutually agree.

(b) Buyer agrees to promptly take such actions as are reasonably requested by Seller to assist in obtaining entry of the Sale Order, including furnishing declarations or other documents or information for filing with the Bankruptcy Court for purposes, among others, of providing necessary assurances of performance by Buyer of its obligations under this Agreement, the Designated Leases and Contracts and the Transaction Documents and demonstrating that Buyer is a good faith buyer under section 363(m) of the Bankruptcy Code.

(c) Buyer shall be responsible for providing evidence and argument in order to establish its ability to provide "adequate assurance of future performance" (within the meaning of sections 365(b)(1)(C) and (f)(2)(B) of the Bankruptcy Code) of the Designated Leases and Contracts. Seller agrees to use commercially reasonable efforts to cooperate with Buyer in seeking the assumption and assignment of the Designated Leases and Executory Contracts and in the presentation of evidence and argument related to same. The Bankruptcy Court's refusal to approve the assumption and assignment to Buyer of any Designated Lease or Executory Contract on the grounds that "adequate assurance of future performance" by Buyer of such Designated Lease or Executory Contract has not been provided shall constitute grounds for termination pursuant to Section 8.1(d) hereof if such refusal would be reasonably expected to have a material adverse effect on the ability of Seller to consummate the transactions contemplated hereby.

ARTICLE VII CONDITIONS TO CLOSING

7.1 Conditions to Parties' Obligations. The obligations of Buyer and Seller to consummate the transactions contemplated by this Agreement are subject to the satisfaction, on or before the Closing Date, of each of the following conditions (any or all of which may be waived by Buyer and Seller in whole or in part to the extent permitted by applicable Law):

(a) No Order or Proceeding. No Order shall be issued by any Governmental Authority enjoining, restraining or otherwise prohibiting the consummation of the transactions contemplated by this Agreement.

(b) The Bankruptcy Court has entered a Final Order that (i) approves the transaction contemplated in this Agreement, and (ii) includes a finding that the Buyer has acted good faith and is entitled to the protections of Section 363(m) of the Bankruptcy Code.

7.2 Conditions to Buyer's Obligations. The obligation of Buyer to consummate the transactions contemplated by this Agreement is subject to the satisfaction, on or before the Closing Date, of each of the

following conditions (any or all of which may be waived by Buyer in whole or in part to the extent permitted by applicable Law):

(a) Accuracy of Representations and Warranties. The representations and warranties of Seller contained herein shall be true and correct in all material respects on and as of the Agreement date and as of the Closing Date.

(b) Performance of Covenants. Seller shall have performed and complied in all material respects with the obligations and covenants required by this Agreement to be performed or complied with by Seller on or before the Closing Date.

(c) Buyer and Seller shall have obtained all necessary regulatory approvals as identified by Buyer.

(d) Buyer or Seller shall have obtained any third party consents, including all consents from counterparties to the Designated Leases and Executory Contracts, unless such consent is not required pursuant to Section 365 of the Bankruptcy Code.

(e) Any third parties have consented to Buyer's assumption of the Assumed Liabilities to the extent required by Law.

(g) For each of the Designated Leases and Executory Contracts, the Bankruptcy Court has entered a Final Order that authorizes Seller to assume and assign such lease or executory contract to Buyer.

(h) No pending Proceeding reasonably expect to have a material affect or prevent, restrict, make illegal, or otherwise interfere with, the contemplated transactions, nor to Buyer's knowledge has any such proceeding been threatened.

(i) Closing Deliveries. Seller shall have delivered, or caused to be delivered, to Buyer all of the items set forth in Section 3.4.

(j) There will not have been a material adverse change in the operation of Seller's business, including a material adverse change in the number of taxi medallions affiliated with Seller's business as of the date set for closing.

7.3 Conditions to Seller's Obligations. The obligation of Seller to consummate the transactions contemplated by this Agreement are subject to the satisfaction, on or before the Closing Date, of each of the following conditions (any or all of which may be waived by Seller in whole or in part to the extent permitted by applicable Law):

(a) Accuracy of Representations and Warranties. The representations and warranties of Buyer contained herein shall be true and correct in all material respects on and as of the Agreement date and as of the Closing Date.

(b) Performance of Covenants. Buyer shall have performed and complied in all material respects with the obligations and covenants required by this Agreement to be performed or complied with by Buyer on or before the Closing Date.

(c) Consideration. Buyer has deposited the Cash Purchase Price into Seller's bank account.

(d) Closing Deliveries. Buyer shall have delivered, or caused to be delivered, to Seller all of the items set forth in Section 3.5.

ARTICLE VIII TERMINATION

8.1 Termination. This Agreement may be terminated before the Closing as follows:

(a) by either Buyer or Seller, if the Closing shall not have occurred by the close of business on five business days from the date the Sale Order becomes a Final Order (the "Termination Date") or such other date as is agreed to by the Buyer and Seller in writing or set by the Bankruptcy Court; provided, however, that if the Closing shall not have occurred on or before the Termination Date due to a material breach of any representations, warranties, covenants or agreements contained in this Agreement by Buyer or Seller, then the breaching party may not terminate this Agreement pursuant to this Section 8.1(a);

(b) by mutual written agreement of Buyer and Seller;

(c) by either Buyer or Seller, if there shall be in effect a Final Order enjoining, restraining or otherwise prohibiting the consummation of the transactions contemplated hereby;

(d) by either Buyer or Seller, if there shall have been a material breach of any of the representations, warranties, covenants or agreements set forth in this Agreement on the part of the other party, which breach is not cured within the earlier of (x) 10 days following written notice to the party committing such breach or (y) one day before the Termination Date or which breach, by its nature, cannot be cured before the Closing; provided that neither Buyer nor Seller may terminate this Agreement pursuant to this Section 8.1(d) if such party is then in material breach of any representation, warranty, covenant or agreement contained herein; and

(e) if the Bankruptcy Court shall decline to enter the Sale Order, or shall enter an Order approving an overbid as a higher or better bid, subject to Buyer's right to payment of the Expense Reimbursement in accordance with the provisions of Section 8.2, except to the extent Buyer becomes a Back Up Buyer under the Order.

8.2 The Sale Process and Expense Reimbursement.

(a) Seller shall promptly seek approval of this Agreement from the Bankruptcy Court via a motion for sale free and clear of liens (the "Sale Motion"). Seller shall use commercially reasonable efforts to have the Sale Motion heard by April 7, 2017; however, the Parties acknowledge the Bankruptcy Court's limited motion calendar in the month of April. The Sale Motion shall include, without limitation, the following: i) Notice to creditors, not to exceed 21 days, of the hearing date for the Sale Motion; ii) Notice to creditors, not to exceed 21 days, of the right to submit a higher bid (the "Minimum Overbid") for the Purchased Assets; iii) Notice that the Minimum Overbid shall be at least \$450,000; iv) Notice that any Minimum Overbid must be accompanied by a good faith deposit of \$100,000 and adequate proof of the financial ability of the party submitting the Minimum Overbid to close the transaction; v) Notice that in the event there is a Minimum

Overbid, any bidding beyond the Minimum Overbid shall be in increments of at least \$10,000; vi) Notice that in the event there is a Minimum Overbid and Buyer does not end up being approved by the Bankruptcy Court as the eventual buyer of the Purchased Assets, Buyer shall be entitled to a breakup fee of \$25,000 (the “Breakup Fee”) to compensate Buyer for the costs and fees it incurred in the sales process.

(b) If there is a Minimum Overbid, then Seller shall conduct an auction in the Bankruptcy Court at the hearing on the Sale Motion.

(c) The Breakup Fee shall be paid to Buyer in lieu of any other payments or damages under this Agreement. The Breakup Fee shall be payable by Seller from escrow in the event and at the time a sale transaction with a party submitting a Minimum Overbid is consummated.

(d) Seller’s obligation to pay the Expense Reimbursement pursuant to this Section 8.2 shall survive termination of this Agreement, subject to Bankruptcy Court approval, and shall constitute an administrative expense (which shall be an administrative expense claim) of the YCC estate under the Bankruptcy Code.

8.3 Good Faith Deposit.

(a) In the event that this Agreement is terminated pursuant to Sections 8.1(a), (b), (c) or (e), or pursuant to Section 8.1(d) due to the material breach of the representations, warranties, covenants or agreements set forth in this Agreement on the part of Seller, then the Good Faith Deposit shall be returned to Buyer.

(b) In the event that this Agreement is terminated pursuant to Section 8.1(d) due to the material breach of the representations, warranties, covenants or agreements set forth in this Agreement on the part of Buyer, then Buyer waives all claims to the Good Faith Deposit and it will become the YCC estate’s property.

ARTICLE IX POST-CLOSING COVENANTS

9.1 Employees. Buyer may offer employment to certain former employees of YCC as determined by Buyer in its sole and exclusive discretion (such employees who accept such offer of employment, the “Rehired Employees”) on terms and conditions as determined by Buyer in its sole discretion. Nothing contained in this Agreement shall confer upon any Rehired Employee any right to any term or condition of employment or to continuance of employment by Buyer or any of its Affiliates, nor shall anything herein interfere with the right of Buyer or any of its Affiliates to terminate the employment of any employee, including any Rehired Employee, at any time, with or without notice and for any or no reason, or restrict Buyer or any of its Affiliates in modifying any of the terms or conditions of employment of any employee, including any Rehired Employee, after the Closing.

9.2 Employee Benefit Plans. Except as expressly provided in this Agreement, Buyer shall not assume any Employee Benefit Plan or any Liability thereunder or related thereto and Buyer shall provide only those benefits to Rehired Employees as of or after the Closing as Buyer, in its sole discretion, shall determine. Nothing contained in this Agreement, express or implied: (a) shall be construed to establish, amend, or modify any benefit or compensation plan, program, agreement or arrangement; (b) shall alter or limit the ability of Buyer or any of its Affiliates to amend, modify or terminate any benefit or compensation plan, program, agreement or arrangement at any time assumed, established, sponsored or maintained by any of them; or (c) is

intended to confer upon any Person (including employees, retirees, or dependents or beneficiaries of employees or retirees) any rights as a third party beneficiary of this Agreement. The YCC bankruptcy estate shall remain liable for all liability arising out of the YCC estate's termination of or withdrawal from any Employee Benefit Plan.

9.3 Tax Matters.

(a) Allocation of Purchase Price. Prior to the Closing, Buyer and Seller shall determine (in accordance with all applicable Treasury Regulations promulgated under Section 1060 of the Code) the allocation of the final Purchase Price among the Purchased Assets (the "Allocation"). Neither Buyer nor Seller shall take, nor shall they permit any Affiliate to take, any position inconsistent with the Allocation as finally determined hereunder (including in connection with the preparation and filing of any Tax Returns); provided, however, that (i) Buyer's cost for the Purchased Assets may differ from the Purchase Price to the extent necessary to reflect Buyer's capitalized acquisition costs other than the Purchase Price, and (ii) the amount realized by Seller may differ from the Purchase Price to the extent necessary to reflect transaction costs that reduce the amount realized by Seller. Buyer and Seller agree to notify each other with respect to the initiation of any action by any Governmental Authority relating to such allocation and agree to consult with each other with respect to any such action by any Governmental Authority. If a different Allocation proposed by any Governmental Authority is finally determined, Buyer and/or Seller may file amended returns based on such Allocation. An Allocation shall be considered to be finally determined when such Allocation cannot be contested in any court of competent jurisdiction.

(b) Proration of Taxes. The YCC bankruptcy estate shall bear all property, business and *ad valorem* Tax liability with respect to the Purchased Assets for taxable periods ending on or before the Closing Date. All real property taxes, personal property taxes, business or *ad valorem* obligations and similar recurring Taxes and fees with respect to the Purchased Assets for taxable periods beginning before, and ending after, the Closing Date, will be prorated between Buyer and Seller as of the Closing Date. The YCC estate shall be responsible for all such Taxes and fees on the Purchased Assets accruing during any period or portion thereof up to and including the Closing Date. Buyer shall be responsible for all such Taxes and fees on the Purchased Assets accruing during any period or portion thereof beginning after the Closing Date. The YCC estate shall be responsible for all taxes related to the operation of the Business and its revenues and expenses incurred prior to the Closing Date and any taxes resulting from this transaction. Buyer shall be responsible for all taxes related to the operation of the Business and its revenues and expenses after the Closing Date. With respect to the Taxes described in this Section 9.3(b), Seller shall timely file all Tax Returns due before the Closing Date with respect to such Taxes, and Buyer shall prepare and timely file all Tax Returns due after the Closing Date with respect to such Taxes. If one party remits to the appropriate Governmental Authority payment for Taxes that are subject to proration under this Section 9.3(b) and such payment includes the other party's share of such Taxes, such other party will promptly reimburse the remitting party for its share of such Taxes.

9.4 Further Assurances. From time to time after the Closing and without further consideration, (i) Seller, upon the request of Buyer, shall take such actions and execute and deliver such documents and instruments of conveyance and transfer as Buyer may reasonably request in order to consummate more effectively the purchase and sale of the Purchased Assets as contemplated hereby and to vest in the Buyer title to the Purchased Assets transferred hereunder, or to otherwise more fully consummate the transactions contemplated by this Agreement; and (ii) Buyer, upon the request of Seller, shall take such actions and execute and deliver such documents and instruments of contract or lease assumption as Seller may reasonably request in

order to confirm Buyer's Liability for the Assumed Liabilities or otherwise to more fully consummate the transactions contemplated by this Agreement.

ARTICLE X GENERAL PROVISIONS

10.1 Expenses. Except as provided in Section 8.2, each party hereto shall bear its own costs and expenses, including attorneys' fees, with respect to the transactions contemplated hereby. Notwithstanding the foregoing, in the event of any action or proceeding to interpret or enforce this Agreement, the prevailing party in such action or proceeding (*i.e.*, the party who, in light of the issues contested or determined in the action or proceeding, was more successful) shall be entitled to have and recover from the non-prevailing party such costs and expenses (including all court costs and reasonable attorneys' fees) as the prevailing party may incur in the pursuit or defense thereof, in an amount determined by the Bankruptcy Court upon properly noticed motion and hearing.

10.2 Amendments and Supplements. This Agreement may not be amended, modified or supplemented except by a written instrument signed by Seller and Buyer, which makes specific reference to this Agreement.

10.3 Notices. Any notice, request, instruction or other document to be given hereunder by a party hereto shall be in writing and shall be deemed to have been given, (a) when received if delivered by hand (including by reputable overnight courier), (b) on the date of transmission if sent by facsimile or email (if the sender on the same day sends a confirming copy of such notice by reputable overnight courier) or (c) upon delivery, if deposited in the U.S. mail, certified or registered mail, return receipt requested, postage prepaid to the intended recipient as set forth below:

To Seller: Randy Sugarman
Sugarman & Company LLP
500 Sansome St., Suite 600
San Francisco, CA 94111
Attn: Randy Sugarman
Email: sugarmanco@gmail.com
Fax: (415) 658-2858

with copy to: Michelson Law Group
220 Montgomery Street, Suite 2100
San Francisco, California 94104
Attn: Randy Michelson
Email: Randy.Michelson@michelsonlawgroup.com
Fax: (415) 512-8601

To Buyer: Big Dog City Corporation
2060 Newcomb Ave.
San Francisco, CA 94124
Attn: Chris Sweis
Email: chris@citywide.com
Fax: _____

with copy to: Finestone Hayes LLP
456 Montgomery Street, 20th Floor
San Francisco, CA 94104
Attn: Stephen Finestone
Email: sfinestone@fhlawllp.com
Fax: (415) 398-2820

or to such other individual or address as a party hereto may designate for itself by notice given as herein provided.

10.4 Waivers. The failure of a party hereto at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. No waiver by a party of any condition or of any breach of any term, covenant, representation or warranty contained in this Agreement shall be effective unless in writing by Seller, in the case of a waiver by Seller, or Buyer, in the case of any waiver by Buyer, and no waiver in any one or more instances shall be deemed to be a further or continuing waiver of any such condition or breach of other instances or a waiver of any other condition or breach of any other term, covenant, representation or warranty.

10.5 Counterparts and Execution. This Agreement may be executed simultaneously in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any counterpart may be executed by facsimile signature and such facsimile signature shall be deemed an original.

10.6 SUBMISSION TO JURISDICTION. THE PARTIES HEREBY AGREE THAT ANY AND ALL CLAIMS, ACTIONS, CAUSES OF ACTION, SUITS, AND PROCEEDINGS RELATING TO THIS AGREEMENT OR THE OTHER AGREEMENTS CONTEMPLATED HEREIN SHALL BE FILED AND MAINTAINED ONLY IN THE UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, AND THE PARTIES HEREBY CONSENT TO THE JURISDICTION OF SUCH COURT. The Sale Order shall provide for the Bankruptcy Court to retain jurisdiction pursuant to this paragraph.

10.7 Governing Law. This Agreement shall be governed by and construed in accordance with the Laws of the State of California (regardless of the Laws that might otherwise govern under applicable California principles of conflicts of Law) as to all matters, including matters of validity, construction, effect, performance and remedies.

10.8 Binding Nature; Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto without prior written consent of the other party (which shall not be unreasonably withheld or delayed).

10.9 No Third Party Beneficiaries. This Agreement is solely for the benefit of the parties hereto and nothing contained herein, express or implied, is intended to confer on any Person other than the parties hereto or their successors and permitted assigns, any rights, remedies, obligations, Claims, or causes of action under or by reason of this Agreement.

10.10 Construction. The language used in this Agreement will be deemed to be the language chosen by the parties to this Agreement to express their mutual intent, and no rule of strict construction shall be applied against any party. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all rules and Laws promulgated thereunder, unless the context requires otherwise.

10.11 Public Announcements. Except as required by Law or done in connection with the Bankruptcy Case, neither Seller nor Buyer shall issue or make any press release, public announcement, or court filing concerning this Agreement or the transactions contemplated hereby without obtaining the prior written approval of the other parties hereto relating to the contents and manner of presentation and publication thereof, which approval will not be unreasonably withheld, conditioned or delayed. Before making any disclosure required by applicable law, to the extent reasonably practicable, the disclosing party shall give the other party a copy of the proposed disclosure and reasonable opportunity to comment on the same. Notwithstanding anything to the contrary herein, the parties may, as and when necessary or appropriate, disclose the contemplated transaction or its terms to the Official Committee of Unsecured Creditors appointed in the Bankruptcy Case, the obligees with respect to the Assumed Liabilities, and the counterparties of leases or executed contracts that are or may become agreements among the Designated Leases and Executory Contracts.

10.12 Specific Performance. The parties hereto agree that irreparable damage would occur in the event any of the provisions of this Agreement to be performed at or before the Closing were not performed in accordance with the terms hereof and that, before the Closing, the parties shall be entitled to specific performance of such provisions, in addition to any other remedy at law or in equity, unless pursuant to the overbid procedures governing sale of the assets, Seller, as representative of the Estate, accepts an overbid as a higher or better bid, which decision is then approved by the Bankruptcy Court.

10.13 Entire Understanding. This Agreement, the Exhibits and the Schedules set forth the entire agreement and understanding of the parties hereto in respect to the transactions contemplated hereby and the Agreement, the Exhibits and the Schedules supersede all prior agreements, arrangements and understandings relating to the subject matter hereof and are not intended to confer upon any other Person any rights or remedies hereunder.

10.14 Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. To the extent legally permissible, any illegal, invalid or unenforceable provision of this Agreement shall be replaced by a valid provision that will implement the commercial purpose of the illegal, invalid or unenforceable provision.

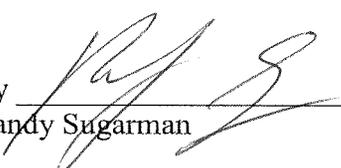
10.15 No Consequential or Punitive Damages. NO PARTY (OR ITS AFFILIATES OR REPRESENTATIVES) SHALL, UNDER ANY CIRCUMSTANCE, BE LIABLE TO THE OTHER PARTY (OR ITS AFFILIATES OR REPRESENTATIVES) FOR ANY CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES CLAIMED BY SUCH OTHER PARTY UNDER THE TERMS OF OR DUE TO ANY BREACH OF THIS AGREEMENT, INCLUDING LOSS OF REVENUE OR INCOME, DAMAGES BASED ON ANY MULTIPLIER OF PROFITS OR OTHER VALUATION METRIC, COST OF CAPITAL, DIMINUTION OF VALUE OR LOSS OF BUSINESS REPUTATION OR OPPORTUNITY.

[The remainder of the page has been intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have caused this Asset Purchase Agreement to be executed and delivered on the date first above written.

SELLER

Randy Sugarman, solely in his capacity as Chapter 11 Trustee of
the Estate of Yellow Cab Cooperative, Inc.,
a California corporation

By 
Randy Sugarman

BUYER

Big Dog City Corporation

By _____
Nishan Sweis
Its President

IN WITNESS WHEREOF, the parties hereto have caused this Asset Purchase Agreement to be executed and delivered on the date first above written.

SELLER

Randy Sugarman, solely in his capacity as Chapter 11 Trustee of the Estate of Yellow Cab Cooperative, Inc., a California corporation

By _____
Randy Sugarman

BUYER

Big Dog City Corporation

By  _____
Nishan Sweis
Its President

EX-103
RMS
R IN

SCHEDULE 2.1

(1) PURCHASED ASSETS

1. Inventory (including but not limited to auto parts, gasoline inventory and equipment in the repair facility located at 1200 Mississippi, San Francisco, CA)
2. Machinery and equipment (including but not limited to dispatch equipment, security equipment, garage equipment, taxi cab tracking equipment, and tools)
3. Furniture and fixtures located at 1200 Mississippi; provided, however, that certain furniture and fixtures located on the second floor of the main building shall remain there for Seller's use while winding up the Estate; provided further, however, that Buyer may leave any furniture and fixtures on the Premises.
4. Office equipment (including but not limited to computers); provided, however, that Buyer shall provide Seller with access to such assets while winding up the Estate.
5. Vehicles (including all taxicabs and equipment located therein, to the extent transferable), which shall specifically exclude any vehicles covered by the security interest of Ford Motor Credit Company. Seller and Buyer shall use commercially reasonable efforts to mutually agree on a list of the vehicles that will be included in the Purchased Assets by 5:00 p.m. Pacific on Tuesday, March 28, 2017 (the "Vehicle List").
6. To the extent transferable, intellectual property (including but not limited to YCC's name, brand, service mark(s), software trademark(s), trade name, telephone numbers, including but not limited to (415) 333-3333, websites, web addresses, and Uniform Resource Locators) used in YCC's business.
7. All software, intellectual property and personal property owned by YCC and used in connection with the dispatch system whether in YCC's possession, including but not limited to, accounting software, cashiering software, IVR software, shop; inventory and management software, parking lot management software and cab scheduling software.
8. All the assets of All Taxi Electronics
9. FCC License: FCC Registration No. 0004517728

(2) DESIGNATED LEASES AND EXECUTORY CONTRACTS

1. The contract under which YCC provides taxi services to disabled individuals, referred to as the "TransDev Contract", provided that Buyer shall have the option up to five (5) days prior to Closing to advise Seller that it does not wish to assume the TransDev Contract, in which case it shall be deemed rejected.
2. To the extent transferrable, Licenses for any and all software used in the operation of the business to the extent necessary for Buyer's use of the Purchased Assets, including but not limited to, dispatch software licensed by YCC from George Anderson and credit card processing software.

SCHEDULE 2.2
EXCLUDED ASSETS

1. All claims or causes of action belonging to the Estate, including without limitation, those arising under Sections 544 through 552 of the Bankruptcy Code and all proceeds thereof.
2. Corporate and financial books and records of YCC, including YCC's organization documents, minute and stock record books, tax returns, checkbook, cancelled checks, provided that upon request, Buyer may have reasonable access to such books and records and the opportunity to make copies thereof. Seller will retain a copy of the records of accounts receivable and payable.
3. Rights of YCC under Contracts not included within the Assumed Contracts.
4. All documents and personnel records of YCC's employees that YCC is required by law to retain and is prohibited by law from providing a copy thereof to Buyer.
5. All membership interests or other equity interests issued by YCC.
6. All prior and current Insurance Policies of YCC, and all rights of any nature with respect thereto, including all insurance recoveries thereunder and rights to assert claims with respect to any such insurance recoveries.
7. All deposits or prepaid amounts funded by YCC.
8. All Employee Benefit Plans (including all assets, trusts, insurance policies and administration service contracts related thereto) that are not assumed by Buyer.
9. All claims that the Seller or YCC may have against any Person solely with respect to any Excluded Assets or any Excluded Liabilities.
10. YCC's cash on hand or in bank or other depository accounts, money market funds and other liquid investments, the Good Faith Deposit, and any proceeds of Excluded Assets.
11. All accounts receivable, notes, evidences of indebtedness of any kind, from third parties arising from the conduct of the Business, whether or not in the ordinary course of business, together with any unpaid financing charges thereon, and all amounts which have been earned by YCC but which have not yet been invoiced.
12. Any asset of YCC that otherwise would constitute a Purchased Asset but for the fact that it is sold or disposed of in the ordinary course of YCC's business during the time from the Agreement date until the Closing Date.
13. All vehicles which are subject to a security interest in favor of Ford Motor Credit Company.
14. FCC Licenses: RX 152.315, TX 157.575; RX 152.435, TX 157.695

SCHEDULE 2.3
ASSUMED LIABILITIES

1. All Liabilities arising from the ownership of the Acquired Assets after the Closing Date.
2. All Liabilities of YCC arising under the Assumed Contracts to the extent that such Liabilities first accrue on or after the Closing Date, and all obligations to demonstrate adequate assurance of future performance required by the Bankruptcy Court under 365(b)(1)(C) of the Bankruptcy Code.
3. All Liabilities and obligations of YCC arising under Permits or intellectual property rights of YCC, accruing from and after the Closing Date.
4. All Liabilities for trade payables arising out of the conduct of the Business in the ordinary course after the Closing Date, unless otherwise paid.

EXHIBIT A

Sale Order

(To be attached)