

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

Dynamic Aerostructures LLC, *et al.*,

Debtors.¹

Chapter 11

Case No. 25-10292 (xxx)

(Joint Administration Pending)

Hearing Date: TBD

Objection Deadline: TBD

DEBTORS' MOTION PURSUANT TO SECTIONS 105, 363, AND 365 OF THE BANKRUPTCY CODE FOR ENTRY OF ORDERS (A)(I) APPROVING BIDDING PROCEDURES FOR THE SALE OF DEBTORS' ASSETS, (II) SCHEDULING HEARINGS AND OBJECTION DEADLINES WITH RESPECT TO THE SALE, (III) SCHEDULING BID DEADLINES AND AN AUCTION, (IV) APPROVING THE FORM AND MANNER OF NOTICE THEREOF, (V) APPROVING ASSUMPTION AND ASSIGNMENT PROCEDURES FOR EXECUTORY CONTRACTS AND UNEXPIRED LEASES, (VI) AUTHORIZING AND APPROVING THE DEBTORS' ENTRY INTO THE STALKING HORSE APA, (VII) AUTHORIZING AND APPROVING BID PROTECTIONS, AND (VIII) GRANTING RELATED RELIEF AND (B)(I) APPROVING THE SALE OF SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES, (II) APPROVING ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES AND (III) GRANTING RELATED RELIEF

Dynamic Aerostructures LLC and its affiliated debtors and debtors in possession (each, a "Debtor") and collectively, the "Debtors") in the above-captioned chapter 11 cases, by and through their undersigned proposed counsel, hereby submit this motion (this "Motion") for entry of orders granting the relief described below. In support hereof, the Debtors represent as follows:

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number are: Dynamic Aerostructures LLC (3076); Dynamic Aerostructures Intermediate LLC (9800); and Forrest Machining LLC (3421). The Debtors' service address is 27756 Avenue Mentry, Valencia, California 91355.



BACKGROUND

1. On February 26, 2025 (the “Petition Date”), each Debtor filed a voluntary petition for relief pursuant to chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors’ cases are being jointly administered for procedural purposes only pursuant to Bankruptcy Rule 1015(b) and Local Rule 1015-1. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases, and no official committee of unsecured creditors has been appointed in these chapter 11 cases

2. The Debtors are a leading manufacturer and supplier of critical structural components and assemblies for the aerospace and defense industry. The Debtors specialize in complex, large-format structural airframe and wing components, large aluminum structures, and complex assemblies for key aerospace and defense customers such as Lockheed Martin, Northrop Grumman, and Boeing, among others. The Debtors have one of the largest independent aerospace and defense manufacturing sites in North America, operating out of 226,000 square feet across two facilities in Southern California.

3. Additional factual background regarding the Debtors, including their business operations, their corporate and capital structure, and the events leading to the filing of these chapter 11 cases, is set forth in detail in the *Declaration of Eric N. Ellis in Support of Debtors’ Chapter 11 Petitions and First Day Motions* [Docket No. 2] (the “First Day Declaration”), which is incorporated herein by reference.

4. As set forth in the First Day Declaration and the *Declaration of Rory Keenan in Support of the Debtors’ Bidding Procedures Motion*, filed concurrently herewith (the “Bidding Procedures Declaration”), the Debtors filed these chapter 11 cases to effectuate a sale (the “Sale”) of all or substantially all of their assets (collectively, the “Assets”) to maximize value for all

stakeholders. By this Motion, the Debtors seek the Court's approval of bidding procedures pursuant to which they will seek bids for the Sale of all or substantially all of the Assets and, subsequently, a Sale of the Assets to the Stalking Horse Purchaser or such other purchaser selected by the Debtors as the successful bidder with respect to the Assets in accordance with the bidding procedures.

5. A thorough yet expedited bidding process and consummation of the Sale are vitally important to the Debtors' efforts to maximize value by selling the Assets. The timeline set forth in the Bidding Procedures, attached as **Exhibit 1** (the "Bidding Procedures") to the Bidding Procedures Order (as defined below), is reasonable under the circumstances of these chapter 11 cases and is necessary to preserve the Debtors' business as a going concern and maximize recoveries in these cases.

6. The Bidding Procedures and the related relief requested in this Motion are in the best interests of the Debtors' estates and their stakeholders. Accordingly, the Debtors request that this Court grant this Motion.

JURISDICTION AND VENUE

7. The United States Bankruptcy Court for the District of Delaware (the "Court") has jurisdiction to consider this Motion under 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated February 29, 2012. Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure for the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), the Debtors confirm their consent to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

8. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of these chapter 11 cases and this Motion is proper in this district under 28 U.S.C. §§ 1408 and 1409.

9. The statutory bases for the relief requested herein are sections 105, 363, and 365 of title 11 of the United States Code, as amended (the “Bankruptcy Code”), Rules 2002, 6004, and 6006 of the Federal Rules of Bankruptcy Procedures (the “Bankruptcy Rules”), and Local Rules 2002-1 and 6004-1.

RELIEF REQUESTED

10. By this Motion, the Debtors seek entry of an order, in substantially the form attached hereto as **Exhibit A** (the “Bidding Procedures Order”), which:

- (a) authorizes and approves the Bidding Procedures, attached to the Bidding Procedures Order as **Exhibit 1**;
- (b) authorizes the Debtors to enter into the Stalking Horse APA (as defined below) in the form attached hereto as **Exhibit B**;
- (c) approves the form and manner of notice of the proposed Sale of Assets, the Stalking Horse APA, the Bidding Procedures, the Auction (as defined below), and the Sale Hearing (as defined below), attached to the Bidding Procedures Order as **Exhibit 2** (the “Sale Notice”), and the notice of Successful Bidder, attached to the Bidding Procedures Order as **Exhibit 3**;
- (d) approves procedures for the assumption and assignment of the Assigned Contracts (as defined in the Bidding Procedures Order) in connection with any sale, and approves the form and manner of the notice thereof, attached as **Exhibit 4** to the Bidding Procedures Order (as defined below);
- (e) approves the Breakup Fee and Expense Reimbursement (each as defined herein);
- (f) schedules certain dates with respect thereto; and
- (g) grants related relief.

11. The Debtors will seek entry of a sale order (the “Sale Order”) at the Sale Hearing (as defined below), which the Debtors will file in advance of the Sale Hearing. The proposed Sale Order will, among other things:

- (a) authorize and approve the Sale to the Stalking Horse Purchaser (as defined below) or otherwise Successful Bidder (as defined in the Bidding Procedures), on the terms substantially set forth in the Successful Bid (as defined in the Bidding Procedures);
- (b) authorize and approve the Sale of the Assets free and clear of any claim, pledge, option, charge, hypothecation, easement, security interest, right-of-way, encroachment, mortgage, statutory or deemed trust, and deed of trust or other encumbrance to the extent set forth in the asset purchase agreement with the Successful Bidder, attached to the Sale Order, which may be the Stalking Horse APA;
- (c) authorize and approve the assumption and assignment of the Assigned Contracts to the Successful Bidder; and
- (d) grant related relief.

12. The Debtors will file declarations or other evidence in support of the Sale in advance of the sale hearing (the “Sale Hearing”) to approve the Successful Bid and any Backup Bid (as defined below) (or if no Qualified Bid (as defined below) other than that of the Stalking Horse Purchaser is received, then the Stalking Horse APA).

THE PROPOSED SALE

I. The Prepetition Marketing Process

13. On April 25, 2024, the Debtors engaged Configure Partners, LLC (“Configure”) to serve as their investment banker to begin exploring strategic alternatives to address the Debtors’ imminent liquidity concerns. Upon its retention, Configure immediately began conducting due diligence with respect to the Debtors’ assets and operations. After assessing the Debtors’ liquidity and alternatives, the Debtors, in consultation with their professional advisors, determined that it was in the best interests of the Debtors to commence a marketing process for a sale or other strategic restructuring transaction.

14. In May 2024, Configure began contacting potential bidders for a sale or other restructuring transaction with respect to the Debtors, providing a “teaser” summary of the Debtors,

their business operations, assets, and financial affairs to seventy-three (73) potential strategic and financial sponsor parties and holding introductory calls with many of these parties. Of those parties contacted, forty-five (45) executed non-disclosure agreements with the Debtors and were provided with a fulsome confidential information memorandum concerning the Debtors. Configure held numerous follow-up diligence calls for the benefit of these interested parties and gave these parties access to a virtual data room, management presentations, and other more comprehensive diligence information. Nine (9) of these interested parties ultimately submitted a proposal or indication of interest to the Debtors.

15. The Debtors and their advisors evaluated these submissions and, together with Configure, held extensive and detailed follow-up management presentations with many of the potential bidders and the Debtors' senior management team. After considering the offers received and engaging in discussions with the interested parties, the Debtors determined that an in-court sale process pursuant to section 363 of the Bankruptcy Code was the best available executable structure through which a sale transaction could be completed.

16. After thoroughly evaluating the proposals submitted by interested parties and engaging in follow up discussions, the Debtors' board of managers, in consultation with the Debtors' professionals, determined that Avem Partners ("Avem"), a private equity firm based in Southern California that specializes in investments in aerospace and industrial companies across North America, submitted the highest or otherwise best bid for the Debtors' assets.

17. As of the Petition Date, the Debtors have executed a stalking horse agreement with FMI Holdco LLC, an entity formed by Avem (the "Stalking Horse Purchaser"), providing for the sale of substantially all of the Debtors' assets for a cash purchase price of \$16 million, subject to adjustments for working capital and cure costs related to executory contracts assumed and assigned

to the Stalking Horse Purchaser, and the assumption by the Stalking Horse Purchaser of certain assumed liabilities. The Debtors have commenced these chapter 11 cases to consummate a sale transaction with the Stalking Horse Purchaser or a third-party bidder who submits a higher or otherwise better bid for the Debtors' business and assets. Through the contemplated sale process, which is a continuation of an approximately nine-month prepetition process, the Debtors seek to obtain Court approval of proposed bidding procedures in connection with a post-petition marketing process and, at the conclusion of such process, consummation of a sale transaction. The Debtors submit that this process, which will be a continuation of the extensive prepetition sale process conducted by Configure, will enable the Debtors to obtain a value maximizing sale transaction that is in the best interest of the Debtors and their stakeholders.

18. As part of the proposed postpetition sale process, the Debtors, through Configure and their other professionals, will continue their marketing efforts with respect to the Debtors' Assets and continue to contact both financial and strategic investors regarding a potential sale, including all parties contacted prior to the commencement of the chapter 11 cases.

II. The Proposed Schedule.

19. Pursuant to the Bidding Procedures, the Debtors will solicit the highest or otherwise best proposals according to the following proposed schedule, subject to Court approval and availability (the "Sale Timeline"):

<u>Event/Deadline</u>	<u>Date</u>
Bidding Procedures Hearing	On or before March 20, 2025
Service of Sale Notice	Within one (1) business day after entry of the Bidding Procedures Order
Service of Potential Assignment Notice	Within one (1) business day after entry of the Bidding Procedures Order
Sale Objection Deadline and Adequate Assurance Objection Deadline (for Stalking Horse Purchaser)	April 7, 2025 at 4:00 p.m. (ET)
Bid Deadline	April 7, 2025 at 4:00 p.m. (ET)
Auction (if Necessary)	April 9, 2025 at 10:00 a.m. (ET)
File Notice of Successful Bidder	April 10, 2025
Adequate Assurance Objection Deadline (if Successful Bidder is not the Stalking Horse Purchaser)	April 11, 2025 (at the time of the Sale Hearing)
Sale Hearing	April 11, 2025
Sale Consummation	April 15, 2025

20. The Debtors believe that the Sale Timeline is reasonable in time and scope and affords parties and creditors with sufficient time to gather information necessary to formulate a competitive bid that should maximize the value of the Assets for the benefit of the Debtors' estates and their stakeholders. In addition to the Debtors' marketing efforts thus far—which have been ongoing since May 2024—the Debtors will use the time prior to, and after, entry of the Bidding Procedures Order to continue marketing the Assets to expedite the solicitation of bids for the Debtors' Assets in advance of the deadline for interested parties to submit bids for the Debtors' Assets (the "Bid Deadline"). In light of the foregoing, the Debtors believe that the proposed schedule is in the best interests of the Debtors' estates, will assist in establishing whether and to what extent a market exists for the Assets, and provides interested parties with sufficient opportunity to participate in any sale transaction(s) and ultimately, will result in the highest or otherwise best bid for the underlying Assets under the circumstances.

III. The Bidding Procedures

21. To optimally and expeditiously solicit, receive, and evaluate bids in a fair and efficient manner, the Debtors request that the Court approve the propose Bidding Procedures.² The proposed Bidding Procedures are designed to permit a fair, efficient, competitive, and value-maximizing auction process for the Debtors' assets, consistent with the Debtors' goal of implementing a cost-effective Sale.

22. The Bidding Procedures will provide potential bidders with ample time to conduct thorough due diligence to submit binding bids in advance of the Sale Hearing. Indeed, the Debtors' investment banker, Configure, commenced a marketing and sale process approximately nine months prior to the Petition Date with respect to the Debtors' assets and business. The Bidding Procedures are designed to encourage all prospective bidders to put their best bid forward, effectuate an expeditious sale process with minimal disruption, and create a path towards entry of the Sale Order that will secure the highest or otherwise best value for the business and the Debtors' stakeholders. The proposed Bidding Procedures are in the best interests of all stakeholders and should be approved.

23. The Debtors also request authority, as set forth in the Bidding Procedures Order, to enter into the Stalking Horse Asset Purchase Agreement (the "Stalking Horse APA") with the Stalking Horse Purchaser. The Stalking Horse APA will provide the Debtors with the ability to maximize the value of the Assets by setting a floor for potential bidders and encouraging potential bidders to put forth their best bid. Therefore, given the Debtors' need to maximize value for

² This summary is qualified in its entirety by the Bidding Procedures attached as **Exhibit 1** to the Bidding Procedures Order. All capitalized terms that are used in this summary but not otherwise defined herein shall have the meanings given to such terms in the Bidding Procedures or the DIP Orders, as applicable. To the extent there are any conflicts between this summary and the Bidding Procedures, the terms of the Bidding Procedures shall govern.

creditors and other stakeholders through a timely and efficient marketing process, the Debtors' entry into the Stalking Horse APA is a reasonable and sound exercise of the Debtors' business judgment and provides an actual benefit to the Debtors' estates.

24. Pursuant to Local Rule 6004-1(c)(i), the chart below sets forth the salient points of the proposed Bidding Procedures:³

<u>Requirement</u>	<u>Description</u>
Stalking Horse Purchaser	<p>The Stalking Horse Purchaser is FMI Holdco LLC. As set forth more fully in the Stalking Horse APA, the Purchase Price to be paid by the Stalking Horse Purchaser is (i) cash in the amount of \$16,000,000 (less any Cure Cost Deduction and subject to a working capital adjustment), and (ii) the assumption by Purchaser of the Assumed Liabilities (including payment of the Cure Costs) (as defined in the Stalking Horse APA) (collectively, the "<u>Purchase Price</u>"). The Stalking Horse APA also includes various customary representations, warranties, and covenants by and from the Debtors and the Stalking Horse Purchaser, and certain conditions to closing and rights of termination related to the Sale and the chapter 11 cases generally.</p> <p>The Stalking Horse Purchaser is deemed to be an Acceptable Bidder (as defined below) and the Stalking Horse APA is deemed to be a Qualified Bid.</p>
Assets to be Sold	The Debtors shall offer for sale the Assets, <i>provided</i> that the Debtors, in consultation with the Consultation Parties, determine that the aggregate consideration offered by any bid, or combination of bids, for the Assets, satisfies the requirements set forth in the Bidding Procedures.
Participation Requirements: Acceptable Bidders	<p>To receive due diligence information and to receive additional non-public information regarding the Debtors, a potential bidder must deliver to each of the Debtors' Advisors the following documents (collectively, the "<u>Preliminary Bid Documents</u>") unless otherwise waived by the Debtors in their discretion:</p> <ul style="list-style-type: none"> (a) documentation identifying the interested party, its principals, and the representatives thereof who are authorized to appear and act on their behalf for all purposes regarding the contemplated transaction; (b) an executed Confidentiality Agreement on terms acceptable to the Debtors, to the extent not already executed, which Confidentiality

³ The following summary is qualified in its entirety by reference to the provisions of the Bidding Procedures. In the event of any inconsistencies between the provisions of the Bidding Procedures and the summary, the terms of the Bidding Procedures shall govern. Capitalized terms used in this summary and not otherwise defined herein shall have the meaning ascribed to them in the Bidding Procedures.

<u>Requirement</u>	<u>Description</u>
	<p>Agreement shall, among other terms, contain customary provisions regarding: (i) the nondisclosure of confidential information, (ii) prohibitions on contacting third parties in connection with a Transaction, (iii) covenant to not solicit employees of the Debtors, and (iv) the survival of certain provisions of the Confidentiality Agreement;</p> <p>(c) evidence by the potential bidder of its sufficient financial capacity to close a proposed transaction, which may include financial statements of, or verified financial commitments obtained by, the potential bidder (or, if the potential bidder is an entity formed for the purpose of acquiring the Assets, the party that will bear liability for a breach), the adequacy of which will be assessed by the Debtors, with the assistance of the Debtors' Advisors;</p> <p>(d) a statement and other factual support that the potential bidder has a <i>bona fide</i> interest in consummating a sale transaction, to the reasonable satisfaction of the Debtors after consultation with the Consultation Parties;</p> <p>(e) written disclosure of any connections or agreements with the Debtors, the Stalking Horse Purchaser, any other known potential bidder, or Qualified Bidder (as defined below), "insiders" of the Debtors (as that term is contemplated by section 101(31) of the Bankruptcy Code), or any manager or direct or indirect equity security holder of the Debtors; and</p> <p>(f) documentation identifying the potential bidder, its principals, and the representatives thereof who are authorized to appear and act on its behalf for all purposes regarding the contemplated transaction.</p> <p>Only Acceptable Bidders may submit Bids. Notwithstanding anything to the contrary herein, and for the avoidance of doubt, for all purposes under the Bidding Procedures, the Stalking Horse Purchaser shall be considered an Acceptable Bidder, and the Stalking Horse APA shall be considered a Qualified Bid, for all purposes under the Bidding Procedures, without regard to any of the requirements or conditions set forth therein and without any other or further action by the Stalking Horse Purchaser.</p>
Bankruptcy Court Jurisdiction	Any Acceptable Bidders and Qualified Bidders shall: (i) be deemed to have waived any right to a jury trial in connection with, and consented and submitted to the exclusive jurisdiction of the Court over, any disputes relating to, actions or proceedings arising from or relating to the Bidding Procedures, the Sale, the Auction and the construction and enforcement of the contemplated transaction documents; (ii) bring any such action or proceeding in the Court; and (ii) be deemed to have consented to the Court entering a final judgment determining

<u>Requirement</u>	<u>Description</u>
	any such action or proceeding and that such final judgment in any such action or proceeding, including all appeals, shall be conclusive and may be enforced in other jurisdictions (including any foreign jurisdictions) by suit on the judgment or in any other manner provided by applicable law.
Due Diligence	<p>Beginning on or as soon as is reasonably practicable after the Debtors determine that a potential bidder is an Acceptable Bidder, the Debtors will provide such Acceptable Bidder with reasonable access to due diligence information, to the extent reasonably requested by such Acceptable Bidder. All due diligence requests must be directed to: the proposed investment banker to the Debtors, Configure Partners, Rory Keenan (rkeenan@configurepartners.com) and Matt Guill (mguill@configurepartners.com). To the extent reasonably practicable, the Debtors will also facilitate meetings between any interested Acceptable Bidder and the Debtors' management team, which meetings will proceed in a manner determined by the Debtors, in their discretion. The due diligence period will end on the Bid Deadline (as defined below) and, subsequent to the Bid Deadline, the Debtors will have no obligation to furnish any due diligence information</p> <p>Neither the Debtors nor any of their representatives shall be obligated to furnish any information of any kind whatsoever related to the Assets (i) to any person or entity who (a) is not an Acceptable Bidder; (b) does not comply with the participation requirements set forth above; or (c) in the case of competitively sensitive information, is a competitor of the Debtors (except pursuant to information sharing procedures reasonably satisfactory to the Debtors in the Debtors' discretion) and (ii) to the extent not permitted by law.</p> <p>The Debtors and the Debtors' Advisors will coordinate all reasonable requests from Acceptable Bidders for additional information and due diligence access; <i>provided</i> that the Debtors may decline to provide such information to Acceptable Bidders who, at such time and in the Debtors' business judgment, have not established, or who have raised doubt, that such Acceptable Bidder intends in good faith to, or has the capacity to, consummate a Transaction. No potential bidder, Acceptable Bidder, or Qualified Bidder (as defined below) shall communicate with any of the Debtors' employees, landlords, vendors, lenders, or other potential bidder, Acceptable Bidder, or Qualified Bidder with respect to any bid or potential Transaction absent the prior written consent of the Debtors; <i>provided</i> that, if such consent is given, a representative of the Debtors shall be present for or party to any such communications (unless otherwise agreed by the Debtors in their sole discretion).</p> <p>For any Acceptable Bidder who is a competitor of the Debtors or is affiliated with any competitor of the Debtors, the Debtors reserve the right to withhold, redact, code, or delay providing any diligence materials that the Debtors determine are business-sensitive or otherwise inappropriate for disclosure to such Bidder at such time. Each Acceptable Bidder shall comply with all reasonable requests for additional information and due diligence access by the</p>

<u>Requirement</u>	<u>Description</u>
	Debtors or the Debtors’ Advisors regarding such Acceptable Bidder and its contemplated Transaction.
Bid Deadline	<p>An Acceptable Bidder, other than the Stalking Horse Purchaser, that desires to make a proposal, solicitation, or offer (each, a “<u>Bid</u>”) shall transmit such proposal, solicitation, or offer via email (in pdf or similar format) to the following parties so as to be actually received on or before April 7, 2025 at 4:00 p.m. (ET) (the “<u>Bid Deadline</u>”):</p> <ul style="list-style-type: none"> a. Proposed co-counsel to the Debtors, Ropes & Gray, 1211 Avenue of the Americas, New York, NY 10036 (Attn: Gregg M. Galardi (gregg.galardi@ropesgray.com)); b. Proposed co-counsel to the Debtors, Chipman Brown Cicero & Cole LLP, 1313 N. Market Street, Suite 5400, Wilmington, DE 19801 (Attn: Mark L. Desgrosseilliers and Robert A. Weber; email: desgross@chipmanbrown.com and weber@chipmanbrown.com), and Chipman Brown Cicero & Cole LLP, 501 5th Ave, 15th Floor, New York, NY 10017 (Attn: Daniel G. Egan; email: egan@chipmanbrown.com); and c. Proposed investment banker to the Debtors, Configure Partners, Attn: Rory Keenan (rkeenan@configurepartners.com) and Matt Guill (mguill@configurepartners.com). <p>A Bid must be received no later than the Bid Deadline, unless otherwise extended by the Debtors in their sole discretion. To the extent that the Bid Deadline is extended for all parties, the Debtors shall file a notice on the docket of the Chapter 11 Cases indicating the same. Any party that does not submit a bid by the Bid Deadline will not be allowed to (a) submit any offer after the Bid Deadline, or (b) participate in the Auction.</p>
Qualified Bids & Bid Requirements	<p>Each Bid submitted by an Acceptable Bidder must be submitted in writing and satisfy the following requirements (collectively, the “<u>Bid Requirements</u>”) unless otherwise modified by the Debtors, in their discretion:</p> <ul style="list-style-type: none"> (a) <u>Marked Agreement</u>. A Bid must be in writing and include an executed asset purchase agreement (a “<u>Competing APA</u>”), together with all exhibits and schedules (the “<u>Transaction Documents</u>”), pursuant to which the Acceptable Bidder proposes to effectuate the contemplated transaction, which Competing APA must be similar in form and substance to the Stalking Horse APA and be marked to reflect the differences between the Stalking Horse APA and the Acceptable Bidder’s Competing APA, including, without limitation, specification of the proposed purchase price, any assumed liabilities, and any changes to any exhibits or schedules to the Competing APA. A Bid must identify with particularity each and every condition to closing and all executory contracts and unexpired leases to be assumed and assigned pursuant to the Transaction Documents. The

<u>Requirement</u>	<u>Description</u>
	<p>Transaction Documents must include a commitment to close the Transaction by no later than the Closing Date provided in the Stalking Horse APA. A Bid may propose a contemplated transaction involving all or substantially all of the Assets or any subset of Assets. The Debtors will evaluate all Bids, in their sole discretion, subject to prior consultation with the Consultation Parties, to determine whether such Bid or combination of Bids maximizes the value of the Debtors' estates as a whole in light of any factors regarding such bid which the Debtors, in their discretion, determine are appropriate to be considered in evaluating Bids.</p> <p>(b) <u>Purpose</u>. Each Acceptable Bidder must state that the Bid includes an offer by the Acceptable Bidder to purchase some or all of the Assets and state which Assets with reasonable specificity. Each Bid must clearly identify the following: (i) contracts to be assumed, including cure costs to be paid, if any, and parties responsible for payment thereof; (ii) the liabilities, if any, to be assumed; (iii) leases to be assumed, including cure costs to be paid, if any, and parties responsible for payment thereof; and (iv) which employees or groups thereof will be offered employment.</p> <p>(c) <u>Purchase Price</u>. The consideration proposed by a Bid may include cash or other consideration acceptable to the Debtors in an amount of no less than the sum of (i) the Purchase Price <u>plus</u> (ii) the Breakup Fee and Expense Reimbursement <u>plus</u> (iii) \$250,000; <i>provided that</i> the Bid must include sufficient cash to pay all DIP Obligations in full, in addition to the Breakup Fee and Expense Reimbursement.</p> <p>(d) <u>Forms of Consideration</u>. Each Bid must (a) indicate (x) whether it is an all-cash offer (including confirmation that the cash component of the Bid is based in U.S. Dollars) or consists of certain non-cash components, such as a credit bid or the assumption of liabilities; and (y) the liabilities to be assumed, if applicable; and (b) provide sufficient cash consideration for payment of the amounts set forth in Section II(c) above. The Debtors may request that any Bid include the allocation of the Purchase Price among the Assets to be acquired. In addition, any Bid shall identify separately any cash and non-cash components, which non-cash components shall be limited only to credit-bids in accordance with section 363(k) of the Bankruptcy Code and assumed liabilities.</p> <p>(e) <u>Deposit</u>. Each Bid must be accompanied by a cash deposit in the amount equal to 10% of the aggregate value of the cash and non-</p>

<u>Requirement</u>	<u>Description</u>
	<p>cash consideration (with the deposit amount for the non-cash consideration determined by the Debtors in their discretion) of the Bid to be held in an escrow account to be identified and established by the Debtors (the “<u>Deposit</u>”); <i>provided that</i> that the Debtors reserve the right to increase the amount of the Deposit in their discretion, including, without limitation, the right to request an additional Deposit in the event an Acceptable Bidder increases the amount of its Bid.</p> <p>(f) <u>Irrevocable</u>. All Bids must be irrevocable until the Debtors’ selection of the Successful Bid and Backup Bid (each as defined below); <i>provided, however,</i> that the Successful Bid shall be irrevocable until the closing of the Approved Transaction (as defined below) and the Backup Bid must be irrevocable in accordance with Section VI below, as applicable.</p> <p>(g) <u>Committed Financing</u>. To the extent that a Bid is not accompanied by evidence of the Acceptable Bidder’s capacity to consummate the Transaction set forth in its Bid with cash on hand, each Bid must include committed financing documented to the Debtors’ satisfaction that demonstrates that the Acceptable Bidder has received sufficient debt or equity funding commitments to satisfy the Acceptable Bidder’s purchase price and other obligations under its Bid. Such funding commitments or other financing must be unconditional and must not be subject to any internal approvals, syndication requirements, diligence, or credit committee approvals, and shall have covenants and conditions acceptable to the Debtors.</p> <p>(h) <u>Unconditional Offer / Contingencies</u>. A statement that the Bid is formal, binding, and unconditional and is not subject to any further due diligence or contingencies related to financing, internal approval, due diligence, or otherwise, and is irrevocable until the Debtors notify the Acceptable Bidder that such Bid is not a Successful Bid or a Backup Bid.</p> <p>(i) <u>Non-Reliance</u>. A Bid must include a written acknowledgement and representation of the Acceptable Bidder that it has had an opportunity to conduct any and all due diligence regarding the Assets and assumed liabilities prior to making its Bid, that it has relied solely upon its own independent review, investigation or inspection of any documents or the Assets in making its bid, and that it did not rely upon any written or oral statements, representations, warranties, or guaranties, express, implied, statutory or otherwise, regarding the Assets, the financial performance of the Assets or the physical condition of the Assets,</p>

<u>Requirement</u>	<u>Description</u>
	<p>the assumed liabilities, or the completeness of any information provided in connection therewith or the Auction.</p> <p>(j) <u>Identity</u>. Each Bid must fully disclose the identity of each entity that will be bidding or otherwise participating in connection with such Bid (including each equity holder, sponsor, parent company or other financial backer of the Acceptable Bidder, including if such Acceptable Bidder is an entity formed for the purpose of consummating the proposed Transaction contemplated by such Bid), and the complete terms of any such participation. Under no circumstances shall any undisclosed principals, equity holders, or financial backers be associated with any Bid. Each Bid must also include contact information for the specific person(s), counsel and other advisors whom the Debtors' Advisors should contact regarding such Bid. Nothing herein shall preclude multiple Acceptable Bidders from submitting a joint Bid, subject to the Debtors' prior written consent to such submission and the disclosure requirements set forth herein.</p> <p>(k) <u>Adequate Assurance</u>. Each Bid must contain evidence acceptable to the Debtors in their discretion that the Acceptable Bidder has the ability to perform thereunder and otherwise complies with the requirements of adequate assurance of future performance under sections 365(b)(1) and 365(b)(3) of the Bankruptcy Code. Such evidence may include audited and unaudited financial statements, tax returns, bank account statements, a description of the proposed business to be conducted at the premises or any other documentation that the Debtors further request.</p> <p>(l) <u>Authorization</u>. Each Bid must contain evidence that the Acceptable Bidder has obtained authorization or approval from its board of directors (or a comparable governing body acceptable to the Debtors) with respect to the submission of its Bid and the closing of the Transaction contemplated in such Bid (including the submission, execution, and delivery of the Competing APA).</p> <p>(m) <u>No Fees Payable to Bidder</u>. Except with respect to the Breakup Fee and Expense Reimbursement payable to the Stalking Horse Purchaser in accordance with the Stalking Horse APA, a Bid may not request or entitle the Bidder to any break-up fee, termination fee, expense reimbursement or similar type of payment. Moreover, by submitting a Bid, a Bidder shall be deemed to waive the right to pursue any break-up fee, termination fee, expense reimbursement or similar type of payment, or substantial contribution claim under section 503 of the Bankruptcy Code</p>

<u>Requirement</u>	<u>Description</u>
	<p>related in any way to the submission of its Bid or the Bidding Procedures.</p> <p>By submitting its Bid, each Acceptable Bidder is agreeing, and shall be deemed to have agreed, to abide by and honor the terms of the Bidding Procedures and to refrain from submitting a Bid or seeking to reopen any round of bidding or the Auction after conclusion of any round of bidding or the Auction. The submission of a Bid shall constitute a binding and irrevocable offer to acquire the Assets as reflected in such Bid.</p> <p>Notwithstanding anything herein to the contrary and for the avoidance of doubt, for all purposes under the Bidding Procedures, the Stalking Horse APA submitted by the Stalking Horse Purchaser is a Qualified Bid without regard to any of the requirements or conditions set forth therein and without any other or further action by the Stalking Horse Purchaser.</p>
<p>Designation of Qualified Bidders</p>	<p>A Bid will be considered a “<u>Qualified Bid</u>,” and each Acceptable Bidder that submits a Qualified Bid will be considered a “<u>Qualified Bidder</u>,” if the Debtors determine, in their discretion, subject to prior consultation with the Consultation Parties, that such Bid:</p> <ul style="list-style-type: none"> (a) satisfies the Bid Requirements set forth above; and (b) is reasonably likely (based on availability of financing, antitrust, or other regulatory issues, experience, and other considerations) to be consummated, if selected as the Successful Bid, within a time frame acceptable to the Debtors. <p>The Debtors will notify each Qualified Bidder whether such party is a Qualified Bidder and shall provide the Notice Parties (as defined below) with a copy of each Bid that has been submitted to the Debtors (whether or not such bid has been determined by the Debtors to be a Qualified Bid).</p> <p>If any Bid is determined by the Debtors not to be a Qualified Bid, the Debtors will refund such Acceptable Bidder’s Deposit on the date that is the later of (i) three (3) Business Days after the Bid Deadline and (ii) the date on which the Debtors make a final determination that such Bid is not a Qualified Bid or, in each case, as soon as is reasonably practicable thereafter. The Debtors reserve the right to work with any Acceptable Bidder in advance of the Auction to cure any deficiencies in a Bid that is not initially deemed a Qualified Bid and to determine at any time prior to the start of the Auction that such Bid, as modified, is a Qualified Bid.</p> <p>Between the date that the Debtors notify an Acceptable Bidder that it is a Qualified Bidder and the Auction, the Debtors may discuss, negotiate, or seek clarification of any Qualified Bid from a Qualified Bidder. Without the prior written consent of the Debtors, a Qualified Bidder may not modify, amend, or</p>

<u>Requirement</u>	<u>Description</u>
	<p>withdraw its Qualified Bid, except for proposed amendments to increase the Acceptable Bidder's purchase price, or otherwise improve the terms of, the Qualified Bid, during the period that such Qualified Bid remains binding as specified in the Bidding Procedures; <i>provided</i> that any Qualified Bid may be improved at the Auction as set forth herein; <i>provided, further</i>, that the Stalking Horse Bid may be modified or amended pursuant to its terms. Any improved Qualified Bid must continue to comply in all respects with the requirements for Qualified Bids set forth in the Bidding Procedures.</p> <p>Notwithstanding anything herein to the contrary, the Debtors reserve the right, (a) to work with potential bidders and Acceptable Bidders to aggregate two or more Bids into a single consolidated Bid prior to the Bid Deadline or (b) to work with Qualified Bidders to aggregate two or more Qualified Bids into a single Qualified Bid prior to the conclusion of the Auction. No bidders, Acceptable Bidders or Qualified Bidders may aggregate any Bids without the Debtors' prior consent, subject to prior consultation with the Consultation Parties.</p> <p>Notwithstanding anything herein to the contrary and for the avoidance of doubt, for all purposes under the Bidding Procedures, the Stalking Horse Purchaser is a Qualified Bidder without regard to any of the requirements or conditions set forth therein and without any other or further action by the Stalking Horse Purchaser.</p>
Right to Credit Bid	<p>Unless otherwise ordered by the Court, any Qualified Bidder who has a valid and perfected lien on any assets of the Debtors' estates (a "<u>Secured Creditor</u>") and the right, power, and authorization to credit bid claims secured by such liens, shall have the right to credit bid all or a portion of such Secured Creditor's secured claims within the meaning of, and subject to, section 363(k) of the Bankruptcy Code; provided that a Secured Creditor shall have the right to credit bid its secured claim only with respect to the collateral by which such Secured Creditor is secured.</p>
Auction	<p>If no Qualified Bid (other than the Stalking Horse Bid) is received by the Bid Deadline, the Stalking Horse Purchaser shall be deemed the Successful Bidder without the need or requirement to hold or open the Auction.</p> <p>If the Debtors receive more than one Qualified Bid for the Assets (other than the Stalking Horse Bid), the Debtors will conduct the Auction to determine both the Successful Bidder and the Backup Bidder with respect to such Assets. The Auction shall take place on April 9, 2025 at 10:00 a.m. (ET), at the offices of Chipman Brown Cicero & Cole LLP, 1313 N. Market Street, Suite 5400, Wilmington, DE 19801, or such later date and time as selected by the Debtors (following consultation with the Consultation Parties).</p> <p>No later than the day before the Auction, the Debtors will notify all Qualified Bidders of the highest or otherwise best Qualified Bid, or, if multiple bids are received in respect of non-overlapping Assets, the highest or best Qualified Bid(s) received in relation to each group of Assets, in each case as determined</p>

<u>Requirement</u>	<u>Description</u>
	<p>in the Debtors’ business judgment (each such bid, a “<u>Baseline Bid</u>”), and provide copies of the documents supporting the Baseline Bid(s) to all Qualified Bidders and the Consultation Parties. The determination of which Qualified Bid(s) constitutes the Baseline Bid(s) and which Qualified Bid(s) constitutes the Successful Bid(s) shall take into account any factors the Debtors, in consultation of the Consultation Parties, reasonably deem relevant to the value of the Qualified Bid(s) to the Debtors’ estates, which may include, among other things: (a) the type and amount of Assets sought to be purchased in the Bid; (b) the amount and nature of the total consideration; (c) the likelihood of the Bidder’s ability to close a transaction and the timing thereof; (d) the net economic effect of any changes to the value to be received by the Debtors’ estates from the transaction contemplated by the Bid; (e) the tax consequences of such Bid; (f) the assumption of obligations, including contracts and leases; (g) the cure costs to be paid; and (h) the impact on employees, including the number of employees proposed to be transferred and employee-related obligations to be assumed (collectively, the “<u>Bid Assessment Criteria</u>”).</p> <p>The Auction shall be conducted pursuant to the following procedures:</p> <p><u>The Debtors Shall Conduct the Auction</u></p> <p>The Debtors and the Debtors’ Advisors shall direct and preside over the Auction.</p> <p>The Auction shall be conducted in an open cry format (and not by way of sealed bids). At the start of the Auction, the Debtors shall describe the terms of the Baseline Bid(s). All incremental Bids made thereafter shall be Overbids (as defined below) and shall be made and received on an open basis, and all material terms of each Overbid shall be fully disclosed to all other Qualified Bidders and the Consultation Parties. The Debtors shall maintain a written transcript of all Bids made and announced at the Auction, including the Baseline Bid(s), all Overbids, the Successful Bid(s), and any Backup Bid(s).</p> <p>Qualified Bidders (including, for the avoidance of doubt, the Stalking Horse Purchaser) and the Consultation Parties, and each of their respective legal and financial advisors, shall be entitled to attend the Auction, and the Qualified Bidders shall appear at the Auction in person (live or on videoconference) and may speak or bid themselves or through duly authorized representatives. Only Qualified Bidders (including, for the avoidance of doubt, the Stalking Horse Purchaser) shall be entitled to make any subsequent bids at the Auction; <i>provided, however</i>, that any creditor who wishes to physically attend the Auction (other than (i) the parties set forth in the Bidding Procedures (including the Qualified Bidders), and (ii) such other parties the Debtors deem appropriate), shall provide at least two (2) days’ notice of such attendance prior to the Auction by sending an email to counsel to the Debtors.</p> <p><u>Terms of Overbids</u></p>

<u>Requirement</u>	<u>Description</u>
	<p>“<u>Overbid</u>” means any bid made at the Auction by a Qualified Bidder subsequent to the Debtors’ announcement of the Baseline Bid. Each Overbid must comply with the following conditions:</p> <p>(a) <u>Minimum Overbid Increment</u>. Any Overbid to the initial Baseline Bid at the start of the Auction shall be in increments of no less than a value equal to \$250,000 unless otherwise determined by the Debtors in an exercise of their business judgment; <i>provided, however</i>, that to the extent that the Baseline Bid constitutes the Stalking Horse Bid, the bidding for such Assets at the first round of bidding will start at an amount equal to the sum of: (i) the value of the Baseline Bid, (ii) the amount of the Breakup and Expense Reimbursement, and (iii) \$250,000.</p> <p>(b) <u>Conclusion of Each Overbid Round</u>. Upon the solicitation of each round of Overbids, the Debtors may announce a deadline (as the Debtors may, in their business judgment, extend from time to time, the “<u>Overbid Round Deadline</u>”) by which time any Overbids must be submitted to the Debtors.</p> <p>(c) <u>Overbid Alterations</u>. An Overbid may contain alterations, modifications, additions, or deletions of any terms of the Bid no less favorable to the Debtors’ estates than any prior Qualified Bid or Overbid, as determined in the Debtors’ business judgment, but shall otherwise comply with the terms of the Bidding Procedures.</p> <p>(d) <u>No Round-Skipping</u>. Round-skipping, as described herein, is explicitly prohibited. To remain eligible to participate in the Auction, in each round of bidding, (i) each Qualified Bidder must submit a Bid in such round of bidding that is a higher or otherwise better offer than the immediately preceding Bid submitted by a Qualified Bidder in such round of bidding and (ii) to the extent a Qualified Bidder fails to bid in such round of bidding or to submit a Bid in such round of bidding that is a higher or otherwise better offer than the immediately preceding Bid submitted by a Qualified Bidder in such round of bidding, as determined by the Debtors in their reasonable business judgment, such Qualified Bidder shall be disqualified from continuing to participate in the Auction for the Assets including, without limitation, submitting further Bids.</p> <p>(e) <u>Announcing Highest Bid</u>. With respect to the Auction, the Debtors shall, subsequent to each Overbid Round Deadline, announce whether the Debtors in consultation with the Consultation Parties have identified (a) in the initial Overbid round, an Overbid as being higher or otherwise better than the Baseline Bid in respect of the Assets that are the subject of the Auction or (b) in subsequent rounds, an Overbid as being higher</p>

<u>Requirement</u>	<u>Description</u>
	<p>or otherwise better than the Overbid previously designated by the Debtors as the prevailing highest or otherwise best Bid (the “<u>Prevailing Highest Bid</u>”). The Debtors shall describe to all Qualified Bidders the material terms of any new Overbid designated by the Debtors as the Prevailing Highest Bid as well as the value attributable by the Debtors to such Prevailing Highest Bid based on, among other things, the Bid Assessment Criteria.</p> <p><u>Consideration of Overbids</u></p> <p>For the purpose of evaluating the value of the consideration provided by any Bid subsequent to the Baseline Bid, the Debtors will at each round of bidding, give effect to the Breakup Fee and Expense Reimbursement payable to the Stalking Horse Purchaser under the Stalking Horse APA.</p> <p>The Debtors reserve the right, in their business judgment, to adjourn the Auction one or more times, to, among other things, (i) facilitate discussions between the Debtors and Qualified Bidders, (ii) allow Qualified Bidders to consider how they wish to proceed, and (iii) provide Qualified Bidders the opportunity to provide the Debtors with such additional evidence as the Debtors, in their business judgment, may require that the Qualified Bidder has sufficient internal approvals and resources or has received sufficient non-contingent debt or equity funding commitments to consummate the proposed Transaction at the prevailing Overbid amount.</p> <p><u>Closing the Auction</u></p> <p>The Auction shall continue until there is only one Qualified Bid that the Debtors determine, in their discretion following consultation with the Consultation Parties, to be the highest or otherwise best Qualified Bid for the Assets. Such Qualified Bid shall be declared the “<u>Successful Bid</u>,” and such Qualified Bidder, the “<u>Successful Bidder</u>,” at which point the Auction will be closed. The Auction shall not close unless and until all Qualified Bidders have been given a reasonable opportunity to submit an Overbid at the Auction to the then Prevailing Highest Bid. Such acceptance by the Debtors of such Successful Bid is conditioned upon approval by the Court of such Successful Bid. As soon as reasonably practicable after closing the Auction, the Debtors shall finalize definitive documentation to implement the terms of the Successful Bid, and, as applicable, cause such definitive documentation to be filed with the Court.</p> <p><u>No Collusion; Good Faith Bona Fide Offer</u></p> <p>Each Qualified Bidder participating at the Auction will be required to confirm on the record at the Auction that (i) it has not engaged in any collusion, within the meaning of section 363(n) of the Bankruptcy Code with respect to any bids submitted or not submitted in connection with the Sale, and (ii) its Qualified Bid</p>

<u>Requirement</u>	<u>Description</u>
	is a good faith <i>bona fide</i> offer and it intends to consummate the proposed Transaction if selected as the Successful Bidder.
Sale Hearing	<p>A hearing to consider approval of the sale (the “<u>Sale Hearing</u>”), pursuant to which the Debtors and the Successful Bidder will consummate the Transaction (the “<u>Approved Transaction</u>”), will be held no later than April 11, 2025.</p> <p>The Sale Hearing may be continued to a later date by the Debtors by sending notice prior to, or making an announcement at, the Sale Hearing. No further notice of any such continuance will be required to be provided to any party.</p>
Backup Bidder	<p>Notwithstanding anything in the Bidding Procedures to the contrary, if the Auction is conducted, the Qualified Bidder with the next-highest or otherwise second-best Qualified Bid at the conclusion of the Auction for the Assets or any sub-group thereof, as determined by the Debtors in the exercise of their business judgment, shall be required to serve as a backup bidder (the “<u>Backup Bidder</u>”) in accordance with the terms and conditions set forth herein. Each Qualified Bidder shall agree and be deemed to agree to be a Backup Bidder if so designated by the Debtors, subject to the terms of such Backup Bidder’s Competing APA.</p> <p>The identity of a Backup Bidder and the amount and material terms of the Qualified Bid of such Backup Bidder shall be announced by the Debtors, at the conclusion of the Auction at the same time the Debtors announce the identity of the Successful Bidder related thereto. Such Backup Bidder shall be required to keep its Qualified Bid (or if the Backup Bidder submits one or more Overbids at the Auction, its final Overbid) open and irrevocable until the earlier of (i) the closing of the Approved Transaction and (ii) 60 days from entry of the Sale Order. Each Backup Bidder’s Deposit shall be held in escrow until the earlier of (i) three (3) Business Days after the closing of the Approved Transaction and (ii) 60 days from entry of the Sale Order, subject to the terms of such Backup Bidder’s Competing APA.</p> <p>If a Successful Bidder fails to consummate the Approved Transaction contemplated by its Successful Bid, the Debtors may select the Backup Bidder (which may be the Stalking Horse Purchaser) with respect to the Assets or sub-group of the Debtors’ Assets or business as the Successful Bidder, and such Backup Bidder shall be deemed a Successful Bidder for all purposes. The Debtors will be authorized, but not required, to consummate all transactions contemplated by the Bid of such Backup Bidder without further order of the Court or notice to any party.</p> <p>Notwithstanding any of the foregoing, in the event that the Successful Bidder (other than the Stalking Horse Purchaser) fails to consummate the Transaction on or before the date that is sixty (60) days after entry of the Sale Order (or such date as may be extended by the Debtors in consultation with the Consultation Parties), the Backup Bid will be deemed to be the Successful Bid, the Backup</p>

<u>Requirement</u>	<u>Description</u>
	Bidder will be deemed to be the Successful Bidder, and the Debtors shall be authorized to consummate the Transaction with the Backup Bidder subject to the terms of the Backup Bid without the need for further order of the Court and without the need for further notice to any interested parties.
Return of Deposits	<p>The Deposit of the Successful Bidder shall be applied to the purchase price of the Approved Transaction at closing. The Deposits for each Qualified Bidder shall be held in one or more escrow accounts on terms acceptable to the Debtors in their sole discretion and shall be returned (other than with respect to each Successful Bidder and each Backup Bidder) on the date that is three (3) business days after the Auction, or as soon as is reasonably practicable thereafter. Upon the return of the Deposits, the applicable Qualified Bidders shall receive any and all interest that will have accrued thereon.</p> <p>If the Successful Bidder (or, if the Sale is to be closed with the Backup Bidder, then the Backup Bidder) other than the Stalking Horse Purchaser 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 Competing APA, the Debtors and their estates shall be entitled to retain the Deposit of the Successful Bidder (or, if the Sale is to be closed with the Backup Bidder, then the Backup Bidder).</p> <p>To the extent the Debtors do not consummate the proposed transaction with the Backup Bidder due to the closing of the transaction with the Successful Bidder, the Backup Bidder's deposit shall be refunded within three (3) business days of the closing of the Approved Transaction.</p>
Notice and Consultation Parties	Information that is provided to the " <u>Notice Parties</u> " under the Bidding Procedures must be provided to the following parties: (a) proposed co-counsel to the Debtors, (i) Ropes & Gray LLP, 1211 Avenue of the Americas, New York, NY 10036, Attn: Gregg M. Galardi (gregg.galardi@ropesgray.com) and (ii) Chipman Brown Cicero & Cole LLP, 1313 N. Market Street, Suite 5400, Wilmington, DE 19801 (Attn: Mark L. Desgrosseilliers and Robert A. Weber; email: desgross@chipmanbrown.com and weber@chipmanbrown.com), and Chipman Brown Cicero & Cole LLP, 501 5th Ave, 15th Floor, New York, NY 10017 (Attn: Daniel G. Egan; email: egan@chipmanbrown.com); (b) counsel to the Stalking Horse Purchaser, Troutman Pepper Locke LLP, 300 S. Grand Ave., 26 th Floor, Los Angeles, CA 90071 (Attn: David Kupetz; email: david.kupetz@troutman.com); (c) counsel to the DIP Agent and the DIP Lender, King & Spalding LLP, 1100 Louisiana St., Suite 4100, Houston, TX 77002 (Attn: Michael Fishel; email: mfishel@kslaw.com) and Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, DE 19801 (Attn: Kenneth J. Enos; email: kenos@ycst.com); and (d) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Lock Box 35, Wilmington, Delaware 19801 (Attn: Rosa Sierra-Fox; email: Rosa.Sierra-Fox@usdoj.gov).

<u>Requirement</u>	<u>Description</u>
	The term “Consultation Parties” as used in the Bidding Procedures shall mean (a) any official committee of unsecured creditors appointed in the Chapter 11 Cases (the “ <u>Creditors’ Committee</u> ”) and (b) the DIP Agent. In the event that a Consultation Party submits a Bid in connection with an Auction, such party shall no longer be a Consultation Party with respect to the bidding and any Auction until such time as such party withdraws such Bid.
Reservation of Rights	The Debtors reserve their rights, subject to prior consultation with the Consultation Parties, to modify the Bidding Procedures in their business judgment in any manner that will best promote the goals of the Bidding Procedures or impose at or prior to the Auction, additional customary terms and conditions on a Transaction, including, without limitation: (a) extending the deadlines set forth in the Bidding Procedures; (b) adjourning the Auction at the Auction; (c) adding procedural rules that are reasonably necessary or advisable under the circumstances for conducting the Auction; (d) canceling the Auction; and (e) rejecting any or all Bids or Qualified Bids (other than the Stalking Horse Bid).

25. Importantly, the Bidding Procedures recognize and comply with the Debtors’ fiduciary obligations to maximize sale value, and, as such, do not impair the Debtors’ ability to consider all qualified bid proposals and, as noted, preserve the Debtors’ right to modify the Bidding Procedures as necessary or appropriate to maximize value for the Debtors’ estates.

IV. The Stalking Horse APA

26. Certain material terms of the Stalking Horse APA, and certain provisions of the Stalking Horse APA that are required to be highlighted pursuant to Local Rule 6004-1(b)(iv), are described below:⁴

Key Terms of the Stalking Horse APA⁵	
Stalking Horse Purchaser	FMI Holdco LLC
Purchase Price (APA § 2.1; L.R. 6004-1(b)(iv)(N))	The total consideration to be paid by Purchaser to Sellers for the Purchased Assets (collectively, the “ <u>Purchase Price</u> ”) is:

⁴ Any summary of the Stalking Horse APA contained herein is qualified in its entirety by the actual terms and conditions of the Stalking Horse APA. To the extent that there is any conflict between any summary contained herein and the actual terms and conditions of the Stalking Horse APA, the actual terms and conditions of the Stalking Horse APA shall control.

⁵ Capitalized terms used in this table and not otherwise defined herein shall have the meaning ascribed to such terms in the Stalking Horse APA.

Key Terms of the Stalking Horse APA⁵	
	<p>(a) cash in the amount of \$16,000,000.00, subject to a working capital adjustment and less any Cure Cost Deduction; plus</p> <p>(b) the assumption by Purchaser of all other Assumed Liabilities.</p>
Purchased Assets (APA § 1.1)	<p>At the Closing, and upon the terms and conditions set forth in the Stalking Horse APA, Sellers shall sell, assign, transfer and convey to Purchaser, and Purchaser shall acquire from Sellers, all of the Sellers' right, title and interest in, to and under the following assets, properties and rights, free and clear of all Liens (other than Liens created by Buyer and Permitted Liens), except as provided in the Stalking Horse APA, but otherwise in "as is and where is" condition (collectively, the "<u>Purchased Assets</u>"): </p> <p>(a) the Accounts Receivable of Sellers outstanding as of the Closing Date;</p> <p>(b) to the extent assignable pursuant to Sections 363 and 365 of the Bankruptcy Code, the Contracts listed or described on Schedule 1.1(b) to the Stalking Horse APA, as may be amended (the "<u>Assigned Contracts</u>"), and all purchase orders of the Sellers that are issued in the ordinary course of business and outstanding as of the Closing Date (the "<u>Assigned Purchase Orders</u>");</p> <p>(c) to the extent assignable pursuant to Sections 363 and 365 of the Bankruptcy Code, the Real Property Leases of Sellers, and rights thereunder, listed or described on Schedule 1.1(c) to the Stalking Horse APA (such Real Property Leases, the "<u>Assigned Real Property Leases</u>");</p> <p>(d) any Owned Real Property of a Seller set forth on Schedule 1.1(d) to the Stalking Horse APA;</p> <p>(e) any environmental indemnification or similar agreements relating to the Purchased Assets; provided that any such transfer shall be on a non-exclusive basis and shall not impact any of the Sellers' ability to enforce such agreement(s);</p> <p>(f) all machinery, equipment, tools, fixtures, parts, supplies, inventory, furniture, fixtures, motor vehicles, hardware, raw materials, work in process, unfinished goods, finished goods, rolling stock, tools and any other</p>

Key Terms of the Stalking Horse APA⁵	
	<p>tangible personal property owned by the Sellers as of the Closing Date;</p> <p>(g) to the extent assignable pursuant to Sections 363 and 365 of the Bankruptcy Code and applicable Law, all Permits set forth on Schedule 1.1(g) to the Stalking Horse APA and pending applications therefor;</p> <p>(h) to the extent assignable pursuant to Sections 363 and 365 of the Bankruptcy Code, all Intellectual Property that is owned or licensed by each Seller as of the Closing as set forth on Schedule 1.1(h) to the Stalking Horse APA;</p> <p>(i) all books and records relating to the Purchased Assets, except those: (i) relating primarily to any Excluded Asset or Excluded Liability; (ii) relating primarily to employees of a Seller who are not Transferred Employees; or (iii) that a Seller is not permitted to transfer under applicable Law;</p> <p>(j) all telephone and facsimile numbers, email and web addresses, social media accounts and other directory listings used by the Sellers, to the extent assignable;</p> <p>(k) to the extent assignable pursuant to Sections 363 and 365 of the Bankruptcy Code, the equipment leases listed or described on Schedule 1.1(k) to the Stalking Horse APA (the “<u>Assigned Equipment Leases</u>” and together with the Assigned Contracts and Assigned Real Property Lease(s), the “<u>Assigned Agreements</u>”);</p> <p>(l) other than as set forth on Schedule 1.1(l) to the Stalking Horse APA or as otherwise set forth in the Stalking Horse APA, any rights, claims, credits, refunds, causes of action, choses in action, rights of recovery and rights of setoff of each Seller against third parties arising out of, or primarily related to, the Purchased Assets, including (a) any rights in connection with product returns, rebates, credits and related claims and any rights under or pursuant to any and all warranties, representations and guarantees made by suppliers, manufacturers and contractors relating to products sold, or services provided, to each Seller primarily related to the Purchased Assets, and (b) all Avoidance Actions (the “<u>Purchased Avoidance Actions</u>”), claims arising under any Assigned Contract or related to the Business, and</p>

Key Terms of the Stalking Horse APA⁵	
	<p>commercial tort claims, in each case against Transferred Employees and the Sellers’ customers, suppliers, and vendors with whom the Purchaser intends to do business after the Closing Date (the “<u>Designated Parties</u>”); provided, that it is understood and agreed by the parties that the Purchaser will not assert or pursue any Purchased Avoidance Actions against any of the Designated Parties other than as a defense, offset, or counterclaim against any claim or cause of action raised or asserted by such Designated Party;</p> <p>(m) all rights of each Seller under non-disclosure or confidentiality, non-disparagement, non-compete, or non-solicitation agreements with the Transferred Employees or any employees of each Seller terminated within two (2) years prior to the Closing Date;</p> <p>(n) (1) the Seller Benefit Plans listed on Schedule 1.1(n) to the Stalking Horse APA (collectively, the “<u>Assumed Plans</u>”), and any trusts, assets, reserves, credits and service agreements and all documents created, filed or maintained in connection with the Assumed Plans to the extent transferable in accordance with the existing terms and conditions of such Assumed Plans, and any applicable insurance policies related to the Assumed Plans;</p> <p>(o) All Improvements;</p> <p>(p) all Inventory held by each Seller as of the Closing Date;</p> <p>(q) the additional assets listed on Schedule 1.1(q) to the Stalking Horse APA; and</p> <p>(r) all goodwill as of the Closing Date that is associated with the Business.</p>
Excluded Assets (APA § 1.2)	<p>Any assets of the Sellers that are not specifically identified in Section 1.1 of the Stalking Horse APA as being part of the Purchased Assets are deemed to be “Excluded Assets.” The Excluded Assets are not being sold to Purchaser and include, but are not limited to:</p> <p>(a) all Cash of the Sellers, including the Purchase Price;</p>

Key Terms of the Stalking Horse APA⁵

	<ul style="list-style-type: none"> (b) all deposits and prepayments, including all post-petition adequate assurance deposits provided or established in favor of utility providers; (c) all insurance policies of each Seller (including any directors' and officers' (or similar) insurance policies, any insurance policies of Sellers that cover directors and officers, and any rights thereunder), and all credits, premium refunds, proceeds, causes of action or rights arising thereunder, and the amount of, and all rights to any insurance proceeds under any Insurance Policies received by either Sellers or Purchaser after the Closing Date in respect of the loss, liability, destruction or condemnation of any Excluded Assets occurring prior to, on, or after the Closing or relating to any Excluded Liabilities; (d) all minute books, stock ledgers, corporate seals and stock certificates of each Seller and other similar books and records (1) that are primarily related to any Excluded Assets or Excluded Liabilities, or (2) which a Seller is required by Law or determines are necessary or advisable to retain, including all Tax Returns and related workpapers, financial statements and corporate or other entity filings; (e) all Avoidance Actions other than Purchased Avoidance Actions; (f) all receivables, claims or causes of action related primarily to any Excluded Asset or Excluded Liability or as otherwise set forth on Schedule 1.2(f) to the Stalking Horse APA; (g) all refunds, credits and rebates of Taxes for any period (or portion thereof) ending on or prior to the Closing Date; (h) any rights, claims or causes of action of each Seller under this Agreement or any documents, agreements, or instruments ancillary hereto; (i) all Contracts, Real Property Leases, and equipment leases other than Assigned Agreements; (j) all Seller Benefit Plans, except the Assumed Plans, and trusts or other assets attributable thereto, including any
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Key Terms of the Stalking Horse APA⁵	
	<p>assets, reserves, credits and service agreements, and all documents created, filed or maintained in connection with such Seller Benefit Plans and any applicable insurance policies related to such Seller Benefit Plans;</p> <p>(k) any personally identifiable information of the Sellers' former employees;</p> <p>(l) any finished goods of the Sellers which Sellers sell prior to the Closing;</p> <p>(m) any retainers or similar amounts paid to or on behalf of Sellers' attorneys, advisors, investment bankers, or other professional service providers; and</p> <p>(n) any other assets, properties, and rights specifically set forth on Schedule 1.2(n) to the Stalking Horse APA.</p> <p>In addition, in no event shall the Purchased Assets include any assets owned by third parties and located at any of the Facilities.</p>
Assumed Liabilities (APA § 1.3)	<p>Upon the terms and subject to the conditions set forth in the Stalking Horse APA, at the Closing, Purchaser shall assume and agree to pay, perform and discharge, when due (in accordance with its respective terms and subject to the respective conditions thereof), only the following Liabilities (without duplication) (collectively the "<u>Assumed Liabilities</u>"): </p> <p>(a) all Cure Costs of each Seller arising under the Assigned Agreements and the Assigned Purchase Orders (payment of all Cure Costs shall be made entirely from the \$16,000,000 cash component of the Purchase Price);</p> <p>(b) the obligation to pay the amounts owed for goods or services received by each Seller in the ordinary course of business in respect of any trade and vendor accounts payable arising after the Petition Date, excluding any amounts owed to professionals retained by an order of the Bankruptcy Court under Section 327, 328, 1102 or 1103 of the Bankruptcy Code (such payables, the "<u>Accounts Payable</u>");</p> <p>(c) any and all Liabilities arising under any Assumed Plan (to the extent transferable in accordance with the existing terms and conditions of the applicable Assumed Plan);</p>

Key Terms of the Stalking Horse APA⁵	
	<p>(d) any Liability related to the Business arising under Environmental Laws and attributable to or incurred as a result of any acts, omissions, or conditions first occurring on or after the Petition Date, including any Liability with respect to the release, handling, discharge, treatment, storage, generation, disposal, or presence of Hazardous Materials at any location and compliance with any Laws relating to the foregoing;</p> <p>(e) all Liabilities arising out of the conduct of the Business, ownership or operation of the Purchased Assets, or associated with the Transferred Employees on or after the Closing Date;</p> <p>(f) 100% of all Transaction Taxes assessed in connection with the sale, transfer, and assignment of the Purchased Assets;</p> <p>(g) all Taxes arising out of the conduct of the Business, ownership of the Purchased Assets, or associated with the Transferred Employees, in each case, attributable to periods (or portions thereof) beginning after the Closing Date; and</p> <p>(h) those liabilities set forth on Schedule 1.3(i) to the Stalking Horse APA, as the same may be amended.</p>
Excluded Liabilities (APA § 1.4)	<p>Notwithstanding any provision in the Stalking Horse APA to the contrary, Purchaser shall not assume and shall not be obligated to assume or be obliged to pay, perform or otherwise discharge any Liability of any Seller other than the Assumed Liabilities (collectively, the “<u>Excluded Liabilities</u>”). Excluded Liabilities include the following:</p> <p>(a) any Liability of Sellers arising out of, or relating to, the Stalking Horse APA or the transactions contemplated thereby, whether incurred prior to, at or subsequent to the Closing Date including all finder’s or broker’s fees and expenses, but excluding any Transaction Taxes;</p> <p>(b) any Liability incurred by any Seller or its respective directors, officers, managers, stockholders, members, partners, agents or employees (acting in such capacities) after the Closing Date;</p>

Key Terms of the Stalking Horse APA⁵	
	<ul style="list-style-type: none"> (c) any Liability to the extent relating to, resulting from, or arising out of the ownership or operation of an Excluded Asset; (d) all checks and drafts that have been written or submitted by Sellers prior to the close of business on the Closing Date but have not yet cleared; (e) other than as explicitly included in the Assumed Liabilities, any Liability of Sellers arising from or related to the Business and its operations prior to Closing; and (f) other than as explicitly included in Assumed Liabilities, any Liability of Sellers for any Indebtedness.
Conditions to Closing (APA §§ 7.1, 7.2, 7.3)	<p>The obligation of each Party to consummate the transactions contemplated by the Stalking Horse APA on the Closing Date is subject to the fulfillment on or prior to the Closing Date of the following conditions, any one or more of which may be waived by each Party:</p> <ul style="list-style-type: none"> (a) the Bankruptcy Court shall have entered the Bidding Procedures Order; (b) the Bankruptcy Court shall have entered the Sale Order and such order shall be in full force and effect and shall not have been stayed or vacated; and (c) no injunction by any court or other tribunal of competent jurisdiction shall have been entered and shall continue to be in effect and no Law shall have been adopted that remains in effect or be effective, in each case, that prevents, enjoins, prohibits or makes illegal the consummation of the transactions contemplated by the Stalking Horse APA. <p>The obligation of Sellers to consummate the transactions contemplated by the Stalking Horse APA is subject to the fulfillment, at or before the Closing Date, of the following conditions; any one or more of which may be waived by Sellers in their sole discretion:</p> <ul style="list-style-type: none"> (a) <u>Representations and Warranties of Purchaser.</u> All representations and warranties made by Purchaser in Section 4.2 of the Stalking Horse APA shall be true and correct in all material respects on and as of the Closing Date as if made anew by Purchaser on and as of such

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date (except to the extent such representations and warranties speak as of an earlier date, in which case, such representations and warranties shall be true and correct in all material respects as of such earlier date).

- (b) Performance of the Obligations of Purchaser. Purchaser shall have performed in all material respects all obligations required under the Stalking Horse APA to be performed by it on or before the Closing Date.
- (c) Officer's Certificate. Purchaser shall have delivered to Sellers a certificate, dated the Closing Date and signed by a duly authorized executive officer (in such officer's capacity as such and not individually) of Purchaser, certifying to the effect that the conditions set forth in Section 7.2(a) and Section 7.2(b) of the Stalking Horse APA have been satisfied.
- (d) Purchase Price. Purchaser shall have paid the Purchase Price in accordance with Section 2.2 of the Stalking Horse APA.

The obligations of Purchaser to consummate the transactions contemplated by the Stalking Horse APA are subject to the fulfillment, at or before the Closing Date, of the following conditions, any one or more of which may be waived by Purchaser in its sole discretion:

- (a) Representations and Warranties of Sellers. All representations and warranties made by Sellers in Section 4.1 of the Stalking Horse APA shall be true and correct in all material respects on and as of the Closing Date as if made anew by Sellers on and as of such date (except to the extent such representations and warranties speak as of an earlier date, in which case, such representations and warranties shall be true and correct in all material respects as of such earlier date).
- (b) Performance of the Obligations of Sellers. Sellers shall have performed and complied with, in all material respects, all obligations required to be performed or complied with by them under the Stalking Horse APA on or before the Closing Date.
- (c) Contract Amendments. Each of Northrop and Lockheed shall have agreed in writing with Purchaser (unless waived by Purchaser) to amend their contracts with Sellers and to consent to the assumption and assignment

Key Terms of the Stalking Horse APA⁵	
	<p>to Purchaser of the amended contracts agreed to with Purchaser.</p> <p>(d) <u>Officer's Certificate</u>. Sellers shall have delivered to Purchaser a certificate, dated the Closing Date and signed by a duly authorized executive officer (in such officer's capacity as such and not individually) of Sellers, certifying to the effect that the conditions set forth in Section 7.3(a) and Section 7.3(b) of the Stalking Horse APA have been satisfied.</p> <p>(e) <u>No Material Damage</u>. There shall have not been any material damage, destruction, or other material adverse change in the Purchased Assets since the date hereof, whether or not covered by insurance.</p>
Stalking Horse Purchaser Breakup Fee and Expense Reimbursement (APA § 8.2(b))	In consideration for Purchaser having expended considerable time and expense in connection with the Stalking Horse APA and the negotiation thereof, if the Stalking Horse APA is terminated pursuant to Section 8.1(a), (c), or (e) of the Stalking Horse APA, and an Alternative Transaction is consummated, Seller shall pay to Purchaser a break-up fee in an amount equal to \$400,000 (the " <u>Breakup Fee</u> ") and an amount equal to the reasonable and documented out-of-pocket costs and expenses (including fees and expenses of counsel) incurred by Purchaser in connection with the negotiation, diligence, execution, performance and enforcement of the Stalking Horse APA, which amount shall not exceed \$250,000 (" <u>Expense Reimbursement</u> " and, together with the Breakup Fee, the " <u>Bid Protections</u> "); provided that the Breakup Fee and the Expense Reimbursement shall be payable concurrently with the consummation of, and only out of the cash proceeds of, an Alternative Transaction, to an account designated by Purchaser in writing to Seller.
Sale to Insider (Local Rule 6004-1(b)(iv)(A))	The Stalking Horse Purchaser is not an insider of the Debtors.
Agreements with Management (Local Rule 6004-1(b)(iv)(B))	The Stalking Horse APA does not provide for any agreements with management.
Releases (Local Rule 6004-1(b)(iv)(C))	The Stalking Horse APA does not contain a release of any entity or claims against any entity.
Private Sale / No Competitive Bidding (Local Rule 6004-1(b)(iv)(D))	The Bidding Procedures Order provides for competitive bidding, including a potential auction, if the Debtors receive at least one other Qualified Bid in addition to the Stalking Horse Bid.

Key Terms of the Stalking Horse APA⁵	
Closing and Other Deadlines (APA § 3.1) (Local Rule 6004-1(b)(iv)(E))	The closing of the purchase and sale of the Purchased Assets and the assumption of the Assumed Liabilities (the “Closing”) will take place on the date that is no later than two (2) Business Days after the satisfaction or waiver of the conditions set forth in Sections 7.1 and 7.2 of the Stalking Horse APA, provided any otherwise applicable stay under Fed. R. Bankr. P. 6004(h) is waived and not in effect and there is no other stay of the Sale Order in effect. The date on which the Closing actually occurs is referred to in the Stalking Horse APA as the “Closing Date.” The transfer of the Purchased Assets and the assumption of the Assumed Liabilities will be deemed to take place and be effective on the Closing Date at 12:01 a.m. prevailing local time in Wilmington, Delaware. Unless otherwise agreed by the Parties, the Closing shall occur electronically.
Good Faith Deposit (APA § 2.3) (Local Rule 6004-1(b)(iv)(F))	The Stalking Horse Purchaser is providing a good faith deposit equal to \$1,600,000 in connection with the Stalking Horse APA, which may be forfeited to the Debtors in the event the Stalking Horse APA is terminated by the Debtors pursuant to Section 8.1(d) thereof (material breach by Stalking Horse purchaser of any obligations, representations, warranties, covenants or agreements contained in the Stalking Horse APA).
Interim Arrangements with Proposed Buyer Local Rule 6004-1(b)(iv)(G)	The Stalking Horse APA does not provide for interim arrangements but the Debtors and Stalking Horse Purchaser reserve the right to enter into a transition services agreement with respect to certain post-Closing services in form and substance agreeable to the Parties.
Use of Proceeds (Local Rule 6004-1(b)(iv)(H))	The Stalking Horse APA does not propose to release sale proceeds on or after the closing without further Court order; provided that if the Debtors close on an Alternative Transaction, the Debtors may pay the Bid Protections to the Stalking Horse Purchaser from sale proceeds.
Tax Exemption (Local Rule 6004-1(b)(iv)(I))	The Sale Motion and the Stalking Horse APA do not seek to have any taxes declared exempt under section 1146(a) of the Bankruptcy Code.
Record Retention (Local Rule 6004-1(b)(iv)(J))	Excluded Assets under the Stalking Horse APA include all minute books, stock ledgers, corporate seals and stock certificates of each Debtor and other similar books and records (1) that are primarily related to any Excluded Assets or Excluded Liabilities, or (2) which a Debtor is required by Law or determines are necessary or advisable to retain, including all Tax Returns and related workpapers, financial statements and corporate or other entity filings. In addition,

Key Terms of the Stalking Horse APA⁵	
	Section 5.10(a) of the Stalking Horse APA provides the Debtors reasonable access to accounting, business, financial and Tax records and information, and other books and records pertaining to the Purchased Assets and Assumed Liabilities and certain key employees for the purposes of (i) the preparation or amendment of Tax Returns, (ii) the determination of any matter relating to the rights or obligations of the Sellers under the Stalking Horse APA, or (iii) as is necessary to administer, or satisfy their obligations in connection with, the Bankruptcy Cases and the wind-down of the Sellers and their assets.
Sale of Avoidance Actions (Local Rule 6004-1(b)(iv)(K))	Section 1.1(l) of the Stalking Horse APA provides for the sale of avoidance actions against Transferred Employees and the Sellers' customers, suppliers, and vendors with whom the Stalking Horse Purchaser intends to do business after the Closing Date, provided that the Purchaser will not assert or pursue any such avoidance actions other than as a defense, offset, or counterclaim.
Requested Findings as to Successor Liability (Local Rule 6004-1(b)(iv)(L))	The proposed Sale Order is expected to contain findings as to successor liability.
Sale Free and Clear of Unexpired Leases (Local Rule 6004-1(b)(iv)(M))	The Stalking Horse APA provides that the Purchased Assets will be sold to the Stalking Horse Purchaser free and clear of all Liens (other than Liens created by Buyer and Permitted Liens). " <u>Lien</u> " is defined in the Stalking Horse APA as any mortgage, pledge, security interest, encumbrance, lien (statutory or other) or conditional sale agreement, other than (a) a lessor's interest in, and any mortgage, pledge, security interest, encumbrance, lien (statutory or other) or conditional sale agreement on or affecting a lessor's interest in, property underlying any leases; (b) any imperfection of title with respect to any asset that does not materially interfere with the present occupancy, use or marketability of such asset and the continuation of the present occupancy or use of such asset; and (c) such covenants, conditions, restrictions, easements, encroachments or encumbrances that are not created pursuant to mortgages or other financing or security documents, or any other state of facts, that do not materially interfere with the present occupancy or use of an asset.
Credit Bid (Local Rule 6004-1(b)(iv)(N))	The Purchase Price under the Stalking Horse APA does not include any credit bid. The proposed Bidding Procedures, however, preserve the right of any Secured Creditor who has a valid and perfected lien on any assets of the Debtors' estates to credit bid all or a portion of such Secured Creditor's

Key Terms of the Stalking Horse APA⁵	
	secured claims within the meaning of, and subject to, section 363(k) of the Bankruptcy Code.
Relief from Bankruptcy Rule 6004(h) (L.R. 6004-1(b)(iv)(O))	This Motion seeks, and the proposed Final Bidding Procedures Order approves, relief from the fourteen-day stay imposed by Bankruptcy Rule 6004(h).

V. Bid Protections

27. By this Motion, the Debtors request authority to, among other things, provide the Stalking Horse Purchaser, subject to the terms and conditions of the Stalking Horse APA, the Bid Protections described above. The Breakup Fee of \$400,000 represents approximately 2.5% of the \$16 million cash portion of the Purchase Price. The Expense Reimbursement in the amount of up to \$250,000 represents approximately 1.5% of the cash portion of the Purchase Price.

28. The Bid Protections are well within the range of bid protections often allowed in this District for sale processes under section 363 of the Bankruptcy Code. Further, the Bid Protections are reasonable in light of, among other things, the Stalking Horse Purchaser's considerable efforts in setting a floor for the auction of the Debtors' Assets.

29. In addition, the Debtors' estates will not be impacted by the Bid Protections because the Bidding Procedures provide that any overbid must include an amount of cash consideration equal to or exceeding the sum of the Purchase Price (as defined in the Stalking Horse APA), plus the amount of the Bid Protections, plus a \$250,000 overbid increment.

VI. Notice Procedures for the Sale, Bidding Procedures, Auction, and Sale Hearing

30. The Debtors also request approval of the Sale Notice, substantially in the form attached to the Bidding Procedures Order as **Exhibit 2**.

31. Within one (1) business day of the entry of the Bidding Procedures Order or as soon as reasonably practicable thereafter, the Debtors will cause the Sale Notice, substantially in the

form attached as **Exhibit 2** to the Bidding Procedures Order, to be served on the following parties or their respective counsel, if known: (a) the Office of the United States Trustee for the District of Delaware; (b) counsel to any statutory committee of unsecured creditors appointed in these chapter 11 cases; (c) the Debtors' thirty (30) largest unsecured creditors on a consolidated basis; (d) counsel to the administrative agents for the Debtors' prepetition and postpetition credit facilities, (e) all parties who have expressed a written interest in some or all of the Debtors' assets; (f) all parties who are known or reasonably believed, after reasonable inquiry, to have asserted any lien, encumbrance, claim or other interest in the Debtors' assets' (g) the Internal Revenue Service; (h) all applicable state and local taxing authorities; (i) the United States Attorney for the District of Delaware; (j) the Securities and Exchange Commission; (k) the state attorneys general for states in which the Debtors conduct business; (l) all non-Debtor parties to the Debtors' executory contracts and unexpired leases (the "Contract Counterparties"); (m) all environmental authorities having jurisdiction over any of the Assets, including the Environmental Protection Agency; (n) all of the Debtors' other known creditors; and (o) any party that has requested notice pursuant to Bankruptcy Rule 2002.

32. Within five (5) business days of the entry of the Bidding Procedures Order or as soon as reasonably practicable thereafter, the Debtors will also provide notice of the Sale Hearing through publication of the Sale Notice on their restructuring website, www.veritaglobal.net/FMIAerostructures (the "Case Website") and will also publish notice of the sale (the "Publication Notice") once in the national edition of *USA Today* or another nationally circulated newspaper, with any modifications necessary for ease of publication.

33. The Debtors respectfully submit that the Sale Notice and Publication Notice are reasonably calculated to provide all interested parties with sufficient notice of the proposed Sale

Transaction, including: (a) the date, time, and place of the Auction; (b) the Bidding Procedures; (c) the deadline for filing objections to the Sale Transaction and entry of the Sale Order, and the date, time, and place of the Sale Hearing; (d) a description of the Sale Transaction as being free and clear of liens, claims, interests, and other encumbrances, with all such liens, claims, interests, and other encumbrances attaching with the same validity and priority to the Sale Transaction proceeds; and (f) notice of the proposed assumption and assignment of the Contracts to the Successful Bidder arising from the Auction, if any.

34. The Debtors further submit that notice of this Motion and the related hearing to consider entry of the Bidding Procedures Order, coupled with service of the Sale Notice and the Potential Assignment Notice (as defined below) substantially in the form attached as **Exhibit 4** to the Bidding Procedures Order (where applicable), as provided for herein, constitutes good and adequate notice of the Sale Transaction and the proceedings with respect thereto in compliance with, and satisfaction of, the applicable requirements of Bankruptcy Rule 2002. The Debtors propose that no other or further notice of the Sale Transaction shall be required. Accordingly, the Debtors request that this Court approve the form and manner of the Sale Notice.

VII. Assumption and Assignment Procedures

35. As soon as reasonably practicable, the Debtors intend to file a motion (a “Cure Cost Motion”) for entry of an order fixing the monetary amounts that the Debtors would be obligated to pay in connection with the assumption or the assumption and assignment of executory contracts and unexpired leases (the “Cure Costs”) and to elicit any objection to the assumption and assignment of such executory contracts and unexpired leases other than objections based on adequate assurance of future performance by a purchaser.

36. To facilitate the Sale, the Debtors are also seeking approval of the following additional procedures to govern the assumption and assignment of executory contracts and

unexpired leases of real property in connection with the Sale (the “Assumption and Assignment Procedures”):

- (a) Within one (1) business day following the entry of the Bidding Procedures Order, the Debtors shall file with the Court and serve a notice of potential assumption and assignment (the “Potential Assignment Notice”), substantially in the form attached to the Bidding Procedures Order as **Exhibit 4**, via first class mail, electronic mail, or overnight delivery on all Contract Counterparties and provide a copy of the same to the Stalking Horse Purchaser, which copy may be provided via email, providing notice of the potential assumption and assignment of their Assigned Contracts by the Successful Bidder. The Debtors shall also post the Potential Assignment Notice to the Case Website.
- (b) The Potential Assignment Notice shall inform each recipient of the timing and procedures relating to the potential assumption and assignment of the Assigned Contracts to the Stalking Horse Purchaser or other Successful Bidder upon Court approval of the Sale and the deadline by which any Contract Counterparty to an Assigned Contract may file an objection based on adequate assurance of future performance of the Stalking Horse Purchaser. To the extent any Assigned Contract listed in a Potential Assignment Notice was not previously included in the Cure Cost Motion (a “Supplemental Assigned Contract”), the Potential Assignment Notice shall inform the Contract Counterparty to such Supplemental Assigned Contract of (i) the Debtors’ good-faith estimates of the Cure Costs (if any) required in connection with the Supplemental Assigned Contract, and (ii) the deadline by which any Contract Counterparty to a Supplemental Assigned Contract may file an objection to the proposed assumption, assignment, cure, and/or adequate assurance and the procedures relating thereto. Service of a Potential Assignment Notice does not constitute an admission that any contract is an executory contract or that the stated Cure Cost related to any contract or unexpired lease constitutes a claim against the Debtors or a right against the Stalking Horse Purchaser (all rights with respect thereto being expressly reserved). Further, the inclusion of a contract or unexpired lease, as applicable, on the Potential Assignment Notice is not a guarantee that such contract or unexpired lease, as applicable, will or will not ultimately be assumed and assigned pursuant to the Stalking Horse Bid or any other Successful Bid.
- (c) Objections based on adequate assurance of future performance of the Stalking Horse Purchaser or, solely with respect to Supplemental Assigned Contracts, to the proposed assumption, assignment, cure, or adequate assurance of future performance (an “Assigned Contract Objection”) (other than objections related solely to adequate assurance of future performance by a Successful Bidder other than the Stalking Horse Purchaser), must (1) (a) be in writing; (b) state the basis for such objection; and (c) if such objection is to the Cure Cost for a Supplemental Assigned Contract, state with specificity what Cure Cost the counterparty believes is required (in all cases, with appropriate documentation in support thereof) and (2) be filed with the Court and served no later than **April 7, 2025 at 4:00 p.m.**

(prevailing Eastern Time) on the following parties (the “Objection Notice Parties”): (i) proposed counsel for the Debtors, Ropes & Gray LLP, 1211 Avenue of the Americas, New York, NY 10036 (Attn: Gregg M. Galardi, email: gregg.galardi@ropesgray.com), and Chipman Brown Cicero & Cole LLP, 1313 N. Market Street, Suite 5400, Wilmington, DE 19801 (Attn: Mark L. Desgrosseilliers and Robert A. Weber; email: desgross@chipmanbrown.com and weber@chipmanbrown.com), and Chipman Brown Cicero & Cole LLP, 501 5th Ave, 15th Floor, New York, NY 10017 (Attn: Daniel G. Egan; email: egan@chipmanbrown.com); (ii) counsel for the Stalking Horse Purchaser, Troutman Pepper Locke LLP, 300 S. Grand Ave., 26th Floor, Los Angeles, CA 90071 (Attn: David Kupetz; email: david.kupetz@troutman.com); (iii) counsel for any statutory committee of unsecured creditors appointed in these chapter 11 cases; (iv) counsel to the DIP Agent and the DIP Lender, King & Spalding LLP, 1100 Louisiana St., Suite 4100, Houston, TX 77002 (Attn: Michael Fishel; email: mfishel@kslaw.com) and Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, DE 19801 (Attn: Kenneth J. Enos; email: kenos@ycst.com); and (v) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Lock Box 35, Wilmington, Delaware 19801 (Attn: Rosa Sierra-Fox; email: Rosa.Sierra-Fox@usdoj.gov).

- (d) In the event that the Stalking Horse Purchaser is not the Successful Bidder, the deadline for each counterparty to an Assigned Contract to object to the assumption and assignment of such Assigned Contract based on adequate assurance of future performance by the Successful Bidder (a “Successful Bidder Adequate Assurance Objection”) shall be **April 11, 2025 at the time of the Sale Hearing**, and any Successful Bidder Adequate Assurance Objection must be filed and served in the same manner and on the same Objection Notice Parties as set forth in paragraph 36(c) above.
- (e) Any Assigned Contract Objections that remain unresolved as of the Sale Hearing shall be heard at the Sale Hearing or at such later date as may be fixed by the Court. Upon entry of an order by the Court resolving such Assigned Contract Objection, the assumption and assignment, if approved by the Court, shall be deemed effective as of the closing date of the sale transaction. To the extent any Assigned Contract Objection cannot be resolved by the parties, such Assigned Contract shall be assumed and assigned only upon satisfactory resolution of the Assigned Contract Objection, to be determined in the Stalking Horse Purchaser’s or other Successful Bidder’s reasonable discretion. To the extent an Assigned Contract Objection remains unresolved, the Assigned Contract may be conditionally assumed and assigned, subject to the consent of the Stalking Horse Purchaser or other Successful Bidder, pending a resolution of the Assigned Contract Objection after notice and a hearing. If an Assigned Contract Objection is not satisfactorily resolved, the Stalking Horse Purchaser or other Successful Bidder may determine that such Assigned Contract should be rejected and not assigned, in which case the Debtors, Stalking Horse Purchaser or other Successful Bidder will not be responsible for any Cure Costs in respect of such contract or lease.

- (f) The Debtors reserve the right, with the consent of the Stalking Horse Purchaser or Successful Bidder, as applicable, to: (i) supplement the schedule of Assigned Contracts (the “Assigned Contracts Schedule”) attached to the Potential Assignment Notice with previously omitted Assigned Contracts in accordance with the definitive agreement for a Sale; (ii) remove any Assigned Contracts from the list of executory contracts and unexpired leases ultimately selected as Assigned Contracts that the Successful Bidder proposes be assumed and assigned to it in connection with a Sale or add to such list; and (iii) modify the previously stated Cure Cost associated with any Assigned Contracts (“Supplemental Assigned Contracts Schedule”) at any time prior to the closing of the Sale. In the event that the Debtors exercise any of the rights reserved above, the Debtors will serve a supplemental Potential Assignment Notice (each, a “Supplemental Potential Assignment Notice”) by electronic transmission, hand delivery, or overnight mail on the applicable counterparty, and its counsel, if known, to each impacted Assigned Contract at the last known address available to the Debtors. Each Supplemental Potential Assignment Notice will include the same information with respect to listed Assigned Contracts as was included in the Potential Assignment Notice. Any counterparty to an Assigned Contract listed on a Supplemental Potential Assignment Notice may file a supplemental Assigned Contract Objection (a “Supplemental Assigned Contract Objection”) only if such objection is to the proposed assumption and assignment of the applicable Assigned Contract or the proposed Cure Costs, if any. All Supplemental Assigned Contract Objections must: (x) state with specificity the legal and factual basis thereof as well as what Cure Costs the objecting party believes are required, if any; (y) include appropriate documentation in support of the objection; and (z) be filed and served on the Objection Notice Parties no later than 5:00 p.m. (prevailing Eastern Time) on the date that is the later of (i) the Sale Objection Deadline and (ii) fourteen days from the date of service of such Supplemental Potential Assignment Notice, which date will be set forth in the Supplemental Potential Assignment Notice (“Supplemental Assigned Contract Objection Deadline”).
- (g) If a Contract Counterparty files a Supplemental Assigned Contract Objection in a manner that is consistent with the requirements set forth above, and the parties are unable to consensually resolve the dispute, the Debtors will seek a hearing on such Supplemental Assigned Contract Objection to determine the Cure Costs, if any, and approve the assumption and assignment of the relevant Assigned Contracts. If there is no such objection, then the Debtors will obtain entry of an order, including by filing a certification of no objection, fixing the Cure Costs and approving the assumption and assignment of any Assigned Contract listed on a Supplemental Potential Assignment Notice.

37. As soon as reasonably practicable after the completion of the Auction, the Debtors shall file with the Court a notice identifying the Successful Bidder (a “Notice of Successful

Bidder”), which shall set forth, among other things, the Successful Bidder and Back-Up Bidder (if any) and the amount of each of the Successful Bid and the Back-Up Bid (if any).

38. The inclusion of a contract, lease, or other agreement on either the list of Assigned Contracts attached to the Stalking Horse APA and any Potential Assignment Notice shall not (a) constitute or be deemed a determination or admission by the Debtors and their estates or any other party in interest that such contract, lease, or other agreement is, in fact, an executory contract or unexpired lease within the meaning of the Bankruptcy Code, and any and all rights with respect thereto shall be reserved; or (b) obligate the Debtors to assume any Assigned Contract listed thereon or the Successful Bidder(s) to take assignment of such Assigned Contract. Only those Assigned Contracts that are included on a schedule of assumed and acquired contracts attached to the final asset purchase agreement with the Successful Bidder (including amendments or modifications to such schedules in accordance with such asset purchase agreement) will be assumed and assigned to the Successful Bidder, subject to the terms of the applicable sale order and asset purchase agreement.

BASIS FOR RELIEF

I. THE COURT SHOULD APPROVE THE BIDDING PROCEDURES AND ENTRY INTO THE STALKING HORSE APA

39. Adoption of the Bidding Procedures is a valid exercise of the Debtors’ business judgment. Courts have made clear that a debtor’s business judgment is entitled to substantial deference with respect to the procedures to be used in selling assets from its estate. *See, e.g., In re Culp*, 550 B.R. 683, 697 (D. Del. 2015) (“In evaluating whether a sound business purpose justifies sale of property under Section 363, courts consider a variety of factors, which essentially represent a ‘business judgment’ test.”); *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999); *In re Phx. Steel Corp.*, 82 B.R. 334, 335–36 (Bankr. D. Del. 1987). This standard

prohibits other parties from second-guessing the debtor's business judgment if the debtor has shown that the proposed use will benefit the debtor's estate. *See In re Johns-Manville Corp.*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) ("Where the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor's conduct."); *see also In re Tower Air, Inc.*, 416 F.3d 229, 238 (3d Cir. 2005) ("Overcoming the presumptions of the business judgment rule on the merits is a near Herculean task.").

40. The paramount goal in any sale of property of a debtor's estate is to maximize the proceeds realized by the estate. *See In re Mushroom Transp. Co., Inc.*, 382 F.3d 325, 339 (3d Cir. 2004) (holding that debtor "had a fiduciary duty to protect and maximize the estate's assets"); *Official Comm. of Unsecured Creditors of Cybergenics Corp., v. Chinery*, 330 F.3d 548, 573 (3d Cir. 2003) (same); *In re Adams Res. Expl. Corp.*, No. 17-10866 (KG), at 12 (Bankr. D. Del. 2017) ("The relief requested in the Sale Motion . . . is a necessary and appropriate step toward enabling the Debtor to maximize the value of its bankruptcy estate, and it is in the best interests of the Debtor, its estate, and its creditors."); *Corp. Assets, Inc. v. Paloian*, 368 F.3d 761, 765 (7th Cir. 2004) (stating that in a bankruptcy sale, the "governing principle . . . is to secure the highest price for the benefit of the estate and creditors"). Accordingly, courts uniformly recognize that procedures intended to enhance competitive bidding are consistent with the goal of maximizing the value realized by the estate and therefore are appropriate in the context of bankruptcy transactions. *See, e.g., Calpine Corp. v. O'Brien Env'tl. Energy, Inc. (In re O'Brien Env'tl. Energy, Inc.)*, 181 F.3d 527, 537 (3d Cir. 1999) (noting that bidding procedures that promote competitive bidding provide a benefit to a debtor's estate); *In re Energy Future Holdings Corp.*, 593 B.R. 217, 246 (Bankr. D. Del. 2018) (recognizing the appropriateness of debtors' bidding

procedures where the “objective at all times was to maximize value for their estates, consistent with their fiduciary duties”); *In re Verasun Energy Corp.*, No. 08-12606 (BLS), 2009 WL 7215671, at *2 (Bankr. D. Del. Feb. 19, 2009); *In re Dura Auto. Sys., Inc.*, No. 06-11202 (KJC), 2007 WL 7728109, at *90 (Bankr. D. Del. Aug. 15, 2007); *In re Integrated Res., Inc.*, 147 B.R. 650, 656–57 (Bankr. S.D.N.Y. 1992) (stating that bidding procedures “encourage bidding and . . . maximize the value to the debtor’s assets”).

41. The Debtors believe that the proposed Bidding Procedures will encourage prospective bidders to put forward their best bids quickly in order to generate the highest or best recoveries for the Debtors’ stakeholders. The Bidding Procedures provide for an orderly, uniform and appropriately competitive process through which interested parties may submit offers to purchase the Assets. Taking into consideration the prepetition marketing process and the Debtors’ limited postpetition liquidity, the Debtors have structured the Bidding Procedures to promote active bidding by interested parties and to confirm the highest or otherwise best offer reasonably available for the Assets. Additionally, the Bidding Procedures will allow the Debtors to conduct the Auction in a fair and transparent manner that will encourage participation by financially capable bidders with demonstrated ability to consummate a timely Sale. As detailed above, the Debtors’ business has been thoroughly marketed prior to the Petition Date to a wide range of potential strategic and financial buyers. A substantial amount of information regarding the Debtors’ businesses has been made available to these prospective purchasers during the prepetition phase of the sale process. As such, the Debtors believe that prospective bidders already know the Assets well and will have sufficient time and information to conduct the necessary due diligence to submit binding bids in accordance with the Sale Timeline.

42. The Debtors' entry into the Stalking Horse APA further increases the likelihood of the Debtors receiving the highest or best consideration for the Assets by setting the floor for the Sale. Furthermore, the Bidding Procedures and the Stalking Horse APA provide an appropriate framework for the Debtors and their fiduciaries and professional advisors to review, analyze and compare any bids received to determine which bids are in the best interests of the Debtors' estates and their creditors. Configure, the Debtors' investment banker in connection with the sale process, believes that the Bidding Procedures and Stalking Horse APA are appropriately crafted to maximize the value of the Assets. Approval of the Bidding Procedures and the Debtors' entry into the Stalking Horse APA sets a floor for the Debtors at the Auction and increases the likelihood that the Debtors receive the highest or best consideration for the Assets.

43. The Debtors submit that the Bidding Procedures and entry into the Stalking Horse APA are necessary and provide for a fair and transparent sale process that will result in the Debtors' obtaining the highest or otherwise best value for the Assets. Therefore, the Debtors request the Court to approve the Bidding Procedures and entry into the Stalking Horse APA through the Bidding Procedures Order.

II. THE BID PROTECTIONS HAVE A SOUND BUSINESS PURPOSE AND SHOULD BE APPROVE

44. The use of a stalking horse in a public auction process for sales is a customary practice in chapter 11 cases, as the use of a stalking horse bid is, in many circumstances, the best way to maximize value in an auction process by "establish[ing] a framework for competitive bidding and facilitat[ing] a realization of that value." *Interforum Holding LLC*, No. 11-CV-219, 2011 WL 2671254 at *1 n. 1 (E.D. Wis. July 7, 2011). As a result, stalking horse purchasers virtually always require break-up fees and, in many cases, other forms of bidding protections as an inducement for "setting the floor at auction, exposing [their] bid[s] to competing bidders, and

providing other bidders with access to the due diligence necessary to enter into an asset purchase agreement.” *Id.* (citation omitted). Thus, the use of bidding protections has become an established practice in chapter 11 cases.

45. Indeed, forms of bid protections are a normal and, in many cases, necessary component of significant sales conducted in chapter 11. Specifically, bid protections “may be legitimately necessary to convince a ‘white knight’ to enter the bidding by providing some form of compensation for the risks it is undertaking.” *In re 995 Fifth Ave. Assocs., L.P.*, 96 B.R. 24, 28 (Bankr. S.D.N.Y. 1989) (citation and quotations omitted); *see also Integrated Res.*, 147 B.R. at 660–61 (noting bid protections can prompt bidders to commence negotiations and “ensure that a bidder does not retract its bid”).

46. As a result, courts routinely approve such bid protections in connection with proposed bankruptcy sales where a proposed fee or reimbursement provides a benefit to the estate. *See In re Energy Future Holdings Corp.*, 904 F.3d 298 (3d Cir. 2018) (holding that “[T]he allowability of break-up fees. . . depends upon the requesting party’s ability to show that the fees [a]re actually necessary to preserve the value of the estate.”) (citing *In re O’Brien Envtl. Energy, Inc.*, 181 F.3d 527, 535 (3d Cir. 1999)) (alterations in original); *In re Reliant Energy Channelview LP*, 594 F.3d 200, 206 (3d Cir. 2010) (same).

47. The allowance of the Breakup Fee and Expense Reimbursement is in the best interests of the Debtors’ estates and their creditors, as the Stalking Horse APA will establish a floor for further bidding that may increase the consideration given in exchange for the Assets that are the subject of such Stalking Horse APA, which will inure to the benefit of the Debtors’ estates. In the Third Circuit, bid protections, such as the Breakup Fee and Expense Reimbursement proposed here, are subject to the general standard used for administrative expenses under section

503 of the Bankruptcy Code. *Energy Future*, 904 F.3d at 313 (“[T]ermination fees are subject to the same general standard used for all administrative expenses under 11 U.S.C. § 503.”); *Women First Healthcare, Inc.*, 332 B.R. 115, at 121–23 (Bankr. D. Del. 2005) (holding that the general standard used for all administrative expenses applies to bid protections). Thus, the “allowability of break-up fees, like that of other administrative expenses, depends upon the requesting party’s ability to show that the fees were actually necessary to preserve the value of the estate.” *Reliant Energy*, 594 F.3d at 206 (internal quotations omitted) (quoting *O’Brien*, 181 F.3d at 535).

48. Here, the Breakup Fee, representing approximately 2.5% of the cash portion of the Purchase Price, and the Expense Reimbursement are critical components of the Debtors’ ability to obtain the commitment of the Stalking Horse Purchaser. The Breakup Fee and Expense Reimbursement offered to the Stalking Horse Purchaser were negotiated in good faith and at arm’s length. As a result, by including the Breakup Fee and Expense Reimbursement, the Debtors ensure that their estates can realize the benefit of a transaction with the Stalking Horse Purchaser without sacrificing the potential for interested parties to submit overbids at the Auction.

49. The Breakup Fee and Expense Reimbursement provided to the Stalking Horse Purchaser (a) are actual and necessary costs and expenses of preserving the Debtors’ estates within the meaning of sections 503(b) and 507(a)(2) of the Bankruptcy Code, (b) are commensurate to the real and material benefits conferred upon the Debtors’ estates by the Stalking Horse Purchaser, and (c) are fair, reasonable, and appropriate, including in light of the size and nature of the proposed Sale Transaction, the commitments that have been made, and the efforts that have been and will be expended by the Stalking Horse Purchaser.

50. If the Court does not approve Breakup Fee and Expense Reimbursement, the Debtors risk the Stalking Horse Purchaser withdrawing the Stalking Horse APA, to the detriment

of the Debtors' estates. In short, the proposed Breakup Fee and Expense Reimbursement constitute a "fair and reasonable percentage of the proposed purchase price" and are "reasonably related to the risk, effort, and expenses of the prospective purchaser." *Integrated Res.*, 147 B.R. at 662.

51. The Breakup Fee and Expense Reimbursement are a sound exercise of the Debtors' business judgment and are in the best interests of the Debtors, their estates, and all stakeholders. Accordingly, the Court should approve Breakup Fee and Expense Reimbursement.

III. THE FORM AND MANNER OF THE AUCTION AND SALE NOTICE SHOULD BE APPROVED

52. Pursuant to Bankruptcy Rule 2002(a), the Debtors are required to provide creditors with 21 calendar days' notice of a hearing where the Debtors will seek to use, lease, or sell property of the estate outside the ordinary course of business. Bankruptcy Rule 2002(c) requires any such notice to include the time and place of the auction and the hearing and the deadline for filing any objections to the relief requested therein.

53. The Debtors submit that the Sale Notice constitutes good and adequate notice of the Auction and Sale and the proceedings with respect thereto in compliance with, and satisfaction of, the applicable requirements of Bankruptcy Rule 2002. Accordingly, no further notice is necessary and the Debtors request that this Court approve the form and manner of the Auction and Sale Notice.

IV. THE ASSUMPTION AND ASSIGNMENT PROCEDURES SHOULD BE APPROVED

54. To facilitate and effectuate the Sale, the Debtors are seeking approval of the Assumption and Assignment Procedures. The Assumption and Assignment Procedures are reasonable and necessary to properly notify parties of potential assumptions and assignments and provide the Contract Counterparties with sufficient time to determine whether there is adequate

assurance of future performance and, with respect to Supplemental Assigned Contracts, the accuracy of the proposed cure amount.

55. The Debtors will demonstrate at the Sale Hearing that the requirements for assumption and assignment of the Assigned Contracts to the Successful Bidder will be satisfied. As required by the Bidding Procedures, the Debtors will evaluate the financial wherewithal of potential bidders before designating such party a Qualified Bidder or Successful Bidder. Further, the Assumption and Assignment Procedures provide the Court and other interested parties an opportunity to evaluate and, if necessary, challenge the ability of the Successful Bidder to provide adequate assurance of future performance. The Court therefore will have a sufficient basis to authorize the Debtors to assume and assign or reject the Assigned Contracts.

56. Accordingly, the Debtors submit that the Assumption and Assignment Procedures should be approved as reasonable and necessary measures to adequately notify parties in interest and conduct the proposed sale process in a fair, efficient, and proper manner.

V. SUFFICIENT BUSINESS JUSTIFICATION EXISTS FOR CONSUMMATION OF THE SALE UNDER SECTIONS 105(a) AND 363(b) OF THE BANKRUPTCY CODE

57. Pursuant to section 105(a) of the Bankruptcy Code, a “[c]ourt may issue any order, process or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). Section 363(b) of the Bankruptcy Code provides that a debtor, “after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b). Although section 363(b) does not specify a standard for determining when it is appropriate for a court to authorize the use, sale or lease of property of the estate, courts have required that such use, sale or lease be based upon the sound business judgment of the debtor. *See, e.g., Myers v. Martin (In re Martin)*, 91 F.3d 389, 395 (3d Cir. 1996) (internal citation

omitted); *Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1070-71 (2d Cir. 1983); *In re Abbotts Dairies of Pennsylvania, Inc.*, 788 F.2d 143, 147-48 (3d Cir. 1986) (implicitly adopting the “sound business judgment” test of *In re Lionel Corp.*); *In re Delaware & Hudson Ry. Co.*, 124 B.R. 169, 175-76 (D. Del. 1991) (holding that the Third Circuit adopted the “sound business judgment” test in *Abbotts Dairies*); *Dai-Ichi Kangyo Bank, Ltd. v. Montgomery Ward Holding Corp. (In re Montgomery Ward Holding Corp.)*, 242 B.R. 147, 153 (D. Del. 1999) (same).

58. The demonstration of a valid business justification by the debtor leads to a strong presumption “that in making [the] business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company.” *Official Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.)*, 147 B.R. 650, 656 (S.D.N.Y. 1992) (quoting *Smith v. Van Gorkom*, 488 A.2d 858, 872 (Del. 1985)).

59. The Debtors submit that their decision to consummate the Sale represents a reasonable exercise of the Debtors’ business judgment, and accordingly the Sale should be approved under sections 105(a) and 363(b) of the Bankruptcy Code. The Debtors will continue to conduct an extensive and fulsome process to market the Assets. The open and fair auction and sale process contemplated by the Bidding Procedures will ensure that the Debtors’ estates receive the highest or best value available for the Assets by allowing the market to dictate the value of the Assets and will provide a greater recovery than would be provided by any other available alternative. Furthermore, compliance with the Bidding Procedures will ensure the fairness and reasonableness of the consideration to be paid by the Stalking Horse Purchaser or, in the event the

Stalking Horse Purchaser is not the Successful Bidder, then the Successful Bidder, and establish that the Debtors and such bidder have proceeded in good faith.

60. Additionally, the Debtors believe that the notice procedures described above are reasonable and adequate under the circumstances. Bankruptcy Rules 2002(a) and (c) require the Debtors to notify creditors of the Sale, the terms and conditions of the Sale, the time and place of the Auction, and the deadline for filing any objections. The Debtors believe that the proposed notice procedures fully comply with Bankruptcy Rule 2002, and are reasonably calculated to provide timely and adequate notice of the Stalking Horse APA, the Bidding Procedures, the Auction, the Sale Hearing, and the Sale to the Debtors' creditors and all other parties in interest that are entitled to notice, as well as those parties that have expressed a *bona fide* interest in acquiring the Assets.

61. The Sale, conducted in accordance with the Bidding Procedures, will generate significant value for the Debtors' estates and represents the best path forward for maximizing recoveries in connection with these chapter 11 cases. The Debtors submit that ample business justification exists for the consummation of the Sale and, therefore, request that this Court approve such Sale.

VI. THE SALE OF THE ASSETS FREE AND CLEAR OF ALL ENCUMBRANCES OTHER THAN THE ASSUMED LIABILITIES IS AUTHORIZED UNDER SECTION 363(f) OF THE BANKRUPTCY CODE

62. Section 363(f) of the Bankruptcy Code authorizes a debtor to sell assets free and clear of liens, claims, interests, and encumbrances if:

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

11 U.S.C. § 363(f). This provision is supplemented by section 105(a) of the Bankruptcy Code, which provides that “[t]he court may issue any order, process or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. § 105(a).

63. Because section 363(f) of the Bankruptcy Code is drafted in the disjunctive, satisfaction of any one of its five requirements will suffice to permit the Sale of the Assets “free and clear” of liens and interests. *See Citicorp Homeowners Servs., Inc. v. Elliot (In re Elliot)*, 94 B.R. 343, 345 (E.D. Pa. 1988) (noting that because section 363(f) is written in the disjunctive, a court may approve a sale free and clear if any one subsection is met); *see also Mich. Emp’t Sec. Comm’n v. Wolverine Radio Co. (In re Wolverine Radio Co.)*, 930 F.2d 1132, 1147 n.24 (6th Cir. 1991) (same); *In re Bygaph, Inc.*, 56 B.R. 596, 606 n.8 (Bankr. S.D.N.Y. 1986) (same). Furthermore, a debtor possesses broad authority to sell assets free and clear of liens. *See In re Trans World Airlines, Inc.*, 322 F.3d 283, 289 (3d Cir. 2003).

64. The Debtors submit that, in the interest of attracting the best offers, it is appropriate to sell the Assets on a final “as is” basis, free and clear of any and all Liens other than Assumed Liabilities (both as defined in the Stalking Horse APA) (and except as otherwise expressly set forth in the Sale Order), in accordance with section 363(f) of the Bankruptcy Code because one or more of the tests of section 363(f) are satisfied with respect to such Sale. In particular, the Debtors believe that section 363(f)(2) of the Bankruptcy Code will be met because the Prepetition Agent and DIP Agent consented to the Sale to the Stalking Horse Purchaser pursuant to the Stalking Horse APA, subject to the Debtors’ ability to market the Assets for higher or better terms.

65. Moreover, with respect to any other party asserting a lien, claim, encumbrance or the like against the Assets, the Debtors anticipate that they will be able to satisfy one or more of the conditions set forth in section 363(f) of the Bankruptcy Code. In particular, known lienholders

will receive notice and will be given sufficient opportunity to object to the relief requested. Such lienholders that do not object to the Sale should be deemed to have consented. *See FutureSource LLC v. Reuters Ltd.*, 312 F.3d 281, 285-86 (7th Cir. 2002) (“[L]ack of objection (provided of course there is notice) counts as consent. It could not be otherwise; transaction costs would be prohibitive if everyone who might have an interest in the bankrupt’s assets had to execute a formal consent before they could be sold.”) (internal citations omitted); *Hargrave v. Twp. of Pemberton (In re Tabone, Inc.)*, 175 B.R. 855, 858 (Bankr. D.N.J. 1994) (holding that creditor’s failure to object to sale free and clear of liens, claims and encumbrances satisfies section 363(f)(2)); *In re Elliot*, 94 B.R. at 345 (same). Consistent with the foregoing, the Bidding Procedures Order provides that the absence of a timely objection to the Sale of the Assets in accordance therewith shall be “consent” to such Sale within the meaning of section 363(f)(2) of the Bankruptcy Code.

66. Furthermore, the Debtors propose that any Lien asserted against the Assets be transferred to, and attach to, the proceeds of the Sale.

VII. THE SUCCESSFUL BIDDER SHOULD BE ENTITLED TO THE PROTECTIONS OF SECTION 363(m) OF THE BANKRUPTCY CODE

67. Section 363(m) of the Bankruptcy Code provides, in part, that the reversal or modification on appeal of an authorization of a sale pursuant to section 363(b) or section 363(c) of the Bankruptcy Code does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal. *See* 11 U.S.C. § 363(m). In approving the Sale free and clear of Liens other than Assumed Liabilities, the Debtors request that the Court find and hold that all purchasers of Assets purchased in accordance with the Bidding Procedures, including, without limitation, the Stalking Horse Purchaser, are entitled to the protections afforded by section 363(m) of the Bankruptcy Code. Such

relief is appropriate in that selection of the Successful Bidder will be the result of a competitive bidding process and arm's-length, good-faith negotiations, and parties in interest will have the opportunity to review and object to a proposed transaction. *See In re Tempo Technology Corp.*, 202 B.R. 363, 370 (D. Del. 1996) (affirming the bankruptcy court's approval of a sale under section 363(b) of the Bankruptcy Code where, *inter alia*, adequate notice to creditors and other interested parties was given and the negotiations between buyer and seller took place at arm's-length with no evidence of fraud, collusion, or interested dealing).

VIII. THE ASSUMPTION AND ASSIGNMENT OF THE ASSIGNED CONTRACTS IN CONNECTION WITH THE SALE SATISFIES SECTION 365 OF THE BANKRUPTCY CODE

68. Section 365(a) of the Bankruptcy Code provides, in pertinent part, that a debtor in possession, "subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor." 11 U.S.C. § 365(a).

69. In reviewing whether to approve the Debtors' assumption of a contract or an unexpired lease, the Court applies the "business judgment" standard. *See In re AbitibiBowater Inc.*, 418 B.R. 815, 831 (Bankr. D. Del. 2009) (finding that a debtor's decision to assume or reject an executory contract will stand so long as "a reasonable business person would make a similar decision under similar circumstances"); *In re HQ Global Holdings, Inc.*, 290 B.R. 507, 511 (Bankr. D. Del. 2003) (stating a debtor's decision to reject an executory contract is governed by the business judgment standard and can only be overturned if the decision was the product of bad faith, whim, or caprice). As described above, "[t]he business judgment rule 'is a presumption that in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interest of the company.'" *Integrated Res., Inc.*, 147 B.R. at 656 (quoting *Smith v. Van Gorkom*, 488 A.2d at 872). Indeed, "the sole issue is whether the rejection benefits the estate." *In re HQ Global*, 290 B.R. at 511.

70. The business judgment rule is crucial in chapter 11 cases and shields a debtor's management from judicial second-guessing. *See, e.g., id.; In re Exide Techs.*, 340 B.R. 222, 239 (Bankr. D. Del. 2006) ("The propriety of a decision to reject an executory contract is governed by the business judgment standard"); *In re Network Access Sols., Corp.*, 330 B.R. 67, 75 (Bankr. D. Del. 2005) ("The standard for approving the assumption of an executory contract is the business judgment rule."). Generally, courts defer to a debtor in possession's business judgment to assume or reject an executory contract or lease. *See Sharon Steel Corp. v. Nat'l Fuel Gas Distrib. Corp.*, 872 F.2d 36, 39–40 (3d Cir. 1989) (describing deference to a debtor's business judgment as "breathing space afforded [to] the debtor to consider whether to reject or assume executory contracts under the [Bankruptcy] Code.") (internal quotations omitted); *see also In re Trans World Airlines, Inc.*, 261 B.R. 103, 123 (Bankr. D. Del. 2001) ("Section 365(a) grants a debtor in possession the fundamental authority to assume or reject an executory contract as a vital part of the bankruptcy process...[The debtor in possession] has decided, based on its business judgment and as joined by the Committee, that rejection is in the best interest of the estate and its decision is entitled to the appropriate deference by this Court.").

71. Here, the Debtors have exercised their sound business judgment in determining that assumption and assignment of the Assigned Contracts is in the best interests of the Debtors and their estates, and accordingly the Court should approve the proposed assumption under section 365(a) of the Bankruptcy Code. *See, e.g., In re Philadelphia Newspapers, LLC*, 424 B.R. 178, 182-83 (Bankr. E.D. Pa. 2010) (stating that if a debtor's business judgment has been reasonably exercised, a court should approve the assumption or rejection of an executory contract or unexpired lease); *Westbury Real Estate Ventures, Inc. v. Bradlees, Inc. (In re Bradlees Stores, Inc.)*, 194 B.R. 555, 558 n.1 (Bankr. S.D.N.Y. 1996); *Summit Land Co. v. Allen (In re Summit*

Land Co.), 13 B.R. 310, 315 (Bankr. D. Utah 1981) (holding that, absent extraordinary circumstances, court approval of a debtor's decision to assume or reject an executory contract "should be granted as a matter of course").

72. As set forth above, the Sale will provide significant benefits to the Debtors' estates. To that end, the assumption, assignment and sale of the Assigned Contracts is necessary for the Debtors to obtain the benefits of the Stalking Horse APA or a Competing APA, as applicable. In addition, under section 365(k) of the Bankruptcy Code, the assignment by a debtor to an entity of a contract or lease "relieves the trustee and the estate from any liability for any breach of such contract or lease occurring after such assignment." 11 U.S.C. § 365(k). Thus, following an assignment to the Successful Bidder of any Assigned Contract, the Debtors will be relieved from any liability for any subsequent breach associated therewith.

73. Furthermore, section 365(b)(1) of the Bankruptcy Code requires that any outstanding defaults under the Assigned Contracts must be cured or that adequate assurance be provided that such defaults will be promptly cured. 11 U.S.C. § 365(b)(1). As detailed in the Stalking Horse APA and the Bidding Procedures Order, the Debtors propose fixing the Cure Costs (as defined in the Stalking Horse APA) through the Stalking Horse APA and allowing the Contract Counterparties the opportunity to object to the proposed Cure Costs, as well as the Debtors' assumption and assignment of the Assigned Contracts.

74. Section 365(f)(2) of the Bankruptcy Code provides that a debtor may assign an executory contract or unexpired lease of nonresidential real property if "adequate assurance of future performance by the assignee of such contract or lease is provided." 11 U.S.C. § 365(f)(2). The words "adequate assurance of future performance" must be given a "practical, pragmatic construction" in light of the facts and circumstances of the proposed assumption. *See In re Fleming*

Cos., Inc., 499 F.3d 300, 307 (3d Cir. 2007) (internal citation omitted); *Carlisle Homes, Inc. v. Azzari (In re Carlisle Homes, Inc.)*, 103 B.R. 524, 538 (Bankr. D.N.J. 1988) (same); *see also In re Natco Indus., Inc.*, 54 B.R. 436, 440 (Bankr. S.D.N.Y. 1985) (finding that adequate assurance of future performance does not mean absolute assurance that debtor will thrive and profit); *In re Bon Ton Rest. & Pastry Shop, Inc.*, 53 B.R. 789, 803 (Bankr. N.D. Ill. 1985) (“Although no single solution will satisfy every case, the required assurance will fall considerably short of an absolute guarantee of performance.”).

75. Specifically, adequate assurance may be given by demonstrating the assignee’s financial health and experience in managing the type of enterprise or property assigned. *See In re Bygaph, Inc.*, 56 B.R. 596, 605-06 (Bankr. S.D.N.Y. 1986) (holding that adequate assurance of future performance is given where the assignee of lease has financial resources and expressed a willingness to devote sufficient funding to the business to ensure its success, and that in the leasing context, the chief determinant of adequate assurance is whether rent will be paid).

76. Here, the Successful Bidder will have provided adequate assurance of future performance with respect to any Assigned Contract. For its bid to be deemed a Qualified Bid, each Acceptable Bidder will be required to provide evidence supporting its ability to comply with the requirements of adequate assurance of future performance under section 365(f)(2)(B) and, if applicable, section 365(b)(3) of the Bankruptcy Code (the “Adequate Assurance Information”), including: (a) the bidder’s financial wherewithal and willingness to perform under any contracts that are assumed and assigned to such potential bidder; and (b) a contact person for the proposed assignee that the Contract Counterparty may directly contact in connection with the adequate assurance of future performance. To the extent that the Acceptable Bidder (other than the Stalking Horse Purchaser) is a newly formed acquisition entity or the like, the financial and other

information supporting the Acceptable Bidder's financial wherewithal shall include financial and other information supporting the financial wherewithal of the Acceptable Bidder's parent company or sponsor. Furthermore, given that the Debtors will submit evidence that all requirements for the assumption and assignment of such contracts at the Sale Hearing, the Court and other interested parties will have the opportunity to evaluate the ability of each Successful Bidder to provide adequate assurance of future performance.

77. Therefore, the Debtors request the Court to approve the proposed assumption and assignment of the Assigned Contracts.

WAIVER OF STAY UNDER BANKRUPTCY RULE 6004(h) AND 6006(d)

78. Pursuant to Bankruptcy Rule 6004(h), “[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” Fed. R. Bankr. P. 6004(h). Furthermore, Bankruptcy Rule 6006(d) provides that an “order authorizing the trustee to assign an executory contract or unexpired lease under § 365(f) is stayed until the expiration of 14 days after the entry of the order, unless the court orders otherwise.” Fed. R. Bankr. P. 6006(d). As set forth throughout this Motion, any delay in the Debtors' ability to consummate the Sale on the timeline contemplated by the Bidding Procedures would be detrimental to the Debtors, their creditors, and estates.

79. For this reason and those set forth above, the Debtors submit that ample cause exists to justify a waiver of the 14-day stay imposed by Bankruptcy Rule 6004(h) and 6006(d), to the extent applicable.

NOTICE

80. The Debtors will provide notice of this Motion to: (a) United States Trustee for the District of Delaware; (b) the United States Attorney's Office for the District of Delaware; (c) the state attorneys general for all states in which the Debtors conduct business; (d) the Internal

Revenue Service; (e) the United States Securities and Exchange Commission; (f) the holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis; (g) counsel to the DIP Agent; (h) counsel to the Prepetition Agent; (i) counsel to the Stalking Horse Purchaser; (j) banks and financial institutions where the Debtors maintain accounts; (k) all parties known by the Debtors to assert a lien or encumbrance on any of the Assets; (l) all state and local taxing authorities in the states in which the Debtors operate; (m) all environmental authorities having jurisdiction over any of the Assets, including the Environmental Protection Agency; and (n) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors respectfully submit that, in light of the nature of the relief requested, no further notice is necessary.

CONCLUSION

WHEREFORE, the Debtors request entry of the Bidding Procedures Order and the Sale Order to be filed in advance of the Sale Hearing, granting the relief requested herein and such other and further relief as is just and proper.

Dated: February 26, 2025
Wilmington, Delaware

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Proposed Counsel to the Debtors and Debtors in Possession

EXHIBIT A

Proposed Bidding Procedures Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

Dynamic Aerostructures LLC, *et al.*,

Debtors.¹

Chapter 11

Case No. 25-10292 (xxx)

(Joint Administration Pending)

ORDER (I) APPROVING BIDDING PROCEDURES FOR THE SALE OF DEBTORS' ASSETS, (II) SCHEDULING HEARINGS AND OBJECTION DEADLINES WITH RESPECT TO THE SALE, (III) SCHEDULING BID DEADLINES AND AN AUCTION, (IV) APPROVING THE FORM AND MANNER OF NOTICE THEREOF, (V) APPROVING ASSUMPTION AND ASSIGNMENT PROCEDURES FOR EXECUTORY CONTRACTS AND UNEXPIRED LEASES, (VI) AUTHORIZING AND APPROVING THE DEBTORS' ENTRY INTO THE STALKING HORSE APA, (VII) AUTHORIZING AND APPROVING BID PROTECTIONS, AND (VIII) GRANTING RELATED RELIEF

Upon consideration of the motion ("Motion")² of the above captioned debtors and debtors in possession (collectively, the "Debtors") for, among other things, the entry of an order ("Order"): (a) approving the proposed bidding procedures attached as **Exhibit 1** to this Order ("Bidding Procedures"); (b) scheduling an Auction ("Auction"); (c) approving the form and manner of notice thereof; (d) scheduling dates and deadlines in connection with the Sale of the Assets; (e) approving the form and manner of notice thereof; (f) approving procedures for assuming and assigning the Debtors' executory contracts and unexpired leases ("Assumption and Assignment Procedures"); (g) authorizing and approving the Debtors' entry into the Stalking Horse APA, (h) authorizing and approving the Breakup Fee and Buyer Expense Reimbursement (as described in more detail in the Stalking Horse APA and Bidding Procedures, the "Bid Protections"), and (i) granting related relief;

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number are: Dynamic Aerostructures LLC (3076); Dynamic Aerostructures Intermediate LLC (9800); and Forrest Machining LLC (3421). The Debtors' service address is 27756 Avenue Mentry, Valencia, California 91355.

² Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Motion, the Stalking Horse APA, or the Bidding Procedures, as applicable.

all as more fully set forth in the Motion; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and supporting documents, including the *Declaration of Eric N. Ellis in Support of Debtors' Chapter 11 Petitions and First Day Motions* [Docket No. 2] (the "First Day Declaration") and the *Declaration of Rory Keenan in Support of the Debtors' Bidding Procedures Motion* [Docket No. ___] (the "Bidding Procedures Declaration"); and this Court having conducted a hearing to consider the relief requested in the Motion (the "Bidding Procedures Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Bidding Procedures Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, THE COURT FINDS THAT:

A. The findings of fact and conclusions of law herein constitute the Court's findings of fact and conclusions of law for the purposes of Bankruptcy Rule 7052, made applicable pursuant to Bankruptcy Rule 9014. To the extent any findings of facts are conclusions of law, they are adopted as such. To the extent any conclusions of law are findings of fact, they are adopted as such.

B. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

C. The statutory bases for the relief requested in the Motion are sections 105, 363, 365, and 503 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, and 6006, and Local Rule 6004-1.

D. Notice of the Motion, the Bidding Procedures Hearing, and the proposed entry of this Order was adequate and sufficient under the circumstances of these chapter 11 cases, and such notice complied with all applicable requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules. Notice of the Motion has been given to: (a) United States Trustee for the District of Delaware; (b) the United States Attorney's Office for the District of Delaware; (c) the state attorneys general for all states in which the Debtors conduct business; (d) the Internal Revenue Service; (e) the United States Securities and Exchange Commission; (f) the holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis; (g) counsel to the DIP Agent and DIP Lender; (h) counsel to the Prepetition Agent; (i) counsel to the Stalking Horse Purchaser; (j) banks and financial institutions where the Debtors maintain accounts; (k) all parties known by the Debtors to assert a lien or encumbrance on any of the Assets; (l) all state and local taxing authorities in the states in which the Debtors operate; (m) all environmental authorities having jurisdiction over any of the Assets, including the Environmental Protection Agency; and (n) any party that has requested notice pursuant to Bankruptcy Rule 2002.

E. The Debtors have articulated good and sufficient reasons for this Court to: (a) approve the Bidding Procedures; (b) schedule the Bid Deadline, the Auction, the Sale Objection Deadline, and the Sale Hearing; (c) approve the form of the Sale Notice attached hereto as **Exhibit 2**; (d) approve the form of the Notice of Successful Bidder attached hereto as **Exhibit 3**;

(e) approve the Assumption and Assignment Procedures and the form and manner of notice of the Potential Assignment Notice attached hereto as **Exhibit 4**; and (f) grant related relief.

F. The Bidding Procedures are reasonable and appropriate and represent the best available method for maximizing value for the benefit of the Debtors' estates. The Bidding Procedures balance the Debtors' interests in emerging expeditiously from the chapter 11 cases while preserving the opportunity to attract value-maximizing proposals beneficial to the Debtors' estates, their creditors, and other parties in interest.

G. The Sale Notice is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the Auction.

H. The Potential Assignment Notice is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the Assumption and Assignment Procedures.

I. The Stalking Horse APA represents the highest and otherwise best offer the Debtors have received to date to purchase the Assets designated for purchase thereunder. The Stalking Horse APA provides the Debtors with the opportunity to sell such Assets in a manner designed to preserve and maximize their value and provides a floor for a further marketing and auction process. Without the Stalking Horse APA, the Debtors are at a significant risk of realizing a lower price for their Assets.

J. Good and sufficient business reasons exist for the Court to authorize the Debtors to enter into the Stalking Horse APA in accordance with the terms of this Order and the Bidding Procedures.

K. The Bid Protections as set forth in Section 8.2 of the Stalking Horse APA to be paid under the circumstances described therein to the Stalking Horse Purchaser are: (1) an actual and

necessary cost of preserving the value of the respective Debtors' estates within the meaning of sections 503(b) and 507(a)(2) of the Bankruptcy Code; (2) commensurate to the real and substantial benefits conferred upon the Debtors' estates by the Stalking Horse Purchaser; and (3) fair, reasonable and appropriate in light of, among other things, the size and nature of the proposed Sale and comparable transactions, the commitments and accommodations of the Stalking Horse Purchaser that have been made for the benefit of the Debtors' estates, and the efforts that have been and will be expended by the Stalking Horse Purchaser.

L. The Bid Protections are the product of negotiations between the Debtors and the Stalking Horse Purchaser conducted in good faith and at arm's length, and the Stalking Horse APA (including the Bid Protections) is the culmination of a process undertaken by the Debtors and their professionals to negotiate a transaction with a bidder who was prepared to pay the highest or otherwise best purchase price for the Assets to maximize the value of the Debtors' estates.

M. The Bid Protections are an essential and material inducement and express condition of the Stalking Horse Purchaser's entry into, and continuing obligations under, the Stalking Horse APA. Unless it is assured that the Bid Protections will be available, the Stalking Horse Purchaser is unwilling to remain obligated to consummate the Sale or otherwise be bound under the Stalking Horse APA (including the Stalking Horse Purchaser's obligation to maintain its committed offer while such offer is subject to higher and/or otherwise better offers as contemplated by the Bidding Procedures). The Bid Protections have induced the Stalking Horse Purchaser to submit a bid that will serve as a minimum or floor bid for the Assets on which the Debtors, their creditors and other bidders can rely, and which encourages and facilitates the Auction process. The Stalking Horse Purchaser has thus provided a material benefit to the Debtors, their estates and creditors by increasing the likelihood that the best possible purchase price for the Assets will be realized.

Accordingly, the Bid Protections are fair, reasonable and appropriate, and necessary to facilitate a competitive, value-maximizing Sale for the benefit of the Debtors' estates.

N. The Stalking Horse Purchaser is not an "insider" or "affiliate" of any of the Debtors, as those terms are defined in section 101 of the Bankruptcy Code, and no common identity of directors, officers or controlling stockholders exists among the Stalking Horse Purchaser and the Debtors. The Stalking Horse Purchaser and its counsel and advisors have acted in "good faith" within the meaning of section 363(m) of the Bankruptcy Code in connection with the Stalking Horse Purchaser's negotiations of the Bid Protections and the Bidding Procedures and entry into the Stalking Horse APA.

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as provided herein.
2. All objections to the relief requested in the Motion that have not been withdrawn, waived, or settled as announced to the Court at the Bidding Procedures Hearing or by stipulation filed with the Court, are overruled.

I. Important Dates and Deadlines

3. The following dates and deadlines are hereby approved (and may be amended from time to time by the Debtors in consultation with the Consultation Parties (as defined in the Bidding Procedures)) by filing an appropriate notice on the Court's docket and posting such notice on the Case Website (as defined herein).

4. Unless extended by the Debtors in accordance with the Bidding Procedures and any applicable consent rights in the Stalking Horse APA, the deadline by which all bids for the Assets must be actually received by the parties specified in the Bidding Procedures is April 7, 2025 at 4:00 p.m. (ET).

5. In accordance with Local Rule 6004-1(c)(ii)(A), the date and time of the Auction, if needed, is April 9, 2025 at 10:00 a.m. (ET), which time may be extended by the Debtors, in consultation with the Consultation Parties, to be held at the offices of Chipman Brown Cicero & Cole, LLP, Hercules Plaza, 1512 N. Market Street, Suite 5400, Wilmington, DE 19801 and/or virtually.

6. In accordance with Local Rule 6004-1(c)(ii)(B), each bidder participating at the Auction will be required to confirm that it has not engaged in any collusion with respect to the bidding or the Sale.

7. In accordance with Local Rule 6004-1(c)(ii)(C), the Auction will be conducted openly. Representatives of the Qualified Bidders, the Debtors, and the Consultation Parties shall be permitted to attend the Auction in person. All other parties permitted to attend by the Bankruptcy Code, the Bankruptcy Rules, or the Local Rules shall provide at least two (2) days' notice of such attendance prior to the Auction by sending an email to counsel to the Debtors.

8. In accordance with Local Rule 6004-1(c)(ii)(D), bidding at the Auction will be transcribed or videotaped.

9. If the Debtors do not receive a Qualified Bid with respect to the Assets other than the Stalking Horse Bid (as defined in the Bidding Procedures), the Debtors will not hold the Auction and the Stalking Horse Purchaser shall be deemed the Successful Bidder upon the Bid Deadline with respect to the Assets. If the Debtors receive one or more Qualified Bids with respect to the Assets in addition to the Stalking Horse Bid, the Debtors will conduct the Auction for the Assets.

10. In the event of a competing Qualified Bid with respect to the Assets, the Stalking Horse Purchaser shall be entitled, but not obligated, to submit subsequent bids and shall be entitled,

but not obligated, in any and all such subsequent bids to credit bid the full amount of the Bid Protections in lieu of cash, and for purposes of evaluating the subsequent bid, the full amount of such Bid Protections shall be treated as equal to cash in the same amount.

11. The deadline to object to approval of the Sale (“Sale Objection Deadline”) is set for April 7, 2025 at 4:00 p.m. (ET). Any objections to the Sale (a “Sale Objection”) must (a) be in writing, (b) state the basis of such objection with specificity, (c) conform to the Bankruptcy Rules and the Local Rules, and (d) be filed with the Bankruptcy Court and served upon the following parties so as to be received not later than the Sale Objection Deadline: (i) proposed counsel for the Debtors, Ropes & Gray LLP, 1211 Avenue of the Americas, New York, NY 10036 (Attn: Gregg M. Galardi, email: gregg.galardi@ropesgray.com), and Chipman Brown Cicero & Cole LLP, 1313 N. Market Street, Suite 5400, Wilmington, DE 19801 (Attn: Mark L. Desgrosseilliers and Robert A. Weber; email: desgross@chipmanbrown.com and weber@chipmanbrown.com), and Chipman Brown Cicero & Cole LLP, 501 5th Ave, 15th Floor, New York, NY 10017 (Attn: Daniel G. Egan; email: egan@chipmanbrown.com); (ii) counsel for the Stalking Horse Purchaser, Troutman Pepper Locke LLP, 300 S. Grand Ave., 26th Floor, Los Angeles, CA 90071 (Attn: David Kupetz; email: david.kupetz@troutman.com); (iii) counsel for any statutory committee of unsecured creditors appointed in these chapter 11 cases; (iv) counsel to the DIP Agent and the DIP Lender, King & Spalding LLP, 1100 Louisiana St., Suite 4100, Houston, TX 77002 (Attn: Michael Fishel; email: mfishel@kslaw.com) and Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, DE 19801 (Attn: Kenneth J. Enos; email: kenos@ycst.com); and (v) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Lock Box 35, Wilmington, Delaware 19801 (Attn: Rosa Sierra-Fox; email: Rosa.Sierra-Fox@usdoj.gov). Any party failing to timely file a Sale Objection by the Sale Objection Deadline

shall be forever barred from objecting and shall be deemed to have consented to the Sale, including the transfer of the Debtors' right, title and interest in, to, and under the Assets free and clear of any and all Liens, Claims, Interests, and other Liabilities in accordance with the Stalking Horse APA or other definitive agreement with respect to the Sale.

12. The hearing to consider approval of the Sale ("Sale Hearing") will take place on April 11, 2025 at _:00 _m. (ET) at the United States Federal Courthouse, 824 North Market Street, __ Floor, Wilmington, DE 19801. Information regarding attending the Sale Hearing via zoom or other remote means, if applicable, may be obtained from the Court's website (www.deb.uscourts.gov).

II. The Bidding Procedures

13. The Bidding Procedures are hereby approved in their entirety, and the Bidding Procedures shall govern the submission, receipt, and analysis of all bids relating to the proposed sale of the Assets. Any party desiring to bid for all or a portion of the Assets shall comply with the Bidding Procedures and this Order. The Debtors are authorized to take any and all actions necessary to implement the Bidding Procedures.

14. The Debtors are deemed to have complied with all contractual rights of first refusals, or similar contractual purchasing rights, regarding the Assets. The Bidding Procedures and the notice thereof provide all parties in interest with notice of, and the opportunity to participate in, any potential Sale and/or Auction.

III. Stalking Horse Purchaser, Bid Protections, and Stalking Horse APA

15. The Debtors' entry into the Stalking Horse APA is authorized and approved, subject to higher and/or better Qualified Bids at the Auction regarding the Assets in accordance with the Stalking Horse APA and the Bidding Procedures.

16. The Debtors are authorized to perform all obligations of the Debtors set forth in the Stalking Horse APA that are intended to be performed prior to the Sale Hearing and prior to the entry of the Sale Order, subject to the terms of the Bidding Procedures. The automatic stay provided by section 362 of the Bankruptcy Code shall be automatically lifted and/or vacated to permit the Stalking Horse Purchaser to take such action expressly permitted or provided in the Stalking Horse APA, without further action or order of the Court

17. The Bid Protections for the Stalking Horse Purchaser are approved in their entirety and are payable in accordance with, and subject to the terms of, the Stalking Horse APA. The Debtors are authorized to pay any amounts that may become due to the Stalking Horse Purchaser on account of the Bid Protections on the terms set forth in the Stalking Horse APA. The Bid Protections shall constitute allowed superpriority administrative expense claims pursuant to sections 105(a), 503(b)(1) and 507(a)(2) of the Bankruptcy Code, which shall be senior to and have priority over all other administrative expense claims of the kind specified in section 503(b) of the Bankruptcy Code. The Debtors are hereby authorized and directed to pay the Bid Protections, if and when due, in accordance with the terms of the Stalking Horse APA and this Order without further order of the Court. The Debtors' obligation to pay the Bid Protections survive termination of the Stalking Horse APA, dismissal or conversion of any of the Chapter 11 Cases, and confirmation of any plan of reorganization or liquidation. No person or entity, other than the Stalking Horse Purchaser, shall be entitled to any expense reimbursement, break-up fee, "topping," or other similar fee or payment.

18. The Stalking Horse Purchaser is a Qualified Bidder and the bid reflected in the Stalking Horse Bid (including as it may be increased at the Auction (if any)) is a Qualified Bid, as set forth in the Bidding Procedures.

19. The deposit provided by the Stalking Horse Purchaser and all other Qualified Bidders shall be held in escrow and shall not become property of the Debtors' bankruptcy estates unless and until released from escrow to the Debtors pursuant to the terms of the applicable escrow agreement or order of this Court.

IV. Notice Procedures

20. The form of Sale Notice attached hereto as **Exhibit 2** is approved.

21. Within one (1) business day after entry of the Bidding Procedures Order, the Debtors shall serve the Sale Notice, Bidding Procedures Order and Bidding Procedures by first-class mail or courier service upon: (a) the Office of the United States Trustee for the District of Delaware; (b) counsel to any statutory committee of unsecured creditors appointed in these chapter 11 cases; (c) the Debtors' thirty (30) largest unsecured creditors on a consolidated basis; (d) counsel to the administrative agents for the Debtors' prepetition and postpetition credit facilities, (e) all parties who have expressed a written interest in some or all of the Debtors' assets; (f) all parties who are known or reasonably believed, after reasonable inquiry, to have asserted any lien, encumbrance, claim or other interest in the Debtors' assets; (g) the Internal Revenue Service; (h) all applicable state and local taxing authorities; (i) the United States Attorney for the District of Delaware; (j) the Securities and Exchange Commission; (k) the state attorneys general for states in which the Debtors conduct business; (l) all non-Debtor parties to the Debtors' executory contracts and unexpired leases; (m) all environmental authorities having jurisdiction over any of the Assets, including the Environmental Protection Agency; (n) all of the Debtors' other known creditors; and (o) any party that has requested notice pursuant to Bankruptcy Rule 2002.

22. Additionally, within five (5) business days after entry of this Order, or as soon as reasonably practicable thereafter, the Debtors will also provide notice of the Sale Hearing through

publication of the Sale Notice on their restructuring website, www.veritaglobal.net/FMIAerostructures (the “Case Website”) and will also publish the Sale Notice (the “Publication Notice”) once in the national edition of *USA Today* or another nationally circulated newspaper, with any modifications necessary for ease of publication. Publication of the Sale Notice as described in this Order conforms to the requirements of Bankruptcy Rules 2002(1) and 9008 and is reasonably calculated to provide notice to any affected party and any other interested party whose identity is unknown to the Debtors, including any potential bidders, and afford the affected party the opportunity to exercise any rights affected by the Motion and the relief granted by this Order.

V. The Assumption and Assignment Procedures.

23. The Assumption and Assignment Procedures set forth in the Motion regarding the assumption and assignment of the Assigned Contracts proposed to be assumed by the Debtors and assigned to the Successful Bidder are approved.

- (a) Within one (1) business day following the entry of this Order, the Debtors shall file with the Court and serve a notice of potential assumption and assignment (the “Potential Assignment Notice”), substantially in the form attached hereto as **Exhibit 4**, via first class mail, electronic mail, or overnight delivery on all Contract Counterparties and provide a copy of the same to the Stalking Horse Purchaser, which copy may be provided via email, providing notice of the potential assumption and assignment of their Assigned Contracts by the Successful Bidder. The Debtors shall also post the Potential Assignment Notice to the Case Website. Service as set forth herein shall be deemed proper, timely, good, and sufficient notice and no other or further notice is necessary.
- (b) The Potential Assignment Notice shall inform each recipient of the timing and procedures relating to the potential assumption and assignment of the Assigned Contracts to the Stalking Horse Purchaser or other Successful Bidder upon Court approval of the Sale and the deadline by which any Contract Counterparty to an Assigned Contract may file an objection based on adequate assurance of future performance of the Stalking Horse Purchaser. To the extent any Assigned Contract listed in a Potential Assignment Notice was not previously included in the Cure Cost Motion (a “Supplemental Assigned Contract”), the Potential Assignment Notice shall inform the Contract Counterparty to such Supplemental Assigned Contract of (i) the Debtors’ good-faith estimates of the

Cure Costs (if any) required in connection with the Supplemental Assigned Contract, and (ii) the deadline by which any Contract Counterparty to a Supplemental Assigned Contract may file an objection to the proposed assumption, assignment, cure, and/or adequate assurance and the procedures relating thereto. Service of a Potential Assignment Notice does not constitute an admission that any contract is an executory contract or that the stated Cure Cost related to any contract or unexpired lease constitutes a claim against the Debtors or a right against the Stalking Horse Purchaser (all rights with respect thereto being expressly reserved). Further, the inclusion of a contract or unexpired lease, as applicable, on the Potential Assignment Notice is not a guarantee that such contract or unexpired lease, as applicable, will or will not ultimately be assumed and assigned pursuant to the Stalking Horse Bid or any other Successful Bid.

- (c) Objections based on adequate assurance of future performance of the Stalking Horse Purchaser or, solely with respect to Supplemental Assigned Contracts, to the proposed assumption, assignment, cure, or adequate assurance of future performance (an “Assigned Contract Objection”) (other than objections related solely to adequate assurance of future performance by a Successful Bidder other than the Stalking Horse Purchaser), must (1) (a) be in writing; (b) state the basis for such objection; and (c) if such objection is to the Cure Cost for a Supplemental Assigned Contract, state with specificity what Cure Cost the counterparty believes is required (in all cases, with appropriate documentation in support thereof) and (2) be filed with the Court and served no later than **April 7, 2025 at 4:00 p.m. (prevailing Eastern Time)** on the following parties (the “Objection Notice Parties”): (i) proposed counsel for the Debtors, Ropes & Gray LLP, 1211 Avenue of the Americas, New York, NY 10036 (Attn: Gregg M. Galardi, email: gregg.galardi@ropesgray.com), and Chipman Brown Cicero & Cole LLP, 1313 N. Market Street, Suite 5400, Wilmington, DE 19801 (Attn: Mark L. Desgrosseilliers and Robert A. Weber; email: desgross@chipmanbrown.com and weber@chipmanbrown.com), and Chipman Brown Cicero & Cole LLP, 501 5th Ave, 15th Floor, New York, NY 10017 (Attn: Daniel G. Egan; email: egan@chipmanbrown.com); (ii) counsel for the Stalking Horse Purchaser, Troutman Pepper Locke LLP, 300 S. Grand Ave., 26th Floor, Los Angeles, CA 90071 (Attn: David Kupetz; email: david.kupetz@troutman.com); (iii) counsel for any statutory committee of unsecured creditors appointed in these chapter 11 cases; (iv) counsel to the DIP Agent and the DIP Lender, King & Spalding LLP, 1100 Louisiana St., Suite 4100, Houston, TX 77002 (Attn: Michael Fishel; email: mfishel@kslaw.com) and Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, DE 19801 (Attn: Kenneth J. Enos; email: kenos@ycst.com); and (v) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Lock Box 35, Wilmington, Delaware 19801 (Attn: Rosa Sierra-Fox; email: Rosa.Sierra-Fox@usdoj.gov).
- (d) In the event that the Stalking Horse Purchaser is not the Successful Bidder, the deadline for each counterparty to an Assigned Contract to object to the

assumption and assignment of such Assigned Contract based on adequate assurance of future performance by the Successful Bidder (a “Successful Bidder Adequate Assurance Objection”) shall be **April 11, 2025 at the time of the Sale Hearing**, and any Successful Bidder Adequate Assurance Objection must be filed and served in the same manner and on the same Objection Notice Parties as set forth in paragraph 23(c) above.

- (e) Any Assigned Contract Objections that remain unresolved as of the Sale Hearing shall be heard at the Sale Hearing or at such later date as may be fixed by the Court. Upon entry of an order by the Court resolving such Assigned Contract Objection, the assumption and assignment, if approved by the Court, shall be deemed effective as of the closing date of the sale transactions. To the extent that any Assigned Contract Objection cannot be resolved by the parties, such Assigned Contract shall be assumed and assigned only upon satisfactory resolution of the Assigned Contract Objection, to be determined in the Stalking Horse Purchaser’s or other Successful Bidder’s reasonable discretion. To the extent an Assigned Contract Objection remains unresolved, the Assigned Contract may be conditionally assumed and assigned, subject to the consent of the Stalking Horse Purchaser or other Successful Bidder, pending a resolution of the Assigned Contract Objection after notice and a hearing. If an Assigned Contract Objection is not satisfactorily resolved, the Stalking Horse Purchaser or other Successful Bidder may determine that such Assigned Contract should be rejected and not assigned, in which case the Debtors, Stalking Horse Purchaser or other Successful Bidder will not be responsible for any Cure Costs in respect of such contract.
- (f) The Debtors reserve the right, with the consent of the Stalking Horse Purchaser or Successful Bidder, as applicable, to: (i) supplement the schedule of Assigned Contracts (the “Assigned Contracts Schedule”) attached to the Potential Assignment Notice with previously omitted Assigned Contracts in accordance with the definitive agreement for a Sale; (ii) remove any Assigned Contracts from the list of executory contracts and unexpired leases ultimately selected as Assigned Contracts that the Successful Bidder proposes be assumed and assigned to it in connection with a Sale or add to such list; and (iii) modify the previously stated Cure Cost associated with any Assigned Contracts (“Supplemental Assigned Contracts Schedule”) at any time prior to the closing of the Sale. In the event that the Debtors exercise any of the rights reserved above, the Debtors will serve a supplemental Potential Assignment Notice (each, a “Supplemental Potential Assignment Notice”) by electronic transmission, hand delivery, or overnight mail on the applicable counterparty, and its counsel, if known, to each impacted Assigned Contract at the last known address available to the Debtors. Each Supplemental Potential Assignment Notice will include the same information with respect to listed Assigned Contracts as was included in the Potential Assignment Notice. Any counterparty to an Assigned Contract listed on a Supplemental Potential Assignment Notice may file a supplemental Assigned Contract Objection (a “Supplemental Assigned Contract Objection”) only if such objection is to the

proposed assumption and assignment of the applicable Assigned Contract or the proposed Cure Costs, if any. All Supplemental Assigned Contract Objections must: (x) state with specificity the legal and factual basis thereof as well as what Cure Costs the objecting party believes are required, if any; (y) include appropriate documentation in support of the objection; and (z) be filed and served on the Objection Notice Parties no later than 5:00 p.m. (prevailing Eastern Time) on the date that is the later of (i) the Sale Objection Deadline and (ii) fourteen days from the date of service of such Supplemental Potential Assignment Notice, which date will be set forth in the Supplemental Potential Assignment Notice (“Supplemental Assigned Contract Objection Deadline”).

- (g) If a Contract Counterparty files a Supplemental Assigned Contract Objection in a manner that is consistent with the requirements set forth above, and the parties are unable to consensually resolve the dispute, the Debtors will seek a hearing on such Supplemental Assigned Contract Objection to determine the Cure Costs, if any, and approve the assumption and assignment of the relevant Assigned Contracts. If there is no such objection, then the Debtors will obtain entry of an order, including by filing a certification of no objection, fixing the Cure Costs and approving the assumption and assignment of any Assigned Contract listed on a Supplemental Potential Assignment Notice.

24. If a Contract Counterparty does not file and serve an Assigned Contract Objection or Supplemental Assigned Contract Objection in a manner that is consistent with the requirements set forth above, and absent a prior or subsequent order of the Court establishing an alternative Cure Cost, (a) the Cure Costs, if any, set forth in the Potential Assignment Notice or Supplemental Potential Assignment Notice, as applicable, shall be binding and controlling, notwithstanding anything to the contrary in any Assigned Contract or any other document, and shall be the only amounts necessary to be paid to cure all monetary defaults pursuant to section 365(b) of the Bankruptcy Code under such Assigned Contracts, to the extent the Stalking Horse Purchaser (or other Successful Bidder) ultimately decides to have the applicable Assigned Contract assumed and assigned to it, and (b) the Contract Counterparty will be deemed to have consented to the assumption and assignment of the Assigned Contract and the Cure Costs, if any, and will be forever barred from objecting to the assumption and assignment of such Assigned Contract and rights

thereunder, including the Cure Costs, if any, and from asserting any other claims related to such Assigned Contract against the Debtors or the Successful Bidder, or the property of any of them.

25. The inclusion of an Assigned Contract on the Assigned Contract Schedule, Supplemental Assigned Contract Schedule, a Potential Assignment Notice, and/or in a Supplemental Potential Assignment Notice will not: (a) obligate the Debtors to assume any Assigned Contract listed thereon or obligate the Stalking Horse Purchaser or other Successful Bidder to take assignment of such Assigned Contract; or (b) constitute any admission or agreement of the Debtors that such Assigned Contract is an executory contract or unexpired lease. Only those Assigned Contracts that are included on a schedule of assumed and assigned contracts attached to the definitive sale agreement with the Successful Bidder (including amendments or modifications to such schedules in accordance with such agreement) will be assumed and assigned to the Successful Bidder.

VI. Miscellaneous

26. Any M&A Transaction Fees³ due to Configure Partners, LLC (“Configure”) as a result of the closing of any M&A Transaction shall be segregated and escrowed (for the exclusive benefit of Configure) from the proceeds of such M&A Transaction (including, without limitation, from the proceeds of any liquidation or other disposition of the Debtors’ assets), as an express carve-out from the collateral of the Debtors’ pre- and postpetition secured lenders, prior to any other use or distribution of such proceeds. If any M&A Transaction is the result of a Successful Bid (including on account of any successful credit bid) without a cash component sufficient to pay the corresponding M&A Transaction Fee due to Configure in full, then any resulting unpaid

³ Capitalized terms used in this paragraph and not otherwise defined herein shall have the meanings ascribed to such terms in that certain engagement letter between Configure and the Debtors, dated as of April 25, 2024, a copy of which is being filed in connection with the Debtors’ application to retain Configure.

portion of the M&A Transaction Fee due to Configure shall be segregated and escrowed (for the exclusive benefit of Configure) at the closing of such M&A Transaction from the available cash of the Debtors, as an express carve-out from the collateral of the Debtors' pre- and postpetition secured lenders. For the avoidance of doubt, nothing in this Order shall prohibit or be construed to prohibit the use of any unencumbered assets of the Debtors or the proceeds thereof to pay any fees and expenses of Configure or the assertion or allowance of an administrative priority claim under sections 503(b)(2) and 507(a)(2) of the Bankruptcy Code, if applicable, on account of any fees or expenses of Configure.

27. The failure to include or reference a particular provision of the Bidding Procedures specifically in this Order shall not diminish or impair the effectiveness or enforceability of such provision.

28. In the event of any inconsistency between this Order and the Motion or the Bidding Procedures, this Order shall govern in all respects.

29. The Debtors, subject to the terms of this Order and the Bidding Procedures, are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

30. The requirements set forth in all applicable requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules are satisfied by the contents of the Motion.

31. All persons and entities that participate in the bidding process or the Auction shall be deemed to have knowingly and voluntarily (a) submitted to the exclusive jurisdiction of this Court and (b) waived any right to jury trial, in each case, with respect to all matters related to the terms and conditions of the transfer of the Assets, the Auction, and Sale.

32. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

33. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

34. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

EXHIBIT 1

Bidding Procedures

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

In re:

Dynamic Aerostructures LLC, *et al.*,

Debtors.¹

Chapter 11

Case No. 25-10292 (xxx)

(Joint Administration Pending)

BIDDING PROCEDURES

On February 26, 2025 (the “Petition Date”), the above captioned debtors and debtors in possession (collectively, the “Debtors”) commenced their chapter 11 cases (the “Chapter 11 Cases”) by filing voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Court”). The Debtors are maintaining their business and managing their property as debtors in possession pursuant to section 1107(a) and 1108 of the Bankruptcy Code.

On February 26, 2025, the Debtors filed the *Debtors’ Motion for Entry of an Order (A)(I) Approving Bidding Procedures for the Sale of the Debtors’ Assets, (II) Scheduling Hearings and Objection Deadlines with Respect to the Sale, (III) Scheduling Bid Deadlines and an Auction, (IV) Approving the Form and Manner of the Notice Thereof, (V) Approving Assumption and Assignment Procedures for Executory Contracts and Unexpired Leases, (VI) Authorizing and Approving the Debtors’ Entry Into the Stalking Horse APA, (VII) Authorizing and Approving Bid Protections, and (VII) Granting Related Relief and (B)(I) Approving the Sale of Substantially All of the Debtors’ Assets Free and Clear of Liens, Claims, Interests, and Encumbrances, (II) Approving Assumption and Assignment of Executory Contracts and Unexpired Leases, and (III) Granting Related Relief* [Docket No. [•]] (the “Combined Sale/Bidding Procedures Motion”)² seeking approval of, among other things, the procedures to be employed by the Debtors in connection with the proposed sale of all or substantially all of the Debtors’ assets (collectively, the “Assets”) through a section 363 sale process (any such purchase, a “Transaction”).

On [•], the Court entered an order Docket No. [•] (the “Bidding Procedures Order”), among other things, granting certain relief requested in the Combined Sale/Bidding Procedures Motion, including authorizing the Debtors to solicit bids and approving the procedures contemplated herein (the “Bidding Procedures”). The Bidding Procedures set forth the process by

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number are: Dynamic Aerostructures LLC (3076); Dynamic Aerostructures Intermediate LLC (9800); and Forrest Machining LLC (3421). The Debtors’ service address is 27756 Avenue Mentry, Valencia, California 91355.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Combined Sale/Bidding Procedures Motion or the Stalking Horse APA (as defined herein) as applicable).

which the Debtors are authorized to solicit bids and conduct an auction (the “Auction”) to determine the Successful Bidder (as defined below) for the Assets (the “Sale”).

FMI Holdco LLC (the “Stalking Horse Purchaser”) and the Debtors have executed that certain *Asset Purchase Agreement*, dated as of February 25, 2025 (as amended, supplemented or otherwise modified by the parties thereto from time to time, and including the disclosure schedules and exhibits attached thereto, the “Stalking Horse APA”), pursuant to which the Stalking Horse Purchaser has agreed to purchase the Assets set forth in the Stalking Horse APA, free and clear of all Liens, Claims (each as defined in the Stalking Horse APA), and interests pursuant to section 363(f) of the Bankruptcy Code other than the Assumed Liabilities (as defined in the Stalking Horse APA), and subject to the terms and conditions set forth therein. The Debtors are conducting an ongoing marketing process intended to obtain the highest or otherwise best bid for the Assets. The bid contained in the Stalking Horse APA is subject to higher and better offers submitted in accordance with the terms of the Bidding Procedures and, as such, the Stalking Horse APA has been approved by the Court as the “stalking-horse” bid for the Assets set forth therein (the “Stalking Horse Bid”).

Any party interested in bidding on the assets should contact:

- (a) Configure Partners, LLC, 3344 Peachtree Rd. NE, Suite 1500, Atlanta, GA 30326 (Attn: Rory Keenan and Matt Guill; email: rkeenan@configurepartners.com and mguill@configurepartners.com), proposed investment banker for the Debtors; and
- (b) Ropes & Gray LLP, 1211 Avenue of the Americas, New York, NY 10036 (Attn: Gregg M. Galardi, email: gregg.galardi@ropesgray.com), Chipman Brown Cicero & Cole LLP, 1313 N. Market Street, Suite 5400, Wilmington, DE 19801 (Attn: Mark L. Desgrosseilliers and Robert A. Weber; email: desgross@chipmanbrown.com and weber@chipmanbrown.com), and Chipman Brown Cicero & Cole LLP, 501 5th Ave, 15th Floor, New York, NY 10017 (Attn: Daniel G. Egan; email: egan@chipmanbrown.com), proposed co-counsel for the Debtors.

Summary of Key Dates Established by Bidding Procedures

<u>Event</u>	<u>Due Date</u>
Deadline for Acceptable Bidders to Submit Bids	April 7, 2025 at 4:00 p.m. (ET)
Auction (if necessary)	April 9, 2025 at 10:00 a.m. (ET)
Hearing to Consider the Sale	April 11, 2025 at _:00 _.m. (ET)

Marketing Process

I. Contact Parties

As part of the marketing process, the Debtors have and continue to assemble materials in order to streamline potential purchasers’ diligence requests, and develop a list of parties who may be interested in, and who the Debtors reasonably believe have the financial resources to

consummate, a Transaction (each, a “Contact Party” and, collectively, the “Contact Parties”). Parties interested in becoming Contact Parties should contact: proposed investment banker to the Debtors, Configure Partners, Attn: Rory Keenan (rkeenan@configurepartners.com) and Matt Guill (mguill@configurepartners.com).

The Debtors may distribute (to the extent not already distributed) to each Contact Party and any other interested party or potential bidder materials consisting of: (a) a copy of the Bidding Procedures, the Bidding Procedures Order, and the Combined Sale/Bidding Procedures Motion; (b) a form confidentiality agreement (a “Confidentiality Agreement”); and (c) such other materials as appropriate under the circumstances.

II. Participation Requirements

To receive due diligence information and to receive additional non-public information regarding the Debtors, a potential bidder must deliver to each of: (i) (a) proposed co-counsel to the Debtors, Ropes & Gray LLP, 1211 Avenue of the Americas, New York, NY 10036 (Attn: Gregg M. Galardi; email: gregg.galardi@ropesgray.com) and (b) proposed co-counsel to the Debtors, Chipman Brown Cicero & Cole LLP, 1313 N. Market Street, Suite 5400, Wilmington, DE 19801 (Attn: Mark L. Desgrosseilliers and Robert A. Weber; email: desgross@chipmanbrown.com and weber@chipmanbrown.com), and Chipman Brown Cicero & Cole LLP, 501 5th Ave, 15th Floor, New York, NY 10017 (Attn: Daniel G. Egan; email: egan@chipmanbrown.com) and (ii) proposed investment banker to the Debtors, Configure Partners, LLC, 3344 Peachtree Rd. NE, Suite 1500, Atlanta, GA 30326 (Attn: Rory Keenan and Matt Guill; email: rkeenan@configurepartners.com and mguill@configurepartners.com) (collectively, the “Debtors’ Advisors”), the following documents (collectively, the “Preliminary Bid Documents”) unless otherwise waived by the Debtors in their discretion:

- a. documentation identifying the interested party, its principals, and the representatives thereof who are authorized to appear and act on their behalf for all purposes regarding the contemplated transaction;
- b. an executed Confidentiality Agreement on terms acceptable to the Debtors, to the extent not already executed, which Confidentiality Agreement shall, among other terms, contain customary provisions regarding: (i) the nondisclosure of confidential information, (ii) prohibitions on contacting third parties in connection with a Transaction, (iii) covenant to not solicit employees of the Debtors, and (iv) the survival of certain provisions of the Confidentiality Agreement;
- c. evidence by the potential bidder of its sufficient financial capacity to close a proposed transaction, which may include financial statements of, or verified financial commitments obtained by, the potential bidder (or, if the potential bidder is an entity formed for the purpose of acquiring the Assets, the party that will bear liability for a breach), the adequacy of which will be assessed by the Debtors, with the assistance of the Debtors’ Advisors;
- d. a statement and other factual support that the potential bidder has a *bona fide* interest in consummating a sale transaction, to the reasonable satisfaction of the

Debtors after consultation with the Consultation Parties (as defined below);

- e. written disclosure of any connections or agreements with the Debtors, the Stalking Horse Purchaser, any other known potential bidder, or Qualified Bidder (as defined below), “insiders” of the Debtors (as that term is contemplated by section 101(31) of the Bankruptcy Code), or any manager or direct or indirect equity security holder of the Debtors; and
- f. documentation identifying the potential bidder, its principals, and the representatives thereof who are authorized to appear and act on its behalf for all purposes regarding the contemplated transaction.

Only those potential bidders that have submitted acceptable Preliminary Bid Documents, as determined by the Debtors (each, an “Acceptable Bidder”) may submit Bids. For the avoidance of doubt, and notwithstanding the foregoing, the Stalking Horse Purchaser is an Acceptable Bidder.

Beginning on or as soon as is reasonably practicable after the Debtors determine that a potential bidder is an Acceptable Bidder, the Debtors will provide such Acceptable Bidder with reasonable access to due diligence information, to the extent reasonably requested by such Acceptable Bidder. All due diligence requests must be directed to: the proposed investment banker to the Debtors, Configure Partners, Rory Keenan (rkeenan@configurepartners.com) and Matt Guill (mguill@configurepartners.com).

To the extent reasonably practicable, the Debtors will also facilitate meetings between any interested Acceptable Bidder and the Debtors’ management team, which meetings will proceed in a manner determined by the Debtors, in their discretion. The due diligence period will end on the Bid Deadline (as defined below) and, subsequent to the Bid Deadline, the Debtors will have no obligation to furnish any due diligence information.

Neither the Debtors nor any of their representatives shall be obligated to furnish any information of any kind whatsoever related to the Assets (i) to any person or entity who (a) is not an Acceptable Bidder; (b) does not comply with the participation requirements set forth above; or (c) in the case of competitively sensitive information, is a competitor of the Debtors (except pursuant to information sharing procedures reasonably satisfactory to the Debtors in the Debtors’ discretion) and (ii) to the extent not permitted by law.

The Debtors and the Debtors’ Advisors will coordinate all reasonable requests from Acceptable Bidders for additional information and due diligence access; *provided* that the Debtors may decline to provide such information to Acceptable Bidders who, at such time and in the Debtors’ business judgment, have not established, or who have raised doubt, that such Acceptable Bidder intends in good faith to, or has the capacity to, consummate a Transaction. No potential bidder, Acceptable Bidder, or Qualified Bidder (as defined below) shall communicate with any of the Debtors’ employees, landlords, vendors, lenders, or other potential bidder, Acceptable Bidder, or Qualified Bidder with respect to any bid or potential Transaction absent the prior written consent of the Debtors; *provided* that, if such consent is given, a representative of the Debtors shall be

present for or party to any such communications (unless otherwise agreed by the Debtors in their sole discretion).

For any Acceptable Bidder who is a competitor of the Debtors or is affiliated with any competitor of the Debtors, the Debtors reserve the right to withhold, redact, code, or delay providing any diligence materials that the Debtors determine are business-sensitive or otherwise inappropriate for disclosure to such Bidder at such time.

Each Acceptable Bidder shall comply with all reasonable requests for additional information and due diligence access by the Debtors or the Debtors' Advisors regarding such Acceptable Bidder and its contemplated Transaction.

Stalking Horse Purchase Price/Breakup Fee and Expense Reimbursement

On February 25, 2025, the Debtors entered into the Stalking Horse APA with the Stalking Horse Purchaser. As set forth more fully in the Stalking Horse APA, the Purchase Price to be paid by the Stalking Horse Purchaser is (i) cash in the amount of \$16,000,000 (less any Cure Cost Deduction and subject to a working capital adjustment), and (ii) the assumption by Purchaser of the Assumed Liabilities (including payment of the Cure Costs) (collectively, the "Purchase Price"). The Stalking Horse APA also includes various customary representations, warranties, and covenants by and from the Debtors and the Stalking Horse Purchaser, and certain conditions to closing and rights of termination related to the Sale and the Chapter 11 Cases generally.

To provide the Stalking Horse Purchaser with an incentive to participate in a competitive process and to compensate the Stalking Horse Purchaser for (i) performing substantial due diligence and incurring the expenses related thereto and (ii) entering into the Stalking Horse APA with the knowledge and risk that arises from participating in the sale and subsequent bidding process, the Debtors have agreed, and the Court has approved in the Bidding Procedures Order, that the Stalking Horse Purchaser is entitled from the proceeds of a transaction consummated pursuant to a Successful Bid (as defined below) with the Successful Bidder subject to the terms of the Stalking Horse APA and pursuant to the terms thereof, to the Breakup Fee and Expense Reimbursement (each as defined in the Stalking Horse APA). As set forth below, payment of the Breakup Fee and Expense Reimbursement (to the extent payable under the Stalking Horse APA and Bidding Procedures Order) shall be a component of any Qualified Bid submitted by a Qualified Bidder (other than the Stalking Horse Purchaser). The Breakup Fee and Expense Reimbursement shall be payable as provided for pursuant to the terms of the Bidding Procedures Order, the Sale Order (as defined in the Bidding Procedures Order), and the Stalking Horse APA.

Auction Process

I. Bid Deadline

An Acceptable Bidder, other than the Stalking Horse Purchaser, that desires to make a proposal, solicitation, or offer (each, a "Bid") shall transmit such proposal, solicitation, or offer via email (in pdf or similar format) so as to be **actually received** on or before **April 7, 2025 at 4:00 p.m. (ET)** (the "Bid Deadline") by:

- a. Proposed co-counsel to the Debtors, Ropes & Gray, 1211 Avenue of the Americas, New York, NY 10036 (Attn: Gregg M. Galardi (gregg.galardi@ropesgray.com));
- b. Proposed co-counsel to the Debtors, Chipman Brown Cicero & Cole LLP, 1313 N. Market Street, Suite 5400, Wilmington, DE 19801 (Attn: Mark L. Desgrosseilliers and Robert A. Weber; email: desgross@chipmanbrown.com and weber@chipmanbrown.com), and Chipman Brown Cicero & Cole LLP, 501 5th Ave, 15th Floor, New York, NY 10017 (Attn: Daniel G. Egan; email: egan@chipmanbrown.com); and
- c. Proposed investment banker to the Debtors, Configure Partners, LLC, 3344 Peachtree Rd. NE, Suite 1500, Atlanta, GA 30326 (Attn: Rory Keenan and Matt Guill; email: rkeenan@configurepartners.com and mguill@configurepartners.com).

A Bid must be received no later than the Bid Deadline, unless otherwise extended by the Debtors in their sole discretion. To the extent that the Bid Deadline is extended for all parties, the Debtors shall file a notice on the docket of the Chapter 11 Cases indicating the same. Any party that does not submit a bid by the Bid Deadline will not be allowed to (a) submit any offer after the Bid Deadline, or (b) participate in the Auction.

II. Bid Requirements

Each Bid submitted by an Acceptable Bidder must be submitted in writing and satisfy the following requirements (collectively, the “Bid Requirements”) unless otherwise modified by the Debtors, in their discretion:

- a. Marked Agreement. A Bid must be in writing and include an executed asset purchase agreement (a “Competing APA”), together with all exhibits and schedules (the “Transaction Documents”), pursuant to which the Acceptable Bidder proposes to effectuate the contemplated transaction, which Competing APA must be similar in form and substance to the Stalking Horse APA and be marked to reflect the differences between the Stalking Horse APA and the Acceptable Bidder’s Competing APA, including, without limitation, specification of the proposed purchase price, any assumed liabilities, and any changes to any exhibits or schedules to the Competing APA. A Bid must identify with particularity each and every condition to closing and all executory contracts and unexpired leases to be assumed and assigned pursuant to the Transaction Documents. The Transaction Documents must include a commitment to close the Transaction by no later than the Closing Date provided in the Stalking Horse APA. A Bid may propose a contemplated transaction involving all or substantially all of the Assets or any subset of Assets. The Debtors will evaluate all Bids, in their sole discretion, subject to prior consultation with the Consultation Parties, to determine whether such Bid or combination of Bids maximizes the value of the Debtors’ estates as a whole in light of any factors regarding such bid which the Debtors, in their discretion, determine are appropriate to be considered in evaluating Bids.

- b. Purpose. Each Acceptable Bidder must state that the Bid includes an offer by the Acceptable Bidder to purchase some or all of the Assets and state which Assets with reasonable specificity. Each Bid must clearly identify the following: (i) contracts to be assumed, including cure costs to be paid, if any, and parties responsible for payment thereof; (ii) the liabilities, if any, to be assumed; (iii) leases to be assumed, including cure costs to be paid, if any, and parties responsible for payment thereof; and (iv) which employees or groups thereof will be offered employment.
- c. Purchase Price. The consideration proposed by a Bid may include cash or other consideration acceptable to the Debtors in an amount of no less than the sum of (i) the Purchase Price plus (ii) the Breakup Fee and Expense Reimbursement plus (iii) \$250,000; *provided that* the Bid must include sufficient cash to pay all DIP Obligations in full, in addition to the Breakup Fee and Expense Reimbursement.
- d. Forms of Consideration. Each Bid must (a) indicate (x) whether it is an all-cash offer (including confirmation that the cash component of the Bid is based in U.S. Dollars) or consists of certain non-cash components, such as a credit bid or the assumption of liabilities; and (y) the liabilities to be assumed, if applicable; and (b) provide sufficient cash consideration for payment of the amounts set forth in Section II(c) above. The Debtors may request that any Bid include the allocation of the Purchase Price among the Assets to be acquired. In addition, any Bid shall identify separately any cash and non-cash components, which non-cash components shall be limited only to credit-bids in accordance with section 363(k) of the Bankruptcy Code and assumed liabilities.
- e. Deposit. Each Bid must be accompanied by a cash deposit in the amount equal to 10% of the aggregate value of the cash and non-cash consideration (with the deposit amount for the non-cash consideration determined by the Debtors in their discretion) of the Bid to be held in an escrow account to be identified and established by the Debtors (the “Deposit”); *provided that* that the Debtors reserve the right to increase the amount of the Deposit in their discretion, including, without limitation, the right to request an additional Deposit in the event an Acceptable Bidder increases the amount of its Bid.
- f. Irrevocable. All Bids must be irrevocable until the Debtors’ selection of the Successful Bid and Backup Bid (each as defined below); *provided, however*, that the Successful Bid shall be irrevocable until the closing of the Approved Transaction (as defined below) and the Backup Bid must be irrevocable in accordance with Section VI below, as applicable.
- g. Committed Financing. To the extent that a Bid is not accompanied by evidence of the Acceptable Bidder’s capacity to consummate the Transaction set forth in its Bid with cash on hand, each Bid must include committed financing documented to the Debtors’ satisfaction that demonstrates that the Acceptable Bidder has received sufficient debt or equity funding commitments to satisfy the Acceptable Bidder’s purchase price and other obligations under its Bid. Such funding commitments or

other financing must be unconditional and must not be subject to any internal approvals, syndication requirements, diligence, or credit committee approvals, and shall have covenants and conditions acceptable to the Debtors.

- h. Unconditional Offer / Contingencies. A statement that the Bid is formal, binding, and unconditional and is not subject to any further due diligence or contingencies related to financing, internal approval, due diligence, or otherwise, and is irrevocable until the Debtors notify the Acceptable Bidder that such Bid is not a Successful Bid or a Backup Bid.
- i. Non-Reliance. A Bid must include a written acknowledgement and representation of the Acceptable Bidder that it has had an opportunity to conduct any and all due diligence regarding the Assets and assumed liabilities prior to making its Bid, that it has relied solely upon its own independent review, investigation or inspection of any documents or the Assets in making its bid, and that it did not rely upon any written or oral statements, representations, warranties, or guaranties, express, implied, statutory or otherwise, regarding the Assets, the financial performance of the Assets or the physical condition of the Assets, the assumed liabilities, or the completeness of any information provided in connection therewith or the Auction.
- j. Identity. Each Bid must fully disclose the identity of each entity that will be bidding or otherwise participating in connection with such Bid (including each equity holder, sponsor, parent company or other financial backer of the Acceptable Bidder, including if such Acceptable Bidder is an entity formed for the purpose of consummating the proposed Transaction contemplated by such Bid), and the complete terms of any such participation. Under no circumstances shall any undisclosed principals, equity holders, or financial backers be associated with any Bid. Each Bid must also include contact information for the specific person(s), counsel and other advisors whom the Debtors' Advisors should contact regarding such Bid. Nothing herein shall preclude multiple Acceptable Bidders from submitting a joint Bid, subject to the Debtors' prior written consent to such submission and the disclosure requirements set forth herein.
- k. Adequate Assurance. Each Bid must contain evidence acceptable to the Debtors in their discretion that the Acceptable Bidder has the ability to perform thereunder and otherwise complies with the requirements of adequate assurance of future performance under sections 365(b)(1) and 365(b)(3) of the Bankruptcy Code. Such evidence may include audited and unaudited financial statements, tax returns, bank account statements, a description of the proposed business to be conducted at the premises or any other documentation that the Debtors further request.
- l. Authorization. Each Bid must contain evidence that the Acceptable Bidder has obtained authorization or approval from its board of directors (or a comparable governing body acceptable to the Debtors) with respect to the submission of its Bid and the closing of the Transaction contemplated in such Bid (including the submission, execution, and delivery of the Competing APA).

- m. No Fees Payable to Bidder. Except with respect to the Breakup Fee and Expense Reimbursement payable to the Stalking Horse Purchaser in accordance with the Stalking Horse APA, a Bid may not request or entitle the Bidder to any break-up fee, termination fee, expense reimbursement or similar type of payment. Moreover, by submitting a Bid, a Bidder shall be deemed to waive the right to pursue any break-up fee, termination fee, expense reimbursement or similar type of payment, or substantial contribution claim under section 503 of the Bankruptcy Code related in any way to the submission of its Bid or the Bidding Procedures.

By submitting its Bid, each Acceptable Bidder is agreeing, and shall be deemed to have agreed, to abide by and honor the terms of the Bidding Procedures and to refrain from submitting a Bid or seeking to reopen any round of bidding or the Auction after conclusion of any round of bidding or the Auction. **The submission of a Bid shall constitute a binding and irrevocable offer to acquire the Assets as reflected in such Bid.**

Notwithstanding anything herein to the contrary and for the avoidance of doubt, for all purposes under the Bidding Procedures, the Stalking Horse APA submitted by the Stalking Horse Purchaser is a Qualified Bid without regard to any of the requirements or conditions set forth therein and without any other or further action by the Stalking Horse Purchaser.

III. Designation of Qualified Bidders

A Bid will be considered a “Qualified Bid,” and each Acceptable Bidder that submits a Qualified Bid will be considered a “Qualified Bidder,” if the Debtors determine, in their discretion, subject to prior consultation with the Consultation Parties, that such Bid:

- a. satisfies the Bid Requirements set forth above; and
- b. is reasonably likely (based on availability of financing, antitrust, or other regulatory issues, experience, and other considerations) to be consummated, if selected as the Successful Bid, within a time frame acceptable to the Debtors.

The Debtors will notify each Qualified Bidder whether such party is a Qualified Bidder and shall provide the Notice Parties (as defined below) with a copy of each Bid that has been submitted to the Debtors (whether or not such bid has been determined by the Debtors to be a Qualified Bid).

If any Bid is determined by the Debtors not to be a Qualified Bid, the Debtors will refund such Acceptable Bidder’s Deposit on the date that is the later of (i) three (3) Business Days after the Bid Deadline and (ii) the date on which the Debtors make a final determination that such Bid is not a Qualified Bid or, in each case, as soon as is reasonably practicable thereafter. The Debtors reserve the right to work with any Acceptable Bidder in advance of the Auction to cure any deficiencies in a Bid that is not initially deemed a Qualified Bid and to determine at any time prior to the start of the Auction that such Bid, as modified, is a Qualified Bid.

Between the date that the Debtors notify an Acceptable Bidder that it is a Qualified Bidder and the Auction, the Debtors may discuss, negotiate, or seek clarification of any Qualified Bid

from a Qualified Bidder. Without the prior written consent of the Debtors, a Qualified Bidder may not modify, amend, or withdraw its Qualified Bid, except for proposed amendments to increase the Acceptable Bidder's purchase price, or otherwise improve the terms of, the Qualified Bid, during the period that such Qualified Bid remains binding as specified in these Bidding Procedures; *provided* that any Qualified Bid may be improved at the Auction as set forth herein; *provided, further*, that the Stalking Horse Bid may be modified or amended pursuant to its terms. Any improved Qualified Bid must continue to comply in all respects with the requirements for Qualified Bids set forth in these Bidding Procedures.

Notwithstanding anything herein to the contrary, the Debtors reserve the right, (a) to work with potential bidders and Acceptable Bidders to aggregate two or more Bids into a single consolidated Bid prior to the Bid Deadline or (b) to work with Qualified Bidders to aggregate two or more Qualified Bids into a single Qualified Bid prior to the conclusion of the Auction. No bidders, Acceptable Bidders or Qualified Bidders may aggregate any Bids without the Debtors' prior consent, subject to prior consultation with the Consultation Parties.

Notwithstanding anything herein to the contrary and for the avoidance of doubt, for all purposes under the Bidding Procedures, the Stalking Horse Purchaser is a Qualified Bidder without regard to any of the requirements or conditions set forth therein and without any other or further action by the Stalking Horse Purchaser.

IV. Right to Credit Bid

Unless otherwise ordered by the Court, any Qualified Bidder who has a valid and perfected lien on any assets of the Debtors' estates (a "Secured Creditor") and the right, power, and authorization to credit bid claims secured by such liens, shall have the right to credit bid all or a portion of such Secured Creditor's secured claims within the meaning of, and subject to, section 363(k) of the Bankruptcy Code; provided that a Secured Creditor shall have the right to credit bid its secured claim only with respect to the collateral by which such Secured Creditor is secured.

V. Auction

If no Qualified Bid (other than the Stalking Horse Bid) is received by the Bid Deadline, the Stalking Horse Purchaser shall be deemed the Successful Bidder without the need or requirement to hold or open the Auction.

If the Debtors receive more than one Qualified Bid for the Assets (other than the Stalking Horse Bid), the Debtors will conduct the Auction to determine both the Successful Bidder and the Backup Bidder with respect to such Assets. The Auction shall take place on **April 9, 2025 at 10:00 a.m. (ET)**, at the offices of Chipman Brown Cicero & Cole LLP, 1313 N. Market Street, Suite 5400, Wilmington, DE 19801, or such later date and time as selected by the Debtors (following consultation with the Consultation Parties).

No later than the day before the Auction, the Debtors will notify all Qualified Bidders of the highest or otherwise best Qualified Bid, or, if multiple bids are received in respect of non-overlapping Assets, the highest or best Qualified Bid(s) received in relation to each group of Assets, in each case as determined in the Debtors' business judgment (each such bid, a "Baseline").

Bid”), and provide copies of the documents supporting the Baseline Bid(s) to all Qualified Bidders and the Consultation Parties. The determination of which Qualified Bid(s) constitutes the Baseline Bid(s) and which Qualified Bid(s) constitutes the Successful Bid(s) shall take into account any factors the Debtors, in consultation of the Consultation Parties, reasonably deem relevant to the value of the Qualified Bid(s) to the Debtors’ estates, which may include, among other things: (a) the type and amount of Assets sought to be purchased in the Bid; (b) the amount and nature of the total consideration; (c) the likelihood of the Bidder’s ability to close a transaction and the timing thereof; (d) the net economic effect of any changes to the value to be received by the Debtors’ estates from the transaction contemplated by the Bid; (e) the tax consequences of such Bid; (f) the assumption of obligations, including contracts and leases; (g) the cure costs to be paid; and (h) the impact on employees, including the number of employees proposed to be transferred and employee-related obligations to be assumed (collectively, the “Bid Assessment Criteria”).

The Auction shall be conducted pursuant to the following procedures:

a. The Debtors Shall Conduct the Auction

The Debtors and the Debtors’ Advisors shall direct and preside over the Auction.

The Auction shall be conducted in an open cry format (and not by way of sealed bids). At the start of the Auction, the Debtors shall describe the terms of the Baseline Bid(s). All incremental Bids made thereafter shall be Overbids (as defined below) and shall be made and received on an open basis, and all material terms of each Overbid shall be fully disclosed to all other Qualified Bidders and the Consultation Parties. The Debtors shall maintain a written transcript of all Bids made and announced at the Auction, including the Baseline Bid(s), all Overbids, the Successful Bid(s), and any Backup Bid(s).

Qualified Bidders (including, for the avoidance of doubt, the Stalking Horse Purchaser) and the Consultation Parties, and each of their respective legal and financial advisors, shall be entitled to attend the Auction, and the Qualified Bidders shall appear at the Auction in person (live or on videoconference) and may speak or bid themselves or through duly authorized representatives. Only Qualified Bidders (including, for the avoidance of doubt, the Stalking Horse Purchaser) shall be entitled to make any subsequent bids at the Auction; *provided, however*, that any creditor who wishes to physically attend the Auction (other than (i) the parties set forth in the Bidding Procedures (including the Qualified Bidders), and (ii) such other parties the Debtors deem appropriate), shall provide at least two (2) days’ notice of such attendance prior to the Auction by sending an email to counsel to the Debtors.

b. Terms of Overbids

“Overbid” means any bid made at the Auction by a Qualified Bidder subsequent to the Debtors’ announcement of the Baseline Bid. Each Overbid must comply with the following conditions:

- (i) Minimum Overbid Increment. Any Overbid to the initial Baseline Bid at the start of the Auction shall be in increments of no less than a value equal to \$250,000 unless otherwise determined by the Debtors in an exercise of

their business judgment; *provided, however*, that to the extent that the Baseline Bid constitutes the Stalking Horse Bid, the bidding for such Assets at the first round of bidding will start at an amount equal to the sum of: (i) the value of the Baseline Bid, (ii) the amount of the Breakup Fee and Expense Reimbursement, and (iii) \$250,000.

- (ii) Conclusion of Each Overbid Round. Upon the solicitation of each round of Overbids, the Debtors may announce a deadline (as the Debtors may, in their business judgment, extend from time to time, the “Overbid Round Deadline”) by which time any Overbids must be submitted to the Debtors.
- (iii) Overbid Alterations. An Overbid may contain alterations, modifications, additions, or deletions of any terms of the Bid no less favorable to the Debtors’ estates than any prior Qualified Bid or Overbid, as determined in the Debtors’ business judgment, but shall otherwise comply with the terms of these Bidding Procedures.
- (iv) No Round-Skipping. Round-skipping, as described herein, is explicitly prohibited. To remain eligible to participate in the Auction, in each round of bidding, (i) each Qualified Bidder must submit a Bid in such round of bidding that is a higher or otherwise better offer than the immediately preceding Bid submitted by a Qualified Bidder in such round of bidding and (ii) to the extent a Qualified Bidder fails to bid in such round of bidding or to submit a Bid in such round of bidding that is a higher or otherwise better offer than the immediately preceding Bid submitted by a Qualified Bidder in such round of bidding, as determined by the Debtors in their reasonable business judgment, such Qualified Bidder shall be disqualified from continuing to participate in the Auction for the Assets including, without limitation, submitting further Bids.
- (v) Announcing Highest Bid. With respect to the Auction, the Debtors shall, subsequent to each Overbid Round Deadline, announce whether the Debtors in consultation with the Consultation Parties have identified (a) in the initial Overbid round, an Overbid as being higher or otherwise better than the Baseline Bid in respect of the Assets that are the subject of the Auction or (b) in subsequent rounds, an Overbid as being higher or otherwise better than the Overbid previously designated by the Debtors as the prevailing highest or otherwise best Bid (the “Prevailing Highest Bid”). The Debtors shall describe to all Qualified Bidders the material terms of any new Overbid designated by the Debtors as the Prevailing Highest Bid as well as the value attributable by the Debtors to such Prevailing Highest Bid based on, among other things, the Bid Assessment Criteria.

c. Consideration of Overbids

For the purpose of evaluating the value of the consideration provided by any Bid subsequent to the Baseline Bid, the Debtors will, at each round of bidding, give effect to the

Breakup Fee and Expense Reimbursement payable to the Stalking Horse Purchaser under the Stalking Horse APA.

The Debtors reserve the right, in their business judgment, to adjourn the Auction one or more times, to, among other things, (i) facilitate discussions between the Debtors and Qualified Bidders, (ii) allow Qualified Bidders to consider how they wish to proceed, and (iii) provide Qualified Bidders the opportunity to provide the Debtors with such additional evidence as the Debtors, in their business judgment, may require that the Qualified Bidder has sufficient internal approvals and resources or has received sufficient non-contingent debt or equity funding commitments to consummate the proposed Transaction at the prevailing Overbid amount.

d. Closing the Auction

The Auction shall continue until there is only one Qualified Bid that the Debtors determine, in their discretion following consultation with the Consultation Parties, to be the highest or otherwise best Qualified Bid for the Assets. Such Qualified Bid shall be declared the “Successful Bid,” and such Qualified Bidder, the “Successful Bidder,” at which point the Auction will be closed. The Auction shall not close unless and until all Qualified Bidders have been given a reasonable opportunity to submit an Overbid at the Auction to the then Prevailing Highest Bid. Such acceptance by the Debtors of such Successful Bid is conditioned upon approval by the Court of such Successful Bid. As soon as reasonably practicable after closing the Auction, the Debtors shall finalize definitive documentation to implement the terms of the Successful Bid, and, as applicable, cause such definitive documentation to be filed with the Court.

e. No Collusion; Good Faith *Bona Fide* Offer

Each Qualified Bidder participating at the Auction will be required to confirm on the record at the Auction that (i) it has not engaged in any collusion, within the meaning of section 363(n) of the Bankruptcy Code with respect to any bids submitted or not submitted in connection with the Sale, and (ii) its Qualified Bid is a good faith *bona fide* offer and it intends to consummate the proposed Transaction if selected as the Successful Bidder.

VI. Backup Bidder

- a. Notwithstanding anything in these Bidding Procedures to the contrary, if the Auction is conducted, the Qualified Bidder with the next-highest or otherwise second-best Qualified Bid at the conclusion of the Auction for the Assets or any sub-group thereof, as determined by the Debtors in the exercise of their business judgment, shall be required to serve as a backup bidder (the “Backup Bidder”) in accordance with the terms and conditions set forth herein. Each Qualified Bidder shall agree and be deemed to agree to be a Backup Bidder if so designated by the Debtors, subject to the terms of such Backup Bidder’s Competing APA.
- b. The identity of a Backup Bidder and the amount and material terms of the Qualified Bid of such Backup Bidder shall be announced by the Debtors, at the conclusion of the Auction at the same time the Debtors announce the identity of the Successful Bidder related thereto. Such Backup Bidder shall be required to keep its Qualified

Bid (or if the Backup Bidder submits one or more Overbids at the Auction, its final Overbid) open and irrevocable until the earlier of (i) the closing of the Approved Transaction and (ii) 60 days from entry of the Sale Order. Each Backup Bidder's Deposit shall be held in escrow until the earlier of (i) three (3) Business Days after the closing of the Approved Transaction and (ii) 60 days from entry of the Sale Order, subject to the terms of such Backup Bidder's Competing APA.

- c. If a Successful Bidder fails to consummate the Approved Transaction contemplated by its Successful Bid, the Debtors may select the Backup Bidder (which may be the Stalking Horse Purchaser) with respect to the Assets or sub-group of the Debtors' Assets or business as the Successful Bidder, and such Backup Bidder shall be deemed a Successful Bidder for all purposes. The Debtors will be authorized, but not required, to consummate all transactions contemplated by the Bid of such Backup Bidder without further order of the Court or notice to any party.
- d. Notwithstanding any of the foregoing, in the event that the Successful Bidder (other than the Stalking Horse Purchaser) fails to consummate the Transaction on or before the date that is sixty (60) days after entry of the Sale Order (or such date as may be extended by the Debtors in consultation with the Consultation Parties), the Backup Bid will be deemed to be the Successful Bid, the Backup Bidder will be deemed to be the Successful Bidder, and the Debtors shall be authorized to consummate the Transaction with the Backup Bidder subject to the terms of the Backup Bid without the need for further order of the Court and without the need for further notice to any interested parties.

VII. Notice and Consultation Parties

Information that is provided to the "Notice Parties" under these Bidding Procedures must be provided to the following parties: (a) proposed co-counsel to the Debtors, (i) Ropes & Gray LLP, 1211 Avenue of the Americas, New York, NY 10036, Attn: Gregg M. Galardi (gregg.galardi@ropesgray.com) and (ii) Chipman Brown Cicero & Cole LLP, 1313 N. Market Street, Suite 5400, Wilmington, DE 19801 (Attn: Mark L. Desgrosseilliers and Robert A. Weber; email: desgross@chipmanbrown.com and weber@chipmanbrown.com), and Chipman Brown Cicero & Cole LLP, 501 5th Ave, 15th Floor, New York, NY 10017 (Attn: Daniel G. Egan; email: egan@chipmanbrown.com); (b) counsel to the Stalking Horse Purchaser, Troutman Pepper Locke LLP, 300 S. Grand Ave., 26th Floor, Los Angeles, CA 90071 (Attn: David Kupetz; email: david.kupetz@troutman.com); (c) counsel to the DIP Agent and DIP Lender, King & Spalding LLP, 1100 Louisiana St., Suite 4100, Houston, TX 77002 (Attn: Michael Fishel; email: mfishel@kslaw.com) and Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, DE 19801 (Attn: Kenneth J. Enos; email: kenos@ycst.com); and (d) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Lock Box 35, Wilmington, Delaware 19801 (Attn: Rosa Sierra-Fox; email: Rosa.Sierra-Fox@usdoj.gov).

The term "Consultation Parties" as used in these Bidding Procedures shall mean (a) any official committee of unsecured creditors appointed in the Chapter 11 Cases (the "Creditors' Committee") and (b) the DIP Agent. In the event that a Consultation Party submits a Bid in

connection with an Auction, such party shall no longer be a Consultation Party with respect to the bidding and any Auction until such time as such party withdraws such Bid.

VIII. Consent to Jurisdiction

Any Acceptable Bidders and Qualified Bidders shall: (i) be deemed to have waived any right to a jury trial in connection with, and consented and submitted to the exclusive jurisdiction of the Court over, any disputes relating to, actions or proceedings arising from or relating to the Bidding Procedures, the Sale, the Auction and the construction and enforcement of the contemplated transaction documents; (ii) bring any such action or proceeding in the Court; and (ii) be deemed to have consented to the Court entering a final judgment determining any such action or proceeding and that such final judgment in any such action or proceeding, including all appeals, shall be conclusive and may be enforced in other jurisdictions (including any foreign jurisdictions) by suit on the judgment or in any other manner provided by applicable law.

IX. Sale Hearing

A hearing to consider approval of the sale (the "Sale Hearing"), pursuant to which the Debtors and the Successful Bidder will consummate the Transaction (the "Approved Transaction"), will be held no later than April 11, 2025.

The Sale Hearing may be continued to a later date by the Debtors by sending notice prior to, or making an announcement at, the Sale Hearing. No further notice of any such continuance will be required to be provided to any party.

X. Objection Deadlines

Any objections to the Sale (a "Sale Objection") must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"); (c) set forth the specific basis for the Sale Objection; (d) be filed with the Clerk of the Court, 824 N. Market Street, 3rd Floor, Wilmington, Delaware 19801 on or before **April 7, 2025 at 4:00 p.m. (ET)** (the "Sale Transaction Objection Deadline"), with proof of service of such Sale Objection upon the Notice Parties being filed with the Court as and when required by the Local Rules; and (e) be served upon the Notice Parties. The objection deadlines with respect to the proposed assumption and assignment of contracts and leases shall be as set forth in the Bidding Procedures Order.

XI. Return of Deposits

The Deposit of the Successful Bidder shall be applied to the purchase price of the Approved Transaction at closing. The Deposits for each Qualified Bidder shall be held in one or more escrow accounts on terms acceptable to the Debtors in their sole discretion and shall be returned (other than with respect to each Successful Bidder and each Backup Bidder) on the date that is three (3) business days after the Auction, or as soon as is reasonably practicable thereafter. Upon the return of the Deposits, the applicable Qualified Bidders shall receive any and all interest that will have accrued thereon.

If the Successful Bidder (or, if the Sale is to be closed with the Backup Bidder, then the Backup Bidder) other than the Stalking Horse Purchaser 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 Competing APA, the Debtors and their estates shall be entitled to retain the Deposit of the Successful Bidder (or, if the Sale is to be closed with the Backup Bidder, then the Backup Bidder).

To the extent the Debtors do not consummate the proposed transaction with the Backup Bidder due to the closing of the transaction with the Successful Bidder, the Backup Bidder's deposit shall be refunded within three (3) business days of the closing of the Approved Transaction.

XII. Sale Is As Is/Where is

Except as may be set forth in the Stalking Horse APA or Competing APA, the Assets sold pursuant to the Bidding Procedures shall be conveyed at the closing of such sale in their then-present condition, **"AS IS, WITH ALL FAULTS, AND WITHOUT ANY WARRANTY WHATSOEVER, EXPRESS OR IMPLIED."**

XIII. Reservation of Rights

The Debtors reserve their rights, subject to prior consultation with the Consultation Parties, to modify these Bidding Procedures in their business judgment in any manner that will best promote the goals of these Bidding Procedures or impose at or prior to the Auction, additional customary terms and conditions on a Transaction, including, without limitation: (a) extending the deadlines set forth in these Bidding Procedures; (b) adjourning the Auction at the Auction; (c) adding procedural rules that are reasonably necessary or advisable under the circumstances for conducting the Auction; (d) canceling the Auction; and (e) rejecting any or all Bids or Qualified Bids (other than the Stalking Horse Bid).

* * *

EXHIBIT 2

Sale Notice

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

<p>In re:</p> <p>Dynamic Aerostructures LLC, <i>et al.</i>,</p> <p style="text-align: center;">Debtors.¹</p>	<p>Chapter 11</p> <p>Case No. 25-10292 (xxx)</p> <p><i>(Joint Administration Pending)</i></p> <p>Re: Docket No. ____</p>
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**NOTICE OF PROPOSED SALE OF
ASSETS, STALKING HORSE APA, BIDDING
PROCEDURES, AUCTION, AND SALE HEARING**

PLEASE TAKE NOTICE that on [●], 2025, the above-captioned debtors and debtors in possession each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), in the United States Bankruptcy Court for the District of Delaware (the “Court”). The Debtors are seeking to sell (the “Sale”) all or substantially all of their assets (the “Assets”) free and clear of all Liens other than Assumed Liabilities (each as defined in the Stalking Horse APA, as defined below).² In connection with the Sale, the Debtors have entered into an asset purchase agreement dated as of February 24, 2025 (the “Stalking Horse APA”) with FMI Holdco LLC, subject to the Debtors’ acceptance of higher or otherwise better offers in accordance with the Bidding Procedures (as defined below).

Summary of Key Dates Established by Bidding Procedures

<u>Event/Deadline</u>	<u>Date</u>
Bidding Procedures Hearing	March 20, 2025
Sale Objection Deadline and Adequate Assurance Objection Deadline (for Stalking Horse Bidder)	April 7, 2025 at 4:00 p.m. (ET)
Bid Deadline	April 7, 2025 at 4:00 p.m. (ET)
Auction (if Necessary)	April 9, 2025 at 10:00 a.m. (ET)
File Notice of Successful Bidder	April 10, 2025
Adequate Assurance Objection Deadline (if Successful Bidder is not the Stalking Horse Bidder)	April 11, 2025 (at the time of the Sale Hearing)

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number are: Dynamic Aerostructures LLC (3076); Dynamic Aerostructures Intermediate LLC (9800); and Forrest Machining LLC (3421). The Debtors’ service address is 27756 Avenue Mentry, Valencia, California 91355.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Bidding Procedures Order and Bidding Procedures (each as defined below).

<u>Event/Deadline</u>	<u>Date</u>
Sale Hearing	April 11, 2025

PLEASE TAKE FURTHER NOTICE that by order, dated [●], 2025 [Docket No. [●]] (the “Bidding Procedures Order”), the Bankruptcy Court approved certain relief requested in the related motion [Docket No. [●]] (the “Bidding Procedures Motion”), and certain “Bidding Procedures” that govern the sale of the Assets to the highest or otherwise best bidders. Copies of the Bidding Procedures Motion, the Bidding Procedures Order, the Bidding Procedures and the Stalking Horse APA are available for download at www.veritaglobal.net/FMIAerostructures (the “Case Website”) or from the Debtors’ claims and noticing agent, Verita Global, via telephone at (888) 647-1726 (U.S./Canada) or (310) 751-2620 (International) or via email to fmiinfo@veritaglobal.com. A separate notice will be provided to counterparties to executory contracts and unexpired leases with the Debtors that may be assumed and assigned in connection with the Sale. **Any interested bidder should contact the Debtors’ proposed investment banking advisor, Configure Partners, LLC, 3344 Peachtree Rd. NE, Suite 1500, Atlanta, GA 30326 (Attn: Rory Keenan and Matt Guill; email: rkeenan@configurepartners.com and mguill@configurepartners.com).**

PLEASE TAKE FURTHER NOTICE that the deadline to submit a bid for any Assets is **April 7, 2025, at 4:00 p.m. (E.T.)**.

PLEASE TAKE FURTHER NOTICE that an auction for the Assets, unless cancelled or adjourned in accordance with the Bidding Procedures Order, will be held on **April 9, 2025 at 10:00 a.m. (E.T.)**, at the offices of Chipman Brown Cicero & Cole LLP, 1313 N. Market Street, Suite 5400, Wilmington, DE 19801, or such later date and time as selected by the Debtors (following consultation with the Consultation Parties).

PLEASE TAKE FURTHER NOTICE that unless adjourned in accordance with the Bidding Procedures Order, the Bankruptcy Court will conduct a hearing (the “Sale Hearing”) to consider the Sale on **April 11, 2025 at .m. (E.T.)**, subject to the Bankruptcy Court’s availability.

PLEASE TAKE FURTHER NOTICE that any objections to the Sale or the relief requested in connection with the Sale, including any objection to the sale of any Purchased Assets free and clear of liens, claims, interests, and encumbrances pursuant to section 363(f) of the Bankruptcy Code, the identity of the Stalking Horse Purchaser, or the adequate assurance of future performance by the Stalking Horse Purchaser but not including objections related to cure amounts for the Purchased Contracts or general objections to the assumption and assignment of the Purchased Contracts (each, a “Sale Objection”), must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Rules; (c) set forth the specific basis for the Sale Objection; (d) be filed with the Clerk of this Court, 824 N. Market Street, 3rd Floor, Wilmington, Delaware 19801 (the “Clerk”), and proof of service of such Sale Objection upon the Objection Notice Parties (as defined below) shall be filed with the Court as and when required by the Local Rules; and (e) be served upon the Objection Notice Parties. Sale Objections must be filed with the Clerk **on or before 4:00 p.m. (E.T.) on April 7, 2025** (the “Sale Objection Deadline”).

The “Objection Notice Parties” are as follows: (i) proposed counsel for the Debtors, Ropes & Gray LLP, 1211 Avenue of the Americas, New York, NY 10036 (Attn: Gregg M. Galardi, email: gregg.galardi@ropesgray.com), and Chipman Brown Cicero & Cole LLP, 1313 N. Market Street, Suite 5400, Wilmington, DE 19801 (Attn: Mark L. Desgrosseilliers and Robert A. Weber; email: desgross@chipmanbrown.com and weber@chipmanbrown.com), and Chipman Brown Cicero & Cole LLP, 501 5th Ave, 15th Floor, New York, NY 10017 (Attn: Daniel G. Egan; email: egan@chipmanbrown.com); (ii) counsel for the Stalking Horse Purchaser, Troutman Pepper Locke LLP, 300 S. Grand Ave., 26th Floor, Los Angeles, CA 90071 (Attn: David Kupetz; email: david.kupetz@troutman.com); (iii) counsel for any statutory committee of unsecured creditors appointed in these chapter 11 cases; (iv) counsel to the DIP Agent and the DIP Lender, King & Spalding LLP, 1100 Louisiana St., Suite 4100, Houston, TX 77002 (Attn: Michael Fishel; email: mfishel@kslaw.com) and Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, DE 19801 (Attn: Kenneth J. Enos; email: kenos@ycst.com); and (v) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Lock Box 35, Wilmington, Delaware 19801 (Attn: Rosa Sierra-Fox; email: Rosa.Sierra-Fox@usdoj.gov).

PLEASE TAKE FURTHER NOTICE THAT FAILURE TO ABIDE BY THE BIDDING PROCEDURES, THE BIDDING PROCEDURES ORDER OR ANY OTHER APPLICABLE ORDER OF THE COURT ENTERED IN THESE CHAPTER 11 CASES MAY RESULT IN THE REJECTION OF YOUR BID AND YOUR DISQUALIFICATION FROM PARTICIPATING IN THE BIDDING FOR AND AUCTION OF ANY OF THE DEBTORS’ ASSETS.

PLEASE TAKE FURTHER NOTICE THAT IF A SALE OBJECTION IS NOT FILED AND SERVED ON OR BEFORE THE APPLICABLE SALE OBJECTION DEADLINE IN ACCORDANCE WITH THE BIDDING PROCEDURES ORDER, THE OBJECTING PARTY MAY BE BARRED FROM OBJECTING TO THE SALE AND BEING HEARD AT THE SALE HEARING, AND THE BANKRUPTCY COURT MAY ENTER THE SALE ORDER WITHOUT FURTHER NOTICE TO SUCH PARTY.

Dated: _____, 2025
Wilmington, Delaware

CHIPMAN BROWN CICERO & COLE, LLP

/s/ Draft

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Proposed Counsel to the Debtors and Debtors in Possession

EXHIBIT 3

Notice of Successful Bidder

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

In re: Dynamic Aerostructures LLC, <i>et al.</i> , Debtors. ¹	Chapter 11 Case No. 25-10292 (xxx) <i>(Joint Administration Pending)</i> Sale Hearing Date: TBD
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NOTICE OF SUCCESSFUL BIDDER AND BACK-UP BIDDER

PLEASE TAKE NOTICE OF THE FOLLOWING:

On [●], 2025, the above captioned debtors and debtors in possession (collectively, the “Debtors”) filed the *Debtors’ Motion for Entry of an Order (A)(I) Approving Bidding Procedures for the Sale of the Debtors’ Assets, (II) Scheduling Hearings and Objection Deadlines with Respect to the Sale, (III) Scheduling Bid Deadlines and an Auction, (IV) Approving the Form and Manner of the Notice Thereof, (V) Approving Assumption and Assignment Procedures for Executory Contracts and Unexpired Leases, (VI) Authorizing and Approving the Debtors’ Entry Into the Stalking Horse APA, (VII) Authorizing and Approving Bid Protections, and (VII) Granting Related Relief and (B)(I) Approving the Sale of Substantially All of the Debtors’ Assets Free and Clear of Liens, Claims, Interests, and Encumbrances, (II) Approving Assumption and Assignment of Executory Contracts and Unexpired Leases, and (III) Granting Related Relief* [Docket No. [●]] (the “Bidding Procedures Motion”) seeking approval of, among other things, the procedures to be employed by the Debtors in connection with the proposed sale of all or substantially all of the Debtors’ assets (collectively, the “Assets”) through a section 363 sale process.

On [●], 2025, the United States Bankruptcy Court for the District of Delaware (the “Court”) entered an order [Docket No. [●]] (the “Bidding Procedures Order”),² granting the relief sought in the Bidding Procedures Motion, including, among other things, approving the Bidding Procedures, which established certain key dates and times related to the Sale and Auction, and authorizing the Debtors to enter into and perform under the Stalking Horse APA.

On **April 9, 2025 at 10:00 a.m. (E.T.)**, pursuant to the Bidding Procedures Order, the Debtors commenced the Auction with respect to the Assets either in-person or by videoconference or such other form of remote communication established by the Debtors.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number are: Dynamic Aerostructures LLC (3076); Dynamic Aerostructures Intermediate LLC (9800); and Forrest Machining LLC (3421). The Debtors’ service address is 27756 Avenue Mentry, Valencia, California 91355.

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Bidding Procedures Order or the Bidding Procedures, attached to the Bidding Procedures Order as Exhibit 1 thereto, as applicable.

At the conclusion of the Auction, the Debtors, in consultation with the Consultation Parties, selected the following Successful Bidder and Back-Up Bidder with respect to the Assets.

Successful Bidder	
Back-Up Bidder	

The Sale Hearing to consider approval of the sale to the Successful Bidder at the Auction referenced above will be held before the Honorable _____, at the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, ___ Floor, Wilmington, Delaware 19801, on **April 11, 2025 at ___:00 .m. (E.T.)**.

At the Sale Hearing, the Debtors will seek the Court's approval of the Successful Bid and designation of the Back-Up Bid (if any). Unless the Court orders otherwise, the Sale Hearing shall be an evidentiary hearing on matters relating to the sale for the applicable Assets, and there will be no further bidding at the Sale Hearing. If a Successful Bidder cannot or refuses to consummate the applicable sale transaction following entry of the applicable Sale Order because of the breach or failure on the part of the Successful Bidder, the Back-Up Bidder (if any) shall be deemed the new Successful Bidder and the Debtors shall be authorized, but not required, to close the applicable sale transaction with such Back-Up Bidder on the terms and provisions of such applicable Back-Up Bid without further order of the Court.

This notice is subject to the terms and conditions of the Bidding Procedures Order, and the Debtors encourage parties in interest to review such documents, including the Bidding Procedures, attached as Exhibit 1 to the Bidding Procedures Order, in their entirety.

Copies of the Motion, the Bidding Procedures Order, the Bidding Procedures, this notice, and any other related documents are available: (a) upon request to Verita Global via email at fmiinfo@veritaglobal.com; (b) by visiting the Debtors' restructuring website at www.veritaglobal.net/FMIAerostructures; or (c) for a fee via PACER by visiting <https://pacer.uscourts.gov>.

EXHIBIT 4

Potential Assignment Notice

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

In re:

Dynamic Aerostructures LLC, *et al.*,
Debtors.¹

Chapter 11

Case No. 25-10292 (xxx)

(Joint Administration Pending)

Re: Docket No. ____

**NOTICE OF POTENTIAL ASSUMPTION AND ASSIGNMENT OF EXECUTORY
CONTRACTS AND UNEXPIRED LEASES OF THE DEBTORS**

YOU ARE RECEIVING THIS NOTICE BECAUSE YOU MAY BE A COUNTERPARTY TO A CONTRACT OR LEASE WITH ONE OR MORE OF THE ABOVE-CAPTIONED DEBTORS OR DEBTORS IN POSSESSION. PLEASE READ THIS NOTICE CAREFULLY AS YOUR RIGHTS MAY BE AFFECTED BY THE POTENTIAL TRANSACTIONS DESCRIBED HEREIN.

PLEASE TAKE NOTICE OF THE FOLLOWING:

1. On [●], 2025, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), in the United States Bankruptcy Court for the District of Delaware (the “Court”).

2. On [●], 2025, the Debtors filed the *Debtors’ Motion for Entry of an Order (A)(I) Approving Bidding Procedures for the Sale of the Debtors’ Assets, (II) Scheduling Hearings and Objection Deadlines with Respect to the Sale, (III) Scheduling Bid Deadlines and an Auction, (IV) Approving the Form and Manner of the Notice Thereof, (V) Approving Assumption and Assignment Procedures for Executory Contracts and Unexpired Leases, (VI) Authorizing and Approving the Debtors’ Entry Into the Stalking Horse APA, (VII) Authorizing and Approving Bid Protections, and (VII) Granting Related Relief and (B)(I) Approving the Sale of Substantially All of the Debtors’ Assets Free and Clear of Liens, Claims, Interests, and Encumbrances, (II) Approving Assumption and Assignment of Executory Contracts and Unexpired Leases, and (III) Granting Related Relief* [Docket No. [●]] (the “Bidding Procedures Motion”) seeking approval of, among other things, the procedures to be employed by the Debtors in connection with the proposed sale (the “Sale”) of all or substantially all of the Debtors’ assets (collectively, the “Assets”) through a section 363 sale process.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number are: Dynamic Aerostructures LLC (3076); Dynamic Aerostructures Intermediate LLC (9800); and Forrest Machining LLC (3421). The Debtors’ service address is 27756 Avenue Mentry, Valencia, California 91355.

3. On [●], 2025, the Court entered an order [Docket No. [●]] (the “Bidding Procedures Order”),² granting the relief sought in the Bidding Procedures Motion, including, among other things, approving the Bidding Procedures, which established certain key dates and times related to the Sale and Auction, and authorizing the Debtors to enter into and perform under an asset purchase agreement, dated as of February 25, 2025 (the “Stalking Horse APA”), with FMI Holdco LLC (the “Stalking Horse Purchaser”), subject to the Debtors’ acceptance of higher or otherwise better offers in accordance with the Bidding Procedures.

4. **You are receiving this notice because you or one of your affiliates may be a party to an unexpired lease or an executory contract that *may* potentially be assumed and assigned (collectively, the “Potentially Assigned Agreements” and each, a “Potentially Assigned Agreement”) in connection with the Sale pursuant to sections 363 and 365 of the Bankruptcy Code. A list of the Potentially Assigned Agreements is attached hereto as Exhibit A. The presence of a contract or lease on Exhibit A attached hereto does not constitute an admission that such contract or lease is an executory contract or unexpired lease or that such contract or lease will be assumed and assigned as part of the Sale. The Debtors reserve all of their rights, claims, and causes of action with respect to the contracts and leases listed on Exhibit A attached hereto.**

5. On [●], 2025, the Debtors filed the *Debtors’ Motion for Entry of an Order (I) Setting Cure Amounts for Certain Contracts and Leases, and (II) Granting Related Relief* (the “Cure Cost Motion”) listing contracts and leases and the cure amounts, if any, that the Debtors believe must be paid to cure any prepetition defaults under such listed contracts and leases (in each instance, the “Cure Cost”). Objections, if any, to Cure Costs and the proposed assumption and assignment of any contract or lease listed in the Cure Cost Motion are governed by the Cure Cost Motion and any order entered in connection therewith. To the extent any Assigned Contract listed in Exhibit A attached hereto was not previously listed in the Cure Cost Motion (a “Supplemental Assigned Contract”), the Debtors have indicated the Cure Cost, if any, for such Supplemental Assigned Contract on Exhibit A hereto.

6. Pursuant to the Bidding Procedures Order, objections based on adequate assurance of future performance of the Stalking Horse Purchaser or, solely with respect to Supplemental Assigned Contracts, to the proposed assumption, assignment, cure, or adequate assurance of future performance (other than objections related solely to adequate assurance of future performance by a Successful Bidder other than the Stalking Horse Purchaser), must (1) (a) be in writing; (b) state the basis for such objection; and (c) if such objection is to the Cure Cost, state with specificity what Cure Cost the counterparty believes is required (in all cases, with appropriate documentation in support thereof) and (2) be filed with the Court and served no later than **April 7, 2025 at 4:00 p.m. (ET)** on the following parties (the “Objection Notice Parties”): (i) proposed counsel for the Debtors, Ropes & Gray LLP, 1211 Avenue of the Americas, New York, NY 10036 (Attn: Gregg M. Galardi, email: gregg.galardi@ropesgray.com), and Chipman Brown Cicero & Cole LLP, 1313 N. Market Street, Suite 5400, Wilmington, DE 19801 (Attn: Mark L. Desgrosseilliers and Robert A. Weber; email: desgross@chipmanbrown.com and weber@chipmanbrown.com), and Chipman Brown Cicero & Cole LLP, 501 5th Ave, 15th Floor, New York, NY 10017 (Attn: Daniel G. Egan;

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Bidding Procedures Order or the Bidding Procedures, attached to the Bidding Procedures Order as Exhibit 1 thereto, as applicable.

email: egan@chipmanbrown.com); (ii) counsel for the Stalking Horse Purchaser, Troutman Pepper Locke LLP, 300 S. Grand Ave., 26th Floor, Los Angeles, CA 90071 (Attn: David Kupetz; email: david.kupetz@troutman.com); (iii) counsel for any statutory committee of unsecured creditors appointed in these chapter 11 cases; (iv) counsel to the DIP Agent and the DIP Lender, King & Spalding LLP, 1100 Louisiana St., Suite 4100, Houston, TX 77002 (Attn: Michael Fishel; email: mfishel@kslaw.com) and Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, DE 19801 (Attn: Kenneth J. Enos; email: kenos@ycst.com); and (v) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Lock Box 35, Wilmington, Delaware 19801 (Attn: Rosa Sierra-Fox; email: Rosa.Sierra-Fox@usdoj.gov).

7. Subject to the terms of the Bidding Procedures Order, an auction (the “Auction”) for the Assets, including the Potentially Assigned Agreements, will be conducted on **April 9, 2025 at 10:00 a.m. (ET)**. As soon as reasonably practicable after closing the Auction, if any, the Debtors will file and serve a notice that identifies the Successful Bidder for the Assets, including any Potentially Assigned Agreements.

8. In the event that the Stalking Horse Purchaser is not the Successful Bidder, the deadline for each counterparty to a Potentially Assigned Agreement to object to the assumption and assignment of such Potentially Assigned Agreement based on adequate assurance of future performance by the Successful Bidder (a “Successful Bidder Adequate Assurance Objection”) shall be **April 11, 2025 at the time of the Sale Hearing**, and any Successful Bidder Adequate Assurance Objection must be filed and served in the same manner and on the same Objection Notice Parties as set forth in paragraph 6 above.

9. The Court will hear and determine any objections to the assumption and assignment of the Potentially Assigned Agreements to the Successful Bidder at the Sale Hearing or at a later date as may be fixed by the Court. The Sale Hearing to consider the proposed Sale shall be held before the Honorable _____ on **April 11, 2025 at __:00 .m. (ET)**, or such other date as determined by the Court, at the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, __ Floor, Courtroom No. __, Wilmington, Delaware 19801

10. IF YOU DO NOT FILE AND SERVE AN OBJECTION IN A MANNER THAT IS CONSISTENT WITH IN ACCORDANCE WITH THE INSTRUCTIONS AND DEADLINES SET FORTH HEREIN, AND ABSENT A PRIOR OR SUBSEQUENT ORDER OF THE COURT ESTABLISHING AN ALTERNATIVE CURE COST, (A) THE CURE COSTS, IF ANY, SET FORTH ON EXHIBIT A SHALL BE BINDING AND CONTROLLING, NOTWITHSTANDING ANYTHING TO THE CONTRARY IN YOUR CONTRACT OR LEASE OR ANY OTHER DOCUMENT, AND SHALL BE THE ONLY AMOUNTS NECESSARY TO BE PAID TO CURE ALL MONETARY DEFAULTS PURSUANT TO SECTION 365(b) OF THE BANKRUPTCY CODE UNDER SUCH CONTRACT OR LEASE, TO THE EXTENT THE STALKING HORSE PURCHASER (OR OTHER SUCCESSFUL BIDDER) ULTIMATELY DECIDES TO HAVE YOUR CONTRACT OR LEASE ASSUMED AND ASSIGNED TO IT, AND (B) YOU WILL BE DEEMED TO HAVE CONSENTED TO THE ASSUMPTION AND ASSIGNMENT OF YOUR CONTRACT OR LEASE AND THE CURE COSTS, IF ANY, AND WILL BE FOREVER BARRED FROM OBJECTING TO THE ASSUMPTION AND ASSIGNMENT

OF SUCH CONTRACT OR LEASE AND RIGHTS THEREUNDER, INCLUDING THE CURE COSTS, IF ANY, AND FROM ASSERTING ANY OTHER CLAIMS RELATED TO SUCH CONTRACT OR LEASE AGAINST THE DEBTORS OR THE SUCCESSFUL BIDDER, OR THE PROPERTY OF ANY OF THEM.

11. If any objection to the assumption or assignment of any Potentially Assigned Agreement is not satisfactorily resolved, the Successful Bidder and Debtors may determine that such Potentially Assigned Agreement should be rejected and not assigned, in which case neither the Debtors nor the Successful Bidder will be responsible for any Cure Cost with respect to such contract or lease.

12. Copies of the Bidding Procedures Motion, the Bidding Procedures Order, the Bidding Procedures, this notice, and any other related documents are available: (a) upon request to Verita Global via email at fmiinfo@veritaglobal.com; (b) by visiting the Debtors' restructuring website at www.veritaglobal.net/FMIAerostructures; or (c) for a fee via PACER by visiting <https://pacer.uscourts.gov>.

13. Adequate assurance of future performance information for the Stalking Horse Purchaser is available by contacting counsel to the Stalking Horse Purchaser at: Troutman Pepper Locke LLP, 300 S. Grand Ave., 26th Floor, Los Angeles, CA 90071 (Attn: David Kupetz; email: david.kupetz@troutman.com).

Dated: _____, 2025
Wilmington, Delaware

CHIPMAN BROWN CICERO & COLE, LLP

/s/ _____
Robert A. Weber (I.D. No. 4013)
Mark L. Desgrosseilliers (No. 4083)
Hercules Plaza
1313 North Market Street, Suite 5400
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Telephone: (302) 295-0192
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-and-

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*Proposed Counsel to the Debtors and Debtors in
Possession*

EXHIBIT A TO ASSIGNMENT NOTICE

EXHIBIT B

Stalking Horse APA

ASSET PURCHASE AGREEMENT

by and among

FORREST MACHINING LLC,

DYNAMIC AEROSTRUCTURES LLC, and

DYNAMIC AEROSTRUCTURES INTERMEDIATE LLC,

as Sellers,

and

FMI HOLDCO LLC, as Purchaser

Dated as of February 25, 2025

DISCLAIMER: THIS DRAFT IS SUBJECT IN ALL RESPECTS TO THE CONFIDENTIALITY AGREEMENT YOU ENTERED INTO WITH ONE OR MORE OF THE SELLERS (AS DEFINED HEREIN). THIS IS A PROPOSED FORM PURCHASE AGREEMENT ONLY, AND NOT AN OFFER THAT CAN BE ACCEPTED. UNTIL THE AUTHORIZED REPRESENTATIVES OF THE SELLERS AGREE TO AND EXECUTE A DEFINITIVE AGREEMENT, THE SELLERS HAVE NO OBLIGATION (LEGAL OR OTHERWISE) TO CONCLUDE A TRANSACTION. UNLESS INCLUDED IN A DEFINITIVE AGREEMENT, COMMUNICATIONS (WRITTEN OR ORAL) SHALL NOT CREATE ANY OBLIGATIONS WHATSOEVER ON THE SELLERS AND NO PERSON, INCLUDING ANY RECIPIENT OF THIS PROPOSED FORM, MAY RELY ON THEM AS THE BASIS FOR TAKING OR FOREGOING ANY ACTION OR OPPORTUNITY OR FOR INCURRING ANY COSTS. THE SELLERS RESERVE THE RIGHT TO REJECT ANY OR ALL PROPOSALS FOR ANY REASON WHATSOEVER AND TO ACCEPT ANY ONE OR MORE PROPOSALS FOR ANY REASON, AND TO NEGOTIATE SUCH PROPOSALS IN ANY MATTER THEY DEEM APPROPRIATE, AND FURTHER RESERVE THE RIGHT TO REVISE AND COMMENT UPON THIS PROPOSED FORM AFTER THE DATE HEREOF.

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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “Agreement”), dated as of February 25, 2025 (the “Effective Date”), is made by and among Forrest Machining LLC, a California limited liability company (“FMI”), Dynamic Aerostructures LLC, a Delaware limited liability company (“Parent”), and Dynamic Aerostructures Intermediate LLC (“Intermediate” and, together with FMI and Parent, “Sellers” and each a “Seller”), and FMI Holdco LLC, a Delaware limited liability company (“Purchaser” and, together with Sellers, the “Parties”). Capitalized terms used in this Agreement are defined or cross-referenced in Article 10.

BACKGROUND INFORMATION

A. Sellers are contemplating filing voluntary petitions (collectively, “Bankruptcy Cases” and such filing date, the “Petition Date”) under title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware or any other court having jurisdiction over the Bankruptcy Cases from time to time (the “Bankruptcy Court”).

B. Sellers are engaged in the business of manufacturing complex machined components and assemblies for the aerospace and defense industry, specializing in manufacturing structural airframe and wing components (including all related activities of the Sellers pertaining thereto, the “Business”). Sellers’ principal executive offices are located in Valencia, California, and Sellers have facilities located at 27712 Avenue Mentry, Valencia, California 91355 and 27756 Avenue Mentry, Valencia, California 91355 (each a “Facility” and, collectively, the “Facilities”).

C. Subject to approval of the Bankruptcy Court, Sellers desire to sell, transfer, convey, assign and deliver to Purchaser, and Purchaser desires to purchase, acquire, and assume from Sellers pursuant to, *inter alia*, Sections 105, 363 and 365 of the Bankruptcy Code, all of the Purchased Assets, together with the Assumed Liabilities, all in the manner and subject to the terms and conditions set forth in this Agreement.

D. The Purchased Assets are to be purchased and assumed by Purchaser on an “as-is” basis pursuant to this Agreement and an order of the Bankruptcy Court approving such sale pursuant to Sections 105, 363, and 365 of the Bankruptcy Code in a form reasonably acceptable to each of Purchaser and Sellers (the “Sale Order”).

E. The execution and delivery of this Agreement and Sellers’ ability to consummate the transactions contemplated hereby are subject to, among other things, consideration of Alternative Bids (if any) and the entry of the Sale Order pursuant to, *inter alia*, Sections 363 and 365 of the Bankruptcy Code.

NOW, THEREFORE, in consideration of the foregoing and their respective representations, warranties, covenants and agreements herein contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Sellers and Purchaser hereby agree as follows:

ARTICLE 1. PURCHASE AND SALE OF THE PURCHASED ASSETS

Section 1.1 Purchased Assets. At the Closing, and upon the terms and conditions herein set forth, Sellers shall sell, assign, transfer and convey to Purchaser, and Purchaser shall acquire from Sellers, all of the Sellers' right, title and interest in, to and under the following assets, properties and rights, free and clear of all Liens (other than Liens created by Buyer and Permitted Liens), except as provided herein, but otherwise in "as is and where is" condition (collectively, the "Purchased Assets"):

- (a) the Accounts Receivable of Sellers outstanding as of the Closing Date;
- (b) to the extent assignable pursuant to Sections 363 and 365 of the Bankruptcy Code, the Contracts listed or described on Schedule 1.1(b), as may be amended (the "Assigned Contracts"), and all purchase orders of the Sellers that are issued in the ordinary course of business and outstanding as of the Closing Date (the "Assigned Purchase Orders");
- (c) to the extent assignable pursuant to Sections 363 and 365 of the Bankruptcy Code, the Real Property Leases of Sellers, and rights thereunder, listed or described on Schedule 1.1(c) (such Real Property Leases, the "Assigned Real Property Leases");
- (d) any Owned Real Property of a Seller set forth on Schedule 1.1(d);
- (e) any environmental indemnification or similar agreements relating to the Purchased Assets; provided that any such transfer shall be on a non-exclusive basis and shall not impact any of the Sellers' ability to enforce such agreement(s);
- (f) all machinery, equipment, tools, fixtures, parts, supplies, inventory, furniture, fixtures, motor vehicles, hardware, raw materials, work in process, unfinished goods, finished goods, rolling stock, tools and any other tangible personal property owned by the Sellers as of the Closing Date;
- (g) to the extent assignable pursuant to Sections 363 and 365 of the Bankruptcy Code and applicable Law, all Permits set forth on Schedule 1.1(g) and pending applications therefor;
- (h) to the extent assignable pursuant to Sections 363 and 365 of the Bankruptcy Code, all Intellectual Property that is owned or licensed by each Seller as of the Closing as set forth on Schedule 1.1(h);
- (i) all books and records relating to the Purchased Assets, except those: (i) relating primarily to any Excluded Asset or Excluded Liability; (ii) relating primarily to employees of a Seller who are not Transferred Employees; or (iii) that a Seller is not permitted to transfer under applicable Law;
- (j) all telephone and facsimile numbers, email and web addresses, social media accounts and other directory listings used by the Sellers, to the extent assignable;

(k) to the extent assignable pursuant to Sections 363 and 365 of the Bankruptcy Code, the equipment leases listed or described on Schedule 1.1(k) (the “Assigned Equipment Leases” and together with the Assigned Contracts and Assigned Real Property Lease(s), the “Assigned Agreements”);

(l) other than as set forth on Schedule 1.1(l) or as otherwise set forth in this Agreement, any rights, claims, credits, refunds, causes of action, choses in action, rights of recovery and rights of setoff of each Seller against third parties arising out of, or primarily related to, the Purchased Assets, including (a) any rights in connection with product returns, rebates, credits and related claims and any rights under or pursuant to any and all warranties, representations and guarantees made by suppliers, manufacturers and contractors relating to products sold, or services provided, to each Seller primarily related to the Purchased Assets, and (b) all Avoidance Actions (the “Purchased Avoidance Actions”), claims arising under any Assigned Contract or related to the Business, and commercial tort claims, in each case against Transferred Employees and the Sellers’ customers, suppliers, and vendors with whom the Purchaser intends to do business after the Closing Date (the “Designated Parties”); provided, that it is understood and agreed by the parties that the Purchaser will not assert or pursue any Purchased Avoidance Actions against any of the Designated Parties other than as a defense, offset, or counterclaim against any claim or cause of action raised or asserted by such Designated Party;

(m) all rights of each Seller under non-disclosure or confidentiality, non-disparagement, non-compete, or non-solicitation agreements with the Transferred Employees or any employees of each Seller terminated within two (2) years prior to the Closing Date;

(n) (1) the Seller Benefit Plans listed on Schedule 1.1(n) (collectively, the “Assumed Plans”), and any trusts, assets, reserves, credits and service agreements and all documents created, filed or maintained in connection with the Assumed Plans to the extent transferable in accordance with the existing terms and conditions of such Assumed Plans, and any applicable insurance policies related to the Assumed Plans;

(o) All Improvements;

(p) all Inventory held by each Seller as of the Closing Date;

(q) the additional assets listed on Schedule 1.1(q); and

(r) all goodwill as of the Closing Date that is associated with the Business.

Section 1.2 Excluded Assets. Any assets of the Sellers that are not specifically identified above as being part of the Purchased Assets are deemed to be “Excluded Assets.” The Excluded Assets are not being sold to Purchaser hereunder. Excluded Assets include, but are not limited to:

(a) all Cash of the Sellers, including the Purchase Price (defined below);

(b) all deposits and prepayments, including all post-petition adequate assurance deposits provided or established in favor of utility providers;

(c) all insurance policies of each Seller (including any directors' and officers' (or similar) insurance policies, any insurance policies of Sellers that cover directors and officers, and any rights thereunder), and all credits, premium refunds, proceeds, causes of action or rights arising thereunder, and the amount of, and all rights to any insurance proceeds under any Insurance Policies received by either Sellers or Purchaser after the Closing Date in respect of the loss, liability, destruction or condemnation of any Excluded Assets occurring prior to, on, or after the Closing or relating to any Excluded Liabilities;

(d) all minute books, stock ledgers, corporate seals and stock certificates of each Seller and other similar books and records (1) that are primarily related to any Excluded Assets or Excluded Liabilities, or (2) which a Seller is required by Law or determines are necessary or advisable to retain, including all Tax Returns and related workpapers, financial statements and corporate or other entity filings;

(e) all Avoidance Actions other than Purchased Avoidance Actions;

(f) all receivables, claims or causes of action related primarily to any Excluded Asset or Excluded Liability or as otherwise set forth on Schedule 1.2(f);

(g) all refunds, credits and rebates of Taxes for any period (or portion thereof) ending on or prior to the Closing Date;

(h) any rights, claims or causes of action of each Seller under this Agreement or any documents, agreements, or instruments ancillary hereto;

(i) all Contracts, Real Property Leases, and equipment leases other than Assigned Agreements (collectively, "Excluded Agreements");

(j) all Seller Benefit Plans, except the Assumed Plans, and trusts or other assets attributable thereto, including any assets, reserves, credits and service agreements, and all documents created, filed or maintained in connection with such Seller Benefit Plans and any applicable insurance policies related to such Seller Benefit Plans;

(k) any personally identifiable information of the Sellers' former employees;

(l) any finished goods of the Sellers which Sellers sell prior to the Closing;

(m) any retainers or similar amounts paid to or on behalf of Sellers' attorneys, advisors, investment bankers, or other professional service providers; and

(n) any other assets, properties, and rights specifically set forth on Schedule 1.2(n).

In addition, in no event shall the Purchased Assets include any assets owned by third parties and located at any of the Facilities.

Section 1.3 Assumption of Liabilities. Upon the terms and subject to the conditions set forth in this Agreement, at the Closing, Purchaser shall assume and agree to pay, perform and

discharge, when due (in accordance with its respective terms and subject to the respective conditions thereof), only the following Liabilities (without duplication) (collectively the “Assumed Liabilities”):

(a) all Cure Costs of each Seller arising under the Assigned Agreements and the Assigned Purchase Orders (payment of all Cure Costs shall be made entirely from the \$16,000,000 cash component of the Purchase Price);

(b) the obligation to pay the amounts owed for goods or services received by each Seller in the ordinary course of business in respect of any trade and vendor accounts payable arising after the Petition Date, excluding any amounts owed to professionals retained by an order of the Bankruptcy Court under Section 327, 328, 1102 or 1103 of the Bankruptcy Code (such payables, the “Accounts Payable”);

(c) any and all Liabilities arising under any Assumed Plan (to the extent transferable in accordance with the existing terms and conditions of the applicable Assumed Plan);

(d) any Liability related to the Business arising under Environmental Laws and attributable to or incurred as a result of any acts, omissions, or conditions first occurring on or after the Closing Date, including any Liability with respect to the release, handling, discharge, treatment, storage, generation, disposal, or presence of Hazardous Materials at any location and compliance with any Laws relating to the foregoing;

(e) all Liabilities arising out of the conduct of the Business, ownership or operation of the Purchased Assets, or associated with the Transferred Employees on or after the Closing Date;

(f) 100% of all Transaction Taxes assessed in connection with the sale, transfer, and assignment of the Purchased Assets;

(g) all Taxes arising out of the conduct of the Business, ownership of the Purchased Assets, or associated with the Transferred Employees, in each case, attributable to periods (or portions thereof) beginning after the Closing Date; and

(h) those liabilities set forth on Schedule 1.3(i), as the same may be amended.

Section 1.4 Excluded Liabilities. Notwithstanding any provision in this Agreement to the contrary, Purchaser shall not assume and shall not be obligated to assume or be obliged to pay, perform or otherwise discharge any Liability of any Seller other than the Assumed Liabilities (collectively, the “Excluded Liabilities”). Excluded Liabilities include the following:

(a) any Liability of Sellers arising out of, or relating to, this Agreement or the transactions contemplated hereby, whether incurred prior to, at or subsequent to the Closing Date including all finder’s or broker’s fees and expenses, but excluding any Transaction Taxes;

(b) any Liability incurred by any Seller or its respective directors, officers, managers, stockholders, members, partners, agents or employees (acting in such capacities) after the Closing Date;

(c) any Liability to the extent relating to, resulting from, or arising out of the ownership or operation of an Excluded Asset;

(d) all checks and drafts that have been written or submitted by Sellers prior to the close of business on the Closing Date but have not yet cleared;

(e) other than as explicitly included in the Assumed Liabilities, any Liability of Sellers arising from or related to the Business and its operations prior to Closing; and

(f) other than as explicitly included in Assumed Liabilities, any Liability of Sellers for any Indebtedness.

Section 1.5 Assumed and Assigned Agreements. Sellers shall provide Purchaser with a true and correct list of all Contracts and leases (the “Available Contracts”) promptly following the date hereof and in no event later 20 days following the date hereof, which time may be reasonably extended upon the agreement (email to suffice) of the Purchaser and the Sellers, which list may be updated to add or remove Contracts and leases entered into in the ordinary course of business or otherwise not prohibited by this Agreement following the date hereof or that were inadvertently included or excluded from such list. No later than two (2) Business Days prior to the Auction (the “Designation Deadline”), Purchaser shall designate in writing which Available Contracts that Purchaser wishes for the Sellers to assume and assign to Purchaser at the Closing. Purchaser agrees to assume Sellers’ obligations arising from and after the Closing Date under the Contracts and leases designated by Purchaser for assumption and assignment and approved by the Bankruptcy Court for assumption by Sellers and assignment to Purchaser. In the event a counterparty to a Contract or lease designated by Purchaser as an Assigned Agreement objects to the proposed Cure Cost, such Contract or lease shall become a “Disputed Contract” and Sellers, in consultation with Purchaser, shall either settle the objection or litigate such objection in accordance with procedures as the Bankruptcy Court shall approve. Subject to the foregoing, the Cure Cost fixed by the Bankruptcy Court with respect to any Assigned Agreement, or such other amount agreed to by Sellers and the applicable counterparty to the Assigned Agreement, shall be paid by Purchaser (as part of the \$16,000,000 cash component of the Purchase Price) to the applicable counterparty entitled thereto and Sellers shall have no liability therefor, and the Cure Costs shall be paid and deducted on a dollar-for-dollar basis from the cash portion of the Purchase Price (the “Cure Cost Deduction”). Further, Purchaser shall provide adequate assurance of future performance under the Assigned Agreements, as same is required by the Bankruptcy Court and under applicable Law. Sellers make no representation or warranty with respect to the future performance of any parties to the Assigned Agreements. Sellers make no representation or warranty as to whether any Assigned Agreement can be assumed and assigned under applicable Law or otherwise. Purchaser acknowledges that the Bankruptcy Court may not approve assumption and assignment of all Assigned Agreements designated by the Purchaser hereunder and agrees to close on the sale when and if required by this Agreement notwithstanding such risk.

Section 1.6 Assignment of Certain Assigned Agreements. Notwithstanding any other provision of this Agreement to the contrary, this Agreement will not constitute an agreement to assign or transfer, and will not affect the assignment or transfer of, any Assigned Agreement if (i) an attempted assignment or transfer thereof, without the approval, authorization or consent of, or granting or issuance of any Permit by, any third party thereto (each such action, a “Necessary

Consent”), would constitute a breach, default or violation thereof or of any applicable Law, and (ii) the Bankruptcy Court has not entered an Order providing that such Necessary Consent is not required. If any Necessary Consent is not obtained prior to the Closing, or if the sale, conveyance, assignment, transfer or delivery (or attempted sale, conveyance, assignment, transfer or delivery) of any such Assigned Agreement would constitute or result in a violation of applicable Law, Sellers and Purchaser will, to the extent permitted by applicable Law and subject to the terms of any applicable Assigned Agreement, and at Purchaser’s sole cost and expense, cooperate and use their reasonable best efforts to enter into a subcontracting, sublicensing or other mutually acceptable arrangement under which Purchaser would, in compliance with applicable Law and the terms of the applicable Assigned Agreement, obtain the benefits of, and assume the obligations and bear the economic and operational burdens associated with such Assigned Agreement as if such Assigned Agreement had been assigned, transferred, and/or assumed pursuant to this Agreement.

Section 1.7 Bulk Sales Laws. Purchaser hereby waives compliance by Sellers with the requirements and provisions of any “bulk-transfer” Law of any jurisdiction that may otherwise be applicable with respect to the sale of any or all of the Purchased Assets to Purchaser. Pursuant to Section 363(f) of the Bankruptcy Code, the transfer of the Purchased Assets shall be free and clear of any and all Liens and Liabilities in the Purchased Assets (other than Liens created by Buyer and Permitted Liens), including any Liens or claims arising out of any bulk-transfer Laws, and the Parties shall take such steps as may be necessary or appropriate to so provide in the Sale Order.

ARTICLE 2. CONSIDERATION

Section 2.1 Consideration. The aggregate consideration for the sale and transfer of the Purchased Assets (the “Purchase Price”) shall be the sum of the following:

- (a) cash in the amount of \$16,000,000.00 (less any Cure Cost Deduction), subject to the Working Capital Adjustment; plus
- (b) the assumption by Purchaser of all other Assumed Liabilities.

The Cash amount of the Purchase Price is subject to adjustment (the “Working Capital Adjustment”) as set forth in Schedule 2.1.

Section 2.2 Closing Date Payment. At the Closing, Purchaser shall (i) pay the cash Purchase Price (less any Cure Cost Deduction and subject to the Working Capital Adjustment) via wire transfer of immediately available funds into the account(s) designated in writing by Sellers, and (ii) pay all Cure Costs directly to the applicable counterparties for the Assigned Agreements.

Section 2.3 Good Faith Deposit. Concurrently with the execution and delivery of this Agreement, Purchaser shall pay to Sellers an amount equal to \$1,600,000.00 as a good faith deposit (the “Good Faith Deposit”). If this Agreement is terminated without the Closing occurring, the Good Faith Deposit shall be disbursed in accordance with Section 8.2. Following the execution of this Agreement by the Parties, other than upon termination of this Agreement by Sellers pursuant to Section 8.1(d), in which case, the Good Faith Deposit shall be nonrefundable and paid to Sellers pursuant to the terms hereof, the Good Faith Deposit shall be refunded to Purchaser upon the termination of this Agreement for any reason. At the Closing, the Good Faith Deposit (and any interest or income accrued thereon) shall be credited and applied toward payment of the Purchase

Price. In the event the Good Faith Deposit becomes nonrefundable as provided herein before the Closing by reason of Sellers terminating this Agreement pursuant to Section 8.1(d), the Good Faith Deposit and all interest or income accrued thereon shall be retained by Sellers for their own account. If this Agreement terminates in accordance with the termination provisions hereof for any reason other than by Sellers pursuant to Section 8.1(d), the Sellers shall return to Purchaser the Good Faith Deposit (together with all income or interest accrued thereon), within three (3) Business Days after this Agreement is so terminated. The Parties agree that, prior to the earliest of (i) application of the Good Faith Deposit against the payment of the Purchase Price, (ii) the Good Faith Deposit becoming nonrefundable as provided herein before the Closing by reason of Sellers terminating this Agreement pursuant to Section 8.1(d), or (iii) the return of the Good Faith Deposit to Purchaser under the provisions of this Section 2.3, the Good Faith Deposit shall be treated for federal, and applicable state and local, income Tax purposes as owned by Purchaser.

Section 2.4 363 Sale. Sellers will seek approval and entry of the Sale Order pursuant to the motion filed by Sellers under Section 363 of the Bankruptcy Code (the "Sale Motion").

Section 2.5 Allocation. No later than ninety (90) days after the Closing Date, Purchaser shall prepare and deliver to Sellers a schedule (an "Allocation Schedule") allocating the sum of the Purchase Price and the Assumed Liabilities (and any other relevant items) among the Purchased Assets and the Sellers, in such amounts reasonably determined by the Sellers to be consistent with Section 1060 of the Code, as amended, and the regulations thereunder. Sellers shall have a period of twenty (20) business days after the delivery of the Allocation Schedule to notify the Purchaser of any objections Sellers may have to the allocations set forth therein, and Purchaser shall incorporate any reasonable comments made by the Sellers. The Sellers and Purchaser shall report consistently with the Allocation Schedule on all applicable Tax Returns, and none of the Sellers nor Purchaser shall take any position inconsistent with the Allocation Schedule (except as otherwise required pursuant to a determination, as defined in Section 1313 of the Code), provided, however, that none of the Sellers nor Purchaser (nor any of their Affiliates) shall be required to litigate or challenge before any court or administrative agency any proposed deficiency or adjustment by any Governmental Authority challenging such allocation, and (iii) Purchaser and the Sellers shall exchange completed copies of IRS Form 8594, any required schedules thereto, and any similar state, local and foreign forms, not later than 30 days prior to the applicable filing date.

ARTICLE 3. CLOSING AND DELIVERIES

Section 3.1 Closing. The closing of the purchase and sale of the Purchased Assets and the assumption of the Assumed Liabilities (the "Closing") will take place on the date that is no later than two (2) Business Days after the satisfaction or waiver of the conditions set forth in Sections 7.1 and 7.2, provided any otherwise applicable stay under Fed. R. Bankr. P. 6004(h) is waived and not in effect and there is no other stay of the Sale Order in effect. The date on which the Closing actually occurs is referred to in this Agreement as the "Closing Date." The transfer of the Purchased Assets and the assumption of the Assumed Liabilities will be deemed to take place and be effective on the Closing Date at 12:01 a.m. prevailing local time in Wilmington, Delaware. Unless otherwise agreed by the Parties, the Closing shall occur electronically.

Section 3.2 Sellers' Deliveries. At or prior to Closing, Sellers shall deliver to Purchaser:

(a) a duly completed and executed IRS Form W-9 from each Seller certifying or otherwise establishing that (A) they are not subject to U.S. backup withholding and (B) they are not a “foreign person” as defined in Code Sections 1445 or 1446.

(b) a duly executed counterparty of each Bill of Sale and Assignment and Assumption Agreement and IP Assignment Agreement, provided that Purchaser shall be responsible for any and all costs, fees and expenses associated with filing and recording such instruments;

(c) a copy of the final Sale Order; and

(d) the officer’s certificate required to be delivered pursuant to Section 7.3(d).

Section 3.3 Purchaser’s Deliveries. At or prior to Closing, Purchaser shall:

(a) pay or cause to be paid to Sellers the Purchase Price (less the Good Faith Deposit and any Cure Cost Deduction and subject to the Working Capital Adjustment) by wire transfer of immediately available funds in accordance with instructions provided by Sellers;

(b) pay or cause to be paid to all counterparties to Assigned Agreements the applicable Cure Costs for such Assigned Agreements;

(c) deliver to Sellers a duly executed counterparty of each Bill of Sale and Assignment and Assumption Agreement and IP Assignment Agreement;

(d) deliver to Sellers the officer’s certificate required to be delivered pursuant to Section 7.2(c); and

(e) execute and deliver any other documents required in order to effectuate the transactions contemplated by this Agreement.

Section 3.4 Possession of Purchased Assets. Purchaser acknowledges that, except as provided in this Agreement, Sellers shall have no obligation to deliver possession of the Purchased Assets and Purchaser shall be responsible for obtaining possession of the Purchased Assets. Sellers shall only be obligated to (i) deliver to Purchaser the instruments described in Section 3.2 and Section 3.3; (ii) comply with its covenants and obligations pursuant to Article 5; and (iii) use commercially reasonable efforts under the circumstances, at no unreimbursed out-of-pocket cost to Sellers, to assist Purchaser in obtaining possession of the Purchased Assets. Sellers shall have no liability or obligation to indemnify or reimburse Purchaser or otherwise adjust the Purchase Price in the event that Purchaser cannot obtain possession of any Purchased Asset(s); provided, that Sellers comply with their obligations identified in this Section 3.4. If Sellers come into possession or control of any Purchased Assets after the Closing Date, Sellers shall reasonably promptly transfer such assets to Purchaser for no additional consideration.

ARTICLE 4. REPRESENTATIONS AND WARRANTIES

Section 4.1 Representations and Warranties of Sellers. As an inducement to Purchaser to enter into this Agreement and to consummate the transactions contemplated hereby, and subject

to the applicable section of the disclosure schedule delivered by Sellers to Purchaser (the “Seller Disclosure Schedule”), each Seller, jointly and severally, represents and warrants to Purchaser as follow:

(a) Corporate Organization. Each Seller is a corporation or other entity duly incorporated, formed or organized, validly existing and, to the extent legally applicable, in good standing under the Laws of its jurisdiction of incorporation, formation or organization. Schedule 4.1(a) sets forth with respect to each Seller the jurisdiction in which it is incorporated, formed or organized.

(b) Authorization and Validity. Each Seller has all requisite power and authority to execute and deliver this Agreement and, subject to the Bankruptcy Court’s entry of the Sale Order and such other authorization as is required by the Bankruptcy Code, perform its obligations under and consummate the transactions contemplated by this Agreement. This Agreement has been duly executed by each Seller and, subject to the Bankruptcy Court’s entry of the Sale Order and compliance with all requirements of the Bankruptcy Code, constitutes valid and binding obligations, enforceable against each Seller in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, and other Laws affecting creditors’ rights generally and by principles of equity.

(c) Ownership of the Purchased Assets. Based on its review of the Sellers’ schedules of assets and liabilities, each Seller represents and warrants, to the best of its understanding and knowledge, that Sellers have, or will have as of immediately prior to the Closing, good and valid title to, or, in the case of leased or subleased Purchased Assets, valid and subsisting leasehold interests in, all of the Purchased Assets. Upon consummation of the transactions contemplated by this Agreement at the Closing, and subject to the entry of the Sale Order, Sellers will convey such title to or rights to use all of the Purchased Assets, free and clear of all Liens (other than Assumed Liabilities, Permitted Liens, Liens created by Buyer, and Liens otherwise permitted under the Sale Order), to Purchaser.

(d) Financial Statements. Sellers have made available to Purchaser copies of the most recent audited balance sheet of the Business and the related audited income statement and audited statement of cash flows (collectively, the “Financial Statements”). Each of the Financial Statements has been prepared in all material respects in conformity with U.S. generally accepted accounting principles GAAP (except as permitted by the SEC in connection with financial statements prepared on a carve-out basis) applied on a consistent basis during the periods involved (except as may be indicated therein or in the notes thereto), and presents fairly in all material respects the consolidated financial position, results of operations and cash flows of the Business as at the dates and for the periods indicated therein.

(e) Finders or Brokers. Other than Configure Partners, no broker, finder or investment banker is entitled to any broker’s, finder’s or financial advisor’s fee or commission in connection with the transactions contemplated hereby based upon arrangements made by or on behalf of Sellers or Sellers’ board of directors or managers (or similar governing body) or other Representatives.

(f) Disclaimer of other Representations and Warranties. Except as set forth in this Section 4.1, Sellers makes no representation or warranty, express or implied, at law or in equity, regarding the Purchased Assets (including, without limitation, any acquired Intellectual Property or the Assigned Agreements) or any assets, Liabilities or operations, including, without limitation, with respect to capacity, condition, design, fitness for any particular purpose, merchantability, operation or quality, and any such other representations or warranties are hereby expressly disclaimed.

(g) Acknowledgment. SELLERS HEREBY ACKNOWLEDGE AND AGREE THAT, EXCEPT AS OTHERWISE SET FORTH IN SECTION 4.2, PURCHASER DOES NOT MAKE ANY REPRESENTATION OR WARRANTY, AND SPECIFICALLY DISCLAIMS ANY AND ALL OTHER REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 4.2 Representations, Warranties, and Acknowledgements of Purchaser. As an inducement to Sellers to enter into this Agreement and to consummate the transactions contemplated hereby, Purchaser represents and warrants to Sellers as follow:

(a) Corporate Organization. Purchaser is a limited liability company or other entity duly incorporated, formed or organized, validly existing and, to the extent legally applicable, in good standing under the Laws of the State of Delaware and has all requisite corporate power and authority to own its properties and assets.

(b) Non-Insider Status. Purchaser is not an “insider” as such term is defined in Section 101(31) of the Bankruptcy Code.

(c) Authorization and Validity of Agreement. Purchaser has all requisite power and authority to execute and deliver this Agreement and, subject to the Bankruptcy Court’s entry of the Sale Order and such other authorization as is required by the Bankruptcy Code, perform its obligations under and consummate the transactions contemplated by this Agreement. This Agreement has been duly executed by Purchaser and, subject to the Bankruptcy Court’s entry of the Sale Order and compliance with all requirements of the Bankruptcy Code, constitutes valid and binding obligations, enforceable against Purchaser in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, and other Laws affecting creditors’ rights generally and by principles of equity. Purchaser’s obligations under this Agreement are not contingent upon Purchaser’s performance or completion of due diligence or satisfaction of the results therefrom.

(d) No Collusion. Purchaser represents and warrants that it has not engaged in any collusion with respect to its bid on the Purchased Assets and the transaction contemplated hereunder.

(e) Litigation. There is no Proceeding to which Purchaser or any of its Subsidiaries is a party pending or, to Purchaser’s knowledge, threatened, and Purchaser is not subject to any outstanding Order, in each case that would reasonably be expected to have, individually or in the aggregate, a material adverse effect on the ability of Purchaser to perform its obligations under this Agreement or any documents, agreements, or instruments ancillary hereto

to which it is a party, for Purchaser to assume and perform the Assumed Liabilities or for Purchaser to consummate on a timely basis the transactions contemplated hereby or thereby.

(f) Finders or Brokers. No broker, finder or investment banker is entitled to any broker's, finder's or financial advisor's fee or commission in connection with the transactions contemplated hereby based upon arrangements made by or on behalf of Purchaser or Purchaser's board of directors or managers (or similar governing body) or other Representatives.

(g) Acknowledgment. PURCHASER HEREBY ACKNOWLEDGES AND AGREES THAT, EXCEPT AS OTHERWISE SET FORTH IN SECTION 4.1, SELLERS MAKE NO REPRESENTATION OR WARRANTY, AND SPECIFICALLY DISCLAIMS ANY AND ALL OTHER REPRESENTATIONS AND WARRANTIES, WITH RESPECT TO THE PURCHASED ASSETS. PURCHASER HEREBY ACKNOWLEDGES AND AGREES THAT, EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, PURCHASER IS PURCHASING THE PURCHASED ASSETS ON AN "AS-IS, WHERE-IS" BASIS AND "WITH ALL FAULTS" IN SUCH CONDITION AT CLOSING. PURCHASER HAS CONDUCTED ITS OWN INDEPENDENT REVIEW AND ANALYSIS OF THE BUSINESS, OPERATIONS, ASSETS, CONTRACTS, INTELLECTUAL PROPERTY, REAL ESTATE, TECHNOLOGY, LIABILITIES (CONTINGENT, PRESENT AND OTHERWISE), RESULTS OF OPERATIONS, AND FINANCIAL CONDITION OF SELLERS, AND ACKNOWLEDGES THAT IT AND ITS REPRESENTATIVES HAVE RECEIVED ACCESS TO SUCH BOOKS AND RECORDS, FACILITIES, EQUIPMENT, CONTRACTS AND OTHER ASSETS AND PROPERTIES OF SELLERS THAT IT AND ITS REPRESENTATIVES HAVE REQUESTED TO REVIEW AND THAT IT AND ITS REPRESENTATIVES HAVE HAD THE OPPORTUNITY TO MEET WITH THE MANAGEMENT OF SELLERS AND TO DISCUSS THE RESPECTIVE BUSINESSES AND ASSETS OF SELLERS.

WITHOUT LIMITING THE FOREGOING, PURCHASER ACKNOWLEDGES AND AGREES THAT, EXCEPT FOR ANY REMEDIES AVAILABLE UNDER THIS AGREEMENT WITH RESPECT TO THE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN SECTION 4.1 (AS QUALIFIED BY THE SELLERS DISCLOSURE SCHEDULE AND BANKRUPTCY COURT FILINGS), NONE OF THE SELLERS OR ANY OTHER PERSON WILL HAVE OR BE SUBJECT TO ANY LIABILITY OR OTHER OBLIGATION TO PURCHASER OR ITS REPRESENTATIVES OR AFFILIATES OR ANY OTHER PERSON RESULTING FROM PURCHASER'S, ITS REPRESENTATIVES' OR AFFILIATES' USE OF ANY INFORMATION, DOCUMENTS, PROJECTIONS, FORECASTS OR OTHER MATERIAL MADE AVAILABLE TO PURCHASER OR ITS REPRESENTATIVES OR AFFILIATES, INCLUDING ANY INFORMATION MADE AVAILABLE IN THE ELECTRONIC DATA ROOM MAINTAINED BY OR ON BEHALF OF SELLERS OR THEIR REPRESENTATIVES FOR PURPOSES OF THE TRANSACTIONS CONTEMPLATED HEREBY, TEASERS, MARKETING MATERIALS, CONSULTING REPORTS OR MATERIALS, CONFIDENTIAL INFORMATION MEMORANDA, MANAGEMENT PRESENTATIONS, FUNCTIONAL "BREAK-OUT" DISCUSSIONS, RESPONSES TO QUESTIONS SUBMITTED ON BEHALF OF PURCHASER OR ITS REPRESENTATIVES OR IN ANY OTHER FORM IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED HEREBY. IN CONNECTION WITH THE DUE DILIGENCE INVESTIGATION OF SELLERS, PURCHASER HAS RECEIVED AND MAY

CONTINUE TO RECEIVE FROM SELLERS OR THEIR REPRESENTATIVES CERTAIN ESTIMATES, PROJECTIONS, FORECASTS AND OTHER FORWARD-LOOKING INFORMATION, AS WELL AS CERTAIN BUSINESS PLAN INFORMATION, REGARDING SELLERS OR THE PURCHASED ASSETS. PURCHASER HEREBY ACKNOWLEDGES, ON BEHALF OF ITSELF AND ITS AFFILIATES AND REPRESENTATIVES, THAT THERE ARE UNCERTAINTIES INHERENT IN ATTEMPTING TO MAKE SUCH ESTIMATES, PROJECTIONS, FORECASTS AND OTHER FORWARD-LOOKING STATEMENTS, AS WELL AS IN SUCH BUSINESS PLANS, WITH WHICH PURCHASER IS FAMILIAR, THAT PURCHASER AND ITS AFFILIATES AND REPRESENTATIVES ARE NOT RELYING ON, AND ARE TAKING FULL RESPONSIBILITY FOR MAKING THEIR OWN EVALUATION OF, THE ADEQUACY AND ACCURACY OF ALL ESTIMATES, PROJECTIONS, FORECASTS AND OTHER FORWARD-LOOKING INFORMATION, AS WELL AS SUCH BUSINESS PLANS, SO FURNISHED TO THEM (INCLUDING THE REASONABLENESS OF THE ASSUMPTIONS UNDERLYING SUCH ESTIMATES, PROJECTIONS, FORECASTS, FORWARD-LOOKING INFORMATION OR BUSINESS PLANS). NOTWITHSTANDING THE FOREGOING, NOTHING CONTAINED IN THIS SECTION SHALL LIMIT OR OTHERWISE IMPAIR IN ANY MANNER PURCHASER'S RIGHT TO MAKE A CLAIM FOR ACTUAL FRAUD.

Section 4.3 Warranties Exclusive. The Parties acknowledge that the representations and warranties contained in Article 4 are the only representations or warranties given by the Parties and that all other express or implied warranties are disclaimed.

ARTICLE 5. COVENANTS AND OTHER AGREEMENTS

Section 5.1 Access.

(a) For purposes of furthering the transactions contemplated hereby, Sellers shall afford Purchaser and its Representatives reasonable access during normal business hours upon reasonable advance notice to Sellers, until the earlier of the termination of this Agreement and the Closing, to the Facilities for the purpose of inspecting the Purchased Assets and to Sellers' personnel, properties, contracts, commitments, books and records and such other information concerning the Business and Purchased Assets as Purchaser may reasonably request; provided that Sellers shall not be obligated to provide or give access to any minutes of meetings or resolutions of any Seller's board of managers or directors (or similar governing body) or any committees thereof or any other business records or reports of or communication with any of its advisors relating to the evaluation or negotiation of this Agreement or the transactions contemplated hereby or any alternatives thereto. All access pursuant to this Section 5.1(a) shall be (i) conducted in such a manner as not to interfere unreasonably with the normal operations of Sellers and (ii) coordinated exclusively through the designated Representatives of Sellers. Notwithstanding anything to the contrary in this Agreement, Sellers shall not be required to disclose any information to Sellers if such disclosure would (x) jeopardize any attorney-client or other legal privilege or (y) contravene any applicable Law or fiduciary duty; provided, however, Sellers shall use their commercially reasonable efforts to provide a summary of such information to the extent it would not violate any such privilege, applicable Law or fiduciary duty.

(b) The Parties agree that all information provided to them or their respective Representatives in connection with this Agreement and the consummation of the transactions contemplated hereby shall be governed in accordance with the Confidentiality Agreement, dated as of May 21, 2024, executed by Avem Partners (the “Confidentiality Agreement”), which shall continue in full force and effect in accordance with its terms.

Section 5.2 Conduct of the Business.

(a) Except as required by applicable Law, order of the Bankruptcy Court, fiduciary duty of boards of managers or directors (or similar governing bodies) of the Sellers, any requirements or limitations resulting from the Bankruptcy Cases, as otherwise expressly contemplated by this Agreement, or otherwise with the prior written consent of Purchaser which such consent shall not be unreasonably withheld, conditioned or delayed, during the period from the date of this Agreement to and through the Closing Date, Sellers will: (i) use commercially reasonable efforts under the circumstances to maintain the Purchased Assets in their current condition, ordinary wear and tear excepted; (ii) use commercially reasonable efforts to conduct the Business in the ordinary course of business; and (iii) comply with applicable Laws in all material respects.

(b) Except as required by applicable Law, order of the Bankruptcy Court, fiduciary duty of boards of managers or directors (or similar governing bodies) of the Sellers, any requirements or limitations resulting from the Bankruptcy Cases, as otherwise expressly contemplated by this Agreement, or otherwise with the prior written consent of Purchaser which such consent shall not be unreasonably withheld, conditioned or delayed, during the period from the date of this Agreement to and through the Closing Date, Sellers will not:

(1) make any material amendments or modifications the terms of any Assigned Agreement;

(2) fail to maintain and keep in full force and effect all existing insurance policies for the benefit of the Business or the Purchased Assets, other than such insurance policies that expire by their terms (in which event Sellers shall use commercially reasonable efforts to renew or replace such insurance policies) or changes to such insurance policies made in the ordinary course of business, or fail to report known claims to any insurance carrier in a timely manner;

(3) enter into any contract for the direct or indirect sale (whether by merger, sale of assets or stock, or otherwise), transfer, financing, assignment, conveyance, lease, recapitalization, abandonment or other disposition of any Purchased Asset outside of the ordinary course of business or as permitted under any debtor-in-possession financing facility to which the Sellers are or become a party;

(4) adopt any amendments to the organizational documents of any Seller;

(5) demolish or remove any Improvement on any Owned Real Property or Leased Real Property;

(6) permit entry to any of the Facilities to any Person outside of the ordinary course or otherwise for the purpose of removing any Purchased Assets therefrom; or

(7) take, or agree, commit or offer (in writing or otherwise) to take, any actions in violation of the foregoing prohibited by this Section 5.2(b).

Section 5.3 Employee Matters.

(a) All of the employees who are currently employed by the business are employed by Sellers ("Employees"). None of the Employees are represented by a labor union or other labor organization. With respect to all Employees of Sellers and any persons retained as independent contractors by Sellers (including all current and former employees and contractors), Sellers have complied in all material respects with all applicable federal, state, foreign and local laws and regulations respecting employment, employment discrimination, employment practices, payroll and withholding taxes, wages and hours, overtime, and occupational safety and health in the work place. There has been no "mass layoff" or "plant closing" (as defined by the Worker Adjustment and Retraining Notification Act and similar local and state laws and regulations (the "WARN Act")) with respect to Sellers within the six months prior to Closing, and Sellers shall retain all employees of Sellers who are employed in connection with the Business as of the Closing Date.

(b) By no later than the date that is ten (10) Business Days prior to the Closing Date, Purchaser shall offer employment to Sellers' employees who are employed with the Sellers as of such date (including employees on leaves of absence), with such employment effective as of and contingent upon the Closing. Purchaser shall not be obligated to offer employment or hire all of Sellers' employees and anticipates not offering employment to a small number of Sellers' employees. All such offers of employment shall be (i) for a position that is substantially similar to the type and geographic location of the position held by such employee immediately prior to the Closing Date and (ii) for compensation including but not limited to base salary or hourly rate of pay that is substantially similar to the compensation received by such employee immediately prior to the closing date. Those employees who accept Purchaser's offer of employment and commence working for Purchaser on the Closing Date shall hereafter be referred to as "Transferred Employees."

(c) Purchaser shall be solely responsible for paying, providing and satisfying when due all compensation accruing, incurred or arising as a result of employment on and after the Closing Date with respect to the Transferred Employees. Except as specifically set forth in the preceding sentence and notwithstanding anything else in this Agreement, Purchaser shall not assume and shall not be responsible for any Liability of the Sellers to any employee or former employee of the Sellers, including (without limitation) any Transferred Employee.

(d) Purchaser will take commercially reasonable best efforts to cause any employee benefit plans of Purchaser (or any Affiliate thereof sponsoring or maintaining such plans) in which the Transferred Employees are eligible to participate following the Closing Date (the "Purchaser Benefit Plans") to take into account for purposes of eligibility, vesting and accrual of and entitlement to benefits (but not for accrual of benefits under any "defined benefit plan," as

defined in Section 3(35) of ERISA), and all other purposes, all service by the Transferred Employees with Sellers prior to the Closing as if such service were with Purchaser or its Affiliates, to the same extent such service was credited under a comparable Seller Benefit Plan prior to the Closing (except to the extent it would result in the duplication of benefits).

(e) With respect to Transferred Employees, Purchaser and Sellers shall use the alternate procedure set forth in Revenue Procedure 2004-53, 2004-34 I.R.B. 320, provided that Sellers provide to Purchaser all information necessary for Purchaser to complete such alternate procedure and that third party payroll provider agrees it can accommodate utilization of the alternate procedure to properly report and remit federal and state payroll.

(f) Nothing contained in this Agreement shall be construed to require the employment of (or prevent the termination of employment of) any individual, require minimum benefit levels or prevent any change in the employee benefits provided to any individual Transferred Employee. To the extent Purchaser chooses or elects not to offer employment or hire all of Sellers' employees and to the extent notice is required under the WARN Act, Purchaser is responsible for providing all required notice(s). No provision of this Agreement shall create any third-party beneficiary rights in any employee or former employee of a Seller or any other Person (including any beneficiary or dependent thereof) of any nature or kind whatsoever, including in respect of continued employment (or resumed employment) for any specified period. Nothing contained herein, express or implied, shall (i) be construed to establish, amend or modify any Seller Benefit Plan or other benefit plan, program, agreement or arrangement or (ii) alter or limit the ability of Sellers, Purchaser or any of their respective Affiliates to amend, modify, or terminate any benefit plan, program, agreement or arrangement at any time assumed, established, sponsored or maintained by any of them. Nothing in this Section 5.3 is intended to interfere with Purchaser's right from and after the Closing to terminate the employment of, or change the compensation and benefits available to, any Transferred Employee.

(g) Purchaser shall be responsible for, and shall indemnify, protect, hold harmless, and defend Sellers with respect to any Liability arising on and after the Closing Date under or in connection with the WARN Act. This Section 5.3(g) shall survive Closing indefinitely.

Section 5.4 Indemnification; Facilities. Purchaser hereby agrees to indemnify and hold Sellers and each of their respective Representatives harmless from any out-of-pocket losses that Sellers may suffer, sustain or become subject to as a result of, in connection with, relating or incidental to damage to the Facilities caused by Purchaser or its Affiliates or Representatives, including damages arising from the removal of property by Purchaser or its Affiliates or Representatives from the Facilities. Purchaser shall bear all of its own out-of-pocket costs and expenses incurred by it in connection with its removal of the Purchased Assets from the Facilities.

Section 5.5 Notification of Certain Matters. Except for litigations or other Proceedings commenced, filed or pending in the Bankruptcy Court, each Party shall promptly (and in any event, within two (2) Business Days) notify the other Parties in writing of any litigation or other Proceeding brought or threatened in writing against it or its directors or executive officers or other Representatives relating to this Agreement or the transactions contemplated hereby and shall keep the other Parties informed on a reasonably current basis with respect to the status thereof (including by promptly furnishing to the other Parties and their respective Representatives such information

relating to such litigation or other Proceeding as may be reasonably requested). Each Party shall, subject to the preservation of the attorney-client and similar privileges and confidential information, give the other Parties the opportunity to participate in (but not control) the defense or settlement of any litigation or other Proceeding against it and/or its directors or executive officers or other Representatives relating to this Agreement or the transactions contemplated hereby and shall give due consideration to such other Parties' advice with respect to such litigation or other Proceeding.

Section 5.6 Further Assurances; Wrong Pockets

(a) Subject to the terms and conditions of this Agreement, the Bankruptcy Code and any Orders of the Bankruptcy Court, each Seller agrees that it will use commercially reasonable efforts to take, or cause to be taken, all reasonable actions and to do, or cause to be done, and cooperate with each other with respect to all things necessary or desirable under applicable Laws to consummate the transactions contemplated by this Agreement. Each Seller agrees to execute and deliver, or cause to be executed and delivered, to Purchaser such other instruments of conveyance and transfer, and to take all such further acts as may be reasonably required to further transfer and assign to Purchaser all of the Purchased Assets, and to vest in Purchaser good and marketable title to each of the Purchased Assets.

(b) Subject to the terms and conditions of this Agreement, the Bankruptcy Code and any Orders of the Bankruptcy Court, Purchaser agrees that it will use commercially reasonable efforts to take, or cause to be taken, all reasonable actions and to do, or cause to be done, and cooperate with each other with respect to all things necessary or desirable under applicable Laws to consummate the transactions contemplated by this Agreement. Each Seller agrees to execute and deliver, or cause to be executed and delivered, to Purchaser such other instruments of conveyance and transfer, and to take all such further acts as may be reasonably required to cause Purchaser to assume the Assumed Liabilities in accordance with this Agreement and as may otherwise be appropriate to carry out the transactions contemplated by this Agreement.

(c) Following the Closing, if the Parties determine that any assets, rights, or properties that properly constitute Purchased Assets were not transferred to Purchaser at the Closing, Sellers shall promptly convey, transfer and deliver (or cause to be conveyed, transferred and delivered) such assets, rights or properties to Purchaser without the payment of any further consideration therefor. Following the Closing, if the Parties determine that any assets, rights, or properties that properly constitute Excluded Assets were not retained by Sellers at the Closing, Purchaser shall promptly convey, transfer, and deliver (or cause to be conveyed, transferred, and delivered) such assets, rights or properties to Sellers without the payment of any further consideration therefor. Following the Closing, should any funds or property be paid or delivered to Purchaser comprising Excluded Assets, Purchaser shall promptly pay and deliver the same to Sellers. Following the Closing, should any funds or property be paid or delivered to Sellers comprising Purchased Assets, Sellers shall promptly pay and deliver the same to Purchaser.

(d) Following the Closing, if the Parties determine that any liabilities that properly constitute Assumed Liabilities were not transferred to Purchaser at the Closing, Sellers shall promptly convey, transfer, and deliver (or cause to be conveyed, transferred, and delivered) such liabilities to Purchaser without the payment of any further consideration therefor. Following

the Closing, if the Parties determine that any liabilities that properly constitute Excluded Liabilities were not retained by Sellers at the Closing, Purchaser shall promptly convey, transfer, and deliver (or cause to be conveyed, transferred, and delivered) such Liabilities to Sellers without the payment of any further consideration therefor.

(e) The obligations of the Sellers pursuant to this Section 5.6 shall be subject to any Orders entered, or approvals or authorizations granted or required, by or under the Bankruptcy Court or the Bankruptcy Code (including in connection with the Bankruptcy Cases), and each Sellers' obligations as a debtor in possession to comply with any Order of the Bankruptcy Court (including the Bidding Procedures Order and the Sale Order).

Section 5.7 Bankruptcy Court Matters. Sellers and Purchaser acknowledge that this Agreement and the sale of the Purchased Assets are subject to Bankruptcy Court approval and the consideration by Sellers of Alternative Bids (if any). Sellers and Purchaser acknowledge that (i) to obtain such approval, Sellers must demonstrate that they have taken reasonable steps to obtain the highest or otherwise best offer possible for the Purchased Assets, including giving notice of the transactions contemplated hereby to creditors and certain other interested parties as ordered by the Bankruptcy Court, and conducting an auction in respect of the Purchased Assets pursuant to the Bidding Procedures Order (the "Auction"), and (ii) Purchaser must provide adequate assurance of future performance under the Assigned Agreements. Sellers and Purchaser shall use commercially reasonable efforts to cooperate, assist, and consult with each other to secure the entry of the Bidding Procedures Order and Sale Order following the date hereof, and to consummate the transactions contemplated by this Agreement, and Purchaser promptly take all actions reasonably required to assist in obtaining a Bankruptcy Court finding that there has been an adequate demonstration of adequate assurance of future performance under the Assigned Agreements, such as furnishing affidavits and nonconfidential financial information or other documents or information for filing with the Bankruptcy Court and providing testimony.

Section 5.8 Back-up Bidder. If an Auction is conducted, and Sellers do not choose Purchaser as the Successful Bidder, but instead choose Purchaser as the Back-up Bidder in accordance with the Bidding Procedures, Purchaser will serve as the Back-up Bidder. If Purchaser is chosen as the Back-up Bidder, Purchaser will be required to keep its bid to consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement (as the same may be improved upon by Purchaser prior to or at the Auction) open and irrevocable until the Back-Up Period End Date. If the Alternative Transaction with the Successful Bidder is terminated prior to the termination of this Agreement, Purchaser will be deemed to be the Successful Bidder and will forthwith consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement (as the same may be improved upon by Purchaser prior to or at the Auction).

Section 5.9 Public Announcements. Neither Sellers, on the one hand, nor Purchaser, on the other hand, shall, without the approval of the other Parties, make any press release or other public announcement concerning the transactions contemplated hereby, except as and to the extent that any such Party shall be so obligated by Law, including as may be required by the Bankruptcy Case, securities laws, or the rules of any stock exchange, in which case, each Party shall be advised prior to such disclosure, consult with each other before issuing such press release or public announcement and consider in good faith any comments received from the other Party at least two

(2) Business Days prior to such issuance. The provisions of this Section 5.9 shall expressly survive Closing or any earlier termination of this Agreement.

Section 5.10 Wind-Down.

(a) From and after the Closing Date until the later of the conclusion of the Bankruptcy Cases and the wind-down and final distribution of all assets of Sellers, Purchaser shall give Sellers reasonable access during normal business hours upon reasonable advance notice of not less than forty-eight (48) hours before the requested date of access to the accounting, business, financial and Tax records and information, and other books and records pertaining to the Purchased Assets and Assumed Liabilities and certain key employees, at Sellers' sole cost and expense, for the purposes of (i) the preparation or amendment of Tax Returns, (ii) the determination of any matter relating to the rights or obligations of the Sellers under this Agreement, or (iii) as is necessary to administer, or satisfy their obligations in connection with, the Bankruptcy Cases and the wind-down of the Sellers and their assets, in each case of clauses (i)-(iii), in such a manner as not to unreasonably interfere with the conduct of the Business. Notwithstanding anything to the contrary in this Agreement, Purchaser and its controlled Affiliates (including the Acquired Entities) shall not be required to disclose any information to Sellers if such disclosure would (x) jeopardize any attorney-client or other legal privilege or (y) contravene any applicable Law or fiduciary duty; provided, however, Purchaser shall use its commercially reasonable efforts to provide a summary of such information to the extent it would not violate any such privilege, applicable Law or fiduciary duty.

(b) Unless otherwise consented to in writing by Sellers, Purchaser will not, for a period of three years following the Closing Date, destroy, alter, or otherwise dispose of any of the accounting, business, financial and Tax records and information, and other books and records without first offering to surrender to the Sellers such accounting, business, financial and Tax records and information, and other books and records or any portion thereof that Purchaser may intend to destroy, alter, or dispose of. From and after the Closing, Purchaser will, and will cause its employees to, provide Sellers with reasonable assistance, support, and cooperation with Sellers' wind-down and related activities (e.g., helping to locate documents or information related to preparation of Tax Returns or prosecution or processing of insurance/benefit claims).

(c) Sellers shall be permitted to keep copies of any Contracts, documents, records, and other information to the extent reasonably necessary or required by the Bankruptcy Courts or in connection with the Bankruptcy Cases or to facilitate any subsequent wind-down proceedings of Sellers.

ARTICLE 6. TAXES

Section 6.1 Taxes Related to Purchase of Assets. All federal, state, and local sales, transfer, gains, excise, value-added, or other similar Taxes, if any, including, without limitation, all state and local Taxes in connection with the transfer of the Purchased Assets, and all recording and filing fees (collectively, "Transaction Taxes"), that may be imposed by reason of the sale, transfer, assignment and delivery of the Purchased Assets shall be paid by Purchaser. Purchaser and Sellers agree to cooperate to determine the amount of Transaction Taxes payable in connection with the transactions contemplated under this Agreement. Purchaser shall prepare and file any and

all required returns for or with respect to such Transaction Taxes with any and all appropriate taxing authorities.

Section 6.2 Cooperation on Tax Matters. Purchaser and Sellers agree to furnish or cause to be furnished to each other, as promptly as practicable, such information and assistance relating to the Purchased Assets and the Assumed Liabilities as is reasonably necessary for the preparation and filing of any Tax Return, claim for refund or other required or optional filings relating to Tax matters, for the preparation for and proof of facts during any Tax audit, for the preparation for any Tax protest, for the prosecution or defense of any suit or other Proceeding relating to Tax matters and for the answer to any inquiry by a Governmental Authority relating to Tax matters.

Section 6.3 Prorations. Tax Liabilities for a period that includes but does not end on the Closing Date shall be treated for purposes of determining the amount attributable to the portion of such period that ends on the Closing Date as follows: (i) in the case of any sales, use, value-added, employment, or withholding Tax, any Tax based on or measured by income, profits, gains, receipts or the level of any item or on a transactional basis shall be determined based on an interim closing of the books as of the end of the day on the Closing Date, except that exemptions, allowances or deductions that are calculated on an annual basis (including depreciation and amortization deductions), other than with respect to property placed in service after the Closing, shall be allocated on a per diem basis, unless otherwise required by applicable law, and (ii) in the case of all other Taxes, shall be deemed to be the amount of such Taxes for the entire period multiplied by a fraction, the numerator of which is the number of calendar days in the portion of the period ending on the Closing Date and the denominator of which is the number of calendar days in the entire period; provided that for these purposes any event occurring on the Closing Date following the Adjustment Time shall be treated as occurring on the day after the Closing Date to the extent such event is not provided for in this Agreement except that events on the Closing Date following the Adjustment Time but before the Closing that are not in the ordinary course of business shall be treated as occurring on the day before the Closing Date.

ARTICLE 7. CONDITIONS PRECEDENT TO PERFORMANCE BY PARTIES

Section 7.1 Conditions to Obligations of All Parties. The obligation of each Party to consummate the transactions contemplated by this Agreement on the Closing Date is subject to the fulfillment on or prior to the Closing Date of the following conditions, any one or more of which may be waived by each Party:

- (a) the Bankruptcy Court shall have entered the Bidding Procedures Order;
- (b) the Bankruptcy Court shall have entered the Sale Order and such order shall be in full force and effect and shall not have been stayed or vacated; and
- (c) no injunction by any court or other tribunal of competent jurisdiction shall have been entered and shall continue to be in effect and no Law shall have been adopted that remains in effect or be effective, in each case, that prevents, enjoins, prohibits or makes illegal the consummation of the transactions contemplated by this Agreement.

Section 7.2 Conditions Precedent to Performance by Sellers. The obligation of Sellers to consummate the transactions contemplated by this Agreement is subject to the fulfillment, at or

before the Closing Date, of the following conditions; any one or more of which may be waived by Sellers in their sole discretion:

(a) Representations and Warranties of Purchaser. All representations and warranties made by Purchaser in Section 4.2 shall be true and correct in all material respects on and as of the Closing Date as if made anew by Purchaser on and as of such date (except to the extent such representations and warranties speak as of an earlier date, in which case, such representations and warranties shall be true and correct in all material respects as of such earlier date).

(b) Performance of the Obligations of Purchaser. Purchaser shall have performed in all material respects all obligations required under this Agreement to be performed by it on or before the Closing Date.

(c) Officer's Certificate. Purchaser shall have delivered to Sellers a certificate, dated the Closing Date and signed by a duly authorized executive officer (in such officer's capacity as such and not individually) of Purchaser, certifying to the effect that the conditions set forth in Section 7.2(a) and Section 7.2(b) have been satisfied.

(d) Purchase Price. Purchaser shall have paid the Purchase Price in accordance with Section 2.2.

Section 7.3 Conditions Precedent to the Performance by Purchaser. The obligations of Purchaser to consummate the transactions contemplated by this Agreement are subject to the fulfillment, at or before the Closing Date, of the following conditions, any one or more of which may be waived by Purchaser in its sole discretion:

(a) Representations and Warranties of Sellers. All representations and warranties made by Sellers in Section 4.1 shall be true and correct in all material respects on and as of the Closing Date as if made anew by Sellers on and as of such date (except to the extent such representations and warranties speak as of an earlier date, in which case, such representations and warranties shall be true and correct in all material respects as of such earlier date).

(b) Performance of the Obligations of Sellers. Sellers shall have performed and complied with, in all material respects, all obligations required to be performed or complied with by them under this Agreement on or before the Closing Date.

(c) Contract Amendments. Each of Northrop and Lockheed shall have agreed in writing with Purchaser (unless waived by Purchaser) to amend their contracts with Sellers to provide for new payment and pricing terms and to consent to the assumption and assignment to Purchaser of the amended contracts agreed to with Purchaser.

(d) Officer's Certificate. Sellers shall have delivered to Purchaser a certificate, dated the Closing Date and signed by a duly authorized executive officer (in such officer's capacity as such and not individually) of Sellers, certifying to the effect that the conditions set forth in Section 7.3(a) and Section 7.3(b) have been satisfied.

(e) No Material Damage. There shall have not been any material damage, destruction, or other material adverse change in the Purchased Assets since the date hereof, whether or not covered by insurance.

ARTICLE 8. TERMINATION

Section 8.1 Termination. Notwithstanding anything in this Agreement to the contrary, this Agreement may be terminated, and the transactions contemplated hereby may be abandoned, at any time prior to the Closing, as follows:

(a) by either Sellers or Purchaser, if the Closing has not occurred by 5:00 p.m. prevailing local time in Wilmington, Delaware on the date that is ninety (90) days after the Petition Date (the "Outside Date") and the Party seeking to terminate this Agreement has not breached this Agreement in a manner that has been the principal cause of the Closing not occurring on or prior to the Outside Date; provided, however, that the Outside Date may be extended by Sellers and Purchaser upon mutual agreement;

(b) by either Sellers or Purchaser, if an Order by a Governmental Authority of competent jurisdiction shall have been issued permanently restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated hereby and such order shall have become final and nonappealable; provided that the right to terminate this Agreement pursuant to this Section 8.1(b) shall not be available to a Party if such Order resulted from, or could have been avoided but for, the breach by such Party of any covenant or other agreement of such Party set forth in this Agreement;

(c) by either Sellers or Purchaser, if any Sellers close or consummate an Alternative Transaction or the Bankruptcy Court enters an Order approving such Alternative Transaction; provided that, if Purchaser is not the Successful Bidder at the Auction, but is the Back-Up Bidder, then notwithstanding anything to the contrary contained in this Agreement, Purchaser shall not be permitted to terminate this Agreement pursuant to this Section 8.1(c) or Section 8.1(g)(ii) until the Back-Up Period End Date;

(d) by Sellers, if Purchaser shall have materially breached any of its obligations, representations, warranties, covenants or agreements contained in this Agreement in a manner that would cause the conditions contained in Section 7.2 not to be satisfied as of the Closing Date if the Closing Date were to occur as of the applicable date of termination, which breach cannot be or has not been cured within five (5) Business Days after the giving of written notice by Sellers to Purchaser specifying such breach;

(e) by Purchaser, if Sellers shall have materially breached any of their obligations, representations, warranties, covenants or agreements contained in this Agreement in a manner that would cause the conditions contained in Section 7.3 not to be satisfied as of the Closing Date if the Closing Date were to occur as of the applicable date of termination, which breach cannot be or has not been cured within five (5) Business Days after the giving of written notice by Purchaser to Sellers specifying such breach;

(f) by the mutual written consent of Sellers and Purchaser;

(g) by either Sellers or Purchaser if (i) the Bidding Procedures Order has not been entered by the Bankruptcy Court on or prior to the date that is thirty-five (35) days after the Petition Date, or (ii) the Sale Order has not been entered by the Bankruptcy Court on or prior to the date that is seventy-five (75) days after the Petition Date;

(h) by Purchaser if the Bankruptcy Cases are dismissed or converted to cases under chapter 7 of the Bankruptcy Code for any reason prior to the Closing Date.

Section 8.2 Effect of Termination.

(a) In the event of the termination of this Agreement as provided in Section 8.1, this Agreement shall forthwith become void and there shall be no liability on the part of either Party (except that the Confidentiality Agreement, Section 2.3, this Section 8.2, and Article 9 shall survive any termination); provided, however, that in the event this Agreement is terminated (x) pursuant to Section 8.1(d) and Sellers are not then in material breach of Sellers' obligations hereunder, then Sellers shall be entitled to retain the Good Faith Deposit and all interest thereon and (y) for any reason other than pursuant to Section 8.1(d), Purchaser shall be entitled to return of the Good Faith Deposit and all interest thereon. Notwithstanding the foregoing, nothing in this Article 8 will be deemed to release any Party from liability for any willful breach of this Agreement prior to its termination pursuant to this Article 8, willful misconduct, fraudulent, or criminal acts, the remedies for which shall not be limited by the provisions of this Agreement.

(b) In consideration for Purchaser having expended considerable time and expense in connection with this Agreement and the negotiation thereof, if this Agreement is terminated pursuant to Section 8.1(a), (c), or (e), and an Alternative Transaction is consummated, Seller shall pay to Purchaser a break-up fee in an amount equal to \$400,000 (the "Breakup Fee") and an amount equal to the reasonable and documented out-of-pocket costs and expenses (including fees and expenses of counsel) incurred by Purchaser in connection with the negotiation, diligence, execution, performance and enforcement of this Agreement, which amount will shall not exceed \$250,000 ("Expense Reimbursement"); provided that the Breakup Fee and the Expense Reimbursement shall be payable concurrently with the consummation of, and only out of the cash proceeds of, an Alternative Transaction, to an account designated by Purchaser in writing to Seller.

(c) Subject in all cases to Section 9.15, prior to the Closing, in the event of any breach by Seller of this Agreement, whether or not a willful breach, or any failure of the Transactions to be consummated for whatever reason whatsoever, the sole and exclusive remedy of Purchaser shall be to terminate this Agreement in accordance with Section 8.1 and, if applicable, to receive the Expense Reimbursement and/or the Breakup Fee, as applicable, in accordance with Section 8.2(b), if payable thereunder. Pursuant to the Bidding Procedures Order and subject to approval by the Bankruptcy Court and entry of the Bidding Procedures Order, the claim of Purchaser in respect of the Expense Reimbursement or the Breakup Fee is and constitutes an allowed administrative expense claim against the Seller under sections 503 and 507(b) of the Bankruptcy Code in the Bankruptcy Cases.

(d) Each of the Parties acknowledges and agrees that the agreements contained in this Section 8.2 are an integral part of this Agreement and that the Breakup Fee and the Expense Reimbursement are not a penalty, but rather represent liquidated damages in a reasonable amount

that will reasonably compensate Purchaser in the circumstances in which such Breakup Fee and Expense Reimbursement, as applicable, are payable for the efforts and resources expended and opportunities foregone by Purchaser while negotiating and pursuing this Agreement and in reasonable reliance on this Agreement and on the reasonable expectation of the consummation of the Transactions, which amount would otherwise be impossible to calculate with precision.

ARTICLE 9. MISCELLANEOUS

Section 9.1 Successors and Assigns. Except as otherwise provided in this Agreement, no Party hereto shall assign this Agreement or any rights or obligations hereunder without the prior written consent of the other Party hereto, and any such attempted assignment without such prior written consent shall be void and of no force and effect. This Agreement shall inure to the benefit of and shall be binding upon the successors and permitted assigns of the Parties hereto.

Section 9.2 Governing Law; Jurisdiction. THIS AGREEMENT SHALL BE CONSTRUED, PERFORMED AND ENFORCED IN ACCORDANCE WITH, AND GOVERNED BY, THE LAWS OF THE UNITED STATES OF AMERICA AND THE STATE OF DELAWARE (WITHOUT GIVING EFFECT TO THE PRINCIPLES OF CONFLICTS OF LAWS THEREOF), EXCEPT TO THE EXTENT THAT THE LAWS OF SUCH STATE ARE SUPERSEDED BY THE BANKRUPTCY CODE. THE PARTIES HERETO IRREVOCABLY ELECT AS THE SOLE JUDICIAL FORUM FOR THE ADJUDICATION OF ANY MATTERS ARISING UNDER OR IN CONNECTION WITH THE AGREEMENT, AND CONSENT TO THE EXCLUSIVE JURISDICTION OF, THE BANKRUPTCY COURT AND WAIVES ANY RIGHT TO A JURY TRIAL REGARDING SAME.

Section 9.3 Expenses. Except as otherwise expressly provided herein, each of the Parties hereto shall pay its own expenses in connection with this Agreement and the transactions contemplated hereby, including, without limitation, any legal and accounting fees, whether or not the transactions contemplated hereby are consummated.

Section 9.4 Severability. In the event that any part of this Agreement is declared by any court or other judicial or administrative body to be null, void or unenforceable, said provision shall survive to the extent it is not so declared, and all of the other provisions of this Agreement shall remain in full force and effect only if, after excluding the portion deemed to be unenforceable, the remaining terms shall provide for the consummation of the transactions contemplated hereby in substantially the same manner as originally set forth at the later of the date this Agreement was executed or last amended.

Section 9.5 Notices.

(a) All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given: (i) on the date of service, if served personally on the Party to whom notice is to be given; (ii) on the day after delivery to Federal Express or similar overnight courier or the next day Express Mail service maintained by the United States Postal Service; (iii) on the third day after mailing, if mailed to the Party to whom notice is to be given, by first class mail, certified, postage prepaid and properly addressed;

or (iv) sent to the recipient by electronic mail (in which case, it will be effective upon transmission so long as the sending Party does not immediately receive an automatically generated message from the recipient's e-mail server that such e-mail could not be delivered to such recipient), to the Party as follows:

If to Seller:

Forrest Machining LLC
Attn: Eric N. Ellis
27756 Avenue Mentry
Valencia, California 91355
Email: eellis@fmiaerostructures.com

Additional copy to:

Chipman Brown Cicero & Cole LLP
Attn: Mark L. Desgrosseilliers and Robert A. Weber
1313 N. Market Street, Suite 5400
Wilmington, DE 19801
Email: desgross@chipmanbrown.com and weber@chipmanbrown.com

-and-

Chipman Brown Cicero & Cole LLP
Attn: Daniel G. Egan
501 5th Ave, 15th Floor
New York, NY 10017
Email: egan@chipmanbrown.com

-and-

Ropes & Gray LLP
Attn: Gregg M. Galardi
1211 Avenue of the Americas
New York, New York 10036
Email: gregg.galardi@ropesgray.com

If to Purchaser:

FMI Holdco LLC
c/o Avem Partners, LLC
Attn: Ken Watler
3030 Red Hill Ave.
Santa Ana, CA 92705
Email: kgw@avempartners.com

Additional copy to:

Troutman Pepper Locke
Attn.: David Kupetz
300 S. Grand Ave., 26th Floor
Los Angeles, CA 90071
Email: david.kupetz@troutman.com

(b) Any Party may change its address for the purpose of this Section 9.5 by giving the other Party written notice of its new address in the manner set forth above.

Section 9.6 Amendments; Waivers. This Agreement may be amended or modified, and any of the terms, covenants, representations, warranties or conditions hereof may be waived, only by a written instrument executed by the Parties hereto, or in the case of a waiver, by the Party waiving compliance. Any waiver by any Party of any condition, or of the breach of any provision, term, covenant, representation or warranty contained in this Agreement, in any one or more instances, shall not be deemed to be or construed as a furthering or continuing waiver of any such condition, or of the breach of any other provision, term, covenant, representation or warranty of this Agreement.

Section 9.7 Public Announcements. Except for any description of the transactions contemplated by this Agreement in any motion or document filed with the Bankruptcy Court, prior to the Closing, no Party shall make any press release or public announcement concerning the transactions contemplated by this Agreement without the prior written approval of the other Party. The Parties acknowledge that Sellers shall file this Agreement with the Bankruptcy Court in connection with obtaining the Sale Order and may file and serve other related notices regarding this Agreement as Sellers deem appropriate. Following the Closing: (i) Purchaser may make any press release or public announcement concerning the transactions contemplated by this Agreement as it wishes; and (ii) Sellers shall not make any press release or public announcement concerning the transactions contemplated by this Agreement without the prior written consent of Purchaser, except that Sellers may make press releases or public announcements concerning the transactions contemplated by this Agreement if the subject matter and descriptions of the transactions included therein are substantially the same as, and no more expansive than, any prior press release or public announcement by Purchaser.

Section 9.8 Entire Agreement. This Agreement contains the entire understanding between the Parties hereto with respect to the transactions contemplated hereby and supersedes and replaces all prior and contemporaneous agreements and understandings, oral or written, with regard to such transactions. All schedules hereto and any documents and instruments delivered pursuant to any provision hereof are expressly made a part of this Agreement as fully as though completely set forth herein.

Section 9.9 Non-Reliance. This Purchaser acknowledges and represents that, except for the representations, warranties, covenants and agreements in this Agreement: (i) it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the

Purchased Assets in entering into this Agreements and (ii) it did not rely upon any written or oral statements, representations, promises, warranties or guarantees whatsoever, whether express, implied, by operation of law or otherwise, regarding the Purchased Assets, or the completeness or accuracy of any information provided in connection therewith.

Section 9.10 Parties in Interest. Nothing in this Agreement is intended to or shall confer any rights or remedies under or by reason of this Agreement on any Persons other than Sellers and Purchaser and their respective successors and permitted assigns. Nothing in this Agreement is intended to or shall relieve or discharge the obligations or liability of any third Persons to Sellers or Purchaser. This Agreement is not intended to nor shall give any third Persons any right of subrogation or action over or against Sellers or Purchaser.

Section 9.11 Headings, Interpretation, Gender. Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine, or neuter, as the context requires. Whenever the words “include,” “includes” or “including” are used in this Agreement, they shall be deemed followed by the words “without limitation.” Neither this Agreement nor any uncertainty or ambiguity herein shall be construed or resolved against Purchaser or Sellers, whether under any rule of construction or otherwise. No Party to this Agreement shall be considered the draftsman. On the contrary, this Agreement has been reviewed, negotiated and accepted by all Parties and their attorneys and shall be construed and interpreted according to the ordinary meaning of the words so as fairly to accomplish the purposes and intentions of all the Parties. The table of contents and the captions and section headings contained in this Agreement are for convenience of reference only, do not form a part of this Agreement and shall not affect in any way the meaning or interpretation of this Agreement. All references in this Agreement to “Section” or “Article” shall be deemed to be references to a Section or Article of this Agreement. All references to “herein” or “hereof” or “hereunder” and similar phrases shall be broadly construed to refer to the entire Agreement and not merely to the specific clause, section, or article.

Section 9.12 Time of Essence. Time shall be of the essence in this Agreement.

Section 9.13 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute the same instrument. A signed copy of this Agreement delivered by e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed counterpart of this Agreement.

Section 9.14 Non-Survival of Representations and Warranties. Except as otherwise expressly set forth herein, none of the representations or warranties set forth in this Agreement or in any certificate or instrument delivered by the Parties hereto shall survive the Closing.

Section 9.15 Specific Performance. Each Party acknowledges and agrees that the other Party would be damaged irreparably in the event that a Party does not perform its obligations under this Agreement in accordance with its specific terms or otherwise breaches this Agreement, so that, in addition to any other remedy that Purchaser or the Sellers may have under law or equity, each Party shall be entitled to seek injunctive relief to prevent any breaches of the provisions of this Agreement by the other Parties and to seek to enforce specifically this Agreement and the

terms and provisions hereof, in each case, without any requirement for the posting of any bond or other undertaking and without the necessity of proving the inadequacy of money damages as a remedy. Purchaser and the Sellers agree that they will not oppose the granting of an injunction, specific performance and other equitable relief on the basis that the Purchaser or Sellers, as applicable, have an adequate remedy at Law or that any award of specific performance is not an appropriate remedy for any reason at Law or in equity.

Section 9.16 Non-Recourse. Notwithstanding anything herein to the contrary, no director, manager, officer, agent or representative of, Affiliate (or director, manager, officer, agent or representative of an Affiliate) of, or direct or indirect equity owner in, any Sellers shall have any personal liability to either Purchaser or any other Person as a result of the breach of any representation, warranty, covenant, agreement or obligation of Sellers in this Agreement, and no director, manager, officer, agent or representative of, Affiliate (or director, manager, officer, agent or representative of an Affiliate) of, or direct or indirect equity owner in, Purchaser shall have any personal liability to Sellers or any other Person as a result of the breach of any representation, warranty, covenant, agreement or obligation of Purchaser in this Agreement.

Section 9.17 Fiduciary Obligation. Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement will require any Seller or any of such Seller's respective directors, managers, officers or members, in each case, in their capacity as such, to take any action, or to refrain from taking any action, that the board of directors or managers (or other governing body) of such Seller has determined, in good faith after consultation with legal counsel and independent financial advisors, would be a violation of such Person's fiduciary obligations or applicable Law. For the avoidance of doubt, Sellers retain the right to pursue any transaction or restructuring strategy that, in Sellers' business judgment, will maximize the value of their estates. For the avoidance of doubt, the Sellers' ability to conduct the sale process (including the Auction) and to consider or advance alternative proposals in a manner consistent with the foregoing and the Bidding Procedures Order shall not be impaired in any respect by this Agreement.

ARTICLE 10. DEFINITIONS

Section 10.1 Certain Terms Defined. As used in this Agreement, the following terms have the following meanings:

“Accounts Payable” has the meaning ascribed to such term in Section 1.3(b).

“Accounts Receivable” means all accounts, rights to payment and notes and other amounts receivable (whether current or non-current) arising from the conduct of the Business, including receivables from credit card processors.

“Adjustment Time” means 12:01 a.m. Wilmington, Delaware time on the Closing Date.

“Affiliate” means, as to any Person, any other Person which directly or indirectly controls, or is under common control with, or is controlled by, such Person. As used in this definition, “control” (including, with its correlative meanings, “controlled by” and “under common control with”) shall mean possession, directly or indirectly, of the power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise) of such Person.

“Affiliated Group” means a group of Persons that elects, is required to, or otherwise files a Tax Return or pays a Tax as an affiliated group, consolidated group, combined group, unitary group or other group recognized by applicable Tax Law.

“Agreement” has the meaning ascribed to such term in the opening paragraph.

“Allocation Schedule” has the meaning ascribed to such term in Section 2.5.

“Alternative Bid” means a higher or better competing bid, including in consideration of any sale, transfer, liquidation, or disposition of the Purchased Assets or of a plan of reorganization or liquidation with respect to the Purchased Assets.

“Alternative Transaction” means one or more agreements to sell, transfer, liquidate or otherwise dispose of any material portion of the Purchased Assets, either alone or together with any other portion of the Business, in a transaction or series of transactions (other than in the ordinary course of business) with one or more Persons, other than Purchaser, pursuant to an Alternative Bid.

“Assigned Agreements” has the meaning ascribed to such term in Section 1.1.

“Assigned Contracts” has the meaning ascribed to such term in Section 1.1.

“Assigned Purchase Orders” has the meaning ascribed to such term in Section 1.1.

“Assigned Real Property Leases” has the meaning ascribed to such term in Section 1.1.

“Bill of Sale and Assignment and Assumption Agreement” means a bill of sale and assignment and assumption agreement in substantially the form of **Exhibit A**.

“Auction” has the meaning ascribed to such term in Section 5.7.

“Available Contracts” has the meaning ascribed to such term in Section 1.5.

“Avoidance Actions” means all claims, rights, or causes of action arising under Sections 544 through 553 of the Bankruptcy Code or any analogous state law.

“Back-Up Bidder” has the meaning specified in the Bidding Procedures Order.

“Back-Up Period End Date” means the earliest of (a) the date upon which an Alternative Transaction has been consummated following approval by the Bankruptcy Court and (b) 90 days after entry of the Order of the Bankruptcy Court approving Alternative Transaction.

“Bankruptcy Cases” has the meaning ascribed to such term in the recitals.

“Bankruptcy Code” has the meaning ascribed to such term in the recitals.

“Bankruptcy Court” has the meaning ascribed to such term in the recitals.

“Bidding Procedures” means the bidding procedures in form and substance reasonably acceptable to Sellers and Purchaser, together with any changes thereto reasonably approved by Purchaser, if any, as shall have been required by the Bankruptcy Court.

“Bidding Procedures Order” means an order of the Bankruptcy Court, in form and substance reasonably acceptable to Sellers and Purchaser, approving the Bidding Procedures.

“Breakup Fee” has the meaning ascribed to such term in Section 8.2(b).

“Business” has the meaning ascribed to such term in the recitals.

“Business Day” means any day other than Saturday, Sunday and any day that is a legal holiday or a day on which banking institutions in Wilmington, Delaware are authorized by Law or other governmental action to close.

“Closing” has the meaning ascribed to such term in Section 3.1.

“Closing Date” has the meaning ascribed to such term in Section 3.1.

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

“Confidentiality Agreement” has the meaning ascribed to such term in Section 5.1(b).

“Contract” means any written contract, note, bond, mortgage, indenture, deed of trust, license, lease, agreement, arrangement, commitment or other instrument or obligation that is legally binding, but shall exclude purchase orders and invoices entered into in the ordinary course of business.

“Cure Costs” means amounts that must be paid and obligations that otherwise must be satisfied under sections 365(b)(1) of the Bankruptcy Code in connection with the assignment and/or assumption of any Assigned Agreement, as determined by the Bankruptcy Court or agreed to by Sellers and the non-Seller counterparty to the applicable Assigned Agreement.

“Cure Cost Deduction” means the aggregate amount of all Cure Costs that is paid from the \$16,000,000 cash component of the Purchase Price pursuant to Sections 1.3(a), 1.5, and 2.1.

“Designated Parties” has the meaning ascribed to such term in Section 1.1(l).

“Designation Deadline” has the meaning ascribed to such term in Section 1.5.

“Disputed Contract” has the meaning ascribed to such term in Section 1.5.

“Effective Date” has the meaning ascribed to such term in the opening paragraph.

“Employees” has the meaning ascribed to such term in Section 5.3(a).

“Environmental Law” means any Law (i) relating to pollution or the protection, preservation or restoration of the environment (including air, surface water, groundwater, drinking water supply, surface land, subsurface land, plant and animal life or any other natural resource),

or any exposure to or release of, or the management of (including the use, storage, recycling, treatment, generation, transportation, processing, handling, labeling, production or disposal of) any Hazardous Materials or (ii) that regulates, imposes liability (including for enforcement, investigatory costs, cleanup, removal or response costs, natural resource damages, contribution, injunctive relief, personal injury or property damage) or establishes standards of care with respect to any of the foregoing. The term “Environmental Law” includes any common law or equitable doctrine (including injunctive relief and tort doctrines such as negligence, nuisance, trespass and strict liability) that may impose liability or obligations for injuries or damages due to or threatened as a result of the presence of, exposure to, or ingestion of, any Hazardous Materials.

“Excluded Agreements” has the meaning ascribed to such term in Section 1.2(i).

“Excluded Assets” has the meaning ascribed to such term in Section 1.2.

“Excluded Liabilities” has the meaning ascribed to such term in Section 1.4.

“Expense Reimbursement” has the meaning ascribed to such term in Section 8.2(b).

“Facilities” has the meaning ascribed to such term in the recitals.

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

“Financial Statements” has the meaning ascribed to such term in Section 4.1(d).

“GAAP” means U.S. generally accepted accounting principles.

“Good Faith Deposit” has the meaning ascribed to such term in Section 2.3.

“Governmental Authority” means any government, court, regulatory or administrative agency, accrediting agency, commission or authority or other governmental instrumentality of any jurisdiction, whether federal, state, territory, metropolitan or local, domestic, foreign or multinational.

“Hazardous Materials” means any material, substance, chemical or waste that is defined or regulated as a hazardous substance, hazardous material, hazardous waste, pollutant, contaminant, acutely hazardous, toxic, or words of similar import or regulatory effect under Environmental Laws, including without limitation any petroleum or petroleum-derived products, radioactive

materials or wastes, toxic mold, per- and polyfluoroalkyl substances, urea formaldehyde and polychlorinated biphenyls.

“Improvements” means all improvements located, placed, constructed or installed on or under any parcel of Owned Real Property or Leased Real Property (but only to the extent the related Real Property Leases constitute Assigned Agreements), including all utilities, fire protection, security, surveillance, telecommunications, computer, wiring, cable, heat, exhaust, ventilation, air conditioning, electrical, mechanical, plumbing and refrigeration and cooling systems, facilities, lines, installations and conduits.

“Indebtedness” means, as to any Person, without duplication, as of the date of determination, (i) all obligations of such Person for borrowed money, including accrued and unpaid interest, and any prepayment fees or penalties, (ii) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, and (iii) all guarantees of such Person of any Indebtedness of any other Person other than a wholly owned subsidiary of such Person.

“Intellectual Property” means any and all intellectual property rights of whatever nature and in whatever form and in any jurisdiction throughout the world, including, but not limited to: (i) rights in all trademarks, service marks, certification marks, trade names, brand names, trade dress, logos, slogans, tag lines, fictitious business names, uniform resource locators, internet domain names, social media accounts and handles, telephone numbers, and all other source or business identifiers or designators of origin (whether registered or unregistered, registrations and pending applications, for registration of, and renewals and extensions thereof, for any of the foregoing, unregistered and common law trademarks and service marks, and all goodwill associated with any of the foregoing; (ii) utility patents, design patents, and industrial design patents and applications for any of the foregoing, including all provisionals, divisionals, continuations, continuations-in-part, requests for continuing examination, reissues, reexaminations, renewals and extensions of any of the foregoing and all rights to claim priority of any of the foregoing; (iii) works of authorship, websites, copyrights, mask work rights, database rights, and design rights (all whether registered or unregistered); registrations and applications for registration of, and all renewals and extensions of, any of the foregoing and all moral rights associated with any of the foregoing; (iv) computer software, firmware, databases, data collections and related documentation and materials, including source code, object code, code repositories, development tools, application programming interfaces, user interfaces, architecture, files, manuals, programmers’ notes, derivative works, foreign language versions, fixes, upgrades, updates, enhancements, current and prior versions and releases, and all media and other tangible property necessary for the delivery or transfer of any of the foregoing; (v) trade secrets and other proprietary and confidential information and data, including inventions (whether or not patentable or reduced to practice), invention disclosures, ideas, developments, improvements, know-how, designs, drawings, algorithms, source code, methods, processes, techniques, formulae, research and development, compilations, compositions, manufacturing processes, production processes, devices, specifications, reports, analyses, data, data analytics, customer lists, supplier lists, pricing information, cost information, business plans, business proposals, marketing plans, and marketing proposals; (vi) performers’ rights and rights of publicity; (vii) any rights recognized under applicable law that are equivalent or similar to any of the foregoing; (viii) all rights to sue and collect damages for past, present, and future infringement, misappropriation or dilution of, and other violations of, any of the foregoing; and (ix) copies of all books, records, files, documents

and agreements, including any docket reports, whether in an electronic or other format, relating to any of the foregoing. .

“Inventory” means inventories of materials, parts, raw materials, packaging materials, supplies, spare parts, work-in-process, goods in transit, finished goods and products, in each case, primarily related to the Business.

“IRS” means the Internal Revenue Service.

“IP Assignment Agreement” means an intellectual property assignment and assumption agreement in substantially the form of **Exhibit B**.

“Law” means any law (statutory, common or otherwise), constitution, treaty, convention, ordinance, code, rule, regulation, Order or other similar requirement enacted, adopted, promulgated, enforced or applied by a Governmental Authority.

“Liability” means any debt, loss, liability, claim (including “claim” as defined in the Bankruptcy Code), commitment, undertaking, damage, expense, fine, penalty, cost, royalty, deficiency or obligation (including those arising out of any action, such as any settlement or compromise thereof or judgment or award therein), of any nature, whether known or unknown, disclosed or undisclosed, express or implied, primary or secondary, direct or indirect, matured or unmatured, determined or undeterminable, on or off balance sheet, fixed, absolute, contingent, accrued or unaccrued, liquidated or unliquidated, or otherwise and whether due or to become due, and whether in contract, tort, strict liability or otherwise, and whether or not resulting from third Party claims.

“Lien” means any mortgage, pledge, security interest, encumbrance, lien (statutory or other) or conditional sale agreement, other than (a) a lessor’s interest in, and any mortgage, pledge, security interest, encumbrance, lien (statutory or other) or conditional sale agreement on or affecting a lessor’s interest in, property underlying any leases; (b) any imperfection of title with respect to any asset that does not materially interfere with the present occupancy, use or marketability of such asset and the continuation of the present occupancy or use of such asset; and (c) such covenants, conditions, restrictions, easements, encroachments or encumbrances that are not created pursuant to mortgages or other financing or security documents, or any other state of facts, that do not materially interfere with the present occupancy or use of an asset. For purposes of this definition, the “present” occupancy or use of a particular asset shall be deemed to refer to the occupation or use of such asset by the Sellers during the 12-month period prior to the date hereof.

“Necessary Consent” has the meaning ascribed to such term in Section 1.6.

“Order” means any judgment, decree, injunction, rule, order, decision, ruling, or assessment of any arbitrator or Governmental Authority.

“Outside Date” has the meaning ascribed to such term in Section 8.1(a).

“Owned Real Property” means any real property and interests in real property owned by a Seller and used primarily for the operation of the Business, together with all buildings, structures,

fixtures and improvements erected thereon, and any and all rights, privileges, easements, licenses, hereditaments and other appurtenances of a Seller relating thereto, but excluding any leasehold, license or other use or occupancy real property interest).

“Permits” means all material approvals, permits, certificates, qualifications, authorizations, licenses, franchises, consents, Orders and registrations, together with all modifications, amendments, supplements and extensions thereof, of all United States federal, state and local Governmental Authorities and any other Person that are necessary for Sellers to own and operate the Purchased Assets.

“Permitted Liens” means (i) any Liens for Taxes not yet due or that are being contested in good faith by appropriate Proceedings or for which adequate reserves have been established by a Seller in accordance with GAAP, (ii) vendors’, mechanics’, materialmen’s, carriers’, workers’, landlords’, repairmen’s, warehousemen’s, construction and other similar Liens (A) with respect to Liabilities that are not yet due and payable or, if due, are not delinquent or (B) that are being contested in good faith by appropriate Proceedings and for which adequate reserves (based on good faith estimates of management) have been set aside for the payment thereof or (C) arising or incurred in the ordinary course of business and which are not, individually or in the aggregate, material to the operation of the Business and do not materially adversely affect the market value or continued use of the asset encumbered thereby, (iii) Liens imposed or promulgated by applicable Law or any Governmental Authority with respect to real property, including zoning, building or similar restrictions but only to the extent that Sellers are materially in compliance with the same, (iv) pledges or deposits in connection with workers’ compensation, unemployment insurance, and other social security legislation, (v) utility easements, minor encroachments, rights of way, imperfections in title, charges, easements, rights of way (whether recorded or unrecorded), restrictions, declarations, covenants, conditions, defects and similar Liens or claims, but not including any monetary Liens, that are imposed by any Governmental Authority having jurisdiction thereon or otherwise are typical for the applicable property type and locality as do not individually or in the aggregate materially interfere with the present occupancy under the real property interest, or the use or market value of the real property interest, or materially impair the operation of the Business, (vi) Intellectual Property licenses, (vii) Liens to be released at or prior to Closing, and (x) Liens consented to in writing by Purchaser.

“Person” means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization or government.

“Petition Date” has the meaning ascribed to such term in the recitals.

“Proceeding” means any action, suit, claim, hearing, arbitration, litigation or other proceeding, in each case, by or before any Governmental Entity.

“Purchased Assets” has the meaning ascribed to such term in Section 1.1.

“Purchased Avoidance Actions” has the meaning ascribed to such term in Section 1.1(l).

“Purchase Price” has the meaning ascribed to such term in Section 2.1.

“Purchaser” has the meaning ascribed to such term in the opening paragraph.

“Purchaser Benefit Plans” has the meaning ascribed to such term in Section 5.3(d).

“Real Property Lease” means any lease, sublease, license or other agreement under which a Seller leases, subleases, licenses, uses or occupies (in each case whether as landlord, tenant, sublandlord, subtenant or by other occupancy arrangement), or has the right to use or occupy, now or in the future, any real property, in each case, used for the operation of the Business.

“Representative” of any Person means such Person’s directors, managers, officers, employees, contractors, agents, attorneys, consultants, advisors or other representatives.

“Sale Motion” has the meaning ascribed to such term in Section 2.4.

“Sale Order” has the meaning ascribed to such term in the recitals.

“Sellers” has the meaning ascribed to such term in the opening paragraph.

“Seller Benefit Plan” means any material “employee benefit plan” (within the meaning of Section 3(3) of ERISA) and any other material pension, retirement, profit-sharing, supplemental retirement or deferred compensation, stock option, change in control, retention, equity or equity-based compensation, stock purchase, employee stock ownership, severance pay, employment (including offer letters), consultancy, vacation, bonus or other incentive plans, medical or other welfare, retiree medical, vision, dental or other health plans, or life insurance plan, program, agreement, or arrangement, funded or unfunded, or insured or self-insured, (i) that is maintained, established, or sponsored by a Seller for the benefit of any current or former employee, officer or director, or (ii) to which any Seller contributes or is obligated to contribute or has any material Liability.

“Seller Disclosure Schedule” has the meaning ascribed to such term in Section 4.1.

“Subsidiary(ies)” means, as to any Person, any corporation, partnership, association, trust or other form of legal entity of which (i) 50% or more of the voting power of the outstanding voting securities are directly or indirectly owned by such Person or (ii) such Person or any Subsidiary of such Person is a general partner.

“Tax or Taxes” means: (a) all federal, state, local, provincial, territorial, non-U.S. , and all other income, gross receipts, sales, use,, production, ad valorem, transfer, documentary, franchise, registration, profits, license, lease, service, service use, withholding, backup, payroll, employment, employer health, unemployment, estimated, excise, severance, environmental, stamp, occupation, premium, property (real or personal), escheat, unclaimed or abandoned property, real property gains, value added, alternative or add-on minimum, windfall profits, customs, duties or other taxes, fees, assessments or charges of any kind whatsoever, whether computed on a separate, consolidated, unitary or combined basis or in any other manner, whether or not disputed, and together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties; (b) any and all liability for amounts described in clause (a) of any member of an Affiliated Group of which any Person (or any predecessor thereof) is or was a member on or prior to the Closing Date, including pursuant to Treasury Regulation Section 1.1502-6 or any analogous or similar state, local or foreign Law or regulation; and (c) any and all liability

for amounts described in clause (a) of any Person imposed as a transferee or successor, by Contract, pursuant to any Law, rule or regulation, or otherwise.

“Tax Return” means any report, return, information return, filing or other information, including any schedules, exhibits or attachments thereto, and any amendments to any of the foregoing required to be filed or maintained in connection with the calculation, determination, assessment or collection of any Taxes (including estimated Taxes).

“Transferred Employees” has the meaning ascribed to such term in Section 5.3(b).

“Transaction Taxes” has the meaning ascribed to such term in Section 6.1.

“WARN Act” has the meaning ascribed to such term in Section 5.3(a).


“Working Capital Adjustment” has the meaning ascribed to such term in Section 2.1.

[Signatures are on the following page(s)]


IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized as of the date first above written.

SELLERS:


FORREST MACHINING LLC

By: 
Name: ERIC ELLIS
Title: CEO

DYNAMIC AEROSTRUCTURES LLC

By: 
Name: ERIC ELLIS
Title: CEO

DYNAMIC AEROSTRUCTURES INTERMEDIATE
LLC

By: 
Name: ERIC ELLIS
Title: CEO

PURCHASER:

FMI HOLDCO LLC

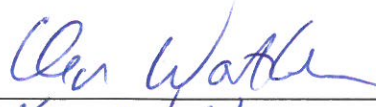
By: 
Name: Ken Wotler
Title: CEO

EXHIBIT A

Bill of Sale; Assignment and Assumption Agreement

BILL OF SALE, ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS BILL OF SALE, ASSIGNMENT AND ASSUMPTION AGREEMENT (this “Agreement”), dated as of _____, 2025 (“Effective Date”), is entered into by and among Forrest Machining LLC, a California limited liability company (“FMI”), Dynamic Aerostructures LLC, a Delaware limited liability company (“Parent”), and Dynamic Aerostructures Intermediate LLC (“Intermediate” and, together with FMI and Parent, “Assignors” and each a “Assignor”), and FMI Holdco LLC, a Delaware limited liability company (“Assignee”). Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in that certain Asset Purchase Agreement (as may be amended, supplemented or otherwise modified, the “Purchase Agreement”), dated as of _____, 2025, by and among Assignors and Assignee.

WHEREAS, Assignors and Assignee have entered into the Purchase Agreement pursuant to which, among other things, Assignee has agreed to (i) purchase, acquire and accept, free and clear of all Liabilities and Liens (other than Assumed Liabilities, Liens created by Purchaser and Permitted Liens) the Purchased Assets and (ii) to assume, pay, perform and discharge when due, the Assumed Liabilities, in each case on the terms and subject to the conditions set forth in the Purchase Agreement;

WHEREAS, pursuant to this Agreement, each of the Assignors shall sell, convey, assign, transfer, and deliver to Assignee, and Assignee shall purchase, acquire and accept, free and clear of all Liabilities and Liens (other than Assumed Liabilities, Liens created by Purchaser and Permitted Liens) from each such Assignor, all of such Assignor’s right, title and interest in, to, and under the Purchased Assets, in each case on the terms and subject to the conditions set forth in the Purchase Agreement; and

WHEREAS, pursuant to this Agreement, the Assignee shall assume and thereafter pay, perform and discharge when due the Assumed Liabilities, in each case, on the terms and subject to the conditions set forth in the Purchase Agreement.

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

AGREEMENTS

1. Assignment of Purchased Assets. Effective as of the Closing, on the terms and subject to the conditions set forth in the Purchase Agreement, each Assignor hereby sells, conveys, assigns, transfers, and delivers to Assignee, and Assignee hereby purchases, acquires, and accepts free and clear of all Liabilities and Liens (other than Assumed Liabilities, Liens created by Purchaser and Permitted Liens) from each such Assignor, all of such Assignor’s right, title and interest in, to and under the Purchased Assets. Assignee hereby accepts the sale, conveyance, assignment, transfer and delivery of such Assignor’s right, title, and interest in, to and under all such Purchased Assets.

2. Assumption of Assumed Liabilities. Effective as of the Closing on the terms and subject to the conditions set forth in the Purchase Agreement, each Assignors hereby assigns and Assignee hereby assumes and agrees to pay, perform and discharge when due, the Assumed Liabilities. Nothing in this Agreement shall be construed as the acceptance or assumption by Assignee of any Excluded Liabilities, and Assignors shall be solely and exclusively liable with respect to all Excluded Liabilities.

3. Binding Agreement. The terms and provisions of this Assignment shall bind and inure to the benefit of the parties and their respective successors and permitted assigns.

4. Governing Law. This Agreement, and any Action that may be based upon, arise out of or relate or be incidental to this Agreement, the Purchase Agreement, the negotiation, execution, performance or consummation of the foregoing or the inducement of any Party to enter into the foregoing, whether for breach of contract, tortious conduct or otherwise, and whether now existing or hereafter arising, will be exclusively governed by and construed and enforced in accordance with the internal Laws of the State of Delaware, without giving effect to any Law, choice or conflict of law provision or rule that would cause the Laws of any jurisdiction other than the State of Delaware to be applied.

5. Relationship to the Purchase Agreement. The respective rights of Assignors and Assignee with respect to the Purchased Assets sold, conveyed, assigned, transferred and delivered hereby and the Assumed Liabilities assumed hereby shall be governed exclusively by the Purchase Agreement and nothing in this Agreement shall alter any liability or obligation arising under the Purchase Agreement, which shall (without limiting the generality of the foregoing) govern, and shall contain the sole and exclusive representations, warranties and obligations of the Parties with respect to the Purchased Assets and the Assumed Liabilities. Notwithstanding anything to the contrary set forth herein, if there is any conflict or inconsistency between the provisions of the Purchase Agreement and this Agreement, the provisions of the Purchase Agreement shall control.

6. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. Facsimiles, e-mail transmission of .pdf signatures or other electronic copies of signatures shall be deemed to be originals.

7. Severability. If any term or provision of this Agreement is held invalid, illegal or unenforceable in any respect under any applicable Law, as a matter of public policy or on any other grounds, the validity, legality and enforceability of all other terms and provisions of this Agreement will not in any way be affected or impaired. If the final judgment of a court of competent jurisdiction or other Government Authority declares that any term or provision hereof is invalid, illegal or unenforceable, the Parties agree that the court making such determination will have the power to reduce the scope, duration, area or applicability of the term or provision, to delete specific words or phrases, or to replace any invalid, illegal or unenforceable term or provision with a term or provision that is valid, legal and enforceable and that comes closest to expressing the intention of the invalid, illegal or unenforceable term or provision.

8. Amendment. This Agreement may be amended, restated, supplemented or otherwise modified, only by written agreement duly executed by each Party.

9. No Third Party Beneficiaries. This Agreement is for the sole benefit of the Parties and their respective successors and permitted assigns. Nothing in this Agreement, express or implied, shall create or be deemed to create any legal or equitable right, benefit, or remedy of any nature whatsoever in any Person not a Party hereto, including any Affiliates of any Party.

[Signatures are on the following page]

IN WITNESS WHEREOF, Assignors and Assignee have executed and delivered this Bill of Sale, Assignment and Assumption Agreement effective as of the date first above written.

ASSIGNORS:

FORREST MACHINING LLC

By: _____

Name:

Title:

DYNAMIC AEROSTRUCTURES LLC

By: _____

Name:

Title:

DYNAMIC AEROSTRUCTURES INTERMEDIATE LLC

By: _____

Name:

Title:

ASSIGNEE:

FMI HOLDCO LLC

By: _____

Name:

Title:

EXHIBIT B

IP Assignment Agreement

INTELLECTUAL PROPERTY ASSIGNMENT AND ASSUMPTION AGREEMENT

This INTELLECTUAL PROPERTY ASSIGNMENT AND ASSUMPTION AGREEMENT (this “Assignment”), dated as of _____, 2025 (“Effective Date”), is entered into by and among Forrest Machining LLC, a California limited liability company (“FMI”), Dynamic Aerostructures LLC, a Delaware limited liability company (“Parent”), and Dynamic Aerostructures Intermediate LLC (“Intermediate” and, together with FMI and Parent, “Assignors” and each a “Assignor”), and FMI Holdco LLC, a California limited liability company (“Assignee”). Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in that certain Asset Purchase Agreement (as may be amended, supplemented or otherwise modified, the “Purchase Agreement”), dated as of _____, 2025, by and among Assignors and Assignee.

WHEREAS, pursuant to the Purchase Agreement, Assignors have agreed to sell and Assignee has agreed to purchase from Assignors, all of Assignors’ right, title and interest in, to, and under the Purchased Assets, in each case, on the terms and subject to the conditions set forth in the Purchase Agreement;

WHEREAS, as required in the Purchase Agreement, Assignors hereby desire to sell, convey, assign, transfer and deliver to Assignee all of Assignors’ rights, title and interests in and to the Intellectual Property set forth on **Exhibit A** hereto (the “Assigned IP”), free and clear of all Liens (other than Permitted Liens); and;

WHEREAS, Assignee desires to purchase, acquire and accept delivery of the Assigned IP from Assignors.

NOW, THEREFORE, in consideration for the execution of the Purchase Agreement, the payment of the consideration stipulated in the Purchase Agreement, and other good and valuable consideration, the receipt and sufficiency are hereby acknowledged, Assignee and Assignor hereby agree as follows:

1. Assignment of Intellectual Property. Each Assignor hereby sells, conveys, assigns, transfers and delivers to Assignee, and Assignee hereby purchases, acquires, and accepts its entire worldwide right, title and interest in and to the Assigned IP, free and clear of all Liabilities and Liens (other than Assumed Liabilities, Liens created by Purchaser and Permitted Liens), along with any and all registrations and applications for the Assigned IP and any renewals and extensions of registrations or application thereof and all corresponding rights that may be secured under any applicable Law now or hereafter in effect, and together with any and all goodwill connected with and symbolized by the Assigned IP, the same to be held and enjoyed by Assignee for its own use and enjoyment and the use and enjoyment of its successors, assigns and other legal representatives as fully and entirely as the same would have been held and enjoyed by Assignors if this assignment and sale had not been made, as assignee of its respective entire right, title and interest therein, including, without limitation, all rights in and to all fees, income, royalties, products, proceeds, damages, lost profits and payments now or hereafter due or payable with respect thereto, all causes of action (whether in law or in equity) with respect thereto, and the right to sue, counterclaim, and recover for past, present and future infringement, misappropriation, dilution or other violation of the rights assigned or to be assigned under this Assignment.

2. Recording and Further Actions. Assignors authorize and request Assignee to take such action as may be required to cause Assignee to be recorded as the assignee or transferee of the Intellectual Property, and shall, promptly upon presentation to Assignors by Assignee, execute, or procure the execution of, such transfer documents as may be reasonably be required to cause Assignee to be recorded as the assignee, registrant or transferee of the Intellectual Property.

3. Binding Agreement. The terms and provisions of this Assignment shall bind and inure to the benefit of the parties and their respective successors and permitted assigns.

4. Governing Law. This Assignment, and any action that may be based upon, arise out of or relate or be incidental to this Assignment, the Purchase Agreement, the negotiation, execution, performance or consummation of the foregoing or the inducement of any Party to enter into the foregoing, whether for breach of contract, tortious conduct or otherwise, and whether now existing or hereafter arising, will be exclusively governed by and construed and enforced in accordance with the internal Laws of the State of Delaware, without giving effect to any Law, choice or conflict of law provision or rule that would cause the Laws of any jurisdiction other than the State of Delaware to be applied.

5. Relationship to the Purchase Agreement. The respective rights of Assignors and Assignee with respect to the Purchased Assets sold, conveyed, assigned, transferred and delivered hereby and the Assumed Liabilities assumed hereby shall be governed exclusively by the Purchase Agreement and nothing in this Assignment shall alter any liability or obligation arising under the Purchase Agreement, which shall (without limiting the generality of the foregoing) govern, and shall contain the sole and exclusive representations, warranties and obligations of the Parties with respect to the Purchased Assets and the Assumed Liabilities. Notwithstanding anything to the contrary set forth herein, if there is any conflict or inconsistency between the provisions of the Purchase Agreement and this Assignment, the provisions of the Purchase Agreement shall control.

6. Counterparts. This Assignment may be executed in counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. Facsimiles, e-mail transmission of .pdf signatures or other electronic copies of signatures shall be deemed to be originals.

7. Severability. If any term or provision of this Assignment is held invalid, illegal or unenforceable in any respect under any applicable Law, as a matter of public policy or on any other grounds, the validity, legality and enforceability of all other terms and provisions of this Assignment will not in any way be affected or impaired. If the final judgment of a court of competent jurisdiction or other Government Authority declares that any term or provision hereof is invalid, illegal or unenforceable, the Parties agree that the court making such determination will have the power to reduce the scope, duration, area or applicability of the term or provision, to delete specific words or phrases, or to replace any invalid, illegal or unenforceable term or provision with a term or provision that is valid, legal and enforceable and that comes closest to expressing the intention of the invalid, illegal or unenforceable term or provision.

8. Amendment. This Assignment may be amended, restated, supplemented or otherwise modified, only by written agreement duly executed by each Party.

No Third Party Beneficiaries. This Assignment is for the sole benefit of the Parties and their respective successors and permitted assigns. Nothing in this Assignment, express or implied, shall create or be deemed to create any legal or equitable right, benefit, or remedy of any nature whatsoever in any Person not a Party hereto, including any Affiliates of any Party.

[Signatures are on the following page]

IN WITNESS WHEREOF, each party hereto has caused this Assignment to be duly executed and delivered by its authorized representative as of the date first above written.

ASSIGNORS:

FORREST MACHINING LLC

By: _____

Name:

Title:

DYNAMIC AEROSTRUCTURES LLC

By: _____

Name:

Title:

DYNAMIC AEROSTRUCTURES INTERMEDIATE
LLC

By: _____

Name:

Title:

ASSIGNEE:

FMI HOLDCO LLC

By: _____

Name:

Title:

SCHEDULE A